

## EUROBODALLA SHIRE COUNCIL

### PUBLIC FORUM

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

Ordinary Meeting of Council on 22 March 2016

Name	Subject/Comments
<b>Public Access Session – 9:30am</b>	
Trish Hellier	Meeting procedures and the Code of Meeting Practice
<b>Agenda Items – 10.00am</b>	
Noel Davis	FBD16/012 Licence for Use of Crown Reserve - Narooma
Patricia Delaney	FBD16/012 Licence for Use of Crown Reserve - Narooma
Heather Irwin	FBD16/012 Licence for Use of Crown Reserve - Narooma
Anne Cormick	FBD16/012 Licence for Use of Crown Reserve – Narooma
Chris Kowal	FBD16/012 Licence for Use of Crown Reserve - Narooma
Jim Bright	FBD16/012 Licence for Use of Crown Reserve – Narooma
Tom Slockee (Presented by Rev Peter Lord)	FBD16/012 Licence for Use of Crown Reserve – Narooma
Rev Peter Lord	FBD16/012 Licence for Use of Crown Reserve – Narooma
Peter Cormick	FBD16/012 Licence for Use of Crown Reserve - Narooma

Our Elected Mayor, Our representative councillors, Our admin personell present I am grateful for this opportunity to speak to you personally concerning the proposed use of our leisure centre and surrounds during Prime Time in Narooma, the long weekend in June.

I will be brief. How best and most forceful to show the strength of my preference than to come here in person and be put on record. I am not here to argue the case for one prefernece over another. I have come beyond that approach. I have come as a resident of Eurobodalla Shire for the past 18 years to express my clear preference in a public forum such as this. I could have written letters to each of you, sent you emails, written letters to the local newspapers but I have chosen this public forum to express my preference for the allocation of prime time in Narooma.

As background I was part of the lobby group a decade or so ago that brought about a rethink of our walkway/cycle path from the proposed Centenary Drive route to our much loved and appreciated boardwalk. That required a reassessment and reappraisal of the options. It remains a shining example of what can be achieved through combined community and council effort. The benefits to the community are obvious. It is a joy <sup>making of</sup> to all ages & physical capacities. <sub>for</sub>

My clear preference this time is for an event that celebrates the gift of our Nature Coast, its pristine beauty, its flora and fauna and marine wonder, the life enhancing spirit of its people and the enjoyment and delight of our constant stream of visitors. All contribute to the prosperity and spirit of our town. It is a preference for the celebration of life and the enhancement of all in this local habitat of life that we all rejoice in calling home. The trust of the proposal captured in its title - Coast and Nature - a Narooma Festival - is a trust that is coming from within the community itself. That is a big plus for me.

I support an event that has a fuller community participation that unites rather than divides the community. It is a fresh proposal. I have no doubt about the passion, competence, drive and commitment of its organising committee.

The use of our leisure centre and surrounds demands a rethink. I urge each of you to cast your vote for a Festival of Life during Prime Time in Narooma, the long weekend in June. It is a vote for the celebration

of the life of the shire, by the folk of the shire for the folk of the shire  
and our visitors.

*Neil Davis*

.Good morning to our elected Mayor and Councillors. I greet and welcome us all as members of this Community of Eurobodalla who live in this very beautiful part of our land -- the Nature Coast as it is called.

In my whole life I'd never experienced a sense of 'belonging' in a place till I arrived in Narooma nearly 20 years ago. I just love it. My whole being has come 'alive' here so I'm very pleased to have this opportunity of adding my support for this new proposal : "The Coast and Nature -A Narooma Festival" for the upcoming June long Week ends commencing from 2018.

For me it feels part of something much bigger ...The huge waking and shifting and evolving that's happening throughout our whole world. We're slowly coming to understand about our CONNECTEDNESS to ALL --the Land, the Waters, the two-legged, four-legged and the winged creatures. *The same life force flows through us all.*

I feel so privileged to be living in these crucial, critical times..The waking excites me and I'm hoping we'll play our part as a truly vibrant, united and creative community willing to see bigger and rise to the huge challenges we're all being faced with as we learn to co-operate and work with our evolving planet in its endeavor to rebalance itself. Our hearts, souls and spirit of playfulness are needed....not just our minds that so easily get caught up in anxiety and fear and efforts to control.

It's time. Last year I came together with groups of women in Narooma, B/Bay and Moruya I to reflect on creative possibilities for these June weekends. Wonderful thoughts and ideas were suggested and I feel will get to be included as we all get behind this creative proposal.

I feel it has the potential to be an integral part in assisting us in our evolving as a Community and a Shire. Who knows what could come out of it as men, women and children activate their creativity.. Hopefully as our Community spirit and creativity grows we in turn will be able to contribute something of value within our State and Nation..

I'm trusting you'll support this new proposal that has the potential to engage us all. Thank you.

## **EUROBODALLA SHIRE COUNCIL MEETING TUESDAY 22 MARCH 2016**

### **PUBLIC FORUM PRESENTATION**

Thank you for the opportunity to speak here today. Allow me to introduce myself. My name is Heather Irwin and I am the current president of SAFE Incorporated, which as most of you are aware, stands for Stop Arms Fairs in Eurobodalla. I am not a member of any political party and the group that I represent draws from a broad range of political views.

I might also add, that I hope, by speaking publically here today that I do not become a victim of any bullying and/or threats that has occurred to SAFE members in the past, when they have spoken out against Huntfest.

**Our aim** is to advocate for the removal and prevention of arms fairs in the Eurobodalla Shire in order to reduce the availability of firearms.

**Our objective** is to prevent the dangers associated with the use of firearms, including those dangers posed to people and to the animals within bordering state forests and national parks, used by an increasing numbers of hunters.

#### **SAFE is opposed to the**

- Annual festival of hunting, Huntfest (including the sale of guns and ammunition) being held in the Narooma Sports and Leisure Centre with the approval of the Eurobodalla Shire Council.

#### **SAFE is opposed to the**

- Celebration and promotion of the hunting and killing of animals for sport and recreation

#### **SAFE is opposed to the**

- Negative, social, cultural and environmental impacts such a festival brings upon the Eurobodalla Shire

#### **SAFE is opposed to the**

- Potential cruelty to animals involved in hunting by non-professionals.

#### **SAFE is opposed to the**

- The proliferation of arms in Australia

We are all well aware of the undemocratic decision that was made a few years ago to hold such a festival in what is advertised in Australian Tourism and NSW Tourism brochures and even the council's own promotions as

- The Nature Coast
- Narooma - the Scenic Gem of the South Coast
- Eurobodalla – unspoilt south coast of NSW

I find it somewhat bemusing that in none of these documents is there mention of the slogan Narooma – Home of Huntfest as the South Coast Hunters Club would like to have it known.

Perhaps it is an embarrassment to acknowledge this shameful event.

Since SAFE was formed we have been bitterly disappointed with the council's lack of transparency and complete disregard to the community's opinion with regard to Huntfest.

In the past SAFE has presented

- an online petition with over 40,000 signatures; and
- nearly 1,000 residents signed another petition which was tabled on the floor of the NSW Parliament

Both were ignored by council.

When council eventually decided to ask the community's opinion on the sale of guns and ammunition prior the 2015 Huntfest, you again disregarded their opinion despite over 80% of responding Eurobodalla Shire residents voting against this. Instead you chose to count the votes from non-residents, including overseas businesses, and allow the sale of guns and ammunition to go ahead.

Also, prior to the 2015 Huntfest the Environmental Defenders Office, both independently and through SAFE, advised council of a "Threatened Breach of the Environmental Planning and Assessment Act 1979 if Huntfest were to proceed as planned ie in its expanded form, with the sale of firearms and ammunition. Once again you chose to ignore this advice.

So here we are **today** with another deliberately provocative situation where you have been asked to approve Huntfest for another 5 years in addition to the two years it still has to run under the previous undemocratic decision.

Well **today** Councillors, you have an opportunity to right the wrong of the past.

**Today** you have an opportunity to defer this decision for only 6 months until after the council elections in September and allow the newly democratically elected community representatives to decide on what festivals will be held in our beautiful shire in the future.

One would hope that these new councillors would be far more consultative, transparent and more responsive to the community's needs and wishes than this council has been, with the exception of some councillors.

**Today** you have the right to, and you should be, questioning why such a decision needs to be made for an event to be held in two years time, for another 5 years. These are two 'not-for-profit' organisations, not some big building firm contracting to build a new council building.

And therefore why should the discussion about this be held in a closed session? Surely there is no commercial in confidence aspects associated with proposals from 'not-for-profit' organisations.

This is another example of the lack of transparency this council has displayed over this issue. What has the council got to hide in this discussion?

**Today** you will hear from my learned colleagues Peter and Jim that the tendering process that these two groups have been asked to participate in is not a legal requirement, as the Mayor and other councillors continue to quote in the media.

**Today** you will also hear that shires surrounding the Eurobodalla do not allow bookings for more than a year at a time for their facilities. So why are you being asked to do this?

Did you also know that the Eurobodalla Shire is the only NSW government body that has allowed the sales of guns and ammunition on crown land? Shame!

If you choose not to listen to the evidence that Peter and Jim will present and go ahead with a vote prior to the next election, then you do have another choice to save the shire from further embarrassment.

**Today** you could choose the alternate festival that has been put forward by the Animal Justice Party of Australia.

The choice is your councillors

Defer this unnecessary decision for just 6 months until after the next council elections in September

or vote for

a festival that celebrates **life and living**

or

one that celebrates **death and killing.**

It's over to you.

Heather Irwin

22 March 2016

Re. RFT2016/FBD106

**Licence for the use of the Narooma Leisure Centre and NATA Oval in June 2018**

**Presentation at Council by Anne Cormick 22<sup>nd</sup> march 2016**

In July last year, several Eurobodalla citizens responded to a call to form a group called Women of Eurobodalla and we met in Narooma, to plan better ways to communicate with our council peaceably but firmly, and to let them know from the grass roots what we want to achieve in our community. One universal wish was to show-case our beautiful Nature Coast, our ethically managed local produce, and our art and crafts to advantage, and to facilitate more local small businesses to evolve thus easing youth unemployment.

We proposed that setting up a 'Narooma Country Fair – Bush to Sea 'would be a good start, and that we could apply to use the Sports and Leisure Centre with adjacent Oval on a winter public Holiday weekend, when Canberra and Sydney families escape to the coast for a break and local people of the shire look for an innovative event to enjoy. To cut a long story short, we did not have the know-how or organisational skills to apply, and our idea was put on the back burner.

We were delighted to hear 7 months later from their media release in February that the Animal Justice Party had come up with a similar but much more innovative and extensive idea, and had the support and sound economic backing of their Party. In today's Report to Council, first published last Wednesday, I was astonished to find absolutely no detail of the new Event proposed by the A J P referred to in the licence application for 2018. (Not even the name of it.) I then contacted a party representative, inquired about details and became aware of the impressive scope of their planned event: Coast and Nature: A Narooma Festival!

Although I was not permitted to have information of a commercial and confidential nature, I was assured that the A J P party's National President is an internationally recognised Professor of Economics, Prof Steve Garlick and I was given a description of their Festival's proposed activities.

As well as providing a creative venue for the sale and promotion of local ethically produced products including food and wine, arts and crafts, and beautiful local aboriginal artwork, Geoff Pryor said that the event would focus on the **importance of knowledge and skills so that ideas for innovative small businesses could be developed in our shire which would be ongoing**. He said the AJP wished to engage with already existing local businesses and organisations who find the winter period difficult as commercial activity is reduced, and this Festival would boost visitor numbers. Even International visitors would come to visit and enjoy our Nature Coast.

The AJP planned Festival would have the following activities:

- **Arts Sector,**

**Performing Arts, (Both on stage at the event site, and Buskers in cafes with agreement)**

**Music by Local musos, and visiting groups**

**(Maybe even a competition for original composition and presentation between our 3 High schools and TAFE)**



Photography Displays, art and sculpture, Craft and artworks from our Aboriginal community and others.

- Foods and Beverages

Local ethically produced foods, wines and nutritious drinks.....specialty products looking to extend their markets

- Health and Well-Being

Recommended Natural Therapies, Best Nutrition, Therapeutic massage, Personal Fitness for all ages, Health in Culture (Yoga, Tai Chi demonstration classes etc.)

- Animals with Humans

Their products produced with ethical care and management (ex: <sup>free range +</sup> cage free chickens, alternatives to factory farming, and goats used for weed control!)

Best Pet Animal advice on care, including the teaching of children: <sup>their</sup> love and respect and sensible safe behaviour around animals, ex .Horses.

- Ecologically sustainable products

Ex. Waste to Art (sea-shore plastics...it can be done)

- Alternative Energy and ' Water thinking'

And so with all these exceptional ideas, to be developed over the next two years, there would be Festival Fun and Knowledge Based Enterprise for all ages. There would be workshops providing links to work and training for the young unemployed and others interested, leading to start -ups for small local businesses. That first job experience is so important.

There could be an introduction for new retirees coming to live on our coast, to U3 A, to Writing and Poetry Groups, and Art classes, and most importantly, where to go for assistance when you have need of help.

Finally, in requesting a licence for 2018, the AJP has two and a half years to develop the involvement of the local community, shop owners and small businesses and for them to prepare those products that can be stored. Since 'Coast and Nature' will be looking for stalls with Sea Sports gear and Bush-wear and equipment, and of course Tents and Caravans, any businesses currently displaying these products could continue to set up their displays on the June long weekend of 2018 and thereafter.

And since the Animal Justice Party issued a media release yesterday from their president, I will quote a paragraph from this:

*Professor Garlick said "If places such as Narooma and the surrounding region are to take advantage of the new creative and sustainable initiatives developing in the area, decision makers need to respond with vision and courage, rather than just continuing more of the same. It is also important that a range of local organisations get the chance to use public facilities in the region such as the Narooma Sports and Recreation centre at key times of the year."*

*Changes in demography, industry employment, income earning capability and culture in the Eurobodalla Shire over recent decades reflect a community and economy driven by visitor tourism; retirement; services provision; and nature-based, craft, and alternative life-style activities. It is against this profile that the impact of the proposed "Coast and Nature" festival at Narooma should be judged if it is to be seen as being of worthwhile community-wide benefit.*

*Professor Steve Garlick, President of the AJP, said "The festival proposal put to Eurobodalla Shire would create up to 47 jobs and be around \$4m net benefit to the region," he said.*

Thank You for the Opportunity to Address  
Councillors to-day.

carriage of D&E PRA  
For

I'm here to talk briefly about Licence for

Use of Crown Reserve - NAROOMA FBD 16/012

I am encouraged that the community is being presented with a CONSISTENT  
and FAIR FRAMEWORK

Well I'm Confused!

It's a Tender process <sup>now</sup> in the past it was  
Event license applic<sup>ation</sup> & where ~~was~~ appropriate ~~the~~ process  
[~~Does it~~ require a DA] ~~the~~ appears to be  
different now,

In the spirit of <sup>open, transparent, & governance</sup> Will the community get the opportunity

to comment on Ccls decision? The new  
process appears only to consider public exhibition  
if over 5 yrs. <sup>offer consider conditional opportunities</sup> This begs

the?; Will 5 yrs + 5 yrs be greater than 5 yrs?

NEXT PAGE

Councillors, I ask you to imagine how the  
wider community might perceive the process surrounding  
the communities use of its public places.

Given Council has the advantage time <sup>to make a decision</sup> for this <sup>contested</sup> venue  
and date, Council can run this process next Feb/Mar 2017.

Providing ~~of~~ more open and full some community engagement  
with the opportunity for a ~~better~~ outcomes for Narooma  
and the whole region. Given the history of this ~~the~~  
I would encourage Cllrs to deferred the consideration  
of this matter for the new council.  
A consistent and fair framework

On reviewing the rather limited report in the Ccl agenda, it appears that opportunities for public exhibition and open public discussion have become heavily conditioned. This stands as somewhat of a contradiction in the delivery of open & transparent governance.

In the past the community has seen the community desire to use its public places dealt with as: Event tic. appln, D. A's, and now a tender process consistency is not apparent. But of greater concern is the ~~the~~ lack of a consistent framework for the wider community to gain access to exhibited proposals for the community's public places.

BACK TO FIRST PAGE.

My name is Jim Bright and I'm a resident of Narooma.

I'M HERE TO TALK ABOUT THE LICENSING OF THE NAROOMA SPORTING AND LEISURE CENTRE FOR THE PERIOD FROM 2018 TO 2022.

LET ME START MY PRESENTATION WITH TWO CATEGORICAL STATEMENTS.

- THERE IS ABSOLUTELY NO REASON, PRACTICAL OR LEGAL, FOR THIS LICENSING DECISION TO BE TAKEN BY THIS COUNCIL TODAY.
- THERE IS ABSOLUTELY NO REASON, LEGAL OR PRACTICAL OR RATIONAL, FOR THIS PARTICULAR PROCESS TO BE UNDERTAKEN AS A SECRETIVE TENDERING PROCESS.

A FIVE MINUTE ORAL PRESENTATION IS NOT ADEQUATE TO COVER THE IMPORTANT ISSUES THAT ARE BEFORE US. IT IS FOR THAT REASON THAT I SENT EACH OF YOU A DETAILED FIVE PAGE SUBMISSION ON SOME OF THE CRUCIAL ISSUES EARLY LAST WEEK.

I'LL GO FIRST TO THE QUESTION OF THIS COMPLETELY INAPPROPRIATE TENDER PROCESS THAT IS BEFORE YOU TODAY.

IF YOU READ MY LETTER, YOU WILL HAVE NOTED THAT THE RELEVANT SECTION (s.55(3)(e)) OF THE LOCAL GOVERNMENT ACT SPECIFICALLY EXCLUDES, FROM THE NORMAL STATUTORY LOCAL GOVERNMENT TENDERING ARRANGEMENTS, LICENCE APPLICATION PROCESSES SUCH AS THOSE BEFORE YOU TODAY.

THIS IS OF COURSE, A MAJOR PROBLEM FOR THE COUNCIL AS THE WHOLE SCHEME THAT HAS BEEN DEVELOPED BY THE COUNCIL'S STAFF - AND TABLED AT YOUR DECEMBER 2015 MEETING - IS PREDICATED UPON THE PREMISE THAT THIS PROCESS IS REQUIRED TO BE A TENDER PROCESS.

NOW, LIKE ME, YOU WILL HAVE RECEIVED AN EMAIL LAST NIGHT FROM A SENIOR MEMBER OF STAFF. THIS WAS AN 11<sup>th</sup> HOUR ATTEMPT TO SAVE THE SITUATION.

THE PROBLEM IS THAT THIS ATTEMPT WAS DEMONSTRABLY A COMPLETE FAILURE - AND ITS VITAL THAT WE ALL UNDERSTAND THAT - EVEN THOUGH IT MIGHT TAKE A LITTLE TIME.

(COPIES OF s.55 OF THE ACT AND PAGE 22 OF THE GOVERNMENT'S TENDERING GUIDELINES DISTRIBUTED TO COUNCILLORS AT THIS POINT)

AS YOU WILL HAVE NOTED FROM LAST NIGHT'S EMAIL, THE COUNCIL'S ATTEMPT AT A DEFENCE SEEMS TO BE BASED UPON THE PROPOSITION THAT THE WORDS IN SUB-SECTION (2A) EMPOWER IT TO OVER-RIDE THE LEGAL REQUIREMENTS OF SUB-SECTION 55(3)(E).

THE PROBLEM FOR THE AUTHOR OF THE EMAIL IS THAT, UNLESS SOMETHING HAS GONE HORRIBLY WRONG WITH MY COGNITIVE POWERS, SUB-SECTION (2A) HAS OBVIOUSLY GOT NO SUCH MEANING. IN FACT, SUB-SECTION (2A) IS SIMPLY A PROVISION THAT ALLOWS A COUNCIL (OR A COUNCIL UNIT) TO SUBMIT AN IN-HOUSE TENDER FOR WORK OR WHATEVER WITH THE SAME COUNCIL.

I'M PLEASED TO ADVISE THAT YOU DON'T NEED TO TAKE MY WORD FOR THIS - BECAUSE IT'S ALL SPELT OUT ON PAGE 22 OF THESE LOCAL GOVERNMENT TENDERING GUIDELINES.

AND WHILE WE ARE ON THE TOPIC OF THESE GUIDELINES, A READ OF THE WHOLE DOCUMENT WOULD LEAVE YOU IN LITTLE DOUBT THAT THE DETAILED LOCAL GOVERNMENT TENDERING PROCESSES IN PLACE IN NSW ARE IN FACT MANDATORY ONLY FOR THOSE PROCESSES THAT ARE REAL AND GENUINE TENDERING SITUATIONS. THAT IS, THE SORT OF THINGS THAT THE AVERAGE PERSON WOULD EXPECT – LIKE SITUATIONS WHERE COUNCILS ARE PURCHASING GOODS AND SERVICES OR SELLING STUFF LIKE PROPERTY.

ONCE AGAIN - THE MATTER BEFORE YOU IS UNQUESTIONABLY EXCLUDED FROM OUR LOCAL GOVERNMENT TENDERING SCHEME.

WITH THAT MATTER NOW DEALT WITH, WE'LL MOVE ONTO THE COMMERCIAL-IN-CONFIDENCE ISSUE AND THE CLOSURE OF COUNCIL MEETINGS TO THE PUBLIC.

IN THIS REGARD, SECTION 10A OF THE LOCAL GOVERNMENT ACT SETS SOME PRETTY HIGH HURDLES. FOR YOU TO GET OVER BEFORE YOU CAN CLOSE A MEETING.

TO SATISFY THE REQUIREMENTS OF THE ACT, YOU HAVE TO BE ABLE TO DECIDE THAT THE INFORMATION TO BE CONSIDERED IN A CLOSED SESSION IS

- COMMERCIAL INFORMATION,
- CONFIDENTIAL (IE. SECRET OR PRIVATE) INFORMATION, AND
- IF REVEALED, COULD HAVE UNFAVOURABLE COMMERCIAL IMPACT ON THE PERSON OR ORGANISATION THAT HAS SUPPLIED THE INFORMATION.

WHAT YOU HAVE BEFORE YOU TODAY ARE SIMPLY TWO APPLICATIONS TO HIRE THE NAROOMA FACILITY TO CONDUCT AN EVENT ON ONE WEEKEND EACH YEAR.

THEY ARE BOTH 'NOT-FOR-PROFIT' ORGANISATIONS (AND THAT IS THE LEGAL STATUS OF EACH OF THEM).

THESE TWO APPLICANTS ARE CLEARLY NOT COMMERCIAL BUSINESSES COMPETING AGAINST EACH OTHER (OR ANYONE ELSE) FOR A COMMERCIAL OPPORTUNITY.

**THE SITUATION BEFORE YOU TODAY IS NOT REQUIRED TO BE A TENDERING PROCESS AND, EVEN IF IT WAS, THE CIRCUMSTANCES COULD NOT POSSIBLY PASS THE CONFIDENTIALITY TEST.**

ON THE QUESTION OF THE TIMING OF YOUR CONSIDERATION OF THESE APPLICATIONS – THERE IS NO LEGAL OR PRACTICAL REASON THAT WOULD REQUIRE YOU TO DETERMINE THIS MATTER NOW.

THE OTHER LICENCE MATTERS THAT HAVE BEEN BEFORE YOU IN RECENT TIMES HAVE ALL BEEN HERE BECAUSE THE PREVIOUS LICENCES HAD EXPIRED OR WERE ABOUT TO EXPIRE – UNLIKE THE HUNTFEST LICENCE THAT STILL HAS TWO YEARS TO RUN.

IF, FOR SOME REASON, THE HUNTERS CLUB WAS TO BE CONSIDERED BY THE MAJORITY OF YOU TO HAVE THE STRONGER CLAIM FOR THE JUNE LONG WEEKENDS, GIVEN THE LEVEL OF CONTROVERSY THAT THE HUNTFEST EVENT GENERATES IN THE LOCAL AREA, TO NOT DEFER SUCH A DECISION UNTIL THE NEXT COUNCIL IS ELECTED IN A FEW MONTHS WOULD BE A SHOCKING ABUSE OF THE DEMOCRATIC PROCESS.

ONE FINAL BIT OF INFORMATION -

THE HUNTFEST EVENT IS THE ONLY ARMS FAIR IN NSW THAT HAS BEEN APPROVED BY A COUNCIL TO BE HELD ON COUNCIL CONTROLLED LAND. THIS INFORMATION HAS BEEN ESTABLISHED BY ME THROUGH AN 'FOI' APPLICATION TO THE NSW POLICE.

THAT'S AN ACHIEVEMENT THAT YOU MAY OR MAY NOT WISH TO BE PROUD OF.

JIM BRIGHT  
22 MARCH 2016



# New South Wales Consolidated Acts

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## LOCAL GOVERNMENT ACT 1993 - SECT 55

### What are the requirements for tendering?

#### 55 What are the requirements for tendering?

(1) A council must invite tenders before entering into any of the following contracts:

- (a) a contract to carry out work that, by or under any Act, is directed or authorised to be carried out by the council,
- (b) a contract to carry out work that, under some other contract, the council has undertaken to carry out for some other person or body,
- (c) a contract to perform a service or to provide facilities that, by or under any Act, is directed or authorised to be performed or provided by the council,
- (d) a contract to perform a service or to provide facilities that, under some other contract, the council has undertaken to perform or provide for some other body,
- (e) a contract for the provision of goods or materials to the council (whether by sale, lease or otherwise),
- (f) a contract for the provision of services to the council (other than a contract for the provision of banking, borrowing or investment services),
- (g) a contract for the disposal of property of the council,
- (h) a contract requiring the payment of instalments by or to the council over a period of 2 or more years,
- (i) any other contract, or any contract of a class, prescribed by the regulations.

(2) Tenders are to be invited, and invitations to tender are to be made, by public notice and in accordance with any provisions prescribed by the regulations.

(2A) Nothing in this section prevents a council from tendering for any work, service or facility for which it has invited tenders.

(3) This section does not apply to the following contracts:

- (a) subject to the regulations, a contract for the purchase of goods, materials or services specified by a person prescribed by the regulations made with another person so specified, during a period so specified and at a rate not

OVER



exceeding the rate so specified

(b) a contract entered into by a council with the Crown (whether in right of the Commonwealth, New South Wales or any other State or a Territory), a Minister of the Crown or a statutory body representing the Crown

(c) a contract entered into by a council with another council

(d) a contract for the purchase or sale by a council of land

(e) a contract for the leasing or licensing of land by the council, other than the leasing or licensing of community land for a term exceeding 5 years to a body that is not a non-profit organisation (see section 46A)

(f) a contract for purchase or sale by a council at public auction

(g) a contract for the purchase of goods, materials or services specified by the NSW Procurement Board or the Department of Administrative Services of the Commonwealth, made with a person so specified, during a period so specified and at a rate not exceeding the rate so specified

(h) a contract for the employment of a person as an employee of the council

(i) a contract where, because of extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenderers, a council decides by resolution (which states the reasons for the decision) that a satisfactory result would not be achieved by inviting tenders

(j) contract for which, because of provisions made by or under another Act, a council is exempt from the requirement to invite a tender

(k) a contract made in a case of emergency

(l) a contract to enter into a public-private partnership

(m) if a council has entered into a public-private partnership-a contract entered into by the council for the purposes of carrying out a project under the public-private partnership (but only to the extent that the contract is part of the project that has been assessed or reviewed under Part 6 of Chapter 12)

(n) a contract involving an estimated expenditure or receipt of an amount of less than \$100,000 or such other amount as may be prescribed by the regulations

(o) a contract that is an environmental upgrade agreement (within the meaning of Part 2A)

(p) a contract or arrangement between a council and the Electoral Commissioner for the Electoral Commissioner to administer the council's elections, council polls and constitutional referendums.

(4) A council that invites tenders from selected persons only is taken to comply with the requirements of this section if those persons are selected:

corruption capacity within the tendering process and council operations, councils should ensure that potential tenderers are informed that unethical or inappropriate behaviour will result in a tender being disqualified. Tenderers should also be informed about what to do if they suspect corrupt conduct and what action a council will take if it suspects unethical or corrupt behaviour. (Refer to 3.6 for information on inclusions in tender documents).

## 2.5. In-House Tenders

Section 55 (2A) of the *Act* clarifies that a council may tender for any work, service or facility for which it has invited tenders.

The following strategies should be used when tenders from council business units are involved:

- Engagement of an independent assessor, for example the Department of Commerce.
- Ensuring that potential tenderers know that in-house tenders are involved.
- Ensuring that procedures are followed closely to avoid perceptions of bias and that comprehensive records are kept.
- Ensuring that there is clear physical and operational separation between staff responsible for the tender and those tendering.
- Careful management of access to information – ensure stringent security measures are applied so that in-house tenderers do not have the opportunity to access confidential tender information.

Councils should adopt policies and procedures regarding in-house tenders that incorporate these strategies. In addition, councils should provide copies of or reference to the adopted policies and procedures to potential tenderers as part of the Conditions of Tendering. (Refer to 3.6 for information on inclusions in tender documents).

Tom Slookee  
Aboriginal Elder  
Batemans Bay NSW

21 March 2016

Eurobodalla Shire Council  
PO box 99  
Moruya NSW 2537

to [council.meetings@eurocoast.nsw.gov.au](mailto:council.meetings@eurocoast.nsw.gov.au)

Re; Agenda item no FBD16/012 (22<sup>nd</sup> March 2016) - License for Use of Crown Reserve - Narooma.

"I wish to nominate Coral Anderson to deliver my address by way of proxy as I am unable to attend the meeting personally. Alternatively, if Coral Anderson is unable to deliver such address, then it is to be delivered by a person nominated by Coral Anderson on my behalf.

I write this letter of support for the Animal Justice Party and their application to run a festival in Narooma. We hope our contribution will influence any decision to be made by Eurobodalla Shire Council.

I have spoken to several Aboriginal Elders and community people and there is agreement in our support for the Animal Justice Party. Also we have issues against the proposed HuntFest in Narooma.

As Aboriginal People we are opposed generally to guns and the gun culture.

Aboriginal People traditional are hunters and gatherers. Our survival and sustainability depended on our knowledge and ability of the land, the plants, the animals and shellfish and mammals and seafood to provide for our families from the environment in which we lived. We lived in harmony and had an affiliation with the land and all living things.

The gun changed everything for us. Maybe this story will give you a understanding of why many Aboriginal people oppose guns and the gun culture.

In about 1800 the government instructions were to fire at Aboriginal peoples until they were far away from British settlements. In 1816, Governor Macquarie announced that if any Indigenous peoples approached British settlements or were unwilling to leave British properties, then the settlers could drive them away with the use of firearms. Similar encouragement by the government was given in Tasmania and Western Australia and in most other areas of Australia.

Our Aboriginal peoples generally resisted the settlement of their land, but we had little resistance against the guns of the British settlers.

Our Aboriginal warrior, Pemulwuy, led the Aboriginal resistance around Sydney Harbour from 1790 to 1802 and was feared by many British settlers not because he had guns but because of his knowledge and use of terrain and his bushcraft. Like many other Aboriginal people using traditional tools such as spears, boomerangs, stone axes, bush rope, nula nulas and things like fire and bush shelters.

On 1 May 1801 Governor King gave orders to drive back 'hordes of natives' around Parramatta, the Georges River and Prospect Hill by gunfire. In November, troops were sent to Mill Creek on the Georges River and King offered rewards including free pardons for convicts and 20 gallons of spirits for their capture and that of Pemulwuy who was wanted 'dead or alive'. On 2 June 1802, Pemulwuy was shot dead and decapitated.

Aboriginal peoples depended on the land for their survival. Land is not just the ground but it is wholistic including all living things.

We lived in clan - family groups within an agreed area and lived and survived by respecting and honouring Country. Law and ceremony and the passing on of knowledge and wisdom were highly regarded. Sacred places were holy and revered. We sustained ourselves by fishing, hunting, and gathering. We used what Country provided seafood, animals, plants, and using other resources that the land had to offer for tools and shelter.

A lot of our people are semi-nomadic, meaning they moved around within the territory to sustain and survive. The land provided food and resources and medicine. The local Walbunja People were a warrior people who cared for and protected the Land and they used spears and rocks but were soon overpowered by people with guns. In the *Eurobodalla Aboriginal Cultural Heritage Study Public Report*, it says *"The Police use to chase Aboriginal people with guns, as a sport; the Aboriginal people being chased knew where the old walking tracks were over Gulaga and took refuge there.*

So you can see we are not in favor of guns or a gun culture that give acquiescence to kill.

Whilst we understand that the people behind HuntFest are about hunting feral animals we are against the chasing of animals with the intention of catching or killing them, usually for sport and for recreational reasons.

We are supporting of Animal Justice Party in their proposal to the Eurobodalla Shire Council.

Tom Slockee (Aboriginal Elder and Community Leader)

I rise to speak against the proposed extension of the licence which would see Huntfest continue for another 5 years – from 2018. I cannot accept that on a divisive issue such as this, a decision made by current councillors should be binding upon future councillors and certainly not upon the wider community.

I understand that the initial licence in 2012 has been amended to now permit the display and sale of guns. Whatever has happened to the legislation enacted federally following the Port Arthur massacre? The recent death of a man in Sydney who happened to be in the wrong place at the wrong time and was shot indiscriminately surely is not an acceptable accident. It would be an absolute disaster if Australia should find itself in the same position as the USA where a powerful lobby group supports the use of firearms to the extent that massacres seem commonplace.

I encourage council to consider the bigger picture. I do not consider myself an extremist but I welcome a community which pursues a balance and a harmony with issues such as environment, ecology, and sanctity of life. I do not see that a gun has any contribution to support such values, in fact the very existence of guns poses an obvious threat. Humanity can be seen to be stewards of what has been entrusted to us and I am ashamed that my generation has achieved so little in improving our inheritance. I cannot see any worthwhile outcomes from Huntfest and I suspect a manipulative influence by its proponents.

I was a member of a Cadet unit at the secondary school I attended. I have fired a rifle on 3 occasions at a range set aside to teach marksmanship. I do not regard this as being a positive or productive experience in any way.

I heartily endorse the submission made by the Reverend Tom Slookee and I would remind councillors that a requirement of the tender process is a compliance with the indigenous view point.

I thank Council for this opportunity to speak and I hope that this submission by Huntfest is denied.

The Revd Peter R. Lord

8 Merriwee Ave

Malua Bay. N.S.W. 2536

**PUBLIC FORUM 22 MARCH 2016 – Peter Cormick**

**AGENDA ITEM FBD16/012 LICENCE FOR USE OF CROWN RESERVE – NAROOMA**

1. Right from its questionable beginning in June 2012, when, as a matter of urgency, a request for an in-principle agreement was presented to this chamber by councillor Pollock, for the use of public land and facilities in Narooma, to promote the recreational killing of animals, Huntfest has created enormous controversy in our shire.
2. And now, as a Godsend, for many of us, council has been presented with an alternative event, proposed by the Animal Justice Party, which could hardly be more different from Huntfest: life and living as opposed to Huntfest's death and killing. Council now has a choice to make between which organisation should have use of the Nata oval and associated facilities on the June long weekend from 2018 to 2022.
3. Huntfest has had use of this space for the past three years, with more than two years before the expiry of its current licence - and is now seeking to add another five years, to make it ten years in total - and then perhaps 15 or 20 years beyond that; which would mean that an organisation such as the AJP will never get a chance to do their thing on that weekend in June at that location. That sort of arrangement is often referred to as a monopoly.
4. But unless one has been privy to the AJP's Expression of Interest or the details of its media releases, one would never know anything of what the AJP is proposing. The report on the matter in today's agenda not only says nothing about the AJP's proposal it does not even reveal the recommendation of who the licence should be granted to. There are many words that describe this level of secrecy but "bizarre" is one that readily comes to mind. The words "transparent" and "transparency" were used at least nine times in the report to you on 8 December, when you "received and noted" the Code of Practice that is being applied here. In today's report, neither word is used. They have been removed from the phrases in which they previously appeared. What is our council doing to the democratic process? The whole purpose of the Code was, purportedly, to provide transparency and accountability – not secrecy.
5. Why has a blanket secrecy been placed on this item? Because, we are told, it is a tender process. But we have heard from Jim Bright that that is not so. Tendering is concerned with the provision of goods and services, not the licensing of the use of land. Section 55 of the LGA specifically excludes the leasing or licensing of land

from a tendering process in the circumstances that we are concerned with here. That this ought not to be a tendering process could not be clearer. Put more plainly, to continue with this process would not only be in conflict with the OLG's guidelines on tendering but it would be in clear breach of the LGA!

6. The public has a right to know exactly what is before council. Staff have no right to withhold it - and you have the authority to do what is right and open up the process. We all know what Huntfest is about and its representatives have taken their ample opportunities to present their case to staff and councillors, in person; but not so the AJP - because of a mistaken understanding of the tendering guidelines, which, as we have made clear, exclude this licencing exercise from a tendering process .
7. Now, if what Jim Bright and I have said about the implications of the LGA has not convinced you that you are caught up in a mess, let me refer you to your resolution of 8 December 2015 in which you "received and noted" the Code of Practice for the licensing of public reserves. You did not approve the Code but you accepted it as given - a code that was not seen by Crown Lands in spite of what you may have thought at the time. On page 139 of the agenda for 8 December it is stated that "Subject to Council approval, the schedule for this immediate EOI process is", and it then sets out the schedule, starting with the call for EOI's on 10 December. That process includes what is occurring right now, today. But, critically, you did not approve the schedule. All you resolved to do on 8 December was to "receive and note" the code. In other words, the EOI process, the tendering process and that part of the meeting concerned with the matter at hand – all set out in the schedule that required your approval – was not approved. Surely, that fact alone will cause you to call a halt to proceedings on this matter.
8. The very best course of action for you is clearly to simply put this whole matter aside and leave it to the next council – when and where it should be decided. There is absolutely no justification for considering an approval of a licence more than 2 years out from the period for which it is being sought – except to lock a future council in.
9. And, almost finally, the fundamentally important issue of Social Impact has received just one sentence, which could not be more irrelevant to the subject of social impact. It tells us that "The event provides an attraction for local residents as well as attracting visitors to Eurobodalla, and generating economic benefit for

local businesses during the quieter winter period". The absence of a social impact analysis is appalling.

10. With more time I would have liked to address the matter of the importance of the Events Guidelines – to which the code is meant to be no more than an appendix - but has not even been referred to in the report to council.

11. And finally, on the issue of the secrecy surrounding this matter and the intention to close the meeting to the public, I look forward to the opportunity to argue against such a closure. Again, the relevant legislation is either not being properly understood by staff or it is simply being misapplied. Section 10D of the LGA in particular makes requirements of council that must be addressed and which in my observations of the preliminaries to closed council meetings has not yet been done.

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