



AGENDA

Ordinary Meeting of Council

12 September 2017

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

ON TUESDAY 12 SEPTEMBER 2017

COMMENCING AT 10.00AM

AGENDA

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

1. WELCOME, ACKNOWLEDGEMENT OF COUNTRY & EVACUATION MESSAGE

2. APOLOGIES

Nil

3. PUBLIC FORUM (AGENDA ITEMS ONLY)

4. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

4.1 Ordinary Meeting held on 8 August 2017

4.2 Extraordinary Meeting held on 29 August 2017

5. DECLARATIONS OF INTEREST OF MATTERS ON THE AGENDA

(Declarations also to be made prior to discussions on each item)

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6. MAYORAL REPORTS

7. NOTICES OF MOTION

Nil

8. QUESTIONS ON NOTICE FROM COUNCILLORS

Nil

9. GENERAL MANAGER'S REPORTS

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DR CATHERINE DALE
GENERAL MANAGER

GMR17/030 LOCAL GOVERNMENT NSW ANNUAL CONFERENCE - 2017

E15.9021

Responsible Officer: Dr Catherine Dale - General Manager

Attachments: Nil

Focus Area: Collaborative Communities

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

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

EXECUTIVE SUMMARY

This report presents details of the Local Government NSW Annual Conference to be held in Sydney from 4 to 6 December 2017 and seeks a resolution from Council on the number of delegates to attend the Conference and identification of any issues, together with proposed solutions/motions, that Council may wish to have considered at the Conference.

RECOMMENDATION

THAT:

1. In order to meet the cut-off date for early bird registrations of 23 October 2017, Council nominate the Mayor and two other voting delegates, together with observers as determined, to attend the Local Government NSW Conference to be held in Sydney from 4 to 6 December 2017;
2. The names of such voting delegates and observers to be determined at the Council meeting on 12 September 2017;
3. Council's delegates be reimbursed out of pocket expenses in accordance with Council's policy;
4. Council consider issues and proposed solutions/motions for submission to the Local Government NSW 2017 Conference.

BACKGROUND

Local Government NSW (LGNSW) is the peak industry association that represents the interests of all NSW general purpose councils, as well as special purpose councils and the NSW Aboriginal Land Council. The Annual Conference is the policy making event for the general purpose councils, where local councillors can come together to share ideas and debate relevant issues.

CONSIDERATIONS

Councils are invited to register for the Conference, nominate voting delegates and submit motions for consideration.

The Conference will be held on Monday 4 December to Wednesday 6 December 2017 at the Hyatt Regency Sydney, Sydney.

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A draft program and details of the 2017 Conference are available on the Local Government NSW website at: <http://lgnsw.org.au/events-training/local-government-nsw-annual-conference/program-1>.

Delegates

Council's policy on Councillors' Expenses and Facilities provides that all Councillors can attend the Local Government NSW Annual Conference if they wish.

Each financial member of LGNSW is entitled to a certain number of voting delegates, and in accordance with the formula for calculating members' voter entitlements, Eurobodalla Shire Council has three voting delegates. Further information on voting entitlements is available at: <http://lgnsw.org.au/events-training/local-government-nsw-annual-conference/voting-delegates-1>.

It has been the practice for the Mayor to be one of Council's voting delegates.

Council can also nominate non-voting delegates to attend the conference as observers.

Issues for Consideration at Conference

All members (including newly merged councils which are LGNSW members) are able to put forward motions to be considered at the Conference.

The LGNSW Board is seeking ways to ensure the debate on motions centres on advancing the sector wide policy agenda. This means proposed motions should seek to be strategic, affect members State-wide and introduce new or emerging policy issues and actions.

The Board has resolved that motions will be included in the Business Paper for the Conference only where they:

1. Are consistent with the objects of the Association (see Rule 4 of the [Association's rules](#));
2. Relate to Local Government in NSW and/or across Australia;
3. Concern or are likely to concern Local Government as a sector;
4. Seek to advance the Local Government policy agenda of the Association and/or improve governance of the Association;
5. Have a lawful purpose (a motion does not have a lawful purpose if its implementation would require or encourage non-compliance with prevailing laws);
6. Are clearly worded and unambiguous in nature; and
7. Do not express preference for one or several members over one or several other members.

The Board will not include motions in the Business Paper which do not advance the local government policy agenda. Therefore a motion will not be included if it is operational, rather than strategic; not local government business; focused on a local issue only or if the motion is consistent with past policies and actions of LGNSW or the Local Government and Shire's Association.

Further, for a motion to be included in the Business Paper for the Conference the submitting member council needs to provide evidence of its support for the motion to be included. Such evidence should be in the form of an attachment or addendum and may include an extract of

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the minutes of the meeting at which the member resolved to submit the motion for consideration by the Conference.

To allow printing and distribution of the Business Paper before the Conference, members are strongly encouraged to submit their motions by close of business on Monday 6 November.

Registration

Early bird registration is \$899 if received by 23 October 2017, or \$999 if received after that date. Cancellations up to 27 November will be eligible for a full refund less a \$110 administration fee. Cancellations after 27 November are not refundable.

Accommodation, Travel and Sustenance

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

Accommodation is restricted to a maximum 4½ star rating and where possible at the conference venue to avoid other costs.

CONCLUSION

The Local Government NSW Annual Conference is the annual policy-making event for all councils of NSW, Associate members and the NSW Aboriginal Land Councils where local councillors can come together to share ideas and debate relevant issues.

GMR17/031 ADOPTION OF POLICIES

E16.0297

Responsible Officer: Dr Catherine Dale - General Manager

Attachments: 1. Under Separate Cover - Policies for Adoption

Focus Area: Collaborative Communities

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

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

EXECUTIVE SUMMARY

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

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

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

1. Competitive Provisions of Services Policy
2. Interest Free Advances to Sporting and Cultural Organisations Policy
3. Rates and Debtors Hardship Policy
4. Land Investment Policy
5. Fiscal Responsibility Policy
6. Records Management Policy

This report recommends adoption of those policies.

RECOMMENDATION

THAT Council adopt the following policies:

1. Competitive Provisions of Services Policy
2. Interest Free Advances to Sporting and Cultural Organisations Policy
3. Rates and Debtors Hardship Policy

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4. Land Investment Policy
5. Fiscal Responsibility Policy
6. Records Management Policy.

BACKGROUND

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

CONSIDERATIONS

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

Competitive Provisions of Services Policy - This policy outlines Council's position on the competitive provision of services. Council will continually strive to deliver services to our community that provide value for money on a quadruple bottom line basis. This policy seeks to balance the cost of service provision with the social and economic costs of the method of delivery.

Interest Free Advances to Sporting and Cultural Organisations Policy – This policy recognises the important roles of social, cultural and sporting groups within the community to achieve key strategic objectives. Council will make interest free loans available to these groups subject to criteria and conditions at a reasonable cost to ratepayers.

Rates and Debtors Hardship Policy - The policy aims to promote a clear guideline for administering rate and debtor hardship provisions, ensure consistency and fairness in the way Council deals with hardship provisions and take such steps as are appropriate to minimise the impact of outstanding debts on Council's financial position.

Land Investment Policy – The purpose of this policy to provide guidance to Council on its investment in land to develop revenue streams that may be used to finance community infrastructure and other objectives determined by Council.

Fiscal Responsibility Policy – The purpose of this policy is to provide guidance and targets for budgeting and financial results. Eurobodalla Shire Council's policy is designed to ensure that reasonable financial health and sustainability is maintained.

Records Management Policy – The purpose of this policy is to provide records and information management guidance to deliver effective records and information management which in turn supports and facilitates good business across all operating environments.

Legal

Competitive Provisions of Services Policy - Council will comply with the *Local Government Act 1993* including the guiding principles for councils (Section 8)
www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182/ which in part says:

1. Guiding principles for councils

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- Provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively
- Have regard to the long term and cumulative effects of its decisions

2. Implementation

- Be a responsible employer

Interest Free Advances to Sporting and Cultural Organisations Policy - Eurobodalla Shire Council will comply with the *Local Government Act (NSW) 1993*.

Rates and Debtors Hardship Policy - Eurobodalla Shire Council will comply with the *Local Government Act 1993*.

Land Investment Policy - Eurobodalla Shire Council will comply with Section 625 of the Local Government Act (NSW) 1993; The Trustee Amendment (Discretionary Investments) Act (NSW) 1997 section 14A(2); Local Government Code of Accounting Practice and Financial Reporting and Investment Policy Guidelines dated May 2010 (issued by the Office of Local Government); and Chapter 12, Part 6 LGA – Public-Private Partnerships.

Fiscal Responsibility Policy - Eurobodalla Shire Council will comply with NSW *Local Government Act 1993*.

Records Management Policy - This policy ensures Eurobodalla Shire Council's compliance with:

- Local Government Act 1993
- Government Information (Public Access) Act 2009
- Privacy and Personal Information Protection Act, 1998
- State Records Act 1998
- General retention and disposal authority: local government records GA39
- Health Records and Information Privacy Act 2002
- Model Code of Conduct for Local Councils in NSW, November 2015
- Evidence Act 1995
 - Electronic copies can be introduced to court as evidence – original document rule is removed and copies, including digital, are acceptable.
- Electronic Transactions Act 2000
 - Digital communication is deemed to have equivalence to paper versions in most situations.

Community and Stakeholder Engagement

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

No submissions were received.

GMR17/031 ADOPTION OF POLICIES

E16.0297

CONCLUSION

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

GMR17/032 POLICY ADOPTION - DRAFT MEDIA POLICY

E16.0297

Responsible Officer: Dr Catherine Dale - General Manager

Attachments: 1. Draft Media Policy
2. Confidential - Submissions

Focus Area: Support Services

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

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

EXECUTIVE SUMMARY

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

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

The Media Policy has been reviewed and was placed on public exhibition from 5 July to 1 August 2017. During this time, two submissions were received.

This report recommends adoption of the draft Media Policy.

RECOMMENDATION

THAT Council adopts the draft Media Policy.

BACKGROUND

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

A report was presented to the Ordinary Meeting of Council on 27 June 2017, the recommendation of which was:

THAT

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

GMR17/032 POLICY ADOPTION - DRAFT MEDIA POLICY

E16.0297

Eurobodalla's Media Policy guides the important relationship Council has with media. This relationship provides Council with an opportunity to keep the community informed about its activities, services and programs.

The purpose of this policy is to:

- Provide for communication of Council affairs through the media
- Set a framework for an effective working relationship with media
- Promote positive coverage of Council affairs that is fair, accurate and reliable
- Identify spokespeople and their responsibilities.

Changes

The draft exhibited from 5 July to 1 August 2017 included the following changes.

Policy statement (1) addition of;

This policy does not apply to:

- *the distribution and publication of communications other than media releases for marketing, promotion and education purposes*
- *advertising*
- *media activities undertaken as part of Council's tourism promotion or other specific marketing projects.*

Council reserves the right to choose when and where it will publish and distribute communications other than those covered in this policy, and the right to choose where it will place advertising.

Rationale – This is recommended to improve clarity about the policy context and application. An example of a specific project could be an Arts event where media releases are distributed to Arts media only.

Policy statement (2) - addition of; *the Australian Press Council's Statements of Principles, Specific Standards, Standards of Practice and Advisory Guidelines.*

Rationale – This is recommended to broaden the references.

Policy statement (4) – addition of; *requests for information and matters raised in discussions with media organisations and their representatives will not be disclosed to other media organisations.*

Rationale – this is recommended to provide media organisations and their representatives with surety that Council understands the need to maintain confidentiality in a competitive media environment.

Policy statement (4) - addition of, *...In consultation with Councillors, the General Manager may cease or refuse to provide Council's media service to individuals or organisations that do not act in accordance with the Australian Media, Entertainment and Arts Alliance Code of Ethics for journalists, and/or the Australian Press Council's Statements of Principles, Specific Standards, Standards of Practice and Advisory Guidelines.*

GMR17/032 POLICY ADOPTION - DRAFT MEDIA POLICY

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Policy statement (4) – revised from: Media organisations and their representatives will be treated equally and without bias.

To: *The media service will be provided to media organisations and their representatives equally and without bias.*

Rationale – This revision will improve clarity about the context of the statement and its application to Council’s Media Service. A definition of Council’s Media Service is recommended to support this, and an additional clarification under Policy Statement – Application, referring to what the Media Policy does not apply to.

There are situations where media organisations may be treated differently. For example, a councillor may choose to contact and provide only one media organisation with a story or statement. Or, Council’s media service may provide editorial to a specific media organisation to support a special feature.

Outside the application of this Media Policy, media organisations are treated differently when staff prepare, distribute and publish communications that may be used by media for example advertising and content for marketing, promotion and education purposes.

Within the Media Service, Council’s media releases will be distributed equally and at the same time.

Governance - Other related external references - addition of:

Australian Media, Entertainment and Arts Alliance Code of Ethics www.meaa.org/meaa-media/code-of-ethics/

Australian Press Council’s Statements of Principles, Specific Standards, Standards of Practice and Advisory Guidelines. www.presscouncil.org.au/standards/

Definitions – MEDIA – updated to: *Organisations that prepare or disseminate mass media information, including reporters, journalists and researchers working for or on behalf of such organisations, either accredited with or regulated by a recognised media industry peak body, or that acts in accordance with the Media, Entertainment and Arts Alliance Code of Ethics for journalists and/or the Australian Press Council’s Standards of Practice and Advisory Guidelines.*

Definitions – inclusion of MEDIA SERVICE

Council’s media service:

- *prepares, publishes and distributes media releases*
- *coordinates interviews*
- *provides quotes, photos, videos and inclusions when available*
- *organises media briefings and provides updates and clarification*
- *responds to media queries and requests for information*
- *liaises with stakeholders on joint media activities*
- *engages on media’s social media platforms*

GMR17/032 POLICY ADOPTION - DRAFT MEDIA POLICY

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- *addresses incorrect information in media*
- *distributes and publishes communications other than media releases, and therefore outside the application of the Media Policy, and coordinates advertising for marketing, promotion and education purposes.*

Rationale – this is included to provide clarity about Council’s Media Service.

Community and Stakeholder Engagement

The *Local Government Act 1993 – Section 160* sets out how councils must carry out the public notice and exhibition of a draft local policy, and Council’s Engagement Planning Tool was considered to guide engagement.

Engagement on the draft Media Policy included:

- the draft Media Policy was placed on public exhibition for 28 days
- the draft policy and notice of public exhibition were put on Council’s website on the Your Say page
- a print copy of the draft policy and notice of public exhibition was available at the Batemans Bay, Moruya and Narooma libraries and Moruya Customer service centre
- public exhibition of the draft policy was advertised in Council’s Noticeboard which appears in the print editions of some local papers, and on Council’s website under the News and Events page
- media organisations that Council regularly communicates with were invited to provide feedback.

Engagement Outcomes:

Two submissions were received during the public exhibition and provided in full to Councillors for their consideration.

Submission One

In summary, this submission was strongly in support of changes in the draft policy and specifically noted unreserved support for the seven changes listed below. The submission made comments about how digital distribution has transformed media, the difficulty in determining credible news sources, and a view that local government has an obligation to only deal with media organisations who act in accordance with the Australian Media, Entertainment and Arts Alliance Code of Ethics for journalists, and/or the Australian Press Council’s Statements of Principles, Specific Standards, Standards of Practice and Advisory Guidelines.

Submission One specifically supported the following changes:

- Policy statement (1) Council reserves the right to choose when and where it will publish and distribute communications other than those covered in this policy, and the right to choose where it will place advertising.
- Policy statement (2) - addition of; the Australian Press Council’s Statements of Principles, Specific Standards, Standards of Practice and Advisory Guidelines.

GMR17/032 POLICY ADOPTION - DRAFT MEDIA POLICY

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- Policy statement (4) – addition of; requests for information and matters raised in discussions with media organisations and their representatives will not be disclosed to other media organisations.
- Policy statement (4) - addition of, ...In consultation with Councillors, the General Manager may cease or refuse to provide Council's media service to individuals or organisations that do not act in accordance with the Australian Media, Entertainment and Arts Alliance Code of Ethics for journalists, and/or the Australian Press Council's Statements of Principles, Specific Standards, Standards of Practice and Advisory Guidelines.
- Policy statement (4) – revised from: Media organisations and their representatives will be treated equally and without bias, To: The media service will be provided to media organisations and their representatives equally and without bias.
- Governance - Other related external references - addition of: Australian Media, Entertainment and Arts Alliance Code of Ethics www.meaa.org/meaamedia/code-of-ethics/ Australian Press Council's Statements of Principles, Specific Standards, Standards of Practice and Advisory Guidelines. www.presscouncil.org.au/standards/
- Definitions – MEDIA – updated to: Organisations that prepare or disseminate mass media information, including reporters, journalists and researchers working for or on behalf of such organisations, either accredited with or regulated by a recognised media industry peak body, or that acts in accordance with the Media, Entertainment and Arts Alliance Code of Ethics for journalists and/or the Australian Press Council's Standards of Practice and Advisory Guidelines.

Submission Two

Submission Two included analysis, interpretation and opinion of elements within the policy for the benefit of Councillors. It referenced examples of past media matters. It included opinions and comments on matters unrelated to the draft Media Policy such as the broader communications service and perceptions of Council and Council's reputation. Whilst the writer's feedback and opinion on these non-related matters is not addressed in this report on the draft Media Policy, it has been provided in full to all Councillors for their consideration.

The submission did not specify any recommendations or suggestions for alternative wording, omission or inclusions in the draft Media Policy.

Submission Two included opinions, comments and criticisms, or indicated concerns with the following sections of the draft Media Policy.

Matter referred to in the draft Media Policy	Summary of opinion / comments on the matter	How the feedback has been considered in the review of the policy
Policy statement (4) - addition of, ...In consultation with Councillors, the General Manager may cease or	Concerns about this inclusion	Inclusion of this statement is proposed to ensure an effective and fair use of

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refuse to provide Council's media service to individuals or organisations that do not act in accordance with the Australian Media, Entertainment and Arts Alliance Code of Ethics for journalists, and/or the Australian Press Council's Statements of Principles, Specific Standards, Standards of Practice and Advisory Guidelines.		Council resources and should be considered within the context of the definition of Council's media service. For example, it may not be a good use of council resources to respond to an unnecessary level of querulous or vexatious media queries.
Australian Press Council's Statements of Principles #3. <i>Ensure that factual material is presented with reasonable fairness and balance, and that writers' expressions of opinion are not based on significantly inaccurate factual material or omission of key facts.</i>	Concerns with this inclusion around Council considering that letters or opinion published by media organisations may be in contravention of the Australian Press Council's Statements of Principles #3.	Council supports the Australian Press Council's Statements of Principles.
Policy aim: promote positive coverage of Council affairs that is fair, accurate and reliable	Opinion provided that Council's media service does not comply with this	Council aims to achieve positive coverage of Council affairs that is fair, accurate and reliable.
Policy aim: identify spokespeople and their responsibilities.	A reminder for the information of Councillors that the Media Policy requires their compliance.	Council supports this aim of the Media Policy.
Policy aim: ensure communication by Councillors and staff with the media is consistent, well informed, timely, appropriate and newsworthy	Concerns about how Council decides what is newsworthy	Council supports this aim of the Media Policy.
Policy aim: build Council's reputation and maximise accurate editorial coverage of Eurobodalla Shire Council's events, programs, services and decisions	Comment that this implies the communications arm of Council has an ability to have a	Council provides information to media, it does not influence editorial published by media organisations.

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	bearing on editorials.	
Promote positive media relationships	Opinion offered that a 'large wall' exists between the information that could be provided and that which should be provided.	Council supports this aim of the Media Policy.

CONCLUSION

Feedback received during the public exhibition of the draft Media Policy has been reviewed.

There is one change to the draft policy on exhibition. Under Purpose, the statement: 'Promote positive coverage of Council affairs that is fair, accurate, and reliable' has been changed through removing the word 'positive'. This provides clarity that Council promotes broad coverage of Council affairs.

The Media Policy is intended to clarify Council's ability to implement the purpose of the policy, and in particular to set a framework for an effective working relationship with media and promote positive coverage of Council affairs that is fair, accurate and reliable.



POLICY

Policy name	Media Policy
Responsible manager(s)	General Manager
Contact officer(s)	Executive Manager Communications and Engagement
Directorate	Communications
Approval date	TBA 2017

Purpose

Council has an important relationship with the media. This relationship provides Council with an opportunity to keep the community informed and involved in its activities and programs.

This purpose of this policy is to:

- Provide for communication of Council affairs through the media
- Set a framework for an effective working relationship with media
- Promote coverage of Council affairs that is fair, accurate and reliable
- Identify spokespeople and their responsibilities.

The policy aims to:

- Ensure communication by Councillors and staff with the media is consistent, well informed, timely, appropriate and newsworthy
- Build Council's reputation and maximise accurate editorial coverage of Eurobodalla Shire Council's events, programs, services and decisions
- Promote positive media relationships
- Limit the publication of inaccurate information and reduce risk
- Clearly indicate Council's authorised spokespersons.

Policy statement

1	<p>Application</p> <p>This policy applies to communications between Eurobodalla Shire Council councillors and staff with the media and includes any communications:</p> <ul style="list-style-type: none"> • About Council affairs and related matters • At public speaking engagements. <p>The policy applied to council officials is defined in Council's Code of Conduct which reflects the Model Code of Conduct for Local Councils in NSW.</p> <p>This policy does not apply to:</p> <ul style="list-style-type: none"> • the distribution and publication of communications other than media releases for marketing, promotion and education purposes • advertising • media activities undertaken as part of Council's tourism promotion or other specific marketing projects. <p>Council reserves the right to choose when and where it will publish and distribute communications other than those covered in this policy, and the right to choose where it will place advertising.</p>
2	<p>Legislation</p> <p>The policy acknowledges the rights and responsibilities of councillors as elected representatives as outlined in: The Local Government Act 1993; the Media,</p>



	Entertainment and Arts Alliance Code of Ethics for journalists; addition of and the Australian Press Council's Statements of Principles, Specific Standards, Standards of Practice and Advisory Guidelines.
3	<p>Spokespeople – roles and responsibilities</p> <p>The Mayor and General Manager are the official spokespersons on Council affairs.</p> <ul style="list-style-type: none"> • The Mayor may designate Councillors to speak on his/her behalf. • The General Manager may designate directors to speak on his/her behalf, and managers and specialist staff to speak and respond to media queries on technical or operational matters. • As members of the community, Councillors are entitled to enter into public debate in their private capacity and make comment on Council affairs provided they clearly state that such public comment reflects their personal opinion and not that of the council or a committee of the Council. • The Chairs of committees can speak to media in regard to their particular portfolio with designated staff being able to comment on technical or administrative details about the issue at hand. • The Executive Manager Communications and Media Coordinator are authorised Council spokespersons on matters of fact or clarification, and will request that media credit their responses to 'a Council spokesperson'. • Staff and councillors should support Council decisions and refrain from using the media to make negative personal comments which are likely to undermine public confidence in the Council or local government generally. • Staff must not make political or controversial statements in or to the media on Council affairs, decisions and or events or about Councillors. <p>Within these guidelines, Council will openly discuss matters of interest with the media unless disclosure of certain information contravenes Council's obligation of confidentiality or privacy, duty of care, or could infringe other laws or regulations that govern Council operations.</p>
4	<p>Liaising with the media</p> <ul style="list-style-type: none"> • Media enquiries and requests for interviews should be directed to Council's communications unit through the Media Coordinator, who will coordinate Council's response with relevant staff and spokespersons. • The media service will be provided to media organisations and their representatives equally and without bias. • Media enquiries from media organisations and their representatives will be dealt with promptly and media can expect an acknowledgement of receipt of their query and a response in a timely manner. • Requests for information and matters raised in discussions with media organisations and their representatives will not be disclosed to other media organisations. • Media releases will be approved by the General Manager, a director, or the Executive Manager Communications on their behalf.



	<ul style="list-style-type: none"> • Council's communications unit is responsible for coordinating and distributing media releases and other media communications on behalf of the Mayor or the Council. • The General Manager will determine the priority of media releases. • Council media releases will be placed on Council's public website. • In consultation with Councillors, the General Manager may cease or refuse to provide Council's media service to individuals or organisations that do not act in accordance with the Australian Media, Entertainment and Arts Alliance Code of Ethics for journalists, and/or the Australian Press Council's Statements of Principles, Specific Standards, Standards of Practice and Advisory Guidelines.
5	Incorrect information In the event that incorrect information or information that has personal or corporate reputation risk is published, the Executive Manager Communications will investigate and report to the General Manager on how the information came to be published. If necessary, the General Manager will issue or authorise a media release to be issued that conveys the correct information, or request that communications staff speak to the journalist concerned to request as published clarification or correction.

Implementation

Requirements		Responsibility
1	Implementation and Coordination This policy is to be implemented in conjunction with other media and corporate protocols. Council's Executive Manager Communications is responsible for ensuring this policy is implemented.	Executive Manager Communications
2	Concerns Concerns received regarding this policy will be recorded on Council's customer service request (CSR) or records system and handled in accordance with Council's Customer Service Policy. They will be used to analyse the history of concerns and requests and to help determine follow up actions.	Council officers
3	Breaches Breaches of this policy will be dealt with in accordance with the Model Code of Conduct for Councils in NSW – that is staff will be disciplined while allegations against councillors, the Mayor or General Manager will be referred to the Office of Local Government.	General Manager
4	Complaints Complaints received regarding this policy will be lodged with the Public Officer and handled in accordance with council's Complaints Policy.	Public Officer
5	Consultation Consultation regarding this policy will occur as relevant with key stakeholders and may include legislative bodies, other agencies, relevant legislation, industry guidelines, and public comment.	Community key stakeholders



Changes to this policy will be placed on public exhibition for 28 days to invite submissions from the community.	
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Review

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

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

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

Performance indicator	Data source(s)
Customer concerns or complaints	Council records
Breaches	Council records

Governance

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

Related legislation and policies

Name	Link
The Model Code of Conduct for Local Councils in NSW 2013	www.esc.nsw.gov.au www.dlg.nsw.gov.au
Local Government Act 1993	www.legislation.nsw.gov.au
NSW Defamation Act 2005	www.legislation.nsw.gov.au
Privacy Act 1988	www.legislation.nsw.gov.au

Other related external references

Name	Link
Division of Local Government	www.dlg.nsw.gov.au/
Australian Media, Entertainment and Arts Alliance Code of Ethics	www.meaa.org/meaa-media/code-of-ethics/
Australian Press Council's Statements of Principles, Specific Standards, Standards of Practice and Advisory Guidelines.	www.presscouncil.org.au/standards/

Definitions

Term	Definition
Council affairs	Includes matters before the council and other Council affairs and business, policy, interpretation of policy, management of Council business or staff, or other matters that may commit the Council's resources



Council officials	As defined by the Model Code of Conduct for Councils in NSW, Council officials include Councillors, members of staff of Council and other approved delegates, including volunteers and chairs of Council committees
Council staff	Council officials employed by Council who are not councillors
Media	Organisations that prepare or disseminate mass media information, including reporters, journalists and researchers working for or on behalf of such organisations, either accredited with or regulated by a recognised media industry peak body, or that acts in accordance with the Media, Entertainment and Arts Alliance Code of Ethics for journalists and/or the Australian Press Council's Standards of Practice and Advisory Guidelines.
Publication	The distribution of information via print or electronic media including but not limited to newspapers, radio, TV, and the internet.
Media enquiries	When the media requests more information in relation to a media release – for example an interview with a Council spokesperson – or a response or quote in relation to an issue they are reporting on. Media enquiries are coordinated by the communications unit.
Media Service	Council's media service: <ul style="list-style-type: none"> • Prepares, publishes and distributes media releases • Responds to media queries and requests for information • Provides quotes, photos, videos and inclusions when available • Organises media briefings and provides updates and clarification • Liaises with stakeholders on joint media activities • Engages on media's social media platforms where appropriate • Addresses incorrect information in media • Distributes and publishes other communications outside the application of the Media Policy including but not limited to; media for public relations activities to support tourism promotion or specific projects, and advertising and content for marketing, promotion and education purposes.

Change history

Version	Approval date	Approved by	Min No	File No	Change
1	13 Jul 2007	Council	494	06.0380	Policy 'Media Releases Spokesperson for Council'
2	10 Sep 2013	Council	13/272	E13.7095	Reviewed and updated

Internal use

Responsible officer	General Manager		Approved by	Council	
Minute	13/272	Report no	O13/56	Effective date	10 Sep 2013
File no	E13.7095	Review date	Sep 2016	Pages	5

GMR17/033 POLICY REPEAL - COMMUNITY ENGAGEMENT POLICY

E16.0297

Responsible Officer: Dr Catherine Dale - General Manager

Attachments: 1. Community Engagement Policy
2. Confidential - Submission

Focus Area: Support Services

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

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

EXECUTIVE SUMMARY

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

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

The Community Engagement Policy has been reviewed and it is considered to be no longer required as the Community Engagement Framework and Community Engagement Charter which were endorsed by Council in February 2017 adequately replace the purpose of the Community Engagement Policy.

The exhibition period for the repeal of the policy is complete. One submission was received and the key matters raised in the submission that relate to the repeal of the Community Engagement Policy, and how the feedback has been considered in the recommendation, is included in this report.

This report is presented to Council for the policy to be repealed.

RECOMMENDATION

THAT Community Engagement Policy be repealed.

GMR17/033 POLICY REPEAL - COMMUNITY ENGAGEMENT POLICY

E16.0297

BACKGROUND

On 8 August 2017, Council endorsed placing the repeal of the Community Engagement Policy on public exhibition for a period of 28 days commencing on 9 August 2017 to 5 September 2017.

CONSIDERATIONS

The Council report GMR17/026 presented to the Ordinary Council meeting on 8 August 2017, recommended that the proposal to repeal the policy be placed on public exhibition.

In this report, it was explained that when the Community Engagement Charter and Community Engagement Framework were endorsed by Council in February 2017, there was a need to review the Community Engagement Policy 2013 to determine if it is still required, and that there may not be a need to have both an endorsed Community Engagement Framework and a Community Engagement Policy.

The review of the Community Engagement Policy was undertaken and it is not considered to be required, as the Community Engagement Framework and Community Engagement Charter adequately replace its purpose.

Community and Stakeholder Engagement

The *Local Government Act 1993 – Section 160* sets out how councils must carry out the public notice and exhibition of the repeal of a draft local policy, and Council's Engagement Planning Tool has been considered to guide engagement.

Council placed the repeal of the Community Engagement Policy on public exhibition for a period of 28 days commencing on 9 August 2017 to 5 September 2017. Copies were available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya Customer Service Centre.

Engagement Outcomes

One submission was received and the key matters raised that relate to the repeal of the Community Engagement Policy are summarised in the table below.

In addition to matters raised which can be addressed in the context of this report, the submission included views and opinions relating to Council's engagement processes, councillors and staff.

The full submission has been provided to councillors for their consideration.

Summary of issues	How the feedback has been considered in the review of the policy
There was no explanations given for the proposed repeal on Council's council's Noticeboard in the	An explanation was provided in the Council report GMR17/026 which was presented to the Ordinary Council meeting on 8 August 2017 and available on Council's website, the 3 libraries and Moruya customer service centre. This report included the following as the reason for repealing the policy; <i>The purpose of the Community</i>

GMR17/033 POLICY REPEAL - COMMUNITY ENGAGEMENT POLICY

E16.0297

<p>local papers, or Council's website</p>	<p><i>Engagement Policy has been incorporated into the Community Engagement Framework and Charter.</i></p> <p>The report provides further explanation about the aims of the Framework and Charter and notes that these were developed through community and stakeholder engagement.</p> <p>This report also notes that when the Framework and Charter were endorsed by Council in February 2017, that the Community Engagement Policy 2013 will be reviewed to determine if it is still required, and that there may not be a need to have both an endorsed Community Engagement Framework and a Community Engagement Policy.</p>
<p><i>Query why Council wants to be rid of the IAP2 (International Association of Public Participation) core values</i></p>	<p>Council does not want to get rid of the IAP2 core values.</p> <p>Council's Engagement Framework and Charter support the IAP2 core values. The Framework includes references to standards advocated by IAP2. It also includes a set of unique Principles developed through engagement with our community that aim to guide Council's approach to engagement. These principles align with the core values of IAP2.</p> <p>Council's Community Engagement Charter endorsed in February 2017 states that; <i>Our approach to engagement is underpinned by the International Association of Public Participation's (IAP2) spectrum.</i></p> <p>Council staff involved in engagement projects have recently completed three IAP2 training modules.</p>
<p>Council can't rely on the Community Engagement Framework, as it limits community engagement, by an arbitrary decision by staff as to the level of impact on the community.</p>	<p>The Framework does not limit community engagement.</p> <p>The Community Engagement Framework provides guidance for the conduct of best practice community engagement and aims to:</p> <ul style="list-style-type: none"> • Build a culture of effective engagement across the organisation • Clarify the roles and responsibilities of internal stakeholders • Build a relationship of trust with external stakeholders • Deliver a consistent approach to engagement • Deliver change within the current available resources. <p>Staff use the Community Engagement Planning Tool as guide to assist in developing community engagement plans. It helps to determine the most suitable level of engagement, stakeholders and activities for different projects. One of the steps in the Planning Tool is considering the likely level of impact on the community. Community engagement plans for major projects are submitted to Council for endorsement.</p>

GMR17/033 POLICY REPEAL - COMMUNITY ENGAGEMENT POLICY

E16.0297

	<p>The Community Engagement Charter is an agreement between Council and the community declaring Council's commitment to engagement, clarifying the responsibilities of Council and community members and educating stakeholders on the benefits and opportunities of engagement.</p>
<p>Query re the new Crown Lands Act requiring a Community Engagement policy in relation to approving Crown Land activities.</p>	<p>The NSW Government is in the process of amending Crown Lands legislation following the passing of the Crown Land Management Act 2016 and the Crown Land Legislation Amendment Act 2017.</p> <p>This legislation means Council will have to process licences/leases over public land under the <i>Local Government Act 1993</i> irrespective of whether they are on Crown or Council's community land. This legislation is expected to come into force by June 2018.</p> <p>To ensure the aims of Council's new Engagement Framework are met and to consider the best approach to these new legislative requirements, staff have already reviewed the way the community and stakeholders are informed about licences/leases over public land using Council's Framework, Charter and Planning Tool as guides.</p> <p>The outcome of this review is that Council's engagement approach will be updated before the legislation is passed. Our approach is now that Council will follow notification procedures which would be followed under the <i>Local Government Act 1993</i> for all land:</p> <ol style="list-style-type: none">1) Because this includes a greater level of community engagement2) It increases consistency particularly when you consider that members of the public would generally be unaware whether land is Crown or Council3) A further change to procedures will be avoided when the already passed legislation comes into force.

CONCLUSION

The Community Engagement Policy and submission received during the public exhibition of the proposal to repeal it have been reviewed. The Policy is no longer required as the Community Engagement Charter, Community Engagement Framework and the Community Engagement Planning Tool which were developed with the community and stakeholders adequately replace the purpose of the Community Engagement Policy.



POLICY

Policy name	Community Engagement Policy
Responsible manager(s)	General Manager
Contact officer(s)	Divisional Manager, Communications and Tourism
Directorate	Communications and Tourism
Approval date	10 September 2013

Purpose

The Community Engagement Policy aims to:

- Establish the principles for engaging with the community
- Help residents understand Council's approach to community engagement
- Align Council values with the community's principles expressed in the *One Community: Community Strategic Plan*
- Ensure compliance with legislative requirements.

Policy statement

1	Application The principles in this policy apply to the community engagement activities that are an integral part of the development of Council's plans and strategies.
2	Legislation Eurobodalla Shire Council will comply with the <i>Local Government Act 1993</i> and the <i>Environmental Planning and Assessment Act</i> and other Acts which from time to time require council to engage with the community
3	Principles of community engagement <ul style="list-style-type: none"> • Be open and inclusive • Create mutual trust and respect and be accountable • Engage early and provide information that is clear • Consideration and feedback • Skills and resources
3.1	What is community engagement Community engagement is about involving members of the community in a decision forming process on issues that affect them.
3.2	Why engage the community? The benefits of engaging with the community can lead to better understanding, informed discussion and decisions the community can 'own'. Eurobodalla's <i>One Community: Community Strategic Plan</i> values engagement and sets clear and high level objectives for collaboration and working together (see 3.3 below)
3.3	Relationship to Community Strategic Plan objectives <i>'The Eurobodalla community wants a collaborative community where the community's thoughts and ideas are valued, where people are empowered by that knowledge and where they have the opportunity to participate'</i> , (Extract from the Eurobodalla Shire Community Strategic plan "One Community" 2012) This Community Engagement Policy aims to support council to achieve the following objectives in the Community Strategic Plan:



	<p>Objective 4: Our community and environment are in harmony</p> <p>Objective 8: We are an engaged and connected community</p> <p>Objective 9: We work together to achieve our goals</p>
3.4	<p>Who is our community</p> <p>Our community includes many stakeholders including: residents, landowners, business operators, people working in the shire, visitors, users of council services, council's advisory committees, resident & business associations, service providers, government agencies and statutory bodies, local and regional associations and community organisations</p>
3.7	<p>How and when will council engage with the community</p> <p>Council's approach to community engagement is based on the spectrum of engagement activities as advocated by the International Association for Public Participation (IAP2). The five levels of engagement are:</p> <ul style="list-style-type: none"> • Inform • Consult • Involve • Collaborate • Empower
3.8	<p>The core values of public participation as determined by the International Association for Public Participation (IAP2) are considered to be the worldwide best practice models. The purpose of these core values is to help make better decisions that reflect the interests and concerns of potentially affected people and entities. In addition, IAP2 has also developed a chart that provides suggestions on how to increase the level of public impact on decision making and includes that;</p> <ol style="list-style-type: none"> 1. The public should have a say in decisions about actions that affect their lives. 2. The public participation process communicates the interests and meets the process needs of all participants. 3. The public participation process seeks out and facilitates the involvement of those potentially affected. 4. The public participation process involves participants in defining how they participate. 5. The public participation process provides participants with the information they need to participate in a meaningful way. 6. The public participation process communicates to participants how their input affected the decision.

Implementation

Requirements		Responsibility
1	<p>Scope</p> <p>This policy applies to all facets of Council's operations including council's corporate, land use and financial planning and council's day to day business activities. It defines the principles underpinning council's engagement activities, the role of councillors and staff in engaging with the community and the methods which Council will use to engage with the community.</p>	Councillors, council Officers



2	This policy will be implemented by following the International Association for Public Participation (IAP2) core values.	Council Officers
3	Staff Under supervision, applicable Council staff will be responsible for ensuring that policies are implemented appropriately within their work area, after they have received relevant training to do so.	Council officers
4	Concerns Concerns regarding the consultation policy will be recorded on council's customer service request ('CSR') or records system and handled in accordance with Council's Customer Complaints and Services Requests Policy. They will be used to analyse the history of concerns and requests and to help determine follow up actions.	Council Officers
5	Complaints Complaints received regarding this policy will be lodged with the Public Officer and handled in accordance with council's Complaints Policy.	Public Officer
6	Consultation Consultation regarding this policy will occur as relevant with key stakeholders and may include legislative bodies, other relevant legislation, industry guidelines, and public comment. Public submissions regarding this policy will be considered during the policy exhibition period.	As required

Review

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

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

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

Performance indicator	Data source(s)
Concerns or Complaints registered	Council records
Community Survey of satisfaction with council consultation	Surveys every two years
Achievement of Community Strategic Plan objectives Objective 4: Our community and environment are in harmony Objective 8: We are an engaged and connected community Objective 9: We work together to achieve our goals	Integrated Planning and Reporting

Governance

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



Related legislation and policies

Name	Link
Code of Practice	www.esc.nsw.gov.au
Local Government Act 1993	www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182

Related external references

Name	Link
Division of Local Government	www.dlg.nsw.gov.au/

Supporting documents

Name	Link
Eurobodalla Community Strategic Plan	www.esc.nsw.gov.au
Eurobodalla Shire Council Integrated Communication and Marketing Strategy	Internal Document
Eurobodalla Shire Council Project Management Guidelines	http://intranet.esc.nsw.gov.au/project-management/

Definitions

Word/Term	Definition
IAP2	International Association for Public Participation
'Consultation' and 'community engagement'	Terms commonly used by practitioners and in literature but in this policy and model of community engagement, 'consultation' is one of the levels of engagement (as per the IAP2 spectrum referred to above).

Change history

Version	Approval date	Approved by	Min No	File No	Change
1	28 May 2002	Council			'Consultation Policy' adopted
2	2006			06.0380	Policy Reviewed in conjunction with Management Plan 2005/06
3	10 Sep 2013	Council		E13.7095	New policy supersedes previous 'Consultation Policy'

Internal use

Responsible officer	General Manager	Approved by	Council
Minute	13/272	Report No	O13/56
File No	E13.7095	Review date	Sep 2016
		Effective date	10 Sep 2013
		Pages	4

GMR17/034 CODE OF MEETING PRACTICE

**E06.0429;
E16.0297**

Responsible Officer: Dr Catherine Dale - General Manager

Attachments: 1. Under Separate Cover - Code of Meeting Practice

Focus Area: Collaborative Communities

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

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

EXECUTIVE SUMMARY

At its meeting on 13 June 2017, Council endorsed the draft Code of Meeting Practice for public exhibition for a period of 42 days. The exhibition period commenced on Wednesday 21 June 2017. During this period, 15 submissions were received.

In November 2016, the Office of Local Government commenced a review of the Model Code of Meeting Practice in line with the amendments to the *Local Government Act 1993*. Advice received from the Office of Local Government indicates that the new Model Code will contain mandatory and non-mandatory provisions.

Once the model meeting code is finalised, and prescribed by regulation, councils will be required to adopt a code of meeting practice that incorporates its mandatory provisions. Council's code of meeting practice must not contain provisions that are inconsistent with the mandatory provisions of the model meeting code.

It is advised that the mandatory provisions of the model meeting code will incorporate the meeting rules currently prescribed under the Local Government (General) Regulations 2005. Further, Council's adopted code of meeting practice may also incorporate the non-mandatory provisions of the model meeting code and any other provisions. It is expected that the non-mandatory provisions of the model meeting code will contain better practice meeting rules.

Council anticipated that this review would have been finalised and changes could be incorporated into this review of its Code of Meeting Practice. However, recent verbal advice received from the Office of Local Government indicate that the Model Code of Meeting Practice is scheduled to be released in late 2017.

To ensure that Council maintains consistency with the mandatory provisions and to have the opportunity to review the non-mandatory provisions, it is considered appropriate that Council extend the current Code of Meeting Practice until the Model Code of Meeting Practice is released by the Office of Local Government. Once the Model Code of Meeting Practice is released Council will consider the changes to the Model Code along with the submissions that have been received. At this time, Council's Code of Meeting Practice will be re-exhibited for any further comment.

RECOMMENDATION

THAT Council extend the current Code of Meeting Practice until such time as the Model Code of Meeting Practice is released, reviewed and incorporated.

GMR17/034 CODE OF MEETING PRACTICE

**E06.0429;
E16.0297**

BACKGROUND

At its meeting on 13 June 2017, Council endorsed the draft Code of Meeting Practice for public exhibition for a period of 42 days. The exhibition period commenced on Wednesday 21 June 2017. During this period, Council anticipated that the Model Code of Meeting Practice would be released by the Office of Local Government and changes could be included into Council's Code. However, the Model Code has not been released and reviewed.

Verbal advice received from the Office of Local Government, indicates that unlike other policies, the Code of Meeting Practice does not need to be reviewed in the first 12 months of the Council term. However, Council's current Code of Meeting Practice has a review date of September 2016 and it is therefore considered appropriate for Council to determine an extension of the current Code until the Model Code is released.

The objectives of Eurobodalla Shire Council's Code of Meeting Practice are to ensure that:

- all meetings of Council are conducted in an orderly, consistent and efficient manner;
- all meetings of Council are conducted according to the principles of procedural fairness and due process;
- all councillors have an equal opportunity to participate in the meeting to the fullest extent possible, with respect being accorded to the expression of differing views;
- opportunities for community engagement are provided through Council meetings;
- all councillors, Council employees and members of the public fully understand their rights and obligations as participants in meetings of Council; and
- proceedings are transparent and understandable to all persons participating in and observing meetings of Council.

CONSIDERATIONS

In November 2016, the Office of Local Government commenced a review of the Model Code of Meeting Practice in line with the amendments to the *Local Government Act 1993*. Advice received from the Office of Local Government indicates that the new Model Code will contain mandatory and non-mandatory provisions.

To ensure that Council maintains consistency with the mandatory provisions and to have the opportunity to review the non-mandatory provisions, it is considered appropriate that Council extend the current Code of Meeting Practice until the Model Code of Meeting Practice is released and reviewed. Once the Model Code of Meeting Practice is released Council will consider the changes to the Model along with the submissions received. At this time, Council's Code of Meeting Practice will be re-exhibited for any further comment.

Community and Stakeholder Engagement

Council placed the draft policy on public exhibition for a period of not less than 42 days commencing on Wednesday 21 June 2017. Copies were available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

GMR17/034 CODE OF MEETING PRACTICE

**E06.0429;
E16.0297**

During the exhibition period, 15 submissions were received. These submissions have been provided on a confidential basis to Councillors and will be considered when the Model Code of Meeting Practice is released and reviewed. At this time, Council's Code of Meeting Practice will be re-exhibited for any further comment.

CONCLUSION

To ensure that Council maintains consistency with the mandatory provisions and to have the opportunity to review the non-mandatory provisions, it is considered appropriate that Council extend the current Code of Meeting Practice until the Model Code of Meeting Practice is released and reviewed. Once the Model Code of Meeting Practice is released and reviewed Council will consider the changes to the Model along with the submissions received. At this time, Council's Code of Meeting Practice will be re-exhibited for any further comment.

PSR17/052 2016-17 FOOD INSPECTION STATUS REPORT

E80.1313

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

Attachments: Nil

Focus Area: Liveable Communities

Delivery Program Link: L4.3 Conduct food safety and public health programs

Operational Plan Link: L4.3.1 Undertake food inspection program

EXECUTIVE SUMMARY

This briefing provides a summary of Council's Food Inspection Program for 2016-17 financial year. This program aims to ensure retail food is safe and suitable for human consumption, and correctly labelled.

The NSW Government requires that Council undertake routine inspections of retail food premises. Council commenced these food inspections in January 2009 under the Food Regulation Partnership with the NSW Food Authority.

In 2016-17 Eurobodalla food businesses achieved 95% compliance with the Food Standards Code. There were 400 primary inspections of 230 fixed premises, which resulted in only eight premises requiring reinspections, where actions were required to improve food safety.

Additionally, Micromex conducted a customer satisfaction survey where the Food Inspection Program received 100% customer satisfaction.

RECOMMENDATION

THAT Council receive and note the 2016-17 Food Inspection Status Report.

BACKGROUND

Since January 2009, Council has inspected retail food premises, as required by the provisions of the *Food Act 2003* (the Food Act). In accordance with this legislation, Council must: undertake inspections and enforcement; investigate food complaints; participate in food recalls; collaborate on single-case food borne illness investigations, and provide reports to the NSW Food Authority.

In-line with industry best practice, Council inspects all high risk premises twice per year and medium risk premises, a minimum of once per year. Where significant food safety issues are identified, a reinspection may also be conducted.

Council meets with other councils from the South East and the NSW Food Authority as part of the South East Regional Food Group Forum. These meetings are held three times each year and enable sharing of information across the region.

PSR17/052 2016-17 FOOD INSPECTION STATUS REPORT

E80.1313

CONSIDERATIONS

There are currently 230 fixed food businesses in Eurobodalla Shire, and over 78% of these are inspected twice annually. There are 49 temporary stalls inspected at the various markets and events in Eurobodalla Shire and 15 mobile food vendors inspected annually by appointment.

As required, Council submits an annual report to the NSW Food Authority, providing data on the Food Inspection Program.

In addition and as a recommendation from the Public and Environmental Health and Safety service review conducted in 2015 Council engaged Micromex to undertake a customer satisfaction survey of the Food Inspection Program. This survey was to:

- determine the level of customer satisfaction with the program
- identify client understanding of the purpose of the program
- evaluate client views on the quality of information provided by Council on operating and maintaining food businesses.

The survey found that there was 100% satisfaction in the most recent food shop inspection, and the provision of information required by the food premises was achieved through direct contact with the Council officer.

Furthermore, as another recommendation from the service review conducted in 2015, a Food Inspection Policy is to be developed and brought to Council for consideration later this year. This policy will look towards implementing a reduction in food inspections. The investigation into the potential to reduce the inspection regime would be based on risk and the performance of each business. The business would be required to demonstrate consistent compliance, established ownership, and not produce a high risk product (e.g., raw egg products) to enable inspection reduction.

Legal

The NSW Food Authority's Compliance and Enforcement Policy sets out the criteria for determining appropriate enforcement action. This policy, and Council's Compliance Policy, ensure that enforcement actions are consistent, procedurally fair and proportionate.

Council takes a graduated approach to enforcement action in order to improve the performance of the local retail food industry. A high priority is placed on education and collaboration, with enforcement action only taken for serious breaches or continued non-compliance.

Enforcement action

Where collaboration and education do not achieve safe food handling practices, enforcement action may be taken. Enforcement action can include (in order of escalation):

- reinspection
- warning letter

PSR17/052 2016-17 FOOD INSPECTION STATUS REPORT

E80.1313

- Improvement Notice
- Prohibition Order
- seizure of food items
- Penalty Infringement Notice.

Table 1: Summary of Council's Food Inspection Program from 2010-2011 to 2016-2017

	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
Inspections (fixed premises)	434	424	405	419	387	398	400
Reinspection	11	14	25	27	40	37	9
Improvement Notices	3	8	7	3	10	2	7
Warning letters	15	23	26	55	29	12	15
Complaints	10	17	13	11	10	13	12
Penalty Infringement Notices (PIN)	0	4	2	0	0	1	0

Education and collaboration

The time taken for an inspection is often evenly divided between observing practices and providing practical advice on safe food handling. This approach means that in most cases, any unsafe practices are rectified at the time of inspection.

Council's independent survey of food businesses found that 90% of respondents considered speaking to the Council officer during the inspection as one of the best ways of accessing information; 93% found the information provided to be useful.

Council targeted the education of food businesses around high risk food products (eg, raw eggs), including the introduction of guidelines for risk management.

Re-inspection

When required, a premises may be re-inspected to achieve compliance with the Food Standards Code. Where a re-inspection identifies continued non-compliance, further re-inspections may be required to achieve compliance. An inspection fee is charged for each re-inspection.

Eight premises required re-inspection in order to achieve safe food handling practice, one of which required a second re-inspection, resulting in a total of nine re-inspections. The reduction in re-inspections demonstrates a high level of compliance.

Warning letters

Warning letters are issued in conjunction with reinspections when there is a significant public health risk or persistent failure to comply. There has been a reduction in the need for warning letters with the utilisation of education, collaboration and the conduct of reinspections.

PSR17/052 2016-17 FOOD INSPECTION STATUS REPORT

E80.1313

Improvement Notices

Seven Improvement Notices were issued where escalation beyond reinspection was necessary to achieve the required level of food safety practices, or where the business was sufficiently unsatisfactory or structurally defective that urgent action was required.

Improvement Notices have a statutory fee set by the NSW Government attached (\$330 as at November 2014), which is intended to cover the cost of drafting and service of the notice, and the conduct of a single follow-up inspection.

Prohibition Orders

Prohibition Orders are served by Council when an Improvement Notice has not been complied with, and the Prohibition Order is necessary to prevent or mitigate a serious danger to public health. No Prohibition Orders were issued during the reporting year.

Penalty Infringement Notices

Penalty Infringement Notices are issued when a non-compliance is detected as an immediate threat to public health. No notices were issued in the reporting year.

Social impact

Compliance with the Food Standards Code provides significant long-term enjoyment and health benefits for the Eurobodalla Shire community and visitors, particularly by reducing food borne illness to consumers.

Economic development employment potential

The retail food sector is an important source of income and employment in Eurobodalla Shire and a high level of compliance with food safety is essential for the continued success of this sector, particularly given the high dependence of our local economy on tourism.

Financial

Fees are charged for administration of the Food Inspection Program and the conduct of inspections. The fees are in accordance with the *Food Act 2003* and Council's fees and charges.

During the 2016-17 financial year, the inspection fee was \$183 and the annual administration fee, \$184. The fees are set on the basis of user pays and full cost recovery.

The total income for 2016-17 was \$120,345, and the total costs were \$147,895..

Community engagement

Council engages with food businesses in a variety of ways, including a newsletter which has been developed and provided to food businesses to communicate and disseminate industry updates and safety information.

In addition, Council's authorised food officers engage and work with businesses through the provision of technical information to food premises, both during inspections, via telephone and front counter enquiries.

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Information pertaining to the Food Safety Program is readily available on Council's website at <http://www.esc.nsw.gov.au/council-services/public-environmental-health/food> .

Council continues to provide 'I'M ALERT', an Environmental Health Australia (EHA) food safety training link, from its website. Upon completion, participants can print their certificate.

CONCLUSION

The Food Inspection Program has been implemented successfully over the past eight years, with a high level of compliance and customer satisfaction by the operators of food premises. This compliance strengthens confidence that safe food is being provided to the community and has a flow on effect into the recreational and tourism sectors, benefitting restaurants, take away shops and markets, and our economy

PSR17/053 2016-17 ONSITE SEWAGE MANAGEMENT SYSTEM STATUS REPORT 98.2467

Responsible Officer: Lindsay Usher - Director, Planning and Sustainability Services
Attachments: Nil
Focus Area: Liveable Communities
Delivery Program Link: L4.1 Conduct regulatory compliance and enforcement activities
Operational Plan Link: L4.1.3 Undertake the on-site sewage management system (OSMS) program

EXECUTIVE SUMMARY

This report provides a summary of Council's Onsite Sewage Management System (OSMS) Program for the 2016-2017 financial year.

The NSW Government requires that Council approve and inspect OSMS to ensure that they operate effectively, and to reduce incidents of public and environmental health and safety. Systems include: septic tanks, aerated wastewater treatment systems (AWTS), composting toilets, effluent pump-out systems, pit toilets, waste water package treatment plants and greywater treatment systems.

In 2016-17, 102 applications for an OSMS were approved and 171 Development Application referrals were assessed.

Council conducted 1,394 inspections during the 2016-17 financial year, with an overall compliance rate of 93%, which is consistent with previous years.

Council continues to reward operators who effectively manage their systems via the opportunity to regrade the risk rating of their OSMS, reducing their inspection regime and subsequently, the inspection costs.

An independent OSMS customer survey was conducted to:

- determine the level of customer satisfaction and understanding clients have of the OSMS inspection program
- identify client understanding of the purpose of the OSMS program
- evaluate clients' views on the quality of information provided by Council on operating and maintaining OSMS.

The findings from this survey will be used to improve the information we provide to property owners in a more timely, efficient and consistent way.

RECOMMENDATION

THAT Council receive and note the 2016-17 Onsite Sewage Management Status Report.

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BACKGROUND

The OSMS Inspection Program has been operating since 1998, requiring councils to approve, monitor and ensure compliance of these systems. Since its implementation, approximately 4,850 systems have been identified in Eurobodalla Shire.

OSMS activities

Table 1: A comparison of OSMS program activities undertaken over the past six years.

	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
Approvals (#)	118	92	99	93	84	102
Referrals (#)	150	114	134	133	143	171
Inspections (#)	1323	1434	1475	1383	1473	1394
Compliance (%)	90	90	94	92	96	93
Downgrades (#)	45	52	38	22	66	16
Reinspections (#)	7	5	8	3	7	4
Notices/Orders (#)	10	6	1	9	6	4
Penalty Infringement Notices (#)	3	0	0	2	0	0

Approvals and referrals

A total of 102 OSMS approvals were issued for new systems during the 2016-2017 financial year.

171 development assessment referrals were assessed. Advice is provided to planners in relation to OSMS matters associated with the determination of Development Applications.

Inspections

Table 2 illustrates the inspection regime for 2016-17 compared with 2015-16, where, 1,394 OSMS were inspected in 2016-17, compared to 1,473 in 2015-16. An overall compliance rate of 93% was observed for the 2016-17 inspection regime, compared with 96% in 2015-16.

85% of systems in the 'high' risk category were compliant, consistent with 87% the previous financial year. A high level of compliance was observed during inspections of systems with a 'medium' and 'low' risk rating (95% and 94% respectively), and this is consistent with the previous financial year.

Table 2: Comparison of the 2015-16 with the 2014-15 inspection regime

Risk*	TOTAL		Satisfactory		Unsatisfactory		% Complying	
	2015-16	2016-17	2015-16	2016-17	2015-16	2016-17	2015-16	2016-17
High **	133	131	116	111	17	20	87	85
Medium ***	738	749	714	708	24	41	97	95
Low	602	514	586	482	16	32	97	94
TOTAL	1473	1394	1416	1301	57	93	96	93

* High – inspected every year (often close to waterway); medium – inspected every two years (often in urban areas); low – inspected every five years (often in rural areas, large lots, lower risk)

**High may be downgraded to medium inspection regime when requested, and if satisfactory compliance is demonstrated.

*** Medium may be downgraded to low inspection regime when requested, and if satisfactory compliance is demonstrated.

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Risk rating downgrades

Owners of systems with 'high' or 'medium' risk ratings can apply for a downgrade of their OSMS, where consistent compliance can be demonstrated. These downgrades then reduce the inspection regime required, and therefore reward the owner by reducing the inspection costs.

16 applications to downgrade OSMS risk ratings were approved during the 2016-17 financial year.

Compliance requirements

Four properties were reinspected as part of the OSMS Inspection Program for non-compliance and were charged an inspection fee; all four properties proceeded towards a resolution. In this regard, four Notices/Orders were subsequently issued.

Matters that were identified as posing a significant public and/or environmental health risk during inspections in 2016-17, included such matters as:

- failing effluent disposal areas (eg, absorption trenches and irrigation areas) with effluent pooling on the ground
- effluent overflows from septic tanks/collection wells
- inappropriate surface disposal of secondary treated effluent not in accordance with Council approval
- operating an OSMS without approval
- failing to undertake the required quarterly servicing of aerated wastewater treatment system.

Pit toilets

In 2010, 129 pit toilets were identified in Eurobodalla Shire. During 2010-11, a pit toilet moratorium requested owners to comply or upgrade to gain approval, or alternatively, decommission their system.

As of 2016-2017, there are 20 known pit toilets – 12 of these are approved and eight are unapproved. Council will continue to work with the owners of the unapproved pit toilets and these systems have been upgraded to 'high' risk and are inspected annually.

Onsite Sewage Management System customer survey

An independent customer survey was undertaken in 2017, the details of which are as follows:

Objectives

- determine the level of customer satisfaction and understanding clients have of the OSMS Inspection Program
- identify client understanding of the purpose of the OSMS Inspection Program
- evaluate client views on the quality of information provided by Council on operating and maintaining OSMS.

PSR17/053 2016-17 ONSITE SEWAGE MANAGEMENT SYSTEM STATUS REPORT

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Key findings

- 90% of respondents believe they have been provided with sufficient knowledge about OSMS
- speaking with Council inspectors and reading brochures provided by Council, were the most utilised methods for obtaining information
- 91% of respondents who had sought information from Council were at least 'somewhat satisfied' with the information received
- 28% of respondents would like information on water conservation practices.

The results and key findings from the survey will be used to continue to improve our service, including developing a series of relevant OSMS fact sheets (eg, website, brochures) for property owners. This will assist property owners with installing and maintaining their systems using best practice guidelines.

Additionally, the opportunity to downgrade OSMS will be more actively promoted to 'high' and 'medium' OSMS owners.

CONSIDERATIONS

During the 2016-17 financial period, various measures were undertaken for the continual improvement of the OSMS program, including, but not limited to:

- OSMS customer survey
- updating information on Council's website
- improvements to outgoing correspondence on OSMS matters
- the inclusion of additional downgrade of OSMS information in correspondence
- a review and update of OSMS information provided to property owners to assist in the management/maintenance of OSMS.

Legal

Council is required to undertake approvals and inspections of OSMS, as identified in the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*.

Policy

Council's current Onsite Sewage Management Code of Practice was adopted on 24 September 2013.

Council's risk-based OSMS monitoring program and approval process is recognised by the NSW Independent Pricing and Regulatory Tribunal (IPART) as best practice, with other councils seeking advice and guidance.

Environmental

Due to the sensitive environmental nature of much of Eurobodalla Shire, especially in relation to our waterways, including fisheries and the oyster industry, and recreational use, continual monitoring of OSMS is important to protect the quality of our waterways and estuaries.

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The program ensures that high water quality standards are maintained throughout Eurobodalla Shire. This is of particular importance to tourism and the oyster farming industries, both of which help to support Eurobodalla Shire's economy.

Social impact

There are potential health risks for users and those in the vicinity of OSMS. Council is obligated to demonstrate that it has met its duty of care in avoiding health concerns associated with the operation of OSMS.

Financial

The OSMS Inspection Program operates at a full cost recovery to Council, in accordance with the legislation. During the 2016-17 financial year, the cost of an inspection was \$121 and a reinspection, where required, incurred a cost of \$157, as identified in Council's fees and charges. A comparison of fees charged by comparable sized coastal councils indicates Eurobodalla Shire's fees are similar.

Total income for the 2016-17 financial year was \$191,125 and total costs were \$209,648. Additional costs to service the program were incurred for supervision of the program.

Community engagement

Council engages with the community and its stakeholders in a variety of ways and this includes information on septic and waste water on Council's website at <http://www.esc.nsw.gov.au/council-services/public-environmental-health/septic-waste-water>.

Owners of OSMS are notified prior to the inspection of their system, and where the owner/occupant wishes to be present at the time of inspection, they can notify and liaise with Council. Advice is also provided for OSMS approvals.

CONCLUSION

The overall high level of compliance of OSMS (93%) demonstrates that the majority of systems are operating effectively and there is minimal public and environmental health risk. Council has ensured that the program is consistent with NSW Government requirements and the program is generally well received by OSMS owners.

The independent survey of OSMS owners indicated that many obtain information from the inspectors at the time of the OSMS inspection. Additionally, they seek information about the inspection process and tips on how to maintain a healthy system. Additional resources will be implemented to further improve this service.

The ability to downgrade the risk of systems is innovative and allows 'high' and 'medium' systems, that continue to operate effectively, to reduce the inspection regime, thereby reducing cost to the owner.

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E02.6718

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

Attachments: Nil

Focus Area: Liveable Communities

Delivery Program Link: L4.1 Conduct regulatory compliance and enforcement activities

Operational Plan Link: L4.1.1 Monitor, inspect, enforce and investigate complaints in relation to public safety

EXECUTIVE SUMMARY

This report provides details on the activities of the Public and Environmental Health and Compliance Team for the 2016-17 financial year.

The team dealt with approximately 11,000 telephone calls during the 2016-17 financial year. An estimated 19% of calls generate a formal Customer Service Request (request), with the remaining 81% of calls dealt with through education and communication.

Regulatory activities and responses to over 2,258 formal requests are consistent with previous years and include matters such as: vegetation, land clearing, burning (wood fires and open burning), pollution, emissions, odours, noise, animal control, livestock, litter, waste, illegal dumping, abandoned vehicles, parking, erosion control, unauthorised development and public health.

Regulatory and compliance actions are undertaken in accordance with legislation and Council policy, which are in place to ensure the health and safety of the public and the environment.

Food Inspection and Onsite Sewage Management System programs are provided in separate reports to Council.

RECOMMENDATION

THAT Council receive and note the 2016-2017 Regulatory Action Status Report.

BACKGROUND

Public and environment health and compliance is a broad area of operations and includes the requirement to implement legislative requirements and Council policy fairly and consistently.

The team is also responsible for routine monitoring and the provision of advice and education for areas such as: swimming pools, beach watch, estuary health program, sediment and erosion controls, air pollution, animal control, litter and illegal dumping, and stormwater matters. In addition, support services are provided for internal licence requirements for waste and water services.

The following data provides a summary of requests and compliance activity during the 2016-2017 financial year. Officers also attend to additional matters during the course of their normal

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duties and patrols, such as dealing with complainants in the field, ad hoc animal related issues and addressing emergency situations. These issues are not captured in this report.

Customer Service Requests (requests)

During the 2016-2017 financial year, the team dealt with 2,258 requests, the breakdown of which can be seen in the following graph. 54% of the issues relate to animal control, with general regulatory (vehicles, parking, signs, illegal dumping/littering, sediment and erosion control, prohibited activities on public lands, environmental concerns) accounting for 25%, pollution (7%), development and land clearing (7%), health (6%) and trees (1%).

There is an increasing number of Customer Service Requests each year, with a 36% increase from 2011-2012 financial year figures.

Graph 1: Customer Service Requests 2016-2017

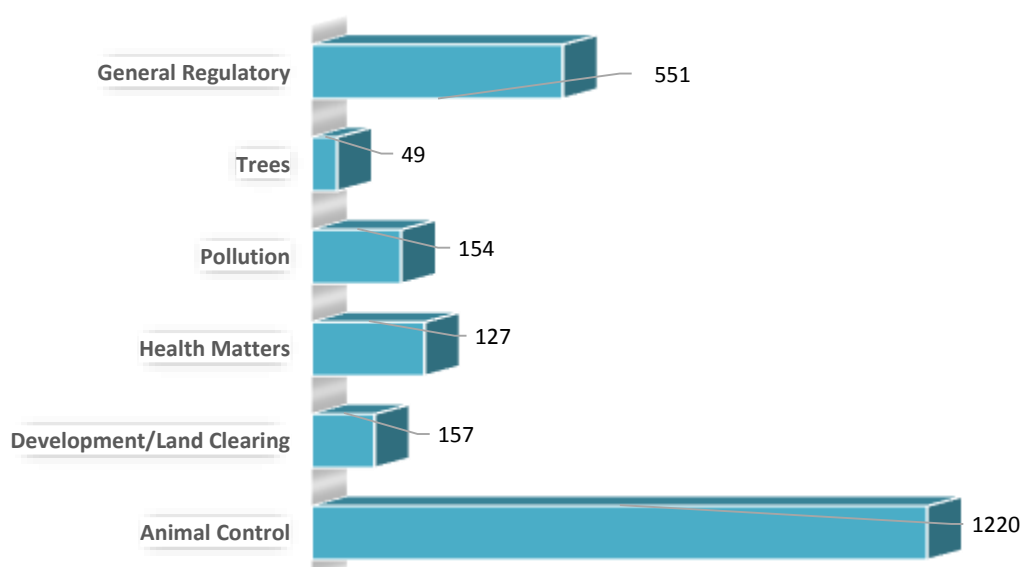


Table 1: Customer Service Requests 2011-2012 to 2016-2017 financial years

	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
Animal control	1050	968	1233	1153	1041	1220
Development/land clearing	85	150	145	117	139	157
Health matters	136	158	165	211	212	127
Pollution	124	158	155	167	139	154
Trees	46	36	37	47	34	49
General regulatory	216	244	408	470	557	551
TOTAL	1657	1714	2143	2165	2122	2258

Compliance activity

A number of matters are dealt with via Penalty Infringement Notices (PINs) and Orders in-line with relevant Regulations and legislation. The majority of these infringements relate to roads

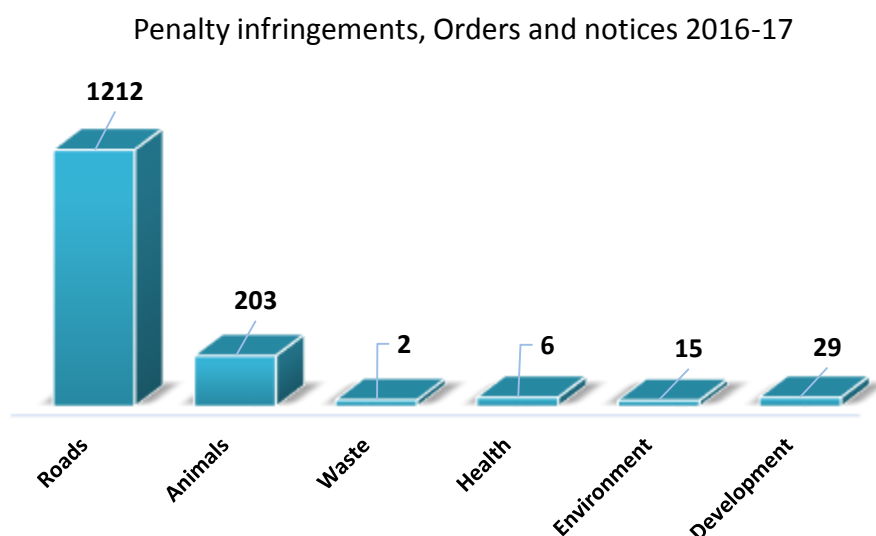
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(1212), namely, parking offences. A combined total of 1,467 infringements, Orders and notices were issued during the 2016-2017 financial year.

The following graph depicts the number of matters that were dealt with via PINs and Orders, in accordance with the relevant legislation.

Graph 2: Compliance activity 2016-2017



The graph illustrates that the majority of infringements are road related, often parking offences (82%). The following activity report provides further details on compliance matters and related activities.

Table 2: Activity report 2016-2017

Sector	Activity	Infringements	Orders and Notices	Total Action
Roads	Parking	1212	-	1212
Animals	Companion animals	129	74	203
Waste	Illegal dumping	-	2	2
Health	Premises	-	6	6
Environment	Air/land/water	13	2	15
Development	Land	11	18	29
TOTAL		1365	102	1467

A total of 255 formal regulatory actions (11%) were required, mainly in response to a total of 2,258 requests. The 255 instances of compliance activity are detailed as follows:

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Animals: 203 actions relate to animal control (80%). Actions include: lifetime registration enforcement, barking dogs, stray animals, endangering safety of person or animal and restricted or dangerous dogs.

Waste, health and environment (sectors combined): 23 actions (9%) relate to: waste issues such as illegal dumping, health such as overgrown premises, food shops, Onsite Sewage Management Systems and public swimming pools, and environment such as pollution matters.

Development: 29 actions (11%) relate to actions as a result of development without consent or contrary to consent conditions.

The majority of Customer Service Requests (89%) are resolved without any requirement to utilise formal regulatory actions.

Special programs

During the 2016-2017 financial year, specific programs were conducted such as:

1. school zone program aimed at improving child safety. This work was conducted in collaboration with schools and Police, where Rangers conducted routine parking patrols throughout Eurobodalla Shire and information was provided via school newsletters on safe parking and drop-off
2. disabled parking aimed at enhancing parking for people with disabilities
3. free microchipping day
4. companion animal outstanding lifetime registration program aimed at ensuring that animals are registered, so that the owner can be contacted if the animal is impounded
5. litter from vehicles and under covered loads
6. estuary health monitoring program undertaken with support from Office of Environment and Heritage funding
7. survey of food premises and owners of Onsite Sewage Management Systems was undertaken.

CONSIDERATIONS

Council has a statutory role to investigate and respond to complaints regarding unlawful activities or works.

Council's Compliance Policy outlines the processes for Council officers in regard to the implementation of legislation, with consideration to the severity of the activity, impacts on individuals, community and the environment.

There is also a strong focus on integration with education programs eg, litter education and media exposure for illegal tree destruction and companion animals.

Regional networks ensure that Council is consistent with neighbouring shires and enact legislation according to the relevant authority's requirements. Regular liaison is undertaken with agencies such as the Food Authority, Department of Health, the Office of Environment and

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Heritage, NSW Department of Primary Industries, State Debt Recovery Office and others as required.

Legal

Staff operates under a wide range of legislation and regulations and in accordance with Council's Compliance Policy, which identifies a graduated approach to the implementation of legislative requirements.

A high emphasis is also placed on education. The legislation includes, but is not restricted to, the following:

- *Protection of the Environment Operations Act 1997*
- *Environmental Planning and Assessment Act 1979*
- *Local Government Act 1993*
- *Roads Act 1993*
- *Foods Act 2003*
- *Public Health Act 1991*
- *Swimming Pools Act 1992*
- *Companion Animals Act 1988*
- *Impounding Act 1993.*

Policy

Staff are required to observe a range of adopted policies and Codes of Practice, including the Compliance, Local Orders and Clean Air Policies, and the Companion Animals Management Plan 2015-2019, where appropriate.

Environmental

Council has a focus on public health and safety and the protection of the environment. Maintaining and protecting the natural environment in Eurobodalla Shire is important and is of major interest to the community.

There is also growing community participation in natural resource management and sustainability.

Social impact

There is consideration of the impact of an offender's actions on other individuals, the community and the environment.

Economic development employment potential

Water quality and estuary monitoring is important to public and estuary health, which also impacts on tourism.

Financial

Council public environmental health and compliance are undertaken within existing budgets.

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Community engagement

Council engages with the community and stakeholders through a variety of ways, including: education programs, media releases, campaigns and information available on Council's website. Council also engages with people on an individual basis, where required.

The implementation of legislative requirements is one component of compliance. There is a strong emphasis on education as a primary strategy to assist in the operation of compliance.

CONCLUSION

The team's primary objective is to implement legislation and Council policy in response to community needs, ensuring that the health, safety and amenity of the community is protected.

Council actions and regulatory processes are undertaken in accordance with the relevant legislation and adopted policies and codes of practice.

**PSR17/056 DEVELOPMENT APPLICATION 431/16 - TOURIST RECREATION FACILITY
(SEVEN ECO-TOURIST CABINS) AND MANAGER'S RESIDENCE
KINGS HIGHWAY - NORTH BATEMANS BAY 16.0139.BD**

Responsible Officer: Lindsay Usher - Director, Planning and Sustainability Services
Attachments: Nil
Focus Area: Productive Communities
Delivery Program Link: P1.1 Facilitate growth and development of our business community
Operational Plan Link: P1.1.3 Promote Eurobodalla as the place to invest and do business

Applicant: UrPlan Consulting
Land: Lot 11 DP1202102 Kings Highway, Batemans Bay
Area: 5.98Ha
Setbacks: Not specified
Height: Not specified
Zone: Zone No 1 (a) (Rural (Environmental Constraints and Agricultural))
Current Use: Vacant land subject of a logging permit
Proposed Use: Tourist Recreation Facility
Description: Seven eco-tourist cabins and manager's residence
Permitted in Zone: Permitted with consent
DA Registered: 4 February 2016
Reason to Council: Community Interest
Recommendation: Approval subject to conditions

EXECUTIVE SUMMARY

This report seeks Council's determination of an application for a tourist recreation facility comprised of seven eco-tourist cabins and manager's residence.

The application relates to a portion of land on the northern shore of the Clyde River, located 1.5km from the Batemans Bay CBD. The application is being reported to Council because of the close proximity to the declared oyster harvest zone known as the 'moonlight flat harvest zone'.

The moonlight harvest area is a major source of marketed oysters in Eurobodalla Shire and is listed as being an export harvest area by the NSW Food Authority. Tourism and the commercial oyster industry are both long-standing industries that contribute significantly to the economy of Eurobodalla.

The application was publicly exhibited and one objection was received from the Clyde River Shellfish Quality Assurance Program on behalf of the Clyde River Oyster Farmers Association. The primary concern related to the potential of the development to impact on water quality.

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The application was also referred to NSW Government agencies including Batemans Marine Park, Department of Primary Industries (DPI) Fisheries, NSW Office of Water, Roads and Maritime Services (RMS) and the NSW Food Authority due to the proximity to the oyster harvest area and Clyde River.

The applicant was advised that there were significant concerns with the original proposal and an amended proposal was lodged with Council. The application was referred back to the NSW Government agencies and Clyde River Oyster Farmers.

Council is now in a position to support the proposal as the amendments seek to reduce the risk to the oyster industry by establishing a vegetated buffer to the Clyde River and connecting the development to reticulated water and sewer.

This report recommends approval of the development application subject to conditions.

RECOMMENDATION

THAT pursuant to the provisions of Section 80 of the Environmental Planning and Assessment Act 1979, Development Application No.431/16 in relation to Lot 11 DP1202102 Kings Highway, Batemans Bay be APPROVED subject to the conditions set out below:

DEFERRED COMMENCEMENT

Pursuant to Section 80 (3) of the *Environmental Planning and Assessment Act 1979* this is a "deferred commencement" consent and as such this consent is not to be enacted until such time as Conditions A and B have been complied with.

A. Remediation Work

Prior to commencement of any works, the disturbed land within 50m of the high water mark is to be revegetated and remediated in accordance with the landscape management plan stamped approved DA431/16 Sheet 7 of 17 to the satisfaction of Council.

B. Surrender of consent

The Private Native Forestry Permit is to be surrendered and the land rehabilitated through the conditions of consent for this development.

These conditions are to be satisfied within a period of two (2) years.

GENERAL CONDITIONS

1. Approved plans

The development must be carried out in accordance with the following stamped approved plans and documentation, or as modified by any conditions of this consent, or as noted in red by Council on the approved plans.

DA and Sheet No.	Plan No.	Date of Plan	Prepared by
DA431/16 Sheet 1 of 17	Site Plan & Site Analysis	Stamped received in Council 11/11/16	Trevor King Conservation Planning

**PSR17/056 DEVELOPMENT APPLICATION 431/16 - TOURIST RECREATION FACILITY
(SEVEN ECO-TOURIST CABINS) AND MANAGER'S RESIDENCE
KINGS HIGHWAY - NORTH BATEMANS BAY 16.0139.BD**

DA431/16 Sheet 2 of 17	Upper Floor Plan & Lower Floor Plan Manager's Residence	Stamped received in Council 10/2/16	and Design Trevor King Conservation Planning and Design
DA431/16 Sheets 3 & 4 of 17	Elevations	Stamped received in Council 10/2/16	Trevor King Conservation Planning and Design
DA431/16 Sheet 5 of 17	Floor Plan & Elevations Cabin Type 1 & 2	Stamped received in Council 29/8/17	Trevor King Conservation Planning and Design
DA431/16 Sheet 6 of 17	Hollow Bearing Trees	Stamped received in Council 11/11/16	Unknown
DA431/16 Sheet 7 of 17	Landscape Management Plan	Stamped received in Council 11/11/16	Unknown
DA431/16 Sheets 8-17 of 17	Engineered concept plans, site, stormwater, soil & water and road design	22/8/17	Southeast Engineering and Environment
Council Stamp No.	Document title	Date of document	Prepared by
DA431/16 Doc 1 of 4	BASIX Certificate No.677007S	25/10/15	Hallahan & Associates
DA431/16 Doc 2 of 4	BASIX Certificate No.677247S	25/10/15	Hallahan & Associates
DA431/16 Doc 3 of 4	North Batemans Bay Eco-Cabin Development: Water Cycle Management	August 2016	Southeast Engineering and Environment
DA431/16 Doc 4 of 4	Appendix B – Stormwater Quality Modelling	Unknown	Southeast Engineering and Environment

Note: Any alteration to the plans and/or documentation may require the lodgement of an application to modify the consent under s96 of the Environmental Planning and Assessment Act (EPA Act) 1979, or a fresh development application. Your Principal Certifying Authority should be consulted prior to any works contrary to this consent being carried out.

Where there is an inconsistency between the documents approved with this consent and the following conditions, the conditions shall prevail to the extent of that inconsistency.

2. Water & Sewer Inspections

All plumbing and drainage works (water supply, sanitary plumbing and drainage, and hot

**PSR17/056 DEVELOPMENT APPLICATION 431/16 - TOURIST RECREATION FACILITY
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water) are to comply with Plumbing and Drainage Act 2011 and the Plumbing Code of Australia. Works must only be installed by a licensed person and must be inspected and given final clearance from Council prior to issue of Interim or Occupation Certificate.

The following inspections are required to be carried out by Council in regard to the installation of plumbing and drainage works. Inspections may be arranged by contacting Council's Compliance Unit:

- (a) Sanitary drainage under hydrostatic test and prior to backfilling trenches or covering;
- (b) Hot and cold water plumbing under pressure test prior to covering;
- (c) Internal stackwork under hydrostatic test prior to covering; and
- (d) The installation of the septic tank and any sullage trenches prior to backfilling or covering.
- (e) Issue of final satisfactory inspection. [2.16]

3. ***Colours and Materials***

The external roof cladding shall have a solar absorbance rating of 0.421 or greater (e.g. Zinalume, Galvanised Iron, Colorbond Surfmist, Classic Cream and Whitehaven do not qualify).

BUSHFIRE SAFETY AUTHORITY

4. ***Rural Fire Service – Bush Fire Safety Authority***

No occupation/use of the site is permitted until such time as the principal certifying authority has certified that conditions II, III, V, VI, VII, VIII, X, XI, XII, XIV, XV and XVI have been complied with.

Asset Protection Zones

The intent of measures is to provide sufficient space for fire fighters and other emergency services personnel, ensuring radiant heat levels permit operations under critical conditions of radiant heat, smoke and embers, while supporting or evacuating occupants. To achieve this, the following conditions shall apply:

- I. Prior to occupation or use of the site and in perpetuity the property around the refuge building (notated on plans as Managers Residence) shall be managed as follows as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones':
 - North for a distance of 60m as an asset protection zone;
 - East for a distance of 40m as an asset protection zone;
 - South for a distance of 60m as an asset protection zone;

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- West for a distance of 60m as an asset protection zone (APZ).

A suitable legal mechanism shall be placed on the subject lot providing it with the lawful ability to create and manage the APZ for the life of the development where the distances specified above extend onto adjoining lots (i.e to the south west over Lot 12 DP 1202102).

(Note: in forested areas a portion of the APZ may be maintained as an outer protection zone as specified in Table A2.7 of 'Planning for Bush Fire Protection 2006').

- II. For any asset protection zones (APZ) on slopes greater than 18 degrees, the property shall be landscaped or managed (e.g. terracing) with suitable access being provided to the APZ to ensure the ongoing maintenance of the area. Details of landscaping plans are to be submitted for approval to Council/or the principal certifier prior to any use of the site.
- III. Each cabin is to be provided with an area of land at least 3m from the structure, where vegetation within this land is to be kept to an absolute minimum and the area shall be free from combustible items and obstructions.

Water and Utilities

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:

- IV. Water and electricity for the refuge building (notated on plans as Manager's Residence) shall comply with the following requirements of sections 4.1.3 and 4.2.7 of 'Planning for Bush Fire Protection 2006'.
 - Where the rear or most distant part of the refuge building is greater than 70m from the nearest hydrant, a new hydrant is required to be installed as per Australian Standard AS 2419.1 – 2005 'Fire Hydrant Installations.' Locations of fire hydrants are to be delineated by blue pavement markers offset 150mm from the centre of the road. The direction of offset shall indicate on which side of the road the hydrant is located. Alternatively, an onsite 20,000 litre water supply shall be provided for fire fighting purposes which complies with the requirements listed below.
 - The water source shall be made available or located within the inner protection area (IPA) and away from the refuge building.
 - A hardened ground surface for truck access is to be supplied up to and within 4m of the water source.

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- A 65mm metal Storz outlet with a gate or ball valve shall be provide.
 - The water tank if located above ground shall be of a non combustible material.
 - Underground tanks shall have an access hole of 200mm to allow tankers to refill direct from the tank. A hardened ground surface for truck access is to be supplied within 4m of the access hole.
 - The gate or ball valve, pipes and tank penetration are adequate for full 50mm inner diameter water flow through the Storz fitting and are metal.
 - All associated fittings to the tank shall be non combustible.
 - Pumps are to be shielded from the direct impacts of bush fire.
 - Pumps to supply water for fire suppression activities shall be a minimum 5hp or 3kW and petrol or diesel powered.
 - An 'SWS' marker shall be obtained from the local NSW Rural Fire Service and positioned for ease of identification by brigade personnel and other users of the SWS. In this regard:
 - a) Markers must be fixed in a suitable location so as to be highly visible; and
 - b) Markers should be positioned adjacent to the most appropriate access for the static water supply.
- V. Gas for the refuge building (notated on plans as Managers Residence) and cabins shall comply with the following requirements of sections 4.1.3 and 4.2.7 of 'Planning for Bush Fire Protection 2006'.
- Reticulated or bottled gas is to be installed and maintained in accordance with Australian Standard AS/NZS 1596:2014 'The storage and handling of LP gas' and the requirements of relevant authorities. Metal piping is to be used.
 - All fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and be shielded on the hazard side of the installation.
 - Gas cylinders kept close to the building shall have release valves directed away from the building. Connections to and from gas cylinders are to be metal. Polymer sheathed flexible gas supply lines to gas metres adjacent to building are not to be used.
 - Polymer sheathed flexible gas supply lines to gas meters adjacent to building are not to be used.

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Access

The intent of measures for internal roads is to provide safe operational access for emergency services personnel in suppressing a bush fire, while residents are accessing or egressing an area. To achieve this, the following conditions shall apply:

- VI. Prior to occupation or use of the site, the section of internal access from the public road to the refuge building (notated on plans as Manager's Residence) shall comply with the following requirements of sections 4.2.7 and 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.
- A minimum carriageway width of 6.5m.
 - Any bridges clearly indicate load rating and pavements and bridges are capable of carrying a load of 15 tonnes.
 - Roads do not traverse a wetland or other land potentially subject to periodic inundation (other than a floor or storm surge).
 - A minimum vertical clearance of 4m to any overhanging obstruction, including tree branches.
 - A minimum 12m outer radius turning circle (or equivalent suitable turning area for a Category 1 fire fighting vehicle) shall be provided adjacent to the refuge building.
 - Curves have a minimum inner radius of 6m and are minimal in number to allow for rapid access and egress.
 - The minimum distance between the inner and out curves is 6m.
 - The crossfall is not to exceed 10 degrees.
 - Maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads.
- VII. The proposed internal roadway access shall be clearly sign posted as 'Dead End Access' at the intersection to Highcliff Road (Old Kings Hwy).
- VIII. The section of internal access from the refuge building (notated on plans as Manager's Residence) to the furthest cabin shall comply with the following requirements of sections 4.2.7 and 4.1.3 (2) of 'Planning for Bush Fire Protection 2006'
- A minimum carriageway width of 3.5m with an additional 0.5m trafficable verge.
 - Any bridges clearly indicate load rating and pavements and bridges are capable of carrying a load of 15 tonnes.

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- Roads do not traverse a wetland or other land potentially subject to periodic inundation (other than a floor or storm surge).
- A minimum vertical clearance of 4m to any overhanging obstruction, including tree branches.
- The termination point shall incorporate a turning circle with a minimum 12 metre outer radius or equivalent suitable turning area for a Category 1 fire fighting vehicle.
- Curves have a minimum inner radius of 6m and are minimal in number to allow for rapid access and egress.
- The minimum distance between the inner and outer curves is 6m.
- The cross fall is not to exceed 10 degrees.
- Maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads.

Evacuation and Emergency Management

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

- IX. The refuge building (notated on plans as Manager's Residence) shall be clearly signposted to identify the building as a 'bush fire refuge'.
- X. The refuge building (notated on plans as Manager's Residence) shall provide for the maximum capacity of the site (being the total number of all accommodation guests, day visitors, staff, event attendees, etc). Alternatively, if the development consent contains a condition limiting the capacity of the site to a lesser number of people, then the refuge building may be constructed to comply with the maximum lawful capacity as limited by that development consent.
- XI. The refuge building (notated on plans as Manager's Residence) shall comply with the occupancy levels permissible for Class 9b Assembly Building ('Public Hall') and 'area per person' requirements (being 1sq metre per person) as specified under the Building code of Australia.
- XII. Pedestrian access between the tourist cabins and the refuge building shall be clearly sign posted at all times.
- XIII. An Emergency/Evacuation Plan is to be prepared consistent with the NSW Rural Fire Service document 'A guide to developing a Bush Fire Emergency Management and Evacuation Plan' 2014. The Emergency/Evacuation Plan shall include:

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- a) Under what circumstances will the complex be evacuated;
- b) Where will occupants be evacuated to;
- c) Roles and responsibilities of persons coordinating the evacuation and any persons remaining within the complex after evacuation; and
- d) Identify triggers for evacuation and/or shelter during periods of high fire danger weather and when bush fires have been identified within the locality.

Note: The NSW RFS strongly recommends the early evacuation of the facility in the event of a bush fire and the non-occupation of the facility on days of extreme and catastrophic fire weather.

Design and Construction

The intent of measure is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

- XIV. The refuge building shall be constructed to comply (at a minimum) with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.
- XV. Any buildings located within 10m of the refuge building shall be constructed to comply (at a minimum) with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.

Landscaping

- XVI. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. ***Long Service Levy***

Long Service Levy is required to be paid to the NSW Long Service Payment Corporation prior to the issue of a Construction Certificate. The amount to be paid is 0.35% of the cost of buildings and works where these are valued at \$25,000 or more.

6. ***Waste Management Plan***

A Waste Management Plan shall be submitted to and approved by Council, prior to the issue of a Construction Certificate. The Plan shall address, but not be limited to, the following matters:

- (a) details of demolition works and the presence of any asbestos or other hazardous waste;
- (b) details of waste to be generated by the work;

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- (c) arrangements for removal of waste material from site;
- (d) destination of waste materials being removed from the site. [22.02]

7. Construction Management Plan

A Construction Management Plan (CMP) shall be submitted to and approved by Council prior to the issue of a Construction Certificate. To ensure water quality of the Clyde River is not affected during construction, the CMP is to include weekly water testing of 'Total Suspended Solids (TSS)' by a suitably qualified consultant experienced in environmental consulting. The CMP shall also address, but not be limited to, the following matters:

- (a) hours of work;
- (b) contact details of site manager;
- (c) arrangements for site deliveries and removal of material from site;
- (d) details of hoardings;
- (e) details of demolition works and the presence of any asbestos or other hazardous waste;
- (f) traffic and/or pedestrian control measures;
- (g) dust control measures;
- (h) noise control measures;
- (i) screening from adjoining properties
- (j) notification of any discharge events to the Oyster Farmers Association.

8. Details of Materials, Colours & Finishes

Final design details of the proposed external materials and finishes, including schedules and a sample board of materials and colours shall be submitted for approval by Council prior to the issue of a Construction Certificate. [24.02]

9. Water/Sewer Developer Contributions

Prior to the issue of a Section 68 Approval/Construction Certificate, the developer/consent holder will have to be eligible to obtain a Section 307 Certificate of Compliance under the Water Management Act 2000/ compliance with Section 64 of the Local Government Act 1993. To be eligible, the developer/consent holder will have to contribute:

Manager's Residence

- a) \$12,230.00 (1ET) for the augmentation of water supply mains and storage within Eurobodalla Shire where 1.0 ET = \$12,230.00
- b) \$10,645.00 (1ET) for the augmentation of sewerage works within Eurobodalla Shire where 1.0 ET = \$10,645.00

Tourist Accommodation – 7 x 2 Bed Cabins

- a) \$25,683.00 (2.1ET) for the augmentation of water supply mains and storage within

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Eurobodalla Shire where 1.0 ET = \$12,230.00

- b) \$29,806.00 (2.8 ET) for the augmentation of sewerage works within Eurobodalla Shire where 1.0 ET = \$10,645.00

The contribution shall be paid to the Eurobodalla Shire Council. Evidence of the payment shall be submitted to Principal Certifying Authority prior to the issue of the Construction Certificate.

Note: The above contributions are reviewed at least annually and may be subject to increases as a result of indexation or other forces. Contributions can be paid prior to each stage of the development.

10. **Section 94 Contributions**

Payment to Council pursuant to Section 94 of the Environment Planning and Assessment Act 1979, of contributions towards the provision of public amenities or services. The current contribution rates for the current financial year are as follows:

Manager's Residence

Roadworks	\$3,031.45
Open Space & Recreation	\$1,523.40
Community & Cultural	\$88.30
Shared Pathways	\$282.25
Administration	\$149.05
Waste Facilities (Manager's Residence)	\$129.40

Tourist Accommodation 7 x 2 Bed Cabins

Waste (Tourist Development)	\$297.15
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The above contributions are to be paid prior to the release of the Construction Certificate for the development and will be payable at the rate applicable at the time of payment.

Note: The above contributions are reviewed at least annually and may be subject to increases as a result of indexation or other forces.

11. **Access**

Prior to release of the Construction Certificate, submission to Council and approval by Council of a plan showing details of the access driveway construction addressing the following:

- (a) Access to be constructed in accordance with concept plans stamped approved DA431/16 Sheets 8-17 of 17, and
- (b) Councils Infrastructure Development Standards (IDS).

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12. *Stormwater Disposal and Water Quality*

Prior to the issue of the Construction Certificate submission to and approval by the Principal Certifying Authority (PCA) of plans for storm water control and water quality. Plans are to be consistent with the concept plans by southeast engineering and environmental plan 274 dated 2016.

Water quality controls shall be maintained for the life of the development.

13. *Sewerage Pump Station and Reticulation*

Prior to the issue of a Construction Certificate an approval to install and operate an on-site sewage management system (OSMS) shall be obtained from Council. The application requires submission of plans and report for a privately owned and maintained sewerage pump station is to be submitted to Council for approval.

The report and plan are to address the following issues for the optimum transfer rate for the developments as per WSAA* requirements.

*Water Services Association of Australia Sewerage Pumping Station design WSAA-04-2005 second edition Version 2.1.

Private Pump Stations criteria for design shall be as follows:

- a) The pump well should be designed with a capacity to contain a minimum of 8 hours ADWF storage of an unexpected power outage.
- b) 220 litres/day/person
- c) The pump station is to be sited so as not to intercept overland flows and the access well is to be a minimum of 150mm above the natural ground level.
- d) Dual pump capacity with on flashing warning light alarm to indicate overloading above the top water level for pump runs.
- e) The pump and rising main to the sewer junction is to be designed in accordance with the static head requirement and the length of the rising main. (friction head).

The sewer reticulation plan shall include:

- a) A sewer pump station (and possible detention tank) and rising main connected into Council's existing reticulation scheme.
- b) Services for the pump station site for power, water (40mm diameter service) and all weather access;
- c) Sewer reticulation plans for sewer lines to be created as reticulation lines owned and managed by the applicant.

On completion of works and prior to the issue of an Occupation Certificate, the station is to be commissioned and work as executed plans for the rising main into Councils manhole submitted to Council for approval.

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14. Easement Creation

Construction of sewerage works over intervening private property for this development is dependent on the applicant negotiating a permit to enter that land and acquiring an easement to use the land under the surface for construction, and for future maintenance of works by applicant (owner). Proof of registration of legal access is to be submitted to Council prior to the issue of a Construction Certificate.

PRIOR TO COMMENCEMENT OF WORKS

15. Erosion and Sedimentation Control

Prior to commencement of any earthworks, installation of all measures as outlined in plans stamped approved DA431/16 Sheets 7 & 10 of 17 are to be implemented to effectively control soil erosion on the site to prevent silt discharge into drainage systems and waterways in accordance with Council's Soil and Water Management Code. The measures, to include sediment fencing and erosion control devices, are to be maintained and remain in place until the development is completed and disturbed areas are stabilised.

Note: On-the-spot fines may be imposed by Council for non-compliance with this condition.

16. Plans on Site (Plant Operator)

Prior to commencement of any works, the plant operator is to be provided with a copy of this consent and Plans stamped approved DA431/16 and made fully aware of the provisions therein. The copy is to be held on site during clearing operations. All buffer areas and vegetation to be retained are to be clearly marked prior to commencement of operations.

17. Construction Certificate

The construction works subject of this development consent **MUST NOT** be commenced until:

- (a) Detailed plans/specifications of the building have been endorsed with a Construction Certificate by:
 - (i) the Council, or
 - (ii) an accredited certifier, and
- (b) The person having the benefit of the development consent:
 - (i) has appointed a Principal Certifying Authority, and
 - (ii) has notified the Council of the appointment, and
- (c) The person having the benefit of the development consent has given at least two days notice to the Council of the person's intention to commence the erection of the building; and
- (d) Builders name and licence number has been supplied to Council or the Principal

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Certifying Authority; and

- (e) Owner Builders permit issued by Department of Fair Trading to be supplied to Council or the Principal Certifying Authority; or
- (f) Home Building Compensation Fund (HBCF) has been paid and a copy of the Certificate supplied to Council or the Principal Certifying Authority; and
- (g) A sign has been erected on site in a prominent position containing the information prescribed by Clause 98A(2) & (3) of the EP & A Regulations being the name, address and telephone number of the Principal Certifying Authority for the work, and name of the principal contractor for the work and telephone number on which that person may be contacted outside working hours, and stating that unauthorised entry to the site is prohibited. This sign must be maintained on site while work is being carried out and removed when the work has been completed.

18. Construction in a Road Reserve

Prior to commencement of any works within the road reserve a separate approval is to be obtained from Council under section 138/139 of the Roads Act. The application would consider:

- Public safety, WH&S issues, risk assessment, public liability insurance, control of vehicle and pedestrian traffic, location of plant and equipment, inspections bonding and an application fee.
- Where a traffic control plan is required, the plan is to be prepared by a suitably qualified consultant, certified by the Roads and Maritime Service (RMS), in work site traffic control plan preparation.
- Where the Traffic control plan requires a reduced speed, or temporary traffic signals, a Speed Zone Authorization (SZA) is to be obtained from Council for the specific days of work
- Where works are on a Roads and Maritime Services (RMS) road or would impact traffic on an RMS road, a Road Occupancy Licence (ROL) is to be obtained from the RMS Ms Peta Smith (02 42212509) or email. rol_southern@rta.nsw.gov.au

Where works are undertaken by other than the applicant, the supervisor of the works is to be advised of this condition. Details for an application form and fees are available by contacting council Engineering Development Assessment Officer (44741254) & form available from http://www.esc.nsw.gov.au/media/395951/Section_138_Roads_Act.pdf

Carrying out works contrary to this condition will result in a penalty being issued under the roads act and works being suspended until such time as a Section 138 consent being issued.

19. Road Works

A separate application shall be made to Council for approval under Section 138 of the Roads Act Act 1993, to upgrade the road from the intersection of Old Punt

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Road/Highcliff Road to the frontage of the site. Prior to the issue of an Occupation Certificate the applicant shall construct road works to the standard prescribed in the Infrastructure Design Specification including associated drainage and erosion/sedimentation controls in accordance with design plans subject to the issue of the Section 138.

Highcliff Road from the intersection with Old Punt Road shall be upgraded to a road standard consisting of a 6.5m wide seal and a 9.5m radius cul de sac at the entrance to the development.

20. *Water Supply*

A separate application shall be made to Council for approval under Section 68 of the Local Government Act 1993, to extend water reticulation from the existing main at the intersection of Old Punt Road/Highcliff Road to the frontage of the site. Such an application shall be prior to the issue of a construction certificate the applicant shall provide design plans in accordance with Council's Water and Sewerage specification.

The design is to provide a suitably sized water service for the development. Council will provide a quote for the service after provision of written advice from a suitably qualified hydraulic consultant.

21. *Identification and Protection of Trees*

Prior to the commencement of clearing, trees to be retained as identified in this consent shall be clearly identified on site and suitably protected for the period of works on the site. All trees not specifically approved for removal shall be retained. In this regard:

- (a) Trees for retention shall be identified by distinctive temporary taping.
- (b) Trees for retention shall be protected by way of tree guards, barriers and other measures so as to protect the root system, trunk and branches for the period of works on the site (including demolition, excavation and construction).
- (c) The consent holder is not to disturb soil supporting the retained trees nor impact their root zone or concentrate subsurface flows in the vicinity of the retained trees.
- (d) The retained trees shall be clearly marked onsite and protection measures installed for hollow bearing trees in accordance with AS 4970-2009 Protection of Trees on Development Sites. Such measures are to be maintained during all demolition, excavation and construction on the site.

22. *Native Vegetation Removal*

The removal of native vegetation authorised by this consent is limited to the minimum extent necessary in accordance with Condition 6 of 431/16 Rural Fire Service Conditions.

- (a) the approved Asset Protection Zones shall be required to retain as much native canopy cover as possible in compliance with 'Planning for Bushfire Protection

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2006'. This currently required the retention of 15% canopy cover within the inner APZ and 30% canopy cover within the outer APZ.

- (b) Removal of vegetation (exceeding 40m from but within 100m of the mean high water mark of the Clyde River and SEPP 14 wetland) shall be minimised. Groundcover and leaf litter must be preserved to protect the soil surface where possible to do so. It is recommended to clear by hand felling to minimise disturbance to the soil surface.
- (c) No disturbance or clearing of any vegetation within 40m of the Clyde River/SEPP 14 is permitted. Machinery must be excluded from this area.

DURING CONSTRUCTION

23. *Protection of environmentally sensitive areas*

A temporary boundary fence is to be constructed 40m from the high tide mark to prevent any access from construction vehicles or damage. Should any damage occur as a result of construction, the cost of repairing or revegetating the damaged area is to be met in full by the applicant.

24. *Retention of Hollow Bearing Trees*

This consent requires the retention of all habitat trees as identified on the stamped approved plan DA431/16 Sheet 6 of 17 'Hollow-bearing Trees' for the life of the development. Future removal of these tree shall only be considered where it can be demonstrated that this trees poses an imminent safety risk to persons or property.

25. *Acid Sulphate Soil*

The development site adjoins an area classified as Class 2 on maps marked "Acid Sulphate Soil Planning Map" deposited in the office of Eurobodalla Shire Council. If excavation is proposed that may lower the water table, soil samples are to be assessed for content of acid sulphate material by a suitably qualified person and the results lodged with Council.

If acid sulphate materials are identified no excavation shall take place until the applicant has lodged an Acid Sulphate Soils Management Plan prepared by a suitably qualified person in accordance with the NSW Acid Sulphate Soils Manual. The plan is to be submitted for approval by Council, and undertake such measures as are required by Council.^[10.05]

26. *Banks*

All the excavated and filled banks must be suitably retained or stabilised (totally within the site boundaries) as necessary to prevent the movement of soil and in accordance with appropriate professional standards.

27. *Land Rehabilitation*

All land disturbed by construction is to be tyned and seeded with natural or improved

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grasses and planted with trees and shrubs. Details regarding appropriate species may be obtained from the Department of Natural Resources.[16.12]

28. *Approved Plans to be On-Site*

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of Council or the Principal Certifying Authority.

29. *Hours of Construction - NOISE*

If audible at any residence or other sensitive noise receiver, construction may only be carried out between 7.00am and 6.00pm on Monday to Friday, and 8.00am to 5.00pm Saturdays. No construction can be carried out on a Sunday or public holiday if audible at any residence of other sensitive receivers.

PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

30. *Stage One Construction*

There is to be no occupation of the manager's residence until Final Occupation has been issued for Cabins 1, 2 and 3 as depicted on plan stamped approved DA4431/16 Sheet 1 of 17.

31. *Landscape Plan*

Completion of landscaping in accordance with the approved Landscape Management Plan DA431/16 Sheet 7 of 17 and Site Plan DA431/16 Sheet 1 of 17 prior to issue of any Occupation Certificate and such landscaping is to be continuously maintained in accordance with the approved Plan. Maintenance is the landowner's responsibility.

32. *Public Utility Adjustments*

Adjustments to the public utilities necessitated by the development shall be completed prior to occupation of the development and in accordance with the requirements of the relevant authority, all at no cost to Council. [0209]

33. The development shall not be used or occupied until an Occupation Certificate has been issued by the Principal Certifying Authority. [2.14]

34. *Stormwater Works as Executed Plans*

Prior to the issue of an Interim or Final Occupation Certificate stormwater construction is to conform to the approved plans. A Works as Executed plan of the work is to be provided to and approved by Council at the completion of the work.[6.06]

35. *Water Reticulation*

The Water Reticulation Plan shall be in accordance with the section 68 approval.

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Work as Executed Plans are to be submitted to Council prior to the release of the final certificate. The Construction Certificate for the provision of engineering infrastructure for this development will attract fees additional to those levied for the Construction Certificate associated with the structures assessed for compliance with the Building Code of Australia.

36. ***Sewage Management Plan***

A system management and operation plan is to be submitted to Council prior to facility operation.

37. ***Waste Management***

A waste management plan dealing with the storage and collection of waste from the facility during operation. The plan shall include details relating to the covering waste bins and measures to ensure that solid waste does not get into the Clyde River.

The plan shall be prepared and submitted to Council for approval prior to issue of the Occupation Certificate.

38. ***Easements***

A plan of survey showing the proposed sewer rising main on the adjoining lot is to be submitted to Council prior to the issue of an occupancy certificate.

39. ***Rainwater Tank Plan***

Prior to issue of an Interim or Final Occupation Certificate:

- (a) stormwater control construction is to conform to approved plans and be in accordance with Council's Policy and Code of Practice, "*Design Guidelines for Rainwater Tanks*";
- (b) all tanks and associated structures, including stands, must be installed in accordance with manufacturer's/designer's specifications;
- (c) accurate Works as Executed plans are to be provided to Council in accordance with Council's Policy and Code of Practice, "*Design Guidelines for Rainwater Tanks*", contact Council's Duty Development Officers on (02) 44741231, or download from Council's website at the following link: www.esc.nsw.gov.au [6.02]

ADVISORY NOTES

40. ***General Advice – Rural Fire Service***

This assessment was undertaken as an alternate solution under the ecotourism provisions outlined in the NSW Rural Fire Service Community Resilience Fast Fact 1/14 'Ecotourism'. This includes recognition by the applicant that the survivability of the tourist cabin structures in a bush fire event has been forsaken to meet the minimum environmental footprint and other constraints of these types of developments.

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KINGS HIGHWAY - NORTH BATEMANS BAY 16.0139.BD**

41. *Discovery of a Relic*

If Aboriginal relics or objects are uncovered during work, excavation or disturbance of the area, any such activity must stop immediately. The Environmental Protections and Regulation Group of the Office of Environment and Heritage is to be immediately contacted. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the NSW Heritage Act 1977 may be required before further works can continue in that area. [13.07]

42. *Underground Utility Services Check*

The applicant shall contact the "Dial Before You Dig" service on telephone (02) 1100, fax number 1300-652-077 or email mocsinfo@mocs.com.au, prior to the commencement of excavation, to ascertain the presence and type of underground utility services in the vicinity of the development.

43. *Land Clearing "Best Practice"*

Council encourages the following best practices in relation to the disposal of felled timber:

- The harvesting and processing of mill quality timber either on site or through a commercially licensed timber mill
- The mulching or chipping of stumps, crowns and other herbaceous matter either on site or through a licensed landfill tip or recycling centre providing mulching facilities; and

The revegetation of the site with suitable plant species; The stockpiling of suitable felled timber as firewood for heating purposes.

44. *BCA Compliance*

This Development Application has been subject to a merit based assessment. The plans lodged and approved have not been assessed against the provisions of the Building Code of Australia (BCA). It is your responsibility to ensure the plans lodged with any Construction Certificate application show full compliance to all provisions of the BCA.

45. *Private Native Forestry PVP*

A Private Native Forestry approval applies to the area approved under this development application. Clearing vegetation under this development consent may have implications under the Private Native Forestry Agreement. It is the applicant's responsibility to meet any obligations under the Private Native Forestry PVP [PNF-PVP-01554]. It is recommended that consultation with Peter Leziach from the Environmental Protection Authority is made in this regard on telephone 6229-7087.

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BACKGROUND

On 4 February 2016, Council received a development application for a tourist recreation facility containing seven eco-tourist cabins and manager's residence. The proposal contains seven two-bedroom short stay accommodation units and a manager's residence containing three bedrooms, reception and fire refuge space.

The setbacks from the Clyde River at the high tide mark range from 55m to 90m for the cabins and 106m for the manager's residence. The buildings are setback 70m to 105m from the Kings Highway. Vehicle access is from the Old Kings Highway road alignment, known as Highcliff Road. The development will be connected to Council's reticulated sewer and water systems.

The application was exhibited from 11 February to 4 March 2016. During the exhibition period, one objection was received from the Clyde River Shellfish Quality Assurance Program on behalf of the Clyde River Oyster Farmers Association. Responses were also received from the six NSW Government agencies which raised concerns with certain components of the proposal. The merits of these are discussed later in the report.

Following the request for additional information, the applicant provided an amended proposal which was then re-notified to the objectors. The amended plans included the following:

- revised storm water management strategy/storm water quality modelling (Southeast Engineering and Environment), including soil and erosion control measures
- removal of second road access for emergency escape to satisfy RMS and RFS
- engineered concept design to connect to the reticulated sewer infrastructure, which includes a private pumping station that contains emergency effluent detention for eight hours, dual pump system, emergency power source, alarm system and recommendation to condition an emergency management plan, including shut-down at 80% capacity, and notification to all relevant authorities, and the Clyde River Oyster Farmers Association
- engineered concept design to connect to reticulated water supply, including water storage in accordance with RFS requirements
- consent from landowner to surrender existing logging permit
- landscape management plan, including rehabilitation of the existing access road and disturbed areas, and replanting within <50m of the mean high water mark with native species
- asset protection clearing limited to the manager's residence and relocation refuge building within the manager's residence
- redesigned access road, including fully impervious seal, and kerb and gutter.

POLICY

The application has been assessed in accordance with the provisions of the *Environmental Planning and Assessment Act, 1979* and the following relevant legislation, planning instruments and policies.

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NSW Coastal Policy

Section 92 of the *Environmental Planning and Assessment Regulation 2000* requires the consideration of the *NSW Coastal Policy*. The proposed development does not affect public access to the estuary. The development consent will be conditioned to ensure any ground water disturbance or drainage from the site does not impact on the terrestrial or marine environment. The development is considered as satisfactory with regard to the requirements of the Policy.

Draft State Environmental Planning Policy Coastal Management 2016

The proposal is considered to have minimal impact on coastal processes and the natural environment. There is no current public access to the water and no public access proposed as part of this application. The quantity and quality of surface and ground water flows will be regulated by the onsite storm water design. A condition has been proposed to require the applicant to undertake water testing in the Clyde River to ensure that the development does not impact on the oyster industry. The proposal is considered satisfactory with regard to the objectives of the draft SEPP.

State Environmental Planning Policy (SEPP) 71 – Coastal Protection

The proposal has been assessed against the aims and considerations of SEPP 71 and is considered satisfactory. Public access does not exist and is not proposed as part of this application. The proposal will not compromise the scenic qualities of the interface of the land adjoining the estuary. Any potential adverse effects regarding the environment will be managed satisfactorily through conditions of the consent.

State Environmental Planning Policy (SEPP) 55 – Remediation of Land

The subject site is not identified as potentially contaminated land and there is no indication that the land has been used for a purpose which would require remediation prior to the construction. The proposal is satisfactory with regard to the provisions of SEPP 55.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The applicant has provided a compliant BASIX Certificate. The development consent will be conditioned requiring such commitments to be fulfilled.

Acid Sulfate Soil (ASS) Policy

The subject site adjoins the Clyde River which is classified as Class 2 on the Acid Sulfate Soils Map. Due to the site located within close proximity to the mapped ASS, the consent will be conditioned to ensure that any works that may be lower than the water table will be managed in accordance with an ASS Management Plan.

Eurobodalla Rural Local Environmental Plan 1987

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The land is zoned No.1 (a) Rural Environmental Constraints and Agricultural Zone under the Eurobodalla Rural Local Environmental Plan 1987 (Rural LEP) where 'tourist recreation facility' is permissible with consent. The proposed zoning under the Rural Lands strategy is RU1 Primary Production, in which an Eco tourist facility is permitted with consent.

Parking and Access Code

Vehicle access is to be from the Old Kings Highway road alignment known as Highcliff Road. The intersection between Highcliff road and Old Punt Road will need to be up graded to provide all weather to the property's driveway. The upgrade is to include the formation of cul-de-sac turning area at the property entry point. Internal vehicles access has been designed to provide safe operational access for emergency service vehicles. The development consent has been conditioned to comply with 'Planning for Bush Fire Protection 2006' (PBP 2006) and the Rural Fire Service (RFS) recommended conditions of consent.

Council's Parking and Access Code requires the provision of one space per accommodation unit. Each cabin has been provided with one covered parking space while the manager's residence contains a double garage within the building footprint.

Land Use Status

The land is currently vacant and contains a Private Native Forestry (PNF) permit over the subject site.

ENVIRONMENTAL

Bushfire

The subject site is mapped as bushfire prone land. In accordance with 100B of the 'Rural Fires Act 1997' the proposal was referred to the Rural Fire Service (RFS). The development consent has been conditioned to comply with the bush fire safety authority issued by the RFS.

Vegetation

The proposal was accompanied by Flora and Fauna Assessment. Asset protection clearing is required around the manager's residence in accordance with the RFS conditions of consent. To reduce the amount of clearing required the cabins have been assessed as perishable assets and as such only require 3m of defendable space. There are no hollow bearing trees to be removed to accommodate the development. Council is satisfied pursuant to its obligations under Section 5A of the *Environmental Planning and Assessment Act*, that there is unlikely to be a significant impact on individual threatened species or endangered ecological communities as a result of the development proceeding.

The site has been previously used for timber production and forest regeneration in accordance with the Private Native Forestry (PNF) over the site. The PNF will be surrendered and the land rehabilitated through the conditions of consent for this development.

CONSULTATION

The application was publicly advertised in accordance with Council's Advertisement and Notification Code.

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The advertising period commenced on 11 February and concluded 4 March 2016.

Advertising involved the following:

1. All landowners adjoining the subject site were notified in writing and provided with a notification plan which included a site plan, elevations and photomontage.
2. A public notice appeared in the Bay Post, Moruya Examiner and the Narooma News on 17 February 2016
3. A sign were placed on site facing the Kings Highway
4. The proposal was publicly displayed at Council's customer service office in Moruya and the Batemans Bay library.

During the exhibition period, one objection was received from the Clyde River Shellfish Quality Assurance Program on behalf of the Clyde River Oyster Farmers Association, and six external NSW Government referral responses were received from the following agencies:

- Roads and Maritime Services (RMS)
- Department Primary Industries (DPI) Batemans Bay Marine Park
- Rural Fire Service (RFS)
- DPI Fisheries
- DPI Office of Water
- NSW Food Authority Shellfish Program.

Five out of six NSW Government referrals raised items for consideration regarding components of the proposal. The Office of Water were satisfied as the proposed works were not located on land within 40m inland of the highest bank of the river.

Listed below is a summary of the main comments/concerns raised from the public comment period and discussion of how such have been addressed.

Distance to the Clyde River/Water Quality of the Clyde River

A revised Water management strategy has been provided which encompassed storm water quality modelling. The strategy included additional soil and erosion control measures. Water quality and soil management measures proposed in the strategy will be managed adequately through the conditions of consent. A Construction Management Plan is contained in the conditions of consent.

Through the amended plans, a landscape management plan has been provided which includes the rehabilitation of the existing access road and disturbed areas, and replanting within 50m of the mean high water mark with native species. This will be conditioned on the consent to occur prior to construction to ensure adequate measures are in place for soil and erosion control.

The internal access road has been redesigned to include fully impervious seal and kerb and gutter to control storm water drainage and direct flows into adequate disposal methods.

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Economic impact on the oyster and tourism industry

Council staff met with three members of the Clyde River Oyster Farmers Association on Tuesday 15 August 2017 which led to an undertaking to include the following measures on the approval if issued:

- weekly water testing of the Clyde River by the developer during construction
- that the area, within 50m of the mean high water mark, be rehabilitated and revegetated prior to construction commencing
- domestic waste associated with the development contain lidded bins
- the provision of a construction management plan detailing sediment and erosion control measures.

The above items are included as conditions of development consent.

Sewage Management/connection

A revised engineered concept design has been provided to connect to the reticulated sewer infrastructure, which includes a private pumping station that contains emergency effluent detention for eight hours, dual pump system, emergency power source, alarm system and recommendation to condition an emergency management plan, including shut-down at 80% capacity and notification to all relevant authorities and the Clyde River Oyster Farmers Association. A full system management and operation plan will be submitted to Council prior to operation of the facility.

Location of the fire refuge building

The original design contained a detached bush fire bunker adjacent to the manager's residence. The RFS did not accept the use of a bushfire bunker in place of a refuge building. Amended plans indicated use of the manager's residence as the refuge building. The RFS supports the use of the manager's residence subject to a number of requirements that form part of the conditions proposed for inclusion in the consent.

Turning area for emergency vehicles

The RFS have assessed the amended plan against Planning for Bushfire Protection (PBP) 2006 and consented to the revised proposal subject to the recommended conditions of consent.

Cabins as perishable assets

The proposed cabins have been assessed as perishable assets to reduce the amount of clearing required to satisfy asset protection zones. The RFS have consented subject to the recommended conditions of consent.

The reduced clearing levels assists in addressing the concerns raised about water quality impacts by minimising the amount of ground disturbance.

Secondary access onto Kings Highway

The RMS and RFS did not support the proposed secondary fire escape onto the Kings Highway. This road has been removed from the revised layout.

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Use of the private wharf on the adjoining lot

The private jetty is located on the adjoining Lot 12 DP 1202102 and is not part of this proposal.

DPI Fisheries Aquaculture, DPI Office of Water, NSW Food Authority Manager Shellfish Program, and Road and Maritime Services have raised no objection to the proposal, subject to the recommended conditions of consent.

CONCLUSION

It is considered that the proposal is consistent with the requirements of *the Environmental Planning and Assessment Act 1979* and consistent with the objectives of the State Environmental Planning Policies.

The proposal is permissible under the current zone in the Rural LEP. The proposed zoning under the Rural Lands strategy is RU1 Primary Production, in which an Eco tourist facility is permitted with consent.

The proposal has been significantly amended to address the concerns raised by the Clyde River Oyster Growers Association and the NSW Government agencies.

The development delivers an opportunity for quality tourist accommodation to occur, whilst ensuring there are sufficient safeguards put in place to protect the Moonlight Flat oyster harvest area; a significant contributor to the Eurobodalla Shire's economy.

Having regard to the above assessment, the proposal is deemed as satisfactory and approval is recommended subject to conditions of consent.

**PSR17/057 DEVELOPMENT APPLICATION 742/17 - SUBDIVISION TO CREATE
FOUR (4) ADDITIONAL LOTS AT MORUYA AIRPORT 89.2443.S**

Responsible Officer: Lindsay Usher - Director, Planning and Sustainability Services
Attachments: Nil
Focus Area: Productive Communities
Delivery Program Link: P1.1 Facilitate growth and development of our business community
Operational Plan Link: P1.1.3 Promote Eurobodalla as the place to invest and do business

Applicant: Eurobodalla Shire Council
Land: Lot 11 DP 1229406 Bruce Cameron Drive, Moruya (Moruya Airport)
Area: 232.7 hectares
Setbacks: Not relevant
Height: Not relevant
Zone: SP1 (Airport)
Current Use: Airport
Proposed Use: Commercial Aviation Business
Description: Subdivision to create four additional lots at Moruya Airport
Permitted in Zone: Yes
DA Registered: 30 June 2017
Reason to Council: Council is the applicant and owner
Recommendation: Approval

EXECUTIVE SUMMARY

The purpose of this report is to seek approval for the subdivision of land at Moruya Airport to create four allotments to the south-west of the existing hangers and runway, for the purpose of future commercial aircraft hangers.

The application is reported to the Ordinary Meeting of Council as Council is both the applicant and landowner.

The development is consistent with the Moruya Airport Master Plan and will meet relevant Council and State Policies applicable to the land and development.

There is an unresolved matter in relation to Aboriginal heritage, to which further information has been sought by the Office of Environment and Heritage. Subject to a satisfactory resolution to the Aboriginal heritage matters, the proposal is considered suitable for the site and will strengthen the economic vitality of the airport precinct.

It is recommended that approval be granted subject to a positive response from the Office of Environment and Heritage in relation to cultural heritage.

**PSR17/057 DEVELOPMENT APPLICATION 742/17 - SUBDIVISION TO CREATE
FOUR (4) ADDITIONAL LOTS AT MORUYA AIRPORT**

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RECOMMENDATION

THAT pursuant to the provisions of Section 80 of the Environmental Planning and Assessment Act 1979, Development Application No. 742/17 in relation to Lot 11 DP 1229406 Bruce Cameron Drive, Moruya be **APPROVED** subject to a positive response from the Office of Environment and Heritage in relation to cultural heritage and conditions as set out below:

- That the proposed development:
 - (a) achieves the objectives of the Environmental Planning and Assessment Act, 1979;
 - (b) complies with the provisions of all relevant Environmental Planning Instruments;
 - (c) is consistent with the aims and objectives of Council's Development Control Plans, Codes and Policies;
- That the relevant public authorities have been consulted and their requirements met, or arrangements made, for the provision of services to the satisfaction of those authorities;
- It meets the increased demand for public amenities and services attributable to the development in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979 and Section 64 of the Local Government Act 1993;
- That the protection of the amenity and character of land adjoining, and in the locality of the proposed development;
- Any potential adverse environmental, social or economic impacts of the proposed development is minimised; and
- That all traffic, car parking and access requirements arising from the development are addressed.

GENERAL CONDITIONS

1. ***Approved plans***

The development must be carried out in accordance with the following stamped approved plans and documentation, or as modified by any conditions of this consent, or as noted in red by Council on the approved plans.

DA & Sheet No.	Plan No.	Date of Plan	Prepared by
742/17 Sheets 1 to 5 (inclusive)	2815 Set L, Sheets 1 to 5 (inclusive)	Stamped Date Received 30 Jun 2017	Eurobodalla Shire Council

Note: Any alteration to the plans and/or documentation may require the lodgement of an application to modify the consent under s96 of the Environmental Planning and Assessment Act (EPA Act) 1979, or a fresh development application. Your Principal Certifying Authority should be consulted prior to any works contrary to this consent being carried out.

Where there is an inconsistency between the documents approved with this consent and the following conditions, the conditions shall prevail to the extent of that inconsistency. [2.05]

**PSR17/057 DEVELOPMENT APPLICATION 742/17 - SUBDIVISION TO CREATE
FOUR (4) ADDITIONAL LOTS AT MORUYA AIRPORT**

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2. *Aboriginal Heritage*

Prior to any work taking place, the consent holder shall obtain an Aboriginal Heritage Impact Permit. The disturbance of Aboriginal objects in carrying out the works subject of this Consent is limited to those which are permitted by that Permit. Any works which are likely to disturb any further areas may be subject to the need for a further AHIP for those works.

If any Aboriginal relics or objects are uncovered during work, excavation or disturbance of the areas outside of those permitted by the AHIP, any activity must stop immediately and the Environmental Protections and Regulation Group of the Office of Environment & Heritage is to be immediately contacted.

3. *Clarification of Consent*

This consent relates to the subdivision for the purpose of 4 new lots, associated fill within the lots to elevate building pads to achieve a finished ground level of 3.41AHD, and fencing only.

Note: *The consent is reliant upon the installation of services, access realignment and associated fill as depicted on submitted plans which is to be assessed and carried out separately under Part 5 of the Environmental Planning and Assessment Act 1979.*

PRIOR TO COMMENCEMENT OF WORKS

4. *Erosion and Sedimentation Control*

During the works, the design, management and implementation of pollution controls must be consistent with "Managing Urban Stormwater: Soils and Construction guidelines; 4th Edition Landcom 2004 (The Blue Book)" to ensure containment of sediment to the immediate work site. All sediment control measures must be regularly inspected and cleaned out and/or repaired as necessary, and all collected silt disposed of appropriately. The controls are to be maintained and remain in place until the development is completed and disturbed areas are stabilised.

Note: *On-the-spot fines may be imposed by Council for non-compliance with this condition.*

5. *Stormwater management and inundation*

During the works, and once complete, any stormwater leaving the site complies with the water quality benchmarks for estuaries of the catchments within the Batemans Marine Park (Moruya River) as expressed in the NSW Water Quality Objectives (WQOs) developed in accordance with the ANZECC 2000.

6. *Imported Fill*

Prior to the importation of fill onto the development site details of the origin/quality of the material are to be provided to Council. The fill is to be certified as virgin excavated natural material (VENM).

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DURING CONSTRUCTION

7. *Hours of Construction - NOISE*

If audible at any residence or other sensitive noise receiver, construction may only be carried out between 7.00am and 6.00pm on Monday to Friday, and 8.00am to 5.00pm Saturdays. No construction can be carried out on a Sunday or public holiday if audible at any residence of other sensitive receivers. [20.01]

8. *Loading and Unloading of Construction Vehicles*

All loading and unloading associated with construction must be accommodated on-site. If this is not feasible, an application may be made for the provision of a construction zone, during the specified hours of work. [0131]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

9. *Plan of Survey Amendment*

The Plan of Survey submitted in conjunction with an application to Council for a Subdivision Certificate is to incorporate requirements specified in the conditions of subdivision approval. [12.02]

10. *Easements*

The Plan of Survey subject of a Subdivision Certificate shall create drainage, water, sewer and service easements where required and/or as directed by Council free of all costs to Council. [12.03]

11. *Telecommunications Cabling*

Prior to issue of a Subdivision Certificate the applicant shall provide to Council written confirmation from Telstra that arrangements have been made for telecommunication cabling to all lots including the provision of NBN cabling and conduits. [12.05]

12. *"Work as Executed" Plans*

Prior to issue of a Subdivision Certificate the applicant shall provide Work as Executed plans in accordance with Council's specification, duly certified by an engineer or registered surveyor, for all construction work required pursuant to a condition of subdivision. [12.30]

13. *Compliance Certificates*

Prior to issue of a Subdivision Certificate the applicant shall apply to Council for a Compliance Certificate for works carried out as a condition of subdivision for which specific design plans were required and a Construction Certificate issued. [12.33]

14. *Subdivision Certificate*

A Subdivision Certificate is to be obtained once any works required by this consent are complete. Submission of a completed subdivision certificate application form together with all required documents and fees is required to be made to Council. The application form, checklist and fee detail can be found at www.esc.nsw.gov.au. [12.34]

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15. Water/Sewer Developer Contributions - Subdivision

Prior to the issue of a Subdivision Certificate the developer/consent holder will have to be eligible to obtain a Section 307 Certificate of Compliance under the Water Management Act 2000/ compliance with Section 64 of the Local Government Act 1993. To be eligible, the developer/consent holder will have to contribute:

- a) \$48,920.00 (4 ET) for the augmentation of water supply mains and storage within Eurobodalla Shire where 1.0 ET = \$12,230.
- b) \$42,580.00 (4 ET) for the augmentation of sewerage works within Eurobodalla Shire where 1.0 ET = \$10645.

Note: The above contributions are reviewed at least annually and may be subject to increases as a result of indexation or other forces. Contributions can be paid prior to each stage of the development. [3.11]

16. Section 94 Contributions Subdivision

Prior to issue of a Subdivision Certificate the developer/consent holder shall pay Council contributions towards the provision of public amenities and services in accord with Council's Contributions Plan. The contribution rates for the current financial year is:

- (a) Waste Disposal: \$516.80

Note: The above contributions are reviewed at least annually and may be subject to increases as a result of indexation or other forces. Contributions can be paid prior to each stage of the subdivision. [3.10]

17. Restriction as to User - Prohibition of Residential Development

A restriction shall be placed on Lots 1, 2, 3 and 4 prohibiting residential development.

Reason: To ensure future development is consequent with the flood hazard applicable to the land.

18. Fill Requirements

Earthworks- Geotechnical Stability:

- (a) Prior to the issue of a Subdivision Certificate if any lot on the subdivision is to be filled by over 0.2 metres in depth the entire depth of fill is to be compacted to a minimum dry density ratio of 95%;
- (b) The earthworks-filling program shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with Appendix B, AS 3798-2007. In addition the frequency of field testing shall be to a Type 1 standard in accordance with Table 8.1 of AS 3798-2007; and
- (c) The Geotechnical Report shall be submitted to Council accompanied by a certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798-2007.

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19. Flooding

Prior to release of the Subdivision Certificate:

- (a) the level of fill is to be verified that it achieves 3.41AHD in the location of proposed hangers; and
- (b) the existing management plan for the airport is to be amended to control emergency egress through the existing eastern track.

20. Road Dedication

The Plan of Survey subject of a Subdivision Certificate shall include dedication of all roads, road widening and pathways to Council's standards and/or requirements free of all cost to Council.

21. Electricity Supply

Prior to issue of Subdivision Certificate the developer/consent holder shall provide to Council written confirmation from the electricity supply authority that all relevant requirements for supply of electricity to all lots have been satisfied including provision for street lighting (where applicable).

Prior to installation of electrical mains, contact Country Energy [telephone (02) 4472-5082, 0414 725 797 or (02) 4474-1731] to ensure that planning for electricity infrastructure takes into consideration possible future sub-division.

ADVISORY NOTES

i. Discovery of a Relic

If Aboriginal relics or objects are uncovered during work, excavation or disturbance of the area, any such activity must stop immediately. The Environmental Protections and Regulation Group of the Office of Environment and Heritage is to be immediately contacted. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the NSW Heritage Act 1977 may be required before further works can continue in that area. [13.07]

BACKGROUND

The Moruya Airport Master Plan (the master plan) was adopted by Council on 26 May 2015 and was followed by the endorsement of the Moruya Airport Business Case on 9 June 2015. The master plan sets out a long-term vision for Moruya Airport and lists employment generating development options for the future, with indicative costings. The master plan identified eight stages of development - stage one relates to the aviation/marine precinct and phase one of the commercial aviation business precinct.

The implementation of the Moruya Airport Master Plan is a key project stated within Outcome 7 (Connected and Accessible Places) of Council's Delivery Program 2017-2021 with reference to

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FOUR (4) ADDITIONAL LOTS AT MORUYA AIRPORT**

commencement of the implementation of Stage 1 and 3 at 7.4.1.2 of the Operational Plan 2017-2018

A Development Application (DA 742/17) was submitted by Council on 30 June 2017 seeking consent to subdivide land at the airport for fifteen (15) lots in accordance with stage one of the master plan, with the associated filling and road construction. During the assessment of the application the applicant reduced the scope of the proposal and now seeks consent for four (4) lots and filling only and is the subject of this report.

CONSIDERATIONS

The main considerations which are of particular relevance to the assessment of the current proposal include:

- permissibility of the proposed development
- ensuring the development is generally consistent with the master plan which has been adopted for the land
- ensuring access is available to the proposed lots
- measures to ensure the risks associated with flooding are mitigated
- measures to ensure environmental impacts to surrounding land and the Moruya River are adequately addressed and
- impact upon any known objects or places of Aboriginal heritage, and adequate provision of water, sewer, stormwater, power and telecommunication infrastructure will be made available to the lots.

The above considerations are addressed within the Policy and Environmental sections of this report.

Policy

The application has been assessed in accordance with the provisions of the Environmental Planning and Assessment Act, 1979 and the following relevant legislation, planning instruments and policies.

The proposed subdivision does not trigger designated development provisions nor requires any integrated permits or approvals.

State Environmental Planning Policy (SEPP) 71 – Coastal Protection

The subject site is situated within the Coastal Zone, and as such the provisions of SEPP 71 applies. The proposal will not impact existing public access to or along the foreshore and the site is not positioned such that opportunities exist to improve existing access. The proposal does not involve subdivision of land in a residential or a rural residential zone and is therefore not subject to the requirement for a master plan pursuant to cl. 18. The proposal is considered satisfactory in terms of measures to conserve animals, fish, existing wildlife corridors, coastal hazards, Aboriginal cultural significant places and the cumulative impact of development along the foreshore. The proposal will achieve a satisfactory response with regard for the matters for consideration under State Environmental Planning Policy No. 71.

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89.2443.S

Eurobodalla Local Environmental Plan 2012 (LEP)

The site is zoned SP1 – Special Activities (Airport) pursuant to the *Eurobodalla Local Environmental Plan 2012* (LEP). It is noted that subdivision and the intended use are permissible with consent on the land, and the intended use is consistent with the objectives of the zone. No minimum lot size applies to the land the subject of the proposal. The lots are to be utilised for commercial aircraft hangers and plans indicate satisfactory envelopes to accommodate the hangers. The proposed layout and size of the allotments are consistent with the existing pattern of development. The lots have direct access to a service road and have been located to satisfactorily integrate with existing lots and development.

Interim Coastal Hazard Adaption Code and Moruya Flood Plain Code

The development is flood affected by the Moruya River. Filling of hanger sites is proposed to manage the flood risks to adequately accommodate commercial development above the 5% Annual Exceedance Probability (AEP) flood level. The source and treatment of fill material will require conditions to ensure environmental measures and compaction requirements are achieved.

Access is available through Bruce Cameron Drive and George Bass Drive to the north, up to the current 5% AEP event. George Bass Drive south of the intersection has levels lower than the intersection prohibiting access to Moruya during flood events exceeding approximately 10-20% AEP events. During events exceeding 5% AEP the development will become isolated. The applicant has proposed to amend the management plan for the airport to control emergency egress through the existing eastern track. This will allow egress to the north in a flooding event and is a satisfactory means of providing alternate means of evacuation during a flooding event

ENVIRONMENTAL

The site of the proposed subdivision is a reasonably level, grassed area of land adjacent to existing development at the airport and located approximately 95m to the north of the Moruya River. The lots are situated at a distance greater than the 40m buffer zone stipulated under a Category 1 watercourse in Council's LEP and plans indicate that the stormwater servicing will be provided along the frontage of the lots.

Subject to standard stormwater and sedimentation conditions the proposal is assessed as satisfactory with regard to any offsite drainage impacts. The site does not contain any significant vegetation or trees and accordingly is assessed as satisfactory in relation to biodiversity impacts.

The land is identified as being subject to Class 4 Acid Sulphate Soils on the Acid Sulphate Soils Map. The LEP requires consent if work occurs more than 2m below the natural ground surface, or if the water-table is likely to be lowered by 2m below the natural ground surface. The physical works relate to filling associated with the creation of elevated building only and do not require ground disturbance below 2m. As there will be limited, or no excavation required, the proposal is considered unlikely to expose Acid Sulphate Soil and as such no specific condition is deemed necessary in relation to this issue.

Consideration of prior contamination is required pursuant to the requirements of State Environmental Planning Policy No. 55. The proposed lots are well distanced from operational

**PSR17/057 DEVELOPMENT APPLICATION 742/17 - SUBDIVISION TO CREATE
FOUR (4) ADDITIONAL LOTS AT MORUYA AIRPORT**

89.2443.S

activity of the airport and there is no evidence to suggest that the area where the lots are to be situated is contaminated.

Water, sewer, stormwater, power and telecommunication facilities are both feasible and proposed for the allotments, however, these services will be assessed and approved separately as infrastructure under Part 5 of the Environmental Planning and Assessment Act 1979.

The site of the proposed subdivision and roadwork contains landscape characteristics, which have been assessed as being archaeologically sensitive. The application has been referred to the Office of Environment and Heritage (OEH) who have requested the results of test excavations prior to providing comments. Due to the high likelihood of Aboriginal objects, Council is not in a position to determine the application without confirmation from OEH. The results of the test excavations are in the process of being finalised, however, the process will require consultation with the Aboriginal community prior to finalisation of comments from OEH. This is the only outstanding matter which is currently preventing determination.

CONSULTATION

The application was publicly advertised between 6 and 26 July 2017 in accordance with Council's Advertisement and Notification Code. This process involved the placement of a notification sign, notification by mail to adjoining property owners, placement of a notice in the local paper and the proposal was on display in Council's customer service office in Moruya.

The application was referred to Batemans Marine Park, Essential Energy, Civil Aviation Safety Authority (CASA) and Council's Development Engineer. All agencies have reviewed and are generally supportive of the proposal, subject to conditions which are incorporated within recommended conditions of consent.

One submission was received during the public notification and advertising period with concerns raised in relation to the absence of an easement for float plane aircraft to enter the aerodrome facility for maintenance and safe parking and also a concern in relation to safe manoeuvring of aircraft. It is possible that the lots created as a result of this subdivision, may be utilised for storage or maintenance of float planes, given their position relative to the Moruya River access point. Manoeuvring and taxi way areas do not form part of this application and will be required to comply with CASA Manual of Standards Part 139 – Aerodromes. Both of these issues have been relayed to the applicant who has advised that the matters raised will be managed as part of Council's ongoing commercial and operational management of the airport.

CONCLUSION

The application is consistent with the Moruya Airport Master Plan and is permissible with consent under the Eurobodalla Local Environmental Plan 2012. With the exception of Aboriginal heritage matters, to which further work and consultation is currently being undertaken, the application adequately addresses matters of relevance to the proposal.

Subject to a satisfactory resolution to the Aboriginal heritage matters, the proposal is considered suitable for the site and will strengthen the economic vitality of the airport precinct.

It is recommended that approval be granted, subject to a positive response from the Office of Environment and Heritage in relation to cultural heritage.

**IR17/053 BATEMANS BAY BRIDGE PREFERRED OPTION: COUNCIL SUBMISSION E05.9204
TO ROADS AND MARITIME SERVICES**

Responsible Officer: Warren Sharpe OAM - Director Infrastructure Services

Attachments: 1. Under Separate Cover - Submission to RMS on Batemans Bay Bridge

Focus Area: Productive Communities

Delivery Program Link: P3.1 Undertake advocacy activities to further the development of transport infrastructure and support future growth

Operational Plan Link: P3.1.1 Advocate for improved infrastructure and increased levels of funding

EXECUTIVE SUMMARY

The NSW Government is proposing to replace the existing Batemans Bay bridge with a modern four lane bridge with an off-road shared pathway over the Clyde River. This is an exciting infrastructure development for Batemans Bay and the region, representing a welcome and substantial investment in our region by the NSW Government.

The new bridge will be capable of carrying higher mass limit 26m B-double transport vehicles, removing a significant impediment to transport efficiency on the Princes Highway. The proposal includes any necessary upgrades to the Princes Highway/Kings Highway intersection. The existing Batemans Bay bridge will be removed once the new bridge is built.

NSW Roads and Maritime Services (RMS) briefed Councillors on the preferred option for a new four lane bridge west of the existing bridge on 1 August 2017.

The RMS placed the preferred option on display for community comment until Friday 1 September 2017.

A draft submission to RMS was prepared providing Council's feedback on the preferred option for the new Batemans Bay Bridge. The draft submission was provided to Councillors on 25 August 2017 for review and their feedback incorporated.

The draft submission was discussed with Council at a briefing held on 29 August 2017, prior to finalisation.

The document was submitted to RMS prior to the closing date of 1 September 2017. This included advice to RMS that the submission would be submitted to Council's meeting of 12 September 2017 for formal endorsement. RMS accepted this extended process given the need for Council to formally consider the submission at a Council meeting.

The final submission (attached) is strongly supportive of the preferred option including removal of the existing bridge. The submission highlights the various opportunities and challenges associated with the preferred option, noting the need for RMS to continue to work closely with Council and the community to optimise solutions, particularly in relation to the detailed design and construction of local roads, additional parking, pedestrian/cycling access, foreshore continuity, boating access and related matters.

IR17/053 BATEMANS BAY BRIDGE PREFERRED OPTION: COUNCIL SUBMISSION TO ROADS AND MARITIME SERVICES E05.9204

RECOMMENDATION

THAT Council endorse the submission to Roads and Maritime Services regarding the preferred option for the new Batemans Bay bridge.

BACKGROUND

The replacement of the Batemans Bay bridge is the responsibility of the NSW Government. RMS is the responsible NSW Government agency for the project, and has committed to working closely with Council and engaging with the community to deliver this transformational infrastructure project.

RMS has selected a preferred option for the new Batemans Bay Bridge to the west of the existing bridge and placed the preferred option on display for community comment until Friday 1 September 2017.

Council prepared a submission (attached) following an RMS presentation to Councillors at a briefing on 1 August 2017, and receiving input from Councillors.

The submission from Council was provided by the closing date of 1 September 2017, subject to endorsement by Council at the meeting of 12 September 2017.

This report seeks to formally endorse the submission made to RMS within the exhibition period.

CONSIDERATIONS

The proposed new bridge is a NSW Government project. The NSW Government and RMS have given an undertaking to engage with Council and the community which is welcomed.

Early investigations carried out by RMS identified issues and constraints for the bridge design. RMS used these studies to develop three broad options that were assessed by the project team at a workshop in January 2017. Council representatives participated in the Strategic Option Assessment Workshop in June 2017 to help inform the decision making process on the preferred option for the new bridge undertaken by RMS.

The existing bridge is proposed to be removed after the new bridge is open to traffic. This will enable permanent access to the Clyde River for commercial and recreational vessels of an increased height, and provide opportunities to increase public access and connectivity along the river foreshores.

The preferred bridge option requires an overpass of the highway over Clyde Street with no direct connection from the highway capable of being provided. Sole access to Clyde Street will therefore be via North Street.

On the northern side of the river, the preferred option will impact the existing Princes Highway and Wharf Road intersection due to the height separation between the bridge and the existing roadway.

The preferred option opens up a number of positive opportunities for developing the foreshore areas on both sides of the river. These will require detailed design solutions and RMS has already indicated positively that it will work closely with Council on the design and construction of these works, at the cost of the NSW Government.

IR17/053 BATEMANS BAY BRIDGE PREFERRED OPTION: COUNCIL SUBMISSION TO ROADS AND MARITIME SERVICES E05.9204

Council's submission to RMS on the preferred option for the bridge (attached) is strongly supportive of the preferred option including removal of the existing bridge. The submission highlights the various opportunities and challenges associated with the preferred option, noting the need for RMS to continue to work closely with Council and the community to optimise solutions, particularly in relation to the detailed design and construction of local roads, additional parking, pedestrian/cycling access, foreshore continuity, boating access and related matters.

Council's submission does recommend a number of works to offset specific impacts on the community.

The submission from Council was submitted by the closing date of 1 September 2017, subject to endorsement by Council at the meeting of 12 September 2017.

Environmental

Bridge construction will have a number of environmental impacts including positive impacts such as improved measures to control accidental oil or fuel spills. RMS is undertaking the necessary environmental studies and approvals process for the project.

Asset

The Princes Highway and Batemans Bay Bridge are NSW Government assets under the care and control of RMS as the responsible NSW Government agency.

The precise obligations of Council for the whole-of-life cost of other infrastructure (other than the initial capital cost) will be determined as part of the overall project development. This is likely to include new local roads, car parks and foreshore works developed as part of the project. The provision of some assets on the foreshore (eg car parking) will offset the need to provide parking elsewhere to meet future demand.

Council may need to budget for increased maintenance and depreciation costs where new assets are gifted to Council as a result of the project.

Social Impact

RMS will undertake the necessary studies to assess the social impacts of the proposed new bridge. This will assess both the positive impacts and challenges.

RMS is aware of many of the potential impacts on the community, particularly during the construction phases and as a result of the overpasses at either side of the Clyde River. The engagement with the community by RMS also provided the community with the opportunity to highlight issues important to them.

Council's submission recommends a number of offsets to ameliorate known impacts.

Once the bridge is completed, there will be substantial positive impacts in terms of improved transport efficiency, improved road safety, reduced risk of disconnection (associated with failure of the current lifting span) and improved access for emergency response. The new bridge will also provide for higher productivity transport vehicles to utilise the Princes Highway.

IR17/053 BATEMANS BAY BRIDGE PREFERRED OPTION: COUNCIL SUBMISSION TO ROADS AND MARITIME SERVICES E05.9204

Economic Development Employment Potential

RMS are undertaking an assessment of the economic benefits of the new bridge.

The new bridge and associated improvements to the Kings Highway and Princes Highway intersection will significantly improve the efficiency of our highway network. The removal of the lifting span in the existing bridge will also reduce incidences of traffic queuing along the Princes Highway which directly impacted traffic movement within the Batemans Bay CBD.

The provision for 26m higher mass limit B-double vehicles to access Batemans Bay removes a significant disincentive for transport reliant businesses within Eurobodalla, and offers potential savings in basic goods to our residents through reduced transport costs.

Financial

The Batemans Bay Bridge replacement is being wholly funded by the NSW Government.

RMS has already indicated it will fund works directly associated with the bridge project. Council is advocating for RMS to fund appropriate offsets for the known impacts resulting from the bridge construction.

The impacts of increased maintenance and depreciation costs where new assets are gifted to Council as a result of the project will be further assessed once solutions are more fully developed.

Community and Stakeholder Engagement

RMS is responsible for community and stakeholder engagement regarding the replacement of the Batemans Bay Bridge. Council has provided a link from our web page advising members of the community of RMS project contact details.

The submission encourages RMS to continue to engage with the community during project development and construction. As a primary stakeholder, Council is advocating for a close working relationship with RMS throughout the project.

CONCLUSION

The proposed new Batemans Bay Bridge is an exciting development for Batemans Bay. The proposed new bridge is a landmark piece of infrastructure that will significantly improve traffic flow to and through the region bringing associated social and economic benefit to Batemans Bay, Eurobodalla and the wider region.

Council's submission, incorporating feedback from Councillors, was provided to RMS by the closing date of 1 September 2017. The submission was subject to Council's formal endorsement at the meeting of 12 September 2017.

**IR17/054 TENDER REPORT - RFT NO. 2017/ISD047 SEWER REHABILITATION
AND MAINTENANCE PROGRAM JULY 2017 - JUNE 2021**

E11.5217

Responsible Officer: Warren Sharpe OAM - Director Infrastructure Services

Attachments: 1. Under Separate Cover - Confidential - Sewer Rehab and Maintenance
Program July 2017 - June 2021

Focus Area: Sustainable Communities

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

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

EXECUTIVE SUMMARY

This report outlines the evaluation of offers submitted in response to Request for Tender (RFT) No. 2017/ISD047 Sewer Rehabilitation and Maintenance Program July 2017 – June 2021, and provides a recommendation for the preferred suppliers (contractors).

RECOMMENDATION

THAT

1. Council endorses the selection of the preferred tenderers listed for Request for Tender (RFT) No. 2017/ISD047 Sewer Rehabilitation and Maintenance Program July 2017 – June 2021 within the confidential attachment; and
2. Accordingly approves the entering into of a contractual arrangement with the preferred tenderers, subject to the terms specified in the Request for Tender unless otherwise varied in accordance with this report.

BACKGROUND

A Request for Tender has been sought to engage either a single supplier, or a number of suppliers, for a fixed period to provide sewer pipe and manhole rehabilitation and other associated services. These services will have a combined budget in the order of \$1 million to \$1.5 million per annum and are identified individually as Parts below:

Part A: Sewer Relining

Part B: Sewer & Stormwater CCTV & Report

Part C: Sewer & Stormwater Asset Pressure Cleaning

Part D: Manhole Refurbishment

Part E: Smoke Testing & Property Inspections.

The initial period of the contract is for two (2) years from contract award with an option at the sole discretion of Council, *based on the performance of the successful Contractor during each year for the completed Scope of Works during that year*, to extend the contract by a *maximum* further period of two (2) years. Successful tenderer's rates will be fixed for each two year period. After the initial period of two (2) years, (with fixed prices) the successful contractor (s) may review and revise their tendered rates (rate increases will be limited to CPI average indices

**IR17/054 TENDER REPORT - RFT NO. 2017/ISD047 SEWER REHABILITATION
AND MAINTENANCE PROGRAM JULY 2017 - JUNE 2021**

E11.5217

for the relevant industries for labour and material) prior to accepting an extension for the final two year period, if Council exercises its option to extend the contract.

RFT No. 2017/ISD047 was advertised via Tenderlink on 6 June 2017 with a closing date of 12 July 2017. Offers were received from the following tenderers and assessed in accordance with the Tender Evaluation Plan:

1. Abergeldie Watertech
2. Australian Subsurface Pty Ltd
3. Beno Excavations Pty Ltd
4. Calix Limited
5. Fitt Resources Pty Ltd
6. GMA Waste Water Services Pty Ltd
7. Interflow Pty Ltd
8. ITS Trenchless Pty Ltd
9. Tox Free Australia Pty Ltd.

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

CONSIDERATIONS

Legal

RFT No. 2017/ISD047 Sewer Rehabilitation and Maintenance Program July 2017 – June 2021 was advertised in accordance with Local Government (General) Regulation 2005 REG 167 and Local Government Act 1993.

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

Upon release of the RFT a Tender Evaluation Plan was distributed amongst the Tender Evaluation Committee.

The offers submitted by the preferred tenderers have been assessed as representing best value for money for Council.

**IR17/054 TENDER REPORT - RFT NO. 2017/ISD047 SEWER REHABILITATION
AND MAINTENANCE PROGRAM JULY 2017 - JUNE 2021**

E11.5217

Policy

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

Financial

Tendered pricing is within current operational budget.

Community and Stakeholder Engagement

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

CONCLUSION

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

The preferred tenderers as identified in the Confidential Attachment are therefore recommended for the awarding of a contract for the requirement subject to the terms specified in the Request for Tender.

IR17/055 FUNDING OFFER - BIKE WEEK 2017

E05.9578

Responsible Officer: Warren Sharpe OAM - Director Infrastructure Services

Attachments: 1. Bike Week 2017 Poster

Focus Area: Productive Communities

Delivery Program Link: P3.3 Provide road and traffic management planning, programs and infrastructure

Operational Plan Link: P3.3.1 Implement road safety programs and plans

EXECUTIVE SUMMARY

This report seeks Council's endorsement of the acceptance of an offer of \$2,550 from the Roads and Maritime Services (RMS) to conduct a community event as part of the NSW Bike Week 2017.

Bike Week is celebrated from 16-24 September 2017. The community event this year will be the Broulee Community Ride.

Local road safety projects are planned and developed in line with Council's Road Safety Strategic Plan 2013-2017 to ensure that projects are relevant to the local community and address local road safety issues.

RECOMMENDATION

THAT Council endorse the actions of staff in accepting the offer of \$2,550 in funding under Roads and Maritime Services NSW Bike Week program to conduct the Broulee Community Ride.

BACKGROUND

NSW Bike Week is an annual celebration of cycling which aims to:

- increase the use of local cycling infrastructure for transport and recreation
- provide a safe and secure environment for new and less confident cyclists to improve their cycling skills
- educate the community on the importance of road safety and road rules
- promote cycling as a safe and healthy mode of transport for short trips.

NSW Bike Week is held from 16-24 September 2017. Council has received an offer of \$2,550 from RMS to run the Broulee Community Ride as part of Bike Week. The event is proposed to be held on Sunday 17 September 2017.

This funding is available for local road safety projects. These projects are planned and developed in line with Council's Road Safety Strategic Plan 2013-2017 to ensure that projects are relevant to the local community and address local road safety issues.

Council has written to RMS accepting the grant.

IR17/055 FUNDING OFFER - BIKE WEEK 2017

E05.9578

CONSIDERATIONS

Council has coordinated similar events in previous years as part of the road safety program, with these programs coordinated by Council's Road Safety Officer. The event in 2016 attracted 149 participants with positive engagement with the community.

The Broulee Community Ride is a free event. Local cycling group EuroBUG has indicated they will be participating. Local bicycle businesses from Moruya and Batemans Bay will also be undertaking safety checks on bicycles to support the event.

The ride will be along sections of the off-road track from Broulee to the Moruya Airport and North Head Camping Ground, or a shorter ride along the Coronation Drive shared pathway between the Broulee Surf Club and Candlagan Creek bridge.

A copy of the flyer advertising the Bike Ride is attached for the information of Council.

Social Impact

The program of activities is designed to:

- increase the use of local cycling infrastructure for transport and recreation
- provide a safe and secure environment for new and less confident cyclists to improve their cycling skills
- educate the community on the importance of road safety and road rules
- promote cycling as a safe and healthy mode of transport for short trips.

Financial

The NSW Bike Week program is 100% grant funded. The funding offered is sufficient to allow the community ride to proceed supported by Council's Road Safety Officer.

Community and Stakeholder Engagement

The event will be promoted in line with the NSW Bike Week 2017 funding guidelines. It will also be promoted on Council's website and local newspapers.

CONCLUSION

It is recommended that Council endorse the actions of staff in accepting the offer of funding to conduct the NSW Bike Week 2017 event, namely the Broulee Community Ride, subject to the terms and conditions outlined in the funding guidelines provided by the Roads and Maritime Services.



Eurobodalla community bike ride

When: Sunday 17 September 2017, 9am registration for a 10am start

Meeting point: outside Broulee Surf Life Saving Club, Heath Street, Broulee

Cost: FREE

Join our community bike ride! All ages and skill levels are welcome with two ride options you can complete at your own pace. After your ride relax and take advantage of refreshments and lunch available from South Brou Café—open from 8.30am

4 km ride: cycle along the sealed shared pathway from Broulee Surf Club to Candlagan Creek bridge and return. This option suits families with younger riders or for people who are less experienced.

13 km ride: cycle along the Bengello bike track from the Broulee Surf Club to Moruya Airport and return. This is a unsealed gravel bike track and is suited for more experienced riders.

All participants need to wear a helmet and riders 10 years and under must be accompanied by an adult

All riders will receive Bike Week giveaways.

Explore our scenic bike tracks and join in the fun!

Call Kate McDougall on 02 4474 1353 or visit www.esc.nsw.gov.au for more information.

FBD17/060 INVESTMENTS MADE AS AT 31 JULY 2017

E99.3517

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

Attachments: Nil

Focus Area: Support Services

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

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

EXECUTIVE SUMMARY

The purpose of this report is to:

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

RECOMMENDATION

THAT the certification that the investments as at 31 July 2017 made in accordance with the *Local Government Act 1993*, Council's Investment Policy and the provision of Clause 1 (Reg 212) of the *Local Government (General) Regulation 2005*, be received.

CONSIDERATIONS

Legal

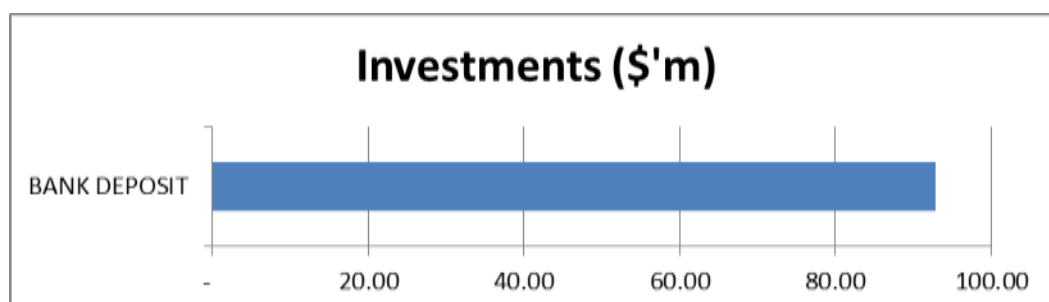
Budgeted legal fees are sufficient to cover any anticipated expenses and will not be material.

Policy

Investments do not comply with Council's Investment policy because of the recent rating downgrades to 23 financial institutions by the rating agency Standard and Poors (S&P). The rating changes forced investments held in three (3) institutions into the 'some limited risk' category of the investment policy and it is anticipated that the portfolio will rebalance by September.

Financial

Council Investing Overall



FBD17/060 INVESTMENTS MADE AS AT 31 JULY 2017

E99.3517

Council has 100% (\$92.92m) invested in bank deposits. The bank deposits were held in banks rated A or greater or covered by the AAA rated Government Guarantee before the rating downgrades by S&P on 22 May 2017. This downgrade increased the 'some limited risk' category and has been reduced from 43% to 28.52% which is above the policy limit (20%) by 8.52% and should rebalance by September. Investment in Government Guaranteed Deposits is \$2.25m and represents 2.43% of the portfolio.

There was a decrease in funds under investment during July because the end of financial year expenditure was paid.

Currently there is \$43.5m (46.8%) of funds invested in fossil fuel free institutions however this amount is estimated to reduce to 40% because of the rating changes to certain institutions and the requirement to make the portfolio compliant at the earliest time.

The weighted average return for all investments for the month is 2.55% which is above the Council policy benchmark of Bank Bill Swap rate (BBSW) + 0.25% (1.95%).

Collateralised Debt Obligation (CDO)

Funded legal action against one financial institution is in the early stages and is likely to continue for some time, although any return is not expected to be material.

Summary Investment Information

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

CATEGORY	(\$)
At Call Deposit Government Guaranteed	250,000
At Call Deposit	3,675,994
Term Deposits	87,000,000
Term Deposits Government Guaranteed	2,000,000
	92,925,994
<i>Weighted average Interest %:</i>	2.55%
<i>Average 90 day BBSW + 25%</i>	1.95%

Policy and Liquidity Risk

The Investment Policy is divided into two risk categories of credit risk (risk of ultimately not being able to redeem funds) and liquidity risk (risk of loss due to the need to redeem funds earlier than the investment term). Our investments do not comply with the risk policy as shown in the following table because the portfolio is rebalancing after the downgrade of some banks by Standard and Poors.

Policy Risk	Low Liquidity Risk %	Total % of Investments	Policy Risk % (Max Holdings)
Remote Risk	2.43	2.43	100.00
Near Risk Free	69.05	69.05	100.00

FBD17/060	INVESTMENTS MADE AS AT 31 JULY 2017	E99.3517
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Some Limited Risk	28.52	28.52	20.00
At Risk	0.00	0.00	0.00
Grant Total	100.00	100.00	

The unrestricted current ratio is the amount of unrestricted current assets compared to each dollar of current liability. The Office of Local Government suggests a minimum 1.5:1 and the audited unrestricted current ratio as at 30 June 2016 is 2.68:1. Council therefore has approximately \$2.68 of current assets for each \$1 of current liabilities. This ratio will be updated when the annual statements are completed.

CONCLUSION

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

FBD17/061 POLICY ADOPTION - COMPLAINTS POLICY

E16.0297

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

Attachments: 1. Draft Complaints Policy
2. Confidential - Submission

Focus Area: Support Services

Delivery Program Link: SS3.2 Provide efficient information and records management systems

Operational Plan Link: SS3.2.3 Efficient management councils records

EXECUTIVE SUMMARY

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

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

The draft Complaints Policy has been reviewed and was placed on public exhibition from 31 May to 4 July 2017. During this time, one submission was received. Questions raised in the submission have been responded to and some minor changes have been incorporated into the draft policy as a result of the submission received.

A confidential copy of the submission received is attached.

RECOMMENDATION

THAT the draft Complaints Policy be adopted.

BACKGROUND

Eurobodalla Shire Council as an organisation has a prime responsibility to assist its customers and stakeholders consistent with the common good and within legal and statutory responsibilities. Dealing with complaints about Council's decisions, actions or procedures and analyzing the causes is a positive process as it allows Council the opportunity to improve policy, procedures and services.

The purpose of this policy is to facilitate a consistent, fair and equitable resolution to customer complaints at the earliest opportunity and in the most efficient, prompt and professional manner.

FBD17/061 POLICY ADOPTION - COMPLAINTS POLICY

E16.0297

CONSIDERATIONS

The draft Complaints Policy has been reviewed and was placed on public exhibition from 31 May to 4 July 2017.

Copies were available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

During the exhibition period, one submission was received. Below is a summary of the questions raised in the submission and that have been responded to. Some minor changes have been incorporated into the policy as a result of the submission received.

A confidential copy of the submission received is attached.

Document no.	Issues raised in submission	Response
40787.17	Purpose This policy 2nd dot point: "Ensures that issues which are the subject of complaints are addressed in a manner which ensures that such issues will not be the subject of future complaints." To avoid future or ongoing complaints, questions and issues raised, need to be answered/responded to with reasons or explanations. Responses that simply state, "your claims are not accepted," particularly when claims are substantiated with evidence, does not resolve an issue or satisfy a complainant. Similarly, the use of copy and paste information that may (or may not) vaguely fit a topic, does little or nothing to solve an issue or answer questions.	Often a response to an enquiry, while compliant with a council decision, may not always be the response that the customer wants or agrees with. Further dissatisfaction with Council's responses can be referred to the NSW Ombudsman.
	Policy Statement 1. Application – Final dot point: Breach of legislation – examples should include, LGA and council policies.	The dot point provides examples ie: copyright, Privacy, access to Government information.
	2. Legislation – The list of legislation should include the "Trust Handbook," as it sets out complaint handling in relation to Crown Land – Chapter 26.	The Trust Handbook is a guide for Trust Managers and is not a legislative requirement.
	3. Complaints- "for the purposes of this policy, a complaint is an expression of dissatisfaction with." 2 nd dot point: the word 'Behaviour' should be replaced with 'conduct' – as it relates to 'Code of Conduct'. The list should also include: staff and senior staff/management. 3 rd dot point should include: plans, strategies, codes etc.	<ul style="list-style-type: none"> The word behaviour has been replaced with the word conduct at the 2nd dot point. 'Senior staff/management' falls under 'employees of council' and it is not necessary to expand. Council's plans and

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		strategies are placed on public exhibition where the public can submit comments including dissatisfaction with the exhibited plans and strategies. Codes of Practice are council procedures and do not require exhibition for public comment.
	4. Customer Service Requests – examples should include requests for information that are not on council’s website when they should be, e.g. supplementary documents to policies.	The Policy statement at 4 advises customers on the ways in which they can contact Council and also refers the customer to Council’s Customer Service Policy. A link to the Customer Service Policy is provided in the Complaints Policy.
	5. Type and Seriousness of Complaints – There is no mention in this section of what happens or where to go if the complaint is in regard to the Public Officer or General Manager.	The Complaints Policy will be amended to include the following: ‘Complaints about the Public Officer will be referred to the General Manager and complaints about the General Manager will be referred to the Mayor in accordance with the Code of Conduct Policy’
	6. Lodging and Handling Complaints - “In dealing with complaints Council will: ”Need to add: *answer questions asked by the complainant *provide reasons, explanations and/or substantiation in replies to complainants.	Often a response to an enquiry, while compliant with a council decision, may not always be the response that the customer wants or agrees with. Further dissatisfaction with Council’s responses can be referred to the NSW Ombudsman
	“Information relating to complaints is recorded and used for statistical and reporting purposes, to inform the decision making process and improve Council’s service to the community.” Where is this information recorded?	Information relating to complaints is recorded in Council’s records management system in a confidential file.
	It must be provided to councillors if it is “to inform the decision making process,” and “allow council the opportunity to improve policy, procedures and services.”(Purpose –	Singular complaints may be used as a way of improving internal procedures. If a number of complaints are

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	first paragraph). Are councillors provided with this info when reviewing policies etc?	received on a particular matter, Councillors may be confidentially informed of the issues in accordance with legislation and confidentiality requirements.
	7.2 Maladministration- Again, no mention of complaints regarding General Manager.	Maladministration refers to conduct of council that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives. For example, this could include council making a decision and/or taking action that is unlawful. Please refer to the Code of Conduct Policy.
	9. Unreasonable Complainant or Customer Conduct - Who decides what is "inappropriate or unreasonable behaviour"? What are the "procedures for managing unreasonable customers"? Perhaps some examples are required. In what ways would council "restrict services"?	The NSW Ombudsman's Guidelines 'Managing Unreasonable Complainant Conduct Manual' provides Council with steps on how best to handle unreasonable customer conduct. An example of how council could restrict services would be to limit and narrow contact with council ie: two questions per month via email. This would be determined on a case by case basis. www.ombo.nsw.gov.au/news-and-publications/publications/guidelines/state-and-local-government/unreasonable-complainant-conduct-manual-2012
	10. External Agency Contacts - As a Trust Manager, Crown Lands should be added to this list.	This list refers to what agency the customer can contact if they are dissatisfied with the handling or determination of their complaint. If further investigation is required the appropriate agency would contact other government departments as required.
	Implementation 3 Reporting of Complaints - "On a 6 monthly basis (Sep & Mar) the Public Officer will provide a summary of complaints received to the Executive Leadership Team." Who is on this leadership team?	The Executive Leadership Team consists of the General Manager, the Directors and Executive Manager. Reference is made at www.esc.nsw.gov.au/inside-council/council/organisation-

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	structure
If the subject of a complaint is in regard to someone on this team, what happens?	The complaint goes to the General Manager and/or the Public Officer.
If a complaint is in regard to the Public Officer what happens?	The complaint is referred to the General Manager
“This summary will comprise details of the type and number of complaints received and an outline of how they were resolved, the average time for resolution and recommendations of any changes to procedures made as a result.” *What happens if complaints aren’t resolved?	The customer can refer their complaint to the NSW Ombudsman if they are dissatisfied with Council’s response.
*‘policy’ and ‘services’ need to be added after “procedures” to be in line with first paragraph of Purpose.	This recommendation has been incorporated into the Complaints Policy.
*In recommending changes to procedures, policies etc, will these recommendations be put to councillors to make a decision on? Or to the public so they have some input?	Any changes made to Council policies during this current period of review have been provided to Councillors and the public. If changes are required to a policy outside of a review period ie: at the expiration of twelve months after the declaration of the poll for the next general NSW local government election, unless council revoked it sooner, is reported to the council and publically exhibited for a period of not less than 28 days. Procedures are not required to be reported to Council or the public and are utilised by staff to implement Council policy.
*How much info regarding these complaints (apart from confidential info) will be in the annual report to council?	Code of Conduct complaints are statistically reported (OLG requirement) to Council in December each year. Code of Conduct complaints are also recorded in the annual report.
*Will the public be privy to the nature (issues, concerns, problems) and number of complaints over the year?	Council is required to provide a report on statistical information on the Code of Conduct complaints.
Review Performance Indicators Will councillors be provided with these performance indicators in their review of this policy?	On request.
Governance Crown Lands Act and Trust Handbook should be included in the list of related legislation	The Crown Lands Act will be added to the list of related legislation in the Complaints Policy.

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	<p>Definitions</p> <p>I think the definition could simply read as follows:</p> <p>Complaint: Expression of dissatisfaction with: a decision, the provision of a service, a council policy/procedure etc or the conduct of a council official, contractor or volunteer.</p> <p>A 'council official' (Model Code) includes councillors, staff, administrators, council committee members, conduct reviewers, & delegates of council.</p> <p>I have included 'council policy/procedure etc' as it is included in the Policy Statement p2.</p>	<p>Feedback has been considered in reviewing the policy.</p>
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Legal

Council complies with relevant legislation such as the *Local Government Act 1993*, *Government Information (Public Access) Act 2009*, *Independent Commission Against Corruption Act 1998*, *Ombudsman Act 1974*, *Public Interest Disclosures Act 1994*, *State Records Act, 1998* and *The Model Code of Conduct for Local Government Councils in NSW 2013*.

Council is guided by the NSW Ombudsman's *Effective complaint handling guidelines* (Dec 2010) and Australian Standard *AS ISO 10002:2004, MOD: Customer satisfaction – guidelines for complaints handling in organisations*.

Policy

This policy is to facilitate a consistent, fair and equitable resolution to customer complaints at the earliest opportunity and in the most efficient, prompt and professional manner.

Community and Stakeholder Engagement

Council placed the draft Complaints Policy on public exhibition for a period of 28 days from 31 May to 4 July 2017. Copies were available for viewing on Council's website, at the libraries, and at the customer service centre in Moruya.

One submission was received.

CONCLUSION

The purpose of this policy is to facilitate a consistent, fair and equitable resolution to customer complaints about Council's decisions, actions or procedures at the earliest opportunity and in the most efficient, prompt and professional manner.

The draft Complaints Policy was publicly exhibited for 28 days. One submission was received. Questions raised in the submission have been responded to and some minor changes have been incorporated into the draft policy as a result of the submission received.

The draft policy is presented to Council for adoption.



Policy

Policy title	Complaints
Responsible manager(s)	General Manager
Contact officer(s)	Public Officer
Directorate	Corporate and Commercial Services
Approval date	
Focus area	Support Services
Delivery Program link	SS1.2 Maintain a sound governance framework within which Council operates
Operational Plan link	SS1.2.2 Ensure transparency in council dealings

Purpose

Eurobodalla Shire Council is an organisation which exists to assist its customers and stakeholders consistent with the common good and within legal and statutory responsibilities. Dealing with complaints about Council's decisions, actions or procedures and analysing their causes is a positive process as it allows Council the opportunity to improve policy, procedures and services.

Council treats all complaints seriously. Every complaint received by council is given attention by appropriate staff in order to resolve the issues which are raised. Complaints should be resolved in a timely and cost effective manner.

The purpose of this policy is to facilitate a consistent, fair and equitable resolution to customer complaints at the earliest opportunity and in the most efficient, prompt and professional manner.

This policy:

- Provides a framework for receiving and responding to complaints from the public, as a means of improving customer service in all areas of Council's operations.
- Ensures that issues which are the subject of complaints are addressed promptly, and in a manner which, as far as possible, ensures that such issues will not be the subject of future complaints.
- Ensures the validity of the complaint or request is ascertained and the principles of enquiry are applied.
- Provides transparency and awareness to the community regarding Council's policy and procedure regarding complaints and requests from the public.

Policy statement

1	<p>Application</p> <p>This policy applies to complaints concerning Eurobodalla Shire Council's affairs, across all areas of Council. The policy provides a mechanism for handling the following types of complaints:</p> <ul style="list-style-type: none"> • Code of Conduct (Councillor or staff behaviour) • Maladministration or Serious and Substantial Waste of public resources • A serious breakdown in Council's operations or the Council as a whole not operating satisfactorily • Conflict of interest (pecuniary/non-pecuniary) • Corrupt or Criminal activity • Competitive Neutrality • Breach of legislation e.g. copyright, Privacy, access to Government information
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Policy

2	<p>Legislation</p> <p>Council complies with relevant legislation such as the <i>Local Government Act 1993</i>, <i>Government Information (Public Access) Act 2009</i>, <i>Independent Commission Against Corruption Act 1998</i>, <i>Ombudsman Act 1974</i>, <i>Public Interest Disclosures Act 1994</i>, <i>State Records Act, 1998</i> as well as the current version of the NSW Office of Local Government's <i>Model Code of Conduct for Local Government Councils in NSW</i>.</p> <p>Council is guided by the NSW Ombudsman's <i>Effective complaint handling guidelines</i> (Dec 2010) and Australian Standard AS ISO 10002:2004, <i>MOD: Customer satisfaction – guidelines for complaints handling in organisations</i>.</p>
3	<p>Complaints</p> <p>A complaint may relate to a specific activity, incident or issue involving Council, or to matters of a more philosophical or general nature regarding Council's policy, processes and/or procedures.</p> <p><i>For the purposes of this policy, a complaint is an expression of dissatisfaction with:</i></p> <ul style="list-style-type: none"> • a decision that Council has made • Conduct of Councillors, employees, volunteers or contractors • a Council policy or procedure • information or a service received from Council after making an enquiry or service request, and/or the timeliness of Council's response. <p><i>A complaint is not:</i></p> <ul style="list-style-type: none"> • a request for service (unless there was no response to a prior request) • a request for information or explanation of policies or procedures • the lodging of an appeal in accordance with a standard procedure, policy or lawfully made determination (unless this is recorded as a complaint about Council's decision-making) • an objection to a determination made on a Development Application (DA) • a submission to an item on public exhibition or notification. <p>These matters may be more appropriately dealt with as Customer Service Requests (see below) or by contacting the relevant area of Council directly.</p>
4	<p>Customer Service Requests</p> <p>A Customer Service Request (CSR) is created when customers contact Council to request action or seek assistance relating to a Council service, function, facility, or to report a problem. A CSR is not the mechanism to make a complaint about a Council decision, action or procedure.</p> <p>Typical examples of CSRs are requests to:</p> <ul style="list-style-type: none"> • report damaged or faulty infrastructure (e.g. damaged footpaths, potholes in roads), including safety issues • report hazards (e.g. a tree branch has fallen) • request Council assistance with compliance matters concerning neighbouring property (e.g. noise or unauthorised building works)



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	<ul style="list-style-type: none"> • report animal control matters (e.g. barking dog, escaped livestock) • repair or replace a damaged water meter. <p>CSRs can be lodged through the following Council areas:</p> <ul style="list-style-type: none"> • Customer Assistance 4474 1000 • Moruya Depot 4474 1391 • Narooma Depot 4476 4144 • Batemans Bay Depot 4472 4035 • In person – customers can visit our Customer Assistance Centre at our main office, Eurobodalla Shire Council, cnr Vulcan and Campbell Street, Moruya. <p>Alternatively customers can email council@esc.nsw.gov.au and have the matter appropriately assigned to a member of staff for investigation and resolution.</p> <p>Please see Council's Customer Service Policy for more information.</p>
5	<p>Type and Seriousness of Complaints</p> <p>Complaints to Council will vary in type and seriousness. In many circumstances the onus will fall on staff to determine the seriousness of the complaint, and what action may be appropriate in responding to the complainant. Council's procedure is straightforward and provides for a number of levels for investigating complaints.</p> <p>Complaints can often be resolved very quickly and informally by the member of staff with whom customers have been dealing. Customers are encouraged to contact the member of staff, explain what has gone wrong and give them the opportunity to respond and resolve the issue immediately to the satisfaction of the complainant.</p> <p>Where the complaint is deemed to be of a more serious nature, staff should make a written record of the complaint and the advice provided to the complainant, and inform their supervisor or manager and the Public Officer immediately.</p> <p>Where a complaint is not resolved at the initial stage, or a more substantial inquiry or investigation is required, or in situations where Council has statutory obligations to refer complaints to external agencies, the complaint will be handled by the Public Officer or the General Manager.</p> <p>Where a report to Council is required due to the seriousness or complexity of the complaint, the matter should be referred directly to the General Manager.</p> <p>Where a complaint cannot be resolved internally by Council it will be referred to an appropriate external agency, or to some alternative dispute resolution procedure or, as a last resort, any legal remedy.</p> <p>Complaints about the Public Officer will be referred to the General Manager and complaints about the General Manager will be referred to the Mayor.</p>
6	<p>Lodging and Handling Complaints</p> <p>Council aims to make it as easy as possible for customers to contact Council by providing several options for customers to make contact:</p>



Policy

	<ul style="list-style-type: none"> • By phone - on (02) 4474 1000. A staff member will record the complaint. • Online – customers can lodge a complaint via Council’s website www.esc.nsw.gov.au by selecting the ‘Your say’ button at the right hand side of the toolbar. • By Email – council@esc.nsw.gov.au • In person – Make an appointment with the relevant Manager or the Public Officer at the Customer Assistance Centre at our main office, Eurobodalla Shire Council, cnr Vulcan and Campbell Street, Moruya. • In writing – complaints made in writing should be addressed to The Public Officer, Eurobodalla Shire Council, PO Box 99, Moruya NSW 2537 <p>Community members who approach Council staff outside of the contact methods stated above will be advised to make their complaint by contacting Council using any of the methods listed above.</p> <p>All complaints will be acknowledged initially within 10 working days.</p> <p>Council aims to resolve complaints as quickly as possible. Customer complaints that cannot be resolved on the spot will be assigned to the appropriate officer for action. The customer will be kept informed throughout the process by the investigating officer. If the complaint is of a complex nature that requires additional time to solve, the customer will be informed of predicted timeframes by the investigating officer.</p> <p>In dealing with complaints Council will:</p> <ul style="list-style-type: none"> • respond promptly • investigate thoroughly and objectively • keep customers informed of what is happening • respect (as far as possible) customer desire for confidentiality. <p>Information relating to complaints is recorded and used for statistical and reporting purposes, to inform the decision making process and improve Council’s service to the community.</p>
7	<p>Councils’ statutory obligations to refer complaints to external agencies</p> <p>There are a number of external accountability/complaint bodies that receive and investigate complaints about the conduct of councils.</p> <p>Depending on the nature of the complaint, it may have to be referred to one of the agencies listed below.</p>
7.1	<p>Allegations of Inappropriate Conduct, Conflict of Interest (Pecuniary or non-Pecuniary), or Improper use of Positions</p> <p>Complaints alleging breaches of Council’s Code of Conduct by a councillor or member of staff must be dealt with under the Code of Conduct.</p> <p>Council’s Code of Conduct requires all complaints within the following categories to be immediately directed to the General Manager:</p> <ul style="list-style-type: none"> • Complaints about practices or procedures underpinning, or arising from, Council’s decision-making processes;



Policy

	<ul style="list-style-type: none"> Complaints about the conduct of, or alleging impropriety in the actions of, Council staff or councillors (including alleged corrupt conduct, pecuniary interest, or improper use of position). <p>These complaints will be handled according to the current version of the Procedures issued by the Office of Local Government (OLG). Staff receiving and recording such a complaint must ensure that the complaint and all allegations contained therein remains confidential, and is not discussed other than with the Public Officer or General Manager.</p> <p>Complaints alleging a serious breakdown in Council's operations or the Council as a whole not operating satisfactorily, breaches of the pecuniary interest provisions of the <i>Local Government Act 1993</i> or a failure to disclose political donations by a Councillor should be referred to the OLG.</p>
7.2	<p>Maladministration and/or Serious and Substantial Waste</p> <p>Where a member of the public reports matters related to maladministration by Council, or serious and substantial waste of public resources, the matter is to be reported immediately to the Public Officer or General Manager.</p> <p>The General Manager has a duty to report such matters to the NSW Ombudsman.</p>
7.3	<p>Competitive Neutrality</p> <p>The concept of Competitive Neutrality is based on the 'level playing field' concept or the concept that businesses which are publicly owned should have no net competitive advantage over a business that is privately owned. Where Council competes in the market place it should do so without utilising its public position to gain an unfair advantage over a private sector competitor.</p> <p>Competitive Neutrality is one of the principles of competition policy and dealing with the complaint requires a detailed understanding of the policy and its ramifications. Complaints regarding Competitive Neutrality should be immediately referred to Council's Public Officer or the Office of Local Government.</p>
7.4	<p>Corrupt Conduct</p> <p>Where a member of the public reports any matter related to unethical conduct, fraud, or corruption the matter is to be reported immediately to the General Manager. The General Manager has a statutory obligation to report complaints alleging corrupt conduct to the Independent Commission against Corruption (ICAC) under section 11 of the <i>Independent Commission Against Corruption Act 1988</i>.</p>
7.5	<p>Criminal Conduct</p> <p>Complaints involving criminal activity are to be immediately referred to the Public Officer or General Manager for further referral to the Police.</p>
7.6	<p>Complaints about Information (Access, Copyright, or Privacy)</p> <p>Complaints about copyright, or access to information held by Council under the <i>Government Information (Public Access) Act 2009</i> should be made to the Public Officer.</p> <p>Complaints about breaches of any information protection principles applying to the Council should be made to the Governance and Information Officer. In some cases these complaints may be referred to the NSW Information and Privacy Commissioner.</p>



Policy

8	<p>Confidentiality and Anonymity</p> <p>Council protects the personal information of its customers in accordance with its adopted Privacy Management Plan and the <i>Privacy and Personal Information Protection Act 1998 (PPIPA)</i>, the <i>Health Records and Information Privacy Act 2002 (HRIPA)</i>, the <i>Government Information (Public Access) Act 2009</i> and the <i>Local Government Act 1993</i>.</p> <p>Where possible Council does not disclose the identity of complainants, however Council will sometimes be required to disclose information about complaints, for example, in response to a court order or subpoena.</p> <p>Anonymous complaints made to Council can be difficult to investigate. Often investigating staff will need more information from the person making the complaint and this cannot be obtained if the source is anonymous. Anonymous complaints will not ordinarily be investigated or acted on in any way except where circumstances dictate otherwise, for example if the issue raises a serious matter or is a threat to public health or safety, and/or there is sufficient information in the request to carry out an investigation.</p>
9	<p>Unreasonable Complainant or Customer Conduct</p> <p>Council has obligations to keep staff and councillors safe from harm. This means that Council may restrict the way it provides services to individuals who display inappropriate behaviour or are unreasonable. Council will only do this in extreme cases and in accordance with procedures for managing unreasonable customers.</p>
10	<p>Customer Rights to Review:</p> <p>Should a customer be dissatisfied with the handling or determination of their complaint, they may request that an internal review of the complaint be conducted by the Public Officer.</p> <p>Should a complainant be dissatisfied with the internal review, they may:</p> <ul style="list-style-type: none"> • approach an outside agency to seek resolution, such as the NSW Ombudsman, ICAC, the Information and Privacy Commission, or the OLG • seek alternative dispute resolution • instigate appeal procedures or other legal remedies. <p>External Agency Contacts</p> <ul style="list-style-type: none"> • NSW Ombudsman 1800 451 524 www.ombo.nsw.gov.au • ICAC 1800 463 909 www.icac.nsw.gov.au • Office of Local Government 02 4428 4100 www.olg.nsw.gov.au • Information and Privacy Commission 1800 472 679 www.ipc.nsw.gov.au



Policy

Implementation

Implementation steps		Responsibility
1	Public Officer Under the <i>Local Government Act 1993</i> , Council's Public Officer is specifically charged with the responsibility of dealing with complaints from the public concerning Council's affairs. The Public Officer will also arrange any internal reviews of complaints where the customer has requested that an internal review be conducted.	Public Officer
2	Code of Conduct Complaints Complaints about alleged breaches of the Code of Conduct by Councillors or staff will be specifically handled via the OLG Procedures for Administration of the Model Code of Conduct (current version). Under the Code, the investigation of all complaints about Councillors and the General Manager is managed by an independent conduct reviewer.	General Manager Complaints Coordinator Conduct Reviewer
3	Reporting of Complaints On a six monthly basis (September and March) the Public Officer will provide a summary of complaints received to the Executive Leadership Team. This summary will comprise details of the type and number of complaints received and an outline of how they were resolved, the average time for resolution and recommendations of any changes to policy, procedures and services made as a result. These summaries will form the basis of an annual report to Council from the Public Officer.	Public Officer
4	Complaints about this Policy Complaints about this policy will be referred directly to the Public Officer and handled in accordance with the Complaints Policy. Complaint records will be used as a tool to analyse the history of concerns and to assist determination of follow up actions.	Public Officer
5	Consultation This policy has been developed based on guidelines issued by the NSW Ombudsman, on current 'best practice' and referral to relevant legislation. This policy will be advertised for public comment and submissions as required.	As appropriate

Review

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

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

This policy will also be reviewed and updated as necessary when legislation or the Code of Conduct changes, or when council's functions, structure or activities change, or when technological advances or new systems change the way that council manages complaints.

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



Policy

Performance indicator	Data source(s)
Complaints or Customer Feedback Survey Responses	Council records
Reduction in level of complaints over time	Council records
Evidence that improvements have been identified and rectified	Council records
Internal Review or investigation	Council officers
External Review or Investigation (e.g. Pecuniary Interest and Disciplinary Tribunal)	As applicable

Governance

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

Related legislation and policies

Name	Link
Customer Service Policy	www.esc.nsw.gov.au
Code of Conduct Policy	www.esc.nsw.gov.au
Public Interest Disclosures Internal Reporting Policy	www.esc.nsw.gov.au
Privacy and Protection of Personal Information Policy	www.esc.nsw.gov.au
Local Government Act 1993	www.legislation.nsw.gov.au/maintop/view/inforce/act+30+1993+cd+0+N
Model Code of Conduct for Local Government Councils in NSW (2015)	www.olg.nsw.gov.au/sites/default/files/Model%20Code%20of%20Conduct%20-%20November%202015.pdf
Procedures for Administration of Model Code of Conduct (2013)	www.olg.nsw.gov.au/sites/default/files/Procedures-for-Administration-of-Model-Code-of-Conduct.pdf
Effective complaint handling guidelines - 2nd edition (Dec 2010)	www.ombo.nsw.gov.au/_data/assets/pdf_file/0012/3612/GL_EffectiveComplaintHand_Dec10.pdf
Complaints management in councils: practice note 9. (rev.ed.2009)	www.olg.nsw.gov.au/sites/default/files/Practice-Note-No9-Complaints-Management-Revised-July-2009.pdf
Australian Standard Customer satisfaction – guidelines for complaints handling in organisations (AS ISO 10002:2004, MOD)	www.saiglobal.com/PDFTemp/Previews/OSH/AS/AS10000/10000/10002-2006.pdf
Crown Land Act	www.austlii.edu.au/au/legis/nsw/consol_act/c1a1989134/

Related external references

Name	Link
Office of Local Government	www.olg.nsw.gov.au
NSW Ombudsman	www.ombo.nsw.gov.au
ICAC	www.icac.nsw.gov.au
Information and Privacy Commission NSW	www.ipc.nsw.gov.au



Policy

Pecuniary Interest and Disciplinary Tribunal	www.olg.nsw.gov.au/commissions-and-tribunals/nsw-civil-and-administrative-tribunal/pecuniary-interest-and-disciplinary-tribunal
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Definitions

Word/Term	Definition
Competitive Neutrality	Where Council as a supplier of services is not to use their public position to gain an unfair advantage over a private sector competitor in the marketplace
Complaint	Expression of dissatisfaction with a decision, the quality or timeliness of a service provided, or the behaviour of employees, contractors or volunteers. A complaint may relate to a specific incident or issue involving Council, or to matters of a more philosophical or general nature regarding Council's processes and/or procedures.
Conflict of interest	A conflict of interest exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty
Corrupt Conduct	Dishonest or partial exercise of any official functions by a public official
Customer Service Request (CSR)	Requests for information or service which are dealt with by lodging a service request through Council's CSR system and having the item appropriately assigned to a member of staff for action
Personal Information	Information or an opinion about a person whose identity is apparent, or can be ascertained from the information or opinion
Pecuniary Interest	An interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person

Change history

Version	Approval date	Approved by	Minute No	File No	Change
1	24 Nov 2009	Council	09/369	E06.0380 E09.3418	Policy Adopted - Report G09/145
2	10 Sep 2013	Council	13/272	E06.0380 E13.7095	Policy reviewed and updated at commencement of new Council term.
3	TBA 2017	Council		E06.0380 E16.0297	Policy reviewed and updated at commencement of new Council term. No significant changes.

Internal use

Responsible officer	General Manager	Approved by	Council
Min no	TBA	Report no	TBA
File No	E06.0380 E16.0297	Review date	Sep 2020
		Pages	9

FBD17/062 POLICY ADOPTION - EVENTS POLICY

E16.0297

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

Attachments: 1. Events Policy
2. Confidential - Submission

Focus Area: Support Services

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

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

EXECUTIVE SUMMARY

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

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

The Events Policy has been reviewed and was placed on public exhibition from 21 June to 18 July 2017. During this time, one submission was received and some minor changes have been incorporated into the draft policy as a result of the submission received.

A confidential copy of the submission received is attached.

The draft Events Policy is presented to Council for consideration to adopt.

RECOMMENDATION

THAT the draft Events Policy be adopted.

BACKGROUND

The purpose of the Events Policy is to state Eurobodalla Shire Council's commitment to events and set out Council's approach to process event requests on Council owned and controlled land, but not including Council buildings.

Council recognises the value and vitality events bring to the community.

The Events Policy is designed to recognise Council's complex role in balancing the rights and responsibilities of event organisers, participants and community members.

FBD17/062 POLICY ADOPTION - EVENTS POLICY

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Supporting the Events Policy is the Eurobodalla Draft Events Strategy 2016-22. This strategy was developed to assist event organisers, to support and develop new and existing events and to work closely with business and industry associations. Finalisation and presentation to Councillors of this strategy will only occur after the finalisation of the Destination Action Plan.

CONSIDERATIONS

The draft Events Policy has been reviewed and was placed on public exhibition from 21 June to 18 July 2017.

Copies were available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

During the exhibition period, one submission was received. Below is a summary of the questions raised in the submission and some minor changes have been incorporated into the policy as a result of the submission received.

A confidential copy of the submission received is attached.

Document no.	Issues raised in submission	Response
44093.17	Purpose This policy must be read in conjunction with <i>Eurobodalla Shire Events Guidelines</i> . I would have thought this policy should be read in conjunction with Code of Practise – Licencing of Council Controlled Public Reserves, as it gives more detail/interpretation of the policy.	<i>A link to the Code of Practice – Licencing of Council controlled public reserves and associated buildings will be included in the Events Policy under 'supporting documents'.</i>
	The 'strategic goals' need to be replaced with those from the revised Community Strategic Plan.	<i>Council policies will be updated with the 'One Community' outcomes and strategies as they come up for review.</i>
	2.4 Strengthen community life through the delivery of a range of community events and activities.	<i>Strategy 2.4 that you have noted above relates to the events and activities Council can provide and operate itself. The purpose of the Events Policy is to state Eurobodalla Shire Council's commitment to events and set out Council's approach to process event requests on council owned and controlled land.</i>
	5.3 Focus on the development of sustainable tourism and quality events and visitor experiences.	<i>This will be added to the list of characteristics on page 1 of the policy that Council welcomes in events.</i>
	8.3 Work together to enhance trust, participation and community pride.	<i>As this is the focus of other Council policies it is not considered necessary to be</i>

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		<i>included. These comments however have been noted for Council's consideration within this report.</i>
	Under the heading "Council" – there needs to be an <i>introduction</i> as to what council is seeking from events.	<i>These comments have been noted for Council's consideration within this report.</i>
	Council's Code of Practice – Licencing of Public Reserves, states that council will implement its 'Recreation and Open Space Strategy'(Delivery Program Link L5.1). This Strategy provides the perfect introduction, as events take place at these venues/spaces *1.2.1 Provide opportunities for expression and celebration of community identity, culture and heritage.*1.2.3 Encourage ownership of recreation and open space by insuring community involvement in development, management and decision making.	<i>The Code of Practice does not state that Council will implement its 'Recreation and Open Space Strategy'. It does acknowledge there is a link to the Delivery Program item 'L5.1 Implement Council's Recreation and Open Space Strategy'. The Events Policy has its own purpose which is 'to set out Council's approach to process event requests on council owned and controlled land'.</i>
	Council: Will ensure an inclusive planning process for (events) involving the community in development, management, leadership and decision making.	<i>These comments have been noted for Council's consideration within this report.</i>
	Welcomes events which contribute to the following(I have deleted "one or more of" in this sentence): -Benefits and supports our local economy and lifestyle(my addition) -"Supports community health and well being" -Reflects and supports community values, identity and character(my addition) - "Strengthens participation in culture and recreation" -Fosters community spirit and participation(my addition) -Enhances and promotes the 'Unspoilt' reputation of Eurobodalla.(my addition) -"Considers access and inclusion" * "Acknowledges it has a role to support events of (social and economic) benefit to the shire." * "Balances its support for events with protection of public amenity (and social impact)."	<i>These comments have been noted for Council's consideration within this report.</i>
	Policy Statement 1 Application Why the distinction between Commercial Events and Community Events?	<i>The Events Policy applies to both types of events. The terms reflect the different reasons why organisers hold events.</i>

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	<p>2 Approval Process and Legislation “Council will ensure the event approval process meets relevant legislative (and policy) requirements.” This section should also mention council’s Code of Practice – Licencing of Public Reserves, as it outlines the process.</p>	<p><i>The ‘Code of Practice - Licencing of Council controlled public reserves and associated buildings’ is an operational document and will be added to the list of supporting documentation in the Events Policy.</i></p>
	<p>3 Council’s Role What is council’s “draft events strategy,” why is it necessary, what events will council support and will ratepayers be consulted?</p> <p>2nd dot point – “applying a cross organisational approach to the approval phase.” What does this paragraph mean?</p> <p>“Some events may receive financial assistance.” Who makes these decisions and on what basis?</p>	<p><i>The draft Events Strategy provides a framework to drive economic growth from events in Eurobodalla over the next five years with a vision to increase the contribution that events make to the Eurobodalla economy.</i></p> <p><i>A cross organisational approach means that key areas of Council will be consulted/considered in the processing of events.</i></p> <p><i>Council determine if financial assistance is provided. Please refer to the ‘Community Grants Policy’.</i> www.esc.nsw.gov.au/inside-council/council/council-policies</p>
	<p>This section should mention council’s role in giving public notice of proposed event licences in the local media, requiring submissions from the community, before determining the licence (LGA Section 47). This applies to “Community Land” and will also apply to Crown Reserves when the new Crown Lands Act comes into operation(next year, they think).</p>	<p><i>The policy states we will comply with legislative requirements. Council will also apply its Community Engagement Framework adopted in February 2017.</i></p>
	<p>4 Community and Environmental Impacts “Events must have a minimal impact on the natural environment (and the values of our society).”</p>	<p><i>These comments have been noted for Council’s consideration within this report.</i></p>

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	<p>Implementation</p> <p>3 Concerns</p> <p>Concerns should not just relate to this policy, but to events themselves.</p> <p>Concerns and/or complaints regarding an event should also be registered, to determine any follow up actions such as alterations to event licence conditions. Are councillors supplied with concerns or complaints regarding this policy, or events that have been held in Eurobodalla, when this policy is reviewed?</p>	<p><i>All correspondence received at Council is registered in Council's records management system. Singular complaints may be used as a way of improving internal procedures. If a number of complaints are received on a particular matter, councillors may be confidentially informed of the issues in accordance with legislation and confidentiality requirements. Councillors will receive a copy of submissions to this policy review.</i></p>
	<p>4 Consultation</p> <p>Consultation should also refer to consulting with the community about proposed events, as required under the LGA s47, and Recreation and Open Space Strategy.</p>	<p><i>Council will update the draft policy to include 'All consultation will follow legislative requirements'.</i></p>
	<p>Performance Indicator</p> <p>Has a Customer Feedback Survey been done in relation to this policy? or events in the shire?</p>	<p><i>A Customer Feedback Survey has not been conducted. The review of this policy has considered input from the public – over the term of the existing policies and additionally through this notification period.</i></p>
	<p>Related Legislation and Policy should include:</p> <p>Code of Practice – Licencing of Public Reserves</p> <p>Recreation and Open Space Strategy</p> <p>Code of Practice – Procurement</p> <p>Code of Practice – Tendering</p>	<p><i>A link to the Code of Practice – Licencing of Council controlled public reserves and associated buildings will be included in the Events Policy under 'Supporting documents'.</i></p>

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Legal

This policy ensures Eurobodalla Shire Council's compliance with the *Local Government Act 1993*; the *Crown Lands Act 1989* and the *Roads Act 1993*.

Community and Stakeholder Engagement

Council placed the draft Events Policy on public exhibition for a period of 28 days from 21 June to 18 July 2017. Copies were available for viewing on Council's website, at the libraries and at the customer service centre in Moruya.

CONCLUSION

The draft Events Policy was publicly exhibited for 28 days. One submission was received and some minor changes have been incorporated into the draft policy as a result of the submission received. The draft policy is presented to Council for adoption.



POLICY

Policy name	Events Policy
Responsible manager(s)	Divisional Manager Strategic and Sustainable Growth
Contact officer(s)	Events and Grant Development Coordinator
Directorate	Planning and Sustainability
Approval date	TBA
Focus area	Productive Communities
Delivery Program link	P1.3 Seek and support the development and hosting of events
Operational Plan link	P1.3.1 Support event organisers in the delivery of a range of events

Purpose

The purpose of this policy is to state Eurobodalla Shire Council's commitment to events and set out Council's approach to process event requests on council owned and controlled land, but not including Council buildings.

This Policy must be read in conjunction with the *Eurobodalla Shire Events Guidelines*.

Council recognises the value and vitality events bring to the community in its Community Strategic Plan 2030 and Destination Management Plan 2011-2020, where

Council identifies the following strategic goals to:

- help our economy grow; and
- develop and promote a vibrant cultural and leisure tourism destination.

Council:

- Welcomes events which contribute to one or more of the following:
 - Build strong communities;
 - Support community health and wellbeing;
 - Contribute to economic development;
 - Strengthen participation in culture and recreation;
 - Enhance the Shire's reputation as a tourism, leisure and event destination known for its unique natural beauty; and
 - Considers access and inclusion.
- Strives to make it easy to stage events;
- Acknowledges it has a role to support events of benefit to the Eurobodalla Shire;
- Focus on the development of sustainable tourism and quality events and visitor experiences; and
- Balances its support for events with protection of resident and public amenity.

The following policy statement is designed to recognise Council's complex role in balancing the rights and responsibilities of event organisers, participants and community members.



Policy statement

1	<p>Application</p> <p>This policy is specifically directed at Commercial and Community Events that are held on Council owned or managed land and public roads.</p> <ul style="list-style-type: none"> • Commercial Events - are events that directly benefit the local economy by attracting visitor numbers to the area or provide the area with local, national or international recognition. • Community Events - are events that create and foster a positive community spirit through involvement, participation, relationship building and cooperation. <p>Exemptions</p> <p>The Policy does not apply to:</p> <ul style="list-style-type: none"> • Events on private land • Events in Council buildings • Activities of a small scale that do not interrupt the day to day running of the shire and usually only require a booking for the use of a Council venue or public space such as a street, park, beach, sports ground or reserve. <p>Note: This type of use is not covered by the Events Policy and Guidelines, but instead falls under the umbrella of Council's <i>Sports Facilities Seasonal Hire Policy, Casual Hire and/or Adopted Fees and Charges</i>.</p>
2	<p>Approval Process and Legislation</p> <p>Council's events team is responsible for processing all community and commercial event applications on public land and issuing licences to hold an event.</p> <p>Council will ensure the event approval process meets relevant legislative requirements.</p> <p>The full process for assessing event applications is outlined in the <i>Eurobodalla Shire Events Guidelines</i>.</p>
3	<p>Council's role</p> <p>Council will not act in an event organiser capacity although it may occasionally deliver its own events. It does have a role to support events and this is outlined in the draft events strategy. Council's administrative role is to facilitate the assessment of event applications, issuing of an event licence and associated approvals and to provide event organisers with the assistance required to foster the planning of events in the shire through the following:</p> <ul style="list-style-type: none"> • provision of a transparent framework for the consistent assessment of event applications • applying a cross-organisational approach to the approval phase of all events in the Shire that have an impact on residents and visitors • provision of advice and detailed information on appropriate event venues • provision of event guidelines to assist event organisers in preparing and submitting event applications • provision of a fee structure that enables events while recouping the costs associated with maintenance and enhancement of event venues. <p>While the Council acknowledges the important role of events in developing a vibrant community, the Council is not obliged to provide any financial support to events. Some events may receive financial assistance.</p>



4	Community and Environmental Impacts There must be a balance between the frequency and economic benefit of events and the needs and requirements of affected businesses, residents and other stakeholders. Events must have a minimal impact on the natural environment.
5	Payment of Fees Event fees will be determined annually as part of the Council financial review.
6	Indemnity The event organiser conducts an event at their own risk and must indemnify and hold harmless the Council against all claims resulting from any damage, loss, death or injury in connection with the venue used.

Implementation

Requirements		Responsibility
1	Guidelines This policy will be implemented by following Council's <i>Eurobodalla Shire Events Guidelines</i> , which specifies in detail the plan, procedures and matters to be considered.	Planning and Sustainability
2	Staff Under supervision, applicable council staff will be responsible for ensuring that policies are implemented appropriately within their work area, after they have received relevant training to do so.	Council Officers
3	Concerns Public concerns communicated to Council in relation to this policy will be recorded on Council's records system and handled in accordance with Council's Customer Service or Complaints policy. These records will be used to determine any follow-up actions and analyse the history of reported public concerns.	Council Officers
4	Consultation Consultation regarding this policy will follow legislative requirements and occur as relevant with key stakeholders and may include legislative bodies, other relevant legislation, industry guidelines, and public comment. Public submissions regarding this policy will be considered during the exhibition period.	As required

Review

The policy will be automatically revoked at the expiration of twelve months after the declaration of the poll for the next general NSW local government election, unless council revokes it sooner. **Note:** *Automatic revocation of the policy is provided for by section 165(4) of the Local Government Act 1993. The next general local government election is expected to be held in September 2020.*

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



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

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

Governance

This policy should be read in conjunction with any related legislation, codes of practice, relevant internal policies, and the *Eurobodalla Shire Events Guidelines*.

Related legislation and policies

Name	Link
Sporting Facilities Seasonal Hire Policy	www.esc.nsw.gov.au
Local Government Act 1993	www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182/
Environmental Planning and Assessment Act 1979	www.austlii.edu.au/au/legis/nsw/consol_act/epaaa1979389/
Food Act 2003	www.austlii.edu.au/au/legis/nsw/consol_act/fa200357/
Roads Act 1993	www.austlii.edu.au/au/legis/nsw/consol_act/ra199373/
Road Transport (Safety and Traffic Management) Act 1999	www.austlii.edu.au/au/legis/nsw/consol_act/ratatma1999412

Related external references

Name	Link
Office of Local Government	www.olg.nsw.gov.au/

Supporting documents

Name	Link
<i>Eurobodalla Shire Events Guidelines</i>	www.esc.nsw.gov.au
<i>Code of Practice – Licencing of Council controlled public reserves and associated buildings</i>	www.esc.nsw.gov.au/inside-council/council/council-policies/codes/Licencing-of-council-controlled-public-reserves-and-associated-buildings-code-of-practice.pdf

Definitions

Word/Term	Definition
Small scale	<ul style="list-style-type: none"> • Less than 200 attendees • Using only one location within a council reserve • Limited traffic alterations required (excluding parking arrangements) • Infrastructure with minimal site/environmental impact • No alcohol sales • No ticket sales



Change history

Version	Approval date	Approved by	Min No	File No	Change
1	28 Feb 2012	Council	12/29	E11.5098	Policy commenced.
2	10 Sep 2013	Council	13/275	E13.7095	Reviewed and updated.
3	TBA 2017	Council		E06.0380 E16.0297	Policy reviewed and updated at commencement of new Council term. No significant changes.

Internal use

Responsible officer		Director Planning and Sustainability		Approved by	Council
Min No	13/275	Report no	O13/59	Effective date	10 Sep 2013
File No	E13.7095	Review date	Sep 2016	Pages	4

FBD17/063 POLICY ADOPTION - LAND ACQUISITION AND DISPOSAL POLICY

E16.0297

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

Attachments: 1. Draft Land Acquisition and Disposal Policy

Focus Area: Support Services

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

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

EXECUTIVE SUMMARY

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

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

The Land Acquisition and Disposal Policy which includes new sections on Extinguishment of Easements and Transfer of Crown Roads was placed on public exhibition from 21 June until 18 July 2017.

No submissions were received and the draft policy is presented to Council to adopt.

RECOMMENDATION

THAT the draft Land Acquisition and Disposal Policy be adopted.

BACKGROUND

Eurobodalla Shire Council will from time to time acquire and dispose of its land assets. Council's policy aims to ensure that the processes to acquire and dispose of land assets is transparent and adheres to the relevant legislation.

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The policy aims to:

1. Ensure Eurobodalla Shire Council has open and accountable processes to consider the acquisition and disposal of land assets or its interest in land.
2. Ensure best value is achieved in Council land dealings.
3. Establish the criteria under which Council will consider acquisition and disposal of land or its interest in land.

Section 186 of the *Local Government Act 1993* prescribes what purposes Council can acquire land. www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182/s186.html.

For all land and easement acquisitions for properties not listed on the open market, the acquisition must be undertaken in strict accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* www.austlii.edu.au/au/legis/nsw/consol_act/latca1991442/.

Authority to compulsorily acquire land is granted under the *Roads Act 1993* www.austlii.edu.au/au/legis/nsw/consol_act/ra199373/ or the *Local Government Act 1993*.

CONSIDERATIONS

The policy has been reviewed and the contents of the Extinguishment of Easement and the Transfer of Crown Roads to Council policies have been incorporated into the Land Acquisition and Disposal Policy at items 4.9 and 4.10. This is considered practical as the policy aims are consistent with each other.

The Extinguishment of Easement Policy and the Transfer of Crown Roads to Council Policy will be recommended to Council for repeal.

Minor changes to the policy including position title changes have been incorporated.

Legal

This policy ensures Eurobodalla Shire Council's compliance with the *Local Government Act 1993*; the *Real Property Act 1900* www.austlii.edu.au/au/legis/nsw/consol_act/rpa1900178/ the *Land Acquisition (Just Terms Compensation) Act 1991*, and the *Roads Act 1993*.

The sale of Council land cannot be delegated and, as required by the *Local Government Act 1993*, all sales must be effected by a resolution of Council.

Policy

Eurobodalla Shire Council will from time to time acquire and dispose of its land assets. Council's policy aims to ensure that the processes to acquire and dispose of land assets is transparent and adheres to the relevant legislation.

Asset

This policy aims to ensure best value is achieved in Council land dealings.

Financial

This policy aims to ensure best value is achieved in Council land dealings.

FBD17/063 POLICY ADOPTION - LAND ACQUISITION AND DISPOSAL POLICY

E16.0297

Community and Stakeholder Engagement

Council placed the draft Land Acquisition and Disposal Policy on public exhibition for a period of 28 days from 21 June until 18 July 2017. Copies were available for viewing on Council's website, at the libraries, and at the customer service centre in Moruya.

No submissions were received.

CONCLUSION

The draft Land Acquisition and Disposal Policy was publicly exhibited for 28 days. No submissions were received. The draft policy is presented to Council for adoption.



POLICY

Policy name	Land Acquisition and Disposal
Responsible manager(s)	Divisional Manager Property and Commercial Services
Contact officer(s)	Property Officer
Directorate	Corporate and Commercial Services
Approval date	TBA
Community Strategic Plan Objective	Support Services
Delivery Program/Operational Plan	SS3.3.4 Manage Council Property to achieve best value to the community

Purpose

Eurobodalla Shire Council will from time to time acquire or dispose of land or its interest in land, including road reserves

The policy aims to:

1. Ensure Eurobodalla Shire Council has open and accountable processes to consider the acquisition and disposal of land or its interest in land.
2. Ensure best value is achieved in Council land dealings.
3. Establish the criteria under which Council will consider acquisition and disposal of land or its interest in land.

Policy criteria

1	Application This policy applies to all acquisition and disposal of Council lands or its interests in land including easements over private property. Council (as custodian of public assets) acquires and disposes of all property interests in open market format to ensure due probity of process and optimal financial return (and minimal risk). All dealings in Council land can only be achieved through a resolution of Council.
2	Legislation This policy ensures Eurobodalla Shire Council's compliance with the <i>Local Government Act 1993</i> ; the <i>Real Property Act 1900</i> ; the <i>Land Acquisition (Just Terms Compensation) Act 1991</i> ; and the <i>Roads Act 1993</i> .
3	Land Acquisition Section 186 of the <i>Local Government Act 1993</i> prescribes what purposes Council can acquire land for: <ol style="list-style-type: none"> a) A council may acquire land (including an interest in land) for the purpose of exercising any of its functions. b) Without limiting subsection (a), a council may acquire: <ol style="list-style-type: none"> i. land that is to be made available for any public purpose for which it is reserved or zoned under an environmental planning instrument, or



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- ii. *land which forms part of, or adjoins or lies in the vicinity of, other land proposed to be acquired under this Part.*

Acquisition Requirements

1. Properties are to be identified taking into consideration the purpose for which they need to be acquired, the strategic nature of such properties and the value that such properties have to the community.
2. Where properties are listed for sale on the open market, Council officers shall negotiate the terms of purchase with either the vendor or the vendor's agent.
3. Where properties are not listed on the open market, council officers shall arrange a valuation report as a basis for negotiation and the valuation report shall be attached to the report submitted to Council, as required.
4. For all land and easement acquisitions for properties not listed on the open market, the acquisition must be undertaken in strict accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.
5. Authority to compulsorily acquire land is granted under the Roads Act 1993 or the Local Government Act 1993.
6. Any negotiations are to be conducted on the basis that a formal offer cannot be made until Council has considered a report authorising purchase of the property.
7. In the event of a formal valuation being obtained, this shall be used as a guide in any negotiations and subsequent report to Council.
8. At the time of acquisition, Council must resolve the classification of the land to be either Operational or Community land.

4

Land Disposals

Land and buildings are to be tested against a number of criteria to determine whether the property is retained and developed for community use or developed or sold to realise its commercial potential.

The seven (7) criteria contained in the assessment are:

1. Statutory influences (restrictions or limitations) – are there statutory reasons for the Council ownership of the property? This will extend to actual or implied trusts that have been established as a result of Council's acquisition of the land.
2. Existing usage – Is the land used or likely to be used to meet operational, community or recreational needs?
3. Potential future use – is the land or road likely to be required for Council's operational needs.
4. Spatial distribution – are there adequate-like facilities and opportunity to meet future needs in the area and serving the local community?
5. Conservation value – does the land or road have cultural, natural or heritage value that should be maintained?
6. Site constraints and opportunities – in addition to conservation value are there other site constraints which may extend to [but not restricted to] flood liability, land slip, mine subsidence or other physical impairment?
7. Maintenance issues – what maintenance requirement does Council have for the land?

Should the proposed sale be impacted by any of these matters, it should not proceed unless it can be demonstrated that there is a public and/or economic benefit to the



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	<p>sale or the contract conditions can be structured to ensure that the issue is addressed.</p> <p>Where land (including surplus areas of public road) is capable of being sold on the open market and able to be developed independently of any other property, the sale shall be by competitive process involving public auction, private treaty, tender or expression of interest unless circumstances warrant sale by Direct Negotiation (as set out below). For public auction, the General Manager will set the reserve price based on a recommendation of an independent valuer.</p>
4.1	<p>Direct Negotiation</p> <p>Council can dispose of land by Direct Negotiation under the following circumstances:</p> <ol style="list-style-type: none"> 1. Where the total cost of the public sale process will exceed the expected community benefit. For example, where the land is worth \$1,000 and the cost to market the land is \$5,000. 2. Where there is only one identifiable purchaser. For example, where a site is not large enough for development in its own right (including a portion of road reserve) and is surrounded by public roads on all sides other than the adjoining owner. Where a site adjoins two owners such as laneways, they will each be offered 50%. 3. Where Council is bound by a contractual obligation. For example, a tenant with a first right of refusal, where that tenancy has been entered into as a result of public competition. 4. Disposal of land to a government or utility authority for the purpose of infrastructure provision. 5. Where a public marketing process which has been undertaken within the last 12 months in accordance with this policy has failed to achieve the desired outcome. 6. In response to a proposal which achieves specific policy goals of Council. 7. This exclusion aims to allow Council to respond to an approach for the development of a unique project. Any such proposal must comprise a concept plan and description of the project and clear demonstration of the achievement of specific policy and strategic goals and objectives of Council, eg a land-swap transaction. <p>The report to Council covering these sales will identify the reasons why this sale process was chosen.</p>
4.2	<p>Council Resolution</p> <p>The sale of Council land cannot be delegated and, as required by the <i>Local Government Act 1993</i>, all sales must be effected by a resolution of Council.</p>
4.3	<p>Classification</p> <p>All Council land is classified under the <i>Local Government Act 1993</i> as either operational or community land.</p> <p>The Act provides that only operational land can be sold, and if an area of community land is identified as being surplus, the land must first be reclassified to operational prior to that sale proceeding.</p> <p>The process of reclassification must be undertaken in accordance with the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>www.austlii.edu.au/au/legis/nsw/consol_act/epaaa1979389/</p>
4.4	<p>Probity Plan</p> <p>Where land is being sold by direct negotiation, a probity plan will be developed to cover the following matters:</p>



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	<ul style="list-style-type: none"> a) obtaining best value for money; b) demonstrating accountability and transparency; c) dealing with conflict of interest; d) providing a fair chance for all to participate; and e) where Council sells property subject to a development application, that application will be assessed independently and submitted to either the Independent Hearing and Assessment Panel or the Joint Regional Planning Panel.
4.5	<p>Valuation Requirements</p> <p>Where Council proposes to sell land by direct negotiation and the value of the land is greater than \$1 million, Council will obtain either:</p> <ul style="list-style-type: none"> a) two independent valuations where the site has no special value to an adjoining owner and the market value based on the highest and best use can be established by analysis of direct comparative sales data; or b) one valuation undertaken jointly by two consultant valuers or a consultant valuer and land economist, quantity surveyor or retail specialist where the sale has a special value either to an adjoining owner or where the purchaser is acquiring the land for a specific purpose for which direct comparable sales data is not available. <p>For all other Council land proposed to be sold other than by public auction, Council will obtain a valuation from an independent valuer to establish the market value, taking into account the highest and best use of the site and any conditions Council may place on the sale.</p> <p>For land being sold to an adjoining owner, the valuation shall be carried out on an added-value basis and the sale price shall be consistent with the difference in values on a before-and- after basis.</p> <p>Council recognises that valuation advice is not an exact science and it is not unreasonable that a sale price of up to 10% variation from that valuation may be achieved. However, where the negotiated outcome results in a sale price more than 10% less than the assessed market value, it shall be acknowledged in the report to Council giving reason why that variation shall be adopted.</p>
4.6	<p>Escalation Fee</p> <p>Where the sale is conditional on the determination of a development application, approval of a road closure, or making of a LEP to reclassify the land to operational, the agreed value shall increase at a rate of 5% pa (or such other amount as determined by Council from time to time) If:</p> <ul style="list-style-type: none"> • settlement is not achieved within 12 months from the date of the Council resolution authorising the sale, and • the delay is not as a result of Council or statutory process.
4.7	<p>Form of Contract</p> <p>Where Council resolves to sell community land (subject to reclassification) to a prospective purchaser, a Deed of Agreement shall be entered into between Council and the prospective purchaser committing each party to entering into a contract immediately should the reclassification be finalised. That Deed will be structured so that Council's regulatory responsibilities are not compromised.</p> <p>Where Council resolves to sell a portion of public road that is subject to a road closure under the Roads Act 1993 www.austlii.edu.au/au/legis/nsw/consol_act/ra199373/ and</p>



POLICY

	<p>the value of that land is less than \$100,000, the sale can be by memorandum of transfer.</p> <p>All other land sales shall be by contract.</p>
4.8	<p>Public Road Closures</p> <p>Areas of surplus Public Road must be closed under the <i>Roads Act 1993</i> to enable a sale to proceed. The closure process is managed by the Department of Primary Industries – Crown Lands Division.</p> <p>For public roads, the proposal shall also be subject to compliance with local service authorities whose utilities are located within the area affected by the proposed sale.</p> <p>For classified roads, the approval of the Roads and Maritime Services must be obtained prior to the matter being referred to Council for consideration.</p> <p>For purchaser-initiated closures and sales, the costs associated with the road closure will be borne by the prospective purchaser.</p>
4.9	<p>Transfer of Crown Roads to Council</p> <p>A Crown road may need to be transferred to Council for a development to proceed where the road provides the only means of legal access to the development. When Council becomes the roads authority, it also assumes the liability for the roads. If the road is not constructed or has only a gravel surface, Council may face future requests from the user(s) of the road to upgrade the road to a higher standard. Eurobodalla Shire Council will comply with <u><i>Roads Act 1993 Section 151</i></u></p> <p>Council will only consent to the transfer of a Crown road to a public road under the care and control of Council if:</p> <ol style="list-style-type: none"> 1. The Crown road reserve cannot be closed to become a private access; or 2. Access cannot be practically provided by an easement over private land; and 3. The road is constructed at the beneficiary's cost at the time of transfer to the minimum standard required by Council.
4.10	<p>Extinguishment of Easement</p> <p>Council supports the extinguishment of easements it has over private properties when the benefits of the easements are no longer required.</p> <p>Where Council no longer requires an existing easement(s), such easement(s) can be extinguished provided the landowner pays Council at least an amount determined by a registered Valuer.</p> <p>If the extinguishment is owner initiated then an application fee together with a deposit to cover the legal, valuation and Council administrative costs as determined annually by Council are to be borne by the owner.</p> <p>If the extinguishment is Council-initiated then legal and valuation costs are to be borne by Council.</p>



POLICY

Implementation

Requirements		Responsibility
1	Staff Under supervision, applicable council staff will be responsible for ensuring that policies are implemented appropriately within their work area, after they have received relevant training to do so.	Council Officers
2	Concerns Public concerns communicated to Council in relation to this policy will be recorded on Council's records system and handled in accordance with Council's Customer Service or Complaints policy. These records will be used to determine any follow-up actions and analyse the history of reported public concerns.	Council Officers
3	Consultation Any consultation deemed necessary will occur as required with key stakeholders, which may include (but not be limited to) the community, other agencies, statutory and industry bodies. Public submissions regarding this policy are invited for consideration during the exhibition period.	As applicable

Review

The policy will be automatically revoked at the expiration of twelve months after the declaration of the poll for the next general NSW local government election, unless council revokes it sooner. **Note:** Automatic revocation of the policy is provided for by section 165(4) of the Local Government Act 1993. The next general local government election is expected to be held in September 2020.

This policy may also be reviewed and updated as necessary when legislation requires it; or council's functions, structure or activities change; or when technological advances or new systems change the way that council manages the acquisition and disposal of land or interest in land.

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

Performance indicator	Data source(s)
Concerns or Complaints registered	Council records
Customer Feedback Survey Responses	Surveys
Internal or external review	Audit
Delivery Program/ Operational Plan achieved	Council reporting

Governance

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

Related legislation and policies

Name	Link
Code of Practice – Acquiring Land for Public Purposes	www.esc.nsw.gov.au/inside-council/council/council-policies/
Related Council Policies –	www.esc.nsw.gov.au/inside-council/council/council-policies/



POLICY

<ul style="list-style-type: none"> • Land Investment • Asset Management • Property – Use by • Community Organisations 	
<i>Local Government Act 1993</i>	www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182/
<i>Real Property Act 1900</i>	www.austlii.edu.au/au/legis/nsw/consol_act/rpa1900178/
<i>Land Acquisition (Just Terms Compensation) Act 1991</i>	www.austlii.edu.au/au/legis/nsw/consol_act/latca1991442/
<i>Roads Act 1993</i>	www.austlii.edu.au/au/legis/nsw/consol_act/ra199373/

Supporting documents

Name	Link
Property Strategy	www.esc.nsw.gov.au when available

Change history

Version	Approval date	Approved by	Min No	File No	Change
1	14 Oct 2014	Council	14/284	E01.5073	Policy commenced
2	TBA	Council	TBA	E16.0297	Policy review and update

Internal use

Responsible officer		General Manager	Approved by	Council	
Min no	14/284	Report no	FBD14/066	Effective date	14 Oct 2014
File No	E13.7095	Review date	Sep 2016	Pages	7

FBD17/065 POLICY REPEAL - EXTINGUISHMENT OF EASEMENTS POLICY

E16.0297

Responsible Officer: Anthony O'Reilly - Director Corporate and Commercial Services
Attachments: 1. Extinguishment of Easements Policy
Focus Area: Support Services
Delivery Program Link: SS1.2 Maintain a sound governance framework within which Council operates
Operational Plan Link: SS1.2.2 Ensure transparency in council dealings

EXECUTIVE SUMMARY

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

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

The Extinguishment of Easements Policy has been reviewed and is no longer required. The policy for repeal was placed on public exhibition from 21 June until 18 July 2017. No submissions were received and the draft policy is presented to Council to repeal

RECOMMENDATION

THAT the Extinguishment of Easements Policy be repealed.

BACKGROUND

The Extinguishment of Easements Policy is no longer required as the content has been incorporated into Council's Land Acquisition and Disposal Policy.

Eurobodalla Shire Council will from time to time acquire and dispose of its land assets. Council's policy aims to ensure that the processes to acquire and dispose of land assets is transparent and adheres to the relevant legislation.

FBD17/065 POLICY REPEAL - EXTINGUISHMENT OF EASEMENTS POLICY

E16.0297

The policy aims to:

1. Ensure Eurobodalla Shire Council has open and accountable processes to consider the acquisition and disposal of land assets or its interest in land.
2. Ensure best value is achieved in Council land dealings.
3. Establish the criteria under which Council will consider acquisition and disposal of land or its interest in land

Section 186 of the *Local Government Act 1993* prescribes what purposes Council can acquire land www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182/s186.html.

For all land and easement acquisitions for properties not listed on the open market, the acquisition must be undertaken in strict accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* www.austlii.edu.au/au/legis/nsw/consol_act/latca1991442/.

Authority to compulsorily acquire land is granted under the *Roads Act 1993* www.austlii.edu.au/au/legis/nsw/consol_act/ra199373/ or the *Local Government Act 1993*.

CONSIDERATIONS

The policy has been reviewed and the contents of the Extinguishment of Easement Policy have been incorporated into the Land Acquisition and Disposal Policy at item 4.10. This is considered practical as the policy aims are consistent with each other.

Legal

The sale of Council land cannot be delegated and, as required by the *Local Government Act 1993*, all sales must be effected by a resolution of Council.

Policy

This policy has been incorporated into the Land Acquisition and Disposal Policy and is no longer required.

Community and Stakeholder Engagement

Council placed the draft Extinguishment of Easements Policy for repeal on public exhibition for a period of 28 days from 21 June until 18 July 2017. Copies were available for viewing on Council's website, at the libraries, and at the customer service centre in Moruya.

CONCLUSION

The draft Extinguishment of Easements Policy for repeal was publicly exhibited for 28 days. No submissions were received. The draft policy is presented to Council to repeal.



POLICY

Policy name	Extinguishment of Easements
Responsible manager(s)	Divisional Manager Corporate Services
Contact officer(s)	Property Manager
Directorate	Finance and Business Development
Approval date	27 August 2013

Purpose

Eurobodalla Shire Council's policy is designed to ensure a consistency of approach to the extinguishment of easements over private property when no longer required by Council.

Easements can be created for a variety of purposes such as pedestrian or vehicular access, stormwater drainage, water supply and sewerage purposes. The majority of easements dealt with under this policy are likely to be those for stormwater drainage.

Many easements are acquired by Council through subdivision at no cost but become a Council owned right or asset. However, if Council acquires an easement other than in subdivision it is usual to pay compensation to the landowner for the potential detriment to the land and to pay other associated valuation, legal and administrative costs.

Extinguishment of an easement can enhance the value of the property through removal of the encumbrance. The increased value can be determined by a registered Valuer.

Policy statement

1	Application This policy applies to the extinguishment of easements over private property when no longer required by Council.
2	Legislation Council complies with the <i>Local Government Act 1993</i> and all other relevant legislation.
3	Extinguishment Council supports the extinguishment of easements it has over private properties when the benefit of the easements are no longer required. Where Council no longer requires an existing easement(s), such easement(s) can be extinguished provided the landowner pays Council at least an amount determined by a registered Valuer. If the extinguishment is owner initiated then an application fee together with a deposit to cover the legal, valuation and Council administrative costs as determined annually by Council are to be borne by the owner. If the extinguishment is Council-initiated then legal and valuation costs are to be borne by Council.



Implementation

Requirement		Responsibility
1	Staff Under supervision, applicable council staff will be responsible for ensuring that policies are implemented appropriately within their work area, after they have received relevant training to do so.	Council Officers
2	Concerns Concerns received regarding this policy will be recorded on council's customer service request (CSR) or records system and handled in accordance with council's Customer Service Request Policy. They will be used to analyse the history of concerns and requests and to help determine follow up actions.	Council Officers
3	Complaints Complaints received regarding this policy will be lodged with the Public Officer and handled in accordance with council's Complaints Policy.	Public Officer
4	Consultation This policy has been developed in consultation with legal advice, relevant staff and referring to applicable legislation. The policy shall be placed on exhibition for public comment when required.	As required

Review

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

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

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

Performance indicator	Data source(s)
Customer Feedback Survey Responses	Surveys
Internal or external review	Audit

Governance

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

Related legislation and policies

Name	Link
Code of Practice	www.esc.nsw.gov.au/site/Publications/Strategies/PolicyReg/ViewCodes.aspx
Other Related Council Policy	www.esc.nsw.gov.au/site/Publications/Strategies/PolicyReg/



	Default.aspx
Local Government Act 1993	www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182/

Related external references

Name	Link
Division of Local Government	www.dlg.nsw.gov.au/

Change history

Version	Approval date	Approved by	Min No	File No	Change
1	22 Sep 2009	Council	09/291	E09.3418	Policy reviewed and retained (report G09/99)
2	27 Aug 2013	Council	13/246	E13.7095	Updated to new Policy Template, updated review date, updated references and links

Internal use

Responsible officer	CFO and Business Development		Approved by	Council	
Min No	13/246	Report no	O13/131	Effective date	27 Aug 2013
File No	E13.7095	Review date	Sep 2016	Pages	3

FBD17/066 POLICY REPEAL - TRANSFER OF CROWN ROADS TO COUNCIL

E16.0297

Responsible Officer: Anthony O'Reilly - Director Corporate and Commercial Services
Attachments: 1. Transfer of Crown Roads to Council Policy
Focus Area: Support Services
Delivery Program Link: SS1.2 Maintain a sound governance framework within which Council operates
Operational Plan Link: SS1.2.2 Ensure transparency in council dealings

EXECUTIVE SUMMARY

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

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

The Transfer of Crown Roads to Council Policy has been reviewed and is no longer required. The policy for repeal was placed on public exhibition from 21 June until 18 July 2017. No submissions were received and the draft policy is presented to Council for repeal.

RECOMMENDATION

THAT the Transfer of Crown Roads to Council Policy be repealed.

BACKGROUND

The Transfer of Crown Roads to Council Policy is no longer required as the content has been incorporated into Council's Land Acquisition and Disposal Policy.

This policy was designed to ensure that Council will only accept Crown roads and public roads if the required standard of road is constructed at the beneficiary's cost at the time of transfer.

A Crown road may need to be transferred to Council for a private development to proceed where the road provides the only means of legal access to that development. When Council becomes the roads authority it also assumes the liability for the roads. Eurobodalla Shire Council will comply with *Roads Act 1993*, Section 151.

Council will only consent to the transfer of a Crown road to a public road under the care and control of Council if:

1. The Crown road reserve cannot be closed to become a private access; or
2. Access cannot be practically provided by an easement over private land: and

FBD17/066 POLICY REPEAL - TRANSFER OF CROWN ROADS TO COUNCIL

E16.0297

3. The road is constructed at the beneficiary's cost at the time of transfer to the minimum standard required by Council.

Section 186 of the *Local Government Act 1993* prescribes what purposes Council can acquire land.

CONSIDERATIONS

The Transfer of Crown Roads to Council Policy has been reviewed and the contents have been incorporated into the Land Acquisition and Disposal Policy at item 4.9. This is considered practical as the policy aims are consistent with each other.

Policy

This policy has been incorporated into the Land Acquisition and Disposal Policy and is no longer required.

Community and Stakeholder Engagement

Council placed the draft Transfer of Crown Roads to Council Policy for repeal on public exhibition for a period of 28 days from 21 June until 18 July 2017. Copies were available for viewing on Council's website, at the libraries, and at the customer service centre in Moruya.

No submissions were received.

CONCLUSION

The draft Transfer of Crown Roads to Council Policy for repeal was publicly exhibited for 28 days. No submissions were received. The draft policy is presented to Council for repeal.



POLICY

Policy name	Transfer of Crown Roads to Council
Responsible manager(s)	Divisional Manager Corporate Services
Contact officer(s)	Property Manager
Directorate	Finance and Business Development
Approval date	10 September 2013

Purpose

The Crown Lands Division of the Department of Primary Industries no longer consents to construction works within Crown roads. As Crown roads provide the only means of legal access to many rural properties in the Shire, this creates a problem for development of those lands.

A Crown road may need to be transferred to Council for development to proceed. However, when Council becomes the roads authority, it also assumes the liability for the roads. If the road is not constructed or has only a gravel surface, Council may face future requests from the user(s) of the road to upgrade the road to a higher standard.

The policy is designed to ensure that Council will only accept Crown roads as public roads if the required standard of road is constructed at the beneficiary's cost at the time of transfer.

The policy aims to:

- Promote an integrated framework for dealing with the transfer of Crown Roads to Council.
- Ensure consistency and fairness in the manner in which the council deals with the transfer of Crown Roads to Council.
- Ensure compliance with legislative requirements under the *Roads Act 1993*.
- Promote awareness of the requirements of the Act with respect to the transfer of Crown Roads to Council.
- Take such steps as are appropriate to ensure Crown Roads transferred to Council are constructed to an approved Council standard.
- Make Council's policies and requirements for the transfer of Crown Roads to Council readily accessible and understandable to the public.

Policy statement

1	Application This policy applies to developers and/or landowners required to construct access within a Crown road reserve.
2	Legislation Eurobodalla Shire Council will comply with <u><i>Roads Act 1993 Section 151</i></u>
3	Transfer of Crown Roads to Council
3.1	Conditions required for transfer Council will only consent to the transfer of a Crown road to a public road under the care and control of Council if: <ol style="list-style-type: none"> 1. The Crown road reserve cannot be closed to become a private access; or 2. Access cannot be practically provided by an easement over private land; and 3. The road is constructed at the beneficiary's cost at the time of transfer.



3.2	Road Construction Standard The required minimum standard for construction is set out in the Transfer of Crown Roads to Council Code of Practice.
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Implementation

Requirements		Responsibility
1	Code of Practice This policy will be implemented by following council's Transfer of Crown Roads to Council Code of Practice, which specifies in detail the plan, procedures and matters to be considered.	Divisional Manager Technical Services
2	Staff Under supervision, applicable Council staff will be responsible for ensuring that policies are implemented appropriately within their work area, after they have received relevant training to do so.	Council Officers
3	Concerns Concerns received regarding this policy will be recorded on Council's customer service request (CSR) or records system and handled in accordance with Council's Customer Service Policy. They will be used to analyse the history of concerns and requests and to help determine follow up actions.	Council Officers
4	Complaints Complaints received regarding this policy will be lodged with the Public Officer and handled in accordance with council's Complaints Policy.	Public Officer
5	Consultation Consultation regarding this policy will occur as relevant with key stakeholders and may include legislative bodies, other agencies, relevant legislation, industry guidelines, and public comment. Public submissions regarding this policy are invited for consideration during the policy exhibition period.	As required

Review

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

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

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

Performance indicator	Data source(s)
Customer Concerns or Customer Feedback Survey Responses	Council records
Internal or external review	Audit



Governance

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

Related legislation and policies

Name	Link
Code of Practice - Transfer of Crown Roads to Council	www.esc.nsw.gov.au
Local Government Act 1993	www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182
Roads Act 1993 - Section 151	www.austlii.edu.au/au/legis/nsw/consol_act/ra199373

Change history

Version	Approval date	Approved by	Minute No	File No	Change
1	22 Sep 2009	Council	09/291	E09.3418	Policy adopted.
2	10 Sep 2013	Council	13/272	E13.7095	Policy reviewed and updated.

Internal use

Responsible officer		Director Infrastructure Services		Approved by	Council
Minute no	13/272	Report no	O13/56	Effective date	10 Sep 2013
File No	E13.7095	Review date	Sep 2016	Pages	3

FBD17/067 LICENCE FOR JETSKI HIRE – CORRIGANS BEACH RESERVE

E80.1320

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

Attachments: Nil

Focus Area: Support Services

Delivery Program Link: SS3.3 Provide administrative, technical, professional and trade services

Operational Plan Link: SS3.3.4 Manage Council property to achieve best value to the community

EXECUTIVE SUMMARY

Southern Watersports Jetski Hire (Southern Watersports) has been operating a jetski hire business for over eight years within Crown Reserve R66122 at Corrigan Beach, Batehaven. The current licence to operate the business expires on 22 October 2017 and Southern Watersports has expressed its interest in renewing the licence for five years.

In line with the provisions of Council's Code of Practice - *Licensing of Council controlled Public Reserves and Associated Buildings*, as no other parties have expressed an interest in that part of the reserve, it is appropriate the licence application be considered.

Public notification of proposed use of Crown land is not required in accordance with the *Crown Lands Act 1989*, however in applying Council's *Community Engagement Framework* public notice of 28 days was given of Council's intention to grant a licence to Southern Watersports with no submissions related to the issuing of the licence being received.

This report recommends that a five-year licence be granted to Southern Watersports subject to Minister's consent.

RECOMMENDATION

THAT:

1. Subject to the consent of the Minister administering the *Crown Lands Act 1989*, in accordance with Sections 102 and 103 of the *Crown Lands Act 1989*, Council as Trust Manager for the Eurobodalla (North) Reserve Trust grant a five-year licence to Southern Watersports Jetski Hire to operate a jetski hire business within Crown Reserve R66122 at Corrigan Beach, Batehaven commencing on 23 October 2017 and terminating on 22 October 2022 with conditions in line with the existing licence.
2. The Licensee pay an annual licence fee of \$1,630 plus GST pa, increased annually in line with the CPI.
3. The Licensee provide the relevant approvals from the Australian Maritime Safety Authority and the Marine Parks Authority.

BACKGROUND

Southern Watersports has been successfully operating a jetski hire business within Corrigan Beach Reserve, Batehaven for over eight years. Operating hours are from 10am to 5pm daily with seven jetskis available for hire. The jetskis are parked on trailers in the licence area and

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E80.1320

launched into the water when they are hired. At days end all equipment and waste is removed from the site.

At its meeting held on 22 November 2016 Council resolved to grant a 12 month licence commencing 23 October 2016 and terminating on 22 October 2017 to Southern Watersports with the same terms and conditions as the previous licences.

CONSIDERATIONS

Southern Watersports has requested a five year licence be granted to operate its jetski hire business within Crown Reserve R66122. No other party expressed an interest in using the same part of the reserve during this time therefore it is appropriate that consideration be given to the request.

The location of the proposed licence area is shown in the diagram below.



Crown Reserve R66122 Corrigans Beach Reserve, Batehaven

Legal

Crown Reserve R66122 Corrigans Beach, Batehaven is under the control of the Eurobodalla (North) Reserve Trust for which Council is Trust Manager. Council as Trust Manager cannot grant a licence for use of the reserve for a period greater than twelve months without the consent of the Minister administering the *Crown Lands Act 1989*, in accordance with Sections 102 and 103 of that Act.

www.legislation.nsw.gov.au/#/view/act/1989/6/part5/div5/sec102

www.legislation.nsw.gov.au/#/view/act/1989/6/part5/div5/sec103

The water sports activities require a Certificate of Operations with the Australian Maritime Safety Authority (AMSA), the governing body for Hire and Drive Permits, and a Marine Park Permit to conduct commercial water sport activities issued in accordance with the *New South Wales Marine Park Zoning Regulation 1999*.

www.legislation.nsw.gov.au/~view/regulation/1999/102/historical2009-09-01/part3

The granting of a five-year licence would be subject to the Licensee obtaining these approvals.

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E80.1320

Policy

In line with the provisions of Council's Code of Practice - *Licencing of Council controlled Public Reserves and Associated Buildings*, an Expression of Interest (EOI) was called in February 2017 for parties interested in seeking a licence for periods up to five years to use any Council owned or controlled public reserves. No other party expressed an interest in using the same part of the reserve.

www.esc.nsw.gov.au/inside-council/council/council-policies/codes/Licencing-of-council-controlled-public-reserves-and-associated-buildings-code-of-practice.pdf

Council has applied its *Community Engagement Framework*.

Environmental

Whilst operating the business there is additional noise which may affect users of the reserve but no complaints have been received.

Arrangements were made in 2004 in conjunction with NSW Maritime to locate the activity area of the jet skis further offshore to minimize the noise impact onshore.

The jet skis are launched in the water and not landed on the beach. Whilst not in use they are stored on trailers in the licence area therefore the impact on the actual reserve is not significant.

Social Impact

This operation provides an attraction and activity for local residents as well as tourists to this area.

Economic Development Employment Potential

The business provides employment and adds to the economy of the Shire. An activity of this nature will encourage visitors to stay longer and spend more in the Shire with benefits to other businesses in the Batemans Bay area.

Financial

It is considered appropriate the licence fee be \$1,630 plus GST pa (being previous rental of \$1,591 plus GST, increased by CPI in accordance with Council's adopted fees and charges).

Community and Stakeholder Engagement

An EOI was called from interested parties wishing to conduct activities on Council controlled public reserves for a period of up to five years. No other party expressed an interest in using the same part of the reserve.

Applying Council's *Community Engagement Framework*, public notification was given of the intention to grant a five-year licence to Southern Watersports over part Crown Reserve R66122 Corrigan Beach, Batehaven with no submissions being received. One letter was received questioning why Council had publicly notified this proposal but it was not a submission related to the licence. This letter has been responded to.

FBD17/067 LICENCE FOR JETSKI HIRE – CORRIGANS BEACH RESERVE

E80.1320

CONCLUSION

The licence to Southern Watersports to operate a jetski hire business from Crown Reserve R66122 Corrigan's Beach, Batehaven expires on 22 October 2017. Southern Watersports has advised its interest in renewing the licence for five years. The business has been operating from this reserve for many years providing an activity for locals and tourists alike.

It is considered reasonable and appropriate for Council to support Southern Watersports by granting a five-year licence.

FBD17/068 LICENCE FOR FOOTPATH TRADING - BATEMANS BAY

80.2201.D

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

Attachments: Nil

Focus Area: Support Services

Delivery Program Link: SS3.3 Provide administrative, technical, professional and trade services

Operational Plan Link: SS3.3.4 Manage Council property to achieve best value to the community

EXECUTIVE SUMMARY

Baystore Pty Ltd trading as Harvey Norman (Harvey Norman) has submitted an application for a licence to display goods for sale on the footpath adjacent to the boundary of its premises at 4 Flora Crescent, Batemans Bay.

Council as the Roads Authority can give approval for footpath trading and grant a licence over part of Flora Crescent in accordance with Section 125 of the *Roads Act 1993*.

The proposal does not comply with the provisions of Council's Footpath Trading Code (the Code) which in most cases requires any footpath trading to be carried out adjacent to the kerb as opposed to adjacent to the premises boundary.

It is considered reasonable that a variation to the Code be allowed and a three-year licence granted to Harvey Norman.

RECOMMENDATION

THAT:

1. An exemption to Council's Footpath Trading Code be made to permit a trade zone of 0.60m deep to be adjacent to the boundary of Lot 80 DP 600200 No. 4 Flora Crescent, Batemans Bay.
2. A licence be granted to Baystore Pty Ltd trading as Harvey Norman with terms and conditions including:
 - (a) A three-year term.
 - (b) Payment of a licence establishment fee in accordance with Council's fees and charges.
 - (c) Rent in accordance with Council's adopted fees and charges.
 - (d) Provision of evidence and maintenance of public liability insurance in the amount of \$20 million during the licence period.
 - (e) Compliance with the Operator's responsibilities set out in Council's Footpath Trading Code.
 - (f) Displayed goods are to be located securely and safely within the licensed area with no stacking of any items.

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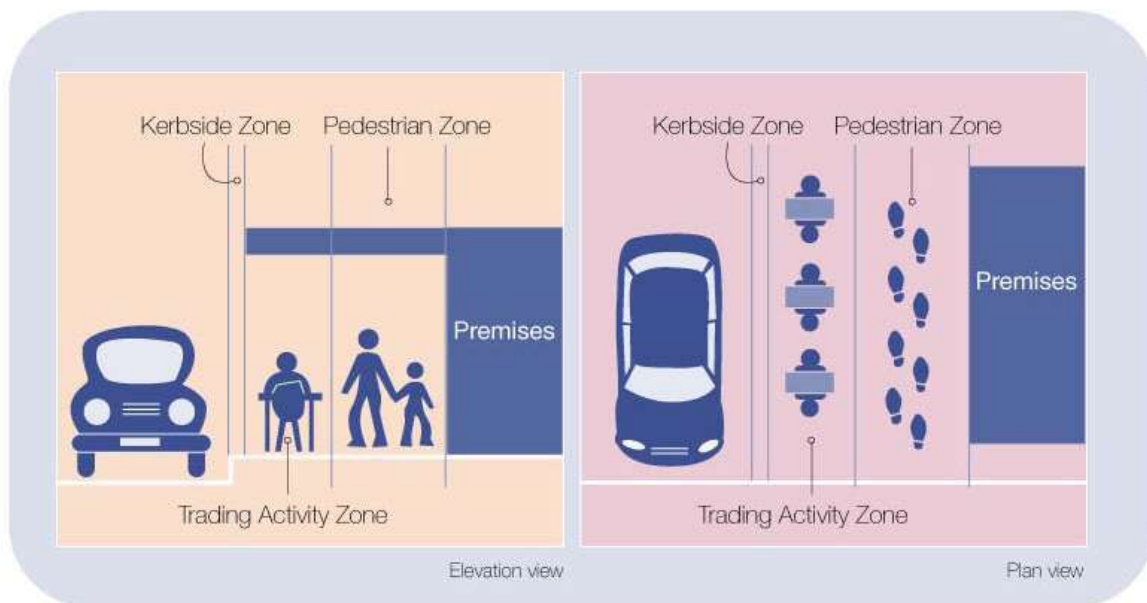
80.2201.D

BACKGROUND

Harvey Norman has submitted an application for a licence to display goods for sale on the footpath adjacent to the boundary of its premises at 4 Flora Crescent, Batemans Bay.

CONSIDERATIONS

The Code was developed on the basis of best practice in ensuring safe and unhindered access for all pedestrians, including those with impaired sight. A schematic for footpath trading in accordance with the Code is shown below.



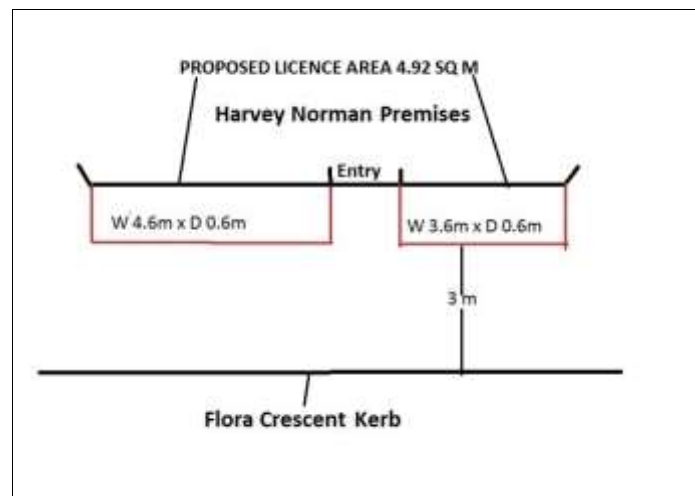
The photograph below shows the zones according to the Code, the location of a pathway adjacent to the trade zone and a layback within the kerb and trade zones.



The diagram below shows the proposed licence area.

FBD17/068 LICENCE FOR FOOTPATH TRADING - BATEMANS BAY

80.2201.D



From the photograph it can be seen that, due to the location of the pathway and layback, compliance with the Code would disrupt safe pedestrian access.

Granting a licence adjacent to the premises boundary would ensure safe and unhindered access for pedestrians and follow the line of the pathway.

Legal

In accordance with Section 125 of the *Roads Act 1993* Council can give approval for footpath trading and grant a licence over part of a public road for which Council is the Roads Authority.
www.legislation.nsw.gov.au/#/view/act/1993/33/part9/div1/sec125

Policy

Council adopted its Footpath Trading Code in August 2010 which in most cases requires any footpath trading, either outdoor eating or display of goods to be carried out adjacent to the kerb as opposed to adjacent to the business boundary.

www.esc.nsw.gov.au/inside-council/council/council-policies/codes/Footpath-Trading-Code.pdf

There is no legislative requirement preventing an exemption to the Code.

Asset

It will be a condition of the licence that the Licensor keeps the licensed area in a clean, tidy and hygienic condition.

Economic Development Employment Potential

Additional trading space for retail businesses allows development of those businesses, enhancing their financial viability.

Financial

A licence fee in accordance with Council's adopted fees and charges for commercial use of public land within the Shire will apply.

Community and Stakeholder Engagement

Council's Engagement Planning Tool and relevant legislation have been used to determine the best approach to engagement on this matter. Footpath trading licences are granted under

FBD17/068 LICENCE FOR FOOTPATH TRADING - BATEMANS BAY

80.2201.D

Section 125 of the *Roads Act 1993* and Council's Footpath Trading Code. They do not include a requirement to let the community know through public notice, or to seek feedback through public exhibition. If the licence is granted, the potential impact on the community is considered minimal and engagement activities are not considered necessary.

CONCLUSION

The proposal to display goods for sale on the footpath adjacent to 4 Flora Crescent, Batemans Bay does not comply with Council's Footpath Trading Code. However, an exemption to the code permitting the trade area adjacent to the premises boundary will allow for continued safe and unhindered access for pedestrians. The additional trading space will allow development of the business and enhance its financial viability. Allowing an exemption to the Code and granting of a three-year licence is considered reasonable.

FBD17/069 LICENCE FOR FOOTPATH TRADING - NAROOMA

81.0139.D

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

Attachments: Nil

Focus Area: Support Services

Delivery Program Link: SS3.3 Provide administrative, technical, professional and trade services

Operational Plan Link: SS3.3.4 Manage Council property to achieve best value to the community

EXECUTIVE SUMMARY

The Narooma Ice Creamery & Café has submitted an application for a licence to operate an outdoor eating area on the footpath adjacent to the premises boundary on the Princes Highway frontage of its premises at Shop 1/46 Princes Highway, Narooma.

The proposal does not comply with the provisions of Council's Footpath Trading Code (the Code) which in most cases requires any footpath trading to be carried out adjacent to the kerb as opposed to adjacent to the premises boundary.

The Princes Highway is a classified road and in accordance with Section 125 of the *Roads Act 1993* Council may not give approval for an outdoor eating area and grant a licence in respect of a footway of a classified road except with the concurrence of Roads and Maritime Services (RMS). RMS has granted concurrence to the proposed footpath eating area subject to tables and chairs being located a minimum of 2.5 metres from the face of the kerb.

It is considered reasonable that a variation to the Code be allowed and a three-year licence granted to Narooma Ice Creamery & Café.

RECOMMENDATION

THAT:

1. An exemption to Council's Footpath Trading Code be made to permit a trade zone to be adjacent to the boundary of Lot 12 DP 543214 Shop 1/46 Princes Highway, Narooma.
2. A licence be granted to Narooma Ice Creamery & Café with terms and conditions including:
 - (a) A three-year term.
 - (b) Payment of a licence establishment fee in accordance with Council's fees and charges.
 - (c) Rent in accordance with Council's adopted fees and charges.
 - (d) Provision of evidence and maintenance of public liability insurance in the amount of \$20 million during the licence period.
 - (e) Compliance with the Operator's responsibilities set out in Council's Footpath Trading Code.

FBD17/069 LICENCE FOR FOOTPATH TRADING - NAROOMA

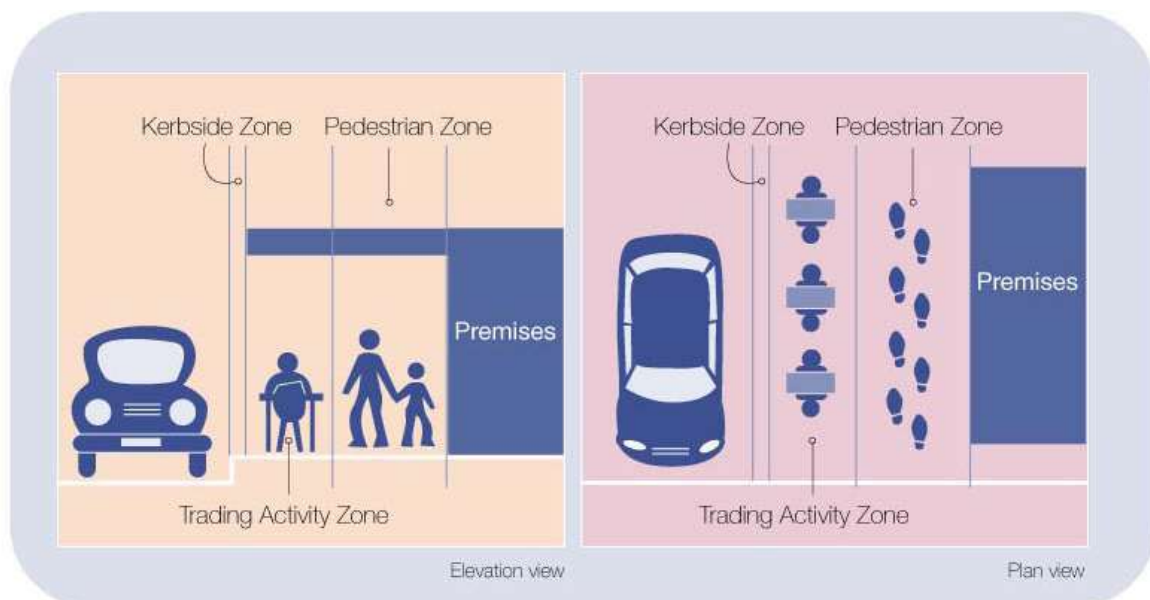
81.0139.D

BACKGROUND

Narooma Ice Creamery & Café has an existing licence for an outdoor eating area adjacent to the kerb on the Field Street frontage of its premises at Shop 1/46 Princes Highway. It has submitted an application for a licence over an area adjacent to the premises boundary on the Princes Highway frontage in addition to the existing licence.

CONSIDERATIONS

The Code was developed on the basis of best practice in ensuring safe and unhindered access for all pedestrians, including those with impaired sight. A schematic for footpath trading in accordance with the Code is shown below.

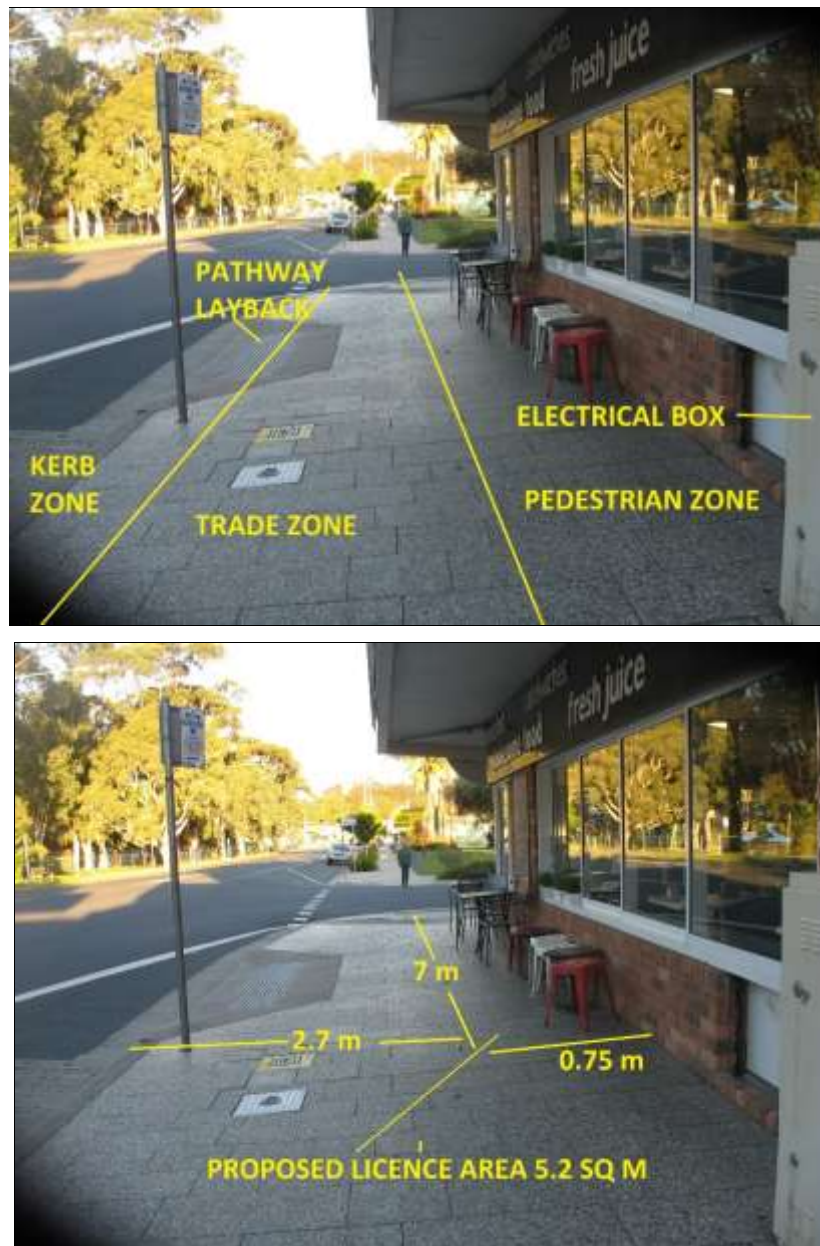


RMS has granted concurrence to the proposed footpath eating area subject to tables and chairs being located a minimum of 2.5 metres from the face of the kerb.

The photographs below show the zones according to the Code, the location of a pathway layback within the kerb and trade zones, the location of an electrical box within the pedestrian zone, and the proposed licence area.

FBD17/069 LICENCE FOR FOOTPATH TRADING - NAROOMA

81.0139.D



From the photographs it can be seen that, due to the placement of the electrical box within the pedestrian zone and the pathway layback within the kerb and trade zones, compliance with the Code would disrupt safe pedestrian access and would not comply with the RMS requirement that tables and chairs be located a minimum of 2.5 metres from the face of the kerb.

Granting a licence adjacent to the premises boundary would ensure safe and unhindered access for pedestrians and comply with RMS requirements.

Legal

In accordance with Section 125 of the *Roads Act 1993* Council may not give approval for an outdoor eating area and grant a licence in respect of a footway of a classified road except with the concurrence of Roads and Maritime Services.

www.legislation.nsw.gov.au/#/view/act/1993/33/part9/div1/sec125

FBD17/069 LICENCE FOR FOOTPATH TRADING - NAROOMA

81.0139.D

Policy

Council adopted its Footpath Trading Code in August 2010 which in most cases requires any footpath trading, either outdoor eating or display of goods to be carried out adjacent to the kerb as opposed to adjacent to the business boundary.

www.esc.nsw.gov.au/inside-council/council/council-policies/codes/Footpath-Trading-Code.pdf

There is no legislative requirement preventing an exemption to the Code.

Asset

It will be a condition of the licence that the Licensor keeps the licensed area in a clean, tidy and hygienic condition.

Social Impact

The development of outdoor eating areas adds to the cultural streetscape and should be encouraged but not at the cost of pedestrian safety.

Economic Development Employment Potential

Additional trading space for restaurants and cafes allows development of those businesses, enhancing their financial viability.

Financial

A licence fee in accordance with Council's adopted fees and charges for commercial use of public land within the Shire will apply.

Community and Stakeholder Engagement

Council's Engagement Planning Tool and relevant legislation have been used to determine the best approach to engagement on this matter. Footpath trading licences are granted under Section 125 of the Roads Act 1993 and Council's Footpath Trading Code. They do not include a requirement to let the community know through public notice, or to seek feedback through public exhibition. If the licence is granted, the potential impact on the community is considered minimal and engagement activities are not considered necessary.

CONCLUSION

The proposed outdoor eating area adjacent to Shop 1/46 Princes Highway, Narooma does not comply with Council's Footpath Trading Code. An exemption to the Code permitting the trade area adjacent to the premises boundary will allow for continued safe and unhindered access for pedestrians. RMS has granted concurrence to the proposed licence area. The additional trading space will allow development of the business and enhance its financial viability as well as add to the cultural streetscape in the area.

Allowing an exemption to the Code and granting of a three-year licence is considered reasonable.

**FBD17/070 ESTABLISHMENT OF PANEL ARRANGEMENTS FOR PROVISION OF
TRADE SERVICES**

E17.1178

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

Attachments: 1. Confidential - Evaluation of Trade Services Panels

Focus Area: Support Services

Delivery Program Link: SS3.3 Provide administrative, technical, professional and trade services

Operational Plan Link: SS3.3.3 Provide building maintenance and construction services,
procurement, stores and electrical trade services to support council
operations

EXECUTIVE SUMMARY

This report outlines the evaluation process to the proposed Trade Services Panels and rankings therein.

Request for Tender No. 2017/ISD064 for the establishment of Trade Services Panels was advertised on 9 May 2017 and closed on 7 June 2017.

RECOMMENDATION

THAT Council endorse the panel arrangements for provision of Trade Services (2017/ISD064) as provided in the Confidential Attachment.

BACKGROUND

Council has established panel arrangements for the provision of trade services in order to reduce the administrative costs of procurement and maximise value for money through competitiveness and quantity of scale. These trade services requirements have been categorised and tendered for the period 1 October 2017 to 30 September 2019 as follows:

The provision of trade services including electrical, plumber/drainage/gas fitter, locksmith, carpentry/joinery, painter, concreting, tiling, and pest control to establish a pre-negotiated set of terms and pricing for which to issue orders against in order to reduce administrative burden, achieve economies of scale, provide opportunity to local industry and comply with all relevant legislation and Council policy.

Request for Tender No. 2017/ISD064 for the establishment of Trade Services Panels was advertised on 9 May 2017 and closed on 7 June 2017.

To achieve greater efficiency and industry certainty for the current exercise and future, the term of the panel has been set at two years with the inclusion of 'rise and fall' of pricing based on Consumer Price Index (6401.0 Table 1 'All Groups' Australian for March).

CONSIDERATIONS

A total of thirty-six tenders were received across the following trade categories.

**FBD17/070 ESTABLISHMENT OF PANEL ARRANGEMENTS FOR PROVISION OF
TRADE SERVICES**

E17.1178

Region Trade	All Regions	North Eurobodalla Shire	North and Mid Eurobodalla Shire	Mid and South Eurobodalla Shire	Total No. Submissions
Electrical	8		2	1	11
Plumber/Drainage/ Gas Fitter	4	1		1	6
Locksmith	1				1
Carpentry/Joinery	4				4
Painters	3	1			4
Concreting	5				5
Tiling	2				2
Pest Control	3				3
					36

The category of Locksmith was removed due to only one pre-qualified submission being received. As a result of this, Council would not be able to demonstrate sufficient competitiveness to maintain value for money. It is noted however that the tender was considered compliant and Council will maintain the details of the locksmith for future quotation processes.

A confidential list of business operators who provided submissions is attached to this report.

Legal

Request for tender (RFT) No. 2017/ISD064 was advertised in accordance with *Local Government (General) Regulation 2005 REG 167* and the *Local Government Act 1993*.

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

Upon release of the RFT a Tender Evaluation Plan was distributed amongst the Tender Evaluation Board. As part of the RFT, applicants were required to declare any Conflict of Interest with Council.

The proposed panels have been ranked in order of weighted criteria including price and non-price criteria, and all companies have been evaluated as meeting pre-negotiated compliance evaluation criteria. The Confidential Attachment to this report displays the ranking of each compliant tenderer across all trades and for each geographical area.

The application of a Consumer Price Index (6401.0 Table 1 'All Groups' Australia for March) variation for rates at the anniversary of the Deed has been deemed the most fair and appropriate measure.

**FBD17/070 ESTABLISHMENT OF PANEL ARRANGEMENTS FOR PROVISION OF
TRADE SERVICES**

E17.1178

Policy

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

Environmental

The requirement for tenderers to have a written environmental management policy has been made an essential criteria within the Statement of Requirement for the current RFT.

Asset

Council is responsible for a significant asset base across the region and works in partnership with other government agencies and asset managers, where possible, to ensure consistent and efficient management, usage and maintenance.

Social Impact

Many of Council's assets are utilized by the community and tourists for recreational and other purposes, including sports grounds, foreshore locations, parks, halls and other.

Economic Development Employment Potential

The establishment of a two year supply panel will provide opportunities for local suppliers that they can be selected to carry out works for council, under \$10,000, if the need arises.

Financial

The outcome of the tendering process will result in Deeds of Standing Offer being established with the proposed panelists. All orders raised against the proposed supply panel will be funded individually by the relevant works or maintenance program. The supply panel will be available for use across all applicable Council programs. This will allow programs to avoid unnecessary procurement administration associated with seeking offers separately for projects.

Community and Stakeholder Engagement

An Industry Brief was held on 26 April 2017 to advise prospective bidders on the intention to establish supply panels and to advise on the RFT key dates and requirements.

A 'window' was available after the RFT closed within which tenderers were able to provide further information on request from Council.

Tenderers will be informed following Council resolution of the outcome of the RFT with respect to their submission.

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.

www.esc.nsw.gov.au/inside-council/council/public-access-to-information

CONCLUSION

The tender process for the establishment of panel arrangements for provision of trade services has been conducted in accordance with mandatory Council and Local Government

FBD17/070	ESTABLISHMENT OF PANEL ARRANGEMENTS FOR PROVISION OF TRADE SERVICES	E17.1178
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requirements and the proposed supply panels have been developed through an extensive evaluation representing best value for money.

16. DEALING WITH MATTERS IN CLOSED SESSION

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

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

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

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

EUROBODALLA SHIRE COUNCIL

ETHICAL DECISION MAKING AND CONFLICTS OF INTEREST

A GUIDING CHECKLIST FOR COUNCILLORS, OFFICERS AND COMMUNITY COMMITTEES

ETHICAL DECISION MAKING

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

CONFLICT OF INTEREST

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

THE TEST FOR CONFLICT OF INTEREST

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

IDENTIFYING PROBLEMS

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

Whilst seeking advice is generally useful, the ultimate decision rests with the person concerned.

AGENCY ADVICE

Officers of the following agencies are available during office hours to discuss the obligations placed on Councillors, Officers and Community Committee members by various pieces of legislation, regulation and Codes.

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

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

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

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

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

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

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

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

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

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

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

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

Acronym	Meaning	Description
SEA	Strategic Environment Assessment	Spatial assessment of environmental constraints of land considered in design and assessment of subdivision and infrastructure. Scientific research behind assessment of capacity of land and waterways in rural residential and urban expansion lands to sustain human settlement.
SEPP	State Environmental Planning Policy	Outlines compulsory state planning objectives.
SNSWLHD	Southern NSW Local Health Districts	State board commissioned with oversight of health care in Highlands, Monaro and Far South Coast.
SoER	State of the Environment Report	Required by state law, the comprehensive assessment (every four years) of the condition and the pressures on the social, economic and environmental features of the Shire and appropriate responses to address or preserve those issues.
SP	Social Plan	Required by state law, the comprehensive assessment (every four years) of the condition and the pressures on the social framework of the community, their services and facilities and economic interactions.
.....SP	Structure Plan	Plan promoting landuses and siting of infrastructure and facilities in towns (eg, BBSP – Batemans Bay Structure Plan).
SRCMA	Southern Rivers Catchment Management Authority	State agency commissioned with assessment and monitoring of health and qualities of catchments from Wollongong to the border, and determine directions and priorities for public and private investment or assistance with grants.
STP	Sewer Treatment Plant	Primary, secondary and part tertiary treatment of sewage collected from sewers before discharge into EPA approved water ways or irrigation onto land.
TAMS	Total Asset Management System	Computer aided system recording condition and maintenance profiles of infrastructure and building assets.
TBL	Triple Bottom Line	Commercial term coined to encourage business to consider and disclose social and environmental risk, benefit and costs in the conduct of business to guide investors as to the long term sustainability and ethics of a business. Taken up by Council to record the basis of prioritisation, the review of condition, the monitor of progress and the financial disclosure of preventative or maintenance investment in council based social and environmental activities.
ToR	Terms of Reference	
TSC	Threatened Species Conservation Act 1995	State law governing the protection of nominated species and relevant assessment and development controls.

Acronym	Meaning	Description
WCF	Water Cycle Fund	Combination of water, sewer and stormwater activities and their financing arrangements.
WSUD	Water Sensitive Urban Design	Principle behind the IWCMS and council development codes requiring new developments to reduce demand and waste on water resources through contemporary subdivision and building design.