

EUROBODALLA SHIRE COUNCIL

PUBLIC FORUM

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

Ordinary Meeting of Council on **27 July 2021**

Name	Subject/Comments
Andrew Bain	QON21/005 Land clearing at Broulee
Lei Parker	QON21/005 Land clearing at Broulee
Brett Stevenson	QON21/005 Land clearing at Broulee

QON21/005 LAND CLEARING AT BROULEE

BROULEE MOSSY POINT COMMUNITY ASSOCIATION SUBMISSION TO COUNCIL 27 JULY 2021

Following the destruction of vegetation on the **unformed road** Council needs recover the confidence of the community and ensure fire protection in perpetuity for the community balanced with maintenance of some remnants of the original vegetation.

Referring to Mr Usher's response to question 2

The NSW / RFS Documents require that where an APZ is proposed on adjoining land a guarantee must be provided that the land will be managed in perpetuity and in order to achieve this the land should have an easement under the Conveyancing Act.

Perpetuity is a long long time and the response is inadequate to provide this, particularly as we know the Council collectively loses memory of past decisions. Mr Usher's answer relies on the presence of infrastructure on the land which may not always be the case. Indeed we understand the development contractor has been directed to relocate this infrastructure on Broulee Road adjacent to Lot 89.

The second leg of the answer relies on the land being Managed Land. This may not always be the case and the detail of management may not be sufficient to meet RFS requirements

To provide proper transparent protection to new owners of land in the development the requirements of the APZ should be entered on the title of the land.

The Association has asked additional questions yet to be answered these include whether the land now known as Lot 89 has been converted to community land in accordance with Council Minute 479 of 25 November 2003 – attached.

The Association sought a meeting with Council's staff to explore ways in which Council staff and the Association might restore the wider community's trust in Council. And some balance between the destruction that has occurred on the **unformed road** and the need to maintain some remnants of Broulee's history

On 20 July Association representatives met with the General Manager (Dr Catherine Dale) the Director Infrastructure Services (Mr Warren Sharp), and the Director of Planning and Sustainability Services (Mr Lindsay Usher).

The Association went to that meeting willing to compromise to achieve a satisfactory outcome – an outcome that would satisfy not only the community at large but also the legal requirements Council must meet.

To that end, the Association's priority was on preserving Lot 89 and in, particular its few remaining large trees necessary to:

- sustain native bird and animal habitat; and
- retain the remaining fragment of what the entrance to Broulee used to look like.
- To retain one small area of vegetation within the desert of the development

Confident that Mr Usher would follow-through on his statement in Council's 29 June Media Release that "action to turn the road reserve into Community Land is now underway", the Association advanced a package that

1. Accepts the need for an Asset Protection Zone (APZ) on the **unformed road** as required by the Rural Fire Service (RFS) to provide fire protection where the development borders the **unformed road**.
2. Suggests that as the APZ would become Community Land once Mr Usher takes the action required of him, it would be vegetated and managed by Council consistent with the requirements of an APZ and in consultation with Landcare.
3. Proposed that if Council staff had not already done so, they immediately take any necessary action to make Lot 89 Community Land as required by Council Minute No 478 of 2003.
4. Recognising that if Council and the RFS considered it prudent to remove some undergrowth on Lot 89 and manage the major trees on it to achieve non-intersecting canopy, the Association would accept that with good grace.

We could not achieve agreement on this package.

Council representatives mentioned that action to categorise Lot 89 was never completed by Council staff. They talked about taking the matter back to Council later in the year with a new range of options but did not specify any of them. We are opposed to this. The decisions reflected in Minute No 478 of 2003 were reached after extensive consultation and the direct involvement of some 500 local residents. The decision relating to Lot 89 is crystal clear and has no problem of legality. The plan of management to which the Minute refers is still the operational plan for Broulee reserves. In the last Council meeting some Councillors referred to the need to respect earlier Council commitments. Please do not ignore this 2003 commitment as it applies to Lot 89.

At the 20 July meeting with the Association, Mr Sharpe mentioned a couple of letters he had received supporting Council's action to clear the **unformed road** from a fire risk prevention perspective. As Broulee residents are well aware of fire risk, that is not surprising. However, the **unformed** road is now cleared and will be managed by Council to meet the standards of an APZ. This will give residents a lot of comfort. Management of Lot 89 should rely on the advice of the RFS. This would most likely be a requirement to manage the land like the land on the south side of Broulee Road with, perhaps, more work on the understory to reduce the likelihood of fire moving up large trees. Lot 89 is directly opposite the fire shed which includes a large area of completely cleared vegetation adding to a reduction in fire risk. The RFS have indicated that it would approve this approach.

An Appeal:

In 2003 the elected Council made a sound decision based on community consultation and addressing community concerns. This is reflected in paragraph 1 of minute 478. Council staff may have failed to fully implement it. If so, there is no legal or other reason for you, the elected Councilors, not to direct staff to immediately complete any action necessary to make Lot 89 Community Land. I suggest that a Councillor should move a motion from the floor

that if Lot 89 has not yet been made Community Land the staff be directed to undertake this action.

The debacle that has resulted from Council's handling of this matter has happened on your watch as elected Councilors. The bulk of the trees removed will never come back but you, the elected Councilors have the opportunity today to protect the remaining pocket of original Broulee that is Lot 89. Please do so – the Association and the community at large will thank you for it.

If you do not, habitat for birds, possums, micro bats and much more will be gone forever. So too will an important vista from the main road to Broulee. It is the last little pocket of what Broulee used to be like.

Andrew Bain
Acting President
Broulee Mossy Point Community Association

W12 PLAN OF MANAGEMENT BROULEE AND MOSSY POINT
RESERVES (COMMUNITY LAND)

02.6678

(The following is a summary only and does not purport to be a complete transcript of the proceedings.)

Deputation by Mr David Huntley on behalf of the Broulee Community Association in support of selecting Option 2 for the use of remnant bush land at the intersection of Clarke St and Broulee Road, Broulee, as outlined in report W12. Mr Huntley said it was the overwhelming wish of the Broulee community that this land be retained as bushland.

On a personal basis, Mr Huntley offered to spend some of his own time clearing the dead vegetation from the area and at his expense, replanting of the land with native species.

The Mayor thanked Mr Huntley for his offer and said she was sure the local Landcare groups would be happy to help him.

MINUTE NO 478

W12 PLAN OF MANAGEMENT BROULEE AND MOSSY POINT
RESERVES (COMMUNITY LAND)

02.6678

478 MOTION Councillor Vardon/Councillor Pollock

THAT:

1. Council reclassify the Operational Land at the Corner of Broulee Road and Clarke Street (Part Lot 9 Sec 19 DP 758168 & Part Lot 8 Sect 19 DP 758168)* as Community Land.
2. Council adopt the Plan of Management for Broulee & Mossy Point Reserves.
3. Council seek expressions of interest to form a Section 355 Management Committee for the Old Fire Shed at Mossy Point. In the interim the Candlagan Precinct Association continue to manage the facility.

(The Motion on being put was declared **CARRIED**).

* This land is now known as Lot 89 DP1093710

QON21/005 LAND CLEARING AT BROULEE – Lei Parker July 27th 2021

Councillors,

When I left Papua New Guinea to come to Australia my father offered what advice he could to a son leaving his home, and his country, to discover a new land and culture. One of the gems that he offered was “Don’t believe in all that is said or written. Look to what isn’t being said or written. That is where you need to look. Then work out what they aren’t telling you and why.”

In a response by Mr Lindsay Usher to questions raised by Councillor Mayne he states:

“It has previously been acknowledged that whilst Council, in November 2003, adopted the PoM and resolved to ‘reclassify the operational land at the corner of Broulee Road and Clarke St (Part Lot 9 Sec 19 DP 758168 and Part Lot 8 Sect 19 DP 758168) as community land’, such resolution was unfortunately not implemented by staff at the time.

“Staff are continuing to investigate the matter and will brief and bring back a report to Council at the earliest opportunity so that the appropriate recommendations containing the required decisions of Council can be correctly and formally endorsed.”

From the above response it is clear that there is more left unsaid than said.

Just what does “so that the appropriate recommendations containing the required decisions of Council can be correctly and formally endorsed” mean?

It is clear that Council is still of the opinion that Lots 8 and 9 of DP 758168 (now consolidated as Lot 89 DP 1093710, 75 Clarke Street, Broulee) are ‘Operational’ until further investigations are completed.

Council’s justification for clear felling of the unformed road reserve was “*such resolution was unfortunately not implemented by staff at the time*”. Now they have their sights on the two blocks remaining.

A reminder to you:

On May 18th 2021 Council advised the Broulee Mossy Point Community Association:

“A search of Council records has revealed the Council resolution from 25 November 2003 for these parcels to be classified as Community Land. This classification was not reflected in Council's database of land classification.

*“Council had been considering the use of this land in the belief it was operational land but its use is no longer under consideration **given the above confirmation that it is community land.** Council's database is being amended accordingly”*
In Council's Media statement 29 June 2021 it very clearly stated:

*“A corner portion of the block nearest the Broulee Road and Clarke Street intersection, around 900 square metres, **is community land** and Mr Usher confirmed the trees and vegetation there remain untouched.”*

“While the road reserve was identified in 2003 to be added to the community land parcel, this did not take place and came to Council's attention only recently.

*“**Action to turn the road reserve into community land is now underway,**” Mr Usher said.*

Today Councillors, the response before you is advising that Council staff still believe that Part Lot 9 Sec 19 DP 758168 and Part Lot 8 Sect 19 DP 758168 is Operational.

Read it again for yourself and read every word:

“It has previously been acknowledged that whilst Council, in November 2003, adopted the PoM and resolved to ‘reclassify the operational land at the corner of Broulee Road and Clarke St (Part Lot 9 Sec 19 DP 758168 and Part Lot 8 Sect 19 DP 758168) as community land’, such resolution was unfortunately not implemented by staff at the time.

Why would Mr Usher be so clear in May and in June about the land having been proven Community to then suggest that it is Operational and that **“Staff are continuing to investigate the matter”**.

The reason? The intent is to sell the land and to find whatever legal loophole they can to do so.

In order for Council to sell the land Council will have to prove to the community that the land is Operational and show how it came to be so.

The vacillations of Mr Usher indicate that Council is having difficulty telling its backside from its elbow.

In order to assist:



Councillors,

On the 28th of January, 1997, the Eurobodalla Council **adopted** a PLAN OF MANAGEMENT Natural Areas and Undeveloped Reserves

NOTE that this 1997 Plan of Management is located on Council's own website and available to both Mr Usher and his investigating staff.

https://www.esc.nsw.gov.au/_data/assets/pdf_file/0018/137070/undeveloped-reserves.pdf

Contained within that plan were two parcels of land being

Lot 9 of DP 758168 and Lot 8 of DP 758168

Note that PIN Number 4701.650 says it adjoins 4704.20. Note that 4704.20 gives a location of Grant Street. In 1997 the road construction segments for Grant Street started at George Bass Drive for the sake of the Eurobodalla Roads data base.

4710.230	UNNAMED / PUBLIC RESERVE FRONTAL DUNES OPEN SPACE / BEACH ACCESS / NIL	BAYSIDE ST	15	9	758168	0.20	NF	BROULEE DUNECARE GP UNDER NIL
4710.240	UNNAMED / PUBLIC RESERVE FRONTAL DUNES OPEN SPACE / BEACH ACCESS / NIL	BAYSIDE ST	15	8	758168	0.20	NF	BROULEE DUNECARE GP UNDER NIL
4508.500	UNNAMED / PUBLIC RESERVE BUSHLAND / NIL / NIL	CANDLAGAN DR	14	64	739830	0.02	NB	NIL
4701.650	UNNAMED / PUBLIC RESERVE BUSHLAND / ADJOINS 4704.20 GRANT ST /	CLARKE ST	15	8	758168	0.04	GUD : NB	NIL
4519.850	UNNAMED / PUBLIC RESERVE DUNAL FORESHORE / BEACH ACCESS / NIL	CORONATION DR	14	F	39088	0.11	GUD : NF	BROULEE DUNECARE GP UNDER NIL

*Ranked in order of Locality then by Street then by Property Number ** Current Use may not include all current uses for the land concerned.
Note A: Environmental or culturally significant issues to be considered for this property. See Schedule C for more details.
Note B: There are proposed embellishments, developments or changes for this property. See Table C for more details.
Note C: There may be restrictions under zoning regulations. See Schedule B for more details.
Note D: There are outstanding property matters regarding this property.

PLAN OF MANAGEMENT NUMBER :101

Edition 1

Date Printed: 12-Jun-01

SCHEDULE A: Page 4

NATURAL AREAS & UNDEVELOPED RESERVES PLAN OF MANAGEMENT

SCHEDULE A: Community Land Included in the Plan of Management *

PROPERTY No:	RESERVE NAME / RESERVE TYPE / CURRENT USE** / EXISTING FACILITIES	STREET NAME	Map No	LOT : DP	AREA (Ha)	CATEGORY Main:Second	Community Group / Management Committee	See Footnote:
8224.140	UNNAMED / PUBLIC RESERVE BUSHLAND / BUFFER ZONE TO GEORGE BASS DR / NIL	GEORGE BASS DR	14	2 : 825610	0.41	NB :	NIL	
8224.150	UNNAMED / PUBLIC RESERVE BUSHLAND / BUFFER ZONE TO GEORGE BASS DR / NIL	GEORGE BASS DR	14	5 : 825610	0.04	NB :	NIL	
8224.210 A	UNNAMED / BUSHLAND (West GBD - Operat/ East - Commun) / NIL / NIL	GEORGE BASS DR	15	70 : 831111	226.1	NB : NWE n	NIL	Note A Note C
4704.20	UNNAMED / PUBLIC RESERVE BUSHLAND / NIL / NIL	GRANT ST	15	9 : 758168	0.06	GUD : NB	NIL	
4712.100	UNNAMED / PUBLIC RESERVE SECONDARY SAND DUNES / SEWER PUMP STATION / SEWER PUMP STATION	HARBOUR DR	15	1 : 758168	2.02	NF : NB	BROULEE DUNECARE GP UNDER NIL	
4705.540	UNNAMED / PUBLIC RESERVE / NIL / NIL	HEATH ST	15	7 : 850062	0.54	NB :	NIL	
4513.370	UNNAMED / PUBLIC RESERVE BUSHLAND / NIL / NIL	TRAIN ST	14	38 : 718667	0.09	GUD : NB	NIL	

Please pay particular attention to the detail printed in the footer below:.

PLAN OF MANAGEMENT NUMBER :101

Edition 1

Date Printed 12/06/01

This extract of the adopted 1997 Plan of Management was printed in June 2001 https://www.esc.nsw.gov.au/_data/assets/pdf_file/0018/137070/undeveloped-reserves.pdf

Note the description of the ADOPTED 1997 Plan of Management and its reference to Community Land. This Plan of Management came into being as it was a new regulation that required Council's to identify all Community and Operational Land.

GENERAL DESCRIPTION:

The land covered by this Plan of Management includes some 360 parcels of Council owned Community Land covering 700 hectares located throughout the Eurobodalla Shire, but generally located in and around urban and village settlements.

The land is included if it is a natural area or is presently undeveloped community land. The natural areas are categorised of Natural Bushland, Natural Escarpment, Natural Foreshore, Natural Watercourse or Natural Wetland. This means that they are generally undeveloped and there is virtually no maintenance carried out on these areas.

The information in the extract was sourced directly from Council's own Reserves database. The pdf on Council's website listing Community reserves is derived from that data base. I should know as I was the one who extracted it.

Council's database of Reserves was created by myself, and managed and updated as per the requirements of the Local Government Act and Australian Accounting Standard AAS27.

I retired from Eurobodalla Council in August 2007. On retiring I placed a backup copy of Council's databases in Council's safe should the next Asset Management Officer compromise the data set. These backup files should also be located on Council's own backup archive.

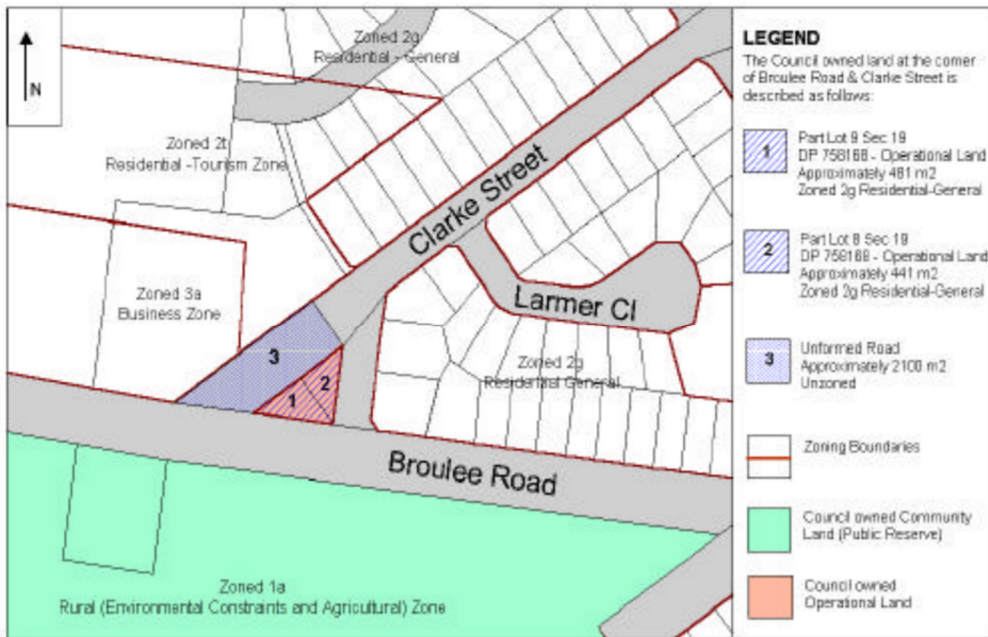
You will find that, in the Reserve Database backup files of 2007, both lots are present and both are Classified as COMMUNITY.

The Category Descriptions applied to Lot 9 Sec 19 DP 758168 and Part Lot 8 Sect 19 DP 758168 in 1997 and 2001 show it as GUD - GENERAL COMMUNITY USE – UNDEVELOPED and NB - NATURAL BUSHLAND

These CATEGORY DESCRIPTIONs were created by me.

I was the Eurobodalla Council Asset Management Officer for Eurobodalla Council until 2007 and I can advise you, that the information I present to you in regards to Lot 9 DP 758168 and Lot 8 DP 758168, as recorded in Council's own records, up to 2007, is correct.

Prior to Council shelving the in house Reserves Database and opting to purchase Technology One and move all the asset data across to a new platform and GIS the records clearly coded that Lot 9 DP 758168 and Lot 8 DP 758168 were classified Community.



Therefore the statement made in 2003 that the two lots were Operational is FALSE.

Prior to the adoption of this Plan of Management the following lots were classified as Operational Land:

- Lot 9 (part) of DP 758168 Sec 19 (indicated by number 1 on the map below); and
- Lot 8 (part) of DP 758168 Sec 19 (indicated by number 2 on the map below).

The draft Plan of Management sought community comment on the following two options for the future use of this land:

Option 1: Sell the land & expend funds on Community & Crown Land requirements in Broulee & Mossy Point

Application be made to the Department of Lands to close the Council road adjacent to Part Lots 8 & 9 DP 758168. After closure of the road and vesting in Council all of the Council land at the corner of Broulee Road and Clarke Street, the land be listed for sale and the proceeds of the sale be expended on Community and Crown Land unfunded projects in the Broulee and Mossy Point areas

Option 2: Reclassify the land as Community Land

The land at the corner of Broulee Road and Clarke Street be re-classified as Community Land and remain as bushland.

In order for the two blocks to be reclassified from Community to Operational the Council would have had to write a report, receive submissions, have a public meeting chaired by an independent and then vote to reclassify the land.

This never happened. In order for Council to proceed in selling the blocks it MUST

prove that the blocks were reclassified to Operational.

Knowing full well that the land was Community up until 2007 I now suggest that Council show evidence of when Lot 9 DP 758168 and Lot 8 DP 758168 became Operational.

As the two blocks were already classified Community under the 1997 Plan there was no need in 2003, nor is there any need in 2021 to undertake the action instructed in that *“The land at the corner of Broulee Road and Clarke Street be re-classified as Community Land and remain as bushland.”*

To add further to the evidence that Council KNEW the land was Classified Community they gave permission in June 2004 for the erection of Landcare signs to “Give Community awareness of Community Land”

Note that the instruction was for two signs to “Second sign facing roadway. First Sign at rear facing Private Land”

Neither Ms Lenson nor Mr Hutton would have signed the permission if the land was not classified Community.

By this evidence alone it is clear the land was Community in 1997, 2001 and in 2004. By this fact alone based on evidence in Council’s own records it is obvious that the Property Manager was in error in November 2003 when he advised Council that the two parcels were Operational.



EUROBODALLA LANDCARE PROJECT PROPOSAL

14/04

Community and government working together

1 Project title (in 8 words or less) Sign on Broulee Community land.

2 Names of applicants Date 22.6.04
 i) Name of community group Broulee Dune Care

3 Contact person for this project
 Name [redacted] Signature [redacted]
 Address [redacted] State [redacted] Postcode [redacted]
 Phone [redacted] Fax [redacted] email [redacted]

4 Project location
 Nearest town: Broulee Postcode: 2537
 Distance and direction to nearest town: N/A
 Land Owner/Manager Representative Name and Signature _____

5 Project summary (max 100 words) - Fill in last
 Please provide a brief summary of the project, including the issue to be addressed and what the project will do to address this issue.

ISSUES Community awareness of community land.

ACTIVITIES Second sign facing roadway
 First sign at rear facing private land.

6 Budget summary

A. Community contribution	B. EUROBODALLA LANDCARE FUNDS	C. Other contributions (specify)	D. State or Federal Funds	E. Total project costs

PROJECT PROPOSAL COORDINATION

[redacted] [redacted] [redacted] [redacted] [redacted]

A. PARKINSON G. SMITH W. HUTTON J. ELMC EXEC J. ELMC EXEC
 D. LENSEN

Why would Council consolidate both parcels of land into a single block?

There are no records in Council's archives as to who directed the consolidation of consolidated Lot 9 DP 758168 and Lot 8 DP 758168 into Lot 89 DP 1093710, 75 Clarke Street, Broulee.

Why was it done?

The possible reason behind the consolidation was that both lots 8 and 9 were below minimum lot size for sale. **The first appearance of Lot 89 DP 1093710, 75 Clarke Street, Broulee in Council's records was in 2015.**

Consolidation would mean they could be sold as a house block. Council had already ensured that they were zoned residential.

The Council might then have processed the consolidation as a new acquisition. Council's files will clearly document exactly what was done, when it was done and why. All a Councillor need do is ask.

To initiate the investigation I ask

“Can Council advise when they consolidated Lot 9 DP 758168 and Lot 8 DP 7581 into Lot 89 DP 1093710, 75 Clarke Street, Broulee and what file number is the reference for this action by Council?”.

I await your timely response unless you demand I lodge a GIPA request. **Please advise.**

I remind Councillors:

The LOCAL GOVERNMENT ACT 1993 - SECT 31

Classification of land acquired after 1 July 1993 clearly states that

Any land acquired by a council that is not classified under subsection (2) is, at the end of the period of 3 months referred to in that subsection, taken to have been classified under a local environmental plan as community land.

A council must not resolve under this section that land be classified as operational land if--

(a) the land is classified as community land immediately before its acquisition

Reading between the lines and listening carefully to what is not being said it is more than evident that Council intends to sell Lot 89 DP 1093710, 75 Clarke Street, Broulee and will do all it can to suggest it is Operational.

Before doing so Council **MUST** prove that the land is **OPERATIONAL**, and that requires evidence of a report and a Motion from Council that clearly identifies the land and clearly identifies the reclassification.

Fortunately the Act provides that only operational land can be sold, and if an area of community land is identified as being surplus, the land must first be reclassified to operational prior to that sale proceeding.

The process of reclassification must be undertaken in accordance with the Environmental Planning and Assessment Act 1979.

www.austlii.edu.au/au/legis/nsw/consol_act/epaaa1979389/

ABE Public Forum Presentation Regarding QON21/005 Land Clearing at Broulee

Good morning. Thank you for the opportunity to address Council and the community this morning regarding QON 21/005, dealing with clearing of community land at Broulee.

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

ABE has applied these principles to the issue of the clearing of community land at Broulee and concludes that the response provided by Council staff does not satisfactorily address the issues raised by Councillor Mayne's questions, and raises serious concerns that Council's actions are based on inaccurate information which leave the process under a legal cloud. The advice submitted includes a number of unsubstantiated assertions, for which no supporting documentation has been provided. Key concerns are briefly outlined below, organised under the 2 different parcels of land which make up the site under consideration

1. Unformed Road Parcel

Consideration of this portion of land constitutes the bulk of the response to Councillor Mayne's Question on Notice, yet the material presented fails to address key questions included in QoN005/21, especially regarding how the land was cleared for Asset Protection Zone (APZ) requirements for the adjoining subdivision. The Rural Fire Service APZ guidelines clearly state that *"The APZ should be located wholly within your land. You cannot undertake any clearing of vegetation on a neighbour's property, including National Park estate, **Crown land or land under the management of your local council, unless you have written approval.**"* So, the only possible way that the unformed road could have been legally cleared is if Council gave its written permission.

Council's response has not included documentation regarding any such written permission associated with this APZ, and it has also failed to address Councillor Mayne's question regarding the "in perpetuity" legal requirements associated with creation of an APZ on a neighbouring property. Council staff have not provided any documentation that the RFS is satisfied with these APZ arrangements. These are important legal considerations relevant to public safety and emergency response. They need to be responded to and not ignored.

Furthermore there is also a legal question as to whether Council even has the delegated authority to enter into such APZ arrangements, particularly if they have not been approved by a meeting of Council. This is because section 377h of the LGA indicates that the “*purchase, sale or exchange or surrender of any land or property*” cannot be delegated to Council staff, so any decision in this regard must be authorised by a resolution of Councillors. No mention of any such resolution or relevant documentation has been provided in the advice tendered for the Broulee APZ, meaning that these arrangements remain under a legal cloud. This important aspect needs to be fully investigated and resolved before any further actions are taken in regard to this land.

In addition, there is also the critical fact that Council was directed by Eurobodalla Council Resolution 478 in 2003 to classify this parcel of land (along with the adjoining parcel of lot 89) as “community land”, but failed to do so. The Council advice coyly describes this unambiguous directive as being “*unfortunately not implemented*”, when in fact this is a major error of omission which is inconsistent with provisions of the LGA 1993 specifying that only Councillors, and not Council staff, have the non-delegatable authority in dealing with matters affecting Council land (as reflected in section 377h of the LGA). Simply because a serious oversight has occurred in the past does not excuse or validate current day actions arising from this error, particularly after the error has been brought to Council’s attention.

2. Lot 89/DP1093710 (formerly Lots 8 & 9 in DP758168)

This lot adjoins the unformed road parcel discussed above, and was also subject of Council Resolution 478 in 2003 directing that it be classified as Community Land. However, this action was in fact redundant, as the constituent blocks 8 & 9 in DP 758168 were already classified as Community Land, as indicated in Council’s own 1997 Plan of Management for Natural Areas & Undeveloped Land on Pages 4 and 5 of Schedule A.

At some stage after 2007, these two blocks were consolidated to create Lot 89/DP1093710, which Council is now claiming to be Operational Land, despite the fact that the antecedent blocks were both classified as Community Land. Council has not provided any evidence that the status of this parcel of land has been altered by means of public notification and passage of a resolution of Council, as required by the LGA 1993. To confuse matters even further, Council’s Director of Planning issued a press statement on the 29th June indicating that this block was indeed Community Land, but Council has subsequently told the Broulee community that it now considers this land is Operational Land, and intends to sell it. This about-face is inexplicable, and reflects extremely poor practice of governance and communication, and has further eroded public confidence in Council. It should be reversed.

It is also notable that another aspect of the documentation cited in Council’s advice contains problematic information. The briefing contains reference to DA00035/21, and when this item is looked up on Council’s online application tracker the summary information page indicates that the estimated cost of this

48 lot residential subdivision is zero dollars, without any explanation being provided (see attached screenshot). This anomalous result flags further potential issues with Council's own information system, further eroding public confidence in this critical decision-support system which needs to be urgently addressed.

This presentation has made it clear that there are significant unanswered questions regarding the legality of Council's actions and the reliability of the information it has used to determine its actions regarding this parcel of land in Broulee. For Councillors to meekly accept this advice offered by Council staff regarding public land at Broulee would make them complicit in potentially unlawful activities at odds with requirements of the Local Government Act, as well as being inconsistent with fundamental public administration principles of good governance and transparency, not to mention common decency.

ABE notes that this QoN provides another opportunity for elected Councillors to prove their commitment both to the community and to good public administration. ABE therefore urges Councillors not to accept the advice tendered today. Instead, they should take appropriate steps to work constructively and in good faith with the Broulee community to achieve an equitable outcome which maintains this important piece of community land for future use and enjoyment by everyone.

Thank you for your attention.

Brett Stevenson
Co-convenor
A Better Eurobodalla

Attachment : Screen Capture from Council's DA Tracker

Application Details

Application Summary

Application ID	DA0035/21
Description	48 lot residential subdivision
Group	Development Application
Category	13 - Subdivision Only
Status	Past
Stage/Decision	Approved
Estimated Cost	\$0.00
Address	Heath Street BROULEE, Gillan Grove BROULEE
Land Description	Lot 77 DP 1229187, Lot 162 DP 1268751