



AGENDA

Ordinary Meeting of Council

12 April 2016

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

ON TUESDAY 12 APRIL 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 22 March 2016
- 5. DECLARATIONS OF INTEREST OF MATTERS ON THE AGENDA**
(Declarations also to be made prior to discussions on each item)
- 6. MAYORAL REPORTS**
- 7. NOTICES OF MOTION**
Nil
- 8. QUESTIONS ON NOTICE FROM COUNCILLORS**
Nil
- 9. PETITIONS**
Nil
- 10. GENERAL MANAGER'S REPORTS**
GMR16/009 56th Floodplain Management Australia Conference 3

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**DR CATHERINE DALE
GENERAL MANAGER**

GMR16/009 56TH FLOODPLAIN MANAGEMENT AUSTRALIA CONFERENCE

**E95.9197;
E81.1928**

Responsible Officer: Dr Catherine Dale - General Manager

Attachments: Nil

Strategic Objective: Collaborative Communities

Delivery Plan Link: C1.1 Conduct the business of Council in an inclusive, responsive and transparent manner

Operational Plan Link: C1.1.1 Support the councillors in meeting their statutory obligations and roles as community representatives

EXECUTIVE SUMMARY

This report presents details of the 56th Floodplain Management Australia Conference to be held at the Shoalhaven Entertainment Centre in Nowra, NSW from 17-20 May 2016. The report also seeks nominations of delegates to attend the Conference.

RECOMMENDATION

THAT Council determine whether it wishes to be represented at the 56th Floodplain Management Australia Conference in Nowra, NSW from 17-20 May 2016 and if it so determines:

1. Council nominate a representative to attend the Conference.
2. Council's representative be reimbursed out of pocket expenses in accordance with the Councillors' Expenses and Facilities Policy.

BACKGROUND

Floodplain Management Australia (FMA), formerly known as the Floodplain Management Association, is committed to helping reduce the risks and impact of flooding on life and property. Established in 1961 as a small group of New South Wales flood mitigation authorities, FMA has grown into a national association of over 120 local government councils, catchment authorities, businesses, consultants and individuals involved in all aspects of urban and rural floodplain risk management.

Eurobodalla Shire Council is a member of the FMA and is represented at Association meetings by one staff member and one Councillor. Councillor Gabi Harding was elected as Council's representative on the FMA in 2014.

CONSIDERATIONS

The theme for this year's Conference is 'Rock 'n' Role - Innovation and Role in Flood Risk Management' which looks at best practice and innovation and the different stakeholder 'roles' in floodplain management.

The program for the Conference is available on the Floodplain Management Australia website at: <http://www.floodplainconference.com/program.php>

**GMR16/009 56TH FLOODPLAIN MANAGEMENT AUSTRALIA CONFERENCE E95.9197;
E81.1928**

Policy

Council's Councillor's Expenses and Facilities Policy provides that attendance will normally be limited to two. The principle of having one councillor and an appropriate staff member attend will be considered as "best practice" for attending seminars and conferences. This may be varied from time to time by resolution of Council.

Councillors attending training, seminars and conferences are to provide a detailed report to Council on the outcome and issues. Councillors must provide a written delegate's report to Council following each conference attended, to be eligible to attend any further conference.

Financial

Full registration for the conference is \$1125 which includes all Conference sessions, materials and functions.

Council will reimburse or pay registration fees, accommodation, meals, parking, telephone and travel expenses associated with attendance at the conference plus any other reasonable and directly related out of pocket expenses.

Accommodation is restricted to a maximum NRMA 4 ½ star rating and where possible at the conference venue to avoid other costs and inconvenience.

CONCLUSION

The FMA Conference has been held annually for over 50 years and is the most respected flood risk management event held in Australia. Shoalhaven City Council will host the 56th Floodplain Management Australia Conference which is being held in Nowra, on the NSW South Coast.

PSR16/008 LITTER INITIATIVES

E02.6071

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

Attachments: Nil

Focus Area: Sustainable Communities

Delivery Program Link: S4.4 Encourage and support community sustainability and environmental projects

Operational Plan Link: S4.4.1 Provide environmental and sustainability advice and education

EXECUTIVE SUMMARY

This report summarises the measures taken by Council and the community to manage litter in the Eurobodalla Shire. These activities are necessary and important in maintaining the 'unspoilt' image of the region. An examination of litter collection data highlights some of the key problem litter items, including drink containers and plastic bags. Council continues to take a strategic approach to managing litter and seeking solutions that address the sources of litter. This includes advocating for single use plastic bags to be replaced with a more sustainable option and a workable container deposit scheme.

RECOMMENDATION

THAT Council:

1. Continues to support community litter reduction and collection activities
2. Write to the relevant NSW and Australian Government ministers supporting a plastic bag ban and suitable container deposit scheme.

BACKGROUND

Council plays an active role in supporting the community to contribute to litter reduction and collection activities. This has included coordinating the annual Clean Up Australia Day event for many years, which typically attracts over 250 volunteers and 2,500 school students across about 40 to 50 sites. Since 2012 over 25 fishing tackle recovery bins have been installed and maintained by volunteers and serve as a visible reminder to visitors and people fishing to dispose of fishing line litter responsibly.

Most recently a range of community groups, businesses and volunteers have united to address the issue of marine debris. The Eurobodalla Marine Debris Working Group (the group) was formed in June 2014 by Council to help harness the energy of a broad cross section of the community in assisting with marine debris and litter issues. The group aims to educate the community on the impacts of litter on marine ecosystems, to participate in clean up activities and to log the marine litter debris collected in the Australian Marine Debris Database. In the past two years the group has organised 71 clean ups, where 485 volunteers collected 15,335 litter items over 719 hours from our beaches and waterways.

In Eurobodalla Shire over 25% of our marine debris comes from local litter sources with plastic bag remnants, takeaway food containers, straws, aluminium cans, plastic drink bottles and cigarette butts all in our top ten items.

PSR16/008 LITTER INITIATIVES

E02.6071

Council is involved in litter reduction and collection activities. This includes the public litter bin service, roadside litter pick ups, street sweeping, maintaining 21 gross pollutant traps on storm water drains, patrolling for illegal dumping and littering and anti-litter educational campaigns.

CONSIDERATIONS

Litter continues to remain an issue of concern to the Eurobodalla Shire community and there is no simple solution. Council will need to maintain the current litter collection and reduction services and programs in order to continue to meet community expectations and minimise the litter problem.

However, the local data entered in the Australian Marine Debris Database and data sourced from Clean Up Australia Day can be used to determine where the litter is coming from and what actions can be taken to help reduce litter. On a national level, this data is used to inform strategies and to target manufacturers, distributors or dumpers of specific waste items.

Reducing the 'upstream' sources of litter is a logical and strategic way to try and address the volume of litter in the local area. There are a number of strategies that Council can implement that may help to minimise the volume of litter being generated. These include but are not restricted to:

- the 'tap water please' and water refill station campaign to reduce the use of disposable bottles. Drink containers were the most common item by volume collected in 2015 NSW Clean Up Australia Day data
- supporting the development of a regional litter strategy
- promote and help enforce the NSW Environmental Protection Agency's (EPA) litter reporting campaign where the public can report litter thrown from cars to a hotline or via a mobile app
- Council secured funding through the EPA Council Litter Prevention Grant in round 2 (2014) and will apply again in round 3 (2016)
- delivering anti-litter educational activities
- promoting local clean up activities and the recording of data to help monitor trends targeting problem items
- advocate for leadership from the NSW and Australian Governments on high priority litter issues or problem litter items such as plastic bags.

Council can play an advocacy role in relation to key litter issues. In Eurobodalla Shire plastic bags are one of the common items collected from our estuaries and beaches. In New South Wales (NSW) plastic bags are reported as the sixth most common litter item. Tasmania, the Northern Territory, the Australian Capital Territory and South Australia have already banned single use, singlet style plastic bags. Organisations like Clean Up Australia, the Boomerang Alliance, Take 3 for the Sea and the Tangaroa Blue Foundation all support a NSW ban on plastic bags.

Another issue Council has advocated for many years is a Container Deposit Scheme (CDS) that meets local needs. The NSW Government has already committed to introducing a CDS by 1 July 2017 and is currently working on the design of the scheme. NSW Clean Up data indicates that

PSR16/008 LITTER INITIATIVES

E02.6071

drink containers were the most common litter item and comprise of 44% of the volume of litter in New South Wales.

Legal

Littering is subject to a tiered range of fines under the *Protection of the Environment Operations Act 1997*.

Environmental

Litter can have significant negative impacts on the environment. Litter has a tendency to accumulate in waterways and the ocean through the action of storm water run off. Non-biodegradable plastics can last hundreds of years in the environment and lead to entanglement and ingestion by marine life and sea birds. Council has already taken significant steps to improve outcomes through the installation of gross pollutant traps, street sweeping, education and other programs to minimise pollution impacts.

Social Impact

Eurobodalla Shire residents and visiting tourists view the Eurobodalla Shire coast as either their 'patch' or favourite holiday destination. These residents and tourists can be protective of our coastal and marine environments and are therefore a great asset who can assist Council to look after the local environment and manage litter.

Economic Development Employment Potential

Eurobodalla Shire is marketed and well recognised as 'unspoilt' and the 'nature coast.' The current program for litter management in the Eurobodalla Shire enables the use of these terms which encourage tourism and support the broader economy.

Financial

Grant funding is actively sought for litter initiatives.

Community Engagement

The community has been informed through: Council's website, Online News, media releases, posts on Council's Facebook page, training days and workshops, marine debris information stalls at market events, activities in schools, working with stakeholders to highlight the issue and via ongoing events and activities for the community to participate in.

CONCLUSION

Council and the community have a strong interest in reducing litter in the local environment. A range of Council and community anti-litter programs should continue to reduce the impacts of litter. Council can also play a leadership role in providing services and advocating for solutions that seek to reduce the sources of litter pollution, and hence the potential adverse impact on our environment and economy.

PSR16/009 REZONING/RECLASSIFICATION OF EXCESS LAND – ALBERT RYAN PARK, BATEMANS BAY E98.2461

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

Attachments: 1. Rezoning & Reclassification of Excess Land – Albert Ryan Park, Batemans Bay

Focus Area: Liveable Communities

Delivery Program Link: L5.1 Implement Council's recreation and open space strategy, priority plans of management and master plans

Operational Plan Link: L5.1.1 Deliver capital and renewal works program

EXECUTIVE SUMMARY

Land known as Albert Ryan Park on Beach Road, Batemans Bay has the potential for a higher and better use, which could provide development opportunities in the form of medium density housing or tourist and visitor accommodation. This reserve is located on a flat site adjacent to the Batemans Bay town centre.

The sale of part of the land for a residential purpose would provide a significant financial return to Council. The funds could be directed toward community infrastructure improvements. The residue of the land could be held as a public reserve to provide access from High Street to Beach Road and to retain existing trees to maintain an enhanced urban landscape.

RECOMMENDATION

THAT:

1. Council resolves to proceed with initial consultation prior to the preparation of a planning proposal to amend the Local Environmental Plan (LEP) 2012 to rezone and reclassify lots 10 and 11, DP 236342, being part of Albert Ryan Park, Beach Road, Batemans Bay
2. Following the consultation period, a report on submissions received and a planning proposal will be presented to Council.

BACKGROUND

The subject land is currently zoned RE1 Public Recreation, has frontage to Beach Road, and is located between the Batemans Bay town centre and R3 Medium Density land starting at the corner of Pacific Street and Beach Road. The land commands excellent water views and is a short, flat walk to the town centre.

The land is currently under utilised with its current primary use being the housing of a public toilet.

The adjoining lot on the corner of Pacific Street and Beach Road is zoned R3 Medium Density and is currently being marketed for auction, based on its potential to be redeveloped to provide residential units.

**PSR16/009 REZONING/RECLASSIFICATION OF EXCESS LAND – ALBERT RYAN
PARK, BATEMANS BAY**

E98.2461

In light of this and an enquiry received by Council in regard to the marketed site, staff commenced the assessment of the current and potential use of the Council owned land. This assessment highlighted a potentially strong case to rezone and reclassify the majority of the land to enable its sale and development for residential units or tourist and visitor accommodation. The residue of the land could be held as a public reserve to provide access from High Street to Beach Road and to retain existing trees to maintain an enhanced urban landscape.

Councillors were briefed in detail on 15 March 2016.

CONSIDERATIONS

The land is identified as lots 10 and 11, DP 236342, is currently zoned RE1 Public Recreation and is classified as community land. The attachment to this report shows the location of the land. In order to facilitate the sale of the land, Council would need to undertake an LEP amendment by way of a planning proposal to rezone and reclassify the land. This process would include the normal community consultation undertaken with an LEP amendment and in addition, a public hearing would be held by an independent person appointed by Council who would then report to Council on the outcomes of the hearing.

There is the potential for concern by adjoining landowners that residential development on the subject land could compromise their existing views. As part of the planning proposal Council has the ability to introduce height controls on the land to address this issue.

If rezoned to enable development for residential unit development or tourist and visitor accommodation, a significant financial return could be achieved by Council. These funds could be directed toward community infrastructure improvements.

The completed project would see the sale of surplus land for a higher and better use; redevelopment of the site would provide economic and development activity and improved amenity, thereby supporting further economic activity and development within the town centre.

The findings of research recently conducted by Council for the Employment Growth and Development Strategy has shown support amongst the local business community for investment by Council in infrastructure that supports economic development.

Legal

The *Environmental Planning and Assessment Act 1979* and the *Local Government Act 1993* require the approval of a planning proposal to rezone and reclassify the land. The planning proposal will be prepared in accordance with the Department of Planning and Environment's publications, *A Guide to Preparing Planning Proposals* and *A Guide to Preparing Local Environmental Plans* (NSW Department of Planning, October 2012).

**PSR16/009 REZONING/RECLASSIFICATION OF EXCESS LAND – ALBERT RYAN E98.2461
PARK, BATEMANS BAY**

Asset

Council's Recreation and Open Space Strategy and Service Review - Public Toilets determined that the toilet facilities on the subject site are surplus to community requirements and should be removed to eliminate unnecessary cost. This proposal will implement those recommendations. The nearest alternative toilets are located in the CBD approximately 600 metres away.

Disposal of the land would provide a significant financial return to Council.

Social Impact

There is no anticipated adverse social effect of the proposed sale of the land, however the improvements to the amenity of the Batemans Bay town centre will be beneficial to the public.

Economic Development Employment Potential

The completed project would see the redevelopment of the site providing economic and development activity and improved amenity within the town centre, thereby supporting further economic activity and development.

Financial

Disposal of the land would provide a significant financial return to Council which could be directed toward community infrastructure improvements. Council will also benefit from the removal of maintenance and depreciation costs of unnecessary facilities.

Community Engagement

We will consult with adjoining owners, the wider community and the Batemans Bay Chamber of Commerce prior to the preparation of a formal planning proposal.

A media release and public notice in the local newspapers will advise the community of the proposal with a 28 day exhibition period for the lodgement of submissions. Directly adjoining property owners and the Batemans Bay Chamber of Commerce will also be notified by mail and invited to meet with Council staff to discuss the proposal further.

Following the consultation period a report will be submitted to Council based on the submissions received in addition to a planning proposal. Further public consultation will be undertaken in accordance with any gateway determination of the proposal.

CONCLUSION

The proposal has the potential to deliver significant economic benefit to the community and enable Council to continue to support the local economy, employment and housing opportunities.

Consultation would be undertaken with the community to enable Council to consider the community's views prior to making a final determination.



Attachment 1 - Albert Ryan Park



LEP 2012 ZONING



SUBJECT LAND BEING LOTS 10 & 11, DP 236342

**PSR16/010 M386/12 - RESIDENTIAL ACCOMMODATION UNITS (33) AND 80.2583.D6
GENERAL STORE - LOT 26, 28 & 30 WHARF ROAD, BATEMANS BAY**

Responsible Officer: Lindsay Usher - Director, Planning and Sustainability Services
Attachments: 1. Existing Conditions of Consent M386-12 Residential Accommodation Units (33) and General Store
Focus Area: Productive Communities
Delivery Program Link: P1.1 Facilitate growth and development of our business community
Operational Plan Link: P1.1.1 Strengthen partnerships between council and the business community

Applicant: Bateay Pty Ltd
Land: Lot 26, 28 & 30 (No.17,19 & 21) Wharf Road, Batemans Bay
Area: 3643m²
Setbacks: 900mm & 1.5m
Height: 11.5m
Zone: R3 Medium Density
Current Use: Vacant
Proposed Use: Residential and commercial
Description: Residential accommodation (33 units) and general store
Permitted in Zone: Permitted with consent
Application Registered: 17 February 2016
Reason to F&S: Significant exception to Council's Residential Zones Development Control Plan
Recommendation: Part approval

EXECUTIVE SUMMARY

This report seeks Council's determination of an application to modify Development Application (DA) 386/12 for the demolition of existing buildings and development of residential accommodation units and general store and was approved on 17 February 2012. The development comprises 33 units and a general store. The modification proposes the following:

- modify floor plans to allow separate entry for each unit
- increase overall height by 300 to 600mm
- decrease floor level of general store by 300mm
- additional signage on the front façade
- reduction in the number of required adaptable housing units from eight to two.

**PSR16/010 M386/12 - RESIDENTIAL ACCOMMODATION UNITS (33) AND 80.2583.D6
GENERAL STORE - LOT 26, 28 & 30 WHARF ROAD, BATEMANS BAY**

The proposed modification is considered acceptable only in part, with the reduction in adaptable housing units and the decrease in the floor level of the general store not supported.

RECOMMENDATION

THAT In accordance with Clause 122 of the *Environmental Planning and Assessment Regulations 2002*, notice is given that development consent number 386/12 has been modified by modification application 386/12-M2. The development is modified as follows:

1a. **Approved plans**

Any reference on the original consent to plans stamped and numbered 386/12 is replaced with plans stamped and numbered 386/12- M2. [2.18]

8a. **Signage**

The signs must be within the boundaries of the property to which they apply, be structurally adequate, not cause offence to the public, or face or adjoin residential premises. Any attachments on or adjacent to the structure/sign will require additional approval.

49. **Floor Level**

The minimum floor level of the residential units shall be at or above 4.3 metres AHD and 2.6 metres AHD for the commercial building. This level is to be certified by registered surveyor prior to the structure proceeding past the nominated level.[7.09]

All conditions for the existing development application have been provided via separate attachment for comparison.

BACKGROUND

On 17 February 2012 Council determined a development application for the demolition of existing buildings over three sites, and the construction of 33 residential accommodation units with a mix of two bedroom and three bedroom units, two parking spaces per dwelling and a general store. The applicant seeks to modify the consent to satisfy conditions of consent prior to release of the construction certificate.

POLICY

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

Eurobodalla Local Environmental Plan 2012

The land is zoned R3 Medium Density Residential and the development is permissible in the zone and consistent with the objectives of the zone.

Clause 4.3 Height of Buildings

The proposal seeks to raise floor levels to achieve compliance with AS2890.6 to provide a 2.5m clearance over the garage spaces of the adaptable units. The increase in height will allow for adequate space for the hydraulic and electrical service installations. As the site is situated

**PSR16/010 M386/12 - RESIDENTIAL ACCOMMODATION UNITS (33) AND 80.2583.D6
GENERAL STORE - LOT 26, 28 & 30 WHARF ROAD, BATEMANS BAY**

within an area where a maximum building height of 11.5m applies, the increase in height to a maximum of 8.9m is consistent with the 11.5m height limit. Revised shadow diagrams demonstrate no significant change to that approved under DA 386/12.

Neighbourhood Centres Development Control Plan (DCP)

The proposal is compliant with all relevant acceptable solutions (excluding the adaptable housing standard) identified in the DCP and considered to be consistent with the objectives and principles set out in the plan.

State Environmental Planning Policy (SEPP) 71

The development is not inconsistent with the principal planning matters set out for consideration in the SEPP.

NSW Coastal Policy

Section 92 of the *Environmental Planning and Assessment Regulation 2000* requires the consideration of the NSW Coastal Policy. The proposed development does not affect public access to the foreshore and has demonstrated that the shadow cast by the building is acceptable. The building has been designed according to projected sea level rise and frequency of ocean inundation. The development consent will be conditioned to ensure any ground water disturbance or drainage from the site does not impact on the terrestrial or marine environment. The development is considered as satisfactory with regard to the requirements of the policy.

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

The subject site is identified as potentially contaminated land, however this was considered as part of the original application and the proposal is satisfactory with regard to the provisions of SEPP 55.

Australian Standard AS4299 – Adaptable Housing

Council's Development Control Plan (DCP) requires that 25% of units are to be constructed in accordance with AS 4299. The basis for this policy stance is that the Eurobodalla Shire local government area has a higher than average percentage of the population that is considered elderly. This is largely as a result of its popularity for retirees.

Adaptable housing is defined as a housing unit that is designed in such a way that it can be modified easily in the future to become accessible to both occupants and visitors with disabilities or progressive frailties. As the proposal incorporates 33 dwelling units, the DCP requires that eight dwellings are to be capable of compliance with AS 4299. The applicant seeks to vary this development standard by 75% and has submitted an alternate solution by an accredited access consultant. The justification provided is based on:

- the site being subjected to flooding levels making the provision of accessible units unfeasible
- the additional cost to the developer in provision of the adaptable units.

One of the key elements in determining whether a dwelling unit is capable of being adapted is visitability. AS 4299 requires that a dwelling unit capable of being adapted is visitable.

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GENERAL STORE - LOT 26, 28 & 30 WHARF ROAD, BATEMANS BAY**

Visitable is defined under the standard as 'accessible in accordance with *AS 1428* to a living area and toilet'. It is difficult for the proposal to achieve compliance with this standard as there is no habitable floor space on the ground floor. The ground floor for flood reasons is comprised of storage and car parking.

The access consultant has argued that this can be overcome by an intercom and constructing the dwelling units in such a manner to allow provision for the installation of a lift in the future. It is however not proposed to install any lifts unless purchasers request to do so. Alternatively, the purchaser has the option to install a lift at a later date.

The variation to Council's standard to such a significant extent is not supported as it considered that there are alternatives and as the lifts are not proposed to be installed immediately, the only additional cost involved pertains to altering the construction to allow for the lift installation.

The alternate solution to avoid the visitable standard is not supported. *AS 4299* has a performance requirement that at least one living area and toilet is accessible, and it is not agreed that this performance standard is met by the use of an intercom.

The flood constraint of the property does affect the viability of the project and it is considered that complete compliance with the standard is not reasonable. It could be acceptable to require four units to be adaptable and visitable. It is noted that the lifts are required to be installed by the developer however, there would be a significant reduction in cost from the required eight units.

A further aspect of this development that is irregular is that the buildings are being constructed to adhere to a BCA class 1 classification. This is the same classification as a single storey dwelling house on a residential allotment of land. Most Australian standards and Council policies do not require accessibility provisions for class 1 buildings. The construction standard prescribed to achieve this classification requires that the units be completely independent and therefore a shared or common use of lifts and hallways would assign the buildings a different classification.

Eurobodalla Coastal Hazard Adaption Code

The applicant has applied to decrease the previously approved general store floor level from 2.60m AHD to 2.30m AHD on the basis that the store is commercial and the site's ability to provide a flood management plan.

The current commercial floor level at the site to meet the 1% AEP event is 3.14m AHD (WRL Preliminary Draft Report 2012). This includes 300mm freeboard and 340mm of sea level rise to 2065. It is noted that Council has been discussing the prospect of adopting a 5% AEP flood (2.64m AHD – WMA Adopted Report 2006) as the commercial level in Batemans Bay CBD and Narooma Flat (see draft Eurobodalla Floodplain Code). This 5% AEP level would be consistent with the adopted approach in Moruya.

The current approved commercial floor level of 2.6m AHD was supported as it provides the minimum immunity required in the 5% AEP event and allowance for 50 years of sea level rise. It is also noted that at the time of consent the development was conditioned to have managed retreat. The applicants sought approval to completely remove this condition and approval was

**PSR16/010 M386/12 - RESIDENTIAL ACCOMMODATION UNITS (33) AND 80.2583.D6
GENERAL STORE - LOT 26, 28 & 30 WHARF ROAD, BATEMANS BAY**

granted on 3 September 2012. The previously approved level of 2.60m AHD would provide an acceptable level of flood immunity and is consistent with the approach by Council on nearby developments at 13A Orient Street and Bridge Plaza.

Land use status

The subject site is currently vacant land. Demolition of the buildings on site has been completed in accordance with the development consent and earthworks to accommodate the new development has commenced.

ENVIRONMENTAL

The subject site has been cleared and disturbed. Consequently, there is unlikely to be land based threatened species, populations or ecological communities or their habitats occurring on the site.

CONSULTATION

The application was notified in accordance with Council's Advertisement and Notification Code. The notification period commenced on 18 February 2016 and concluded on 5 March 2016. One submission was received.

The concerns relate to the development as a whole and to storm water problems that are occurring as part of the construction activities.

It is considered that the proposed modifications would not exacerbate the impacts of the development any more than the existing development, and the storm water issues are a matter for the Principal Certifying Authority (PCA).

Council has advised the adjoining neighbour that he should discuss his concerns relating to storm water with the PCA for the development.

CONCLUSION

It is considered that some elements of the proposed modification are consistent with the requirements of the *Environmental Planning and Assessment Act 1979* and can be supported as submitted.

The substantial variation from the DCP in relation to adaptable housing cannot be supported, however there is potential merit in a reduction of the number of units required to comply with AS 4299 due to the BCA classification and flooding issues.

The reduction in floor level for the general store is not consistent with Council policy or recent approvals in relation to commercial floor levels and is also not supported.

GENERAL CONDITIONS

1. This development is to be carried out in accordance with the plans stamped and numbered 386/12 and supporting specifications and documentation or as modified by these conditions or as noted in red by Council on the approved plans and all building work must be carried out in accordance with the requirements of the *Building Code of Australia*.

Note: Any alteration to the plans and/or documentation shall be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under s96 of the Act, or a fresh development application. No works, other than those approved under this consent, shall be carried out without the prior approval of Council.

Where there is an inconsistency between the documents lodged with this application and the following conditions, the conditions shall prevail to the extent of that inconsistency. [2.05]

2. **Inspections & Certificates**

For the purposes of section 109E(3)(d) of the Environmental Planning and Assessment Act, the following are occasions on which building work **must** be inspected. These inspections are the **critical stage inspections**.

The critical stage inspections may be carried out by the Principal Certifying Authority or, if the Principal Certifying Authority agrees, by another certifying authority. The last critical stage inspection required to be carried out for the class of building concerned must be carried out by the Principal Certifying Authority.

In the case of Class 1 and 10 buildings:

- (a) at the commencement of the building work, and
- (b) after excavation for, and prior to the placement of, any footings, and
- (c) prior to pouring any in-situ reinforced concrete building element, and
- (d) prior to covering of the framework for any floor, wall, roof or other building element, and
- (e) prior to covering waterproofing in any wet areas, and
- (f) prior to covering any stormwater drainage connections, and
- (g) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

3. **Lighting**

Provision must be made for illumination of the common areas throughout the hours of darkness.

All external lighting shall be operated and maintained in accordance with the Australian Standard AS4282 – Control of the Obtrusive Effects of Outdoor Lighting so as not to cause a nuisance or adverse impact on the amenity of residents and motorists.

4. **Car Parking**

The sixty nine (69) car parking spaces required to be provided are to be maintained and available for their designated uses. The three (3) spaces allocated for use by patrons of the General Store are to be line marked and identified for patron (2) and disabled (1)

use only. They are to be maintained free of obstruction and not used for the storage of goods or waste products.

5. **Vehicle Direction**
All vehicles to enter and exit the development in a forward direction to avoid possible conflict with through traffic on Wharf Road. [14.25]
6. **Loading & Unloading**
All loading and unloading of service vehicles in connection with the use of the premises shall be carried out wholly within the site at all times.
7. **Flood Level**
The storage of materials and the location of all electrical and mechanical services are to be located a minimum RL of 3.1m AHD.
8. **Advertising Signs**
The advertising structure/sign is not to be of a flashing type and its illumination should not distract passing motorists. No signage is to be installed on the roof of any of the buildings approved under this consent.
9. **Lighting of Signs**
The lighting of the sign(s) shall be so positioned and focused so that no direct light or glare shall be visible from any roadway or from any adjoining property. [17.06]
10. **Water & Sewer Inspections**
All plumbing and drainage works (water supply, sanitary plumbing and drainage, stormwater drainage and hot water) are to comply with Local Government (General) Regulation 2005 and the Plumbing and Drainage Code of Practice (national). Works must only be installed by a licensed person and must be inspected and granted final approval by Council prior to issue of interim or occupation certificate.
The following inspections are required to be carried out by Council in regard to the installation of plumbing and drainage works. Inspections may be arranged by contacting Council's Plumbing Inspector. Where Council is not the Principal Certifying Authority, additional fees will apply:
 - (a) Sanitary drainage under hydrostatic test and prior to backfilling trenches or covering;
 - (b) Hot and cold water plumbing under pressure test prior to covering;
 - (c) Internal stackwork under hydrostatic test prior to covering; and
 - (d) The installation of the septic tank and any sullage trenches prior to backfilling or covering.
 - (e) Issue of final satisfactory inspection.[2.16]
11. **Change of Use**
Prior to any future change of use, a development application shall be submitted to and approved by Council. [2.20]
12. **Demolition Standards**
Building demolition works are to be carried out in accordance with *Australian Standard 2601 (2001) – The Demolition of Structures*. NOTE: Developers are reminded that WorkCover requires that all plant and equipment used in demolition work must comply with the relevant Australian Standards and manufacturer specifications.[21.01]

13. Storage of materials is not permitted on the public footpath area or roadway unless an approved hoarding is provided.
14. **Sewerage Manhole**
Any alterations to the ground surface adjacent to the sewerage manhole in the vicinity/or within the property will require application and payment to Council for alterations to the manhole level to match the new ground surface level. Manholes within driveways will require provision of a trafficable lid at the applicants cost. [4.02]
15. **Water supply – backflow prevention**
Prior to connecting to Council’s reticulated potable water supply, a backflow protection and cross connection survey is to be conducted in accordance with Council’s Backflow Prevention Policy, AS 3500.1 and NSW Code of Practice Plumbing and Drainage. A copy of the Plumbing Survey is to be submitted to Council prior to occupation.
- A backflow prevention device suitable to the degree of hazard is to be installed in accordance with the before mentioned policy and codes. If a testable Backflow Prevention Device is installed then a Backflow Prevention Device Inspection and Maintenance Report initial test certificate is to be lodged with Council within 2 days of installation.
- The standard meter connection fee nominated in Council’s fees and charges includes connection of the water meter only. [5.12]
- In accordance with Council’s Sea Level Rise Adaption Policy the subject land is located in an area that will require a retreat response at some time in the future, relating to both inundation and storm surge influences on shoreline recession.
16. **Condition removed in M386/12 (10/9/12)**
17. **Asbestos**
Any asbestos on the site is to be removed by contractors who hold a current and relevant WorkCover licence. The disposal of all asbestos laden waste must be disposed of to an authorised land fill site.
18. **Sewerage Manhole**
Any alterations to the ground surface adjacent to the sewerage manhole in the vicinity/or within the property will require application and payment to Council for alterations to the manhole level to match the new ground surface level. Manholes within driveways will require provision of a trafficable lid at the consent holder’s cost.
19. **General Store**
Hours of operation are limited to 7.00am to 8.00pm daily. Its principal use is for the sale of food for consumption primarily off the premises.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

20. **Access for Disabled**
Access and facilities for persons with disabilities are to be provided in accordance with the Building Code of Australia and Australian Standard AS 1428.1 and 1428.2 – Design for Access and Mobility. In addition the Residential Zones Development Control Plan

requires a minimum of 25% of Residential Accommodation Units to be in accord with Australian Standard AS4299 – Adaptable Housing.

Complete details of compliance with these instruments is to be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.

21. ***Design of Food Premises***

The construction and fit-out of the food premises shall comply with the construction requirements of the Food Act 2003, Food Regulation 2004, Australia New Zealand Food Standards Code and AS4674-2004 “Design, Construction and Fit-out of Food Premises”.

Prior to the issue of a Construction Certificate, plans and specifications showing compliance with the above, including details of fixtures and fittings together with wall, floor and ceiling finishes to all food preparation, coolroom and storage areas, shall be submitted to, and approved by, the Principal Certifying Authority.

22. ***Site Contamination Assessment***

A Site Contamination Assessment, prepared by a suitably qualified and experienced person, shall be submitted to and approved by Council, prior to the issue of the Construction Certificate. Such an assessment shall be undertaken in accordance with the Department of Environment & Conservation’s (formerly NSW EPA) Sampling Guidelines and the Guidelines for Consultants Reporting on Contaminated Sites.^[10.03]

23. ***Acid Sulphate Soil***

In accordance with the Recommendations of the Compaction and Soil Testing Services Pty Ltd Report, all works two (2) metres below natural ground level should be avoided. Where this required an ASS Management Plan that accords with the NSW Acid Sulphate Soils Manual shall be prepared and complied with to ensure acid sulphides are not released to the environment. This must be submitted to and approved by Council prior to the release of a Construction Certificate.

24. ***Footpath Construction***

Prior to issue of the Construction Certificate submission to and approval by Council of a detailed plan for footpath construction for the full frontage of the property. ^[14.06]

25. ***Sealed Traffic Areas***

Prior to issuing of a Construction Certificate submission to and approval by the Principal Certifying Authority of satisfactory plans for sealed car parking spaces, manoeuvring areas and access driveways all conforming to AS2890.1 & 2. Drainage and pavement designs are to be prepared by a qualified engineer and are to address expected vehicle loadings and any fill compaction requirements. A disabled parking space is to be designed in accordance with AS2890.6:2009 and constructed prior to release of the final certificate.^[15.01]

26. ***Long Service Levy***

Long Service Levy is required to be paid to the NSW Long Service Payment Corporation prior to the issue of a Construction Certificate. The amount to be paid is 0.35% of the cost of buildings and works. ^[2.03]

27. **Section 94A Contributions**

Pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979, and the Eurobodalla Shire Council Section 94A Development Levy Contribution Plan (2007), the following contribution shall be paid to Council:

\$35,000

This contribution shall be applied towards the provision, extension or augmentation of public amenities or public services. The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the provisions of the Eurobodalla Shire Council Section 94A Development Levy Contribution Plan. The contribution is to be paid prior to issue of the Construction Certificate.

28. **Industrial Development – Trade Waste**

A separate application, in accordance with Council's Liquid Trade Waste (LTW) Policy, is to be made for the approval of the discharge of liquid trade waste to Council's sewerage system. This is to be submitted to and approved by Council prior to the issue of the Construction Certificate and is to include details of appropriate liquid trade waste pre-treatment facilities. [4.15]

29. **Water Meter – Industrial/Commercial Development**

Submission to Council, written advice from a suitably qualified hydraulic engineer/consultant on the recommended water meter size required for the development in accordance with AS 3500.1:2003 National Plumbing and Drainage Code and AS24412005 Installation of Fire Hose reels.

Note: All fire hose reels must be supplied through the metered supply. Council will provide a quote to construct the water service complete with meter with prepayment required prior to works being scheduled. The meter is to be located so as to be accessible to Council's Water Meter Reader at all times. Any work required to Council's infrastructure to extend the main or allow installation of the meter other than a standard meter connection, is to be undertaken at full cost to the applicant.

Note: A backflow prevention device is to be installed and certified by a private plumber in accordance with Council's Backflow Prevention policy.

A standard meter connection is where the water main is located on the same side of the street as the property, the meter is to be located approximately 2.4 metres from the water main to just inside the property boundary and laid in a non-hard surface area (grassed).

30. **Stormwater & Site Drainage**

Prior to release of Construction Certificate, plans are to be prepared by a suitably qualified person and approved by Council for the control of stormwater from roofed and impervious areas. The final design is to be prepared in accordance with AS3500 and principles consistent with the Eurobodalla Design Guidelines for Rainwater Tanks. The design is to include the installation of a dual water supply (rainwater and domestic supply) rainwater tank system capable of servicing each unit/dwelling.

The design should address, but not be limited to the following:

- (a) The location of all components and their relationship to nearby buildings;
- (b) The configuration of inlet/outlet, and overflow pipes;

- (c) Details of dimensions, structural details, and proposed materials;
- (d) The overflow is to be connected to the kerb and gutter by gravity feed or as specified by Council where this is not possible.

Rainwater tank systems are to include:

- (a) Provision of a first flush system with a capacity of at least 0.5 litres/m² of roof area;
- (b) An air space for additional stormwater management;
- (c) A minimum availability volume to ensure that water supply is always available;
- (d) Top up technology and appropriate cross connection controls and backflow prevention in accordance with clause 2.2 of Committee on Uniformity of Plumbing and Drainage Regulations (CUPDR) Circular No. 18;
- (e) Separate reticulation should include washing machines, toilet flushing, residential garden irrigation, washing cars and filling ornamental ponds

Detailed work as executed plans are to be provided to Council prior to the release of an Occupation Certificate.^[6.01]

31. **Flood Action Plan**

Council has adopted a policy to restrict the development of the land by reason of the likelihood of flooding. Prior to issue of a Construction Certificate, a Flood Action Plan, including details of evacuation procedures, is to be submitted to and approved by Council. Evidence of implementation of the Flood Action Plan will be necessary prior to occupation or commencement of operations. ^[7.03]

32. **Ocean/Flood**

Prior to issue of a Construction Certificate, submission to and approval by Council, of designs by a suitably qualified and experienced Structural/Civil Engineer that the development will be capable of withstanding the impact of the flood/ocean hazard applicable to the location.^[7.04]

33. **Flood**

Prior to the release of a Construction Certificate plans are to be submitted to the satisfaction of the PCA showing all building materials used below the 2050 1% AEP STL (2100 1% AEP STL for all Residential Units) to be of flood compatible materials, ie. the structural integrity of the materials must not be adversely affected by repeated immersion in flood water. Details of these materials are to be consistent with Council's "Guidelines for Flood-compatible Materials".^[7.05]

34. **Levels**

Submission to and approval by Council prior to release of the Construction Certificate, of Engineer's designs for the filling and grading of the site to provide free drainage to the street stormwater drainage system. Levels are to be coordinated with the approved finished floor levels, future vertical road realignment and vehicular access designs. All levels are to be in Australian Height Datum. Contact is to be made with Council's Development Engineer on (02) 44 74 1015 prior to undertaking the design.

35. **Stormwater Design**

Submission to and approval by Council prior to release of the Construction Certificate, of Engineer's calculations in accordance with Council's Development Specifications and Stormwater Design Manual for verification of the existing stormwater disposal system, for adequacy of capacity to receive stormwater disposal from the proposed

development. Upgrading of Council's existing piping as a consequence of the investigation may be required (at no cost to Council) and engineer's designs are to be provided to Council for approval, prior to release of the Construction Certificate, if the piped system is found to be inadequate.

36. Submission to and approval by Council prior to release of the Construction Certificate, of Engineer's designs for the piping of stormwater from the development to Council's stormwater pits within the road reserve. Designs and work as executed plans are to be in accordance with Council's Development Specifications and AS/NZ 3500, with all construction completed by the developer, at their cost. Contact is to be made with council's inspector on (02) 44 74 1393, 2 days prior to commencement of any work within the road reserve.

37. **Water Meters**

Various combinations of water meters shall have to be connected to each premises due to the differing types of development. Application is to be made to Council by calling (02)4474 1252 prior to release of the Construction Certificate to make arrangements for payment.

Payment is to be in accordance with Council's fees and charges at the time of payment. A reduced fee may be applicable where the water main junction to the property has been provided by the developer.

Individual water meters are required for strata units.

PRIOR TO COMMENCEMENT OF WORKS

38. **Works within Road Reserve**

Council's Subdivision Inspector is to be notified two days prior to commencement of any works for "Insert Details" construction within the footpath or road reserve (Telephone [02]4474-1393) to make arrangements for inspection. [14.08]

39. **Remediation and Validation Report**

Following the completion of remediation works on the site a Remediation Validation Report is to be prepared by a suitably qualified environmental consultant. This report, together with a final site audit statement by an accredited environmental consultant, including Notice of Completion statement, pursuant to clauses 17(2) and 18 of SEPP 55, is to be submitted to the satisfaction of Council prior to commencement of construction works.

40. **Construction in a Road Reserve**

Prior to commencement of any construction within the road reserve the applicant is to obtain a Section 138 consent from Council to undertake such works. A Traffic Control Plan prepared by a suitably qualified consultant, certified by the Roads and Traffic Authority in work site traffic control plan preparation is to be submitted to Council with the information listed below to facilitate completion of the Section 138 application. The consultant is to certify that the Traffic Control Plan complies with the current Roads & Traffic Authority manual "Traffic Control at Work Sites". Copies of records of inspections of traffic control layouts must be sent to Council after completion of works.

(a) The contractor's ABN

(b) A description of the work to be undertaken and the location. eg address

(c) The dates for commencement and completion of work

- (d) A copy of the contractor's \$20,000,000.00 public liability policy to indemnify Council.
- (e) A direction to Restrict Traffic Speed (DTR), where applicable, from the RTAs Traffic Operations Unit. Contact: Southern_Speedzoning@rta.nsw.gov.au or fax 02 4227 3705 or Ph: 02 4227 3705.
- (f) A Road Occupancy Licence (ROL) from RTA's Traffic Operations Unit. Contact: Southern_Speedzoning@rta.nsw.gov.au or Fax 02 4227 3705 or Ph: 02 4221 2556 for the Princes Highway and the Kings Highway.

An application form for the issue of a 138 certificate can be found on Council's web site: <http://www.esc.nsw.gov.au/site/publications/brochures/frameset.html> under "Building and Planning". It is the applicants responsibility to ensure that all conditions set out within this form are complied with and a 138 certificate issued prior to any works being carried out in the road reserve. Carrying out works within the road reserve without a 138 certificate will result in a penalty being issued under the Roads Act 1993 and works being suspended until such time as a 138 certificate is issued. [14.09]

41. **Construction Certificate**

The erection of the buildings the subject of this development consent **MUST NOT** be commenced until:

(a) Detailed plans/specifications of the building have been endorsed with a Construction Certificate by:

- (i) the Council, or
- (ii) an accredited certifier, and

(b) The person having the benefit of the development consent:

- (i) has appointed a Principal Certifying Authority, and
- (ii) has notified the Council of the appointment, and

(c) The person having the benefit of the development consent has given at least two building; and

(d) Builders name and licence number has been supplied to Council or the Principal Certifying Authority; and

(e) Owner Builders permit issued by Department of Fair Trading to be supplied to Council or the Principal Certifying Authority; or

(f) Home owners warranty insurance has been paid and a copy of the certificate supplied to Council or the Principal Certifying Authority; and

(g) A sign has been erected on site in a prominent position containing the information prescribed by Clause 98A(2) & (3) of the EP & A Regulations being the name, address and telephone number of the Principal Certifying Authority for the work, and name of the principal contractor for the work and telephone number on which that person may be contacted outside working hours, and stating that unauthorised entry to the site is prohibited. This sign must be maintained on site while work is being carried out and removed when the work has been completed. [2.06]

42. **Notification**
Council shall be given written notice, at least two days prior to work commencing on site, of the name and details of the Principal Certifying Authority and the date construction work is proposed to commence. [2.21]
43. **Disconnection of Service**
The disconnection of water supply and sewer connections at their respective mains is to be carried out by a licensed tradesperson and inspected by Council staff. In this regard you are advised to arrange Council inspection by contacting Eurobodalla Shire Council Works Depots – Batemans Bay on (02) 4472-4035 or Narooma on (02) 4476-4144 or Moruya (02) 4474-1091 prior to the commencement of the demolition works. [21.08]
44. **Other Services**
The gas, electricity and telephone services shall be disconnected by the relevant authority prior to the commencement of demolition works.
45. **Site Waste Management**
A site rubbish enclosure must be provided prior to commencement of any work for the period of the proposed work and remain in place for the duration of all works. All waste materials from the site must be disposed of at an authorised waste facility.

DURING CONSTRUCTION

46. **Site Fill Near Boundaries**
Fill placed within 1 metre of boundaries is to be properly retained and stabilised. Grading is not to direct stormwater flows to other properties.
47. **Fill**
No spoil or fill is to be deposited on public roads during the cartage of materials from or to the site. The deposition of spoil shall cease, as directed by Council, if it determines that excessive deposition of spoil onto the road is taking place.
48. Details of where the fill is to be sourced from and haulage routes shall be submitted to Council for approval, following demolition and prior to the commencement of fill deposition works.
49. **Public Way to be Unobstructed**
The public way shall not be obstructed by any materials, vehicles, refuse skips or the like, under any circumstances at any time during construction. [14.10]
50. **Public Footpaths**
A safe pedestrian circulation route a minimum of 1.5 metres wide and with a pavement fronting the construction site. Where the footpath is damaged, repair works shall be carried out when directed by Council officers and in accordance with the relevant clauses of the current edition of Council's Development Specifications.

Where circulation is diverted on to the roadway, clear directional signage and protective barricades shall be installed in accordance with Australian Standard AS1742-3 1996 "Traffic Control Devices for Work on Roads". [14.12]
51. **Approved Plans to be On-Site**

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of Council or the Principal Certifying Authority. [2.22]

52. **Hours of Operation – NOISE**

Construction and demolition work on the site shall only be carried out between the hours of 7.00am and 6.00pm on Monday to Friday inclusive, and 8.00am to 5.00pm on Saturdays. No construction or demolition activity on Sundays and Public Holidays if audible at any residential premise or other sensitive noise receptor. [20.01]

53. **Floor Level**

The minimum floor level of the residential units shall be at or above 4.3metres AHD. This level is to be certified by registered surveyor prior to the structure proceeding past the nominated level.[7.09]

PRIOR TO OCCUPATION

54. **Waste collection**

The collection of waste of generated by the approved land uses will be carried out by a contractor under the terms of a private agreement or treaty. Notwithstanding this, limited opportunity exists for the collection of domestic bins from the kerbside, a waste collection plan would have to be submitted to and approved by Council prior to the issue of any Occupation Certificate demonstrating how this could be managed.

55. **Flood Action Plan**

Prior to issue of an Occupation Certificate, a Flood Action Plan including details of evacuation procedures, is to be submitted to and approved by Council.

56. **Fencing**

A 1.8 metre high fence must be in place along the length of the rear, eastern and western boundaries behind the building line before the issue of any occupation Certificate.

57. **Landscaping**

The proposed landscaping shown on the approved plan is to be completed prior to the issue of any Occupation Certificate.

58. **Driveway**

Provision of two layback gutter crossings (as shown on approved plan), and reinstatement of kerb over redundant laybacks to Council's standard Plan No 4400-A-001-b-1. [14.17]

59. **Entry & Exit Signs**

Entry and exit signs are to be erected within the property boundaries, clearly identifying each driveway to the public. Signs to be erected prior to issue of Occupation Certificate.[14.29]

60. **Work within Road Reserve**

Prior to issue of Occupation Certificate all works within the road reserve (road, nature strip and footpath areas) are to be completed in accordance with the plans and any

conditions of approval. All work is to be inspected and passed by Council, an inspection may be booked by phoning 44741393 (inspection fees may apply in accordance with Council adopted fees and charges). Earthworks adjacent to the driveway are to be grades no steeper than 12%. All service covers are to match the finished ground level within the footpath/road reserve. The vehicle crossing is to be maintained in accordance with Council standards or other approved plan and in sound condition for the life of the development to the satisfaction of Council all at no cost to Council. [14.33]

61. **Parking**

Prior to issue of an Occupation Certificate, provide car park construction conforming to the approved plan.

62. **Landscape Plan**

Completion of landscaping in accordance with the approved landscape plan prior to issue of Occupation Certificate and such landscaping is to be continuously maintained in accordance with the approved plan. Maintenance is the landowner's responsibility.

[16.04]

63. Prior to the use or occupation of the development an inspection will be required to ensure formal compliance with the conditions of this consent. In this respect the Principal Certifying Authority or if no building work is required then Council should be contacted to arrange for an inspection. [2.15]

64. **Water/Sewer Developer Contributions**

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

- a) \$254,842 for the augmentation of water supply mains and storage within Eurobodalla Shire
- b) \$221,689 for the augmentation of sewerage works within Eurobodalla Shire

The above contribution rates are applicable for a period of three (3) months from the date of this notice. These rates are reviewed periodically, if not paid within the 3 month time frame contributions are to be paid at the rate applicable at the time of payment.

[3.11]

65. **Remediation & Validation Report**

Following the completion of remediation works on the site a Remediation Validation Report is to be prepared by a suitably qualified environmental consultant. This report, together with a final site audit statement by an accredited environmental consultant, including Notice of Completion statement, pursuant to clauses 17(2) and 18 of SEPP 55, is to be submitted to the satisfaction of Council prior to occupation of the building.

66. **Land Consolidation**

Consolidation of the land into one lot is required. Plan of consolidation to be registered with the Land and Property Information NSW prior to issue of Occupation Certificate.

67. **Inspection of Sewer & Water Works**

Contact is to be made with Council's water and sewer inspector on (02) 4474 7457 or 0418 412909, two days, prior to commencing any excavation for the sewer or water extension. Payment for inspections are to be in accordance with Council's fees and

charges and are to be paid prior to final inspection. The final certificate to occupy the proposed dwelling is not to be issued prior to submission of **Work as Executed** plans and testing of the new sewer or water main by Council. [4.09]

68. **Rainwater Tank Plan**

Prior to issue of the Occupation Certificate:

(a) stormwater control construction is to conform to approved plans and be in accordance with Council's Policy and Code of Practice, "Design Guidelines for Rainwater Tanks";

(b) all tanks and associated structures, including stands, must be installed in accordance with manufacturer's/ designer's specifications;

(c) accurate Work As Executed plans are to be provided to Council in accordance with Council's Policy and Code of Practice, "Design Guidelines for Rainwater Tanks".

To obtain a copy of the "Design Guidelines for Rainwater Tanks", contact Council's Duty Development Officers on (02)44741231, or download from Council's website at the following link: <http://www.esc.nsw.gov.au/Publications/Strategies/PolicyReg/viewPolicy>. [6.02]

69. **Fire Safety Certificate**

A Fire Safety Certificate shall be furnished to the PCA for all the Essential Fire or Other Safety Measures forming part of this approval prior to issue of an Occupation Certificate.

A copy of the Fire Safety certificate must be submitted to Council by the PCA with the Occupation Certificate.

70. **Adaptable Housing**

The Principal Certifying Authority is to ensure prior to the issue of any Occupation Certificate that eight residential units are compliant with the requirements of AS 4299- Adaptable Housing.

71. **S88E Restriction – Sea Level Rise Adaption**

Prior to the issue of any Occupation Certificate the Council is to be provided with documentation that confirms that the Sea Level Rise Adaption requirement (refer Condition 16(d)) has been registered as a restriction on the titles under Section 88E of the Conveyancing Act 1919.

72. Prior to issue of Occupation Certificate make payment to Council of any outstanding inspection fees for infrastructure construction works.

ADVISORY NOTES

73. **Discovery of a Relic**

If, during work, an Aboriginal relic is uncovered then the National Parks and Wildlife Service (NPWS) is to be contacted urgently - Queanbeyan 6298-9736 and WORK IS TO CEASE IMMEDIATELY until further notice. [13.07]

74. **Disability Discrimination Act 1992**

The Disability Discrimination Act covers disabilities not catered for in the minimum standards called up in the Building Code of Australia, which references AS1428.1 - "Design for Access and Mobility". AS1428 Parts 2, 3 & 4 provides the most

comprehensive technical guidance under the Disability Discrimination Act currently available in Australia.

75. **Ocean Location**

Council is of the opinion that the land is located within a corrosive environment, ie. That it is located within 1km from breaking surf, or within 100m of salt water not subject to breaking surf, or heavy industrial areas. Materials used in construction may require a higher level of corrosion protection in accordance with relevant Australian Standards and the Building Code of Australia.^[10.06]

76. **Aboriginal Relics**

Under Section 90 of the National Parks and Wildlife Act 1974 it is an offence to destroy, deface or damage a relic or aboriginal place without a 'Consent to Destroy' from the Director-General of the NPWS.^[13.10]

77. **Water & Sewer Supply Payment**

You should contact Council prior to payment to determine the rate of contribution as such rates are revised at least annually. Staging of payments is permitted if staging of development is approved by the terms of this consent.

78. **Effluent and Sewerage**

A second sewer junction can be provided at cost by applying to Council's depot for a Private Works Order. ^[4.10]

79. **Council's Sewer Plan**

Attached to the approval is a copy of Council's sewer plan. If excavating near the sewer for access construction or other, please contact Council's nearest depot for further information.

This diagram has been compiled on the best available information, but can only be taken as a guide. Exact location should be physically determined on site.

Disclaimer: This information is released by Eurobodalla Shire Council on the condition that the recipient of this document, or the reader of it, acknowledges that should they rely on any aspect of this document, they do so at their own risk and release Eurobodalla Shire Council of all liability and responsibility for any errors, omissions or inaccuracies contained within or arising from this information. ^[4.12]

80. **Flooding Liability**

The land may be subject to flooding and the development has been assessed using best available information concerning the likelihood of flooding at the date of determination. If the land is flooded, Council will not, pursuant to Section 733 of the Local Government Act 1993, incur any liability in respect of the granting of this consent.^[7.10]

81. **Strata Subdivision**

This application does not include approval of a strata subdivision. If required it would be the subject of a further development application.

PSR16/011 TENDER SURF BEACH SPECIALTY WASTE CENTRE

E15.9358

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

Attachments: 1. Confidential - Tender Surf Beach Specialty Waste Centre

Focus Area: Sustainable Communities

Delivery Program Link: S3.1 Provide and renew waste infrastructure

Operational Plan Link: S3.1.1 Deliver capital and renewal works program

EXECUTIVE SUMMARY

This report outlines the evaluation of offers submitted in response to Request for Tender No. 2016/PLS090 Design and Construction for Surf Beach Specialty Waste Centre and provides a recommendation for the preferred tenderer listed within the confidential attachment.

On 11 November 2015 Council was successful in obtaining \$237,424.00, excluding GST, grant funding from the New South Wales (NSW) Environmental Protection Authority (EPA) Waste Less Recycle More Initiative. This funding is for the provision of a fit for purpose specialty waste centre which will provide an opportunity for residents to dispose of high volume low toxicity wastes; oil and water based paints, gas bottles, fluorescent globes, household batteries, vehicle batteries, motor oil and cooking oil, all year round.

RECOMMENDATION

THAT Council:

1. Endorse the selection of the preferred tenderer listed for 2016/PLS090 Design and Construction for Surf Beach Specialty Waste Centre within the confidential attachment.
2. Accordingly approve the entering into of a contractual arrangement with the preferred tenderer, subject to the terms specified in the Request for Tender (RFT) unless otherwise varied in accordance with this report.

BACKGROUND

On 11 November 2015 Council was successful in obtaining \$237,424.00, excluding GST, grant funding from the NSW EPA Waste Less Recycle More Initiative, Improved Systems for Household Problem Wastes – Community Recycling Centres, round 3. The grant was assessed by the NSW Environment Trust Fund for the purpose to construct a facility to provide a drop off in the local area for problem wastes; oil and water based paints, gas bottles, fluorescent globes and tubes, household batteries, vehicle batteries, motor and cooking oil. Some of these items, notably paints and gas bottles, currently can only be disposed of via the annual household chemical cleanout.

Development Application 359/16 dated 22 December 2015 for the facility was approved subject to the conditions of approval on 15 February 2016.

RFT No. 2016/PLS090 was advertised on 8 February 2016 with a closing date of 2 March 2016. A compulsory on-site inspection was held on 17 February 2016. Offers were received from the

PSR16/011 TENDER SURF BEACH SPECIALTY WASTE CENTRE

E15.9358

following tenderers and assessed in accordance with the Tender Evaluation Plan dated 5 February 2016:

- CBC Innovation Pty Ltd, suite 1/24 Donald Street, Carlingford NSW 2118
- Iqon Pty Ltd, 41 Colbee Court, Phillip ACT 2606.

A summary of the evaluation, including each tenderer's scoring against the evaluation criteria is provided in the confidential attachment to this report.

CONSIDERATIONS

The tender includes the survey and design of the structure. Also, the EPA require sign off on the final design. Some provisions and modifications may need to be made to ensure that the facility meets the requirements of the fund, while remaining within the budget of the project.

Legal

Request for Tender (RFT) No. 2016/PLS090 was advertised in accordance with the *Local Government (General) Regulation 2005 REG 167* and *Local Government Act 1993*.

The tender was advertised on Council's noticeboard page in two local newspapers in the Sydney Morning Herald and at Council's Tenderlink web portal (www.tenderlink.com/eurobodalla).

A tender evaluation panel was established to review and assess the tenders submitted.

The offer submitted by the preferred tenderer has been assessed as representing best value for money for Council due to meeting all mandatory criteria, and scored the highest when assessed against the price and non-price criteria.

Policy

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

Environmental

The provision of a fit for purpose specialty waste centre will provide an opportunity for residents to dispose of high volume low toxicity wastes; oil and water based paints, gas bottles, fluorescent globes, household batteries, vehicle batteries, motor oil and cooking oil, all year round. This will reduce the likelihood of this material being dumped, entering the sewer or storm water systems and being disposed of inappropriately in the general waste bins.

Asset

The new facility will be managed as part of waste fund assets. Maintenance cost and depreciation will be considered in future budgets.

PSR16/011 TENDER SURF BEACH SPECIALTY WASTE CENTRE

E15.9358

Social Impact

The provision of this facility will provide the community with a service to accept high volume low toxicity wastes all year round, particularly for paints and gas bottles which are currently not able to be accepted.

Economic Development Employment Potential

The construction of the facility may use local material and subcontractors.

Financial

\$237,424.00 has been provided to cover the full cost of the construction of the facility. The day to day operation of the facility will be provided by waste services staff. This will increase the volume of work generated at Surf Beach waste management facility and additional resources may need to be provided.

The grant fund includes the collection and cost of disposal or processing of the material up to the cessation of the fund on 30 June 2017. The continuation and the level of grant funding for the collection is uncertain following the term of the initial fund.

Community Engagement

A compulsory pre-tender briefing was held at Surf Beach waste management facility on 17 February 2016.

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

CONCLUSION

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

The preferred tender as identified in the confidential attachment is therefore recommended for the awarding of a contract for the requirement.

IR16/013 TENDER NO 2016/ISD083 - CLEANING OF COUNCIL WORKS DEPOTS E13.7309

Responsible Officer: Warren Sharpe OAM - Director Infrastructure Services

Attachments: 1. Confidential - Tender Assessment

Focus Area: Support Services

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

Operational Plan Link: SS3.3.1 Provide and maintain Council plant, equipment, offices, depots and workshops

EXECUTIVE SUMMARY

Council enters into biennial contracts for the cleaning of its Batemans Bay, Moruya and Narooma Works Depots. This report outlines the evaluation of offers submitted in response to Request for Tender No 2016/ISD083 for the period 1 April 2016 until 31 March 2018 and recommends preferred tenderer for each depot.

RECOMMENDATION

THAT Council:

1. Endorses the selection of the preferred tenderers listed for Request for Tender No 2016/ISD083 – Cleaning of Council Works Depots within the confidential attachment; and
2. Accordingly approves the entering into of a contractual arrangement with the preferred tenderers, subject to the terms specified in the Request for Tender unless otherwise varied in accordance with this report.

BACKGROUND

To ensure quality of service delivery and the minimization of Work Health and Safety risks, the calling of public tenders against a detailed evaluation criteria was considered the most suitable method of procurement. Accordingly RFT No 2016/ISD083 was advertised on 2 February 2016 and closed on 24 February 2016.

Offers were received from the following tenderers and assessed in accordance with the Tender Evaluation Plan dated 25 January 2016:

- A1 South Coast Commercial Cleaning
- A Clean Above
- C2Q Facility Management
- International Cleaning Services
- Mary's TLC Home and Office
- OPS Cleaning

Tender submissions were evaluated on the following criteria:

IR16/013 TENDER NO 2016/ISD083 - CLEANING OF COUNCIL WORKS DEPOTS E13.7309

50% Price
30% Past experience and referees
20% WHS

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

CONSIDERATIONS

Legal

Request for Tender (RFT) No 2016/ISD083 was advertised in accordance with Local Government (General) Regulation 2005 REG 167 and Local Government Act 1993.

The tender was advertising on Council's noticeboard page in two local newspapers, in the Sydney Morning Herald and at Council's Tenderlink web portal (www.tenderlink.com/eurobodalla)

A tender evaluation panel was established to review and assess the tenders submitted.

The offers submitted by the preferred tenderers have been assessed by the panel as representing best value for money for Council due to best value for money and good references on past performance.

Policy

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

Environmental

Under the proposed contracts Council will provide the chemicals required to clean its depots, which ensures due consideration to the environmental and safety effect of substances used. The chemicals used will be supplied and instructed for use in accordance with the relevant Material Safety Data Sheet held within Council's WHS system.

Asset

Regular cleaning of Council Works Depots complements the ongoing maintenance of the asset.

Financial

Funds for the proposed services are available within the Depot Maintenance Budget for each site.

Community Engagement

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

IR16/013 TENDER NO 2016/ISD083 - CLEANING OF COUNCIL WORKS DEPOTS

E13.7309

CONCLUSION

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

The preferred tenders as identified in the confidential attachment are therefore recommended for the awarding of a contract for the requirement.

IR16/014 GRANT FUNDING - 2015-16 ACTIVE TRANSPORT PROGRAM

E01.5635

Responsible Officer: Warren Sharpe OAM - Director Infrastructure Services

Attachments: Nil

Focus Area: Liveable Communities

Delivery Program Link: L5.3 Provide and develop Council's shared pathway and cycleway network

Operational Plan Link: 5.3.2 Seek grant funding and partnership opportunities to develop network

EXECUTIVE SUMMARY

Council continues to provide strong support to improving pathway and cycling facilities based on the adopted Eurobodalla Shared Pathway Strategy 2010 which identifies high priority pathways projects across the Shire.

Appropriately placed pedestrian refuges greatly enhance pathway networks by providing a safe road crossing point for pedestrians and cyclists.

A funding proposal was submitted to Roads and Maritime Services (RMS) in 2015 for the installation of a pedestrian refuge in River Street, Moruya outside the Illawarra Retirement Trust (IRT) village. IRT strongly supported the proposal and indicated it was willing to contribute 50% of the costs towards the project. Council will provide in-kind support including project planning, design and project management.

RMS formally offered Council \$25,000 in funding in March 2016.

IRT has reconfirmed its commitment to the project by allocating funding this financial year and Council has formally accepted the offer of funding from the RMS.

RECOMMENDATION

THAT Council endorse the actions of staff in accepting the offer of funding for \$25,000 from Roads and Maritime Services' 2015-16 Active Transport Program for a pedestrian refuge in River Street, Moruya.

BACKGROUND

Council continues to provide strong support to improving pathway and cycling facilities based on the adopted Eurobodalla Shared Pathway Strategy 2010 which identifies high priority pathway projects across the Shire.

Council continues to pursue grant funding and work with community groups to accelerate pathway works across the Shire.

Appropriately placed pedestrian refuges greatly enhance pathway networks by providing a safe road crossing point for pedestrians and cyclists.

IR16/014 GRANT FUNDING - 2015-16 ACTIVE TRANSPORT PROGRAM

E01.5635

A funding proposal was submitted to RMS for the installation of a pedestrian refuge in River Street, Moruya outside the IRT village. IRT strongly supported the proposal and indicated it was willing to contribute 50% of the costs towards the project.

RMS formally offered Council \$25,000 in funding in March 2016.

IRT has reconfirmed its commitment to the project by allocating funding this financial year and Council has formally accepted the offer of funding from the RMS.

CONSIDERATIONS

RMS has offered \$25,000 for the installation of a pedestrian refuge in River Street, Moruya directly outside IRT. The project also includes the provision of an additional street light at this location.

A pedestrian refuge will provide a safe crossing point for pedestrians and cyclists to connect to the shared pathway that is situated along the river bank of the Moruya River and ends at Moruya Hospital. The location of the pedestrian refuge has been provided to directly benefit residents of IRT.

The funding offer requires matching funding and IRT has committed to provide the matching funds. Council will construct the pedestrian refuge and will provide in-kind project management support.

Asset

The new pedestrian refuge will contribute to the overall pathway network as identified within the Eurobodalla Pathways Strategy 2010. Construction of the refuge will be completed by 30 June 2016.

Social Impact

The provision of a pedestrian refuge outside IRT will allow and encourage residents and visitors to safely cross River Street and connect to the shared pathway along the river bank.

Financial

The total project costs are \$50,000 with the 50-50 contributors being IRT and the RMS grant offer. Council's in-kind support includes project planning, design and project management.

Council does not need to contribute any additional funding.

CONCLUSION

Council has been successful in gaining \$25,000 in funding through the RMS under the 2015-16 Active Transport Program for the installation of a pedestrian refuge in River Street, Moruya outside the Illawarra Retirement Trust village.

The Illawarra Retirement Trust will be contributing 50% costs towards this project.

The grant offer from the RMS has been formally accepted.

FBD16/015 INVESTMENTS MADE AS AT 29 FEBRUARY 2016

E99.3517

Responsible Officer: Anthony O'Reilly - Director Finance and Business Development

Attachments: Nil

Focus Area: Support Services

Delivery Program Link: SS1.1 Manage Council's financial assets and obligations

Operational Plan Link: SS1.1.2 Undertake forward budgeting and financial reporting

EXECUTIVE SUMMARY

The purpose of this report is to:

- Certify that Council's investments in financial instruments have been made in accordance with legal and policy requirements
- Provide information and details of investments
- Raise other matters relevant to investing

RECOMMENDATION

THAT the certification that the investments as at 29 February 2016 made in accordance with the Act, Council's investment policy and the provision of Clause 1 (Reg 212) of the Local Government (General) Regulation 2005, be received.

CONSIDERATIONS

Legal

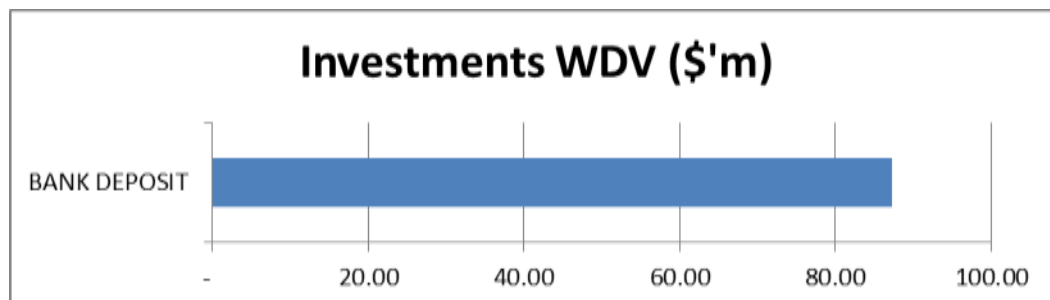
Budgeted legal fees for 2015-2016 are \$0.03m with minor expenditure incurred this year to date. Credit crisis related legal costs for the financial years 2008-2015 were \$0.37m.

Policy

Investments comply with Council's Investment policy.

Financial

Council Investing Overall



Council has 100% (\$87.32m) invested in bank deposits. The bank deposits are in banks rated A or greater or covered by the AAA rated Government Guarantee (except \$0.75m with IMB (Rated BBB+) and \$3.75m with ME Bank (Rated BBB+)). Investment in Government Guaranteed Deposits is \$2.00m and represents 2.32% of the portfolio.

FBD16/015 INVESTMENTS MADE AS AT 29 FEBRUARY 2016

E99.3517

The weighted average return for all investments for the month is 2.98% which is above the Council policy benchmark of Bank Bill Swap rate (BBSW) + 0.25% (2.55%).

Collateralised Debt Obligation (CDO)

A proof of Claim has been lodged on behalf of Council in respect of the scheme of arrangement (Scheme) between Lehman Brothers Australia Limited (in liquidation) and its Scheme Creditors. The first interim dividend has been received (\$257k) and a further instalment is expected to be announced in the short term. Legal action against Standard and Poors is proceeding and it is expected that this will be finalised before the end of the financial year.

Summary Investment Information

The following tables summarises investment categories and balances at month end.

CATEGORY	WDV (\$)
At Call Deposit Government Guaranteed	250,000
At Call Deposit	2,051,424
Term Deposits	83,270,054
Term Deposits Government Guaranteed	1,750,000
	87,321,479
<i>Weighted Average Interest %:</i>	2.98%
<i>Average 90 day BBSW + 25%</i>	2.55%

FBD16/015 INVESTMENTS MADE AS AT 29 FEBRUARY 2016

E99.3517

Policy and Liquidity Risk

The investment policy is divided into two risk categories of credit risk (risk of ultimately not being able to redeem funds) and liquidity risk (risk of loss due to the need to redeem funds earlier than the investment term). Our investments comply with the risk policy as shown in the following table.

Policy Risk	Low Liquidity Risk %	Medium Liquidity Risk %	High Liquidity Risk %	Total % WDV
Remote Risk	2.32	0.00	0.00	2.32
Policy Limit	100.00	70.00	50.00	
Near Risk Free	92.54	0.00	0.00	92.54
Policy Limit	100.00	50.00	30.00	
Some Limited Risk	5.14	0.00	0.00	5.14
Policy Limit	30.00	20.00	10.00	
At Risk	0.00	0.00	0.00	0.00
Policy Limit	0.00	0.00	0.00	
Grand Total:	100.00	0.00	0.00	100.00

The unrestricted current ratio is the amount of unrestricted current assets compared to each dollar of current liability. The Office of Local Government suggests a minimum 1.5:1 and the audited unrestricted current ratio as at 30 June 2015 is 3.09:1. Council therefore has approximately \$3.09 of current assets for each \$1 of current liabilities.

CONCLUSION

Pursuant to provision of Clause 1 (Reg 212) of the Local Government (General) Regulation 2005, I hereby certify that these investments have been made in accordance with the Act and related Regulations.

FBD16/016 ROAD CLOSURE -CHEESE FACTORY ROAD, EUROBODALLA

01.5702.B

Responsible Officer: Anthony O'Reilly - Director Finance and Business Development

Attachments: 1. Confidential - Recommended Sale Price
2. Confidential - Name of Registered Proprietor

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

Cheese Factory Road, Eurobodalla is a gravel road not maintained by Council. It provides legal practical access to two properties, Lot 2 DP 1087259 and Lot 181 DP 771740, and Bodalla State Forest.

The registered proprietor of Lot 2 DP 1087259 has been granted development consent for an unapproved dwelling located very close to the road boundary with a condition requiring the closure and purchase of part of Cheese Factory Road in order to establish an asset protection zone for the dwelling. The closure will be subject to the granting of an easement for access in favour of Council over the existing road formation which will ensure public access over this part of Cheese Factory Road is unaffected.

This report recommends that subject to the registered proprietor of Lot 2 DP 1087259 entering into a Deed of Agreement undertaking to pay all costs, to consolidate the area of closed road with the adjoining property, and to create easements for access in favour of Council, Council make application to Crown Lands to close that part of Cheese Factory Road and if closed transfer it to the registered proprietor of Lot 2 DP 1087259.

RECOMMENDATION

THAT:

1. Subject to a Deed of Agreement being entered into with the applicant for the closure of that part of Cheese Factory Road, Eurobodalla within Lot 2 DP 1087259 requiring the applicant to undertake to:
 - a. Pay all costs associated with the closure of part of Cheese Factory Road; and
 - b. Consolidate the area of closed road with the adjoining Lot 2 DP 1087259; and
 - c. Pay compensation set out in the Confidential Attachment to Report FBD16/016 and under the same Deed of Agreement for Council to undertake to:
 - a. Make application to the Crown Lands Division of the Department of Primary Industries to close that part of Cheese Factory Road subject to the creation of an easement for access 10 metres wide in favour of Council with the burdened property to be responsible for the maintenance of the access; and
 - b. Transfer the road, if closed, to the applicant for an amount set out in the

FBD16/016 ROAD CLOSURE -CHEESE FACTORY ROAD, EUROBODALLA

01.5702.B

Confidential Attachment to Report FBD16/016.

Application be made to the Crown Lands Division of the Department of Primary Industries to close that part of Cheese Factory Road, Eurobodalla subject to the creation of an easement for access 10 metres wide in favour of Council with the burdened property to be responsible for the maintenance of the access.

2. All costs associated with the closure application including Crown Lands' fee, survey and plan registration fees and Council's stage 2 processing fee of \$1,160 be borne by the applicant.
3. If closed, the land be transferred to the applicant for the amount set out in the Confidential Attachment to Report FBD16/016.
4. Consent be given to affix the Common Seal of Council to:
 - (a) The Deed of Agreement.
 - (b) The Transfer for the closed road.

BACKGROUND

Cheese Factory Road, Eurobodalla is a gravel road maintained by Council. It provides legal practical access to two properties, Lot 2 DP 1087259 and Lot 181 DP 771740, and Bodalla State Forest.

The registered proprietor of Lot 2 DP 1087259, whose name is set out in the confidential attachment, has been granted retrospective development consent for an unapproved dwelling located close to the road boundary with the following condition:

Road Closure

The road through the subject site is required to be managed to achieve Asset Protection Zones (APZ) in accordance with Planning for Bushfire 2006. To achieve lawful APZs the consent holder will obtain approval from the Eurobodalla Shire Council to have the road closed and purchased by the consent holder. An easement is to be required by means of section 88B instrument under the provisions of the Conveyancing Act 1919 to ensure legal access is available to the Eurobodalla Shire Council in perpetuity.

An application to close part of Cheese Factory Road has been received from the registered proprietor of Lot 2 DP 1087259.

CONSIDERATIONS

A plan showing the proposed road closure is below.

FBD16/016 ROAD CLOSURE -CHEESE FACTORY ROAD, EUROBODALLA

01.5702.B



Legal

In accordance with the Roads Act 1993, Council is the Roads Authority for public roads and whilst Council can recommend the closure of a road, it must be approved by the responsible Minister, currently the Minister for Lands and Water.

Before an application is made to Crown Lands for a road closure the proposal must be advertised in a local paper and notification given to all affected landowners and authorities giving a minimum 28 day submission period.

Submissions are to be considered and objections resolved, or if Council forms the opinion that no further progress can be made, a report with a summary and assessment of the submissions/objections with a recommendation sent to Crown Lands for determination.

In this instance no objections were received as a result of the advertising in the local press on 17 Feb 2016, and notification.

As that part of Cheese Factory Road is formed and public money has been expended on it, upon closure, the land will be vested in Council and able to be transferred to the applicant.

An 88B Instrument will be required to create the easement for access.

Whilst maintenance is normally the responsibility of the party benefited by an easement for access, in this case the registered proprietor of the former road will be responsible for the maintenance costs, ensuring the road remains trafficable at all times. This has been agreed to by the applicant.

In accordance with normal Council practice a Deed of Agreement should be entered into with the applicant for the closure of part of Cheese Factory Road requiring the applicant to undertake to:

- i. Pay all costs associated with the closure of part of Cheese Factory Road; and

FBD16/016 ROAD CLOSURE -CHEESE FACTORY ROAD, EUROBODALLA

01.5702.B

- ii. Consolidate the area of closed road with the adjoining Lot 2 DP 1087259;
- iii. Pay compensation set out in the Confidential Attachment to Report FBD16/016.

Policy

The proposed road closure and transfer of land to the adjoining property owner is in line with the provisions of Council's Land Acquisition and Disposal Policy as the proposed road closure is wholly within the one property.

Environmental

Environmental considerations were addressed as part of the DA process.

Asset

The closure of part of Cheese Factory Road and creation of an easement for access 10 metres wide in favour of Council will release Council from any future maintenance obligations on that part of Cheese Factory Road.

Social Impact

There will be no adverse impact to the public as use of the road will remain unchanged.

Financial

All costs associated with the closure application including Crown Lands' fee, survey and plan registration fees and Council's stage 2 processing fee of \$1,160 should be borne by the applicant.

The recommended sale price is set out in the Confidential Attachment.

Community Engagement

The road closure proposal was advertised in the local papers and notification given to authorities giving a 28 day submission period. No objections were received.

CONCLUSION

The proposal to close and transfer part of Cheese Factory Road subject to the creation of an easement for access in favour of Council is considered acceptable.

The closure of part of Cheese Factory Road subject to the creation of an easement for access over the existing formation will not alter public access to Bodalla State Forest.

Support for the closure is recommended.

FBD16/017 LEASE FOR RURAL FIRE SERVICE STATION - BELOWRA

16.0157.BD

Responsible Officer: Anthony O'Reilly - Director Finance and Business Development

Attachments: 1. Confidential - Registered Proprietors

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 Rural Fire Service (RFS) has determined the need for a permanent RFS station to be located at Belowra.

The registered proprietors of Part Lot 33 DP 752128 have offered a low fee lease over part of their property to construct the proposed RFS facility.

This report recommends the offer be accepted and Council enter into a 25-year lease with a 25-year option, with council paying all costs associated with the establishment of the lease.

RECOMMENDATION

THAT:

1. The offer from the registered proprietors of Part Lot 33 DP 752128 to grant a lease for a permanent Rural Fire Service station be accepted.
2. Council enter into a 25-year lease with a 25-year option subject to conditions including:
 - (a) Rent to be \$500 p.a.
 - (b) Council to be responsible for all outgoings.
 - (c) The lease to terminate in the event the site is not used for RFS purposes for a period of twelve months.
3. Council to be responsible for all costs associated with the establishment of the lease including:
 - (a) Survey and plan registration,
 - (b) Lease preparation and registration, and
 - (c) The lessee's reasonable legal costs.
4. Consent be given to affix the Common Seal of Council to the Lease of Part Lot 33 DP 752128.
5. The registered proprietors of Part Lot 33 DP 752128 be thanked for their offer to the Belowra community.

FBD16/017 LEASE FOR RURAL FIRE SERVICE STATION - BELOWRA

16.0157.BD

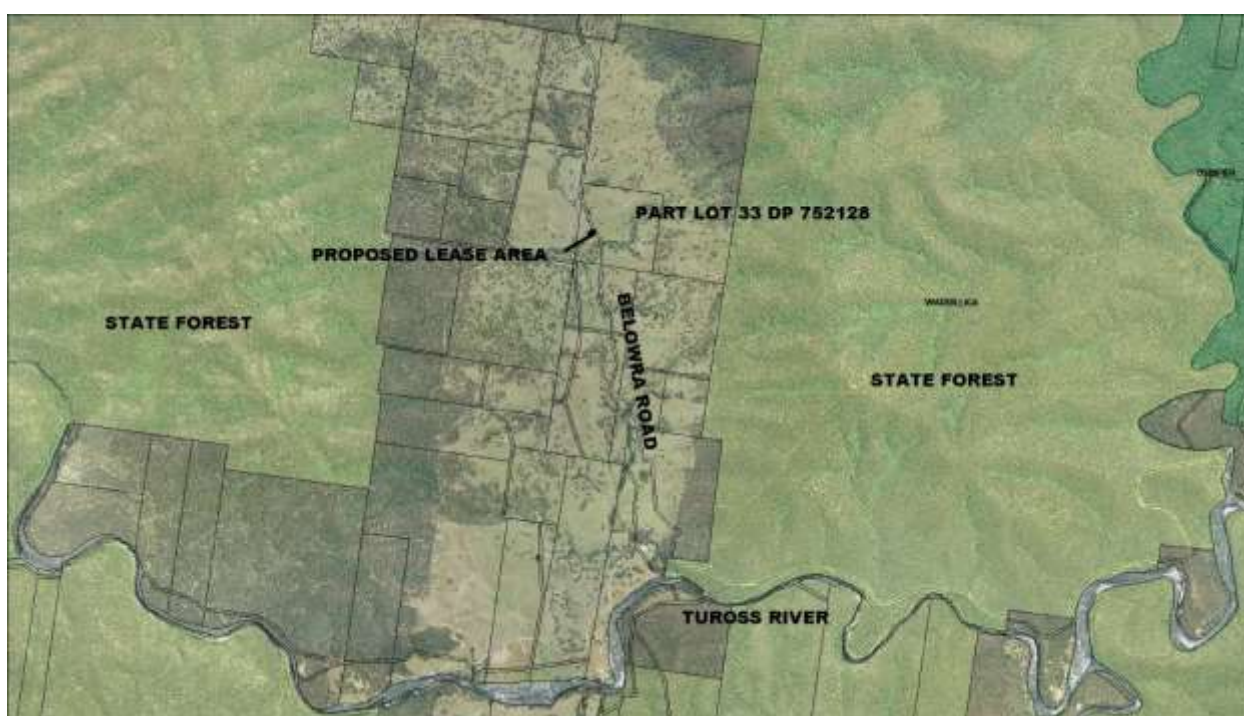
BACKGROUND

The RFS has determined the need for a permanent RFS station to be located at Belowra.

To facilitate the construction of a permanent RFS station at Belowra, the registered proprietors of Part Lot 33 DP 752128 have offered a low fee lease over part of their property to Council for that purpose. The names of the registered proprietors are set out in the Confidential Attachment.

CONSIDERATIONS

The proposed site of the lease is a parcel of land with an area of 1,400m² fronting Belowra Road. A plan showing the proposed lease site is below.



Legal

To ensure security of tenure, a lease over the proposed RFS site will need to be registered at the Land and Property Information Office.

As the lease term is over 5 years, a plan of survey will be required to be prepared and registered at the Land and Property Information Office.

To safeguard the lessees' interest it is considered reasonable for a condition of the lease to provide for the lease to terminate if the site ceases to be used by the RFS for a period of time, say 12 months.

Asset

A lease over the site will provide secure tenure for the proposed new RFS facility.

Social Impact

The construction of a permanent RFS station at Belowra will be beneficial to that rural community, especially in times of fire threat.

FBD16/017 LEASE FOR RURAL FIRE SERVICE STATION - BELOWRA

16.0157.BD

Financial

The lessee has offered the lease for \$500 pa. and advised the amount will be donated to the Belowra Bush Fire Brigade.

Council will be responsible for all costs associated with the establishment of the lease including survey and plan registration, lease preparation and registration, and the lessees' reasonable legal costs.

Funding has been allocated in the current budget for the establishment of the lease. The new facility will have a depreciation impact of \$4,350 per annum on Council's budget for the life of the building, assumed to be 40 years.

CONCLUSION

The offer of a low fee lease over Part Lot 33 DP 752128 will provide the opportunity to construct a permanent RFS station at Belowra that will be of significant benefit to that community.

Funds are available for the establishment of the lease.

FBD16/018 ASSIGNMENT OF LEASE - MORUYA AIRPORT

E07.1491

Responsible Officer: Anthony O'Reilly - Director Finance and Business Development

Attachments: 1. Confidential - Names of Lessee & Assignees

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 granted a 25-year lease over Lot 2 DP 1061675 to the current lessees at Moruya Airport commencing 1 June 2008.

Following the death of one of the lessees in 2014 a request has been received from solicitors acting for the executor of the estate of the deceased lessee, for consent to the assignment of his interest in the lease to a third party.

From details provided by the solicitor, the proposed assignees would appear to be respectable and financially sound in accordance with Clause 12.3(d) of the lease.

Accordingly this report recommends consent be granted.

RECOMMENDATION

THAT:

1. Consent be given to the assignment of a quarter interest in the Lease of Lot 2 DP 1061675 at Moruya Airport to the party named in the confidential attachment to Report FBD16/017 subject to all costs associated with the proposed assignment including Council's legal costs and an administrative fee of \$1,200 including GST being borne by the lessee.
2. Consent be given to affix the Common Seal of Council to:
 - (a) The Deed of Assignment, and
 - (b) The Transfer of Lease associated with the assignment of the lease of Lot 2 DP 1061675.

BACKGROUND

Council granted a 25-year lease over Lot 2 DP 1061675 at Moruya Airport to the current lessees commencing 1 June 2008.

Following the death of one of the lessees in 2014 a request has been received from solicitors acting for the executor of the estate of that lessee, for consent to the assignment of his interest in the lease to a third party, whose names and credentials are set out in the confidential attachment to this report. The name of the former lessee is also set out in the confidential attachment.

FBD16/018 ASSIGNMENT OF LEASE - MORUYA AIRPORT

E07.1491

CONSIDERATIONS

Legal

In accordance with the provisions of the lease, the lessee cannot assign the lease without the written consent of the lessor, which consent may be refused in the absolute discretion of the Lessor.

Subject to the assignee being be respectable and financially sound in accordance with Clause 12.3(d) of the lease, there would be no reason not to consent to the proposed assignment. From the details provided by the solicitor, the proposed assignee would appear to satisfy the desired attributes.

If consent is granted, it will be necessary for Council to enter into a Deed of Assignment with the assignee and to execute a Transfer of Lease.

Financial

All costs associated with the proposed assignment of the lease should be borne by the lessee including Council's legal costs and administrative costs of \$1,200 including GST.

CONCLUSION

The proposed assignees are considered worthy lessees and there would appear to be no reason to withhold consent to the assignment of the former lessee's interest in the Lease.

FBD16/019 ASSIGNMENT OF LEASE - TUROSS HEAD

E80.0163

Responsible Officer: Anthony O'Reilly - Director Finance and Business Development

Attachments: 1. Confidential - Assignee details
2. Confidential - Additional information on Assignee
3. Confidential - Share holder financials
4. Confidential - Names of Current Lessees

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 Tuross Beach Holiday Park is located partially on Council owned land and partially on Crown Reserve under the trusteeship of the Eurobodalla (Central) Reserve Trust for which Council is Trust Manager.

Council as landowner and Trust Manager granted separate 30-year leases over the respective lands in May 2012.

The lessees of the Tuross Beach Holiday Park are intending to sell their caravan park business, including the lease and through their solicitors are seeking Council's consent to the Transfer of the leases.

The proposed lessee company is considered acceptable and accordingly this report recommends consent be granted to the transfer of the two leases.

RECOMMENDATION

THAT:

1. Council consent to the assignment of lease AI150059T over part of the Tuross Beach Holiday Park to the party named in the confidential attachment to Report FBD16/018 subject to all costs associated with the assignment including Council's legal costs being borne by the current lessees.
2. Council as Trust Manager for the Eurobodalla (Central) Reserve Trust grant consent to the current lessees to assign the lease AI738066A over part of the Tuross Beach Holiday Park to the party named in the confidential attachment to Report FBD16/018 subject to all costs associated with the assignment including Council's legal costs being borne by the current lessees.
3. Consent be given to affix the Common Seal of Council to:
 - (a) The Deed of Assignment associated with the assignment of leases AI150059T and AI738066A; and
 - (b) The Transfers of Leases AI150059T and AI738066A.

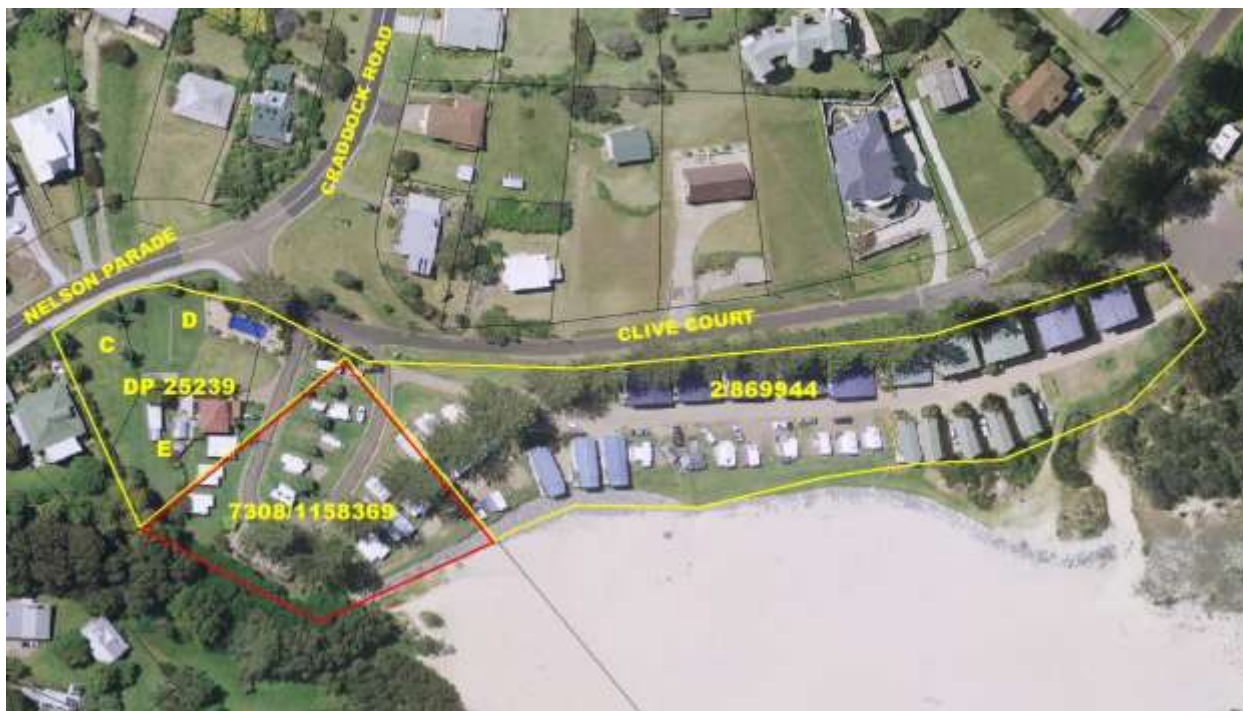
FBD16/019 ASSIGNMENT OF LEASE - TUROSS HEAD

E80.0163

BACKGROUND

The Tuross Beach Holiday Park is located partially on Council owned land and partially on Crown Reserve under the trusteeship of the Eurobodalla (Central) Reserve Trust for which Council is Trust Manager.

A plan of the park is shown below with Council's land edged yellow and the Crown reserve edged red.



Council as landowner and Trust Manager granted separate 30-year leases over the respective properties commencing 1 May 2012.

Solicitors acting for the Lessees, whose names are set out in the confidential attachment, have requested consent for the assignment of the leases to the company also named in the confidential attachment.

CONSIDERATIONS

Legal

The two leases, AI150059T over Council's property being Lots C, D and E DP 25239 and Lot 2 DP 869944 and AI738066A over Crown Reserve being Lot 7308 DP 1158369 can be assigned in accordance with the identical provisions in each lease which state:

FBD16/019 ASSIGNMENT OF LEASE - TUROSS HEAD

E80.0163

6.1 Assignment

- (a) *The Lessee shall not assign or transfer this Lease or by any act or Lease procure either of those things.*
- (b) *An assignment or transfer is deemed not to be in breach of subclause (a) if, before it takes effect, the following conditions are satisfied:*
- 1) *the Lessee establishes to the reasonable satisfaction of the Lessor that the proposed assignee or transferee is respectable, responsible and solvent;*
 - 2) *the proposed assignee or transferee enters into a covenant with and in a form reasonably required by the Lessor that the proposed assignee or transferee will duly perform and keep the covenants and agreements on the Lessee's part herein contained;*
 - 3) *in the event that the proposed assignee or transferee is a corporation other than a public company listed on a stock exchange or a statutory authority the Lessor may require the provision of appropriate guarantees of the performance by such corporation of its obligations, covenants and agreements pursuant to this Lease.*

Upon completion of such assignment or transfer the assignor or transferor shall have no further obligation as Lessee under this Lease except in respect of any unremedied antecedent breach and the Lessor shall if required by the assignor or the transferor execute an appropriate deed of release in its favour.

6.2 Assignment or Sublease

Subject to clause 6.1 the Lessee shall not otherwise assign transfer demise sublet or part with possession of or grant any licence affecting or otherwise deal with or dispose of the Premises or any part thereof or by any act or Lease procure the Premises or any part thereof to be assigned transferred demised sublet to or put in the possession of any person without the written consent of the Lessor.

Information provided regarding the proposed assignee indicates the company is "respectable, responsible and solvent" in accordance with Clause 6.1(b) of the lease. The information is provided in the confidential attachment.

As the proposed assignee is not an ASX listed company, legal advice was sought in relation to a guarantee.

The following advice was received:

While it may be unlikely that the Lessee will default, Council may wish to consider requesting a guarantee either from the Directors or the Shareholder. It is unclear though whether (the assignee company) or (the AXS listed shareholder company) will be willing to provide this.

A request was made through the assignee's solicitor but was declined.

Given the financial standing of the shareholder company, insistence on a guarantee, which would result in the lessees' sale not proceeding, is not considered imperative in this instance.

FBD16/019 ASSIGNMENT OF LEASE - TUROSS HEAD

E80.0163

Asset

Given the size and experience of the assignee company and its single shareholder company being an ASX listed company with real estate assets valued at nearly \$400 million, further investment in the park by the proposed assignee would be expected.

Financial

The transfer of the lease will have no immediate financial effect on the leasing of the caravan park, however increased trading may result in increased lease fees in future rent reviews.

All costs associated with the assignment of the lease including Council's legal costs should be borne by the lessee.

CONCLUSION

From the information provided in respect of the proposed assignee there would appear to be no reason to withhold consent to the assignment of the leases over the Tuross Beach Holiday Park.

FBD16/020 LICENCE FOR FARMERS MARKETS - RIVERSIDE PARK

E05.9368

Responsible Officer: Anthony O'Reilly - Director Finance and Business Development

Attachments: 1. 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

At its Ordinary meeting held on 23 February 2016 Council considered the submissions received for the expressions of interest (EOI) called for the operation of weekly markets in Riverside Park, Moruya including one from Sustainable Agriculture & Gardening Eurobodalla Inc. (SAGE).

Council resolved to grant a five-year licence to SAGE in line with the licence it resolved to grant for the Saturday markets subject to the consent of the Minister administering the Crown Lands Act, 1989 following consideration of the fee.

Submissions have been made by SAGE to reduce the fees for its farmers' markets. This report recommends the current fees in Council's adopted fees and charges remain unchanged, however it recommends an amount equivalent to 40% of the income from the SAGE licence to be allocated to SAGE to fund grower education programs and other initiatives in line with their strategic plan.

RECOMMENDATION

THAT:

1. Subject to consent from the Minister administering the Crown Lands Act, 1989, Council as Trust Manager for the Eurobodalla (Central) Reserve Trust, grant a five-year licence to operate a weekly Tuesday farmers market to Sustainable Agriculture & Gardening Eurobodalla Inc.(SAGE) based on a standard Crown Lands' licence with stall fees in accordance with Council's adopted Fees and Charges with additional conditions including:
 - (a) Random audits of stall numbers;
 - (b) Monthly reporting on weekly stall numbers;
 - (c) Annual provision of the licensee's audited financial details;
 - (d) Provision of Licensee's market committee report minutes;
 - (e) The licensee must abide by the licensee's governance provisions and constitution as detailed in its submission to the Expression of Interest for conducting weekly markets in Riverside Park;
 - (f) Written notice by given by the licensor to the licensee of breaches to the licensee's governance provisions or constitution outlined in (e) above; and
 - (g) The licensee to show cause why the licence should not be terminated following three written notices given in respect of (f) above.

FBD16/020 LICENCE FOR FARMERS MARKETS - RIVERSIDE PARK

E05.9368

- (h) Vehicles will only be allowed in market area during set-up and set-down times except if:
 - (i) A Vehicle is required as part of stall, e.g. coffee van, donut van etc,
 - (ii) A Stallholder's disability necessitates the need to have the vehicle, or
 - (iii) Inclement weather may be imminent.
- 2. Council allocate to SAGE for the term of the licence, an amount equivalent to forty percent (40%) of fees received from the licence granted, to fund grower education programs and other initiatives in partnership with Council and in line with their strategic plan.
- 3. Fees not be waived for any stallholders.

BACKGROUND

At its Ordinary meeting held on 23 February 2016 Council considered the submissions received for the expressions of interest (EOI) called for the operation of weekly markets in Riverside Park, Moruya, including one from Sustainable Agriculture & Gardening Eurobodalla Inc. (SAGE) and resolved:

THAT:

1. *Council receive a further report recommending a five-year licence be granted to Sustainable Agriculture & Gardening Eurobodalla Inc., subject to the same conditions as the licence for the Saturday markets at Riverside Park, Moruya, following consideration of the fees for the Tuesday farmers market;*
2. *Such licence would be subject to consent from the Minister administering the Crown Lands Act 1989 and based on a standard Crown Lands' licence with stall fees in accordance with Council's adopted Fees and Charges with additional conditions including:*
 - (a) *Random audits of stall numbers;*
 - (b) *Monthly reporting on weekly stall numbers;*
 - (c) *Annual provision of the licensee's audited financial details;*
 - (d) *Provision of Licensee's market committee report minutes;*
 - (e) *The licensee must abide by the licensee's governance provisions and constitution as detailed in its submission to the Expression of Interest for conducting weekly markets in Riverside Park;*
 - (f) *Written notice by given by the licensor to the licensee of breaches to the licensee's governance provisions or constitution outlined in (e) above; and*
 - (g) *The licensee to show cause why the licence should not be terminated following three written notices given in respect of (f) above.*

FBD16/020 LICENCE FOR FARMERS MARKETS - RIVERSIDE PARK

E05.9368

CONSIDERATIONS

In its submission to the EOI for a licence to operate the Tuesday farmers market, SAGE sought the reduction in the current fees for markets in Council's adopted fees and charges. It subsequently made further submissions to support a case for a fee reduction. A request was also made for the waiving of fees for a group of non-commercial growers, nicknamed "Backyarders" by SAGE, who have previously been able to sell produce from the SAGE stall at the markets without a stall fee. Due to expansion of SAGE activities it is unable to accommodate the Backyarders within its stall. Copies of the submissions are provided in the confidential attachment.

Discussions have been held with representatives of SAGE and they agreed to recognize Council as a partner in the programs they undertake.

Legal

Riverside Park, Moruya is a Crown Reserve under the Trusteeship of the Eurobodalla (Central) Reserve Trust for which Council is Trust Manager.

Council, as Trust Manager, cannot grant a licence for markets within Riverside Park for a period exceeding twelve months without the consent of the Minister administering the Crown Lands Act, 1989. The Minister will not consent to any licence unless the Trust Manager has engaged in an open and competitive process or the Trust Manager clearly demonstrates that it has considered the 2006 ICAC Guidelines for managing risk in direct negotiations in making a determination of the appropriateness of direct dealing.

Accordingly Council considered an open and competitive process was appropriate.

It is recommended the new licence be based on a standard Crown Lands Licence with special conditions in line with the Saturday market licence.

Policy

Council's Business Development Strategic Plan identifies increasing local food production as a key aim and support for SAGE to do so is in line with an adopted action from the Rural Lands Strategy.

Asset

The market area of Riverside Park was planned and constructed specifically for the weekly markets which provide income for maintenance and ongoing improvements to the park. The impact of markets on the reserve is the same regardless of the time of operation. Fees have been determined having regard to the maintenance and replacement costs resulting from markets' impact to ensure amenity and public safety is maintained.

Social Impact

The ongoing success of markets at Riverside Park indicates the value of markets to the vibrancy and viability of the community.

FBD16/020 LICENCE FOR FARMERS MARKETS - RIVERSIDE PARK

E05.9368

Economic Development Employment Potential

The farmers market provides for increased local economic growth through encouraging shoppers from out of Moruya and giving local primary producers an alternate outlet for their produce.

SAGE's strategic plan aims to increase the number of growers and amount of production from existing growers. The support provided to implement the strategic plan will grow Eurobodalla's reputation as a food producer and food tourism destination.

Financial

Council has set fees for markets in its adopted Fees and Charges for the 2015-2016 financial year.

In its submission to the EOI for a licence to conduct a weekly market in Riverside Park, SAGE sought consideration to be given to have the fees for mid-week and/or farmers markets reduced to approximately 60% of the current adopted fees.

Further submissions regarding fees were received in January and February 2016 including a request for the waiving of fees for certain stallholders.

In respect of fees, an action from the recently adopted Rural Lands Strategy is:

Council could consider reviewing its rental policy for the SAGE and Tilba markets to release some funds for grower education and training. Funding could be tied to specific outcomes. For example, an annual program could be developed in partnership between Council's Business Development Unit and SAGE.

Whilst a reduction in the adopted fees for markets is not recommended, allocating an amount equivalent to 40% of the fees raised from the farmers market is recommended. These funds would be used by SAGE for grower education programs and other initiatives in line with their strategic plan. This is in line with actions from the adopted Business Development Strategic Plan 2014-18 and the Rural Lands Strategy, and satisfies one of the aims of SAGE which is to raise funds to develop and support sustainable agriculture programs in the community.

The waiving of fees for certain stallholders is not recommended as it may set a precedent for similar stallholders in different markets and could also be considered a donation to individuals for financial advantage. It is considered arrangements should be made by SAGE if they wish to accommodate these casual "Backyarders".

SAGE will provide Council with an annual report on the programs it has delivered using this support and how they relate to the SAGE strategic plan.

CONCLUSION

The reduction of adopted fees for markets held mid-week is not recommended. However, the allocation of 40% of the fees received from the licence granted to SAGE to fund grower education programs and other initiatives in line with their strategic plan is considered appropriate. Waiving of fees for individual stallholders is not recommended.

DR16/006 NSW COASTAL CONFERENCE - FORSTER - 11-13 NOVEMBER 2015

**E09.3154;
E91.3255**

Responsible Officer: Gabi Harding - Councillor

Attachments: Nil

Focus Area: Collaborative Communities

Delivery Program Link: C1.1 Conduct the business of Council in an inclusive, responsive and transparent manner

Operational Plan Link: C1.1.1 Support the councillors in meeting their statutory obligations and roles as community representatives

EXECUTIVE SUMMARY

I was privileged to be the Councillor delegate at the 24th NSW Coastal Conference held in Forster on 11th November 2015.

RECOMMENDATION

THAT Councillor Gabi Harding's delegate's report on the NSW Coastal Conference held in Foster from 11-13 November 2015, be received and noted.

BACKGROUND

Our gracious hosts, Great Lakes Council, welcomed us with some salutary regional stories around water quality and dune and coastal management. General Manager Glenn Handford explained how GLC lead the positional mind shift that had to occur. It was in order to deal in a meaningful way with these challenges and he explained how GLC embedded water quality outcomes into the DCP and LEP.

Key note speaker Day1: Dr Tim Foresman QLD University of Technology spoke about how the community can become more involved in Government decision making by applying the principles of "Open Data Policy". "Data, if not managed well rapidly loses its full potential value."

Link to clip by GLC speaking with Dr Tim Foresman

<https://www.youtube.com/watch?v=8-om4Cltf14>

Keynote speaker Day 2: Professor Emma Johnston discussed her research on coastal systems. "Muddy Waters": Biodiversity, Bio invasion and Ecosystem Functioning in Multiply Stressed Coastal Systems.

- Anthropogenic activities will change the dynamics and extent of stresses (and introduce new stressors)
- Contaminants do reduce biological diversity regardless of contaminant type

DR16/006 NSW COASTAL CONFERENCE - FORSTER - 11-13 NOVEMBER 2015

**E09.3154;
E91.3255**

Estuaries studied for sediment contaminant:

Wagonga inlet	Port Kembla
The Clyde	Port Hacking/Port Jackson
Jervis Bay	Botany Bay

Used a biomarker (tool approach) to measure stress levels in oysters

Once the contaminant is in the mix it is extremely difficult to get rid of the increase. Contaminants settle into sediments where there are large population centres of microfauna. Fish feed in the sediment layers. When we build infrastructure like a Marina we slow down the water movement and increase the sediment. Links to Prof Emma Johnston;

<http://h100.tv/article/professor-emma-johnston-coast-australia-s2>

<http://www.australiaunlimited.com/environment/underwater-trailblazer>

<https://www.youtube.com/watch?v=PzFtEPduQj8>

It was an honour to be able to accept an award on behalf of our Council at the Conference Dinner. The award for "Innovation" was won for ESC Themeda Grasslands Management. This is a strategy of weed control along with facilitation of native grass propagation and growth, using fire regimes in an urban area (Dalmeny Narooma).

Day 3 Plenary Session 8

Minister for Planning Rob Stokes made the official announcement regarding the NSW Coastal Management Bill and the framework around the Bill was a major talking point of the conference. There had been a lot of anticipation surrounding what this new Bill would look like and how it would shape a path forward as NSW and Australian coastal regions tackle the numerous constraints upon them. A panel discussion followed the announcement:

"An introduction to the new legislative arrangements for the coast" panel included, Alex O'Mara: Dept. Planning and Environment, Althea Kannane: NSW OEH and Bruce Coates: NSW OEH.

A jam packed conference program made it difficult to cover all of the interesting presentations on offer. But I managed to get to many good sessions and topics.

2015 Coastal Conference Papers can be downloaded here

<http://www.coastalconference.com/papers.php>

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

EUROBODALLA SHIRE COUNCIL

ETHICAL DECISION MAKING AND CONFLICTS OF INTEREST

A GUIDING CHECKLIST FOR COUNCILLORS, OFFICERS AND COMMUNITY COMMITTEES

ETHICAL DECISION MAKING

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

CONFLICT OF INTEREST

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

THE TEST FOR CONFLICT OF INTEREST

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

IDENTIFYING PROBLEMS

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

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

AGENCY ADVICE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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