

<b>Policy title</b>	Local and Regional Roads Risk Management
<b>Responsible manager(s)</b>	Director, Infrastructure Services
<b>Contact officer(s)</b>	Divisional Manager, Works
<b>Directorate</b>	Infrastructure Services
<b>Approval date</b>	9 August 2022
<b>Outcome area</b>	7. Connected and accessible places
<b>Strategy</b>	7.1 Work in partnership to provide an integrated transport network
<b>Delivery Program link</b>	7.1.2 Provide a safe efficient and integrated transport network
<b>Operational Plan link</b>	7.1.2.1 Build, renew and maintain the road network

### Purpose

The purpose of this Policy 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 (the Act)* 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 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.

### Policy aims

- 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 policies and requirements 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.

**Policy details**

<b>1</b>	<p><b>Application</b></p> <p>This Policy applies to all local and regional roads under the care and control of Eurobodalla Shire Council. This Policy does not address formed pathways (refer <i>Pathways and Shared Pathways Risk Management Policy</i>).</p>
<b>2</b>	<p><b>Legislation</b></p> <p>Eurobodalla Shire Council will act reasonably in its endeavour to comply with relevant legislation including the <i>Roads Act 1993</i> and the <i>Civil Liability Act 2002</i>.</p>
<b>3</b>	<p><b>Duty of Care</b></p> <p>Council will act reasonably in its endeavour to minimise injury and damage occurring as a consequence of Council's responsibilities as a roads authority.</p> <p>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.</p>
<b>4</b>	<p><b>Risk Identification and Management</b></p> <p>Council has developed and implemented a risk management system for local and regional roads that proactively identifies and manages the risks associated with its roads.</p> <p>To assist in achieving this outcome, Council has developed a system that:</p> <ol style="list-style-type: none"> <li>a) identifies types of hazards;</li> <li>b) evaluates the severity of the hazard;</li> <li>c) assigns a risk rating for prioritising;</li> <li>d) plans and executes the work efficiently and effectively within the resources available to Council.</li> </ol> <p>Details of this system are implemented under Council's <i>Local and Regional Roads Risk Management Code of Practice</i>.</p> <p>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 to road users from the road network. Rather, it provides a basis for identifying and managing risks within the limited resources available to the Council and a mechanism to prioritise and action those risks.</p>
<b>5</b>	<p><b>Outcomes</b></p> <p>The desired outcomes are to provide:</p> <ol style="list-style-type: none"> <li>a) an approach that facilitates safer local and regional roads;</li> <li>b) a proactive system, taking account of the limited financial and other resources reasonably available to Council, to better manage the risks inherent in services provided by Council as a roads authority;</li> <li>c) a reduced potential for public liability claims against Council and the community it represents.</li> </ol>
<b>6</b>	<p><b>Financial and Other Resources</b></p> <p>Funding for the maintenance and renewal of Council's local and regional roads is budgeted annually and details of this budget are contained within the Council's current Operational Plan. This Plan is advertised for public comment prior to being considered and adopted by Council as part of the Operational Plan. Major variations to the plan are recorded via the Quarterly Review and/or Annual Report.</p> <p>Council has limited resources and has arranged these resources to undertake the work efficiently, based on geographic constraints. Council utilises a sector maintenance approach to achieve this outcome for routine maintenance issues.</p>

**Implementation**

Requirements		Responsibility
<b>1</b>	<p><b>Code of Practice</b></p> <p>This Policy will be implemented by following Council’s <i>Local and Regional Roads Risk Management Code of Practice</i>, which specifies in detail the matters for consideration and procedures to be followed.</p>	Divisional Manager, Works
<b>2</b>	<p><b>Implementation requirement</b></p> <p>Council will:</p> <ul style="list-style-type: none"> <li>• record local and regional road assets under Council’s control;</li> <li>• identify defects through formal inspection of its local and regional road network;</li> <li>• rate the hazard associated with the identified defect;</li> <li>• prioritise the work based on the hazard rating, the efficiency of undertaking works and available budget;</li> <li>• keep appropriate records of actions taken;</li> <li>• manage customer inquiries relating to local and regional roads;</li> <li>• establish an annual budget for the maintenance and renewal of the local and regional road network.</li> </ul>	Divisional Manager, Works
<b>3</b>	<p><b>Staff</b></p> <p>Under supervision, and once appropriate training has been received, relevant Council staff will be responsible for ensuring that this Policy is implemented within their work area.</p>	Council officers
<b>4</b>	<p><b>Concerns</b></p> <p>Public concerns communicated to Council in relation to this Policy will be recorded on Council’s records system and handled in accordance with Council’s Customer Service or Complaints Policy. These records will be used to determine any follow-up actions and analyse the history of reported public concerns.</p>	Council officers
<b>5</b>	<p><b>Consultation</b></p> <p>Any consultation deemed necessary will occur as required with key stakeholders, which may include (but not be limited to) the community, other agencies, statutory and industry bodies. Public submissions regarding this Policy are invited for consideration during the exhibition period.</p>	As applicable

**Review**

This Policy may 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 roads risk management.

The policy may be 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.

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

Performance indicator	Data source(s)
Customer Concerns	Council records

Customer Feedback Survey Responses	Surveys
Internal or external audit	Audit
Number of public liability claims	Council records
Delivery Program/Operational Plan outcomes achieved	Council reporting

## Governance

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

### Related legislation and policies

Name	Link
Eurobodalla Shire Council <i>Gathering Information for Risk Management Policy</i>	<a href="https://www.esc.nsw.gov.au/council/governance/council-policies">https://www.esc.nsw.gov.au/council/governance/council-policies</a>
Eurobodalla Shire Council <i>Risk Management Policy</i>	<a href="https://www.esc.nsw.gov.au/council/governance/council-policies">https://www.esc.nsw.gov.au/council/governance/council-policies</a>
Related Eurobodalla Shire Council Policy or Code of Practice	<a href="https://www.esc.nsw.gov.au/council/governance/council-policies">https://www.esc.nsw.gov.au/council/governance/council-policies</a>
<i>Local Government Act 1993</i>	<a href="#">Local Government Act 1993</a>
<i>Civil Liability Act 2002</i>	<a href="#">Civil Liability Act 2002</a>
<i>Roads Act 1993</i>	<a href="#">Roads Act 1993</a>

### Related external references

Name	Link
Office of Local Government	<a href="http://www.olg.nsw.gov.au">www.olg.nsw.gov.au</a>
Australian Standard AS ISO 31000:2018 Risk Management – Guidelines	<a href="#">AS ISO 31000:2018   Risk Management Guidelines   SAI Global</a>
Transport for NSW	<a href="#">Home - Roads and Waterways – Transport for NSW</a>

### Definitions

Word/Term	Definition
<i>roads authority</i>	A person or body that is, by or under the <i>Roads Act 1993</i> , declared to be a roads authority and, in relation to a particular public road, means the roads authority for that road.
<i>road work</i>	Any kind of work, building or structure (such as a roadway, footway, bridge, tunnel, road-ferry, rest area, transit way station or service centre or rail infrastructure) that is constructed, installed or relocated on or in the vicinity of a road for the purpose of facilitating the use of the road as a road, the regulation of traffic on the road or the carriage of utility services across the road, but does not include a traffic control facility.
<i>carry out road work</i>	Any activity in connection with the construction, erection, installation, maintenance, inspection, repair, removal or replacement of a road work.

### Change history

Version	Approval date	Approved by	Min No	File No	Change
1	27 May 2003	Council			Council adopted its first policy in this regard at its meeting of 27 May 2003
2	22 Sep 2009	Council	09/291	E06.0375 E09.3418	Reviewed, updated and adopted G09/99
3	27 Aug 2013	Council	13/246	E06.0375 E13.7095	Updated template, references and links
4	25 Jul 2017	Council	17/237	E06.0375 E16.0297	Reviewed and updated (start of new Council term)
5	09 Aug 2022	Council	22/190	E06.0375 E16.0297	Reviewed and readopted, report GMR22/080

*Internal use*

Responsible officer		Director, Infrastructure Services		Approved by	Council
Minute	22/190	Report	GMR22/080	Effective date	09 Aug 2022
File	E06.0375 E16.0297	Review date	May 2022	Pages	5