



AGENDA

Ordinary Meeting of Council

28 February 2017

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

ON TUESDAY 28 FEBRUARY 2017

COMMENCING AT 10.00AM

AGENDA

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

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| 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 14 February 2017 | |
| 5. DECLARATIONS OF INTEREST OF MATTERS ON THE AGENDA
(Declarations also to be made prior to discussions on each item) | |
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| 7. NOTICES OF MOTION
Nil | |
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DR CATHERINE DALE
GENERAL MANAGER

QON17/001 ADVOCATING FOR PRINCES HIGHWAY STRATEGY AND KINGS HIGHWAY

E00.4263

Responsible Officer: Phil Constable - Clr

Attachments: 1. Letter to the Hon. Andrew Constance MP

The following question on notice was received from Councillor Constable:

Question

Could Council staff please advise on the status in arranging the meetings with parties associated with Notice of Motion NOM17/002 Advocating for Princes Highway Corridor Strategy and Kings Highway.

Response

A letter (attached) has been sent to the Hon. Andrew Constance MP, Minister for Transport and Infrastructure and Member for Bega requesting assistance to facilitate a meeting with the Hon Melina Pavey MP, the Hon, John Barliaro MP, the Hon. Bronwyn Taylor MLC and Ms Renae Elrington.

RECOMMENDATION

THAT the response to the question regarding Advocating for Princes Highway Strategy and Kings Highway raised by Councillor Constable be received and noted.

Our Reference: E00.4263

21 February 2017

The Hon Andrew Constance MP
Minister for Transport and Infrastructure
Member for Bega
PO Box 758
BEGA NSW 2550

beqa@parliament.nsw.gov.au

Dear Minister

Invitation to meet with Council – Kings Highway and Princes Highway

Council highly values the cooperative partnership with the NSW Government to help drive growth of the economy, increase employment opportunities and improve social outcomes for the state, our region and the Eurobodalla community. We congratulate the NSW Government on the strong steps taken to build the infrastructure needed to drive New South Wales forward.

The Princes and Kings Highways are the lifeblood of our community, providing our only road transport linkages with Sydney, Canberra and the broader region. As well as providing key freight corridors, these highways allow visitors and tourists to access the Eurobodalla coast. The visitor economy is worth over \$400m per year to the Eurobodalla coast, representing almost one third of our local GDP.

There are also significant economic opportunities arising, particularly as a result of:

- * improvements to the Princes Highway underway to the north
- * significant growth in Canberra and surrounding area
- * Canberra airport now providing access to international produce and tourism markets
- * increasing use of the Kings Highway to access into Sydney via Goulburn
- * proposed economic development generated from within Eurobodalla

It is therefore essential that we have in place short, medium and long term plans for both the Princes Highway and Kings Highway. We are aware of the work done to date on the Princes Highway Corridor Strategy, and the work proposed to be undertaken to develop a new Kings Highway Corridor Strategy. However, Council wish to engage directly with the NSW Government on this important issue.

Council has therefore resolved to seek a meeting to engage directly with yourself and relevant Members of Parliament in a discussion about the vital importance of:

- i) Advancing the upgrading the Princes Highway and Kings Highway, noting the critical role these highways have in servicing Eurobodalla Shire residents, businesses and transport needs, the great South Coast and Canberra regions and the international market place via Canberra airport
- ii) Developing longer term plans for the future development of the Princes Highway and Kings Highway to meet the medium and long term needs.

We would ask that an appropriate time be set aside to meet with yourself, as Minister for Transport and Infrastructure and our local Member for Bega, along with the Hon Melinda Pavey MP, Minister for Roads, Maritime and Freight, the Hon. John Barilaro MP, Deputy Premier, Minister for Regional NSW and Member for Monaro, the Hon. Bronwyn Taylor MLC Parliamentary Secretary for the Deputy Premier and Southern NSW and Ms Renae Elrington Regional Manager RMS Wollongong.

We would propose that the meeting involve all Councillors and our Executive Leadership Team.

We would appreciate your assistance in facilitating and participating in this cooperative discussion. I have asked my office to liaise directly with your office to seek a suitable time to meet.

Yours sincerely



Councillor Liz Innes
Mayor

GMR17/004 CANCELLATION OF COUNCIL MEETING

E06.0429

Responsible Officer: Dr Catherine Dale - General Manager

Attachments: Nil

Focus Area: Collaborative Communities

Delivery Program Link: C1.1 Conduct the business of Council in an inclusive, responsive and transparent manner

Operational Plan Link: C1.1.2 Support the conduct of effective Council meetings

EXECUTIVE SUMMARY

This report seeks Council endorsement to cancel the meeting scheduled for 14 March 2017.

At its meeting on 25 October 2017, Council endorsed the schedule of meeting dates for 2017. This schedule included 18 meetings. Under Section 365 of the Local Government Act, Council is required to meet at least 10 times per year, each time in a different month.

At its meeting on 14 February 2017, Council endorsed the attendance of Mayor Innes, Councillor Nathan, Councillor Pollock and Councillor Thomson to attend the NSW Tourism Conference from 12 to 14 March 2017. As four of the nine Councillors are scheduled to attend this conference it is considered appropriate to cancel the meeting on 14 March 2017.

In 2016, 17 Council meetings were held. The cancellation of this meeting will result in the same number of meetings as 2016.

RECOMMENDATION

THAT the Council meeting scheduled for 14 March 2017 be cancelled.

BACKGROUND

At its meeting on 25 October 2017, Council endorsed the schedule of meeting dates for 2017. This schedule included 18 meetings. Under Section 365 of the Local Government Act, Council is required to meet at least 10 times per year, each time in a different month.

At its meeting on 14 February 2017, Council endorsed the attendance of Mayor Innes, Councillor Nathan, Councillor Pollock and Councillor Thomson to attend the NSW Tourism Conference from 12 to 14 March 2017.

As four of the nine Councillors are scheduled to attend this conference it is considered appropriate to cancel the meeting on 14 March 2017.

In 2016, 17 Council meetings were held. The cancellation of this meeting will result in the same number of meetings as 2016.

There will be no change to the briefings schedule.

GMR17/004 CANCELLATION OF COUNCIL MEETING

E06.0429

CONSIDERATIONS

Legal

Under Section 365 of the Local Government Act, Council is required to meet at least 10 times per year, each time in a different month. The cancellation of this meeting will result in 17 Council meetings for 2017.

Policy

Adoption of the schedule is in accordance with Section 2.1 (1) of Council's Code of Meeting Practice.

Financial

Adoption of the recommendations outlined in this report will have no financial implications on the adopted budget.

Community Engagement

We will inform the community through providing information on Council's website; Online News; posting on Council's Facebook and advertising on Council's noticeboard page.

CONCLUSION

Four Councillors will be attending the LGNSW Tourism Conference on 12 to 14 March 2017 and it is considered appropriate to cancel the meeting on 14 March 2017.

The cancellation of this meeting will result in 17 Council meetings for 2017. This is in line with the number of meetings held in 2016.

GMR17/005 2017 CONFERENCES

E91.3255

Responsible Officer: Dr Catherine Dale - General Manager

Attachments: Nil

Focus Area: Collaborative Communities

Delivery Program Link: C1.1 Conduct the business of Council in an inclusive, responsive and transparent manner

Operational Plan Link: C1.1.1 Support the councillors in meeting their statutory obligations and roles as community representatives

EXECUTIVE SUMMARY

Council has a commitment to continuing professional development for Councillors. Attendance at industry conferences provides the individual Councillor with new skills and knowledge on particular issues to ensure that they can perform their duties and represent residents to the best of their ability. It also provides Councillors with the opportunity to network and advocate with councillors from other local government areas.

To ensure each Councillor is given the opportunity to participate in the conferences that are of interest to them, this report has been prepared outlining a number of conferences known to be available to Councillors during 2017. The conferences included are:

1. Australia Local Government Women's Association NSW Conference on 11-13 April 2017.
2. Australian Coastal Councils Conference on 3-5 May 2017.
3. 57th Floodplain Management Australia Conference on 16-19 May 2017.
4. 2017 NSW Local Roads Congress on 5 June 2017.
5. National General Assembly (NGA) on 18-22 June 2017.
6. Australian Regional Development Conference on 11-12 September 2017.
7. National Local Roads and Transport Congress on 7-9 November 2017.
8. NSW Coastal Conference will be held in November 2017.

Under *Councillor's Expenses and Facilities* Policy, Councillors (except the Mayor) are entitled to an annual amount of \$3,300 per financial year for their professional development. The costs associated with the annual Local Government Association Conference are excluded from this cost.

RECOMMENDATION

THAT:

1. Council determine which Councillors will attend each of the following Conferences being held in 2017:
 - a. Australia Local Government Women's Association NSW Conference on 11-13 April 2017.

GMR17/005 2017 CONFERENCES

E91.3255

- b. Australian Coastal Councils Conference on 3-5 May 2017.
 - c. 57th Floodplain Management Australia Conference on 16-19 May 2017.
 - d. 2017 NSW Local Roads Congress on 5 June 2017.
 - e. National General Assembly (NGA) on 18-21 June 2017.
 - f. Australian Regional Development Conference on 11-12 September 2017.
 - g. National Local Roads and Transport Congress on 7-9 November 2017.
 - h. NSW Coastal Conference will be held in November 2017.
2. Council representatives be reimbursed out of pocket expenses in accordance with the Councillors' Expenses and Facilities Policy.

BACKGROUND

Historically, Council would consider the attendance of Councillors at each conference separately throughout the year. Whilst this practice had been acceptable, it is considered appropriate to change this process and consider attendance in one report. Doing this will assist Councillors to plan their professional development and keep within the allocated budget.

At its meeting on 14 February 2017, Council endorsed Mayor Liz Innes, Councillor Maureen Nathan, Councillor James Thomson and Councillor Rob Pollock to attend the NSW Tourism Conference on 13 and 14 March 2017. The Council deferred the decision to attend the remaining conferences until 28 February 2017 to provide Councillors with further opportunities to consider which conferences they wished to attend.

Below is the detailed information of conferences available for Councillors to attend in 2017 in order of when they occur throughout the year.

The **Australian Local Government Women's Association (ALGWA) NSW Conference** is being held on 11-13 April 2017 in Launceston, Tasmania. The conference theme is 'Be the Balance'. The registration cost for the Conference is \$650. More information and a copy of the Conference program is available at: <http://algwaconf17.org.au/index.htm>

The **Australian Coastal Councils Conference** is being held on 3-5 May 2017 at the Mon Komo Hotel in Redcliffe, Queensland. The conference theme is 'A Sustainable Future for Coastal Australia'. The registration cost is \$1320 if paid by 1 March 2017. More information and a copy of the Conference program is available at: <https://coastalcouncils.org.au/>

The **57th Floodplain Management Australia Conference** is being held on 16-19 May 2017 at the Newcastle Exhibition and Convention Centre in Newcastle, NSW. The conference theme is 'Preparing for the Next Great Flood'. The registration cost is \$1125 if paid by 13 March 2017. More information and a copy of the Conference program is available at: <http://floodplainconference.com/>

GMR17/005 2017 CONFERENCES

E91.3255

The **2017 NSW Local Roads Congress** is being held on 5 June at State Parliament House in Sydney. Registration for Councillors attending this conference is free with a paying delegate. The Director Infrastructure Services will be attending the Congress as the paying delegate. The conference and registration brochures will be available closer to the date.

The **2017 National General Assembly (NGA)** is being held on 18-21 June 2017 at the National Convention Centre in Canberra. More information and a copy of the Conference program is available at: <http://alga.asn.au/?ID=14652>

The **Regional Development Australia Conference** is being held on 11-12 September 2017 at Coffs Harbour. The conference will provide equal focus to the advancement of economic and social outcomes for Regional Australia – Economic, Planning & Infrastructure, Environment and Community Development. The registration costs and conference brochure will be available closer to the date. More information on Regional Development Australian can be found at <http://regionaldevelopment.org.au/>

The **National Local Roads and Transport Congress** is being held on 7-9 November 2017 in Albany, WA. The conference and registration brochures will be available closer to the date.

The **NSW Coastal Conference** will be held in November 2017. The conference and registration brochures will be available closer to the date.

The **Local Government Annual Conference** is being held on 4-6 December 2016 at the Hyatt Regency, Sydney. More information and a copy of the Conference program is available at: <http://www.lgnsw.org.au/events-training/local-government-nsw-annual-conference>

CONSIDERATIONS

Policy

Council's Councillor's Expenses and Facilities Policy provides that attendance of Councillors at each conference will normally be limited to two. The principle of having one councillor attend will be considered as "best practice" for attending seminars and conferences. This may be varied from time to time by resolution of Council.

Councillors attending training, seminars and conferences are to provide a detailed report to Council on the outcome and issues. Councillors must provide a written delegate's report to Council following each conference attended, to be eligible to attend any further conference.

Section 232 (1) (g) of the Local Government Act 1993, states '*to make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a Councillor*'.

Financial

Councillors are allocated the annual sum of \$3,300 to specifically provide for their professional development. This allocated is for each financial year.

GMR17/005 2017 CONFERENCES

E91.3255

Council will reimburse or pay registration fees, accommodation, meals, parking, telephone and travel expenses associated with attendance at the conference plus any other reasonable and directly related out of pocket expenses.

Accommodation is restricted to a maximum NRMA 4 ½ star rating and where possible at the conference venue to avoid other costs and inconvenience.

CONCLUSION

It is considered appropriate that Councillors attend conferences throughout the year to enable them to be both knowledgeable and up-to-date on particular issues to ensure that they can perform the duties and represent the residents to the best of their ability.

GMR17/006 ADOPTION OF POLICIES

E16.0297

Responsible Officer: Dr Catherine Dale - General Manager

Attachments: 1. Under Separate Cover - Policies for Adoption

Focus Area: Collaborative Communities

Delivery Program Link: C1.2 Manage the organisation to effectively and efficiently meet our statutory obligations

Operational Plan Link: C1.2.1 Respond to legislative and policy requirements set by the Department of Local Government

EXECUTIVE SUMMARY

All Council's policies are reviewed within the first 12 months of a new Council term for the reasons set out under the following sections of the *Local Government Act 1993*:

- *Section 223 (1)(e) Role of governing body – 'to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council'.*
- *Section 232 (1)(f) The role of a councillor – 'to uphold and represent accurately the policies and decisions of the governing body'.*
- *Section 165 (4) Amendment and revocation of Local policy – 'a Local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election'.*

The following policies have been placed on public exhibition and no submissions were received:

1. Roads Naming Policy
2. Parks, Playgrounds and Reserve Risk Management Policy
3. Grazing of Stock on Public Road Policy
4. Bush Fire Risk Management Policy
5. Drinking Water Quality Policy
6. Signs as Remote Supervision Policy
7. Build in the Vicinity of Sewer Mains Policy
8. Councillors Expenses and Facilities Policy
9. Code of Conduct Policy
10. Accounting for Divisions and Subsidiaries of Council Policy
11. Asset Disposal Policy

This report recommends adoption of those policies.

GMR17/006 ADOPTION OF POLICIES

E16.0297

RECOMMENDATION

THAT Council adopt the following policies

1. Roads Naming Policy
2. Parks, Playgrounds and Reserve Risk Management Policy
3. Grazing of Stock on Public Road Policy
4. Bush Fire Risk Management Policy
5. Drinking Water Quality Policy
6. Signs as Remote Supervision Policy
7. Build in the Vicinity of Sewer Mains Policy
8. Councillors Expenses and Facilities Policy
9. Code of Conduct Policy
10. Accounting for Divisions and Subsidiaries of Council Policy
11. Asset Disposal Policy.

BACKGROUND

In accordance with Section 165 (4) of the *Local Government Act 1993*, a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months aft the declaration of the poll for that election.

CONSIDERATIONS

The following policies were placed on public exhibition and no submissions were received:

1. Roads Naming Policy - As the Roads Authority, Council is empowered to name public roads under Section 162 of the *Roads Act 1993*. Council is also required to maintain a register that identifies roads by a given name and number.
2. Parks, Playgrounds and Reserve Risk Management Policy - Section 42 of the *Civil Liability Act 2002* makes allowance for Council's ability to carry out its duty of care as being limited by the financial and other resources which are reasonably available to exercise its functions. To rely on this defence, Council is required to show evidence of its compliance with the general procedures and applicable standards for the exercise of its functions, such as risk management of its parks and reserves facilities.
3. Grazing of Stock on Public Land Policy - This Policy establishes the requirements to minimise the risk arising from the grazing of stock on public roads.
4. Bush Fire Risk Management Policy - This Policy clarifies the management of bush fire risk to the community within Council controlled lands.

Council has statutory obligations to minimise the risk of bush fires in accordance with the relevant legislation, namely *The Rural Fires Act 1997 Act and Regulation, Local*

GMR17/006 ADOPTION OF POLICIES

E16.0297

Government Act 1993, Protection of the Environment Operations Act 1997, Protection of the Environment Operations (Clean air) Regulations 2010, The Environmental Planning and Assessment Act 1979, Native Vegetation Act 2003, Threatened Species Conservation Act 1995, State Emergency and Rescue Management Act 1989.

5. Drinking Water Quality Policy - Eurobodalla Shire Council's policy was developed to support the provision of a water supply service which delivers potable quality water to its customers. Given the risk to public health of unsatisfactory water quality, it is of paramount importance that preventative risk management systems are developed, implemented and managed to ensure the protection of human health.
6. Signs as Remote Supervision Policy - This Policy recognises the importance of using signs as remote supervision (SARS) to warn users of Council owned, operated or controlled land within the Eurobodalla Shire Council Local Government Area (LGA) of the risk and nature of any hazards in the area.
7. Build in the Vicinity of Sewer Mains Policy - Under Section 59A of the Act, Council is the owner of all works of water supply, sewerage and stormwater drainage installed in or on land by Council (whether or not the land is owned by Council). The Act provides Council access to any land required to operate, repair, replace, maintain, remove, extend, disconnect, improve or do any other things that are necessary or appropriate to any of its works to ensure that, in the opinion of Council, the works are used in an efficient manner for the purposes for which the works were installed.
8. Councillor Expenses and Facilities Policy – Council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the Mayor and Councillors in relation to discharging the functions of civic office.

Councillor expenses and facilities policies should allow for councillors to receive adequate and reasonable expenses and facilities to enable them to carry out their civic duties as elected representatives of their local communities.

9. Code of conduct Policy - Section 440 of the *Local Government Act, 1993* every New South Wales council is to adopt a code of conduct that incorporates the provisions of the *Model Code of Conduct for Local Councils in NSW* www.olg.nsw.gov.au/strengthening-local-government/conduct-and-governance/model-code-of-conduct as published by the Office of Local Government (OLG).

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

The Model Code of Conduct is designed to help councils conduct the core business of serving their communities. It does this by providing:

- flexibility to solve less serious matters informally
- fair complaints management
- strong sanctions to help deter ongoing disruptive behaviour and serious misconduct.

GMR17/006 ADOPTION OF POLICIES

E16.0297

All councillors, members of staff and delegates of Eurobodalla Shire Council must comply with applicable requirements of the Code of Conduct. Council reserve trusts, advisory committees, contractors, and volunteers are also obliged to observe the applicable requirements of the Code of Conduct.

Further, the Code of Conduct Policy refers to the most current version of the *Model Code of Conduct for Local Councils in NSW* as published by the OLG. This allows the Code of Conduct to be amended by the OLG without Council having to exhibit the Code each time an amendment is made.

10. Accounting for Divisions and Subsidiaries of Council Policy - This policy provides for Council management committees, other divisions and subsidiaries of Council to fully incorporate accounting into Council's main systems.
11. Asset Disposal Policy - The Asset Disposals Policy was developed to protect Council's financial interest by ensuring that asset disposals achieve the best possible result for Council. Council is required from time to time to dispose of assets. These assets may have reached or exceeded their economic life for Council purposes. Alternatively there may be other justifiable economic reasons for disposal.

It is considered appropriate to adopt these policies.

Legal

Roads Naming Policy - In accordance with the *Roads Act 1993*, Council, as the Roads Authority, may not name a public road or alter a name of a public road unless it has given the Geographical Names Board (GNB) at least one month's notice of the proposed name.

Grazing of Stock on Public Road Policy – This policy will comply with the [Rural Lands Protection Act 1998](#).

Bush Fire Risk Management Policy - Council's policy also operates in accordance with the *Bush Fire Environmental Assessment Code for NSW Rural Fire Service 2006, Planning for Bush Fire Protection (NSW Rural Fire Service 2006) and NSW Rural Fire Service Standard Operational Procedures – Prescribed Burning Activities*.

Drinking Water Quality Policy - This policy ensures Eurobodalla Shire Council's compliance with the Public Health Act 2010.

Signs as Remote Supervision - complies with the Local Government Act 1993, the Civil Liability Act 2002 (CLA) and relevant Australian Standards. Section 5M of the CLA states that a risk warning for a recreational activity can be given in writing, including by means of a sign. Council's duty of care is outlined in Part 5 Section 42 of the *Civil Liability Act 2002* - principles concerning resources and responsibilities of public or other authorities.

Councillor Expenses and Facilities Policy - Under Section 252 'Payment of expenses and provision of facilities' of the *Local Government Act 1993* Council must:

GMR17/006 ADOPTION OF POLICIES

E16.0297

- (1) Within the first 12 months of each term of a council, the council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the mayor, the deputy mayor (if there is one) and the other councillors in relation to discharging the functions of civic office.
- (2) The policy may provide for fees payable under this Division to be reduced by an amount representing the private benefit to the mayor or a councillor of a facility provided by the council to the mayor or councillor.
- (3) A council must not pay any expenses incurred or to be incurred by, or provide any facilities to, the mayor, the deputy mayor (if there is one) or a councillor otherwise than in accordance with a policy under this section.
- (4) A council may from time to time amend a policy under this section.
- (5) A policy under this section must comply with the provisions of this Act, the regulations and any relevant guidelines issued under section 23A.

Code of Conduct Policy -is an overarching document that allows the Code of Conduct to be applied to councillors and member of staff, Council advisory committees, reserve trusts, contractors and volunteers. Further, the Code of Conduct Policy refers to the most current version of the *Model Code of Conduct for Local Councils in NSW* as published by the OLG. This allows the Code of Conduct to be amended by the OLG without Council having to exhibit the Code each time an amendment is made.

Assets Disposal Policy - Council's asset disposals will comply with section 55 of the *Local Government Act 1993*, Australian Accounting Standard *AASB 116 Property Plant and Equipment 2009*, and the Division of Local Government *Code of Accounting Practice and Financial Reporting (as updated)*.

Community Engagement

Council has placed the draft policies on public exhibition for a period of no less than 28 days. Copies were available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

No submissions were received.

CONCLUSION

The draft policies were placed on public exhibition for a period of no less than 28 days. The exhibition period is now complete and submissions were received. It is recommended that Council adopt the policies.

**PSR17/003 COUNCIL SUBMISSION: STATE ENVIRONMENTAL PLANNING
POLICY - COASTAL MANAGEMENT**

E09.3154

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

Attachments: 1. Council Submission: State Environmental Planning Policy - Coastal Management

Focus Area: Sustainable Communities

Delivery Program Link: S5.2 Maintain, update and communicate planning information and issues

Operational Plan Link: S5.2.2 Participate in State and regional planning forums and environmental reviews and report on and communicate issues relating to strategic planning

EXECUTIVE SUMMARY

The purpose of this report is to seek endorsement of a draft submission to the Department of Planning and Environment (the Department) in response to the exhibition of the Coastal Management State Environmental Planning Policy.

The NSW Government released a draft State Environmental Planning Policy - Coastal Management (the CMSEPP) and draft Local Planning Direction – Coastal Management (the Planning Direction) for public exhibition between 11 November 2016 and 20 January 2017. An interim response to the Department was forwarded on 22 December 2016 advising that a formal submission could not be submitted until one had been endorsed by a meeting of Council on 28 February 2017.

The CMSEPP is one of the final components of the coastal reforms that included the introduction of a new *Coastal Management Act 2016*, consolidating four existing State Environmental Planning Policies (SEPP) into a new Coastal Management SEPP and a new Coastal Management Manual. Finalising the CMSEPP will bring the new Act into effect.

The CMSEPP triggered associated minor amendments to the State Environmental Planning Policy - Infrastructure that are discussed in the attached submission.

The reforms overall are a positive initiative that should make coastal management objectives easier to understand and implement. A summary of the key issues to support and issues that need to be considered for review is provided below. The attached submission provides more detail on each issue. Council's Coastal and Environmental Management Advisory Committee (CEMAC) has provided input into the attached submission.

The key points of support are:

- Consolidation of three existing SEPPs into a single Coastal Management SEPP.
- Recognition of the coast as an ambulatory (not fixed) boundary and introduction of related matters for consideration in development assessment.
- Councils can undertake beach nourishment, routine maintenance or place sandbags without development consent.
- Removal of the concurrence requirements under the existing assessment procedures.

**PSR17/003 COUNCIL SUBMISSION: STATE ENVIRONMENTAL PLANNING
POLICY - COASTAL MANAGEMENT**

E09.3154

- Provision of publicly available interactive digital mapping.
- Ability of councils to propose changes to the mapping.

The key points of concern are:

- Process for changing mapping needs to be streamlined
- Department did not provide vulnerability mapping as indicated earlier in the consultation process.
- SEPP lacks definition and clarity around conditions for “temporary building or works” and “temporary use” of the land.
- Due to the absence of vulnerability mapping and lack of definition around “temporary”, it is premature to adopt the SEPP until the mapping is produced and definitions resolved.

RECOMMENDATION

THAT Council:

1. Endorse the submission for the State Environmental Planning Policy – Coastal Management and submit it to the NSW Department of Planning and Environment
2. Forward the submission for the Coastal State Environmental Planning Policy to the Local Member, Minister for Transport and Infrastructure, the Honourable Andrew Constance MP, for his information.

BACKGROUND

The former Minister for Planning, the Honorable Rob Stokes MP, announced the release of a draft SEPP - Coastal Management and draft Local Planning Direction – Coastal Management at the NSW Coastal Conference on Friday 11 November 2016.

The SEPP represents a component of Stage 2 of the NSW Government’s coastal reforms package that includes the new *Coastal Management Act 2016*, the State Environmental Planning Policy – Coastal Management, and the yet to be released Coastal Management Manual. Councillors were initially briefed on the reforms on 1 December 2015. Council was briefed on the draft submission on 7 February 2016 followed by Council’s Coastal and Environmental Management Advisory Committee on 16 February 2017.

Coastal managers and the public were provided with the opportunity to attend consultation sessions conducted by the Department in Moruya on 25 November 2016.

The public were invited by the NSW Government to forward submissions before 23 December 2016. An extension of the consultation period to 20 January 2017 was granted by the former Minister following approaches by local councils.

**PSR17/003 COUNCIL SUBMISSION: STATE ENVIRONMENTAL PLANNING
POLICY - COASTAL MANAGEMENT**

E09.3154

A draft submission has been prepared and is attached to this report for consideration by and endorsement of Council. An interim response was forwarded on 22 December 2016 advising that a formal submission could not be submitted until it had been endorsed by a meeting of Council, which was not scheduled until after the exhibition period.

CONSIDERATIONS

The proposed improvements to mapping in the coastal zone are welcome. The SEPP14 mapping has always been problematic and was considered to be outdated. The ability for local councils to provide updated and more accurate mapping is welcomed. Provisions should be made for councils to provide updated mapping independent of a planning proposal process in a manner similar to how bushfire hazard maps are updated.

The reforms are a positive initiative that should make coastal management objectives easier to understand and implement. A summary of the key issues to support and issues that need to be resolved is provided below. The attached submission provides more detail on each issue. The key points of support are:

- Consolidation of three existing SEPPs into a single coastal management SEPP - the new CMSEPP replaces three existing SEPPs (14, 26 and 71) and the NSW Coastal Policy 1999. CMSEPP is much simpler by providing a single reference point.
- Recognition of the coast as an ambulatory (not fixed) boundary and introduction of related matters for consideration in development.
- Councils can undertake beach nourishment, routine maintenance or place sandbags without development consent. This allows a council to carry out essential maintenance works without the burden of compliance and approvals, which will have a positive impact on council operations.
- Removal of the concurrence requirements under the existing assessment procedures - a council will no longer need to refer a development application in proximity to a coastal wetland to a State agency for approval. This will reduce the time it will take for a development application to be assessed by cutting red tape.
- Provision of publicly available interactive digital mapping - all SEPP mapping was formerly paper maps hand signed by the Minister. This new digital format creates far greater access and transparency. The mapping portal will provide a valuable planning tool for councils and the community.
- Ability of councils to propose changes to the mapping - councils were not able to suggest amendments to the SEPP mapping previously. Councils now have that ability and the digital mapping format should make it easier to implement once the amendments are approved.

**PSR17/003 COUNCIL SUBMISSION: STATE ENVIRONMENTAL PLANNING
POLICY - COASTAL MANAGEMENT**

E09.3154

The key points of concern are:

- The process for changing mapping should be streamlined.

The current proposal is for councils to submit a planning proposal in the same way that Local Environmental Plan (LEP) maps are amended. The CMSEPP will be reviewed in year one of implementation, which will give councils an opportunity to suggest amendments, however the long-term process is unnecessarily complicated.

- Department did not provide vulnerability mapping, even though the Minister indicated earlier in the consultation process that it would be provided. This is very disappointing and makes it difficult to form a view on the SEPP and its implementation.

The Coastal Management Act 2016 identifies four Coastal Management Areas that are mapped and given effect through the SEPP:

1. Coastal wetlands and littoral rainforest
2. Coastal vulnerability
3. Coastal environment
4. Coastal use.

There is no Coastal vulnerability area mapping for the NSW coast. The SEPP relies on mapping within existing LEPs or Development Control Plans (DCP). Many councils, including Eurobodalla, do not have coastal hazard mapping within the LEP's. This appears to preclude these councils from applying the full scope of the SEPP in relation to managing coastal hazards. An alternate clause (5(16)) within the SEPP does provide some scope to consider coastal hazards but it lacks the detail of the clause (2(13)) specifically drafted to consider Coastal Management Area 2 – coastal vulnerability.

- Given the above points, the SEPP should not proceed until all mapping, including vulnerability areas, is finalised. While there are positive outcomes in proceeding with the SEPP (eg improved efficiencies in having one SEPP replace three SEPPs), the negative outcomes in not having the vulnerability mapping, and lack of definition around "temporary" (discussed below) are more significant and warrant not proceeding with the SEPP at this stage.
- SEPP lacks definition and clarity around conditions for "temporary use" of the land.

The SEPP refers to temporary buildings or works and temporary use of land (Division 2, 3(a), (b)). Neither the Act nor the SEPP clearly define the term "temporary" in the context of coastal management. Each local authority, planning consultant, designer or legal authority could potentially interpret the meaning of this term in a different way depending on their own perspective or roles in the planning process. The application of temporary consents in coastal vulnerability areas has been extremely contentious, therefore a clear definition of this term that is understood by all parties involved in the planning process, is needed.

Legal

The *Coastal Management Act 2016* will, when ascended, replace the *Coastal Protection Act 1979*.

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The Coastal Management SEPP will replace the following:

- SEPP14 – Coastal Wetlands
- SEPP26 – Littoral Rainforest
- SEPP71 – Sensitive Coastal Locations.

The NSW Coastal Policy 1997 will be repealed when the Coastal Management SEPP is published in the Gazette.

Policy

There will be no immediate impact on Council's Interim Coastal Hazards Adaptation Code. This will be replaced when Council has completed a Coastal Management Program and transitioned to the new coastal management framework.

Environmental

The new SEPP reflects provisions from existing environmental development controls and planning policies that will be repealed upon adoption.

Asset

Asset maintenance will be made simpler via the removal of minor compliance requirements under the Infrastructure SEPP.

Community Engagement

Council has collaborated with the community by seeking advice, ideas and recommendations from Council's CEMAC at a meeting conducted on Monday 13 February 2017. The CEMAC was provided with a copy of the SEPP on Thursday 9 February in advance of the meeting to ensure adequate time was available to review the draft submission.

In addition, coastal managers and the public were provided with the opportunity to attend separate consultation sessions conducted by the Department of Planning and Environment in Moruya on 25 November 2016. The public has been able to access the consultation documents, ask questions and make submissions on the Department's website.

The CEMAC raised the following points at the meeting conducted on Monday 13 February 2017. A majority of the CEMAC agreed on the following points:

- Strengthen wording associated with expressing Council's disappointment with the vulnerability mapping not being provided.
- Request that the Department will consider and act on feedback received on any errors in the exhibited mapping.
- Recommended the SEPP not proceed until all mapping, including vulnerability areas, is finalised.

The attached draft submission has been finalised in accord with the concerns raised by the CEMAC.

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CONCLUSION

A submission has been prepared in response to the draft State Environmental Planning Policy - Coastal Management (the CMSEPP) that went on public exhibition between 11 November 2016 and 20 January 2017. A copy of the submission is attached to this report.

While the draft framework for coastal management contains some positive initiatives and can be supported, it is disappointing that there is a lot of uncertainty without vulnerability mapping being provided and some definitional problems. These problems are so significant that the submission recommends the SEPP not proceed until these matters are resolved. Feedback from the briefing of Council along with Council's Coastal and Environmental Management Advisory Committee has been incorporated into the submission.

Eurobodalla Shire Council Submission to Coastal Management SEPP

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Our Reference: E09.3154

Date:/2017

Director, Planning Frameworks
NSW Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Sir/Madam

**Submission from Eurobodalla Shire Council regarding the
State Environmental Planning Policy (Coastal Management)**

Eurobodalla Shire Council supports the concept of introducing a consolidated SEPP for coastal management. This could deliver economic efficiencies in the assessment of coastal development, and improve environmental and social outcomes for the coast. We welcome the provision of mapping as a digital portal that can be accessed by the whole community. However we are disappointed that mapping of the coastal vulnerability area has not been released despite previous commitments to do so.

While we provide in principle support, the coastal management reforms package is currently incomplete. The effects of the reforms on the wider land use planning system need to be addressed and available for consideration. For example, the Coastal Management Manual that will guide the identification of each management area during the preparation of a Coastal Management Program, is not yet available for review.

The Department will need to ensure adequate information and support is available to local councils during the transition period. Clearer advice on how to apply the planning controls within the SEPP for those councils without adopted hazard mapping, needs to be available to ensure the principles of the new Coastal Management Act and SEPP can be applied during the transition period.

Eurobodalla Shire Council Submission to Coastal Management SEPP

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Eurobodalla Shire Council Submission to Coastal Management SEPP

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In spite of our general support of the SEPP, Council is dissatisfied with the timing of the exhibition. Several local councils advised the Minister and the Department that in order to have meaningful engagement with local government, the timing of the exhibition needed to take into account the endorsement of submissions at a meeting of the respective elected councils. The timing of the exhibition did not consider that council meetings did not occur during the holiday period and therefore a submission endorsed by the elected could not be provided within the exhibition deadline.

We are likewise disappointed mapping of the Coastal Vulnerability Management Area was not released, despite the Minister advising early in the reforms that the vulnerability mapping would be made available. This precludes most councils from applying the clause relating to mapped vulnerability areas and as a consequence, the SEPP should not take effect until the mapping that has been prepared by the NSW Government is published.

Please find attached our detailed response to the draft State Environmental Planning Policy (Coastal Management).

If you have any questions or require additional comment please contact Lindsay Usher, Director Planning and Sustainability Services on 4474 1304.

Yours sincerely

Cr Liz Innes
Mayor

General support for the Coastal Management SEPP

Council supports a single Coastal Management SEPP that articulates how biodiversity conservation, hazard management and the principles of preserving the scenic qualities of coastal areas will be delivered through sensible land use planning.

The SEPP attempts to manage the trade-offs between promoting growth of a sustainable coastal economy within the constraints of an ambulatory geographical planning area.

The NSW Government needs to be acknowledged for being the first Government to recognise and genuinely attempt to integrate the ambulatory nature of the coast within the planning system.

Comments on the State Environmental Planning Policy - Coastal Management (CMSEPP)

DEVELOPMENT CONTROLS FOR COASTAL MANAGEMENT AREAS

PART 2

DIVISION 1 COASTAL WETLANDS AND LITTORAL RAINFOREST

The Consultation note states the *“conservation of native vegetation (including in the coastal wetlands and littoral rainforest area) may be dealt with under the proposed Biodiversity Conservation Act 2016 and associated legislation”*

The full scope of the Land Management and Biodiversity Conservation reforms package is currently incomplete. Comment on the impact of these reforms on the coastal zone will be forwarded when the full package is delivered.

12(2) (a) – This clause does not apply to R1, R2, R3, R4, R5 or RU5.

This exemption from the SEPP and related controls for development on land in proximity to coastal wetlands and littoral rainforest, will facilitate expedient assessment of development applications for these lands. This is a good outcome for owners of lots within these zones that will potentially reduce the cost of building and lodging an application for development.

PART 2

DIVISION 2 COASTAL VULNERABILITY

Council welcomes the clarity this clause and associated sections of the *Environmental Planning and Assessment Act 1979* will provide to local councils in the assessment and conditioning of development in areas subject to coastal hazards. This issue represents the most difficult scenario coastal planners must consider and find solutions to, at both land use planning and individual development assessment levels.

Council has four recommendations to improve the application of this clause:

1. 13(2)(b) amend to read “...or other land now and into the future, and”
2. articulate the mechanism of conditioning a *“temporary use of the land”* as a trigger based consent activated by a coastal hazard event in the CMSEPP, Coastal Management Manual or the *EP&A Act 1979* (s80A)
3. prescribe the form of *“temporary works or building”*

4. include an additional sub-clause (c) that requires a site to be remediated following removal of temporary use, works or buildings.

The development controls proposed in the SEPP should clearly prescribe what “temporary” includes and what development is not appropriate in areas exposed to a current or imminent risk from a coastal hazard.

Section 80A(1)(d) and (e) of the *EP&A Act 1979* grants permission to apply conditions that limit the period of consent or prescribe removal of the works or buildings. The SEPP does not take the additional step of providing guidance on acceptable conditions to limit the period of consent. This is relevant given the case law precedent set against Greater Lakes Council in applying a limited consent based on a date. The SEPP needs to prescribe acceptable trigger-based, limited consents activated by a coastal hazard event to ensure all councils are adopting one approach for the management development in coastal vulnerability areas.

DIVISION 2 COASTAL VULNERABILITY - MAPPING

There is no Coastal vulnerability area mapping for the NSW coast. The SEPP relies on mapping within existing LEPs or DCPs. Many councils, including Eurobodalla, do not have coastal hazard mapping within their LEP. This effectively precludes these councils from applying the full scope of the SEPP in relation to managing coastal hazards. An alternate clause (5(16)) within the SEPP does provide some scope to consider coastal hazards but it lacks the detail of the clause (2(13)) that is specifically drafted to consider Coastal Management Area 2 – Coastal vulnerability.

Council is disappointed the mapping provided to councils prior to the initial consult was not released for public consultation. Eurobodalla has long advocated for the NSW Government to prepare the technical aspects of a CMP and provide each local council with the relevant results and mapping. This approach would have provided a uniform method for assessing coastal hazards particularly for areas where sediment compartments overlap LGA boundaries. By not providing the mapping, the NSW Government has potentially undermined the aim of managing the coastline as an integrated system.

As a consequence of Coastal Management Area 2 – Coastal vulnerability not being mapped, Council is of the view that the SEPP should not be adopted until all coastal management areas are clearly defined by mapping prepared by the NSW Government.

DIVISION 3 COASTAL ENVIRONMENT AREA

We have no comment as we feel this clause provides adequate points of consideration for the assessment of development within a coastal environment area.

DIVISION 4 COASTAL USE AREA

Council recommends the Division has an additional consideration by including a clause stating “a consent authority must be satisfied the proposed development will consider the

potential impacts of climate change". This is consistent with the soon to be rescinded NSW Coastal Policy 1999, the intent of which is reflected within this clause.

DIVISION 5 GENERAL

Notwithstanding our previous comments, Council supports the inclusion of Division 5(16) *Development in coastal zone generally – development not to increase risk of coastal hazards* in the absence of mapping prepared by the NSW Government.

Division 5(16) directs a council to consider the impacts of a development on coastal hazards but does not require an assessment of the risk coastal hazards present to the development. The provision needs to be extended to more substantially mirror Division 2 and allow councils not listed under 4(2) to apply the full intended scope of the SEPP through consideration of:

- the ambulatory nature of the beach and foreshore
- appropriate measures to manage risk to life and public safety from coastal hazards and whether
- buildings and works, and any use of the land, should be temporary.

PART 3

21 (2) Coastal protection works by a public authority

Council supports the provision allowing councils to undertake beach nourishment, routine maintenance or place sandbags without development consent.

SCHEDULE 3 AMENDMENT OF OTHER INSTRUMENTS

3.4 SEPP Infrastructure (2007)

Eurobodalla Shire Council supports the amendment to SEPP Infrastructure that requires public authorities to consult with councils about works on lands within a coastal vulnerability area. Identifying the long-term strategies of large public authorities for managing coastal hazards has often been problematic.

Removal of Concurrence

Eurobodalla Shire Council supports the removal of the concurrence of NSW Government agencies that was a requirement for development approvals under the previous SEPP14 and SEPP26. Councils have the necessary expertise and local knowledge to thoroughly assess the environmental considerations associated with development applications in sensitive areas.

Notwithstanding, the Office of Environment and Heritage needs to maintain the capacity to provide technical advice to councils.

Notations on section 149 Planning Certificates

Council acknowledges the advice provided by the Department to inform changes to the *Environmental Planning and Assessment Regulation* regarding the wording of information required on section 149 Planning Certificates. Council has amended the advice provided.

Mapping – general comments

Council supports the changes to the mapping system and welcomes the innovation of making the maps digital for the first time. This will improve community access to the maps and allow for expedient updates as more information becomes available.

The initiative to review the SEPP mapping in the year following adoption and every five years thereafter, is a significant improvement to the previous process of updating SEPP mapping. The year one review is an intelligent approach to accommodating the introduction a new system.

We do however, recommend alternative pathways for councils submitting a proposal to update the mapping that will avoid the process of submitting a planning proposal.

The *Coastal Management Act 2016* requires councils to prepare a Coastal Management Program (CMP) that will include assessment and mapping of coastal hazards. Completion of these plans may be outside the review periods and therefore a council will be required to submit a planning proposal to support amending the SEPP mapping.

Councils will be required to have a CMP certified by the Minister for Planning and Environment. There is duplication in having to submit a CMP for certification followed by submitting planning proposals to have amendments to the mapping made in accordance with the CMP. The certification and associated mapping amendments should be a concurrent process.

The mapping from a certified or certifiable CMP will have been subjected to a rigorous process of public exhibition and direct community consultation. Duplicating the process of public exhibition via a planning proposal will create unnecessary delays to applying the mapping and SEPP.

If a council identifies changes to the coastal management area mapping through a study other than a CMP, a mechanism similar to that for bushfire prone land mapping under Section 146 (Bushfire Prone Land) of the *Environmental Planning and Assessment Act* would be appropriate and efficient. The function of the Commissioner of the NSW Rural Fire Service in certifying amendments to bushfire prone land mapping could be replicated by the relevant authority in the Department of Planning and Environment for changes to coastal management area mapping.

Concerns had been raised by our local community regarding the mapping and the capacity of community groups to recommend changes to the extent of Coastal Management Areas during the exhibition period without technical mapping skills. Council requests the Department provides community groups with detailed responses in respect to the rationale behind why a suggested change to a CMA boundary was or was not supported.

Comments on accuracy of mapping

Wetlands

The mapping has included updates to the extent of coastal wetlands that are generally supported. There are some areas within Eurobodalla that require very minor adjustments but on the whole, the mapping is an improvement over the previous SEPP14.

The extent of wetlands inundated as a consequence of recently adopted or updated entrance management policies for Intermittently Closed and Open Lakes and Lagoons (ICOLLs) may in some instances, exceed the mapped extent of the SEPP. Eurobodalla has steadily increased the management triggers for ICOLLs to encourage the regeneration of coastal saltmarsh and other key wetland communities. This management approach has resulted in a steady increase of these communities. A list of our management triggers has been attached as a guide to the possible future extent of coastal wetlands that are anticipated to extend further than the current draft mapping. An example of where this has occurred at Coila Lake has been included as a guide.

Figure 1: Draft NSW Coastal Management SEPP Maps – Coastal Wetlands at Coila Lake



Figure 2: Extent of wetlands at Coila Lake based on 2mAHD entrance management trigger



PSR17/004 REVIEW OF STATE ENVIRONMENTAL PLANNING POLICY (SEPP) NO 44 - KOALA HABITAT PROTECTION E17.1103

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

Attachments: 1. Council's submission

Focus Area: Sustainable Communities

Delivery Program Link: S5.2 Maintain, update and communicate planning information and issues

Operational Plan Link: S5.2.2 Participate in State and regional planning forums and environmental reviews and report on and communicate issues relating to strategic planning

EXECUTIVE SUMMARY

The purpose of this report is to seek endorsement for Council's submission regarding the Explanation of Intended Effect (EIE) of the review of State Environmental Planning Policy 44 – Koala Habitat Protection and that a copy of this submission be provided to the Local Member, Minister for Transport, the Hon. Andrew Constance MP.

As part of the NSW Government's review program of State Environmental Planning Policies, the NSW Government is seeking feedback on an (EIE) that outlines proposed amendments to the State Environmental Planning Policy (SEPP) No 44 – Koala Habitat Protection. The EIE describes how the amendments to SEPP 44 are intended to work and what they aim to achieve. The EIE does not provide specific details and the draft SEPP 44 and the proposed guidelines to support the SEPP have not been placed on public exhibition. The Department of Planning and Environment has not made a commitment to exhibit the amended SEPP or proposed guidelines in the future.

The key changes the proposed amended SEPP 44 will implement relate to:

- definitions of 'koala habitat' including the identification of additional tree species listed as important to koalas
- additional tree species listed as important to koalas
- list of councils to which the policy applies to reflect recent amalgamations
- a streamlined development assessment process
- preparation of guidelines that clearly set out requirements for comprehensive plans of management criteria for the applicant to follow and consent authorities to put into effect
- transferring the strategic planning outcomes in SEPP 44 to the Local Planning Directions pursuant to Section 117 of the *Environmental Planning and Assessment Act 1979*.

PSR17/004 REVIEW OF STATE ENVIRONMENTAL PLANNING POLICY (SEPP) NO E17.1103
44 - KOALA HABITAT PROTECTION

A submission has been prepared to the (EIE) for Council's consideration. The submission is included as an attachment to this report. Submissions to the NSW Government are due on 3 March 2017. The submission to the EIE includes comments related to requesting:

- an opportunity to review the draft SEPP and proposed guidelines before they are implemented
- flexibility in the development assessment process to avoid unnecessary steps to determine if koalas are present in areas where the outcome of finding koalas is known to be very low
- qualified Council staff to establish if a site contains koala habitat, where appropriate
- comprehensive plans of management not being required in areas that have no known populations of koalas, even if potential koala habitat is available.

RECOMMENDATION

THAT Council endorse the submission attached to this report and forward the submission to the NSW Government with a copy to the Local Member, Minister for Transport and Infrastructure, the Honourable Andrew Constance MP.

BACKGROUND

As part of the NSW Government's review program of SEPPs, it is seeking feedback on an EIE that outlines how proposed amendments to SEPP 44 are intended to work and what they aim to achieve.

The EIE does not provide specific details and the draft SEPP 44 and proposed guidelines to support the SEPP have not been placed on public exhibition. The Department of Planning and Environment has not made a commitment to exhibit the amended SEPP or proposed guidelines in the future.

Councillors were informed of the EIE at the Council briefing held on 7 February 2017 and provided with a draft submission via the Councillor Newsletter in December 2016.

CONSIDERATIONS

The proposed amendments in the EIE include:

- changes to the definition of 'koala habitat' that identify the characteristics of plant communities
- additional tree species listed as important to koalas to align with species identified in the NSW Koala Recovery Plan and current scientific knowledge
- a streamlined development assessment process supported by guidelines that will be used as a head of consideration in the assessment of Development Applications on land where the SEPP applies

**PSR17/004 REVIEW OF STATE ENVIRONMENTAL PLANNING POLICY (SEPP) NO E17.1103
44 - KOALA HABITAT PROTECTION**

- preparation of guidelines to set out clear criteria for applicants to follow, and consent authorities to put into effect, the requirements for preparing comprehensive koala plans of management.
- transferring the strategic planning outcomes in SEPP 44 to the Local Planning Directions pursuant to Section 117 of the *Environmental Planning and Assessment Act 1979*.

The submission to the EIE includes the following comments:

- consultation should include an opportunity for the community and councils to review the draft SEPP and proposed guidelines before they are implemented
- the definition of 'koala habitat' and the development assessment process should provide enough flexibility to avoid unnecessary further assessment to determine if koalas are present in areas where the outcome of finding koalas is known to be very low
- vegetation assessment to establish if a site contains koala habitat should be able to be undertaken promptly and by qualified Council staff where appropriate
- comprehensive plans of management should not be required in areas that have no known populations of koalas, even if potential koala habitat is available.

Legal

SEPPs are statutory environmental planning instruments that councils must follow. The EIE states that the amended SEPP 44 will streamline the development assessment process where potential koala habitat is found. However, the EIE does not provide specific details, making it difficult to identify if there are issues or unintended outcomes due to the proposed amendments to SEPP 44 for Eurobodalla Shire. The submission on the EIE includes the request that the amended SEPP 44 and proposed guidelines be made available to the community and councils for review before they are implemented.

Policy

Amendments to SEPP 44 and introducing associated guidelines may have consequences for Council policy pertaining to Development Applications with potential impacts on koala habitat. This will be considered when further details are made available.

Environmental

The EIE states that the proposed amendments to SEPP 44 will update the controls to better protect koala habitat. The definitions in the SEPP are proposed to be amended to clearly articulate koala habitat. Amendments include identifying additional tree species that koalas are known to use reflecting variation in koala habitat and behaviour, to align with the NSW Recovery Plan and scientific evidence.

Guidelines associated with SEPP 44 could support a consistent approach to identifying and managing koala habitat. The EIE does not provide enough detail to determine if the guidelines would result in an appropriate level of koala protection, and the submission requests the proposed SEPP 44 and guidelines be made available to the community and councils for review before they are implemented.

PSR17/004 REVIEW OF STATE ENVIRONMENTAL PLANNING POLICY (SEPP) NO E17.1103
44 - KOALA HABITAT PROTECTION

The amended SEPP 44 would continue to require further assessment to determine if koalas are present where potential koala habitat is established on a site. Koala populations have not been recorded in Eurobodalla Shire for many years and potential koala habitat, as defined in the current SEPP 44, is rarely affected by Development Applications. Improving the definitions of 'koala habitat' to capture the variation in koala habitat and behaviour would better protect koalas, however it may result in further assessment to identify if koalas are present in areas where they are known to be unlikely to occur.

The submission suggests that the development assessment process should avoid situations where further assessment is required for locations that have potential habitat identified based on vegetation surveys however, the outcome of finding koalas is known to be very low. Also, further assessment to determine if koalas are present should be able to be undertaken by appropriately qualified Council staff, where it is mutually beneficial to Council and the applicant, in order to allow for a prompt assessment and minimise costs.

Financial

The EIE states that amendments to SEPP 44 would include guidelines for councils to prepare comprehensive koala plans of management. These amendments may have financial implications for Council if Eurobodalla Shire is identified as an area that requires a comprehensive plan of management associated with the preparation and implementation of the plan. While it is important that comprehensive plans of management are developed to protect koalas, there are no known populations of koalas in Eurobodalla Shire. The EIE does not state the circumstance in which comprehensive plans of management should be prepared so the submission suggests that as there are no known koala populations Eurobodalla Shire should not be required to prepare a comprehensive plan of management.

As mentioned previously, the submission suggests that further assessment to determine if koalas are present should be able to be undertaken by appropriately qualified Council staff. This would ensure costs are minimised for Council projects that could impact on potential koala habitat.

Community Engagement

The NSW Government has undertaken community consultation on its EIE for proposed amendments to SEPP 44. Initially, the public exhibition period for the EIE was allocated from 18 November 2016 to 16 December 2016. However, the NSW Government received feedback, including from Council that the exhibition period was too short to prepare a submission and have it endorsed by Council.

On 16 December 2016 Council became aware that the exhibition period had been extended to 3 March 2017. The extended period aligns with the NSW Government's consultation on the development of a whole-of-Government NSW Koala Strategy. A NSW Koala Strategy has not been prepared and the NSW Government is seeking comments on what should be included in a strategy. The SEPP 44 review will be incorporated into, and become a component of, the NSW Koala Strategy. A Council submission to the development of a NSW Koala Strategy is therefore not considered necessary at this stage.

PSR17/004	REVIEW OF STATE ENVIRONMENTAL PLANNING POLICY (SEPP) NO 44 - KOALA HABITAT PROTECTION	E17.1103
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CONCLUSION

As part of the NSW Government's review program of SEPPs it is seeking feedback on an EIE that outlines how proposed amendments to SEPP 44 are intended to work and what they aim to achieve. The EIE for amendments to SEPP 44 is on public exhibition for community input until 3 March 2017. The EIE has been reviewed by Council staff and a submission has been prepared for consideration by Council.

Eurobodalla Shire Council (Council) has considered the Explanation of Intended Effect (EIE) that describes how proposed amendments to State Environmental Planning Policy (SEPP) 44 – Koala Habitat Protection are intended to work and what they aim to achieve.

Council supports changes to SEPP 44 that will achieve an appropriate balance between protecting koalas and providing for efficient assessment of potential impacts due to development. The development assessment process should be flexible enough to ensure environmental, economic and social objectives are balanced.

The EIE does not provide specific details, making it difficult to identify if there are issues or unintended outcomes due to the proposed amendments for Eurobodalla. Consultation should include an opportunity for the community and councils to review the draft SEPP and guidelines before they are implemented. For example, proposed changes to the definition of 'koala habitat' and additional tree species may lead to further koala habitat being identified. With only the information being provided in the EIE, it is very difficult to estimate how much additional potential koala habitat would be identified in the Eurobodalla and if the change is appropriate. Further, the guidelines are proposed to detail how to prepare and assess development applications. Council supports the intent of a streamlined process however, without knowing the details, it is difficult to comment on whether Council supports this change.

Koala populations have not been recorded in Eurobodalla Shire for many years and potential koala habitat, as defined in the current SEPP 44, is rarely affected by Development Applications. The definition of 'koala habitat' and the development assessment process should avoid situations where koala habitat is identified in locations with a very low likelihood of koalas being present (eg, they have not been recorded in the area or for many years). The development assessment process would not be streamlined and be unnecessarily costly for applicants, if surveys were required where potential habitat is identified based on vegetation surveys. However, the outcome of finding koalas is known to be very low.

The EIE states that the proposed guidelines would describe how to assess vegetation to establish whether a site contains koala habitat. Council would support flexibility in how the vegetation assessment can be achieved so that it can be undertaken promptly by qualified Council staff, where appropriate.

The EIE does not describe the circumstances when comprehensive koala plans of management would be required. Eurobodalla Shire does not have known populations of koalas and while this remains the case, a comprehensive plan of management should not be required.

In summary, please consider the following comments:

1. Consultation should include an opportunity for the community and councils to review the draft SEPP and guidelines before they are implemented.
2. The definition of 'koala habitat' and the development assessment process should provide enough flexibility to avoid unnecessary further assessment to determine if koalas are present in areas where the outcome of finding koalas is known to be very low.
3. Vegetation assessment to establish if a site contains koala habitat should be able to be undertaken promptly and by qualified Council staff, where appropriate.
4. Comprehensive plans of management should not be required in areas that have no known populations of koalas, even if potential koala habitat is available.

PSR17/005 POLICY ADOPTION - LOCAL ORDERS POLICY - KEEPING OF ANIMALS E16.0297

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

Attachments: 1. Confidential - Public Submission
2. draft Local Orders Policy - Keeping of Animals

Focus Area: Support Services

Delivery Program Link: SS1.2 Maintain a sound governance framework within which Council operates

Operational Plan Link: SS1.2.2 Ensure transparency in council dealings

EXECUTIVE SUMMARY

The purpose of this report is to recommend adoption of the draft Local Orders Policy – Keeping of Animals.

Council's policies are reviewed within the first 12 months of a new Council term for the reasons set out under the following sections of the *Local Government Act 1993*:

- *Section 223 (1)(e) Role of governing body – 'to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council'.*
- *Section 232 (1)(f) The role of a councillor – 'to uphold and represent accurately the policies and decisions of the governing body'.*
- *Section 165 (4) Amendment and revocation of local policy – 'a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election'.*

The draft Local Orders Policy – Keeping of Animals has been reviewed. The draft Policy was placed on public exhibition for a period of not less than 28 days which commenced on 16 November 2016 and concluded on 14 December 2016. During this time, one submission was received, which was in support of the draft Policy.

RECOMMENDATION

THAT Council adopt the draft Local Orders Policy – Keeping of Animals.

BACKGROUND

On 8 November 2016, a report regarding the policy review for the draft Local Orders Policy – Keeping of Animals was presented to Council. Council determined:

THAT:

1. *Council endorse the draft Local Orders Policy – Keeping of Animals for public consultation subject to the following amendments to Schedule 1;*

PSR17/005 POLICY ADOPTION - LOCAL ORDERS POLICY - KEEPING OF ANIMALS E16.0297

- *Section 2 Swine, Goats, Sheep – increase the number from 1 to 2.*
- *Section 5 Horses and Cattle – increase the number from 1 to 2.*
- *Section 7 Cats – increase the number from 2 to 4.*

2. *The draft Local Orders Policy - Keeping of Animals be placed on public exhibition for a period of 28 days and, following the expiration of this period, the draft policy and any public submissions be presented back to Council for adoption.*

The draft Local Orders Policy - Keeping of Animals was placed on public exhibition commencing on 16 November 2016 until 14 December 2016. During this time, one submission was received which was in support of the draft Policy.

Section 124 of the Local Government Act 1993 outlines which Orders can be issued by Council, under what circumstances and to whom. The intention is to ensure safe and healthy living conditions and communities.

The policy is to supplement provisions of the Local Government Act 1993 Act and the Regulation by specifying Council's policy in regard to Orders under section 124 of the Act.

Following the policy review by staff, the information specifically provided in Order 18 – Keeping of Animals was considered to be of value and should be retained. The policy aims to provide guidelines on criteria for Order 18 and to provide publicly accepted and documented criteria which Council will use in investigating any complaint related to the keeping of animals.

The policy only applies where a legitimate problem has been identified and an Order under s124 of the Local Government Act 1993 needs to be issued. There are no restrictions on the number of birds or animals that can be kept in normal circumstances.

Currently the policy states that the acceptable number of beehives in an urban area is zero. Following a NSW Government enquiry in 2000 and the resulting Department of Primary Industry guidelines, it is proposed to adopt the guidelines which allows up to eight hives depending on the size of the block and subject to meeting certain criteria.

The numbers of animals permitted to be kept are consistent with those outlined in Schedule 2 of the Local Government (General) Regulation 2005, and the State Environmental Planning Policy (Exempt and Complying Development Code) 2008 and the State Government Guidelines where applicable.

PSR17/005 POLICY ADOPTION - LOCAL ORDERS POLICY - KEEPING OF ANIMALS E16.0297

CONSIDERATIONS

Community Engagement

The draft Local Orders Policy – Keeping of Animals was exhibited for a period of 28 days of not less than 28 days commencing on 16 November 2016 until 14 December 2016. The draft Policy was available for viewing on Council’s website, at libraries and at the Customer Service Centre in Moruya.

During this time, one submission was received which was in support of the draft Local Orders Policy – Keeping of Animals and a copy of this is contained within the confidential attachment to this report.

CONCLUSION

The review of the Local Orders Policy has refined the document to enable clear guidance for Council officers and the public as to when Council will consider issuing an Order 18 under the *Local Government Act 1993* for the keeping of animals.

The draft Local Orders Policy – Keeping of Animals was publicly exhibited for a period of not less than 28 days which commenced on 16 November 2016 and concluded 14 December 2016. During this time, one submission was received which was in support of the draft Policy.

This report recommends adoption of the draft Local Orders Policy – Keeping of Animals.

Policy title	Local Orders – Keeping of Animals
Responsible manager(s)	Divisional Manager, Environmental Services
Contact officer(s)	
Directorate	Planning and Sustainability
Approval date	
Focus area	2. Our community is a great place to live
Delivery Program link	L4.1 Conduct regulatory compliance and enforcement activities
Operational Plan link	L4.1.1 Monitor, inspect, enforce and investigate complaints in relation to public safety

Purpose

The purpose of the Local Orders Policy (LOP) – Keeping of Animals is to supplement provisions of Chapter 7, Part 3 of the *Local Government Act 1993* (the Act) and Clause 100 of the *Local Government (General) Regulation 2005* (the Regulation) by specifying Council's policy in regard to certain Orders under Section 124 of the Act.

Policy aims:

- Promote an integrated framework for dealing with Order 18 – Keeping of Animals.
- Ensure consistency and fairness in the manner in which Council deals with Order 18.
- Assist Council to fully pursue its charter under Section 8 of the Act.
- Make Council's policies and requirements for the keeping of animals readily accessible and understandable to the public.

Policy details

1	Application This policy applies to all land within the Eurobodalla Local Government Area (LGA).
2	Legislation This policy ensures Eurobodalla Shire Council's compliance with the <i>Local Government Act 1993</i> and the <i>Local Government (General) Regulation 2005</i> . Additional information is contained in the Local Government (General) Regulations, Schedule 2 Standards enforceable by orders, Part 5 Standards for keeping birds or animals.
3	Procedures for Issuing of Orders Council Officers will ensure that the procedures for the issuing of Orders set out in Chapter 7, Part 2 Division 2 of the Act and Clause 99 of the Regulation are adhered to. Clear reasons will be given as to why the Order is being issued. Orders served in an emergency situation need not be preceded with a notice of intention.
4	Criteria for Consideration There are no restrictions on the number of birds and animals that can be kept on premises in the Eurobodalla Shire in normal circumstances. The standards in this Orders Schedule

	<p>apply only where a legitimate problem has been identified relating to the numbers and/or types of birds or animals kept upon and where an order under the provisions of Section 124 of the Local Government Act is required to rectify the problem.</p> <p>Specific animal criteria are outlined in Appendix 1.</p> <p>The giving of an order is not mandatory and is at the discretion of the Council Authorised Officer whether or not the circumstances meet the applicable criteria for the order.</p>
4.1	<p>Taking of action</p> <p>The issuing of an Order will be considered when birds or animals kept on the premises are:</p> <ul style="list-style-type: none"> • of an inappropriate kind or number or are kept inappropriately, or • in the case of premises— birds or animals (being birds or animals that are suffering from a disease which is communicable to man or to other birds or animals) or pigs

Implementation

Requirements		Responsibility
1	<p>Order 18 Schedule</p> <p>This policy will be implemented by following the Orders Schedule (see Appendix 1) which specifies in detail the matters to be considered in determining whether to issue an Order. Council's Compliance Policy and Compliance Code of Practice specifies in detail the matters for consideration and procedures to be followed.</p>	Council Officers
2	<p>Fees and charges</p> <p>Current fees and charges associated with Orders are available on council's website at www.esc.nsw.gov.au</p>	Council
3	<p>Staff</p> <p>Under supervision, relevant Council staff will be responsible for ensuring that this policy is implemented appropriately within their work area, after they have received appropriate training to do so.</p>	Council officers
4	<p>Concerns</p> <p>Public concerns communicated to Council in relation to this policy will be recorded on Council's records system and handled in accordance with Council's Customer Service or Complaints policy. These records will be used to determine any follow-up actions and analyse the history of reported public concerns.</p>	Council officers
5	<p>Consultation</p> <p>Any consultation deemed necessary will occur as required with key stakeholders, which may include (but not be limited to) the community, other agencies, statutory and industry bodies. Public submissions regarding this policy are invited for consideration during the exhibition</p>	As required

period.	
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Review

The policy will be automatically revoked at the expiration of twelve months after the declaration of the poll for the next general NSW local government election, unless Council revokes it sooner.

Note: Automatic revocation of the policy is provided for by section 165(4) of the Local Government Act 1993. The next general local government election is expected to be held in September 2020.

This policy may also be reviewed and updated as necessary when legislation requires it; or Council's functions, structure or activities change; or when technological advances or new systems change the way that Council manages the keeping of animals.

Reviews of the effectiveness of this policy could include the following:

Performance indicator	Data source(s)
Number of enforcement actions warranted	Council records
Delivery Program/ Operational Plan outcomes achieved	Council reporting
Concerns or complaints registered	Council records
Internal or external review	Audit

Definitions

Word/ Acronym/ Phrase	Definition
Orders	A council may order a person to do or to refrain from doing a thing

Governance

This policy should be read in conjunction with any related legislation, codes of practice, relevant internal policies, and guidelines.

Related legislation and policies

Name	Link
Companion Animals Management Plan	www.esc.nsw.gov.au/living-in/about/for-pet-owners/companion-animal-management-plan
Compliance Policy	www.esc.nsw.gov.au/inside-council/council/council-policies
Local Government Act 1993	www.legislation.nsw.gov.au/#/view/act/1993/30
Local Government (General) Regulation 2005	www.legislation.nsw.gov.au/#/view/regulation/2005/487
Companion Animals Act 1998	www.legislation.nsw.gov.au/#/view/act/1998/87
Protection of the Environment Operations Act 1997	www.legislation.nsw.gov.au/#/view/act/1997/156
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	www.legislation.nsw.gov.au/#/view/EPI/2008/572

Related external references

Name	Link
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Office of Local Government	www.olg.nsw.gov.au/
NSW Department of Primary Industries	www.dpi.nsw.gov.au/
NSW Environment Protection Authority	www.epa.nsw.gov.au/
NSW Office of Environment and Heritage	www.environment.nsw.gov.au/

Supporting documents

Name	Link
NSW DPI Factsheet: Beekeeping Code of Practice for NSW	www.dpi.nsw.gov.au/_data/assets/pdf_file/0004/270679/Beekeeping-code-of-practice-for-NSW.pdf

Change history

Version	Approval date	Approved by	Min No	File No	Change
1	Oct 2006	Council		E06.0381	Policy commenced
2	22 Sep 2009	Council	09/291	E06.0381 E09.3418.B	Policy reviewed and retained
3	10 Sep 2013	Council	13/272	E06.0381 E13.7095	Reviewed and updated (start of new Council term)
3	dd mmm 2016	Council	TBA	E06.0381 E16.0297	Reviewed and updated (start of new Council term)

Internal use

Responsible officer		Director, Planning and Sustainability Services		Approved by	Council
Minute No.	TBA	Report No.	TBA	Effective date	TBA
File	E06.0381 E16.0297	Review date	Sep 2020	Pages	123

Appendix 1. Specific animal criteria

Orders Schedule SPECIFIC MATTERS FOR CONSIDERATION SECTION 124	
Order 18	Not to keep birds or animals on premises, other than of such kinds, in such numbers or in such manner as specified in the order.
1. Poultry, Domestic and Guinea Fowl	<ul style="list-style-type: none"> a. Fowl <ul style="list-style-type: none"> i. Roosters are not permitted to be kept where crowing may cause offensive noise; ii. The maximum number of fowl shall be limited to ten (10) per premises. iii. Must not be kept within 4.5 metres of a dwelling, public hall, school or premises used for the manufacture, storage, preparation, or sale of food. b. Poultry other than fowls including ducks, geese and turkeys: <ul style="list-style-type: none"> i. must not be kept within 30 metres of a dwelling, public hall, school or premises used for the manufacture, preparation, sale or storage of food. ii. The maximum number of poultry other than fowls shall be limited to 5 per premises.
2. Swine, Goats, Sheep	<ul style="list-style-type: none"> a. Swine, goats or sheep must not be kept (and animal waste products must not be deposited) within 60 metres of a dwelling, shop, office, factory, church, or other place of public worship, school or public place. b. The maximum number of swine, goats or sheep to be kept in urban areas shall be limited to two (2).
3. Birds other than Pigeons, Poultry and Domestic and Guinea Fowls	<ul style="list-style-type: none"> a. Aviaries must not be located within 4.5 metres of a dwelling, public hall, school, or premises used for the manufacture, preparation, sale or storage of food. b. Aviaries must not be kept under such conditions as to create a nuisance or to be dangerous or injurious to health. c. Aviaries must at all times be kept clean and free from offensive odours. d. The maximum number of birds allowed to be kept in urban areas shall be as appropriate for the species, enclosure size, proximity to neighbours etc.
4. Pigeons	<ul style="list-style-type: none"> a. Pigeons must not be kept within 15 metres from a dwelling, public hall, school or premises used for the manufacture, preparation, sale or storage of food. b. Nuisance due to noise and also free flight of pigeons is to be minimised. Lofts must be constructed to Council approval on hard paving of a smooth surface, or with a suspended floor elevated 0.8 metres above the ground. c. Lofts are to be kept clean at all times. Manure is to be cleaned up daily and disposed of correctly. To minimise odours owners must design and manage lofts to prevent manure becoming wet due to rain or cleaning. d. Pigeons must be fed within lofts after exercise. All feed must be kept in vermin-proof containers. e. Racing pigeon's lofts should have adequate visible landing platforms. f. Exercising of birds should not occur between 8.00 am and 3.30 pm.

<p>g. Birds shall not be allowed to roost on neighbouring buildings. 'Open' lofts are not permitted.</p>
<p>5. Horses and Cattle</p> <ul style="list-style-type: none"> a. Only two (2) horses may be kept on any premises on urban land. b. Horses and cattle must be kept no closer than 9 metres from a dwelling, school, shop, office, factory, workshop, church or other place of public worship, public hall or premises used for the manufacture, preparation or storage of food. c. The floors of any stables must be paved with concrete or mineral asphalt or equally impervious material and must be properly graded to drain. d. Horse yards and cattle yards must be enclosed to prevent the escape of horses and cattle. e. Yards must not be kept under such condition as to create a nuisance or to be dangerous or injurious to health. f. Yards must at all times be kept clean and free from offensive odours.
<p>6. Dogs</p> <ul style="list-style-type: none"> a. The maximum number of dogs shall be limited to two (2) adults and one (1) litter of pups up to six (6) months old per premise in urban areas. b. The maximum number of dogs other than greyhounds shall be limited to four (4) adults and one (1) litter of pups up to six (6) months old per premise in rural areas. c. The maximum number of greyhounds shall be limited to four (4) adults and one (1) litter of pups up to thirteen (13) months old in rural areas. d. A premises used for the keeping of a dog or dogs must not be kept under such conditions so as to create a nuisance or to be dangerous or injurious to health. e. A premises used for the keeping of dog/s must at all times be kept clean and free from offensive odours. f. A premises used for the keeping of dog/s should be appropriately fenced to secure the dog/s within the premises in accordance with the requirements of the Companion Animal Act 1998
<p>7. Cats</p> <ul style="list-style-type: none"> a. The maximum number of cats shall be limited to four (4) per premise. b. A premises used for the keeping of a cat or cats must not be kept under such conditions so as to create a nuisance or to be dangerous or injurious to health. c. A premises used for the keeping of a cat or cats must at all times be kept clean and free from offensive odours.
<p>8. Rabbits</p> <ul style="list-style-type: none"> a. The maximum number of rabbits shall be limited to one (1) per premise. b. A premises used for the keeping of a rabbit must not be kept under such conditions as to create a nuisance or to be dangerous or injurious to health. c. A premises used for the keeping of a rabbit must at all times be kept clean and free from offensive odours.

9. Bees

- a. The keeping of bees in urban areas shall be in accordance with the NSW Department of Primary Industry factsheet [*Beekeeping Code of Practice for NSW*](#)
- b. An adequate supply of water is to be provided within the premises where the bees are kept.
- c. Hives are to be located so that flight paths do not interfere with surrounding residents.
- d. All hives must be registered with the NSW Department of Primary Industries.
- e. Bee hives must not be kept under such conditions as to create a nuisance or to be dangerous or injurious to health.

10. Ferrets

- a. The maximum number of ferrets shall be limited to two (2) per premise.
- b. Ferrets must not be kept within 4.5 metres of a dwelling, public hall, school or premises used for the manufacture, storage, preparation, or sale of food.
- c. A premises used for the keeping of a ferret must at all times be kept clean and free from offensive odours.

11. Miscellaneous

- a. The maximum number of bird(s) or animal(s) permitted to be kept, where the type of bird or animal, or the maximum number has not been specifically noted above, is at the discretion of the investigating Officer, taking into consideration the number and type of bird(s) or animal(s) being kept, the conditions under which they are kept and the impact they are causing.
- b. Such animals would be required to be kept under such conditions as to prevent the creation of a nuisance or not to be dangerous or injurious to health.
- c. The area proposed for the keeping of such animals must at all times be kept clean and free from offensive odours.
- d. Where the keeping of birds or animals on premise is capable of being regulated by the NSW Environment Protection Authority, Council is excluded from making an Order No. 18.

11. Criteria and/or Matters that will not be considered:

- a. Damage caused by wild or native birds or animals;
- b. The trapping of any wild or native birds or animals;
- c. The control of or treatment of termites on private or public land;
- d. The control of or treatment of rabbits, foxes or other feral pests on private or public land.

PSR17/006 REPEAL OF ACID SULFATE SOILS POLICY

E16.0297

Responsible Officer: Lindsay Usher - Director, Planning and Sustainability Services
Attachments: 1. Acid Sulfate Soils Policy
Focus Area: Support Services
Delivery Program Link: SS1.2 Maintain a sound governance framework within which Council operates
Operational Plan Link: SS1.2.2 Ensure transparency in council dealings

EXECUTIVE SUMMARY

The purpose of this report is to seek Council's endorsement to repeal the Acid Sulfate Soils Policy as it is no longer required.

All Council's policies are reviewed within the first 12 months of a new Council term for the reasons set out under the following sections of the *Local Government Act 1993*:

- *Section 223 (1)(e) Role of governing body – 'to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council'.*
- *Section 232 (1)(f) The role of a councillor – 'to uphold and represent accurately the policies and decisions of the governing body'.*
- *Section 165 (4) Amendment and revocation of Local policy – 'a Local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election'.*

The Acid Sulfate Soils policy has been reviewed. As the policy is no longer required and as the exhibition period for the policy to be repealed is complete, this report is being presented to Council for the policy to be repealed.

RECOMMENDATION

THAT Council repeal the Acid Sulfate Soils Policy.

BACKGROUND

On 8 November 2016, a report was presented to Council seeking endorsement to consult with the community for the repeal of the Acid Sulfate Soils Policy. Council determined:

THAT

1. *Council endorses the repeal of the Acid Sulfate Soils policy for public consultation.*
2. *The proposed repeal of the Acid Sulfate Soils policy be placed on public exhibition for a period of 28 days and following the expiration of this period, the policy and any public submissions be presented back to Council for repeal.*

PSR17/006 REPEAL OF ACID SULFATE SOILS POLICY

E16.0297

The repeal of the Acid Sulfate Soils Policy was placed on public exhibition which commenced on 16 November 2016 until 14 December 2016. During this time, no submissions were received.

The Acid Sulfate Soils policy was developed to ensure Council complied with the NSW Government's Acid Sulfate Soils Manual and Assessment Guidelines.

The Eurobodalla Local Environmental Plan (LEP) 2012 includes the relevant standard provision relating to acid sulphate soils. For land to which LEP 2012 applies, the policy no longer applies. For land deferred from LEP 2012, the policy continues to apply. The policy currently contains an automatic repeal provision relating to the inclusion of the deferred lands within LEP 2012.

However, it is considered that the policy can be repealed now for the following reasons:

- The bulk of the areas potentially affected by acid sulfate soils are subject to LEP 2012 which contains equivalent provisions.
- The areas not subject to LEP 2012 are predominantly rural areas adjoining waterways where there is limited potential for development that may expose acid sulphate soils.
- A planning proposal has been prepared to bring all land in Eurobodalla Shire under LEP 2012. Until this process is resolved, any development applications that may expose acid sulphate soils can be considered on merit under Section 79C of the Environmental Planning and Assessment Act 1979 and in accordance with the NSW Government Acid Sulfate Soils Manual and Assessment Guidelines.

CONSIDERATIONS

Community Engagement

Council has placed the proposal to repeal the policy on public exhibition for a period of no less than 28 days which commenced on 16 November 2016 until 14 December 2016. Copies were available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre. No submissions were received.

CONCLUSION

The proposal to repeal the Acid Sulfate Soils policy was publicly exhibited for 28 days which commenced on 16 November 2016 until 14 December 2016.

During the exhibition period no submissions were received and therefore the Acid Sulfate Soils Policy is presented to Council recommending repeal.



POLICY

Policy name	Acid Sulfate Soils
Responsible manager(s)	Divisional Manager, Strategic Services
Contact officer(s)	Divisional Manager, Strategic Services
Directorate	Planning and Sustainability Services
Approval date	23 April 2013

Purpose

The term acid sulfate soils refers to soils that contain iron sulfides which, when exposed to oxygen, generate sulfuric acid. Any lowering of the water table or physical disturbance of the soil will result in the exposure of the iron sulfate sediments to oxygen and oxidation to create acid sulfate soils. These soils and water runoff have a detrimental effect on natural ecosystems.

This policy is designed to prevent and minimise the environmental consequences caused by the exposure of potentially acid sulfate soils. The policy aims:

- To promote an integrated framework for dealing with acid sulfate soils.
- To ensure consistency and fairness in the manner in which the Council deals with acid sulfate soils.
- To ensure compliance with legislative requirements under the *Environmental Planning and Assessment Act 1979*.
- To take such steps as are appropriate to ensure that the environmental consequences caused by the exposure of potentially acid sulfate soils are minimised.
- To make Council's policies and requirements for acid sulfate soils readily accessible and understandable to the public.

Policy statement

1	Application This policy applies to all land within the Eurobodalla Shire Council Local Government Area ('LGA') not subject to the <i>Eurobodalla Local Environmental Plan 2012</i> and classified as Class 1 to Class 5 on the maps marked "Acid Sulfate Soil Planning Map" which are deposited in Council's office (and shown in Table 1 below).
2	Legislation Eurobodalla Shire Council will comply with the <i>Environmental Planning and Assessment Act 1979</i> .
3	Development consent must not be granted under this policy for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.
	Despite section 3, development consent is not required under this section for the carrying out of works if: a) a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is



	not required for the works, and b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.
	Despite section 3, development consent is not required under this section for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power): a) emergency work, being the repair or replacement of the works of the public authority, required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety, b) routine maintenance work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil), c) minor work, being work that costs less than \$20,000 (other than drainage work)
	Despite section 3, development consent is not required under this section to carry out any works if: a) the works involve the disturbance of less than 1 tonne of soil, and b) the works are not likely to lower the watertable.

Table 1

Class of Land	Works to which this policy applies
1	Any works
2	Works below the natural ground surface. Works by which the watertable is likely to be lowered.
3	Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.
4	Works more than 2 metres below the natural ground surface. Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.
5	Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

Implementation

Implementation step	Responsibility
1 Development Assessment This policy will be implemented through the assessment of development applications involving works that may expose acid sulfate soils.	Council officers
2 Complaints and Requests Complaints and requests received regarding acid sulfate soils will be	Council officers



	recorded on council's customer service request ('CSR') system and handled in accordance with council's Complaints Policy. The CSR database will be used as a tool to analyse the history of complaints and to help determine follow up actions.	
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Review

The policy will be automatically revoked at the expiration of twelve months after the declaration of the poll for the next general NSW local government election, unless council revokes it sooner. **Note:** Automatic revocation of the policy is provided for by section 165(4) of the Local Government Act 1993. The next general local government election is expected to be held in September 2016.

This policy will also be reviewed and updated as necessary when council's functions, structure or activities change or when technological advances or new systems change the way that council manages acid sulfate soils. This policy will be automatically repealed when the whole of the land to which it applies is included in a LEP that contains standards applying to acid sulfate soils.

Reviews of the effectiveness of this policy could include the following:

Performance indicator	Data source(s)
Complaints	Council records
Customer Feedback Survey Responses	Surveys

Governance

This policy should be read in conjunction with any related legislation, codes of practice, relevant internal policies, and guidelines.

Related legislation and policies

Name	Link
<i>Eurobodalla Local Environmental Plan 2012</i>	http://www.legislation.nsw.gov.au/maintop/view/inforce/epi+333+2012+cd+0+N
<i>Environmental Planning and Assessment Act 1979</i>	http://www.legislation.nsw.gov.au/maintop/view/inforce/act+203+1979+cd+0+N

Related external references

Name	Link
NSW Department of Planning & Infrastructure	http://www.planning.nsw.gov.au/

Supporting documents

Name	Link
ESC Website page	http://www.esc.nsw.gov.au/environment/acid-sulfate-soils/



Definitions

Word/Term	Definition
acid sulfate soils	Naturally occurring sediments and soils containing iron sulfides (principally pyrite) or their precursors or oxidation products, whose exposure to oxygen leads to the generation of sulfuric acid (for example, by drainage or excavation).
Acid Sulfate Soils Manual	The manual by that name published by the Acid Sulfate Soils Management Advisory Committee and made publicly available.
Acid Sulphate Soil Planning Map	The series of maps marked "Acid Sulphate Soil Planning Map" kept in the office of Council.
works	Any landform alteration, that may result in the disturbance of soil (such as occurs in carrying out agriculture (if development consent is required), building, the construction or maintenance of drains and roads, extractive industries, dredging, the construction of artificial water bodies (including canals, dams, detention basins) or foundations, flood mitigation works); or any other works which may alter groundwater levels.

Change history

Version	Adoption date	Approved by	Minute No	File No	Change
1	22/09/2009	Council	09/291	E09.3418	Policy Commenced
2	23/04/2013	Council	13/112	E13.7095	Updated to new Policy Template, updated review date, updated to be consistent with Eurobodalla Local Environmental Plan 2012.

Internal use

Responsible officer:	Divisional Manager, Strategic Services			Approved by	Council
File:	E13.7095	Council report:	O13/67	Effective date	23/04/13
Minute:	13/112	Review date:	Sep 2016	Pages	4

PSR17/007 TENDER - SURF BEACH LANDFILL WASTE DISPOSAL CELL

E15.9314

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

Attachments: 1. Confidential - Tenders

Focus Area: Sustainable Communities

Delivery Program Link: S3.1 Provide and renew waste infrastructure

Operational Plan Link: S3.1.1 Deliver capital and renewal works program

EXECUTIVE SUMMARY

This report outlines the evaluation of offers submitted in response to Request for Tender No. 10007751 Construction of stage 2 landfill cell at the Surf Beach waste management facility and provides a recommendation for the preferred provider for this contract.

RECOMMENDATION

THAT Council:

1. Endorse the selection of the preferred tenderer, subject to conditions as listed for Tender No. 10007751 Construction of stage 2 landfill cell at the Surf Beach waste management facility, contained within the confidential attachment.
2. Accordingly approve 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.

BACKGROUND

A requirement exists for the construction of a waste disposal cell at Surf Beach landfill. The project is included in the Delivery Plan 2016/17. This new waste disposal cell will provide the community with a continuation of the option to dispose of waste for the northern areas of Eurobodalla.

RFT No. 10007751 was advertised on 13 December 2016 with a closing date of 31 January 2017. Offers were received from the following tenderers and assessed in accordance with the Tender Evaluation Plan dated 30 January 2017:

- Bost Civil Pty Ltd
- Civil Logic Pty Ltd
- Dale and Hitchcock Civil Engineering and Landscaping
- RD Miller Pty Ltd

A summary of the evaluation including each tenderer's scoring against the evaluation criteria is provided at the Confidential Attachment to this report.

PSR17/007 TENDER - SURF BEACH LANDFILL WASTE DISPOSAL CELL

E15.9314

CONSIDERATIONS

Legal

Request for Tender (RFT) No. 10007751 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 at the e-tenders website (<https://tenders.nsw.gov.au/>).

Upon release of the RFT a Tender Evaluation Plan (TEP) was distributed amongst the Tender Evaluation Board (TEB). Declarations of Confidentiality and Interest Forms were completed and signed by the TEB.

The offer submitted by the preferred tenderer has been assessed as representing best value for money for Council and have met all the mandatory criteria, with the highest score.

Policy

The procurement activity for which this report applies has been conducted in accordance with the Local Government Procurement Guidelines, Local Government (General) Regulation 2005 and the Local Government Act 1993.

Environmental

The design for the construction of the waste disposal cell at Surf Beach landfill complies with the Environmental Guidelines Solid Waste Landfills, second edition 2016.

Asset

The construction of a new landfill waste disposal cell and associated water management infrastructure at Surf Beach will provide an additional 6 – 7 years of landfill life. The dams constructed in this stage will support two further cell extensions of approximately equivalent landfill life, at current rates of waste received at the site.

Social Impact

The community is provided with a disposal option locally for domestic, commercial and industrial, and construction and demolition waste streams. Locating waste facilities in the north, central and south of the Eurobodalla area is providing a convenient service to the community.

Economic Development Employment Potential

Waste facilities receiving commercial and industrial and demolition and construction waste support development within the area.

Financial

The budget for the Surf Beach landfill waste disposal cell is contained in the 2016/17 Delivery Program.

Communication / Consultation

The community was consulted through the annual exhibition and adoption of the Delivery Program 2013-17 and Operational Plan and Budget 2016-17.

PSR17/007 TENDER - SURF BEACH LANDFILL WASTE DISPOSAL CELL

E15.9314

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.

The preferred tender as identified in the Confidential Attachment is therefore recommended for the awarding of a contract for the requirement.

IR17/001 TENDER - JUNE 2016 FLOOD DAMAGE REPAIRS

E16.0634

Responsible Officer: Tony Swallow - Mr

Attachments: 1. Confidential - Attachment 1 for Council Report
2. Confidential - RFT No. 2017/ISD039 – June 2016 Flood Damage Repairs

Focus Area: Productive Communities

Delivery Program Link: P3.2 Develop, renew and maintain the road network

Operational Plan Link: P3.2.1 Deliver capital and renewal works program

EXECUTIVE SUMMARY

In June 2016 the Eurobodalla suffered damage from a major storm event causing significant damage to Council's road infrastructure. Council crews responded to the event restoring access to and along public roads shortly after the event, with full repairs to be programmed upon determination of the Natural Disaster declaration.

The event was subsequently declared a Natural Disaster on 7 June 2016 by the Prime Minister, Hon Malcolm Turnbull MP.

Council has since assessed the extent of damage at sixty separate sites, estimated the cost of repair and submitted these to the NSW Roads and Maritime Services. On 2 November 2016 Council received approval for \$1,039,500 funding for flood damage under the Natural Disaster Relief Arrangements (NDRA). Council must fund 25% of the first \$116,000 (or \$29,000). Council's share is being funded through existing gravel resheeting budgets.

Council is progressing with the repairs to 26 sites under separate minor quotations, with the more urgent works already complete and the remainder of these works due for completion by the end of the financial year.

To allow completion of the remaining 34 sites, tenders have been called (refer attachment 1). This report outlines the evaluation of offers submitted in response to Request for Tender (RFT) No. 2017/ISD039 - June 2016 Flood Damage Repairs, and provides a recommendation for the preferred contractor to complete the works.

RECOMMENDATION

THAT:

1. Council endorses the selection of the preferred tenderer listed for *RFT No. 2017/ISD039 – June 2016 Flood Damage Repairs* 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 (RFT) unless otherwise varied in accordance with this report.

BACKGROUND

In June 2016 there was a significant rain even that affected the South East coast, including the Shire of Eurobodalla. Over 280mm of rain fell in the period 2 June to 6 June 2016. This resulted

IR17/001 TENDER - JUNE 2016 FLOOD DAMAGE REPAIRS

E16.0634

in flooding with significant consequent impacts upon the road network of Eurobodalla Shire Council. This event was declared a Natural Disaster by the Australian Government through the announcement by the Prime Minister, Hon Malcom Turnbull on 7 June 2016. This declaration enabled Eurobodalla Shire Council to be eligible to claim funding under the Natural Disaster Relief Arrangements (NDRA).

Council has since assessed the extent of damage at sixty separate sites, estimated the cost of repair and submitted these to the NSW Roads and Maritime Services. On 2 November 2016 Council received approval for \$1,039,500 funding for flood damage under the Natural Disaster Relief Arrangements (NDRA). Council must fund 25% of the first \$116,000 (or \$29,000). Council's share is being funded through existing gravel resheeting budgets.

Council is progressing with the repairs to 26 sites under separate minor quotations, with the more urgent works already complete and the remainder of these works due for completion by the end of the financial year.

To allow completion of the remaining 34 sites, tenders have been called. This report outlines the evaluation of offers submitted in response to Request for Tender (RFT) No. 2017/ISD039 - June 2016 Flood Damage Repairs, and provides a recommendation for the preferred contractor to complete the works.

RFT No. 2017/ISD039 was advertised on 29 November 2016 with a closing date of 21 December 2016. Offers were received from the following tenderers and assessed in accordance with the Tender Evaluation Plan:

- Hisway Earthmoving
- Webbers Earthmoving

A summary of the evaluation including each tenderer's scoring against the evaluation criteria is provided at the Confidential Attachment to this report.

The two (2) submitted tenders were evaluated and assessed for Value for Money and perceived performance based on:

- Price: 80%
- Previous Recent Experience: 10%
- OHS Documentation: 10%.

CONSIDERATIONS

Legal

Request for Tender (RFT) No. 2017/ISD039 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 at Council's Tenderlink web portal:
(www.tenderlink.com/eurobodalla)

Upon release of the RFT a Tender Evaluation Plan (TEP) was distributed amongst the Tender Evaluation Board (TEB). Declarations of Confidentiality and Interest Forms were completed and signed by the TEB.

IR17/001 TENDER - JUNE 2016 FLOOD DAMAGE REPAIRS

E16.0634

The offer submitted by the preferred tenderer has been assessed as representing best value for money for Council due to being rated highest in all 3 categories being price, previous recent experience and appropriate workplace health and safety (WHS) system and documentation. The preferred tenderer is also a local company with a history of providing quality work for Eurobodalla Shire Council.

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.

Environmental

The tendered works will reinstate Council roads and associated road drainage systems damaged in the June 2016 floods. The works will be conducted in a manner which safeguards waterways with all appropriate environmental controls put in place prior to proceeding.

Asset

The works include:

- gravel resheeting on unsealed roads where the gravel was washed away
- regrading and compacting potholed gravel roads
- repairing washouts and slumped road verges
- cleaning and repairing culverts and table drains
- repairing and providing delineation and rock armour for damaged causeways
- repairing damaged sealed pavements.

The above works are aimed at returning Council road assets back to their pre-flood condition. These works are consistent with Council's existing asset management objectives.

Social Impact

The restoration of roads following such flood events aids in restoring access for our residents. As many residents, particularly those in our rural sectors, rely heavily on roads to access services, schools, work and business, these repairs are essential.

Economic Development / Employment Potential

The works are substantially funded under the NDRA providing additional work within the Eurobodalla, with the initial \$29,000 Council contribution to be funded from the existing gravel resheet program.

The works will provide employment for the contractor, workers and sub-contractors as well as an economic benefit to local quarry suppliers who will be utilised for the works. The preferred contractor estimates four (4) months for completion of the work and has indicated that wherever possible local products and labour will be used in the construction and repair.

Financial

The works required to bring the existing infrastructure back to pre-flood condition are funded under Natural Disaster Relief Arrangements with the exception of \$29,000 in costs attributable

IR17/001 TENDER - JUNE 2016 FLOOD DAMAGE REPAIRS

E16.0634

to Council. Council has received a funding offer of up to \$1,010,500 under the NDRA funding arrangements. The contractor's works are overseen by Council's contract site manager. The funding program auditing is undertaken by the NSW Public Works on behalf of the NSW Government.

The majority of the works will be achieved within the 2016-17 financial year subject to approval of the preferred tenderer at this meeting.

Communication / Consultation

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: <http://www.esc.nsw.gov.au/inside-council/council/public-access-to-information/contracts>.

A suitable media release will be undertaken on the award of the contract outlining, in broad terms, the repair works to be undertaken and acknowledging the grants approved by the Government.

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.

The grant funding provided under the NDRA program is sufficient to cover the majority of the costs, with the required \$29,000 Council contribution to be funded from our existing gravel resheet program.

It is therefore recommended that Council accepts the tender identified as the preferred tenderer in the confidential attachment *RFT No. 2017/ISD039 – June 2016 Flood Damage Repairs* for the awarding of a contract for the requirement.

IR17/008 TENDER - BODALLA PRESSURE SEWERAGE SCHEME

E02.6256

Responsible Officer: Warren Sharpe OAM - Director Infrastructure Services
Attachments:

Focus Area: Sustainable Communities

Delivery Program Link: S1.1 Provide and renew sewer infrastructure

Operational Plan Link: S1.1.1 Deliver capital and renewal works program

EXECUTIVE SUMMARY

Council has received offers of funding from the NSW Office of Water, through the Country Towns Water Supply and Sewerage Program, and Aboriginal Affairs NSW, for the construction of a sewerage scheme to service Bodalla village. The timely announcement of the most recent \$713,090 grant under the Country Water Supply and Sewerage Program by the Minister for Transport and Infrastructure and Member for Bega, Hon Andrew Constance MP is welcome. Acceptance of this grant requires the Common Seal of Council to be affixed to the funding agreement.

Council has already awarded a contract for the construction of the sewage treatment plant and works have commenced on this component of the works.

This report outlines the evaluation of offers submitted in response to Request for Tender (RFT) No. 10006011 for the construction of the pressure sewerage scheme required to collect the sewage from individual properties and transport the proposed new sewage treatment plant, and provides a recommendation for the preferred tenderer for this component of the overall sewerage scheme.

RECOMMENDATION

THAT:

1. Council accepts the tender identified as the preferred tender within confidential attachment 1 for the construction of a pressure sewerage collection system at Bodalla (RFT No. 10006011).
2. Council accepts the offer of financial assistance of \$713,090 under the Country Towns Water Supply and Sewerage Program towards the cost of the Bodalla Sewerage Scheme and the Common Seal of Council be affixed to the funding agreement.
3. Council write to the Minister for Transport and Infrastructure, and Member for Bega, Hon Andrew Constance MP thanking him for his support through infrastructure funding in the Eurobodalla Shire.

BACKGROUND

A requirement exists for the construction of a pressure sewerage scheme to service the village of Bodalla to replace the existing on-site sewage management system.

RFT No. 10006011 for the construction of the pressure sewerage scheme component of the Bodalla project was advertised on 11 October 2016 with a closing date of 10 November 2016.

IR17/008 TENDER - BODALLA PRESSURE SEWERAGE SCHEME

E02.6256

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

- Codmah Pty Ltd
- Hisway Pty Ltd
- ITS Pipetech Pty Ltd
- Ledonne Constructions Pty Ltd
- Poonindie Pty Ltd
- St Hilliers Pty Ltd.

A summary of the evaluation including each tenderer's scoring against the evaluation criteria is provided in Confidential Attachment number 2 to this report.

CONSIDERATIONS

The Minister for Transport and Infrastructure and Member for Bega, Hon Andrew Constance MP announced the allocation of \$713,090 under the NSW Government's Country Town Water Supply and Sewerage Program in a press release on 13 February 2017. This timely announcement is most welcome and will contribute to the cost of the overall Bodalla sewerage scheme.

Legal

Request for Tender (RFT) No. 10006011 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 online via the NSW Government tender web portal web portal: (www.tenders.nsw.gov.au)

Upon release of the RFT a Tender Evaluation Plan (TEP) was distributed amongst the Tender Evaluation Board (TEB). Declarations of Confidentiality and Interest Forms were completed and signed by the TEB.

The offer submitted by the preferred tenderer has been assessed as representing best value for money for Council and has met all mandatory criteria.

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.

Environmental

Construction of a pressure sewerage scheme will help to mitigate environmental impacts associated with the current on-site sewage management systems.

IR17/008 TENDER - BODALLA PRESSURE SEWERAGE SCHEME

E02.6256

Asset

The construction of a sewerage scheme to service Bodalla is recommended in Council's Integrated Water Cycle Management Strategy, with asset operation and renewal included in the current long term financial modelling.

Social Impact

The proposal to sewer Bodalla will have long-term benefits for the majority of the Bodalla population as it will provide improved wastewater services with minimal risk to the environment.

Economic Development Employment Potential

The provision of a sewerage scheme will provide economic benefits to Bodalla by allowing increased residential and business development in the village. The cost of servicing for those currently on pump out will also be significantly less.

Council has had requests from local business owners such as the Diary Shed to move forward with the sewerage scheme in support of local businesses.

Financial

The provision of a sewerage scheme for Bodalla through the construction of the Sewerage Treatment Plant (STP) and a pressure sewer scheme in the village is identified in Council's 2016/17 and 2017/18 financial year budget under the Sewer Services capital program item 'SA006: Bodalla Sewerage Scheme'. An amount of \$10.6 million has been provided over these two financial years.

These funds are sufficient to complete the construction of the sewerage treatment plant and the pressure sewerage scheme covered by this report.

Council has received an offer of financial assistance of \$713,090 under the Country Towns Water Supply and Sewerage Program towards the cost of the Bodalla Sewerage Scheme. Council is required to formally accept the funding offer by affixing the Common Seal of Council to the funding agreement documents.

The media release for the funding offer can be seen here:

<http://www.esc.nsw.gov.au/home/news-and-events/media-releases/media-releases/funding-for-bodalla-sewerage-scheme>

Communication / Consultation

The Bodalla community continue to be kept informed of project progress through regular newsletters. Council also maintains a project page on our web-site at the following link:

<http://www.esc.nsw.gov.au/inside-council/project-and-exhibitions/major-projects-and-works/bodalla-sewerage-scheme>

Local State member for Bega, the Hon. Andrew Constance MP, Minister for Transport and Infrastructure, this week announced the formal allocation of \$713,090 in funding under the Country Towns Program (refer link to press release below).

IR17/008 TENDER - BODALLA PRESSURE SEWERAGE SCHEME

E02.6256

The media release for the funding offer can be seen here:

<http://www.esc.nsw.gov.au/home/news-and-events/media-releases/media-releases/funding-for-bodalla-sewerage-scheme>

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.

There are sufficient funds in the budgets allocated across the 2016-17 and 2017-18 financial years to deliver the works identified in this tender.

It is therefore recommended that Council accepts the tender identified as the preferred tenderer in the confidential attachment number 1 *RFT No. 10006011 – Construction of pressure sewer reticulation scheme for Bodalla* for the recommended tender amount.

The acceptance of the grant funds offered under the NSW Government's Country Towns Water and Sewerage Program requires Council to resolve to affix the Common Seal of Council to the funding agreement.

IR17/009 POLICY REVIEW - FINGERBOARD SIGNS - LOCAL DIRECTIONAL

E06.0375

Responsible Officer: Warren Sharpe OAM - Director Infrastructure Services

Attachments: 1. Under Separate Cover - Fingerboard Signs - Local Directional Policy

Focus Area: Productive Communities

Delivery Program Link: P1.1 Facilitate growth and development of our business community

Operational Plan Link: P1.1.3 Promote Eurobodalla as the place to invest and do business

EXECUTIVE SUMMARY

Council's policies are reviewed within the first 12 months of a new Council term for the reasons set out under the following sections of the *Local Government Act 1993*:

- *Section 223 (1)(e) Role of governing body – 'to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council'.*
- *Section 232 (1)(f) The role of a councillor – 'to uphold and represent accurately the policies and decisions of the governing body'.*
- *Section 165 (4) Amendment and revocation of local policy – 'a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election'.*

The Fingerboard Signs – Local Directional policy has been reviewed. The draft policy is recommended to be placed on public exhibition before being presented to Council for adoption.

RECOMMENDATION

THAT:

1. Council endorses the draft Fingerboard Signs – Local Directional policy.
2. The draft Fingerboard Signs – Local Directional policy be placed on public exhibition for a period of 28 days and, following the expiration of this period, any public submissions be presented back to Council with the draft policy for consideration to adopt.

BACKGROUND

In accordance with section 165(4) of the *Local Government Act 1993 (the Act)*, a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election. This policy ensures Eurobodalla Shire Council's compliance with the *Local Government Act 1993*.

This policy recognises the importance of providing directional signage for residents, visitors and emergency services. It provides Council with a mechanism to ensure that fingerboard signs (street signposts) are erected on a priority basis without compromising road safety.

IR17/009 POLICY REVIEW - FINGERBOARD SIGNS - LOCAL DIRECTIONAL

E06.0375

Changes

The policy has been reviewed and no substantive changes are recommended at this time, apart from minor referencing updates.

Community Engagement

Council will place the draft policy on public exhibition for a period of not less than 28 days commencing on Wednesday 8 March 2017 until Tuesday 4 April 2017. Copies will be available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

CONCLUSION

The draft Fingerboard Signs – Local Directional policy should be publicly exhibited for 28 days. At the end of the public exhibition period Council will be advised of any submissions received during the exhibition period and the draft Fingerboard Signs – Local Directional policy will be presented to Council for consideration to adopt.

IR17/010 POLICY REVIEW - GRAFFITI REMOVAL FROM NON-COUNCIL-OWNED PROPERTY/ASSETS E06.0375

Responsible Officer: Warren Sharpe OAM - Director Infrastructure Services

Attachments: 1. Under Separate Cover - Graffiti Removal from Non-Council-Owned Property/Assets Policy

Focus Area: Liveable Communities

Delivery Program Link: L5.2 Manage and maintain a safe, sustainable and accessible range of community spaces

Operational Plan Link: 5.2.1 Undertake maintenance program

EXECUTIVE SUMMARY

Council's policies are reviewed within the first 12 months of a new Council term for the reasons set out under the following sections of the *Local Government Act 1993*:

- *Section 223 (1)(e) Role of governing body – 'to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council'.*
- *Section 232 (1)(f) The role of a councillor – 'to uphold and represent accurately the policies and decisions of the governing body'.*
- *Section 165 (4) Amendment and revocation of local policy – 'a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election'.*

The Graffiti Removal from Non-Council-Owned Property/Assets policy has been reviewed. The draft policy is recommended to be placed on public exhibition before being presented to Council for adoption.

RECOMMENDATION

THAT:

1. Council endorses the draft Graffiti Removal from Non-Council-Owned Property/Assets policy.
2. The draft Graffiti Removal from Non-Council-Owned Property/Assets policy be placed on public exhibition for a period of 28 days and, following the expiration of this period, any public submissions be presented back to Council with the draft policy for consideration to adopt.

BACKGROUND

In accordance with section 165(4) of the *Local Government Act 1993 (the Act)*, a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election. This policy ensures Eurobodalla Shire Council's compliance with the *Local Government Act 1993*.

IR17/010	POLICY REVIEW - GRAFFITI REMOVAL FROM NON-COUNCIL-OWNED PROPERTY/ASSETS	E06.0375
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This policy aims to ensure that our community is maintained free from unwanted graffiti and that there is no cost to Council for removal of graffiti from non-Council-owned property/assets.

Legal

Eurobodalla Shire Council will comply with the [Graffiti Control Act 2008](#).

Changes

The policy has been reviewed and no substantive changes are recommended at this time, apart from minor referencing updates.

Community Engagement

Council will place the draft policy on public exhibition for a period of not less than 28 days commencing on Wednesday 8 March 2017 until Tuesday 4 April 2017. Copies will be available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

CONCLUSION

The draft Graffiti Removal from Non-Council-Owned Property/Assets policy should be publicly exhibited for 28 days. At the end of the public exhibition period Council will be advised of any submissions received during the exhibition period and the draft Graffiti Removal from Non-Council-Owned Property/Assets policy will be presented to Council for consideration to adopt.

IR17/011 POLICY REVIEW - WATER AND SEWER CONNECTIONS

E16.0297

Responsible Officer: Warren Sharpe OAM - Director Infrastructure Services

Attachments: 1. Under Separate Cover - Water and Sewer Connections Policy

Focus Area: Sustainable Communities

Delivery Program Link: S2.1 Provide and renew water infrastructure

Operational Plan Link: S2.1.2 Undertake water meter replacement program

EXECUTIVE SUMMARY

Council's policies are reviewed within the first 12 months of a new Council term for the reasons set out under the following sections of the *Local Government Act 1993*:

- *Section 223 (1)(e) Role of governing body – 'to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council'.*
- *Section 232 (1)(f) The role of a councillor – 'to uphold and represent accurately the policies and decisions of the governing body'.*
- *Section 165 (4) Amendment and revocation of local policy – 'a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election'.*

The Water and Sewer Connections policy has been reviewed. The draft policy is recommended to be placed on public exhibition before being presented to Council for adoption.

RECOMMENDATION

THAT:

1. Council endorses the draft Water and Sewer Connections policy.
2. The draft Water and Sewer Connections policy be placed on public exhibition for a period of 28 days and, following the expiration of this period, any public submissions be presented back to Council with the draft policy for consideration to adopt.

BACKGROUND

In accordance with section 165(4) of the *Local Government Act 1993 (the Act)*, a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election.

Under Section 59A of the *Act*, Council is the owner of all works of water supply, sewerage and stormwater drainage installed in or on land by Council (whether or not the land is owned by Council). The *Act* provides Council access to any land required to operate, repair, replace, maintain, remove, extend, disconnect, improve or do any other things that are necessary or appropriate to any of its works to ensure that, in the opinion of Council, the works are used in an efficient manner for the purposes for which the works were installed.

IR17/011 POLICY REVIEW - WATER AND SEWER CONNECTIONS

E16.0297

This policy ensures Eurobodalla Shire Council's compliance with the *Local Government Act 1993*.

Changes

The policy has been reviewed and no substantive changes are recommended at this time, apart from minor referencing updates.

Community Engagement

Council will place the draft policy on public exhibition for a period of not less than 28 days commencing on Wednesday 8 March 2017 until Tuesday 4 April 2017. Copies will be available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

CONCLUSION

The draft Water and Sewer Connections policy should be publicly exhibited for 28 days. At the end of the public exhibition period Council will be advised of any submissions received during the exhibition period and the draft Water and Sewer Connections policy will be presented to Council for consideration to adopt.

**IR17/012 POLICY REVIEW - WATER AND SEWER RURAL AND TRUNK MAINS
CONNECTION POLICY**

E13.7095

Responsible Officer: Warren Sharpe OAM - Director Infrastructure Services

Attachments: 1. Under Separate Cover - Water and Sewer Rural and Trunk Mains
Connection Policy

Focus Area: Sustainable Communities

Delivery Program Link: S2.2 Operate and maintain Council's water supply systems

Operational Plan Link: S2.2.2 Operate water system

EXECUTIVE SUMMARY

Council's policies are reviewed within the first 12 months of a new Council term for the reasons set out under the following sections of the *Local Government Act 1993*:

- *Section 223 (1)(e) Role of governing body – 'to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council'.*
- *Section 232 (1)(f) The role of a councillor – 'to uphold and represent accurately the policies and decisions of the governing body'.*
- *Section 165 (4) Amendment and revocation of local policy – 'a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election'.*

The Water and Sewer Rural and Trunk Mains Connection policy has been reviewed. The draft policy is recommended to be placed on public exhibition before being presented to Council for adoption.

RECOMMENDATION

THAT:

1. Council endorses the draft Water and Sewer Rural and Trunk Mains Connection policy.
2. The draft Water and Sewer Rural and Trunk Mains Connection policy be placed on public exhibition for a period of 28 days and, following the expiration of this period, any public submissions be presented back to Council with the draft policy for consideration to adopt.

BACKGROUND

In accordance with section 165(4) of the *Local Government Act 1993 (the Act)*, a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election.

Under Section 59A of the *Act*, Council is the owner of all works of water supply, sewerage and stormwater drainage installed in or on land by Council (whether or not the land is owned by Council). The *Act* provides Council access to any land required to operate, repair, replace,

**IR17/012 POLICY REVIEW - WATER AND SEWER RURAL AND TRUNK MAINS
CONNECTION POLICY**

E13.7095

maintain, remove, extend, disconnect, improve or do any other things that are necessary or appropriate to any of its works to ensure that, in the opinion of Council, the works are used in an efficient manner for the purposes for which the works were installed.

Council's Strategic Business Plan for Water Supply and Sewerage identifies level of service targets that Council aims to achieve in the delivery of its water supply and sewerage services. Key performance objectives include adequate water quality, maximum and minimum water supply pressures, sewer odour complaints, response times and durations of interruptions.

This policy is to ensure that Council's ability to meet its level of service obligations is not compromised by allowing water and sewer services in low density areas, i.e. rural properties, or from water trunk mains.

Changes

The policy has been reviewed and no substantive changes are recommended at this time, apart from minor referencing updates.

Community Engagement

Council will place the draft policy on public exhibition for a period of not less than 28 days commencing on Wednesday 8 March 2017 until Tuesday 4 April 2017. Copies will be available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

CONCLUSION

The draft Water and Sewer Rural and Trunk Mains Connection policy should be publicly exhibited for 28 days. At the end of the public exhibition period Council will be advised of any submissions received during the exhibition period and the draft Water and Sewer Connections policy will be presented to Council for consideration to adopt.

**FBD17/004 POLICY REVIEW - PUBLIC INTEREST DISCLOSURES INTERNAL
REPORTING**

E16.0297

Responsible Officer: Anthony O'Reilly - Director Finance and Business Development

Attachments: 1. Under Separate Cover - Public Interest Disclosures Internal Reporting Policy

Focus Area: Support Services

Delivery Program Link: SS1.2 Maintain a sound governance framework within which Council operates

Operational Plan Link: SS1.2.2 Ensure transparency in council dealings

EXECUTIVE SUMMARY

Council's policies are reviewed within the first 12 months of a new Council term for the reasons set out under the following sections of the *Local Government Act 1993*:

- *Section 223 (1)(e) Role of governing body – 'to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council'.*
- *Section 232 (1)(f) The role of a councillor – 'to uphold and represent accurately the policies and decisions of the governing body'.*
- *Section 165 (4) Amendment and revocation of local policy – 'a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election'.*

The purpose of this report is to inform councillors of the review of the Public Interest Disclosures Internal Reporting Policy and it is recommended to be placed on public exhibition before being presented to Council for adoption.

RECOMMENDATION

THAT:

1. Council endorses the draft Public Interest Disclosures Internal Reporting Policy for public consultation.
2. The draft Public Interest Disclosures Internal Reporting Policy be placed on public exhibition for 28 days and, following the expiration of this period, the draft policy and any submissions be presented back to Council for adoption.

BACKGROUND

The Mayor, General Manager and all managers of Eurobodalla Shire Council are committed to supporting and protecting staff if they report wrongdoing. Such staff who come forward and report wrongdoing are helping to promote integrity, accountability and good management within the council.

**FBD17/004 POLICY REVIEW - PUBLIC INTEREST DISCLOSURES INTERNAL
REPORTING**

E16.0297

As well as reflecting Council's values of integrity, fairness, empathy, excellence and leadership, this policy is in alignment with:

- Council's code of conduct
- The appropriate 'Grievance' provisions of the *Local Government (State) Award 2014* www.bing.com/search?q=local+government+state+award+2014&form=DLRDF8&pc=MDDR&src=IE-SearchBox
- Council's bullying and harassment policies.

Under section 6D of the *Public Interest Disclosures Act 1994* (the PID Act), www.austlii.edu.au/au/legis/nsw/consol_act/pida1994313/ public authorities such as councils are required to have a policy and procedures for receiving, assessing and dealing with public interest disclosures.

This policy is based on the NSW Ombudsman's *Model Internal Reporting Policy (Local Government)* www.ombo.nsw.gov.au/news-and-publications/publications/guidelines/public-interest-disclosures/model-internal-reporting-policy-local-government-public-interest-disclosures of June 2014 as issued by the Office of the NSW Ombudsman, which was drafted to ensure compliance with the PID Act.

All associated procedures have also taken into consideration a series of guidelines issued by the Ombudsman.

Policy aims:

- Promote an integrated framework for dealing with Public Interest Disclosures
- Ensure transparency, consistency, and fairness in the manner in which council deals with disclosures
- Protect the rights of staff and councillors who report wrongdoing
- Promote awareness of and ensure compliance with legislative requirements
- Encourage integrity, accountability and good management within council
- Make Council's policies and requirements for disclosures readily accessible and understandable to the public.

CONSIDERATIONS

The Public Interest Disclosures Internal Reporting Policy has been reviewed and no substantive changes are recommended at this time, apart from minor referencing updates.

**FBD17/004 POLICY REVIEW - PUBLIC INTEREST DISCLOSURES INTERNAL
REPORTING**

E16.0297

Legal

Section 6E of the PID Act states that the head of a public authority is responsible for ensuring that:

- The public authority has an internal reporting policy
- The staff of the public authority are aware of the contents of the policy and the protections under the PID Act for people who make public interest disclosures (PIDs)
- The public authority complies with the policy and its obligations under the PID Act

Policy

The policy applies to all staff and Councillors. Reports received about any of the five categories of serious wrongdoing listed below will be dealt with according to this policy.

- corrupt conduct
- maladministration
- serious and substantial waste of public money
- government information contravention
- local government pecuniary interest contravention.

Community Engagement

Council will place the draft Public Interest Disclosures Internal Reporting Policy on public exhibition for a period of not less than 28 days commencing on Wednesday 8 March 2017 until Tuesday 4 April 2017. Copies will be available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

CONCLUSION

The draft Public Interest Disclosures Internal Reporting Policy should be publicly exhibited for 28 days. At the end of the public exhibition period the draft Public Interest Disclosures Internal Reporting Policy will be presented to Council for consideration to adopt, along with a report to consider any submissions received during the exhibition period.

**FBD17/005 POLICY REVIEW - DEVELOPMENT CONTRIBUTIONS - REQUESTS
FOR REFUNDS**

E16.0297

Responsible Officer: Anthony O'Reilly - Director Finance and Business Development

Attachments: 1. Under Separate Cover - Development Contributions - Requests for Refunds Policy

Focus Area: Support Services

Delivery Program Link: SS1.2 Maintain a sound governance framework within which Council operates

Operational Plan Link: SS1.2.2 Ensure transparency in council dealings

EXECUTIVE SUMMARY

Council's policies are reviewed within the first 12 months of a new Council term for the reasons set out under the following sections of the *Local Government Act 1993*:

- *Section 223 (1)(e) Role of governing body – 'to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council'.*
- *Section 232 (1)(f) The role of a councillor – 'to uphold and represent accurately the policies and decisions of the governing body'.*
- *Section 165 (4) Amendment and revocation of local policy – 'a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election'.*

The purpose of this report is to inform Councillors of the review of the Development Contributions – Requests for Refunds Policy and it is recommended to be placed on public exhibition before being presented to Council for adoption.

RECOMMENDATION

THAT

1. Council endorses the Development Contributions – Requests for Refunds policy for public consultation.
2. The draft Development Contributions – Request for Refund Policy be placed on public exhibition for 28 days and, following the expiration of this period, the draft policy and any public submissions be presented back to Council for adoption.

BACKGROUND

In accordance with section 165(4) of the *Local Government Act 1993*, a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election.

**FBD17/005 POLICY REVIEW - DEVELOPMENT CONTRIBUTIONS - REQUESTS
FOR REFUNDS**

E16.0297

Development Contributions, typically paid in association with development consent, are a Restricted Asset of Council. Council's Development Contributions – Requests for Refunds Policy was developed to provide consistency in the processing of request for refunds of Development Contributions.

Council seeks to ensure that its Development Contributions – Requests for Refunds Policy complies with legislative requirements under the *Environmental Planning and Assessment Act 1979* www.austlii.edu.au/au/legis/nsw/consol_act/epaaa1979389/ and the *Recovery of Imposts Act 1963* www5.austlii.edu.au/au/legis/nsw/consol_act/roia1963247/s7.html, and conforms to relevant case law and provides readily accessible understandable context for consideration of a request to refund Development Contributions.

CONSIDERATIONS

The Development Contributions – Requests for Refunds Policy has been reviewed and no substantive changes are recommended at this time, apart from minor referencing updates.

Legal

Development Contributions are contributions paid towards the provision of public infrastructure in accordance with s93F, s94 or s94A of the *Environmental Planning and Assessment Act 1979*, or s64 of the *Local Government Act 1993*

Policy

Council seeks to ensure that its Development Contributions – Requests for Refunds Policy complies with legislative requirements under the *Environmental Planning and Assessment Act 1979* and the *Recovery of Imposts Act 1963* and conforms to relevant case law and provides readily accessible understandable context for consideration of a request to refund Development Contributions.

Asset

Development Contributions, typically paid in association with development consent, are a Restricted Asset of Council.

Financial

The Development Contributions – Requests for Refunds Policy was developed to provide consistency in the processing of request for refunds of Development Contributions.

Community Engagement

Council will place the draft Development Contributions - Requests for Refunds Policy on public exhibition for a period of not less than 28 days commencing on Wednesday 8 March 2017 until Tuesday 4 April 2017. Copies will be available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

CONCLUSION

The draft Development Contributions - Requests for Refunds Policy should be publicly exhibited for 28 days. At the end of the public exhibition period the draft Development Contributions – Requests for Refunds Policy will be presented to Council for consideration to adopt, along with a report to consider any submissions received during the exhibition period.

FBD17/006 POLICY REVIEW - RISK MANAGEMENT POLICY

E16.0297

Responsible Officer: Anthony O'Reilly - Director Finance and Business Development

Attachments: 1. Under Separate Cover - Risk Management Policy

Focus Area: Support Services

Delivery Program Link: SS1.2 Maintain a sound governance framework within which Council operates

Operational Plan Link: SS1.2.2 Ensure transparency in council dealings

EXECUTIVE SUMMARY

Council's policies are reviewed within the first 12 months of a new Council term for the reasons set out under the following sections of the *Local Government Act 1993*:

- *Section 223 (1)(e) Role of governing body – 'to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council'.*
- *Section 232 (1)(f) The role of a councillor – 'to uphold and represent accurately the policies and decisions of the governing body'.*
- *Section 165 (4) Amendment and revocation of local policy – 'a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election'.*

The purpose of this report is to inform Councillors of the review of the Risk Management Policy. The draft policy is recommended to be placed on public exhibition before being presented to Council for adoption.

RECOMMENDATION

THAT:

1. Council endorses the draft Risk Management Policy for public consultation.
2. The draft Risk Management Policy on public exhibition for a period of 28 days and, following the expiration of this period, the draft policy and any public submissions be presented back to Council for adoption.

BACKGROUND

In September 2016, Council engaged Echelon Australia to help develop a Risk Management Plan. Through this process the Risk Management Policy was reviewed and re-developed to better support the Risk Management Plan.

This policy affirms Council's commitment to risk management and reflects the value it places on the management of risk throughout the organisation. This policy recognises the varied and complex work environments of Council and its areas of specialist service delivery.

FBD17/006 POLICY REVIEW - RISK MANAGEMENT POLICY

E16.0297

Council is committed to taking a structured and innovative approach to the management of risk throughout the organisation in order to promote and demonstrate good corporate governance, to minimise loss and maximise opportunities to improve service provision.

The Risk Management approach utilised by Council in the development of the Risk Management Plan is AS/NZS ISO 31000:2009 infostore.saiglobal.com/store/Details.aspx?ProductID=1378670 together with the requirements of the Work Health and Safety Act 2011 (NSW) [Work Health and Safety Act 2011 \(NSW\)](#), and will be incorporated into the Planning, Governance, Assets Management and Operational Processes of Council.

To ensure ongoing compliance with AS/NZS ISO 31000:2009, this policy will:

- State the risk management objectives of Eurobodalla Shire Council
- Identify the elements of Eurobodalla Shire Council's risk management system required for the control of risk
- Be consistent with relevant risk management legislation, codes of practice, Australian Standards and industry practice
- Be documented, implemented, maintained and communicated to all employees
- Be available to other interested parties.

CONSIDERATIONS

Legal

This policy will assist Council's ongoing compliance with AS/NZS ISO 13000:2009.

Policy

This policy has been reviewed and redeveloped to better support the Risk Management Plan.

This policy affirms Council's commitment to risk management and reflects the value it places on the management of risk throughout the organisation. This policy recognises the varied and complex work environments of Council and its areas of specialist service delivery.

The Risk Management approach utilised by Council in the development of the Risk Management Plan is AS/NZS ISO 31000:2009 together with the requirements of the Work Health and Safety Act 2011 (NSW), and will be incorporated into the Planning, Governance, Assets Management and Operational Processes of Council.

Community Engagement

Council will place the draft policy on public exhibition for a period of not less than 28 days commencing on Wednesday 8 March 2017 until Tuesday 4 April 2017. Copies will be available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

CONCLUSION

The draft Risk Management Policy should be publicly exhibited for 28 Days. At the end of the public exhibition period the draft Risk Management Policy will be presented to Council for

FBD17/006 POLICY REVIEW - RISK MANAGEMENT POLICY

E16.0297

consideration to adopt, along with a report to consider any submissions received during the exhibition period.

FBD17/007 REPEAL OF GIFTS AND BENEFITS POLICY

E16.0297

Responsible Officer: Anthony O'Reilly - Director Finance and Business Development

Attachments: 1. Gifts and Benefit Policy

Focus Area: Support Services

Delivery Program Link: SS1.2 Maintain a sound governance framework within which Council operates

Operational Plan Link: SS1.2.2 Ensure transparency in council dealings

EXECUTIVE SUMMARY

Council's policies are reviewed within the first 12 months of a new Council term for the reasons set out under the following sections of the *Local Government Act 1993*:

- *Section 223 (1)(e) Role of governing body – 'to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council'.*
- *Section 232 (1)(f) The role of a councillor – 'to uphold and represent accurately the policies and decisions of the governing body'.*
- *Section 165 (4) Amendment and revocation of local policy – 'a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election'.*

The Gifts and Benefits Policy has been reviewed and it is no longer required. The exhibition period for the repeal of the policy is complete and this report is being presented to Council for the policy to be repealed.

RECOMMENDATION

THAT the Gifts and Benefits Policy be repealed.

BACKGROUND

This policy is designed to establish for councillors and staff, standards of behaviour and procedures to be followed in relation to the acceptance of gifts or benefits. This policy does not cover political donations or contributions to an election fund that are subject to the provisions of the relevant election funding legislation.

The aim of the policy is as follows:

- To ensure consistency and fairness in the manner in which Council deals with Gifts and Benefits.
- To ensure compliance with legislative requirements.
- To promote transparency and public awareness of the requirements with respect to Gifts and Benefits.
- To make council's policies readily accessible and understandable to the public.

FBD17/007 REPEAL OF GIFTS AND BENEFITS POLICY

E16.0297

The Gifts and Benefits Policy is supplementary to Council's Code of Conduct, which includes the provision that councillors and staff, by virtue of their position, must not seek or acquire a personal profit or advantage which has a monetary value, accept bribes or other improper inducement; and/or accept any payment, gift or benefit intended or likely to influence, or that could be reasonably perceived by an impartial observer as intended or likely to influence, the proper exercising of official duties.

The Gifts and Benefits Policy has been reviewed and its content has been incorporated into the Code of Conduct Policy as it is supplementary to it.

CONSIDERATIONS

The repeal of the Gifts and Benefits Policy was exhibited for 42 days on Council's website, at libraries and at the Customer Service Centre in Moruya. During this time no public submissions were received.

Legal

Section 5 Personal Benefit of the *Model Code of Conduct for Local Councils in NSW* www.olg.nsw.gov.au/strengthening-local-government/conduct-and-governance/model-code-of-conduct states Council officials must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment from the Council official or from the Council.

Policy

Council's Code of Conduct Policy now includes the gifts and benefits provisions from the Gifts and Benefits Policy.

Community Engagement

Council has placed the repeal of the Gifts and Benefits Policy on public exhibition for a period of 42 days commencing on Wednesday 30 November 2016 until Wednesday 10 January 2017. Copies were available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

CONCLUSION

The Gifts and Benefits Policy is no longer required as it has been included in the Code of Conduct Policy. The exhibition period is now complete and the policy is presented to Council for repeal



POLICY

Policy title	Gifts and Benefits
Responsible manager(s)	General Manager
Contact officer(s)	Divisional Manager Governance and Information
Directorate	Finance and Business Development
Approval date	27 Aug 2013
Focus area	Support Services
Delivery Program link	SS1.2 Maintain a sound governance framework within which Council operates
Operational Plan link	SS1.2.2 Ensure transparency in council dealings

Purpose

This policy is designed to establish for councillors and staff standards of behaviour and procedures to be followed in relation to the acceptance of gifts or benefits. This policy does not cover political donations or contributions to an election fund that are subject to the provisions of the relevant election funding legislation.

This policy is supplementary to Council's Code of Conduct, which includes the provision that councillors and staff, by virtue of their position, must not: seek or acquire a personal profit or advantage which has a monetary value, or accept bribes or other improper inducement; and/ or accept any payment, gift or benefit intended or likely to influence, or that could be reasonably perceived by an impartial observer as intended or likely to influence, the proper exercising of official duties.

Policy aims:

- To ensure consistency and fairness in the manner in which Council deals with Gifts and Benefits.
- To ensure compliance with legislative requirements.
- To promote transparency and public awareness of the requirements with respect to Gifts and Benefits.
- To make council's policies readily accessible and understandable to the public.

Policy details

1	Application This policy applies to all councillors and workers of Eurobodalla Shire Council.
2	Legislation Eurobodalla Shire Council will comply with the <i>Local Government Act 1993</i> and <i>The Model Code of Conduct for Local Government Councils in NSW</i> published by the Office of Local Government ('OLG').
3	Disclosure Where a gift or benefit is received of more than token value, in circumstances where it cannot reasonably be refused or returned, once accepted the gift or benefit should be disclosed promptly to the following people: <ul style="list-style-type: none"> • Staff to advise their Director



	<ul style="list-style-type: none"> • Directors to advise the General Manager. • The General Manager to advise the Mayor. • Councillors to advise the Mayor. • The Mayor to advise the General Manager. <p>Once disclosure is made to the relevant person the gift or benefit will be recorded on council's Gifts & Benefits Register.</p>
4	<p>Favour</p> <p>Situations must be avoided wherein an appearance may be created that any person or body, through the provision of hospitality or benefits of any kind, endeavours to secure or attempts to influence or secure a favour.</p>
5	<p>Influence</p> <p>Situations must be avoided where improper and undue influence of council officials in the performance of their public or professional duties secures a private or unfair benefit for the council official or for any other person or body.</p>
6	<p>Family Members</p> <p>Reasonable steps must be taken to ensure that immediate family members do not receive gifts or benefits that could appear to an impartial observer to be an attempt to influence or secure a favour. Immediate family members ordinarily include parents, spouses, children and siblings.</p>
7	<p>Disclosure of interest Returns</p> <p>Councillors and designated persons must by law disclose to the General Manager a description of any gift or gifts totalling a value exceeding \$500 made by the same person during a period of 12 months or less (required to be included in Disclosure of Interests returns, Local Government Act 1993, sect. 449)</p>
8	<p>Frequent Flyer / Loyalty Schemes</p> <p>Councillors and staff participating in Frequent Flyer and other loyalty schemes should not accrue a personal benefit as a result of the carrying on of Council business. Any accruals of Frequent Flyer or loyalty scheme points that provide free benefits or trips are to be used for council business (not private use).</p>
9	<p>Token Gifts and Benefits</p> <p>In general, gifts and benefits of a token value that cannot reasonably be returned may include:</p> <ul style="list-style-type: none"> (a) Gifts of single bottles of reasonably priced alcohol. This could be at end of year functions, public occasions, or in recognition of work done such as providing a lecture or training session address. (b) Free or subsidised meals, of a modest nature, and/ or beverages provided infrequently (and/ or reciprocally) that have been arranged primarily for, or in connection with, the discussion of official business. (c) Free meals, of a modest nature, and/ or beverages provided to Council officials who formally represent Council at work related events such as training, education sessions, or workshops. (d) Refreshments, of a modest nature, provided at conferences where representing Council officially as a speaker. (e) Ties, scarves, coasters, tie pins, diaries, chocolates, flowers, and small amounts of fresh produce or beverages. (f) Invitations to appropriate out-of-hours "cocktail parties" or social functions organised by groups, such as, council committees and community organisations.



10	<p>Non-Token Gifts and Benefits of value</p> <p>In general, all non-token gifts that are accepted are to be recorded in the Council's publicly available Gifts & Benefits Register. Gifts and benefits of non-token value and benefit may include:</p> <ul style="list-style-type: none"> (a) Quantities of alcohol. (b) Corporate hospitality at a theatre and/ or sporting event. (c) Discounted products for personal use. (d) Frequent use of facilities such as gyms. (e) Use of holiday homes, free or discounted travel.
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Implementation

Implementation steps		Responsibility
1	<p>Code of Practice</p> <p>This policy will form part of new Councillor and employee Induction, and will be enforced by management.</p>	Organisational Development Management
2	<p>Staff</p> <p>Under supervision, applicable council staff will be responsible for ensuring that policies are implemented appropriately within their work area, after they have received relevant training to do so.</p>	Council officers Management
3	<p>Concerns</p> <p>Concerns received regarding Gifts and Benefits will be recorded on Council's records system and handled in accordance with the Council's Customer Service or Complaints policy. These records will be used to determine any follow-up actions and analysis the history or reported public concerns.</p>	Council officers
4	<p>Consultation</p> <p>Any consultation deemed necessary will occur as required with key stakeholders, which may include (but not be limited to) the community, other agencies, statutory and industry bodies. Public submissions regarding this policy are invited for consideration during the exhibition period.</p>	As applicable

Review

The policy will be automatically revoked at the expiration of twelve months after the declaration of the poll for the next general NSW local government election, unless Council revokes it sooner.

Note: Automatic revocation of the policy is provided for by section 165(4) of the Local Government Act 1993. The next general local government election is expected to be held in September 2020.

This policy may also be reviewed and updated as necessary when legislation requires it; or Council's functions, structure or activities change; or when technological advances or new systems change the way that Council manages gifts and benefits to staff and councillors.



Reviews of the effectiveness of this policy could include the following:

Performance indicator	Data source(s)
Concerns	Council records
Customer Feedback Survey Responses	Surveys
Statistics (e.g. number of gifts recorded in register)	Council records
Internal review or investigation	Audit
External review or investigation (e.g. Pecuniary Interest and Disciplinary Tribunal)	Audit or review

Governance

This policy should be read in conjunction with any related legislation, codes of practice, relevant internal policies, and guidelines.

Related legislation and policies

Name	Link
Code of Conduct Policy	www.esc.nsw.gov.au/site/Publications/Strategies/PolicyReg/Default.aspx
Public Interest Disclosure Internal Reporting Policy	
Local Government Act 1993	www.legislation.nsw.gov.au/maintop/view/inforce/act+30+1993+cd+0+N
The Model Code of Conduct for Local Government Councils in NSW	www.dlg.nsw.gov.au/dlg/dlghome/documents/Information/Model%20Code%20of%20Conduct.pdf

Related external references

Name	Link
Office of Local Government	www.olg.nsw.gov.au/
Pecuniary Interest and Disciplinary Tribunal	www.olg.nsw.gov.au/dlg/dlghome/dlg_CommissionTribunalIndex.asp?areaindex=PIT&index=3

Change history

Version	Approval date	Approved by	Minute No	File No	Change
1	2 Aug 2006	Council	06/300	06.0380	Policy commenced
2	27 Aug 2013	Council	13/246	E13.7095	Updated to new Policy Template, updated review date, updated links and references. Report O13/131.

Internal use

Responsible officer	General Manager	Approved by	Council
Min No	TBA	Council report	TBA
File no	E16.0297	Review date	Sep 2020
		Pages	4

FBD17/008 INVESTMENTS MADE AS AT 31 JANUARY 2017

E99.3517

Responsible Officer: Anthony O'Reilly - Director Finance and Business Development

Attachments: Nil

Focus Area: Support Services

Delivery Program Link: SS1.1 Manage Council's financial assets and obligations

Operational Plan Link: SS1.1.2 Undertake forward budgeting and financial 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 2017 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

Legal

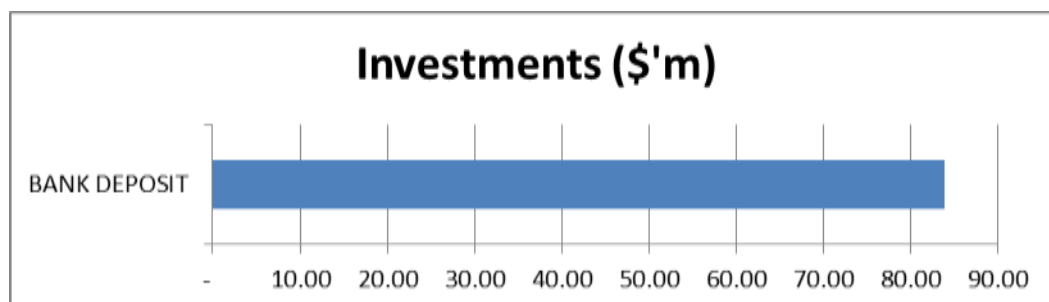
Budgeted legal fees for 2016-17 are \$0.035m and it is expected that future credit crisis legal costs will not be material.

Policy

Investments comply with Council's Investment policy.

Financial

Council Investing Overall



Council has 100% (\$83.88m) invested in bank deposits. The bank deposits are in banks rated A or greater or covered by the AAA rated Government Guarantee (except \$5.75m with IMB (Rated BBB+) and \$1.75m with ME Bank (Rated BBB+)). Investment in Government Guaranteed Deposits is \$2.25m and represents 2.68% of the portfolio.

FBD17/008 INVESTMENTS MADE AS AT 31 JANUARY 2017

E99.3517

The weighted average return for all investments for the month is 2.66% which is above the Council policy benchmark of Bank Bill Swap rate (BBSW) + 0.25% (2.03%).

Collateralised Debt Obligation (CDO)

Funded legal action against the Fitch rating agency is in the early stages and is likely to continue for some time.

Summary Investment Information

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

CATEGORY	(\$)
At Call Deposit Government Guaranteed	250,000
At Call Deposit	3,636,349
Term Deposits	78,000,000
Term Deposits Government Guaranteed	2,000,000
	83,886,349
<i>Weighted average Interest %:</i>	2.66%
<i>Average 90 day BBSW + 25%</i>	2.03%

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.

Policy Risk	Low Liquidity Risk %	Medium Liquidity Risk %	High Liquidity Risk %	Total %
Remote Risk	2.68	0.00	0.00	2.68
Policy Limit	100.00	70.00	50.00	
Near Risk Free	88.38	0.00	0.00	88.38
Policy Limit	100.00	50.00	30.00	
Some Limited Risk	8.94	0.00	0.00	8.94
Policy Limit	30.00	20.00	10.00	
At Risk	0.00	0.00	0.00	0.00
Policy Limit	0.00	0.00	0.00	
Grant Total	100.00	0.00	0.00	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

FBD17/008 INVESTMENTS MADE AS AT 31 JANUARY 2017

E99.3517

audited unrestricted current ratio as at 30 June 2016 is 2.68:1. Council therefore has approximately \$2.68 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.

FBD17/009 BUDGET REVIEW FOR THE PERIOD ENDED 31 DECEMBER 2016 AND SIX MONTHLY PERFORMANCE REPORT E05.9535

Responsible Officer: Anthony O'Reilly - Director Finance and Business Development

Attachments:

1. Under Separate Cover - 1(a) Fund Flow December 2016
2. Under Separate Cover - 1(b) Consolidated Income Statement December 2016
3. Under Separate Cover - 1(c) Capital Program Statement December 2016
4. Under Separate Cover - 1(d) Projected Fund Balances Statement December 2016
5. Under Separate Cover - 1(e) Budget Amendment Report December 2016
6. Under Separate Cover - 1(f) Special Rate Variation Progress Report
7. Under Separate Cover - 2 Consultancy, Legals and Contractors Report
8. Under Separate Cover - 3 Key Financial Indicators
9. Under Separate Cover - 4. Mayoral and Councillor Expenses

Focus Area: Support Services

Delivery Program Link: SS1.1 Manage Council's financial assets and obligations

Operational Plan Link: SS1.1.2 Undertake forward budgeting and financial reporting

EXECUTIVE SUMMARY

This Budget Review reports on Council's performance against the current Operational Plan budget for the quarter ending 31 December 2016. Major variations are highlighted.

The original Operational Plan budget, on a consolidated basis (which includes all of Council's funds), for 2016/17 forecast:

- Income Statement deficit, before capital revenue, of \$(0.11) million
- Income Statement surplus, after capital revenue, of \$12.67 million
- Deficit cash/fund flows of \$(2.90) million.

The revised budgets for the quarter ending 31 December 2016 are:

- Income Statement deficit, before capital revenue, of \$(0.46) million
- Income Statement surplus, after capital revenue, of \$14.10 million
- Deficit cash/fund flows of \$(3.01) million.

The revised, consolidated annual budget for 2016/17 has been impacted during the December quarter through amendments to the current operational and capital works programs and also the deferral (revoting) of some projects to the 2017/18 financial year.

The reasons for the revoting of these budget allocations are varied and can be due to such occurrences as the timing of new grant monies (that is: Council may receive the money late in the year however will only expend those monies in the next year), or the reprioritisation of projects. Project timing can be affected by numerous factors including events such as declared

FBD17/009 BUDGET REVIEW FOR THE PERIOD ENDED 31 DECEMBER 2016 AND SIX MONTHLY PERFORMANCE REPORT E05.9535

natural disasters where council is required to redirect staff to perform essential works, changes to funding opportunities or other impacting events. The securing of extra or new grants can also contribute to reprioritisation of works as resources are redirected to undertake the new grant's objectives.

The result of deferring works and funding from this financial year into the 2017/18 year at the December review is:

- Favourable income statement impact of \$0.16 million before capital revenue
- A reduction in the capital program of \$1.38 million in expenditure, partially offset by a reduction in capital revenues of \$0.67 million
- A reduction of \$0.30 million of unrestricted funds to be utilised in 2016/17

The budgets were adjusted this quarter due to additions or reductions to the current works and operational programs. The result of these adjustments is:

- Favourable income statement impact of \$1.44 million before capital revenue
- Less unrestricted funds required (\$0.48 million).

RECOMMENDATION

THAT:

1. The budget review report for the quarter ended 31 December 2016 be received and noted.
2. The favourable variations for the Income Statement after capital revenue of \$1.45 million and favourable variations of \$0.74 million as per the Consolidated Fund Flow Statement for the quarter ended 31 December 2016 be adopted.
3. The six monthly Performance Report be received and noted.

BACKGROUND

Council reviews its performance and financial results against the adopted Operational Plan quarterly, authorises adjustments to budget items, and highlights variations from its original budget strategy.

It should be noted that the results referred to in this report are unaudited.

The attachments to this report are as follows:

Financial reports (Attachment 1)

These reports provide information on Council's performance against its financial objectives contained in the Operational Plan, presented for the consolidated entity.

Financial reports include:

- a) Consolidated Fund Flow Statement – This report shows the impact of operating, financing and investing activities on Councils unrestricted working capital.

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- b) Consolidated Income Statement – Provides sources of income and expenditure, including depreciation, in the program areas and associated services.
- c) Consolidated Capital Program Statement – Provides capital expenditure information for each program area and associated services.
- d) Projected Funds Balance Statement – Provides information on the balances and movements in both unrestricted and restricted fund accounts.
- e) Budget Amendment Report – Provides details of proposed significant adjustments to budgets.
- f) Special Rate Variation capital program – Provides capital expenditure information for each of the projects in the SRV program of works for 2016/17.

Consultancy, Legals and Contractors Report (Attachment 2)

This attachment provides information on major contracts entered into, legal fees incurred and consultancy costs for the quarter ended 31 December 2016.

Key Financial Indicators (Attachment 3)

This attachment provides information about key financial indicators designed to assist in monitoring Council's financial sustainability. The indicators are for the consolidated entity.

Mayoral and Councillor Expenses (Attachment 4)

Provides information about Mayoral and Councillor expenditure for the quarter ended 31 December 2016.

CONSIDERATIONS

Consolidated Fund flow Statement (Attachment 1(a)):

Council requires sufficient funds to pay for its debts as and when they fall due. The Fund Flow Statement shows the change in Council's freely available funds or working capital.

It includes all transactions having an impact on Council's funds i.e. income and expenses from its operating activities, capital programs and borrowing activities. It also includes the transfer into, or use of restricted funds for capital or non-recurrent projects. Depreciation is not included as it does not represent a cash flow.

The net fund flow shows the amount of unrestricted funds that will be used to deliver the agreed Operational Plan outcomes for 2016/17. The consolidated original budget forecast a \$2.9 million decrease in unrestricted funds. The impact of previous reviews, the items revoted to 2017/18 and the December review adjustments, increased this the amount of unrestricted funds to be utilised by \$0.1 million, to a revised forecast of \$3.01 million decrease in unrestricted funds (per Tables 1.1 and 1.2 below).

The full projected fund balances are represented by the Projected Funds Balances Statement Attachment 1(d). Information on the balances and movements in both unrestricted and restricted fund accounts can be seen in this attachment.

Table 1.1 Net fund flow (unrestricted)

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Fund	2016/17 Original Budget '\$000	Annual Revised Budget '\$000
Water	4,103	4,512
Sewer	2,322	2,507
General (incl. Environment & Waste)	(9,321)	(10,034)
Consolidated	(2,896)	(3,014)

Table 1.2 Net fund flow (unrestricted) per fund

Fund	2016/17 Original Budget '\$000	Previous Reviews '\$000	December Review '\$000	December Revotes '\$000	Annual Revised Budget '\$000
Environment*	(96)	(115)	48	-	(163)
General	(5,296)	(404)	(275)	255	(5,719)
Sewer	2,322	(220)	405	-	2,507
Waste*	(3,930)	(21)	(201)	-	(4,152)
Water	4,103	(95)	504	-	4,512
Consolidated	(2,896)	(854)	480	255	(3,014)

*Waste and Environment form part of the General Fund but have been listed separately in this table to show how much unrestricted cash is being utilized in each area.

Consolidated Income Statement (Attachment 1(b)):

The consolidated Income Statement shows the types of income and the expenditure, including depreciation, per program area. This result can indicate whether Council is able to raise sufficient revenue to cover its operational costs (including depreciation which measures the wear and tear of Council assets) of delivering its services to the community before considering its capital revenues.

The original budget for 2016/17 predicted an income statement deficit of \$(0.11) million before allowing for capital grants and contributions. The proposed 2016/17 budget incorporating previous reviews, the December review amendments and approved revotes to 2017/18, is a deficit of \$(0.46) million (per Table 1.3 and Graph 1.1 below).

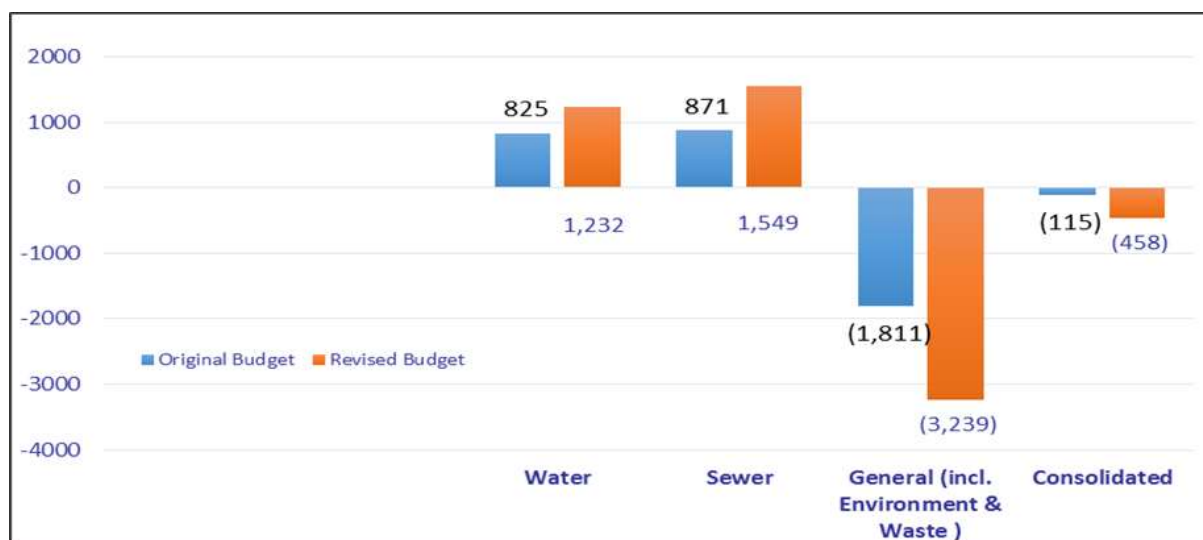
Table 1.3 Net surplus/(deficit) before capital revenue

Fund	2016/17 Original Budget '\$000	Previous Reviews '\$000	December Review '\$000	December Revotes '\$000	Annual Revised Budget '\$000
Water	825	-41	448	0	1,232
Sewer	871	-59	737	0	1,549
General (incl. Environment & Waste)	-1,811	-1,848	255	165	-3,239
Consolidated	-115	-1,948	1,441	165	-458

Graph 1.1 Net surplus/ (deficit) before capital revenue

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Revotes to 2017/18 (operational)

The revote of operational works or projects from this financial year into 2017/18 result in a favourable impact on the income statement of \$0.16 million. The operational revotes relate mainly to Natural Environment Planning grants and most substantially as a result of NSW Coastal Reform delays.

December Review adjustments (operational)

The following items are a summary of significant operational budget adjustments (during the December quarter) to the originally adopted Operational Plan budget for 2016/17. The impact of these changes is favourable to the operating statement before capital revenue of \$1.44 million. Net favourable revenue and expense adjustments are \$0.46 million and \$0.98 million respectively.

Significant net favourable operational revenue adjustments (\$0.46 million) include:

- Increased tipping and hardwaste revenues at Surfbeach Waste Management Facility (\$0.17 million favourable)
- Recognition of development certificate revenues in line with current development conditions (\$0.05 million favourable)
- The receipt of new grants, including \$0.08 million for Resilience to Climate Change and various others such as Road Safety and Fire Mitigation Funding.
- The receipt of additional WHS incentive payments from StateCover (\$0.09 million favourable).

Significant net favourable operational expenditure adjustments (\$0.98 million) include:

- Reduced interest expenditure in line with revised final borrowings in 2015/16. (\$0.29 million favourable).

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- Amendments to the scope of the Energy Performance Contracts (EPC). The main adjustments were in Water and Sewer Funds of \$0.54 million and \$0.19 million respectively.
- Reclassification of remaining EPC allocations to capital (\$0.28 million).

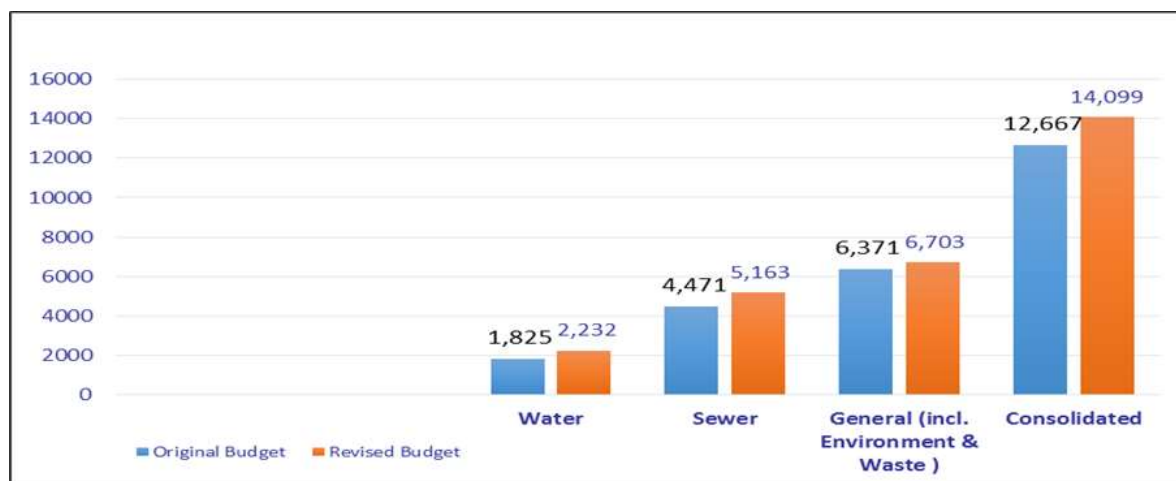
Net surplus/(deficit) after capital revenue

The original budget for 2016/17 predicted an income statement surplus of \$12.7 million after allowing for capital grants and contributions. The proposed 2016/17 budget incorporating the December review amendments and approved revotes to 2017/18, is a surplus of \$14.1 million (per Table 1.4 and Graph 1.2 below).

Table 1.4 Net surplus/(deficit) after capital revenue

Fund	Annual Original Budget '\$000	Previous Reviews '\$000	December Review '\$000	December Revotes '\$000	Annual Revised Budget '\$000
Water	1,825	-41	448	0	2,232
Sewer	4,471	-45	737	0	5,163
General (incl. Environment & Waste)	6,371	70	768	-506	6,703
Consolidated	12,667	-16	1,954	-506	14,099

Graph 1.2 Net surplus/ (deficit) after capital revenue



Capital revenues were net \$(0.16) million unfavourable for the quarter ended 31 December 2016. This is largely due to the revote (\$0.67 million) of capital works with associated grant funding. Most significant of those is the deferred construction of the Arts and Cultural Centre in Moruya to allow for additional grant applications and tender process requirements (\$0.50 million associated grant funding). Partially offsetting the deferred revenues are contributions of \$0.51 million received during the quarter. \$0.46 million was received from the Rural Fire Service (RFS) in the form of a contributed asset (new RFS vehicle \$0.31 million) and funding for the construction and project management of the RFS Mogo Training Centre Remote Area Firefighter Training (RAFT) building (\$0.15 million). A contribution of \$0.15 million was received from Renascent towards Batemans Bay streetscaping works. These adjustment were partially offset by a reduction in anticipated roads development contributions of \$0.1 million.

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Consolidated Capital Program Statement (Attachment 1(c)):

Capital Program

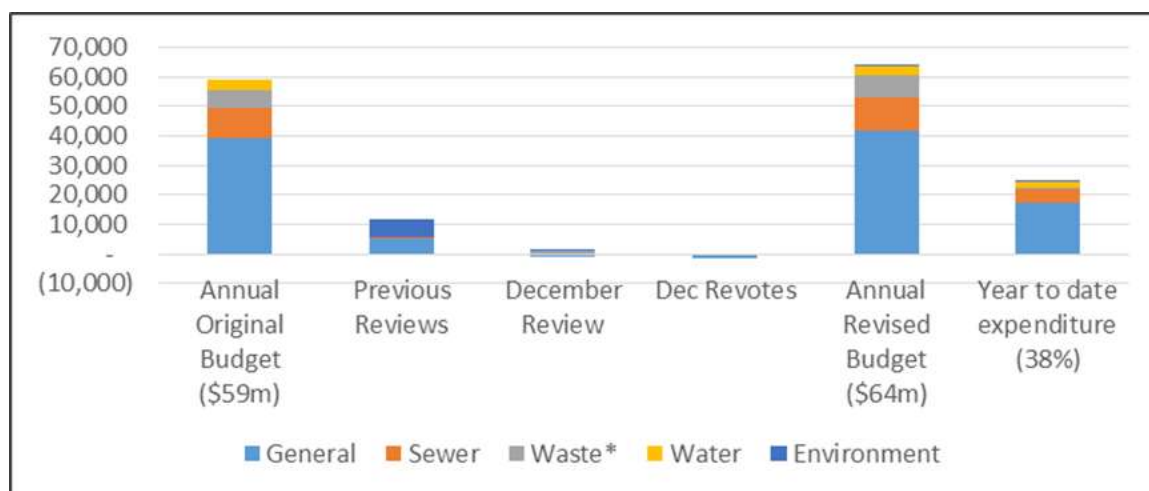
The original capital budget for 2016/17 was \$59.02 million. The revised budget incorporating previous, and December review adjustments and the carry forward of works to 2016/17 is \$63.92 million (per table 1.5 and Graph 1.3 below).

Table 1.4 2016/17 Capital Program per fund

Fund	Annual Original Budget	Previous Reviews	December Review	Dec Revotes	Annual Revised Budget
Environment	0	0	36,225	0	36,225
General	39,239,359	4,862,055	-799,719	-1,382,800	41,918,895
Sewer	10,136,000	666,892	213,000	0	11,015,892
Waste*	6,405,743	263,594	922,000	0	7,591,337
Water	3,245,000	53,300	62,000	0	3,360,300
Consolidated	59,026,102	5,845,841	433,506	-1,382,800	63,922,649

**Waste and Environment Funds form part of the general fund but have been shown separately to highlight the large capital works forecast this year.*

Graph 1.3 Capital Works Program 2016/17



Revotes to 2017/18 (capital)

The carry forward of capital works (\$1.38 million) from this financial year into 2017/18 result in a reduction of cash required in 2016/17 of \$0.09 million. The remainder of the funding for the revoted capital projects comes from grants and other restricted funding sources.

Significant capital projects (individually over \$0.1 million) revoted to 2017/18 include:

- The construction of the Arts and Cultural Centre in Moruya to allow for additional grant applications and tender process requirements (\$0.80 million).
- The amenities extension at Gundary Oval in line with pending grant application procedures (\$0.30 million).
- The grant funded Apron Works at Moruya Airport to allow for delays in gaining archaeological approvals (\$0.12 million).

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Current year budget adjustments (capital)

The following items are a summary of significant capital budget adjustments (during the December quarter) to the originally adopted Operational Plan budget for 2016/17. The impact of these adjustments is an increase of \$0.43 million to the value of council's infrastructure, property, plant and equipment.

Significant capital adjustments (individually over \$0.1 million) include:

- The deferral of Moruya Airport Redevelopment MasterPlan funding from the current program to be reintroduced in a future period in line with ongoing investigations into additional grant funding opportunities and current project timelines (\$2.14 million favourable).
- Recognise funding required for Brou Landfill compulsory land acquisition from Forestry NSW as per Council Report FBD 15/036 (\$0.43 million unfavourable).
- The RFS received a new vehicle and this has been added to the RFS assets that Council recognises on its assets register (\$0.31 million unfavourable).
- The bringing forward of emission reduction funding for Surf Beach and Brou Landfill (\$0.25 million unfavourable each) to align with the delivery outcomes of the Greenhouse action plan.
- New and reallocated funding for EPC works (\$0.81 million unfavourable). These projects were budgeted as operational and have been reclassified as capital due to the nature of initiatives being implemented.
- Construction and project management of the RFS Mogo Training Centre RAFT building (\$0.15 million). These funds are being provided by the RFS in order for Council to manage the project.

Special Rate Variation (SRV) – progress update (Attachment 1 (f)):

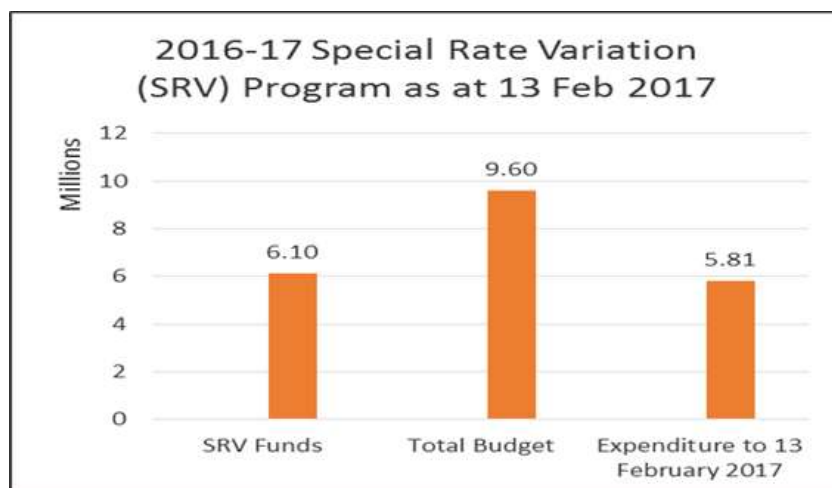
2016/17 is the second year of the SRV program and approximately \$9.6 million of infrastructure works for the year are underway. \$6.1 million of SRV designated funds are being utilised on these works. The majority of the projects have commenced with a due date for completion by the end of the fourth quarter. *Attachment 1 (f)* reports the detailed progress of the capital program showing individual project budgets and expenses with updates as at 13 February 2017. Total expenditure on the SRV designated projects as at 13 February 2017 is \$5.81 million (per Table 1.5 and Graph 1.4 below).

Table 1.5 2016/17 Special Rate Variation Capital Program

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2016/17 Special Rate Variation (SRV) Capital Program	\$
SRV Funds	6,104,540
Total Budget	9,596,289
Expenditure to 13 February 2017	5,807,369
Percentage spent	61%

Graph 1.4 2016/17 Special Rate Variation Capital Program



Delivery Program Progress Report: July –December 2016

In accordance with the *Local Government Act 1993*, Section 404, and the *Integrated Planning and Reporting guidelines* for local government, Council is required to provide progress reports with respect to the principal activities detailed in the Delivery Program at least every six months.

In line with this requirement, ongoing council service delivery is tracking well to deliver planned projects by the end of financial year. Exceptions to this are highlighted through the quarterly budget review process and detailed as revotes in the relevant section of the report.

The following summary represents the highlights of service delivery and completed projects for the period 1 July – 31 December 2016 structured by Community Strategic Plan focus area and grouped under Council service delivery area.

Liveable communities

A liveable community has pride of place, ease of access, community harmony, a mobile and healthy population that participates in community life, a feeling of safety and security, a strong vibrant cultural base and places to relax, study and play.

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Council's social inclusion, community connections, community spaces, libraries arts and culture, and public and environmental health and safety services contribute to liveable community outcomes as outlined in the Community Strategic Plan – One Community.

Highlights for the reporting period include:

Social inclusion

- To address local statistics of high percentages of obesity in the shire the towns of Narooma, Moruya and Batemans Bay competed against the towns of Coolamon, Cowra, Sanctuary Point and Warren in the Healthy Town Challenge. Collectively our towns achieved the highest participation and change in total weight relative to population and won \$5,000 to support further local active participation events.
- Council's Youth Services was successful in achieving two noteworthy grants. The only grant received in NSW from ABC's national Heywire program which will support a group of local young people to develop a tourism campaign called 'Back to Bush' to attract rural youth to the shire as a holiday destination and the other grant from NSW Transport to support young people to address transport disadvantage for youth activities and events.

Community connections

- Community Transport applied for and received transport funding to assist Aboriginal Elders to attend Auntie Jeans Mini Olympics in Wagga Wagga 19 -21 October.
- The Active Living team participated in the 'Dying to Know' Expo and provided information regarding carer support and palliative care provision for people in the last stages of life and obtained resources to support older clients.
- Community Care participated with many other local providers in the National Disability Insurance Scheme (NDIS) Market Day held in Moruya RSL last December to celebrate National Day for People with Disability.
- Community Transport exceeded agreed funding outputs by providing 12,328 trips in just the last 6 months through improved efficiency and effective management of resources.
- Summer Jam event held to celebrate International Day for People with Disability on 3 December. Many Euro Social Club events booked out during the holiday period.

Community spaces

- Maintenance and inspection programs undertaken in accordance with budget.
- Completion of the Nangudga and Long Beach toilets which commenced under the 2015-16 Operational Plan.
- Pathways completed including Quarry Park Moruya, Corrigan's Beach Reserve, Perry Street Batemans Bay, Nelson Parade Tuross Head, Beach Road Sunshine Bay, Moruya airport, Edward Road Batehaven, Peninsula Drive Surfside and Princes Highway Narooma.

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- Batemans Bay Streetscape Works stage one complete including additional works on the northern side of North Street and in Clyde Street. Council was also contracted to undertake streetscape works for the developers at Bridge Plaza.
- Corrigan's Beach Reserve inclusive playground stage one is 85% complete working with the Sunset Advisory Committee. Parking, picnic facilities and tree planting complete.

Libraries arts and culture

- The inaugural Little Sellers Art prize for young people aged 5-18 years was presented at Moruya Library with approximately 200 entries for four categories resulting in 24 finalists to develop local young artists. Its success will now see it as a yearly arts program and will feature in the lead up to the presentation of the Basil Sellers Art Prize and Exhibition which is held biennially.
- Completion and opening of the Narooma Library upgrade which commenced under the 2015-16 Operational Plan

Public and environmental health and safety services

- Free Microchipping day conducted to support pet owners in responsible pet ownership, microchipping and registering their pets. Identification is required by law and enables the return of animals to their owner.

Completed capital projects for the reporting period include:

While many of the projects listed in the Operational Plan 2016-17 are in progress or near completion this report details only those that were complete as at 31 December 2016.

Completed

- Pathways: Broulee to Airport track
- Pathways: Edward Road, Batehaven
- Pathways: Peninsula Drive, Surfside
- Pathways: Princes Highway, Narooma
- South Durras Timber Fishing Platform

Sustainable communities

A sustainable community is characterised by our appreciation of natural surroundings and biodiversity. This is supported by responsible planning and management practices and the lifestyle actions we agree to, to reduce our impact on the natural environment and to conserve valuable resources.

Council's sewer, water, waste management, sustainability and strategic planning services contribute to sustainable community outcomes as outlined in the Community Strategic Plan – One Community.

Highlights for the reporting period include:

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Sewer

- Sewerage schemes operated in accordance with license conditions.
- Contract awarded for the construction of the Bodalla sewerage scheme treatment plant. Tenders called for the sewage reticulation.
- Sewer rising mains replaced at Centenary Drive, Narooma in conjunction with repairs to roadway.
- Treatment works renewals completed including Moruya Sewer Treatment Plant (STP) (UV disinfection), Kianga (flow meters and aerators).
- IPWEA NSW 2016 State Award - Innovation in Water Supply and Waste Water for Kianga Sewage Treatment Plant Condition Assessment.
- IPWEA NSW 2016 State Award - Highly Commended - Workplace Health and Safety for Water and Sewer Fleet Review.
- \$3.22m grant achieved toward Potato Point sewerage scheme

Water

- Drinking water supplied met all Australian Drinking Water Guidelines health based water quality requirements.
- Investigations commenced on new Southern Dam, Eurobodalla Road, Bodalla.
- 908 water meters replaced, and 103 new water service connections provided.
- Watermain renewals complete at North Street Batemans Bay, Beach Road Catalina, Hanging Rock, Beach Road Batehaven, Bronte Crescent Sunshine Bay, Sylvan Street Malua Bay, Evans Street Moruya, Shell Street Tuross Head, Glasshouse Rocks Road Narooma, Princes Highway Narooma, Centenary Drive Narooma.
- 144 water incentive scheme rebates provided to customers.

Waste management

- 25 tonnes of hazardous waste collected during the annual household chemical clean out, supported by the NSW Environment Protection Authority (EPA). This is an increase of 15% and includes water based paint, gas cylinders and batteries.
- The construction of the Surf Beach Specialty waste centre, an EPA grant funded project, is well underway and expected to be open for business by the end of March. This will allow residents to drop off high volume low toxicity wastes such as oil and water based paints, gas bottles, fluorescent globes and tubes, household batteries, vehicle batteries, motor and cooking oil, free of charge all year round.

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- As part of our commitment to reducing our greenhouse gas emissions, the landfill gas extraction project has commenced and is to be fully operational in this financial year. This project is to provide for extraction and destruction of methane gas from Council's landfills at Surf Beach and Brou, currently identified as the area where we can make the biggest reduction in emissions.

Sustainability

- The Mayor represented council and the interest of the community in the federal inquiry into flying fox management. Council is also participating in national research programs to help us better understand flying foxes and how to manage the issues in urban environments.
- Council won the Keep Australia Beautiful Clean Beaches Environmental Education Award, which recognises outstanding achievement in raising awareness in environmental sustainability.

Strategic planning

- The Batemans Bay Mackay Park Precinct redevelopment project got underway with the establishment of a Sunset Committee and Council resolving to proceed with preparation of a concept plan and business case.
- The development of a shared community vision for Batemans Bay commenced with the first consultation session including a range of business and community group representatives taking place.
- The Coastal Zone Management Plan was finalised for the Wharf Road, North Batemans Bay coastal erosion hotspot. The key recommendation being for the state to purchase land above mean high water to restore public access to the beach and foreshore.
- Council's heritage program provided advice on 16 development applications and 10 other heritage matters.
- Our Local Heritage Places grant program has helped to complete the repairs to cladding and windows and re-painting of Open Sanctuary Church, Central Tilba, re-roofing of Juella, Mogo and repairs to the front deck and balustrade of the former Kildare Hotel, Moruya.

Completed capital projects for the reporting period include:

While many of the projects listed in the Operational Plan 2016-17 are in progress or near completion this report details only those that were complete as at 31 December 2016.

- Deep Creek Dam drainage works.
- Water refill stations: Clyde Street Batemans Bay, George Bass Drive Malua Bay, Coronation Drive Broulee, Tuross Boulevard Tuross Head and Centenary Drive Narooma.

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Productive communities

A productive community provides people with positive choices for investment, employment and study. An innovative, diverse and resilient economy requires collaboration between local people and other levels of government to ensure that funding for infrastructure and economic development exists to support market strength and diversity.

Council's business development and events, tourism, transport and development services contribute to productive community outcomes as outlined in the Community Strategic Plan – One Community.

Highlights for the reporting period include:

Business development and events

- \$7.1 million of NSW and Australian Government funding provided for Moruya Airport. The funding will be used to build the infrastructure needed to open up 14.7 hectares of employment land and facilitate future passenger growth at the airport.
- Support provided to local Chambers of Commerce with Council playing a leading role in the establishment of the Mogo Business Chamber and successfully coordinating the inaugural Eurobodalla Business Awards bringing together all five Chambers.
- Our events team worked with the Batemans Bay Chamber of Commerce to attract \$20,000 funding from the NSW Government's Incubator Event Fund to establish a new event. Support for grant applications was also provided for the Narooma Oyster Festival, Granite Town, and the River of Art.

Tourism

- Visitor Centres at Batemans Bay and Narooma have achieved Level 2 accreditation under the Destination NSW Accredited Visitor Information Centre (AVIC) framework.
- Council's spring roll out of the 'Unspoilt South Coast' cooperative marketing campaign was delivered through a range of digital and social media platforms to key markets in Sydney, Canberra and regional NSW.
- Council's international partnership activities with Visit Canberra included a Singapore and Malaysia Sales Mission to promote the Capital Coast and Alpine Touring Route.

Transport

- IPWEA NSW 2016 State Awards - Highly Commended – Local Government Excellence in Road Safety – collaborative effort with Yass Valley and neighbouring Councils for our campaign 'You Don't Have to be Speeding to be Driving Too Fast'.
- Advocacy to Government on funding for upgrades to the Princes Highway and Kings Highway
- Maintenance grading program on target

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- Maintenance programs undertaken in accord with budget, including extensive reseal preparation works
- South Batemans Bay Link Road stage two commenced
- Major bridge works progressing including Mogendoura bridge (complete), Cadgee bridge (underway), Tyrone bridge (contract awarded), Crapps bridge (complete), Runnyford bridge (procurement underway), Silo Farm bridge (procurement underway).
- Reseal, gravel resheet, pavement rehabilitation, urban and rural roads reconstruction programs on target
- Stormwater completed Vulcan Street Moruya (renewal), Tilba Street Narooma (renewal), and new works undertaken at Narooma flat, Island View Road Tuross Head (in progress) along with CCTV work on select stormwater lines.

Development services

- 400 development applications processed with an average processing time of 27 days and a total value of \$55.6 million
- 33 subdivision certificates processed resulting in the release of 82 new lots
- 158 construction certificates processed and 2,063 inspections carried out.

Completed capital projects for the reporting period include:

While many of the projects listed in the Operational Plan 2016-17 are in progress or near completion this report details only those that were complete as at 31 December 2016.

- Batemans Bay Bowling Club acquisition
- Batemans Bay Beach Resort website
- Mogendoura bridge
- Moruya pool car park
- Mogo car park
- Congo Road South
- Beach Road Junction, Hanging Rock

Collaborative communities

A collaborative community is informed, has responsible decision making and a sound financial position supported by capable leaders, functional assets and efficient operations to meet the changing needs of the community.

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Council's executive services, communication, and integrated planning services contribute to collaborative community outcomes as outlined in the Community Strategic Plan – One Community.

Highlights for the reporting period include:

Executive services

- Council partnered with Bega Valley Shire Council to deliver joint Councillor Induction training
- Councillors attended the following conferences: Local Government NSW Annual Conference, NSW Coastal Conference, Country Mayors Association
- All agendas were available Wednesday prior to meeting. Minutes published within one week of meeting. 8 Council meetings in total.

Communication

- Council News monthly email newsletter achieved an average open rate of 41%
- Efforts to increase social media following were successful with 386 new Facebook followers, and 72 new Twitter followers
- Council's website is now mobile friendly and providing an improved user experience.

Integrated planning services

- Annual Report 2015-16 prepared and reported to November Council meeting
- Citizens Jury project preparation undertaken. Meetings held and final report delivered. Internal engagement commenced.
- Community Strategic Plan review engagement strategy adopted and implementation commenced in December with the #myeurobodalla campaign and community survey.

Legal

This review is based on the Quarterly Budget Review Statement Guidelines issued December 2010, pursuant to the provisions of the *Local Government Act 1993* relating to integrated planning.

Policy

The accounting policies being used are based on those detailed in the financial statements for the year ended 30 June 2016.

"Variations" in the Fund Flow Statement are changes in the funding requirements where "funds" are net current assets (working capital) excluding both internal and externally restricted funds.

Financial

Interest rates continue to remain at low levels. The Reserve Bank statements suggest that the rate will continue to be on hold.

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CONCLUSION

There are no material concerns at this quarterly review about meeting budget targets for 2016-17.

The following statement is made in accordance with Clause 203(2) of the Local Government (General) Regulation 205:

As the Responsible Accounting Officer, it is my opinion that the December Quarterly Budget Review for Eurobodalla Shire Council indicates that Council's projected financial position as at 30 June 2017 will be satisfactory, having regard to the projected estimates of income and expenditure for the 2016/17 financial year.

CAR17/002 BATEMANS BAY TENNIS CENTRE LEASE TENDER

E12.6637

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

Attachments: 1. Confidential - Batemns Bay Tennis Centre Lease Tender Confidential Attachment 2
2. Confidential - Batemans Bay Tennis Centre Lease Tender Confidential Attachment

Focus Area: Liveable Communities

Delivery Program Link: L1.3 Implement recreation and community development initiatives

Operational Plan Link: L1.3.8 Support capacity building of community and recreation groups

EXECUTIVE SUMMARY

This report outlines the evaluation of offers submitted in response to Request for Tender No. 2017/CAR030 for the lease of the Batemans Bay Tennis Centre and provides a recommendation for the preferred outcome.

In response to requests from the Batemans Bay Tennis Club (BBTC), Council staff initiated a review of the management of the tennis courts at the Hanging Rock precinct. Both the tennis club and the coach were in holdover periods for their five year licences. These licences related to the BBTC's management of the Club house, and provision of coaching services and operation of the pro-shop.

An internal Council working group was formed and completed an extensive review of tennis centre management models, consulted with Tennis NSW and engaged independent consultants to complete an asset assessment report. Based on this review, and consideration being given to community benefit and transparency of process, the working group recommended that public tenders be called for a professional Centre Manager, with key service requirements be built into a lease.

At the Council meeting on 26 April 2016, Council approved a public tender process for the lease of the Batemans Bay tennis centre be undertaken, thereby ensuring that all interested parties and organisations be afforded the opportunity to apply.

RFT No. 2017/CAR030 was advertised on 16 November 2016 with a closing date of 21 December 2016. Offers were received from four tenderers (refer Confidential Attachment) and assessed in accordance with the Tender Evaluation Plan.

RECOMMENDATION

THAT:

1. Council reject all tenders in accordance with Local Government (General) Regulation REG178(3), for the reasons outlined in the confidential attachment.
2. Council investigate alternate management options for the Batemans Bay tennis facility.

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BACKGROUND

The decision to investigate options for the management of the Batemans Bay tennis facility initially came about from a request from BBTC for Council to review the management arrangements, with a view to the BBTC leasing the entire facility from the Eurobodalla Shire Council. At the time, the Batemans Bay Tennis Club was coming to the end of a 5 year licence agreement, for the use of the facility club rooms.

A separate five year licence agreement was held by a local coach, to provide coaching services, and to manage the pro-shop at the Batemans Bay tennis facility. The coach was also interested to determine a more secure arrangement over his coaching tenure.

Both licence agreements expired in June 2015, and are currently in an extended carry-over period.

The Batemans Bay Tennis Courts Management Committee was effective until 2015, when it was dissolved for the following reasons:

- Council was rationalising the number of 355 Management Committees; and
- there was no clear definition between the BBTC and the Batemans Bay Tennis Courts Management Committee, and as such, a significant conflict of interest existed between the two.

The expiration of the existing licences for the Club House, coaching rights and pro-shop, as well as the dissolution of the management committee, provided an opportunity to review management arrangements, with the overall aim of maximising community benefit, good governance and return on investment for residents.

An internal cross-council working group formed to review the various management models, to determine which option would best suit the needs of the community and the sporting precinct. As part of this process the following occurred:

- Multiple meetings and discussions with the BBTC, where council staff discussed different management models and also discussed with the BBTC the possibility of a tender for the management and lease of the Precinct from the wider community;
- Meetings and discussions with Tennis NSW regarding the various management models in place across the State, including their recommended management model;
- Conversations with multiple tennis clubs, centre operators and other Councils with similar sized tennis facilities and demographics;
- Preparation of a Management Model Report for the Batemans Bay facility, by Profit Primers (PP), an independent consultancy firm that works with clubs, centre operators, coaches and Councils to develop efficient and profitable tennis centres;
- Preparation of an Asset Management Report by PP, outlining asset maintenance and renewal costs for the next 15 years;
- Meetings with the Batemans Bay tennis centre coach; and

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- Multiple working group meetings to discuss the positives and negatives of the various models, and the impact each model might have on the club, coach, community, and Council.

Profit Primers report

The Profit Primers (PP) report rated and assessed four management models against the current Batemans Bay facility, club and community demographics to assist Council in determining the approach to pursue the lease arrangement.

At the Council meeting on 26 April 2016 a report was presented to Council recommending Council call for public tenders for a professional Centre Manager of the centre with key service requirements built into the conditions of the lease. Based on the review undertaken by staff, and due consideration being given to community benefit, transparency of process and ongoing community involvement, it was considered that a public tender process would ensure all interested parties and organisations were afforded the opportunity to apply, including the current licence holders and any other parties.

Council resolved at the meeting to tender for the leasing of the Batemans Bay tennis facility by one lessee with a further report be submitted to Council to determine the successful lessee.

The working party, determined the lease conditions and considered the return required from the lease.

The return amount was determined by considering current benchmarking data provided by Tennis NSW and ensuring that the prepared asset management plan could be delivered over the lease period at no cost to Council and the community.

RFT No. 2017/CAR030 was advertised on 16 November 2016 with a closing date of 21 December 2016. Offers were received from four tenderers and assessed in accordance with the Tender Evaluation Plan.

A summary of the evaluation including each tenderer's scoring against the evaluation criteria and pricing is detailed in the Confidential Attachment.

CONSIDERATIONS

Legal

Request for Tender (RFT) No. 2017/CAR030 was advertised in accordance with Local Government (General) Regulation 2005 REG 167 and Local Government Act 1993.

The tender was advertising on Council's noticeboard page in two local newspapers, in the Sydney Morning Herald and at Council's Tenderlink web portal (www.tenderlink.com/eurobodalla).

Upon release of the RFT a Tender Evaluation Plan (TEP) was distributed amongst the Tender Evaluation Board (TEB). Declarations of Confidentiality and Interest Forms were completed and signed by the TEB.

The recommendation of the briefing will be for Council to reject all tenders in accordance with Local Government (General) Regulation REG 178(3), for the reasons outlined in the confidential attachment.

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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.

Social Impact

BBTC and committee members have played a significant role in the ongoing maintenance of the courts and club rooms. It is important their contribution be acknowledged into the future and that any future management arrangements not impact negatively on the ongoing existence of the Club. The coaching services have been determined via license agreement with Council at the courts for the past 12 years.

Economic Development Employment Potential

The leasing of the courts was seen to provide added incentive to prospective leases to develop a business opportunity, with the community to benefit from professionally run tennis courts in Batemans Bay. To maximise benefit of the courts and lease, it was envisaged that the lessee would need to promote and support increased tennis tournaments/events in Batemans Bay which would potentially provide more visitor numbers for the events and greater community participation.

Financial

The working party has previously determined that the proposed lease should result in zero cost to Council and the community. It is therefore considered prudent to reject all tenders based on annual lease fees offered, as value for money and a neutral financial impact would not be achieved, as outlined in the confidential attachment.

As a result, staff will investigate alternative options that embrace technology, address the need to receive better return on investment for the community asset, access to better data on utilisation, options to improve participation in tennis and sustain court and maintenance standards into the future.

Community Engagement

We advertised the tender at Council's Tenderlink web portal, advertised on Council's Noticeboard page in two local newspapers, advertised in The Sydney Morning Herald and Council's website.

Multiple meetings were held with the BBTC and the tennis coach prior to and during the management review process.

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 tender has been assessed through an extensive evaluation. Given that the tender process has tested the market and we have not been able to achieve

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value for money, all tenders should be rejected. Staff will then need to implement processes to gather more reliable usage data and introduce improved fee collection methods to achieve clarity on participation, continue to fulfil the asset management strategy and meet community expectations.

16. 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.

Nil

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.