

## EUROBODALLA SHIRE COUNCIL

### PUBLIC FORUM

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

Ordinary Meeting of Council on **22 June 2021**

Name	Subject/Comments
<b>Public Forum – 9.30am</b>	
Wayne Rigby	NOM21/001 Moruya Bypass Community Feedback
Keith Dance	NOM21/001 Moruya Bypass Community Feedback
Chris Nicholson	NOM21/001 Moruya Bypass Community Feedback
Yvonne Matthews	NOM21/001 Moruya Bypass Community Feedback
Deb Curtis	NOM21/001 Moruya Bypass Community Feedback
John Murray obo Moruya Bypass Action Group	NOM21/001 Moruya Bypass Community Feedback
Max Castle	NOM21/002 Application for Gate Permit - Coopers Island Road
Lei Parker	NOM21/002 Application for Gate Permit - Coopers Island Road
Bernie O'Neil	NOM21/002 Application for Gate Permit - Coopers Island Road
David Grace	GMR21/030 Adoption of the revised 2017-22 Delivery Program and 2021-22 Operational Plan
Nicole Keith	PSR21/025 Proposed Sale of Land – Tatiara Street, Dalmeny
Rob Christie	PSR21/025 Proposed Sale of Land – Tatiara Street, Dalmeny
Deirdre Russack	PSR21/025 Proposed Sale of Land – Tatiara Street, Dalmeny

Wayne Rigby

My name is Wayne Rigby this presentation is base on my experiences living in Moruya area, living in area that have had bypass construction and my professional background.

I briefly outline my concerns about the Moruya Proposed Bypass the Orange Corridor.

Importantly I acknowledge that Moruya needs a Bypass to assist with Traffic flow into and around the Township. However, the preferred model proposed I have concerns with, when according to Transport for NSW report findings and outcomes there were 2 other preferred corridors.

Firstly, there will be a massive cost for farmers along the Proposed Corridor, the impending loss of land and income for those farmers can be devastating especially for those who rely on agriculture for their survival. The flood plain provides valuable pasture and other agriculture initiatives. During the development and construction of the Bypass process, the activity and restraints will affect financially the farmers means of income and survival. Land owners along and close to the Bypass will see a drop in land values, the drop in real estate may extend to the town itself {Taree experience}. What guarantee will the Transport for New South Wales give to ensure that the flood plain be restored to its original state for the farmers to continue to supply meat and other essential goods for the public.

I believe strongly that the township of Moruya will be adversely affected by the proposed bypass as to destruction of flood plains from the construction process, heavy machinery, spillage of construction materials, such as fuel and concrete, noise, fumes and vibrations. The possible damage to existing water drains which have been crucial for many years draining water from the flood plains into the creek and river is one of the valuable icons for the Flood Plain, how will these be protected from destruction? Some residents who live on the north coast informed me that they had problems with water draining away from the western side of the highway which caused flood water build up, Transport for NSW had to return following the completion to construct extra drains.

Studies overseas (United States of America) found that some freeways have had devastating and profound effects on rural, forest and greenlands as a result not only to the topography of the land but also effecting soil structure and water tables. Moruya Flood plains has the landscape structure that is naturally salty but when disturbed these soils can become acid, which can damage pastures, even harm or kill animals and plants. It is known that human activities can cause salt levels to rise this can have a major impact on the environment.

Wayne Rigby

The long-term effects I see will lead to an increase in acid sulphate, there is evidence already along the Flood Plan. Acid sulphate affects production of crops, pastures and trees by interfering with nitrogen uptake, reducing growth and stopping plant reproduction, in-fact as acid sulphate increases the soil becomes toxic. Although The NSW *Protection of the Environment Operations Act 1997* (POEO Act) focuses on protecting, restoring, and enhancing the environment within NSW, and reducing potential risks to human health and the environment, and the *Environmental Planning and Assessment Act 1979* (EP&A Act) ensures that environmental impacts of a development are assessed, my concern is that in five or ten years' time Moruya will have an enormous salt pan and other abnormalities associated with the bypass rather having a scenic drive of rich farming land, which is the current characteristic of Moruya itself.

Further to this traffic and road noise as well as vibrations will be problematic having the Bypass elevated amplifies road noise and vibrations. Some residents along the bypass Northern New South Wales (Wardell), had to sound proof their homes. To add elevated Bypasses are very noisy, travelling vehicles, especially freight vehicles can also create sudden noises, banging of load, goods falling onto the road, exhaust brakes, tyre noises can spook animals and birds and, in the flight, or fright reaction can be injured or be killed, this area is home of the Black Cockatoos and many other native bird species.

I am extremely worried about the protection of fish and other aquatic animals along the Moruya flood plains. Moruya has designated sites known as fish sanctuaries, one of them flows along the Malabar Creek into the Malabar Weir, and then flows into the Moruya River. This area is protected under The NSW *Fisheries Management Act 1994* (FM Act), and has an important role to protect biodiversity and ecosystem function for that area, to allow for marine life to flourish and expand undisturbed. This sanctuary zones have numerous benefits and is beneficial in the long run for recreational fishermen. Further to this it can be argued that the wellbeing of coastal communities often depends on having a healthy marine ecosystem. I cannot see that the Malabar Creek and Weir, a key fish habitat, will be protected during the construction and the upon completion of the proposed highway. In addition, the pollution from fuels and spills from traffic travelling the Bypass and the possibility of polluting the flood plain and the fishing sanctuary would be likely. Moreover, concrete itself may contain soluble salts, soluble salts cause efflorescence and toxic pollution, concrete itself is susceptible to cracking and leakages could be a disaster for a fragile for the marine park land ecosystem. To protect that environment would mean very high costs ensuring proper filtration and then there is always human error

Wayne Rigby

and breakdowns of filtrations operations, which poses another risk to the environment.

In addition, there is a Human Cost for this proposal. There is already stress and anxiety evident among concerned Moruya residents and locals, especially those who are reliant on farming activity and whose properties are going to be resumed. The overall health for Moruya residents is concerning both for the short and long term. Stress can have a ripple effect in small communities and may lead to behavioural problems such as increase drinking, cigarette smoking, drug abuse and violence. Stress is strongly correlated to physical health problems such as high blood pressure, sleeplessness, asthma, Heart conditions, rashes, abdominal problems and other physical disorders. Stress can be the trigger for anxiety, depression and can precipitate more serious mental health problems. The loss of land, houses will be extremely traumatic for some families even more-so relocating into other accommodation adds to the stress levels. The fall out could be ongoing and be with us for many years, can Moruya be able to cope with that?

I was the Health Service Manager (Mental Health) at Taree when the bypass was being constructed during that time. The stress, anxiety and depression rate increased, the loss and grief people suffered, placed extra burden on the medical, the health service, the mental health, and non-government organisations. Today, along the Pacific Highway such as Taree and other towns today is seen as a ghost town

The aim in the planning of any bypass should be to minimise risk to the land and people themselves, not maximise those risk factors.

Wayne Rigby

## Response Paper 6<sup>th</sup> June 2021

My Name is Wayne Rigby, my wife Cheryl and I are one of the landowners along the Orange Corridor, my association with the South Coast is over 50 years, I came to the Area in the seventies and eighties to develop mental health services and at the same time was instrument in securing grants from state and federal government for sporting fields and assisting sporting bodies to develop.

I write this paper as an individual however I am part of the landowners and key stakeholders group. The paper is in response to Moruya Bypass Strategic Corridor Report May21

Firstly, I acknowledge the efforts of Transport for New South Wales progressing with the plans for a proposed built bypass for Moruya and identifying a preferred strategic bypass corridor, which is the Orange Corridor.

However, I do have several concerns based on my research experiences and past occupations as to the validity of findings. The rating of each criterion, on analysis for safety, resilience, liveability, sustainability, connectivity and accessibility it's not clear quantitatively written as to how each criterion matched the outcomes, the outcomes are written in qualitative language and does not reflect accuracy of the weighting for each criterion. Further-more leading up to the release of the report, the landowners, the Traditional Custodians were not interviewed. These stakeholders would have their own valuable qualitative experiences, the history, the local knowledge of topography and generations of farming knowledge which has not been weighted in the report.

In my opinion, the Orange Corridor is not the preferred option because of many factors, one being the very high costing to plan, develop and construct, compared to the Yellow Corridor which was also considered. The Orange Corridor is twice the distance of the Yellow corridor and follows across a very volatile flood plain where as the Yellow Corridor, follows a grounded rocky terrain and only half the distance. The Orange corridor infrastructure would be very difficult to maintain and sustainability would be an enormous task for current and future governments. As a tax payer the Orange option doesn't make sense, the payout of building and maintenance will be enormous compared to the Yellow corridor.

I believe strongly that the Yellow Corridor is the safest options, because of its length and sheltered corridor (trees and land), heavy vehicles such as semi -trailers, B-Doubles and trucks travelling south and have no need to go into Moruya, can turn onto the Yellow corridor before they reach a built up area, (before Percy Davis

Drive). The same for travellers who wish to travel to other areas south of Moruya. Therefor there would be less traffic travelling along the area between north of Percy Davis drive to Shelly's Road less traffic ensuring greater safety for residents and the Industrial centre.

The Yellow Corridor would not be in view of the general public whereas the Orange Corridor people would have full view. Macksville, New South Wales has a bypass which is not noticeable from the town, this would be in my opinion a better option for Moruya than having a lengthy concrete fly around.

There will be a loss of land and income for those farmers along the Orange corridor, as the flood plain provides valuable pasture and other agriculture initiatives. During the development and construction of the Bypass, the activity and restraints will affect financially the farmers means of income and survival. What guarantee will the Transport for New South Wales give to ensure that the flood plain will be maintained or restored to its current state to allow for continuing income and sustainability for farmers to continue to supply meat and other essential goods to the public.

I believe strongly that the township of Moruya will be adversely affected by the proposed bypass as to destruction of flood plains from the construction process, heavy machinery, spillage of construction materials, such as fuel and concrete. How will existing water drains which have been crucial for many years draining water from the flood plains into the creek and river be preserved?. There are studies overseas (United States of America) findings that some freeways have had devastating and profound affects on rural, forest and greenlands. Moruya Flood plains has the landscape structure that is naturally salty, however it is known that human activities can cause salt levels to rise.

The long-term affects I see may lead to an increase in acid sulphate . Acid sulphate affects production of crops, pastures and trees by interfering with nitrogen uptake, reducing growth and stopping plant reproduction, in-fact as acid sulphate increases the soil becomes toxic to plants as a result the plants are poisoned and dies. Although The NSW *Protection of the Environment Operations Act 1997* (POEO Act) focuses on protecting, restoring, and enhancing the environment within NSW, and reducing potential risks to human health and the environment, and the *Environmental Planning and Assessment Act 1979* (EP&A Act) ensures that environmental impacts of a development are assessed, my concern is that in five or ten years time Moruya will have an enormous salt pan and other abnormalities associated with the bypass rather having a scenic drive of rich farming land, which is the current characteristic of Moruya itself.

Further to this traffic and road noise as well as vibrations will be a problem having the Bypass elevated amplifies road noise and vibrations. I have feedback from resident who lives along a bypass Northern New South Wales (Wardell), and was told to me that the noise was so loud that Transport New South Wales had to sound proof his home. The Yellow Corridor has trees and earth to buffer some of the noise, the distance from residential areas noise pollution would be too the minimum. To add elevated Bypasses are very noisy, travelling vehicles, especially freight vehicles can also create sudden noises, banging of load, goods falling onto the road, exhaust brakes, tyre noises can spook animals and birds and in the flight or fright reaction can be injured or be killed, this area is home of the Black Cockatoos and other birds species.

I am extremely worried about the protection of fish and other aquatic animals along the Moruya flood plains. Moruya has designated sites known as fish sanctuaries, one of them flows along the Mallabar Creek into the Malabar Weir, and then flows into the Moruya River. This area is protected under *The NSW Fisheries Management Act 1994* (FM Act), and has an important role to protect biodiversity and ecosystem function for that area, to allow for marine life to flourish and expand undisturbed. This sanctuary zones has numerous benefits and is beneficial in the long run for recreational fishermen. Further to this it can be argued that the wellbeing of coastal communities often depend on having a healthy marine ecosystem. I cannot see that the Malabar Creek and Weir, a key fish habitat, will be protected during the construction and the completion of the proposed highway. In addition, the pollution from fuels and spills from traffic travelling the Bypass and the possibility of polluting the flood plain and the fishing sanctuary would be likely. To protect that environment would mean very high costs ensuring proper filtration and then there is always human error and breakdowns of filtrations operations, which poses another risk to the environment.

With respect to the Traditional Custodians, the Yuin People the Moruya flood plains and the identified Fish Sanctuary has significant cultural and spiritual values and requires preservation and protection of that land as the Nations hunting and gathering of traditional food, especially the eels, perch, flathead, bream, whiting and other species of fish was a way of life and survival. Some animals, fish and aquatic animal are today part of the life of the Yuin Nation, some are Totems for Aboriginal individuals.

In addition to the proposal and development and construction of the bypass there will be social and emotional issues, there is already stress and anxiety evident among concerned Moruya residents, especially those who are reliant on farming activity and whose properties are affected by the proposal, development and possible construction of the bypass. I was the Health Service Manager (Mental Health) at Taree when the bypass was being constructed during that time. The stress, anxiety and depression rate increased, this places extra burden on the health service and non-government organisations.

On a personal note, our property will be greatly affected from noise, air pollution (the fumes of fuel wastes), privacy and accessing our property safely.

Maintaining privacy would be a major concern for my wife and I as the proposed Bypass runs very close to our house. Our personnel business would be on show and viewed by passer byers.

Noise pollution would need to be considered, from my own experience the bypass along the north coast of New South Wales is extremely noisy, which is compounded more-so with expansion strips, The Yellow corridor would offer less noise pollution as the trees would buffer traffic noise. Moruya does experience extreme heavy southerlies and westerlies winds which can be a hazard to drivers especially heavy vehicles and caravaners and at times can be treacherous for those drivers, (I am a caravaner and can talk from personnel experiences). Gusty Winds across the Bypass would pose as a problem for my animals and native animals and birds, the noise from the wind may spook them, and as a consequence be at risk to injury or death. The Yellow Corridor offers more protection from those winds and for animals and birds. The Orange Corridor is more open which adds to the risk factor.

Air pollution would be another problem for my wife and myself, fuel and other fume extracts from vehicles and trucks travelling along the bypass can trigger off asthma attacks. My wife and I suffer from asthma.

We have concerns about the Bypass vibrations as overtime may crack our concrete infrastructure such as brick work and walls, our swimming pool and concrete floors.



I cannot see that the proposed bypass of 4 lanes wide is going to be safe travelling because there will be bottle necks at the north and south end of the bypass. The bypass narrows into single lanes at each end, for me I have problems believing that it will be safe for motorists negotiating into narrower roads, very unsafe and dangerous. For myself I see motorist coming off a wider highway onto a narrower highway has great potential for accidents. For myself then accessing our property will be more difficult than it is now, as we live on the northern side of the proposed bypass, at the beginning in-fact. Currently entering and leaving our property now can be dangerous having a more complex network of road structure would pose greater problems.

For my wife and myself to relocate and purchase another property similar to ours is highly unlikely, where would you find a parcel of land like the one we have now. This property is unique with nature, the trees, the birds including the Black Cockatoos and pelicans, the kangaroos, frogs, lizards and black snakes and many more to ensure their existence would be threaten if a bypass is built around and over our property.

In summary, The Moruya Bypass Strategic Corridor Report May21 has a bias view of the most favourable corridor. I believe strongly that the Yellow corridor should be the preferred corridor as the rigor of the Moruya Bypass Strategic Corridor Report May21 is questionable. The costing of the bypass, the sustainability and the risk factors especially environmental and the topography of the land findings are more favourable for the Yellow Corridor.

A handwritten signature in black ink, appearing to read 'Wayne Rigby', with a large, stylized initial 'W'.

Wayne Rigby

## Submission to council Moruya Bypass 22<sup>nd</sup> June 2021

Thank you, councillors, for the opportunity to address council on matters concerning the public submission regarding the preferred route for the proposed Moruya Bypass.

As one of the 7 affected farmers impacted by this proposal, we, as a group are dismayed and frankly dumbfounded that this option was considered when the obvious choice, the Yellow option was not chosen. We are all long term owners of these flats, myself since 1978, the Affleck family well before that. The others are the Nicholson's by two, Whipps, Moruya Rodeo association and on the Southern side of the river the Collett family.

Contrary to what the planners thought none of these farms are hobby farms or lifestyle blocks but are the "value add" sectors of much larger farms which produce large numbers of calves to either be grown out, fattened or both to make the enterprises a viable business. I have turned off 216 calves annually for the last decade. For the three or more years of construction, the interference or completely curtailment of these farming operations will place enormous strain on these farming businesses. The damage to both the land and the protected waterways that is going to occur if this proposal happens will be enormous.

At our first meeting with the consultants, the highway was to be earth fill from Shelly Road to the edge of my property with bridges over Dooga and Mullenderee creeks. They were told that we had to not only move stock under the highway but tractors, implements and trucks through 4-meter culverts that did not fit. Within two days the highway became a bridge construction from Dooga Creek until it reaches Congo Road with appropriate clearance for south Head Road.

To build a 5-meter high 5.5-kilometre bridge with piers every 38 meters across a floodplain without any test drilling or soil sampling to understand the limitations is negligent. How for example during construction will they prevent contamination of the Protected Marine Estate of Malabar lagoon from the disturbed Acid Sulphate soils they will encounter, roadworks constructed for access for the heavy machinery needed for such a build? If for example they encounter wet weather or flood events as is currently happening it will be impossible to not only stop pollutants affecting waterways but also add to

inundation of properties on the floodplain and destruction of productive pasture lands.

This option clearly is fraught with difficulties and as stated by the consultants was the most expensive option but most likely much more so with the extra length of elevated bridgework required.

The Yellow Option from the highway just South of Percy Davis Drive is completely on Crown and forestry lands to East of the Granite Quarry and within a forest ecosystem that is common throughout the area. This option was chosen back in the late 1980's as the most direct route to the river, to link up to the road reserve from the river to the Congo Road, then to Noads Road and then linking to the highway at the RMS depot. This route impacts no private land North of the river, does not have the risk of harming the protected waterways and will not denigrate the rural view entering Moruya from the North.

There are concerns that the cut and fill will be an issue and will encounter rock. The works done North of Berry recently completed on that bypass shows that such engineering matters can be overcome. I have faith such difficulties will be overcome as we can attest engineers love a challenge.

On the Southern section, with common sense and compassionate thinking we should be able to minimise the interference or loss of homes. The Collett's have been told that the highway will go above the old Dairy therefore if the highway moves East to the open paddock as it meets Congo Road it should not need to affect the homes to the West of Congo Road. As it meets the juncture of Noads Road it needs to move West of Noads Road to then line up to where it will intersect the highway. At that intersection homes are under threat dependant on the design of the on and off ramps.

Traffic from Congo would need to divert on an upgraded Noads Road to get to Moruya which would require an extra 500 meters of travel. I am not aware whether the new hospital complex will have access from the Bypass or the entrance will be from just North of the intersection just below the Pear Tree estate entrance.

The Purple Option we were told was a not viable as it was too close to town, interfered with Riverside Park and too close to the Braemer Estate. I understand another 25 homes are to be built behind the TAFE college. The Purple option requires about 4.7 kilometres of elevated highway across the floodplain. The

bridge crossing may stop both the seaplane operation and the effective firebombing planes using the river to collect water for firefighting. The Yellow option bridge should not be a problem for these operations though the Orange Option bridge placement may be a hazard for the firebombers.

Councillors I know that this is a development that is outside your charter. When a development of this scale is envisaged, council will have input through the relevant departments involved. Many years ago, a plan was developed to bypass Moruya with the least effect on productive farming land, on people's homes and lifestyles. That plan is the Yellow Option and it would be in the best interests for the community if opportunity arises for council should you chose to promote the Yellow option. It will be the cheapest, and the quickest to construct and we think the most appropriate option.

If this bypass is built in the correct place, with common sense and compassion for the affected home owners and landowners the best result will be achieved for this community well into the future.

Thank you, councillors.

## Submission to council Moruya Bypass 22/6/21

Thankyou councillors for the opportunity to address council concerning the preferred route for the Moruya Bypass.

My name is Chris Nicholson, I own and live on Mullenderree Flat on a farm called Hazelmere with my family where we fatten young cattle ready for market. We have done this for many years. My father Garry Nicholson owns and runs a larger farm on Mullenderree Flat called Shannon View where he breeds and fattens young cattle ready for market. Both properties are used in conjunction with other properties outside of Moruya as this enables us to use this most fertile ground to its fullest. These flats are not just very iconic to Moruya, but the best way to make farming viable. These flats turn an incredible amount of saleable beef per year. We have both been notified by Transport NSW that the proposed orange bypass route will go on and through our properties. This will be a massive problem for day to day works around already busy farms.

There will be all sorts of problems encountered such as the problems with wet weather. We have had 3 flood events already in 2021. Working around construction sites with hundreds of stock would be very difficult. Gravel service roads will cause big problems in the events of floods. This will also cause a damming effect, causing damage to homes and causing problems with stock.

We are concerned about contamination to the stock water supplies. We are concerned about loss of pasture for stock. We are also concerned about the wellbeing for cattle, especially mother cows with calves at foot.

Heavy and loud machinery will cause issues for stock. This machinery will also cause soil compaction. Biosecurity measures will also be very hard to maintain given that there are 7 properties on Mullenderree Flat that will be impacted. The bypass road will need to be 5 metres high so we can access paddocks with tractors and trucks for fertilizing and hay purposes. The bridge piers are about 40 metres apart, so what happens to the soil that will be turned into salty mush? Acid sulphate soil is already a problem where the powerlines go through Shannon View. The pasture will not grow in these areas as this environment is very delicate. This impact has been evident for the past 20 years.

Mullenderree Flat is a great big boggy flat that runs in to Malabar Lagoon Marine Park. These waterways are so real that they are alive with all sorts of animals that rely on a clean environment. Precautions surrounding this have already been adopted by local Landcare and all waterways have thus been fenced off and protected from stock to preserve it. When this environment is impacted by heavy machinery, acid sulphate will have a detrimental affect to all users.

The proposed 5-metre-high bridge for approximately 5 kilometres will be the longest bridge in Australia. This is not what Moruya is about. Can you imagine how noisy this will be? Can you imagine what an absolute eyesore this will be? This is not what I want my children to be looking at in Moruya. It goes against everything our community in a small country town stands for.

The orange proposed route will be at a massive cost. Why would you build a bridge that would have to be higher and longer and more expensive to build and to maintain when you have another viable option? The yellow route option just makes more sense. It is shorter, much easier to build and maintain and much less expensive. The yellow option is the correct route. This was designed 30 years ago, and it is still the best option. It is to be run on crown land and forestry land on the north side and crown road reserve on the south side through the now owned Collett family property. This road reserve has been known by locals as the bypass route for decades.

The other options that people are talking about is the purple option. This would be a waste of time and money as it goes straight through town and between housing estates. The bridge would be about 500 metres from the existing bridge and with all this being said, would not be a bypass at all.

Councillors please if you can do anything, it would be to promote the yellow option. This option will reflect the Moruya way of life and preserve our magnificent Mullenderree Flat. If the bypass is built using the yellow option, it will impact the least amount of people and homes. It will have the least impact on agriculture and agricultural businesses. It will have the least impact on the environment, and it will be the easiest and most cost-effective way to build and maintain.

Thank you, Councillors.

Moruya Bypass Strategic Options Report.

A Bypass around the Moruya township is a **GREAT idea**. But the Orange Corridor is the **wrong location** for it.

In the area of Sustainability, I would contest a score of #1.

A 6-8 km bridge and 5 ms high made of concrete which traverses a flood plain can't be deemed Sustainable for the following reasons

1. Page 20 of the Report, states that NSW Government has classified Mullenderee flat as an extremely vulnerable, highly valued environmental wetland. It has been classified a 'Coastal Wetland' (CM- SEPP) and is thereforeOn an unsuitable location on environmental grounds.
2. Page 22 of the Report acknowledges that the corridor is in very close proximity to a NSW Govt declared Marine Park Reserve (Marine Estate Management Act 2014) and says that the purpose of the Act is to *'provide the highest level of protection for habitats, animals, plants, and areas of cultural significance*. The chemicals, sediment and contaminants from 8000+ vehicle movements per day , threaten the viability of this natural environment. Placing the road through this area is incongruous with the intention of the Act, which is to protect not destroy the Marine Park.
3. Page 22 of the Report references the Fisheries Management Act 1994. There are several areas mapped as key fish habitat within and near the investigation area, including Moruya River, Malabar Creek, and their tributaries These habitats are also protected under the Fisheries Management Act. The FM act was created to protect the fish habitat, which means the Orange Corridor is antithetical to purpose of the Act.
4. Page 86 of the Report, concedes that there will be ongoing maintenance costs arising from the need to treat the contaminated stormwater which the 8 km bridge will create. The document states (p 86) that *'..... acceptable methodology for stormwater discharge and treatment requirements from long bridges'* . Despite the patent ongoing expense and the use of energy required to run these filtration plants, NSW Transport claims this is the best option for sustainability.
5. Construction risk. As mentioned in the document, construction on a flood plain is fraught with perils, if an adverse weather event occurs. And yet you contend that the choice is the right one. If a flood or partially flooding occurs during construction the toxic construction material will wash into Malabar Creek and Lagoon, no matter how robust the measures are in place to prevent the contamination.
6. Finally, I'm sure you are aware of the scientific, indisputable fact that one ton of concrete produces, one ton of Carbon Dioxide ( $\text{CaCO}_3 \rightarrow \text{CaO} + \text{CO}_2 \text{ (g)}$ ). How can NSW Transport maintain that the Orange Corridor is Sustainable when it will put thousands of tons of CO2 into the atmosphere in order to build it. Sadly, the

Orange Corridor will be a significant contributor to climate change since it's made of many tons of concrete.

Conclusion:

From the data provided in the Report, I conclude that the Orange Corridor is the least sustainable.

And that another corridor should be chosen. Either the Yellow Corridor which has none of these serious impediments or the Purple Corridor which is shorter and therefore imperils far less of this high value environment.



## Title: MORUYA BYPASS COMMUNITY FEEDBACK

Deb Curtis presentation to the Ordinary Meeting of Council on Tuesday 22 June 2021 supporting Councillor Browns Notice of Motion NOM21/001 and asking for it to be expanded to include the economic impact of the preferred route for the proposed Moruya bypass on the business sector, as well as the agricultural sector.

‘Good morning. Thank you for the opportunity to address Council on this issue. I am presenting as a Moruya business owner who will be impacted by the preferred Orange corridor option for the Moruya Bypass.’

I do not consider that Transport for NSW has undertaken a comprehensive community engagement process in relation to their selection of the preferred Orange corridor route for the Moruya Bypass.

I am an advocate for transparency and a believer in the positive benefits gained from adopting this approach. I feel there has been poor transparency from the outset with the community consultation process conducted by Transport for NSW and after attending their information session I still believe this is so. The survey given to us by Transport for NSW to complete only asks for feedback on the Orange Corridor as though it is a fait accompli. The more transparent (or fairer) approach would have been to offer the survey in a more open format allowing respondents to comment in the way they needed to. I realise that approach may prove unwieldy but given the findings for the Orange and the Purple Corridors scored as the most favourable, perhaps both could have been included and not just the one that the Transport for NSW committee prefers.

Page 88 of the Moruya Bypass Strategic Corridor Options Report talks about ‘following consideration of community and stakeholder input, the outcome of the Value Management Workshop (VMW) etc’ I feel we should know how, who and why participants were chosen to participate in the VMW as I am not aware of any businessperson in town that would agree to the Orange corridor being adopted.

On June 10 Transport for NSW visited several businesses (after the Report was released and four days before submissions closed) and were shocked to find little support for their preferred bypass option.

It is my understanding (from reading the Report and discussing it with other town leaders) that the Purple Corridor (the original option) is the better corridor all round and the one that needs to be adopted.

Each of the proposed corridors will improve road and traffic safety, not just the Orange one.

The Orange Corridor is too far away from the town. The Purple Corridor is not and will ensure a better survival rate for businesses in the town. Travellers will not visually see the town as they 'fly' past and will perceive the town as too far away and time-consuming, deciding to stop at the next town where it will be quicker/easier to stop. Not every driver/traveller/tourist will make a considered decision about whether it is worthwhile to turn off and drive into Moruya when they can't even see it. It will be reactively/emotionally perceived as not quick enough. As an example, the turnoff to Berry, whether driving north or south is adjacent to the town, so it is a no-brainer in terms of time and convenience to turn off and go into town. As a result, Berry retailers did not suffer deep economic losses. That will not be the case with Moruya which is also not economically buoyed by Berry's proximity to the eastern suburbs of Sydney and its money. It is also important to add that Moruya is not a destination town like Berry is.

At present there is not enough in the town of Moruya to lure people to want to drive off-route to see the town when they can't see it from the road. I understand there is a Chamber Committee working on strategies to improve this for the future but realistically speaking this will take a few years at least. Some local businesses will close if the bypass is located too far away and others remaining will struggle. We can say that the struggle will only be for a limited time but most business owners that I know personally would not be able to sustain the loss in trade for two years or more given that most business owners use their homes as collateral to operate their businesses.

Like myself, we are still recovering from the significant financial loss caused by the fires, then closely followed by COVID and the continued losses from it.

After the Transport for NSW Information Session on the Preferred Corridor Option, a small group of business colleagues that have retail businesses in the town spoke to each other. One leading retailer told me that he was not going to invest any more money in his business if the Orange Corridor was adopted because he felt people would not take the time to drive into Moruya. I and other leading retailers feel the same as he does.

In summary, whilst I, in no way underestimate the value and importance of Connectivity & Accessibility, Safety, Resilience, Liveability and Sustainability, it is paramount that Council understands the importance of protecting the town's commercial enterprises because without these businesses (or even a diminished number of them) there will be no reason to visit the township. I feel we owe the businesspeople that have invested their lives and their money in the town more

real/genuine consideration and respect with specific regard to the corridor that is adopted. I support the Purple Corridor as do other businesses in town.

I therefore request that Councillor Brown's Notice of Motion be expanded to say that *Council write to the NSW Government urging them to take into consideration the community feedback in regard to the economic impact of the preferred route for the proposed Moruya Bypass on the agricultural sector **as well as Moruya's retail businesses**, noting the concerns that have been expressed by a number of landowners, residents and **business people**.*

Thank you for your attention.

**Moruya Bypass Action Group Presentation to the Ordinary Meeting of Council on Tuesday 22 June 2021 Supporting Councillor Brown's Notice of Motion NOM21/001 Moruya Bypass Community Feedback and requesting it be amended to include the creation of an independent co-design committee for the Moruya bypass.**

Good morning. Thank you for the opportunity to address Council and the community. I am presenting on behalf of the Moruya Bypass Action Group which represents members of the Moruya community who have come together because they are concerned about the processes involved in the selection of the preferred Moruya Bypass corridor, as well as the impacts of this corridor on productive agricultural land, properties, local businesses, the environment as well as the amenity and social fabric of our town.

We believe that the Moruya community deserves the best bypass solution possible. Despite Councillor Brown's confidence in the community engagement process, we are greatly concerned about the tokenistic community consultation undertaken to date by Transport for NSW on the Moruya bypass, which is without doubt the most significant project ever undertaken in our town. The community has been given insufficient and at times conflicting information about the various corridor options, with little time to consider whether the preferred option is the best one for our town and community.

Our group has mushroomed to over 100 (and still growing) since the 21<sup>st</sup> May when the preferred option report was released. Our members have submitted a wide range of feedback on the options report, often times "copying in" the local member Andrew Constance, relevant Ministers, Federal MPs and this Council. We also requested more detailed information from Transport for NSW, and gained media coverage through newspaper articles and radio interviews.

The sense within the community is that this project is being rushed through based on an inadequate and untimely community consultation. The consultation occurred just a few weeks after the catastrophic "black summer" bushfires had ravaged our community, and during the initial lockdown period from the COVID-19 pandemic. This was not the time to ask the community to provide feedback on a project of such long-lasting and strategic importance.

It was hoped that answers and additional information would be provided by Transport for NSW at the community information sessions held between the 22<sup>nd</sup> and 27<sup>th</sup> May, but this did not occur. Instead, the community was confronted with stock answers drawn from an inadequate options report, together with a dubious questionnaire designed to deliver support for the preferred option. No additional information was provided, and many critical questions were unable to be answered. Transport for NSW finally released 14 pages of supplementary information on the 10<sup>th</sup> June,, only 4 days before the closing date for submissions on 14<sup>th</sup> June (a holiday weekend Monday).

The supplementary report refers to several workshops held to consider the various route options for the bypass corridor. Only one of these workshops included community representatives, and it is not clear who the community representatives were or how representative they were of the community. These representatives were also required to sign a confidentiality agreement before participating in the workshop, preventing community access to any outcomes and associated information. The supplementary report states **“the final workshop was not definitive on reaching a consensus on the preferred strategic bypass corridor option due to a number of differing views by workshop participants”**. The final submission to Transport for NSW recommended further work be done on the Orange, Purple and Yellow corridor options, with additional consideration for a hybrid Purple option.

We are also concerned that the consultation process so far has not provided any real information on the future maintenance and management of the existing bridge crossing the Moruya River, which has significant implications for Eurobodalla Council’s own ratepayer-funded infrastructure works program.

It is notable that there has been a surprising lack of formal consideration or advice provided by Eurobodalla Council on the Moruya Bypass, as reflected in its meeting agenda papers. This is despite Council being a participant in the September 2020 Value Management Workshop used to select the preferred route. There have not been any Council agenda items on the Moruya bypass since community consultation commenced in March 2020. In fact, there has been only one formal agenda item mentioning the Moruya bypass since it was announced in March 2019. This took the form of Notice of Motion 19/007 in October 2019 by Cllr Lindsay Brown, who requested that Council write to Transport for NSW regarding questions around consultation with Council and compensation for affected businesses in Moruya. There is no mention in any subsequent agenda papers of responses provided to these questions.

We note that Transport for NSW has recently responded to concerns raised by the Shoalhaven community regarding the proposed route for the Milton-Ulladulla bypass by announcing the creation of a co-design committee for that project. The co-design committee will be an independent committee of community stakeholders, residents, government agencies and Transport representatives. This committee will identify and recommend an option for the bypass. Once identified, that option will be shared with the wider community for feedback.

We think that the complexities and impacts of the Moruya bypass are of sufficient scale and magnitude to justify a similar co-design process for the Moruya bypass.

**On the basis of the information presented today and the overriding importance of this project to the town of Moruya and its community, we ask that Councillors agree to amend NOM21/001 to say that Eurobodalla Shire Council write to the relevant Ministers as well as Transport for NSW requesting the creation of an independent co-design committee for the Moruya Bypass.** The committee would run on a similar basis and terms

of reference to those announced for the Milton-Ulladulla bypass. This co-design committee should also examine the future management and maintenance of the existing bridge over the Moruya River, as this is a vital community asset whose longer term future must be assured.

We will only get one chance with a major project like this, so we need to make sure that Transport for NSW invests the time and resources to get this process right.

Our town and our community deserve no less.

Thank you for your attention

**John Murray**

**on behalf of**

**The Moruya Bypass Action Group**

**Note 1** : Further details on the Milton-Ulladulla Co-Design Committee can be found at :

<https://roads-waterways.transport.nsw.gov.au/projects/princes-highway/burrill-lake-to-batemans-bay-upgrade/index.html>

**Note 2** : Attached to this presentation is a Summary of Issues of Concern regarding the current preferred route and consultation processes for the Moruya Bypass as a reference for what we believe to be key areas that need to be properly addressed by Transport for NSW.

## **SUMMARY OF ISSUES OF CONCERN**

### **Tick-the-box community consultation**

The community consultation undertaken for this project was minimal given the scale and impact that the bypass will have on the amenity and environment of the Moruya River floodplain. It was announced in the lead up to the 2019 NSW elections without any consultation with the community or local businesses. The first round of consultation was conducted just weeks after the Black Summer bushfires and at the start of the COVID pandemic and was entirely online. There was one weeks notice for this second round of consultation which comprised 2 community information sessions and 2 market stalls together with a 100 page online Options report, a brochure and a survey all of which promoted Transport for NSW's preferred route. This is not genuine community consultation.

### **Lack of transparency**

The Options report describes 5 short-listed route options which were arrived at following a number of workshops. It concludes by identifying a preferred route which will be taken forward to the design stage. Information about these workshops such as who was involved, the methods used to score the various route options and detailed justifications for the route options chosen was not provided to the community. The whole decision-making process lacks transparency.

### **Insufficient information**

According to the Options report, the preferred route for the bypass was chosen on the basis of community acceptance of the route based on the first round of community consultation, which was neither comprehensive nor representative, and a one day values workshop. No detailed technical assessments have been undertaken of the 5 short-listed options nor have there been any costings to determine the value-for-money of these options. Risk identification and mitigation assessments and other technical assessments are only now being undertaken, but only for the preferred route. These assessments should have been undertaken across all of the short-listed options in order to arrive at a preferred corridor option based on a fully informed analysis. Without this, how can the community be confident that the preferred option is indeed the best route for the bypass?

### **Impacts**

The Moruya bypass as proposed in the Options report will comprise an elevated 4 lane highway on 5m pylons spaced 40m apart extending for approximately 8 kilometres (see photos below of Kempsey bypass, which is of similar construction to that of preferred option)



*Kempsey bypass under construction.*



*The Kempsey bypass on opening day.*

The preferred option crosses the Moruya River floodplain at its widest part. This will have a huge visual impact on the river and its surrounding landscapes as well as the setting of the Moruya township with its beautiful natural vistas. It will also affect the largest area of productive agricultural land along the river and cause major disruption to farming activities, as well as changes to the character of the affected farmland and the flow of floodwaters across this land. By crossing the Moruya River floodplain at its widest part, the preferred option will impact on the greatest area of high conservation value wetlands and threatened vegetation, as well as creeks that feed into these nationally important wetlands. The preferred route also cuts through a large remnant of endangered woodland that connects to extensive forest



areas to the east severing wildlife corridors and making this route potentially more bushfire prone. The longer the bypass, the more properties that are impacted by it, either directly or indirectly. There is no information in the Options report about how many properties or dwellings are likely to be affected by each of the short-listed options, yet this should have been an important consideration in choosing a preferred route. It would seem obvious that the shorter the preferred bypass route, the less the impact would be on farmland, dwellings, the environment and the visual amenity of Moruya.

The preferred bypass route has been located as far as possible from town to reduce noise impacts. However, Moruya's small business owners that rely on passing traffic outside peak holiday periods are concerned that the further the bypass is from town, the less likely it will be that travellers will visit Moruya, which is not in itself a tourist destination. All other bypasses on the south coast run along the edge of their towns which are visible from the highway. Regardless of where this elevated bypass is located, it will generate noise that will carry across the Moruya floodplain, particularly if the traffic is travelling at 100kph, as predicted by Transport for NSW. Other south coast towns that have been bypassed have noise barriers installed to reduce the amenity impacts on the nearby towns. There is no discussion in any of the documents about how traffic noise will be managed and there is no real consideration of the impacts of the bypass on small business.

## **Conclusion**

It seems that the main reason that the Transport for NSW project team chose the preferred option for the Moruya bypass was because of its distance from town even though it is longer, visually more intrusive, environmentally more destructive and will result in the direct loss of more property. It is also likely to have a significantly higher cost than any shorter option. Moruya needs a bypass, but the shorter and less destructive it is, the better. The community cannot support the preferred route for the bypass without fully understanding the scale and impacts of the proposal. The information that has been provided so far is not sufficient for the community to make a fully informed decision and we have not been provided with adequate time to ensure that that any decision we do make is the best one for the town and its residents.

## **Council Presentation – Coopers Is Road Access Issues**

### **Council Meeting 22.6.21**

Good morning Mayor, Councilors, GM and others.

#### **INTRODUCTION:**

I speak to you today representing members of the THPA, Fishing Club and Men's Shed.

I thank Councillor Phil Constable for his motion today which includes community safety.

**I support points 1, 2 and 3 of the motion but can't comment on point 4.**

#### **GATE POLICY:**

In an effort to understand both sides of the gate issue, I tried to find Council's policy without success.

I have checked five-country council web sites, the details are listed below, all have a policy document on their web sites. I have attached one to my submission with important sections highlighted.

#### **CLARIFICATION OF BANK FISHING LOCATIONS:**

The photo below has been obtained from Crown Lands. Over the weir on the western side of Coopers Island a parcel of Crown Land is indicated by a white line. This is a popular land-based spot that is believed not to be the owner's property.

Council have confirmed Crown Land on the opposite bank as well.

Clarification of the extent of crown land around the foreshores on both sides of the Creek/Lake will contribute to clarification and reducing community tension.

It would be advantageous in having these areas clearly defined so the community can be informed for further reference please.

**Coopers Island Rd**

Crown Foreshore Annexure A



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**KAYAK LAUNCHING FACILITIES:**

It was pleasing to hear at the last Council meeting that DPI Fisheries recommended a 100% Grant Funding Application for Kayak infrastructure.

This will provide safer and easier water access which will also assist in reducing bank erosion issues in the riparian zone.

I believe the community will support such an application. We seek Councils support in proceeding with this application in a timely manner.

**VEHICLE PARKING:**

Councils draft plan (attached) has been raised for consideration but not finalized. It indicates 4 parking positions. The community look forward to advice on that proposal please.

**FISHING PLATFORM:**

In regard to the weir this is a very popular fishing location particularly for those less mobile.

Over two years ago, Council staff suggested a fishing platform could be provided. which would assist in addressing and any safety

concerns which had not been raised previously. I hope Cancellers will support such a platform 100% funded from Fisheries Trust Fund (Fishing fees).

(Mentioned in my previous presentation 8<sup>th</sup> June 2021).

## **WHEN CAN WE FISH and KAYAK? :**

We wait in earnest to be advised when the community can resume recreational activities at CIR with confidence.

It is realised a little time will be required for the re-construction of fencing that was removed, and removal of some fencing to regain water access.

Thank you for your time today.

## **Public Gates and Cattle Grids published by other Councils.**

In summary it covers:

**COMMUNITY CONSULTATION: (The proposed structure details and location will be advertised by the Council in the Local Newspaper seek public comments/submissions ETC.**

**MAINTENANCE AND REPAIRS of all Public Gates and Cattle Grids: (The ownership and maintenance responsibility for Public Gates and Cattle Grids rests with the landowner, Roads Act 1993.**

**RELATED POLICIES, REGULATIONS AND STANDARDS:**

**APPROVAL AND PERMIT PROCEDURES AND PERMIT PERIODS: (Cattle Grid permits have a maximum permit period of 36 months from the date of issue of the permit.)**

**ROAD CLASSIFICATION:**

Road Classification	Public Gates/Cattle Grid Exclusion
State Highway or Regional Road	Not Permitted
Arterial and Sub-Arterial	Not Permitted
Collector	Not Permitted
Major Local more than 200 vehicles per day	Double Cattle Grid and Gate
Minor Local	Single Cattle Grid and Gate

**REFERENCE:**

Coonamble Shire:

<file:///C:/Users/Max/AppData/Local/Temp/Grids+and+Gates+on+Public+Roads+Policy+-+ADOPTED+FEB+2015.pdf>

Walgett Shire:

<file:///C:/Users/Max/AppData/Local/Temp/Policy-Public-Gates-and-Cattle-Grids-on-Council-Roads-2021->

Shoalhaven Council:

C265.22REMOVAL OF EXISTING FENCING - **No fencing is to be removed if there is a risk of egress or ingress of stock.**

<https://doc.shoalhaven.nsw.gov.au/displaydoc.aspx?record=D21/81944>

Tweed Council:

Gates on Road Reserves Division 2 Sections 128 to 132 of the Roads Act 1993 relates to public gates on public road reserves

[https://www.tweed.nsw.gov.au/Controls/Meetings/Documents/15%20Attach%202%20\[E-CM\]%20Unauthorised%20Private%20Encroachments%20on%20Public%20Roads%20Policy%20Version%201.0.pdf](https://www.tweed.nsw.gov.au/Controls/Meetings/Documents/15%20Attach%202%20[E-CM]%20Unauthorised%20Private%20Encroachments%20on%20Public%20Roads%20Policy%20Version%201.0.pdf)

Byron Shire:

<https://www.byron.nsw.gov.au/Council/Your-right-to-Council-information/Policies/Public-Gates-and-Cattle-Grids-on-Council-Roads-Policy>

### Attachments:

*Vehicle parking proposal*

*Coonamble Shire gate/grid policy.*



Max Castle

20.6.21



# PUBLIC GATES AND CATTLE GRIDS ON PUBLIC ROADS

**Approval Date:** 11 February 2015

**Review Date:** February 2017

**Responsible Officer:** Director Engineering Services

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## 1. PURPOSE

- 1.1 To reduce risk to public, Council and landowners.
- 1.2 To support procedures for application and issuing of permits, inspection, assessment and maintenance of Public Gates and Cattle Grids.

## 2. POLICY STATEMENT

- 2.1 The Council aims to provide a management approach to the provision of Public Gates and Cattle Grids infrastructure.
- 2.2 This shall be achieved by developing and maintaining a systematic approach to approval, inspection, assessment, **maintenance and repair of all Public Gates and Cattle Grids** as identified in the Coonamble Shire Council's Public Gates and Cattle Grids Register and by implementation and enforcement of the Public Gates and Cattle Grids permit system.
- 2.3 The Policy, together with the procedures, provides a framework for the management of Public Gates and Cattle Grids.
- 2.4 The Policy aims to;
  - 2.4.1 Establish a transparent system for the development, submission and assessment of applications for the construction of Public Gates and Cattle Grids.
  - 2.4.2 Identify standards for the construction of Public Gates and Cattle Grids.
  - 2.4.3 Define the responsibilities of the Public Gates and Cattle Grids permit holders.
  - 2.4.4 Define registration and recording procedures for the Public Gates and Cattle Grids infrastructure within the Coonamble Shire Council local government area

## 3. PRINCIPLE

- 3.1 To ensure public safety for all users of the road network.
- 3.2 To reduce the number of obstructions to the free flow of traffic.

#### **4. EXEMPTION POLICY**

- 4.1 All exiting Public Gates and Cattle Grids constructed prior to 1<sup>st</sup> February 2015 are exempt subject to the following conditions:
  - 4.1.1 Property owners must self-assess for compliance all the existing Public Gates and Cattle Grids located on their land against the related policies, regulations and standards (Clause 6.0).
  - 4.1.2 The self-assessment report must be submitted to the Council no later than 30 September 2015.
  - 4.1.3 **All non-conforming Public Gates and Cattle Grids must be either rebuilt in accordance with the relevant standards and regulations (Clause 6.0) or removed by 29<sup>th</sup> February 2016.**

#### **5. BACKGROUND**

- 5.1 The Roads Act 1993 and the Roads (General) Regulation 2008 refers to the Cattle Grid or Stock Crossing as a Bypass. Since the term Cattle Grid is commonly used term in the Coonamble Shire the term Bypass will not be used in this policy.
- 5.2 Public Gates and Cattle Grids exist on the public road network within the municipal area of the Coonamble Shire presenting potential risk to public, property owners and the Council.
- 5.3 While the Council has the control and management responsibility of its public roads, **the ownership and maintenance responsibility for Public Gates and Cattle Grids rests with the landowner, as defined in the Roads Act 1993.**
- 5.4 The Policy and procedures are based on the industry best practice and the provisions of the Roads Act 1993 which enable the Council to grant permits for installation of Public Gates and Cattle Grids.
- 5.5 This Policy applies to all roads maintained by the Council within the Coonamble Shire local government area. **It does not apply to Crown Roads. The NSW Department of Lands is responsible for Crown Roads.**
- 5.6 It is a Council requirement under the Roads Act 1993 that the design and construction of all proposed Public Gates and Cattle Grids conform with this Policy, relevant standards and regulations.
- 5.7 It is a Council requirement under the Roads Act 1993 that all existing Public Gates and Cattle Grids are regularly reviewed for compliance with this Policy, relevant standards and regulations.

#### **6. RELATED POLICIES, REGULATIONS AND STANDARDS**

- 6.1 **NSW Roads Act 1993.**
- 6.2 **Roads (General) Regulation 2008**
- 6.3 **Australian Standard 5100 (AS5100).**
- 6.4 **The Coonamble Shire Council Road Register**
- 6.5 **Approved inspection and assessment procedures.**

## 7. APPROVAL AND PERMIT PROCEDURES

### 7.1 Permit Application for New Public Gates and Cattle Grids

7.1.1 Council will consider application for a Public Gate and Cattle Grid Permit only when all of the following conditions are satisfied:

7.1.1.1 Where no viable alternative such as fencing, exists;

7.1.1.2 The application does not relate to an excluded road as defined in Table 1 furnished below;

7.1.1.3 The road intersects a boundary fence.

Table 1 – Public Gates and Cattle Grid Exclusion

Road Classification	Public Gates/Cattle Grid Exclusion
State Highway or Regional Road	Not Permitted
Arterial and Sub-Arterial	Not Permitted
Collector	Not Permitted
Major Local more than 200 vehicles per day	Double Cattle Grid and Gate
Minor Local	Single Cattle Grid and Gate

### 7.3 Application Assessment Criteria

7.3.1 Assessment of applications will be undertaken to ensure compliance with all relevant policy, standards and regulations. In particular with Clauses 128 to 137 of the Roads Act 1993 and Clauses 67 to 70 of the Roads (General) Regulation 2008.

7.3.2 The regulation delineates **that all gates must be white with standard signage and reflectors on both sides of the structure.** Gates and cattle grids must be in good repair. Road approaches for a minimum distance of 20 metres on each side of the structure must be maintained by the permit holder.

7.3.3 As required by the legislation, Council must consider any submissions made by the public following public notification, before granting a permit.

### 7.4 Permit Periods

7.4.1 Clause 130 of the Roads Act 1993 states that the Council may at any time revoke a Public Gate and Cattle Grid Permit. Without limiting the circumstances in which Council can revoke a permit, the Council will revoke a permit when it is reasonably satisfied that the structure is not being maintained or is a risk to public safety.

7.4.2 All Public Gates and **Cattle Grid permits have a maximum permit period of 36 months from the date of issue of the permit.**

### 7.5 Permit Renewal

7.5.1 Property owners must self-assess for compliance all the existing Public Gates and Cattle Grids located on their land against the related policies, regulations and standards (Clause 6.0) and report to the Council 30 days prior to the expiry of the Permit.



7.5.2 The Council will renew free of charge all permits if it is reasonably satisfied that the structures comply with the requirements of the Clause 6.0 Related Policies, Regulations and Standards.

## **8. DESIGN AND CONSTRUCTION STANDARDS**

8.1 All work is to be carried out in accordance with the Council's Public Gates and Cattle Grids Policy, all relevant national and state acts, regulations and standards including the NSW Roads Act 1993 and Australian Standard 5100 (AS5100) and any other deemed to be appropriate by the Council. In some circumstances the Council may require the applicant to provide specific design details for the structure and the design certification by an authorised Structural Engineer.

## **9. MAINTENANCE STANDARDS**

### **9.1 Maintenance Standards**

The land owner is responsible to maintain the structure and signage of the of the Public Gates and Cattle Grids to ensure performance in compliance with the Design and Construction (Clause 7.1). All maintenance work is to be carried out in accordance with NSW Work, Health and Safety regulations, the Roads Act 1993, Roads (General) Regulation 2008 and applicable Australian Standards.

### **9.2 Road Carriageway.**

9.2.1 The permit holder is responsible for the maintenance of the road carriageway for a minimum distance of 20m either side of the structure as identified in Part 6 Clause 70 of the Roads (General) Regulation 2008. The Council may vary maintained carriageway length depending on the specific site requirements.

9.2.2 The permit holder must comply with all maintenance conditions of the permit throughout the permit period.

9.2.3 If during the permit period the permit holder fails to comply with the maintenance conditions of the permit, the Council may carry out maintenance of the carriageway at the permit holder's expense.

## **10. INSPECTIONS**

### **10.1 Regular Inspections.**

10.1.1 The Permit Holder must carry out regular inspections and maintain the whole structure and carriageway to ensure compliance with all standards and regulations referred to in Clause 7 and 8.

10.1.2 Notwithstanding the requirements of Clause 10.1.1 the Council will carry out regular inspections of all Public Gates and Cattle Grids located within the local government area of the Coonamble Shire as part of the scheduled road network inspections. Any noncompliance with the permit conditions or defects will be communicated to the permit holder in writing. The permit holder will have 40 days from

the date of the Council letter to rectify any defects to the satisfaction of the Council.

## **11. APPLICATION PROCEDURES**

### **11.1 Lodgement**

The applicant must lodge all required fees, forms and documentation supporting the application in person by visiting the Coonamble Shire Offices located at 80 Castlereagh Street, Coonamble NSW 2829 during the standard working hours 8:30 am till 5:00 pm Monday To Friday, excluding public holidays. Or by posting to PO Box 249, Coonamble NSW 2829.

It must include the following:

11.1.1 Design and Layout of the proposed structure;

11.1.2 Construction specification:

11.1.3 Name and contact details of the contractor;

11.1.4 The applicant and construction contractor public liability (minimum of \$10,000,000.00) and professional liability insurance details.

11.1.5 Traffic Management Plan

11.1.6 Construction/maintenance bond

### **11.2 Preliminary Inspection**

The Council will inspect the proposed location for the structure to assess its suitability for the establishment of the proposed structure. The proponent will be advised in writing of the outcome of the inspection. Should the site be determined to be unsuitable for the proposed development second inspection fees will be refunded to the proponent.

### **11.3 Community Consultation**

**The proposed structure details and location will be advertised by the Council in the Local Newspaper seeking public comments/submissions on the proposed structure.**

### **11.4 Final Inspection**

11.3.1 Upon completion of all construction works the proponent shall advise the Council that the works are completed and request the Final Inspection in writing.

11.4.2 Upon completion of the Final Inspection the Council will advise the proponent of the outcome of the inspection within 10 working days from the date of the inspection.

11.4.3 Should further works be required to ensure that the structure complies with all relevant legislation and design standards, a follow up inspection will be scheduled after communication with the proponent.

11.5 Permit

The Council will advise the proponent in writing that the permit was granted, and the Councils' register updated to include the permitted structure.

11.6 Construction Bond

Construction Bond refunded.

**12. FEES AND CHARGES**

12.1 Fees will be charged in accordance with Council's adopted Schedule of Fees and Charges.

**13. COONAMBLE SHIRE PUBLIC GATE AND CATTLE GRID REGISTER**

13.1 Register of Public Gates and Cattle Grids details

Public Gates and Cattle Grid Number	date of the permit
Location and Land Reference:	
Permit Holder Name:	
Date of Application:	
Date of Advertisement:	
Date of Determination:	
Specific Requirements	
Inspection Record	
Permit End Date	

**14. APPENDICES**

14.1 Specification

14.2 Standard Drawings

## **SPECIFICATION FOR THE CONSTRUCTION OF STANDARD PUBLIC GATES & GRIDS**

### **a) GENERAL**

The erection of a public gate and by-pass is subject to the provisions of the Roads Act 1993 and Roads (General) Regulation 2008. This specification sets out Council's standard requirements for public gates and grids on dedicated roads.

### **b) COUNCIL REQUIREMENTS**

1. The public gate and grid shall be constructed as per Australian Standard 5100 (AS5100) at a site approved by Council upon seven (7) days notice given by the Contractor.
2. A suitable detour shall be provided prior to excavation for the ramp.
3. Temporary warning signs shall be erected by the Contractor in accordance with the attached traffic control plan. The signs may be obtained from the Council (pending availability) on **\$250** (T722201) deposit, which is refundable on the return of the signs in a satisfactory condition. Council ***MUST*** be contacted to check that the signs have been erected correctly.
4. A sum of **\$730.00** shall be lodged with Council comprising of a security deposit of **\$600.00** (T722201) and an inspection fee of **\$130.00** (120004) prior to excavation commencing. The security deposit shall be refunded on satisfactory completion and restoration of the road. The inspection fee is retained by Council to cover the cost of inspections and supervision.
5. Council to be indemnified against any action which may arise as a result of the grid and by-pass being installed. The applicant must submit a Certificate of Currency for their Public Liability Insurance to a value not less than \$10,000,000, prior to any works being carried out.
6. Excavation, installation and restoration of the approaches shall be carried out by the Contractor to the Council's satisfaction.
7. Council Officers shall inspect the formwork and reinforcement (must be certified by an Engineer) prior to pouring of concrete and shall inspect the works on completion.
8. Council reserves the right to complete the works at the owner's expense if a satisfactory rate of progress is not maintained.
9. The public gates shall have a minimum clear opening of 7.32 meters and shall be constructed in accordance with the best practice and from good materials to enable the passage of broad acre farming equipment.
10. Guardrail and sighting plate shall be painted white and to Council's standards.
11. The public gate shall be painted white and shall bear the words "PUBLIC GATE" not less than 75mm in height, painted legible characters together with any number allocated by Council.
12. The appropriate permanent warning signs to Australian Standard - AS1742 as indicated below, shall be provided and erected by the Contractor to Council's requirements.
13. The owner of the public gate or grid shall construct and maintain to Council's satisfaction the road carriageway approaches twenty (20) meters each side of gate or grid.

The appropriate signs detailed on page 10 shall be erected as shown on the diagram on page 11 for each grid or gate.

### **c) STRUCTURAL REQUIREMENTS**

1. All materials must comply with relevant Australian Standards.
2. All grids are to be prefabricated extra heavy duty (18 ton) manufactured to RMS standards.
3. Gates are to be prefabricated to Australian Standards.

d) **GATES AND GRIDS ADMINISTERED BY COUNCILS THROUGH STATE AND LOCAL GOVERNMENT ACT**

1. Gates and grids will not be approved on Regional Roads. Gates will not be approved on Local Roads without a grid. Grids will not be approved on Local Roads without a gate. Such gates and grids shall comply with Section (d)4 and Section (b)9 as a minimum standard.
2. Where roads are to be sealed, every effort to eliminate existing gates and grids must be made. Ideally, fencing out road reserves is the ultimate.
3. Where roads are foreseen to be sealed and the installation, retention, replacement or relocation of a grid and gate cannot be avoided at that time, the grid is to have a minimum width of 7.4 meters.
4. With low and relatively static traffic volumes and no intention to seal the road, a single width grid of not less than 4.0 meters wide is acceptable.

e) **WHERE COUNCIL PROPOSES TO RECONSTRUCT THE EXISTING ROAD THROUGH THE SAME AREA ON A NEW CENTRELINE, THE COUNCIL WILL:**

1. In the case of existing grids and gates THAT COMPLY with requirements, alter such structures to the new line and levels at Council's cost.
2. Where an existing grid or gate DOES NOT COMPLY the owner or lessee will supply, at their own cost, an approved grid and gate that Council will install at its cost.
3. Where there is no grid, only a gate, the owner will apply to install a grid at their own cost.

f) **WHERE APPROVALS ARE GIVEN FOR INSTALLATION OF A GRID**

1. In such cases, formal agreements are desirable, thus eliminating any future doubts and rights of Council.

h) **MAINTENANCE**

1. Owners of grids installed with permission are required to maintain same to Council's requirements.
2. Where grids are not maintained in a safe condition, Council will draw same to the attention of the landowner.
3. If the owner fails to comply with an order to repair, Council may prosecute the owner, remedy repairs and recover costs. Alternatively, after forty (40) days formal notice of failure to effect repairs, continued permission for the grid to exist will be revoked. If permission is revoked, the land owner is obliged to remove the grid. Failure may result in prosecution and Council removing the grid at the owner's cost.
4. Where dangerous conditions arise at a grid at short notice, and where Council can readily remedy in owner's absence, Council will carry out the work and immediately advise the owner to complete the necessary repairs.
5. Unauthorised grids and gates will be removed by owners. Failure to do so can result in Council taking action and recovering costs from owners.

i) **DEFECT NOTICES**

1. Where defective ramps exist, the following procedures will apply:
  - i) Notice to allow up to forty (40) days to effect repairs to Council's standards.
  - ii) If no action is taken within the specified period, Council will remove the defective grid at landowners cost, and permission to retain the grid at the site will be revoked.

**NOTICE OF REPAIR - PUBLIC GATE OR GRID**

File Number: \_\_\_\_\_:\_\_\_\_\_

Document Number: \_\_\_\_\_

Date: \_\_\_\_\_

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Dear Sir/Madam,

**RE: NOTICE OF REPAIR PUBLIC GATE OR GRID ON ROAD NUMBER: \_\_\_\_\_ ROAD.****DEFECTIVE GRID AND/OR GATE**

According to Council's records, you are the occupant of land and are held by Council to be wholly responsible for the upkeep and repair of a Public Grid for motor vehicles, located approximately \_\_\_\_\_ distance along \_\_\_\_\_ Road.

On a recent inspection, it was note that the Public Grid and/or Gate were defective in those matters indicated in the list hereunder:

1. Inadequate abutments of cattle grid and/or public gate
2. Inadequate width of the cattle grid and/or public gate
3. Inadequate or damaged side rails on cattle grid
4. Worn out, damaged or non-existent signage
5. Damaged road approach/approaches within 20m of cattle grid
6. Inadequate public gates - clear 7.32m opening required
7. Structurally or mechanically unsound public gate
8. Cattle grid not painted white or non-existent reflectors
9. Public gate not painted white
10. Worn out, damaged or non-existent reflectors on public gate

☐  
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☐**Notice of Repair Public Grid and/or Gate**

**Under the Local Government Act 1993 Council is charged with the responsibility of ensuring that landholders maintain ramps under their control. The legislation gives Council further power to ensure that repairs are affected within a stipulated timeframe.**

**Council hereby directs you as the owner of the Grid and/or Gate to undertake all necessary repairs within 40 days of the date of this notice. If repairs are not carried out in this timeframe, Council will be forced to remove the subject grid and/ gate and you will be billed accordingly.**

Should you have any queries in regards to the contents of this letter, please do not hesitate to contact Council's Engineering Department on 02 6827 1900 in the first instance.

Yours faithfully

RICK WARREN  
General Manager

Sign combinations that are necessary to indicate an upcoming grid, gate, grid and gate or stock as referenced on page 7.



W5-14



W5-15



W5-16



W5-214



W8-17-1

**NOTICE OF REPAIR - PUBLIC GATE OR CATTLE GRID**



**SIGN PACKAGE DEALS**

**Package 1:** \$169.00 (J/N 110508)  
1 x Stock Ahead sign  
1 x Next \_\_\_ km sign  
1 x post  
4 x brackets  
1 x cap  
N° Stickers (e.g.: 15)

**Package 2:** \$128.00 (J/N 110508)  
1 x Gate & Grid sign  
1 x Post  
4 x Brackets  
1 x Cap

**Package 3:** \$34.00 (J/N 110508)  
4 x Reflectors (guard rail)

**Package 4:** \$480.00 (J/N 110508)  
1 x Stock Ahead sign  
1 x Next \_\_\_ km sign  
2 x Gate & Grid sign  
3 x posts  
8 x brackets  
3 x caps  
4 x Reflectors (guard rail)  
N° Stickers (e.g.: 15)

Prices may change without notice.



### Application For Permit To Erect A Public Gate With/Without Cattle Grid

I ..... hereby apply for permission to erect a Public Gate with Cattle Grid across an unfenced section of the .....Road within Lot No. .... in the Parish of..... County of.....at the following locations:-

a) Location of the gate

Approximately .....km from the commencement of the road at its junction with .....Road

b) Width of gate .....metres

c) Is the gate already in existence? (Yes/No)

d) Is the fence a boundary or subdivision fence? (Yes/No)

e) If boundary fence, name of adjacent owner .....

f) Is a cattle grid to be included? (Yes/No)

g) I am the owner/occupier of the land (delete one – if occupier, state legal nature of occupation)

I enclose the prescribed fee of \$...... in respect of this application.

Name: .....

Address: .....

.....  
(Signature of Applicant) (Date)

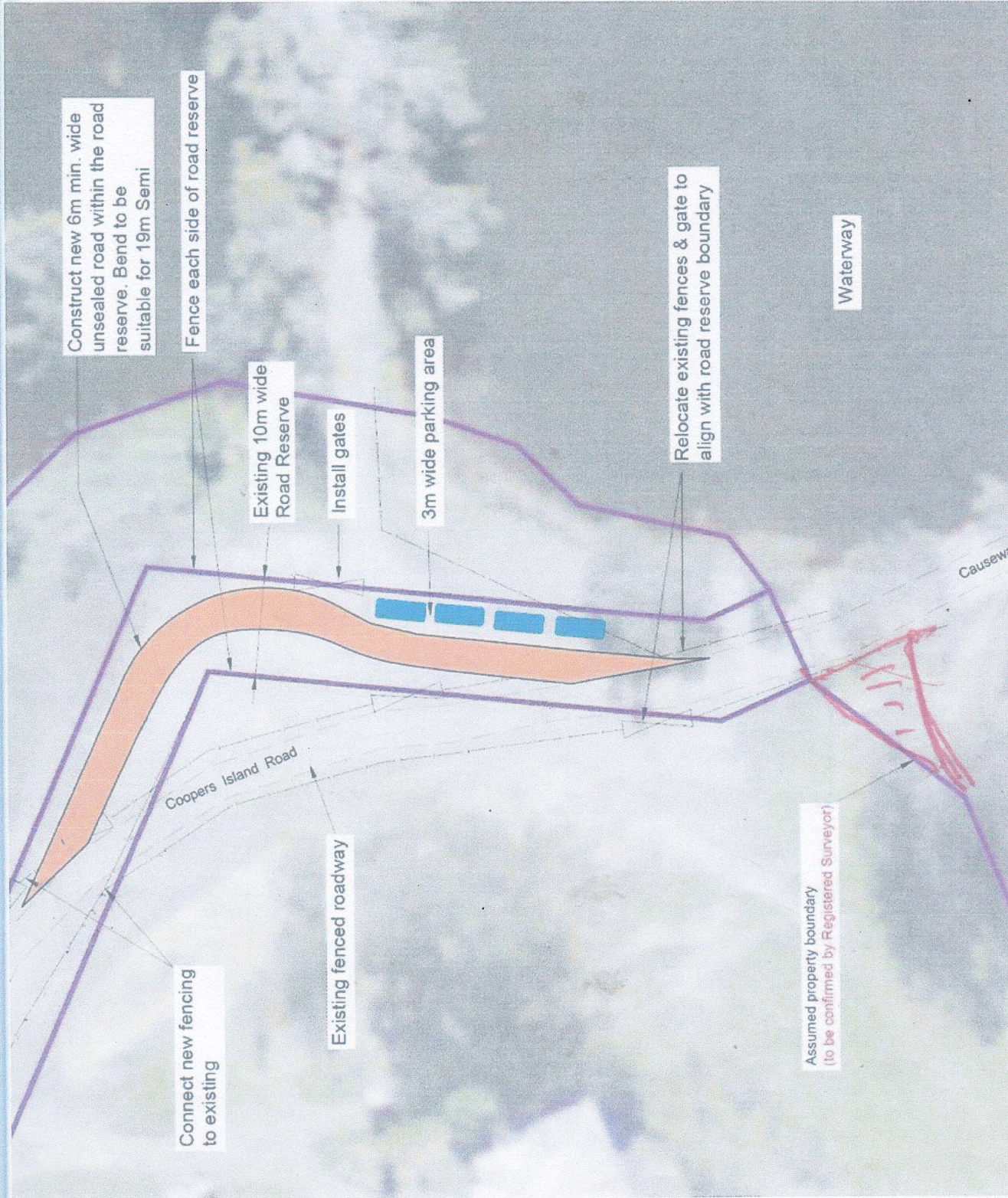


### Check List

	Yes	No
1. Adequate abutments of Cattle Grid and Public Gate	<input type="checkbox"/>	<input type="checkbox"/>
2. Adequate width of the Cattle Grid and Public Gate	<input type="checkbox"/>	<input type="checkbox"/>
3. Inadequate or damaged side rails on Cattle Grid	<input type="checkbox"/>	<input type="checkbox"/>
4. Worn out, damaged or non-existent signage	<input type="checkbox"/>	<input type="checkbox"/>
5. Damaged road approach/approaches within 20m of Cattle Grid	<input type="checkbox"/>	<input type="checkbox"/>
6. Inadequate Public Gate - clear 7.32m opening required	<input type="checkbox"/>	<input type="checkbox"/>
7. Structurally or mechanically unsound Public Gate	<input type="checkbox"/>	<input type="checkbox"/>
8. Cattle Grid not painted white or non-existent reflectors	<input type="checkbox"/>	<input type="checkbox"/>
9. Public Gate not painted white	<input type="checkbox"/>	<input type="checkbox"/>
10. Worn out, damaged or non-existent reflectors on Public Gate	<input type="checkbox"/>	<input type="checkbox"/>



# Width of Road Adequate for Cars and Trucks





Presentation by Lei Parker  
NOM21/002 Application for Gate Permit - Coopers Island Road

Councillors,

When you were elected you were given delegated duties bound by law.

You, as Councillors, became the roads authority for local roads under the Roads Act 1993.

As the Roads Authority for local public roads.

*ROADS ACT 1993 - SECT 7*

*Roads authorities*

*7 Roads authorities*

*(4) The council of a local government area is the roads authority for all public roads within the area*

That is the law. Coopers Island Road is a Public Road and YOU, as elected councillors, are the roads authority.

But YOU delegated that authority down to the General Manager.

It appears that the General Manager is the delegated officer in this instance as the report to Council on Coopers Island Road have arrived as a General Manager's report, under her hand.

Irrespective of that delegation, it is done in YOUR name Councillors, by YOUR legal authority.

Being fully informed of your delegation you are no doubt aware that the ROADS ACT 1993 - SECT 5 clearly states:

*5 Right of passage along public road by members of public*

*2) A member of the public is entitled, as of right, to pass along a public road (whether on foot, in a vehicle or otherwise) and to drive stock or other animals along the public road.*

Being well aware of this you would no doubt come to the conclusion that any member of the public raising the issue of '*Right of passage along public road*' would fall to you, or your delegate, to immediately address.

Such has been the case with Coopers Island Road where the public have been clearly asking Council for more than two years clarification around the Right of passage along public road (being Coopers Island Road).

The Public first formally raised this in early 2019 in correspondence to Council. In doing so they brought to your attention that an unlocked gate had been erected across a public road.

Delegated staff, under the delegation of the General Manager, were clearly informed that the gate was in breach of the Roads Act 1993. The staff, the General Manager and yourselves have been told by the public, time and time again that the gate is illegal. Yet you did nothing.

**The gate is illegal because it has no Gate Permit.**

Now for the Roads Act 1993 No 33

<https://legislation.nsw.gov.au/view/html/inforce/current/act-1993-033#sec.128>

### **128 Roads authority may grant permit**

- (1) *A roads authority may permit the occupier of any land through which an **unfenced** public road passes to erect a gate across the road at any place at which the road intersects a boundary fence.*
- (3) ***A roads authority must cause notice of the granting of the permit to be published in a local newspaper.***

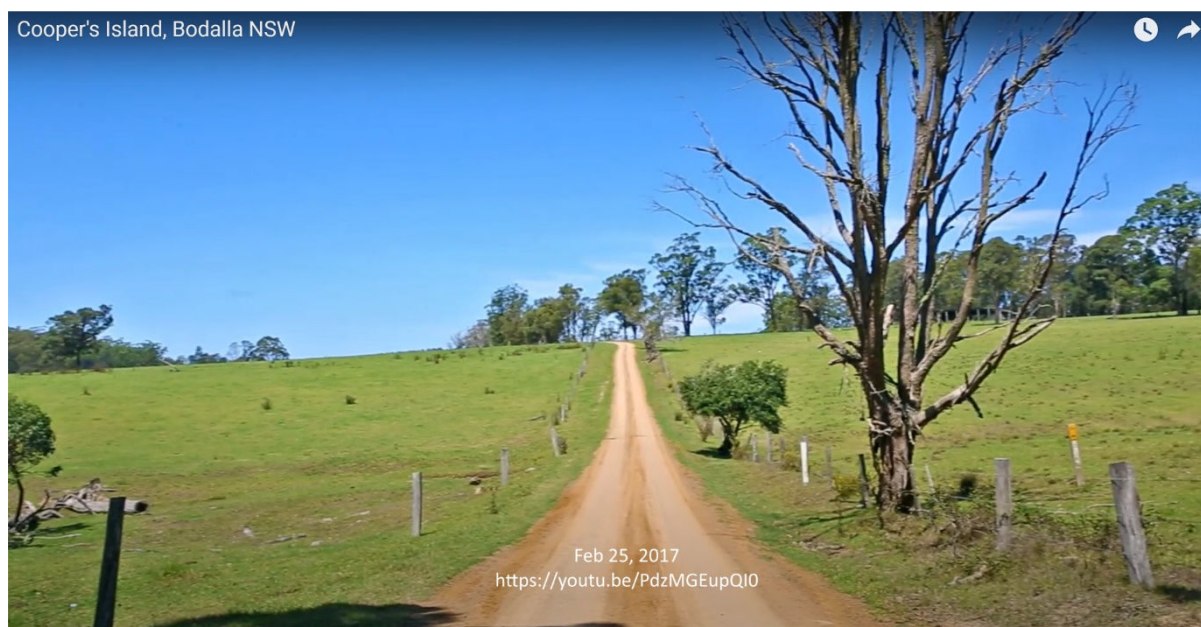
Councillors, I remind you that the **Roads Authority is YOU**, our elected councillors, who were vested in enacting the Roads Act 1993, on behalf of the Crown and of your community.

Let's now look very closely at Roads Act 1993 No 33 ; 128.1

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

An unfenced public road IS NOT a half fenced public road. An unfenced road is a road that has NO fencing.

Coopers Island Road is very well fenced, with the exception of just 290m, with high quality fencing. The 290m of missing fencing on the northern boundary of the front paddock was in place in February 2017.



The Southern boundary of the Public Road (being Coopers Island Road) is very well fenced at a quality well above most fencing in Eurobodalla. I provide the following photographs







Councillors, you were correctly advised you in the General Manager's report to Council, on June 8<sup>th</sup> that

*Legal advice has been sought by Council regarding issues raised by the owners. Council has received the following information:*

*Section 128 of the Road Act 1993 states that: '(1) A roads authority may permit the occupier of any land through which an unfenced public road passes to erect a gate across the road at any place at which the road intersects a boundary fence'.*

*Therefore, as the road has been fenced, Council is not permitted to approve a public gate, should Coopers Island Road remain a Council Road. The owners will be advised of this most recent legal advice obtained by Council.*

Yet you insisted on proceeding with the current Gate Permit application by moving and adopting (June 8<sup>th</sup>, 2021) the following:

*4. Notes that the electric fence on the boundary of Coopers Island Road has been removed **and a public gate can now be reconsidered within 14 days.***

On June 8<sup>th</sup>, Councillor Mayne asked, seeking clarification "Why would that now be considered and what's the relationship to the removal of that fencing?"



The General Manager responded:

*“As the Council report clearly articulates Councillor, while the road is fenced Council cannot consider an application for a public gate. Now that the road is unfenced in that vicinity then council can consider an application that has been received by Council for a public gate”.*

To assist the General Manager, the definition UNFENCED ROAD means any road that is not fully fenced.

Coopers Island Road, *in that vicinity*, is substantially and expensively fenced along its southern road boundary.

As such, the Public Road reserve cannot be referred to as “unfenced”, as she advised Councillor Mayne during the Council meeting.

Part fenced, YES, but NOT unfenced.

The General Manager’s statement on June 8<sup>th</sup>, 2021, to Councillor Mayne saying,

*“Now that the road is unfenced in that vicinity then council can consider an application that has been received by Council for a public gate”*

is clearly in conflict with her own report, tabled on the same day, that so clearly articulates:

*“Therefore, as the road has been fenced, Council is not permitted to approve a public gate, should Coopers Island Road remain a Council road. The owners will be advised of this most recent legal advice obtained by Council.”*

No wonder Councillor Mayne asked for clarification.

It is widely predicted that Councillor Constable’s Notice of Motion coming to the chamber today will be overturned by the Innes Voting Bloc of Brown, Thomson, Nathan, and Tait. The vote of Clr Pollock is yet to be seen.

Councillors, it is evident that there is a fence on the southern side of Coopers Island Road and that the entire length of Coopers Island Road from the highway to the weir is substantially fenced with quality fencing. The front northern paddock is the only section of the entire length of

Coopers Island Road that remains unfenced.

With the exception of the short span of electric fence Coopers Island Road could be declared fully fenced.

The first motion being:

*that Council Refuse to issue a public gate permit under s128 of the Roads Act 1993 (NSW) to the owner of the land adjoining Coopers Island Road ('the adjoining landowner') for the erection of a public gate across Coopers Island Road where it meets the Princess Highway.*

*Then direct the adjoining landowner to remove the gate that is currently erected across Coopers Island Road at that location within 21 days of this resolution*

*And then upon the adjoining landowner complying with the Council direction to remove the gate, issue to the adjoining landowner a 7 day notice of intention to issue Order No. 7 under s124 of the Local Government Act 1993 (NSW) requiring the adjoining landowner to fence its land along the length of Coopers Island Road to the Princes Highway road reserve, on the basis that it is satisfied that public safety renders it necessary that the land adjoining Coopers Island Road is fenced.*

The above actions will not prohibit the farmer from walking his stock from the front paddocks, across the weir, to Coopers Island as the Road Act states: *“A member of the public is entitled, as of right, to pass along a public road (whether on foot, in a vehicle or otherwise) and to drive stock or other animals along the public road”*

**It is evident that Councillor Constable has reviewed the Road Act in preparation for his Notice of Motion.**

On June 8<sup>th</sup>, 2021, during the Council meeting, Councillor Mayne asked for clarity around the General Manager’s report recommendation *“that the public gate application presently with Council seeking to legalise the gate on Coopers Island Road can now be reconsidered within 14 days”*

Clr McGinlay mentioned a point made during Public Forum earlier that morning asking:

*“Should we be approving the gate; that the community will also need to be consulted in that regard? Could that be verified or explained more clearly what form of consultation that would take?”.*

The General Manager responded, *“Public gates are considered by Council staff, under delegation”*

*“That would be under delegation and there would not be consultation because it is, basically a gate, which is a very minor issue in protecting vehicles, people and stock”.*

Clr McGinlay then said, *“Just to clarify, the speaker this morning was incorrect in her assumption that there would be some consultation”*

The General Manager said *“Through the Mayor, that is correct, Mr Greenway might like to comment”.*

Andrew Greenway, Divisional Manager, Tourism & Economic Development, said

*“Section 128 point 3 of the Roads Act says  
(3) A roads authority must cause notice of the granting of the permit to be published in a local newspaper.*

He then finished saying *“That is the only reference to public notification”*

Neither Mr Greenway or the General Manager added, to advise Councillor McGinlay accurately, and in full that:

***ROADS REGULATION 2018 - REG 69***

***Notice inviting objections***

***69 Notice inviting objections***

***Before determining an application for a public gate permit, the roads authority--***

***(a) must cause notice of the proposal to erect a public gate (including particulars as to the proposed location of the gate) to be published in a local newspaper or on the roads authority's website, and***

***(b) must allow sufficient time (being not less than 28 days from the date of publication of the notice) for written submissions on the proposal to be made to the roads authority, and***

***(c) must have due regard to any written submissions on the proposal that are made to the roads authority within that time.***

What is fast becoming evident is that the officers the Councillors have delegated their authority to do not have the required comprehension of the Acts. they have been delegated.

Another delegation handed down by councillors is that of the Local Government Act that pertains, in this instance, to removal of gates across Public Roads.

Councillors, just to remind you:

***LOCAL GOVERNMENT ACT 1993 - SECT 124***

***A council may order a person to do or to refrain from doing a thing specified in Column 1 of the following Table if the circumstances specified opposite it in Column 2 of the Table exist and the person comes within the description opposite it in Column 3 of the Table.***

**Orders requiring the protection or repair of public places**

	Column 1	Column 2	Column 3
	To do what?	In what circumstances?	To whom?
26			
27	To remove an object or matter from a public place or prevent any object or matter being deposited there	The object or matter--(a) is causing or is likely to cause an obstruction or encroachment of or on the public place and the obstruction or encroachment is not authorised by or under any Act, or(b) is causing or is likely to cause danger, annoyance or inconvenience to the public	Person causing obstruction or encroachment or owner or occupier of land from which the object or matter emanates or is likely to emanate

Council staff and management (and therefore YOU) knew of the illegal gate on Coopers Island Road in 2018 yet they chose not to, under the Local Government Act – Sect 124, to remove it.

In light of the General Manager's report that came to Council on June 8th, 2021, I ask the following questions.

1. The report to Councillors stated, "The property owners have requested that Council sell the road reserve to them and close the road to the public."

I have been advised that the Council approached the owners suggesting they buy the land (at an estimated value of \$16,000).

Can you please provide me the details around who approached who, on what date and by what method of communication.

I am happy to request this communication under a formal GIPA if you prefer.

2. The current owners purchased the property on 24 October 2017.

They were told by council staff via letter on the 31st of May 2018 that appropriate measures should be undertaken to secure their property, including fencing.

During her presentation during Public Forum Mrs Hart said "It was suggested we erect the gate urgently to avoid a potential fatality. The planning department gave **verbal approval** to erect the gate under section 128 of the roads act provided we obtained a survey to ensure the gate was correctly located. "

It was revealed in Council's media release of June 10<sup>th</sup>, 2021, that: "The property owners erected a gate across the road at the Princes Highway

to prevent their cattle jumping the cattle grid, **as advised by a Council ranger."**

As has been established the Council ranger had no authority to give such advice and "The planning department" had no authority to give "verbal approval".

**As you are now fully aware there is a legal process to approve a gate on a public road. This process has been ignored and staff have given approval with no legal authority.**

It is understood that this incorrect advice (given by the planning department and an unidentified ranger) was not made known to the owners. It is understood that senior council staff were aware in 2018 that the ranger had gone outside of their authority and offered advice they were not legally entitled to provide.

As has been revealed the Council has sat on that knowledge for nearly three years knowing the gate was illegal and that it was installed based on "advice" offered by a Council staff member who did not have authority.

Councillors, can you offer an explanation as to why the owners were allowed to remain ill-advised and why the illegal gate was allowed to remain under mounting public outcry, building resentment and potential conflict.

As the CEO of the Council all delegated authority comes through the General Manager, from Councillors down to delegated staff. The ill advice initially offered by a Council ranger is vicariously the ill advice offered on YOUR behalf. Yet, councillors, you have failed to correct it. As a result, the issue has been allowed to grow into an embarrassment for Council and for YOU as councillors, exposing Council's good name and reputation to unwarranted risk.

I look forward to your explanation to myself, and to the public.

It has been suggested that management and some councillors are of the opinion that it would be best to divest Council's responsibilities towards the ongoing maintenance of Coopers Island Road.

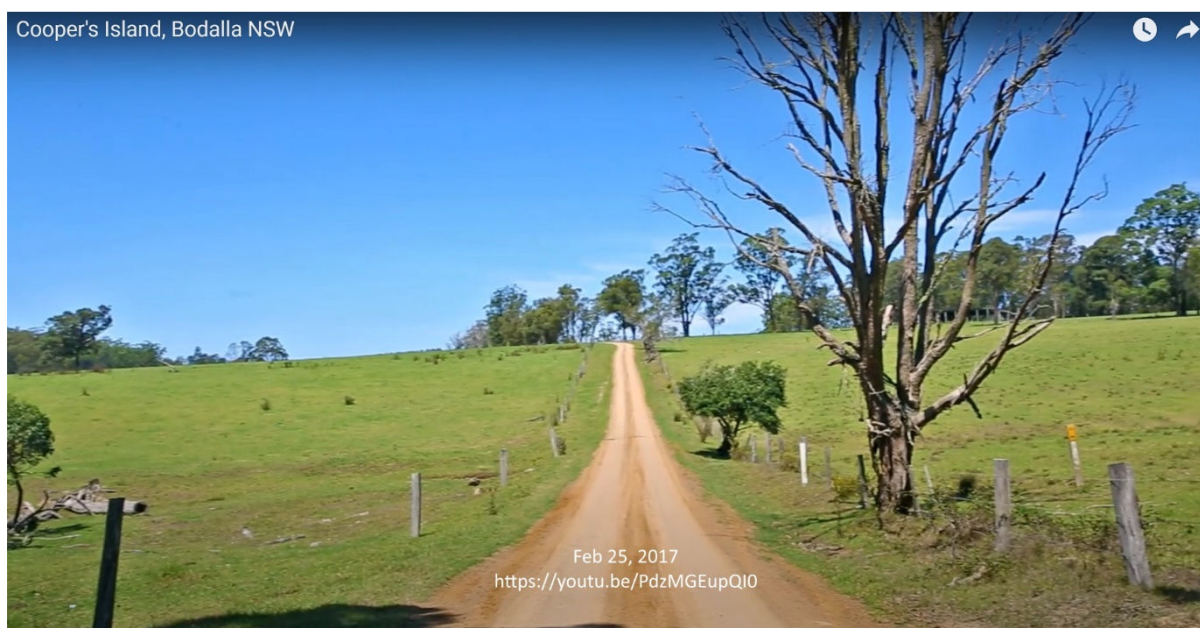
It has been suggested that Council may have advised the owners that if the electric fence were removed it would provide the opportunity for the

owners to then proceed with a Gate Permit Application.

As you are now no doubt aware, a gate permit can only be granted if BOTH sides of the road are unfenced.

On the matter of fencing, I draw your attention to the statement made to Councillors by the owner during Public Forum:

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



Note the above image, extracted from the You Tube video specified above indicates that the road was fully fenced in February 2017 at the time the owners purchased the land.

It is suggested that there have been extensive communications between one councillor and the owners.

Councillors, General Manager, given the public expectations to enact the Local Government Act that give specific Orders regarding an illegal object erected on a public place (a public road), can you please advise myself, and the community, as to why this was not carried out by staff under your delegation.

General Manager, can you please advise why the Councillors were not informed that you, or a staff member under your delegation, chose not to undertake the direction of the Local Government Act when the issue of the illegal gate being erected on a public road was first reported by the public, in writing, in 2018?

As you can see from the above this issue is a long way from being solved. Sadly, it is still being conducted behind closed doors and sadly your councillors (and the public) are being kept in the dark.

**As for the \$5000 co-contribution? The owners deserve recompense for having been stuffed around. And the community deserve an apology.**

I look forward to your timely response to the questions above.

Regards.

Lei Parker



**ABE Public Forum Presentation to ESC regarding NOM21/002 Application for  
Gate Permit: Coopers Island Road  
ESC Meeting 22 June 2021**

Good morning and thank you for the opportunity to address Council and the community regarding Notice of Motion 21/002, dealing with an application for a gate permit on Coopers Island Road.

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

ABE has applied these principles to the issue of the gate permit for Coopers Island Road, which leads it to **support Councillor Constable's Notice of Motion**, which calls on Council to:

1. Refuse to issue a public gate permit under s128 of the Roads Act 1993 (NSW) to the owner of the land adjoining Coopers Island Road;
2. Direct the adjoining landowner to remove the gate that is currently erected across Coopers Island Road at that location within 21 days of this resolution;
3. Following removal of the gate, issue an order under s124 of the Local Government Act 1993 (NSW) requiring the adjoining landowner to fence their land along the length of Coopers Island Road to the Princes Highway road reserve, on the basis that it is satisfied that public safety renders it necessary that the land adjoining Coopers Island Road is fenced.'; and
4. Contribute 50% of the cost of the fencing as a one-off contribution.

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

ABE's has indicated that the extended delay in taking the regulatory action required under law regarding the illegal gate on Coopers Island Road was problematic. It had fuelled community unease and speculation that Council's lack of action was the result of ongoing negotiations for the purchase of the public road by the adjoining landowner.

This public unease proved to be well-founded, as at the 8 June meeting Council was presented with an option to sell Coopers Island Road to the adjoining landholder, or to retain the road in public ownership. ABE supported retention of the road as a

public asset, indicating that the Coopers Island precedent could have significant implications for many other public roads and assets throughout the Eurobodalla Shire, as well as public liability implications for Council. It would also have had significant negative impacts across many in the community who have used the site for decades. In particular, Council should have recognised the long-term Aboriginal connection to Coopers Island, including local Aboriginal families who have cultural fishing links to the site going back for many generations.

ABE noted that the retention of the illegal gate on Coopers Island reflected poor administrative practice, lack of transparency and meaningful consultation, and was at odds with informed advice regarding effective post-disaster community recovery practices.

While ABE endorses Council's decision taken on 8 June to retain Coopers Island Road in public ownership, we note that the formal motion embodying this decision only emerged during the meeting process, and was not contained in the agenda papers circulated for public exhibition and consideration. This was poor administrative practice causing confusion among Councillors and the community about the implications of what was being proposed.

Where responsibilities are delegated from Councillors to officials and a matter is incorrectly or inappropriately handled, it is right that Council should rescind that delegation and make a decision.

Today's notice of motion reveals that, on reflection, an alternative approach to the fencing and gate issue has emerged that addresses the disquiet in the community about the retention of a gate.

ABE believes that Councillor Constable's notice of motion represents an opportunity to clarify and consolidate the Council decision taken on 8 June to retain public ownership of Coopers Island Road. Further, it addresses potential public safety and public liability concerns that could arise from the formal decision endorsed by Council on 8 June.

ABE requests that it should be noted that a decision to support 50% of the cost of the fencing as a one-off contribution reflects that a Council official's verbal advice to the landholder concerning the erection of the gate was incorrect.

This notice of motion is another opportunity for elected Councillors to prove their commitment both to the community and to good public administration. ABE therefore urges Councillors to support it.

Thank you for your attention.

Bernie O'Neil  
Co-convenor  
A Better Eurobodalla



## Presentation to Council on 2021-2022 Delivery Program and Operational Plan

Alongside the Community Strategic Plan, the Delivery Program and the Operational Plan (DPOP) are the primary accountability documents for the Council. Because of their importance, it is vital that they are accessible to the community, and meet the communities need for adequate and accurate information they can use to keep the Council accountable to the community it serves. The submission on the draft plan made by Eurobodalla Labor the plan as presented does not meet these criteria.

In the Labor for Eurobodalla Council submission on the DPOP, we made the following suggestions to improve this document:

“This plan is clearly not to the standard the Labor team expects of such an important document, and if elected to Council we will seek to review the Program and Plan at the earliest opportunity, so it meets the standards both we and the community expect from the Council.

Genuine consultation with the community must be the foundation for the Council’s operational plan. Consultation is not a one-off annual event. It needs to be an ongoing conversation with the Community about how the plan is progressing, and whether it still meets the needs of our community. This may mean that the Council will have regular meetings with the community to discuss the operational plan, as well as more formal consultations as the plan is reviewed and prepared each year.

In future plans we will expect that it meets the goals of being transparent, accurate and open. These goals include:

- Clear and measurable criteria for success
- Financial data that allows comparison across years
- An Executive Summary which is clear and concise
- Accurate figures across the whole document
- Where there are discrepancies, clear explanations for those discrepancies.”



### *Clear and measurable criteria for success*

There are still no success criteria in the DPOP. As we noted in our submission, the DPOP lists outcomes but does not detail what success looks like for these outcomes. The example we used was "Community Satisfaction with communications from Council. Although there are output measures, there is nothing about measuring whether the Community is satisfied with Council communications. We don't need to know how many media releases were distributed, we need to know whether the community found these press releases to be useful and informative. You can have many social media followers but with the majority fumingly angry because they are not being listened to.

### *Comparative Financial Data*

To get a clear understanding of Council's progress, the community needs to be able to compare Council's finances over at least two years, and preferably longer.

- This allows the community to build an understanding of how the Council is using the money entrusted to it.
- In turn this leads to a more informed community that can effectively partner with the Council to build the financially robust, wise-spending Council that we all want.

This data is still not available in today's document.

### *Clear and concise Executive Summaries*

The document should present information that is easily understood and useful to community members. An executive summary or "highlights" section would allow those reading it to quickly access the main points of the document.

- Explanatory notes should also be included to describe each expenditure item and a justification for the expenditure.
- An executive summary is much more useful than the one page photos in this document. The out-of-date photo on p. 53 is a case in point – it shows the old Bridge at Batemans Bay which is being demolished and the new Bridge is not even shown – so much for a document which purports to be forward looking!



*Accurate figures across the whole document*

DPOP is an important document, and great care needs to be made that the information it holds is accurate, and informative.

We note that the inaccuracies we identified in the draft have not been corrected. As we detailed in our submission, obvious inaccuracies, such as listing now non-existent Tourist Information Centres, leads to suspicions that other more important but less easily checked data is also inaccurate.

*Where there are discrepancies, clear explanations for those discrepancies.*

There will be discrepancies in data, ranging from rounding errors to changes in accounting practices. These are to be expected. What also needs to be expected in an important document like DPOP, is that these discrepancies are identified and clearly explained. There are discrepancies in this document which we detailed in our submission, which are still not identified or explained. This lack once again makes it difficult to assume the information provided in the DPOP, is accurate and complete.

We are still not satisfied that this document meets the standard our Community expects from the Council which serves them and we will be seeking a thorough review of the DPOP if we are elected to Council in September.

David Grace  
Mayoral Candidate  
Eurobodalla Labor for Council

## **PSR21/025 Proposed Sale of Land – Tatiara Street, Dalmeny**

Dear members,

My name is Nicole Keith,

I have owned a house in Dalmeny for over 10 years and holidayed here for 40 years and my husband for over 50 years.

My husband and I met here as children whilst camping with our parents.

We married here in 2006 in Narooma and we have teenage twins that currently attend Narooma High School.

We were led to believe by the council when we purchased our house in Dalmeny that there would be no large developments in Dalmeny.

First of all i would like to say i'm not anti progress but i'm concerned about the sell off of this land.

Secondly i would like to know has there been an environmental impact study on the land and the waterways in this area?

Thirdly this land was zoned for residential dwellings over 30 years ago, 30 years ago our local indigenous did not get a say in this development. Has anyone recently checked with the Aboriginal elders or historians as to whether this land has any spiritual importance or is this land sacred to their community?

Fourthly I would like to address the matter that the Narooma/Dalmeny area was never town planned. Parking is already near impossible for locals and definitely impossible in holiday times. Being a former business owner in Narooma i can honestly say that my business was hindered by lack of parking available. There are limited facilities/parking for the disabled.

Fifth I would like it known that our medical services are at full capacity, the wait for a non urgent Dr's appointment is 2-3 weeks.

Sixth, our high school is at capacity already with no space for children to have lockers to store books and personal belongings let alone adding more students with no extra classrooms. Narooma High School has a huge number of students coming from a huge area, Cobargo, Bermagui and Bodalla to name just a few. Are there any plans in place for another primary and secondary school?

Seven the primary school has no room to expand to accommodate an influx of students and this is the same for the childcare centres in the area.

Eight our Police are doing an incredible job but sadly our police station is not manned 24/7. Violent crime is on the rise with armed robberies in the area. Drug related crimes are on the rise. In an emergency after hours our back up is more than an hour away.

Nine our sewer system in the area is not able to keep up with the homes that are already established, is there a plan for a new sewage treatment plant to accommodate 800 new homes? Has there been an environmental impact study on how this will impact the health of the community and the pristine waterways and the effect on our huge oyster farming businesses. This

**PSR21/025 Proposed Sale of Land – Tatiara Street, Dalmeny**

development could now cancel out our established tourism industry and destroy the businesses that rely on tourism.

Ten sadly during most recent bushfires, our evacuation centre could not accommodate the massive influx of people from surrounding areas. Our most vulnerable were not taken care of, lack of shelter, communications and space could have been lessened with a fully equipped and prepared evacuation centre. Currently our evaluation centre is an old roller skating rink which is used for netball, archery and boxing. The toilets were completely unsatisfactory for the thousands of people that were evacuated. This is a matter that needs URGENT attention before we add more people to our community.

Finally, please don't destroy this pristine land without doing proper independent studies on the impact of tourism, water/ocean, bushland, business and community welfare.

Thank you for listening  
Nicole Keith

## Eurobodalla Shire Council Agenda Item 11

## Re PSR21/025 Proposed sale of Operational Land – Tatiara Street Dalmeny SO23 – T00014

On Sunday afternoon approximately residents of Tatiara, Elanora and Thomson Streets Dalmeny met informally with Cr. Pat McGinlay regarding concerns over the Eurobodalla Shires proposed sale of Operational Land No. 16 Tatiara St.

According to Council the land Lot 2 DP 1151341 is zoned low density residential and is classed as being undulating. The land is classified as Operational and as such there is no legal requirement to advise the community of the proposed sale through public notice or exhibition. The land was rezoned residential 30 years ago when the community was consulted regarding land use planning and the Environmental planning process resulting in the current zoning.

- The land is not undulating in parts it is very steep and bisected by a watercourse which flows down to Tatiara Street.
- Despite this being a major change to a large area of native vegetation Council is attempting to justify the change to its use by reference to land use and environmental planning carried out 30 years ago.
- According to the Australian Bureau of Statistics only 27% of people living in their current homes have been resident there for more than 15 years. Numerous additional homes have been built in the area in that time. Meaning that the original planning is now well out of date and most current ratepayers have not been consulted regarding the proposed change of use.
- Societies views on the environment have changed in the last 30 years and do not correspond to views held today. Climate change was not acknowledged 30 years ago and care and concern for the environment was not an important consideration.

Council states that environmental factors will be considered with the future development applications for this property.

- Eurobodalla Local Government Environmental Plan 2012 aims to
  - restrict development of land that is subject to flooding, ... bushfires and landslip
  - provide measures to protect and manage the biodiversity and environmental values of land and waterways.

This is a steep heavily timbered area, and any development will result in the destruction of both flora and fauna as well as causing problems of erosion and deterioration of the watercourse.

- Referring to minimum Subdivision lot size
  - the object is to protect native vegetation, natural watercourses and habitats for threatened species and population and endangered ecological communities.

I do not believe that in subdividing this land any guarantee can be given to ensuring the above objects.

I am asking Councillors to defer approving the sale of this land until they have personally inspected the land and can make a more informed decision.

Rob Christie

Tatiara Street Dalmeny



## **Presentation to Council on the proposed sale of operational land – Tatiara Street, Dalmeny**

At the outset, I would like to say I am neither for nor against the proposed sale of Part Lot 2, DP 1151341.

My concern is about the timing and process associated with this proposed sale, as well as the paucity of information available in relation to the requirements on the developer in relation to this land.

The very end of the current councillors' extended tenure is not the time to have a fire sale of Council assets and is contrary to the long-standing caretaker convention. First the bowling club site in Batemans Bay and now land that has been available to sell for at least 30 years. Why the rush?

The lot of land is native bushland. Much has changed in the past 30 years, including the recent devastating fires. Many people would want the council to think and act carefully before clearing 400,000 sqm without considering the native creatures that will be affected by this action.

While on the subject of fire, this parcel of land is in the flame zone. It seems unlikely that the cost of the requirements for building in such a location will make the land and houses affordable and accessible to local workers.

The report in relation to this proposed sale asserts that "(T)here is no legal requirement to advise the community through public notice or to seek feedback through public exhibition of land dealings concerning operational land". This assertion is well and good. However, a council keen to keep its ratepayers onside and one that wants its constituents to understand why it does what it does would be keen to keep the public well apprised in relation to land dealing by the council. To not do so leads to suspicion that the Council is not acting in the best interests of the community and may even be acting cynically, to lessen the negative political impacts of an underfunded Mackay Park.

The report also claims that the development of this lot will "reduce pressure on housing affordability" but provides no evidence to support this assertion.

I respectfully request that the consideration in relation to selling this land is delayed until after the September local government elections so the new councillors can turn their minds to both the hip pocket of the Council and the best interests of the local community.