AGENDA

Ordinary Meeting of Council

10 June 2014
ORDINARY MEETING OF COUNCIL
TO BE HELD IN THE COUNCIL CHAMBERS, MORUYA

ON TUESDAY 10 JUNE 2014

COMMENCING AT 4.00PM

AGENDA

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

1. WELCOME AND EVACUATION MESSAGE

2. APOLOGIES
   Nil

3. QUESTIONS FROM PUBLIC GALLERY (AGENDA ITEMS ONLY)

4. DEPUTATIONS FROM PUBLIC GALLERY (AGENDA ITEMS ONLY)

5. PRESENTATIONS

6. CONFIRMATION OF MINUTES OF PREVIOUS MEETING
   6.1 Ordinary Meeting held on 27 May 2014

7. DECLARATIONS OF INTEREST OF MATTERS ON THE AGENDA
   (Declarations also to be made prior to discussions on each item)

8. MAYORAL REPORTS
   Nil

8. REPORTS OF COMMITTEE
   Nil

9. NOTICES OF MOTION
   Nil

10. QUESTIONS ON NOTICE
    Nil
11. GENERAL MANAGER'S REPORTS
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16. DELEGATE REPORT

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19. CONFIDENTIAL MATTERS
CON14/005 Contract
Item CON14/005 is confidential in accordance with s10(A)(2)(c) of the Local Government Act because it contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business and discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

CON14/006 Contract Charges
Item CON14/006 is confidential in accordance with s10(A)(2)(di) of the Local Government Act because it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

DR CATHERINE DALE
GENERAL MANAGER
EXECUTIVE SUMMARY

To advise Council of the determinations of the Local Government Remuneration Tribunal relating to the setting of mayoral and councillor fees for the 2014/15 financial year, with effect from 1 July 2014.

RECOMMENDATION

THAT Council:

1. Adopt the Remuneration Tribunal’s determination of a 2.5% increase in fees for Councillors and the additional Mayoral allowance;

2. Note that the maximum fees for Regional Rural councils for 2014/15, including the full Tribunal determination, are set at $17,930 for Councillors and $39,110 for the additional Mayoral Allowance.

BACKGROUND

The Local Government Remuneration Tribunal is constituted under the Local Government Act 1993 and is responsible for categorising councils, county councils and mayoral offices to determine the maximum and minimum fees to be paid to councillors, members of county councils and mayors in each category.

Eurobodalla Shire Council is classified as a Regional Rural council.


CONSIDERATIONS

Categorisation of Councils

The Tribunal reviews the categorisation of councils at least once every three years. The Tribunal has not reviewed the categories of councils during the 2014 review and will next consider this in 2015.

Fees for Councillors and the Mayor
Sections 248 and 249 of the *Local Government Act 1993* require councils to fix and pay an annual fee based on the Tribunal’s determination of 2.5% for the 2014/15 financial year.

The level of fees paid will depend on what category the council is in. If a council does not fix a fee, the council must pay the minimum fee determined by the Tribunal.

The Tribunal is now required to have regard to the State Government’s wages policy when determining the increase to apply to the minimum and maximum fees that apply to councillors and mayors. The public sector wages policy currently provides for a cap on increases of 2.5%.

The Tribunal has reviewed the key economic indicators, including the Consumer Price Index and Wage Price Index, and finds that the full increase of 2.5% available to it is warranted.

As a result, the minimum and maximum fees for a Regional Rural council for 2014/15 are determined as follows:

<table>
<thead>
<tr>
<th></th>
<th>Councillor Annual Fee</th>
<th>Mayoral Annual Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Minimum</td>
<td>Maximum</td>
</tr>
<tr>
<td><strong>Regional Rural</strong></td>
<td>$8,130</td>
<td>$17,930</td>
</tr>
</tbody>
</table>

**Financial**

At the time Council’s draft Delivery Program/Operation Plan budget was formulated, the Local Government Remuneration Tribunal had not as yet brought down its determination. The Delivery Program/Operation Plan currently on exhibition recommends a 2.3% increase on last year’s adopted Councillor fees and Mayoral allowance.

The Remuneration Tribunal has now determined an increase of 2.5%. This is an immaterial variance of $187 from the draft Delivery/Operational Plan and as a result the draft budget will not require amendment.

**CONCLUSION**

Under the provisions of the Local Government Act 1993, councils are required to fix and pay annual fees based on the Local Government Remuneration Tribunal’s annual determination. The Tribunal has determined an increase to mayoral and councillor fees of 2.5% for the 2014/15 financial year with effect from 1 July 2014.
PSR14/031 DEVELOPMENT APPLICATION 316/14 - WORKSHOP, CAFE AND OFFICE BUILDING, CAR PARKING UPGRADED FUEL FACILITIES (MARINA)

Responsible Officer: Lindsay Usher - Director Planning and Sustainability Services
Attachments: 1. Confidential DA 316/14 - Submissions Received
Strategic Objective: 5: We help our local economy grow
Delivery Plan Link: Development Services
Operational Plan Link: Assessment of: Development applications

Applicant: Batemans Bay Marina Pty Ltd
Land: Lot 11 DP 870049, Lot 11 DP 124295 and Lot 7052 DP 1106736
Area: 385m² of new buildings
Setbacks: Variable
Height: 6.98m maximum
Zone: SP3 – Tourist and RE1 – Public Recreation
Current Use: Marina
Proposed Use: Marina
Description: Workshop, Café and Offices Building, Car parking, Upgraded Fuel Facilities
Permitted in Zone: Marina is permitted with consent.
DA Registered: 13 December 2013
Reason to Council: Called up by Councillors Schwarz, Leslight, Burnside and Innes
Recommendation: Approval

EXECUTIVE SUMMARY

The purpose of this report is to determine Development Application (DA) 316/14 for a workshop, café and offices building, car parking, upgraded fuel facilities and ancillary works.

The proposed development is appropriately located, recognised by the land use zoning and conditions of the lease with the State of New South Wales. The development is consistent with the strategic objectives and controls of both the state and local environmental planning instruments.

The proposal is both reasonable and appropriate when assessed under Section 79C of the Environmental Planning and Assessment Act 1979 and should be approved subject to conditions.
PSR14/031 DEVELOPMENT APPLICATION 316/14 - WORKSHOP, CAFE AND OFFICE BUILDING, CARPARKING UPGRADED FUEL FACILITIES (MARINA)

RECOMMENDATION

THAT the development application be determined by granting of consent subject to the conditions set out below. These conditions have been applied to this consent for the following reasons:

• To ensure that the proposed development:
  (a) achieves the objectives of the Environmental Planning and Assessment Act, 1979;
  (b) complies with the provisions of all relevant Environmental Planning Instruments;
  (c) is consistent with the aims and objectives of Council’s Development Control Plans, Codes and Policies.

• To ensure that the relevant public authorities have been consulted and their requirements met, or arrangements made, for the provision of services to the satisfaction of those authorities.

• To meet the increased demand for public amenities and services attributable to the development in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979.

• To ensure the protection of the amenity and character of land adjoining, and in the locality of the proposed development.

To minimise any potential adverse environmental, social or economic impacts of the proposed development.

• To ensure that all traffic, carparking and access requirements arising from the development are addressed.

• To ensure the development does not conflict with the public interest.

GENERAL CONDITIONS

1. Approved plans

The development must be carried out in accordance with the plans stamped and numbered 14/316A1 and supporting specifications and documentation, or as modified by any conditions of this consent, or as noted in red by Council on the approved plans. All building work must be carried out in accordance with the requirements of the Building Code of Australia.

<table>
<thead>
<tr>
<th>Plan Nos.</th>
<th>Title</th>
<th>Date of Plan</th>
<th>Prepared by</th>
</tr>
</thead>
<tbody>
<tr>
<td>Revision H of the following: 14/316A1DA101-103, DA 201, DA 301, DA 302, DA 401-404</td>
<td>Various</td>
<td>29/03/14</td>
<td>Spence Pearson Architects</td>
</tr>
</tbody>
</table>
Note: Any alteration to the plans and/or documentation may require the lodgement of an application to modify the consent under s96 of the Environmental Planning and Assessment Act (EPA Act) 1979, or a fresh development application. Your Principal Certifying Authority should be consulted prior to any works contrary to this consent being carried out.

Where there is an inconsistency between the documents approved with this consent and the following conditions, the conditions shall prevail to the extent of that inconsistency.

2. **Water and Sewer Inspections**

All plumbing and drainage works (water supply, sanitary plumbing and 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 Interim or Occupation Certificate.

The following inspections are required to be carried out by Council in regard to the installation of plumbing and drainage works. Inspections may be arranged by contacting Council’s Compliance Unit:

(a) Sanitary drainage under hydrostatic test and prior to backfilling trenches or covering;
(b) Hot and cold water plumbing under pressure test prior to covering;
(c) Internal stackwork under hydrostatic test prior to covering; and
(d) The installation of the septic tank and any sullage trenches prior to backfilling or covering.
(e) Issue of final satisfactory inspection.

3. **Demolition Standards**

Building demolition works are to be carried out in accordance with AS 2601 (2001) – *The Demolition of Structures*.

Note: Developers are reminded that WorkCover requires that all plant and equipment used in demolition work must comply with the relevant Australian Standards and manufacturer specifications.
4. All demolition works must be carried out totally within the allotment boundaries and must not extend onto footpath area, public roadway or adjoining properties.

5. Storage of materials is not permitted on the public footpath area or roadway unless an approved hoarding is provided.

6. In the event of any damage being caused to the existing kerb, guttering, footpath, water mains, sewer mains or public roadway during demolition works, the applicant shall reimburse the Council for the full costs of repairing and making good. Any temporary cross-over material must not remain in the street gutter.

7. **Fencing**
   Fencing shall:
   
   (a) not direct the flow of surface water onto an adjoining property;
   (b) if it is an entrance gate, not swing open onto an adjoining Council property, and
   (c) not be an electrical fence or use barbed wire; and

   if it is constructed of metal components – be of low reflective, factory pre-coloured materials.

8. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

9. **Protection of Adjoining Areas**
   If site or building works will:
   
   - cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient or unsafe; or
   - involve the enclosure of a public place; or
   - have the potential to damage adjoining private land by way of falling objects

   then a temporary hoarding, fence or awning must be erected between the work site and the adjoining area before the works begin. Any such hoarding, fence or awning must be removed when the work has been completed.

10. **Water/Sewer Developer Contributions - Development**
    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:

    a) $17,665.35 (1.798 ET) for the augmentation of sewerage supply mains and storage within Eurobodalla Shire where 1.0 ET = $9,825.
PSR14/031 DEVELOPMENT APPLICATION 316/14 - WORKSHOP, CAFE AND OFFICE BUILDING, CAR PARKING UPGRADED FUEL FACILITIES (MARINA)

b) $8,783.60 (0.778 ET) for the augmentation of water supply works within Eurobodalla Shire where 1.0 ET = $11,290

The contribution shall be paid to the Eurobodalla Shire Council. Evidence of the payment shall be submitted to Principal Certifying Authority prior to the issue of the Construction Certificate.

Note: 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.

11. **Section 94A Contributions (for development >$0.5m)**

Pursuant to Section 80A(1) of the Environmental Planning and Assessment Act 1979, and the Eurobodalla Shire Council Section 94A Development Levy Contribution Plan – 2007 (S94A Plan) a development contribution is required to be paid to Council prior to issue of the Construction Certificate.

Where the cost of the development exceeds $500,000, the S94A Plan requires a cost estimate report prepared by a registered Quantity Surveyor to be forwarded to Council with payment of the contribution. The S94A contribution amount is calculated at the rate of 1% of the total development cost and shall be used by Council in the provision, extension or augmentation of public amenities or public services. The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the provisions of the S94A Plan.

Note: Development costs include GST and are to be calculated in accordance with the definition of development costs in cl.25J of the Environmental Planning and Assessment Regulation 2000 at current prices.

12. **Sewerage Manhole**

Any alterations to the ground surface adjacent to the sewerage manhole in the vicinity or within the property will require application and payment to Council for alterations to the manhole level to match the new ground surface level. Manholes within driveways will require provision of a trafficable lid at the applicants cost.

13. **Discharge of Liquid Trade and Factory Waste**

Liquid trade and factory waste or chemicals or other impurities from any business, trade or manufacturing process other than domestic sewage is not permitted to be discharged into Council’s sewerage system without application and approval by Council. The application for approval must be in accordance with Council’s Liquid Trade Waste (LTW) Policy.
14. **Power Outlets**  
All additional power outlets to be constructed as high as practical or at a minimum height of 900mm above the floor level.

15. **Requirements for Helicopter Landing Site**  
The Civil Aviation Safety Authority (CASA) document CAAP 92-2 (2) and ‘NSW Ambulance Service document Guidelines for Hospital Helicopter Landing Sites in NSW’ outline the recommended requirements for a Helicopter Landing Site (HLS). The proposed development is to comply with the minimum requirements outlined by these documents.

In this regard a safety zone is required surrounding the HLS. This safety zone is to be a circle, 33m diameter or a 33mx33m square centred upon the HLS. No fixed objects should be permitted on or in the area defined as the Safety Area, except for objects not exceeding a height of 25 cm.

16. **Roads and Maritime Service (RMS)**  
The following conditions of consent are required by the Roads and Maritime Service (RMS):

- Prior to the commencement of works, the developer shall obtain Section 138 consent under the Roads Act, 1993 for all works on Beach Road.
- Appropriate directional signage shall be installed where necessary to assist motorists to enter and exit the site in a safe manner. RMS recommends that developer consult with Peter Bache (RMS Network and Safety Officer, 02 6492 9502) to assist in the determination of suitable signage and its location.
- The driveway shall be designed in accordance with Council standards. The egress only driveway shall be skewed or realigned to geometrically discourage vehicles entering the site via this access point, whilst still providing an appropriate observation angle for vehicles entering Beach Road.
- The developer shall be required to provide a suitable drainage treatment across the driveway to prevent water proceeding onto, or undermining, the travel lane of Beach Road.
- All roadworks, traffic control facilities and other works associated with this development including any modifications required to meet RFS standards will be at no cost to RMS. ALL works shall be completed prior to occupation.
- Prior to occupation the developer shall obtain formal notification from Council that the works on Beach Road were designed and constructed to Council’s satisfaction.
- The developer shall apply for and obtain a Road Occupancy Licence (ROL) from the RMS Traffic Operations Unit (TOU) prior to commencing roadworks on a State Road or any other works that impact a travel lane of a State Road or impact the operation of traffic signals on any road. The application will require a Traffic...
Management Plan (TMP) to be prepared by a person who is certified to prepare Traffic Control Plans. Should the TMP require a reduction of the speed limit, a Speed Zone Authorisation will also be required from the TOU. The developer shall submit the ROL application 10 business days prior to commencing work. It should be noted that receiving an approval for the ROL within this 10 business day period is dependant upon RMS receiving an accurate and compliant TMP.

Note: An approved ROL does not constitute an approval to commence works until an authorization letter for the works has been issued by RMS Project Manager.

17. Fisheries NSW – General Terms of Approval
In accordance with Section 91 of the Environmental Planning and Assessment Act 1979 the following conditions are required to comply with the General Terms of Approval issued by Fisheries NSW, a division of NSW Department of Primary Industries:
(a) Environmental safeguards (e.g. silt curtains, sediment fences, booms etc.) are to be installed consistent with “Managing Urban Stormwater: Soils and Construction” (4th Edition Landcom, 2004, aka the Blue Book) to ensure that there is no escape of turbid plumes into the adjacent aquatic environment;
(b) No mangroves, seagrass, saltmarsh or other marine vegetation are to be harmed during the works and/or during access to the work site, including during installation and removal of erosion and sediment controls;
(c) Spill kits suitable for the containment of fuel and oils spills must be kept on site;
(d) Fisheries NSW (1800 043 536) is to be immediately notified of any fish kills in the vicinity of the works. In such cases, all works other than emergency response procedures are to cease until the issue is rectified and written approval to proceed is provided by Fisheries NSW.

18. Batemans Bay Marine Park Authority
The following conditions of consent are required by the Batemans Bay Marine Park Authority:

Prior to the commencement of any works within or over the marine park, a marine parks 'works' permit under C1.1.22 of the Marine Parks (Zoning Plans) Regulation 1999 will be required. This is of particular relevance to the upgrade of the re-fuelling facilities and associated plumbing.

Waste generated should also be managed, transported, reused, stored, collected and disposed of in an environmentally satisfactory manner pursuant to the NSW Protection of the Environment Operations Act 1997, and that all reasonable measures regarding the control and prevention of pollution and waste from being introduced into the Marine Park are implemented.
PSR14/031 DEVELOPMENT APPLICATION 316/14 - WORKSHOP, CAFE AND OFFICE BUILDING, CARPARKING UPGRADED FUEL FACILITIES (MARINA)

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

19. **Landscape Plan**
   Prior to the issue of a Construction Certificate, submission to and approval by Council of a detailed Landscape Plan for the development. This landscape should be consistent with the previously submitted Landscape Concept Plan however it must also be compliant with the requirements of Condition 20 of this Consent.

20. **Acid Sulfate Soil**
   The development site is within an area classified as Class 3 on the Eurobodalla Local Environmental Plan 2012 Acid Sulfate Soils Maps. If excavation is proposed below natural ground level, soil samples are to be assessed for content of acid sulfate material by a suitably qualified person and the results lodged with Council prior to the release of a Construction Certificate.

   If acid sulfate materials are identified no excavation shall take place until the applicant has lodged an Acid Sulphate Soils Management Plan prepared by a suitably qualified person in accordance with the NSW Acid Sulfate Soils Manual. The plan is to be submitted for approval by Council, and undertake such measures as are required by Council.

21. **Access**
   Prior to release of the Construction Certificate, submission to Council and approval by Council of a plan showing details of the access driveway construction addressing the following:

   (a) The location of the driveway within the site and extending to the existing road;
   (b) A plan and longsection showing existing and final levels along the centreline of the driveway from the road centreline to the back of the vehicle standing area, with final levels providing grades to Council specifications or AS2890.1;
   (c) Method of containing all fill and excavation associated with the driveway within the lot;
   (d) The extent of earthworks within the footpath area adjacent to the driveway to provide a maximum slope of 1 in 8 (12.5%);
   (e) The location of all services in plan and elevation and any alterations required to conform to the standards of the service provider;
   (f) Pavement designs;
   (g) Where no kerb exists, contact Council’s Engineering Development Assessment Officer on (02)44741000 for alignment and level details.

22. **Sealed Traffic Areas**
   Prior to the issue of a Construction Certificate submission to and approval by the Principal Certifying Authority of satisfactory plans for sealed carparking spaces,
manoeuvring areas and access driveways all conforming to AS2890.1 and 2. Drainage and pavement designs are to be prepared by a qualified engineer and are to address expected vehicle loadings and any fill compaction requirements. Disabled parking is to be designed in accordance with AS2890.6:2009 and constructed prior to release of the Final Certificate.

23. **Number of Car Spaces**
   Prior to the issue of a Construction Certificate submission to and approval by Council of plans showing a minimum of 102 car spaces, and an additional three motorcycle spaces, provided for the development. At least two of these car spaces are to be made available for disabled persons and are to be located in close proximity to the entry of the building.

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

25. **Construction Management Plan**
   A Construction Management Plan shall be submitted to and approved by Council prior to the issue of a Construction Certificate. The Plan shall address, but not be limited to, the following matters:
   
   (a) hours of work;
   (b) contact details of site manager;
   (c) arrangements for site deliveries and removal of material from site;
   (d) details of hoardings;
   (e) details of demolition works and the presence of any asbestos or other hazardous waste;
   (f) traffic and/or pedestrian control measures;
   (g) dust control measures;
   (h) noise control measures;
   (i) screening from adjoining properties;
   (j) the impact of helicopter downwash on the construction areas and the consequences on the safety of emergency services crews, patients, workers, Marina users and the general public;
   (k) how emergency service access to and from the helipad will be retained at all times and the method of consultation to ensure that the emergency service workers are aware of any changes to the existing access arrangements;
   (l) environmental management measures including sediment and erosion control;
   (m) the management of waste during construction.

26. **Details of Materials, Colours and Finishes**
   Final design details of the proposed external materials and finishes, including schedules
and a sample board of materials and colours shall be submitted for approval by Council prior to the issue of a Construction Certificate.

27. **Water Meter – Industrial/Commercial Development**
Submission to Council of certification and layout plan for the service by a suitably qualified hydraulic engineer/consultant on the recommended water meter size required for the development in accordance with AS 3500.1:2003 National Plumbing and Drainage Code and AS2441-2005 Installation of Fire Hose reels.

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

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

A standard meter connection is where the water main is located on the same side of the street as the property, the meter is to be located approximately 2.4 metres from the water main to just inside the property boundary and laid in a non-hard surface area (grassed). Please contact Council’s Water and Sewerage Project Engineer on 44741342 to arrange the quote and prepayment will be required to be receipted at Council Administration Centre at Vulcan Street Moruya, the Batemans Bay or Narooma Depot.

28. **Structural Engineers Certification**
The consent holder shall provide certification from a qualified structural engineer that verifies the proposed building will be unaffected by the down forces likely to be imposed by helicopters accessing and egressing from the Helicopter Landing Site.

29. **Signage Details**
Prior to the issue of a Construction Certificate details of the proposed signage for the development must be submitted and approved by Council.

**PRIOR TO COMMENCEMENT OF WORKS**

30. **Inspection of Sewer and Water Works**
Contact is to be made with Council’s Water and Sewer Inspector on (02) 4474 7457 or 0418 412909, two days prior to commencing any excavation for the sewer or water extension. Payment for inspections are to be in accordance with Council’s fees and charges and are to be paid prior to final inspection. The final certificate to occupy the proposed dwelling is not to be issued prior to submission of Work as Executed plans and
testing of the new sewer or water main by Council.

31. **Construction Certificate**

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

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

      (i) the Council, or

      (ii) an accredited certifier, and

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

      (i) has appointed a Principal Certifying Authority, and

      (ii) has notified the Council of the appointment, and

   (c) The person having the benefit of the development consent has given at least two days’ notice to the Council of the person’s intention to commence the erection of the building; and

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

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

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

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

32. **Site Waste Management**

   A site rubbish enclosure must be provided prior to commencement of any work for the period of the proposed work and remain in place for the duration of all works. All waste materials from the site must be disposed of at an authorised waste facility.
DURING CONSTRUCTION

33. **Loading and Unloading of Construction Vehicles**
   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.

34. **Protection of Street Trees/Tree Removal/Replacement**
   Completion of landscaping in accordance with the approved Landscape Plan prior to commencement of the use of the site and such landscaping is to be continuously maintained in accordance with the approved Plan. Maintenance is the landowner’s responsibility. All trees not specifically approved for removal are to be suitably protected by way of tree guards, barriers or other measures as to protect root system, trunk and branches during construction.

35. **Approved Plans to be On-Site**
   A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of Council or the Principal Certifying Authority.

PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

36. **Food Premises**
   The food premises shall be registered with the NSW Food Authority. A copy of the shop registration shall be supplied to Council prior to occupation.

37. The development shall not be used or occupied until an Occupation Certificate has been issued by the Principal Certifying Authority.

38. **Screening of Waste Areas**
   Areas of waste disposal must be adequately screened to ensure that they are not visible from the public sphere.

39. **Removal of Temporary Structures - Hoardings**
   Any hoarding or similar barrier that was erected to protect a public place shall be removed from the site prior to the occupation of the building(s) or commencement of the use.

40. **Fire Safety Certificate**
   A Fire Safety Certificate shall be furnished to the Principal Certifying Authority 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
PSR14/031 DEVELOPMENT APPLICATION 316/14 - WORKSHOP, CAFE AND OFFICE BUILDING, CARPARKING UPGRADED FUEL FACILITIES (MARINA)

Council by the Principal Certifying Authority with the Occupation Certificate.

ADVISORY NOTES

41. **Discovery of a Relic**
   If Aboriginal relics or objects are uncovered during work, excavation or disturbance of the area, any such activity must stop immediately. The Environmental Protections and Regulation Group of the Office of Environment and Heritage is to be immediately contacted. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the NSW Heritage Act 1977 may be required before further works can continue in that area.

42. **Disability Discrimination Act 1992**
   The Disability Discrimination Act covers disabilities not catered for in the minimum standards called up in the Building Code of Australia, which references AS1428.1 - “Design for Access and Mobility”. AS1428 Parts 2, 3 and 4 provides the most comprehensive technical guidance under the Disability Discrimination Act currently available in Australia.

43. **Sea Level Rise Liability**
   This land may be subject to sea level rise and this development has been assessed using the best available information regarding the likelihood of inundation and/or coastal erosion at the date of determination. The infrastructure in this locality (such as sewer, water, stormwater and roads) may also be subject to sea level rise. At the granting of consent there is no commitment or intention by Council to improve or maintain infrastructure should this be impacted by sea level rise in the future.

   If the land is impacted by sea level rise in the future, Council will not, pursuant to Section 733 of the Local Government Act 1993, incur any liability in respect of the granting of this consent.

44. **Underground Utility Services Check**
   The applicant shall contact the "Dial Before You Dig" service on telephone (02) 1100, fax number 1300-652-077 or email mocsinfo@mocs.com.au, prior to the commencement of excavation, to ascertain the presence and type of underground utility services in the vicinity of the development.

45. **WorkCover Requirements**
   The applicant may contact the WorkCover Authority of NSW, 6/248 Carp St, Bega Telephone No: (02) 6491-6600 for further information on safe construction methods or visit their website [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au).
46. **Ocean Location**
Council is of the opinion that the land is located within a corrosive environment, ie. that it is located within 1km from breaking surf, within 100m of salt water not subject to breaking surf or heavy industrial areas. Materials used in construction may require a higher level of corrosion protection in accordance with relevant Australian Standards and the Building Code of Australia.

47. **BCA Compliance**
This Development Application has been subject to a merit based assessment. The plans lodged and approved have not been assessed against the provisions of the Building Code of Australia (BCA). It is your responsibility to ensure the plans lodged with any Construction Certificate application show full compliance to all provisions of the BCA.

48. **Water Supply**
An application shall be made to Council, as the authorised water supply authority, for a Certificate under the Water Management Act 2000. Evidence that a Compliance Certificate has been applied for (ie Notice of Requirements) shall be produced to the satisfaction of the PCA prior to the issue of a Construction Certificate. The Section 73 Certificate shall be submitted to the PCA prior to the occupation of the development or release of the linen plan.

**Note:** This approval does not become valid until a formal consent document is issued by Council.

**BACKGROUND**

Batemans Bay Marina (the Marina) is located inside a training wall which runs along the southern bank of the Clyde River. The Marina sits within the Crown Lands lease area which is defined by Lot 11 DP124295 and Lot 11 DP870049 on Beach Road in Batemans Bay.

The Marina is a valued facility within the Batemans Bay area which is utilised for both recreational and commercial boating as well as mooring several critical services such as Marine Rescue and NSW Maritime vessels.

Batemans Bay Marina Pty Ltd (BBM), currently operate the Marina. BBM lease the land area for the Marina from the State of New South Wales. The proposed works are consistent with the ‘Development Obligations’ to be carried out by the Proponent under the Lease from the State of New South Wales.

**POLICY**
In determining a development application, a consent authority is to take into consideration the following policy matters under Section 79C (1) (a) of the Environmental Planning and
Assessment Act 1979 that are of relevance to the development the subject of the development application:

**State Environmental Planning Policy 71 – Coastal Protection**
State Environmental Planning Policy 71 – Coastal Protection (SEPP 71) is aimed at protecting the NSW coast, ensuring the public have access to the waterfront, maintaining amenity and protecting environmentally and culturally significant aspects.

The subject site is located on land identified within the coastal zone but NOT a sensitive coastal location. The proposal has been considered against the Matters for Consideration outlined in Clause 8 of SEPP 71 and is consistent with the aims of the policy and does not result in any unacceptable impacts on the coastal environment having regard to scenic qualities, access, archaeological significance, ecosystems, coastal processes, wildlife corridors, water quality nor does it result in conflict between land-based and water-based coastal activities.

**State Environmental Planning Policy 55 Remediation of Land (SEPP 55)**
SEPP 55 aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

The proposal includes the replacement of exiting on-site petrol tanks and associated above ground bowsers. The Contaminated Land Planning Guidelines, lists service stations as an activity that may cause contamination, and therefore it can be assumed that land immediately surrounding the existing petrol tanks may be contaminated. Given the proposal includes the replacement of existing tanks and does not introduce a new use upon the area of the land likely to be contaminated; remediation is not required in accordance with clause 7(1) of the SEPP.

**Eurobodalla Local Environmental Plan 2012 (LEP)**
The land is zoned SP3 Tourist under the provisions of Eurobodalla Local Environmental Plan (ELEP) 2012. The proposed development is considered to be ancillary to the existing ‘marina’. Under the zoning of the land, SP3, ‘marina’ is listed as a permissible use in the zone. The proposal is considered to be a suitable form of development and is not inconsistent with the objectives of the zone, development standards or the miscellaneous and additional local provisions.

**Batemans Bay Regional Centre Development Control Plan**
The proposed development has been assessed against all acceptable solutions or performance criteria (where the development requires an alternate solution to the accepted development control) of the Batemans Bay Regional Centre DCP and is deemed to comply.

**Eurobodalla Interim Sea Level Rise Adaption Policy**
Pursuant to Clause 12.0 of the Policy the proposed development is subject to a merit based assessment by Council.
The proposed building incorporates a finished floor level of RL 2.05 AHD deemed acceptable considering the existing adaptation measures incorporated along this section of the Eurobodalla coastline as well as the 50 year planning period for commercial development. Further, the proposed siting of the development is considered appropriate for the following reasons:

- The building is demountable and can be altered to accommodate future sea level rise by way of raising floor levels due to its greater than required floor to ceiling height; and
- Electrical wiring and associated equipment is located above the proposed finished floor level.

Parking and Access Code

Vehicular access arrangements to the site have been designed to minimise any impact on traffic flows on Beach Road as follows:

- The existing marina entry from Beach Road will be controlled by gates and will only access the secure area for marina employee parking as well as the slipway area of the Marina proper. Space for medium rigid vehicle reversing is provided in front of the gate to avoid any issues should the gate be locked or unauthorised vehicles enter this driveway.
- The main vehicle entry to the car park is now proposed via the existing roundabout to the west on Beach Road.
- A third exit-only driveway is provided from the car park to the west of the existing entry. This exit-only driveway will aid in traffic flow within the car park.

This access, parking and traffic impact assessments arrangements were referred to the Roads and Maritime Service (RMS). The RMS raised no significant issues subject to certain conditions which will be imposed on the consent.

Appropriate advisory signage will be conditioned to be erected at each driveway entry point.

The bulk of the parking requirement stems from the existing wet berths of the Marina and as this aspect of the total development on the site is unchanged by this DA, it is obvious that the existing car parking arrangement is in a deficit of required parking by a significant margin. The proposed development results in the entire site becoming compliant with Council’s requirements and is therefore considered to be a favourable outcome for the site and surrounds.

Compliant parking numbers are provided as outlined by the following table:
PLANNING REPORT TO ORDINARY MEETING OF EUROBODALLA SHIRE COUNCIL
HELD ON TUESDAY 10 JUNE 2014

PSR14/031 DEVELOPMENT APPLICATION 316/14 - WORKSHOP, CAFE AND OFFICE BUILDING, CAR PARKING UPGRADED FUEL FACILITIES (MARINA)

<table>
<thead>
<tr>
<th>Type of Parking</th>
<th>Ratio</th>
<th>Number</th>
<th>Parking requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wet Berths</td>
<td>0.6 car parks per berth</td>
<td>130 wet berths</td>
<td>78</td>
</tr>
<tr>
<td>Dry Storage Berths</td>
<td>0.2 per berth</td>
<td>16 dry storage spaces</td>
<td>3.2</td>
</tr>
<tr>
<td>Marina staff</td>
<td>0.5 per employee</td>
<td>1 Full Time Employee</td>
<td>0.5</td>
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<tr>
<td>Offices</td>
<td>2 per office</td>
<td>3 Offices</td>
<td>6</td>
</tr>
<tr>
<td>Workshop (vehicle repair)</td>
<td>5 spaces for the first work bay plus 3 per each additional bay</td>
<td>1 Work Bay</td>
<td>5</td>
</tr>
<tr>
<td>Café (restaurant)</td>
<td>1 space per 8m² public area plus 25% of that rate for outdoor areas (not including the first 30% of the outdoor area)</td>
<td>65m² public area</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td></td>
<td>65m² outdoor seating</td>
<td></td>
</tr>
<tr>
<td>Service Vehicle</td>
<td>Development must provide dedicated space.</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Disabled Spaces</td>
<td>1 space per 50 spaces required</td>
<td>102.7</td>
<td>2</td>
</tr>
</tbody>
</table>

**Landscaping Code**
Additional trees and significant amounts of other planting is proposed down the central pedestrian promenade. The new trees, together with the retention of the existing mature trees along the Beach Road frontage will serve to visually soften and provide shade to the proposed car park extension and walkway. In this regard, the parking rows have been kept short to incorporate planter boxes at the end of each row, generally consistent with Council’s Landscape Code of Practice which recommends plantings at intervals of five to ten spaces.

None of the trees to be removed are identified as being threatened or endangered species. The planting of additional trees within the parking area would result in a deficit of compliant parking spaces and any planting to the north of the parking area would result in potential conflict with the operations of the helipad.

**Signage Code**
This Code controls all signage within the local government area with the exception of those that are defined as exempt development. Two business identification signs are proposed at the
entry to the proposed car park. The proposed signs will fall under the Code definition of ‘Ground signs’. These are defined as follows:

‘Ground Sign - is an independent sign that identifies the business name and is normally erected at a driveway entrance or within the building setback as a permanent structure,’

Details of the proposed signs have not been provided as part of this DA only location descriptions. Accordingly a condition of consent will be imposed that ensures the detailed designs be submitted for Council approval prior to their installation. Future signage will require development consent unless it meets the exempt development provisions.

**Site Waste Minimisation Code**

The objectives of the Code include the minimisation of resource requirements and construction/demolition waste through reuse and recycling and the efficient selection and use of resources.

A Waste Management Plan was submitted with the application in accordance with the Code’s requirements. Subject to the recommended conditions of consent the applicant’s Plan is considered to be satisfactory and must be adhered to during all stages of construction.

A more detailed Construction Management Plan will be prepared and submitted to the Principal Certifying Authority to ensure compliance with the relevant state and local government regulations.

**Safer By Design Code**

This code aims to promote a safe environment for the community by minimising the risk of crime associated with new development, and ensure the security of residents and visitors and their property, and to enhance the perception of community safety.

The inclusion of the new café and offices will increase public surveillance of the Marina, adjacent reserve and fencing. Increased lighting and security camera surveillance of the boat parking area will minimise the risk of theft of these valuable assets and clearly define public and private areas of the Marina.

The wide pedestrian boulevard fulfils a secondary function in providing a wide well-lit view corridor down the centre of the site to the areas of recreation equipment which are typical targets of antisocial behaviour. These areas are provided with dedicated lighting at all times which increases the ability for casual surveillance of the site and perceptions of community safety.

**Advertisement and Notification Code**

The Eurobodalla Advertisement and Notification Code sets down advertising and notifying requirements for certain identified types of development. Advertising and notification of
certain development applications is intended to establish the rights of people to make submissions on these development applications.

The application was advertised and notified in accordance with Section 3.3 of the Code. The Environmental Planning and Assessment Act and Regulations outlines the requirements for the form and length of the advertisement.

Environmental Planning and Assessment Regulation 2000

Designated Development
The existing marina exceeds the vessel capacity threshold (80) that identifies the existing development as Designated Development under the Environmental Planning and Assessment Regulations (the Regulations), Schedule 3.

Development described in Part 1 Clause 23 of Schedule 3 to the Regulations is Designated Development for the purposes of the Section 77A of the Act unless it is found not to be Designated Development by a provision included in Parts 2 and/or 3 of that Schedule.

The proposed development in accordance with the regulation, is for alterations and additions to the existing marina facility. The proposed development does not constitute Designated Development on the basis that it satisfies the ‘tests’ under Parts 2 and 3 of Schedule 3 of the Regulations. These tests relate to the impact of the existing development, the proposed development and proposals to mitigate these impacts or facilitate compliance with relevant planning provisions.

In forming the opinion that the subject development was not Designated Development, staff considered factors having regard to, but not limited to; the existing marina’s previous environmental management performance, the number and nature of all past changes and their cumulative effects as well as the likely impact of the proposed alterations or additions on; the scale and character of the proposal in relation to the development, and the degree to which potential environmental impacts can be predicted in addition to the capacity of the receiving environment to accommodate those changes.

It was found that the use of the workshop, café and offices in relation to the Marina were complementary uses which added to the character of the area by creating a more activated recreational hub, consistent with the zone objectives of the SP3 –Tourism Zoning. Furthermore the creation of the car parking and boat storage was not considered to be unacceptably out of character with the existing development due to the provision of wide-scale landscaping which not only offsets the required tree removal and softens the aesthetic of the car park but also encourages public access and use of the Public Open Space foreshore area by establishing a wide pedestrian boulevard along with relocating the picnic benches to the more attractive foreshore section of the precinct.
Public Participation

The DA was open for public exhibition for a period of 28 days between 18 December 2013 and 15 January 2014. This extended period was in response to the Council close down and summer holiday period and offsets the unavailability of staff.

All adjoining and adjacent property owners were sent letters advising of the DA, a notice was placed in the 18 December 2014 edition of the newspaper and a sign advising of the DA was placed at the street frontage of the property. Upon receipt of revised plans, the persons or organisation who lodged a submission were contacted and given the opportunity to comment on these revised plans.

The submission period for the DA complied with the relevant requirements and resulted in the receipt of five submissions which are dealt with in the Consultation section of this report.

ENVIRONMENTAL

In determining the development application, Council must take into consideration the following environmental impacts under Section 79C (1) (b) and (c) of the Environmental Planning and Assessment Act 1979 that are of relevance to the development the subject of the development application:

Natural Flora and Fauna

There are no known protected estuarine species within or close to the proposed works area. Trees to be removed are either non-native to the area or are not identified as being threatened or endangered species. The sand shoal to the southeast of the proposed site is a known site for the breeding and nesting of migratory birds. Four species of Threatened Fauna were also identified as occurring close to the proposed works area through a search of the NSW Bionet database. These species include Pied Oystercatcher, Sooty Oystercatcher, Gang-gang Cockatoo, and the Glossy Black Cockatoo.

No impact on any identified endangered or threatened species of flora or fauna is anticipated as a result of the proposed works. Due to the development’s siting well away from the sand shoal to the east as well as the absence of any dredging, construction or demolition works proposed below the mean high tide water line

The preparation of a Construction Management Plan previously discussed, must also include environmental management measures to ensure protection of any endangered ecological communities or aquatic plant species present in the locality.

Noise

Sensitive receivers, who may potentially be affected by construction noise associated with the proposed works, consist of the residential dwellings and local businesses adjacent to the marina. Potential noise impacts from the proposed works will be limited to construction noise
associated with the movement of material and construction of the car park and are required to comply with relevant standards.

Construction works associated with the proposed development will be conducted in accordance with standard hours of construction work. The applicant will be required to follow procedures in AS2436-1981: Guide to Noise Control on Construction, Maintenance and Demolition Sites and the Interim Construction Noise Guidelines.

_Erosion and Sediment Control_
Erosion and sediment controls are conditioned to be implemented during construction works and will be included in the Construction Management Plan. Provided that the above management and mitigation measures are implemented and adhered to, it is considered unlikely that significant impacts on the environment will result from sedimentation and erosion.

Built

_Building Aesthetics_
In response to concerns regarding the aesthetics of the proposed building, amended plans were submitted that include the introduction of new building materials and more articulation of the building, both horizontally and vertically.

The revised plans result in a high quality, interesting and visually attractive building. Accordingly the amended design is now consistent with the objectives and controls contained within SEPP 71 and Council’s Batemans Bay Regional Centre DCP with regard to visual impact and aesthetics.

Social

_Heritage_
There are no known areas of aboriginal archaeology located on the site which is reclaimed land. As such, there is no likelihood of any items (artefacts) of Aboriginal heritage being located within its curtilage, however notification will be incorporated into the consent which require works to stop should any relic be discovered.

_Loss of Open Space_
Currently the western two-thirds of the site consists of a turfed area upon which is situated 4 covered picnic benches and tables. The site is however zoned SP3 – Tourism and is not public open space land being under a lease situation. Accordingly the creation of the car park does not result in any net loss of any public open space.

The remaining eastern third of the site has comparable facilities to the proposed development including the sealed access and parking, amenities building and hardstand areas beyond. The alteration of the existing emergency access to the breakwall both increases pedestrian safety
and encourages access to the public open space foreshore area through the creation of wide, well lighted and attractive dedicated boulevard which is a favourable outcome for the site.

Economic

The Batemans Bay local economy is greatly supported by the tourism industry which operates within and around Batemans Bay. The tourism industry in this area is largely driven by the recreational assets including boating, fishing and swimming facilities. The Marina performs an important role in supporting recreational boating and tourism in Batemans Bay and, in addition to private vessel owners, provides vessel mooring for many boating and fishing organisations, government departments and educational establishments as well as various local charter boat operators.

The proposed works will benefit the boating community by providing additional car parking and more clearly defined pedestrian routes through the site. The addition of the proposed mixed use building will provide an attractive café/restaurant facility, for not only the Marina users but the broader community and tourists to the region, which should boost the economic prosperity of the area.

Suitability of the Site

The subject site is considered to be suitable for the intended use and zoned for the purpose.

CONSULTATION

In determining a development application, a consent authority is to take into consideration the following environmental impacts under Section 79C (1) (d) and (e) of the Environmental Planning and Assessment Act 1979 that are of relevance to the development the subject of the development application:

Submissions

During the advertisement period five (5) submissions were received. These individuals or organisations which lodged a submission were also notified upon the receipt of revised plans. The revised plans were provided in the format requested by the submitters which upon the provisions of the revised plans no additional objections were received.

The main issues raised in the initial objections are summarised below and a response provided in each instance:

Inadequate Advertisement Period

A further extension to the exhibition period was sought by a number of submitters. However given the period was already doubled in response to the Council Christmas close down, and in the interest of providing a timely assessment within statutory limits, a further extension of the exhibition period was not provided.
Warehouse-like Aesthetics and Lack Architectural Design
Given the significant design changes incorporated into the revised plans, it is considered that concerns relating to the aesthetics of the ‘industrial shed’ originally proposed have been adequately addressed. Following the provision of the revised plans to those who made a submission no further objections were raised to the revised design.

Amenity for Patrons of the Site
Concerns were raised regarding the amenity of restaurant patrons due to the proximity of the workshop. This proximity is not considered to be a significant issue due to the requirement that building comply with the requirements of the Building Code of Australia as well as the proposed fencing separating the more industrial use from the open space, restaurant and offices.

Traffic Impacts on Beach Road and Inadequate Car Parking
The revised plans addressed many of the concerns raised by ensuring the primary access and egress from the Marina is via the Beach Road/Bavarde Avenue round-a-bout as well as ensuring compliant car parking provision in accordance with the Eurobodalla Parking and Access Code of Practice. Additionally the provision of dedicated pedestrian access walkways within the car parking area provide a safer more attractive option for pedestrian accessing the site.

Additional suggestions raised by the submissions such as utilising the Marina break wall and shared pathway within the Beach Road road reserve for car parking are not considered appropriate or necessary due to the proposals compliant car parking provision.

Safety
The safety of pedestrians within the car parking and access area as well the proximity of the industrial workshop/hardstand areas to the café/office area were also raised as potential issues for the site. The dedicated pedestrian walkways and more logical car parking/boat storage lay out of the revised plans ensure that the safety of patrons accessing the site is maximized. The proposed fencing and conditions of consent requiring compliance with the relevant Australian Standards for fuel facilities are considered to adequately address the potential for conflict between the uses on site.

Marina Operational Issues
A number of concerns were raised with regards to the on-water berthing component of the Marina and its non-compliance with Australian Standards as well as sub-par safety. The on water berths of the Marina are not subject to this DA. BBM was provided a copy of the concerns raised by these submissions to ensure that the issues are taken into account by the on-going upgrades to the wet-berths.

Comparison with the Previous Proposals
Comparisons were made with previous concepts planned for the site. Council has no legislative capacity to require the applicant to increase the scale of the development to the level of
previous plans. However, it needs to be noted that the subject development is a stage in an overall concept for the redevelopment of the Marina.

Loss of Foreshore Open Space
Submissions raised concerns regarding the conversion of the existing ‘open space’ to car parking to serve the Marina. This concern is addressed within the Social section of this Report.

Safer By Design
Given the revised plans consistency with Council’s Safer by Design Code of Practice objectives, it is considered that these concerns have been adequately addressed.

Landscaping
Given the revised plans incorporation of many of the suggested landscaping features, such as relocation of the picnic benches to the foreshore public open space, providing planting to soften the hardstand areas and the proposed building, altered materials for the shared/pedestrian zones and provision of vegetation within the car parking areas, it is considered that these concerns have been adequately addressed.

Flooding and Sea Level Rise
Concerns regarding the Finished Floor Level of the development and comparisons made between residential developments in other areas are not considered to be a pertinent planning consideration. This is on the basis that the development is assessed on differing planning horizons (50 years versus 100 years) for commercial development. The assessment of sea level rise has found that the development’s response is acceptable.

The floor level of the café and offices in the new building has been designed to be easily raised in 50 years if required.

Emergency Service Access and Use of the Site
Concerns were raised by both public submissions and external referral agencies regarding the imposts to emergency services access and egress to the helipad. In order to enable continued access for emergency service vehicles to the helipad from the new car park, fencing along the northern edge of the proposed car park extension was removed and the existing pathway reinstated. The revised car park arrangement provides for logical circulation of emergency vehicles accessing the site particularly from their existing access point, off the Beach Road roundabout.

The revised plans have ensured that the development retains compliance with the Civil Aviation Safety Authority (CASA) document CAAP 92-2 (2) which details the requirements for Final Approach and Take-off exclusion zones as well as other factors crucial to the continued operation of the site. The existing exclusion zone enforced by the low timber fence surrounding the helipad will not be altered by the proposed development.
In addition, the proposed building is a strong steel framed structure which should be unaffected by any down forces from helicopters accessing the site. This will be ensured by the requirement of this to be verified by a structural engineer prior to the issue of Construction Certificate.

**Waste Management**
A lack of accessible garbage receptacles for patrons of the marina’s wet berths is identified as an ongoing issue. The proposed development relocates the waste storage areas to a publicly accessible area. The submitted Waste Management Plan proposes adequate provision of waste storage in the form of four, 240L bins and an 1100L skip bin with compaction facilities available with collection to be on a weekly basis.

**Compliance with SEPP 71 Considerations**
Concerns were addressed by way of increased pedestrian access to the public foreshore area, re-designed aesthetic of the proposed building, satisfactory Ecologically Sustainable Development outcomes and compliance with the applicable Development standards.

**Replacement of Fuel Facilities**
The suggestion that a larger fuel reservoir is required to fully service the Marina is an operational concern best left to the discretion of management at the Marina. It is not a planning concern able to be considered in the assessment. The proponent is aware of the concern raised.

**The Public Interest**
The public interest is best served by the orderly and economic use of land for purposes permissible under the relevant planning regime and in accordance with the prevailing planning controls. The proposed works will improve the facilities and prolong the life of the Marina for the community.

**CONCLUSION**
The proposal will result in a positive impact for the community in terms of the general aesthetics of the Marina and significantly improved facilities for boat users and other visitors to the site, in support of continued tourism growth in Batemans Bay.

The development will support increased tourism and recreation which provides economic and social benefits to the existing and future local community by increasing employment opportunities both during construction and subsequent occupation of the proposed development.

Subject to the conditions of consent the proposal is considered to be consistent with the relevant sections of the Environmental Planning and Assessment Act 1979, the relevant Local Environmental Plan (Eurobodalla Local Environmental Plan 2012) and State Environmental Planning Policies, and the relevant Development Control Plans and Policies.
PSR14/032 DEVELOPMENT APPLICATION 372/14 - TREE REMOVAL, EARTHWORKS, RETAINING WALLS AND CONSTRUCTION OF BUILDING FOR PURPOSES OF HARDWARE AND BUILDING SUPPLIES, AND PYLON SIGN (BUNNINGS DEVELOPMENT)

Responsible Officer: Lindsay Usher - Director Planning and Sustainability Services

Attachments:
1. DA 372/14 - Bunnings Assessment (under separate cover)
2. DA 372/14 - Bunnings Statement of Environmental Effects (under separate cover)
3. DA 372/14 - Bunnings Submission (under separate cover)

Strategic Objective: 5: We help our local economy grow

Delivery Plan Link: Development Services

Operational Plan Link: Assessment of: Development applications

Applicant: Bunnings Properties Pty Ltd

Land: 32-34 Princes Highway, Batemans Bay (Lots 134 DP746531, Lot 133 DP 595041, Lot 1 DP 628549, Lot 1 DP126064, Part Lots 41 and 42 DP863792, Part SP 46579)

Area: 2.3 Ha

Setbacks: Variable

Height 12.0 m

Zone: Industrial (IN1)

Current Use: Mixed, light industry and vacant

Proposed Use: Tree removal, earthworks, retaining walls for the purposes of hardware and building supplies, and pylon sign

Description: Bunnings Hardware Store

Permitted in Zone: Permitted with Consent

DA Registered: 31 January 2014

Reason to Council: Referred by Director

Recommendation: Approval with Conditions

EXECUTIVE SUMMARY

The purpose of this report is to present for Council’s determination a development application for tree removal, earthworks, retaining walls and construction of building for purposes of hardware and building supplies, and pylon sign.

The application was lodged on behalf of Bunnings Properties Pty Ltd (Bunnings). The application has been referred to Council for determination by the Director Planning and Sustainability Services in order to remove any perception of bias by Council officers following
their involvement in the assessment of a previous development application, related to land owned by Council. In addition the development application has been independently assessed on behalf of Council by Garret Barry Planning Services Pty Ltd.

The report is recommending approval subject to conditions.

**RECOMMENDATION**

THAT pursuant to Section 81(1)(a) of the Environmental Planning and Assessment Act 1979, notice is hereby given of the determination of the consent authority of the Development Application number 372/14 dated 17 January 2014 relating to land described as Lot 134 DP746531, Lot 133 DP595041, Lot 1 DP628549, Lot 1 DP126064, Part Lots 41 and 42 DP863792, Part SP 26579 and known as 3-7 Sharon Road, 3 Cranbrook Road, and 32-34 Princes Highway, Batemans Bay.

The development application has been determined by granting of consent subject to the conditions set out below. These conditions have been applied to this consent for the following reasons:

R.01. Ensure that the proposed development:
   (a) achieves the objectives of the Environmental Planning and Assessment Act, 1979;
   (b) complies with the provisions of all relevant Environmental Planning Instruments;
   (c) is consistent with the aims and objectives of Council’s Development Control Plans, Codes and Policies.

R.02. To ensure that the relevant public authorities have been consulted and their requirements met, or arrangements made, for the provision of services to the satisfaction of those authorities.

R.03. To meet the increased demand for public amenities and services attributable to the development in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979.

R.04. To ensure the protection of the amenity and character of land adjoining and in the locality of the proposed development.

R.05. To minimise any potential adverse environmental, social or economic impacts of the proposed development.

R.06. To ensure that all traffic, carparking and access requirements arising from the development are addressed.

R.07. To ensure the development does not conflict with the public interest.
GENERAL CONDITIONS:

1. **Approved Plans**
   The development must be carried out in accordance with the plans stamped and numbered as per below list and supporting specifications and documentation, or as modified by any conditions of this consent, or as noted in red by Council on the approved plans. All building work must be carried out in accordance with the requirements of the *Building Code of Australia*.

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<td>John R Brogan &amp; Associates</td>
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**Note:** Any alteration to the plans and/or documentation may require the lodgement of an application to modify the consent under s96 of the Environmental Planning and Assessment Act (EPA Act) 1979, or a fresh development application. Your Principal...
PSR14/032 DEVELOPMENT APPLICATION 372/14 - TREE REMOVAL, EARTHWORKS, RETAINING WALLS AND CONSTRUCTION OF BUILDING FOR PURPOSES OF HARDWARE AND BUILDING SUPPLIES, AND PYLON SIGN (BUNNINGS DEVELOPMENT)

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Certifying Authority should be consulted prior to any works contrary to this consent being carried out.
Where there is an inconsistency between the documents approved with this consent and the following conditions, the conditions shall prevail to the extent of that inconsistency.

2. Advertising Signs
The pylon sign shall have a maximum height of 9 metres and maximum sign panel dimensions of 4 metres wide and 4 metres high and a minimum clearance height of 2.6 m to maintain sight lines.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

3. Completion of Works and Subdivision in DA361/14
The works and subdivision approved in DA 361/14 are to be completed to Council’s satisfaction before any Construction Certificate is issued under consent 372/14 for construction.

4. Waste Management Plan
A Waste Management Plan shall be submitted to and approved by Council, prior to the issue of a Construction Certificate. The Plan shall address, but not be limited to, the following matters:
(a) details of construction works and the presence of any asbestos or other hazardous waste;
(b) details of waste to be generated by the work;
(c) arrangements for removal of waste material from site;
(d) destination of waste materials being removed from the site.

The waste management on site will comply with the Bunnings Corporate waste management strategy as detailed in the development application

5. Soil and Water Management Plan
Prior to the issue of a Construction certificate, the applicant will prepare and obtain Council’s approval of a site specific soil and water management plan.

6. Stormwater Management
Prior to the issue of a Construction Certificate for the building works, submission of plans to the Principal Certifying Authority for drainage control. Plans are to be certified by a qualified drainage consultant or a suitably qualified engineer for compliance with AS/NZ3500.3 2003. The following items are to be addressed in the drainage plans:

Further information to be submitted for stormwater distribution into catchments
3 & 1 regarding current distribution of stormwater outflow and pollutant load versus post development stormwater outflow and pollutant load. Information submitted shall discuss potential impacts to increased stormwater outflow and pollutant load into receiving SEPP 14 wetland catchments. Discharge and pollutant load of stormwater into catchments 3 & 1 to be the same as pre-development stormwater outflow.

Further information on the treatment of nursery waste water is required by Council for the assessment of indirect impacts that it may have on receiving SEPP 14 wetlands/EECs to confirm the concentrations assumed in the water quality assessment are acceptable.

7. **Section 94a Contribution (for development >$0.5m)**

Pursuant to Section 80A(1) of the Environmental Planning and Assessment Act 1979, and the Eurobodalla Shire Council Section 94A Development Levy Contribution Plan – 2007 (S94A Plan), a development contribution is required to be paid to Council prior to issue of the Construction Certificate for the Building Works.

Where the cost of the development excess $500,000 the S94A Plan requires a cost estimate report prepared by a registered Quantity Surveyor to be forwarded to Council with payment of the contribution. The S94A contribution amount is calculated at the rate of 1% of the total development cost and shall be used by Council in the provision, extension or augmentation of public amenities or public services. The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the provisions of the S94A plan. Note: Development costs include GST and are to be calculated in accordance with the definition of development costs in cl.25J of the Environmental Planning and Assessment Regulations 2000 at current prices.

8. **Water/Sewer Developer Contributions for Development**

Prior to the issue of a Construction Certificate for the Building Works, the developer will have to be eligible to obtain a Section 307 Certificate of Compliance under the Water Management Act 2000. To be eligible, the developer/consent holder will have to contribute in accordance with Council’s fees and charges.

The contribution shall be paid to the Eurobodalla Shire Council. Evidence of the payment shall be submitted to Principal Certifying Authority prior to the issue of the Construction Certificate for the building works.

**Note:** 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.
PSR14/032  DEVELOPMENT APPLICATION 372/14 - TREE REMOVAL, EARTHWORKS, RETAINING WALLS AND CONSTRUCTION OF BUILDING FOR PURPOSES OF HARDWARE AND BUILDING SUPPLIES, AND PYLON SIGN (BUNNINGS DEVELOPMENT)

9. **Water Meter - Industrial/Commercial Development**

Prior to the release of construction certificate for the building works submission to Council of a Section 68 Application under the Local Government Act. The submission shall include certification and a layout plan for the service by a suitably qualified hydraulic engineer/consultant on the recommended water meter size required for the development in accordance with AS 3500.1:2003 National Plumbing and Drainage Code and AS2441-2005 Installation of Fire Hose reels. The engineer must also provide usage and peak flow to determine if any upgrading of Council service is required or if headworks contributions are payable. Any upgrades will be at the applicants cost.

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

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

A standard meter connection is where the water main is located on the same side of the street as the property, the meter is to be located approximately 2.4 metres from the water main to just inside the property boundary and laid in a non-hard surface area (grassed). Please contact Council’s Water and Sewerage Project Engineer on 44741342 to arrange the quote and prepayment will be required to be receipted at Council Administration Centre at Vulcan Street Moruya, the Batemans Bay or Narooma depot.

Any redundant water services shall be decommissioned. The applicant shall enter into a private works order for the removal of any redundant mains by Council.

10. **Bushfire Protection Measures Required**

Prior to the release of the Construction Certificate for building works sufficient information must be submitted to the Principal Certifying Authority to confirm compliance with sections 3 and 5 of AS 3959 and section A3.7 of the Planning for Bushfire Protection Addendum 2010, as well as the relevant fire safety standards under the BCA.

Particular attention should be paid to ember protection methods are incorporated into the building, particularly around the following areas:

- Gaps within the roofing, and between roofing material, fascias and walls
Openings associated with ventilation systems
Openings and potential for debris accumulation around downpipes and gutters
Gaps and openings around roller doors
Any small openings and potential debris traps around doors or windows

Deemed to satisfy standards to achieve adequate ember protection are included in AS 3959.

Provide backup power and water for pump/sprinkler operation as town services may fail during a bushfire.

Provide access along the northern edge of the site, to enable any fuel build-up and/or spot fires to be readily accessed and managed.

11. **Containment of Contamination**

Prior to the issue of any construction certificate, the applicant will complete all actions specified in the report on contamination by Environmental Investigation Services that forms part of the development application. In particular the actions to include:

- Further detailed assessment of past fuel and chemical storage areas once the demolition works have exposed the site surface
- A protocol be approved by Council for use by the site earthworks contractor to address the circumstance of and unexpected find/exposure of a hazard
- That Council approve an inspection regime before construction to ensure adequate expert monitoring of the site during earthworks
- Adequate rehabilitation of any contamination discovered to Council’s satisfaction.

12. **Geotechnical Requirements**

Prior to the release of any construction certificate, the applicant will implement (as necessary) all the recommendations of the preliminary geotechnical investigation by JK Geotechnics, including:

- Some existing fill batters are considered too steep and should be addressed in the rework
- The past fill areas generally need reworking and or replacement with engineered fill, with geotechnical monitoring during earthworks
- Additional geotechnical survey, boreholes and testing to be undertaken before release of construction certificate if required by the geotechnical engineer. Slab/footing design detail to be influenced by input from a senior geotechnical engineer
- Some of the rock to be excavated is of sufficient hardness as to require heavy ripping. A plan needs to be devised to address any vibration effects both on adjoining structures and to protect the reasonable amenity of people in the
adjoining premises during the ripping
- All car parks and building should be not less than 2 metres from any of the major batters, or otherwise in accordance with the specific design certification issued by the geotechnical engineer
- Special rigid slab requirements for the building (if required)
- Sub soil drainage is recommended around the edges of pavements (if required).

13. **Energy Efficiency**
Prior to release of any construction certificate for the building works, the applicant will submit a formal report complying with Section J of the BCA for Council approval.

14. **Site Lighting and Security Plan**
Prior to release of any construction certificate for the building works, the applicant will submit a lighting plan to ensure safe illumination of all public and loading areas during trading outside of daylight hours.

The plan will also examine “rear of house” areas and include considerations of appropriate fencing and security to enhance public safety and minimise antisocial behaviour.

15. **Construction Management Plan**
A Construction Management Plan shall be submitted to and approved by Council prior to the issue of a Construction Certificate. The Plan shall address, but not be limited to, the following matters:

(a) hours of work;
(b) contact details of site manager;
(c) arrangements for site deliveries and removal of material from site;
(d) details of hoardings;
(e) details of demolition works and the presence of any asbestos or other hazardous waste;
(f) traffic and/or pedestrian control measures;
(g) dust control measures;
(h) noise control measures;
(i) screening from adjoining properties

16. **Excess Fill**
Any excess clean fill (inert clean waste) removed from the site is to be taken to either:

(a) a public waste disposal facility or
(b) a site approved by Council.
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.

**Note:** Council may carry out random inspections and take photographic records to ensure the integrity of the fill.

17. **Building Near Sewer**
   Prior to release of Construction Certificate for the building works, submission to, and approval by Council of designs prepared by a suitably qualified engineer for special footing adjacent to Council’s sewer main. The design is to be consistent with Council’s Policy “Build in the Vicinity of Sewer Mains”. Construction is to conform to the approved design and in accordance with Council Policy. Attached to the approval is a sewer diagram and the relevant manhole levels for the required engineer’s footing design, adjacent to Council’s sewer line.

18. **Certificate of Title**
   Prior to the release of a Construction Certificate submission to and approval by Council, a copy of the registered Certificate of Title verifying the creation of the inter-allotment drainage easement over Lot 27 DP713567 shall be submitted to and approved by Council. Alternatively, a modified drainage plan controlling discharge of concentrated stormwater from the north western section of the site may without piping over Lot 27 DP713567 may be submitted for approval by Council.

19. **Number of Car Spaces**
   A minimum of 180 car spaces shall be provided for the development. At least 4 of these spaces are to be made available for disabled persons and are to be located in close proximity to the entry of the building.

20. **Roadwork Maintenance Bond**
   Prior to issue of a Construction Certificate the applicant shall pay Council a roadworks maintenance bond at the rate determined by Council current at the time of payment (refer to Council's Fees and Charges) and applicable for six months from the date of issue of the Compliance Certificate.

21. **Roads and Maritime Services**
   The following condition of consent is required by the Roads and Maritime Service (RMS):
   Prior to the issuing of the construction certificate, the developer shall enter into a Works Authorisation Deed (WAD) with the RMS for all works on the Princes Highway and any adjustments on Cranbrook Road which relate to the traffic signals.

   Only one access to the Princes Highway will be permitted. This access shall be a left
in/left out arrangement, with a deceleration lane for the left in movement. The access and the deceleration lane shall be constructed in accordance with Austroads Guide to Road Design. Pavement shall be constructed in accordance with Austroads standards.

No u-turn signage shall be installed on the Princes Highway in accordance with RMS standards to prevent southbound vehicles undertaking a u-turn to enter the site via the Princes Highway.

All pavement design on the Princes Highway shall be in accordance with Austroads standards.

RMS requires the proposed access on Cranbrook Road to be located a minimum distance of 40m from the Princes Highway/Cranbrook Road intersection as shown in the concept design, Cranbrook Road Functional Layout (Dwg. No. C002 Issue C, prepared by Transport and Traffic Planning Associates, 22 March 2014). No stopping signs and keep clear pavement markings shall be installed on the Princes Highway as shown on Princes Highway Functional Layout (Dwg. No. C001 Issue C, prepared by Transport and Traffic Planning Associates, 22 March 2014).

Existing "Right of Way" easements located on Lots 1 and 2 DP 628549 for access from the Princes Highway and easement B providing access from Kylie Crescent to Lot 1 DP 12604 must be maintained.

The proposed new easement on Lot 1 DP 628549 to gain access to Lot 2 DP 628549 must be via a "Right of Way" legally certified on the titles of the burdened lots prior to an occupation certificate being issued by way of a Section 88B Instrument under the Conveyancing Act, 1919.

Where required, the developer shall upgraded/provided lighting in accordance with Australian Standard AS/NZS1158.

Post development storm water discharge from the subject site into the classified road drainage system does not exceed the pre-development application discharge.

Two existing Council 200mm water mains within the works area for the Princes Highway access require relocation or lowering. The relocation shall be undertaken by Council at full cost to the developer.

All roadworks, traffic control facilities and other works associated with this development, including any modifications required to meet RMS standards, will be at no cost to RMS. All works shall be completed prior to occupation.
All roadworks and traffic control facilities on the Princes Highway must be undertaken by a pre-qualified contractor. A copy of pre-qualified contractors can be found on the RMS website at:


RMS will be exercising its powers under Section 64 of the Roads Act, 1993 to become the roads authority for works on the Princes Highway. Given this, Section 138 consent under the Roads Act, 1993 shall be obtained from the RMS prior to construction.

Note: The applicant is advised that conditions of development consent do not guarantee RMS final consent to the specific road work, traffic control facilities and other structures and works on the classified road network. In this regard, prior to undertaking any such work, the applicant is required to submit detailed design plans and all relevant additional information prior to commencing work on the State road network. The developer will need to pay all RMS fees and charges associated with works. In the first instance, to progress the post consent process, the applicant should email the conditions of development consent to:

WAD.southern@rms.nsw.gov.au

The developer shall apply for, and obtain a Road Occupancy Licence (ROL) from the RMS Traffic Operations Unit (TOU) prior to commencing roadworks on a State Road or any other works that impact a travel lane of a State Road or impact the operation of traffic signals on any road. The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified to prepare Traffic Control Plans. Should the TMP require a reduction of the speed limit, a Speed Zone Authorisation will also be required from the TOU. The developer shall submit the ROL application 10 business days prior to commencing work. It should be noted that receiving an approval for the ROL within this 10 business day period is dependant upon RMS receiving an accurate and compliant TMP.

Note: An approved ROL does not constitute an approval to commence works until an authorisation letter for the works has been issued by RMS Project Manager.

22. Road Works
Submission to and approval by Council of engineer’s design for the pavement reinforcement of Cranbrook Road at the proposed entrance to the development is required prior to the issue of the Section 138 Roads Act approval for works to Cranbrook Road. The reinforcement shall be the width of the entrance in the east bound direction. Plans are to be in accordance with Council’s Development Specifications D1 and D2.
The fee for the issue of the Section 138 Roads Act approval for works to Cranbrook Road will be charged at the rate for the current financial year at the time of issue, as set in Eurobodalla Shire Council’s Fees and Charges.

Prior to Occupation the consent holder/applicant shall construct roadworks to the standards of Council’s development Design Specification D1 and D2, including associated drainage and erosion/sediment controls, in accordance with Design Plans subject of the Section 138 Roads Act approval for works to Cranbrook Road.

23. **Construction in a Road Reserve**

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:

- Public safety, WHS issues, risk assessment, public liability insurance, control of vehicle and pedestrian traffic, location of plant and equipment, inspections bonding and an application fee.
- 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 site traffic control plan preparation.
- 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.
- 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@rtasupport.nsw.gov.au

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) & form available from [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). 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.

24. **Council’s Sewer Plan**

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

This diagram has been compiled on the best available information, but can only be taken as a guide. Exact location should be physically determined on site.
25. **Industrial Development – Trade Waste**
   A separate application, in accordance with Council’s Liquid Trade Waste (LTW) Policy, is to be made for the approval of the discharge of liquid trade waste to Council’s sewerage system. This is to be submitted to and approved by Council prior to the issue of the Construction Certificate and is to include details of appropriate liquid trade waste pre-treatment facilities.

26. **Fire Safety Certificate**
   A Fire Safety Certificate shall be furnished to the PCA for all the “Essential Fire or Other Safety Measures” forming part of this approval prior to issue of an Occupation Certificate. A copy of the Fire Safety Certificate must be submitted to Council by the Principal Certifying Authority with the Occupation Certificate.

27. **Sealed Traffic Areas**
   Prior to the issue of a Construction Certificate submission to and approval by the Principal Certifying Authority of satisfactory plans for sealed carparking spaces, manoeuvring areas and access driveways all conforming to AS2890.1 & 2. Drainage and pavement designs are to be prepared by a qualified engineer and are to address expected vehicle loadings and any fill compaction requirements. Disabled parking is to be designed in accordance with AS2890.6:2009 and constructed prior to release of the Final Certificate.

**DURING CONSTRUCTION**

28. **Landscaping**
   The landscaping works will comply with the detailed landscaping plans provided by Johnlock and Associates as part of the development application. But in addition Council requires that 30% of plantings of larger species be advanced plantings to assist with rapid screening of the bulk of the building.

29. **Site Cut Near Boundary**
   Site cut shall not be deeper than a 45° “zone of influence” line for standard footings of a potential building located 0.9 metres from the common boundary on the adjoining lot.

30. **Site Fill Near Boundaries**
Site fill shall not be placed within 1.0 metre of side boundaries. Where fill occurs in other approved locations, provision is to be made for retaining or stabilisation. Grading must not direct stormwater flows to other properties.

31. **Public Footpaths**
A safe pedestrian circulation route a minimum of 1.5 metres wide and with a pavement free of trip hazards shall be maintained at all times on, or adjacent to the public footpaths fronting the construction site. Where the footpath is damaged, repair works shall be carried out when directed by Council officers and in accordance with the relevant clauses of the current edition of Council’s Development Specifications.

Where circulation is diverted on to the roadway, clear directional signage and protective barricades shall be installed in accordance with Australian Standard AS1742-3 1996 Traffic Control Devices for Work on Roads.

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

**PRIOR TO OCCUPATION OR COMMENCEMENT OF USE**

33. **Bushfire Emergency Response Plan**
Prior to occupation, the developer will furnish Council with an Emergency Response Plan for bushfire and other emergencies that addresses the requirements in the Bushfire report by Nick Graham-Higgs Environmental that forms part of this application.

34. **Additional Traffic Measures**
Prior to occupation of the development the applicant will either carry out or fund Council’s implementation of the following additional traffic measures:
- Erect “no queuing” signs at the Cranbrook Road access.
- Effect lane marking changes at the Cranbrook intersection with the Princes highway to allow left turns into the highway from both lanes in Cranbrook Road.
- Prevent U turns at Hughes St on the Princes Highway.
- Ensure the proposed highway deceleration lane does not occur where lanes are starting to merge.
- Effect appropriate lane making and no stopping signs at the Cranbrook entrance to ensure good sight distance and flow for west bound vehicles.
- Provide physical separation at the Princes Highway access for in and out traffic.

35. **Consolidation of Titles**
Prior to occupation of the development, the applicant will consolidate the land titles
comprising the development site into a single title to avoid the risk of future fragmentation of development works.

36. **Sewerage Manhole**
   Any alterations to the ground surface adjacent to the sewerage manhole in the vicinity or within the property will require application and payment to Council for alterations to the manhole level to match the new ground surface level. Manholes within driveways will require provision of a trafficable lid at the applicants cost.

37. **Stormwater Disposal Within Road Reserve**
   The stormwater drainage from the development is to be connected directly into Council's stormwater pit within the road reserve adjacent to the property. Contact should be made with Council’s Plumbing Inspector on (02) 44741277, prior to making the connection.

38. **Water Supply**
   An application shall be made to Council, as the authorised water supply authority for a Certificate under the Water Management Act 2000. Evidence that a Compliance Certificate has been applied for (ie Notice of Requirements) shall be produced to the satisfaction of the PCA prior to the issue of a Construction Certificate. The Section 73 Certificate shall be submitted to the PCA prior to the occupation of the development or release of the linen plan.

**MAINTENANCE CONDITIONS (for the life of the project)**

39. **Water Pollution Controls**
   The permanent water pollution control measures specified in the approved stormwater management plan will be maintained for the life of the project.

40. **Waste Management in Operation**
   Waste Management throughout operation of the development will accord with the Waste management Strategy as specified in the Bunnings Corporate waste strategy detailed in the development application.

41. **Bushfire Hazard Reduction Maintenance**
   The site operator will ensure there is ongoing fuel management and maintenance of the required fire fighting plant and access points as detailed in the Bushfire report by Nick Graham Higgs Environmental that forms part of this application.

**ADVISORY NOTES:**

**Note:** Under section 82A of the Environmental Planning and Assessment Act, 1979 an
applicant may request the Council to review its determination except where it relates to a Complying Development Certificate, designated development or integrated development.

If you are dissatisfied with this decision, Section 97 of the Act gives you the right to appeal to the Land and Environment Court

CONCLUSION

This application has been independently assessed in accordance with the requirements Environmental Planning and Assessment Act 1979 and other relevant legislation and policies. This assessment has been included for your consideration. This assessment indicates the application satisfactorily addresses all legislative and policy requirements and should be supported. The application is referred to council for determination. It is recommended that Council approve the application subject to conditions listed above.
EXECUTIVE SUMMARY


The White Paper’s objective is to consider in detail the 2013 Review Paper’s recommendations to change the way Crown land (administered by the Crown Lands Division of NSW Trade and Investment) is controlled and managed.

NSW Trade and Investment invites written submissions in response to the White Paper by 20 June 2014. These submissions will be taken into account when developing the new Crown lands legislation.

Councillors were advised of the release of the White Paper through the Councillor Newsletter on 18 April 2014 and a briefing to Councillors was provided on 3 June 2014.

A submission on the White Paper has been prepared and is included as an attachment to this report.

While the ideas and options put forward to streamline the existing legislation and remove any unnecessary duplication and red tape and provide for more local community input into the management of Crown Lands are commendable, there are a number of issues that require further detail to enable effective comment.

It is proposed to transfer “local” Crown Lands to councils for management. There is concern in regard to cost shifting in that this may result in ongoing management and maintenance costs for councils without the opportunity for income to offset these costs.

There is also concern regarding the future management of commercial activities such as holiday parks that councils presently manage and are dependent upon to raise funds to effectively maintain/manage adjoining Crown Reserves.

As such Council opposes these proposals in the White Paper, and requests further consultation prior to any changes to the legislation being progressed.
RECOMMENDATION


2. Council’s submission be forwarded to the NSW Government Department of Trade and Investment, Regional Infrastructure and Services (NSW Trade and Investment) for consideration and a copy be forwarded to the Member for Bega and NSW Office of Local Government.

REPORT

The NSW Government’s Crown Lands Legislation White Paper, which resulted from the Crown Lands Management Review in 2012, makes recommendations for improvements to the management of Crown land forming the Crown Estate in NSW. This includes the repeal of eight or more existing Acts and the development of new and consolidated Crown lands legislation.

The Crown Estate makes up approximately 42% of the State and Crown land, which NSW Trade & Investment (NSWT&I) manages. The Crown Estate includes Crown land held under lease, licence or permit, Crown reserves, land within Crown public roads network and unallocated Crown land. It does not include national parks or state forests.

Under the reforms, management of the Crown Estate may be streamlined. Time savings are likely to result from the removal of duplicated processes, the reduced number of government agencies that are required to be dealt with and greater consistency in the implementation policy.

White Paper recommendations

A summary of the White Paper recommendations is provided below:

- transferring management of Crown Land, with primarily local uses and values, to local councils using the same procedures that apply to land already owned by councils. The new legislation will be consistent with, but will not duplicate, the proposed new local government and planning frameworks or the existing environmental legislation. Management of other Crown Land may be transferred to other NSW Government agencies if they are best placed to manage the land;

- land assessments before Crown Land can be sold, leased, dedicated or reserved, are to be abolished. The new planning framework will cover pre-sale land assessment, but with the Minister taking into account site specific relevant considerations before approving a proposed change in use;

- the introduction of streamlined processes to enable Crown landowners’ consent to be given more quickly for low-impact activities consistent with the existing land use, or where the proposal is consistent with a consent process. They will also enable a development application to be made under the planning legislation; and

- the management structure for Crown Reserves will move from a reserve trust and trust manager to a reserve manager, along with the facilitation of greater involvement of local communities in consultation and advisory roles.
Other recommendations for submission include proposals for:

- new legislation that will include the objects of preserving cultural heritage, Aboriginal and non-Aboriginal, on Crown Land and encourage Aboriginal use and co-management of Crown Land
- broad provisions to facilitate Crown Land being used for carbon sequestration activities, in addition to forestry rights
- existing permissive occupancies to become Crown licences
- separate commons legislation to be abolished
- a review of the future of all travelling stock routes
- administration of any roads in use by the general public to rest with roads authorities under the Roads Act 1993, and
- the NSW&T&I Crown Lands Division to be established as a public trading enterprise.

While a number of proposals in the White Paper including the streamlining of legislation, reduction of red tape and more local community input into the management of Crown Lands are commendable, there are a number of issues that require further detail to enable effective comment.

It is proposed to transfer “local” Crown Lands to councils for management. There is concern in regard to cost shifting in that this may result in ongoing management and maintenance costs for councils without the opportunity for income to offset these costs.

There is also concern regarding the future management of commercial activities such as holiday parks that councils presently manage and are dependent upon to raise funds to effectively maintain/manage adjoining Crown Reserves.

It is proposed that Council endorse the submission seeking further consultation with the NSW Government on the proposed White Paper and changes and that Council raise concerns in relation to cost shifting and potential loss of revenue for commercial activities that are needed for the management and maintenance of Crown Lands.
Crown Lands Legislation White Paper Submission

Eurobodalla Council welcomes the review of the Crown Lands Legislation.

While the ideas and options put forward to streamline the existing legislation, remove any unnecessary duplication and red tape and provide for more local community input into the management of Crown Lands are commendable, there are a number of issues that require further detail to enable effective comment.

It is proposed to transfer “local” Crown Lands to councils for management. There is concern in regard to cost shifting in that this may result in ongoing management and maintenance costs for councils without the opportunity for income to offset these costs.

There is also concern regarding the future management of commercial activities such as holiday parks that Council presently manage and are dependent upon to raise funds to effectively maintain/manage adjoining Crown Reserves.

As such Council opposes these proposals, and requests further consultation prior to any changes to the legislation being progressed.

Notwithstanding the above, Council’s responses to the White Paper proposal questions are set out in the table below.

<table>
<thead>
<tr>
<th>Question</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. How would developing one new piece of legislation to manage the</td>
<td>A new consolidated piece of legislation would reduce the unnecessary duplication of provisions and approvals that currently exist. It will also provide for a level of consistency between the local government and planning acts and existing environmental legislation. This proposal is supported.</td>
</tr>
<tr>
<td>Crown land estate benefit the community?</td>
<td>The proposed objects and provisions of the new legislation are considered fit for purpose.</td>
</tr>
<tr>
<td>2. Are the objects and provisions proposed for the new legislation</td>
<td>It is proposed to transfer management and where possible ownership of certain Crown land to councils under the Local Government Act where that land is deemed to be of local value and use (such as swimming pools, tennis courts, parks and sports grounds).</td>
</tr>
<tr>
<td>appropriate to support Crown land management in the 21st Century?</td>
<td>The aim of this transfer is to streamline management of reserves, remove inconsistencies in management of community land and Crown reserves, reduce red tape and give local communities more control over how the land is used. These include the community engagement processes that are part of the integrated planning reporting systems used by council.</td>
</tr>
<tr>
<td>3. Do you have any comments on the proposal to allow local councils to</td>
<td></td>
</tr>
<tr>
<td>manage Crown land under local government legislation rather than under</td>
<td></td>
</tr>
<tr>
<td>the Crown Lands Act?</td>
<td></td>
</tr>
</tbody>
</table>
However, this needs to be approached cautiously for a number of reasons.

The White Paper does not define the mechanism or criteria for how this is to occur. There is no definition of what is local value and use and what is state value and use. Comments therefore in more detail cannot be made, nor can the impact of the proposal be quantified at this time.

Generally, the proposal to transfer “local” Crown lands to councils for management is a concern with regard to cost shifting in that this may result in ongoing management and maintenance costs for councils without the opportunity for income to offset these costs.

There is also concern regarding the future management of commercial activities such as holiday parks that Council presently manage and are dependent upon to raise funds to effectively maintain/manage adjoining Crown reserves. At present Eurobodalla has 5 holiday/caravan parks on crown land that it is the Trust Manager of, in addition to other lands with community value and use.

Further consultation by the state government with local government is therefore required, and until such time Council opposes any proposals for transferral of responsibility of Crown lands without proper and fair consideration of financial implications to Council.

4. What are your views about the proposed new management structure for Crown reserves?

In order to minimise complexity and confusion, it is intended that the new legislation will reduce the current three-tier system to two tiers by removing reserve trusts and reserve trust managers and having all reserves administered by Crown reserve managers.

It is proposed that Crown reserve managers be:

- community or professional Boards established as corporations under new legislation;
- existing corporations;
- local councils;
• administrators; or
• the Minister if no other manager is appointed.

It is also intended that the new legislation will outline the responsibilities and functions of Crown reserve managers including daily management of reserves and issuing leases and licences over reserves. The Minister will determine the level of control exercised over Crown reserve managers (e.g. whether the Minister will require approval to the granting of leases and licences).

The new management structure would provide a consistent process whether Council community land or Crown reserve. It would simplify management for Council. This proposal is supported.

5. Do you have any further suggestions to improve the governance standards for Crown reserves?

The proposed suggestions are considered adequate.

6. Are there any additional activities that should be considered as ‘low impact’ activities in order to streamline landowner’s consent?

The proposed suggestions are considered adequate.

7. Are there any other ways to streamline arrangements between the State and local governments?

The proposed suggestions are considered adequate.

8. In addition to the suggestions provided, are there any other ways to ensure that the public is notified of the proposed use of disposal of Crown land – and their views taken into account – that would be appropriate to include in the new legislation?

The proposed suggestions are considered adequate.

9. Do you support the concept of a consistent, market based approach to rents, with rebates and waivers for hardship and public benefits for certain uses of Crown land applied where appropriate?

It is intended that leases and licences granted for commercial purposes be more similar to private sector commercial leases and licences.

Accordingly, it is proposed that the use of market rent should be the default position for occupants when leasing or licensing Crown land, with waivers and rebates applied where appropriate. Waivers and rebates will be based on a range of factors including the public benefit of certain uses of Crown land. This position is supported.

The five year timeframe is considered sufficient.
11. To avoid rent arrears issues for incoming tenure-holders, should the new legislation automatically transfer any rental debt to a new tenure-holder on settlement, or require any outstanding arrears to be paid prior to transfer or settlement?

The new legislation should require any outstanding arrears to be paid prior to transfer or settlement.

12. What kinds of lease conditions should be considered ‘essential’; for the purposes of providing for civil penalties?

Any such conditions found in freehold land leases.

13. Should Crown land be able to be used for all forms of carbon sequestration activities?

Yes.

14. What additional activities do you think should be permitted on Western Lands leases without the need for approval?

N/A to Eurobodalla.

15. Bearing in mind the fragile nature of much land in the Western Division, in what situations do you think it would be appropriate to allow Western Lands leases to be converted to freehold?

N/A to Eurobodalla.

16. What are your views about the proposal to strengthen the compliance framework for Crown lands?

Offences in the existing legislation will be reviewed and new offences and penalties will be developed to be incorporated in the new legislation. It is proposed the current six-month time limit for bringing proceedings be extended to within two years of the Minister becoming aware of an offence. It is also proposed officers be authorised to issue stop-work orders, remediation notices and removal notices and that courts be able to make restoration orders. The proposed new enforcement provisions are supported. The proposed suggestions are considered adequate.

17. Do you have any suggestions or comments about proposals for the following:

- Auditing
- Officer powers
- Offences and penalties
- Other provisions
18. Do you support the repeal of the minor legislation listed?

It is recommended the following legislation be repealed:

- Commons Management Act 1989
- Trustees of Schools of Art Enabling Act 1902
- Irrigation Acts
- Racecourse and Showground Acts
- Acts providing for rent reductions and occupiers relief in irrigation areas

Eurobodalla is only affected by the Trustees of School of Arts Enabling Act 1902.

The repeal of minor legislation is supported with the exception of the Trustees of School of Arts Enabling Act 1902. Further comments are provided below.

19. Do you see any disadvantages that would need to be addressed?

Yes.

There are two School of Arts in Eurobodalla, at Narooma and Tilba, which are currently managed under a community trust by the Crown.

If these school of arts were divested to Council, Council would then be responsible for new assets with new and ongoing maintenance costs, with the potential also for pre-existing financial commitments (such as loans and or other debts).

The White Paper fails to articulate with any certainty a mechanism for how this transfer is to occur and whether or not council can accept or refuse the land /asset.

Further consultation by the state government with local government is therefore required, and until such time Council opposes any proposals for transferral of responsibility of crown lands without proper and fair consideration of financial implications to Council.
IR14/018  TUROSS PROGRESS HALL LAND SALE - RESULTS OF PUBLIC CONSULTATION

Responsible Officer:  Warren Sharpe - Director Infrastructure Services

Attachments:  1. Tuross Hall Land - Breakdown of Miscellaneous Options less than $50
               2. Confidential Attachment - Tuross Progress Hall Land Sale - Results of Public Consultation

Strategic Objective:  1: We are healthy and active

Delivery Plan Link:  Parks, Foreshores and Community Facilities

Operational Plan Link:  Provide, maintain and renew: Parks, reserves, foreshores and playgrounds

EXECUTIVE SUMMARY

To consider results of a recent public consultation survey which sought input as to what the ratepayers and residents of Tuross Head and Turlinjah would like to see from the remaining net proceeds from the proposed sale of the land upon which the old Tuross Progress Hall stood.

RECOMMENDATION

THAT:

1. Council note the results of the public engagement process undertaken by the Tuross Head Progress Hall Sunset Committee and Council.

2. The priority order for projects to be funded from the remaining funds from the net proceeds of the future sale land (old Tuross Progress Hall site) be as follows:
   
   i. Nelson Parade Boardwalk
   ii. One Tree Point Headland Upgrade
   iii. One Tree Point BBQ & Seating
   iv. Connecting shared pathway from Tuross Boulevarde to Monash Avenue/Chauvel Crescent intersection (a length of about 140m)

3. Council seek a grant to partly fund the Nelson Parade boardwalk under the RMS cycleway program, but if unsuccessful the project be funded wholly from the net proceeds of the sale of the old Tuross Progress Hall land.

4. The proposal to allocate an allowance of up to $5,000 for materials for a bust of Hector McWilliam, with a local artist volunteering his time to create the bust, be referred to Council’s Public Arts Advisory Committee for consideration.
BACKGROUND
Council has previously agreed that the net proceeds from the sale of the land that the old Tuross Head Progress Hall was on would be spent on priority projects within Tuross Head.

COUNCIL PREVIOUSLY ALLOCATED $200,000 TOWARDS THE UPGRADE OF KYLA HALL AND THESE WORKS HAVE BEEN COMPLETED

CONSIDERATIONS
Community consultation
An information leaflet and survey form was formulated by the Tuross Head Sunset Committee and on 11 November 2013 a total of 2,795 survey forms were mailed to permanent residents and non-resident ratepayers of Tuross Head and Turlinjah. All survey forms were numbered to ensure valid responses.

The structure of the survey gave residents an opportunity to advise how they would like to apportion funds by allocating part of a nominal sum ($10) to projects. Four projects put forward by the community in previous consultations were listed by the Sunset Committee as suggestions and the community were also able to identify other works they believed important.

The four suggested projects were:
1. Nelson Parade – near end of Jutland Avenue boardwalk and viewing platform overlooking Tuross entrance.
2. One Tree Point Headland viewing platform and access improvements near single Norfolk Island Pine.
3. One Tree Point reserve upgrade of existing BBQ and picnic setting with BBQ and larger shelter.
4. Pathways.

A total of 500 survey forms were returned completed. Of the 500 returned surveys, 297 were received from permanent residents, 154 from non-resident ratepayers and 49 chose not to identify themselves as either resident or non-resident.

The following table shows how respondents prioritised the projects they wished to see the net proceeds from the sale of the land spent.
IR14/018  TUROSS PROGRESS HALL LAND SALE - RESULTS OF PUBLIC CONSULTATION

<table>
<thead>
<tr>
<th>Projects</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nelson Parade – near end of Jutland Avenue boardwalk and viewing platform overlooking Tuross entrance</td>
<td>23.8%</td>
</tr>
<tr>
<td>One Tree Point Headland viewing platform and access improvements near single Norfolk Island Pine</td>
<td>14.9%</td>
</tr>
<tr>
<td>One Tree Point reserve upgrade of existing BBQ and picnic setting with BBQ and larger shelter</td>
<td>14.5%</td>
</tr>
<tr>
<td>Pathways</td>
<td>18.6%</td>
</tr>
<tr>
<td>Boat ramp</td>
<td>7.4%</td>
</tr>
<tr>
<td>Toilet and shower facilities</td>
<td>2.1%</td>
</tr>
<tr>
<td>Path maintenance</td>
<td>1.8%</td>
</tr>
<tr>
<td>Ocean pool</td>
<td>1.7%</td>
</tr>
<tr>
<td>Men’s shed</td>
<td>1.3%</td>
</tr>
<tr>
<td>Skate park</td>
<td>1.1%</td>
</tr>
<tr>
<td>Other miscellaneous projects (individually less than 1%)</td>
<td>12.8%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

The following chart shows the top projects selected:

![Community Engagement Results Chart](image)

Chart showing the Other Miscellaneous Projects selected is attached.
Tuross Hall Sunset Committee

The Tuross Hall Sunset Committee met on 3 March 2014 to review the results from the public consultation.

The Committee confirmed their previous position that the net proceeds should be spent on capital projects so the community could see what they received in return for the loss of the old hall.

The Committee agreed that the following be recommended to Council:

1. The priority order for projects to be funded from the remaining funds from the net proceeds of the land (old Tuross Progress Hall site) be as follows:
   i. Nelson Parade Boardwalk
   ii. One Tree Point Headland Upgrade
   iii. One Tree Point BBQ & Seating
   iv. Connecting shared pathway from Tuross Boulevarde to Monash Avenue/Chauvel Crescent intersection (a length of about 140m).
2. Council seek a grant to partly fund the Nelson Parade boardwalk under the RMS cycleway program, but if unsuccessful the project be funded wholly from the net proceeds of the sale of the old Tuross Progress Hall land.
3. Council include an allowance of up to $5,000 for materials for a bust of Hector McWilliam (which will be done by Terry Fuller who has volunteered his time, with the Tuross Head Progress Association providing the history of Hector McWilliam) and that this be incorporated into the One Tree Point reserve project.
4. Council prepare estimates of cost for the recommended projects and report these back to the Sunset Committee.

The Tuross Hall Sunset Committee met again on 19 May 2014 and were advised of the preliminary estimates of cost for the selected projects from the net proceeds of the sale of the old Tuross Progress Hall land (attached for Councillors’ information).

The Committee will now wait for the land to be sold and the net proceeds allocated to the adopted projects.

A digital story of the old Tuross Progress Hall will be undertaken and funded separately by Council.

Financial

The costs of preparing the land for sale, including subdivision and demolition costs, are being funded from the future sale of the land. The net cost will be allocated to works on a priority basis after the sale of the land, noting that Council has already put $200,000 towards the completed upgrade of Kyla Hall. It was also agreed that an interpretative sign for the old hall be funded from the sale.
Update on sale of the land

The Property Manager advised the Sunset Committee that there is interest in the land, but to date no firm offers have been received.

CONCLUSION

The Sunset Committee has recommended the priority projects for the net proceeds of the land sale.

Council should, where possible, seek contributing grant funds. However, should these grants not be forthcoming, works should be funded wholly from the net proceeds of the sale.

Works should be budgeted once the land sale has occurred, except that Council may wish to give consideration to the allocation of a contribution of $5,000 now toward the bust of Hector McWilliam. This generous offer from the artist to prepare the bust as a volunteer project will be referred to Council’s Public Arts Advisory Committee to assess the merits of the proposal prior to further consideration.
ATTACHMENT 1  TUROSS HALL LAND - BREAKDOWN OF MISCELLANEOUS OPTIONS LESS THAN $50
EXECUTIVE SUMMARY
This report provides a summary of the evaluation for Council’s Plant, Machinery and Truck Hire Panel (01 Jul 2014 to 30 June 2016) Request for Tender (RFT) and provides a recommendation for the pursuant order of hire for each equipment category therein.

RECOMMENDATION
THAT Council endorses the order of hire established through the subject tender evaluation for each plant, machinery and truck equipment category.

BACKGROUND
Council’s Plant, Machinery and Truck Hire Panel has traditionally been established annually in order to provide a competitive, value for money basis for selection of machinery for hire throughout the year.

Due to the considerable amount of tender administration associated with the Request for Tender (RFT) for both Council and Industry, a decision was made to increase the period of the arrangement from one to two years with a price variation formula to be applied at the anniversary of the panel.

A total of 70 submissions were received in response to the subject tender.

CONSIDERATIONS
A total of 70 submissions were received in response to the subject tender.

Legal
The subject tendering activity was conducted in accordance with the Local Government (General) Regulation 2005, D of Local Government (DLG) Tendering Guidelines for NSW Local Government.

The RFT met the advertising requirements of Local Government (General) Regulation 2005 – Regulation 167, publishing a notice in ‘relevant newspapers’ as defined within Regulation 164.

The proposed Plant, Machinery and Truck Hire Panel forms the legal basis for which Council can process numerous hire orders throughout the contract period of arrangement.
Tender Assessment

A detailed comparison of tender submissions was completed based on the following evaluation criteria:

a. The tendered ‘A’ hourly rate defined as provision of plant/machinery/vehicle with operator;

b. The tendered ‘B’ rate defined as the standby rate for plant/machinery/vehicles; or

c. For dry hire, the tendered ‘C’ rate defined as provision plant/machinery/vehicle without operator; and

d. Hire Establishment Costs for applicable geographical areas as defined within the RFT.

An “order of hire” established for each of the following categories:

<table>
<thead>
<tr>
<th>Description</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Backhoes</td>
<td>Road Safety Equipment – Message Boards</td>
</tr>
<tr>
<td>Bulldozers</td>
<td>Road Safety Equipment – Portable Traffic Lights</td>
</tr>
<tr>
<td>Compactors</td>
<td>Rollers - Heavy</td>
</tr>
<tr>
<td>Concrete Pumps</td>
<td>Rollers - Pedestrian</td>
</tr>
<tr>
<td>Cranes</td>
<td>Scrapers</td>
</tr>
<tr>
<td>Elevated Work Platforms</td>
<td>Spray Units – Weed Control</td>
</tr>
<tr>
<td>Excavators &lt;3T</td>
<td>Tractors</td>
</tr>
<tr>
<td>Excavators &gt;3 to 7T</td>
<td>Trailers – Dog Tipper</td>
</tr>
<tr>
<td>Excavators &gt;7 to 20T</td>
<td>Trailers – Float/Low Loader</td>
</tr>
<tr>
<td>Excavators &gt;20T</td>
<td>Trailers - Other</td>
</tr>
<tr>
<td>Forklifts</td>
<td>Trucks – Articulated Dump</td>
</tr>
<tr>
<td>Graders</td>
<td>Trucks - Pumpout</td>
</tr>
<tr>
<td>Loaders – Wheeled</td>
<td>Trucks – Prime Mover</td>
</tr>
<tr>
<td>Loaders – Skidsteer</td>
<td>Trucks – Table Top</td>
</tr>
<tr>
<td>Mowers – Ride On</td>
<td>Trucks – Tilt Tray</td>
</tr>
<tr>
<td>Profilers/Stabilisers</td>
<td>Trucks - Tipper</td>
</tr>
<tr>
<td>Road Safety Equipment – Barriers</td>
<td>Other Plant, Vehicles and Machinery</td>
</tr>
</tbody>
</table>

The proposed order of hire is provided within the Confidential Attachment.
Policy
The RFT meets all requirements under Council’s Procurement Policy and its Tendering Code of Practice.

Economic Development Employment Potential
Many of the contractors who bid for work with Council are locally based resulting in support for the Shire’s economy.

The increase from a one year to a two year panel is expected to provide an increased level of certainty for local plant hire companies which will have a positive effect on employment within the local government area.

Community Consultation
Extensive community consultation was carried out throughout the course of the tendering activity which included two Industry Briefs (held 19 February and 19 March 2014). During the Industry Briefs, prospective tenderers were invited to comment on the changes (including the increase from a one to two year period) proposed for the RFT.

Minutes of the meetings were included within the RFT documentation. Copies of the RFT were forwarded to all existing panelists in addition to the RFT being advertised through normal channels.

Financial
After the first year of the contract all tendered plant, machinery and truck hire rates listed within the proposed panel will be adjusted in accordance with the rise and fall clause of the contract.

The rise and fall clause takes into account changes in labour and fuel costs for the financial year 1 July 2015 to 30 June 2016.

CONCLUSION
The establishment of the proposed two year Plant, Machinery and Truck Hire Panel (01 Jul 2014 to 30 Jun 2016) will significantly decrease the cost and risk to Council associated with the hire of equipment, whilst providing a level of business certainty for the local industry. The tendering process outlined above meets all legislative requirements for procurement, follows the principles of probity and ethics and the results represent best value for money for Council.
FBD14/039  LICENCE FOR TAI CHI EXERCISE PROGRAM - TUROSS HEAD  E07.1580

Responsible Officer:  Anthony O’Reilly - Chief Financial Officer Business Development
Attachments:  Nil
Strategic Objective:  5: We help our local economy grow
Delivery Plan Link:  Business Activities
Operational Plan Link:  Manage Council’s property leases, licences and other occupancy agreements to ensure legislative compliance, appropriate financial returns and prudent asset management

EXECUTIVE SUMMARY

An application has been received from the Southern NSW Local Health District to run Tai Chi sessions led by volunteers on the Council reserve adjacent to Kyla Park Hall at Tuross Head.

Council has previously licensed Southern NSW Local Health District to run Tai Chi at Corrigans Beach Reserve, Maloney's Beach and Dalmeny and donated an amount equivalent to the licence fee. This report recommends a licence be granted and a donation be made.

RECOMMENDATION

THAT:

1. The intention to grant a twelve-month licence (with four twelve-month options) over Lot 91 DP 604795 at Tuross Head to Southern NSW Local Health District to conduct exercise classes be publicly notified in accordance with Section 47A of the Local Government Act 1993.

2. In accordance with Section 47A of the Local Government Act, following receipt of any objections a further report be presented to Council for consideration.

3. Subject to no objections being received, a twelve-month licence (with four twelve-month options) over Lot 91 DP 604795 at Tuross Head be granted to Southern NSW Local Health District to conduct exercise classes with a fee of $501.60 including GST with terms and conditions including:
   (a) Providing a certificate of currency for public liability insurance in the amount of $20 million.
   (b) Booking required sessions through Council’s Facilities Booking Officer.
   (c) Leaving the area occupied clean and tidy.

4. A donation in the amount of the licence fees be made to Southern NSW Local Health District.
BACKGROUND

Tai Chi for Arthritis is a volunteer led physical exercise program which aims to reduce falls in older adults by providing an opportunity for a low cost exercise program in the community.

The Southern NSW Local Health District is currently licensed to run Tai Chi sessions led by volunteers at Corrigans Beach Reserve, Maloney's Beach and Dalmeny. They have extended the program to include the reserve adjacent to Kyla Park Hall at Tuross Head and have requested a licence to formalise the program.

CONSIDERATIONS

Legal

Lot 91 DP 604795 Tuross Head is a Council public reserve classified as community land. Council can only issue a licence for a period of less than five years after giving public notice and considering any submissions in accordance with Section 47A of the Local Government Act 1993.

Terms and conditions of the current licences held by Southern NSW Local Health District are considered appropriate. These conditions include:

(a) Provision of a certificate of currency for public liability insurance in the amount of $20 million.

(b) Booking required for sessions through Council’s Facilities Booking Officer.

(c) Leaving the area occupied in a clean and tidy state.

Social Impact

The exercise programs aimed at older residents with arthritis will assist in the wellbeing of those residents.

Financial

There is no fee set in Council adopted fees and charges for conducting small exercise activities. A licence fee based on the Crown Lands statutory minimum fee for licences, currently $501.60 including GST is considered appropriate.

The Southern NSW Local Health District has sought a waiver to the fees and Council could consider acceding to the request by way of a donation in the amount of the fees as it has for the current licences held by Southern Health.

CONCLUSION

The support of the Tai Chi for Arthritis program run by Southern NSW Local Health District is considered appropriate especially given there is a tangible public benefit and the use of the land will not negatively impact on Council’s budget.
EXECUTIVE SUMMARY

An application has been received from a food business on Vulcan Street, Moruya to operate an outdoor eating area. The proposal does not comply with the provisions of Council’s Footpath Trading Code, however this report recommends approval of the application and granting of a three-year licence.

This report contains a confidential attachment for Councillors’ information only pursuant to Section 10A(2) of the Local Government Act 1993.

RECOMMENDATION

THAT subject to the concurrence of Roads and Maritime Services:

1. An exemption to Council’s Footpath Trading Code be made to permit a trade zone of 2.3m adjacent to the property boundary of Lot 10 DP 711342 No 4/73 Vulcan Street, Moruya.

2. A licence be granted to the proprietor of Kiah Seafood to operate an outdoor eating area adjacent to the boundary of Lot 10 DP 711342 No 4/73 Vulcan Street, Moruya with terms and conditions including:

   (a) A three-year term.
   (b) Payment of a licence establishment fee in accordance with Council’s fees and charges.
   (c) Rent in accordance with Council’s adopted fees and charges.
   (d) Provision of public liability insurance in the amount of $20 million.
   (e) Compliance with the Operator’s responsibilities set out in Council’s Footpath Trading Code.
   (f) Compliance with Council’s Smoke Free Outdoor Areas Policy.
**FBD14/040  LICENCE FOR FOOTPATH TRADING - MORUYA**

**BACKGROUND**

Council adopted its Footpath Trading Code in August 2010 which in most cases requires any footpath trading, either outdoor eating or display of goods to be carried out adjacent to the kerb as opposed to adjacent to the property boundary. A copy of the Code is attached for information.

An application has been received from the proprietor of Kiah Seafood, a food business on Vulcan Street, Moruya, to operate an outdoor eating area adjacent to the property boundary. The name of the proprietor is set out in the Confidential Attachment.

**CONSIDERATIONS**

The Code was developed on the basis of best practice in ensuring safe and unhindered access for all pedestrians, including those with impaired sight.

A schematic for footpath trading in accordance with Council’s Footpath Trading Code is shown below.

The photograph, looking north along Vulcan Street, below shows the proposed licence area and the zones according to the Footpath Trading Code.

From the photograph it can be seen that to comply with the Code any dining furniture immediately adjacent to the Kerb Zone would impede all pedestrian movement heading south along Vulcan Street.
Legal

There is no legislative imperative preventing an exemption to the Code.

Vulcan Street is a classified road and in accordance with Section 125 of the Roads Act 1993 Council may not give approval for outdoor eating and grant a licence in respect of a footway of a classified road except with the concurrence of Roads and Maritime Services.

Social Impact

The development of outdoor eating areas adds to the cultural streetscape and should be encouraged.

Economic Development Employment Potential

Additional trading space for restaurants and cafes allows development of those businesses, enhancing their financial viability.

Financial

Council has adopted fees and charges in relation to the granting of licences for outdoor eating areas and these should be reflected in the licence agreement.

Licence Conditions

If approved conditions for the proposed licence should include:

(g) A three-year term.

(h) Payment of a licence establishment fee in accordance with Council’s fees and charges.

(i) Rent in accordance with Council’s adopted fees and charges.

(j) Provision of public liability insurance in the amount of $20 million.
FBD14/040  LICENCE FOR FOOTPATH TRADING - MORUYA  81.1608.D

(k) Compliance with the Operator’s responsibilities set out in Council’s Footpath Trading Code.

(l) Compliance with Council’s Smoke Free Outdoor Areas Policy.

CONCLUSION
The proposed outdoor eating area adjacent to 4/73 Vulcan Street, Moruya does not comply with Council’s Footpath Trading Code, however an exemption to the Code in terms of permitting the trade area adjacent to the property boundary will in this case allow for continued safe and unhindered access for pedestrians.
Code Title: FOOTPATH TRADING - Code

Reason for Code: A number of commercial and public activities compete for the use of the footpath area. The Code outlines the planning and design standards as well as the procedural requirements for occupation of footpath space for commercial use.

Code Details:

1. Introduction
   1.1 Legislation
   1.2 Local Approvals
2. Objectives
3. Types of footpath uses in Eurobodalla
   3.1 Areas considered unsuitable for footpath trading and outdoor eating
   3.2 Areas considered suitable for footpath trading
4. Footpath constraints to be considered
   4.1 Squeeze points
   4.2 Existing Public Infrastructure
      4.2.1 Asset relocation
   4.3 Pedestrian safety
   4.4 Crossings and intersections
   4.5 Service providers and special events
5. Footpath Trading Guidelines
   5.1 Outdoor eating areas
      5.1.1 Defining the outdoor eating area
   5.1.2 Footpath dining furniture
   5.1.3 Barriers and planting boxes
   5.1.4 Umbrellas
   5.1.5 Heaters
   5.1.6 Advertising
   5.1.7 Liquor licences
   5.1.8 Lighting
   5.1.9 Amenity
   5.1.10 Health considerations
   5.2 Display of goods
   5.3 Car Parking
6. Guidelines for defined areas
   6.1 Mara Mia Walkway, Batemans Bay
   6.2 Orient Street, Batemans Bay
7. What approvals do I need?
   7.1 What information does Council require?
   7.2 What is the assessment process?
   7.3 What if I need to amend my licence?
   7.4 What if I sell the business?
   7.5 How is my existing licence renewed?
   7.6 Do I need a development application?
   7.7 Is a special licence and rent payable?
8. Operators responsibilities

8.1 Daily management
8.2 Insurance requirements
8.3 Annual renewal process
8.4 Display of licence registration

9. Council responsibilities

9.1 Maintenance of the footpath
9.2 Compensation and loss of trade
9.3 Access to underground services
9.4 Monitor compliance with approved licence

1. Introduction

The main purpose of footpath space is to provide the community with safe and unhindered access to the many services and facilities that the Eurobodalla Shire has to offer.

Footpaths are also used for other important public purposes such as bus stops, street lights, traffic control signs, speed limit signs, litter bins and street furniture.

A number of other commercial and public activities also compete for the use of our footpath areas. As such it is important that the footpath space is managed and used thoughtfully. The purpose of this code is to outline Council’s policy about the use of its footpath areas.

1.1 Legislation

Council footpaths may be available to businesses for use for a commercial purpose in some instances. Applicants should in the first instance consult Schedule 2 – Exempt Development of the Eurobodalla Local Environmental Plan 2010 to establish if development consent is required under the Environmental Planning and Assessment Act 1979.

Approval for commercial use of the footpath is also required under sections 125 and 138 of the Roads Act 1993 for outdoor eating and display of goods respectively.

1.2 Local Approvals

Council formalises and regulates the use of footpaths through the issuing of licences to businesses using the approval process described in section 7 of this code. The relevant approvals under the Roads Act will be issued concurrently with the licence.

The code outlines the planning and design standards as well as the procedural requirements of Council for applicants to gain a licence to occupy the footpath for a commercial use.

2. Objectives

- To encourage, where appropriate, and control the establishment of footpath trading areas in commercial areas.
- To ensure that footpath trading areas do not cause an inconvenience or disrupt pedestrian or vehicular traffic or to adjoining businesses.
- To ensure that furniture use in the footpath trading area is of high quality and complements the existing streetscape.
3. Types of footpath uses in Eurobodalla

This code addresses the following commercial activities that may occur on the footpath spaces in the Eurobodalla Shire:
- Outdoor eating
- Display of goods

3.1 Areas Considered Unsuitable For Footpath Trading And Outdoor Eating

The use of footpath space is discretionary and may not be permitted in all instances. Areas deemed unsuitable for footpath trading include:
- Where the width of the footpath area is insufficient to permit simultaneous commercial activity and use by pedestrians
- Areas where the footpath use would not be directly in front of the principal place of business
- Areas where high to very high pedestrian activity exists
- Specific ‘public’ places including bus stops, taxi ranks, spaces directly outside a fire escape or near fire hydrants
- Potentially hazardous areas such as ‘main’ street corner intersections or otherwise unprotected locations

NOTE: The width of the footpath, its pedestrian activity and or the location of existing trees, artwork, street furniture and other public infrastructure, may prevent or limit the establishment of any footpath trading.

3.2 Areas Considered Suitable For Footpath Trading

In considering the options that are available for footpath trading it is important to acknowledge that footpaths are public areas and any commercial use of the footpath space is a privilege, not a right. To ensure a balanced use of the footpath area, the management of the footpath has been divided into three zones:
- walkway
- trade
- kerb
Walkway Zone

The walkway zone extends from the building line or shop front of premises for a minimum of 2m. Items of street furniture be it planter boxes, chairs and tables etc must not extend into this zone at any time.

The purpose of the walkway zone is to enable unobstructed pedestrian access for all. This is necessary for the proper functioning of the footpath for pedestrians of all abilities and to comply with the relevant anti-discrimination legislation.

Kerb Zone

The kerb zone is a minimum of 0.7m from the kerb line to allow for access to and from parked vehicles.

Where there is an accessible parking bay the setback from the kerb must be at least 1.5m. Where this occurs, there must also be an unobstructed path measuring 1.5m at both ends of the adjacent trade zone to allow access from the kerb zone to the walkway zone.

Where there is a loading zone the setback from the kerb will need to be at least 0.7 metres.
No items may be placed in the kerb zone (public assets and infrastructure excepted).

Trade zone

The trade zone is the available space between the walkway zone and the kerb zone.
This is the only area of the footpath where goods, tables and chairs and other items, subject to this policy, may be placed.

To ensure adequate access points from the footpath to the road are retained, there must be a minimum 1.5m width opening provided in the trade zone at regular 6m intervals or at a length considered appropriate for the site circumstances.

There must also be a break between each adjoining licensed area in the trade zone. The minimum width required is 1.5m, however this distance may be varied by Council should it be appropriate for the site circumstances.

4. Footpath constraints to be considered

4.1 Squeeze Points

A ‘squeeze point’ occurs when there is a narrowing of the footpath space due to established building lines, footpath condition, existence of street furniture, and or pedestrian activity.

Where a squeeze point occurs Council may consider varying the minimum 2m walkway zone width to an absolute minimum of 1.5m for a distance of no greater than 1.5m.

In this regard, the applicant will be required to demonstrate that there will be no increased impact on pedestrian access and or safety when tables, chairs, signage or the like are in place.

The following criteria will be used to assess an application in a squeeze point:
- The level of impact the use would have on the predominant circulation pattern in the area in terms of pedestrian convenience
- Whether ground surface conditions are appropriate or in need of modification because of the use
- What fixed items built or natural exist, and whether these items can be relocated within reason
- The level of impact the use would have on pedestrian safety and vehicle sight distances
4.2 Existing Public Infrastructure

Tables, seats and benches, bins, pedestrian crossings, fire hydrants and other emergency assets, parking meters, traffic signal boxes, public transport shelters and other permanent fixtures placed on the footpath are public assets and have priority over commercial interests.

NOTE: A minimum clearance of 0.5 metres will be required on either side of any public asset permanently affixed to the footpath.

4.2.1 Asset Relocation

Applications can be made to relocate Council maintained assets, but should be discussed with Council officers early on in the process. A request in writing must then be submitted with the application for a footpath trading licence.

The request must include a plan showing the site of the proposed relocation and a letter signed by the trader outside whose premises the asset will be relocated. Council will charge the applicant for the cost of relocation of its public assets.

4.3 Pedestrian Safety

Pedestrian safety is a priority of Council.

As such pedestrians crossing the street should not be faced with a continuous row of planter boxes or screens that prevent access to the footpath. Sightlines for users need to be considered in each situation, and particularly at intersections.

Where the requirements of this Code are not satisfactorily complied with, and/or Council believes the proposal would create a hazard to pedestrians, and/or road users, a licence will not be issued.

4.4 Crossings and Intersections

Special provisions apply at street intersections and pedestrian crossings.

No footpath trading will be permitted within the first 6m from an intersection point unless the applicant can demonstrate that pedestrian access and safety at this point will not be compromised by the use; and sufficient sight distance is retained at that point for passing vehicles.

Further, no footpath trading will be permitted within the first 2m from a pedestrian crossing point, unless the applicant can demonstrate that pedestrian access and safety at this point will not be compromised by the use; and sufficient sight distance is retained at that point for passing vehicles.

NOTE: A distance in excess of the above stated 6m and 2m may be required by Council depending on the site, in order to maintain adequate pedestrian/driver sight lines.

4.5 Service Providers and Special Events

Further, service authorities (including Council) may from time to time require access to work on underground services, or it may be necessary to remove items for annual parades, festivals or special events.

Reasonable notice will be given where possible.
5. Footpath Trading Guidelines

5.1 Outdoor Eating Areas

5.1.1 Defining the Outdoor Eating Area

The outdoor eating area is the area located wholly within the trade zone approved by Council for footpath use as shown in the picture below.

![Outdoor Eating Area]

The approved outdoor eating area is to be appropriately marked in a manner agreed to by Council.

The method of marking must be neat and unobtrusive and not pose a safety hazard i.e. trip or slip hazard. Appropriate methods include:

- marking out the corners of the area through pavement markers such as metal studs, stone inserts installed at or near flush with the paved surface and or use of tactuals
- using existing landscape features such as trees and bollards to indicate the boundaries of the area
- marking out the corners of the area through markers fixed to an existing or proposed awning directly above the licence area

NOTE: The markers must remain in place for the term of the licence. All items including umbrellas, planters boxes, chairs, tables and patrons must remain within the boundaries of the licensed area at all times of use.

5.1.2 Footpath Dining Furniture

Furniture must only be used in the licence area to which it relates, and must be confined wholly within the trade zone at all times.

Furniture must be designed and maintained in a safe condition appropriate to the location and its climatic conditions, be of sturdy construction, be easily removed and not damage the existing footpath area or other public infrastructure.

Furniture must have a contrasting colour to the background in which it is located.

Furniture must not have sharp, pointed or jagged edges, corners or protrusions.
The base of all items placed on the footpath must be covered and maintained with a suitable rubber stopper or similar device to protect the footpath, to the satisfaction of the Council. It is the responsibility of the operator to ensure any items placed on the footpath do not cause damage to Council assets.

Council reserves the right to reject inappropriate or otherwise unsuitable furniture.

Diagram 1 Example of footpath use adjacent to the respective indoor premises (square or round table) Nominal dimensions for furniture layout with 3 chairs per table
Diagram 2 – Example of footpath use adjacent to the respective indoor premises (square or round table) Nominal dimensions for furniture layout with 4 chairs per table

5.1.3 Barriers and planting boxes

The use of framed fabric, or any other style of low height barrier, including planter boxes, may be considered between adjoining outdoor dining areas to separate these areas, and/or along the kerb zone for safety and/or amenity reasons.

Council may consider several types of screens:
- temporary canvas screen;
- high barrier screens – made of safety glass or heavy duty plastic and fitted to the footpath with a locking device; and
- full length awnings/blinds attached from veranda to the footpath – normally used for protection of perishable goods displays such as fruit or flower.

Advice about barriers can be obtained upon request.

Planter boxes may also be considered in open areas such as plazas or footpath widenings, which are separated from the main pedestrian desire lines. The planter boxes must be well maintained by management. Permanent planter boxes will only be considered in privately owned open space or on footpath blisters.

- Council reserves the right to order the removal of planter boxes that are not properly maintained including the consistent provision of approved high quality flowers or vegetation. They must be removed from the public area when the business is not operating or designed as an integral part of the open space.
- Council reserves the right to place or remove planter boxes or fixed structures (including barriers) within footpath areas. Council will maintain these planter boxes or structures unless separate maintenance requirements form part of an individual lease agreement.
5.1.4 **Umbrellas**

Umbrellas may be made available for each table provided they are 2.2m high at the lowest point and are securely weighted or fastened. The umbrella must not extend into the walkway zone so as to cause a hazard to people moving past the site.

Umbrellas are not permitted where building awnings exist up to 3.8m above the ground and cover most of the footpath to 0 - 1.0m setback from the kerb-line.

5.1.5 **Heaters**

Where the use of a heating device is proposed, details of the type, location and design must be included in the application. The design of the device and the safety of persons and property will be the main consideration. Heating devices should turn off automatically if overturned to prevent injury to patrons and property.

Heating devices must be removed from public land and appropriately stored when not in use.

5.1.6 **Advertising**

Only the name or logo of the premises may be placed on any item of furniture. It must appear only once on each item and be a minor element of the furniture design. The applicant who intends to use printed umbrellas with logos or stand names must ensure that the advertising is a lesser element of the umbrella or canopy design.

No other advertisement is permitted in the licence area.

5.1.7 **Liquor Licences**

Liquor is not to be sold, consumed or served within the trade zone unless approved by Council, and the NSW Office of Liquor, Gaming and Racing under the [Liquor Act 2007](https://www.legislation.nsw.gov.au/View/Whole/20071198).

If the premise has an existing liquor licence, the trade zone must be shown as part of the licensed area on such a licence.

**NOTE:** An existing liquor licence does not obviate the need for a premise to obtain Council approval for the use of the footpath space under this code.

5.1.8 **Lighting**

Any footpath use approved to operate outside daylight hours must provide adequate lighting, to the Council’s satisfaction, to ensure the safety and amenity of patrons and the general public.

**NOTE:** The location of items on the footpath space must provide a clear, continuous accessible path of travel for all users of the footpath and ensure no obstruction occurs to road users.
5.1.9 Amenity

Use of the footpath must not produce any nuisance or offensive noise.

5.1.10 Health considerations

All food must be stored and prepared within the approved food preparation area of the premises.
All furniture, other facilities and pavement must be kept clean at all times.
Table service to the outdoor eating area is mandatory.
Toilet facilities must be made available to patrons in accordance with the Building Code of Australia.

5.2 Display of Goods

Any use of public footpath areas for display of goods must not result in reduced pedestrian convenience, safety or amenity, and must complement other street activities.

Such goods displays must:
• not exceed a height of 1.5 metres and a length/width of 0.75 metres
• not be located within the walkway or kerb zones
• not be stored for any period on the footpath during loading or unloading activities (where no other suitable onsite location exists, all loading and unloading should occur immediately from the vehicle to the interior of the shop)
• be securely anchored or supported so as to ensure a safe environment for members of the public
• have a contrasting colour to their background
• not have sharp, pointed or jagged edges, corners or protrusions
• only be placed in the licence area to which they relate and only at times during which those premises are open to the public
• comply with any requirements of the Council's Environmental Health Program if food is to be displayed
• not include perishable food items including meat, fish, poultry, dairy products, cooked rice, eggs and shellfish, but excluding flowers, fresh fruit and vegetables shall be displayed
• ensure any externally displayed fruit and vegetables shall be protected from contamination
• ensure any food, including tinned and packaged goods displayed shall be at a height not less than 750mm above the footpath level.
• not operate outside daylight hours without adequate lighting, to the Council's satisfaction, to ensure the safety and amenity of patrons and the general public.

NOTE: The location of items on the footpath space must provide a clear, continuous accessible path of travel for all users of the footpath and ensure no obstruction occurs to road users.

5.3 Car Parking

Outdoor eating areas must comply with the provisions of the Parking and Access Code.
6. Guidelines For Defined Areas

6.1 Mara Mia Walkway, Batemans Bay

A clear distance of 4.5 metres must be available for pedestrian access between the outdoor eating areas and granite strip on the water side of the Mara Mia Walkway.

No commercial outdoor eating areas will be permitted on the Mara Mia public wharves.

adjacent to a restaurant.

6.2 Orient Street, Batemans Bay

Outdoor eating areas may be located on the kerb blisters in Orient Street, Batemans Bay provided they are...
7. What approvals do I need?

No person or business may operate commercial activities on Council’s footpaths without a licence issued by Council.

In order to obtain a licence, the proposed activity must comply with this Code.

If a licence is issued by Council, then the activity is exempt from the requirement to obtain development consent.

7.1 What Information does Council require?

The following information is required from the applicant when submitting an application form:

- Completed Licence Application Form
- Site Plan of Existing Conditions
- A plan at scale 1:100 accurately showing the width of the building frontage and of the footpath from the outside edge of the kerb to the building lines, location of building lines and the type of abutting properties, existing trees, light poles, signs, existing street furniture, service pits, fire hydrants, car parking, bus zones and other features. All dimensions associated with the footpath area should be shown.
- Site Plan of Proposed Footpath Activity
- A plan at scale 1:100 accurately showing the area and layout of the proposed footpath activity. This may include the proposed location of chairs, tables, screens, heaters, umbrellas, advertising signs etc.
- Photographs of the site
- To clearly show the proposed footpath activity zone relative to buildings and existing features in the footpath area.
- Details of furniture (where applicable)
- Colour photographs or detailed design drawings of proposed furniture to be used including, screens, planter boxes, heaters and market umbrellas.
- Details of advertising (where applicable)
- A colour photograph or detailed design drawings of the proposed advertising logo, and clear indication of its size and location within the footpath activity zone.
- Application fee
- A fee will be payable to Eurobodalla Shire Council for the assessment of application, and preparation of licence.

7.2 What is the Assessment Process?

On receiving an application Council staff will:

- Check that all relevant information has been received
- Check the application to ensure it meets the intent and requirements of the Footpath Trading Code
- Inspect the site and check accuracy of submitted application plans
- Undertake an assessment of compliance with the licence conditions
- Approve or refuse licence application
- Formally advise the applicant of Council’s decision
7.3 What If I Need to Amend my Licence?

Licensees must submit an application in writing for any amendment to their existing licence. Amendments may include changing furniture design, adding furniture or increasing advertising. The Council will notify the licensees within three (3) weeks of their decision on the amendment. An upfront amendment fee is required for officer assessment and liaison.

7.4 What If I Sell the Business?

Licences are transferable if a business is sold.

7.5 How is my Existing Licence Renewed?

Licensees are sent a letter advising them the current licence is due to expire, enclosing a new licence for a further term.

7.6 Do I Need a Development Application?

If you are proposing to carry out any footpath trading on your own land or partly on the footpath, you should check with Council as a development application may be required.

Generally under Council’s LEP you do not need a development application if your footpath trading meets the exemption criteria under schedule 2 of the LEP 2010. However you are still required to obtain a licence from Council for the use of the footpath.

7.7 Is a Special Licence and Rent Payable?

The applicant will be required to enter into a licence agreement with Council prior to commencing operations. All reasonable costs associated with the establishment of the Licence will be the responsibility of the applicant. Rental will be calculated on Council’s adopted standard rate per m² per annum.

8. Operator’s Responsibilities

8.1 Daily Management

The management of a footpath trading licence is the responsibility of the licensees. To ensure appropriate management, licensees must:

- operate in accordance with the conditions of the licence, endorsed plans and the requirements and objectives as outlined within this Code
- monitor the Trade zone i.e. observe patrons at all times and respond to behaviour that may interfere with the use, enjoyment and personal comfort of others using the footpath area
- maintain access for all users in and around the footpath at all times, repositioning furniture when moved outside of the Trade zone by patrons
- uphold the cleanliness of the footpath area, ensuring tables and chairs are kept clean and litter is removed and placed within bins kept inside the premises. Businesses must not sweep or deposit any litter (including cigarette butts), food scraps or any other rubbish left by patrons into the gutter. Businesses found guilty of such an offence will immediately forfeit any further rights to trade on the footpath
- remove all approved furniture (other than approved semi-permanent items) from the footpath area each evening when the premises are closed or subject to permitted hours (whichever is the lesser)

8.2 Insurance Requirements

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The licensees must ensure the footpath trading area is adequately covered by public liability insurance. To meet Council requirements, the policy must note the Council’s interest, or in cases of crown land, Council and the Minister administering the Crown Lands Act 1989 and be for the amount of not less than $10,000,000 in respect of any single occurrence.

NOTE: The licensees must not do, or permit to be done or suffer anything to be done that would result in the cancellation or voiding of the insurance applying to the footpath trading area.

8.3 Annual Renewal Process

Licences for footpath trading are renewed every 3 years. At least sixty days prior to the expiry of the current licence, the licensees will receive written notification from the Council advising that the licence is due to expire. It is the responsibility of the licensees to ensure all renewal details including public liability, amendments and annual fees are forwarded to Council thirty days prior to the expiration date.

8.4 Display of Licence Registration

Licensees must display current licence clearly and legibly on their shopfront window. Failing to display the current licence is a breach of the licence conditions.

9. Council Responsibilities

9.1 Maintenance of the Footpath

The Council will continue to manage the use of the land at all times and reserve the right to reclaim access to and remove all footpath trading at any time for any purposes deemed suitable by the council.

9.2 Compensation and Loss of Trade

Where service authorities and others are required to carry out works within the road reserve which require the permanent and/or temporary removal; and/or alteration to the footpath trading arrangements, no compensation is payable for any removal of fittings, fixtures etc. associated with the footpath trading licence or for the loss of trade experienced due to these works. The responsibility to reissue these fittings, fixtures, etc. will remain the responsibility of the licensees, not the person, authority, contractor, etc. executing the works. As such Council reserves the right to cancel or suspend a licence if so required. The above terms will be included as a condition of the approval.

Any problems, inconvenience or loss of trade, which may result from activities or works, carried out by Council staff, contractors, subcontractors or agents, at or adjacent to a licensee’s footpath trading area will not be considered grounds for payment of compensation.

9.3 Access to Underground Services

Services such as sewers and electricity must not be obstructed by any semi-permanent structures including fixed screens, umbrellas and planters. Removable tables and chairs are permitted above underground services.
9.4 Monitor Compliance with Approved Licence

The following procedures will be followed in dealing with non-compliance with the provisions of this code:
1. A verbal warning will be issued by an authorized Council officer, indicating the nature of the infringement.
2. A written warning will (then) be issued, setting out the reasons for the warning being issued, and the actions required.
3. The licence will be revoked, or proceedings for the revocation of the licence will be initiated, in accordance with the code.

Reasonable opportunities will be provided between each step in the process, to permit the person(s) to either comply or otherwise explain the reason for their non-compliance.

Penalties for non-compliance with the By Law and Code include:
- On the spot fines,
- Cancellation of trading privileges,
- Impoundment of furniture, and legal action.
EXECUTIVE SUMMARY

The Live Life Eurobodalla (LLE) project was funded by a grant of $703,607 from the Federal Department of Health and Ageing in 2011 to provide a range of activities and programs to encourage key target groups in the community to become more active and improve the health of the community. The project end date is 30 June 2014. This report highlights the success and positive outcomes of the project.

RECOMMENDATION

THAT the report on the progress and success of the Live Life Eurobodalla project be noted.

BACKGROUND

The Federal Department of Health and Ageing (DoHA) awarded Council a grant of $703,607 under the Healthy Communities Initiative program (Phase 2) in June 2011, to provide a range of programs and activities designed to support people, particularly those at high risk of poor health outcomes, to participate, get active and adopt and sustain healthier lifestyles. Specifically, the target groups were: long term unemployed, seniors and people with a disability and their carers.

The LLE project has been implemented via a community development model, with the aim of delivering services and programs that build on existing community strengths and capacity and initiating strategies that could extend the benefits of the project beyond the life of the initial funding. For example, rather than simply running a health and fitness program, LLE has trained local people, providing an ongoing skills, and partnered with local services and community groups to deliver the program.

Initially funded for a two year period (completion June 2013), in June 2012 the project was extended for a further 12 months. The funding for the Live Life project ceases on 30 June 2014.

Initial work included recruitment of staff, the development of the comprehensive Implementation Plan, negotiating contracts with local health service providers to deliver components of the project, and the establishment of the Live Life Reference Group.
In addition, the team researched training opportunities for local health providers and participants, established networks, and developed a marketing plan to establish a strong foundation for all activities. The program was officially launched in February 2012.

CONSIDERATIONS

The marketing and promotion campaign for LLE has been a highly successful component of the project, with over 1100 community members registered. A further 300 non-member community members who have participated in program and activities.

The project has had great success targeting older Australians with 45% of our members being in this target group. 6.9% of our members are carers, and 8.5% are people living with a disability. Targeting the long term unemployed has been challenging, however 9.2% of participants state they are unemployed. 9.7% of our members identify as Aboriginal or Torres Strait Islander (ATSI), which is double the percentage of ATSI residents in the shire.

As part of the marketing plan a quarterly calendar of events has been distributed to all registered members as well as community groups and agencies. This advertises the activities running each term, and where possible, the programs or activities are free or highly subsidised for our target groups. As the federal funding is being phased out we are moving towards a user pay and grant funding model of delivery.

We have been fortunate to secure grants through the NSW Department of Transport, and NSW Department of Communities – Sport and Recreation. Both these grants have assisted those in our target group to attend the activities by providing assistance with transport, and subsidised attendance fees.

We have partnered with over 170 community agencies and service providers to help us deliver as wide a range of activities as possible, to as many people as possible, in all geographic areas.

Members have had the choice of participating in over 130 different programs. Our activities have approximately 10 people per class, with the healthy lifestyle expos each attracting approximately 2000 people.

In addition to the social, health and wellbeing benefits of the LLE project, a key outcome has been increased skills development, health sector capacity building and economic benefit opportunities for participants. This includes the provision of certificate training in Fitness, program training for Aboriginal health workers and ‘Beat It’ instructor training. In exchange for LLE paying training fees for Certificate IV Fitness, participants agreed to provide volunteer hours running classes, thereby extending the reach of LLE. A number have now gone on to local careers and employment.
Structured activities

The Live Life project has worked towards meeting the aims of the project, which were:

- reducing the prevalence of overweight and obesity in adults predominantly not in the paid workforce; and
- promoting equal opportunities for all Eurobodalla residents to live a healthy lifestyle in a socially inclusive environment.

The following programs and initiatives were implemented.

1. 25 x Beat It physical activity and lifestyle programs. Upon completion of the Medicare Local contract, the YMCA continued to deliver this program at a subsidised rate (funded by Live Life and the YMCA). (160 participants).
2. Medicare Local staff, YMCA staff and Live Life volunteers were funded and trained to deliver the Beat It program. (7 people qualified).
3. 22 x Community Kitchen programs have run. (172 participants).
4. 19 x Volunteer facilitators have been trained in the FoodCents/Community Kitchen program. (623 hours of volunteer time put into running community kitchen programs).
5. 18 x Be Active Volunteer Leaders have been trained in the Certificate III and Certificate IV Fitness Training. (100 volunteer hours of program delivery).
6. 12 x Community Gardens established for growing fresh produce (133 participants).
7. 12 x Living Strong physical activity and lifestyle modification programs commenced. Upon completion of the contract with Medicare Local, the Living Strong team has continued to deliver this service to the ATSI community. (95 participants).
8. 8 x Indigenous Health workers trained to deliver the Living Strong program.
9. 3 x Specific Health Expo and activity days (over 4000 people attended these events).
10. 2 x Pit Stops – Free men’s health check (106 participants).
11. 5 x Aust Cycle ‘Back on your Bike’ programs (40 participants).
12. 3 x volunteers trained as Cycling Instructors through AustCycle Accreditation Program (72 volunteer hours of program delivery).
13. 4 x Lift for Life programs delivered (32 participants).
The LLE project has developed partnerships with community groups and organisations to run the following additional healthy lifestyle programs.

a. 4 x Swim Teacher training programs enabling 30 local residents to become qualified swim instructors.
b. 5 x Back in the Pool (54 participants).
c. 2 x Smoking cessation programs (8 participants).
d. 2 x Come n’ try Pilates & then ongoing Pilates classes (94 participants).
e. 1 x continuous Hydrotherapy program (11-15 participants per class).
f. 2 x Laughter yoga programs (20 participants).
g. 4 x Come n’ try Yoga (28 participants).
h. 1 x How to swim safely in the surf program (11 participants).
i. 1 x Come n’ try Relaxation (8 participants).
j. 2 x Cookery Master Class (38 participants).
k. 3 x Continuous Dancing Classes (8-12 participants per class).
l. 5 x Walking groups established (2-12 people per walking group).
m. 60 x 10000 steps a day pedometer kits located in libraries across the Shire.

Other key achievements include:

- Initiating the discussion which led to Council passing a world first motion to cease the provision of sugar sweetened carbonated drinks at Council premises and events.
- The Live Life in Eurobodalla Photographic Competition and Exhibition, which has added more than 200 photos to the Council’s Image Library, as photographed by the local community.
- The development of the Toward a Healthier Eurobodalla Plan (due for completion December 2014).
- Strong and sustained engagement from the older Australian target group.
- Developing a high profile in the community for a program which offers quality services. This has encouraged program participation and facilitated the building of strong working relationships with community groups, private businesses and organisations which have the capacity to subsidise and support future programs and initiatives.
- Partnerships, referrals and active participation from 178 community agencies, health service providers, and community groups.
Live Life beyond June 2014

The Community, Arts and Recreation Division includes a range of services, including aged care, children’s, youth and recreation. This provides a pathway for the most efficient and effective Live Life activities to be incorporated into ongoing services, particularly in the recreation area.

The member database will act as the building block which will be added to over time as membership to the Live Life program will be opened up to the broader community, including workers and those outside of our primary target group.

The calendar of events will continue to be produced, incorporating activities and programs which are free or of minimal cost to Council. Partnerships will be strengthened and outside funding will be sought to facilitate the delivery of Council strategic objectives.

Social Impact

The LLE project has had a sustained positive impact on the local community.

Financial

Council received $703,607.00 for the delivery of the Live Life program from September 2011 to June 2014. This funding will be fully expended as of 30 June 2014. The final program report was provided to the Department of Health, as per the funding requirements, in April 2014. The final financial report will be submitted in September 2014, as per funding requirements.

CONCLUSION

The Federal Department of Health and Ageing (DoHA) awarded Council a grant of $703,607 under the Healthy Communities Initiative program (Phase 2) in June 2011 for the Live Life Eurobodalla project, to provide a range of programs and activities designed to support people, particularly those at high risk of poor health outcomes, to participate, get active and adopt and sustain healthier lifestyles.

The Live Life Eurobodalla project has been very successful, with over 1100 registered members, 130 programs run, partnerships with 170 community agencies and two successful and well attended expos. The program has had a very positive impact on the community.
CAR14/010 SOUTH COAST COOPERATIVE LIBRARY SERVICE MEMBERSHIP

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

Attachments: Nil

Strategic Objective: 1: We are healthy and active

Delivery Plan Link: Libraries

Operational Plan Link: Libraries and Lifelong Learning Strategic Plan

EXECUTIVE SUMMARY

The South Coast Cooperative Library Service (SCCLS) includes Eurobodalla, Shoalhaven and Kiama Councils. The Libraries and Lifelong Learning Strategic Plan and the Library Service review, recently approved by Council, both include a recommendation to review Council’s membership of the SCCLS.

This report details the findings of this review and provides recommendations for Council’s consideration.

RECOMMENDATION

THAT Council:

1. Withdraws from membership of the South Coast Library Service.

2. Write to its SCCLS partners, Shoalhaven and Kiama Councils, advising them of Council’s decision to withdraw and give 12 months’ notice from 30 June 2014, as per the SCCLS agreement, and thank them for providing a professional and positive partnership for 30 years.


BACKGROUND

The South Coast Cooperative Library Service has operated since the early 1980’s, with Shoalhaven taking the lead management and administration role, as outlined in the SCCLS agreement.

From the beginning, the aim of the SCCLS has been to centralise key functions, including acquisitions, resource processing and the library management system (database) as a way of saving money and maximising the buying power of member Councils.

As part of the SCCLS Council has participated in a number of successful cooperative grants, most recently a large print resources grant, as well as enjoying strong professional relationships over a number of years.

Under the SCCLS agreement Council pays Shoalhaven an annual fee. In the 2013-2014 financial year the fee is $140,000, with Council invoiced quarterly.

The fee covers the cost of licences for the Library Management System (online database), resources, and staff time for the selection, cataloguing and processing of new resources. In
addition, Shoalhaven staff manage associated IT and the development of collection development policies for the partner Councils.

CONSIDERATIONS

As part of the review of SCCLS membership, the services and benefits provided under the agreement have been assessed, particularly the purchase, cataloguing and processing of new resources.

While the SCCLS provides a consistent level of professional support and service in terms of cataloguing and processing of resources to a shelf ready standard, the library bookseller industry now provides a similar service, with competitive prices. By purchasing directly from the bookseller and paying for such services Council will be able to spend less on processing. This will mean more funds for new resources, with local staff engaged in selection and ordering activities.

The SCCLS uses the Libero Library Management System. The system is owned by Shoalhaven Council, with Council paying an annual fee for an agreed number of licences. All upgrades and additional options (eg, SMS add ons) are managed by Shoalhaven library and IT staff.

The cost to purchase and set up a stand-alone Libero Management system is approximately $60,000, with an annual licence fee of $10,000 (in line with current licensing costs). The upfront cost to set up a stand-alone Libero system can be paid using Disability and Geographic grant funding (already received) from the State government.

Data transfer can be provided by Shoalhaven Council for an agreed fee, with provision for such a service included in the SCCLS the agreement. Any data transfer costs will be covered by the existing library budget.

Legal

The South Coast Cooperative Libraries Agreement includes provision for the withdrawal of a member Council in Section 11: Exiting of Participating Councils. The relevant section is 11.1.

A participating Council who elects to withdraw from this Agreement must give at least twelve months’ notice, in writing, to the Chairperson and Cooperative Library Manager of its intention.

Economic Development Employment Potential

As a stand-alone service, all employment opportunities become local, with key technical service components of library operation provided by suppliers under contract.

Community Consultation

The Library service has conducted a range of community consultations during the past two years, including independent online surveys and in-library interviews as part of the library review. In addition, a half day community workshop was conducted with the community as part of the preparation of the Libraries and Lifelong Learning Strategic Plan.

All consultations included requests for more resources, new formats and an increase in community engagement with the selection process. It is hoped that the introduction of new selection and processing arrangements can provide an opportunity to achieve this.
CAR14/010    SOUTH COAST COOPERATIVE LIBRARY SERVICE MEMBERSHIP    E88.0911

Staff
Withdrawal from the SCCLS will result in more opportunities for Eurobodalla library staff to undertake professional tasks, including selection and collection development.

Financial
As a stand-alone service the funds previously paid to Shoalhaven Council will be spent locally.

CONCLUSION
The South Coast Cooperative Library Service includes Eurobodalla, Shoalhaven and Kiama Councils, and has operated since the early 1980’s. Over the years the SCCLS has provided a library management system (Libero) and a consistent level of purchasing and processing of new resources.

A review of Council’s membership of the SCCLS indicates that, while acknowledging the consistent service provided by Shoalhaven Council under the agreement, it is time for Council to withdraw from the arrangement and establish a stand-alone library service for the Eurobodalla community.
19. 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.

RECOMMENDATION

THAT pursuant to Section 10A of the Local Government Act, 1993 the following items on the agenda for the Ordinary Council meeting be dealt with in Closed Session for the reasons specified below:

CON14/005 Contract

Item CON14/005 is confidential in accordance with s10(A)(2)(c) of the Local Government Act because it contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business and discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

CON14/006 Contract Charges

Item CON14/006 is confidential in accordance with s10(A)(2)(di) of the Local Government Act because it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and discussion of the matter in an open meeting would be, on balance, contrary to the public interest.
EUROBODALLA SHIRE COUNCIL

ETHICAL DECISION MAKING AND
CONFLICTS OF INTEREST

A GUIDING CHECKLIST FOR COUNCILLORS, OFFICERS
AND COMMUNITY COMMITTEES

ETHICAL DECISION MAKING

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

CONFLICT OF INTEREST

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

THE TEST FOR CONFLICT OF INTEREST

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

IDENTIFYING PROBLEMS

1st Do I have private interests affected by a matter I am officially involved in?
2nd Is my official role one of influence or perceived influence over the matter?
3rd Do my private interests conflict with my official role?
Whilst seeking advice is generally useful, the ultimate decision rests with the person concerned.

**AGENCY ADVICE**

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

<table>
<thead>
<tr>
<th>CONTACT</th>
<th>PHONE</th>
<th>EMAIL</th>
<th>WEBSITE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eurobodalla Shire Council Public Officer</td>
<td>4474-1000</td>
<td><a href="mailto:council@eurocoast.nsw.gov.au">council@eurocoast.nsw.gov.au</a></td>
<td><a href="http://www.esc.nsw.gov.au">www.esc.nsw.gov.au</a></td>
</tr>
<tr>
<td>ICAC</td>
<td>8281 5999</td>
<td><a href="mailto:icac@icac.nsw.gov.au">icac@icac.nsw.gov.au</a></td>
<td><a href="http://www.icac.nsw.gov.au">www.icac.nsw.gov.au</a></td>
</tr>
<tr>
<td>Local Government Department</td>
<td>4428 4100</td>
<td><a href="mailto:dlg@dlg.nsw.gov.au">dlg@dlg.nsw.gov.au</a></td>
<td><a href="http://www.dlg.nsw.gov.au">www.dlg.nsw.gov.au</a></td>
</tr>
<tr>
<td>NSW Ombudsman</td>
<td>8286 1000</td>
<td><a href="mailto:nswombo@ombo.nsw.gov.au">nswombo@ombo.nsw.gov.au</a></td>
<td><a href="http://www.ombo.nsw.gov.au">www.ombo.nsw.gov.au</a></td>
</tr>
<tr>
<td></td>
<td>Toll Free 1800 451 524</td>
<td></td>
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</tr>
</tbody>
</table>

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.

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Meaning</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>ACR</td>
<td>Australian Capital Region</td>
<td>The political and strategic grouping of the ACT government and 17 adjacent councils.</td>
</tr>
<tr>
<td>AEP</td>
<td>Annual Exceedance Probability</td>
<td>For floods expressed as a % eg 1% = 1:100 year event. The NSW Flood Guidelines nominate types of development and controls.</td>
</tr>
<tr>
<td>AHD</td>
<td>Australian Height Datum</td>
<td>Floor levels for buildings set to remain at or above flood level (expressed as ‘freeboard’).</td>
</tr>
<tr>
<td>APZ</td>
<td>Asset Protection Zone</td>
<td>Area to be cleared and maintained around habitable buildings in bushfire prone areas.</td>
</tr>
<tr>
<td>AS</td>
<td>Australian Standard</td>
<td>Standards set by national body as minimum construction, service, system, planning or design requirements.</td>
</tr>
<tr>
<td>Acronym</td>
<td>Meaning</td>
<td>Description</td>
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</tr>
<tr>
<td>BCA</td>
<td>Building Code of Australia</td>
<td>Prescribes minimum standards or performance base for building construction.</td>
</tr>
<tr>
<td>CAMP</td>
<td>Companion Animal Management Plan</td>
<td>Required by state law, plan nominating management of dogs and cats and areas for access for the exercise of dogs (eg beaches and reserves).</td>
</tr>
<tr>
<td>CC</td>
<td>Construction Certificate</td>
<td>Floor plans approved by council or private certifier in compliance with development conditions and BCA.</td>
</tr>
<tr>
<td>COPW</td>
<td>Condition of Public Works Report</td>
<td>Required by state law to define the condition of infrastructure assets, the cost to upgrade to defined standards, the current costs of maintenance and desired levels of maintenance.</td>
</tr>
<tr>
<td>CP</td>
<td>Cultural Plan</td>
<td>A cultural plan enables identification of cultural assets, identity and needs as well as providing a framework to develop cultural initiatives to increase opportunities for residents.</td>
</tr>
<tr>
<td>CSR</td>
<td>Complaint and Service Request</td>
<td>Requests received from public by phone, letter, email or Councillor to attend to certain works (eg pothole) or complain of certain service or offence (eg dogs barking).</td>
</tr>
<tr>
<td>DA</td>
<td>Development Application</td>
<td>Required by state law to assess suitability and impacts of a proposed development.</td>
</tr>
<tr>
<td>DAP</td>
<td>Disability Action Plan</td>
<td>Council plan outlining proposed works and services to upgrade facilities to progressively meet Disability Discrimination Act.</td>
</tr>
<tr>
<td>DCP</td>
<td>Development Control Plan</td>
<td>Local planning policy defining the characteristics sought in residential, commercial land.</td>
</tr>
<tr>
<td>DECCW</td>
<td>Department of Environment, Climate Change and Water (formerly EPA, NPWS, DEC)</td>
<td>State agencies (former Environment Protection and National Parks), DNR managing state lands and natural resources and regulating council activity or advising on development applications.</td>
</tr>
<tr>
<td>DWE</td>
<td>Department of Water and Energy</td>
<td>State agency managing funding and approvals for town and country water and sewer services and State energy requirements.</td>
</tr>
<tr>
<td>DoP</td>
<td>Department of Planning</td>
<td>State agency managing state lands and regulating council activity or advising on development applications or strategic planning.</td>
</tr>
<tr>
<td>DLG</td>
<td>Department of Local Government</td>
<td>State agency responsible for regulating local government.</td>
</tr>
<tr>
<td>DoL</td>
<td>Department of Lands</td>
<td>State agency managing state lands and advising on development applications or crown land management.</td>
</tr>
<tr>
<td>DoC</td>
<td>Department of Commerce</td>
<td>State agency (formerly Public Works) managing state public water, sewer and buildings infrastructure and advising/supervising on council infrastructure construction.</td>
</tr>
<tr>
<td>Acronym</td>
<td>Meaning</td>
<td>Description</td>
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<tr>
<td>DoH</td>
<td>Department of Health</td>
<td>State agency responsible for oversight of health care (community and hospital) programs. Also responsible for public warning of reportable health risks.</td>
</tr>
<tr>
<td>DOTAR</td>
<td>Department of Infrastructure, Transport and Regional Development and Local Government</td>
<td>Federal agency incorporating infrastructure, transport system, and assisting regions and local government.</td>
</tr>
<tr>
<td>EBP</td>
<td>Eurobodalla Bike Plan</td>
<td>Strategic Plan identifying priorities and localities for cycleways in the Shire.</td>
</tr>
<tr>
<td>EIS</td>
<td>Environmental Impact Statement</td>
<td>Required for designated and state developments researching and recommending solutions to social, economic and environmental impacts.</td>
</tr>
<tr>
<td>EMP</td>
<td>Estuary Management Plan</td>
<td>Community based plan, following scientific research of hydrology and hydraulics, recommending actions to preserve or enhance social, economic and environmental attributes of estuary.</td>
</tr>
<tr>
<td>EMS</td>
<td>Environmental Management System</td>
<td>Plans prepared by council (such as waste management and strategic planning) around AS14000.</td>
</tr>
<tr>
<td>EOI</td>
<td>Expressions of Interest</td>
<td>Often called in advance of selecting tenders to ascertain capacity and cost of private sector performing tasks or projects on behalf of council.</td>
</tr>
<tr>
<td>EP&amp;A</td>
<td>Environment Planning &amp; Assessment Act</td>
<td>State law defining types of development on private and public lands, the assessment criteria and consent authorities.</td>
</tr>
<tr>
<td>ESC</td>
<td>Eurobodalla Shire Council</td>
<td></td>
</tr>
<tr>
<td>ESD</td>
<td>Ecologically Sustainable Development</td>
<td>Global initiative recommending balance of social, economic and environmental values in accord with 7 ESD principles.</td>
</tr>
<tr>
<td>ESS</td>
<td>Eurobodalla Settlement Strategy</td>
<td>Council strategy prepared with assistance of government to identify best uses and re-uses of urban lands, the appropriate siting of private and public investment (eg institutions, employment areas or high density residential) based on current and planned infrastructure and land capacity.</td>
</tr>
<tr>
<td>ET</td>
<td>Equivalent Tenement</td>
<td>Basis of calculation of demand or impact of a single dwelling on water and sewer system.</td>
</tr>
<tr>
<td>FAG</td>
<td>Financial Assistance Grant</td>
<td>Federal general purpose grant direct to local government based on population and other 'disability' factors.</td>
</tr>
<tr>
<td>Acronym</td>
<td>Meaning</td>
<td>Description</td>
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<tr>
<td>FSR</td>
<td>Floor Space Ratio</td>
<td>A measure of bulk and scale, it is a calculation of the extent a building floor area takes up of an allotment.</td>
</tr>
<tr>
<td>GIS</td>
<td>Geographic Information System</td>
<td>Computer generated spatial mapping of land and attributes such as infrastructure, slope, zoning.</td>
</tr>
<tr>
<td>IPART</td>
<td>Independent Pricing &amp; Regulatory Tribunal</td>
<td>State body that reviews statutory or government business regulatory frameworks and pricing levels.</td>
</tr>
<tr>
<td>IPWEA</td>
<td>Institute Public Works Engineers Australia</td>
<td>Professional association.</td>
</tr>
<tr>
<td>IWCMS</td>
<td>Integrated Water Cycle Management Strategy (or Plan)</td>
<td>Council plan identifying risk and social, economic and environmental benefit of proposed augmentation to water, sewer and stormwater systems.</td>
</tr>
<tr>
<td>IWMS</td>
<td>Integrated Waste Management (Minimisation) Strategy</td>
<td>Council plan identifying risk and social, economic and environmental benefit of proposed augmentation of waste (solids, effluent, contaminated, liquid trade waste).</td>
</tr>
<tr>
<td>LEP</td>
<td>Local Environment Plan</td>
<td>The statutory planning instrument defining the zones and objectives of urban and rural areas.</td>
</tr>
<tr>
<td>LGAct</td>
<td>Local Government Act</td>
<td>State law defining the role of Mayor, Councillors, staff, financing, approvals etc.</td>
</tr>
<tr>
<td>LGMA</td>
<td>Local Government Managers Australia</td>
<td>Professional association.</td>
</tr>
<tr>
<td>LGNSW</td>
<td>Local Government NSW</td>
<td>Representative advisory and advocacy group for councils in NSW.</td>
</tr>
<tr>
<td>MOU</td>
<td>Memorandum of Understanding</td>
<td>Agreement in principle between parties (eg council and agency) to achieve defined outcomes.</td>
</tr>
<tr>
<td>NPWS</td>
<td>National Parks &amp; Wildlife Service</td>
<td>Now merged into DECCW.</td>
</tr>
<tr>
<td>NRM</td>
<td>Natural Resource Management</td>
<td></td>
</tr>
<tr>
<td>NVC</td>
<td>Native Vegetation Act 2003</td>
<td>State law defining means of protection of threatened legislation and approval processes to clear land.</td>
</tr>
<tr>
<td>OC</td>
<td>Occupation Certificate</td>
<td>Issued by council or private certifier that building is safe to occupy and in compliance with development conditions and BCA.</td>
</tr>
<tr>
<td>OSMS</td>
<td>On site sewage management system</td>
<td>Includes septic tanks, aerated systems, biocycles etc.</td>
</tr>
<tr>
<td>PCA</td>
<td>Principal Certifying Authority</td>
<td>The person or organisation appointed by applicant to inspect and certify structures.</td>
</tr>
<tr>
<td>Acronym</td>
<td>Meaning</td>
<td>Description</td>
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</tr>
<tr>
<td>PIA</td>
<td>Planning Institute of Australia</td>
<td>Professional association.</td>
</tr>
<tr>
<td>PoM</td>
<td>Plan of Management (usually for community land)</td>
<td>Council plan nominating type of uses for community land and range of facilities progressively to be provided on land.</td>
</tr>
<tr>
<td>PPP</td>
<td>Public Private Partnerships</td>
<td></td>
</tr>
<tr>
<td>PTS</td>
<td>Public Transport Strategy</td>
<td>Council strategy to initiate mechanisms to promote and facilitate public transport (bus, taxi, community transport, cycles) in design of subdivisions, developments and council works.</td>
</tr>
<tr>
<td>REF</td>
<td>Review of Environmental Factors</td>
<td>Council examination of risk and social, economic and environmental benefit of proposed works, assessed against state planning, environment and safety laws.</td>
</tr>
<tr>
<td>REP</td>
<td>Regional Environment Planning Policy</td>
<td>Outlines compulsory state planning objectives to be observed in development assessment and strategic planning.</td>
</tr>
<tr>
<td>RFS</td>
<td>Rural Fire Service</td>
<td>State agency responsible for providing equipment and training for volunteer firefighter brigades, and the assessment and approval of developments in bushfire prone lands.</td>
</tr>
<tr>
<td>RLF</td>
<td>Regional Leaders Forum</td>
<td>The group of mayors and general managers representing the councils in the ACR.</td>
</tr>
<tr>
<td>RMS</td>
<td>Roads &amp; Maritime Service</td>
<td>State agency responsible for funding, construction and maintenance of state roads, the approval of council works on arterial roads and development applications.</td>
</tr>
<tr>
<td>S64</td>
<td>S64 Contributions Plan</td>
<td>Developer contributions plan to enable, with council and state funds, the augmentation of water, sewer and stormwater infrastructure.</td>
</tr>
<tr>
<td>S94</td>
<td>S94 Contributions Plan</td>
<td>Developer contributions to enable construction of public infrastructure and facilities such as roads, reserves, carparks, amenities etc.</td>
</tr>
<tr>
<td>S94A</td>
<td>S94A Contributions Plan Levy Plan</td>
<td></td>
</tr>
<tr>
<td>SCG</td>
<td>Southern Councils Group</td>
<td>Political and strategic grouping of councils along the NSW south coast from Wollongong to the border, lobbying government for assistance (eg highways) and resourcing sharing initiatives.</td>
</tr>
<tr>
<td>SCRS</td>
<td>South Coast Regional Strategy</td>
<td>Regional Strategy prepared by DoP for ESC, BVSC and part SCC to guide new LEPs.</td>
</tr>
<tr>
<td>Acronym</td>
<td>Meaning</td>
<td>Description</td>
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</tr>
<tr>
<td>SEA</td>
<td>Strategic Environment Assessment</td>
<td>Spatial assessment of environmental constraints of land considered in design and assessment of subdivision and infrastructure. Scientific research behind assessment of capacity of land and waterways in rural residential and urban expansion lands to sustain human settlement.</td>
</tr>
<tr>
<td>SEPP</td>
<td>State Environmental Planning Policy</td>
<td>Outlines compulsory state planning objectives.</td>
</tr>
<tr>
<td>SNSWLHD</td>
<td>Southern NSW Local Health Districts</td>
<td>State board commissioned with oversight of health care in Highlands, Monaro and Far South Coast.</td>
</tr>
<tr>
<td>SoER</td>
<td>State of the Environment Report</td>
<td>Required by state law, the comprehensive assessment (every four years) of the condition and the pressures on the social, economic and environmental features of the Shire and appropriate responses to address or preserve those issues.</td>
</tr>
<tr>
<td>SP</td>
<td>Social Plan</td>
<td>Required by state law, the comprehensive assessment (every four years) of the condition and the pressures on the social framework of the community, their services and facilities and economic interactions.</td>
</tr>
<tr>
<td>......SP</td>
<td>Structure Plan</td>
<td>Plan promoting landuses and siting of infrastructure and facilities in towns (eg, BBSP – Batemans Bay Structure Plan).</td>
</tr>
<tr>
<td>SRCMA</td>
<td>Southern Rivers Catchment Management Authority</td>
<td>State agency commissioned with assessment and monitoring of health and qualities of catchments from Wollongong to the border, and determine directions and priorities for public and private investment or assistance with grants.</td>
</tr>
<tr>
<td>STP</td>
<td>Sewer Treatment Plant</td>
<td>Primary, secondary and part tertiary treatment of sewage collected from sewers before discharge into EPA approved water ways or irrigation onto land.</td>
</tr>
<tr>
<td>TAMS</td>
<td>Total Asset Management System</td>
<td>Computer aided system recording condition and maintenance profiles of infrastructure and building assets.</td>
</tr>
<tr>
<td>TBL</td>
<td>Triple Bottom Line</td>
<td>Commercial term coined to encourage business to consider and disclose social and environmental risk, benefit and costs in the conduct of business to guide investors as to the long term sustainability and ethics of a business. Taken up by Council to record the basis of prioritisation, the review of condition, the monitor of progress and the financial disclosure of preventative or maintenance investment in council based social and environmental activities.</td>
</tr>
<tr>
<td>ToR</td>
<td>Terms of Reference</td>
<td></td>
</tr>
<tr>
<td>TSC</td>
<td>Threatened Species Conservation Act 1995</td>
<td>State law governing the protection of nominated species and relevant assessment and development controls.</td>
</tr>
<tr>
<td>Acronym</td>
<td>Meaning</td>
<td>Description</td>
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<tr>
<td>WCF</td>
<td>Water Cycle Fund</td>
<td>Combination of water, sewer and stormwater activities and their financing arrangements.</td>
</tr>
<tr>
<td>WSUD</td>
<td>Water Sensitive Urban Design</td>
<td>Principle behind the IWCMS and council development codes requiring new developments to reduce demand and waste on water resources through contemporary subdivision and building design.</td>
</tr>
</tbody>
</table>