



# AGENDA

## Ordinary Meeting of Council

**17 October 2023**

### **Statement of Ethical Obligations**

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



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

**ON TUESDAY 17 OCTOBER 2023**

**COMMENCING AT 12.30PM**

**AGENDA**

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

- 1. WELCOME**
- 2. ACKNOWLEDGEMENT OF COUNTRY**
- 3. APOLOGIES**  
Nil
- 4. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**  
4.1 Ordinary Meeting held on 19 September 2023
- 5. DECLARATIONS OF INTEREST OF MATTERS ON THE AGENDA**  
(Declarations also to be made prior to discussions on each item)
- 6. PUBLIC FORUM**
- 7. MAYORAL REPORTS**  
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- 8. NOTICES OF MOTION**  
Nil
- 9. QUESTIONS ON NOTICE FROM COUNCILLORS**  
Nil
- 10. PETITIONS**  
Nil

<b>11. GENERAL MANAGER'S REPORTS</b>		
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<b>18. CONFIDENTIAL MATTERS</b>		

**WARWICK WINN  
GENERAL MANAGER**

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MR23/006 BATEMANS BAY PONTOON MODIFICATIONS TO ACCOMMODATE PASSENGER-CARRYING SEAPLANES

File Ref: S002-T00020

Attachments: Nil

**EXECUTIVE SUMMARY**

This Mayoral Minute seeks Council support to advocate for minor modifications to the NSW Government-owned pontoon in Batemans Bay. These modifications would accommodate passenger-carrying seaplanes seating up to 15 people.

This is potentially a big win for the region, with a Sydney seaplane company ready to begin flights as soon as modifications are made. Flights between Sydney Harbour and Batemans Bay take around 45 minutes.

The Batemans Bay Business Chamber has been working with Transport for NSW on the issue and has asked for Council's support in the hope of expediting a solution.

The pontoon was put in place for a variety of uses. Minor modifications would allow 15-seat seaplanes to use the facility and provide opportunities for a passenger service that would enhance local tourism and business.

I am aware that Member for Bega Michael Holland MP is also supportive of these modifications.

**RECOMMENDATION**

THAT Council:

1. Supports urgent modifications to Batemans Bay pontoon that will allow 15-seat seaplanes to use the facility.
2. Advise the Minister for Transport, Transport for NSW, the Member for Bega, and other relevant parties of Council's support, noting the potential economic benefit for the region.
3. Thank the Batemans Bay Business Chamber for their efforts and confirm Council's formal support and advocacy for the modifications.

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**GMR23/022 2023 EDUCATION AND SCHOOL GRANTS**

**S014-T00011**

Responsible Officer: Warwick Winn - General Manager  
Attachments: 1. 2023 Education and School Grant Applications  
Outcome: 5 Our engaged community with progressive leadership  
Focus Area: 5.2 Proactive, responsive and strategic leadership  
Delivery Program Link: 5.2.1 Be proactive leaders with a focus on 'community better'  
Operational Plan Link: 5.2.1.2 Administer community grants and donations

**EXECUTIVE SUMMARY**

The Education and School Grant is a funding stream within the Annual Grants category and provides funding to local schools and education establishments for annual award presentations for academic and other achievement or annual scholarships offered by other educational institutions.

The grant was opened to the public on Monday 14 August 2023 and closed on Friday 8 September 2023. Nine applications were received during this time.

**RECOMMENDATION**

THAT Council approve the allocation of funds to the Education and School Grant recipients as noted in the attachment.

**BACKGROUND**

The Education and Schools Grant stream is part of Council's Annual Grants category within its Community Grants policy. This grant is for local schools and education establishments for annual awards presentations for academic and other achievements or annual scholarships offered by other educational institutions.

The grant is structured as follows:

- Council may approve a budget allocation in the Operational Plan for each financial year.
- If a budget is approved, applications are invited once per year and will not be accepted outside the advertised application window.
- Successful grantees will be granted an annual amount to contribute to school presentation awards or annual scholarships.

The grant was opened to the public on Monday 14 August 2023 and closed on Friday 8 September 2023.

**GMR23/022 2023 EDUCATION AND SCHOOL GRANTS**

**S014-T00011**

Council received the following nine applications as listed below:

	<b>Organisation</b>	<b>Application Type</b>
1	Central Tilba Public School	Primary
2	Narooma High School	Secondary
3	Batemans Bay High School	Secondary and discretionary
4	St Bernards Primary School	Primary
5	Narooma Public School	Primary
6	Batemans Bay Public School	Primary
7	St Cecillia Music Scholarship	Discretionary
8	Moruya Public School	Primary
9	Broulee Public School	Primary

All applications received for 2023-24 were assessed within the total budget of \$8,875.

**CONSIDERATIONS**

There were nine applications received, summarized in the attached document.

**Policy**

The Education and Schools Grant stream is an annual grant within Council's Community Grants policy. The Community Grants Policy will be reviewed in 2024 in conjunction with Council's other grant programs.

**Financial**

In 2023-24 Council has a budget of \$8,875 for Education and School Grants.

**Community and Stakeholder Engagement**

We have informed the community through a media release and information on Council's website. All schools were notified in writing of grant availability.

**CONCLUSION**

The Education and Schools Grants provide the opportunity to support local schools and education establishments for academic or other achievement.

**APPLICATIONS FOR EDUCATION AND SCHOOL GRANTS 2023**

No.	Type	Organisation Name	Amount	Purpose of Grant	Recommended + amount
1	Primary	Central Tilba Public School	\$100	This funding will contribute to our end of year presentation night awards. It will go towards the plaques given to students for their achievements throughout the year.	Yes, \$100
2	Secondary	Narooma High School	\$200	The funds received from Council are used at our presentation day and are awarded to outstanding students (usually in Year 12).	Yes, \$200
3	Secondary and Discretionary	Batemans Bay High School	\$400	For awards for our Year 12 graduation presentation (x 2) in September and the end of year presentation years 7-11 in December (x5)	Yes, \$400
4	Primary	St Bernards Primary School	\$100	Year 6 Graduation Awards	Yes, \$100
5	Primary	Narooma Public School	\$100	This grant would go towards the expenditure of the trophies provided for our award winning students at our End of Year Whole School Presentation.	Yes, \$100
6	Primary	Batemans Bay Public School	\$100	2023 Presentation Day Assembly	Yes, \$100
7	Discretionary	St Cecillia Music Scholarship	Minimum \$6,000	Scholarships for music students at Primary and Secondary school level through a competitive audition and concert program. Awards are made at annual concert in classical and contemporary senior and junior categories.	Yes, \$800
8	Primary	Moruya Public School	\$100	Funding will be utilised for costs of the Annual Student Awards Assembly. This includes the provision of student prizes, engraving of trophies and printing of award certificates.	Yes, \$100
9	Primary	Broulee Public School	\$100	2023 Year End Presentation Day to acknowledge student achievements in academic, sport, leadership, cultural awareness, contribution to community and sustainable practices.	Yes, \$100

**TOTAL allocated in budget: \$8,875**

**TOTAL requested through grant process: \$7,200**

**TOTAL allocated in budget recommended: \$2,000**



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**GMR23/025 DISCLOSURE OF PECUNIARY INTEREST AND OTHER  
MATTERS RETURNS**

**S012-T00031,  
S021-T00004**

Responsible Officer: Warwick Winn - General Manager

Attachments: Nil

Outcome: 5 Our engaged community with progressive leadership

Focus Area: 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**

In accordance with section 440AAB of the *Local Government Act 1993* councillors and designated persons who hold that position on 30 June in each year are required to lodge a "Disclosures by Councillors and Designated Persons Return" with their general managers by 30 September each year.

Accordingly, the Disclosure of Pecuniary Interest and Other Matters returns for Councillors and designated staff for 2022-23 are tabled.

**RECOMMENDATION**

THAT the report on the Disclosure of Pecuniary Interest and Other Matters returns be received and noted.

**BACKGROUND**

The lodgement date for Disclosure of Pecuniary Interest and Other Matters returns covering 1 July 2022 to 30 June 2023 was 30 September 2023.

Notice was provided to Councillors on 6 July 2023 and designated staff on 11 July 2023.

**CONSIDERATIONS**

**Legal**

The lodgement of Pecuniary Interest and Other Matters returns is required to comply with section 440AAB of the *Local Government Act 1993*.

**Community Engagement**

Councillor and Senior Staff forms are provided on Council's website with personal information redacted.

**CONCLUSION**

The register of returns by Councillors and designated staff for their disclosures of pecuniary interests and other matters is now tabled in accordance with section 440AAB of the *Local Government Act 1993*.

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**PSR23/039 DA0027/23 - PROPOSED RESIDENTIAL FLAT BUILDING - 1A BENT STREET BATEMANS BAY DA0027/23**

Responsible Officer: Lindsay Usher - Director, Planning and Sustainability Services  
Attachments: 1. Proposed conditions DA 0027/23  
Community Goal: 3 Our region of vibrant places and spaces  
Community Strategy: 3.1 Balance development between the needs of people, place and productivity  
Delivery Program Link: 3.1.2 Provide receptive and responsive development assessment services  
Operational Plan Link: 3.1.2.1 Assess and determine development applications

Applicant: Instep Management Group  
Land: Lot 63 DP 255836  
Area: 556m<sup>2</sup>  
Setbacks: Front – complies  
Side (1.5m) - complies  
Rear (3m) – (performance criteria) – complies  
Height: 18.5m (11.5m height limit)  
Zone: R3 Medium Density Residential  
Current Use: Vacant land  
Proposed Use: Residential  
Description: Residential Flat Building (29 units)  
Permitted in Zone: Yes  
DA Registered: 11/08/2022  
Reason to F&S: Clause 4.6 Variation to Height of Buildings  
Recommendation: Approval subject to conditions

### **EXECUTIVE SUMMARY**

The purpose of this report is to seek Council's determination of Development Application (DA) 0027/23 for construction of a residential flat building at 1A Bent Street, Batemans Bay. The proposal is a six-storey building including two levels of basement car parking and four-and-a-half levels of residential accommodation.

The development site is located within a residential area of Batemans Bay adjacent and to the south of the Batemans Bay town centre.

The DA seeks a variation from the *Eurobodalla Local Environmental Plan 2012* (ELEP) Clause 4.3 Height of Buildings. The ELEP defines the maximum building height of the subject site as 11.5m, taken from natural ground level. The proposal seeks a variation of 7m or 60% for the highest

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**PSR23/039 DA0027/23 - PROPOSED RESIDENTIAL FLAT BUILDING - 1A BENT STREET BATEMANS BAY DA0027/23**

portion of the building, noting that the site has a cross-fall of 9-10m and the variation changes across the site and building.

The ELEP Clause 4.6 Exceptions to Development Standards and the *Department of Planning Circulars PS08-003 and PS 08-014* requires that all developments with a variation greater than 10% to the development standards, must be determined by Council.

The proposal has considered the requirements of the *Environmental Planning and Assessment Act 1979* (the EPA Act), relevant State Environmental Planning Policies (SEPPs), *Eurobodalla Local Environmental Plan 2012* (LEP), and the Batemans Bay Regional Centre Development Control Plan (DCP).

The DA was exhibited on two occasions in accordance with the Community Engagement Framework and Participation Plan. During the exhibition periods, five submissions in total were received. The matters raised in the submissions have been considered and would not prevent the recommendation for approval.

This report recommends approval of the DA subject to conditions.

#### **RECOMMENDATION**

THAT Development Application 0027/23 for the construction of a six-storey residential flat building comprising 29 units at 1A Bent Street, Batemans Bay be approved subject to the conditions provided at Attachment A.

#### **BACKGROUND**

A development application was submitted in August 2022 for the construction of a residential flat building. The proposal has been amended on two occasions and has been publicly exhibited on two separate occasions. The proposal includes a request to vary a development standard within the *Eurobodalla Local Environmental Plan 2012* (LEP). The standard relates to the building height, which is 11.5 metres, and the proposal at its highest point is 18.5 metres.

The proposed development seeks consent for the construction of a six-storey residential flat building with 29 units, including 3 x 1 bedroom units, 19 x 2 bedroom units and 6 x 3 bedroom units. The development proposal also includes basement car parking, landscaping, and earthworks.

The site contains no buildings but does contain some vegetation which is proposed to be removed. The site is located to the south of Batemans Bay town centre and is accessed via Bent Street. It also has a frontage to Commercial Lane, however the land sits at a much higher level and no access is proposed to Commercial Lane.

The development site is located adjacent to some heritage items, being the Roman Catholic cemetery (1 Bent Street) and the Presbyterian cemetery (2A Bent Street). An assessment of the impact including an archaeological assessment has been carried out.

The application has been assessed and found to be acceptable in the locality. The application is recommended for approval.

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**PSR23/039 DA0027/23 - PROPOSED RESIDENTIAL FLAT BUILDING - 1A BENT STREET BATEMANS BAY DA0027/23**

**Policy**

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

*State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*

The proposed development is supported by a BASIX Certificate. The plans and conditions reference the BASIX commitments which will be installed during construction. The proposed development is compliant with the SEPP.

*SEPP 65 (Design Quality of Residential Apartment Development) and Apartment Design Guide (ADG)*

The development is generally compliant with the provisions in the NSW Government's Apartment Design Guide and the outcomes sought under SEPP 65.

*State Environmental Planning Policy (Biodiversity and Conservation) 2021*

Chapter 2 – Vegetation in non-rural areas

The land is not mapped on the Biodiversity Values Map. The land is zoned R3 Medium Density Residential. The proposed area of clearing does not exceed the applicable threshold of 2500m<sup>2</sup>. As such, a Biodiversity Development Assessment Report is not required for this development.

*State Environmental Planning Policy (Resilience & Hazards) 2021*

Chapter 2 – Coastal management

The land is not located in the coastal wetlands, littoral rainforest, or proximity areas.

The land is located part within a coastal use area and wholly within a coastal environment area as defined by the *Coastal Environment Area Map* and *Coastal Use Area Map*.

The proposed development is not located near the foreshore or beach area and would not result in overshadowing of the beach on the summer solstice. It is considered the development can be managed to minimise potential impacts.

Chapter 4 – Remediation of land

The land is vacant, and any previous land use is not known. A geotechnical assessment accompanied the application, and it found no material that would cause a contamination risk.

*State Environmental Planning Policy (Transport and Infrastructure) 2021*

Chapter 2 – Part 2.3 - Division 5 – Electricity transmission or distribution

The proposed development was referred to Essential Energy and it was identified that overhead powerlines would be too close to the proposed construction. The applicant has nominated that the power lines would be replaced with underground power.

Chapter 2 – Part 2.3 – Division 17 – subdivision 2 – Development in or adjacent to road corridors and road reservations

The proposed development is not subject to this provision. Bent Street is not a classified road. As such, the provisions do not apply.

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**PSR23/039 DA0027/23 - PROPOSED RESIDENTIAL FLAT BUILDING - 1A BENT STREET BATEMANS BAY DA0027/23**

Eurobodalla Local Environmental Plan 2012 (ELEP)

**Clauses 2.1 Land Use Zones**

The site is zoned R3 Medium Density Residential. The objectives of the R3 zone are as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage tourist and visitor accommodation in areas of demand subject to controls to ensure the adequate protection of a permanent residential housing supply and amenity.*
- *To encourage walking, cycling and the use of public transport.*

The proposed development is defined as a residential flat building, which is permitted in the R3 Medium Density zone with development consent. The objectives of the R3 zone are met through the provision of residential accommodation within a residential zoned area that is consistent with the intended character of the area.

The proposed development is compliant with the provisions of the ELEP and seeks to rely on Clause 4.6 to support a variation to Clause 4.3, the height of buildings development standard.

**Clause 4.3 Height of buildings**

Pursuant to Clause 4.3, the maximum height of buildings is 11.5m. The proposed development seeks to construct a building height of 18.5m, when measured from the natural ground level. The natural ground levels vary from 16m AHD to 6m AHD and so the extent of variation also changes. The variation to the building height occurs over the whole building but is more pronounced at the eastern elevation (Commercial Lane) within a steeply sloping portion of the allotment.

The proposed development is consistent with the objectives of this clause which are:

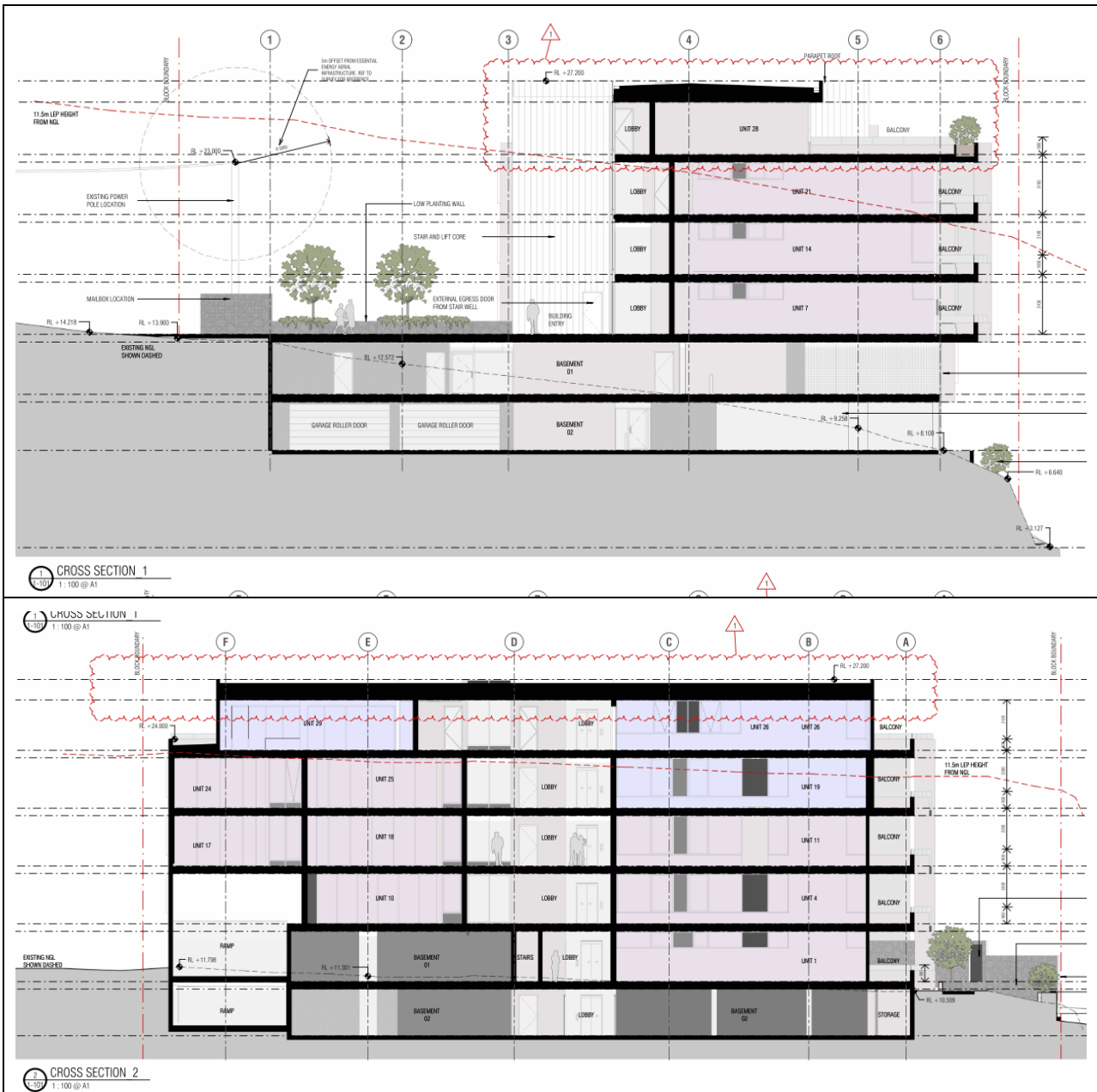
- To ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality.
- To minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development.

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STREET BATEMANS BAY**

**DA0027/23**

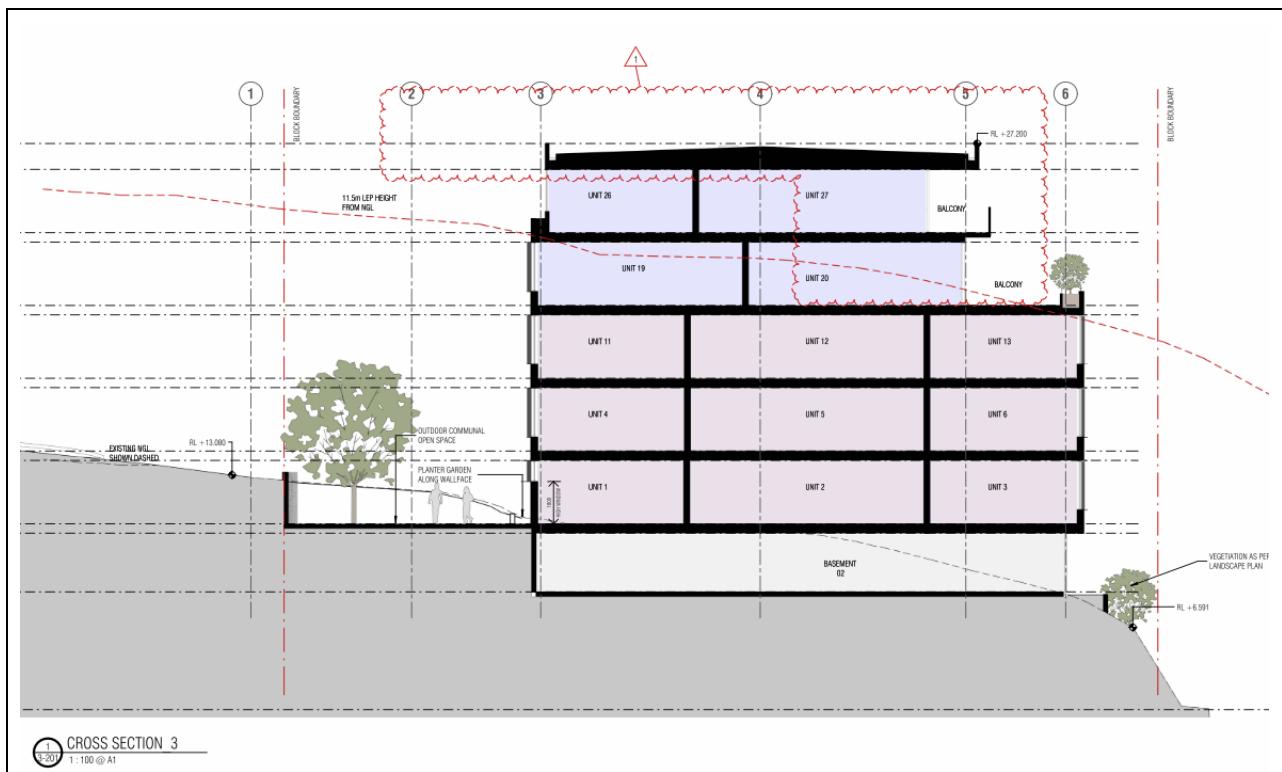
**Clause 4.6 – Exceptions to development standards**

The proposed development requests a variation to the Clause 4.3 height of buildings development standard.



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STREET BATEMANS BAY

DA0027/23



The above images depict the extent of the proposed height variation. The parts of the roof which are visible above the red dotted line exceed the 11.5m height of buildings maximum limit.

The proposed development seeks a variation to the roof height proposed and seeks a maximum 60% variation to the 11.5m height of buildings standard. The proposed maximum height variation is 7.0m higher than the 11.5m development standard at the highest point, noting that the natural ground is falling away at this same point.

Clause 4.6 of the LEP is intended to provide flexibility to a consent authority to approve a development which exceeds a development standard. In this case, building height.

The NSW Land and Environment Court in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC118 and *Four2Five Pty LTD v Ashfield Council* [2015] NSWLEC 90 listed five matters to consider when assessing whether compliance of a development standard was unreasonable or unnecessary, as established in *Wehbe v Pittwater Council* (2007) NSWLEC 827.

This includes five tests that can be used as a basis to answer the question in relation to a particular application, noting that all five methods may not be needed to demonstrate compliance.

**Test 1:** Compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard: *Wehbe v Pittwater Council* at [42] and [43].

*Comment: The proposed development does not conflict with the intent of Clause 4.3 which is to ensure that buildings are compatible with the character of the area (height, bulk, and scale) of*

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**PSR23/039 DA0027/23 - PROPOSED RESIDENTIAL FLAT BUILDING - 1A BENT STREET BATEMANS BAY DA0027/23**

*the existing and desired future character of the locality and minimise visual impacts, view loss, loss of privacy and loss of solar access to existing development. The proposed development achieves this outcome. It has been designed to provide design interest to the east and north where the commercial areas are, and provide a more consistent elevation to the west, adjoining the existing residential areas. The perceived height at Bent Street is more of a four to five-storey building, whereas the larger and more exposed aspects of the building are to the east and north. This is noted when compared to the building heights in the town centre that range from 12 metres to 18 metres.*

Test 2: The underlying object or purpose of the standard is not relevant to the development and compliance is unnecessary: *Wehbe v Pittwater Council* at [45].

*Comment: The underlying objective of the building height control is relevant to the development.*

Test 3: The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable: *Wehbe v Pittwater Council* at [46].

*Comment: The underlying objective of the building height standard is to manage the scale and type of development in relation to built form in the context of existing and developing future character. It also seeks to minimise the potential adverse impacts of the development on the amenity of residential areas.*

*The character of the surrounding area is described as containing a mix of low density residential and commercial land uses. The site immediately adjoins a historic cemetery to the south, residential development to the west, commercial car park to the north and commercial development to the east.*

*The area of Batemans Bay is likely to see more redevelopment in residential apartments and this may invigorate the redevelopment of commercial areas to provide a mix of built form, of increasing density. The proposed development is compatible with the height and scale of surrounding built form. The Bent Street elevation hides the basement car parking and therefore the bulk and scale is more akin to a four to five-storey building. The eastern and northern elevations adjoin the commercial areas of Batemans Bay, whilst showing the greatest aspect of the building are considered complimentary with the adjoining commercial area. The design is provided with a mix of materials and articulation to create interest and ensure the building becomes a landmark and compliments the regional town centre.*

*The exceedance relates to a habitable floorspace area immediately above a steeply sloping part of the site, and it is considered strict compliance with the height control is unnecessary in this instance.*

Test 4: The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable: *Wehbe v Pittwater Council* at [47]



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*Comment: It is not considered that the development standard has been virtually abandoned or destroyed by the council's own actions. Council has granted height variations, but these are on the basis of providing more residential accommodation in a strategically aligned position. The proximity to the town centre, including its height controls, the slope of the land and the limited impact on adjoining properties is why the variation can be supported.*

Test 5: The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone: *Wehbe v Pittwater Council* at [48]

*Comment: The site is zoned Medium Density Residential (R3) and provides a land parcel that is adjoined to the north and east by land zoned MU1 (Mixed Use). Compliance with this test is not being sought.*

*It is therefore considered that compliance with the standard (building height) is both unreasonable and unnecessary. The variation can therefore be supported.*

Batemans Bay Regional Centre Development Control Plan (DCP)

The proposed development is generally consistent with the provisions of the DCP, however there are some variations as follows:

- Rear setback of 3m – design is generally compliant or exceeds but does have some protrusions including a terraced courtyard and balconies. This variation is supported.
- Balcony dimensions – requirement is for 10m<sup>2</sup> area and a minimum dimension of 2m. All balconies exceed the minimum area requirement, but some balconies have areas where the minimum dimension is not 2m. This is generally because of an angled balcony and so has dimensions that are slightly less than 2m but increase to 2.5m or 3m. This is supported as occupant amenity is preserved by balconies larger than the requirement.
- Adaptable housing provisions – this requires the applicant to demonstrate that 25% of units are capable of being adapted, ie, an adaptable floor plan required but not constructed. The applicant is proposing to provide one fully accessible unit in lieu of this noting that all units are fully accessible to the front door of each unit, ie, from the basement car park and the front footpath. This variation is supported.

**Environmental**

Ecological

The development is unlikely to result in any significant environmental or ecological impact to the surrounding locality. The site has been zoned for residential purposes and adjoins residential areas to the west and south, and commercial areas to the north and east. The application has been accompanied by an ecological assessment which indicates that nine trees and a number of saplings will need to be removed. The report concludes that there is unlikely to be any detrimental impact to the biodiversity or significant environmental features in the locality.

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Cultural/Heritage

The proposed development is supported by an Aboriginal Heritage Information Management System (AHIMS) desktop search which has determined that there are no Aboriginal sites previously recorded within 50m of the site.

The subject site is not listed as a heritage item but is in close proximity to two heritage items; the Roman Catholic cemetery (1 Bent Street) and the Presbyterian cemetery (2 Bent Street). The site historically contained the Catholic church. The application provides a Heritage Impact Assessment and was referred to Heritage NSW. Heritage NSW provide comments requiring the preparation of an Archaeological Assessment and an Archaeological Research Design (ARD). These were provided and made a number of recommendations. They do not indicate that any of these issues may affect the ability of the development to proceed. The assessment will include the requirement for a section 140 permit pursuant to *the Heritage Act 1977* and the repatriation of the two known grave sites and any unmarked sites.

**Community and Stakeholder Engagement**

The proposed development was exhibited to the local community between 15 August and 31 August 2022, including written letters to adjoining owners. Two submissions were received.

The second exhibition period was from 5 December 2022 to the 19 December 2022. A further three submissions (two submissions were identical) were received from the same submitters. Essentially, Council has received five submissions from two neighbouring property owners.

Their concerns relate to view loss, impact on the heritage items, adequate parking, significant size of the development when compared to existing developments in the locality, pedestrian access, height variation and safety of nearby public pathway.

All these matters have been considered in the assessment, and the development proposal was found to be consistent with Council policy or acceptable in terms of impact.

Submission	Assessment
View loss	A view analysis was submitted with the development application demonstrating that any development of the site that complied with relevant development standards and controls would have an impact on the views of residents across Bent Street.  Further assessment also indicated that the current views are obscured by vegetation, and the proposed development affects the eastern outlook but not the northern outlook. This provides for view sharing as required by case law and Council’s DCP.
Impact on the heritage items	The impact on the heritage items has been assessed and not considered significant. A condition will be imposed requiring a section 140 permit under the <i>Heritage Act 1977</i> .
Adequate parking	The development provides for 48 spaces and requires 42 spaces in accordance with the NSW RTA <i>Guide to Traffic Generating</i> . This document overrides Council’s Car Parking Code due to the

**PSR23/039 DA0027/23 - PROPOSED RESIDENTIAL FLAT BUILDING - 1A BENT STREET BATEMANS BAY DA0027/23**

Submission	Assessment
	Apartment Design Guide and the site's proximity to a business zone. Council's Car Parking Code would require 53 spaces.
Size of the development	The development meets the setback requirements and provides good articulation and design merit even though it exceeds the nominated building height. The impacts have been considered such as view sharing, traffic, overshadowing and privacy and found to be acceptable.
Pedestrian access	A condition will be imposed requiring a footpath for the frontage of the development site and connecting to the existing path heading to Beach Road.
Height variation	The height variation is considered acceptable and has been supported. Detailed discussion is found elsewhere in the report.
Safety of nearby public pathway	This is not relevant to the assessment of the development application

**CONCLUSION**

This report seeks Council's determination of an application for the construction of a six-storey residential flat building located at 1A Bent Street, Batemans Bay.

The application seeks to vary the building height for the site by up to 60% and due to the requirements of the NSW Department of Planning and Environment, any variation above 10% must be reported to Council for determination. The variation is supported for the following reasons:

- The site slopes away to the east dramatically
- There is minimal impact on adjoining properties and
- Its proximity to the town centre

The application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979* and found to be appropriate for the site. The assessment has concluded that there is minimal impact on adjoining properties or the locality and can be supported.

The development application has been exhibited in accordance with Council's Community Engagement Framework and Participation Plan, and five objections to the development have been received. The proposal is considered to be generally consistent with the provisions of the LEP and DCP, except for the building height.

The application is put to Council with a recommendation for approval.

**DA0027/23 – Recommended conditions of consent**

GENERAL CONDITIONS																																																							
1	<p><b>Approved plans and supporting documentation</b>                      Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="5" style="text-align: center;">Approved plans</th> </tr> <tr> <th style="width: 15%;">Plan number</th> <th style="width: 10%;">Revision number</th> <th style="width: 30%;">Plan title</th> <th style="width: 20%;">Drawn by</th> <th style="width: 25%;">Date of plan</th> </tr> </thead> <tbody> <tr> <td>DA0027/23 Architectural plans</td> <td></td> <td>DA 1-100/101/102/103/ 104/105/106/107 DA 1-500/502/503/504 DA 2-100/101/102103 DA 3-200/201 DA 4-100/101/ DA 1-501 DA SK052/ SK053/ SK056</td> <td>Turco and Associates</td> <td>August 2023</td> </tr> <tr> <td>DA0027/23</td> <td></td> <td>Detail Survey</td> <td>Scott D McNiven Consulting land and engineering surveyors</td> <td>08/06/22</td> </tr> <tr> <td>DA0027/23</td> <td></td> <td>Landscape plan</td> <td>Harris Hobbs Landscapes</td> <td>June 2022</td> </tr> <tr> <td>DA0027/23</td> <td></td> <td>Landscape plan – ground floor</td> <td>Harris Hobbs Landscapes</td> <td>June 2022</td> </tr> </tbody> </table> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="4" style="text-align: center;">Approved documents</th> </tr> <tr> <th style="width: 15%;">Document number</th> <th style="width: 30%;">Title</th> <th style="width: 25%;">Prepared by</th> <th style="width: 30%;">Date of Document</th> </tr> </thead> <tbody> <tr> <td>DA0027/23 Document 1</td> <td>Statement of Environmental Effects</td> <td>Andrew Martin Planning</td> <td>November 2022</td> </tr> <tr> <td>DA0027/23 Document 2</td> <td>Design Verification Statement</td> <td>Turco and Associates</td> <td>July 2022</td> </tr> <tr> <td>DA0027/23 Document 3</td> <td>Clause 4.6 request</td> <td>Andrew Martin Planning</td> <td>September 2023</td> </tr> <tr> <td>DA0027/23 Document 4</td> <td>Traffic and Parking impact Assessment</td> <td>McLaren Traffic Engineering and Road Safety Consultants</td> <td>August 2022</td> </tr> </tbody> </table>	Approved plans					Plan number	Revision number	Plan title	Drawn by	Date of plan	DA0027/23 Architectural plans		DA 1-100/101/102/103/ 104/105/106/107 DA 1-500/502/503/504 DA 2-100/101/102103 DA 3-200/201 DA 4-100/101/ DA 1-501 DA SK052/ SK053/ SK056	Turco and Associates	August 2023	DA0027/23		Detail Survey	Scott D McNiven Consulting land and engineering surveyors	08/06/22	DA0027/23		Landscape plan	Harris Hobbs Landscapes	June 2022	DA0027/23		Landscape plan – ground floor	Harris Hobbs Landscapes	June 2022	Approved documents				Document number	Title	Prepared by	Date of Document	DA0027/23 Document 1	Statement of Environmental Effects	Andrew Martin Planning	November 2022	DA0027/23 Document 2	Design Verification Statement	Turco and Associates	July 2022	DA0027/23 Document 3	Clause 4.6 request	Andrew Martin Planning	September 2023	DA0027/23 Document 4	Traffic and Parking impact Assessment	McLaren Traffic Engineering and Road Safety Consultants	August 2022
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	DA0027/23 Document 5	BASIX Certificate 1312537M	ACT Sustainable Systems	8 July 2022
	DA0027/23 Document 6	Statement of Heritage Impact	Candor Town Planning and Development Professionals	August 2022
	DA0027/23 Document 7	Addendum Statement of Heritage Impact and Historical Archaeological Assessment	Candor Town Planning and Development Professionals/ Austral Archaeology	January 2023
	DA0027/23 Document 8	Ecological Assessment	Southern Cross Environmental	December 2022
	DA0027/23 Document 9	Geotechnical Assessment	ACT Geotechnical Engineers Pty Ltd.	August 2021
	<p>In the event of any inconsistency between the approved plans and documents, the approved plans and documents prevail.</p> <p>In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails. [0001]</p> <p><b>Reason:</b> To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>			
2	<p><b>Amendment – Accessible unit</b>                  Amended plans shall be provided to Council prior to issue of the Construction certificate providing for one fully accessible unit to be provided within the development at Occupation Certificate.</p> <p><b>Reason:</b> To ensure compliance with the legislation, Council Policies and applicable planning controls applying to the land.</p>			
3	<p><b>Essential Energy - General Requirements</b>                  Essential Energy makes the following general comments:</p> <ul style="list-style-type: none"> <li>(a) If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.</li> <li>(b) Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.</li> <li>(c) Any activities in proximity to electrical infrastructure must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure</li> <li>(d) Prior to carrying out any works, a “Dial Before You Dig” enquiry should be undertaken in accordance with the requirements of <i>Part 5E (Protection of Underground Electricity Power Lines)</i> of the <i>Electricity Supply Act 1995</i> (NSW).</li> <li>(e) It is the responsibility of the person/s completing any works around powerlines</li> </ul>			

	<p>to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice – Work near Overhead Power Lines and Code of Practice – Work near Underground Assets</p> <p><b>Reason:</b> To comply with the Essential Energy requirements, applying to the development.</p>
4	<p><b>Car Parking</b>                  Each unit shall be provided with at least one space and stacked car parking spaces must be associated with the same residential unit as the front car parking space.</p> <p><b>Reason:</b> To ensure compliance with the legislation, Council Policies and applicable planning controls applying to the land.</p>
5	<p><b>Earthworks, retaining walls and structural support</b>                  Any earthworks (including any structural support or other related structure for the purposes of the development):</p> <ul style="list-style-type: none"> <li>(a) must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and</li> <li>(b) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and</li> <li>(c) that if fill brought to the site - must contain only virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the Protection of the Environment Operations Act 1997, and</li> <li>(d) that if excavated soil is to be removed from the site - it must be disposed of in accordance with any requirements under the Protection of the Environment Operations (Waste) Regulation 2005.</li> </ul> <p><b>Reason:</b> To ensure the environmental, social and economic impact of the development are minimised. [11.16]</p>
6	<p><b>Public Space Lighting</b>                  All external lighting shall be installed and operated in accordance with the Australian Standard AS1158.1 'Lighting for roads and public spaces' and AS4282:1997 'Control of the obtrusive effects of outdoor lighting'.</p> <p><b>Reason:</b> To ensure compliance with the legislation, Council Policies and applicable planning controls applying to the land. [15.09]</p>
7	<p><b>Water &amp; Sewer Inspections</b>                  All plumbing and drainage works (water supply, sanitary plumbing and drainage, stormwater drainage and hot water) are to comply with Plumbing and Drainage Act 2011 and the Plumbing Code of Australia. Works must only be installed by a licensed person and must be inspected and given final clearance from Council prior to issue of any Occupation Certificate.</p> <p>The following inspections are required to be carried out by Council in regard to the installation of plumbing and drainage works. Inspections may be arranged by contacting Council:</p> <ul style="list-style-type: none"> <li>(a) Sanitary drainage under hydrostatic test and prior to backfilling trenches or</li> </ul>

	<p>covering;</p> <p>(b) Hot and cold water plumbing under pressure test prior to covering;</p> <p>(c) Internal stackwork under hydrostatic test prior to covering; and</p> <p>(d) The installation of the septic tank and any sullage trenches prior to backfilling or covering.</p> <p>(e) Issue of final satisfactory inspection.</p> <p><b>Reason:</b> To ensure that the development complies with the standards of the Water Authority. [2.16]</p>
8	<p><b>Separate Water Meters</b></p> <p>The development is to be linked to Council’s water main by an individual property service pipe and each unit is to be provided with a separate 20mm water meter at full cost of the developer. Standard fee to be paid in accordance with Councils fees and charges. Such to be located so as to independently service each lot of any potential future subdivision and to be accessible to Council’s Water Meter Reader at all times.</p> <p><b>Reason:</b> To ensure that the development complies with the standards of the Water Authority. [5.01]</p>
9	<p><b>Vehicle Direction</b></p> <p>All vehicles to enter and exit the development in a forward direction to avoid possible conflict with through traffic on Bent Street.</p> <p><b>Reason:</b> To ensure that the development complies with the standards of the Roads Authority.</p>
10	<p><b>Noise from Deliveries/Waste Collection</b></p> <p>Waste collections and deliveries from any vehicle or truck are not permitted on any part of the premises between 10pm and 7am Monday to Saturday inclusive or between 10pm and 9am on Sundays and Public Holidays.</p> <p><b>Reason:</b> To protect the amenity of the local area.</p>
11	<p><b>Waste disposal</b></p> <p>All waste from the development is to be carried out by a private contractor and not directed to Council’s kerb side system. All waste is to be transported to an approved waste facility.</p> <p><b>Reason:</b> To ensure that waste is disposed of appropriately and in accordance with the requirements of the Council.</p>
	<p><b>PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE</b></p>
12	<p><b>Archaeological Testing and investigation</b></p> <p>A section 140 permit under NSW Heritage Act is to be obtained from Heritage NSW for the archaeological testing and investigation of the site.</p> <p><b>Reason:</b> Compliance with the NSW Heritage Act 1977 due to known grave sites occurring on the site.</p>
13	<p><b>Archaeological Assessment and Archaeological research Design</b></p>

	<p>The Historical Archaeological Assessment and Archaeological research Design prepared by Austal Archaeology and its recommendations are to be complied with prior to issue of any Construction certificate.</p> <p><b>Reason:</b> Compliance with the NSW Heritage Act 1977 due to known grave sites occurring on the site.</p>
14	<p><b>Essential Energy – underground power lines</b></p> <p>The applicant shall provide to the Principal Certifier evidence that suitable arrangements have been made to replace the existing overhead power lines with underground powerlines for the frontage of the development prior to issue of the Construction certificate.</p> <p><b>Reason:</b> To comply with the Essential Energy requirements, applying to the development.</p>
15	<p><b>Stormwater Management – Multi Unit Development</b></p> <p>Prior to the issue of a Construction Certificate, submission to the Principal Certifier of plans addressing stormwater management for the development. The plans are to be certified by a suitably qualified drainage consultant or engineer for compliance with the following:</p> <ul style="list-style-type: none"> <li>(i) AS/NZS 3500.3:2015.</li> <li>(ii) Infrastructure Design Standard (IDS)</li> <li>(iii) 70% retention of the typical urban annual load for gross pollutants.</li> <li>(iv) Provide a sediment trap at the site extremity.</li> <li>(v) Point of discharge from the site is to be connected to Council infrastructure in accordance with Council’s Infrastructure Design Standard.</li> </ul>
16	<p><b>NBN Compatible development</b></p> <p>Prior to issue of a Construction Certificate the applicant shall provide to the principal certifier written confirmation that the development is registered with NBN as a new development.</p> <p>Note – NBN advise that developments should be registered with NBN a minimum of six months prior to occupation.</p> <p><b>Reason:</b> to ensure the development meets the requirements of the relevant service provider.</p>
17	<p><b>Long Service Levy</b></p> <p>Before the issue of the Construction Certificate, the long service levy, as calculated at the date of this consent, must be paid to the Long Service Corporation of Council under the Building and Construction industry Long Service Payments Act 1986, section 34, and evidence of the payment is to be provided to the Certifier.</p> <p><b>Reason:</b> To ensure the long service levy is paid. [2.03]</p>
18	<p><b>Construction Site Management Plan</b></p> <p>Before the issue of a Construction Certificate, a construction site management plan must be provided and provided to the Certifier. The plan must include the following matters:</p> <ul style="list-style-type: none"> <li>a) The location and materials for protective fencing and hoardings on the perimeter of the site;</li> <li>b) Provisions for public safety;</li> </ul>



	<p>c) Pedestrian and vehicular site access points and construction activity zones;                  d) Details of construction traffic management, including:                  i. Proposed truck movements to and from the site;                  ii. Estimate frequency of truck movements, and                  iii. Measures to ensure pedestrian safety near the site;                  e) Details of bulk earthworks to be carried out;                  f) The location of site storage areas and sheds;                  g) The equipment used to carry out works;                  h) The location of temporary toilets;                  i) Dust, noise and vibration control measures;                  j) The location of temporary toilets;</p> <p>A copy of the construction site management plan must be kept on-site at all times while work is being carried out.</p> <p><b>Reason:</b> To require details of measures that will protect the public, and the surrounding environment, during site works and construction. [23.14]</p>																																													
19	<p><b>Section 7.11 Contributions</b>                  Payment to Council pursuant to 7.11 of the Environment Planning and Assessment Act 1979, of contributions towards the provision of public amenities or services. The current contribution rates for the current financial year are as follows:</p> <table border="1" data-bbox="387 1059 1391 1429"> <thead> <tr> <th>Facility</th> <th>Per 3+ bedroom dwelling (x 5)</th> <th>Per 2 bedroom dwelling (x19)</th> <th>Per 1 bedroom dwelling (x3)</th> <th>Total (for 28 dwellings * rate)</th> </tr> </thead> <tbody> <tr> <td>Open Space and Recreation</td> <td>\$512.30</td> <td>\$292.75</td> <td>\$237.85</td> <td>\$7,410.10</td> </tr> <tr> <td>Community and Cultural</td> <td>\$148.50</td> <td>\$84.85</td> <td>\$68.95</td> <td>\$2,147.90</td> </tr> <tr> <td>Arterial Roads</td> <td>\$5,111.65</td> <td>\$2,920.95</td> <td>\$2,373.25</td> <td>\$73,936.25</td> </tr> <tr> <td>Paths and Cycleways</td> <td>\$681.95</td> <td>\$389.70</td> <td>\$316.60</td> <td>\$9,863.85</td> </tr> <tr> <td>Stormwater</td> <td>\$1,375.45</td> <td>\$786.00</td> <td>\$638.60</td> <td>\$19,895.25</td> </tr> <tr> <td>Marine</td> <td>\$206.75</td> <td>\$118.15</td> <td>\$96.00</td> <td>\$2,990.70</td> </tr> <tr> <td>Plan Preparation and Administration</td> <td>\$120.55</td> <td>\$68.90</td> <td>\$55.95</td> <td>\$1,743.60</td> </tr> <tr> <td><b>Total</b></td> <td><b>\$8,157.15</b></td> <td><b>\$4,661.30</b></td> <td><b>\$3,787.20</b></td> <td><b>\$140,712.05</b></td> </tr> </tbody> </table> <p>The above contributions are to be paid prior to the issue of any Construction Certificate and will be payable at the rate applicable at the time of payment.</p> <p><b>Note:</b> The above contributions are reviewed at least annually and may be subject to increases as a result of indexation or other forces.</p> <p>The plan can be viewed on Council’s website at <a href="https://www.esc.nsw.gov.au/data/assets/pdf_file/0005/218966/Eurobodalla-Local-Infrastructure-Contributions-Plan-2022.pdf">Contributions Plan (nsw.gov.au) &lt;https://www.esc.nsw.gov.au/ data/assets/pdf file/0005/218966/Eurobodalla-Local-Infrastructure-Contributions-Plan-2022.pdf&gt;</a></p> <p><b>Reason:</b> To ensure the development contributes to the increased demand of public amenities and infrastructure services. [3.07]</p>	Facility	Per 3+ bedroom dwelling (x 5)	Per 2 bedroom dwelling (x19)	Per 1 bedroom dwelling (x3)	Total (for 28 dwellings * rate)	Open Space and Recreation	\$512.30	\$292.75	\$237.85	\$7,410.10	Community and Cultural	\$148.50	\$84.85	\$68.95	\$2,147.90	Arterial Roads	\$5,111.65	\$2,920.95	\$2,373.25	\$73,936.25	Paths and Cycleways	\$681.95	\$389.70	\$316.60	\$9,863.85	Stormwater	\$1,375.45	\$786.00	\$638.60	\$19,895.25	Marine	\$206.75	\$118.15	\$96.00	\$2,990.70	Plan Preparation and Administration	\$120.55	\$68.90	\$55.95	\$1,743.60	<b>Total</b>	<b>\$8,157.15</b>	<b>\$4,661.30</b>	<b>\$3,787.20</b>	<b>\$140,712.05</b>
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20	<p><b>Water/Sewer Developer Contributions - Development</b>                  Prior to the issue of a Section 68 Approval/Construction Certificate, the developer/consent holder will have to be eligible to obtain a Section 307 Certificate of Compliance under the Water Management Act 2000/ compliance with Section 64 of the Local Government Act 1993. To be eligible, the developer/consent holder will have to contribute:</p>																																													

	<p>a) \$123,984 (16.4 ET) for the augmentation of water supply mains and storage within Eurobodalla Shire where 1.0 ET = \$7,560.</p> <p>b) \$198,058.75 (20.75 ET) for the augmentation of sewerage works within Eurobodalla Shire where 1.0 ET = \$9,545.</p> <p>The contribution shall be paid to the Eurobodalla Shire Council. Evidence of the payment shall be submitted to Principal Certifier prior to the issue of the Construction Certificate.</p> <p><b>Note:</b> <i>The above contributions are reviewed at least annually and may be subject to increases as a result of indexation or other forces. Contributions can be paid prior to each stage of the development.</i></p> <p><b>Reason:</b> To ensure the development contributes to the increased demand of public amenities and infrastructure services. [3.11a]</p>
21	<p><b>Water Meter</b></p> <p>Prior to issue of Construction Certificate, submission to Council of Water Connection details for the development, in accordance with Council’s Water and Sewer Connections Policy (nsw.gov.au). The submission shall include either:</p> <p>(a) Hydraulic designs prepared by a suitably qualified hydraulic engineer / consultant and certified in accordance with AS/NZS 3500.1:2018 for the provision of water supply for the development serviced by an individual property connection water meter. The design is to detail the necessary property connection water meter size required to service the development, with each of the units being separately metered by a private water meter within the development.</p> <p><b>Note:</b> Council will provide a quote to construct the water service complete with meter with prepayment required prior to works being scheduled. There meter is to be located so as to be accessible to Council’s Water Meter Reader at all times. Any work required to Council’s infrastructure to extend the main or allow installation of the meter other than a standard meter connection, is to be undertaken at full cost to the applicant. A standard meter connection is where the water main is located on the same side of the street as the property, the meter is to be located approximately 2.4 metres from the water main to just inside the property boundary and laid in a non-hard surface area (grassed).</p> <p><b>Note:</b> A backflow prevention device is to be installed and certified by a private plumber prior to the issue of any Occupation Certificate in accordance with Council’s Backflow Prevention policy.</p> <p>(b) Payment to Council of the standard fee for 20mm diameter water meters to suit the development. The meters are to be located so as to be accessible to Council’s Water Meter Reader at all times. Any work required to Council’s infrastructure to extend the main or allow installation of the meter is to be undertaken at full cost to the applicant.</p> <p><b>Reason:</b> To ensure that the development complies with the standards of the Water Authority.</p>
22	<p><b>Car Parking Design</b></p> <p>Car parking spaces, manoeuvring areas and access driveways are to be sealed, drained and line marked. Construction to accord with pavement designs prepared by a qualified engineer are to be submitted to and approved by Council prior to release</p>

	<p>of Construction Certificate.</p> <p>The plan of the car park is to include the following:</p> <p>(a) Swept paths complying with AS2890.1.</p> <p>(b) Dimensions for all parking spaces is to be shown on the plans and comply with AS2890.1.</p> <p><b>Reason:</b> To ensure that the development complies with the standards of the Roads Authority. [15.08]</p>
23	<p><b><i>Dilapidation report</i></b></p> <p>A structural report detailing the existing condition of the adjoining buildings, infrastructure and roads shall be prepared and endorsed by a qualified Structural Engineer. The report shall be submitted, to Council, prior to the issue of the Construction Certificate.</p> <p><b>Reason:</b> To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.</p>
	<p><b>PRIOR TO COMMENCEMENT OF WORKS</b></p>
24	<p><b><i>Erosion and Sedimentation Control</i></b></p> <p>Before any site work commences, the Principal Certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan are in place. These controls must remain in place until any bare earth has been restabilised in accordance with the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) (as amended from time to time).</p> <p>The Principal Contractor or Owner-builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:</p> <p>a) The Soil and Water Management Plan if required under this consent;</p> <p>b) "Do it Right On Site, Soil and Water Management for the Construction Industry" published by the Southern Sydney Regional Organisation of Councils, 2001; and</p> <p>c) "Managing Urban Stormwater - Soils and Construction" 2004 published by the NSW Government (The Blue Book).</p> <p>Where there is any conflict, The Blue Book takes precedence.</p> <p><b>Reason:</b> To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways. [11.13]</p>
25	<p><b><i>Construction in a Road Reserve</i></b></p> <p>Prior to commencement of any works within the road reserve a separate approval is to be obtained from Council under section 138/139 of the Roads Act. The application would consider:</p> <ul style="list-style-type: none"> <li>• Public safety, WH&amp;S issues, risk assessment, public liability insurance, control of vehicle and pedestrian traffic, location of plant and equipment, inspections bonding and an application fee.</li> <li>• Where a traffic control plan is required, the plan is to be prepared by a suitably qualified consultant, certified by the Roads and Maritime Service (RMS), in work</li> </ul>

	<p>site traffic control plan preparation.</p> <ul style="list-style-type: none"> <li>• Where the Traffic control plan requires a reduced speed, or temporary traffic signals, a Speed Zone Authorization (SZA) is to be obtained from Council for the specific days of work</li> <li>• Where works are on a Roads and Maritime Services (RMS) road or would impact traffic on an RMS road, a Road Occupancy Licence (ROL) is to be obtained from the RMS Ms Peta Smith (02 42212509) or email. rol_southern@rta.nsw.gov.au</li> </ul> <p>Where works are undertaken by other than the applicant, the supervisor of the works is to be advised of this condition. Details for an application form and fees are available by contacting council Engineering Development Assessment Officer (44741254) &amp; form available from <a href="http://www.esc.nsw.gov.au/media/395951/Section_138_Roads_Act.pdf">http://www.esc.nsw.gov.au/media/395951/Section_138_Roads_Act.pdf</a></p> <p>Carrying out works contrary to this condition will result in a penalty being issued under the roads act and works being suspended until such time as a Section 138 consent being issued.</p> <p><b>Note:</b> The documents nominate that the construction will involve partial closure of Herarde Street and the footpath area. This does not have any consent. Consent must be sought as soon as practical and meet the requirements outlined above.</p> <p><b>Reason:</b> To ensure that the development complies with the standards of the Roads Authority. [14.09]</p>
26	<p><b>Construction Certificate</b></p> <p>The construction works subject of this development consent <b>MUST NOT</b> be commenced until:</p> <ol style="list-style-type: none"> <li>Detailed plans/specifications of the building have been endorsed with a Construction Certificate by a registered certifier, and</li> <li>The person having the benefit of the development consent has appointed a Principal Certifier, and has notified the Council of the appointment, and</li> <li>The person having the benefit of the development consent has given at least two (2) day's notice to the Council of the person's intention to commence the erection of the building; and</li> <li>Builders name and licence number has been supplied to Council or the Principal Certifier; and</li> <li>Owner Builders permit issued by Department of Fair Trading to be supplied to Council or the Principal Certifier; or</li> <li>Home Building Compensation Fund (HBCF) has been paid and a copy of the Certificate supplied to Council or the Principal Certifier; and</li> <li>A sign has been erected on site in a prominent position containing the information prescribed by Clause 98A(2) &amp; (3) of the EP &amp; A Regulations being the name, address and telephone number of the Principal Certifier for the work, and name of the principal contractor for the work and telephone number on which that person may be contacted outside working hours, and stating that unauthorised entry to the site is prohibited. This sign must be maintained on</li> </ol>

	<p>site while work is being carried out and removed when the work has been completed.</p> <p><b>Reason:</b> To ensure compliance with the legislation, Council Policies and applicable planning controls applying to the land. [2.06]</p>
27	<p><b>Site Waste Management</b>                  A site rubbish enclosure must be provided prior to commencement of any work for the period of the proposed work and remain in place for the duration of all works. All waste materials from the site must be disposed of at an authorised waste facility.</p> <p><b>Reason:</b> To ensure the environmental, social and economic impact of the development are minimised. [22.01]</p>
	<p><b>DURING CONSTRUCTION</b></p>
28	<p><b>Certification Height of Building</b>                  The residential flat building must be constructed in accordance with the approved plans and not exceed the building heights depicted on the plans. The floor levels and ridge level must be certified by a registered surveyor. Evidence is to be submitted to the satisfaction of the Principal Certifier, prior to continuing construction. Construction is not to continue until the Principal Certifier has signed off that the floor level or ridge level is in accordance with the approved levels outlined in this condition.</p> <p><b>Reason:</b> To ensure the development does not conflict with the public interest. [23.33]</p>
29	<p><b>Responsibility to Changes to Public Infrastructure</b>                  While building works are being carried out, the applicant must pay any costs incurring as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits or infrastructure, street trees or any other infrastructure) in the street footpath/road reserve area.</p> <p><b>Reason:</b> To ensure that any damage to public infrastructure is repaired at the developers cost.</p>
30	<p><b>Public Way to be Unobstructed</b>                  The public way shall not be obstructed by any materials, vehicles, refuse skips or the like, under any circumstances at any time during construction.</p> <p><b>Reason:</b> To ensure that the development complies with the standards of the Roads Authority.</p>
31	<p><b>Use of Mobile Cranes</b>                  The applicant shall obtain all necessary permits required for the use of mobile cranes on or surrounding the site, prior to the commencement of works.</p> <p>For special operations including the delivery of materials, hoisting of plant and equipment, and erection and dismantling of on-site tower cranes which warrant the on street use of mobile cranes, permits must be obtained from Council:</p> <p>(a) at least 48 hours prior to the works for partial road closures which, in the opinion of Council will create minimal traffic disruptions and</p>

	<p>(b) at least four (4) weeks prior to the works for full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.</p> <p>The use of mobile cranes must comply with the approved hours of construction and shall not be delivered to the site prior to 7.30am without the prior approval of Council.</p> <p><b>Reason:</b> To ensure that the development complies with the standards of the Roads Authority.</p>
32	<p><b>Loading and Unloading of Construction Vehicles</b>                  All loading and unloading associated with construction must be accommodated on-site. If this is not feasible, an application may be made for the provision of a construction zone, during the specified hours of work.</p> <p><b>Reason:</b> To ensure that the development complies with the standards of the Roads Authority. [0131]</p>
33	<p><b>Shoring and Adequacy of Adjoining Property</b>                  If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:</p> <p>(a) Protect and support the adjoining premises from possible damage from the excavation, and</p> <p>(b) Where necessary, underpin the adjoining premises to prevent any such damage.</p> <p><b>Reason:</b> To ensure the environmental, social and economic impact of the development are minimised. [11.04]</p>
34	<p><b>Excess Fill</b>                  Any excess clean fill (inert clean waste) removed from the site is to be taken to either:</p> <p>(a) a public waste disposal facility or</p> <p>(b) a site approved by Council.</p> <p>If option (b) is to be used the persons enacting this consent are to advise Council, in writing, of the chosen site and are not to commence any dumping until written approval is granted.</p> <p><b>Note:</b> Council may carry out random inspections and take photographic records to ensure the integrity of the fill.</p> <p><b>Reason:</b> To ensure the environmental, social and economic impact of the development are minimised. [11.14]</p>
35	<p><b>Discovery of Relics and Aboriginal Objects</b>                  While site work is being carried out, if a person reasonable suspects a relic of Aboriginal object is discovered:</p> <p>a) The work in the area of the discovery must cease immediately</p> <p>b) The following must be notified</p> <p>i. for a relic - the Heritage Council; or</p> <p>ii. for an Aboriginal object - the person who is the authority for the protection</p>

	<p>of Aboriginal objects and Aboriginal places in New South Wales under the <i>National Parks and Wildlife Act 1974</i>, section 85.</p> <p>Site work may recommence at a time confirmed in writing by:</p> <ol style="list-style-type: none"> <li>a) for a relic - the Heritage Council; or</li> <li>b) for an Aboriginal object - the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the <i>National Parks and Wildlife Act 1974</i>, section 85.</li> </ol> <p><b>Reason:</b> To ensure the protection of objects of potential significance during works. [13.07]</p>
36	<p><b>Approved Plans to be On-Site</b></p> <p>A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of Council or the Principal Certifier.</p> <p><b>Reason:</b> To ensure the development does not conflict with the public interest. [2.22]</p>
37	<p><b>Construction Hours - NOISE</b></p> <p>Site work must only be carried out between the following times -</p> <ul style="list-style-type: none"> <li>• from 7am to 6pm on Monday to Friday</li> <li>• from 8am to 1pm on Saturday</li> <li>• No work on Sundays or public holidays</li> </ul> <p>Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.</p> <p><b>Reason:</b> To protect the amenity of the surrounding area. [20.01]</p>
38	<p><b>Implementation of BASIX commitments</b></p> <p>While building work is being carried out, the applicant must undertake the development strictly in accordance with commitments listed in BASIX certificate(s) approved by this consent, for the development to which the consent applies, and any updated certificate(s) if amendments are made.</p> <p><b>Reason:</b> To ensure compliance with the legislation, Council Policies and applicable planning controls applying to the land. [23.26]</p>
39	<p><b>Land Clearing "Best Practice"</b></p> <p>Council encourages the following best practices in relation to the disposal of felled timber:</p> <ol style="list-style-type: none"> <li>(a) The harvesting and processing of mill quality timber either on site or through a commercially licensed timber mill;</li> <li>(b) The stockpiling of suitable felled timber as firewood for heating purposes;</li> <li>(c) The mulching or chipping of stumps, crowns and other herbaceous matter either on site or through a licensed landfill tip or recycling centre providing mulching facilities; and</li> <li>(d) The revegetation of the site with suitable plant species.</li> </ol>

40	<p><b>Surveys by a registered surveyor</b></p> <p>While building work is being carried out, the positions of the following must be measured and marked by a registered surveyor and provided to the principal certifier:</p> <ul style="list-style-type: none"> <li>a) all footings / foundations in relation to the site boundaries and any registered and proposed easements</li> <li>b) at other stages of construction - any marks that are required by the principal certifier.</li> </ul> <p><b>Reason:</b> To ensure buildings are sited and positioned in the approved location.</p>
<b>PRIOR TO OCCUPATION OR COMMENCEMENT OF USE</b>	
41	<p><b>Completion of public utility services</b></p> <p>Before the issue of the relevant occupation certificate, confirmation must be obtained from the relevant authority that any adjustment or augmentation of any public utility services including water, sewer, electricity and telecommunications, required as a result of the development, have been completed and this confirmation must be provided to the principal certifier.</p> <p><b>Reason:</b> To ensure required changes to public utility services are completed, in accordance with the relevant agency requirements, before occupation. [0209]</p>
42	<p><b>Road and Footpath Damage</b></p> <p>The cost of repairing any damage caused to Council or other public authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development, is to be met in full by the applicant/developer prior to issue of any Occupation Certificate.</p> <p><b>Reason:</b> To ensure that the development complies with the standards of the Roads Authority. [14.15]</p>
43	<p><b>Work Within Road Reserve</b></p> <p>Prior to issue of any Occupation Certificate all works within the road reserve (road, nature strip &amp; footpath areas) are to be completed in accordance with the plans and any conditions of approval. All work is to be inspected and passed by Council, an inspection may be booked by phoning 44741393 (inspection fees may apply in accordance with Council's adopted fees and charges). Earthworks adjacent to the driveway are to be grades no steeper than 12%. All service covers are to match the finished ground level within the footpath/road reserve. The vehicle crossing is to be maintained in accordance with Council standards or other approved plan and in sound condition for the life of the development to the satisfaction of Council all at no cost to Council.</p> <p><b>Reason:</b> To ensure that the development complies with the standards of the Roads Authority. [14.33]</p>
44	<p><b>Parking</b></p> <p>Prior to issue of any Occupation Certificate, construct/provide car parking in accordance with the approved plans.</p> <p><b>Reason:</b> To ensure that the development complies with the standards of the Roads Authority. [15.06]</p>



45	<p><b>Occupation Certificate</b>                  The development shall not be used or occupied until an Occupation Certificate has been issued by the Principal Certifier.</p> <p><b>Reason:</b> To ensure compliance with the legislation, Council Policies and applicable planning controls applying to the land. [2.14]</p>
46	<p><b>Accessible Unit</b>                  The Principal Certifier is to ensure prior to the issue of any Occupation Certificate that at least one (1) unit is fully accessible in accordance with AS 1428.1 -2009.</p> <p><b>Reason:</b> To ensure compliance with the legislation, Council Policies and applicable planning controls applying to the land. [23.28]</p>
47	<p><b>Works as Executed Plans and any other Documentary Evidence</b>                  Before the issue of the Occupation Certificate, the applicant must submit, to the satisfaction of the principal certifier, works-as-executed plans, any compliance certificates and any other evidence confirming the following completed works:</p> <ul style="list-style-type: none"> <li>a) All stormwater drainage systems and storage system</li> <li>b) Landscape Plan including the plan of management</li> <li>c) Fire Safety Certification</li> <li>d) A Certificate from a Registered Surveyor</li> <li>f) Structural dilapidation reports and evidence of rectification works.</li> </ul> <p>The principal certifier must provide a copy of the plans to Council with the occupation certificate.</p> <p><b>Reason:</b> To ensure the development does not conflict with the public interest. [6.06]</p>
48	<p><b>Fire Safety Certificate</b>                  A Fire Safety Certificate shall be furnished to the Registered Certifier for all the “Essential Fire or Other Safety Measures” forming part of this approval prior to issue of an Occupation Certificate. A copy of the Fire Safety Certificate must be submitted to Council by the Registered Certifier prior to issue of an Occupation Certificate.</p> <p><b>Reason:</b> To ensure compliance with the legislation, Council Policies and applicable planning controls applying to the land. [8.01]</p>
49	<p><b>Annual Fire Safety Statement</b></p> <ul style="list-style-type: none"> <li>(a) A final Fire Safety Certificate shall state that each essential fire safety measure specified in the current Fire Safety Schedule for the building to which the Certificate relates:                         <ul style="list-style-type: none"> <li>(i) has been assessed by a properly qualified person; and</li> <li>(ii) was found, when it was assessed, to be capable of performing to a standard not less than that required by the current fire safety schedule for the building for which the Certificate is issued.</li> </ul> </li> <li>(b) The assessment must have been carried out within the period of three (3) months prior to the date on which the final Fire Safety Certificate is issued.</li> <li>(c) The choice of person to carry out the assessment is up to the owner of the building.</li> <li>(d) The person who carries out the assessment:                         <ul style="list-style-type: none"> <li>(i) must inspect and verify the performance of each fire safety measure</li> </ul> </li> </ul>

	<p>being assessed; and</p> <p>(ii) must test the operation of each new item of equipment installed in the building premises that is included in the current Fire Safety Schedule for the building.</p> <p>(e) As soon as practicable after a final Fire Safety Certificate is issued, the owner of the building to which it relates:</p> <p>(i) must cause a copy of the Certificate (together with a copy of the current Fire Safety Schedule) to be given to the Commissioner of New South Wales Fire Brigades; and</p> <p>(ii) must cause a further copy of the Certificate (together with a copy of the current Fire Safety Schedule) to be prominently displayed in the building.</p> <p><b>Reason:</b> To ensure compliance with the legislation, Council Policies and applicable planning controls applying to the land. [8.02]</p>
50	<p><b>Footpath</b></p> <p>A footpath shall be provided for the full frontage of the development site and link to the existing public footpath that provides access to beach Road. All works to be done in accordance with the Infrastructure Design Standard (IDS) and are to be completed prior to the issue of Occupation certificate.</p> <p><b>Reason:</b> To ensure compliance with the legislation, Council Policies and applicable planning controls applying to the land.</p>
51	<p><b>Structural Dilapidation - Post Construction</b></p> <p>Prior to the release of any Occupation Certificate, the applicant shall submit to the Principal Certifier and Council a report prepared by a suitably qualified Structural Engineer that demonstrates the post construction condition of the buildings, roads and infrastructure assessed prior to construction in accordance with condition 26 of this consent.</p> <p>This report must detail if there has been any structural damage which has occurred as a result of construction activities.</p> <p>Any remediation or rectification works as determined by the report must be completed with satisfactory evidence provided prior to the issue of any Occupation Certificate.</p> <p><b>Note:</b> All rectification works are at the expense of the developer.</p> <p><b>Reason:</b> To ensure that the construction of the development has not resulted in any adverse impacts to the structural integrity of the adjoining existing development.</p>
52	<p><b>Completion of landscape and tree works</b></p> <p>Prior to issue of an Occupation Certificate, the principal certifier must be satisfied all landscape and tree-works have been completed in accordance with approved plans and documents and any relevant conditions of this consent.</p> <p><b>Reason:</b> To ensure the approved landscaping works have been completed in accordance with the approved landscaping plan(s).</p>

53	<p data-bbox="384 360 799 389"><b><i>Landscaping Plan of Management</i></b></p> <p data-bbox="384 396 1350 524">In accordance with the Apartment Design Guide, the applicant shall submit to the Principal Certifier a written plan of management to ensure that the landscaping is maintained in accordance with the landscaping plan, approved in accordance with this consent.</p> <p data-bbox="384 553 1318 611"><b>Reason:</b> To ensure that the landscaping proposed as part of the development is managed for the life of the development.</p>
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**PSR23/040 LICENCE AGREEMENTS FOR TEMPORARY EVENTS - VARIOUS  
RESERVES**

**S023-  
T00017**

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

Attachments: 1. Confidential - Submission details  
2. Confidential - All submissions

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 grant licences for temporary events over various reserves.

To streamline the processes to approve some event requests by a number of months and therefore significantly improve customer service, public notice was given that Council generally proposes to grant licences for temporary events over various reserves. This avoids the need for each licence for a temporary event to be publicly notified each time organisers make an event request.

In accordance with section 47A of the *Local Government Act 1993*, Council gave public notice of its intention to grant licences for temporary events over various Crown reserves. The notification period was for 28 days from 3 August to 1 September 2023.

Copies of the submissions are provided in the confidential attachments to this report. There are two supportive submissions and two submissions raising issues regarding particular events. Seven of the nine venues received no adverse submissions.

It is recommended that Council delegate authority to the General Manager for the granting of licences over the various reserves for temporary events.

### **RECOMMENDATION**

THAT:

1. Council grant licences and renewals of up to five years for temporary events within the following public reserves:
  - a. Mackay Park- Vesper Street – Crown Reserve 580022
  - b. Moruya Showground – Albert Street – Crown Reserve 580020
  - c. Bill Smyth Oval – Princes Highway – Crown Reserve 80515
  - d. NATA Oval – Princes Highway – Crown Reserve 63051
  - e. Corrigan's Beach Reserve – Beach Road – Crown Reserve 66122
  - f. Hanging Rock – Hanging Rock Place – Crown Reserve 66122
  - g. Batemans Bay Foreshore – Clyde Street – Crown Reserves 89579/53335
  - h. Moruya Riverside Park – Ford Street – Crown Reserve 82377 and

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**PSR23/040 LICENCE AGREEMENTS FOR TEMPORARY EVENTS - VARIOUS  
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**S023-  
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- i. Quota Park – Riverside Drive – Crown Reserve 85364.
2. Any licence granted pursuant to this resolution of Council include:
- a. that the licence fee be in accordance with Council’s adopted fees and charges
  - b. that the licensee provide evidence of and maintain \$20 million public liability insurance noting the interest of Council and the Minister Administering the *Crown Lands Management Act*
  - c. special conditions generally in line with similar licences.

**BACKGROUND**

Council’s Property Team manage the administration and management of licences and leases. For many leases and licences, public notification of Council’s intent to issue a licence is required.

Event procedures are such that on receipt of each event application, the Events Team assess the application and if public notification is required, the Property Team is to publicly notify the proposed licence for a period of 28 days prior to the issuing of the licence.

To achieve efficiency in workflow and therefore significantly improve customer service, public notice was given that Council proposes to grant licences for temporary events over various reserves. This will shorten the time it takes for Council to approve some event requests by a number of months, as it avoids the need for each licence for a temporary event being publicly notified each time event organisers make an event request.

Council’s Events Team will continue to process event applications and the Property Team will issue the licences without delay.

**CONSIDERATIONS**

The location of the various reserves the subject of this report are as follows which aerial images of the reserves provided at the end of this report:

1. Mackay Park – Vesper Street – Reserve 580022
2. Moruya Showground – Albert Street – Reserve 580020
3. Bill Smyth Oval – Princes Highway – Reserve 80515
4. NATA Oval – Princes Highway – Reserve 63051
5. Corrigans Beach Reserve – Beach Road – Reserve 66122
6. Hanging Rock – Hanging Rock Place – Reserve 66122
7. Batemans Bay Foreshore – Clyde Street – Reserve 89579/53335
8. Moruya Riverside Park – Ford Street – Reserve 82377
9. Quota Park – Riverside Drive – Reserve 85364.

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**Legal**

A licence is an agreement that grants the holder of the licence a personal right to occupy and use land for a specific purpose and defined period.

The various public reserves the subject of this report are Crown land under the management of Council as Crown Land Manager. As such, Council can issue a licence over the reserve for a short-term of up to 12 months or for a term of up to five years (dependent on whether a Plan of Management has been approved by the Crown) after giving public notice and considering any submissions received in accordance with Section 47A of the *Local Government Act 1993*.

[www.legislation.nsw.gov.au/#/view/act/1993/30/chap6/part2/div2/sec47a](http://www.legislation.nsw.gov.au/#/view/act/1993/30/chap6/part2/div2/sec47a)

As Crown Land Manager, Council must manage the Crown land as if it were community land under the *Local Government Act* (pursuant to s3.22 *Crown Land Management Act 2016*).  
[s 3.22\(1\)\(a\) Crown Land Management Act 2016](#)

A licence of a term up to five years may be issued by Council in respect of Crown land, provided that the Crown has approved a Plan of Management for that reserve and that the proposed use is permissible.

A short-term (up to 12 month) licence may be issued in respect of Crown land where there is no approved Plan of Management pursuant to s2.20 *Crown Land Management Act 2016*.  
[s2.20 Crown Land Management Act 2016](#)

**Policy**

The proposal to grant licences for temporary events over the various Crown Reserves is supported by Council's *Land Management –Acquisition, Disposal and Leasing/Licensing Policy* (adopted 22 November 2022).

[Land-Management-Acquisition-Disposal-and-Leasing-Licensing-Policy](#)

Council supports the licensing of Council-managed Crown land where it is consistent with legislation, in particular sections 45 to 47C of the *Local Government Act 1993*, *Crown Land Management Act 2016* and approved Plans of Management.

**Asset**

A condition of licences issued includes the licensee being responsible for maintaining the reserve in a satisfactory condition.

**Social Impact**

Events provide an attraction and activity for residents as well as tourists to the Eurobodalla.

**Economic Development Employment Potential**

Council's vision is to establish a balanced and sustainable portfolio of vibrant tourism and community events that celebrate and generate awareness of the unique attributes of the Eurobodalla. Events encourage expenditure within the community and from tourists.

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**PSR23/040 LICENCE AGREEMENTS FOR TEMPORARY EVENTS - VARIOUS  
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**Financial**

The various reserves the subject of this report are Crown Land under Council management. The event fees payable in respect of licences granted for temporary events are based on Council's adopted fees and charges.

**Community and Stakeholder Engagement**

Public notification of 28 days was given, proposing to issue temporary event licences on various reserves. The public notification period commenced 3 August and concluded on 1 September 2023.

Council, as Crown Land Manager under the *Crown Land Management Act 2016*, can issue a lease or licence after giving public notice and considering any submissions in accordance with Section 47A of the *Local Government Act 1993*

Copies of the submissions are provided in the confidential attachment to this report.

There are two supportive submissions and two submissions raising issues regarding particular events. Seven of the nine venues received no adverse submissions.

The submissions that raised issues regarding particular events did not object to the principle of the events but rather specific aspects of them. Both events are longstanding. The concerns raised will be brought to the attention of the event organisers, with a view to resolving the issues raised.

[www.legislation.nsw.gov.au/#/view/act/1993/30/chap6/part2/div2/sec47a](http://www.legislation.nsw.gov.au/#/view/act/1993/30/chap6/part2/div2/sec47a)

One of the supportive submissions suggested a different location be added to the list. Only the nine venues were included in the notification so they are the only ones that can be included. In the future, Council will review how this initiative operates and consider adding more venues to the list.

**CONCLUSION**

Council receives frequent enquiries and applications from event organisers who are interested in running temporary events on various reserves in the Eurobodalla.

Delegated authority to grant such licences without having to undertake public notification for each individual application for an event over the subject Crown Reserves will significantly reduce processing time, increase efficiencies, and result in improved customer service outcomes for applicants.

This report recommends Council consider the granting of licences under the General Manager's delegated authority that are permissible pursuant to approved Plans of Management and/or supporting legislation.

**PSR23/040 LICENCE AGREEMENTS FOR TEMPORARY EVENTS - VARIOUS  
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**S023-  
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**Mackay Park – Vesper Street – Reserve 580022**



Existing / recent licenced events – Red Hot Summer Tour and Stardust Circus

**Moruya Showground – Albert Street – Reserve 580020**



**PSR23/040 LICENCE AGREEMENTS FOR TEMPORARY EVENTS - VARIOUS  
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**S023-  
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Existing / recent licenced events – Moruya Rodeo, Eurobodalla Agriculture Show, Mirrabooka Riding Club and Stardust Circus

**PSR23/040 LICENCE AGREEMENTS FOR TEMPORARY EVENTS - VARIOUS RESERVES**

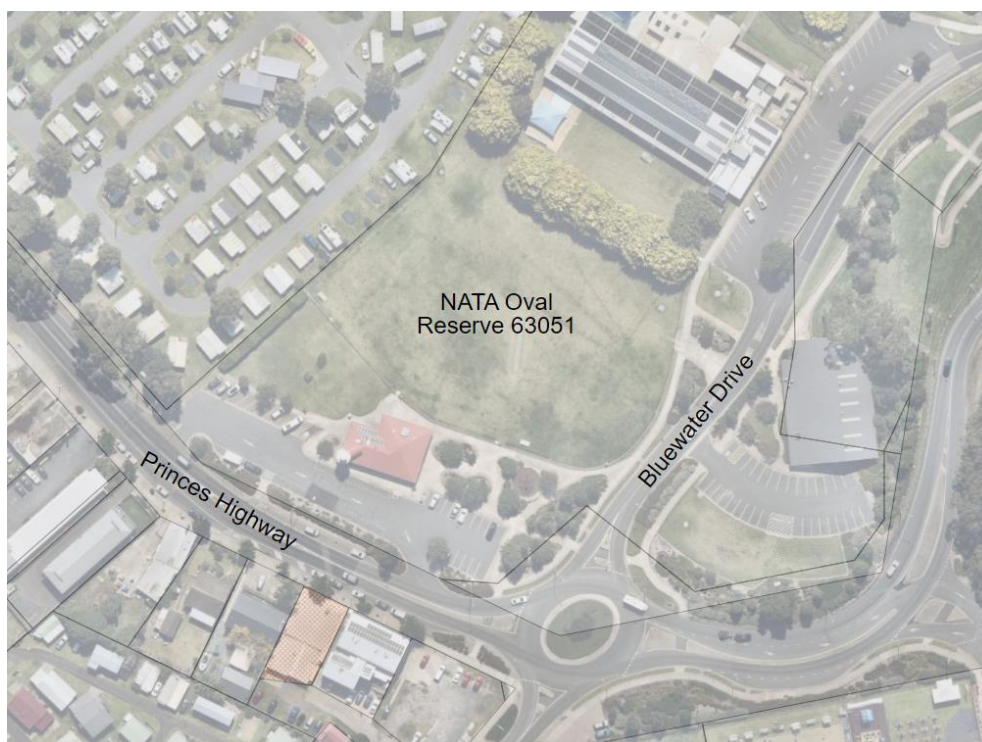
**S023-T00017**

Bill Smyth Oval – Princes Highway – Reserve 80515



Existing / recent licenced events – Stardust Circus.

NATA Oval – Princes Highway – Reserve 63051



Existing / recent licenced events – Narooma Forest Rally

**PSR23/040 LICENCE AGREEMENTS FOR TEMPORARY EVENTS - VARIOUS  
RESERVES**

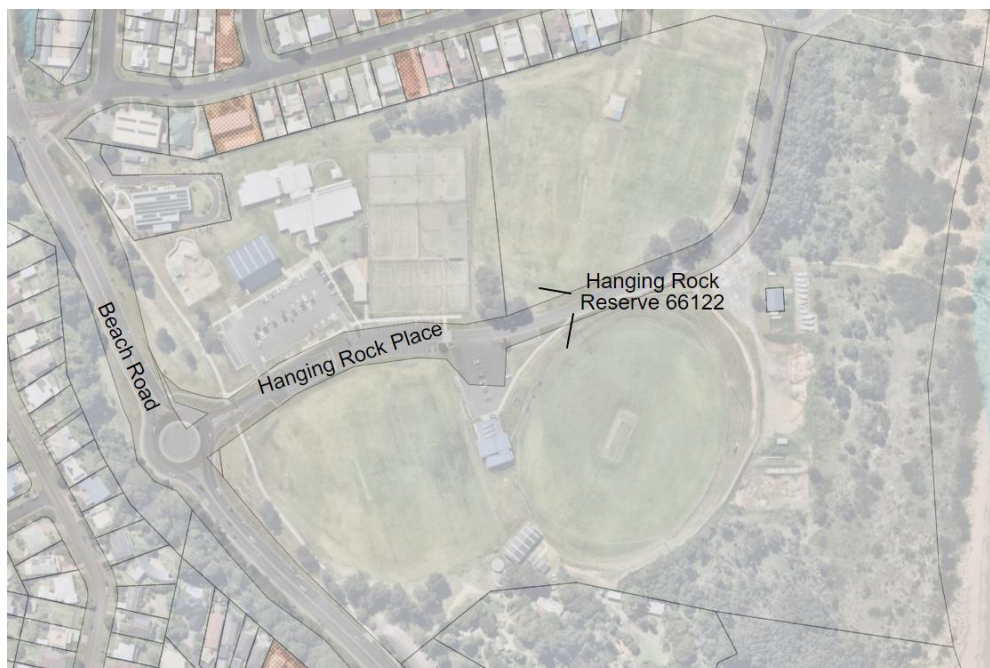
**S023-  
T00017**

**Corrigans Beach Reserve – Beach Road – Reserve 66122**



Existing / recent licenced events – Bells Carnival

**Hanging Rock – Hanging Rock Place – Reserve 66122**

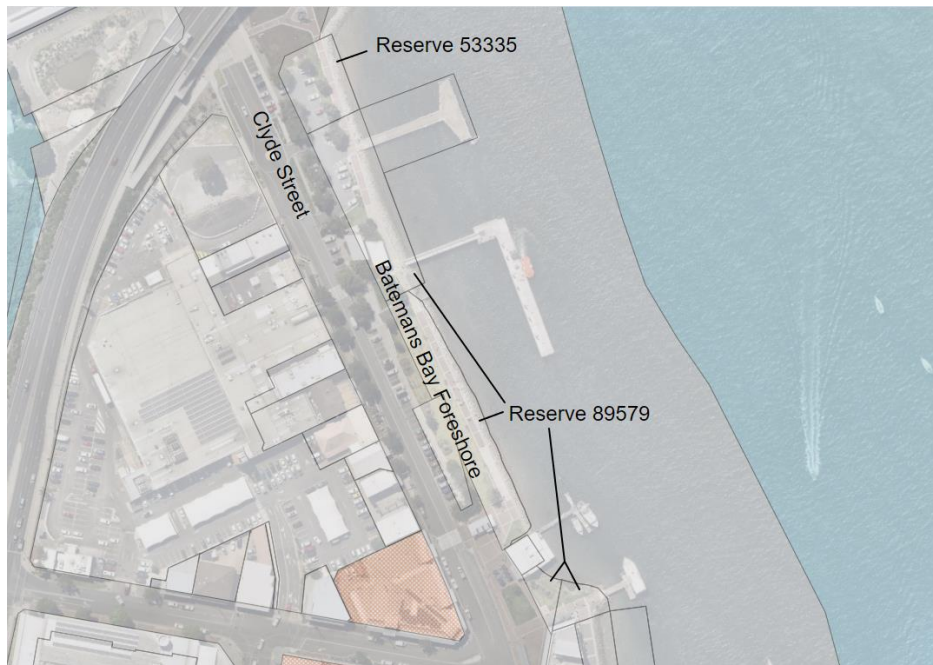


Existing / recent licenced events – Caravan Camping & Leisure Show

**PSR23/040 LICENCE AGREEMENTS FOR TEMPORARY EVENTS - VARIOUS RESERVES**

**S023-T00017**

**Batemans Bay Foreshore – Clyde Street – Reserve 89579/53335**



Existing / recent licenced events – Sculpture for Clyde and Crank it up

**Moruya Riverside Park – Ford Street – Reserve 82377**



Existing / recent licenced events – Moruya Markets, Sage Markets

**PSR23/040 LICENCE AGREEMENTS FOR TEMPORARY EVENTS - VARIOUS  
RESERVES**

**S023-  
T00017**

Quota Park – Riverside Drive – Reserve 85364.



Existing / recent licenced events – Narooma Oyster Festival.

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**FCS23/024 REQUEST FOR TENDER - RFT2223-165 BULK CONSTRUCTION  
MATERIALS SUPPLY PANEL**

**S001-  
T00007**

Responsible Officer: Stephanie Speedy - Director of Finance and Corporate Services

Attachments: 1. Confidential - RFT2223-165 Bulk Material  
2. Confidential - RFT2223-165 Bulk Materials Pricing Panel

Community Goal: 5 Our engaged community with progressive leadership

Community Strategy: 5.3 Work together to achieve our collective vision

Delivery Program Link: 5.3.3 Provide effective and professional administration, technical and trade services to support the delivery of services to the community

Operational Plan Link: 5.3.3.2 Undertake procurement that provides best value to the community

### **EXECUTIVE SUMMARY**

This report outlines the evaluation of offers submitted in response to Request for Tender (RFT) No. 2223-165 Bulk Construction Material Supply Panel and provides a recommendation for the makeup of the proposed supply panel. Tenders were called in July/August 2023 for participation in the panel, against a set of pre-determined terms that will form the basis of a Deed of Standing Offer.

### **RECOMMENDATION**

THAT:

1. Council endorses the composition of the proposed supply panel for bulk construction materials, developed in accordance with RFT No. 2223-165; and
2. Accordingly approves the entering into Deeds of Standing Offer with the proposed panel of tenderers, subject to the terms specified in RFT No. 2223-165.

### **BACKGROUND**

Council establishes a panel for the supply of bulk construction materials every two years which is comprised of the following products:

- Drainage aggregate/rocks
- Sealing aggregate (pre-coated)
- Clay
- Pavement materials
- Sand and crusher dust
- Soil, mulch and compost
- Virgin excavated natural material (VENM)

Tenders were called for participation in the panel, against a set of pre-determined terms that form the basis of a Deed of Standing Offer. Council regularly procures the tendered materials in bulk to support its many construction projects and works program. Given the need for strict safety risk mitigation and quality management each procurement activity, without a pre-negotiated set of pricing and terms would be time consuming for both parties to the associated contract and may not represent value for money. A panel arrangement provides a screening of compliance and cost up front, removing the need for many lengthy procurement processes.

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**FCS23/024 REQUEST FOR TENDER - RFT2223-165 BULK CONSTRUCTION  
MATERIALS SUPPLY PANEL**

**S001-  
T00007**

Request for Tender (RFT) No. 2223-165 was advertised between 11 July 2023 and 8 August 2023. Offers were received from the following tenderers:

- Attcall
- Batemans Bay Sand and Gravel Supply Pty Ltd T/As South East Quarries & Landscaping
- Beashel Quarries
- Blue Ridge Quarry Pty Ltd
- Greenlands Garden Centre
- Narooma Sand Soil and Gravel Pty Ltd
- RJ & JE Shepherd Pty Ltd
- Schmidt Quarries
- Soilco Pty Ltd

**CONSIDERATIONS**

**Legal**

RFT No. 2223-165 was advertised in accordance with Local Government (General) Regulation 2021 REG 167 and the Local Government Act 1993.

The tender was advertised on Council's website and at Council's Tenderlink web portal [www.tenderlink.com/eurobodalla](http://www.tenderlink.com/eurobodalla), and all members of Council's previous Bulk Construction Materials Supply panel were informed of the new panel via email.

A Tender Evaluation Plan (TEP) was distributed amongst the Tender Evaluation Committee (TEC) prior to the closing date. An assessment was carried out in accordance with the Tender Evaluation Plan. This report with a Confidential Attachment details the tendered panel arrangement that is proposed.

**Policy**

The tendering activity and associated evaluation for which this tender applies has been administered in compliance with Section 55 of the Local Government Act 1993, The Local Government (General) Regulation, Tendering Guidelines for NSW Local Government and Council's Procurement Policy/Codes of Practice.

**Financial**

The outcome of the tendering process will result in Deeds of Standing Offer being established with the proposed panelists. Funding for any contracts raised pursuant to the deeds will be made available from within the relevant project budget or authorised activity funding source.

**Community and Stakeholder Engagement**

The tender was advertised on Council's website and at Council's Tenderlink web portal [www.tenderlink.com/eurobodalla](http://www.tenderlink.com/eurobodalla), and all members of Council's previous Bulk Construction Materials Supply panel were informed of the new panel via email.

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**FCS23/024 REQUEST FOR TENDER - RFT2223-165 BULK CONSTRUCTION  
MATERIALS SUPPLY PANEL**

**S001-  
T00007**

The community will be informed of the tender outcome via Council's contract register found on Council's website: [www.esc.nsw.gov.au/inside-council/council/public-access-to-information](http://www.esc.nsw.gov.au/inside-council/council/public-access-to-information).

**CONCLUSION**

The tender process has been conducted in accordance with mandatory Council and Local Government requirements and the panel composition and rankings have been assessed through an extensive evaluation.



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**FCS23/032 REQUEST FOR TENDER - RFT2223-166 PROFESSIONAL SERVICES  
PANEL**

**S001-  
T0007**

Responsible Officer: Stephanie Speedy - Director of Finance and Corporate Services

Attachments: 1. Professional Services Tenderer List  
2. Confidential - Professional Services Panel  
3. Confidential - Professional Services Pricing Rates

Community Goal: 5 Our engaged community with progressive leadership

Community Strategy: 5.3 Work together to achieve our collective vision

Delivery Program Link: 5.3.3 Provide effective and professional administration, technical and trade services to support the delivery of services to the community

Operational Plan Link: 5.3.3.2 Undertake procurement that provides best value to the community

### **EXECUTIVE SUMMARY**

This report outlines the associated evaluation process for Request for Tender (RFT) No. 2223-166 Professional Services Panel that was advertised during July/August 2023 for the purpose of establishing a pre-qualified list of consultants and professional service providers.

### **RECOMMENDATION**

THAT:

1. Council endorses the composition of the proposed panel for Professional Services, developed in accordance with RFT No. 2223-166; and
2. Accordingly approves the entering into Deeds of Standing Offer with the proposed panelists, subject to the terms specified in the Request for Tender No. 2223-166.

### **BACKGROUND**

Council requires external parties to provide expert advice or undertake specialised professional services across the organisation across the following disciplines:

- Arts and Recreation
- Architecture and Planning
- Engineering and Project Management (construction)
- Environmental Science
- Legal Services
- Other Consultancy/Professional Services (i.e. risk management, project management and procurement).

RFT No. 2223-166 was advertised between 11 July 2023 and 8 August 2023. The Request for Tender had a very high response performance with 132 tenders received to provide services across the six categories. A complete list of tenderers is provided as an attachment to this report. A summary of the evaluations against the tender assessment criteria and tender pricing is provided as a confidential attachment to this report.

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**FCS23/032 REQUEST FOR TENDER - RFT2223-166 PROFESSIONAL SERVICES  
PANEL**

**S001-  
T0007**

**CONSIDERATIONS**

Establishing a panel for professional services will provide the following benefits to Council:

- Meeting the tendering requirements of Section 55 of the Local Government Act and removing the risk of inadvertently drifting above the \$250,000 threshold with individual service providers.
- Developing and maintaining corporate and project specific knowledge within a common pool of service providers.
- Providing a level playing field for local service providers to bid for work and increase their skills and experience in the Local Government setting in general; and
- Remove the need for costly individual quotation and compliance screening processes for every project.

**Legal**

RFT No. 2223-166 was advertised in accordance with Local Government (General) Regulation 2021 REG 167 and the Local Government Act 1993.

The tender was advertised on Council's website and at Council's Tenderlink web portal [www.tenderlink.com/eurobodalla](http://www.tenderlink.com/eurobodalla), and all members of Council's previous Professional Services Supply panel were informed of the new panel via email.

A Tender Evaluation Plan (TEP) was distributed amongst the Tender Evaluation Committee (TEC) prior to the closing date. An assessment was carried out in accordance with the Tender Evaluation Plan. This report with a Confidential Attachment details the tendered panel arrangement that is proposed.

**Policy**

The tendering activity and associated evaluation for which this tender applies has been administered in compliance with Section 55 of the Local Government Act 1993, The Local Government (General) Regulation, Tendering Guidelines for NSW Local Government and Council's Procurement Policy/Codes of Practice.

**Financial**

Funding for services provided under the panel will be sourced from the relevant user program or project.

**Community and Stakeholder Engagement**

The tender was advertised on Council's website and at Council's Tenderlink web portal [www.tenderlink.com/eurobodalla](http://www.tenderlink.com/eurobodalla), and all members of Council's previous Professional Services Supply panel were informed of the new panel via email.

The community will be informed of the tender outcome via Council's contract register found on Council's website: [www.esc.nsw.gov.au/inside-council/council/public-access-to-information](http://www.esc.nsw.gov.au/inside-council/council/public-access-to-information).

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**FCS23/032 REQUEST FOR TENDER - RFT2223-166 PROFESSIONAL SERVICES  
PANEL**

**S001-  
T0007**

**CONCLUSION**

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

Deeds of Standing Offer will be entered into with the proposed panelists for inclusion in the Panel arrangement.

TENDER FOR ESTABLISHMENT OF PROFESSIONAL SERVICES PANEL – TENDER NO 2223-166.

**Tenders Received**

Tenders were called for the establishment of a Professional Services Panel arrangement. A total of 132 tenders were received from the following:

<b>Tenderer Name</b>
Accuraco Project Management Services
Acorn Project Advisory
Act Geotechnical Engineers Pty Ltd
Altus Group Consulting Pty Ltd
AMC Group Consulting Pty Ltd
Applied Land systems Pty Ltd
Arbor Express Pty Ltd
Arcadia Landscape Architecture Pty Limited
Archa Projects
Architectus Australia Holding Pty Ltd
ArtMade Architectural Pty Ltd
Attcall Southern Division
Ayling & Drury
Barker Ryan Stewart
Biosis Pty Ltd
Bitzios Consulting
BKA Architecture
Bowantz Bushfire & Environmental Pty Ltd
Bradley Allen Love
Brand Rebellion
Bridge Knowledge Pty Ltd
Caldis Cook Group Architects
Cardno Limited
Centium Pty Ltd
Clement & Reid Pty T/a Project Surveyors
Comacon Pty Ltd
Commercial & Infrastructure
Complete Urban Pty Ltd
Condon Engineers
Context Landscaping Design Pty Ltd
Cox Architecture Pty Ltd
CT Management Group
Currie & Brown (Australia) Pty Ltd
DEM (Aust) Pty Ltd
Department of Regional NSW T/a NSW Public Works

<b>Tenderer Name</b>
DESTINATION MARKETING STORE PTY LTD
DJ Gabriel Consulting Pty Ltd TAS Signature Project Management
DJAS Architecture Pty Ltd
DOB Enterprise Pty Ltd
Donald Cant Watts Corke (VIC) Pty Ltd
DWP
Ecology Consulting Pty Ltd
Emili Fox Architects
Energy Water Management
Ethos Urban
Facility Design Group
FAIRLIGHT CONSULTING ENGEINEERS
Figgis & Jefferson Tapa Pty Ltd
Genium Civil Engineering Pty Ltd
GHD Pty Ltd
Group GSA Pty Ltd
Hall & Wilcox
Hillpda Pty Limited
Hydrology and Risk Consulting
ICTPioneers Pty Ltd TA CISOnline
Indesco Pty Ltd
Indus Engineering
Integrated Site Design
Interaction Consulting Group Pty ltd
Jason Duda Pty Ltd
JHK and Associations Pty Ltd
JimJam Ideas Pty Ltd
JJ Ryan Consulting Pty Ltd
Jo Civil Engineering Services Pty Ltd
JRA ACT Pty Ltd
JSA Engineering Solutions Pty Ltd
KordaMentha Pty Ltd
Kyearn Architecture
Lactose & Stevenson Architects
Lake Social Enterprise Pty Ltd
Lindsay Taylor Lawyers Services Pty Ltd
Local Government Legal

TENDER FOR ESTABLISHMENT OF PROFESSIONAL SERVICES PANEL – TENDER NO 2223-166.

LOCALARCHITECT SOUTH COAST PTY LTD
Locale Consulting Pty Limited
Macrozamia Environmental
Maddocks
MAKERENG PTY LIMITED
Marsdens Law Group
MBMpl Pty Ltd
Mecone NSW Pty Limited
MHN Design Union Pty Limited
MIEngineers
Molino Stewart Pty Ltd
Munns Sly Moore Architects Pty Ltd
MURRIMATTERS GAPRM Pty Ltd
NBRS & Partners Pty Ltd
NSI Yes Global Counter Intelligence Pty Ltd
ONECAL Yes L ENGINEERINGPLANIT AND ENVIRONMENTAL SERVICES PTY LTD
OPTEON PROPER Yes TY GROUP PTY LTD
Optimal Stormwater Pty Ltd
OzArk Environment & Heritage
Pavement Management Services
Planix Pty Ltd
Planning Ingenuity Pty Ltd
Quantum Traffic Pty Ltd
RAW EARTH ENVIRONMENTAL PTY LTD
Redenbach Legal
Rhelm Pty Ltd
Rigore Pty Ltd
RMB Lawyers
ROSS Planning Pty Ltd
RP Infrastructure Pty Ltd

RPS AAP Consulting Pty Ltd
SABA CIVIL MANAGEMENT AND CONSULTANCY PTY LTD
SAFEgroup Automation
Sala4D Pty Ltd
Shaw Reynolds Lawyers Pty Ltd
Sisu consulting Australia Pty Ltd
Smart Infrastructure Consulting Pty Ltd
Solucio
Southeast Engineering and Environmental
SPARKE HELMORE SOLICITORS
SQC Group
STUDIO HOLLENSTEIN PTY LTD
Talis Consultants
Taylor Cullity Lethlean
TCubed Consulting
Teleo Design Pty Ltd
Terra Firma Pty Ltd
Terra Insight Pty Ltd
The Trustee for P D MAYOH FAMILY TRUST
TR Consult
Traffic Works
Tuff-As Consulting Pty Ltd
Turner & Townsend
Twyfords
Western Sydney Planning
Xmirus Pty Limited
<b>Email Submissions</b>
Gyde Consulting
Environment & Natural Resource Solutions (ENRS Pty Ltd)
ISGS Asbestos
Walsh & Monaghan

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**FCS23/033 COUNCIL PARTICIPATION IN REGIONAL COMMUNITY STRATEGIC  
PLAN PROJECT**

**S004-  
T00030**

Responsible Officer: Stephanie Speedy - Director of Finance and Corporate Services  
Attachments: Nil  
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: 5.2.2.2 Review and prepare Council's plans and reports under the  
Integrated Planning and Reporting Framework

**EXECUTIVE SUMMARY**

The NSW Local Government Act 1993 requires councils to facilitate the development of a Community Strategic Plan. This plan encapsulates community vision and long-term aspirations for the region. The Community Strategic Plan is also the foundation document in the NSW Integrated Planning and Reporting Framework.

Under the Integrated Planning and Reporting Framework, Council is required to review its Community Strategic Plan every four years, aligning with the Local Government Election cycle.

The Canberra Region Joint Organisation is proposing to undertake a collaborative approach with member councils to refresh their Regional Community Strategic Plan prior to the 2024 elections, and all member councils are invited to participate.

**RECOMMENDATION**

THAT Council participate in the Canberra Region Joint Organisation Regional Community Strategic Plan refresh project.

**BACKGROUND**

The NSW Local Government Act 1993 requires councils to facilitate the development of a Community Strategic Plan. This plan encapsulates community vision and long-term aspirations for the region. The Community Strategic Plan is also the foundation document in the NSW Integrated Planning and Reporting Framework.

Under this framework, Council is required to review its Community Strategic Plan every four years, aligning with the Local Government Election cycle.

In 2021 the Canberra Region Joint Organisation (CRJO) set out to develop a Regional Community Strategic Plan that captured the aspirations of our community's and elevated regional priorities. CRJO is proposing to undertake a similar process to refresh their Regional Community Strategic Plan prior to the 2024 elections, and all member councils are invited to participate.

The revised Regional Community Strategic Plan will include a section to identify key regional themes, issues and opportunities for shared actions. Each member council will have a chapter, being their individual Community Strategic Plan.

It is anticipated that all other member councils, including one associate member, intend to participate. Community engagement activities associated with the project are expected to

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**FCS23/033 COUNCIL PARTICIPATION IN REGIONAL COMMUNITY STRATEGIC  
PLAN PROJECT**

**S004-  
T00030**

occur in February and March 2024, and a draft compiled late 2024. This timing will ensure the incoming Council can develop the Delivery Program and Resourcing Strategy for their term in response to the community's vision and long-term aspirations as articulated in the refreshed Community Strategic Plan.

The CRJO's approach provides a range of advantages, including cost savings and greater insight into opportunities for regional advocacy and collaboration across local government issues.

**CONSIDERATIONS**

**Legal**

Participation in the Regional Community Strategic Plan project will satisfy Council's requirement under section 402 of the *Local Government Act (NSW) 1993* and the Office of Local Government's Integrated Planning and Reporting framework.

**Financial**

The Canberra Region Joint Organisation have procured a consultant to facilitate this project at no cost to member Councils. Council may incur costs to facilitate engagement activities, which will be supported by existing adopted budgets.

**Community and Stakeholder Engagement**

Eurobodalla Council officers will conduct the engagement activities associated with this project.

**CONCLUSION**

The Canberra Region Joint Organisation proposes to undertake a collaborative project with member councils to refresh the Regional Community Strategic Plan prior to the 2024 elections, inviting all member councils to participate.

This opportunity satisfies Council's obligations under the Local Government Act (NSW) 1993 and Office of Local Government Integrated Planning and Reporting Framework requirements to review the Community Strategic Plan. It provides a range of advantages including positive financial and collaborative outcomes.

**FCS23/034 INVESTMENTS MADE AS AT 30 SEPTEMBER 2023**

**S011-T00006,S012-T00025**

Responsible Officer: Stephanie Speedy - Director of Finance and Corporate 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: 5.3.1 Provide strong corporate and financial management that is ethical, fair, transparent and accountable  
Operational Plan Link: 5.3.1.1 Provide sound and strategic financial management and reporting

**EXECUTIVE SUMMARY**

The purpose of this report is to:

- certify that Council’s investments in financial instruments have been made in accordance with legal and policy requirements
- provide information and details of investments
- raise other matters relevant to investing.

**RECOMMENDATION**

THAT the certification of investments as at 30 September 2023, made in accordance with the *Local Government Act 1993*, Council’s Investment Policy and the provision of Clause 1 (Reg. 212) of the *Local Government (General) Regulation 2005*, be received.

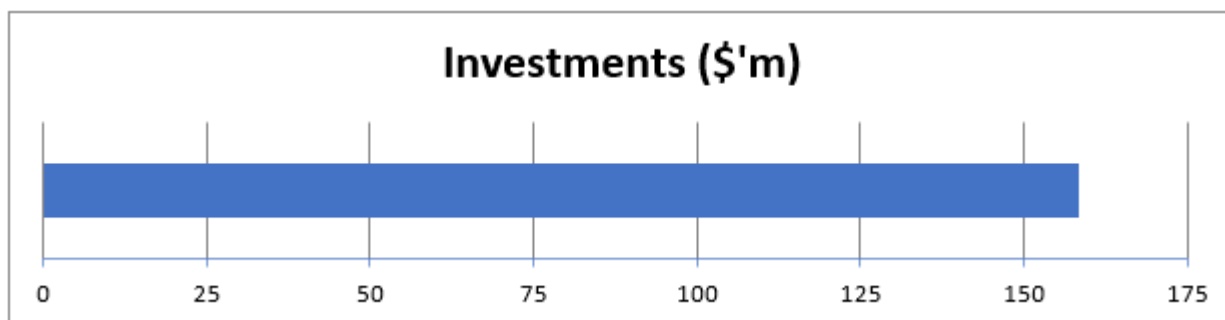
**CONSIDERATIONS**

**Policy**

The portfolio is compliant with Council’s Investment Policy adopted by Council on 9 August 2022 (Minute 22/190).

**Financial**

Council investing overall





**FCS23/034 INVESTMENTS MADE AS AT 30 SEPTEMBER 2023**

**S011-T00006,S012-T00025**

Council has \$169.58M (100%) invested in bank deposits. The bank deposits are held in banks rated A or greater, or covered by the AAA rated Government guarantee, except for \$40.5M invested in banks rated below A, and in the 'some limited risk' category of the policy.

Investments increased by \$10m in September 2023 due to various grant installments received, and normal variations in timing of cash flows.

The 'some limited risk' category is now restricted to BBB+ rating institutions which allows up to 30% of all investments. Currently there is 23.88% invested in BBB+ rating category. Investment in Government guaranteed deposits is \$1.75M representing 1.03% of the portfolio.

There are \$60.0M (35.38%) of funds invested in institutions which either have no direct financing exposure to projects in the fossil fuel sector or no longer directly finance projects in the fossil fuel sector but still have some exposure from historical funding.

The weighted average return for all investments for the month is 5.11%, which is above the Council policy benchmark of bank bill swap rate (BBSW) + 0.25% (4.38%).

Summary investment information

The following table is a summary of investment categories and balances at month end.

<b>CATEGORY</b>	<b>(\$)</b>
At call deposit	7,306,105
Term deposits	160,520,000
Term deposits Government guaranteed	1,750,000
	<b>169,576,105</b>
<i>Weighted average interest %:</i>	5.11%
<i>Average 90 day BBSW + 0.25%</i>	4.38%

Policy and liquidity risk

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

**FCS23/034 INVESTMENTS MADE AS AT 30 SEPTEMBER 2023**

**S011-T00006,S012-T00025**

<b>Policy risk</b>	<b>Low liquidity risk %</b>	<b>Total % of investments</b>	<b>Policy risk % (max holdings)</b>
<b>Remote risk</b>	1.03	1.03	100.00
<b>Near risk free</b>	75.09	75.09	100.00
<b>Some limited risk (BBB+)</b>	23.88	23.88	30.00
<b>Grand total</b>	<b>100.00</b>	<b>100.00</b>	

The unrestricted current ratio is the amount of unrestricted current assets compared to each dollar of current liability. The Office of Local Government suggests a minimum 1.5:1, and the unaudited unrestricted current ratio as at 30 June 2023 is 2.86:1. Council therefore has approximately \$2.86 of current assets for each \$1 of current liabilities.

**CONCLUSION**

Pursuant to provision of Clause 1 (Reg. 212) of the *Local Government (General) Regulation 2005*, I hereby certify that these investments have been made in accordance with *the Local Government Act 1993* and related regulations.

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**IR23/021 EUROBODALLA SOUTHERN STORAGE - DESIGN SERVICES**

**S032-T00008**

- Responsible Officer: Graham Attenborough - Director Infrastructure Services
- Attachments: 1. Confidential - Eurobodalla Southern Storage Confidential Attachment
- Community Goal: 1 Our sustainable shire celebrates our natural environment and outdoor lifestyles
- Community Strategy: 1.4 Work together in the management and use of our valuable resources
- Delivery Program Link: 1.4.2 Increase water security through construction of the Southern Water Supply Storage
- Operational Plan Link: 1.4.2.1 Continue the construction of the Southern Water Supply Storage/Dam

**EXECUTIVE SUMMARY**

The Eurobodalla Southern Water Supply Storage (ESWSS) is a priority project to drought proof the Shire's water supply and improve the resilience of Council's water supply.

The Australian Government has committed \$51.2 million through the National Water Grid Fund and the NSW Government has committed \$25.612 million through the Safe and Secure Water Program to the project.

The design of the Storage and Ancillary Works (Tuross River Intake Pump Station and power supply upgrade) was undertaken by SMEC Australia. Construction of the Southern Storage and power supply upgrade is currently under contract with Haslin constructions.

SMEC Australia were initially engaged through a variation to the original design contract, on a schedule of rates basis, to provide necessary design related services relevant to the construction phase of the Southern Storage. Additional design related services are required to take the project through to completion. The forecast cost for additional design related services is significant but expected to remain within the original project management budget for the project.

**RECOMMENDATION**

THAT Council:

1. Acknowledge the extent of design service variations completed to date and endorse the associated costs, as detailed in the confidential attachment; and
2. Resolve that a satisfactory result would not be achieved by inviting tenders for the remainder of the design related services for the Eurobodalla Southern Water Supply in consideration of section 55 (3) (i) of the Local Government Act 1993 and considering the following extenuating circumstances exist:
  - a) SMEC Australia's comprehensive knowledge and understanding of the current design and history of the project is integral to the success of the project; and
  - b) the engagement of the original designer for the construction and certification phase will mitigate risks to Council; and

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**IR23/021 EUROBODALLA SOUTHERN STORAGE - DESIGN SERVICES**

**S032-T00008**

- c) it is critical to the success of the project that SMEC continue providing design related services as construction continues.
3. Endorse engagement with SMEC Australia for outstanding design related services and the estimated costs as detailed in the confidential attachment, for the Eurobodalla Southern Water Supply Storage, within the following scope:
- a) Design advice and services during construction
  - b) Mapping of ground conditions and expert geotechnical advice
  - c) Assurance and certification that construction is in accordance with the design
  - d) Advice during commissioning and provision of a construction report.

**BACKGROUND**

Council engaged SMEC Australia in July 2016, following an open tender process to undertake the detailed design and environmental investigation for the preliminary stages of the Eurobodalla Southern Storage and Ancillary Works (Tuross River Intake Pump Station and Power Supply Upgrade) (Council Minute No. 16/229).

For the construction stages of major infrastructure projects, it is standard practice for the designer to be engaged until construction completion to:

- Modify the design to accommodate changes required due to changes in design assumptions
- Respond to requests for information (RFI's) from the construction contractor to address any discrepancies in the contract documents
- Assess any construction contractor requests to vary the design.

Engaging the original designer for these tasks ensures the design risk is covered by the designers Professional Indemnity Insurance and ensures clarity as to the burden of risk and allocation of responsibility.

The Eurobodalla Southern Storage is a Declared Dam in accordance with Section 4 of the Dams Safety Regulation 2019 and therefore the requirements of both the Regulation and the Dams Safety Act 2015 need to be followed.

Section 3A of the Regulation requires that the design is carried out by a qualified and experienced dam engineer(s) and that the construction work and commissioning is verified by a qualified and experienced person(s). Section 23 of Regulation 2019 reinforces this need in so much that the qualified person is subject to a quality management system in accordance with AS/NZS ISO Standard 9001:2016 Quality Management Systems – Requirements.

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**IR23/021 EUROBODALLA SOUTHERN STORAGE - DESIGN SERVICES**

**S032-T00008**

This means that Council cannot verify the work or commission the dam itself, and that a specialist, such as SMEC, must be engaged not only for the design but also design advice and assurance services during the construction and commissioning. The dam designer is also required to prepare a construction report to certify that the dam has been constructed in accordance with the detailed design (as modified). This is required to satisfy Dams Safety legislative requirements.

Given the designer's comprehensive knowledge and understanding of its own design integral to the project, Council in the usual course, will engage the designer during the construction phase. As the volume of work during the construction phase is not known until the construction is complete, it is normal practice to engage the designer on a schedule of rates basis.

Council resolved to award the construction of the Southern Storage on 28 June 2022 (Council meeting agenda item IR22/017). Within the report, it was noted that a cost estimate from SMEC Australia, as the project designer, was being sought for construction phase design services, and that it was intended to engage them as a variation to the initial design at prespecified rates. It was also noted that, along with continuing the services of Public Works Advisory (PWA), providing project management services, that it was expected the total costs would remain within the project management budget. This is still the case.

PWA, who are administering the design contract with SMEC on Council's behalf, requested and subsequently received a variation proposal from SMEC based on a schedule of rates, for design related services during construction. PWA verified that the proposal is based on current market rates and estimated effort to carry out key activities and recommended to Council to accept the variation from SMEC to the existing design engagement. This engagement was identified as being essential and a non-discretionary variation as SMEC is the Principal Designer of the works and that it is not feasible for this to be undertaken by others.

Prior to approving the purchase order associated with the variation, advice indicated that engaging SMEC for these services was compliant and in accordance with legislation.

It was advised that a Sole Source Declaration was not necessary as it relates to a variation of an existing contract which has already received approval from Council.

Council has therefore been proceeding with this engagement of SMEC Australia for design services during construction as a variation to the original design contract.

Since commencement of construction, significantly worse than expected geological conditions have been encountered, resulting in additional geotechnical testing, assessment and mapping, and redesign of various dam components by SMEC, for example:

- Outlet conduit reinforcement due to the foundation voids identified during excavation
- Slope correction design due to the embankment foundation voids
- Redesign of the filter blanket and clay core foundation due to the number of seams present
- Additional design work is required due to the quality of the embankment material from the site quarry.

The prevalence of the embankment foundation voids and seams has also considerably increased the required onsite supervision required from SMEC during foundation excavation,

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**IR23/021 EUROBODALLA SOUTHERN STORAGE - DESIGN SERVICES**

**S032-T00008**

mapping, treatment and grouting to ensure timely progress of construction and to minimise the risk of costly delay claims from the construction contractor. It is currently anticipated that foundation works will be complete in early 2024, at which stage the potential for further redesign and SMEC site supervision requirements will be greatly reduced.

Given the significant increase in the scope and cost of variations proposed, it is advised that Council consider and endorse all further design works and associated costs, through to completion of the project. The proposed scope of works and estimated cost is detailed in the confidential attachment.

**CONSIDERATIONS**

**Legal**

Section 55 of the *Local Government Act 1993* (the Act) requires a tender to be called for a contract to carry out services for councils valued at over \$250,000 (or another amount as prescribed by the regulations), unless exempt from the requirement pursuant to section 55(3) of the Act. The proposed additional design works go beyond this threshold.

Section 55 (3) (i) of the Act states that a tender is not required for contracts where, because of extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenderers, a council decides by resolution (which states the reasons for the decision) that a satisfactory result would not be achieved by inviting tenders.

The Dams Safety Act 2015 and Dams Safety Regulation 2019 require Council to engage a competent person(s) who is subject to a quality management system in accordance with AS/NZS ISO Standard 9001:2016 Quality Management Systems – Requirements for relevant design work and construction and commissioning verification for the Eurobodalla Southern Storage project, and that the dam designer prepare a construction report to certify that the dam has been constructed in accordance with the detailed design.

**Policy**

Procurement practices are considered in accordance with Council's Procurement Policy, Code of Practice – Procurement, Code of Practice – Tendering, the Local Government Procurement Guidelines, Local Government (General) Regulation 2021 and the Local Government Act 1993.

**Financial**

Grants of \$25.612 million (ex GST) through the NSW State Government Restart program and \$51.2 million (ex GST) through the National Water Grid Fund have previously been accepted by Council for the Eurobodalla Southern Storage construction.

The pre-construction estimate for the entire project was initially \$102.5 million (ex GST), leaving Council initially only responsible for funding 25% of the total construction costs, including land acquisition and biodiversity offsets.

Due to significant recent increases in construction costs as a result of COVID-19, bushfires, floods, and the war in the Ukraine, tender prices for the storage construction were higher than previously budgeted, considerably increasing the construction project budget estimate to \$130 million, which included a project management budget for the storage construction of \$5 million. Due to the \$76.8 million in funding already received, this revised project construction amount, which includes the tendered construction amount and the anticipated contract

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**IR23/021 EUROBODALLA SOUTHERN STORAGE - DESIGN SERVICES**

**S032-T00008**

administration and design advice costs, can be accommodated within the existing water fund capital budget.

**CONCLUSION**

The tender process for the new Eurobodalla Southern Water Supply Storage original design was conducted in accordance with mandatory Council and legislative requirements and the preferred tenderer was assessed, through an extensive evaluation as representing best value for money.

The scope of the additional design services and their associated costs requires further consideration by Council, in particular Council is asked to grant exemption to the usual tendering requirements based on the extenuating circumstances noted above, and to allow for SMEC's continued engagement in a project to which its design advice is integral.

The additional design related services as attached to this report are deemed to be necessary and justified and fall within the scope of the overarching project budget.

The ongoing engagement of the designer is required to satisfy dam safety legislative requirements, ensure the design risk is not transferred to Council, and to minimise the risk of project delays and subsequent contractual claims.

This report recommends the engagement of SMEC Australia for design related services, relevant to the construction and certification stage of the project, pursuant to the procedures noted above is recommended to Council.

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**IR23/022 LOCAL TRAFFIC COMMITTEE NO. 3 FOR 2023-24**

**S030-T00018**

Responsible Officer: Graham Attenborough - Director Infrastructure Services  
Attachments: Nil  
Community Goal: 4 Our connected community through reliable and safe infrastructure networks  
Community Strategy: 4.1 Provide integrated and active transport networks to enable a connected and accessible Eurobodalla  
Delivery Program Link: 4.1.1 Plan for an integrated and active local transport network, guided by the NSW Government's Future Transport 2056 Strategy  
Operational Plan Link: 4.1.1.3 Coordinate the Local Traffic Committee

**EXECUTIVE SUMMARY**

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

The minutes of the Eurobodalla Local Traffic Committee meeting are included in this report. The main issues covered at the Eurobodalla Local Traffic Committee meeting held 7 September 2023, are as follows:

Line Marking, Mummaga Lake Pedestrian Bridge, Dalmeny.

**RECOMMENDATION**

THAT Council Plan 5244 Set B sheet 04, for linemarking at Mummaga Lake Pedestrian Footbridge Carpark, Accessible Carparking, Dalmeny, be approved.

**BACKGROUND**

The Eurobodalla Local Traffic Committee Meeting No 3 for 2023-24 was held on 7 September 2023. The meeting was attended by Councillor Amber Schutz (Chair), Senior Sgt Angus Duncombe (NSW Police), Emma Pietruska (Transport for NSW), Kate McDougall (Traffic Officer), Tom Franzen (Division Manager Technical Services), Sheree Ward (Infrastructure Support Officer) and Sian Dyce (representative for Michael Holland MP).

**APOLOGIES**

Nil

**DEPUTATIONS**

Nil

**MINUTES OF PREVIOUS MEETING**

The minutes of the Eurobodalla Local Traffic Committee Meeting No 2 for 2023-24 held on 3 August 2023 were confirmed and accepted.



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**IR23/022 LOCAL TRAFFIC COMMITTEE NO. 3 FOR 2023-24**

**S030-T00018**

**OUTSTANDING ITEMS FROM PREVIOUS MEETING**

Nil

**ROAD TRANSPORT (SAFETY AND TRAFFIC MANAGEMENT) ACT FOR DETERMINATION**

**5.1 2024.RT.003 Linemarking, Mummaga Lake Pedestrian Bridge, Dalmeny**

Council has received \$495,000 from the NSW Government's Regional Tourism Activation Fund to improve access for people with reduced mobility at Eurobodalla's patrolled beaches.

Council met with an advisor from Accessible Beaches Australia who recommended changes to ensure that Council facilities are accommodating for people and allow for increased use by people with a disability. These will be incremental changes as funding allows, but a high priority would be to enhance accessible parking options at several key sites including Mummaga Lake Pedestrian Footbridge Carpark.

After the footbridge was installed vehicles were parking directly next to the ramp in the carpark, blocking the entrance of the bridge, and prohibiting those in wheelchairs access to the bridge. The hatching of the carpark at the entrance to the bridge is to deter vehicles parking and allow unimpeded accessible access to the bridge.

**RECOMMENDATION**

That Council Plan 5244 Set B sheet 04, for linemarking at Mummaga Lake Pedestrian Footbridge Carpark, Accessible Carparking, Dalmeny, be approved.

**INFORMAL ITEMS FOR DISCUSSION**

**6.1 2024.SE.003 Clarkes Gambit Cycling Event, Nelligen**

**Advice**

That the Event Operations Plan including Appendix C – Traffic Control Plan for Clarkes Gambit cycling event to be conducted on 28-29 October 2023. ROL has been reviewed and approved by Transport for NSW.

**BACKGROUND**

An Event Operations Plan including Appendix C – Traffic Control Plan for Clarkes Gambit has been received for the event to take place on 28-29 October 2023.

The event is organised by Graveleur Pty Ltd. Graveleur began as a small group of social riders seeking new places to ride bicycles in remote areas on dirt roads and grew into a cycling community drawn together by a love of back road exploring.

Graveleur's purpose is to build and grow Australia's gravel cycling community. Today, Graveleur has a following on social media of over 6,500 regular and devoted cyclists from all walks of life and provides three cycling formats: social, self-supported and overnight bicycle ride with three different routes of varying difficulties. The rides are predominantly gravel / dirt roads in the Eurobodalla region.

Nestled in between the Budawang National Park and the banks of the Clyde River this event is designed for all levels of cyclists but will especially cater to families and those wanting to advance their skills, fitness and knowledge in bike-packing and the gravel cycling scene.

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**IR23/022 LOCAL TRAFFIC COMMITTEE NO. 3 FOR 2023-24**

**S030-T00018**

The event name seeks to build on the Bushranger series of events - the Clarke gang led by brothers Thomas and John Clarke, were the nation's deadliest bushrangers that rustled livestock, ambushed gold shipments and robbed traders from Braidwood to Bega in southern New South Wales in the mid 1860's.

The event will feature a two day overnight social ride with three different courses to cater to varying abilities of cyclist. This event is designed as a social cycling experience to be enjoyed in small groups of cyclists of similar ability. To complete the activity, cyclists need to:

- Understand how to fuel their body for an extended ride and be at a good level of fitness to cover their selected course on remote gravel roads at an average speed of 15-20 kph.
- Be experienced at navigating and following a GPX route on a bicycle computer.
- Have a reasonable level of mechanical know how in case they need to perform running repairs on their bicycle e.g. punctures/ripped tyres, broken chains, non-functioning gears.

**Start and Finish sites**

The ride will comprise two different day loops roughly heading north of Nelligen (the event hub) on Saturday and heading south of Nelligen on Sunday. The event centre is planned to be the Steampacket Hotel with most riders staying at the caravan park. A key consideration of the route design has been to ensure that no riders spend any extended time cycling on the Kings Highway in 100 kph speed zones. "Cycling Event in progress" signs will be placed at either end of the Nelligen township on the Kings Highway to alert drivers to the presence of cyclists.

Each rider is encouraged to have a copy of the routes downloaded to their GPS Navigation device as well as their mobile phone (available offline). It is also recommended to save the Cue Sheet onto mobile phones which can be copied from the route web page on Ride With GPS.

There will be no formal traffic control for this event. Marshalls will be in place to organise the start each day and four (4) marshals will be deployed at key intersections on each day in addition to the Feedzone. Riders will be released in waves of 20 riders from the starting location to spread the field and avoid large groups of cyclists riding together. The first wave will commence riding at 8.00 am - riders will have selected their starting wave as part of the registration process.

**GENERAL BUSINESS**

**General Business**

**7.1 Speed zone – Princes Highway, Moruya to 450m east of Shelley Road**

**Advice**

TfNSW provided information to the Committee on the speed reduction from 100 kms to 80 kms.

**Background**

TfNSW is currently undertaking a review of the 100km/h speed zone on the Princes Highway from Moruya speed changeover 80/100km/h to 450m east of Shelly Road.

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**IR23/022 LOCAL TRAFFIC COMMITTEE NO. 3 FOR 2023-24**

**S030-T00018**

**7.2 Speed zone – Clyde Road, North Batemans Bay**

**Advice**

TfNSW provided information to the Committee on the speed reduction from 100 kms to 60 kms.

**Background**

TfNSW is currently undertaking a review of the Clyde Road North Batemans Bay speed zone from the default 100km/h speed zone to 60 kms. Council requested TfNSW also review other like roads that intersect with the highway with a default speed limit of 100 km/h for consistency.

**7.3 Gate removal – Ocean Parade / McMillan Crescent Dalmeny**

**Advice**

Advice was requested from the Committee regarding the gates at the Ocean Parade / McMillan Crescent intersection at the Dalmeny Campground.

**Background**

The Dalmeny campground is owned by Council and operated by a private company. The gates located at the intersection of Ocean Parade and McMillan Crescent are owned by Council. The gates are closed during summer and Easter at high pedestrian times to better manage the shared vehicle/pedestrian zone. Council received an internal request to consider removal of the gates. The Committee discussed replacement of the gates or removal of the gates and installation of signage and traffic calming treatments in this location to manage the vehicle / pedestrian zone during peak visitation times.

**7.4 Fox Superflow – special event, Dalmeny**

**Advice**

Information was given to the Committee regarding a proposed mountain bike event to be held on Mitchells Ridge Road, Dalmeny. TfNSW have received and approved a ROL and road advice will be uploaded to Live Traffic if the event proceeds.

**Background**

Mitchells Ridge Road is a Forestry Corporation road identified as a hub road for the Narooma mountain bike trail network. The road connects with the Princes Highway at Dalmeny. TfNSW informed the Committee of the reduction of speed on the Princes Highway at Dalmeny from 100 km/h to 60 km/h at the Mitchells Ridge Road intersection to support traffic movements for the proposed event.

**7.5 2024.RT.001 Signs and linemarking - Long Beach Road, Long Beach**

**Recommendation**

That Group Development Services Pty Ltd plan P00511-CI-SWC-1351 for Vantage Developments No. 1 Pty Ltd, 12 Long Beach Rd, Long Beach detailing signage and linemarking be approved.

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**IR23/022 LOCAL TRAFFIC COMMITTEE NO. 3 FOR 2023-24**

**S030-T00018**

**Background**

Council has received plans from Group Development Services Pty Ltd for the subdivision of land off Long Beach Road, a total of 61 lots, by Vantage Developments No. 1 Pty Ltd. The plans show one road servicing the development with five internal roads. Proposed signage and linemarking is shown on the plans. This area is surrounded by larger lots that are subject to other development proposals. Council identified signage and linemarking to be updated including: changing 'no parking' to 'no stopping', close off 'no stopping' zones, 'give way' signage near to bus zone, traffic calming devices and suggested pedestrian crossing points within the traffic calming areas.

**7.6 2024.RT.002 Signage and linemarking – Saltwood Estate, Rosedale**

**Recommendation**

That Land Team plan 21826 CC134 Sheet A1, Roundabout linemarking signage plan, CC135 Sheet A1, George Bass Drive Intersection linemarking and signage plan, CC136 Sheet A1, proposed landmarking and signage plan, and CC137 Sheet A1 Proposed linemarking and signage plan leadout, for Rosedale Farm P/L Saltwater Estate, Rosedale, be approved.

**Background**

Saltwater Estate, Rosedale is a 7-stage development proposing 137 residential lots. Stage 1 has been released with Stages 2 and 3, a total of 36 lots, due to be released at the completion of the work outlined in Plan 213826 CC134-7. This is the second and third stage of the Saltwater Estate, Rosedale. These plans outline the line marking and signage for Stage 2 and 3. This work must be completed prior to stage 3 release. It is intended that Stages 2 and 3 will be released at the same time. Lightening considerations advised to be considered. Solid medium on George Bass Drive replacing line mark medium suggested.

**GENERAL BUSINESS**

Nil

**NEXT MEETING**

The next meeting of the Eurobodalla Local Traffic Committee is scheduled for Thursday 5 October 2023 in Council's Glass Meeting Room and via MS Teams, commencing at 9.30am.

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**CAR23/015 BAY PAVILIONS RISK ASSESSMENT AND ENERGY AUDIT**

**S023-T00024**

Responsible Officer: Kathy Arthur - Director Community, Arts and Recreation Services

Attachments: 1. Under Separate Cover - Bay Pavilions Energy Audit  
2. Under Separate Cover - Bay Pavilions Risk Assessment Report  
3. Under Separate Cover - Bay Pavilions Risk Assessment

Community Goal: 2 Our community that welcomes, celebrates, and supports everyone

Community Strategy: 2.2 Encourage community spirit and enable healthy lifestyles

Delivery Program Link: 2.2.2 Provide and manage quality community facilities to meet the needs of the current and future communities

Operational Plan Link: 2.2.2.6 Manage the Bay Pavilions

### **EXECUTIVE SUMMARY**

This report provides Council with an update on the risk assessment and energy audit reviews undertaken at the Bay Pavilions.

The General Manager's Performance Plan for 2022-2023 included a review of the Bay Pavilions. This review consisted of three externally conducted review processes, addressing financial/operational considerations, a comprehensive risk assessment and an energy audit.

The first review, conducted by KPMG, concerning financial and operational matters, was completed in June and reported to Council in August 2023.

The risk and energy reviews, running parallel to this process, were conducted in June and July 2023 at the Bay Pavilions, with a report to Council now provided.

An action in the General Manager's Performance Plan for 2023-2024 is the development and implementation of a Sustainability Plan for the Bay Pavilions.

The recommendations and findings of the three external reviews, addressing operational and financial performance, the energy audit and risk assessment review, will be incorporated into the Plan, along with financial and maintenance considerations.

Staff have already begun implementing key findings and actions from the three external reviews, with the development of a prioritised Sustainability Plan running parallel to this process.

### **RECOMMENDATION**

THAT Council receive and note:

1. *Eurobodalla Shire Council, Bay Pavilions Risk Assessment, June 2023* and associated Risk Register, prepared by InConsult.
2. *Report for Bay Pavilions, Energy Audit, Eurobodalla Shire Council, 13 July 2023*, prepared by GHD.

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**CAR23/015 BAY PAVILIONS RISK ASSESSMENT AND ENERGY AUDIT**

**S023-T00024**

**BACKGROUND**

In early 2023 three Request for Quotes (RFQ) were undertaken, including a review of financial/operational performance, a risk assessment and an energy audit.

KPMG was engaged to review financial and operational performance. This was completed in June, with the *Bay Pavilions Financial Performance Review, Final Report, 27 June 2023* presented to Council at the 15 August 2023 meeting.

InConsult was engaged to undertake a risk assessment in relation to the facility, with a final report, *Eurobodalla Shire Council, Bay Pavilions Risk Assessment, June 2023*, and associated Risk Register provided in June.

GHD was engaged to undertake an energy audit, with consultants on site at the Bay Pavilions in June, and a final report, *Report for Bay Pavilions, Energy Audit, Eurobodalla Shire Council, 13 July 2023*, provided in July.

Council was briefed on the Energy audit (GHD) and Risk Assessment (InConsult) reports on 10 October. The reports were then presented to Council's Audit, Risk and Improvement Committee (ARIC) at its 12 October meeting, with a report to Council on the 17 October.

**CONSIDERATIONS**

**Risk Assessment**

The Risk Assessment was undertaken by InConsult, with the aim of identifying the key risks and key controls in place to mitigate them. It provides the starting point for continuous monitoring of risks and controls at the Bay Pavilions.

The Risk Assessment Report identifies 24 risks, 9 of which are outside Council's appetite, with 20+ Risk Treatment plans required. The suggested risk treatments have been included in the Risk assessment (Risk Register), also attached.

Key risks and actions identified in the risk assessment include the potential for: failure of the facility to meet environmental expectations, unsustainable business/service delivery model, financial sustainability, procurement processes and potential fraud, cyber security, contract/governance, failure to meet community expectations, risk of death and injury and the potential for an inadequate transition from the defect liability period to Council maintenance.

In addition to the Risk Register, the main Risk Assessment report includes a 'Next Steps' section, which details 10 further recommendations for Council to consider and implement, to progress the risk assessment process to the next level.

Work has already commenced to address key risks and actions outlined in the report, including a preliminary review of the current contract with Aligned Leisure and a well progressed transition plan for maintenance as we approach the end of the defect liability period on 3 December 2023.

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**CAR23/015 BAY PAVILIONS RISK ASSESSMENT AND ENERGY AUDIT**

**S023-T00024**

### **The Energy Audit**

The key aims of the energy audit, conducted by GHD, addressed in the report were to:

- quantify the operating costs and energy consumption of the building,
- identify where energy is being consumed and how efficiently,
- identify potential energy conservation measures and their cost benefits, to address the currently high operational cost of the building.

In undertaking the energy audit, GHD examined energy consumption for the period June 2022 to April 2023, being the period between opening and the energy audit being undertaken.

Electricity consumption is the primary energy cost (81%), followed by electrical maximum demand charges (14%) and water consumption (5%).

The pool and gym areas account for 80% of total energy consumption, whereas theatre and centre areas are 19% and external lighting 1%. In terms of end-use, the HVAC systems (56%) and pool water treatment plant (28%) are the main energy consumers, with the remainder being general power (8%) and lighting (8%).

GHD calculated energy usage intensity as kWh per m<sup>2</sup> of gross floor area for the purposes of benchmarking the Bay Pavilions against similar facilities. Analysis indicates that the Bay Pavilions consumes moderately more energy than other indoor aquatic centre (+24%) and substantially more energy than other entertainment and recreational buildings (+186%). Council has sought clarification from GHD regarding the type of facilities used in the benchmarking to further understand these results.

The baseload operation of pool HVAC systems and the pool water treatment plant have been identified as the main reason for the high energy consumption, with the HVAC controls and high HVAC baseload energy consumption identified as a key area for improvement.

The report provides 7 practical recommendations to realise energy and cost saving opportunities, largely focused on the HVAC system.

### **Next Steps**

An action in the General Manager's Performance Plan for 2023-2024 is the development and implementation of a Sustainability Plan for the Bay Pavilions.

The recommendations and findings of the three external reviews, addressing operational and financial performance, the energy audit and risk assessment will be incorporated into the Plan, along with financial and maintenance considerations.

The aim will be to mitigate risks and costs, wherever possible, whilst maximising opportunities and implementing improvements at the facility going forward.

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**CAR23/015 BAY PAVILIONS RISK ASSESSMENT AND ENERGY AUDIT**

**S023-T00024**

**Financial**

InConsult were appointed after a RFQ process using an approved Council Panel. The cost of the review and preparation of the final Risk report and Risk Register was \$24,000 (excluding GST).

GHD were appointed after a RFQ process using an approved Council Panel. The cost of the review and preparation of the Energy Audit was \$20,000 (excluding GST).

The GHD Energy Audit report includes an estimated a capital expenditure of \$66,000 to achieve estimated ongoing savings of \$253,000, with payback periods outlined for each of the 7 recommendations.

Staff have since sought two further quotes for the recommended works, in line with Council's procurement policy, with the aim of undertaking the works as a priority.

**CONCLUSION**

This report provides Council with an update on the risk assessment and energy audit reviews undertaken at the Bay Pavilions.

The Risk Assessment and Risk Assessment report identified 24 risks, 9 of which are outside Council's appetite, with 20+ Risk Treatment plans required. The suggested risk treatments have been included in the risk register.

The Energy Audit provides 7 practical recommendations to realise energy and cost saving opportunities, largely focused on the HVAC system. With an estimated a capital expenditure of \$66,000 the report estimates ongoing savings of \$253,000, with payback periods outlined for each of the 7 recommendations.

An action in the General Manager's Performance Plan for 2023-2024 is the development and implementation of a Sustainability Plan for the Bay Pavilions.

The recommendations and findings of the three external reviews, addressing operational and financial performance, the energy audit and risk assessment review, will be incorporated into the Plan, along with financial and maintenance considerations, with the aim of reducing risks and costs and maximizing opportunities going forward.



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**CAR23/016 YOUTH AND COMMUNITY DEVELOPMENT FUNDING**

**S014-T00019**

Responsible Officer: Kathy Arthur - Director Community, Arts and Recreation Services

Attachments: Nil

Community Goal: 2 Our community that welcomes, celebrates, and supports everyone

Community Strategy: 2.1 Acknowledge our beginnings, embrace our diversity

Delivery Program Link: 2.1.4 Provide services and strengthen opportunities to retain and attract youth, supported by the Youth Action Plan

Operational Plan Link: 2.1.4.5 Deliver programs and events for youth

### **EXECUTIVE SUMMARY**

This report provides Council with the background information to inform acceptance of external funding, totaling \$17,840, to deliver community-based projects.

A total of \$8,000 has been offered via the NSW Office of Regional Youth, Regional Youth Holiday Break Program for the delivery of the 'Spring Up Block Party' at Hanging Rock on Friday 29 September. The funds will also be used to support youth in Eurobodalla to access free activities during the 2023 Spring holidays. This will include an 'all wheels jam' competition, art, sport and cultural activities, community artwork, mindful activities, music, food and refreshments.

A total of \$9840 has been offered by the Foundation for Rural & Regional Renewal (FRRR) for the delivery of the 'Be Well Eat Well - Building Connections Through Food' project.

The project is in partnership with SAGE in Moruya and is designed to enhance community capacity and connection with weekly hands-on food education coaching sessions for six groups of 10 participants targeting seniors, parents and people living alone, led by a food educator and facilitator promoting health, nutrition and well-being.

These programs and events will provide positive engagement opportunities and improved wellbeing outcomes for the community.

### **RECOMMENDATION**

THAT Council endorse the actions taken to accept:

1. NSW Office of Regional Youth, Regional Youth Holiday Break Program funding of \$8,000 for the 'Spring up block party'; and
2. Foundation for Rural & Regional Renewal, Strengthening Rural Communities Grant funding of \$9840 (not subject to GST) for the 'Be well, eat well' program.

### **BACKGROUND**

Community participation was integral to the development of the programs and creation of the funding proposals. A range of workshops and network meetings were conducted to seek and receive advice, ideas, and recommendations from service providers and advisory groups, including Council's Youth Committee and the Eurobodalla Workers With Youth Network.

The program activities outlined in the 'Spring Block Party' application support the actions identified in the Youth Action Plan, with consideration given to providing activities at Council

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**CAR23/016 YOUTH AND COMMUNITY DEVELOPMENT FUNDING**

**S014-T00019**

recreational facilities that young people can walk to, close to where significant numbers of young people live.

The 'Be well, eat well' grant enables Council to partner with an existing community-based service, building local capacity as well as providing a meaningful, healthy outcome for participants.

**CONSIDERATIONS**

The Be Well Eat Well program, funded by FRRR, will provide health and wellbeing education programs to 60 people aimed at improving the way people shop, eat and connect through food. Participants in the program may be experiencing cost of living, health and wellbeing or social isolation challenges. The program is designed to improve participants' social connections to reduce social isolation, enhance the process of recovery, and foster stronger, more resilient communities.

The funding received from the NSW Office of Regional Youth, Regional Youth Holiday Program will assist Council to work with external and internal service providers, and a range of community members to provide social engagement opportunities for young people aged 12 to 25 years of age.

The planned community skate, art and block party event has been designed as a place specific opportunity for young people to connect and create with their friends, neighbours and families. The event will take place adjacent to Batemans Bay, Batehaven and Catalina areas. There is also a high concentration of young people living within walking distance of the event, enabling greater access to a safe, celebratory, free and inclusive recreational option for local youth during the school holidays.

**Social Impact**

The programs will enhance social activity, healthier and active living outcomes and improve the quality of life for our residents.

**Financial**

The combined financial contribution of \$17,840 will enable the delivery of programs that integrate and enhance planned outcomes under Council's Delivery program objectives which underpin the goals of the Community Strategic plan and specific planning documents including the Youth Action Plan.

Both funded opportunities are not subject to GST, do not require cash contributions from Council and will be applied to the delivery of operational programs under the Community Development and Youth service streams.

**Community and Stakeholder Engagement**

We will promote these opportunities to the community by providing information on: Council's website; Online News; posting on Council's Facebook; distributing a print flyer, emailing stakeholders, community groups; and distributing a media release.

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**CAR23/016 YOUTH AND COMMUNITY DEVELOPMENT FUNDING**

**S014-T00019**

**CONCLUSION**

The funds will provide Council with the opportunity to invest in key community development and participation initiatives and increase our capacity to deliver on agreed services to our community.

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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
The Office of Local Government	4428 4100	dlg@dlg.nsw.gov.au	www.dlg.nsw.gov.au
NSW Ombudsman	1800 451 524	nswombo@ombo.nsw.gov.au	www.ombo.nsw.gov.au

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

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

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

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