



# **AGENDA**

**Ordinary Meeting of Council**

**26 November 2019**



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

**ON TUESDAY 26 NOVEMBER 2019**

**COMMENCING AT 11.00AM**

**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 12 November 2019
- 5. PRESENTATION BY NSW AUDIT OFFICE – 11.05am**
- 6. DECLARATIONS OF INTEREST OF MATTERS ON THE AGENDA**  
(Declarations also to be made prior to discussions on each item)
- 7. MAYORAL REPORTS**
- 8. NOTICES OF MOTION**  
Nil
- 9. QUESTIONS ON NOTICE FROM COUNCILLORS**  
Nil
- 10. PETITIONS**  
Nil

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**DR CATHERINE DALE**  
**GENERAL MANAGER**

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**GMR19/022 ANNUAL REPORT 2018-19**

**E08.2166**

Responsible Officer: Dr Catherine Dale - General Manager

Attachments: Under Separate Cover – Annual Report and Financial Statements

Outcome: Innovative and Proactive Leadership

Focus Area: 9.1 Provide strong leadership and work in partnership to strategically plan for the future and progress towards the community vision

Delivery Program Link: 9.1.1 Undertake sound, best practice long term community and corporate planning

Operational Plan Link: 9.1.1.2 Report on the progress of implementing community vision

**EXECUTIVE SUMMARY**

Section 428 of the *Local Government Act (LG Act) 1993* requires Council to prepare an Annual Report within five months from the end of the financial year, detailing Council's implementation of its Community Strategic Plan, Delivery Program and Operational Plan.

The Annual Report is one of the key accountability mechanisms between a council and its community. The Annual Report 2018-19 provides a summary of Council's progress during the year reported against the budgets, activities and actions set out in the Delivery Program 2017-21 and Operational Plan 2018-19, which implement key strategies set out in the Community Strategic Plan.

In the Operational Plan 2018-19, Council committed to delivering 222 actions across 31 services, with 79 services outputs in place to assess performance. The performance against these one year actions and service outputs demonstrates Council's progress in implementing the Delivery Program 2017-21.

Of the 222 actions, 219 (98.6%) were complete and three (1.4%) were deferred.

Objective	Complete	Deferred
1. Strong Communities, Desirable Lifestyle	35	
2. Celebrated Creativity, Culture and Learning	29	1
3. Protected and Values Natural Environment	22	2
4. Sustainable Living	21	
5. Vibrant and Diverse Economy	24	
6. Responsible and Balanced Development	15	
7. Connected and Accessible Places	17	
8. Collaborative and Engaged Community	13	

**GMR19/022 ANNUAL REPORT 2018-19**

**E08.2166**

9. Innovative and Proactive Leadership	43	
<b>Total</b>	<b>219</b>	<b>3</b>

**Some of Council's 2018-19 highlights include:**

- A \$0.7 million surplus of the consolidated budget result (net operating result before capital revenue).
- Our ongoing commitment to financial sustainability through implementing the fourth year of Council's Fit of the Future Action Plan which has included actions such as: continued ongoing internal audit program, reviewed key strategies and improved asset and financial management practices.
- Delivered a \$50 million capital program across all Council services.
- Delivery of the fourth year of our Community and Transport Infrastructure Program valued at over \$5 million, including such projects as Moruya Library renewals, beach stairs renewals, Corrigans Beach reserve car park upgrade, new public toilet Durras Lake Boat Ramp, the reconstruction of Congo Road and the gravel re-sheeting program.
- Over \$33 million grant funds received. This result is a testament to our ongoing advocacy and partnership outcomes.
- Council provided \$296,740 in donations and grants to support community groups, schools, and local cultural and sporting organisations under section 356 of the *Local Government Act 1993*.

The Annual Report also includes any information required by the *Local Government Act 1993*, the *Local Government (General) Regulations 2005*, the Integrated Planning and Reporting Guidelines and any other statutory requirements including the audited financial statements.

The Annual Report 2018-19 presented to Council complies with the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*.

**RECOMMENDATION**

THAT:

1. The Annual Report 2018-19 be received.
2. A copy of the Annual Report 2018-19 be placed on Council's website, Council libraries, the Moruya Customer Service Centre and a copy be forwarded to the Minister for Local Government.

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**GMR19/022 ANNUAL REPORT 2018-19**

**E08.2166**

**BACKGROUND**

Council is required, under the *Local Government Act 1993* Section 428 and *Local Government (General) Regulation 2005* Section 217, to prepare an Annual Report within five months from the end of the financial year.

**CONSIDERATIONS**

There is no standard format for the Annual Report under the Integrated Planning and Reporting framework or guidelines. To assist the community better understand Council's implementation of its Delivery Program against the Community Strategic Plan, Council's Annual Report is presented in a number of sections:

- ***Our year in review:*** details events, business and Council awards, high level financial performance information including Fit for the Future, service results, capital program and the Community and Transport Infrastructure program.
- ***Our organisation:*** includes information on how Council operates, meetings and decision making, Councillor details including committee representation and allowances and expenses, advocacy, donations, community engagement and staff profile.
- ***Our achievements:*** provides detailed performance reporting on Delivery Program 2017-21 activities and Operational Plan 2018-19 actions and service outputs.
- ***Statutory and other information:*** provides additional information required to be reported including the Disability Inclusion Action Plan (DIAP).

The structure and content of the Annual Report 2018-19 is based on the previous years' which in 2016-17 won a silver award for distinguished achievement in reporting with the Australasian Reporting Awards.

**Legal**

The Annual Report 2018-19, with exception of the audited financial statements, complies with the *Local Government Act 1993*, *Local Government (General) Regulations 2005* and reporting requirements in relation to special rate variation determinations by the Independent Pricing and Regulatory Tribunal (IPART).

**Asset**

The Annual Report 2018-19 includes a progress update on the implementation of year four of the Community and Transport Infrastructure program funded by the rate variation and progress against the full adopted capital program. The total capital program expenditure for 2018-19 was \$50 million.

**Financial**

The Annual Report 2018-19 includes the finalised audited financial statements (including the Independent Auditor's Reports) as required by the *Local Government Act 1993*.

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**GMR19/022 ANNUAL REPORT 2018-19**

**E08.2166**

The Annual Report 2018-19 also includes an update on the implementation of the Fit for the Future improvement proposal action plan and compares actual performance against forecasts for the seven ratios.

**Community and Stakeholder Engagement**

The Annual Report 2018-19 will be available on Council's website and as a hard copy document on display at Council libraries and the Moruya Customer Service Centre.

**CONCLUSION**

The Annual Report 2018-19, including statutory, other information and the financial statements, for the year ended 30 June 2019 complies with the *Local Government Act 1993* (excluding the audited financial statements) and is presented to be received.



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**GMR19/023 SALE OF SOUTHERN PHONE**

**E01.5634**

Responsible Officer: Dr Catherine Dale - General Manager

Attachments: Nil

Outcome: Innovative and Proactive Leadership

Focus Area: 9.1 Provide strong leadership and work in partnership to strategically plan for the future and progress towards the community vision

Delivery Program Link: 9.1.2 Implement effective governance

Operational Plan Link: 9.1.2.3 Assist the Council in meeting its statutory obligations and roles

**EXECUTIVE SUMMARY**

The purpose of this report is to seek Council endorsement for the sale of its shares in Southern Phone to AGL.

Southern Phone, one of the largest telecommunications companies in regional Australia was established in 2002 after receiving \$4.77 million in funding from the Australian Government's Networking the Nation scheme.

Its vision was to deliver more affordable telecommunications services to regional communities and to share its success with those communities. Under its Constitution, only Australian Local Government Councils could hold shares in Southern Phone Company Ltd. The dividends were paid to the 35 Local Government shareholders.

Since its inception, Council has received \$2,122,441 in dividends. The last dividend was paid in 2018. There was no dividend paid in 2019.

On 16 October 2019 Southern Phone entered into a conditional agreement under which AGL Energy Limited (AGL) is proposing to acquire 100% of the company.

The AGL offer is an all cash offer of \$27.5 million, delivering a return of \$785,714 plus a cash dividend estimated of \$40,000 on each shareholder's total investment of \$2. Councillors have received a detailed information pack from Southern Phone, have had a comprehensive briefing from the CEO of Southern Phone and have had the opportunity to participate in a webinar.

The offer from AGL is time limited and the Board is seeking shareholder views by 29 November 2019 on if Council supports the purchase. The Southern Phone Board is recommending the sale on advice from legal and financial experts.

The Southern Phone's Board unanimously recommends that shareholders accept the AGL Offer.

**RECOMMENDATION**

THAT

1. Council gives the delegated authority to the General Manager to arrange the sale of shares in Southern Phone.
2. Council appoints the General Manager as its representative for the purpose of the Share Sale Agreement.

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**GMR19/023 SALE OF SOUTHERN PHONE**

**E01.5634**

3. Council gives Power of Attorney to the General Manager to vote at the Extraordinary Meeting of Southern Phone in favour of a special resolution to update the Southern Phone (Company) constitution, including to permit non-council Shareholders of the Company.

**BACKGROUND**

Southern Phone was established in 2002 from \$4.77 million funding from the Australian Government's Networking the Nation scheme.

The purpose of the development of the Company was formed to:

1. Provide low cost telecommunications services in the South Eastern NSW region, being a regional and rural area of NSW thereby facilitating improved services to business and the community in the region.
2. Improve and expand the Company's telecommunications network in the interests of the people of the Region in Company has been formed to serve.
3. Operate as a community-owned enterprise and distribute any excess funds to local councils, as Member of the Company, for the betterment of the communities the councils serve.

Southern Phone's current constitution limits ownership to Australian local government shareholders and it can only self-generate capital. Although community ownership has been a strong tenet of the business in the past, Southern Phone's Board consider that now is the right time to change the structure and establish the ability to leverage shareholder capital.

**CONSIDERATIONS**

Southern Phone has grown to become one of the most successful providers of fixed line, mobile and Internet communications services across regional Australia. Its unique Local Government ownership structure created a community focused business that achieved great success. However, with the advent of the NBN and the changing landline market, the Southern Phone Board consider that there is an increased need to achieve a greater share of the market and the timing is now right for a new shareholding structure.

Southern Phone may at some future stage require additional capital in order to remain competitive in a challenging telecommunications market. If the AGL transaction does not proceed, it is understood that the current ownership structure may constrain the amount of additional capital that can be raised, potentially negatively impacting on the Company's competitive provision.

The proposed acquisition by AGL presents an opportunity for Council to utilise the return on its \$2 investment in 2002.

The offer from AGL is time limited and the Board is seeking shareholder views by 29 November 2019 on if Council supports the purchase. The Southern Phone Board is recommending the sale on advice from legal and financial experts.

AGL has committed to maintaining the Southern Phone brand and products, as well as the existing business operations and telecommunications services to the 100,000 customers, across regional Australia. Importantly, it has indicated that it will continue to retain the Southern

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**GMR19/023 SALE OF SOUTHERN PHONE**

**E01.5634**

Phone team in Moruya for the next three years as a minimum (subject to each employee's ongoing compliance with the terms of employment).

Southern Phone Board unanimously recommends shareholders accept the AGL offer.

**Legal**

The Southern Phone Company has been formed under the provisions of the *Corporations Act 2001* as a Company Limited by Shares.

The Southern Phone Board has received legal advice in regard to the sale of the company. This information has been circulated to Councillors.

**Policy**

Each shareholder holds the rights attaching to one ordinary share and one preference share.

**Economic Development Employment Potential**

AGL has contractually committed to retain Southern Phone's employees and ongoing operations in Moruya for at least three years (subject to each employee's ongoing compliance with their terms of employment).

**Financial**

The sale proceeds for Council will be \$785,714 plus a cash dividend estimated at \$40,000. This payout comes from the initial investment of \$2 in 2002.

**Community and Stakeholder Engagement**

Southern Phone announced its intention of sale on 16 October 2019 in a media release published on its website and emailed to all shareholder councils.

**CONCLUSION**

The proposed acquisition by AGL presents an opportunity for Council to utilise the return on its \$2 investment in 2002.

The offer from AGL is time limited and the Board is seeking shareholder views by 29 November 2019 on if Council supports the purchase. The Southern Phone Board is recommending the sale on advice from legal and financial experts.

Southern Phone Board unanimously recommends shareholders accept the AGL offer. It is recommended that Council accept the offer from AGL.

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**PSR19/032 COMMUNITY ENGAGEMENT & PARTICIPATION PLAN - POST  
EXHIBITION**

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

Attachments: 1. Community Engagement and Participation Plan [↓](#)

Outcome: Responsible and Balanced Development

Focus Area: 6.1 Plan for growth and encourage increased investment and development outcomes

Delivery Program Link: 6.1.2 Review and prepare planning strategies, policies and studies

Operational Plan Link: 6.1.2.1 Ongoing review and update of planning controls

**EXECUTIVE SUMMARY**

The purpose of this report is to recommend Council adopt the Community Engagement Framework and Participation Plan (Plan).

Council has drafted the Plan in accordance with legislative requirements under the *Environmental Planning and Assessment Act 1979* (EP&A Act) requiring local governments to prepare and adopt a Community Participation Plan by 1 December 2019. The purpose of the legislative changes is to provide a single document that the community can access, which explains how they can participate in the planning process.

Currently, Council outlines community engagement commitments through the planning process in two documents, including the Advertisement and Notification Code (Code) and Community Engagement Framework (CEF). In order to meet the legislative requirements, the two existing documents (Code and CEF) have been merged to create the new Plan.

The Plan incorporates all minimum mandatory exhibition timeframes for development applications and adopting strategic documents, such as amending Local Environmental Plans and creating or changing Development Control Plans.

The Plan was publicly exhibited for a period of 36 days commencing on Wednesday 2 October 2019 and closed on Thursday 7 November 2019. Council did not receive any submissions during the exhibition period.

**RECOMMENDATION**

THAT:

1. Council adopt the Community Engagement Framework and Participation Plan without amendment.
2. A public notice is prepared that advertises the adoption of the Community Engagement Framework and Participation Plan and the subsequent retraction of the Advertisement and Notification Code.

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## **PSR19/032 COMMUNITY ENGAGEMENT & PARTICIPATION PLAN - POST EXHIBITION**

### **BACKGROUND**

A Community Participation Plan (CPP) is a new requirement under the *Environmental Planning and Assessment Act 1979* (EP&A Act) and came into effect on 1 July 2018. Councils are required to have a CPP in place by 1 December 2019. The purpose of the legislative changes is to ensure that local governments have a single document that the community can access which explains how the community can participate in the planning process.

Currently, Council outlines community engagement commitments in several documents, including Council's Advertisement and Notification Code (Code) and Community Engagement Framework (CEF). Under Section 402 of the *Local Government Act 1993*, the CEF was adopted by Council on 16 February 2017.

In order to meet the legislative requirements, Council has combined the Code and CEF into one community engagement document called the Community Engagement Framework and Participation Plan (Plan). This process was elected in order to avoid duplication and unnecessary confusion.

### **CONSIDERATIONS**

The Plan was publicly exhibited for a period of 36 days commencing on Wednesday 2 October 2019 and closed on Thursday 7 November 2019. A CPP is required to be exhibited for a minimum of 28 days according to public exhibition timeframes.

Council did not receive any submissions during the exhibition period, and therefore it is recommended that the Plan is adopted without amendment.

It is important to stress that the Plan does not change Council's current commitments in engaging the community through its planning functions, but creates a single document by combining the Code and CEF.

The Code will be revoked at the adoption of the Plan.

### **Legal**

CPP requirements are defined in division 2.6 and Schedule 1 of the EP&A Act. The Act states that CPP requirements apply to all councils in relation to their planning functions.

The Plan meets the requirements of the EP&A Act.

### **Policy**

The Plan will replace Council's Advertisement and Notification Code (Code). The necessary information in the Code has been transferred to the Plan to ensure it is consistent with previous advertising and notification requirements for development applications.

### **Social Impact**

The Plan provides a single document that provides community clarity on Council's community participation commitments in the planning process.

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**PSR19/032 COMMUNITY ENGAGEMENT & PARTICIPATION PLAN - POST  
EXHIBITION**

**Community and Stakeholder Engagement**

Council placed the Plan on public exhibition for a period in excess of 28 days commencing on 2 October 2019 and closing on 7 November 2019. Notification was published in the local newspaper and hard copies were made available at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre. A copy was also available on Council's website.

The exhibition period held is consistent with Schedule 1 of the EP&A Act.

**CONCLUSION**

The Community Engagement Framework and Participation Plan has been prepared in accordance with new legislative requirements under the *Environmental Planning and Assessment Act 1979*. The Plan is consistent with Council's current community engagement commitments, but now provides a single document that the community can access which explains how they can participate in the planning process.

It is recommended that Council adopt the Plan without amendment.



# Community Engagement Framework & Participation Plan

## Introduction

### Purpose of this document

This document guides the engagement process with the community when Council is developing plans, policies and programs. The document combines the principles, objectives and approaches set out in the Community Engagement Framework and requirements for a Community Participation Plan (CPP).

The CPP specifically details requirements Council must follow in engaging the community through its planning functions.

### Background

Council began research on developing a community engagement framework in April 2015, with the aim of identifying how Council's current practices could be improved. This included exploring research into best practice, Council's current practices, how councils similar to Eurobodalla engage with their communities and standards advocated by the International Association for Public Participation (IAP2). Council's Audit Committee recommended Council seek independent advice and undertake a situation analysis to determine the best way to improve communication and engagement. The development of the framework was also a key recommendation in the Fit for the Future Action Plan and the 2013-17 Delivery Plan.

In July 2015, Council engaged KJA consultancy to proceed with interviewing community representatives and councillors in preparation of a draft community engagement framework with a view to:

- build a culture of effective engagement across the organisation
- understand the roles and responsibilities of internal stakeholders
- build a relationship of trust with external stakeholders
- deliver a consistent approach to engagement
- deliver change within the current available resources.

The project progressed in three phases. The first was a situation analysis capturing an initial overview of stakeholder perspectives on Council's performance and operations. KJA then completed a draft Community Engagement Charter, draft Community Engagement Framework and draft Planning Tool using research into best practice and incorporating feedback from councillors, staff and community members. KJA also completed an Outcomes Report, which identified further opportunities for Council to consider to continue to strengthen its community engagement practices.

The draft community engagement charter, draft framework and draft planning tool were exhibited in mid-2016 to seek feedback from the wider community. This feedback was incorporated into the final documents.

In August 2019, Council reviewed the framework with the purpose of incorporating requirements for a CPP in accordance with the *Environmental Planning and Assessment Act 1979* (EP&A Act). In keeping with Section 2.23 of the EP&A Act, Council sought to include the CPP within this document - Community Engagement Framework. The key directive of the EP&A Act is to ensure Council is engaging the community through its planning functions, establishing a single document for how and when community members can participate in the planning system.



The original Community Engagement Framework was prepared in accordance to section 402 of the *Local Government Act 1993*, incorporating social justice principles and provides adequate process for informing the community. The framework was publicly exhibited between 16 June to 29 July 2016 and was adopted by Council on 16 February 2017.

## Community Engagement Framework

### Purpose of the community engagement framework

*A community engagement framework provides guidance for the conduct of best practice community engagement.*

The Eurobodalla Shire Council Community Engagement Framework has been designed as a tool for those at Council who have an interest in and responsibility for coordinating, planning, designing, implementing and evaluating community engagement activities. It includes the Community Engagement Charter and Community Engagement Planning Tool, and is supplemented by a staff toolkit.

It is important to remember that community engagement is not a silver bullet solution to ensure that all parties agree with decisions. Ineffective or tokenistic community engagement can be detrimental to the good faith of the community in the long term.

### Why community engagement?

*Eurobodalla Shire Council is committed to including its community in decisions that affect it.*

Eurobodalla's *Community Strategic Plan* identifies the importance of building and maintaining an engaged and connected community that works together to achieve common goals, where thoughts and ideas are valued and community members are empowered with knowledge and have the opportunity to participate.

In some cases, there are legislative requirements to consult with the community, but as well as fulfilling a legal obligation, effective community engagement can lead to:

- a better understanding of community needs and expectations
- identifying issues and perspectives that might not otherwise be known
- building positive relationships between Council and its community
- increasing understanding of Council projects and plans
- the community being better informed about Council responsibilities and actions
- community ownership of decisions and outcomes.

It is the intent of Council to engage with the community, using effective engagement practices, on issues and plans affecting the region and activities that have significant impact on the community.

### Defining community engagement

Community engagement is an umbrella term that encompasses a spectrum of activities, ranging from everyday informal discussions, contact with stakeholders during service delivery, group discussions or meetings and formal consultation processes, through to Council supporting community members in taking action on issues themselves.

So often the terms to describe engagement are used interchangeably. To avoid confusion, Council has developed these simple descriptions:

- **Inform** – keeping the community informed by providing objective information, regularly.
- **Consult** – seeking feedback from the community on proposals, decisions and analysis.
- **Involve** – addressing public aspirations and concerns through community participation.

- **Collaborate** – partnering with the community to identify preferred solutions.
- **Empower** – giving the community a role in the decision-making process.

## Principles

The following principles guide Eurobodalla Shire Council's approach to engaging the community:

### **Be open and inclusive**

- Recognise that community participation is a right of all citizens.
- Create and promote opportunities for the community to actively and meaningfully participate in the decision-forming process.
- Use engagement activities that are accessible and inclusive to maximise the opportunities for a wide range of community members to participate.
- Commit to informing the community about Council's service delivery, planning and decision-making processes.

### **Generate mutual trust and respect, and be accountable**

- Treat all engagement activity participants with respect.
- Ensure engagement processes are not biased towards any stakeholders.
- Explain how the community's input will be used.
- Be able to demonstrate how the community's input is used.

### **Engage early and provide information that is clear**

- Engage the community early in a project, wherever practical.
- Clearly communicate the goals of the engagement process.
- Communicate any limitations of the engagement process to participants from the start; including legislative or policy requirements, conflicting community views, budget constraints and any non-negotiable aspects.
- Provide staff and the community with all the information they need to participate meaningfully.

### **Be considerate and provide feedback**

- Demonstrate that we have considered the community's input and other relevant information before a project decision is made.
- Acknowledge the contributions that participants have made.
- Give feedback to participants at key stages in the project and upon completion.
- Let participants know how they can seek feedback or ask questions in the future.

### **Value and acknowledge skills and resources**

- Recognise that community members have knowledge and experience to contribute.
- Allocate adequate timeframes and resources to engagement processes.
- Coordinate engagement processes to avoid duplication and wasting resources.
- Provide training opportunities for staff to develop community engagement skills.

The Community Engagement Framework helps to bring together and weigh up the considerations to deliver community engagement that finds the balance between community, Council and the project. The framework provides guidance in eight areas:

1. Objectives
2. Stakeholders
3. Impact level
4. Engagement level and methods
5. Engagement plan
6. Tasks to consider
7. Evaluation
8. Feedback.

## Objectives

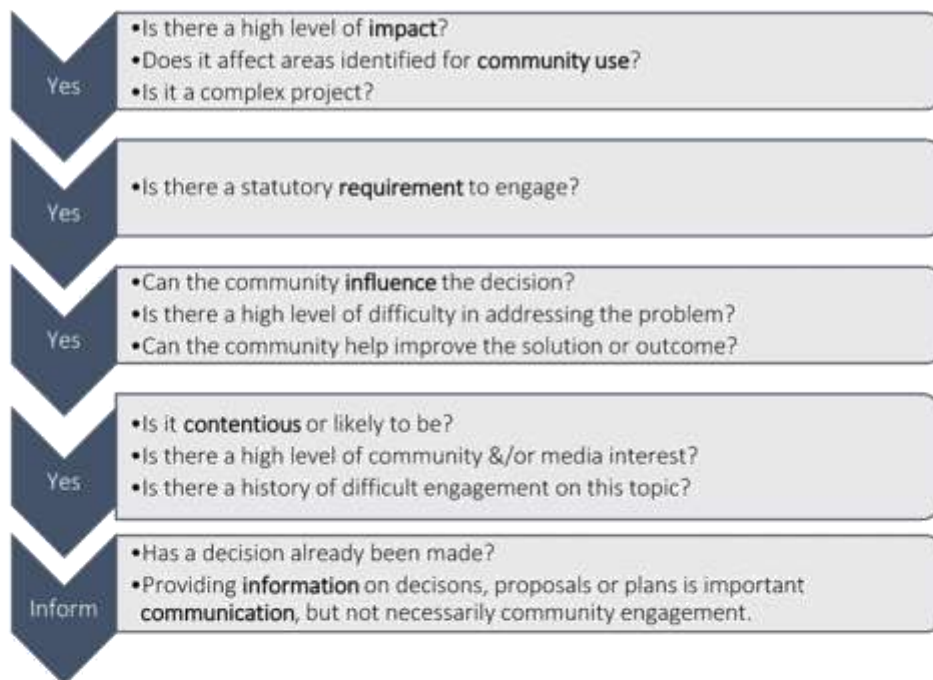
Throughout community engagement there are many decisions to be made: When do you engage? Who do you engage with? What are you engaging about? How are you going to capture the information from the engagement? Where are you going to hold the engagement activity? How long should you engage for?

Some of these decisions are functional and others underpin the very nature of the engagement you are trying to undertake. This section will look at some of the most important questions you may need to consider.

**To help with this process, a planning tool to assist decision making has been developed to be used in conjunction with the framework.**

### Do you need to engage?

Determining whether there is a need to engage the community is essential to avoid wasting Council resources and disappointing the community by proposing an engagement process that will not influence an outcome or decision.



In most cases, if you answered yes to one or more of these questions, the answer to the question “Do you need to engage?” will also be yes.

### What are the community engagement goals?

The purpose or goals of engaging the community defines what needs to be achieved through the engagement process.

To define the purpose for engaging, consider these questions:

- What are the negotiable aspects of the project or plan that can be influenced by the community?
- What do you want the community engagement to achieve?
- What questions would you like the engagement activities to answer?
- Who are the decision-makers?
- What do the decision-makers need from engaging the community?

Community engagement goals can include:

- Providing the community with balanced and objective information
- Identifying stakeholder needs
- Getting feedback from stakeholders on a particular option or decision
- Understanding the community’s concerns or perspectives
- Providing different ways for community members to give their input

- Reaching a consensus on a proposal or plan
- Supporting the community to develop a sense of ownership in a project or a decision
- Developing mutual trust and positive relationships with stakeholders.

A project or action can have more than one goal for engaging the community, and might have different goals at different stages of the project.

Clearly defined goals can be easily communicated to participants, Council and the wider community and can provide a direction for all other aspects of the community engagement process to work toward. Clearly defined goals also form the basis of the evaluation of the engagement, i.e. how successful was the engagement process in achieving the engagement goals?



## Stakeholders

Stakeholders are people or groups who have an interest in or may be impacted by the project. Stakeholders vary and can be internal or external to Council; organised groups or individuals; easily identifiable or difficult to reach.

Any project or decision can have a wide-reaching impact across the whole of Eurobodalla, or can be specifically related to a particular group of stakeholders or hard to reach groups. Identifying all relevant stakeholders is essential to an inclusive and effective engagement process.

The following list is a guide to help you identify your project's stakeholders:

- |                                  |   |  |
|----------------------------------|---|--|
| • Residents                      | • Seniors   | • Service providers                    |
| • Ratepayers                     | • Young people  | • Utilities                            |
| • Non-resident ratepayers        | • People with disability  | • Not-for-profit groups                |
| • Visitors                       | • Sporting groups   | • Community leaders or spokespeople    |
| • Committees and Advisory Groups | • Community groups  | • Subject experts                      |
| • Councillors                    | • Environmental groups  | • Local businesses                     |
| • Council staff                  | • People with diverse cultural backgrounds                        | • Developers                           |
| • Funding providers              | • People who identify as Aboriginal and/or Torres Strait Islander | • Schools and education establishments |
| • Business chambers              |   |  |

Other ways to identify stakeholders include:

- reviewing records
  - People who have made previous submissions, attended forums, volunteers
  - Residents in particular geographic areas
  - People who have expressed interest in the past
- asking the community
  - Call for expressions of interest
  - Consult with key community members or groups and ask who else they think might be interested
- using in-house knowledge
  - Ask project team members or staff in other sections of Council who have experience or knowledge of the project's subject matter
  - Check mailing lists or lists of attendees at past engagement activities
  - Consider Council staff and councillors as potential stakeholders as well
- considering hard to reach groups
  - Consider people or groups who might have barriers to participating or might not usually be involved in community engagement activities

When you start considering all of the stakeholders you *could* potentially engage with, the list could have tens of thousands of people. It's important to determine if all of these stakeholders are impacted by the project in the same way, have influence over the project in the same way and need to be communicated with in the same manner. Detailed stakeholder mapping can assist in capturing this information for further decision making.

[illegible]



## The level of impact

A project's level of impact relates to how significantly a proposal or action will affect community stakeholders. These guidelines define the degree of impact in five levels, based on the assumption that any project, issue, service or action will have some impact on the community:

Impact level	Description/criteria	Examples
<b>Level 1: (LOW)</b> Low impact, township/ neighbourhood (everything is 'local')	<ul style="list-style-type: none"> <li>small change or improvement to a facility or service at a local level and low risk of conflict at the local level</li> </ul>	<ul style="list-style-type: none"> <li>local playground or area upgrade</li> <li>street furniture installation</li> <li>low impact road changes or upgrades</li> <li>community building upgrades</li> <li>minor amendment to Local Environmental Plan or Development Control Plan</li> <li>changes to a local activity or program e.g. time or location</li> <li>local events, celebrations or festivals</li> <li>licence, lease, activity approval</li> <li>assessing development application</li> </ul>
<b>Level 2: (LOW - MODERATE)</b> Low to moderate impact, all of Eurobodalla	<ul style="list-style-type: none"> <li>recurring large scale programs and activities that impact across all or a large scale of Eurobodalla, but have a lower level or potential for controversy or concern</li> </ul>	<ul style="list-style-type: none"> <li>improvements to shire-wide services</li> <li>upgrade of regional facilities/parks</li> <li>changes to customer services e.g. rate payments, office hours</li> <li>rezoning/reclassifying land</li> <li>weed control and Landcare programs</li> <li>capital works program</li> <li>road sealing programs</li> <li>community events e.g. NAIDOC celebrations, Youth Week, Volunteers and Seniors Week</li> </ul>
<b>Level 3: (MODERATE)</b> Marginal to moderate impact, specific township/ neighbourhood or all of Eurobodalla	<ul style="list-style-type: none"> <li>marginal to moderate level of real or perceived impact or risk to a local area, community or group or all of Eurobodalla</li> </ul>	<ul style="list-style-type: none"> <li>remove, redevelop or relocate a park/playground</li> <li>changes to or loss of a service e.g. local youth services</li> <li>Plan of Management</li> <li>new or major amendment to Local Environment Plan</li> <li>Development Control Plan</li> <li>town centre studies, urban/rural strategies</li> <li>changes to car parking areas</li> <li>medium-high impact road closure or updates</li> <li>Emergency management e.g. bushfire</li> </ul>

<b>Level 4: (MODERATE - HIGH)</b> High impact, specific township/ neighbourhood	<ul style="list-style-type: none"> <li>high level of real or perceived impact or risk to a local area, community or group</li> <li>potential for a high level of public interest or controversy or division within the community</li> <li>loss of or significant change to a local facility or service</li> <li>significant expenditure or allocation of resources</li> </ul>	<ul style="list-style-type: none"> <li>major change to strategic policy or operations as determined by Council e.g. service reviews, Delivery Program</li> <li>remove a shire-wide service e.g. library, recycling, transport</li> <li>provision of a regional facility e.g. aquatic/sports centre</li> <li>changes or impact to natural bushland or waterway (impacting nature values)</li> </ul>
<b>Level 5: (HIGH)</b> High impact, all of Eurobodalla	<ul style="list-style-type: none"> <li>high level of real or perceived impact on the whole or a large part of Eurobodalla Shire</li> <li>significant impact on attributes of high value to the community (environment/heritage/ landscape)</li> <li>impact on health, safety or wellbeing of the community</li> <li>high degree of community interest</li> <li>potential impact on State or regional strategies or direction</li> <li>significant expenditure and/or reallocation of resources</li> </ul>	<ul style="list-style-type: none"> <li>Local Government Election</li> <li>Community Strategic Plan</li> </ul>

## Engagement level and methods

The Community Engagement Framework does not prescribe exactly how the community should be engaged for every project or issue. Rather, Council staff may recommend the most appropriate approach based on the nature of the issue, project, plan or decision to be made. Community engagement plans for major projects are approved by Council.

The planning tool is intended as a quick reference guide to help determine the engagement level. It includes a list of common tools and methods Council uses to engage the community and identifies how suitable each activity is for different combinations of impact and engagement levels.

The table below describes the five levels of participation. In many cases, more than one level of participation and technique will be required to achieve the engagement goals.

Why are we doing this	Inform	Consult	Involve	Collaborate	Empower
	To provide the public with balanced and objective information to assist them in understanding solutions, alternatives, opportunities and/or problems.	To obtain public feedback on analysis, alternatives.	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.	To place final decision making and/or devolved budgets in the hands of the public.
What will we say? What will we do?	We will keep you informed.	We will keep you informed, listen to and acknowledge concerns and provide feedback on how public input influenced the decision.	We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how	We will look to you for direct advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions	We will implement what you decide.

			public input influenced the decision.	to the maximum extent possible.	
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**Resourcing**

It is important to take into account available resources when planning community engagement activities. Resources are the things, people, space, time and information you need to build your community engagement plan and deliver engagement to meet the goals you set in the beginning. Resources can also be the boundary on how far a project can go and how much engagement can be done. A workshop with a few key stakeholders is more expensive than a Facebook post to the whole community, for example. Both are valid tools of engagement with their own strengths. The staff toolkit is an internal staff resource that explains community engagement activities that might be suitable for your project in detail.

## The engagement plan

Writing down an engagement plan helps communicate the steps and process internally, organise your thoughts and identify gaps in information. The following table is one example of how you could develop a plan. The toolkit includes other engagement plan examples and templates.

Community engagement goals:						
Timing/ schedule	Key messages	Stakeholders/ target audience	Method/ activity	Tasks/ milestones	Engagement Level	
Intended timing of tasks	Information that stakeholders need in order to participate meaningfully and information that Council needs to communicate	Internal and external stakeholders who will be involved/targeted	Planned method of engagement for your stakeholder group/s	Tasks that must be completed or achieved	Which of the engagement levels the activity upholds	

### Tips for an effective community engagement plan

1.	Once you have decided to engage, print out a blank community engagement plan. You can fill out the engagement plan as you work through the framework.
2.	Write down your engagement goal on your community engagement plan. As this will form the basis of your engagement plan, it's important to achieve internal alignment and sign off for this goal.
3.	A good plan will change and adapt. Budgets, timeframes, resources, internal support, priorities and the number of stakeholders involved will all influence other elements in the engagement plan.
4.	Stakeholder mapping will help you understand the size and scale of your stakeholders, their issues and preferred contact methods.
5.	Not all stakeholders will experience the same level of impact at the same time. If you expect this will change, make note in the community engagement plan and prepare for the change.
6.	Internal alignment on the level of impact, the level of engagement and how much community stakeholders can contribute to decision making can be challenging. Once you get to this stage in the engagement framework, it's worthwhile checking in to make sure your internal stakeholders are on the same page.
7.	Don't get locked in to doing something the same way because you've always done it that way.
8.	Consider your stakeholders' preferred communication method when matching your communication methods/tools to the stakeholder groups.
9.	Plan when you will let participants know how their feedback will be used.
10.	Remember to let participants know when and how a decision will be made.
11.	Keep your internal stakeholders up to date with the progress of the engagement plan, especially if elements change.



## Tasks to consider

This table sets out some suggested tasks for your community engagement project. Ongoing liaison with the project team and reference to your community engagement plan throughout the process is advised.

Implementing the engagement program					
PHASE	ACTIVITIES			MESSAGING FRAMEWORK	
Prepare	Establish Project Team	Workshop with project team around approach, issues, stakeholders and messaging.	Write down your plan	Allocate resources	Tell them what you are going to do.  Example: Council will be asking for your feedback on improvements to our parks. Your feedback will help Council develop a Park Improvement Plan. The plan will tell Council and the community how and when our parks will be maintained and improved.
	Draft key messages	Align engagement activities with appropriate project phases	Prepare communications	Schedule all engagements and communication	
Engage	Deliver engagement activities	Engage with and disseminate information to stakeholder groups	Analyse feedback	Refine approach as needed	Tell them what you are doing.  Example: Have your say about improvements to parks in your area by completing our survey.
Close the loop	Document the engagement and the outcomes	Report back to stakeholders about how their input informed the outcome	Thank stakeholders for their involvement	Evaluate the project and engagement program	Tell them what you have done and how you used any feedback.  Example: Council conducted a survey about where improvements should be made. The feedback we received has informed the development of a Park Improvement Plan. The plan tells Council and the community how and when our parks will be maintained and improved.

## Evaluation

Evaluating the effectiveness of the community engagement process can help to improve Council's overall approach to engagement by identifying what went well and what can be improved in the future. Some broad items to consider when evaluating the effectiveness of an engagement process are:

- Did the community feel that Council was genuine in its engagement goals and efforts?
- Was the process implemented as planned? If not, what changed and why?
- Were the goals of a particular activity met?
- Have the overall community engagement aims been met?
- Did the input from stakeholders contribute to a better overall outcome?
- Has Council gained a better understanding of the community's perspective on the issue?
- If a final decision was made, was it generally accepted by the public?
- What challenges or lessons have been identified throughout the process?
- How significant is 'number of people' who participate? Numbers don't necessarily equal effective, but can still be relevant.

### Were principles met?

It can also be useful to evaluate the community engagement plan and process against Eurobodalla Shire Council's Community Engagement Framework principles:

#### **Be open and inclusive**

- Did participants feel that the engagement process was accessible and inclusive?
- Did the engagement process include a balanced range of community members and different views?
- Did participants feel that the process was flexible enough to address issues as they arose?

#### **Generate mutual trust and respect and be accountable**

- Did participants feel that they were treated with respect and dignity?
- Did participants feel that the process fairly considered their input?
- Can Council demonstrate that promises to the community were upheld?

#### **Engage early and provide information that is clear**

- Did Council make the promise to the community clear for all engagement activities?
- Did Council clearly communicate any limitations about what the community's input could influence?
- Did participants feel that they understood the aims and process?
- Did Council seek community engagement early in the project?
- Did participants get all the information they needed to provide meaningful input?

#### **Be considerate and provide feedback**

- Did participants feel that Council listened and allowed all participants to have their say?
- Did Council provide feedback to participants at key stages of the project?
- Is Council able to show how community input has been taken into consideration in decision making?

#### **Value and acknowledge skills and resources**

- Did Council allocate the timeframes and resources that were needed?
- As a result of this project, have any staff training or development needs been identified?



### Post-project feedback

Providing feedback informs participants about how their input was used and how it impacted the decision or the project's outcome. It also lets them know that Council values their input and experience.

Providing ongoing feedback throughout the project should be considered in the Community Engagement Plan. If participants receive information throughout the course of a project then they are more likely to accept a final decision or outcome.

At the end of the community engagement process, it is important that participants feel that the process was worthwhile and that the promise to the public has been upheld. This can encourage people to participate in engagement activities in the future, and can have a positive impact on the way that the community perceives Council.

Ways of providing feedback will vary depending on the type of project and who participated. Some items to consider for providing feedback are:

- Include plans for providing post-project feedback in your Community Engagement Plan
- Provide information about the outcome or decision
- Provide information that addresses the community engagement aims and the promise to the public
- Provide feedback in a timely manner
- Provide information through credible channels

Providing feedback is also relevant for internal stakeholders such as your Project Team and Director. Be sure to complete the post project feedback report in your Project Management Guide, as well as any other reporting requirements that are relevant to your particular project.

## Community Participation Plan

### What is the Community Participation Plan?

The Community Participation Plan (CPP) is a plan that establishes when and how the community can participate in planning decisions. A primary objective of the Plan is to ensure that Council's community engagement in the planning process is consistent and clear.

A CPP is a legislative requirement as referenced in Section 2.23 and Schedule 1 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). This document replaces Council's the Advertisement and Notification Code.

### Public exhibition and notification

Under the EP&A Act some planning documents (including some development applications) require notification, and some require notification and exhibition. Public exhibition and notification are key methods used by Council to encourage the community to participate in the planning process. Decisions are reached after Council balances a wide range of factors to ensure decisions are in the public interest.

**Public exhibition** is the process of making a development proposal, plan or policy publicly available for comment. During the public exhibition period the community has opportunity to provide Council with a submission, for or against the proposal, before Council decides whether to endorse, amend or reject it. A decision on a proposed plan, policy or application cannot be determined until after the exhibition period.

It is important to note that development applications have specific exhibition requirements as defined the *Environmental Planning and Assessment Regulation 2000*.

**Notification** is the process of informing the community of a proposed development, plan, strategy or local policy. This can include published and written notice, depending on the proposal. Public notice is an advertisement in the local newspaper and notification on Council's website and written notice is a letter or email sent to property owners of the land adjoining the proposal.

### General provisions relating to public exhibition

- Submissions associated to a proposed plan, policy or application must be made during the public exhibition period (unless public exhibition has been specified for a longer period);
- The period between 20 December and 10 January should be excluded from the calculation of a public exhibition period;
- If any planning matter has different exhibition or notification periods, the longer period will apply; and
- There will be various proposals not subject to the mandatory exhibition timeframes and Council will generally apply a minimum public exhibition period of 28 days.

The public exhibition periods are defined in the tables under Attachment 1 and Schedule 1 of the EP&A Act.

#### **Plan making (Strategic Planning)**

Council prepares a range of strategic planning documents, including:

- Local Environmental Plans
- Development Control Plans
- Local Strategic Planning Statements
- Community Participation Plans
- Development Contribution Plans
- Land use strategies and studies

The public exhibition period for each of these plans will be placed on public exhibition for a minimum of 28 days (further information on the public exhibition timeframes is provided in Attachment 1).

#### **Development applications (Statutory Planning)**

The EP&A Act nominates the following types of development as requiring public exhibition:

1. State Significant Development
2. Designated Development
3. Nominated Integrated Development
4. Threatened Species Development (likely to significantly impact threatened species)
5. Class 1 & 2 Aquaculture Development, as identified in clause 13 of the State Environmental Planning Policy No 62-Sustainable Aquaculture

Other development identified by Council requiring exhibition and/or notification is in Attachment 2.

If you are unsure, staff will be able to advise if your proposal falls within the categories listed in Attachment 2. For the types of development listed points 1-5 above, the EP&A Act and subsequent Regulations specify what form the notification must take and what information it must contain.

For development applications that require notification, a written notice in the form of a letter or email will be provided to potentially affected landowners containing the following information:

- a) A description of the land (including the address) on which development is proposed to be carried out;
- b) The name of the applicant and the name of the consent authority
- c) A description of the proposed development
- d) A statement that the application and the documents accompanying the application may be inspected at the consent authority's principal office specified in the notice during the consent authority's ordinary office hours;
- e) A statement that any person during the period specified may make a written submission in relation to the development application;
- f) The dates of period specified under paragraph (d);
- g) A link to the DA tracker on Council's website; and
- h) A statement that information contained within the written submissions will be included in reports in relation to the proposal and that the applicant may have access to copies of the submissions and Council is subject to Government Information Public Access (GIPA) legislation.

For development applications (exhibited development), in addition to the written notice described above, a notice will also be placed on the site of the proposed development and published in the local newspaper.

The notice erected on the site (signage) will be:

- a) Exhibited on the land to which the application relates; and
- b) Displayed on a signpost or board; and
- c) Clear and legible; and
- d) Headed in capital letters and bold type "DEVELOPMENT PROPOSAL"; and
- e) Contain under that heading the following matters:
  - A statement that the development application has been lodged,
  - The name of the applicant,
  - A brief description of the application,
  - Information that the development application may be inspected at the places, the dates and during the times specified in the notice, being the same places, dates and times specified in the written and published notice.
- f) If practicable, be capable of being read from a public road, public place or public reserve.

#### **When is exhibition or notification required for a development application**

Attachment 2 shows what development is required to be either exhibited and/or notified. Development not listed in Attachment 2 will be required to be notified if that development does not comply with a relevant development standard, control or acceptable solution. If, in the opinion of Council, the proposed development may have a detrimental impact on adjoining properties it must be notified.

In determining whether there may be a detrimental impact on adjoining properties by a proposed development the following matters will be considered:

- Views – whether the proposed development would unreasonably obstruct any views, taking into consideration controls in any relevant DCP;
- Solar Access – whether the proposed development would unreasonably limit access to sunlight for adjoining properties, taking into consideration controls in any relevant DCP;
- Privacy – whether the proposed development would unreasonably overlook private open space areas or living areas of adjoining properties, taking into consideration controls in any relevant DCP;
- Emissions – whether the proposed development would have an unreasonably adverse impact on any adjoining property in terms of noise, light spill, odour or other emissions;
- Bulk & Scale - whether the design of the development would have a potential impact on the enjoyment of adjoining properties and of the streetscape by virtue of its scale, bulk and height;
- Streetscape - whether the development relates well to the existing streetscape;
- Siting - whether the development would have potential adverse impact on the adjoining properties due to the siting of the development and its proximity to the boundaries;
- Topography - whether development would have potential adverse impact on the natural drainage of the site and adjoining properties; and
- Environment - whether the development would have potential impact on the environment.

Any developments of Council owned or managed land must be exhibited, unless the proposed development is specified within an adopted Plan of Management applying to that land.

Despite the requirements of Attachment 2 a development application that has been exhibited or notified previously by Council and Council is of the opinion that the amended application differs only in minor aspects to

the original application, or the reason for the exhibition or notification no longer exists, the amended proposal will be exempt from requiring notification.

#### **Inspection of development applications**

Extracts of a development application relating to the development:

- (a) Sufficient to identify the applicant and the land to which the application relates; and
- (b) Containing a plan of the development including any buildings that indicates its location, height and external configuration, as erected, in relation to the site on which it is to be erected, if relevant for that particular development, will be made available to interested persons, for viewing free of charge or in hard copy on payment of a reasonable copying charge as nominated in Council's Fees and Charges.

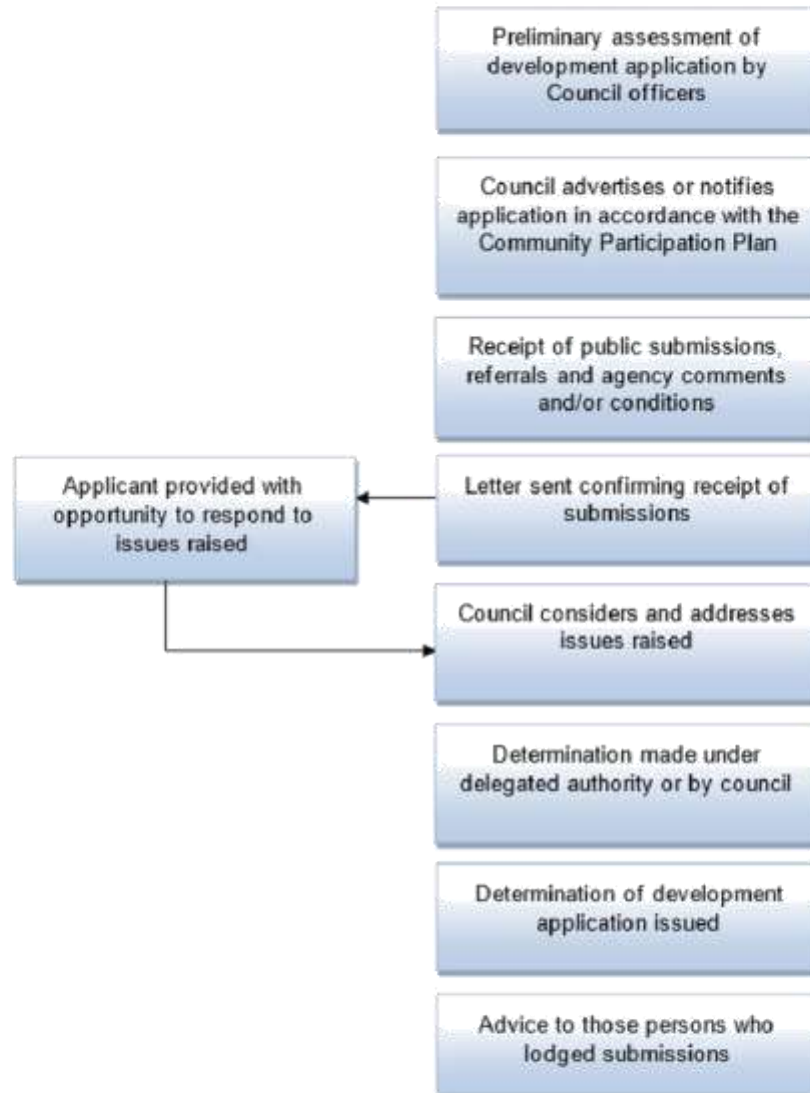
**Note:** The applicant who lodges a development application is taken to have indemnified all persons using the development application and documents in accordance with the Act against any claim or action in respect of breach of copyright (section 10.14 of the EP&A Act)

#### **The exhibition and notification process for development applications**

The following flowchart provides an overview of the exhibition and notification process for development applications.



Figure 1 Flowchart of exhibition and notification process for development applications



#### Who will received written notice

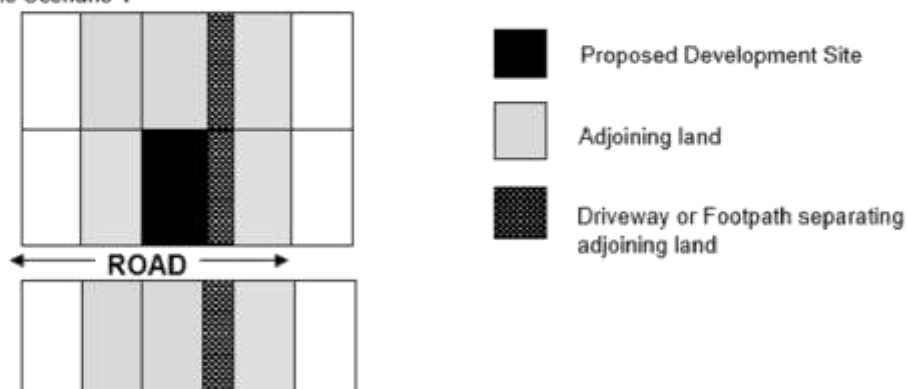
A written notice will be given to:

- The owners of the land adjoining the land to which the application relates;
- Such public authorities as, in the opinion of Council, may have an interest in the determination of the application;
- The owners of land located on the opposite side of the street to the land to which the application relates. In this case a minimum of two properties will be notified and such other properties as, in the opinion of Council, may be appropriate in the circumstances of the case;
- The owners of land that is separated by a pathway, driveway or similar thoroughfare to the land to which the application relates, if it is considered by Council that the enjoyment of the adjoining land may be detrimentally affected by the proposal; and

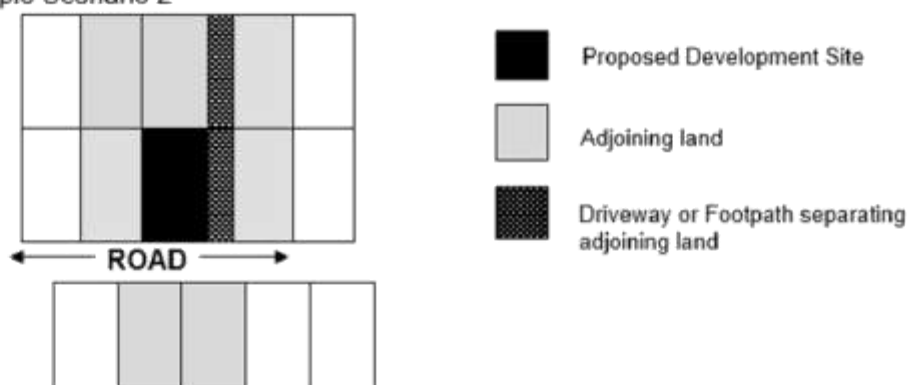
- e) The owners of land that is within the immediate vicinity of the land to which the application relates, and by virtue of the site topography are considered by Council that the enjoyment of the land may be detrimentally affected.

Figure 2 Examples of who receives written notice

Example Scenario 1



Example Scenario 2



For the purposes of (a) to (e) above:

- i) if land is within the meaning of the Strata Scheme (Freehold Development) Act 1973, a written notice to the owners of the corporation is taken to be written notice to the owner of each lot within the strata scheme;
- ii) if land is a lot within the meaning of the Strata Scheme (leasehold Development) Act 1986, a written notice to the lessor under the leasehold strata scheme concerned and to the owners corporation is taken to be a written notice to the owner of each lot within the strata scheme; and
- iii) if the land is within the meaning of the Community Development Act 1989 (Community Title), a written notice to the neighbourhood association is taken to be a written notice to the owner or occupier of the land; and
- iv) if the land is owner by more than one person, a written notice to one owner is taken to be written notice to all owners of the land.

The notification area may extend beyond the 'adjoining/adjacent' land when it is considered by Council that the potential impact of a proposed development may affect persons other than those identified 'adjoining/adjacent' owners and occupiers.

#### **Making a submission**

A submission may be in the form of letters, petitions or similar written representations from individuals, groups of people or organisations regarding a development application. A submission may:

- support an application
- object to all or part of an application
- suggest ways of overcoming concerns with an application
- suggest alternatives to a proposal or an element of a proposal

Parties making a submission are advised that their comments should be objective and confined to relevant development standards and controls, adopted strategies, regulations and strategic directions. Submissions must not be subjective in nature and should be confined to agreed standards or legislation. Council may provide copies of the submissions to the applicant.

A submission in regards to an exhibited or notified development can be made online through Council's DA Tracker or emailed to: [council@esc.nsw.gov.au](mailto:council@esc.nsw.gov.au). Alternatively, submissions may be posted to the following address:

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

#### **Political Donation Disclosure**

Under Section 10.4 of the Act a person who makes a relevant public submission to a council in relation to a relevant planning application made to the council is required to disclose the following reportable political donations and gifts (if any) made by the person making the submission or any associate of that person within the period commencing two years before the submission is made and ending when the application is determined:

- a) all reportable political donations and gifts (if any) made by the person making the submission or any associate of that person within the period commencing two years before the submission is made and ending when the application is determined
- b) all reportable political donations made to and local councillor of that council
- c) all gifts made to any local councillor or employee of that council

A reference in Section 10.4 (4) and (5) of the Act to a reportable political donation made to a 'local councillor' includes a reference to a donation made at the time the person was a candidate for election to the council.

The disclosure of a reportable political donation or gift under section 10.4 of the Act is to be made:

- a) in, or in a statement accompanying, the relevant planning application or submission if the donation or gift is made before the application or submission is made, or
- b) if the donation or gift is made afterwards, in a statement of the person to whom the relevant planning application or submission was made within 7 days after the donation or gift is made.



The information requirements of the disclosure are outlined in the Act under Section 10.4 (9) for political donations and Section 10.4 (10) for gifts.

**Alternative dispute resolutions**

Council will consider and address all submissions to a development application (DA) and will assess the application against the legislation, adopted policy and relevant development standards.

However, there may be an occasions where objectors and an applicant feel it necessary to enter into discussions with a third party present to resolve conflict arising from the proposed development. Any such mediation will be arranged by, and at the expense of, the applicant and objector. Any settlements or agreements made between objectors and applicants must comply with all relevant legislation, adopted policy and development standards as determined by Council through the development assessment process.

In the event that the determination of the DA does not satisfy their concerns, objectors may have the ability to appeal to the NSW Land and Environment Court. A person wanting the appeal a determination should get independent legal advice to determine any potential appeal rights.

## Attachment 1 – Public Exhibition Timeframes

**Table 1: Public Exhibition for strategic planning documents**

Document	Minimum public exhibition requirement
Draft Local Strategic Planning Statement	28 days
Draft Development Control Plans	28 days
Draft Contribution Plans	28 days
Planning Proposals to amend the Local Environmental Plan	28 days (unless a different period of exhibition is specified in the gateway determination)
Draft Community Participation Plan	28 days

**Table 2: Public exhibition for development applications**

Document	Minimum public exhibition requirement
Application for development consent (other than for complying development certificate, designated development or State significant development)	14 days (if required)
Designated development	28 days
State significant development	28 days
Environmental impact statement- unless deemed that the publication is not in the public interest eg its confidential nature	28 days
Environment impact statement for State significant infrastructure	28 days

**Table 3: Non-mandatory public exhibition timeframes**

Document	Minimum public exhibition requirement
Draft strategies, plans and studies	<b>28 days</b> (depending on the scale and nature of the proposal)
Application for modification of development consent that is required to be publicly exhibited by the regulations	<b>14 days</b> (depending on the scale and nature of the proposal)
Re-exhibition of any amended application or matters referred to above	Discretionary based on the scale and nature of the proposal

## Attachment 2 – Exhibition and Notification Requirements for development applications

Type of Development	Applicable zones	Exhibited	Written notice
Agriculture	All		✓
Air transport facility	All	✓	
Animal boarding or training establishment	All	✓	
Artisan food and drink industry	All		✓
Business premises (except funeral homes)	RUS		✓
Camping ground and caravan park	All		✓
Cellar door premises	All		✓
Cemetery	All	✓	
Centre-based Childcare facility	All		✓
Community facility	All		✓
Crematorium	All	✓	
Depot	All, except IN1		✓
Eco-tourist facility	All	✓	
Emergency services facility	All	✓	
Exhibition village	R2, R3		✓
Extractive industry	All	✓	
Freight transport facility	All, except IN1		✓
Function centre	All		✓
Funeral home	All		✓
Group home	All		✓
Hazardous storage establishments	All	✓	

Type of Development	Applicable zones	Exhibited	Written notice
Helipad	All	✓	
Health services facility	All		✓
Heritage item	All	✓	
Development in a heritage conservation area	All		✓
Highway service centre	All		✓
Hostel	All		✓
Landscape and garden supplies	RU1, RU4, RU5		✓
Light Industry (except artisan food and drink premise)	RU5		✓
Liquid fuel depot	All except IN1	✓	
Livestock processing industry and agricultural produce industries	All	✓	
Manufactured home estate	All	✓	
Market	All	✓	
Mining	All	✓	
Multi-dwelling housing	R2, R3		✓
Neighbourhood shop	R2, R3		✓
Offensive storage establishment	All	✓	
Passenger transport facility	All except IN1		✓
Places of public worship	All	✓	
Pub and small bar	All	✓	
Recreation Facility (indoor)	All		✓
Recreational Facility (major)	All	✓	
Recreational Facility (outdoor)	All		✓
Residential Flat Building	All	✓	

Type of Development	Applicable zones	Exhibited	Written notice
Resource Recovery Facility	All		✓
Restricted Premises	All	✓	
Rural Supplies	All except IN1		✓
Sawmill or log processing works	All	✓	
Seniors housing	All		✓
Service station	RU5		✓
Sex service premises	All	✓	
Stock and sale yard	All	✓	
Subdivision (less than 10 lots) (excluding subdivision of existing approved buildings)	All		✓
Subdivision (10 lots or more) (excluding subdivision of existing approved buildings)	All	✓	
Telecommunications and other communication facilities	All	✓	
Timber and building supplies	RU5		✓
Tourist and Visitor Accommodation (excluding Eco-tourist facilities)	All		✓
Vehicle body repair workshop	RU5		✓
Vehicle repair station	RU5		✓
Veterinary hospital	All		✓
Waste or resource management facility	RU1	✓	
Waste or resource transfer station	RU1	✓	

## Attachment 3 – Community Engagement Charter



### Eurobodalla Shire Council is committed to engaging with its community and stakeholders

*Our One Community: Community Strategic Plan* identifies the importance of building and maintaining an engaged and connected community that works together to achieve common goals, where thoughts and ideas are valued, and community members are empowered with knowledge and have the opportunity to participate.

We will engage with the community and our stakeholders, using effective engagement practices, in regard to major issues and plans affecting the region and activities that will have an impact on the community. Our approach to engagement is underpinned by the International Association of Public Participation's (IAP2) Spectrum.

#### We believe that good engagement will:

- Give us a better understanding of community and stakeholder needs and expectations
- Help us identify issues and perspectives which would not otherwise be known
- Assist in building positive relationships with the community and our stakeholders
- Help increase understanding of our projects or plans
- Ensure that the community is informed about our responsibilities and actions
- Enable community ownership of outcomes
- Increase awareness in regard to the responsibilities of Council, the community and stakeholders.

#### We think engagement is a two-way street

##### We will be:

- transparent
- proactive
- available
- genuine
- consistent

##### We ask you to:

- get involved
- be prepared to listen to other ideas
- share your thoughts and feedback
- ask questions
- proactively access information

### Connect with us

-  [council@esc.nsw.gov.au](mailto:council@esc.nsw.gov.au)  Subscribe to Council News online
-  Like us on Facebook [www.facebook.com/EurobodallaShireCouncil](https://www.facebook.com/EurobodallaShireCouncil)
-  Follow us on Twitter @InEurobodalla  [www.esc.nsw.gov.au](http://www.esc.nsw.gov.au)

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**PSR19/033 DA 488/18 - TWO LOT SUBDIVISION - MALONEYS DRIVE,  
MALONEYS BEACH**

**16.0334.S**

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

Attachments: 1. Confidential - Submissions  
2. Plan - DA 488/18 [↓](#)  
3. General Terms of Approval - NSW RFS [↓](#)

Outcome: Responsible and Balanced Development

Focus Area: 6.2 Ensure development is sustainable, and reflects community values and the desired local setting

Delivery Program Link: 6.2.2. Provide receptive and responsive development assessment services

Operational Plan Link: 6.2.2.1 Assess and determine development applications

Applicant: Eurobodalla Shire Council

Land: Lot 246, DP 569875, Maloneys Drive, Maloneys Beach

Area: Proposed Lot 660.6m<sup>2</sup>  
Residual Lot 2.219ha

Setbacks: Not specified – Subdivision only

Height: Not specified – Subdivision only

Zone: R2 Low Density Residential & E2 Environmental Conservation

Current Use: Vacant land

Proposed Use: Residential

Description: Two lot subdivision

Permitted in Zone: Permitted with consent

DA Registered: 22 February 2018

Reason to F&S: Development of Council owned land

Recommendation: Approval subject to conditions

**EXECUTIVE SUMMARY**

This purpose of this report is to seek Council's determination of an application for a two (2) lot subdivision at Maloneys Drive, Maloneys Beach. The proposal is reported to Council as Council is both the applicant and landowner.

The proposal is for the creation of two lots, one of which will enable future residential development and the residual lot being converted to a public reserve and returned to community land.



**PSR19/033 DA 488/18 - TWO LOT SUBDIVISION - MALONEYS DRIVE,  
MALONEYS BEACH**

**16.0334.S**

The application was publicly exhibited for a period of 14 days from 7 March 2018 to 21 March 2018 and 20 submissions were received. The submissions raised issues related to the mismanagement of the land to the rear of Council's land, and the loss of one emergency access point from the residential precinct to defend against bushfire events.

The assessment has revealed that these matters have been addressed and the NSW Rural Fire Service has issued a Bush Fire Safety Authority.

The proposal is consistent with the previous resolution of Council on 24 July 2012 (Minute No. 12/187), the *Eurobodalla Local Environmental Plan (LEP) 2012* and the Residential Zones Development Control Plan (DCP). This report recommends approval of the development application subject to conditions.

**RECOMMENDATION**

THAT:

1. Pursuant to the provisions of Section 4.16 of the *Environmental Planning and Assessment Act 1979*, development application no. 488/18 Lot 246 DP 569875, Maloneys Drive, Maloneys Beach be APPROVED, subject to the conditions set out below.

**GENERAL CONDITIONS**

**1 Approved plans**

The development must be carried out in accordance with the following stamped approved plans and documentation, or as modified by any conditions of this consent, or as noted in red by Council on the approved plans.

DA & Sheet Nos.	Plan Nos.	Date of Plan	Prepared by
DA488/18 Sheet 1 of 1	unknown	3/11/2017	David Sledge

**Note:** Any alteration to the plans and/or documentation may require the lodgement of an application to modify the consent under s96 of the *Environmental Planning and Assessment Act (EPA Act) 1979*, or a fresh development application. Your Certifying Authority should be consulted prior to any works contrary to this consent being carried out.

Where there is an inconsistency between the documents approved with this consent and the following conditions, the conditions shall prevail to the extent of that inconsistency. [0001]

**PRIOR TO ISSUE OF SUBDIVISION/STRATA CERTIFICATE**

**2 Subdivision Certificate**

A Subdivision Certificate is to be obtained once any works required by this consent

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**PSR19/033 DA 488/18 - TWO LOT SUBDIVISION - MALONEYS DRIVE,  
MALONEYS BEACH**

**16.0334.S**

are complete. Submission of a completed subdivision certificate application form together with all required documents and fees is required to be made to Council. The application form, checklist and fee detail can be found at [www.esc.nsw.gov.au](http://www.esc.nsw.gov.au). [12.34]

**3 Public Utility Adjustments**

Adjustments to the public utilities necessitated by the development shall be completed prior to occupation of the development and in accordance with the requirements of the relevant authority, all at no cost to Council. [0209]

**4 Plan of Survey Amendment**

The Plan of Survey submitted in conjunction with an application to Council for a Subdivision Certificate is to incorporate requirements specified in the conditions of subdivision approval. [12.02]

**5 Electricity Supply**

Prior to issue of Subdivision Certificate the developer/consent holder shall provide to Council written confirmation from the electricity supply authority that all relevant requirements for supply of electricity to all lots have been satisfied including provision for street lighting (where applicable). [12.04]

**6 Telecommunications Cabling**

Prior to issue of a Subdivision Certificate the applicant shall provide to Council written confirmation from Telstra/NBN that arrangements have been made for telecommunication cabling to all lots including the provision of NBN cabling and conduits. [12.05]

**7 Section 7.11 Contributions - Subdivision**

Prior to issue of a Subdivision Certificate the developer/consent holder shall pay Council contributions towards the provision of public amenities and services in accord with Council's Contributions Plan. The contribution rates for the current financial year are as follows:

Roads	\$3,150.85
Open Space & Recreation	\$1,583.40
Community & Cultural	\$91.80
Paths & Cycleways	\$293.40
Plan Prep & Admin	\$154.90
Waste	\$134.50

**Note:** *The above contributions are reviewed at least annually and may be subject to increases as a result of indexation or other forces. Contributions can be paid prior to each stage of the subdivision.*

The plan can be viewed on Council's website at  
<http://www.esc.nsw.gov.au/development-and-planning/tools/development->

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**PSR19/033 DA 488/18 - TWO LOT SUBDIVISION - MALONEYS DRIVE,  
MALONEYS BEACH**

**16.0334.S**

[contributions-plans/s94\\_development\\_contributions\\_plan.pdf](#) [3.10]

**8 Water/ Sewer Developer Contributions - Subdivision**

Prior to the issue of a Subdivision Certificate the developer/consent holder will have to be eligible to obtain a Section 307 Certificate of Compliance under the Water Management Act 2000/ compliance with Section 64 of the Local Government Act 1993. To be eligible, the developer/consent holder will have to contribute:

- a) \$12,710 (1 ET) for the augmentation of water supply mains and storage within Eurobodalla Shire where 1.0 ET = \$12,710 (for subdivisions 1.0 ET applies per additional lot <2000m<sup>2</sup> and 1.5 ET per additional lot >2000m<sup>2</sup>).
- b) \$11,065 (1 ET) for the augmentation of sewerage works within Eurobodalla Shire where 1.0 ET = \$11,065.

**Note:** *The above contributions are reviewed at least annually and may be subject to increases as a result of indexation or other forces. Contributions can be paid prior to each stage of the development.* [3.11]

**9 Bushfire Safety Authority**

1. At the issue of a Subdivision Certificate, suitably worded instruments shall be created over proposed Lot 1 pursuant to Section 88 of the 'Conveyancing Act 1919' which:
  - Prohibits the construction of a residential dwelling within 20 metres of the north eastern property boundary.
  - Requires any new residential dwelling to be built to BAL 40 standards or higher in accordance with Australian Standard AS3959:2009 'Construction of buildings in bush fire prone areas' or NASH Standard(1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas - 2014' as appropriate and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection 2006' (or equivalent).

**Asset Protection Zones**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

2. Prior to issue of a Subdivision Certificate, and in perpetuity, all land within proposed lot 1 shall be managed as an Inner Protection Area (IPA) as outlined within section 4.1.3 of Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

**Water and Utilities**

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity

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**PSR19/033 DA 488/18 - TWO LOT SUBDIVISION - MALONEYS DRIVE,  
MALONEYS BEACH**

**16.0334.S**

so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

3. The provision of all water, electricity and gas services shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

**Access**

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:

4. Unobstructed pedestrian access shall be provided to the rear of the property to aid in firefighting activities.

**Landscaping**

5. All landscaping within proposed Lot 1 shall comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006.'

**General Advice**

The name of authority empowered to release, vary or modify the instruments contained within this Bush Fire Safety Authority shall be the Eurobodalla Shire Council.

**ADVISORY NOTES**

***Discovery of a Relic***

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

**BACKGROUND**

Council received a development application on 22 February 2018 for a two-lot subdivision on Lot 246 DP 569875 known as Maloneys Drive, Maloneys Beach. The owner and applicant is Eurobodalla Shire Council.

The site formed part of the original Maloney's Drive subdivision. The land was created by subdivision in 1972 and was dedicated as public reserve.

At the Ordinary Council Meeting held on 24 July 2012 (Minute No. 12/187), the subject site, together with a number of parcels of Council land, were reclassified from community to operational land. All properties were identified through a land audit conducted by Council and recognised as being surplus to community needs. The purpose of the reclassification was to

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**PSR19/033 DA 488/18 - TWO LOT SUBDIVISION - MALONEYS DRIVE,  
MALONEYS BEACH**

**16.0334.S**

either align with the current use or assist Council to consider long term leases, sale, subdivision or land swaps, where appropriate. The report determined that the proceeds from sales could then be reinvested into Council asset, which would provide increased benefit to the community.

**POLICY**

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

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

This policy applies, as the development application was lodged prior to the commencement of the *State Environmental Planning Policy (Coastal Management) 2018*. The provisions of the Coastal Management SEPP only apply as if the SEPP was a draft. The provisions of SEPP 71 apply as the proposed development is located in the coastal zone.

*Clause 8 - Matters for consideration*

The proposed development is consistent with the aims of the policy. Clause 8 - Matters for Consideration has been taken into account and the proposal is considered to be consistent with the provisions of the SEPP for the following reasons:

- The subdivision is compatible with the surrounding residential locality and urban pattern.
- There will not be any significant impact on the amenity of the coastal foreshore.
- There will be no significant overshadowing of coastal foreshore or any significant loss of views resulting from the proposed development.
- There will not be any significant impact on scenic qualities of the coast line.
- There will not be any significant impact to animals, fish, wildlife corridors or their habitats.
- There will not be any significant result in any impacts to coastal hazards or processes.
- There will not be any significant impacts to cultural places, values, customs, beliefs and traditional knowledge of Aboriginals.
- The proposed development will not result in any known impact to the conservation and preservation of items of heritage, archaeological or historic significance.
- There will not be any significant impact to water quality or coastal wetlands.
- The proposal does not result in any construction activities that may impact on public access to the foreshore.
- The proposal is connected to Council's sewerage network and potable water supply.

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**PSR19/033 DA 488/18 - TWO LOT SUBDIVISION - MALONEYS DRIVE,  
MALONEYS BEACH**

**16.0334.S**

*Eurobodalla Local Environmental Plan 2012 (LEP)*

The subject site is zoned R2 Low Density Residential and E2 Environmental Conservation under the *Eurobodalla Local Environmental Plan 2012* (LEP) as depicted on the Land Zoning Map. Subdivision of this lot is permitted in accordance with clause 2.6 of the LEP.

Relevant clauses from the LEP as addressed below:

*Clause 4.1 - Minimum subdivision lot size*

The proposed development involves the subdivision of land and is consistent with the zone objectives. The pattern of subdivision reflects the predominant subdivision pattern in the area. The lot size is able to accommodate development in accordance with the Residential Zones DCP.

The site is nominated on the Lot Size Map as having a minimum lot size of 600m<sup>2</sup> and 1000ha. The proposed residential lot has a minimum lot size of 660.6m<sup>2</sup>. The public reserve has an area of 2.219ha. Please refer to clause 4.1D for assessment.

*Clause 4.1D - Subdivision in environmentally sensitive areas*

This clause applies to the subdivision of land in environmentally sensitive areas. In accordance with the definition of an environmentally sensitive area, land within 100m of a coastal wetland is defined as environmentally sensitive area. As such, this clause applies to the proposed development.

In accordance with sub-clause (3), the lot size map does not apply to the subdivision of land involving the creation of a public reserve. The creation of a 2.219ha lot is considered appropriate, and will not result in any detrimental impact to the environmentally sensitive area.

*Clause 5.16 - Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones*

The proposed development involves the subdivision of land which excises a residential lot from the E2 portion of the land. The clause applies to land where the subdivision of land results in the construction of a dwelling on E2 zoned land. As the land proposed for subdivision does not include the erection of a dwelling house, this clause does not apply to the proposed development.

*Land Use Status*

The land is currently vacant land. The land has never been developed for any specific recreational use.

*Eurobodalla Interim Coastal Hazard Adaptation Code*

The location of the proposed building footprint indicates that any future proposed development on the new lot will not be affected by coastal hazards and therefore, is consistent with the provisions of the policy.

*Residential Zones Development Control Plan (DCP)*

The site is subject to the provisions of the Residential Zones DCP. As assessment against the relevant provisions has been completed, and the proposed development is compliant and

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**PSR19/033 DA 488/18 - TWO LOT SUBDIVISION - MALONEYS DRIVE,  
MALONEYS BEACH**

**16.0334.S**

meets the Acceptable Solutions outlined in Part 3 relating to subdivision. The proposed development provides a suitable 10m x 15m building envelope in accordance with the Acceptable Solution.

The proposed development contains a lot size that is consistent with the dominant subdivision pattern in the area.

*State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)*

The site is not identified as potentially contaminated land and there is no indication that the land has been used for a purpose which would require remediation prior to the subdivision or construction of any future development. The land has been used as a public reserve since its dedication in 1972. The land has remained vacant since this time. The proposal is satisfactory with regards to the provisions of SEPP 55.

**ENVIRONMENT**

**Vegetation**

The proposal does not require any vegetation removal to enact the subdivision. However, any future development on the land will result in the loss of a large Blackbutt tree at the rear of the site.

The land is not mapped on the Biodiversity Values Map as being sensitive land. The tree has been the subject of an ecological report which involved completion of an Assessment of Significance in accordance with the provisions of the *Biodiversity Conservation Act 2018*.

The tree contains hollows, however, it was found that the future removal of this tree will not result in any detrimental impact to threatened species.

**Cultural heritage**

The subject site is not located within 50m of a recorded Aboriginal site.

There are no items of cultural or built heritage that are in the vicinity of the development.

**CONSULTATION**

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

The advertising period commenced on 7 March 2018 and closed on 21 March 2018. Adjoining and adjacent owners were notified in writing. Twenty submissions were received during the exhibition period. The submissions raised concerns as outlined below.

Issue: Loss of emergency access in the event of bushfire. Land was always thought to be for emergency access. Essential escape path for fire personnel.

Comment: The NSW RFS has issued a Bushfire Safety Authority for the proposed development. The lot will be subdivided into two lots. Lot 1 will be for the creation of a 660.6m<sup>2</sup> residential lot. The remaining 2.219ha will be converted to public reserve.

The residual lot will maintain the two existing access points at either end of the reserve, and ongoing management of the reserve will be maintained by Council to reduce bushfire risk.

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**PSR19/033 DA 488/18 - TWO LOT SUBDIVISION - MALONEYS DRIVE,  
MALONEYS BEACH**

**16.0334.S**

Issue: Mismanagement of wetland beyond Council land has increased the bushfire threat to residential properties.

Comment: The land is privately-owned. The provisions of both the now repealed *State Environmental Planning Policy No. 14 – Coastal Wetlands* and its successor, *State Environmental Planning Policy (Coastal Management) 2018*, nominated that clearing activities within the mapped coastal wetland zone is Designated Development for the purposes of the SEPP. The aims and objectives of the legislation identifying the coastal wetlands are to protect and enhance natural coastal processes and coastal environmental values, including natural character, scenic value, biological diversity and ecosystem integrity and resilience.

Council has no control over this land and it is not a consideration of the application. The public reserve between this land and the residential lots is maintained by Council to reduce bushfire risk.

Issue: Land advertised for sale prior to consent being granted. References made to ICAC.

Comment: There are no legal requirements or restrictions to prevent developers advertising land for sale prior to consent being granted.

Issue: How has a Bushfire Safety Authority (BFSA) been issued?

Comment: A Bush Fire Safety Authority has been issued by NSW Rural Fire Service. The Bushfire Safety Authority imposes certain conditions on the creation of land and these conditions form part of the recommended conditions of consent. The Authority conditions require that the built form be located at a minimum of 20m from the rear boundary, and any future dwelling be constructed at a minimum to BAL40.

It is considered that the submissions have been addressed during the assessment process and that there are no matters that preclude the application from being approved.

## **CONCLUSION**

The proposal enables the creation of two lots, one of which will enable future residential development, and the residual lot being converted to a public reserve and returned to community land.

The proposed development is unlikely to result in any significant environmental, social or economic concerns.

The proposed development is satisfactory with regard to the provisions of the *Environmental Planning and Assessment Act, 1979* and is recommended for approval, subject to conditions of consent.





*All communications to be addressed to:*

Headquarters  
4 Murray Rose Ave  
Sydney Olympic Park NSW 2127

Telephone: 1300 NSW RFS  
e-mail: records@rfs.nsw.gov.au

Headquarters  
Locked Bag 17  
Granville NSW 2142

Facsimile: 8741 5433



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

Your Ref: DA488/18  
Our Ref: D18/880  
DA18030712089 BB

**ATTENTION:** Katrena Browne

3 April 2019

Dear Sir / Madam

**Integrated Development Application - 246//256875 - Maloneys Drive, Maloneys Beach NSW**

I refer to your correspondence dated 5 March 2019 seeking general terms of approval for the above Integrated Development Application.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted. General Terms of Approval, under Division 4.8 of the 'Environmental Planning and Assessment Act 1979', and a Bush Fire Safety Authority, under Section 100B of the 'Rural Fires Act 1997', are now issued subject to the following conditions:

1. At the issue of a Subdivision Certificate, suitably worded instruments shall be created over proposed Lot 1 pursuant to Section 88 of the 'Conveyancing Act 1919' which:
  - Prohibits the construction of a residential dwelling within 20 metres of the north eastern property boundary.
  - Requires any new residential dwelling to be built to BAL 40 standards or higher in accordance with Australian Standard AS3959:2009 'Construction of buildings in bush fireprone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection 2006' (or equivalent).

**Asset Protection Zones**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to

prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

2. Prior to the issue of a Subdivision Certificate, and in perpetuity, all land within proposed Lot 1 shall be managed as an Inner Protection Area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

#### **Water and Utilities**

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

3. The provision of all water, electricity, and gas services shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

#### **Access**

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:

4. Unobstructed pedestrian access shall be provided to the rear of the property to aid in fire fighting activities.

#### **Landscaping**

5. All landscaping within proposed Lot 1 shall comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

#### **General Advice – consent authority to note**

The name of authority empowered to release, vary or modify the instruments contained within this Bush Fire Safety Authority shall be the Eurobodalla Shire Council.

This letter is in response to a further assessment of the application submitted and supersedes our previous general terms of approval dated 31 July 2018.

Should you wish to discuss this matter please contact Bradley Bourke on 1300 NSW RFS.

Yours sincerely



Martha Dotter

**Acting Team Leader, Development Assessment and Planning**

For general information on bush fire protection please visit [www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)

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**PSR19/034 DA 593/19 - THREE LOT SUBDIVISION - 13A SUNSHINE BAY ROAD, SUNSHINE BAY 17.1266.S**

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

Attachments: 1. Under Separate Cover - Confidential - submissions  
2. Stage 1 Plan [↓](#)  
3. Stage 2 Plan [↓](#)  
4. General Terms of Approval - NSW RFS [↓](#)

Outcome: Responsible and Balanced Development

Focus Area: 6.2 Ensure development is sustainable, and reflects community values and the desired local setting

Delivery Program Link: 6.2.2. Provide receptive and responsive development assessment services

Operational Plan Link: 6.2.2.1 Assess and determine development applications

Applicant: Eurobodalla Shire Council

Land: Lot 9 DP 774356, 13A Sunshine Bay Road, Sunshine Bay

Area: Proposed Lot 1 – 627m<sup>2</sup>  
Proposed Lot 2 – 665m<sup>2</sup>  
Proposed Lot 3 – 1120m<sup>2</sup> (Public Reserve)

Setbacks: Not specified – Subdivision only

Height: Not specified – Subdivision only

Zone: R2 Low Density Residential & E2 Environmental Conservation

Current Use: Vacant Land – Operational Land

Proposed Use: Residential with residual remaining community reserve

Description: Three lot subdivision

Permitted in Zone: Permitted with consent

DA Registered: 29 May 2019

Reason to Council: Development of Council owned land

Recommendation: Approval subject to conditions

**PSR19/034 DA 593/19 - THREE LOT SUBDIVISION - 13A SUNSHINE BAY  
ROAD, SUNSHINE BAY**

**17.1266.S**

**EXECUTIVE SUMMARY**

The purpose of this report is to seek Council's determination of an application for a two (2) lot and public reserve subdivision at 13A Sunshine Bay Road, Sunshine Bay. The proposal is reported to Council, as Council is both the applicant and landowner.

The proposal involves the subdivision of land into three lots: two lots for the purpose of future residential development, and the residual lot being converted to a public reserve.

The application was publicly exhibited for a period of 14 days from 5 June to 19 June 2019 and one (1) submission was received in support of the development. Following closure of the exhibition period a further eight (8) submissions were received.

The submissions raised related to the maintenance of connectivity between John Oxley Crescent and Sunshine Bay Road, loss of a recreational walking track, loss of green space in the urban form and loss of a wildlife corridor.

The application has been assessed against the relevant legislation and found to be acceptable. Concerns raised in submissions have been considered and addressed where required. Approval of the development application is recommended.

**RECOMMENDATION**

THAT:

1. Pursuant to the provisions of Section 4.16 of the *Environmental Planning and Assessment Act, 1979*, development application no. 593/19 Lot 9 DP774356, 13A Sunshine Bay Road, Sunshine Bay be APPROVED, subject to conditions set out below:

**GENERAL CONDITIONS**

**1 *Approved plans***

The development must be carried out in accordance with the following stamped approved plans and documentation, or as modified by any conditions of this consent, or as noted in red by Council on the approved plans.

DA & Sheet Nos.	Plan Nos.	Date of Plan	Prepared by
DA593/19 - Sheets 1 & 2	Unknown	4/11/2019	Eurobodalla Shire Council

**Note:** *Any alteration to the plans and/or documentation may require the lodgement of an application to modify the consent under s96 of the Environmental Planning and Assessment Act (EPA Act) 1979, or a fresh development application. Your Certifying Authority should be consulted prior to any works contrary to this consent being carried out.*

*Where there is an inconsistency between the documents approved with this consent and the following conditions, the conditions shall prevail to the extent of that inconsistency.* [0001]

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**PSR19/034 DA 593/19 - THREE LOT SUBDIVISION - 13A SUNSHINE BAY  
ROAD, SUNSHINE BAY**

**17.1266.S**

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

**2 Construction Certificates**

A Construction Certificate is to be issued by Council prior to any works, including clearing or installation of services, being undertaken on the site. [12.32]

**3 Footpath Construction**

Prior to the issue of the Construction Certificate submission to and approval by Council of a detailed plan for footpath construction for the full John Oxley Crescent frontage of the property and from John Oxley Crescent to Sunshine Bay Road through the remaining reserve in accordance with 'Councils Infrastructure Design Standards <<http://www.esc.nsw.gov.au/development-and-planning/tools/development-control-plans/Infrastructure-Design-Standard-IDS.pdf>> Plan No. 4400-A-002-a-2.. [14.06]

**4 Section 7.11 Contributions**

Payment to Council pursuant to 7.11 of the Environment Planning and Assessment Act 1979, of contributions towards the provision of public amenities or services. The current contribution rates for the current financial year are as follows:

Roads	\$6,301.70
Open Space & Recreation	\$3,166.80
Community & Cultural	\$183.60
Paths & Cycleways	\$586.80
Plan Prep & Admin	\$309.80
Waste	\$269

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

**Note:** *The above contributions are reviewed at least annually and may be subject to increases as a result of indexation or other forces.*

The plan can be viewed on Council's website at  
<[http://www.esc.nsw.gov.au/development-and-planning/tools/development-contributions-plans/s94\\_development\\_contributions\\_plan.pdf](http://www.esc.nsw.gov.au/development-and-planning/tools/development-contributions-plans/s94_development_contributions_plan.pdf)> [3.07]

**5 Water/Sewer Developer Contributions - Development**

Prior to the issue of a Section 68 Approval/Construction Certificate, the developer/consent holder will have to be eligible to obtain a Section 307 Certificate of Compliance under the Water Management Act 2000/ compliance with Section 64 of the Local Government Act 1993. To be eligible, the developer/consent holder will have to contribute:

- a) \$25,420 (2 ET) for the augmentation of water supply mains and storage within Eurobodalla Shire where 1.0 ET = \$12,710.

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**PSR19/034 DA 593/19 - THREE LOT SUBDIVISION - 13A SUNSHINE BAY  
ROAD, SUNSHINE BAY**

**17.1266.S**

- b) \$22,130 (2 ET) for the augmentation of sewerage works within Eurobodalla Shire where 1.0 ET = \$11,065.

The contribution shall be paid to the Eurobodalla Shire Council. Evidence of the payment shall be submitted to Principal Certifying Authority prior to the issue of the Construction Certificate.

**Note:** *The above contributions are reviewed at least annually and may be subject to increases as a result of indexation or other forces. Contributions can be paid prior to each stage of the development.* [3.11a]

**PRIOR TO COMMENCEMENT OF WORKS**

**6 Erosion and Sedimentation Control**

Prior to commencement of any earthworks, installation of all measures necessary to effectively control soil erosion on the site to prevent silt discharge into drainage systems and waterways in accordance with Council's Soil and Water Management Code. The measures, to include sediment fencing and erosion control devices, are to be maintained and remain in place until the development is completed and disturbed areas are stabilised.

**Note:** *Clean Up Notices and/or on-the-spot fines may be imposed by Council for non-compliance with this condition.* [11.13]

**7 Site Waste Management**

A site rubbish enclosure must be provided prior to commencement of any work for the period of the proposed work and remain in place for the duration of all works. All waste materials from the site must be disposed of at an authorised waste facility.  
[22.01]

**DURING CONSTRUCTION**

**8 Commercial/Industrial Construction Hours - NOISE**

Construction may only be carried out between 7.00am and 6.00pm on Monday to Friday, and between 8.00am to 5.00pm on Saturdays. No construction activity on Sundays and Public Holidays.

Work may be carried out outside of the above standard hours for construction if the work only generates noise that is:

- (a) no louder than 5dB(A) above the rating background level at any residence in accordance with the Interim Construction Noise Guidelines (ISBN 9781742322179) published by the NSW Dept of Environment and Climate Change, July 2009.
- (b) no louder than the noise management levels specified in Table 3 of the Guideline at other sensitive receivers. [20.01a]

**PRIOR TO ISSUE OF SUBDIVISION/STRATA CERTIFICATE**



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**PSR19/034 DA 593/19 - THREE LOT SUBDIVISION - 13A SUNSHINE BAY  
ROAD, SUNSHINE BAY**

**17.1266.S**

**9      *Public Utility Adjustments***

Adjustments to the public utilities necessitated by the development shall be completed prior to occupation of the development and in accordance with the requirements of the relevant authority, all at no cost to Council. [0209]

**10     *Easements***

The Plan of Survey subject of a Subdivision Certificate shall create drainage, water, sewer and service easements where required and/or as directed by Council free of all costs to Council. [12.03]

**11     *Electricity Supply***

Prior to issue of Subdivision Certificate the developer/consent holder shall provide to Council written confirmation from the electricity supply authority that all relevant requirements for supply of electricity to all lots have been satisfied including provision for street lighting (where applicable). [12.04]

**12     *Telecommunications Cabling***

Prior to issue of a Subdivision Certificate the applicant shall provide to Council written confirmation from Telstra/NBN that arrangements have been made for telecommunication cabling to all lots including the provision of NBN cabling and conduits. [12.05]

**13     *Reserve Dedication***

The Plan of Survey subject of a Subdivision Certificate shall include dedication of all reserves free of all costs to Council. [12.11]

**14     *Sewer Junction/Extension Provision***

Prior to issue of a Subdivision Certificate the applicant shall enter into a Private Works Agreement with Council for provision of sewer junction and/or minor extension to serve the proposed subdivision and provide certified Works as Executed Plans to Council. [12.15]

**15     *Maintenance Bond***

Prior to issue of a Subdivision Certificate the applicant shall pay to Council a maintenance bond for water and sewer service construction works performed by private contractor, being 5% of the contract price or minimum of \$1,000.00 whichever is greater, applicable for six months from the date of issue of the Subdivision Certificate. [12.17]

**16     *Easement Creation***

Construction of drainage or sewerage works over intervening private property for this development is dependent on the applicant negotiating a permit to enter that land and acquiring an easement or right to use the land under the surface for construction, and for future maintenance of works by Council. Proof of registration of legal access is to be submitted to Council prior to the issue of Subdivision Certificate. [12.18]

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**PSR19/034 DA 593/19 - THREE LOT SUBDIVISION - 13A SUNSHINE BAY  
ROAD, SUNSHINE BAY**

**17.1266.S**

**17 *Right of Carriageway***

The Plan of Survey subject of a Subdivision Certificate shall indicate restrictions on Title under Section 88B of the Conveyancing Act 1919 creating:

- (a) a right of carriageway in favour of the lot(s) for which access is to be provided being of a width adequate to accommodate the full width as constructed;
- (b) a restriction as to user whereby it is noted that responsibility for construction and/or maintenance of the right of carriageway is with the owner(s) of the lots benefited
- (c) a restriction as to user for services across the 4m wide reciprocal right of carriageway. [12.20]

**18 *Footpaths***

Prior to issue of Subdivision Certificate concrete footpaths are to be installed in accordance with the standards set out under table 2 of [Councils Infrastructure Design Standards](#) and approved plans. Certified Work as Executed plans shall be submitted to Council prior to issue of Subdivision Certificate. [12.22]

**19 *'Battle Axe' Access***

Prior to issue of a Subdivision Certificate the applicant shall construct a sealed access to "battle axe" shaped lots where longitudinal grades exceed 10% (1 vertical:10 horizontal) and including provision for drainage, sediment and erosion control measures in accordance with sound engineering practice. [12.26]

**20 *Inter-allotment Drainage***

Prior to Issue of a Subdivision Certificate the applicant shall, in accordance with Councils [Infrastructure Design Standards](#) and subject of a Construction Certificate, construct an inter-allotment drainage scheme for all lots that cannot discharge stormwater to Council's street or an approved stormwater drainage scheme. Proposed Lot 2 shall be provided with inter-allotment drainage to Sunshine Bay Road. [12.29]

**21 *"Work as Executed" Plans***

Prior to issue of a Subdivision Certificate the applicant shall provide Work as Executed plans in accordance with Council's specification, duly certified by an engineer or registered surveyor, for all construction work. [12.30]

**22 *Bushfire Safety Authority***

**Asset Protection Zones**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. Prior to the issue of a Subdivision Certificate and in perpetuity, any land

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**PSR19/034 DA 593/19 - THREE LOT SUBDIVISION - 13A SUNSHINE BAY  
ROAD, SUNSHINE BAY**

**17.1266.S**

within the proposed lots shall be managed as an Inner Protection Act (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

2. The provision of all new and the modification of any existing water, electricity, and gas services shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

General Advice

This approval is for the subdivision of land only. Any further development application for Class 1, 2 & 3 buildings as identified by the 'Building Code of Australia' must be subject to a separate application under Section 4.14 of the 'Environmental Planning and Assessment Act 1979' and address the relevant provisions of 'Planning for bush Fire Protection 2006'.

**ADVISORY NOTES**

***Discovery of a Relic***

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

***Underground Utility Services Check***

The applicant shall contact the "Dial Before You Dig" service on telephone (02) 1100, fax number 1300-652-077 or email mocsinfo@mocs.com.au, prior to the commencement of excavation, to ascertain the presence and type of underground utility services in the vicinity of the development. [0263]

**BACKGROUND**

Council received a development application on 29 May 2019 for a three-lot subdivision of Lot 9 DP 774356 known as 13A Sunshine Bay Road, Sunshine Bay. The owner and applicant is Eurobodalla Shire Council.

The site formed part of the original Sunshine Bay subdivision. The land was created by subdivision in 1988 and was dedicated as a public reserve in accordance with the *Local Government Act, 1993*, and nominated as community land.

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**PSR19/034 DA 593/19 - THREE LOT SUBDIVISION - 13A SUNSHINE BAY  
ROAD, SUNSHINE BAY**

**17.1266.S**

At the Ordinary Council Meeting held on 24 July 2012 (Minute No 12/187), the subject site, together with a number of parcels of Council land, were reclassified from community to operational land. All properties were identified through a land audit conducted by Council and recognised as being surplus to community needs. The purpose of the reclassification was to either align with the current use, or assist Council to consider long-term leases, sale, subdivision or land swaps, where appropriate. The report determined that the proceeds from sales could then be reinvested into Council assets, which would provide increased benefit to the community.

**POLICY**

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

*State Environmental Planning Policy – Coastal Management*

The *State Environmental Planning Policy (Coastal Management) 2018* applies to the development, as the land is identified within the coastal use area. The proposal will not result in:

- any significant impact on access to the foreshore
- any shadowing or wind funneling of the foreshore
- any significant visual amenity of the coast
- any significant impact on any known Aboriginal cultural heritage or the cultural or built environment.

The proposed subdivision is designed and sited to avoid any impact to the coastal environment, including the cultural and built environment.

Any future development on the land proposed for subdivision will not result in any significant impact to the coastal or built environment.

*Eurobodalla Local Environmental Plan 2012 (LEP)*

The subject site is zoned R2 Low Density Residential and E2 Environmental Conservation under the *Eurobodalla Local Environmental Plan 2012 (LEP)* as depicted on the Land Zoning Map. Subdivision of this lot is permitted in accordance with clause 2.6 of the LEP.

Relevant clauses from the LEP are addressed below:

*Clause 4.1 - Minimum subdivision lot size*

The proposed development is consistent with the zone objectives. The proposed development involves the creation of three lots. The lot size is able to accommodate development in accordance with the Residential Zones DCP. The proposed development permits effective land management practices.

The site is nominated on the Lot Size Map as having a minimum lot size of 600m<sup>2</sup>. The proposed residential lots have an area greater than 600m<sup>2</sup>. Lot 1 proposes 627m<sup>2</sup> and Lot 2

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**PSR19/034 DA 593/19 - THREE LOT SUBDIVISION - 13A SUNSHINE BAY  
ROAD, SUNSHINE BAY**

**17.1266.S**

proposes 665m<sup>2</sup>. The land contained within proposed Lot 3 has a minimum lot size of 1000ha. The proposed area is 1120m<sup>2</sup>. Please refer to 5.16

*Clause 4.1F – Minimum lot sizes for certain split zones*

This clause permits the subdivision of land where the public reserve does not meet the minimum lot size. The proposed development is consistent with this clause in that the residential lots achieve the minimum lot size and all of the E2 zoned land is contained within the resulting lot. As such, the minimum lot size does not apply to the E2 zoned portion of land.

Land-Use Status

The land is currently vacant land. The land has never been developed for any specific recreational use.

Eurobodalla Interim Coastal Hazard Adaptation Code

The proposed development is not subject to the provisions of this policy. Any future development will not be impacted by coastal hazards.

Residential Zones Development Control Plan (DCP)

The site is subject to the provisions of the Residential Zones DCP. An assessment against the relevant provisions has been completed, and the proposed development is compliant and meets the Acceptable Solutions outlined in Part 3 relating to subdivision. The proposed development provides a suitable 10m x 15m building envelope in accordance with the Acceptable Solution.

The proposed development contains a lot size that is consistent with the dominant subdivision pattern in the area. The proposed subdivision pattern does not comply with the Acceptable Solution. The proposal does meet the requirements of the performance criteria, which requires *lot sizes and proportions maintain a consistent pattern within the area*. The battle-axe lot is located adjacent to the public reserve and is considered suitable in this location.

State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)

The site is not identified as potentially contaminated land and there is no indication that the land has been used for a purpose which would require remediation prior to the subdivision or construction of any future development. The land was dedicated in 1988 as a public reserve and has not been used for any purpose since then. The proposal is satisfactory with regards to the provisions of SEPP 55.

**ENVIRONMENTAL**

**Vegetation**

The proposal does not require any vegetation removal to enact the subdivision. However, any future development on the land will result in the loss of native vegetation, which has been assessed by an ecologist and an Assessment of Significance provided.

The vegetation onsite which will be impacted by the development is regrowth, and the Assessment of Significance concludes that there will be no impact to any threatened species as a result of the development.

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**PSR19/034 DA 593/19 - THREE LOT SUBDIVISION - 13A SUNSHINE BAY  
ROAD, SUNSHINE BAY**

**17.1266.S**

The land is not mapped on the Biodiversity Values Map as being sensitive land.

**Cultural heritage**

The subject site is not located within 50m of a recorded Aboriginal site. An AHIMs search was submitted as part of the application.

The proposed development is not in the vicinity of any European heritage that will be impacted by the development.

**CONSULTATION**

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

The advertising period commenced on 5 June 2019 and closed on 19 June 2019. Adjoining and adjacent owners were notified. During the exhibition period, one (1) submission was received in support of the development. Following the conclusion of the exhibition period, Council has received a further seven (7) submissions objecting to the proposed development.

Issue: Maintenance of connectivity between John Oxley Crescent and Sunshine Bay Road.

Comment: The proposed development involves the retention of the land zoned E2 Environmental Conservation as a public reserve. The proposal involves maintaining the connectivity between the two road reserves and enhancing the reserve through the provision of a concrete footpath.

Issue: Loss of a recreational walking track.

Comment: The proposed development will maintain the existing walking track between John Oxley Crescent and Sunshine Bay Road. The E2 portion of the site will be converted to public reserve as a result of the proposed development.

Issue: Loss of green space in the urban form, loss of wildlife corridor.

Comment: The site has been ear marked for residential development since 2012. This development application enacts the intended use of the land and allows for subdivision and development in the future. Part of the proposal provides for retention of a public reserve and this includes green space.

The vegetation has been assessed against legislative requirements and does not provide habitat for any threatened species.

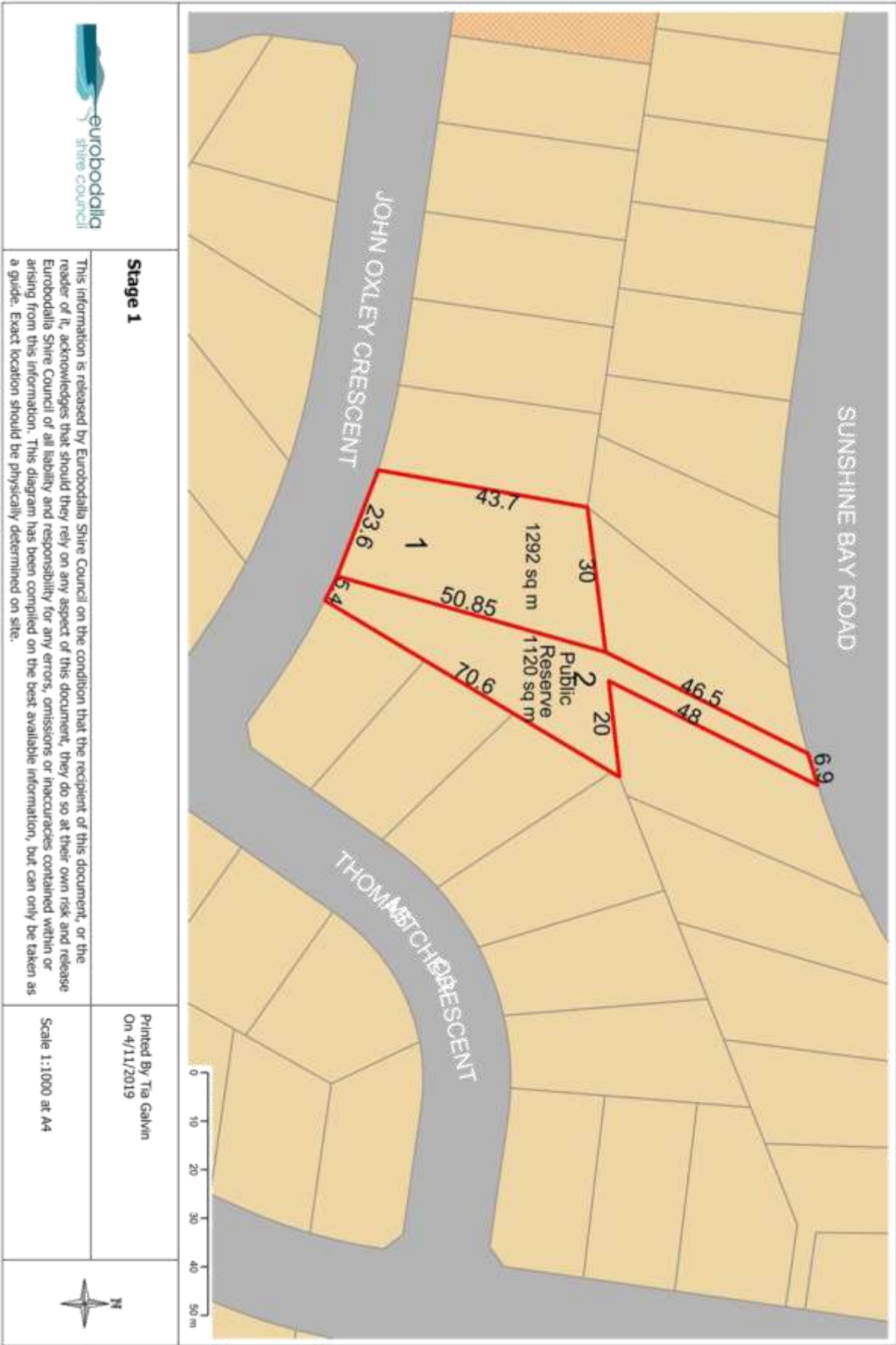
**CONCLUSION**

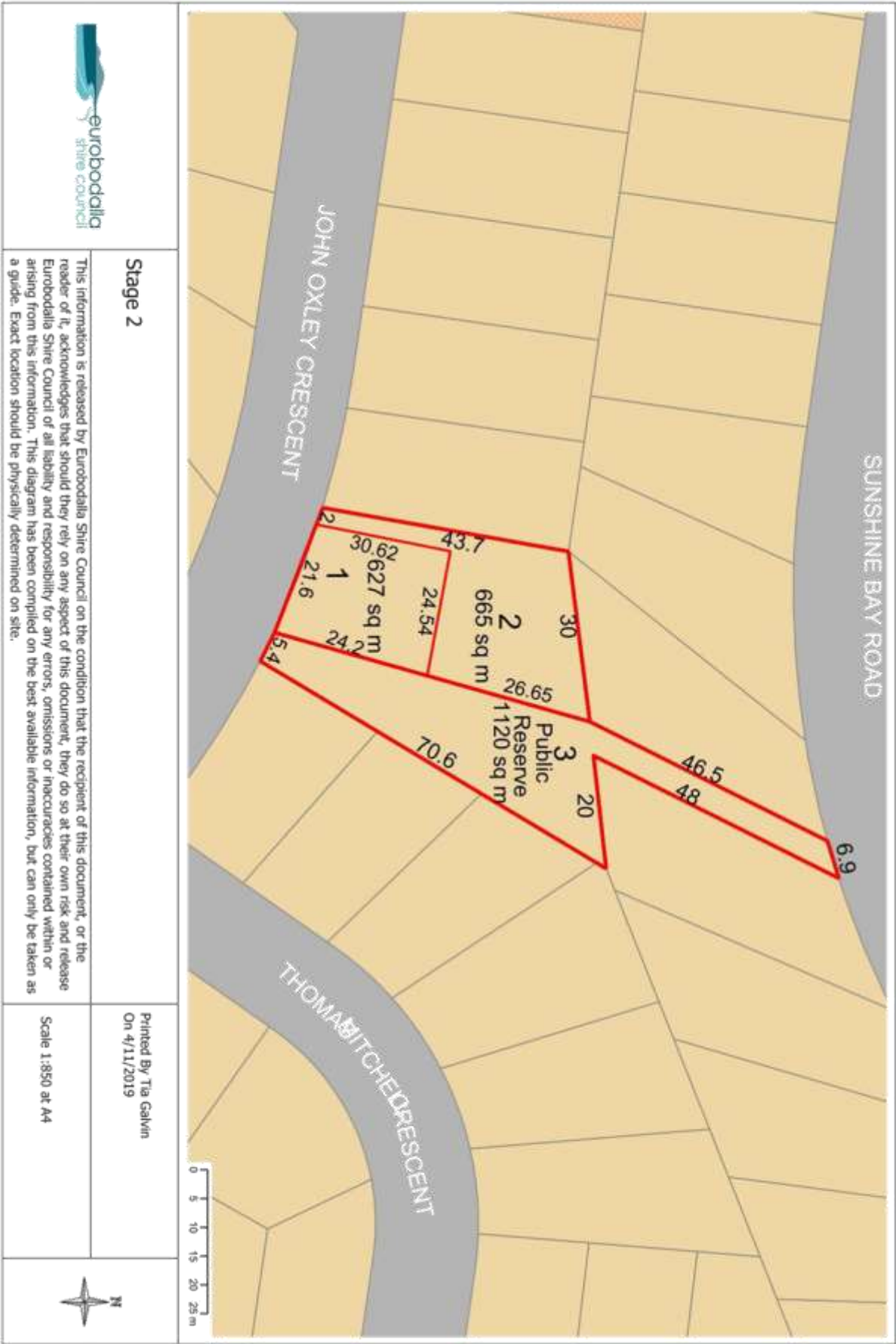
The proposed development involves the subdivision of land into three lots: two lots for the purpose of future residential development, and the residual lot being converted to a public reserve.

The proposed development is unlikely to result in any significant environmental, social or economic concerns.

The proposed development is satisfactory with regard to the provisions of the *Environmental Planning and Assessment Act, 1979* and is recommended for approval subject to conditions of consent.

ORDINARY MEETING OF EUROBODALLA SHIRE COUNCIL ON TUESDAY 26  
NOVEMBER 2019  
PSR19/034 DA 593/19 - THREE LOT SUBDIVISION - 13A SUNSHINE BAY ROAD,  
SUNSHINE BAY  
ATTACHMENT 2 STAGE 1 PLAN







PSR19/034 DA 593/19 - THREE LOT SUBDIVISION - 13A SUNSHINE BAY ROAD,  
SUNSHINE BAY  
ATTACHMENT 4 GENERAL TERMS OF APPROVAL - NSW RFS

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*All communications to be addressed to:*

Headquarters  
4 Murray Rose Ave  
Sydney Olympic Park NSW 2127

Headquarters  
Locked Bag 17  
Granville NSW 2142

Telephone: 1300 NSW RFS  
e-mail: records@rfs.nsw.gov.au

Facsimile: 8741 5433



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

Your Ref: 593/19  
Our Ref: D19/1845  
DA19060419004 BB

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**ATTENTION:** Katrena Browne

28 June 2019

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Dear Sir / Madam

**Integrated Development Application - 13a Sunshine Bay Road Sunshine Bay 2536**

I refer to your correspondence dated 30 May 2019 seeking general terms of approval for the above Integrated Development Application.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted. General Terms of Approval, under Division 4.8 of the 'Environmental Planning and Assessment Act 1979', and a Bush Fire Safety Authority, under Section 100B of the 'Rural Fires Act 1997', are now issued subject to the following conditions:

**Asset Protection Zones**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. Prior to the issue of a Subdivision Certificate and in perpetuity, and land within the proposed lots shall be managed as an Inner Protection Area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

**Water and Utilities**

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

2. The provision of all new and the modification of any existing water, electricity, and gas services shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

**Landscaping**

3. All landscaping within the site shall comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

**General Advice – consent authority to note**

This approval is for the subdivision of land only. Any further development application for Class 1, 2 & 3 buildings as identified by the 'Building Code of Australia' must be subject to a separate application under Section 4.14 of the 'Environmental Planning and Assessment Act 1979' and address the relevant provisions of 'Planning for Bush Fire Protection 2006'.

Should you wish to discuss this matter please contact Bradley Bourke on 1300 NSW RFS.

Yours sincerely



Martha Dotter

**Acting Team Leader, Development Assessment and Planning**

For general information on bush fire protection please visit [www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)

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**PSR19/035 DA 534/19 - THREE-LOT SUBDIVISION - GREGORY STREET,  
BATEMANS BAY COUNCIL-OWNED LAND**

**16.0309.S**

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

Attachments: 1. Under Separate Cover - Confidential - Submissions  
2. General Terms of Approval - NSW RFS [↓](#)  
3. Plan [↓](#)

Outcome: Responsible and Balanced Development

Focus Area: 6.2 Ensure development is sustainable, and reflects community values and the desired local setting

Delivery Program Link: 6.2.2. Provide receptive and responsive development assessment services

Operational Plan Link: 6.2.2.1 Assess and determine development applications

Applicant: Eurobodalla Shire Council

Land: Lot 388 DP 248840, 23 Gregory Street, Batemans Bay

Area: 1.179 hectares

Setbacks: Not specified – subdivision only

Height: Not specified – subdivision only

Zones: R3 Medium Density Residential & IN1 General Industrial

Current Use: Vacant land

Proposed Use: Residential and industrial

Description: Staged subdivision – Stage 1: 2 lots, Stage 2: concept - 3 lots

Permitted in Zones: Permitted with consent

DA Registered: 2 May 2019

Reason to F&S: Development and Council-owned land

Recommendation: Approval subject to conditions

### **EXECUTIVE SUMMARY**

The purpose of this report is to seek Council's determination of an application for a three-lot subdivision at Gregory Street, Batemans Bay. The proposal is reported to Council, as Council is both the applicant and landowner.

The proposal is for a staged subdivision to create two industrial lots and a residual residential lot. A concept approval is sought for the residual lot to be subdivided into three residential lots, the details of which will be dealt with by a subsequent Development Application (DA). The two industrial lots are located at 23 Gregory Street, Batemans Bay and the residual lot is accessed from Pacific Street, Batemans Bay.

**PSR19/035 DA 534/19 - THREE-LOT SUBDIVISION - GREGORY STREET,  
BATEMANS BAY COUNCIL-OWNED LAND**

**16.0309.S**

The application was publicly exhibited for a period of 14 days from 2 May 2019 to 7 June 2019 and four (4) submissions were received.

The submissions raised issues related to amenity impacts, traffic and implications for the Scout Hall use. In addition to this, the presence of flying-fox habitat on part of the land will require further assessment, and possible referral to the Commonwealth as part of the Stage 2 application.

The impacts have been assessed and approval is recommended subject to conditions of consent.

**RECOMMENDATION**

THAT:

1. Pursuant to the provisions of Section 4.16 of the *Environmental Planning and Assessment Act 1979*, development application no. 534/19 for Lot 388 DP 248840, Gregory Street, Batemans Bay be APPROVED, subject to the conditions set out below:

**GENERAL CONDITIONS**

**1. *Approved plans***

The development must be carried out in accordance with the following stamped approved plans and documentation, or as modified by any conditions of this consent, or as noted in red by Council on the approved plans.

DA & Sheet Nos.	Plan Nos.	Date of Plan	Prepared by
DA 534/19 Sheet 1	Not provided	27/03/2019	Colleen Scott

Council Stamp No.	Document title	Date of document	Prepared by
DA534/19 Document 1 of 1	Biodiversity Development Assessment Report (BDAR)	23 September 2019 Final, Version 3	Ecological Australia

**Note:** Any alteration to the plans and/or documentation may require the lodgement of an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act (EPA Act) 1979*, or a fresh development application. Your Certifying Authority should be consulted prior to any works contrary to this consent being carried out.

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

**2. *Concept Approval***

This approval was issued under Division 4.4 of the EPA Act 1979 and allows Stage 1 being the creation of fully serviced Lots 1 & 2, whilst the residual lot is the subject of a concept plan for a further 3 lots. A further development application has to approved

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**PSR19/035 DA 534/19 - THREE-LOT SUBDIVISION - GREGORY STREET,  
BATEMANS BAY COUNCIL-OWNED LAND**

**16.0309.S**

before it can be subdivided. No clearing is permitted on the residual lot excluding the 10 metre wide bushfire defendable space.

**PRIOR TO ISSUE OF INFRASTRUCTURE CONSTRUCTION CERTIFICATE**

**3. Ecosystem Credit Retirement Conditions**

- a) Prior to issue of a Construction Certificate (or the removal of any vegetation, whichever is earlier) the class and number of ecosystem and species credits in Table 35 must be retired to offset the residual biodiversity impacts of the development.
- b) The requirement to retire credits in condition 3(a) may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.
- c) Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of condition 3(a) must be provided to the Council prior to the issue of a Construction Certificate.

*Reference: DA534/19 - Doc. 1 of 1*

*Biodiversity Development Assessment Report (BDAR) dated 23 September 2019  
prepared by Ecological Australia.*

1. **Note:** Prices of credits in the Biodiversity Offsets Payment Calculator are subject to change. The amount payable to discharge an offset obligation will be determined at the time of payment.

**4. Species Credit Retirement Conditions**

- a) Prior to issue of a Construction Certificate (or the removal of any vegetation, whichever is earlier) the class and number of ecosystem and species credits in Table 36 must be retired to offset the residual biodiversity impacts of the development.
- b) The requirement to retire credits in condition 4(a) may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.
- c) Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of condition 4(a) must be provided to the Council prior to the issue of a Construction Certificate.

*Reference: DA534/19 - Doc. 1 of 1*

*Biodiversity Development Assessment Report (BDAR) dated 23 September 2019  
prepared by Ecological Australia.*

2. **Note:** Prices of credits in the Biodiversity Offsets Payment Calculator are subject to change. The amount payable to discharge an offset obligation will be determined at the time of payment.

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**PSR19/035 DA 534/19 - THREE-LOT SUBDIVISION - GREGORY STREET,  
BATEMANS BAY COUNCIL-OWNED LAND**

**16.0309.S**

**5. *Prior to the Issue of Infrastructure Construction Certificate***

Submission to and approval by Council of engineer's design for sewer, water and stormwater is required prior to the issue of the Infrastructure Construction Certificate. Plans are to be in accordance with Council's Development Specifications, related Australian Standards and Water and Sewerage Specifications.

The fee for the issue of the subdivision Construction Certificate will be charged at the rate for the current financial year at the time of issue, as set in Eurobodalla Shire Council's Fees and Charges.

**PRIOR TO COMMENCEMENT OF WORK**

**6. *Construction in a Road Reserve***

Prior to commencement of any works within the road reserve a separate approval is to be obtained from Council under section 138/139 of the Roads Act. The application would consider:

- Public safety, WH&S issues, risk assessment, public liability insurance, control of vehicle and pedestrian traffic, location of plant and equipment, inspections bonding and an application fee.
- Where a traffic control plan is required, the plan is to be prepared by a suitably qualified consultant, certified by the Roads and Maritime Service (RMS), in work site traffic control plan preparation.
- Where the Traffic control plan requires a reduced speed, or temporary traffic signals, a Speed Zone Authorization (SZA) is to be obtained from Council for the specific days of work
- Where works are on a Roads and Maritime Services (RMS) road or would impact traffic on an RMS road, a Road Occupancy Licence (ROL) is to be obtained from the RMS Ms Peta Smith (02 42212509) or email. [rol\\_southern@rta.nsw.gov.au](mailto:rol_southern@rta.nsw.gov.au)

Where works are undertaken by other than the applicant, the supervisor of the works is to be advised of this condition. Details for an application form and fees are available by contacting council Engineering Development Assessment Officer (44741254) & form available from [http://www.esc.nsw.gov.au/media/395951/Section\\_138\\_Roads\\_Act.pdf](http://www.esc.nsw.gov.au/media/395951/Section_138_Roads_Act.pdf) Carrying out works contrary to this condition will result in a penalty being issued under the roads act and works being suspended until such time as a Section 138 consent being issued.

**PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE (STAGE 1 ONLY)**

**7. *Subdivision Certificate***

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

**8. *Public Utility Adjustments***

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**PSR19/035 DA 534/19 - THREE-LOT SUBDIVISION - GREGORY STREET,  
BATEMANS BAY COUNCIL-OWNED LAND**

**16.0309.S**

Adjustments to the public utilities necessitated by the development shall be completed prior to occupation of the development and in accordance with the requirements of the relevant authority, all at no cost to Council.

**9. Section 7.11 Contributions Subdivision**

Prior to issue of a Subdivision Certificate the developer/consent holder shall pay Council contributions towards the provision of public amenities and services in accord with Council's Contributions Plan. The contribution rates for the current financial year are as follows:

Waste (shire wide) \$268.60

**Note:** *The above contributions are reviewed at least annually and may be subject to increases as a result of indexation or other forces. Contributions can be paid prior to each stage of the subdivision.*

The plan can be viewed on Council's website at

[http://www.esc.nsw.gov.au/development-and-planning/tools/development-contributions-plans/s94\\_development\\_contributions\\_plan.pdf](http://www.esc.nsw.gov.au/development-and-planning/tools/development-contributions-plans/s94_development_contributions_plan.pdf)

**10. Water/ Sewer Developer Contributions - Subdivision**

Prior to the issue of a Subdivision Certificate the developer/consent holder will have to be eligible to obtain a Section 307 Certificate of Compliance under the Water Management Act 2000/ compliance with Section 64 of the Local Government Act 1993. To be eligible, the developer/consent holder will have to contribute:

- a) \$25,420.00 (2 ET) for the augmentation of water supply mains and storage within Eurobodalla Shire where 1.0 ET = \$12,710.00 (for subdivisions 1.0 ET applies per industrial lot).
- b) \$22,130.00 (2 ET) for the augmentation of sewerage works within Eurobodalla Shire where 1.0 ET = \$11,065.

**Note:** *The above contributions are reviewed at least annually and may be subject to increases as a result of indexation or other forces. Contributions can be paid prior to each stage of the development.*

**11. Plan of Survey Amendment**

The Plan of Survey submitted in conjunction with an application to Council for a Subdivision Certificate is to incorporate requirements specified in the conditions of subdivision approval.

**12. Electricity Supply**

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

**13. Easements**

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**PSR19/035 DA 534/19 - THREE-LOT SUBDIVISION - GREGORY STREET,  
BATEMANS BAY COUNCIL-OWNED LAND**

**16.0309.S**

The Plan of Survey subject of a Subdivision Certificate shall create drainage, water, sewer and service easements where required and/or as directed by Council free of all costs to Council.

**14. *Telecommunications Cabling***

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

**15. *Water Reticulation***

Prior to the issue of a Subdivision Certificate the applicant shall construct water reticulation including 20mm water service connections to each newly created lot in accordance with Plan No: 4753. The limit of the service connection shall be the 20mm M\*F stopcock.

The Water Reticulation Plan shall be in accordance with Council's Water and Sewerage specification and is subject to approval and issue of a Construction Certificate with payment of fees applicable under the current fees and charges for the year of issue.

Work as Executed Plans are to be submitted to Council prior to the release of the Subdivision Certificate. The Construction Certificate for the provision of engineering infrastructure for this development will attract fees additional to those levied for the Construction Certificate associated with the structures assessed for compliance with the Building Code of Australia.

**16. *Sewer Reticulation***

Prior to issue of Subdivision Certificate the applicant shall construct sewer reticulation to the new lots in accordance with plans subject of a Construction Certificate to Council's codes and specifications and provide certified Works as Executed Plans to Council. The Construction Certificate for the provision of engineering infrastructure for this development will attract fees additional to those levied for the Construction Certificate associated with the structures assessed for compliance with the Building Code of Australia.

**17. *Maintenance Bond***

Prior to issue of a Subdivision Certificate the applicant shall pay to Council a maintenance bond for water and sewer service construction works performed by private contractor, being 5% of the contract price or minimum of \$1,000.00 whichever is greater, applicable for six months from the date of issue of the Subdivision Certificate.

**18. *"Work as Executed" Plans***

Prior to issue of a Subdivision Certificate the applicant shall provide Work as Executed plans in accordance with Council's specification, duly certified by an engineer or registered surveyor, for all construction work.

**19. *Department of Lands Consent***



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**PSR19/035 DA 534/19 - THREE-LOT SUBDIVISION - GREGORY STREET,  
BATEMANS BAY COUNCIL-OWNED LAND**

**16.0309.S**

Prior to any work being carried out on a Crown road the applicant shall obtain consent from the State Department of Lands.

**20. *Bushfire Safety Authority***

**Asset Protection Zones**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

- a) At the issue of subdivision certificate for Stage 1 and in perpetuity the proposed lots 1, 2, and the 10m bushfire defendable space requirement shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

**Water and Utilities**

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

- b) Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

**ADVISORY NOTES**

***Discovery of a Relic***

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

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**PSR19/035 DA 534/19 - THREE-LOT SUBDIVISION - GREGORY STREET,  
BATEMANS BAY COUNCIL-OWNED LAND**

**16.0309.S**

**BACKGROUND**

Council received a concept development application for a two-staged subdivision to create three lots in Stage 1, and a further three lots in Stage 2 on 19 April 2019.

Stage 1 involves creation of two lots of 941.5 m<sup>2</sup> within the IN1 General Industrial zone fronting Gregory Street, and the residual lot of 9,907 m<sup>2</sup> in Pacific Street, Batemans Bay. The land at the rear is zoned R3 Medium Density Residential, with a concept proposal submitted showing the residual lot being divided into a further three lots and an extension to Pacific Street to service them. In accordance with the concept approval process, this residual lot referred to as Stage 2 will be subject to a further development application.

The land is Council-owned and was reclassified from community to operational upon gazettal of the *2012 Eurobodalla Local Environmental Plan*.

The land is predominately covered by a wet Sclerophyll forest sloping downward from north to south, with a gradient of 5-10°. Clearing of the land forms part of the works involved, with the subdivision proposal and Stage 1 involving an area of 2291m<sup>2</sup> being cleared (2 x 991.5m<sup>2</sup> plus 10m wide bushfire defendable space) and Stage 2, the remainder.

The development application was supported by biodiversity and bushfire assessment reports, justifying the extent of native vegetation required to be removed.

The application was notified to nearby land owners and four objections were received.

**CONSIDERATIONS**

**Legal**

The proposal was referred to the NSW Rural Fire Service (RFS) as integrated development pursuant to Section 100B of the *Rural Fires Act 1997*. General Terms of Approval were subsequently granted by the RFS.

**Policy**

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

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

SEPP 55 requires consideration for potential contaminated soils. The site, being largely forested, is not known to have been the subject of any activity that had potential for contamination to occur. The proposal is considered satisfactory in terms of the requirements of the SEPP.

*Eurobodalla Local Environmental Plan 2012 (LEP)*

The land is zoned IN1 – General Industrial and R3 Medium Density Residential under the *Eurobodalla Local Environmental Plan (LEP) 2012*. The proposed subdivision is permissible in both zones, subject to obtaining development consent.

The key zone objectives relevant to the two stages are:

R3 – Medium Density Residential

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**PSR19/035 DA 534/19 - THREE-LOT SUBDIVISION - GREGORY STREET,  
BATEMANS BAY COUNCIL-OWNED LAND**

**16.0309.S**

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To encourage walking, cycling and the use of public transport.*

**IN1 – General Industrial**

- *To provide a wide range of industrial and warehouse land-uses.*
- *To support and protect industrial land for industrial uses.*

The proposal is consistent with the objectives of both zones and provides further land supply for both residential and industrial uses. The compatibility of these uses is considered acceptable at this point in time due to the presence of a road reserve, however, further work may be necessary with subsequent applications to address amenity impacts such as noise.

*Clause 4.1 - Minimum subdivision lot size*

Pursuant to Clause 4.1, the minimum lot size is 550m<sup>2</sup> for the R3 zone. There is no minimum lot size prescribed for the industrial zone. The proposal is compliant with the LEP's minimum lot size.

*Batemans Bay Development Control Plan & Industrial Zones DCP*

The land is subject to the Batemans Bay Development Control Plan (BBDCP). The residential component is consistent with the BBDCP precinct statement 'to provide more intense development given its proximity and connectivity to the town centre'.

The required side to front boundary ratio stipulated by the DCP is satisfied for the proposed residential lots. There is no similar requirement for the industrial lots.

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**PSR19/035 DA 534/19 - THREE-LOT SUBDIVISION - GREGORY STREET,  
BATEMANS BAY COUNCIL-OWNED LAND**

**16.0309.S**

**ENVIRONMENTAL**

**Ecological**

The land, consisting of Spotted gum and Blackbutt shrubby open forest, was the subject of a Biodiversity Development Assessment Report (BDAR) submitted with the DA undertaken by Ecological Australia. It outlined the measures that need to be taken to avoid, minimise and mitigate impacts to the vegetation and habitats present within the development site during the design, construction and operation of the development. The residual unavoidable impacts of the subdivision were calculated with a total of 21 ecosystem credits and 100 species credits required to offset the impact.

The BDAR identified the need to offset for impacts to the Grey-headed Flying-fox (GHFF) breeding habitat in Stage 2 of the development. It will be necessary for the proponent to refer the proposal to the Commonwealth Government under the *Environment Protection and Biodiversity Act* (EPBC Act) for impacts to the GHFF habitat. The BDAR identifies the R3 zoned land as being inconsistent with Council's GHFF Management Plan, where a buffer should be applied between GHFF habitat and residential development.

The Council should investigate the possibility of rezoning this land to Industrial before proceeding with a second DA. No clearing of Stage 2 can occur until a further DA has been issued.

**Cultural/heritage**

An assessment has determined that there are no aboriginal sites previously recorded within or close to the subject site. A standard Advisory Note is recommended with advice to the proponent, that if Aboriginal relics or objects are uncovered during works, the Environmental Protections and Regulation Group of the Office of Environment and Heritage is to be contacted immediately.

The subject site is not listed as a heritage item or in close proximity to a heritage item.

**Asset**

Augmentation of water, sewer, road and drainage infrastructure will be required with the proposed development. All service infrastructure is located within close proximity to the development site.

**Social impact**

There is likely to be minimal social impact associated with the proposed development.

**Economic Development Employment Potential**

The proposed development in itself will not generate any significant employment potential, however, it does provide opportunity for industrial development and the resulting potential for employment.

**CONSULTATION**

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

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**PSR19/035 DA 534/19 - THREE-LOT SUBDIVISION - GREGORY STREET,  
BATEMANS BAY COUNCIL-OWNED LAND**

**16.0309.S**

The advertising period commenced on 2 May 2019 and closed on 7 June 2019. Adjoining and adjacent owners were notified in writing. Four (4) objections were received during the exhibition period. A summary of the main concerns raised in the objections are as follows.

***Subdivision will lead to an increase in traffic and pedestrian movement***

The ability of the R3 portion of the land to cause an increase in traffic does not change with subdivision. The land, due to its zoning, is already capable of multi-dwelling and the surrounding land is also zoned for medium density development.

The road network is considered capable of absorbing the additional traffic that may occur, noting that the main thoroughfares to be used for the industrial and residential lots, already carry significant traffic and would not be classified as local roads.

***The site is utilised by the Scout Hall as car parking***

The Batemans Bay Scouting Group occupy the allotment on the adjoining land east of the residual lot. In 1992 it was granted development consent with car parking to be located on the eastern portion of the proposed residual lot. The 1992 consent approved a 25m x 18 m area comprised of 20 parking spaces, however, this was never constructed. This portion of the lot is proposed to be the roadway to service three lots. As the residual lot is subject to a further development application, this matter can be resolved beyond determination of the current DA.

There is no restriction on title that recognises the Scouting Association's (the Association) interest in this land, and therefore the arrangement is by agreement only and unlikely to have perpetuity beyond a change of ownership. As further subdivision of the land requires submission of another development application, an alternative arrangement can be negotiated between Council and the Association prior to a development application being submitted to Council.

Possible alternatives include provision for car parking on the Scout Hall land or within the proposed Pacific Street extension, as well as activation of the northern adjoining road reserve.

***Noise impacts associated with the development***

The land is zoned Industrial and therefore, there would be an expectation from the surrounding residents that the land would be used for that purpose sometime in the future. There is a crown road reserve between the proposed lots, and the closest residential lots that would also provide some mitigation.

In terms of actual noise levels, any activity would increase noise levels in the area and therefore, it comes down to the actual use of the site. It also needs to be acknowledged that the noise control guidelines provide for thresholds, so the test is not an increase in noise levels, but exceedance of the criteria for that location. This can only be determined with the lodgment of a future application for a specific use.

All concerns raised have been considered in the assessment process and managed, where appropriate, through conditions of consent, as required.

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**PSR19/035 DA 534/19 - THREE-LOT SUBDIVISION - GREGORY STREET,  
BATEMANS BAY COUNCIL-OWNED LAND**

**16.0309.S**

## **CONCLUSION**

The proposal enables a staged subdivision of two industrial lots and a residual residential lot. A concept approval is also sought for this residual lot to be subdivided into three residential lots.

It is considered that the proposal is consistent with the requirements of the *Environmental Planning and Assessment Act 1979*, including the objectives of the *Eurobodalla Local Environmental Plan 2012* and the two Development Control Plans that apply to the land.

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

*All communications to be addressed to:*

Headquarters  
4 Murray Rose Ave  
Sydney Olympic Park NSW 2127

Headquarters  
Locked Bag 17  
Granville NSW 2142

Telephone: 1300 NSW RFS  
e-mail: records@rfs.nsw.gov.au

Facsimile: 8741 5433



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

Your Ref: 534/19  
Our Ref: D19/1447  
DA19050718576 PE

**ATTENTION:** Dave Meagher

2 July 2019

Dear Sir / Madam

**Integrated Development Application - 23 Gregory Street Batemans Bay 2536**

I refer to your correspondence dated 1 May 2019 seeking general terms of approval for the above Integrated Development Application.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted. General Terms of Approval, under Division 4.8 of the 'Environmental Planning and Assessment Act 1979', and a Bush Fire Safety Authority, under Section 100B of the 'Rural Fires Act 1997', are now issued subject to the following conditions:

**Asset Protection Zones**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. At the issue of subdivision certificate and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

**Water and Utilities**

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

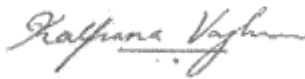
2. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

**General Advice – consent authority to note**

This approval is for the subdivision of the land only. Any further development application for class 1,2 & 3 buildings as identified by the 'Building Code of Australia' must be subject to separate application under section 79BA of the EP & A Act and address the requirements of 'Planning for Bush Fire Protection 2006'.

Should you wish to discuss this matter please contact Peter Eccleston on 1300 NSW RFS.

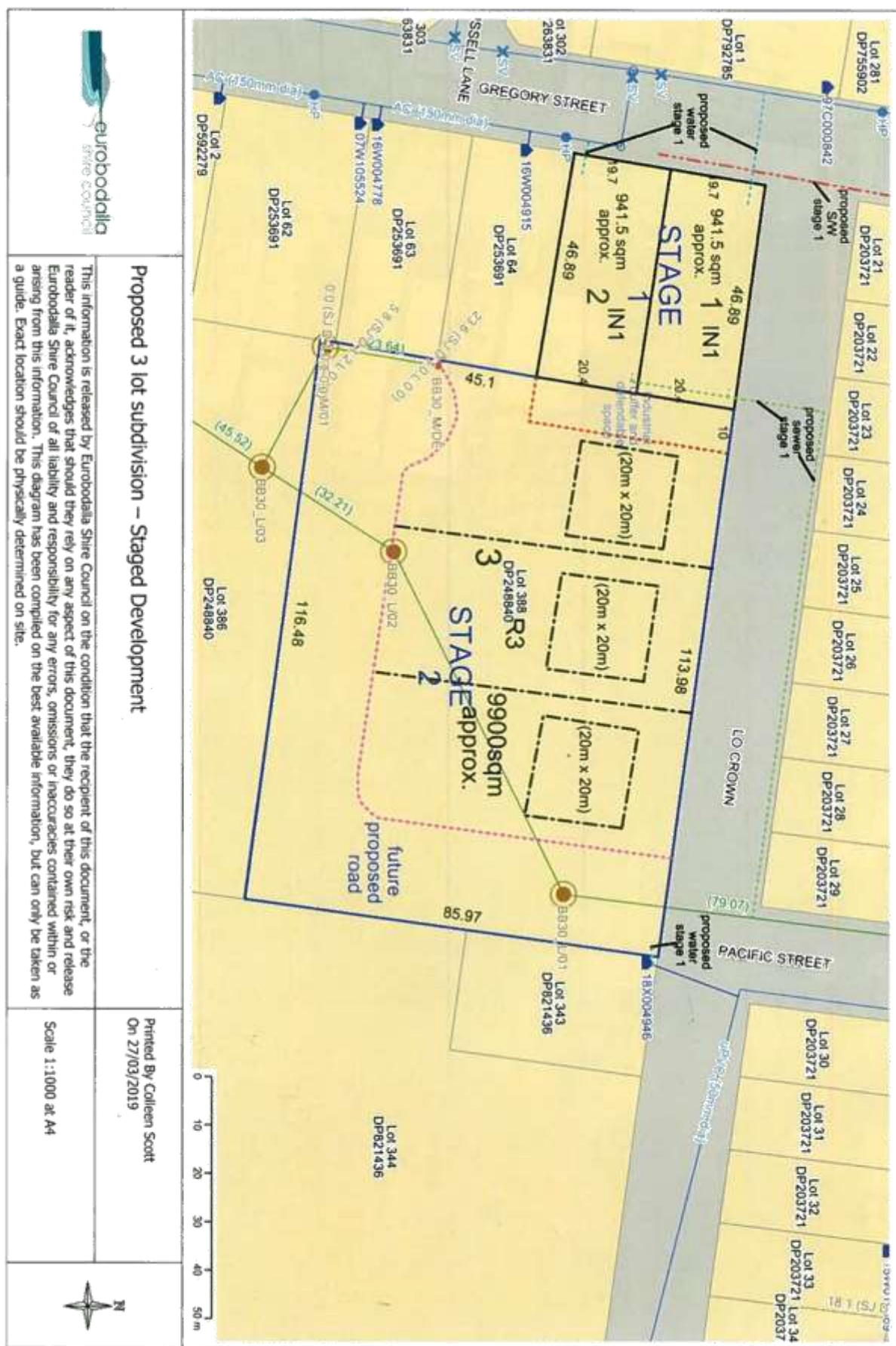
Yours sincerely



Kalpana Varghese  
**Team Leader Development Assessment & Planning**

For general information on bush fire protection please visit [www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)





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**IR19/024 REQUEST FOR TENDER NO. 2019/ISD094 - CLAY LINER BODALLA  
SEWER TREATMENT PLANT**

**E02.6256**

Responsible Officer: Warren Sharpe OAM - Director Infrastructure Services  
Attachments: 1. Confidential - RFT 2019 ISD 094 Bodalla Clay Liner [↓](#)  
Outcome: Sustainable Living  
Focus Area: 4.1 Maximise the efficient use and reuse of our water resources  
Delivery Program Link: 4.1.1 Provide a safe, reliable and sustainable town water supply and sewerage services  
Operational Plan Link: 4.1.1.2 Build, renew, operate and maintain sewerage systems

**EXECUTIVE SUMMARY**

This report outlines the evaluation of offers submitted in response to Request for Tender (RFT) No. 2019/ISD094 for rectification of the clay liner in the effluent storage pond at Bodalla Sewage Treatment Plant (STP), and provides a recommendation for the preferred tenderer.

**RECOMMENDATION**

THAT:

1. Council endorse the selection of the preferred tenderer listed for Request for Tender (RFT) No. 2019/ISD094 Rectification of the Clay Liner, Bodalla Sewage Treatment Plant; and
2. Accordingly approves the entering into of a contractual arrangement with the preferred tenderer, subject to the terms specified in the Request for Tender.

**BACKGROUND**

A requirement exists for the rectification of the defective clay liner in the effluent storage pond at the Bodalla STP.

RFT No. 2019/ISD094 was advertised nationally on 10 September 2019 and locally on 11 September 2019 with a closing date of 2 October 2019. Offers were received from the following tenderers to be assessed in accordance with the Tender Evaluation Plan:

- Eco Line Solutions Pty Ltd
- Ledonne Constructions Pty Ltd
- RD Miller Pty Ltd
- Stondale Pty Ltd T/A Total Lining Systems.

The Bodalla STP was commissioned in 2018. This contract is for the rectification of the defective clay liner in the effluent storage pond at the STP through the installation of a new impermeable geomembrane liner system. The successful tenderer will design, prepare, supply and install an impermeable liner system to contain all treated effluent water within the existing effluent storage pond structure at the treatment plant to prevent the contamination of surface and ground water over the life of the pond.

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**IR19/024 REQUEST FOR TENDER NO. 2019/ISD094 - CLAY LINER BODALLA  
SEWER TREATMENT PLANT**

**E02.6256**

A summary of the evaluation including each tenderer's scoring against the evaluation criteria and pricing is provided as a confidential attachment to this report, pursuant to Section 10A (2) of the Local Government Act 1993.

**CONSIDERATIONS**

**Legal**

Request for Tender (RFT) No. 2019/ISD094 was advertised in accordance with Local Government (General) Regulation 2005 REG 167 and Local Government Act 1993.

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

Upon release of the RFT a Tender Evaluation Plan (TEP) was distributed amongst the Tender Evaluation Committee (TEC).

The offer submitted by the preferred tenderer has been assessed as representing best value for money for Council due to tendered pricing, experience and WHS Management System.

**Policy**

The procurement activity for which this report applies has been conducted in accordance with Council's Procurement Policy, Code of Practice – Procurement, Code of Practice – Tendering, the Local Government Procurement Guidelines, Local Government (General) Regulation 2005 and the Local Government Act 1993.

**Financial**

Tendered pricing is within the current budget.

**Community and Stakeholder Engagement**

The community will be informed of the tender outcome(s) via Council's contract register found in Council's 'Public Access to Information' web link: <https://www.esc.nsw.gov.au/inside-council/council/public-access-to-information/contracts>

**CONCLUSION**

The tender process has been conducted in accordance with mandatory Council and Local Government requirements and the preferred tenderer has been assessed through an extensive evaluation as representing best value for money.

This report recommends the preferred tenderer.

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**CCS19/063 LICENCE TO PARK VEHICLES FOR BUSINESS OPERATIONS WITHIN  
NAROOMA FLAT**

**E80.1214**

Responsible Officer: Anthony O'Reilly - Director Corporate and Commercial Services

Attachments: 1. Confidential - Expressions of Interest - Narooma Wharf Licences  
2. Confidential - Public Submissions - Narooma Wharf Licences

Outcome: Innovative and Proactive Leadership

Focus Area: 9.2 Ensure financial sustainability and support the organisation in  
achieving efficient ongoing operations

Delivery Program Link: 9.2.2 Manage land under Council control to achieve a return for the  
community

Operational Plan Link: 9.2.2.1 Manage leases and licences

**EXECUTIVE SUMMARY**

There are currently five businesses operating from Narooma Wharf. Council received a request from an operator to licence an area to park vehicles adjacent to the wharf to supplement business operations. Council then identified areas within Narooma Flat to make available for temporary licences.

Following a report to Council's meeting of 24 September 2019, Council has sought expressions of interest ("EOI") for people wishing to take a licence to operate a business from Council land near the Narooma Wharf.

Interested parties were given 28 days to respond and 4 EOIs were received. All parties requested locations at the actual wharf.

Notification of the proposal to issue licences was placed on Council's website and in the local papers giving a period of 28 days for community comment. Call for public comment on the proposal closed on 28 October 2019. 13 public comment submissions were received.

All EOIs received and public submissions are attached as confidential attachments to this report.

The public comments received included concerns about the removal of parking and the impact on an already overcrowded area.

Some boat operators responding to the EOI also noted similar concerns but stated that given Council was conducting this process, they felt the need to be part of it.

This report provides a summary of the public submissions received in relation to the public notification for consideration.

The licences proposed are for a 6 month trial period only and Council will review feedback on their operation before deciding whether to issue additional licences.

**RECOMMENDATION**

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**CCS19/063 LICENCE TO PARK VEHICLES FOR BUSINESS OPERATIONS WITHIN E80.1214  
NAROOMA FLAT**

THAT

1. The General Manager to be given delegated authority to grant licences to park vehicles for business operations within Narooma flat.
2. Licences be granted with terms and conditions including:
  - (a) Initial licence period will be for a six month trial period with no guarantee that licences will be renewed;
  - (b) Payment of a licence establishment fee in accordance with Council's fees and charges;
  - (c) Payment of a rental fee for the six month licence of \$1,663 plus GST for a two carspace licence and \$1,100 plus GST for a single carspace licence at the Wharf;
  - (d) The licence areas are not to be used as a booking office or to offer retail or ancillary services;
  - (e) Operating hours are strictly limited to the period before a boat departs and a short period after departure;
  - (f) Licence holders are to ensure they and their customers act safely at all times and do not block the shared pathway;
  - (g) Provision of evidence and maintenance of public liability insurance in the amount of \$20 million during the licence period.
3. The General Manager to be given delegated authority to amend or add additional terms and conditions to the licences as required.

**BACKGROUND**

There are currently five businesses operating from Narooma Wharf.

One boat operator is conducting part of his business operations from a vehicle in the carpark adjacent to Narooma Wharf and has advised Council that this has been occurring for several years.

Council has received a request from that operator to licence an area to park vehicles adjacent to the wharf to supplement business operations e.g. the provision of wetsuits.

Prior to public notification of the proposed licences, Council had received an objection to this operator's use of the space for commercial purposes from a competing business.

Business operators are seeking a solution prior to this summer's peak season. There does not appear to be a solution which will satisfy all interested parties and the broader community, so in its proposed way forward, Council has considered how to minimise the future concerns.

Council sought EOI's from people wishing to licence an area to park vehicles and supplement their business operations on Council land in locations near the Narooma Wharf.

Council proposed locations including one proposed location at the swimming pool car park which is on Crown Land and another location near the carpark area next to the playground at

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**CCS19/063 LICENCE TO PARK VEHICLES FOR BUSINESS OPERATIONS WITHIN NAROOMA FLAT E80.1214**

the bottom of Bowden Street which is in the road reserve. A third was proposed adjacent to the Wharf which is also in the road reserve.

The call for EOIs closed 28 October 2019. Council received 4 responses to the call for EOI's. Of the 4 EOI's received, there were 5 licence areas requested. One EOI requested two licences but it is proposed to only consider 1 area per operator.

The licence areas requested ranged between 1 -2 carspaces. Each operator requested a location convenient to their vessel and right at the wharf. 3 EOI's expressed concern over a potential competitive advantage should 1 operator be granted a licence closer to the wharf than the others.

The proposal to grant licences was publicly notified for 28 days in-line with Council's Community Engagement Framework.

**CONSIDERATIONS**

A number of concerns have been raised by the community about parking availability and safety issues. Conditions in the licences can assist in managing these concerns.

Council may wish to consider issuing six month licences to the four operators at Narooma Flat, including the following conditions:

1. Initial licence period will be for a six month trial period and there is no guarantee it will be renewed in future years.
2. Licences will allow customers to be served in the area immediately adjacent to the licence area. However they must not block the shared pathway or stand within 0.5 metre of the pathway (as per Austroads design guidelines for paths) when being served from the licence area or when changing into wetsuits etc. Licencees will be made aware that they must ensure their customers comply with this. The shared pathway is used by fast moving cyclists as well as pedestrians.
3. The licence areas are not to be used as a booking office and are to serve customers pre-booked onto boats. They may not offer ancillary services e.g. retailing.
4. Operating hours are strictly limited to 45 minutes before a boat departs and 10 minutes after departure.
5. The licensee is responsible for operating safely and within the road rules, irrespective of any licence conditions. For activities that pose a risk to the public such as obstruction of pathways, or traffic hazards Council will take appropriate regulatory action to mitigate the risk.
6. As with any licence, this does not confer exclusive use so if anyone is parked in the spot, the licensee will not be able to use it. A licence condition will prevent any other licence holder parking in these spots.
7. Licences are for the parking of a single vehicle only i.e. a trailer not car and trailer and parking must be within marked areas.

The proposal is for a six month trial so any practical problems which arise could be reviewed after this period.

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**CCS19/063 LICENCE TO PARK VEHICLES FOR BUSINESS OPERATIONS WITHIN E80.1214  
NAROOMA FLAT**

All EOIs received and public submissions are attached as confidential attachments to this report.

Narooma Wharf is a Crown Lands facility under their management not Council's. Many of the boat operations from the Wharf include visits onto Montague Island which is a National Parks and Wildlife (NPWS) facility. It is understood that NPWS are reviewing their management plans for the Island. As part of Council's Nature based tourism strategy, Council will continue to engage with both Crown and NPWS and investigate long term means of managing this issue.

**Legal**

The areas identified at the Wharf are all road reserve and will require approvals under section 68 (Part E(2) or Part F(7)) of the *Local Government Act 1993*

<https://www.legislation.nsw.gov.au/#/view/act/1993/30/chap7/part1/div1/sec68>

Non-compliance with licence conditions may see Council undertake enforcement action.

The land ownership in the area is quite complex with the boundary between Council managed road reserve and the Crown managed Wharf running immediately adjacent to the potential licence areas.

**Policy**

In line with the provisions of Council's Code of Practice - *Licencing of Council controlled Public Reserves and Associated Buildings*, an EOI was called for parties interested in seeking a licence for six months to use the proposed locations for business operations. The same code includes a process if Council receives more expressions of interest than licences that are available.

[www.esc.nsw.gov.au/inside-council/council/council-policies/codes/Licencing-of-council-controlled-public-reserves-and-associated-buildings-code-of-practice.pdf](http://www.esc.nsw.gov.au/inside-council/council/council-policies/codes/Licencing-of-council-controlled-public-reserves-and-associated-buildings-code-of-practice.pdf)

Council has assessed the EOIs in line with this code, and where EOIs have requested competing spots, will allocate these based on how the assessment panel scored them.

**Asset**

It will be a condition of the licence that the licence area be kept clean and tidy.

**Social Impact**

The wharf operators provide the opportunity for locals and visitors alike to enjoy a range of recreational activities. The area around Narooma Wharf is a busy precinct and licence conditions imposed will seek to minimize impact on other users.

**Economic Development Employment Potential**

The Narooma Wharf boat operators are an important part of the local tourism economy providing fishing, snorkelling and Montague Island experiences. It is important that Council considers the need to support such business where it can.

**Financial**

The six month licences are proposed to be granted to suitable businesses with a fee of \$1,663 plus GST which is in line with other 'high impact' licences. This fee assumes two parking spots

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**CCS19/063 LICENCE TO PARK VEHICLES FOR BUSINESS OPERATIONS WITHIN NAROOMA FLAT E80.1214**

will be required due to the size of the vehicle being used. If the licence, requires only 1 parking spot, then this fee will be reduced to \$1,100 plus GST

A licence establishment fee will be required within two weeks of a Council resolution to commence processing of licences. As per Council's adopted fees and charges, this is \$166 plus GST and will be deducted from the total fee above when the licence is completed.

One EOI respondent has requested a lower fee. This is not supported due to the reduction in parking availability and the high user demand for the licence areas.

Licences will also be offered in the other locations Council proposed in adjacent car parks at \$830 plus GST.

**Community and Stakeholder Engagement**

In accordance with Council's Community Engagement Framework a period of 28 days was provided for community comment on Council's proposal to issue licences.

Notification of the Expression of Interest and the granting of the proposed licences was displayed on site, on Council's website and in the local papers.

Feedback from the community in support of the proposal is summarised as follows:

- Supports drive and business initiative of new wharf operators
- Multiple submissions in support of proposed Licence area near the pool
- Encourage business development and tourism industry.

Feedback from the community raising concerns is summarised as follows:

- Location of licence within high traffic areas
- Location of licence creating safety concerns during busy periods
- Location of licence impeding public access to pathway
- Parked vehicles block vision or cars using the road
- Licence's impact on existing lack of parking in the area
- Licence may result in competitive advantage over other businesses and all operators should be offered equal opportunity
- Limiting access to fish cleaning facilities
- Many opposed to current location wharf operator parks business trailer
- Negative effect on existing shopfront businesses.

All submissions received are attached to this report as a confidential attachment. Council acknowledged receipt of each submission.

Steps Council has taken to address community input include:

- A review after the first 6 month trial with no guarantee future licences will be granted



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**CCS19/063 LICENCE TO PARK VEHICLES FOR BUSINESS OPERATIONS WITHIN NAROOMA FLAT E80.1214**

- Developed a fee structure which seeks to minimise the impact on parking
- Have clear licence conditions that operators must ensure they operate safely
- All operators are being offered the same opportunity to take up a licence.

**CONCLUSION**

There does not appear to be a solution which will satisfy all interested parties and the broader community, so in its proposed way forward, Council has considered how to minimise the future concerns.

The approving of 4 temporary six month licences at the Wharf to carry out supplementary business operations from nearby carpark locations will provide a way forward for the 2019/20 peak period and act as a trial for future years.



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**CCS19/059 LICENCE FOR CARAVAN AND CAMPING SHOW - HANGING ROCK  
SPORTS COMPLEX**

**E05.9612**

Responsible Officer: Anthony O'Reilly - Director Corporate and Commercial Services

Attachments: 1. Confidential - Summary of Public Comment and Proposed Responses  
2. Fee Structure [↓](#)

Outcome: Innovative and Proactive Leadership

Focus Area: 9.2 Ensure financial sustainability and support the organisation in achieving efficient ongoing operations

Delivery Program Link: 9.2.2 Manage land under Council control to achieve a return for the community

Operational Plan Link: 9.2.2.1 Manage leases and licences

**EXECUTIVE SUMMARY**

Caravan, Camping and Holiday expos have been successfully conducted within Crown Reserve D580022 Mackay Park, Batemans Bay during most years since 2002.

This year, Expoz Pty Ltd have applied for a licence to host the Batemans Bay Caravan, Camping and Leisure Expo (the Event) from 2 December to 11 December 2019 at Hanging Rock Sports Complex. The requested location is due to current and planned construction works at Mackay Park. Actual dates for the Event are Friday 6 December to Sunday 8 December 2019, additional days either side are required to set up and clear away. Expoz Pty Ltd have also expressed an interest in obtaining a further 5 year licence at Hanging Rock Sports Complex on similar terms to enable them to host this event in future.

Hanging Rock Sports Complex is within Council Managed Crown Reserve R66122. A Plan of Management is being finalised for this reserve. Consequently, it is proposed that an initial 12 month licence be granted, followed by further 5 year licences, once the Plan of Management is in place, subject to the Licensee complying with the terms of the licences.

In line with the provisions of Council's Code of Practice - Licencing of Council controlled Public Reserves and Associated Buildings, as no other parties have expressed an interest in using the reserve during the same period it is appropriate the application be considered.

The intention to grant licences to host the Event in 2019 and future years has been publicly notified for 28 days from 9 October to 5 November 2019 in accordance with Section 47A of the Local Government Act 1993 and Council's Community Engagement Framework.

Concerns were raised by one member of the public about the impact on cricket activities during this period. A summary of the issues raised and proposed remedies is attached to this report for consideration.

It is considered reasonable and appropriate that a licence be granted to Expoz Pty Ltd to host the Event within Crown Reserve R66122, Hanging Rock in December 2019 and future years.

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**CCS19/059 LICENCE FOR CARAVAN AND CAMPING SHOW - HANGING ROCK E05.9612  
SPORTS COMPLEX**

As caravan and camping events have been successful over a number of years it is reasonable to delegate authority to the General Manager to grant future licences for these events in the coming years.

**RECOMMENDATION**

THAT:

1. Council as Crown Land Manager grant a licence in accordance with Section 2.20 of the *Crown Land Management Act 2016* to Expoz Pty Ltd to host the Batemans Bay Caravan, Camping and Leisure Expo within Crown Reserve R66122 Hanging Rock, Batemans Bay in 2019 with terms and conditions including:
  - a) Payment of an event bond be made 30 days prior to the event.
  - b) The provision of an event management plan acceptable to Council for the event.
  - c) Other conditions in line with previous licences for similar events.
2. The General Manager to be given delegated authority to grant further licences for these events subject to compliance with Council policy and consideration of any public feedback received.

**BACKGROUND**

Caravan, Camping and Holiday expos have been held at Mackay Park Reserve at Batemans Bay during most years since 2002. In previous years these events have been a huge success with many local and visiting patrons attending throughout the weekend of the expos.

In accordance with Council's Code of Practice – Licensing of Council Controlled Public Reserves and Associated Buildings, an expression of interest (EOI) was called on 13 February 2019 for the granting of licences for the use Council and Crown Reserves, and as no other parties have expressed an interest in using the reserve during the same period it is appropriate the application be considered.

The intention to grant licences to host the Event in 2019 and future years has been publicly notified for 28 days from 9 October to 5 November 2019 in accordance with Section 47A of the Local Government Act 1993 and Council's Community Engagement Framework.

Points for consideration were raised by a member of the public during this period. A summary is attached for the consideration Councillors, listing details of the points raised and proposed remedies.

All aspects of the event have been assessed and benefits to the Shire are noted. The event will provide a significant boost to the local economy having a positive impact on local food, hospitality and trade services, the creation of economic opportunities for local community groups, and an increase in tourism visitation to the Shire.

**CCS19/059 LICENCE FOR CARAVAN AND CAMPING SHOW - HANGING ROCK  
SPORTS COMPLEX**

**E05.9612**

**CONSIDERATIONS**

A sketch of the proposed licence area is set out below.



Hanging Rock – Licence area outlined in blue.

**Legal**

Council has been appointed Crown Land Manager to manage Crown Reserves within the Shire under the provisions of Section 3.22 of the *Crown Land Management Act 2016*.

[www.legislation.nsw.gov.au/#/view/act/2016/58/part3/div3.4/sec3.22](http://www.legislation.nsw.gov.au/#/view/act/2016/58/part3/div3.4/sec3.22)

Council, as Crown Land Manager, can only issue a licence for a period up to five years after giving public notice and considering any submissions in accordance with Section 47A of the *Local Government Act 1993*. [www.legislation.nsw.gov.au/#/view/act/1993/30/chap6/part2/div2/sec47a](http://www.legislation.nsw.gov.au/#/view/act/1993/30/chap6/part2/div2/sec47a)

Crown Reserve R66122, Hanging Rock, Batemans Bay is Crown Land under the control of Council as Crown Land Manager. Council will comply with any relevant legislation and procedures in relation to Native Title and Aboriginal land rights and interests.

**Policy**

In line with the provisions of Council's Code of Practice - *Licencing of Council controlled Public Reserves and Associated Buildings*, an Expression of Interest (EOI) was called in February 2019 for parties interested in seeking a licence for periods up to five years to use any Council owned or controlled public reserves. [www.esc.nsw.gov.au/inside-council/council/council-policies/codes/Licencing-of-council-controlled-public-reserves-and-associated-buildings-code-of-practice.pdf](http://www.esc.nsw.gov.au/inside-council/council/council-policies/codes/Licencing-of-council-controlled-public-reserves-and-associated-buildings-code-of-practice.pdf)

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**CCS19/059 LICENCE FOR CARAVAN AND CAMPING SHOW - HANGING ROCK E05.9612  
SPORTS COMPLEX**

The event complies with Council's Events Policy. [www.esc.nsw.gov.au/inside-council/council/council-policies/policies/Events-Policy.pdf](http://www.esc.nsw.gov.au/inside-council/council/council-policies/policies/Events-Policy.pdf)

**Environmental**

Event organisers are required to consider how they will actively minimise the environmental impact of this event.

**Asset**

It will be a condition of the licence that the Licensee is to repair and make good any damage occasioned by the Licensee's use of the licensed area during the event.

**Social Impact**

Caravan and Camping expos have been very popular in Batemans Bay with an average of approximately 8,000 attendees at each event. This event attracts local residents and visitors from outside the Shire.

**Economic Development Employment Potential**

The public advertising of the event carried out by the event organisers will generate significant community and visitor interest in the Event. It generates a positive economic impact with local food, hospitality and trade services.

**Financial**

A security bond of \$3,000 is considered appropriate. The licence fee will be in line with previous licences for similar events and is set out in the confidential attachment.

**Community and Stakeholder Engagement**

In accordance with Council's Code of Practice – Licensing of Council Controlled Public Reserves and Associated Buildings, an expression of interest (EOI) was called on 13 February 2019 for the granting of licences for the use Council and Crown Reserves, and closed on 26 March 2019, and as no other parties have expressed an interest in using the reserve during the same period it is appropriate the application be considered.

The intention to grant licences to host the Event in 2019 and future years has been publicly notified for 28 days from 9 October to 5 November 2019 in accordance with Section 47A of the Local Government Act 1993 and Council's Community Engagement Framework. Concerns were raised by one member of the public about the impact on cricket activities during the licence period and potential damage to the playing surfaces. A summary of various discussions with the community member is attached, together with Council's proposals to address these concerns.

**CONCLUSION**

Expoz Pty Ltd submitted an event application to host Batemans Bay Caravan, Camping and Leisure Expo at Crown Reserve R66122 Hanging Rock, Batemans Bay from 2 December to 11 December 2019. Similar expos have been successfully conducted in Batemans Bay since 2002. It is considered reasonable and appropriate for Council to support such events by granting the requested licence.

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**CCS19/059 LICENCE FOR CARAVAN AND CAMPING SHOW - HANGING ROCK E05.9612**  
**SPORTS COMPLEX**

To efficiently facilitate licences for future tourism expos, this report proposes that the General Manager be given delegated authority to determine further licences subject to compliance with Council policy and consideration of any public submissions.

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**CCS19/062 BUDGET REVIEW FOR THE PERIOD ENDED 30 SEPTEMBER 2019**

**E05.9535**

Responsible Officer: Anthony O'Reilly - Director Corporate and Commercial Services

Attachments: 1. Under Separate Cover - September Review papers

Outcome: Innovative and Proactive Leadership

Focus Area: 9.2 Ensure financial sustainability and support the organisation in achieving efficient ongoing operations

Delivery Program Link: 9.2.4 Responsibly manage Council's finances and maintain Fit for the Future status

Operational Plan Link: 9.2.4.2 Monitor and report on key financial results

### **EXECUTIVE SUMMARY**

This Budget Review reports on Council's performance against the current Operational Plan budget for the quarter ending 30 September 2019. Major variations are highlighted.

The original Operational Plan budget, on a consolidated basis (which includes all of Council's funds), for 2019-20 forecasts were:

- Income Statement surplus, before capital revenue, of \$4.03million
- Income Statement surplus, after capital revenue, of \$34.22 million
- Use of \$(1.45) million of unrestricted funds.

The proposed revised budgets after the quarter ending 30 September 2019 are:

- Income Statement deficit, before capital revenue, of \$4.02 million
- Income Statement surplus, after capital revenue, of \$21.79million
- Use of \$(1.12) million of unrestricted funds.

The proposed revised, consolidated 2019-20 budget is impacted by the carry forward of ongoing projects from the 2018-19 year. This is primarily due to the timing of grants received and ongoing capital works. Further detail is provided in this report.

The result of bringing these projects from last financial year into the 2019-20 year is:

- Unfavourable income statement impact of \$2.76 million before capital revenue
- An increase in unrestricted funds of \$1.54 million

The current year, September Review, adjustments result in an unfavourable variation for the income statement, before capital revenues, of \$5.29 million and an increase in the amount of unrestricted funds to be used, \$1.20 million as per the Consolidated Fund Flow Statement.

There are no material concerns at the quarterly review about Council meeting budget targets for 2019-20.



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**CCS19/062 BUDGET REVIEW FOR THE PERIOD ENDED 30 SEPTEMBER 2019**

**E05.9535**

**RECOMMENDATION**

THAT

1. The budget review report for the quarter ended 30 September 2019 be received and noted.
2. The unfavourable variations for the Income Statement after capital revenue of \$12.4 million and favourable variations of \$0.34 million as per the Consolidated Fund Flow Statement be adopted.

**BACKGROUND**

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

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

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

**Financial reports (Attachment 1)**

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

Financial reports include:

- a) Consolidated Fund Flow Statement – This report shows the impact of operating, financing and investing activities on Councils unrestricted working capital.
- b) Consolidated Income Statement – Provides sources of income and expenditure, including depreciation, per Council service areas.
- 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 Report – Provides details of proposed significant adjustments to budgets.
- f) SRV capital program – Provides capital expenditure information for each of the projects in the SRV program of works for 2019-20.

**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 ended 30 September 2019.

**Key Financial Indicators (Attachment 3)**

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

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

Provides information about Mayoral and Councillor expenditure for the quarter ended 30 September 2019.



**CCS19/062 BUDGET REVIEW FOR THE PERIOD ENDED 30 SEPTEMBER 2019**

**E05.9535**

**CONSIDERATIONS**

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

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

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

The net fund flow shows the amount of unrestricted funds that will be used to deliver the agreed Operational Plan outcomes for 2019-20. The consolidated original budget forecast a \$1.45 million use of unrestricted funds. The impact of proposed carry forward items from last financial year and the September review amendments project a use of unrestricted funds of \$1.11 million for 2019-20. See table 1.1 and graph 1.1 below.

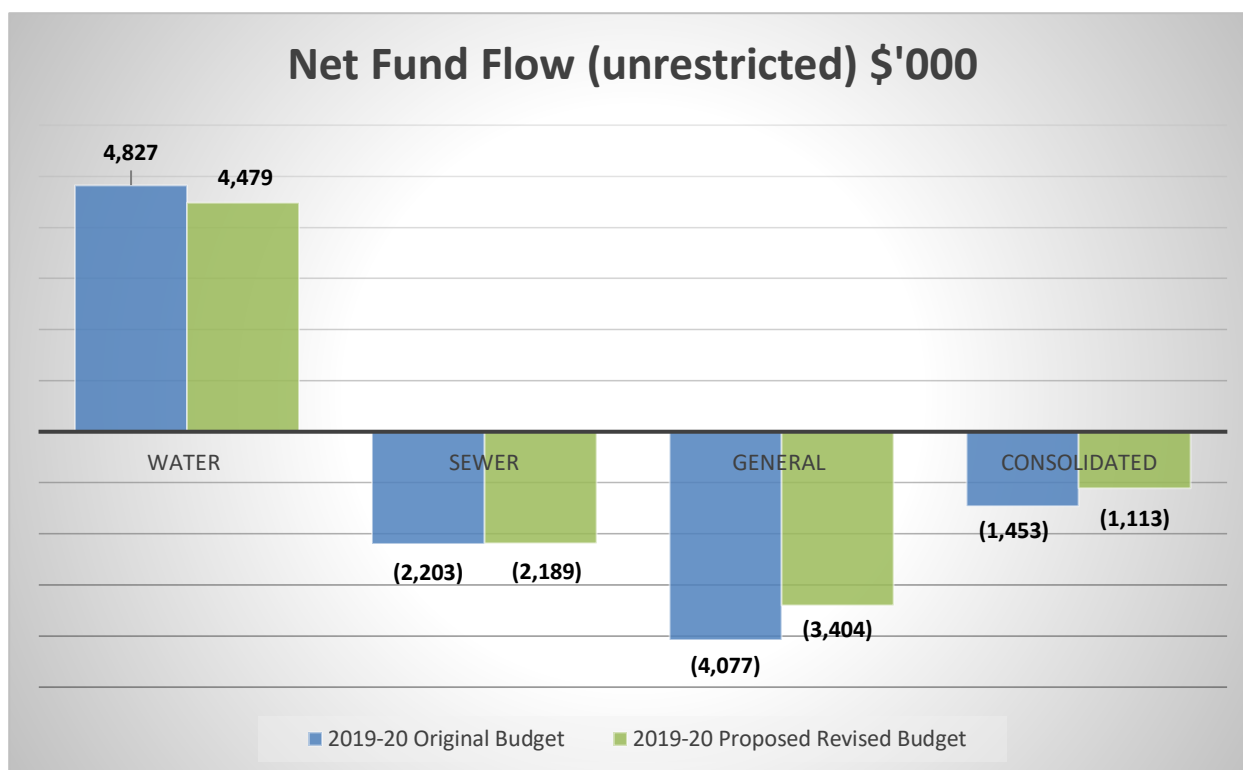
*Table 1.1 Net Increase (decrease) in unrestricted funds, per fund, \$'000*

	<b>2019-20 Original Budget</b>	<b>Proposed Carry Overs</b>	<b>Proposed Adjustments</b>	<b>2019-20 Proposed Revised Budget</b>
Water	4,827	0	(348)	4,479
Sewer	(2,203)	0	15	(2,189)
General	(4,077)	1,544	(871)	(3,404)
<b>Consolidated</b>	<b>(1,453)</b>	<b>1,544</b>	<b>(1,204)</b>	<b>(1,113)</b>

CCS19/062 BUDGET REVIEW FOR THE PERIOD ENDED 30 SEPTEMBER 2019

E05.9535

Graph 1.1 Net fund flow (unrestricted)



**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 which measures the wear and tear of Council assets) of delivering services to the community before considering its capital revenue.

The proposed revised budget, incorporating the carry forward items from 2018-19 and September Review adjustments is a deficit of \$4.02 million before capital revenues (per table 1.2 and graph 1.2 below).

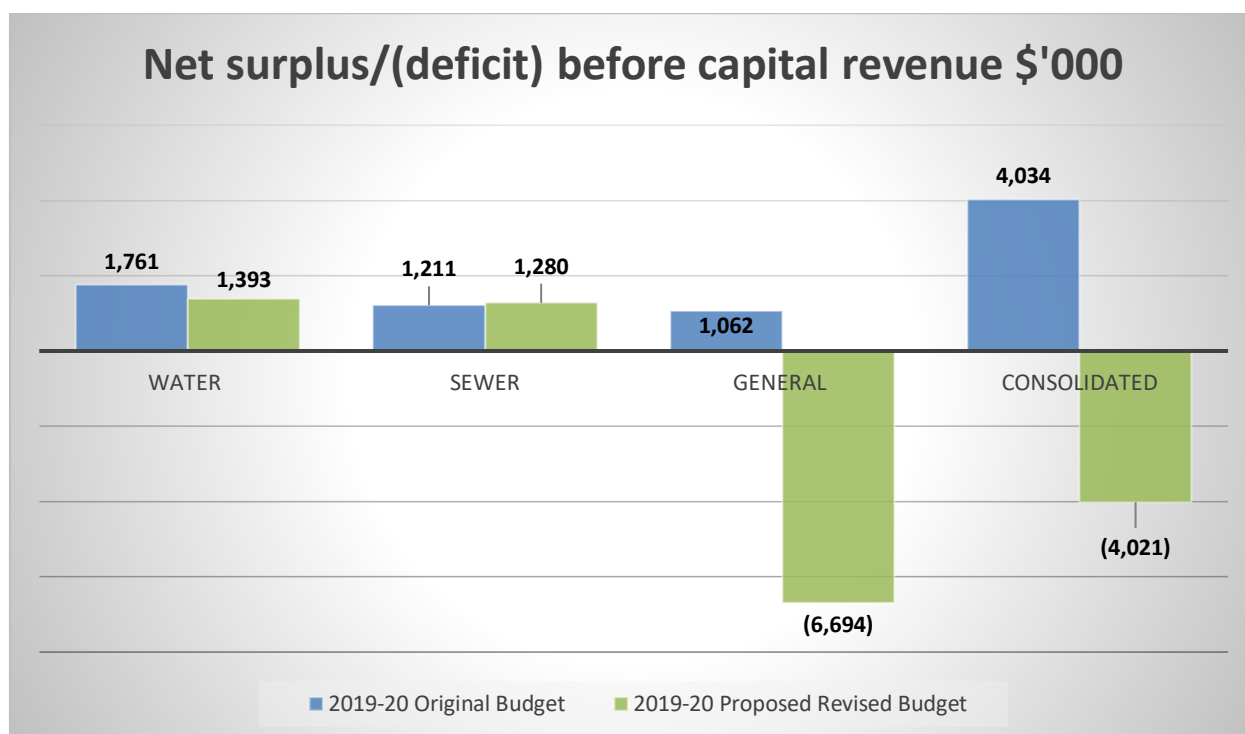
Table 1.2 Net Surplus/ (deficit) before capital revenue, \$'000

	2019-20 Original Budget	Proposed Carry Overs	Proposed Adjustments	2019-20 Proposed Revised Budget
Water	1,761	0	(368)	1,393
Sewer	1,211	(37)	107	1,280
General	1,062	(2,724)	(5,032)	(6,694)
<b>Consolidated</b>	<b>4,034</b>	<b>(2,762)</b>	<b>(5,293)</b>	<b>(4,021)</b>

CCS19/062 BUDGET REVIEW FOR THE PERIOD ENDED 30 SEPTEMBER 2019

E05.9535

Graph 1.2 Net surplus/ (deficit) before capital revenue



**Carry overs (operational)**

The operating result has been impacted by the proposed carry forward of ongoing projects from the 2018-19 financial year. The result of bringing these projects from last financial year into the 2019-20 is an unfavourable income statement impact of \$2.76 million before capital revenue. The majority of projects related to funding received in prior years with associated works to continue across financial years.

Significant carried forward operational items include:

- \$0.90 million Community Care grant funded costs including works for Active Living and Involve Programs due to be returned to the funding body
- \$0.82 million Environmental Management works including \$0.60 million of grant funded flying fox works, invasive species and other compliance works
- \$0.50 million of Strategic Development works including flood studies and coastal management works and progression of the bike trail at Mogo supported by grant funding of \$0.46 million
- \$0.45 million of Community and Cultural Development fully funded works including the Regional Jobs and Training project and the Eurobodalla Youth Employment Strategy
- \$0.30 million of Recreation Administration consultant costs for preparing masterplans for various facilities across the Shire including plans of management required under the *Local Government Act 1993* for crown and community land

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**CCS19/062 BUDGET REVIEW FOR THE PERIOD ENDED 30 SEPTEMBER 2019**

**E05.9535**

- \$0.20 million of Library & Cultural Services expenditure relating to Arts and Cultural Services and prize awards

**September Review adjustments (operational)**

The proposed September Review adjustments to the originally adopted Operational Plan budget for 2019-20 result in an unfavourable variation of \$5.30 million to the operating surplus before capital of \$4.03 million.

Significant adjustments to operational revenue items include:

- User Charges and Other
  - \$0.54 million reduction due to revised Roads and Maritime Services (RMS) Kings Highway transport works and Building certification income estimates (\$0.78 million) offset by increased patronage at various campgrounds across the Shire, Ranger activity and increased revenue estimates at the Basil Sellers Exhibition Centre and other minor variations (\$0.24 million)
- Operating Grants and Contributions
  - \$3.89 million variation in Rates and General Revenue to reflect the prepayment of the 2019-20 financial assistance grant received in 2018-19 based on actual payments
  - \$0.35 million return of grant funds previously received from Community Care funding providers
  - (\$0.37) million Rural Fire Service (RFS) contributions for operations
  - (\$0.30) million funding received for environmental programs including coastal and natural resource management
  - (\$0.31) million funding received for programs including the Yuin Country Project and Nature Based Tourism Feasibility Studies
- Employee Costs
  - (\$0.70 million) increased workers compensation premiums for 2019-20, (\$0.20) million National Disability Insurance Scheme (NDIS) mandatory staff training and (\$0.20) million for increased staff efforts across various areas including water & sewer, organisational development, fleet & procurement, facilities management and communications partially supported by grant funds and project budgets.
- Interest Costs

**CCS19/062 BUDGET REVIEW FOR THE PERIOD ENDED 30 SEPTEMBER 2019**

**E05.9535**

- Variation as a result of lower borrowings in 2018-19 and lower than anticipated interest rates
- Other Costs
  - Unfavourable variation due to (\$0.55) million electricity cost increase as the result of contract extension with Origin Energy, (\$0.20) million relating to increased campground caretaker commission in line with increased patronage, (\$0.10) million for asbestos register work based on risk assessments, (\$0.29) million relating to the recognition of Work Health and Safety (WHS) safety management project unable to be capitalised offset by a reduction in costs relating to the RMS Kings Highway works \$0.63 million

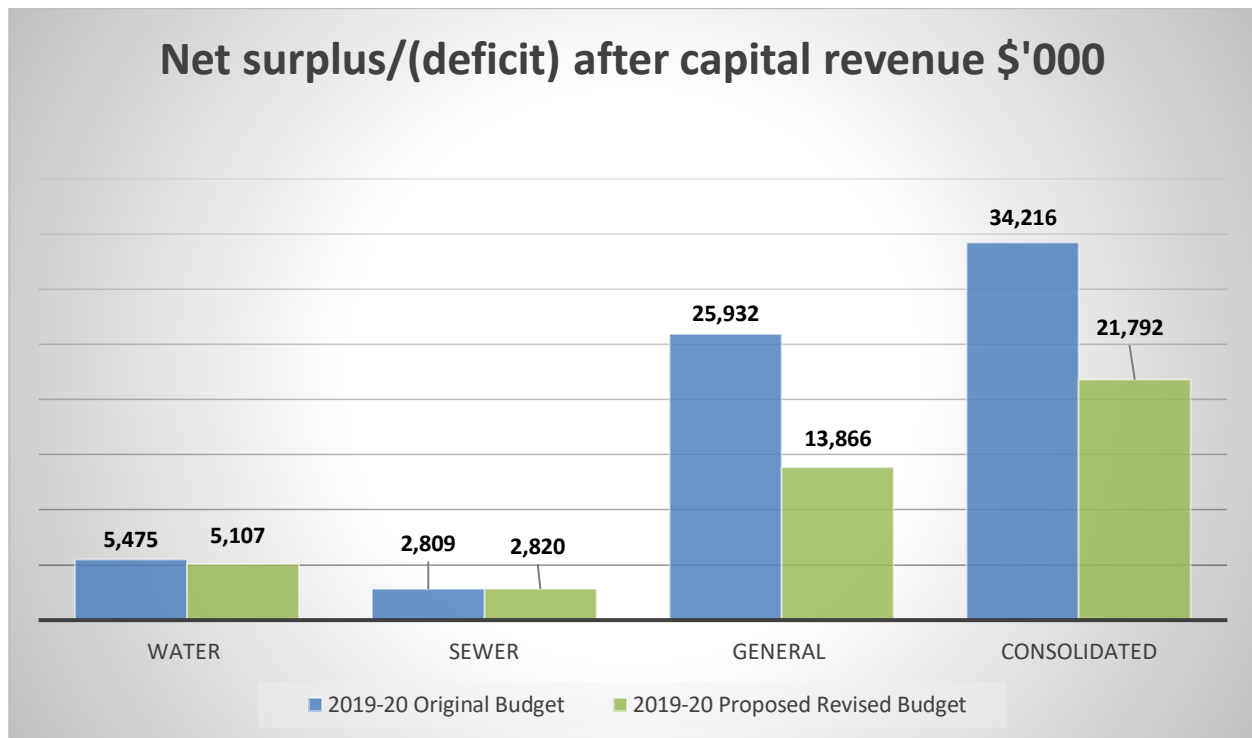
*Table 1.3 Net surplus/(deficit) after capital revenue, \$'000*

	<b>2019-20 Original Budget</b>	<b>Proposed Carry Overs</b>	<b>Proposed Adjustments</b>	<b>2019-20 Proposed Revised Budget</b>
Water	5,475	0	(368)	5,107
Sewer	2,809	(37)	48	2,820
General	25,932	(2,291)	(9,775)	13,866
<b>Consolidated</b>	<b>34,216</b>	<b>(2,328)</b>	<b>(10,095)</b>	<b>21,792</b>

CCS19/062 BUDGET REVIEW FOR THE PERIOD ENDED 30 SEPTEMBER 2019

E05.9535

Graph 1.3 Net surplus/(deficit) after capital revenue



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

**Capital Program**

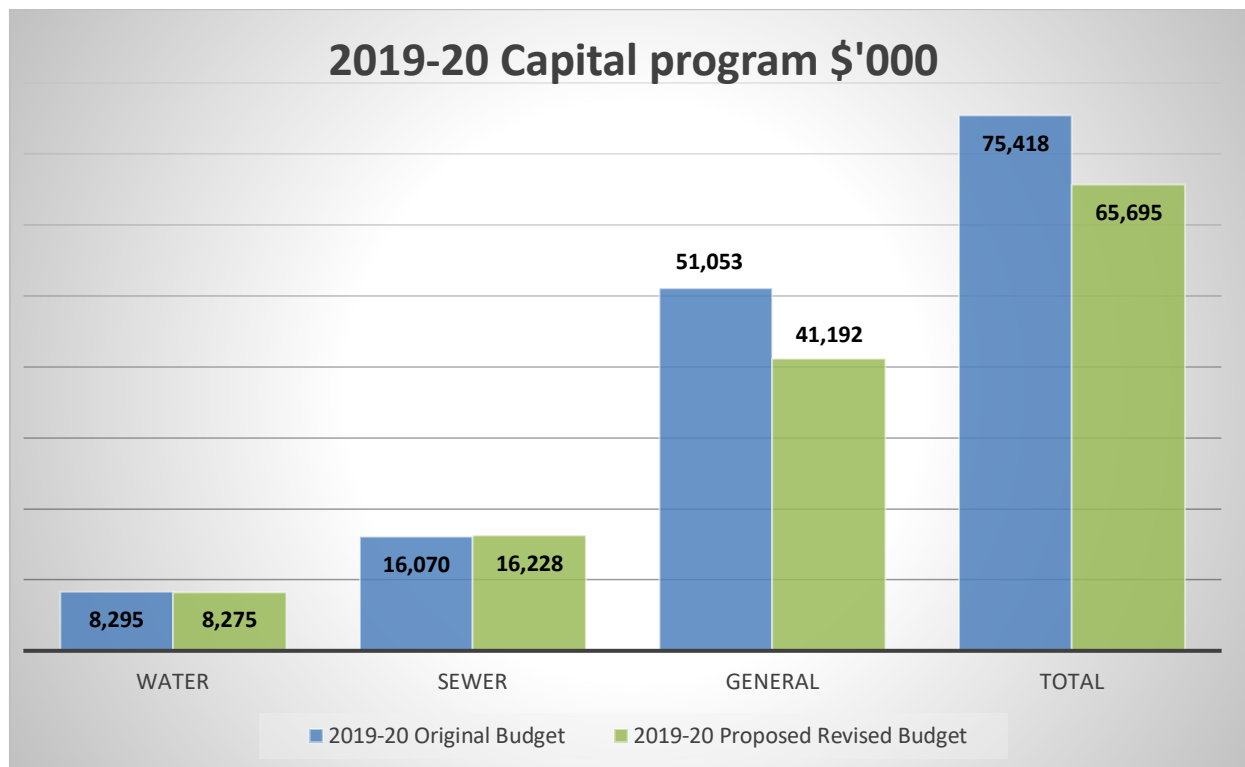
The original capital expenditure budget for 2019-20 was \$75.42m. The proposed revised budget, incorporating carry forward items and September variations is \$65.70m (per table 1.4 and graph 1.4 below).

Table 1.4 Capital Program per fund, \$'000

	2019-20 Original Budget	Proposed Carry Overs	Proposed Adjustments	2019-20 Proposed Revised Budget
Water	8,295	0	(20)	8,275
Sewer	16,070	0	158	16,228
General	51,053	4,017	(13,878)	41,192
<b>Consolidated</b>	<b>75,418</b>	<b>4,017</b>	<b>(13,740)</b>	<b>65,695</b>

CCS19/062 BUDGET REVIEW FOR THE PERIOD ENDED 30 SEPTEMBER 2019

E05.9535



**Carry Overs (Capital)**

Significant capital projects carried forward to this financial year from 2018-19 include:

- \$1.48 million for Batemans Bay Regional Aquatic, Arts and Leisure Centre (BBRAALC)
- \$0.74 million of ongoing Transport works including:
  - Footpaths and pavement rehabilitations at Campbell Street, Moruya, Broulee Road, Broulee, George Bass Drive, Malua Bay and Hill Street Pathway Batemans Bay
  - Bridge repairs at South Durras Bridge and Surf Beach Reserve Footbridge
  - Gravel resheets at Clouts Road, Moruya and 96 Barlings Beach Access Road
  - Rural and urban roads at Swordfish & Tuna Streets, Tuross, Congo Road North, Mossy Point Culvert, Clarkson Bridge and Wattle Crescent, Batehaven
- \$0.73 million of ongoing Recreation works including:
  - Public conveniences, parks, caravan parks, and other public amenities including Public Toilets at Tilba, Tuross Head Memorial Gardens Replacement Seating, Evans Road Tuross Playground Upgrade, Dog Fenced Recreation Area, Mogo John Street Reserve Improvements, Kyla Park Hall Thermal Efficiency Upgrade, Energy & Water Conservation Measure Program and Tomakin Street Light and Solar Lighting

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**CCS19/062 BUDGET REVIEW FOR THE PERIOD ENDED 30 SEPTEMBER 2019**

**E05.9535**

- Tuross Head Rural Fire Service Replacement
- Showgrounds and sporting infrastructure including Observation Point, Batehaven Viewing Platform, Playground renewals, Parks and Reserves Improvements, Captain Oldrey Amenities Disabled Toilet and Inclusive and Accessible Recreation, Sporting Amenities – Recreation and Open Space Strategy (ROSS) works, Bill Smyth Oval Seats and Moruya Showground wash bay/loading ramp
- \$0.40 million for completion of multiple stages of the Eurobodalla Regional Botanic Gardens redevelopment
- \$0.33 million for the purchase of new vehicles ordered in 2018-19 but not delivered until 2019-20
- \$0.26 million for Shellfish Hatchery construction

**September Review Adjustments (capital)**

Capital budget adjustments totalling \$13.7 million have been made during the September quarter and affect the current year's capital program. Significant variations decreasing the originally adopted capital works program include:

- \$16.57 million for BBRAALC works delayed to 2020-21
- \$0.72 million for Recreation projects including delay of Captain Oldrey Park Field 2 Refurbishment and Gundry Oval - Fields 2 & 3 Refurbishment to 2020-21
- \$0.33 million of Transport works including delay of Edward Road, Batehaven, reduction of the Congo Road South budget for expenditure incurred in 2018-19, and reallocation of various re-sheet project budgets
- \$0.25 million of expenditure incurred in 2018-19 for multiple stages of the Eurobodalla Regional Botanic Gardens redevelopment
- \$0.04 million reduction of Potato Point Sewerage Scheme for expenditure incurred in 2018-19
- \$.08 million in reclassification between capital and operational projects

Significant variations relating to new capital works forecast in 2019-20 include:

- \$1.87 million of Recreation and Facilities projects including:
  - Emergency Services facilities including the Mogo Training Centre Construction and Eurobodalla Fire Control Centre Construction
  - Showgrounds and Sporting amenities Gundry Oval Amenities Extension, Captain Oldrey Reserve Amenities Upgrades and Moruya Showground Stables
- \$1.45 million of Transport and Public Convenience works including:



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**CCS19/062 BUDGET REVIEW FOR THE PERIOD ENDED 30 SEPTEMBER 2019**

**E05.9535**

- Road works and gravel re-sheets at Nerrigundah Mountain Road, Ridge Road, Tilba and Beach Road & Vesper Street
- Various Footpaths and Cycleways renewals including at Foam Street, Surfside, Francis Street, Broulee, South Head Road, Moruya and Sylvan Street, Malua Bay
- Boat Ramps and Bridges at Nelligen and Garlandtown
- \$0.73 million for increased Corporate Business System capital works as a result of project duration and labour efforts
- \$0.14 million for Fleet and Moruya Depot Shelter purchases
- \$0.07 million for Environment Works at Caseys Beach Rockwall

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

2019 -20 is the fourth year of the SRV program and over \$10.00 million of infrastructure works for the year are underway. \$3.30 million of SRV designated funds are being utilised on these works. The majority of the projects have commenced with a due date for completion by the end of the fourth quarter. At 30 September, approximately 10.69% of the programmed SRV works for this year have been expensed.

*Attachment 1 (f)* reports the detailed progress of the capital program showing individual project budgets and expenses with updates as at 30 September 2019. Total expenditure on the SRV designated projects as at 30 September 2019 is \$1.15 million (per Table 1.5 below).

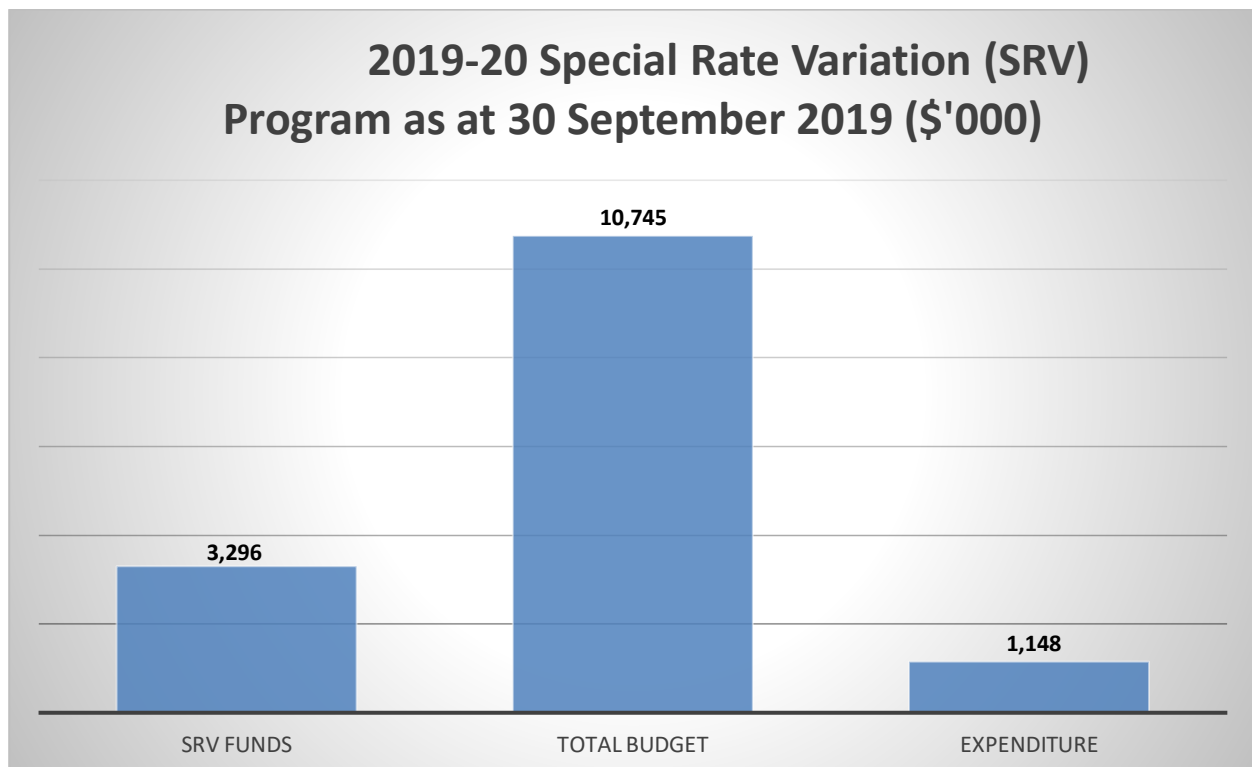
*Table 1.5 2019-20 Special Rate Variation Capital Program*

**CCS19/062 BUDGET REVIEW FOR THE PERIOD ENDED 30 SEPTEMBER 2019**

**E05.9535**

<b>2019-20 Special Rate Variation (SRV) Capital Program</b>	<b>\$</b>
<b>SRV Funds</b>	<b>3,296,476</b>
<b>Total Budget</b>	<b>10,744,917</b>
<b>Expenditure to 30 September 2019</b>	<b>1,148,367</b>
<b>Percentage spent</b>	<b>10.69%</b>

*Graph 1.5 2019-20 Special Rate Variation Capital Program*



**Legal**

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

**Policy**

The accounting policies being used are based on those detailed in the financial statements for the year ended 30 June 2019.

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**CCS19/062 BUDGET REVIEW FOR THE PERIOD ENDED 30 SEPTEMBER 2019**

**E05.9535**

“Variations” 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**

There are no material concerns at this quarterly review about meeting budget targets for 2019-20.

The following statement is made in accordance with Clause 203(2) of the Local Government (General) Regulation 2005:

*As the Responsible Accounting Officer, it is my opinion that the September Quarterly Budget Review for Eurobodalla Shire Council indicates that Council’s projected financial position as at 30 June 2020 will be satisfactory, having regard to the projected estimates of income and expenditure for the 2019-20 financial year.*

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**CCS19/061 INVESTMENTS MADE AS AT 31 OCTOBER 2019**

**E99.3517**

Responsible Officer: Anthony O'Reilly - Director Corporate and Commercial Services

Attachments: Nil

Outcome: Innovative and Proactive Leadership

Focus Area: 9.2 Ensure financial sustainability and support the organisation in achieving efficient ongoing operations

Delivery Program Link: 9.2.4 Responsibly manage Council's finances and maintain Fit for the Future status

Operational Plan Link: 9.2.4.3 Provide financial management and reporting

### EXECUTIVE SUMMARY

The purpose of this report is to:

- certify that Council's investments in financial instruments have been made in accordance with legal and policy requirements
- provide information and details of investments
- raise other matters relevant to investing.

### RECOMMENDATION

THAT the certification that the investments as at 31 October 2019, made in accordance with the *Local Government Act 1993*, Council's Investment Policy and the provision of Clause 1 (Reg. 212) of the *Local Government (General) Regulation 2005*, be received.

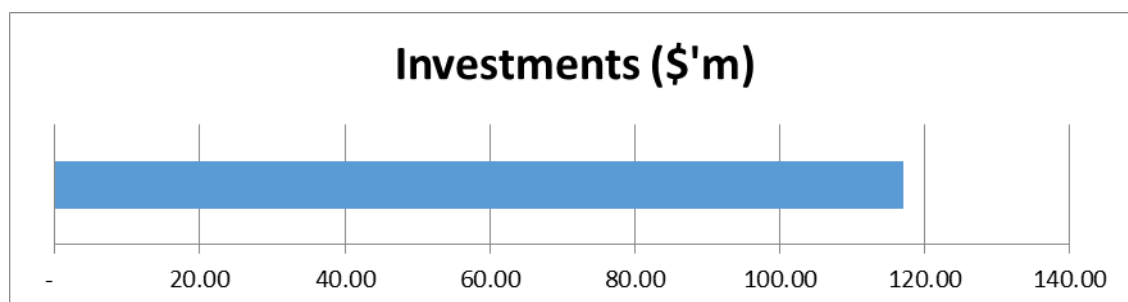
### CONSIDERATIONS

#### Policy

The portfolio is compliant with Council's Investment Policy adopted by Council on 31 July 2018 (Minute 18/182).

#### Financial

##### Council investing overall



**CCS19/061 INVESTMENTS MADE AS AT 31 OCTOBER 2019**

**E99.3517**

Council has 100% (\$117.00m) invested in Bank Deposits. The Bank Deposits are held in banks rated A or greater, or covered by the AAA rated Government Guarantee, except for \$35.25m invested in banks rated below A, and in the 'some limited risk' category of the policy.

The decrease in the investment portfolio was because there were minimal rate instalments and grants received to offset normal expenditure during the month.

The 'some limited risk' category is now restricted to BBB+ rating institutions which allows up to 30% of all investments. Currently there is 30.13% invested in BBB+. Investment in Government Guaranteed Deposits is \$1.75m and represents 1.50% of the portfolio.

There was a downgrade to the AMP Bank from A to BBB+ rating by Standard and Poors rating agency and because the BBB+ (Some Limited Risk) section is limited in the investment policy to Bendigo Bank and Bank of Queensland this means that the AMP Bank will be removed from the portfolio when the current investments mature and this will rebalance the portfolio.

There are \$49m (41.88%) of funds invested in claimed fossil fuel free institutions. The value of this investment has decreased during October in line with the investment portfolio.

The weighted average return for all investments for the month is 1.99%, which is above the Council policy benchmark of Bank Bill Swap rate (BBSW) + 0.25% (1.12%).

Collateralised Debt Obligation (CDO)

Funded legal action against one agency is continuing.

Summary investment information

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

CATEGORY	(\$)
At Call Deposit	5,000,000
Term Deposits	110,250,000
Term Deposits Government Guaranteed	1,750,000
	<b>117,000,000</b>
<i>Weighted average interest %:</i>	1.99%
<i>Average 90 day BBSW + 0.25%</i>	1.12%

Policy and liquidity risk

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

**CCS19/061 INVESTMENTS MADE AS AT 31 OCTOBER 2019**

**E99.3517**

<b>Policy risk</b>	<b>Low liquidity risk %</b>	<b>Total % of investments</b>	<b>Policy risk % (max holdings)</b>
<b>Remote risk</b>	1.50	1.50	100.00
<b>Near risk free</b>	66.37	68.37	100.00
<b>Some limited risk (BBB+)</b>	30.13	30.13	30.00
<b>Grand total</b>	<b>100.00</b>	<b>100.00</b>	

The unrestricted current ratio is the amount of unrestricted current assets compared to each dollar of current liability. The Office of Local Government suggests a minimum 1.5:1, and the audited unrestricted current ratio as at 30 June 2019 is 1.96:1. Council therefore has approximately \$1.96 of current assets for each \$1 of current liabilities.

**CONCLUSION**

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

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**CAR19/025 NAROOMA SPORT AND LEISURE PRECINCT DRAFT PLAN OF  
MANAGEMENT**

**E05.9616**

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

Attachments: 1. Under Separate Cover - Narooma Sport and Leisure Precinct Draft Plan of Management

Outcome: Innovative and Proactive Leadership

Focus Area: 9.1 Provide strong leadership and work in partnership to strategically plan for the future and progress towards the community vision

Delivery Program Link: 9.1.2 Implement effective governance

Operational Plan Link: 9.1.2.3 Assist the Council in meeting its statutory obligations and roles

**EXECUTIVE SUMMARY**

The purpose of this report is to present Council with the draft Plan of Management (POM) for the Narooma Sport and Leisure Precinct and seek consent to send the draft POM to the NSW Department of Industry – Crown Lands (DOI) for assessment as the land owner.

The Narooma Sport and Leisure Precinct comprises the Bill Smyth Oval Reserve (Crown Reserve number 80515) and the Narooma Tourist Information Centre Oval (NATA) Reserve (Crown Reserve number 63051). NATA Oval Reserve also incorporates the Narooma Leisure Centre, Swimming Centre, Narooma Easts Holiday Park and the Wagonga Inlet foreshore north to the Narooma Bridge. These Reserves are Crown Land under the control and management of Eurobodalla Shire Council.

The *NSW Crown Land Management Act 2016* (CLM Act) came into force on 1 July 2018 and as the appointed land manager, Council is required to prepare a new POM for the Reserves as if they were community land under the *NSW Local Government Act 1993* (LG Act).

A POM is a planning document that outlines how the land can be used, developed and managed, how leases and licences or other interests are granted on community land and determines the scale and intensity of current and future use and development on the land. Possible future developments for the Reserves are illustrated in landscape master plans provided at Appendix A of the POM.

In sending the draft POM to DOI, Council is meeting Section 39 of the LG Act in seeking the consent of the NSW Minister for Lands and Forestry as the land owner to change the category of two of the land parcels within the Reserves (Lot 7026 DP 1020248 and Lot 476 DP 752155) from 'Park/General Community Use' to 'Natural Area', and to publicly exhibit the draft POM.

Subject to the Minister's decision, this report recommends that the draft POM be publicly exhibited for comment in accordance with Section 38 of the LG Act.

Stakeholder and community engagement is an important process in the development of POMs. Since April this year, Council and project consultants have undertaken extensive engagement with the Reserve user groups and sporting clubs, local business and tourism operators, the Wagonga Local Aboriginal Land Council (LALC), the general public, various State Government

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**CAR19/025 NAROOMA SPORT AND LEISURE PRECINCT DRAFT PLAN OF  
MANAGEMENT**

**E05.9616**

organisations and Council technical specialists. A summary of the outcomes of the community engagement are provided at Appendix B of the draft POM.

**RECOMMENDATION**

THAT:

1. In accordance with Section 39 of the NSW Local Government Act 1993, Council sends an electronic copy of the Narooma Sport and Leisure Precinct draft Plan of Management to the NSW Minister for Lands and Forestry and seeks the Minister's consent to exhibit the draft POM.
2. In accordance with Section 3.23(9) of the NSW Crown Land Management Act 2016, Council seeks the consent of the NSW Minister for Lands and Forestry to alter the category of Lot 7026 DP 1020248 (part of Crown Reserve 80515) and Lot 476 DP 752155 (part of Crown Reserve 63051) from 'Park/General Community Use' to 'Natural Area', Bushland and Foreshore categories respectively.
3. Subject to the decision of the NSW Minister for Lands and Forestry with respect to recommendation 1 and in accordance with Section 38 of the NSW Local Government Act 1993, Council publicly exhibits the Narooma Sport and Leisure Precinct draft Plan of Management for a period of not less than 28 days with a total specified period of not less than 42 days after the date on which the draft POM is placed on exhibition during which submissions may be made to Council.
4. Subject to the decision of the NSW Minister for Lands and Forestry with respect to recommendation 2, Council facilitates an independently chaired public hearing with respect to the proposed change of category of Lot 7026 DP 1020248 and Lot 476 DP 752155 from 'Park/General Community Use' to 'Natural Area' in accordance with Section 40A of the NSW Local Government Act 1993.

**BACKGROUND**

Bill Smyth Oval Reserve (Crown Reserve number 80515) and the Narooma Tourist Information Centre Oval (NATA) Reserve (Crown Reserve number 63051), collectively referred to as the Narooma Sport and Leisure Precinct, are Crown Land under the control and management of Eurobodalla Shire Council. NATA Oval Reserve also incorporates the Narooma Leisure Centre, Swimming Centre and the Wagonga Inlet foreshore north to the Narooma Bridge. The existing POM was drafted by Council and adopted by the NSW Department of Lands on 27 February 2008.

The CLM Act came into force on 1 July 2018 and as the appointed land manager, Council is now required to prepare a new POM for the Reserve as if it were community land under the LG Act.

Council engaged Localé Consulting and Ayling Drury Landscape Architecture to prepare the POM in March 2019 after a competitive selection process from Council's Professional Services Panel.

**CONSIDERATIONS**

The Narooma Sport and Leisure Precinct comprises two Crown Reserves for which Council has previously been appointed the Reserve Trust Manager. When the CLM Act came into force on



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**CAR19/025 NAROOMA SPORT AND LEISURE PRECINCT DRAFT PLAN OF  
MANAGEMENT**

**E05.9616**

1 July 2018, Council was appointed the Crown Land Manager of the Reserve. In line with this legislation, the Reserves must be managed as community land under the LG Act, noting that ownership of the land will remain with the State.

The majority of the Precinct is zoned as RE1 – Public Recreation in the Eurobodalla Local Environment Plan 2012 (LEP). The Narooma Easts Holiday Park, Lot 916 DP 823230, within Crown Reserve 63051 is zoned RE2 – Private Recreation.

Crown Reserve 80515 was gazetted as Public Recreation/Resting Place on 23 March 1958, and Crown Reserve 63051 was gazetted as Public Recreation/Resting Place on 13 November 1931.

**Legal**

Under transitional arrangements of the CLM Act, the interim category of Park/General Community Use was applied to the land under Section 36G of the LG Act. As a result of stakeholder consultation, the draft POM proposes that the category of 'Natural Area' be applied to Lot 7026 DP 1020248 (Bushland category) and Lot 476 DP 752155 (Foreshore category).

The former of these lots comprises the vegetated hill on the south-eastern side of Bill Smyth Oval, which also forms part of a designated Aboriginal Heritage Conservation Area. The latter is a small area currently below the high tide line of Wagonga Inlet on the northern side of the foreshore.

In justifying the proposed change of category, Council will supply the DOI with copies of relevant supporting information from stakeholder consultation, the LEP and 2008 Aboriginal Heritage Study, along with the draft POM once approved by Council.

The core objectives under the LG Act for management of community land categorised as Natural Area are:

- (a) to conserve biodiversity and maintain ecosystem function in respect of the land, or the feature or habitat in respect of which the land is categorised as a natural area, and*
- (b) to maintain the land, or that feature or habitat, in its natural state and setting, and*
- (c) to provide for the restoration and regeneration of the land, and*
- (d) to provide for community use of and access to the land in such a manner as will minimise and mitigate any disturbance caused by human intrusion, and*
- (e) to assist in and facilitate the implementation of any provisions restricting the use and management of the land that are set out in a recovery plan or threat abatement plan prepared under the Threatened Species Conservation Act 1995 or the Fisheries Management Act 1994.*

Additional specific objectives apply to each the Bushland and Foreshore sub-categories of a Natural Area.

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**CAR19/025 NAROOMA SPORT AND LEISURE PRECINCT DRAFT PLAN OF  
MANAGEMENT**

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The draft POM authorises Council to continue to maintain or to enter into temporary or long-term leases, licences or contracts with operators of commercial and community events and services at the Reserves.

**Management of the Reserves**

In accordance with the LG Act, the POM has been drafted to support the efficient day to day management of the Reserves and to facilitate identified development initiatives. The Management Action Plan at Section 7 of the draft POM (pages 58-63) contains eight key objectives and 26 actions with corresponding performance targets and measures.

Issues addressed by the Management Action Plan for the Reserves are as follows:

1. Maintain and grow tourism and events users
2. Maintain and grow formal sporting use
3. Facilitate increased passive recreation and public access
4. Improve usage of underutilised infrastructure
5. Define roles and responsibilities of user groups
6. Integrate signage, public art and wayfinding devices
7. Integrate, protect and enhance natural and cultural features
8. Manage user group leases and licences.

Identified development initiatives are subject to future funding availability. These are illustrated in the draft POM landscape master plans (Appendix A) and include:

- Renovations and upgrades of the interior and exterior of the Narooma Swimming Centre building to create a more legible building with more community and commercial opportunities, such as programs and a café, overlooking the foreshore
- Additional trees and picnic facilities/street furniture around NATA Oval, future realignment of the fence surrounding the off-leash dog park, and provision of power for events to facilitate increased and varied use of the site
- Construction of a second full sized rugby league field at Bill Smyth Oval
- New amenities building to service the second field at Bill Smyth Oval
- Relocation of the Bill Smyth netball court closer to existing amenities buildings
- Conversion of existing Bill Smyth netball court location to a green space warm up area, family space, revegetation within the Aboriginal Heritage Conservation Area and interpretive signage acknowledging the significance of the Conservation Area
- Cricket practice nets and turf wickets on Bill Smyth Oval (subject to establishment of second field to distribute use)
- Additional parking and spectator mounding/terraced seating around Bill Smyth Oval
- Clear pedestrian access between the Princes Highway and the foreshore through the caravan park at the Field Street intersection

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**CAR19/025 NAROOMA SPORT AND LEISURE PRECINCT DRAFT PLAN OF  
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- Improved wayfinding and opportunities for interpretive signage and sculptural elements
- Landscaping around Ken Rose Park consistent with native gardens around the Visitors Information Centre.

**Policy**

Outcomes for the Reserve are consistent with the community's objectives and Council's corporate objectives as outlined in the Eurobodalla Community Strategic Plan and the Council's Delivery Program 2017-21.

All event organisers are required to comply with Council's Events Policy and the Eurobodalla Event's Guide while dog owners will be required to adhere to the Companion Animal Management Plan.

**Environmental**

The Precinct is located within the northern portion of the town of Narooma, known as the Narooma Flat. As the name describes, the area has a generally flat topography, with open playing fields and ovals and linear open spaces along the Wagonga Inlet foreshore. These are predominantly grassed open space maintained for public recreation, with elements of landscaping and areas of mangrove along the foreshore.

The topography around Bill Smyth Oval rises along the southern sides. Much of these slopes are vegetated with remnant native bush, with some evidence of weed incursion.

Key site-specific controls associated with the site under Eurobodalla LEP 2012, as well as associated natural hazard constraints, include:

- Terrestrial Biodiversity: Incorporating areas or mangrove habitat along the Wagonga Inlet and native vegetation around the southern boundary of Bill Smyth Reserve
- Heritage: Smyth's Oval Heritage Conservation Area and the light from Montague Island are listed heritage items.
- Acid sulfate soils: Areas closer to the foreshore have a risk of acid sulfate soils being close to the ground surface and which may become unstable when exposed to the air.

The Precinct is also subject to flood events, the frequency and intensity of which is anticipated to worsen with the impacts of climate change and sea level rise over the longer term. All of the Precinct, with the exception of some elevated areas of native vegetation in the southern portion of Bill Smyth Oval reserve, is identified within the draft Flood Planning Map associated with proposed Eurobodalla LEP amendment no. 14.

**Asset**

A number of Council assets are located within the Reserves. These include sporting amenities buildings at Bill Smyth Oval, the Narooma Leisure Centre, the Narooma Swimming Centre, the Visitors Information Centre and a public amenities block at Ken Rose Park. The buildings are generally in good condition. The formal sportsgrounds contain field lighting and irrigation systems, and picnic tables, bench seats, a swing set and outdoor fitness equipment are also located around the Reserves.

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**CAR19/025 NAROOMA SPORT AND LEISURE PRECINCT DRAFT PLAN OF  
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Formal car parks service each of the key sites within the Precinct.

**Social Impact**

As Crown land, the Precinct has been used by the Eurobodalla community for almost a century for public recreation purposes. In more recent times, Council and various user groups, have worked to activate spaces, support clubs and events, and enhance the appeal and functionality of the Reserves.

Despite the proposed change in category for two Lots, no change is anticipated to the existing and future primary uses of the Reserve, being for a range of formal and passive public recreation purposes and events.

The draft POM outlines the following social impact and development outcomes for the Reserves.

- The Reserves will continue to have a mix of formal sporting, recreational, cultural and social activities
- Parts of the Reserves will continue to be available for large and small events with the selected buildings available for functions and other activities
- The Reserves will be open to the general public for passive recreation when not in use for scheduled sports and events
- The Reserve will continue to support tourism through the leased or contracted operation of the Narooma Easts Holiday Park, Swimming Centre and Visitors Information Centre
- Council will seek funding to further develop and improve the sites and facilities to better service community needs in alignment with the POM landscape master plans.

**Economic Development Employment Potential**

Objectives within the POM seek to increase use of existing facilities and provide improvements that would support a wider range of community and regional functions and events to those already held on the Reserves.

Ongoing leasing/contracting of the Narooma Easts Holiday Park, Swimming Centre and Visitors Information Centre provides a range of employment opportunities and contributes to tourism activities in the region.

**Financial**

If the NSW Minister for Lands and Forestry consents to the proposed change of category, Council is required under Section 40A of the LG Act to conduct an independently chaired public hearing.

Council staff have sought indicative quotations from suitably qualified consultants listed on the Professional Services Panel to conduct and report on public hearings. Given the straightforward nature of this proposal, the cost estimate for this public hearing is in the vicinity of \$2,000 inclusive of GST, to be paid from an existing budget.

**CAR19/025 NAROOMA SPORT AND LEISURE PRECINCT DRAFT PLAN OF  
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All non-regulatory actions in the draft POM's Management Action Plan and accompanying landscape master plans of a capital or renewal basis are subject to demand and the availability of internal and/or external funds.

**Community and Stakeholder Engagement**

Community input collected in the period 2016-2019 has provided detailed local knowledge about the history, usage and desired future of the Reserves. This project drew on consultation outcomes captured during the development of the Recreation and Open Space Strategy adopted in 2018 as well as targeted engagement activities in 2019. Information received has identified issues and opportunities that have been incorporated into the draft POM and landscape master plans.

The methods of engagement used specifically in the drafting of the POM and in discussing the land categorisation have included:

- Repeated workshops and meetings with Reserve user sporting and interest groups, representing: rugby league (junior and senior); AFL; tennis; netball; cricket; Bill Smyth Redevelopment Committee; Narooma Dog Training Club; Narooma Rotary; Eurobodalla Aquatics
- Workshops and meetings with business and tourism operators, including the Narooma Chamber of Commerce, Club Narooma, Narooma Easts Holiday Park, Montague Arts and Crafts Society/Narooma Visitor Information Centre
- Meetings with representatives of the Wagonga LALC onsite and at the LALC office
- Community drop-in session attended by over 100 people
- Community survey, accessible online and in paper copy, which received over 140 responses
- Conversations with State Government organisations, including Roads and Maritime Services, National Parks and Wildlife Services and Crown Lands
- Workshops and individual meetings with relevant specialists and stakeholders across Council
- Workshop with Councillors on 4 June 2019 and follow up briefing update on 30 July 2019.

**Leases and licences**

Leases or licences may only be granted where they are consistent with the Reserve categories and purposes nominated by section 46(1)(b) of the LG Act. The draft POM expressly authorises the maintenance of the following existing leases and licences on the Reserves.

Crown Reserve number	Lot and Deposited Plan	Type of agreement	Expiry date	Activity	Lessee or Licensor
Crown Reserve: 80515	Lot 1 DP1205774	Lease	31 Dec 2033	Bowling Club Carpark	Narooma Sporting and Services Club Limited

**CAR19/025 NAROOMA SPORT AND LEISURE PRECINCT DRAFT PLAN OF  
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Crown Reserve number	Lot and Deposited Plan	Type of agreement	Expiry date	Activity	Lessee or Licensor
Crown Reserve: 63051	Lot 916 DP823230	Lease	5 Nov 2039	Operation of Caravan Park	Van Villages Pty Ltd (Narooma Easts Holiday Park)
Crown Reserve: 80515	Lot 2 DP1205774	Licence	31 Dec 2033	Recreational activities and internal access road	Narooma Sporting and Services Club Limited
Crown Reserve: 63051	Lot 1 Sec 17 DP758754	Licence	31 Aug 2023	Club activities at Leisure Centre	Police Citizens Youth Clubs NSW Limited
Crown Reserve: 63051	Lot 7011 DP1055108	Licence	11 Nov 2023	NATA Oval monthly markets	Rotary Club of Narooma Inc.
Crown Reserve: 63051	Lot 7011 DP1055108	Licence	30 Jun 2021	Narooma Forest Rally event service area	Brindabella Motor Sports Club Inc.
Crown Reserve: 63051	Lot 7011 DP1055108	Lease (Contract)	15 May 2021	Operation of Visitors Centre	Montague Arts and Craft Society
Crown Reserve: 63051	Lot 7011 DP1055108	Lease (Contract)	30 Jun 2020	Contract Agreement to manage the Swimming Centre	Community Aquatics

The draft POM also authorises Council to enter into leases or licences with community or commercial operators in accordance with Sections 46 and 47 of the LG Act.

**Expressed authorisations**

In line with the LG Act, the draft POM authorises activities and events to occur that are consistent with the Reserve's gazetted public purpose and proposed categorisation. In doing so, the POM streamlines approval processes for legitimate activities that may not specifically be covered by a lease or licence. Note that all activities of the Reserve must still comply with the relevant Council policies and State and Federal legislation of the day with the current policies and legislation summarised in Section 3 of the draft POM.

The draft POM expressly authorises the following activities to occur on the Reserve.

- Council to enter into the most appropriate management arrangements for the Swimming Centre, Leisure Centre, Visitors Information Centre, NATA Oval Reserve and Bill Smyth Oval Reserve
- Leases, licences and contracts with community or commercial operators, including but not limited to:
  - Café and/or food related outlet/s
  - Tourist kiosk or similar
  - Health and wellbeing related facilities

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**CAR19/025 NAROOMA SPORT AND LEISURE PRECINCT DRAFT PLAN OF  
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- Hire of goods, including but not limited to, e-bikes, kayaks and other goods and services generally associated with the enjoyment of the Reserve and adjoining waterways
- Overnight camping that is temporary in nature and associated with events on or in the vicinity of the Reserves
- Swimming Centre facility, or parts thereof
- Leisure Centre facility, or parts thereof
- Visitor Information Centre facility, or parts thereof
- Meeting rooms or any other related building facilities
- Electric vehicle charging stations.

**CONCLUSION**

A draft POM and accompanying landscape masterplans for Bill Smyth Oval Reserve and the Narooma Tourist Information Centre Oval (NATA) Reserves has been prepared following community consultation and a determination on the issues and opportunities for the Reserves.

This report recommends that Council sends the draft POM to the NSW Department of Industry – Crown Lands to seek the consent of the NSW Minister for Lands and Forestry to Council's proposal to change the category of Lot 7026 DP 1020248 and Lot 476 DP 752155 from Park/General Community Use to Natural Area, and to the public exhibition of the draft POM.

Subject to the decisions of the Minister, this report also recommends the immediate public exhibition of the POM in accordance with Section 38 of the LG Act. Submissions will be received by Council in a variety of forms including the receipt of submissions via an independently chaired public hearing into the proposed change of category for Lot 7026 DP 1020248 and Lot 476 DP 752155.

Following the public exhibition and submission period, a final POM, taking into consideration issues raised in submissions, including an independently chaired public hearing, will be presented to a subsequent Council meeting in 2020.

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**CAR19/022 TENDER FOR GUNDARY OVAL SPORTING AMENITIES  
CONSTRUCTION**

**E89.3008**

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

Attachments: 1. Confidential - Tender for Gundry Oval Sporting Amenities Construction

Outcome: Strong Communities, Desirable Lifestyle

Focus Area: 1.3 Encourage and enable healthy lifestyle choices

Delivery Program Link: 1.3.1 Activate and motivate our community to embrace healthy lifestyles

Operational Plan Link: 1.3.1.2 Support community and recreation groups to manage and develop their clubs

**EXECUTIVE SUMMARY**

This report outlines the price structure of the tenders received in response to Request for Tender (RFT) No 2019/CAR083 – Construction of Gundry Sporting Amenities and provides a recommendation that Council reject all tenders received and enter into negotiations with the tenderer who was ranked highest and was determined as representing the best value for money.

**RECOMMENDATION**

THAT:

1. Council reject the tenders received in response to Request for Tender (RFT) No 2019/CAR083 – Construction of Gundry Sporting Amenities.
2. Council do not invite fresh tenders because it does not believe that this will achieve a better outcome for the project given the tender panel's assessment of the tenders received and the delay in delivering the project if fresh tenders are called.
3. Council enter into negotiations based on the conditions outlined in RFT 2019/CAR083 – Construction of Gundry Sporting Amenities, with the tenderer identified in the confidential attachment to this Council report, as they satisfied all criteria and ranked highest of the tenders received.
4. The General Manager be given delegated authority to conclude these negotiations and if appropriate, enter into contracts with the tenderer identified in the Confidential Attachment to the Council report 'Request for Tender (RFT) 2019/CAR083 – Construction of Gundry Sporting Amenities.

**BACKGROUND**

Through extensive consultation during the Recreational and Open Space Strategy and the Gundry Oval Masterplan, there was an identified need to improve sporting amenities at Gundry Oval, Moruya. Council subsequently sought, and was successful in achieving a grant of \$185,000 through the NSW Government's Clubgrants program to construct new amenities at Gundry Oval in Moruya.



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**CAR19/022 TENDER FOR GUNDARY OVAL SPORTING AMENITIES  
CONSTRUCTION**

**E89.3008**

Council's Recreation team reviewed relevant standards and undertook further specific consultation with key user groups and sporting bodies to develop a design. The site is regarded as the highest utilised sporting facility in the shire with high activity on most days of the year.

Following completion of design and contract documentation, the project sought tenders through Tenderlink with a closing date of 8 October 2019. At that date, seven tenders were received through the Tenderlink portal.

Request for Tender (RFT) 2019/CAR083 – Construction of Gundary Sporting Amenities was advertised on 10 September 2019 with a closing date of 8 October 2019. A summary of the evaluation is provided as a Confidential Attachment to this report.

**CONSIDERATIONS**

**Legal**

'Request for Tender (RFT) 2019/CAR083 was advertised in accordance with Local Government (General) Regulation 2005 REG 167 and Local Government Act 1993.

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

Upon release of the RFT a Tender Evaluation Plan (TEP) was distributed amongst the Tender Evaluation Board (TEB). Declarations of Confidentiality and Interest Forms were completed and signed by the TEB.

All offers submitted are significantly higher than the budget allocation for this project, however it is anticipated that direct negotiation with the highest ranked tenderer, would result in best value outcome for Council.

With reference to section 3.17 of the Office of Local Government NSW Tendering Guidelines, following the review of tenders by the evaluation panel, a report to Council must be prepared, to allow Council to make the decision whether to accept a tender, or not accept any of the tenders under clause 178 of the regulation.

**Policy**

The procurement activity for which this report applies has been conducted in accordance with Council's Procurement Policy, Code of Practice – Procurement, Code of Practice – Tendering, the Local Government Procurement Guidelines, Local Government (General) Regulation 2005 and the Local Government Act 1993.

**Environmental**

A condition of tender is the requirement to have and maintain an environmental management plan for the duration of the works.

**Asset**

The project will increase Council's built asset base with the construction of a single new building.

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**CAR19/022 TENDER FOR GUNDARY OVAL SPORTING AMENITIES  
CONSTRUCTION**

**E89.3008**

The building has been designed to be robust with low cost maintenance attribution, and a long whole of life, therefore lowering the ongoing cost to Council.

**Social Impact**

The construction of a new amenities building for Gundry Oval will bring local sporting teams together in a facility of good standard and where the local teams can have pride in their “home ground” facilities over the opposition.

The new amenities will also incorporate a small social room.

**Financial**

The project of Gundry Sporting Amenities construction is part Council funded and part grant funded.

**Communication / Consultation**

The following stakeholders were consulted in the development of the Request for Tender:

External Stakeholders: Moruya Soccer Club, Moruya Hockey Club, Moruya/Broulee AFL Club, and Moruya Touch football

Internal Stakeholders: Council’s Recreation, Planning, Design, Sustainability and Parks teams.

The community will be informed of the tender outcome(s) via Council’s contract register found in Council’s ‘Public Access to Information’ web link.

**CONCLUSION**

The tender process has been conducted in accordance with mandatory Council and Local Government requirements and due to the significant difference between the allocated budget and the tendered prices, it is recommended to reject all tenders and negotiate with the lowest approved tenderer who ranked highest and was determined to represent best value for money.

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**CAR19/023 COMMUNITY DEVELOPMENT GRANT**

**E13.7131**

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

Attachments: Nil

Outcome: Celebrated Creativity, Culture and Learning

Focus Area: 2.3 Embrace and celebrate local history, cultural heritage and diversity

Delivery Program Link: 2.3.1 Acknowledge and involve traditional owners and members of the Aboriginal community

Operational Plan Link: 2.3.1.2 Implement the Aboriginal Action Plan

**EXECUTIVE SUMMARY**

Council's agreement is sought to accept the \$20,000 Elsa Dixon Employment Grant from the NSW Department of Education to support the delivery of Aboriginal projects.

**RECOMMENDATION**

THAT Council accepts \$20,000 from NSW Department of Education for the development and implementation of Aboriginal projects identified in the Aboriginal action plan.

**BACKGROUND**

The Elsa Dixon Aboriginal Employment Grant encourages the permanent employment and professional mobility of Aboriginal people in NSW public service agencies and local government authorities and promotes innovation in achieving education, employment and training outcomes for Aboriginal people.

The funds from this grant will enable Council to support Aboriginal participation in Council services and community activities. Some of the projects that will be developed include an Aboriginal Protocols document, cross cultural awareness training programs, healthy community initiatives, support for national days of significance including NAIDOC and Sorry Day and working with workforce development to develop an Aboriginal Employment Policy and Strategy.

**CONSIDERATIONS**

**Social Impact**

The grant funding will enable council to strengthen relationships between the Aboriginal community, Council and the broader community by supporting Aboriginal participation in Council services and community activities.

Council's Community Development Services play a significant advocacy and development role in addressing the inequities of opportunities, such as employment and education for Aboriginal people to enhance social benefits and to play a part in alleviating disadvantage.

This has resulted in practical outcomes such as successful application for funding community initiatives which increase social cohesion, participation and employment for Aboriginal people.

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**CAR19/023 COMMUNITY DEVELOPMENT GRANT**

**E13.7131**

**Financial**

The opportunity to attract external funding to support community programs enables Council to provide quality opportunities that address important social and wellbeing issues in the community.

**Community and Stakeholder Engagement**

We will inform and collaborate with the community through meetings and information sharing with Council's Aboriginal Advisory Committee.

**CONCLUSION**

The Elsa Dixon Aboriginal Employment Grant encourages the permanent employment and professional mobility of Aboriginal people in NSW. Council's approval is sought to accept \$20K in funding for the development of Aboriginal projects in our community.

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**CAR19/024 HEALTHY COMMUNITIES AND SENIORS FESTIVAL GRANTS**

**E17.1006**

Responsible Officer: Kathy Arthur - Director Community, Arts and Recreation Services  
Attachments: 1. Confidential - Healthy Communities and Seniors Festival Grants  
Outcome: Strong Communities, Desirable Lifestyle  
Focus Area: 1.3 Encourage and enable healthy lifestyle choices  
Delivery Program Link: 1.3.1 Activate and motivate our community to embrace healthy lifestyles  
Operational Plan Link: 1.3.1.3 Coordinate Healthy Communities and Seniors Week grants

**EXECUTIVE SUMMARY**

The purpose of this report is to present recommendations and seek approval for the 2019-20 annual allocation of Council's Healthy Communities and Seniors Festival Grants.

The Grants are funded annually by Council to eligible community groups in Eurobodalla with the aim of promoting health and social participation. Grants are generally to the value of \$500.

In past years, grants have been allocated to community groups for activities such as singing workshops, signage for community parks, equipment for woodcraft and dog training, senior lunches, healthy breakfasts for students, a senior tennis tournament and safety equipment for dragon boating.

Community groups continue to welcome and provide positive feedback to Council about the opportunity to apply for this grant and the outcomes it delivers for the community.

Applications and recommendations are included for Councillors in a confidential attachment.

**RECOMMENDATION**

THAT Council approve the recommendations detailed in the confidential attachment, awarding Healthy Communities and Seniors Festival Grants to the value of \$12,632.50 to 22 local groups and organisations for the 2019-20 financial year.

**BACKGROUND**

Council has funded healthy community and seniors activities grants for many years.

The current Eurobodalla Healthy Communities and Seniors Festival Grants aim to foster a community that is prepared to contribute energy and initiative to improve the health and wellbeing of our community.

Not for profit community can apply for a Healthy Communities Grant or a Seniors Festival Grant. Seniors Festival Grants are to be used to celebrate the Seniors Festival in 2020.

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**CAR19/024 HEALTHY COMMUNITIES AND SENIORS FESTIVAL GRANTS**

**E17.1006**

A subcommittee is set up to act as a review panel and this is made up a community member; a Councillor and a Director. The review panel reviews applications against the grant criteria and present its findings as recommendations.

The total grant amount available in this year's 2019-20 Healthy Communities and Seniors Festival grants is \$13,023. The combined total of applications recommended for funding is \$12,632.50.

**CONSIDERATIONS**

To be eligible for a Healthy Communities and Seniors Festival grants, applicants must be a Eurobodalla based and a not-for-profit community group or able to prove that they are a bona fide Eurobodalla based community group. They must be able to contribute some financial support or volunteer labour to the activity, and show that they have adequate insurance coverage for the activity. They must not have any outstanding debts to Council.

25 applications were received for the 2019-20 grant round. 22 of these were for Healthy Communities Grants and three were for Seniors Festival Grants. All grant applications were assessed against the eligibility criteria and the review panel found that 22 of the 25 applications met the grant requirements. Six successful applications also include a recommendation for additional funding due to the level and type of community benefit they attract. The review panel has recommended grants between \$315 and \$1,000.

**Eligibility**

To be eligible for a Healthy Communities and Seniors Festival Grants, applicants must be a Eurobodalla based and not-for-profit community group or able to prove that they are a bona fide Eurobodalla based community group; they can contribute some financial support or volunteer labour to the activity; they can show that they have adequate insurance coverage for the activity and do not have any outstanding debts to Council.

Grant funding is not available for:

- rental costs, ie, room or venue hire
- annual running costs, eg, insurance, incorporation fees
- improvement works on private property
- individuals.

**Social Impact**

The Eurobodalla Healthy Communities and Seniors Festival Grants aim to foster a community that is resilient, capable and active. The grants assist volunteers and groups across this shire to run grass roots activities and events that increase participation in community life.

The criteria for the Healthy Communities Grant scheme was developed to reflect Council's social and cultural planning commitments to improve and promote community wellbeing, as outlined in the Community Strategic Plan.

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**CAR19/024 HEALTHY COMMUNITIES AND SENIORS FESTIVAL GRANTS**

**E17.1006**

**Financial**

In 2019-20 Council has a budget of \$13,023 for Healthy Communities and Seniors Festival Grants. The combined total of applications recommended by the assessment panel is \$12,632.50.

**Community and Stakeholder Engagement**

We informed the community about the opportunity to apply for this grant through Council's website; Online News; posting on Council's Facebook and Twitter; direct electronic mail to the Workers With Youth Network, Arts Newsletter, Live Life Eurobodalla and Recreation Matters groups; advertising on Council's noticeboard page in two local newspapers and distributing a media release to all local media organisations.

**CONCLUSION**

The Healthy Communities and Seniors Festival Grants provide the opportunity to support local not for profit community groups and organisations by strengthening their capacity to promote health and wellbeing and increase community participation in a range of activities.

Awarding the recommended grants is expected to deliver positive health and social outcomes for Eurobodalla, as the grants must be used to achieve one or more of the following outcomes in the local community:

- 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 develops a new skill.

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## **15. DEALING WITH MATTERS IN CLOSED SESSION**

In accordance with Section 10A(2) of the Local Government Act 1993, Council can exclude members of the public from the meeting and go into Closed Session to consider confidential matters, if those matters involve:

- (a) personnel matters concerning particular individuals; or
- (b) the personal hardship of any resident or ratepayer; or
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business; or
- (d) commercial information of a confidential nature that would, if disclosed;
  - (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the council, or
  - (iii) reveal a trade secret,
- (e) information that would, if disclosed, prejudice the maintenance of law; or
- (f) matters affecting the security of the council, councillors, council staff or council property; or
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege or information concerning the nature and location of a place; or
- (h) an item of Aboriginal significance on community land.

and Council considers that discussion of the material in open session would be contrary to the public interest.

In accordance with Section 10A(4) of the Local Government Act 1993 the Chairperson will invite members of the public to make verbal representations to the Council on whether the meeting should be closed to consider confidential matters.



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## EUROBODALLA SHIRE COUNCIL

### ETHICAL DECISION MAKING AND CONFLICTS OF INTEREST

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

#### ETHICAL DECISION MAKING

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

#### CONFLICT OF INTEREST

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

#### THE TEST FOR CONFLICT OF INTEREST

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

#### IDENTIFYING PROBLEMS

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

Whilst seeking advice is generally useful, the ultimate decision rests with the person concerned.

## AGENCY ADVICE

Officers of the following agencies are available during office hours to discuss the obligations placed on Councillors, Officers and Community Committee members by various pieces of legislation, regulation and Codes.

CONTACT	PHONE	EMAIL	WEBSITE
Eurobodalla Shire Council Public Officer	4474-1000	council@eurocoast.nsw.gov.au	www.esc.nsw.gov.au
ICAC	8281 5999	icac@icac.nsw.gov.au	www.icac.nsw.gov.au
Local Government Department	4428 4100	dlg@dlg.nsw.gov.au	www.dlg.nsw.gov.au
NSW Ombudsman	8286 1000 Toll Free 1800 451 524	nswombo@ombo.nsw.gov.au	www.ombo.nsw.gov.au

Reports to Committee are presented generally by 'exception' - that is, only those items that do not comply with legislation or policy, or are the subject of objection, are discussed in a report.

Reports address areas of business risk to assist decision making. Those areas include legal, policy, environment, asset, economic, strategic and financial.

### Reports may also include key planning or assessment phrases such as:

*Setback* Council's planning controls establish preferred standards of setback (eg 7.5m front; 1m side and rear);

*Envelope* taking into account the slope of a lot, defines the width and height of a building with preferred standard of 8.5m high;

*Footprint* the percentage of a lot taken up by a building on a site plan.

Acronym	Meaning	Description
ACR	Australian Capital Region	The political and strategic grouping of the ACT government and 17 adjacent councils.
AEP	Annual Exceedance Probability	For floods expressed as a % eg 1% = 1:100 year event. The NSW Flood Guidelines nominate types of development and controls.
AHD	Australian Height Datum	Floor levels for buildings set to remain at or above flood level (expressed as 'freeboard').
APZ	Asset Protection Zone	Area to be cleared and maintained around habitable buildings in bushfire prone areas.
AS	Australian Standard	Standards set by national body as minimum construction, service, system, planning or design requirements.

Acronym	Meaning	Description
BCA	Building Code of Australia	Prescribes minimum standards or performance base for building construction.
CAMP	Companion Animal Management Plan	Required by state law, plan nominating management of dogs and cats and areas for access for the exercise of dogs (eg beaches and reserves).
CC	Construction Certificate	Floor plans approved by council or private certifier in compliance with development conditions and BCA.
COPW	Condition of Public Works Report	Required by state law to define the condition of infrastructure assets, the cost to upgrade to defined standards, the current costs of maintenance and desired levels of maintenance.
CP	Cultural Plan	A cultural plan enables identification of cultural assets, identity and needs as well as providing a framework to develop cultural initiatives to increase opportunities for residents.
CSR	Complaint and Service Request	Requests received from public by phone, letter, email or Councillor to attend to certain works (eg pothole) or complain of certain service or offence (eg dogs barking).
DA	Development Application	Required by state law to assess suitability and impacts of a proposed development.
DAP	Disability Action Plan	Council plan outlining proposed works and services to upgrade facilities to progressively meet Disability Discrimination Act.
DCP	Development Control Plan	Local planning policy defining the characteristics sought in residential, commercial land.
DECCW	Department of Environment, Climate Change and Water (formerly EPA, NPWS, DEC)	State agencies (former Environment Protection and National Parks), DNR managing state lands and natural resources and regulating council activity or advising on development applications.
DWE	Department of Water and Energy	State agency managing funding and approvals for town and country water and sewer services and State energy requirements.
DoP	Department of Planning	State agency managing state lands and regulating council activity or advising on development applications or strategic planning.
DLG	Department of Local Government	State agency responsible for regulating local government.
DoL	Department of Lands	State agency managing state lands and advising on development applications or crown land management.
DoC	Department of Commerce	State agency (formerly Public Works) managing state public water, sewer and buildings infrastructure and advising/supervising on council infrastructure construction.

Acronym	Meaning	Description
DoH	Department of Health	State agency responsible for oversight of health care (community and hospital) programs. Also responsible for public warning of reportable health risks.
DOTAR	Department of Infrastructure, Transport and Regional Development and Local Government	Federal agency incorporating infrastructure, transport system, and assisting regions and local government.
EBP	Eurobodalla Bike Plan	Strategic Plan identifying priorities and localities for cycleways in the Shire.
EIS	Environmental Impact Statement	Required for designated and state developments researching and recommending solutions to social, economic and environmental impacts.
EMP	Estuary Management Plan	Community based plan, following scientific research of hydrology and hydraulics, recommending actions to preserve or enhance social, economic and environmental attributes of estuary
EMS	Environmental Management System	Plans prepared by council (such as waste management and strategic planning) around AS14000.
EOI	Expressions of Interest	Often called in advance of selecting tenders to ascertain capacity and cost of private sector performing tasks or projects on behalf of council.
EP&A	Environment Planning & Assessment Act	State law defining types of development on private and public lands, the assessment criteria and consent authorities.
ESC	Eurobodalla Shire Council	
ESD	Ecologically Sustainable Development	Global initiative recommending balance of social, economic and environmental values in accord with 7 ESD principles.
ESS	Eurobodalla Settlement Strategy	Council strategy prepared with assistance of government to identify best uses and re-uses of urban lands, the appropriate siting of private and public investment (eg institutions, employment areas or high density residential) based on current and planned infrastructure and land capacity.
ET	Equivalent Tenement	Basis of calculation of demand or impact of a single dwelling on water and sewer system.
FAG	Financial Assistance Grant	Federal general purpose grant direct to local government based on population and other 'disability' factors.

Acronym	Meaning	Description
FSR	Floor Space Ratio	A measure of bulk and scale, it is a calculation of the extent a building floor area takes up of an allotment.
GIS	Geographic Information System	Computer generated spatial mapping of land and attributes such as infrastructure, slope, zoning.
IPART	Independent Pricing & Regulatory Tribunal	State body that reviews statutory or government business regulatory frameworks and pricing levels.
IPWEA	Institute Public Works Engineers Australia	Professional association.
IWCMS	Integrated Water Cycle Management Strategy (or Plan)	Council plan identifying risk and social, economic and environmental benefit of proposed augmentation to water, sewer and stormwater systems.
IWMS	Integrated Waste Management (Minimisation) Strategy	Council plan identifying risk and social, economic and environmental benefit of proposed augmentation of waste (solids, effluent, contaminated, liquid trade waste).
LEP	Local Environment Plan	The statutory planning instrument defining the zones and objectives of urban and rural areas.
LGAct	Local Government Act	State law defining the role of Mayor, Councillors, staff, financing, approvals etc.
LGMA	Local Government Managers Australia	Professional association.
LGNSW	Local Government NSW	Representative advisory and advocacy group for councils in NSW.
MOU	Memorandum of Understanding	Agreement in principle between parties (eg council and agency) to achieve defined outcomes.
NPWS	National Parks & Wildlife Service	Now merged into DECCW.
NRM	Natural Resource Management	
NVC	Native Vegetation Act 2003	State law defining means of protection of threatened legislation and approval processes to clear land.
OC	Occupation Certificate	Issued by council or private certifier that building is safe to occupy and in compliance with development conditions and BCA.
OSMS	On site sewage management system	Includes septic tanks, aerated systems, biocycles etc.
PCA	Principal Certifying Authority	The person or organisation appointed by applicant to inspect and certify structures.

Acronym	Meaning	Description
PIA	Planning Institute of Australia	Professional association.
POEO	Protection of the Environment Operations Act	State law outlining standards for emissions and discharges and penalties for pollution.
PoM	Plan of Management (usually for community land)	Council plan nominating type of uses for community land and range of facilities progressively to be provided on land.
PPP	Public Private Partnerships	
PTS	Public Transport Strategy	Council strategy to initiate mechanisms to promote and facilitate public transport (bus, taxi, community transport, cycles) in design of subdivisions, developments and council works.
REF	Review of Environmental Factors	Council examination of risk and social, economic and environmental benefit of proposed works, assessed against state planning, environment and safety laws.
REP	Regional Environment Planning Policy	Outlines compulsory state planning objectives to be observed in development assessment and strategic planning.
RFS	Rural Fire Service	State agency responsible for providing equipment and training for volunteer firefighter brigades, and the assessment and approval of developments in bushfire prone lands.
RLF	Regional Leaders Forum	The group of mayors and general managers representing the councils in the ACR.
RMS	Roads & Maritime Service	State agency responsible for funding, construction and maintenance of state roads, the approval of council works on arterial roads and development applications.
S64	S64 Contributions Plan	Developer contributions plan to enable, with council and state funds, the augmentation of water, sewer and stormwater infrastructure.
S94 S94A	S94 Contributions Plan S94A Contributions Plan Levy Plan	Developer contributions to enable construction of public infrastructure and facilities such as roads, reserves, carparks, amenities etc.
SCG	Southern Councils Group	Political and strategic grouping of councils along the NSW south coast from Wollongong to the border, lobbying government for assistance (eg highways) and resourcing sharing initiatives.
SCRS	South Coast Regional Strategy	Regional Strategy prepared by DoP for ESC, BVSC and part SCC to guide new LEPs.

Acronym	Meaning	Description
SEA	Strategic Environment Assessment	Spatial assessment of environmental constraints of land considered in design and assessment of subdivision and infrastructure.  Scientific research behind assessment of capacity of land and waterways in rural residential and urban expansion lands to sustain human settlement.
SEPP	State Environmental Planning Policy	Outlines compulsory state planning objectives.
SNSWLHD	Southern NSW Local Health Districts	State board commissioned with oversight of health care in Highlands, Monaro and Far South Coast.
SoER	State of the Environment Report	Required by state law, the comprehensive assessment (every four years) of the condition and the pressures on the social, economic and environmental features of the Shire and appropriate responses to address or preserve those issues.
SP	Social Plan	Required by state law, the comprehensive assessment (every four years) of the condition and the pressures on the social framework of the community, their services and facilities and economic interactions.
.....SP	Structure Plan	Plan promoting landuses and siting of infrastructure and facilities in towns (eg, BBSP – Batemans Bay Structure Plan).
SRCMA	Southern Rivers Catchment Management Authority	State agency commissioned with assessment and monitoring of health and qualities of catchments from Wollongong to the border, and determine directions and priorities for public and private investment or assistance with grants.
STP	Sewer Treatment Plant	Primary, secondary and part tertiary treatment of sewage collected from sewers before discharge into EPA approved water ways or irrigation onto land.
TAMS	Total Asset Management System	Computer aided system recording condition and maintenance profiles of infrastructure and building assets.
TBL	Triple Bottom Line	Commercial term coined to encourage business to consider and disclose social and environmental risk, benefit and costs in the conduct of business to guide investors as to the long term sustainability and ethics of a business. Taken up by Council to record the basis of prioritisation, the review of condition, the monitor of progress and the financial disclosure of preventative or maintenance investment in council based social and environmental activities.
ToR	Terms of Reference	
TSC	Threatened Species Conservation Act 1995	State law governing the protection of nominated species and relevant assessment and development controls.

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Acronym	Meaning	Description
WCF	Water Cycle Fund	Combination of water, sewer and stormwater activities and their financing arrangements.
WSUD	Water Sensitive Urban Design	Principle behind the IWCMS and council development codes requiring new developments to reduce demand and waste on water resources through contemporary subdivision and building design.