



# **AGENDA**

**Ordinary Meeting of Council**

**22 March 2016**



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

**ON TUESDAY 22 MARCH 2016**

**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 March 2016
- 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. PETITIONS**  
Nil
- 10. GENERAL MANAGER'S REPORTS**  
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GMR16/008 2016 National General Assembly of Local Government ..... 8

<b>11.</b>	<b>PLANNING AND SUSTAINABILITY REPORTS</b>	
	Nil	
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<b>18.</b>	<b>CONFIDENTIAL MATTERS</b>	
CON16/004	Property Matter	
	<i>Item CON16/004 is confidential in accordance with s10(A)(2)(di) of the Local Government Act because it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and discussion of the matter in an open meeting would be, on balance, contrary to the public interest.</i>	

**DR CATHERINE DALE**  
**GENERAL MANAGER**

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**GMR16/007 NAROOMA VISITOR INFORMATION CENTRE TENDERS**

**E15.9152**

Responsible Officer: Cath Reilly - Executive Manager Communication and Tourism

Attachments: 1. Under Separate Cover - Request for Tender  
2. Under Separate Cover - Overview of Visitor Accreditation  
3. Under Separate Cover - Confidential - Tender submissions and evaluation

Focus Area: Productive Communities

Delivery Program Link: P4.1 Provide tourism destination marketing and visitor services

Operational Plan Link: P4.1.2 Provide and manage Councils Visitor Information Centres (VIC)

### **EXECUTIVE SUMMARY**

On 8 September 2015, Council resolved to seek Expressions of Interest to operate the Narooma and Batemans Bay Visitor Information Centres to determine if there was a more efficient way of delivering visitor information services.

Seeking expressions was an opportunity for Council to respond to the findings of the Organisation Service Review of Visitor Information Centres and address some of the matters raised in the community feedback that followed the public exhibition of a Visitor Services Proposal.

Many visitor centres across Australia are managed by organisations other than councils, or in partnership with councils. Progressing a more efficient way of continuing to provide visitor services is a way for Council to more effectively allocate its tourism funding to support the tourism industry, employment and other benefits to the community that tourism creates.

Council sought independent expert advice during the community engagement and one of the key recommendations was that the current visitor centre model was not the best use of Council's resources, and that a greater proportion of the tourism budget should be allocated to the web and digital environment.

This report outlines the evaluation of offers submitted in response to Request for Tender No. VIC 1115 Visitor Information – Service Delivery- Narooma and provides a recommendation for the preferred source of service provider.

### **RECOMMENDATION**

THAT Council:

1. Endorses the selection of the preferred tenderer listed for Request for Tender No. VIC 1115 Visitor Information – Service Delivery- Narooma within the confidential attachment; and
2. Approves the entering into of a contractual arrangement with the preferred tenderer, subject to the terms specified in the Request for Tender unless otherwise varied in accordance with this report.

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**GMR16/007 NAROOMA VISITOR INFORMATION CENTRE TENDERS**

**E15.9152**

**BACKGROUND**

In June 2014, Council considered the findings of its Organisation Service Review of Visitor Information Centres (Report PSR14/034). Councils carry out service reviews as a way of rigorously examining their services to find productivity improvements and ensure value for money for their ratepayers. Eurobodalla's visitor information services had already been identified as requiring review in regards to the cost effectiveness and quality of the service delivery in Council's 2011 to 2020 Tourism Destination Management Plan which was developed in consultation with the tourism industry.

The Organisation Service Review of Visitor Information Centres report detailed background and recommendations about the operations and costs of existing visitor information centres in Batemans Bay and Narooma, research about trends and use of technology and the need to commit funds to web and digital marketing activities to maintain competitiveness. This report formed the basis for Council resolving to seek an alternative model for the delivery of visitor information services. Findings also included that Eurobodalla's visitor centres were more expensive to provide per visitor than other similar centres used in a benchmarking exercise, and that they were the only centres who do not utilise volunteers to some degree to resource the service.

The findings were that Council should look at alternative options to continue to deliver high quality visitor information services that meet the changing needs and expectations of visitors to the region.

From June 2014 to December 2014 Council examined alternative service delivery options and engaged with the Tourism Advisory Committee who requested that Council seek independent expert advice. My Travel Research was engaged to review the situation and provide a report. Some of the key recommendations were that the current visitor service delivery model does not meet best practice standards for use of resources and that a greater proportion of the existing tourism budget should be reallocated to web; Council needs to embrace the digital economy in tourism.

In February 2015 a proposal for a new model of delivering visitor services was put on exhibition and Council undertook further community engagement.

In September 2015 Council considered the independent report and community feedback and resolved to seek Expressions of Interest to operate the Narooma and Batemans Bay Visitor Information Centres.

Five expressions were received to operate the Narooma and Batemans Bay visitor centres, four for Narooma and one for Batemans Bay. The review of expressions and information provided, indicated that there was an opportunity for the Narooma service to be delivered in a more cost effective way while continuing to operate the centre as a Level 2 Accredited Visitor Information Centre, and maintaining the same level of service delivery.

Based on this, two invitations to tender were offered in November 2015 and two tenders were received by the extended deadline on 9 February 2016.

RFT No. VIC 1115 was a selective tender which means an invitation to selected Tenderers to tender in accordance with the Local Government Act 1993 – Sec 55 (4) (a) and Local Government (General) Regulation 2005 – Reg 166 (b) allowing the selective tendering method

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**GMR16/007 NAROOMA VISITOR INFORMATION CENTRE TENDERS**

**E15.9152**

by which invitations to tender for a particular proposed contract were made following a public advertisement asking for expressions of interest. The closing date was 9 February 2016 having been extended in accordance with the terms and conditions of RFT no. VIC1115 from 22 December 2015.

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**

Request for Tender (RFT) No VIC 1115 was by the selective tendering method in accordance with Local Government Act 1993 – Sec 55 (4) (a) and Local Government (General) Regulation 2005 – Reg 166 (b) allowing the selective tendering method by which invitations to tender for a particular proposed contract were made following a public advertisement asking for expressions of interest. An invitation to tender was made to selected tenderers.

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

The closing date was 9 February 2016 having been extended from 22 December 2015 in accordance with the terms and conditions of RFT no. VIC1115. Two submissions were received from:

Montague Art and Craft Society Incorporated (Y2979719)
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Narooma and District Chamber of Commerce and Tourism Incorporated (Y1876935)
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Tender submissions were assessed in accordance with the Tender Evaluation Plan by the evaluation panel.

The offer submitted by the preferred tenderer has been assessed as representing best value for money to meet the mandatory criteria of operating a level 2 Accredited Visitor Information Centre.

**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.

The process of tendering is covered by the *Local Government (General) Regulations 2005 Part 7 – Tendering* and in more detail within the *Tendering Guidelines for NSW Government 2009*. These Guidelines are issued under Section 23A of the Local Government Act 1993 and hence must be considered by Council as part of the tender process.

The tender submissions are provided to Councillors as confidential attachments to this report. Should Council wish to debate the information within the tenders submitted this should be

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**GMR16/007 NAROOMA VISITOR INFORMATION CENTRE TENDERS**

**E15.9152**

undertaken in confidential. The Tendering Guidelines for NSW Local Government (October 2009) addresses this where it states:

*The Tendering Guidelines 'are prepared by the Director General of the Department of Premier and Cabinet under Section 23A of the Act and therefore must be considered by Councils as part of the tendering process.'*

*'Councils must not disclose tender information received from tenderers that is intellectual property, propriety, commercial-in-confidence or otherwise confidential, without prior consent. In addition, Council staff or councillors must not disclose information regarding the specific details of a tendering process, including a recommendation of the tender evaluation or assessment panel before the outcome of the tender has been determined.'*

*Where a council is dealing with a tender pursuant to Section 55 of the Act and confidential information needs to be disseminated to councillors for the purpose of deciding whether or not to accept any submitted tender, the confidential information should be issued as a separate confidential attachment to the Council report with the non-confidential information included in the Council business paper which is available to the public.'*

Consistent with Council's current and past practices, the tenders must be assessed based on the tender evaluation undertaken. The tender evaluation panel, and no other party, may only seek additional information for the purposes of clarification. Consequently tenders must rely on the tenders submitted rather than presentations direct to Council. Care is needed to avoid any possibility that one tenderer may gain an unfair advantage over another, or be seen 'to revise or enhance the original tender' (Section 3.13 Tendering Guidelines).

This advice was verified by Council's legal advisors and is consistent with Council's current and past practice.

**Economic Development Employment Potential**

Tourism is an important industry in the Eurobodalla. It is recognised that visitor centres, local businesses and the community all contribute to supporting growth in the visitor economy by distributing information about experiences that can increase the length of time people holiday in the region and how much they spend while here. Council's marketing activities which aim to attract people from Sydney, Canberra, and Regional NSW, Victoria and internationally by raising awareness of the many experiences on offer in their pre-holiday planning phase, are also an important contributor to the visitor economy.

Tourism is the key economic driver in the Eurobodalla and is the largest industry sector for employment, generating around 3500 or almost 30% of all jobs. For the four year average to the year ending September 2014, the Eurobodalla's Visitor Economy was valued at \$388 million.

(Source: Tourism Research Australia (TRA) National Visitor Survey YE Sept 2014, CPI; profile id community profile; ABS 2009-2009).

**Financial**

Funding for the contract will be achieved from existing budget allocations for operating the Narooma Visitor Information Centre. Budget savings will be redirected to Tourism Promotion and Marketing in line with 2011 to 2020 Tourism Destination Management Plan.



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**GMR16/007 NAROOMA VISITOR INFORMATION CENTRE TENDERS**

**E15.9152**

**Community Engagement**

The following stakeholders were consulted in the development of the Expression of Interest:

- Members of the Tourism Advisory Committee were invited to review the draft Expression of Interest. Feedback was received from previous community and industry 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 tenderer has been assessed, through an extensive evaluation as representing best value for money.

It is therefore recommended that Council enters into contract with the preferred tender as identified in the Confidential Attachment.

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**GMR16/008 2016 NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT E93.5780**

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**

The 2016 National General Assembly of Local Government (NGA) will be held at the National Convention Centre in Canberra from 19 to 22 June 2016.

### **RECOMMENDATION**

THAT Council determine whether it wishes to be represented at the 2016 National General Assembly of Local Government NSW to be held at the National Convention Centre in Canberra from 19-22 June 2016 and if it so determines:

1. The Mayor be nominated as one voting delegate and nominate other Councillors as observers, to attend the Conference;
2. Council's delegates and observers be reimbursed out of pocket expenses in accordance with Council's policy;
3. Council consider issues and proposed solutions/motions for submission to the 2016 National General Assembly of Local Government NSW.

### **BACKGROUND**

Major events convened by the Australian Local Government Association each year include the National General Assembly of Local Government and the National Local Roads and Transport Congress.

The National General Assembly is convened by The Australian Local Government Association (ALGA). The first National General Assembly of Local Government was held in 1994, replacing ALGA's annual conference. The expanded format turned the conference into a true gathering, or parliament, of local government, creating a united voice on the core issues affecting local communities.

The National General Assembly brings together several hundred delegates from councils across Australia to move and debate resolutions of concern to local government. Speakers include prominent local government leaders, national political leaders and leading Australian experts and academics from fields of interest and relevance to local government.

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**GMR16/008 2016 NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT**

**E93.5780**

The theme for the 2016 National General Assembly for Local Government (NGA) is: *Partners in an Innovative and Prosperous Australia*.

Further details on the National General Assembly can be found at <http://www.conferenceco.com.au/nga/>.

**CONSIDERATIONS**

The Australian Local Government Association (ALGA) Board is calling for motions. To be eligible for inclusion in the NGA Business Papers, motions must follow the principles set out by the ALGA Board, namely:

1. Be relevant to the work of local government nationally;
2. Be consistent with the theme of the NGA;
3. Complement or build on the policy objectives of your state and territory local government association;
4. Propose a clear action and outcome; and
5. Not be advanced on behalf of external third parties which may seek to use the NGA to apply pressure to Board members, to gain national political exposure for positions that are not directly relevant to the work of, or in the national interests of, the local government sector.

Please be aware that ALGA reserves the right to reject motions which do not meet these conditions.

Each council is entitled to one voting delegate in the debating session.

**Policy**

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

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

**Financial**

The cost for Early Bird registration for the Conference is \$925 if payment is received by Friday 6 May 2016.

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

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

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**GMR16/008 2016 NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT**

**E93.5780**

**CONCLUSION**

The NGA brings together the Local Government sector by providing a platform for thought provoking discussion and serious consideration of the development of policies on issues of national significance.

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**IR16/011 2016 NSW LOCAL ROADS CONGRESS**

**E91.3255**

Responsible Officer: Dr Catherine Dale - General Manager

Attachments: Nil

Focus Area: Productive Communities

Delivery Program Link: P1.2 Undertake advocacy activities to deliver major initiatives and infrastructure to support future growth

Operational Plan Link: P1.2.1 Advocate for improved infrastructure and funding to support regional initiatives

**EXECUTIVE SUMMARY**

To advise Council of the 2016 NSW Local Roads Congress to be held in Sydney on 6 June 2016 and seek nominations for Councillors to attend.

**RECOMMENDATION**

THAT:

1. Council be represented at the 2016 NSW Local Roads Congress on 6 June 2016 at State Parliament House in Sydney.
2. Council nominate the Mayor and one other Councillor as its delegates to attend the 2016 NSW Local Roads Congress.
3. Council's delegates be reimbursed out of pocket expense in accordance with the Councillor's Expenses and Facilities Policy.

**BACKGROUND**

The NSW Roads & Transport Directorate is an alliance between the Institute of Public Works Engineering Australasia (NSW) and Local Government NSW. The Directorate runs the Local Road Congress each year to formulate advocacy strategies for Local Government in NSW for the next 12 month period and beyond.

These strategies are then taken forward to State and Federal Governments both directly and via the Australian Roads Congress.

Mayor Lindsay Brown is the LGNSW representative on the Executive Management Committee of the NSW Roads & Transport Directorate.

Councillor Neil Burnside is on the Executive Committee of the South East Australian Transport Strategy Inc (SEATS). SEATS is instrumental in developing regional and cross border priority projects to advocate to government.

Council's Director Infrastructure Services is represented on the Executive Management Committee of the NSW Roads & Transport Directorate and President of IPWEA (NSW). Both positions are undertaken in a volunteer capacity.

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**IR16/011 2016 NSW LOCAL ROADS CONGRESS**

**E91.3255**

**CONSIDERATIONS**

The theme of the 2016 Congress is *Driving a New Direction*. The program will include topical material and best practice for the roads and transport.

The Congress will again be held at NSW State Parliament House in Sydney.

Registration

Registration for Councillors attending this conference is free with a paying delegate. The Director Infrastructure Services will be attending the Congress.

Accommodation, Travel and Sustenance

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

Accommodation is to be restricted to a maximum of NRMA 4½ star rating and where possible at the function venue so as to avoid other costs and inconvenience.

Delegate Report following Conference

Councillors attending the Congress are to provide a brief report back to Council on outcomes and issues following the Congress. The Congress will produce a communique which will be included with the report back to Council.

**Financial**

The Congress has successfully contributed to advocacy work to higher levels of government. This includes the introduction and/or continuation of programs such as the Australian and NSW Governments programs supporting roads and transport infrastructure (eg bridge program, fixing our country roads, roads to recovery and the like). Our local community has already benefitted from grants received under such important programs.

It is vital that elected Councillors are represented at the Congress to put forward views representing Eurobodalla Shire Council and regional communities. It is also important that Council continues to advocate for continuation and improvement to funding models to better support our local community.

**CONCLUSION**

It is recommended that Council be represented at the 2016 NSW Local Roads Congress on 6 June 2016 at State Parliament House in Sydney. Council should determine the Councillor(s) to attend and include this in the final resolution of Council.

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**IR16/012 CADGEE BRIDGE REPLACEMENT**

**84.0663**

Responsible Officer: Warren Sharpe OAM - Director Infrastructure Services

Attachments: Nil

Focus Area: Productive Communities

Delivery Program Link: P2.2 Develop, renew and maintain the road network

Operational Plan Link: P2.2.1 Deliver capital and renewal works program

**EXECUTIVE SUMMARY**

Cadgee Bridge was washed away in the floods in January 2016.

Funding for replacement of the timber bridge is being sought under the Natural Disaster Relief Program.

Council was briefed on the proposal to add to this funding to permit replacement with a more secure and less floodprone concrete bridge.

This reports seeks endorsement to proceed with a concrete bridge replacement and of the actions taken to improve the alternate route.

**RECOMMENDATION**

THAT:

1. Cadgee Bridge be replaced with a new concrete structure funded from Natural Disaster Relief Funding and the Special Rate Variation component for bridge replacement in 2016-17.
2. Council endorse the actions taken to date to improve safety on the alternate route via Eurobodalla Road and Nerrigundah Mountain Road including:
  - a. moving funds within the gravel resheeting program in 2015-16 to allow gravel resheeting of sections of Eurobodalla Road between Cadgee Bridge and Nerrigundah village
  - b. providing spot gravelling on Wattlegrove Road
  - c. vegetation works on Eurobodalla Road and Nerrigundah Mountain Road to improve lines of sight
  - d. providing additional signposting on Nerrigundah Mountain Road, Eurobodalla Road, including the two causeways between Cadgee Bridge and Nerrigundah village on Eurobodalla Road
  - e. provision of a temporary 40km/hr roadworks speed limit through Nerrigundah village.

**BACKGROUND**

Cadgee Bridge is on Eurobodalla Road, crossing Gulph Creek downstream from Nerrigundah village. This bridge provides an important link for residents and commercial activities in the locality of Nerrigundah and Cadgee.

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**IR16/012 CADGEE BRIDGE REPLACEMENT**

**84.0663**

In January 2016 there was a significant flood event within this catchment which resulted in the three span timber bridge being washed away. Council has applied for natural disaster funding assistance for the replacement cost of the timber bridge. This funding is available on a 'like-for-like' basis.

Councillors were provided with briefings, including the proposal to pursue replacement with a concrete bridge.

This reports seeks endorsement of actions taken to advance progress on the replacement of Cadgee Bridge with a new concrete bridge and put in place appropriate additional measures on the alternate route.

**CONSIDERATIONS**

Cadgee Bridge services commercial activities and residents in the area, providing an important transport link.

At present the access is via Nerrigundah village, which necessitates an increase in travel times of about 15 minutes, from the western side of the bridge to Bodalla. Cadgee Quarries utilizes this bridge to transport quarry product.

The replacement of Cadgee Bridge is therefore a high priority.

The Natural Disaster Funding Program provides funding to replace transport assets on a 'like for like' basis where an event is declared as a natural disaster.

The loss of the timber bridge in the January 2016 flood event provides Council with the opportunity to add to funding to replace the bridge with a new concrete structure.

A new concrete structure will have the advantage of providing:

1. a higher level, less flood prone bridge
2. greater certainty of load carrying capacity, thereby reducing risk to the community
3. a low maintenance bridge with an estimated useful life of 100 years.

The timeframe for the construction of a new bridge is constrained by the necessary processes involved in design, approvals and construction. These include geotechnical investigation, environmental and funding approval, design, tendering and construction of the new bridge with approaches.

Given the urgency to replace the bridge, actions have been taken to engage a consultant to finalise the design of a new concrete structure to allow tendering this financial year. It is anticipated that, subject to Council's confirmation, tenders will be called in April 2016 allowing award of the contract for the new bridge in June/July 2016.

Subject to suitable tenders being received, the necessary NSW Government approvals (eg permits, funding) being obtained in a timely manner and favourable weather conditions, the aim would be to complete the new concrete bridge by late 2016.

There are a number of actions that have already been undertaken to improve the alternate road network for road users affected by the detour. These include:



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**IR16/012 CADGEE BRIDGE REPLACEMENT**

**84.0663**

- a. moving funds within the gravel resheeting in 2015-16 to allow gravel resheeting of sections of Eurobodalla Road between Cadgee Bridge and Nerrigundah village
- b. providing funding for spot gravelling on Wattlegrove Road from the unsealed roads program
- c. vegetation works on Eurobodalla Road and Nerrigundah Mountain Road to improve line of sight
- d. providing additional signposting on Nerrigundah Mountain Road, Eurobodalla Road, including the two causeways between Cadgee Bridge and Nerrigundah village on Eurobodalla Road
- e. providing a temporary 40km/hr roadworks speed limit through Nerrigundah village.

**Environmental**

A Review of Environmental Factors is being developed for the proposed concrete bridge. This work will require appropriate approvals from the NSW Government to work within the Gulph Creek riverbed.

**Asset**

The loss of the bridge due to a significant flood provides an opportunity to provide our community with a more secure, less flood prone structure at a substantially reduced capital cost to Council.

**Social Impact**

The work undertaken to date to progress the replacement of the bridge reflects the need to restore this important transport link for businesses and residents as soon as practicable.

**Economic Development Employment Potential**

Quarry operators, transport companies, farmers and forestry operators use this bridge for business purposes. The provision of a new concrete bridge will provide a more secure and flood free access, thereby supporting economic activity and employment. The new bridge will be designed to cater for the regular use by trucks.

**Financial**

Council has submitted a claim for \$470,000 to the NSW Government under the Natural Disaster Funding program for the replacement of the timber bridge.

The replacement with a concrete bridge is estimated to cost \$1M. Therefore Council would have to allocate an estimated \$530,000 to this project. There is sufficient funds within the allocation for bridge replacement within the rate variation (as a result of securing grant funding for Candlagan Bridge).

It is therefore proposed to include an allocation within the 2016-17 Operational Plan for this bridge work.

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**IR16/012 CADGEE BRIDGE REPLACEMENT**

**84.0663**

The ongoing costs for a timber bridge are approximately \$24,000 per annum. The ongoing costs for a concrete bridge are approximately \$13,000 per annum (annual depreciation plus maintenance).

**Community Engagement**

We have been in discussions with the quarry and transport operators, and responded to local residents.

Upon Council's determination of the way forward, the following actions will be undertaken:

1. Letters will be forwarded to residents within the affected area, including Nerrigundah village, advising of the proposed actions to rebuild a concrete bridge.
2. A press release will be issued outlining the proposed replacement with a concrete bridge.
3. A web page will be established to provide regular updates.
4. Suitable inclusions will be provided within Council's on-line news.

**CONCLUSION**

Cadgee Bridge was washed away in the floods in January 2016.

Funding for replacement of the timber bridge is being sought under the Natural Disaster Relief Program.

Council has been briefed on the proposal to top up this funding to permit replacement with a more secure and less floodprone concrete bridge.

This reports seeks endorsement to proceed with a concrete bridge replacement and of the actions taken to improve the alternate route.

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**FBD16/012 LICENCE FOR USE OF CROWN RESERVE - NAROOMA**

**E16.0126**

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

Attachments: 1. Code of Practice  
2. Under Separate Cover - Confidential - Tender submissions and evaluation

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**

Following the call for Expressions of Interest for Licences for the use of Council controlled reserves and associated buildings, two submissions were received for the use of NATA Reserve and the associated Sport and Leisure Centre Narooma annually, on the long weekend in June, for five years commencing 2018.

NATA Reserve, Narooma is a Crown Reserve under the Trusteeship of the Eurobodalla (South) Reserve Trust for which Council is Trust Manager.

Council, as Trust Manager, cannot grant a licence for events within NATA Reserve for a period exceeding twelve months without the consent of the Minister administering the Crown Lands Act, 1989. The Minister will not consent to any licence unless the Trust Manager has engaged in an open and competitive process or the Trust Manager clearly demonstrates that it has considered the 2006 ICAC Guidelines for managing risk in direct negotiations in making a determination of the appropriateness of direct dealing.

In accordance with Council's Code of Practice - *Licensing of Council Controlled Public Reserves and Associated Buildings*, which establishes a consistent and fair framework to deal with requests for the use of public land, the two parties were invited to submit tenders in accordance with the selective tender process which will meet the Crown Lands requirements of an open and competitive process.

The two parties submitted respective tenders and the submissions evaluated in accordance with the set criteria outlined in the Code of Practice - *Licensing of Council Controlled Public Reserves and Associated Buildings*.

The process of tendering is covered by the *Local Government (General) Regulations 2005 Part 7 – Tendering* and in more detail within the *Tendering Guidelines for NSW Government 2009*. These Guidelines are issued under Section 23A of the Local Government Act 1993 and hence must be considered by Council as part of the tender process.

The tender submissions are provided to Councillors as confidential attachments to this report.

Consistent with Council's current and past practices, the tenders must be assessed based on the tender evaluation undertaken. Care is needed to avoid any possibility that one tenderer may gain an unfair advantage over another, or be seen '*to revise or enhance the original tender*' (Section 3.13 Tendering Guidelines).

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**FBD16/012 LICENCE FOR USE OF CROWN RESERVE - NAROOMA**

**E16.0126**

This advice was verified by Council's legal advisors.

This report recommends the party named in the confidential attachment be granted a five year licence to run its event commencing June 2018, subject to consent from the Minister administering the Crown Lands Act, 1989.

As the annual EOI process for licences for the use of NATA Reserve and associated Sports and Leisure Centre and other venues has been completed, Council will be able to work with the unsuccessful tenderer for an unclaimed date or venue without the need for a competitive tender process.

**RECOMMENDATION**

THAT:

1. Council endorses the selection of the preferred tenderer listed for RFT2016/FBD106 – Licence for use of NATA Reserve and the associated Sport and Leisure Centre within the confidential attachment to Report FBD16/012 Licence for Crown Reserve - Narooma
2. Subject to consent from the Minister administering the Crown Lands Act, 1989, Council as Trust Manager for the Eurobodalla (South) Reserve Trust, grant a five-year licence to hold an annual event every long weekend in June to the party set out in the confidential attachment to Report FBD16/012 Licence for Crown Reserve – Narooma based on a standard Crown Lands' licence commencing June 2018 with a fee set out in the confidential attachment to Report FBD16/012 Licence for Crown Reserve – Narooma.
3. Council work with the unsuccessful tenderer to review other potential dates and or venues for its event.

**BACKGROUND**

A Code of Practice - *Licensing of Council Controlled Public Reserves and Associated Buildings* has been developed to meet legal requirements and establish a consistent and fair framework to deal with requests for the use of public land with an open and competitive process to grant new licences. A copy of the Code of Practice is attached.

The main focus of the Code of Practice is for the:

- calling of expressions of interest (EOI) for the use of Council controlled public reserves to ensure all groups, organisations and commercial operators have an equal opportunity make applications for licences; and
- establishment of a selection criteria by which conflicting applications can be assessed and considered by Council in determining who will be granted licences.

An EOI was called on 10 December 2015 for the granting of licences for the use of the following Council controlled Crown Reserves:

- Mackay Park (including associated buildings), Batemans Bay
- NATA Oval (including associated buildings), Narooma
- Corrigans Reserve, Batemans Bay

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**FBD16/012 LICENCE FOR USE OF CROWN RESERVE - NAROOMA**

**E16.0126**

The EOI closed on 4 February 2016 and twelve submissions were received with only one conflict being the use of NATA Reserve and associated buildings on the long weekend in June, for five years commencing June 2018.

In accordance with the adopted Code of Practice – *Licensing of Council Controlled Public Reserves and Associated Buildings*, the two applicants, the South Coast Hunters Club and the Animal Justice Party NSW, were given three weeks to make a submission as part of a selective tender to conduct its event on the long weekend in June for five years, commencing in 2018.

**CONSIDERATIONS**

The selective tender no. RFT2016/FBD106 – Licence for use of NATA Reserve closed on 29 February 2016 and two submissions were received from:

Animal Justice Party
South Coast Hunters Club

A copy of the submissions is provided as a confidential attachment to this report.

The two submissions were assessed through an evaluation based on the selection criteria set out in the Code of Practice - *Licensing of Council Controlled Public Reserves and Associated Buildings*.

The Code of Practice states:

**2.4 Selective Tendering**

*Where a venue is requested by more than one party for the same date and time, the applicants would each need to submit a tender for their activity including information to address the following selection criteria:*

**1. Economic activity (30%)**

*Level of economic activity expected and likelihood it will be achieved -*

- i. How the activity generates local economic activity and development.*
- ii. How the activity will attract external visitation to the area.*
- iii. The expected level of economic activity and overnight accommodation.*
- iv. The fee tendered – the amount of the fee payable to Council if the activity is not covered by Council's adopted fees and charges for the use of the public reserve*

**2. Future Growth potential (20%)**

*Level of future growth and likelihood it will be delivered -*

- i. How will the activity grow over the next 5 years and beyond?*
- ii. The expected level of visitation and / or economic activity*

**3. Sustainability (25%)**

- i. Is the activity self-sustaining?*

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**FBD16/012 LICENCE FOR USE OF CROWN RESERVE - NAROOMA**

**E16.0126**

*ii. If not, how likely is it that the activity will continue without ongoing external support?*

**4. Other benefits to the community (25%)**

*i. What is the level of community participation and what other benefits will the community receive from this event? e.g. support health programs, donations to the community, education support and development.*

A copy of the evaluation is provided as a confidential attachment to this report.

**Legal**

NATA Reserve, Narooma is a Crown Reserve under the Trusteeship of the Eurobodalla (South) Reserve Trust for which Council is Trust Manager.

Council, as Trust Manager, cannot grant a licence for events within NATA Reserve for a period exceeding twelve months without the consent of the Minister administering the Crown Lands Act, 1989. The Minister will not consent to any licence unless the Trust Manager has engaged in an open and competitive process or the Trust Manager clearly demonstrates that it has considered the 2006 ICAC Guidelines for managing risk in direct negotiations in making a determination of the appropriateness of direct dealing.

Accordingly, Council considered an open and competitive process was appropriate in accordance with Council's Code of Practice - *Licensing of Council Controlled Public Reserves and Associated Buildings*.

The proposed five-year licence will be based on a standard Crown Licence with additional appropriate special conditions.

**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 - *Licensing of Council Controlled Public Reserves and Associated Buildings*, Code of Practice – Tendering, the Local Government Procurement Guidelines, Local Government (General) Regulations 2005 and the Local Government Act 1993.

The process of tendering is covered by the *Local Government (General) Regulations 2005* Part 7 – Tendering and in more detail within the Tendering Guidelines for NSW Government 2009. These Guidelines are issued under Section 23A of the Local Government Act 1993 and hence must be considered by Council as part of the tender process.

The tender submissions are provided to Councillors as confidential attachments to this report. Should Council wish to debate the information within the tenders submitted this should be undertaken in confidential. The Tendering Guidelines for NSW Local Government (October 2009) addresses this where it states:

*The Tendering Guidelines 'are prepared by the Director General of the Department of Premier and Cabinet under Section 23A of the Act and therefore must be considered by Councils as part of the tendering process.'*

*'Councils must not disclose tender information received from tenderers that is intellectual property, propriety, commercial-in-confidence or otherwise confidential, without prior consent. In addition, Council staff or councillors must not disclose information regarding the specific*

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**FBD16/012 LICENCE FOR USE OF CROWN RESERVE - NAROOMA**

**E16.0126**

*details of a tendering process, including a recommendation of the tender evaluation or assessment panel before the outcome of the tender has been determined.*

*Where a council is dealing with a tender pursuant to Section 55 of the Act and confidential information needs to be disseminated to councillors for the purpose of deciding whether or not to accept any submitted tender, the confidential information should be issued as a separate confidential attachment to the Council report with the non-confidential information included in the Council business paper which is available to the public.'*

The tenders must be assessed based on the tender evaluation undertaken. The tender evaluation panel, and no other party, may only seek additional information for the purposes of clarification. Consequently tenders must rely on the tenders submitted rather than presentations direct to Council. Care is needed to avoid any possibility that one tenderer may gain an unfair advantage over another, or be seen 'to revise or enhance the original tender' (Section 3.13 Tendering Guidelines).

This advice was verified by Council's legal advisors and is consistent with Council's current and past practice.

In accordance with the Code of Practice - *Licensing of Council Controlled Public Reserves and Associated Buildings*, as the annual EOI process for licences for the use of NATA Reserve and associated Sports and Leisure Centre has been completed, Council will be able to work with the unsuccessful tenderer for an unclaimed date or venue without the need for a competitive process.

**Asset**

The fees received from the event will provide income for the maintenance of NATA Reserve.

**Social Impact**

The event provides an attraction for local residents as well as attracting visitors to Eurobodalla, and generating economic benefit for local businesses during the quieter winter period.

**Economic Development Employment Potential**

An event over the long weekend in June provides for an opportunity for increased local economic activity.

**Financial**

The proposed fee for the licence is set out in the confidential attachment to this report.

**Community Engagement**

Expressions of Interest were publicly notified on Council's website and advertised on Council's noticeboard page in two local newspapers giving a period of 56 days for submissions. The two parties which conflicted were subsequently invited to make a submission as part of a selective tender. The selective tender closed on 29 February, 2016.

**CONCLUSION**

The submissions to the selective tender for the licence to operate an event within NATA Reserve and the associated Sport and Leisure Centre over the long weekend in June

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**FBD16/012 LICENCE FOR USE OF CROWN RESERVE - NAROOMA**

**E16.0126**

commencing in 2018 have been evaluated against set criteria and a preferred tenderer determined.





Code of practice

<b>Code title</b>	Licencing of Council-controlled public reserves and associated buildings
<b>Responsible manager(s)</b>	Divisional Manager, Business Development and Events
<b>Contact officer(s)</b>	Divisional Manager, Business Development and Events
<b>Directorate</b>	Finance and Business Development
<b>Approval date</b>	8 December 2015
<b>Community Strategic Plan focus area</b>	5. We help our local economy grow
<b>Delivery Program link</b>	L1.3 Implement recreation and community development initiatives L5.1 Implement Council’s Recreation and Open Space Strategy P1.1 Facilitate growth and development of our business community P1.3 Seek and Support the development and hosting of events
<b>Operational Plan link</b>	L1.3.5 Improve community awareness and usage of recreation facilities P1.1.2 Provide business support and development activities P1.3.1 Support event organisers in the delivery of a range of events

**Summary**

Council owns both community and operational land, public roads and manages Crown Reserves as Trust Manager. Council manages the use of its land holdings for the benefit of the community and/or to maximise the amount of revenue it derives from its land holdings.

Licences are granted for the use of Council controlled public reserves and associated buildings, including community land and Crown reserves, for the purpose of conducting events, markets and commercial operations.

This document details the process that will be followed for the granting of such licences in a timely manner that meets legislative and community requirements and establishes a consistent and fair framework to deal with requests for the use of public land.

This Code covers the following:

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### 1 INTRODUCTION

#### 1.1 Purpose

The purpose of this Code of Practice is to establish a process for the granting of licences for the use of Council-controlled public reserves and associated buildings, including community land and Crown reserves, for the purpose of conducting events, markets and commercial operations.

The licence granting process is to be followed in a timely manner that meets legislative requirements and establishes a consistent and fair framework to deal with requests for the use of public land.

#### 1.2 Land to which this Code applies

This Code of Practice applies to all Council controlled public reserves and associated buildings, including community land and Crown reserves.

In this Code:

“public reserves” means Crown Reserves under Trusteeship for which Council is Trust Manager and Council owned land classified as community land.

“associated buildings” means buildings within a reserve used in conjunction with the use of the reserve for the activity for which a licence is sought, not for the use of a building in isolation.

#### 1.3 Legislative Framework

Each application will be dealt with under the relevant legislation as follows:

##### ***Crown Lands Act 1989***

If status of land is ‘*Crown Reserve*’ managed by a Trust for which Council is Trust Manager, consent of the Minister responsible for the administration of the *Crown Lands Acts 1989* must be obtained before the licence is executed for a licence with a term greater than 12 months.

Licences may be granted through public tender, public auction or by invitation for expressions of interest.



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### **Local Government Act 1993**

If the classification of the Council land is 'Community' and the licence is for any period that *does not* exceed five years, Council must give public notice of the proposal by advertising in the local press. The notice of the proposal must include:

- information sufficient to identify the land concerned
- the purpose for which the land will be used
- the term of the proposed licence (including any option term)
- the name of the proposed licensee
- a statement that submissions in writing may be made to the Council concerning the proposal within a period not less than 28 days which is in addition to the EOI process and timeframe.

If any objections are received, Council must consider all submissions before determining the licence.

If the licence period *exceeds five years*, Council must give the same public notice of the proposal as above and if any objections are received consent for the licence will be required from the Minister for Local Government.

### **1.4 Objectives**

The objectives of this Code are to detail the process that will be followed for the granting of licences for the use of Council controlled public reserves and associated buildings in a timely manner that meets legislative requirements and establishes a consistent and fair framework to deal with requests for the use of public land.

### **1.5 Relationship to Legislation/ Policy/ Plan**

This Code should be read in conjunction with the following legislation, policy, plans or orders, standards or guidelines.

#### **1.5.1 Legislation**

[Local Government Act 1993](#)

[Crown Lands Act 1989](#)

#### **1.5.2 Policy**

*Property - use by community organisations policy*

[www.esc.nsw.gov.au/inside-council/council/council-policies/policies/Property-Use-by-Community-Organisations-Policy.pdf](http://www.esc.nsw.gov.au/inside-council/council/council-policies/policies/Property-Use-by-Community-Organisations-Policy.pdf)

*Events policy*

[www.esc.nsw.gov.au/inside-council/council/council-policies/policies/Events-Policy.pdf](http://www.esc.nsw.gov.au/inside-council/council/council-policies/policies/Events-Policy.pdf)

This Policy states that the full process for assessing event applications is outlined in the Eurobodalla Shire Event Guidelines. For events, this Code of Practice will be an appendix to those guidelines.



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### 1.5.3 Standards or Guidelines

*Eurobodalla Shire Event Guidelines*

[www.esc.nsw.gov.au/\\_data/assets/pdf\\_file/0015/12822/events\\_guidelines\\_and\\_application.pdf](http://www.esc.nsw.gov.au/_data/assets/pdf_file/0015/12822/events_guidelines_and_application.pdf)

### 1.6 Timeline

The Annual call for Expressions of Interest (EOI) will be open for 42 days in February and March each year and will seek EOI for activities from 1 July of that year.

## 2 CODE DETAILS

### 2.1 Expressions of Interest

Once annually, Council will call for EOI from parties interested in using public reserves and associated buildings under Council control, for the purpose of:

- Running markets
- Holding events
- Conducting commercial activities

A template for EOI will request:

- The name of the organisation
- Description and purpose of the activity
- Location of the activity
- Dates or Periods of proposed use e.g. 1st Sunday of each month
- Term of Licence Sought

The EOI will then be reviewed to determine any conflicts of dates and/or venues.

The EOI will be processed in priority order based on the date of the activity.

All existing licence holders will be notified of the calling for EOI.

### 2.2 Applications received outside the annual EOI process

Council will accept licence applications all year round. Provided there are no conflicts with EOI received during the annual EOI process and approved by Council, these applications can be processed.

Any requests for licences outside the EOI process will need to fit within the calendar of dates & venues available after the EOI are processed.

### 2.3 Allocation

Where there are no conflicts, including where licences are currently held, applicants would proceed to the appropriate application process to apply for a licence for their nominated venue



## Code of practice

and activity. All licences would be granted in accordance with Council's existing policies and procedures and will come before Council for a decision.

Any current licences will remain valid subject to the terms and conditions of the licence.

A standard licence template has been written with scope for specific terms and conditions relevant to the activity.

Where a conflict arises such as two or more applicants requesting the same venue for the same date(s), Council will use a selective tendering process. The outcome of the tendering process will come to Council for a decision.

Unsuccessful tenderers will be given the opportunity to nominate an alternate date for consideration.

### **2.4 Selective Tendering**

Where a venue is requested by more than one party for the same date and time, the applicants would each need to submit a tender for their activity including information to address the following selection criteria:

#### **1. Economic activity (30%)**

Level of economic activity expected and likelihood it will be achieved -

- i. How the activity generates local economic activity and development.
- ii. How the activity will attract external visitation to the area.
- iii. The expected level of economic activity and overnight accommodation.
- iv. The fee tendered – the amount of the fee payable to Council if the activity is not covered by Council's adopted fees and charges for the use of the public reserve.

#### **2. Future Growth potential (20%)**

Level of future growth and likelihood it will be delivered -

- i. How will the activity grow over the next 5 years and beyond?
- ii. The expected level of visitation and / or economic activity.

#### **3. Sustainability (25%)**

- i. Is the activity self-sustaining?
- ii. If not, how likely is it that the activity will continue without ongoing external support?

#### **4. Other benefits to the community (25%)**

- i. What is the level of community participation and what other benefits will the community receive from this event? e.g. support health programs, donations to the community, education support and development.



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It is expected that the details supplied about the activity would include the following information to enable assessment against the above criteria:

- A description of the activity, its longevity and sustainability, its future growth potential, and expected community benefits.
- A description of the proponent's management experience, financial viability and other relevant experience.
- Activity Marketing Plan. This may include information on whether the activity will be advertised locally or more broadly, and what mechanism will be used, such as print, and/or social media.
- Activity Budget. This may include such documents as profit and loss statements, balance sheets, or financial projections.
- Risk Management Plan
- Fee tendered, if the activity is not covered by Council's adopted fees and charges for the use of the public reserve

### **3 RESPONSIBILITIES**

#### **3.1 Staff**

Under supervision, applicable Council staff will be responsible for ensuring that this Code is implemented appropriately within their work area, after they have received relevant training to do so.

#### **3.2 Requests and Concerns**

Requests and concerns received from the community regarding this Code 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 help determine follow up actions and to analyse the history of requests and concerns.

#### **3.3 Complaints**

Complaints received regarding this Code will be lodged with the Public Officer and handled in accordance with Council's Complaints Policy.

### **4 MONITORING AND REVIEW**

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



Code of practice

**5 GOVERNANCE**

*Related legislation and policies*

Name	Link
Related Council Policy or Code	<a href="http://www.esc.nsw.gov.au/inside-council/council/council-policies">www.esc.nsw.gov.au/inside-council/council/council-policies</a>
Local Government Act 1993	<a href="http://www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182">www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182</a>
Crown Lands Act 1989	<a href="http://www.austlii.edu.au/au/legis/nsw/consol_act/cla1989134/">www.austlii.edu.au/au/legis/nsw/consol_act/cla1989134/</a>

Name	Link
Office of Local Government	<a href="http://www.olg.nsw.gov.au">www.olg.nsw.gov.au</a>

*Change history*

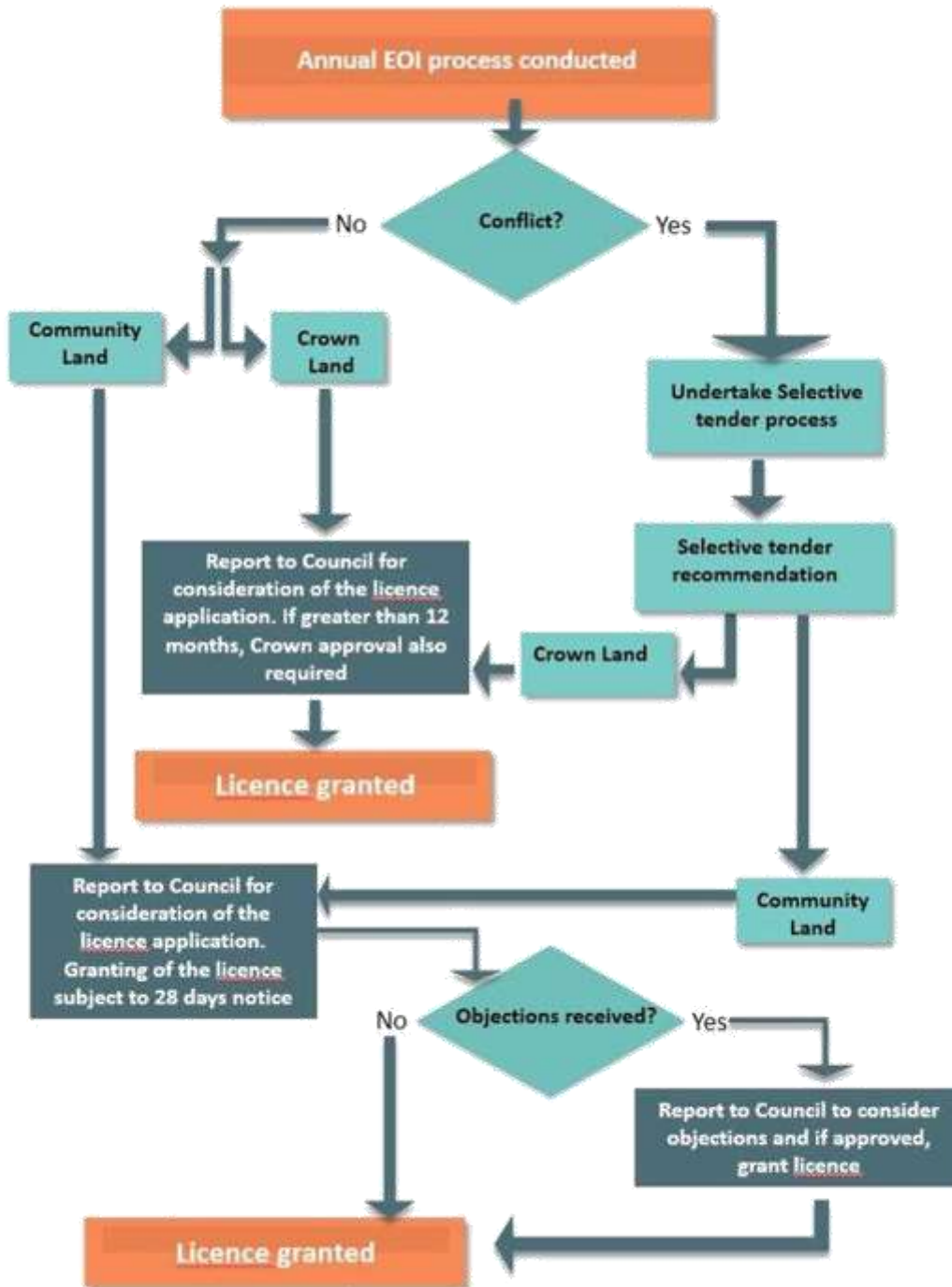
Version	Approval date	Approved by	Min No	File No	Change
1	8 Dec 2015	Council	15/256	E80.1320 E06.0365	New code approved for commencement. See report FBD15/084.

*Internal use*

Responsible officer	Divisional Manager, Business Development and Events		Approved by	Council	
Min no	15/256	Report no	FBD15/084	Effective date	8 Dec 2015
File No	E80.1320 E06.0365	Review date	8 Dec 2018	Pages	8



Code of practice





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**FBD16/013 CODE OF CONDUCT POLICY AND AMENDMENT TO MODEL CODE OF CONDUCT E06.0380**

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

Attachments: 1. Draft New Code of Conduct policy  
2. Office of Local Government Model Code of Conduct For Local Councils in NSW

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 is required to adopt the new Model Code of Conduct released by the Office of Local Government (OLG) in accordance with the Local Government Act 1993 (LGA), Section 440 (3).

To complement the amendments to the LGA, made by the Local Government Amendment (Councillor Misconduct and Poor Performance) Act 2015, an amendment to clause 4.29 of the Model Code of Conduct for Local Council in NSW was made. This amendment relates to significant non-pecuniary conflicts of interest in the 'making, amendment, alteration or repeal of an environmental planning instrument applying to the whole or a significant part of their local government area'. It now states that councillors with non-pecuniary conflicts of interest in the making, amendment, alteration or repeal of an environmental planning instrument applying to the whole or a significant part of their local government area, will be permitted to participate in consideration of those matters if:

- a) the matter is a proposal relating to
  - i) the making of a principal environmental planning instrument applying to the whole or a significant part of the council's area, or*
  - ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant part of the council's area, and**
- b) the non-pecuniary conflict of interests arises only because of an interest that a person has in that person's principal place of residence, and*
- c) the councillor declares the interest they have in the matter that would otherwise have precluded their participation in consideration of the matter under this Part*

Further, under section 440G of the LGA, as advised in the circular 15-41/17 December 2015/A446439: Commencement of the local Government Amendment (Councillor Misconduct and Poor Performance) Act 2015, notice is no longer required of a motion to censure a councillor for misconduct. Under the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW, councils can only formally censure a councillor for misconduct where this is recommended in a report by an independent investigator (Conduct Reviewer).

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**FBD16/013 CODE OF CONDUCT POLICY AND AMENDMENT TO MODEL CODE  
OF CONDUCT**

**E06.0380**

It is recommended that a Code of Conduct policy be introduced so that Council's advisory committees, reserve trusts, contractors and volunteers are also obliged to observe the applicable requirements of the Code. One of the recommendations from the Crown audit on Council's reserve trusts was to adopt a Code of Conduct for the administration of the trusts. The Code of Conduct Policy fulfils this recommendation.

**RECOMMENDATION**

THAT:

1. The Code of Conduct policy be placed on public exhibition for a period of 28 days.
2. The Office of Local Government Model Code of Conduct for Local Councils in NSW (November 2015) be placed on public exhibition for a period of 28 days.
3. A further report be presented to Council following considerations of any submissions received.

**BACKGROUND**

Section 440 (3) of the LGA, requires every NSW council to adopt a code of conduct that incorporates the provisions of the Model Code of Conduct for Local Councils in New South Wales as published by the OLG.

To complement the amendments to the LGA made by the Local Government Amendment (Councillor Misconduct and Poor Performance) Act 2015, an amendment to clause 4.29 of the Model Code of Conduct for Local Councils in NSW was made.

Clause 4.29 amendment will mean that councillors with a non-pecuniary conflicts of interests in the making, amendment, alteration or repeal of an environmental planning instrument applying to the whole or a significant part of their local government area, will be permitted to participate in consideration of those matters if:

- a) the matter is a proposal relating to
  - i) the making of a principal environmental planning instrument applying to the whole or a significant part of the council's area, or*
  - ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant part of the council's area, and**
- b) the non-pecuniary conflict of interests arises only because of an interest that a person has in that person's principal place of residence, and*
- c) the councillor declares the interest they have in the matter that would otherwise have precluded their participation in consideration of the matter under this Part*

Further, under section 440G of the LGA, notice is no longer required of a motion to censure a councillor for misconduct. Under the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW, councils can only formally censure a councillor for

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**FBD16/013 CODE OF CONDUCT POLICY AND AMENDMENT TO MODEL CODE  
OF CONDUCT**

**E06.0380**

misconduct where this is recommended in a report by an independent investigator (Conduct Reviewer).

**CONSIDERATIONS**

**Legal**

Section 440 (3) of the Local Government Act 1993, requires every NSW council to adopt a code of conduct that incorporates the provisions of the Model Code of Conduct for Local Councils in New South Wales as published by the OLG.

Adoption of the new Model Code of Conduct will ensure clause 4.29 is represented as necessary.

The OLG also indicated in their circular 15-41/17 December 2015/A446439: Commencement of the Local Government Amendment (Councillor Misconduct and Poor Performance) Act 2015, 'notice is no longer required of a motion to censure a councillor for misconduct under section 440G of the [LGA]. Under the *Procedures for the Administration* of the Model Code of Conduct for Local Councils in NSW, councils can only formally censure a councillor for misconduct where this is recommended in a report by an independent investigator [Conduct Reviewer]. This will be reported to the Council under cover of a staff report by Council's complaints coordinator'.

The Code of Meeting Practice will be reviewed to ensure these changes are reflected as necessary and a report will be presented to Council.

Section 440G of the LGA is law and therefore no action is required by Council.

**Policy**

A Code of Conduct Policy is an overarching document that allows the Code of Conduct to be applied to Council advisory committees, reserve trusts, contractors and volunteers. At present the Model Code of Conduct only applies to Council officials which includes Councillors. It is recommended that a Code of Conduct policy be introduced so that the Council advisory committees, reserve trusts, contractors and volunteers are also obliged to observe the applicable requirements of the Model code of Conduct released by the OLG per the LGA.

One of the recommendations from the Crown audit on Council's reserve trusts was to adopt a Code of Conduct for the administration of the trusts. The Code of Conduct Policy fulfils this recommendation.

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

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**FBD16/013 CODE OF CONDUCT POLICY AND AMENDMENT TO MODEL CODE  
OF CONDUCT**

**E06.0380**

**Social Impact**

Enhancing transparency of Council Policy and procedures is beneficial to the community in ensuring confidence that the Model Code of Conduct is being applied.

**Community Engagement**

Council will place the draft Code of Conduct Policy and The Office of Local Government Model Code of Conduct for Local Councils in NSW on public exhibition for a period of 28 days commencing on 23 March 2016 until the 19 April 2016. Copies will be available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

**CONCLUSION**

The introduction of the Code of Conduct Policy will allow Council to apply the Model Code of Conduct to Council advisory committees, reserve trusts, contractors and volunteers so they are also obliged to observe the applicable requirements of the Code.

To meet the requirements of the policy adoption process, the Code of Conduct Policy and the Model Code of Conduct will be placed on public exhibition for 28 day. If no submissions are received the policy and code can be adopted. If any submissions are received a further report will be presented to Council.



Policy

<b>Policy name</b>	Code of Conduct
<b>Responsible manager(s)</b>	General Manager
<b>Contact officer(s)</b>	Complaints Coordinator
<b>Directorate</b>	Finance and Business Development
<b>Approval date</b>	TBA 2016
<b>Strategic Focus Area</b>	Collaborative
<b>Delivery Plan Link</b>	C1.1 Conduct the business of Council in an inclusive, responsive and transparent manner C1.2 Manage the organisation to effectively and efficiently meet our statutory obligations
<b>Operational Plan Link</b>	C1.1.1 Support the councillors in meeting their statutory obligations and roles as community representatives C1.2.1 Respond to legislative and policy requirements set by the Department of Local Government

**Purpose**

Section 440 of the *Local Government Act 1993* (the LG Act) requires every NSW council to adopt a code of conduct that incorporates the provisions of *The Model Code of Conduct for Local Councils in NSW* as published by the Office of Local Government (OLG).

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

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

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

It is the personal responsibility of all of these Council officials to comply with the standards in the Code, and regularly review their personal circumstances with this in mind.

The policy aims to:

- promote a clear guideline for the conduct of councillors, staff, delegates, reserve trusts, committees, contractors, volunteers and relevant parties when acting as public officials of Council;
- ensure consistency and fairness in the manner in which the Council deals with matters and complaints relating to the Code of Conduct;
- ensure compliance with legislative and statutory requirements;
- promote awareness of the requirements of the Code of Conduct;
- take such steps as are appropriate to ensure that the Code of Conduct is followed;
- make Council's requirements and procedures regarding its Code of Conduct readily accessible and understandable to the public.



Policy

**Policy statement**

<b>1</b>	<p><b>Application</b></p> <p>This policy applies to all councillors, members of staff, delegates, committees, contractors and volunteers of Eurobodalla Shire Council, and to the following reserve trusts: Eurobodalla (North), Eurobodalla (Central) and Eurobodalla (South).</p>																
<b>2</b>	<p><b>Legislation</b></p> <p>Eurobodalla Shire Council will comply with section 440 of the <i>Local Government Act 1993</i> by adopting as its Code of Conduct the most current version of the <i>Model Code of Conduct for Local Councils in NSW</i> as published by the Office of Local Government (OLG)</p>																
<b>3</b>	<p><b>Breaches</b></p> <p>Failure by a councillor to comply with an applicable requirement of Council's Code of Conduct constitutes misconduct under the provisions of the LG Act.</p> <p>Failure by a member of staff to comply with Council's Code of Conduct may give rise to disciplinary action.</p>																
<b>4</b>	<p><b>Code of Conduct complaints</b></p> <p>A Code of Conduct complaint is defined as:</p> <p style="text-align: center;"><i>"A complaint that alleges conduct on the part of a council official acting in their official capacity that on its face, if proven, would constitute a breach of the standards of conduct prescribed under the council's code of conduct"</i></p> <p>Allegations of suspected breaches of the Code of Conduct by councillors, members of staff of Council (excluding the General Manager), delegates or reserve trusts should be reported to the General Manager in writing.</p> <p>Allegations that the General Manager has breached the Code of Conduct should be reported to the Mayor in writing.</p> <p>Council's Code of Conduct Complaint form should be used for these reports (see Appendix 1. Also available on Council's website at: <a href="http://www.esc.nsw.gov.au">www.esc.nsw.gov.au</a> ).</p> <p>The OLG <i>Procedures for Administration of the Code of Conduct</i> will be followed for the investigation of any alleged breaches of the Code (see <a href="#">Implementation</a> below).</p>																
<b>5</b>	<p><b>Complaints not related to Code of Conduct</b></p> <p>The following matters are <i>not</i> considered to be Code of Conduct complaints, and will be referred as below in accordance with Council's statutory obligations and Complaints policy:</p> <table border="1" style="width: 100%;"> <thead> <tr> <th style="text-align: left;">Complaint is about...</th> <th style="text-align: left;">Refer to...</th> </tr> </thead> <tbody> <tr> <td>pecuniary interest, failure to disclose political donations, serious breakdown in Council operations, Council operating unsatisfactorily</td> <td>Office of Local Government</td> </tr> <tr> <td>maladministration, serious or substantial waste of public resources</td> <td>NSW Ombudsman</td> </tr> <tr> <td>corrupt conduct</td> <td>ICAC</td> </tr> <tr> <td>criminal activity</td> <td>Police</td> </tr> <tr> <td>public interest disclosure</td> <td>PID Coordinator</td> </tr> <tr> <td>information (access to, copyright, or privacy)</td> <td>Public Officer</td> </tr> <tr> <td>competitive neutrality</td> <td>Public Officer</td> </tr> </tbody> </table>	Complaint is about...	Refer to...	pecuniary interest, failure to disclose political donations, serious breakdown in Council operations, Council operating unsatisfactorily	Office of Local Government	maladministration, serious or substantial waste of public resources	NSW Ombudsman	corrupt conduct	ICAC	criminal activity	Police	public interest disclosure	PID Coordinator	information (access to, copyright, or privacy)	Public Officer	competitive neutrality	Public Officer
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competitive neutrality	Public Officer																



Policy

customer dissatisfaction with Council service, activity, or action	Relevant officer or their supervisor
policy, procedure, or decision of Council	Relevant Director or Public Officer
other complaint about Council (not Code of Conduct related)	Public Officer

**Implementation**

Implementation steps		Responsibility
<b>1</b>	<p><b>Model Code of Conduct and Procedures</b></p> <p>This policy will be implemented by adopting and complying with the current version of the <i>Model Code of Conduct for Local Councils in NSW</i> and <i>Procedures for Administration of the Code of Conduct</i> as published by the OLG, and as described below.</p>	General Manager Councillors Complaints Coordinator
<b>2</b>	<p><b>Reporting a Code of Conduct complaint</b></p> <p>The Code of Conduct Complaint form should be used to report an alleged breach of the Code of Conduct to the General Manager, or (if the complaint is about the General Manager) to the Mayor.</p>	General Manager Mayor
<b>3</b>	<p><b>Code of Conduct complaints resolution</b></p> <p>If the Code of Conduct complaint or breach is of a minor nature, or can be resolved informally, the General Manager (or Mayor) should attempt to resolve informally e.g. via explanation, apology, mediation, alternate dispute resolution.</p> <p>If the Code of Conduct complaint or breach is of a serious nature requiring investigation, or cannot be resolved informally, it will be referred to the Complaints Coordinator to engage a Conduct Reviewer for determination and recommendation (as per OLG Procedures).</p> <p>If the complaint is NOT a Code of Conduct Complaint, it will be dealt with according to the complaint type (see 'Complaints not related to Code of Conduct' above).</p>	General Manager Mayor  Complaints Coordinator Conduct Reviewer  Other (referral as above)
<b>4</b>	<p><b>Enforcement and Coordination</b></p> <p>The General Manager and Executive Leadership Team are responsible for enforcing the policy and Code of Conduct.</p> <p>The Complaints Coordinator supports the General Manager in coordinating the policy and dealing with any complaints which must be referred to a Conduct Reviewer.</p>	General Manager Executive Leadership Team Complaints Coordinator
<b>5</b>	<p><b>Staff</b></p> <p>Under supervision, applicable Council staff will be responsible for ensuring that policies are implemented appropriately within their work area, after they have received relevant training to do so.</p> <p>All staff are responsible for their own compliance with the standards of the Code of Conduct.</p>	Council Officers
<b>6</b>	<p><b>Policy concerns or complaints</b></p> <p>Concerns or complaints about the content or implementation of this</p>	Public Officer



Policy

	policy will be recorded in Council's records system, lodged with the Public Officer and handled in accordance with council's Complaints Policy.	
7	<p><b>Consultation</b></p> <p>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.</p>	Key Stakeholders

**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 the *Model Code of Conduct for Local Councils in NSW* is reviewed, updated and/ or republished by the OLG; or when council's functions, structure or activities change; or when technological advances or new systems change the way that Council manages its Code of Conduct.

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

Performance indicator	Data source(s)
Complaints received	Council Records
Number of breaches	Council Records
Audit (Internal or External)	Audit
DP/ OP objectives 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, policies, codes, guidelines*

Name	Link
Model Code of Conduct (current version)	<a href="http://www.olg.nsw.gov.au/strengthening-local-government/conduct-and-governance/model-code-of-conduct">www.olg.nsw.gov.au/strengthening-local-government/conduct-and-governance/model-code-of-conduct</a>
Local Government Act 1993	<a href="http://www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182/">www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182/</a>
Code of Meeting Practice	<a href="http://www.esc.nsw.gov.au/inside-council/council/council-policies">www.esc.nsw.gov.au/inside-council/council/council-policies</a>
Complaints Policy	<a href="http://www.esc.nsw.gov.au/inside-council/council/council-policies">www.esc.nsw.gov.au/inside-council/council/council-policies</a>
Procedures for Administration of Model Code of Conduct	<a href="http://www.olg.nsw.gov.au/sites/default/files/Procedures-for-Administration-of-Model-Code-of-Conduct.pdf">www.olg.nsw.gov.au/sites/default/files/Procedures-for-Administration-of-Model-Code-of-Conduct.pdf</a>





Policy

*Related external references*

Name	Link
Office of Local Government	<a href="http://www.olg.nsw.gov.au">www.olg.nsw.gov.au</a>
Independent Commission Against Corruption (ICAC)	<a href="http://www.icac.nsw.gov.au">www.icac.nsw.gov.au</a>
NSW Ombudsman	<a href="http://www.ombo.nsw.gov.au">www.ombo.nsw.gov.au</a>

*Supporting documents*

Name	Link
Model Code of Conduct (current version)	Appendix 1
Procedures for Administration of Code of Conduct (current version)	Appendix 2
Code of Conduct Complaint form	Appendix 3

*Change history*

Version	Approval date	Approved by	Minute No	File No	Change
1	DD Mmm 2016	Council			Policy commenced and current Model Code of Conduct (Nov 2015) adopted.

*Internal use*

Responsible officer	General Manager		Approved by	Council	
File no	E06.0380	Report no	TBA	Effective date	TBA 2016
Min no	TBA	Review date	Sep 2016	Pages	5



Office of  
Local Government

Office of Local Government

**MODEL CODE OF CONDUCT  
FOR LOCAL COUNCILS IN NSW**



November 2015

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## PART 1 INTRODUCTION

This Model Code of Conduct for Local Councils in NSW ("the Model Code of Conduct") is made for the purposes of section 440 of the *Local Government Act 1993* ("the Act"). Section 440 of the Act requires every council to adopt a code of conduct that incorporates the provisions of the Model Code. For the purposes of section 440 of the Act, the Model Code of Conduct comprises all parts of this document.

Councillors, administrators, members of staff of council, independent conduct reviewers, members of council committees including a conduct review committee and delegates of the council must comply with the applicable provisions of council's code of conduct in carrying out their functions as council officials. It is the personal responsibility of council officials to comply with the standards in the code and regularly review their personal circumstances with this in mind.

Failure by a councillor to comply with the standards of conduct prescribed under this code constitutes misconduct for the purposes of the Act. The Act provides for a range of penalties that may be imposed on councillors for misconduct, including suspension or disqualification from civic office. A councillor who has been suspended on three or more occasions for misconduct is automatically disqualified from holding civic office for five years.

Failure by a member of staff to comply with council's code of conduct may give rise to disciplinary action.

## **PART 2**

# **PURPOSE OF THE CODE OF CONDUCT**

The Model Code of Conduct sets the minimum requirements of conduct for council officials in carrying out their functions. The Model Code is prescribed by regulation.

The Model Code of Conduct has been developed to assist council officials to:

- understand the standards of conduct that are expected of them
- enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence (section 439)
- act in a way that enhances public confidence in the integrity of local government.

## PART 3 GENERAL CONDUCT OBLIGATIONS

### General conduct

- 3.1** You must not conduct yourself in carrying out your functions in a manner that is likely to bring the council or holders of civic office into disrepute. Specifically, you must not act in a way that:
- a) contravenes the Act, associated regulations, council's relevant administrative requirements and policies
  - b) is detrimental to the pursuit of the charter of a council
  - c) is improper or unethical
  - d) is an abuse of power or otherwise amounts to misconduct
  - e) causes, comprises or involves intimidation, harassment or verbal abuse
  - f) causes, comprises or involves discrimination, disadvantage or adverse treatment in relation to employment
  - g) causes, comprises or involves prejudice in the provision of a service to the community. (*Schedule 6A*)
- 3.2** You must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out your functions under the Act or any other Act. (*section 439*)
- 3.3** You must treat others with respect at all times.

### Fairness and equity

- 3.4** You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.
- 3.5** You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.

## Harassment and discrimination

- 3.6** You must not harass, discriminate against, or support others who harass and discriminate against colleagues or members of the public. This includes, but is not limited to harassment and discrimination on the grounds of sex, pregnancy, age, race, responsibilities as a carer, marital status, disability, homosexuality, transgender grounds or if a person has an infectious disease.

## Development decisions

- 3.7** You must ensure that development decisions are properly made and that parties involved in the development process are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the development assessment process.
- 3.8** In determining development applications, you must ensure that no action, statement or communication between yourself and applicants or objectors conveys any suggestion of willingness to provide improper concessions or preferential treatment.

## Binding caucus votes

- 3.9** You must not participate in binding caucus votes in relation to matters to be considered at a council or committee meeting.
- 3.10** For the purposes of clause 3.9, a binding caucus vote is a process whereby a group of councillors are compelled by a threat of disciplinary or other adverse action to comply with a predetermined position on a matter before the council or committee irrespective of the personal views of individual members of the group on the merits of the matter before the council or committee.
- 3.11** Clause 3.9 does not prohibit councillors from discussing a matter before the council or committee prior to considering the matter in question at a council or committee meeting or from voluntarily holding a shared view with other councillors on the merits of a matter.
- 3.12** Clause 3.9 does not apply to a decision to elect the Mayor or Deputy Mayor or to nominate a person to be a member of a council committee.



## PART 4

# CONFLICT OF INTERESTS

- 4.1 A conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty.
- 4.2 You must avoid or appropriately manage any conflict of interests. The onus is on you to identify a conflict of interests and take the appropriate action to manage the conflict in favour of your public duty.
- 4.3 Any conflict of interests must be managed to uphold the probity of council decision-making. When considering whether or not you have a conflict of interests, it is always important to think about how others would view your situation.
- 4.4 Private interests can be of two types: pecuniary or non-pecuniary.

### What is a pecuniary interest?

- 4.5 A pecuniary interest is 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. *(section 442)*
- 4.6 A person will also be taken to have a pecuniary interest in a matter if that person's spouse or de facto partner or a relative of the person or a partner or employer of the person, or a company or other body of which the person, or a nominee, partner or employer of the person is a member, has a pecuniary interest in the matter. *(section 443)*
- 4.7 Pecuniary interests are regulated by Chapter 14, Part 2 of the Act. The Act requires that:
  - a) councillors and designated persons lodge an initial and an annual written disclosure of interests that could potentially be in conflict with their public or professional duties *(section 449)*
  - b) councillors and members of council committees disclose an interest and the nature of that interest at a meeting, leave the meeting and be out of sight of the meeting and not participate in discussions or voting on the matter *(section 451)*
  - c) designated persons immediately declare, in writing, any pecuniary interest. *(section 459)*
- 4.8 Designated persons are defined at section 441 of the Act, and include, but are not limited to, the general manager and other senior staff of the council.
- 4.9 Where you are a member of staff of council, other than a designated person (as defined by section 441), you must disclose in writing to your supervisor or the general manager, the nature of any pecuniary interest you have in a matter you are dealing with as soon as practicable.

## What are non-pecuniary interests?

- 4.10** Non-pecuniary interests are private or personal interests the council official has that do not amount to a pecuniary interest as defined in the Act. These commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.
- 4.11** The political views of a councillor do not constitute a private interest.

## Managing non-pecuniary conflict of interests

- 4.12** Where you have a non-pecuniary interest that conflicts with your public duty, you must disclose the interest fully and in writing, even if the conflict is not significant. You must do this as soon as practicable.
- 4.13** If a disclosure is made at a council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes. This disclosure constitutes disclosure in writing for the purposes of clause 4.12.
- 4.14** How you manage a non-pecuniary conflict of interests will depend on whether or not it is significant.
- 4.15** As a general rule, a non-pecuniary conflict of interests will be significant where a matter does not raise a pecuniary interest but it involves:
- a) a relationship between a council official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse, current or former spouse or partner, de facto or other person living in the same household
  - b) other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship
  - c) an affiliation between the council official and an organisation, sporting body, club, corporation or association that is particularly strong.

- 4.16** If you are a council official, other than a member of staff of council, and you have disclosed that a significant non-pecuniary conflict of interests exists, you must manage it in one of two ways:
- a) remove the source of the conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another council official
  - b) have no involvement in the matter, by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in section 451(2) of the Act apply.
- 4.17** If you determine that a non-pecuniary conflict of interests is less than significant and does not require further action, you must provide an explanation of why you consider that the conflict does not require further action in the circumstances.
- 4.18** If you are a member of staff of council, the decision on which option should be taken to manage a non-pecuniary conflict of interests must be made in consultation with your manager.
- 4.19** Despite clause 4.16(b), a councillor who has disclosed that a significant non-pecuniary conflict of interests exists may participate in a decision to delegate council's decision-making role to council staff through the general manager, or appoint another person or body to make the decision in accordance with the law. This applies whether or not council would be deprived of a quorum if one or more councillors were to manage their conflict of interests by not voting on a matter in accordance with clause 4.16(b) above.

## Reportable political donations

- 4.20** Councillors should note that matters before council involving political or campaign donors may give rise to a non-pecuniary conflict of interests.
- 4.21** Where a councillor has received or knowingly benefitted from a reportable political donation:
- a) made by a major political donor in the previous four years, and
  - b) where the major political donor has a matter before council,
- then the councillor must declare a non-pecuniary conflict of interests, disclose the nature of the interest, and manage the conflict of interests in accordance with clause 4.16(b).

**4.22** For the purposes of this Part:

- a) a "reportable political donation" is a "reportable political donation" for the purposes of section 86 of the *Election Funding, Expenditure and Disclosures Act 1981*,
- b) a "major political donor" is a "major political donor" for the purposes of section 84 of the *Election Funding, Expenditure and Disclosures Act 1981*.

**4.23** Councillors should note that political donations below \$1,000, or political donations to a registered political party or group by which a councillor is endorsed, may still give rise to a non-pecuniary conflict of interests. Councillors should determine whether or not such conflicts are significant and take the appropriate action to manage them.

**4.24** If a councillor has received or knowingly benefitted from a reportable political donation of the kind referred to in clause 4.21, that councillor is not prevented from participating in a decision to delegate council's decision-making role to council staff through the general manager or appointing another person or body to make the decision in accordance with the law (see clause 4.19 above).

## Loss of quorum as a result of compliance with this Part

**4.25** Where a majority of councillors are precluded under this Part from consideration of a matter the council or committee must resolve to delegate consideration of the matter in question to another person.

**4.26** Where a majority of councillors are precluded under this Part from consideration of a matter and the matter in question concerns the exercise of a function that may not be delegated under section 377 of the Act, the councillors may apply in writing to the Chief Executive to be exempted from complying with a requirement under this Part relating to the management of a non-pecuniary conflict of interests.

**4.27** The Chief Executive will only exempt a councillor from complying with a requirement under this Part where:

- a) compliance by councillors with a requirement under the Part in relation to a matter will result in the loss of a quorum, and
- b) the matter relates to the exercise of a function of the council that may not be delegated under section 377 of the Act.

**4.28** Where the Chief Executive exempts a councillor from complying with a requirement under this Part, the councillor must still disclose any interests they have in the matter the exemption applies to in accordance with the requirements of this Part.

- 4.29** A councillor, who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary conflict of interests in the matter, is permitted to participate in consideration of the matter, if:
- a) the matter is a proposal relating to
    - i) the making of a principal environmental planning instrument applying to the whole or a significant part of the council's area, or
    - ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant part of the council's area, and
  - b) the non-pecuniary conflict of interests arises only because of an interest that a person has in that person's principal place of residence, and
  - c) the councillor declares the interest they have in the matter that would otherwise have precluded their participation in consideration of the matter under this Part.

## Other business or employment

- 4.30** If you are a member of staff of council considering outside employment or contract work that relates to the business of the council or that might conflict with your council duties, you must notify and seek the approval of the general manager in writing. (*section 353*)
- 4.31** As a member of staff, you must ensure that any outside employment or business you engage in will not:
- a) conflict with your official duties
  - b) involve using confidential information or council resources obtained through your work with the council
  - c) require you to work while on council duty
  - d) discredit or disadvantage the council.

## Personal dealings with council

- 4.32** You may have reason to deal with your council in your personal capacity (for example, as a ratepayer, recipient of a council service or applicant for a consent granted by council). You must not expect or request preferential treatment in relation to any matter in which you have a private interest because of your position. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment.

## PART 5 PERSONAL BENEFIT

For the purposes of this section, a reference to a gift or benefit does not include a political donation or contribution to an election fund that is subject to the provisions of the relevant election funding legislation.

### Gifts and benefits

- 5.1 You must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment from you or from the council.
- 5.2 You must take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to secure favourable treatment. Immediate family members ordinarily include parents, spouses, children and siblings.

### Token gifts and benefits

- 5.3 Generally speaking, token gifts and benefits include:
  - a) free or subsidised meals, beverages or refreshments provided in conjunction with:
    - i) the discussion of official business
    - ii) council work related events such as training, education sessions, workshops
    - iii) conferences
    - iv) council functions or events
    - v) social functions organised by groups, such as council committees and community organisations
  - b) invitations to and attendance at local social, cultural or sporting events
  - c) gifts of single bottles of reasonably priced alcohol to individual council officials at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training session/address)
  - d) ties, scarves, coasters, tie pins, diaries, chocolates or flowers
  - e) prizes of token value.

## Gifts and benefits of value

- 5.4 Notwithstanding clause 5.3, gifts and benefits that have more than a token value include, but are not limited to, tickets to major sporting events (such as state or international cricket matches or matches in other national sporting codes (including the NRL, AFL, FFA, NBL)), corporate hospitality at a corporate facility at major sporting events, discounted products for personal use, the frequent use of facilities such as gyms, use of holiday homes, free or discounted travel.

## How are offers of gifts and benefits to be dealt with?

- 5.5 You must not:
- a) seek or accept a bribe or other improper inducement
  - b) seek gifts or benefits of any kind
  - c) accept any gift or benefit that may create a sense of obligation on your part or may be perceived to be intended or likely to influence you in carrying out your public duty
  - d) accept any gift or benefit of more than token value
  - e) accept an offer of cash or a cash-like gift, regardless of the amount.
- 5.6 For the purposes of clause 5.5(e), a “cash-like gift” includes but is not limited to gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internal credit, memberships or entitlements to discounts.
- 5.7 Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, this must be disclosed promptly to your supervisor, the Mayor or the general manager. The recipient, supervisor, Mayor or general manager must ensure that any gifts or benefits of more than token value that are received are recorded in a Gifts Register. The gift or benefit must be surrendered to council, unless the nature of the gift or benefit makes this impractical.

## Improper and undue influence

- 5.8 You must not use your position to influence other council officials in the performance of their public or professional duties to obtain a private benefit for yourself or for somebody else. A councillor will not be in breach of this clause where they seek to influence other council officials through the appropriate exercise of their representative functions.
- 5.9 You must not take advantage (or seek to take advantage) of your status or position with or of functions you perform for council in order to obtain a private benefit for yourself or for any other person or body.

## PART 6

# RELATIONSHIP BETWEEN COUNCIL OFFICIALS

### Obligations of councillors and administrators

- 6.1** Each council is a body politic. The councillors or administrator/s are the governing body of the council. The governing body has the responsibility of directing and controlling the affairs of the council in accordance with the Act and is responsible for policy determinations, for example, those relating to workforce policy.
- 6.2** Councillors or administrators must not:
- a) direct council staff other than by giving appropriate direction to the general manager in the performance of council's functions by way of council or committee resolution, or by the Mayor or administrator exercising their power under section 226 of the Act (*section 352*)
  - b) in any public or private forum, direct or influence or attempt to direct or influence, any other member of the staff of the council or a delegate of the council in the exercise of the functions of the member or delegate (*Schedule 6A of the Act*)
  - c) contact a member of the staff of the council on council related business unless in accordance with the policy and procedures governing the interaction of councillors and council staff that have been authorised by the council and the general manager
  - d) contact or issue instructions to any of council's contractors or tenderers, including council's legal advisers, unless by the Mayor or administrator exercising their power under section 226 of the Act. This does not apply to council's external auditors or the Chair of council's audit committee who may be provided with any information by individual councillors reasonably necessary for the external auditor or audit committee to effectively perform their functions.

### Obligations of staff

- 6.3** The general manager is responsible for the efficient and effective operation of the council's organisation and for ensuring the implementation of the decisions of the council without delay.
- 6.4** Members of staff of council must:
- a) give their attention to the business of council while on duty
  - b) ensure that their work is carried out efficiently, economically and effectively
  - c) carry out lawful directions given by any person having authority to give such directions
  - d) give effect to the lawful decisions, policies, and procedures of the council, whether or not the staff member agrees with or approves of them
  - e) ensure that any participation in political activities outside the service of the council does not conflict with the performance of their official duties.



## Obligations during meetings

- 6.5** You must act in accordance with council's Code of Meeting Practice, if council has adopted one, and the *Local Government (General) Regulation 2005* during council and committee meetings.
- 6.6** You must show respect to the chair, other council officials and any members of the public present during council and committee meetings or other formal proceedings of the council.

## Inappropriate interactions

- 6.7** You must not engage in any of the following inappropriate interactions:
- a) Councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters other than broader workforce policy issues.
  - b) Council staff approaching councillors and administrators to discuss individual or operational staff matters other than broader workforce policy issues.
  - c) Council staff refusing to give information that is available to other councillors to a particular councillor.
  - d) Councillors and administrators who have lodged a development application with council, discussing the matter with council staff in staff-only areas of the council.
  - e) Councillors and administrators being overbearing or threatening to council staff.
  - f) Councillors and administrators making personal attacks on council staff in a public forum.
  - g) Councillors and administrators directing or pressuring council staff in the performance of their work, or recommendations they should make.
  - h) Council staff providing ad hoc advice to councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community.
  - i) Council staff meeting with applicants or objectors alone AND outside office hours to discuss applications or proposals.
  - j) Councillors attending on-site inspection meetings with lawyers and/or consultants engaged by council associated with current or proposed legal proceedings unless permitted to do so by council's general manager or, in the case of the Mayor or administrator, exercising their power under section 226 of the Act.

## **PART 7**

# **ACCESS TO INFORMATION AND COUNCIL RESOURCES**

### **Councillor and administrator access to information**

- 7.1** The general manager and public officer are responsible for ensuring that members of the public, councillors and administrators can gain access to the documents available under the *Government Information (Public Access) Act 2009*.
- 7.2** The general manager must provide councillors and administrators with information sufficient to enable them to carry out their civic office functions.
- 7.3** Members of staff of council must provide full and timely information to councillors and administrators sufficient to enable them to carry out their civic office functions and in accordance with council procedures.
- 7.4** Members of staff of council who provide any information to a particular councillor in the performance of their civic duties must also make it available to any other councillor who requests it and in accordance with council procedures.
- 7.5** Councillors and administrators who have a private (as distinct from civic) interest in a document of council have the same rights of access as any member of the public.

### **Councillors and administrators to properly examine and consider information**

- 7.6** Councillors and administrators must properly examine and consider all the information provided to them relating to matters that they are dealing with to enable them to make a decision on the matter in accordance with council's charter.

### **Refusal of access to documents**

- 7.7** Where the general manager and public officer determine to refuse access to a document sought by a councillor or administrator they must act reasonably. In reaching this decision they must take into account whether or not the document sought is required for the councillor or administrator to perform their civic duty (see clause 7.2). The general manager or public officer must state the reasons for the decision if access is refused.

## Use of certain council information

- 7.8** In regard to information obtained in your capacity as a council official, you must:
- only access council information needed for council business
  - not use that council information for private purposes
  - not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you have by virtue of your office or position with council
  - only release council information in accordance with established council policies and procedures and in compliance with relevant legislation.

## Use and security of confidential information

- 7.9** You must maintain the integrity and security of confidential documents or information in your possession, or for which you are responsible.
- 7.10** In addition to your general obligations relating to the use of council information, you must:
- protect confidential information
  - only release confidential information if you have authority to do so
  - only use confidential information for the purpose it is intended to be used
  - not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person
  - not use confidential information with the intention to cause harm or detriment to your council or any other person or body
  - not disclose any information discussed during a confidential session of a council meeting.

## Personal information

- 7.11** When dealing with personal information you must comply with:
- the *Privacy and Personal Information Protection Act 1998*
  - the *Health Records and Information Privacy Act 2002*
  - the Information Protection Principles and Health Privacy Principles
  - council's privacy management plan
  - the Privacy Code of Practice for Local Government

## Use of council resources

- 7.12** You must use council resources ethically, effectively, efficiently and carefully in the course of your official duties, and must not use them for private purposes (except when supplied as part of a contract of employment) unless this use is lawfully authorised and proper payment is made where appropriate.
- 7.13** Union delegates and consultative committee members may have reasonable access to council resources for the purposes of carrying out their industrial responsibilities, including but not limited to:
- a) the representation of members with respect to disciplinary matters
  - b) the representation of employees with respect to grievances and disputes
  - c) functions associated with the role of the local consultative committee.
- 7.14** You must be scrupulous in your use of council property, including intellectual property, official services and facilities, and must not permit their misuse by any other person or body.
- 7.15** You must avoid any action or situation that could create the appearance that council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.
- 7.16** You must not use council resources, property or facilities for the purpose of assisting your election campaign or the election campaign of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.
- 7.17** You must not use council letterhead, council crests and other information that could give the appearance it is official council material for:
- a) the purpose of assisting your election campaign or the election campaign of others, or
  - b) for other non-official purposes.
- 7.18** You must not convert any property of the council to your own use unless properly authorised.
- 7.19** You must not use council's computer resources to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature.

## Councillor access to council buildings

- 7.20** Councillors and administrators are entitled to have access to the council chamber, committee room, Mayor's office (subject to availability), councillors' rooms, and public areas of council's buildings during normal business hours and for meetings. Councillors and administrators needing access to these facilities at other times must obtain authority from the general manager.
- 7.21** Councillors and administrators must not enter staff-only areas of council buildings without the approval of the general manager (or delegate) or as provided in the procedures governing the interaction of councillors and council staff.
- 7.22** Councillors and administrators must ensure that when they are within a staff area they avoid giving rise to the appearance that they may improperly influence council staff decisions.

## **PART 8**

# **MAINTAINING THE INTEGRITY OF THIS CODE**

**8.1** You must not conduct yourself in a manner that is likely to undermine confidence in the integrity of this code or its administration.

### **Complaints made for an improper purpose**

**8.2** You must not make a complaint or cause a complaint to be made under this code for an improper purpose.

**8.3** For the purposes of clause 8.2, a complaint is made for an improper purpose where it is trivial, frivolous, vexatious or not made in good faith, or where it otherwise lacks merit and has been made substantially for one or more of the following purposes:

- a) to intimidate or harass another council official
- b) to damage another council official's reputation
- c) to obtain a political advantage
- d) to influence a council official in the exercise of their official functions or to prevent or disrupt the exercise of those functions
- e) to influence the council in the exercise of its functions or to prevent or disrupt the exercise of those functions
- f) to avoid disciplinary action under this code
- g) to take reprisal action against a person for making a complaint under this code except as may be otherwise specifically permitted under this code
- h) to take reprisal action against a person for exercising a function prescribed under the procedures for the administration of this code except as may be otherwise specifically permitted under this code
- i) to prevent or disrupt the effective administration of this code.

### **Detrimental action**

**8.4** You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for a complaint they have made under this code except as may be otherwise specifically permitted under this code.

**8.5** You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for any function they have exercised under this code except as may be otherwise specifically permitted under this code.

- 8.6** For the purposes of clauses 8.4 and 8.5 detrimental action is an action causing, comprising or involving any of the following:
- a) injury, damage or loss
  - b) intimidation or harassment
  - c) discrimination, disadvantage or adverse treatment in relation to employment
  - d) dismissal from, or prejudice in, employment
  - e) disciplinary proceedings.

## **Compliance with requirements under this code**

- 8.7** You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under this code.
- 8.8** You must comply with a reasonable and lawful request made by a person exercising a function under this code.
- 8.9** You must comply with a practice ruling made by the Office of Local Government.
- 8.10** Where you are a councillor or the general manager, you must comply with any council resolution requiring you to take action as a result of a breach of this code.

## **Disclosure of information about the consideration of a matter under this code**

- 8.11** You must report breaches of this code in accordance with the reporting requirements under this code.
- 8.12** You must not make allegations of suspected breaches of this code at council meetings or in other public forums.
- 8.13** You must not disclose information about the consideration of a matter under this code except for the purposes of seeking legal advice unless the disclosure is otherwise permitted under this code.

## **Complaints alleging a breach of this part**

- 8.14** Complaints alleging a breach of this Part (Part 8) by a councillor, the general manager or an administrator are to be made to the Office of Local Government.
- 8.15** Complaints alleging a breach of this Part by other council officials are to be made to the general manager.

## PART 9 DEFINITIONS

In the Model Code of Conduct the following definitions apply:

<b>the Act</b>	the <i>Local Government Act 1993</i>
<b>act of disorder</b>	see the definition in clause 256 of the Local Government (General) Regulation 2005
<b>administrator</b>	an administrator of a council appointed under the Act other than an administrator appointed under section 66
<b>Chief Executive</b>	Chief Executive of the Office of Local Government
<b>committee</b>	a council committee
<b>conflict of interests</b>	a conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty
<b>council committee</b>	a committee established by resolution of council
<b>“council committee member”</b>	a person other than a councillor or member of staff of a council who is a member of a council committee
<b>council official</b>	includes councillors, members of staff of council, administrators, council committee members, conduct reviewers and delegates of council
<b>councillor</b>	a person elected or appointed to civic office and includes a Mayor
<b>delegate of council</b>	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
<b>designated person</b>	see the definition in section 441 of the Act
<b>election campaign</b>	includes council, State and Federal election campaigns
<b>personal information</b>	information or an opinion about a person whose identity is apparent, or can be ascertained from the information or opinion
<b>the Regulation</b>	the Local Government (General) Regulation 2005

The term “you” used in the Model Code of Conduct refers to council officials.

The phrase “this code” used in the Model Code of Conduct refers also to the procedures for the administration of the Model Code of Conduct prescribed under the Local Government (General) Regulation 2005.



For more information on the Office of Local  
Government Code of Conduct visit our website

[www.olg.nsw.gov.au](http://www.olg.nsw.gov.au)



Office of  
Local Government

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**FBD16/014 BUDGET REVIEW FOR THE PERIOD ENDED 31 DECEMBER 2015 AND SIX MONTHLY PERFORMANCE REPORT E05.9535**

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

Attachments: 1. Under Separate Cover - Financial Attachments

Focus Area: Support Services

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

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

### **EXECUTIVE SUMMARY**

This Budget Review reports on Council's performance against the current Operational Plan for the quarter ending 31 December 2015. Major variations to budgets and forecasts are highlighted. The key points of this report are:

- The original budgeted operating result for the consolidated entity was a surplus of \$1.5 million, before allowing for capital grants and contributions. The revised budget incorporating the December Review amendments and requested revotes to 2016-17 is a surplus of \$0.9 million.
- The original budget for 2015-16 predicted an income statement surplus of \$9.2 million after allowing for capital grants and contributions. The proposed 2015-16 budget incorporating the December Review amendments and requested revotes is a surplus of \$10.1 million.
- The original budget for 2015-16 estimated a decrease in unrestricted funds of \$(0.5) million. The revised budget is deficit cash/fund flows of \$(1.8) million.
- The inclusion of the six monthly performance report detailing progress on Delivery Program principal activities.

The Consolidated Annual Revised Budgets for 2015-16 have been impacted during the December quarter through amendments to the current operational and capital works programs and also the deferral of some projects to next financial year. Net favourable adjustments to the profit and loss, before capital revenue, of \$0.5 million result from amendments to the current program and a further \$0.3 million through deferred operations. Favourable cash flow adjustments totaling \$4.3 million result from the revised forecasts and include some significant movements in the capital works program as detailed later in this report.

The effects of the budget adjustments on the Fit for the Future (FFTF) strategies and additional detail is presented in the considerations and attachments to this report.

There are no material concerns at this quarterly review about meeting Council's budgetary targets for 2015-16.

It is recommended that the budget review for the quarter ended 31 December 2015 be received and noted and that the proposed variations be adopted.

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**FBD16/014 BUDGET REVIEW FOR THE PERIOD ENDED 31 DECEMBER 2015 AND SIX MONTHLY PERFORMANCE REPORT E05.9535**

**RECOMMENDATION**

THAT

1. The budget review report for the quarter ended 31 December 2015 be received and noted.
2. The favourable variations for the Income Statement after capital revenue of \$1.6 million and favourable variations of \$4.3 million as per the Consolidated Fund Flow Statement be adopted.
3. The six monthly performance report be received and noted.

**BACKGROUND**

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

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

**The attachments to this report are as follows:**

**Financial reports (Attachment 1)**

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

Financial reports include:

- a) Consolidated Fund Flow Statement – this report shows the impact of operating, financing and investing activities on Councils unrestricted working capital.
- b) Consolidated Income Statement – provides sources of income and expenditure, including depreciation, in the program areas and associated services.
- c) Consolidated Capital Program Statement – provides capital expenditure information for each program area and associated services.
- d) Projected Funds Balance Statement – provides information on the balances and movements in both unrestricted and restricted fund accounts.
- e) Budget Amendment Report – provides details of proposed significant adjustments to budgets.
- f) SRV capital program – provides capital expenditure information for each of the projects in the SRV program of works for 2015-16.

**Consultancy, Legals and Contractors Report (Attachment 2)**

This attachment provides information on major contracts entered into, legal fees incurred and consultancy costs for the quarter ended 31 December 2015.

**FBD16/014 BUDGET REVIEW FOR THE PERIOD ENDED 31 DECEMBER 2015 AND SIX MONTHLY PERFORMANCE REPORT E05.9535**

**Key Financial Indicators (Attachment 3)**

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

**Mayoral and Councilor Expenses (Attachment 4)**

Provides information about Mayoral and Councillor expenditure for the quarter ended 31 December 2015.

**CONSIDERATIONS**

***Consolidated Fund Flow Statement (Attachment 1(a)):***

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

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

*Table 1.1 – Fund Flow – net cash movement*

Fund Flow - Current Net Cash Movements and Revised Annual Forecast					
Fund	2015/16 Original Budget '\$000	Previous Reviews '\$000	December Review '\$000	December Revotes '\$000	Annual Revised Budget '\$000
Water	2,874	-294	394	-135	2,838
Sewer	909	-62	322	0	1,169
General (incl. Environment & Waste)	-4,243	-5,298	279	3,468	-5,794
<b>Consolidated</b>	<b>-460</b>	<b>-5,654</b>	<b>995</b>	<b>3,333</b>	<b>-1,787</b>

The original budget for 2015-16 estimated a decrease in unrestricted funds of \$(0.4) million. In previous reviews this was adjusted to a decrease of \$(5.7) million. The annual revised budget, incorporating proposed December review adjustments, is a deficit cash/fund flow of \$(1.8) million (per table 1.1). Adjustments to the capital works program, detailed in a later section of this report, have impacted the forecast of available cash.

Major items from this review that have impacted Councils forecast of available cash include:

- The deferral of \$3.0 million of cash funded cell works at Council's Surfbeach landfill site due to design delays
- Amendments to the current works program to allow for resourcing or grant opportunities to be further investigated and revised timing of major projects (detailed in the capital expenditure section)
- Various minor adjustments as detailed in the Budget Amendments Report (Attachment 1(e))

**FBD16/014 BUDGET REVIEW FOR THE PERIOD ENDED 31 DECEMBER 2015 AND SIX MONTHLY PERFORMANCE REPORT E05.9535**

The impact of this per Council fund is shown in *Projected Funds Balances Statement (Attachment 1(d))*.

**Consolidated Income Statement (Attachment 1(b)):**

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

The impact that variations to the income statement have on the FFTF strategy (including the General Fund operating statement ratio) are detailed later in this report (*Fit for the Future considerations*).

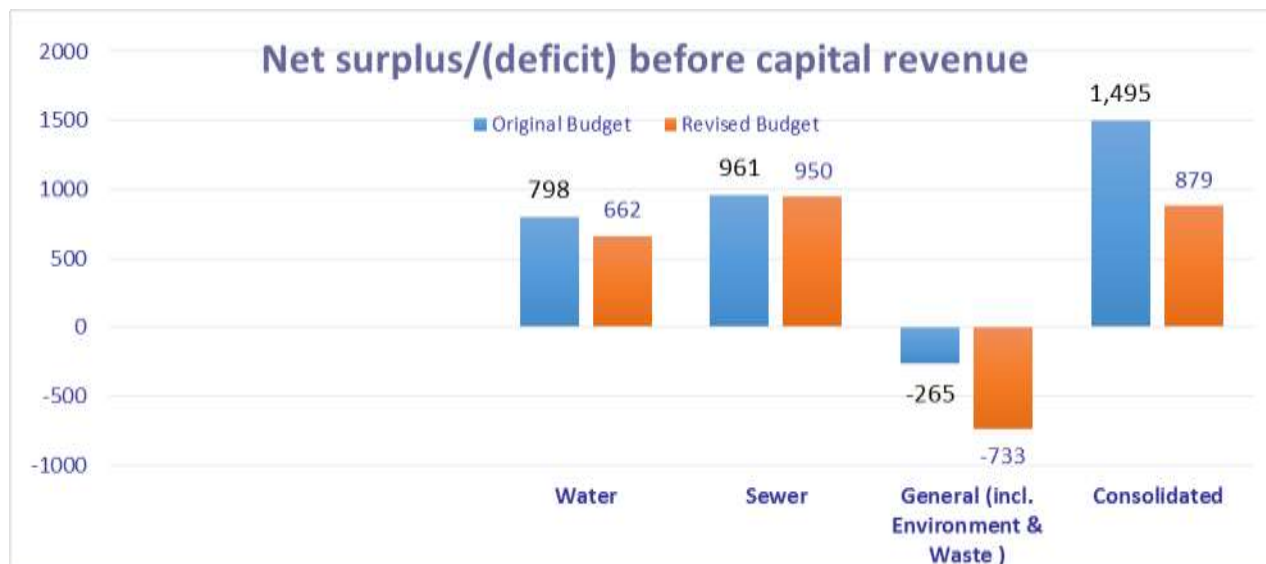
The original budgeted operating result for the consolidated entity was a surplus of \$1.5 million (before allowing for capital grants and contributions). The revised budget incorporating the December review and requested revotes to 2016-17 is a consolidated surplus of \$0.88 million before capital revenue (per table 1.2 and graph 1.1).

*Table 1.2 – Net surplus/(deficit) before capital grants and contributions*

Net Surplus/(Deficit) before Capital Grants and Contributions					
Fund	2015/16 Original Budget '\$000	Previous Reviews '\$000	December Review '\$000	December Revotes '\$000	Annual Revised Budget '\$000
Water	798	-80	-56	0	662
Sewer	961	45	-57	0	950
General (incl. Environment & Waste )	-265	-1,346	589	289	-733
<b>Consolidated</b>	<b>1,495</b>	<b>-1,381</b>	<b>477</b>	<b>289</b>	<b>879</b>

**FBD16/014 BUDGET REVIEW FOR THE PERIOD ENDED 31 DECEMBER 2015 AND SIX MONTHLY PERFORMANCE REPORT E05.9535**

*Graph 1.1 Net surplus/(deficit) before capital grants and contributions*



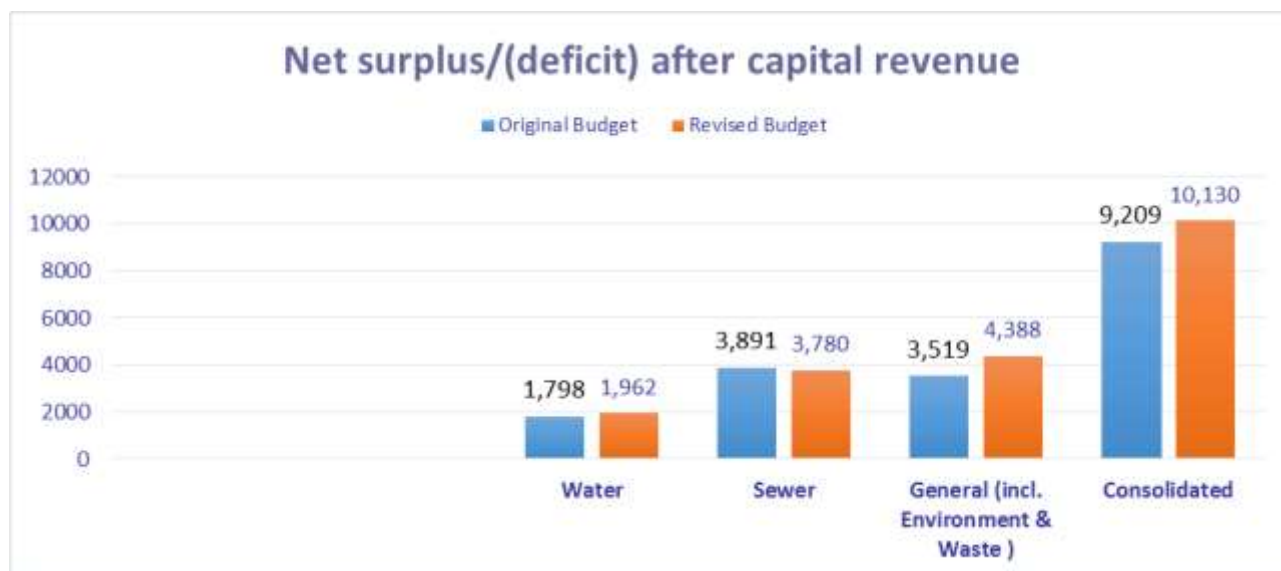
The original budgeted operating result for the consolidated entity, after allowing for capital grants and contribution, was a surplus of \$9.2 million. The revised budget incorporating the December review and requested revotes to 2016-17 is a consolidated surplus of \$10.1 million after capital revenue (per table 1.3 and graph 1.2).

*Table 1.3 – Net surplus/(deficit) after capital grants and contributions*

Net Surplus/(Deficit) after Capital Grants and Contributions					
Fund	2015/16 Original Budget '\$000	Previous Reviews '\$000	December Review '\$000	December Revotes '\$000	Annual Revised Budget '\$000
Water	1,798	20	144	0	1,962
Sewer	3,891	148	-260	0	3,780
General (incl. Environment & Waste )	3,519	-802	1,381	289	4,388
<b>Consolidated</b>	<b>9,209</b>	<b>-633</b>	<b>1,266</b>	<b>289</b>	<b>10,130</b>

**FBD16/014 BUDGET REVIEW FOR THE PERIOD ENDED 31 DECEMBER 2015 AND SIX MONTHLY PERFORMANCE REPORT E05.9535**

Graph 1.2 Net surplus/(deficit) after capital revenue



**Income and expense adjustments by Fund** (significant adjustments before capital revenue)

**General Fund**

The operating result (excluding capital revenue adjustments) is net \$0.9 million favourable. Income is net \$1.0 million favourable as a result of \$1.0 million adjustments to the current program.

Significant December quarter items are detailed below.

Income

Favourable adjustments of note:

- Receipt of grants and contributions, including Community and Recreation Services \$0.4 million, Environment Services \$0.2 million, Roads and Maritime Services \$0.4 million
- Legal fee recoveries \$0.1 million
- Recognition of full sewer dividend receivable \$0.25 million

Unfavourable adjustments of note:

- Net loss on disposal of bridge asset lost during flooding \$0.2 million
- Reduction in inspection revenues due to reinspection requirements (pool fencing inspections)

Expenditure

Expenditure has increased by \$0.16 million (including December review revotes). This increase in expenditure is significantly due to the acceptance of grants with the revenue received offsetting the increase in expenditure.

**FBD16/014 BUDGET REVIEW FOR THE PERIOD ENDED 31 DECEMBER 2015 AND SIX MONTHLY PERFORMANCE REPORT E05.9535**

**Water Fund**

Water Fund operating result (excluding capital revenue adjustments) is net \$(0.1) million unfavourable. This includes minor favourable revenue adjustments of \$0.08 million to recognise investment revenues, offset by minor contractor, legal and attribution adjustments.

**Sewer Fund**

Sewer Fund operating result (excluding capital revenue adjustments) is net \$(0.1) million unfavourable. This includes favourable revenue adjustments of \$0.2 million to recognise investment revenues, and reduced loan interest expenses, offset by recognition of an additional \$0.25 million dividend payment.

Adjustments to the original budgets, greater than \$0.05 million are detailed in the *Budget Amendment Report (Attachment 1(e))*.

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

**Capital Program**

Capital Program 2015-16					
Fund	Annual Original Budget '\$000	Previous Reviews	December Review '\$000	Dec Revotes '\$000	Annual Revised Budget '\$000
Water	3,289	282	-450	0	3,121
Sewer	11,549	535	-2,651	0	9,433
General (incl. Environment & Waste )	35,801	5,672	1,195	-6,145	36,523
<b>Consolidated</b>	<b>50,639</b>	<b>6,489</b>	<b>-1,906</b>	<b>-6,145</b>	<b>49,077</b>

There have been substantial adjustments to the capital works program for 2015-16. There are \$6.1 million of capital works being deferred to 2016-17 or later years.

The major items are:

- revised timing of the purchase and implementation of corporate software (\$2.6 million) due to the staged tender process undertaken and the delay in securing a project manager
- revised timing of new cell works at the Surfbeach Landfill site (\$3.0 million) due to delays in the finalisation of the design and tender process
- alteration of project commencement dates for the Moruya Cultural Centre (\$0.3 million) due to the delay in securing a project engineer
- revised timing of some Moruya Airport works to allow for pursuit of grant opportunities (\$0.2 million)

There has also been an additional net reduction of \$1.9 million to the capital works program due to December review adjustments. The revised timing of these projects will be reflected in the draft forward budgets that will be presented to Council in April. Adjustments to the timing of works for the planned Rosedale/Guerilla Bay sewerage scheme and the Southern Dam have been made.



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**FBD16/014 BUDGET REVIEW FOR THE PERIOD ENDED 31 DECEMBER 2015 AND E05.9535  
SIX MONTHLY PERFORMANCE REPORT**

Design delays have been experienced with the Southern Dam project and \$3.0 million of works has been moved to future years. The timing of the Rosedale/Guerilla Bay sewerage scheme has also been revised as Ministerial approval is pending; \$0.45 million of works have been moved to future year budgets.

The adjustments resulting from the revised timing of projects have been partially offset by additional capital works which predominantly result from grants and contributions received; Cadgee Bridge \$0.1 million, Surf Beach specialty waste centre \$0.2 million, Rosedale pump station \$0.15 million, and Tomakin treatment works upgrade \$0.2 million.

***Fit for the Future (FFTF) Considerations***

Council's General Fund was assessed as being FFTF based on its proposal which met all the assessment criteria by 2019-20. Some of the financial indicators did not require benchmarks to be met and only require improvement by 2019-20. Council's program aims to meet all the benchmarks within a 10 year time frame, which includes a breakeven operating result and reduction of the infrastructure backlog ratio to less than 2%. The key financial strategy is to generate an operating surplus which, once combined with dividends from Water and Sewer Funds and Southern Phone, will be transferred into an infrastructure renewal fund. The infrastructure renewal fund will finance the annual infrastructure renewal requirements and as a result, reduce the backlog. This will meet the Infrastructure and Service provision indicators. The financing of works may require topping up with external borrowings in years with significant renewal requirements.

FFTF strategies were included in the September Review and included adjustments aimed at improving the operating statement ratio. The strategy included a savings target of 0.8% of total expenses, increased commercial income of \$0.112 million and future savings in Waste Fund borrowing costs. Commercial income increases of \$0.1 million were recognised at December, whilst the savings in borrowing costs have been achieved through replacing \$3.0 million of borrowings with cash to finance a \$7.8 million Waste Fund capital program. Strategies to improve the infrastructure indicators were the creation of an infrastructure renewal fund and transfer of internal restrictions from various funds totaling \$1.7 million.

The operating performance ratio indicates Council's capacity to meet ongoing operating expenditure requirements. The FFTF benchmark is greater than, or equal to, breakeven (three year rolling average). The original budget forecast was close to a breakeven operating performance with a forecast ratio of -0.8% in 2015-16. After accounting for projects deferred from 2014-15, December review adjustments and previous reviews, the current forecast is -1.0%. This result is expected to improve over the remainder of the year and revotes at the end of the 2015-16 financial year may further improve the result.

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

Council is continuing its efforts to achieve the capital works program for 2015-16 which includes the significant renewal program funded by the special rate variation. At the end of December this program was 34% expended. This is usual given the initial design phase is generally less expensive than the actual construction undertaken.

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**FBD16/014 BUDGET REVIEW FOR THE PERIOD ENDED 31 DECEMBER 2015 AND SIX MONTHLY PERFORMANCE REPORT E05.9535**

Some points to note from this review:

- minor deferrals to the Airport works to allow Council to investigate the possibility of sourcing some additional grant funding towards the works
- alternative grant funding from National Parks and Wildlife Services towards the Holmes lookout project is being investigated. If successful in sourcing other funding the \$0.03 million of allocated SRV funds would be reallocated to other renewal works.

*Attachment 1 (f)* reports the detailed progress of the capital program showing individual project budgets and expenses to 31 December 2015.

### **Delivery Program Progress Report**

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

In line with this requirement, ongoing council service delivery, and capital programs are tracking well to deliver planned projects by the end of the financial year. The following summary represents the highlights of service delivery and completed projects for the period 1 July – 31 December 2015 structured by Community Strategic Plan focus area.

### **Liveable communities**

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

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

#### Highlights for the reporting period include:

- Our Family Day Care team celebrated 25 years of service within the community with a fun day at the park, a trip to the zoo, a disco and a dinner under the stars at SAGE gardens with our educators.
- Our Out of School Hours and Vacation Care centres continued to operate and assist working families with over 5000 occasions of care.
- The Three Bees supported playgroup project attendance numbers are exceeding targets with service now being provided to over 30 families at four playgroups across Eurobodalla. The team has also received a grant for a new vehicle with signwriting.
- Our ComPacks program is now accepting referrals to the 'Healthy at Home' program which aims to prevent clients from entering hospital. This has seen a substantial increase in referrals and demand on resources.

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**FBD16/014 BUDGET REVIEW FOR THE PERIOD ENDED 31 DECEMBER 2015 AND E05.9535  
SIX MONTHLY PERFORMANCE REPORT**

- Our Community Care team underwent a restructure to accommodate the introduction of the new Commonwealth Home Support Program and prepare for the National Disability Insurance Scheme.
- Attendance for social support programs including the Good Neighbour and Euro Social Club are already exceeding annual targets.
- Evolve catering provided employment for 6 people with a disability and provided catering to 19 events including the Granite Town festival and several corporate Christmas functions during the period.
- The Guy Street Villas supported accommodation, was officially opened by the Mayor, the Local Member The Hon. Andrew Constance MP and the Minister for Disability Services, The Hon. John Ajaka MLC.
- Our funding application to the National Stronger Regions Fund for the extension of the Moruya Library to create an Arts and Cultural hub was successful to the amount of \$500,000.
- The annual Revive Art Prize continued to grow this year with 41 entries and 351 in attendance at the exhibition. The Art Prize also received sponsorship from the Canberra Region Joint Organisation of \$4000.
- Our arts and culture team, in collaboration with the Public Art Advisory Committee, have commenced collection and collation of a public art work catalogue. The committee discussed and recommended two additional public artworks.
- Eurobodalla hosted the 2015 Youth Council Conference following a successful bid by our Youth Committee.
- We provided a range of activities for youth during the period with three skating and bike events attracting over 200 young people as well as a pool party at Moruya pool.
- The draft concept plan for Corrigan's reserve inclusive playground has been prepared in consultation with the Sunset Committee. Council has also worked with the Bay Push to install an access pathway for beach wheelchairs to Corrigan's beach.
- We were successful in obtaining grant funding to provide further sun protection at our Moruya pool. By working in partnership with the YMCA we were able to increase programming and attendance across all three of our pools. We also undertook a survey in relation to pool opening hours with 180 responses.
- Surf lifesaving services commenced during the period with an estimated 5790 people attending patrolled beaches in December. Surf lifesaving teams performed 12 rescues and 867 preventative actions.
- Our Recreation Development team worked with community and sporting groups on a range of initiatives including the monthly recreation matters email, the sports forum, attending individual user groups meetings and coordinating the rego roadshow.
- We were awarded a \$15,000 grant to deliver the Healthy Towns Challenge in partnership with Greater Southern Area Health Services.
- We provided over \$11,000 in grant funding to our community through the Healthy Communities and Seniors Week grants.
- Financial contributions were made to Rural Fire Service, NSW Fire and Rescue, State Emergency Services and local volunteer rescue services. We also worked with NSW Health to identify a new emergency helicopter site in Batemans Bay.

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**FBD16/014 BUDGET REVIEW FOR THE PERIOD ENDED 31 DECEMBER 2015 AND E05.9535  
SIX MONTHLY PERFORMANCE REPORT**

- Our Infrastructure Services team undertook advocacy for a new purpose built Emergency Operations Centre (EOC) via the NSW Governments EOC Strategic Review.
- Fire mitigation was undertaken on Council land at key risk interfaces by hand clearing, slashing, grooming and burning.

Completed capital projects for the reporting period include:

Council's Infrastructure Services team have worked hard to deliver the capital and renewal projects listed in the Operational Plan 2015-16. While many of these are in progress or near to completion this report details only those that were complete as at 31 December 2015.

- Batemans Bay Out of School Hours veranda and shade
- Apex Park Narooma Pontoon
- Tomakin boat ramp and car park
- Durras Hall recarpeting
- Tomakin Hall painting and repair
- Tomakin Hall Parking (a community and transport infrastructure project)
- Potato Point stairs (a community and transport infrastructure project)
- Kyla Hall deck extension (a community and transport infrastructure project)
- Hanging Rock Basketball Stadium Kitchen (a community and transport infrastructure project)
- Narooma Sports and Leisure renewal (a community and transport infrastructure project)
- Shore Street Moruya Shared pathway (a community and transport infrastructure project)
- Bridge Avenue Tuross Head shared pathway
- Train Street Broulee footpath

**Sustainable communities**

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

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

Highlights for the reporting period include:

- We won three major awards and a highly commended for environmental projects at the Keep NSW Beautiful Blue Star environmental sustainability awards.
  - Litter reduction category for our marine environment protection program
  - Cultural heritage category for the Wallaga Lake Cemetery project
  - Overall Coastal Sustainability Award for our environmental projects in Narooma
  - Highly commended for our community building sustainability project

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**FBD16/014 BUDGET REVIEW FOR THE PERIOD ENDED 31 DECEMBER 2015 AND E05.9535  
SIX MONTHLY PERFORMANCE REPORT**

- We also took out the 2015 Local Sustainability award, another top environmental award at the 2015 Local Government NSW Excellence in the Environment Awards. The award was presented to council in recognition of our success in embracing renewable energy and waste and water efficiency. It also acknowledged 9,000 hours of bush land management volunteer work last year, the planting of 7,000 native plants, and the installation of more than 630kW of solar power.
- We worked with the community to address the Flying Fox camp in Batemans Bay with a series of information sessions and the development and adoption of a Flying Fox Management Plan.
- The Coastal Weeds of National Significance project continued with activity from Corrigan's Beach through to Broulee Surf Club. We completed stages one and two of the Lantana pushback which covered Narooma South to Corunna Lake including Punkalla Valley and the area between Wallaga Lake Village, Akolele and Dignams Creek.
- We were successful in our funding application to the Office of Environment and Heritage to undertake updated macrophyte mapping of the Tuross Estuary system over the next two years.
- Our water systems operated effectively for the period with 100% of samples meeting Australian Drinking Water guidelines.
- Our water meter replacement program continued with over 1000 meters replaced during the period.
- We carried out a range of activities to promote water conservation and sustainable water usage including:
  - Water week activities – tap star pantomime, school water audits, display and stall at local markets, public tour of Northern Water filtration plant, saving water presentations, and a water wise shop front at River Lights and Granite Town.
  - Dirt girl world get grubby program ongoing at 18 pre-schools.
  - Insert with water bills outlining water rebates available and ways to save water in the garden.
- Our sewerage schemes operated within licence conditions.
- 3,286m of sewer main and 57 sewer junctions were relined.
- Our targeted tourist waste program operated over peak season with stickers distributed and in use by real estate agents. There is some cross over with this program and our BinTrim program which is aimed at reducing waste from construction and commercial industry. We have 121 businesses registered and action plans in development.
- We provided waste education in school environments through our Keep Australia Beautiful Environmentors program focusing on 'in the bin', lunches unwrapped, and compost critters during National Recycling week.
- We collected 22 tonnes of hazardous waste with notable decreases in the amount of water based paint, gas cylinders and batteries.
- The Draft Rural Lands Strategy was completed and reported to Council for public exhibition. Following the exhibition, proposed amendments based on community feedback were prepared and provided to the Rural Lands Steering Committee.

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**FBD16/014 BUDGET REVIEW FOR THE PERIOD ENDED 31 DECEMBER 2015 AND E05.9535  
SIX MONTHLY PERFORMANCE REPORT**

- We made submissions to Stage 2 of the NSW Coastal Management Reforms, the NSW Governments enquiry into Regional Planning, and also the enquiry into the adequacy of the regulation of short-term holiday letting in NSW.
- The Batemans Bay Regional Waterways Infrastructure Plan was completed.
- The following projects have had a change to programming and will not meet original timeframes as established in the Operational Plan 2015-16:
  - South Moruya Bio-certification project: this project will not be progressing following a lack of support shown through the initial community engagement phase.
  - Recreation and Open Space Strategy review: originally planned to be completed in June 2016, the review will now be completed in December 2016 to accommodate the finalisation of the revaluation of recreation assets.

Completed capital projects for the reporting period include:

Council's Infrastructure Services team have worked hard to deliver the capital and renewal projects listed in the Operational Plan 2015-16. While many of these are in progress or near to completion this report details only those that were complete as at 31 December 2015.

- Deep Creek Dam cathodic protection
- Water: Replacement telemetry parts
- Sewer: telemetry upgrades

**Productive communities**

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

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

Highlights for the reporting period include:

- Council's Development Assessment team processed 421 development applications during the period, with an average processing time of 20.57 days and a total value of \$67.48 million.
- In the lead up to summer Council waived the setup fee for new outdoor eating licence holders and offered three months free to both new and existing licence holders in an effort to encourage local business growth and a café culture throughout Eurobodalla.
- Council's primary advocacy document, 'Infrastructure driving the NSW economy' was updated to incorporate Australian Government boundary changes. This tool drove ongoing advocacy to support regional development initiatives such as implementation

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**FBD16/014 BUDGET REVIEW FOR THE PERIOD ENDED 31 DECEMBER 2015 AND E05.9535  
SIX MONTHLY PERFORMANCE REPORT**

of the Moruya Airport development master plan, increased mobile network coverage and indigenous economic development initiatives.

- Our Economic Development team worked with businesses and agencies to deliver a range of capacity building events including: NSW Regional Activation Forum in Batemans Bay, 11 workshops including 'Finding your profit', 'Social media', 'Sales and marketing' and 'Customer service skills'. Over 5,000 emails sent promoting these various activities resulting in 228 businesses attending.
- Our events team have worked with over 17 different groups to bring a variety of quality events to Eurobodalla for us all to enjoy. Events supported through financial and in-kind assistance include: Narooma Blues Fest, Granite Town, South Coast Camping and Holiday Show, Run for Teal marathon, Dalmeny Dash and South coast nationals. Total supported events have brought \$1.6 million into our local economy
- Our new tourism holiday guide was launched in December with 80,000 copies distributed across key areas within Australia.
- The Unspoilt South Coast NSW marketing campaign was awarded top honours at the 2015 NSW Tourism Awards. Council collaborated with Shoalhaven Council, Shellharbour Tourism, Sapphire Tourism, Kiama Tourism and Destination NSW to deliver the campaign which was the first ever 'whole-of-region' campaign.
- We continued work on the Kings Highway on behalf of Roads and Maritime Services to realign the highway at East Nelligen.
- Several road safety programs we delivered including the Narooma night bus, the Kings Highway summer campaign, and the country roads project.

Completed capital projects for the reporting period include:

Council's infrastructure services team have worked hard to deliver the capital and renewal projects listed in the Operational Plan 2015-16. While many of these are in progress or near to completion this report details only those that were complete as at 31 December 2015.

- Moruya Airport Car park upgrade (a community and transport infrastructure project)
- Moruya Pool Car park upgrade
- Gravel resheet projects:
  - Horse Island Road
  - Belowra Road, 1km from Nerrigundah
  - Corunna Sportsground Road
- Road pavement rehabilitation projects:
  - Evans Street, Tuross Head
  - Grenville Avenue, Tuross Head
  - Donnelly's Ridge Road, Moruya
  - Donnelly Drive, Moruya
  - Centenary Drive, Narooma
- Local Urban Roads - Murray Street Moruya
- Stormwater piping projects:
  - Grenville Avenue, Tuross
  - Mitchell Place, Narooma

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**FBD16/014 BUDGET REVIEW FOR THE PERIOD ENDED 31 DECEMBER 2015 AND E05.9535  
SIX MONTHLY PERFORMANCE REPORT**

**Collaborative communities**

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

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

Highlights for the reporting period include:

- Development of Council's Fit for the Future Improvement proposal. The Proposal was lodged with the Independent Pricing and Regulatory Tribunal and Eurobodalla was deemed Fit for the Future as a standalone council.
- Development and adoption of a Memorandum of Understanding (MoU) with Bega Council. This strategic partnership will achieve cooperative arrangements and establish a framework to deliver greater efficiencies and progress strategies for both Councils and their communities.
- Development of the Draft Community engagement guidelines and toolkit to guide ongoing and improved engagement with our community.
- Our organisation service review continued with a review of the internal organisational development service.
- Eurobodalla became a refugee welcome zone.
- We provided opportunities for engagement and involvement in Council decision making through:
  - Regular meet us at the markets stalls
  - Community meetings where our community set the agenda and asked the questions they wanted answered
  - Information and feedback sessions on:
    - Council swimming pool opening hours
    - Broulee planning proposal
    - Narooma Flood study
    - Rural Lands Strategy
    - Tuross Water Quality Improvement Plan
    - Flying Fox camp at Batemans Bay
  - Sports forums for clubs and community groups
  - Builders and Developers forum
  - Water quality seminar for public swimming pool operators
- We called for members on the following advisory committees:
  - Heritage Advisory Committee
  - Tourism Advisory Committee
  - Business Advisory Committee
  - Coastal and Environmental Management Advisory Committee
  - Batemans Bay Streetscape Sunset Advisory Committee



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**FBD16/014 BUDGET REVIEW FOR THE PERIOD ENDED 31 DECEMBER 2015 AND SIX MONTHLY PERFORMANCE REPORT E05.9535**

- We provided opportunities for the community to gather information and learn new skills through:
  - Workshop on using the community population tools available through Councils website
  - Demonstration for land owners on how to remove lantana
  - Celebration for National Aboriginal and Torres Strait Islander Children's Day
  - Promotion of Rural Fire Service workshops to provide feedback on the Eurobodalla Bush Fire Risk Management Plan
  - Tour of the Batemans Bay Water Filtration Plant
  - Marine Debris presentation
- Our communications team worked to increase Council radio coverage during this period. Pre-recorded news grabs and interviews about Council initiatives, services, and events were provided by subject matter experts. This enabled Council to explain complex concepts and answer detailed questions.

**Legal**

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

**Policy**

The accounting policies being used are based on the financial statements for the year ended 30 June 2015.

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

**Financial**

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

**CONCLUSION**

There are no material concerns at this quarterly review about meeting budget targets for 2015-16.

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

*As the Responsible Accounting Officer, it is my opinion that the December Quarterly Budget Review for Eurobodalla Shire Council indicates that Council's projected financial position as at 30 June 2016 will be satisfactory, having regard to the projected estimates of income and expenditure for the 2015-16 financial year.*

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**CAR16/003 MORUYA LIBRARY, ARTS AND CULTURAL HUB FUNDING**

**E16.0156**

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

Attachments: Nil

Focus Area: Liveable Communities

Delivery Program Link: L3.2 Support and deliver enhanced cultural experiences and programs

Operational Plan Link: L3.2.2 Support the conduct of exhibitions, talks, seminars, workshops and other initiatives and programs

### **EXECUTIVE SUMMARY**

Council has successfully achieved a \$500,000 grant under the National Stronger Regional Funds (NSRF) program for the Moruya Library, Arts and Cultural Hub project. The funds will be combined with a previously awarded NSW Public Library Infrastructure grant of \$200,000 and Council funding to realise a \$1 million dollar project. The expanded facility will provide significant community benefits including a versatile exhibition venue, increased library space, extra public meeting rooms and greater access to computers and digital technologies.

### **RECOMMENDATION**

THAT Council endorse the use of the Mayor's executive powers under Section 226 of the Local Government Act to approve acceptance of \$500,000 from the Australian Government's National Stronger Regional Funds to support the Moruya Library, Arts and Cultural Hub Stage One development.

### **BACKGROUND**

Council applied for National Stronger Regions Funding (NSRF) to support the expansion of the Moruya Library to include a high quality and versatile exhibition space, public meeting rooms, upgraded accessible toilet and kitchen amenities, as well as additional library facilities, taking the space from its current 345m<sup>2</sup> to 595m<sup>2</sup> (250m<sup>2</sup>).

The application was submitted in the less than \$1 million category under the funding guidelines.

The \$500,000 NSRF grant will supplement a \$200,000 NSW Public Library Infrastructure grant received in 2015 and Council funds, resulting in a \$1 million project, 70% funded via grants.

### **CONSIDERATIONS**

Stage one of the project has been scoped with key dates and milestones mapped. The development of the overall project will occur in three stages, as funds become available.

It is anticipated that the final design for stage one will be completed by the contracted architect by August 2016.

The project will provide real social and economic benefits to the community including increased employment during the construction and upon completion, additional meeting space in Moruya CBD, increased library space and digital resources for the community, exhibition space and

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**CAR16/003 MORUYA LIBRARY, ARTS AND CULTURAL HUB FUNDING**

**E16.0156**

videoconferencing and teleconferencing. The development of the hub will foster strategic goals of lifelong learning, strengthen partnerships, support the development of the arts, contribute to regional and cultural tourism, enhance access to digital technologies and build social, cultural and economic sustainability.

**Asset**

The project will increase the size of the existing library and include additional meeting places and an exhibition space. Factors relating to the depreciation and forward operational costs have been estimated for forward asset and budget planning.

**Social Impact**

Libraries are a popular communal space where people access information and acquire new knowledge and skills. This makes the Hub a natural partner for the roll out of the NBN, supporting public access to PCs, WiFi and teleconference facilities. No other facility in Moruya will offer all of these services in the one location.

The Hub will be accessible and efficient in design providing economies of scale with shared library, arts and tourist spaces.

The Hub can address disadvantage via its programs and services in particular improving digital literacy and connecting people with the means to submit applications and access online information.

Increased space for cultural and learning activities will enable targeted programming to address opportunities for youth, people with a disability, seniors and local Aboriginal people to promote cultural awareness, educational attainment and improve social cohesion. The overall expanded floor space and facilities will enable partnerships with museums, education providers and others to host outreach programs, further enhancing social wellbeing.

By combining library, community meeting and arts spaces in the one building there is much opportunity to engage the wider cross-section of the community in a range of available services/opportunities and therefore taking the Eurobodalla public library services to a new level of presence, engagement and value in the community.

**Economic Development Employment Potential**

The Hub's inclusion of arts/cultural space enables us to play a greater role in a sector that is rapidly emerging as an economic force. Arts and culture also contribute directly to the 'sense of place' which attracts both existing and potential residents and potentially investors.

The diverse elements of the Hub will provide the shire with a multi-use facility that connects people locally as well as with the wider and global community, with the support of increased publicly accessible e-resources. This has the potential to increase community access to education, lifelong learning and potentially employment opportunities.

Research shows that cultural facilities have a positive effect on local and regional economies, jobs, visitation and contribution to regional growth.

**Financial**

The Hub will provide a revenue generating opportunity via the hiring of meeting, exhibition and videoconferencing spaces.

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**CAR16/003 MORUYA LIBRARY, ARTS AND CULTURAL HUB FUNDING**

**E16.0156**

The Hub will require additional funds into the future to cover operational expenses which will be off-set by potential income streams.

**Community Engagement**

We will inform the community through providing information on Council's website; Online News; Living in Eurobodalla residents newsletter; posting on Council's Facebook and Twitter and distributing a media release.

We will involve the community throughout the development of the design and construction through drop in sessions and market booths.

**CONCLUSION**

The Moruya Library, Arts and Cultural Hub Stage One development will provide a number of benefits for the community and provide revenue opportunities for Council. The Hub development is a vibrant and exciting project that will meet a range of community needs and support the cultural development of the shire.

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## 17. 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.

### RECOMMENDATION

THAT pursuant to Section 10A of the Local Government Act, 1993 the following items on the agenda for the Ordinary Council meeting be dealt with in Closed Session for the reasons specified below:

#### **CON16/004 Property Matter**

Item CON16/004 is confidential in accordance with s10(A)(2)(di) of the Local Government Act because it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

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## EUROBODALLA SHIRE COUNCIL

### ETHICAL DECISION MAKING AND CONFLICTS OF INTEREST

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

#### ETHICAL DECISION MAKING

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

#### CONFLICT OF INTEREST

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

#### THE TEST FOR CONFLICT OF INTEREST

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

#### IDENTIFYING PROBLEMS

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

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.

<b>Acronym</b>	<b>Meaning</b>	<b>Description</b>
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.



<b>Acronym</b>	<b>Meaning</b>	<b>Description</b>
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.

<b>Acronym</b>	<b>Meaning</b>	<b>Description</b>
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.

<b>Acronym</b>	<b>Meaning</b>	<b>Description</b>
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.

<b>Acronym</b>	<b>Meaning</b>	<b>Description</b>
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.

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<b>Acronym</b>	<b>Meaning</b>	<b>Description</b>
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.