



# **AGENDA**

**Ordinary Meeting of Council**

**10 May 2022**



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

**ON TUESDAY 10 MAY 2022**

**COMMENCING AT 11.00AM**

**AGENDA**

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

- |   |                        |
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| <p><b>1. WELCOME</b></p> <p><b>2. ACKNOWLEDGEMENT OF COUNTRY</b></p> <p><b>3. APOLOGIES</b><br/>Nil</p> <p><b>4. CONFIRMATION OF MINUTES OF PREVIOUS MEETING</b><br/>4.1 Ordinary Meeting held on 26 April 2022</p> <p><b>5. DECLARATIONS OF INTEREST OF MATTERS ON THE AGENDA</b><br/>(Declarations also to be made prior to discussions on each item)</p> <p><b>6. MAYORAL REPORTS</b><br/>Nil</p> <p><b>7. NOTICES OF MOTION</b><br/>NOM22/008 Natural Disaster Infrastructure Recovery .....3</p> <p><b>8. QUESTIONS ON NOTICE FROM COUNCILLORS</b><br/>Nil</p> <p><b>9. PETITIONS</b><br/>Nil</p> <p><b>10. GENERAL MANAGER'S REPORTS</b><br/>GMR22/053 Draft Code of Meeting Practice - For Exhibition .....7</p> | <p><b>Page No.</b></p> |
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**DR CATHERINE DALE  
GENERAL MANAGER**

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**NOM22/008      NATURAL DISASTER INFRASTRUCTURE RECOVERY**

S012-T00024

Responsible Officer: Anthony Mayne - Councillor

Attachments:        Nil

Councillor Anthony Mayne has given notice that at the Ordinary Meeting of Council on Tuesday 10 May 2022, he will move the following motion.

**MOTION**

THAT Council:

1. formally recognise and thank Council staff involved in the ongoing response and recovery from natural disasters including the 2019-20 Black Summer Bushfires and subsequent nine declared natural disaster flood events.
2. continue to incorporate resilience to natural disasters into its own planning and delivery.
3. continue advocacy to the NSW and Australian Governments to prioritise and fund improved infrastructure resilience in the following areas:
  - (a) power supply, asset protection zone, access and telecommunications infrastructure on Mt Wandera telecommunications site
  - (b) power supply to critical infrastructure sites (telecommunications including phone, TV, radio and Government radio networks), major water supply and sewerage scheme infrastructure and vulnerable communities.
  - (c) telecommunications (including increased coverage)
  - (d) the Princes and Kings Highways
  - (e) by providing a dedicated grant program for Local Government to improve resilience of infrastructure utilised for disaster management
  - (f) by modifying the Natural Disaster Relief and Recovery Arrangements to allow greater funding, increased flexibility, and faster, easier approvals to facilitate building back better.

**BACKGROUND**

The Black Summer bushfires and subsequent nine declared natural disasters has had a significant impact on our community and our infrastructure.

The organisational response to the Black Summer bushfires is well summarized in the report Disaster Recovery Update at the Ordinary meeting of Council held on 27 April 2021 ([Agenda of Ordinary Meeting - 27 00 2021 \(nsw.gov.au\)](#)) and further information can be found in the Question on Notice Report on the Bushfire Response at the Ordinary Meeting of Council held on 13 July 2021 ([Agenda of Ordinary Meeting - 13 00 2021 \(nsw.gov.au\)](#)).

The repeated natural disaster floods have required immediate response from Council teams to ensure basic access is restored with the removal of trees, debris and landslide materials, rectification of scour as well as clearing flooded roads and bridges. Staff have responded to the inevitable mass potholes that eventuate as a result of more than two years of continuous rainfall.

**NOM22/008 NATURAL DISASTER INFRASTRUCTURE RECOVERY**

**S012-T00024**

Council staff have also repeatedly delivered high levels of service during periods of wet weather and associated power losses to keep our essential water and sewer services available to our community and assisted community members through our emergency operations centre arrangements with accommodation and other immediate needs.

Staff have then set about the task of recovering Council's community infrastructure and services, which has been extremely challenging with the repeated flood disasters and working in a COVID-19 restricted environment. It is now estimated the cost of this recovery will be between \$65-70 million of work spread across more than 2,500 damage sites. Thankfully, the majority of this cost will be funded by the Australian and NSW Governments under the Natural Disaster Relief and Recovery Arrangements (NDRRA) and Council is grateful for that support.

The enormity of this challenge is perhaps best summed up by the title of the keynote presentation recently given by Director Infrastructure Services Warren Sharpe OAM to the IPWEA NSW ACT State conference at Parliament Theatre in Canberra in March 2022, *'rising out of the ashes with a snorkel and a face mask'*.

In addition, Council staff have sought to bring about significant positive change in the resilience of Council owned and non-Council owned infrastructure which is so critical to our community wellbeing, vastly reducing the level of impact on our community, and improving the safety for first responders and those involved in early recovery activity following natural disasters.

Some of the successes include:

- Integration of resilience into the Northern Area Transport Network Plan along with livability, growth, capacity and active transport options ([Transport-Network-Plan-Northern-Area-Eurobodalla.pdf](https://www.esc.nsw.gov.au/data/assets/pdf_file/0011/207110/Transport-Network-Plan-Northern-Area-Eurobodalla.pdf) ([nsw.gov.au](https://www.esc.nsw.gov.au/data/assets/pdf_file/0011/207110/Transport-Network-Plan-Northern-Area-Eurobodalla.pdf)))
- Securing grant funding for the replacement of 18 fire and flood affected timber bridges and one other timber bridge with more resilient concrete structures with higher load carrying capacity (17 replacements are complete with two in progress)
- Securing an additional \$7.1 million in grant funding for the replacement of a further eight timber bridges with concrete bridges with a higher load carrying capacity and reduced susceptibility to flooding. When built, one of these bridges (Silo Farm) would have saved over 100,000 litres of milk being lost in just one of the recent flood events
- Securing over \$3 million in grant funding and building a new more resilient alternate road around the landslide at the 22km mark on Araluen Road. This new road required more than 80,000tonnes of earthworks in steep mountainous terrain during a period when more than 1800mm of rainfall was experienced including two declared natural disaster floods
- Implementing solutions that offer a more resilient outcome such as those on Araluen Road at the 11km, 14km, 18km, 19km, 24km and 45km marks with the re-use of materials to bring about other secondary road safety benefits
- Securing funds to match NDRRA funding to upgrade the culverts in Church Street Mogo to improve flood resilience and accessibility for residents

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- Securing funding and developing solutions to multiple landslides and effectively managing the risk to the community and workers
- Securing grant funding for resilience works on Belowra Road, developing solutions that allow re-use of materials to bring about resilience and road safety improvements at multiple locations
- Securing \$76.812 million in Australian and NSW Government funding to build the 3000ML Eurobodalla Dam in the south of the Shire to provide water security and resilience taking account of predicted impacts of climate change
- Incorporation of an emergency standby generator (with auto changeover) at the new Bodalla sewage treatment plant, as part of the Tuross sewage treatment plant upgrade and into the current major upgrade of the Batemans Bay sewage treatment plant upgrade
- Establishing a pathway to improved resilience of our critical water and sewerage infrastructure in conjunction with major upgrades including:
  - o Tomakin sewage treatment plant (2024), Narooma STP (2025) and Moruya STP (2025)
  - o Emergency standby generators with auto changeover as part of future upgrades at Deep Creek Dam water pumping station (2023), Northern Water Treatment Plant (2023) and Surf Beach booster pumping station (2023)
  - o Incorporation of emergency standby generators with auto changeover as part of the future Southern Water Treatment Plant at the new dam (in approximately 2028)
- Securing \$15 million in NSW Government funding for a new regional emergency services precinct and multi-agency emergency operations centre in Moruya and \$200,000 under the bushfire funding program for the site selection
- Securing \$628,050 in grant funds under the Australian Government's Black Summer Bushfire Recovery program for a new collocated SES and RFS station at Surf Beach
- Gaining agreement from and supporting Telstra Australia to increase power back-up at telecommunications towers and exchange sites across the south coast
- Leading the establishment of the Mt Wandera telecommunications resilience working group to develop an agreed plan to improve resilience of this critical infrastructure site
- Securing co-funding from the Australian Government and the Minderoo Foundation for the Central Tilba Heritage Village Bushfire Resilience Plan (working with Tilba District Chamber of Commerce, RFS, NPWS and Minderoo)
- Continuing advocacy for more resilience for power, telecommunications, highways, local roads, water and sewer, food and fuel retail supply and for improved resilience for aged care facilities.
- Securing \$902K under the Australian Government's Black Summer Bushfire Recovery program to fully fund the replacement of canteen and toilets and relocation of the heritage recognised shed/secretary's office at Moruya Showground. These upgrades will improve the resilience of the facility when the Showground and associated infrastructure are next required as an evacuation centre.

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- In regard to community support the following program have been implemented:
  - o From Jan 2020 to March 2022, over 3500 attendees attended over 60 community-led recovery events delivered in association with service agencies
  - o Assisted with the COVID response in partnership with Resilience NSW, Katungul, NSW Health, Australian Red Cross and other charities
  - o Over 35 service providers continue to attend monthly Eurobodalla Health & Wellbeing sub-committee meetings
  - o The Volunteers for Bushfire Recovery program established with funding from Coordinaire SE NSW Primary Health Network. This social program is coordinated by Council and aims to reduce the social isolation of vulnerable bushfire impacted residents by linking them with trained volunteers
  - o Advocacy and support for charitable organisations like Blazeaid, People Helping People, Connected Communities etc to assist residents with residual needs
  - o The Eurobodalla Bushfire Recovery Support Service, jointly funded by the Australian and NSW governments, provides individual case management services for bushfire impacted residents. The service opened in August 2020 for an initial 12-month period at its height had over 600 clients registered. Following the natural disaster declared flood in the Eurobodalla LGA on 10 December 2021 the service was also expanded to aid residents affected - mostly in Mogo.
  - o Survey of 90 Bushfire Recovery Support Service clients conducted in December 2021. Results provide that the most useful service by far was having a case manager providing tailored personal support. Second most valuable assistance provided by the services case managers to assist with grants and financial assistance from the main charities as well as secondary clean-up. The Recovery Service is due to close on 30 June 2022 and is in the final stages of exiting the remaining 150 clients
  - o The Community Recovery Officer position is funded by Resilience NSW and works in partnership with the Eurobodalla Bushfire Recovery Support Service, National Resilience & Recovery Agency and Service NSW and other service providers to identify opportunities to support the community in the recovery phase. This position was initially funded for a 12-month period and was then extended by a further 12 months. The contract for the Community Recovery Officer is due to finish at the end of August 2022.



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**GMR22/053 DRAFT CODE OF MEETING PRACTICE - FOR EXHIBITION**

**S004-T00060,  
S0012-T00025**

Responsible Officer: Dr Catherine Dale - General Manager

Attachments: 1. Under Separate Cover - draft Code of Meeting Practice  
2. Under Separate Cover - Survey results

Outcome: 9 Innovative and Proactive Leadership

Focus Area: 9.1 Provide strong leadership and work in partnership to strategically plan for the future and progress towards the community vision

Delivery Program Link: 9.1.2 Implement effective governance

Operational Plan Link: 9.1.2.4 Review Council policies

### **EXECUTIVE SUMMARY**

The purpose of this report is to present the draft Code of Meeting Practice for public exhibition for a period of 42 days.

Councils must adopt a code of meeting practice that incorporates the mandatory provisions of the Model Meeting Code within 12 months of the local government elections. A council's adopted meeting code must not contain provisions that are inconsistent with the mandatory provisions. The adopted meeting code may also incorporate the non-mandatory provisions of the Model Meeting Code and any other supplementary provisions adopted by the council.

Following extensive consultation, the Office of Local Government (OLG) published a new *Model Code of Meeting Practice for Local Councils in NSW*. The new Model Meeting Code contains provisions that allow councils to permit individual councillors to attend meetings by audio-visual link and to hold meetings by audio-visual link in the event of natural disasters or public health emergencies. The provisions governing attendance at meetings by audio-visual link are non-mandatory.

A survey was developed to ascertain from the community their views about participation in Council meetings and in particular, when meetings should be held, and if Public Forum and Public Access should be live-streamed. The results of the survey are included for Council consideration to be incorporated in the draft Code of Meeting Practice.

The draft Code of Meeting Practice has a number of elements for consideration:

- mandatory provisions (indicated in black font) these provisions are mandatory and cannot be lessened or contradicted.
- non-mandatory provisions (indicated in red font from 2021 Model and purple font from 2018 Model) covering areas of meeting practice that are common to most councils but where there may be a need for some variation in practice between councils based on local circumstances. The non-mandatory provisions also operate to set a benchmark based on what OLG sees as best practice for the relevant area of practice. It should be noted that the new red parts are predominately to allow Council's to allow Councillors to attend the meetings via audio-visual link.

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- supplementary provisions (indicated in blue font) are provisions and Practice Notes that have been adopted in Council's previous Codes of Meeting Practice and are intended to enhance the understanding of relevant provisions.
- numerical changes to Council's 2019 Code of Meeting Practice (highlighted in yellow) as a result of new clauses.
- changes that will be made from Council's decision, as a result of the recent survey, prior to the document being placed on exhibition (highlighted in green).

Councillors undertook a workshop in early February 2022 and reviewed all non-mandatory provisions as determined by the OLG. Staff collated feedback from this session, reviewed Council's current Code of Meeting Practice against the OLG Model Meeting Code to ensure that the practice notes and clauses from its current Code did not contain provisions that are inconsistent with the mandatory provisions of the Model Meeting Code and made grammatical and consequential number changes.

**RECOMMENDATION**

THAT Council determine:

1. The day, time and frequency of Public Access sessions.
2. The day and time of Council meetings
3. The time of Public Forum sessions
4. Whether or not Public Forum sessions are live-streamed
5. Whether or not Public Access sessions are live-streamed
6. Whether or not a written copy of an approved speaker's address for Public Forum is required to be provided by 12.00 noon to Council on the business day prior to the Council meeting
7. Whether or not a written copy of an approved speaker's address for Public Access is required to be provided by 12.00 noon to Council on the business day prior to the Public Access session
8. The period of time allowable for a notice of motion to be submitted to the General Manager to alter or rescind a resolution relating to a development application after the meeting at which the resolution was adopted
9. Council amend the provisions in its draft Code of Meeting Practice in accordance with the above decisions and place it on public exhibition for a period of not less than 42 days.
10. Public submissions be invited on the draft Code of Meeting Practice from 11 May 2022 to 22 June 2022.
11. A further report be presented to Council on 26 July 2022 to consider adoption of the draft Code of Meeting Practice.

**BACKGROUND**

Council's current Code of Meeting Practice was adopted in June 2019. This document was based on the Model Code of Meeting Practice and written to reflect OLG's statement that '*a number of councils' codes of meeting practice appear to lose sight of the fact that the primary*

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*purpose of meetings is to make decisions and contained practices that are not consistent with the efficient conduct of meetings or effective and informed decision-making'. (OLG FAQ attached to Circular 18-45).*

Following extensive consultation, the new Model Code of Meeting Practice for Local Councils in NSW (Model Meeting Code) was finalized in 2021.

The new Model Meeting Code has been published in the Government Gazette and was prescribed under the Local Government (General) Regulation 2021 (the Regulation) in November 2021.

The repeal date for section 237 of the Regulations which exempts councils from the requirement under clause 5.2 of the previous iteration of the Model Meeting Code, for councillors to be personally present at meetings in order to participate in them has been extended to 30 June 2022. This is to allow councils additional time to exhibit and adopt new codes of meeting practice containing provisions allowing attendance by audio-visual link at meetings. If councils have not adopted a new meeting code that allows councillors to attend meetings by audio-visual link, they will not be permitted to do so after that date.

The 2021 version of the Model Meeting Code contains new provisions that allow councils to permit individual councillors to attend meetings by audio-visual link and to hold meetings by audio-visual link in the event of natural disasters or public health emergencies. The provisions governing attendance at meetings by audiovisual link are non-mandatory. Councils can choose not to adopt them or to adapt them to meet their own needs.

An amendment has also been made to the Model Meeting Code implementing recommendation 6 in ICAC's report in relation to its investigation of the former Canterbury City Council (Operation Dasha). ICAC recommended that the Model Meeting Code be amended to require that council business papers include a reminder to councillors of their oath or affirmation of office, and their conflict of interest disclosure obligations.

## **CONSIDERATIONS**

During the exhibition period, all mandatory provisions will be listed in black in the draft Code of Meeting Practice. These provisions are mandatory and cannot be lessened or contradicted.

In the draft Code, the red text and purple text are the non-mandatory provisions which Councils could consider including in its draft Code. OLG states that *'the non-mandatory provisions cover areas of practice that are common to most councils but where there may be a need for some variation in practice between councils. These are designed to set a benchmark for what OLG considers to be best practice for these areas of practice.'* (OLG FAQ attached to Circular 18-45). The red text are non-mandatory provisions and include allowing attendance of Councillors by audio-visual link at meetings and other considerations.

Given that the non-mandatory provisions are OLG best practice benchmarks, careful consideration on the removal of, or alteration to such provisions should occur.

The supplementary provisions, indicated in blue text, are provisions and Practice Notes that have been adopted in Council's previous Codes of Meeting Practice and are intended to enhance the understanding of relevant provisions. It should be noted that some of these

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provisions may quote the Local Government Act and therefore cannot be lessened or contradicted.

The text highlighted in yellow are the numerical changes to Council’s 2019 Code of Meeting Practice. This is highlighted to assist community members understand new clauses.

Finally, the green highlighted text is for Council’s consideration and will be amended, depending on the decisions prior to the document being placed on exhibition.

The proposed Code includes a number of changes and considerations to the Council’s current Code. These recommended changes reflect results from the survey undertaken and may not necessarily reflect OLG’s benchmarks for best practice and provisions.

**Survey Responses:**

During the survey period, 312 surveys were completed and 59 written responses were received:

<b>Question</b>	<b>Survey response</b>	<b>Staff response</b>
Council Meetings have been held on Tuesday mornings for the past seven years. From the options below, what do you think is the best time for Council Meetings?	<p><b>Tuesday morning:</b> 204 (65.4%)</p> <p><b>Tuesday afternoon:</b> 82 (26.3%)</p> <p><b>Friday morning:</b> 6 (1.9%)</p> <p><b>Other:</b> 20 (6.4%)</p>	<p>Councillors will need to consider what time they wish to host Council meetings.</p> <p>Clause 2.2 (2) and (3), 7.4, 17.1, 17.2 and 17.3 will need to be amended.</p> <p>Council has, for a number of years, held its Council meetings on Tuesday morning. The survey results reflect Tuesday morning as the preferred time. Council would need to consider the most appropriate start time ensuring that there is enough time to undertake Pre-Meeting briefings, Public Forum and potentially Public Access before the Council meeting.</p>
Public Forum is a session held in the Council Chamber before each Council Meeting, where community members can speak to councillors about items on that day’s meeting agenda. This session is not currently livestreamed and recorded for future viewing on Council’s website. This means	<p><b>Yes:</b> 133 (42.4%)</p> <p><b>No:</b> 153 (48.7%)</p> <p><b>Optional for presenter:</b> 28 (8.9%)</p>	<p>Councillors would need to consider if they choose to live stream public forum. The results indicate that not livestreaming public forum is slightly favoured during the engagement process.</p> <p>Should Councillors choose to live stream public forum, clause 3.13 will need to be changed.</p> <p>The OLG has stated: <i>‘Public forum should not be held as part of a Council or committee meeting. Council or committee meetings should be reserved for decision making by</i></p>

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<p>only those present in the Council Chamber can watch Public Forum. Do you think Public Forum should be livestreamed and recorded?</p>		<p><i>Council.'</i></p> <p>Further, <i>'Public forum should operate as an input into Council decision –making at meetings.'</i></p> <p>This principle was supported as reflected in the current Code, with public forum being held prior to the Council meeting and not webcast.</p> <p>OLG has made it clear that public forum is one component of community engagement. OLG has stated: <i>'Public forums at council meetings are not an appropriate substitute for effective community consultation and councils need to be mindful that the views expressed at public forums will not necessarily be representative of the views of other affected parties or the broader community.'</i></p> <p>It should be noted that webcasting of Public Forum not only increases Council's potential liability, but could also cause significant or offence should a speaker reveal an issue of privacy or state derogatory comments about a person which is based on incorrect, malicious or misunderstood information.</p> <p>In addition, it is acknowledged that many people find public presentations to be stressful enough, without the additional pressure of being webcast, and this presentation being able to be accessed for seven years.</p> <p>Further, webcasting of public forum is not included in OLG best practice guidelines or recommended as an option.</p>
<p>Public Access is held once per month on a Tuesday morning. One hour is allocated for community members to speak to Councillors about any Council-related topic for seven</p>	<p><b>Yes:</b> 126 (40.3%)</p> <p><b>No:</b> 153 (48.9%)</p> <p><b>Optional for presenter:</b></p>	<p>Councillors would need to consider if they choose to live stream public access. The survey results indicate that not livestreaming public access is slightly favoured during the engagement process.</p> <p>Should Councillors choose to live stream public access, clause 3.13 will need to be</p>

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<p>minutes each. This session is not currently livestreamed and recorded for future viewing on Council’s website. Do you think Public Access should be livestreamed and recorded?</p>	<p>34 (10.9%)</p>	<p>changed.</p> <p>With regard to Public Forum, the OLG has stated: <i>‘Public forum should not be held as part of a Council or committee meeting. Council or committee meetings should be reserved for decision making by Council.’</i></p> <p>Further, <i>‘Public forum should operate as an input into Council decision –making at meetings.’</i></p> <p>This principle was supported for Public Access as reflected in the current Code, with public access being held on a different day to Council meetings and not webcast.</p> <p>It should be noted that webcasting of Public Access not only increases Council’s potential liability, but could also cause significant or offence should a speaker reveal an issue of privacy or state derogatory comments about a person which is based on incorrect, malicious or misunderstood information.</p> <p>In addition, it is acknowledged that many people find public presentations to be stressful enough, without the additional pressure of being livestreamed.</p> <p>Further, public access is not included in OLG best practice guidelines or recommended as an option.</p>
<p>Public Access is currently held once per month on a different day to Council Meetings. Do you think it should be held fortnightly on the same day as Council Meeting and Public Forum?</p>	<p><b>Yes:</b> 261 (84.5%)</p> <p><b>No:</b> 34 (11.0%)</p> <p><b>Something different:</b> 14 (4.5%)</p>	<p>Council will need to consider whether Public Access would be held on the same day as Public Forum and Council meetings. Survey responses indicate that including it on the same day as Public Forum and Council meeting is strongly supported.</p> <p>Should Councillors choose to change the day of public access, clause 3.29 will need to be changed. This change would also affect the timings of public forum and council meetings. Councillors would potentially need to consider timing as follows:</p> <p>Pre-meeting briefing (45 mins)</p>

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		<p>Public Access (60 minutes)</p> <p>Public Forum (60 minutes with 15 minute extension).</p> <p>Council meeting (up to 4 hours).</p> <p>Clauses 2.2 (3) and 3.32 would need to be amended and clauses 3.30 and 3.31 deleted.</p> <p>Changing the date of Public Access to coincide with Public Forum and Council meeting will streamline the process for registrations and technical support.</p>
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**Key Themes from survey responses:**

The following is a table of the key questions or themes from the survey submissions and staff responses to those themes. It should be noted that the draft document has been updated and the numbers submitted through the survey may not match up.

Question/Theme	Staff response
2.1 Council is required to meet at least 10 times each year, each time in a different month. ***CHANGE 10 to 12 ...as it is it's possible to go 3 months without a Council meeting*	<p>Under section 365 of the Act, councils are required to meet at least ten (10) times each year, each time in a different month unless the Minister for Local Government has approved a reduction in the number of times that a council is required to meet each year under section 365A.</p> <p>The mandatory clause is 2.2 'Ordinary meetings of the council will be held on the following occasions'. Council will therefore adopt a schedule of meetings for the forthcoming year.</p>
2.2 (5) doesn't belong in that list	Agree – deleted the words 'Extraordinary meetings of Council will be held as and when required'.
2.4 delete "Where practicable" and combine with 2.15	Clause 2.4 deals with Extraordinary Council meetings and 2.15 deals with Extraordinary Council meetings in an Emergency. Deleting 'where practicable' reduces the flexibility to call a meeting in 'extraordinary' circumstances.
2.5 how much notice?	This is outlined in clause 2.8.
2.20 do you really need to say that? If the GM didn't do that then they're not doing their job	It is a non-mandatory provision. This is the current practice.

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<p>2.24 - I get why it's there but it's insufficient as it is There's too much there for any normal human to absorb and anyway I am not sure what you can/will do with any comments.</p>	<p>It is a mandatory provision. This provisions cannot be lessened or contradicted.</p>
<p>Include a protocol regarding speaking on behalf of an organisation</p>	<p>Additional clause 3.28 added: When a person is speaking on behalf of a person or group, Councillors are not permitted to ask questions, unless that speaker is a formal representative of the group.</p>
<p>Welcome to Country enshrined in meeting practice officially</p>	<p>Acknowledgment of country is underaken at the beginning of every meeting as per clause 7.1. Additional statement on page 4: Eurobodalla Shire Council recognises Aboriginal people as the original inhabitants and custodians of all the land and water in the Eurobodalla and respect their enduring culture and spiritual connection to it.</p>
<p>Staff to not use devices whilst speakers are presenting</p>	<p>Public Forum is held for the purposes of hearing oral submissions from members of the public on items of business to be considered at the meeting. The Council is the determining body.</p>
<p>Confidential sections of meetings need reform. Closing meetings should be the exception. Commercial in confidence policy needs to be explicit.</p>	<p>Council's processes with regard to confidential session are undertaken in accordance with the Code of Meeting Practice. Clauses 13.1 - 13.21 are mandatory provisions with the exception of timing and speaker numbers in clauses 13.11, 13.13, 13.14 and 13.20. The mandatory provisions cannot be lessened or contradicted.</p>
<p>The general manager should be required to give a short public briefing on progress on major projects/issues at end of meeting</p>	<p>Part 8 - Consideration of business at a Council meeting is a mandatory clause. Clause 8.1 states: 'The Council must not consider business at a meeting of Council: a) unless a Councilor has given notice of the business, as required by clause 2.18, and b) unless notice of the business has been sent to the Councillors in accordance with clause 2.9 in case of an Ordinary meeting or clause 2.15 in the case of an extraordinary meeting called in an emergency.'</p>



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	<p>A Councillor could put a Question on Notice to the General Manager on major projects or issues as per clause 2.18.</p>
<p>Redesign, reduce, condense, and simplify the Code of Meeting Practice</p>	<p>Council must adopt a Code of Meeting Practice that is based on the Model Code of Meeting Practice as issued by the Office of Local Government. A council's adopted code of meeting practice may also incorporate the non-mandatory provisions of the Model Meeting Code and other supplementary provisions. However, a code of meeting practice adopted by a council must not contain provisions that are inconsistent with the mandatory provisions of this Model Meeting Code.</p>
<p>Presentations: should not have to be provided to council prior to the meeting.</p> <p>This is Clause 3.5 and 3.34</p> <p>There were 21 similar responses</p>	<p>The current Code of Meeting Practice requires presenters send their presentations to Council by 12.00noon on the business day prior to the meeting. Previously presenters were required to provide their presentations at the Council meeting, so this brought that requirement back by less than one business day. These submissions are forwarded to Councillors for their information and consideration prior to the Public Forum session.</p> <p>By receiving the community member's presentation early, it assists Councillors to make decisions based on relevant, quality information as it stated in clause 1.1, Meeting Principles.</p> <p>Sending the submissions the day before assists and provides sufficient time for Councillors to understand and be presented with all views if the process outlined in Clause 3.8 occurs. It also assists identifying who maybe for or against a particular proposal or what a presenter may or may not support of that proposal.</p> <p>There is a requirement for people to send through written response to any plan, strategy or policy that Council has placed on exhibition. It is therefore reasonable to expect presenters to communicate their views to a Councillor in the same manner.</p> <p>Further, it is considered that 30 minutes (the usual time between public forum and the Council meeting) is not always sufficient time to consider all points of view. Receiving submissions the day prior</p>

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	<p>allows for further consideration.</p> <p>Having a written submission enables the staff to respond to issues or questions raised in the presentation.</p>
<p>Agendas: Items to be discussed at each meeting should be published in local media. If the public was aware of what was to be discussed, there would be more public interest and participation.</p>	<p>Council has introduced a practice to send a media alert and publish meeting agenda items on its social media platforms prior to the Council meeting.</p>
<p>Often a query raised by a speaker can often be answered by staff in the way of information without prejudice. In the last couple of Councils this hasn't been allowed to happen. This attitude has contributed to the antagonist/courtroom atmosphere within the chamber.</p>	<p>Public Forum is held for the purposes of hearing oral submissions from members of the public on items of business to be considered at the meeting. The Council is the determining body, not staff. A Councillor can ask a question of a staff member during debate on the item.</p>
<p>Transparency of all activities, advising rate payers of submissions that will affect the community as a whole, more interaction with your ratepayers eg meet and greet from time to time to build up trust. Listening to what your community is saying especially if its of major concern, having consultation sessions for major projects whilst it complies with regulations, it take very little or no notice of that community feedback, I understand constructive feedback is helpful not destructive or negative remarks, Ratepayers should also be subject to this code &amp; behavior. Respect, change, diversify and equality</p>	<p>Council as the elected representatives of the community, must make decisions based on a range of information.</p> <p>Members of the public have a many avenues to raise issues with Councillors.</p> <p>Councillor's email and phone contact details are available on Council's website. Residents and ratepayers may contact individual councillors or a group at any time. Councillors can also meet with residents. Councillors connect with members of the community in many ways through their own networks.</p> <p>Council has also adopted and implemented a comprehensive Community Engagement Framework. Council's Community Engagement Framework guides how projects, strategies or policies both Shire wide and local, engage the community in order to provide feedback from interested parties prior to Council making a decision.</p> <p>Councillors take all views and opinions from the community as part of its Community Engagement Framework. There are many inputs into a Council decision.</p>
<p>2.2 (practice note 2) Where four or more</p>	<p>This is a practice note and enables Council to be</p>

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<p>Councillors indicate their intention to attend a seminar (or the like) which would conflict with a Council meeting, the date of that meeting may be altered A stated reasonable period of notice should be given, the seminar should be relevant to Councils and the date must be altered.</p>	<p>flexible to ensure that Councillors are able to attend sector specific conferences.</p>
<p>2.3 Three councillors should be required to call an extraordinary meeting of Council.</p>	<p>This is a mandatory clause and reflects section 366 of the Local Government Act. This provisions cannot be lessened or contradicted.</p>
<p>2.15 cases of emergency. They are not defined but there are reasonable examples. The GM should discuss it with the Mayor and Deputy Mayor</p>	<p>This is a mandatory clause and reflects section 367 (2) of the Local Government Act. This provisions cannot be lessened or contradicted. It is the responsibility of the General Manager to consult with the Mayor prior to calling a extraordinary meeting.</p>
<p>2.20 and 2.33 If the General Manager considers that a Notice of Motion submitted by a Councillor for consideration at an Ordinary meeting of the Council has legal, strategic, financial or policy implications the GM must prepare a report</p>	<p>These are both non-mandatory provisions provided by the OLG. Non-mandatory provisions are considered best practice by the OLG.</p>
<p>A Councillor is not permitted to ask a question with notice under clause 2.25 that comprises a complaint against the General Manager or a member of staff of the Council, or a question that implies wrongdoing by the General Manager or a member of staff of the Council. The implication is a little too general. How does the councillor raise the issue?</p>	<p>It is a mandatory provision. This provisions cannot be lessened or contradicted.  A Councillor can lodge a Code of Conduct against the general manager.</p>
<p>2.34 Each Councillor may put a maximum of two Questions with Notice to any meeting. This is not very many questions. Why is it so?</p>	<p>This clause is neither mandatory or non-mandatory. It has been included in the previous two Code of Meeting Practices. Questions with Notice could require significant resources by staff to provide responses in the agenda, often within less than 1.5 business days. Limiting the number of questions per Councillor ensures that a possible 18 questions on notice could be submitted for publishing in the agenda.</p>

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<p>2.39 in the opinion of the General Manager, the business is, or the implementation of the business would be, unlawful. The GM must discuss this with the Councillor or whoever has raised it.</p>	<p>It is a mandatory provision. This provision cannot be lessened or contradicted.</p>
<p>2.47 The General Manager must ensure that the agenda for an Extraordinary meeting of the Council deals only with the matters stated in the notice of the meeting. I assume that this does not limit the power of the Council to discuss issues raised which come out of discussion.</p>	<p>It is a mandatory provision. This provisions cannot be lessened or contradicted. It should be noted that clause 2.45 should be read in conjunction with clauses 2.46, 2.48 and 2.49.</p>
<p>2.51 A Motion of dissent cannot be moved against a ruling of the Chairperson under clause 2.48(b) on whether a matter is of great urgency. This appears to take away the rights of the Council</p>	<p>It is a mandatory provision. This provision cannot be lessened or contradicted.</p>
<p>2.55 The Council is to maintain a written record of all conflict of interest declarations I would suggest that the General Manager record all conflict of interest declarations.</p>	<p>It is a non-mandatory provision. This provision is current practice.</p>
<p>Change the speaking time from five minutes to 10 minutes</p>	<p>It is considered that seven minutes is adequate for members of the public to put their case forward. It should be noted as outlined in clause 3.4, that Councillors will have a copy of the presenter's submission on the day prior to the meeting or a presenter may choose to send more details through to Councillors or contact them directly prior to public forum.</p>

**Clause considerations**

The following table notes the clauses (highlighted in green in the draft Code of Meeting Practice) and possible changes that must be determined by Council, prior to the document being placed on exhibition.

Clause	Option/s	Rationale
2.2.2	Remain the same	81.7% of respondents indicate that Tuesday is the preferred day for Council meetings

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<p>2.2.3</p>	<p><b>Potential wording:</b></p> <p>If Public Access and Public Forum are held on the same day, Council meeting to commence at 12.30pm and conclude by 3.30pm, with the potential to extend by one hour to 4.30pm, if Council resolves.</p> <p>If Public Access and Public Forum are held on different days all times would remain as they currently are.</p>	<p>65.4% of respondents indicate that morning meetings are preferred.</p> <p>Further survey results with regard to Public Forum and Public Access indicate that these sessions would be held on Council meeting days. Proposed timeline for the day would be:</p> <p><b>Pre-Meeting Briefing:</b> 8.45am</p> <p><b>Public Access:</b> 9.30am – 10.30am</p> <p><b>Public Forum:</b> 10.30am – 11.30am (15 minute extension and break needed before Council meetings commence).</p> <p><b>Council meeting:</b> 12.30pm – 3.30pm (with the potential to extend by one hour to 4.30pm, if Council resolves)</p>
<p>3.5, 3.34</p>	<p><b>Option 1:</b></p> <p>Approved speakers at the public forum are to provide a written copy of their address to the Council by 12.00noon the business day prior to the meeting via email to council.meetings@esc.nsw.gov.au or hard copy at Council's main office in Moruya or Batemans Bay or Narooma libraries.</p> <p><b>Option 2:</b></p> <p>Approved speakers at the public forum are encouraged to provide a written copy of their address to the Council by 12.00noon the business day prior to the meeting via email to</p>	<p>For Council determination.</p>

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	council.meetings@esc.nsw.gov.au or hard copy at Council's main office in Moruya or Batemans Bay or Narooma libraries.	
3.6	<b>Potential wording:</b> Public Forum will commence at 10.30am.	
3.13	<b>Option 1</b> Public Forum will not be webcast <b>Option 2:</b> Public Forum will be webcast	For Council determination
3.27	If Council resolves to use the second option in 3.5 to encourage written copies of presentation, this clause should be deleted.	For Council determination.
3.29	<b>Potential wording:</b> The Council will hold a public access session prior to each Ordinary meeting of the Council, for member of the public to raise any Council related issues with Councillors, which have not been previously determined by Council.	84.5% of respondents indicated their wish to have public access held fortnightly in line with the Council meeting schedule.
3.30 and 3.31	If Council resolves the wording in 3.29 above, clauses 3.30 and 3.31 should be deleted	For Council determination. Clauses superfluous if Council resolves to change wording in clause 3.29.
3.32	<b>Potential wording:</b> Public Access sessions will commence at 9.30am unless there are no registered speakers.	
7.4	<b>Potential wording</b> Meetings will commence at 12.30pm and conclude at 3.30pm, with a potential to extend by one hour to 4.30pm if so resolved; unless otherwise resolved by	65.4% of respondents indicate that morning meetings are preferred.  Further survey results with regard to public forum and public access indicate that

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	Council.	<p>these sessions would be held during each Council meeting day. Potential timeline for the day would be:</p> <p><b>Pre-Meeting Briefing:</b> 8.45am</p> <p><b>Public Access:</b> 9.30am – 10.30am</p> <p><b>Public Forum:</b> 10.30am – 11.30am (15 minute extension and break needed before Council meetings commence).</p> <p><b>Council meeting:</b> 12.30pm – 3.30pm</p>
16.11 (new)	<p><b>Potential wording:</b></p> <p>A notice of motion to alter or rescind a resolution relating to a development application must be submitted to the general manager <b>by 12pm noon on the following day</b> after the meeting at which the resolution was adopted.</p>	<p>For Council determination. Once a decision has been made on a DA, the applicant and staff will act on this decision. Therefore, a short timeframe is considered to be appropriate.</p>
17.1	<p><b>Potential wording:</b></p> <p>Meetings of the Council and committees of the Council are to conclude no later than <b>3.30pm</b>, subject to clause 17.2.</p>	
17.2	<p><b>Potential wording:</b></p> <p>If the business of the meeting is unfinished at <b>3.30pm</b>, the Council or the committee may, by resolution, extend the time of the <b>meeting to 4.30pm</b>.</p>	
17.3	<p><b>Potential wording:</b></p> <p>If the business of the meeting is unfinished at <b>3.30pm</b>, and the Council does not resolve to extend the meeting, the</p>	

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	Chairperson must either:  (a) defer consideration of the remaining items of business on the agenda to the next Ordinary meeting of the Council, or  (b) adjourn the meeting to a time, date and place fixed by the Chairperson.	
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### **Legal**

The Model Code of Meeting Practice for Local Councils in NSW (the Model Meeting Code) is made under Section 360 of the Local Government Act 1993 (the Act) and the Local Government (General) Regulations 2005 (Regulation). The Code of Meeting Practice includes mandatory clauses that reflect the Act and Regulations. Additional clauses do not contradict the Model Code.

### **Policy**

Once adopted, the Code of Meeting Practice will become Council's policy for the conduct of its meetings.

### **Community and Stakeholder Engagement**

Council undertook a survey through 'Our Eurobodalla' to ascertain the community's views on meeting time and date, whether Council should live stream Public Forum and Public Access. During the survey period, 312 surveys were completed and 59 written responses were received. The full report from these submissions is included as Attachment 2 and a summary of the survey responses with staff responses has been provided in the report.

Council will now place its Code of Meeting Practice on public exhibition for a period of not less than 42 days commencing 11 May 2022 until 22 June 2022. Copies will be available for viewing at Council's website and Moruya customer service centre.

The final document will be presented for adoption on 26 July 2022.

### **CONCLUSION**

Council must adopt a Code of Meeting Practice within its first 12 months, that reflects the mandatory provisions of the Model Meeting Code.

Council undertook a survey to ascertain the views of the community on meeting time and date, and whether Council should live stream Public Forum and Public Access.

Council's current Code of Meeting Practice is a comprehensive document. Staff have reviewed the current Code against the mandatory provisions of the Code along with the OLG benchmark for non-mandatory provisions, survey results and developed a draft document that will assist with clear governance procedures for Council's decision making process.



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The draft Code of Meeting Practice will be placed on public exhibition for a period of not less than 42 days from 11 May 2022 until 22 June 2022. The final document will be presented for adoption on 26 July 2022.

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**GMR22/054 CONGO ROAD NORTH**

**S028-T00001**

Responsible Officer: Dr Catherine Dale - General Manager  
Attachments: Nil  
Outcome: 7 Connected and Accessible Places  
Focus Area: 7.1 Work in partnership to provide an integrated transport network  
Delivery Program Link: 7.1.1 Advocate for improved transport links, services and infrastructure  
Operational Plan Link: 7.1.1.2 Seek grant and other funding to sustain and improve the local and regional transport network

**EXECUTIVE SUMMARY**

This report provides options to Council regarding Congo Road North.

Congo Road North, in part, runs through private property (Lot 197 DP752151). This section of road was closed to the public following concerns raised by the landowner about the risks of injury to members of the public and the potential liability resting with the landowner.

The village of Congo continues to be serviced via Congo Road South and Bingie Road. This route was progressively upgraded and sealed by Council with the last section being completed in recent years. This route is a public road and is an all-weather road.

In response to community concerns regarding the closure of Congo Road North, Council has not been able to establish evidence, including through research by a specialist firm, to confirm the existence of a public road, through prior use of the physical Congo Road North, under *The Roads Act 4 William IV No 11 1833*. This means the land over the physical road is private land.

The landowner has pro-actively collaborated with Emergency Services and made arrangements for access during bushfires and other emergency events, should that be required. NSW Ambulance has stated they are a mobile service, often on the road, and they will respond via Congo Road South. NSW Surf Life Saving has confirmed rescues would be conducted via rubber duck from Moruya SLSC, as per standard practice.

The landowner has also indicated a willingness to continue to work with Council toward providing a new road through their private land subject to that new road being in a mutually agreed location. The landowner's strong preference is for a new road reserve across the very northern edge of the private property.

The process for this to proceed is outlined in this report, noting the significant costs that would be incurred.

**RECOMMENDATION**

THAT Council resolves to adopt one of the two following options:

**Option 1**

That Council:

1. Take no further action regarding the potential establishment of a public road through Lot 197 DP752151 (Congo North) or any alternative route, noting that

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**GMR22/054 CONGO ROAD NORTH**

**S028-T00001**

the village of Congo is serviced via Congo Road South and Bingie Road which is a sealed, all weather road.

2. Inform the community of this decision.

**Option 2**

That:

1. Council allocate up to \$50,000 to engage a suitably qualified Valuer to undertake an assessment of the value of the resources that would be quarantined as a result of the construction of a public road through Lot 197 DP752151 (Congo North).
2. Subject to the land owner agreeing to a proposed route through Lot 197 DP752151 (Congo North) and consent being provided to Council for access to the land for the purpose of undertaking a valuation of the resources that would be quarantined as a result of the construction of a public road, Council appoint a suitably qualified valuer to undertake the valuation.
3. Upon receiving a valuation of the resources that would be quarantined as a result of the construction of a public road through Lot 197 DP752151 (Congo North) that Council receive:
  - a. A confidential report on the valuation; and
  - b. An estimate of the costs to undertake the environmental assessment, detailed design of the road, costs to create and dedicate the road as a public road, any potential environmental offset, and the cost to construct the road.
4. Should Council not be able to reach agreement with the owner of Lot 197 DP752151 as to a proposed route through the property or consent to enter the land to undertake the valuation, or consent to use the proposed valuer and that Council take no further action regarding the potential establishment of a public road through Lot 197 DP752151 (Congo North) or any alternative route.

**BACKGROUND**

Congo Road North, in part, runs through private property (Lot 197 DP752151). This section of road was closed to the public following concerns raised by the landowner about the risks of injury to members of the public and the potential liability resting with the landowner.

Congo continues to be serviced via Congo Road South and Bingie Road. This route was progressively upgraded and sealed by Council with the last section completed in recent years. This route is a public road and is an all-weather road.

In response to community concerns regarding the closure of Congo Road North, Council has not been able to establish evidence, including through research by a specialist firm, to confirm the

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**GMR22/054 CONGO ROAD NORTH**

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existence of a public road, through prior use of the physical Congo Road north, under *The Roads Act 4 William IV No 11 1833*. This means the land over the physical road is private land.

**CONSIDERATIONS**

**Asset**

The physical road via Congo Road North passes through private property being Lot 197 DP752151. This Lot has an approved sand mine on the land with the ability to mine at the property. The area and depth of the sand is extensive.

Council has maintained the physical Congo Road North through private property across Lot 197 for many years with the landowner's concurrence. Council has not been able to establish status of the road prior to 1906, under *The Roads Act 4 William IV No 11 1833*.

The landowner is opposed to creating a public road reserve over the existing physical road. Council has previously agreed with the landowner that any new road reserve would not be over the existing physical road. The landowner's strong preference was for any new road reserve to be across the very northern edge of the private property.

Each time Council undertook work on previously accessed physical road it was with the concurrence of the landowner. The landowner had previously raised concerns regarding the risk posed by the roadside trees and the unacceptable risk to the landowner from a liability perspective. The landowner has confirmed that this has made securing public liability insurance highly problematic.

Council assessed and confirmed the risk posed by the trees and negotiated landowner agreement to remove a small number of roadside trees (10) whilst protecting the most significant habitat trees. See Attachment 1.

Council sought landowner concurrence to undertake maintenance grading of the road leading into Christmas 2021 along with the tree works to reduce the landowner's concerns relating to risk. The tree works were scheduled to take place prior to maintenance grading, to minimize the impact to the road.

Due to the community raising issues associated with the status of the existing gravel road corridor and tree clearing, the tree clearing did not take place, nor did the planned maintenance grading.

The landowner has since informed Council that their insurance broker had indicated that they would no longer be able to provide insurance if the roadway was to continue to be open to the public. Consequently, the landowner's agreement for the public to pass through their land was withdrawn and the northern route was closed to the public by Council.

**Congo Road future realignment**

The landowner has requested that any public road be positioned on the northern edge of Lot 197 DP752151 so as to avoid adverse impact upon their future mining operations. An alignment that utilizes a northern route and also enters the adjoining National Park is the preferred alignment from the landowner's perspective. This is due to the large quantities of sand located across the site that the landowner has the ability to mine. Preliminary discussions have taken place with NPWS who have indicated, potential in-principle support for this alignment, however

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any boundary alteration to a National Park would require an Act of Parliament to ratify, which may or may not be supported.

A potentially alternate alignment of future Congo Road North would be within the private property joining the existing public road reserve at either end.

There is a Crown Road reserve of approximately 10m width running through Lot 197 at a location to the south of the existing gravel road. It is envisaged that this Crown Road reserve would be closed to partially offset the acquisition of the new road reserve.

If an environmentally acceptable solution can be developed, any new route would take some years to deliver. The cost of land acquisition and construction would be very significant given the sand mining potential.

The impact on the adjacent wetlands will inform the level of environmental assessment that is required. If the environmental assessment indicates that there is a potential impact upon the wetlands, then an Environmental Impact Study (EIS) would be required. An EIS is a more costly and time-consuming assessment than the alternative Review of Environmental Factors (REF) process.

Realignment could require the removal of up to ninety (90) trees many of which would have habitat value for local fauna.

**Environmental**

The alternate route that is under investigation could require the removal of up to ninety (90) trees many of which would have habitat value for local fauna.

An initial Flora and Fauna Assessment was undertaken by NGH Environmental. Should Council decide to proceed with potential construction of a public road, further investigations are required to fully assess the effects of the overall proposal on fauna and flora along the potential new route. This will include recommendations for mitigation and amelioration strategies. The results of these further investigations will inform the development of a Review of Environmental Factors (REF) or an Environmental Impact Study (EIS) for the proposed road realignment.

In addition, a preliminary Aboriginal Heritage Due Diligence Assessment has been undertaken by NGH Environmental. Further investigations are required in the form of sub-surface testing along the route of the proposed realignment. Approval from the Office of Environment and Heritage is required prior to this sub-surface testing taking place. The results of these further investigations will inform the need for an Aboriginal Heritage Impact Permit (AHIP), Review of Environmental Factors or an Environmental Impact Study for the proposed road realignment.

In addition to the above there will likely be a requirement to provide offsets to compensate for the loss of native habitat. These costs are difficult to quantify without going through the above study process.

**Legal**

Council has received input from specialist consultants, including legal input, as to whether the road is a 'public road' and whether Council is legally able to reopen, or insist that the landowner reopen, the closed section of the physical road. Having considered information received from the residents and through its consultants and legal advice, the Council has not

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been able to establish that the road is a public road. It therefore is a private road on private property. Council is not in a position legally to over-ride the landowner's entitlement to prevent access to the road, given it is on private property. The road closure will now be in place for the foreseeable future.

Council is also not able to indemnify the landowner against potential liability as the road is on private land.

The *Roads Act 4 William IV No 11 1833* was first statute to authorize the New South Wales Government to make, alternative and improve roads in the Colony of New South Wales through private freehold land. The evidence available to the Council has not established that the road was a public road opened under the *Roads Act 4 William IV No 11 1833*.

Similarly, the *Roads Act 1993* recognises a road as a public road if the road was opened and used by the public prior to 1906. Having consulted a specialist company and legal consultants, Council has not been able to identify evidence that supports that the Road was in existence before 1906. Accordingly, on the available evidence, the road, which is on private land (lot 197 DP752151), would be considered a 'private road' for the purposes of the *Roads Act 1993 (NSW)*.

**Financial**

Option 1 of the recommendation would require a zero-funding allocation.

Option 2 - Should council resolve to proceed with option 2 of the recommendation then the first step would be to determine a suitable compensation amount to be payable to the owner of Lot 197 in exchange for the provision of a public road reserve.

An appropriate valuation would need to be carried out. This would involve a valuation of the land itself as well as a valuation of the resources (sand) affected by the proposed road. It is estimated that a valuation of this type would cost in the order of \$50,000 and take at least six months to complete.

Any valuation process of this type would need the full concurrence of the landowner. Access to the property would be required as well as access to information relating to the anticipated sand quantities across the site.

Should a road corridor through the National Park be pursued then a negotiation process will be required with NPWS to determine an appropriate cost. The cost is most likely to include an environmental offset and possible closure of Council Road reserve in order to incorporate it into the National Park.

The valuation of the resources (sand) within the private property is likely to have a high value. This is dependent upon the volume of sand affected by the project which could be very substantial.

Once the valuation process has been conducted a further report would be presented to Council to determine the next course of action.

Advice from NGH Environmental summarises the Environmental Assessment Requirements as follows:

**Case 1: Should an Environmental Impact Study (EIS) be required (if the designated SEPP wetland be impacted) the costs are estimated to be:**

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Sub-surface testing for Aboriginal Artifacts - \$96,000

Aboriginal Heritage Impact Permit for construction - \$15,600

EIS including additional Fauna & Flora Assessments- \$108,000

Total - \$216,600

**Case 2: Should a Review of Environmental Factors (REF) be required (if the designated SEPP wetland not be impacted) the costs are expected to be:**

Sub-surface testing for Aboriginal Artifacts - \$96,000

Aboriginal Heritage Impact Permit for construction - \$15,600

REF including additional Fauna & Flora Assessments - \$13,200

Total - \$124,800

The time frame for cases 1 or 2 is expected to be more than 12 months from the time of engagement.

The above environmental studies will then provide sufficient information from an environmental perspective for a further decision as to whether to proceed with a new roadway through Lot 197.

It is estimated that the construction of a new roadway through Lot 197 would cost between \$1 to 1.5 million and take over twelve months to construct.

The time frame to achieve an alternate route through the National Park could take well over three years.

Given this, the risk that it may not be supported by Government and the significant costs, this option has not been investigated further.

**Policy**

Council has a policy to ensure value for money in delivering infrastructure to the community.

**Social Impact**

If travelling from Moruya, the Congo Road North route is approximately 9.2km and takes approximately 9.5 minutes of travel time. The Congo Road South route is approximately 16km and takes approximately 13.5 minutes. These times may vary slightly depending on the road conditions, traffic volumes and other factors.

It should be noted that Congo Road North is only partially sealed and is subject to flooding.

A public road reserve is now in place over the Congo Road south route, and the road is an all-weather sealed road to Congo village.

**Community and Stakeholder Engagement**

Council sought landowner concurrence to undertake maintenance grading of the road leading into Christmas 2021 along with the tree works to reduce the landowner's concern relating to risk. The tree works would have damaged the roadway, so the tree work was planned to proceed prior to maintenance grading.

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Council informed the community of the proposed works and temporary closure of the road via direct letter.

The community then raised concerns with Council's legal ability to undertake the tree works under Section 88 of the Roads Act 1993, highlighting their view that this section of the Act may not apply due to there being no public road reserve over the physical road.

Council paused works to allow further legal advice to be obtained and to allow further communication with the community. At this time, Council received both objections and support for the proposed work.

The landowner has since indicated that they are no longer able to permit the road to be re-opened regardless of any mitigation works that Council may undertake, due to the ongoing concerns relating to public liability insurance.

The physical road remains closed, and Council has assisted the landowner with the installation of appropriate physical barriers along the roadway. Council has also written to the community, the bus companies and emergency service agencies advising the current status.

**CONCLUSION**

This report considers the issues regarding Congo Road North and provides two options for Council to consider and adopt a preferred option.

The road where it runs through Lot 197 DP752157 is not a public road. It is a private road through private property.

The private property has an approved development consent which enables the moving of sand from the property.

Creation of a public road through the private land would require the compensation of the owner for the value of the land and the sand resource which would not be able to be mined due to the construction of the road. The cost of sand compensation would be of high value.

Detailed environmental assessment processes would also have to be undertaken and if approved, the road construction itself would likely cost in the order of \$1 – 1.5m dollars plus costs of any environmental offsets.



**GMR22/054 CONGO ROAD NORTH**

**S028-T00001**

Attachment 1



Congo Road North – Road Hazard Risk Management

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**GMR22/055 REPLACEMENT OF INDEPENDENT MEMBER FOR THE AUDIT RISK  
AND IMPROVEMENT COMMITTEE**

**S004-  
T00048**

Responsible Officer: Dr Catherine Dale - General Manager  
Attachments: 1. Confidential - Independent Member Application  
Outcome: 9 Innovative and Proactive Leadership  
Focus Area: 9.1 Provide strong leadership and work in partnership to strategically plan for the future and progress towards the community vision  
Delivery Program Link: 9.1.2 Implement effective governance  
Operational Plan Link: 9.1.2.2 Assist the Council in meeting its statutory obligations and roles

**EXECUTIVE SUMMARY**

This report seeks Council's endorsement of the Audit, Risk and Improvement Committee's (ARIC) recommendation for the appointment of an independent member to replace Mr Mark Barraclough, who resigned recently from the committee.

The NSW Local Government released a document titled *Risk Management and Internal Audit for local councils in NSW* in August 2021. These guidelines were prepared to assist councils to comply with the statutory requirements under the *Local Government Act 1993* and *Local Government (General) Regulation 2021*. Submissions were invited until 26<sup>th</sup> November 2021.

The guidelines propose a number of changes including the requirement to establish an Audit, Risk and Improvement Committee, development of an annual work plan and a risk framework, reporting requirements, compliance with the eligibility criteria for independent membership and a change to the appointment of a non-voting Councillor. Under the guidelines, Eurobodalla is categorized as a Tier 2 council.

The guidelines are still draft, and until they are ratified, it is recommended that the Council fill the vacancy from the most recent expression of interest process undertaken in May 2021. This would enable the committee to fill the current vacancy immediately and implement an expression of interest process for the whole committee once the guidelines are ratified.

The ARIC considered the application from the previous expression of interest and has recommended to Council that it appoints the applicant listed in the confidential attachment.

**RECOMMENDATION**

THAT:

1. Council appoints the applicant listed in the confidential attachment to Audit, Risk and Improvement Committee.
2. A letter of invitation from the General Manager be forwarded to the successful applicant inviting them to join the ARIC as an independent member.
3. A letter of thanks be sent to Mr Barraclough in recognition of his outstanding service and contribution to the Audit, Risk and Improvement Committee.

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**GMR22/055 REPLACEMENT OF INDEPENDENT MEMBER FOR THE AUDIT RISK  
AND IMPROVEMENT COMMITTEE**

**S004-  
T00048**

**BACKGROUND**

The NSW Local Government released the *Risk Management and Internal Audit for local councils in NSW Guidelines* in August 2021. These guidelines were prepared to assist councils to comply with the statutory requirements under the *Local Government Act 1993* and *Local Government (General) Regulation 2021*. Submissions were invited until 26<sup>th</sup> November 2021.

Each council, county council and joint organisation has been categorised as a Tier 1 (smallest), Tier 2 (middle) or Tier 3 (highest) council for the purposes of determining the size and composition of their audit risk and improvement committee. Eurobodalla has been categorized as Tier 2.

The Guidelines are still draft, and it is uncertain when they will be ratified.

In May 2021, Council undertook an expression of interest process for a vacancy on ARIC at that time. Council received a number of applications. The ARIC reviewed a resume from an applicant from this process and has recommended to Council that it appoints this applicant.

The members of the ARIC, taken collectively, should have a broad range of skills and experience relevant to the operations of Eurobodalla Shire Council. Some of the roles and responsibilities of the ARIC members relate to reviewing risk management, control framework, external accountability and legislative compliance and preference is given to a person with local interests and a strong background in areas of administration, corporate or public sector governance, finance, audit, legal, project management, or management generally.

Details of this applicant is contained in the confidential attachment and it is considered that this person will make a valuable contribution.

While the Audit, Risk and Improvement Committee was unanimous in their recommendation to Council to progress this appointment, it was noted that ideally the committee should have greater diversity in representing a wider range of the community. The members of ARIC recommended to Council that in the future, encouragement of a range of applicants to this committee would be beneficial.

**CONCLUSION**

The Audit, Risk and Improvement Committee unanimously decided to recommend that Council appoints the applicant from the most recent expression of interest process in May 2021 as the new independent member of the Audit, Risk and Improvement Committee.

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**PSR22/011 REQUEST FOR TENDER MANAGEMENT S023-  
CONTRACT - BATEMANS BAY BEACH RESORT T00005/T00006/T00007/T00008  
AND COUNCIL CAMPGROUNDS**

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

Attachments: 1. Confidential - Request for Tender Management Contract - Batemans Bay Beach Resort and Council Campgrounds

Outcome: 9 Innovative and Proactive Leadership

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

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

Operational Plan Link: 9.2.2.4 Manage the operation of Council's campgrounds and Batemans Bay Beach Resort

### **EXECUTIVE SUMMARY**

Council advertised Request for Tender (RFT) No. 2122-058 for the management and operation of the Batemans Bay Beach Resort (BBBR) and Dalmeny, Mystery Bay & Moruya North Head Campgrounds on 18 February 2022 with a closing date of 28 March 2022.

The tender was an open tender which allowed tenderers to submit tenders which:

- Specified a variety of management models
- Covered one or all of the facilities.

This report outlines the evaluation of offers submitted in response to the RFT and provides recommendations:

- for the preferred tender for the BBBR
- to enter into direct negotiations with the highest scored Tenderer after the evaluation process for the campgrounds and reject all others.

As detailed in the report below, the basis of the recommendation related to the campgrounds is that no tenderer provided sufficient information to enable Council to assess all the conditions of the tender or that value for money was being delivered but that one tenderer was better able to demonstrate this.

### **RECOMMENDATION**

THAT:

1. Council endorses the selection of the preferred tenderer for Request for Tender No. 2122-058 for management of the Batemans Bay Beach Resort listed within the confidential attachment to this report, and
2. Accordingly approves the entering into of a contractual arrangement with the preferred tenderer, for the management of Batemans Bay Beach Resort, subject to the terms

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**PSR22/011 REQUEST FOR TENDER MANAGEMENT S023-  
CONTRACT - BATEMANS BAY BEACH RESORT T00005/T00006/T00007/T00008  
AND COUNCIL CAMPGROUNDS**

specified in the Request for Tender No. 2122-058 unless otherwise varied in accordance with this report or final negotiations.

3. Reject the tenders received for management of Dalmeny, Mystery Bay & Moruya North Head Campgrounds in response to Request for Tender (RFT) No. 2122-058
4. Not invite fresh tenders for the campgrounds because it does not believe this will achieve a better outcome for the campgrounds given the Tender Evaluation Panel's assessment of the tenders received and the delay in delivering new management arrangement if fresh tenders are called.
5. Enter into negotiations based on the conditions outlined in 'Request for Tender (RFT) No. 2122-058 with the tenderer identified in the confidential attachment to the Council report 'Request for Tender Management Contract - Batemans Bay Beach Resort & Council campgrounds' because they ranked the highest of the tenders received.
6. Delegate to the General Manager to conclude these negotiations related to the campgrounds and if appropriate, enter into contracts with the tenderer identified in the Confidential Attachment to the Council report 'Request for Tender Management Contract - Batemans Bay Beach Resort and Council campgrounds'

## **BACKGROUND**

Council advertised Request for Tender (RFT) No. 2122-058 for the management and operation of the Batemans Bay Beach Resort (BBBR) and Dalmeny, Mystery Bay & Moruya North Head Campgrounds on 18 February 2022 with a closing date of 28 March 2022.

Four conforming tenders were received from the following tenderers:

- NRMA Parks & Resorts
- Belgravia Health and Leisure Group PTY LTD
- CM & PA Easdown Pty Ltd
- Innoviv Park Services

Each was assessed in accordance with the Tender Evaluation Plan.

All four respondents tendered for the BBBR with three tenders including the campgrounds as well.

A summary of the evaluation, including each Tender score against the evaluation criteria is provided at the Confidential Attachment to this report. A requirement exists for the provision of services for the management of the facilities to include day to day operations, customer service and revenue generation.

The tender was an open tender which allowed tenderers to submit tenders which:

- Specified a variety of management models
- Covered one or all of the facilities

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**PSR22/011 REQUEST FOR TENDER MANAGEMENT S023-  
CONTRACT - BATEMANS BAY BEACH RESORT T00005/T00006/T00007/T00008  
AND COUNCIL CAMPGROUNDS**

The tender evaluation panel included an independent industry expert and the evaluation recommended a preferred tender for the BBBR.

However it also identified that those tenderers interested in managing the three campgrounds did not provide sufficient information to satisfy the evaluation panel that the requirements of the Request for Tender had been met in its entirety or that a contract could be entered into at this stage.

## **CONSIDERATIONS**

### **Legal**

Request for Tender (RFT) No. 2122-058 was advertised in accordance with the Local Government (General) Regulation 2005 REG 167 and the *Local Government Act 1993*. The tender was advertised on Council's noticeboard page, direct via a broad range of industry contacts including the Caravan and Camping Industry Association's newsletter and at Council's Tenderlink web portal ([www.tenderlink.com/eurobodalla](http://www.tenderlink.com/eurobodalla))

Upon release of the RFT, tender evaluation details were 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 for BBBR has been assessed as representing best value for money for Council due to appropriate pricing, demonstration of plans for future business growth and achieving consensus in best scores from the TEB.

Clause 178(3) of the Local Government (General) Regulation 2005 states that a Council that decides not to accept any of the tenders, may amongst other options, 'enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender.'

Clause 178(4) of the Local Government (General) Regulation 2005 states that if the Council decides to enter into direct negotiations, the Council resolution authorising this must include the reasons for declining to invite fresh tenders and the reasons for entering into direct negotiations.

The recommendation for declining to invite fresh tenders for the campgrounds and entering into direct negotiations with the highest scoring bidder is based on the following factors:

- 1) The advertised Request for Tender was developed following a comprehensive process, was publicly promoted and open for 38 days, well beyond the mandatory timeframe of 21 days. No extension to the timeframe was sought by any prospective bidder. This indicates limited potential to achieve further competition should a second tendering exercise be undertaken;
- 2) The highest scoring bidder, whilst not meeting the requirements of the Request for Tender in its entirety, has demonstrated the expertise, skill and capacity to meet the requirements of the proposed contract with further negotiation; and
- 3) The cost of undertaking a public tendering exercise is considerable for both Council and Industry. With limited participation in the previous exercise, it would not be efficient to unnecessarily undertake a tendering process, given the likelihood of minimal competition and the delay in being to put new management arrangements in place.

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**PSR22/011 REQUEST FOR TENDER MANAGEMENT S023-  
CONTRACT - BATEMANS BAY BEACH RESORT T00005/T00006/T00007/T00008  
AND COUNCIL CAMPGROUNDS**

**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*.

**Asset**

The BBR is on a reserve owned by the NSW Government (ie: Crown land) and managed by Council as Crown Land Manager. It is a five star tourism asset which includes cabins, common amenities, internal roads and leisure activity equipment. It achieves excellent reviews from customers as demonstrated by Trip Advisor reviews and its own customer feedback system

The campgrounds are on Council owned land with Mystery Bay and Moruya North head having minimal facilities and Dalmeny having a amenities block and powered sites.

**Economic Development Employment Potential**

Providing quality accommodation is an important part of any tourism destination. An updated set of operational guidelines will ensure this is maintained and with a management contract designed to maximise visitor numbers and profitability, the BBR will attract even more visitors to Eurobodalla.

**Financial**

Improved trading performance is expected at the BBR as the management contract provides a strong incentive for maximising profitability and forms the basis of the contractor's remuneration under the new contract. The new management contract is designed to maintain this reputation whilst improving the financial performance of BBR.

**Community and Stakeholder Engagement**

Council provided information regarding the tender process via Council's noticeboard page, direct via a broad range of industry contacts including the Caravan and Camping Industry Association's newsletter and at Council's Tenderlink web portal ([www.tenderlink.com/eurobodalla](http://www.tenderlink.com/eurobodalla))

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 for BBR as identified in the Confidential Attachment to this report is therefore recommended for the awarding of a contract for the requirement.

It is further recommended that Council enters into further negotiations with the identified tenderer for the campgrounds.

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**IR22/012 ACCEPTANCE OF FUNDING - STRONGER COMMUNITIES PROGRAM -  
SUNPATCH PARADE TOMAKIN PATHWAY**

**S030-  
T00027**

Responsible Officer: Tony Swallow - Acting Director Infrastructure Services  
Attachments: Nil  
Outcome: 7 Connected and Accessible Places  
Focus Area: 7.2 Improve provision and linkages of our pathway network  
Delivery Program Link: 7.2.1 Provide and enhance the pathway network  
Operational Plan Link: 7.2.1.2 Seek grant funding to accelerate expansion of the network

**EXECUTIVE SUMMARY**

Council has been successful in securing \$20,000 in grant funding under the Australian Government Stronger Communities Program Round 7 to contribute to the construction of a shared pathway along Sunpatch Parade, Tomakin.

**RECOMMENDATION**

THAT Council endorses the acceptance of \$20,000 in grant funding under the Australian Government Stronger Communities Program Round 7 toward the construction of a shared pathway along Sunpatch Parade, Tomakin.

**BACKGROUND**

Council's Pathways Strategy outlines the priority pathway networks across Eurobodalla. Under the Strategy, Sunpatch Parade, Tomakin from Jack Buckley Park to the Tomakin General Store has been identified as a priority pathway. This priority has increased since the construction of the new George Bass Drive/Sunpatch Parade/Tomakin Road intersection which introduced additional traffic onto Sunpatch Parade.

The need for this pathway has been previously discussed with the Tomakin Community Association (TCA) and Council will continue to liaise with the TCA during delivery.

This grant must be matched dollar for dollar and is complementary to the 2021-22 Council budget allocation of \$50,000 and the allocation of \$43,000 in Local Roads and Community Infrastructure Program funding. This provides a total of \$113,000 for the shared pathway and crossing of Sunpatch Parade.

The grant offer was received on 7 March 2022 and is awaiting deed formalisation.

Grant applications continue to be sought to advance the provision of pathways across Eurobodalla. A grant application has also been submitted under the NSW Government's 2022-23 Active Transport Program to further extend the shared pathway toward the General Store in line with the adopted pathways strategy.

**CONSIDERATIONS**

Tomakin is a popular location for both residents and visitors. Jack Buckley Park and the Tomakin Sports and Social Club, General Store and Service Station all provide focal points for the community.



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**IR22/012 ACCEPTANCE OF FUNDING - STRONGER COMMUNITIES PROGRAM -  
SUNPATCH PARADE TOMAKIN PATHWAY**

**S030-  
T00027**

A shared pathway that continues along Sunpatch Parade, Tomakin from Jack Buckley Park to the Tomakin General Store will help improve local community participation by making walking and cycling easier and safer.

On completion, this project will also form part of a broader pathway network that links the popular beach and marine facilities at Tomakin Boat Ramp.

**Strategy**

The delivery of this project is identified under the adopted Eurobodalla Pathways Strategy 2017 and is acknowledged in the Delivery Program 2017-21 and Operational Plan 2021-22.

**Environmental**

The provision of shared pathways and footpaths encourages more active transport including walking and cycling with a consequential environmental benefit through reduced reliance on motor vehicles.

**Asset**

The pathway will be capitalised by Council. Inspection and maintenance of the new pathways will need to be provided for within the long term financial plan.

**Financial**

The project is partially grant funded in the following amounts:

\$20,000 – Australian Government Stronger Communities Program

\$43,000 – Australian Government Local Roads and Community Infrastructure Program Phase 3

\$50,000 - Council Contribution 2021-22.

The matching funding for the \$20,000 SCP grant is provided through Council's contribution.

This provides a total of \$113,000 for the shared pathway and crossing of Sunpatch Parade.

**Community and Stakeholder Engagement**

Council liaised with the Tomakin Community Association regarding the pathway project.

We will inform the community through providing information on Council's Major Projects website; Council's Online News and Facebook page, letters to nearby residents, the Club and businesses and by issuing a media release.

**CONCLUSION**

Council has been successful in securing an additional \$20,000 in grant funding to continue the shared pathway on Sunpatch Parade Tomakin. The grant has been accepted.

This report recommends that Council endorse the acceptance of \$20,000 in grant funding under the Australian Government Stronger Communities Program toward the construction of a shared pathway along Sunpatch Parade, Tomakin.

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**IR22/013 LOCAL TRAFFIC COMMITTEE NO 7 FOR 2021-22**

**S030-T00018**

Responsible Officer: Tony Swallow - Acting Director Infrastructure Services  
Attachments: Nil  
Outcome: 7 Connected and Accessible Places  
Focus Area: 7.1 Work in partnership to provide an integrated transport network  
Delivery Program Link: 7.1.2 Provide a safe efficient and integrated transport network  
Operational Plan Link: 7.1.2.4 Coordinate the Local Traffic Committee

**EXECUTIVE SUMMARY**

The Local Traffic Committee is primarily a technical review committee. It advises Council on traffic control matters that relate to prescribed traffic control devices or traffic control facilities for which Council has delegated authority.

The minutes of the Eurobodalla Local Traffic Committee meeting are included in this report for review. The main issues covered at the Eurobodalla Local Traffic Committee meeting, held 7 April 2022, are as follows:

- Signage and Line marking – ‘No Stopping’ in Clarke Street at the intersection with Imlay Street and Woolabar Street, Broulee
- Local Traffic Committee Terms of Reference
- Local Traffic Committee meeting dates for the remainder of 2022.

**RECOMMENDATION**

THAT:

1. The minutes of the Eurobodalla Local Traffic Committee Meeting No 6 for 2021-22 be received and noted.
2. Plan No. 5156 Set BB Sheet 38 detailing the ‘No Stopping’ signage and associated line marking in Clarke Street at the intersection with Imlay Street and Woolabar Street, Broulee approved.

**BACKGROUND**

The Eurobodalla Local Traffic Committee Meeting No 7 for 2021-22 was held on 7 April 2022. The meeting was attended by Councillor Amber Schutz (Chair), Senior Constable Scott Britt NSW Police), Emma Pietruska (Transport for NSW), Andrew Gaudiosi (Transport for NSW), Dave Hunter (Traffic Coordinator), Dianne Dallas (Infrastructure Support Officer) and Daniel Week (Maintenance Planning Officer).

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**IR22/013 LOCAL TRAFFIC COMMITTEE NO 7 FOR 2021-22**

**S030-T00018**

**APOLOGIES**

A representative for the Local State Member the Hon Michael Holland MP is yet to be confirmed.

Kate McDougall (Road Safety Officer)

**DEPUTATIONS**

Nil.

**MINUTES OF PREVIOUS MEETING**

The minutes of the Eurobodalla Local Traffic Committee Meeting No 6 for 2021-22 held on 16 March 2022 were confirmed and accepted.

**OUTSTANDING ITEMS FROM PREVIOUS MEETING**

There were no outstanding items to discuss.

**ROAD TRANSPORT (SAFETY AND TRAFFIC MANAGEMENT) ACT FOR DETERMINATION**

**2022.RT.014 Signage and Line Marking - 'No Stopping' in Clarke Street at the intersection with Imlay Street and Woolabar Street, Broulee**

Council has received communication from several residents living in Broulee that the intersection of Clarke Street with Imlay Street and Woolabar Street is not safe.

The primary concern is the vehicle sight lines looking southeast along Clarke Street from the side streets is poor when vehicles park close to the intersection.

A safety assessment has subsequently been undertaken and it is determined that vehicle sight lines are impeded presenting a higher risk of intersection crashes.

This intersection has a cross configuration that prioritises Clarke Street with Give Way signs installed on the side streets. Road widths vary between 7 metres and 10.8 metres.

Under the road rules, at intersections, vehicles cannot park within 10 metres of the apex of intersecting road edges / kerb lines. Due to this suboptimum intersection configuration, to improve vehicle sight lines it is planned to increase this distance to between 14.0 metres and 18.5 metres on the 2 south eastern corners.

Additionally, the intersecting Imlay Street and Woolabar Street do not line up and are also different road widths which creates driver uncertainty. To mitigate this, short lengths of BB centre lines are proposed with a combination of offset and deflected line marking. This will minimise offset vehicle paths.

Plan No. 5156 Set BB Sheet 38 detailing the 'No Stopping' signage and line marking in Clarke Street at the intersection with Imlay Street and Woolabar Street, Broulee was reviewed by the Committee.

A Transport for NSW representative question that given the suboptimum intersection configuration were stop signs considered to replace the Give Way signs.

The Traffic Coordinator relayed this was considered however with the additional length vehicles are required to park away from the intersection on the south end of Clarke Street and when

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**IR22/013 LOCAL TRAFFIC COMMITTEE NO 7 FOR 2021-22**

**S030-T00018**

vehicles park no closer than the default 10 metres away on the north end of Clarke Street, sight distance are adequate. There is no crash history at this intersection.

The Committee agreed the situation will be monitored after treatment to assessing any further need to install Stop Signs. Vegetation on the northwest corner will be inspected to determine if cutting back or removal this vegetation will improve the sight line to further assist.

The Chair asked if a roundabout has been considered, the Committee then looked at an aerial view of Broulee including the additional streets recently opened or soon to be opened. It was acknowledged this intersection now has a significant increase in traffic due to the expanded urban area.

When asked by the Chair, the Traffic Coordinator relayed there is no requirement to upgrade this intersection as part of any Development Approval and Council does not have funds available to undertake any upgrade such as a roundabout, nor does this appear warranted at this time.

Recommendation:

That Plan No. 5156 Set BB Sheet 38 detailing the 'No Stopping' signage and associated line marking in Clarke Street at the intersection with Imlay Street and Woolabar Street, Broulee approved.

**INFORMAL ITEMS FOR DISCUSSION**

**2022.IN.006 Local Traffic Committee Terms of Reference**

On 22 February 2022 the General Manager presented a report to the Ordinary Meeting of Council, on Council Committees and External Bodies.

The Eurobodalla Local Traffic Committee (LTC) was identified in this report as an External Committee and adopted within Motion 22/30 was THAT Council appoint delegates to the following external committees: 1. Councillor Amber Schutz as its delegate on the Eurobodalla Local Traffic Committee.

The Terms of Reference (TOR) details the purpose of the LTC and includes references to various acts, regulations and guidelines the committee works within.

Some of the information contained in the TOR is:

- The purpose of the LTC includes to provide technical advice on traffic and road safety issues for those matters covered under the delegations for the regulation of traffic to the LTC.
- The LTC is primarily a technical review Committee. It advises Council on traffic control matters that relate to prescribed traffic control devices or traffic control facilities for which Council has delegated authority. The Committee considers the technical merits of proposals and ensures that they meet current technical guidelines.
- The Committee is made up of four voting members as follows:
  1. one representative of Council (Councillor and Chairperson)
  2. one representative of the NSW Police

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**IR22/013 LOCAL TRAFFIC COMMITTEE NO 7 FOR 2021-22**

**S030-T00018**

3. one representative of the Transport for NSW
  4. the local State Member of Parliament (MP) or their nominee.
- The delegations to Councils are fully outlined in the RTA document, *Delegation to Councils - Regulation of Traffic*. This includes such items as installation of regulatory signage and line marking, special event approvals, public transport matters, road infrastructure installation, and other road safety matters. The Delegation requires Council to seek the advice of the NSW Police and the RMS prior to exercising their delegated functions.
  - The tenure of the Eurobodalla Local Traffic Committee is two years and representatives must be willing to abide by the terms of reference for the committee.

The Committee reviewed and accepted the TOR.

Recommendation:

That the Terms of Reference for the Eurobodalla Local Traffic Committee 2022-24 are adopted by the Committee for the next two-year tenure period.

**2022.IN.007 Local Traffic Committee Dates for the remainder of 2022**

The Committee generally meets monthly and under the Terms of Reference are required to meet at least 8 times in a financial year.

Recommendation:

That the following meeting dates be adopted for the Local Traffic Committee for the remainder of 2022:

<u>Meeting No.</u>	<u>Date</u>
8-21/22	Thursday 5 May 2022
9-21/22	Thursday 2 June 2022
01- 22/23	Thursday 7 July 2022
02- 22/23	Thursday 4 August 2022
03- 22/23	Thursday 1 September 2022
04- 22/23	Thursday 6 October 2022
05- 22/23	Thursday 3 November 2022
06- 22/23	Thursday 1 December 2022

**GENERAL BUSINESS**

1. Discussion continued on the Broulee urban expansion area and led to a general discussion on current and future new subdivisions.  
The Traffic Coordinator relayed with large urban expansion areas such as Broulee west and Rosedale west it is challenging to achieve an optimum outcome, particularly when there are multiple property owners developing a precinct. Council is being proactive in the proposed Dalmeny West urban expansion area and have engaged a firm to develop

**IR22/013 LOCAL TRAFFIC COMMITTEE NO 7 FOR 2021-22**

**S030-T00018**

a Development Control Plan to facilitate a satisfactory outcome for the 3 separate owners of the land and the wider community.

The Committee discussed their role in early assessment and feedback on major urban expansion areas so that a safe and practical transport network outcome prevails. Best practice considerations of movement and place to accommodate all road users including buses and pedestrians is vital.

2. The Traffic Coordinator advised that it is planned to present a signage and line marking proposal for the installation of a raised pedestrian (wombat) crossing on Train Street, Broulee adjoining St Peters Anglican College near the east side of the roundabout.

This wombat crossing installation is funded by NSW Government under the school zone infrastructure safety program to be installed by July 2022. It is part of 6 projects around schools, the other 5 being approved by the Committee at meetings on 2 September and 8 February 2022. Detail design for the Train Street crossing is nearly complete and Council will soon engage with the Broulee Mossy Point Community Association, adjoining owners, occupiers, businesses and the wider community. It is expected that the signage and line marking plan for the proposal will then be presented to the LTC at the next meeting for approval.

3. The Committee agreed that all proposals for regulatory signs and line marking within a new subdivision including double barrier center lines must be presented to the Committee for approval. Any proposal can be presented to the Local Traffic Committee Development Sub-committee for advice as indicated in the TOR and this is strongly encouraged to occur during or even before a Development Application with major traffic impacts is submitted.
4. The Committee agreed to invite key Council planning staff to the next meeting to discuss a way forward so that the Committee can better assist in best practice traffic outcomes in the Development Application process.
5. A Transport for NSW representative asked if Council has had any issues with the various yellow No Stopping line marking sites recently installed.

The Traffic Coordinator relayed as far as he was aware yellow No Stopping lines are working well, however most sites are reinforced with No Stopping signs.

The Maintenance Planning Officer relayed initially Council's Rangers were concerned that many people may be unaware of the yellow line regulatory parking restriction. A Transport for NSW representative relayed many Councils have a similar concern and provided a pamphlet used by several Council to inform the community.

The Committee suggested this pamphlet be used by Council to communicate the message through the usual community engagement channels such as Council's website and Facebook.

6. The Chair sought advice from Transport for NSW on speed zones on gravel roads and was advised that these roads do not meet the guidelines to have a regulatory posted speed zone. Speed zoning is outside of the remit of the Committee and is managed separately by Transport for NSW. Drivers are required to drive to the road conditions on all roads and particularly unsealed roads.

The Traffic Coordinator relayed that Council assesses all public gravel roads and measures such as installing yellow/black curve warning signs or road narrows signs are implemented as necessary. A posted speed zones on gravel roads may encourage

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**IR22/013 LOCAL TRAFFIC COMMITTEE NO 7 FOR 2021-22**

**S030-T00018**

drivers to travel faster than a safe speed. Many roads present variable configurations often with long straights leading into tight curves with variable road surfaces affected by extreme weather events.

7. Council is yet to be advised of a replacement representative for the Hon Michael Holland MP.

**NEXT MEETING**

The next meeting of the Eurobodalla Local Traffic Committee will be held on Thursday 5 May 2022 in Council's Glass Meeting Room and via MS Teams, commencing at 9.30am.

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## 15. DEALING WITH MATTERS IN CLOSED SESSION

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

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

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

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



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## EUROBODALLA SHIRE COUNCIL

### ETHICAL DECISION MAKING AND CONFLICTS OF INTEREST

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

#### ETHICAL DECISION MAKING

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

#### CONFLICT OF INTEREST

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

#### THE TEST FOR CONFLICT OF INTEREST

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

#### IDENTIFYING PROBLEMS

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

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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@esc.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.