



AGENDA

Ordinary Meeting of Council

10 March 2020

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

ON TUESDAY 10 MARCH 2020

COMMENCING AT 11.00AM

AGENDA

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

- 1. WELCOME**
 - 2. ACKNOWLEDGEMENT OF COUNTRY**
 - 3. APOLOGIES**
Nil
 - 2. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**
2.1 Ordinary Meeting held on 25 February 2020
 - 3. DECLARATIONS OF INTEREST OF MATTERS ON THE AGENDA**
(Declarations also to be made prior to discussions on each item)
- Page No.**
- 4. MAYORAL REPORTS**
 - 5. NOTICES OF MOTION**
Nil
 - 6. QUESTIONS ON NOTICE FROM COUNCILLORS**
Nil
 - 7. PETITIONS**
Nil
 - 8. GENERAL MANAGER'S REPORTS**
GMR20/004 NSW Government funding for community and economic resilience 3
GMR20/005 Update on Eurobodalla Disaster Relief Fund 6

- 9. PLANNING AND SUSTAINABILITY REPORTS**
 - PSR20/001 Batemans Bay Regional Aquatic, Arts and Leisure Centre - Mackay Park - Operating and Management Model 16

- 10. INFRASTRUCTURE REPORTS**
 - Nil

- 11. CORPORATE AND COMMERCIAL SERVICES REPORTS**
 - CCS20/008 Investments made as at 31 January 2020..... 24

- 12. COMMUNITY, ARTS AND RECREATION REPORTS**
 - Nil

- 13. DELEGATE REPORT**

- 14. URGENT BUSINESS**

- 15. DEALING WITH MATTERS IN CLOSED SESSION27**

- 16. CONFIDENTIAL MATTERS**

**DR CATHERINE DALE
GENERAL MANAGER**

GMR20/004 NSW GOVERNMENT FUNDING FOR COMMUNITY AND ECONOMIC RESILIENCE S008-T00007

Responsible Officer: Dr Catherine Dale - General Manager
Attachments: Nil
Outcome: Protected and Valued Natural Environment
Focus Area: 3.1 Respond to our changing environment and build resilience to natural hazards
Delivery Program Link: 3.1.3 Collaborate with agencies and emergency services to support coordinated emergency management
Operational Plan Link: 3.1.3.3 Support emergency services agencies in planning and responding to natural and man made disasters

EXECUTIVE SUMMARY

The funding for the Bushfire Community Resilience and Economic Recovery Fund (BCRERF) is provided through the joint Australian and NSW Government Disaster Recovery Funding Arrangement. Funding has been made available to bushfire affected Local Government Areas in NSW following the unprecedented bushfires from August 2019 onwards. An allocation of \$250,000 has been made available to Eurobodalla Shire Council and this will be allocated subject to an approved application.

Phase One of the BCRERF is focused on delivering immediate, small-scale funding to local councils that will start the community and economic recovery following the bushfires. The funds will deliver locally-led recovery activities led by councils in partnership with other organisations.

The objectives of Phase One of the BCRERF is to deliver quick, flexible and small-scale grants to local councils for immediate, locally led community and economic recovery activities. The purpose is to support local business recovery and assist communities overcome the economic and social impacts of the bushfires.

Phase One funding is meant to be quick and flexible in order to meet the immediate recovery needs of local communities. Councils are asked to undertake activities in two categories:

- Economic Recovery - events or initiatives to support local business and industry recovery
- Community Resilience – events or initiatives to support community recovery and wellbeing.

This report outlines a list of projects that are recommended to assist the Eurobodalla businesses and community in the recovery process.

RECOMMENDATION

THAT the list of projects as outlined in this report be forwarded to the NSW Government for consideration and approval.

GMR20/004 NSW GOVERNMENT FUNDING FOR COMMUNITY AND ECONOMIC RESILIENCE

S008-T00007

BACKGROUND

The Community Resilience and Economic Recovery payments are being provided through the joint Disaster Recovery Funding Arrangements between states and territories and the Australian Government.

Local councils are the only organisations eligible for Phase One funding.

CONSIDERATIONS

Projects will need to contribute to one of the following criteria:

- Needs of vulnerable groups addressed in disaster recovery
- Community is aware of recovery process
- Community can express changing disaster needs
- Community aware of risk of future disasters
- Community improves capacity and capability to respond to future disasters
- Business and Not for Profit have mitigation practices in place for risks
- Government, private and community sector and organisations engaged in mitigation plans for recovery management.

Small businesses affected by the loss in tourism trade over December 2019 and January 2020 have been identified as some of the most affected groups in our community with the flow on from economic loss to impact the entire community.

Proposed projects	Value	Comments
Support café and retail businesses through outdoor licensing fees exemption for six months	\$87,000	Waive fees from 1 January to 30 June - 59 businesses affected
Encourage existing & additional events by waiving Council event charges	\$30,000	
Assist food retailers through waiver of food premise inspection fees	\$80,000	67 Businesses affected
Support accommodation providers through waiver of public pool inspection fees	\$12,000	58 businesses affected
Support whole of community through provision of free internet at libraries	\$20,000	Currently approximately 20,000 sessions per annum
Business Chambers	\$25,000	Provide \$5000 per business chamber to fund event or program to benefit whole of business community – currently approx. 300 members

Legal

Only one application is allowed per council. Multiple projects or activities maybe included as part of the application.

**GMR20/004 NSW GOVERNMENT FUNDING FOR COMMUNITY AND ECONOMIC
RESILIENCE**

**S008-
T00007**

Councils will need to enter a simple legal binding grant agreement with the department of Planning, Industry and Environment (NSW Government) to receive funding.

At the completion of the project(s), Council will need to provide a brief summary of the activities that were funded and evidence of expenditure.

Economic Development Employment Potential

Small businesses affected by the loss in tourism trade over December 2019 and January 2020 have been identified as some of the most affected groups in our community with the flow on from economic loss to impact the entire Eurobodalla community.

Financial

Phase one has immediate payments of up either \$100,000 or \$250,000 available to eligible bushfire affected local government areas in NSW. Funding is determined by official Building Impact Assessment (BIA) numbers. This will guide the funding amount offered to each council. This includes both damaged and destroyed residential and other properties.

Classification	Funding
>100 damaged or destroyed buildings from official BIA	\$250,000
<100 damaged or destroyed buildings from official BIA	\$100,000

CONCLUSION

Council is eligible to apply for \$250,000 under the Bushfire Community Resilience and Economic Recovery Fund provided through the joint Australian – NSW Government Disaster Recovery Funding Arrangement. The proposed list of projects meets the objectives and criteria of the Fund. This grant funding is welcomed and will assist the Eurobodalla business community.

GMR20/005 UPDATE ON EUROBODALLA DISASTER RELIEF FUND

**S008-
T00025**

Responsible Officer: Dr Catherine Dale - General Manager
Attachments: 1. Eurobodalla Disaster Relief Fund - Terms of Reference [↓](#)
Outcome: Innovative and Proactive Leadership
Focus Area: 9.1 Provide strong leadership and work in partnership to strategically plan for the future and progress towards the community vision
Delivery Program Link: 9.1.2 Implement effective governance
Operational Plan Link: 9.1.2.2 Facilitate community grants and donations

EXECUTIVE SUMMARY

This report provides Council with an update on the Eurobodalla Disaster Relief Fund (EDRF) and committee.

During December 2019 and January 2020, Eurobodalla suffered devastating bushfires that destroyed 501 homes, 80 facilities and 859 outbuildings. Consequently, there were lengthy losses of power and communications, road closures, evacuation of over 9,000 people and the ongoing real threat of dangerous fires. More than 96,000 hectares or 90.5% of our State forests burnt and more than 127,000 hectares or 90.6% of our National Parks burnt. This period is usually when tourist numbers peak, however many holiday makers cancelled their holidays due to fire damage, road closures and the genuine threat of further fires.

As the community sought leadership, support and direction, Council, in combination with other measures, initiated the Disaster Relief Fund – a fund guided by the Australian Taxation Office's Deductible Gift Recipient Status under the Australian Disaster Relief Fund criteria.

To date, Council has received \$144,597 to the Eurobodalla Disaster Relief fund from a number of generous donors. Council has received further verbal pledges.

The committee is made up of the Mayor, Deputy Mayor, two independent community members and General Manager. The committee have met and determined the Terms of Reference (attached) and developed the principals around the funding eligibility.

Under the guidelines, the funding will be distributed in two phases:

- Phase 1 will involve distributions to those who have suffered damage to their primary place of residence and/or outbuildings.
- Phase 2 will involve distributions to small businesses and those indirectly impacted by the fires.
- Phase 3 will support specific projects that contribute to community and economic resilience.

GMR20/005 UPDATE ON EUROBODALLA DISASTER RELIEF FUND

**S008-
T00025**

RECOMMENDATION

THAT Council note the report.

BACKGROUND

At its meeting on 11 February 2020, Council received a report on the Use of Mayoral Executive Instrument in which the Council noted:

Approve the creation of the Eurobodalla Disaster Relief Fund (EDRF), and the rules covering its governance, aims and objections (as set out in the EDRF document).

Reason: *Necessary to create an account and development of terms of reference for donated funds from organisations and individuals to assist the local community affected by this disaster. If this fund had not been established, our community would have lost donations that were being offered during this period.*

The committee was developed by the Mayor in response to the need for a fund to assist the community to rebuild. Two community members were sought and agreed to be independent members on this committee.

The Committee have met twice and have agreed to Term of Reference and developed the principles around the distribution of funds. A financial assistance application form is being developed. Applications will open shortly with forms available on Council's website and hard copies available at the three libraries and main office in Moruya.

CONSIDERATIONS

The Eurobodalla Disaster Relief Fund's (EDRF) Principles have been developed by the committee and are as follows:

Clause 1: Eurobodalla Shire Council has set up the EDRF to initially assist people in Eurobodalla impacted by the 2019-20 bushfires. This fund will be ongoing for other natural disasters.

Clause 2: The EDRF provides an opportunity for the general public and organisations to donate funds, whilst ensuring that all monies donated are used solely for assisting those who have suffered as a result of the fires.

Clause 3: All funds received be distributed within the Eurobodalla Shire only.

Clause 4: The EDRF will utilise a separate Council bank account to manage all funds. Direct depositing to the bank account is the preferred receipting mechanism, with bank account details being displayed on the ESC website. Cash and cheque payments can be made at the Moruya Council Administration Centre or at any National Australia Bank branch.

Clause 5: Council will not use any funds donated for administration, overhead or other non-charitable purposes.

Clause 6: The EDRF is entitled to receive tax deductible gifts from 11 November 2019 until 11 November 2021.

Clause 7: The Fund will be managed by an independent committee comprising respected community members. The committee will identify the areas of greatest need for financial

GMR20/005 UPDATE ON EUROBODALLA DISASTER RELIEF FUND

**S008-
T00025**

assistance in supporting those affected by the fires. Terms of Reference for the management committee can be located on Council's website: www.esc.nsw.gov.au

Clause 8: The intention of the management committee is to distribute funds promptly.

Clause 9: There will be at least three phases involved in the disbursement of funds.

- **Phase 1** will involve distributions to those who have suffered damage to their primary place of residence and/or outbuildings.
- **Phase 2** will involve distributions to small businesses and those indirectly impacted by the fires.
- **Phase 3** will support specific projects that contribute to community and economic resilience.

Clause 10: Timing of Phase 1 will be March/April 2020.

Clause 11: There is no means testing on applications. The management committee encourages those facing financial hardship to apply. As the scale of financial hardship can be difficult to judge and the pool of funds is limited (particularly when considering the amount of damage that has occurred) the management committee relies on the integrity of those applying for relief from this fund.

Clause 12: The intention is that funds distributed will be spent in the local community to stimulate the local economy and also provide some relief to small businesses and others who are facing financial hardship.

Clause 13: An indicative maximum amount that can be claimed is \$1000, however the management committee may amend this amount after reviewing the applications.

Clause 14: Reconciliations and accounts will be prepared for the EDRF on a periodical basis, and at least monthly, to ensure that all funds are correctly accounted for and utilised for the purposes detailed in this document. Additionally, detailed statements will be prepared when the fund is wound up.

Clause 15: Receipts will be issued upon request in the name of the Eurobodalla Shire Council – Eurobodalla Disaster Relief Fund.

Clause 16: The Australian Tax Office (ATO) will be notified in the event of any material changes to the fund.

Clause 17: When the fund is wound up or if the endorsement of the fund as a deductible gift recipient is revoked, any surplus funds shall be transferred to a fund, authority or institution that has deductible gift recipient status.

Legal

The EDRF is entitled to receive tax deductible gifts from 11 November 2019 until 11 November 2021.

Receipts will be issued upon request in the name of the Eurobodalla Shire Council – Eurobodalla Disaster Relief Fund.

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The Australian Tax Office (ATO) will be notified in the event of any material changes to the fund.

Policy

The Committee will distribute the funds in accordance with the Terms of Reference and Fund Principles.

Economic Development Employment Potential

The intention is that funds distributed will be spent in the local community to stimulate the local economy and also provide some relief to small businesses and others who are facing financial hardship.

Financial

The EDRF will utilise a separate Council bank account to manage all funds. Direct depositing to the bank account is the preferred receipting mechanism, with bank account details being displayed on the ESC website. Cash and cheque payments can be made at the Moruya Council Administration Centre or at any National Australia Bank branch.

Council will not use any funds donated for administration, overhead or other non-charitable purposes.

Reconciliations and accounts will be prepared for the EDRF on a periodical basis, and at least monthly, to ensure that all funds are correctly accounted for and utilised for the purposes detailed in this document. Additionally, detailed statements will be prepared when the fund is wound up.

Community and Stakeholder Engagement

We will inform the community of the fund and how to apply for assistance through providing information on Council's website; Online News; advertising on Council's noticeboard page in two local newspapers; distributing a media release.

CONCLUSION

The Eurobodalla Disaster Relief Fund has been developed to assist the community as a result of natural disasters. The Terms of Reference and Fund principles are developed to ensure funds are distributed to Eurobodalla residents with the greatest need for financial assistance.

Eurobodalla Disaster Relief Fund Committee

Terms of Reference

February 2020

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Introduction and Background

The Eurobodalla Shire Council Disaster Relief Fund (“the fund”) provides a publicly accountable mechanism for the collection and disbursement of donated funds following the fires in the Eurobodalla local government area. The fund is an administered item under the Australian Tax Office’s Disaster Relief Fund protocols, deductible gift recipient status has been granted and Eurobodalla Shire Council provides administrative, governance and policy support for the fund.

Under the Australian disaster relief fund category, the fund is entitled to receive tax deductible gifts for two years from **11 November 2019**.

At its meeting on 11 February 2020, Council received a report on the Use of Mayoral Executive Instrument in which the Council noted:

Approve the creation of the Eurobodalla Disaster Relief Fund (EDRF), and the rules covering its governance, aims and objections (as set out in the EDRF document).

Reason: Necessary to create an account and development of terms of reference for donated funds from organisations and individuals to assist the local community affected by this disaster. If this fund had not been established, our community would have lost donations that were being offered during this period.

Council has formed a Committee to determine the most effective governance process and the appropriate distribution of funds collected under the fund to Eurobodalla residents affected by disasters.

TERMS OF REFERENCE

Role of the Disaster Relief Fund Committee

To assist Eurobodalla Shire Council with establishing a governance process and appropriate distribution of funds to Eurobodalla residents affected by disasters.

Criteria for those applying for funds will be displayed on Council’s website

Membership of the Committee

The Fund will be managed by an independent management committee comprising respected community members. The management committee will identify the areas of greatest need for financial assistance in supporting those affected by the fires.

Membership includes:

- Mayor
- Deputy Mayor

- Independent community member
- Independent community member
- General Manager
- Administrative officer (no voting rights)

Tenure of the Committee

The tenure of the committee will coincide with the distribution of the funds in the first instance. It is noted that the committee could be extended to cover further disasters, should the need arise.

Responsibilities of Committee Members

Funds are distributed equitably and consistently;

- Transparency with administration of the fund including adoption of standard accounting protocols;
- Deciding on any fundraising activities for the fund;
- A reasonable vetting process is applied to applications so that there is a level of confidence that applications are bona fide;
- Compliance with privacy legislation;
- Compliance with ATO legislation;
- Council's website is updated with relevant information;
- Approval of relief application form; and
- Appropriate information is provided to affected parties and to the community on the availability of relief, on eligibility and disbursement and on any other matters which the management committee determines should be communicated in order to assist the proper administration of the fund.

Responsibilities of Council

- Council will provide administrative support, including minute taking, distribution of related correspondence and professional officer support.
- Council will be responsible for providing suitable venues and related support to Committee members including refreshments.
- Matters will be referred to the Committee for its consideration and information will be provided on actions arising from adopted Committee recommendations.
- Only with Mayor or General Manager or other delegates can speak on behalf of the committee with the media.
- Council staff will manage and reconcile the separate bank account for management of funds.

Voting Rights and Rules

A quorum of the committee will consist of the chairperson (or delegate) and 2 members of the committee.

Where possible, the management committee will reach decisions by consensus. However, if a vote is required and the results are tied, the chair will have a deliberative and casting vote.

Members of the management committee are obliged to maintain confidentiality in relation to the deliberations of the committee and in relation to personal information that may be presented or obtained.

Chairperson

Eurobodalla Shire Council's Mayor will be Chair of this committee or her delegate.

Meetings

It is anticipated that Committee meetings will be held weekly.

Frequency of meetings may change throughout the life of the project depending on needs and priorities.

Meetings will ordinarily take place in Moruya; however alternate venues will be arranged by consensus of group members.

The duration of meetings will be sufficient to allow full and fruitful discussion by the members of the Committee, as determined by the Chairperson.

APPENDIX 1 - WEBSITES

Eurobodalla Shire Council

<http://www.esc.nsw.gov.au/>

Eurobodalla Shire Council's Code of Meeting Practice

<http://www.esc.nsw.gov.au/inside-council/council/council-policies>

Office of Local Government Model Code of Conduct for Local Councils in NSW

<http://www.esc.nsw.gov.au/inside-council/council/council-policies>

**PSR20/001 BATEMANS BAY REGIONAL AQUATIC, ARTS AND LEISURE CENTRE - OP0004-
MACKAY PARK - OPERATING AND MANAGEMENT MODEL S004**

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

Attachments: 1. Under Separate Cover - Confidential - BBRAALC - Operating and Management Model

Outcome: Vibrant and Diverse Economy

Focus Area: 5.1 Diversify the region's economy, attract investment and target new and emerging employment sectors

Delivery Program Link: 5.1.3 Plan for the development of the Batemans Bay Mackay Park Precinct

Operational Plan Link: 5.1.3.1 Prepare a design for the Regional Aquatic, Arts and Leisure Centre Batemans Bay

EXECUTIVE SUMMARY

The purpose of the report is to recommend to Council the operating and management model for the Batemans Bay Regional Aquatic, Arts and Leisure Centre (BBRAALC).

The new BBRAALC is currently scheduled to become operational in early 2022. While the planning for the construction of this facility is well progressed, the management regime for the new Centre must also be considered and a decision on that model finalised well before the BBRAALC opens to the public. The lead time to finalise the management model includes:

- Tender process
- Staff recruitment
- Establish frameworks and associated policies
- Transition arrangements
- Devise and implement marketing strategies.

The timeframe for the recommended management model will take approximately eighteen months for full implementation.

Council is now in a position to consider the best management model for this exceptional new facility.

After a review of a range of management options, the following two management models were identified for further and more detailed consideration:

- External Contractor – including the option of Fee for Service
- Council Company limited by Guarantee.

The confidential attachment provides a detailed analysis of the two models including expected revenue and expenditure profiles, and potential staffing structures. The attachment is classified as 'commercial-in-confidence' as the release of information contained in the report, has the potential to adversely influence the subsequent tender process and directly impact on the

**PSR20/001 BATEMANS BAY REGIONAL AQUATIC, ARTS AND LEISURE CENTRE - OP0004-
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outcomes being sought by Council. The report also contains data that is the intellectual property of the Otium Planning Group.

The analysis shows the Contract Management (Fee for Service) model is the recommended option. It offers a number of key benefits:

1. Shorter start-up period required in comparison with the company model.
2. Lower operating loss over anticipated contract period/lower establishment costs.
3. By tendering and appointing an experienced management company, Council achieves the immediate benefit of its intellectual property, experienced staff and systems.
4. By setting up open book systems, Council will have full disclosure on visitations, revenue, expenditure and net operating results.
5. Council can include the tender conditions review periods where Council can assess how effective this management model has been and can change management and terms and conditions if required.
6. There will be better control of business information to monitor management's performance and tendered outcomes.
7. There is an opportunity to add in the management of other facilities (as appropriate/required).

Option exists to include the management of the Moruya and Narooma pools, delivering potential efficiencies.

The report recommends adoption of the Contract Fee for Service model.

RECOMMENDATION

THAT:

1. Council adopt a Contract Fee for Service model to manage operations at the proposed Batemans Bay Regional Aquatic, Arts and Leisure Centre.
2. Council undertake a tender process to appoint an external contractor to manage the Batemans Bay Regional Aquatic, Arts and Leisure Centre under a Fee for Service contract model.
3. The contract length of the Fee for Service model to manage operations at the new Batemans Bay Regional Aquatic, Arts and Leisure Centre be five years with a review period after the first three years.
4. The Moruya and Narooma aquatic centres be included as options in the scope of work contained in the Contract Fee for Service for the Batemans Bay Regional Aquatic, Arts and Leisure Centre.

BACKGROUND

In November 2018, Council staff commenced work on developing a set of management model options for the BBRAALC including indicative budget estimates.

On 16 April 2019, Council was briefed on five possible management models, they were:

**PSR20/001 BATEMANS BAY REGIONAL AQUATIC, ARTS AND LEISURE CENTRE - OP0004-
MACKAY PARK - OPERATING AND MANAGEMENT MODEL S004**

1. Leasing the entire facility to an independent operator (external)
2. In-house or direct Council management (internal)
3. Contract management (externally operated under Council direction)
4. Council Company Limited by Guarantee (semi internal model)
5. A 'hybrid' model being a combination of 2 and 3 above.

Two management models were shortlisted to undergo a more detailed assessment, they were:

1. Contract management (externally operated model)
2. Hybrid model – (combination of internal Council staff and externally sourced contract and/or agency staff).

In August 2019, councillors were briefed on the financial modelling developed by Otium Planning Group for both these shortlisted management model options. The key findings were both baselined on the same number of projected visits and income over a ten-year period. The key findings showed the hybrid management model had a significant ten-year operating loss when compared to a contract management option. Given the significant financial differential, the hybrid model was removed from any further consideration.

At this same briefing, it was requested that the Council Company Limited by Guarantee model, be re-investigated as a possible option. In addition, staff proposed that a fee for service model of contract management option be examined.

A detailed business case and assessment was prepared by Otium Planning Group for the Council Company Limited by Guarantee and the Contract Fee for Service models so as they could be considered in detail. The business cases and assessment identified that the Contract Fee for Service was the recommended operational model, providing the most cost effective management solution for Council and the community, noting that the costs were less than estimated in the original 2017 Otium business case. Councillors were briefed on the business cases and assessment on 18 February 2020.

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MACKAY PARK - OPERATING AND MANAGEMENT MODEL S004**

CONSIDERATIONS

Some of the key aspects that need to be considered in the determination of the preferred management model include:

- Must be cost effective but must maintain the agreed quality of service benchmarks (these would be fully articulated in the final contract)
- Selecting the appropriate management regime to operate the new Centre
- Selecting the best type of contract/operating methodology to underpin the operations including the definition of rights and obligations of all parties involved
- Understand and develop supporting processes such as contract management protocols/company reporting structures to sustain the selected operating model.

In terms of governance/management it is imperative that the outcomes that management are seeking to achieve, are well articulated and targeted against key Council outcomes. Some of the considerations could include:

- Financial outcomes – meet operating costs, contribute to asset maintenance/replacement
- Community support outcomes – approved access support, discounted entry fees
- Commercial outcomes – provide business opportunities for commercial activities
- Usage outcomes – all ages, interests, abilities, etc
- Facility maintenance/asset renewal – reserve funding for programmed renewal
- Environmental outcomes – energy savings, etc.

The management of a large and diverse centre such as the BBRAALC, will require a combination of specialist knowledge including:

- General business acumen and human resource management
- Strong customer support protocols
- Marketing
- Catering services (operating at various levels)
- Theatre and arts operations
- Aquatic operations
- Health and fitness centre operations
- Community program delivery (water aerobics, learn to swim, etc)
- Work health and safety
- Risk management expertise
- Asset management.

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Council should also consider the potential to have the Moruya and Narooma pools managed under the management model adopted for the BBRAALC. This has the potential to deliver greater efficiencies through economies of scale, consistency in service delivery and program options for Council and the community. The benefits of this option can be explored via the tender process by requesting a response to the management of the BBRAALC and a response to managing all three centres.

It is recommended that Council adopt the Contract Fee for Service model for the following reasons:

- There is no detailed trading history for the new Centre
- Lower start-up costs
- Brings immediate expertise and scale of management to the local area
- Provides immediate access to key business areas such as management, programming and marketing expertise
- Minimise operating risk by partnering with an experienced contract management company
- Provides for Council to understand the full operational performance allowing for a review of the management model at year three and
- It provides the most cost effective solution based on the assessments undertaken by Otium Planning Group and the experience of other councils going through the same process in recent times.

Legal

Both models will have an associated legal involvement/cost to be established. These costs have been identified in the business case. Due to the complexities of establishing a Council company, the legal costs will be much higher than those associated with developing a base contract for the Contract Management (Fee for Service) option.

Policy

Both models will need to comply with any relevant Council policies. A number of new policies will need to be developed specific to the operations of the BBRAALC. It is expected that the development of policies for the Contract model will be significantly less, as companies operating in a similar environment will have a strong base on which to commence new policy work. It is expected several pre-existing policies will be applicable for a number of aspects associated with the new Centre.

The company option will have significantly more work to perform on policy development as they will be commencing from a zero base.

Asset

From a management model perspective there are two key aspects that must underpin the selection and subsequent operation of the new Centre, they are:

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- Council wants to ensure it achieves the best use from of the facility by providing the desired level of service in the most cost-effective manner for present and future customers.
- Optimise the service delivery of the facility assets in the most effective way with customer experience and safety at the forefront.

To achieve the goals listed above, the final contract/service agreement must incorporate the appropriate asset management incentives, clearly identify which party is liable in the event of a breakdown or negligence and include provision for asset replacement.

Irrespective of the management model chosen, there will be a requirement for the establishment of an agreed Asset Management Plan.

Social Impact

The selection of the management model in itself does not have any inherent social impacts. However, the programming and fee structure established and managed under the preferred management model, must be attractive and affordable for all people across our Shire.

The Arts and Cultural component of the Centre should support, present and host a broad range of the arts products and activities, and be a fully programmed space. Within the programming, there would be a balance of community access and support/nurturing of local Eurobodalla Shire arts practitioners.

Facilities and program activities must be affordable for local people/groups to be able to access and use. Fees need to be set at levels that:

1. Make a reasonable contribution toward the Centre and program costs
2. User groups should be able to afford
3. Are in line with rates charged by similar facilities – market rates.

Fees for access to the Centre would support the viability of community based and not-for-profit groups and organisations.

Some commercial activity, in balance with the community needs and focus of the BBRAALC, would be encouraged as a means of generating additional income and enhancing the program offering on site.

Ultimately, the operations of the BBRAALC must ensure access to the Centre is granted in a fair, transparent and ethical manner. The operators will need to balance the security of access for long time user groups while enabling new groups and opportunities, access to the Centre and its amenities to achieve the Council's vision for the BBRAALC.

Economic Development Employment Potential

The use of either the Contract or Council Company Limited by Guarantee is likely to result in a high level of local employment. Both models offer a variety of job positions, with a variety of full-time and part-time employment opportunities (the confidential attachment does include possible staffing structures for both models). The structure also offers the potential for career progression and individual development. Given the high rates of unemployment in the region, the new BBRAALC offers opportunities for a range of employment options (both full and part-

**PSR20/001 BATEMANS BAY REGIONAL AQUATIC, ARTS AND LEISURE CENTRE - OP0004-
MACKAY PARK - OPERATING AND MANAGEMENT MODEL S004**

time). This is especially pertinent given the seasonal offerings currently available at the Batemans Bay pool.

**PSR20/001 BATEMANS BAY REGIONAL AQUATIC, ARTS AND LEISURE CENTRE - OP0004-
MACKAY PARK - OPERATING AND MANAGEMENT MODEL S004**

Financial

In considering the costs to operate/manage the BBRAALC there are three key areas being:

- Staff/labour costs: 50% to 75% of operating expenditure
- Energy costs: 15% to 20% of operating expenditure
- Facility maintenance and asset management: 10% to 15% of operating costs.

An examination of both models over a ten-year operating period, shows that that the Contract Fee for Service model operating costs are considerably lower than that of the Council Company model which has significantly higher start-up costs and the cost of a skills-based board of directors. The full analysis is provided in the confidential attachment. It should also be noted that the costs were less than estimated in the original 2017 Otium business case.

Should Council adopt the recommendations of this report, the process would then be subject to an open tender process. In order to not compromise this process, all financial figures and associated research are included in a confidential attachment to this report.

Community and Stakeholder Engagement

The project team has engaged with a broad cross-section of internal stakeholders on the various models available to operate the new Centre and has briefed councillors on each of these options. In addition, project staff have spoken with, and visited several councils across Victoria, NSW and South Australia, to ascertain the types of management models being used and any lessons learned from current and previous experience.

This extensive consultation has then been supported by the breadth of knowledge and experience the Otium Planning Group have collected throughout the various projects they have either managed or with which they have been involved.

CONCLUSION

While both management options have strong claims and could deliver for Council a strong outcome in terms of delivery and customer satisfaction, the Contract Fee for Service model, over a ten-year operating period, does provide a substantial financial benefit in comparison to the Council Company model. While the reduced operating cost does provide a strong rationale to automatically adopt the lower cost option, there are several other reasons, as detailed in the report, to adopt the contract model over the Council Company option.

The opportunity to consider as an option, to the tender, of including Moruya and Narooma pools under the Contract Fee for Service model, is also recommended. This has the potential to deliver savings to Council.

CCS20/008 INVESTMENTS MADE AS AT 31 JANUARY 2020

**S011-
T00006,
S012-
T00025**

Responsible Officer: Anthony O'Reilly - Director Corporate and Commercial Services

Attachments: Nil

Outcome: Innovative and Proactive Leadership

Focus Area: 9.2 Ensure financial sustainability and support the organisation in achieving efficient ongoing operations

Delivery Program Link: 9.2.4 Responsibly manage Council's finances and maintain Fit for the Future status

Operational Plan Link: 9.2.4.3 Provide financial management and reporting

EXECUTIVE SUMMARY

The purpose of this report is to:

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

RECOMMENDATION

THAT the certification that the investments as at 31 January 2020, made in accordance with the *Local Government Act 1993*, Council's Investment Policy and the provision of Clause 1 (Reg. 212) of the *Local Government (General) Regulation 2005*, be received.

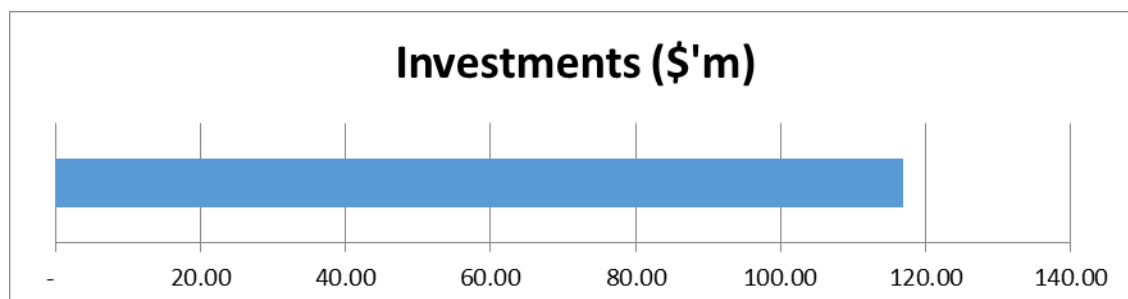
CONSIDERATIONS

Policy

The portfolio is compliant with Council's Investment Policy adopted by Council on 31 July 2018 (Minute 18/182).

Financial

Council investing overall



CCS20/008 INVESTMENTS MADE AS AT 31 JANUARY 2020

**S011-
T00006,
S012-
T00025**

Council has 100% (\$117.00m) invested in Bank Deposits. The Bank Deposits are held in banks rated A or greater, or covered by the AAA rated Government Guarantee, except for \$29.50m invested in banks rated below A, and in the 'some limited risk' category of the policy.

The decrease in the investment portfolio because of additional expenditure due to the bushfires.

The 'some limited risk' category is now restricted to BBB+ rating institutions which allows up to 30% of all investments. Currently there is 25.21% invested in BBB+. Investment in Government Guaranteed Deposits is \$1.50m and represents 1.28% of the portfolio.

There are \$47m (40.17%) of funds invested in claimed fossil fuel free institutions.

The weighted average return for all investments for the month is 1.61%, which is above the Council policy benchmark of Bank Bill Swap rate (BBSW) + 0.25% (1.14%).

Summary investment information

The following table summarises investment categories and balances at month end.

CATEGORY	(\$)
At Call Deposit	5,000,000
Term Deposits	110,500,000
Term Deposits Government Guaranteed	1,500,000
	117,000,000
<i>Weighted average interest %:</i>	1.61%
<i>Average 90 day BBSW + 0.25%</i>	1.14%

Policy and liquidity risk

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

CCS20/008 INVESTMENTS MADE AS AT 31 JANUARY 2020

**S011-
T00006,
S012-
T00025**

Policy risk	Low liquidity risk %	Total % of investments	Policy risk % (max holdings)
Remote risk	1.28	1.28	100.00
Near risk free	73.51	73.51	100.00
Some limited risk (BBB+)	25.21	25.21	30.00
Grand total	100.00	100.00	

The unrestricted current ratio is the amount of unrestricted current assets compared to each dollar of current liability. The Office of Local Government suggests a minimum 1.5:1, and the audited unrestricted current ratio as at 30 June 2019 is 1.96:1. Council therefore has approximately \$1.96 of current assets for each \$1 of current liabilities.

CONCLUSION

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

15. 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.

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.

CONTACT	PHONE	EMAIL	WEBSITE
Eurobodalla Shire Council Public Officer	4474-1000	council@eurocoast.nsw.gov.au	www.esc.nsw.gov.au
ICAC	8281 5999	icac@icac.nsw.gov.au	www.icac.nsw.gov.au
Local Government Department	4428 4100	dlg@dlg.nsw.gov.au	www.dlg.nsw.gov.au
NSW Ombudsman	8286 1000 Toll Free 1800 451 524	nswombo@ombo.nsw.gov.au	www.ombo.nsw.gov.au

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

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

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

Setback Council's planning controls establish preferred standards of setback (eg 7.5m front; 1m side and rear);

Envelope taking into account the slope of a lot, defines the width and height of a building with preferred standard of 8.5m high;

Footprint the percentage of a lot taken up by a building on a site plan.

Acronym	Meaning	Description
ACR	Australian Capital Region	The political and strategic grouping of the ACT government and 17 adjacent councils.
AEP	Annual Exceedance Probability	For floods expressed as a % eg 1% = 1:100 year event. The NSW Flood Guidelines nominate types of development and controls.
AHD	Australian Height Datum	Floor levels for buildings set to remain at or above flood level (expressed as 'freeboard').
APZ	Asset Protection Zone	Area to be cleared and maintained around habitable buildings in bushfire prone areas.
AS	Australian Standard	Standards set by national body as minimum construction, service, system, planning or design requirements.

Acronym	Meaning	Description
BCA	Building Code of Australia	Prescribes minimum standards or performance base for building construction.
CAMP	Companion Animal Management Plan	Required by state law, plan nominating management of dogs and cats and areas for access for the exercise of dogs (eg beaches and reserves).
CC	Construction Certificate	Floor plans approved by council or private certifier in compliance with development conditions and BCA.
COPW	Condition of Public Works Report	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.
CP	Cultural Plan	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.
CSR	Complaint and Service Request	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).
DA	Development Application	Required by state law to assess suitability and impacts of a proposed development.
DAP	Disability Action Plan	Council plan outlining proposed works and services to upgrade facilities to progressively meet Disability Discrimination Act.
DCP	Development Control Plan	Local planning policy defining the characteristics sought in residential, commercial land.
DECCW	Department of Environment, Climate Change and Water (formerly EPA, NPWS, DEC)	State agencies (former Environment Protection and National Parks), DNR managing state lands and natural resources and regulating council activity or advising on development applications.
DWE	Department of Water and Energy	State agency managing funding and approvals for town and country water and sewer services and State energy requirements.
DoP	Department of Planning	State agency managing state lands and regulating council activity or advising on development applications or strategic planning.
DLG	Department of Local Government	State agency responsible for regulating local government.
DoL	Department of Lands	State agency managing state lands and advising on development applications or crown land management.
DoC	Department of Commerce	State agency (formerly Public Works) managing state public water, sewer and buildings infrastructure and advising/supervising on council infrastructure construction.

Acronym	Meaning	Description
DoH	Department of Health	State agency responsible for oversight of health care (community and hospital) programs. Also responsible for public warning of reportable health risks.
DOTAR	Department of Infrastructure, Transport and Regional Development and Local Government	Federal agency incorporating infrastructure, transport system, and assisting regions and local government.
EBP	Eurobodalla Bike Plan	Strategic Plan identifying priorities and localities for cycleways in the Shire.
EIS	Environmental Impact Statement	Required for designated and state developments researching and recommending solutions to social, economic and environmental impacts.
EMP	Estuary Management Plan	Community based plan, following scientific research of hydrology and hydraulics, recommending actions to preserve or enhance social, economic and environmental attributes of estuary
EMS	Environmental Management System	Plans prepared by council (such as waste management and strategic planning) around AS14000.
EOI	Expressions of Interest	Often called in advance of selecting tenders to ascertain capacity and cost of private sector performing tasks or projects on behalf of council.
EP&A	Environment Planning & Assessment Act	State law defining types of development on private and public lands, the assessment criteria and consent authorities.
ESC	Eurobodalla Shire Council	
ESD	Ecologically Sustainable Development	Global initiative recommending balance of social, economic and environmental values in accord with 7 ESD principles.
ESS	Eurobodalla Settlement Strategy	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.
ET	Equivalent Tenement	Basis of calculation of demand or impact of a single dwelling on water and sewer system.
FAG	Financial Assistance Grant	Federal general purpose grant direct to local government based on population and other 'disability' factors.

Acronym	Meaning	Description
FSR	Floor Space Ratio	A measure of bulk and scale, it is a calculation of the extent a building floor area takes up of an allotment.
GIS	Geographic Information System	Computer generated spatial mapping of land and attributes such as infrastructure, slope, zoning.
IPART	Independent Pricing & Regulatory Tribunal	State body that reviews statutory or government business regulatory frameworks and pricing levels.
IPWEA	Institute Public Works Engineers Australia	Professional association.
IWCMS	Integrated Water Cycle Management Strategy (or Plan)	Council plan identifying risk and social, economic and environmental benefit of proposed augmentation to water, sewer and stormwater systems.
IWMS	Integrated Waste Management (Minimisation) Strategy	Council plan identifying risk and social, economic and environmental benefit of proposed augmentation of waste (solids, effluent, contaminated, liquid trade waste).
LEP	Local Environment Plan	The statutory planning instrument defining the zones and objectives of urban and rural areas.
LGAct	Local Government Act	State law defining the role of Mayor, Councillors, staff, financing, approvals etc.
LGMA	Local Government Managers Australia	Professional association.
LGNSW	Local Government NSW	Representative advisory and advocacy group for councils in NSW.
MOU	Memorandum of Understanding	Agreement in principle between parties (eg council and agency) to achieve defined outcomes.
NPWS	National Parks & Wildlife Service	Now merged into DECCW.
NRM	Natural Resource Management	
NVC	Native Vegetation Act 2003	State law defining means of protection of threatened legislation and approval processes to clear land.
OC	Occupation Certificate	Issued by council or private certifier that building is safe to occupy and in compliance with development conditions and BCA.
OSMS	On site sewage management system	Includes septic tanks, aerated systems, biocycles etc.
PCA	Principal Certifying Authority	The person or organisation appointed by applicant to inspect and certify structures.

Acronym	Meaning	Description
PIA	Planning Institute of Australia	Professional association.
POEO	Protection of the Environment Operations Act	State law outlining standards for emissions and discharges and penalties for pollution.
PoM	Plan of Management (usually for community land)	Council plan nominating type of uses for community land and range of facilities progressively to be provided on land.
PPP	Public Private Partnerships	
PTS	Public Transport Strategy	Council strategy to initiate mechanisms to promote and facilitate public transport (bus, taxi, community transport, cycles) in design of subdivisions, developments and council works.
REF	Review of Environmental Factors	Council examination of risk and social, economic and environmental benefit of proposed works, assessed against state planning, environment and safety laws.
REP	Regional Environment Planning Policy	Outlines compulsory state planning objectives to be observed in development assessment and strategic planning.
RFS	Rural Fire Service	State agency responsible for providing equipment and training for volunteer firefighter brigades, and the assessment and approval of developments in bushfire prone lands.
RLF	Regional Leaders Forum	The group of mayors and general managers representing the councils in the ACR.
RMS	Roads & Maritime Service	State agency responsible for funding, construction and maintenance of state roads, the approval of council works on arterial roads and development applications.
S64	S64 Contributions Plan	Developer contributions plan to enable, with council and state funds, the augmentation of water, sewer and stormwater infrastructure.
S94 S94A	S94 Contributions Plan S94A Contributions Plan Levy Plan	Developer contributions to enable construction of public infrastructure and facilities such as roads, reserves, carparks, amenities etc.
SCG	Southern Councils Group	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.
SCRS	South Coast Regional Strategy	Regional Strategy prepared by DoP for ESC, BVSC and part SCC to guide new LEPs.

Acronym	Meaning	Description
SEA	Strategic Environment Assessment	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.
SEPP	State Environmental Planning Policy	Outlines compulsory state planning objectives.
SNSWLHD	Southern NSW Local Health Districts	State board commissioned with oversight of health care in Highlands, Monaro and Far South Coast.
SoER	State of the Environment Report	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.
SP	Social Plan	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.
.....SP	Structure Plan	Plan promoting landuses and siting of infrastructure and facilities in towns (eg, BBSP – Batemans Bay Structure Plan).
SRCMA	Southern Rivers Catchment Management Authority	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.
STP	Sewer Treatment Plant	Primary, secondary and part tertiary treatment of sewage collected from sewers before discharge into EPA approved water ways or irrigation onto land.
TAMS	Total Asset Management System	Computer aided system recording condition and maintenance profiles of infrastructure and building assets.
TBL	Triple Bottom Line	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.
ToR	Terms of Reference	
TSC	Threatened Species Conservation Act 1995	State law governing the protection of nominated species and relevant assessment and development controls.

Acronym	Meaning	Description
WCF	Water Cycle Fund	Combination of water, sewer and stormwater activities and their financing arrangements.
WSUD	Water Sensitive Urban Design	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.