

Eurobodalla Shire Council

Bay Pavilions Risk Assessment

June 2023



TABLE OF CONTENTS

1. BACKGROUND	3
2. OUR APPROACH & METHODOLOGY	4
Risk Assessment Process	4
Methodology	5
Documents Reviewed.....	5
3. RISK ASSESSMENT RESULTS	6
Risk Management Dashboard	6
Next Steps.....	8
ATTACHMENT 1: Bay pavilions risk register	9

Disclaimer: We have performed this risk assessment to assist Eurobodalla Shire Council in strengthening elements of its risk management of the Bay Pavilions. Our risk assessment relied on the knowledge of staff and was not designed to identify all possible risks. Council should consider all the ramifications of our recommendations/ risk treatment plans before taking any action about or emanating from our report. This report is prepared solely for Eurobodalla Shire Council and should not be used for any other purpose or provided to, used by or relied upon by any other party other Eurobodalla Shire Council without our prior written consent.

1. BACKGROUND

The Bay Pavilions is an aquatic, arts and leisure centre located in Batemans Bay. The centre is a significant community asset that includes:

- An indoor aquatic centre with several pools, waterslides and gym.
- An arts and cultural centre with an auditorium, gallery/exhibition space and multi-purpose rooms.
- Shared facilities including a foyer, café, visitor information service, administration offices, plant and support services.

The Bay Pavilions cost around \$63 million to build. To fund its development, Eurobodalla Shire Council (“ESC” or “Council”) secured around \$51 million in grants from the NSW and Australian governments.

Work commenced in September 2020 after council awarded the construction contract to ADCO Constructions, and it was completed on 25 February 2022 and was open on 4th June 2022. Delays were experienced during the development due to the impact of COVID 19 restrictions and supply chain disruptions experienced globally.

In August 2021, after a competitive tender process, Council announced that the Bay Pavilions would be managed by Aligned Leisure (“AL”) under a three-year fee-for-service contract. All operating and depreciation expenses are incurred by Council.

AL is a ‘silent’ manager of the centre. All branding is either Bay Pavilions or ESC. This means council is exposed to all the reputational risks.

The building was officially opened in April 2022 and then opened to the public from June 2022.

The Bay Pavilions has won several prestigious awards in respect to design, construction and sustainability.

Today, the Bay Pavilions is a landmark community facility and seen as the “Gateway to the Shire”. The management of the centre is included in Council’s Delivery Program 2022-2026. It’s operations, revenue and expenditure are closely monitored by Council’s Aquatics and Arts Contract Coordinator.

Considering the Bay Pavilions is a key community facility, a place for mass gatherings, requires ongoing financial commitments by Council, the nature of the business model used to deliver the services and the inherent risks of some of the activities undertaken at the Bay Pavilions, exposes Council to many risks.

This is the first risk assessment of the Bay Pavilions and aims to identify the key risks and the key controls in place to mitigate them. It provides the starting point for continuous monitoring of risks and controls.

2. OUR APPROACH & METHODOLOGY

Risk Assessment Process

Our approach in performing the risk assessment followed Council's risk management process as documented in the Enterprise Risk Management Plan. The process is in line with the risk management standard, AS ISO 31000:2018 Risk management – Guidelines.

In accordance with Council's documented risk assessment methodology, we used a qualitative risk assessment approach. This is a subjective approach that considers the likelihood of the risk occurring, the potential impact of the risk, and the ability of Council to manage or mitigate the risk down through a range of controls to within risk appetite. This approach is appropriate in most situations, when a more detailed quantitative analysis of risk is not feasible, or when data is not available or statistically invalid. However, the qualitative approach has inherent bias and weaknesses, therefore more rigour is needed around reviewing and challenging the risk assessment results recorded in the risk register.

We used the risk rating criteria and risk appetite thresholds documented in Council's Enterprise Risk Management Plan.

To document the risk assessment, we used a risk register to record the following properties of the risk:

1. Risk no. – Unique number for reference purposes.
2. Risk Area – Used as a taxonomy to ensure a wide coverage of risks. Sourced from Council's risk consequence categories.
3. Risk Owner – The person who is in the best position to assess, monitor and manage the risk.
4. Risk Description – A brief description of the risk and consequence.
5. Causes of Risk – Identifies some triggers/causes of the risk to help reduce the total number of risks.
6. Risk Category – The main impact category based on Council's Risk Appetite risk category.
7. Risk Appetite – The level of risk council is willing to accept for the designated risk category.
8. Inherent likelihood – The likelihood of the risk occurring before controls are considered.
9. Inherent consequence – The most likely consequence of the risk before controls are considered.
10. Inherent Risk – Based on the risk heat map, it combines the inherent likelihood and consequence ratings.
11. Current/ Existing Controls (Responsibility) – list of controls in place and entity responsible.
12. Control Effectiveness – A consolidated assessment of the effectiveness of current controls based on the effectiveness ratings used by Council.
13. Residual likelihood – The likelihood of the risk occurring after controls are considered.
14. Residual consequence – The most likely consequence of the risk after controls are considered.
15. Residual Risk – Based on the risk heat map, it combines the residual likelihood and consequence ratings.
16. Within Risk Appetite – Compares the residual risk to Council's risk appetite. Where the residual risk is not within risk appetite, a risk treatment plan is required, and ideally escalated to management and Council (via the Audit & Risk Improvement Committee) for monitoring.
17. Action Plan – Additional controls required to reduce risk to within risk appetite or as low as possible.
18. Action Owner – Person responsible for the action plan.
19. Action Due Date – Estimated completion date.

Methodology

To perform the risk assessment, we undertook the following activities.

- Kick-off meeting to agree approach, logistics and timeframes.
- Reviewed a series of documents to contextualise the risk assessment.
- Reviewed Council's risk assessment methodology to ensure the risk assessment is conducted in a way aligned to Council's risk management framework.
- Conducted on-line meetings with key staff to understand various elements of Bay Pavilions' history and current operations to help contextualize the risk assessment.
- Based on our initial meetings and documents reviewed, we drafted base line risk register identifying key risks.
- To complete the risk register, we conducted a series of on-site risk assessment workshops with various Council officers and Aligned Leisure representatives:
 - Carlyle Ginger - Divisional Manager Recreation Service
 - Brett Longstaff - Aquatics and Arts Contract Coordinator
 - Chris Tague - Arts and Leisure Manager, Bay Pavilions
 - Deb Lenson – position – Div Mgr, Environmental Service
 - Bruce Young – position – Senior EHO
 - Jeff Phillips – position – Corporate Manager, Governance & Admin
 - Jacqueline Sullivan – Acting CFO
- Made additional enquiries to finalise the risk register and report.

Documents Reviewed

To establish context for the risk assessment, we reviewed several documents and artifacts. The key documents included:

1. The Management Agreement between Eurobodalla Shire Council and Aligned Leisure.
2. Council's RFQ and Aligned Leisure's response to the RFQ.
3. Services Strategic Plan for Batemans Bay Regional Aquatic, Arts and Leisure Centre and Shire Pools prepared by Aligned Leisure.
4. Business Plan for Batemans Bay Regional Aquatic, Arts and Leisure Centre and Shire Pools prepared by Aligned Leisure.
5. Eurobodalla Shire Council's Enterprise Risk Management Plan.
6. Various risk assessments or related risk management artifacts produced by Aligned Leisure for the Bay Pavilions.
7. Various financial and operational reports produced by AL and Council.

3. RISK ASSESSMENT RESULTS

The results of the risk assessment are presented in the Bay Pavilions Risk Register, a separate attachment to this report.

Risk Management Dashboard

24
Risks Identified

9
Risks Outside
Council’s Appetite

20+
Risk Treatment
Plans Required

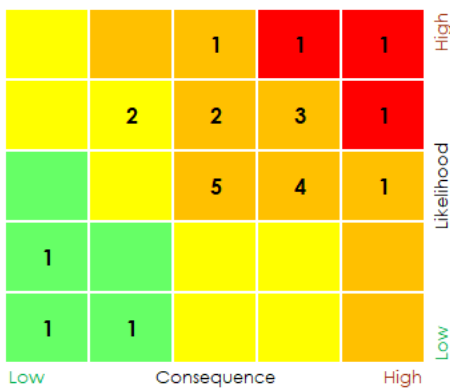
The risk assessment identified 24 key risks. For each risk, the risk assessment identified a number of potential triggers or causes.

Overall, there were 9 risks where the level of residual risks (after considering existing controls) remained too high i.e., above Council’s desired risk appetite.

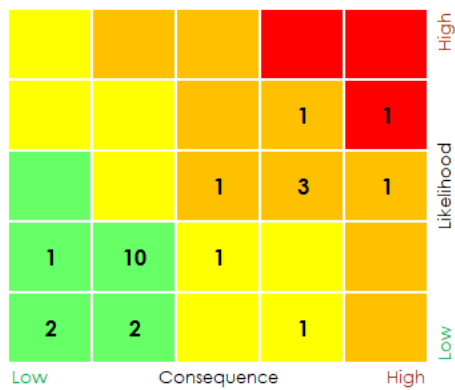
There are over 20 additional actions required to either enhance existing controls or implement new controls to help reduce risks further down or reduce negative consequences if the cost of additional controls does not meet potential benefits.

Risks by Risk Level

Risk Heat Map - **Inherent Risk**



Risk Heat Map - **Residual Risk**



Prior to considering existing controls, 19 of the 24 risks (80%) were rated high or extreme.

After considering existing controls, most of the risks identified were reduced to within Council’s risk appetite. Only 6 risks remained high and 1 at extreme.

Residual Risk by Risk Category

	Total	Low	Medium	High	Extreme	Risks Outside Appetite
Commercial activities	1	1				0
Compliance & Governance	3	1	1	1		2
Environment	2	1		1		1
Financial	6	2		3	1	4
Knowledge & Resilience	4	4				0
People/ WHS	4	3	1			1
Reputation	3	2		1		1
Technology	1	1				0
Total	24	14	2	6	1	9

Based on the risk assessment, the most significant area of risk is financial where 6 risks were identified, and 4 risks remained outside appetite.

Key Risks and Actions

#	Risk	Risk Category	Risk within Appetite
7	Failure to meet Council's and communities' sustainability expectations (greenwashing)	Environment	No
8	Unsustainable business/ service delivery model	Financial	No
9	Bay Pavilion is not financially sustainable	Financial	No
11	External fraud or corrupt conduct	Financial	No
13	Data breach	Compliance & Governance	No
15	Material breach of contract	Compliance & Governance	No
19	Failure of Bay Pavilions to meet community expectations	Reputation	No
23	Death of staff or patron	People/ WHS	No
24	Inadequate transition from defect liability period maintenance to 'business as usual'	Financial	No

Subject to a comprehensive review and discussion of the Bay Pavilions Risk Assessment, the above 9 risks represent the key areas for Council to focus its efforts.

Next Steps

Whilst most of the risks identified have been sufficiently considered and assessed, there are a number of risks that require further risk treatment and consideration. The suggested risk treatments have been included in the risk register.

To progress the risk assessment to the next level, Council will need to:

1. Review and challenge the content of the risks assessment to ensure the results 'reasonably' reflect the risk profile of the Bay Pavilions.
2. Enhance the control identification for risk 7 and risk 13. Specifically, Council's Information Technology team will need to gain a much better understanding of the information assets and infrastructure that exist at the Bay Pavilions to assess the cyber security risks and information technology-based disruption risks. Council will also need to review the energy usage of the Bay Pavilions and identify controls in place to ensure it is sustainable in line with design features.
3. Strengthen the financial controls and reporting governance between AL and Council. Many of these are in the risk treatment plan. Based on the last 12 months performance, the Bay Pavilions is not currently financially sustainable. The nature of the contract also means Council bears all the financial risks. This needs to start with Council establishing 'realistic' financial performance expectations and followed through with a review of the existing contract terms, an updated Services Strategic Plan, an updated Business Plan, stronger links between revenue and marketing initiatives, alignment between Council tourism activities and Bay Pavilions marketing activities, clear delegations of expenditure to AL beyond just having an agreed annual budget, monthly monitoring of actual and year-to-date revenue and expenses with clear accountability for top line and bottom line. The current business model should also be reviewed, and alternatives considered with a view to aligning financial performance to council's financial risk tolerance level.
4. Confirm existence of documentation. Whilst AL have a lot of documentation in place relating to risk assessments, policies and procedures, a more detailed review of the documents that specifically apply to Bay Pavilions is suggested to ensure there is rigour in their implementation and are fit for purpose.
5. Review the adequacy of Council's Crisis Management Plan to ensure it covers a major incident such as loss of life at Bay Pavilions.
6. Draft a new Contingency Plan in the event that AL withdraw their services.
7. Start planning the transition from the defects liability period where the builder is responsible for maintenance to 'business as usual', where Council will incur all the maintenance cost.
8. Continue to strengthen the quality of the risk assessment by validating the existence of all controls contained in the risk register, covering all the risks over the next 12 months.
9. Continue to monitor all incidents and issues at the Bay Pavilions and ensuring compliance with contract terms.
10. This risk assessment should not remain static and requires ongoing review and monitoring of all the current risks and controls and the emerging risks imminent.



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Director

ATTACHMENT 1: BAY PAVILIONS RISK REGISTER

Attached separately.