



# AGENDA

## Ordinary Meeting of Council

**8 November 2022**

### **Statement of Ethical Obligations**

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



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

**ON TUESDAY 8 NOVEMBER 2022**

**COMMENCING AT 12.30PM**

**AGENDA**

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

- |  |                 |
|--|-----------------|
| <b>1. WELCOME</b>  |                 |
| <b>2. ACKNOWLEDGEMENT OF COUNTRY</b>   |                 |
| <b>3. APOLOGIES</b>  |                 |
| <b>4. CONFIRMATION OF MINUTES OF PREVIOUS MEETING</b>  |                 |
| 4.1 Ordinary Meeting held on 25 October 2022   |                 |
| <b>5. DECLARATIONS OF INTEREST OF MATTERS ON THE AGENDA</b>  |                 |
| (Declarations also to be made prior to discussions on each item)                                   |                 |
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| <b>6. MAYORAL REPORTS</b>  |                 |
| Nil  |                 |
| <b>7. NOTICES OF MOTION</b>  |                 |
| Nil  |                 |
| <b>8. QUESTIONS ON NOTICE FROM COUNCILLORS</b>   |                 |
| Nil  |                 |
| <b>9. PETITIONS</b>  |                 |
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| <b>10. GENERAL MANAGER'S REPORTS</b>   |                 |
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**12. INFRASTRUCTURE REPORTS**

Nil

**13. COMMUNITY, ARTS AND RECREATION REPORTS**

Nil

**14. DELEGATE REPORT**

**15. URGENT BUSINESS**

**16. DEALING WITH MATTERS IN CLOSED SESSION.....35**

**17. CONFIDENTIAL MATTERS**

**WARWICK WINN**  
**GENERAL MANAGER**

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**PET22/001 PETITION TO DEFER ANY RE-SEALING WORKS TO BARKALA STREET AND COASTAL COURT, DALMENY**

S012-T00029

Responsible Officer: Mathew Hatcher - Mayor

Attachments: 1. Under Separate Cover - Confidential - Petition

Mayor Mathew Hatcher has given notice that at the Ordinary Meeting of Council on 8 November 2022, he will move the following motion.

**MOTION**

THAT Council receive and note the petition.

**BACKGROUND**

The Petition specifically states:

This Petition of property owners at Barkala Street and Coastal Court, Dalmeny, draws to the attention of the Council our general surprise and disappointment that re-sealing and some associated works of the above roadways is soon to take place. Confirmation by council, of these works, is planned without first addressing the many ongoing issues of stormwater run-off, particularly from Coastal Court, onto numerous properties.

There are some 63 properties accessed by Barkala Street and/or Coastal Court with most being owner-occupied. There are only a few vacant blocks remaining.

The various impacts of the water run-off from the roadway have been raised by a number of residents, over many years, to council. The issues range from water build-up onto various properties, water flowing from one property to another, flooding under houses, driveways being washed away, silt ingress and blockages to stormwater drainage and instances of soil erosion. As stated above, all are a result of water run-off from roadways, being council property. Until now, council have provided little, or conflicting, or unreasonable, or no assistance at all to its ratepaying residents. Our council's responses to the issues remain unacceptable.

We therefore ask the Council to defer any re-sealing works to Barkala Street and Coastal Court, Dalmeny, and instead prioritise the design, scheduling and completion of works for an effective stormwater management system.

The general feeling among residents of the locality is one of common sense, in that undertaking the re-sealing of the roads in this instance, would be wasteful, and most likely be less disruptive to residents, unless a proper stormwater system has been fully completed beforehand.

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**GMR22/107 RESPONSES FROM MINISTERS FROM ADVOCACY LETTERS**

**S012-T00026**

Responsible Officer: Warwick Winn - General Manager

Attachments:

1. 22/20 Motion Attachment
2. 22/51 Motion Attachment
3. 22/61 Motion Attachment
4. 22/116 Motion Attachment 1
5. 22/116 Motion Attachment 2
6. 22/116 Motion Attachment 3
7. 22/187 Motion Attachment

Community Goal: 5 Our engaged community with progressive leadership

Community Strategy: 5.2 Proactive, responsive and strategic leadership

Delivery Program Link: 5.2.2 Implement effective governance and long-term planning

Operational Plan Link: 5.2.2.1 Assist the Council in meeting its statutory obligations and roles

**EXECUTIVE SUMMARY**

The purpose of this report is to provide an update on responses Council has received in relation to the advocacy letters sent to Ministers and NSW and Australian Government agencies since February 2022.

There have been six occasions the current Council has resolved to advocate to Ministers and NSW and Australian Government agencies. To date, Council has received responses to five of the advocacy issues Council has pursued.

**RECOMMENDATION**

THAT Council receive and note the responses received to date from NSW and Australian Government ministers on point of advocacy for our shire.

**BACKGROUND**

At the Council Meeting on 13 September 2022, Councillor Alison Worthington moved the following motion:

**22/246 MOTION** *Councillor Worthington/Councillor Diskon*

*THAT Council publishes/tables all responses from Ministers and state and federal government agencies to advocacy letters from council in the business papers of the next available council meeting.*

There have been six occasions the current Council has resolved to advocate to Ministers and NSW and Australian Government agencies. To date, Council has received responses to five of the advocacy issues that Council has addressed.

**CONSIDERATIONS**

The table below provides the agenda item, Council resolution and links to the responses received to date:

**GMR22/107 RESPONSES FROM MINISTERS FROM ADVOCACY LETTERS**

**S012-T00026**

Agenda item	Resolution	Response received	Attachment
<b>MR22/002</b> Advocacy to NSW Government for maintenance of rural road	<b>22/20 MOTION</b> Councillor Hatcher  THAT Council, as a matter of urgency, write to the Premier of NSW Hon Dominic Perrottet MP to advocate for an increased allocation of disaster funds to Forestry NSW and Crown Lands to recover the road network utilised by residents to access their properties.	Yes	1
<b>NOM22/001</b> Zombie developments	<b>22/51 MOTION</b> Councillor Worthington/Councillor Mayne  THAT Council write to the Minister for Planning and copy the Minister for Health, Minister for Families and Community Services, Minister for Emergency Management and respective Shadow Ministers, advocating for a comprehensive review of provisions within the Environmental Planning and Assessment Act related to the lapsing of development consents and specifically the community's concerns regarding subdivision approval commonly referred to as "zombie developments". That such review be undertaken in consultation with the community.	Yes	2
<b>NOM22/002</b> Universal access to early learning (Thrive by Five campaign)	<b>22/61 MOTION</b> Councillor Worthington/Councillor Dannock  3. Write to Prime Minister Scott Morrison, the Leader of the Opposition Anthony Albanese, the Minister for Education and Youth, the Shadow Minister for Early Childhood Education and Youth Amanda Rishworth, and to our local Federal Members of Parliament Kristy McBain and Fiona Phillips seeking bipartisan support for the campaign's objectives.	Yes	3
<b>NOM22/010</b> Advocacy for housing construction workers	<b>22/116 MOTION</b> Councillor Pollock OAM/Councillor Worthington  THAT Council:  1. Undertake targeted advocacy to the NSW Government for significant infrastructure investment projects - namely the Moruya	Yes	

**GMR22/107 RESPONSES FROM MINISTERS FROM ADVOCACY LETTERS**

**S012-T00026**

Agenda item	Resolution	Response received	Attachment
	<p>Bypass, and the Eurobodalla Regional Hospital - to urgently develop and implement funded strategies for the construction of housing to meet the needs of construction workers and the potential to provide long term housing supply.</p> <p>2. Seek the support of the Land and Housing Corporation, Southern Cross Housing and LGNSW in the delivery of the advocacy.</p> <p>3. Direct the advocacy to the following NSW Government members, via letter from the Mayor and seeking a meeting with Council:</p> <ul style="list-style-type: none"> <li>• NSW Premier, the Hon. Dominic Perrottet MP.</li> <li>• NSW Minister for Homes Anthony Roberts MP.</li> <li>• NSW Minister for Families and Communities the Hon. Natasha Maclaren Jones MP.</li> <li>• NSW Minister for Health, the Hon. Brad Hazzard MP.</li> <li>• NSW Minister for Regional Transport and Roads, the Hon. Sam Faraway MP.</li> <li>• NSW Minister for Regional NSW the Hon. Paul Toole MP</li> <li>• NSW Minister for Tourism and Sport the Hon. Stuart Ayres MP.</li> <li>• State member for Bega the Hon. Michael Holland MP</li> </ul>		<p>4</p> <p>5</p> <p>6</p>
<p><b>MR22/011</b></p> <p>Treatment of rural fire service equipment</p>	<p><b>22/165 MOTION</b> Councillor Hatcher</p> <p>THAT Council write to the Auditor-General for New South Wales to advocate that the NSW Government acknowledges rural firefighting equipment is controlled by and is the property of the State government and advise that Council's financial statements have been prepared in accordance with the Australian Accounting Standards, as required by the Local Government Act and such assets will not</p>	Awaiting response	



**GMR22/107 RESPONSES FROM MINISTERS FROM ADVOCACY LETTERS**

**S012-T00026**

Agenda item	Resolution	Response received	Attachment
	be recorded in Council's financial statements.		
<b>NOM22/011</b> Eurobodalla Shire Council supports an end to native forest logging in Eurobodalla Shire	<b>22/187 MOTION</b> Councillor Grace/Councillor Worthington  3. THAT Council advocates to the NSW Government for the urgent development of a plan for the just transition of the Forestry Corporation NSW native forest sector to ecologically sustainable plantations and farm forestry and that such plans ensure the protection of existing jobs in this sector and ensure a reliable supply of high value native hardwood timber products into the future.  <b>22/188 MOTION</b> Councillor Worthington/Councillor Dannock  7. THAT Council in such advocacy, write to the NSW Premier Dominic Perrottet, the Minister for Agriculture Dugald Saunders, and the Shareholder Ministers for FCNSW the Treasurer and Minister for Energy Matt Kean, and the Minister for Finance and Employee Relations Damien Tudehope, along with the relevant Shadow Ministers. Council also notes the positive relationship that currently exists between Forestry Corporation NSW and Council.	Yes	7

Council will continue to report responses from advocacy efforts when they are received.

**CONCLUSION**

Council has resolved to write to various state and federal ministers on points of advocacy for our shire. The responses Council has received to date are provided as attachments to this report.



**Dominic Perrottet MP**  
Premier of New South Wales

Ref: A5327865

Councillor Matthew Hatcher  
Mayor  
Eurobodalla Shire Council  
PO Box 99  
MORUYA NSW 2537

Dear Mayor

Thank you for your correspondence of 1 March 2022 regarding the maintenance of rural roads.

Thank you for bringing this important issue to my attention, clearly there are complexities around road ownership and how these entities operate and interrelate. Rest assured the Government will do all that it can to assist those areas impacted by the floods.

As the Minister for Regional Transport and Roads, the Hon Samuel Farraway MLC, has primary responsibility for this matter, I have forwarded your correspondence for his consideration.

Again, thank you for writing.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'Dom Perrottet', written in a cursive style.

**Dominic Perrottet MP**  
Premier

16/3/22

CC: The Hon Samuel Farraway MLC, Minister for Regional Transport and Roads



MDPE22/585

Councillor Mathew Hatcher  
Mayor  
Eurobodalla Shire Council  
PO Box 99  
MORUYA NSW 2537

Via email: [council@esc.nsw.gov.au](mailto:council@esc.nsw.gov.au)

Dear Mayor

Thank you for your correspondence to the Hon. Anthony Roberts MP, Minister for Planning and Minister for Homes, regarding the lapsing of development consents and community concerns in relation to so-called "zombie developments". The Minister asked me to respond on his behalf.

I note that the Council has requested a comprehensive review of the provisions within the *Environmental Planning and Assessment Act 1979* that enable older development consents to remain valid due to works having been physically commenced.

In 2020 the Department of Planning and Environment considered this issue and made amendments to the former *Environmental Planning and Assessment Regulation 2000* to clarify the meaning of 'physically commenced'. The new provision, now section 96 of the *Environmental Planning and Assessment Regulation 2021*, specifies that minor works such as surveying, testing or clearing vegetation do not constitute physical commencement of a development consent. The purpose of excluding low intensity actions from the definition of physical commencement is to ensure that applicants commence work on approved projects with a commitment to completing the development.

Development consents that have lawfully and physically commenced run with the land. Any changes to this could undermine investment certainty, impact property value and create issues of procedural fairness. However, development consents can be voluntarily surrendered by landowners even where works have been commenced if the development intentions of the owners have changed.

If you have any more questions, please contact Ms Kristy Chan, Director Infrastructure Policy, at the Department of Planning and Environment on 9274 6107.

Yours sincerely

A blue ink signature of Brett Whitworth, written in a cursive style.

**Brett Whitworth**  
Deputy Secretary  
Planning Policy

7 June 2022



**Office of the Hon Jason Clare MP**  
**Minister for Education**

Reference: MC22-002701

Councillor Mathew Hatcher  
Mayor  
Eurobodalla Shire Council  
PO Box 99  
MORUYA NSW 2537

By email: [council@esc.nsw.gov.au](mailto:council@esc.nsw.gov.au)

Dear Mayor

Thank you for your correspondence of 8 June 2022 to the Hon Jason Clare MP, Minister for Education, regarding early childhood education and care (ECEC). Minister Clare has asked me to respond on his behalf.

The Australian Government is committed to high quality, accessible and affordable ECEC to support working families and give all Australian children the best possible start in life.

The Government's Plan for Cheaper Child Care includes a number of measures to reduce the cost of child care and boost productivity, making it easier for families to get ahead. This includes changes to the Child Care Subsidy to make child care more affordable; tasking the Productivity Commission to review the ECEC sector with the aim of implementing a universal 90% subsidy; commissioning the Australian Competition and Consumer Commission to design a price regulation mechanism; and improving transparency and profit reporting within the sector.

Supporting the early childhood workforce to provide children with access to high-quality ECEC is a priority for the Government. The early childhood sector has worked collaboratively with all levels of Government to develop the 10-year National Children's Education and Care Workforce Strategy, released in October 2021. The Strategy aims to address the long-term and persistent issues impacting attraction, retention and quality of the workforce. Education Ministers will be considering the Implementation and Evaluation Plan for the Strategy in the coming months.

In relation to the mental health and wellbeing of early childhood educators, you may be interested to know that the Government funds Be You, the national mental health in education initiative, delivered by Beyond Blue and headspace in partnership with Early Childhood Australia. Be You provides teachers and early childhood educators with resources and advice related to supporting wellbeing of educators and children and is free to all ECEC services across Australia.

I note the Council's action plan outlining the key challenges facing the ECEC sector in Eurobodalla, including the higher levels of early childhood developmental vulnerability in this region. It is great to see your community coming together to articulate a joint commitment to improving outcomes for children. Ensuring all children are given the opportunity for a positive start to their life and learning is incredibly important, but particularly so for those facing disadvantage from the start.

In addition to the above election commitments, the Government has also committed to developing an Early Years Strategy to create a new, integrated approach to the early years and increase accountability for the wellbeing, education and development of Australia's children. The Government is keen to ensure efforts under the Strategy are targeted towards those children experiencing vulnerability and disadvantage, to ensure their learning and development is supported. Planning is currently underway for the development of the Strategy, however, I encourage the Council to participate in the consultation process when it commences, to ensure it meets your community's needs.

I trust this information is of assistance.

Yours sincerely



**SCOTT DAVIES**  
Chief of Staff

19/11/2022



**Dominic Perrottet MP**  
Premier of New South Wales

Ref: 00003115

Councillor Mathew Hatcher  
Mayor  
Eurobodalla Shire Council  
council@esc.nsw.gov.au

Dear Mayor,

Thank you for your correspondence of 1 June 2022 regarding housing supply for construction workers and long term housing.

Home ownership and housing supply, including in the Regions, is a key priority for the Government

As the Minister for Planning and Minister for Homes, the Hon Anthony Roberts MP, has primary responsibility for this matter, I have forwarded your correspondence for his consideration.

It is appreciated that you have taken the time to bring your views to the Government's attention.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Dom Perrottet'.

**Dominic Perrottet MP**

Premier

A handwritten signature in black ink, appearing to be 'Dom Perrottet'.

CC: The Hon Anthony Roberts MP, Minister for Planning and Minister for Homes



## Department of Planning and Environment



Our ref: MDPE22/1794  
Your ref: S002-T00013

Councillor Mathew Hatcher  
Mayor  
Eurobodalla Shire Council  
PO Box 99  
MORUYA NSW 2537

19 September 2022

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Dear Cllr Hatcher

Thank you for your correspondence to the Hon. Dominic Perrottet MP, Premier of New South Wales regarding the housing issues within the Eurobodalla Shire. The Premier has forwarded your letter to the Hon. Anthony Roberts MP, Minister for Planning and Minister for Homes who has asked me to respond on his behalf.

I note that the same issues raised in your letter were previously raised by Mr Lindsay Usher, Eurobodalla Shire Council's Director Planning and Sustainability Services, and that members of the Department's Housing Policy and Southern Region teams met with Mr Usher to discuss those issues on 18 July 2022. That meeting was followed up with a written response on 10 August 2022.

Please know that the Department will continue working with council to explore possible solutions to address the housing supply issues facing Eurobodalla Shire. However, as discussed with Mr Usher in July, the Department has concerns about the options put forward in your correspondence, as set out below.

### **Amend caravan park regulation to increase length of stay based on a housing supply crisis**

The *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021* (LG Regulation) requires that an approval to operate a caravan park must specify the number of short-term and long-term sites within the park. This is because some caravan parks contain sites that are not generally suitable for long term use, for example, due to flooding or inadequate access to services and amenities. These sites can provide valuable low-cost tourist accommodation, and this is facilitated through the LG Regulation.

To address acute, short-term housing pressures relating to natural disasters such as the 2019-20 bushfires, changes were made to the LG Regulation to provide for a caravan park operator to permit longer term stays on short term sites for up to two years.

As has been discussed with staff from Eurobodalla Shire Council, expanding the current exemption to include people impacted by a housing crisis is not considered appropriate because there would be a lack of certainty about who would qualify for the exemption. A housing crisis also has a much more complex set of drivers and is likely to persist over a longer timeframe than a natural disaster. The economic impact of converting short-term tourist sites to long term accommodation also needs to be carefully considered.

Department of Planning and Environment



Where the operator of an existing caravan park wants to convert short-term sites to long-term sites, council can facilitate this, if it is considered appropriate, through the approval of an application under the Local Government Act 1993. Council can also exercise discretion in taking compliance action against breaches of the LG Regulation and an approval to operate a caravan park.

**Short Term Rental Accommodation (STRA) – create opt in restriction to ease housing supply crisis**

As you may be aware, the rate of unoccupied homes in Eurobodalla Shire is much higher than the number of active STRA registrations. This indicates that Eurobodalla has a greater proportion of holiday homes or second homes held only for private use that could potentially be used for long term accommodation.

Previous economic investigations undertaken as part of Byron Shire Council's planning proposal to reduce the 180-day cap to 90-days in its local government area suggested that lowering the day caps has only a minor positive impact on increasing long-term rental availability. The Department is not aware of any other evidence or modelling undertaken by councils that would suggest that lowering the day cap is likely to improve the supply of long-term rental accommodation. However, we would welcome the opportunity to explore this issue further in consultation with Council.

The Department will consider the issue of day caps for non-hosted STRA activities across the State as part of the STRA policy review. It is anticipated that this review will commence within two years of the commencement of the policy.

Should you have any questions, you are welcome to contact Ms Sandy Chappel, Director Housing Policy at the Department on 9274 6591.

Yours sincerely

A handwritten signature in cursive script that reads "Felicity Greenway".

21.09.2022

**Felicity Greenway**  
**Acting Deputy Secretary**  
**Planning Policy**



**From:** "MacLaren-Jones Office Email" <office@maclaren-jones.minister.nsw.gov.au>  
**Sent:** Tue, 14 Jun 2022 15:18:10 +1000  
**To:** "Tracey Stewart" <Tracey.Stewart@esc.nsw.gov.au>  
**Subject:** FW: Mayor Matthew Hatcher - Eurobodalla Shire Council - Social Housing - Housing Supply for construction workers and long-term housing  
**Attachments:** LU 220601 NOM - Advocacy for housing for construction workers - Minister Natasha Maclaren Jones.pdf

Good afternoon

Thank you for your correspondence to the Hon. Natasha Maclaren-Jones MLC, Minister for Families and Communities, and Minister for Disability Services.

Your correspondence has been reviewed and as the matters raised fall under the responsibility of the Minister for Fair Trading and Homes your correspondence has been referred to the Hon. Eleni Petinos MP and the Hon. Anthony Roberts MO for necessary action and attention.

Yours sincerely,

The Office of the Hon. Natasha Maclaren-Jones MLC  
Minister for Families and Communities  
Minister for Disability Services  
A: 52 Martin Place SYDNEY NSW 2000  
E: [office@maclaren-jones@minister.nsw.gov.au](mailto:office@maclaren-jones@minister.nsw.gov.au)  
P: (02) 8574 5200

**From:** NSW Government <[webforms@customerservice.nsw.gov.au](mailto:webforms@customerservice.nsw.gov.au)>  
**Sent:** Thursday, 2 June 2022 2:32 PM  
**To:** Webform <[webform@maclaren-jones.minister.nsw.gov.au](mailto:webform@maclaren-jones.minister.nsw.gov.au)>  
**Subject:** Housing supply for construction workers (regional hospital and Moruya bypass) and long-term housing





**The Hon. Dugald Saunders MP**  
Minister for Agriculture  
Minister for Western New South Wales

OFFICIAL

OM22/4739  
Your reference: S012-T00025

Cr Mathew Hatcher  
Mayor  
Eurobodalla Shire Council  
PO Box 99  
MORUYA NSW 2537

[council@esc.nsw.gov.au](mailto:council@esc.nsw.gov.au)

Dear Cr Hatcher

Thank you for your letter regarding Eurobodalla Shire Council's decision to petition the NSW Government to review the timber harvesting practices in the Shire. I apologise for the delay in responding.

I appreciate that the Council has engaged in a process of informed discussion and conducted workshops with a range of stakeholders, including the Department of Primary Industries in arriving at its decision. I acknowledge the Council's resolution to petition the NSW Government to transition the Forestry Corporation of NSW (FCNSW) hardwood division to ecologically sustainable plantations.

Please be advised that the NSW Government remains committed to the vision expressed in the 2016 *NSW Forestry Industry Roadmap* of a sustainably managed forest estate that underpins a dynamic, economically efficient forestry industry. In NSW, the majority of public native forests are set aside for conservation and only a small proportion is available for renewable timber production.

The NSW Government has purposefully established FCNSW to manage our dedicated State forests and forestry operations on other Crown timber lands. State forests are managed sustainably for a range of values including biodiversity conservation, preservation of Aboriginal cultural heritage, tourism and recreation, and renewable timber production, both complementing and contributing to NSW's world-class conservation network. Only about one per cent of the State forest estate is harvested for timber and regrown each year, which is around 0.1 per cent of the broader NSW forested landscape.

The NSW Government must balance a range of considerations, including environmental, social and economic, to supply renewable timber from the small proportion of public native forest designated for timber production. The NSW Forest Management Framework [https://www.dpi.nsw.gov.au/\\_data/assets/pdf\\_file/0005/833792/Overview-of-the-NSW-Forest-Management-Framework.pdf](https://www.dpi.nsw.gov.au/_data/assets/pdf_file/0005/833792/Overview-of-the-NSW-Forest-Management-Framework.pdf) outlines how all forestry operations are regulated by a robust set of environmental safeguards. These have been developed following extensive research and ensure the protection of wildlife habitat across the landscape and the ongoing biodiversity of the forests.

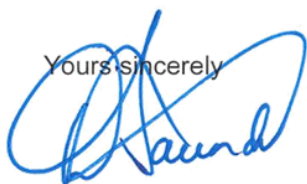
Scientific research programs carried out by NSW DPI and the Forest Monitoring and Improvement Program overseen by the Natural Resources Commission indicate that the existing protocols and regulatory mechanisms for threatened species protection, such as the Coastal Integrated Forestry Operations Approval, are appropriate and effective. State forests in NSW have been sustainably managed and regrown for more than 100 years. This careful management continues to ensure they will provide environmental, economic and social benefits for future generations.

OFFICIAL

I note in your correspondence the Council's recognition of the broader role that FCNSW plays in the community, and the Council's support for the continued operation of FCNSW in a range of activities such as recreational trails in State forests.

Thank you for taking the time to bring this matter to my attention.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Dugald', with a large, stylized flourish extending from the end of the name.

Dugald Saunders  
**MINISTER**

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**PSR22/052 BATEMANS BAY FORESHORE AND DEEP CREEK DAM LAND  
- APPOINTMENT AS CROWN LAND MANAGER**

**S023-T00011**

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

Attachments: Nil

Community Goal: 5 Our engaged community with progressive leadership

Community Strategy: 5.3 Work together to achieve our collective vision

Delivery Program Link: 5.3.2 Manage land under Council control

Operational Plan Link: 5.3.2.4 Review the Property Strategy

**EXECUTIVE SUMMARY**

The purpose of this report is to seek approval for Council to apply to be appointed the Crown Land Manager of three properties.

The properties are:

- The Crown leased area at 1 Clyde Street, Batemans Bay being Lot 300 DP 755902
- Lot 7026 DP 1020386 at the end of Clyde Street, Batemans Bay
- Land that surrounds the Deep Creek Dam at Mogo being Lot 7317 DP 1164184

Management by Council stems from the Crown Lands Management Act 2016 and Council would apply to become the appointed Crown Land Manager in order to better coordinate planning and management for these areas.

Council has developed the [Batemans Bay Waterfront Master Plan and Activation Strategy](#) which seeks to reinvigorate the centre of Batemans Bay for the benefit of residents and visitors.

The two properties in Batemans Bay occupy key locations on the waterfront. The sites are on Crown Land and whilst much of the Crown Land in Eurobodalla, including the area immediately adjacent to these parcels, is managed by Council on behalf of the Crown, these two parcels are not.

The planning and use of the land surrounding the Deep Creek Dam at Mogo would be best managed by Council to facilitate the Mogo Trails network and future water planning.

**RECOMMENDATION**

THAT:

Council apply for Crown Reserves to be created and to be appointed as the Crown Land Manager of:

1. Lot 300 DP 755902 Batemans Bay;
2. Lot 7026 DP 1020386 Batemans Bay; and
3. Lot 7317 DP 1164184 Deep Creek Dam.

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**PSR22/052 BATEMANS BAY FORESHORE AND DEEP CREEK DAM LAND  
- APPOINTMENT AS CROWN LAND MANAGER**

**S023-  
T00011**

**BACKGROUND**

This report outlines considerations to assist in determining if Council wishes to apply to be appointed the Crown Land manager of three properties.

The properties are:

- The area leased to Innes Boatshed at 1 Clyde Street, Batemans Bay being Lot 300 DP 755902
- Lot 7026 DP 1020386 at the end of Clyde Street, Batemans Bay which is currently boat storage by NSW Fisheries
- Land that surrounds the Deep Creek Dam at Mogo being Lot 7317 DP 1164184.

**Crown Land Management**

Council is responsible for the management of various different types of land including operational and community land that it owns and some Crown Reserves.

Crown Land is the term given to all land owned by the NSW Government and there is a lot of it in Eurobodalla. Much of this land is dedicated as Crown Reserves with a specific public purpose, often 'Public Recreation'.

Many of these reserves are managed by Council on behalf of the Crown under the Crown Lands Management Act 2016 and in these cases, Council has been appointed as the Crown Land Manager (CLM).

Management by Council stems from the Crown Lands Management Act 2016 and Council would apply to become the appointed Crown Land Manager in order to better coordinate planning and management for these areas.

Much of the waterfront land in Eurobodalla, particularly in urban areas, is Crown Reserve for which Council is the Crown Land Manager.

The process for Council being appointed CLM is:

- Council passes a resolution requesting that a reserve be created, and authorising Council to make an application to be considered as the CLM.
- Once Crown receive this resolution, they can begin the process of creating the reserve and appointing Council.
- The assessment will consider land use, native title, Aboriginal cultural heritage, impacts on Crown Land, benefits to the community, impact on existing tenures and consistency with CLM Act.
- Once approved the reserve needs to be gazetted and then the proposal to appoint Council as the CLM needs to be signed off by the Executive.

In terms of the appointment as CLM, the assessment by the Crown needs to address the benefit to the community of Council managing the reserves rather than Crown Land.

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**PSR22/052 BATEMANS BAY FORESHORE AND DEEP CREEK DAM LAND  
- APPOINTMENT AS CROWN LAND MANAGER**

**S023-  
T00011**

**CONSIDERATIONS**

**Batemans Bay Land**

Council has developed the [Batemans Bay Waterfront Master Plan and Activation Strategy](#) which seeks to reinvigorate the centre of Batemans Bay for the benefit of residents and visitors. The vision outlined in the strategy is ‘for it to be a distinctive waterfront, not just one of many. A place to make you feel good and belong. An active, lived in place, where people visit, are immersed in the lifestyle of the community, do business, shop and work.’

Action 2.7 is ‘to investigate opportunities to upgrade Waterfront Square to be the primary gateway to the waterfront with a new boardwalk/jetty connection, upgraded jetty, investigate options for relocated toilets, performance space, street trees, lights, seating and potential for a water or solar light installation. Consider options to relocate the bus stop elsewhere within the town centre.’

The two properties in Batemans Bay occupy key locations on the waterfront. The sites are on Crown Land and whilst much of the Crown Land in Eurobodalla, including the area immediately adjacent to these parcels, is managed by Council on behalf of the Crown, these two parcels are not.

The Innes Boatshed property, Lot 300 DP 755902, sits in the middle of Crown Reserve 89579 for which Council is already the Land Manager. The boatshed has its own land parcel and has a Crown direct lease on it – that is, Council is not currently directly involved in the lease.

The Crown lease area is in the very centre of this precinct and there are a number of challenges which Council staff consider would be more easily and better addressed if Council could plan for the whole area. These matters include:

- 1) Pedestrian traffic into and around the Crown lease area; and
- 2) The future of an adjacent toilet block which Council is considering moving to open up the area.

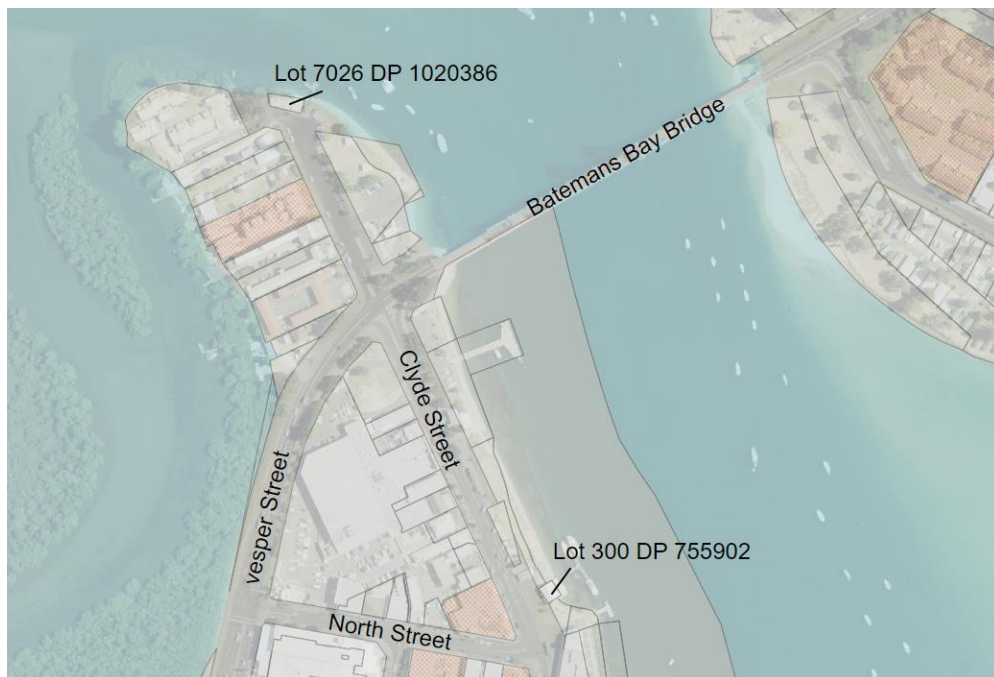
The Crown is in negotiations for a lease with the lessee for the Boatshed at the moment for a long term lease. It would be appropriate for these negotiations to be completed before Council is appointed Crown Land Manager (CLM) as these negotiations are already well advanced.

The other parcel, Lot 7026 DP 1020386, is at the end of Clyde Street and currently occupied by NSW Fisheries and both the properties in Batemans Bay are key parts of the waterfront.



**PSR22/052 BATEMANS BAY FORESHORE AND DEEP CREEK DAM LAND  
- APPOINTMENT AS CROWN LAND MANAGER**

**S023-  
T00011**



**Mogo Land – Lot 7317 DP 1164184**

The planning and use of the land surrounding the Deep Creek Dam at Mogo would be best managed by Council to facilitate the Mogo Trails network and future water planning.

The Mogo Adventure Trails Hub Master Plan was adopted by Council on 8 December 2020 following public exhibition. Some of these mountain bike trails are located on Crown Land immediately surrounding Deep Creek Dam Reserve No. 755902 dedicated for 'Future Public Requirements'.



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**PSR22/052 BATEMANS BAY FORESHORE AND DEEP CREEK DAM LAND  
- APPOINTMENT AS CROWN LAND MANAGER**

**S023-  
T00011**

**Legal**

Crown Land managed by Council as CLM means that Council will manage the land under the *Local Government Act 1993* as if it were community land.

Council will comply with any relevant legislation and procedures in relation to Native Title and Aboriginal land rights and interests when managing the land.

The land would be added to existing Plans of Management.

**Policy**

Objective 5.3.2 of the Delivery Program/Operational Plan (DPOP) is to manage land under Council control.

**Asset**

Consistent Council management of the Crown reserves allows Council to coordinate the community use and maintenance of these areas.

**Social Impact**

The Batemans Bay waterfront and the Mogo land surrounding the Deep Creek dam are well utilised and the strategic planning and coordination of management and improvements to these areas will be of benefit to residents and visitors alike.

**Economic Development Employment Potential**

Batemans Bay waterfront is a gateway for the shire and consistent investment of resources over a long-time frame will provide a range of environmental, economic and social benefits to the community beyond the capital investment required. Investment will also reinforce the potential of the waterfront to better cater for a range of recreational, social and health needs within the community, and including the boatshed as part of the whole reserve and waterfront management will be beneficial.

Mogo Trails has significant potential to benefit the local and regional economy:

- In its first year of operating, the trails network has the potential to attract 45,000 visitors and result in over \$11.8 million to the local economy and this growth is predicted to increase year on year
- Approximately 10 FTE jobs are expected to be created during the construction and another 20 FTE jobs once the trail hub is operational
- The potential for at least six new business opportunities (including shuttle services, accommodation and new events) and allow existing businesses to value add to their current services, and
- Attraction of more events due to the hub being able to cater for different racing formats.

**Financial**

As well as the strategic benefits of Council managing the reserves at Batemans Bay, there is also a financial benefit as income from any rentals from existing and future businesses would then come to Council for investment in the surrounding reserve.



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**PSR22/052 BATEMANS BAY FORESHORE AND DEEP CREEK DAM LAND  
- APPOINTMENT AS CROWN LAND MANAGER**

**S023-  
T00011**

There are strategic and financial benefits to Council managing the Deep Creek dam reserve as Council was successful in receiving \$3m through the NSW Government's Growing Local Economics Fund toward the design and construct the Mogo Adventure Trails Hub.

**Community Engagement**

There has been considerable community engagement in relation to the Mogo Trails including with the NSW and local Aboriginal Land Councils and in relation to the Waterfront Master Plan and Activation Strategy.

Council has discussed the potential of Council becoming the Crown Land Manager with the leaseholders of Lot 300 DP 755902 and Lot 7026 DP 1020386 and no objections were raised.

**CONCLUSION**

The appointment of Council as the Crown Land manager of these areas would be beneficial in order to better coordinate the planning for these vital precincts.

It is recommended that Council be authorised to apply to be appointed as the Crown Land Manager for Lot 300 DP 755902 and Lot 7026 DP 1020386 Batemans Bay together with Lot 7317 DP 1164184 at Mogo.

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**PSR22/053 SHORTAGE OF CONCRETE STORMWATER PIPES**

**S006-T00001**

Responsible Officer: Lindsay Usher - Director, Planning and Sustainability Services  
Attachments: Nil  
Community Goal: 3 Our region of vibrant places and spaces  
Community Strategy: 3.1 Balance development between the needs of people, place and productivity  
Delivery Program Link: 3.1.2 Provide receptive and responsive development assessment services  
Operational Plan Link: 3.1.2.1 Assess and determine development applications

**EXECUTIVE SUMMARY**

The development industry is one of many industries suffering from availability of materials. One of the key items is steel reinforced concrete pipe (RCP) for stormwater infrastructure. RCP is used in civil engineering projects such as residential subdivisions, and the delays in getting access to this product are affecting the ability of developers to bring urban lots onto the market. This also affects the ability to provide more land supply, and by default, additional housing.

Council considered the risks and advantages of using an alternate product, and secondly, made a decision about the use of fibre reinforced concrete pipes (FRC) at the 26 July Council meeting.

One of the outcomes of the 26 July Council Report was to exhibit a fee of \$20.00 per lineal metre to cover the cost of a potential shorter design life and cheaper installation costs.

The draft fee was exhibited for a period of 28 days closing on the 26 September 2022. No submissions were received.

It is therefore recommended that Council resolve to publish the new fee in its fees and charges for 2022/2023.

**RECOMMENDATION**

THAT Council adopt the fee of \$20 per lineal metre for the use of fibre reinforced concrete pipe in stormwater infrastructure and publish this fee in the 2022/2023 fees and charges. The fee will be indexed annually to the rise and fall of the building and construction industry index.

**BACKGROUND**

The construction industry has been experiencing a supply shortage of steel reinforced concrete pipes (RCP), with lead times of more than 40 weeks. This has led to an increased demand from developers, for Council to consider alternative pipe materials such as fibre reinforced concrete pipes (FRC), or glass reinforced plastic pipes (GRP).

Council at its July Council meeting made the decision to allow the use of fibre reinforced concrete pipe subject to a number of requirements that were designed to ensure stormwater infrastructure is designed and constructed for subdivisions and other forms of development, in a manner that does not adversely impact on Council. It is in both the developer's and community's interest that appropriate infrastructure is provided. This infrastructure needs to be designed and constructed to industry standards to ensure consistency in:

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**PSR22/053 SHORTAGE OF CONCRETE STORMWATER PIPES**

**S006-T00001**

- service provision
- public safety
- reasonable development costs, and affordable ongoing maintenance and renewal costs to the community
- acceptable environmental impacts and
- minimising potential public risk and liability from poor designs and/or construction.

**CONSIDERATIONS**

Council staff have researched the use of alternate stormwater pipe material and further discussed this with other local government engineering teams. The main risks associated with the use of alternate stormwater pipe material to the traditional steel reinforced concrete pipe are:

- risk of reduced design life and performance, and subsequent cost of replacement in the future (this may be offset by requiring additional costs to be estimated towards future replacement/relining etc, and a payment made by developers now)
- challenges with accepting lower strength/performance/design life pipes (even for a short period) until RCP supply improves
- safety risks generally for pipe failure - collapse/defects/bushfire/scour/water absorbency
- seeking advice on differences in pipe technology, design life and performance, including from manufacturers and the Concrete Pipe Association of Australia (CPAA)
- the specific environment, loading, filling of site and longitudinal gradient of pipelines.

**Legal**

In accordance with Section 8A(2)(c) of the *Local Government Act 1993*, Council should consider the long-term and cumulative effects of actions on future generations. It is therefore important that constructed infrastructure is of a high standard, and the ongoing costs are affordable taking a long-term view.

**Policy**

Council's Infrastructure Design standard (IDS) nominates prescribed standards for the design of civil infrastructure associated with subdivisions. Whilst it nominates a number of different types of pipes, it is practice that public stormwater pipes are constructed from RCP.

The purpose of the fee is to provide a guarantee given that there is insufficient evidence to confirm that the design life is the same as a steel reinforced concrete pipe. There is also the consideration that the installation of FRC pipe is likely to be more efficient and therefore cost developers less. The fee is intended to provide some surety to Council to cover future costs.

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**PSR22/053 SHORTAGE OF CONCRETE STORMWATER PIPES**

**S006-T00001**

**Asset**

As discussed above, the use of FRC pipes is expected to have a lesser design life (50 years versus 100 years), and therefore to offset this potential impact on the public, a fee is proposed to be charged to cover the lesser design life and higher maintenance cost.

**Economic Development Employment Potential**

Construction of urban subdivisions contribute to the Eurobodalla's economic development, as well as providing for additional land supply and housing. Should Council resolve to permit the limited use of FRC pipe, this would assist with the continued supply of residential lots.

**Financial**

As outlined in the discussion above under 'Assets', there may be an additional burden on public finances due to the potential reduction in life span of stormwater infrastructure. This may be mitigated by charging the additional fee per length of pipe for future maintenance/replacement.

**Community and Stakeholder Engagement**

We have consulted with the community by seeking feedback through a 28 day Public Exhibition where the proposed fee was on Council's website and writing to stakeholders including consultants, developers and contractors that Council deal with in the design and construction of subdivisions.

**CONCLUSION**

The development industry is one of many industries suffering from availability of materials. One of the key items is steel reinforced concrete pipe (RCP) for stormwater infrastructure. RCP is used in civil engineering projects such as residential subdivisions, and the delays in getting access to this product are affecting the ability of developers to bring urban lots onto the market. This also affects the ability to provide more land supply, and by default, additional housing.

Council considered the risks and advantages of using alternate product, and secondly, made a decision about the use of fibre reinforced concrete pipes (FRC) at the 26 July Council meeting.

One of the outcomes of the 26 July Council Report was to exhibit a fee of \$20.00 per lineal metre to cover the cost of a potential shorter design life and cheaper installation costs.

The draft fee was exhibited for a period of 28 days closing on the 26 September 2022. No submissions were received.

It is therefore recommended that Council resolve to publish the new fee in its fees and charges for 2022/2023.

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**PSR22/054 LEASE TO NSW TELCO AUTHORITY - NAROOMA**

**S023-T00018  
LAND ID: 17219**

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

Attachments: 1. Confidential - NSW Telco Authority

Community Goal: 5 Our engaged community with progressive leadership

Community Strategy: 5.3 Work together to achieve our collective vision

Delivery Program Link: 5.3.2 Manage land under Council control

Operational Plan Link: 5.3.2.2 Manage leases and licences

### **EXECUTIVE SUMMARY**

The purpose of this report is to seek approval to issue a lease for telecommunications facilities to NSW Telco Authority (NSWTA) at Lot 1 DP 884085, Princes Highway being South Narooma Reservoir.

NSWTA is expanding and enhancing the Public Safety Network for emergency services organisations to provide critical, secure and reliable radio communications for frontline responders.

A site has been located by NSWTA at Lot 1 DP 884085, Princes Highway being South Narooma Reservoir, for the purpose of installation and operation of the telecommunications facility. It is proposed Council grant leases totaling seven years to conclude on 31 December 2029. The use of the site beyond 2029 is yet to be determined.

It is recommended that Council consider granting the leases to conclude in December 2029 to NSWTA to operate the telecommunications facility within Lot 1 DP 884085 Princes Highway, Narooma.

### **RECOMMENDATION**

THAT

1. Council grant leases to NSW Telco Authority to construct and operate a telecommunications facility within Lot 1 DP 884085 Princes Highway in accordance with the following conditions:
  - (a) Rental figures set out in the confidential attachment
  - (b) The provisions for \$20 million public liability insurance
  - (c) Conditions generally be in line with similar leases.
2. The General Manager be given delegated authority to negotiate further leases to NSW Telco Authority for telecommunications facilities at this site.

### **BACKGROUND**

NSWTA first approached Council in February 2018 in relation to the Critical Communications Enhancement Program which is designed to deliver an enhanced Public Safety Network across New South Wales. The lease was originally negotiated in 2018 although the project did not

**PSR22/054 LEASE TO NSW TELCO AUTHORITY - NAROOMA**

**S023-T00018  
LAND ID: 17219**

proceed at this time. NSWTA contacted Council again in 2021 with a view to proceed with the project.

The Public Safety Network has been pivotal in protecting communities and supporting the emergency response to the Black Summer bushfires and recent flood crisis.

Council's Infrastructure Services have been in discussions with NSWTA to establish the location of the telecommunications facility.

Other telecommunication carriers utilise this site at south Narooma reservoir.

The term of the leases will end on 31 December 2029. The use of the site beyond 2029 is yet to be determined. It is likely the reservoir will be decommissioned. There will be future discussions with telecommunications carriers regarding the site.

**CONSIDERATIONS**

Conditions for the lease should generally be in line with similar leases.

The land at south Narooma accommodates a water reservoir and is classified as operational land.

The proposed lease area is shown in the sketch below.





PSR22/054 LEASE TO NSW TELCO AUTHORITY - NAROOMA

S023-T00018  
LAND ID: 17219



*Lot 1 DP 884085 Princes Highway – South Narooma Reservoir*

### Legal

Lot 1 DP 884085, Princes Highway Narooma is classified as operational land and there is no legal impediment to granting a lease at this location.

Telecommunications carriers have broad powers and immunities under the *Telecommunications Act 1997* (Act). In particular, their rights under Schedule 3 of the Act can be invoked to allow them to stay in possession of a property after a lease has ended.  
[https://www.legislation.gov.au/Details/C2022C00038/Html/Volume\\_3#\\_Toc93589592](https://www.legislation.gov.au/Details/C2022C00038/Html/Volume_3#_Toc93589592)

### Policy

Objective 5.3.2.2 of the Delivery Program/Operational Plan (DPOP) is to undertake strategic management of Council's operational land portfolio and manage leases and licences.

### Asset

Radio telecommunications for emergency services are an essential asset in this area. The lease length is to 2029 only because the future of the water tower beyond this date has not been finalized.

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**PSR22/054 LEASE TO NSW TELCO AUTHORITY - NAROOMA**

**S023-T00018  
LAND ID: 17219**

### **Social Impact**

Consistent and reliable access to telecommunications will support the frontline responders in the area.

### **Economic Development Employment Potential**

Consistent and reliable telecommunications will be vital support to emergency services.

### **Financial**

The rental for current telecommunications leases varies throughout the Shire.

A reduced rental was negotiated given NSWTA is not a commercial telecommunications carrier and Council's support of the Critical Communications Enhancement Program. The rental figure is set out in the confidential attachment.

### **Community and Stakeholder Engagement**

Council's Community Engagement Framework and relevant legislation have been used to guide the best approach to engagement on this matter. The South Narooma Reservoir is on operational land and there are no legal requirements for consultation in relation to this matter. There is no legal requirement to advise the community through public notice, or to seek feedback through public exhibition for land dealings within operational land and as this is an existing telecommunications facility, the engagement method will be to 'inform'.

### **CONCLUSION**

NSW Telco Authority (NSWTA) is expanding and enhancing the Public Safety Network for emergency services organisations to provide critical, secure and reliable radio communications to frontline responders.

A site has been located by NSWTA at Lot 1 DP 884085, Princes Highway being South Narooma Reservoir, for the purpose of the installation and operation of the telecommunications facility. It is proposed Council grant leases totaling seven years to conclude on 31 December 2029. The use of the site beyond 2029 is yet to be determined.

It is recommended the Council consider granting leases to NSW Telco Authority for operation of a telecommunications facility, network and service within Council operational land at South Narooma Reservoir.



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**PSR22/055 DRAINAGE RESERVE - LOT 22 DP 23760 MITCHELL PLACE,  
NAROOMA**

**S023-T00001  
LAND ID: 17321**

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

Attachments: Nil

Community Goal: 5 Our engaged community with progressive leadership

Community Strategy: 5.3 Work together to achieve our collective vision

Delivery Program Link: 5.3.2 Manage land under Council control

Operational Plan Link: 5.3.2.4 Review the Property Strategy

### **EXECUTIVE SUMMARY**

The purpose of this report is to seek approval for a drainage reserve to be vested in Council. Lot 22 DP 23760 Mitchell Place, Narooma is noted on the deposited plan as a dedicated drainage reserve for stormwater and is held in the name of the landowners in error.

The drainage reserve contains built stormwater infrastructure.

It is recommended that Council approve to publish a notice in the New South Wales Government Gazette to vest the drainage reserve in the ownership of Council. The drainage reserve will automatically default to a classification as 'community land' within 3 months of the date it is required. The classification 'community' land aligns with the classification of most other drainage reserves.

### **RECOMMENDATION**

THAT Council approve publication of a notice in the New South Wales Government Gazette to vest the drainage reserve being Lot 22 DP 23760 Mitchell Place, Narooma in the ownership of Council.

### **BACKGROUND**

In early September 2022, Council received a customer request for maintenance to be carried out in respect of a drainage reserve adjoining a property in Mitchell Place Narooma. The request for maintenance was actioned.

Historically the drainage reserve has been maintained by Council and ongoing maintenance is scheduled in future capital programs.

As part of investigating the request for maintenance, it was found that Council's mapping system identified the drainage reserve as being in private ownership. This was then confirmed by title search.

When the original subdivision of this area of Narooma was registered in 1952, Lot 22 was dedicated as a drainage reserve. However, ownership of the land remained in the name of the original owner rather than being transferred to Council. The drainage reserve contains built stormwater infrastructure and has always been non-rateable.

The last currently registered landowner passed away in 1994.

**PSR22/055 DRAINAGE RESERVE - LOT 22 DP 23760 MITCHELL PLACE,  
NAROOMA**

**S023-T00001  
LAND ID: 17321**

Section 50 of the *Local Government Act 1993* provides a mechanism to resolve the error in ownership by the publication of a notice in the New South Wales Government Gazette. In publishing the notice, Council will then be recorded as the owner of the drainage reserve.

The publication of the notice in the Government Gazette is required to resolve the error in ownership of Lot 22 DP 23760 Mitchell Place Narooma.

**CONSIDERATIONS**

The issue of the vesting of the land and its classification was referred to Council's Infrastructure Services. Comments received noted that '...Lot 22 was supposed to be dedicated to Council at the time of subdivision but never was. It should become Council owned drainage reserve due to stormwater infrastructure installed within this Lot. Lot 62 of DP21019 located further to the east is a continuation of this drainage reserve and it is Council owned. Some new stormwater pipes were installed in Lot 22 about 5 years ago'.

When the drainage reserve is vested in Council's ownership it must be classified as 'operational land' or 'community land'. The drainage reserve will automatically default to a classification as 'community land' within 3 months of the date it is acquired. The classification as 'community' land aligns with the classification of most other drainage reserves.

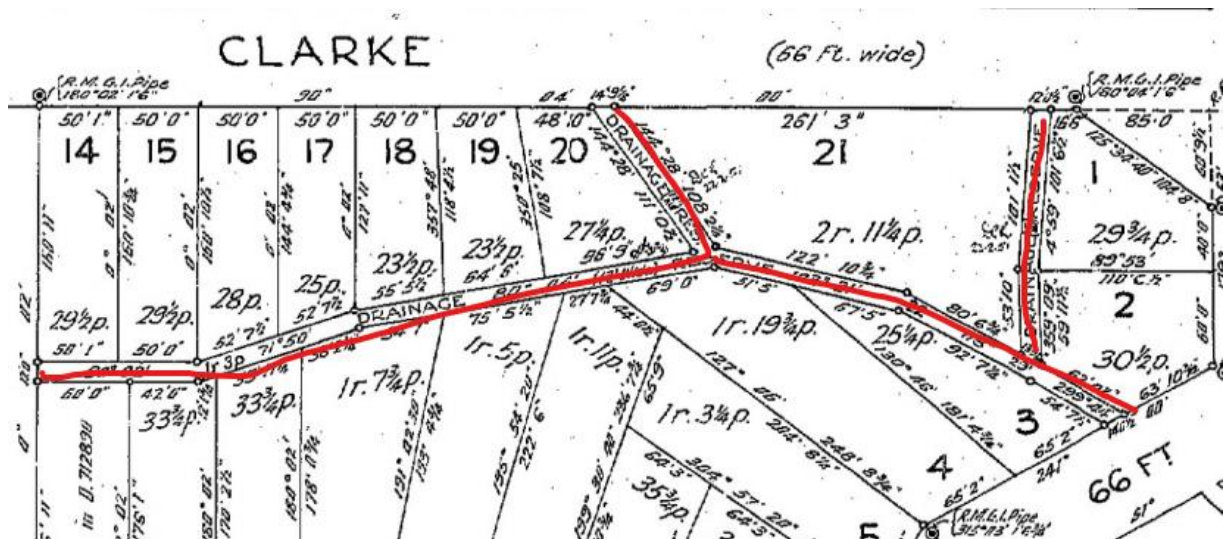
The subject property, a dedicated drainage reserve, is shown in the sketch below.



Drainage Reserve – Lot 22 DP 23760 Mitchell Place, Narooma

PSR22/055 DRAINAGE RESERVE - LOT 22 DP 23760 MITCHELL PLACE,  
NAROOMA

S023-T00001  
LAND ID: 17321



Excerpt from DP 23760 of drainage reserve

### Legal

Any land transferred to, vested in or acquired by Council that is not classified in accordance with the Act within 3 months from the date the land is acquired is taken to be classified as 'community land' (section 31(2A)).

#### [Section 31 Local Government Act 1993](#)

Section 50 of the LGA specifically relates to public garden, recreation space and drainage reserves provided for in subdivisions that were approved prior to 15 June 1964. Section 50(4) authorises Council to publish a notice in the Gazette notifying that the land is vested in it.

#### [Section 50 Local Government Act 1993](#)

### Policy

The vesting of the drainage reserve will proceed in accordance with Council's *Land Acquisition and Disposal Policy* - [Land-Acquisition-and-Disposal-Policy](#).

### Asset

The drainage reserve contains built stormwater infrastructure which is maintained by Council.

### Financial

There will be minimal administrative costs incurred in respect of the proposed vesting of the drainage reserve, being the publication of the vesting notice in the Government Gazette.

Council already uses and maintains the land as though it were Council land so no additional maintenance cost is imposed by this action.

### Community and Stakeholder Engagement

There is no mandatory requirement in the *Local Government Act 1993* to give formal notice to an owner directing them to convey or transfer a drainage reserve. There is also no requirement to give public notice of Council's intention to publish a vesting notice in the NSW Government Gazette.

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**PSR22/055 DRAINAGE RESERVE - LOT 22 DP 23760 MITCHELL PLACE,  
NAROOMA**

**S023-T00001  
LAND ID: 17321**

**CONCLUSION**

Lot 22 DP 23760 Mitchell Place, Narooma is noted on the deposited plan as a dedicated drainage reserve for stormwater and is held in the name of the landowners in error.

The drainage reserve contains built stormwater infrastructure that is maintained by Council.

It is recommended that Council publish a notice in the New South Wales Government Gazette to vest the drainage reserve in the ownership of Council.

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### 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.

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## EUROBODALLA SHIRE COUNCIL

### ETHICAL DECISION MAKING AND CONFLICTS OF INTEREST

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

#### ETHICAL DECISION MAKING

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

#### CONFLICT OF INTEREST

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

#### THE TEST FOR CONFLICT OF INTEREST

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

#### IDENTIFYING PROBLEMS

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

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

## AGENCY ADVICE

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

CONTACT	PHONE	EMAIL	WEBSITE
Eurobodalla Shire Council Public Officer	4474-1000	council@esc.nsw.gov.au	www.esc.nsw.gov.au
ICAC	8281 5999	icac@icac.nsw.gov.au	www.icac.nsw.gov.au
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.