



AGENDA

Ordinary Meeting of Council

28 March 2023

Statement of Ethical Obligations

The Mayor and Councillors are reminded that they remain bound by the Oath/Affirmation of Office made at the start of the council term to undertake their civic duties in the best interests of the people of Eurobodalla Shire Council and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in them under the *Local Government Act 1993* or any other Act, to the best of their skill and judgement. The Mayor and Councillors are also reminded of the requirement for disclosure of conflicts of interest in relation to items listed for consideration on the Agenda or which are considered at this meeting in accordance with the Code of Conduct and Code of Meeting Practice.

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

ON TUESDAY 28 MARCH 2023

COMMENCING AT 12.30PM

AGENDA

(Proceedings of this meeting will be recorded as per Eurobodalla Shire Council's Code of Meeting Practice)

- 1. WELCOME**
- 2. ACKNOWLEDGEMENT OF COUNTRY**
- 3. APOLOGIES**
Nil
- 4. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**
4.1 Ordinary Meeting held on 14 March 2023
- 5. DECLARATIONS OF INTEREST OF MATTERS ON THE AGENDA**
(Declarations also to be made prior to discussions on each item)
- 6. MAYORAL REPORTS**
Nil
- 7. NOTICES OF MOTION**
Nil
- 8. QUESTIONS ON NOTICE FROM COUNCILLORS**
Nil
- 9. PETITIONS**
Nil
- 10. GENERAL MANAGER'S REPORTS**
Nil

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WARWICK WINN
GENERAL MANAGER

PSR23/007 LICENCE FOR MORUYA RODEO - MORUYA SHOWGROUND

**S023-T00017
LAND ID: 34400**

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

Attachments:

1. Under Separate Cover - Previous licence
2. Under Separate Cover - Confidential - Combined - Supportive Submissions 2 - on Hub
3. Under Separate Cover - Confidential - Combined - Opposing Generic Submissions 2 - on Hub
4. Under Separate Cover - Confidential - Combined - Opposing Submissions 2 - on Hub
5. Under Separate Cover - Confidential - Combined - Generic Opposing Form Letter 2 - on Hub
6. Under Separate Cover - Confidential - Combined - Generic Opposing Form Letter 3 - on Hub
7. Under Separate Cover - Confidential - Combined - Generic Opposing Form Letter 1 - on Hub
8. Under Separate Cover - Confidential - Combined - Opposing Submissions - on Hub
9. Under Separate Cover - Confidential - Combined - Supportive Submissions - on Hub
10. Under Separate Cover - Confidential - Petition 31 January 2023 - The Moruya Rodeo Association (Supportive) - on Hub
11. Under Separate Cover - Confidential - Submission spreadsheet

Community Goal: 5 Our engaged community with progressive leadership

Community Strategy: 5.3 Work together to achieve our collective vision

Delivery Program Link: 5.3.2 Manage land under Council control

Operational Plan Link: 5.3.2.2 Manage leases and licences

EXECUTIVE SUMMARY

The Rodeo Association of Moruya Inc (Rodeo Association) has been conducting the Moruya Rodeo at the Moruya Showground on New Year's Day for a number of decades. A request has been received from the Rodeo Association for a renewal of the licence to use the Moruya Showground for the Moruya Rodeo for a period of five years (Licence Proposal).

In accordance with section 47A of the *Local Government Act 1993*, the Licence Proposal was publicly notified for an extended period from 7 December 2022 to 31 January 2023.

A large number of submissions have been received both in support and in objection to the Licence Proposal.

Petitions have also been received both for and against the Licence Proposal. The petition against the renewal was tabled at Council on 22 November 2022 and the petition in support of the renewal is tabled today.

PSR23/007 LICENCE FOR MORUYA RODEO - MORUYA SHOWGROUND

**S023-T00017
LAND ID: 34400**

RECOMMENDATION

THAT

1. Council receive and note the petition 'Rodeos in Eurobodalla'.
2. Council notes it has considered the submissions and petitions received in relation to the requested renewal of the licence for the Moruya Rodeo.
3. Council considers the following options:

Option 1:

That Council grant a five-year licence to the Rodeo Association of Moruya to conduct the annual Moruya Rodeo within Crown Reserve 580020, Moruya Showground, including the following conditions:

- (a) The licence fee in accordance with Council's adopted fees and charges.
- (b) Provision of evidence of \$20 million public liability insurance.
- (c) All relevant legislation, in particular in relation to animal welfare, must be complied with.
- (d) Licence conditions generally in line with the previous licence and the standard Crown licence.

Option 2:

That Council does not approve a renewal of the licence for the Moruya Rodeo.

BACKGROUND

The Rodeo Association of Moruya Inc. (Rodeo Association) has been conducting the Moruya Rodeo at the Moruya Showground on New Year's Day for a number of decades.

At the Ordinary Meeting held on 26 September 2017, Council resolved to grant a five-year licence to the Rodeo Association commencing on 1 December 2017 and expiring on 30 November 2022.

Council's Plan of Management (POM) for the Moruya Showground Reserve was adopted in 2020.

Extensive public engagement occurred during the development of this POM. Moruya Rodeo Association was identified as a key user group of the showgrounds, and the Moruya Rodeo was considered a significant event.

Community input was again sought when the draft POM went on public exhibition from 4 December 2019 to 17 February 2020 and from 24 June 2020 to 4 August 2020.

[POM-Moruya-Golf-Course-and-Showground-Reserves-2020.pdf](#)

The POM was then adopted following a Report to Council on 8 September 2020.

The POM expressly authorises Council to enter into and maintain licences with Moruya Rodeo Association for the New Year's Day Rodeo.

PSR23/007 LICENCE FOR MORUYA RODEO - MORUYA SHOWGROUND

**S023-T00017
LAND ID: 34400**

A licence to the Rodeo Association is consistent with the purposes of the reserve identified in the Plan of Management.

Council has received an application to renew the licence to Moruya Rodeo for a five-year period, and the licence was publicly notified for six weeks from 7 December 2022 to 31 January 2023.

A report was presented to Council on 22 November 2022 regarding the Moruya Rodeo. During that Council meeting, it was resolved:

22/303 MOTION Councillor Harrison/Councillor Pollock OAM

THAT the Rodeo be held on 1 January 2023 under the conditions of its current licence.

22/304 MOTION Councillor Worthington/Councillor Schutz

THAT Public Notification be given as soon as practical for an extended period until 31 January 2023 of Council's intention to consider approving a further 5 year licence.

22/305 MOTION Councillor Worthington/Councillor Mayne

THAT Council considers conditions of any future licence based on the submissions received at the end of the notification period.

22/306 MOTION Councillor Worthington/Councillor Schutz

THAT if any future Moruya New Year's Day Rodeo licence is approved, the end date of the licence be in February so there is sufficient time for public notification of subsequent licence requests and a Council report to consider the licence well in advance of the next proposed event.

CONSIDERATIONS

Conditions for any licence are to be generally in line with the previous licence – refer to attachment 1. Those conditions will continue to include a requirement that any existing and new legislation must be complied with including legislation in relation to the operation of a rodeo.

The licence area is shown in the sketch below.

PSR23/007 LICENCE FOR MORUYA RODEO - MORUYA SHOWGROUND

S023-T00017
LAND ID: 34400



Lot 1 DP 1141031, Crown Reserve 580020 - Moruya Showground

Legal – Council

Crown Reserve 580020, Moruya Showground is under the management of Council as Crown Land Manager. In accordance with the *Crown Land Management Act 2016*, Council manages the land as community land under the *Local Government Act 1993*.

Council can issue licences for up to five years for public land classified as community land (including Crown Reserves for which Council is Crown Land Manager), after public notification and considering any submissions in accordance with Section 47A of the *Local Government Act 1993*.

<https://legislation.nsw.gov.au/view/html/inforce/current/act-1993-030#sec.47A>

Council's public notification of the Licence Proposal between the period 7 December 2022 – 31 January 2023, together with notice given to adjoining landowners and occupiers, complied with the requirements for public notice in section 47A of the *Local Government Act 1993*.

Council is required to enact Plans of Management for Crown Reserves under Council control.

Council adopted the Moruya Golf Course and Showground Reserves Plan of Management in 2020, which sets out the permitted uses and key user groups for Moruya Showground.

[POM-Moruya-Golf-Course-and-Showground-Reserves-2020.pdf \(nsw.gov.au\)](#)

Council requires lease and licence holders to comply with all Commonwealth and NSW Government laws. 'Laws' includes the provisions of any statute, rule, regulation, proclamation, ordinance or by-law, present or future, whether state, federal or otherwise.

PSR23/007 LICENCE FOR MORUYA RODEO - MORUYA SHOWGROUND

**S023-T00017
LAND ID: 34400**

Legal – Current NSW legislation

Animal welfare is the main issue raised in submissions opposing the grant of a licence.

Any licence granted will require compliance with the NSW Department of Primary Industries (DPI) Code of Practice for animals used in rodeo events [NSW Code of Practice for animals used in rodeo events](#).

DPI states “compliance with code will ensure that no offence is committed in relation to sections 18 and 18A of the Prevention of Cruelty to Animals Act 1979.”

DPI provides information about how people should make a complaint of animal cruelty. Council is not an enforcement authority and DPI notes that complaints should be made directly to one of the three enforcement authorities, who are:

- RSPCA NSW
- Animal Welfare League NSW
- NSW Police.

Legal – NSW Animal Welfare Law Reform

The NSW Government has engaged in consultation and released an exposure draft Animal Welfare Bill 2022. An inquiry into animal welfare policy in NSW was referred to the State Development Committee. The Department of Primary Industries website states that the NSW Government is currently considering all stakeholder and community feedback provided through the inquiry process and will work towards development of draft regulations for public and stakeholder feedback.

Accordingly, there will be opportunities at a State Government level (through the Department of Primary Industries) for the community and stakeholders to make submissions about animal welfare legislation in NSW.

If the law changes in the future, the conditions of the licence will require the Licensee to comply with those laws immediately.

Policy

Licences are issued in accordance with Council’s Land Management- Acquisition, Disposal and Leasing/Licensing Policy (Land Policy).

[Land-Management-Acquisition-Disposal-and-Leasing-Licensing-Policy-final-for-adoption.pdf \(nsw.gov.au\)](#).

The Licence Proposal is consistent with the requirements set out in the Land Policy.

In line with the provisions of Council’s Code of Practice – Licencing of Council-Controlled Public Reserves and Associated Buildings, an Expression of Interest (EOI) was called in February 2022 for parties interested in seeking a licence for periods of up to five years to use any Council-owned or controlled public reserves. No other party expressed an interest in using the reserve during the same period.

PSR23/007 LICENCE FOR MORUYA RODEO - MORUYA SHOWGROUND

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https://www.esc.nsw.gov.au/_data/assets/pdf_file/0018/144225/Licencing-of-council-controlled-public-reserves-and-associated-buildings-code-of-practice.pdf

Asset

The proposed licence conditions include the licensee being responsible for maintaining the reserve in a satisfactory condition.

Social Impact

The Moruya Rodeo Society has been conducting the Moruya Rodeo at the Moruya Showground on New Year's Day for a number of decades. The submissions received indicate strong views within the community both for and against the licence renewal.

Economic Development Employment Potential

The event provides an activity for locals and visitors to the Eurobodalla and promotes economic activity. Anecdotal evidence suggests that the venue was full to capacity for the 2023 event.

Financial

The event fees for use of Council reserves will be in accordance with Council's adopted fees and charges. Fees in 2023 are estimated at \$1,900. A bond will be payable prior to the event.

Community and Stakeholder Engagement

Public engagement occurred during the development of the Plan of Management (POM) for the Moruya Showground Reserve. Moruya Rodeo Association was identified as a key user group of the showgrounds, and the Moruya Rodeo was considered a significant event.

Community input was again sought when the draft POM went on public exhibition from 4 December 2019 to 17 February 2020 and from 24 June 2020 to 4 August 2020.

Council's Plan of Management (POM) for the Moruya Showground Reserve was then adopted in September 2020.

On 22 November 2022, Council resolved to undertake an extended public notification period as soon as practical to consider approving a new licence.

In accordance with Section 47A of the *Local Government Act 1993*, the proposal to grant a further five-year licence to Rodeo Association of Moruya to conduct their annual event within Crown Reserve 580020, Moruya Showground was publicly notified for an extended period to 31 January 2023 in accordance with a Council resolution dated 22 November 2022 and notified to owners and occupiers of land adjoining the proposed licence area. Submissions were received.

Promotion of the notification process by Council included a media release and the use of social media.

Before granting the licence, Council is required by section 47A of the *Local Government Act 1993* to consider all submissions duly made to it.

Submissions

A total of 1,818 submissions were received - 464 in support and 1,354 opposed to the Moruya Rodeo Licence Proposal.

PSR23/007 LICENCE FOR MORUYA RODEO - MORUYA SHOWGROUND

**S023-T00017
LAND ID: 34400**

The main issues raised in submissions are identified in the paragraphs below, but these do not constitute a complete list of all the issues raised in the submissions. Copies of all submissions received by Council are attached for Councillor's consideration. A spreadsheet listing submitters by name, their type of submission and their location is confidentially attached as attachment 11.

These numbers include ones which appear to be duplicates. These have been provided to Councillors for completeness as it is difficult to be certain they are actually duplicates.

A total of 1,098 opposing proforma submissions, some with minor variants, were received, and these are confidentially attached as attachments 3, 5, 6 and 7.

The issues raised in the proforma submissions opposing the Licence Proposal included animal welfare concerns as well as concerns about Council processes. In particular, proforma submissions raised concerns about animal cruelty and distress.

A total of 256 other opposing submissions which differed from the proforma were received, and these are confidentially attached as attachments 4 and 8.

The issues raised in these opposing submissions also included animal welfare concerns. In particular, a number of submissions raised issues about animal exploitation and suffering.

A total of 464 supportive submissions were received, and these are confidentially attached as attachments 2 and 9.

These submissions voiced support for the Moruya Rodeo event. In particular, submissions confirmed regular attendance and that it is an historic event for the town and mentioned not observing instances of animal cruelty at this event.

Petitions

At the Council meeting on 22 November 2022, Council received and noted a "Petition Regarding Animal Cruelty at Rodeos" objecting to the rodeo at Moruya Showground. A petition titled 'Rodeos in Eurobodalla' in support of the rodeo at Moruya Showground was received during the exhibition period, is tabled today for councillors to consider and also confidentially attached as attachment 10.

Council has also received a submission against the renewal from an organisation interested in the treatment of animals which states that it is a petition, however it does not comply with the rules for petitions set out on Council's website and Code of Meeting Practice. This submission is included in the confidential attachments.

CONCLUSION

The Rodeo Association of Moruya have been conducting the Moruya Rodeo on New Year's Day for many years.

Once it has considered the submissions, Council can decide whether to grant a five-year licence to Rodeo Association of Moruya to conduct the annual Moruya Rodeo at the Moruya Showground.

PSR23/009 DA0078/23 - ADDITIONS AND ALTERATIONS TO EDUCATIONAL ESTABLISHMENT - 61 TRAIN STREET BROULEE - REQUEST FOR EXEMPTION OF SECTION 7.12 DEVELOPER CONTRIBUTIONS DA0078/23

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

Attachments: Nil

Community Goal: 3 Our region of vibrant places and spaces

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

Delivery Program Link: 3.1.2 Provide receptive and responsive development assessment services

Operational Plan Link: 3.1.2.1 Assess and determine development applications

Applicant: Colliers International Holdings Ltd.

Land: Lot 1 DP 1037342, 61 Train Street Broulee

Cost of works: \$23,0082,388.00

Height 8.5 metres

Zone: R2 low density residential

Current Use: Educational establishment

Proposed Use: Educational establishment

Recommendation: No exemption to be provided.

EXECUTIVE SUMMARY

The purpose of this report is to seeks councillors determination of an application to exempt the developer (St. Peters Anglican College) from the payment of developer contributions under the *Environmental Planning and Assessment Act (EP&A) 1979* and the *Eurobodalla s7.12 Contributions Plan 2022* (7.12 Plan).

The *Eurobodalla s7.12 Contributions Plan 2022* requires that developers pay a levy based upon the construction value. Construction works over \$200,000 would be subject to a levy of 1%. Levies payable under the *Eurobodalla s7.12 Contributions Plan 2022* apply to residential alterations/additions, tourism developments, aged care building works and non-residential developments which includes the subject proposal (school alterations).

Clause 1.4 of the 7.12 plan provides that an application for an exemption to the contributions plan can be made by registered charities, not for profit organisations and social housing providers.

The applicant has submitted information that St Peter's Anglican College is a registered charity (registered since 3 December 2012) (ABN 61199827547) providing activities for the education of primary and secondary students. The estimated cost of the current proposal (capital investment value or CIV) under DA0078/23 is \$23,082,388.00 (excluding GST).

The section 7.12 contribution levy based upon the construction value would be \$230,083.00.

PSR23/009 DA0078/23 - ADDITIONS AND ALTERATIONS TO EDUCATIONAL DA0078/23
ESTABLISHMENT - 61 TRAIN STREET BROULEE - REQUEST FOR
EXEMPTION OF SECTION 7.12 DEVELOPER CONTRIBUTIONS

In accordance with the *Local Government Act 1993* the proposed development is being reported to Council for determination as the proposed development requests an exemption for the payment of development contributions.

It is considered that from a social equity viewpoint, it can be seen as a valuable exercise to waive fees for charities/ not for profit community groups and social housing providers on the basis that they contribute to the community wellbeing through volunteers, affordable housing, etc.

It is not clear how the school contributes to overall community wellbeing without a commercial purpose also being sought. It is therefore the recommendation of this report that the exemption not be provided.

RECOMMENDATION

THAT Council does not agree to the request for an exemption to the payment of section 7.12 developer contributions that would be attributed to any development consent issued under DA0078/23.

BACKGROUND

The proposed development (DA0078/23) seeks consent for the alterations and additions to an existing educational establishment 'St Peter's Anglican College' and an increase in student numbers from approximately 700 students to 900 students (pre-school to year 12).

Pursuant to *State Environmental Planning Policy (Planning Systems) 2021* the proposal is declared to be regionally significant development on the basis that the application involves a private infrastructure and community facilities (educational establishments) with a capital investment value of the development of more than \$5 million. Accordingly, the consent authority for the application is the Southern Regional Planning Panel.

The subject site is known as Lot 1 DP1037342, 61 Train Street Broulee ('the site') and comprises a single allotment with three road frontages including a primary road frontage to the south (Train Street), which provides the main pedestrian and vehicular access to the school, and two secondary access points (Caitlin Crescent) to the north and north-east. The site occupies an irregularly shaped area of 10.9ha (109,000m²).

The proposed works include demolition, the construction of a two storey sports and recreation centre (including use for community purposes), new buildings (learning areas, administration and music areas), a new oval, alterations to existing car parking and bus drop-off areas, associated landscaping and tree removal, acoustic treatment, stormwater infrastructure and bushfire protection works. The sports and recreation facility is proposed for use by the community for sports activities (basketball courts and gym areas).

The application was lodged by Colliers Internal Holdings (Australia) Limited on behalf of the owner Anglican Diocese Canberra-Goulburn on 17 August 2022.

The development application was exhibited in accordance with the Community Engagement and Participation Plan. The application is currently under assessment awaiting submission of additional information in relation to a number of matters, having been assessed against all

Payments contribute towards construction of public facilities including open space and recreation facilities, community and cultural facilities and cycling and walking paths.

PSR23/009 DA0078/23 - ADDITIONS AND ALTERATIONS TO EDUCATIONAL DA0078/23
ESTABLISHMENT - 61 TRAIN STREET BROULEE - REQUEST FOR
EXEMPTION OF SECTION 7.12 DEVELOPER CONTRIBUTIONS

The proposed waiving of payable contributions is supported by a written justification which nominates that the owner of the site is a registered charity, providing charitable functions. Therefore, the waiving of fees payable is sought solely on the fact that the proposal is owned and operated by a registered charity. No other supporting documents were submitted.

Social Impact

The Developer contributions plans are established on the basis that where development occurs that contributes to the growth of our community and greater demand for services, a levy is imposed to contribute to the provision of these additional facilities and infrastructure.

The levy applicable to the proposed development is 1% of the development cost. In this situation, the levy would equate to approximately \$230,000.00 which could be used to support the provision of additional services and infrastructure. There is a social cost if the contribution is not levied.

Financial

If the exemption is granted, then there will be a potential cost to the community in terms of a delayed provision of services and infrastructure that has been considered by the Contributions Plan. This could be offset by a public benefit provided by the school, however, no further justification has been provided.

Community and Stakeholder Engagement

The development application was publicly exhibited, however there has not been any community consultation regarding the proposed exemption. The Developer Contributions plan is an adopted policy of Council and Council can decide whether to accept or decline the request for the exemption.

CONCLUSION

It is considered that while the school may meet the definition of a registered charity, there is concern about the need to provide the exemption based upon the information submitted.

From a social equity viewpoint, it can be seen as a valuable exercise to waive fees for charities/ not for profit community groups and social housing providers on the basis that they contribute to the community wellbeing through volunteers, affordable housing, etc.

It is therefore recommended that the exemption not be supported.

**PSR23/010 CONFLICT OF INTEREST POLICY - DEALING WITH COUNCIL RELATED
DEVELOPMENT APPLICATIONS**

**S004-
T00021**

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

Attachments: 1. draft Conflict of Interest Policy

Community Goal: 3 Our region of vibrant places and spaces

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

Delivery Program Link: 3.1.2 Provide receptive and responsive development assessment services

Operational Plan Link: 3.1.2.1 Assess and determine development applications

EXECUTIVE SUMMARY

This report seeks Council endorsement to undertake public exhibition of the draft Conflict of Interest Policy (draft Policy) in compliance with the NSW Department of Planning and Environment's introduced changes to the planning system in 2022.

This draft Policy primarily deals with development applications whereby Council is, and can be seen as, both the applicant/developer and the regulatory authority.

The policy has also been drafted to deal with staff and councillor applications where they are lodging an application as an individual (private self) and the interaction with Council as the regulator.

The draft Policy defines each of these types of applications and provides specific risk management practices for each of these applications.

It is recommended that Council exhibit the draft Policy (attached) for a period of 28 days in accordance with legislative requirements.

RECOMMENDATION

THAT

1. Council endorse the exhibition of the draft Conflict of Interest Policy relating to Council-related development applications, for period of not less than 28 days in accordance with schedule 1 of the *Environmental Planning and Assessment Act 1979*.
2. A report be prepared for Council post exhibition of the draft Conflict of Interest Policy to seek adoption or adopt and amend the draft Policy following consideration of any submissions received during community consultation.

BACKGROUND

The NSW Department of Planning and Environment introduced changes to the planning system in 2022. This was in response to a report by the NSW Ombudsman, *An inherent conflict of interest councils as developer and regulator* (Dec. 2020).

**PSR23/010 CONFLICT OF INTEREST POLICY - DEALING WITH COUNCIL RELATED
DEVELOPMENT APPLICATIONS**

**S004-
T00021**

The proposed changes are intended to deal with situations where Council is the regulatory authority and may also be a developer/applicant/landowner of an application that is lodged with the Council for assessment.

The purpose of the amendments to the *Environmental Planning and Assessment Regulation 2021* requires councils to:

1. have a policy that sets out how they propose to manage any potential conflicts of interests that may arise in these circumstances,
2. consider this policy before determining any development applications that are council-related,
3. publicly communicate any management approach(es) that the council proposes to implement (if any) for each development by publishing a management statement, together with the development application when it is exhibited.
4. council-related development applications need to be exhibited for at least 28 days.

The draft Policy has been prepared to ensure compliance with the above requirements but also to deal with the perceived conflict of interest associated with individual staff and councillors.

CONSIDERATIONS

The draft Policy defines each of these types of applications and provides specific risk management practices for each of these applications. For example, a development application lodged by Council for a residential land subdivision would be perceived as providing a conflict of interest. This is because the application is being lodged and assessed by Council as both the developer and regulator. The management strategies around this type of application include:

- public exhibition for 28 days (and not the standard 14 days)
- peer review or assessment by a neighbouring council or independent consultant
- report to full council meeting
- noted on the NSW Planning Portal

There are six different categories of Council-related development and Council staff/councilor related development. It is considered best practice to include both types and reflects current practices for staff related development. Council currently has an informal understanding with a neighbouring council whereby these types of applications are peer reviewed by planning staff.

**PSR23/010 CONFLICT OF INTEREST POLICY - DEALING WITH COUNCIL RELATED
DEVELOPMENT APPLICATIONS**

**S004-
T00021**

The six (6) categories are:

- land development – Council acting as a developer
- operational development – development required for a Council function
- third party development – development by another party on Council-controlled land
- councillor/General Manager/ Director development – DA lodged by individual who is a councillor/Director/ General Manager of Eurobodalla Shire Council
- Development Services staff - DA lodged by individual who is employed by Eurobodalla Shire Council within the Development Services team
- general staff - DA lodged by individual who is employed by Eurobodalla Shire Council.

The management practices around the perceived risk vary from the above examples to no specific actions being undertaken. All categories require, as a minimum, that the relationship to Council is noted on the Planning Portal.

Legal

The proposed Conflict of Interest Framework developed by the NSW Department of Planning and Environment required amendments to the *Environmental Planning and Assessment Act 1979* and a new regulation, the *Environmental Planning and Assessment Regulation 2021*. The new legislation requires councils in NSW to have a policy and prescribe risk management controls to how they deal with different types of applications.

It is important to note that the legislative requirements only require Council to have a policy dealing with Council-related applications, ie., Council as an entity. This draft Policy seeks to go further and deal with applications by individuals who are either employed by Council or a councillor.

It should also be noted that Council is required to have the policy adopted and in place by 3 April 2023.

Council sought advice from the Department regarding a discrepancy which meant that any application seeking to build a driveway, stormwater connection or other infrastructure over a road reserve would be affected by this draft Policy.

Council was advised by the Department that the issue could be dealt with by prescribing no management controls to these types of applications. Ultimately, the Department published an amendment on 2 March 2023 which specifically excluded public roads from the definition of Council owned land, addressing the concerns raised by Council.

The effect of the delay in adopting the draft Policy is not considered to be significant because the legislation is not retrospective, ie., it only affects applications lodged after 3 April 2023. Furthermore, any Council-related development application lodged after 3 April 2023 would be required to be publicly exhibited for a period of not less than 28 days and it is intended to report the draft Policy to Council for adoption in May 2023.

**PSR23/010 CONFLICT OF INTEREST POLICY - DEALING WITH COUNCIL RELATED
DEVELOPMENT APPLICATIONS**

**S004-
T00021**

Policy

Council is required by an amendment to Schedule 1 of the *Environmental Planning and Assessment Act 1979* to publicly exhibit the draft Policy for a period of not less than 28 days.

The adopted Policy will be displayed by Council on the Council website and the individual management statement (for each application) would need to be exhibited with the development application.

Social Impact

The draft Policy once adopted, should provide Council with a more detailed response and framework for dealing with conflicts of interest. This is likely to provide greater confidence within the community of probity around Council-related and/or Council staff applications.

Financial

The costs associated with peer reviews and/or the independent assessment of applications by consultants would need to be considered and born by Council. There is no ability to pass on this cost through DA fees, etc.

Where Council is seeking a peer review from a neighbouring Council, this cost is usually absorbed by the council undertaking the peer review. This is done on the basis that the council will in turn, be requesting a peer review of their applications.

Council has in the past, undertaken and requested peer reviews from neighbouring councils on an informal basis.

Community and Stakeholder Engagement

Council will consult with the community by seeking feedback through a 28 day public exhibition process whereby the draft Policy will be available on Council's website.

CONCLUSION

The draft Policy seeks to provide some clarity around how Council-related development applications and councillor/staff related applications are assessed by Council. The purpose of having such a policy is to manage the potential and/or perceived conflict of interest associated with these types of applications.

It is recommended that Council endorse the draft Policy for public exhibition.



Policy

Policy title	Conflict of interest policy – dealing with council related development applications
Responsible manager(s)	Divisional Manager Development Services
Contact officer(s)	Development Assessment Coordinator
Directorate	Planning and Sustainability Services
Approval date	
Focus area	3.1 Balance development between the needs of people, place and productivity
Delivery Program link	3.1.2 Provide receptive and responsive development assessment services
Operational Plan link	3.1.2.1 Assess and determine development applications

Purpose

Eurobodalla Shire Council's policy was developed to provide clarity as to how Eurobodalla Shire Council deals with development applications where it is both the developer and the consent authority. The policy also deals with applications lodged by Council staff and Councillors.

The *Environmental Planning and Assessment Amendment (Conflict of Interest) Regulation 2022* requires councils to manage conflicts of interest arising in relation to 'council-related development applications', and amends Schedule 1 of the EP&A Act to make provision for community participation requirements concerning such applications.

Clause 9B(2) of Schedule 1 to the EPA Act defines 'council-related development application' to mean:

'... a development application, for which a council is the consent authority, that is—

(a) made by or on behalf of the council, or

(b) for development on land of which the council is an owner, a lessee or a licensee, or otherwise vested in or under the control of the council.'

Aim of Policy

This policy aims to manage potential conflicts of interest and increase transparency at all stages of the development process for council-related development and development applications lodged by Council staff or Councillors.

Policy details

1	Application This policy applies to Eurobodalla Shire Council as the applicant and/or the landowner for a development application and as the consent authority for such an application. The policy also applies to Council staff and Councillors (in their private capacity) who lodge development applications where Eurobodalla Shire Council is the consent authority.
2	Legislation

PSR23/010 CONFLICT OF INTEREST POLICY - DEALING WITH COUNCIL RELATED DEVELOPMENT APPLICATIONS

ATTACHMENT 1 DRAFT CONFLICT OF INTEREST POLICY



Policy

	This policy ensures Eurobodalla Shire Council's compliance with the Environmental Planning and Assessment Amendment (Conflict of Interest) Regulation 2022 and Schedule 1 of the Environmental Planning and Assessment Act 1979.
3	<p>Definitions</p> <p>(1) In this policy:</p> <p>application means an application for consent under Part 4 of the Act to carry out development and includes an application for a complying development certificate and an application to modify a development consent,</p> <p>council means Eurobodalla Shire Council</p> <p>council-related development means development for which the council is the applicant, developer (whether lodged by or on behalf of council), landowner, or has a commercial interest in the land the subject of the application, where it will also be the regulator or consent authority</p> <p>Council staff/Councillor related development means a development application for which a Council staff member or Councillor has a commercial interest in the land the subject of the application, where Council is also the regulator or consent authority</p> <p>development process means application, assessment, determination, and enforcement</p> <p>the Act means the Environmental Planning and Assessment Act 1979.</p> <p>Land development means a development for which Council is the applicant/ developer/ landowner and the development is for the purposes of commercial gain, i.e., a residential subdivision.</p> <p>Operational development means a development for which Council is the applicant/ developer/ landowner and the development is for the purposes of carrying out a council related function, i.e., an extension to a works depot, community facility.</p> <p>Third party development means a development for which Council is the landowner only and the development is for the purposes of a surf club, markets, golfclub, etc where Council is the landowner or Crown land manager.</p> <p>Councillor development means a development for which a Councillor of the Eurobodalla Shire is the applicant/ developer/ landowner.</p> <p>General Manager/Director development means a development for which the General Manager or a Director of the Eurobodalla Shire is the applicant/ developer/ landowner.</p> <p>Development Services staff development means a development for which a staff member of the Development Services Division of Eurobodalla Shire Council is the applicant/ developer/ landowner.</p> <p>Council staff development means a development for which a Council staff member of the Eurobodalla Shire is the applicant/ developer/ landowner and is not elsewhere defined.</p> <p>(2) A word or expression used in this policy has the same meaning as it has in the Act, and any instruments made under the Act, unless it is otherwise defined in this policy.</p> <p>(3) Notes included in this policy do not form part of the policy.</p>

PSR23/010 CONFLICT OF INTEREST POLICY - DEALING WITH COUNCIL RELATED DEVELOPMENT APPLICATIONS

ATTACHMENT 1 DRAFT CONFLICT OF INTEREST POLICY



Policy

Implementation

Management controls and strategies	Responsibility
<p>4</p> <p>a. Land development (Council related applications) The following management controls apply to the assessment of an application for council-related development</p> <ul style="list-style-type: none"> • Public exhibition of council related applications for 28 days • peer review or assessment by neighbouring council/ independent consultant • report to full council meeting • Noted on the Planning Portal (the portal provides a question if you have any relationship with staff or a Councillor). <p>b. Operational development (Council related applications) The following management controls apply to the assessment of an application for council-related development</p> <ul style="list-style-type: none"> • Public exhibition of council related applications for 28 days • peer review or assessment by neighbouring council/ independent consultant • Noted on the Planning Portal (the portal provides a question if you have any relationship with staff or a Councillor). <p>c. third party development (Council related applications) The following management controls apply to the assessment of an application for council-related development</p> <ul style="list-style-type: none"> • Public exhibition of council related applications for 28 days • peer review or assessment by neighbouring council/ independent consultant • Noted on the Planning Portal (the portal provides a question if you have any relationship with staff or a Councillor). • Note – Development consistent with an approved plan of management are excluded. <p>d. Councillor/General Manager/ Director The following management controls apply to the assessment of an application for council-related development</p> <ul style="list-style-type: none"> • peer review by neighbouring council/ independent consultant • Noted on the Planning Portal (the portal provides a question if you have any relationship with staff or a Councillor). • Note – see Part 5 – applications relating to the primary residence are excluded. <p>e. Development Services Staff The following management controls apply to the assessment of an application for council-related development</p>	<p>Divisional Manager Development Services/ Development Assessment Coordinator</p>

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	<ul style="list-style-type: none"> peer review by neighbouring council/ independent consultant determination by Divisional Manager or Director Planning and Sustainability Services Noted on the Planning Portal (the portal provides a question if you have any relationship with staff or a Councillor). Note – see Part 5 – applications relating to the primary residence are excluded. <p>f. Council staff - general The following management controls apply to the assessment of an application for council-related development</p> <ul style="list-style-type: none"> Noted on the Planning Portal (the portal provides a question if you have any relationship with staff or a Councillor). <p>g. Regulation and enforcement of approved council-related development</p> <ul style="list-style-type: none"> Engagement of a private certifier Shared services arrangement with a neighbouring council Use of an independent lawyer/ legal firm <p>h. Construction/ Complying Development Certificates of approved council-related development with a capital investment value greater than \$2,000,000.00</p> <ul style="list-style-type: none"> Engagement of a private certifier (as per the Building and Development Certifiers Regulation) <p>i. Construction / Complying Development Certificates of approved council staff/councillor related development with a capital investment value greater than \$2,000,000.00</p> <ul style="list-style-type: none"> Engagement of a private certifier (as per the Building and Development Certifiers Regulation) 	
5	<p>Development where no management control/strategy required</p> <ul style="list-style-type: none"> Internal alterations where no change of use Minor additions to a residential dwelling (deck, shed) commercial fit outs and minor changes to the building façade advertising signage (related to an approved development) minor building structures projecting from a building facade over public land (such as awnings, verandas, bay windows, flagpoles, pipes, and services) staff/ councillor applications where the proposal relates to the dwelling and/or associated structures of their primary address. Development on Council land by a third party where it is consistent with an approved Plan of Management. 	Divisional Manager Development Services/ Development Assessment Coordinator
6	Identifying whether a potential conflict of interest exists, assessment of level risk and determination of appropriate management controls	Responsibility

PSR23/010 CONFLICT OF INTEREST POLICY - DEALING WITH COUNCIL RELATED DEVELOPMENT APPLICATIONS

ATTACHMENT 1 DRAFT CONFLICT OF INTEREST POLICY



Policy

	<p>Development applications lodged with the council that are council-related development or council staff/councillor related development are to be assessed in accordance with this policy and a management strategy prepared. The management strategy is to be publicly exhibited with the application (if public exhibition occurs) and kept on the file/register associated with this policy.</p> <p>The management strategy must state the following:</p> <ul style="list-style-type: none"> • assess whether the application is one in which a potential conflict of interest exists, • identify the phase(s) of the development process at which the identified conflict of interest arises, • assess the level of risk involved at each phase of the development process, • apply Part 4 of this policy – Management control and strategies, • document the proposed management approach for the proposal in a statement that is publicly exhibited with the application. 	General Manager
7	<p>Concerns</p> <p>Public concerns communicated to Council in relation to this policy will be recorded on Council's records system and handled in accordance with Council's Customer Service or Complaints policy. These records will be used to determine any follow-up actions and analyse the history of reported public concerns.</p>	General Manager
8	<p>Consultation</p> <p>The draft policy is required to be publicly exhibited for a period of 28 days in accordance with Schedule 1, Community Participation of the Environmental Planning and Assessment act 1979.</p>	Divisional Manager Development Services

PSR23/010 CONFLICT OF INTEREST POLICY - DEALING WITH COUNCIL RELATED DEVELOPMENT APPLICATIONS

ATTACHMENT 1 DRAFT CONFLICT OF INTEREST POLICY



Policy

Review

The policy will be automatically revoked at the expiration of twelve months after the declaration of the poll for the next general NSW local government election, unless Council revokes it sooner.

Note: Automatic revocation of the policy is provided for by section 165(4) of the Local Government Act 1993. The next general local government election is expected to be held in September 2024.

This policy may also be reviewed and updated as necessary when legislation requires it; or Council's functions, structure or activities change; or when technological advances or new systems change the way that Council manages conflict of interest in the development process.

Reviews of the effectiveness of this policy could include the following:

Performance indicator	Data source(s)
Number of conflict-of-interest risk assessments versus number of council related applications	ECM
Delivery Program/ Operational Plan outcomes achieved	Council reporting
Concerns or complaints registered	Council records
Internal or external review	Audit

Governance

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

Related legislation and policies

Name	Link
Related Council Policy or Code of Practice	Council policies Eurobodalla Council (nsw.gov.au)
Local Government Act 1993	Local Government Act 1993 No 30 - NSW Legislation
Environmental Planning and Assessment Act 1979	Environmental Planning and Assessment Act 1979 No 203 - NSW Legislation
Environmental Planning and Assessment Amendment (Conflict of Interest) Regulation 2022	sl-2022-579 (nsw.gov.au)

Related external references

Name	Link
Office of Local Government	www.olg.nsw.gov.au
Department of Planning and Environment	NSW Dept of Planning and Environment

Supporting documents

Name	Link
Risk Assessment	.

PSR23/010 CONFLICT OF INTEREST POLICY - DEALING WITH COUNCIL RELATED DEVELOPMENT APPLICATIONS

ATTACHMENT 1 DRAFT CONFLICT OF INTEREST POLICY



Policy

Change history

Version	Approval date	Approved by	Min No	File No	Change
1		Council			
2		Council			
3		Council			

Internal use

Responsible officer		Director Planning and Sustainability Services		Approved by	Council
Minute #		Report #		Effective date	
File	E16.0297	Review date	Sep 2025	Pages	6

PSR23/011 DRAFT ELECTRIC VEHICLE CHARGING INFRASTRUCTURE STRATEGY

**S010-
T00037**

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

Attachments: 1. Under Separate Cover - Draft Eurobodalla Electric Vehicle Charging Infrastructure Strategy

Community Goal: 1 Our sustainable shire celebrates our natural environment and outdoor lifestyles

Community Strategy: 1.1 Move together for a sustainable future

Delivery Program Link: 1.1.2 Investigate and encourage renewable energy and technologies for Council and the community

Operational Plan Link: 1.1.2.4 Develop a Council Electric Vehicle (EV) Strategy

EXECUTIVE SUMMARY

The purpose of this report is to seek councillors endorsement for the public exhibition of the draft Electric Vehicle Charging Infrastructure (EVCI) Strategy.

The draft EVCI Strategy (Strategy) defines the role Council will play in supporting the growth of publicly available EVCI in the Eurobodalla in alignment with local, NSW and Australian Government policies and strategies. It supports the effort to create a national network of EVCI and demonstrates Eurobodalla Shire Council's commitment to sustainability and clearly defines actions Council are taking to support electric vehicle (EV) uptake and use in local communities and to strengthen the local visitor economy.

RECOMMENDATION

THAT

1. Council endorse the draft Electric Vehicle Charging Infrastructure Strategy for public exhibition for a period of not less than 28 days.
2. A report be prepared for Council post exhibition of the draft Electric Vehicle Charging Infrastructure Strategy following consideration of any submissions received during the public exhibition.

BACKGROUND

According to the EV Council, 3.8% of cars sold in Australia in 2022 were EVs. Significantly for the Eurobodalla, a large proportion of the tourist and non-resident homeowners are from the ACT, where the market share is strongest with almost 10% of all new cars purchased in 2022 being electric – double that of the EVs purchased in 2021 (5%).

In January 2023, national sales increased to 5.7% (84,873 Electric vehicles sold), NSW by 15% (26,484), and ACT by 18.6% (1,394).

Road transport is the second largest source of Greenhouse Gas Emissions across both NSW and the Eurobodalla (23% of municipal emissions in the Eurobodalla in 2020-2021). Supporting a reduction in road transport emissions with charging infrastructure for the forecast uptake of electric vehicles is critical for meeting NSW and Council emissions reduction targets and eventual NSW net zero plan.

PSR23/011 DRAFT ELECTRIC VEHICLE CHARGING INFRASTRUCTURE STRATEGY

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Road transport is also a source of local air and noise pollution, carrying associated environmental and public health risks; both of which will be abated in the transition to EVs.

The international transport market, driven by European markets, is already shifting quickly towards electric vehicles. Manufacturers are planning to phase out the production of internal combustion engine vehicles. Large manufacturers such as BMW, Daimler, Toyota, Volkswagen and Volvo have all set strong targets for the share of EVs in their own production/sales in the next 10 years. (Volvo will stop selling internal combustion engine cars in Australia by 2026).

The draft EVCI Strategy addresses the provision of EV charging infrastructure on council managed lands in a clear, consistent and equitable manner.

CONSIDERATIONS

While EV uptake in the Eurobodalla is relatively low, there is a need for Council to take action on EVCI for these reasons:

- there is a clear push from Australian and NSW Governments to deliver a national charging network for EVs. Council has a role to play in this network.
- there are opportunities for EVCI to enhance both the tourist economy and placemaking initiatives in the Eurobodalla through colocation with businesses and attractions.

There are risks for Council in not keeping ahead of demand for EVCI in the Eurobodalla (long wait times at chargers causing problems for residents and visitors, and subsequent reputational damage for both Council and the Eurobodalla as a destination).

Legal

This draft Strategy ensures that where Council enters into lease arrangements with EVCI suppliers on Council managed public land, it will be in accordance with established lease, licence, procurement and planning regulations. It will also take into consideration any known or predictable issues relating to the installation of EVCI.

Policy

The draft Strategy sets the framework for how and when Council will consider enabling EVCI on Council managed lands.

Environmental

The draft Strategy addresses air and noise pollution created by internal combustion engine vehicles and helps to reduce Eurobodalla emissions by supporting a transition to EVs. This results in environmental and health benefits for the community. In addition, it contributes to a suite of climate adaptation initiatives from Council, aimed at limiting global warming and its effect on the natural environment.

Asset

The draft Strategy may result in the updating or improvement of existing assets (such as installation of roofing and solar assets on car parks, creating both shade and a renewable energy sources) or creating new capital assets. Whole of life costs are considered in the development of new business cases, therefore impacts on asset maintenance and operations

PSR23/011 DRAFT ELECTRIC VEHICLE CHARGING INFRASTRUCTURE STRATEGY

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will be considered. In some cases, projects may also result in maintenance or resourcing savings by working with suppliers to cover costs normally incurred by Council eg., parking spaces.

Assets require consideration of climate change to ensure their longevity and performance.

Social Impact

Community engagement for the recently endorsed Climate Action Plan showed wide public support for the Plan. As the national transition to EVs progresses and EV ownership increases amongst Eurobodalla residents and visitors, community members and businesses will rely on Council having supported the installation of adequate EVCI to meet growing demand. This will ensure that residents and visitors are able to recharge their vehicles in a timely manner.

Financial

The draft EVCI recommends that Council play a supporting rather than ownership role in EVCI. This reduces the impact on capital expenditure as capital costs will generally be the responsibility of EVCI suppliers and funding bodies. The ongoing maintenance costs for car parking spaces should remain relatively unaffected by the conversion from internal combustion engines to EV car parking, and EVCI maintenance and/or removal will remain the responsibility of suppliers.

Council staff resources will be required to navigate the planning, legal and infrastructure issues associated with leasing public land, however the standard avenues already established for doing so will be used for licences and leases on Council-managed lands.

Community and Stakeholder Engagement

The draft EVCI Strategy has been reviewed by the Climate Change Advisory Committee, which comprises 15 local community representatives. During the draft preparation, community consultation associated with the Climate Action Plan (CAP) was reviewed and incorporated. In addition, a number of stakeholders were consulted, including:

- Local community group, South Coast Health and Sustainability Alliance
- Local solar and energy companies
- The Australian EV Council
- The Office of Environment and Climate Change, NSW
- Local energy distributor, Essential Energy
- Ultra-fast EVCI suppliers
- Relevant Council staff

CONCLUSION

Creation of this draft Strategy is part of a priority Integrated Transport action from the recently adopted Climate Action Plan. The need for this Strategy is being driven both internally (eg., staff dealing with many enquiries from EVCI suppliers and preparing grant applications) and externally (by Australian and NSW Governments' requirements and initiatives, and international vehicle market changes).

PSR23/011 DRAFT ELECTRIC VEHICLE CHARGING INFRASTRUCTURE STRATEGY

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There are reputational and service delivery risks associated with inaction – the increase in EV ownership among residents and visitors will grow annually and the Eurobodalla will need to have adequate EVCI to service this growth. Adoption of this Strategy will provide Council staff and EVCI stakeholders with the overarching principles, objectives, and actions to ensure that the community is supported in the transition to EVs.

**PSR23/012 EASEMENT FOR STORMWATER OVER COUNCIL LAND,
DALMENY**

**LAND IDS 1517,
1518, 1370**

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

Attachments: Nil

Community Goal: 5 Our engaged community with progressive leadership

Community Strategy: 5.3 Work together to achieve our collective vision

Delivery Program Link: 5.3.2 Manage land under Council control

Operational Plan Link: 5.3.2.1 Undertake strategic management of Council's operational land portfolio

EXECUTIVE SUMMARY

The purpose of this report is to seek approval for an easement for stormwater over Council land at Dalmeny.

The landowner of 44 Noble Parade, Dalmeny (Lot 7 DP 16932), wishes to obtain an easement for stormwater over the adjoining Council land being vacant operational land at 46 Noble Parade and 12 Ocean Parade, Dalmeny ('the Council land'). The easement for stormwater is required to connect to and construct stormwater pipes and drainage for the development as part of the landowner's development consent. The Council land has existing stormwater infrastructure, together with a pump station.

All costs associated with the granting of the easement, including surveying, valuation, legal and registration fees, will be borne by the landowner of 44 Noble Parade, Dalmeny. The landowner of 44 Noble Parade, Dalmeny is to pay compensation for the easement, being an interest in the land, and compensation will be determined following receipt of a valuation from a registered valuer.

The landowner's details are set out in the Confidential Attachment to this report.

RECOMMENDATION

THAT

1. Consent be given for the creation of an easement for stormwater over Council land being Lot 8 DP 16932, 46 Noble Parade Dalmeny, and Lot 107 DP 16932, 12 Ocean Parade Dalmeny, in favour of Lot 7 DP 16932, 44 Noble Parade Dalmeny.
2. All costs associated with the granting of the easement for stormwater, including surveying and registration costs, legal fees and compensation to Council is to be borne by the landowner of 42 Noble Parade Dalmeny.
3. The General Manager be given delegated authority to execute all necessary documentation associated with the easement.

**PSR23/012 EASEMENT FOR STORMWATER OVER COUNCIL LAND,
DALMENY**

**LAND IDS 1517,
1518, 1370**

BACKGROUND

The landowner of 44 Noble Parade, Dalmeny (Lot 7 DP 16932) wishes to obtain an easement for stormwater over the Council land.

The landowner has lodged a development application with Council for a proposed dual occupancy, strata subdivision and associated stormwater works (DA0142/23). The landowner will be required to connect to and construct stormwater pipes and drainage for the development. It is proposed that the stormwater infrastructure be partly constructed within the Council land. The Council land is a natural low point and has existing stormwater infrastructure, together with a pump station.

If development consent is granted, it is considered reasonable and appropriate that the application for the easement for stormwater be supported in accordance with Council's *Land Management – Acquisition, Disposal and Leasing/Licensing Policy*.

CONSIDERATIONS

The application for the easement was referred to the various divisions of Council for initial consideration. No objections were received in response to the referral.

Applicant's Property, 44 Noble Parade, Dalmeny, and the Council land adjoining are shown in sketch below:



Legal

Pursuant to Division 1 of Part 2 of Chapter 6 of the *Local Government Act 1993*, the Council land is classified as operational land. Being classified as operational land means that there are no special restrictions such as those that apply to land classified as Community Land.

[Local Government Act 1993 No 30 - NSW Legislation - Div 1 Pt 2 Chapter 6](#)

**PSR23/012 EASEMENT FOR STORMWATER OVER COUNCIL LAND,
DALMENY**

**LAND IDS 1517,
1518, 1370**

Policy

The granting of the easement will be in accordance with Council's *Land Management – Acquisition, Disposal and Leasing/Licensing Policy*, adopted by Council on 22 November 2022. [Land Management Policy](#)

Asset

Council's Water and Sewer Division has no issue with the easement being granted, provided that the easement and its associated infrastructure is designed and constructed to not interfere with Council's existing assets within the Council land.

Financial

All costs associated with the easement for stormwater will be borne by the landowner. The landowner is to pay compensation for the easement, being an interest in the land, and compensation will be determined following receipt of a valuation from a registered valuer.

Community and Stakeholder Engagement

Council's *Community Engagement Strategy* and relevant legislation have been used to guide the best approach to engagement on this matter. There is no legal requirement to advise the community through public notice or to seek feedback through public exhibition for land dealings within operational land.

CONCLUSION

An easement for stormwater over the Council land is sought by the landowner of 44 Noble Parade, Dalmeny to enable construction and maintenance of stormwater works associated with its proposed development.

All valuation, survey and legal costs associated with the Easement for Support will be borne by the applicant. Compensation for the easement be determined following a valuation by a registered valuer.

It is appropriate an easement for stormwater be granted over Council land being Lot 8 DP 16932, 46 Noble Parade Dalmeny, and Lot 107 DP 16932, 12 Ocean Parade Dalmeny, in favour of Lot 7 DP 16932, 44 Noble Parade Dalmeny.

PSR23/013 EASEMENT FOR ACCESS OVER COUNCIL ROAD RESERVE OFF OLD PRINCES HIGHWAY, BODALLA

**LAND ID
35583**

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

Attachments: 1. Confidential - Easement over Council road off Old Princes Highway, Bodalla

Community Goal: 5 Our engaged community with progressive leadership

Community Strategy: 5.3 Work together to achieve our collective vision

Delivery Program Link: 5.3.2 Manage land under Council control

Operational Plan Link: 5.3.2.1 Undertake strategic management of Council's operational land portfolio

EXECUTIVE SUMMARY

The purpose of this report is to seek approval for an easement for access over unformed Council road reserve, off the Princes Highway at Bodalla.

The landowner of 360 Gannons Point Road, Bodalla (being Lot 401 DP 1192556) wishes to formalise access over Council road reserve being Old Princess Highway, as required as part of their development proposal for a private cemetery.

It is considered reasonable and appropriate that the application for the easement be supported in accordance with Council's *Land Management – Acquisition, Disposal and Leasing/Licensing Policy*.

All costs associated with the granting of the easement including surveying, valuation, legal and registration fees, will be borne by the landowner. The landowner is to pay compensation for the easement, being an interest in the land and compensation will be determined following receipt of a valuation from a registered valuer.

The landowner's details are shown in the Confidential Attachment to this report.

RECOMMENDATION

THAT

1. Consent be given for the creation of an easement for access over Council road reserve off Old Princes Highway Bodalla, benefitting Lot 401 DP 1192556.
2. All costs including Council's reasonable legal costs associated with the creation of the easement for access be borne by the applicant/landowner.
3. Compensation for the easement for access be determined following a valuation by a registered valuer.
4. The General Manager be given delegated authority to execute all necessary documentation associated with the easement.

**PSR23/013 EASEMENT FOR ACCESS OVER COUNCIL ROAD RESERVE OFF OLD
PRINCES HIGHWAY, BODALLA**

**LAND ID
35583**

BACKGROUND

The unformed road, the subject of this report, is situated off the Princes Highway at Bodalla.

The landowner received development consent, from Council as local consent authority, for the proposed development of Lot 401 DP 1192556 as a Private Cemetery (DA0537/20). A condition of development consent requires the landowner to obtain a legal right of access over part of the road reserve to construct and maintain that access.

CONSIDERATIONS

An aerial map showing subject property and proposed easement for access is below:



Legal

Council is the local Roads Authority and as such, has power to grant an easement over a public road pursuant to the *Roads Act 1993*.

PSR23/013	EASEMENT FOR ACCESS OVER COUNCIL ROAD RESERVE OFF OLD PRINCES HIGHWAY, BODALLA	LAND ID 35583
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As the local Roads Authority, Council can create a positive covenant for the ongoing maintenance and/or repair of the road by the landowner. The terms of the easement will ensure that the landowner keeps the road maintained and in a good state of repair, and will effect and keep in place insurance of not less than \$20 million. The easement will be registered at NSW Land Registry Services.

[Easements and positive covenants created over roads - Registrar General's Guidelines \(nswlrs.com.au\)](https://nswlrs.com.au)

Policy

The granting of the easement will be in accordance with Council's *Land Management – Acquisition, Disposal and Leasing/Licensing Policy*, adopted by Council on 22 November 2022. [Land Management Policy](#)

Asset

Easement conditions will ensure the landowner maintains that part of the road reserve.

Financial

All valuation, survey and legal costs associated with the easement will be borne by the landowner. Compensation for the easement be determined following a valuation by a registered valuer.

Community and Stakeholder Engagement

Council's Community Engagement Strategy and relevant legislation have been used to guide the best approach to engagement on this matter. There is no legal requirement to advise the community through public notice or to or seek feedback through public exhibition for easements within a road reserve. The engagement method will be to 'inform' through this report available on Council's web site.

CONCLUSION

An easement for access over the road reserve is sought by the registered proprietor of 360 Gannons Point Road, Bodalla. The landowner has received the consent of Council as local consent authority to the development of part of the property as a private cemetery. It is a condition of development approval, that the landowner secure an easement for access over the road reserve.

All valuation, survey and legal costs associated with the Easement for Support will be borne by the applicant. Compensation for the easement be determined following a valuation by a registered valuer.

It is appropriate an easement for access over the road reserve be granted in favour of Lot 401 DP 1192556.

**PSR23/014 EASEMENT FOR ACCESS OVER COUNCIL PROPERTY, 46
CORKHILL DRIVE, CENTRAL TILBA**

**LAND IDS 28990,
21094, 21095**

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

Attachments: Nil

Community Goal: 5 Our engaged community with progressive leadership

Community Strategy: 5.3 Work together to achieve our collective vision

Delivery Program Link: 5.3.2 Manage land under Council control

Operational Plan Link: 5.3.2.1 Undertake strategic management of Council's operational land portfolio

EXECUTIVE SUMMARY

The purpose of this report is to seek approval for an easement for access over Council property being Lot 1 DP 874575 at 46 Corkhill Drive, Central Tilba. The Council property is classified as operational land and is used for public car parking.

The landowner is the Central Tilba School of Arts Trust Inc ('School of Arts') of 3 and 3A Bate Street, Central Tilba, being Lot 1 DP 919977 and Lot 16 DP 3166, wish to formalise access over Council land as required to achieve compliance for fire egress as part of their development proposal for alterations and additions to existing halls.

It is considered reasonable and appropriate that the application for the easement be supported in accordance with Council's *Land Management – Acquisition, Disposal and Leasing/Licensing Policy*.

All costs associated with the grant of the easement, including surveying, legal and registration fees, will be borne by the School of Arts. The Council land is a car park and as the proposed easement does not include any infrastructure, the School of Arts is a community organisation, and also to avoid the cost of a valuation, it is recommended that no compensation for the easement be payable by the School of Arts to Council.

RECOMMENDATION

THAT

1. Consent be given for the creation of an easement for access over Council property at 46 Corkhill Drive, Central Tilba being Lot 1 DP 874575 for the benefit of Lot 1 DP 919977 and Lot 16 DP 3166 being 3 and 3A Bate Street. Central Tilba.
2. All costs including Council's reasonable legal costs associated with the creation of the easement for access over Lot 1 DP 874575 be borne by the applicant.
3. The General Manager be given delegated authority to execute all necessary documentation associated with the easement.

BACKGROUND

Council, as local consent authority, granted development approval for alterations and additions for the School of Arts' existing halls in August 2022 (DA0645/22). To achieve compliance for fire

**PSR23/014 EASEMENT FOR ACCESS OVER COUNCIL PROPERTY, 46
CORKHILL DRIVE, CENTRAL TILBA**

**LAND IDS 28990,
21094, 21095**

egress, the School of Arts (3 and 3A Bate Street, Central Tilba) has made application to formalise access from their property through the Council property.

The School of Arts have an existing easement at the back of their properties over the neighbouring land however they require further easement over Council land for fire egress enabling legal access onto Corkhill Drive, in accordance with their DA conditions. See sketch below – green easement already in place and red easement proposed.

CONSIDERATIONS

Aerial map showing subject property and proposed easement for access:



Legal

Council has authority as landowner of 46 Corkhill Drive for the creation of easements pursuant to Section 88B *Conveyancing Act 1919*. Easements are registered at the office of NSW Land Registry Services by the registration of a Deposited Plan with an accompanying Section 88B instrument, resulting in that easement being recorded against the Title/s to both properties.
[Conveyancing Act 1919](#)

Policy

The granting of the easement will be in accordance with Council's *Land Management – Acquisition, Disposal and Leasing/Licensing Policy*, adopted by Council on 22 November 2022.
[Land Management Policy](#)

**PSR23/014 EASEMENT FOR ACCESS OVER COUNCIL PROPERTY, 46
CORKHILL DRIVE, CENTRAL TILBA**

**LAND IDS 28990,
21094, 21095**

Social Impact

The easement will not adversely affect access within the Council property (being a public car park) and will support a valuable community group.

Financial

All survey, registration and legal costs associated with the easement will be borne by the School of Arts.

The Council land is a car park and as the proposed easement does not include any infrastructure, the School of Arts is a community organisation and to avoid the cost of a valuation, it is recommended that no compensation for the easement be payable by the School of Arts to Council.

Community and Stakeholder Engagement

Council's Community Engagement Strategy and relevant legislation have been used to guide the best approach to engagement on this matter. There is no legal requirement to advise the community through public notice or to seek feedback through public exhibition for easements over Council property where that property is classified as operational land and the engagement method will be to 'inform' through this report.

CONCLUSION

An easement for access over the Council property (being the car park) is sought by the School of Arts at 3 and 3A Bate Street, Central Tilba to achieve compliance for fire egress as part of their development proposal for alterations and additions to existing halls.

All survey, registration and legal costs associated with the easement for access will be borne by the School of Arts.

It is appropriate an easement for access over the Council property being Lot 1 DP 874575 be granted in favour of Lot 1 DP 919977 and Lot 16 DP 3166.

**PSR23/015 EASEMENT FOR ACCESS OVER COUNCIL PROPERTY, BROU WASTE
MANAGEMENT FACILITY**

**LAND IDS
36490 &
18849**

Responsible Officer: Lindsay Usher - Director, Planning and Sustainability Services
Attachments: 1. Confidential - Easement over Council land
Community Goal: 5 Our engaged community with progressive leadership
Community Strategy: 5.3 Work together to achieve our collective vision
Delivery Program Link: 5.3.2 Manage land under Council control
Operational Plan Link: 5.3.2.1 Undertake strategic management of Council's operational land portfolio

EXECUTIVE SUMMARY

The purpose of this report is to seek approval for an easement for access over Council property being Lot 1 DP 1205476 at Bodalla.

The landowner of 81 Brou Lake Road, Bodalla (being Lot 11 DP 706971) wishes to formalise access over an existing track that bisects Brou Waste Management Facility.

Brou Waste Management Facility is Council-owned operational land being Lot 1 DP 1205476. The land for Brou Tip was acquired from Forestry Corporation NSW in 2017 and an existing track was used by the landowner for access to his property.

While physical access to the landowner's property continues to be available via the existing track, the landowner has sought and reached an in-principle agreement with Council to formalise that access by the granting of an easement for access over the Council land.

It is considered reasonable and appropriate that the application for the easement be supported in accordance with Council's *Land Management – Acquisition, Disposal and Leasing/Licensing Policy*.

The landowner's details are shown in the Confidential Attachment to this report.

RECOMMENDATION

THAT

1. Consent be given for the creation of an easement for access over Council property, Brou Waste Management Facility, being Lot 1 DP 1205476, for the benefit of Lot 11 DP 706971.
2. Financial arrangements are as outlined in the Confidential Attachment to this report.
3. The General Manager be given delegated authority to execute all necessary documentation associated with the easement.

BACKGROUND

Council compulsorily acquired the property known as Brou Waste Management Facility from Forestry Corporation NSW in 2017.

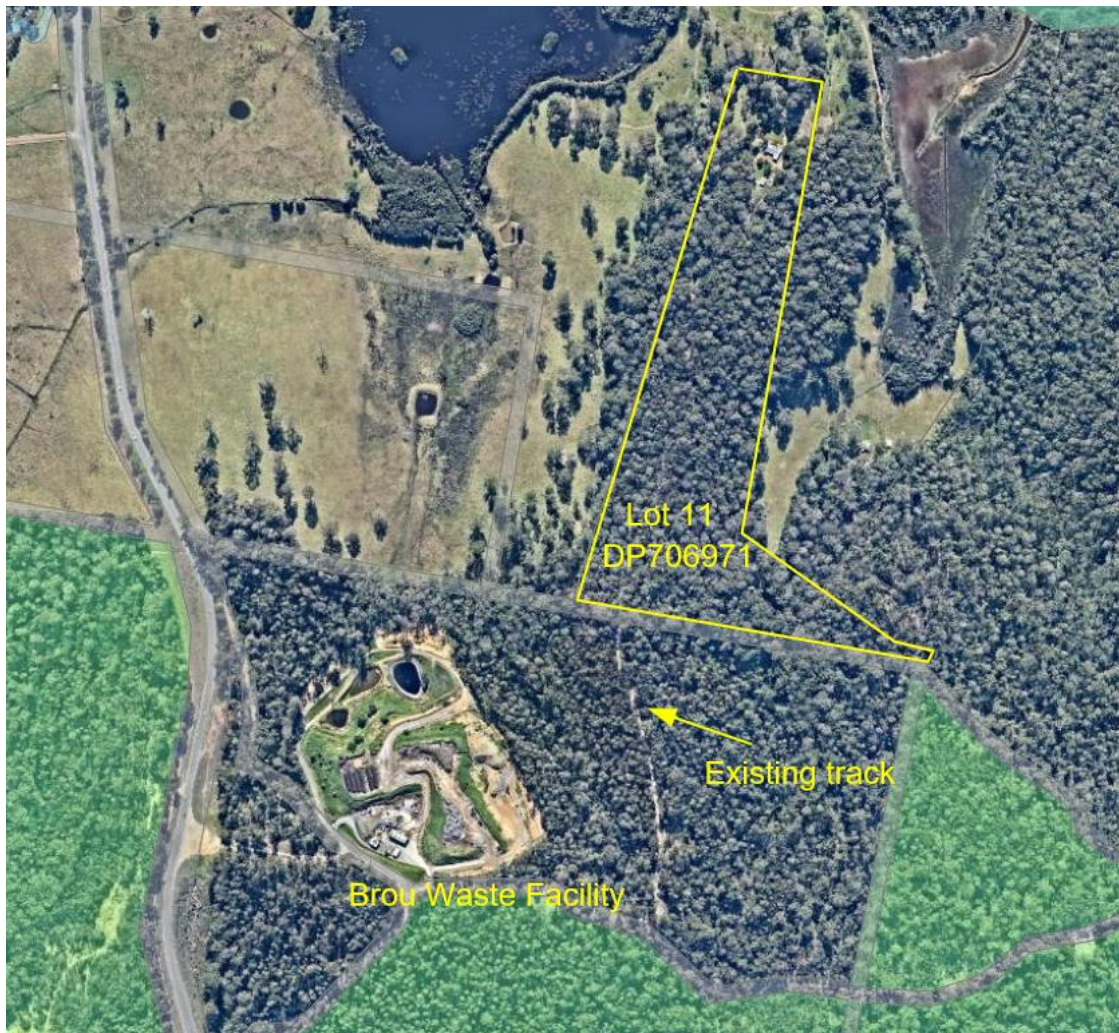
**PSR23/015 EASEMENT FOR ACCESS OVER COUNCIL PROPERTY, BROU WASTE
MANAGEMENT FACILITY**

**LAND IDS
36490 &
18849**

Council has been in negotiations with the landowner of Lot 11 DP 706971, in respect of the granting of an easement for access over an existing track through the Council property.

CONSIDERATIONS

Aerial map showing subject properties:



Legal

Brou Waste Management Facility is Council-owned operational land being Lot 1 DP 1205476.

Council has authority as landowner for the creation of easements pursuant to Section 88B *Conveyancing Act 1919*. Easements are registered at the office of NSW Land Registry Services by the registration of a Deposited Plan with an accompanying Section 88B instrument, resulting in that easement being recorded against the Titles to both properties.

[Conveyancing Act 1919](#)

PSR23/015	EASEMENT FOR ACCESS OVER COUNCIL PROPERTY, BROU WASTE MANAGEMENT FACILITY	LAND IDS 36490 & 18849
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Policy

The granting of the easement will be in accordance with Council's *Land Management – Acquisition, Disposal and Leasing/Licensing Policy*, adopted by Council on 22 November 2022.
[Land Management Policy](#)

Asset

Brou Waste Management Facility is an important asset and this easement does not impact effective operations.

Social Impact

The easement will not adversely affect other access through the Council property.

Financial

The Confidential attachment to this report sets out financial information.

Community and Stakeholder Engagement

Council's Community Engagement Strategy and relevant legislation have been used to guide the best approach to engagement on this matter. There is no legal requirement to advise the community through public notice, or to or seek feedback through public exhibition for land dealings within operational land.

As the proposed easement for access will not impact the use of Brou Waste Management Facility by the general public, the engagement method will be to 'inform' through this report.

CONCLUSION

An easement for access over the Council property is sought by the landowner of Lot 11 DP 706971.

Subject to agreement being finalised with the applicant as to costs and other matters, it is appropriate that an easement for access over the existing track, through the Council property being Lot 1 DP 1205476, be granted in favour of Lot 11 DP 706971.

IR23/005 LOCAL TRAFFIC COMMITTEE NO 7 FOR 2022-23

S030-T00018

Responsible Officer: Tony Swallow - Acting Director Infrastructure Services

Attachments: Nil

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

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

Delivery Program Link: 4.1.1 Plan for an integrated and active local transport network, guided by the NSW Government's Future Transport 2056 Strategy

Operational Plan Link: 4.1.1.3 Coordinate the Local Traffic Committee

EXECUTIVE SUMMARY

The Local Traffic Committee is primarily a technical review committee. It advises Council on traffic control matters that relate to prescribed traffic control devices or traffic control facilities for which Council has delegated authority.

The minutes of the Eurobodalla Local Traffic Committee meeting are included in this report. The main issues covered at the Eurobodalla Local Traffic Committee meeting held 2 March 2023, are as follows:

- Line marking – car space hatching, Perry Street Carpark
- Signage and Linemarking – Hawkins Road and Tuross Boulevard, Tuross Head.

RECOMMENDATION

THAT:

1. The minutes of the Eurobodalla Local Traffic Committee Meeting No 7 for 2022-23 be received and noted.
2. Council Plan dated 24/02/2023 Sheet 1 detailing hatching on the car space adjacent to police station exit, Perry Street carpark, Batemans Bay be approved.
3. Council Plan 5463 Set A Sheet 1-6 detailing the shared pathway on Hawkins Road and raised pedestrian crossing Tuross Boulevard, Tuross Head be resubmitted at the April Local Traffic Committee showing cycle lane at raised crossing on Tuross Boulevard and shared pathway to cross Waights Place on Hawkins Road.
4. The submitted Traffic Management and Control Plan for the 2020 Rotary Youth Driver Awareness Program to be conducted using Donnelly Drive, Moruya on 3 and 4 April be approved.
5. The submitted Traffic Management and Control Plans for the ANZAC Day marches for Batemans Bay, Moruya and Narooma on 25 April 2020, subject to approval by the NSW Police and lodgement of a Road Occupancy License to Roads and Maritime Services for the Moruya and Narooma events be approved.

IR23/005 LOCAL TRAFFIC COMMITTEE NO 7 FOR 2022-23

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6. The submitted Traffic Management Plan and associated Traffic Guidance Scheme Ref. No Bega TTM 1081 to be conducted at Jack Buckley Park, Tomakin and Mogo State Forest on March 5, 2023 with changes of Workers symbolic sign to Special Event signage, be approved.
7. The submitted Traffic Management Plan for the 2023 Monaro – Batemans Bay Knockout and Monaro Knockout – Mackay Park Batemans Bay Site Plan to be held 31 March – 1 April, 2023, be approved.

BACKGROUND

The Eurobodalla Local Traffic Committee Meeting No 7 for 2022-23 was held on 2 March 2023. The meeting was attended by Councillor Amber Schutz (Chair), Senior Sergeant Angus Duncombe (NSW Police), Sara Haider (Transport for NSW), Kate McDougall (Traffic Officer), Geoff Armstrong (Design Coordinator), Kelly-Anne Marshall (Surveillance Officer, Maintenance – Works), Emily Evans (Infrastructure Support Officer), James Thompson Transport and Stormwater Engineer, Thomas Franzen (Divisional Manager Technical Services), and Sergeant Scott Britt (NSW Police).

APOLOGIES

Sarah Kerkham (representative for Michael Holland MP).

DEPUTATIONS

Nil

MINUTES OF PREVIOUS MEETING

The minutes of the Eurobodalla Local Traffic Committee Meeting No 7 for 2022-23 held on 2 March 2023 were confirmed and accepted.

OUTSTANDING ITEMS FROM PREVIOUS MEETING

Nil

ROAD TRANSPORT (SAFETY AND TRAFFIC MANAGEMENT) ACT FOR DETERMINATION

2023.RT.025 Line marking – car space hatching, Perry Carpark

Council has received a request from Sgt Angus Duncombe from Batemans Bay HWP at the Local Traffic Committee in February 2023 to hatch out the undersized car space adjacent to the driveway into Batemans Bay Police Station.

Motorists had been attempting to park in the small line marked space next to the entry of the police station, but were parking over the line, encroaching on the police station driveway and making it difficult for police vehicles to enter and exit the police station.

LTC Recommendation:

That Council Plan dated 24/02/2023 Sheet 1 detailing hatching on the car space adjacent to police station exit, Perry Street carpark, Batemans Bay be approved.

IR23/005 LOCAL TRAFFIC COMMITTEE NO 7 FOR 2022-23

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2023.RT.026 Signage and Linemarking – Hawkins Road and Tuross Blvd, Tuross Heads

Council was successful for NSW Government Transport for NSW (TfNSW) Active Transport Grant Program for Walking and Cycling Infrastructure. This program is a joint effort to encourage people to walk or cycle as part of their everyday commute. It complements Council's adopted "Eurobodalla Pathways Strategy June 2017, A strategy for safe walking and cycling pathways in Eurobodalla Shire".

A multi-facet approach is taken to determine suitable sites, based on both the Eurobodalla Strategy and TfNSW guidelines. Other practicalities are also considered such as tying in with other construction projects like kerb and gutter or pavement rehabilitation works.

Both NSW Government and Council contribute to the installation of the infrastructure. This year installation of the shared pathway along Hawkins Road and Tuross Boulevard has been selected with 2.5m wide shared paths and pedestrian refuge islands so people can safely cross roads.

From the original design, the funding body from TfNSW returned recommending wider platform on raised crossing for cycle lane and shared pathway to be continuous on Hawkins Road not stopping at Waights Place, giving priority to pedestrians and cyclists.

LTC Recommendation:

That Council Plan 5463 Set A Sheet 1-6 detailing shared pathway on Hawkins Road and raised pedestrian crossing Tuross Boulevard, Tuross Head be resubmitted at the April Local Traffic Committee showing cycle lane at raised crossing on Tuross Boulevard and shared pathway to cross Waights Place on Hawkins Road.

INFORMAL ITEMS FOR DISCUSSION

2023.SE.008 Special event applications: Traffic Management & Control Plan – RYDA Event Donnelly Drive, North Moruya

A Traffic Management and Control plan has been received for the running of the annual Rotary Youth Driver Awareness (RYDA) Program on 3 and 4 April using Donnelly Drive, Moruya.

The Rotary Club of Batemans Bay is again facilitating a two day event to be held around the Moruya Racecourse grounds for the ninth consecutive year. RYDA (Rotary Youth Driver Awareness) is aimed at educating Year 11 students about various road safety issues and students from all five high schools in the Eurobodalla Shire will be participating.

One module requires a practical demonstration of motor vehicle stopping distances on a bitumen surface whilst travelling at three different speeds.

There will be six demonstrations per day each taking up to 30 minutes to complete. The demonstrations are conducted outside the Jockey Club on Donnelly Drive.

All demonstrations are conducted by a certified driving instructor and students observe the demonstration from behind a cordoned off observation area. For added effect, Council provides its portable Speed Advisory Sign.

Donnelly Drive is a *No Through Road* with the only traffic being residents and visitors to a small cluster of houses.

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S030-T00018

Closing the road for up to 30 minutes for each demonstration over a two day period will result in minimal disruption to the resident's life style and/or business activities.

Conclusion

The 2023 Rotary Youth Driver Awareness Program will assist in educating Year 11 students about various road safety issues with theoretical and practical experience over two days in March 2023.

Recommendation:

That the submitted traffic management and control plan for the 2020 Rotary Youth Driver Awareness Program to be conducted using Donnelly Drive, Moruya on 3 and 4 April 2023 be approved.

2023.SE.006 Special Event Application – ANZAC Day Marches, Various Locations

ANZAC Day marches will be conducted in the following locations on 25 April 2023:

- (a) Batemans Bay
- (b) Tomakin
- (c) Moruya
- (d) Tuross Head
- (e) Narooma.

As the marches in Batemans Bay, Moruya and Narooma affect the major road networks, traffic management and control plans are required.

Council will assist the event organisers to submit applications for Road Occupancy License's (ROL's) to the Roads and Maritime Services (RMS) for the Moruya and Narooma marches, as they require the use of the Princes Highway.

Traffic Management and Control Plans will be forwarded to the committee before the meeting.

CONCLUSION

ANZAC Day marches are planned at many locations throughout the Eurobodalla on 25 April. As the marches in Batemans Bay, Moruya, Nelligen and Narooma affect the major road networks, traffic management and control plans are required. Additionally, Council will assist the event organisers to submit applications for ROL's to TfNSW for the Moruya and Narooma marches, as they require the use of the Princes Highway.

Recommendation:

That the submitted traffic management and control plans for the ANZAC Day marches for Batemans Bay, Moruya and Narooma on 25 April 2023, subject to approval by the NSW Police and lodgement of a Road Occupancy License to Roads and Maritime Services for the Moruya and Narooma events be approved.

2023.SE.010 Special Event Application – Sprint Series Adventure Race

A Traffic Management Plan and associated Traffic Guidance Scheme Ref. No Bega TTM 1081 received for the 2023 Adventure Junkie Event to be held 5 March.

The event will be conducted at Jack Buckley Park, Tomakin and Mogo State Forest on 5 March 2023. Appropriate permits have been granted by Forestry Corporation for this event.

IR23/005 LOCAL TRAFFIC COMMITTEE NO 7 FOR 2022-23

S030-T00018

This event is new to the area and Sprint Series Adventure Race is a fun and exciting outdoor event consisted of kayaking, trail running and mountain biking sections. Teams of two navigate their way between checkpoints using a map and a compass only. This is a family-friendly event. The event brings community together promoting healthy and active lifestyle. Multiple volunteering opportunities are promoted to the community as well.

CONCLUSION

The Sprint Series Adventure Race will be conducted on Sunday 5 March 2023. The cycle leg on George Bass Drive will be covered under TGS Ref # Bega TTM 1081. Road traffic management will be in place from 9.45am through to 2pm.

Recommendation:

That the submitted Traffic Management Plan and associated Traffic Guidance Scheme Ref. No Bega TTM 1081 to be conducted at Jack Buckley Park, Tomakin and Mogo State Forest on 5 March 2023 with changes of Workers symbolic sign to Special Event signage, be approved.

2023.SE.011 Special Event Application – Monaro Knockout – Group 16 Rugby League

The aim of the event is to develop a sustainable rugby league knockout tournament which will be based in Batemans Bay for an initial three-year period. Through this we hope to foster a co-operative and mutually beneficial relationship between Group 16 Rugby League, Canberra Region Rugby League and Eurobodalla Shire Council.

The knockout would involve 16 men's rugby league teams and 16 women's league tag teams, plus coaching staff and supporters.

For the event, it would optimally like to play two concurrent games, have dressing rooms and canteen facilities, in addition to an enclosed area for staff such as referees, videographers, rugby league officials etc. Mackay Park boasts all of these elements and due to its locality within the Batemans Bay area, Mackay is an optimal spot for our Monaro Knockout.

The site plan suggests parking in the old John Holland site as well as Village Centre, avoiding promoting Bay Pavilions, as to avoid clashes with locals using the Bay Pavilions facilities.

CONCLUSION

The 2023 Monaro Knockout will be conducted 31 March and 1 April 2023 at Mackay Park, Batemans Bay. Setup date is midday 30 March 2023 and dismantle finish date is 2 April at 5pm. The actual games will be played 31 March 1pm to 1 April 5pm 2023.

Recommendation:

That the submitted Traffic Management Plan for 2023 Monaro – Batemans Bay Knockout and Monaro Knockout – Mackay Park Batemans Bay Site Plan to be held 31 March – 1 April 2023, be approved.

GENERAL BUSINESS

Nil

IR23/005 LOCAL TRAFFIC COMMITTEE NO 7 FOR 2022-23

S030-T00018

NEXT MEETING

The next meeting of the Eurobodalla Local Traffic Committee will be held on Thursday 6 April 2023 in Council's Glass Meeting Room and via MS Teams, commencing at 9.30am.

**IR23/006 REQUEST FOR TENDER NO. 10049901 – NELLIGEN WATER SUPPLY
AND SEWERAGE – PUMPING STATIONS AND TRANSFER MAINS**

**S032-
T00008**

Responsible Officer: Tony Swallow - Acting Director Infrastructure Services

Attachments: 1. Confidential - RFT No. 10049901 - Nelligen Pumping Stations and Transfer Mains

Community Goal: 1 Our sustainable shire celebrates our natural environment and outdoor lifestyles

Community Strategy: 1.4 Work together in the management and use of our valuable resources

Delivery Program Link: 1.4.1 Provide safe, reliable and sustainable water and sewer services, guided by the Integrated Water Cycle Management Strategy

Operational Plan Link: 1.4.1.3 Build and renew sewerage network

EXECUTIVE SUMMARY

Council has committed to provide Water Supply and Sewerage services to the village of Nelligen. The water supply and sewerage systems will be constructed under four contracts, the second being Request for Tender (RFT) No. 10049901 – Nelligen Water Supply and Sewerage – Pumping Stations and Transfer Mains.

Council engaged Public Works Advisory (PWA) to advertise RFT No. 10049901 on Council's behalf.

This report outlines the evaluation of offers submitted in response to RFT No. 10049901 and provides a recommendation for the preferred tenderer.

RECOMMENDATION

THAT Council enters into a contractual arrangement with the preferred tenderer for the construction of the Nelligen Water Supply and Sewerage - Pumping Stations and Transfer Mains, subject to the terms specified in Request for Tender No. 10049901 unless otherwise varied in accordance with this report.

BACKGROUND

Council's Integrated Water Cycle Management Strategy (IWCMS) 2016 identified the existing on-site sewage management systems in Nelligen as having a high risk on public and environmental health. Council pursued funding for the project and was subsequently successful in obtaining a grant of \$3.5 million under the NSW State Government Safe and Secure Water Program to complete the design and construction of the Nelligen Water Supply and Sewerage Scheme.

The project will be constructed under four contracts packaged as follows:

**IR23/006 REQUEST FOR TENDER NO. 10049901 – NELLIGEN WATER SUPPLY
AND SEWERAGE – PUMPING STATIONS AND TRANSFER MAINS**

**S032-
T00008**

- Contract Package 01 – Contract #10049881 - Nelligen Water Reservoirs
- Contract Package 02 – RFT No. 10049901 - Nelligen Pumping Stations and Transfer Mains
- Contract Package 03 – Nelligen Water Reticulation and Pressure Sewerage Systems
- Contract Package 04 – Nelligen Power Supply Upgrades.

RFT No. 10049901 includes the construction of a sewage pumping station at Nelligen, a potable water transfer pumping station at North Batemans Bay, water and sewer pipelines between Batemans Bay and Nelligen, and associated supporting systems and works. Construction of this infrastructure is essential to provide water supply and sewerage services to the village of Nelligen.

RFT No. 10049901 was advertised on 29 November 2022 with a closing date of 31 January 2023. Offers were received from the following tenderers and assessed in accordance with the Tender Evaluation Plan dated 12 December 2022.

- Ironbuilt Infrastructure Pty Ltd
- Ledonne Constructions Pty Ltd
- Leed Engineering and Construction Pty Ltd
- Trazibat Pty Ltd
- Utilstra Pty Ltd.

A summary of the evaluation including each tenderer's scoring against the evaluation criteria is provided at the Confidential Attachment to this report.

CONSIDERATIONS

Legal

Request for Tender (RFT) No. 10049901 was advertised in accordance with clause 167 of the Local Government (General) Regulation 2021 and Local Government Act 1993.

The tender was advertised on Council's noticeboard page, in local newspapers and through the NSW Government tendering website. (<https://tenders.nsw.gov.au>).

Before tender assessment was undertaken a formal Tender Evaluation Plan (TEP) was distributed amongst the Tender Evaluation Committee (TEC). Declarations of Confidentiality and Conflicts of Interest Forms were completed and signed by the TEC.

The offer submitted by the preferred tenderer has been assessed as the most advantageous tender which represents best value for money for Council due to the company's demonstrated experience, quality of workmanship, and satisfactory price in comparison to the pre-tender estimate.

Policy

The procurement activity for which this report applies has been conducted in accordance with Council's Procurement Policy, Code of Practice – Procurement, Code of Practice – Tendering, the Local Government Procurement Guidelines, Local Government (General) Regulation 2021 and the Local Government Act 1993

**IR23/006 REQUEST FOR TENDER NO. 10049901 – NELLIGEN WATER SUPPLY
AND SEWERAGE – PUMPING STATIONS AND TRANSFER MAINS**

**S032-
T00008**

Environmental

The works are required to minimise the impact that existing on-site sewage management systems in Nelligen are having on the environment. The infrastructure has been designed to cater for current and future service levels.

Social Impact

Provision of water supply and sewerage services will improve the quality and reliability of drinking water for residents and visitors of Nelligen. The provision of a reticulated town water supply will include regular hydrants within the streets to assist with firefighting activities.

Financial

A grant of \$3.5 million was provided under the NSW State Government Safe and Secure Water Program for the design and construction of the Nelligen Water Supply and Sewerage Scheme.

The amount tendered by the preferred tenderer can be accommodated within the existing sewer and water fund capital budget and sewer and water fund reserves.

Community and Stakeholder Engagement

The community will be informed of the tender outcome via Council's contract register found in Council's 'Public Access to Information' web link.

CONCLUSION

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

The preferred tender as identified in the Confidential Attachment is therefore recommended for the awarding of a contract for the construction of the Pumping Stations and Transfer Mains for the Nelligen Water Supply and Sewerage Scheme.

CAR23/004 PUBLIC ART ADVISORY COMMITTEE

S003 -00034

Responsible Officer: Kathy Arthur - Director Community, Arts and Recreation Services
Attachments: Nil
Community Goal: 3 Our region of vibrant places and spaces
Community Strategy: 3.3 Embrace and value our creative arts
Delivery Program Link: 3.3.1 Showcase public art, as guided by the Public Art Strategy
Operational Plan Link: 3.3.1.1 Coordinate the Public Art Advisory Committee and associated projects

EXECUTIVE SUMMARY

The Public Art Advisory Committee (PAAC) met on 5 December 2022 and requested recommendations to Council for the following items:

- **The Moruya public art site plan**
A Moruya public art site plan is intended to be developed through the PAAC and put to Council to consider for readiness for future acquisitions/gifts, native title clearance and other opportunities when completed. This is in line with the process undertaken at Batemans Bay. The committee requested Council be advised of this intention and consider endorsement of a plan being developed.
- **The Malua Bay Beach Reserve upgrade**
The PAAC was briefed on the Malua Bay Beach upgrade which includes improvements to the playground, amenities and shelter. As per Council's Public Art Strategy, the PAAC wished to reinforce that future planning and upgrades should incorporate consideration of the placement of public art.

RECOMMENDATION

THAT Council

1. Endorse the development of a site plan for public art in Moruya CBD, and
2. Note the request for reinforcement of the consideration of placement of public art in future plans for the shire in line with Council's Public Art Strategy.

BACKGROUND

The PAAC was presented with five agenda items to consider at the meeting on Monday 5 December 2022. They have provided recommendations to Council for two items.

CONSIDERATIONS

The Moruya Public Art Plan

In 2020 a survey of potential public arts sites in Batemans Bay took place, to prepare for future acquisitions of public art from the Sculpture for Clyde prize and other sources and adopted by Council.

CAR23/004 PUBLIC ART ADVISORY COMMITTEE

S003 -00034

This document has been successful in providing clarity around available sites, as well as the types and size of works that are suitable for these locations. This document has been useful in placing recent sculptural gifts.

By having the sites selected and endorsed by Council, staff are able to undertake native title assessments and determine the location of underground services and have them incorporated into other Council plans in advance. This creates a considered framework and purpose for placement.

The PAAC are recommending a site plan for public art Moruya to help guide donors, planning or commissions to activate and contribute to considered cultural trails, thereby ensuring a planned approach to placing sculptural gifts and other public artworks.

Malua Bay Beach Reserve Upgrade

The PAAC was briefed on the Malua Bay Beach Reserve upgrade which includes improvements to the playground, amenities and shelter. The possibility of including public art in the space was discussed by the PAAC.

It was observed by the committee that whilst the upgrade plans are to be commended, opportunity for incorporation of public art in the future should be noted.

Public art is not just sculpture. It also incorporates creative opportunities for the shape and design of seating, shelters, murals, soft fall treatments, exterior finishes, landscaping elements etc.

The PAAC commend the Council plans for Malua Bay Beach Reserve and recommend Council consider placement of public art in future plans.

Policy

Council has an adopted Public Art Policy to encourage, promote, guide, facilitate and assist with the planning, development, procurement, implementation and care of public art in Eurobodalla. Moreover, the policy supports the important role public art plays in a lively, representative cultural identity and supports the wellbeing of the community.

The adopted Public Art Strategy also has actions that the PAAC seek to support via these recommendations, namely:

- Action 1 – Identify opportunities to acquire and integrate public art into all major environmental planning and landscape projects, including foreshore works, parks and playgrounds, beach reserves, walkways and other significant places; and
- Action 6 – Consider the inclusion of public art when reviewing strategic and planning documents, such as development control plans, precinct and open space planning, place strategies, neighbourhood renewal, site planning and private development.

Social Impact

Permanent and transitory or ephemeral public art works reinforce and highlight cultural traditions, heritage and reflect the community's temperament and distinctive qualities. Public art has the capacity to engage community members, excite, amuse, challenge; foster public discourse, reinvigorate a community's sense of place, pride, identity and connection and therefore contribute to our community's resilience and recovery.

CAR23/004 PUBLIC ART ADVISORY COMMITTEE

S003 -00034

Community and Stakeholder Engagement

We have collaborated with the community through by seeking advice, ideas, and recommendations from Council's Public Art Advisory Committee through consensus building and participatory decision making.

CONCLUSION

A meeting of the PAAC took place on 5 December 2022. Of the agenda items discussed, the PAAC have provided recommendations to Council to consider and support the broad application of the actions of Council's Public Art Strategy when planning for art on public land.

DEALING WITH MATTERS IN CLOSED SESSION

In accordance with Section 10A(2) of the *Local Government Act 1993*, Council can exclude members of the public from the meeting and go into Closed Session to consider confidential matters, if those matters involve:

- (a) personnel matters concerning particular individuals; or
- (b) the personal hardship of any resident or ratepayer; or
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business; or
- (d) commercial information of a confidential nature that would, if disclosed;
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret,
- (e) information that would, if disclosed, prejudice the maintenance of law; or
- (f) matters affecting the security of the council, councillors, council staff or council property; or
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege or information concerning the nature and location of a place; or
- (h) an item of Aboriginal significance on community land.

and Council considers that discussion of the material in open session would be contrary to the public interest.

In accordance with Section 10A(4) of the *Local Government Act 1993* the Chairperson will invite members of the public to make verbal representations to the Council on whether the meeting should be closed to consider confidential matters.

EUROBODALLA SHIRE COUNCIL

ETHICAL DECISION MAKING AND CONFLICTS OF INTEREST

A GUIDING CHECKLIST FOR COUNCILLORS, OFFICERS AND COMMUNITY COMMITTEES

ETHICAL DECISION MAKING

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

CONFLICT OF INTEREST

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

THE TEST FOR CONFLICT OF INTEREST

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

IDENTIFYING PROBLEMS

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

Whilst seeking advice is generally useful, the ultimate decision rests with the person concerned.

AGENCY ADVICE

Officers of the following agencies are available during office hours to discuss the obligations placed on Councillors, Officers and Community Committee members by various pieces of legislation, regulation and Codes.

CONTACT	PHONE	EMAIL	WEBSITE
Eurobodalla Shire Council Public Officer	4474-1000	council@esc.nsw.gov.au	www.esc.nsw.gov.au
ICAC	8281 5999	icac@icac.nsw.gov.au	www.icac.nsw.gov.au
The Office of Local Government	4428 4100	dlg@dlg.nsw.gov.au	www.dlg.nsw.gov.au
NSW Ombudsman	1800 451 524	nswombo@ombo.nsw.gov.au	www.ombo.nsw.gov.au

Reports to Committee are presented generally by 'exception' - that is, only those items that do not comply with legislation or policy, or are the subject of objection, are discussed in a report.

Reports address areas of business risk to assist decision making. Those areas include legal, policy, environment, asset, economic, strategic and financial.

Reports may also include key planning or assessment phrases such as:

- Setback* Council's planning controls establish preferred standards of setback (eg 7.5m front; 1m side and rear);
- Envelope* taking into account the slope of a lot, defines the width and height of a building with preferred standard of 8.5m high;
- Footprint* the percentage of a lot taken up by a building on a site plan.