



# AGENDA

## Ordinary Meeting of Council

**19 November 2024**

### **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 19 NOVEMBER 2024**

**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 29 October 2024

**5. DECLARATIONS OF INTEREST OF MATTERS ON THE AGENDA**

(Declarations also to be made prior to discussions on each item)

**6. PUBLIC FORUM**

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**7. MAYORAL REPORTS**

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**8. NOTICES OF MOTION**

Nil

**9. QUESTIONS ON NOTICE FROM COUNCILLORS**

Nil

**10. PETITIONS**

Nil

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## **18. CONFIDENTIAL MATTERS**

**WARWICK WINN**  
**GENERAL MANAGER**



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MR24/005 REGIONAL EXPRESS AIRLINES

File Ref: S023-T00004

Attachments: Nil

### **EXECUTIVE SUMMARY**

Regional Express, the company operating air passenger services into Moruya went into administration on 30 July 2024.

The service is vital to the Eurobodalla community and Council has already highlighted this importance to the Australian Government.

A buyer for the company is being sought and it is proposed to advocate that the Australian and NSW governments consider further support which will seek to ensure that services to small regional communities like Eurobodalla continue.

### **RECOMMENDATION**

THAT

1. Council advocates to the Federal Minister for Infrastructure, Transport, Regional Development and Local Government (The Hon. Catherine King MP) requesting further support for maintaining passenger air services to / from Moruya.
2. Council advocates to the NSW Government requesting further support for maintaining passenger air services to / from Moruya.

### **REPORT**

The community will be aware that Regional Express Airlines who provide the passenger air service into Moruya went into administration on 30 July 2024. A buyer for the company's operations is being sought by administrators.

Council has previously advocated to the Australian Government to highlight the importance to our community of the Regional Express passenger service into Moruya Airport.

The government's public guarantee of bookings to bolster confidence in the service was a welcome step whilst the company is in administration.

However there have been recent media reports that a buyer for the company has not yet been found. Even if a buyer can be found, their priority may be the larger, most profitable Regional Express routes.

This does not consider the importance of the service to small communities like Eurobodalla. Those benefits include medical connections (both patients and professionals), business (same day travel to / from Sydney) and social connections.

Because of this importance, particularly to smaller regions, and that a buyer has not yet been secured, further support from the Australian or NSW Governments may be required to ensure this vital service continues to serve small, regional communities.

Such support may need to be in the form of an equity stake in the company on behalf of regions or other support measures may be available to protect smaller routes like Moruya.

Whilst the Australian Government has provided the guarantee on bookings across Australia, the NSW Government also has a vested interest in supporting its regional routes so it is proposed to write to them as well.

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**MR24/005 REGIONAL EXPRESS AIRLINES**

**S023-  
T00004**

These regional services across NSW, including Sydney to Moruya, have been profitable for many years and were not the cause of Regional Express going into administration so the risk of financial loss to the Government from further support is small.

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**GMR24/019 VEHICULAR ACCESS TO MALONEYS BEACH RESERVE PUBLIC  
CONSULTATION**

**S028-T00001**

Responsible Officer: Graham Attenborough - Director Infrastructure Services

Attachments:

1. Under Separate Cover - Confidential - Attach 1: Identified Owner/Occupier Submissions For
2. Under Separate Cover - Confidential - Attach 2: Identified Owner/Occupier Submissions Against
3. Under Separate Cover - Confidential - Attach 3: Identified Owner/Non-Occupier Submissions For
4. Under Separate Cover - Confidential - Attach 4: Identified Owner/Non-Occupier Submissions Against
5. Under Separate Cover - Confidential - Attach 5: Identified Occupier Submissions For
6. Under Separate Cover - Confidential - Attach 6: Identified Occupier Submissions Against
7. Under Separate Cover - Confidential - Attach 7: Unknown Submissions For
8. Under Separate Cover - Confidential - Attach 8: Unknown Submissions Against
9. Under Separate Cover - Confidential - Attach 9: Other Submissions

Outcome: 3 Our region of vibrant places and spaces

Focus Area: 3.4 Celebrate our unique region through inclusive places and spaces

Delivery Program Link: 3.4.1 Plan and deliver functional and inclusive public spaces

Operational Plan Link: 3.4.1.2 Work with key stakeholders to develop and implement recreation and open space plans and projects

### **EXECUTIVE SUMMARY**

This report provides the basis for Council to resolve a preferred position, in response to feedback from the community, with regards to providing vehicle access onto Council's reserve and therefore closer to the beach, by removing the three sandstone blocks at the eastern end of the Maloneys Beach reserve, or not.

An informal track existed across Council maintained Community Land (reserve) and Crown Land and which was used for beach access by vehicles, until the track was rehabilitated and closed in approximately 2022 in conjunction with the National Parks and Wildlife Service (NPWS) development of the adjacent Murramarang Walk project. Bollards were used to close the informal track, but after the illegal removal of the bollards on two occasions, creating an unacceptable safety risk, sandstone blocks were positioned in June 2024.

Council has received responses objecting to the closure of the track to vehicles. A petition on the matter was presented to Council at the Ordinary Meeting held 19 March 2024, with over 900 signatures.

Councillor Schutz raised a Notice of Motion regarding the closure of the track at the Council meeting of 29 October 2024, where it was resolved:

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**GMR24/019 VEHICULAR ACCESS TO MALONEYS BEACH RESERVE PUBLIC  
CONSULTATION**

**S028-T00001**

THAT Council:

1. Consult the community for a period of 14 days regarding their views around removing the sandstone blocks to reinstate access to the former track that was used to access Council's decommissioned informal boat ramp at the east of Maloneys Beach.
2. Receive and consider the community feedback along with a staff report at the November Council Meeting.

Public consultation was open from 29 October to 12 November 2024. A total of 254 submissions were received. A breakdown of the submissions is provided below. Councillors have been provided all submissions received in full.

**RECOMMENDATION**

THAT Council determines its position on the future of the sandstone blocks that currently restrict vehicular access to the reserve at the eastern end of Maloneys Beach.

**BACKGROUND**

An informal track across Council maintained Crown Land and Community Land was used for vehicular beach access, along with an informal track through the Murramarang National Park adjacent to the Council managed reserve. The track historically gave access to the beach and an informal boat ramp which was decommissioned in 2008 following repeated storm damage.

The informal access to the beach on National Park land was removed by NPWS in approximately 2022 as part of the Murramarang South Coast Walk project. Following limited consultation, Council also gave permission for NPWS to close the informal track on Council managed land at the same time by installing bollards. Some bollards were removed by persons unknown, on two occasions, and due to the safety risk of the remaining holes, Council then installed sandstone blocks in June 2024.

Council has received feedback from sections of the community objecting to the original closure of the track to vehicles. A petition on the matter was presented to Council at the Ordinary Meeting held 19 March 2024.

Councillor Schutz raised a Notice of Motion regarding the closure of the track at the Council meeting of 29 October 2024.

**CONSIDERATIONS**

**Legal**

Maloneys Beach, below the mean high-water mark, forms part of the Batemans Marine Park. This land is managed by the NSW Department of Primary Industries – Fisheries (Marine Parks) and is covered by the *Marine Estate Management (Management Rules) Regulation 1999*. In general, a person must not use a vehicle in a marine park, except for the purpose of launching or retrieving a boat or similar from a designated boat launching facility.

Driving of private vehicles across the grassy foreshore within National Park and onto the beach is not authorised by the National Parks and Wildlife Service (NPWS) Plan of Management for Murramarang National Park.

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**GMR24/019 VEHICULAR ACCESS TO MALONEYS BEACH RESERVE PUBLIC  
CONSULTATION**

**S028-T00001**

The grassed area that will become open to the public for recreational use if the sandstone blocks are removed is Council owned land. Under the *Civil Liability Act* 2002 (NSW) (herein referred to as the “**CL Act**”), Council may be liable and ordered to pay damages for foreseeable harm suffered by a person while on Council owned or managed land if the harm was caused by the Council failing to take reasonable care to avoid that harm. Council will not be liable in negligence unless an injured person can prove:

- the Council caused the damage; or
- the damage did not occur due to:
  - o a failure by Council to warn the person about an obvious risk;
  - o an inherent risk;
  - o an obvious risk of a dangerous recreational activity engaged in by the person, whether or not the person suffering the harm was aware of the risk; or
  - o a failure by Council to give an appropriate risk warning in relation to recreational activity.

If the Councillors determine to remove the blocks, Council will undertake a formal assessment of the obvious and inherent risks, as defined in the CL Act, applicable to the grassed area. Based on that assessment, Council will install all risk warning signs and safety measures necessary to reduce the Council's risk of liability under the CL Act.

Please note that even with a range of mitigation measures in place, liability under the CL Act cannot be eliminated completely. However, it is important to understand that removing the sandstone blocks would simply restore the level of risk that was applicable prior to their installation.

It should also be noted that the grassed areas, which was the informal track, is located within a stormwater swale and at risk of flooding; this risk shall be considered when the aforementioned risk assessment is undertaken.

### **Policy**

Council has a Plan of Management (POM) for its Developed Reserves and Facilities 1999 that covers the Maloneys Beach Reserve. The assets listed in this POM for this reserve include the toilets, shower and picnic facilities and fencing. The informal tracks and vehicular access are not covered or considered within this Plan of Management. Council currently has several Restricted Activity Multi Signs around the perimeter of the reserve that prohibit vehicular access within the reserve that have been in place for some time. There is also a Restricted Activity Multi Sign at the decommissioned boat ramp prohibiting vehicular access to the beach.

### **Environmental**

The length of the beach front is subject to environmental protections as set out by Batemans Marine Park (Department of Primary Industries, Fisheries) and at the northern end, National Parks and Wildlife Service. Both Batemans Marine Park and NPWS disallow unauthorised vehicular access to the beach.

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**GMR24/019 VEHICULAR ACCESS TO MALONEYS BEACH RESERVE PUBLIC  
CONSULTATION**

**S028-T00001**

**Asset**

Maintenance of the access track was discontinued with the removal of the boat ramp in 2008.

Reinstatement of the access track may have additional ongoing maintenance requirements associated with vehicle use of it.

**Social Impact**

Removal of the sandstone blocks would allow for vehicles to access the beach reserve up to the dune. There is presently signage in the vicinity which precludes unauthorised vehicles from accessing the rest of the reserve and the beach. Whilst Council recognises the desire of some members of the community to access the beachfront by vehicle, unfortunately the physical and legislative environment precludes Council pursuing a viable option to allow this at Maloneys Beach.

The community holds various and competing views on this issue.

**Financial**

Council is required to manage its assets in a safe, financially and environmentally responsible way to provide the best benefit to the greatest number of users. The community would benefit if parking and access was allowed closer to the beach, on the former informal track, however the planning approvals would be extensive and the costs significant, for which there is no allocated budget.

Council would have additional ongoing maintenance requirements from the increased use, however these are difficult to estimate at this point in time.

**Community and Stakeholder Engagement**

At the Ordinary Meeting of Council held 29 October 2024 a Notice of Motion (NOM) was tabled regarding provision of vehicle access to the Maloneys Beach reserve, whereby it was resolved that Council:

1. Consult the community for a period of 14 days regarding their views around removing the sandstone blocks to reinstate access to the former track that was used to access Council's decommissioned informal boat ramp at the east of Maloneys Beach.
2. Receive and consider the community feedback along with a staff report at the November Council Meeting.

Council commenced the community consultation period on Tuesday 29 October 2024 by hand delivering letters to all dwellings in Maloneys Beach (approx. 271), posting letters to 141 property owners with a postal address outside of Maloneys Beach, emailing all members of the community who have contacted Council about the issue, and the residents' associations of Maloneys Beach and Long Beach. A copy of the NOM was provided with the letter. Public consultation was open from 29 October to 12 November 2024, and feedback could be received by phone, email and hard copy letter.

Council also invited submissions from NSW Government stakeholders including NSW Crown Lands, National Parks and Wildlife Service and Batemans Marine Park. Responses were received from these agencies which are summarised below.



**GMR24/019 VEHICULAR ACCESS TO MALONEYS BEACH RESERVE PUBLIC CONSULTATION**

**S028-T00001**

Upon close of the public consultation period, 254 submissions were received.

Submissions received by Council have been grouped by respondent:

- Identified Owner/Occupier
- Identified Owner/ Non occupier
- Identified Occupier
- Unknown.

Some households provided multiple responses. Many of the submissions received indicate a desire to access the beach by vehicle for the purpose of launching vessels.

A summary table of submissions indicating a preference for either retention or removal of the sandstone blocks is provided below.

<b>Feedback data – Maloneys Beach Vehicle Access Public Consultation</b>	
<b>Notification letters distributed to</b>	
Property (hand delivered)	271
Non resident (posted)	141
<b>Total</b>	<b>412</b>

<b>Feedback data – Maloneys Beach Vehicle Access Public Consultation</b>	
<b>Feedback / submissions received from:</b>	
<i>Identified Owner/Occupier</i>	
For	42
Against	26
Other	6
<i>Identified Owner/ Non occupier</i>	
For	40
Against	8
Other	0
<b>Feedback data – Maloneys Beach Vehicle Access Public Consultation</b>	

**GMR24/019 VEHICULAR ACCESS TO MALONEYS BEACH RESERVE PUBLIC  
CONSULTATION**

**S028-T00001**

<b>Feedback / submissions received from:</b>	
<i>Identified Occupier</i>	
For	9
Against	1
Other	0
<i>Unknown</i>	
For	107
Against	11
Other	4
<b>Total</b>	<b>254</b>
Feedback with boating reference	67
Feedback from NSW Gov stakeholders	4

*Comment from National Parks and Wildlife Service:*

NPWS has advised Council that the driving of private vehicles across the grassy foreshore and onto the beach is unlawful under Murramarang National Park's statutory Plan of Management. Accordingly, if ESC elects to reopen the vehicle track within Council-managed land, bollards must be installed along the full length of the National Park boundary. NPWS is willing to organize this and cover all costs, but requests sufficient notice is provided to arrange their installation.

*Comment from Marine Parks:*

NSW Department of Primary Industries and Regional Development – Batemans Marine Park has advised Council that decisions relating to reserve infrastructure rest with Council as the land manager. Should Council determine to provide for vehicular access to the reserve, it will be incumbent upon Council alone to monitor any potential compliance, governance, social amenity or safety issues. If Council determines to remove the Restricted Activity Multi Signs, the agency requests Council provide a contact to whom community responses received by Marine Parks can be redirected.

*Comment from Crown Lands:*

Crown Lands has advised Council that it has no jurisdiction over the Council owned land where the sandstone blocks are placed (Lot 245 DP569875).

**CONCLUSION**

Council will determine and resolve its preferred position with regard to feedback received from the community during the public consultation on this issue.

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**GMR24/020 2024-25 SAFETY AND EMERGENCY SERVICES GRANTS**

**S014-T00019**

Responsible Officer: Warwick Winn - General Manager

Attachments: Nil

Community Goal: 5 Our engaged community with progressive leadership

Community Strategy: 5.2 Proactive, responsive and strategic leadership

Delivery Program Link: 5.2.1 Be proactive leaders with a focus on 'community better'

Operational Plan Link: 5.2.1.2 Administer community grants and donations

**EXECUTIVE SUMMARY**

Council's Community Grants policy provides funding to support the operating costs associated with the delivery of community services and initiatives by organisations in the Eurobodalla. Under this policy, Councils' Safety and Emergency Services Grant is available to Eurobodalla based safety and emergency services organisations to assist with the operational costs of providing their services to our community.

The 2024-25 grant opened on Monday 2 September 2024 and closed on Sunday 13 October.

A total of four applications were received during the application period. All were assessed as meeting the criteria. Requests included emergency communications equipment, improvements to facilities and day to day operational costs including fuel and electricity.

The budget allocation for the 2024-25 Safety and Emergency Services Grant is \$46,943, with requests received totaling \$24,800.

It is recommended that all four applicants receive the full amount requested.

**RECOMMENDATION**

THAT Council approve the allocation of funds from the 2024-25 Safety and Emergency Services Grants as follows:

1. Marine Rescue Narooma - \$10,000
2. Moruya Surf Life Saving Club – \$5,000
3. Narooma Rescue Squad - \$4,800
4. Narooma Surf Life Saving Club Inc - \$5,000

**BACKGROUND**

In November 2022, Council adopted a revised Community Grants Policy. This policy specifically reflects Council's approach to donations to community organisations, with consideration to local government's role in achieving community cohesion, civic participation and capacity building. The policy can be viewed at [Community grants policy \(nsw.gov.au\)](https://www.nsw.gov.au/community-grants-policy).

Under section 5.11 of this policy, Council allocates funds on an annual basis under the Safety and Emergency Services grants category. These grants are available for surf life saving clubs and emergency organisations such as volunteer coastal patrol, rescue squads and rescue helicopter services.

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**GMR24/020 2024-25 SAFETY AND EMERGENCY SERVICES GRANTS**

**S014-T00019**

The 2024-25 grant opened on Monday 2 September 2024 and closed on Sunday 13 October. Council received four applications from the following organisations:

1. Marine Rescue Narooma - \$10,000 (supplement operational costs, including boat fuel and engine servicing).
2. Moruya Surf Life Saving Club – \$5,000 (electric cooking facilities for Surf Club kitchen for resilience in emergency situations).
3. Narooma Rescue Squad - \$4,800 (3 x electronic notebooks to support rescue operations).
4. Narooma Surf Life Saving Club Inc - \$5,000 (supplement operational costs, including boat fuel, first aid equipment, registration costs for vehicles and boats).

### **CONSIDERATIONS**

Council received four applications to the 2024-25 Safety and Emergency Services Grants. All applications were assessed against the eligibility criteria with all applications assessed as meeting eligibility requirements.

### **Policy**

The Safety and Emergency Services Grants stream is part of Council's Community Grants Policy (section 5.11). The Community Grants Policy will be reviewed later this financial year.

The funding guidelines for this grant are located on Council's website: [Guidelines | Eurobodalla Council](#). Applications must meet the following criteria:

- Applicants must be Eurobodalla based safety and emergency services organisations like Surf Life Saving clubs, Volunteer Coastal Patrol and Rescue Squads, helicopter services and the like
- All applications must be made through our online application form
- Grants must provide demonstrated community benefits
- Applicants must be appropriately insured
- Applicants must not have any outstanding debts to Council.

The Community Grants Policy will be reviewed in conjunction with Council's other grant programs and presented to Council for consideration early in 2025.

### **Financial**

The budget allocation for the 2024-25 Safety and Emergency Services Grant is \$46,943 (ex GST), with requests received totaling \$24,800 (ex GST). It is recommended that all four applicants receive the full amount requested as per the attachment.

### **Community and Stakeholder Engagement**

All eligible Eurobodalla based safety and emergency services organisations were notified of the grant availability via the Local Emergency Management Committee (LEMC). The LEMC includes all local emergency combat agencies, support agencies, functional areas and observers.

The grant was also advertised via council's website.

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**GMR24/020 2024-25 SAFETY AND EMERGENCY SERVICES GRANTS**

**S014-T00019**

**CONCLUSION**

The 2024-25 Safety and Emergency Services Grant provides the opportunity to support Eurobodalla based safety and emergency services organisations to provide vital emergency services and initiatives that benefit the community.

This Report recommends that all four applicants to the 2024-25 grant receive the full amount requested totaling \$24,800 (ex GST).

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**GMR24/021 2024 EDUCATION AND SCHOOL GRANTS**

**S014-T00011**

Responsible Officer: Warwick Winn - General Manager

Attachments: Nil

Outcome: 5 Our engaged community with progressive leadership

Focus Area: 5.2 Proactive, responsive and strategic leadership

Delivery Program Link: 5.2.1 Be proactive leaders with a focus on 'community better'

Operational Plan Link: 5.2.1.2 Administer community grants and donations

**EXECUTIVE SUMMARY**

Council's annual Education and School Grant that provides funding to local schools and education establishments for annual award presentations for academic and other achievement.

The grant was opened to schools on Monday 2 September 2024 and closed on Thursday 26 September 2024. Eight applications were received during this time.

**RECOMMENDATION**

THAT Council approve the allocation of funds from the 2024 Education and School Grant recipients in line with primary and secondary categories as follows:

1. Carrol College
2. Narooma High School
3. Moruya High School
4. Batemans Bay High School
5. Tilba Public School
6. Broulee Public School
7. Narooma Public School
8. Batemans Bay Public School

**BACKGROUND**

The Education and Schools Grant stream is part of Council's Annual Grants category within its Community Grants program. This grant is for local schools and education establishments for annual awards presentations for academic and other achievements.

The grant is structured as follows:

- Council may approve a budget allocation in the Operational Plan for each financial year. Budget for the Community Grants Program was endorsed as part of the Operational Plan on Tuesday 18 June 2024.
- If a budget is approved, applications are invited once per year and will not be accepted outside the advertised application window.
- Successful grantees will be granted an annual amount, \$200 for secondary schools and \$100 for primary schools, to contribute to school presentation awards or annual scholarships.



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**GMR24/021 2024 EDUCATION AND SCHOOL GRANTS**

**S014-  
T00011**

**CONSIDERATIONS**

The grant was opened to schools on Monday 2 September 2024 and closed on Thursday 26 September 2024.

Council received the following nine applications as listed below:

	<b>Organisation</b>	<b>Application Type</b>
1	Carrol College	Secondary
2	Narooma High School	Secondary
3	Moruya High School	Secondary
4	Batemans Bay High School	Secondary
5	Tilba Public School	Primary
6	Broulee Public School	Primary
7	Narooma Public School	Primary
8	Batemans Bay Public School	Primary

Applications received for 2024-25 were assessed as eligible and total \$1,200.

**Policy**

The Education and Schools Grant stream is an annual grant within Council's Community Grants policy. The Community Grants Policy will be reviewed in conjunction with Council's other grant programs and presented to Council for consideration early in 2025.

**Financial**

The 2024 recipients total \$1,200, which is in within the allocated budget.

**Community and Stakeholder Engagement**

All schools were notified in writing of grant availability.

**CONCLUSION**

The Education and Schools Grants provide the opportunity for Council to support local schools and education establishments for academic or other achievement.

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**PSR24/018 DRAFT EUROBODALLA HOUSING STRATEGY**

**S017-T00003;  
OP0076-S006**

Responsible Officer: Gary Bruce - Director of Planning and Environment

Attachments: 1. Under Separate Cover - draft Housing Strategy  
2. Under Separate Cover - Confidential - Submissions  
3. Under Separate Cover - Submissions spreadsheet

Community Goal: 3 Our region of vibrant places and spaces

Community Strategy: 3.1 Balance development between the needs of people, place and productivity

Delivery Program Link: 3.1.3 Work in partnership to encourage and facilitate greater housing diversity and affordability

Operational Plan Link: 3.1.3.1 Advocate for housing supply, diversity and affordability in the region

**EXECUTIVE SUMMARY**

The report seeks Council endorsement to adopt the draft Housing Strategy following its public exhibition.

Public exhibition of the draft Strategy occurred over 42 days, running from 27 May to 10 July 2024. During this time 168 submissions were received, including two that were received by 12 July 2024. These submissions are available for Councilors in the confidential attachment. A detailed spreadsheet of submissions and Council's responses is attached to this report.

Submissions generally supported the Strategy's focus on towns rather than villages. However, some had specific comments on objectives and policy direction.

The Housing Strategy is part of a suite of planning documents and investigations required by the NSW Government.

The Strategy provides an audit rather than a detailed document on any strategic roll-out of housing supply or types.

**RECOMMENDATION**

THAT Council endorse the Housing Strategy and adopt it as the current policy on housing supply.

**BACKGROUND**

On 21 May 2024, a report was submitted to the Ordinary Meeting of Council, seeking endorsement to exhibit the Strategy for 28 days, which Council extended to 42 days (Report PSR24/009 – Min No: 24/52). The exhibition period ran from 27 May to 10 July 2024.

*THAT:*

1. *Council place the draft Housing Strategy on public exhibition for 42 days.*

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**PSR24/018 DRAFT EUROBODALLA HOUSING STRATEGY**

**S017-T00003;  
OP0076-S006**

2. *Following the public exhibition period for the draft Eurobodalla Housing Strategy, a report be prepared for Council giving consideration to any submissions received, with a recommendation for adoption of the Strategy.*

Council received 168 submissions, including two late ones, by 12 July 2024. Most submissions came from Mystery Bay residents.

**Breakdown of Submissions:**

- Batemans Bay: 2
- Broulee: 2
- Dalmeny: 27
- Malua Bay: 1
- Mystery Bay: 89
- Shire-wide: 47

**Key Issues and Council Responses:**

- *High-rises in Batemans Bay:*
  - Two submissions opposed high-rises due to potential overshadowing.
  - The Batemans Bay Master Plan recommends infill housing and developing the town as a thriving residential and commercial centre.
- *Broulee's Growth:*
  - Concerns about Broulee's rapid growth will be addressed in future planning strategies.
  - The focus of the Housing Strategy is for the master planning of the Shires' towns including Batemans Bay, Narooma and Moruya.
- *Dalmeny Development:*
  - Submissions opposed using forested land for new urban development.
  - The Strategy focuses on infill, density, and existing zoned land within the town centres.
- *Shire-wide Climate Action:*
  - The Strategy should reflect the Eurobodalla Climate Action Plan 2022-2032.
  - Future planning documents arising from the Strategy will include the Climate Action Plan actions and objectives.
- *Housing Crisis:*
  - The Strategy addresses housing typology and aims to provide a variety of housing options through master planning and new typologies.

**PSR24/018 DRAFT EUROBODALLA HOUSING STRATEGY**

**S017-T00003;  
OP0076-S006**

- *Medium-Density Development:*
  - Future statutory planning frameworks and urban design principles will consider provisions for more medium-density development.

Overall, the Strategy is a positive step towards protecting the environment and meeting the community's housing needs.

**CONSIDERATIONS**

Key Issue	Council response	Amend or retain in draft Strategy
Don't want high-rise in Batemans Bay	Two submissions were opposed to high-rise in Batemans Bay causing potential overshadowing of the town centre.	Noted, the Batemans Bay Master Plan recommendations are to provide for housing options in the town centre and develop the town as a thriving residential and commercial centre.
Broulee become a desired destination, limit growth.	Broulee is growing rapidly and has created some concern about its future.	Noted. The Housing Strategy is not focused on villages and proposes master plans for the Shire's town centres.
Dalmeny Leave forests, develop already cleared land. Forested Land should not be used for new urban development. NSW is currently losing 50 million trees - that's 100,000 hectares of forest - a year to land clearing.	The plan recognises that the Shire is constrained and needs to refocus new development into alternative modes like infill, density and existing zoned land. Land zoned adjacent to Dalmeny is similar to the land cleared to create the town. The land has been zoned for development for a long time. There is an expectation on the part of the owners that they will be able to realise some value. However, environmental changes, bushfires and other legislation will significantly reduce the capacity for future development.	Noted. The Strategy identifies the need, demand and supply options available to the Council. It does not zone particular sites or change the planning rules; it simply identifies what is needed and the yield based upon current land use zones. The practical yield will be the subject of other strategic work such as the Dalmeny Land Release Area Masterplan.
Shire Wide The housing strategy should	The Climate Action Plan is an important document, and its	No change.

**PSR24/018 DRAFT EUROBODALLA HOUSING STRATEGY**

**S017-T00003;  
OP0076-S006**

<b>Key Issue</b>	<b>Council response</b>	<b>Amend or retain in draft Strategy</b>
more explicitly address and reflect the relevant elements of the Eurobodalla Climate Action Plan 2022-2032.	actions will be reflected in future planning. Master Plans, development control plans and other detailed policies will be consistent with the CAP actions and objectives.	
Council has been less than ambitious in its propositions. There is a lack of urgency and not enough consideration of an ever-worsening crisis in housing, equitability, and climate change.	The collective actions of the Council need to be more focused on delivering for the people. The Housing Strategy addresses existing housing typology and the construction of subdivisions and building of houses and units. The intent is to find new ways to provide alternative home options. This will be done through master planning.	The ongoing work of delivering urban development for the citizens of the Shire has been bolstered by the recent refocusing of Council priorities toward planning strategies that will help provide better communities for people.
Overall, the Strategy is a positive step towards protecting the environment and providing for the specific housing needs of the community.	The Strategy is part of the ongoing refocusing of planning and development toward better urban outcomes.	No change.
We need more medium density development, done well. I call on the Council to mandate a significant proportion (more than 10%) of all housing in new developments to be in this category.	This is a focus of the masterplans for the Shire's town centres such as the work being done on the Batemans Bay Masterplan.  The Strategy also has an action (7.1) to develop a contributions plan associated with the provision of affordable housing as part of subdivisions and multi-unit developments.	No change however changes to statutory planning frameworks and urban design principles are needed.
The report is not clear and needs to have a broader scope. The report's tone is that Council capacity to act is	The tone of the report reflects some realities. More time could be spent on delivering a more comprehensive	Some edits to clarify the intent and the outcomes have been crafted.

**PSR24/018 DRAFT EUROBODALLA HOUSING STRATEGY**

**S017-T00003;  
OP0076-S006**

<b>Key Issue</b>	<b>Council response</b>	<b>Amend or retain in draft Strategy</b>
limited and the responsibility lies elsewhere.	document. However, the time and energy will be focused on providing plans that will make a difference for people developing housing options.	
Submissions from Mystery Bay and Dalmeny identified that Table 3 of the Gyde land audit housing supply capacity provided by the Department of Planning provides a higher yield for the local villages. (80 of the 89 submissions).	The issues for Mystery Bay and Dalmeny submissions related to the draft strategy (Table 3) that set out the Gyde land audit housing supply capacity provided by the Department of Planning. Most took issue with the land audit methodology of including all land zoned urban-capable but also heavily constrained. The draft housing strategy and table noted that these constraints were likely to deliver less capacity than stated, though the submitters overlooked this; instead, they sought to remove Mystery Bay and Dalmeny from Table 3.	Add a line that indicates more clearly that the Glyde report is a mathematical calculation of capacity, not the planning capacity.
More focus on affordability and advocacy: Reinterpretation of the content to focus on aspects such as social housing responses, climate change action plans, or changing building standards. A few sought the Council to set a social and affordable housing percentage target.	Already noted in the Strategy and many instances, e.g., the request for greater focus on the Climate Change Action Plan (2023), already exist in Council policies and therefore do not need repeating. The plan discusses affordability and social components; however, the market would be oversupplied if 30% of housing is to be social housing. The Strategy aims to focus on addressing housing supply, provide guidance, and highlight responses to addressing the identified gaps	Add a reference to the Climate Action Plan 2023

**PSR24/018 DRAFT EUROBODALLA HOUSING STRATEGY**

**S017-T00003;  
OP0076-S006**

<b>Key Issue</b>	<b>Council response</b>	<b>Amend or retain in draft Strategy</b>
	in housing supply.	
<p>A greater level of advocacy from Council:</p> <p>This included the employment of a housing officer, and aspirational targets identified as potential approaches in the Council-commissioned background housing report. Several submissions sought Council to sway Australian and NSW Government policy and incentives. Two submitters sought Council to invest in building social housing. One sought an affordable housing strategy in addition to this housing strategy.</p>	<p>This approach to the Strategy is a fundamental paradigm shift to a pragmatic focus on what Council can achieve through its action. The strategy objectives and actions focus on quantifiable and deliverable actions like changing the Local Environmental Plan controls rather than actions that are difficult to measure and Council has limited ability to control the outcomes.</p>	<p>As stated, the Strategy adopts a pragmatic Council action approach. While the intent of these submissions is already noted in the Strategy, the actions and changes sought are not supported as they are beyond the means of the Council to make any meaningful change or exceed the Council's powers.</p>
<p>Throw out the entire Strategy and the process recommenced:</p> <p>Two submissions argued the Strategy was out of date because of NSW and Australian policy announcements, e.g., changes to minimum lot sizing, dual occupancy and better/more recent data made public after Council wrote the Strategy.</p>	<p>The Strategy can stand alongside those announcements and is fundamentally seeking to increase housing variety. These announcements are actions that support the outcomes intended in the draft Housing Strategy.</p>	<p>Noted.</p>
<p>Be open-minded to alternatives and innovation in this space.</p> <p>What was missing for me was the Housing diversity stream. There are still restrictions on tiny/small home communities and co-housing models in Australia.</p>	<p>Some diversity is required, and existing policies and rules limit some. Tiny Homes policy is largely driven by NSW government regulations around caravan park and campground regulations.</p>	<p>No change to the housing strategy.</p>



**PSR24/018 DRAFT EUROBODALLA HOUSING STRATEGY**

**S017-T00003;  
OP0076-S006**

<b>Key Issue</b>	<b>Council response</b>	<b>Amend or retain in draft Strategy</b>
Concerned about the development of 40 Hectares + of Dalmeny land proposed for development.	Dalmeny land proposed for development is already zoned Residential and subject to a planning process.	No change to the housing strategy.
I support clustered development and think the size of new homes should be restricted in some way to prevent "McMansions" from using 95% of the site with substantial floor areas and no public spaces in the development.	The size and scale of new development follows a traditional approach to housing.	The Housing Strategy seeks to masterplan the town centres with the aim of encouraging a variety of housing options and typologies. This could include dual occupancies, town houses and residential flat buildings.
I endorse the intention of Council to address the supply and affordability of housing in the Eurobodalla.	The submissions urge Council to carry our local weight in alleviating housing stress.	Supported in the strategy.
The Country Women's Association of NSW's Current Policy and Advocacy views on housing include:  Urge the Department of Education NSW to explore options for funding accommodation support or offering rent subsidies to teachers	The submission is advocating for essential workers and low-cost housing options.  This is supported and an action of the Strategy (6.2) to advocate for housing support.	Supports the general direction of the strategy.
<u>Malua Bay:</u> One submission pointed out that land adjacent to Malua Bay, zoned for rural residential large lot subdivision, is already cleared and fits with the intent of the Local Strategic Planning Statement and the draft Housing Strategy and should be rezoned to residential to enable a broader range of housing options and more efficient and sustainable use	Consideration of the submission has confirmed that the site and proposal have strategic merit.  Council has advised the applicant that they should pursue a planning proposal to rezone the land residential.	Recommend the owner pursue a planning proposal.

**PSR24/018 DRAFT EUROBODALLA HOUSING STRATEGY**

**S017-T00003;  
OP0076-S006**

<b>Key Issue</b>	<b>Council response</b>	<b>Amend or retain in draft Strategy</b>
of the land. The submission requested that the Housing strategy be amended to recognise the strategic merit of the land being rezoned too residential.		

**Legal**

The Housing Strategy is part of a suite of planning documents and investigations required by the NSW Government to periodically address or investigate the shires' planning needs and set the framework to support ongoing change to the amendment of planning documents.

**Policy**

Housing assessments and audits are carried out approximately every five years and provide insight into the strategic condition of the economy and the region's supply and demand functions.

**Environmental**

The policy sits at a higher level and sets direction for the Council and its planning priorities. Further work in terms of master planning and review of development controls will consider environmental impacts relevant to the location.

**Asset**

The focus on developing masterplans for the town centres where existing infrastructure already exists should reduce the need for significant extension in Council assets and infrastructure.

**Social Impact**

Understanding part of the housing supply chain has far-reaching impacts. The policy recognises a housing crisis that affects Australia and the role of the development industry, Council, and governments at several levels in developing housing supply chains.

**Economic Development Employment Potential**

The housing strategy identifies a local trade employment gap and rising materials costs. It also identifies structural issues in the building trades and professions that inhibit builders from developing larger structures and professions eg., architects and engineers in the housing industry. There is a clear need for more tradespeople in the industry across Australia and locally.

**Community and Stakeholder Engagement**

We informed the community through the Council's website, Online News, Living in Eurobodalla residents newsletter, posting on the Council's Facebook and Twitter, advertising on the Council's noticeboard page in two local newspapers, and distributing a media release.

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**PSR24/018 DRAFT EUROBODALLA HOUSING STRATEGY**

**S017-T00003;  
OP0076-S006**

Eurobodalla Shire Council publicly notified the draft housing strategy between 27 May and 10 July 2024.

**CONCLUSION**

Following the public exhibition of the draft Strategy, 168 submissions were received generally, many of which were from Mystery Bay residents. In the main, the submissions were supportive of the Strategy's focus on towns rather than villages.

The Housing Strategy is part of a suite of planning documents and investigations required by the NSW Government to periodically address and assess our Shire's planning needs. This will then provide a framework to support ongoing change to amendments made to planning documents.

The Strategy provides an audit rather than a detailed document on any strategic roll-out of housing supply or types.

Overall, the Strategy is a positive step towards protecting the environment and meeting the community's housing needs.

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**PSR24/019 PLANNING PROPOSAL 21 AMENDMENT TO PERMIT TORRENS  
TITLE SUBDIVISION OF DUAL OCCUPANCY DEVELOPMENT ON  
CERTAIN LAND IN THE R2 LOW DENSITY RESIDENTIAL ZONE**

**S031-T00017**

Responsible Officer: Gary Bruce - Director of Planning and Environment

Attachments: 1. Under Separate Cover - Planning Proposal 21 Torrens Title  
2. Confidential - Submissions

Community Goal: 3 Our region of vibrant places and spaces

Community Strategy: 3.1 Balance development between the needs of people, place and productivity

Delivery Program Link: 3.1.1 Review, prepare and deliver planning instruments that support sustainable social, environmental and economic outcomes as guided by our Local Strategic Planning Statements

Operational Plan Link: 3.1.1.5 Conduct ongoing reviews and update planning controls

### **EXECUTIVE SUMMARY**

This report aims to present the outcomes of the public exhibition of Planning Proposal 21 and to seek Council's resolution to make the amendment to the *Eurobodalla Local Environmental Plan 2012* (Eurobodalla LEP) to facilitate the Torrens Title subdivision of existing or proposed dual occupancy development in the R2 Low Density Residential Zone. Supporting changes to the Residential Zone Development Control Plan (DCP) are also proposed.

A planning proposal to amend the Eurobodalla LEP to facilitate the Torrens Title subdivision of existing or proposed dual occupancy development in the R2 Low Density Residential placed on public exhibition for 28 days from 14 August to 11 September 2024.

No objections were received during public exhibition. The two submissions received are attached and include:

1. Support letter from a community member,
2. Acknowledgement letter from Rural Fire Service.

No amendments to the exhibited planning proposal are necessary, other than updating the consultation sections to include the public exhibition. It is recommended Council now proceeds with making the amendment to the Eurobodalla LEP.

### **RECOMMENDATION**

THAT Council

1. Resolves to make the amendment to the *Eurobodalla Local Environmental Plan 2012* to facilitate the Torrens Title subdivision of existing or proposed dual occupancy development in the R2 Low Density Residential Zone.
2. Notify in writing the people who have made a submission to the proposal and inform them of Council's decision.

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**PSR24/019 PLANNING PROPOSAL 21 AMENDMENT TO PERMIT TORRENS  
TITLE SUBDIVISION OF DUAL OCCUPANCY DEVELOPMENT ON  
CERTAIN LAND IN THE R2 LOW DENSITY RESIDENTIAL ZONE**

**S031-T00017**

**BACKGROUND**

At the Ordinary Council Meeting on 16 April 2024 a report was submitted (Report PRS 24/005 – Minute No: 24/28) whereby Council resolved to endorse the planning proposal and forward it to the Minister for Planning for a Gateway Determination.

*THAT:*

1. *Council endorse the draft Planning Proposal 21 for submission to the Department of Planning, Housing and Infrastructure for a Gateway Determination.*
2. *Council endorse the draft amendments to the Residential Zones Development Control Plan.*
3. *Upon receipt of the Gateway Determination, the draft Planning Proposal and the draft amendments to the Residential Zones Development Control Plan be placed on public exhibition.*
4. *A further report be presented to Council following the public consultation period.*

Council endorsed the planning proposal and forwarded it to the NSW Department of Planning and Environment. A Gateway Determination was issued in July 2024 with Council nominated as the local planning proposal authority.

As no objections were received during the public and agency consultation process, no amendments to the original planning proposal have been necessary.

**CONSIDERATIONS**

The overarching outcomes of this amendment to the Eurobodalla LEP is to achieve:

- An increase in the proportion of residential lots developed for dual occupancy dwellings.
- Additional residential development in areas with existing services and utilities.
- Minimise the demand for new land releases.
- To assist in increasing housing affordability in Eurobodalla.

This Torrens Title subdivision of dual occupancy development clause will:

- apply to land zoned R2 Low Density Residential with a minimum lot size of 550m<sup>2</sup>,
- apply to existing lawful dual occupancy developments (attached and detached),
- allow the subdivision of existing lawful dual occupancy development (attached and detached) down to a minimum of 300m<sup>2</sup>,
- ensure only one dwelling will be located on each lot resulting from the subdivision,
- allow a combined subdivision and dual occupancy development application where each dwelling is located on a separate lot with a minimum size of 300m<sup>2</sup>.

To support the amendment, a number of amendments to the Residential Zones DCP are also proposed. These include:

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<b>PSR24/019 PLANNING PROPOSAL 21 AMENDMENT TO PERMIT TORRENS TITLE SUBDIVISION OF DUAL OCCUPANCY DEVELOPMENT ON CERTAIN LAND IN THE R2 LOW DENSITY RESIDENTIAL ZONE</b>	<b>S031-T00017</b>
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- Reducing the required landscape area for small lot dual occupancy to 20% of the site area, consistent with the requirement for residential development in the R3 zone.
- Exempting small lot dual occupancy development from the acceptable solutions in the subdivision and lot layout section of the DCP.
- Requiring proposals for the subdivision of bushfire prone land to comply with the requirements of *Planning for Bushfire Protection 2019*, particularly in relation to the construction standards of existing or proposed dwellings.
- Requiring small lot housing development to be designed taking into consideration the design guidelines in the Department of Planning and Environment's Low Rise Housing Diversity Design Guide.

#### **Legal**

The Planning Proposal has been developed in accordance with the Department of Planning and Environment's guidelines for preparing planning proposals.

#### **Environmental**

The planning proposal has considered environmental issues. The vast bulk of mapped biodiversity values on land zone R2 Low Density Residential is on larger undeveloped lots. This planning proposal will make no change to the planning outcomes for those lands.

The impacts of any proposed dual occupancy development and any fencing associated with the subdivision of that development will be considered at the development application stage in accordance with the Biodiversity Conservation Act 2016 and other relevant legislation or planning instruments.

#### **Asset**

The planning proposal has considered the impacts on Council assets. Given the likely diffuse uptake of dual occupancy development opportunities across the Shire, it is unlikely that there will be any constraints in the sewer and water networks. Where the water and sewer systems in certain locations become overloaded, upgrades to the systems can be implemented as required.

#### **Social Impact**

The planning proposal has considered social impacts. The subdivision of existing or proposed dual occupancy developments has positive social impacts through the provision of greater housing choice and smaller, more affordable housing options for residents.

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

The planning proposal has considered economic impacts. In addition to the positive economic benefits of greater housing choice and smaller, more affordable housing options, the more efficient use of existing infrastructure also has positive economic benefits to Council and the broader community through the reduced need for development of new infrastructure.

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<b>PSR24/019</b>	<b>PLANNING PROPOSAL 21 AMENDMENT TO PERMIT TORRENS TITLE SUBDIVISION OF DUAL OCCUPANCY DEVELOPMENT ON CERTAIN LAND IN THE R2 LOW DENSITY RESIDENTIAL ZONE</b>	<b>S031-T00017</b>
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**Community and Stakeholder Engagement**

The Planning Proposal was placed on public exhibition for 28 days from 14 August to 11 September 2024. Copies were available for viewing at Council's Moruya Administration Centre, Batemans Bay Library, Narooma library and on Council's website.

Notification of the planning proposal was also sent to the NSW Rural Fire Service and an update email was sent to the Council's Builders and Development list.

No objections were received during public exhibition.

**CONCLUSION**

A draft Planning Proposal to amend the Eurobodalla Local Environmental Plan 2012 (LEP) to facilitate the Torrens Title subdivision of existing or proposed dual occupancy development in the R2 Low Density Residential Zone was placed on public exhibition from 14 August to 11 September 2024. No objections were received.

No changes to the planning proposal are necessary, other than updating the consultation section to include public exhibition.

It is recommended Council now proceeds with making the amendment to the Eurobodalla LEP.



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**PSR24/020 NEW ANIMAL SHELTER DESIGN AND CONSTRUCTION**

**S010-T00003**

Responsible Officer: Gary Bruce - Director of Planning and Environment  
Attachments: Nil  
Community Goal: 2 Our community that welcomes, celebrates, and supports everyone  
Community Strategy: 2.4 Foster a safe community  
Delivery Program Link: 2.4.3 Provide companion animal services, guided by the Companion Animal Management Plan 2018  
Operational Plan Link: 2.4.3.3 Manage animal impounding and rehoming

**EXECUTIVE SUMMARY**

This report seeks Council's determination regarding the construction of a new Animal Shelter at Pollwombra Road, Moruya.

The existing Animal Shelter is located at Lot 220 DP787419, Pollwombra Road, Moruya, it is proposed that a new shelter and associated car park be built on the site currently occupied by the livestock yards. It is recommended that all or part of the livestock sale yards be relocated to the car park of the existing shelter or that they be removed from the current site entirely and the livestock yards at the Moruya Showground be utilised instead.

Due to the ongoing maintenance, age and the standards required by the Department of Primary Industries (DPI) NSW as well as the RSPCA, construction of a new Animal Shelter facility is a viable proposition. This construction of the Animal Shelter will meet the current standards described by the Department of Primary Industries (DPI) *NSW Animal Welfare Code of Practice No: 5 – Dogs and Cats in animal boarding establishments*.

**RECOMMENDATION**

THAT

1. The report concerning the proposed site for the new Animal Shelter as identified within the current location, north of the existing animal shelter be received.
2. Approval is sought to temporarily relocate all or part of the existing livestock sale yards to the car park of the current animal shelter.
3. Approval be granted to prepare and submit a Development Application for the construction of the new Animal Shelter and the demolition of the existing Animal Shelter when it has become redundant.
4. Council approve a submission of a grant application for \$3 million to support this project.

**BACKGROUND**

The existing Shelter was built in 1989, some 33 years ago, and houses dogs and cats for 365 days each year. The Shelter holds companion animals overnight pending owner notification and subsequent pick-up and, in some instances, the animals are kept longer than the 18-day impoundment period.

The Shelter requires ongoing maintenance to ensure the safety of the animals, the staff and pet owners who visit.

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**PSR24/020 NEW ANIMAL SHELTER DESIGN AND CONSTRUCTION**

**S010-T00003**

It should be noted that the livestock yards are located nearby and are used intermittently.

**CONSIDERATIONS**

The proposed site for the new Shelter as identified in Appendix 1, is within the current parcel of land, north of the existing animal shelter. Moderate vegetation exists on the eastern boundary of the site, screening the proposed shelter site from the Princes Highway; trees could be planted on the northern, and southern perimeters of the site, providing additional screening and shade to the compound.

The site is occupied by numerous livestock pens used for the sale of livestock which have not occurred at this location for some time. The livestock pens are used sporadically, and only accommodating one or two animals when in use.

**Legal**

The Department of Primary Industries (DPI) *NSW Animal Welfare Code of Practice No: 5 – Dogs and Cats in animal boarding establishments* sets out the standards for the holding and care of cats and dogs for boarding. [NSW Animal Welfare Code of Practice No 5 - Dogs and cats in animal boarding establishments](#)

**Financial**

The Estimated Development Cost (EDC) for the proposed works has been prepared in accordance with the *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation).

The scope of works subject of this report relates to the proposed development of the Animal Shelter including an administration building, dog kennels, external works and landscaping.

Based on current market rates and the documentation provided, the estimated costs for the construction of the animal shelter are approximately \$1,941,848 (\$2,136,003 inclusive of \$194,185 GST).

It is proposed that the project can be part funded from Council and also from grant funding. A budget initiative will be requested in the 2025/2026 budget and this will enable Council to seek grant funding for the remainder of the project costs.

**CONCLUSION**

Council's present-day Shelter is functional, there remains an ongoing cost to maintain the 33-year-old shelter to the minimum standards as identified by the RSPCA and DPI, as such, the shelter has attained its end-of-life purpose.

It is proposed that an area of 5500m<sup>2</sup> is required for the construction of the new Shelter administration building/cattery, kennels, exercise area and car park.

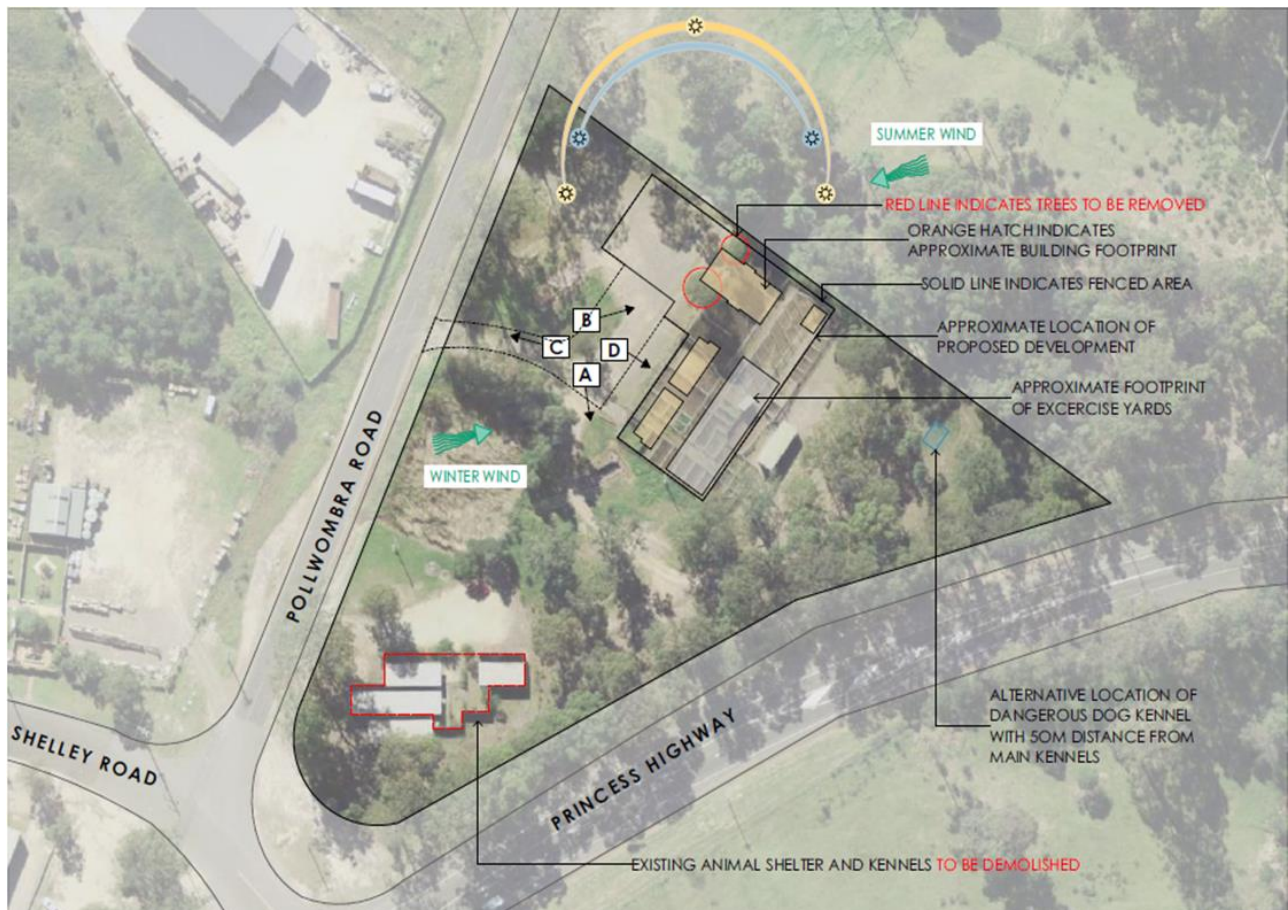
To accommodate the construction of the new Shelter, the livestock pens must be relocated. It is recommended these pens would be dismantled and reconstructed within the car park of the existing Shelter temporarily, until the old shelter is demolished. Alternatively, as the livestock pens are used infrequently, the pens could be removed altogether, with the livestock yards at Moruya Showground used as the substitute.

PSR24/020 NEW ANIMAL SHELTER DESIGN AND CONSTRUCTION

S010-T00003

Appendix 1

Present-Day Animal Shelter and Proposed Location of New Animal Shelter Located at Pollwombra Road Moruya



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**PSR24/021 DA0518/24 - 3 KINGS HIGHWAY, BATEMANS BAY  
VARIATION TO BUILDING HEIGHT GREATER THAN 10% (ELEP)**

**DA0518/24**

Responsible Officer:	Gary Bruce - Director of Planning and Environment
Attachments:	1. Referral - DPE-Water 2. Referral - NSW RFS 3. Referral - Transport for NSW 4. Under Separate Cover - Conditions of Consent
Community Goal:	3 Our region of vibrant places and spaces
Community Strategy:	3.1 Balance development between the needs of people, place and productivity
Delivery Program Link:	3.1.2 Provide receptive and responsive development assessment services
Operational Plan Link:	3.1.2.1 Assess and determine development applications
Applicant:	Bokor Pty Ltd
Land:	3 Kings Highway Batemans Bay, Lot 3 DP 865527
Area:	3.75ha
Setbacks:	NA
Height	Maximum 10m building height – Proposed 11.34m or 13.4% (Building A) and 11.345m 13.45% (Building B)
Zone:	E3 Productivity Support
Current Use:	Vacant
Proposed Use:	Specialised retail premises
Description:	Specialised retail premises comprising two buildings with associated onsite car parking
Permitted in Zone:	Yes 'specialised retail premises' is permitted with consent in the E3 Zone
DA Registered:	30 May 2024
Reason to Council:	>10% variation to Height of Buildings Standard
Recommendation:	Approve – subject to conditions

**EXECUTIVE SUMMARY**

The purpose of this report is to seek Council's determination of Development Application (DA) DA0518/24 for Specialised Retail Premises comprising two buildings with associated onsite car parking at 3 Kings Highway, Batemans Bay.

The DA seeks a variation to the *Eurobodalla Local Environmental Plan 2012* (ELEP) Clause 4.3 Height of Buildings. The ELEP defines the maximum height of buildings as 10m, measured from existing ground level. The proposed building height is 11.34m (Building A) and 11.345m (Building B), varying from the standard by 13.4% and 13.45% respectively.

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**PSR24/021 DA0518/24 - 3 KINGS HIGHWAY, BATEMANS BAY  
VARIATION TO BUILDING HEIGHT GREATER THAN 10% (ELEP)**

**DA0518/24**

The *Guide to Varying Development Standards, November 2023* requires that all developments with a variation greater than 10% be determined by the elected Council.

The proposed development has been assessed against the requirements of the *Environmental Planning and Assessment Act 1979* (EPA Act), relevant State Environmental Planning Policies (SEPPs), *Eurobodalla Local Environmental Plan 2012* (ELEP), the Batemans Bay Regional Centre Development Control Plan (DCP) and is considered compliant with the requirements.

The DA was notified in line with the Community Engagement Framework and Participation Plan. During the notification, six (6) submissions were received.

Details of the application were referred to Council's Engineering and Environment Officers and externally to Transport for NSW, Department of Planning and Environment (DPE)-Water and NSW Rural Fire Service and satisfactory referral responses were received in each instance, subject to conditions of consent. The proposal is Integrated Development as the proposal involves works within 40m of a watercourse. General Terms of Approval were issued by DPE-Water for a Controlled Activity Approval under the *Water Management Act 2000*.

### **RECOMMENDATION**

THAT Development Application DA0518/24 for Specialised Retail Premises comprising two buildings with associated onsite car parking at 3 Kings Highway, Batemans Bay, be approved subject to the conditions provided in the attachment to this report.

### **BACKGROUND**

Council received a DA for the Specialised Retail Premises comprising two buildings with associated onsite car parking on 30 May 2024 described as follows:

- Tenancy 1 proposes a ground floor and basement carpark with a total area of 4,416m<sup>2</sup> (3,416m<sup>2</sup> of shop floor, 1,000m<sup>2</sup> warehouse and 190m<sup>2</sup> loading bay), basement parking for 104 vehicles and an additional 50 parking spaces at grade.
- Tenancy 2 proposes a ground floor with a total area of 3,255m<sup>2</sup> (2,695m<sup>2</sup> of shop floor, 560m<sup>2</sup> warehouse and 190m<sup>2</sup> loading bay).
- Vehicular access is proposed via two driveways from Highcliffe Road.
- The proposal involves earthworks and clearing of 4,925m<sup>2</sup> native vegetation to prepare the site for the development and the establishment of an asset protection zone for bushfire protection.

The land is identified as 3 Kings Highway, Batemans Bay (Lot 3 DP 865527). The land comprises an area of 3.75ha and is bound by the Kings Highway to the east, the Old Punt Road to the south and Highcliffe Road along its western boundary. The land is partially cleared and partially vegetated. The cleared area is associated with a previous approval for a motor showroom and car repair station (approved in 1997) that commenced in the form of earthworks. The land was also used temporarily as a works depot and stockpile of materials associated with the Batemans Bay bridge replacement works but the site was restored to its former state upon completion of the project.

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**PSR24/021 DA0518/24 - 3 KINGS HIGHWAY, BATEMANS BAY  
VARIATION TO BUILDING HEIGHT GREATER THAN 10% (ELEP)**

**DA0518/24**

Residential development is located to the east and west. A service station and motel development are situated to the south of the site. The site is affected by the following constraints:

- Bushfire prone
- Flood planning area (minor area well outside of the building envelope)
- Riparian land
- Frontage to a State classified road
- Council's Native Vegetation Map
- Coastal Zone – Coastal Use Area and Coastal Environment Area
- Proximity to aboriginal sites
- Proximity to Class 1 and 2 acid sulfate soils
- Local Lands Services authorises clearing

None of the site constraints will impede the development.

**POLICY**

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

The proposed development has been assessed against the requirements of the *EPA Act*, relevant State Environmental Planning Policies (SEPPs), *Eurobodalla Local Environmental Plan 2012* (ELEP), *Development Control Plan (DCP)*, codes and policies and is considered compliant with the requirements.

*Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC)*  
*EPBC Act* matters have been satisfactorily considered in the development application. An assessment of significance under the *EPBC Act* was undertaken and the outcome was that it is unlikely that the development would significantly impact on those threatened or migratory species assessed.

*Biodiversity Conservation Act 2016*

Section 1.7 of the *EPA Act* requires the application of the *Biodiversity Conservation Act*, Part 7 in particular this involves consideration of the 'avoid, minimise, offset hierarchy' which needs to be demonstrated.

Approximately 4,925m<sup>2</sup> of native vegetation (PCT 1220 - Gum - Grey Ironbark - Woollybutt grassy open forest on coastal flats, southern Sydney Basin Bioregion and South East Corner Bioregion is proposed to be cleared for the building envelope and to establish the asset protection zone. The site is mapped on Council's Native Vegetation Map but not on the NSW Biodiversity Values Map and the amount of clearing of native vegetation does not exceed clearing thresholds that would trigger the Biodiversity Offsets Scheme. A Flora and Fauna Report which included a Test of Significance was submitted, prepared by South Coast



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Environmental Consulting, that concludes the proposal is unlikely to have a significant effect on threatened species, endangered population, ecological communities or their habitats. Conditions to be imposed on consent requiring compliance with the recommendations of the Flora and Fauna Report. It is further noted the proposal involves landscaping which will compensate for some of the trees to be removed and improve the aesthetics of the development/streetscape. A Riparian Assessment Report and Vegetation Management Plan, prepared by South Coast Consulting, was also submitted with the application which details a range of mitigation measures to ameliorate any potential impacts of the proposal on riparian corridor and to improve the environmental outcomes such as keeping any tree clearing within the riparian corridor to a minimum, protecting existing trees during construction, sediment and erosion control measures, weed control and fauna management.

*Integrated Development*

*Water Management Act 2000*

Pursuant to Section 4.46 of the *EPA Act* the proposal is Integrated Development as the proposal involves development within 40m of a watercourse, it requires a Controlled Activity Approval under the *Water Management Act 2000*. General Terms of Approval were issued by DPE-Water on 28 August 2024 for a Controlled Activity Approval under the *Water Management Act 2000*.

*State Environmental Planning Policy (Biodiversity and Conservation) 2021*

Chapter 2 Vegetation in non-rural areas only applies to clearing of native vegetation in NSW on land zoned for urban and environmental purposes that is not linked to a development application. Approval is required for removal of native vegetation associated with this proposal however approval for the removal of native vegetation is considered via DA0518/24.

Chapter 4 Koala Habitat Protection 2021 does not apply to the land.

*State Environmental Planning Policy (Industry and Employment) 2021*

Chapter 3 Advertising and signage applies as the proposal involves signage. The proposed signage involves:

- One (1) freestanding pylon sign 7.4m high, containing a small panel 'North Batemans Bay Retail' 0.4m high x 3m wide (area 1.2m<sup>2</sup>) and two tenancy illuminated signage panels 1.5m high x 3m wide (area 4.5m<sup>2</sup>) comprising of translucent panels backlit with strip LED lighting.
- Wall signs on each elevation of Tenancy A and B either 8m x 2m or 8 x 2.5m with an area of 16 or 20m<sup>2</sup> each.

Council cannot grant consent to signage unless it is satisfied that the signage is consistent with the objectives of Chapter 3 and that the signage satisfies the assessment criteria specified in Schedule 5.

*Objectives of Chapter 3:*

The proposal is consistent with the objectives of Chapter 3 as the signage is compatible with the desired amenity and visual character of the area, provides effective communication in suitable locations and is of high quality design and finish for the following reasons:

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- The site is zoned E3 Productivity Support and is likely to be developed with compatible land uses.
- The site is located in proximity to an existing service station with similar signage and although the site is located in proximity to a residential area the site is elevated and not in direct line of sight from residential properties.
- The site is located at the gateway of Batemans Bay for visitors entering the Shire from the west along Kings Highway.
- The proposed signage does not exceed the maximum 20m<sup>2</sup> within 250m of and visible from a classified road.

Schedule 5 Assessment criteria:

The signage satisfies the assessment criteria specified in Schedule 5. Of particular note the proposal is in character with the area, does not detract from the amenity of visual quality of any environmentally sensitive area, does not dominate the skyline or the streetscape and is compatible with the scale, proportion of the building. The proposed illumination of the signage would not detract from the amenity of any residential area and the proposed signage would not reduce the safety for any public road.

State Environmental Planning Policy (Resilience and Hazards) 2021 (SEPP)

Chapter 2 – Coastal Management

The SEPP aims to manage development in the coastal zone, protect environmental assets of the coast, establish a framework and guide to land use planning decision making and provides mapping for the coastal management areas.

The land is identified as being within the coastal environment area and coastal use area and therefore Clauses 2.10 and 2.11 apply. These matters have been sufficiently addressed in the submitted Statement of Environmental Effects and assessed as satisfactory. Development consent can be granted as the proposed development will not result in any detrimental impact to the coastal environment area or coastal use area.

Chapter 4 – Remediation of Land

This Chapter aims to promote the remediation of contaminated land for the purpose of reducing risk of harm to human health or any other aspect of the environment. Council must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated and whether it will be suitable in its contaminated state or can be made suitable through remediation of the site.

A Contamination Report was submitted with the application, prepared by ACT Geotechnical Engineering, which concluded that based on the results of their investigation the site is considered suitable for the development. The report recommended that whilst it is unlikely that contamination may be encountered during construction it is recommended that an unexpected finds protocol with management procedures for asbestos is implemented prior to construction works commencing. A condition would be imposed on the consent accordingly. Council is satisfied the development satisfies the requirements of Clause 4.6 of the SEPP.

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*State Environmental Planning Policy (Transport and Infrastructure) 2021*

The site is located with frontage to a classified road (Kings Highway) and therefore Clause 2.119 applies. Council must be satisfied that where practicable and safe, vehicular access to the land is provided by a road other than the classified road and the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development and that the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

The development satisfies Clause 2.119 as access is provided from Highcliffe Road via Old Punt Road, not the Kings Highway. It is noted Highcliffe Road and Old Punt Roads are proposed to be upgraded. Council is satisfied the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development. A Traffic Report was submitted with the application, prepared by ARC traffic and transport, which advised the trip generation is very moderate and would have no impact on the operation of the Kings Highway and Princes Highway intersection during future peak periods. The application was referred to Transport for NSW (TfNSW) and Council's Development Engineer and no objections were raised.

The application also triggers referral to TfNSW for 'Traffic Generating Development' under Clause 2.122 of the SEPP as the proposal is likely to generate more than 50 vehicle trips per hour (under 'any other purpose' development). The submitted Traffic Report indicated the proposal will generate 221 vehicle trips per hour during Saturday peak periods. The application was referred to TfNSW and no objections were raised.

*State Environmental Planning Policy (Sustainable Buildings) 2022*

Chapter 3 Standards for non-residential development applies as the development for non-residential development exceeds a capital investment value of \$5 million. In deciding whether to grant development consent to non-residential development, Council has considered the matters specified in Section (1) as follows:

- The development is designed to enable the minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials. A Waste Minimisation Report, prepared by Dickens Solutions, was submitted with the application outlining measures taken to minimise waste during construction and during on-going operational use.
- Energy efficiency measures to reduce use of electricity will be employed in accordance with Part J6 National Construction Code including air conditioning deactivation system, lighting timers, motion detectors etc to reduce air conditioning and lighting in various zones when not in use.
- Measures to reduce reliance on artificial lighting and mechanical heating and cooling through passive design such as roof panels with low solar absorptance, sun shading and awnings to windows.
- Measures to generate and store renewable energy through provision for solar panels to the roof.

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- Energy metering system to be installed to monitor energy consumption.
- Measures to minimise consumption of potable water such as 4-star fixtures and fittings.

*Eurobodalla Local Environmental Plan 2012 (ELEP)*

Clause 2.3 - Zone objectives and Land Use table

The site is zoned E3 Productivity Support. The objectives of the E3 zone are:

- *To provide a range of facilities and services, light industries, warehouses and offices.*
- *To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres.*
- *To maintain the economic viability of local and commercial centres by limiting certain retail and commercial activity.*
- *To provide for land uses that meet the needs of the community, businesses and industries but that are not suited to locations in other employment zones.*
- *To provide opportunities for new and emerging light industries.*
- *To enable other land uses that provide facilities and services to meet the day to day needs of workers, to sell goods of a large size, weight or quantity or to sell goods manufactured on-site.*
- *To cater specifically for uses that require a high degree of visibility and accessibility to passing traffic and that generate a high proportion of single purpose vehicle trips.*
- *To encourage site amalgamation and creation of a highway service precinct on land at Batemans Bay.*
- *To support the nearby local business centre of Moruya without adversely impacting on the viability of that centre.*

The proposal is consistent with the objectives of the zone. The proposal will be compatible and not compete with other similar land uses in Batemans Bay and will maintain economic viability by limiting certain retail and commercial activity noting the proposal is in small pocket of E3 Zone. The proposal will cater for specialised retail that is not suited to other employment zones.

The proposed *specialised retail premises*, as described below, is permitted with consent in the E3 Zone. ***specialised retail premises*** means a building or place the principal purpose of which is the sale, hire or display of goods that are of a size, weight or quantity, that requires—

- (a) *a large area for handling, display or storage, or*
- (b) *direct vehicular access to the site of the building or place by members of the public for the purpose of loading or unloading such goods into or from their vehicles after purchase or hire,*  
  
*but does not include a building or place used for the sale of foodstuffs or clothing unless their sale is ancillary to the sale, hire or display of other goods referred to in this definition.*

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**Note—**

*Examples of goods that may be sold at specialised retail premises include automotive parts and accessories, household appliances and fittings, furniture, homewares, office equipment, outdoor and recreation equipment, pet supplies and party supplies.*

*Specialised retail premises are a type of **retail premises**—see the definition of that term in this Dictionary.*

Clause 4.3 – Height of Buildings

Clause 4.3 Height of Buildings sets a maximum height of 10m, measured from existing ground level. The DA seeks a variation to Clause 4.3 with a proposed building height of 11.34 (Building A) and 11.345 (Building B). This represents a height variation of 13.4% (Building A) and 13.45% (Building B) respectively. Due to the requirements of the NSW Department of Planning and Environment, any variation greater than 10% must be determined by the elected Council.

Clause 4.6 – Exceptions to Development Standards

The objective of Clause 4.6 is to provide a degree of flexibility in applying certain development standards to particular development and to achieve a better outcome for development by allowing flexibility in particular circumstances. Clause 4.6 enables consent to be granted for development even though the development would contravene a development standard. In accordance with sub-clause (3) development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances, and there are sufficient environmental planning grounds to justify the contravention of the development standard. This assessment has been completed in accordance with the *Guide to Varying Development Standards*, prepared by the Department of Planning and Environment dated November 2023 (Guide). The Guide sets out key considerations in the assessment of variations which has been assessed below.

Key Considerations:

- *Is the planning control being varied a development standard?*

Comment:

The proposed development involves a variation to Clause 4.3 Height of buildings in the *Eurobodalla LEP 2012*. Clause 4.6 specifies a maximum height of 10m for the site. Section 1.4 of the *EPA Act 1979* identifies the items that are to be considered as a development standard.

The DA seeks a variation to Clause 4.3 with a proposed building height of 11.34 (Building A) and 11.345 (Building B). This represents a height variation of 13.4% (Building A) and 13.45% (Building B) respectively. It is noted the majority of the proposal complies except for the eastern portions of the building as the land is sloping and this is the lowest point of natural ground level.

- *What are the objectives of the standard?*

(1) The objectives of clause 4.3 Height of Buildings are as follows—

- (a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,

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- (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development.
- *Does the written request demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances (Wehbe test)?* (5 Part Test – may rely on one or more to justify the non-compliance)

**Test 1: Compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard. Wehbe v Pittwater Council at [42] and [43]:**

The proposal satisfies the objectives of the development standard to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality and to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development.

The existing character of the area is comprised of a mix of land uses with a service station and motel to the south, the Kings Highway and intersection/roundabout then large lot residential zoned land to the east, and R2 zoned low density residential development on the lower slopes towards the waterfront to the west. The surrounding residential properties to the east and west have a height limit of 8.5m which reflects the character of the existing development in the R5 large lot and R2 low density residential zone. The service station site is zoned E3 Productivity Support (same as the subject site) and contains a single storey service station with large canopies and associated buildings and car parking. The motel development is a 1-2 storey medium density development. Both of these sites have a maximum height of building of 11.5m which is greater than the maximum building height limit on the subject site and the existing 1-2 storey developments are currently well under the height limit but have capacity to be redeveloped in the future. The subject land is zoned E3 Productivity Support and is currently vacant. The building height set on the subject site at 10m reflects a future desired future character for a larger scale development on the subject site.

The proposed development is not directly in the visual catchment of the residential properties to the east and west as the site is elevated above the R2 zoned land and separated from the R5 zoned land by the Kings Highway. The proposal is more within the visual catchment of the adjacent E3 and R3 zoned land to the south which have greater height opportunities. The height, bulk and scale of the proposed development is considered to be in keeping with the existing and desired future character of the area.

The height encroachment does not result in any adverse impacts on the amenity of the area such as visual impact, loss of views, privacy or solar access to existing development. The site does not directly adjoin any residential properties and/or is well separated by distance or topography. A Visual Impact Assessment, prepared by Edmiston Jones, was submitted which concluded that the proposal is likely to be visible for the surrounding area but the visual impacts will be reduced to an acceptable level by a combination of proposed architectural and landscape mitigation measures as detailed in this report.

The objectives of the development standard are considered to be achieved notwithstanding non-compliance with the standard for the reasons detailed above.

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**Test 2: The underlying object or purpose of the standard is not relevant to the development and compliance is unnecessary. Wehbe v Pittwater Council at [45]:**

The underlying objective of the development standard is relevant to the development in this case.

**Test 3: The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable. Wehbe v Pittwater Council at [46]:**

The underlying objective of the building height standard is to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality and to minimise amenity impacts to existing development.

As discussed above the proposed development is considered to be compatible with the existing and desired future character of the area, noting that the proposal is within the visual catchment of the adjoining E3 and R3 lands with existing development well below the maximum 11.5m building height however the height limits on these properties and the subject site (10m) reflects a desire for larger scale development in this area. The proposed development will not result in adverse amenity impacts on the neighbourhood. The proposed development does not defeat or thwart the underlying objectives of the development standard despite the non-compliance.

**Test 4: The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable. Wehbe v Pittwater Council at [47]:**

It is not considered that the development standard has been virtually abandoned or destroyed by the Council's own actions. Height variations are assessed on site specific merit basis in accordance with the legislation. However, there are no known developments in the immediate area that have been supported with height variations.

**Test 5: The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone. Wehbe v Pittwater Council at [48]:**

The site is zoned E3 Productivity Support and is currently vacant and has a maximum height limit of 10m. It is located adjacent to another parcel of land zoned E3 to the south which has a maximum height limit of 11.5m. The subject site is well separated from any sensitive land uses such as residential properties due to distance or topography. The subject site is considered to have been suitable zoned E3 however it is considered the height limit could have been set at 11.5m the same as the adjoining E3 land to the south. Nonetheless the proposed development is considered to be compatible with the existing and desired future character of the area, noting that the existing development on the adjoining E3 is well under the 11.5m height limit but could be redeveloped in the future.

Based on the Wehbe test, outlined above, the proposed variation is justified on the basis that it would be unreasonable for Council to require the applicant to redesign the proposal to achieve compliance with the 10m development standard as it satisfies the objectives of the

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development standard and would not have an adverse impacts than if strict compliance was achieved.

The written statement demonstrates that compliance with the standard is unreasonable and that there are sufficient grounds for the contravention of the standard.

- *What part of the Wehbe test is being used to justify the variation? Or is the variation otherwise justified?*

The applicant relies on Test 1: *Compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.*

- *Does the written request demonstrate sufficient environmental planning grounds to justify the variation to the development standard being proposed?*

The applicant has outlined environmental planning grounds to justify the variation to the development standard as follows:

- Zone objectives – The objectives of the met notwithstanding the contravention of the 10m height limit. The proposal involves a specialised retail premises which is permissible in the E3 zone and consistent with the zone objectives. Such uses typically have a large floor plate and require suitable car parking and servicing due to the nature of the development. The sloping nature of the site results in a development that will have an elevated eastern portion that slightly encroaches into the maximum 10m building height which is consequence of the need for a larger floor plate that is typically desired for a specialised retail premises. Specialised retail premises are typically not stepped or split level due to the nature of a specialised retail premises such as a typically large floor plate given the bulky goods nature of the use and the need to provide compliant access for persons with a disability.
- Site specific environmental grounds – Sloping terrain falls from Highcliffe Road to Kings Highway to the east necessitates the eastern part of the building to be elevated above ground level. Strict compliance would have necessitated greater earthworks and land reshaping at the western end which is not appropriate for driveway access and streetscape appearance.

The proposed minimise vegetation disturbance to site the building in an already cleared area as much as possible.

- Undesirable precedent – Approval of the height encroachment will not set an undesirable precedent as the 10m building height only applies to the subject site and land to the south zoned E3 and R3 have greater height limits of 11.5m. The proposal also strikes a balance between the sloping terrain and the need to provide a larger floor plate while seeking to reduce site excavation, minimise vegetation disturbance and protecting the riparian corridor. In the applicants view these are circumstances unique to the land and supporting a height encroachment will not set a precedence on properties elsewhere.



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The proposed development satisfies the objects of the *EPA Act* to 'promote orderly development and economic use and development of land, protecting the environment ..... and promoting good design and amenity of the built environment'.

The written request is considered to demonstrate sufficient environmental planning grounds to justify the variation to the development standard for the reasons stated above.

- *What are the environmental planning grounds being argued? Are the environmental planning grounds particular to the relevant aspect of the proposed development?*

The environmental planning grounds being argued are that the proposed development is consistent with the zone objectives and there are site specific environmental grounds to justify the variation. These environmental planning grounds are relevant to the development. Furthermore the proposed development is located on land within the E3 Productivity Support zone and has been earmarked for a development of this nature. The proposed specialised retail premises is permitted in the zone and will be compatible with existing and desired future character noting the development in the adjoining E3 zoned land (service station) as well as the R3 zoned land to the south (motel) to the south which both have a greater height limit of 11.5m a compared to 10m on the subject site.

The proposed development is well separated from the residential areas to the east and west and is unlikely to result in adverse impacts to the amenity of the residential area which constitutes sufficient environmental planning grounds in itself as it promotes 'good design and amenity of the built environment; which is one of the objects of the EPA Act.

The site also has a slope constraint which the height variation is a direct result of. Sloping terrain falls from Highcliffe Road to Kings Highway to the east necessitates the eastern part of the building to be elevated above ground level. To the east of the site is the Kings Highway and the R5 Large Lot residential land however the eastern portion of the site is not within direct view from any residential properties. A View Assessment Report has been submitted which concludes the proposal will have no adverse visual impact as a result of the height variation. Proposed landscaping and vegetation management within the riparian corridor will sufficiently screen the development from view from the east (which is predominantly viewed by passing motorists on the Kings Highway).

In conclusion Council is satisfied that consent may be granted to the proposed development that contravenes a development standard as Council is satisfied the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances, and there are sufficient environmental planning grounds to justify the contravention of the development standard.

Clause 5.21 Flood Planning

The site is mapped as being flood prone however it only affects a very minor area in the south eastern portion of the site (near the Kings Highway/Old Punt Road intersection) well outside of the building envelope. Council cannot grant consent to development in the flood planning area unless it has considered the matters for consideration in Clause 5.21. Council has considered these matters and is satisfied. In deciding whether to grant development consent Council has considered the impact of the development on projected changes to flood behaviour as a result of climate change, the intended design and scale of buildings resulting from the development,

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whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood and the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.

Clause 5.10 Heritage conservation

The site is not located on land or within proximity of any heritage items or heritage conservation area.

The site is located in proximity to a number of Aboriginal items. Clause 5.10 requires Council to consider heritage assessment on land that is within the vicinity of a heritage item prior to granting consent. An Aboriginal Due Diligence Report was submitted which concluded no archaeological sites were found on the site and noted that the site is heavily disturbed from past and current land use practices. One previous unregistered relic that was previously found on the site has been destroyed by past activities and no further archaeological management is required. The report advises that no Aboriginal Heritage Impact Permit (AHIP) is required however recommends the proposal should proceed with caution and if unanticipated archaeological material is encountered during construction that Heritage NSW be notified and follow due process. A condition will be imposed on any consent to be granted. The proposal is considered to satisfy Clause 5.10.

Clause 6.3 Acid sulfate soils

The site is not located in the mapped acid sulfate soil area however is located in proximity to Class 1 and 2 acid sulfate soils. No further reporting was required from the applicant and no conditions of consent are necessary given the site is elevated the proposed development is unlikely to encounter acid sulfate soils.

Development Control Plan

There is no Development Control Plan (DCP) applying to the land. The site is located outside the mapped area applicable to the Batemans Bay Regional DCP.

Property in Greater Batemans Bay Structure Plan

A structure plan setting out the strategic planning framework for development over 25 years. The site is identified as a gateway site that requires scenic protection controls. It is an area that is considered appropriate for more intensive development for numerous reasons such as proximity to Batemans Bay, however, this land serves as the main Gateway to Batemans Bay and needs to be developed in a coordinated and well-designed manner that incorporates substantial setbacks and retention of vegetation. Despite the exceedance to the height control the proposal is considered to achieve this via substantial setbacks to the Kings Highway and retention of trees within the riparian corridor as well as landscaping particularly to the site boundaries. A Visual Impact Assessment, prepared by Edmiston Jones, was also submitted which concluded that the proposal is likely to be visible for the surrounding area but the visual impacts will be reduced to an acceptable level by a combination of proposed architectural and landscape mitigation measures such as colour selection, façade articulation, landscaping planting.

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Council Parking and Access Code

The proposal has been assessed against the requirements of the Parking and Access Code including driveway access, parking, vehicle maneuvering and loading/servicing and found it to be satisfactory subject to conditions.

Other Council Codes and Policies:

The proposal has been assessed against the following Council’s Codes and Policies and found to be satisfactory, subject to conditions:

- *Landscaping Code*
- *Liquid Trade Waste Code*
- *Safer by Design Code*
- *Signage Code*
- *Site Waste Minimisation Code*
- *Tree Preservation Code*

Development Contributions

The proposal is subject to development contributions pursuant to Section 7.12 of the EPA Act. The Eurobodalla s7.12 Contributions Plan 2022 applies to the site. Any development with a cost value more than \$200,000 is subject to a contributions levied at 1% of the development cost. A condition will be imposed on any consent to be granted for the payment of 7.12 development contributions to be paid prior to the issue of the Construction Certificate.

Sewer and Water Headworks Council Charges

The property is not currently connected to sewer and will be subject to headworks charges pursuant to Section 64 of the *Local Government Act 1993*. Commercial and Industrial development are assessed by following the NSW Water Directorate’s Section 64 Determinations of Equivalent Tenements Guidelines which provides Council with a basis for determining Equivalent Tenement (ET) loadings for different types of development. Commercial and industrial developments are usually charged at an ET of 15 for sewer.

Council’s Water Supply and Sewer Headworks Policy requires compliance with the NSW Water Directorate Guidelines for commercial / industrial development.

Contributions	ET applicable to this DA	Rate FY22/23 per ET	Total Amount
Water Headworks	(6111m <sup>2</sup> /10000m <sup>2</sup> )*15	\$7,845	\$71,860

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	<b>9.16 ET</b>		
Sewer Headworks (DSP2 – MO, BB)	(6111m <sup>2</sup> /10000m <sup>2</sup> )*15 <b>9.16 ET</b>	\$9,905	<b>\$90,794</b>

Water is currently available at the site but will require a new water meter and headworks charges will apply.

Conditions will be imposed on any consent to be granted for the payment of sewer and water headworks and water meter charges prior to the issue of the Construction Certificate.

*Planning for Bushfire Protection 2019 – NSW Rural Fire Service*

The site is mapped as bushfire prone. Under Section 4.14 of the *EPA Act 1979* a development application on bushfire prone land is required to demonstrate the proposal satisfies Planning for Bushfire Protection (PBP).

A Bushfire Report, prepared by Apical Bushfire Planning, was submitted with the application which demonstrates compliance with the requirements of PBP 2019. The report found the main bushfire threat is from the north and north west comprising 'Coastal Dry Shrub Forest', which the Flora and Fauna report identifies as PCT 'Spotted Gum – Grey Ironbark – Woollybutt grassy open forest on coastal flats, southern Sydney Basin Bioregional and Southeast Corner Bioregion'. The report makes recommendations on construction level and asset protection zones to comply with BAL-29. The Asset Protection Zone (APZ) will necessitate removal of native vegetation which will impact biodiversity which has been assessed as satisfactory as detailed in this report. The proposal provides suitable water supply and access arrangement that are capable of compliance with PBP 2019. The APZ will need to be managed in perpetuity and any future landscaping will need to comply with Appendix 4 of PBP 2019.

The application was referred to the NSW RFS for advice and a satisfactory response, subject to conditions of consent, was received on 25 June 2024 which will be attached to any consent to be granted.

**ENVIRONMENTAL**

The proposal has been assessed against likely impacts as follows:

- Flora and fauna/biodiversity – The proposal has been located in a partially cleared area on the site however will involve clearing of 4,925m<sup>2</sup> native vegetation to prepare the site for the development and the establishment of an asset protection zone for bushfire protection. A Flora and Fauna Report and Vegetation Management Plan, prepared by South Coast Environmental Consulting were submitted with the application and found to be satisfactory. The recommendations of the reports will form a condition of consent should consent be granted.
- Traffic and access – A Traffic Impact Assessment Report (TIA) has been submitted with the application considering the traffic impacts on the development as well compliance with access and parking, servicing requirements. Council has assessed the proposal and found the development satisfactory subject to conditions. The site is located on a classified road and the application was referred to Transport for NSW and no objections

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**PSR24/021 DA0518/24 - 3 KINGS HIGHWAY, BATEMANS BAY**  
**VARIATION TO BUILDING HEIGHT GREATER THAN 10% (ELEP)**

**DA0518/24**

were raised noting the proposal is located on a classified road and Traffic Generating Development pursuant to SEPP (Transport and Infrastructure) 2021.

A number of submissions were received from the community and the main concern raised was related to traffic impacts. It is considered that the proposal (subject to the conditions of consent) is acceptable having regard to the submissions received during the assessment process. The TIA has satisfactorily addressed traffic impacts to the satisfaction of Council's Development Engineer and Transport for NSW. It is noted the proposal involves upgrade to Highcliffe Road and Old Punt Roads.

- Utilities – The site is capable of being serviced with sewer, water and electricity.
- Heritage – The site is not located on land or within proximity of any heritage items or heritage conservation area. The site is located in proximity to a number of aboriginal items. An Aboriginal Due Diligence Report was submitted which satisfactorily investigates aboriginal heritage. No new aboriginal sites were found on the site. It is noted that the site is heavily disturbed. A condition will be imposed on any consent to be granted for process to be undertaken should relics and aboriginal b be discovered during construction.
- Water – The proposal will have minimal impact on water quality. Sediment and erosion controls would be imposed as a condition of consent should consent be granted. A Riparian Assessment Report, prepared by South Coast Environmental Consulting, provide recommendations on various environmental management of the site which will form a condition of consent should consent be granted.
- Soils – Minimal impact on soils is anticipated. The site contains a moderate slope but no areas over 25% slope. A Geotechnical Report was submitted with the application which includes advice on site conditions, site classification in accordance with AS2870, earthworks and controlled fill and footing design. The recommendations of the report will form a condition of consent should consent be granted.
- Construction, noise, vibration and waste – Appropriate conditions will be imposed on any consent to be granted to minimise amenity impacts to the neighbouring properties during construction.
- Natural hazards – There are no natural hazards that would impede the development. The site is bushfire prone however this has been assessed as satisfactory and appropriate conditions of consent would be imposed should consent be granted. Potential site contamination has been assessed as satisfactory as detailed in this report. The site is flood prone however only a very minor portion of the site is affected well outside the building envelope which does not have any impact on flood behaviour, building design or risk to life.
- Social impact – The proposal would have minimal social impact on the community.
- Economic impact – The proposal would have a positive economic impact for the North Batemans Bay precinct. The land is earmarked via its E3 Productivity Support zoning for a mix of industrial, commercial, creative, warehousing and emerging new industries that

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**PSR24/021 DA0518/24 - 3 KINGS HIGHWAY, BATEMANS BAY  
VARIATION TO BUILDING HEIGHT GREATER THAN 10% (ELEP)**

**DA0518/24**

generally need larger floor space. The proposal is not anticipated to impact on the commercial viability of Batemans Bay industrial or commercial centre which is located 2-3km (sufficient distance) from the industrial/commercial centre of Batemans Bay.

- Cumulative impact – The proposal is not anticipated to result in any adverse cumulative impacts.
- There are not likely to be significant adverse impacts on the built or natural environment arising from the proposed development. The scale of the development is appropriate in the context of the site and existing development in the locality. The proposal is not anticipated to result in adverse impact on the amenity of the neighbourhood.
- The site is considered suitable for the site and in the public interest.

**CONSULTATION**

The proposed development was notified in accordance with Council's Community Engagement Framework and Community Participation Plan. Notification was undertaken between 31 May to 2 July 2024. Six (6) submissions were received. The main issues raised in the submissions related to traffic impacts, amenity impacts and the proposed built form/use as discussed below.

**Traffic-** Proposal will generate additional traffic, roundabout is already busy, location of the access driveway will impact on intersection, would like to see a roundabout Highcliffe Road/Old Punt Road, impacts during construction, pedestrian access.

Comment:

The proposal is considered satisfactory in relation to access, parking and traffic generation. It is noted Highcliffe Road and Old Punt Road are proposed to be upgraded which will include pedestrian footpaths. A roundabout at Highcliffe Road and Old Punt Road was not deemed necessary. Council's Development Engineer and Transport for NSW have not raised any objections.

**Amenity impacts** – Noise, traffic, visual impact, light pollution.

Comment:

The proposal is not anticipated to result in adverse amenity impacts to the neighbourhood. Conditions have been imposed in relation to noise levels and monitoring and obtrusive lighting. The visual impacts of the development are not anticipated to be adverse.

**Built form/Use** – Scale of the development is inappropriate. Batemans Bay does not need more retail. It is a tourist town - The first thing visitors will see is this building. The land would be better utilised with an information centre, park lands and a replica of the old punt or something historical.

Comment:

The scale of the development of considered appropriate for the site. It is a large site and the proposal has appropriate GFA, setbacks and landscaped area/site coverage. The specialised retail use is considered appropriate for the site as the use is permitted and consistent with the objectives of the E3 Zone. The proposal will be compatible and not compete with other similar

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**PSR24/021 DA0518/24 - 3 KINGS HIGHWAY, BATEMANS BAY  
VARIATION TO BUILDING HEIGHT GREATER THAN 10% (ELEP)**

**DA0518/24**

land uses in Batemans Bay and will maintain economic viability by limiting certain retail and commercial activity noting the proposal is in small pocket of E3 Zone. The proposal will cater for specialised retail that is not suited to other employment zones.

It is considered that the proposal (subject to the conditions of consent) is acceptable having regard to the submissions received during the assessment process.

Details of the application were referred to Council's Engineering and Environment Officers and externally to Transport for NSW, Department of Planning and Environment-Water and Rural Fire Service and satisfactory referral responses were received in each instance, subject to conditions of consent. The proposal is Integrated Development as the proposal involves works within 40m of a watercourse. General Terms of Approval were issued by DPE-Water for a Controlled Activity Approval under the *Water Management Act 2000*.

## **CONCLUSION**

This report seeks Council's determination of an application for the construction of a Specialised Retail Premises comprising two buildings with associated on-site car parking at 3 Kings Highway, Batemans Bay.

The application seeks to vary the building height for the site by 13.4% (Building A) and 13.45% (Building B) and due to the requirements of the NSW Department of Planning and Environment, any variation greater than 10% must be determined by the elected Council.

The application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979* and found to be appropriate for the site. The assessment has concluded that there is minimal impact on adjoining properties or the locality and can be supported.

The application is put to the Council with a recommendation for approval.

## Department of Planning and Environment



Contact: Department of Planning and Environment-Water  
Phone: 1300081047  
Email: [waterlicensing.servicedesk@dpie.nsw.gov.au](mailto:waterlicensing.servicedesk@dpie.nsw.gov.au)

Our ref: IDAS-2024-10391  
Your ref: DA0518/24

28 August 2024

The General Manager  
EUROBODALLA SHIRE COUNCIL  
Off Yarragee Road, Moruya New South Wales 2537

Attention: Catherine Watkins

Uploaded to the ePlanning Portal

Dear Sir/Madam

**Re:** IDAS-2024-10391 - Integrated Development Referral – General Terms of Approval  
**Dev Ref:** DA0518/24  
**Description:** Specialised retail premises comprising two buildings with associated on-site car parking.  
**Location:** Lot 3, DP865527, 3 KINGS HIGHWAY NORTH BATEMANS BAY 2536

I refer to your recent referral regarding an integrated Development Application (DA) proposed for the above location. Attached, please find Department of Planning and Environment-Water's General Terms of Approval (GTA) for part of the proposed development requiring a Controlled Activity approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 4.46 of the *Environmental Planning and Assessment Act 1979* (EPA Act) which requires consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, the department requests these GTA be included (in their entirety) in Council's development consent. Please also note the department requests notification:

- if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works or activities (i) in the bed of any river, lake or estuary; (ii) on the banks of any river lake or estuary, (iii) on land within 40 metres of the highest bank of a river lake or estuary; or (iv) any excavation which interferes with an aquifer.

The Department of Planning and Environment-Water will ascertain from the notification if the amended plans require review of or variation/s to the GTA. This requirement applies even if the amendment is part of Council's proposed consent conditions and do not appear in the original documentation.

- if Council receives an application under s4.46 of the EPA Act to modify the development consent and the modifications change the proposed work or activities described in the original DA.
- of any legal challenge to the consent.

As the proposed work or activity cannot commence before the applicant applies for and obtains an approval, the department recommends the following condition be included in the development consent:

**The attached GTA issued by the Department of Planning and Environment-Water do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to the department for a Controlled Activity approval after consent has been issued by Council and before the commencement of any work or activity.**

A completed application must be submitted to the department together with any required plans, documents, application fee and proof of Council's development consent. Finalisation of an approval can take up to eight (8) weeks from the date the application and all required supporting documentation is received.



Applications for controlled activity approval should be made to the department, by lodgement of a Controlled Activity Approval – New approval application on the NSW Planning Portal at:  
<https://www.planningportal.nsw.gov.au/>

The Department of Planning and Environment-Water requests that Council provide a copy of this letter to the development consent holder.

The Department of Planning and Environment-Water also requests a copy of the determination for this development application be provided by Council as required under section 4.47(6) the EPA Act.

Yours Sincerely



**For**  
**Patrick Pahlow**  
**Team Leader**  
**Licensing and Approvals**  
**Department of Planning and Environment-Water**



## General Terms of Approval

for proposed development requiring approval under s89, 90 or 91 of the Water Management Act 2000

Reference Number:	IDAS-2024-10391
Issue date of GTA:	28 August 2024
Type of Approval:	Controlled Activity
Location of work/activity:	Lot 3, DP865527, 3 KINGS HIGHWAY NORTH BATEMANS BAY 2536
Waterfront Land:	Unnamed
DA Number:	DA0518/24
LGA:	EUROBODALLA

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The GTA issued by Department of Planning and Environment-Water do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to the Department of Planning and Environment-Water for the relevant approval **after development consent** has been issued by Council **and before** the commencement of any work or activity.

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Condition Number	Details
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TC-G001	Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Department of Planning and Environment-Water, and obtained, for a controlled activity approval under the Water Management Act 2000.
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TC-G004	A. This General Terms of Approval (GTA) only applies to the proposed controlled activity described in the plans and associated documents found in Schedule 1, relating to Development Application DA0518/24 provided by Council to Department of Planning and Environment-Water.
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B. Any amendments or modifications to the proposed controlled activity may render the GTA invalid. If the proposed controlled activity is amended or modified, Department of Planning and Environment-Water, must be notified in writing to determine if any variations to the GTA will be required.

TC-G005	A. The application for a controlled activity approval must include the following plan(s):
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- Site plans
- Detailed civil construction plans
- Erosion and sediment control plans
- Construction stormwater drainage outlet plan
- Vegetation management plan

B. The plan(s) must be prepared in accordance with Department of Planning and Environment-Water's guidelines located on the website

<https://www.dpie.nsw.gov.au/water/licensing-and-trade/approvals/controlled-activity-approvals/what/guidelines>

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## General Terms of Approval

for proposed development requiring approval under s89, 90 or 91 of  
the Water Management Act 2000

### SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by Department of Planning and Environment-Water for integrated development associated with IDAS-2024-10391 as provided by Council:

- Statement of Environmental Effects Dated 29<sup>th</sup> April 2024 By Cowman Stoddart Pty Ltd
- Riparian Assessment Dated April 2024 By South Coast Environmental Consulting
- Landscape Concept DRW DA01 Rev B Dated 9/4/2024 By Edmiston Jones



Eurobodalla Shire Council  
PO Box 99  
MORUYA NSW 2537

Your reference: (CNR-69488) DA0518/24  
Our reference: DA20240617002440-Original-1

**ATTENTION:** Catherine Watkins

Date: Tuesday 25 June 2024

Dear Sir/Madam,

**Development Application**  
**s4.14 – Other – Commercial Premises**  
**3 Kings Highway North Batemans Bay NSW 2536, 3//DP865527**

I refer to your correspondence dated 17/06/2024 seeking advice regarding bush fire protection for the above Development Application in accordance with section 4.14 of the *Environmental Planning and Assessment Act 1979*.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted and provides the following recommended conditions:

#### **Asset Protection Zones**

***Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.***

1. From the commencement of building works and in perpetuity, the asset protection zones must be provided as shown in the APZ Plan prepared by Apical Bushfire and Planning, job no. BFSA\_9/23\_030, version. final, dated 09/04/2024.

When establishing and maintaining an inner protection area, the following requirements apply:

- tree canopy cover should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2 m above the ground;
- tree canopies should be separated by 2 to 5 m;
- preference should be given to smooth-barked and evergreen trees;
- large discontinuities or gaps in the shrubs layer should be provided to slow down or break the progress of fire towards buildings;
- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover;
- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation;
- grass should be kept mown (as a guide, grass should be kept to no more than 100mm in height); and

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#### **Postal address**

NSW Rural Fire Service  
Locked Bag 17  
GRANVILLE NSW 2142

#### **Street address**

NSW Rural Fire Service  
4 Murray Rose Ave  
SYDNEY OLYMPIC PARK NSW 2127

**T** (02) 8741 5555  
**F** (02) 8741 5550  
[www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)



# RFS



- leaves and vegetation debris should be removed regularly.

#### Construction Standards

**Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.**

2. Construction of the proposed development is to comply with Table 5 in the bush fire report prepared by Apical Bushfire and Planning, job no. BFS\_A\_9/23\_030, version. final, dated 09/04/2024.

#### Access – Property Access

**Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.**

3. Property access roads must comply with the following requirements of Table 7.4a of *Planning for Bush Fire Protection 2019*:

- property access roads are two-wheel drive, all-weather roads;
- the capacity of road surfaces and any bridges/causeways is sufficient to carry fully loaded firefighting vehicles (up to 23 tonnes); bridges and causeways clearly, indicate load rating.
- minimum 4m carriageway width;
- a minimum vertical clearance of 4m to any overhanging obstructions, including tree branches;
- property access must provide a suitable turning area in accordance with Appendix 3 of *Planning for Bush Fire Protection 2019*;
- curves have a minimum inner radius of 6m and are minimal in number to allow for rapid access and egress;
- the minimum distance between inner and outer curves is 6m;
- the cross fall is not more than 10 degrees; and
- maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads.

#### Water and Utility Services

**Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.**

4. The provision of water, electricity and gas services must comply with the following in accordance with Table 7.4a of *Planning for Bush Fire Protection 2019*:

- reticulated water is to be provided to the development where available,
- all above-ground water service pipes external to the building are metal, including and up to any taps,
- where practicable, electrical transmission lines are underground,
- where overhead, electrical transmission lines are proposed as follows:
  - lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas, and
  - no part of a tree is closer to a power line than the distance set out in accordance with the specifications in *ISSC3 Guideline for Managing Vegetation Near Power Lines*.
- reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant authorities, and metal piping is used,
- all fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side,
- connections to and from gas cylinders are metal,
- polymer-sheathed flexible gas supply lines are not used, and
- above-ground gas service pipes are metal, including and up to any outlets.



# RFS



#### General Advice – Consent Authority to Note

- The recommendations are based on the information supplied to the NSW RFS via Council. Council is advised that if an amendment to the proposal is submitted, to use its discretion in determining whether the proposed changes warrant re-assessment by the NSW RFS.
  - The plans prepared by Bokor architecture and interiors, job no. 21981, issue m, dated 22/04/2024; and
  - The bush fire assessment prepared by Apical Bushfire and Planning, job no. BFS\_A\_9/23\_030, version. final, dated 09/04/2024.
- Storage of any hazardous or flammable materials need to be located away from the identified hazards to the north and east of the proposed development.
- The identified riparian zones to the eastern and southern elevations are listed as an endangered ecological community under the *Biodiversity Conservation Act 2006*. The hazard reduction and maintenance works included in the proposal to meet the APZ requirements of *Planning for Bush Fire Protection 2019* do not include any of these riparian areas. Further details are provided in the referred Vegetation Management Plan prepared by South Coast Environmental Consulting, dated April 2024.

For any queries regarding this correspondence, please contact Jonathan Hardy on 1300 NSW RFS.

Yours sincerely,

Anna Jones  
**Supervisor Development Assessment & Plan**  
**Built & Natural Environment**



## Transport for NSW



13 August 2024

TfNSW reference: STH24/00430/003  
Your reference: DA 0518/24 - CNR-69488

Eurobodalla Shire Council  
By Email: [lauren.campbell@esc.nsw.gov.au](mailto:lauren.campbell@esc.nsw.gov.au)  
CC: [council@esc.nsw.gov.au](mailto:council@esc.nsw.gov.au)

Attention: Lauren Campbell

### **DA0518/24 – Specialised Retail Premises – LOT: 3 DP: 865527 – 3 Kings Highway NORTH BATEMANS BAY**

Dear Lauren

Transport for NSW (TfNSW) is responding to the DA 0518/24 referred on 24 July 2024.

TfNSW has reviewed the information and has no objections to the proposed development provided the condition in Attachment 1 is included in the development consent. Comments on the proposed development are set out in Attachment 1.

TfNSW notes that in determining the application under Part 4 of the *Environmental Planning & Assessment Act 1979* it is the consent authority's responsibility to consider the environmental impacts of any road works that are ancillary to the development (such as removal of trees, relocation of utilities, stormwater management, etc). Depending on the nature of the works, the Council may require the developer to submit a further environmental assessment for any ancillary road works.

On Council's determination of this matter, please forward a copy of the Notice of Determination to TfNSW. If you have any questions, please contact Emilija Quinn, Development Services Case Officer, on (02) 4064 0106 or email [development.south@transport.nsw.gov.au](mailto:development.south@transport.nsw.gov.au).

Yours faithfully

A handwritten signature in black ink, appearing to be "Emilija Quinn".

**Emilija Quinn**  
Development Case Officer, Development Services

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OFFICIAL

## Transport for NSW



### Attachment 1

#### **DA0518/24 – Specialised Retail Premises – LOT: 3 DP: 865527 – 3 Kings Highway NORTH BATEMANS BAY**

#### **Context**

TfNSW notes for this DA:

- The key state road is Kings Highway
- Highcliff Rd and Old Punt Rd are classified local roads under the control and care of Eurobodalla shire Council
- Access to the proposed development is via Highcliff Rd as shown in **Attachment 2**
- The Developer has proposed to upgrade Highcliff Rd from the intersection of Old Punt Rd through to the northern boundary of the site
- The site is zoned E3 – Productivity Support
- Council is seeking advice from TfNSW to assist in its assessment under *Section 2.122 Traffic-generating development, State Environment Planning Policy (Transport & Infrastructure) 2021*
- The development proposes to construct two (2) separated buildings which will accommodate a major specialised retail tenant in each building. The development includes basement parking for one (1) tenancy and at-grade parking between both tenancies
- The applicant has obtained Pre DA advice from Eurobodalla Shire Council (**Attachment 3**)

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Transport for NSW



Attachment 2

**DA0518/24 – Specialised Retail Premises – LOT: 3 DP: 865527 – 3 Kings Highway NORTH  
BATEMANS BAY**

Site Plan

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Transport for NSW



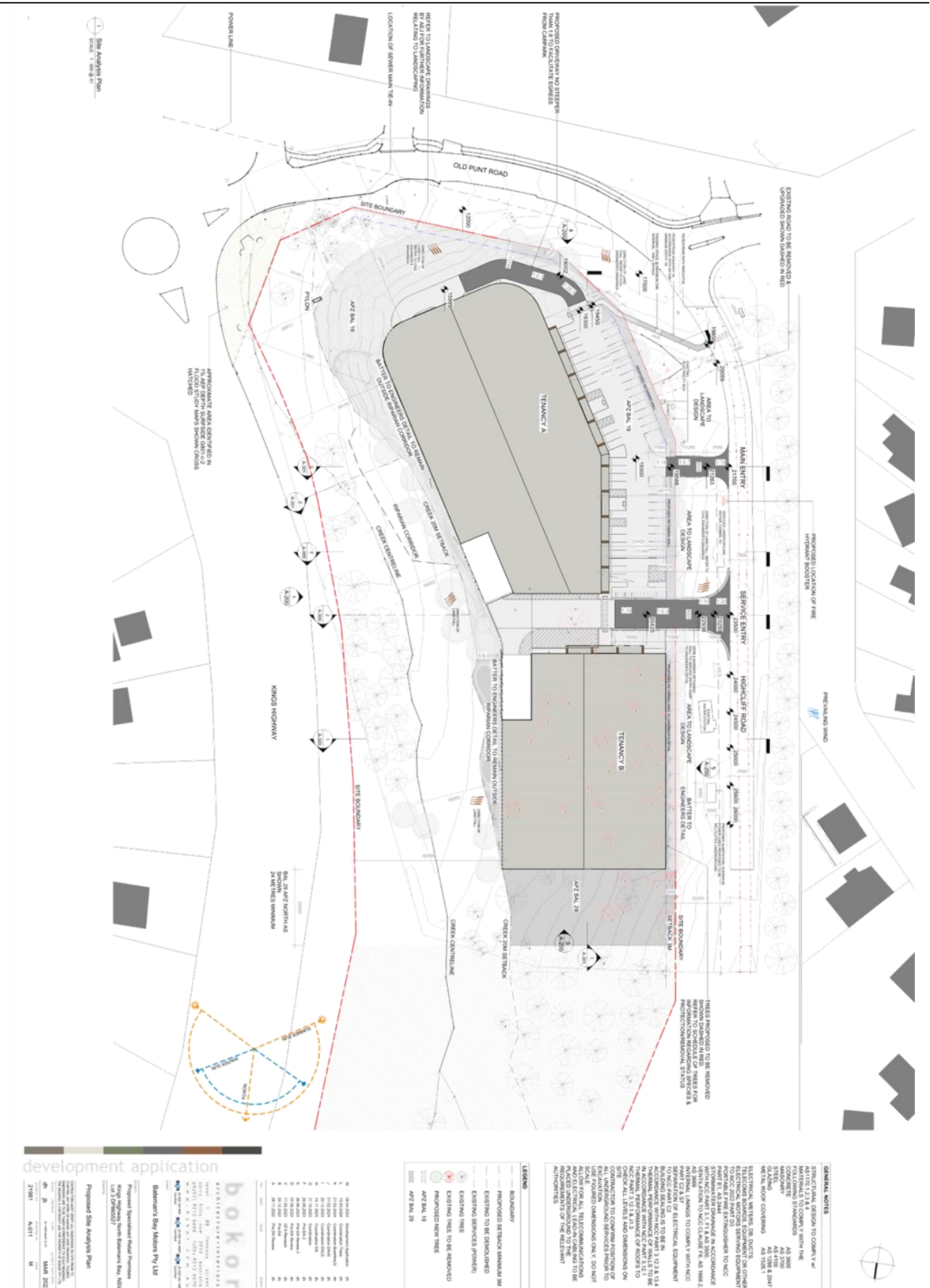
Attachment 3

**DA0518/24 – Specialised Retail Premises – LOT: 3 DP: 865527 – 3 Kings Highway NORTH  
BATEMANS BAY**

Council Pre DA Advice

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OFFICIAL



## **4.0 CONSULTATION**

Three separate pre-lodgement meetings have been held with Eurobodalla Council throughout the formulation of this proposal.

### **4.1 INITIAL PRELODGEEMENT MEETING – 12 AUGUST 2021**

An initial pre-lodgement meeting with Eurobodalla Council staff was first held on the 12<sup>th</sup> August 2021. This initial meeting was arranged to discuss a proposal that sought approval for the retention of the development platform arising from the use of the site by contractors as a works depot and stockpile area associated with the Batemans Bay Bridge Replacement Project. The contractors for the Batemans Bay Bridge Replacement Project had regraded part of the land and created a platform on which plant and materials could be stockpiled. Under the Project Approval for the Batemans Bay Bridge Replacement Project the site was required to be restored to its original state once the work on the Batemans Bay Bridge Replacement Project was completed.

The purpose of this original pre-lodgement meeting was to explore the possibility of enabling the development platform created by the use of the site as a plant and materials stockpile to be retained as a future development platform. The landowners however decided not to proceed with this proposal.

### **4.2 PRELODGEEMENT MEETING – 13 DECEMBER 2022**

A subsequent Pre-lodgement Meeting with Eurobodalla Shire Council staff was conducted on the 13<sup>th</sup> December 2022. At that time the proposal that was envisaged involved a specialty retail outlined with service station and fast-food outlet. The matters raised at this Pre-lodgement Meeting, and the manner in which these issues have been addressed by this development application are outlined below in **Table 1**.

**Statement of Environmental Effects**  
Batemans Bay Motors Pty Ltd  
Lot 3 DP 865527, Kings Highway, Batemans Bay

**Table 1**  
**Summary of Issues Raised at Pre Lodgement Meeting 13 December 2022**

<i>Items to be addressed</i>	<i>Comments</i>
<p><b>Statement of Environmental Effects (SEE)</b></p> <p>The SEE will be required to <u>outline the exact nature of the proposed tenant activity</u> to ensure that the uses satisfy the requirements of the E3 zone that applies to the subject land.</p>	<p>This Statement of Environmental Effects has been prepared to describe the proposed development. The proposal involves the creation of specialised retail premise for two major tenants. Whilst the tenants have not been finalised it is expected that the companies that will take up these leases will be national specialised retail franchises.</p> <p>The development characterisation having regard to the zoning provisions that apply to the land is discussed in Section 6.1.1.2 of this SEE.</p>
<p><b>Visual Impact</b></p> <p>The site is <u>visually prominent</u> given its location on Kings Highway and proximity to Princes Highway. Any proposed development should provide interest, especially in regard to the frontages that are visible from both these main roads. This will include a consideration for the following:</p> <ul style="list-style-type: none"> <li>○ <u>Finishes</u> should be addressed in the Architectural Plan set. This can be illustrated by the inclusion of a 3D render.</li> <li>○ <u>Landscaping</u> will need to be shown within a landscape plan prepared by a certified landscape architect.</li> <li>○ <u>Bulk earthworks</u>, this will need to be addressed in the preparation of geotechnical report.</li> <li>○ <u>Height</u> as the variation between what is required and what is proposed will need to be addressed in the preparation of a Clause 4.6 Written Request.</li> </ul>	<p>A Visual Impact Assessment has been prepared by Edmiston Jones Architects (<b>Annexure 15</b>) to address the matters raised by Council. Visual impact is further discussed in Section 6.3.1.1 of the SEE.</p> <p>The Architectural drawing set (<b>Annexure 4</b>) include 3D perspectives of the proposal as well as a schedule of external materials and colours.</p> <p>Landscape Plan prepared by Edmiston Jones Architects (<b>Annexure 5</b>) details the proposed landscape treatments.</p> <p>ACT Geotechnical Engineers Pty Ltd have undertaken a preliminary geotechnical assessment of the site. Their report is provided as <b>Annexure 8</b> to this SEE. The findings of this report are outlined in Section 6.3.3.3 of this SEE.</p> <p>Indesco have prepared a bulk earthworks plan for the proposal (<b>Annexure 6</b>).</p> <p><b>Annexure 16</b> to the SEE is a Clause 4.6 Written Request that justifies the encroachment of the 10-metre building height limit that applies to the site under Clause 4.3 of the LEP.</p>
<p><b>Ecological Assessment</b></p> <p><i>Flora and Fauna Report</i></p> <p>Although the proposal only envisions 5000 m<sup>2</sup> of vegetation clearing and does not trigger a biodiversity offset, a <u>Flora and Fauna Assessment</u> will be required.</p> <p><i>Riparian</i></p> <p>A <u>Riparian Assessment</u> should also be prepared in which <u>rehabilitation and management</u> is proposed as part of any proposed development.</p>	<p>A Flora and Fauna Impact Assessment prepared by South Coast Environmental Consulting is included in <b>Annexure 9</b>.</p> <p>A Riparian Assessment prepared by South Coast Environmental Consulting is included in <b>Annexure 10</b>.</p> <p>The SEE is also supported by a Vegetation Management Plan prepared by South Coast Environmental Consulting (<b>Annexure 11</b>).</p>

**Statement of Environmental Effects**  
 Batemans Bay Motors Pty Ltd  
 Lot 3 DP 865527, Kings Highway, Batemans Bay

**Table 1 (continued)**

<i>Items to be addressed</i>	<i>Comments</i>
<p><b>Car Parking</b></p> <p>Car parking numbers will need to comply with the relevant standards, including:</p> <ul style="list-style-type: none"> <li>○ Outlining the <u>type of tenancy</u> so as to ascertain the <u>specific parking requirements</u> that are necessary to best accommodate each use.</li> <li>○ Necessary <u>requirements for a loading bay</u>, including turning movements, types of vehicles, and frequency of deliveries.</li> </ul>	<p>A Transport Impact Assessment (TIA) prepared by Anton Reisch Consulting forms <b>Annexure 12</b>. The TIA and includes an assessment of car parking requirements for the project.</p>
<p><b>Traffic</b></p> <p><u>Traffic</u> and the road reserve will need to be addressed and consider:</p> <ul style="list-style-type: none"> <li>○ <u>Number of vehicle movements</u>, an excess of 200 will trigger approval from Transport for NSW (TfNSW) as per Division 17 of the Transport and Infrastructure SEPP.</li> <li>○ <u>Car parking standards</u>.</li> <li>○ Preparation of a <u>Traffic Impact Assessment</u>.</li> <li>○ <u>Regrading and upgrading the existing road reserve</u> and inclusion of a footpath to the west of the subject site is to be in accordance with Eurobodalla Road Safety Plan.</li> </ul>	<p>The TIA prepared by Anton Reisch Consulting (<b>Annexure 12</b>) addresses the traffic impacts associated with the proposal.</p> <p>Plans of the proposal (<b>Annexure 4</b>) prepared by Bokor detail the provision of a footpath to the west of the proposed development.</p>
<p><b>Services</b></p> <p>Confirmation of <u>suitability of existing infrastructure</u> to be further discussed:</p> <ul style="list-style-type: none"> <li>○ Water is available and has been recently upgraded.</li> <li>○ Sewer needs to be addressed.</li> </ul>	<p>Civil engineering plans prepared by Indesco Pty Ltd include a Water and Sewer tie in plan. See <b>Annexure 6</b>.</p>
<p><b>Flooding</b></p> <p>Flooding is identified on the subject land from the watercourse flowing to the east as outlined in the <u>Batemans Bay Urban Creeks Flood Study</u>. As such, a <u>flood impact assessment</u> should accompany the proposal which illustrates flood levels on cross sections and flooding impacts that might arise from the proposed development.</p>	<p>The 1% AEP Depth mapping from the <u>Batemans Bay Urban Creeks Flood Study (Surfside G801-c-2)</u> identifies a small area within the south-eastern corner of the site as flood prone. This area is identified on the Architectural drawings prepared by Bokor. All works associated with this proposal are located well outside of the area identified as flood prone.</p>
<p><b>Bushfire</b></p> <p>The requirements of Planning for Bushfire Protection (PBP) will need to be addressed in the preparation of <u>BAL report</u>.</p>	<p>A Bushfire Safety Authority Report prepared by Apical Bushfire Planning is included as <b>Annexure 14</b>.</p>
<p><b>Stormwater</b></p> <p>A <u>stormwater management assessment</u> will need to be prepared and include:</p> <ul style="list-style-type: none"> <li>○ Water detention.</li> <li>○ Gross pollutant traps.</li> <li>○ Suspended soils treatment.</li> </ul>	<p>Indesco Pty Ltd have prepared civil engineering plans for the proposal including a stormwater management plan (<b>Annexure 6</b>).</p>

**Statement of Environmental Effects**  
Batemans Bay Motors Pty Ltd  
Lot 3 DP 865527, Kings Highway, Batemans Bay

#### 4.3 PRELODGEEMENT MEETING 16 AUGUST 2023

Following the pre-lodgement meeting held on the 13<sup>th</sup> December 2022 the project was refined further with the service station and fast-food outlet elements removed. A further Pre-lodgement Meeting with staff from Eurobodalla Shire Council was conducted on the 16<sup>th</sup> August 2023. At this Pre-lodgement Meeting the revised project, reflecting the current proposal was discussed. The matters raised at this subsequent meeting, and the manner in which these issues have been addressed by this development application are outlined below in **Table 2**.

**Table 2**  
**Summary of Issues Raised at Pre-Lodgement Meeting – 16 August 2023**

<i>Items to be addressed</i>	<i>Comments</i>
<p><b>Visual Impact</b></p> <p>A <u>Visual Impact Assessment</u> is required to address:</p> <ul style="list-style-type: none"> <li>How the building sits within the existing landscape.</li> <li>How the development is perceived from the main roads.</li> </ul>	<p>A Visual Impact Assessment prepared by Edmiston Jones Architects is included in <b>Annexure 15</b>.</p>
<p><b>Amenity of Locality:</b></p> <p>Proposal will also need to address the surrounding locality, particularly in regard to the <u>surrounding residential areas</u>.</p>	<p>Amenity issues are addressed in Section 6.3.1.2 of the SEE.</p>
<p><b>Passive surveillance</b></p> <p>Passive surveillance needs further consideration. The facades lack glazing, and eliminates the opportunity for users to monitor the carpark from within the building.</p>	<p>Glazing is provided at entries in the form of dual automatic entry doors and 1m wide clear full height glazed panels to both sides. Extensive glazing is not supported by tenants and inevitably ends up being blocked or covered with signage. Consequently, extensive glazing is quite rare for this type of development. Passive surveillance will be constant during operational hours via on-ground carparking and driveways. The site is overlooked by the Kings Highway to the east and local access road to the south and west. Active CCTV surveillance will be provided as part of the ongoing operational management of the site.</p>
<p><b>Traffic</b></p> <p>Traffic assessment and plans to address:</p> <ul style="list-style-type: none"> <li>Parking requirements.</li> <li>Truck turning.</li> <li>Car parking numbers and dimensions.</li> <li>Frequency and size of deliveries.</li> </ul>	<p>The SEE is supported by a TIA prepared by Anton Reisch Consulting (<b>Annexure 12</b>).</p>
<p><b>Landscaping to be Bushfire Compliant</b></p> <ul style="list-style-type: none"> <li>The final <u>landscape plans should be confirmed by a bushfire consultant</u> to meet the requirements of PBP.</li> </ul>	<p>The Landscaping Plans (<b>Annexure 5</b>) prepared by Edmiston Jones have been prepared to satisfy the requirements of the Bushfire Safety Authority Report prepared by Apical Bushfire Planning.</p>



**Statement of Environmental Effects**  
 Batemans Bay Motors Pty Ltd  
 Lot 3 DP 865527, Kings Highway, Batemans Bay

<i>Items to be addressed</i>	<i>Comments</i>
<b>Height Variation</b> <ul style="list-style-type: none"> <li>A 4.6 variation to the Eurobodalla LEP controls will need to be submitted to justify the non-compliance with the 10 m height limit.</li> </ul>	<b>Annexure 17</b> to the SEE is a Written Request made pursuant to Clause 4.6 of the LEP justifying the encroachment of the 10 metre building height limit that applies to the land pursuant to Clause 4.3 of the LEP.
<b>Engineering</b> Civil engineer documentation will need to include a <u>cut/fill plan</u> .	The development application is supported by Civil Engineering plans prepared by Indesco ( <b>Annexure 6</b> ), and which includes a bulk earthworks plan.
<b>Flooding</b> Flooding is identified on the subject land from the watercourse flowing to the east as outlined in the <u>Batemans Bay Urban Creeks Flood Study</u> . As such, a <u>flood impact assessment</u> should accompany the proposal which illustrates flood levels on cross sections and flooding impacts that might arise from the proposed development.	The 1% AEP Depth mapping from the <u>Batemans Bay Urban Creeks Flood Study (Surfside G801-c-2)</u> identifies a small area in the southeastern corner of the site as flood prone. This area is identified on the Architectural drawings prepared by Bokor. All works associated with this proposal are located well outside of the area identified as flood prone.
<b>Street activation</b> Street activation is desirable, eg. Incorporation of planter boxes or street furniture.	Clause 6.11 of the LEP outlines the requirements and circumstances whereby consideration needs to be given for active street frontages. This clause only applies to E1 and MU1 zones. The subject site is not zone E1 or MU1 and as such the provisions of Clause 6.11 do not apply to this proposal.



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Responsible Officer:	Stephanie Speedy - Director of Finance and Corporate Services
Attachments:	1. Under Separate Cover - Audited Financial Statements for the period ending 30 June 2024
Outcome:	5 Our engaged community with progressive leadership
Focus Area:	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

The purpose of this report is to present Council's audited Financial Statements for the year ended 30 June 2024, as required by the *Local Government Act 1993*.

THAT Council's audited Financial Statements for the year ended 30 June 2024 be received.

Council's draft Financial Statements were referred to audit following Council resolution at the meeting held 10 September 2024. The audit was undertaken by Crowe Australasia, on behalf of the Audit Office of NSW.

The audit was completed on 30 October 2024, with the Audit Office of NSW issuing an unqualified audit report. In accordance with Section 417 of the *Local Government Act 1993* Council's audited Financial Statements were submitted to the Office of Local Government (OLG) on 30 October 2024. A council's audited financial statements and financial data return are required to be submitted to the OLG by 31st October each year.

As required under Section 418 of the *Local Government Act 1993*; after receiving the independent auditor's reports, the audited Financial Statements were placed on Council's website on 5 November 2024.

Section 420 of the *Local Government Act 1993* requires that any public submissions received on the Financial Statements be in writing within seven days after this Council meeting. Submissions must be referred to Council's Auditor and Council may take any action it considers appropriate with respect to any submissions received.

The auditors presented their audit report on Council's Financial Statements at a briefing held on 12 November 2024. The auditors are also scheduled to present to the Audit Risk and Improvement Committee on 27 November 2024.

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**FCS24/047   PRESENTATION OF ANNUAL FINANCIAL STATEMENTS FOR YEAR   S011-T00002**  
**ENDED 30 JUNE 2024**

**CONSIDERATIONS**

**Policy**

The principal accounting policies used in the preparation of Council's Financial Statements are disclosed in the statements. These policies have been consistently applied to all years presented, unless otherwise stated.

**Financial**

Council's consolidated operating result before capital grants and contributions for the year ended 30 June 2024 was a deficit of \$8.84 million (\$2.63 million surplus in 2023). This was an unfavorable result when compared with the original budgeted deficit of \$6.85 million.

The variance between the original budgeted operating result and the actual result, relate to non-cash items for future works in rehabilitating our tip/landfill sites, and the write-off of infrastructure assets replaced or renewed as part of the capital works program. This unfavorable variance was partially offset by improved interest and investment revenue. Additional grants received but not budgeted for were matched with increases in expenditure resulting in minimal impact on the overall operating result for the year. Further explanation for the variances can be found in Note B5-1 Material budget variations.

Council's cash and investments decreased by \$25.75 million to \$158.41 million. The majority of this decrease is attributed to expenditure in Council's water fund related to the construction of the southern water supply storage facility. Unrestricted cash increased by \$1.78 million to \$8.17 million during the 2023-24 financial year.

Council achieved four of the six local government sector benchmarks for performance measures, set by the OLG. Detailed commentary on the performance measures, or ratios, can be found in Note H1-1 of the Financial Statements.

**Community and Stakeholder Engagement**

The audited Financial Statements were made available to the public on 6 November 2024 along with public notification of the meeting date at which the Financial Statements would be presented. Copies of the Financial Statements can be found on Council's website, at Council's three libraries and at the main administration centre in Moruya.

In accordance with the *Local Government Act 1993*, any person may make public submissions on the audited Financial Statements or the auditors reports. Submissions must be in writing and lodged with Council before 27 November 2024. Details on making a submission can be found on Council's ['Have your say'](#) webpage.

**CONCLUSION**

The Annual Financial Statements including the Independent Auditor's Reports for the year ending 30 June 2024 have been submitted to the Office of Local Government and are now formally presented.

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**FCS24/048 ANNUAL REPORT 2023-24, INCLUDING STATE OF THE SHIRE  
NOVEMBER 2024**

**S004-T00016**

Responsible Officer: Stephanie Speedy - Director of Finance and Corporate Services

Attachments:

1. Under Separate Cover - Annual Report 2023-24
2. Under Separate Cover - Appendix 1 - Financial statements for year ended 30 June 2024
3. Under Separate Cover - Appendix 2 - Our Eurobodalla - State of the Shire November 2024

Community Goal: 5 Our engaged community with progressive leadership

Community Strategy: 5.2 Proactive, responsive and strategic leadership

Delivery Program Link: 5.2.2 Implement effective governance and long-term planning

Operational Plan Link: 5.2.2.2 Review and prepare Council's plans and reports under the Integrated Planning and Reporting Framework

### **EXECUTIVE SUMMARY**

The Annual Report 2023-24 is an informing tool for Council stakeholders and reports back to the community on the work undertaken by Council during 2023-24 to deliver on the commitments of the 2022-26 Delivery Program via the 2023-24 Operational Plan. It is prepared in accordance with the *Local Government Act 1993*, *Local Government (General) Regulation 2021*, the Office of Local Government's Integrated Planning and Reporting Guidelines and other legislation.

The report is presented in seven parts:

1. Welcome
2. Our Eurobodalla
3. Our Performance Summary
4. Our Governance
5. Our People
6. Detailed Performance Report
7. Local Government requirements

Financial statements for the year ended 30 June 2024 are appendix 1 to the annual report.

Our Eurobodalla – State of the Shire November 2024 report is appendix 2 to the annual report.

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**FCS24/048 ANNUAL REPORT 2023-24, INCLUDING STATE OF THE SHIRE  
NOVEMBER 2024**

**S004-T00016**

**RECOMMENDATION**

THAT:

1. Council receive and note the Annual Report 2023-24 and Our Eurobodalla – State of the Shire November 2024 report.
2. A copy of the Annual Report 2023-24 and Our Eurobodalla – State of the Shire November 2024 be placed on Council's website with a copy of the Annual Report 2023-24 forwarded to the Minister of Local Government.

**BACKGROUND**

The Annual Report 2023-24 is an informing tool for Council stakeholders. It provides the reader with an insight to Council efforts, achievements, governance, structures and presents financial and operational performance information for the year 1 July 2023 to 30 June 2024.

The year's activities were guided by the Community Strategic Plan - Our Eurobodalla 2042 and Council's Delivery Program 2022-26. Council's financial statements for the year ended 30 June 2024 are appendix 1 to the annual report, and Our Eurobodalla – State of the Shire November 2024 report is appendix 2 to the annual report.

The annual report is prepared in accordance with the *Local Government Act 1993*, *Local Government (General) Regulation 2021*, the Office of Local Government's Integrated Planning and Reporting Framework and Guidelines and other legislation and reporting requirements.

**CONSIDERATIONS**

The Office of Local Government's Integrated Planning and Reporting handbook notes that councils can organise and present their annual reports how they choose, provided mandatory requirements are addressed. To assist the reader, Council's Annual Report is presented in seven parts:

1. Welcome – a message from the Mayor and General Manager.
2. Our Eurobodalla – provides an overview of Eurobodalla including geographic information, demographic data and considerations of yesterday, today and tomorrow.
3. Our Performance Summary – includes a summary of efforts to deliver the 2023-24 Operational Plan, a summary of financial performance, Council's achievements, awards, and highlights ways we have celebrated our community this year.
4. Our Governance – outlines how Council is governed and advised, who our councillors were, the major decisions made and how the community collaborated with Council during the year.
5. Our People – explains how the organisation is structured and staffed.
6. Detailed Performance Report – provides a detailed performance report on the status of actions and measures committed in the Operational Plan 2023-24.
7. Local Government requirements – gives additional and detailed supporting information as well as addressing statutory requirements.

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**FCS24/048 ANNUAL REPORT 2023-24, INCLUDING STATE OF THE SHIRE  
NOVEMBER 2024**

**S004-T00016**

The 2023-24 Operational Plan contained 212 actions across all Council services. These actions contributed to the activities contained in the Delivery Program 2022-26 and the aspirations of the Community Strategic Plan - Our Eurobodalla 2042. The Annual Report 2023-24 reports 97% of Council's Operational Plan 2023-24 actions were achieved, with 3% being withdrawn or considered off track. Parts 1 to 5 are designed to be easy to navigate and understandable by a range of stakeholders, while Parts 6 and 7 focus on the mandatory reporting requirements.

The financial statements for the year ended 30 June 2024 are appendix 1 to Council's Annual Report. They are considered under a separate report to this meeting.

Our Eurobodalla – State of the Shire November 2024 report is appendix 2 to the Annual Report. The State of the Shire is an additional report that is required to be presented to the second meeting of a newly elected council for noting. The report covers the term of the previous council and highlights efforts in working towards the environmental, social, economic, infrastructure, civic leadership focused goals and strategies of the Community Strategic Plan – Our Eurobodalla 2042. Although the report is appended to the Annual Report 2023-24, it has been designed to also stand alone. It is an also informing tool for councillors and stakeholders.

**Legal**

The Annual Report 2023-24 complies with the *Local Government Act 1993*, *Local Government (General) Regulation 2021* and other statutory reporting requirements under relevant legislation.

**Financial**

Council's audited financial statements for year ended 30 June 2024 are Appendix 1 to the report.

**CONCLUSION**

The Annual Report 2023-24 complies with the legislative requirements and provides the reader an overview of Council and its performance for the year ended 30 June 2024.

Our Eurobodalla - State of the Shire November 2024 is also an informing tool for councillors and stakeholders.

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Responsible Officer:	Stephanie Speedy - Director of Finance and Corporate Services
Attachments:	1. Under Separate Cover - Quarterly Budget Review for period ending 30 September 2024
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

The Quarterly Budget Review Statement (QBRs) reports on Council's performance against the Operational Plan for the quarter ended 30 September 2024. The QBRs act as a barometer of Council's financial health during the year. It also discloses Council's forecasted financial position for the year end to assist with informed and transparent decision making.

- operating result, before capital revenue, of (\$2.82 million) deficit.
- operating result, after capital revenue, of \$54.70 million surplus.
- increase of \$1.96 million in unrestricted funds.

- operating result, before capital revenue, of (\$3.86 million) deficit.
- operating result, after capital revenue, of \$60.49 million surplus.
- decrease (usage) of \$10.62 million in unrestricted funds.

1. The Quarterly Budget Review Statement (including attachments) for the quarter ended 30 September 2024 be received and noted.
2. The revised budget be adopted based on the proposed adjustments as presented.

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

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**FCS24/049    QUARTERLY BUDGET REVIEW STATEMENT FOR PERIOD ENDING    S011-T00003**  
**30 SEPTEMBER 2024**

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

**Financial reports (Attachment 1)**

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

Financial reports include:

- a) Consolidated fund flow statement – this report shows the impact of operating, financing and investing activities on Council's unrestricted working capital.
- b) Consolidated income statement – provides sources of income and expenditure, including depreciation, by Council service.
- c) Consolidated capital program statement – provides capital expenditure information for each program area and associated services.
- d) Projected funds balance statement – provides information on the movements in both unrestricted and restricted fund accounts.
- e) Budget amendment listing report – provides details of proposed significant adjustments to budgets.
- f) Special Rate Variation (SRV) capital program – provides capital expenditure information for each of the projects in the SRV program of works.

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

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

**Key Financial Indicators (Attachment 3)**

This attachment provides information about key financial indicators designed to assist in monitoring Council's financial sustainability. The indicators are for the consolidated entity.

**Mayoral and Councillor Expenses (Attachment 4)**

Provides information about Mayoral and Councillor expenditure.

**The Bay Pavilions Income Statement (Attachment 5)**

Provides income and expenditure, including depreciation for the Bay Pavilions.

**CONSIDERATIONS**

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

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

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

**FCS24/049 QUARTERLY BUDGET REVIEW STATEMENT FOR PERIOD ENDING 30 SEPTEMBER 2024 S011-T00003**

The consolidated original budget forecasted a \$1.96 million increase in unrestricted funds. Adjustments to the September budget review result in a projected decrease to unrestricted funds of \$10.62 million. Most of these decreases relate to cash outflows for capital works in the water and sewer funds.

*Table 1.1 Net Increase (decrease) in unrestricted funds, per fund, \$'000*

Fund	2024-25 Original Budget	Proposed Carry Overs	Proposed Adjustments	2024-25 Proposed Revised Budget
Water	(2,586)	(4,860)	(249)	(7,694)
Sewer	3,371	(3,328)	(3,285)	(3,242)
Waste	(884)	0	(119)	(1,002)
Environment	172	(112)	(69)	(10)
General	1,884	(606)	49	1,327
<b>Consolidated</b>	<b>1,957</b>	<b>(8,905)</b>	<b>(3,673)</b>	<b>(10,622)</b>

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

The Consolidated Income Statement shows the types of income, and expenditure per council service areas. This result can indicate whether Council is able to raise sufficient revenue to cover the operational cost (including depreciation) of delivering services to the community before considering its capital revenue.

The result is impacted by the timing of project funding, where funds are received in a different year to the expenditure taking place.

The revised operating result is a deficit of \$3.86 million before capital revenue.

*Table 1.2 Net Surplus/ (deficit) before capital revenue, \$'000*

Fund	2024-25 Original Budget	Proposed Carry Overs	Proposed Adjustments	2024-25 Proposed Revised Budget
Water	2,422	(67)	(51)	2,303
Sewer	1,824	-	(60)	1,764
Waste	1,208	(165)	(119)	924
Environment	57	(293)	(69)	(306)
General	(8,327)	(1,081)	862	(8,547)
<b>Consolidated</b>	<b>(2,817)</b>	<b>(1,606)</b>	<b>562</b>	<b>(3,861)</b>

**Carry Overs (Operating)**

The proposed revised budget for 2024-25 includes carry overs or projects from the previous financial year which were incomplete at year end. The inclusion of the carry over projects in the

**FCS24/049 QUARTERLY BUDGET REVIEW STATEMENT FOR PERIOD ENDING 30 SEPTEMBER 2024 S011-T00003**

2024-25 budget is estimated to result in a \$1.61 million deterioration to the net operating result at year end.

Significant projects reprogrammed from the 2023-24 financial year include:

- \$0.42 million Community Development projects.
- \$0.35 million Strategy & Sustainability projects.
- \$0.29 million Environmental projects.
- \$0.17 million Recreation Services projects.
- \$0.16 million Waste Management projects

**Adjustments (Operating)**

The proposed QBRS adjustments for the September quarter result in a \$0.56 million improvement to the operating result.

Favorable adjustments proposed for this quarter include:

- \$0.77 million recognition of Technical Services capitalised labour efforts.
- \$0.33 million increased roads to recovery funding.
- \$0.15 million reduced emergency services levy.

These are offset by an unfavourable increase in workers compensation premium of \$0.55 million.

**Adjustments (Capital)**

The proposed QBRS adjustments result in a \$5.79 million improvement from the original operating result after capital of \$54.70 million, resulting in a year end estimated operating surplus of \$60.49 million.

*Table 1.3 Net Surplus/(deficit) after capital grants and contributions \$'000*

Fund	2024-25 Original Budget	Proposed Carry Overs	Proposed Adjustments	2024-25 Proposed Revised Budget
Water	39,576	(890)	540	39,226
Sewer	4,148	1,400	733	6,280
Waste	2,545	165	119	2,261
Environment	57	293	69	306
General	8,373	498	(4,150)	14,979
<b>Consolidated</b>	<b>54,699</b>	<b>551</b>	<b>5,235</b>	<b>60,485</b>

**FCS24/049 QUARTERLY BUDGET REVIEW STATEMENT FOR PERIOD ENDING 30 SEPTEMBER 2024 S011-T00003**

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

**Capital Program**

The original capital expenditure budget for 2024-25 was \$104.66 million. The proposed revised capital expenditure budget, incorporating QBRs adjustments, is \$123.13 million.

*Table 1.4 Capital program per fund, \$'000*

<b>Fund</b>	<b>2024-25 Original Budget</b>	<b>Proposed Carry Overs</b>	<b>Proposed Adjustments</b>	<b>2024-25 Proposed Revised Budget</b>
Water	36,760	10,240	(183)	47,408
Sewer	16,967	4,138	2,873	24,771
Waste	8,181	570	-	8,751
Environment	-	669	-	669
General	42,755	10,321	(10,165)	42,911
<b>Consolidated</b>	<b>104,663</b>	<b>25,937</b>	<b>(7,474)</b>	<b>123,126</b>

Project timelines for capital works have been reviewed and adjustments proposed for the current year are as follows.

Carry over projects incomplete at the end of 2023-24 included in the 2024-25 budget total \$25.94 million and include:

- \$9.71 million for Eurobodalla Southern Water Supply Storage construction.
- \$3.76 million for road and transport projects.
- \$2.99 million for Moruya Hospital sewer project.
- \$2.23 million for Emergency Service Precinct at Surf Beach.
- \$1.49 million for Regional Co-located Emergency Service Precinct at Moruya.
- \$1.43 million for the Batemans Bay Coastal Headlands Walking Trail.

Adjustments made during the September quarter decrease the capital expenditure budget by \$7.47 million and include:

- \$10.00 million for Tuross pump station upgrades.
- (\$6.20 million) for Tomakin sewerage treatment plant.
- (\$3.00 million) for the Beach Road (Casey's Beach) rock wall project.
- (\$2.81 million) for road and transport projects.
- (\$2.10 million) for the coastal management plan – construction works.
- (\$2.10 million) for Moruya housing infrastructure project.
- (\$0.50 million) for Tuross effluent reuse scheme.

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**FCS24/049 QUARTERLY BUDGET REVIEW STATEMENT FOR PERIOD ENDING 30 SEPTEMBER 2024 S011-T00003**

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

2024-25 is the ninth year of the SRV program and over \$9.12 million of infrastructure works for the year are underway. \$2.44 million of SRV designated funds are being utilised for these works.

As at 30 September 2024, approximately 16% (\$1.42 million) of the programmed SRV works for this year have been expensed (per attachment 1(f)).

*Attachment 1 (f)* reports the detailed progress of the capital program showing individual project budgets and expenses with updates as at 30 September 2024.

**The Bay Pavilions Income Statement (Attachment 5)**

The September review of the 2024-25 budget forecasted a \$6.21 million operating deficit for The Bay Pavilions. There are no adjustments proposed for this quarter.

**Legal**

This review is based on the Quarterly Budget Review Statement Guidelines issued December 2010, pursuant to the provisions of the *Local Government Act 1993* relating to integrated planning.

**Policy**

The accounting policies being used are based on those detailed in the financial statements for the year ended 30 June 2024.

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

**CONCLUSION**

*The following statement is made in accordance with Clause 203(2) of the Local Government (General) Regulation 2021:*

As the Responsible Accounting Officer, it is my opinion the September Quarterly Budget Review for Eurobodalla Shire Council indicates that Council’s projected financial position, as at 30 June 2025, will be satisfactory, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

The September Quarterly Budget Review Statement indicates a forecasted operating deficit for Council in the current year, a pattern of continued operating deficits indicates that Council is struggling to contain operating expenditure within operating revenue.

Council endorsed a Finance Strategy at the ordinary Council Meeting 19 December 2023 aimed at achieving and maintaining the financial resilience of Council.

Several actions have already been undertaken towards progressing this goal including:

- A council wide ‘reset’ of the budget occurred in late 2023. This identified savings in operational and recurrent capital costs, by carefully considering modifications to service levels.

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**FCS24/049    QUARTERLY BUDGET REVIEW STATEMENT FOR PERIOD ENDING    S011-T00003**  
**30 SEPTEMBER 2024**

- Ongoing review of the capital works program to ensure that Council funds are appropriately directed towards projects that align with the strategic goals of Council and set realistic and achievable expectations with the Community.
- Endorsement of a Grants Strategy which formalises Council's strategic approach to determine to suitability, application and administration of grants.
- No new loan borrowings proposed in any forecasts for the general fund.

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**FCS24/050 POLICY REVIEW - CODE OF MEETING PRACTICE**

**S012-T00025**

Responsible Officer: Stephanie Speedy - Director of Finance and Corporate Services

Attachments: 1. Under Separate Cover - Code Of Meeting Practice - Exhibition copy  
November 2024

Community Goal: 5 Our engaged community with progressive leadership

Community Strategy: 5.2 Proactive, responsive and strategic leadership

Delivery Program Link: 5.2.2 Implement effective governance and long-term planning

Operational Plan Link: 5.2.2.1 Assist the Council in meeting its statutory obligations and roles

**EXECUTIVE SUMMARY**

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

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

The Code of Meeting Practice Policy has been reviewed and several amendments are proposed, in addition to referencing errors that have been corrected. The draft policy is recommended to be placed on public exhibition following this meeting, before being presented to Council for adoption at the Ordinary Meeting of Council in February 2025.

**RECOMMENDATION**

THAT:

1. Council endorses the draft amended Code of Meeting Practice for public exhibition.
2. The draft Code of Meeting Practice be placed on public exhibition for 28 days, allowing submissions for 42 days and, following this period the draft policy and any submissions be presented back to Council for adoption.

**BACKGROUND**

Council's current Code of Meeting Practice was adopted in July 2023, and meets the requirements of the Model Code of Meeting Practice for Local Councils in NSW (the Model Meeting Code) and is prescribed under section 360 of the *Local Government Act 1993* (the Act) and the *Local Government (General) Regulation 2021* (the Regulations).

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**FCS24/050 POLICY REVIEW - CODE OF MEETING PRACTICE**

**S012-T00025**

**CONSIDERATIONS**

Before adopting any changes to Council's Code of Meeting Practice, under section 361 of the *Local Government Act 1993*, Council is required to exhibit the Code of Meeting Practice for a period of not less than 28 days, and allowing 42 days for submissions from the public.

The Code of Meeting Practice has been reviewed and the proposed amendments include:

1. Clause 2.2 (2), Timing of Ordinary Meetings, changes from third to fourth Tuesday of each month, unless otherwise resolved.
2. Clause 3.3, Public Forums, change from "may state whether they wish to speak 'for' or 'against' the item, to "must state". This change is to align with Appendix B guidelines for speakers and is consistent with the OLG Model Code.
3. Clause 3.4 change from "Approved speakers at the public forum are encouraged to provide a written copy of their address to the Council by 12.00pm the business day prior to the meeting" to "Approved speakers at the public forum must provide a written copy of their address to the Council by 12.00pm the business day prior to the meeting". Appendix B also amended to replace "are encouraged to" with "must".
4. Clause 3.25, Public Access, changes from first Tuesday of each month, to second Tuesday of each month, unless otherwise resolved.
5. Clause 3.28 as per point 3 above, for public access sessions, replace "encouraged to provide" with "must". Appendix B also amended to replace "are encouraged to" with "must".
6. Update clause 4.2 to include the sentence: "The Chair must be physically present in the Council Chamber except in emergency circumstances."
7. Clause 4.3 change from "If a Councillor is anywhere in the room where the Council meeting is being held, they are considered to be present for the purposes of voting. This means that if they are in the room but do not raise their hand to vote on an issue, then their vote is taken as against the Motion" to "

If a Councillor is present at a meeting of Council but fails to vote on a motion put to the meeting, their vote is taken as against the motion."

Practice notes 1. And 2. which define the Chamber, have been removed as no longer necessary.

This brings the Code in line with the provisions of the OLG Model Code.

8. Update clauses 4.23,4.24, requiring General Manager approval for councillor participation via audio-visual link. Replaces this with "written notification to the Corporate Manager – Governance and Risk". Remaining requirements remain unchanged.

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**FCS24/050 POLICY REVIEW - CODE OF MEETING PRACTICE**

**S012-T00025**

9. Clause 16.6, *Rescinding or altering Council decisions*, change requirement for three Councillors to sign rescission motion if less than three months have passed since the resolution was passed or the motion lost, to a one month period.
10. Clause 16.11, *Rescinding or altering Council decisions*, change requirement for rescission motions relating to development applications to be submitted to the General Manager no later than 12.00pm on the following business day after the meeting at which the resolution was adopted. Previous requirement was 5.00pm.
11. Appendix "I" Petitions, updated to allow any petitions containing less than 500 signatures, to be treated as general correspondence to the council.

Minor edits include:

- Updated references to the *Local Government Act 1993* and *Local Government (General) Regulation 2021*.
- Corrections to referencing and/or numbering errors.

**Legal**

The Model Code of Meeting Practice for Local Councils in NSW (the Model Meeting Code) is made under Section 360 of the *Local Government Act 1993* (the Act) and Section 232 of the *Local Government (General) Regulation 2021* (the Regulations).

The Code of Meeting Practice includes mandatory clauses that reflect the Act and the Regulations. Additional clauses do not contradict the Model Code.

**Policy**

Under section 361 of the *Local Government Act 1993*, Council is required to exhibit the code of meeting practice for at least 28 days and provide members of the community at least 42 days in which to comment on the draft Code of Meeting Practice.

**Community and Stakeholder Engagement**

Council will place the draft Code of Meeting Practice on public exhibition for a period of not less than 28 days commencing on Wednesday 20 November 2024 until Tuesday 17 December 2024. Members of the community are invited to make submissions for a period of 42 days commencing from the date the draft Code is placed on exhibition. The closing date for submissions is 31 December 2024. Details on making a submission can be found on Council's ['Have your say'](#) webpage.

Copies will be available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma Libraries and Council's main administration building in Moruya.

**CONCLUSION**

The draft Code of Meeting Practice is required to be publicly exhibited for 28 days, with submissions from the community to be accepted for 42 days. At the end of the public exhibition and submission period the draft Code of Meeting Practice will be presented to Council for consideration to adopt, along with a report to consider any submissions received during the exhibition period. This will take place at the Ordinary Meeting of Council in February 2025.

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**FCS24/051 COUNCIL SUBMISSION TO THE OFFICE OF LOCAL GOVERNMENT S004-T00020  
ON THE DRAFT NEW FRAMEWORK FOR COUNCILLOR CONDUCT  
AND MEETING PRACTICES**

Responsible Officer: Stephanie Speedy - Director of Finance and Corporate Services

Attachments: 1. Draft submission paper  
2. Under Separate Cover - OLG Discussion Paper

Community Goal: 5 Our engaged community with progressive leadership

Community Strategy: 5.2 Proactive, responsive and strategic leadership

Delivery Program Link: 5.2.2 Implement effective governance and long-term planning

Operational Plan Link: 5.2.2.1 Assist the Council in meeting its statutory obligations and roles

### **EXECUTIVE SUMMARY**

In September 2024, the Office of Local Government (OLG) issued the proposed new framework for Councillor Conduct and Meeting Practices discussion paper and invited submissions from councils and the community.

Eurobodalla Shire Council (Council) have reviewed the proposed new framework and have several areas of feedback and concern which are addressed in the draft submission.

The most significant concern is the proposal to ban councillor briefing sessions that are not open to the public.

Council notes the suggested questions provided in the draft framework, however feel that these did not address our major concerns. Therefore, this submission focusses on directly addressing these concerns.

The original due date for submissions was Friday 15 November 2024, however to accommodate our meeting schedule, Council sought an extension to allow time for Council briefing and endorsement. This request was accepted and the OLG granted an extension to Friday 22 November 2024.

### **RECOMMENDATION**

THAT Council endorse Eurobodalla Shire Council's submission to the Office of Local Government, with regard to the proposed new framework for Councillor Conduct and Meeting Practices.

### **BACKGROUND**

The release of the Councillor Conduct Framework Discussion Paper was announced by the Minister for Local Government Ron Hoenig on 5 September 2024. The Discussion Paper has a range of aspects to it, and it is intended that the revised Framework will be based on the following principles of change as outlined on the Office of Local Government website:

- Council leadership and decision making is paramount
- Freedom of speech is fundamental
- Transparency and accountability are maintained
- Issues are dealt with at the most immediate or local level

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**FCS24/051 COUNCIL SUBMISSION TO THE OFFICE OF LOCAL GOVERNMENT S004-T00020**  
**ON THE DRAFT NEW FRAMEWORK FOR COUNCILLOR CONDUCT**  
**AND MEETING PRACTICES**

- A strong and proportionate local government regulator
- Justice is timely and proportionate
- Significant penalties should only be imposed by a judicial or quasi-judicial body

Council reviewed the proposed new framework and prepared a draft submission that covers feedback and concerns by way of the submission.

Copies of the discussion paper and Council's submission are attached to this report.

**CONSIDERATIONS**

The points covered by the submission are as follows:

**1. Potential changes to the code of conduct and oath of office**

*Page 8 of discussion paper*

Council has concerns with the proposal to make the new Code of Conduct "aspirational" instead of "enforceable". The term "aspirational" lacks clarity and implies that compliance with the Code of Conduct is optional rather than mandatory – which in practice could devalue the importance of adherence to the Code of Conduct. Council's view is that it is important that behavioural expectations of councillors are both clearly defined and enforced. Council's recommendation is that the Code of Conduct should remain a clear and enforceable document outlining behavioural expectations of councillors.

**2. Pecuniary interests**

*Page 10*

Council supports the proposed definitions of pecuniary interests which will now align with those utilised and defined for NSW members of parliament. The proposed definitions provide specific clarity around values including other income and gifts.

**3. Councillor misbehaviour in public office**

*Page 12*

Council has concerns with the three limbs to the proposed misbehaviour definition, in that they are somewhat subjective and open to interpretation. Asking councillors to judge their fellow councillors on whether they could be considered to have misbehaved, seems ambiguous and may result in a large number of referrals to the proposed Local Government Privileges Committee, for trivial matters. Conversely, serious matters such as councillor bullying of staff also now appear to be subject to judgement and interpretation. This may have Workcover or other legal ramifications. The practical workability of having a panel of ex-mayors sitting in judgement of their peers, without a clear "rule book", seems problematic.

**4. Addressing inappropriate lobbying**

*Page 13*

Council supports the proposed development of lobbying guidelines. Will potential conflicts of interest with regard to property developers be covered in these new

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**FCS24/051 COUNCIL SUBMISSION TO THE OFFICE OF LOCAL GOVERNMENT S004-T00020  
ON THE DRAFT NEW FRAMEWORK FOR COUNCILLOR CONDUCT  
AND MEETING PRACTICES**

guidelines? Council has recently exhibited a new draft policy, Councillor interactions with Property Developers and Lobbyists. No submissions were received from the public during the exhibition period and the draft policy will be presented to Council for adoption at the November meeting.

**5. NSW Local Government Privileges Committee**

*Page 15*

More clarity is needed here regarding costs and funding of the Privileges Committee Process. The statement that “The Privileges Committee Process would be paid for by either individual councillors or their councils, dependent on the outcome” is a concern as this may place additional cost burdens onto councils or individuals.

**6. Proposed reforms to the Model Code of Meeting Practice**

*Page 17*

Clarity is needed regarding councillors “right of review” where expelled by the mayor for acts of disorder. Who will conduct the review and when?

**7. Banning briefing sessions**

*Page 18*

- a) This idea is unworkable, and Council has a real concern with the proposal to ban councillor briefing sessions that are not open to the public.

The proposed new framework appears somewhat contradictory with Section 232 of the *Local Government Act 1993* clause 1 covering the role of a councillor and would make these requirements difficult to achieve.

Clause 1(a) “to be an active and contributing member of the governing body”.

Clause 1(b) “to make considered and well-informed decisions as a member of the governing body”.

Clause 1(c) “to participate in the development of the integrated planning and reporting framework”.

- b) For a councillor to be able to contribute, make informed decisions and participate in integrated planning and reporting, regular, detailed briefings from Council staff are essential. Briefings give staff the opportunity to provide detailed information and presentations to councillors and answer complex questions, enabling informed decision making and debate to take place during Council meetings.
- c) Council is unsure how councillors would be able to digest and understand information in a Council meeting where they are required to make a decision, without having been briefed beforehand. This could lead to a number of deferrals of recommendations. There would also be the risk that statutory timelines for matters

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**FCS24/051 COUNCIL SUBMISSION TO THE OFFICE OF LOCAL GOVERNMENT S004-T00020**  
**ON THE DRAFT NEW FRAMEWORK FOR COUNCILLOR CONDUCT**  
**AND MEETING PRACTICES**

such as development approvals, decisions on land acquisition and financial reporting, could be severely impacted.

- d) The role of the General Manager and staff is to ensure councillors have the information required to be able to make informed decisions.
- e) For such detailed briefings to be made open to the public, would be unworkable.
- f) There is also a concern that open public briefings could lead to the voices of the loudest being heard, which may not in fact be representative of the community. Would the public be able to ask questions, or speak?
- g) Councillors are elected by their community, to represent their community and make informed decisions based on information provided by Council staff.
- h) If the public are required to be invited to every information briefing, it brings into question the purpose of having an elected body.  
Briefing sessions enable councillors to be in a position to discuss matters with their constituents prior to decision making taking place in the Council meeting.
- i) It is neither feasible nor possible to brief during a Council meeting or committee meeting. The questioning and discussion aspect would be unworkable within the Code of Meeting Practice, and detailed presentations would be very difficult to share with a large public group.
- j) Under the proposed new framework, it appears that only mayors can be briefed by council staff in private sessions. This undermines the purpose of having an elected council. Under this proposal the mayor would need to be able to convey accurately the detail contained in briefings, to the rest of the councillors; and also ask any relevant questions of staff, on behalf of all the other councillors. This would be extremely difficult in practice and place an enormous pressure on mayors, and/or risk the remaining councillors not being adequately informed. There would also be a risk of creating factional splits where the mayor informs some but not all councillors. Council does not understand why the proposed framework would effectively allow closed-door briefings to mayors but not to councillors.

## **CONCLUSION**

The Office of Local Government issued a discussion paper in September 2024 for a proposed new framework for Councillor Conduct and Meeting Practices. Submissions were invited from councils and the public. Council has prepared a submission and if endorsed, will be submitted by 22 November 2024.





# Councillor Conduct Framework Review

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## Eurobodalla Shire Council Submission

November 2024



# Councillor Conduct Framework Review

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## Contents

Executive Summary ..... 2

Feedback and Concerns with the proposed New Framework ..... 2

Conclusion ..... 4



## Executive Summary

Eurobodalla Shire Council have reviewed the proposed new framework for Councillor Conduct and Meeting Practices issued in September 2024.

Council has several areas of feedback and concern which are addressed in our submission, detailed below. The most significant concern is with the proposal to ban councillor briefing sessions which are not open to the public, covered in point 7, below.

Council notes the suggested questions provided in the draft framework, however feel that these did not address our major concerns. Therefore, this submission addresses these concerns, rather than the draft questions provided.

## Feedback and Concerns with the proposed New Framework

### 1. Potential changes to the code of conduct and oath of office

*Page 8*

Council has concerns with the proposal to make the new Code of Conduct “aspirational” instead of “enforceable”. The term “aspirational” lacks clarity and implies that compliance with the Code is optional rather than mandatory – which in practice could devalue the importance of adherence to the Code.

Council’s view is that it is very important that behavioural expectations of councillors are both clearly defined and enforced.

Council’s recommendation is that the Code of Conduct should remain a clear and enforceable document outlining behavioural expectations of councillors.

### 2. Pecuniary interests

*Page 10*

Council supports the proposed definitions of pecuniary interests

### 3. Councillor misbehaviour in public office

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Council has concerns with the three limbs to the proposed misbehaviour definition, in that they are somewhat subjective and open to interpretation. Asking councillors to judge their fellow councillors on whether they could be considered to have misbehaved, seems ambiguous and may result in a large number of referrals to the proposed Local Government Privileges Committee, for trivial matters. Conversely, serious matters such as Councillor bullying of staff also now appear to be subject to judgement and interpretation. This may have Workcover or other legal ramifications.

The practical workability of having a panel of ex-mayors sitting in judgement of their peers, without a clear “rule book”, seems problematic.



**4. Addressing inappropriate lobbying**

*Page 13*

Council supports the proposed development of lobbying guidelines. Will potential conflicts of interest with regard to property developers be covered in these new guidelines? Eurobodalla has recently exhibited a new draft policy in this area, attached.

**5. NSW Local Government Privileges Committee**

*Page 15*

More clarity is needed here regarding costs and funding of the Privileges Committee Process. The statement that "The Privileges Committee Process would be paid for by either individual councillors or their councils, dependent on the outcome" is a concern as this may place additional cost burdens onto Councils or individuals.

**6. Proposed reforms to the Model Code of Meeting Practice**

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Clarity is needed regarding councillors "right of review" where expelled by the mayor for acts of disorder. Who will conduct the review and when?

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- a) This idea is unworkable, and Council has a real concern with the proposal to ban councillor briefing sessions that are not open to the public.

The proposed new framework appears somewhat contradictory with Section 232 of the *Local Government Act 1993* clause 1 covering the role of a councillor and would make these requirements difficult to achieve.

Clause 1(a) "to be an active and contributing member of the governing body"

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Clause 1(c) "to participate in the development of the integrated planning and reporting framework"

- b) For a councillor to be able to contribute, make informed decisions and participate in integrated planning and reporting, regular, detailed briefings from council staff are essential. Briefings give staff the opportunity to provide detailed information and presentations to councillors and answer complex questions, enabling informed decision making to take place during council meetings.
- c) Council is unsure how councillors would be able to digest and understand information in a council meeting where they are required to make a decision, without having been briefed beforehand? This could lead to a number of deferrals of recommendations. There would also be the risk that statutory timelines for matters such as development approvals, decisions on land acquisition, and financial reporting, could be severely impacted.



- d) The role of the General Manager and staff is to ensure councillors have the information required to be able to make informed decisions.
- e) For such detailed briefings to be made open to the public, would be unworkable.
- f) There is also a concern that open public briefings could lead to the voices of the loudest being heard, which may not in fact be representative of the community. Would the public be able to ask questions, or speak ?
- g) Councillors are elected by their community, to represent their community and make informed decisions based on information provided by council staff.
- h) If the public are required to be invited to every information briefing, it brings into question the purpose of having an elected body at all.  
  
Briefing sessions enable councillors to be in a position to discuss matters with their constituents prior to decision making taking place in the Council meeting.
- i) It is neither feasible nor possible to brief during a Council meeting or committee meeting. The questioning and discussion aspect would be unworkable within the Code of Meeting Practice, and detailed presentations would be very difficult to share with a large public group.
- j) Under the proposed new framework, it appears that only mayors can be briefed by council staff in private sessions. This undermines the purpose of having an elected council. Under this proposal the mayor would need to be able to convey accurately the detail contained in briefings, to the rest of the councillors; and also ask any relevant questions of staff, on behalf of all the other councillors. This would be extremely difficult in practice and place an enormous pressure on mayors, and/or risk the remaining councillors not being adequately informed. There would also be a risk of creating factional splits where the mayor informs some but not all councillors. Council does not understand why the proposed framework would effectively allow closed-door briefings to mayors but not to councillors.

## Conclusion

Council has concerns with some of the proposed changes, as detailed above. The most significant concern is with the proposal to ban councillor briefing sessions which are not open to the public, which Council believes will have lessen the ability for Council to operate effectively.

Council strongly requests that the proposed changes are reconsidered in light of the above concerns, in particular the position on briefings.

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**FCS24/052 POLICY ADOPTION - COUNCILLOR INTERACTIONS WITH  
PROPERTY DEVELOPERS AND LOBBYISTS POLICY**

**S004-T00021**

Responsible Officer: Stephanie Speedy - Director of Finance and Corporate Services

Attachments: 1. Councillor Interactions with Property Developers and Registered Lobbyists Policy

Community Goal: 5 Our engaged community with progressive leadership

Community Strategy: 5.2 Proactive, responsive and strategic leadership

Delivery Program Link: 5.2.2 Implement effective governance and long-term planning

Operational Plan Link: 5.2.2.1 Assist the Council in meeting its statutory obligations and roles

**EXECUTIVE SUMMARY**

On 16 April 2024, via a Notice of Motion, Council resolved as follows:

THAT Council develop, implement, and maintain a policy in relation to Councillor interactions with Property Developers and Lobbyists.

The NSW Independent Commission Against Corruption (ICAC) has made several recommendations (as a result of investigations into local government) regarding corruption risks associated with the lobbying of councillors. While the NSW Office of Local Government (OLG) has indicated that they are intending to introduce some guidelines on these issues they have not done so at this stage. The report recommends that Council adopt the Councillor Interactions with Property Developers and Registered Lobbyists Policy, requiring Eurobodalla Shire Councilor's to record and submit details of meetings with registered property developers and lobbyists. These records will be published on Council's website.

It is recommended that Council adopt the draft Policy as exhibited, noting no submissions were received during the public exhibition period.

**RECOMMENDATION**

THAT the Councillor interactions with Property Developers and Lobbyists Policy be adopted.

**BACKGROUND**

On 16 April 2024, via a Notice of Motion, Council resolved as follows:

THAT Council develop, implement, and maintain a policy in relation to Councillor interactions with Property Developers and Lobbyists.

The NSW *Local Government Act 1993* contains the framework for regulating conduct, honesty, disclosures of interest, misconduct, and corruption. Section 439 imposes a statutory duty on a councillor to "act honestly and exercise a reasonable degree of care and diligence in carrying out his or her functions".

The *Lobbying of Government Officials Act 2011* covers lobbyists, ensuring that lobbyists comply with ethical standards of conduct and other requirements set out in the Lobbyists Code. However, this Act does not apply to local government officials.

The NSW ICAC has made a number of recommendations (as a result of investigations into local government) regarding corruption risks associated with the lobbying of councillors. Operations



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**FCS24/052 POLICY ADOPTION - COUNCILLOR INTERACTIONS WITH  
PROPERTY DEVELOPERS AND LOBBYISTS POLICY**

**S004-T00021**

Dasha (2021), Eclipse (2021) and Witney (2022) specifically considered and made recommendations regarding corruption risks associated with the lobbying of councillors.

The definition of government official states that it does not include local government officials 'except in Parts 5 and 6' which relate to the ban on success fees for lobbying and a cooling-off period for former Ministers and Parliamentary Secretaries.

ICAC has made recommendations to amend the *Lobbying of Government Officials Act 2011* to ensure all provisions apply to local government. In response to ICAC's recommendations the OLG has advised that it is developing guidelines to enhance transparency around the lobbying of councillors and a model policy on lobbying (to supplement the provisions in the code of conduct). The OLG website currently states that they will be 'issuing a Model Councillor Lobbying Policy'.

In accordance with Council's resolution, a Councillor Interactions with Property Developers and Registered Lobbyists Policy, requiring councillors to publish details of meetings with registered lobbyists and property developers has been developed.

**Councillor Interactions with Property Developers and Registered Lobbyists Policy**

Lobbying is an integral and legitimate activity for the functioning of a democratic system ([Lobbying Code of Conduct | Attorney-General's Department \(ag.gov.au\)](https://www.ag.gov.au/lobbying-code-of-conduct)).

Lobbying also carries inherent risks of corruption, undue influence, unfair access and biased decision-making that are detrimental to the public interest and effective local governance. It is in the public interest that lobbying is fair and does not undermine public confidence in impartial decision-making. This policy aims to ensure community expectations are met in relation to ethical and transparent lobbying of councillors.

This policy proposes that councillors will be required to record all meetings with property developers and registered lobbyists, in addition to objectors, and the topic of discussions. Councillors will be required to complete a form disclosing all meetings with registered property developers and lobbyists in addition to objectors and submit it to the Office of the General Manager. Meetings recorded should include scheduled or organised meetings as well as any substantial or significant discussions held outside a scheduled meeting. The meeting form must state all meeting requests, whether or not they are attended or accepted.

It is the responsibility of councillors to undertake the required due diligence to ensure that any meetings held with property developers and registered lobbyists are recorded.

The General Manager will publish the forms on Council's website. Forms will remain on Council's website for a period of 12 months from the date of publishing.

**CONSIDERATIONS**

**Legal**

The following legislation is of relevance:

- Local Government Act 1993
- Lobbying of Government Officials Act 2011
- Electoral Funding Act 2018



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**FCS24/052 POLICY ADOPTION - COUNCILLOR INTERACTIONS WITH  
PROPERTY DEVELOPERS AND LOBBYISTS POLICY**

**S004-T00021**

**Policy**

Once adopted this Policy will be made available on Council's website. The Policy will be reviewed and presented to Council for endorsement following every Council election, in conjunction with the Code of Conduct.

**Social Impact**

The Councillor Interactions with Property Developers and Lobbyists Policy will provide Council with a transparent process where meetings are held with developers or lobbyists.

**Community and Stakeholder Engagement**

The draft Councillor interactions with Property Developers and Lobbyists Policy was placed on public exhibition for a period of not less than 28 days commencing on 21 August 2024 until 17 September 2024. During this time, no submissions were received.

**CONCLUSION**

Council has previously resolved to develop a policy regulating Councillor interactions with property developers and lobbyists. This report satisfies that resolution. Use of such policies allow the Council to mitigate corruption risks, as highlighted by the NSW ICAC.

ICAC's investigations into local government have underscored the need for transparency in such interactions. Although the NSW OLG plan to introduce guidelines, they have yet to do so. In response, the recommended Councillor Interactions with Property Developers and Registered Lobbyists Policy mandates that councillors document and report all meetings with registered lobbyists and developers, in addition to objectors, ensuring these records are accessible on Council's website. The meeting form must state all meeting requests, whether or not they are attended or accepted. This policy is important for promoting accountability and maintaining public trust in local government.

It is recommended that Council adopt the Councillor Interactions with Property Developers and Registered Lobbyists Policy.

FCS24/052 POLICY ADOPTION - COUNCILLOR INTERACTIONS WITH PROPERTY  
DEVELOPERS AND LOBBYISTS POLICY

ATTACHMENT 1 COUNCILLOR INTERACTIONS WITH PROPERTY DEVELOPERS AND  
REGISTERED LOBBYISTS POLICY



## Policy

<b>Policy title</b>	Councillor Interactions with Property Developers and Registered Lobbyists Policy
<b>Responsible manager(s)</b>	Corporate Manager, Governance and Risk
<b>Contact officer(s)</b>	Governance Officer
<b>Directorate</b>	Finance and Corporate Services
<b>Approval date</b>	
<b>Outcome area</b>	5 Our engaged community with progressive leadership
<b>Strategy</b>	5.2 Proactive, responsive and strategic leadership
<b>Delivery Program</b>	5.2.2 Implement effective governance and long-term planning
<b>Operational Plan</b>	5.2.2.1 Assist the Council in meeting its statutory obligations and roles

### Purpose

The Councillor Interactions with Property Developers and Registered Lobbyists Policy informs the community of the requirement for the disclosure of all meetings held between elected councillors and proponents of property development activities, in addition to objectors. The policy outlines requirements for the Mayor and Councillors to publish details of meetings with registered lobbyists and property developers and objectors.

### Policy aims

The aims of this Policy are to:

- Enhance Council's open, transparent and accountable assessment and determination of Planning Applications; and
- Establish a public register of all meetings between elected councillors and Property Developers, and Lobbyists.

### Policy principles

The following principles set the foundation of this policy:

- Council is transparent and accountable to its community and partners;
- Statutory, regulatory, policy and public interest considerations will always inform Council's decision-making processes; and
- The community must have confidence in Council's decision-making processes; and that
- Council will exercise its statutory functions appropriately in the circumstances.

### Policy details

<b>1</b>	<b>Application</b>  This policy applies to the Mayor and Councillors in relation to meetings held in their capacity as a Eurobodalla Shire Councillor or directly relating to matters involving Eurobodalla Shire Council. This policy does not apply to meetings at which the Mayor or a Councillor is not in attendance.
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FCS24/052 POLICY ADOPTION - COUNCILLOR INTERACTIONS WITH PROPERTY  
DEVELOPERS AND LOBBYISTS POLICY

ATTACHMENT 1 COUNCILLOR INTERACTIONS WITH PROPERTY DEVELOPERS AND  
REGISTERED LOBBYISTS POLICY



## Policy

<b>2</b>	<b>Statement</b> <p>Lobbying is an integral and legitimate activity for the functioning of a democratic system. Lobbying also carries inherent risks of corruption, undue influence, unfair access and biased decision-making that are detrimental to the public interest and effective local governance. It is in the public interest that lobbying is fair and does not undermine public confidence in impartial decision-making. This policy aims to ensure community expectations are met in relation to ethical and transparent lobbying of Councillors.</p>
<b>3</b>	<b>Records of meetings</b> <p>Councillors are required to record all meetings with registered lobbyists and property developers, including objectors, and the purpose of the meeting. Meetings recorded should include scheduled or organised meetings as well as any substantial or significant discussions held outside a scheduled meeting. The meeting form must state all meeting requests, whether or not they are attended or accepted. Councillors should always be aware of their obligations under the Code of Conduct, and the obligations in this policy are in addition to the requirements of the Code of Conduct. This includes, but is not limited to, clauses 3.13 and 3.14 of the Code of Conduct relating to land use planning, development assessment and regulatory decisions. Councillors are required to complete the form at Attachment A and submit it to the Office of the General Manager within one week of any meeting held.</p> <p>It is the responsibility of Councillors to undertake the required due diligence to ensure that any meetings held with registered lobbyists and property developers are recorded on the form. The Office of the General Manager will publish the forms on the Council's website once received. The forms will remain on the website for 12 months.</p>
<b>4</b>	<b>Location of meetings</b> <p>Meetings with registered lobbyists and property developers should be held at the Eurobodalla Council customer service centre in Moruya, Corner Vulcan and Campbell Streets, Moruya NSW 2537.</p>
<b>5</b>	<b>Training</b> <p>Councillors will be trained in this Policy as part of the induction process following each election.</p>
<b>6</b>	<b>Compliance</b> <p>A failure to comply with this policy or to provide true and accurate records may constitute a breach of the Council's Code of Conduct.</p>

### Implementation

Requirements	
<b>1</b>	Office of the General Manager will: <ul style="list-style-type: none"><li>Regularly publish records of meetings with registered lobbyists and property developers on the Council's website</li><li>Remove entries after 12 months</li></ul>

FCS24/052 POLICY ADOPTION - COUNCILLOR INTERACTIONS WITH PROPERTY  
DEVELOPERS AND LOBBYISTS POLICY

ATTACHMENT 1 COUNCILLOR INTERACTIONS WITH PROPERTY DEVELOPERS AND  
REGISTERED LOBBYISTS POLICY



## Policy

<b>2</b>	<p>The Mayor and Councillors will:</p> <ul style="list-style-type: none"><li>• Complete and sign the form at Attachment A every three months, including where no relevant meetings have been held</li><li>• Undertake the necessary due diligence to ensure the form is complete and accurate</li><li>• Submit the form to the Office of the General Manager within one week of the end of the reporting period</li></ul>
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### Review

**Note:** Council has a program of regular policy review over the term of Council. This policy will be reviewed during the Council term 2024-28. Reviews of the effectiveness of this policy could include the following:

Performance indicator	Data source(s)
Declarations received and posted to website	Council reporting

### Definitions

Word/acronym/phrase	Definition
Registered lobbyist	A lobbyist who is required to register with the NSW Electoral Commission under the Lobbying of Government Officials Act 2011, sections 9(1) and 9(2), as follows: 9(1) A third-party lobbyist is required to be registered in the Lobbyists Register. 9(2) An individual engaged to undertake lobbying for a third-party lobbyist is required to be registered in the Lobbyists Register in respect of the third-party lobbyist.
Lobbyists Register	The Register of Third-Party Lobbyists maintained by the NSW Electoral Commission in accordance with s8(1) of the Lobbying of Government Officials Act 2011.
Property developer	An individual or a corporation that carries on a business mainly concerned with the residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit* as defined in the Electoral Funding Act 2018; or any other party proposing development that would be the subject of a decision by resolution of Council and/or the Southern Regional Planning Panel.  *Excludes those whose development proposals relate to dwelling and/or associated structures of their primary address.
Meeting	A discussion which may be face to face, online or by telephone.

### Governance

This policy should be read in conjunction with any related legislation, codes of practice, relevant internal policies and guidelines.

FCS24/052 POLICY ADOPTION - COUNCILLOR INTERACTIONS WITH PROPERTY  
DEVELOPERS AND LOBBYISTS POLICY

ATTACHMENT 1 COUNCILLOR INTERACTIONS WITH PROPERTY DEVELOPERS AND  
REGISTERED LOBBYISTS POLICY



## Policy

### Related legislation and policies

Name	Link
Lobbying of Government Officials Act 2001 (NSW)	<a href="https://www.google.com/search?q=%E2%80%A2+Lobbying+of+Government+Officials+Act+2001+(NSW)&amp;oq=%E2%80%A2+Lobbying+of+Government+Officials+Act+2001+(NSW)&amp;gs_lcrp=EgZjaHJvbWUyBggAEEUYOTIKCAEQABiABBiiBDIKCAIQABiABBiiBDIKCAMQABiiBBiJBTKCAQQABiiBBiJBdIBCDIONzdqMGo3qAIAAsAIA&amp;sourceid=chrome&amp;ie=UTF-8">https://www.google.com/search?q=%E2%80%A2+Lobbying+of+Government+Officials+Act+2001+(NSW)&amp;oq=%E2%80%A2+Lobbying+of+Government+Officials+Act+2001+(NSW)&amp;gs_lcrp=EgZjaHJvbWUyBggAEEUYOTIKCAEQABiABBiiBDIKCAIQABiABBiiBDIKCAMQABiiBBiJBTKCAQQABiiBBiJBdIBCDIONzdqMGo3qAIAAsAIA&amp;sourceid=chrome&amp;ie=UTF-8</a>
Electoral Funding Act 2018 (NSW)	<a href="https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-2018-020">https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-2018-020</a>
Eurobodalla Shire Council Code of Conduct	<a href="https://www.esc.nsw.gov.au/_data/assets/pdf_file/0006/145959/Code-of-Conduct-Policy.pdf">https://www.esc.nsw.gov.au/_data/assets/pdf_file/0006/145959/Code-of-Conduct-Policy.pdf</a>

### Related external references

Name	Link
Premier's Memorandum M2015-05-Publication of Ministerial Diaries and Release of Overseas Travel Information.	<a href="https://arp.nsw.gov.au/m2015-05-publication-ministerial-diaries-and-release-overseas-travel-information">https://arp.nsw.gov.au/m2015-05-publication-ministerial-diaries-and-release-overseas-travel-information</a>

### Supporting documents

Name	Link
Council resolution Notice of Motion regarding Development of a councillor interactions with property developers and lobbyists policy	Resolution: THAT Council develop, implement, and maintain a policy in relation to Councillor interactions with Property Developers and Lobbyists.  16 April 2024

### Change history

Version	Approval date	Approved by	Min No	File No	Change
					Review period:  The Policy will be reviewed and put to Council for endorsement following every Council election, in conjunction with the Code of Conduct.

### Internal use

Responsible officer		Approved by	
Minute		Report	
File		Review date	
		Effective date	
		Pages	





Policy

ATTACHMENT A - RECORD OF MEETINGS WITH PROPERTY DEVELOPERS AND REGISTERED LOBBYISTS

Councillor Name:

Date(s) of meetings:

Councillors must disclose all meetings with property developers and registered lobbyists, in addition to objectors, as and when meetings occur.

It is the responsibility of the Councillor to undertake the required due diligence to ensure that any meetings held with registered lobbyists and property developers, or objectors are recorded. In relation to registered lobbyists, this should include a review of the register of lobbyists which can be found at: <https://elections.nsw.gov.au/funding-and-disclosure/public-register-and-lists/register-of-third-party-lobbyists>

Date	Organisation/individuals in attendance	Purpose of Meeting	Meeting requests/outcomes

Councillors must inform relevant persons at the time of meeting that their name and purpose of the meeting will be published on the Council's website in accordance with the Councillor Interactions with Property Developers and Registered Lobbyists Policy.

I confirm that I have undertaken the required due diligence to comply with the Councillor Interactions with Property Developers and Registered Lobbyists Policy and that the information I have provided on this form is complete and accurate.

Councillor signature:

Date:

Note for the purposes of completion of this record of meeting against the Eurobodalla Property Developers and Registered Lobbyists Policy the definitions of Property Developers and Registered Lobbyists are provided hereunder:

**PROPERTY DEVELOPER:** An individual or a corporation that carries on a business mainly concerned with the residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit as defined in the Electoral Funding Act 2018, or any other party proposing development that would be the subject of a decision by resolution of Council and/or the Southern Regional Planning Panel.

**REGISTERED LOBBYIST:** A lobbyist who is required to register with the NSW Electoral Commission under the Lobbying of Government Officials Act 2011, sections 9(1) and 9(2), as follows: 9(1) A third-party lobbyist is required to be registered in the Lobbyists Register. 9(2) An individual engaged to undertake lobbying for a third-party lobbyist is required to be registered in the Lobbyists Register in respect of the third-party lobbyist.

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**FCS24/053 INVESTMENTS MADE AS AT 31 OCTOBER 2024**

**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 legislation, however, have temporarily contravened Council's investment policy regarding the maximum percentage of investment allowed in any single A-rated institution. The diversification investment threshold of 40% has been exceeded by 1.35% due to a change in the overall size of Council's total investment portfolio for the month of October
- provide information and details of investments
- raise other matters relevant to investing

**RECOMMENDATION**

THAT the certification of investments as of 31 October 2024, 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 2021*, be received.

**CONSIDERATIONS**

**Policy**

Council's investment policy is divided into two categories of risk, credit risk (risk of not being able to redeem funds) and liquidity risk (risk of loss due to the need to redeem funds earlier than the investment term).

Council's portfolio is 100% invested in bank deposits, maintaining a low liquidity risk across all credit risk categories. The portfolio is compliant with credit risk and liquidity risk thresholds as outlined in the policy.

Council's Investment Policy further limits the amount of investment in one institution based on these risk categories. On 31 October 2024, 41.35% of the total investment portfolio is invested with National Australia Bank (NAB) which marginally exceeds the 40% maximum percentage allowed to be invested in a single A-rated institution. This threshold has been inadvertently exceeded due to a change in the overall size of Council's total investment portfolio for the month of October. Council's investment strategy has not changed and remains in line with the aims of Council's Investment Policy. As cash reserves are replenished in the future, Council staff will continue to manage diversification back to accord with Council policy.



**FCS24/053 INVESTMENTS MADE AS AT 31 OCTOBER 2024**

**S011-T00006,  
S012-T00025**

As of 31 October 2024, the portfolio is compliant with Council's Investment Policy adopted by Council on 9 August 2022 (Minute 22/190) but for the diversification threshold as outlined above. A summary of holdings by risk category is summarised below in Table 1.

**Table 1 – Policy Risk Categories**

S&P Long Term Category	S&P Short Term Category	Policy Risk Category	Current Holdings	Maximum Holdings
AAA (Government Guaranteed Deposits)	A-1+	Remote Risk	1.29%	100%
AAA to AA	A-1+	Near Risk Free	67.37%	100%
A	A-1 to A-2	Near Risk Free	31.34%	40%
BBB+	A-2	Some Limited Risk	0.00%	30%

**Financial**

Investment holdings summary

Table 2 provides a summary of cash and investment balances as of 31 October 2024. Fossil fuel free refers to institutions that have no exposure or no longer directly finance projects in the fossil fuel industry but still have some exposure from historical funding.

**Table 2 – Investment holdings by category**

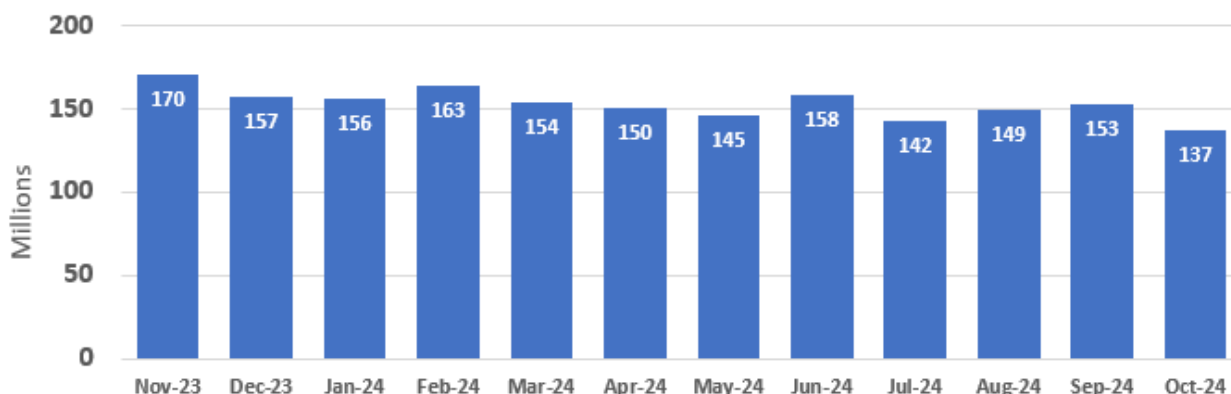
Category	(\$)	% of Portfolio
At Call Deposit	9,463,030	6.98%
Term Deposits – Government Guaranteed	1,750,000	1.29%
Term Deposits – Fossil Fuel Free Institutions	34,000,000	25.09%
Term Deposits	90,280,000	66.64%
<b>Total Investments</b>	<b>135,493,030</b>	
Cash at Bank (Operating Account)	<b>1,302,566</b>	
<b>Total Cash and Investments</b>	<b>136,795,596</b>	

Cash and investments decreased by \$16.1m in October 2024, primarily due to expenditure on Water and Sewer infrastructure projects, and the timing of receiving grant funds for these projects. Graph 1 displays Council's cash and investments balance over a 12-month period.

**FCS24/053 INVESTMENTS MADE AS AT 31 OCTOBER 2024**

**S011-T00006,  
S012-T00025**

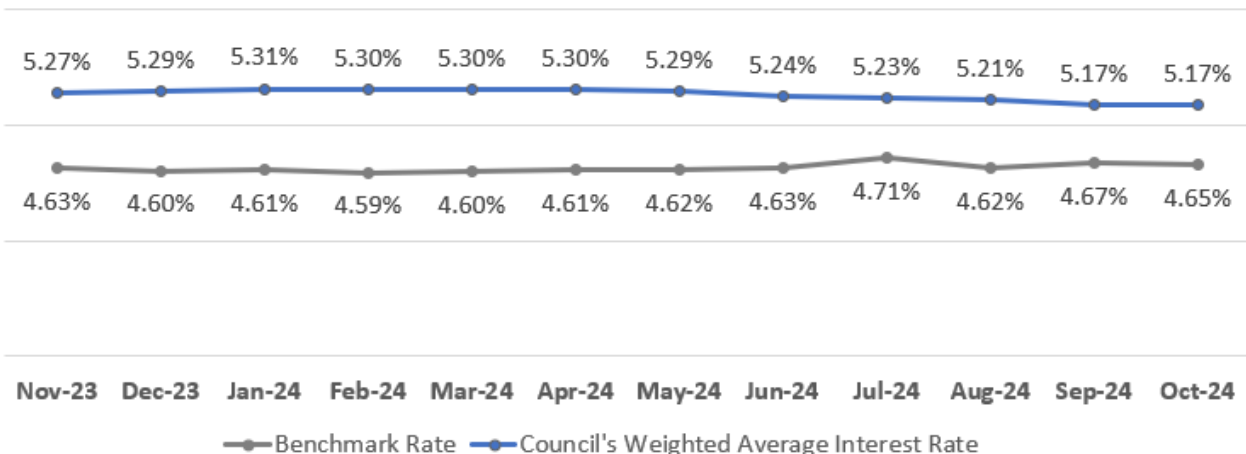
**Graph 1 – Total Cash and Investment Balances (12 months)**



**Performance**

The weighted average monthly return on Council's investments for October 2024 is 5.17%, surpassing the Council policy benchmark of 4.65%, calculated using the bank bill swap rate (BBSW) plus 0.25%. Graph 2 compares Council's weighted average return to the benchmark rate over a 12-month period.

**Graph 2 – Investment performance over 12 months**



**CONCLUSION**

Pursuant to provision of Clause 1 (Reg. 212) of the *Local Government (General) Regulation 2021*, I hereby certify that these investments have been made in accordance with the *Local Government Act 1993* and related regulations. I note that Council's investments in financial instruments have been made in accordance with legislation, however, have temporarily contravened Council's investment policy regarding the maximum percentage of investment allowed in any single A-rated institution. The diversification investment threshold of 40% has been inadvertently exceeded by 1.35% due to a change in the overall size of Council's total investment portfolio for the month of October.

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**IR24/020 MAINTENANCE OF UNSEALED ROADS**

**S028-T00009**

Responsible Officer: Graham Attenborough - Director Infrastructure Services

Attachments: 1. 2024-25 Maintenance Grading Schedule  
2. 2024-25 Gravel Resheet Program

Community Goal: 4 Our connected community through reliable and safe infrastructure networks

Community Strategy: 4.1 Provide integrated and active transport networks to enable a connected and accessible Eurobodalla

Delivery Program Link: 4.1.3 Provide safe and reliable local and urban roads, guided by the asset management plan

Operational Plan Link: 4.1.3.1 Deliver the annual maintenance program for local and urban roads

**EXECUTIVE SUMMARY**

Each year a schedule of works is prepared for the maintenance grading of unsealed roads and gravel resheeting works.

The maintenance grading schedule is based on delivering a reasonable level of service, taking into account the various factors impacting on the performance of the road network, in particular, traffic volumes, type of traffic, terrain, amount and quality of gravel and the available budget.

The gravel resheeting program provides an annual program to replace gravel pavements on a cyclical basis. This improves the driveability of the unsealed road network.

All of the proposed works are an integral part of keeping the unsealed local road network to a reasonable condition.

Once the 2024-25 Maintenance Grading Schedule and Resheet Program are adopted by Council, the Grading Schedule will be placed on our website for the information of the community. The gravel resheet program will be updated as part of the six monthly report to Council on progress against the adopted 2024-25 Operational Plan.

**RECOMMENDATION**

THAT the Maintenance Grading Schedule and the Resheet Program for unsealed roads for the 2024-25 financial year as attached to this report be adopted.

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**IR24/020 MAINTENANCE OF UNSEALED ROADS**

**S028-T00009**

**BACKGROUND**

Each year a schedule of works is formulated for the maintenance grading and gravel resheeting of unsealed roads.

Minor adjustments to the programs may occasionally be made with the approval of the Director Infrastructure Services, to account for variations in costs, to take advantage of any opportunities for efficiencies of work and to treat any significant problems that might arise as the year progresses due to weather or other issues.

The unsealed road network has been highly impacted by floods experienced over the last few years. Significant additional works were required to remediate damage, and these works are now almost complete.

The proposed schedules for maintenance grading and the resheeting of unsealed roads are provided as attachments to this report.

**CONSIDERATIONS****1. Maintenance Grading Schedule for Unsealed Roads**

There are approximately 475km of unsealed roads across our Shire and just less than 400km are maintained by Council.

The grading schedule is based on maintaining the condition of the roads and delivering a reasonable level of service, taking the various factors impacting on the performance of the road network into account, in particular, traffic volumes, type of traffic, terrain, amount and quality of gravel and the available budget. The annual schedule is adjusted prior to presentation to Council, using feedback from the maintenance grading team and customers.

The schedule continues on from the end of the 2023-24 work program. The budget of \$766k has been slightly reduced (7%) for the 2024-25 program, compared to what was delivered in 2023-24, in line with Council's broader strategy to manage our financial resources prudently, while still meeting the needs of our community. There are a number of roads that have historically had a second grade in the financial year. Some of these lower order roads will be inspected to ascertain if a second grade is appropriate. However higher use roads, including Araluen Road, as well as roads identified as bus routes, will have the level of service maintained. Decisions with regards to maintenance requires, include:

- do nothing and record for future inspection
- do drains and culvert and vegetation only and record for future road surface inspection
- work down to a depth of 80-100mm and re-compact
- undertake a deep rip and re-compact to remove deep corrugations or potholes

The proposed Maintenance Grading Schedule for 2024-25 is attached.

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**IR24/020 MAINTENANCE OF UNSEALED ROADS**

**S028-T00009**

**2. Gravel Resheeting for Unsealed Road**

Gravel resheeting is undertaken on a cyclical basis at a frequency of between 12-18 years depending on the traffic volumes, terrain and the purpose of the road.

The resheet program is vital in keeping maintenance costs down, extending the life of the road pavement and making significant improvements to alignment and drainage. It is also vital from a road safety perspective.

The resheet program is determined through inspection of the road network and with consideration to the age of the road, the amount of gravel that is available to undertake maintenance grading, as well as formation, alignment and drainage issues. This process takes into account known problem areas and feedback from the maintenance teams. The resheet program has a strong focus on treating roads to manage the risk to the public, improve road safety outcomes and minimise the risk of damage due to severe weather events.

Initially the Council funded 2024/25 resheet program was reduced in line with the need to prioritise works as part of the finance strategy, however the increase in Roads to Recovery (R2R) funding will mean that the overall budget is only 5% less than the 2023/24 budget, with the same length of road (28km) planned for resheeting, equivalent to historical levels.

The proposed Gravel Resheet Program for 2024-25 is attached.

**3. Araluen Road**

Araluen Road contains 34.3km of unsealed (gravel) road.

The whole length is graded once per annum from the end of the sealed road to the local government authority boundary, and then another grading is undertaken from the end of the sealed road to Deua National Park, being 21.1km. It is inspected once per month as well as after any weather event. There are no records to suggest that the road has been graded anymore than this.

Two major land slips at Knowles Creek and Merricumbene closed the road for some time following the 2019/20 bushfires and subsequent floods. The slips have been repaired (including a bypass at Knowles Creek) and other disaster recovery works include replacement of four timber bridges in concrete, and a seal extension of 1.1 km. Total Natural Disaster funded works performed on Araluen Road to date are at \$13.6M.

Another \$3.6m of works to stabilise landslips are planned to be delivered this financial year.

**Legal**

Council has a legal responsibility under the *Roads Act 1993* and *Civil Liabilities Act 2002* to appropriately manage risk within available resources. It is prudent for Council to adopt schedules on behalf of the community to allocate resources appropriately.

**Policy**

The proposed works are in line with Council's Asset Management Policy and Local and Regional Roads Risk Management Policy.

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**IR24/020 MAINTENANCE OF UNSEALED ROADS**

**S028-T00009**

**Asset**

All of the proposed works are an integral part of keeping the local road network in a reasonable condition.

**Social Impact**

The provision of roads of reasonable standard is essential to the wellbeing of our community, particularly as we are so heavily dependent on road transport.

**Economic Development Employment Potential**

The provision and maintenance of a road network to a reasonable standard is integral to the economic wellbeing of the community.

The completion of these works by a mixture of day labour staff and local contractors provides an important role in maintaining and boosting local employment within Eurobodalla and the immediate surrounds.

**Financial**

The 2024-25 Operational Plan provides a budget of \$1,313,318 for gravel resheeting work and a budget of \$765,979 for maintenance grading.

**Community and Stakeholder Engagement**

The Maintenance Grading Schedule will be placed on Council's website for the information of the community. The grading schedule will display roads to be graded by road name and locality, with the current month's roads to be graded listed under Current Works. Specific dates will not be provided for the grading schedule given the likelihood of unforeseen events necessitating changes to the timing of the service delivery.

**CONCLUSION**

The proposed 2024-25 Maintenance Grading Schedule and Gravel Resheet Program for unsealed roads are vital to sustain our local road network. Once adopted, the Maintenance Grading Schedule will be placed on Council's website.



## Grading schedule for unsealed roads 2024-25

Council maintains approximately 400km of unsealed roads and endeavours to provide a satisfactory level of service.

The grading program takes into consideration various factors impacting on the performance of the road network such as traffic volume, terrain, available budget and the quality and quantity of gravel.

The schedule indicates the extent of the roads to be graded as well as the frequency. It is a guide only and may be affected by rain or long dry periods.

Road	Locality	Location grade starts	Location grade ends	Length of grade (km)	Number of grades
Aeroclub Road	Moruya	end of seal	start of seal	0.2	1
Alcheringa Lane	Bingie	seal	end of maintenance	0.7	1
Araluen Road	Deua River Valley	park boundary at #2857	seal at Stewarts Road	21.1	1
Araluen Road	Deua River Valley	Shire Boundary - Pigeon Gully	seal at Stewarts Road	34.2	1
Barlings Beach Access Road	Guerilla Bay	George Bass Drive	Barlings Beach	0.3	1
Beashels Lane	Bergalia	Bergalia Link Road	gate at 180 Beashels Lane	1.8	1
Belowra Road	Nerrigundah	Byrnes Street	Woila Creek Firetrail	43.2	1
Bevan Road	Rosedale	seal at George Bass Drive	driveway at #73	0.7	1
Bevan Road Southern Access	Tomakin	driveway at #246	George Bass Drive	0.2	1
Bimbimbie Lane	Bimbimbie	Bimbimbie Road	end	0.4	1
Bingie Road	Bingie	seal at Kelly Road	park boundary	0.5	1
Black Flat Road	Currowan	Kings Highway	The River Road	10.2	1
Bolaro Mountain Road	Nelligen	Runnyford Road	2.5km from Runnyford Road	2.6	1
Borang Lake Road	Bodalla	Horse Island Road	end of maintenance	1.5	1
Box Cutting Road	Kianga	end of maintenance	Kianga Forest Road	2.2	1
Brierley Avenue	Moruya	seal	end of maintenance	0.9	1
Brou Lake Road	Bodalla	Brou Tip	park boundary	1.4	1
Buckenbowra Road	Mogo	Park Street	Mullendaree Creek Causeway	11.1	1
Bumbo Bridge Access Road	Bodalla	Bumbo Road	Redex Road	0.3	1
Bumbo Road	Bodalla	seal	Crapp's Bridge	4.2	1



Road	Locality	Location grade starts	Location grade ends	Length of grade (km)	Number of grades
Burri Road	Rosedale	seal	Bevian Road	1.2	1
Bushland Road	Moruya	seal	end	0.4	1
Byrnes Street	Nerrigundah	Belowra Road	Belowra Road	0.2	1
Cadgee Mountain Road	Nerrigundah	Nerrigundah Mountain Road	Eurobodalla Road	2.4	2
Cherryrise Road	Wamban	Wamban Road	cattle grid	0.2	1
Clouts Road	Mogendoura	Larrys Mountain Road	end of maintenance	2.7	1
Coila Creek Road	Coila	seal at Princes Highway	end of maintenance	1.1	1
Comerang Farm Road	Bodalla	Eurobodalla Road	Widgett Road	1.2	1
Comerang Forest Road	Bodalla	Eurobodalla Road	end of maintenance	2.8	1
Congo Road	Congo	seal at Congo Creek	seal at Congo	0.7	1
Coopers Island Road	Bodalla	Princes Highway	end	0.8	1
Corunna Point Sports Ground Acc	Corunna	Mystery Bay Road	park	1.1	1
Donalds Creek Road	Wamban	Wamban Road	Donalds Creek	8.6	1
Donovan Creek Road	Benandarah	Old Princes Highway	forest boundary	1.3	1
Duesburys Road	Kianga	Dalmeny Drive	end of maintenance	1.2	1
Dwyers Creek Road	Moruya	seal	Spring Creek Road	0.3	1
Egans Road	Runnyford	Runnyford Road	272 Egans Road	2.7	1
Eurobodalla Road	Nerrigundah	dust seal east of Sinclairs Bridge	Reedy Creek Road	16.1	1
Goldfields Drive	Jeremadra	Old Mossy Point Road	Jeremadra Grove	2.2	1
Guthrie Street	Moruya	Princes Highway	Main Street	0.6	1
Handkerchief Beach Carpark	Narooma			0.1	1
Hanns Road	Buckenbowra	Quartpot Road	Old Bolaro Road	5.5	1
Hawdons Road	Mogendoura	cattle grid	forest boundary	2.8	1
Haxstead Road	Central Tilba	cattle grid	Little Lake Cemetery Road	0.2	1
Horse Island Road	Bodalla	Potato Point Road	Horse Island Bridge	3.8	1
I Ridge Road	Kiora	Horse Island Bridge	end of maintenance (just past #105)	1.4	1
Jeremadra Grove	Jeremadra	Goldfields Drive	end of maintenance	1.7	1
Kianga Forest Road	Kianga	Princes Highway	lookout	5.3	1

Road	Locality	Location grade starts	Location grade ends	Length of grade (km)	Number of grades
Larrys Mountain Road	Mogendoura	seal	Araluen Road	7	2
Lattas Point Road	Batemans Bay	Princes Highway	Lattas Point oyster sheds	4	2
Little Lake Cemetery Road	Central Tilba	Haxstead Road	cemetery	1.1	1
Main Street	Moruya	Guthrie Street	end of maintenance	0.1	1
Malabar Drive	Moruya	seal	end of maintenance	0.7	1
Maulbrooks Road	Mogendoura	Driveway at #282	seal at #153	4	1
Meadows Road	Mogendoura	seal	end of maintenance	0.6	1
Meads Lane	Tilba Tilba	Meads Road	end	0.2	1
Meads Road	Tilba Tilba	Princes Highway	Meads Lane	1.1	1
Meringo Road	Meringo	seal at Bingie Road	dust seal	1.6	1
Moruya Reservoir Road	Moruya	dust seal	reservoir	0.8	1
Mount Dromedary Trail	Tilba Tilba	reservoir	The Avenue	0.9	1
Mount Dromedary Trail (north)	Narooma	Punkalla Tilba Road	National Park boundary	3.6	1
Mullimburra Point Road	Bingie	seal at dog leg	Pinnacles Close	0.7	1
Munjeroo Lane	Bingie	dust seal	end of maintenance	0.2	1
Mymossa Road	Wamban	Donalds Creek Road	end of maintenance	1.1	1
Mystery Bay Camping Ground Carpark	Mystery Bay	Mystery Bay Loop Road	end of maintenance	0.1	1
Nangudga Beach Road	Narooma	Princes Highway	end	0.6	1
Nelligen Creek Road	Nelligen	Old Bolaro Road	end of maintenance (#140)	1.4	1
Nerrigundah Mountain Road	Nerrigundah	seal east of Cadgee Mountain Road	seal at Cemetery	3.3	2
Noads Drive	Moruya	Noads Place intersection	Congo Road intersection	1	1
Noggarula Drive	Bergalia	Princes Highway	end	1.5	1
Old Bolaro Road	Buckenbowra	Misty Mountain Road	seal at Kings Highway	7.5	1
Old Highway	Corunna	seal north of Ridge Road	seal at Corunna Bridge	2.3	2
Old Mill Road	Turlinjah	dust seal at Princes Highway	forest boundary	1.3	1
Old Mossy Point Road	Jeremadra	seal	end of maintenance	0.6	1
Old Nelligen Road	Benandarah	seal at Kings Highway	Second creek crossing at Bridge Creek	4.9	1
Old South Coast Road	Narooma	seal at #136	end of maintenance	0.3	1

Road	Locality	Location grade starts	Location grade ends	Length of grade (km)	Number of grades
Onslow Close	Jeremadra	Old Mossy Point Road	end of maintenance	0.4	1
Paradise Road	Nelligen	Old Bolaro Road	end of maintenance	2.3	1
Patons Road	Moruya	Dwyers Creek Road	creek crossing	1.3	1
Percy Davis Drive	Moruya	seal	east boundary at #280	0.8	1
Phyllis Price Drive	Moruya	seal	end	2.8	1
Pinnacles Close	Bingie	Mullimburra Point Road	end	0.3	1
Priory Lane	Bingie	seal	end of maintenance	0.6	1
Punkalla Tilba Road	Narooma	1st house north of forest at #1044	last house #518	7.6	1
Quartpot Road	Buckenbowra	Buckenbowra Road	Hanns Road	13.9	1
Redex Road	Bodalla	Bumbo Road	Bridge	0.1	1
Reedy Creek Road	Dignams Creek	#304	Boundary Bridge	20.6	1
Ridge Road	Central Tilba	Boundary Bridge	Punkalla Tilba Road	1.8	1
Rifle Range Pit Road	Kianga	Riverview Road	gravel pit	0.9	1
Ringlands Road	Narooma	Flying Fox Road	#40	0.4	1
Riverview Road	North Narooma	seal at #360	end of maintenance at Paradise Point	0.9	1
Rotary Drive	Batemans Bay	seal off Kings Highway	Holmes Lookout	1.1	1
Runnyford Road	Mogo	seal at Nelligen	seal at Princes Highway	21.1	1
Ryans Creek Reserve Road	Moruya	Riverside Carpark	end of maintenance	1	1
Shingle Hut Road	Narooma	Wild Horse Creek Road	end of maintenance (#80)	1	1
Short Street	Mogo	Creek Street (unformed)	Forestry	0.3	1
Spencer Street West	Moruya	Forestry	Dwyers Creek Road	0.3	1
Spring Creek Road	Moruya	Dwyers Creek Road	Donkey Hill Road	0.2	1
Sproxtons Road	Benandarah	Old Nelligen Road	Timber Barge Lane	0.4	1
Stewarts Road	Kiora	Araluen Road	end of maintenance (at #116)	1.1	1
Summerhill Road	Moruya	Dwyers Creek Road	end of maintenance	0.1	1
Sunnyside Road	Central Tilba	Victoria Creek Road	seal at Mystery Bay Road	2.6	1
The Ridge Road	Batemans Bay	Catalina Reservoir Road	Catalina Reservoir Road	4.5	1
The River Road	Currowan	dust seal	seal at Currowan Causeway	11.7	1

Road	Locality	Location grade starts	Location grade ends	Length of grade (km)	Number of grades
The Western Distributor	Currowan	Kings Highway	shire boundary	1.6	1
Timber Barge Lane	Benandarah	Sproxtons Road	end	0.3	1
Turnbulls Lane	Moruya	seal	Hawdon Street	0.5	1
Valley View Lane	Moruya	Mollee Road	end of public road	0.2	1
Wagonga Scenic Drive	Kianga	Wagonga Picnic Area	dust seal at #117	1.4	1
Wamban Road	Wamban	end of seal	Wamban Creek Bridge	1.3	1
Western Boundary Road	Turlinjah	seal	forest boundary	1.1	1
Widgett Road	Bodalla	Comerang Farm Road	end of maintenance	1.3	1
Wild Horse Creek Road	Narooma	Punkalla Tilba Road	Shingle Hut Road	0.2	1
Wild Pig Road	Benandarah	forest boundary	end of maintenance	0.5	1
Windus Road	Moruya	Dwyers Creek Road	end of maintenance	0.2	1
Windywoppa Road	Benandarah	forest boundary	end of maintenance	2.5	1
Woila Creek Firetrail	Belowra	Belowra Road	end	4.9	1
Wonga Road	Narooma	Old South Coast Road	Old Highway	1.3	2
Woodlands Road	Woodlands	Dunns Creek Road	end of maintenance	0.6	1
Youngs Road	Akolele	Bermagui Road	gate	1.2	1



### Resheet program for unsealed roads 2024-25

Our 2024-25 Operational Plan provides a budget of \$1,313,318 for resheeting unsealed roads. The resheet program renews the gravel pavement on the road as well as addressing drainage, formation and alignment issues. It ensures that ongoing maintenance grading activities are both efficient and effective.

Suburb	Road	Area	Length
South Narooma	Wagonga Scenic Dr	Engine Road to Tilba Punkalla Bridge	1.5km
South Narooma	Wonga Road	From Old Sth Coast Rd to The Old Highway	1.4km
Tilba	Youngs Road	From Bermagui Road Intersection	0.4km
Tilba	Tilba Cemetery Road	From Hackstead Road to the Cemetery	1.1 km
North Narooma	Kianga Forest Road	From Highway - West	0.7 km
Belowra	Belowra Road	From Cutbar Road - East	2.4 km
Eurobodalla	Eurobodalla Road	From Cadgee Bridge to Sinclairs Bridge	1.0 km
Bergalia	Beashells Lane	From Bergalia to Lillyvale Road	1.0 km
Wamban	Donalds Creek Road	5km From Wamban Road	1.6 km
Deua	Araluen Road	From Dalys Bridge - North	1.3 km
Jeremadra	Maulbrooks Road Sth	Northern End	1.0 km
Mogo	Buckenbours Road	From Highway to the seal over culvert	0.6 km
Mogo	Runnyford Road	From Highway - West	1.0 km
Mogo	The Ridge Road	From Dog Trap Rd - North	1.2 km
Currowan	Blackflat Road	West of River Road	0.7 km
Nelligen	Old Nelligen Road	From Sproxtons Lane - Creek East	1.0 km
Nelligen	Sproxtons Road Nelligen	From Old Nelligen Road	0.4 km
Batemans Bay	Lattas Point Road	From Seal for 1klm west	1.0 km

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**CAR24/009 HEALTHY COMMUNITIES, SENIORS WEEK AND YOUTH GRANTS**

**S003-T00026**

Responsible Officer: Kathy Arthur - Director Community, Arts and Recreation Services

Attachments: 1. Confidential - Healthy Communities Healthy Communities, Seniors Week and Youth grant allocations

Community Goal: 2 Our community that welcomes, celebrates, and supports everyone

Community Strategy: 2.2 Encourage community spirit and enable healthy lifestyles

Delivery Program Link: 2.2.1 Strengthen community spirit through community development initiatives

Operational Plan Link: 2.2.1.2 Coordinate the community grants program including Healthy Communities, Seniors Week and Youth Grants

### **EXECUTIVE SUMMARY**

Each year, Council awards Healthy Communities, Seniors Week and Youth Development grants to community groups, not for profit organisations and youth services to build relationships and community connections, to improve health, wellbeing and participation.

Grants are generally to the value of \$500 and council reserves the right to allocate more or less funding to any application.

The total grants pool for grants to be used on projects and activities during 2025 is \$18,468.00 made up of a combined \$16,999.00 for Healthy Communities and Seniors Week, and \$1,469.00 for Youth.

The 2025 round for these grants opened on 1 August 2024 and closed 22 September 2024.

Applications were submitted through the Smarty Grants online portal.

Council received 27 applications - 5 youth, 7 seniors and 15 healthy communities.

A review panel assessed applications against the guidelines and determined that of the 27 applications, 23 were assessed as meeting the requirements.

### **RECOMMENDATION**

THAT Council allocate grant funding for a total of \$18,468.00 to 23 of the eligible applications received, as per the confidential attachment

### **BACKGROUND**

Healthy Communities, Seniors Week and Youth Development grants are awarded annually to eligible community groups, not for profit organisations and youth services to build relationships and community connections, to improve health, wellbeing and participation.

Grants are generally to the value of \$500 however council reserves the right to allocate more or less funding to any application.

The 2024 round for these grants opened on 1 August 2023 and closed 22 September 2024.

Applications were submitted through the Smarty Grants online portal.

27 applications were received, including 5 Youth, 7 Seniors and 15 Healthy Communities.



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**CAR24/009    HEALTHY COMMUNITIES, SENIORS WEEK AND YOUTH GRANTS    S003-T00026**

The Healthy Communities, Seniors Week and Youth Development grants were promoted extensively to community and recreational groups, volunteer organisations, schools and incorporated and non-incorporated groups in Eurobodalla, however numbers of applications were slightly less than the 2023 round.

**CONSIDERATIONS**

**Grant Guidelines**

To be eligible to apply for one of Council's Community Grants a group must:

- be not for profit and either incorporated or able to prove that they are a bona fide Eurobodalla based community group or service
- contribute some financial support or volunteer labour to the activity
- show adequate insurance coverage for the activity
- not have any outstanding debts owed to Council
- the funding must be used for the project described on the application form and take place in the Eurobodalla Shire in 2025. Funds are not transferable to another organisation or project.

**Legal**

Applicants must provide evidence of adequate insurance coverage for the activity being funded prior to funding being allocated.

**Social Impact**

Groups must use the grants to achieve one or more of the following outcomes in the local community, with certain outcomes pertaining to the specific grant categories:

- make a positive contribution to the community
- encourage people in Eurobodalla to be healthy and active
- celebrate cultural diversity and inclusion
- provide opportunities for volunteering and/or social interaction
- improve access to information, a service, or a facility
- improve community safety
- improve access and/or encourage people with disability to participate
- teach or develop new skills
- celebrates older people and their contribution to the community
- creates intergenerational opportunities for social interaction
- encourages lifelong learning
- promotes and celebrates the cultural diversity of older people in our community
- raises community awareness of the benefits of positive and active ageing



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**CAR24/009 HEALTHY COMMUNITIES, SENIORS WEEK AND YOUTH GRANTS**

**S003-T00026**

- encourages people in the wider community to be socially engaged with young people
- provides an opportunity for young people to be engaged in an educational, cultural or personal growth and development activity
- builds the capacity of young people through leadership and training opportunities
- develops employment and training pathway opportunities for young people to work
- supports young people's mental health and wellbeing
- builds and celebrates the resilience of young people
- promotes inclusivity of people from diverse backgrounds.

### **Financial**

The total grants pool for grants to be used on projects and activities during 2025 is \$18,468.00 made up of a combined \$16,999.00 for Healthy Communities and Seniors Week, and \$1,469.00 for Youth.

The review panel has recommended that 23 of the eligible applications be allocated grant funding for a total of \$18,468.00.

Several applicant's projects totaled higher than the requested amount. The panel reviewed the applications and, where appropriate, recommended additional amounts to utilise the full grant program allocation. Grant amounts range from \$469.00 to \$2600.00.

Given the reduction in applications received this year the panel also suggested consideration of increasing the amount applicants can apply for to \$1000.00 per activity as the grants have been at \$500 for many years and living costs have increased over time. This may see a range of new initiatives applied for as the increase will make it worth spending time applying and provide better support for costly activities.

### **Community and Stakeholder Engagement**

The Healthy Communities, Seniors Week and Youth Development grants were promoted extensively. A range of media applications were applied including Council's website and Facebook account, flyers, community notice boards (hard and electronic), Council community network groups, and internal emails to Council staff.

Council staff attended several volunteer and community group meetings to promote the opportunity and assist organisations with the application process.

All previous grantees from the past three years were emailed on numerous occasions.

### **CONCLUSION**

Eurobodalla Council's annual community grants for Healthy Communities, Seniors Week and Youth Development support local not for profit community groups, organisations and youth services to increase their capacity to promote health and wellbeing, increase community participation in a range of activities and to support community development. Community grants support Council to realise the vision of a Eurobodalla that is inclusive, resilient, collaborative and thriving.

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**CAR24/009    HEALTHY COMMUNITIES, SENIORS WEEK AND YOUTH GRANTS    S003-T00026**

This year's grant allocation will support 23 diverse community groups to implement community lead initiatives in response to identified community development and wellbeing needs.

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## 17. 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*, a council, or a committee of a council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

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## EUROBODALLA SHIRE COUNCIL

### ETHICAL DECISION MAKING AND CONFLICTS OF INTEREST

#### A GUIDING CHECKLIST FOR COUNCILLORS, OFFICERS AND COMMUNITY COMMITTEES

#### ETHICAL DECISION MAKING

- Is the decision or conduct legal?
- Is it consistent with Government policy, Council's objectives and Code of Conduct?
- What will the outcome be for you, your colleagues, the Council, anyone else?
- Does it raise a conflict of interest?
- Do you stand to gain personally at public expense?
- Can the decision be justified in terms of public interest?
- Would it withstand public scrutiny?

#### CONFLICT OF INTEREST

A conflict of interest is a clash between private interest and public duty. There are two types of conflict: Pecuniary – regulated by the *Local Government Act* and Department of Local Government; and Non-Pecuniary – regulated by Codes of Conduct and policy, ICAC, Ombudsman, Department of Local Government (advice only).

#### THE TEST FOR CONFLICT OF INTEREST

- Is it likely I could be influenced by personal interest in carrying out my public duty?
- Would a fair and reasonable person believe I could be so influenced?
- Conflict of interest is closely tied to the layperson's definition of "corruption" – using public office for private gain.
- Important to consider public perceptions of whether you have a conflict of interest.

#### IDENTIFYING PROBLEMS

- 1st** Do I have private interests affected by a matter I am officially involved in?
- 2nd** Is my official role one of influence or perceived influence over the matter?
- 3rd** Do my private interests conflict with my official role?

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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	olg@olg.nsw.gov.au	www.olg.nsw.gov.au
NSW Ombudsman	1800 451 524	info@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.