

BUILDING BATEMANS BAY'S FUTURE CBD – PUBLIC-PRIVATE PARTNERSHIPS IN LOCAL GOVERNMENT

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Abstract

Public – private partnerships were used by Eurobodalla Shire Council to solve a carparking problem in Batemans Bay's CBD. The partnerships involved working with:

1. The Department of Education and Training to relocate a school from the CBD;
2. A private developer to redevelop the school site, who had to meet Council's strict requirements for the site.

The result was a solution to the carparking needs, a new school located closer to its feeder community on larger grounds and a stronger retail centre for Batemans Bay, all at a lower cost than constructing a multi-deck carpark to solve the original problem.

Key Words: Public – private partnerships, PPP, carparking, strategic development, cost effective infrastructure

Introduction

Batemans Bay is situated on the South Coast of NSW, approximately 280 kilometres south of Sydney and 160 kilometres east of Canberra. Batemans Bay has a population of around 15,000 people and is the northernmost of Eurobodalla Shire's three major towns.

Batemans Bay is a prime holiday and retirement destination for both Canberra and Sydney, and the population triples during holiday periods

Batemans Bay is growing as a major regional centre on the South Coast. Carparking in the CBD has become a major problem not only during holiday peaks, but also throughout the year.

Rather than spend \$5.2 million (in 2001 dollar value) on a multi-deck carpark over an existing carpark, Eurobodalla

Shire Council took a brave decision to undertake an ambitious alternative solution to the problem for the short to medium term. By relocating the Batemans Bay Public School out of the CBD, Council has created enough space to meet both the carparking and the retail needs of the community.

To accomplish this Council has entered into two partnerships. The first partnership, with the Department of Education and Training, sees Council as a private property developer providing the Department with a new school in return for title over the existing site. The second partnership is between Council and the Stevens Group for the development of the school site in the Batemans Bay CBD and the provision of the required carparking spaces.

Through these partnerships Council has achieved its outcomes at a lower

cost to the community than the original proposal as well as achieving other major benefits for the community.

History of development in Batemans Bay CBD

Batemans Bay was a small coastal village throughout most of the 20th Century. The centre of the village was the Clyde River waterfront with jetties to service fishing vessels and coastal shipping. The Princes Highway went through the village only one block back from the waterfront after crossing the Clyde River by way of a ferry.

Batemans Bay grew rapidly from the 1950's largely as a result of the booming population of Canberra and the recreational opportunities that the Bay offered after a (relatively) easy drive down the Kings Highway from Canberra. Indeed, Batemans Bay is still often referred to as "Canberra on the coast" or "Canberra's seaside suburb".

As demand for land grew, first as holiday homes and then as permanent residences, the town of Batemans Bay expanded towards the south east along the southern shoreline of the bay. However, the commercial and retail hub of the growing town remained at the site of the original village, which is located on a triangular sand flat bounded on two sides by the Clyde River and an associated wetland.

The emerging problem

The high rate of growth continued through until the 1980's, by which time the original buildings in the CBD were being torn down and redeveloped to increase commercial and retail floor space to service the needs of the community. Unfortunately, some of the planning decisions taken at that time failed to consider the longer term impacts, and consequently the availability of parking failed to keep

pace with development. Parking problems first began to occur in the peak holiday periods and then throughout the rest of the year.

In the early 1990's Council began to purchase land in the CBD to provide carparking to meet the increasing shortfall of spaces. This solution was not sustainable in the longer term as land was both scarce and expensive.

After completing a parking strategy in 1994 which assessed the current and future demands for parking in the CBD, Council faced the following scenario. It needed to provide 400 extra spaces in the CBD but only had the land to provide 140. The solution seemed obvious; build a multi-deck car park on the current (North & Perry) 4000 m2 site. However, the community did not see this as a desirable option.

An alternative solution

At this point Council decided to look laterally (literally). Adjoining Council's carpark was the Batemans Bay Public School on a 2.5 hectare block. This land had been set aside for the school in the 1950's when Batemans Bay was a small village. Originally, the land had been on the western edge of town, however as development occurred and the Princes Highway re-routed to bypass the main street, the school had become part of the CBD.

The school site dominates the western side of the CBD with a site area of 2.5 hectares. When combined with the adjoining Council carpark it contributes 3 hectares to the CBD's total area of 17 hectares in one single land parcel. If Council could acquire the site it would have adequate space to provide carparking to meet the current and future needs of the community.

Relocating the school

While the Batemans Bay Public School had the oldest school buildings in the Batemans Bay area, the NSW Department of Education and Training (DET) regarded it as a perfectly serviceable and acceptable school that served the northern end of Batemans Bay. It therefore had no intention of closing or relocating the school in the foreseeable future.

Council's initial approaches to DET to acquire the site therefore met with little success. However, DET did agree to undertake an analysis of the demand for schooling in the Batemans Bay area. This study found that over a twenty year period there would be a demand for a third public school at the southern end of Batemans Bay and that increasingly the students enrolling at Batemans Bay Public would come from the urban release areas on the northern side of the Clyde River.

Armed with this information Council approached DET with a proposal to relocate the existing public school to a site north of the Clyde River. After a period of public consultation with the school community (both parents and teachers) DET appeared to accept Council's proposal.

It was at this point that Council received a huge shock. Council had been working on the assumption that having developed the proposal and undertaken the consultation, Council and DET would work together to accomplish the relocation. DET however, were intent on following the NSW Governments guidelines on a public tender process in order to maximise the return to the taxpayers of the state.

The DET Tender process

DET called for Expressions of Interest (EOI) to relocate the school at no cost to the NSW Government in April 1998. The EOI process, according to DET,

was to prove the viability of the proposal. As the earlier public consultation had resulted in support for a site in Surfside, Council promptly acquired an option over the only available site and lodged an EOI by the May 1998 closing date.

In September 1998, despite having heard nothing further from DET, Council took the risk and exercised its option and purchased the Surfside school site.

In February 1999 the Department of Public Works & Services (DPWS) were commissioned by DET to run a "Call for Detailed Proposals".

Council submitted a proposal to relocate the school to the Surfside site in April 1999 and proposed construction be carried out by a local company, Edwards Constructions, who had submitted an EOI to construct a new school.

The Council's proposal with reference to Edwards as the construction company caused some problems in the assessment of the tenders, so in July 1999 the Edwards proposal was withdrawn and they became a contractor in Council's proposal.

In December 1999 DPWS appointed Council the preferred proponent for the relocation of the school. Throughout 2000, Council worked with DPWS, DET and the local community to prepare concept designs for both the building works of the new school and the layout of the whole area.

The road access to the new school location, and indeed the suburb of Surfside, was poor as a result of some regrettable development decisions of the 1980's. In providing good access to the new school Council was determined to fix the existing Surfside access problems and locate the new school on a road without through traffic.

By December 2000, both DET and the local community had approved a design, and the final draft of a development deed had been negotiated.

Funding the relocation

In January 2000 Council introduced pay-parking in the Batemans Bay CBD. Pay-parking was to be introduced into all off street carparks and some on-street areas, however, public outcry resulted in the limitation of the pay-parking to only two of the three off street carparks and a reduction in the time limit for on street spaces. This dramatically reduced the income from pay-parking that had been expected to meet the repayments of a loan to fund the majority of the school relocation cost.

In January 2001, Council made the final decision to go ahead with the relocation at a project cost of \$7.53 million. To fund this cost Council would;

- take out a \$1.3 million loan to be repaid from pay parking revenue,
- redirect other Council funds (including section 94 contributions and rate revenue),
- sell the residue (after keeping land to expand the existing car park to 400 car parking spaces) of the old school site. Council expected a minimum of \$4 million (inclusive of GST) from the sale.

The new school

Work on servicing the new school site began in February 2002 and involved another set of challenges. In overcoming one of these challenges, identifying and protecting the aboriginal cultural heritage of the site, Council has won an Innovation Award from the National Office of Local Government for

its use of ground penetrating radar to identify and map potential sites.

Building work began in October 2001 and finished in September 2002. The use of a local builder, Edwards Construction, provided a boost to the Batemans Bay economy.

The new Batemans Bay Public School is the first privately financed public school in NSW. With the success of this project, the State Government is currently investigating the feasibility of constructing other schools throughout the state through the use of public-private partnerships.

Selling the old school site

Having gained control of the old school site and thereby controlling the largest single parcel of land in the CBD, Council was now in a position to think strategically and make decisions that would influence how the CBD would develop over the next twenty years.

Council originally intended to retain enough of the school site to expand its existing carpark to 400 carparking spaces, which when added to the existing carpark, would meet the current and future needs of the CBD. However, the existing carpark was located on the prime corner of the site and this scenario would have reduced the return from the sale of the remainder of the school site.

Council realised that it did not have commercial or architectural skills to properly consider the many ways of locating 400 car parks on the site and maximising the commercial potential of the site. Therefore, it was decided to let private industry explore the siting opportunities as part of a tender process.

In order to ensure that an appropriate development took place on the site, Council decided that it wouldn't just sell the land to the highest bidder, but

would set a series of objectives that had to be met in the tender. The objectives were:

Design

- reflect the existing design elements of Batemans Bay (as set out in the town centre masterplan) in order to present an image of Batemans Bay as a regional centre;
- to integrate and improve linkages with the current streetscape and foreshore for both pedestrian and vehicle traffic.

Car parking

- In addition to the carparking required by the development, the project should allow for the initial construction of 200 public carparking spaces (in Council's name) with the capacity to provide for a further 200 public carparking spaces at a later date.

Social & economic issues

- minimise retail leakage from the Shire.
- strengthen the economic base of the existing Batemans Bay town centre.
- demonstrate social and economic benefits to the Shire through job creation and growth.
- impact on the existing Batemans Bay business district in a manner that is beneficial to the Shire.

Certainty of development

- the development must be constructed in the tendered form in a timetable acceptable to Council to prevent the site remaining vacant for an extended period.

Financial offer

- The return must at least meet Council's need for \$4 million to fund the school relocation.

Probity Issues

As Council would be both the seller of the land for development and the authority that approved the development, it was clear that Council had to set in place measures to ensure that it was seen to be acting in a proper manner with regard to the development. To achieve this, a Probity Plan was prepared and adopted by Council before the tender process began. The plan set out the rules by which Council would act and key checks and balances that had to be achieved throughout the tender process and beyond.

The plan also covered the Independent Commission Against Corruption's (ICAC) guidelines relating to developments involving Councils and was a public statement of Council's intention to be open about the tendering process, whilst still being involved in commercial aspects of the school redevelopment.

Council's Tender Process

Expressions of Interest were publicly invited in August 2001 for the site. This EOI process was run by a national retail investment agent in conjunction with a local agent. The choice of these agents ensured that the availability of the site would reach the key institutional and development companies, while also keeping the local community informed.

The EOI attracted 17 expressions, which was reduced to 4 parties who, in October 2001 were selected to submit a tender.

Council elected to run the tender process itself with advice from both the probity referee and property lawyers.

The timeframe for the tender submissions was limited due to the need to close submissions by Christmas 2001. This deadline was set

by Council's desire to maximise public input into the selection of a preferred tender, which was achieved by placing the tenders on public exhibition both on the site, and at other locations throughout the shire, over the Christmas – January peak holiday period.

Each tender submission was made up of two parts. The first part, which remained confidential was the financial offer for the site. The second part, including plans and other information about how the proposal met Council's objectives, became public information upon lodgement. It was this second part that was placed on public exhibition.

A public meeting was held in late January 2002 for the tenderers to present their proposals to the public and answer questions regarding the public aspects of the proposals. The public turnout to this meeting was overwhelming with the venue being filled to capacity and many people standing outside to hear the presentations.

The questions asked by the public on the night showed that Council's objectives (set 6 months before) were an accurate assessment of what the public wanted from the development. The public was also invited to fill in submission forms on the night and at the display location. Over 350 submissions were received by the closing date.

Selecting a proposal

In February 2002, Council began the task of assessing and selecting a tender. Again recognising Council's lack of commercial property expertise, an independent expert's advice was taken regarding the bona fide's of the tenders, the viability of the proposed schemes and the retail analysis contained in the tenders. Council assessed the tenders against the

objectives it had previously set, taking account of the public submissions as to how the public perceived the tenders.

In March 2002, after completing its assessment, Council declined to accept any tender but resolved to enter negotiations with the Stevens Group to address a small number of minor issues that Council believed could be improved over the tendered design.

The Stevens' proposal

The Stevens' proposal was by far the most popular of the four submissions. The retail aspects of the design featured two supermarkets, a discount department store and a limited amount of speciality shops. In addition to the retail component, the design also included commercial and residential elements.

The choice of major retail tenants was one of the most important factors in the public popularity of the Stevens' proposal. The four main supermarkets in the shire are operated by one company and the Stevens' proposal included two new supermarkets to be operated by new entrants to the area, thus introducing more competition in the supermarket retail sector. This also addressed Council's objectives of strengthening the Batemans Bay CBD and minimising retail leakage.

Another key aspect of the proposal was the inclusion of 400 carparking spaces to be constructed for Council by the developers, in addition to those required by the development under Council's Carparking Code. In its January 2001 decision, Council had budgeted to construct 200 carparking spaces on the site and the offer by Stevens to construct these spaces removed this and the future cost of constructing a second 200 spaces from Council. These spaces would be transferred to Council's ownership but then licensed back to the shopping centre operator for a 20 + 20 year

period to maintain, clean and insure in conjunction with their own spaces, also saving Council from future costs.

Doing the deal

The minor design issues related to Council's better understanding of the local community's issues and concerns such as accessibility for an ageing population and transport needs were quickly resolved.

Having come this far in the process and achieving so much, Council was not going to allow the site and the development to slip from its grasp and this was reflected in the development agreement that was negotiated with the Stevens Group. This agreement ties the development of the site to the agreed form and will ensure the construction of the centre in an acceptable timeframe.

Having already accurately gauged the desires of the community for the elements of the development, the Stevens Group accepted the need for such an agreement and the final document was executed in June 2002.

The construction of the centre will begin in October 2002 and is expected to open by Christmas 2003.

The return to Council

In addition to the construction of the 400 carparking spaces and other public domain works such as streetscaping, the Stevens Group have paid Council \$6.25 million for the site. The total value of the package, including cash and construction, is \$12.6 million. This is substantially more than Council's \$4 million expectations in January 2001 and reflects both the national increases in land values and Council's efforts in promoting Batemans Bay as a regional centre.

Council did not accept the highest cash offer for the site but selected on the basis of all its stated objectives in conformance with the tender documentation.

The benefit of the partnerships

After all the time and effort Council has invested in the two partnerships, was it worth it?

The simplest way to start to look at the benefit that Council has gained from the two partnerships is to look at the cost of providing the 400 carparking spaces.

To construct a 400 space multi-deck car park in 2001 would have cost \$5.2 million.

When the new shopping centre opens late in 2003 and the spaces are transferred to Council, the net cost of the whole project to the ratepayers will be \$2.5 million, which includes \$1 million of new roads providing improved access to Surfside.

In short, the 400 carparking spaces have been provided at less than half the cost. This, however, is not the end of the benefits, which also include:

- increased retail competition in Batemans Bay and the shire;
- the strengthening of Batemans Bay as a regional centre, with an estimated increased retail expenditure in the CBD of \$50 million per year;
- no running costs of the new carpark for a 20 + 20 year period;
- a new school with improved facilities for the children of Batemans Bay;
- improved road access to Surfside.

In fact, it is hard to quantify all of the benefits that Council and the community have gained out of the partnerships, but one fact is clear: **the partnerships have been a great success.**

Lessons learnt from the project

Initiating, negotiating and running the partnerships were all new challenges to Council. A number of items deserve special mention.

The probity plan

Given the recent publicity concerning other public sector property developments, Council feels that preparing and adopting a probity plan before starting the tender process for the sale of the school site was a worthwhile investment in both time and money. As a result of the plan, Council has been able to consistently demonstrate throughout the project that it has acted in a proper manner and the inevitable questions from ICAC have been readily answered to ICAC's satisfaction.

Expert legal advice

The development agreements relating to the new shopping centre were vastly more complex than Council's regular tender and legal documents. Council therefore, sought the advice of specialist property lawyers rather than its usual lawyers. This expert advice, while expensive, has ensured that Council can be confident of the project outcomes.

Recognising strengths & weaknesses

Council's initial concepts for how to provide carparking on the old school site did not make the best use of the site from a commercial property perspective. Rather than continue down this path, Council recognised this

weakness and allowed the private sector to develop ways of providing the parking and maximising the commercial use of the land resulting in a much better return to Council for the site.

Conclusion

Since the mid 1990's Eurobodalla Shire Council has pursued the relocation of the Batemans Bay Public School from its existing site in Batemans Bay's CBD in order to meet the future needs of the town.

At the time the project was conceived, Council was considering constructing a multi-deck carpark to address the carpark needs alone. The relocation project has not only met the carparking needs but will strengthen Batemans Bay's status as a regional centre through the provision of additional retail opportunities and reducing escape expenditure from the shire.

These benefits have been achieved at a substantially lower cost to the community through a series of public-private partnerships. In this era of rate-pegging and cost shifting, local government must look beyond the traditional ways of providing public infrastructure.

The relocation of the existing Batemans Bay Public School is an example of how public-private partnerships can be successfully used by Council. The innovative way in which Council has sought to overcome its carparking problem using public-private partnerships has proven to have outcomes of significant benefit to the Batemans Bay community. The community can anticipate reaping the benefits of the partnerships well into the future.

Author Biography

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After working for Oberon Council and Mudgee Shire Council, Andrew joined Eurobodalla Shire Council in 2000 and is currently the Technical Services and Property Manager. His division covers the design and strategic planning of civil infrastructure and the community and commercial property functions of Council such as caravan parks, camping grounds, swimming pools, an airport and property development.

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