

Code Title	Local and Regional Roads Risk Management
Responsible Manager	Director, Infrastructure Services
Contact Officer	Divisional Manager, Maintenance
Directorate	Infrastructure Services
Approval Date	17 June 2026
Outcome Area	4. Our community has reliable and safe infrastructure networks and community facilities
Community Strategic Plan Objective	4.1 Provide integrated active transport networks to enable a connected and accessible Eurobodalla
Delivery Program	4.1.2 Provide safe and reliable roads, guided by the asset management plan
Operational Plan	4.1.2.2. Deliver annual maintenance activities for local and urban, and NSW regional roads

Summary

This code of practice aims to facilitate safer local and regional roads and reduce the exposure to potential public liability claims relating to the condition of roads by establishing reasonable processes to identify and treat defects within available resources.

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1. Introduction

1.1. Background

In May 2001 the High Court of Australia abolished non-feasance as a defence by road authorities in matters relating to the condition of its roads.

Until the High Court ruling in May 2001, the emphasis by road authorities had been an inspection, maintenance and response approach which primarily addressed asset management issues and customer requests. Whilst this approach indirectly addressed many of the potential risk issues, it did not specifically target works based on the potential risk to motorists and other road users.

As a consequence of the High Court ruling and subsequent changes to legislation, Council reviewed various aspects of its practices and the approaches discussed and suggested by others involved in the industry. This

review has led to the development of this Local and Regional Roads Risk Management System. After consulting with its community, Council adopted the first version of this policy on 23 May 2003.

It is essential to note that the Local and Regional Roads Risk Management System does not intend to nor is it reasonable to expect that it will result in removal of all potential risks from the road network. Rather it provides a basis for identifying and managing risks within the limited resources available to the community.

This concept requires acceptance by the community and the Court of the shared duty of care for road users to take reasonable care when using the road network.

1.2. Purpose

The purpose of this code of practice is to provide a framework for the risk management of Council's road network in order to demonstrate an appropriate duty of care to road users and to reduce the exposure to potential public liability claims relating to the condition of roads.

Eurobodalla Shire Council, as a roads authority under the *Roads Act 1993*, must take reasonable steps to protect the public from any foreseeable dangers on its road network via construction, erection, installation, maintenance, inspection, repair, removal and/or replacement of roads and to take action as resources allow, to adequately address risks of which it is aware.

The Civil Liability Act 2002 provides special nonfeasance protection for roads authorities such as Council. Section 45 of the Act stipulates that a roads authority is not liable for harm arising from a failure to act in respect of maintenance of its roads, unless at the time of the alleged failure the authority had actual knowledge of the particular risk which resulted in the harm. The importance of this defence is that a roads authority, such as Council, can in some circumstances avoid liability for injuries or damage related to the state of repair or maintenance of its roads.

Section 42 of the *Civil Liability Act* also makes allowance for Council's ability to carry out its duty of care as being limited by the financial and other resources which are reasonably available to exercise its functions. To rely on this defence, Council is required to show evidence of its compliance with the general procedures and applicable standards for the exercise of its functions, such as risk management of its road network.

1.3. Scope

This code applies to all local and regional roads under the care and control of Eurobodalla Shire Council.

1.4. Objectives

The objectives of this code are:

- Ensure that the effective management of Council's road network utilises a systematic approach for inspection, prioritisation and response to risk
- Promote an integrated framework for dealing with Local and Regional Roads Risk Management and take reasonable steps to ensure that Council delivers its required duty of care
- Ensure consistency and compliance with legislative requirements in the manner in which Council deals with Local and Regional Roads Risk Management
- Promote awareness of legislative requirements with respect to acceptance by the community and the Court, of the shared duty of care for road users to take reasonable care for their own safety when using the road network
- Make Council's policy for Local and Regional Roads Risk Management readily accessible and understandable to the public

- Align with Council's Strategic objectives as identified in the current Delivery Program and/or Operational Plan.

1.5. Relationship to Legislation/Related Documentation

The code should be read in conjunction with the following legislation, policy, standards or guidelines:

- Eurobodalla Shire Council Local and Regional Roads Risk Management Policy
- Eurobodalla Shire Council Gathering Information for Risk Management Policy
- Eurobodalla Shire Council Risk Management Policy
- Local Government Act 1993
- Civil Liability Act 2002
- Roads Act 1993
- Australian Standard AS/NZS ISO 31000:2018 Risk Management – Guidelines
- Statewide Mutual Best Practice Manual for Roads v8 September 2024.

1.6. Interpretation

This code supports a consistent approach to managing risks across the road network, but its application requires appropriate supervision, training, and careful interpretation by competent Council personnel with the necessary knowledge and engineering judgment.

2. Discussion

The approach taken in developing this risk management system is to:

- a) Record local and regional road assets under Council's control
- b) Require regular routine inspections of the road network to identify defects
- c) Initiate additional inspections of issues raised by the community or Council employees through Customer Requests (CRMs)
- d) Record defects which result in a potential risk to the public
- e) Assess the potential risk to road users due to the defects identified
- f) Prioritise repair of the defects based on the assessment of the risk, taking into account the need to complete work in an efficient and cost-effective manner, while also ensuring the protection of the asset
- g) Prepare appropriate work schedules
- h) Undertake work
- i) Record and document actions taken at the various stages throughout the process.

Council utilises two key databases, Reflect (for defect data) and Request Management (for customer request data), to track actions and manage information resulting from the adoption of this system. These databases serve as essential tools for completing, recording, and reporting on process steps, while also supporting work scheduling, inquiry responses, and, if necessary, presenting information in defence of Council in Court.

3. Methodology

Australian Standard AS/NZS ISO 31000:2018 Risk Management – Guidelines recommends managing risk through identification, control, and measurement. The Statewide Mutual Best Practice Manual (BPM) adopts this approach by categorising hazards, assessing severity, and assigning risk ratings to guide appropriate control measures.

The Statewide Mutual Best Practice Manual also acknowledges that resources to effect repairs and/or maintenance will always have competing claims upon them and that it is up to individual councils to manage available resources. The 2001 High Court judgement also recognises that availability of resources may determine the timing of repairs. However, no source document draws the correlation between resources actually available and response times to effect repairs. Without this link it could be possible to adopt standards for response times which the available resources would not allow to be achieved.

The non-feasance rule in the UK was abolished in 1961 and it has been the experience there that rather than fail to meet over-ambitious policies and standards (albeit with the best of intent), it is better for highway authorities to consistently meet policy and standards that are realistic (and appropriate to the level of funding available).

It is recognised and accepted that the current funds available to Council are not adequate to maintain the road network to a desirable level. This is a direct consequence of the many other competing demands on Council's limited resources and on the State Government's policy of "rate pegging". Therefore, the method of control proposed in this system is to prioritise defects (potential hazards) based on the risk-rating factor and available budgets.

The repairs will then be scheduled based on this risk score, taking into account the need to protect the asset from long-term degradation and to undertake the work in an efficient and cost-effective manner. This is considered particularly important for a Council in a regional area, where distances between work sites and the availability of resources and machinery provide significant challenges to getting the work completed in an effective manner.

For example, the Roads Risk Management System will not require a maintenance crew from Narooma to drive to a local street in Tuross Head to repair a single pothole of moderate risk as this would not be cost effective. Rather this pothole would be scheduled for repair when the next maintenance crew was in Tuross Head to undertake pothole repair work.

4. Identifying Hazards

Hazards (defects) will be identified by:

- a) Formal scheduled inspections
- b) Reactive inspections undertaken by authorised Council officers in response to advice received from the community, road users, or employees (treated as Customer Requests (CRM)).

The information collected is to be recorded, centralised and evaluated.

If a defect is identified as posing a high risk and requiring urgent response, an inspector or crew will be dispatched to review the condition of the asset as soon as practicable and preferably within 24 hours.

During significant weather events or other incidents, even urgent requests may need to be prioritised without the benefit of a preliminary inspection.

Where significant incidents occur (eg oil spill, car accident), Council officers will attend when requested to do so within available resources.

Maintenance crews may also identify and repair minor defects as part of their routine maintenance cycles. For instance, during a repair run between scheduled inspections, a crew may observe and fix a defect that was not previously recorded. These repairs should simply be documented as accomplishments in Reflect.

5. Evaluation

Customer Requests (CRMs) will be dealt with in one of two ways.

For those minor defects not considered urgent by the complainant/person making the request or by the officer taking the request, and which can be repaired on the next routine maintenance run, the CRM will be sent to the relevant crew to be completed accordingly. No separate inspection is considered warranted in these cases. Upon completion of the work, the defect shall be written off as an accomplishment in Reflect and the CRM closed in the Request Management database.

For all other road related CRMs, an inspection will be undertaken by the Asset Inspector or other Council officer authorised to undertake roads inspections.

Where an inspection is undertaken, each hazard (defect) is recorded and the level of risk assessed; this assessment includes the location within the road, the road hierarchy, and the type of hazard.

6. Control

Council operates with limited resources and utilises a sector-based maintenance approach, informed by geographic constraints. The assessed risk is used to identify and prioritise hazards, guiding how resources are allocated with the available budget. However, additional factors must also be considered. Therefore, maintenance works will be planned to:

- a) Take into account the assessed risk
- b) Provide an efficient and cost-effective service to the community within the allocated budget, considering the work location and the resources required to complete the task
- c) Optimise the life of the overall road network and associated assets
- d) Align with asset renewal strategies and other risk mitigation programs.

As a general rule, for those hazards considered a high-risk, temporary mitigation measures such as barricading, sign posting, reducing speed, or temporary repairs should be considered and if deemed necessary implemented within 14 days of the site inspection to reduce the risk until a permanent repair can be completed. Where a temporary repair is implemented, the risk will be reassessed based on the repaired condition and the work re-prioritised based on the level of risk.

Due to the many common characteristics of similar roads across the network, many of the risk levels will be similar or the same. To ensure a reasonable distribution of service to each part of the Shire, maintenance activities shall be established around routine maintenance runs in each area combined with additional activities to address larger scale works or those requiring particular machinery/resources.

Where a defect is considered a high-risk, the priority for repair should be determined by considering factors such as road speed, traffic volume, defect size, its position within the lane (eg wheel path), road geometry (eg curves, hills), and the presence of clusters of similar defects or ratings.

Where a road with a defect or series of defects has been identified as requiring a full pavement rehabilitation, suitable risk mitigation measures will be implemented and monitored. This road/segment will be added to the

proposed pavement rehabilitation list and considered for inclusion in the annual program within budget and resource availabilities.

Unsealed Roads

Unsealed roads present a unique set of scenarios due to the variability of the road surface materials. It is accepted that the condition of gravel roads varies considerably with the weather. It is also accepted that these roads generally have low traffic volumes and have a higher cost per serviced ratepayer.

Therefore, each year Council adopts a maintenance grading schedule. This schedule identifies the expected frequency of grading for each unsealed road maintained by Council. The schedule ensures an equitable and cost-effective share of the available budget to each road based on the usage of the road.

The maintenance grading schedule provides a good guide to the level of service able to be provided by Council within its budget.

This schedule is placed on the Council website and enables the public to view the level of service able to be provided.

Unless significant hazards develop between maintenance grades, all maintenance grading of the road pavement on unsealed roads will be undertaken in the priority order shown on the adopted maintenance grading schedule.