



AGENDA

Ordinary Meeting of Council

22 March 2022

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

ON TUESDAY 22 MARCH 2022

COMMENCING AT 11.00AM

AGENDA

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

- | | |
|--|-----------------|
| 1. WELCOME | |
| 2. ACKNOWLEDGEMENT OF COUNTRY | |
| 3. APOLOGIES | |
| Nil | |
| 4. CONFIRMATION OF MINUTES OF PREVIOUS MEETING | |
| 4.1 Ordinary Meeting held on 8 March 2022 | |
| 5. DECLARATIONS OF INTEREST OF MATTERS ON THE AGENDA | |
| (Declarations also to be made prior to discussions on each item) | |
| | Page No. |
| 6. MAYORAL REPORTS | |
| Nil | |
| 7. NOTICES OF MOTION | |
| NOM22/002 Universal access to early learning (Thrive by Five Campaign) | 3 |
| NOM22/003 Recognition of John Tilbrook..... | 5 |
| 8. QUESTIONS ON NOTICE FROM COUNCILLORS | |
| QON22/002 Gang Gang Cockatoo - endangered listing..... | 6 |
| 9. PETITIONS | |
| Nil | |

10. GENERAL MANAGER'S REPORTS

GMR22/024 Disclosure of Pecuniary Interest and other Matters Returns9

GMR22/025 Investments made as at 28 February 2022.....10

GMR22/026 Policy Review for Exhibition - March 202213

GMR22/027 Nomination to Gulaga National Park Board of Management.....18

11. PLANNING AND SUSTAINABILITY REPORTS

PSR22/003 Draft Development Contributions Plans 202227

PSR22/004 Agritourism Reforms.....32

PSR22/005 Reimbursement of Waste Disposal Fees - South Coast Donations
Logistics.....44

PSR22/006 Temporary Accommodation - Bushfire Affected Properties46

12. INFRASTRUCTURE REPORTS

Nil

13. COMMUNITY, ARTS AND RECREATION REPORTS

Nil

14. DELEGATE REPORT

15. URGENT BUSINESS

16. DEALING WITH MATTERS IN CLOSED SESSION.....50

17. CONFIDENTIAL MATTERS

**DR CATHERINE DALE
GENERAL MANAGER**

NOM22/002 UNIVERSAL ACCESS TO EARLY LEARNING (THRIVE BY FIVE CAMPAIGN)

S012-T00026

Responsible Officer: Alison Worthington - Councillor

Attachments: Nil

Councillor Alison Worthington has given notice that at the Ordinary Meeting of Council on 22 March 2022, she will move the following motion.

MOTION

THAT Council:

1. Endorse the Thrive by Five campaign to support high-quality, universally accessible and affordable early learning and childcare.
2. Formally advise Local Government NSW and the Australian Local Government Association, that Council has endorsed the Thrive by Five campaign and supports the Associations in their involvement in the campaign.
3. Write to Prime Minister Scott Morrison, the Leader of the Opposition Anthony Albanese, the Minister for Education and Youth Alan Tudge, the Shadow Minister for Early Childhood Education and Youth Amanda Rishworth, and to our local Federal Members of Parliament Kristy McBain and Fiona Phillips seeking bipartisan support for the campaign's objectives.
4. Endorse the distribution and display of the Thrive by Five information on Council premises related to children's services, as well as involvement in any relevant actions arising from the initiative.

BACKGROUND

Local government plays an important role in early childhood. Eurobodalla Shire is one of many Australian councils providing children's services themselves.

The cost of childcare has risen faster than the cost of housing or electricity. A family with two kids in childcare can spend up to \$25,000 a year in childcare costs. This has a systemic impact on women's workforce engagement and financial security.

The early years are critical for lifelong learning and well-being.

UNESCO says "Early childhood care and education (ECCE) is more than preparation for primary school. It aims at the holistic development of a child's social, emotional, cognitive and physical needs in order to build a solid and broad foundation for lifelong learning and wellbeing. ECCE has the possibility to nurture caring, capable and responsible future citizens."

Access to quality early childhood education is a significant predictor of schooling success. In Eurobodalla 23% of children start school with one or more developmental vulnerabilities. It's clear the system is not providing for all children and families.

Early Childhood Education and Care (ECEC) services locally are facing huge challenges and it's no wonder - the amount invested in childcare by governments in Australia is significantly lower than comparable countries.

The Thrive by five campaign requests the National Cabinet implement five key actions to reform the early learning and childcare system to establish a universal, affordable, high quality early learning system. The five actions are:

**NOM22/002 UNIVERSAL ACCESS TO EARLY LEARNING (THRIVE BY FIVE
CAMPAIGN)**

**S012-
T00026**

1. Agree to a new national agreement to deliver universal three-year-old preschool across the country to match the partnership agreement in place for four-year-old preschool.
2. Lift the childcare subsidy to 95% for all children and set agreed fee caps.
3. Make the childcare subsidy available to all children regardless of the setting and the income or work status of the parents.
4. Start workforce planning for a universal system and fund appropriate pay and conditions for educators to end the problem of skill shortages, high vacancy rates and high staff turnover rates across the sector.
5. To achieve these outcomes, we ask that early education and childcare become a part of the National Cabinet reform agenda to deal with the complexities of the system and build a true national universal system.

By endorsing this campaign, our council will be joining councils and families across Australia to show there is widespread support for changes to the early learning and childcare system.

Further background reading can be found at:

Sources:

[Thrive by Five](#)

[Early Education Matters from the Department of Education NSW](#)

[UNESCO on Early Childhood Education](#)

[APH on Universal access to early childhood education: a quick guide](#)

NOM22/003 RECOGNITION OF JOHN TILBROOK

S012-T00025

Responsible Officer: Tanja Dannock - Councillor

Attachments: Nil

Councillor Tanja Dannock has given notice that at the Ordinary Meeting of Council on Tuesday 22 March 2022, she will move the following motion.

MOTION

THAT:

1. Council recognise John Tilbrook for his tireless work on behalf of and for the residents of Tuross Head over many years (as a senior officeholder and Secretary of the Tuross Head Progress Association) by way of incorporating John's outstanding contribution on the plaque that commemorates the opening of the Bus Shelter.
2. The plaque be designed and preferably crafted within the community.
3. The plaque would be affixed to the Tuross Head Intersection Bus Shelter.

BACKGROUND

(Major) John Tilbrook has for many years been a committed and determined advocate for his community at Tuross Head and for the betterment of its amenity and quality of environment. His achievements are too many to list but amongst the most notable are his:

- leading role in championing further protections for the community's much-loved Heritage Grazing Lands, as recognised in Hansard's record of proceedings of Federal Parliament, and
- almost singlehanded and ultimately successful advocacy for the funding of urgently-needed safety improvements to the Tuross Head Highway Intersection, followed by the safe Bus Stop and Shelter and Parking facilities which will also service visitors and tourists.

These improvements would not have happened without his dedication and determination, which are an example to all of us outside of and within Council. Our community and, indeed, Council owe him a very great debt of gratitude.

For Councillors' information, it is my intention to propose that Council explore options to further recognise the many community members who have dedicated themselves to helping others within our community.

It is only because of the community that Council exists.

It is important, therefore, that individuals within our community who go that extra mile be appropriately recognised.

QON22/002 GANG GANG COCKATOO - ENDANGERED LISTING

S010-T00003

Responsible Officer: Dr Catherine Dale - General Manager

Attachments: Nil

The following question on notice was received from Councillor Mayne:

Question

In light of the recent Commonwealth Environment Protection and Biodiversity Conservation Act listing of the Gang-gang Cockatoo as endangered what role does Council currently have in helping protect these birds, including the protection of habitat trees in current and future development sites?

Response

Council is already required to consider the Gang-gang Cockatoo as it is listed as a Threatened Species in NSW.

This recent listing as Endangered by the Australian Government will not significantly change Council operations regarding development assessments and Council works. It is hoped that the listing may provide funding and education on the species and assist landholders and managers to aid the potential recovery of the Gang-gang Cockatoo.

1. Development Assessments

As a consent authority, Council determines development applications under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to which the Biodiversity Offsets Scheme (BOS) applies.

Council is required to consider Threatened Species in accordance with NSW legislation, *EP&A Act* (s.4.15) and *Biodiversity Conservation Act 2016* (Part 7). The Gang-gang Cockatoo is already listed as a Threatened Species in NSW under the *Biodiversity Conservation Act* (BC Act) – [Gang-gang Cockatoo - profile | NSW Environment, Energy and Science](#), therefore they are considered in biodiversity assessments for Part 4 or Part 5 activities in accordance with BC Act requirements (Part 7).

The Australian Government, *Environment Protection and Biodiversity Conservation Act 1999* (EPBC) will be an additional consideration.

Section 7.2 of the BC Act states that a development will ‘significantly affect threatened species’ if:

- a. it is likely to significantly affect threatened species or ecological communities, or their habitats, according to the test in section 7.3, or
- b. the development exceeds the biodiversity offsets scheme threshold if the biodiversity offsets scheme applies to the impacts of the development on biodiversity values, or
- c. it is carried out in a declared area of outstanding biodiversity value

The BC Act requires a Biodiversity Development Assessment Report (BDAR), prepared by an accredited assessor, to be submitted with a development application when the Biodiversity Offset Scheme applies. The consent authority will determine the development application having regard to the BDAR.

QON22/002 GANG GANG COCKATOO - ENDANGERED LISTING

S010-T00003

The BDAR will support the consent authority to make key decisions in determining a development application, including whether:

- impacts on biodiversity values have been avoided, minimised and mitigated to the satisfaction of the consent authority
- impacts are serious and irreversible
- to impose the credit requirement returned by the BDAR or increase or reduce the requirement

The accredited assessor, often an ecologist, is required to consider updates to the Threatened and Endangered Species list as part of any biodiversity assessment, including the recent listing of the Gang-gang Cockatoo.

The EPBC Act will be an additional consideration. For example, if a proposed action (e.g. development or activity) will have or is likely to have, a significant impact on a Matter of National Environmental Significance (e.g. threatened species listed under the EPBC Act), referral to the Australian Government (Department of Environment) may be required.

Biodiversity certified land in Broulee identifies areas that can be developed without the usual requirement for site-by-site biodiversity assessment under Part 7 – “Biodiversity assessment and approvals under Planning Act” of the NSW Biodiversity Conservation Act 2016. The Broulee Biodiversity Certification Order identifies measures to offset the impacts of development to allow for this land to be Biodiversity Certified. The offsets have been created and includes land between Broulee and the Moruya Airport. The Biodiversity Certification Strategy includes consideration of Gang-gang Cockatoos and includes them in the offsets requirements.

Council is not required to consider threatened species listed under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 as part of the assessment of a development application in accordance with the NSW Environmental Planning and Assessment Act 1979. The proponent of a development is responsible for considering the likelihood of a significant impact to Commonwealth listed threatened species.

2. Council Works -Assessments

Council is required to consider similar requirements as above regarding Threatened and Endangered Species. If there are any Threatened/Endangered Species present within a potential works area, the first step would be to engage an ecologist/specialist to conduct a test of ecological significance and report on the outcome. Findings/recommendations and or mitigation measures within this report would be added to the Review of Environmental Factors for reference and action.

3. Natural Resource Management, Gang-gang Nesting Tube Project

Since October 2021, Council has been implementing the grant funded project - *Trialling of Gang-gang Cockatoo Nesting Tubes*. Council has been working with some of Australia's leading nesting box and Gang-gang Cockatoo experts. The Eurobodalla project is being implemented at the same time as the Canberra Gang-gang nesting tube project. Both projects have been

QON22/002 GANG GANG COCKATOO - ENDANGERED LISTING

S010-T00003

working in collaboration and are the only locations in Australia that are trialling the nesting tubes for Gang-gang Cockatoos.

To date, Gang-gang Cockatoos have not successfully bred in artificial nesting hollows. The nesting tubes have been adapted from the successful Carnaby Cockatoo project.

Since the commencement of this project, a designated email address has been set up to collate all Gang-gang sightings. The project has been promoted through various media outlets and has encouraged the community to inform us of their sightings.

The nesting box expert has been following up on all sightings and has undertaken both structured and unstructured surveys in locations across our Shire. This extensive work has determined the nesting tube installation locations.

The 30 nesting tubes were built with the assistance of experts, Council staff and volunteers. They have been installed in 'hotspots' across the Eurobodalla, with the remaining nine nesting tubes to be installed. Expertise is also being sought from Canberra on the project.

Monitoring information will be gathered for the next three years. This information will be shared with all relevant organisations and used to determine whether the project has been successful and whether these tubes are a good conservation tool.

[Eurobodalla nesting box program | Eurobodalla Council website \(nsw.gov.au\)](#) as a pilot program, installed 30 nesting boxes in 10 very specific locations to determine if Gang-gang cockatoos will use the purpose-built nesting tubes to breed.

Media release - [Gang up to save special cockatoo | Eurobodalla Council website \(nsw.gov.au\)](#)

RECOMMENDATION

THAT the response to the question regarding the endangered listing of the Gang-gang Cocktaoo raised by Councillor Mayne be received and noted.

**GMR22/024 DISCLOSURE OF PECUNIARY INTEREST AND OTHER MATTERS
RETURNS**

**S012-T00031,
S021-T00004**

Responsible Officer: Dr Catherine Dale - General Manager

Attachments: Nil

Outcome: Innovative and Proactive Leadership

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

Delivery Program Link: 9.1.2 Implement effective governance

Operational Plan Link: 9.1.2.3 Assist the Council in meeting its statutory obligations and roles

EXECUTIVE SUMMARY

In accordance with part 4, clause 4.21 of the *Model Code of Conduct*, councillors are required to lodge a "Disclosures of Pecuniary Interest and Other Matters Return" with the General Manager within 3 months of becoming a councillor.

Accordingly, the Disclosure of Pecuniary Interest and Other Matters returns for Councillors are tabled.

RECOMMENDATION

THAT the report on the Disclosure of Pecuniary Interest and Other Matters returns be received and noted.

BACKGROUND

A councillor must make and lodge with the general manager a return in the form set out in Schedule 2 of the *Model Code of Conduct*, disclosing the councillor's interests as specified in schedule 1 of this code within 3 months after becoming a councillor.

CONSIDERATIONS

Legal

The lodgement and tabling of Pecuniary Interest and Other Matters return is required to comply with part 4, clauses 4.21 and 4.26 of the *Model Code of Conduct*.

CONCLUSION

The register of returns by Councillors for their disclosures of pecuniary interests and other matters is now tabled in accordance with part 4, clause 4.26 of the *Model Code of Conduct*.

GMR22/025 INVESTMENTS MADE AS AT 28 FEBRUARY 2022

**S011-T00006,
S012-T00025**

Responsible Officer: Dr Catherine Dale - General Manager
Attachments: Nil
Outcome: 9 Innovative and Proactive Leadership
Focus Area: 9.2 Ensure financial sustainability and support the organisation in achieving efficient ongoing operations
Delivery Program Link: 9.2.4 Responsibly manage Council's finances and maintain Fit for the Future status
Operational Plan Link: 9.2.4.2 Provide financial management and reporting

EXECUTIVE SUMMARY

The purpose of this report is to:

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

RECOMMENDATION

THAT the certification of investments as at 28 February 2022, made in accordance with the *Local Government Act 1993*, Council's Investment Policy and the provision of Clause 1 (Reg. 212) of the *Local Government (General) Regulation 2005*, be received.

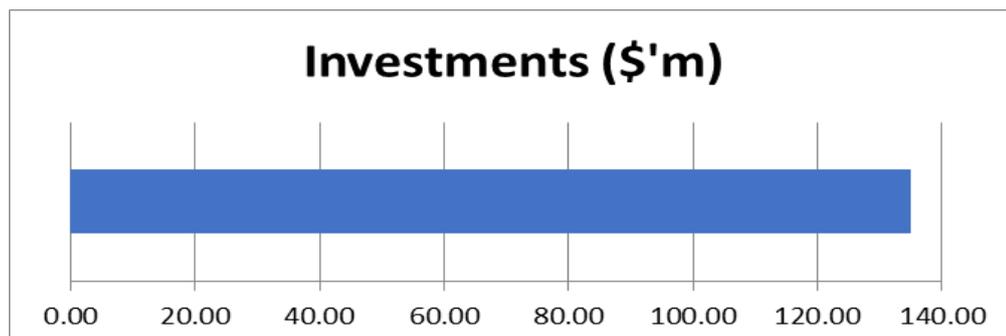
CONSIDERATIONS

Policy

The portfolio is compliant with Council's investment policy adopted by Council on 31 July 2018 (Minute 18/182).

Financial

Council investing overall



GMR22/025 INVESTMENTS MADE AS AT 28 FEBRUARY 2022

**S011-T00006,
S012-T00025**

Council has \$135.14M (100%) invested in bank deposits. The bank deposits are held in banks rated A or greater, or covered by the AAA rated Government guarantee, except for \$36.50M invested in banks rated below A, and in the 'some limited risk' category of the policy.

Investments increased by \$3.0M during February 2022 due to normal variations in timing of cashflow.

The 'some limited risk' category is now restricted to BBB+ rating institutions which allows up to 30% of all investments. Currently there is 27.01% invested in BBB+ rating category. Investment in Government guaranteed deposits is \$1.75M representing 1.29% of the portfolio.

There are \$49.0M (36.26%) of funds invested in claimed fossil fuel free institutions.

The weighted average return for all investments for the month is 0.42%, which is above the Council policy benchmark of bank bill swap rate (BBSW) + 0.25% (0.32%).

Summary investment information

The following table is a summary of investment categories and balances at month end.

CATEGORY	(\$)
At call deposit	12,885,809
Term deposits	120,500,000
Term deposits Government guaranteed	1,750,000
	135,135,809
<i>Weighted average interest %:</i>	0.42%
<i>Average 90 day BBSW + 0.25%</i>	0.32%

Policy and liquidity risk

The investment policy is divided into two risk categories of credit risk (risk of ultimately not being able to redeem funds) and liquidity risk (risk of loss due to the need to redeem funds earlier than the investment term). Our investments comply with the risk policy as shown in the following table.

Policy risk	Low liquidity risk %	Total % of investments	Policy risk % (max holdings)
Remote risk	1.29	1.29	100.00
Near risk free	71.70	71.70	100.00
Some limited risk (BBB+)	27.01	27.01	30.00

GMR22/025 INVESTMENTS MADE AS AT 28 FEBRUARY 2022

**S011-T00006,
S012-T00025**

Grand total	100.00	100.00	
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The unrestricted current ratio is the amount of unrestricted current assets compared to each dollar of current liability. The Office of Local Government suggests a minimum 1.5:1, and the audited unrestricted current ratio as at 30 June 2021 is 2.43:1. Council therefore has approximately \$2.43 of current assets for each \$1 of current liabilities.

CONCLUSION

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

GMR22/026 POLICY REVIEW FOR EXHIBITION - MARCH 2022

S004-T00060

Responsible Officer: Dr Catherine Dale - General Manager
Attachments: 1. Under Separate Cover - Policy Review - March 2022
Outcome: 9 Innovative and Proactive Leadership
Focus Area: 9.1 Provide strong leadership and work in partnership to strategically plan for the future and progress towards the community vision
Delivery Program Link: 9.1.2 Implement effective governance
Operational Plan Link: 9.1.2.4 Review Council policies

EXECUTIVE SUMMARY

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

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

- Section 223 (1)(e) Role of governing body – 'to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council'.
- Section 232 (1)(f) The role of a councillor – 'to uphold and represent accurately the policies and decisions of the governing body'.

The following policies have been reviewed.

- Collection Domestic Waste Bins
- Collection Litter Bins
- Community Gardens
- Competitive Provision of Services
- Compliance
- Conservation of the Yellow-Bellied Glider in the Broulee Area
- Copper Chrome Arsenate (CCA) Management
- Councillor Professional Development, Expenses and Facilities Policy
- Creative Arts Services Policy

The draft policies are recommended to be placed on public exhibition before being presented to Council for adoption.

RECOMMENDATION

THAT

1. Council places the following draft policies for the purposes of public consultation for a period of 28 days:

GMR22/026 POLICY REVIEW FOR EXHIBITION - MARCH 2022

**S004-
T00060**

- (a) Collection Domestic Waste Bins
 - (b) Collection Litter Bins
 - (c) Community Gardens
 - (d) Competitive Provision of Services
 - (e) Compliance
 - (f) Conservation of the Yellow-Bellied Glider in the Broulee Area
 - (g) Copper Chrome Arsenate (CCA) Management
 - (h) Councillor Professional Development, Expenses and Facilities Policy
 - (i) Creative Arts Services Policy
2. Following the expiration of this period, the draft policy and any public submissions be presented back to Council for consideration.

BACKGROUND

Collection Domestic Waste Bins

This policy defines the size of waste bins allocated by Council for domestic waste collection services, promotes awareness of domestic waste services to the community and ensures compliance with legislative requirements.

Collection Litter Bins

Littering of public places is managed by providing litter bins. Litter bins have been provided at sports grounds, foreshore locations, parks, town and villages centres to ensure compliance with the requirements of the Protection of the *Environment Operations Act 1997*.

Community Gardens

The purpose of this policy is to outline Council's position on community gardens and to clarify the roles of Council and community groups who are interested in establishing community gardens on Council owned or managed land within the Eurobodalla Shire.

This policy applies to Council owned community land as classified under the Act and Council managed Crown land. In accordance with the Act and the *State Environmental Planning Policy (Infrastructure) 2007*, development consent is not required for community gardens on community land.

A licence agreement must first be established between Council and the eligible community group for the purpose of establishing and operating a community garden on community land. The community group is responsible for all costs related to the community garden and Council approval is required for any structures proposed to be placed on site, including rainwater tanks, sheds, fencing, etc.

Competitive Provision of Services

This policy outlines Council's position on the competitive provision of services. Council will continually strive to deliver services to our community that provide value for money on a

GMR22/026 POLICY REVIEW FOR EXHIBITION - MARCH 2022

**S004-
T00060**

quadruple bottom line basis. This policy seeks to balance the cost of service provision with the social and economic costs of the method of delivery.

Council will continue to strive to improve the level of service delivered to its customers through undertaking service level reviews, benchmarking, continuous improvement and where practicable, Regional/State procurement of services e.g. electricity purchase, borrowing arrangements.

Compliance

The purpose of this policy is to provide a structure for consistency and transparency in decision making, and to facilitate a balanced approach to compliance and enforcement activities for which Council is responsible. It is also intended to assist Council staff to act promptly, effectively and consistently in response to allegations of unlawful activity.

This policy outlines matters to be considered at the various stages of the enforcement process from the receipt and investigation of reports alleging unlawful activity, through to what enforcement option Council will choose and whether to commence criminal or civil proceedings.

This policy is guided by the Ombudsman's Model Compliance Policy, the Independent Commission Against Corruption and reviewed against the Environment Protection Authority and other council's policies.

Conservation of the Yellow-Bellied Glider in the Broulee Area

The Conservation of the Yellow-bellied Glider in the Broulee Area policy was developed in conjunction with the National Parks and Wildlife Service and first adopted by Council in 2002. The purpose of the policy is to provide clarity and certainty to developers applying to undertake development or activities in the Broulee area and to facilitate sensitive development without significant impact on the Yellow-bellied Glider or its habitat.

The policy outlines the circumstances under which a proponent would not be required to undertake a Species Impact Statement in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* and the *Threatened Species Conservation Act 1995*.

The Policy requires that the Office of Environment and Heritage agree to any changes to the policy.

Copper Chrome Arsenate (CCA) Management

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

This Policy clarifies Copper Chrome Arsenate (CCA) Management within Council controlled lands.

Councillor Professional Development, Expenses and Facilities Policy

Council must comply with the provisions of Section 252 of the *Local Government Act 1993*, and adopt a policy concerning the payment of expenses incurred or to be incurred by, and the

GMR22/026 POLICY REVIEW FOR EXHIBITION - MARCH 2022

**S004-
T00060**

provision of facilities to, the Mayor and Councillors in relation to discharging the functions of civic office. It also must comply with Office of Local Government's (OLG) Guidelines for the payment of expenses and provision of facilities for mayors and councillors in NSW.

Councillor expenses and facilities policies should allow for councillors to receive adequate and reasonable expenses and facilities to enable them to carry out their civic duties as elected representatives of their local communities.

Creative Arts Services Policy

This policy is designed to position the role of creative arts as instrumental to engaging communities, cultivating new industries, celebrating, promoting and developing the Eurobodalla's distinctive characteristics, economy and reputation as a strong and vibrant community.

CONSIDERATIONS

Collection Domestic Waste Bins

The policy has been reviewed and no substantive changes are recommended at this time, apart from minor referencing updates.

Collection Litter Bins

The policy has been reviewed and no substantive changes are recommended at this time, apart from minor referencing updates.

Community Gardens

The policy has been reviewed and some minor changes are recommended at this time. These include clarification regarding funding responsibilities, Council responsibilities to reflect the range of Council staff involved in supporting this policy, and minor referencing updates. The detailed requirements listed in the policy and supporting Code of Practice in establishing community gardens is to ensure that community groups carefully consider the sustainability of managing and maintaining a community garden before entering into licence agreements with Council.

Competitive Provision of Services

Council will comply with the *Local Government Act 1993* (Section 8) including the guiding principles for councils.

The policy has been reviewed and no substantive changes are recommended at this time, apart from minor referencing updates.

Compliance

The main changes to the documents have been the inclusions of the following in the policy:

- Added clause 3.4: compliance and enforcement principles and dot points.
- Added clause 7: shared enforcement responsibilities and bullet points.
- Added clause 8: role of Council where there is private certifier and dot points.
- Added clause 9: neighbourhood disputes and dot points.

GMR22/026 POLICY REVIEW FOR EXHIBITION - MARCH 2022

**S004-
T00060**

Conservation of the Yellow-Bellied Glider in the Broulee Area

The policy has been reviewed and no substantive changes are recommended at this time, apart from minor referencing updates.

Copper Chrome Arsenate (CCA) Management

Eurobodalla Shire Council will comply with the *Agriculture & Veterinary Chemicals (Administration) Act 1992*.

The policy has been reviewed and no substantive changes are recommended at this time, apart from minor referencing updates.

Councillor Professional Development, Expenses and Facilities Policy

As per Australian Tax Office guidelines, the following amounts have been changed.

Breakfast: \$29.20

Lunch: \$32.85

Dinner: \$56.00

Accommodation: \$198.00

Creative Arts Services Policy

The policy has been reviewed and no substantive changes are recommended at this time, apart from minor referencing updates.

Community Engagement

Council will place the draft policies on public exhibition for a period of not less than 28 days commencing on 23 March 2022 until 19 April 2022 on Council's website at <https://www.esc.nsw.gov.au/council/have-your-say/public-exhibition>

We encourage people to review the plan via our website. Any specific requests for hard copies can be made through the executive services team on 4474 1022.

CONCLUSION

The draft policies should be publicly exhibited for 28 days. At the end of the public exhibition period, the draft policies will be presented to Council for consideration to adopt, along with a report to consider any submissions received during the exhibition period.

**GMR22/027 NOMINATION TO GULAGA NATIONAL PARK BOARD OF
MANAGEMENT**

S012-T00025

Responsible Officer: Dr Catherine Dale - General Manager

Attachments: 1. Fit to work form

Outcome: Innovative and Proactive Leadership

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

Delivery Program Link: 9.1.3 Advocate and collaborate to advance the region and address local issues

Operational Plan Link: 9.1.3.1 Actively participate in a Joint Organisation

EXECUTIVE SUMMARY

The purpose of this report is to nominate a local government representative and alternative representative to the Gulaga National Park Board of Management.

The Gulaga Board is a statutory decision maker for the Gulaga National Park and is responsible for approving budgets and supervising expenditure of funds under section 71AO of the National Parks and Wildlife Act 1974. As part of the Gulaga lease agreement the Eurobodalla Shire Council has representation on the Board.

The Gulaga Board is responsible for the care, control and management of Gulaga National Park. The Board manages the Parks through the development of strategic documents and policies, including the development of this Plan of Management, annual budgets, staffing strategies, operational plans such as fire plans and policies.

RECOMMENDATION

THAT:

1. Council nominate a Councillor and alternative Councillor for appointment to the Gulaga National Park Board of Management.
2. The term of appointment be for this term of Council.

BACKGROUND

Council recently received correspondence on behalf of the NSW Government inviting Council to nominate candidates for consideration as a member and deputy member for the Gulaga National Park Board of Management.

The Gulaga Board is made up of thirteen (13) Members.

Seven (7) are Aboriginal Owners, forming the majority. T

The remaining six (6) positions are for:

- i. Two representatives of Local Aboriginal Land Councils. For the Gulaga Board, these are the Wagonga and Merrimans Local Aboriginal Land Councils;
- ii. An elected Councillor of the Eurobodalla Shire Council
- iii. The Regional Manager of NPWS;

**GMR22/027 NOMINATION TO GULAGA NATIONAL PARK BOARD OF
MANAGEMENT**

**S012-
T00025**

- iv. A person nominated by a group concerned in the conservation of the region; and
- v. A person appointed on the nomination of a person who owns or leases land adjoining or in the vicinity of the Parks.

There are three (3) main principles that guide the work of the Boards. Through the Lease Agreements (Clause 4.2), the Boards have agreed:

- i. To recognise Yuin peoples' cultural values and the special significance of the Lands to the Yuin people;
- ii. That Gulaga National Park form part of a single cultural landscape and that their management is coordinated to reflect this cultural link; and
- iii. To consider nature conservation values and that these values form an integral part of the cultural values of the Lands to the Yuin people.

The Boards meet at least four times each financial year. Two of these meetings are joint meetings of both Gulaga and Biamanga Boards.

The Boards have developed protocols and procedures with a governance structure to guide how they go about their Board business.

Recognising that Gulaga and Biamanga National Parks form part of a single cultural landscape, the Boards seek to coordinate and work together.

CONSIDERATIONS

The Plan of Management Yuin Bangguri (Mountain) Parks incorporating Gulaga National Park and Biamanga National Park can be found at:

<https://www.environment.nsw.gov.au/research-and-publications/publications-search/yuin-bangguri-mountain-parks-plan-of-management>

This Plan is the main document in the Boards' management of the Mountains. The Plan governs all activities by all people in the National Park, including the Boards of Management and the National Parks and Wildlife Service (NPWS). The Boards' decisions must comply with this Plan of Management.

The Boards are responsible for the care, control and management of Gulaga and Biamanga National Parks. The Boards manage the Parks through the development of strategic documents and policies, including the development of this Plan of Management, annual budgets, staffing strategies, operational plans such as fire plans and policies.

The decisions of the Board are implemented by the NPWS Regional Manager who gives appropriate instruction to relevant NPWS officers. The Central Area of the NPWS Far South Coast Region carries out the day to day management of the Parks as directed by the Regional Manager.

The NSW Government is also committed to increasing the representation of women, Aboriginal people, people of non-English speaking backgrounds and young people aged between 18 and 25 on government boards and committees. Nominations in these categories are highly valued.

**GMR22/027 NOMINATION TO GULAGA NATIONAL PARK BOARD OF
MANAGEMENT**

**S012-
T00025**

The nominations must provide a resume and complete the fit to work form (attached) and provide four forms of identification.

CONCLUSION

The Gulaga Board is responsible for the care, control and management of Gulaga National Park. Under the Plan of Management, Eurobodalla Shire Council has a Councillor representative nominated to this Board. This report seeks appointment of a member and deputy member for the Board for this Council term.



STAFF-IN-CONFIDENCE (WHEN COMPLETED)
NATIONAL POLICE CHECKING SERVICE (NPCS)
APPLICATION/CONSENT FORM
(ACCREDITED ORGANISATION - CUSTOMERS)

SECTION 2: PROOF OF IDENTITY

When applying for a national police history check it is necessary for you to verify your identity in line with Australia's National Identity Security Strategy. To achieve this, you must at a minimum:

- provide four (4) documents
- all four (4) documents cannot be drawn from a single category
- it is strongly recommended to try and use a document from each category

In combination, your documents must include your full name, date of birth, and a photograph

Commencement of identity documents

- (a) full **Australian birth certificate** (not an extract or birth card)
- (b) current **Australian passport** (not expired)
- (c) **Australian visa** current at time of entry to Australia as a resident or tourist
- (d) ImmiCard issued by Department of Home Affairs (previously the Department of Immigration and Border Protection) that enables the cardholder to prove their and/or migration status and enroll in services
- (e) **certificate of identity** issued by Department of Foreign Affairs and Trade (DFAT) to refugees and non-Australian citizens for entry to Australia
- (f) **document of identity** issued by DFAT to Australian citizens or persons who have the nationality of a Commonwealth country for travel purposes
- (g) certificate of **evidence of resident status**.

Primary use in the community documents

- (a) current **Australian drivers licence**, learner permit or provisional licence issued by a state or territory, showing a signature and/or photo and the same name claimed
- (b) **Australian marriage certificate** issued by a state or territory (church or celebrant-issued certificates are not accepted)
- (c) current **passport** issued by a country other than Australia with a valid entry stamp or visa
- (d) current **proof of age** or **photo identity card** issued by an Australian Government agency in the name of the applicant, with a signature and photo
- (e) current **shooters** or **firearms licence** showing a signature and photo (not minor or junior permit or licence)
- (f) for persons under 18 years of age with no other Primary Use in Community Documents, a current **student identification card** with a signature or photo.

Secondary use in the community documents

- (a) **certificate of identity** issued by DFAT
- (b) **document of identity** issued by DFAT
- (c) **convention travel document secondary** (United Nations) issued by DFAT
- (d) **foreign government issued documents** (for example, drivers licence)
- (e) **Medicare card**
- (f) **enrolment with the Australian Electoral Commission**
- (g) **security guard or crowd control photo licence**
- (h) **evidence of right to an Australian government benefit (Centrelink or Veterans' Affairs)**
- (i) **consular photo identity card** issued by DFAT
- (j) **photo identity card** issued to an officer by a police force
- (k) **photo identity card** issued by the Australian Defence Force
- (l) **photo identity card** issued by the Australian Government or a state or territory government
- (m) **Aviation Security Identification Card**
- (n) **Maritime Security Identification card**
- (o) **credit reference check**
- (q) **Australian secondary student photo identity document**
- (r) certified **academic transcript** from an Australian university
- (s) **trusted referees report**
- (t) **bank card**
- (u) **credit card**

Please note that it is an Australian Criminal Intelligence Commission (ACIC) requirement of fit2work to link identity documents to you as an individual as a part of application process. To do so, it may be necessary to require additional documents to be uploaded as well as make all enquiries necessary to satisfy this requirement.

fit2work is required, and will report any suspicion of identity fraud detected on the platform to the relevant Australian Police Service and the ACIC.

Applications must be made by the individual for whom the check is sought, or somebody authorised to make the application on the applicant's behalf (e.g. parent, guardian or authorised agent). The link between identity documents and the applicant must still be satisfied by fit2work.

Applicants are only required to provide identity documents for their primary name, not for any previously known names.

If identity documents are provided using a former name (e.g. maiden name) evidence of the name change must be provided **in addition** to the minimum four (4) identity documents.

If you have a legitimate reason prohibiting you from meeting these verification of identity requirements, **special provisions** can be used to verify your identity.

If this applies to you please go to <https://www.fit2work.com.au/Documents/General/IdRequirements.pdf> , or [click here](#).



STAFF-IN-CONFIDENCE (WHEN COMPLETED)
NATIONAL POLICE CHECKING SERVICE (NPCS)
APPLICATION/CONSENT FORM
(ACCREDITED ORGANISATION - CUSTOMERS)

SECTION 3: ACCREDITED ORGANISATION DETAILS

Accredited Organisation Equifax Australasia Workforce Solutions Pty Limited t/a fit2work.com.au
ABN: 86 080 799 720

SECTION 4: AUTHORISATION TO DISCLOSE PERSONAL INFORMATION

Is the result of the national police history check to be forwarded/disclosed only to the accredited agency named in Section 3 above? Yes No
If No: I authorise the result of the national police history check to be forwarded/disclosed to the following employer/organisation:

Employer/Organisation Department of Planning & Environment
ABN: 30841387271

SECTION 5: PURPOSE OF THE NATIONAL POLICE HISTORY CHECK

Provide details of relevant position/entitlement, place of work and whether you have contact with vulnerable groups. e.g. Client Services Officer in a call centre, Janitor at a school, Nurse in aged care facility with direct care of disabled & aged persons or Flight Attendant with direct care of children). />

Purpose/Description of Duties _____



STAFF-IN-CONFIDENCE (WHEN COMPLETED)
 NATIONAL POLICE CHECKING SERVICE (NPCS)
 APPLICATION/CONSENT FORM
 (ACCREDITED ORGANISATION - CUSTOMERS)

SECTION 6: CONSENT TO OBTAIN PERSONAL INFORMATION

National Police History Check

I, _____ hereby:
 Given Names (Current) _____ Family Name(Current) _____

1. acknowledge that I have read the General Information sheet and understand that Spent Convictions legislation (however described) in the Commonwealth and many States and Territories protects "spent convictions" from disclosure;
2. understand that the national police history check for which I am applying may be in a category for which exclusions from Spent Convictions legislation may apply;
3. have fully completed this Form, and the personal information I have provided in it relates to me, contains my full name and all names previously used by me, and is correct;
4. acknowledge that the provision of false or misleading information is a serious offence;
5. acknowledge that the Accredited Organisation named in Section 3 of this form is collecting information in this Form to provide to the Australian Criminal Intelligence Commission (ACIC) and the Australian police agencies;
6. consent to:
 - i. the Australian Criminal Intelligence Commission (ACIC) disclosing personal information about me to the Australian police agencies;
 - ii. the Australian police agencies disclosing to the Australian Criminal Intelligence Commission (ACIC), from their records, details of convictions and outstanding charges, including findings of guilt or the acceptance of a plea of guilty by a court, that can be disclosed in accordance with the laws of the Commonwealth, States and Territories and, in the absence of any laws governing the disclosure of this information, disclosing in accordance with the policies of the police service concerned;
 - iii. the Australian Criminal Intelligence Commission (ACIC) providing the information disclosed by the Australian police agencies to the Accredited Organisation named in Section 3 of this form, in accordance with the laws of the Commonwealth; and
 - iv. where applicable, the Accredited Organisation named in Section 3 of this form disclosing to the employer/organisation named in Section 4 of this form personal information about me to assess my suitability in relation to my employment/entitlement; and
7. acknowledge that any information provided by me on this Form, relates specifically to the purpose identified in Section 5 of this form;
8. acknowledge that any information provided by the Australian police agencies or the Australian Criminal Intelligence Commission (ACIC), relates specifically to the purpose identified in Section 5 of this form;
9. Acknowledge that any information sent, by mail or electronically, in relation to this form, including any identity documents, is sent at my own risk and I am aware of the consequences of these methods of lodgement;
10. acknowledge that personal information that I provide in this Form may be disclosed to the Accredited Organisation named in Section 3 of this form (including contracts or related bodies corporate) located in Australia or overseas for administrative purposes;
11. acknowledge that it is usual practice for an applicant's personal information to be disclosed to Australian police services for them to use for their respective law enforcement purposes including the investigation of any outstanding criminal offences;
12. understand that I may dispute the Police History Information contained within my National Police History Check by contacting the Accredited Organisation in the first instance;
13. acknowledge that the Accredited Organisation is Equifax Australasia Workforce Solutions Pty Limited t/a fit2work.com.au and the Privacy Officer can be contacted on 1300 525 525 or via mail to Equifax Australasia Workforce Solutions Pty Limited Privacy Officer, 119 Cecil St South Melbourne VIC 3025; and
14. understand that the ACIC Privacy Officer can be contacted on (02) 6268 7000 or privacy@ACIC.gov.au or GPO Box 1573 Canberra City ACT 2601.

Note: The information you provide on this form, and which the Australian Criminal Intelligence Commission (ACIC) provides to the Accredited Organisation named in Section 3 of this form, on receipt of the form, will be used only for the purpose stated above unless statutory obligations require otherwise.

Applicant's Signature: _____ Date: ___/___/___

Parent/Guardian Consent - If you are under 18 years of age provide consent below from a parent /guardian.

Parent/Guardian Signature _____ Date: ___/___/___ Parent/Guardian name printed in full _____

Office Use

Check Urgency: Normal Urgent Type of Check: Employee Volunteer

Vulnerable People check Yes No

(Select YES for Vulnerable People clearance if the applicant's employment or volunteer role involves care for children, aged persons, persons with a physical or intellectual disability or mental illness)

Applicant Role: _____ Other Info: _____

Department: _____ Supervisor: _____



STAFF-IN-CONFIDENCE (WHEN COMPLETED)
NATIONAL POLICE CHECKING SERVICE (NPCS)
APPLICATION/CONSENT FORM
(ACCREDITED ORGANISATION - CUSTOMERS)

GENERAL INFORMATION

GENERAL INFORMATION

This Form is used as part of the assessment process to determine whether a person is suitable for employment or other engagement for work or other entitlements. Unless statutory obligations require otherwise, the information provided on this Form will not be used without your prior consent for any purpose other than in relation to the assessment of your suitability. You may be required to complete another consent form in the future in relation to employment in other positions.

NATIONAL POLICE HISTORY CHECK

A national police history check is an integral part of the assessment of your suitability. You should note that the existence of a record does not mean that you will be assessed automatically as being unsuitable. Each case will be assessed on its merit, so it is in your interest to provide full and frank details in the Form. Information extracted from this Form will be forwarded to the Australian Criminal Intelligence Commission (ACIC) and other Australian police agencies¹ for checking action. By signing this Form you are consenting to these agencies accessing their records to obtain and disclose police history information that relates to you to:

- a) the Accredited Agency named in Section 3 above; and
- b) where applicable the employer/organisation named in Section 4 above.

Police history information may include outstanding charges, and criminal convictions/findings of guilt recorded against you that may be disclosed according to the laws of the relevant jurisdiction and, in the absence of any laws governing the release of that information, according to the relevant jurisdiction's information release policy.

SPENT CONVICTIONS SCHEMES

The following information is provided as general guidance and is not exhaustive. The aim of Spent Convictions legislation² is to prevent discrimination on the basis of certain previous convictions. Spent convictions legislation limits the use and disclosure of older, less serious convictions and findings of guilt. Spent convictions of specific offences will be released where the check is required for certain purposes regardless of how old the convictions are. Each Australian police agency will apply the relevant Spent Convictions legislation/information release policy prior to disclosure. If further information or clarification is required please contact the individual police agencies directly for further information about their release policies and any legislation that affects them.

Commonwealth

Part VIIC of the Crimes Act 1914 (Cth) deals with aspects of the collection, use and disclosure of old conviction information. The main element of this law is a "Spent Convictions Scheme". The aim of the Scheme is to prevent discrimination on the basis of certain previous convictions, once a waiting period (usually 10 years) has passed and provided the individual has not re-offended during this period. The Scheme also covers situations where an individual has had a conviction "quashed" or has been "pardoned". A "spent conviction" is a conviction of a Commonwealth, Territory, State or foreign offence that satisfies all of the following conditions:

- it is 10 years since the date of the conviction (or 5 years for juvenile offenders); AND
- the individual was not sentenced to imprisonment or was not sentenced to imprisonment for more than 30 months; AND
- the individual has not re-offended during the 10 years (5 years for juvenile offenders) waiting period; AND
- a statutory or prescribed exclusion does not apply. (A full list of exclusions is available from the Office of the Australian Information Commissioner).

The law affects Commonwealth authorities in the following ways:

- a person with a conviction protected by Part VIIC does not have to disclose that conviction to any person, including a Commonwealth authority, unless an exclusion applies;
- Commonwealth authorities are prohibited from accessing, disclosing or taking into account spent convictions of Commonwealth offences.

Part VIIC and Crimes Regulations 1990 provide for "statutory" or "regulatory" exclusions that will prevent certain Commonwealth convictions from being spent in certain circumstances.

Queensland

Under Queensland's Criminal Law (Rehabilitation of Offenders) Act 1986 a convict automatically becomes spent upon completion of the prescribed (rehabilitation) period. This period is:

- 10 years for indictable offences where the offender was an adult at the time of conviction; and
- 5 years for other (summary offences or where the offender was a juvenile).

Where a person is convicted of a subsequent offence (an offence other than a simple regulatory offence) during the rehabilitation period, the period runs from the date of that subsequent conviction. Convictions where the offender is sentenced to more than 30 months imprisonment (whether or not that sentence is suspended) are excluded from the regime. Once the rehabilitation period has expired, it is lawful for a person to deny (include under oath) that the person has been convicted of the offence, and the conviction may be disregarded for occupational licensing purposes (subject to certain exceptions, see below). It is unlawful for any person to disclose the conviction unless:

- the convicted person consents;
- the Minister has granted a permit authorising disclosure (where there is a legitimate and sufficient purpose for disclosing);
- the disclosure is subject to an exemption.

Victoria Police

For the purposes of employment, voluntary work or occupational licensing/registrars police may restrict the release of a person's police record according to the Victorian Police "Information Release Policy". If you have a police record the "Information Release Policy" may take into account the age of the police record and the purpose for which the information is being released. If 10 years have elapsed since you were found guilty of an offence, police will, in most instances, advise that you have a disclosable court outcome. However, a record over 10 years may be released if:

- it includes a term of imprisonment longer than 30 months;
- it includes a serious, violent or sexual offence and the check is for the purpose of working with children, elderly people or disabled people;
- it is in the interests of crime prevention or public safety.

Findings of guilt without conviction and good behaviour bonds may be released. Rec charges or outstanding matters under investigation that have not yet gone to court may also be released.

New South Wales

In New South Wales the Criminal Records Act 1991 (NSW) governs the effect of a person's conviction for a relatively minor offence if the person completes a period of crime-free behaviour, and makes provision with respect to quashed convictions and pardons. A "quashed" conviction is a conviction that has been set aside by the Court. A "pardon" means a free and absolute pardon that has been granted to a person because he/she was wrongly convicted of a Commonwealth, Territory, State or foreign offence. In relation to NSW convictions, a conviction generally becomes a "spent conviction" if a person has had a 10 year crime-free period from the date of the conviction. However, certain convictions may not become spent. These include:

- where a prison sentence of more than 6 months has been imposed (periodic or house detention is not considered a prison sentence);
- convictions against companies and other corporate bodies; (iii) sexual offences pursuant to the Criminal Records Act 1991; and
- convictions prescribed by the Regulations

¹Australian Federal Police, The New South Wales Police Force, Victoria Police, Queensland Police Service, South Australia Police, Western Australia Police, Tasmania Police Service, Northern Territory Police Force.

²Applicable spent conviction legislation, as amended from time to time.



STAFF-IN-CONFIDENCE (WHEN COMPLETED)
NATIONAL POLICE CHECKING SERVICE (NPCS)
APPLICATION/CONSENT FORM

BACKGROUND EMPLOYMENT CHECKS

GENERAL INFORMATION (continued)

Tasmania

Under the Annulled Convictions Act 2003 (Tas) a conviction is annulled upon completion of the prescribed period of good behaviour. This period is:

- (i) 10 years where the offender was an adult at the time of conviction; or
- (ii) 5 years where the offender was a juvenile at the time of conviction.

A person is taken to be of good behaviour for the required period if, during that period, he or she is not convicted of an offence punishable by a term of imprisonment. If the person is so convicted, the qualifying period (for the original offence) starts to run from the date of the subsequent conviction. A subsequent traffic conviction is only taken into account for prior traffic offences (except more serious traffic offences which cause injury or death).

Only "minor" convictions can become annulled. A minor conviction is a conviction other than one for which a sentence of imprisonment of more than 6 months is imposed, a conviction for a sexual offence or a prescribed conviction. A minor conviction is also annulled if the offence ceases to be an offence.

Once an offence is annulled the convicted person is not required to disclose any information concerning the spent conviction. Any question concerning criminal history is taken only to apply to unspent convictions, and references in Acts or statutory instruments to convictions or character or fitness do not include spent convictions. An annulled conviction or the non-disclosure of the annulled conviction is not grounds for refusing the person any appointment, post, status or privilege or revoking any appointment, post, status or privilege.

- (i) a person is not required to disclose the existence of the conviction;
- (ii) questions relating to convictions and a person's criminal record will be taken only to apply to unspent convictions;
- (iii) it is unlawful for another person to disclose the existence of a spent conviction except as authorised by the Act;
- (iv) spent convictions are not to be taken account in making decisions about the convicted person's character or fitness.

South Australia

Release of information on a National Police Check is governed by the South Australian Spent Convictions Act 2009. It is an offence to release information regarding the convictions of a person if those convictions are deemed to be 'spent' under the Act.

A spent conviction is one that cannot be disclosed or taken into consideration for any purpose. Eligible convictions become spent following a 10-year conviction and proven offence-free period for adults, and a 5-year conviction and proven offence-free period for juveniles.

The Act defines a conviction as:

- i). a formal finding of guilt by a Court;
- ii). a finding by a Court that an offence has been proved.

Certain convictions can never be spent. These include but are not limited to:

- i). convictions of sex offences;
- ii). convictions where a sentence is imposed of more than 12 months imprisonment for an adult, or 24 months imprisonment for a juvenile.

Schedule 1 of the Act sets out a number of exceptions to the rule where spent convictions can be released. Some examples of this include:

- i). the care of children;
- ii). the care of vulnerable people (including the aged and persons with a disability, illness or impairment);
- iii). activities associated with statutory character tests for licensing

Interstate offences are released in accordance with that State or Territory's spent conviction / rehabilitation legislation and policy. Intelligence-type information is not released.

Western Australia

Under the provisions of Section 7(1) of the Spent Convictions Act 1988 (WA) only "lesser convictions" can be spent by Western Australia Police, after a time period of 10 years plus any term of imprisonment that may have been imposed. A lesser conviction is one for which imprisonment of 12 months or less, or a fine of less than \$15,000 was imposed.

All other convictions, such as "serious convictions" applicable under Section 6 of the Act can only be spent by applying to the District Court. At the time of sentencing, the Court may make a "spent conviction order" under the Sentencing Act 1995 (WA) that the conviction is a spent conviction for the purposes of the Spent Convictions Act 1988 (WA).

Australian Capital Territory

Generally, under the Spent Convictions Act 2000 (ACT), a conviction becomes spent automatically at the completion of the prescribed (crime-free) period. This period is:

- (i) 10 years for convictions recorded as an adult; or
- (ii) 5 years for convictions recorded as a juvenile.

The period begins to run from the date a sentence of imprisonment is completed, where no sentence of imprisonment is imposed, from the date of conviction. A person must not be subject to a control order or convicted of an offence punishable imprisonment during this period. If a person is convicted of an offence, which v committed in the crime-free period, but the conviction is not incurred until after crime-free period, the spent conviction may be revived and will not become spent again until the offender has achieved the relevant crime-free period in respect of the offence.

The effect of conviction becoming spent is that:

- (i) the convicted person is not required to disclose any information concerning the spent conviction;
- (ii) any question concerning criminal history is taken only to apply to unspent convictions;
- (iii) references in Acts or statutory instruments to convictions or character or fitness does not include spent convictions, and it is an offence to disclose information regarding spent convictions;
- (iv) it is unlawful for a person who has access to a person's criminal record held by public authority to disclose a spent conviction;
- (v) it is unlawful for a person to fraudulently or dishonestly obtain information about spent conviction from records kept by a public authority.

Northern Territory

Under the Criminal Records (Spent Convictions) Act 1992 (NT), a conviction becomes spent automatically (in the case of an adult or juvenile offender convicted in a Juver Court) and by application to the Police Commissioner (in the case of a juvenile convicted in an adult court) upon completion of the prescribed period. The prescribed period is:

- (i) 10 years for offences committed while an adult; and
- (ii) 5 years for offences committed as a juvenile

The period starts on completion of any sentence of imprisonment. A subsequent traffic conviction is only taken into account for prior traffic offences (except more serious traffic offences which cause injury or death). Once a conviction becomes spent:

- (i) a person is not required to disclose the existence of the conviction;
- (ii) questions relating to convictions and a person's criminal record will be taken only apply to unspent convictions;
- (iii) it is unlawful for another person to disclose the existence of a spent conviction except as authorised by the Act;
- (iv) spent convictions are not to be taken account in making decisions about convicted person's character or fitness.

PROVISION OF FALSE OR MISLEADING INFORMATION

You are asked to certify that the personal information you have provided on this form correct. If it is subsequently discovered, for example as a result of a check of police records, that you have provided false or misleading information, you may be assessed as unsuitable.

It is a serious offence to provide false or misleading information

PSR22/003 DRAFT DEVELOPMENT CONTRIBUTIONS PLANS 2022

OP0050

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

Attachments: 1. Under Separate Cover - Eurobodalla Local Infrastructure Contributions Plan 2022
2. Under Separate Cover - Eurobodalla s7.12 Contributions Plan 2022

Outcome: 6 Responsible and Balanced Development

Focus Area: 6.1 Plan for growth and encourage increased investment and development outcomes

Delivery Program Link: 6.1.2 Review and prepare planning strategies, policies and studies

Operational Plan Link: 6.1.2.3 Continue to review Infrastructure Contributions Plans

EXECUTIVE SUMMARY

The purpose of this report is to inform councillors that a review of Council's current contributions plans has resulted in two new draft contributions plans (attached):

- Draft Eurobodalla Local Infrastructure Contributions Plan 2022 - See Attachment 1
- Draft Eurobodalla s7.12 Contributions Plan 2022 – See Attachment 2

Council's endorsement to publicly exhibit the draft contributions plans for a minimum period of 28 days is now sought.

Development contribution plans allow Council to collect payments from developers to Council for the provision of public infrastructure. The contributions help Council to provide public amenities and services to meet the increased demands on infrastructure created by the new development. A contributions plan identifies the contribution amount and the projects they will help fund.

The draft contributions plans:

- are a funding source for growth related infrastructure
- are updated versions of Council's current plans
- fund infrastructure works identified in Council adopted strategies and plans
- increase contribution rates compared to Council's current plans due to increased construction costs and the greater number of infrastructure projects now in the plans.

The draft contributions plans are ready to be placed on public exhibition for a minimum of 28 days. Council would consider submissions and adoption of the draft Eurobodalla Local Infrastructure Contributions Plan 2022 and the draft Eurobodalla s7.12 Contributions Plan 2022 at a future Council meeting.

PSR22/003 DRAFT DEVELOPMENT CONTRIBUTIONS PLANS 2022

OP0050

RECOMMENDATION

THAT:

1. Council endorse the public exhibition of the draft Eurobodalla Local Infrastructure Contributions Plan 2022 and the draft Eurobodalla s7.12 Contributions Plan 2022, for a minimum period of 28 days.
2. Following public exhibition, a further report be submitted to Council for the consideration of submissions and adoption of the draft Eurobodalla Local Infrastructure Contributions Plan 2022 and the draft Eurobodalla s7.12 Contributions Plan 2022.

BACKGROUND

What are Development Contributions Plans?

Development contributions are payments made by developers to Council for the provision of public infrastructure. They are levied on any developer including those who subdivide residential land, construct a second dwelling or build non-residential development.

The contributions allow Council to provide public amenities and services to meet the increased demands on infrastructure created by the new development; these include shared pathways, libraries, recreation facilities and roads.

Whilst development contributions form a part of how Council funds infrastructure works, most infrastructure funding still needs to be found from other Council funds or available government grants.

What kinds of contributions are there?

Contributions authorised by Section 7.11 of the *Environment Planning & Assessment Act 1979* (EP&A Act) are levied to fund projects that cater to increased population growth. The contributions partially fund infrastructure directly related to the development including open space, local roads, community facilities and cycleways. Section 7.11 was previously known as section 94.

An alternative to s7.11 contributions are contributions authorised by Section 7.12 of the *EP&A Act*. They are levied to fund projects that may not directly relate to the development. Section 7.12 was previously known as section 94A.

What plans are currently in place?

Contribution plans currently in force in the Eurobodalla are:

- Eurobodalla Local Infrastructure Contributions Plan 2012 which levies for open space and recreation facilities, community facilities, roads and pathways.
- Eurobodalla Section 94 Development Contributions Plan 2000 – 2005 which levies for carparking, specific local roads and waste disposal.
- Eurobodalla Section 94 Contributions Plan - Rural Roads which levies for roads in discrete rural residential catchments.
- Eurobodalla s94A Levy Contributions Plan 2007 which levies for stormwater drainage, bus shelters, streetscaping and other infrastructure projects not directly related to population growth.

PSR22/003 DRAFT DEVELOPMENT CONTRIBUTIONS PLANS 2022

OP0050

Changes to the *EP&A Act* replaced s94 and s94A with s7.11 and s7.12. The draft s7.12 plan would replace the s94A Levy Contributions Plan while the draft s7.11 plan would replace all existing s94 plans in one consolidated plan.

CONSIDERATIONS

Council engaged GLN Planning, a firm highly experienced in the field of contributions plans, to conduct a review of Council's contributions plans. The review resulted in the development of two new draft Contributions Plans (attached):

- Draft Eurobodalla Local Infrastructure Contributions Plan 2022 (under s7.11)
- Draft Eurobodalla s7.12 Contributions Plan 2022

The criteria used to inform the development of the draft contributions plans were:

- All works included in the draft plans need to be identified in a Council adopted strategic plan, strategy, or study.
- Only works that can be attributable to growth in population and development can be included in a s.7.11 works schedule.

The infrastructure works in the draft plans are grouped into project types being:

- Open Space and Recreation
- Community and Cultural Facilities
- Shared Pathways and Footpaths
- Arterial Roads
- Marine Works
- Plans

Contribution plans specify what infrastructure will be provided and approximately how much it will cost. This is used to calculate a contribution rate. Section 7.12 plans are charged as a percentage of the estimated cost of the development. The maximum percentage that can be charged in most areas is 1% which remains consistent with current plan.

The draft Eurobodalla Local Infrastructure Contributions Plan 2022 under s7.11 of the *EP&A Act* proposes to increase current development contributions, per lot or additional dwelling, compared to current contributions as shown in Table 1. The increase is required to cover the significantly increased construction costs and the greater number of infrastructure projects now in the plans.

PSR22/003 DRAFT DEVELOPMENT CONTRIBUTIONS PLANS 2022

OP0050

Table 1: Draft increases in s7.11 infrastructure contributions across the Eurobodalla Shire. Districts are shown on page 5 of the draft Eurobodalla Local Infrastructure Contributions Plan 2022

	Northern District	Central District	Southern District
Current Plans	\$5,534	\$5,439	\$5,812
Draft Plan	\$7,578	\$6,519	\$6,862
\$ Increase	\$2,044	\$1,080	\$1,050

The new contributions rates are modest when compared with many NSW councils whose contributions range up to \$20,000 or \$30,000 per lot or dwelling. Further, they should be seen in the context of Council's recent reduction of approximately \$5,000 of development contributions for water headworks payable under s64 of the *Local Government Act 1993*.

Legal

The draft plans comply with the requirements of Part 7, Division 7.1 Development contributions of the *EP&A Act 1979* and Part 4 Development contributions of the Environmental Planning and Assessment Regulation 2000.

Asset

The draft contributions plans will assist in the funding of local infrastructure together with Council rate income and grants.

Social Impact

The draft plans support the implementation of infrastructure identified in Council's strategies and plans including:

- Recreation and Open Space Strategy
- Creative Arts Strategy
- Library Strategic Plan
- Pathways Strategy
- Batemans Bay Waterfront Masterplan and Activation Strategy
- Northern Area of Eurobodalla Shire Traffic Study
- Batemans Bay traffic and Transport Study
- Road Safety Plan

These strategies lead to liveable communities that have opportunities for connections, active transport and cultural experiences.

Financial

Contributions help fund infrastructure to serve the community. They will need to be matched by other Council funds and any available Government grants.

PSR22/003 DRAFT DEVELOPMENT CONTRIBUTIONS PLANS 2022

OP0050

Community and Stakeholder Engagement

We will inform the community through providing information on Council's website and advertising on Council's noticeboard page in the local newspaper.

We will consult with the community by seeking feedback through a 28-day Public Exhibition, during which the following documents will be on Council's website:

- Draft Eurobodalla Local Infrastructure Contributions Plan 2022
- Draft Eurobodalla s7.12 Contributions Plan 2022.

CONCLUSION

The review of Council's contributions plans has resulted in the development of two new draft Contributions Plans (attached):

- Draft Eurobodalla Local Infrastructure Contributions Plan 2022
- Draft Eurobodalla s7.12 Contributions Plan 2022

Council's endorsement to publicly exhibit the draft contributions plans for a minimum of 28 days, is sought.

Following the submission period, a report will be presented to Council in which any submissions received during public exhibition will be considered and a recommendation to adopt the draft Eurobodalla Local Infrastructure Contributions Plan 2022 and the draft Eurobodalla s7.12 Contributions Plan 2022 will be sought.

PSR22/004 AGRITOURISM REFORMS

**S007-T00029;
S013-T00003**

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

Attachments: 1. Standard instrument, LEP and Amendment

Outcome: 6 Responsible and Balanced Development

Focus Area: 6.1 Plan for growth and encourage increased investment and development outcomes

Delivery Program Link: 6.1.2 Review and prepare planning strategies, policies and studies

Operational Plan Link: 6.1.2.1 Ongoing review and update of planning controls

EXECUTIVE SUMMARY

The purpose of this report is to advise Council that the NSW Government is undertaking reforms to the planning system to streamline the approval of agritourism development and small-scale agricultural development. The reforms include changes to the NSW Standard Instrument Principal Local Environmental Plan (LEP) that incorporates new land uses, updated definitions, and new controls (see Attachment 1). These changes are automatically introduced into the Eurobodalla Local Environmental Plan (ELEP) 2012.

Some proposed controls are optional and Council can decide whether to adopt these into the ELEP. Council can also decide which zones the proposed new land uses would be permitted in.

Based on the above, the proposed changes to the ELEP will include:

- Agritourism (including farm gate premises and farm experience premises) as permitted with consent in rural zones
- Optional Clause 5.24 Farm Stay Accommodation, to limit:
 - the gross floor area of buildings to 60 square metres
 - the maximum number of guests to 20 persons
 - the number of moveable dwellings to 6
- Optional Clause 5.23 Farm Gate Premises to limit:
 - the gross floor area of buildings to 200 square metres
 - the maximum number of persons to 50

The recommended changes to the ELEP will help deliver on relevant objectives in Council's key strategic documents including the Eurobodalla Destination Action Plan, the Rural Lands Strategy and the Local Strategic Planning Statement (LSPS) and would allow more opportunities for primary producers to diversify their income. If Council endorse the proposed changes, the NSW Government will make the changes to the ELEP via an amending State Environmental Planning Policy (SEPP). This will mean Eurobodalla Council does not have to undertake a planning proposal.

PSR22/004 AGRITOURISM REFORMS

**S007-T00029;
S013-T00003**

RECOMMENDATION

THAT:

1. Council endorse the following changes to the Eurobodalla Local Environmental Plan 2012:
 - (a) Introduce the optional clause 5.23 Farm Stay Accommodation to limit:
 - (i) the gross floor area of buildings to 60 m²
 - (ii) the maximum number of guests to 20 persons
 - (iii) the number of moveable dwellings to 6
 - (b) Introduce the optional clause 5.24 Farm Gate Premises
 - (i) the gross floor area of buildings to 200m²
 - (ii) the maximum number of persons to 50
 - (c) Include Agritourism as permitted with consent in the following zones:
 - (i) RU1 Primary Production
 - (ii) RU4 Primary Production Small Lots
2. Following Council's resolution to endorse changes to the Eurobodalla Local Environmental Plan 2012, Council advise the NSW Department of Planning and Environment.

BACKGROUND

The NSW Government is undertaking reforms to the NSW planning system to streamline the approval of agritourism development and small-scale agricultural development. The reforms apply only where the existing main use of the land is the production of agricultural/primary production of goods for commercial purposes.

The purpose of these proposed reforms is to:

- Support investment in farms seeking supplementary incomes through other uses on the land
- Facilitate a simple and streamlined approach to gaining approval for uses supplementary to primary production
- Support farmers during times of hardship and following disaster events
- Reduce land use conflict

To facilitate the reforms, the NSW Government will make changes to the Standard Instrument Principal LEP through the attached draft Standard Instrument LEP Agritourism Amendment Order (LEP Order). Council cannot change the wording in the Standard Instrument Principal LEP.

The proposed changes Standard Instrument Principal LEP include:

- Amending the definition for farm stay accommodation to support more farm stays
- Introducing two new land use terms to support agritourism, farm gate premises and farm experience premises

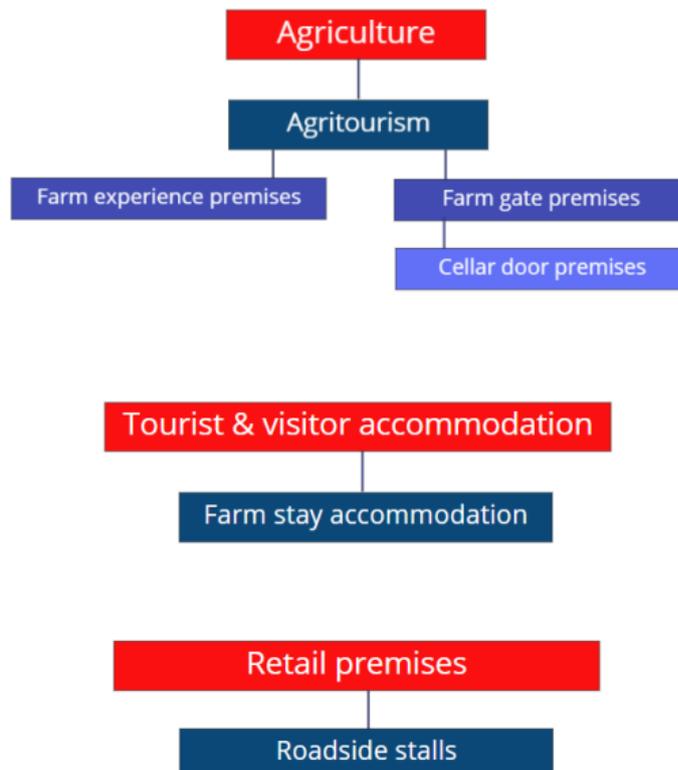
PSR22/004 AGRITOURISM REFORMS

**S007-T00029;
S013-T00003**

- Introducing optional clauses for farm stay accommodation and farm gate premises to ensure development is small scale
- Moving the land use for cellar door premises to become a subset of farm gate premises and agritourism rather than a retail premises

The hierarchy of land uses shown in Figure 1 illustrate how the new agritourism land uses are a subset of agriculture. Cellar door premises is being moved from being a subset of retail premises, to a subset of farm gate premises. Roadside stalls will continue to be a subset of retail premises and will continue to be permitted with consent on rural zoned land. Farm stay accommodation will continue to be permitted with consent on rural zoned land, and wherever tourist and visitor accommodation is permitted with consent in the ELEP.

Figure 1: Hierarchy of land uses.



PSR22/004 AGRITOURISM REFORMS

**S007-T00029;
S013-T00003**

Council can choose whether to adopt the optional clauses into the ELEP and which zones the new land uses would be permitted in. The optional clauses include nominating a limit to control the following for farm gate premises and farm stay accommodation:

- the guest numbers
- the size of floor areas
- the number of moveable dwellings.

CONSIDERATIONS

Determine which zones to allow agritourism

Including agritourism and/or farm stay accommodation as permitted with consent on rural zoned land in the Eurobodalla LEP will mean:

- Agritourism developments can only be undertaken on land that is a registered primary production business or which is rated 'farmland' by the Council under the *Local Government Act 1993*.
- These types of developments require a development application.

Council can decide which zones the new land uses would be permitted in, in the ELEP. The most appropriate zones agritourism, farm gate premises and farm experience premises are where Agriculture is permitted with consent. In Eurobodalla, this is RU1 Primary Production and RU4 Primary Production Small Lots.

Cellar door premises and farm stay accommodation will continue to be permitted in land use zones in which they are currently permitted and will also be permitted where agriculture, agritourism or farm gate premises are permitted i.e., land zoned RU1 Primary Production and RU4 Primary Production Small Lots. Farm stay accommodation is already permitted with consent in these zones.

If changes are not made to the ELEP to include Agritourism uses as permitted with consent on rural zoned land, it would limit opportunities for farm gate premises and farm gate experience developments on farms. However, similar uses are already permitted on rural zoned land eg restaurants and functions centres which would continue to be permitted with consent.

Optional clauses

Council can decide whether to adopt optional clauses 5.23 Farm Stay Accommodation and/or 5.24 Farm Gate Premises. The draft wording for these optional clauses is attached and cannot be changed, however Council can decide what limits to gross floor area, maximum number of guests and number of moveable dwellings would be applied. Adopting the optional clauses would:

- Assist in delivering Eurobodalla's strategic planning to facilitate opportunities for primary producers to diversify their income and provide tourism product
- Minimise impacts on the environment and local scenic character consistent with Council's Nature Based Tourism Feasibility Study
- Ensure farm gate premises remain ancillary to the principal use of the land

PSR22/004 AGRITOURISM REFORMS

**S007-T00029;
S013-T00003**

- Mitigate potential noise impacts on neighbouring properties
- Limit pressure on existing infrastructure e.g., roads, onsite wastewater and sewerage systems
- Provide certainty for proponents about the nature and scale of these types of development that would be permitted with consent

The limits proposed to be included in the optional clauses for the ELEP are shown in the excerpts from each clause below. The numbers in bold are the only part of these clauses that Council can change, and the full clauses are provided in the attached draft Standard Instrument LEP Agritourism Amendment Order (LEP Order).

5.23 Farm stay accommodation [optional]

- (b) the gross floor area of a building used to accommodate guests will not be more than **60** square meters, and*
- (c) the maximum number of guests accommodated in moveable dwellings on the landholding will not be more than **20** at any 1 time, and*
- (d) the maximum number of moveable dwellings used for the accommodation of guests will not be more than **6***

5.24 Farm gate premises [optional]

- (2) Development consent must not be granted to development for the purposes of farm gate premises on a landholding unless the consent authority is satisfied that—*
 - (a) the gross floor area of a building used for farm gate premises will not be more than **200** square metres, and*
 - (b) the maximum number of persons that will be permitted on the landholding at any 1 time for the purposes of the farm gate premises will not be more **50** persons*

If changes are not made to the ELEP to include the optional clause to control farm stay accommodation and farm gate premises on farms, these types of developments would still be permitted with consent and assessed on merit. The optional clauses provide guidance to both develop assessors and landowners about the nature and scale of the development. This provides greater certainty about what is expected and ensure development minimises impacts on the environment and local scenic character.

Legal

The NSW Government are amending the Standard Instrument LEP via the attached draft Standard Instrument LEP Agritourism Amendment Order (LEP Order).

If Councillors endorse the proposed changes to the ELEP, the NSW Government will make the changes via an amending State Environmental Planning Policy (SEPP). This will mean Eurobodalla Council does not have to undertake a planning proposal to adopt the optional clauses later.

PSR22/004 AGRITOURISM REFORMS

**S007-T00029;
S013-T00003**

Environmental

The proposed changes provide guidance to ensure agritourism developments have minimal impacts on the environment. Council endorsement of agritourism to become permitted in rural zones and the optional clauses, supports agritourism activities that are small scale with low impacts to the environment.

Economic Development Employment Potential

Including agritourism as permitted with consent in rural zones, would help diversify income for primary producers. It increases economic resilience to better recover from natural disasters by providing opportunities for sustainable tourism activities on rural land.

Community and Stakeholder Engagement

In 2021 the NSW Government exhibited the Explanation of Intended Effect (EIE) for agritourism and small-scale agriculture development from 9 March to 19 April 2021 and received 239 submissions from across NSW. Council staff provided a submission supporting changes that provide more opportunities for primary producers to diversify their income because it aligns with Council's adopted Rural Lands Strategy, Destination Action Plan and Local Strategic Planning Statement.

CONCLUSION

The NSW Government is undertaking reforms to the planning system to streamline the approval of agritourism development and small-scale agricultural development. Council can decide whether to adopt the optional clauses and/or which zones new land uses would be permitted in, in the ELEP.

The recommended changes to the ELEP will help deliver on relevant objectives in Council's key strategic documents including the Eurobodalla Destination Action Plan, the Rural Lands Strategy and the Local Strategic Planning Statement (LSPS) and would allow more opportunities for primary producers to diversify their income.

If Council endorse the proposed changes, the NSW Government will make the changes to the ELEP via an amending State Environmental Planning Policy (SEPP). This will mean Eurobodalla Council does not have to undertake a planning proposal.

draft



Standard Instrument (Local Environmental Plans) Amendment (Agritourism) Order 2021

under the

Environmental Planning and Assessment Act 1979

The following local environmental plan is made by the local plan-making authority under the *Environmental Planning and Assessment Act 1979*.

.....

DRAFT

draft

Standard Instrument (Local Environmental Plans) Amendment (Agritourism) Order 2021 [NSW]

**Standard Instrument (Local Environmental Plans) Amendment
(Agritourism) Order 2021**

under the

Environmental Planning and Assessment Act 1979

1 Name of Plan

This Plan is *Standard Instrument (Local Environmental Plans) Amendment (Agritourism) Order 2021*.

2 Commencement

This Plan commences on the day on which it is published on the NSW legislation website.

3 Amendment of Standard Instrument (Local Environmental Plans) Order 2006

Land Use Table

Insert in appropriate order in Direction 5—

- Agritourism;
- Farm experience premises;
- Farm gate premises;

draft

Standard Instrument (Local Environmental Plans) Amendment (Agritourism) Order 2021 [NSW]
Schedule 1 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental Plans) Order 2006

Schedule 1 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental Plans) Order 2006

[1] Clause 5.4 Controls relating to miscellaneous permissible uses [compulsory]

Omit “*not less than 8*” from clause 5.4(8). Insert instead “*not less than 9*”.

[2] Clause 5.18 Intensive livestock agriculture [compulsory if intensive livestock agriculture permitted with consent]

Omit clause 5.18(4)(b)(v). Insert instead—

- (v) for a poultry farm used for breeding poultry—within 5,000 metres of another poultry farm, or
- (vi) for a poultry farm not used for breeding poultry—
 - (A) within 5,000 metres of a poultry farm used for breeding poultry, or
 - (B) within 1,000 metres of a poultry farm not used for breeding poultry, or
- (vii) for a pig farm—within 3,000 metres of another pig farm.

[3] Clauses 5.23 and 5.24

Insert after clause 5.22—

5.23 Farm stay accommodation [optional]

- (1) The objectives of this clause are—
 - (a) to diversify the uses of agricultural land without adversely impacting the principal use of the land for a primary production business, and
 - (b) to balance the impact of tourism and related commercial uses with the use of land for primary production, the environment, scenic values, infrastructure and adjoining land uses.
 - (c) [*set out other objectives of the clause*]
- (2) Development consent must not be granted to development for the purposes of farm stay accommodation on a landholding unless the consent authority is satisfied that—
 - (a) the maximum number of guests accommodated in bedrooms at any 1 time will not be more than the greater of—
 - (i) 3 times the number of bedrooms permitted under clause 5.4(5), or
 - (ii) 20 guests, and
 - (b) the gross floor area of a building used to accommodate guests will not be more than [*insert number no less than 60*] square metres, and
 - (c) the maximum number of guests accommodated in moveable dwellings on the landholding will not be more than [*insert number no more than 20*] at any 1 time, and
 - (d) the maximum number of moveable dwellings used for the accommodation of guests will not be more than [*insert number no more than 6*], and
 - (e) all buildings or moveable dwellings used to accommodate guests will be—
 - (i) on the same lot as an existing lawful dwelling house, or

draft

Standard Instrument (Local Environmental Plans) Amendment (Agritourism) Order 2021 [NSW]
Schedule 1 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental Plans) Order 2006

- (ii) on a lot—
 - (A) for which a minimum size is shown for a dwelling house on the Lot Size Map, and
 - (B) the size of which is not less than the minimum size shown.
- (3) Subclause (2)(b) does not apply if the development is the change of use of an existing dwelling to farm stay accommodation.
- (4) Development consent must not be granted to development for the purposes of farm stay accommodation on land unless the consent authority has considered—
 - (a) whether the development will result in noise or pollution that will have significant adverse impact on the following on or near the land—
 - (i) residential accommodation,
 - (ii) primary production operations,
 - (iii) other land uses, and
 - (b) whether the development will have significant adverse impact on the following on or near the land—
 - (i) the visual amenity, heritage or scenic values,
 - (ii) native or significant flora or fauna,
 - (iii) water quality,
 - (iv) traffic,
 - (v) the safety of persons, and
 - (c) whether the development is on bush fire prone land or flood prone land, and
 - (d) the suitability of the land for the proposed development, and
 - (e) the compatibility of the development with nearby land uses.

5.24 Farm gate premises [optional]

- (1) The objectives of this clause are—
 - (a) to allow for small scale tourism and related commercial uses on land used for primary production without adversely impacting the principal use of the land for primary production, and
 - (b) to balance the impact of tourism and related commercial uses with the use of land for primary production, the environment, scenic values, infrastructure and adjoining land uses.
 - (c) *[set out other objectives of the clause]*
- (2) Development consent must not be granted to development for the purposes of farm gate premises on a landholding unless the consent authority is satisfied that—
 - (a) the gross floor area of a building used for farm gate premises will not be more than *[insert number no more than 200]* square metres, and
 - (b) the maximum number of persons that will be permitted on the landholding at any 1 time for the purposes of the farm gate premises will not be more *[insert number not more than 50]* persons.
- (3) Development consent must not be granted to development for the purposes of farm gate premises on land unless the consent authority has considered—
 - (a) whether the development will result in noise or pollution that will have significant adverse impact on the following on or near the land—

draft

Standard Instrument (Local Environmental Plans) Amendment (Agritourism) Order 2021 [NSW]
Schedule 1 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental Plans) Order 2006

- (i) residential accommodation,
- (ii) primary production operations,
- (iii) other land uses, and
- (b) whether the development will have significant adverse impact on the following on or near the land—
 - (i) the visual amenity, heritage or scenic values,
 - (ii) native or significant flora or fauna,
 - (iii) water quality,
 - (iv) traffic,
 - (v) the safety of persons, and
- (c) whether the development is on bush fire prone land or flood prone land, and
- (d) the suitability of the land for the proposed development, and
- (e) the compatibility of the development with nearby land uses.

[4] Dictionary

Insert after the definition of *agriculture*, paragraph (d)—

- (e) agritourism.

[5] Dictionary

Omit the definition of *farm stay accommodation*.

Insert in alphabetical order—

agritourism means the following—

- (a) farm gate premises,
- (b) farm experience premises.

Note—Agritourism is a type of *agriculture*—see the definition of the term in this Dictionary.

farm stay accommodation means a building or place—

- (a) on a farm —
 - (i) that is a primary production business, or
 - (ii) on land categorised as farmland under the *Local Government Act 1995*, section 515, and
- (b) used to provide temporary accommodation to paying guests of the farm including in buildings or moveable dwellings.

Note—Farm stay accommodation is a type of *tourist and visitor accommodation*—see the definition of the term in this Dictionary.

farm experience premises means a building or place—

- (a) on a farm that is—
 - (i) a primary production business, or
 - (ii) on land categorised as farmland under the *Local Government Act 1995*, section 515, and
- (b) that is ancillary to the farm, and
- (c) that is used to provide visitors to the farm with small scale and low impact tourist or recreational services on a commercial basis including the following—
 - (i) horse riding,

draft

Standard Instrument (Local Environmental Plans) Amendment (Agritourism) Order 2021 [NSW]
Schedule 1 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental Plans) Order 2006

- (ii) farm tours,
- (iii) functions or conferences,
- (iv) farm field days.

Note— Farm experience premises is a type of *agritourism*—see the definition of the term in this Dictionary.

farm gate premises—

- (a) means a building or place—
 - (i) on a farm that is—
 - (A) a primary production business, or
 - (B) on land categorised as farmland under the *Local Government Act 1995*, section 515, and
 - (ii) that is ancillary to the farm, and
 - (iii) that is used to provide visitors to the farm with agricultural products predominantly from the farm or other farms in the region or with services or activities related to the products, including the following—
 - (A) processing, packaging and sale of the products, but not the processing of animals,
 - (B) a restaurant or cafe,
 - (C) a facility for holding tastings or workshops, or providing information or education, related to the products, and
- (b) includes cellar door premises.

Note— Farm gate premises is a type of *agritourism*—see the definition of the term in this Dictionary.

landholding means 1 or more lots of land that—

- (a) are constituted or worked as a single property, and
- (b) are contiguous or are separated only by a road or watercourse.

primary production business has the same meaning as in the *Income Tax Assessment Act 1997* of the Commonwealth and includes a business that—

- (a) was a primary production business, and
- (b) has temporarily ceased to be a primary production business because of a natural disaster, including a drought, flood or bush fire.

[6] Dictionary, definition of “cellar door premises”

Omit “*retail premises*” from the note. Insert instead “*farm gate premises*”.

[7] Dictionary, definition of “restaurant or cafe”

Insert “, but does not include a restaurant or cafe that is included as part of artisan food and drink industry or farm gate premises” after “provided”.

[8] Dictionary, definition of “retail premises”

Insert “farm gate premises,” before highway service centres”.

[9] Dictionary, definition of “retail premises”

Omit paragraph (b).

**PSR22/005 REIMBURSEMENT OF WASTE DISPOSAL FEES - SOUTH COAST
DONATIONS LOGISTICS**

**S006-
T00001**

Responsible Officer: Lindsay Usher - Director, Planning and Sustainability Services
Attachments: Nil
Outcome: 4 Sustainable Living
Focus Area: 4.2 Targeted reduction of waste with an emphasis on resource recovery and waste minimisation
Delivery Program Link: 4.2.2 Implement waste reduction, resource recovery and recycling technology and initiatives
Operational Plan Link: 4.2.2.3 Deliver community education on waste minimisation

EXECUTIVE SUMMARY

The purpose of this report is to advise Council that a request has been submitted by South Coast Donations Logistics to seek reimbursement for the waste disposal fees associated with the disposal of excess donated items that were unsuitable, or unusable, and therefore unable to be provided to those impacted by the 2019/2020 bushfire disaster.

South Coast Donations Logistics is a not-for-profit community group. The fees were paid to dispose of various household items, mattresses, and mixed waste accumulated during the bushfire recovery efforts.

This report recommends approval for the reimbursement of the waste disposal fees associated with disposal of excess donated items.

RECOMMENDATION

THAT the reimbursement of waste disposal fees be made to South Coast Donations Logistics to the value of \$1,381.00, being for the disposal of excess household items, mattresses and mixed waste donated during the bushfire recovery efforts.

BACKGROUND

South Coast Donations Logistics was established in January 2020 to assist with the receipt, and distribution of donated goods to residents and visitors impacted by the 2019/20 bushfire disaster and to other organisations and groups assisting with bushfire recovery efforts.

A significant volume of donated goods was received and distributed however, a number of donated items were deemed unsuitable or unusable, and as such were unable to be provided to those in need.

CONSIDERATIONS

Council received an application from South Coast Donations Logistics for reimbursement of tipping fees associated with the disposal of unsuitable or unusable items donated during the bushfire recovery equalling \$1,381.

The fee breakdown includes:

Description	Amount	Docket No.
Mixed waste	\$23	202441

**PSR22/005 REIMBURSEMENT OF WASTE DISPOSAL FEES - SOUTH COAST
DONATIONS LOGISTICS**

**S006-
T00001**

Mixed waste	\$16	202451
Mixed waste	\$23	202460
Mixed waste	\$49	202465
Mattresses	\$350	202468
Mattresses	\$560	202475
Builders Waste	\$23	202477
Builders Waste	\$33	202481
Builders Waste	\$55	202492
Builders Waste	\$23	202493
Mattresses	\$105	202509
Mixed waste	\$49	202510
Mixed waste	\$49	202513
Mixed waste	\$23	202523
Total	\$1,381	

Council has been consistent with its process of providing waste disposal grants and waiver of tipping fees to contribute towards costs of waste disposal for registered charities and not-for-profit organisations.

Social Impact

South Coast Donations Logistics is a not-for-profit organisation that provided support to the community, and responding bushfire recovery agencies and organisations following the Eurobodalla 2019/20 bushfire disaster.

Financial

The reimbursement of the charges for waste disposal, forgoes revenue of \$1,381 for the Surf Beach waste management facility. This revenue comprises a donation of \$1,381 to South Coast Donations Logistics.

CONCLUSION

The request from South Coast Donations Logistics provides Council the opportunity to offer support for their services to the community by way of waiving the waste disposal charges for the disposal of excess unsuitable donated goods.

It is also a chance for Council to recognise the community service and positive actions that South Coast Donations Logistics took in managing the receipt and distribution of donated items throughout the 2019/20 bushfire disaster and recovery efforts.

**PSR22/006 TEMPORARY ACCOMMODATION - BUSHFIRE AFFECTED
PROPERTIES**

**S008-
T00025**

Responsible Officer: Lindsay Usher - Director, Planning and Sustainability Services
Attachments: Nil
Outcome: 6 Responsible and Balanced Development
Focus Area: 6.2 Ensure development is sustainable, and reflects community values and the desired local setting
Delivery Program Link: 6.2.2 Provide receptive and responsive development assessment services
Operational Plan Link: 6.2.2.3 Assess and determine complying development applications

EXECUTIVE SUMMARY

The purpose of this report is to advise Councillors of legislative changes to the movable dwelling exemption for bushfire affected communities and to seek endorsement from Council as to how to move forward.

The NSW Government introduced amendments to the Local Government Regulations concerning caravan parks, campgrounds and moveable dwellings in 2020 after the 19/20 Black Summer Bushfires. These amendments made it possible for bushfire affected landowners to reside in a moveable dwelling for a period of two years while they rebuilt or found new accommodation.

The NSW Government has now introduced further amendments in late October 2021 which require Councils to amend their Local Approvals Policy (LAP) to allow for these affected landowners to continue to reside for an additional period of time.

Eurobodalla Shire Council does not have a Local Approvals Policy and in order to comply with these requirements would need Council to resolve to prepare a policy, exhibit the draft policy and report the policy back to Council for adoption or amendment. This process is likely to take a minimum of six months.

It is therefore proposed to seek Council endorsement to resolve to allow these members of the community to extend their current temporary housing until Council formulates and adopts a policy on temporary accommodation for bushfire affected properties.

RECOMMENDATION

THAT

1. Council acknowledge that many members of our community are still living in temporary accommodation after the 2019/2020 bushfires.
2. Council acknowledge that there is a shortage of accommodation types available to house our community.
3. Council note that there is a current exemption within the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation that allows bushfire affected landowners to reside in temporary

**PSR22/006 TEMPORARY ACCOMMODATION - BUSHFIRE AFFECTED
PROPERTIES**

**S008-
T00025**

accommodation (moveable dwellings) for a period of two years and for many this period will end sometime this year.

4. Council note that the NSW Government has amended the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation to allow Councils to develop a Local Approvals Policy that includes provisions for extending the exemption to house bushfire affected landowners in moveable dwellings on their property.
5. Council resolves to allow those members of our community who lost or had their homes severely damaged by the 2019/2020 bushfires to continue to live in temporary accommodation (moveable dwellings) on their property while Council develops a policy position.

BACKGROUND

The NSW Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation was first introduced in 2005. It provides for controls around the operation and approval of caravan parks, campgrounds, manufactured home estates and moveable dwellings. The regulations also provide requirements around the installation of a moveable dwelling on private property.

Clause 7 of the Regulations provides controls around how often you can have a caravan or moveable dwelling on your property. These controls are specifically written to deal with whether a dwelling exists on the land or not. If the land is vacant you can camp on the lots for no longer than two consecutive days and no more than 60 days in a 12 month period.

After the summer bushfires of 2019/2020, the NSW Department of Planning Industry and Environment (DPIE) reached out to affected local councils to determine whether any legislative changes could be enacted to assist the community. The Southern Branch Director of DPIE held meetings with Eurobodalla Shire, Bega Valley Shire and Shoalhaven City Council. The priorities determined by these meetings included:

- The need for temporary accommodation and facilitating a fast track or exemption from the approval process
- The need for the demolition of dwellings and structures to be exempt or a fast track approval process
- The need for storage options and facilitating a fast track or exemption from the approval process
- The need for temporary business premises and facilitating a fast track or exemption from the approval process
- Allow repairs to buildings or structures as exempt development

These provisions were ultimately inserted into the NSW Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 and amendments were also made to the State Environmental Planning Policy (SEPP) (Exempt and Complying Development Codes) 2008.

**PSR22/006 TEMPORARY ACCOMMODATION - BUSHFIRE AFFECTED
PROPERTIES**

**S008-
T00025**

These provisions have made life and the rebuild process a bit simpler for affected communities and it is considered a good example of when different levels of Government collaborate.

CONSIDERATIONS

Legal

The NSW Department of Planning Industry and Environment released amendments to the Local Government Regulations in late October 2021. This provision enabled Councils to extend the period in which moveable dwellings could be located on sites subject to a natural disaster, subject to amending the Local Approvals Policy (LAP).

To amend or adopt a LAP, it must be done in line with any other policy of Council, this would include a resolution to exhibit the policy, the public exhibition and a resolution to adopt or amend the policy. This process is likely to take a minimum of 6 months. As this Council does not have a LAP, it is likely that the preparation of such a policy would take between 6-12 months, taking into account staff resources and existing commitments.

Policy

Local Approvals Policy

Eurobodalla Shire Council does not have such a policy. A Local Approval Policy (LAP) generally provides guidance about what type of activities can be done with or without approval in accordance with section 68 of the Local Government Act 1993.

Section 68 approvals relate to a number of activities and include:

- Installation of a manufactured home, moveable dwelling or associated structure
- Water supply, sewerage and stormwater drainage work
- Management of waste e.g., onsite sewage management system (OSSM)
- Community land e.g., mobile food vans
- Public roads
- Other activities e.g., operate a caravan park, operate amusement devices, operate solid fuel heaters.

Council has policies that deals with each of the activities separately; these include the Footpath Trading Code, Onsite Sewage Management Code of Practice and a Street Activities Code of Practice.

It is therefore proposed to prepare a policy that specifically deals with temporary accommodation for bushfire affected properties. This will extend our suite of policies that deal with matters under section 68 of the Local Government Act.

Environmental

As part of any policy development, it will be necessary to consider provision for effluent management, but it may also be necessary to consider other aspects such as bushfire risk and water supply.

Social Impact

It is not known to what extent the temporary accommodation provisions are being used by the community. It is well known that there is not an adequate supply of rental accommodation

**PSR22/006 TEMPORARY ACCOMMODATION - BUSHFIRE AFFECTED
PROPERTIES**

**S008-
T00025**

available and it is therefore considered that Council should investigate this matter and develop a policy position as to whether to extend the exempt provisions or not.

Community and Stakeholder Engagement

Community engagement will occur as part of the preparation and adoption of any policy related to temporary accommodation for bushfire affected communities.

CONCLUSION

The purpose of this report is to seek Council endorsement to have an interim position to allow affected landowners to continue to reside in their temporary accommodation while Council develops a policy. It will specifically deal with those members of our community who are still residing in temporary accommodation after the bushfires.

The NSW Government introduced legislative amendments in 2020 to assist bushfire affected communities by making the temporary occupation of land with moveable dwellings exempt.

The exemption was only for two years and therefore it is necessary to develop a policy position for those landowners still living in temporary accommodation.

Recent amendments by the NSW Government have enabled this period to be extended subject to Council adopting a local approvals policy.

15. DEALING WITH MATTERS IN CLOSED SESSION

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

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

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

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

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.