



# **AGENDA**

**Ordinary Meeting of Council**

**12 July 2016**



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

**ON TUESDAY 12 JULY 2016**

**COMMENCING AT 10.00AM**

**AGENDA**

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

- 1. WELCOME, ACKNOWLEDGEMENT OF COUNTRY & EVACUATION MESSAGE**
- 2. APOLOGIES**  
Nil
- 3. PUBLIC FORUM (AGENDA ITEMS ONLY)**
- 4. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**  
4.1 Ordinary Meeting held on 28 June 2016
- 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

**Page No.**

<b>11.</b>	<b>PLANNING AND SUSTAINABILITY REPORTS</b>	
PSR16/023	Planning Proposal to implement the Rural Lands Strategy and other matters.....	3
PSR16/025	Annual Heritage Report 2015-2016.....	19
PSR16/026	Classification of Land as Operational - Batemans Bay .....	36
PSR16/027	Batemans Bay Bowling Club, Aquatic Centre and Mackay Park Precinct Update .....	41
PSR16/028	Draft Community Land Plan of Management - Re-Categorisation and Lease of Community Land - Melaleuca Reserve, Catalina.....	52
<b>12.</b>	<b>INFRASTRUCTURE REPORTS</b>	
	Nil	
<b>13.</b>	<b>FINANCE AND BUSINESS DEVELOPMENT REPORTS</b>	
	Nil	
<b>14.</b>	<b>COMMUNITY, ARTS AND RECREATION REPORTS</b>	
	Nil	
<b>15.</b>	<b>DELEGATE REPORT</b>	
<b>16.</b>	<b>URGENT BUSINESS</b>	
<b>17.</b>	<b>DEALING WITH MATTERS IN CLOSED SESSION .....</b>	<b>83</b>
<b>18.</b>	<b>CONFIDENTIAL MATTERS</b>	

**DR CATHERINE DALE  
GENERAL MANAGER**

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**PSR16/023 PLANNING PROPOSAL TO IMPLEMENT THE RURAL LANDS  
STRATEGY AND OTHER MATTERS**

**E13.7173**

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

Attachments: 1. Under Separate Cover - Planning Proposal for Rural Lands Strategy  
Volume 1  
2. Under Separate Cover - Planning Proposal for Rural Lands Strategy  
Volume 2

Focus Area: Sustainable Communities

Delivery Program Link: S5.1 Review and prepare planning strategies, policies and studies

Operational Plan Link: S5.1.1 Rural Lands Strategy

**EXECUTIVE SUMMARY**

On 23 February 2016 Council adopted a Rural Lands Strategy for the Eurobodalla Shire. The Rural Lands Strategy made a number of recommendations that require the Eurobodalla Local Environmental Plan 2012 (LEP 2012) to be amended, including changes to zoning and minimum lot sizes for rural land across Eurobodalla. The recommended zoning includes land that was deferred from LEP 2012 and this will enable the repeal of the Rural LEP 1987. The recommendations of the Rural Lands Strategy also relate to a number of clauses and map overlays in LEP 2012. The adopted Rural Lands Strategy was consistent with all recommendations of the former Rural Lands Strategy (RLS) Steering Committee.

In accordance with section 55 of the Environmental Planning and Assessment Act 1979, Council is required to prepare a planning proposal to outline proposed changes to an LEP and to justify those changes in accordance with the Ministerial Directions under section 117 of the Act, amongst other matters. Section 56 of the Act requires Council to forward the planning proposal to the Minister for Planning to seek a gateway determination, before the planning proposal can be placed on public exhibition for community input.

A planning proposal has been prepared for Council to endorse and forward to the Minister for Planning to seek a gateway determination. The planning proposal implements the recommendations of the adopted Rural Lands Strategy and seeks to make amendments in relation to a number of other matters.

For the most part, the planning proposal is consistent with the Rural Lands Strategy. Any variations are outlined in this report and in the planning proposal. The variations respond to feedback from councillors, more detailed assessment, the biodiversity reforms and consultation with property owners. The following table contains a summary of the LEP amendments that are proposed.

**PSR16/023 PLANNING PROPOSAL TO IMPLEMENT THE RURAL LANDS  
STRATEGY AND OTHER MATTERS**

**E13.7173**

<b>Item No.</b>	<b>Name of item</b>	<b>Intended Outcomes</b>
1	Amend Land Use Table and Schedule 2	To facilitate additional land uses as permissible with consent in the R5 and E4 zones, introduce open land use tables in RU1 and RU4 zones and to make grazing of livestock exempt development in the E2 zone. It is also proposed to make boatsheds permissible with consent in the E2 zone and to introduce open land use tables to the business and industrial zones.
2	Amend Clause 4.1E	To include the RU4 zone as a zone where minimum averaging provisions will apply and to ensure no lot resulting from a subdivision of land zoned RU4 using the minimum averaging clause is less than 2ha.
3	Amend Clause 4.2A	To delete the sunset clause to ensure existing dwelling entitlements do not lapse and to delete the 'sealed road' provision due to the introduction of new minimum lot sizes in rural areas.
4	Introduce a new boundary adjustment clause	To increase the opportunities for boundary adjustments on certain lands.
5	Amend Zoning and Minimum Lot Size Maps	To establish appropriate zoning and minimum lot sizes for certain rural land in accordance with the Rural Lands Strategy.
6	Amend Minimum Lot Size Maps	To delete the 1000ha minimum lot size from all land not addressed in item 5.
7	Remove Terrestrial Biodiversity Maps and delete Clause 6.6	To remove the existing Terrestrial Biodiversity Map and delete the associated clause 6.6.
8	Amend Dwelling Entitlement Maps	To identify additional properties that have dwelling entitlements, including those that would have been removed due to the deletion of the "sealed road" provision in clause 4.2A, those in the deferred matter and at the request of the land owner. In addition, it is proposed to amend the maps to more clearly identify properties that have dwelling entitlement.
9	Amend Height of Buildings Maps	To apply a maximum height of buildings to land proposed to be zoned E4 and RU4.
10	Amend Heritage Maps	To transfer items of environmental heritage on land in the deferred matter from the Rural Local Environmental Plan 1987 to the ELEP 2012.
11	Amend Wetlands, Watercourses and Riparian Lands Maps	To identify in ELEP 2012 waterways, wetlands and riparian lands in the deferred matter.
12	Amend Acid Sulfate Soils Maps	To identify in ELEP 2012 acid sulfate soils in the deferred matter.
13	Amend Land Application Map	To remove reference to deferred matter and identify the ELEP 2012 as applying to the whole of Eurobodalla.
14	Amend Public Infrastructure Maps	To identify areas within public infrastructure buffers in the deferred matter.

**PSR16/023 PLANNING PROPOSAL TO IMPLEMENT THE RURAL LANDS  
STRATEGY AND OTHER MATTERS**

**E13.7173**

<b>Item No.</b>	<b>Name of item</b>	<b>Intended Outcomes</b>
15	Amend Schedule 1	To make "Advertising signs, being a notice directing the travelling public to tourist facilities or activities or to places of scientific, historical or scenic interest (such as town signs)" permissible with consent in the RU1 and RU4 zone.
16	Introduce a new Airspace Operations clause	To ensure development in the vicinity of the Moruya Airport does not have a detrimental impact on the airport operations.
17	Amend Schedule 1 and Additional Permitted Uses Map	Add Lot 1 DP 118963 to clause 4(1) and the Additional Permitted Uses Map.
18	Amend Schedule 1	Add Recreation facility (indoor) to the list of additional permitted uses for the land at Narooma identified as '5' on the Additional Permitted Uses Map.
19	Amend Land Zoning Map and Minimum Lot Size Map	To rezone Lots 101 and 183 DP 755904, at the corner of Durras Drive and Durras Lake Road, South Durras, from the B2 Local Centre Zone to the R2 Low Density Residential Zone and to introduce a 1500m <sup>2</sup> minimum lot size.
20	Amend Land Zoning Map, Minimum Lot Size and Height of Buildings Maps	To rezone part of Lot 1 DP 1036103, Beach Road, Catalina (Catalina Country Club), from the R2 Low Density Residential Zone to the RE2 Private Recreation Zone and to make consequential changes to the Minimum Lot Size and Height of Buildings Maps.
21	Amend clause 6.2	To ensure a DCP is required for urban release areas in appropriate circumstances.
22	Amend Minimum Lot Size Map	To increase the minimum lot size for land at Lots 1 to 5 DP 1056650, Lots 10 and 11 DP 1189589 and Lot 3 DP 1011462, Old Highway, Narooma from 1500m <sup>2</sup> to 2500m <sup>2</sup> .
23	Amend Minimum Lot Size Map	To decrease the minimum lot size for certain lands from 600m <sup>2</sup> to 550m <sup>2</sup> . This applies to certain lands that were included in Amendment No. 7 to ELEP 2012, and will result in a lot size that is consistent with adjoining lands.
24	Amend Land Zoning Map, Minimum Lot Size Map and Height of Buildings Map	To correct the boundary between the R2 and RU1 zones for land that been subdivided for residential purposes at East Moruya (Braemar Estate) and to make consequential changes to the Minimum Lot Size and Height of Buildings Maps.
25	Amend Schedule 4 and Height of Buildings Map	Reclassify a laneway in Batemans Bay to operational and provide for an 18m maximum building height.
26	Amend Schedule 4, Land Zoning Map, Lot Size Map and Height of Buildings Map	Reclassify land at George Bass Drive, Malua Bay to operational, rezone the land R2 Low Density Residential, provide for a minimum lot size of 550m <sup>2</sup> and a maximum building height of 8.5m.
27	Rename ELEP 2012 to ELEP 2016 and repeal RLEP 1987	RLEP 1987 is no longer required as all LEP provisions applying to the whole of Eurobodalla will be contained in one LEP, to be renamed ELEP 2016.

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**PSR16/023 PLANNING PROPOSAL TO IMPLEMENT THE RURAL LANDS  
STRATEGY AND OTHER MATTERS**

**E13.7173**

The effect of the zoning and minimum lot size amendments in the planning proposal is to facilitate up to an additional 122 lots and 255 dwellings in rural areas across Eurobodalla. This will enable more small-lot agriculture and rural lifestyle opportunities in Eurobodalla.

The removal of the Terrestrial Biodiversity Map and associated clause from ELEP 2012 is accompanied by a new Native Vegetation Map being included in a Council Code and referenced in relevant Development Control Plans, as recommended by the former RLS Steering Committee.

In the preparation of this planning proposal, Council consulted with the Department of Planning and Environment, the Office of Environment and Heritage and the Rural Fire Service.

A draft planning proposal is included as an attachment to this report. Due to unforeseen circumstances the draft LEP maps are still being processed. We will endeavor to table the draft LEP maps at the Council meeting.

Since adopting the RLS Strategy, Council has received two briefings on the planning proposal.

**RECOMMENDATION**

THAT Council

1. Endorse the attached Planning Proposal to implement the Rural Lands Strategy and make other amendments to the Eurobodalla Local Environmental Plan 2012 and Repeal the Rural Local Environmental Plan 1987.
2. Forward the Planning Proposal to the Minister for Planning for a Gateway Determination pursuant to Section 56 of the Environmental Planning and Assessment Act 1979.
3. Following receipt of a Gateway Determination, consult with the community and relevant government agencies as required by the Gateway Determination.
4. Receive a report back on the Planning Proposal following community consultation.

**BACKGROUND**

Council commenced the development of a Rural Lands Strategy in 2012 with the establishment of a Rural Lands Strategy Steering Committee made up of land owners and representatives of Council and NSW Government Agencies. Following a detailed process that involved several periods of community engagement, a final strategy was adopted by Council on 23 February 2016. The adopted Strategy was consistent with the recommendations of the RLS Steering Committee.

The adopted Rural Lands Strategy makes a number of recommendations for changes to ELEP 2012 in relation to zoning, minimum lot size, dwelling entitlements, boundary adjustments amongst other matters. These changes need to be implemented through a planning proposal to amend the LEP.

Councillors were briefed on the details in the planning proposal on two occasions, on 17 May 2016 and 21 June 2016. A briefing of the members of the former Rural Lands Strategy Steering Committee was undertaken on 19 May 2016 and preliminary consultation has taken place with



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**PSR16/023 PLANNING PROPOSAL TO IMPLEMENT THE RURAL LANDS  
STRATEGY AND OTHER MATTERS**

**E13.7173**

relevant NSW Government agencies including the Department of Planning and Environment, the Rural Fires Service and the Office of Environment and Heritage.

**CONSIDERATIONS**

**Proposed LEP Amendments – Implementing Rural Lands Strategy Recommendations**

Each item in the planning proposal is summarised below:

Item 1 – Amend Land Use Table and Schedule 2

This amendment responds to Action 13 of the Rural Lands Strategy and to the following statement in section 3.11.1 of the Strategy:

*“Council could also give consideration, in the development of the planning proposal to the use of ‘open’ land use tables for some zones such as RU1, where all uses are permissible with consent except for those specifically listed as prohibited”.*

The planning proposal includes the redrafting of the land use tables for the RU1, RU4, B1, B2, B4, B5 and IN1 zones in the ‘open’ format, where only the most inappropriate uses in each zone are listed as prohibited and all other uses are permitted with or without consent. This is a more flexible approach in those zones where a relatively wide mix of land uses could be appropriate.

Item 2 – Allow minimum averaging in the RU4 zone

This amendment implements Action 12 of the Rural Lands Strategy.

Minimum averaging allows for an alternative subdivision layout that respond to the natural features of the land, while maintaining the same density of lots that could be achieved from a subdivision that complies with the mapped minimum lot size.

By providing for minimum averaging in the RU4 zone, subject to no lot being smaller than 2ha, greater flexibility is provided while ensuring all lots remain capable of small lot agricultural activity.

Item 3 – Deletion of ‘sunset’ and ‘sealed road’ clause in relation to dwelling entitlements

This amendment implements Actions 10 and 15 of the Rural Lands Strategy.

Deletion of the ‘sunset’ clause ensures that existing dwelling entitlements on ‘holdings’ are retained.

Deletion of the ‘sealed road’ clause removes an additional opportunity for dwellings on certain lots over 40ha in size. This clause is superseded by the new minimum lot sizes for dwelling entitlement (see item 5). Lots that benefited from this clause but do not meet the new minimum lot size have been identified and are proposed to be included on the Dwelling Entitlement Map.

Item 4 – Introduce a new boundary adjustment clause

This amendment implements Action 14 of the Rural Lands Strategy.

The proposed additional clause will provide greater flexibility for boundary adjustments on rural land. It is proposed to be applied to the RU1, RU3, RU4, E1 and E2 zones.

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**PSR16/023 PLANNING PROPOSAL TO IMPLEMENT THE RURAL LANDS  
STRATEGY AND OTHER MATTERS**

**E13.7173**

Item 5 – Amend Zoning and Minimum Lot Size Maps

This amendment implements Actions 3 and 5 and the mapping included in the Rural Lands Strategy.

The Rural Lands Strategy applied a ‘landscape approach’ to zoning and minimum lot size across Eurobodalla’s rural lands, where the most important agricultural land and the most remote rural land were recommended to have an RU1 zone with a relatively large minimum lot size. For other areas, the zone and minimum lot size was based upon the prevailing land use and lot size in the locality. Recommended minimum lot sizes for land to be zoned RU1 range from 20ha to 500ha and for land to be zoned RU4, range from 2ha to 40ha. Importantly, no land zoned RU1 is proposed to retain the existing 1000ha minimum lot size.

In the development of the planning proposal, more detailed assessment of each area was undertaken to address the relevant State Environmental Planning Policies (SEPPs) and Section 117 Ministerial Directions and further consultation was undertaken with relevant NSW Government Agencies. In addition, the Draft Bills for the biodiversity and local land services legislation changes released by the NSW Government on 3 May 2016 were reviewed with regard to their potential impact on the Rural Lands Strategy recommendations. As a result, some minor variations to the Rural Lands Strategy recommendations for zoning are proposed. Each variation is identified later in this report.

In relation to the SEPPs, the planning proposal demonstrates that all matters are consistent with the objectives and requirements of each relevant SEPP.

In relation to the S117 Directions, the proposed zoning and minimum lot size for a number of areas (where additional lots and/or dwellings are facilitated) results in an inconsistency with Direction 1.2 (Rural Zones). For a small number of areas, the proposed zoning results in an inconsistency with Direction 2.1 (Environmental Zones). For these areas, the planning proposal provides a justification for each inconsistency.

Item 6 – Remove the 1000ha minimum lot size standard

This amendment is consequential to Actions 3 and 5 of the Rural Lands Strategy.

As noted above, no land zoned RU1 is proposed to retain the 1000ha minimum lot size. However, there is other land in the Eurobodalla Shire that currently has the 1000ha minimum lot size, including some land zoned E2 Environmental Conservation, SP2 Infrastructure, RE1 Public Recreation and RE2 Private Recreation.

There is no requirement to apply a minimum lot size to these zones and it is considered unnecessary and overly restrictive to apply a minimum lot size. Any future development application for subdivision that includes land in these zones should be considered on the individual merits of each proposal.

Item 7 – Remove the Terrestrial Biodiversity Map and clause 6.6

This amendment implements Action 7 of the Rural Lands Strategy.

The removal of the map and clause from ELEP 2012 will be accompanied by the inclusion of a Native Vegetation Map in a Council Code with reference to that map being included in relevant Development Control Plans. This approach is considered appropriate as it enables the map to

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**PSR16/023 PLANNING PROPOSAL TO IMPLEMENT THE RURAL LANDS  
STRATEGY AND OTHER MATTERS**

**E13.7173**

be updated more regularly and more simply but ensures this important information remains publicly available for land owners to consider when preparing development applications.

However, this approach is partly inconsistent with S117 Ministerial Direction 2.1 (Environmental Zones). The planning proposal provides a justification for this inconsistency.

Item 8 – Amend the Dwelling Entitlement Maps

This amendment responds to land owner requests and is also consequential to Actions 3 and 15 of the Rural Lands Strategy.

The current Dwelling Entitlement Map is incomplete as ELEM 2012 does not apply to the Deferred Matter (land that is not zoned under ELEM 2012). As the land that is currently deferred is proposed to be zoned under ELEM 2012, the Dwelling Entitlement Map can be updated to identify additional land with a dwelling entitlement. The Map is also being updated to clearly distinguish between individual lots and holdings with dwelling entitlements.

It is important to note that the Dwelling Entitlement Map is not a comprehensive map of dwelling entitlements and that land not mapped may have a dwelling entitlement if it complies with clause 4.2A of ELEM 2012. Over time, the Dwelling Entitlement Map will be updated to add additional lots or holdings with dwelling entitlement (at the request of land owners) and to remove lots or holdings from the Map as dwelling entitlements are taken up or as properties cease to be defined as a holding (usually when parts of holdings are sold).

Item 9 – Amend Height of Buildings Maps

This amendment is consequential to Action 5 of the Rural Lands Strategy.

Some land that is currently deferred from ELEM 2012 is proposed to be zoned E4 Environmental Living or RU4 Primary Production Small Lots. For these lands a maximum building height standard is required to be applied, consistent with all other land currently zoned E4 or RU4. The height standard is proposed to be 8.5m.

Item 10 – Amend Schedule 5 and Heritage Maps

This amendment is consequential to Action 3 of the Rural Lands Strategy and provides for other minor updates to the heritage list and maps.

The current Heritage Schedule and Map is incomplete as ELEM 2012 does not apply to the Deferred Matter (land that is not zoned under ELEM 2012). As the land that is currently deferred is proposed to be zoned under ELEM 2012, the Heritage Schedule and Map can be updated to identify land with a heritage item listed in the Rural LEP 1987 and to complete the mapping for lots with a heritage item on land that is partly deferred. The Schedule and Map is also being updated to correct heritage item descriptions and property details.

Item 11 – Amend Wetlands, Riparian Lands and Watercourses Maps

This amendment is consequential to Actions 3 and 5 of the Rural Lands Strategy.

The current Wetlands, Riparian Lands and Watercourses Map is incomplete as ELEM 2012 does not apply to the Deferred Matter (land that is not zoned under ELEM 2012). As the land that is currently deferred is proposed to be zoned under ELEM 2012, the Wetlands, Riparian Lands and Watercourses Map can be updated to identify any wetlands and the riparian category of

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**PSR16/023 PLANNING PROPOSAL TO IMPLEMENT THE RURAL LANDS  
STRATEGY AND OTHER MATTERS**

**E13.7173**

watercourses in the deferred areas. The information to be included on the maps is identical to the information that was proposed to be included on the maps prior to the subject areas being deferred.

Item 12 – Amend Acid Sulfate Soils Maps

This amendment is consequential to Actions 3 and 5 of the Rural Lands Strategy.

The current Acid Sulfate Soils Map is incomplete as ELEP 2012 does not apply to the Deferred Matter (land that is not zoned under ELEP 2012). As the land that is currently deferred is proposed to be zoned under ELEP 2012, the Acid Sulfate Soils Map can be updated to identify any potential acid sulfate soils in the deferred areas. The information to be included on the maps is identical to the information that was proposed to be included on the maps prior to the subject areas being deferred.

Item 13 – Amend Land Application Map

This amendment is consequential to Actions 3 and 5 of the Rural Lands Strategy.

The current Land Application Map is incomplete as ELEP 2012 does not apply to the Deferred Matter (land that is not zoned under ELEP 2012). Removing the deferred matter from this map will ensure that ELEP 2012 applies to all land in Eurobodalla.

Item 14 – Amend Public Infrastructure Buffer Maps

This amendment is consequential to Actions 3 and 5 of the Rural Lands Strategy.

The current Public Infrastructure Buffer Map is incomplete as ELEP 2012 does not apply to the Deferred Matter (land that is not zoned under ELEP 2012). As the land that is currently deferred is proposed to be zoned under ELEP 2012, the Public Infrastructure Buffer Map can be updated to identify any buffers to public infrastructure in the deferred areas. The information to be included on the maps is identical to the information that was proposed to be included on the maps prior to the subject areas being deferred.

**Proposed LEP Amendments – Other Matters**

The following matters, with the exception of the last item (item 27), do not relate to the Rural Lands Strategy recommendations, but are other minor matters that have arisen and require an amendment to ELEP 2012.

Item 15 – Make ‘town signs’ permitted with consent in the RU1 and RU4 zones

From time to time, Council received requests from communities for town signs. However, where the best location for the sign is on private land adjoining the road reserve and the land has a rural zoning, Council is unable to grant consent because advertising structures are prohibited in the RU1 and RU4 zones.

This proposal is to make ‘town signs’ an additional permitted use in the RU1 and RU4 zones, so that Council can accept development applications for town sign and consider each application on its merits.

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**PSR16/023 PLANNING PROPOSAL TO IMPLEMENT THE RURAL LANDS  
STRATEGY AND OTHER MATTERS**

**E13.7173**

Item 16 – Introduce a new Airspace Operations Clause

The Civil Aviation Safety Authority has requested that Council demonstrate how it ensures that the Moruya Airport operations are not compromised by development that might cause an obstruction, hazard or potential hazard to aircraft flying in the vicinity.

Currently, in assessing development applications in the vicinity of Moruya Airport, Council reviews the Airport Obstacle Limitation Surface mapping to ensure that building heights will not cause an obstruction or hazard.

A standard LEP clause relating to airspace operations was developed by the Department of Planning and Environment following the making of ELEM 2012 and this clause has been included in the Bega Valley Local Environmental Plan 2013. A similar clause is now proposed to be included in ELEM 2012.

Item 17 – Add one lot to the area to which additional permitted uses apply to certain land at Batemans Bay

Land along the Old Princes Highway at Batemans Bay is subject to an additional permitted uses clause in ELEM 2012. The lots described in the clause and the area mapped inadvertently omitted one lot that was the intended to be included. This amendment corrects that omission.

Item 18 – Add recreation facility (indoor) to the list of additional permitted uses applying to certain land at Narooma

Land along Campbell Street at Narooma is subject to an additional permitted uses clause in ELEM 2012 (upon the making of ELEM 2012 Amendment No. 8). One more additional permitted use, being Recreation facility (indoor), is now proposed to be added to the clause.

Item 19 – Rezone land at South Durras from B2 Local Business to R2 General Residential

Land at the corner of Durras Drive and Durras Lake Road at South Durras is currently zoned B1 Neighbourhood Centre and the land owners have requested the land be rezoned to R2 Low Density Residential. The land is not currently required for commercial development and there is unlikely to be demand for such development in the future. Given the R2 zone permits a neighbourhood centre with consent, the land could still be developed for a neighbourhood centre in the future should the demand arise. In the meantime, the R2 zone enables the land owners to develop the land for residential purposes. A minimum lot size of 1500m<sup>2</sup> will also be applied to the land to minimise potential impacts of residential development on the environment.

Item 20 – Rezone land at Catalina from R2 Low Density Residential to RE2 Private Recreation

A small portion of the Catalina Country Club golf course land is zoned R2 Low Density Residential, with the remainder of the site zoned RE2 Private Recreation. The land owners have requested the R2 area be rezoned to RE2 so that the whole of the property has consistent zoning and as there is no intention to develop this part of the land for residential purposes. Consequential amendments to the minimum lot size and height of buildings standards are also proposed.

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**PSR16/023 PLANNING PROPOSAL TO IMPLEMENT THE RURAL LANDS  
STRATEGY AND OTHER MATTERS**

**E13.7173**

Item 21 – Amend clause 6.2 to ensure a DCP is required for urban release areas

Clause 6.2 of ELEP 2012 provides for a DCP to be prepared for urban release areas to address a range of matters, including infrastructure servicing, accessibility, community facilities and environmental matters. The clause also enables an existing DCP to apply, but does not require that DCP to address the relevant matters in the clause. The clause is to be amended to ensure that a DCP that addresses the relevant matters is required before the development of urban release areas.

Item 22 – Increase minimum lot size for certain land zoned E4 Environmental Living at Narooma from 1500m<sup>2</sup> to 2500m<sup>2</sup>

The subject land currently has a minimum lot size of 1500m<sup>2</sup>. However, in order to develop lots of this size, a reticulated sewerage system and sewerage pump station would be required given the land immediately adjoins and drains to Wagonga Inlet. Without such infrastructure, the maximum permissible density of the land is limited by the need for on-site sewerage management systems which require larger lot sizes. The proposed minimum lot size of 2500m<sup>2</sup> will facilitate a more suitable residential density for the land to avoid impacts on the water quality of Wagonga Inlet. This proposal has resulted from ongoing discussions with the land owners.

Item 23 – Decrease minimum lot size for various parcels of land zoned R2 General Residential from 600m<sup>2</sup> to 550m<sup>2</sup>

Council rezoned and reclassified a number of parcels of land in 2013. When in 2015, a minimum lot size standard was applied to the subject lots, it was intended that the minimum lot size for the subject lots be consistent with adjoining residential land, which is predominantly 550m<sup>2</sup>. However, an incorrect minimum lot size of 600m<sup>2</sup> was applied and this planning proposal will change the minimum lot size to 550m<sup>2</sup> to ensure a consistent minimum lot size across residential areas.

Item 24 – Correct the boundary between land zoned R2 General Residential and RU1 Primary Production for certain land at Moruya

Land along South Head Road in Moruya is currently being subdivided in accordance with a development consent. Some of the new lots being created in the new development, known as Braemar Estate, currently have a split zoning of R2 Low Density Residential and RU1 Primary Production. The whole of the subject lots have been approved for residential purposes and should be zoned as such. The planning proposal seeks to relocate the zone boundary to the approved lot boundary. This proposal has been developed in consultation with the land owner.

Item 25 – Reclassify certain land at Batemans Bay

This proposal seeks to reclassify an existing laneway in Batemans Bay that connects North Street to the Bridge Plaza shopping centre. The lane is no longer required as improved access arrangements have been provided for through the issue of development consent for the redesign of car parking and vehicular and pedestrian access into the site.

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**PSR16/023 PLANNING PROPOSAL TO IMPLEMENT THE RURAL LANDS  
STRATEGY AND OTHER MATTERS**

**E13.7173**

Item 26 – Rezone and reclassify certain land at Malua Bay

This proposal seeks to rezone and reclassify a small portion of a public reserve at Malua Bay, at the request of an adjoining land owner. As the subject area contains no native vegetation, the proposal will have no detrimental impacts on the natural environment. The subject area is approximately 127m<sup>2</sup> in size, representing less than 1% of the area of the public reserve and therefore will not have a significant impact on the availability of open space in the area.

Item 27 – Repeal RLEP 1987 and rename ELEP 2012 to ELEP 2016

This amendment is consequential to Actions 3 and 5 of the Rural Lands Strategy.

By zoning all deferred land under ELEP 2012, the RLEP 1987 is no longer required and can be repealed.

**Consultation with NSW Government Agencies**

A draft planning proposal was provided to the Department of Planning, the Office of Environment and Heritage and the Rural Fire Service for preliminary comment. The comments from each of these agencies are outlined below.

Department of Planning and Environment

The Department of Planning and Environment have provided Council with the following preliminary advice in relation to the drafting of the planning proposal:

- Proposed zoning and permissible land uses should be appropriate for the subject land.
- The planning proposal must not reduce the environmental protection standards that apply to land without suitable justification.
- Department staff support retention of the vegetation mapping in the LEP.
- Council will need to formally consult with the Rural Fire Service prior to submitting the planning proposal for a Gateway Determination.
- Department staff support the RFS opinion that additional residential development in highly constrained bushfire prone areas should be dealt with at a strategic stage, rather than at a DA stage.
- The non-rural lands strategy matters in the planning proposal should be included in a separate planning proposal.

Response

In the preparation of the planning proposal, more detailed analysis of the Rural Lands Strategy recommendations relating to zoning of land has been undertaken and a number of minor changes have been made (outlined below). Subject to these changes, the proposed zoning of rural land across the Eurobodalla Shire is considered appropriate.

In relation to permissible land uses, Item 1 of the planning proposal provides a detailed justification of the proposal to redraft a number of land use tables to open zones.

The view of Department staff in relation to vegetation mapping is noted. However, the Rural Lands Strategy provides solid justification for the removal of the vegetation mapping from the LEP and inclusion of such mapping in a Council Code referenced in Development Control Plans. The planning proposal is consistent with the recommendation of the Rural Lands Strategy.

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**PSR16/023 PLANNING PROPOSAL TO IMPLEMENT THE RURAL LANDS  
STRATEGY AND OTHER MATTERS**

**E13.7173**

Council has undertaken formal consultation with the Rural Fire Service (see below).

The Department's position with regard to the non-rural lands strategy matters is noted.

Office of Environment and Heritage

The Office of Environment and Heritage made a detailed submission to the draft Rural Lands Strategy when it was placed on public exhibition. A draft planning proposal was forwarded to the Office of Environment and Heritage on 23 May 2016 seeking comments. No response has been received to date.

Rural Fire Service

The Rural Fire Service made a detailed submission to the draft Rural Lands Strategy when it was placed on public exhibition. A draft planning proposal was forwarded to the Rural Fire Service on 23 May 2016 seeking comments. No response has been received to date.

**Proposed variations from the Rural Lands Strategy**

In the preparation of the planning proposal, a more detailed analysis of the strategy recommendations for zoning of land across the rural areas of Eurobodalla has led to the need for some minor changes. In addition, a review of the draft biodiversity legislation released by the NSW Government has warranted further changes to the Rural Lands Strategy recommendations relating to zoning. Each of those changes are outlined below.

Change of proposed zoning due to flooding considerations

In area 6, around Mogo, much of the land was proposed in the Rural Lands Strategy to be rezoned from RU1 Primary Production to RU4 Primary Production Small Lots. Following the completion of the Rural Lands Strategy, a draft flood study looking at the Tomaga River and its tributaries, including Mogo Creek, was completed. The study confirms the extent of a significant floodway along Mogo Creek. For land that is significantly affected by the floodway, the RU4 zoning which provides for dwellings to be permissible with consent, is not appropriate. Given the flooding constraint and concerns relating to access and on-site sewerage management, these lands are no longer proposed to be rezoned to RU4 Primary Production Small Lots and will retain the current RU1 Primary Production zone. A small area of currently deferred land, zoned Rural 1(a) under the Rural LEP 1987 is also now proposed to be zoned RU1 Primary Production. It is considered more appropriate that a site specific planning proposal be submitted by the land owners for consideration.

Change of proposed zoning from E4 Environmental Living to RU4 Primary Production Small Lots

The Rural Lands Strategy proposed an E4 Environmental Living for land in areas 3, 3a, 17a, 18b and 41. In the draft Local Land Services Amendment Bill 2016 released by the NSW Government as part of their biodiversity legislation reforms, the E4 zone is proposed to be considered an urban zone and therefore not a zone in which the clearing provisions of the new legislation and codes of practice will be able to be used. Under the current Native Vegetation Act 2003, the E4 zone is considered a rural zone to which the existing rural land clearing provisions apply. Given this change, it is now proposed to zone these lands RU4 Primary Production Small Lots, a rural zone for the purposes of the proposed land clearing provisions of



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**PSR16/023 PLANNING PROPOSAL TO IMPLEMENT THE RURAL LANDS  
STRATEGY AND OTHER MATTERS**

**E13.7173**

the draft Local Lands Services Amendment Bill 2016. This change has no impact on the potential lot or dwelling outcomes for the land provided for in the Rural Lands Strategy.

Change of proposed zoning from RU1 Primary Production to E4 Environmental Living

A number of small, residential sized blocks, which were recommended to be zoned RU1 Primary Production in the Rural Lands Strategy are now proposed to be zoned E4 Environmental Living as the subject lands, by their size, are not rural lands. The subject lands are:

- Two lots fronting Bridge View Road, Nelligen (in area that adjoin existing E4 zoned land);
- Three lots at Thule Road, Nelligen; and
- Fourteen lots on Meringo Road, Meringo.

Change of proposed zoning to E2 Environmental Conservation

The two small areas of privately owned lands identified below are now proposed to be zoned E2 Environmental Conservation.

- Part of a lot at Sherringham Lane, Central Tilba is currently zoned 7(f1) Environmental Protection (Coastal Lands Protection) under the Rural LEP 1987. With the agreement of the land owner, that part of this lot that contains sand dunes and beachfront is now proposed to be zoned E2 Environmental Conservation.
- Part of a lot north of Candaglan Drive, Broulee is currently zoned 7(a) Wetlands under the Rural LEP 1987. The majority of the remainder of the lot is currently zoned E2 Environmental Conservation and a small part is zoned R2 Low Density Residential. The small area that retains the 7(a) zoning is proposed to be zoned E2 Environmental Conservation.

Change of zoning of certain Crown Lands

Following advice from the Office of Environment and Heritage and the Department of Primary Industries – Lands, certain Crown Land lots are proposed to be zoned E2 Environmental Conservation. These lots were proposed to be zoned RU1 Primary Production in the Rural Lands Strategy. The subject lands are:

- Crown Land to the north of Durras Drive at South Durras;
- Crown Land adjoining Malabar Lagoon at Moruya, with the exception of the granite quarry resource area which will be zoned RU1 Primary Production as recommended in the Rural Lands Strategy; and
- Crown Land south of Little Lake, Central Tilba.

Change of zoning of certain Council owned lands

A review of the zoning of Council lands in preparing the planning proposal has resulted in the following changes to the recommendations of the Rural Lands Strategy:

- One landlocked parcel of land north of George Bass Drive, Tomakin was recommended in the Rural Lands Strategy to be zoned RU1 Primary Production, and is now proposed to

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**PSR16/023 PLANNING PROPOSAL TO IMPLEMENT THE RURAL LANDS  
STRATEGY AND OTHER MATTERS**

**E13.7173**

be zoned E2 Environmental Conservation. This lot adjoins another Council lot zoned E2 Environmental Conservation.

- Part of a Council lot along George Bass Drive, Broulee was recommended in the Rural Lands Strategy to be zoned RU1 Primary Production, and is now proposed to be zoned E2 Environmental Conservation. This site is included in a biobank site and part of the site is already zoned E2 Environmental Conservation.
- One Council lot adjoining the Moruya Racecourse was recommended in the Rural Lands Strategy to be zoned RU1 Primary Production, and is now proposed to be zoned E2 Environmental Conservation. This site is included in a biobank site.
- Part of a Council lot adjoining Kyla Park at Tuross Head was recommended in the Rural Lands Strategy to be zoned RU1 Primary Production and is now proposed to be zoned RE1 Public Recreation. This is consistent with the Kyla Park Sporting Precinct Masterplan adopted by Council in 2011 and the current use of the site.
- The Council owned campground site at Mystery Bay was recommended in the Rural Lands Strategy to be zoned RU1 Primary Production and is now proposed to be zoned RE1 Public Recreation. This is equivalent to the current 6(a) Public Open Space zone under the Rural LEP 1987.

**Legal**

The Environmental Planning and Assessment Act 1979 outlines the process for making amendments to an LEP. The first stage of the process requires Council to resolve to forward a planning proposal to the Minister for Planning for a Gateway Determination.

In preparing a planning proposal, Council is required to demonstrate how the proposal is consistent with the Ministerial Directions under Section 117 of the Environmental Planning and Assessment Act. Where an element of a planning proposal is inconsistent with a S117 Direction, the inconsistency must be justified.

The Minister for Planning will determine if any inconsistencies with S117 Directions have been satisfactorily justified and if so, the Minister may issue a Gateway Determination which will enable Council to commence public exhibition of the planning proposal. The Gateway Determination may require Council to further justify any element of the planning proposal or amend the planning proposal before commencing community consultation. Council is required to comply with the terms of the Gateway Determination if the planning proposal is to proceed to the next stages.

**Policy**

The planning proposal has been prepared in accordance with Department of Planning and Environment Guidelines for preparing planning proposals and Local Environmental Plans.

The planning proposal is substantially consistent with the Rural Lands Strategy adopted by Council on 23 February 2016. The non-rural lands matters contained in the planning proposal are minor in nature and are all consistent with relevant Council policies and strategies.

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**PSR16/023 PLANNING PROPOSAL TO IMPLEMENT THE RURAL LANDS  
STRATEGY AND OTHER MATTERS**

**E13.7173**

**Environmental**

For each item in the planning proposal, consideration has been given to any potential environmental impacts and the results are outlined in the planning proposal.

**Asset**

For each item in the planning proposal, consideration has been given to any potential impacts on Council assets and the results are outlined in the planning proposal.

**Social Impact**

For each item in the planning proposal, consideration has been given to any social impacts and the results are outlined in the planning proposal.

**Economic Development Employment Potential**

For each item in the planning proposal, consideration has been given to any economic impacts and the results are outlined in the planning proposal.

**Community Engagement**

Extensive community engagement was undertaken in the development of the Rural Lands Strategy. Community consultation on the planning proposal will be undertaken should Council endorse sending it to the Department of Planning and Environment for a Gateway Determination and should a Gateway Determination be received allowing the planning proposal to proceed to the consultation phase.

Given the extensive engagement during development of the Rural Lands Strategy, the fact that the planning proposal is substantially consistent with the Strategy recommendations and as the other matters in this Planning Proposal are relatively minor in nature, it is proposed to exhibit the planning proposal for a period of 28 days.

We will inform the community of the public exhibition through letters to land owners and through the use of Council's Online News and the Rural Lands Strategy mailing list and through the distribution of a media release. Copies of the planning proposal and all other relevant material will be available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

**CONCLUSION**

Following the adoption of the Rural Lands Strategy by Council on 23 February 2016, work commenced on the preparation of a planning proposal to implement the recommendations of the Strategy that relate to ELEP 2012.

Every proposed amendment to ELEP 2012 has been assessed in accordance with the Department of Planning's Guidelines for Preparing Planning Proposals. This includes, amongst other matters, as assessment of consistency with relevant State Environmental Planning Policies (SEPPs) and S117 Ministerial Directions. In the main, the planning proposal is consistent with relevant SEPPs and Ministerial Directions. Where there are inconsistencies, a justification for the inconsistency has been provided.

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**PSR16/023 PLANNING PROPOSAL TO IMPLEMENT THE RURAL LANDS  
STRATEGY AND OTHER MATTERS**

**E13.7173**

Consultation with the Department of Planning and Environment, the Office of Environment and Heritage and the Rural Fire Service has been undertaken in the preparation of the planning proposal and comments from those agencies have been taken into consideration.

The key amendments to ELEP 2012 in the planning proposal relating to the Rural Lands Strategy are:

- The inclusion of land that was deferred from the LEP when it was made in 2012.
- A reduction in the minimum lot size for all land zoned RU1 to facilitate some additional subdivision and dwelling opportunities in appropriate locations. This has resulted in up to 122 potential additional lots and 255 potential additional dwellings in rural areas.
- The removal of the Terrestrial Biodiversity Map and associated clause.
- Changes to the land use tables to facilitate additional land uses as permissible with consent in various zones.
- Allowing subdivision using “minimum averaging” in the RU4 zone.
- Increasing the opportunities for boundary adjustments on rural lands.
- Deletion of the “sunset” and “sealed road” clauses in relation to dwelling entitlements; and
- The identification of additional properties that have dwelling entitlements on the Dwelling Entitlements Map.

A number of other amendments have also been included in this planning proposal in relation to a range of relatively minor matters.

If Council endorses the planning proposal, it will be forwarded to the Department of Planning and Environment for a Gateway Determination. Public exhibition of the planning proposal will follow the receipt of a Gateway Determination.

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**PSR16/025 ANNUAL HERITAGE REPORT 2015-2016**

**E07.1407**

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

Attachments: 1. Eurobodalla Site Attendance 2015-16  
2. Eurobodalla Local Heritage Places Grants Annual report 2015-16

Focus Area: Sustainable Communities

Delivery Program Link: S5.3 Manage and promote our Aboriginal and Non-Aboriginal Heritage

Operational Plan Link: S5.3.1 Coordinate the Heritage Advisory Committee and associated projects

### **EXECUTIVE SUMMARY**

This report presents the Eurobodalla Annual Heritage Report 2015-2016. The Annual Heritage Report lists the achievements of Council's heritage program for 2015-2016 against the [Eurobodalla Heritage Strategy 2014-17](#), including:

- Local environmental plan heritage amendments
- Heritage tourism map and
- Council's heritage web page upgrade.

The Strategy also included financial assistance to owners of heritage listed items through the Local Heritage Places Grants (LHPG).

### **RECOMMENDATION**

THAT:

1. Council endorse the Eurobodalla Annual Heritage Report 2015-16.
2. The Eurobodalla Annual Heritage Report 2015-16 be forwarded to the Heritage Division in accordance with the conditions of the funding agreements.
3. Council thank the members of the 2012-15 Heritage Advisory Committee for their contribution to heritage management in the Eurobodalla Shire.

### **BACKGROUND**

This report seeks adoption of the Eurobodalla Annual Heritage Report 2014-2015. Adoption of the report is a compulsory requirement of the 2015 heritage grant funding agreement Council has with the Heritage Division of the NSW Office of Environment and Heritage (OEH).

On 11 February 2014 Council adopted the Eurobodalla Heritage Strategy 2014-17 to guide heritage management in the Eurobodalla Shire and to secure funding from the Heritage Division. Accordingly, funding was made available to Council for the financial year 2014-15.

A condition of the grant funding is that a report on the use of the funds against the heritage strategy be adopted by Council and submitted to the Heritage Division annually.

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**PSR16/025 ANNUAL HERITAGE REPORT 2015-2016**

**E07.1407**

The Annual Heritage Report 2015-16 has been prepared in accordance with the Heritage Division guidelines and provides an overview of the achievements and challenges of implementing the Eurobodalla Heritage Strategy 2014-17.

**CONSIDERATIONS**

This report will cover the annual report and the heritage related programs and projects conducted throughout the year. These include:

Heritage Advisory Committee

Since 2000 Council has convened a Heritage Advisory Committee (HAC) for the purpose of establishing a two way dialogue with the community relating to the management of the shire's heritage.

The current committee was established for the period 2015-18 and is made up of:

<u>Organisation</u>	<u>Current Representative</u>
Councillors:	Clr Liz Innes (chair) Clr Neil Burnside
Community Representatives:	Paul Dolphin Ian Hibberson Catherine Lawler
Aboriginal Advisory Committee:	Dianah Riley
Moruya and District Historical Society:	Brian Harris
Narooma Historical Society:	Susan Pryke
Clyde River and Bateman's Bay Historical Society:	Ewan Morrison

Committee members have been proactive in working towards the achievement of the tasks in the strategy.

5-7 Clyde Street Batemans Bay:

The Heritage Advisor and strategic planning staff worked closely with the developers of this historic site to find an adaptable reuse solution to the development of the historic former 'Guy's Store'. The historic shop front will be reconstructed along with suitable interpretation of the building's history to reinstate an important component back into the streetscape. The buildings were identified in Council's heritage studies as having heritage significance due to the age of the buildings, their role in the early growth of retailing in Batemans Bay and for their association with Francis Guy, an important local area merchant of the later 19th century.

At its meeting on 24 May 2016, Council's Heritage Advisory Committee resolved to recommend that Council add the buildings to Schedule 5 – Environmental heritage of the *Local Environmental Plan 2012*.

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**PSR16/025 ANNUAL HERITAGE REPORT 2015-2016**

**E07.1407**

Norfolk Island pine plantation at Tarandore Point, Tuross Heads

Nominated by the Tuross Lakes Preservation Group, the plantation has been assessed for its significance by Council's Heritage Advisor. Not only for its association with Hector McWilliam it is significant for its association with the landscape planning of Tuross Heads, one of the Shire's first purpose-designed coastal holiday home subdivisions. "It is highly valued by the community for the special ambience it creates beneath the canopy, and as a backdrop to commemorative events that celebrate the nation's military past."

The plantation meets the threshold for entry into Eurobodalla Shire Council's heritage schedule.

At its meeting on 24 May 2016, Council's Heritage Advisory Committee resolved to recommend that Council add the plantation to Schedule 5 – Environmental heritage of the *Local Environmental Plan 2012*.

Shire-wide cemetery tour

In response to enquiries regarding the way in which cemeteries in the Eurobodalla were being managed, this tour was organised by Council's Heritage Advisor and conducted on 25 July 2015. It was well attended by community members in each area. Cemeteries visited were Tilba, Corunna, Nerrigundah, Moruya Heads and Batemans Bay historic catholic cemetery in Bent Street. The tour highlighted specific issues at each cemetery, discussed management strategies and confirmed the historic importance of the sites.

Amendments to local environmental plans

Task 7 of Council's heritage strategy also commits it to ensure Council's Local Environmental Plans are updated with new or amended heritage items and that property descriptions are kept up-to-date. One planning proposal to update council's LEPs has been made and two more have been drafted for the same purpose. Eurobodalla Shire currently has 388 items, places and areas listed which form a valuable drawcard for visitors to the area.

Heritage Tourism Map

The Heritage Advisory Committee has worked closely with Council staff to develop a heritage-focussed tourist map of the Eurobodalla Shire that features some key historic places from Nelligen in the north to Tilba Tilba in the south and website to fulfil Task 27 of the heritage strategy. The project was to develop digital and printed heritage tourism maps in collaboration with Council's tourism staff and community groups. The heritage map will join a suite of shire-wide maps aimed at assisting locals and visitors to explore themes of specific interest to them. The maps will be available in hard copy and on line and will provide links to additional information such as local museums and historical societies. The map is planned to be launched in History Week, 3-11 September 2016.

Council's Heritage web page

Section 6 of Council's Heritage Strategy will also be met by the upgrade of Council's "Culture and Heritage web pages". The web site continues to be improved such that it is more

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**PSR16/025 ANNUAL HERITAGE REPORT 2015-2016**

**E07.1407**

informative, easier to use and more searchable. The addition of visual material will also put the Eurobodalla's heritage on show for researchers and those planning holidays.

Local Heritage Places Grants

The Local Heritage Places Grants program for 2015-16 was jointly funded by Council and the Heritage Division, Office for Environment and Heritage on a \$1 for \$2 basis with Council providing \$8,500 to qualify for \$4,250 from the Heritage Division. The successful projects were selected by the Heritage Advisory Committee and are:

- Vivien Cottage, Moruya
- St Mary's Church, (Mogo Gallery), Mogo
- All Saints Church, Bodalla
- Uniting Church Manse, Narooma
- Emmott House, Moruya
- ABC Cheese Factory, Central Tilba

A report on the projects funded is attached to this report.

Heritage Advisory Service

The Heritage Advisory Service is jointly funded by Council and the Heritage Division on a \$1 for \$2 basis with Council providing \$13,000 to qualify for \$6,500 from the Heritage Division. The service provides specialist heritage advice to Council staff and to owners of listed heritage items. The latter service is provided to property owners free from charge. A detailed summary of the Heritage Advisor's work in the shire is attached to this report.

**Legal**

Submission of the Annual Heritage Report 2014-2015 meets Council's contractual responsibility under the funding agreement.

**Economic Development Employment Potential**

The Local Heritage Places Grant program supported nearly \$50,000 worth of conservation works. These works created income and employment within the shire as well as engaging a number of volunteers.

Works related to heritage tourism will support the local tourism industry and visitors to the Eurobodalla.

**Community Engagement**

The Heritage Advisory Committee provides a link between Council and the community in regard to the management of heritage values within the Eurobodalla.

Council undertakes direct consultation with the community and relevant property owners in regard to specific projects such as amendments to the Local Environmental Plan and proposed heritage listings.



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**PSR16/025 ANNUAL HERITAGE REPORT 2015-2016**

**E07.1407**

The availability of the fund was advertised to the public and invitations to apply were sent directly to eligible property owners.

**CONCLUSION**

The Minister for Heritage approved ongoing funding to support the Eurobodalla's heritage management for the financial year 2016-17. The Annual Heritage Report 2015-16 must be adopted by Council to continue to secure the funding.

Council's continued support for heritage management, promotion and protection for 2016-2017 and beyond will ensure the continuation of best practice heritage management in the Eurobodalla.

## Eurobodalla Heritage Advisory Service

### Heritage Advisor - Site attendance 2015-16 - from July 2015 to May 2016

Month	Visits To ESC	No of individual site visits	Pre-DA	DA	General advice	Adaptive reuse	Regeneration and urban design	Infill and additions	Pre DA for sustainable and energy efficiency
24 July	1	3	2	3	5	-	2	1	1
28 Aug	1	4	3	4	3	-	2	1	1
7 Sept	1	2	2	1	2	-	1	-	1
26 Oct	1	3	3	1	6	2	1	-	-
Nov	-	-	-	1	5	-	1	-	-
18 Dec	1	3	-	2	4	1	1	1	-
29 Jan	1	5	-	3	4	-	-	2	-
Feb	-	-	-	2	3	-	2	-	1
March	-	-	-	2	2	1	1	1	-
April	-	-	-	-	-	-	-	-	-
May	1	3	2	2	4	1	1	1	-
June	1	3	2	2	4	-	1	2	1
<b>Total</b>	<b>8</b>	<b>26</b>	<b>14</b>	<b>23</b>	<b>42</b>	<b>5</b>	<b>13</b>	<b>9</b>	<b>5</b>

#### Outcome 3

Individual site visits (July 2015 – June 2016 April away, May /June are estimates)	8
Heritage Adviser at Council	8
Heritage and urban design consultations (general advice)	42
Pre-DA advice on heritage and urban design	14
DA's with heritage and urban design advice	23

#### The columns in BOLD address Annual Report Outcome 9

DA's for adaptive reuse	5
DA's for regeneration and urban design (includes subdivision)	13
DA's for infill and additions	9
Pre DA consultations on sustainable energy	5



## NSW Heritage Grants

### Local Government Heritage Management Program: Summary for Local Heritage Fund Annual Report 2015–16

These reporting requirements must be completed to claim funds for your local heritage fund.

The Heritage Branch will reimburse our funding share according to the funding agreement with the council for that financial year.

- STEP 1. The council issues project funding agreement offers to successful applicants, specifying the exact work to be funded, required supervision and completion date.
- STEP 2. Prior to the project commencing, the council (and/or applicant) should take photographs for use in the council final report to the Heritage branch.
- STEP 3. Once the project is completed, the council heritage officer or heritage advisor will inspect the project and take a photo of the project.
- STEP 4. The council heritage officer or heritage advisor (or heritage specialist) will also complete and sign off a Project Compliance Certification Form for the project. This form must be submitted to the council before the project funding can be paid.
- STEP 5. The applicant completes templates A and B and emails to [heritage@heritage.nsw.gov.au](mailto:heritage@heritage.nsw.gov.au) by 15 May each year as your claim for your local heritage fund reimbursement. (DO NOT post as we have a paperless office).
  - **Template A:** A one-page summary report on all completed projects
  - **Template B:** A one-page final project report for each project

Note: Information included in this summary report can also be used to complete your local council Heritage Strategy annual report.

**Eurobodalla Shire Council**

Local Government Heritage Management Program

Local Heritage Fund for 2015-16 financial year

**SUMMARY REPORT ON ALL COMPLETED PROJECTS**

Applicant	Heritage item address	Project description	Total project cost	Applicant's contribution	Local heritage funding
Anglican Parish of Bodalla	All Saints Church Bodalla	Various works to Bell Tower roof, Turret, Bell and Mid-level in the tower	\$5,880	\$3,050	\$2,830
Keith & Carol Noble	Vivien Cottage Moruya	Replace gutter and extend roof into ..	\$480	\$0	\$480
Peter & Vanessa Williams	St Mary's Church, 22 Sydney Street, Mogo	Replace roof	\$6,128	\$2,148	\$3,980
Uniting Church - Narooma	Uniting Church Manse, 134 Wagonga Street, Narooma	Paint the exterior of the Manse.	\$18,439.41	\$17,243.41	\$1,196
Erica Dibden	ABC Cheese Factory, Central Tilba	Replace louvres, window frames & painting of building	\$2,672	\$1,336	\$1,336
KL: Jones	"John And Willy's" foods,	Replace roof adjacent to Moruya museum	\$14,594	\$10,594	\$4,000
<b>Total</b>			<b>\$48,193.91</b>	<b>\$34,371.41</b>	<b>\$13,822</b>

**Based on the approved funding agreement for 2015-16 financial year and the local heritage funding expenditure of \$13,822, the Heritage Branch will reimburse \$**

\* The council can claim reimbursement on this amount from the Heritage Division, according to the approved council funding agreement.

**Eurobodalla Shire Council**  
 Local Government Heritage Management Program  
 Local Heritage Fund for 2015-16 financial year

**FINAL PROJECT REPORT**

<b>Heritage item address</b>	All Saints Church Bodalla
<b>Project description</b>	Various works to Bell Tower roof, Turret, Bell and Mid-level in the tower
<b>Reason for the project</b>	Completes work to the tower and conserves timber doors
<b>Heritage item listing</b>	All Saints Church, Bodalla
<b>Applicant</b>	Anglican Parish of Bodalla
<b>Date commenced</b>	26 October 2015
<b>Date completed</b>	3 December 2015
<b>Total project cost</b>	\$5,880
<b>Applicant contribution</b>	\$3,050
<b>Local heritage funding</b>	\$2,830

Before  
photo



After  
photo



**Eurobodalla Shire Council**  
Local Government Heritage Management Program  
Local Heritage Fund for 2015-16 financial year

**FINAL PROJECT REPORT**

<b>Heritage item address</b>	Vivien Cottage 60 Campbell St Moruya
<b>Project description</b>	Replace gutter and extend roof into gutter
<b>Reason for the project</b>	Elderly couple recently purchased the dwelling
<b>Heritage item listing</b>	Vivien Cottage Campbell St Moruya LEP Item
<b>Applicant</b>	Keith and Carol Noble
<b>Date commenced</b>	12/7/2015
<b>Date completed</b>	16/7/2015
<b>Total project cost</b>	<b>\$480</b>
<b>Applicant contribution</b>	<b>\$0</b>
<b>Local heritage funding</b>	<b>\$480</b>

After photos



**Eurobodalla Shire Council**  
 Local Government Heritage Management Program  
 Local Heritage Fund for 2015-16 financial year

**FINAL PROJECT REPORT**

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<b>Heritage item address</b>	St Marys Church, 24 Sydney Street, Mogo
<b>Project description</b>	Replace roof
<b>Reason for the project</b>	Decayed roof to highly visible building. Significant pressed-metal interior.

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<b>Heritage item listing</b>	St Marys Church. LEP Item
<b>Applicant</b>	Peter & Vanessa Williams
<b>Date commenced</b>	1/10/15
<b>Date completed</b>	18/11/15

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<b>Total project cost</b>	<b>\$6,128</b>
<b>Applicant contribution</b>	<b>\$2,148</b>
<b>Local heritage funding</b>	<b>\$3,980</b>



**Before  
photo**



**After  
photo**



**Eurobodalla Shire Council**

Local Government Heritage Management Program  
Local Heritage Fund for 2015-16 financial year

**FINAL PROJECT REPORT**

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<b>Heritage item address</b>	Uniting Church Manse, 134 Wagonga Street, Narooma
<b>Project description</b>	Paint the exterior of the manse
<b>Reason for the project</b>	Paint has decayed and the manse is in a highly visible location in Narooma

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<b>Heritage item listing</b>	Uniting Church Narooma. LEP Item
<b>Applicant</b>	Di White and Rev David Oliphant
<b>Date commenced</b>	4/12/2015
<b>Date completed</b>	21/4/2016
<b>Total project cost</b>	<b>\$18,439.41</b>
<b>Applicant contribution</b>	<b>\$17,243.41</b>
<b>Local heritage funding</b>	<b>\$1,196</b>

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Photo before

Photo after



**Eurobodalla Shire Council**  
 Local Government Heritage Management Program  
 Local Heritage Fund for 2015-16 financial year

**FINAL PROJECT REPORT**

<b>Heritage item address</b>	John And Willy's" foods, 87 Campbell St Moruya
<b>Project description</b>	Replace roof
<b>Reason for the project</b>	Roof was in poor condition, especially when compared to the adjacent building
<b>Heritage item listing</b>	Emmot's Store, LEP Item
<b>Applicant</b>	KL Jones
<b>Date commenced</b>	7/3/2016
<b>Date completed</b>	21/3/2016
<b>Total project cost</b>	<b>\$14,594</b>
<b>Applicant contribution</b>	<b>\$10,594</b>
<b>Local heritage funding</b>	<b>\$4,000</b>

**Before photo**



**After  
photo**





### FINAL PROJECT REPORT

<b>Heritage item address</b>	ABC Cheese Factory, Bate St, Central Tilba
<b>Project description</b>	Paint the exterior of the building, replace louvres & window frames
<b>Reason for the project</b>	Paint has decayed, louvres are broken and the factory is a highly visible location on the main street of the village
<b>Heritage item listing</b>	<b>ABC Cheese Factory</b> LEP Item
<b>Applicant</b>	Erica Dibden
<b>Date commenced</b>	4/1/2016
<b>Date completed</b>	29/4/2016
<b>Total project cost</b>	<b>\$2,672</b>
<b>Applicant contribution</b>	<b>\$1,336</b>
<b>Local heritage funding</b>	<b>\$1,336</b>

Photo before



Photo after



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**PSR16/026 CLASSIFICATION OF LAND AS OPERATIONAL - BATEMANS BAY**

**E12.6442**

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

Attachments: 1. Confidential - Summary of submissions recieved  
2. Under Separate Cover - Confidential - Detailed submissions recieved  
3. Confidential - Letter from community group withdrawing objection

Focus Area: Support Services

Delivery Program Link: SS3.3 Provide administrative, technical, professional and trade services

Operational Plan Link: SS3.3.4 Manage Council property to achieve best value to the community

### **EXECUTIVE SUMMARY**

This report provides information on the proposed classification of the former Batemans Bay Bowling Club land in accordance with Council's resolution on 26 April 2016.

At its ordinary meeting of 26 April 2016 Council resolved to enter into negotiations for the purchase of Lots 282, 283 and 299 DP 755902 and Lot 304 DP 257116 being land formerly known as the Batemans Bay Bowling Club. Council resolved that when Contracts for Sale are exchanged public notice be given of Council's intention to classify the land as operational.

Contracts for Sale were exchanged on 29 April 2016. Notice of Council's intention that the site be acquired as operational land was placed in the Bay Post and Moruya Examiner on 1 June 2016. Written submissions were received until 4 pm on 29 June 2016. 15 submissions were received opposing the proposed classification and the main issues and concerns raised are addressed in this report under Community Engagement. Of these 15, 11 were a standard letter from members of one community group. The community group has subsequently withdrawn the submission provided Council provides a written assurance that the community will not lose tenure over any of the four titles of Bowling Club land, without comprehensive and transparent community engagement.

Council is not proposing to 'change' the classification of the former bowling club land from Community land to Operational land. It presently has no classification, as it has been privately owned and under the Local Government Act must be classified as either community or operational land within three months of acquisition. That is the reason for classification.

This report recommends the land be classified as operational land and that Council provides an assurance that the community will not lose tenure over any of the four titles of Bowling Club land, without comprehensive and transparent community engagement.

### **RECOMMENDATION**

THAT:

1. Lots 282, 283 and 299 DP 755902 and Lot 304 DP 257116 Batemans Bay be classified as operational land.
2. Council assures the community that they will not lose tenure over any of the four titles of Bowling Club land, without comprehensive and transparent community engagement.

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**PSR16/026 CLASSIFICATION OF LAND AS OPERATIONAL - BATEMANS BAY**

**E12.6442**

**BACKGROUND**

At its ordinary meeting of 26 April 2016 Council resolved in part that:

- “1. The General Manager be given delegated authority to enter into a negotiations with Catalina Country Club Limited for the purchase of Lots 282, 283 and 299 DP 755902 and Lot 304 DP 257116 (the Property) for an amount of \$2,727.272.73 (excluding GST).*
- 3. If negotiations are successful the General Manager be given delegated authority to enter into a Contract for Sale for the Property.*
- 4. Consent be given to affix the Common Seal of Council to the Transfer of Lots 282, 283 and 299 DP 755902 and Lot 304 DP 257116.*
- 5. If and when a Contracts for Sale are exchanged public notice be given of Council’s intention to resolve:  
“THAT Lots 282, 283 and 299 DP 755902 and Lot 304 DP 257116 be acquired as operational land”.*
- 6. A period of twenty eight (28) days be given for members of the public to make submissions on the public notice in 4 above.*
- 7. A further report be presented following the advertising period for the public notice in 4 above.”*

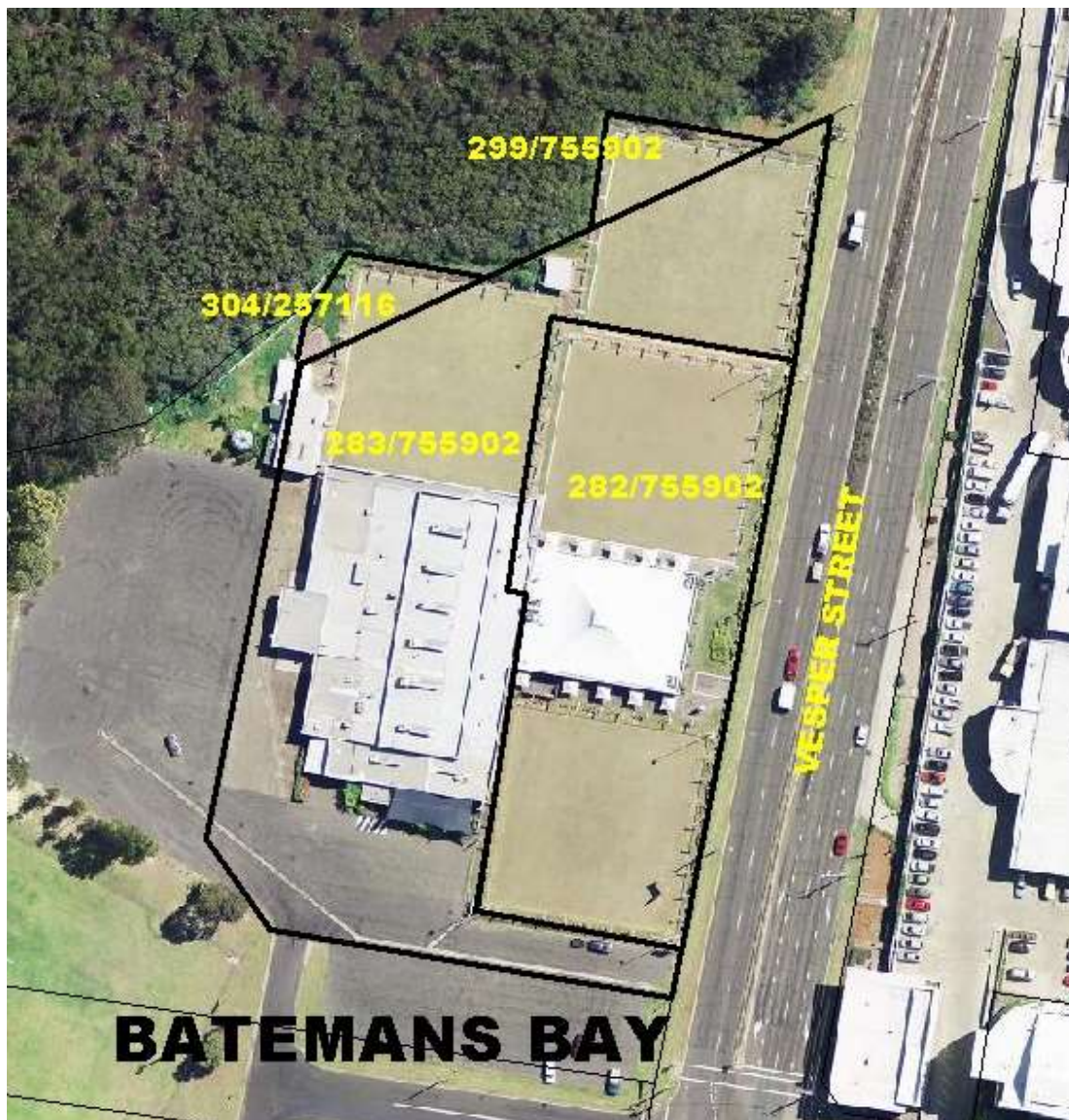
Successful negotiations took place and Contracts for Sale were exchanged on 29 April 2016. Following exchange of contracts for sale, notice of Council’s intention that the site be acquired as operational land was placed in the Bay Post and Moruya Examiner on 1 June 2016. Written submissions were received until 4 pm on 29 June 2016. A total of 15 submissions were received in opposition to the proposed classification.

PSR16/026 CLASSIFICATION OF LAND AS OPERATIONAL - BATEMANS BAY

E12.6442

**CONSIDERATIONS**

A sketch of the area is set out below.



15 submissions were received in opposition to the proposed classification. 11 of the submissions were a standard letter that was distributed by a community group to their members. These submissions are attached for the information of councillors.

Three main issues were identified in the submissions:

- There is no need to reclassify this land.
- There was concern this classification of land was in preparation for a sale.
- Re-classifying the land would result in a loss of community land.

The submissions were in response to an email from a community group that stated “....Council is wanting to change the reclassification of the Batemans Bay Bowling Club land from Community Use to Operational Use in readiness to enable sale to a private investor.” In response to this email, Council’s staff emailed the President of the community group to explain



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**PSR16/026 CLASSIFICATION OF LAND AS OPERATIONAL - BATEMANS BAY**

**E12.6442**

the classification process. Following this, the President emailed Council and the groups members stating that they were withdrawing the submission objecting to the classification, allowing the land to be classified as 'operational' on the proviso that Council would provide written assurance that the community would not lose tenure over any of the four titles of Bowling Club land, without comprehensive and transparent community discussion and consultation. The letter withdrawing submissions is also attached for the information of Councillors.

Council is not proposing to 'change' the classification of the former bowling club land from Community land to Operational land. It presently has no classification, as it has been privately owned and under the Local Government Act must be classified as either community or operational land within three months of acquisition. That is the reason for classification.

Through previous resolutions of Council in relation to the future use of the precinct and the call for preliminary expressions of interest from experienced developers, Council is anticipating interest in a mix of community and private sector uses within the precinct. These include (but are not limited to) a mix of development outcomes including conference or convention facilities, tourism accommodation, arts and culture or cinema centre, seniors living, restaurants or café, tourism and recreational facilities and upgrade of the aquatic centre.

Operational classification will provide the certainty required to maintain private sector interest and involvement in the mastepanning and redevelopment of the precinct. A classification of community land would necessitate a Plan of Management that would need to categorise the land and be very specific about any leases or licences that could be granted on the site. A classification of community land would also place additional restrictions on the length of leases that could be granted and the procedures for granting longer term leases.

The proposed classification as operational land is considered appropriate. Other community facilities on operational land within the Shire include the Batemans Bay Community Centre, Batemans Bay Historical Museum, Moruya Racecourse, Batemans Bay library and Moruya library. Through the proposed sunset committee, open day and consideration of short term or temporary use of the facility and ongoing dialogue with community groups, there will be opportunity to develop a shared understanding with the community that Council's vision is for a development of the precinct that includes a mix of community facilities and potential private sector components.

It is considered reasonable that Council provides an assurance that the Community will not lose tenure over any of the four titles of Bowling Club land, without comprehensive and transparent community discussion and consultation

**Legal**

Before a council acquires land, or within 3 months after it acquires land, a council may resolve (in accordance with this Part) that the land be classified as community land or operational land (Section 31(2) of the *Local Government Act 1993*).

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**PSR16/026 CLASSIFICATION OF LAND AS OPERATIONAL - BATEMANS BAY**

**E12.6442**

In accordance with Section 34 of the Local Government Act 1993, public notice has been given of Council's intention to classify the land as operational land and 28 days allowed for written submissions.

**Asset**

This property at the entrance to Batemans Bay has the potential for redevelopment of the site together with Mackay Park Reserve and can achieve a major positive impact on the long term future of Batemans Bay.

**Community Engagement**

We have consulted with the community by seeking feedback through advertisements in the local newspaper of Council's intention to classify the land as operational. A total of 15 submissions were received in opposition to the proposed classification. Of these 15, 11 were a standard letter from members of one community group. The community group has subsequently withdrawn the submission provided Council provides a written assurance that the Community will not lose tenure over any of the four titles of Bowling Club land, without comprehensive and transparent community discussion and consultation.

**CONCLUSION**

15 submissions were received in opposition to the proposed classification. Of these, 11 were related to an email sent by a community group to its members. Following discussion with this community group, they have withdrawn the submission on the proviso that written assurance from Council will be provided that the Community will not lose tenure over any of the four titles of Bowling Club land, without comprehensive and transparent community discussion and consultation. This is considered to be a reasonable request.

It is recommended that Council proceed with the classification to operational land of Lots 282, 283 and 299 DP 755902 and Lot 304 DP 257116 being land formerly known as the Batemans Bay Bowling Club.

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**PSR16/027 BATEMANS BAY BOWLING CLUB, AQUATIC CENTRE AND MACKAY PARK PRECINCT UPDATE E12.6442**

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

Attachments:

1. Draft Terms of Reference - Batemans Bay Mackay Park Precinct Sunset Committee
2. Confidential - Summary of submissions recieved from community members and community groups
3. Confidential - Summary of EOI's recieved from companies
4. Under Separate Cover - Confidential - Submissions

Focus Area: Support Services

Delivery Program Link: SS3.3 Provide administrative, technical, professional and trade services

Operational Plan Link: SS3.3.4 Manage Council property to achieve best value to the community

### **EXECUTIVE SUMMARY**

The purpose of this report is to provide an update and recommendations on responses received to the preliminary expression of interest and community submission process, formation of a sunset committee to investigate opportunities for the development of the precinct and the short term use of the former Batemans Bay Bowling Club.

### **RECOMMENDATION**

THAT Council:

1. Consider community submissions and expressions of interest received to date when investigating options for the preparation of a masterplan and future public private partnership for the Mackay Park precinct and report back to Council.
2. Thank all those who made a submission.
3. Endorse the Terms of Reference for the Batemans Bay Mackay Park Precinct Sunset Committee.
4. Commence an Expression of Interest process to establish the Batemans Bay Mackay Park Precinct Sunset Committee.
5. Following the open day on 16 July 2016 at the former Batemans Bay Bowling Club building, Council staff consider submissions for interim / short term use of the building.
6. The General Manager be given delegated authority to negotiate leases and licences and then report back to Council with recommendations for endorsement.

### **BACKGROUND**

Several Council resolutions are relevant to the background of this report.

**Responses received to the preliminary expression of interest and community submission process**

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**PSR16/027 BATEMANS BAY BOWLING CLUB, AQUATIC CENTRE AND MACKAY PARK PRECINCT UPDATE E12.6442**

Council at its Ordinary Meetings held on 9 and 23 February 2016 considered confidential reports on the former Batemans Bay Bowling Club site and the potential to commence a preliminary Expression of Interest process for a public private partnership (PPP) to redevelop the site including Mackay Park Reserve.

Following exchange of contracts, the preliminary expression of interest and call for community submissions on the future use of the precinct was advertised with submissions received until 10 June 2016. 187 community submissions were received and four (4) Expressions of Interest from experienced developers. A further 114 submissions were recorded as Facebook comments on the initial media release about the purchase of the site. Comments on both Council's and the Bay Post Facebook sites have been included under the summary of community engagement.

**Suggested approach to the creation of a sunset committee to investigate opportunities for the development of the precinct**

Council at its ordinary meeting held on 14 June 2016 considered a notice of motion and resolved:

*THAT Council receive a report on the potential creation of a sunset committee to investigate opportunities for the development of the Batemans Bay Mackay Park Precinct, following the presentation of submissions and briefing to Councillors.*

**Suggested approach to the short term use of the former Batemans Bay Bowling Club**

Council at its ordinary meeting held on 28 June 2016 considered a notice of motion and resolved:

*THAT Council:*

1. *Investigate matters relevant to the short term use of the former Batemans Bay Bowling Club including:*

- *full or in part leasing,*
- *occupational health and safety,*
- *finance and operational costs;*

*noting that expressions of interest have been received for the long term use of the site, and that this particular process is for a shorter term use.*

2. *Organise an Open Day at the former Batemans Bay Bowling Club building on Saturday 16 July from 11am to 3pm for interested community and not for profit groups to view and tour the inside of the building and assess its condition.*
3. *Make an assessment of the condition and possible short term use of the building immediately after Council takes possession of the building on 8 July, and have a preliminary written report on this available at the Open Day on 16 July.*

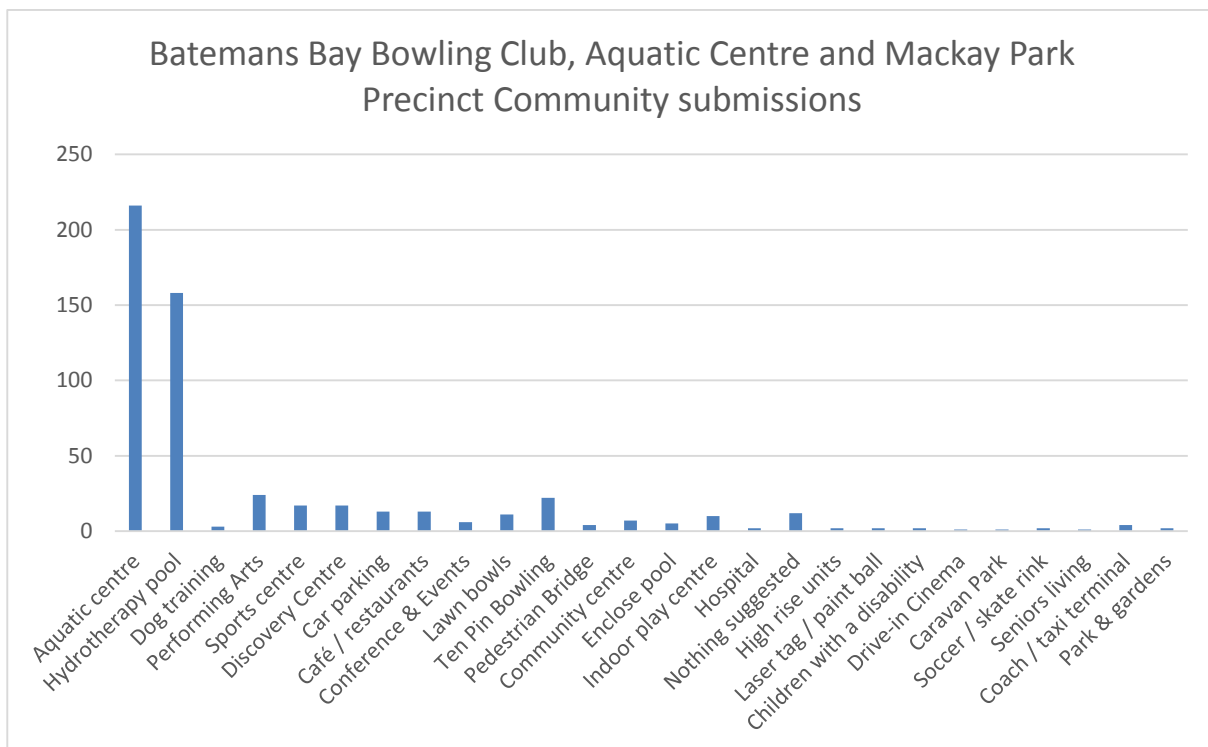
**PSR16/027 BATEMANS BAY BOWLING CLUB, AQUATIC CENTRE AND MACKAY PARK PRECINCT UPDATE E12.6442**

**CONSIDERATIONS**

**Responses received to the preliminary expression of interest and community submission process**

A total of 187 community submissions were received and 4 submissions from experienced developers. A further 114 submissions were recorded as facebook comments on the initial media release about the purchase of the site.

Of the community submissions, a summary breakdown of responses is shown in the table below. Note that many submissions included multiple suggestions.



An aquatic centre and hydrotherapy facility have received the most number of submissions. It must be noted that while performing arts was considerably lower, submissions suggesting performing arts were from community groups with multiple members, so it does rank highly as a desired use. The majority of submissions do fit within the mix of development outcomes that have previously been identified by Council. It is therefore reasonable to say that the community suggestions (or vision) aligns very closely with that of Council.

The submissions made by the community provide excellent guidance to Council in considering future development outcomes on the site. Of the 187 community submissions, 9 were from community groups. Five (5) of these submissions requested interim use of the facility.

Four (4) submissions were received from experienced developers. These submissions are commercial in confidence. One submission provides a possible masterplan for the entire precinct that includes the uses envisaged by Council. The layout and components of the masterplan may or may not be consistent with what Council or the community would like to

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**PSR16/027 BATEMANS BAY BOWLING CLUB, AQUATIC CENTRE AND MACKAY PARK PRECINCT UPDATE E12.6442**

see. However the purpose of receiving private sector preliminary expressions of interest was purely to see if there is any private sector interest in partnering with Council for a future public private partnership (PPP) that would assist in delivering community infrastructure. The responses from 4 companies indicates that there is interest.

The submissions received to date, from the community, community groups and companies can guide Council staff over the coming months in further investigating the master planning of the precinct and in considering the legislation and guidelines for PPPs in NSW. The guidelines on the procedures and processes to be followed by local government in PPPs have been prepared by the Office of Local Government, NSW. A future report on the master planning of the precinct and a PPP process can be prepared for Council.

**Suggested approach to the creation of a sunset committee to investigate opportunities for the development of the precinct**

Formation of a sunset committee to investigate opportunities for the development of the Batemans Bay Mackay Park Precinct will ensure an opportunity to continue involving the community in the investigations for the development of the precinct. Council has already received submissions from the community on what types of development outcomes the community would like to see, and a sunset committee will provide another avenue for community engagement.

Steps to forming a sunset committee would be to consider and endorse a terms of reference (attached), call for expressions of interest for committee members, assess applications and form the committee. Key parts of the suggested Terms of Reference for the Batemans Bay Mackay Park precinct sunset committee are below, including the proposed role, membership, tenure and responsibilities of the sunset committee. Full Terms of Reference are attached.

**Role of the Sunset Committee**

The suggested role of the sunset committee is:

1. To assist Eurobodalla Shire Council with the investigation of opportunities for the development of the Batemans Bay Mackay Park Precinct.
2. To develop and oversee the community engagement process during the investigation of opportunities for the development of the Batemans Bay Mackay Park Precinct.

**Membership of the Sunset Committee**

The sunset committee would be coordinated by Eurobodalla Shire Council and it is proposed that it would include the following representatives:

3. chairperson (Mayor or their nominee)
4. six community representatives appointed via an expression of interest
5. two representatives of Council, being the General Manager and Director, Planning and Sustainability Services (or their nominees) (no voting rights).
6. any other councillors appointed by Council.

The criteria for the selection of community representatives is proposed to be:

1. involvement in a community or business group that is related to the following potential development outcomes within the precinct: conference or convention facilities, tourism

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**PSR16/027 BATEMANS BAY BOWLING CLUB, AQUATIC CENTRE AND MACKAY PARK PRECINCT UPDATE E12.6442**

accommodation, arts and culture, seniors living, tourism and recreational facilities and aquatic centre.

**Tenure of the Committee**

The tenure of the sunset committee is proposed to cease on 31 December 2017 in the first instance, with a further review at that stage. It is noted that to effectively implement a redevelopment of the precinct, a time period beyond 31 December 2017 will most likely be required.

**Responsibilities of Committee Members**

- to provide advice to the best of their knowledge and ability that will help achieve the objectives of the sunset committee in accordance with their role
- complete in a timely manner, any tasks referred to the sunset committee by the Council
- behave in a manner that respects the interests and viewpoints of other members, community and Council officers
- declare any potential or actual conflicts of interests on matters that are brought before the sunset committee
- represent the broader interests of the Eurobodalla community.

**Suggested approach to the short term use of the former Batemans Bay Bowling Club**

Of the 187 submissions already received by Council, nine (9) were from community groups. Of these, five (5) have already requested short term or interim use of the former bowling club with one submission in particular being very detailed. In response to the resolution of Council at the Ordinary Meeting held on 28 June 2016, letters have been sent to community groups inviting them to an open day on 16 July 2016 and inviting those who have made submissions to modify or add to their submission, or make an entirely new submission as a result of inspecting the facility. Community groups who have not yet made a submission will also be invited to make a submission. As a result of this process, it is anticipated that additional submissions for short term or interim use may be lodged.

To assist Council to assess requests for short term or interim use, and to assist community groups in considering their submissions, a thorough building inspection report will be required. Council staff will endeavor to prepare this report and make it available at the open day on 16 July 2016.

Once the inspection report has been prepared, the open day held and any modified or new submissions received, Council will be in a position to further assess the types of uses requested and the implications in terms of type of lease or licence or agreement, occupational health and safety and finance and operating costs.

When considering options for short term and interim use of the building, a range of timeframes will be possible. Interim use will not be limited to 6 months. A booking system could also be investigated where casual use of halls is requested.

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**PSR16/027 BATEMANS BAY BOWLING CLUB, AQUATIC CENTRE AND MACKAY PARK PRECINCT UPDATE E12.6442**

To assist in efficiently assessing requests for short term and interim use, it is proposed that the General Manager be given delegated authority to negotiate leases and licences and then report back to Council with recommendations for endorsement.

**Legal**

Both the short term and long term use of the former bowling club building and the precinct are regulated by legislation. Any leases, licences, agreements for the short term or interim use of the building will be consistent with Council policy and the *Local Government Act 1993*. Any future PPP will be prepared in accordance with the NSW Department of Local Government guidelines.

**Social Impact**

The purchase of the former Batemans Bay bowling club site represents a significant and positive action by Council. The potential short term use and long term redevelopment of the precinct will make a positive contribution to the social fabric of the community.

**Economic Development Employment Potential**

The master planning and redevelopment of the precinct has significant economic development and employment potential.

**Community Engagement**

We have consulted with the community by seeking feedback through a submission and Expression of Interest process. Over 300 submissions were received (direct submissions and Facebook comments). Council will continue to involve the community in the development of a masterplan and PPP for the precinct and in the short term or interim use of the former Batemans Bay bowling club building.

**CONCLUSION**

This report covers a range of matters related to the Batemans Bay Mackay Park precinct, including, submissions received on future master planning and development, sunset committee and short term or interim use. A range of recommendations are presented for the consideration of Council.



# Batemans Bay Mackay Park Precinct Sunset Committee

## Terms of Reference

July 2016

## CONTENTS

### Contents

1. Introduction and Background .....	1
2. Role of the Batemans Bay Mackay Park Precinct Sunset Committee .....	1
3. Title and Delegations .....	1
4. Membership of the Committee .....	1
5. Tenure of the Committee .....	2
6. Responsibilities of Committee Members.....	2
7. Responsibilities of Council .....	2
8. Quorum, Voting Rights and Rules .....	2
9. Delegations.....	3
10. Reporting Hierarchy.....	3
11. Contact Officer .....	3
12. Meetings.....	3

## **1. Introduction and Background**

The former Batemans Bay Bowling Club site has recently been purchased by Eurobodalla Shire Council. This site adjoins the existing Batemans Bay Aquatic Centre and the Mackay Park sporting grounds and together form a significant precinct in Batemans Bay. With the right development, this precinct has the potential to have a major positive impact on the future of Batemans Bay and the Eurobodalla.

Council is presently considering options to facilitate a future public private partnership that could result in a developer working with Council to redevelop the bowling club and aquatic centre precinct in a manner that will stimulate the economic development of Batemans Bay and provide an upgrade to community facilities in the precinct.

## **2. Role of the Batemans Bay Mackay Park Precinct Sunset Committee**

The role of the Batemans Bay Mackay Park Precinct Sunset Committee is as follows:

1. To assist Eurobodalla Shire Council with the investigation of opportunities for the development of the precinct.
2. To develop and oversee the community engagement process during the investigation of opportunities for the development of the Batemans Bay Mackay Park precinct.

## **3. Title and Delegations**

The committee shall be referred to at the Batemans Bay Mackay Park Precinct Sunset Committee.

The committee shall function as a non-delegated advisory committee.

## **4. Membership of the Committee**

The sunset committee will be coordinated by the Eurobodalla Shire Council and will include the following representatives:

1. Chairperson (Mayor or their nominee)
2. Six community representatives appointed via an expression of interest
3. Two representatives of Council, being the General Manager and Director, Planning and Sustainability Services (or their nominees) (no voting rights).
4. Any other councillors appointed by Council.

The criteria for the selection of community representatives is as follows:

1. Involvement in a community or business group that is related to the following potential development outcomes within the precinct: conference or convention facilities, tourism accommodation, arts and culture, seniors living, tourism and recreational facilities and aquatic centre.

## **5. Tenure of the Committee**

The tenure of the committee is proposed to cease on 31 December 2017 in the first instance, with a further review at that stage. It is noted that to effectively implement a redevelopment of the precinct, a time period beyond 31 December 2017 will most likely be required.

## **6. Responsibilities of Committee Members**

- Give advice to the best of their knowledge and ability that will help achieve the objectives of the committee in accordance with their role.
- Complete in a timely way, any tasks referred to the committee by the Council.
- Behave in a manner that respects the interests and viewpoints of other members, community and Council officers.
- Declare any potential or actual conflicts of interests on matters that are brought before the committee.
- Represent the broader interests of the Eurobodalla community.

All members will abide by [Council's Code of Conduct](#) and [Council's Code of Conduct - Conduct Committee Guidelines](#) and [Council's Code of Meeting Practice](#).

## **7. Responsibilities of Council**

- Council will provide administrative support, including minute taking, distribution of related correspondence and professional officer support.
- Council will be responsible for providing suitable venues and related support to Committee members.
- Matters will be referred to the Committee for its consideration and information will be provided on actions arising from adopted Committee recommendations.
- Council has the discretion to review the role, re-organise or disband the Committee.
- Council will facilitate liaison with Councillors, Executive Leadership Team and Government.
- Council will manage external consultant(s).
- Only the Chair or the Mayor (or the Mayor's nominee) can speak on behalf of the Committee with the media.

## **8. Quorum, Voting Rights and Rules**

A quorum of the committee shall be half plus one.

Voting members of the Committee will include all committee members with the exception of Council staff.

The Committee will operate by consensus as much as is possible. In the event that consensus cannot be reached, the advice back to Council will include the majority view along with any alternative view expressed. Where a vote is required, it will be undertaken in accordance with [Council's Code of Meeting Practice Policy](#), as follows:

- (i) Each Voting Committee Member has one vote on each matter being dealt with at a meeting, unless excluded.
- (ii) The Chairperson of the meeting has a second vote, or casting vote on any matter being dealt with, only if the vote is tied.
- (iii) If the Chairperson elects not to use the casting vote in the case of a tied vote, the motion is deemed as being lost.
- (iv) Voting Committee Members must be in the meeting room to vote. Voting Committee Members who have left the meeting room prior to the vote and are absent during the vote are not counted as voting. There are no proxy votes.
- (v) A Voting Committee Member who does not vote, or abstains from the vote, is considered to have voted against the motion.
- (vi) Council minutes will not record those voting against any matter, unless the Committee Member(s) request so at the time of the declaration of the motion.

## **9. Delegations**

Nil

## **10. Reporting Hierarchy**

Minutes of each meeting will be distributed to Councillors and the General Manager. Council responses will be communicated through the Director, Planning and Sustainability Services.

Recommendations of the committee requiring a Council resolution will be reported to Council.

## **11. Contact Officer**

Contact Officer for the committee is the Director, Planning and Sustainability Services

## **12. Meetings**

It is anticipated that Committee meetings will be held quarterly.

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**PSR16/028 DRAFT COMMUNITY LAND PLAN OF MANAGEMENT - RE- CATEGORISATION AND LEASE OF COMMUNITY LAND - MELALEUCA RESERVE, CATALINA E03.7447**

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

Attachments:

1. Public Hearing Report
2. Muddy Puddles Reconfigured siting
3. Confidential - Summary of submissions received
4. Confidential - Summary of late submissions received
5. Under Separate Cover - Confidential - Submissions

Focus Area: Support Services

Delivery Program Link: SS3.3 Provide administrative, technical, professional and trade services

Operational Plan Link: SS3.3.4 Manage Council property to achieve best value to the community

### **EXECUTIVE SUMMARY**

Council resolved at its ordinary meeting held on 23 February 2016 to amend the Catalina Reserves and the Hanging Rock Boat Ramp Car Park Reserve plan of management to re-categorise part of the land at Melaleuca Reserve (part lot 39 DP 800369) from park to general community use. The purpose of this is to permit the lease of part of the land to Eurobodalla Education and Therapy Services Limited, trading as Muddy Puddles, for the establishment of an educational therapy centre for children with a disability.

The re-categorisation and intention to grant a lease was exhibited from 30 March 2016 until 25 May 2016 and 2 public hearings held. The public hearing report has been submitted, recommending the re-categorisation proceed, subject to consideration being given to undertaking an audit of Council managed open space within the Catalina and Batehaven local areas and providing this for community comment; and investigating an alternate area of Melaleuca Reserve closer to the existing community centre.

Council is now able to consider submissions received and the public hearing report and whether to proceed with the re-categorisation by adopting the draft plan of management for the land to effect the re-categorisation. To grant the lease, Council must request the Minister for Local Government's consent because the lease period exceeds 21 years and objections have been received (section 47(5) *Local Government Act 1993*).

The report recommends that the re-categorisation be approved, with the future educational therapy centre, carpark and access be sited as depicted in Attachment 2 to minimise the impact on the existing playground and open space area and that the Minister for Local Government's consent be requested to grant the lease.

### **RECOMMENDATION**

THAT:

1. The Catalina Reserves and the Hanging Rock Boat Ramp Car Park Reserve plan of management is amended to re-categorise part of the land at Melaleuca Reserve (part lot

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**PSR16/028 DRAFT COMMUNITY LAND PLAN OF MANAGEMENT - RE-  
CATEGORISATION AND LEASE OF COMMUNITY LAND - MELALEUCA  
RESERVE, CATALINA**

**E03.7447**

- 39 DP 800369) from park to general community use.
2. The future educational therapy centre, carpark and access be sited to the south and east of the reserve to minimise the impact on the existing playground and open space area.
  3. The Minister for Local Government's consent be requested to grant a 30 year lease to Eurobodalla Education & Therapy Limited, trading as Muddy Puddles, for the establishment of an educational therapy centre for children with a disability.
  4. Subject to consent from the Minister for Local Government, a lease of part Lot 39 Deposited Plan 800369 be granted to Eurobodalla Education & Therapy Limited, trading as Muddy Puddles, for the establishment of an educational therapy centre for children with a disability with terms and conditions including :
    - (i) Term of thirty years
    - (ii) Rent for the lease to be based on the unimproved capital value of the land as long as the activity is on a not-for-profit basis
    - (iii) Annual rent for the land commence at 1.5% of the unimproved capital value (UCV) of the land, increased to 2.25% UCV at year 10 and 3% UCV at year 20 with annual increases in line with the CPI for the intervening years.
    - (iv) All costs associated with the lease and construction of access to be borne by the Lessee.
    - (v) Insurance to be held in accordance with Council policy.
    - (vi) Council to have no responsibility or liability in regard to the security of the site or vehicles parked.
    - (vii) Land cannot be used for any purpose other than an educational therapy centre for children with a disability without consent of Council.
    - (viii) Consent be given to affix the Common Seal of Council to the Lease of part Lot 39 Deposited Plan 800369.

## **BACKGROUND**

Muddy Puddles is a not-for-profit non-government organisation established in the Eurobodalla to provide education, therapy and support services for children and teens with a disability. The NSW Disability Services Minister, John Ajaka and Bega MP Andrew Constance, have committed \$1.5m to the project for capital works.

Council staff subsequently worked with Muddy Puddles in a search for a suitable site for them to develop the educational therapy centre.

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**PSR16/028 DRAFT COMMUNITY LAND PLAN OF MANAGEMENT - RE-  
CATEGORISATION AND LEASE OF COMMUNITY LAND - MELALEUCA  
RESERVE, CATALINA**

**E03.7447**

Council at its ordinary meeting held on 23 February 2016 resolved:

*THAT:*

- 1. The draft amendment to the Catalina Reserves and the Hanging Rock Boat Ramp Car park Reserve Plan of Management for the re-categorisation of part of Lot 39 DP 800369, Melaleuca Reserve, Catalina from "Park" to "General Community Use" for the purpose of permitting the lease of part of the land for an educational therapy centre for children with disabilities be endorsed for exhibition to the public for a period of 28 days and that public submissions be received for a period of 42 days.*
- 2. A consultant be engaged as an independent chairperson to hold a public meeting into the draft amendment to the Catalina Reserves and Hanging Rock Boat Ramp Car park Reserve Plan of Management.*
- 3. A further report be received following the receipt of the report from the independent person chairing the public hearing into the re-categorisation of part of Melaleuca Reserve.*

The draft amendment to the Catalina Reserves and the Hanging Rock Boat Ramp Car park Reserve Plan of Management for the re-categorisation of the land and the intention to grant a lease has been exhibited from 30 March 2016 until 25 May 2016 and 2 public hearings held. During the exhibition period, 18 submissions were received, 4 in support and 14 opposed. A further 5 late submissions have been received to 4 July 2016, 2 in support and 3 opposed. Issues raised at the public hearing have been summarised in the public hearing report (Attachment 1), prepared by urPlan consulting. All submissions are attached as a confidential attachment for the information of Councillors.

### **CONSIDERATIONS**

During the submission period, a number of matters were raised by submitters, including:

- Loss of parkland / open space;
- Low-lying, flood prone land;
- Intensification of use;
- Increased traffic;
- Street parking;
- Further development pressures;
- Impact on natural aesthetic view;
- Removal of opet exercise area;
- Loss of vegetation;
- Limited consultation;
- Alternative building layout;
- Lack of pre-proposal audit of existing parkland within the area;



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**PSR16/028 DRAFT COMMUNITY LAND PLAN OF MANAGEMENT - RE-  
CATEGORISATION AND LEASE OF COMMUNITY LAND - MELALEUCA  
RESERVE, CATALINA**

**E03.7447**

- Site elevation and drainage;
- Loss of neighbourhood amenity.

All submissions, including late submissions, are contained in Attachment 3 for the information of Councillors.

The public hearing report has been prepared by an independent chairperson and considers the matters raised in submissions, as presented at the hearing. A summary of the matters raised and responses is in the attached public hearing report.

The public hearing report recommends the re-categorisation proceed, subject to consideration being given to undertaking an audit of Council managed open space within the Catalina and Batehaven local areas and providing this for community comment; and investigating an alternate area of Melaleuca Reserve closer to the existing community centre.

The issues raised in submissions can be generally placed into three categories, lack of assessment of alternative sites, site constraints and loss of open space (including loss of amenity).

A number of submissions, including late submissions and recent correspondence between submitters and Council have suggested there was a lack of assessment of alternative sites. A number of alternative sites have also been suggested. Council did assess alternative sites. From Council's property portfolio and crown land, Council's Property Manager shortlisted three sites for the centre. Of these three, a detailed assessment was undertaken and Melaleuca Reserve was the recommended site.

Following receipt of the panel hearing report which included a recommendation that consideration being given to undertaking an audit of Council managed open space within the Catalina and Batehaven local areas and providing this for community comment, a second review of Council land has been undertaken. This additional review of potential alternatives included the following activities:

- Reliance on a review of the section 53 register of land under Council's control.
- Review of a list of properties that Council's property manager listed for further consideration stemming from previous property reviews.
- Examination of specific sites suggested by members of the public.
- Consideration of the following:
  - Appropriate zoning
  - Recreation and Open Space Strategy requirements
  - Asset Protection Zones (bushfire)
  - Whether Council has already resolved to sell the lots in question (not considered if Council has)
  - The size of land required for the facility
  - Batemans Bay location (and surrounding suburbs north to Long Beach and south to Surf Beach)

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**PSR16/028 DRAFT COMMUNITY LAND PLAN OF MANAGEMENT - RE-  
CATEGORISATION AND LEASE OF COMMUNITY LAND - MELALEUCA  
RESERVE, CATALINA**

**E03.7447**

This review reconfirmed Melaleuca Reserve as the most appropriate location. Community members who have suggested particular sites have been advised why suggested sites are considered unsuitable.

A key concern of submitters has been the loss of open space, with some stating they are concerned about losing the park. When the area of useable open space proposed to be taken up by the facility is subtracted from the total area of useable open space in Melaleuca Reserve, approximately 70% of the useable open space remains. However, in discussion with Council, submitters have maintained that the most functional area of open space is the central, open part of the park around the playground and toward Calga Crescent. Much of this land is proposed to be taken up by the facility.

The public hearing report recommended that consideration be given to investigating an alternate area of Melaleuca Reserve closer to the existing community centre. This would enable the integrity of the playground area and land north toward Calga Crescent to be maintained. Council have investigated this recommendation and held further discussions with submitters and Muddy Puddles. It is not possible to place the facility immediately adjacent to the existing community centre due to bushfire asset protection zone (APZ) requirements. However it is possible to locate the carpark in the immediate south east corner of the site (to provide the APZ) and the building to the north of the carpark. Locating the facility and carpark in this manner will maintain the integrity of the playground and open space land immediately north of the playground.

A recent submission included a "template" style letter of objection that stated "*I ask your support in opposing the proposal (with support for siting the development in the SE corner as a fall back position)*". A further late submission from an objector, also included in Attachment 3, also recommends a revised configuration with the carpark in the south east, initial building north of this and future lease area further north again. This revised configuration is at Attachment 2. This submission describes the reconfigured siting as a "*win win possibility for all stakeholders*".

Given this is a revised position from some objectors, and Muddy Puddles is accepting of this suggestion, it does seem to be a compromise alternative that minimizes the loss of parkland but still enables the construction of a facility that will provide a valuable community service to the residents of the Eurobodalla. While it is recommended that the re-categorisation proceed as exhibited, it is also recommended that the future educational therapy centre, carpark and access be sited as depicted in Attachment 2 to minimise the impact on the existing playground and open space area. This would be assessed and finalized at a future development application stage.

Submitters also raised a number of concerns regarding site constraints. The public hearing report responded to these matters which can be addressed at the development application stage. This will include building to the flood planning level (as the existing community centre has done), access, car parking and traffic management.

Toward the close of the submission period, and after the submission period closed, several submissions questioned the status of Muddy Puddles, either implying or stating that they were

**PSR16/028 DRAFT COMMUNITY LAND PLAN OF MANAGEMENT - RE-  
CATEGORISATION AND LEASE OF COMMUNITY LAND - MELALEUCA  
RESERVE, CATALINA**

**E03.7447**

a commercial operation. Submissions have also questioned whether Muddy Puddles needs to establish itself in Batemans Bay, whether Moruya or Narooma may be an option. In response to these claims, Muddy Puddles have advised that they are a not-for-profit organisation offering therapy and education programs for children and young people with a disability, their families and the community, to promote development, awareness and inclusion. The organisation was established by Batemans Bay parents of children with a disability with the intention of establishing the educational and therapy centre. They are very reliant on a volunteer support base that lives in Batemans Bay. It is therefore essential for the successful operation of the centre that it is located in Batemans Bay.

**Legal**

Melaleuca Reserve is Council owned land classified as community land comprising part Lot 2 DP 729153, Lot 1 DP 821449 and part Lot 39 DP 800369. A plan showing the reserve is below.



The Catalina Reserves and the Hanging Rock Boat Ramp Car Park Reserve Plan of Management (POM) adopted in January 2002 categorised Melaleuca Reserve as part “Park” and part “General Community Use”. The categorisation of “General Community Use” was adopted to authorise the construction of the Batemans Bay Preschool and Batemans Bay Children and Family Centre. A plan showing the current categorisation is below.



**PSR16/028 DRAFT COMMUNITY LAND PLAN OF MANAGEMENT - RE-  
CATEGORISATION AND LEASE OF COMMUNITY LAND - MELALEUCA  
RESERVE, CATALINA**

E03.7447



For the proposal by Muddy Puddles to progress it will be necessary to re-categorise part of Lot 39 from "Park" to "General Community Use". In accordance with the provisions of the Local Government Act 1993, the re-categorisation of community land requires an amendment to the POM.

A plan showing the proposed re-categorisation of part Lot 39 is below.



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**PSR16/028 DRAFT COMMUNITY LAND PLAN OF MANAGEMENT - RE-  
CATEGORISATION AND LEASE OF COMMUNITY LAND - MELALEUCA  
RESERVE, CATALINA**

**E03.7447**

For leases exceeding 21 years, Council must also consider any objections, and regardless of objections requires the consent of the Minister for Local Government to grant a lease. Applications to the Minister must include a statement outlining the special circumstances that justify the period of the lease exceeding 21 years

**Asset**

There is no fixed infrastructure on that part of the reserve sought by Muddy Puddles. As part of the proposal Muddy Puddles has indicated it will enhance and expand the existing play equipment and the proposed car park will be available for patrons of the reserve. The proposed lease will be a land only lease and accordingly Council will have no responsibility for any associated building construction or maintenance costs.

Recommended conditions of a lease will include any assignment of the lease will be at the lessor's absolute discretion. This will ensure Council has control over who occupies its land.

**Social Impact**

In their submission Muddy Puddles has advised:

*Unlike surrounding shires, the Eurobodalla does not have a hub from which education, therapy and support can be coordinated and delivered to children with a disability aged 0 to 17 years. Families living in the Eurobodalla are not eligible for services in neighbouring shires as these providers are at capacity and can only service families within their shire boundaries. Impacted families currently have to travel as far as Canberra and Sydney to access the services they require, often at huge personal expense.*

The provision of the proposed educational therapy centre would be beneficial to the Shire for families of children with a disability. While there is some localised loss of public open space, the compromise to locate the facility in the south east of the reserve will minimise the community impact in terms of loss of public open space, is consistent with the stated "fall back" position of some submissions and will result in the provision of a valuable community facility.

**Economic Development Employment Potential**

The proposed educational therapy centre will provide employment including professional consultants.

**Financial**

In accordance with existing leases to community not-for-profit groups, it would be recommended annual rent for the land would commence at 1.5% of the unimproved capital value (UCV) of the land, increased to 2.25% UCV at year 10 and 3% UCV at year 20 with annual increases in line with the CPI for the intervening years. Should the business change from a community not-for-profit enterprise, then rents would be adjusted to a fully commercial basis.

All costs associated with the establishment of the centre and the lease to be borne by Eurobodalla Education and Therapy Services Limited, trading as Muddy Puddles, including vehicle / pedestrian access, survey and plan registration.

In line with Council practice, the lessee will be responsible for all outgoings.

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**PSR16/028 DRAFT COMMUNITY LAND PLAN OF MANAGEMENT - RE-  
CATEGORISATION AND LEASE OF COMMUNITY LAND - MELALEUCA  
RESERVE, CATALINA**

**E03.7447**

**Community Engagement**

Community engagement has been undertaken in accordance with the requirements of the *Local Government Act 1993*. The public hearing report acknowledged this, stating that Council had gone beyond the minimum requirements of this Act.

In addition to the community engagement carried out by Council, Muddy Puddles advised that they carried out an extensive mail box drop of 150 flyers to residents in Calga Crescent, Melaleuca Crescent and Yarrabee Drive as soon as the public notice was erected on the Melaleuca Reserve site. Muddy Puddles wanted to introduce themselves to residents and give them an opportunity to find out more about the organisation. To the 15 June 2016, Muddy Puddles have advised that they only received one phone call in response to the letter drop – and that was in support of the development.

While there is a recommendation of a reconfigured siting, the area to be re-categorised is not recommended to be modified. Council could choose to re-exhibit based on the reconfigured siting, but this is not necessary to do so in accordance with the *Local Government Act 1993*. The reconfigured siting has been proposed by both the public hearing report and a number of submitters and is acceptable to Muddy Puddles.

**CONCLUSION**

The proposed re-categorisation of part of Melaleuca Reserve and the granting of a 30 year lease has been exhibited in accordance with the requirements of the *Local Government Act, 1993*. The report on the public hearing recommends the re-categorisation proceed. To minimise the impact upon public open space yet still deliver a valuable community facility, it is recommended that the facility be sited as depicted in Attachment 2.

PUBLIC HEARINGS REPORT AND RECOMMENDATION  
PROPOSED RE-CATEGORISATION OF COMMUNITY LAND (MELALEUCA CRESCENT)  
WITHIN THE CATALINA AND HANGING ROCK RESERVES  
EUROBODALLA SHIRE COUNCIL

FINAL REPORT

June 2016

Report 16/011

PREPARED BY

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PUBLIC HEARING REPORT  
PROPOSED RE-CATEGORISATION OF MELALEUCA CRESCENT RESERVE

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**CONTENTS**

1.	INTRODUCTION	1
1.1	Purpose of the public hearing report	1
1.2	Defined land for re-categorisation	1
1.3	Legislative requirements	2
1.4	Proposed re-categorisation from park to general community use	3
1.5	Public hearing details	4
1.6	Proposal and hearing notification	4
1.7	Attendance at public hearings	4
1.8	Written submissions	5
1.9	This report	5
2	SUMMARY OF SUBMISSIONS	5
3	DISCUSSION AND ASSESSMENT	9
4	RECOMMENDATION	14

APPENDIX A – Indicative layout for future lease facility

APPENDIX B – Alternate area for re-categorisation

PUBLIC HEARING REPORT  
PROPOSED RE-CATEGORISATION OF MELALEUCA CRESCENT RESERVE

**1.0 INTRODUCTION**

David Seymour as principal of urPlan Consulting has been engaged by Eurobodalla Shire Council to conduct and chair public meetings and prepare a subsequent report to Council. This report provides a assessment of the issues arising from those meetings and offers a recommendation pertaining to the re-categorisation of the defined land.

**1.1 Purpose of the public hearing report**

This public hearing report has been prepared under Section 40A of the *Local Government Act 1993* (LG Act). The purpose of this report is to report to Eurobodalla Shire Council on the submissions made in relation to a public hearings held on 27 April and 18 May 2016 regarding the proposed re-categorisation of parkland within the Catalina and Hanging Rock Reserves in Eurobodalla local government area.

**1.2 Defined land for re-categorisation**

This public hearing report addresses the proposed re-categorisation of land classified as community land under the *Local Government Act 1993* and forms part of the Catalina and Hanging Rock Reserves Plan of Management (POM), adopted by Council January 2002. This report and the detailed land mapping will accompany a future Council staff report to Council with a recommendation as to whether an amendment of the POM should precede.

The proposed amendment to the POM will amend the categorisation of part lot 39 DP 800369 (referred further in this report as Melaleuca Crescent reserve), the defined land from 'Park' to 'General Community Use', (refer map 1). The proposed amendment and the requirement for the public hearings are part of the recommendations within the report to Council (FBD16/005) Council meeting 23 February 2016.



**Map 1** Defined area for re-categorisation, (source LPI SiX maps 2011)

PUBLIC HEARING REPORT  
PROPOSED RE-CATEGORISATION OF MELALEUCA CRESCENT RESERVE

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### 1.3 Legislative requirements

Land owned by Council may be classified as either 'community' or 'operational land'. Community land is defined as land that must be kept for the use of the general community, and must not be sold. Categorisation of community land determines the way in which the land will be managed. In accordance with Section 36(4) of the Local Government Act, community land is to be categorised as one or more of the following:

- Natural Area;
- Sportsground;
- Park;
- Area of Cultural Significance, or
- General Community Use.

Land that is categorised as a 'natural area' is to be further categorised as one or more of the following under Section 36(5) of the Act:

- Bushland;
- Wetland;
- Escarpment;
- Watercourse, or
- Foreshore.

Guidelines and core objectives for the various categories of community land, which set out Council's intentions for the use and management of land in each category, are prescribed by legislation, including the *Local Government Act 1993* and the *Local Government (General) Regulation 2005* (Regulation). Council must categorise community land according to these guidelines, and manage the community land according to these core objectives. Any additional Council objectives for the land must comply with the core objectives established within the Act. The importance of the prescribed core objectives is to ensure that any uses or developments of the land are consistent with the core objectives for that category of land.

In consideration of the re-categorisation of the Melaleuca Crescent reserve land, it is worth noting the guidelines for categorising community land as set-out in the Department of Local Government's revised *Practice Note on Public Land Management* (Department of Local Government, 2000). The Practice Note stated:

*"Council must have regard to the guidelines in determining a category (cl.9) but are not required to adopt any category merely because the land fits the description in the guidelines. Council should look at all the circumstances of the land in making a decision as to categorisation. For example, a piece of land may seem to satisfy the guidelines for more than one category. Council has a discretion in this case to look at the land in context, taking into account all relevant material before determining a category. It is important that Council be able to justify a decision."*

Therefore, in making the proposed category determination, Section 40A of the *Local Government Act 1993*, requires Council to hold a public hearing into the proposed amendment to the POM. Public hearings need to be conducted by an independent chairperson under Section 47G of the Act.



PUBLIC HEARING REPORT  
 PROPOSED RE-CATEGORISATION OF MELALEUCA CRESCENT RESERVE

**1.4 Proposed re-categorisation of ‘park’ land to ‘general community use’.**

The proposed amendment to the POM identifies that portion of community land which is proposed to be re-categorised for General Community use. The recommendation to initiate the re-categorisation amendment process was adopted by Council on 23 February 2016 (report FDB16/005). The assessment of the proposal exhibition and public hearing will assist Council in its considerations of the proposed re-categorisation.

The purpose of a public hearing is to provide Council with an understanding as to whether the community supports or has concerns in respect to the proposed re-categorisation. To assist Council and the community in understanding the intent and desired outcome for the community land categories, the Department has provided guidelines and core objectives for each category. The guidelines and core objectives for ‘park’ and ‘general community use’ are tabled below:

**Table 1.4** Guidelines and core objectives for the relevant categories of ‘community land’ as set out in the Act and Regulations.

CATEGORY	GUIDELINES	CORE OBJECTIVES
Park	For land to be categorised as a park under the Act, the Regulations require that the land is, or is proposed to be, improved by landscaping, gardens or the provision of non-sporting equipment and facilities, for use mainly for passive or active recreational, social, educational and cultural pursuits that do not unduly intrude on the peaceful enjoyment of the land by others.	a) to encourage, promote and facilitate recreational, cultural, social and educational pastimes and activities, and b) to provide for passive recreational activities or pastimes and for the casual playing of games, and c) to improve the land in such a way as to promote and facilitate its use to achieve the other core objectives for its management.
General community use	For land to be categorised as a park under the Act, the Regulations require that the land; a) may be made available for use for any purpose for which community land may be used, whether by the public at large or by specific sections of the public, and b) is not required to be categorised as a natural area under section 36A, 36B or 36C of the Act and does not satisfy the guidelines under clauses 102–105 for categorisation as a natural area, a sportsground, a park or an area of cultural significance.	To promote, encourage and provide for the use of the land, and to provide facilities on the land, to meet the current and future needs of the local community and of the wider public: a) in relation to public recreation and the physical, cultural, social and intellectual welfare or development of individual members of the public, and b) in relation to purposes for which a lease, licence or other estate may be granted in respect of the land (other than the provision of public utilities and works associated with or ancillary to public utilities).

The re-categorisation of the Melaleuca Crescent Reserve land will only require that part of the park reserve as described in the proposed re-categorisation map to be affected by the proposed re-categorisation as attached to the prior Council amendment report.

PUBLIC HEARING REPORT  
PROPOSED RE-CATEGORISATION OF MELALEUCA CRESCENT RESERVE

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### 1.5 Public Hearing details

Two public hearings have been held. The first on Wednesday 27 April 2016 within Council Chambers and a second meeting held on Wednesday 18 May 2016 at the Batemans Bay Community Centre, to receive verbal submissions on the proposed re-categorisation of community land for inclusion in the Draft Plan of Management.

These hearings were held during the public exhibition of the re-categorisation proposal which occurred from 30 March to 25 May 2016. The timing and dates of the public hearings permitted public notification of the public exhibition of the proposal and of the public hearings to occur within the same time period.

### 1.6 Proposal and hearing notification

Section 38 of the Local Government Act provides that Councils must give 'public notice' of proposals that will give rise to a plan of management amendment, the length of time for which it must be on public exhibition and for submissions to be made. The contents of the public notice are set out in Section 705 of the Local Government Act.

The public exhibition of the proposed re-categorisation and the public hearing arrangements were communicated to the community by:

- information placed on the Council web-site which included details of the proposal, Council report with initial re-categorisation recommendation, period of exhibition and dates of public hearings;
- public notices in local print media;
- letters sent to local residents with property ownership adjoining and close to the land forming Melaleuca Crescent reserve land;
- Statutory stakeholders as required under the Act.

The re-categorisation proposal, Council report plus background material was on public exhibition on Council's website and at Council's Moruya administration centre. The information material and affected land mapping was available at the public hearings. The notification notices informed the community that they could make a submission about the proposal by:

- making a written submission no later than the conclusion of public exhibition either on-line, by email or by post.
- speaking at the public hearing.

### 1.7 Attendance at Public Hearings

As required under Section 47G of the Local Government Act, Council appointed an independent chairperson to attend and chair the hearings. For both hearings David Seymour of urPlan Consulting officiated as chair.

Eurobodalla Council staff were in attendance at the meetings, Mr Rob Addison – Council Property Manager and Mr Jeff Morgan – Council's Manager of Strategic Services were in attendance at the hearing on 27 April 2016. Mr Rob Addison attended the hearing on 18 May 2016.

Six members of the public attended the first hearing held in Council Chambers. The second hearing, held at the Council Community Centre, Batemans Bay, was attended by 21 members of the public.

PUBLIC HEARING REPORT  
PROPOSED RE-CATEGORISATION OF MELALEUCA CRESCENT RESERVE

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Both hearings commenced with an introduction by the Chair and a brief explanation of the process under the *Local Government Act 1993* for classification of community land, Plans of Management for community land, and categorisation of community land. Due to the nature of the proposed re-categorisation, a detailed explanation was offered on the process of amending a standing Plan of Management.

Several questions ensued during the hearings as to the process thus far and to clarify the relationship and management responsibilities Council has in administering community land. At both sessions several issues were raised by attendees some of which related to the same or similar matters of concern, or issues requiring further clarification by Council staff and the Chair. (Refer to section 2 for greater detailed and assessment of the submissions received and issues raised during the hearings).

The hearing held on 27 April 2016 concluded just after the hour allocated for the hearing. Due to the number of the community attending the second hearing on 18 May 2016, this hearing continued a little longer than the allocated time.

Both hearing were closed with a brief explanation of the re-categorisation and amendment process from that point forward.

#### **1.8 Written submissions**

During the period of exhibition, Council received five written submissions, two of which were submitted via E-mail direct to Council. Of these submissions, three were in support of the proposed action and two opposed.

One person who attended the first public hearing provided a written submission to the Chairperson on which their verbal submission to the hearing was based.

#### **1.9 This report**

This report details the issues arising from the public hearings and in consideration of the Council intent and direction as set out in the preceding Council report and will offer a recommendation as to the future action in respect to the re-categorisation of the identified reserve area. It must be stressed that the Act does not direct Council to concur or to act in accord with the recommendation of this report.

#### **2.0 SUMMARY OF SUBMISSIONS**

This section identifies and summarises all submissions (both written and verbal) that were received by Council during the notified period of exhibition and time for receipt of submissions. In several specific areas there was commonality of issues raised both in terms of verbal and written matters of concern. The following summary table is a consolidation of issues, whereby commonality of issue within the submission have been grouped.

Due to the nature of intended long-term use that the re-categorisation will provide for, it has been necessary to separate those comments that are more directly attributed to the effect of the re-categorisation in deference to the establishment and operation of the specific facility that the action may eventually support. In that regard, the following table summarises those issues that were deemed to relate more specifically to the process of re-categorisation and any possible use that may eventuate, once the land could support a more intense activity than currently permitted in the form of managed parkland.



PUBLIC HEARING REPORT  
 PROPOSED RE-CATEGORISATION OF MELALEUCA CRESCENT RESERVE

**Table 1** Submission summary

DATE	SUBMISSION TYPE	SUBMISSION ISSUE	DISCUSSION/MATERIAL CONTEXT
12 April	E-mail (support proposal)		
20 April	Letter (support proposal)		
22 April	E-mail (support proposal)		
27 April	Written submission	Erosion of parklands; Low-lying land; Soil water retention; Intensification of use; Increased traffic; Street parking issues; Further development pressures; Loss of open space;	(Many of these issues were raised during the first and second hearing and discussed in detail, refer below).
27 April	Verbal presentation supporting the proposal from the proponents of the education facility, (Public Hearing)	Co-location with existing school facility; Connectivity with Corrigan's Park disability playground; Facility not available within Shire; Purpose facility for disability needs and play area; Centrally positioned and easily accessible;	
27 April	Verbal submission by opponent to the proposal, (Public Hearing)	Verbal re-iteration of written submission detailed above.	<p>It was emphasised by the presenter that the opposition was not directed at the organisation that required the provision of the education facility, but that the location of utilising open parkland was inappropriate.</p> <p>The presentation stressed the importance of open and unstructured parkland and that these areas were gradually being diminished throughout the Shire.</p> <p>The existing park provides a rare level and shaded area for children's play and for companion animal exercise.</p> <p>The park provides a visual barrier to the adjacent and busy George Bass Drive for the residential area.</p>

PUBLIC HEARING REPORT  
 PROPOSED RE-CATEGORISATION OF MELALEUCA CRESCENT RESERVE

DATE	SUBMISSION TYPE	SUBMISSION ISSUE	DISCUSSION/MATERIAL CONTEXT
18 May	Verbal submission by opponent to the proposal, (Public Hearing)	Erosion of open space.	Re-categorisation will lead to inevitable loss of parkland regardless of selection of use organisation.
18 May	Verbal submission by opponent to the proposal, (Public Hearing)	Increase of traffic movements.	The proposed use plus the intensification of further estate development will increase traffic within Melaleuca Crst which currently experiences high traffic volumes at peak times.
18 May	Verbal submission by opponent to the proposal, (Public Hearing)	Effect of diminishing park use.	Transferring open park to more built structures will deny the community of active recreational space.
18 May	Verbal submission by opponent to the proposal, (Public Hearing)	Effect on natural aesthetic view	The park provides a natural barrier for the long-view to the west from residential areas. The proposed buildings will alter that view to more built-form and compromise the aesthetic value.
18 May	Verbal submission by opponent to the proposal, (Public Hearing)	Removal of pet exercise area.	The park is one of few areas where pet owners can freely exercise their animals. The proposed facility will further limit that use.
18 May	Verbal submission by opponent to the proposal, (Public Hearing)	Loss of vegetation.	The proposed facility will require removal of existing mature vegetation.
18 May	Verbal submission by opponent to the proposal, (Public Hearing)	Limited consultation (specifically prior written notice) for neighbours and near-by residence.	Respondents were concerned that the prior written advice from Council as to the intended re-categorisation was limited to a very few immediate neighbours.
18 May	Verbal submission by opponent to the proposal, (Public Hearing)	Alternate building layout.	Respondents suggested that a more compact and re-sited building and service area would have less impact and would not so aggressively impinge into the existing parkland.
18 May	Verbal submission by opponent to the proposal, (Public Hearing)	Lack of pre-proposal audit of existing parkland within the local area.	Respondents were concerned that there had not been any assessment before-hand as to the availability and local accessibility of similar parkland that could substitute if this park were to be significantly reduced in open space area.
18 May	Verbal submission by opponent to the proposal, (Public Hearing)	Site elevation and drainage.	During discussion several community members described the low-lying nature of the land and its propensity for poor drainage and water dispersal following heavy rain events.



PUBLIC HEARING REPORT  
 PROPOSED RE-CATEGORISATION OF MELALEUCA CRESCENT RESERVE

DATE	SUBMISSION TYPE	SUBMISSION ISSUE	DISCUSSION CONTEXT
18 May	Verbal submission by opponent to the proposal, (Public Hearing)	Unexpected changes to accepted environmental quality.	Respondents with residential property adjacent to the park were concerned that the local environmental quality that attracted them to the area were being compromised and the initial ambience was now being threatened.
25 May	Written submission	<p>Loss of neighbourhood amenity:            Removal of open unconstrained play area;            Increase of traffic in local streets, (reduced safety);            Loss of open space;            Flood prone land;            Poor drainage, regular evidence of high soil water retention;            Loss of parkland for pet animal exercise;            Presence of acid sulphate soils;            Lack of open space audit to support park removal;            Removal of open space as educational tool for children play relationships;            Removal of vegetation buffer to main traffic corridor;            Lack of written advice in the form of site notice, letters to adjacent neighbours and ease of access on Council web-site.</p>	<p>The written submission was extensive in both the breadth of issues and reference to support material in the value of open space within the urban environment. Many of the issues had commonality with issues raised in other submissions.</p> <p>The submission also raised the question whether there is requirement for (and value gained) from an audit of local open space and the communities views on the value and acceptable component of, open space within individual neighbourhoods.</p> <p>The submission was also critical of the proposed re-categorisation of the particular land in light of some of Council's own policy on development of areas that are flood affected and where there is likelihood of acid sulphate soils.</p>

PUBLIC HEARING REPORT  
PROPOSED RE-CATEGORISATION OF MELALEUCA CRESCENT RESERVE

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### 3.0 DISCUSSION AND ASSESSMENT

The Council had chosen to run the re-categorisation process in conjunction with the selected organisational use that would likely exist upon the land following the proposed re-categorisation. Although having given exposure to the preferred end-use arrangement, this approach should not compromise the impartiality of dealing directly with the re-categorisation as described in the prior Council report and exhibition material. The process of assessing the community value and acceptability should not be influenced by the merit or otherwise of the possible end use. Therefore, this assessment and the tenor of the following discussion, deals directly with the transfer of the land to the category of 'General Community Use' and the assumption that the proposed category will lead to a more structured built form to be developed on the land, irrespective of the organisation that may be accommodated within those structures.

The range of issues of general concern expressed by members of the community present at the hearings, mainly focused on three broad areas of concern; environmental amenity loss, perceived built-form impact and questioning of procedural thoroughness, all of which may have a consequence to those in close proximity to the land. Certainly the expressed loss of open space could have a more dispersed effect for the local community.

The issues of concern raised in respect to the possible development of buildings and carpark areas upon the land such as increased traffic hazards, possible flooding hazard, drainage retention, loss of vegetation to mention a few, would in the most part be ameliorated through good engineering solutions and some sensitive landscaping post development. However, the issues surrounding diminution of the natural park environment has a sense of finality in its direct effect. The value of the built environment interspersed with generous areas of parkland, was viewed by the local residents attending the hearing, as a valuable contribution to the liveability of urban areas. The aesthetic value that the present park provides in offering physical separation for the residential development from the main traffic corridor of George Bass Drive, was a point earnestly presented at the hearing. The benefit the park also provides in accessibility and unencumbered form and unrestricted use by pet owners for animal exercise reinforces the value in the parks' present form. The loss of a significant area of the park for a use that will restrict those activities to a smaller area may be less easily managed long-term.

The legislative process of amending statutory documents is rigorously regulated within the sections of the Local Government Act 1993. The form and dispersal of notification is quite detailed as to the minimum requirements and how those requirements are carried out. Certainly in the instance of the reporting and notification of the proposed re-categorisation affecting Melaleuca Crescent reserve, these requirements have been observed by Council. Some elements of the notification such as the period of exhibition and the availability of access to a public hearing, has provided additional opportunities for community input to the process. The divergence of 'expectation' by the community as to fairness in these legislative processes can be challenging to get the balance right. The response received both in terms of written submissions and in attendance at the two public hearings would indicate that awareness in the proposed amendment to the reserves Plan of Management had not gone un-noticed by those in the community who value the opportunity to interact with Council procedures. The following table lists the individual issues that had been raised through the submissions (both verbal and written) and provides a response, particular in explanation. Where possible, a collective response is provided where the issue has commonality across submissions.

**Table 2** Assessment and response to submission issues

ISSUE	RECOGNISED IN SUBMISSIONS (No)	ASSESSMENT/RESPONSE
Loss of open space	5	The process of re-categorisation does not dictate the nature of use that may eventuate upon the land. However, the proposal initiating the re-categorisation has intention for the provision of buildings and paved carpark areas. These facilities will reduce the overall area available for direct recreational access. The proposed facility will not occupy the entire area of the land defined for re-categorisation and there will be a significant area of the reserve still accessible as parkland.
Loss of neighbourhood amenity (the 'reading' being, the change of natural environment to urban built environment), including removal of vegetation.	3	Understanding that the proposed re-categorisation (if adopted by Council) will likely lead to the placement of buildings and pavement areas on the land, the near horizon will be modified for nearby residents. However, the style of such structures would most likely be of modest residential form and scale. There will likely result in some vegetation removal, but the area identified for re-categorisation does not contain the greater percentage of mature vegetation within the larger reserve area.  It would not be unreasonable to expect, that as and when any development occurs on the land, that replacement of plantings would ensue together with the future landscaping of the more structured areas.
Reduction of children's active play area, including limitation of un-structured play areas.	1	The reserve area does currently encapsulate a built children's playground with modular style play elements, however the reserve remains otherwise un-formalised natural space. The proposed re-categorisation area does include the area currently occupied by the playground. It is understood that the playground will not be lost but will be relocated such that it will remain accessible within the reserve.  The proposed area for re-categorisation and the suggested structure layout for the lease facility will not occupy the whole reserve and there will be an area of parkland that will remain publically accessible. The reserve will still provide a significant space for active play.
Removal of open park area for pet animal exercise.	3	It would be reasonable to assume that upon the proposed re-categorisation and the intended lease of some of the land for the intended facility, that the lease area will exclude public access and therefore reduce the area for activities such as pet animal exercise. However, the reserve is only one park location within the local area where animal exercise is permitted. Most open public places are pet animal friendly. The remaining open reserve land and adjoining reserves will still be available for animal exercise.



PUBLIC HEARING REPORT  
 PROPOSED RE-CATEGORISATION OF MELALEUCA CRESCENT RESERVE

ISSUE	RECOGNISED IN SUBMISSIONS (No)	ASSESSMENT/RESPONSE
Increase in traffic use of Melaleuca Crst.	4	<p>The possibility that the re-categorisation could permit the establishment of a facility that would create a greater intensity of use is likely and would increase traffic within local streets. It must be acknowledged that any intensity of development will introduce an increase of vehicle trips and this should be reflected in the design of development access such that the direct contributable effect will not introduce unacceptable safety concerns.</p> <p>It is also the responsibility of road users and those accessing the various facilities to be mindful of the public nature of the street and to be aware of the local environment for which the street serves. Melaleuca Crescent is already operating as a local collector road and if continued development is to be permitted, the ability of the current street design may need to be a shorter term priority for Council works program.</p>
Increase in short-stay street parking	2	<p>The nature of the likely facility type to be established within the re-categorised area together with the existing pre-school facility, will exacerbate the existing issue of short-stay street parking. The dimensioning of the existing street layout, curves and pavement width does create issues for through traffic if vehicles are parallel parking on both sides of the street.</p> <p>Local development controls do require that all developments provide a reasonable complement of off-street parking for the needs of the particular development, however the nature of the likely facility to be established on the re-categorised land and the existing pre-school are of an activity nature that generates short-interval parking. Considering the street curvatures and alignment, the Council may need to consider a mix of alternate street parking lay-by lane together with street parking prohibition for one side of the street.</p>
Poor drainage, regular evidence of high soil water retention	5	<p>The land, of which the Melaleuca Crescent reserve is part, constitutes a low elevation catchment basin for the surrounding hill-slopes. The reserve land is also traversed by an ephemeral drainage channel at the northern end. Acting as a basin, the upper soil horizon will retain moisture as natural transpiration and evaporation remove the excessive moisture. This high moisture state only remains for short periods.</p> <p>It would be possible with some co-operative soil drainage infrastructure to provide sub-surface drainage such that the duration of high soil moisture would be reduced and transferred to the natural drainage line that is outside the area for re-categorisation.</p>

PUBLIC HEARING REPORT  
 PROPOSED RE-CATEGORISATION OF MELALEUCA CRESCENT RESERVE

ISSUE	RECOGNISED IN SUBMISSIONS (No)	ASSESSMENT/RESPONSE
Code identified as 'flood prone land'	2	<p>Council's Interim Coastal Hazard Adaption Code identifies the land as possibly subject to flooding under the Code defined flooding scenarios. It would therefore be expected that following the process of re-categorisation, any future structures proposed for establishment on the land, would need to be designed to meet the criteria of the Code and to provide specialist advice in establishing a flood planning level sufficient to accommodate and be free of, any Code defined flood induced event.</p> <p>There are other structures within close proximity that are operating at similar bench floor levels which have been established to reduce any possible flood risk. It is noted that the adjacent Pre-school floor level has been raised which would seem to suggest a design solution to the possibility of localised flood hazard mitigation.</p>
Possible presence of acid sulphate soils	1	<p>Council mapping indicates that the land has been identified for the possible presence of Acid Sulphate Soils (ASS). Within the category defined by the mapping, it is possible that the presence of ASS would occur well below the surface soil profile.</p> <p>Proposed earthworks in possible ASS areas can be carried out provided the risk is understood and an ASS management plan has been prepared. It would be anticipated that an ASS management and risk strategy would be sought by Council prior to any future earthworks for building work on the land.</p>
The value of open space as educational tool for children play relationships	1	<p>The preliminary work undertaken prior to, and in preparation of, the re-categorisation process had not included an holistic evaluation of open parkland spaces that were of a comparable character to that as existing within the Melaleuca Crescent reserve. Therefore it is not possible to validate that the reduction in area as proposed by the re-categorisation could be significant. There are other open space areas within close proximity to the reserve that provide for the un-structured play experiences, as raised as a matter of concern.</p> <p>Therefore, it would not be unreasonable to request of Council that prior to adopting an amendment to the POM, that an audit of open space, similar to that offered by Melaleuca Crescent reserve be carried out to ensure that the proposed reduction of parkland will not be holistically significant.</p>
Lack of open space audit to support park removal	1	<p>Although the process of re-categorising Community land would not normally require a separate study of like areas to assist the consideration of the re-categorisation, in this instance it would seem desirable. (Refer previous issue response).</p>

PUBLIC HEARING REPORT  
 PROPOSED RE-CATEGORISATION OF MELALEUCA CRESCENT RESERVE

ISSUE	RECOGNISED IN SUBMISSIONS (No)	ASSESSMENT/RESPONSE
Limited consultation (specifically prior written notice) for neighbours and near-by residence	3	<p>Section 38 of the Local Government Act is specific as to the minimum requirements for notification in respect to amending a POM and how those requirements are to be carried out. Certainly in the instance of the reporting and notification of the proposed re-categorisation affecting Melaleuca Crescent reserve, these requirements have been observed by Council. In this instance Council has extended the notification period of exhibition and has provided a second public hearing, these additional avenues for information access has provided opportunities for community input to the process.</p> <p>As required under the Act, Council had provided prior written advice to the immediate adjoining property owners. In addition, Council had provided details of the proposed re-categorisation on Council's web-site during the extended period of notification.</p>
Suggestion of alternate area within the reserve for the re-categorisation	2	<p>During general discussion at the second Public hearing (18 May 2016), there was raised the suggestion that Council could consider an alternate and less impact area of the reserve for re-categorisation. The suggested area generally would be located to the west and in alignment with the lease area currently occupied by the pre-school. Although this described area would limit the future expansion opportunities for possible education facilities, those members of the community raising the suggestion felt the impact on the park would be more acceptable.</p> <p>Understanding that some preliminary discussions have taken place between Council and the organisation whom wish to develop on the re-categorised community land area, there may need to be some investigation that the option of an alternate area of the park would be suitable, (refer appendix B). Considering the desirability and co-location advantage of the land and taking on balance the concerns raised by those attending the hearing it would seem appropriate that some re-evaluation of the required land area should be investigated.</p>



PUBLIC HEARING REPORT  
PROPOSED RE-CATEGORISATION OF MELALEUCA CRESCENT RESERVE

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#### 4.0 RECOMMENDATION

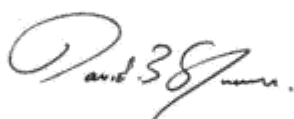
The question of re-categorisation of 'park' to 'general community use' as it relates to the defined land (lot39 DP 800369, in part), should be assessed in light of the gained overall benefit delivered to the community through the POM amendment process. It is not the purpose of this report to consider or presage, the action of Council in the future lease or use of the land, but to assess the benefit of the re-categorisation in terms of community benefit.

The two public hearings did engender some passionate and well-articulated concerns as to the proposed built form use which may eventuate on the land. It has been the need to find a suitable land component for the education facility that has initiated the need for the re-categorisation process. Indeed, the community group representing the proposed children's disability education facility are equally passionate and have demonstrated a commitment to locate a suitable site for their facility.

As mentioned in the assessment section above, many of the concerns as brought forward in written submissions and articulated in the public hearings, could be managed through applying good engineered and design solutions. Therefore, understanding that the likely use of the re-categorised land will support some form of structural development, the question as to whether the land 'could be' developed is fairly straight forward, yes it can. However, the more difficult question is whether the land 'should be' re-categorised to support this envisaged use? Many of the issues raised in both the written and verbal submissions relate directly to matters that could be addressed with either engineering or structural placement solutions. Of course the less physical issues such as perceived changes to local amenity and adjustment for a change in the use of open space, may take longer for the local community to accommodate. However, on balance it is my recommendation that the re-categorisation of the community land currently forming part of the reserve known as Melaleuca Crescent reserve should proceed.

In offering this recommendation it is my suggestion that Council consider the following two actions to assure the local community that the action of re-categorisation will not unduly impact on the continued enjoyment of the reserve as currently provided.

- That prior to the drafting of an amendment to the Plan of Management for the Catalina and Hanging Rock reserves, that an audit of Council managed open space within the Catalina and Batehaven local areas be undertaken and provided for community comment;
- That together with the representatives of the Children's Disability Education Facility for whom the proposed re-categorisation process had been initiated, Council investigate a possible alternate area of the parkland more closely aligned with the current pre-school, such that a greater proportion of the parkland is retained.



David Seymour MPlA CPP  
BSc (Build) Melb, BU&R Plan (Hons) UNE,

12 June 2016

PUBLIC HEARING REPORT  
PROPOSED RE-CATEGORISATION OF MELALEUCA CRESCENT RESERVE

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## APPENDIX A

PROPOSED FUTURE USE OF RE-CATEGORISED COMMUNITY LAND  
INDICATIVE LAYOUT FOR CHILDRENS DISABILITY EDUCATION FACILITY



**PUBLIC HEARING REPORT  
 PROPOSED RE-CATEGORISATION OF MELALEUCA CRESCENT RESERVE**



Proposed building and facility arrangement, lease area (source: Edmiston Jones, 2016)

PUBLIC HEARING REPORT  
PROPOSED RE-CATEGORISATION OF MELALEUCA CRESCENT RESERVE

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## APPENDIX B

SUGGESTED ALTERNATE AREA FOR RE-CATEGORISATION

PUBLIC HEARING REPORT  
PROPOSED RE-CATEGORISATION OF MELALEUCA CRESCENT RESERVE



Suggested area for re-categorisation investigation



## Reconfigured siting



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## 17. DEALING WITH MATTERS IN CLOSED SESSION

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

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

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

In accordance with Section 10A(4) of the Local Government Act 1993 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.

Nil.

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## EUROBODALLA SHIRE COUNCIL

### ETHICAL DECISION MAKING AND CONFLICTS OF INTEREST

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

#### ETHICAL DECISION MAKING

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

#### CONFLICT OF INTEREST

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

#### THE TEST FOR CONFLICT OF INTEREST

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

#### IDENTIFYING PROBLEMS

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

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

### AGENCY ADVICE

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

CONTACT	PHONE	EMAIL	WEBSITE
Eurobodalla Shire Council Public Officer	4474-1000	council@eurocoast.nsw.gov.au	www.esc.nsw.gov.au
ICAC	8281 5999	icac@icac.nsw.gov.au	www.icac.nsw.gov.au
Local Government Department	4428 4100	dlg@dlg.nsw.gov.au	www.dlg.nsw.gov.au
NSW Ombudsman	8286 1000 Toll Free 1800 451 524	nswombo@ombo.nsw.gov.au	www.ombo.nsw.gov.au

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

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

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

*Setback* Council's planning controls establish preferred standards of setback (eg 7.5m front; 1m side and rear);

*Envelope* taking into account the slope of a lot, defines the width and height of a building with preferred standard of 8.5m high;

*Footprint* the percentage of a lot taken up by a building on a site plan.

Acronym	Meaning	Description
ACR	Australian Capital Region	The political and strategic grouping of the ACT government and 17 adjacent councils.
AEP	Annual Exceedance Probability	For floods expressed as a % eg 1% = 1:100 year event. The NSW Flood Guidelines nominate types of development and controls.
AHD	Australian Height Datum	Floor levels for buildings set to remain at or above flood level (expressed as 'freeboard').
APZ	Asset Protection Zone	Area to be cleared and maintained around habitable buildings in bushfire prone areas.
AS	Australian Standard	Standards set by national body as minimum construction, service, system, planning or design requirements.

<b>Acronym</b>	<b>Meaning</b>	<b>Description</b>
BCA	Building Code of Australia	Prescribes minimum standards or performance base for building construction.
CAMP	Companion Animal Management Plan	Required by state law, plan nominating management of dogs and cats and areas for access for the exercise of dogs (eg beaches and reserves).
CC	Construction Certificate	Floor plans approved by council or private certifier in compliance with development conditions and BCA.
COPW	Condition of Public Works Report	Required by state law to define the condition of infrastructure assets, the cost to upgrade to defined standards, the current costs of maintenance and desired levels of maintenance.
CP	Cultural Plan	A cultural plan enables identification of cultural assets, identity and needs as well as providing a framework to develop cultural initiatives to increase opportunities for residents.
CSR	Complaint and Service Request	Requests received from public by phone, letter, email or Councillor to attend to certain works (eg pothole) or complain of certain service or offence (eg dogs barking).
DA	Development Application	Required by state law to assess suitability and impacts of a proposed development.
DAP	Disability Action Plan	Council plan outlining proposed works and services to upgrade facilities to progressively meet Disability Discrimination Act.
DCP	Development Control Plan	Local planning policy defining the characteristics sought in residential, commercial land.
DECCW	Department of Environment, Climate Change and Water (formerly EPA, NPWS, DEC)	State agencies (former Environment Protection and National Parks), DNR managing state lands and natural resources and regulating council activity or advising on development applications.
DWE	Department of Water and Energy	State agency managing funding and approvals for town and country water and sewer services and State energy requirements.
DoP	Department of Planning	State agency managing state lands and regulating council activity or advising on development applications or strategic planning.
DLG	Department of Local Government	State agency responsible for regulating local government.
DoL	Department of Lands	State agency managing state lands and advising on development applications or crown land management.
DoC	Department of Commerce	State agency (formerly Public Works) managing state public water, sewer and buildings infrastructure and advising/supervising on council infrastructure construction.



<b>Acronym</b>	<b>Meaning</b>	<b>Description</b>
DoH	Department of Health	State agency responsible for oversight of health care (community and hospital) programs. Also responsible for public warning of reportable health risks.
DOTAR	Department of Infrastructure, Transport and Regional Development and Local Government	Federal agency incorporating infrastructure, transport system, and assisting regions and local government.
EBP	Eurobodalla Bike Plan	Strategic Plan identifying priorities and localities for cycleways in the Shire.
EIS	Environmental Impact Statement	Required for designated and state developments researching and recommending solutions to social, economic and environmental impacts.
EMP	Estuary Management Plan	Community based plan, following scientific research of hydrology and hydraulics, recommending actions to preserve or enhance social, economic and environmental attributes of estuary
EMS	Environmental Management System	Plans prepared by council (such as waste management and strategic planning) around AS14000.
EOI	Expressions of Interest	Often called in advance of selecting tenders to ascertain capacity and cost of private sector performing tasks or projects on behalf of council.
EP&A	Environment Planning & Assessment Act	State law defining types of development on private and public lands, the assessment criteria and consent authorities.
ESC	Eurobodalla Shire Council	
ESD	Ecologically Sustainable Development	Global initiative recommending balance of social, economic and environmental values in accord with 7 ESD principles.
ESS	Eurobodalla Settlement Strategy	Council strategy prepared with assistance of government to identify best uses and re-uses of urban lands, the appropriate siting of private and public investment (eg institutions, employment areas or high density residential) based on current and planned infrastructure and land capacity.
ET	Equivalent Tenement	Basis of calculation of demand or impact of a single dwelling on water and sewer system.
FAG	Financial Assistance Grant	Federal general purpose grant direct to local government based on population and other 'disability' factors.

<b>Acronym</b>	<b>Meaning</b>	<b>Description</b>
FSR	Floor Space Ratio	A measure of bulk and scale, it is a calculation of the extent a building floor area takes up of an allotment.
GIS	Geographic Information System	Computer generated spatial mapping of land and attributes such as infrastructure, slope, zoning.
IPART	Independent Pricing & Regulatory Tribunal	State body that reviews statutory or government business regulatory frameworks and pricing levels.
IPWEA	Institute Public Works Engineers Australia	Professional association.
IWCMS	Integrated Water Cycle Management Strategy (or Plan)	Council plan identifying risk and social, economic and environmental benefit of proposed augmentation to water, sewer and stormwater systems.
IWMS	Integrated Waste Management (Minimisation) Strategy	Council plan identifying risk and social, economic and environmental benefit of proposed augmentation of waste (solids, effluent, contaminated, liquid trade waste).
LEP	Local Environment Plan	The statutory planning instrument defining the zones and objectives of urban and rural areas.
LGAct	Local Government Act	State law defining the role of Mayor, Councillors, staff, financing, approvals etc.
LGMA	Local Government Managers Australia	Professional association.
LGNSW	Local Government NSW	Representative advisory and advocacy group for councils in NSW.
MOU	Memorandum of Understanding	Agreement in principle between parties (eg council and agency) to achieve defined outcomes.
NPWS	National Parks & Wildlife Service	Now merged into DECCW.
NRM	Natural Resource Management	
NVC	Native Vegetation Act 2003	State law defining means of protection of threatened legislation and approval processes to clear land.
OC	Occupation Certificate	Issued by council or private certifier that building is safe to occupy and in compliance with development conditions and BCA.
OSMS	On site sewage management system	Includes septic tanks, aerated systems, biocycles etc.
PCA	Principal Certifying Authority	The person or organisation appointed by applicant to inspect and certify structures.

<b>Acronym</b>	<b>Meaning</b>	<b>Description</b>
PIA	Planning Institute of Australia	Professional association.
POEO	Protection of the Environment Operations Act	State law outlining standards for emissions and discharges and penalties for pollution.
PoM	Plan of Management (usually for community land)	Council plan nominating type of uses for community land and range of facilities progressively to be provided on land.
PPP	Public Private Partnerships	
PTS	Public Transport Strategy	Council strategy to initiate mechanisms to promote and facilitate public transport (bus, taxi, community transport, cycles) in design of subdivisions, developments and council works.
REF	Review of Environmental Factors	Council examination of risk and social, economic and environmental benefit of proposed works, assessed against state planning, environment and safety laws.
REP	Regional Environment Planning Policy	Outlines compulsory state planning objectives to be observed in development assessment and strategic planning.
RFS	Rural Fire Service	State agency responsible for providing equipment and training for volunteer firefighter brigades, and the assessment and approval of developments in bushfire prone lands.
RLF	Regional Leaders Forum	The group of mayors and general managers representing the councils in the ACR.
RMS	Roads & Maritime Service	State agency responsible for funding, construction and maintenance of state roads, the approval of council works on arterial roads and development applications.
S64	S64 Contributions Plan	Developer contributions plan to enable, with council and state funds, the augmentation of water, sewer and stormwater infrastructure.
S94 S94A	S94 Contributions Plan S94A Contributions Plan Levy Plan	Developer contributions to enable construction of public infrastructure and facilities such as roads, reserves, carparks, amenities etc.
SCG	Southern Councils Group	Political and strategic grouping of councils along the NSW south coast from Wollongong to the border, lobbying government for assistance (eg highways) and resourcing sharing initiatives.
SCRS	South Coast Regional Strategy	Regional Strategy prepared by DoP for ESC, BVSC and part SCC to guide new LEPs.

<b>Acronym</b>	<b>Meaning</b>	<b>Description</b>
SEA	Strategic Environment Assessment	Spatial assessment of environmental constraints of land considered in design and assessment of subdivision and infrastructure.  Scientific research behind assessment of capacity of land and waterways in rural residential and urban expansion lands to sustain human settlement.
SEPP	State Environmental Planning Policy	Outlines compulsory state planning objectives.
SNSWLHD	Southern NSW Local Health Districts	State board commissioned with oversight of health care in Highlands, Monaro and Far South Coast.
SoER	State of the Environment Report	Required by state law, the comprehensive assessment (every four years) of the condition and the pressures on the social, economic and environmental features of the Shire and appropriate responses to address or preserve those issues.
SP	Social Plan	Required by state law, the comprehensive assessment (every four years) of the condition and the pressures on the social framework of the community, their services and facilities and economic interactions.
.....SP	Structure Plan	Plan promoting landuses and siting of infrastructure and facilities in towns (eg, BBSP – Batemans Bay Structure Plan).
SRCMA	Southern Rivers Catchment Management Authority	State agency commissioned with assessment and monitoring of health and qualities of catchments from Wollongong to the border, and determine directions and priorities for public and private investment or assistance with grants.
STP	Sewer Treatment Plant	Primary, secondary and part tertiary treatment of sewage collected from sewers before discharge into EPA approved water ways or irrigation onto land.
TAMS	Total Asset Management System	Computer aided system recording condition and maintenance profiles of infrastructure and building assets.
TBL	Triple Bottom Line	Commercial term coined to encourage business to consider and disclose social and environmental risk, benefit and costs in the conduct of business to guide investors as to the long term sustainability and ethics of a business. Taken up by Council to record the basis of prioritisation, the review of condition, the monitor of progress and the financial disclosure of preventative or maintenance investment in council based social and environmental activities.
ToR	Terms of Reference	
TSC	Threatened Species Conservation Act 1995	State law governing the protection of nominated species and relevant assessment and development controls.

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<b>Acronym</b>	<b>Meaning</b>	<b>Description</b>
WCF	Water Cycle Fund	Combination of water, sewer and stormwater activities and their financing arrangements.
WSUD	Water Sensitive Urban Design	Principle behind the IWCMS and council development codes requiring new developments to reduce demand and waste on water resources through contemporary subdivision and building design.