



# **AGENDA**

**Ordinary Meeting of Council**

**9 April 2019**



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

**ON TUESDAY 9 APRIL 2019**

**COMMENCING AT 10.00AM**

**AGENDA**

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

- 1. WELCOME, ACKNOWLEDGEMENT OF COUNTRY & EVACUATION MESSAGE**
- 2. APOLOGIES**  
Nil
- 3. PUBLIC FORUM (AGENDA ITEMS ONLY)**
- 4. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**  
4.1 Ordinary Meeting held on 26 March 2019
- 5. DECLARATIONS OF INTEREST OF MATTERS ON THE AGENDA**  
(Declarations also to be made prior to discussions on each item)
- 6. MAYORAL REPORTS**  
Nil
- 7. NOTICES OF MOTION**  
Nil
- 8. QUESTIONS ON NOTICE FROM COUNCILLORS**  
Nil
- 9. PETITIONS**  
Nil
- 10. GENERAL MANAGER'S REPORTS**  
Nil

**Page No.**

|  |   |
|--|---|
| <b>11. PLANNING AND SUSTAINABILITY REPORTS</b>       |   |
| PSR19/002  | River of Art Festival ..... 3   |
| <b>12. INFRASTRUCTURE REPORTS</b>                    |   |
| IR19/008   | Request for Tender No. 100208011 - Rectification of the Defective Clay Liner in the Effluent Storage Pond at Bodalla Sewage Treatment Plant on Potato Point Road, Bodalla ..... 6 |
| IR19/009   | Request for Tender No. 2019/ISD034 for the Augmentation of Sewage Pumping Station BB01 at Surf Beach, Batemans Bay ..... 8  |
| <b>13. CORPORATE AND COMMERCIAL SERVICES REPORTS</b> |   |
| CCS19/010  | Land Acquisition for Road Widening - North Head Drive, Moruya..... 11   |
| CCS19/011  | New Model Code of Conduct for Local Councils in NSW and Procedures ..... 15   |
| <b>14. COMMUNITY, ARTS AND RECREATION REPORTS</b>    |   |
| CAR19/005  | Community Care Status Report..... 21  |
| <b>15. DELEGATE REPORT</b>                           |   |
| <b>16. URGENT BUSINESS</b>                           |   |
| <b>17. DEALING WITH MATTERS IN CLOSED SESSION</b>    | <b>.....28</b>  |
| <b>18. CONFIDENTIAL MATTERS</b>                      |   |

**DR CATHERINE DALE  
GENERAL MANAGER**

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**PSR19/002 RIVER OF ART FESTIVAL**

**E14.8405**

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

Attachments: 1. Confidential - River of Art - Strategic Plan

Outcome: Vibrant and Diverse Economy

Focus Area: 5.3 Focus on the development of sustainable tourism and quality events and visitor experiences

Delivery Program Link: 5.3.2 Actively seek and support the development and hosting of events

Operational Plan Link: 5.3.2.2 Support event organisers in delivery of a range of new and established events

**EXECUTIVE SUMMARY**

The purpose of this report is to seek Council endorsement to allocate additional funding to support the River of Art Festival for 2019.

The River of Art organising committee (committee) has written to Council seeking \$20,000 to support the event management and administration of the 2019 River of Art.

The funding is requested to specifically engage a professional event manager/management company to help grow and strategically place the event as a hallmark event for Eurobodalla and to attract greater Destination NSW (DNSW) funding. The aim is to not only reduce the burden on the volunteer organizing committee but also to provide the professional expertise required to take the event to the next level to support jobs growth and economic return to the local economy.

**RECOMMENDATION**

THAT Council allocate \$20,000 to support the River of Art Festival for 2019 from the events assistance budget.

**BACKGROUND**

The River of Art Festival (Festival) presented an overview of their River of Art Strategic Plan 2020-2023 to Council on 19 March 2019 (refer confidential attachment).

In 2018 the Festival attracted approximately 16,150 attendees, of which 40% were visitors from outside our Shire.

The Festival has been held every May for 13 years over 5-10 days and flows across the Eurobodalla from Durras to Wallaga Lake. It is run by a well governed, not-for-profit association with strong creative, business and community links.

Feedback from the stakeholder engagement process, undertaken by The Tilma Group in late August 2018 to inform the development of the Eurobodalla Event Strategy, clearly identified that an Art, Food and Music event across the three major towns in spring should be recognised as a hallmark event that has significant potential to grow and develop as *the* signature event across Eurobodalla. The River of Art festival committee are proposing to move the event from May to August/September.

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**PSR19/002 RIVER OF ART FESTIVAL**

**E14.8405**

The Events Strategy is due for completion in April 2019. The event organizing committee has presented a comprehensive four year business plan and supporting budget (refer to confidential attachment). The vision of the committee is to grow the event as a hallmark event as well as ensure that it is financially sustainable over the next four years to remove any reliance upon grant funding from either Council or the NSW Government. In 2020 the Festival is set to shift from late autumn to early spring (some time in September) to combine the creative arts with a celebration of spring colour, warmth, food and fun outdoors. In addition for the first time, the event will include ticketed components.

Given that the Festival will be in its final year of Flagship Funding for the 2019 event (\$27,500), it is imperative that the 2019 event achieves further growth to be able to qualify for the next level of funding for 2020. It should be noted that only three events received this level of funding (\$50,000) from DNSW for 2018. The Festival will need to show a comprehensive strategy for future growth to achieve this next level of support, which demonstrates the continued development of its tourism potential to drive overnight visitation to the event.

Reaching this potential as one of Eurobodalla's hallmark events, is now beyond the capacity of the volunteer organising committee. To be eligible for the DNSW Event Development Support (up to \$50,000), and to expand the festival into a hallmark Shire-wide event, greater professional support and experience is required to strategically plan and grow the event over the next year. The organising committee is preparing an expanded scope of works to seek responses from event management specialists.

**CONSIDERATIONS**

**Economic Development Employment Potential**

The River of Art Festival is a key driver of the Eurobodalla visitor economy. It is estimated that the 2018 event contributed \$3,900,000 to the local economy and has the potential to achieve additional economic growth if its development is further supported.

**Financial**

Council's Tourism and Event Unit supported the 2018 event with \$5,000 funding. \$5,000 was set aside from the Event Assistance Program 2018/19 budget for this year's event.

The Event Assistance Program currently has a budget of \$50,000. For 2019, \$20,000 has been allocated to the Narooma Oyster Festival, whilst approximately \$10,000 has been allocated amongst a number of other tourism and community events such as the Bay Paddle Challenge and Seaside Carnival.

Should Council determine to support the allocation of \$20,000 for the River of Art, the additional \$15,000 can be sourced from this year's Event Assistance Program, as there are still funds available.

In future years, event support will be determined in accordance with the recommendations of the Events Strategy.

Of the \$20,000 support from Council, \$10,000 will be used:

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**PSR19/002 RIVER OF ART FESTIVAL**

**E14.8405**

- To engage a professional event manager or team that is capable of undertaking a greater scope of works than the current consultants. The scope will be expanded from the current outsourced works to include: management of all stall holders, entertainment plus oversee and project manage the event. Importantly the organising committee is looking for a higher level of professional experience to advise on how to grow the festival as this is beyond the capability and expertise of a volunteer organising committee.

The additional \$10,000 (of the \$20,000 support) sought from Council will be used specifically to:

- Develop and undertake an event evaluation process
- Engage local administration assistance to support the Steering Committee

An operating surplus of up to \$20,000 has been forecast in the festival's budget to cover contingencies and support the growth of the Festival as a Shire-wide event for 2020. This is double the current Festival surplus. A full event budget is contained within the confidential attachment.

**Community and Stakeholder Engagement**

The draft Event Strategy has identified the need to develop significant anchor or hallmark events that create a competitive advantage for Eurobodalla, build reputation, create a reason to visit in the off season and celebrate everything that is special about Eurobodalla.

Early emerging findings of the draft Events Strategy identifies the need to grow and support an Art, Food and Music event across the three major towns in spring. The RoA committee as stated previously are looking to move the event to some time in August/September.

The River of Art Festival is an important hallmark event across Eurobodalla, with significant potential for growth.

**CONCLUSION**

The 2018 River of Art Festival attracted an estimated 16,150 attendees. Significantly 40% were from outside our Shire and stayed a number of nights to enjoy the Shire's other attractions.

Consideration should now be given to the future of the River of Art Festival to encourage its continued growth and generation of increasing patronage and interest. It is therefore recommended that Council support the allocation of \$20,000 to support the River of Art Festival for 2019.

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**IR19/008 REQUEST FOR TENDER NO. 100208011 - RECTIFICATION OF THE DEFECTIVE CLAY LINER IN THE EFFLUENT STORAGE POND AT BODALLA SEWAGE TREATMENT PLANT ON POTATO POINT ROAD, BODALLA** **E02.6256**

Responsible Officer: Warren Sharpe OAM - Director Infrastructure Services

Attachments: 1. Confidential - Tender - Clay Liner Bodalla STP

Outcome: Sustainable Living

Focus Area: 4.1 Maximise the efficient use and reuse of our water resources

Delivery Program Link: 4.1.1 Provide a safe, reliable and sustainable town water supply and sewerage services

Operational Plan Link: 4.1.1.2 Build, renew, operate and maintain sewerage systems

### **EXECUTIVE SUMMARY**

Council engaged Public Works Advisory (PWA) to advertise Request for Tender (RFT) No. 100208011 Rectification of the Defective Clay Liner in the Effluent Storage Pond at Bodalla Sewage Treatment Plant on Potato Point Road, Bodalla, on Council's behalf.

This report outlines the evaluation of offers submitted in response to Request for Tender (RFT) No. 10020811, and recommends that Council not accept any tender.

### **RECOMMENDATION**

THAT Council rejects the tender received in response to Request for Tender No. 100208011 - Rectification of the defective clay liner in the effluent storage pond at the Bodalla Sewage Treatment Plant on Potato Point Road, Bodalla.

### **BACKGROUND**

A new sewage treatment plant has been built on Potato Point Road and a pressure sewerage system has been installed throughout the village of Bodalla. The scheme became operational in October 2018.

The system replaces the existing on-site sewage management systems, significantly reducing the risk of harm to the environment and public health.

The new sewage treatment plant allows for the future connection of Potato Point plus moderate growth within the villages. To ensure environmental impacts of the new scheme are minimised, effluent disposal will be disposed of via irrigation of adjacent agricultural land.

The Bodalla Pressure Sewerage System was constructed under contract. During construction the effluent storage pond clay liner failed due to poor quality material and the liner requires rectification.

Council engaged PWA to manage the tender for rectification of the clay liner due to the prior knowledge of the site and expertise within the project.



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**IR19/008 REQUEST FOR TENDER NO. 100208011 - RECTIFICATION OF THE DEFECTIVE CLAY LINER IN THE EFFLUENT STORAGE POND AT BODALLA SEWAGE TREATMENT PLANT ON POTATO POINT ROAD, BODALLA E02.6256**

RFT No. 100208011 was advertised on 29 January 2019 with a closing date of 14 February 2019. One tender was received from RD Miller Pty Ltd which was assessed in accordance with the Tender Evaluation Plan.

A summary of the evaluation is provided in the confidential attachment to this report.

**CONSIDERATIONS**

**Legal**

Request for Tender (RFT) No. 100208011 was advertised in accordance with Local Government (General) Regulation 2005 REG 167 and Local Government Act 1993.

The tender was advertised on Council's noticeboard page in two local newspapers, in the Sydney Morning Herald and on the NSW government's online procurement portal.

Upon release of the RFT a Tender Evaluation Plan (TEP) was distributed amongst the Tender Evaluation Panel (TEP).

**Policy**

The procurement activity for which this report applies has been conducted in accordance with Council's Procurement Policy, Code of Practice – Procurement, Code of Practice – Tendering, the Local Government Procurement Guidelines, Local Government (General) Regulation 2005 and the Local Government Act 1993.

**Financial**

The scope of the works are within the current capital program and budget.

**Community and Stakeholder Engagement**

The community will be informed of the tender outcome via Council meeting minutes.

**CONCLUSION**

The tender process has been conducted in accordance with mandatory Council and Local Government requirements and the only tender has been assessed as not representing good value for money.

This report recommends that Council not accept any tender.

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**IR19/009 REQUEST FOR TENDER NO. 2019/ISD034 FOR THE AUGMENTATION OF SEWAGE PUMPING STATION BB01 AT SURF BEACH, BATEMANS BAY E05.9189.PS**

Responsible Officer: Warren Sharpe OAM - Director Infrastructure Services  
Attachments: 1. Confidential - Tender - Augmentation of BB01  
Outcome: Sustainable Living  
Focus Area: 4.1 Maximise the efficient use and reuse of our water resources  
Delivery Program Link: 4.1.1 Provide a safe, reliable and sustainable town water supply and sewerage services  
Operational Plan Link: 4.1.1.2 Build, renew, operate and maintain sewerage systems

### **EXECUTIVE SUMMARY**

Council engaged Public Works Advisory (PWA) to advertise Request for Tender (RFT) No. 2019/ISD034 for the Augmentation of Sewage Pumping Station BB01 at Surf Beach, Batemans Bay on Council's behalf. The augmentation works are required to increase the asset life and improve the safety and operation of the pumping station.

This report outlines the evaluation of offers in response to RFT No. 2019/ISD034, and provides a recommendation for the preferred tenderer.

### **RECOMMENDATION**

THAT

1. Council endorse the selection of the preferred tenderer listed for Request for Tender No. 2019/ISD034 Augmentation of Sewage Pumping Station BB01 at Surf Beach, Batemans Bay within the confidential attachment; and
2. Accordingly approves the entering into of a contractual arrangement with the preferred tenderer, subject to the terms specified in the Request for Tender, unless otherwise varied in accordance with this report; and
3. Council approve the allocation of an additional \$500,000 from the Sewer Fund Reserve to the Sewage Pump Station Capital Renewal to fund the Augmentation of Sewage Pump Station BB01 at Surf Beach in 2019-20.

### **BACKGROUND**

The pump station was constructed in 1979 and consists of a concentric (annular), wet/dry-well design with dry mounted pumps located 7 metres below ground level within a dry-well. The pumps transfer sewage from the surrounding wet well via associated pipework and valves located within the dry-well, into a sewer rising main to the Batemans Bay Sewage Treatment Plant.

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**IR19/009 REQUEST FOR TENDER NO. 2019/ISD034 FOR THE AUGMENTATION OF SEWAGE PUMPING STATION BB01 AT SURF BEACH, BATEMANS BAY E05.9189.PS**

The main objective of the augmentation is to convert the pump station from a dry/wet well to a wet well (submersible) type with the installation of larger pumps to increase flow capacity to meet to enable future growth. The construction of a new valve pit and the installation of new access lids is also required to improve the safety for operators and minimise confined space entry. Other augmentation works will include removal of old decommissioned assets still located in the ground surrounding the sewage pumping station.

RFT2019/ISD034 was advertised on 29 January 2019 with a closing date of 21 February 2019.

Offers were received from the following tenderers and assessed in accordance with the Tender Evaluation Plan:

- Gongues Constructions P/L, Cameron Park NSW 2285
- MMA Civil Contractors, Leichhardt NSW 2040
- R.D. Miller Pty Ltd P/L, Greendale NSW 2550.

A summary of the evaluation including the tenderer's pricing is provided in the confidential attachment to this report.

## **CONSIDERATIONS**

### **Legal**

Request for Tender (RFT) No 2019/ISD034 was advertised in accordance with clause 167 of the Local Government (General) Regulation 2005 and the Local Government Act 1993.

The tender was advertised on Council's noticeboard page in local newspapers, in the Sydney Morning Herald, and through the NSW Government e-tendering website (<https://tenders.nsw.gov.au>).

Before tender assessment was undertaken, a formal Tender Evaluation Plan (TEP) was distributed amongst the Tender Evaluation Committee.

The offer submitted by the preferred tenderer has been assessed as representing good value for money for Council due to the company's demonstrated experience, quality of workmanship and satisfactory price in comparison to the pre-construction estimate.

### **Policy**

Procurement was undertaken in accordance with Council's Procurement Policy, Code of Practice – Procurement, Code of Practice – Tendering, the Local Government Procurement Guidelines, Local Government (General) Regulation 2006 and the Local Government Act 1993.

### **Environmental**

The works are designed to increase the flow capacity of the sewage pumping station to meet demand associated with growth whilst improving operational safety (reduced requirement for confined spaces entry) and environmental performance (increased pumping capacity and increased volume of wet weather storage).

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**IR19/009 REQUEST FOR TENDER NO. 2019/ISD034 FOR THE AUGMENTATION OF SEWAGE PUMPING STATION BB01 AT SURF BEACH, BATEMANS BAY E05.9189.PS**

**Financial**

Council allocates \$1.5 million annually for sewage pumping station asset renewals. As this project will cost greater than the allocated budget, the proposed 2019-20 budget for sewage pumping station asset renewals will need to be adjusted prior to adoption in June 2019. There are sufficient funds in reserve to meet this need.

**Community and Stakeholder Engagement**

The community will be informed of the tender outcome(s) via Council's contract register found in Council's 'Public Access to Information' web link.

**CONCLUSION**

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

This report recommends the preferred tenderer.

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**CCS19/010 LAND ACQUISITION FOR ROAD WIDENING - NORTH HEAD DRIVE, MORUYA E19.1781**

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

Attachments: 1. Confidential - Land Acquisition for Road Widening - North Head Drive, Moruya

Outcome: Innovative and Proactive Leadership

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

Delivery Program Link: 9.2.2 Manage land under Council control to achieve a return for the community

Operational Plan Link: 9.2.2.2 Facilitate property sales and development

**EXECUTIVE SUMMARY**

Upgrading of part of North Head Drive and Garlandtown Bridge at North Head, Moruya is planned to be undertaken in the 2019-2020 financial year.

The project requires the acquisition of part Lot 81 and 82 DP 1211388, part Lot 7306 DP 1146883, part Lot 2 DP 1048999 and part Lot 1 DP 538503 for road purposes.

Lots 81 and 82 DP 1211388 and Lot 7306 DP 1146883 are Crown land. Acquisition of approximately 2890 square metres is to be by compulsory process. An application for compulsory acquisition of the Crown land will be submitted to Crown Lands following Council approval in accordance with the Crown's procedures and Council will apply to the Minister for Local Government and the Governor to acquire the land. The application for compulsory acquisition will be subject to Native Title and Aboriginal land rights and interests to ensure a valid acquisition.

Lot 2 DP 1048999 and Lot 1 DP 538503 are privately owned and the acquisition of approximately 150 square metres and 1476 square metres respectively are required for road widening. Council will seek to acquire the land by agreement. If acquisition by agreement is not possible it will need to proceed by compulsory process.

The project, including land acquisition and construction works, is to be co-funded by Council and the NSW Government. The non-council grant contribution of \$691,708 is available under Round 3 Funding from the NSW Fixing Country Roads Program and \$400,000 from Council's Capital Program for bridge renewal and upgrades.

**RECOMMENDATION**

THAT

1. Application be made to the Minister for Local Government and the Governor to acquire part of Lots 81 and 82 DP 1211388 and part Lot 7306 DP 1146883 for public road purposes by compulsory process in accordance with Council's power under Section 177(1) of the *Roads Act 1993* and in accordance with Council's *Land Acquisition and Disposal Policy*.

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**CCS19/010 LAND ACQUISITION FOR ROAD WIDENING - NORTH HEAD DRIVE, MORUYA E19.1781**

2. If consent is granted, all necessary action be taken to finalise the acquisition of the land for public road purposes in accordance with the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991*.
3. All actions necessary be taken for the acquisition of land required for road purposes of part Lot 2 DP 1048999 and part Lot 1 DP 538503 in accordance with *Council's Land Acquisition and Disposal Policy*.
4. If the acquisition of part Lot 2 DP 1048999 and part Lot 1 DP 538503 cannot be negotiated by agreement, Council make application to the Minister for Local Government and the Governor to acquire part of Lot 2 DP 1048999 and part Lot 1 DP 538503 for public road purposes by compulsory process in accordance with Council's power under Section 177(1) of the *Roads Act 1993* and in accordance with Council's *Land Acquisition and Disposal Policy*.
5. Compensation for the land be determined following a valuation by a registered valuer.
6. All survey and legal costs associated with the land acquisitions be borne by Council.
7. Once acquired, the land be dedicated as public road in accordance with the provisions of the *Roads Act 1993*.
8. Authority be given to affix the Common Seal of Council to the necessary documentation associated with the easement.

**BACKGROUND**

Upgrading of part of North Head Drive, Moruya and Garlandtown Bridge is planned to be undertaken in the 2019-2020 financial year.

Acquisition of part Crown land and part private land is required for road purposes.

Council will submit an application to Crown Lands following Council approval, in accordance with the Crown's procedures, for compulsory acquisition of part Lots 81 and 82 DP 1211388 and part Lot 7306 DP 1146883 and acquisition will be undertaken in accordance with the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991*.

Acquisition of private property of part Lot 2 DP 1048999 and part Lot 1 DP 538503 will be in accordance with the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991*.

Council is discussing the works and acquisition with the land owners of the private properties. Their details are set out in the confidential attachment. Council will seek to acquire the land by agreement. If acquisition by agreement is not possible it will need to proceed by compulsory process.

All survey and legal costs associated with the land acquisitions will be borne by Council.

**CONSIDERATIONS**

The acquisition areas are shown in the sketch below.

**CCS19/010 LAND ACQUISITION FOR ROAD WIDENING - NORTH HEAD DRIVE,  
MORUYA**

**E19.1781**



*Lot 1 DP 538503, Lot 2 DP 1048999, Lots 81 and 82 DP 1211388  
and Lot 7306 DP 1146883 North Head Road, Garlandtown*

### **Legal**

The compulsory acquisition process requires application to be made to the Minister for Local Government to acquire part Lot 81 and 82 DP 1211388 and part Lot 7306 DP 1146883 of Crown land under Section 177(1) of the *Roads Act 1993*. Once consent is granted, the acquisition of the land for public road purposes will be finalised in accordance with the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991*. Council will comply with any relevant legislation and procedures in relation to Native Title and Aboriginal land rights and interests to ensure a valid acquisition.

Acquisition of private property of part Lot 2 DP 1048999 and part Lot 1 DP 538503 will be in accordance with the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991*.

If the acquisition of the private land cannot be negotiated by agreement, Council as a roads authority, has power under Section 177 (1) of the *Roads Act 1993* to acquire the land by compulsory process in accordance with the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991*. Should the acquisition proceed by way of compulsory process Council must first obtain consent from the Minister for Local Government.

### **Policy**

The acquisition of land for road purposes will proceed in accordance with Council's *Land Acquisition and Disposal Policy*.

[www.esc.nsw.gov.au/inside-council/council/council-policies/policies/Land-Acquisition-and-Disposal-Policy.pdf](http://www.esc.nsw.gov.au/inside-council/council/council-policies/policies/Land-Acquisition-and-Disposal-Policy.pdf)

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**CCS19/010 LAND ACQUISITION FOR ROAD WIDENING - NORTH HEAD DRIVE, MORUYA E19.1781**

**Asset**

Upgrading of part of North Head Drive and Garlandtown Bridge will address road safety and cater for current and future traffic volumes including heavy vehicles.

**Social Impact**

The purpose of the project is to upgrade the existing bridge, to improve road safety for all road users, remove restrictions on the use of the bridge and road by current and future transport vehicles and allow for increased capacity for growth at the Moruya Regional Airport.

**Economic Development Employment Potential**

More efficient freight movement will assist in the growth of the local economy.

**Financial**

Compensation for the land will be determined in accordance with the *Land Acquisition (Just Terms) Compensation Act 1991*. Together with compensation, Council will be responsible for costs associated with the acquisition including survey and legal fees and the private land owners' reasonable legal costs.

The project, including land acquisition and construction works, is to be co-funded by Council and the NSW Government. The non-council contribution of \$691,708 is under Round 3 Funding from the NSW Fixing Country Roads Program and \$400,000 from Council's Capital Program for bridge renewal and upgrades.

**Community and Stakeholder Engagement**

An application for compulsory acquisition of part Lots 81 and 82 DP 1211388 and part Lot 7306 DP 1146883 will be submitted to Crown Lands following Council approval in accordance with Crown land procedures.

Council is discussing the works and acquisition with the land owners of the private properties.

**CONCLUSION**

Upgrading of part of North Head Drive and Garlandtown Bridge at North Head, Moruya is planned to be undertaken in the 2019-2020 financial year.

The project requires the acquisition of Crown land being part Lot 81 and 82 DP 1211388, part Lot 7306 DP 1146883, and private land being part Lot 2 DP 1048999 and part Lot 1 DP 538503 for road purposes.

An application for compulsory acquisition of the Crown land will be submitted to Crown Lands following Council approval, in accordance with the Crown's procedures, and Council will apply to the Minister for Local Government and the Governor to acquire the land.

Council is discussing the works and acquisition with the land owners of the private properties. The acquisition will be in accordance with the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991*.



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**CCS19/011 NEW MODEL CODE OF CONDUCT FOR LOCAL COUNCILS IN NSW AND PROCEDURES E13.7162**

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

Attachments: 1. Confidential - Submission1 - Model Code of Conduct  
2. Confidential - Submission 2 - Model Code of Conduct  
3. Confidential - Submission 3 - Model Code of Conduct  
4. Confidential - Submission 4 - Model Code of Conduct

Outcome: Collaborative and Engaged Community

Focus Area: 8.3 Work together to enhance trust, participation and community pride

Delivery Program Link: 8.3.2 Provide advice and public relations management in response to issues

Operational Plan Link: 8.3.2.1 Manage media issues to mitigate risk

### **EXECUTIVE SUMMARY**

The new 2018 *Model Code of Conduct for Local Councils in NSW* (the Model Code of Conduct) and *Procedures for the Model Code of Conduct for Local Councils in NSW* (Procedures) were prescribed under the *Local Government (General) Regulation 2005* on 14 December 2018.

Councils have six months from the date of prescription (14 December to 14 June 2019), to adopt a code of conduct and procedures based on the prescribed Model Code of Conduct and Procedures.

At the ordinary meeting of Council of 12 February 2019, Council endorsed the Model Code of Conduct and Procedures be placed on public exhibition for 28 days and any public submissions be presented back to Council for consideration.

The Model Code of Conduct and Procedures was publicly exhibited from 20 February to 19 March 2019 and four submissions were received by the closing date.

A detailed summary of those submissions received is contained within in this report.

### **RECOMMENDATION**

THAT Council adopt the *2018 Model Code of Conduct for Local Councils in NSW* and *Procedures for the Model Code of Conduct for Local Councils in NSW* as prescribed under the *Local Government (General Regulation 2005)* on 14 December 2018 with no additional clauses added.

### **BACKGROUND**

The Model Code of Conduct and Procedures is prescribed under section 440 of the *Local Government Act 1993* (LGA) and the *Local Government (General) Regulation 2005* (the Regulations).

Under Section 440 of the LGA, each council is required to adopt a code of conduct based on the Model Code of Conduct prescribed under the Regulation. The Model Code of Conduct prescribes the minimum ethical and behavioural standards all council officials in NSW are required to comply with. In doing so it seeks to:

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**CCS19/011 NEW MODEL CODE OF CONDUCT FOR LOCAL COUNCILS IN NSW  
AND PROCEDURES**

**E13.7162**

- Provide clear guidance to council officials on the minimum ethical and behavioural standards expected of them as council officials
- Provide clear guidance to local communities on the minimum ethical and behavioural standards they can expect of council officials who serve them
- Promote transparency and accountability
- Promote community confidence in the integrity of the decisions councils make and the functions they exercise on behalf of their local communities, and
- Promote community confidence in the institution of local government.

Councils cannot dilute or weaken the standards prescribed in the Model Code of Conduct in their adopted code of conduct. If standards are less onerous than those prescribed under the Model Code of Conduct they will be invalid and the equivalent provisions of the Model Code of Conduct will override them through the operation of Section 440 of the LGA.

**CONSIDERATIONS**

There are a number of changes made in the 2018 Model Code of Conduct and Procedures. The most significant change is that the pecuniary interest provisions previously contained in the LGA and Regulations have now been included in the Model Code of Conduct.

Other key changes to the Model Code of Conduct include:

- *new standards relating to discrimination and harassment, bullying, work health and safety, behavior at meetings, access to information and maintenance of council reports*
- *new rules governing the acceptance of gifts including mandatory reporting*
- *a new ongoing disclosure requirement for councillors and designated persons requiring disclosure of new interests in returns of interests within three months of becoming aware of them*
- *councillors will be required to disclosure in their returns of interests whether they are a property developer or a close associate of a property developer.*

Changes have been made to the Procedures to address the following issues:

- *the role of the general manager in the receipt and initial management of a code of conduct complaint about councillors*
- *the ability of complainants, who are unhappy with decisions of the council, to misuse councils' codes of conduct by repackaging routine complaints as "code of conduct complaints"*
- *the lack of recourse against members of the public who inappropriately disclose information about complaints they have made under a council's code of conduct.*

At the ordinary meeting of Council of 12 February 2019, Council endorsed the Model Code of Conduct and Procedures be placed on public exhibition for 28 days and any public submissions be presented back to Council for consideration.

**CCS19/011 NEW MODEL CODE OF CONDUCT FOR LOCAL COUNCILS IN NSW  
AND PROCEDURES**

**E13.7162**

The Model Code of Conduct and Procedures was publicly exhibited from 20 February to 19 March 2019 and four submissions were received by the closing date.

A detailed summary of those submissions received is provided below.

| Submissions   | Extract from Code of Conduct and Procedures  | Council response  |
|---|--|---|
| <b>The Code</b>   |  |   |
| <p><b>Suggestion 1 of submissions:</b> Add to Part 3.1.a 'or is likely to undermine confidence in the integrity of the code or its administration'.</p> | <p><i>Part 3 General Conduct Obligations</i></p> <p><i>3.1 You must not conduct yourself in a manner that:</i></p> <p><i>a. is likely to bring the Council or other Council officials into disrepute</i></p> | <p>The integrity of the Code is covered in <i>Part 9 Maintaining the Integrity of the Code</i>. Areas covered under this section are:</p> <ul style="list-style-type: none"> <li>• <i>Complaints made for an improper purpose</i></li> <li>• <i>Detrimental action</i></li> <li>• <i>Compliance with requirements under the Procedures</i></li> <li>• <i>Complaints alleging a breach of this Part.</i></li> </ul> <p>Therefore, no change recommended.</p> |
| <p><b>Suggestion 2 of the submissions:</b> Add 'conduct reviewers' to the definition 'council officials'</p>  |  | <p>A Conduct Reviewer is not covered under <i>Section 440 of the Local Government Act 1993</i>, this relates to councillors and council staff. Conduct Reviewers are considered contractors to Council. However, Council's Code of Conduct Policy includes contractors under the Code when performing work on behalf of Council. Therefore, no change recommended.</p>  |

**CCS19/011 NEW MODEL CODE OF CONDUCT FOR LOCAL COUNCILS IN NSW  
AND PROCEDURES**

**E13.7162**

| <b>Procedures</b>  |   |   |
|--|---|---|
| <p><b>Suggestion 3 of the submissions:</b> Add to Clause 3.9 'After a panel of reviewers is established, a list of names of the panel members will be compiled for the purpose of Clause 6.3. The order of names will be drawn by lot.'</p>  | <p><i>Clause 3.9. A panel of conduct reviewers established under this Part is to have a term of up to four years.</i></p> <p>Clause 6.3 states:</p> <p><i>In selecting a suitable conduct reviewer, the complaints coordinator may have regard to the qualifications and experience of members of the panel of conduct reviewers. Where the conduct reviewer is an incorporated or other entity, the complaints coordinator must also ensure that the person assigned to receive the referral on behalf of the entity meets the selection and eligibility criteria for conduct reviewers prescribed under Part 3 of these procedures.</i></p> | <p>A provision to draw by lot may allocate an inappropriate conduct reviewer to the complaint. As stated in Clause 6.3 the complaints coordinator may have to regard the qualifications and experience of the member to the appropriate complaint. Therefore, no change recommended.</p>  |
| <p><b>Suggestion 4 of the submissions:</b> Delete the first sentence in Clause 6.3 and substitute the following:</p> <p>'When selecting a reviewer under clause 6.2, the complaints coordinator shall select the reviewer whose name appears next, on the list of panel members, after the name of the reviewer who was most recently selected to conduct a review. In circumstances where the next conduct reviewer is unable to be selected due to the provisions of clause 6.4,</p> | <p>Clause 6.3 states:</p> <p><i>In selecting a suitable conduct reviewer. The complaints coordinator may have regard to the qualifications and experience of members of the panel of conduct reviewers. Where the conduct reviewer is an incorporated or other entity, the complaints coordinator must also ensure that the person assigned to receive the referral on behalf of the entity meets the selection and eligibility criteria for conduct reviewers prescribed under Part 3 of</i></p>   | <p>The Model Code of Conduct and Procedure is the minimum standard and cannot be changed. Any supplementary provisions added to the Code and/or Procedure cannot contradict the Code and/or Procedure. Changing the first sentence would contradict the minimum standard of the Procedure. Therefore, no change recommended</p> |

**CCS19/011 NEW MODEL CODE OF CONDUCT FOR LOCAL COUNCILS IN NSW  
AND PROCEDURES**

**E13.7162**

|   |   |   |
|---|---|---|
| <p>the complaints coordinator shall select the reviewer whose name appears next on the list.'</p>   | <p><i>these procedures.</i></p>   |   |
| <p><b>Suggestion 5 of the submissions:</b><br/>Two submissions raised concerns that confidentiality applies to the complainant (refers to Part 12 Confidentiality from the Procedures for Administration of the Model Code of Conduct for Local Councils in NSW 2018) and the correspondents believe it should not apply.</p> | <p>Part 12 states:<br/><i>'Where a complainant publicly discloses information on one or more occasions about a code of conduct complaint they have made or purported to make, the General Manager or their delegate may, with the consent of the Office of Local Government determine that the complainant is to receive no further information about their complaint and any further code of conduct complaint they make or purport to make'</i></p> | <p>The Model Code of Conduct and Procedure is the minimum standard and any supplementary provisions cannot change or contradict the Code and/or Procedure. When council receives a Code of Conduct complaint the complainant will be advised of the confidentiality requirement of the Code. Therefore, no change recommended.</p>          |
| <p><b>Suggestion 6 of the submissions:</b> proposes... 'that each councillor of the Shire needs to thoroughly read the document as it would appear there are a number of changes and additions to the document.'</p>  |   | <p>Section 439 of the <i>Local Government Act 1993</i> states:<br/><i>(1) Every councillor, member of staff of a council and delegate of a council must act honestly and exercise a reasonable degree of care and diligence in carrying out his or her functions under this or any other Act.</i><br/>Therefore, no change recommended.</p> |

Based on the submissions received, no additions or changes are recommended to the Model Code of Conduct and Procedures.

The Code of Conduct (Code) is the minimum standard and any supplementary provisions cannot change or contradict the Code.

**Legal**

Under Section 440 of the LGA, Council must adopt a code of conduct that incorporates the provisions of the *Model Code of Conduct for Local Councils in NSW and Procedures for the*

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**CCS19/011 NEW MODEL CODE OF CONDUCT FOR LOCAL COUNCILS IN NSW AND PROCEDURES E13.7162**

*Model Code of Conduct for Local Councils in NSW* as published by the Office of Local Government.

**Policy**

Council has a Code of Conduct Policy that is an overarching document that allows the Code of Conduct to be applied to Councillors, Council staff, Council advisory committees, reserve trusts, contractors and volunteers.

**Community and Stakeholder Engagement**

The *Model Code of Conduct for Local Councils in NSW and Procedures for the Model Code of Conduct for Local Councils in NSW* was placed on public exhibition for 28 days from 20 February to 19 March 2019. Copies were available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma Libraries and Moruya Customer Service Centre.

Four submission were received. Confidential copies of the submissions are attached.

**CONCLUSION**

The *Model Code of Conduct for Local Councils in NSW and Procedures for the Model Code of Conduct for Local Councils in NSW* was placed on public exhibition for 28 days. From the submissions received, no additions are necessary to the Model Code of Conduct and Procedures.

Councils have six months from the date of prescription (14 December 2018 to 14 June 2019) to adopt a code of conduct and procedures based on the prescribed Model Code of Conduct and Procedures.

It is recommended council adopt the *Model Code of Conduct for Local Councils in NSW and Procedures for the Model Code of Conduct for Local Councils in NSW*.

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**CAR19/005 COMMUNITY CARE STATUS REPORT**

**E11.5375**

Responsible Officer: Kathy Arthur - Director Community, Arts and Recreation Services  
Attachments: Nil  
Outcome: Strong Communities, Desirable Lifestyle  
Focus Area: 1.4 Ensure activities, facilities and services meet changing community needs  
Delivery Program Link: 1.4.2 Provide flexible, community based services to support older people, people with a disability and their carers  
Operational Plan Link: 1.4.2.4 Provide support services for older people

**EXECUTIVE SUMMARY**

This report provides a summary of Community Care activities conducted by Council during the 2017-18 financial year. It covers current business operations, National Disability Insurance Scheme (NDIS) service provision, funding arrangements, community benefits and future strategic planning, particularly in relation to the aged care reforms proposed to commence in 2020.

Council has been operating in the planning and provision of aged and disability services for more than 30 years. Our main point of difference is that Community Care's service footprint is entirely Eurobodalla focused, with our office and all services and staffing located in our own community.

In 2017-18 Community Care provided approx. \$8.2m worth of services. Analysis of the expenditure indicates that more than 98% of all funds were spent within Eurobodalla, either through direct employment of staff or through the purchase of third party services to a wide range of generic businesses and specialist providers, including taxis, cleaners (domestic and yard maintenance), physiotherapists, personal care providers, occupational therapists and the purchase of specific equipment.

The service is supported by highly qualified specialist staff and a team of dedicated volunteers, providing services that enable choice, control and dignity for people with a disability, older people and their carers.

**RECOMMENDATION**

THAT Council:

1. Receive and note the 2017-18 Community Care Status Report; and
2. Thank Community Care volunteers for their contribution to service provided to the community.

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**CAR19/005 COMMUNITY CARE STATUS REPORT**

**E11.5375**

**BACKGROUND**

Council provides a range of community based programs which support people with disability, frail older people, and their carers. Whilst our activities have grown and expanded the emphasis is kept firmly on community, with the people we serve continuing to be our focus. Our service emphasizes and supports community inclusion and connectivity.

Further Community Care service aims include:

- Supporting older people to remain living at home successfully for as long as they so choose;
- Providing reasonable and necessary supports to people with disability through the NDIS;
- Promoting independence and choice;
- Supporting wellbeing and re-ablement;
- Supporting carers and families;
- Supporting the development of the aged care sector; and
- Promoting the rights of older people and people with disability and advocating for our diverse community.

Community Care is one of a network of providers within in the aged care and disability sectors, working collaboratively to get the best possible outcomes for consumers. We have a proven track record in specialist advice, service provision and accountability plus experience advocating on behalf of the community in negotiations with all levels of government.

**CONSIDERATIONS**

The 2017-18 financial year was one of continual change. It has required the service to undertake significant re-evaluation and re-shaping to accommodate changes to the funding environment, IT changes and a high number of new processes and procedures. Community Care runs with two distinct streams of support – *Involve Eurobodalla* disability services and *Active Living* services for seniors.

**Involve Eurobodalla – services for people with disability**

The gradual transition from block funding held by the organisation for people with disability to individual NDIS packages has required a number of 'back of office' changes in a relatively short space of time, many of which couldn't be anticipated and posed major challenges to Community Care, Finance and Information Technology.

As a registered NDIS provider we have, by necessity, shifted focus to that of running a service that is dictated by the service agreements held with each of our participants, rather than providing disability services for a government department under a grant agreement. A service analysis of services was conducted prior to transition considering the required actions to ensure a smooth transition – now 100% completed.



**CAR19/005 COMMUNITY CARE STATUS REPORT**

**E11.5375**

Whilst a number of clients chose to leave the service (generally to self-manage their package which is appropriate for participants with capacity to do so, or children with strong family support), a number of new clients have selected Council's Community Care service as their NDIS provider of choice.

Many new referrals have been as a result of word of mouth, a strong recommendation, rather than through advertising.

Client numbers have increased and income for disability services has risen by \$2.5m, with NDIS Service Bookings (service provision agreements with participants) being valued currently at over \$6.3m across the following service types, as outlined in Table 1.

**Table 1: Service Types**

|   |                                   |
|---|-----------------------------------|
| Assist personal activities                | Assist travel/transport           |
| Assistive technology                      | Group/centre activities           |
| Development and life skills               | Accommodation/tenancy             |
| Specialist disability accommodation (SDA) | Daily tasks/shared living         |
| Early childhood supports                  | Assist access/maintain employment |
| Community and social participation        | Plan Management                   |
| Household Tasks                           | Support Coordination              |

A total of 146 participants are currently registered for a range of service types, including Delivery of support; Plan Management; Support Coordination and Supported Independent Living.

From 1 July 2018 Council has been registered as an approved Specialist Disability Accommodation (SDA) provider. SDA refers to accommodation for people who require specialist housing solutions, including to assist with the delivery of supports that cater for extreme functional impairment or very high support needs. We hold lease agreements for our accommodation facilities and are responsible for their preventative and planned maintenance.

**Table 2: Our facilities**

|              |   |             |
|--------------|---|-------------|
| Batemans Bay | Fully accessible villa complex (2 x 2-bed, 1 x 1-bed) in Batemans Bay for people with complex needs/high physical support needs                             | 5 residents |
| Moruya       | Shared 4-bedroom group home for people with moderate needs in a townhouse in a residential area of Moruya.  | 4 residents |
| Moruya       | Accessible units (3 x 2 bed) in Moruya providing individual supported daily living for people with moderate to high support needs within a shared facility. | 3 residents |

**Active Living – services for seniors**

The future direction of Commonwealth Home Support Program (CHSP) beyond 2020 is unclear, but what is clear is that frail older people will continue to require support. This is particularly

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**CAR19/005 COMMUNITY CARE STATUS REPORT**

**E11.5375**

relevant in Eurobodalla, with 2016 census data indicating 30.6% of our population is over 65 years and 40.5% over 60 years.

The aged care reforms and proposed completion of grants in 2020, in favour of Consumer Directed Care packages for clients, requires some strategic planning to position ourselves appropriately for the future.

During 2017 Council was approved as a registered Home Care Package Provider and a service analysis has been undertaken (similar to that for disability services prior to NDIS) in relation to the proposed commencement of package provision in early 2019.

Council's Community Care will be one of a small number of package providers, operating locally, not linked to a residential aged care facility.

Other options for service delivery for seniors post 2020 will be examined in the coming months and a business plan developed to ensure ongoing viability. For now, a two year grant funding extension (1 July 2018 to 30 June 2020) from the Australian Department of Health is in place to provide CHSP services.

A similar funding extension was received from Transport for NSW to continue to provide Community Transport service for the next two years. There are more than 1900 clients registered for Community Transport and around 125 volunteers provide transport and CHSP social support services.

A renewed two year contract with Community Options Australia (on behalf of NSW Department of Health) commenced in July 2018, to enable continued provision of non-clinical case managed packages. These packages are designed to enable eligible people to either return home safely with adequate support in place after hospitalisation and prevent re-admittance, or *avert* an admittance to hospital. A further increase in packages this FY focuses on people with disability who may be awaiting an NDIS package or who are not deemed eligible but require some case management to link them into required services. These two year extensions will enable us to continue current vital services to seniors, whilst we undertake strategic planning for the future, post 2020.

Clients take advantage of a wide range of activities to suit all interests and services have a focus on wellness and reablement – a strengths based approach, promoting healthy lifestyles and supporting people to regain or retain skills or learn new skills which support independence.

Current service offerings include:

**Table 3: Service Offerings**

| <b>SERVICE</b>              | <b>OUTPUTS</b> |
|-----------------------------|----------------|
| Community Transport         | 10,531 trips   |
| Respite care                | 6,824 hours    |
| Social Support (individual) | 4,706 hours    |
| Social Support (group)      | 10,176 hours   |

**CAR19/005 COMMUNITY CARE STATUS REPORT**

**E11.5375**

|  |                    |
|--|--------------------|
| Sector support and development (aged care) | n/a                |
| ComPacks and Healthy at Home packages      | 312 packages/annum |

Current client numbers:

**Table 4: Active Living Client Numbers**

| <b>PROJECT</b>                         | <b>NO. OF CLIENTS</b>                 |
|--|---------------------------------------|
| Community Transport                    | 1900 registered clients               |
| ComPacks/Healthy at Home               | 30+ at any given time                 |
| Flexible Respite                       | 34                                    |
| Social Support Individual              | 50                                    |
| Social Support Group                   | 65                                    |
| Continuity of Support (Attendant Care) | 1 (person with disability over 65yrs) |
| Continuity of Support (Accommodation)  | 1 (person with disability over 65yrs) |

**Projects**

Significant projects undertaken by Community Care in the past 18 months include:

- Full transition to NDIS of all participants with disability and cessation of block funding;
- Reconfiguration of The Care Manager client database to meet the needs of Tech1/NDIS invoicing and reporting;
- Implementation of Connecting Care Worker (hand held roster and time sheeting device) for all Disability Support Worker staff;
- Third Party Verification accreditation achieved against the Disability Service Standards (High standard achieved with no improvements required);
- Implementation of Routematch - configuration and upgrade (tablets in cars for Community Transport volunteers)
- Recruitment of temporary and casual staff to augment existing staff to meet demand for service;
- Completion of 3<sup>rd</sup> party brokerage agreements and full transition of client services to ESC workers;
- Update of Community Care policy documents to ensure compliance with NDIS regulations;
- Successful application to NSW Family and Community Services for transition funding in relation to NDIS; and
- Business analysis of Active Living services by external consultant.

**Work Health and Safety (WHS)**

The nature of our work means there are inherent risks in relation to service delivery, so there is strong investment in keeping staff and volunteers safe and building a proactive safety culture

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**CAR19/005 COMMUNITY CARE STATUS REPORT**

**E11.5375**

within our work team. A Community Care WHS Forum meets bi-monthly to identify commonalities and trends in relation to risks specific to this work team and discuss and identify ways to mitigate these risks.

Direct support staff attend two mandatory training and two optional training/team meeting sessions per year at which WHS is a regular focus. Training resources are sourced according to need and staff provide feedback and can direct their own agenda. All support staff are required to have minimum qualifications in their particular field.

**Future projects**

During the next 12-18 months Community Care will commence preparation of a Business Plan for Active Living post 2020, including the provision of Home Care Packages, investigation of enhanced transport service options and exploration of Aged Care Community Hub concept. A review and analysis of Involve NDIS services will be also conducted, and preparation made for the Aged Care Quality Standards review process.

**Legal**

There are two key legislative and regulatory frameworks governing Community Care service provision, as well as Council's own policy and performance framework.

The NDIS Quality Safeguarding Commission, which implements the NDIS Quality and Safeguarding Framework, came into force on 1 July 2018. The Framework sets out a national system to support NDIS participants, carers and providers, upholding the standards that participants deserve and ensuring clarity on the rights and responsibilities of participants, providers and their staff. There are new obligations for us as providers to meet, including meeting a NDIS Code of Conduct for providers and workers and new reporting and oversight arrangements to reduce and eliminate restrictive practices in the NDIS.

From July 2018 the Aged Care Quality Agency, which conducts quality reviews of Home Care and CHSP services, introduced a new single set of Aged Care Quality Standards. The Standards focus on quality outcomes for consumers that providers need to measure their services against. The most recent Quality Review was conducted in June 2016 and the service met all 18 Outcomes satisfactorily. A further review is due shortly to measure compliance.

**Social Impact**

Community Care services act as a significant enabler for elderly people and people with disability to build and maintain social connections with their community, including attending medical and specialist appointments, having time out from caring, attending group social outings. Council attracts significant social capital by way of Volunteering.

Community Transport, Social support and some NDIS services are provided by 125 trained and experienced volunteers, with the hours they contribute substantial, equating to 10 full time staff or 17,500 hours per year. This contribution is estimated to be worth more than \$750,000

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**CAR19/005 COMMUNITY CARE STATUS REPORT**

**E11.5375**

in in-kind support to older people our community, as well as contributing to the health and wellbeing of the volunteers involved.

Since June 2017 a grant funded Volunteer Coordinator position has been in place to promote and support volunteering both at a Council level and locally. Volunteers tell us they want to give back to the community, enjoy meeting new people and having new experiences as part of their volunteer role provides.

**Economic Development Employment Potential**

The total revenue for Community Care in 2017-2018 was \$8.2m. The service provides a significant investment in the Eurobodalla community. An analysis of 2017-2018 expenditure indicates that more than 98% of all funds are spent within Eurobodalla, either through direct employment of staff or through purchase of third party services with local businesses.

**Financial**

Community Care operations are funded partly from Government programs and partly by income generated by the services provided, via client contributions or fee for services. They are:

- National Disability Insurance Scheme (NDIS);
- Commonwealth Department of Health for Commonwealth Home Support Program (CHSP);
- Transport for NSW for Community Transport (CT);
- NSW Department of Health for ComPacks funding.

**Community and Stakeholder Engagement**

We regularly consult with clients and participants around service provision to ensure people receive the support they need. We encourage regular feedback from our customers via reviews and exit surveys. We collaborate with local providers, peak body organisations and attend local and regional network forums across both streams of service.

Positive feedback by way of telephone calls and letters of thanks is regularly received from clients regarding services provided. Community Care services provide many opportunities for positive feedback.

**CONCLUSION**

Council provides a suite of high quality services for people with disability, frail older people and their carers. Services provide economic benefit in terms of employment and dollars spent locally, plus a direct benefit to consumers and their families/carers and visitors to our shire seeking services during their stay. Support from Council is vital to the continued delivery of Community Care services.

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## 17. DEALING WITH MATTERS IN CLOSED SESSION

In accordance with Section 10A(2) of the Local Government Act 1993, Council can exclude members of the public from the meeting and go into Closed Session to consider confidential matters, if those matters involve:

- (a) personnel matters concerning particular individuals; or
- (b) the personal hardship of any resident or ratepayer; or
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business; or
- (d) commercial information of a confidential nature that would, if disclosed;
  - (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the council, or
  - (iii) reveal a trade secret,
- (e) information that would, if disclosed, prejudice the maintenance of law; or
- (f) matters affecting the security of the council, councillors, council staff or council property; or
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege or information concerning the nature and location of a place; or
- (h) an item of Aboriginal significance on community land.

and Council considers that discussion of the material in open session would be contrary to the public interest.

In accordance with Section 10A(4) of the Local Government Act 1993 the Chairperson will invite members of the public to make verbal representations to the Council on whether the meeting should be closed to consider confidential matters.

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## EUROBODALLA SHIRE COUNCIL

### ETHICAL DECISION MAKING AND CONFLICTS OF INTEREST

#### A GUIDING CHECKLIST FOR COUNCILLORS, OFFICERS AND COMMUNITY COMMITTEES

#### ETHICAL DECISION MAKING

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

#### CONFLICT OF INTEREST

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

#### THE TEST FOR CONFLICT OF INTEREST

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

#### IDENTIFYING PROBLEMS

- 1st** Do I have private interests affected by a matter I am officially involved in?
- 2nd** Is my official role one of influence or perceived influence over the matter?
- 3rd** Do my private interests conflict with my official role?

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<br>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<br>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.                  |



| <b>Acronym</b> | <b>Meaning</b>  | <b>Description</b>   |
|----------------|---|--|
| 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.                      |

| <b>Acronym</b> | <b>Meaning</b>  | <b>Description</b>   |
|----------------|---|--|
| 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.   |

| <b>Acronym</b> | <b>Meaning</b>                                       | <b>Description</b>   |
|----------------|--|--|
| 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.   |

| <b>Acronym</b> | <b>Meaning</b>  | <b>Description</b>   |
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| 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<br>S94A    | S94 Contributions Plan<br>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.  |

| <b>Acronym</b> | <b>Meaning</b>                                 | <b>Description</b>   |
|----------------|--|--|
| SEA            | Strategic Environment Assessment               | Spatial assessment of environmental constraints of land considered in design and assessment of subdivision and infrastructure.<br><br>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.  |

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| <b>Acronym</b> | <b>Meaning</b>               | <b>Description</b>  |
|----------------|------------------------------|---|
| 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. |