



LATE ITEMS BUSINESS PAPER

ORDINARY MEETING OF COUNCIL

To be held on

Wednesday, 19 August 2020
4pm

at

Armidale Council Chamber

Members

Vivian May - Interim Administrator

SUPPLEMENTARY AGENDA

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Item: 9.2 **Ref:** AINT/2020/28456
Title: FOR DECISION: Amendments to the Model Code of Conduct
Container: ARC16/0617
Author: Scott Waterson, Principal Advisor Governance & Risk
Attachments: 1. Procedures for the Administration of The Model Code of Conduct
2. NSW - Model Code of Conduct - 2020

RECOMMENDATION:

That Armidale Regional Council adopt the amended Model Code of Conduct and Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW as revised by the Office of Local Government 14 August 2020.

Context

On 14 August 2020 the Office of Local Government (“OLG”) made amendments to the Model Code of Conduct (“Code of Conduct”) and Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW (“Procedures”) in response to the decision by the Supreme Court of NSW in the matter of Cornish v Secretary Department of Planning, Industry and Environment.

The OLG has recommended that Council’s should adopt a Code of Conduct and Procedures based on the prescribed Model Code of Conduct and Procedures as soon as possible.

Purpose

The recommendation to adopt the Code of Conduct and Procedures is to ensure that Council complies with the Model Code and Procedures, and that they reflect the changes demanded by the decision of the Supreme Court.

Proposed Changes

Changes to Code of Conduct

The Model Code of Conduct has been amended to:

- remove as a breach, failure to comply with a council resolution requiring action in relation to a code of conduct breach (because it is now redundant)
- update the language used to describe the various heads of discrimination in clause 3.6 to reflect more contemporary standards
- include in the definition of council committee and council committee members, members of audit, risk and improvement committees (ARICs) in anticipation of the commencement of the requirement for all councils to appoint an ARIC following the next local government elections.

Amendments have also been made to the gifts and benefits provisions of the Model Code of Conduct in response to feedback from some councils. The amendments:

- lift the \$50 cap on the value of gifts that may be accepted to \$100
- clarify that items with a value of \$10 or less are not “gifts or benefits” for the purposes of the Model Code of Conduct and do not need to be disclosed

- clarify that benefits and facilities provided by councils (as opposed to third parties) to staff and councillors are not “gifts or benefits” for the purposes of the Model Code of Conduct, and
- remove the cap on the value of meals and refreshments that may be accepted by council officials in conjunction with the performance of their official duties.

Councils are not obliged to amend their codes of conduct to lift the cap on the value of gifts that may be accepted if they do not wish to. It is open to councils to retain the existing \$50 cap or to impose another cap that is lower than \$100.

The process for referral by councils of code of conduct breaches by councillors to OLG for further disciplinary action under the misconduct provisions of the Act has been streamlined. Investigators are required to consult with OLG before recommending the referral of matters to ensure the conduct in question is sufficiently serious to warrant disciplinary action for misconduct and that there is sufficient evidence of the breach to allow OLG to take further disciplinary action.

Other amendments have been made to the Procedures to:

- allow panels of conduct reviewers to be appointed without a resolution of the council, and
- allow the referral of investigators’ reports to OLG for action under the misconduct provisions of the Act where the council will not have a quorum to deal with the matter.

Amendments to the Procedures

Consistent with the Supreme Court’s decision, councils have the following options when taking disciplinary action against councillors for breaches of their codes of conduct under the new Procedures:

- that a councillor be formally censured for the breach under section 440G of the Local Government Act 1993 (the Act), or
- that a councillor be formally censured for a breach under section 440G and the matter referred to OLG for further disciplinary action under the misconduct provisions of the Act.

The process for censuring councillors for breaches of the Code of Conduct has been significantly strengthened to ensure councillors are made publicly accountable to their electors for their conduct. When censuring councillors, councils are required to specify in their resolution the grounds on which the councillor is being censured by disclosing the investigator’s findings and determination and any other grounds that the council considers may be relevant or appropriate.

Councillors may seek to avoid public censure for breaches of the code of conduct by voluntarily agreeing to undergo training or counselling, to apologise for their conduct or to give undertakings not to repeat their conduct before the investigator finalises their report to the council. Investigators can finalise their investigations without a report to the council where they consider these to be an appropriate outcome to the matter they are investigating. However, it will remain open to investigators to finalise their report and to recommend censure where they consider this is appropriate and warranted.

Summary

If adopted, the minor amendments bring Council's policies into line with the mandated changes to the Code of conduct and Procedures implemented by OLG.

Item: 11.7 **Ref:** AINT/2020/28351
Title: FOR DECISION: NSW 2020 Start Strong Capital Grants Program
Container: ARC17/2055
Author: Amanda Campbell, Preschool Nominated Supervisor
Attachments: Nil

RECOMMENDATION:

That Council endorse an application for \$425,000 under the NSW Government 2020 Start Strong Capital Grants Program for the construction of the new Outdoor Activity Area for the new Early Childhood Learning Centre at Guyra.

Context

In April 2020 Council resolved to proceed with a new and expanded Early Childhood Learning Centre and Out of School Hours Care facility behind the Administration Building on Bradley Street in Guyra. It was identified additional grant funding should be sought. The 'Start Strong Program' provided an opportunity to seek funding for a "best practice" outdoor activity area'.

A professionally designed outdoor area with modern equipment enhances the project and adds to the appeal of the new Early Childhood Learning Centre. In developing the application Council engaged with representatives from the local Aboriginal Community to provide input into the conceptual design considerations to encompass local Aboriginal culture, themes and stories.

The total estimated capital cost for the Outdoor Activity Area project is \$450,000. Council will contribute \$25,000 (min - 5%). This contribution has been allowed for with the funds allocated to this project.

Purpose

The purpose of the funding application is to assist Council and other grant funds to deliver an expanded "best practice" Early Childhood Learning Centre in Guyra. A best practice, spacious Outdoor Area will optimise the prospects of full enrolment and therefore financial sustainability of the operation.

Proposal, Research and Analysis

Council engaged with local Aboriginal representatives to ensure that Aboriginal culture and themes are incorporated in the concept and planning stage. Similarly, Council sought input from the Armidale Family Support Services Inc. to ensure that we consider inclusion of items and equipment to support children from other culturally and Linguistically Diverse backgrounds as well as children with intellectual and physical disabilities to provide an "inclusive" outdoor activity area.

The guidance provided by the Landscape Architect has also assisted with the casting and estimated time for construction.

Impact

Should Council be successful with this funding application, it will provide a positive financial impact for Council and ensure that the final outdoor activity area is "best practice" and incorporates local Aboriginal culture.

Summary

The endorsement of this funding application is recommended to Council. Supplementary funding for the construction of a “best practice” outdoor activity centre for the new Early Childhood Education Learning Centre enhances the project.

Item: 11.8 **Ref:** AINT/2020/28408
Title: FOR DECISION: Application for Funding to the Bushfire Recovery Sector Package - Saleyards **Container:** ARC16/0001-5
Author: Andrew Levingston, Manager Plant & Facilities
Attachments: Nil

RECOMMENDATION:

That Council endorse an application for \$4,998,000 to the NSW Bushfire Industry Package – Sector Development Grants for the upgrade of the Armidale and Guyra Livestock Selling Centres.

Context

The NSW State Government Bushfire Recovery Sector Development Grants support recovery to eligible Councils with incorporated forestry, horticulture and agriculture industries. Under the Grant Guidelines Council's application falls under the supply chains category to the industry in NSW.

Council's infrastructure at the livestock selling centres in Armidale and Guyra requires considerable upgrades to meet current industry standards for animal welfare and biosecurity.

The Project comprises the following at the Armidale Livestock Sales complex:

- Replacement and extension of cattle holding yards
- Expansion of vehicle parking area
- Implementation of roof water harvesting and water re-use
- Renewal of cattle weighing scales
- Refurbishment of amenities and office
- Installation of solar panes

and the following at the Guyra Livestock Sales complex:

- Replacement of timber sheep yards with steel
- Reconstruction of loading races
- Relocation of cattle yards
- Refurbishment and explanation to amenities and kiosk facilities
- Renew water supply and stock water troughs
- Improvement to internal and external access roads

Purpose

The selling centres provide a central location for livestock owners in the New England area to present their stock for sale to the re-stocker and red meat industries both onsite and online. The proposed upgrades also serve as emergency penning for stock affected by bushfires or other natural disasters.

Impact

External consultancy fee to prepare a submission is approximately \$5,000.00. Internal grant preparation work will be minor and have limited impact on the budget.

Summary

The State Government's Bushfire Industry Package program is an opportunity to renew critical assets at the Armidale and Guyra saleyards. The saleyards are important facilities in the agricultural supply chain in the region.

Animal welfare standards, biosecurity standards, environmental regulations and selling practices are changing and it is important for the productivity and safety of the livestock industries and their operators that the saleyards are fit for the future.

The 2019/20 bushfires had a serious impact on farming enterprises in the LGA. This upgrade of saleyards will have a positive impact on the recovery of those industries.

Item: 13.7 **Ref:** AINT/2020/28302
Title: FOR INFORMATION: Groundwater Program **Container:** ARC19/3333
Author: Scot MacDonald, Director Businesses and Services
Attachments: 1. WAL Application - Groundwater Program

RECOMMENDATION:

- a) Council notes the Groundwater testing and supply project was initiated in emergency water conditions in 2019; and
- b) That the aim of the project is to supplement Council's town water supply for Guyra and Armidale. Council notes bore testing and infrastructure construction associated with the groundwater program will be completed in 20/21.

Context

Historical records of low rainfall and nil inflows into Council water storages in 2019 led to the Guyra dam emptying and the main storage at Malpas dam dropped to an unprecedented (since its construction in 1968) 31.5 % level. Council liaised with the NSW Government on strategies to extend water supply in the emergency conditions. A suite of responses were undertaken including introducing Water Restrictions; enforcing water rules; fixing leaks in the network; consumer education; rebates to harvest water and improve household and business water efficiencies; trucking bulk water from Malpas Dam to Guyra's water treatment plant and subsequently, construction of a \$13million pipeline from Malpas Dam to Guyra's water treatment plant.

Council also sought permission to investigate supplementing its water supply with groundwater. The State Government approved the exploration and utilisation of groundwater under clause 39A of the Water Management (General) Regulation 2018. This approval expires on the 26/9/20. Council has applied for a permanent Water Access Licence for the Guyra groundwater source and associated infrastructure to deliver the water to the Guyra water treatment plant. Clause 39A approval allowed Council to rapidly plan and commence a bore testing program in Guyra and Armidale. Review of Environmental Factors and community consultation are not required in emergency circumstances.

Council has participated in two community forums in Guyra; conducted three pop-up sessions in Guyra and held two Webinars to explain the project and answer queries in relation to the use of groundwater. Additionally, suspended Councillors were briefed on the groundwater program. Council is endeavouring to meet with local Aboriginal groups to understand their expectations regarding all aspects of water supply in the LGA. To date that has been restricted to the Interim Administrator meeting with the Banbai Aboriginal organisation.

A bore was developed at the southern end of the Armidale airport precinct to provide a secure, non-potable water supply for the NSW Rural Fire Service aerial operations. Previously Council had provided a mix of dam water and potable water to supply fire-fighting helicopters and fixed wing aircraft. These assets fight fires from Tenterfield to Taree and were heavily used in the 19/20 Section 44 wildfires. As the airport dam was emptying in late 2019, the NSW Government and Council collaborated to fast track this groundwater source under Clause 39A. A Specific Purpose Water Access Licence application for this bore was submitted on the 6th August 2020.

Purpose

Completion of the groundwater program is important to drought proof Guyra's water supply and supplement the potable water security of the LGA.

A high level of water security is critical for residential, commercial and emergency combat agency users. Water security can be a comparative advantage for the region.

Proposal, Research and Analysis

It is proposed to continue consulting with water customers, the broader community, relevant State agencies and Aboriginal organisations regarding the groundwater program.

It is proposed to finalise testing and construction of infrastructure required to access the bore water by the end of 2020.

Impact

- Expenditure on the Guyra/Armidale groundwater exploration and development is \$3,044,187.00
- The NSW Government has reimbursed \$1,000,000 to date.
- The NSW Government has committed to funding 50% of Council's groundwater program.
- The 20/21 Capital Budget includes \$1,000,000 for the groundwater program.
- The 20/21 Operational Plan (p7) referred to "...initiatives to buffer the region from drought including dam expansions, pipelines and groundwater investigation."
- Council is not aware of any adversely affected groups in the community. The bores are located more than 400 metres from registered bores. Groundwater is sourced from deep aquifers avoiding interference with shallow aquifers and surface water systems.

Summary

The Groundwater program was developed to supplement the LGA's raw water supply. It is anticipated it will only be required in drought conditions where there are water restrictions imposed on customers. Council has applied for an annual allocation of 512 ML from the Guyra bores.

The bore water is sourced from deep aquifers (usually >160metres) with no connectivity to shallow farm bores, farm dams, wetlands or other surface water environments.

The bore network in Guyra will be connected directly to the Guyra water treatment plant. There will be minor on-going use of the groundwater for users such as the sports fields and the Guyra Showground.

Groundwater testing in Armidale is continuing with variable results. Council's sustainable use of groundwater is regulated by the State Government's Natural Resource Access Regulator (NRAR).