



Council Meeting Agenda

Tuesday 24 August 2021 at 6:00 PM
Council Chambers (and by video conferencing)
East Gippsland Shire Council Corporate Centre
273 Main Street, Bairnsdale 3875



Acknowledgement to country

East Gippsland Shire Council acknowledges the Gunaikurnai, Monero and the Bidjil people as the Traditional Custodians of this land that encompasses East Gippsland Shire, and their enduring relationship with country. The Traditional Custodians have cared and nurtured East Gippsland for tens of thousands of years.

Council value their living culture and practices and their right to self-determination. Council pays respect to all Aboriginal and Torres Strait Islander people living in East Gippsland, their Elders, past, present, and future.

Council information

East Gippsland Shire Council live streams, records and publishes its meetings via webcasting (youtube.com/c/EastGippyTV) to enhance the accessibility of its meetings to the broader East Gippsland community.

These recordings are also archived and available for viewing by the public or used for publicity or information purposes. At the appropriate times during the meeting, any members of the gallery who are addressing the council will have their image, comments or submissions recorded.

No other person has the right to record Council meetings unless approval has been granted by the Chair.

The Victorian Government has amended the *COVID-19 Omnibus (Emergency Measures) and Other Acts Amendment Act 2020* that enables Council meetings to be conducted by electronic means (videoconferencing) until 26 April 2022. The Minister for Local Government re-issued the Ministerial Good Practice Guideline for Virtual Meetings on 20 October 2020 outlining the provisions relating to the Local Government Act 2020 allow Councillors to attend Council meetings electronically, and the requirement where Council meetings are open to the public will be satisfied where the meeting is livestreamed. The amendments do not preclude Councillors from attending a meeting in person in the Council chambers.

Members of the public are invited to view the Council Meeting livestreamed by following the link on Council's website or Facebook page.

Photo supplied by Destination Gippsland

Councillors

Cr Mendy Urie (Mayor)
Cr Mark Reeves (Deputy Mayor)
Cr Arthur Allen
Cr Sonia Buckley
Cr Tom Crook
Cr Jane Greacen OAM
Cr Trevor Stow
Cr Kirsten Van Diggele
Cr John White

Executive Leadership Team

Anthony Basford Chief Executive Officer
Fiona Weigall General Manager Assets and Environment
Peter Cannizzaro General Manager Business Excellence
Stuart McConnell General Manager Bushfire Recovery
Jodie Pitkin General Manager Place and Community

Purpose of Council meetings

- (1) Council holds scheduled meetings and, when required, unscheduled meetings to conduct the business of Council.
- (2) Council is committed to transparency in decision making and, in accordance with the *Local Government Act 2020*, Council and Delegated Committee meetings are open to the public and the community are able to attend.
- (3) Meetings will only be closed to members of the public, in accordance with section 66 of the Act, if:
 - (a) there are clear reasons for particular matters to remain confidential; or
 - (b) a meeting is required to be closed for security reasons; or
 - (c) it is necessary to enable the meeting to proceed in an ordinary manner.
- (4) A meeting closed to the public for the reasons outlined in sub-rule 3(b) or 3(c) will continue to be livestreamed. In the event a livestream is not available:
 - (a) the meeting may be adjourned; or
 - (b) a recording of the proceedings may be available on the Council website.

Governance Rules

A copy of East Gippsland Shire Council's governance rules can be found at <https://www.eastgippsland.vic.gov.au/council/council-policies>

Councillors pledge

As Councillors of East Gippsland Shire Council, we solemnly and sincerely declare and affirm that we will consider each item on this agenda in the best interests of the whole municipal community.

Vision

East Gippsland is an inclusive and innovative community that values our natural environment, puts community at the centre of Council decision-making, and creates the conditions in which communities can thrive.

Our Strategic Objectives

1. An inclusive and caring community that respects and celebrates diversity
2. Planning and infrastructure that enriches the environment, lifestyle, and character of our communities.
3. A natural environment that is managed and enhanced.
4. A thriving and diverse economy that attracts investment and generates inclusive local employment.
5. A transparent organisation that listens and delivers effective, engaging and responsive services

Index

1 Procedural	6
1.1 Recognition of Traditional Custodians	6
1.2 Apologies	6
1.3 Declaration of Conflict of Interest	6
1.4 Confirmation of minutes	6
1.5 Next meeting	6
1.6 Requests for leave of absence	6
1.7 Open Forum	6
1.7.1 Petitions	6
1.7.2 Questions of Council	6
1.7.3 Public Submissions	6
2 Notices of Motion	6
3 Deferred Business	6
4 Councillor and Delegate Reports	6
5 Officer Reports	7
5.1 Assets and Environment	7
5.1.1 Cities Power Partnership	7
5.1.2 Adoption of East Gippsland Shire Council Asset Management Policy	13
5.2 Business Excellence	33
5.2.1 Public Interest Disclosure Policy	33
5.2.2 Councillor Support and Expenses Policy	120
5.2.3 Paynesville Community Craft Centre Lease	165
5.3 Place and Community	170
5.3.1 156/2021/P - 100 Kings Cove Boulevard, Metung	170
6 Urgent and Other Business	335
7 Confidential Business	335
7.1 Recreation Centre Creche Services	335
8 Close of Meeting	335

1 Procedural

1.1 Recognition of Traditional Custodians

East Gippsland Shire Council acknowledges the Gunaikurnai, Monero and the Bidawal people as the Traditional Custodians of this land that encompasses East Gippsland Shire, and their enduring relationship with country. The Traditional Custodians have cared and nurtured East Gippsland for tens of thousands of years.

Council value their living culture and practices and their right to self-determination. Council pays respect to all Aboriginal and Torres Strait Islander people living in East Gippsland, their Elders, past, present, and future.

1.2 Apologies

1.3 Declaration of Conflict of Interest

1.4 Confirmation of minutes

That the minutes of the Council Meeting held Tuesday 3 August 2021 be confirmed.

1.5 Next meeting

The next Council Meeting of Tuesday 14 September 2021 to be held at the Corporate Centre, 273 Main Street Bairnsdale commencing at 6.00pm.

1.6 Requests for leave of absence

1.7 Open Forum

1.7.1 *Petitions*

1.7.2 *Questions of Council*

1.7.3 *Public Submissions*

2 Notices of Motion

3 Deferred Business

4 Councillor and Delegate Reports

5 Officer Reports

5.1 Assets and Environment

5.1.1 Cities Power Partnership

Authorised by General Manager Assets and Environment

Conflict of Interest

Officers preparing this report have no conflict of interest to declare.

Executive Summary

The Cities Power Partnership program focusses on supporting and celebrating the emissions reduction successes of local Councils across the country.

This report seeks Council endorsement to become a local government partner to the Cities Power Partnership. The free program connects local Councils with shared emissions reduction project interests across the pledge areas of renewable energy, energy efficiency, sustainable transport and community advocacy.

A letter from the Mayor confirming East Gippsland Shire Council's participation is all that is required to become a local government partner.

If Council decides to join, the only process for joining is the issuing of a letter acknowledging that in the Cities Power Partnership Council will:

1. Within 6 months, identify five items included in the Cities Power Partnership pledge list that your Council will commit to achieve. (Noting that some projects already in the Annual Action Plan pipeline could be included towards a Council's pledge).
2. Complete an online survey annually that provides the Climate Council with basic information on how you are progressing on the five pledge items that Council has selected.
3. Nominate a point of contact within Council that the Climate Council can liaise with on CPP matters, including contact details.
4. Confirm that Council's willingness to connect and collaborate with other local Councils to share knowledge.

Officer Recommendation

That Council:

- 1. receives and notes this report; and***
- 2. approves the organisation becoming a local government partner to the Cities Power Partnership and committing to make five action pledges to tackle climate change.***

Background

The Climate Council's Cities Power Partnership is Australia's largest local government climate network, made up of over 140 Councils from across the country, representing over half of the Australian population.

The free program connects local Councils with shared emissions reduction project interests across the pledge areas of renewable energy, energy efficiency, sustainable transport and community advocacy.

How the Cities Power Partnership works:

1. When Councils sign up to the program, they instantly receive exclusive access to resources, collaboration opportunities and communications support to get their local climate and energy projects up and running.
2. Partner Councils have six months to select five key actions from the partnership pledges within the categories of renewable energy, efficiency, transport and working in partnership. To accelerate success, Councils have ongoing access to our knowledge hub, monthly webinars, free reporting tool, networking events, expert training, online forum, monthly newsletter and opportunities to be part of regular media and advocacy work.
3. Partner Councils report on progress against key actions in an annual survey, following the submission of their five pledge items. When one or all five Council pledges are complete, it's time to pick new ones and continue the emissions reductions journey.

There are regular opportunities to share knowledge including at the biennial national Summit, access to Australia's top experts on climate and energy and recognition at the annual awards program, Councils are given the tools, connections and momentum to take meaningful action on climate change.

Local Councils who join the partnership make five action pledges to tackle climate change from the list below. The five actions East Gippsland Shire Council is already undertaking are highlighted:

Energy Efficiency

- ☐ Set minimum energy efficiency benchmarks for all planning applications.
- ☐ Adopt best practice energy efficiency measures across all council buildings, and support community facilities to adopt these measures.
- ✓ **Roll out energy efficient lighting across the municipality.** (*note: Current project underway to swap remaining non-LED street lights to LED*).
- ☐ Provide incentives for energy efficient developments and upgrades to existing buildings.
- ☐ Incentivise use of energy efficient heating and cooling technologies.
- ☐ Create a green revolving energy fund to finance energy efficiency projects.

Renewable Energy

- ☐ Develop supportive planning laws to encourage residents and industry to adopt renewable energy.
- ☐ Use council resources to support the uptake of renewable energy
- ☐ Install renewable energy (solar PV and battery storage) on council buildings.
- ☐ Support community facilities to access renewable energy through incentives, support or grants.
- ☐ Power council operations by renewable energy, and set targets to increase the level of renewable power for council operations over time.
- ☐ Provide incentives and/or remove barriers to encourage local businesses to take up solar power and battery storage.
- ☐ Support local community renewable energy projects, and encourage investment in community energy.
- ☐ Opening up unused council managed land for renewable energy.
- ✓ **Facilitate large energy users collectively tendering and purchasing renewable energy at a low cost.** *(note: this will be achieved on 1 Jan 2022 with VECO)*
- ☐ Set minimum renewable energy benchmarks for new developments.
- ☐ Electrify public transport systems and fleet vehicles and power these by 100% renewable energy.
- ☐ Lobby electricity providers and state government to address barriers to local renewable energy uptake.
- ☐ Identify opportunities to turn organic waste into electricity.
- ☐ Implement landfill gas methane flaring or capture for electricity generation.
- ☐ Create a revolving green energy fund to finance renewable energy projects.

Sustainable Transport

- ☐ Ensure Council fleet purchases meet strict greenhouse gas emissions requirements and support the uptake of electric vehicles.
- ✓ **Provide fast-charging infrastructure throughout the city at key locations for electric vehicles.** *(nb. current project is underway to design and install a trial of public EV chargers).*
- ☐ Encourage sustainable transport use such as public transport, walking and cycling through council transport planning and design.
- ☐ Ensure that new developments are designed to maximize public and active transport use, and support electric vehicle uptake.
- ☐ Support cycling through provision of adequate cycle lanes, bike parking and end-of-ride facilities. 6. Reduce or remove minimum car parking requirements for new housing and commercial developments where suitable public transport alternatives exist.
- ☐ Lobby state and federal governments to increase sustainable transport options
- ☐ Create disincentives for driving high emitting vehicles.
- ☐ Convert council waste collection fleet to hydrogen or electric power.

Work Together and Influence

- ☐ Set city-level renewable energy or emissions reduction targets.
- ☐ Lobby state and federal government to address barriers to the take up of renewable energy, energy efficiency and/or sustainable transport.
- ☐ Set up meetings and attend events to work with other cities on tackling climate change.
- ✓ ***Develop education and behaviour-change programs to support local residents and businesses to tackle climate change through clean energy, energy efficiency and sustainable transport. (note: the East Gippsland Better Business Program is currently doing this).***
- ☐ Lobby for state and federal support for a just transition away from coal-driven industry for local workers and the community.
- ☐ Develop procurement policy to ensure that the practices of contractors and financiers align with council's renewable energy, energy efficiency and sustainable transport goals.
- ✓ ***Support the local community to develop capacity and skills to tackle climate change. (note: this relates to strategy 3.1 of the new Council Plan 2021-2025).***
- ☐ Support local community energy groups with their community energy initiatives.
- ☐ Achieve 100% divestment from fossil fuel aligned investments at the earliest possible date.

More information can be found on the website: <https://citiespowerpartnership.org.au/about/>

To become a partner Council, a letter from the Mayor confirming participation is required and which five actions are to be nominated.

Legislation

On 24 March 2020 the Government passed the *Local Government Act 2020* (the new Act). As of 1 July 2021 all provisions from the new Act have commenced. Some provisions of the *Local Government Act 1989*, that have not been repealed, will remain applicable until such time as they are revoked.

This report has been prepared in accordance with *Local Government Act 2020* under sections 9(2), part:

(c) Councils are required to promote the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks.

(b) Councils are required to give priority to achieving the best outcomes for the municipal community, including future generations.

The implications of this report have been assessed and are not considered likely to breach or infringe upon the human rights detailed in the Victorian Government's Charter of *Human Rights and Responsibilities Act 2006*.

Collaboration

Pursuant of section 109(2) of the *Local Government Act 2020* this report has determined a main intent of signing up as a partner Council is to connect and collaborate with other local Governments across Australia. Currently council is involved with joint collaborations with Victorian and Gippsland Local Governments in relation to climate change adaption and mitigation. Joining Cities Power Partnership would add to this collaboration.

Council Plan

This report has been prepared and aligned with the following strategic objectives set out in the Council Plan 2021-2025:

Strategic Objective 2: 2.2 Infrastructure provision and maintenance supports a diverse range of current and future user needs and activities and is both environmentally and financially sustainable.

Strategic Objective 3: 3.1 Council works to reduce its own and the communities carbon emissions while supporting the community to mitigate the impact of a changing climate on the environment, safety, health and lifestyles.

Strategic Objective 4: 4.1 Leadership enables economic prosperity, investment, recovery, resilience and growth.

Council Policy

Council does not currently have a policy in relation to climate change. (In 2017 the previous Council pledged its support for the Victorian Government's TAKE2 initiative as follows: "East Gippsland Shire Council is committed to tackling climate change. We have a role in maintaining, protecting and enhancing the region's environment. We do this by using our resources more efficiently, by reducing our everyday impacts, planning for changing conditions and encouraging the people of East Gippsland to do the same").

Options

The options available to Council include:

1. Not signing up to the Cities Power Partnership and rely on Council's existing networks, or
2. Signing up to the Cities Power Partnership and gaining access to other local government networks and resources to help address climate change in East Gippsland.

Resourcing

Financial

There is no financial cost connected to joining the Cities Power Partnership, though some of the pledge initiatives will require resourcing. Any future pledged actions would firstly be considered as part of Council's normal budgeting and business planning processes. With officers seeking to identify pledge items that were already budgeted and planned activities as part of implementing the Annual Action Plan, linked to the Council Plan.

Local Government activities relating to the program are voluntary. There is the potential for further cost saving benefits associated with program initiatives and actions.

Other benefits include free attendance at conferences for partner Councils, and access to the carbon monitoring module by Azility that would otherwise have an annual charge.

Plant and equipment

No implications with signing up to this pledge on plant and equipment at this stage.

Human Resources

Any officer time associated with participating would be aligned to already approved project work.

Risk

The risks of this proposal have been considered and are minimal.

Economic

The economic benefits from joining the Cities Power Partnership would focus on continuing to reduce Council's energy use and support energy reductions within the business and broader community.

Social

There are no negative social implications as a result of this report. The Cities Power Partnership program focusses on supporting emissions reduction successes of local Councils across the country and sharing this knowledge. The benefits of climate change mitigation and adaptation include health and wellbeing outcomes.

Environmental

Joining the Cities Power Partnership has environmental benefits when key projects are identified and pledged, and opportunities for collaboration on best practice projects are undertaken.

Climate change

This report has been prepared and aligned with the following Climate Change function/category:

Adaptation Planning: Comprehensive adaptation measures exist and include responses to direct and indirect impacts of climate change.

Asset Management: Climate change is considered in the design and maintenance of assets and includes responses to direct and indirect impacts.

Corporate/Strategic/Council Plan: Consideration is given to climate change in corporate, strategic or council plan(s) and includes responses to direct and indirect impacts.

Greenhouse Gas Emissions: Consideration has been given to reduce GHG emissions.

Engagement

If the pledge is made, consultation is planned to promote local leadership on climate action by informing the community of Council's commitment via the Environment Connect e-newsletter, website, and media. Promoting the commitment will again reinforce Council as being a progressive organisation addressing climate change.

Local Governments who become partners are publicly displayed on the Cities Power Partnership website and promotional products.

Attachments

Nil

5.1.2 Adoption of East Gippsland Shire Council Asset Management Policy

Authorised by General Manager Assets and Environment

Conflict of Interest

Officers preparing this report have no conflict of interest to declare.

Executive Summary

The current Asset Management Policy was reviewed and adopted by Council in July 2014. The passing of the *Local Government Act 2020*, specifically Section 92 and its new provisions relevant to Asset Management, have resulted in the need for Council to review its Asset Management Policy.

The Asset Management Policy will provide strategic direction for the management of all assets owned, controlled, managed and/or maintained by East Gippsland Shire Council. It also provides Council with a sound Asset Management Framework to inform the development of Asset Management Strategy and Asset Management Plans as required by section 92 of the *Local Government Act 2020*.

East Gippsland Shire Council is a custodian of more than \$800 million of infrastructure assets that assist to deliver a wide range of services to the community. These assets generally have long lifecycles and need to be managed responsibly to preserve this investment, minimise risks and therefore maintain the community's safety, amenity and wellbeing.

Council's Asset Management Framework is defined in the Asset Management Policy. The Asset Management Framework is a key component of the overall integrated planning framework of Council. The asset management framework defines the integration of Asset Management Plans with the broader integrated strategic plan, a focus on service delivery as the driver for assets in a sustainable context and ensuring alignment between financial capacity and service aspirations.

Considering these strategic drivers and recent changes in statutory settings, the Asset Management Policy, revision 7, has been reviewed and revised for Council's consideration, a copy is provided at **Attachment 1**. A version of the current Asset Management Policy, revision 6, is provided at **Attachment 2**.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report; and***
- 2. adopts the draft Asset Management Policy revision 7, provided as Attachment 1.***

Background

Changes in the statutory framework brought about by the passing of the *Local Government Act 2020*, in addition to key integrated strategic planning drivers, have resulted in the need to review the existing Asset Management Policy, revision 6 adopted by Council in 2014, provided as **Attachment 2**.

East Gippsland Shire Council is a custodian of more than \$800 million of infrastructure assets that deliver a wide range of services to the community. These assets generally have long lifecycles and need to be managed responsibly to preserve this investment, minimise risks and therefore maintain the community's safety, amenity and wellbeing.

The revised Asset Management Policy, version 7, (the Policy) aims to deliver multiple objectives as follows:

- Provide clear direction for asset management at East Gippsland Shire Council;
- Outline the policy position, criteria and roles and responsibilities for how Council will sustainably manage its assets in accordance with service delivery needs, strategic objectives and legislative requirements and minimise exposure to risk; and
- Guide the development of Council's Asset Management Strategy and Plans based on a sound Asset Management framework.

The Asset Management Framework defined in the Policy is a key component of the overall Integrated Planning Framework of Council. The Asset Management Framework defines, how the Policy, Asset Management Strategy, Asset Management Plans, the Asset Management System and operational and maintenance plans are connected to Council's other key planning elements including the Council Plan, service and community plans, and the 10-Year Financial Plan.

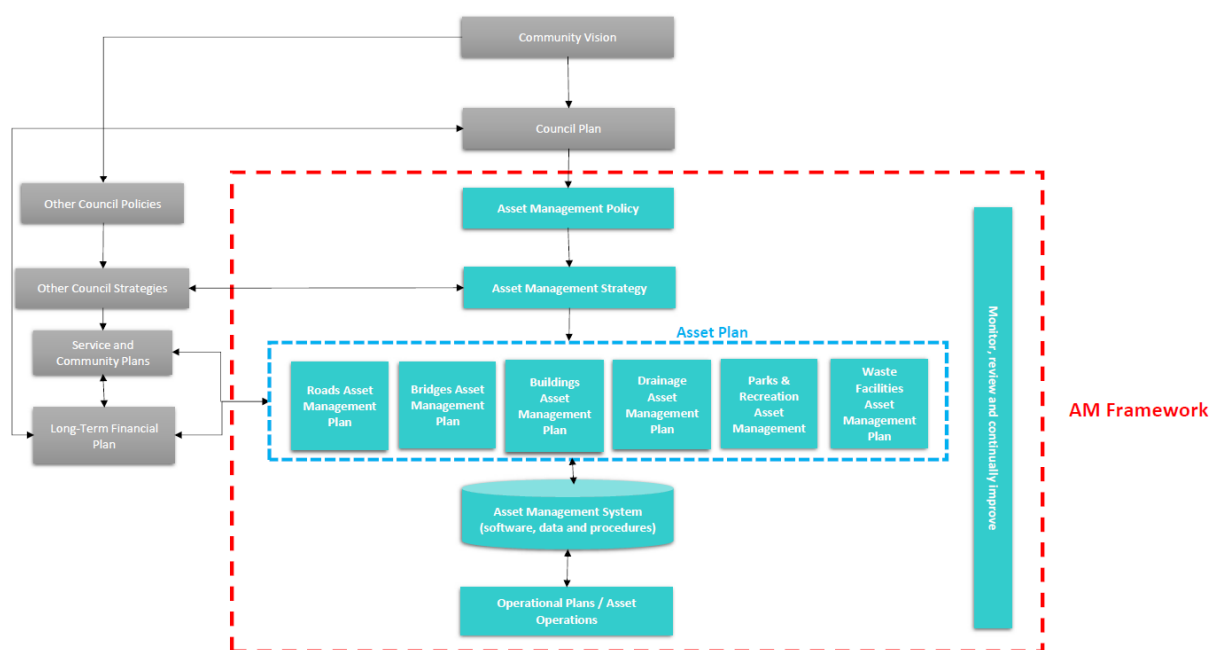


Figure 1 – Proposed Asset Management Framework

- 1.1 The Asset Management Framework has been established to ensure compliance with Councils' obligations under the *Local Government Act 2020*, specifically new requirements with respect to asset management as defined in section 92 of the *Act*.
- 1.2 The policy also establishes a range of revised policy statements
- Embed the asset management framework, aligned with Council's vision and objectives, legislative, statutory and best practice requirements.
 - Ensure service delivery needs form the basis of asset management within the context of best value – balancing services, financial, environmental and social aspects.
 - Ensure long term financial sustainability by focusing on asset renewal, demand management and innovative and better use solutions to limit expansion of the asset base, unless justified.
 - Direct the preparation of asset management plans aligned with Council's long-term plans and informed by community engagement.
 - Promote a culture of accountability and responsibility for asset condition, use and performance with respect to asset management and reporting to the community on outcomes.
 - Implement an integrated Asset Management Information System to ensure a common asset data set is available for strategic, operational and financial reporting purposes.
 - Ensure that asset management decisions will be evidence-based and informed through asset lifecycle cost analysis, performance monitoring and analysis of alternative scenarios, leading to a cost-effective asset base.
 - Establish a risk-based approach to asset management and impacts of climate change, to achieve a desired balance of cost, risk and performance.
 - Apply a continuous improvement approach to enhancing Council's asset management maturity in alignment with International Asset Management Standards and the National Asset Management Assessment Framework.
- 1.3 Considering the significant change in strategic drivers and recent changes in statutory settings, the Asset Management Policy, revision 7, has been significantly reviewed and revised for Council's consideration, a copy is provided at **Attachment 1**. Given the significance of the changes and difference in templates, a clean version of the existing Policy (version 6) is provided as **Attachment 2**, however a tracked version has not been provided.
- 1.4 The adoption of the revised Policy will provide for the rapid progression of the revised Asset Management Strategy and Asset Management Plans.

Legislation

On 24 March 2020 the Government passed the *Local Government Act 2020* (the new Act). As of 1 July 2021, all provisions from the new Act have commenced. Some provisions of the *Local Government Act 1989*, that have not been repealed, will remain applicable until such time as they are revoked.

The East Gippsland Shire Council is required to make decisions under both Acts as the transition occurs. Council has implemented mechanisms to ensure decisions are made according to the relevant provisions of either the *Local Government Act 1989* or the *Local Government Act 2020* as in force at the date of the decision.

This report has been prepared in accordance with *Local Government Act 2020*, with specific reference to Section 92, which stipulates requirement for Councils to produce Asset Plans, that are directly influenced by the Asset Management Policy.

The implications of this report have been assessed and are not considered likely to breach or infringe upon the human rights detailed in the Victorian Government's Charter of *Human Rights and Responsibilities Act 2006*.

Collaborative procurement

Section 109(2) of the *Local Government Act 2020* does not apply as this report does not relate to procurement.

Council Plan

This report has been prepared and aligned with the following strategic objectives set out in the Council Plan 2021-2025:

Strategic Objective 1: 1.1 Council strives to provide equitable access to their services, support and facilities.

Strategic Objective 2:2.2 Infrastructure provision and maintenance supports a diverse range of current and future user needs and activities and is both environmentally and financially sustainable.

Strategic Objective 5:5.5 Resources are managed to meet current and future needs and priorities.

Council Policy

The development of Asset Plans as referenced in the Asset Management Policy must be conducted in accordance with Council's Community Engagement Policy, as required by section 92(6) of the *Local Government Act 2020*.

Options

The Asset Management Policy provides high level strategic direction and policy position with respect to Asset Management for East Gippsland Shire Council. Council has the option to adopt the Policy as presented or incorporate change in any area of the draft Policy.

Resourcing

Financial

The Asset Management Policy establishes a framework to assist long-term financial sustainability however does not commit any financial resources.

Plant and equipment

Not Applicable

Human Resources

Not applicable.

Risk

The risks of this proposal have been considered and assessed as low, as the adoption of the revised Asset Management Strategy has been developed to minimise asset and financial based risk for East Gippsland Shire Council.

Economic

The Asset Management Policy and subordinate Strategy align with broader organisational goals and objectives related to economic development through the provision of targeted supporting infrastructure in a sustainable way.

Social

The revised Asset Management Policy sets objects to drive infrastructure investment based on identified service needs of the community in financially sustainable way.

Environmental

The revised Asset Management Policy sets objects that consider environmental sustainability in the provision of assets and infrastructure.

Climate change

This report has been prepared and aligned with the following Climate Change function/category:

Asset Management: Climate change is considered in the design and maintenance of assets and includes responses to direct and indirect impacts.

Engagement

The revised Asset Management Policy references Council's Community Engagement Policy. The development of Asset Plans must be conducted in accordance with Council's Community Engagement Policy, as required by section 92(6) of the Local Government Act 2020.

Attachments

1. Draft Asset Management Policy 2021 - Rev. 7 [**5.1.2.1** - 9 pages]
2. Asset Management Policy 2014 - Rev. 6 [**5.1.2.2** - 6 pages]

Version number: 7
Authorised by: *Draft*



Asset Management Policy

DRAFT

Purpose

The purpose of this policy is to:

- Provide clear direction for asset management at East Gippsland Shire Council;
- Outline the policy position, criteria and roles and responsibilities for how Council will sustainably manage its assets in accordance with service delivery needs, strategic objectives and legislative requirements and minimise exposure to risk; and
- Guide the development of Council's Asset Management Strategy and Plans based on a sound asset management framework.

Scope

This policy applies to:

- All staff (temporary or permanent), councillors, contractors and other persons involved in the planning, acquisition, operation and maintenance, renewal and disposal of Council assets and to the extent possible all contracts applicable in these areas.
- All assets owned, controlled, managed and/or maintained by Council including but not limited to roads, drains, buildings, bridges, parks and recreation, waste management and fleet, plant and equipment asset classes.

Policy Context

East Gippsland Shire Council is a custodian of more than \$800 million in infrastructure assets, including assets such as roads, footpaths, bridges, buildings, drains, parks and recreation facilities, foreshore assets and waste management assets, to support service provision to the community. This represents a significant investment made over many generations. Prudent management of these community assets is a core Council function to ensure long-term sustainability of the municipality, while also maintaining community safety, amenity and wellbeing.

The *Local Government Act 2020* now introduces the requirement for Victorian Council's to produce and maintain 10-year asset management plans via a deliberative community engagement process and within an integrated planning framework. This results in a growing emphasis on service planning, to determine the physical asset needs to support the delivery of services at defined levels with a sustainable level of expenditure.

The *Local Government Act 2020* also establishes overarching governance principles, the following specifically underpin and are supported by this policy:

- priority is to be given to achieving the best outcomes for the municipal community, including future generations;
- the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;
- the municipal community is to be engaged in strategic planning and strategic decision making;
- innovation and continuous improvement are to be pursued;
- the ongoing financial viability of the Council is to be ensured;

Asset Management Policy
Date approved: *Draft*
Document owner: Manager Assets and Projects

Version number: 7
Next review date: 30 June 2023

This document is uncontrolled when printed

2

- regional, state and national plans and policies are to be taken into account in strategic planning and decision making;
- the transparency of Council decisions, actions and information is to be ensured.

This policy has been developed to align with Council's vision and supports the strategic objectives outlined in the Council Plan 2021 – 2025.

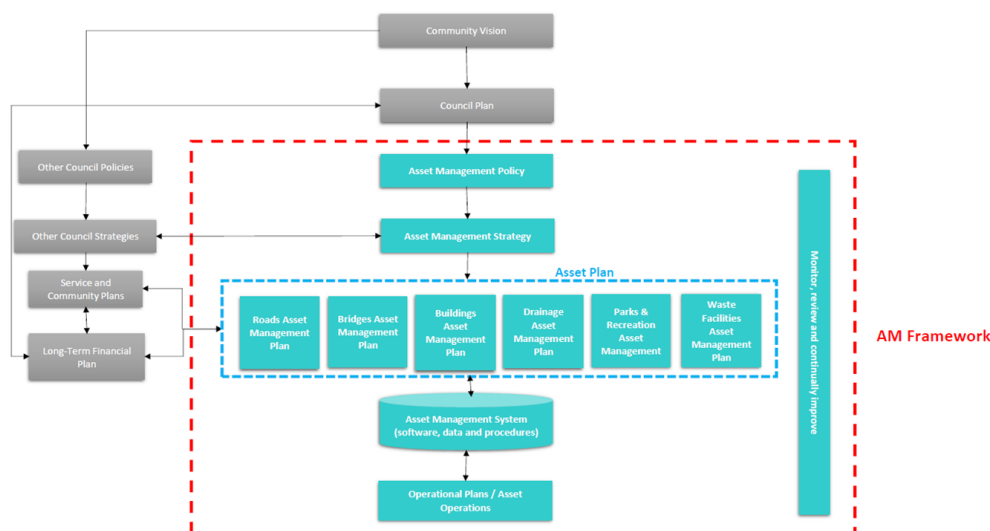
The development of Asset Plans as required by the *Local Government Act 2020* will be conducted in accordance with Council's Community Engagement Policy.

Policy Statement

This Policy will provide the strategic direction for the management of all assets owned, controlled, managed and/or maintained by East Gippsland Shire Council,

The Asset Management Framework is a key component of the overall integrated planning framework of Council, which focuses on the integration of the following three aspects:

- Assets - achieving a 'Core' then 'Advanced' level of asset management maturity.
- Services - delivering services to the community within a financially sustainable context.
- Financial Sustainability - ensuring expectations do not exceed funding capacity.



To achieve relevant **asset management** objectives, East Gippsland Shire Council will:

- Embed the **asset management framework**, aligned with Council's vision and objectives, legislative, statutory and best practice requirements.

Asset Management Policy
Date approved: *Draft*
Document owner: Manager Assets and Projects

Version number: 7
Next review date: 30 June 2023

This document is uncontrolled when printed

3

- Ensure **service delivery needs** form the basis of asset management within the context of best value – balancing services, financial, environmental and social aspects, including a focus sustainable approaches to asset-based service delivery and disaster resilience.
- Ensure **10-year financial sustainability** by focusing on asset renewal, demand management and innovative and better use solutions to limit expansion of the asset base, unless justified.
- Direct the preparation of asset management plans aligned with Council's long-term plans and informed by **community engagement**.
- Promote a culture of **accountability and responsibility** for asset condition, use and performance with respect to asset management and reporting to the community on outcomes.
- Implement an **integrated Asset Management Information System** to ensure a common asset data set is available for strategic, operational and financial reporting purposes.
- Ensure that asset management decisions will be evidence-based and informed through **asset lifecycle cost** analysis, performance monitoring and analysis of alternative scenarios, leading to a cost-effective asset base.
- Establish a **risk**-based approach to asset management and impacts of climate change, to achieve a desired balance of cost, risk and performance.
- Apply a **continuous improvement** approach to enhancing Council's asset management maturity in alignment with International Asset Management Standards and the National Asset Management Assessment Framework.

Asset Management Policy
 Date approved: *Draft*
 Document owner: Manager Assets and Projects

Version number: 7
 Next review date: 30 June 2023

This document is uncontrolled when printed

4

Roles and Responsibilities

These management positions are responsible for the implementation, communication and compliance monitoring of the policy in their work areas:

Party / Parties	Roles and Responsibilities
Council	<ul style="list-style-type: none"> Act as steward for community assets and set the corporate vision and policy for asset management. Approve adequate resources to maintain community assets for delivering on the agreed levels of service. Approve Council Plans, Annual Budgets and the 10-year Financial Plan.
Executive Leadership Team	<ul style="list-style-type: none"> Foster an asset management culture that aims to implement consistent, compliant and best practice asset management across the organisation. Support integration of the Asset Management Framework with the overarching corporate planning framework. Promote development of sustainable long-term financial plans that reflect the state of the assets and agreed levels of service. Enable appropriate management arrangements, ownership, control, accountability and reporting requirements for all asset classes under Council's management. Support the reporting and presentation of reliable information to Council for optimal decision-making purposes. Receive and review regular reports on the performance and state of the assets.
Asset Management Steering Committee	<ul style="list-style-type: none"> Provide a co-ordinated and collaborative approach to asset management and improvements consistent with this policy. Promote good asset management practices throughout the organisation. Monitor and evaluate asset management practice and the development and implementation of the Asset Management Strategy. Oversee development and annual review of asset management plans, ensuring that community needs are appropriately reflected in the service levels set for asset performance. Oversee, review and monitor the implementation and utilisation of Council's asset management system. Drive skill development and training programs that increase awareness and build internal Asset Management capability are provided. Report to the Executive Leadership Team on asset management performance.

Asset Management Policy
Date approved: *Draft*
Document owner: Manager Assets and Projects

Version number: 7
Next review date: 30 June 2023

This document is uncontrolled when printed

5

Party / Parties	Roles and Responsibilities
Asset and Service Managers	<ul style="list-style-type: none"> Consult with stakeholders and deliver levels of service to agreed risk and cost standards. Develop and implement asset management plans to deliver on agreed levels of services. Develop and maintain approved policy operating statements for their respective areas in asset management and service delivery. Implement asset maintenance, renewal, upgrade, expansion and new works programs in accordance with asset management plans and service delivery needs. Utilise an integrated asset management information system appropriately for recording, viewing and analysing asset lifecycle. Monitor and report on asset performance in delivering the required services.
Manager Finance	<ul style="list-style-type: none"> Implement processes whereby Council assets are appropriately recognised and valued, consistent with relevant Australian Accounting Standards. Undertake financial reporting on assets aligned with Local Government reporting regulations.
Staff and Contractors	<ul style="list-style-type: none"> Apply agreed asset management practices in their area of work. Develop and manage all service contracts that impact on the creation, upgrade, renewal and maintenance of assets to support the outcomes of this policy.

References and Supporting Documents

Applicable Legislation:

- Local Government Act 2020
- Local Government (Planning and Reporting Regulations) 2014
- Road Management Act 2004
- Building Act 1993
- Victorian Charter of Human Rights and Responsibilities Act 2006

Applicable Policy and Procedure:

- Community Engagement Policy
- Risk Management Policy

Supporting Documents:

- East Gippsland Shire Council Plan 2021-2025
- Council Budget

Asset Management Policy
Date approved: *Draft*
Document owner: Manager Assets and Projects

Version number: 7
Next review date: 30 June 2023

This document is uncontrolled when printed

6

- 10-year Financial Plan
- Asset Management Plans
- Facility and Open Space Management Plans
- Road Management Plan

Privacy and Human Rights Consideration

All personal information collected by East Gippsland Shire Council about Asset Management will be handled in accordance with all applicable privacy legislation.

The Asset Management Policy has been assessed as compliant with the obligations and objectives of the Victorian Charter of Human Rights and Responsibilities Act 2006.

Definitions

Term	Meaning
Acquisition	Expenditure that creates a new asset that provides a service that does not currently exist.
Action Officer	Member of East Gippsland Shire Council staff responsible for answering or responding to a request for information.
Asset	A physical item (eg: roads, drains, buildings, open space infrastructure, fleet, plant, equipment, etc.) that is owned or managed by Council, which enables the provision of a service.
Asset Management	The combination of management, financial, technical and other practices that are applied to physical assets with the objective of providing the required level of service in the most sustainable, cost effective manner.
Asset Management Framework	A set of documents, systems and processes that address an organisation's asset management objectives, strategies, plans and responsibilities.
Asset Management Plan	Long-term plans (at least 10 or more years) that outline the asset activities and programs for each service area and resources applied to provide a defined level of service in the most cost-effective manner.
Community	People who live in East Gippsland; People and organisations who are ratepayers in East Gippsland; and People and organisations who conduct activities in East Gippsland.
Contractor	Person or company engaged to undertake works for Council, including service providers / service partners
Council	East Gippsland Shire Council
Councillor	Person who has been elected to the office of "Councillor" of East Gippsland Shire Council.
Council officer	A current member of East Gippsland Shire Council staff with the authority to engage in activities on behalf of Council.
Disposal	Works to remove an asset
Expansion	Expenditure that extends the capacity of an existing asset to provide benefits to new users at the same standard as is provided to existing beneficiaries.

Asset Management Policy
Date approved: *Draft*
Document owner: Manager Assets and Projects

Version number: 7
Next review date: 30 June 2023

This document is uncontrolled when printed

7

Term	Meaning
Level of Service	The defined service quality for an activity or a service area against which service performance may be measured. Service levels usually related to quality, quantity, reliability, responsiveness, environmental acceptability and cost.
Lifecycle	The stages of an asset's life, including planning, acquisition, operation, maintenance, renewal and disposal.
Maintenance	All actions necessary for retaining an asset as near as practicable to its original condition and service potential, excluding renewal.
Operation	The active process of utilising an asset which will consume resources such as workforce, energy and materials.
Planning	All actions necessary for the acquisition, operation, maintenance, renewal and disposal of an asset including consultation, design and construction.
Renewal	Expenditure on an existing asset or on replacing an existing asset that returns the service capability of the asset to its original capability.
Responsible Officer	An officer of East Gippsland Shire Council who has responsibility for the general area/subject matter to which a record pertains.
Shire	The geographic area of East Gippsland Shire Council.
Staff	All staff engaged by East Gippsland Shire Council, including all full-time, part-time and casual employees, labour hire agency staff, contractors and volunteers.
Upgrade	Expenditure that enhances an existing asset to provide a higher level of service or increases the life of the asset beyond its original life.
Volunteer	Formally recognised, unpaid member of the public who assists with the provision of Council services e.g. Visitor Information Centre, Library.

Revision History and Review

Version Control	Approved Amended Rescinded	Date Effective	Approved By	ECM Document Reference	Summary of Changes
Original	Approved	July 2006	Council		
2	Amended	July 2009	Director		Administrative Update
3	Approved	November 2009	Council		Comprehensive Review
4	Amended	October 2010	Director		Administrative update to reflect new National Framework requirements
5	Approved	December 2011	Council	4854697	Comprehensive Review
6	Approved	July 2013	Council	5304016	Comprehensive Review

Asset Management Policy
Date approved: *Draft*
Document owner: Manager Assets and Projects

Version number: 7
Next review date: 30 June 2023

This document is uncontrolled when printed

8

7		August 2021			Comprehensive Review to align with Asset Management Requirements of the Local Government Act 2020 and Council Plan 2021-25
---	--	-------------	--	--	--

DRAFT

Asset Management Policy
Date approved: *Draft*
Document owner: Manager Assets and Projects

Version number: 7
Next review date: 30 June 2023

This document is uncontrolled when printed
9



ASSET MANAGEMENT POLICY

DOCUMENT CONTROL

Managed by:	Operations
Status:	Approved
Responsible position:	Asset Management Coordinator
Contact number:	03 5153 9500
Date approved:	02/07/2013
Version:	6
File number:	5304016
Approved by:	Council
Next review date:	July 2014
Security classification:	Public

CONTENTS

1. PURPOSE	3
2. POLICY STATEMENT.....	3
Training and Tools	3
Audit and Review Procedures.....	4
3. RESPONSIBILITY FOR IMPLEMENTATION AND COMPLIANCE	4
4. SCOPE OF POLICY	5
5. REFERENCES / ASSOCIATED DOCUMENTS.....	5
6. PRIVACY AND HUMAN RIGHTS CONSIDERATION	5
7. DEFINITIONS AND ABBREVIATIONS.....	5
8. SUPPORTING PROCEDURES / GUIDELINES	6

REVISION HISTORY *(Completed by Governance Officer)*

Revision Ref. No.	Approved/ Amended/ Rescinded	Date	Council / Management	ECM Document Reference
Original	Approved	July 2006	Council	
2	Administrative update only	July 2009		
3	Comprehensive Review	10/11/2009	Council	
4	Administrative update to reflect new National Framework requirements	18/10/2010	J Websdale	
5	Comprehensive Review	13/12/2011	Council	4854697
6	Comprehensive Review / Approved	02/07/2013	Council	5304016

1. PURPOSE

The economic, social, environmental and cultural wellbeing of the East Gippsland Shire is underpinned by an extensive network of roads, drainage, property and other physical assets valued in excess of \$870 million (as at 1 July 2010).

Prudent management of these assets is a core Council function and critical to maximising the quality of life and financial sustainability of the organisation and our community, now and into the future.

As such, this policy provides a framework within which East Gippsland Shire Council will undertake the long-term planning and management of its infrastructure and associated assets.

The policy is intended to support the management and implementation of the Asset Management Strategy (the Strategy) and to develop an asset improvement program.

2. POLICY STATEMENT

This Policy provides the strategic direction to manage all of Council's existing and future physical assets efficiently and effectively.

East Gippsland Shire Council will optimise the whole of life costs of its assets, whilst meeting the present and future service delivery needs of the community and minimising exposure to risk.

This will be achieved through the full implementation of a simple, logical and innovative asset management strategy that clearly articulates "where we are, where we are going and how we are going to get there" for every asset management function.

East Gippsland Shire Council has the following objectives for asset management:

- Establish and maintain a framework to enable the development and application of sound asset management practice throughout the organisation;
- To have a community engagement framework that enables community expectations to be considered in all significant decisions affecting infrastructure;
- Based on community feedback Council has adopted the Council Plan or which articulates the long term view to the provision and management of infrastructure assets;
- The asset management data is recognised as being timely, reliable, accurate and accessible to the organisation. The Asset management database will be maintained in an accurate and efficient manner by Council officers, and will include the following information;
 - Physical location
 - Asset valuation
 - Current condition
 - Risk assessment
 - Asset management plan

Finally, lifecycle costing is incorporated in all capital investment decisions based on the Asset Management Plans (Plans) for each major asset category. Full lifecycle analysis for the organisation's infrastructure informs Council's long term financial planning.

Training and Tools

To achieve and maintain the required level of capability, skills and expertise to deliver best practice in asset management decision making, East Gippsland Shire Council will endorse adequate training and resources.

Training needs will be identified by the Asset Management Steering Group^{*}, and submitted to Human Resources for provision of the required training.

Audit and Review Procedures

This policy will be subject to review in accordance with the Council's review program or, when any other linked document is reviewed or amended, ensuring its relevance in terms of community needs and expectations, as well as Council objectives and statutory requirements.

3. RESPONSIBILITY FOR IMPLEMENTATION AND COMPLIANCE

The very nature of asset management requires input from, and interaction between, all facets of the organisation. Council recognises the importance of establishing well defined roles and responsibilities for its staff and Council with respect to asset management.

Roles and responsibilities are clearly defined in the Asset Management Strategy.

However, the accountability and responsibility for asset management initiatives are summarised below:

Party / Parties:	Roles and responsibilities:
Council	<ul style="list-style-type: none"> Adopt the Asset Management Strategy and associated Asset Management Plans, reviewing their implementation and monitoring their progress. Ensure appropriate resources are available for asset management activities.
Director Operations	Ensure all Managers are aware of their responsibilities and comply with the Policy, Strategy and Plans
Manager Waste and Assets	Ensure relevant staff are aware of their responsibilities and comply with the Policy, Strategy and Plans
Leadership Team*	<ul style="list-style-type: none"> Educate and promote awareness of the Asset Management function to staff, councillors and the community. Support the Asset Management Steering Group*.
Asset Management Steering Group*	<ul style="list-style-type: none"> Educate and promote awareness of the Asset Management function to staff and contractors. Ensure reports comply with the STEP Program* and National Framework* prior to Chief Executive Officer submission for endorsement to authorities. Review quarterly reports for submission to Executive Group. Monitor and review implementation of the Policy, Strategy and Plans. Provide advice and guidance to the Asset Management Unit. <p>Assess asset and financial management skills across the organisation and recommend further training to Human Resources where required.</p>

^{*} Refer definitions Section 7

4. SCOPE OF POLICY

This policy applies to all Councillors and Council Officers

5. REFERENCES / ASSOCIATED DOCUMENTS

This policy will integrate with the following Council documents:

- Shaping the Future – Long Term Community Vision 2030
- Council Plan 2013-2017. "Place" objective 3, item 2.3 - *'Our Infrastructure meets current and future community needs.'*
- Asset Management Strategy
- Risk Management Policy
- Road Management Plan
- Long Term Financial Plan
- Asset Management Plans

Relevant Legislation:

- *Local Government Act 1989.*

6. PRIVACY AND HUMAN RIGHTS CONSIDERATION

All personal information collected by East Gippsland Shire Council in connection with this policy will be handled in accordance with all applicable privacy legislation and will be used only for the purpose of compliance with the Act. Personal information about an individual held by Council must only be used to carry out the primary or directly related purpose of collection. Furthermore, Council must not collect personal information unless the information is necessary for one or more of its functions.

Individuals have the right to make a complaint to the Victorian Privacy Commissioner if they believe their privacy has been breached.

The Asset Management policy has been assessed as compliant with the obligations and objectives of the Victorian *Charter of Human Rights and Responsibilities Act 2006*.

7. DEFINITIONS AND ABBREVIATIONS

Term:	Meaning:
Asset	A fixed resource that is controlled by the Council for the purpose of satisfying a service potential or enabling the Council to meet its corporate objectives.
Asset Management	Combined management, financial, economic, engineering and social planning as applied to fixed assets. Objective is to provide the required level of service in the most effective and efficient manner now and into the future.
Asset Management Steering Group	An internal working group appointed by the Executive Group to ensure participation from all departments within Council.

Asset Management Plan	A plan developed for the management of one or more infrastructure assets that combines multi-disciplinary management techniques (including technical and financial) over the lifecycle of the asset in the most cost effective manner to provide a specified level of service. A significant component of the plan is a long term cash flow projection for the activities.
Asset Service Plans	A plan that has been developed with consultation between the community and Council to deliver an agreed level of service for a particular asset class.
Leadership Team	A group made up of representatives from the Executive Group of Council.
STEP Program	A set of criteria published by the Municipal Association of Victoria on behalf of the Victorian State Government.
National Framework	The National Asset Management Assessment Framework as stipulated by the Australian Government.
Strategy	Asset Management Strategy adopted by Council. This document provides guidance to Council Officers in the implementation of this policy.
Policy	Asset Management Policy
Plans	Asset Management Plans. A plan developed for the management of one or more infrastructure assets that combines multi-disciplinary management techniques (including technical and financial) over the lifecycle of the asset in the most cost effective manner to provide a specified level of service. A significant component of the plan is a long term cash flow projection for the activities.

8. SUPPORTING PROCEDURES / GUIDELINES

Asset Management Strategy

Asset Management Plans (incorporating Asset Service Plans as required)

Hardcopies of this document are considered uncontrolled please refer to the EGSC HIVE intranet site or ECM for the latest version

Produced with the permission of University of Wollongong

5.2 Business Excellence

5.2.1 Public Interest Disclosure Policy

Authorised by General Manager Business Excellence

Conflict of Interest

Officers preparing this report have no conflict of interest to declare.

Executive Summary

Under the *Public Interest Disclosure Act* 2012 (the Act) a person may make a disclosure of improper conduct or detrimental action by Councillors, Council and Council staff to the Independent Broad-based Anti-Corruption Commission (IBAC), Ombudsman or certain Council staff. Council is required to have a policy and provide on its website information about how to make a public interest disclosure.

The *Public Interest Disclosure Act* 2012 was amended in April 2020 and Council adopted an updated Public Interest Disclosure Policy (the Policy) to align with the legislative requirements.

One of the significant changes to the Act was the change of title from the *Protected Interest Disclosure Act* 2012. Additionally, the legislative changes also prompted a review of the current Protected Interest Disclosure Procedure to bring it in line with the Act and the Policy. The revised and retitled Public Interest Disclosure Procedure (the Procedure) identified that additional amendments were required to the Policy to ensure consistency across the two documents. A revised draft Public Interest Disclosure Policy is provided in **Attachment 1** and a tracked changes version in **Attachment 2** identifies the changes.

Additionally, it is proposed to transfer the management of the Procedure from Council to the Chief Executive Officer as this will enable improved flexibility to amend the Procedure to respond to advice on the operational process from IBAC in a timely manner and ensure that the community have access to the most current information about the process as quickly as possible, at all times. Additionally, the process of having procedures managed by the Chief Executive Officer is more accurately aligned to the separation of strategic matters being adopted by Council and operational matters being managed by management.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report;***
- 2. adopts the Public Interest Disclosure Policy at Attachment 1; and***
- 3. agrees that the Public Interest Disclosure Procedure will be approved and managed by the Chief Executive Officer.***

Background

In April 2020, the amendments to the Act, including changing the title from *Protected Interest Disclosure Act 2012* came into force. At the time Council adopted a revised Policy to address the legislative changes. In reviewing the existing Protected Interest Disclosure Procedure to bring it into line with the new legislative requirements, further improvements for the Policy were identified. These improvements are mainly around clarity of terms, roles and responsibilities and consistency with both documents. A revised draft Policy is provided at **Attachment 1** and a tracked changed version is provided at **Attachment 2**.

The Act allows a person to make a disclosure of improper conduct or determinantal action by Councillors, Council and Council staff to the Independent Broad-based Anti-Corruption Commission (IBAC), the Ombudsman or nominated Council staff.

Anyone making a disclosure under the Act is protected from detrimental action that may arise because of their disclosure. Council is responsible for ensuring that anyone can make a disclosure to the nominated Council staff or IBAC or the Ombudsman, that people are aware of how they can make a disclosure and provide support and protection for those making a disclosure. Council is required to make available on the website information about how a person can make a disclosure and to whom.

The following examples of improper conduct demonstrate to the municipal community situations when public interest disclosures may be made.

- To avoid closure of a town's major business, an environmental health officer ignores or conceals evidence of illegal dumping of waste.
- Failure by Community Laws Officer to require a permit for an A-frame advertising sign on a public footpath as a result of the officer's relationship with the operator.
- Parking Officer ignores a particular vehicle on the basis of a personal relationship with the vehicle's owner.
- A Council staff member approves a colleague's corporate expense account for payment even though it appears to have unjustified or non-work related expenditure items listed.
- A Council officer takes a bribe or receives a payment other than their wages or salary in exchange for the discharge of a public duty.
- A Council officer favours unworthy applications for jobs or permits by friends and relatives.
- A Council officer sells confidential information or uses confidential information for personal gain.
- A Council officer colludes to share profits with tender recipients and conceals the overvaluation of tenders.
- A Councillor acquires information about one of their neighbours as part of performing their role as a Councillor and misuses that information to resolve a personal dispute with the neighbour.

These examples of detrimental actions indicate to the municipal community responses to a public interest disclosure that are unacceptable.

- An action causing injury, loss or damage, or intimidation or harassment.
- A deserved promotion of a person who has made a disclosure is refused.
- A discloser is demoted, transferred, isolated in the workplace or has their duties changed due to the making of a disclosure.

- A Councillor or Council staff member threatens, abuses or carries out other forms of harassment directly or indirectly against the discloser, and/or his or her family or friends.
- Any Council staff member discriminates against the discloser and/or his or her family and associates in subsequent applications for jobs, permits or contracted works.
- A Councillor votes against a resolution to engage a particular contractor to undertake works for Council because they have made a disclosure.

While disclosures about Councillors must be made directly to IBAC or the Ombudsman, disclosures about Council staff can be made to the Chief Executive Officer, Manager Governance and Compliance Coordinator.

Legislation

On 24 March 2020, the Government passed the *Local Government Act 2020* (the new Act). As of 1 July 2021, all provisions from the new Act have commenced. Some provisions of the *Local Government Act 1989*, that have not been repealed, will remain applicable until such time as they are revoked.

This report is not prepared with specific reference to the either Local Government Act.

This report has been prepared in accordance with *Public Interest Disclosure Act 2012* that requires Council to adopt a Policy and to make available on the website information to assist a person to make a disclosure of improper conduct to the appropriate integrity agency or nominated Council staff member.

The implications of this report have been assessed and are not considered likely to breach or infringe upon the human rights detailed in the Victorian Government's Charter of *Human Rights and Responsibilities Act 2006*.

Council Plan

This report has been prepared and aligned with the following strategic objectives set out in the Council Plan 2021-2025:

Strategic Objective 5: 5.4 Continuous improvement systems are strengthened, and organisational efficiency enhanced.

Council Policy

The main changes between the existing Policy and the revised draft are the inclusion of the Ombudsman as a receiver of disclosures relating to Councillors and the realignment of the roles and responsibilities, particularly those of the Public Interest Disclosure Coordinator and the Public Interest Disclosure Officer with their functional responsibilities at Council. In addition, the role of the Welfare Manager has been included to provide welfare support to the discloser, if considered appropriate by the Chief Executive Officer.

The revised draft Policy ensures consistency of terminology with the Act, for example a discloser is colloquially referred to as a whistleblower but this term is not in the legislation therefore the policy defines and uses the term discloser as defined in the legislation.

Options

It is proposed that Council transfer the management of the Protected Interest Disclosure Procedure to the Chief Executive Officer.

This will enable improved flexibility in amending the Procedure to respond to advice on process from IBAC, who oversee the implementation of the Act, in a timely manner. Additionally, Council procedures represent the operational aspects of the implementation of Council policy and as such are more appropriately aligned to sit under the management of the Chief Executive Officer.

Furthermore, the Procedure is primarily focused on the management of the process of disclosures relating to Council staff, as disclosures relating to Councillors are made directly to IBAC or the Ombudsman.

A copy of the revised draft Procedure is at **Attachment 3** and the tracked changes at **Attachment 4** for information identifying the changes made to the Procedure.

Resourcing

Financial

Implementation of the Policy will be managed within existing budgets.

Plant and equipment

No additional plant and equipment are required to implement the Policy.

Human Resources

Existing human resources can effectively implement the policy and manage any disclosures received.

Risk

The adoption of the revised draft Policy by Council and the revised draft Procedure by the Chief Executive Officer is a risk mitigation for Council as this will ensure clarity for the community and staff regarding the process and the roles and responsibilities when making a public interest disclosure.

Economic

Ensuring a clear Policy approach will provide the municipal community with confidence that concerns can be raised and managed effectively and consistently with legislative requirements.

Social

Making clear and consistent information available to the community on the process and protection for public interest disclosures will enable matters to be disclosed appropriately and maintain integrity of Council decision-making.

Environmental

Disclosures can be made about improper conduct that may involve environmental matters.

Climate change

This report has been prepared and aligned with the following Climate Change function/category:

This report is assessed as having no direct impact on climate change.

Engagement

The Policy and Procedure have been reviewed by the Management team and feedback has been addressed and where appropriate incorporated into the documents.

Attachments

1. Draft revised Public Interest Disclosure Policy clean [5.2.1.1 - 13 pages]
2. Draft revised Public Interest Disclosure Policy tracked [5.2.1.2 - 16 pages]
3. Draft revised Public Interest Disclosure Procedure clean [5.2.1.3 - 23 pages]
4. Draft revised Public Interest Disclosure Procedure tracked [5.2.1.4 - 30 pages]



Public Interest Disclosure Policy

Public Interest Disclosure Policy
Date approved: 3 March 2020
Document owner: Manager Governance
This document is uncontrolled when printed
0

Version number: 7
Next review date: June 2024

TABLE OF CONTENTS

Purpose2

Scope.....2

Policy Context2

Policy Statement2

Review4

Administrative Updates4

Roles and Responsibilities.....5

References and Supporting Documents.....9

 Applicable Legislation:9

 Applicable Policy and Procedure:9

 Supporting Documents:9

Privacy and Human Rights Consideration.....10

Definitions10

Revision History and Review12

Purpose

The purpose of this policy is to declare East Gippsland Shire Council's (Council) commitment to the *Public Interest Disclosure Act 2012* (the Act) and document the system for receiving, assessing and reporting disclosures of improper conduct or detrimental action by Council and Council staff. It establishes the standards Council will abide by in protecting those making public interest disclosures and meeting the welfare needs of those who are the subject of a public interest disclosure.

Scope

This policy applies to all Councillors, Council staff, and relatives and dependents of these people. The policy is available to the public via the Council's website.

Policy Context

The intent of the Act is to ensure transparency and accountability in the workings of the public sector as well as encouraging and facilitating the making of public interest disclosures of improper conduct, including corrupt conduct.

Public interest disclosures can only be made about public bodies (such as East Gippsland Shire Council) or public officers (such as Council staff or Councillors), regarding conduct of a person that adversely affects the honest performance of an official function by a public body or public officer, or that intends to adversely affect the effective performance of a public officer or public body. This includes associates and relatives and dependants of public officers and public bodies.

The Act provides protection from detrimental action to any person affected by a public interest disclosure; including the discloser (often colloquially referred to as a whistleblower) and co-operators.

Policy Statement

Council is committed to ensuring transparency and accountability throughout the organisation and in compliance with the Act.

Council encourages and facilitates the making of public interest disclosures by any person or group of people (not a company), including Council staff or Councillors that reveal suspected improper conduct or detrimental action taken by Council, its Council staff, and associates and relatives/dependents of these people.

Council will take all reasonable steps to protect people who make such public interest disclosures from any detrimental action in reprisal for making the public interest disclosure. It will also protect the welfare and confidentiality of the person(s) who are the subject of the public interest disclosure.

A public interest disclosure relating to a Councillor must be made to the Independent Broad-based Anti-corruption Commission (IBAC) or the Ombudsman:

Public Interest Disclosure Policy
Date approved: 3 March 2020
Document owner: Manager Governance
This document is uncontrolled when printed
2

Version number: 7
Next review date: June 2024

Contact details:

IBAC
Level 1, North Tower
459 Collins Street, MELBOURNE VIC 3000
Postal: GPO Box 24234, MELBOURNE VIC 3001
Website: www.ibac.vic.gov.au
Telephone: 1300 735 135

See Ombudsman website for details of how to make a Disclosure to the Ombudsman:
<https://www.ombudsman.vic.gov.au/reporting-improper-conduct/>

A public interest disclosure relating to Council staff should be made to the Chief Executive Officer (CEO), the Public Interest Disclosure Coordinator (PIDC) or the Public Interest Disclosure Officer (PIDO) at the following details:

Public Interest Disclosure Coordinator (PIDC)

Manager Governance
PO Box 1618, BAIRNSDALE VIC 3875
Phone: 03 5153 9500
Email: whistleblowers2@egipps.vic.gov.au

Public Interest Disclosure Officer (PIDO)

Governance and Compliance Coordinator
PO Box 1618
BAIRNSDALE VIC 3875
Phone: 03 5153 9500
Email: whistleblowers3@egipps.vic.gov.au

Chief Executive Officer (CEO)

PO Box 1618, BAIRNSDALE VIC 3875
Phone: 03 5153 9500
Email: whistleblowers1@egipps.vic.gov.au

All public interest disclosures will be assessed by the PIDC and matters determined as assessable disclosures must be submitted to IBAC for further assessment and investigation. While Council may gather information necessary to assess whether a public interest disclosure is an assessable disclosure, including considering the reasonableness of the discloser's belief, the reliability of the information and the credibility of the discloser or their sources (see section 6 of Public Interest Disclosure Procedure and page 12 of the IBAC - *Guidelines for handling public interest disclosures* for more details), it must stop short of actively investigating the allegations made in the public interest disclosure, this being the role of IBAC. The relevant discloser must be notified of the submission to IBAC.

All dealings relating to a public interest disclosure must be kept confidential, subject to any exceptions in the Act. Heavy penalties apply for breaching the confidentiality of a discloser's identity, or for victimising or threatening them in reprisal for making a public interest disclosure.

A welfare manager may be appointed by the CEO to assist any person making a public interest disclosure, any co-operators, or any person who is the subject of a public interest disclosure investigation.

Review

This Policy will be reviewed at least every three years. Unless otherwise indicated, this policy will remain applicable beyond the proposed review date until that review has been finalised.

Administrative Updates

From time-to-time circumstances may change, leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made administratively.

Administrative changes including updating to the latest style or template for policy, change to the name of Council Directorates or business units, change to the name of the responsible person or position title, change of State or Federal department, or minor update to legislation which does not have a material impact such as section or definition changes in the Act.

Roles and Responsibilities

These management positions are responsible for the implementation, communication and compliance monitoring of the policy in their work areas:

Party / Parties	Roles and Responsibilities
Chief Executive Officer	<p>The Chief Executive Officer may receive public interest disclosures.</p> <p>Where a public interest disclosure is assessed to be an assessable disclosure the Chief Executive Officer will notify the public interest disclosure to IBAC for investigation no later than 28 days after the public interest disclosure is made. However, the aim will always be to notify IBAC 'as soon as practicable' after the Chief Executive Officer has been notified that the public interest disclosure is an assessable disclosure, as is required in the case of notifications of suspected corrupt conduct.</p> <p>The Chief Executive Officer will appoint a welfare manager where he or she believes doing so is appropriate.</p> <p>Having considered the advice of the PIDC and the Disciplinary Process Procedure, the Chief Executive Officer will decide whether any disciplinary action will be taken against a discloser implicated in improper conduct, taking into account detrimental action considerations, and will advise the discloser of the action to be taken and the reasons why this action is not a detrimental action.</p>
Council staff	<p>Council staff are encouraged to report known or suspected incidences of improper conduct or detrimental action in accordance with these procedures.</p> <p>Council staff have an important role to play in supporting those who have made a legitimate public interest disclosure and co-operators. They must refrain from any activity that is, or could be perceived to be, victimisation or harassment of a person who makes a public interest disclosure. Furthermore, they should protect and maintain the confidentiality of person(s) they know or suspect to have made a public interest disclosure or be the subject of a public interest disclosure.</p>
Councillor	Adopt and maintain the currency of this Policy.
Discloser	<p>The discloser must ensure that the public interest disclosure is made in accordance with the Act.</p> <p>The discloser must not reveal that an assessment is being undertaken by Council.</p> <p>The discloser must not reveal that an investigation is being carried out by IBAC.</p> <p>The discloser must not provide false or misleading information or falsely claim that a matter is the subject of a public interest disclosure.</p>
Executive Leadership Team	Ensure staff are aware of and adhere to the policy and procedures.

Party / Parties	Roles and Responsibilities
Public Interest Disclosure Coordinator (PIDC)	<p>The Public Interest Disclosure Coordinator has a central 'clearing house' role in the internal reporting system. They will:</p> <ul style="list-style-type: none"> • receive all public interest disclosures forwarded from the PIDOs; • receive all phone calls, emails and letters from members of the public or Council staff seeking to make a public interest disclosure; • impartially assess each public interest disclosure to determine whether it is a public interest disclosure made in accordance with Part 2 of the Act (that is, 'a public interest disclosure'); • prepare an organisational, welfare and safety risk assessment of the risks faced by each discloser and/or co-operators; • develop a risk management plan to manage the welfare of those involved in every public interest disclosure; • notify all public interest disclosures to IBAC within 28 days; • assist IBAC where required; • ensure all disclosers and co-operators are protected from direct and indirect detrimental action, and that the culture of the workplace is supportive of public interest disclosures being made –this may necessitate the appointment of a welfare manager; • assess whether it is necessary to appoint a welfare manager to support the discloser and/or any co-operators to protect them from any detrimental actions; • if necessary, provide support, advice and contact information for the Council Employee Assistance Program and/or appoint an internal welfare manager, and consider the appointment of an external welfare professional to assist the person against whom a public interest disclosure has been made; • advise the discloser of the progress of the assessment into the disclosed matter; • manage the welfare of a discloser and advise them of protections available under the Act; • establish and manage a secure filing system and processes to ensure confidentiality; • take all necessary steps to ensure the identity of the discloser and the identity of the person who is the subject of the public interest disclosure are kept confidential; • liaise with the CEO, including advising about the appointment of a welfare manager and any cases where disclosers have been implicated in improper conduct; and • clearly document the reasons for any disciplinary action taken by Council. <p>This role is fulfilled by the Manager Governance.</p>

Party / Parties	Roles and Responsibilities
Public Interest Disclosure Officer (PIDO)	<p>Public Interest Disclosure Officers will:</p> <ul style="list-style-type: none"> • be a contact point for general advice about the operation of the Act for any person wishing to make a public interest disclosure; • make arrangements for a public interest disclosure to be made privately and discreetly and if necessary, away from the workplace; • receive any public interest disclosure made orally or in writing (from internal and external disclosers); • commit to writing any public interest disclosure made orally; • take all necessary steps to ensure the identity of the discloser and the identity of the person who is the subject of the public interest disclosure are kept confidential; and • forward all public interest disclosures and supporting evidence to the Public Interest Disclosure Coordinator. <p>This role is fulfilled by the Chief Executive Officer and Governance and Compliance Coordinator.</p>

Party / Parties	Roles and Responsibilities
Welfare manager	<p>The welfare manager is responsible for looking after the general welfare of the discloser and, if considered appropriate by the CEO, the person who is the subject of the public interest disclosure.</p> <p>The welfare manager will:</p> <ul style="list-style-type: none"> • examine the immediate welfare and protection needs of a person who has made a public interest disclosure (and co-operators where relevant) and, where the discloser is Council staff, while maintaining the confidentiality of all concerned, seek to foster a supportive work environment; • prepare an organisational, welfare and safety risk assessment for the discloser and/or co-operators; • develop a risk management plan to manage the welfare of those involved in every public interest disclosure • advise the discloser (and co-operators as relevant) of the legislative and administrative protections available to him or her and keep them informed of the actions being taken; • hear and respond to any concerns of harassment, intimidation or victimisation in reprisal for making public interest disclosure; • advise the Public Interest Disclosure Coordinator of any allegations of detrimental action; • keep a constantly updated confidential record of all aspects of the case management of the discloser (and co-operators as relevant), including all contact and follow-up action; and • ensure the expectations of the discloser are realistic. <p>The welfare manager is to be appointed by the CEO (if the CEO decides to appoint one) and will usually be:</p> <p>Manager People, Performance and Culture or Human Resources Coordinator PO Box 1618 BAIRNSDALE VIC 3875</p>

References and Supporting Documents

Applicable Legislation:

Charter of Human Rights and Responsibilities Act 2006
Equal Opportunity Act 2010
Freedom of Information Act 1982
Health Records Act 2001
Independent Broad-based Anti-corruption Commission Act 2011
Integrity and Accountability Legislation Amendment (Public Interest Disclosures, Oversight and Independence) Act 2019
Local Government Act 2020
Occupational Health and Safety Act 2004
Ombudsman Act 1973
Privacy and Data Protection Act 2014
Privacy Act 1988 (Commonwealth)
Public Interest Disclosures Act 2012
Public Administration Act 2004

Applicable Policy and Procedure:

Anti-bullying and Harassment Policy
Bullying and Harassment Resolution Procedure
Disciplinary Process Policy
Fraud and Corruption Control Policy
Public Interest Disclosure Procedure
Workplace Health and Safety Policy

Supporting Documents:

IBAC Guidelines for handling public interest disclosures:

<https://www.ibac.vic.gov.au/publications-and-resources/article/guidelines-for-making-and-handling-protected-disclosures>

IBAC Guidelines for public interest disclosure welfare management:

<https://www.ibac.vic.gov.au/publications-and-resources/article/guidelines-for-protected-disclosure-welfare-management>

IBAC Controlling fraud and corruption; a prevention checklist:

<https://www.ibac.vic.gov.au/publications-and-resources/article/controlling-fraud-and-corruption-a-prevention-checklist>

IBAC Information Sheet – Public interest disclosure procedures key issues to consider:

<https://www.ibac.vic.gov.au/publications-and-resources/article/information-sheet---public-interest-disclosure-procedures-key-issues-to-consider>

IBAC Podcast eight - Directions for making mandatory notifications:

<https://www.ibac.vic.gov.au/publications-and-resources/article/podcast-eight-mandatory-notifications>

Public Interest Disclosure Policy
Date approved: 3 March 2020
Document owner: Manager Governance
This document is uncontrolled when printed
9

Version number: 7
Next review date: June 2024

Privacy and Human Rights Consideration

All personal information collected by East Gippsland Shire Council in connection with the Public Interest Disclosure Policy or Public Interest Disclosure Procedure will be handled in accordance with all applicable privacy legislation and will be used only for the purpose of assessing a public interest disclosure and all information received will be treated with the utmost confidence.

The Public Interest Disclosure Policy has been assessed as compliant with the obligations and objectives of the Victorian *Charter of Human Rights and Responsibilities Act* 2006.

Definitions

Term	Meaning
Act	The <i>Public Interest Disclosures Act</i> 2012. Can be sourced on the Victorian Legislation website: https://www.legislation.vic.gov.au/in-force/acts/public-interest-disclosures-act-2012/025
Assessable disclosure	The meaning given in the Act for <i>assessable disclosure</i> .
Co-operator	A person who has co-operated or intends to co-operate with an investigation of a public interest disclosure, e.g. a witness.
Corrupt conduct	The meaning given by section 4 of the <i>Independent Broad-based Anti-corruption Commission Act</i> 2011.
Council	East Gippsland Shire Council.
Councillor	A person who has been elected to the office of Councillor of East Gippsland Shire Council.
Council staff	All staff engaged by East Gippsland Shire Council, including all full-time, part-time and casual employees, labour hire agency staff, contractors (and their employees and subcontractors) and volunteers.
Detrimental action	The meaning given in the Act for <i>detrimental action</i> .
Discloser	Person making a public interest disclosure.
Independent Broad-based Anti-corruption Commission (IBAC)	The meaning given in the Act for <i>IBAC</i> .
Improper conduct	The meaning given in the Act for <i>improper conduct</i> .
Ombudsman	The person appointed as the Ombudsman under section 3 of the <i>Ombudsman Act</i> 1973.
Public body	The meaning given in the Act for <i>public body</i> .

Term	Meaning
Public Interest Complaint	The meaning given in the Act for <i>public interest complaint</i> .
Public Interest Disclosure	The meaning given in the Act for <i>public interest disclosure</i> .
Public Interest Disclosure Coordinator (PIDC)	Recommended first point of contact for any enquiries and assessing any disclosures to determine if a public interest disclosure has been made. At East Gippsland Shire Council this role is fulfilled by the Manager Governance.
Public Interest Disclosure Officers (PIDO)	Designated council officers who will provide general advice regarding the operation of the Act for any person wishing to make a public interest disclosure concerning improper conduct or detrimental action by a Councillor or Council Staff member. At East Gippsland Shire Council this role is fulfilled by the Chief Executive Officer, Manager Governance and the Governance and Compliance Coordinator. The PIDC role in this case may also fulfil the duties of the PIDO.
Public officer	The meaning given in the Act for <i>public officer</i> .
Welfare manager	The person assigned by the CEO to be responsible for looking after the general welfare of the discloser or person under investigation. This responsibility will normally be assigned by the CEO to the Human Resources Coordinator or Manager People, Performance and Culture.

Revision History and Review

Version Control	Approved Amended Rescinded	Date Effective	Approved By	ECM Document Reference	Summary of Changes
1	Approved	27/02/02	Council		
2	Amended	31/07/06	Management		
3	Amended	6/10/09	Council	3720457	
4	Approved	02/07/13	Council	5304017	
5	Approved	31/10/14	Acting CEO	5942730	Administrative Updates
6	Approved	05/09/17	Council	7287920	Two-year review. Significant changes to content, structure and format to improve readability and clarity.
7	Approved	03/03/20	Council	8350757	New template. Update legislation changes from 1/7/19. Updated changes from 1/1/20, Public Interest Disclosure.
8					Administrative updates to ensure terminology is consistent with legislation. Outline the role of the Ombudsman in public interest disclosures. Improve clarity in roles and responsibilities.

Public Interest Disclosure Policy
 Date approved: 3 March 2020
 Document owner: Manager Governance
This document is uncontrolled when printed
 12

Version number: 7
 Next review date: June 2024



Public Interest Disclosure Policy

TABLE OF CONTENTS

Purpose	2
Scope.....	2
Policy Context	2
Policy Statement	2
Review	4
Administrative Updates	4
Roles and Responsibilities	5
References and Supporting Documents	10
Applicable Legislation:	10
Applicable Policy and Procedure:	10
Supporting Documents:	10
Privacy and Human Rights Consideration.....	11
Definitions	11
Revision History and Review	15

Purpose

The purpose of this policy is to declare East Gippsland Shire Council's (Council) commitment to the *Public Interest Disclosure Act 2012* (the Act) and document the system for receiving, assessing and reporting disclosures of improper conduct or detrimental action by Council, ~~its employees, contractors or volunteers, and Council staff~~. It establishes the standards Council will abide by in protecting those making public interest disclosures and meeting the welfare needs of those who are the subject of a public interest disclosure.

Scope

This policy applies to all Councillors, Council ~~staff, contractors (and their employees), volunteers~~staff, and relatives and dependents of these people. The policy is available to the public via the Council's website. ~~and at all Service Centres and Outreach Centres.~~

Policy Context

~~The Act was introduced by the Victorian Government and commenced operation on 10 February 2013.~~ The intent of the Act is to ensure transparency and accountability in the workings of the public sector as well as encouraging and facilitating the making of public interest disclosures of improper conduct, including corrupt conduct.

Public interest disclosures can only be made about public bodies (such as East Gippsland Shire Council) or public officers (such as Council staff or Councillors), regarding conduct of a person that adversely affects the honest performance of an official function by a ~~public body or public officer (such as contractors or volunteers).~~public body or public officer, or that intends to adversely affect the effective performance of a public officer or public body. This includes associates and relatives and/ dependants of public officers and public bodies.

The Act provides protection from detrimental action to any person affected by a public interest disclosure; including the ~~(the person making the disclosure, sometimes referred to as the 'whistleblower')~~ discloser (often colloquially referred to as a whistleblower) and co-operators ~~(e.g. assisting witnesses).~~

Policy Statement

Council is committed to ensuring transparency and accountability throughout the organisation and in compliance with the Act.

Council encourages and facilitates the making of public interest disclosures by any person or group of people (not a company), including Council staff or Councillors that reveal suspected improper conduct or detrimental action taken by Council, its ~~employees, contractors (Council staff, and their employees), volunteers~~associates and relatives/dependents of these people.

Council will take all reasonable steps to protect people who make such public interest disclosures from any detrimental action in reprisal for making the public interest disclosure. It

will also protect the welfare and confidentiality of the person(s) who are the subject of the public interest disclosure.

A public interest disclosure relating to a Councillor must be made to the Independent Broad-based Anti-corruption Commission (IBAC)⁴ or the Ombudsman:

Contact details:

IBAC
Level 1, North Tower
459 Collins Street, MELBOURNE VIC 3000
Postal: GPO Box 24234, MELBOURNE VIC 3001
Website: www.ibac.vic.gov.au
Telephone: 1300 735 135

See Ombudsman website for details of how to make a Disclosure to the Ombudsman:
<https://www.ombudsman.vic.gov.au/reporting-improper-conduct/>

A public interest disclosure relating to ~~a staff member, contractor or volunteer~~ Council staff should be made to the Chief Executive Officer (CEO), the Public Interest Disclosure Coordinator (PIDC) or the Public Interest Disclosure Officer (PIDO) at the following details:

- Public Interest Disclosure Coordinator (PIDC)
~~Governance and Compliance Coordinator~~ Manager Governance
PO Box 1618, BAIRNSDALE VIC 3875
Phone: 03 5153 9500
Email: whistleblowers2@egipps.vic.gov.au
- Public Interest Disclosure Officer (PIDO)
~~Manager Governance~~ Governance and Compliance Coordinator
PO Box 1618
BAIRNSDALE VIC 3875
Phone: 03 5153 9500
Email: whistleblowers3@egipps.vic.gov.au
- ~~Public Interest Disclosure Officer (PIDO)~~
~~General Manager Business Excellence~~
~~PO Box 1618, BAIRNSDALE VIC 3875~~
~~Phone: 03 5153 9500~~
~~Email: whistleblowers3@egipps.vic.gov.au~~

- Chief Executive Officer (CEO)
PO Box 1618, BAIRNSDALE VIC 3875
Phone: 03 5153 9500
Email: whistleblowers1@egipps.vic.gov.au

All public interest disclosures will be assessed by the PIDC and matters determined as assessable disclosures must be submitted to IBAC for further assessment and investigation. While Council may gather information necessary to assess public interest whether a public interest disclosure is an assessable disclosure, including considering the seriousness of the conduct, the reasonableness of the discloser's belief, the reliability of the information and the credibility of the discloser or their sources², (see section 6 of Public Interest Disclosure Procedure and page 12 of the IBAC - Guidelines for handling public interest disclosures for more details), it must stop short of actively investigating the allegations made in the public interest disclosure, this being the role of IBAC. The relevant discloser must be notified of the submission to IBAC.

All dealings relating to a public interest disclosure must be kept confidential, subject to any exceptions in the Act. Heavy penalties apply for breaching the confidentiality of a discloser's whistleblower's identity, or for victimising or threatening them in reprisal for making a public interest disclosure.

A welfare manager may be appointed by the CEO to assist any person making a public interest disclosure, any co-operators, or any person who is the subject of a public interest disclosure investigation.

Review

This Policy will be reviewed at least every three years. Unless otherwise indicated, this policy will remain applicable beyond the proposed review date until that review has been finalised.

Administrative Updates

From time-to-time circumstances may change, leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made administratively.

Administrative changes including updating to the latest style or template for policy, change to the name of Council Directorates or business units, change to the name of the responsible person or position title, change of State or Federal department, or minor update to legislation which does not have a material impact such as section or definition changes in the Act.

Roles and Responsibilities

These management positions are responsible for the implementation, communication and compliance monitoring of the policy in their work areas:

Party / Parties	Roles and Responsibilities
Chief Executive Officer	<p><u>Appoint appropriate staff to The Chief Executive Officer may receive and assess public interest disclosures.</u></p> <p><u>Where a public interest disclosure is assessed to be an assessable disclosure the Chief Executive Officer will notify the public interest disclosure to IBAC for investigation no later than 28 days after the public interest disclosure is made. However, the aim will always be to notify IBAC 'as soon as practicable' after the Chief Executive Officer has been notified that the public interest disclosure is an assessable disclosure, as is required in the case of notifications of suspected corrupt conduct.</u></p> <p><u>The Chief Executive Officer will appoint a welfare manager where he or she believes doing so is appropriate.</u></p> <p><u>Having considered the advice of the PIDC and the Disciplinary Process Policy procedure, the Chief Executive Officer will decide whether any disciplinary action will be taken against a discloser implicated in improper conduct, taking into account detrimental action considerations, and will advise the discloser of the action to be taken and the reasons why this action is not a detrimental action.</u></p>
<u>Council staff</u>	<p><u>Council staff are encouraged to report known or suspected incidences of improper conduct or detrimental action in accordance with these procedures.</u></p> <p><u>Council staff have an important role to play in supporting those who have made a legitimate public interest disclosure and co-operators. They must refrain from any activity that is, or could be perceived to be, victimisation or harassment of a person who makes a public interest disclosure. Furthermore, they should protect and maintain the confidentiality of person(s) they know or suspect to have made a public interest disclosure or be the subject of a public interest disclosure.</u></p>

Public Interest Disclosure Policy
 Date approved: 3 March 2020
 Document owner: Manager Governance
This document is uncontrolled when printed

Version number: 7
 Next review date: June 2024

5

<u>Councillor</u>	<u>Adopt and maintain the currency of this Policy.</u>
<u>Discloser</u>	<p><u>The discloser must ensure that the public interest disclosure is made in accordance with the Act.</u></p> <p><u>The discloser must not reveal that an assessment is being undertaken by Council.</u></p> <p><u>The discloser must not reveal that an investigation is being carried out by IBAC.</u></p> <p><u>The discloser must not provide false or misleading information or falsely claim that a matter is the subject of a public interest disclosure.</u></p>
Executive Leadership Team	<u>Ensure staff are aware of and adhere to the policy and procedures.</u>

<p><u>Public Interest Disclosure Coordinator (PIDC)</u></p>	<p><u>The Public Interest Disclosure Coordinator has a central 'clearing house' role in the internal reporting system.</u></p> <p><u>They will:</u></p> <ul style="list-style-type: none"> • <u>receive all public interest disclosures forwarded from the PIDOs;</u> • <u>receive all phone calls, emails and letters from members of the public or Council staff seeking to make a public interest disclosure;</u> • <u>impartially assess each public interest disclosure to determine whether it is a public interest disclosure made in accordance with Part 2 of the Act (that is, 'a public interest disclosure');</u> • <u>prepare an organisational, welfare and safety risk assessment of the risks faced by each discloser and/or co-operators;</u> • <u>develop a risk management plan to manage the welfare of those involved in every public interest disclosure;</u> • <u>notify all public interest disclosures to IBAC within 28 days;</u> • <u>assist IBAC where required;</u> • <u>ensure all disclosers and co-operators are protected from direct and indirect detrimental action, and that the culture of the workplace is supportive of public interest disclosures being made –this may necessitate the appointment of a welfare manager;</u> • <u>assess whether it is necessary to appoint a welfare manager to support the discloser and/or any co-operators to protect them from any detrimental actions;</u> • <u>if necessary, provide support, advice and contact information for the Council Employee Assistance Program and/or appoint an internal welfare manager, and consider the appointment of an external welfare professional to assist the person against whom a public interest disclosure has been made;</u> • <u>advise the discloser of the progress of the assessment into the disclosed matter;</u> • <u>manage the welfare of a discloser and advise them of protections available under the Act;</u> • <u>establish and manage a secure filing system and processes to ensure confidentiality;</u> • <u>collate and report statistics on public interest disclosures made;</u>
---	---

	<ul style="list-style-type: none"> • <u>take all necessary steps to ensure the identity of the discloser and the identity of the person who is the subject of the public interest disclosure are kept confidential;</u> • <u>liaise with the CEO, including advising about the appointment of a welfare manager and any cases where disclosers have been implicated in improper conduct; and</u> • <u>clearly document the reasons for any disciplinary action taken by Council.</u> <p><u>This role is fulfilled by the Manager Governance.</u></p>
<u>Public Interest Disclosure Officer (PIDO)</u>	<p><u>Public Interest Disclosure Officers will:</u></p> <ul style="list-style-type: none"> • <u>be a contact point for general advice about the operation of the Act for any person wishing to make a public interest disclosure;</u> • <u>make arrangements for a public interest disclosure to be made privately and discreetly and if necessary, away from the workplace;</u> • <u>receive any public interest disclosure made orally or in writing (from internal and external disclosers);</u> • <u>commit to writing any public interest disclosure made orally;</u> • <u>take all necessary steps to ensure the identity of the discloser and the identity of the person who is the subject of the public interest disclosure are kept confidential; and</u> • <u>forward all public interest disclosures and supporting evidence to the Public Interest Disclosure Coordinator.</u> <p><u>This role is fulfilled by the Chief Executive Officer and Governance and Compliance Coordinator.</u></p>

<p><u>Welfare manager</u></p>	<p><u>The welfare manager is responsible for looking after the general welfare of the discloser and, if considered appropriate by the CEO, the person who is the subject of the public interest disclosure.</u></p> <p><u>The welfare manager will:</u></p> <ul style="list-style-type: none"> <u>• examine the immediate welfare and protection needs of a person who has made a public interest disclosure (and co-operators where relevant) and, where the discloser is Council staff, while maintaining the confidentiality of all concerned, seek to foster a supportive work environment;</u> <u>• prepare an organisational, welfare and safety risk assessment for the discloser and/or co-operators;</u> <u>• develop a risk management plan to manage the welfare of those involved in every public interest disclosure</u> <u>• advise the discloser (and co-operators as relevant) of the legislative and administrative protections available to him or her and keep them informed of the actions being taken;</u> <u>• hear and respond to any concerns of harassment, intimidation or victimisation in reprisal for making public interest disclosure;</u> <u>• advise the Public Interest Disclosure Coordinator -of any allegations of detrimental action;</u> <u>• keep a constantly updated confidential record of all aspects of the case management of the discloser (and co-operators as relevant), including all contact and follow-up action; and</u> <u>• ensure the expectations of the discloser are realistic.</u> <p><u>The welfare manager is to be appointed by the CEO (if the CEO decides to appoint one) and will usually be:</u></p> <p><u>Manager People, Performance and Culture or</u> <u>Human Resources Coordinator</u> <u>PO Box 1618</u> <u>BAIRNSDALE VIC 3875</u></p>
-------------------------------	--

References and Supporting Documents

Council Plan 2017-2021:

This policy reflects East Gippsland Shire Council's prime accountability and integrity values.

- "We will take responsibility for our actions and decisions in an open and transparent way"
- "We will honour our commitments and conduct ourselves in an honest, ethical way"

Applicable Legislation:

Charter of Human Rights and Responsibilities Act 2006

Equal Opportunity Act 2010

Freedom of Information Act 1982

Health Records Act 2001

Independent Broad-based Anti-corruption Commission Act 2011

Integrity and Accountability Legislation Amendment (Public Interest Disclosures, Oversight and Independence) Act 2019

~~Local Government Act 1989~~

Local Government Act 2020

Occupational Health and Safety Act 2004

Ombudsman Act 1973

Privacy and Data Protection Act 2014

Privacy Act 1988 (Commonwealth)

Public Interest ~~Disclosure~~Disclosures Act 2012

Public Administration Act 2004

Applicable Policy and Procedure:

Anti-bullying and Harassment Policy

Bullying and Harassment Resolution Procedure

Disciplinary Process Policy

Fraud and Corruption Control Policy

Public Interest Disclosure Procedure

Workplace Health and Safety Policy

Supporting Documents:

IBAC Guidelines for handling public interest disclosures:

<https://www.ibac.vic.gov.au/publications-and-resources/article/guidelines-for-making-and-handling-protected-disclosures>

IBAC Guidelines for public interest disclosure welfare management:

<https://www.ibac.vic.gov.au/publications-and-resources/article/guidelines-for-protected-disclosure-welfare-management>

Public Interest Disclosure Policy

Date approved: 3 March 2020

Document owner: Manager Governance

This document is uncontrolled when printed

Version number: 7

Next review date: June 2024

10

IBAC Controlling fraud and corruption; a prevention checklist:

<https://www.ibac.vic.gov.au/publications-and-resources/article/controlling-fraud-and-corruption-a-prevention-checklist>

IBAC Information Sheet – Public interest disclosure procedures key issues to consider:

<https://www.ibac.vic.gov.au/publications-and-resources/article/information-sheet--public-interest-disclosure-procedures-key-issues-to-consider>

IBAC Podcast eight - Directions for making mandatory notifications:

<https://www.ibac.vic.gov.au/publications-and-resources/article/podcast-eight-mandatory-notifications>

Privacy and Human Rights Consideration

All personal information collected by East Gippsland Shire Council in connection with the Public Interest Disclosure Policy or Public Interest Disclosure Procedure will be handled in accordance with all applicable privacy legislation and will be used only for the purpose of assessing a public interest disclosure and all information received will be treated with the utmost confidence.

The Public Interest Disclosure Policy has been assessed as compliant with the obligations and objectives of the Victorian *Charter of Human Rights and Responsibilities Act 2006*.

Definitions

Term	Meaning
<u>Act</u>	<u>The <i>Public Interest Disclosures Act 2012</i>.</u> <u>Can be sourced on the Victorian Legislation website:</u> <u>https://www.legislation.vic.gov.au/in-force/acts/public-interest-disclosures-act-2012/025</u>
<u>Assessable disclosure</u>	<u>The meaning given in the Act for <i>assessable disclosure</i>.</u>
Co-operator	A person who has co-operated or intends to co-operate with an investigation of a public interest disclosure complaint , e.g., a witness.
<u>Corrupt conduct</u>	<u>The meaning given by section 4 of the <i>Independent Broad-based Anti-corruption Commission Act 2011</i>.</u>
<u>Council</u>	<u>East Gippsland Shire Council.</u>

Public Interest Disclosure Policy
Date approved: 3 March 2020
Document owner: Manager Governance
This document is uncontrolled when printed

Version number: 7
Next review date: June 2024

11

Corrupt Conduct	<p>As defined by section 4 of the Independent Broad-based Anti-corruption Commission Act 2011, corrupt conduct means conduct:</p> <ul style="list-style-type: none"> (a) of any person that adversely affects the honest performance by a public officer or public body of his or her or its functions as a public officer or public body; or (b) of a public officer or public body that constitutes or involves the dishonest performance of his or her or its functions as a public officer or public body; or (c) of a public officer or public body that constitutes or involves knowingly or recklessly breaching public trust; or (d) of a public officer or a public body that involves the misuse of information or material acquired in the course of the performance of his or her or its functions as a public officer or public body, whether or not for the benefit of the public officer or public body or any other person; or (da) of a person (the first person) intended to adversely affect the effective performance or exercise by a public officer or public body of the functions or powers of the public officer or public body and result in the first person or an associate of the first person obtaining — <ul style="list-style-type: none"> — (i) a licence, permit, approval, authority or other entitlement under any Act or subordinate instrument; or — (ii) an appointment to a statutory office or as a member of the board of any public body under any Act or subordinate instrument; or — (iii) a financial benefit or real or personal property; or — (iv) any other direct or indirect monetary or proprietary gain — that they would not have otherwise obtained; or (e) that could constitute a conspiracy or an attempt to engage in any conduct referred to in paragraph (a), (b), (c), (d) or (da) — <p>being conduct that would constitute a relevant offence, i.e., either an indictable offence, or under common law pervert or attempt to pervert the course of justice or involve bribery of an official.</p>
Councillor	A person who has been elected to the office of Councillor of East Gippsland Shire Council.
Council staff	All staff engaged by East Gippsland Shire Council, including all full-time, part-time and casual employees, labour hire agency staff, contractors (and their employees and subcontractors) and volunteers.
Detrimental action	<p>Section 3 of the Act makes it a criminal offence, with considerable penalties, for a person to take detrimental action against an individual in reprisal for making a public interest disclosure. Detrimental action includes:</p> <ul style="list-style-type: none"> (a) action causing injury, loss or damage; (b) intimidation or harassment; and (c) discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business, including the taking of disciplinary action. The meaning given in the Act for <i>detrimental action</i>.
Discloser	Person making allegation of improper conduct a public interest disclosure.
Disclosure	Any suspicion, complaint, concern, matter or allegation to be made in accordance with part 2 of the Act

Independent Broad-based Anti-corruption Commission (IBAC)	The Commission was established under the <i>Independent Broad-based Anti-corruption Commission Act 2011</i> to expose and prevent public sector corruption and police misconduct. Website: http://www.ibac.vic.gov.au/ The meaning given in the Act for <i>IBAC</i> .
<u>Improper conduct</u>	The meaning given in the Act for <i>improper conduct</i> .
<u>Ombudsman</u>	The person appointed as the Ombudsman under section 3 of the <i>Ombudsman Act 1973</i> .
<u>Improper Conduct</u> <u>Public body</u>	<p>As defined by section 4 of <u>The meaning given in the Act</u></p> <p>(1) Improper conduct means:</p> <ul style="list-style-type: none"> (a) corrupt conduct; or (b) conduct of a public officer or for <i>public body</i> engaged in by the public officer or public body in their capacity as a public officer or a public body that constitutes – (i) a criminal offence; or (ii) serious professional misconduct; or (iii) dishonest performance of public functions; or (iv) an intentional or reckless breach of public trust; or (v) an intentional or reckless misuse of information or material acquired in the course of the performance of the functions of the public officer or public body; or (vi) a substantial mismanagement of public resources; or (vii) a substantial risk to the health or safety of one or more persons; or (viii) a substantial risk to the environment; or <p>— (c) conduct of any person that —</p> <ul style="list-style-type: none"> (i) adversely affects the honest performance by a public officer or public body of their functions as a public officer or public body; or (ii) is intended to adversely affect the effective performance or exercise by a public officer or public body of the functions or powers of the public officer or public body and results in the person, or an associate of the person, obtaining – <ul style="list-style-type: none"> (A) a licence, permit, approval, authority or other entitlement under any Act or subordinate instrument; or (B) an appointment to a statutory office or as a member of the board of any public body under any Act or subordinate instrument; or (C) a financial benefit or real or personal property; or (D) any other direct or indirect monetary or proprietary gain <p>that the person or associate would not have otherwise obtained; or</p> <p>— (d) conduct of any person that could constitute a conspiracy or attempt to — engage in any of the conduct referred to in paragraph (a), (b) or (c).</p> <p>(2) Despite subsection (1), conduct that is trivial does not constitute improper conduct for the purposes of this Act.</p>
<u>Public Interest Complaint</u>	The meaning given in the Act for <i>public interest complaint</i> .

<u>Public Interest Disclosure</u>	<u>The meaning given in the Act for <i>public interest disclosure</i>.</u>
Public Interest Disclosure Coordinator (PIDC)	Recommended first point of contact for any enquiries and assessing any disclosures to determine if a public interest disclosure has been made. At East Gippsland Shire Council this role is fulfilled by the Governance and Compliance Coordinator . <u>Manager Governance</u> .
Public Interest Disclosure Officers (PIDO)	Designated council officers who will provide general advice regarding the operation of the Act for any person wishing to make a public interest disclosure concerning improper conduct or detrimental action by a Councillor or Council Staff member. At East Gippsland Shire Council this role is fulfilled by the General Manager Business Excellence and the Manager Governance and Chief Executive Officer , <u>Manager Governance and the Governance and Compliance Coordinator</u> . The PIDC role in this case may also fulfil the duties of the PIDO.
<u>Public officer</u>	<u>The meaning given in the Act for <i>public officer</i>.</u>
Welfare manager	Responsible <u>The person assigned by the CEO to be responsible</u> for looking after the general welfare of the discloser or person under investigation. This responsibility will normally be assigned by the CEO to the Human Resources Coordinator or Manager People, Performance and Culture.

Revision History and Review

Version Control	Approved Amended Rescinded	Date Effective	Approved By	ECM Document Reference	Summary of Changes
1	Approved	27/02/02	Council		
2	Amended	31/07/06	Management		
3	Amended	6/10/09	Council	3720457	
4	Approved	02/07/13	Council	5304017	
5	Approved	31/10/14	Acting CEO	5942730	Administrative Updates
6	Approved	05/09/17	Council	7287920	Two-year review. Significant changes to content, structure and format to improve readability and clarity.
7	Approved	03/03/20	Council	8350757	New template. Update legislation changes from 1/7/19. Updated changes from 1/1/20, Public Interest Disclosure.
<u>8</u>					<u>Administrative updates to ensure terminology is consistent with legislation. Outline the role of the Ombudsman in public interest disclosures. Improve clarity in roles and responsibilities.</u>

Public Interest Disclosure Policy
 Date approved: 3 March 2020
 Document owner: Manager Governance
This document is uncontrolled when printed

Version number: 7
 Next review date: June 2024

15



Public Interest Disclosures Procedure

TABLE OF CONTENTS

Purpose	2
Scope	2
Policy Context.....	2
Policy Statement.....	2
Procedure.....	2
1. Who can make a public interest disclosure and about whom?	2
2. What can a public interest disclosure be made about?	3
3. How can a public interest disclosure be made?	4
4. What happens after a public interest disclosure is made?	5
5. Has the public interest disclosure been made to the appropriate person?	5
6. Does the disclosure contain the essential elements of a public interest disclosure?	5
7. Notification of Public Interest Disclosures in the case of suspected corrupt conduct	7
8. Assessment by IBAC	7
9. Keeping the discloser informed	8
10. Welfare Management	8
11. Occurrence of Detrimental Action.....	9
12. Disclosers implicated in Improper Conduct.....	9
13. Management of persons against whom a public interest disclosure has been made	10
14. Confidentiality	10
15. External Disclosures	11
16. Collating and publishing statistics	11
17. Training for Council staff	12
18. Investigations by the Chief Municipal Inspector	12
Roles and Responsibilities.....	13
References and Supporting Documents	16
Applicable Legislation:	16
Applicable Policy and Procedure:	16
Supporting Documents:	16
Definitions	17
Revision History and Review	19
Attachment 1: Flow Chart.....	20
Attachment 2: Checklist	21

Public Interest Disclosure Procedure
Date approved: xxx
Document owner: Manager Governance
This document is uncontrolled when printed

Version number: 7
Next review date:

1

Purpose

The purpose of this procedure is to document the system for receiving, assessing and reporting disclosures of improper conduct or detrimental action by East Gippsland Shire Council (Council) or its Council staff. It details the standards and processes Council will abide by in protecting those making disclosures and those who are the subject of a Disclosure. A flowchart summarising the process to be followed when a Disclosure of Improper conduct is made is provided as **Attachment 1**.

Scope

This procedure applies to all Councillors and Council staff and relatives/dependents of these people. The procedure is available to the public on the Council's website.

Context

The intent of the *Public Interest Disclosures Act 2014* Act is to encourage and facilitate the making of disclosures of improper conduct and corrupt conduct by public officers and public bodies.

The Act provides protection from detrimental action to any person affected by a disclosure; including the discloser (often colloquially referred to as a whistleblower), co-operators and persons who are the subject of an investigation.

These principles and measures are incorporated in the Council's Public Interest Disclosure Policy.

Procedure Statement

In accord with its Public Interest Disclosure Policy, Council recognises the value of transparency and accountability in its administrative and management practices and supports the making of disclosures that reveal:

- improper conduct;
- conduct involving a substantial mismanagement of public resources; or
- conduct involving a substantial risk to public health and safety or the environment.

Council does not tolerate improper conduct by its Councillors or Council staff, nor the taking of reprisals against those who come forward to disclose such conduct.

Council will take all reasonable steps to protect people who make such disclosures from any detrimental action in reprisal for making the disclosure. It will also protect the welfare and confidentiality of the person(s) who are the subject of the disclosure.

All Councillors and Council staff have an important role to play in supporting those who have made a disclosure. They must protect discloser confidentiality and refrain from actual or perceived victimisation or harassment of those who disclose alleged improper conduct.

Procedure

1. Who can make a public interest disclosure and about whom?

Any person or group of people (not a company), including Council, Council staff and Councillors, and relatives/dependents of these people, can make a public interest disclosure regarding suspected improper conduct or detrimental action.

Public Interest Disclosure Procedure
Date approved: xxx
Document owner: Manager Governance
This document is uncontrolled when printed

Version number: 7
Next review date:

2

Public interest disclosures can only be made about public bodies (such as East Gippsland Shire Council) or public officers (such as Council staff or Councillors), or about conduct of a person that adversely affects the honest performance of an official function by a public body or public officer, or that intends to adversely affect the effective performance of a public officer or public body. This 'person' includes associates and relatives/dependents of public officers and public bodies.

Council staff are encouraged to report known or suspected incidences of such conduct in accordance with these procedures. Where they are unsure about whether what they know amounts to improper conduct, or whether making a public interest disclosure is the appropriate avenue for reporting, Council staff should use the quick checklist at **Attachment 2** and are encouraged to informally discuss their concerns, in confidence, with any of the Council Officers listed in section 3 of this Procedure (and in the first dot point below) as officers to whom public interest disclosures should be made.

- Public interest disclosures by Council staff may be made to the Chief Executive Officer (CEO), Public Interest Disclosure Coordinator (PIDC) or to the nominated Public Interest Disclosure Officer (PIDO).
- Public interest disclosures regarding a Councillor or Councillors must be made to the Independent Broad-based Anti-corruption Commission (IBAC)¹ or the Ombudsman.
- Public interest disclosures must at all times be made in accordance with the Act.

If you request another person to make a public interest disclosure on your behalf, you may not be covered by the full protections of the Act. Different protections apply in different ways, so consideration should be given to how the Act will apply in your situation if you are considering asking another person to make a public interest disclosure on your behalf.

2. What can a public interest disclosure be made about?

A Public Interest Disclosure may be made about information or actions which you reasonably believe displays or tends to exhibit:

- Improper conduct (including corrupt conduct) of persons, public bodies or public officers; or
- Detrimental action taken by public bodies or public officers in reprisal against a person for making a public interest disclosure.

Examples of improper conduct

- To avoid closure of a town's major business, an environmental health officer ignores or conceals evidence of illegal dumping of waste.
- Failure by Community Laws Officer to require a permit for an A-frame advertising sign on a public footpath as a result of the officer's relationship with the operator.
- Parking Officer ignores a particular vehicle on the basis of a personal relationship with the vehicle's owner.
- A Council staff member approves a colleague's corporate expense account for payment even though it appears to have unjustified or non-work-related expenditure items listed.
- A Council officer takes a bribe or receives a payment other than their wages or salary in exchange for the discharge of a public duty.
- A Council officer favours unworthy applications for jobs or permits by friends and relatives.

¹ Although the definitions in the *Independent Broad-based Anti-corruption Commission Act 2011* deem Councillors Public Officers, section 14 of the Act states disclosures relating to Councillors "must be made to the IBAC or the Ombudsman".

- A Council officer sells confidential information or uses confidential information for personal gain.
- A Council officer colludes to share profits with tender recipients and conceals the overvaluation of tenders.
- A Councillor acquires information about one of their neighbours as part of performing their role as a Councillor and misuses that information to resolve a personal dispute with the neighbour.

Examples of detrimental action

- An action causing injury, loss or damage, or intimidation or harassment.
- A deserved promotion of a person who has made a disclosure is refused.
- A discloser is demoted, transferred, isolated in the workplace or has their duties changed due to the making of a disclosure.
- A Councillor or Council staff member threatens, abuses or carries out other forms of harassment directly or indirectly against the discloser, and/or his or her family or friends.
- Any Council staff member discriminates against the discloser and/or his or her family and associates in subsequent applications for jobs, permits or contracted works.
- A Councillor votes against a resolution to engage a particular contractor to undertake works for Council.

3. How can a public interest disclosure be made?

You must make the public interest disclosure in private, and you may do so either using your name or anonymously:

- in writing via post, email or courier;
- in person;
- by telephone or by leaving a voicemail message; or
- by any other form of electronic communication.

You may not make a public interest disclosure via facsimile (fax).

Please ensure that written public interest disclosures are clearly marked "PRIVATE AND CONFIDENTIAL" and addressed to the Public Interest Disclosure Coordinator.

Public Interest Disclosures of improper conduct or detrimental action by Council staff may be made to any of the following officers:

- Public Interest Disclosure Coordinator (PIDC)
Manager Governance
PO Box 1618
BAIRNSDALE VIC 3875
Phone: 03 5153 9500
Email: whistleblowers2@egipps.vic.gov.au
- Public Interest Disclosure Officer (PIDO)
Governance and Compliance Coordinator
PO Box 1618
BAIRNSDALE VIC 3875
Phone: 03 5153 9500
Email: whistleblower3@egipps.vic.gov.au
- Chief Executive Officer (CEO)
PO Box 1618
BAIRNSDALE VIC 3875

Public Interest Disclosure Procedure
Date approved: xxx
Document owner: Manager Governance
This document is uncontrolled when printed

Version number: 7
Next review date:

4

Phone: 03 5153 9500

Email: whistleblowers1@egipps.vic.gov.au

Public interest disclosures of improper conduct or detrimental action by a Councillor or Councillors may be made to IBAC or the Ombudsman.

All correspondence, phone calls and emails from internal or external disclosers will be referred to the PIDC.

Where a person is contemplating making a public interest disclosure and is concerned about approaching the PIDC or PIDO in the workplace or during work hours, they may contact the PIDC or PIDO and request a meeting in a discreet location away from the workplace.

The PIDC will discreetly acknowledge receipt of the information provided by the discloser. All records of conversations and correspondence will be securely maintained by the PIDC in a confidential file throughout the assessment process.

The key responsibilities of these respective roles are described in the Roles and Responsibilities section.

4. What happens after a public interest disclosure is made?

The following sections of this Public Interest Disclosure Procedure outline the process undertaken by the PIDC during the assessment of a public interest disclosure allegation made about Council or Council staff.

Public interest disclosures made to the IBAC or the Ombudsman will be handled according to the procedures of those organisations.

5. Has the public interest disclosure been made to the appropriate person?

Council can only deal with public interest disclosures that concern East Gippsland Shire Council and its Council staff.

Alternatively, disclosers may make a public interest disclosure of improper conduct or detrimental action by Council or its Council staff, directly to IBAC.

Public interest disclosures regarding Councillors must be made to IBAC or the Ombudsman. Council recommends that public interest disclosures are made to the relevant person or location at the relevant organisation.

IBAC
Level 1, North Tower
459 Collins Street
Melbourne VIC 3000
Postal: GPO Box 24234, MELBOURNE VIC 3001
Website: www.ibac.vic.gov.au
Telephone: 1300 735 135

See Ombudsman website for details of how to make a Disclosure to the Ombudsman:
<https://www.ombudsman.vic.gov.au/reporting-improper-conduct/>

6. Does the disclosure contain the essential elements of a public interest disclosure?

Public Interest Disclosure Procedure
Date approved: xxx
Document owner: Manager Governance
This document is uncontrolled when printed

Version number: 7
Next review date:

5

Where a public interest disclosure has been received by the PIDO or the Chief Executive Officer they will forward it as soon as possible to the PIDC. When the PIDC receives a public interest disclosure (either from the discloser or PIDO or the Chief Executive Officer), they will assess within two business days whether the public interest disclosure is an assessable disclosure.

If the public interest disclosure is in relation to either the PIDC or PIDO the discloser may make the public interest disclosure directly to the Chief Executive Officer or IBAC (refer to Clause 5 above). If the public interest disclosure is in relation to the Chief Executive Officer, the discloser may make a public interest disclosure directly to IBAC (refer to Clause 5 above).

A public interest disclosure is an assessable disclosure under section 21 of the Act if it shows or tends to show—

- a person, public officer or public body has engaged, is engaging or proposes to engage in improper conduct; or
- a public officer or public body has taken, is taking or proposes to take detrimental action against a person in reprisal for a public interest disclosure (in contravention of section 45 of the Act) provided there are no valid defences available under section 45; or
- the person who made the disclosure believes on reasonable grounds, shows or tends to show; or
- a person, public officer or public body has engaged, is engaging proposes to engage in improper conduct.

The PIDC must notify the Chief Executive Officer accordingly, and if the public interest disclosure is an assessable disclosure, the Chief Executive Officer will notify the public interest disclosure to IBAC for investigation no later than 28 days after the public interest disclosure is made, in accordance with section 21 of the Act.

The aim will always be to notify IBAC as soon as practicable after the Chief Executive Officer has been notified that the public interest disclosure is an assessable disclosure, as is required in the case of notifications of suspected corrupt conduct (see below).

Council may also provide IBAC with any additional information obtained during the assessment process.

While Council may gather information necessary to assess whether a public interest disclosure is an assessable disclosure, including issues of reasonable belief, it must stop short of actively investigating the allegations made in the public interest disclosure, this being the role of IBAC.

Where a public interest disclosure is assessed **not** to be an assessable disclosure, the matter does not need to be dealt with under the Act and can be considered under the Council's Complaints Management Policy.

Whether the public interest disclosure is an assessable disclosure or not, the PIDC will notify their decision to the discloser. Notification to the discloser is not necessary where the disclosure has been made anonymously.

Where a public interest disclosure has not been referred to IBAC, as it has been determined not to be an assessable disclosure the discloser may independently refer the matter directly to IBAC.

It should be noted that a discloser may not be protected if they commit an offence under sections 72(1) or (2) of the Act in relation to the information disclosed, i.e., if they knowingly provide a false disclosure or provide false additional information during an investigation or falsely claim that a matter is the subject of a protected disclosure.

Where there are exceptional circumstances, for example the immediate safety of persons or assets, it may be necessary to notify Victoria Police for immediate action or intervention, prior to the formal conclusion of an assessment of a public interest disclosure. The identity of the discloser must not be revealed during the notification of such cases.

7. Notification of Public Interest Disclosures in the case of suspected corrupt conduct

Under section 57 of the *Independent Broad-based Anti-corruption Commission Act 2011* (the IBAC Act) it is mandatory for the Chief Executive Officer or relevant principal officer to notify IBAC of any matter he or she suspects on reasonable grounds to involve corrupt conduct occurring or having occurred. Notifications of suspected corrupt conduct² must be made as soon as practicable after the Chief Executive Officer or relevant principal officer has formed a reasonable suspicion that corrupt conduct may have occurred or may be occurring.

Upon receiving a public interest disclosure, Council should first deal with the matter in accordance with the Act and this Public Interest Disclosure Procedure. If the matter is not notified to IBAC as an assessable disclosure the Chief Executive Officer must consider whether they may be required to notify the matter to IBAC under section 57 of the IBAC Act, and if they are, notify IBAC accordingly.

8. Assessment by IBAC

Once Council notifies IBAC of an assessable disclosure, IBAC will evaluate within a reasonable time³ whether or not the assessable disclosure constitutes a public interest complaint. IBAC may seek additional information from Council or the discloser to assist during this process.

If IBAC decide that the public interest disclosure is a public interest complaint, then it must either:

- *Dismiss* the public interest disclosure (if the complaint does not warrant investigation);
- *Investigate* the public interest disclosure; or
- *Refer* the public interest disclosure to another body for investigation, such as Victoria Police or the Victorian Ombudsman.

IBAC will afford natural justice to the person who is the subject of the public interest disclosure.

IBAC will notify Council and the discloser in writing (if not made anonymously) within a reasonable time of:

- its determination and reasoning;
- the protections which are available to the discloser under Part 6 of the Act; and
- the rights and obligations of the discloser under the Act.

² 'Suspected corrupt conduct', or where the Chief Executive Officer suspects on reasonable grounds corrupt conduct is occurring, means there is a real possibility that corrupt conduct is, or may be, involved. There needs to be more than idle speculation. Proof is not necessary. It is not required that an individual or individuals be identified: a reasonable suspicion of corrupt conduct may still occur, and such matters should still be notified.

³ Section 26(4) requires IBAC to complete the evaluation in a reasonable time. Council does not determine the reasonable time.

Where IBAC determines that the public interest disclosure is not a public interest complaint and as such will not be investigated by IBAC, it will advise the entity who notified the public interest disclosure to IBAC of this decision in writing, within a reasonable time after the determination is made.

The confidentiality provisions under Part 7 of the Act will no longer apply in relation to the public interest disclosures that are determined by IBAC to not to be a public interest complaint, but the protections under Part 6 for persons making a disclosure will continue to apply.. IBAC may also advise the discloser and Council that the Council may be able to deal with the public interest disclosure through administrative processes—this would include actions under the Complaints Management Policy or Disciplinary Process Procedure.

9. Keeping the discloser informed

The PIDC will ensure the discloser is kept informed of action taken in relation to their public interest disclosure, and the legislated timeframes that apply. All communication with the discloser will be in plain English.

10. Welfare Management

Council has obligations to provide for a safe, non-discriminatory work environment under the *Occupational Health and Safety Act 2004*, *Charter of Human Rights and Responsibilities Act 2006*, *Equal Opportunity Act 2010*, *Public Administration Act 2004* and the *Local Government Act 2020*.

Council is committed to the protection of disclosers and co-operators against detrimental action taken in reprisal for the making of public interest disclosures. The PIDC is responsible for ensuring disclosers and co-operators are protected from direct and indirect detrimental action, and that the culture of the workplace is supportive of public interest disclosures being made.

The PIDC will provide contact information for the Council Employee Assistance Program to every discloser.

For any given public interest disclosure and subsequent process, the PIDC may recommend to the Chief Executive Officer that they appoint a welfare manager.

In determining whether or not to recommend to the Chief Executive Officer that they appoint a welfare manager the PIDC will take into account all relevant circumstances, as well as consider the following:

1. whether there “are any real risks of detrimental action against the discloser, any co-operators and any other person(s) involved, taking into account their particular circumstances”⁴;
2. whether or not the public interest disclosure has proceeded, or is likely to proceed to an investigation; and
3. whether Council has the power to protect the person(s) involved from suffering repercussions.

The IBAC *Guidelines for public interest disclosure welfare management* emphasises that if the answer to question 1 above is Yes, then the appointment of a dedicated welfare manager is probably appropriate.

⁴ Guidelines for protected disclosure welfare management, IBAC, 2016 p9

If the Chief Executive Officer considers it appropriate, they will appoint an internal welfare manager for a given public interest disclosure process to work with the discloser, any co-operators and any other person(s) involved in the process, and consider the appointment of an external welfare professional.

The welfare manager is to be appointed by the Chief Executive Officer and will usually be the Manager People, Performance and Culture or Human Resources Coordinator.

The key responsibilities of the welfare manager are described in the Roles and Responsibilities section.

11. Occurrence of Detrimental Action

A discloser or co-operator may report an incident that they consider may amount to detrimental action taken in reprisal for the making of a public interest disclosure to the welfare manager (if one has been appointed), the PIDO, PIDC or Chief Executive Officer.

If a discloser or co-operator reports such an incident the welfare manager (if one has been appointed), the PIDO, the PIDC or the Chief Executive Officer will:

- confidentially record details of the incident;
- advise the discloser or co-operator of his or her rights under the Act; and
- if the discloser or co-operator (as the case may be) wishes, advise the PIDC of the incident (if the PIDC is not the one taking these actions).

Two essential elements must be present to substantiate detrimental action: whether in fact there is detrimental action present, as defined in the Act; and whether the action has been taken in reprisal for making the public interest disclosure.

Section 2 of this Public Interest Disclosure Procedure contains examples of the types of actions which may constitute detrimental actions under the Act.

A discloser who is subjected to detrimental action for in reprisal for making a public interest disclosure may take civil action against the offending person, and/or Council (if the offender took the detrimental action during their employment with Council) and seek damages or apply for an injunction from the Supreme Court.

The taking of detrimental action in reprisal for the making of a public interest disclosure is an offence under the Act as well as grounds for making a further public interest disclosure.

12. Disclosers implicated in Improper Conduct

Where a person who makes a public interest disclosure is implicated in misconduct, the public interest disclosure will be assessed and the discloser protected from reprisals in accordance with the Act and this Public Interest Disclosure Procedure. The discloser will be protected from any civil or criminal liability for *making* the public interest disclosure under the Act. However, they will not be protected from their own improper conduct or actions, and may remain liable for their role in the disclosed matter.

Council acknowledges that the act of disclosing improper conduct should not shield the discloser from the reasonable consequences flowing from any involvement in improper conduct.

The Chief Executive Officer will make the final decision on the advice of the PIDC as to whether disciplinary or other action will be taken against a discloser. Where disciplinary or other action relates to conduct that is the subject of the public interest disclosure, the

disciplinary or other action will only be taken after the disclosed matter has been appropriately dealt with by IBAC.

In all cases where disciplinary or other action is being contemplated, the Chief Executive Officer must be satisfied that it has been clearly demonstrated that:

- the intention to proceed with disciplinary action is *not* causally connected to the making of the public interest disclosure (as opposed to the content of the public interest disclosure or other available information);
- there are good and sufficient grounds that would fully justify action against any non-discloser in the same circumstances; and
- there are good and sufficient grounds that justify exercising any discretion to institute disciplinary or other action.

The PIDC will thoroughly document the process including recording the reasons why the disciplinary or other action is being taken, and the reasons why the action is not in retribution for the making of the public interest disclosure.

The PIDC will advise the discloser of the proposed action to be taken and of any mitigating factors that have been taken into account.

13. Management of persons against whom a public interest disclosure has been made

Council recognises that Council staff against whom public interest disclosures are made must also be supported during the handling and assessment of public interest disclosures.

Council will take all reasonable steps to ensure the confidentiality of the person who is the subject of the public interest disclosure during the assessment process.

Where assessments do not substantiate a public interest disclosure, the fact that the assessment has been carried out, the results of the referral, and the identity of the person who is the subject of the public interest disclosure will remain confidential.

It is possible that the person who is the subject of a public interest disclosure may never even know about the public interest disclosure, especially if it is not determined to be a public interest disclosure or the investigating authority decides to dismiss the public interest disclosure.

If or when it is deemed necessary, the PIDC will provide support, advice and contact information for the Council Employee Assistance Program and/or, in accordance with section 10 of this Public Interest Disclosure Procedure, recommend to the Chief Executive Officer that an internal welfare manager be appointed, and/or consider the appointment of an external welfare professional to assist the employee against whom a public interest disclosure has been made.

Council will provide appropriate support to a person who is the subject of a public interest disclosure where the allegations contained in a public interest disclosure have been deemed wrong or unsubstantiated. If the matter has been publicly disclosed, the Chief Executive Officer will consider any request by that person to issue an appropriate statement.

14. Confidentiality

Council will take all reasonable steps to protect the identity of the discloser, co-operator and the person who is the subject of a public interest disclosure. Maintaining confidentiality is crucial in ensuring reprisals are not made.

The PIDC will ensure all files, whether paper or electronic, are kept secure and can only be accessed by the PIDC, PIDO, Chief Executive Officer, the investigating authority or welfare manager (in relation to welfare matters, if one has been appointed).

All electronic files produced in relation to a public interest disclosure will be imported into Council's approved electronic document and records management system and given a confidential classification to restrict access. All materials relevant to an investigation will also be stored securely with the public interest disclosure files.

Council will not email documents relevant to a public interest disclosure matter without encryption and password protection and will ensure all phone calls and meetings in relation to a public interest disclosure matter are conducted in private.

The Act requires any person who receives information, due to the handling or investigation of a public interest disclosure, not to disclose that information except where that disclosure is allowed under the Act. For example, disclosure of confidential information to registered health practitioners, trade unions, or employee assistance programs is permitted for the purpose of supporting the discloser.

When a public officer acts in good faith and in accordance with the Act, Regulations, IBAC's Guidelines and Council's policies and procedures (including this Public Interest Disclosure Procedure), the public officer does not:

- commit an offence under laws imposing a duty to maintain confidentiality or restricting the disclosure of information; or
- breach an obligation to maintain confidentiality or restricting the disclosure of information with respect to a matter,

and the public officer is not subject to any civil or criminal liability or any liability arising by way of administrative process (including disciplinary action) for disclosing the information.

15. External Disclosures

An external disclosure is a public interest disclosure made to a person or body who is **not** an entity to whom a public interest disclosure may be made under the Act. Under the Act disclosures can be made to these entities:

- IBAC;
- the person appointed as the Ombudsman under the *Ombudsman Act 1973*;
- the Victorian Inspectorate;
- a public service body within the meaning of section 4(1) of the *Public Administration Act 2004* if the disclosure relates to the conduct of the public service body or of a member, officer or employee of the public service body; or
- a public officer prescribed for the purposes of section 13 of the Act if the public interest disclosure relates to an employee of, or any person otherwise engaged by, or acting on behalf of, or acting as a deputy or delegate of that public officer.

A discloser may disclose the details of a public interest complaint to an external person or body in specific circumstances, as set out in section 38A of the Act.

16. Collating and publishing statistics

Council must include in its annual report:

- information about how to access these procedures;; and
- the number of public interest disclosures notified to the IBAC under section 21(2) of the Act during the financial year.

However, the information provided in Council's annual report must not include information that is likely to lead to the identification of a person who has made a public interest disclosure unless the exceptions in section 53(2)(a), (c) or (d) of the Act applies.

17. Training for Council staff

Council will:

- ensure that Council staff and Councillors have access to a copy of these procedures in hard or soft copy;
- incorporate into its induction procedures, training about Council's general obligations under the Act and the rights and obligations of all Council staff and Councillors;
- deliver periodic refresher courses for existing Council staff and Councillors about their rights and obligations under the Act;
- ensure that at least annually, all Council staff are reminded by the Chief Executive Officer that it is an offence for a person to take detrimental action in reprisal for a public interest disclosure; and that taking detrimental action in breach of the Act may also be grounds for making a new public interest disclosure under the Act and can result in an investigation by IBAC;
- provide additional training and assistance to:
 - complaint handling staff to ensure that any complaints received will be dealt with consistently and in accordance with the Act as required; and
 - any staff with functions and duties under the *Freedom of Information Act 1982* (FOI Act) or with responsibilities for information management, to ensure that only information allowed to be disclosed under the Act is disclosed and there is appropriate liaising with the staff of IBAC or other investigative agencies where required in response to a request for access under the FOI Act; and
- ensure that the public are informed of the *Public Interest Disclosure Act 2012* by publishing this procedure and the Public Interest Disclosure Policy on Council's website and providing assistance to members of the public when requested;
- ensure Council officers appointed to handle public interest disclosures and all other Council staff are aware of the following offences under the Act:
 - Taking detrimental action against a person in reprisal for a public interest disclosure being made – penalty of 240 penalty units or two years imprisonment or both;
 - Disclosing the content, or information about the content of an assessable disclosure – penalty of 120 penalty units or twelve months imprisonment or both;
 - Disclosing information likely to lead to the identification of a person who has made an assessable disclosure – maximum penalty of 120 penalty units or twelve months imprisonment or both; and
 - Knowingly providing false information under the Act with the intention that it is acted on as a public interest disclosure – penalty of 120 penalty units or twelve months imprisonment or both.

18. Investigations by the Chief Municipal Inspector

IBAC may refer public interest complaints to the Chief Municipal Inspector in some circumstances set out in the *Independent Broad-based Anti-corruption Commission Act 2011*. If the Chief Municipal Inspector makes recommendations to Council as a result of the Chief Municipal Inspector's investigation of a public interest complaint, Council must, within the time specified by the Chief Municipal Inspector, notify the Chief Municipal Inspector of the steps to be taken to address the recommendations.

Roles and Responsibilities

These management positions are responsible for the implementation, communication and compliance monitoring of the policy in their work areas:

Party / Parties	Roles and Responsibilities
Chief Executive Officer	<p>The Chief Executive Officer may receive public interest disclosures. Where a public interest disclosure is assessed to be an assessable disclosure the Chief Executive Officer will notify the public interest disclosure to IBAC for investigation no later than 28 days after the public interest disclosure is made. However, the aim will always be to notify IBAC 'as soon as practicable' after the Chief Executive Officer has been notified that the public interest disclosure is an assessable disclosure, as is required in the case of notifications of suspected corrupt conduct.</p> <p>The Chief Executive Officer will appoint a welfare manager where they believes doing so is appropriate.</p> <p>Having considered the advice of the PIDC and the Disciplinary Process Procedure, the Chief Executive Officer will decide whether any disciplinary action will be taken against a discloser implicated in improper conduct, taking into account detrimental action considerations, and will advise the discloser of the action to be taken and the reasons why this action is not a detrimental action.</p>
Discloser	<p>The discloser must ensure that the public interest disclosure is made in accordance with the Act.</p> <p>The discloser must not reveal that an assessment is being undertaken by East Gippsland Shire Council.</p> <p>The discloser must not reveal that an investigation is being carried out by IBAC.</p> <p>The discloser must not provide false or misleading information or falsely claim that a matter is the subject of a public interest disclosure.</p>
Council staff	<p>Council Staff are encouraged to report known or suspected incidences of improper conduct or detrimental action in accordance with these procedures.</p> <p>Council Staff of East Gippsland Shire Council have an important role to play in supporting those who have made a legitimate public interest disclosure and co-operators.</p> <p>They must refrain from any activity that is, or could be perceived to be, victimisation or harassment of a person who makes a public interest disclosure. Furthermore, they should protect and maintain the confidentiality of person(s) they know or suspect to have made a public interest disclosure or be the subject of a public interest disclosure.</p>

Party / Parties	Roles and Responsibilities
Public Interest Disclosure Coordinator (PIDC)	<p>The Public Interest Disclosure Coordinator has a central 'clearing house' role in the internal reporting system. He or she will:</p> <ul style="list-style-type: none"> • receive all public interest disclosures forwarded from the PIDOs; • receive all phone calls, emails and letters from members of the public or Council Staff seeking to make a public interest disclosure; • impartially assess each public interest disclosure to determine whether it is a public interest disclosure made in accordance with Part 2 of the Act (that is, 'an assessable disclosure'); • prepare an organisational, welfare and safety risk assessment of the risks faced by each discloser and/or co-operators; • develop a risk management plan to manage the welfare of those involved in every public interest disclosure; • assist the Chief Executive Officer with notifying assessable disclosures to IBAC within 28 days; • assist IBAC where required; • ensure all disclosers and co-operators are protected from direct and indirect detrimental action, and that the culture of the workplace is supportive of public interest disclosures being made –this may necessitate the appointment of a welfare manager; • assess whether it is necessary to appoint a welfare manager to support the discloser and/or any co-operators to protect them from any detrimental actions; • if necessary, provide support, advice and contact information for the East Gippsland Shire Council Employee Assistance Program and/or appoint an internal welfare manager, and consider the appointment of an external welfare professional to assist the person against whom a public interest disclosure has been made; • advise the discloser of the progress of the assessment into the disclosed matter; • manage the welfare of a discloser and advise them of protections available under the Act; • establish and manage a secure filing system and processes to ensure confidentiality; • take all necessary steps to ensure the identity of the discloser and the identity of the person who is the subject of the public interest disclosure are kept confidential; • liaise with the Chief Executive Officer, including advising about the appointment of a welfare manager and any cases where disclosers have been implicated in improper conduct; and • clearly document the reasons for any disciplinary action taken by Council. <p>This role is fulfilled by the Manager Governance.</p>

Party / Parties	Roles and Responsibilities
Public Interest Disclosure Officer (PIDO)	<p>Public Interest Disclosure Officers will:</p> <ul style="list-style-type: none"> • be a contact point for general advice about the operation of the Act for any person wishing to make a public interest disclosure; • make arrangements for a public interest disclosure to be made privately and discreetly and if necessary, away from the workplace; • receive any public interest disclosure made orally or in writing (from internal and external disclosers); • commit to writing any public interest disclosure made orally; • take all necessary steps to ensure the identity of the discloser and the identity of the person who is the subject of the public interest disclosure are kept confidential; and • forward all public interest disclosures and supporting evidence to the Public Interest Disclosure Coordinator. <p>This role is fulfilled by the Governance and Compliance Coordinator.</p>
Welfare Manager	<p>The welfare manager is responsible for looking after the general welfare of the discloser and, if considered appropriate by the Chief Executive Officer, the person who is the subject of the public interest disclosure.</p> <p>The welfare manager will:</p> <ul style="list-style-type: none"> • examine the immediate welfare and protection needs of a person who has made a public interest disclosure (and co-operators where relevant) and, where the discloser is Council Staff, while maintaining the confidentiality of all concerned, seek to foster a supportive work environment; • prepare an organisational, welfare and safety risk assessment for the discloser and/or co-operators; • develop a risk management plan to manage the welfare of those involved in every public interest disclosure • advise the discloser (and co-operators as relevant) of the legislative and administrative protections available to him or her and keep them informed of the actions being taken; • hear and respond to any concerns of harassment, intimidation or victimisation in reprisal for making public interest disclosure; • advise the PIDC of any allegations of detrimental action, if the person making the allegation wishes them to; • keep a constantly updated confidential record of all aspects of the case management of the discloser (and co-operators as relevant), including all contact and follow-up action; and • ensure the expectations of the discloser are realistic. <p>The welfare manager is to be appointed by the Chief Executive Officer (if the Chief Executive Officer decides to appoint one) and will usually be the Manager People Performance and Culture or the Human Resources Coordinator.</p>

References and Supporting Documents

Applicable Legislation:

Charter of Human Rights and Responsibilities Act 2006
Equal Opportunity Act 2010
Freedom of Information Act 1982
Health Records Act 2001
Independent Broad-based Anti-corruption Commission Act 2011
Integrity and Accountability Legislation Amendment (Public Interest Disclosures, Oversight and Independence) Act 2019
Local Government Act 2020
Occupational Health and Safety Act 2004
Ombudsman Act 1973
Privacy and Data Protection Act 2014
Privacy Act 1988 (Commonwealth)
Public Interest Disclosures Act 2012
Public Administration Act 2004

Applicable Policy and Procedure:

Anti-bullying and Harassment Policy
 Bullying and Harassment Resolution Procedure
 Disciplinary Process Policy
 Fraud and Corruption Control Policy
 Public Interest Disclosure Policy
 Workplace Health and Safety Policy

Supporting Documents:

IBAC Guidelines for handling public interest disclosures
<https://www.ibac.vic.gov.au/publications-and-resources/article/guidelines-for-making-and-handling-protected-disclosures>
 IBAC Guidelines for public interest disclosure welfare
<https://www.ibac.vic.gov.au/publications-and-resources/article/guidelines-for-protected-disclosure-welfare-management>
 IBAC Controlling fraud and corruption; a prevention checklist:
<https://www.ibac.vic.gov.au/publications-and-resources/article/controlling-fraud-and-corruption-a-prevention-checklist>
 IBAC Information Sheet – Public interest disclosure procedures key issues to consider:
<https://www.ibac.vic.gov.au/publications-and-resources/article/information-sheet---public-interest-disclosure-procedures-key-issues-to-consider>
 IBAC Podcast eight - Directions for making mandatory notifications
<https://www.ibac.vic.gov.au/publications-and-resources/article/podcast-eight-mandatory-notifications>

Public Interest Disclosure Procedure
 Date approved: xxx
 Document owner: Manager Governance
This document is uncontrolled when printed

Version number: 7
 Next review date:

16

Definitions

Term	Meaning
Act	The <i>Public Interest Disclosures Act</i> 2012.
Assessable disclosure	The meaning given in the Act for <i>assessable disclosure</i> .
Chief Municipal Inspector	The meaning given in the <i>Local Government Act</i> 2020.
Co-operator	A person who has co-operated or intends to co-operate with an investigation of a public interest disclosure, e.g., a witness.
Detrimental action	The meaning given in the Act for <i>detrimental action</i> .
Corrupt conduct	The meaning given by section 4 of the <i>Independent Broad-based Anti-corruption Commission Act</i> 2011.
Council	East Gippsland Shire Council.
Councillor	A person who has been elected to the office of Councillor of East Gippsland Shire Council.
Council staff	All staff engaged by East Gippsland Shire Council, including all full-time, part-time and casual employees, labour hire agency staff, contractors (and their employees and subcontractors) and volunteers.
Discloser	Person making a public interest disclosure.
External Disclosure	The meaning given in section 38A of the Act for an <i>external disclosure</i> .
Independent Broad-based Anti-corruption Commission (IBAC)	The meaning given in the Act for <i>IBAC</i> .
Improper conduct	The meaning given in the Act for <i>improper conduct</i> .
Public Interest Disclosure Coordinator (PIDC)	Recommended first point of contact for any enquiries and assessing any disclosures to determine if a public interest disclosure has been made. At East Gippsland Shire Council this role is fulfilled by the Governance and Compliance Coordinator.
Ombudsman	The person appointed as the Ombudsman under section 3 of the <i>Ombudsman Act</i> 1973.
Public body	The meaning given in the Act for <i>public body</i> .
Public interest complaint	The meaning given in the Act for <i>public interest complaint</i> .
Public interest disclosure	The meaning given in the Act for <i>public interest disclosure</i> .

Term	Meaning
Public Interest Disclosure Officers (PIDO)	Designated council officers who will provide general advice regarding the operation of the Act for any person wishing to make a public interest disclosure concerning improper conduct or detrimental action by a Councillor or Council Staff member. At East Gippsland Shire Council this role is fulfilled Governance and Compliance Coordinator. The PIDC role in this case may also fulfil the duties of the PIDO.
Public officer	The meaning given in the Act for <i>public officer</i> .
Welfare manager	The person assigned by the Chief Executive Officer to be responsible for looking after the general welfare of the discloser or person under investigation. This responsibility will normally be assigned by the Chief Executive Officer to the Human Resources Coordinator or Manager People, Performance and Culture.

Revision History and Review

This procedure will be reviewed by General Manager Business Excellence every two years, or sooner in the case of significant legislative change or where shifts in the strategic or operational circumstances of East Gippsland Shire Council merit.

This procedure may be amended by Manager Governance to give effect to minor administrative changes or legislative variations on an as needs basis.

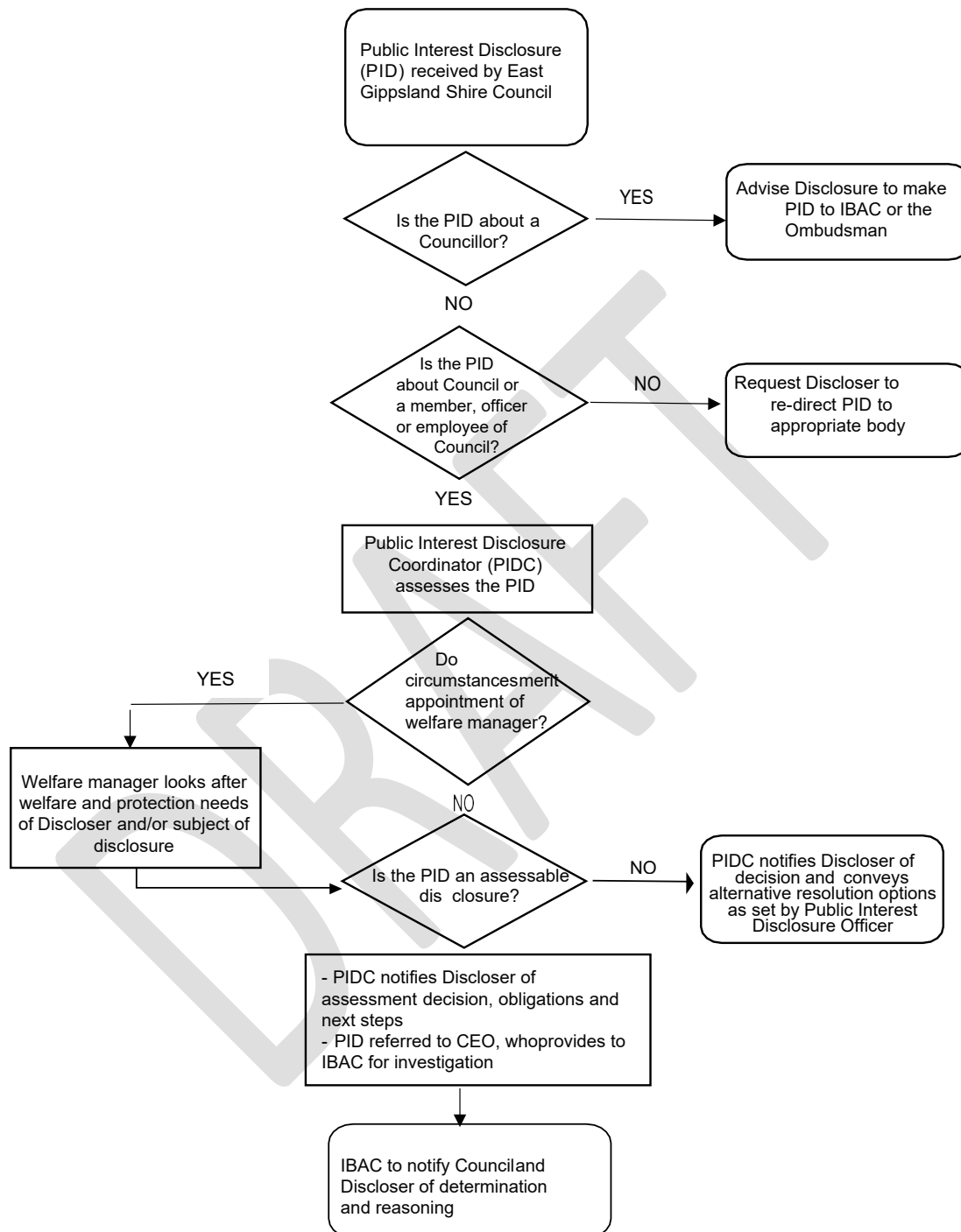
Version Control	Approved Amended Rescinded	Date Effective	Approved By	ECM Document Reference	Summary of Changes
1	Approved				Updating Whistleblowers Procedures approved 22/02/2002
2	Approved	05/06/2013	Leadership Group		Modification of Whistleblowers Policy into separate policy and procedure documents, and recognition of new public interest disclosure regime.
3	Approved	02/07/2013	Director Corporate		Modification of Policy into separate policy and procedure documents, and recognition of new Public Interest Disclosure Act and regime.
4	Approved	31/10/2014	Director Corporate		Administrative update to procedures and policy made ECM 5942698
5	Approved	June 2015	Director Corporate		Administrative update to include IBAC and Audit Committee recommendations. ECM 6369810
6	Approved	05/09/17	Director Corporate	7307177	Two-year review. Inclusion of mandatory notification requirements. Significant changes to content, structure and format to improve readability and clarity.
7					Policy updated to new template. Reviewed and revised to meet new legislative requirements and ensure clarity of process for disclosers, receivers and support people.

Public Interest Disclosure Procedure
 Date approved: xxx
 Document owner: Manager Governance
This document is uncontrolled when printed

Version number: 7
 Next review date:

19

Attachment 1: Flow Chart



Public Interest Disclosure Procedure
 Date approved: xxx
 Document owner: Manager Governance
This document is uncontrolled when printed

Version number: 7
 Next review date:

20

Attachment 2: Checklist

Public Interest Disclosure Checklist

If you have information about improper or corrupt conduct⁵, dishonest performance, a breach of public trust, the misuse of information or public resources, criminal conduct, professional misconduct, risk to health and safety or the environment and/or fraud within or by East Gippsland Shire Council, this Checklist will help you decide whether the disclosure of this information may be considered a public interest disclosure in accordance with the Public Interest Disclosures Act 2012.

Step 1 Place a 'tick' in the space provided, if applicable.

		Tick
1	You are a person, not an organisation.	
2	You have information that you believe shows that: <ul style="list-style-type: none"> • East Gippsland Shire Council; • A member, officer or employee of East Gippsland Shire Council; or • A contractor (including their employees and subcontractors), labour hire agency staff member, or volunteer that provides services on behalf of East Gippsland Shire Council, has, or will, engage in improper or corrupt conduct in their role as a public servant.	
3	You have information that you believe shows that: <ul style="list-style-type: none"> • East Gippsland Shire Council; • A member, officer or employee of East Gippsland Shire Council; or • A contractor (including their employees and subcontractors), labour hire agency staff member, or volunteer that provides services on behalf of East Gippsland Shire Council, has, or will, punish those who have made allegations of improper conduct or any other type of Public Interest Disclosure.	
4	You have information that you believe shows that a Councillor of East Gippsland Shire Council has or will: <ul style="list-style-type: none"> • engage in improper or corrupt conduct; or • punish those who have made allegations of improper conduct or any other type of Public Interest Disclosure. 	

Step 2

If you ticked boxes 1 and 2 or 1 and 3, then contact one of the following (refer to section 3 of the Public Interest Disclosure Procedure for contact details) to discuss your concerns:

- East Gippsland Shire Council's Public Interest Disclosure Coordinator (PIDC);
- East Gippsland Shire Council's Public Interest Disclosure Officer (PIDO);
- The CEO of East Gippsland Shire Council; or
- The Independent Broad-Based Anti-Corruption Commission (IBAC).

⁵ The full definition of improper conduct for the purposes of public interest disclosures is contained in section 4 of the *Public Interest Disclosures Act 2012* (Vic). The full definition of corrupt conduct for these purposes is contained in section 4 of the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic).

If you ticked boxes 1 and 4 then if you wish to discuss your disclosure (which is encouraged) you must contact IBAC or the Ombudsman directly.

Your contact will be able to provide you with information on the next steps that will be taken, including how your disclosure will be assessed and your rights and obligations.

If you have not ticked boxes 1 and 2, 1 and 3 or 1 and 4, your information is unlikely to be treated as a public interest disclosure. However, you may seek resolution by other means, such as through the Police, through a formal complaint to East Gippsland Shire Council, or through the Ombudsman or other means.

DRAFT



Public Interest Disclosures Procedure

Public Interest Disclosure Procedure
Date approved: xxx
Document owner: Manager Governance

Version number: 7
Next review date:

This document is uncontrolled when printed

1

TABLE OF CONTENTS

Purpose	3
Scope	3
Policy Context.....	3
Policy Statement.....	3
Procedure	4
1. Who can make a public interest disclosure and about whom?	4
2. What can a public interest disclosure be made about?	4
3. How can a public interest disclosure be made?	5
4. What happens after a public interest disclosure is made?	7
5. Has the public interest disclosure been made to the appropriate person?	7
6. Does the disclosure contain the essential elements of a public interest disclosure?	7
7. Notification of Public Interest Disclosures in the case of suspected corrupt conduct	9
8. Assessment by IBAC	10
9. Keeping the discloser informed	10
10. Welfare Management	10
11. Occurrence of Detrimental Action	11
12. Disclosers implicated in Improper Conduct	12
13. Management of persons against whom a public interest disclosure has been made	13
14. Confidentiality	13
15. External Disclosures	15
16. Collating and publishing statistics	15
17. Training for Council staff	16
18. Investigations by the Chief Municipal Inspector	17
Roles and Responsibilities	18
References and Supporting Documents	23
Applicable Legislation:	23
Applicable Policy and Procedure:.....	23
Supporting Documents:.....	23
Definitions	25
Revision History and Review.....	27
Attachment 1: Flow Chart	28
Attachment 2: Checklist.....	29

Public Interest Disclosure Procedure
 Date approved: xxx
 Document owner: Manager Governance

Version number: 7
 Next review date:

This document is uncontrolled when printed

2

Purpose

The purpose of this procedure is to document the system for receiving, assessing and reporting disclosures of improper conduct or detrimental action by East Gippsland Shire Council (Council) or its Council staff. It details the standards and processes Council will abide by in protecting those making disclosures and those who are the subject of a Disclosure. A flowchart summarising the process to be followed when a Disclosure of Improper conduct is made is provided as **Attachment 1**.

Scope

This procedure applies to all Councillors and Council ~~staff, contractors (and their employees), volunteers, staff~~ and relatives/dependents of these people. The procedure is available to the public on the Council's website, ~~and at all Service Centres and Outreach Centres.~~

Context

~~The Public Interest Disclosures Act 2012 (the Act) was introduced by the Victorian Government and commenced operation on 10 February 2013.~~ The intent of the Public Interest Disclosures Act 2014 Act is to encourage and facilitate the making of disclosures of improper conduct and corrupt conduct by public officers and public bodies.

The Act provides protection from detrimental action to any person affected by a disclosure; including the ~~(the person making the disclosure, sometimes referred to as the 'whistleblower')~~, discloser (often colloquially referred to as a whistleblower), co-operators ~~(e.g. assisting witnesses)~~ and persons who are the subject of an investigation.

These principles and measures are incorporated in the Council's Public Interest Disclosure Policy.

Procedure Statement

In accord with its Public Interest Disclosure Policy, Council recognises the value of transparency and accountability in its administrative and management practices and supports the making of disclosures that reveal:

- improper conduct;
- ~~conduct~~ involving a substantial mismanagement of public resources; or
- conduct involving a substantial risk to public health and safety or the environment.

Council does not tolerate improper conduct by its Councillors, ~~employees, contractors~~ or volunteers Council staff, nor the taking of reprisals against those who come forward to disclose such conduct.

Council will take all reasonable steps to protect people who make such disclosures from any detrimental action in reprisal for making the disclosure. It will also protect the welfare and confidentiality of the person(s) who are the subject of the disclosure.

Public Interest Disclosure Procedure
Date approved: xxx
Document owner: Manager Governance

Version number: 7
Next review date:

This document is uncontrolled when printed

3

All Councillors and Council staff have an important role to play in supporting those who have made a disclosure. They must protect discloser confidentiality and refrain from actual or perceived victimisation or harassment of those who disclose alleged improper conduct.

Procedure

1. Who can make a public interest disclosure and about whom?

Any person or group of people (not a company), including Council, Council staff and Councillors, ~~individuals who supply goods or services to East Gippsland Shire Council (and their employees)~~, and relatives/dependents of these people, can make a public interest disclosure regarding suspected improper conduct or detrimental action ~~taken by East Gippsland Shire Council, its employees, contractors or volunteers.~~

Public interest disclosures can only be made about public bodies (such as East Gippsland Shire Council) or public officers (such as Council staff or Councillors), or about conduct of a person that adversely affects the honest performance of an official function by a public body or public officer, or that intends to adversely affect the effective performance of a public officer or public body. This 'person' includes associates and relatives/dependents of public officers and public bodies.

Council staff are encouraged to report known or suspected incidences of such conduct in accordance with these procedures. Where they are unsure about whether what they know amounts to improper conduct, or whether making a public interest disclosure is the appropriate avenue for reporting, Council staff should use the quick checklist at **Attachment 2** and are encouraged to informally discuss their concerns, in confidence, with any of the Council Officers listed in section 3 of this Procedure (and in the first dot point below) as officers to whom public interest disclosures should be made.

- Public interest disclosures by Council staff may be made to the Chief Executive Officer (CEO), Public Interest Disclosure Coordinator (PIDC) or to the nominated Public Interest Disclosure Officer (PIDO).
- Public interest disclosures regarding a Councillor or Councillors must be made to the Independent Broad-based Anti-corruption Commission (IBAC)¹ or the Ombudsman.
- Public interest disclosures must at all times be made in accordance with the Act.

If you request another person to make a public interest disclosure on your behalf, ~~only the person making the disclosure will you may not~~ be covered by the full protections of the Act. ~~You will have limited~~ Different protections ~~regarding apply in different ways, so consideration should be given to how the Act will apply in your confidentiality and any detrimental actions taken against you in reprisal for the disclosures situation if you initiated.~~ are considering asking another person to make a public interest disclosure on your behalf.

¹ Although the definitions in the *Independent Broad-based Anti-corruption Commission Act 2011* deem Councillors Public Officers, section 14 of the Act states disclosures relating to Councillors "must be made to the IBAC or the Ombudsman".

2. What can a public interest disclosure be made about?

A Public Interest Disclosure may be made about information or actions which you reasonably believe displays or tends to exhibit:

- Improper conduct (including corrupt conduct) of persons, public bodies or public officers; or
- Detrimental action taken by public bodies or public officers in reprisal against a person for making a public interest disclosure.

~~The information you provide must be a 'revelation'—IBAC considers that a complaint or allegation that is already in the public domain will not usually be considered a 'public interest disclosure'.~~

Examples of improper conduct

- To avoid closure of a town's major business, an environmental health officer ignores or conceals evidence of illegal dumping of waste.
- Failure by Community Laws Officer to require a permit for an A-frame advertising sign on a public footpath as a result of the officer's relationship with the operator.
- Parking Officer ignores a particular vehicle on the basis of a personal relationship with the vehicle's owner.
- A Council staff member approves a colleague's corporate expense account for payment even though it appears to have unjustified or non-work related expenditure items listed.

Examples of corrupt conduct

- A Council officer takes a bribe or receives a payment other than their wages or salary in exchange for the discharge of a public duty.
- A Council officer favours unworthy applications for jobs or permits by friends and relatives.
- A Council officer sells confidential information, or uses confidential information for personal gain.
- A Council officer colludes to share profits with tender recipients and conceals the overvaluation of tenders.
- A Councillor acquires information about one of their neighbours as part of performing their role as a Councillor and misuses that information to resolve a personal dispute with the neighbour.

Examples of detrimental action

- An action causing injury, loss or damage, or intimidation or harassment.
- A deserved promotion of a person who has made a disclosure is refused.
- A discloser is demoted, transferred, isolated in the workplace or has their duties changed due to the making of a disclosure.
- A Councillor or Council staff member threatens, abuses or carries out other forms of harassment directly or indirectly against the discloser, and/or his or her family or friends.
- Any Council staff member discriminates against the discloser and/or his or her family and associates in subsequent applications for jobs, permits or contracted works.
- A Councillor votes against a resolution to engage a particular contractor to undertake works for Council.

3. How can a public interest disclosure be made?

You must make the public interest disclosure in private, and you may do so either using your name or anonymously:

- in writing via post, email or courier;
- in person;
- by telephone or by leaving a voicemail message; or
- by any other form of electronic communication, ~~e.g. text message.~~

You may not make a public interest disclosure via facsimile (fax).

~~If you do not identify yourself the investigation may be impeded, and you will not receive notification of the outcomes.~~

Please ensure that written public interest disclosures are clearly marked "PRIVATE AND CONFIDENTIAL" and addressed to the Public Interest Disclosure Coordinator.

Public Interest Disclosures of improper conduct or detrimental action by Council staff may be made to any of the following officers:

- Public Interest Disclosure Coordinator (PIDC)
~~Governance and Compliance Coordinator~~Manager Governance
PO Box 1618
BAIRNSDALE VIC 3875
Phone: 03 5153 9500
Email: whistleblowers2@egipps.vic.gov.au
- Public Interest Disclosure Officer (PIDO)
Governance and Compliance Coordinator
PO Box 1618
BAIRNSDALE VIC 3875
Phone: 03 5153 9500
Email: whistleblower3@egipps.vic.gov.au
- ~~Public Interest Disclosure Officer (PIDO)~~
~~General Manager Business Excellence~~
~~PO Box 1618~~
~~BAIRNSDALE VIC 3875~~
~~Phone: 03 5153 9500~~
~~Email: whistleblowers3@egipps.vic.gov.au~~
- Chief Executive Officer (CEO)
PO Box 1618
BAIRNSDALE VIC 3875
Phone: 03 5153 9500
Email: whistleblowers1@egipps.vic.gov.au

Public interest disclosures of improper conduct or detrimental action by a Councillor or Councillors may be made to IBAC or the Ombudsman.

Public Interest Disclosure Procedure
Date approved: xxx
Document owner: Manager Governance

Version number: 7
Next review date:

This document is uncontrolled when printed

6

All correspondence, phone calls and emails from internal or external disclosers will be referred to the PIDC.

Where a person is contemplating making a public interest disclosure and is concerned about approaching the PIDC or PIDO in the workplace or during work hours, they may contact the PIDC or PIDO and request a meeting in a discreet location away from the workplace.

The PIDC will discreetly acknowledge receipt of the information provided by the discloser. All records of conversations and correspondence will be securely maintained by the PIDC in a confidential file throughout the assessment process.

The key responsibilities of these respective roles are described in the Roles and Responsibilities section.

4. What happens after a public interest disclosure is made?

The following sections of this Public Interest Disclosure Procedure outline the process undertaken by the PIDC during the assessment of a public interest disclosure allegation made about Council or Council staff.

Public interest disclosures made to the IBAC or the Ombudsman will be handled according to the procedures of the individual those organisations.

5. Has the public interest disclosure been made to the appropriate person?

Council can only deal with public interest disclosures that concern East Gippsland Shire Council and its Council staff.

Alternatively, disclosers may make a public interest disclosure of improper conduct or detrimental action by Council or its Council staff, directly to IBAC.

Concerns Public interest disclosures regarding Councillors must be made to IBAC, or the Ombudsman. Council recommends that public interest disclosures are made to the relevant person or location at the relevant organisation.

IBAC
Level 1, North Tower
459 Collins Street
Melbourne VIC 3000
Postal: GPO Box 24234, MELBOURNE VIC 3001
Website: www.ibac.vic.gov.au
Telephone: 1300 735 135

See Ombudsman website for details of how to make a Disclosure to the Ombudsman:
<https://www.ombudsman.vic.gov.au/reporting-improper-conduct/>

6. Does the disclosure contain the essential elements of a public interest disclosure?

Public Interest Disclosure Procedure
Date approved: xxx
Document owner: Manager Governance

Version number: 7
Next review date:

This document is uncontrolled when printed

7

~~Not all disclosures will be determined to be public interest disclosures, and the procedural response by East Gippsland Shire Council (or IBAC) will vary accordingly. Where a public interest disclosure has been received by the PIDO or the Chief Executive Officer or by the PIDC, he or she they will forward it as soon as possible to the PIDC. When the PIDC receives a Public Interest Disclosure (either from the Discloser or PIDO or the Chief Executive Officer), they will assess within two business days whether the Public Interest Disclosure is an assessable disclosure.~~

~~If the public interest disclosure is in relation to either the PIDC or PIDO the discloser may make the public interest disclosure directly to the Chief Executive Officer or IBAC (refer to Clause 5 above). If the public interest disclosure is in relation to the Chief Executive Officer, the discloser may make a public interest disclosure directly to IBAC (refer to Clause 5 above).~~

~~A Public Interest Disclosure is an assessable disclosure is a public interest disclosure (under section 21 of the Act)- if :~~

~~To be it shows or tends to show—~~

~~a public interest disclosure, a disclosure must satisfy the following criteria:~~

- ~~• Did a natural person, Public officer or Public body has engaged, is engaging or group of people (that is, an individual person(s) rather than a corporation) make the disclosure? AND~~
- ~~• Does the disclosure relateproposes to conduct of East Gippsland Shire Council or an officer actingengage in their official capacity, improper conduct; or~~
- ~~• a Public officer or a contractor or volunteer? AND~~
- ~~• Does the disclosed information show or tend to show there is public body has taken, is taking or proposes to take detrimental action against a person in in reprisal for a public interest disclosure (in reprisal for making a public interest disclosure? ORcontravention of section 45 of the Act) provided there are no valid defences available under section 45; or~~
- ~~• Does the discloser believethe person who made the disclosure believes on reasonable grounds, shows or tends to show there is conduct; or~~
- ~~• a person, public officer or public body has engaged, is engaging action?proposes to engage in improper conduct; or.~~

~~In action the PIDC must consider the seriousness of the conduct in terms of consequences— not just whether the conduct constitutes or involves a particular type of conduct.~~

~~The discloser must believe on reasonable grounds that there conduct, they must hold a **reasonable belief**: the belief must be probable, the information must be reliable, and the discloser must be credible.²~~

~~Where a disclosurea public officer or public body has taken, is assessedtaking or proposes to be a 'public interest disclosure', the CEO will take detrimental action against a person in contravention of section 45 of the Act.~~

²-IBAC – Guidelines for handling public interest disclosures

~~The PIDC must~~ notify the ~~disclosure~~Chief Executive Officer accordingly, and if the ~~public interest disclosure is an assessable disclosure~~, the Chief Executive Officer will notify the ~~public interest disclosure~~ to IBAC for investigation no later than 28 days after the public interest disclosure is made, in accordance with section 21 of the Act.

~~However, t~~The aim will always be to notify IBAC as soon as practicable after the Chief Executive Officer has been notified that the ~~positive assessment~~public interest disclosure is an assessable disclosure, as is required in the case of notifications of suspected corrupt conduct (see below).

Council may also provide IBAC with any additional information obtained during the assessment process.

~~Where a disclosure is assessed not to be a 'public interest disclosure'~~

While Council may gather information necessary to assess whether a public interest disclosure is an assessable disclosure, including issues of reasonable belief, it must stop short of actively investigating the allegations made in the public interest disclosure, this being the role of IBAC.

~~Where a public interest disclosure is assessed not to be an assessable disclosure~~, the matter does not need to be dealt with under the Act and can be considered under ~~other internal~~the Council's Complaints Management Policy. ~~The PIDC will determine how the matter should be managed in consultation with the PIDC and the Chief Executive Officer.~~

~~In either case~~Whether the public interest disclosure is an assessable disclosure or not, the PIDC will notify their decision to the discloser. Notification to the discloser is not necessary where the disclosure has been made anonymously.

Where a public interest disclosure has not been referred to IBAC, as it has been ~~assessed determined~~ not to be ~~a 'public interest disclosure' or the an assessable~~ disclosure ~~was dismissed~~, the discloser may independently refer the matter directly to IBAC.

It should be noted that a discloser may not be protected if they commit an offence under sections 72(1) or 73(2) of the Act in relation to the information disclosed, i.e., if they knowingly provide a false disclosure or provide false additional information during an investigation or falsely claim that a matter is the subject of a protected disclosure.

Where there are exceptional circumstances, for example the immediate safety of persons or assets, it may be necessary to notify Victoria Police for immediate action or intervention, prior to the formal conclusion of an assessment of a public interest disclosure. The identity of the ~~discloser would~~discloser must not be revealed during the notification of such cases.

6.7. Notification of Public Interest Disclosures in the case of suspected corrupt conduct

Under section 57 of the *Independent Broad-based Anti-corruption Commission Act 2011* (the IBAC Act) it is mandatory for the Chief Executive Officer or relevant principal officer to notify IBAC of any matter he or she suspects on reasonable grounds to involve corrupt conduct

Public Interest Disclosure Procedure
Date approved: xxx
Document owner: Manager Governance

Version number: 7
Next review date:

This document is uncontrolled when printed

9

occurring or having occurred. Notifications of suspected corrupt conduct³ must be made as soon as practicable after the Chief Executive Officer or relevant principal officer has formed a reasonable suspicion that corrupt conduct may have occurred or may be occurring.

~~The amendment therefore introduces separate criteria for assessment and notification timeframe for corrupt conduct. IBAC have confirmed that when Upon receiving a potential disclosure East Gippsland Shire public interest disclosure, Council should first deal with the matter in accordance with the Act and this Public Interest Disclosure Act Procedure. If the matter is not notified to IBAC as an assessable disclosure the Chief Executive Officer must consider whether they may be required to notify the matter to IBAC under section 57 of the IBAC Act, and if they are, notify IBAC accordingly.~~

7-8. **Assessment by IBAC**

Once Council notifies IBAC of an assessable disclosure, IBAC will evaluate within a reasonable time⁴ whether or not the assessable disclosure constitutes a public interest complaint. IBAC may seek additional information from Council or the discloser to assist during this process.

If IBAC decide that the public interest disclosure is a public interest complaint, then it must either:

- *Dismiss* the public interest disclosure (if the complaint does not warrant investigation);
- *Investigate* the public interest disclosure; or
- *Refer* the public interest disclosure to another body for investigation, such as Victoria Police or the Victorian Ombudsman.

IBAC will afford natural justice to the person who is the subject of the public interest disclosure.

IBAC will notify Council and the discloser in writing (if not made anonymously) within a reasonable time of:

- its determination and reasoning;
- the protections which are available to the discloser under Part 6 of the Act; and
- the rights and obligations of the discloser under the Act.

Where IBAC determines that the public interest disclosure is not a public interest complaint and as such will not be investigated by IBAC, it will advise the ~~Discloser entity who notified the public interest disclosure to IBAC~~ of this decision in writing, within a reasonable time. ~~The after the determination is made.~~

The confidentiality provisions under Part 7 of the Act will no longer apply in relation to the public interest disclosures ~~that are determined by IBAC to not be a public interest complaint~~, but the protections under Part 6 ~~for persons making a disclosure will continue to apply, to the public interest disclosure~~. IBAC may also advise the discloser and Council that the Council may be able to deal with the public interest disclosure ~~outside of the Act~~ through administrative

³ 'Suspected corrupt conduct', or where the Chief Executive Officer suspects on reasonable grounds corrupt conduct is occurring, means there is a real possibility that corrupt conduct is, or may be, involved. There needs to be more than idle speculation. Proof is not necessary. It is not required that an individual or individuals be identified: a reasonable suspicion of corrupt conduct may still occur, and such matters should still be notified.

⁴ Section 26(4) requires IBAC to complete the evaluation in a reasonable time. Council does not determine the reasonable time.

processes—this would include actions under the Complaints Management Policy or Disciplinary Process Procedure.

8.9. Keeping the discloser informed

The PIDC will ensure the discloser is kept informed of action taken in relation to their public interest disclosure, and the legislated timeframes that apply. All communication with the discloser will be in plain English.

9.10. Welfare Management

Council has obligations to provide for a safe, non-discriminatory work environment under the *Occupational Health and Safety Act 2004*, *Charter of Human Rights and Responsibilities Act 2006*, *Equal Opportunity Act 2010*, *Public Administration Act 2004* and the *Local Government Act 2020*.

Council is committed to the protection of disclosers and co-operators against detrimental action taken in reprisal for the making of public interest disclosures. The PIDC is responsible for ensuring disclosers and co-operators are protected from direct and indirect detrimental action, and that the culture of the workplace is supportive of public interest disclosures being made.

The PIDC will provide contact information for the Council Employee Assistance Program to every discloser.

For any given public interest disclosure and subsequent process, the PIDC may recommend to the Chief Executive Officer that they appoint a welfare manager.

In determining whether or not to recommend to the Chief Executive Officer that they appoint a welfare manager the PIDC will take into account all relevant circumstances, as well as consider the following:

1. whether there “are any real risks of detrimental action against the discloser, any co-operators and any other person(s) involved, taking into account their particular circumstances”⁵; and
2. whether or not the public interest disclosure has proceeded, or is likely to proceed to an investigation; and
3. whether Council has the power to protect the person(s) involved from suffering repercussions.

The IBAC Guidelines for public interest disclosure welfare management emphasises that if the answer to question 1 above is Yes, then the appointment of a dedicated welfare manager is “probably appropriate”.

If the Chief Executive Officer considers it appropriate, they will appoint an internal welfare manager for a given public interest disclosure process to work with the discloser, any co-operators and any other person(s) involved in the process, and consider the appointment of an external welfare professional.

⁵ Guidelines for protected disclosure welfare management, IBAC, 2016 p9

The welfare manager is to be appointed by the Chief Executive Officer and will usually be the Manager People, Performance and Culture or Human Resources Coordinator.

The key responsibilities of the welfare manager are described in [the Roles and Responsibilities section](#).

11. Occurrence of Detrimental Action

~~If a discloser~~A discloser or co-operator may report an incident ~~of harassment, discrimination or adverse treatment that would they consider may~~ amount to detrimental action taken in reprisal for the making of a public interest disclosure to the welfare manager (if one has been appointed), the PIDO, PIDC or Chief Executive Officer.

~~If a discloser or co-operator reports such an incident detrimental action taken in reprisal for the making of the public interest disclosure,~~ the welfare manager ~~(-if one has been appointed), the PIDO, the PIDC or the Chief Executive Officer~~ will:

- confidentially record details of the incident;
- advise the discloser or co-operator of his or her rights under the Act; and
- if the discloser or co-operator (as the case may be) wishes, advise the PIDC of the incident (if the PIDC is not the one taking these actions).

Two essential elements must be present to substantiate detrimental action: whether in fact there is detrimental action present, as defined under section 3 of the Public Interest Disclosures in the Act-2012; and whether the action has been taken in reprisal for making the public interest disclosure.

~~Refer to item 2 in Section 2 of this procedure, for Public Interest Disclosure Procedure contains examples of the types of actions prohibited by which may constitute detrimental actions under the Act.~~

A discloser who is subjected to detrimental action for in reprisal for making a public interest disclosure may take civil action against the offending person, and/or Council (if the offender took the detrimental action during their employment with Council) and seek damages or apply for an injunction from the Supreme Court.

The taking of detrimental action in reprisal for the making of a public interest disclosure is an offence under the Act as well as grounds for making a further public interest disclosure.

12. Disclosers implicated in Improper Conduct

Where a person who makes a public interest disclosure is implicated in misconduct, the public interest disclosure will be assessed and the discloser protected from reprisals in accordance with the Act and this Public Interest Disclosure Procedure. The discloser will be protected from any civil or criminal liability for *making* the public interest disclosure under the Act. However, they will not be protected from their own improper conduct or actions, and may remain liable for their role in the disclosed matter.

Council acknowledges that the act of disclosing improper conduct should not shield the discloser from the reasonable consequences flowing from any involvement in improper conduct.

Public Interest Disclosure Procedure
Date approved: xxx
Document owner: Manager Governance

Version number: 7
Next review date:

This document is uncontrolled when printed

12

The Chief Executive Officer will make the final decision on the advice of the PIDC as to whether disciplinary or other action will be taken against a discloser. Where disciplinary or other action relates to conduct that is the subject of the public interest disclosure, the disciplinary or other action will only be taken after the disclosed matter has been appropriately dealt with by IBAC.

In all cases where disciplinary or other action is being contemplated, the Chief Executive Officer must be satisfied that it has been clearly demonstrated that:

- the intention to proceed with disciplinary action is *not* causally connected to the making of the public interest disclosure (as opposed to the content of the public interest disclosure or other available information);
- there are good and sufficient grounds that would fully justify action against any non-discloser in the same circumstances; and
- there are good and sufficient grounds that justify exercising any discretion to institute disciplinary or other action.

The PIDC will thoroughly document the process including recording the reasons why the disciplinary or other action is being taken, and the reasons why the action is not in retribution for the making of the public interest disclosure.

The PIDC will advise the discloser of the proposed action to be taken and of any mitigating factors that have been taken into account.

13. Management of persons against whom a public interest disclosure has been made

Council recognises that Council staff against whom public interest disclosures are made must also be supported during the handling and assessment of public interest disclosures.

Council will take all reasonable steps to ensure the confidentiality of the person who is the subject of the public interest disclosure during the assessment process.

Where assessments do not substantiate a public interest disclosure, the fact that the assessment has been carried out, the results of the referral, and the identity of the person who is the subject of the public interest disclosure will remain confidential.

It is possible that the person who is the subject of a public interest disclosure may never even know about the public interest disclosure, especially if it is not determined to be a public interest disclosure or the investigating authority decides to dismiss the public interest disclosure.

If or when it is deemed necessary, the PIDC will provide support, advice and contact information for the Council Employee Assistance Program and/or in accordance with section 10 of this Public Interest Disclosure Procedure, recommend to the Chief Executive Officer that an internal welfare manager be appointed, and/or consider the appointment of an external welfare professional to assist the employee against whom a public interest disclosure has been made.

Council will ~~give its full~~ provide appropriate support to a person who is the subject of a public interest disclosure where the allegations contained in a public interest disclosure have been

Public Interest Disclosure Procedure
Date approved: xxx
Document owner: Manager Governance

Version number: 7
Next review date:

This document is uncontrolled when printed

13

deemed wrong or unsubstantiated. If the matter has been publicly disclosed, the Chief Executive Officer will consider any request by that person to issue an appropriate statement.

14. Confidentiality

Council will take all reasonable steps to protect the identity of the discloser, co-operator and the person who is the subject of a public interest disclosure. Maintaining confidentiality is crucial in ensuring reprisals are not made.

~~It is no longer confidential that a disclosure has been referred to IBAC, but investigating entities such as IBAC and the Victorian Ombudsman can issue confidentiality notices.~~

~~A public officer is given specific protections under the Act to provide information to other public officers or to IBAC in dealing with a disclosure they have received.~~

~~When a public officer acts in good faith and in accordance with the Act, Regulations and IBAC's Guidelines, the public officer does not commit an offence under laws imposing a duty to maintain confidentiality or restricting the disclosure of information.~~

~~The circumstances in which a person may disclose information obtained about a public interest disclosure include:~~

- ~~• where exercising the functions of the public body under the Act;~~
- ~~• when making a report or recommendation under the Act;~~
- ~~• when publishing statistics in the annual report of a public body; and~~
- ~~• in criminal proceedings for certain offences in the Act.~~

~~However, the Act prohibits the inclusion of particulars in any report or recommendation that is likely to lead to the identification of the discloser. The Act also prohibits the identification of the person who is the subject of the disclosure in any particulars included in an annual report. The PIDC will ensure all files, whether paper or electronic, are kept secure and can only be accessed by the PIDC, PIDO, Chief Executive Officer, the investigating authority or welfare manager (in relation to welfare matters, if one has been appointed).~~

All electronic files produced in relation to a public interest disclosure will be imported into Council's approved electronic document and records management system and given a confidential classification to restrict access. All materials relevant to an investigation will also be stored securely with the public interest disclosure files.

Council will not email documents relevant to a public interest disclosure matter without encryption and password protection, ~~relevant to a public interest disclosure matter~~ and will ensure all phone calls and meetings in relation to a public interest disclosure matter are conducted in private.

The Act requires any person who receives information, due to the handling or investigation of a public interest disclosure, not to disclose that information except where that disclosure is allowed under Part 7 of the Act. For example, disclosure of confidential information to registered health practitioners, trade unions, or employee assistance programs is permitted for the purpose of supporting the discloser.

Public Interest Disclosure Procedure
Date approved: xxx
Document owner: Manager Governance

Version number: 7
Next review date:

This document is uncontrolled when printed

14

When a public officer acts in good faith and in accordance with the Act, Regulations, IBAC's Guidelines and Council's policies and procedures (including this Public Interest Disclosure Procedure), the public officer does not:

- commit an offence under laws imposing a duty to maintain confidentiality or restricting the disclosure of information; or
 - breach an obligation by way of oath or affirmation or rule of law or practice or under an agreement requiring him or her to maintain confidentiality or otherwise restricting the disclosure of information with respect to a matter,
- and the public officer is not subject to any civil or criminal liability or any liability arising by way of administrative process (including disciplinary action) for disclosing the information.

Under section 76 of the Act, public officers may also be allowed to disclose confidential information in some other situations. See section 76 of the Act for more details.

15. External Disclosures

~~A discloser may disclose the details of a public interest complaint to an external person or body (who is not able to receive disclosures) if the assessing entity does not notify the discloser about any action taken public interest disclosures) in response to the original disclosure within six months, and has not responded to a request for advice within 30 days. An external disclosure may also be made if the investigations specific circumstances, as set out in section 38A of the original disclosure is not completed within 12 months, and the investigating entity has not responded to a request for advice within 30 days.~~

An external disclosure is a public interest disclosure made to a person or body who is **not** an entity to whom a public interest disclosure may be made under the Act. Under the Act disclosures can be made to these entities:

- IBAC;
- the person appointed as the Ombudsman under the *Ombudsman Act 1973*;
- the Victorian Inspectorate;
- a public service body within the meaning of section 4(1) of the *Public Administration Act 2004* if the disclosure relates to the conduct of the public service body or of a member, officer or employee of the public service body; or
- a public officer prescribed for the purposes of section 13 of the Act if the public interest disclosure relates to an employee of, or any person otherwise engaged by, or acting on behalf of, or acting as a deputy or delegate of that public officer.

A discloser may disclose the details of a public interest complaint to an external person or body in specific circumstances, as set out in section 38A of the Act.

16. Collating and publishing statistics

~~The PIDC will ensure that confidential records are kept enabling accurate reporting by IBAC as required by the Act.~~

~~The following details will be collected:~~

Public Interest Disclosure Procedure
Date approved: xxx
Document owner: Manager Governance

Version number: 7
Next review date:

This document is uncontrolled when printed

15

- ~~the number and types of Public Interest Disclosures made directly to IBAC;~~
- ~~the nature of each Public Interest Disclosure;~~
- ~~the number and types of Public Interest Disclosures notified to IBAC by Council;~~
- ~~the number and types of assessments made by IBAC to determine if it is a Public Interest Disclosure whether a Public Interest Disclosure is a Public Interest Complaint;~~
- ~~the number and types of Public Interest Disclosures Complaints investigated, referred or dismissed by IBAC; and~~
- ~~any recommendations made by IBAC under the Act.~~

Council ~~will~~must include in its annual report:

- ~~information about how to access these~~se ~~procedures; established by the Council under Part 9 of the Act;~~ and
- ~~the number of public interest disclosures notified to~~the IBAC under section 21(2) ~~of the Act~~ during the financial year.

~~However, the information provided in Council's annual report will~~must not include any information that ~~is likely to lead to the identification of a person who has made a public interest disclosure unless the exceptions in section 53(2)(a), (c) or (d) of the Act applies. to that information.~~

17. Training for Council staff

Council will:

- ensure that Council staff and Councillors have access to a copy of these procedures in hard or soft copy;
- incorporate into its induction procedures, training about Council's general obligations under the Act and the rights and obligations of all Council staff and Councillors;
- deliver periodic refresher courses for existing Council staff and Councillors about their rights and obligations under the Act;
- ~~ensure that~~ at least annually, all Council staff are reminded by the Chief Executive Officer that it is an offence for a person to take detrimental action in reprisal for a public interest disclosure; and that taking detrimental action in breach of ~~this provision section 45 of the Act may~~can also be grounds for making a new public interest disclosure under the Act and can result in an investigation by IBAC;
- provide additional training and assistance to:
 - complaint handling staff to ensure that any complaints received will be dealt with consistently and in accordance with the Act as required; and
 - any staff with functions and duties under the *Freedom of Information Act* 1982 (FOI Act) or with responsibilities for information management, to ensure that ~~no protected only~~ information ~~is~~is ~~allowed to be~~ disclosed under the Act ~~is disclosed~~ and there is appropriate liaising with the staff of IBAC or other investigative agencies where required in response to a request for access under the FOI Act; and
- ensure that the public are informed of the *Public Interest Disclosure Act* 2012 by publishing this procedure ~~and the Public Interest Disclosure Policy on Council's website and providing assistance to members of the public when requested.~~;
- ensure Council officers appointed to handle public interest disclosures and all other Council staff are aware of the following offences under the Act:

Taking detrimental action

Public Interest Disclosure Procedure
Date approved: xxx
Document owner: Manager Governance

Version number: 7
Next review date:

This document is uncontrolled when printed

16

- ~~For a person to take action~~ against a person in reprisal for a public interest disclosure ~~public interest disclosure~~ being made. ~~The Act provides a maximum –~~ penalty of a ~~fine of 240~~ penalty units or two ~~years' years~~ imprisonment or both; ~~;~~
- ~~For a person to divulge~~ Disclosing the content, or information obtained as a result of the handling or investigation of a public interest disclosure without legislative authority. The Act provides about the content of an assessable disclosure – penalty of 120 penalty units or twelve months imprisonment or both; ~~;~~
- Disclosing information likely to lead to the identification of a person who has made an assessable disclosure – maximum penalty of 120 penalty units or twelve months' ~~months~~ imprisonment or both; ~~;~~ and
- ~~Disclosing that a disclosure has been notified to, or has been assessed as being a public interest disclosure by IBAC under the Act. The Act provides a maximum penalty of 120 penalty units or twelve months' imprisonment or both.~~
- For a person to knowingly provide ~~Knowingly providing~~ false information under the Act with the intention that it is acted on as a ~~disclosed matter or relating to a public interest disclosure. The Act provides a maximum~~ public interest disclosure – penalty of 120 penalty units or twelve ~~months' months~~ imprisonment or both.

18. Investigations by the Chief Municipal Inspector

IBAC may refer public interest complaints to the Chief Municipal Inspector in some circumstances set out in the *Independent Broad-based Anti-corruption Commission Act 2011*. If the Chief Municipal Inspector makes recommendations to Council as a result of the Chief Municipal Inspector's investigation of a public interest complaint, Council must, within the time specified by the Chief Municipal Inspector, notify the Chief Municipal Inspector of the steps to be taken to address the recommendations.

Roles and Responsibilities

These management positions are responsible for the implementation, communication and compliance monitoring of the policy in their work areas:

Party / Parties	Roles and Responsibilities
Chief Executive Officer	<p>The Chief Executive Officer may receive disclosures regarding suspected action <u>public interest disclosures</u>.</p> <p>Where a public interest disclosure is assessed to be an assessable disclosure the Chief Executive Officer will notify the public interest disclosure to IBAC for investigation no later than 28 days after the public interest disclosure is made. However, the aim will always be to notify IBAC 'as soon as practicable' after the Chief Executive Officer has been notified of that the positive assessment <u>public interest disclosure is an assessable disclosure</u>, as is required in the case of notifications of suspected corrupt conduct.</p> <p>The Chief Executive Officer will appoint a welfare manager where they believes doing so is appropriate.</p> <p>Having considered the advice of the PIDC and the Disciplinary Process Procedure, the Chief Executive Officer will decide whether any disciplinary action will be taken against a discloser implicated in improper conduct, taking into account detrimental action considerations, and will advise the discloser of the action to be taken and the reasons why this action is not a detrimental action.</p>
Discloser	<p>The discloser must ensure that the public interest disclosure is made in accordance with the Act.</p> <p>The discloser must not reveal that an assessment is being undertaken by East Gippsland Shire Council.</p> <p>The discloser must not reveal that an investigation is being carried out by IBAC.</p> <p>The discloser must not provide false or misleading information or falsely claim that a matter is the subject of a public interest disclosure.</p>

Public Interest Disclosure Procedure
 Date approved: xxx
 Document owner: Manager Governance

Version number: 7
 Next review date:

This document is uncontrolled when printed

18

Council staff	<p>Council Staff are encouraged to report known or suspected incidences of improper conduct or detrimental action in accordance with these procedures.</p> <p>Council Staff of East Gippsland Shire Council have an important role to play in supporting those who have made a legitimate public interest disclosure and co-operators.</p> <p>They must refrain from any activity that is, or could be perceived to be, victimisation or harassment of a person who makes a public interest disclosure. Furthermore, they should protect and maintain the confidentiality of person(s) they know or suspect to have made a public interest disclosure or be the subject of a public interest disclosure.</p>
---------------	--

Public Interest Disclosure Procedure
 Date approved: xxx
 Document owner: Manager Governance

Version number: 7
 Next review date:

This document is uncontrolled when printed

19

Public Interest Disclosure Coordinator (PIDC)	<p>The Public Interest Disclosure Coordinator has a central 'clearing house' role in the internal reporting system. He or she will:</p> <ul style="list-style-type: none"> • receive all public interest disclosures forwarded from the PIDOs; • receive all phone calls, emails and letters from members of the public or Council Staff seeking to make a public interest disclosure; • impartially assess each public interest disclosure to determine whether it is a public interest disclosure made in accordance with Part 2 of the Act (that is, 'a public interest disclosure'<u>an assessable disclosure</u>); • prepare an organisational, welfare and safety risk assessment to<u>of</u> the <u>risks faced by each discloser</u> and/or co-operators; • develop a risk management plan to manage the welfare of those involved in every public interest disclosure; • <u>assist the Chief Executive Officer with notifying assessable disclosures to IBAC within 28 days; notify all public interest disclosures to IBAC within 28 days;</u> • assist IBAC where required; • ensure all disclosers and co-operators are protected from direct and indirect detrimental action, and that the culture of the workplace is supportive of public interest disclosures being made –this may necessitate the appointment of a welfare manager; • assess whether it is necessary to appoint a welfare manager to support the discloser and/or any co-operators to protect them from any detrimental actions; • if necessary, provide support, advice and contact information for the East Gippsland Shire Council Employee Assistance Program and/or appoint an internal welfare manager, and consider the appointment of an external welfare professional to assist the person against whom a public interest disclosure has been made; • advise the discloser of the progress of the assessment into the disclosed matter; • manage the welfare of a discloser and advise them of protections available under the Act; • establish and manage a secure filing system and processes to ensure confidentiality; • collate and report statistics on public interest disclosures made; • take all necessary steps to ensure the identity of the discloser and the identity of the person who is the subject of the public interest disclosure are kept confidential; • liaise with the Chief Executive Officer, including advising about the appointment of a welfare manager and any cases where disclosers have been implicated in improper conduct; and
---	--

Public Interest Disclosure Procedure
Date approved: xxx
Document owner: Manager Governance

Version number: 7
Next review date:

This document is uncontrolled when printed

20

	<ul style="list-style-type: none"> • <u>clearly document</u> the reasons for any disciplinary action <u>taken by Council this.</u> <p><u>This</u> role is fulfilled by the <u>Manager Governance and Compliance Coordinator.</u></p>
Public Interest Disclosure Officer (PIDO)	<p>Public Interest Disclosure Officers will:</p> <ul style="list-style-type: none"> • be a contact point for general advice about the operation of the Act for any person wishing to make a public interest disclosure; • make arrangements for a public interest disclosure to be made privately and discreetly and if necessary, away from the workplace; • receive any public interest disclosure made orally or in writing (from internal and external disclosers); • commit to writing any public interest disclosure made orally; • take all necessary steps to ensure the identity of the discloser and the identity of the person who is the subject of the public interest disclosure are kept confidential; and • forward all public interest disclosures and supporting evidence to the Public Interest Disclosure Coordinator. <p>This role is fulfilled by the <u>General Manager Business Excellence and the Governance and Compliance Coordinator.</u></p>

Public Interest Disclosure Procedure
Date approved: xxx
Document owner: Manager Governance

Version number: 7
Next review date:

This document is uncontrolled when printed

21

Welfare Manager	<p>The welfare manager is responsible for looking after the general welfare of the discloser and, if considered appropriate by the Chief Executive Officer, the person who is the subject of the public interest disclosure.</p> <p>The welfare manager will:</p> <ul style="list-style-type: none"> • examine the immediate welfare and protection needs of a person who has made a public interest disclosure (and co-operators where relevant) and, where the discloser is Council Staff, while maintaining the confidentiality of all concerned, seek to foster a supportive work environment; • prepare an organisational, welfare and safety risk assessment for the discloser and/or co-operators; • develop a risk management plan to manage the welfare of those involved in every public interest disclosure • advise the discloser (and co-operators as relevant) of the legislative and administrative protections available to him or her and keep them informed of the actions being taken; • hear and respond to any concerns of harassment, intimidation or victimisation in reprisal for making public interest disclosure; • advise the PIDC of any allegations of detrimental action, <u>if the person making the allegation wishes them to</u>; • keep a constantly updated confidential record of all aspects of the case management of the discloser (and co-operators as relevant), including all contact and follow-up action; and • ensure the expectations of the discloser are realistic. <p>The welfare manager is to be appointed by the Chief Executive Officer <u>(if the Chief Executive Officer decides to appoint one)</u> and will usually be: the Manager People Performance and Culture or the Human Resources Coordinator.</p>
-----------------	--

References and Supporting Documents

Applicable Legislation:

Charter of Human Rights and Responsibilities Act 2006
Equal Opportunity Act 2010
Freedom of Information Act 1982
Health Records Act 2001
Independent Broad-based Anti-corruption Commission Act 2011
Integrity and Accountability Legislation Amendment (Public Interest Disclosures, Oversight and Independence) Act 2019
~~*Local Government Act 1989*~~
Local Government Act 2020
Occupational Health and Safety Act 2004
Ombudsman Act 1973
Privacy and Data Protection Act 2014
Privacy Act 1988 (Commonwealth)
Public Interest Disclosures Act 2012
Public Administration Act 2004

Applicable Policy and Procedure:

Anti-bullying and Harassment Policy
 Bullying and Harassment Resolution Procedure
 Disciplinary Process Policy
 Fraud and Corruption Control Policy
 Public Interest Disclosure Policy
 Workplace Health and Safety Policy

Supporting Documents:

IBAC Guidelines for handling public interest disclosures
 : <https://www.ibac.vic.gov.au/publications-and-resources/article/guidelines-for-making-and-handling-protected-disclosures>

IBAC Guidelines for public interest disclosure welfare
[management:https://www.ibac.vic.gov.au/publications-and-resources/article/guidelines-for-protected-disclosure-welfare-management](https://www.ibac.vic.gov.au/publications-and-resources/article/guidelines-for-protected-disclosure-welfare-management)

IBAC Controlling fraud and corruption; a prevention checklist:

Public Interest Disclosure Procedure
 Date approved: xxx
 Document owner: Manager Governance

Version number: 7
 Next review date:

This document is uncontrolled when printed

23

<https://www.ibac.vic.gov.au/publications-and-resources/article/controlling-fraud-and-corruption-a-prevention-checklist>

IBAC Information Sheet – Public interest disclosure procedures key issues to consider:

<https://www.ibac.vic.gov.au/publications-and-resources/article/information-sheet---public-interest-disclosure-procedures-key-issues-to-consider>

IBAC Podcast eight - Directions for making mandatory notifications

<https://www.ibac.vic.gov.au/publications-and-resources/article/podcast-eight-mandatory-notifications>

Public Interest Disclosure Procedure
Date approved: xxx
Document owner: Manager Governance

Version number: 7
Next review date:

This document is uncontrolled when printed

24

Definitions

Term	Meaning
<u>Act</u>	<u>The <i>Public Interest Disclosures Act 2012</i>.</u>
<u>Assessable disclosure</u>	<u>The meaning given in the Act for <i>assessable disclosure</i>.</u>
<u>Chief Municipal Inspector</u>	<u>The meaning given in the <i>Local Government Act 2020</i>.</u>
Co-operator	A person who has co-operated or intends to co-operate with an investigation of a public interest disclosure, e.g., a witness.
Detrimental action	The meaning given in the Act for <i>detrimental action</i> .
<u>Corrupt conduct</u>	<u>The meaning given by section 4 of the <i>Independent Broad-based Anti-corruption Commission Act 2011</i>.</u>
<u>Council</u>	<u>East Gippsland Shire Council.</u>
<u>Councillor</u>	<u>A person who has been elected to the office of Councillor of East Gippsland Shire Council.</u>
<u>Council staff</u>	<u>All staff engaged by East Gippsland Shire Council, including all full-time, part-time and casual employees, labour hire agency staff, contractors (and their employees and subcontractors) and volunteers.</u>
Discloser	Person making a public interest disclosure.
<u>External Disclosure</u>	<u>The meaning given in section 38A of the Act for an <i>external disclosure</i>.</u>
Independent Broad-based Anti-corruption Commission (IBAC)	The meaning given in the Act for <i>IBAC</i> .
Improper conduct	The meaning given in the Act for <i>improper conduct</i> .
Public Interest Disclosure Coordinator (PIDC)	Recommended first point of contact for any enquiries and assessing any disclosures to determine if a public interest disclosure has been made. At East Gippsland Shire Council this role is fulfilled by the Governance and Compliance Coordinator.
<u>Ombudsman</u>	<u>The person appointed as the Ombudsman under section 3 of the <i>Ombudsman Act 1973</i>.</u>
<u>Public body</u>	<u>The meaning given in the Act for <i>public body</i>.</u>
<u>Public interest complaint</u>	<u>The meaning given in the Act for <i>public interest complaint</i>.</u>
<u>Public interest disclosure</u>	<u>The meaning given in the Act for <i>public interest disclosure</i>.</u>

Public Interest Disclosure Procedure
 Date approved: xxx
 Document owner: Manager Governance

Version number: 7
 Next review date:

This document is uncontrolled when printed

25

Public Interest Disclosure Officers (PIDO)	<p>Designated council officers who will provide general advice regarding the operation of the Act for any person wishing to make a public interest disclosure concerning improper conduct or detrimental action by a Councillor or Council Staff member.</p> <p>At East Gippsland Shire Council this role is fulfilled by the General Manager Business Excellence and the Governance and Compliance Coordinator.</p> <p>The PIDC role in this case may also fulfil the duties of the PIDO.</p>
<u>Public officer</u>	<u>The meaning given in the Act for public officer.</u>
Welfare manager	<p>The person assigned by the Chief Executive Officer to be responsible for looking after the general welfare of the discloser or person under investigation.</p> <p>This responsibility will normally be assigned by the Chief Executive Officer to the Human Resources Coordinator or Manager People, Performance and Culture.</p>

Public Interest Disclosure Procedure
Date approved: xxx
Document owner: Manager Governance

Version number: 7
Next review date:

This document is uncontrolled when printed

26

Revision History and Review

This procedure will be reviewed by General Manager Business Excellence every two years, or sooner in the case of significant legislative change or where shifts in the strategic or operational circumstances of East Gippsland Shire Council merit.

This procedure may be amended by Manager Governance to give effect to minor administrative changes or legislative variations on an as needs basis.

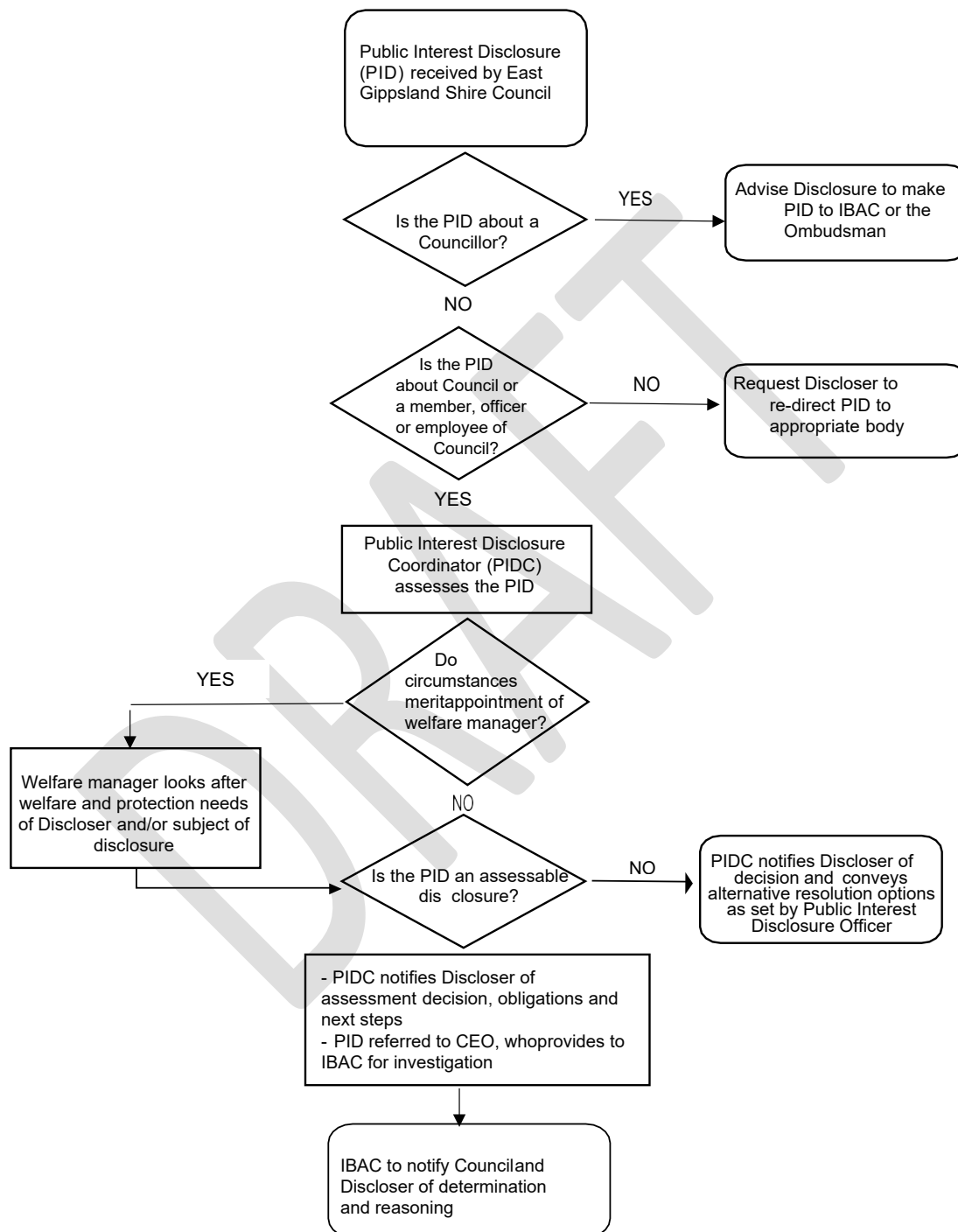
Version Control	Approved Amended Rescinded	Date Effective	Approved By	ECM Document Reference	Summary of Changes
1	Approved				Updating Whistleblowers Procedures approved 22/02/2002
2	Approved	05/06/2013	Leadership Group		Modification of Whistleblowers Policy into separate policy and procedure documents, and recognition of new public interest disclosure regime.
3	Approved	02/07/2013	Director Corporate		Modification of Policy into separate policy and procedure documents, and recognition of new Public Interest Disclosure Act and regime.
4	Approved	31/10/2014	Director Corporate		Administrative update to procedures and policy made ECM 5942698
5	Approved	June 2015	Director Corporate		Administrative update to include IBAC and Audit Committee recommendations. ECM 6369810
6	Approved	05/09/17	Director Corporate	7307177	Two-year review. Inclusion of mandatory notification requirements. Significant changes to content, structure and format to improve readability and clarity.
7					Policy updated to new template. <u>Reviewed and revised to meet new legislative requirements and ensure clarity of process for disclosers, receivers and support people.</u>

Public Interest Disclosure Procedure
Date approved: xxx
Document owner: Manager Governance

Version number: 7
Next review date:

This document is uncontrolled when printed

27

Attachment 1: Flow Chart

Public Interest Disclosure Procedure
 Date approved: xxx
 Document owner: Manager Governance

Version number: 7
 Next review date:

This document is uncontrolled when printed

28

Attachment 2: Checklist

Protected-Public Interest Disclosure Checklist

If you have information about improper- or corrupt conduct⁶, ~~the dishonest performance of an employee~~, a breach of public trust, the misuse of information or public resources, criminal conduct, professional misconduct, risk to health and safety or the environment and/or fraud within or by East Gippsland Shire Council, this Checklist will help you decide whether the disclosure of this information may be considered a protected-public interest disclosure in accordance with the Protected-Public Interest Disclosures Act 2012.

Step 1 Place a 'tick' in the space provided, if applicable.

		Tick
1	You are a person, not an organisation.	
2	<p>You have information that you believe shows that <u>any of the following</u>:</p> <ul style="list-style-type: none"> East Gippsland Shire Council; A <u>member, officer or</u> employee of East Gippsland Shire Council; or A contractor <u>(including their employees and subcontractors), labour hire agency staff member,</u> or volunteer that provides services on behalf of East Gippsland Shire Council; <p>has, or will, <u>act improperly engage in improper or corrupt conduct</u> in their role as a public servant.</p>	
3	<p>You have information that you believe shows that <u>any of the following</u>:</p> <ul style="list-style-type: none"> East Gippsland Shire Council; A <u>member, officer or</u> employee of East Gippsland Shire Council; <u>or</u> A contractor <u>(including their employees and subcontractors), labour hire agency staff member,</u> or volunteer that provides services on behalf of East Gippsland Shire Council. <p>has, or will, punish- those who have made allegations of improper conduct <u>or any other type of Public Interest Disclosure.</u></p>	
4	<p>You have information that you believe shows that a Councillor of East Gippsland Shire Council has or will:</p> <ul style="list-style-type: none"> <u>engage in improper or corrupt conduct</u> act improperly; or punish- those who have made allegations of improper conduct <u>or any other type of Public Interest Disclosure.</u> 	

⁶ The full definition of improper conduct for the purposes of public interest disclosures is contained in section 4 of the Public Interest Disclosures Act 2012 (Vic). The full definition of corrupt conduct for these purposes is contained in section 4 of the Independent Broad-based Anti-corruption Commission Act 2011 (Vic).

Step 2

If you ticked boxes 1 and 2 or 1 and 3, then contact one of the following (refer to section 6.33 of the Public Interest Disclosure Procedure for contact details) to discuss your concerns:

- East Gippsland Shire Council's Public Interest ~~retected~~-Disclosure Coordinator (P|DC); ~~or~~
- East Gippsland Shire Council's Protected-Public Interest Disclosure Officer (P|DO); ~~or~~
- The CEO of East Gippsland Shire Council; or
- ~~—~~The Independent Broad-Based Anti-Corruption Commission (IBAC).
-

If you ticked boxes 1 and 4 then if you wish to discuss your disclosure (which is encouraged) you must contact IBAC or the Ombudsman directly.

Your contact will be able to provide you with information on the next steps that will be taken, including how your disclosure will be assessed and your rights and obligations.

If you have not ticked boxes 1 and 2, 1 and 3 or 1 and 4, your information is unlikely to be treated as a protected-public interest disclosure. However, you may seek resolution by other means, such as through the Police, through a formal complaint to East Gippsland Shire Council, or through the Ombudsman or other means etc.

5.2.2 Councillor Support and Expenses Policy

Authorised by General Manager Business Excellence

Conflict of Interest

Officers preparing this report have no conflict of interest to declare.

Executive Summary

The Councillor Support and Expenses Policy was reviewed and adopted by Council in August 2020 as required under the *Local Government Act 2020* (the Act). In September 2020, the Local Government Inspectorate (Inspectorate) released a report that reviewed Councillor support and expenses across the Local Government sector. The report identified opportunities for improvement in the integrity and transparency of managing Councillor support and expenses.

In light of the requests for clarity from Councillors on aspects of the Policy and the recommendations of the Inspectorate the Councillor Support and Expenses Policy has been reviewed and revised for Council's consideration, a copy is provided at **Attachment 1**. A tracked changes version of the document is provided at **Attachment 2**.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report;***
- 2. adopts the draft Councillor Support and Expenses Policy at Attachment 1.***

Background

Council is required under section 41 of the Act to adopt a Councillor Support and Expenses Policy in relation to the reimbursement of out-of-pocket expenses for Councillors and members of delegated committees. The Act provides for Councillors to receive allowances (s39), seek reimbursement of out-of-pocket expenses (s40) for performing their duties as a Councillor and receive resources and facilities to assist them in their role (s42).

In accordance with the requirements in section 41 to adopt an expenses policy prior to 1 September 2020, Council revised and adopted the existing Councillor Support and Expenses Policy on 25 August 2020. The key changes were the alignment with the Act and changes in administrative processes.

In September 2020, the Local Government Inspectorate released a report titled [Councillor expenses and allowances: equitable treatment and enhanced integrity](#), which highlighted the need for Councils to *continuously improves the transparency of processes surrounding expense reimbursement and to create greater accountability for Councillors making expenses claims*. In addition, the Inspectorate identified best practice for the support of Councillors.

Council's existing Policy generally complies with the recommendations and best practice identified in the report, however, there are opportunities to improve clarity and transparency for Councillors, Council staff and the community.

The draft revised Councillor Support and Expenses Policy at **Attachment 1** has been reviewed following requests from Councillors for clarity on support and expenses and to align with best practice identified by the Inspectorate.

A significant change to the Policy includes the separation of childcare and carer expenses into two distinct categories for reimbursement. This allows for the easier identification of the related out-of-pocket expenses that can be claimed. Further, it is proposed to remove the section on hospitality, as the new Gifts, Benefits and Hospitality Policy for Councillors recently adopted guides this.

In line with recommendations from the Inspectorate the revised draft Policy includes limits for reimbursement of food, accommodation, childcare and travel expenses. These limits use the relevant Australian Taxation Office Taxation Determination or advice from the appropriate Government department.

To improve transparency of Councillor expenditure, as recommended by the Inspectorate, it is proposed in the revised draft Policy to provide quarterly reports on Councillor expenditure to Councillors and the Audit and Risk Committee and to make these available on Council's website. In addition, the process for approving reimbursement of out-of-pocket expenditure will require claims to be reviewed by the Manager Governance and approved by the Chief Executive Officer. This is in line with the best practice recommendation from the Inspectorate.

The Inspectorate also recommended that training on the Policy is provided to all Councillors at induction and midway through their term. While the existing policy provided for training this specific requirement has been included in the draft revised Policy.

The Policy is supported by several forms that Councillors use to seek reimbursement of out-of-pocket expenses, claim allowances for travel and apply to attend training and conferences. The Inspectorate has recommended improvements to claim forms across all Councils to assist Councillors to provide correct information to substantiate their claims and minimise risks to Council associated with unsupported claims. The claim forms are being updated and training on using these will be provided to Councillors.

The revised draft Policy details the framework for the provision of motor vehicles to Councillors to enable them to fulfill their role as a Councillor. The provisions proposed seek to provide a model that enables Councillors to fulfill their role in a cost effective, environmentally conscious and socially responsible way. Proposed changes are in line with the Inspectorates recommendations on Councillor vehicle use.

Legislation

On 24 March 2020 the Government passed the *Local Government Act 2020* (the new Act). As of 1 July 2021 all provisions from the new Act have commenced. Some provisions of the *Local Government Act 1989*, that have not been repealed, will remain applicable until such time as they are revoked.

This report has been prepared in accordance with sections 39 to 43 of the *Local Government Act 2020*.

Under section 40 of the Act, Councillors are entitled to seek reimbursement for out-of-pocket expenses that:

- a) are a bona fide expense; and
- b) have been reasonably incurred in the performance of the role of Councillor or member of a delegated committee; and
- c) are reasonably necessary for the Councillor or member of a delegated committee to perform that role.

Section 42 provides for Councillors to receive resources and facilities to effectively perform their roles.

The implications of this report have been assessed and are not considered likely to breach or infringe upon the human rights detailed in the Victorian Government's Charter of *Human Rights and Responsibilities Act 2006*.

Collaboration

This report does not involve collaborative procurement.

Council Plan

This report has been prepared and aligned with the following strategic objectives set out in the Council Plan 2021-2025:

Strategic Objective 5: 5.4 Continuous improvement systems are strengthened, and organisational efficiency enhanced.

Strategic Objective 5: 5.5 Resources are managed to meet current and future needs and priorities.

Council Policy

Council has maintained a Councillor Support and Expenses Policy since 2005.

To assist Councillors with making claims for reimbursement of out-of-pocket expenses the Policy defines the official duties of a Councillor, what are reasonable expenses and the processes for lodging a claim.

Also, the policy outlines the support provided to all Councillors in the performance of their roles such as IT equipment, mobile phones, training, professional development, vehicles and diary and correspondence management support.

Options

The limits for out-of-pocket expenses in the draft revised Policy are based on the appropriate Australian Taxation Office Taxation Determinations and advice from relevant Departments.

The draft revised Policy provides the upper limit for the reimbursement of meals and room rates for accommodation booked by the Councillor Support Officer. These rates are based on the determination from the Australian Taxation Office and provide separate rates for Melbourne and Tier 2 country centres, such as Bairnsdale. In the current version of the Policy there is a flat rate for the reimbursement of meals which falls between the amounts determined as the maximum by the Australian Taxation Office for Melbourne and Bairnsdale. Adopting separate rates in line with the Australian Taxation Office determination for these centres in the draft revised Policy will provide the best value for money for Council and ratepayers and improve transparency for this expenditure.

Additionally, the draft revised Policy stipulates the maximum room rate for accommodation in Melbourne and Bairnsdale ensuring Council's expenditure on overnight accommodation is in line with community expectations. In situations where accommodation cannot be secured at these rates the Chief Executive Officer may give approval to exceed these amounts depending on the circumstances.

The draft revised Policy indicates that when Councillors travel outside Melbourne or a Tier 2 country centre the appropriate upper limit for meals and accommodation outlined in the Australian Taxation Office Taxation Determination TD2020/05 or equivalent will be applied.

Councillors may determine a different frequency for reporting Councillor expenses and reimbursements to Councillors and the Audit and Risk Committee other than the quarterly reporting proposed in the revised draft Policy. The Audit and Risk Committee Charter currently indicates that the Committee will review Councillor expenses and reimbursements twice a year and the Committee's work program for 2021/22 indicates this will occur in October and February. However, it is proposed to change this to quarterly reporting to reflect the best practice recommended by the Inspectorate.

Councillor Vehicle Options

The draft revised Policy establishes a range of options in relation to the provision of vehicles for use by Councillors. The options have been established in consultation with Councillors to achieve a range of operational, environmental, social and financial objectives. The options available to Councillors are detailed within the Policy and are summarised below:

1. The allocation of a Council vehicle to a Councillor to both provide for their duties as a Councillor and for private use. All costs commensurate with private use of Council vehicles would be borne by the Councillor by way of a financial contribution.
2. The allocation of a Council vehicle to a Councillor for use only in their duties as a Councillor. This option would be available only in instances where it provides the best value for money for Council and the community, noting each Councillors proximity to fleet pool cars and travel distances will vary significantly.
3. Where no vehicle is allocated to a Councillor, the option to use Council fleet pool vehicles to fulfill their duties as a Councillor or be reimbursed for use of a Councillors private vehicle.

Resourcing

Financial

Financial implications for Councillor support and reimbursement of out-of-pocket expenses are accounted for in the Budget.

Plant and equipment

There are no implications for plant and equipment from this report.

Human Resources

Councillor support and administration of the Policy are managed within existing resources.

Risk

The revised draft Policy provides clarity for Councillors, Council staff and the community and implements improved processes that will minimise the risk of Councillors making an error when submitting claims for reimbursement of out-of-pocket expenses. In addition, adopting the recommendation and best practice guides of the Local Government Inspectorate minimise the risk of issues arising with transparency and community expectations.

Economic

The Policy ensures that Councillors are provided with the resources to perform their role and able to be reimbursed for bone fide out-of-pocket expenses. This ensures that Councillors are available to effectively perform their role in the interest of the municipal community.

Social

The improved clarity of the Policy and transparency of processes will ensure that Councillor support and reimbursement of expenses meet community expectation.

The objectives of Policy options related to the provision of vehicles for Councillor use has been established to align with community expectations.

Environmental

This Policy supports Councillors to consider the environment when performing their role, particularly with technological support to provide business papers electronically.

The Policy options related to the provision of vehicles for Councillor use have been established to promote the use of low emission vehicles with reduced environmental impacts, including hybrid and electric vehicles. Where vehicles are provided to Councillors, these objectives can be controlled and achieved. The Policy retains scope for the use of privately owned vehicles, in which case control over the environmental impact associated with Councillor motor vehicle use during the course of fulfilling their role, cannot be controlled.

Climate change

This report has been prepared and aligned with the following Climate Change function/category:

This report is assessed as having no direct impact on climate change.

Engagement

Appropriate internal and external consultation has guided the preparation of the draft revised Policy.

Attachments

1. Councillor Support and Expenses Policy (clean) [**5.2.2.1** - 19 pages]
2. Councillor Support and Expenses Policy (tracked changes) [**5.2.2.2** - 20 pages]

Version number: 7
Authorised by: General Manager Business Excellence



Councillors Support and Expenses Policy

TABLE OF CONTENTS

Purpose	1
Scope	1
Policy Context	1
Policy Statement	1
Mayor, Deputy Mayor and Councillor allowances	1
Support for the Mayor, Deputy Mayor, Councillor and members of delegated committees	2
Office Accommodation	2
Building Access	2
Name badge and business cards	2
Administrative Support	3
Insurance	3
Information and communications technology	3
Motor Vehicles	4
Meals and Refreshments	6
Expenses and reimbursements	6
Reimbursement of expenses generally	6
Legal support	7
Remote Area Travel Allowance	8
Other travel expenses	8
Representative Memberships	8
Professional Development	9
Conferences and Seminars	9
Child care expenses	10
Care related expenses	10
All Abilities Access	11
Standard of Accommodation and Meals	11
Other Exclusions	12
Reporting and review of expenses	12
Training	12
Roles and Responsibilities	14
References and Supporting Documents	15
Applicable Legislation:	15
Supporting Documents:	15
Privacy and Human Rights Consideration	15
Definitions	16
Revision History and Review	17

Purpose

The purpose of this Policy is to outline:

- allowances for the Mayor, Deputy Mayor and Councillors;
- the reimbursement of out-of-pocket expenses incurred in the performance of official Council duties for the Mayor, Deputy Mayor, Councillors and members of delegated committees; and
- Councillor support to enable the performance of their official Council duties.

Scope

This policy applies to the Mayor, Deputy Mayor, Councillors and members of delegated committees of the East Gippsland Shire Council (Council).

Policy Context

Council must adopt and maintain a Councillor Expenses Policy under section 41 of the *Local Government Act 2020* (the Act) that must:

- (a) specify procedures to be followed in applying for reimbursement and in reimbursing expenses; and
- (b) comply with any requirements prescribed by the regulations in relation to the reimbursement of expenses; and
- (c) provide for the reimbursement of childcare costs where the provision of childcare is reasonably required for a Councillor or member of a delegated committee to perform their role; and
- (d) have particular regard to expenses incurred by a Councillor who is carer in a care relationship within the meaning of section 4 of the *Carers Recognition Act 2012*.

Policy Statement

Council will pay allowances to the Mayor, Deputy Mayor and Councillors in accordance with the requirements of the Act.

Council will reimburse Councillors and members of delegated committees for out-of-pocket expenses which:

- are bona fide expenses;
- have been reasonably incurred in the performance of the role of Councillor or member of a delegated committee; and
- are reasonably necessary for the Councillor or member of a delegated committee to perform that role.

A copy of this Policy will be made available on Council's website.

This Policy will be reviewed following every Council election. Councillors make seek to review the Policy at any time.

Mayor, Deputy Mayor and Councillor allowances

The Mayor, Deputy Mayor and Councillors are entitled to receive an allowance pursuant to section 39 of the Act in accordance with the determination of the Victorian Independent Remuneration Tribunal. Allowances paid to the Mayor, Deputy Mayor or Councillor cannot exceed the amount specified in the relevant determination by the Victorian Independent Remuneration Tribunal.

The Mayor and Deputy Mayor are not entitled to receive an allowance as a Councillor while receiving the allowance as the Mayor or Deputy Mayor.

A Mayor, Deputy Mayor or Councillor may elect, in accordance with the Act, to receive:

- (a) the entire allowance to which they are entitled; or
- (b) a specified part of the allowance to which they are entitled; or
- (c) no allowance.

Until such time as the first Determination made by the Victorian Independent Remuneration Tribunal under section 23A of the *Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019* comes into effect, the allowances payable to the Mayor, Deputy Mayor and Councillors are to be established in accordance with sections 73B and 74 to 74B of the *Local Government Act 1989*.

Allowances are taxable income and are paid fortnightly in arrears. Personal taxation implications are the responsibility of individual Councillors.

Support for the Mayor, Deputy Mayor, Councillor and members of delegated committees

Council will provide support to the Mayor, Deputy Mayor, Councillors and members of delegated committees to undertake their official Council duties.

In this Policy, official Council duties are defined as:

- meetings of the Council, a delegated committee, its advisory boards, advisory or consultative committees;
- meetings, briefing sessions and civic or ceremonial functions convened by the Mayor or Council or a delegated committee;
- meetings of community groups, organisations and statutory authorities to which a Councillor has been appointed as Council representative or is authorised by Council to attend in their role as a Councillor;
- meetings, functions or other official role as a representative of the Mayor or Council or a delegated committee;
- other meetings, inspections, community forums or events attended by a Councillor in the course of their duties as a Councillor; and
- conferences, seminars, events and professional development being undertaken by a Councillor.

Office Accommodation

A Mayoral office is at the Corporate Centre at 273 Main Street, Bairnsdale.

Councillors may use the Nicholson Room for purposes directly related to their official Council duties.

Building Access

Each Councillor will receive a swipe card allowing 24-hour access to the Nicholson Room and public area at the East Gippsland Shire Corporate Centre at 273 Main Street, Bairnsdale.

Name badge and business cards

Each Councillor will be provided with a name badge and business cards.

Administrative Support

Administrative support will be made available by Chief Executive Officer to assist the Mayor in performing their official Council duties and to assist Councillors with diary management and responses to correspondence, enquiries and requests for service as part of their official Council duties.

Council's letterhead stationery is only available for official Council business and may be used by Councillors only when approved by the Chief Executive Officer.

Council business papers, personal mail and other Council information will be forwarded electronically. If and when circumstances render it necessary, documents may also be placed in Councillors' lockers at the Corporate Centre.

Insurance

Councillors are covered under the following Council insurance policies on a 24-hour basis while discharging the duties of office of Councillor, including attendance at meetings of external bodies as Council's representative:

- Public Liability;
- Professional Indemnity;
- Councillors and Officers Liability;
- Personal Accident (accompanying partners are also covered); and
- Corporate Travel.

These policies will apply to claims that arise from an occurrence in connection with Council business.

Items of Council equipment provided to Councillors to assist in performing their role, including motor vehicles, are covered for damage or theft under Council's insurance policies. Councillors are expected to exercise due care in protecting the equipment from damage or theft. Personal items and effects left in Council vehicles are not covered by Council's insurance policies.

Council will pay the insurance policy excess in respect of any claim made against a Councillor arising from Council business where any claim is accepted by Council's insurers, whether defended or not. Councillors will pay the excess on the vehicle policy or any policy covering other items of Council equipment provided to Councillors to assist in performing their role, if they are found to have not taken due care in protecting the vehicle or equipment from damage or theft.

Information and communications technology

Councillors will be provided a computer with access to email and internet services and a mobile telephone for Council business. Councillors will be provided with access to a printer located at the Corporate Centre.

Where the CEO deems it necessary, support for internet connectivity at a Councillor's residence will be provided.

Council will review mobile phone, internet and other plans provided for use by Councillors or members of delegated committees on a quarterly basis to ensure the adequacy of the plans and investigate alternatives or decreases in plan allowances in order to achieve cost savings while maintaining the adequacy of the plans.

All equipment provided by Council is to be used only for the purpose of performing official Council duties and remains the property of Council. All equipment must be returned at the end of a Councillor's term of office or upon retirement/resignation of the Councillor.

Motor Vehicles

All Councillors will be provided with a range of options (as detailed below) related to travel using motor vehicles for Council Business. These options include both the provision of Council vehicles for use by a Councillor, the use of Council Fleet Pool Vehicles by a Councillor and the reimbursement of costs associated with use of a Councillors private vehicle for performing their duties as a Councillor.

Several key principles underpin the provision and allocation of vehicles to Councillors, with the following applicable:

1. Travel is a requirement of Councillors and vehicles are made available primarily to support the Councillor to perform their role.
2. The type of vehicles provided will be fit for purpose performing the role of a Councillor.
3. Vehicles will be selected in the most cost effective, environmentally conscious and socially responsible way.
4. Private use of vehicles will require a contribution by the beneficiary commensurate with the additional costs incurred for that use.

Motor Vehicle options

Option 1 - Electing to receive a Council vehicle, including full private use, inclusive of a contribution commensurate with the additional cost incurred by Council for that use.

Councillors may elect to be provided with use of a vehicle that is available for use for both performing the role of a Councillor and private purposes.

The standard of vehicle will be purchased based on business requirement, to support the Councillor in performing their role. The selection of vehicle will be made in collaboration with each Councillor.

Small and medium sized cars and SUVs will be available for selection, including hybrid petrol/ electric models. The organisation will not purchase six-cylinder vehicles unless there is a specific business need, with the fleet predominantly four-cylinder or hybrid vehicles. Vehicles will generally be of a mid-range specification. Electric models will be made available if supply and servicing networks are adequate within the municipal district. Vehicles are fit for purpose in performing the role of a Councillor and represent a cost-effective option.

The Councillor will be required to contribute, via a deduction from their Councillor allowance, the proportion of the total vehicle ownership costs, that it is equivalent to the proportion of private use. The selection of vehicle type by the Councillor will have a bearing on these costs.

Councillors are required to keep a logbook of vehicle use for performing the role of a Councillor and private usage for a three-month period during the first 12 months of the Council term, at a minimum. Further data collection may be required throughout a Councillor's term to validate the arrangements in place.

A Councillor's annual contribution in recognition of the private use component of their Councillor vehicle will be revised and adjusted if necessary, based on logbook data.

All vehicles will be provided with a first aid kit. Vehicles which are used in isolated and remote areas may also be fitted with additional safety and telecommunication equipment.

Requests for additional equipment or accessories including tow-packs may be made to the General Manager Assets and Environment for review before approval by the Chief Executive Officer. If approved, additional vehicle equipment or accessories will be fitted at the Councillor's expense. Accessories requiring any structural modification to the vehicle or affecting its roadworthiness or safety systems will not be considered.

A vehicle provided under this category entitles the Councillor and the Councillor's immediate family to use the vehicle for private use and for the Councillor to perform their role.

A copy of the drivers' licence for each Councillor and their nominated alternate driver must be provided.

In instances where multiple at-fault incidents result in damage to Council vehicles, Councillors may be required to contribute (in each case) up to \$400 to the cost of insurance excess costs. For drivers under the age of 25, the contribution will additionally include any excess that applies above the standard excess nominated in Council's vehicle insurance policy.

In the event of a Councillor taking a leave of absence, or when suspended or stood down, they will return their vehicle to a nominated location. Councillors would not be required to make a vehicle contribution during this time.

Option 2 - Electing to receive a Council vehicle for business use only, where access to Council Pool Fleet Vehicles is limited, and reimbursement of travel expenses results in higher overall cost to Council.

Councillors who do not elect to be provided with a private use vehicle in accordance with Option 1, may be provided with use of a vehicle that is available for performing the role of a Councillor.

Option 2 would be made available to a Councillor for performing their role only if the cost of that vehicle is determined to be less than their estimated travel reimbursement expenses, representing the lowest cost option. Logbook data and the Councillor's proximity to Council Fleet Pool Vehicles would be considered in making this determination. A determination regarding provision of a vehicle in accordance with Option 2 requires approval by General Manager Assets and Environment and the Chief Executive Officer.

A vehicle provided in accordance with this option is for the sole purpose of the Councillor performing their role. No contribution to vehicle costs is required from a Councillor in accordance with this option.

In instances where multiple at-fault incidents result in damage to Council vehicles, Councillors may be required to contribute (in each case) up to \$400 to the cost of insurance excess costs. For drivers under the age of 25, the contribution will additionally include any excess that applies above the standard excess nominated in Council's vehicle insurance policy.

The standard of vehicle will be purchased based on requirements of the Councillor to perform their role.

Option 3 - Electing to not receive a Council vehicle.

Councillors may elect not to be provided with use of a Council vehicle. In this instance, Councillors will, as a first preference, utilise Council Fleet Pool Vehicles. Where the use of Council Fleet Pool Vehicles is not possible or practical, Councillors may make a claim for reimbursement for use of their own private vehicle for performing their role as a Councillor.

A claim for private use of privately-owned vehicles must be made using the approved Expenses Claim Form. The claim must be fully complete and detail odometer readings at the start and end of the journey. If a journey includes elements of both performing the role of a Councillor and private use, only a proportion of travel commensurate with performing the role of a Councillor can be claimed. This must be clearly detailed on the Expenses Claim Form.

The rate of reimbursement for use of privately-owned vehicles is set at the Australian Taxation Office rate for motor vehicle expenses, based on the cents per kilometre method, adjusted annually.

Fines and infringements

Under no circumstances will Council be liable to pay any fine or costs incurred by the driver of a Council vehicle if that person infringes against road traffic regulations, local laws of any local government with respect to parking restrictions, or any other regulation that relates to the use of vehicles. The onus for the payment of a fine or other cost resides with the offender. If any fines or other costs are incurred by an alternate driver, or any other driver of a Council vehicle, it will be that Councillor's responsibility to pay for the fine. They are free to seek repayment from the driver at their own discretion.

Servicing and maintenance

Where a vehicle has been allocated to a Councillor, the Councillor will ensure the vehicle remains in a clean and tidy condition.

It is the Councillor's responsibility to ensure that the vehicles are maintained in accordance with the manufacturer's recommended servicing schedule and remain in a roadworthy condition at all times. This responsibility is limited to ensuring that regular fluid and tyre pressure checks are carried out, vehicle servicing is current, and any obvious tyre, windscreen or other wear or abnormal noises are reported to the Councillor Support Officer.

Smoking is not permitted in the Councillor's vehicle.

Vehicle breakdown

All Councillors vehicle related matters including breakdowns and accidents must be reported to the Councillor Support Officer.

Procedures relating to breakdowns and accidents are provided in the glove box of the Councillor's vehicle.

Election

All Councillor vehicles and related matters during an election will be managed in accordance with the Election Period Policy in the Governance Rules.

Meals and Refreshments

Where Council or Committee meetings are held at times which extend through normal mealtimes, Council will provide suitable meals served on the premises. Alcohol will not be provided.

Expenses and reimbursements

Reimbursement of expenses generally

For the purposes of expenses and reimbursements under this Policy, whether it is specified or not in this Policy, members of delegated committees are subject to the same rules as Councillors, and Council's reporting and oversight obligations apply in relation to members of delegated committees in the same way they apply in relation to Councillors.

In accordance with section 40 of the Act, Council will reimburse Councillors and members of delegated committees for out-of-pocket expenses which:

- are bona fide expenses;
- have been reasonably incurred in the performance of the role of Councillor or member of a delegated committee; and
- are reasonably necessary for the Councillor or member of a delegated committee to perform that role.

When the above criteria are satisfied and a Councillor or a member of a delegated committee has incurred an out-of-pocket expense, the expense will be paid or reimbursed by Council. Councillors and members of delegated committees will not be reimbursed for purchases of alcohol. Alcohol cannot be charged back to Council for payment.

Reimbursement of any expense that are not specifically identified in this Policy will require approval by the Chief Executive Officer after assessment of the relevant claim form by the Manager Governance.

Claims for reimbursement must be submitted by the claimant on the appropriate claim form for assessment. Evidence, including any applicable original tax invoices or receipts (credit card receipts will not be accepted – only originals), logbook entries or reports regarding training attended, are required to be submitted with the claim form as proof of purchase for reimbursement. Reimbursements must not be approved without sufficient evidence. Reimbursements will be paid by accounts payable on a monthly basis into the Councillor's or member of delegated committee's nominated bank account after approval is given by the Chief Executive Officer.

All claims for reimbursement must be made within 1 month of incurring the expense. Where there is an upcoming Council election, all claims for reimbursement of expenses must be finalised at least one month prior to the election date. A one-month grace period will apply post-election for Councillors who sought re-election and were not successful to lodge claim forms after which claim forms will no longer be accepted.

Legal support

Where legal proceedings are brought against a Councillor in connection with an act or omission in their functions as a Councillor, a Councillor may be entitled to have legal costs up to \$2,500 reimbursed. Legal costs will not be reimbursed for any defamation action brought by a Councillor.

A Councillor may seek reimbursement up to \$2,500 per request, and no more than 2 requests per financial year can be made by an individual Councillor. To receive reimbursement, the Councillor must provide a declaration that the matter for which reimbursement of legal costs is sought is related to their role as a Councillor and that they have acted in good faith and not unlawfully or improperly. The Councillor must engage a lawyer from a legal firm on the Municipal Association of Victoria panel or otherwise as approved by the Chief Executive Officer prior to any expense being incurred, otherwise they will not be granted reimbursement.

The Chief Executive Officer must refuse reimbursement in the following circumstances:

- a) to the extent the costs are unreasonable;
- b) the costs have been incurred through the engagement of a lawyer from a legal firm not on the Municipal Association of Victoria panel, or pre-approved by the Chief Executive Officer;
- c) the Chief Executive Officer considers the matter for which reimbursement of legal costs is sought is or was outside the Councillor's official Council duties; or
- d) the Chief Executive Officer considers the Councillor has not acted in good faith or lawfully or properly in relation to the matter for which reimbursement of legal costs is sought.

A Councillor will repay any reimbursed costs where there is a finding by a court, tribunal or regulatory authority in relation to the matter the Councillor has not acted in good faith or has acted unlawfully or improperly.

Remote Area Travel Allowance

A remote area travel allowance will be paid to compensate for the time spent by Councillors who reside more than 50 km by the shortest possible practicable road distance from the location or locations specified for the conduct of:

- meetings of Council;
- meetings of delegated committees, Council advisory boards, consultative, advisory and other committees to which Council has formally appointed the Councillor as its representative;
- meetings and other formal events of organisations to which Council has formally appointed the Councillor as its delegate; or
- any municipal or community functions that have been authorised by the Mayor or Chief Executive Officer for the Councillor to attend.

A Councillor will be paid an allowance of \$40 per day on which one or more meetings or authorised functions is actually attended by the Councillor, up to a maximum of \$5,000 per annum. The remote area travel allowance is not paid on days that there are no meetings or authorised functions.

Councillors and members of delegated committees must submit a completed *Remote Area Travel Allowance* form by the last day in each month providing details of the date, location, purpose of the meeting and odometer reading at the start and end of journey for kilometres travelled on each occasion.

All claims for the remote travel allowance pertaining to travel undertaken within a particular financial year must be accounted for within that financial year. A one-month grace period to 31 July in each year will be given to allow claim forms for the previous financial year to be lodged. At the expiry of the one-month grace period claims will no longer be accepted.

Other travel expenses

Council will pay for the costs of Councillor's travel if it is required for official Council duties, in accordance with the below guidelines.

Where travel is by air, economy class will be the standard.

Where travel between Bairnsdale and Melbourne and return is by train, first class will be the standard, in recognition of potential safety issues. The standard of any other train travel will be determined by the Chief Executive Officer on a case-by-case basis.

All interstate travel proposed to be undertaken by a Councillor and paid for by Council requires prior approval by the Chief Executive Officer.

All international travel proposed to be undertaken by a Councillor and paid for by Council requires prior approval by a formal resolution of Council.

Claims for reimbursement of out-of-pocket travel expenses by Councillors may be made or approved only on the basis of the actual form of transport used and the actual out of pocket expenses incurred and be in the form of a reasonable allowance towards, or reimbursement of, out of pocket expenses necessary for the Councillor's official Council duties.

Representative Memberships

Council will organise and pay for collective Council or individual Councillor membership to peak Australian Local Government industry bodies.

Professional Development

Professional development for Councillors and members of delegated committees is encouraged.

Attendance at relevant conferences and seminars is considered necessary for effective representation and advocacy for the Shire and the development of Councillors in their role.

Councillors may attend seminars and conferences that:

- relate directly to performing official Council duties; or
- are organised by a Local Government peak body/association; and
- have a demonstrable benefit for the East Gippsland Shire community.

Councillors are encouraged to discuss proposed attendance at conferences and seminars with the Chief Executive Officer.

All arrangements associated with Councillor professional development (including registration, air or train travel and accommodation/meals) will be organised through the Councillor Support Officer.

Where professional development opportunity involves interstate or overseas travel Councillors must complete a *Record of Interstate or Overseas Travel* form providing details of the date, destination, purpose and total cost of the travel.

After attending a professional development opportunity Councillors are required to provide a report to the next Council meeting. The summary should outline the benefits of the conference to themselves personally and to Council.

Conferences and Seminars

The cost of attending approved conferences and seminars, including reasonable out-of-pocket expenses substantiated by related receipts, will be met from the Council budget. Where a conference or seminar involves interstate or overseas travel, Councillors must complete a *Record of Interstate or Overseas Travel* form.

Each year Council's Budget includes provision for the costs associated with Councillor attendance at Council approved conferences and seminars (including registration fees, accommodation and meals for the duration of the event). This amount is apportioned as follows:

- allocation of a lump sum amount to meet the costs associated with all conferences, seminars and other events attended by the Mayor and Councillors in order to meet their responsibilities as elected representatives and where appropriate, as Council's formally appointed delegate or nominee; and
- a specific sum is allocated to the Mayor and each individual Councillor from which the costs associated with attendance at conferences, seminars or other events that are not directly related to their role as a formally appointed delegate or nominee (e.g. a professional development opportunity not being pursued by other Councillors) will be met.

Where the Mayor or a Councillor has expended the individual sum allocated to them in any year and wishes to attend a further conference, seminar or other event as described in this section, they will need to discuss their proposed attendance with the Chief Executive Officer so that the appropriateness of funding their attendance from another Council budget can be assessed against the following criteria:

- relevance to Council business and/or the Councillor's personal development requirements;
- benefits to Council and the Shire expected to flow from attendance;
- estimated cost including but not limited to conference material, travel and accommodation for the Councillor; and
- appropriateness of funding from other Council budgets.

After attending a conference or seminar, Councillors are required to provide a report to the next Council meeting. The summary should outline the benefits of the conference to themselves personally and to Council operations.

Childcare expenses

Council will reimburse the cost of childcare where the provision of child care is reasonably required for a Councillor or a member of a delegated committee to perform their role. The reimbursement of childcare will be capped at the Federal Government hourly rate for in-home care at \$33.17 per family (this rate is subject to change and will be applied in accordance with the Federal Government recommendations).

Reimbursement for childcare costs by Council is limited to:

- child/ren aged less than 13 years;
- costs associated with childcare only and no other household duties;
- costs of childcare not covered by other entitlements such as the Australian Government Child Care benefit;
- childcare services that are operating as a registered business in Victoria; and
- childcare services that are not a relative or household member.

Subject to prior approval by the Mayor and Chief Executive Officer, a Councillor or member of a delegated committee with dependent children who is attending a conference or seminar at which a designated children's program is provided may enrol their dependent children in that program at Council's expense.

Care related expenses

For Councillors and members of a delegated committee who would otherwise be a primary care giver for immediate family members who are elderly or sick, have a disability or mental illness, or a care relationship for children up to 15 years old, Council will, subject to the requirements of this section, reimburse the cost of expenses incurred in order to provide care for the relevant person when the Councillor who would otherwise be the primary care giver is engaged in discharging their duties as a Councillor.

For Councillors and members of a delegated committee who are in a care relationship within the meaning of section 4 of the *Carers Recognition Act 2012*, Council will, subject to the requirements of this section, reimburse the cost of expenses incurred in order to provide care for the relevant person when the Councillor who would otherwise be providing the care is performing their duties as a Councillor.

Council will only reimburse Councillors or members of a delegated committee for carer expenses paid to:

- An accredited care provider; or
- A person providing care who does not:
 - (a) have a familial or like relationship with the Councillor or member of a delegated committee; or
 - (b) reside either permanently or temporarily with the Councillor or member of a delegated committee; or
 - (c) have a relationship with the Councillor or member of a delegated committee or their partner such that it would be inappropriate for Council to reimburse monies paid to the care provider.

Care expenses may include hourly fees as paid by the Councillor or member of a delegated committee to a care provider and/or agency booking fees if applicable.

All Abilities Access

Where possible, Council will resolve to meet reasonable additional expenses to assist a Councillor or member of a delegated committee with a disability to perform his or her official Council duties.

Standard of Accommodation and Meals

Standards and availability of accommodation vary markedly in both urban and regional areas. Councillors and members of delegated committees are encouraged to select accommodation that is modern, safe and hygienic. In accordance with the Australian Taxation Office Taxation Determination TD2020/5 (the determination is subject to change and will be applied in accordance with the current Australian Taxation Office determination) reasonable accommodation expenses for Tier 2 country centres is \$134 per night and Melbourne is \$173 per night. Where accommodation is not available in accordance with these limits the Manager Governance may recommend to the Chief Executive Officer to approve accommodation that exceeds the limit.

If a Councillor requires accommodation in a location other than Melbourne or a Tier 2 country centre, the appropriate limits in the Australian Taxation Office Taxation Determination TD2020/5 will be applied and where accommodation is not available within the limits the Manager Governance may recommend to the Chief Executive Officer to approve accommodation that exceeds the limit.

All bookings for accommodation are to be made by the Councillor Support Officer.

In accordance with Occupational Health and Safety principles, Councillors who reside in the more remote areas of the Shire are encouraged to stay overnight following Council meetings, events and functions that conclude well after normal business hours. The cost of this accommodation will be met by Council provided it fits with the standard of accommodation outlined above. When a Councillor is required to stay overnight, the Councillor will be reimbursed for an evening meal, where this is not provided by Council or at a function attended in an official capacity, and breakfast.

Where meals are not included at meetings, conferences, seminars and professional development events, Councillors and members of delegated committees can be reimburse for meals and beverages in accordance with the amounts provided by the Australian Taxation Office. Only actual food and beverage expenses will be reimbursed up to the amount deemed reasonable by the Australian Taxation Office Taxation Determination TD2020/5 (the determination is subject to change and will be applied in accordance with the current Australian Taxation Office determination). Councillors and members of delegated committees will not be reimbursed for the purchase of any alcohol.

The amounts below are the upper limits that may be claimed for out-of-pocket meal expenses for Tier 2 country centres:

- Breakfast \$ 25.75 (only reimbursable for the day following an overnight stay)
- Lunch \$ 29.35 (only reimbursable for the day following an overnight stay)
- Dinner \$ 50.65 (only reimbursable for the night of an overnight stay)

The equivalent upper limit for Melbourne and other capital cities that may be claimed for out-of-pocket meal expenses are:

- Breakfast \$ 28.70 (only reimbursable for the day following an overnight stay)
- Lunch \$ 32.30 (only reimbursable for the day following an overnight stay)
- Dinner \$ 55.05 (only reimbursable for the night of an overnight stay).

Claims for reimbursement for out-of-pocket expenses will only be approved for the time away from home that allows the Councillor to perform their role.

As a general rule, it is anticipated that an *a la carte* meal purchased by Councillors would comprise of two courses or less. The purchase of any alcohol by a Councillor or member of a delegated committee must be done so at their personal expense.

Councillors are not permitted to seek reimbursement of out-of-pocket expenses to cover meals or refreshments for anyone other than themselves.

Council is a family-friendly organisation and as such, does not discourage family members from joining Councillors at conferences and events such as seminars, training or planning sessions. However, when accompanied by a family member (other than a Councillor's partner at a conference or seminar where the presence of their partner is necessary to support the business or representational needs of Council) any additional costs incurred (e.g. room upgrade, additional meals, etc.) are required to be paid for by the Councillor.

Other Exclusions

In addition to any exclusions set out in the rest of this Policy, Council will not be responsible for reimbursing the following expenses incurred by Councillors or members of a delegated committee:

1. Any costs arising from a breach of road, traffic, parking or other regulations or laws.
2. Expenses incurred which:
 - a. are not bona fide expenses;
 - b. have not been reasonably incurred in the performance of the role of Councillor or member of a delegated committee; or
 - c. are not reasonably necessary for the Councillor or member of a delegated committee to perform that role.
3. The cost of the purchase of any alcohol.
4. Costs incurred for immediate family members/associates to attend conferences and events such as seminars, training or planning sessions (other than in the case of attendance of a Councillor's partner at a conference or seminar where the presence of their partner is necessary to support the business or representational needs of Council).

If a Councillor does not claim a particular expense, this cannot be offset against a claim for any additional amount of another expense.

Reporting and review of expenses

All reimbursements and expenses paid to or for Councillors or members of a delegated committee will be recorded and categorised as either:

- travel expenses;
- professional development expenses; or
- expenses to support the performance of the role.

Details of all reimbursements to Councillors and members of delegated committees will be provided to the Audit and Risk Committee quarterly. These details must include:

- expenses incurred by Councillors during the quarter;
- reimbursement claims made by Councillors during the quarter; and
- reimbursements made by Councillors during the quarter.

A summary of reimbursements to Councillors and members of delegated committees will be published on Council's website following the report to the Audit and Risk Committee.

Council will provide Councillors and members of delegated committees with their expenses data for review on a quarterly basis.

Training

Training will be provided to Councillors and members of delegated committees in their induction training and midway through their term. Training will be given to Councillors and members of delegated committees by the Councillor Support Officer regarding which expenses they are entitled to receive reimbursement for and the requirements for obtaining reimbursement, such as the appropriate claim forms to be submitted.

During the course of this training, Councillors and members of delegated committees will be informed that all expenses will be submitted to the Audit and Risk Committee, published on Council's website and included in the annual report to be presented at the end of each financial year.

Roles and Responsibilities

These management positions are responsible for the implementation, communication and compliance monitoring of the policy in their work areas:

Party / Parties	Roles and Responsibilities
Chief Executive Officer	<p>Advise all Councillors and members of delegated committees of their responsibilities and to comply with this Policy.</p> <p>Approve claims for reimbursement of Councillor's out-of-pocket expenses.</p> <p>Approve support, expenses and reimbursements which are not specifically identified in this Policy.</p> <p>Approve content of claim forms to ensure sufficient detail is provided to substantiate claims for out-of-pocket expenses in line with the requirements in this Policy.</p>
General Manager Business Excellence	<p>Review the Policy to reflect legislative requirements and best practice for transparency of Councillor expenses and reimbursements of out-of-pocket claims.</p>
Manager Governance	<p>Review expense claims from Councillors.</p> <p>Provide advice to Councillors regarding support, expenses and out-of-pocket reimbursement.</p> <p>Provide advice to the Chief Executive Officer regarding accommodation expenses that exceed the limits outlined in this Policy.</p> <p>Provide training to Councillors on this Policy and completing claim forms as outlined in the Policy.</p> <p>Provide a report on Councillor and members of delegated committee expenses and reimbursements to the Audit and Risk Committee quarterly.</p>
Councillor Support Officer	<p>Support Councillors and members of delegated committees comply with this Policy.</p> <p>Book travel and accommodation as outlined in this Policy.</p> <p>Process Councillors out-of-pocket expense claims for review by the Manager Governance and approval by the Chief Executive Officer.</p> <p>Advise the Manager Governance and the Chief Executive Officer of any discrepancies that may occur with claims.</p>
Finance Department	<p>Process reimbursements of expenses for Councillors and members of delegated committees.</p>

References and Supporting Documents

Applicable Legislation:

- *Local Government Act 2020*
- *Local Government Act 1989*
- *Carers Recognition Act 2012*
- *Charter of Human Rights and Responsibilities Act 2006*
- *Freedom of Information Act 1982*
- *Privacy and Data Protection Act 2014*

Supporting Documents:

- Reimbursement of expenses claim form
- Councillor remote area travel allowance claim form
- Councillor request/record – Interstate or overseas travel undertaken in an official capacity form
- Local Government Inspectorate Report – Councillor expenses and allowances: equitable treatment and enhanced integrity
- Australian Taxation Office Taxation Determination TD2020/5

Privacy and Human Rights Consideration

All personal information collected by East Gippsland Shire Council in connection with this Policy will be handled in accordance with all applicable privacy legislation and will be used only for purposes consistent with this Policy.

Council must not collect personal information unless the information is necessary for one or more of its functions or activities.

Individuals have the right to make a complaint to the Victorian Information Commissioner if they believe their privacy has been breached.

This Policy has been assessed as compliant with the obligations and objectives of the Victorian *Charter of Human Rights Responsibilities Act 2006*.

Definitions

Term	Meaning
Act	<i>Local Government Act 2020.</i>
Chief Executive Officer	The person appointed by a Council under section 44 of the Act to be its Chief Executive Officer or any person acting in that position.
Council	East Gippsland Shire Council.
Councillor	A person who has been elected to the office of Councillor of East Gippsland Shire Council.
Delegated committee	The meaning given in the Act.
Official Council duties	<ul style="list-style-type: none"> • Meetings of the Council, a delegated committee, its advisory boards, advisory or consultative committees; • meetings, briefing sessions and civic or ceremonial functions convened by the Mayor or Council or a delegated committee; • meetings of community groups, organisations and statutory authorities to which a Councillor has been appointed as Council representative or is authorised by Council to attend in their role as a Councillor; • meetings, functions or other official role as a representative of the Mayor or Council or a delegated committee; • other meetings, inspections, community forums or events attended by a Councillor in the course of their duties as a Councillor; and • conferences, seminars, events and professional development being undertaken by a Councillor.
Policy	This Councillor Support and Expenses Policy.
Shire	The geographical area of East Gippsland Shire Council.

Revision History and Review

Version Control	Approved Amended Rescinded	Date Effective	Approved By	ECM Document Reference	Summary of Changes
1	Approved	27/9/2005	Council		Clause 4.2
2	Approved	July 2006	Council		Update of staff titles and meeting rooms
Update	Approved	1/11/2007	J Websdale		Staff Titles updated
3	Approved	10/11/2009	Council	3721038	Comprehensive review
4	Approved	04/03/2014	Council	5675760	
5	Approved	08/07/2016 03/08/2016	G Gaffney C Waites		Update of staff titles and expenses Update of Vehicle provisions
6	Approved	07/03/2017	Council	7132299	
7	Approved	25/08/2020	Council	8618744	Update to comply with <i>Local Government Act 2020</i> and update information relevant to actual practice, including removal of forms in appendix.
8			Council		Reviewed in relation to <i>Local Government Act 2020</i> and Local Government Inspectorate Report – Overview of councillor support and expenses policy.

Version number: 7
Authorised by: General Manager Business Excellence



Councillors Support and Expenses Policy

TABLE OF CONTENTS

Purpose	1
Scope	1
Policy Context	1
Policy Statement	1
Mayor, Deputy Mayor and Councillor allowances	1
Support for the Mayor, Deputy Mayor, Councillor and members of delegated committees	2
Office Accommodation	2
Building Access	2
Name badge and business cards	2
Administrative Support	3
Insurance	3
Information and communications technology	3
Motor Vehicles	4
Meals and Refreshments	6
Expenses and reimbursements	6
Reimbursement of expenses generally	6
Legal support	7
Remote Area Travel Allowance	8
Other travel expenses	8
Representative Memberships	9
Professional Development	9
Conferences and Seminars	9
Child care expenses	10
Care related expenses	10
All Abilities Access	11
Standard of Accommodation and Meals	11
Other Exclusions	12
Reporting and review of expenses	12
Training	13
Roles and Responsibilities	14
References and Supporting Documents	15
Applicable Legislation:	15
Supporting Documents:	15
Privacy and Human Rights Consideration	15
Definitions	16
Revision History and Review	17

Purpose

The purpose of this Policy is to outline:

- allowances for the Mayor, Deputy Mayor and Councillors;
- the reimbursement of out-of-pocket expenses incurred in the performance of official Council duties for the Mayor, Deputy Mayor, Councillors and members of delegated committees; and
- Councillor support to enable the performance of their official Council duties.

Scope

This policy applies to the Mayor, Deputy Mayor, Councillors and members of delegated committees of the East Gippsland Shire Council (Council).

Policy Context

Council must adopt and maintain a Councillor Expenses Policy under section 41 of the *Local Government Act 2020* (the Act) that must:

- (a) specify procedures to be followed in applying for reimbursement and in reimbursing expenses; and
- (b) comply with any requirements prescribed by the regulations in relation to the reimbursement of expenses; and
- (c) provide for the reimbursement of childcare costs where the provision of childcare is reasonably required for a Councillor or member of a delegated committee to perform their role; and
- (d) have particular regard to expenses incurred by a Councillor who is carer in a care relationship within the meaning of section 4 of the *Carers Recognition Act 2012*.

Policy Statement

Council will pay allowances to the Mayor, Deputy Mayor and Councillors in accordance with the requirements of the Act.

Council will reimburse Councillors and members of delegated committees for out-of-pocket expenses incurred in the performance of their official duties which:-

- are bona fide expenses;
- have been reasonably incurred in the performance of the role of Councillor or member of a delegated committee; and
- are reasonably necessary for the Councillor or member of a delegated committee to perform that role.

A copy of this Policy will be made available on Council's website.

This Policy will be reviewed following every a Council election. Councillors make seek to review the Policy at any time.

Mayor, Deputy Mayor and Councillor allowances

The Mayor, Deputy Mayor and Councillors are entitled to receive an allowance pursuant to section 39 of the Act in accordance with the determination of the Victorian Independent Remuneration Tribunal. Allowances paid to the Mayor, Deputy Mayor or Councillor cannot exceed the amount specified in the relevant determination by the Victorian Independent Remuneration Tribunal.

The Mayor and Deputy Mayor are not entitled to receive an allowance as a Councillor while receiving the allowance as the Mayor or Deputy Mayor.

A Mayor, Deputy Mayor or Councillor may elect, in accordance with the Act, to receive:

- (a) the entire allowance to which they are entitled; or
- (b) a specified part of the allowance to which they are entitled; or
- (c) no allowance.

Until such time as the first Determination made by the Victorian Independent Remuneration Tribunal under section 23A of the Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019 comes into effect, ~~Victorian Independent Remuneration Tribunal makes a determination~~ the allowances payable to the Mayor, Deputy Mayor and Councillors are to be established in accordance with sections 73B and 74 to 74B of the *Local Government Act 1989*.

Allowances are taxable income and are paid fortnightly in arrears. Personal taxation implications are the responsibility of individual Councillors.

Support for the Mayor, Deputy Mayor, Councillor and members of delegated committees

Council will provide support to the Mayor, Deputy Mayor, Councillors and members of delegated committees to undertake their official Council duties.

In this Policy, official Council duties are defined as:

- meetings of the Council, a delegated committee, its advisory boards, advisory or consultative committees;
- meetings, briefing sessions and civic or ceremonial functions convened by the Mayor or Council or a delegated committee;
- meetings of community groups, organisations and statutory authorities to which a Councillor has been appointed as Council representative or is authorised by Council to attend in their role as a Councillor;
- meetings, functions or other official role as a representative of the Mayor or Council or a delegated committee;
- other meetings, inspections, community forums or events attended by a Councillor in the course of their duties as a Councillor; and
- conferences, seminars, events and professional development being undertaken by a Councillor.

Office Accommodation

A Mayoral office is at the Corporate Centre at 273 Main Street, Bairnsdale.

Councillors may use the Nicholson Room for purposes directly related to their official Council duties.

Building Access

Each Councillor will receive a swipe card allowing 24-hour access to the Nicholson Room and public area at the East Gippsland Shire Corporate Centre at 273 Main Street, Bairnsdale.

Name badge and business cards

Each Councillor will be provided with a name badge and business cards.

Administrative Support

Administrative support will be made available by Chief Executive Officer to assist the Mayor in performing their official Council duties and to assist Councillors with diary management and responses to correspondence, enquiries and requests for service as part of their official Council duties.

Council's letterhead stationery is only available for official Council business and may be used by Councillors only when approved by the Chief Executive Officer.

Council business papers, personal mail and other Council information will be forwarded electronically. If and when circumstances render it necessary, documents may also be placed in Councillors' lockers at the Corporate Centre.

Insurance

Councillors are covered under the following Council insurance policies on a 24-hour basis while discharging the duties of office of Councillor, including attendance at meetings of external bodies as Council's representative:

- Public Liability;
- Professional Indemnity;
- Councillors and Officers Liability;
- Personal Accident (accompanying partners are also covered); and
- Corporate Travel.

These policies will apply to claims that arise from an occurrence in connection with Council business.

Items of Council equipment provided to Councillors to assist in performing their role, including motor vehicles, are covered for damage or theft under Council's insurance policies. Councillors are expected to exercise due care in protecting the equipment from damage or theft. Personal items and effects left in Council vehicles are not covered by Council's insurance policies.

Council will pay the insurance policy excess in respect of any claim made against a Councillor arising from Council business where any claim is accepted by Council's insurers, whether defended or not. Councillors will pay the excess on the vehicle policy or any policy covering other items of Council equipment provided to Councillors to assist in performing their role, if they are found to have not taken due care in protecting the vehicle or equipment from damage or theft.

Information and communications technology

Councillors will be provided a computer with access to email and internet services and a mobile telephone for Council business. Councillors will be provided with access to a printer located at the Corporate Centre.

Where the CEO deems it necessary, support for internet connectivity at a Councillors residence will be provided.

Council will review mobile phone, internet and other plans provided for use by Councillors or members of delegated committees on a quarterly basis to ensure the adequacy of the plans and investigate alternatives or decreases in plan allowances in order to achieve cost savings while maintaining the adequacy of the plans.

All equipment provided by Council is to be used only for the purpose of performing official Council duties and remains the property of Council. All equipment must be returned at the end of a Councillor's term of office or upon retirement/resignation of the Councillor.

Motor Vehicles

All Councillors will be provided with a range of options (as detailed below) related to travel using motor vehicles for Council Business. These options include both the provision of Council vehicles for use by a Councillor, the use of Council Fleet Pool Vehicles by a Councillor and the reimbursement of costs associated with use of a Councillors private vehicle for performing their duties as a Councillor.

~~All Councillors will be provided with a fully maintained Council vehicle (the **Councillor's vehicle**) to assist in performing their official Council duties. Vehicles for use as Councillor's vehicles will be purchased as soon as possible after the election of a new Councillor and shall be kept for the full Council term.~~

Several key principals underpin the provision and allocation of vehicles to Councillors, with the following applicable:

1. Travel is a requirement of Councillors and vehicles are made available primarily to support the Councillor to perform their role.
2. The type of vehicles provided will be fit for purpose performing the role of a Councillor.
3. Vehicles will be selected in the most cost effective, environmentally conscious and socially responsible way.
4. Private use of vehicles will require a contribution by the beneficiary commensurate with the additional costs incurred for that use.

Motor Vehicle options

Option 1 - Electing to receive a Council vehicle, including full private use, inclusive of a contribution commensurate with the additional cost incurred by Council for that use.

Councillors may elect to be provided with use of a vehicle that is available for use for both performing the role of a Councillor and private purposes.

The standard of vehicle will be purchased based on business requirement, to support the Councillor in performing their role. The selection of vehicle will be made in collaboration with each Councillor.

Small and medium sized cars and SUV's will be available for selection, including hybrid petrol/ electric models. The organisation will not purchase six-cylinder vehicles unless there is a specific business need, with the fleet predominantly four-cylinder or hybrid vehicles. Vehicles will generally be of a mid-range specification. Electric models will be made available if supply and servicing networks are adequate within the municipal district, vehicles are fit for purpose in performing the role of a Councillor and represent a cost-effective option.

The Councillor will be required to contribute, via a deduction from their Councillor allowance, the proportion of the total vehicle ownership costs, that it is equivalent to the proportion of private use. The selection of vehicle type by the Councillor will have a bearing on these costs.

Councillors are required to keep a logbook of vehicle use for performing the role of a Councillor and private usage for a three-month period during the first 12 months of the Council term, at a minimum. Further data collection may be required throughout a Councillor's term to validate Policythe arrangements in place settings.

A Councillor's annual contribution in recognition of the private use component of their Councillor vehicle will be revised and adjusted if necessary, based on logbook data.

All vehicles will be provided with a first aid kit. Vehicles which are used in isolated and remote areas may also be fitted with additional safety and telecommunication equipment.

Requests for additional equipment or accessories including tow-packs may be made to the General Manager Assets and Environment for review before approval by the Chief Executive Officer. If approved, additional vehicle equipment or accessories will be fitted at the Councillor's expense. Accessories requiring any structural modification to the vehicle or effecting its roadworthiness or safety systems will not be considered.

A vehicle provided under this category entitles the Councillor and the Councillor's immediate family to use the vehicle for private use and for the Councillor to perform their role.

A copy of the drivers' licence for each Councillor and their nominated alternate driver's must be provided.

~~Councillors will contribute (in each case) up to \$400 to the cost of damage to Councillor's vehicles caused by careless or negligent operation of those vehicles by the relevant Councillor or their nominated alternate driver. For drivers under the age of 25, the contribution will additionally include any excess that applies above the standard excess nominated in Council's vehicle insurance policy. In instances where multiple at-fault incidents result in damage to Council vehicles, Councillors may be required to contribute (in each case) up to \$400 to the cost of insurance excess costs. For drivers under the age of 25, the contribution will additionally include any excess that applies above the standard excess nominated in Council's vehicle insurance policy.~~

In the event of a Councillor taking a leave of absence, or when suspended or stood down, they will return their vehicle to a nominated location. Councillors would not be required to make a vehicle contribution during this time.

Option 2 - Electing to receive a Council vehicle for business use only, where access to Council Pool Fleet Vehicles is limited, and reimbursement of travel expenses results in higher overall cost to Council.

Councillors who do not elect to be provided with a private use vehicle in accordance with Option 1, may be provided with use of a vehicle that is available for performing the role of a Councillor.

Option 2 wouldis to be made available to a Councillor for performing their role only if the cost of that vehicle is determined to be less than their estimated travel reimbursement expenses, representing the lowest cost option. Logbook data and the Councillors proximity to Council Fleet Pool Vehicles would be considered in making this determination. A determination regarding provision of a vehicle in accordance with Option 2 requires approval by General Manager Assets and Environment and the Chief Executive Officer.

A vehicle provided in accordance with this option is for the sole purpose of the Councillor performing their role. No contribution to vehicle costs is required from a Councillor in accordance with this option.

In instances where multiple at-fault incidents result in damage to Council vehicles, Councillors may be required to contribute (in each case) up to \$400 to the cost of insurance excess costs. For drivers under the age of 25, the contribution will additionally include any excess that applies above the standard excess nominated in Council's vehicle insurance policy.

The standard of vehicle will be purchased based on requirements of the Councillor to perform their role.

Option 3 - Electing to not receive a Council vehicle.

Councillors may elect not to be provided with use of a Council vehicle.

In this instance, Councillors will, as a first preference, utilise Council Fleet Pool Vehicles. Where the use of Council Fleet Pool Vehicles is not possible or practical, Councillors may make a claim for reimbursement for use of their own private vehicle for performing their role as a Councillor.

A claim for private use of privately-owned vehicles must be made using the approved Expenses Claim Form. The claim must be fully complete and detail odometer readings at the start and end of the journey. If a journey includes elements of both performing the role of a Councillor and private use, only a proportion of travel commensurate with performing the role of a Councillor can be claimed. This must be clearly detailed on the Expenses Claim Form.

The rate of reimbursement for use of privately owned vehicles is set at the Australian Taxation Office rate for motor vehicle expenses, based on the cents per kilometre method, adjusted annually.

~~Councillors are entitled to a vehicle in accordance with Council's Vehicle Policy and Procedure.~~

~~**Annual contribution towards running costs**~~

~~It is accepted that use of Councillors' vehicles for private purposes will occasionally occur. For safety and reasons of practicality, a nominated alternate driver is also entitled to drive a Councillor's vehicle if necessary. Anyone who drives a Councillor's vehicle must hold a fully qualified driver's licence.~~

Fines and infringements

~~Under no circumstances will Council be liable to pay any fine or costs incurred by the driver of a Council vehicle if that person infringes against road traffic regulations, local laws of any local government with respect to parking restrictions, or any other regulation that relates to the use of vehicles. The onus for the payment of a fine or other cost resides with the offender. In the instance of parking or traffic infringements, if the actual driver cannot be identified, the Councillor will be liable for the penalties involved. If any fines or other costs are incurred by an alternate driver, or any other driver of a Council vehicle, it will be that Councillor's responsibility to pay for the fine. They are free to seek repayment from the driver at their own discretion.~~

~~A nominal contribution of \$2,000 per annum will be deducted from each Councillor's allowance on a pro-rata basis per fortnight in recognition of the private use component of the Councillor's vehicle. Vehicle contributions will be indexed annually on the basis of movement in the Transport GPI.~~

Servicing and maintenance

Where a vehicle has been allocated to a Councillor, the Councillor will ensure the vehicle remains in a clean and tidy condition.

It is the Councillor's responsibility to ensure that the vehicles are maintained in accordance with the manufactures recommended servicing schedule and remain in a roadworthy condition at all times. This responsibility is limited to ensuring that regular fluid and tyre pressure checks are carried out, vehicle servicing is current, and any obvious tyre, windscreen or other wear or abnormal noises are reported to the Councillor Support Officer.

Smoking is not permitted in the Councillor's vehicle.

~~The Councillor's vehicle is to be accommodated off street when at the Councillor's residence.~~

~~The Councillor will reimburse Council for any costs incurred by it in cleaning the Councillor's vehicle or in repairing any damage to or deterioration in the condition of the Councillor's vehicle as a result of the Councillor's actions, in excess of Council's reasonable assessment of normal wear and tear and deterioration that would be expected if the Councillor's vehicle had been used and cared for as outlined above.~~

Vehicle breakdown

All Councillor's vehicle related matters including breakdowns and accidents must be reported to the Councillor Support Officer.

Procedures relating to breakdowns and accidents are provided in the glove box of the Councillor's vehicle.

Election

All Councillor vehicles and related matters during an election will be managed in accordance with the Election Period Policy in the Governance Rules.

Other Conditions that Apply to all Vehicles

~~Council vehicles are not available for use by members of the public (other than each Councillor's nominated alternate driver).~~

Meals and Refreshments

Where Council or Committee meetings are held at times which extend through normal mealtimes, Council will provide suitable meals served on the premises. Alcohol will not be provided.

Expenses and reimbursements

Reimbursement of expenses generally

For the purposes of expenses and reimbursements under this Policy, whether it is specified or not in this Policy, members of delegated committees are subject to the same rules as Councillors, and Council's reporting and oversight obligations apply in relation to members of delegated committees in the same way they apply in relation to Councillors.

In accordance with section 40 of the Act, Council will reimburse Councillors and members of delegated committees for out-of-pocket expenses which:

- are bona fide expenses;
- have been reasonably incurred in the performance of the role of Councillor or member of a delegated committee; and
- are reasonably necessary for the Councillor or member of a delegated committee to perform that role.

When the above criteria are satisfied and a Councillor or a member of a delegated committee has incurred an out-of-pocket expense, the expense will be paid or reimbursed by Council. Councillors and members of delegated committees will not be reimbursed for purchases of alcohol. Alcohol cannot be charged back to Council for payment.

~~Reimbursement of any expense not included in the policy will required approval of the Chief Executive Officer.~~ Reimbursement of any expenses that are not specifically identified in this Policy

will require approval by the Chief Executive Officer after assessment of the relevant claim form by the Manager Governance.

Reimbursement of any expense not specifically provided for in this Policy will require approval by the Chief Executive Officer after assessment of the relevant claim form by the Manager Governance.

Claims for reimbursement must be submitted by the claimant on the appropriate claim form for assessment. Evidence, including any applicable original tax invoices or receipts (credit card receipts will not be accepted – only originals), log book entries or reports regarding training attended, are required to be submitted with the claim form as proof of purchase for reimbursement. Reimbursements must not be approved without sufficient evidence. Reimbursements will be paid by accounts payable on a monthly basis into the Councillor's or member of delegated committee's nominated bank account after approval is given by the Chief Executive Officer.

All claims for reimbursement must be made within 1 month of incurring the expense. All claims for reimbursement of expenses must be finalised at least one month prior to a Council election. Where there is an upcoming Council election, all claims for reimbursement of expenses must be finalised at least one month prior to the election date. A one-month grace period will apply post-election for Councillors who sought re-election and were not successful to lodge claim forms after which claim forms will no longer be accepted. At the expiry of the one-month grace period claims will no longer be accepted.

Legal support

Where legal proceedings are brought against a Councillor in connection with an act or omission in their functions as a Councillor, a Councillor may be entitled to have legal costs up to \$2,500 reimbursed. Legal costs will not be reimbursed for any defamation action brought by a Councillor.

A Councillor may seek reimbursement up to \$2,500 per request, and no more than 2 requests per financial year can be made by an individual Councillor. To receive reimbursement, the Councillor must provide a declaration that the matter for which reimbursement of legal costs is sought is related to their role as a Councillor and that they have acted in good faith and not unlawfully or improperly. The Councillor must engage a lawyer from a legal firm on the Municipal Association of Victoria panel or otherwise as approved by the Chief Executive Officer prior to any expense being incurred, otherwise they will not be granted reimbursement.

The Chief Executive Officer must refuse reimbursement in the following circumstances:

- a) to the extent the costs are unreasonable;
- b) the costs have been incurred through the engagement of a lawyer from a legal firm not on the the lawyer is not on the Municipal Association of Victoria panel, or pre-approved by the Chief Executive Officer, for any costs that were incurred prior to the Chief Executive Officer approval;
- c) the Chief Executive Officer considers the matter for which reimbursement of legal costs is sought is or was outside the functions or duties of the Councillor in the role as a Councillor/Councillor's official Council duties; or
- d) the Chief Executive Officer considers the Councillor has not acted in good faith or lawfully or properly in relation to the matter for which reimbursement of legal costs is sought.

A Councillor will repay any reimbursed costs where there is a finding by a court, tribunal or regulatory authority in relation to the matter for which the Councillor was reimbursed that the Councillor has not acted in good faith or has acted unlawfully or improperly.

Remote Area Travel Allowance

A remote area travel allowance will be paid to compensate for the time spent by Councillors who reside more than 50 km by the shortest possible practicable road distance from the location or locations specified for the conduct of:

- meetings of Council;
- meetings of delegated committees, Council advisory boards, consultative, advisory and other committees to which Council has formally appointed the Councillor as its representative;
- meetings and other formal events of organisations to which Council has formally appointed the Councillor as its delegate; or
- any municipal or community functions that have been authorised by the Mayor or Chief Executive Officer for the Councillor to attend.

A Councillor will be paid an allowance of \$40 per day on which one or more meetings or authorised functions is actually attended by the Councillor, up to a maximum of \$5,000 per annum. The remote area travel allowance is not paid on days that there are no meetings or authorised functions.

Councillors and members of delegated committees must submit a completed *Remote Area Travel Allowance* form by the last day in each month providing details of the date, location, purpose of the meeting and odometer reading at the start and end of journey for kilometres travelled on each occasion.

All claims for the remote travel allowance pertaining to travel undertaken within a particular financial year must be accounted for within that financial year. ~~A one-month grace period to 31 July in each year will be given to allow claim forms for the previous financial year to be lodged. At the expiry of the one-month grace period claims will no longer be accepted.~~

~~Travel for business purposes must be undertaken as efficiently and by the shortest route possible.~~

Other travel expenses

Council will pay for the costs of Councillors' travel if it is required for official Council duties, in accordance with the below guidelines.

Where travel is by air, economy class will be the standard.

Where travel between Bairnsdale and Melbourne and return is by train, first class will be the standard, in recognition of potential safety issues. ~~The standard of any other train travel will be determined by the Chief Executive Officer on a case-by-case basis.~~

All interstate travel proposed to be undertaken by a Councillor and paid for by Council during the course of their duties requires prior approval by the Chief Executive Officer.

All international travel proposed to be undertaken by a Councillor and paid for by Council requires prior approval by ~~Approval for overseas travel requires~~ a formal resolution of Council.

Claims for reimbursement of out-of-pocket travel expenses by Councillors may be made or approved only on the basis of the actual form of transport used and the actual out of pocket expenses incurred and be in the form of a reasonable allowance towards, or reimbursement of, out of pocket expenses necessary for the Councillor's official Council duties.

Representative Memberships

Council will organise and pay for collective Council or individual Councillor membership to peak Australian Local Government industry bodies.

Professional Development

Professional development for Councillors and members of delegated committees is encouraged.

Attendance at relevant conferences and seminars is considered necessary for effective representation and advocacy for the Shire and the development of Councillors in their role.

Councillors may attend seminars and conferences that:

- relate directly to performing official Council duties; or
- are organised by a Local Government peak body/association; and
- have a demonstrable benefit for the East Gippsland Shire community.

Councillors are encouraged to discuss proposed attendance at conferences and seminars with the Chief Executive Officer.

All arrangements associated with Councillor professional development (including registration, air or train travel and accommodation/meals) will be organised through the Councillor Support Officer.

Where professional development opportunity involves interstate or overseas travel ~~(with the exception of interstate travel by land for less than three days)~~ Councillors must complete a *Record of Interstate or Overseas Travel* form providing details of the date, destination, purpose and total cost of the travel.

After attending a professional development opportunity Councillors are required to provide a report to the next Council meeting. The summary should outline the benefits of the conference to themselves personally and to Council.

Conferences and Seminars

The cost of attending approved conferences and seminars, including reasonable out-of-pocket expenses substantiated by related receipts, will be met from the Council budget. Where a conference or seminar involves interstate or overseas travel, Councillors must complete a *Record of Interstate or Overseas Travel* form.

Each year Council's Budget includes provision for the costs associated with Councillor attendance at Council approved conferences and seminars (including registration fees, accommodation and meals for the duration of the event). This amount is apportioned as follows:

- allocation of a lump sum amount to meet the costs associated with all conferences, seminars and other events attended by the Mayor and Councillors in order to meet their responsibilities as elected representatives and where appropriate, as Council's formally appointed delegate or nominee; and
- a specific sum is allocated to the Mayor and each individual Councillor from which the costs associated with attendance at conferences, seminars or other events that are not directly related to their role as a formally appointed delegate or nominee (e.g. a professional development opportunity not being pursued by other Councillors) will be met.

Where the Mayor or a Councillor has expended the individual sum allocated to them in any year and wishes to attend a further conference, seminar or other event as described in this section, they will need to discuss their proposed attendance with the Chief Executive Officer so that the appropriateness of funding their attendance from another Council budget can be assessed against the following criteria:

Councillors Support and Expenses Policy
 Date approved: 25 August 2020
 Document owner: General Manager Business Excellence
 This document is uncontrolled when printed

Version number: 7
 Next review date:

10

- relevance to Council business and/or the Councillor's personal development requirements;
- benefits to Council and the Shire expected to flow from attendance;
- estimated cost including but not limited to conference material, travel and accommodation for the Councillor; and
- appropriateness of funding from other Council budgets.

After attending a conference or seminar, Councillors are required to provide a report to the next Council meeting. The summary should outline the benefits of the conference to themselves personally and to Council operations.

Hospitality

~~There are occasions where it is appropriate for the Mayor or Council to provide hospitality to groups or individuals who are regarded as key stakeholders in the Shire and with whom the Shire seeks to develop a closer or more effective working relationship.~~

~~These events may include meetings with key community groups or leaders, discussions with parliamentarians, business people and others whose interests are consistent with the Shire's objectives.~~

~~The common element which underpins hospitality extended by the Mayor or Council is that such hospitality is judged to be of assistance to East Gippsland Shire in furthering the Shire's interests and objectives.~~

Child care expenses

Council will reimburse the cost of child care where the provision of child care is reasonably required for a Councillor or a member of a delegated committee to perform their role. The reimbursement of childcare will be capped at the Federal Government hourly rate for in-home care at \$33.17 per family (this rate is subject to change and will be applied in accordance with the Federal Government recommendations).

Reimbursement for childcare costs by Council is limited to:

- child/ren aged less than 13 years;
- costs associated with childcare only and no other household duties;
- costs of childcare not covered by other entitlements such as the Australian Government Child Care benefit;
- childcare services that are operating as a registered business in Victoria; and
- childcare services that are not a relative or household member.

Subject to prior approval by the Mayor and Chief Executive Officer, a Councillor or member of a delegated committee with dependent children who is attending a conference or seminar at which a designated children's program is provided may enrol their dependent children in that program at Council's expense.

Care related expenses

For Councillors and members of a delegated committee who would otherwise be a primary care giver for immediate family members who are elderly or sick, have a disability or mental illness, or a care relationship for children up to 15 years old, Council will, subject to the requirements of this section, reimburse the cost of expenses incurred in order to provide care for their immediate family members who are elderly, infirm or sick and for children up to 15 years the relevant person, when the Councillor who would otherwise be the primary care giver is engaged in discharging their duties as a Councillor.

For Councillors and members of a delegated committee who are in a care relationship within the meaning of section 4 of the *Carers Recognition Act 2012*, Council will, subject to the requirements of this section, reimburse the cost of expenses incurred in order to provide care for the relevant person when the Councillor who would otherwise be providing the care is performing their duties as a Councillor.

~~Council will reimburse the cost of the expenses incurred by Councillors and members of delegated committees who are in a care relationship within the meaning of section 4 of the *Carers Recognition Act 2012*. A person is in a care relationship if he or she provides another person, or received from another person care because one of the persons in the relationship has a disability, is older, has mental illness or has an ongoing medical condition. A care relationship also includes where an individual provides care to a child in relation to a permanent care order, child care agreement of protection made under the *Child, Youth and Families Act 2005*.~~

Council will only reimburse Councillors or members of a delegated committee for carer expenses paid to:

- An accredited care provider; or
- A person providing care who does not:
 - (a) have a familial or like relationship with the Councillor or member of a delegated committee; or
 - (b) reside either permanently or temporarily with the Councillor or member of a delegated committee; or
 - (c) have a relationship with the Councillor or member of a delegated committee or their partner such that it would be inappropriate for Council to reimburse monies paid to the care provider.

Care expenses may include hourly fees as paid by the Councillor or member of a delegated committee to a care provider and/or agency booking fees if applicable.

All Abilities Access

Where possible, Council will resolve to meet reasonable additional expenses to assist a Councillor or member of a delegated committee with a disability to perform his or her official Council duties.

Standard of Accommodation and Meals

Standards and availability of accommodation vary markedly in both urban and regional areas. Councillors and members of delegated committees are encouraged to select accommodation that is modern, safe, and hygienic, ~~and positioned with a mid-range price (i.e. neither budget nor 'top of the range' accommodation).~~ In accordance with the Australian Taxation Office Taxation Determination TD2020/5 (the determination is subject to change and will be applied in accordance with the current Australian Taxation Office determination) reasonable accommodation expenses for Tier 2 country centres is \$134 per night and Melbourne is \$173 per night. Where accommodation is not available in accordance with these limits the Manager Governance may recommend to the Chief Executive Officer to approve accommodation that exceeds the limit.

If a Councillor requires accommodation in a location other than Melbourne or a Tier 2 country centre, the appropriate limits in the Australian Taxation Office Taxation Determination TD2020/5 will be applied and where accommodation is not available within the limits the Manager Governance may recommend to the Chief Executive Officer to approve accommodation that exceeds the limit.

All bookings for accommodation are to be made by the Councillor Support Officer.

In accordance with Occupational Health and Safety principles, Councillors who reside in the more remote areas of the Shire are encouraged to stay overnight following Council meetings, events and functions that conclude well after normal business hours. The cost of this accommodation will be meet by Council provided it fits with the standard of accommodation outlined above. When

a Councillor is required to stay overnight, the Councillor will be reimbursed for an evening meal, where this is not provided by Council or at a function attended in an official capacity, and breakfast.

Where meals are not included ~~in the package price of meetings~~, conferences, seminars and professional development events, ~~it is suggested that~~ Councillors and members of delegated committees can be reimburse for meals and beverages in accordance with the have regard to the amounts provided by the Australian Taxation Office, as reasonable. Only actual food and beverage expenses will be reimbursed up to the amount deemed reasonable by the Australian Taxation Office Taxation Determination TD2020/5 (the determination is subject to change and will be applied in accordance with the current Australian Taxation Office determination). Councillors and members of delegated committees will not be reimbursed for the purchase of any alcohol. The amounts below are the upper limits that may be claimed for out-of-pocket meal expenses for Tier 2 country centres:

- Breakfast \$ ~~27.00~~25.75 (only reimbursable for the day following an overnight stay)
- Lunch \$ ~~30.45~~29.35 (only reimbursable for the day following an overnight stay)
- Dinner \$ ~~51.85~~50.65 (only reimbursable for the night of an overnight stay)

The equivalent upper limit for Melbourne and other capital cities that may be claimed for out-of-pocket meal expenses are:

- Breakfast \$ 28.70 (only reimbursable for the day following an overnight stay)
- Lunch \$ 32.30 (only reimbursable for the day following an overnight stay)
- Dinner \$ 55.05 (only reimbursable for the night of an overnight stay).

Claims for reimbursement for out-of-pocket expenses will only be approved for the time away from home that allows the Councillor to perform their role.

As a general rule, it is anticipated that an *a la carte* meal purchased by Councillors would comprise of two courses or less. The purchase of any alcohol by a Councillor or member of a delegated committee must be done so at their personal expense.

Councillors are not permitted to seek reimbursement of out-of-pocket expenses to cover meals or refreshments for anyone other than themselves.

Council is a family-friendly organisation and as such, does not discourage family members from joining Councillors at conferences and events such as seminars, training or planning sessions and events. However, when accompanied by a family member (other than a Councillor's partner at a conference or seminar where the presence of their partner is necessary to support the business or representational needs of Council) any additional costs incurred (e.g. room upgrade, additional meals, etc.) are required to be paid for by the Councillor.

Other Exclusions

In addition to any exclusions set out in the rest of this Policy, Council will not be responsible for reimbursing the following expenses incurred by Councillors or members of a delegated committee:

1. Any costs arising from a breach of road, traffic, parking or other regulations or laws, will not be reimbursed or funded in any way by Council.
2. Expenses incurred which:
 - a. are not bona fide expenses;
 - b. have not been reasonably incurred in the performance of the role of Councillor or member of a delegated committee; or
 - c. are not reasonably necessary for the Councillor or member of a delegated committee to perform that role.

~~are not directly related to the official Council duties of a Councillor cannot be included in the calculation of a claim for reimbursement~~

3. The cost of the purchase of any alcohol ~~will not be reimbursed.~~

4. ~~Council will not provide reimbursements~~ Costs incurred for immediate family members/associates ~~in relation to attendance at to attend~~ conferences and events such as, seminars, training or planning sessions (other than in the case of attendance of a Councillor's partner at a conference or seminar where the presence of their partner is necessary to support the business or representational needs of Council).

If a Councillor does not claim a particular expense, this cannot be offset against a claim for any additional amount of another expense.

Reporting and review of expenses

All reimbursements and expenses paid to or for Councillors or members of a delegated committee will be recorded and categorised as either:

- travel expenses;
- professional development expenses; or
- expenses to support the performance of the role.

Details of all reimbursements to Councillors and members of delegated committees will be provided to the Audit and Risk Committee quarterly. These details must include:

- expenses incurred by Councillors during the quarter;
- reimbursement claims made by Councillors during the quarter; and
- reimbursements made by Councillors during the quarter.

A summary of reimbursements to Councillors and members of delegated committees will be published on Council's website following the report to the Audit and Risk Committee.

Council will provide Councillors and members of delegated committees with their expenses data for review on a quarterly basis.

Training

Training will be provided to Councillors and members of delegated committees in their induction training and midway through their term. Training will be given to Councillors and members of delegated committees by the Councillor Support Officer regarding which expenses they are entitled to receive reimbursement for and the requirements for obtaining reimbursement, such as the appropriate claim forms to be submitted. During the course of this training, Councillors and members of delegated committees will be informed that all expenses will be submitted to the Audit and Risk Committee, published on Council's website and included in the annual report to be presented at the end of each financial year. ~~in a Council meeting open to the public.~~

Roles and Responsibilities

These management positions are responsible for the implementation, communication and compliance monitoring of the policy in their work areas:

Party / Parties	Roles and Responsibilities
Chief Executive Officer	<p>Ensure <u>Advise</u> all Councillors and members of delegated committees are aware of their responsibilities and <u>to</u> comply with this Policy and the supporting guideline document.</p> <p><u>Approve claims for reimbursement of Councillor's out-of-pocket expenses.</u></p> <p><u>Approve support, expenses and reimbursements which are not specifically identified in this Policy.</u></p> <p><u>Approve content of claim forms to ensure sufficient detail is provided to substantiated claims for out-of-pocket expenses in line with the requirements in this Policy.</u></p>
General Manager Business Excellence	<p>Ensure all Councillors and members of delegated committees are aware of their responsibilities and comply with this Policy; and the supporting guideline document.</p> <p><u>Review the Ensure Policy to reflects legislative requirements and best practice for transparency of Councillor expenses and reimbursements of out-of-pocket claims.</u></p>
Manager Governance	<p><u>Review expense claims from Councillors.</u></p> <p><u>Provide advice to Councillors regarding support, expenses and out-of-pocket reimbursement.</u></p> <p><u>Provide advice to the Chief Executive Officer regarding accommodation expenses that exceed the limits outlined in this Policy.</u></p> <p><u>Provide training to Ensure Councillors receive training on this Policy and completing claim forms as outlined in the Policy.</u></p> <p><u>Provide Ensure a report on Councillor and members of delegated committee expenses and reimbursements is provided to the Audit and Risk Committee twice yearly quarterly.</u></p>
Councillor Support Officer	<p>Ensure all <u>Support</u> Councillors and members of delegated committees comply with this Policy.</p> <p><u>Book travel and accommodation as outlined in this Policy.</u></p> <p><u>Process Councillors out-of-pocket expense claims for review by the Manager Governance and approval by the Chief Executive Officer.</u></p> <p><u>Advise the General Manager Business Excellence the Manager Governance and the Chief Executive Officer of any discrepancies that may occur <u>with claims</u>.</u></p>
Finance Department	<p>Process reimbursements of expenses for Councillors and members of delegated committees.</p>

References and Supporting Documents

Applicable Legislation:

- Local Government Act 2020
- Local Government Act 1989
- Carers Recognition Act 2012
- Charter of Human Rights and Responsibilities Act 2006
- Freedom of Information Act 1982
- Privacy and Data Protection Act 2014

Supporting Documents:

- Reimbursement of expenses claim form
- Councillor remote area travel allowance claim form
- Councillor request/record – Interstate or overseas travel undertaken in an official capacity form
- Local Government Inspectorate Report – Councillor expenses and allowances: equitable treatment and enhanced integrity
- Australian Taxation Office Taxation Determination TD2020/5

Privacy and Human Rights Consideration

All personal information collected by East Gippsland Shire Council in connection with this Policy will be handled in accordance with all applicable privacy legislation and will be used only ~~for the purpose of investigating any discrepancies for purposes consistent with this Policy.~~

~~Personal information about an individual held by Council must be only used to carry out the primary or directly related purpose of collection. Furthermore, Council must not collect personal information unless the information is necessary for one or more of its functions or activities.~~

Individuals have the right to make a complaint to the Victorian Information Commissioner if they believe their privacy has been breached.

This Policy ~~has been assessed as compliant with the obligations and objectives of the Victorian Charter of Human Rights Responsibilities Act 2006.~~ ~~has been reviewed against and complies with section 13 of the Charter of Human Rights and Responsibilities Act 2006, as the Policy aligns with and provides for the protection of an individual's rights to have their privacy unlawfully and arbitrarily interfered with. It is also in line with section 18 which recognises a person's right to participate in the conduct of public affairs.~~

Definitions

Term	Meaning
<u>Act</u>	<u>Local Government Act 2020.</u>
<u>Chief Executive Officer</u>	<u>The person appointed by a Council under section 44 of the Act to be its Chief Executive Officer or any person acting in that position.</u>
<u>EGSC Council</u>	<u>East Gippsland Shire Council.</u>
<u>Councillor</u>	<u>A person who has been elected to the office of Councillor of East Gippsland Shire Council.</u>
<u>Delegated committee</u>	<u>The meaning given in the Act.</u>
<u>Officer</u>	<u>Member of An Officer of East Gippsland Shire Council. (EGSC) staff</u>
<u>Official Council duties</u>	<ul style="list-style-type: none"> • <u>Meetings of the Council, a delegated committee, its advisory boards, advisory or consultative committees;</u> • <u>meetings, briefing sessions and civic or ceremonial functions convened by the Mayor or Council or a delegated committee;</u> • <u>meetings of community groups, organisations and statutory authorities to which a Councillor has been appointed as Council representative or is authorised by Council to attend in their role as a Councillor;</u> • <u>meetings, functions or other official role as a representative of the Mayor or Council or a delegated committee;</u> • <u>other meetings, inspections, community forums or events attended by a Councillor in the course of their duties as a Councillor; and</u> • <u>conferences, seminars, events and professional development being undertaken by a Councillor.</u>
<u>Policy</u>	<u>This Councillor Support and Expenses Policy.</u>
<u>Shire</u>	<u>The geographical area of East Gippsland Shire Council.</u>

Revision History and Review

Version Control	Approved Amended Rescinded	Date Effective	Approved By	ECM Document Reference	Summary of Changes
1	Approved	27/9/2005	Council		Clause 4.2
2	Approved	July 2006	Council		Update of staff titles and meeting rooms
Update	Approved	1/11/2007	J Websdale		Staff Titles updated
3	Approved	10/11/2009	Council	3721038	Comprehensive review
4	Approved	04/03/2014	Council	5675760	
5	Approved	08/07/2016 03/08/2016	G Gaffney C Waites		Update of staff titles and expenses Update of Vehicle provisions
6	Approved	07/03/2017	Council	7132299	
7	Approved	25/08/2020	Council	8618744	Update to comply with <i>Local Government Act 2020</i> and update information relevant to actual practice, including removal of forms in appendix.
8			<u>Council</u>		<u>Reviewed in relation to <i>Local Government Act 2020</i> and Local Government Inspectorate Report – Overview of councillor support and expenses policy.</u>

5.2.3 Paynesville Community Craft Centre Lease

Authorised by General Manager Business Excellence

Conflict of Interest

Officers preparing this report have no conflict of interest to declare.

Executive Summary

This report is to seek Council's approval to grant a lease agreement for a further term of four years to the Paynesville Community Craft Centre Incorporated (PCCC) for the ongoing operation. This term will allow Council to finalise the design work for the upgrade and potential extension of the building and the sourcing of funding for the works. The PCCC would then be eligible to participate in any future Expression of Interest process for the facility, in line with Councils' Leasing and Licensing Policy for Council-owned Land and Council-managed Land (Leasing Policy)

The PCCC has been operating from the premises at 7 Sunset Drive Paynesville (Premises) for over 40 years (**Attachment 1**). The current lease expired on 30 June 2021.

Due to a range of factors Council has not been in a position to finalise the design work to finalise and fund the Progress Jetty Precinct. The work to date has included use of a Project Reference Group which the PCCC has been an active member of, and broader community consultation. This plan does not propose to relocate the PCCC but rather upgrade the building for multi-use.

Council officers, through formal resolution of Council, are seeking to delay the requirement of a competitive EOI process and to enter into a further lease agreement for a four-year term with the PCCC, to allow additional time to finish the design work for the existing building and its upgrade.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report, and***
- 2. approves the granting of an additional four-year lease to the Paynesville Community Craft Centre Incorporated.***

Background

The PCCC has operated at the premises at 7 Sunset Drive Paynesville since September 1979 (Premises).

In September 1979, the PCCC in partnership with the East Gippsland Shire Council opened the stone building on the shore of Lake Victoria. The building was previously the barbeque / kitchen building of the old camping ground that ran along the foreshore.

The PCCC continues to operate from the same site today. The PCCC makes handmade items that can be sold with the profits being donated to local groups, schools and also aids in supporting local fundraisers.

The PCCC had a section 17D *Crown Land (Reserves) Act 1978* lease agreement which expired on 30 June 2020. As per Council's Leasing and Licensing Policy for Council-owned Land and Council-managed Land, it was intended that an Expression of Interest (EOI) process would be conducted for the future use of this property. The PCCC was notified of this intention, which generated some negativity and concern from the PCCC and supporters regarding the security of tenure for the PCCC.

Alongside this matter, Council is working toward a major upgrade of the Progress Jetty Precinct. The detailed design work for the upgrade of the current building has been delayed whilst officers focused on projects with bushfire and COVID recovery. These factors also impacted on the timing of the EOI process and subsequently the PCCC was granted a 12 month lease. The approval to grant this further 12 month lease was provided under the former Rental Policy in November 2019.

Based on the current major upgrade of the Progress Jetty Precinct and the craft centre building in particular being significantly delayed due to unforeseen circumstances and taking into consideration the significant community contribution the PCCC make to the local community, Council is seeking an extension to the current lease of four years, to allow Council to finish and fund the design work for the Progress Jetty Precinct craft centre upgrade.

As the PCCC is the existing tenant and because there is no break in the continuity of their occupation at the Premises, Council is able to give them a lease agreement for the four years in accordance with the *Retail Leases Act 2003*.

Legislation

On 24 March 2020 the Government passed the *Local Government Act 2020* (the new Act). As of 1 July 2021 all provisions from the new Act have commenced. Some provisions of the *Local Government Act 1989*, that have not been repealed, will remain applicable until such time as they are revoked.

This report has been prepared in accordance with *Local Government Act 2020* section 190, the *Crown Land (Reserves) Act 1978* and the *Retail Leases Act 2003*.

As the cumulative rent for the period of the lease is under the threshold of \$100,000 and is not for longer than ten years, as determined by the Act, a statutory public consultation process is not required.

The implications of this report have been assessed and are not considered likely to breach or infringe upon the human rights detailed in the Victorian Government's Charter of *Human Rights and Responsibilities Act 2006*.

Collaborative Procurement

There are no aspects of this report that require entering into a procurement agreement and therefore external collaboration is not appropriate.

Council Plan

This report has been prepared and aligned with the following strategic objectives set out in the Council Plan 2021-2025:

Strategic Objective 5: 5.1 A better everyday customer experience is created for our residents and visitors.

Council Policy

The Leasing Policy, section 2 EOI provides for a lease that is partly commercial, where the Chief Executive Officer has determined there are demonstrable economic, social and / or environmental benefits for the wider community, through a formal resolution, Council can exempt or postpone the proposed lease or licence from the requirement for a competitive expression of interest process to be undertaken.

Due to the extraordinary circumstance being the events of 2020/2021, from the summer bushfires of January to March and then COVID-19, which has required significant other works across the Shire to take priority, Council has not been in a position to undertake the design work and community consultation for the proposed works at the Progress Jetty and by extension not identified a suitable location should the PCCC be required to move from its current premises. Therefore, a delay in the requirement of the EOI process is sought to allow the PCCC to remain at the existing premises for a further term of four years.

Options

There are two options available to Council.

Option 1

Only provide a six-month lease (required notice period) as required under the RLA,

Council would be required to undertake an EOI for the use of the site, acknowledging that the surrounding areas would be under construction with the upgrades and the PCCC would be removed, if they were not the successful applicants, without a suitable alternative location being available.

Option 2

To offer a further lease agreement of four years to the PCCC, which will allow Council to finalise the design work and community consultation for the Progress jetty precinct. Following the completion of the works, Council will be in a position to undertake the EOI for the future use of the Premises.

Option 2 is Council Officers' preferred option.

Resourcing

Financial

There would be no financial implications for Council in extending the current lease agreement to allow PCCC to remain at the Premises for a further four-year term.

Plant and equipment

There are no plant and equipment requirements associated with this report.

Human Resources

The granting of a four-year lease agreement to PCCC for the operation of the craft centre does not require any additional resources.

Risk

The risks of this proposal to grant a four-year lease agreement have been considered and are assessed as being low. Additionally, there will be a reduced reputational risk associated with extending the lease as opposed to removing the PCCC from the site if they are unsuccessful with the EOI process.

Economic

Allowing a further four-year term to the PCCC, will provide the best economic, environmental and social outcome for the future management of the public land where the PCCC is located, until the design work and subsequent works for the Progress Jetty precinct are completed.

Paynesville is a popular tourist and boating location and attracts a large number of visitors, particularly over the summer period. The PCCC is a long-standing community facility that provides the opportunity for local residents to come together and to sell their handmade crafts.

Social

The PCCC provides the opportunity for local residents to meet and display their handmade crafts for the public to purchase. This encourages the sharing of ideas by connecting to the local craft community and allows residents to meet in a safe place outside their homes with a common interest.

Environmental

There are no environmental implications for the granting of a further lease term.

Climate change

This report has been prepared and aligned with the following Climate Change function/category:

This report is assessed as having no direct impact on climate change.

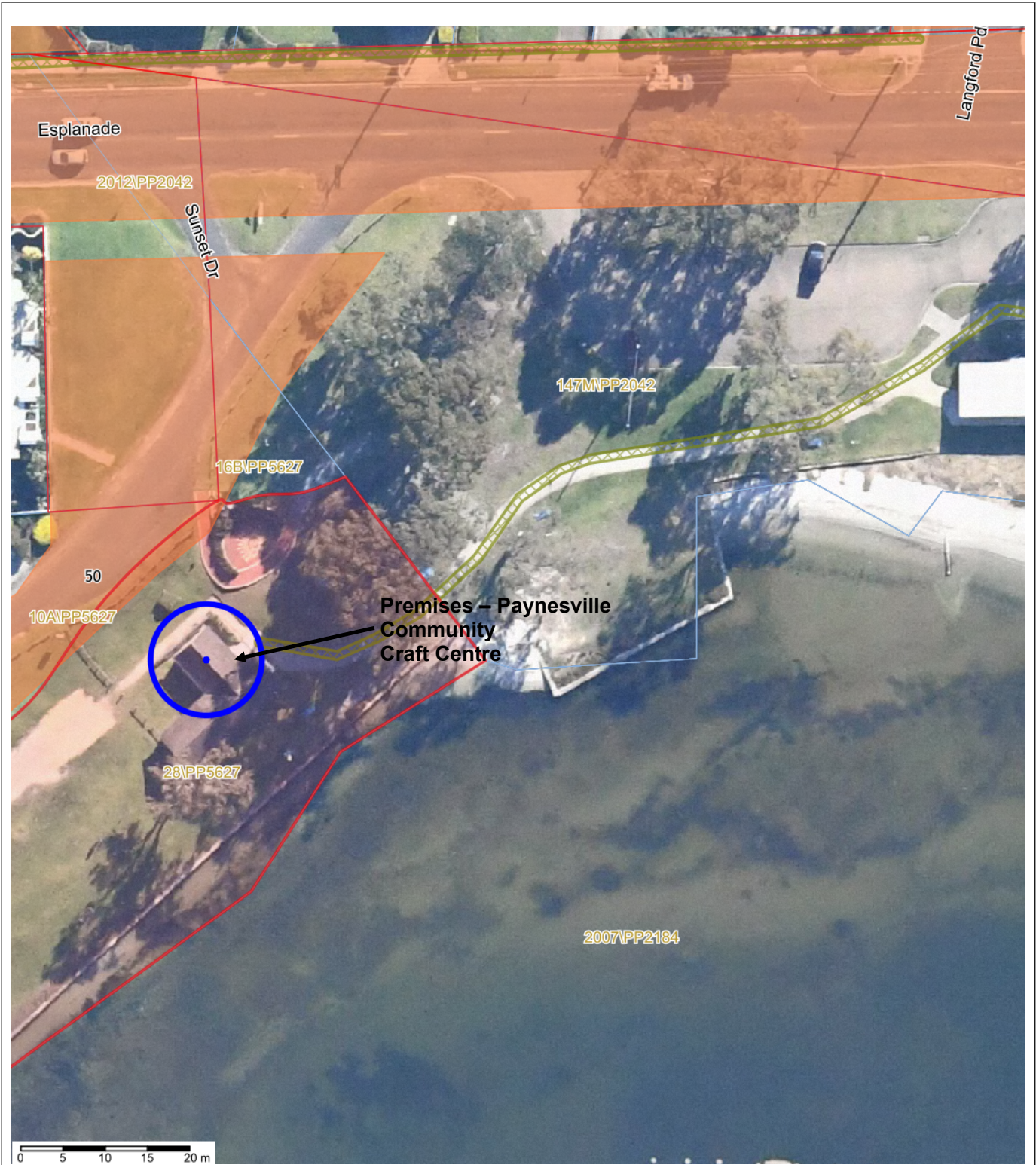
Engagement



The PCCC has been involved in the Project Reference Group for the Progress Jetty Precinct upgrade and understands both the process and the implications for their premises. Whilst the PCCC has indicated that they would like a longer-term lease they are aware of the processes that are being undertaken and the need to comply with Council's Leasing and Licensing policy.

If Council accepts the officer recommendation, we will be able to offer the additional four years, as outlined the report, however, upon completion of the design works for the Progress Jetty Precinct Council is still proposing to undertake an EOI for the future use of the site. This competitive process does not allow Council to provide a further commitment to the PCCC or predetermine what the EOI outcome will be.

Attachments

1. Site Location Plan Paynesville Community Craft Centre [5.2.3.1 - 1 page]



	<p>This map contains Vicmap information The State of Victoria, Department of Environment, Land, Water and Planning, 2019.</p> <p>Disclaimer: This material may be of assistance to you but the state of Victoria and its employees do not guarantee that the publication is without flaw of any kind or is wholly appropriate for your particular purposes and therefore disclaims all liability for any error, loss or consequences which may arise from your relying on any information contained in this material. Using or copying parts of this document is prohibited without Councils written Authority.</p>	<p>7 Sunset Drive Paynesville</p>	<p>1:647</p> <p>5/10/2020</p>	
---	---	---------------------------------------	-------------------------------	---

5.3 Place and Community

5.3.1 156/2021/P - 100 Kings Cove Boulevard, Metung

Authorised by General Manager Place and Community

Conflict of Interest

Officers preparing this report have no conflict of interest to declare.

Executive Summary

Planning permit application 156/2021/P (**Attachments 1, 2 & 3**) was lodged in March 2021. The application seeks to subdivide the land at 100 Kings Cove Boulevard, Metung into twelve (12) lots. The lot sizes proposed vary from 2000 to 6000 square metres. Lots 1, 4, 5, 8, 9 and 12 will front onto Kings Cove Boulevard, with Lots 2, 3, 6, 7, 10 and 11 to be situated behind those that front the road. These lots will be in a 'battle-axe' form, with 6m accessways to be provided to the lots furthest from the road.

Notice was undertaken in accordance with Section 52 of the *Planning and Environment Act 1987*. No objections were received. The application has been referred to relevant statutory authorities, with responses explained in the report and provided at **Attachment 5**.

The land is situated within the Kings Cove residential estate. The land is zoned Low Density Residential Zone, which recommends that lots be at least 4000 square metres where reticulated sewerage is not connected, and 2000 square metres where lots are connected to reticulated sewerage, which the property under assessment has access to.

Officers have considered the relevant planning merit of the application for subdivision of land in accordance with the East Gippsland Planning Scheme and recommend refusal of the application for grounds outlined in the recommendation to Council. The recommendation is consistent with response provided early in the processing of the application to the permit applicant (**Attachment 4**).

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report;**
- 2. being the Responsible Authority and having considered all the relevant planning matters, determines that planning application 156/2021/P at 100 Kings Cove Boulevard, Metung for a twelve lot subdivision is inconsistent with the requirements and objectives of the East Gippsland Planning Scheme and therefore resolves to issue a Notice of Refusal to Grant a Planning Permit in accordance with the following grounds of refusal:**
 - a. the proposed subdivision is inconsistent with the Incorporated Plan Overlay Schedule 1 – Storth Ryes Incorporated Plan C0002 June 2000;**
 - b. the proposed subdivision is inconsistent with the prevailing neighbourhood character for low density residential zone area of this estate;**
 - c. the proposed subdivision is inconsistent with the planning policy framework relating to neighbourhood character at clause 15.01-5S; and**
 - d. the proposed subdivision is inconsistent with the local planning policy framework at clause 21.12-2, Metung Strategy Plan, particularly in relation to landscape and environmental values and character of the area.**

Background

The Land

The site under assessment sits within the Kings Cove estate. In relation to landmarks in the area, it is adjacent to the golf course in the north, and is a short distance to the proposed Metung Hot Springs (73 Storth Ryes Avenue).

The land, shown in **Figure 1**, is located along Kings Cove Boulevard, which is the major thoroughfare within the estate. As previously mentioned, the adjacent lot to the north is currently part of the golf course. To the east is a carpark and reserve with access to development owned by Kings Cove Club Pty Ltd. On the other side of the road, there are four lots which are between 4000 to 5000sqm each in size. Three of the four lots are developed with single dwellings. To the west is undeveloped land, which is to be the site of further residential development and the inclusion of a new road coming from the roundabout at the intersection of Kings Cove Boulevard and Storth Ryes Avenue. This development is subject to the Resort/Motel and Convention Centre Incorporated Plan (May 1999) and requires final sign-off by the responsible authority before the subdivision progresses.



Figure 1 – The site in neighbourhood context (Source: Intramaps)

The land is 46,034 square metres (4.6 hectares) and is roughly rectangular in shape. Two existing sewerage easements are located on the site, with sewerage easement 'E-2' (as named in the plan of subdivision for the site) running across the north-western corner of the site and sewerage easement 'E-6' running across the rear of the site. The site only contains a single outbuilding as well as an estimated 50 to 100 trees of mature size and canopy as shown at **Figure 2**. There is currently only a single gravel crossover, located where proposed lot 9 is shown in **Figure 5**.



Figure 2 – Photo taken on site from the far south west corner near the road reserve. (Source: Officer)

The land is encumbered by two Section 173 Legal Agreements, which are subject to current processes led by council (see *Current Issues/Status* section of this report).

The Neighbourhood Context

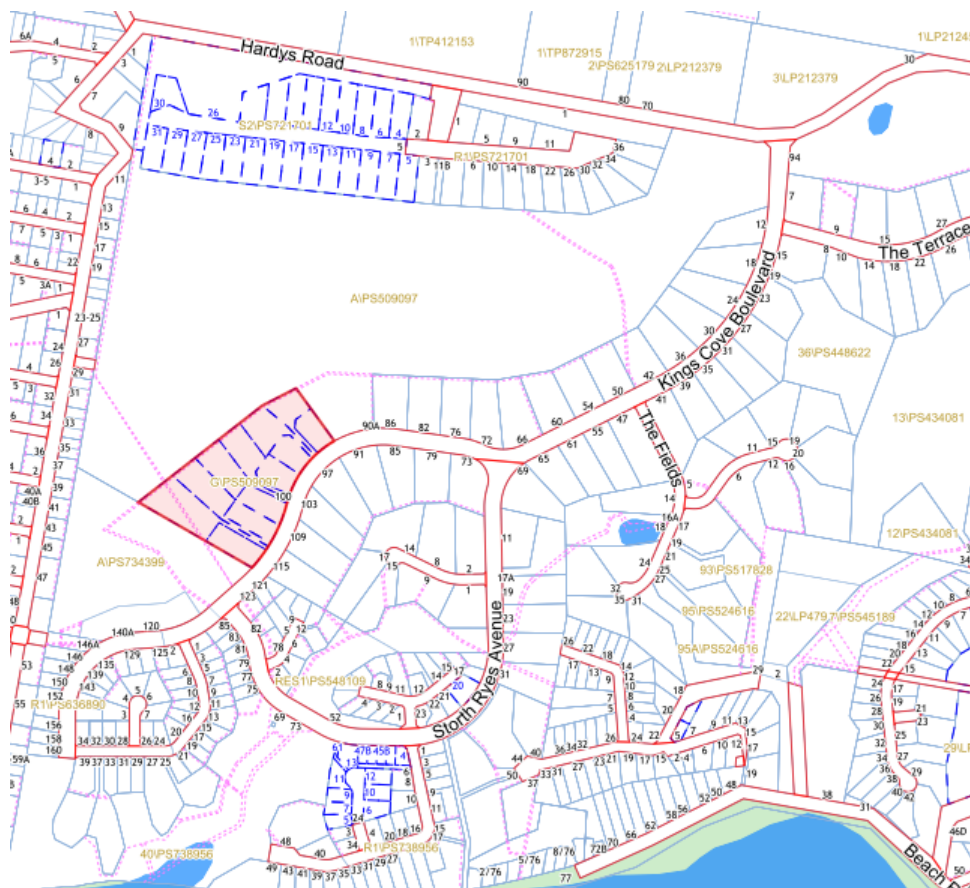


Figure 3 – The layout of lots in the area with the site of the proposed subdivision shaded in red (Source: Intramaps)

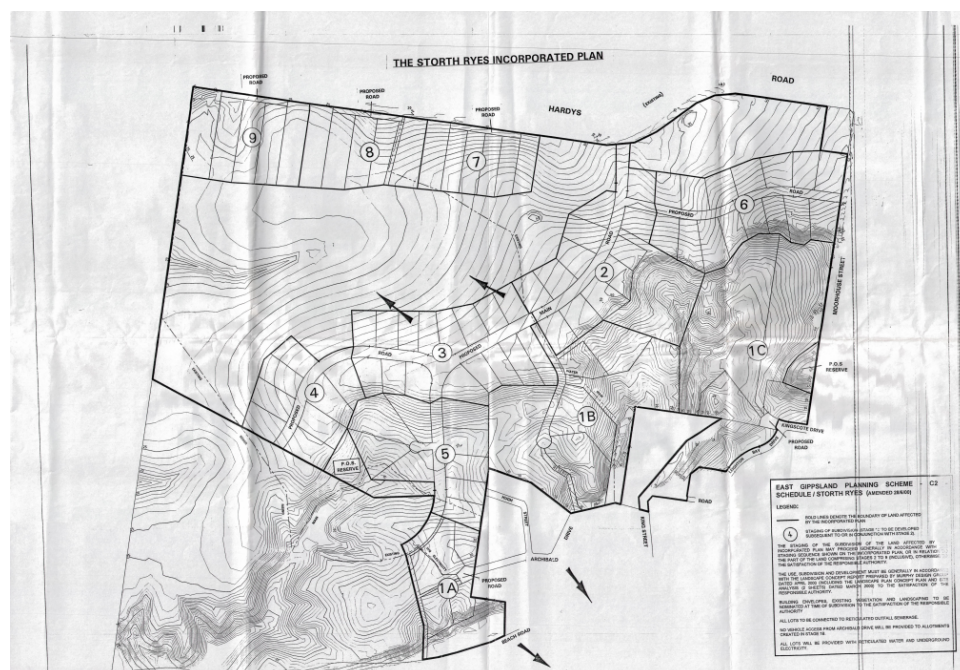


Figure 4 – Storth Ryes Incorporated Plan as exhibited with Amendment C2 (Source: DELWP Resource Library)

The Kings Cove estate is a carefully planned and managed area. The lots mapped under the Storth Ryes Incorporated Plan allow for previously planted vegetation to be maintained with ample room on lots to support low density residential development and associated outbuildings. The legal agreements found on lots across the area have been created to guide an ideal pattern of development and design of homes as can be seen throughout the estate.

The lot sizes within the estate can be broadly categorised under those which are in accordance with the Storth Ryes Incorporated Plan, and those which are not.

The former can be found primarily along Kings Cove Boulevard, The Terrace and partially down Storth Ryes Avenue. These can be considered as demonstrating the desired lot structure in the Storth Ryes Incorporated Plan (C002) as shown in **Figure 4**.

A separate and distinct Incorporated Plan operates to the south and west of the subject land. This Incorporated Plan (*Resort Hotel/Motel and Convention Facility Development, May 1999*) provides for the subdivision, use and development of the land for such things as a licenced resort hotel/motel, flats, townhouses, attached houses and the subdivision of the land including Bearham Chase, Plateau, parts of Kings Cove Boulevard and Storth Ryes Avenue, and associated courts that have progressed over the last decade at a density similar to General Residential zoning.

The Proposal

The subject Application seeks approval for a multi-lot subdivision which entails twelve lots ranging from 2000 to 6000 square metres (as shown on **Attachment 2**).

Each of the proposed lots exceeds the minimum subdivision size for lots specified for the Low-Density Residential Zone, given each lot can be connected to reticulated sewerage. In considering the number of lots as well as the connection to existing infrastructure, the proposal could be considered as being 'infill' development relative to the larger lots in the Kings Cove area.

Lots 1, 4, 5, 8, 9 and 12 will have frontage to Kings Cove Boulevard and will be provided with vehicle access as well as the installation of new crossovers to the satisfaction of the responsible authority. The remainder of the lots will be in 'battle-axe' form, with access to the lots behind those fronting the road being provided with 6m being provided for access down the 'handle' of the lots (see **Figure 5 and Attachment 2**).

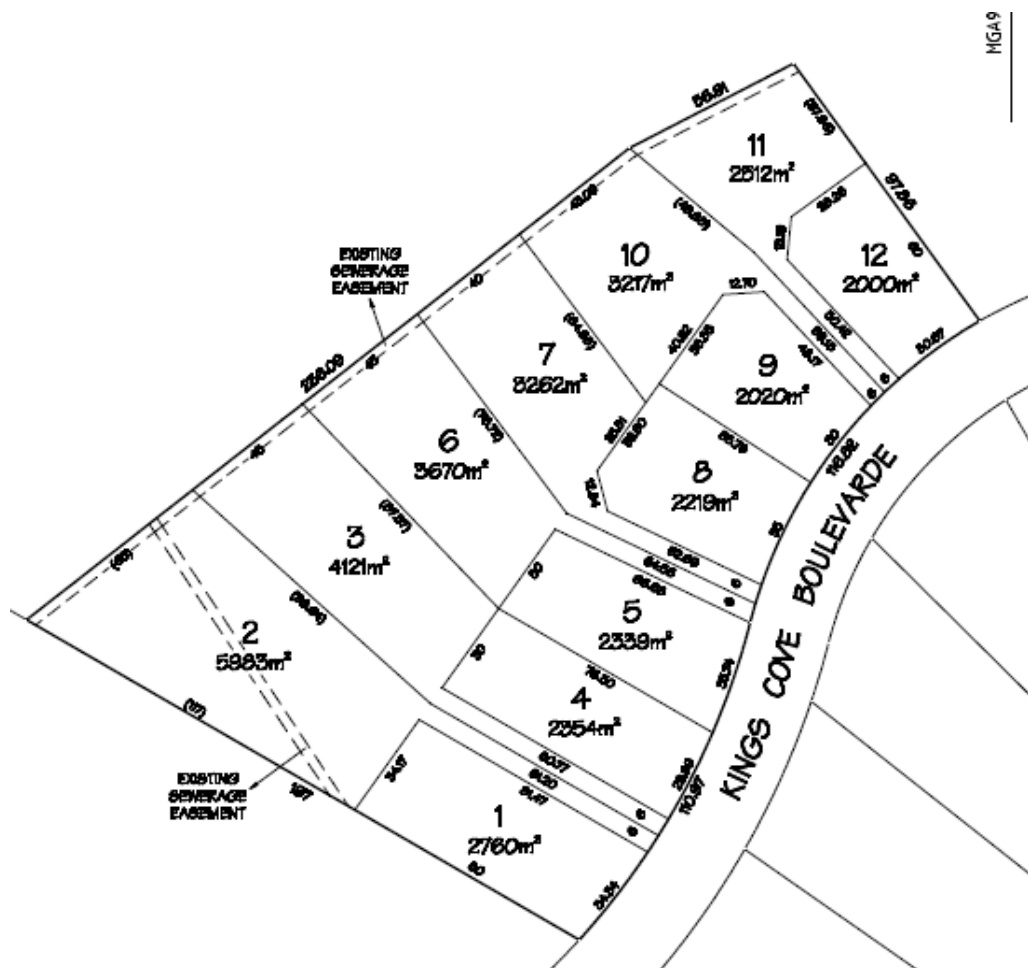


Figure 5 – Proposed Plan of Subdivision (Source: Crowther & Sadler, Version 2, Drawn 12/11/2020)

Application Process

The application (**Attachments 1, 2, & 3**) was submitted to Council in March 2021.

A site inspection by Officers was undertaken on 22 of April 2021.

A response to the application was sent to the applicant in the form of a concerns letter on 7 May 2021 (**Attachment 4**). In summary, the key points were as follows:

- The proposed subdivision is not consistent with the subdivision layout as shown in the Incorporated Plans for the Storth Ryes Estate.
- The proposal is inconsistent with the neighbourhood character of the Low Density Residential Zone/Kings Cove Boulevard Precinct.
- Officers did not share the applicants view regarding the proposed departure from neighbourhood character.

Notice was undertaken in accordance with Section 52 of the *Planning and Environment Act 1987*, with letters sent to adjoining owners as well as signs at both corners of the property adjoining Kings Cove Boulevard. No objections were received.

The applicant has carried out the notice to the satisfaction of the responsible authority and carried out a statutory declaration advising that the last day of the notice period was 14 May 2021.

Referrals were sent to:

- Ausnet Services under clause 66.01
- East Gippsland Water under clause 66.01
- APA Group under clause 66.01
- CFA under Section 52 of the *Planning and Environment Act 1987*.
- Council's Senior Technical Officers for internal comment.

Referral authority responses are provided at **Attachment 5**.

- Conditional consent was given by East Gippsland Water and Ausnet Services. Standard conditions apply.
- CFA requested further information regarding the fire hydrant requirements for the proposal. Officers have requested that the applicant provide a response to this further information request before a determination is made, however this does not alter the officer recommendation.
- APA did not respond to the referral task within the statutory timeframe. This is not unusual for an area which does not have reticulated gas supply.
- Councils Senior Technical Officers advised that as there is no drainage outfall or waterway immediately available to this proposed subdivision, a concept drainage Management Plan must be provided before a determination is made.

Current Status/Issues

The estate is undergoing a significant transition with respect to Section 173 Legal Agreements (Agreements) registered across the estate, including introducing consistent and standard amended Agreements through a Council-led process.

There are no restrictive covenants on the land, as is typical for other lots in the estate. Two Agreements applied to the subject land at the time the permit was lodged:

1. Agreement AB573238L, which has been ended and removed from title since the application was lodged.
2. Agreement AC166290V, which is in the final process to be amended, with the effect of the amendment due within the coming weeks following final lodgment of the amendment paperwork with Land Use Victoria.

These Agreements were registered in relation to the subdivision of the land and implemented design controls as desired by the developer of the estate and are not considered as typical restrictions that would have been required by the responsible authority. The guidelines attached to the Agreements on the titles set out:

- Building envelopes and single dwelling construction guidelines
- Soil and water management plans
- Landscaping and fencing controls.

A specific control and requirement enforced through covenants entered into at the transfer of land was that the developer (Kings Cove Metung Architectural Review Committee) must review and approve the proposed development plans prior to commencement of construction. In most cases, the developments would meet planning permit exemptions as a result of the zoning and title controls combined. As explored through the process of ending and amending the Agreements in 2020/2021, Kings Cove Metung became insolvent, and once the liquidators had completed all activities, the entity ceased to exist and the restrictions on title could not be met.

The intent of the process to amend the Agreements (as carried out by Council in the past 8 months) is to maintain the existing neighbourhood character which is influenced by pattern of development, design of homes, retention of existing planted vegetation, separation between dwellings, and presentation to the streetscape. This resulted in Council carrying forward the fencing requirements, general amenity considerations, size of dwellings, building envelopes through the Amended Agreement.

It is noted that feedback on the proposed Amendments to the Agreements from the community reinforced the desire for the estate to maintain its character and that the responsible authority should continue to preserve the character through the prevention of further subdivision. This was also clear in relation to permit application 61/2020/P for a two lot subdivision at 9 The Billabong, Metung (May 4 2021, Item 5.2.2), which saw 42 objections and the endorsement of a recommendation to refuse that application on similar grounds to those proposed therein by Council.

Legislation

The implications of this report have been assessed and are not considered likely to breach or infringe upon the human rights detailed in the Victorian Government's Charter of *Human Rights and Responsibilities Act 2006*.

The processing of the planning permit application is undertaken in accordance with the provisions of the *Planning and Environment Act 1987*.

The proposal is made pursuant to the East Gippsland Planning Scheme:

Zone: Low Density Residential Zone (LDRZ)
Overlays: Erosion Management Overlay (EMO); Vegetation Protection Overlay Schedule 3 (VPO3); Incorporated Plan Overlay Schedule 1 (IPO1)

Planning Permit Triggers:

- Clause 32.03-3 for subdivision in accordance with the LDRZ;
- Clause 44.01-5; for subdivision in accordance with the EMO; and
- There is no trigger for the proposal pursuant to the:
 - o IPO1 – The schedule provides that “Except with the grant of a permit, the use, subdivision and development of the land must be generally in accordance with the Incorporated Plan”.
 - o VPO3 - no vegetation removal required for the subdivision and no trigger for subdivision in the overlay.

Assessment of the Proposal against the East Gippsland Planning Scheme

State and Local Policy

The proposed subdivision appropriately responds to the majority of State and Local Planning Policy. The proposal is to provide for additional housing in well serviced townsites areas. Where the proposal is considered to fail is in relation to the character of the neighbourhood.

15.01-5S Neighbourhood character

Objective

To recognise, support and protect neighbourhood character, cultural identity, and sense of place.

Strategies

Support development that respects the existing neighbourhood character or contributes to a preferred neighbourhood character.

Ensure the preferred neighbourhood character is consistent with medium and higher density housing outcomes in areas identified for increased housing.

Ensure development responds to its context and reinforces a sense of place and the valued features and characteristics of the local environment and place by respecting the:

- *Pattern of local urban structure and subdivision.*
- *Underlying natural landscape character and significant vegetation.*
- *Neighbourhood character values and built form that reflect community identity*

It is considered that the proposal is highly inconsistent with the prevailing neighbourhood character when considering the relevant controls applicable to the land. It is important to distinguish between this land and land to the south which is subject to a different set of controls, and therefore, has a contrasting neighbourhood character. The character area assessed is limited to Storth Ryes Avenue, Kings Cove Blvd, and Golf Course Precinct, and does not include an assessment related to the North Course area to the North-West, which is clearly distinguished by the golf course in-between.

The proposed design, specifically battle-axe configuration of half of the lots, is therefore not consistent with the development pattern and intensity along Kings Cove Boulevard.

Vision

Metung will be a key destination for visitors to the Gippsland Lakes system and a significant boating hub.

It will continue to have a strong residential community. Preservation of environmental and landscape values will be a key priority.

It will have an attractive village centre that promotes community interaction, with extensive pathways linking the village centre to other attractions. The village will be contained and meet the day to day needs of residents and visitors, but there will remain a reliance on external sources for higher order goods and services.

The buildings in Metung will remain modest in scale – generally two to three levels. Materials and colours will complement the natural environment.

Objectives

- *To retain the landscape setting, environmental qualities and lifestyle that contribute to the 'village' character of Metung.*
- *To ensure that development does not adversely affect landscape and environmental values.*
- *To support Metung's boating centre role and improve water access.*
- *To create a cohesive and attractive village centre.*
- *To improve pedestrian circulation and safety.*

Strategies

- *Ensure that the development of Metung occurs generally in accordance with the Metung Strategy Plan.*
- *Limit urban development to areas south of Metung – Nungurner Road and Hardys Road.*
- *Retain the north-east area of Metung as low density residential development, reflecting the physical constraints and existing character of the area.*
- *Ensure new development does not adversely affect landscape and environmental values and incorporates measures to protect those values including by protecting visually and environmentally significant native vegetation, the vegetated escarpment of Lake King and vegetated wildlife corridors; protecting wetlands; provision for on-site storm water management and erosion protection; minimisation of building footprints; and encouraging additional planting of indigenous plant species.*
- *Contain commercial development to suitably zoned areas or approved sites.*
- *Provide better visual connections to the water and increase water edge activities.*
- *Limit building height to retain the human and village scale of the area.*
- *Provide additional parking opportunities on the fringe of the village centre.*
- *Ensure consistent signage that communicates an appropriate village theme.*
- *Improve pedestrian connections along both sides of the peninsula, providing waterfront links between the village centre and the rest of Metung.*
- *Ensure that development adjoining the Village Green and Patterson Park preserves the village atmosphere.*
- *If the resort proposal on the Storth Ryes site between Metung and Tambo Bluff does not go ahead, encourage the progressive development of this site for low density residential uses, subject to the preparation of an Incorporated Plan.*
- *Ensure that land use and development adjoining Metung Road, Nungurner Road and Kalimna West Road do not detract from the scenic landscape values of the road corridors and the views from them.*

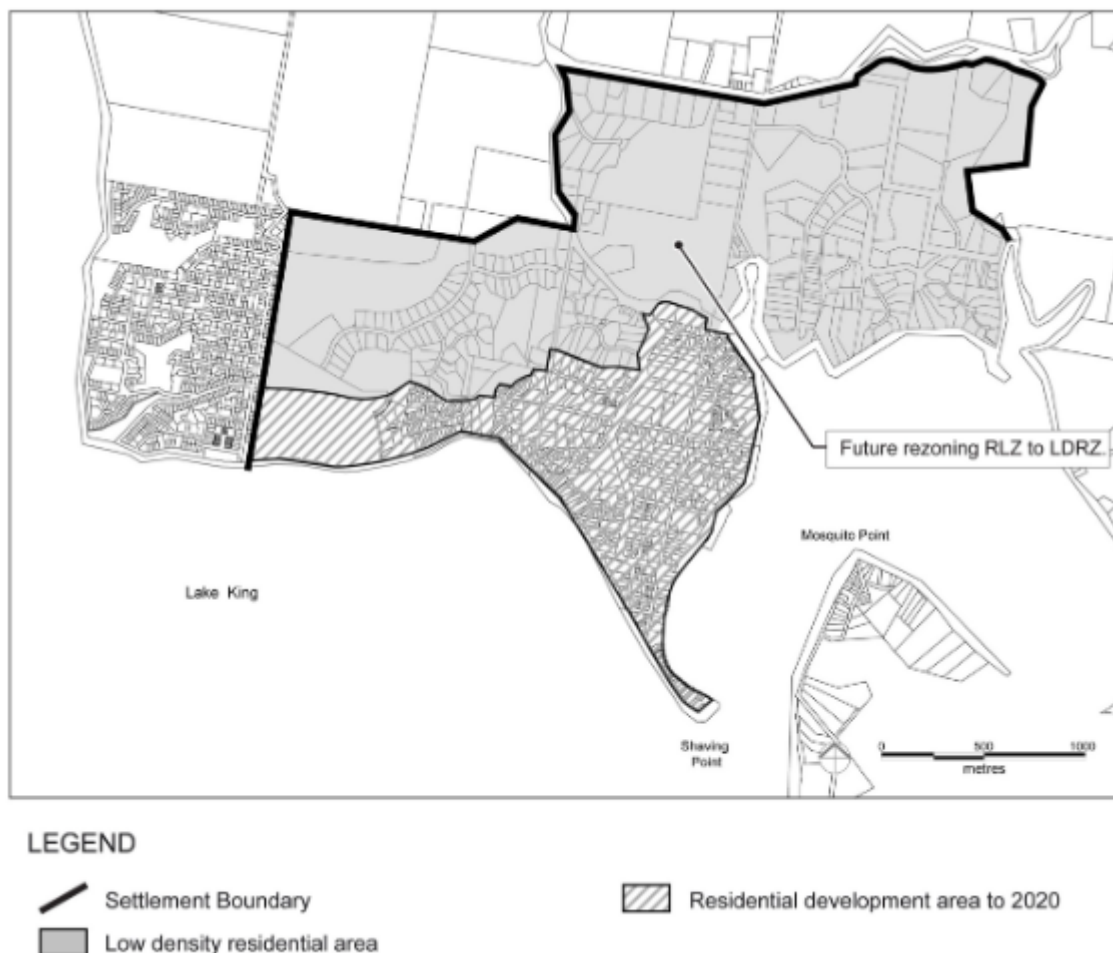


Figure 6 – Metung Strategy Plan (Source: East Gippsland Planning Scheme)

In considering the proposal's location in Metung, the land is clearly within the Low Density Residential Zone precinct for development, and meets the majority of the strategies towards the objectives of the settlement. Officers contend that the proposal is a poor response to landscape and environmental values designated in this area. Despite the vegetation on the site being planted, much of the vegetation could be retained with fewer lots being developed on the site. The guidelines which were established for the development will arguably not have the same impact to ensure landscaping consistent with the remaining estate. The loss of these trees cannot be immediately made up by new plantings on private property, and therefore their removal must be limited by refusing to grant the permit.

Zones and Overlays

Pursuant to the Low Density Residential Zone, the application is compliant and can be supported in relation to lot size for sewerage areas. The relevant decision guidelines for subdivision focus on these aspects, but also requires consideration of:

The protection and enhancement of the natural environment and character of the area including the retention of vegetation and faunal habitat and the need to plant vegetation along waterways, gullies, ridgelines and property boundaries.

There is not a specific neighbourhood character assessment required as in other residential zones.

Pursuant to the Erosion Management Overlay, a Geotechnical Risk Assessment has been provided which demonstrates that the land can be subdivided and developed with a single dwelling on each lot with no increased erosion risk.

It is identified and agreed upon that the vegetation present on the land is planted and is therefore exempt from planning permission for native vegetation removal under Clause 52.17 of the Scheme. No request is made in relation to this application to have vegetation removed pursuant to the Vegetation Protection Overlay, however the future development of dwellings may first require vegetation removal permits, where officers would consider the avoid and minimise principle in advice to purchasers.

The Incorporated Plan Overlay, including Schedule 1 of that overlay, notes:

Purpose

To identify areas which require:

- *The form and conditions of future use and development to be shown on an incorporated plan before a permit can be granted to use or develop the land.*
- *A planning scheme amendment before the incorporated plan can be changed.*

To exempt an application from notice and review if it is generally in accordance with an incorporated plan.

Requirement before a permit is granted

A permit must not be granted to use or subdivide land, construct a building or construct or carry out works until an incorporated plan has been incorporated into this scheme.

This does not apply if a schedule to this overlay specifically states that a permit may be granted before an incorporated plan has been incorporated into this scheme.

A permit granted must:

- *Be generally in accordance with the incorporated plan, unless a schedule to this overlay specifies otherwise.*

Exemption from notice and review

An application under any provision of this planning scheme which is generally in accordance with the incorporated plan is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act.

Decision guidelines

Before deciding on an application under any provision of this scheme which is not generally in

accordance with the incorporated plan, in addition to the decision guidelines in Clause 65, the

responsible authority must consider:

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The incorporated plan.*

Preparation of the incorporated plan

The incorporated plan may consist of plans or other documents and may, with the agreement of the planning authority, be prepared and implemented in stages.

The incorporated plan must describe:

- *The land to which the plan applies.*
- *The proposed use and development of each part of the land.*
- *Any other requirements specified for the plan in a schedule to this overlay.*

**SCHEDULE 1 TO CLAUSE 43.03 INCORPORATED PLAN OVERLAY
STORTH RYES, METUNG**

Requirement before a permit is granted

A permit must not be granted to use or subdivide the land, construct a building or construct or carry out works until an incorporated plan has been incorporated into this Scheme.

This does not apply to a use, subdivision, development or buildings and works if they are in accordance with the specific site controls set out in the Schedule to Clause 51.01 of this Scheme.

Except with the grant of a permit, the use, subdivision and development of the land must be generally in accordance with the Incorporated Plan.

Preparation of the incorporated plan

The purpose of the Incorporated Plan Overlay control is to regulate the future use, subdivision and development of the land pursuant to the provisions of the Low Density Residential Zone until an incorporated plan has been incorporated into this Scheme.

The incorporated plan must contain the following information to the satisfaction of the responsible authority:

- *Details of all existing significant physical features of the land including topography, vegetation, viewpoints*
- *The general subdivisional layout for the land*
- *The position and width of existing and proposed major access roads*
- *The staging of subdivisional works within particular development areas or stages*
- *Building envelopes*
- *Areas of proposed landscaping*
- *The nature of utility services (including waste disposal arrangements)*
- *Any other matter which is considered appropriate by the responsible authority to satisfy the requirements of this Scheme*

The entirety of the Incorporated Plan is outlined at **Figure 4**. Quite obviously, the requirements of the Incorporated Plan Overlay and Schedule have been amended since the preparation of C002, as little of the detail now required is demonstrated in this incorporated plan.

As demonstrated in **Figure 4** and more closely in **Figure 7**, the incorporated plan demonstrates four lots to be developed on the (approximate) subject land, with frontages fully to the road. It is noted that the development brought forward over the years is not absolutely, but generally in accordance with the plan, as suitable under the Overlay and Schedule. The argument put forth by officers is that by increasing the lot yield by a multiple of three (3) to create a total of twelve (12) lots in the area, the proposal is no longer generally in accordance with the plan. As such, notice of the proposal was given, and officers content that the exemption provided by the overlay does not apply. This has not been debated by the applicant as of the time of writing.



Figure 7 – Detail from the Incorporated Plan (C002) of the subject site in neighbourhood context (Source: DELWP Resource Library).

Decision Guidelines: Approval of an Application to Subdivide Land

Before deciding on an application to subdivide land, the responsible authority must also consider, as appropriate:

- *The suitability of the land for subdivision.*
- *The existing use and possible future development of the land and nearby land.*
- *The availability of subdivided land in the locality, and the need for the creation of further lots.*
- *The effect of development on the use or development of other land which has a common means of drainage.*
- *The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.*
- *The density of the proposed development.*
- *The area and dimensions of each lot in the subdivision.*
- *The layout of roads having regard to their function and relationship to existing roads.*
- *The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots.*
- *The provision and location of reserves for public open space and other community facilities.*
- *The staging of the subdivision.*
- *The design and siting of buildings having regard to safety and the risk of spread of fire.*
- *The provision of off-street parking.*
- *The provision and location of common property.*
- *The functions of any body corporate.*
- *The availability and provision of utility services, including water, sewerage, drainage, electricity and gas.*
- *If the land is not sewered and no provision has been made for the land to be sewered, the capacity of the land to treat and retain all sewage and sullage within the boundaries of each lot.*
- *Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas.*

In relation to the Clause 65.02 'Decision Guidelines', Officers attest that there is a suitability for some level of subdivision to occur in relation to the property. Key areas where the proposal is deemed as failing includes the density, layout, existing vegetation, movement of access and ease of access.

The applicant at Page 20 of their submission in **Attachment 3** notes that variations to the incorporated plan have previously been approved, as is the case in the North Course and lot layouts to the east along Kings Cove Boulevard, Storth Ryes Avenue and The Billabong. Officers contend that decision guidelines above with relation to vegetation, site access, and servicing are key points of difference that made the North Course an amenable outcome. New roads were proposed, and vegetation loss was minimised along Hardys Road in this instance. Further, the North Course is not adjacent to the remaining 4000 plus square metre allotments in the same incorporated plan area, thus the neighbourhood character arguments put forth do not hold the same amount of weight.

Along with the decision guidelines and servicing is the referral response from Country Fire Authority which highlights that the proposal may have a servicing issue for Hydrants. Hydrants are currently provided at every other lot along the south/east of Kings Cove Boulevard. Hydrants must service the rear of the lot within 120 metres, which is a requirement based on hose reel lengths and water pressure. With a battleaxe configuration, some of the rear/furthest points from the road reserve on the proposed lots are closer to 200 metres. As of the time of writing a response is being prepared by the applicant, but it is argued that this would not necessarily alter the officer recommendation without significant amendment to and further public notice of the proposal.

Key to the officer argument against the proposal is neighbourhood character, relying on the specific history of the development, the recent amendments to Agreements, public response to the Agreements, some recent variations to covenants, and the assessment and subsequent decision made in relation to planning permit application 61/2020/P. Officers acknowledge that no objections were lodged with respect to this proposal, however the public sentiment is being carried forward from those other consultation processes.

As per the officer recommendation, the assessment is made that the application cannot be supported. The proposed grounds of refusal are:

- the proposed subdivision is inconsistent with the Incorporated Plan Overlay Schedule 1 – Storth Ryes Incorporated Plan C0002 June 2000;
- the proposed subdivision is inconsistent with the prevailing neighbourhood character for low density residential zone area of this estate;
- the proposed subdivision is inconsistent with the planning policy framework relating to neighbourhood character at clause 15.01-5S; and
- the proposed subdivision is inconsistent with the local planning policy framework at clause 21.12-2, Metung Strategy Plan, particularly in relation to landscape and environmental values and character of the area.

The proposal increases the anticipated lot yield for this section by a multiple of three (3). Lots which were to have full frontage to the road are in this application proposed to include a battle axe configuration, which is inconsistent with the prevailing lot layout. Nowhere else in the estate is there such an intensity of fragmented property accesses proposed. From a traffic safety and site servicing perspective, this is an undesirable outcome. Typically this arrangement would be proposed in areas with significant environmental constraints which limit access, such as slope or vegetation, or where there is an established dwelling to be retained in a two-lot subdivision.

Collaboration

Nil

Council Plan

This report has been prepared and aligned with the following strategic objectives set out in the Council Plan 2021-2025:

Strategic Objective 2: 2.1 Statutory and strategic planning for land use delivers sustainable outcomes that balance the need for growth with the enhancement of our lifestyle, character, the built and natural environment.

Council Policy

As officers have determined that an application cannot be supported, the matter has been reported to Council for consideration and determination pursuant to *Council's Planning Permit Application Delegations Policy 2018*.

Options

The matter must be determined by Council. The options available for a recommendation include:

1. Recommendation for refusal, subject to specific grounds for refusal, or
2. Recommendation for approval, subject to conditions.

Council officers have expressed hesitancy to approve the application due to the number of lots created with respect to the prevailing neighbourhood character as well as the inconsistency with the Incorporated Plan and the local planning policy framework at clause 21.12-2 relevant to Metung.

Should Councillors choose to grant a planning permit, it is recommended that an alternative motion be considered which sets out in-principal support for the application and parameters for delegation of the setting of conditions to the General Manager, Place and Community, as the outstanding matter of Country Fire Authority referral response may require some modifications to the design and further conditions to be imposed.

Resourcing

Financial

The assessment of the planning permit application is subject to standard statutory fees which contribute to cost recovery.

Plant and equipment

Nil resources required outside standard working equipment.

Human Resources

The application assessment is undertaken by staff in the planning team.

Risk

The risks of this proposal have been considered and there is limited organizational assessed risk outside the typical planning assessment process.

Economic

It could be considered that the proposal will provide minor opportunities for development through an increase in provision of lots for housing.

Social

Despite there being no objections received by the proposal, it is argued that there is the potential for the proposal to create stress on community infrastructure as well as a likely increase in the amount of traffic, noise, and the creation of related amenity impacts on the surrounding neighbourhood as mentioned.

Environmental

From a land capability and biodiversity perspective, it is likely that environmental features would be impacted by the proposal. As mentioned, there is no drainage outfall or waterway available to the proposed subdivision.

Due to the proposed lot sizes and the planning provisions which apply to the property, planning approval will not be required for the removal of vegetation on the proposed lots, which may ultimately lead to a loss in trees on the site as mentioned.

Climate change

This report has been prepared and aligned with the following Climate Change function/category:

Land Use Planning: Consideration is given to climate change in the local land use planning and includes responses to direct and indirect impacts.

Engagement

Pursuant to the *Planning and Environment Act 1987*, notification of the proposal was carried out via a sign on site and letters to directly affected landowners/occupiers. There have been no objections received. The requirement to carry out notice has been undertaken by the applicant to the satisfaction of the responsible authority.

Attachments

1. Application Form [5.3.1.1 - 2 pages]
2. Plans [5.3.1.2 - 2 pages]
3. Copy of Title, Agreements and Supporting Documentation [5.3.1.3 - 138 pages]
4. Officer Response to Application [5.3.1.4 - 1 page]
5. Referral Responses [5.3.1.5 - 5 pages]

Alex Murphy

From: Snapforms Notifications <no-reply@snapforms.com.au>
Sent: Wednesday, 31 March 2021 4:24 PM
To: Planning Unit Administration
Subject: Planning Permit application
Attachments: 18722 Copy of Title Vol_10743 Fol_419.pdf; 18722 Prop V2.pdf; 18722 Planning Report.pdf

Planning Permit Application

A Planning Permit Application' has been submitted via the East Gippsland Shire Council website, the details of this submission are shown below:

Name: Crowther & Sadler Pty Ltd

Business trading name: Crowther & Sadler Pty Ltd

Email address: contact@crowthersadler.com.au

Postal address : PO Box 722, Bairnsdale 3875

Mobile phone number: 03 5152 5011

Owner's name: EXON TONE PTY LTD

Street number: 100

Street name: Kings Cove Boulevard

Town: Metung

Lot number: G

Plan number: 509097V

Plan type: Plan of subdivision

Has there been a pre-application meeting: No

Your reference number: 18722

Is there any encumbrance on the Title such as a restrictive covenant, section 173 agreement or other obligation such as an easement or building envelope?: Yes

Will the proposal result in a breach of a registered covenant restriction or agreement?: No

Description of proposal - Describe the use, development or other matter which requires a permit: Proposed 12 Lot subdivision

Existing conditions - Describe how the land is used and developed now: Vacant land

Estimated cost of development. Note: You may be required to verify this estimate: \$0.00

Title (must have been generated within the past 30 days: [18722 Copy of Title Vol 10743 Fol 419.pdf](#)

Site plan/floor - plan/elevations: [18722 Prop V2.pdf](#)

Planning report: [18722 Planning Report.pdf](#)

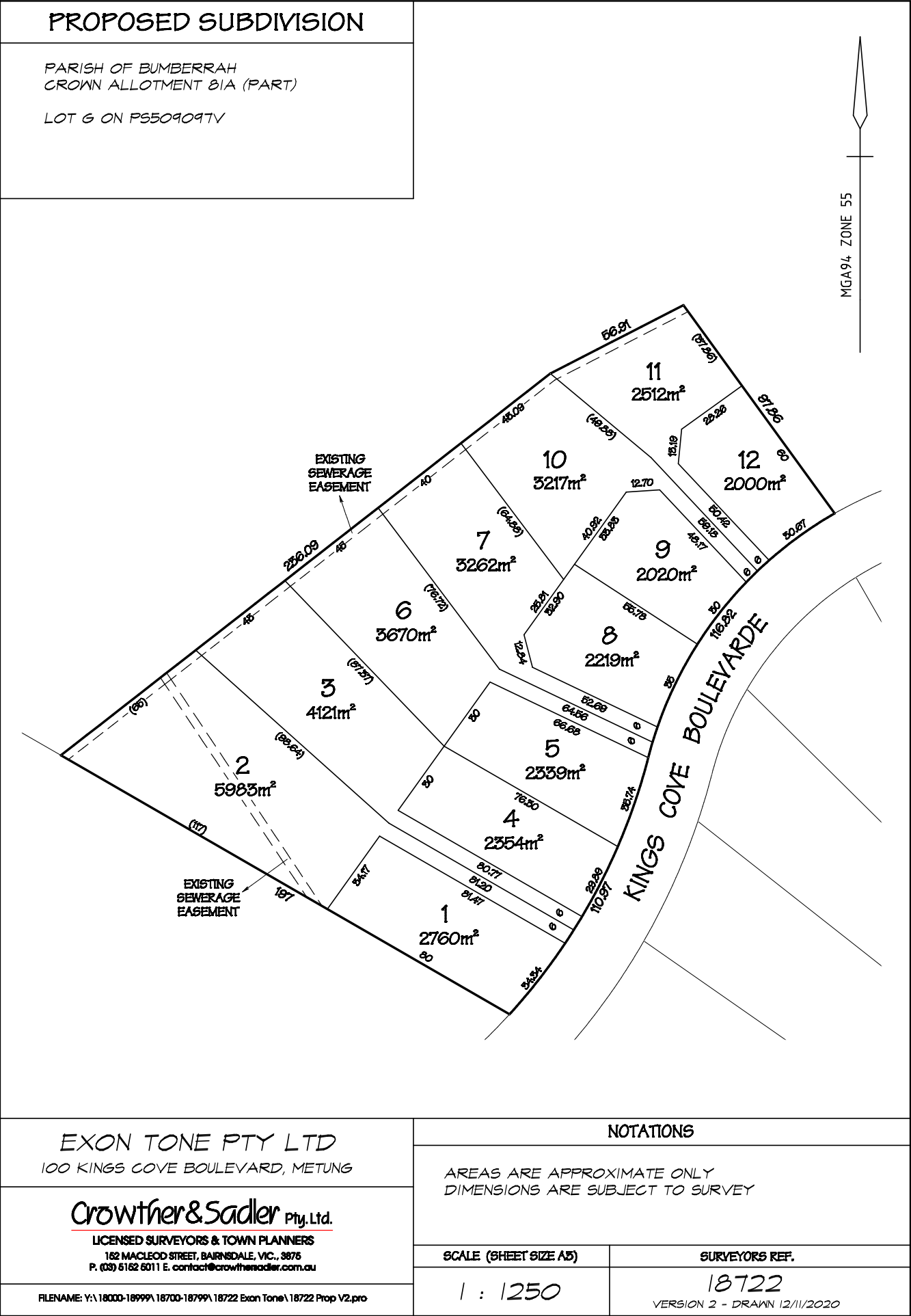
1. Supporting information/reports: [18722 Bld Envel V1.pdf](#)

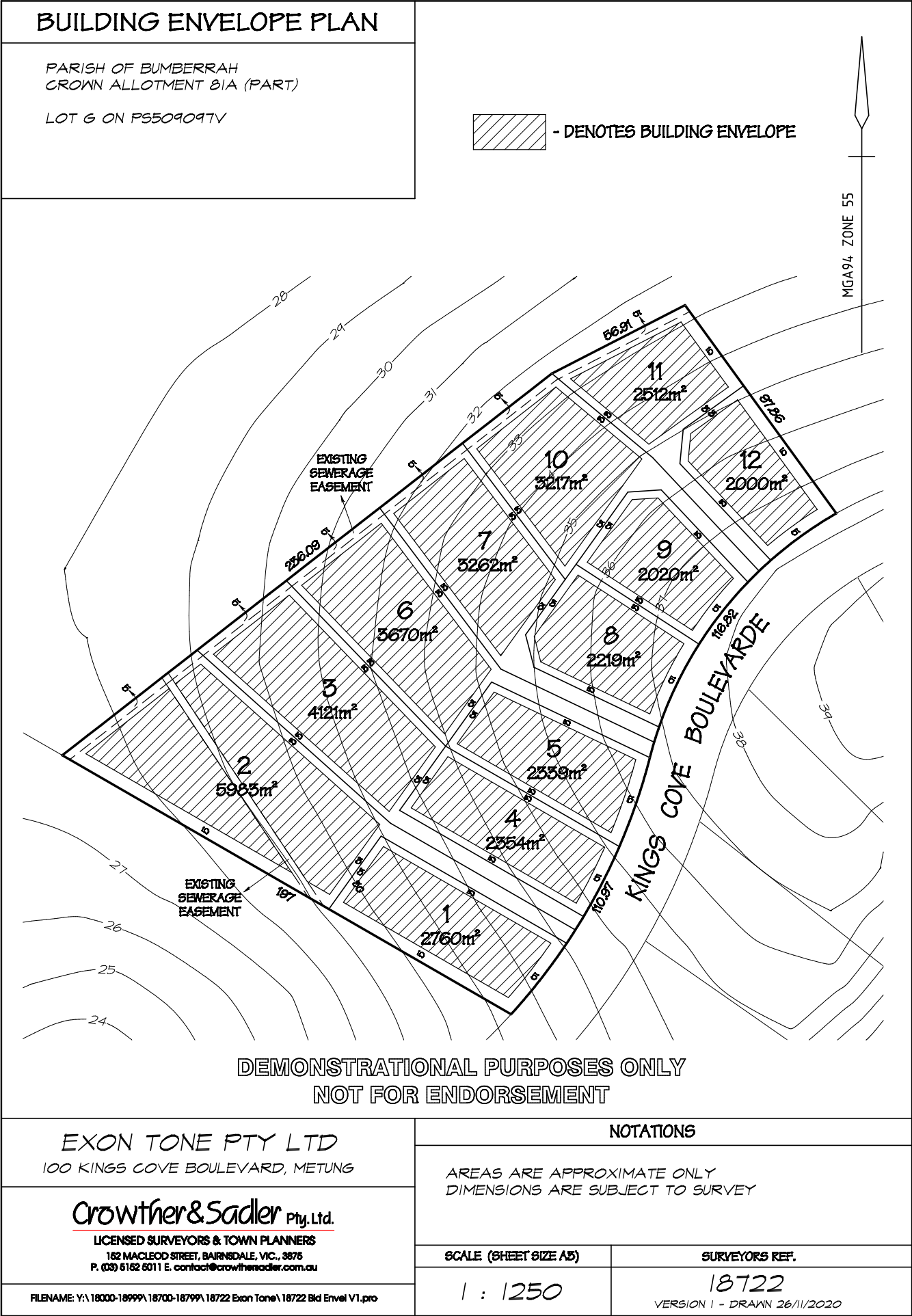
2. Supporting information/reports: [18722 Bushfire Assessment.pdf](#)

3. Supporting information/reports: [18722 GRA Report.pdf](#)

Declaration: Yes

Privacy Statement: Yes





Copyright State of Victoria. This publication is copyright. No part may be reproduced by any process except in accordance with the provisions of the Copyright Act 1968 (Cth) and for the purposes of Section 32 of the Sale of Land Act 1962 (Vic) or pursuant to a written agreement. The information is only valid at the time and in the form obtained from the LANDATA REGD TM System. None of the State of Victoria, LANDATA REGD TM System, Victorian Land Registry Services Pty. Ltd. ABN 86 627 986 396 as trustee for the Victorian Land Registry Services Trust ABN 83 206 746 897 accept responsibility for any subsequent release, publication or reproduction of the information.

REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

VOLUME 10743 FOLIO 419

Security no : 124089031451M
Produced 31/03/2021 04:02 PM

LAND DESCRIPTION

Lot G on Plan of Subdivision 509097V.

PARENT TITLES :

Volume 10678 Folio 247 Volume 10678 Folio 249 Volume 10678 Folio 251
Created by instrument PS509097V 12/08/2003

REGISTERED PROPRIETOR

Estate Fee Simple

Sole Proprietor

EXON TONE PTY LTD of 388 RAYMOND STREET SALE VIC 3850
AL046146V 29/04/2014

ENCUMBRANCES, CAVEATS AND NOTICES

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

AGREEMENT Section 173 Planning and Environment Act 1987
AB573238L 20/09/2002

AGREEMENT Section 173 Planning and Environment Act 1987
AC166290V 30/06/2003

DIAGRAM LOCATION

SEE PS509097V FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

-----END OF REGISTER SEARCH STATEMENT-----

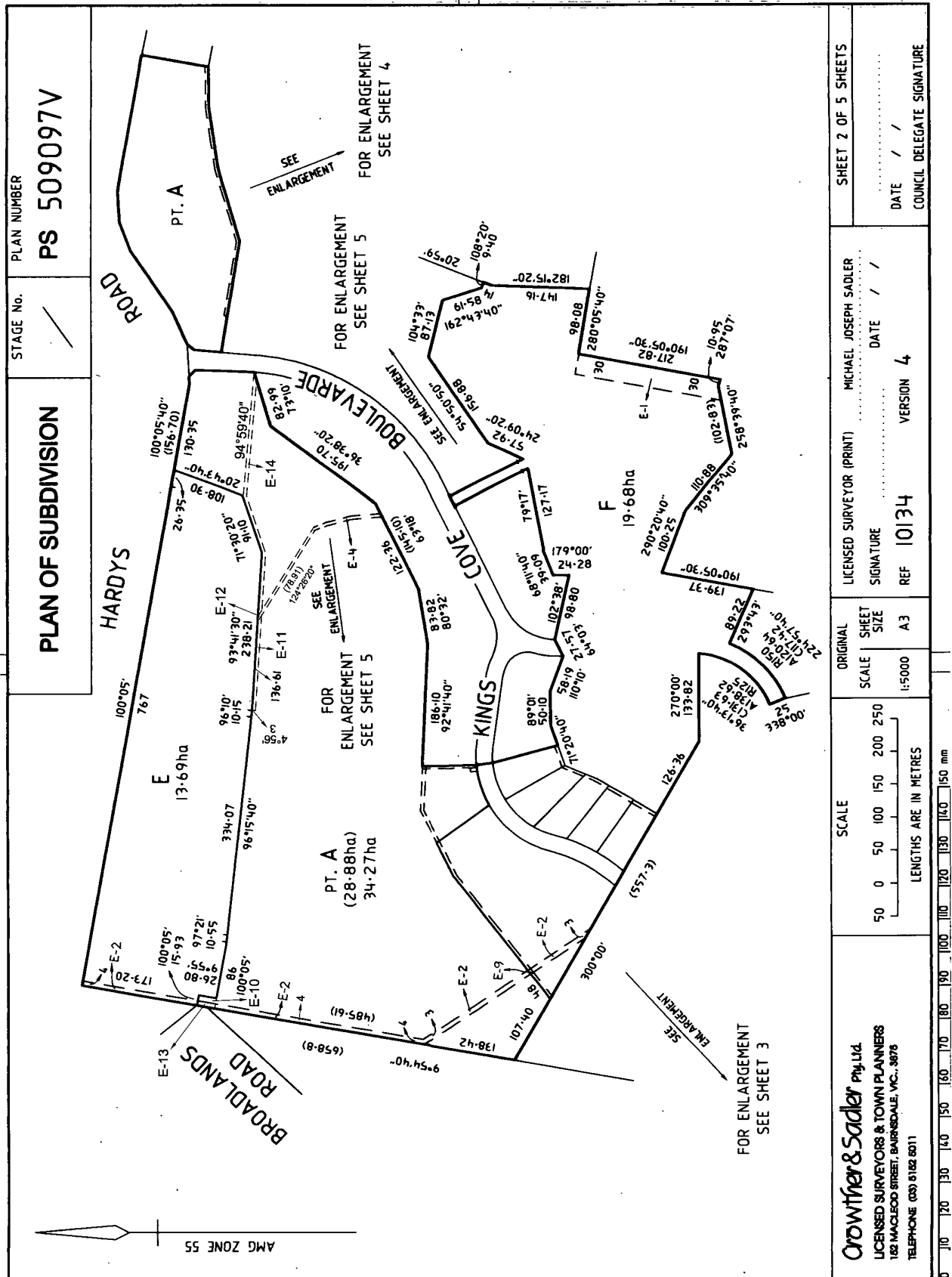
Additional information: (not part of the Register Search Statement)

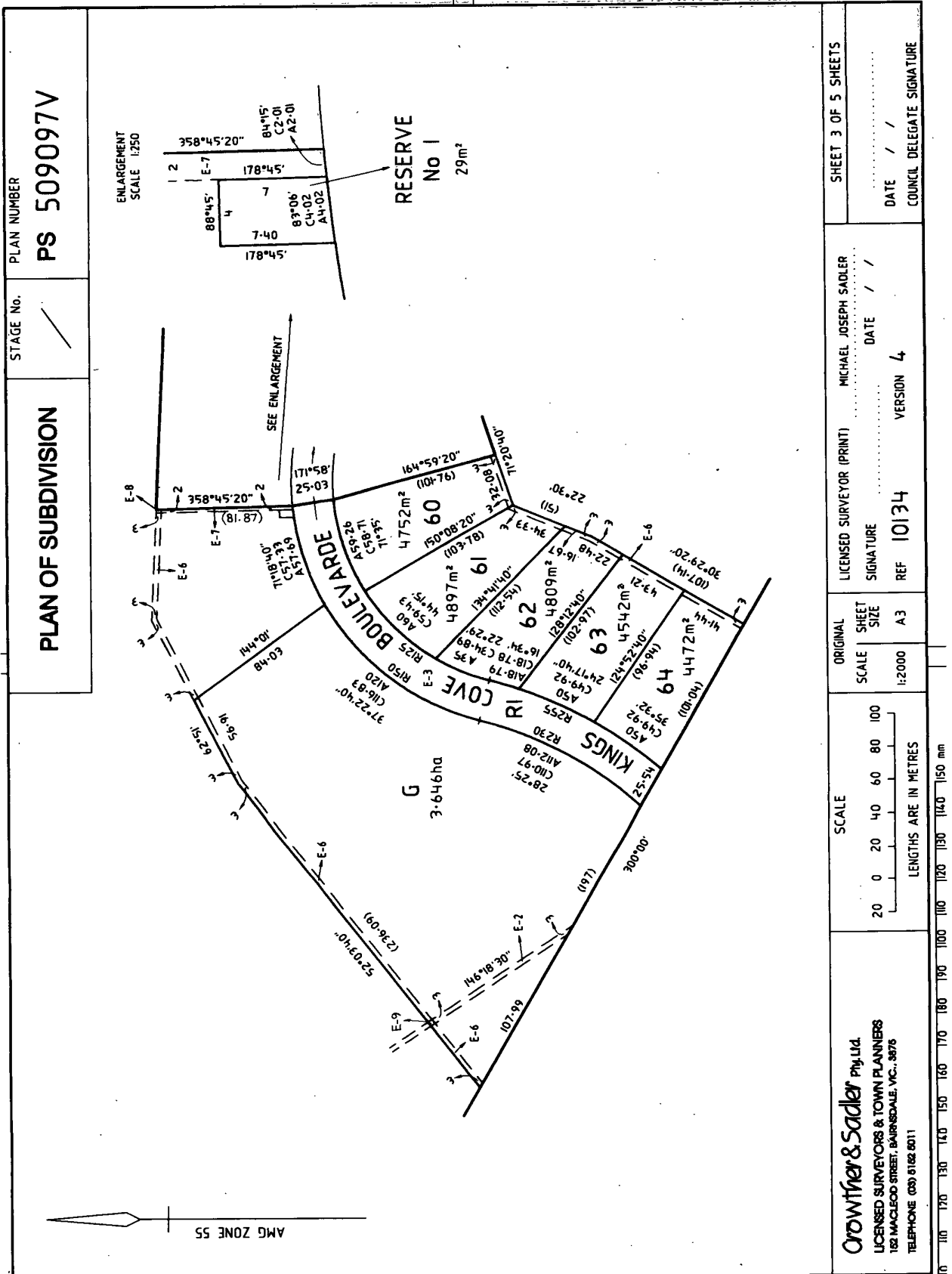
Street Address: 100 KINGS COVE BOULEVARD METUNG VIC 3904

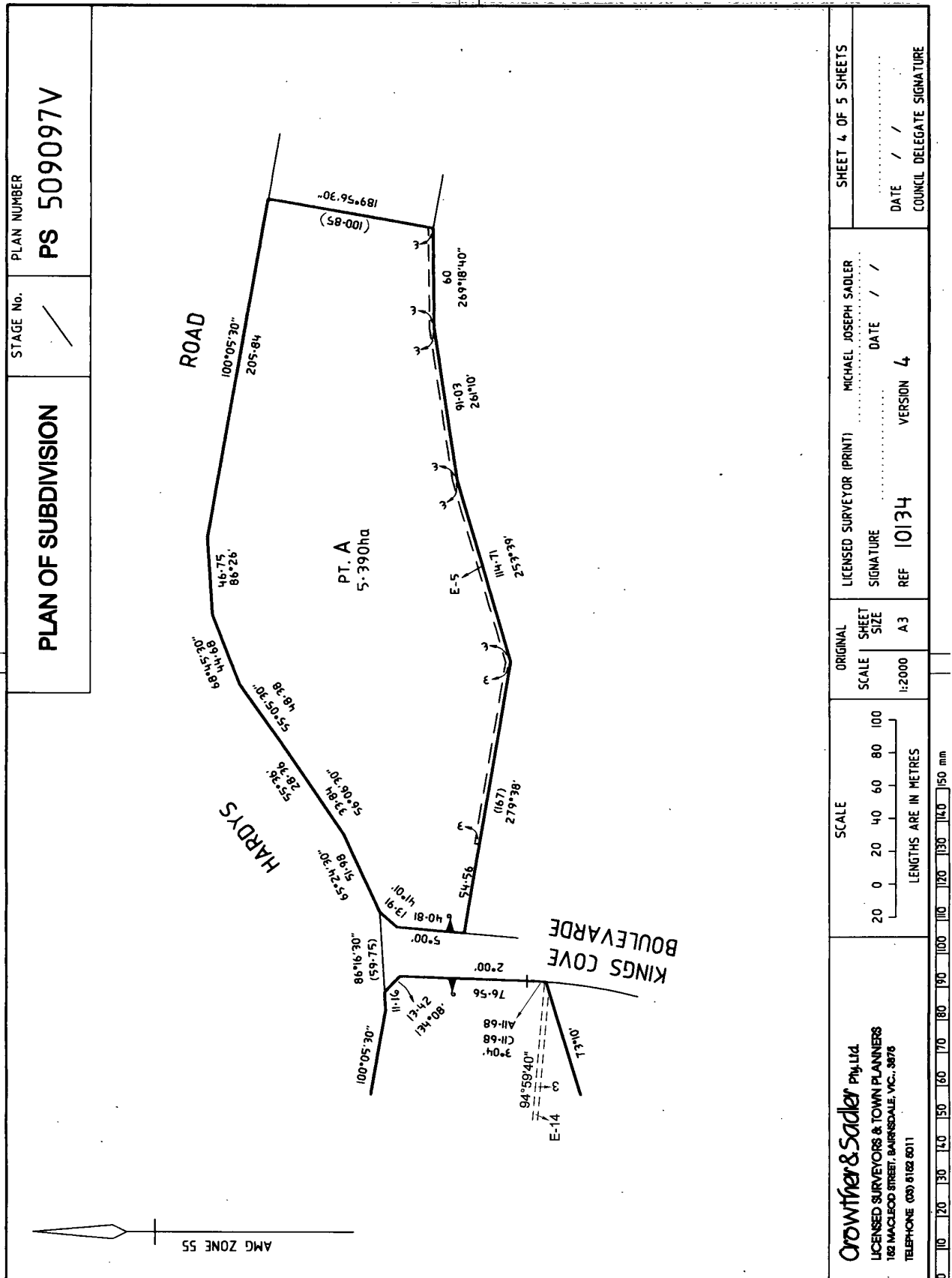
DOCUMENT END

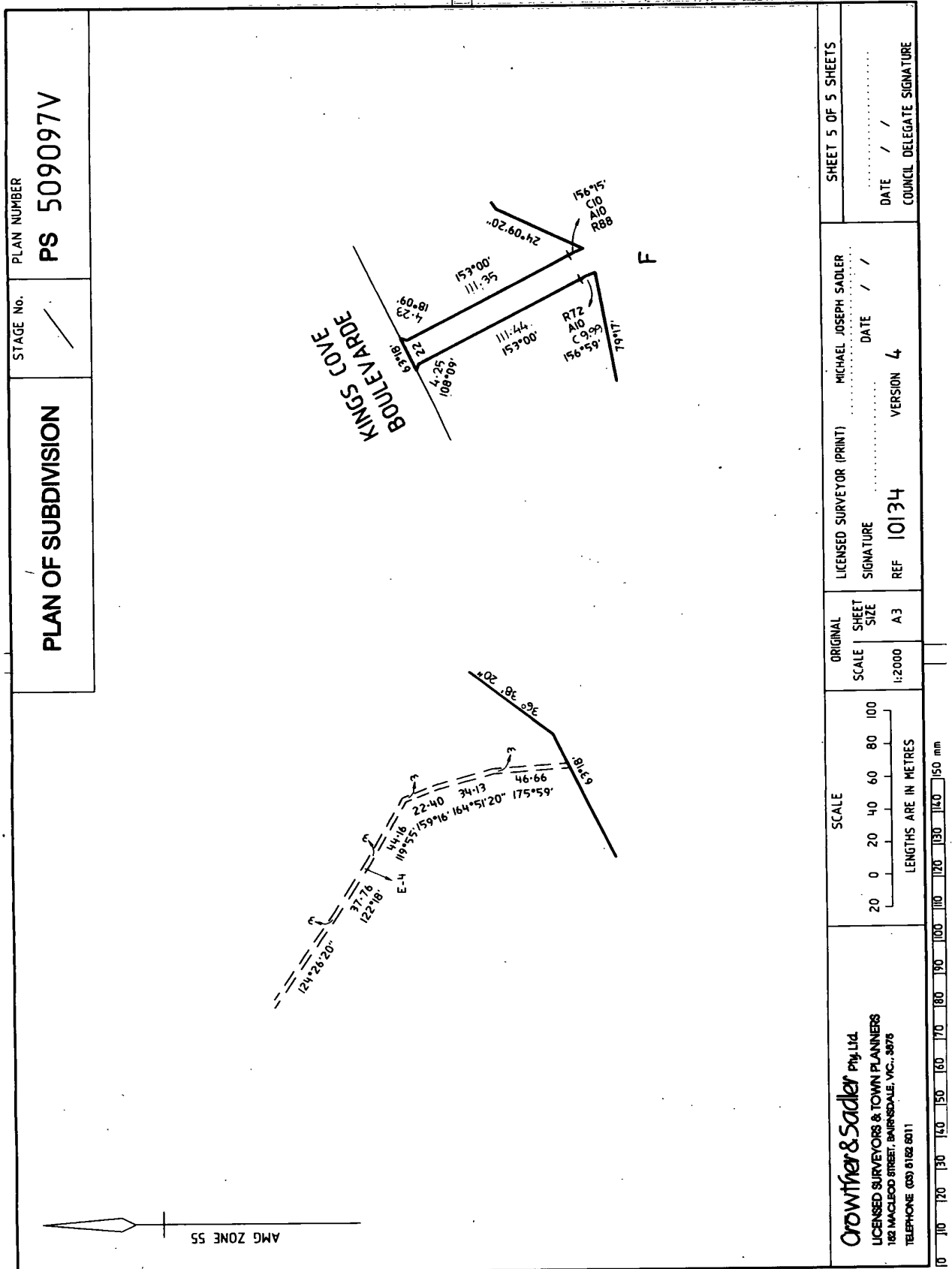
Delivered from the LANDATA System by GlobalX Terrain Pty Ltd

PLAN OF SUBDIVISION		STAGE No. <div style="border-bottom: 1px solid black; width: 50px; margin: 0 auto;"></div>	LTO USE ONLY EDITION 2	PLAN NUMBER PS 509097V	
LOCATION OF LAND PARISH: BUMBERRAH TOWNSHIP: — SECTION: — CROWN ALLOTMENT: 78 ^A , 81 ^A , 81 ^E (PARTS) CROWN PORTION: — TITLE REFERENCES: VOL. 10678 FOL. 247 VOL. 10678 FOL. 249 VOL. 10678 FOL. 251 LAST PLAN REFERENCE: LOTS A, C & E ON PS 448622Q POSTAL ADDRESS: KINGS COVE BOULEVARDE, (At time of subdivision) METUNG, 3904 AMG CO-ORDINATES: E 573 750 (Of approx. centre of N 5807 000 ZONE: 55 land in plan)		COUNCIL CERTIFICATION AND ENDORSEMENT COUNCIL NAME: EAST GIPPSLAND SHIRE COUNCIL REF: 02/00053/SD 1. This plan is certified under Section 6 of the Subdivision Act 1988. 2. This plan is certified under Section 4(7) of the Subdivision Act 1988. Date of original certification under Section 6 / / 3. This is a statement of compliance issued under Section 21 of the Subdivision Act 1988. OPEN SPACE (i) A requirement for public open space under Section 18 Subdivision Act 1988 has / has not been made. (ii) The requirement has been satisfied. (iii) The requirement is to be satisfied in stage Council Delegate Council seat Date 4 / 11 / 2002 Re-certified under Section 4(7) of the Subdivision Act 1988 Council Delegate Council seat Date / /			
VESTING OF ROADS AND/OR RESERVES					
IDENTIFIER	COUNCIL / BODY / PERSON				
RI RESERVE No 1	EAST GIPPSLAND SHIRE COUNCIL TXU ELECTRICITY LTD.				
NOTATIONS					
STAGING This is / is not a staged subdivision Planning Permit No 01/00299/DS					
DEPTH LIMITATION DOES NOT APPLY					
LOTS 1 TO 59 HAVE BEEN OMITTED FROM THIS PLAN					
SURVEY: THIS PLAN IS / IS NOT BASED ON SURVEY THIS SURVEY IS CONNECTED TO PERMANENT MARK No(s)					
EASEMENT INFORMATION				LTO USE ONLY STATEMENT OF COMPLIANCE / EXEMPTION STATEMENT RECEIVED <input checked="" type="checkbox"/> DATE 3 / 7 / 03	
LEGEND A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)				LTO USE ONLY PLAN REGISTERED TIME 2:11 P. M. DATE 12 / 8 / 03 Assistant Registrar of Titles SHEET 1 OF 5 SHEETS DATE 4 / 11 / 2002 COUNCIL DELEGATE SIGNATURE ORIGINAL SHEET SIZE A3	
Easement Reference	Purpose	Width (Metres)	Origin		Land Benefited/In Favour Of
E-1	CARRIAGEWAY	30	INST. M22132T		VOL 9369 FOL 91, VOL 9369 FOL 912 & VOL 9369 FOL 913
E-2, E-9 & E-13	SEWERAGE	SEE DIAG.	PS 448622Q		EAST GIPPSLAND REGION WATER AUTHORITY & LAND IN PS448622Q
E-3	CARRIAGEWAY	SEE DIAG.	PS 420967K		LOT 2 ON PS 420967K
E-4 & E-12	WATER SUPPLY	3	PS 448622Q		EAST GIPPSLAND REGION WATER AUTHORITY & LAND IN PS448622Q
E-5	POWERLINE	3	PS 448622Q		TXU ELECTRICITY LTD.
E-6, E-8	SEWERAGE	3	THIS PLAN		EAST GIPPSLAND REGION WATER AUTHORITY & LAND IN THIS PLAN
E-7, E-8	DRAINAGE	2	THIS PLAN		EAST GIPPSLAND SHIRE COUNCIL
E-10 & E-13	SEWERAGE & WATER SUPPLY	SEE DIAG.	AN566731Q		EAST GIPPSLAND WATER CORPORATION
E-11	WATER SUPPLY	3	AN566731Q	EAST GIPPSLAND WATER CORPORATION	
E-11, E-12 & E-14	SUPPLY OF ELECTRICITY	3	AN566731Q	AUSNET ELECTRICITY SERVICES PTY LTD	









MODIFICATION TABLE						
RECORD OF ALL ADDITIONS OR CHANGES TO THE PLAN						
<div>PLAN NUMBER</div> <div>PS509097V</div>						
WARNING: THE IMAGE OF THIS DOCUMENT OF THE REGISTER HAS BEEN DIGITALLY AMENDED. NO FURTHER AMENDMENTS ARE TO BE MADE TO THE ORIGINAL DOCUMENT OF THE REGISTER.						
AFFECTED LAND/PARCEL	LAND/PARCEL IDENTIFIER CREATED	MODIFICATION	DEALING NUMBER	DATE	EDITION NUMBER	ASSISTANT REGISTRAR OF TITLES
LOT A	E-10, E-11, E-12, E-13 & E-14	CREATION OF EASEMENT	AN566731Q	16/02/17	2	E.K

Delivered by LANDATA®, timestamp 18/11/2020 15:43 Page 1 of 39

© State of Victoria. This publication is copyright. No part may be reproduced by any process except in accordance with the provisions of the Copyright Act 1968 (Cth) and for the purposes of Section 32 of the Sale of Land Act 1962 or pursuant to a written agreement. The information is only valid at the time and in the form obtained from the LANDATA® System. None of the State of Victoria, LANDATA®, Victorian Land Registry Services Pty. Ltd. ABN 86 627 986 396 as trustee for the Victorian Land Registry Services Trust ABN 83 206 746 897 accept responsibility for any subsequent release, publication or reproduction of the information.

LODGED BY Warren, Graham & Murphy,
STORTH RYES PIL
CODE 1716W VICTORIA



AC166290V

30/06/2003 \$59 173
[Barcode]

Titles Office Use Only

**APPLICATION BY A RESPONSIBLE AUTHORITY under Section 181
Planning and Environment Act 1987 for ENTRY OF A
MEMORANDUM OF AGREEMENT under Section 173 of that Act.**

The Responsible Authority under the Planning Scheme having entered into an Agreement with the parties named for the land described requires that a Memorandum of Agreement be entered on the Certificate of Title to the land referred to.

LAND Certificates of Title Volume 10678 Folios 247, 249 and 251

ADDRESS OF LAND 15 Hardys Road, Metung, Victoria 3904

RESPONSIBLE AUTHORITY East Gippsland Shire Council

PLANNING SCHEME East Gippsland Planning Scheme

AGREEMENT DATE 23 day of June, 2003

AGREEMENT WITH Storth Ryes Pty. Ltd. (ACN 006 383 179)

A copy of the Agreement is attached to this Application

Signature of the Responsible Authority

Name of Officer

Date

[Signature]
JOHN TRAA (STATUTORY PLANNER)
23/6/03



DAC166290V-1-4

[Handwritten signature]
300605



EAST GIPPSLAND SHIRE COUNCIL

Council

- and -

STORTH RYES PTY LTD (A.C.N. 006 383 179)

the Owner

**Agreement under Section 173 of the Planning and
Environment Act 1987**

Subject Land: 15 Hardys Road, METUNG VIC 3904
PLAN OF SUBDIVISION NO. 509097 (Stage Four)



TABLE OF CONTENTS

- 1. DEFINITIONS**
- 2. INTERPRETATION**
- 3. SPECIFIC OBLIGATIONS OF THE OWNER**
 - 3.1. Development in accordance with Planning Permit**
 - 3.2. Condition 11 of Planning Permit No. 01/00299/DS**
 - 3.3. Council's Costs to be paid**
- 4. FURTHER OBLIGATIONS OF THE OWNER**
 - 4.1. Notice and Registration**
 - 4.2. Further actions**
 - 4.3. Exemption**
- 5. AGREEMENT UNDER SECTION 173 OF THE ACT**
- 6. OWNER'S WARRANTIES**
- 7. SUCCESSORS IN TITLE**
- 8. GENERAL MATTERS**
 - 8.1. Notices**
 - 8.2. Notices (continued)**
 - 8.3. No Waiver**
 - 8.4. Severability**
 - 8.5. No Fettering of the Council's Powers**
- 9. COMMENCEMENT OF AGREEMENT**
- 10. ENDING OF AGREEMENT**

AC166290V

30/06/2003 \$59

173



DAC166290V-3-1

PLANNING AND ENVIRONMENT ACT 1987 SECTION 173 AGREEMENT

THIS AGREEMENT is made the 23 day of June 2003

BETWEEN

EAST GIPPSLAND SHIRE COUNCIL of 273 Main Street, Bairnsdale

("Council")

- and -

STORTH RYES PTY LTD (A.C.N. 006 383 179)

("the Owner")

INTRODUCTION



- A. The Council is the Responsible Authority for the Planning Scheme under the Act.
- B. The Owner is the registered proprietor of the Subject Land.
- C. It is a condition of planning Permit Number 01/00299/DS (Amended) ("the Planning Permit") that the Owner enter into this Agreement to develop and use the land in accordance with the Endorsed Plans and conditions of the Planning Permit. A copy of the Planning Permit is attached to this Agreement and marked "A".
- D. The parties enter into this Agreement:
 - (a) to give effect to the requirements of the Planning Permit; and
 - (b) to achieve and advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land.



IT IS AGREED:**1. DEFINITIONS**

In this Agreement the words and expressions set out in this clause have the following meanings unless the context admits otherwise:

- 1.1. **"the Act"** means the Planning and Environment Act 1987.
- 1.2. **"this Agreement"** means this agreement and any agreement executed by the parties expressed to be supplemental to this agreement.
- 1.3. **"the Endorsed Plan"** means the plan, endorsed with the stamp of the Council that forms part of the Planning Permit. A copy of the plan, as at the date of this Agreement, is attached to this Agreement and marked with the letter "B".
- 1.4. **"Owner"** means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as proprietor or proprietors of an estate in fee simple of the Subject Land or any part of it and includes a Mortgagee-in-possession.
- 1.5. **"Planning Permit"** means the Planning Permit referred to in recital C. of this Agreement.
- 1.6. **"Planning Scheme"** means the East Gippsland Planning Scheme and any other planning scheme which applied to the Subject Land.

AC166290V

30/06/2003 \$59 173



DAC166290V-5-7



DAC166290V-6-5

1.7. **“Subject Land”** means the land situated at King’s Cove Boulevard, Metung being:-

- Lot A on Plan of Subdivision No. 448622Q and being the land described in Certificate of Title Volume 10678 Folio 247; and
- Lot C on Plan of Subdivision No. 448622Q and being the land described in Certificate of Title Volume 10678 Folio 249; and
- Lot E on Plan of Subdivision No. 448622Q and being the land described in Certificate of Title Volume 10678 Folio 251.

Any reference to the Subject Land in this Agreement will include a reference to any lot created by the subdivision of the Subject Land or any part of it.

1.8. **“Mortgagee”** means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as Mortgagee of the Subject Land or any part of it.

2. INTERPRETATION

In this Agreement unless the context admits otherwise:

- 2.1. The singular includes the plural and vice versa.
- 2.2. A reference to a gender includes a reference to each other gender.
- 2.3. A reference to a person includes a reference to a firm, corporation or other corporate body and that person’s successors in law.
- 2.4. If a party consists of more than one person this Agreement binds them jointly and each of them severally.
- 2.5. A reference to an Act, Regulation or the Planning Scheme includes any Acts, Regulations or amendments amending, consolidating or replacing the Act, Regulation or Planning Scheme.



2.6. The introductory clauses to this Agreement are and will be deemed to form part of this Agreement.

2.7. The obligations of the Owner under this Agreement, will take effect as separate and several covenants which are annexed to and run at law and equity with the Subject Land PROVIDED THAT if the Subject Land is subdivided, this Agreement must be read and applied so that each subsequent owner of a lot is only responsible for those covenants and obligations which relate to that owner's lot.

3. SPECIFIC OBLIGATIONS OF THE OWNER



The Owner covenants and agrees that:

3.1. Development in accordance with Planning Permit

the Subject Land shall only be developed in accordance with the Endorsed Plans and the conditions of the Planning Permit or any subsequent amendment to the permit approved by the Council.

3.2. Condition 11 of the Planning Permit No. 01/00299/DS (Amended) requires that:

- (a) The development of each lot approved by this permit will only be carried out in accordance with the requirements of a Soil and Water Management Plan.
- (b) Each lot will be developed and used for the purpose of a single dwelling and associated outbuildings in accordance with the document "*Kings Cove – Metung- Guidelines for Construction, Siting of, External Alterations and Additions to Buildings and Structures on Kings Cove Stages 2 to 9, Low Residential Zone*", dated December, 2001 (or as amended) (The Document). A copy of the Document is attached hereto and marked "C".
- (c) Any amendment to The Document will be to the satisfaction of the Responsible Authority.





DAC166290V-8-1

- (d) No lot created within Stage 1B will have vehicular access to Archibald Drive.
- (e) The provision of access to and development of the proposed Public Open Space Reserve shall be to the satisfaction of the responsible authority.
- (f) A copy of Planning Permit 01/00299/DS (Amended) will be attached to and will form part of the Contract of Sale for every lot.
- (g) Landscaping works around private residences will have regard to the Storth Ryes Landscape Concept Report, which encourages the use of indigenous plant species and recommends appropriate planting objectives and plant lists for site conditions. Known weed or invasive "pest" plants will not be encouraged.
- (h) This Agreement will bind the Owner and must run with the land so that all successors in the title are bound by this Agreement.

3.3. Council's Costs to be Paid

This Agreement will be prepared at the Owner's cost and to the satisfaction of the responsible authority, and must be registered on title in accordance with Section 181 of the Planning and Environment Act 1987.

The Owner must pay to the Council, the Council's reasonable costs and expenses (including legal expenses) of and incidental to the preparation, drafting, finalisation, engrossment, execution, registration and enforcement of this Agreement and until those costs are paid they will remain a debt of the Owner to the Council.





DAC166290V-9-0

4. FURTHER OBLIGATIONS OF THE OWNER

The Owner further covenants and agrees that:

4.1. Notice and Registration

the Owner will bring this Agreement to the attention of all prospective purchasers, mortgagees, transferees and assigns;

4.2. Further actions

4.2.1. the Owner will do all things necessary, including signing any further agreements, undertakings, covenants and consents, approvals or other documents necessary for the purpose of ensuring that the Owner carries out the Owner's covenants under this Agreement and to enable the Council to enforce the performance by the Owner of such covenants and undertakings;

4.2.2. the Owner will consent to the Council making application to the Registrar of Titles to make a recording of this Agreement in the Register on the Certificate of Title of the Subject Land in accordance with Section 181 of the Act and do all things necessary to enable the Council to do so including signing any further agreement, acknowledgement or document or procuring the consent to this Agreement of any mortgagee or caveator to enable the recording to be made in the Register under that Section;

4.3. Exemption

The Owner will exempt the Council, its employees, contractors and agents from and against all costs, expenses, losses or damages whatsoever which they or any of them may sustain incur or suffer, or be or become liable for or in respect of any suit, action, proceeding, judgment or claim brought by any

AC166290V

30/06/2003 \$59 173



person whatsoever arising from or referable to this Agreement or any non-compliance thereof.

5. AGREEMENT UNDER SECTION 173 OF THE ACT



The Council and the Owner agree that without limiting or restricting their respective powers to enter into this Agreement and, insofar as it can be so treated, this Agreement is made pursuant to Section 173 of the Act.

6. OWNERS WARRANTIES

Without limiting the operation or effect which this Agreement has, the Owner warrants that apart from the Owner and any other person who has consented in writing to this Agreement, no other person has any interest, either legal or equitable, in the Subject Land which may be effected by this Agreement.

7. SUCCESSORS IN TITLE

Without limiting the operation or effect which this Agreement has, the Owner must ensure that, until such time as a memorandum of this Agreement is registered on the title to the Subject Land, successors in title shall be required to:

- 7.1. give effect to and do all acts and sign all documents which will require those successors to give effect to this Agreement; and
- 7.2. execute a deed agreeing to be bound by the terms of this Agreement.

8. GENERAL MATTERS

8.1. Notices

A notice or other communication required or permitted to be served by a party on another party must be in writing and may be served:

- 8.1.1. by delivering it personally to that party;



8.1.2. by sending it by prepaid post addressed to that party at the address set out in this Agreement or subsequently notified to each party from time to time; or

8.1.3. by sending it by facsimile provided that a communication sent by facsimile shall be confirmed immediately in writing by the sending party hand delivery or prepaid post.

8.2. A notice or other communication is deemed served:

8.2.1. if delivered, on the next following business day;

8.2.2. if posted, on the expiration of two business days after the date of posting; or

8.2.3. if sent by facsimile, on the next following business day unless the receiving party has requested retransmission before the end of that business day.

8.3. No Waiver



Any time or other indulgence granted by the Council to the Owner or any variation of the terms and conditions of this Agreement or any judgment or order obtained by the Council against the Owner will not in any way amount to a waiver of any of the rights or remedies of the Council in relation to the terms of this Agreement.

8.4. Severability

If a court, arbitrator, tribunal or other competent authority determines that a word, phrase, sentence, paragraph or clause of this Agreement is unenforceable, illegal or void then it must be severed and the other provisions of this Agreement will remain operative.





8.5. No Fettering of the Council's Powers

It is acknowledged and agreed that this Agreement does not fetter or restrict the power or discretion of Council any decision or impose any requirements or conditions in connection with the granting of any planning approval or certification of any plans of subdivision applicable to the Subject Land or relating to any use or development of the Subject Land.

9. COMMENCEMENT OF AGREEMENT

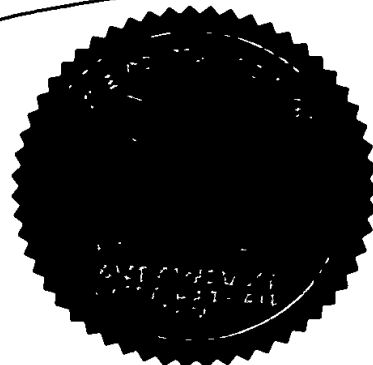
Unless otherwise provided in this Agreement, this Agreement commences from the date of this Agreement.

10. ENDING OF AGREEMENT

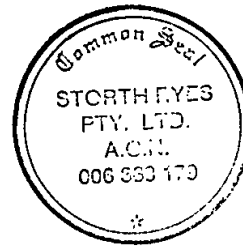
This Agreement may be ended wholly or in part or as to any part of the land by the Responsible Authority with the approval of the Minister or by agreement between the Responsible Authority and all persons who are bound by the agreement.

EXECUTED by the parties on the date set out at the commencement of this Agreement.

The **COMMON SEAL** of **EAST GIPPSLAND**
SHIRE COUNCIL was affixed on behalf of)
 Council by authority of the Chief Executive)
 Officer on the 23RD day of JUNE)
 2003 in exercise of the power delegated)
 under Administrative Procedures (Use of)
 Common Seal) Local Law in the presence of)

The **COMMON SEAL** of **STORTH RYES**)
PTY LTD (A.C.N. 006 383 179) was)
 Hereunto affixed in accordance with its)
 Constitution in the presence of:-



.....
 Signature

.....
 Full Name

.....
 Usual Address

.....
 Office Held

.....
 Signature

.....
 Full Name

.....
 Usual Address

.....
 Office Held



DAC166290V-13-8

Mortgagee's Consent

A Gippsland Secured Investments as Mortgagee of Registered Mortgages Numbered ~~W348823V~~ and X256305M consents to the Owner entering into this Agreement and in the event that the Mortgagee becomes Mortgagee-in-possession, agrees to be bound by the covenants and conditions of this Agreement.

.....
 For and on behalf of the Mortgagee, G.S.I.

PETER MILTON MURPHY AS DIRECTOR

AC166290V



**PLANNING
PERMIT**

Permit No: 01/00299/DS (AMENDED)
 Planning Scheme: EAST GIPPSLAND
 Responsible Authority: East Gippsland Shire

Form 4.4

ADDRESS OF THE LAND

15 Hardys Road, METUNG VIC 3904
 Lot 2 LP 420967

BN: 79570

THE PERMIT ALLOWS

The land to be subdivided into 68 Lot (Stages 2, 3, 4, 5 & 6) in accordance with the endorsed plans.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:**Subdivision not altered**

1. The subdivision as shown on the endorsed plans must not be altered without the prior written consent of the responsible authority.

Engineering requirements

2. The applicant shall engage a suitably qualified consultant to undertake the preparation of detailed engineering design, drawings, documentation and specifications for the construction of road and drainage works and for the provision of services, all to the satisfaction of Council and meeting the requirements of the relevant service authorities.
3. Infrastructure shall be designed in accordance with standard engineering principles and practices. Full and detailed calculations shall be provided. The design shall provide for the following minimum requirements.

Roads, Pavement and Access

- (a) Investigation shall be undertaken to determine existing site conditions to determine design requirements. All reports and full details of all investigations undertaken shall be provided with designs submitted to Council for approval. Full and detailed calculations supporting all aspects of design shall be provided.
- (b) Pavement design shall be undertaken in accordance with accepted engineering practice. Pavement design for collector roads shall also take into consideration traffic that may be generated from the potential for future development to the south-west of the subject site. Supporting calculations for pavement design including the provision of geotechnical reports shall be provided.
- (c) The cul-de-sac or turning heads of proposed new roads shall be constructed and sealed to provide sufficient space for the manoeuvring of all service and emergency vehicles. "T" or "Y" shaped turning heads are acceptable. Provision of suitable area for vehicles to perform a 3 point turn will be acceptable.
- (d) A driveway crossover or culvert shall be constructed for all allotments to Council's satisfaction and in accordance with Council requirements. Crossing places shall incorporate features to prevent erosion which may include but not be limited to suitable stone pitching in the invert or energy dissipation devices. Proposed details of design and construction for crossovers shall be provided.

Drainage

- (e) The stormwater drainage system shall be designed in accordance with standard engineering practice to provide for the collection of all stormwater



runoff, resulting from a storm having an ARI of 1 in 20 Years, and concentrated by buildings, pavements, and/or siteworks to avoid damage or inundation to any property. Each allotment shall be provided with a connection to the drainage system. Connections to the drainage system shall be in accordance with Council requirements. Pipes through the council verge area shall be constructed of steel or concrete, not PVC.

(f) The stormwater drainage system shall incorporate measures to ensure the quality of stormwater discharging from the development is maintained. The drainage system shall provide such water quality measures as considered necessary which may include, but not be limited to, the provision of sediment traps, wetlands, detention basins, Gross Pollutant Traps and drainage pits incorporating litter baskets.

(g) Drains shall incorporate features to prevent erosion which may include but not be limited to suitable stone pitching in the invert or energy dissipation devices placed at regular intervals along the length of the drain.

(h) Where a proposed drainage system submitted to Council for approval indicates that construction of drains will be on private property easements for drainage purposes and meeting the requirements of Council for access and maintenance purposes shall be vested in Council free of charge.

(i) Outlets shall incorporate an energy dissipation devices to prevent any erosion.

Earthworks

(j) With the exception of roadside drainage structures roadside verges shall have a batter slope no greater than 8 horizontal to 1 vertical.

(k) All earthworks associated with the development shall be stabilised in accordance with standard engineering design and practices against erosion and failure. No earthworks may encroach across neighbouring property boundaries.

Services

(l) Design for the installation of services shall meet the requirements of the relevant authorities and shall be approved by those authorities.

Signage and Traffic Control

(m) The design shall address and include all applicable and statutory signage and traffic control requirements. Design drawings and specifications shall provide for the installation of appropriate signage and pavement markings conforming with the requirements of AS 1742 Manual of uniform traffic control devices. Provision of necessary signage and pavement marking shall be undertaken by the developer

Documentation

(n) All documentation for the construction of infrastructure shall include adequate provision for:

- (i) maintenance and repair of damage to existing infrastructure damaged as a result of works associated with this development
- (ii) quality assurance and testing procedures
- (iii) provision for adequate notification and inspections by Council representatives at various key stages of the works
- (iv) works to be undertaken with due regard to environmental requirements.

(o) An agreement shall be entered into which shall be noted on title requiring the property being developed as a golf course to accept all stormwater runoff

from the development. This agreement shall be a continuing agreement and binding on all future registered proprietors of that property.

Supervision of Works

(p) An appropriately qualified and registered practitioner to the satisfaction of the Responsible Authority must supervise all stages of works to be constructed on the site. Copies of all test results certified by a NATA accredited laboratory shall be provided with a certification by a Chartered Professional Engineer that all works have been constructed in accordance with approved plans and specifications will be required.

4. Any portion of Council's existing infrastructure damaged as a result of work undertaken on the site or associated with the development shall be repaired/reinstated to Council's satisfaction at the developer's expense.
5. No works shall commence until such time as all necessary approvals from Council and relevant service authorities have been obtained.
6. Construction works on the subject land may only be conducted between the hours of 7.00 am to 6.00 pm Monday to Saturday (inclusive).
7. During and after construction works, the site must be managed to minimise dust generation and movement causing loss of amenity to the surrounding neighbourhood to the satisfaction of the responsible authority.
8. All earthworks associated with the proposal must be undertaken in accordance with the provisions of Environment Protection Authority (EPA) Publication No. 275 "Construction Techniques for Sediment and Pollution Control" (Copy available from EPA, Traralgon).
9. Prior to the issue of a Statement of Compliance the applicant shall pay to the Council an amount of money equal to 0.75% of the estimated cost of the engineering works plus 2.5% of the actual cost of the engineering works for checking of plans and specifications and for on-site supervision of the engineering works respectively in accordance with Clause 8 and 9 of the Subdivision (Permit and Certification Fees) Regulations.

Tree removal

10. Trees that do not fit the category of being "planted" as part of the initial development require a separate planning permit for removal unless exempted by provisions of the East Gippsland Planning Scheme.

173 agreement

11. Prior to the issue of a Statement of Compliance, the applicant must enter into an Agreement under Section 173 of the Planning and Environment Act 1987 with the responsible authority to covenant that:
 - the development of each lot approved by this permit will only be carried out in accordance with the requirements of a Soil and Water Management Plan.
 - each lot will be developed and used for the purpose of a single dwelling and associated outbuildings in accordance with the document "Kings Cove - Metung - Guidelines for Construction, Siting of, External Alterations and Additions to Buildings and Structures on Kings Cove Stages 2 to 9, Low Density Residential Zone", dated December 2001 (or as amended) (The Document).
 - Any amendment to The Document will be to the satisfaction of the Responsible Authority.
 - no lot created within Stage 1B will have vehicular access to Archibald Drive.



- the provision of access to and development of the proposed Public Open Space Reserve shall be to the satisfaction of the responsible authority.
- a copy of this permit will be attached to and will form part of the contract of sale for every lot.
- landscaping works around private residences will have regard to the Storth Ryes Landscape Concept Report, which encourages the use of indigenous plant species and recommends appropriate planting objectives and plant lists for site conditions. Known weed or invasive "pest" plants will not be encouraged.
- the agreement may be ended wholly or in part or as to any part of the land by the responsible authority with the approval of the responsible authority with the approval of the Minister or by agreement between the responsible authority and all persons who are bound by the agreement.
- the agreement will bind the owner(s) and must run with the land so that all successors in the title are bound by the agreement.
- this agreement will be prepared at the owner's cost and to the satisfaction of the responsible authority, and must be registered on title in accordance with Section 181 of the Planning and Environment Act 1987.

Construction of dwellings

12. The development of lots approved by this permit for the purpose of a dwelling will be exempt from the need to obtain a separate planning permit provided:
- all buildings are constructed wholly within approved building envelopes;
 - all construction and site development works are carried out strictly in accordance with the approved Soil and Water Management Plan, to the satisfaction of the responsible authority, and
 - the requirements of Clause 32.03-2 (Use for one or two dwellings or a dependent persons unit) can be met.

Street Names

13. Street names must be to the satisfaction of the responsible authority.

Landscaping

14. Prior to the issue of a Statement of Compliance, the subject land must be landscaped and planted in accordance with the requirements of the "Storth Ryes Landscape Concept Report" prepared by Murphy Design Group and dated April 2000. Specifically the following requirements must be met:
- Section 1.13 Other Roads
 - Section 1.15 Pedestrian Walkways
 - Section 1.16 Boundaries
15. Plans detailing the landscaping and streetscaping treatments, consistent with the "Storth Ryes Landscape Concept Report" and the Typical Landscape treatments contained in this report, and must be prepared by an appropriately qualified person and approved by the responsible authority prior to the commencement of any landscaping works.

East Gippsland Water

The owner/applicant must:

16. Enter into an agreement under the Water Act for the provision of water supply works.



17. Meet the cost of the necessary water mains extension.
18. Pay a headworks and distribution charge at a level determined by the Authority at the time of payment. As a guide the level applicable on 18/7/01 is \$2,000 per lot created by the subdivision.
19. Enter into an agreement under the Water Act for the provision of sewerage works.
20. Meet the cost of the necessary sewer mains extension.
21. Pay an outfall and disposal charge at a level determined by the Authority at the time of payment. As a guide, the level of charge on 18/7/01 is \$2,100 per lot created by the subdivision.
22. Provide easements as necessary.
23. Connect development to Authority's water and sewerage services to the satisfaction of the Authority.

TXU Electricity Ltd

The applicant must:

24. Enter into an agreement with TXU Electricity Ltd for supply of electricity to each lot on the endorsed plan.
25. Enter into an agreement with TXU Electricity Ltd for the rearrangement of the existing electric supply system.
26. Enter into an agreement with TXU Electricity Ltd for rearrangement of the points of supply to any existing installations affected by any private electric power line which would cross a boundary created by the subdivision, or by such means as may be agreed by TXU Electricity Ltd.
27. Provide easements satisfactory to TXU Electricity Ltd for the purpose of "Electricity (power lines)" in the favour of TXU Electricity Ltd pursuant to Section 44 of the Electricity Industry Act 1993, where easements have not been otherwise provided, for all existing TXU Electricity Ltd electric power lines and for any new power lines required to service the lots on the endorsed plan and /or abutting land.
28. Obtain for the use of TXU any other easement external to the subdivision required to service the lots.
29. Adjust the position of any existing TXU Electricity Ltd easement to accord with the position of the electricity line(s) as determined by survey.
30. Set aside on the plan of subdivision for the use of TXU, reserves satisfactory to TXU where any electric substation (other than a pole mounted type) is required to service the subdivision.
31. Provide survey plans for any electric substation required by TXU Electricity Ltd and for associated power lines and cables and execute leases for a period of 30 years, at a nominal rental with a right to extend the lease for a further 30 years. TXU Electricity Ltd requires that such leases are to be noted on the title by way of a caveat or a notification under section 88(2) of the Transfer of Land Act prior to the registration of the plan of subdivision.

Telstra

32. The applicant shall enter into an agreement with Telstra or other licensed Telecommunications carrier for the satisfactory provision of telephone cable reticulation one metre into each lot created.
33. The applicant shall set aside on the plan of subdivision reserve/s satisfactory to Telstra, for telecommunication/s substations if required.



Certification

34. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of the Act.

DNRE

35. Prior to any works commencing on the development of the subdivision, the Soil and Water Management Plan prepared for the works shall be referred to DNRE for comment.
36. The siting of building envelopes on individual allotments shall be established so as to ensure minimal vegetation removal and the Envelope Plan shall be submitted to DNRE for comment prior to certification of each stage of the subdivision.

CFA

37. All roads must be designed, constructed and maintained for a load capacity of at least 15 tonnes.
38. There must be no obstructions within one metre of the formed width of roads at any time and there must be four metres height clearance above all roads to allow fire vehicle access.
39. The amount and location of parking facilities must be determined in such a manner as to encourage users not to impede access of emergency vehicles.
40. Adequate provisions for turning of brigade vehicles must be provided in dead end roads and cul-de-sacs. This may be through either the provision of a court bowl with a trafficable area of minimum 10 metres radius or a "wye" or "tee" head with formed road surface of each leg being of at least 8 metres length from the centre point of the head and four metres width.
41. The water reticulation plan must be approved by the CFA prior to commencement of construction.
42. There must be a hydrant within 120 metres from the outer edge of building envelope.
43. Fire hydrants must be clearly identified in accordance with the Fire Service Guideline – Identification of Hydrants for Fire Fighting Purposes.
44. Areas of public open space must be managed in a minimum fuel condition during the fire danger period.

Time

45. The permitted approval for subdivision will expire if the subdivision is not started or completed within five years of the date of this permit.
46. The permitted approval for buildings and works associated with the development of dwellings, including vegetation removal within approved building envelopes, will expire if one of the following circumstances applies:
- The building or works is not started within fifteen years of the date of this permit.
 - The building or works is not completed within two years of commencement on each lot within the subdivision.

This applies only to the construction of dwellings and the removal of vegetation within approved building envelopes and as permitted in line with the requirements specified in Condition 7 of this permit.



30/06/2003 159

AC166290V

173



DAC166290V-19-0

6

Notes:**East Gippsland Water**

The payment of headworks and outfall charges will be at the time of sale/settlement of each lot, or all outstanding monies to be paid in full within two years from the date of issue of Statement of Compliance for the subdivision by the Authority, whichever occurs first.

TXU

It is recommended that, at an early date the applicant commences negotiations with TXU Electricity Ltd in order that supply arrangements can be worked out in detail, so prescribed information can be issued without delay.

Arrangements for supply will be subject to obtaining the agreement of other Authorities and any landowners affected by routes of the electric power lines required to supply the lots and for any tree clearing.

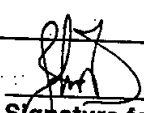
Prospective purchasers of lots on this plan should contact the TXU Electricity Ltd Bairnsdale office to determine the availability of a supply of electricity. Financial contributions may be required.

Permit amended to include a range of extra conditions controlling development of the subdivision.


Date Issued: 19 October, 2001

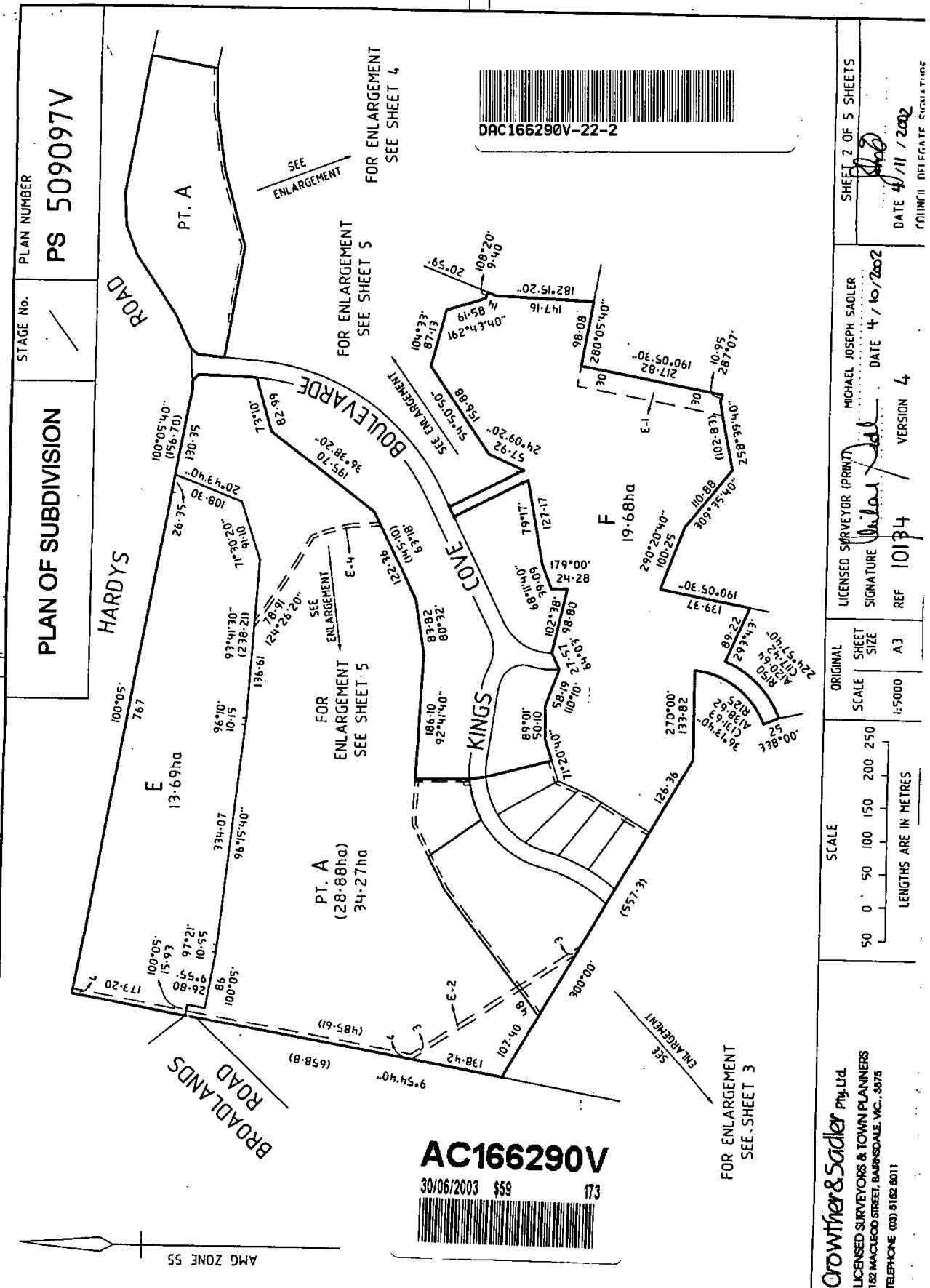
Amended on: 4 February, 2002

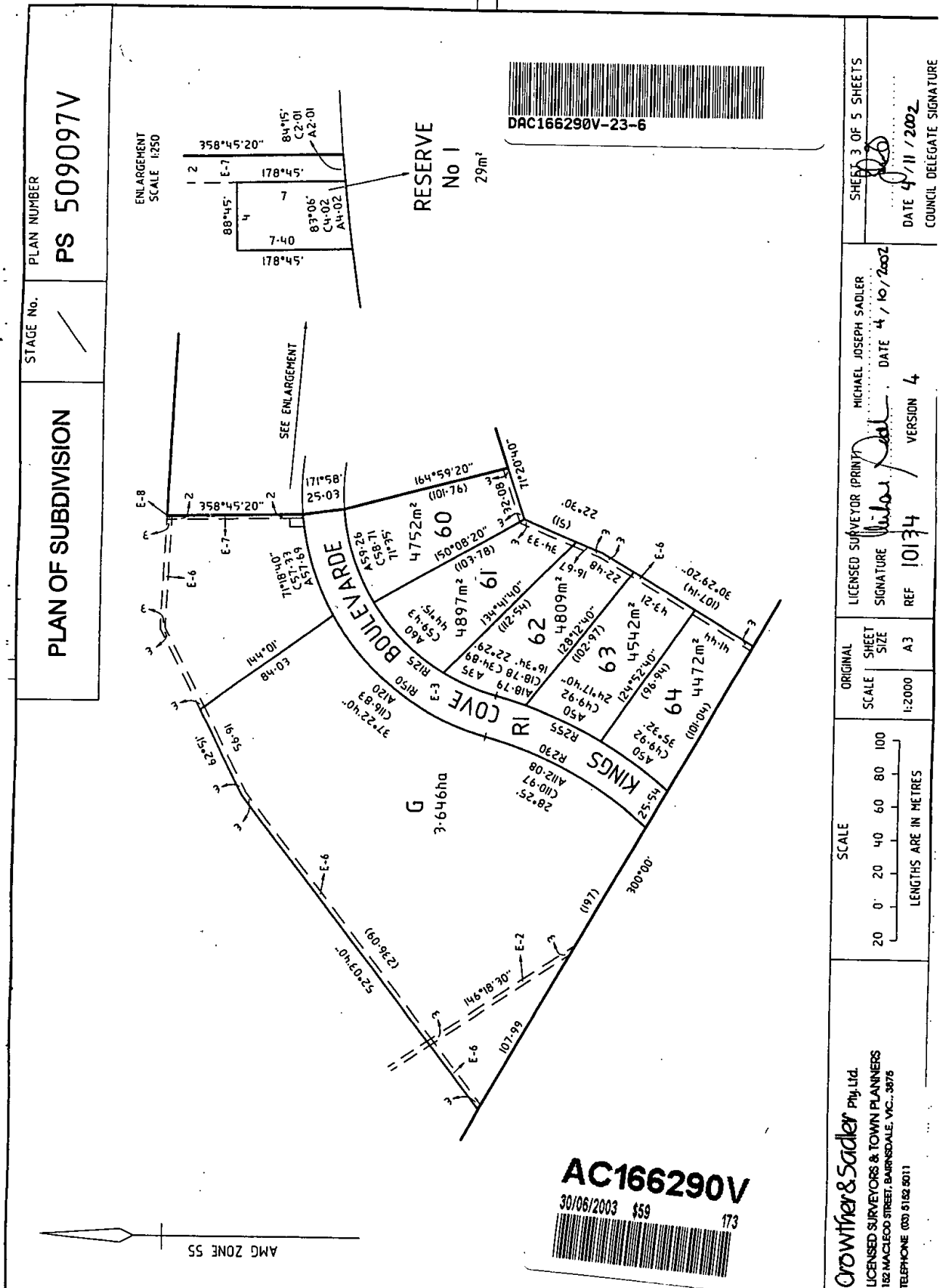
Page 7 of 7

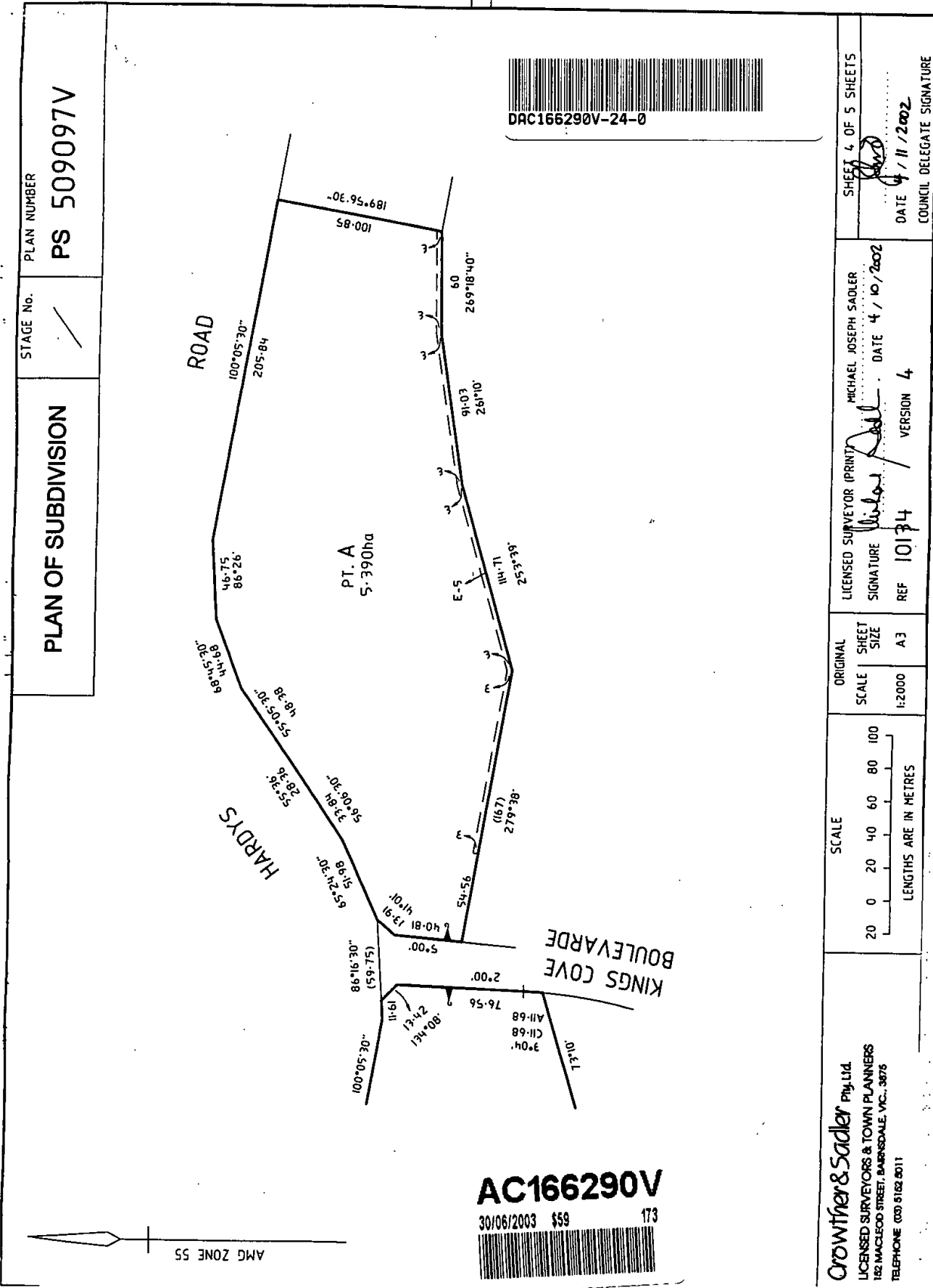

Signature for the
Responsible Authority




PLAN OF SUBDIVISION		STAGE No. /	LTO USE ONLY EDITION	PLAN NUMBER PS 509097V				
LOCATION OF LAND PARISH: BUMBERRAH TOWNSHIP: — SECTION: — CROWN ALLOTMENT: 78 ^A , 81 ^A , 81 ^E (PARTS) CROWN PORTION: — TITLE REFERENCES: LAST PLAN REFERENCE: LOTS A, C & E ON PS 448622Q POSTAL ADDRESS: (At time of subdivision) KINGS COVE BOULEVARDE, METUNG, 3904 AMG CO-ORDINATES: (Of approx. centre of land in plan) E 573 750 N 5807 000 ZONE: 55		COUNCIL CERTIFICATION AND ENDORSEMENT COUNCIL NAME: EAST GIPPSLAND SHIRE COUNCIL REF: 02/00053/SD 1. This plan is certified under Section 6 of the Subdivision Act 1988. 2. This plan is certified under Section 11(7) of the Subdivision Act 1988. Date of original certification under Section 6 / / 3. This is a statement of compliance issued under Section 21 of the Subdivision Act 1988. OPEN SPACE (i) A requirement for public open space under Section 18 Subdivision Act 1988 has has not been made. (ii) The requirement has been satisfied. (iii) The requirement is to be satisfied in stage Council Delegate <i>[Signature]</i> Council seal Date 4 / 11 / 2002 Re-certified under Section 11(7) of the Subdivision Act 1988. Council Delegate Council seal Date / /						
VESTING OF ROADS AND/OR RESERVES <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 20%;">IDENTIFIER</th> <th>COUNCIL/BODY/PERSON</th> </tr> <tr> <td>RI RESERVE No 1</td> <td>EAST GIPPSLAND SHIRE COUNCIL TXU ELECTRICITY LTD.</td> </tr> </table>		IDENTIFIER	COUNCIL/BODY/PERSON	RI RESERVE No 1	EAST GIPPSLAND SHIRE COUNCIL TXU ELECTRICITY LTD.	NOTATIONS STAGING This is / is not a staged subdivision Planning Permit No 01/00299/DS DEPTH LIMITATION DOES NOT APPLY LOTS 1 TO 59 HAVE BEEN OMITTED FROM THIS PLAN		
IDENTIFIER	COUNCIL/BODY/PERSON							
RI RESERVE No 1	EAST GIPPSLAND SHIRE COUNCIL TXU ELECTRICITY LTD.							
 DAC166290V-21-9		SURVEY: THIS PLAN IS / IS NOT BASED ON SURVEY THIS SURVEY IS CONNECTED TO PERMANENT MARK No(s)						
EASEMENT INFORMATION				LTO USE ONLY STATEMENT OF COMPLIANCE / EXEMPTION STATEMENT RECEIVED <input type="checkbox"/> DATE / /				
LEGEND A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)				LTO USE ONLY PLAN REGISTERED TIME DATE / / Assistant Registrar of Titles				
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of				
E-1	CARRIAGEWAY	30	INST. M22132T	VOL 9369 FOL 91, VOL 9369 FOL 912 & VOL 9369 FOL 913				
E-2	SEWERAGE	3	PS 448622Q	EAST GIPPSLAND REGION WATER AUTHORITY & LAND IN THIS PLAN				
E-3	CARRIAGEWAY	SEE DIAG.	PS 420967K	LOT 2 ON PS 420967K				
E-4	WATER SUPPLY	3	PS 448622Q	EAST GIPPSLAND REGION WATER AUTHORITY & LAND IN THIS PLAN				
E-5	POWERLINE	3	PS 448622Q	TXU ELECTRICITY LTD.				
E-6, E-8	SEWERAGE	3	THIS PLAN	EAST GIPPSLAND REGION WATER AUTHORITY & LAND IN THIS PLAN				
E-7, E-8	DRAINAGE	2	THIS PLAN	EAST GIPPSLAND SHIRE COUNCIL				
Crowther & Sadler Pty. Ltd. LICENSED SURVEYORS & TOWN PLANNERS 162 MACLEOD STREET, BAIRNSDALE, VIC., 3875 PHONE (03) 5152 5011				LICENSED SURVEYOR (PRINT) MICHAEL JOSEPH SADLER SIGNATURE <i>[Signature]</i> DATE 4 / 10 / 2002 REF 10134 VERSION 4				
DATE 4 / 11 / 2002 COUNCIL DELEGATE SIGNATURE <i>[Signature]</i> ORIGINAL SHEET 1 OF 5				SHEET 1 OF 5 SHEETS A 3				







PLAN OF SUBDIVISION		STAGE No.	PLAN NUMBER
PS 509097V			
AMG ZONE 55		DAC166290V-25-3	
AC166290V 30/06/2003 \$59 173			
Crownthorpe & Sadler Pty Ltd LICENSED SURVEYORS & TOWN PLANNERS 182 MACLEOD STREET, BARNESDALE, VIC., 3075 TELEPHONE (03) 8182 8011		ORIGINAL SCALE 1:2000 SHEET SIZE A3	
SHEET 5 OF 5 SHEETS		MICHAEL JOSEPH SADLER DATE 4/10/2002 VERSION 4	
DATE 4/11/2002 COUNCIL DELEGATE SIGNATURE		SIGNATURE REF 10134	

"C"

KING'S COVE – METUNG

AC166290V

30/06/2003 \$59 173



**GUIDELINES FOR CONSTRUCTION, SITING OF, EXTERNAL ALTERATION AND ADDITIONS TO
BUILDING AND STRUCTURES ON "KING'S COVE"
STAGE 4 – LOTS 60 – 64 "LOW DENSITY RESIDENTIAL ZONE"**

These guidelines are designed to protect the interests of all owners of property in the development and are not intended to be restrictive.

The subject land forms part of a quality residential land development.

For the protection of the purchaser's interest it is desirable that certain controls be implemented in relation to: the nature and type of construction; the preservation of the environment, the aesthetic appearance; and the general amenity of the development. Design of buildings, landscaping, fencing, paving, and all the elements of a high quality living environment, should be guided to establish visual continuity and compatibility throughout the development.

1.0 INTRODUCTION

King's Cove is an integrated Residential Resort and Marina development owned by Storth Ryes Pty. Ltd. ("Storth Ryes"). Storth Ryes administers these guidelines, for the benefit of existing and new land owners, through an Architectural Review Committee established by it and consisting of representatives nominated by Storth Ryes.

2.0 DESIGN CONFORMITY

Written application for approval of the design, external finishes and siting of all buildings (and external alterations and additions to buildings) at King's Cove must be made by the allotment owner to the Architectural Review Committee, or its nominee, prior to work commencing or applying for a building permit. These guidelines are intended to provide the criteria for assessment of the application.

2.1 Approval Procedure

The initial step required is for each designer or builder to provide to the Architectural Review Committee a plan showing the contours of the site and proposed siting of the buildings together with a schematic presentation of the structure including: floor plans, elevations, materials and colours proposed. Once general agreement is reached and prior to lodgement of an application for a building permit from the East Gippsland Shire or its nominated subcontractor, the documents required for such application shall be lodged with the Architectural Review Committee for a final conformity assessment against these guidelines. Representations to the Architectural Review Committee in support of the proposed construction may be made by the applicants or their representatives.

The application and all supporting documents should be forwarded to the Architectural Review Committee at the following address:-

King's Cove Project Manager
PO Box 326
METUNG VIC 3904

The documents, together with a written assessment of conformity and approval, conditional approval or refusal of the proposal, shall be forwarded or given to the applicant as soon as practical and normally within 14 days of lodgement.

3.0 GUIDING GUIDELINES

3.1 Building Envelopes



DAC166290V-26-7

Designated Building Envelopes form part of the guidelines and the permitted use of the land under the zoning. These building envelopes, which are designed to maximise views whilst enabling vegetation corridors between buildings, are required by agreement between Storth Ryes and the Responsible Authority. The building envelope positions are designated as part of the Soil and Water Management Plan agreed between Storth Ryes

AC166290V

30/06/2003 \$59 173

and the Responsible Authority under the zone overlay. The minimum setback from the allotment boundaries are prescribed in the designated building envelopes.

3.2 Soil and Water Management Plan

The permitted use of the land under the zoning is also governed by the Soil and Water Management Plan as approved by the Responsible Authority. The construction of civil works and buildings and associated structures must comply with the Soil and Water Management Plan, in order to protect the subject land, adjacent land and the Gippsland Lakes waterways.

Annexed hereto and marked "**Schedule A**" is the King's Cove – Stage 4 Soil and Water Management Plan Specifications for Construction of Dwellings.

3.3 Building Types Permitted



DAC166290V-27-1

A single dwelling is permitted within the zone under the relevant incorporated plan overlay for King's Cove (formerly Storth Ryes).

Any dwelling erected on the site shall have a total floor area of not less than one hundred and seventy (170) square metres within the outer walls thereof calculated by excluding the area of any carport, garage, terrace, pergola or verandah and must be built only of new materials.

All outbuildings exposed to public view from the street, reserve, adjoining allotments or the lake shall be designed, constructed and maintained in all ways similar to the principal building on the lot. Garages and carports shall preferably be incorporated into the main roof structure. Where detached garages or carports are permitted they shall also be constructed of the same approved materials as stipulated for the dwelling and be part of an overall integrated design. Each lot shall make a provision for fully enclosed and covered parking for not less than two motor vehicles unless otherwise agreed to in writing by the Architectural Review Committee.

Innovative house plans that meet the requirements of 3.4 Building Form, set out below, but use materials other than those specified will be considered for approval if appropriately submitted to the Architectural Review Committee for assessment.

3.4 Building Form

Simple clear forms will be preferred for all structures. Unduly fragmented or flamboyant forms will not be preferred where they impact on adjoining properties or the amenity of the subject land when viewed from offsite. Sun protection of walls, openings and terraces shall preferably be achieved by roof overhangs, verandahs, pergolas or other structurally integrated elements of the building.

As stipulated by agreement between Storth Ryes and the Responsible Authority, the construction of dwelling shall conform to the following:

- Buildings should be designed to minimise visual impacts, erosion and fire hazard.
- Buildings should be designed with floor levels and roofs that sit in sympathy with the prevailing ground slopes.
- Pergolas, decks and shading devices may be used to soften the interface between buildings and surrounding vegetation.
- Split level buildings shall be encouraged on sloping land to reduce the height of the building.

3.5 External Finishes and Colours

The objective is to provide a level of finish and colours which are compatible with the natural environment of King's Cove. They should reflect the colour and texture of the coastal setting and take account of durability and weathering characteristics. The following list of suitable finishes and colours are considered desirable but not definitive.

- Walls: Brick or masonry-rendered or bagged and painted in colours suited to the coastal environment.
- Stone.
- Timber and/or composite weatherboards – treated or painted in colours suited to the coastal environment.

- Glass – clear, grey or smoked (non-reflective).
- Sheeting Materials – Harditex and similar manufactured sheeting suitably coated and painted.
- Colourbonded metal in corrugated patterns.
- Roof: Colourbonded Metal – in colours suited to the coastal environment.
- Glass – or Polygal, Laserlight, Sailcloth and similar products.
- Trim: Timber, aluminium, sheeting materials and steelwork in colours suited to the coastal environment.

The above is not intended to be comprehensive and other colours and combinations would be considered against the objectives of suiting the coastal setting of the subject land.

3.6 Service Areas

Areas used for the purpose of drying or airing clothes shall be reasonably screened from public view from the street, reserved, adjoining allotments and the land. Storage tanks shall be mounted at ground level and reasonably concealed from public view. Refuse storage areas shall be totally screened from public view.

3.7 Vehicle Driveways/Paved Areas

Vehicle driveways and other paved areas exposed to public view should be constructed of clay brick, masonry pavers, crushed stone, stone sheeted bitumen, hot mix, patterned and coloured concrete, exposed aggregate concrete or formed quality gravel surface. Adequate drainage and erosion protection measures must be incorporated in line with the Soil and Water Management Plan.

3.8 Alterations and Additions

The guidelines (as amended) shall also apply to all external structural alterations and additions to external surfaces of buildings and structures on the development. Such works shall involve the same application and approval procedure as applies to initial building construction.

3.9 Builders' Site Refuge Guidelines

Lot owners shall ensure that any builder of a residence on a lot complies with the Builders' Site Refuge Guidelines contained in **Schedule B** of these Guidelines.

3.10 Requirement of Certificate of Occupancy or approval of the Architectural Review Committee

No allotment of the development shall be occupied for residential purposes either temporarily or permanently until a Certificate of Occupancy is issued for the dwelling erected on the site or until such occupancy is otherwise approved by the Architectural Review Committee.

4. Landscaping

4.1 General



DAC166290V-28-4

To enhance the amenity of King's Cove and to improve the aesthetic environment, owners of lots shall be required to landscape their properties within 12 months of entering into occupation and obtaining a certificate of occupancy. The plans for such landscaping shall be prepared by a competent landscape designer and submitted to the Architectural Review Committee for a conformity assessment at the same time as plans are presented for the buildings. Lot owners will lodge a Bank Guarantee or cash bond of satisfactory performance for the sum of \$2,000.00 with Storth Ryes or its nominee. The guarantee will be released when the agreed landscaping has been completed.

The use of native species of trees and shrubs is favoured, however, other varieties will be permitted. It is desired that some indigenous trees shall be planted on each site particularly on the setback areas. Landscape plans need to incorporate general schematic layouts only with main species listed and larger trees shown on the plan. Trees which exist on the site either naturally or as part of landscaping worked by the developer cannot be removed without the permission of the Architectural Review Committee.

AC166290V

30/06/2003 \$59 173





DAC166290V-29-8

4.2 Maintenance

Maintenance and landscaping of all ground slopes shall be the responsibility of the lot owners. Treatment of the ground slopes incorporating terracing and or retaining walls, including proposed landscaping, shall be incorporated into the landscape plan for approval. The landscape plan shall take account of the Soil and Water Management Plan requirements, maintain vegetative cover on slopes and providing measures to avoid any erosion of the subject land during and following construction.

Where a retaining structure is required to support a swimming pool or to form a terrace, such structure shall preferably including sloping landscaped or stone pitched banks as a means of level transition and shall deal with drainage to avoid erosion.

4.3 Maintenance prior to construction

Maintenance prior to construction of the dwelling and/or site shall be the responsibility of the lot owners who shall be required to ensure that grass height does not exceed 200 millimetres at any time and that the lot is maintained generally in keeping with the overall maintenance of the King's Cove Development. To assist lot owners, Storth Ryes proposes to engage a subcontractor to provide grass cutting and like maintenance services at a reasonably competitive cost, which services will be available to lot owners.

In the event that such maintenance of the dwelling and/or site not being carried out in a timely manner by Lot owners, Storth Ryes shall be entitled to engage a subcontractor for the purpose of effecting the required grass cutting or maintenance works and the Lot owner shall reimburse Storth Ryes for any expenses reasonably incurred by Storth Ryes in so doing.

5. Fences

In principle it is considered that a parklike appearance is appropriate and that solid fences be kept to a minimum subject to the requirements of screening service areas, pools and other outdoor living areas. The use of screen planting areas to define boundaries is most desirable.

Post and wire fencing will be erected by Storth Ryes on most allotment boundaries excluding the street frontage and within 15 metres of the main street frontage which will be unfenced. Boundaries within the more vegetated areas may not be fenced to avoid disturbing the existing cover. No solid fence shall be built within 15 metres of front or rear boundaries or within 5 metres of a side boundary.

Where a solid fence is sought, the preferred materials shall be brush panel, stone, bagged and painted masonry or brickwork, hardwood or treated pine pickets of 75mm x 20mm with 20mm spacings. The planting of landscaping to soften such fences will be preferred. Front boundaries are preferred to be left unfenced. Where the owner seeks greater screening cover than planting alone can provide, fences will need to be setback 15 metres from the front boundary and significant planting incorporated into the setback area within the landscape plan.

6. Liability

Storth Ryes Pty. Ltd. and its successors and associated companies, Riviera Properties Limited and its successors and the Responsible Authority, shall each be free from any liabilities and claims for damages and/or suits of any kind as a result of or arising out of the enforcement or implementation of all or any of these guidelines or any matters associated with the same or any application for approval hereunder or the decision made.





DAC166290V-30-3

SCHEDULE A

King's Cove – Stage 4 Soil and Water Management Plan

Specifications for Construction of Dwellings

June, 2002





KINGS COVE – Stage 3 & 4
Soil and Water Management Plan
Specifications for Construction
of Dwellings
June 2002



Prepared by:

Crossco Australia Pty Ltd
Engineering and Environmental Consultants
152 Macleod Street, PO Box 858
Bairnsdale VIC 3875
Tel. 03-5152 6298
Fax. 03-5152 5705
consult@crossco.net.au
www.crossco.net.au



Kings Cove – Stage 3 & 4: Soil and Water Management Plan

KINGS COVE – Stage 3 & 4
Soil and Water Management Plan
Specifications for Construction of Dwellings

TABLE OF CONTENTS

1. BACKGROUND AND OBJECTIVE2

2. RESPONSIBILITY FOR COMPLIANCE2

3. SITE-SPECIFIC REQUIREMENTS.....2

4. STORMWATER DISCHARGE AND DRAINAGE LINE PROTECTION.....3

5. INSTALLATION SEQUENCE.....4

TABLES

TABLE 1: KINGS COVE STAGE 3 & 4 LOT NUMBERS AND EROSION CONTROL REQUIREMENTS 3

FIGURES

DRAWING 1: KING COVE – STAGE 3 & 4: DWELLING SOIL & WATER MANAGEMENT PLAN ..AT REAR



Document Information: 1072 kings cove stage 3 &4 soil & water.doc
Issued: 18th June, 2002





DAC166290V-33-4

Kings Cove – Stage 3 & 4: Soil and Water Management Plan

1. BACKGROUND and OBJECTIVE

This Soil and Water Management Plan outlines the minimum erosion control requirements necessary for the construction of dwellings on allotments within Stage 3 & 4, Kings Cove Boulevard of the Kings Cove subdivision in Metung, Victoria.

The objective of this Plan is to prevent soil erosion and control sedimentation by adoption of the following key principles:

- Implementation of sensible site planning and compliance with construction specifications
- Diversion of up-slope water from the construction site
- Minimisation of site disturbance
- Rationalisation of movement by construction vehicles
- Installation of sediment traps/controls along low-side of construction site
- Rationalisation of stockpile location
- Protection of stockpiles from erosion
- Minimise waste from wash-down and tile/brick cutting
- Minimisation of stormwater runoff from the construction site
- Reduce the erosive energy of stormwater leaving or diverted around the construction site
- Minimisation of building waste and debris
- Regular maintenance of all erosion control structures
- Prompt rehabilitation of all disturbed areas

A typical dwelling construction site, together with specific erosion control requirements are illustrated on Drawing 1. These controls should be adopted for development of all dwellings within Stage 3 & 4 at Kings Cove based on site specific details listed in Table 1.

2. RESPONSIBILITY FOR COMPLIANCE

Compliance with the erosion control techniques specified by this Plan (and accompanying drawings) is a mandatory requirement of East Gippsland Shire Council's Planning Permit 01/00299/DS for development of dwellings within Stages 3 & 4 at Kings Cove.

It is the land/dwelling owners responsibility to ensure all contractors engaged in the construction of a dwelling(s) on any allotment within Stages 3 & 4 at Kings Cove are aware of the need to implement the erosion controls specified by this Plan.

It is the individual responsibility of the builder and all sub-contractors to implement and maintain the various erosion control structures.

3. SITE-SPECIFIC REQUIREMENTS

This Soil and Water Management Plan stipulates erosion control requirements which can be adopted for all building envelopes within Stages 3 & 4 at Kings Cove. The location and orientation of each individual erosion control structure will vary depending on the relative position of the dwelling, access to the construction site, the direction and steepness of the land, and drainage conditions.

Site disturbance should, at all times, be kept to a minimum on all allotments by limiting the extent of cut and fill, limiting the steepness of batter slopes, and prompt rehabilitation of all disturbed sites.

Table 1 lists the different site-specific conditions prevailing across Stages 3 & 4 at Kings Cove.



Kings Cove – Stage 3 & 4: Soil and Water Management Plan

The builder must establish the erosion control requirements in accordance with Table 1.

Table 1. Kings Cove Stage 3 & 4 Lot numbers and erosion control requirements

Allotment No.	Landscape Type	Stage	Erosion Control Requirements
All Allotments (ie. 43-47, 57-64, 70-77)	i) Gently sloping or ii) Gently sloping with steeper escarpment		<ul style="list-style-type: none"> Implement all erosion control structures. Construct silt fences on ALL down slope sides of construction site. Cut & fill batters > 3.0 m long and steeper than 1H in 3V should be structurally retained. Construct silt fence on down slope side of construction site. Establish cut-off drains across high side of construction site. Utilise craneage and pumping for construction on steep erosion-prone slopes. Stormwater discharged on-site should exit via energy dissipater with silt fence across drainage line. Avoid stormwater discharge down steep slopes.
Lots 70 to 77 inclusive	Gently sloping		<ul style="list-style-type: none"> All stormwater must be drained to the surface drain located immediately below the north-western (rear) boundary of the lots.
Lots 43-47 & 57-64 inclusive	Gently sloping with steeper escarpment		<ul style="list-style-type: none"> All stormwater must be drained to the drain/kerb fronting the allotments along Kings Cove Boulevard.

4. STORMWATER DISCHARGE and DRAINAGE LINE PROTECTION

All stormwater from dwellings and associated access must be drained to an appropriate discharge point as specified below and in Table 1.

For Lots 70-77, Stage 2 Kings Cove, all stormwater must be drained to the surface drain located immediately below the northern (rear) boundary of the lots.

For Lots 43-47, 57-64 Stage 3 & 4 Kings Cove, all stormwater must be drained to the drain/kerb fronting the allotments along Kings Cove Boulevard.

For Lots 43-47 & 57-64, stormwater should not be drained downslope in a south-eastern direction over the steeper slopes along the south-eastern (rear) of these allotments.

Particular care must be taken to protect all drainage lines, gullies and steep erosion-prone slopes. Stormwater discharged onsite (from buildings and driveways etc) must be suitably baffled to dissipate erosive energy. Where there is a threat of erosion, energy dissipaters consisting of rock aggregate (100 mm ALD) securely laid over needle-punched geotextile fabric, should be constructed at stormwater outlet points. Stormwater should exit over the aggregate and onto stable grassed areas. A silt fence should be constructed across the drainage line immediately below the stormwater outlet point during construction activities.

Early connection of stormwater lines and onsite storage for subsequent reuse is encouraged.





DAC166290V-35-1

Kings Cove – Stage 3 & 4: Soil and Water Management Plan

5. INSTALLATION SEQUENCE

Forward planning can minimise the number of erosion control structures required and their potential interference with the building process.

Installation of erosion control structures in an appropriate sequence will maximise the effect of the structures in preventing erosion and sediment movement, and further reduce the interference to builders.

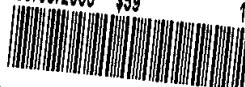
The following sequence should be adopted:

1. Establish a single entry-exit point and 'parking' spot for all vehicles involved in construction activities
2. Peg-out the limits of the dwelling
3. Determine the limits of disturbance / earthworks (ie cut and fill)
4. Install sediment fences along the low side of the site immediately below the limit of disturbance, leaving sufficient room for construction activities and stockpiles. Sediment fence detail is shown on the Dwelling Soil and Water Management Plan.
5. Install a cut-off drain above the upper limit of the cut batter to divert up-slope water around the site
6. Stabilise cut-off drains and discharge points to dissipate erosive energy of water
7. Remove any remaining vegetation (confirming for planning approval if required)
8. Strip and stockpile topsoil within the sediment fence perimeter
9. Rehabilitate all disturbed areas (including cut and fill batters) not subject to further construction activity with erosion control matting and suitable fast growing grass species
10. Install on-site building waste and litter receptacles (ie mini skips etc)
11. Undertake construction activity
12. Minimise erosive potential of stormwater generated from the site and dwelling roofs. This will include the need to install and connect roof downpipes and stormwater drainage lines to discharge points.
13. Continue to maintain all erosion and sediment control structures, including regular removal of accumulated sediment.
14. Stabilise and rehabilitate all remaining disturbed slopes (cut and fill batters, service trenches) with suitable fast growing grass species.

AC166290V

30/06/2003 \$59

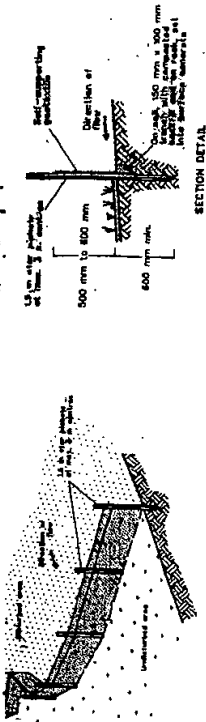
173



AC166290V

30/06/2003 \$59

173



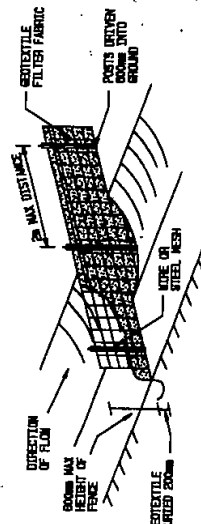
CONSTRUCTION NOTES

1. Construct sediment fence at limit of disturbance.
2. Drive a 15mm star picket into ground. An expert.
3. Dig a 150mm deep trench along the upslope line of the fence for the bottom of the fabric to be entrenched.
4. Backfill trench over base of fabric.
5. Fix self supporting geotextile to upslope side of posts with wire pins or as recommended by geotextile manufacturer.
6. Join sections of fabric at a support post with a 150mm overlap.

TYPICAL SILT FENCE

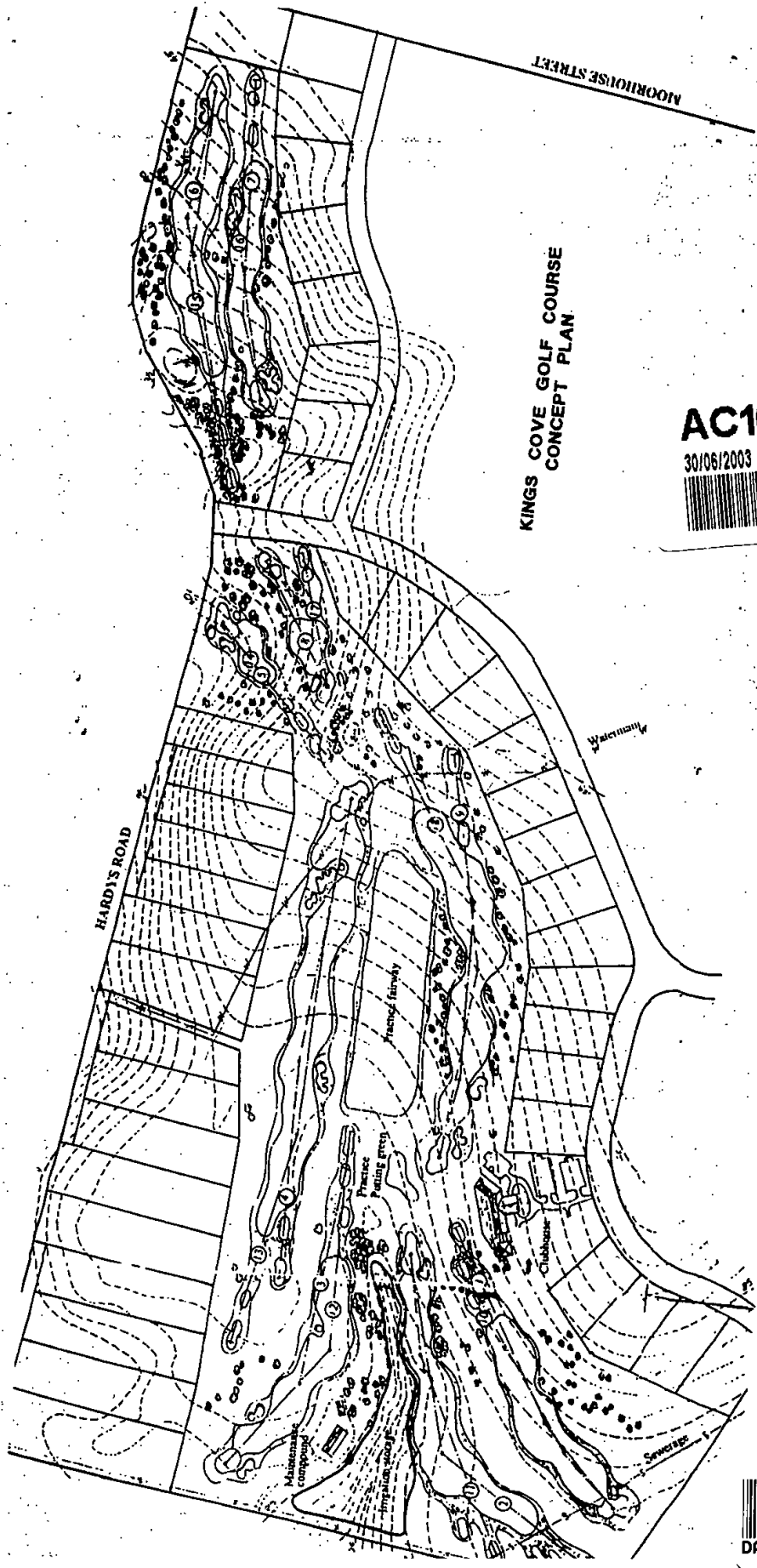
GENERAL NOTES

1. Restrict cut & fill to minimum necessary and stabilize all disturbed slopes promptly. Establish on-site building waste and litter receptacles
2. Establish a cut-off drain above the upper limit of the cut better to divert up-slope water around the site
3. Install sediment fences along the low side of site immediately below the limit of disturbance, leaving sufficient room for construction activities and stockpiles
4. Sediment fence detail is shown attached.
5. Strip and stockpile topsoil within sediment fence perimeter
6. Minimize waste from near-down and till/drill cutting
7. Minimize erosive potential of stormwater generated from the site and dwelling roofs. This will include the need to install and connect roof downpipes and stormwater drainage lines to discharge points as follows:
 - Stage 3, Lots 70 - 77 inclusive to the surface drain located immediately below the northern 'leaky' boundary of the lots.
 - Stage 3 & 4, Lots 43 - 46 & 57 - 64 inclusive to the drain fronting the allotments along Kings Cove Boulevard.
 - Stage 3 Lot 47 to the kerb and channel fronting the allotment.



SILT FENCE ON DRAINAGE LINE

APPROVED	DATE	A	B	C	D	E	F	G	H
<p>STANDARD SPECIFICATIONS FOR ROADWORK</p> <p>SECTION 100 - GENERAL</p> <p>100.01 - PRELIMINARY</p> <p>100.02 - SURVEYING</p> <p>100.03 - EROSION CONTROL</p> <p>100.04 - UTILITIES</p> <p>100.05 - DRAINAGE</p> <p>100.06 - FILLING</p> <p>100.07 - PAVING</p> <p>100.08 - BRIDGES</p> <p>100.09 - STRUCTURES</p> <p>100.10 - SIGNAGE</p> <p>100.11 - LIGHTING</p> <p>100.12 - LANDSCAPING</p> <p>100.13 - MAINTENANCE</p> <p>100.14 - SAFETY</p> <p>100.15 - ENVIRONMENTAL PROTECTION</p> <p>100.16 - HISTORIC PRESERVATION</p> <p>100.17 - CULTURAL RESOURCES</p> <p>100.18 - ARCHAEOLGICAL INVESTIGATION</p> <p>100.19 - PALEONTOLOGICAL INVESTIGATION</p> <p>100.20 - PLANT AND ANIMAL LIFE</p> <p>100.21 - AIR QUALITY</p> <p>100.22 - NOISE</p> <p>100.23 - VIBRATION</p> <p>100.24 - CLIMATE</p> <p>100.25 - SOILS</p> <p>100.26 - WATER RESOURCES</p> <p>100.27 - SEWERAGE</p> <p>100.28 - WASTE MANAGEMENT</p> <p>100.29 - PUBLIC UTILITIES</p> <p>100.30 - TELECOMMUNICATIONS</p> <p>100.31 - TRANSPORTATION</p> <p>100.32 - TRAVEL DEMAND</p> <p>100.33 - TRANSPORTATION PLANNING</p> <p>100.34 - TRANSPORTATION IMPROVEMENTS</p> <p>100.35 - TRANSPORTATION SAFETY</p> <p>100.36 - TRANSPORTATION SECURITY</p> <p>100.37 - TRANSPORTATION POLICY</p> <p>100.38 - TRANSPORTATION LEGISLATION</p> <p>100.39 - TRANSPORTATION ECONOMICS</p> <p>100.40 - TRANSPORTATION ENVIRONMENT</p> <p>100.41 - TRANSPORTATION SOCIETY</p> <p>100.42 - TRANSPORTATION CULTURE</p> <p>100.43 - TRANSPORTATION IDENTITY</p> <p>100.44 - TRANSPORTATION HERITAGE</p> <p>100.45 - TRANSPORTATION FUTURE</p> <p>100.46 - TRANSPORTATION VISION</p> <p>100.47 - TRANSPORTATION MISSION</p> <p>100.48 - TRANSPORTATION VALUES</p> <p>100.49 - TRANSPORTATION BELIEFS</p> <p>100.50 - TRANSPORTATION ETHICS</p> <p>100.51 - TRANSPORTATION MORALS</p> <p>100.52 - TRANSPORTATION LAWS</p> <p>100.53 - TRANSPORTATION CUSTOMS</p> <p>100.54 - TRANSPORTATION TRADITIONS</p> <p>100.55 - TRANSPORTATION RITUALS</p> <p>100.56 - TRANSPORTATION BELIEFS</p> <p>100.57 - TRANSPORTATION OPINIONS</p> <p>100.58 - TRANSPORTATION ATTITUDES</p> <p>100.59 - TRANSPORTATION BEHAVIORS</p> <p>100.60 - TRANSPORTATION EMOTIONS</p> <p>100.61 - TRANSPORTATION THOUGHTS</p> <p>100.62 - TRANSPORTATION FEELINGS</p> <p>100.63 - TRANSPORTATION ACTIONS</p> <p>100.64 - TRANSPORTATION REACTIONS</p> <p>100.65 - TRANSPORTATION RESPONSES</p> <p>100.66 - TRANSPORTATION ADAPTATIONS</p> <p>100.67 - TRANSPORTATION CHANGES</p> <p>100.68 - TRANSPORTATION IMPROVEMENTS</p> <p>100.69 - TRANSPORTATION INNOVATIONS</p> <p>100.70 - TRANSPORTATION RESEARCH</p> <p>100.71 - TRANSPORTATION DEVELOPMENT</p> <p>100.72 - TRANSPORTATION GROWTH</p> <p>100.73 - TRANSPORTATION PROGRESS</p> <p>100.74 - TRANSPORTATION SUCCESS</p> <p>100.75 - TRANSPORTATION FAILURE</p> <p>100.76 - TRANSPORTATION CHALLENGES</p> <p>100.77 - TRANSPORTATION OPPORTUNITIES</p> <p>100.78 - TRANSPORTATION RISKS</p> <p>100.79 - TRANSPORTATION UNCERTAINTIES</p> <p>100.80 - TRANSPORTATION COMPLEXITIES</p> <p>100.81 - TRANSPORTATION INTERDEPENDENCIES</p> <p>100.82 - TRANSPORTATION SYNERGIES</p> <p>100.83 - TRANSPORTATION COMPLEMENTARITIES</p> <p>100.84 - TRANSPORTATION SUBSTITUTABILITIES</p> <p>100.85 - TRANSPORTATION COMPLEMENTARITIES</p> <p>100.86 - TRANSPORTATION SUBSTITUTABILITIES</p> <p>100.87 - TRANSPORTATION COMPLEMENTARITIES</p> <p>100.88 - TRANSPORTATION SUBSTITUTABILITIES</p> <p>100.89 - TRANSPORTATION COMPLEMENTARITIES</p> <p>100.90 - TRANSPORTATION SUBSTITUTABILITIES</p> <p>100.91 - TRANSPORTATION COMPLEMENTARITIES</p> <p>100.92 - TRANSPORTATION SUBSTITUTABILITIES</p> <p>100.93 - TRANSPORTATION COMPLEMENTARITIES</p> <p>100.94 - TRANSPORTATION SUBSTITUTABILITIES</p> <p>100.95 - TRANSPORTATION COMPLEMENTARITIES</p> <p>100.96 - TRANSPORTATION SUBSTITUTABILITIES</p> <p>100.97 - TRANSPORTATION COMPLEMENTARITIES</p> <p>100.98 - TRANSPORTATION SUBSTITUTABILITIES</p> <p>100.99 - TRANSPORTATION COMPLEMENTARITIES</p> <p>100.100 - TRANSPORTATION SUBSTITUTABILITIES</p>									



KINGS COVE GOLF COURSE
CONCEPT PLAN

AC166290V
30/06/2003 \$59 173

DAC166290V-37-9



DRC166290V-38-2

SCHEDULE B

BUILDERS' SITE REFUSE GUIDELINES

1. All Owners have an obligation to keep the whole of "King's Cove" tidy.
2. It is an Owner's responsibility during the construction phase of a Residence on a Lot to inform the builder of the contents of these Builder's Site Refuse Guidelines.
3. All building materials and fittings must be stored within the property boundaries of a Lot at all material times and no building materials are permitted to be stored on the nature strip of a Lot.
4. Builders must provide a lockable 2 metre square bin on a Lot for the storage of all site refuse generated by that Lot and keep all such site refuse within such bin.
5. The King's Cove Architectural Review Committee will impose a non-littering requirement as a standard clause of any approval granted by the Architectural Review Committee in respect of building works. The builder will be required to be diligent in the control of all site litter and to protect adjoining lots and verges from use by on site construction workers and subcontractors of the Lot.
6. The owner must ensure that a sign is erected on the Lot during the construction phase of the Residence specifying the builder's obligations in relation to these Builders' Site Refuse Guidelines.
7. An Owner and their builder must comply with any litter notice issued by or on behalf of the Architectural Review Committee specifying breaches of the Builders' Site Refuse Guidelines and rectify such breaches, failing which an Owner and their builder will be exposed to prosecution by East Gippsland Shire Council under the Litter Control Act.



StorthGuidelines



DAC166290V-39-6

EAST GIPPSLAND SHIRE COUNCIL

- and -

STORTH RYES PTY LTD
(A.C.N. 006 383 179)

AGREEMENT UNDER SECTION 173
OF THE PLANNING AND ENVIRONMENT
ACT 1987



WARREN GRAHAM & MURPHY,
Solicitors,
119 Main Street,
BAIRNSDALE VIC 3875

REF: ACT:jl Storthryessection 173(Stage 4)

TEL: (03) 51522 661

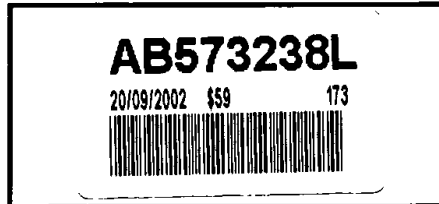
D.X.: 82201, Bairnsdale

Delivered by LANDATA® timestamp 18/11/2020 15:43 Page 1 of 47

© State of Victoria. This publication is copyright. No part may be reproduced by any process except in accordance with the provisions of the Copyright Act 1968 (Cth) and for the purposes of Section 32 of the Sale of Land Act 1962 or pursuant to a written agreement. The information is only valid at the time and in the form obtained from the LANDATA® System. None of the State of Victoria, LANDATA®, Victorian Land Registry Services Pty. Ltd. ABN 86 627 986 396 as trustee for the Victorian Land Registry Services Trust ABN 83 206 746 897 accept responsibility for any subsequent release, publication or reproduction of the information.

LODGED BY Warren, Graham & Murphy,

CODE 1716W VICTORIA



**APPLICATION BY A RESPONSIBLE AUTHORITY under Section 181
Planning and Environment Act 1987 for ENTRY OF A
MEMORANDUM OF AGREEMENT under Section 173 of that Act.**

IX Agreement

The Responsible Authority under the Planning Scheme having entered into an Agreement with the parties named for the land described requires that a Memorandum of Agreement be entered on the Certificate of Title to the land referred to.

LAND	Certificate of Title Volume 40569 Folio 313 <i>CANC Now = Vol 10678 Fol 232-251 (B1)</i> <i>(WH)</i>
ADDRESS OF LAND	15 Hardys Road, Metung, Victoria 3904
RESPONSIBLE AUTHORITY	East Gippsland Shire Council <i>22 NOV 2002</i> <i>With consent of</i> <i>Consent Practitioner for</i> <i>Applicant</i>
PLANNING SCHEME	East Gippsland Planning Scheme
AGREEMENT DATE	The <i>28th</i> day of <i>AUGUST</i> 2002
AGREEMENT WITH	Storth Ryes Pty. Ltd. (ACN 006 383 179)

A copy of the Agreement is attached to this Application

Signature of the Responsible Authority

[Signature]

Name of Officer

JOHN TRAA, STATUTORY PLANNER

Date

06/09/2002

12 OCT 2002



AB573238L

20/09/2002 \$59 173



EAST GIPPSLAND SHIRE COUNCIL

Council

- and -

STORTH RYES PTY LTD (A.C.N. 006 383 179)

the Owner

**Agreement under Section 173 of the Planning and
Environment Act 1987**

Subject Land: 15 Hardys Road, METUNG VIC 3904
PLAN OF SUBDIVISION 448622Q (Stage Two)



DAB573238L-2-8

TABLE OF CONTENTS**AB573238L**

20/09/2002 \$59 173



- 1. DEFINITIONS**
- 2. INTERPRETATION**
- 3. SPECIFIC OBLIGATIONS OF THE OWNER**
 - 3.1. Development in accordance with Planning Permit**
 - 3.2. Condition 11 of Planning Permit No. 01/00299/DS**
 - 3.3. Council's Costs to be paid**
- 4. FURTHER OBLIGATIONS OF THE OWNER**
 - 4.1. Notice and Registration**
 - 4.2. Further actions**
 - 4.3. Exemption**
- 5. AGREEMENT UNDER SECTION 173 OF THE ACT**
- 6. OWNER'S WARRANTIES**
- 7. SUCCESSORS IN TITLE**
- 8. GENERAL MATTERS**
 - 8.1. Notices**
 - 8.2. Notices (continued)**
 - 8.3. No Waiver**
 - 8.4. Severability**
 - 8.5. No Fettering of the Council's Powers**
- 9. COMMENCEMENT OF AGREEMENT**
- 10. ENDING OF AGREEMENT**

**DB573238L-3-6**

PLANNING AND ENVIRONMENT ACT 1987 SECTION 173 AGREEMENT

THIS AGREEMENT is made the 28 day of AUGUST 2002

BETWEEN

EAST GIPPSLAND SHIRE COUNCIL of 273 Main Street, Bairnsdale

("Council")

- and -

STORTH RYES PTY LTD (A.C.N. 006 383 179)

("the Owner")

INTRODUCTION

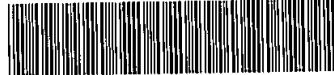
- A. The Council is the Responsible Authority for the Planning Scheme under the Act.
- B. The Owner is the registered proprietor of the Subject Land.
- C. It is a condition of planning Permit Number 01/00299/DS (Amended) ("the Planning Permit") that the Owner enter into this Agreement to develop and use the land in accordance with the Endorsed Plans and conditions of the Planning Permit. A copy of the Planning Permit is attached to this Agreement and marked "A".
- D. The parties enter into this Agreement:
 - (a) to give effect to the requirements of the Planning Permit; and
 - (b) to achieve and advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land.

AB573238L

20/09/2002 \$59 173



AB573238L-4-4

IT IS AGREED:

DAB573238L-5-2

1. DEFINITIONS

In this Agreement the words and expressions set out in this clause have the following meanings unless the context admits otherwise:

- 1.1. **"the Act"** means the Planning and Environment Act 1987.
- 1.2. **"this Agreement"** means this agreement and any agreement executed by the parties expressed to be supplemental to this agreement.
- 1.3. **"the Endorsed Plan"** means the plan, endorsed with the stamp of the Council that forms part of the Planning Permit. A copy of the plan, as at the date of this Agreement, is attached to this Agreement and marked with the letter "B".
- 1.4. **"Owner"** means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as proprietor or proprietors of an estate in fee simple of the Subject Land or any part of it and includes a Mortgagee-in-possession.
- 1.5. **"Planning Permit"** means the Planning Permit referred to in recital C. of this Agreement.
- 1.6. **"Planning Scheme"** means the East Gippsland Planning Scheme and any other planning scheme which applied to the Subject Land.
- 1.7. **"Subject Land"** means the land situated at 15 Hardys Road, Metung being Lot D on Plan of Subdivision No. 434079N and being the land described in Certificate of Title Volume 10569 Folio 313 and any reference to the Subject Land in this Agreement will include a reference to any lot created by the subdivision of the Subject Land or any part of it.

AB573238L

- 1.8. **"Mortgagee"** means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as Mortgagee of the Subject Land or any part of it.

2. INTERPRETATION



In this Agreement unless the context admits otherwise:

- 2.1. The singular includes the plural and vice versa.
- 2.2. A reference to a gender includes a reference to each other gender.
- 2.3. A reference to a person includes a reference to a firm, corporation or other corporate body and that person's successors in law.
- 2.4. If a party consists of more than one person this Agreement binds them jointly and each of them severally.
- 2.5. A reference to an Act, Regulation or the Planning Scheme includes any Acts, Regulations or amendments amending, consolidating or replacing the Act, Regulation or Planning Scheme.
- 2.6. The introductory clauses to this Agreement are and will be deemed to form part of this Agreement.
- 2.7. The obligations of the Owner under this Agreement, will take effect as separate and several covenants which are annexed to and run at law and equity with the Subject Land PROVIDED THAT if the Subject Land is subdivided, this Agreement must be read and applied so that each subsequent owner of a lot is only responsible for those covenants and obligations which relate to that owner's lot.

AB573238L



3. SPECIFIC OBLIGATIONS OF THE OWNER



The Owner covenants and agrees that:

3.1. Development in accordance with Planning Permit

the Subject Land shall only be developed in accordance with the Endorsed Plans and conditions of the Planning Permit or any subsequent amendment to the permit approved by the Council.

3.2. Condition 11 of the Planning Permit No. 01/00299/DS (Amended) requires that:

- (a) The development of each lot approved by this permit will only be carried out in accordance with the requirements of a Soil and Water Management Plan.
- (b) Each lot will be developed and used for the purpose of a single dwelling and associated outbuildings in accordance with the document "*Kings Cove – Metung- Guidelines for Construction, Siting of, External Alterations and Additions to Buildings and Structures on Kings Cove Stages 2 to 9, Low Residential Zone*", dated December, 2001 (or as amended) (The Document). A copy of the Document is attached hereto and marked "C".
- (c) Any amendment to The Document will be to the satisfaction of the Responsible Authority.
- (d) No lot created within Stage 1B will have vehicular access to Archibald Drive.
- (e) The provision of access to and development of the proposed Public Open Space Reserve shall be to the satisfaction of the responsible authority.

AB573238L

- (f) A copy of Planning Permit 01/00299/DS (Amended) will be attached to and will form part of the Contract of Sale for every lot.
- (g) Landscaping works around private residences will have regard to the Storth Ryes Landscape Concept Report, which encourages the use of indigenous plant species and recommends appropriate planting objectives and plant lists for site conditions. Known weed or invasive "pest" plants will not be encouraged.
- (h) This Agreement will bind the Owner and must run with the land so that all successors in the title are bound by this Agreement.

3.3. Council's Costs to be Paid

This Agreement will be prepared at the Owner's cost and to the satisfaction of the responsible authority, and must be registered on title in accordance with Section 181 of the Planning and Environment Act 1987.

The Owner must pay to the Council, the Council's reasonable costs and expenses (including legal expenses) of and incidental to the preparation, drafting, finalisation, engrossment, execution, registration and enforcement of this Agreement and until those costs are paid they will remain a debt of the Owner to the Council.

4. FURTHER OBLIGATIONS OF THE OWNER

The Owner further covenants and agrees that:



4.1. Notice and Registration

the Owner will bring this Agreement to the attention of all prospective purchasers, mortgagees, transferees and assigns;





DAB573238L-9-5

4.2. Further actions

- 4.2.1. the Owner will do all things necessary, including signing any further agreements, undertakings, covenants and consents, approvals or other documents necessary for the purpose of ensuring that the Owner carries out the Owner's covenants under this Agreement and to enable the Council to enforce the performance by the Owner of such covenants and undertakings;
- 4.2.2. the Owner will consent to the Council making application to the Registrar of Titles to make a recording of this Agreement in the Register on the Certificate of Title of the Subject Land in accordance with Section 181 of the Act and do all things necessary to enable the Council to do so including signing any further agreement, acknowledgement or document or procuring the consent to this Agreement of any mortgagee or caveator to enable the recording to be made in the Register under that Section;

4.3. Exemption

The Owner will exempt the Council, its employees, contractors and agents from and against all costs, expenses, losses or damages whatsoever which they or any of them may sustain incur or suffer, or be or become liable for or in respect of any suit, action, proceeding, judgment or claim brought by any person whatsoever arising from or referable to this Agreement or any non-compliance thereof.

5. AGREEMENT UNDER SECTION 173 OF THE ACT

The Council and the Owner agree that without limiting or restricting their respective powers to enter into this Agreement and, insofar as it can be so treated, this Agreement is made pursuant to Section 173 of the Act.

AB573238L

20/09/2002 \$59 173





DAB573238L-10-2

6. OWNERS WARRANTIES

Without limiting the operation or effect which this Agreement has, the Owner warrants that apart from the Owner and any other person who has consented in writing to this Agreement, no other person has any interest, either legal or equitable, in the Subject Land which may be effected by this Agreement.

7. SUCCESSORS IN TITLE

Without limiting the operation or effect which this Agreement has, the Owner must ensure that, until such time as a memorandum of this Agreement is registered on the title to the Subject Land, successors in title shall be required to:

- 7.1. give effect to and do all acts and sign all documents which will require those successors to give effect to this Agreement; and
- 7.2. execute a deed agreeing to be bound by the terms of this Agreement.

8. GENERAL MATTERS

8.1. Notices

A notice or other communication required or permitted to be served by a party on another party must be in writing and may be served:

8.1.1. by delivering it personally to that party;

8.1.2. by sending it by prepaid post addressed to that party at the address set out in this Agreement or subsequently notified to each party from time to time; or

8.1.3. by sending it by facsimile provided that a communication sent by facsimile shall be confirmed immediately in writing by the sending party hand delivery or prepaid post.

AB573238L


8.2. A notice or other communication is deemed served:

8.2.1. if delivered, on the next following business day;

8.2.2. if posted, on the expiration of two business days after the date of posting; or

8.2.3. if sent by facsimile, on the next following business day unless the receiving party has requested retransmission before the end of that business day.

8.3. No Waiver



Any time or other indulgence granted by the Council to the Owner or any variation of the terms and conditions of this Agreement or any judgment or order obtained by the Council against the Owner will not in any way amount to a waiver of any of the rights or remedies of the Council in relation to the terms of this Agreement.

8.4. Severability

If a court, arbitrator, tribunal or other competent authority determines that a word, phrase, sentence, paragraph or clause of this Agreement is unenforceable, illegal or void then it must be severed and the other provisions of this Agreement will remain operative.

8.5. No Fettering of the Council's Powers

It is acknowledged and agreed that this Agreement does not fetter or restrict the power or discretion of Council any decision or impose any requirements or conditions in connection with the granting of any planning approval or certification of any plans of subdivision applicable to the Subject Land or relating to any use or development of the Subject Land.



9. COMMENCEMENT OF AGREEMENT

Unless otherwise provided in this Agreement, this Agreement commences from the date of this Agreement.

10. ENDING OF AGREEMENT

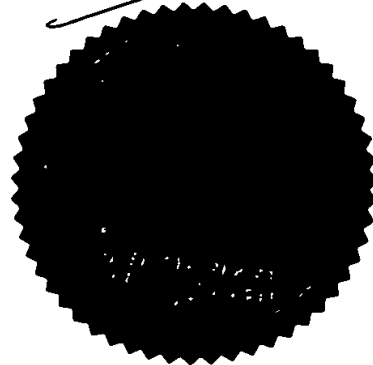
This Agreement may be ended wholly or in part or as to any part of the land by the Responsible Authority with the approval of the Minister or by agreement between the Responsible Authority and all persons who are bound by the agreement.

EXECUTED by the parties on the date set out at the commencement of this Agreement.

The **COMMON SEAL** of **EAST GIPPSLAND**
SHIRE COUNCIL was affixed on behalf of)
 Council by authority of the Chief Executive)
 Officer on the 28th day of August.)
 2002 in exercise of the power delegated)
 under Administrative Procedures (Use of)
 Common Seal) Local Law in the presence of)

..... M. Bennett

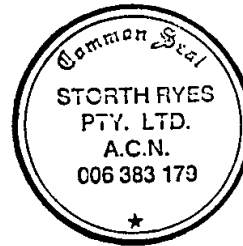
.....



AB573238L



The **COMMON SEAL** of **STORTH RYES**)
PTY LTD (A.C.N. 006 383 179) was)
 Hereunto affixed in accordance with its)
 Constitution in the presence of:-



[Signature]
 Signature

[Signature]
 Signature

Thomas Rager Weber
 Full Name

THOMAS RAGER
 Full Name

Level 1, 637 The Esplanade, Rayville.
 Usual Address

74 MAIN ST. BARRISDALE
 Usual Address

DIRECTOR
 Office Held

SECRETARY
 Office Held

Mortgagee's Consent



DAB573238L-13-3

Gippsland Secured Investments as Mortgagee of Registered Mortgages Numbered W348833Y and X256305M consents to the Owner entering into this Agreement and in the event that the Mortgagee becomes Mortgagee-in-possession, agrees to be bound by the covenants and conditions of this Agreement.

[Signature]
 For and on behalf of the Mortgagee, G.S.I.



AB573238L



PLANNING PERMIT

Permit No: 01/00299/DS (AMENDED)
 Planning Scheme: EAST GIPPSLAND
 Responsible Authority: East Gippsland Shire

Form 4.4

ADDRESS OF THE LAND

15 Hardys Road, METUNG VIC 3904
 Lot 2 LP 420967)

AB573238L

20/09/2002 \$59 173



DB573238L-14-7

THE PERMIT ALLOWS

The land to be subdivided into 68 Lot (Stages 2, 3, 4, 5 & 6) in accordance with the endorsed plans.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

Subdivision not altered

1. The subdivision as shown on the endorsed plans must not be altered without the prior written consent of the responsible authority.

Engineering requirements

2. The applicant shall engage a suitably qualified consultant to undertake the preparation of detailed engineering design, drawings, documentation and specifications for the construction of road and drainage works and for the provision of services, all to the satisfaction of Council and meeting the requirements of the relevant service authorities.
3. Infrastructure shall be designed in accordance with standard engineering principles and practices. Full and detailed calculations shall be provided. The design shall provide for the following minimum requirements.

Roads, Pavement and Access

(a) Investigation shall be undertaken to determine existing site conditions to determine design requirements. All reports and full details of all investigations undertaken shall be provided with designs submitted to Council for approval. Full and detailed calculations supporting all aspects of design shall be provided.

(b) Pavement design shall be undertaken in accordance with accepted engineering practice. Pavement design for collector roads shall also take into consideration traffic that may be generated from the potential for future development to the south-west of the subject site. Supporting calculations for pavement design including the provision of geotechnical reports shall be provided.

(c) The cul-de-sac or turning heads of proposed new roads shall be constructed and sealed to provide sufficient space for the manoeuvring of all service and emergency vehicles. "T" or "Y" shaped turning heads are acceptable. Provision of suitable area for vehicles to perform a 3 point turn will be acceptable.

(d) A driveway crossover or culvert shall be constructed for all allotments to Council's satisfaction and in accordance with Council requirements. Crossing places shall incorporate features to prevent erosion which may include but not be limited to suitable stone pitching in the invert or energy dissipation devices. Proposed details of design and construction for crossovers shall be provided.

Drainage

(e) The stormwater drainage system shall be designed in accordance with standard engineering practice to provide for the collection of all stormwater

runoff, resulting from a storm having an ARI of 1 in 20 Years, and concentrated by buildings, pavements, and/or siteworks to avoid damage or inundation to any property. Each allotment shall be provided with a connection to the drainage system. Connections to the drainage system shall be in accordance with Council requirements. Pipes through the council verge area shall be constructed of steel or concrete, not PVC.

(f) The stormwater drainage system shall incorporate measures to ensure the quality of stormwater discharging from the development is maintained. The drainage system shall provide such water quality measures as considered necessary which may include, but not be limited to, the provision of sediment traps, wetlands, detention basins, Gross Pollutant Traps and drainage pits incorporating litter baskets.

(g) Drains shall incorporate features to prevent erosion which may include but not be limited to suitable stone pitching in the invert or energy dissipation devices placed at regular intervals along the length of the drain.

(h) Where a proposed drainage system submitted to Council for approval indicates that construction of drains will be on private property easements for drainage purposes and meeting the requirements of Council for access and maintenance purposes shall be vested in Council free of charge.

(i) Outlets shall incorporate an energy dissipation devices to prevent any erosion.

Earthworks

(j) With the exception of roadside drainage structures roadside verges shall have a batter slope no greater than 8 horizontal to 1 vertical.

(k) All earthworks associated with the development shall be stabilised in accordance with standard engineering design and practices against erosion and failure. No earthworks may encroach across neighbouring property boundaries.

Services

(l) Design for the installation of services shall meet the requirements of the relevant authorities and shall be approved by those authorities.

Signage and Traffic Control

(m) The design shall address and include all applicable and statutory signage and traffic control requirements. Design drawings and specifications shall provide for the installation of appropriate signage and pavement markings conforming with the requirements of AS 1742 Manual of uniform traffic control devices. Provision of necessary signage and pavement marking shall be undertaken by the developer

Documentation

(n) All documentation for the construction of infrastructure shall include adequate provision for:

- (i) maintenance and repair of damage to existing infrastructure damaged as a result of works associated with this development
- (ii) quality assurance and testing procedures
- (iii) provision for adequate notification and inspections by Council representatives at various key stages of the works
- (iv) works to be undertaken with due regard to environmental requirements.

(o) An agreement shall be entered into which shall be noted on title requiring the property being developed as a golf course to accept all stormwater runoff

AB573238L



20/09/2002 15:59 173



AB573238L-15-1

from the development. This agreement shall be a continuing agreement and binding on all future registered proprietors of that property.

Supervision of Works

(p) An appropriately qualified and registered practitioner to the satisfaction of the Responsible Authority must supervise all stages of works to be constructed on the site. Copies of all test results certified by a NATA accredited laboratory shall be provided with a certification by a Chartered Professional Engineer that all works have been constructed in accordance with approved plans and specifications will be required.

4. Any portion of Council's existing infrastructure damaged as a result of work undertaken on the site or associated with the development shall be repaired/reinstated to Council's satisfaction at the developer's expense.
5. No works shall commence until such time as all necessary approvals from Council and relevant service authorities have been obtained.
6. Construction works on the subject land may only be conducted between the hours of 7.00 am to 6.00 pm Monday to Saturday (inclusive).
7. During and after construction works, the site must be managed to minimise dust generation and movement causing loss of amenity to the surrounding neighbourhood to the satisfaction of the responsible authority.
8. All earthworks associated with the proposal must be undertaken in accordance with the provisions of Environment Protection Authority (EPA) Publication No. 275 "Construction Techniques for Sediment and Pollution Control" (Copy available from EPA, Traralgon).
9. Prior to the issue of a Statement of Compliance the applicant shall pay to the Council an amount of money equal to 0.75% of the estimated cost of the engineering works plus 2.5% of the actual cost of the engineering works for checking of plans and specifications and for on-site supervision of the engineering works respectively in accordance with Clause 8 and 9 of the Subdivision (Permit and Certification Fees) Regulations.

Tree removal

10. Trees that do not fit the category of being "planted" as part of the initial development require a separate planning permit for removal unless exempted by provisions of the East Gippsland Planning Scheme.

173 agreement

11. Prior to the issue of a Statement of Compliance, the applicant must enter into an Agreement under Section 173 of the Planning and Environment Act 1987 with the responsible authority to covenant that:
 - the development of each lot approved by this permit will only be carried out in accordance with the requirements of a Soil and Water Management Plan.
 - each lot will be developed and used for the purpose of a single dwelling and associated outbuildings in accordance with the document "Kings Cove - Metung - Guidelines for Construction, Siting of, External Alterations and Additions to Buildings and Structures on Kings Cove Stages 2 to 9, Low Density Residential Zone", dated December 2001 (or as amended) (The Document).
 - Any amendment to The Document will be to the satisfaction of the Responsible Authority.
 - no lot created within Stage 1B will have vehicular access to Archibald Drive.

AB573238L

20/09/2002 \$99 173



- the provision of access to and development of the proposed Public Open Space Reserve shall be to the satisfaction of the responsible authority.
- a copy of this permit will be attached to and will form part of the contract of sale for every lot.
- landscaping works around private residences will have regard to the Storth Ryes Landscape Concept Report, which encourages the use of indigenous plant species and recommends appropriate planting objectives and plant lists for site conditions. Known weed or invasive "pest" plants will not be encouraged.
- the agreement may be ended wholly or in part or as to any part of the land by the responsible authority with the approval of the responsible authority with the approval of the Minister or by agreement between the responsible authority and all persons who are bound by the agreement.
- the agreement will bind the owner(s) and must run with the land so that all successors in the title are bound by the agreement.
- this agreement will be prepared at the owner's cost and to the satisfaction of the responsible authority, and must be registered on title in accordance with Section 181 of the Planning and Environment Act 1987.

Construction of dwellings

12. The development of lots approved by this permit for the purpose of a dwelling will be exempt from the need to obtain a separate planning permit provided:
- all buildings are constructed wholly within approved building envelopes;
 - all construction and site development works are carried out strictly in accordance with the approved Soil and Water Management Plan, to the satisfaction of the responsible authority, and
 - the requirements of Clause 32.03-2 (Use for one or two dwellings or a dependent persons unit) can be met.

Street Names

13. Street names must be to the satisfaction of the responsible authority.

Landscaping

14. Prior to the issue of a Statement of Compliance, the subject land must be landscaped and planted in accordance with the requirements of the "Storth Ryes Landscape Concept Report" prepared by Murphy Design Group and dated April 2000. Specifically the following requirements must be met:
- Section 1.13 Other Roads
 - Section 1.15 Pedestrian Walkways
 - Section 1.16 Boundaries
15. Plans detailing the landscaping and streetscaping treatments, consistent with the "Storth Ryes Landscape Concept Report" and the Typical Landscape treatments contained in this report, and must be prepared by an appropriately qualified person and approved by the responsible authority prior to the commencement of any landscaping works.



DAB573238L-17-8

East Gippsland Water

The owner/applicant must:

16. Enter into an agreement under the Water Act for the provision of water supply works.

17. Meet the cost of the necessary water mains extension.
18. Pay a headworks and distribution charge at a level determined by the Authority at the time of payment. As a guide the level applicable on 18/7/01 is \$2,000 per lot created by the subdivision.
19. Enter into an agreement under the Water Act for the provision of sewerage works.
20. Meet the cost of the necessary sewer mains extension.
21. Pay an outfall and disposal charge at a level determined by the Authority at the time of payment. As a guide, the level of charge on 18/7/01 is \$2,100 per lot created by the subdivision.
22. Provide easements as necessary.
23. Connect development to Authority's water and sewerage services to the satisfaction of the Authority.

TXU Electricity Ltd

The applicant must:



24. Enter into an agreement with TXU Electricity Ltd for supply of electricity to each lot on the endorsed plan.
25. Enter into an agreement with TXU Electricity Ltd for the rearrangement of the existing electric supply system.
26. Enter into an agreement with TXU Electricity Ltd for rearrangement of the points of supply to any existing installations affected by any private electric power line which would cross a boundary created by the subdivision, or by such means as may be agreed by TXU Electricity Ltd.
27. Provide easements satisfactory to TXU Electricity Ltd for the purpose of "Electricity (power lines)" in the favour of TXU Electricity Ltd pursuant to Section 44 of the Electricity Industry Act 1993, where easements have not been otherwise provided, for all existing TXU Electricity Ltd electric power lines and for any new power lines required to service the lots on the endorsed plan and/or abutting land.
28. Obtain for the use of TXU any other easement external to the subdivision required to service the lots.
29. Adjust the position of any existing TXU Electricity Ltd easement to accord with the position of the electricity line(s) as determined by survey.
30. Set aside on the plan of subdivision for the use of TXU, reserves satisfactory to TXU where any electric substation (other than a pole mounted type) is required to service the subdivision.
31. Provide survey plans for any electric substation required by TXU Electricity Ltd and for associated power lines and cables and execute leases for a period of 30 years, at a nominal rental with a right to extend the lease for a further 30 years. TXU Electricity Ltd requires that such leases are to be noted on the title by way of a caveat or a notification under section 88(2) of the Transfer of Land Act prior to the registration of the plan of subdivision.

Telstra

32. The applicant shall enter into an agreement with Telstra or other licensed Telecommunications carrier for the satisfactory provision of telephone cable reticulation one metre into each lot created.
33. The applicant shall set aside on the plan of subdivision reserve/s satisfactory to Telstra, for telecommunication/s substations if required.

Planning Permit No. 01/00299/DS - Page 5

AB573238L

5

Certification

34. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of the Act.

DNRE

35. Prior to any works commencing on the development of the subdivision, the Soil and Water Management Plan prepared for the works shall be referred to DNRE for comment.
36. The siting of building envelopes on individual allotments shall be established so as to ensure minimal vegetation removal and the Envelope Plan shall be submitted to DNRE for comment prior to certification of each stage of the subdivision.

CFA

37. All roads must be designed, constructed and maintained for a load capacity of at least 15 tonnes.
38. There must be no obstructions within one metre of the formed width of roads at any time and there must be four metres height clearance above all roads to allow fire vehicle access.
39. The amount and location of parking facilities must be determined in such a manner as to encourage users not to impede access of emergency vehicles.
40. Adequate provisions for turning of brigade vehicles must be provided in dead end roads and cul-de-sacs. This may be through either the provision of a court bowl with a trafficable area of minimum 10 metres radius or a "wye" or "tee" head with formed road surface of each leg being of at least 8 metres length from the centre point of the head and four metres width.
41. The water reticulation plan must be approved by the CFA prior to commencement of construction.
42. There must be a hydrant within 120 metres from the outer edge of building envelope.
43. Fire hydrants must be clearly identified in accordance with the Fire Service Guideline – Identification of Hydrants for Fire Fighting Purposes.
44. Areas of public open space must be managed in a minimum fuel condition during the fire danger period.

Time

45. The permitted approval for subdivision will expire if the subdivision is not started or completed within five years of the date of this permit.
46. The permitted approval for buildings and works associated with the development of dwellings, including vegetation removal within approved building envelopes, will expire if one of the following circumstances applies:
- The building or works is not started within fifteen years of the date of this permit.
 - The building or works is not completed within two years of commencement on each lot within the subdivision.

This applies only to the construction of dwellings and the removal of vegetation within approved building envelopes and as permitted in line with the requirements specified in Condition 7 of this permit.

AB573238L

20/09/2002 \$59

173



DAB573238L-19-5

Notes:**East Gippsland Water**

The payment of headworks and outfall charges will be at the time of sale/settlement of each lot, or all outstanding monies to be paid in full within two years from the date of issue of Statement of Compliance for the subdivision by the Authority, whichever occurs first.

TXU

It is recommended that, at an early date the applicant commences negotiations with TXU Electricity Ltd in order that supply arrangements can be worked out in detail, so prescribed information can be issued without delay.

Arrangements for supply will be subject to obtaining the agreement of other Authorities and any landowners affected by routes of the electric power lines required to supply the lots and for any tree clearing.


Prospective purchasers of lots on this plan should contact the TXU Electricity Ltd Bairnsdale office to determine the availability of a supply of electricity. Financial contributions may be required.

Permit amended to include a range of extra conditions controlling development of the subdivision.

Date Issued: 19 October, 2001

Amended on: 4 February, 2002

Page 7 of 7


Signature for the
Responsible Authority

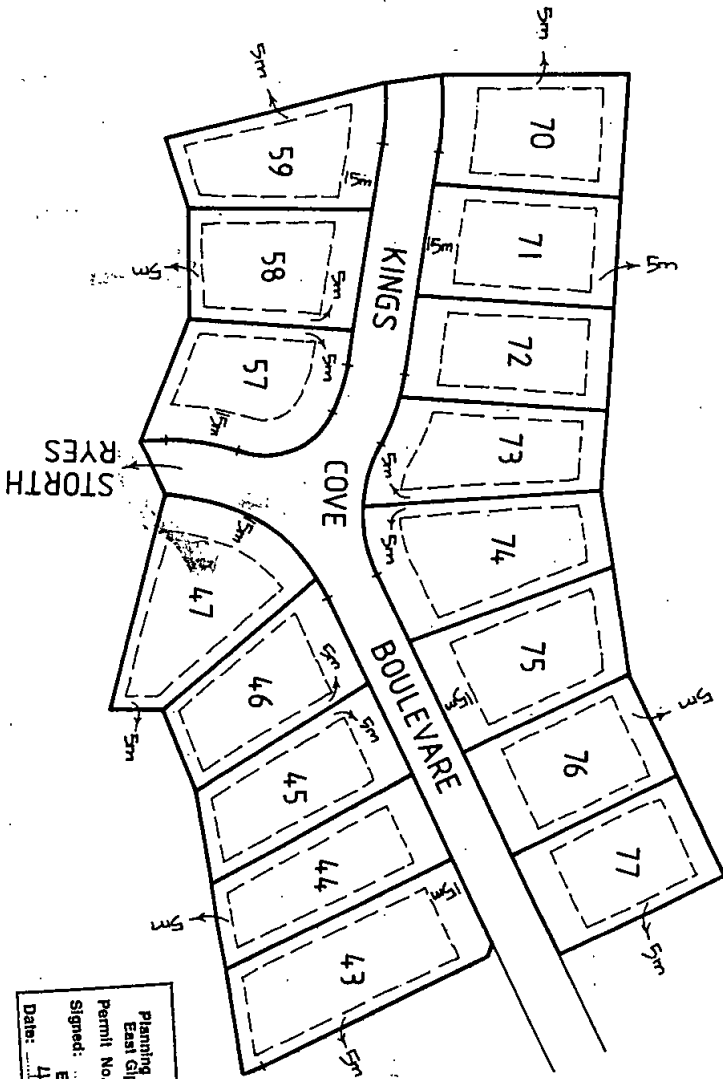
AB573238L

20/09/2002 \$59 173

**DAB573238L-20-1**

BUILDING ENVELOPE DIAGRAM
"KINGS COVE" DEVELOPMENT
STAGE 3
REF No: 9804-1
SCALE: 1:2000 (A3)

AB573238L



Endorsed Plan
Planning and Environment Act 1987
East Gippsland Planning Scheme
Permit No: 01002791/DS
Signed: [Signature]
Date: 4/7/07
Page 2 of 2



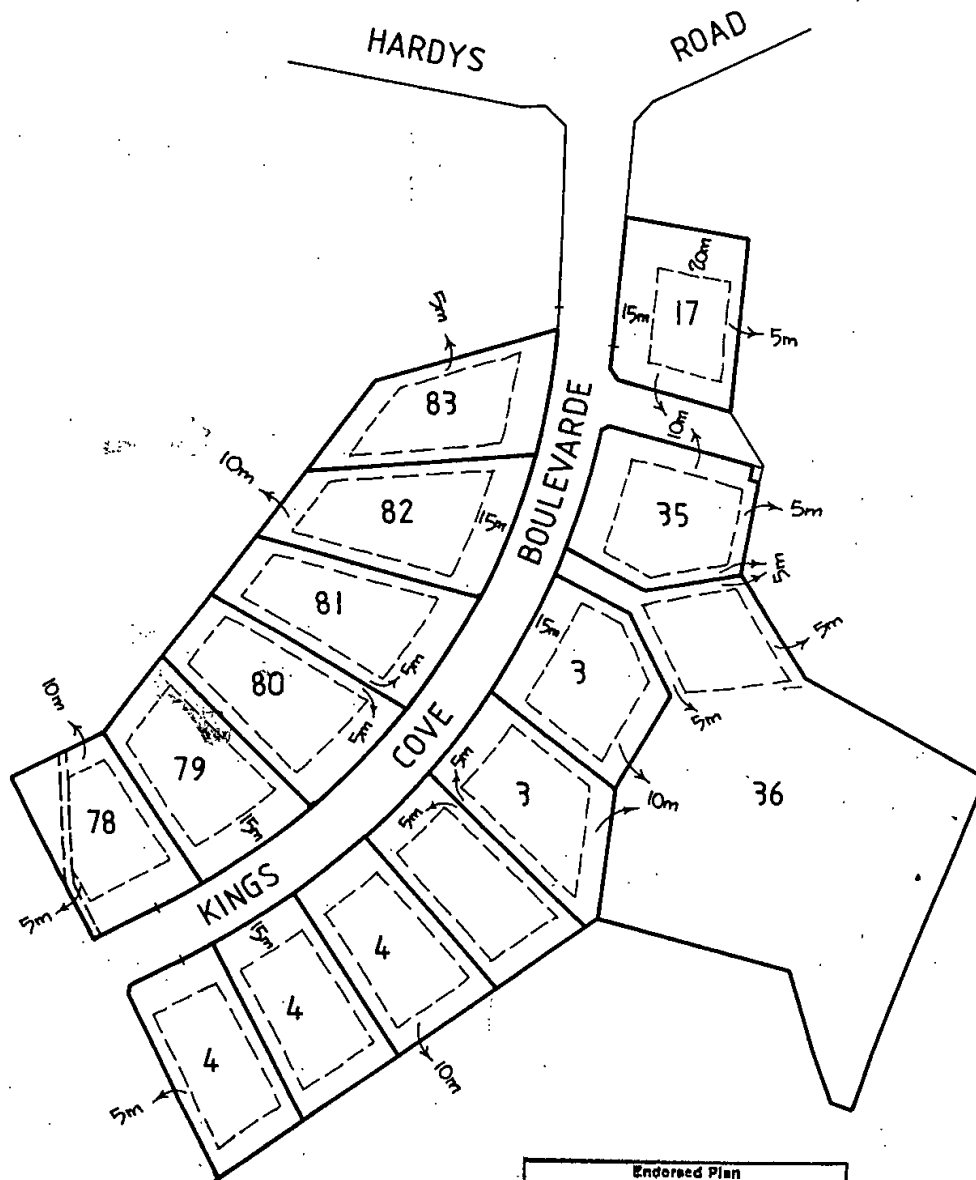
Crowther & Sadler Pty Ltd
LICENSED SURVEYORS & TOWN PLANNERS
152 MACLEOD STREET, BAIRNSDALE, 3875
TELEPHONE (03) 5152 2011

BUILDING ENVELOPE DIAGRAM "KINGS COVE" DEVELOPMENT STAGE 2

REF NO.: 9803-1
SCALE: 1:2000 (A3)

AB573238L

20/09/2002 \$59 173





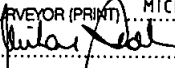
Endorsed Plan	
Planning and Environment Act 1987	
East Gippsland Planning Scheme	
Permit No.:	91/00279/05
Signed:	[Signature]
East Gippsland Shire	
Date:	4/2/02 Page 1 of 1

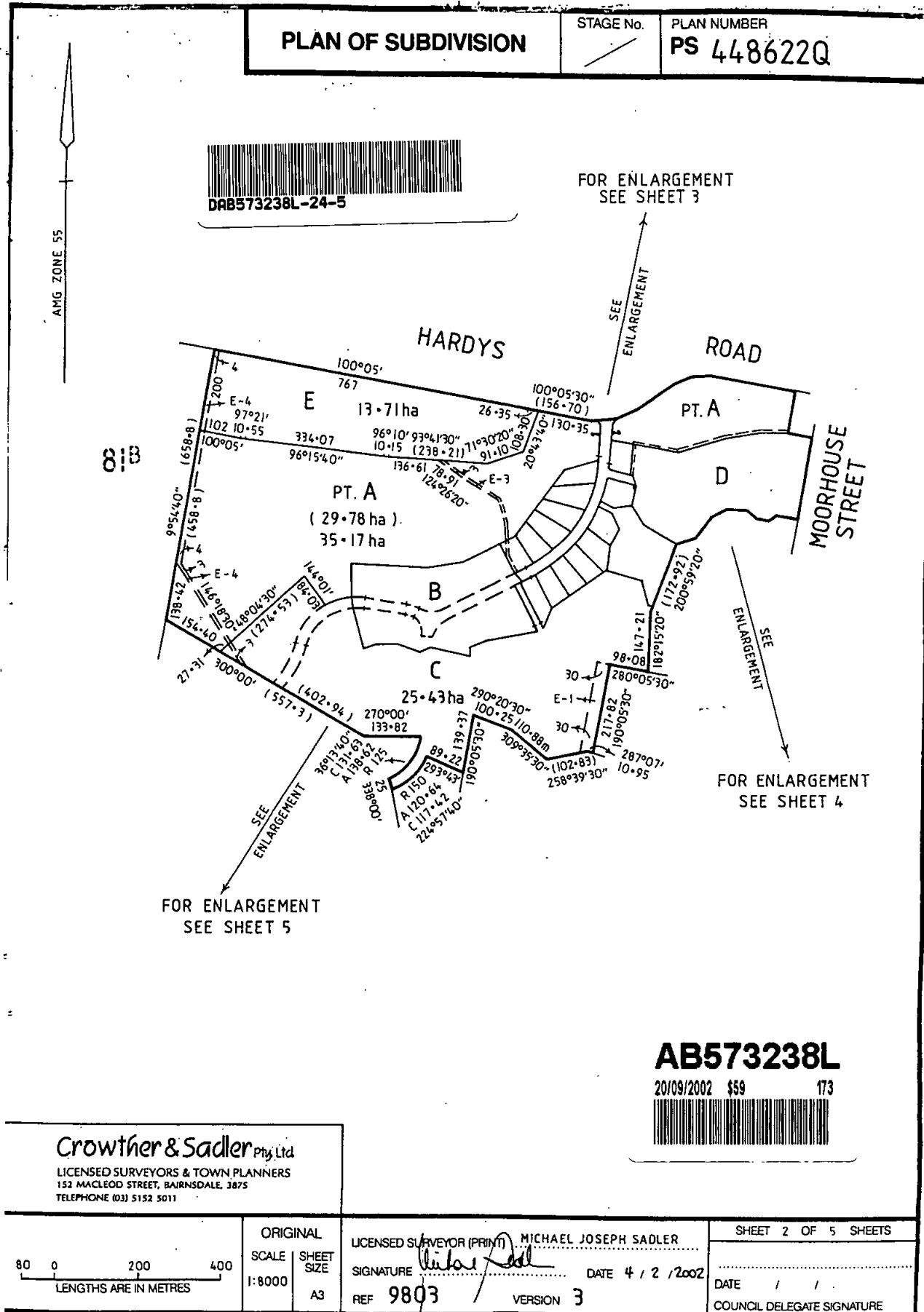


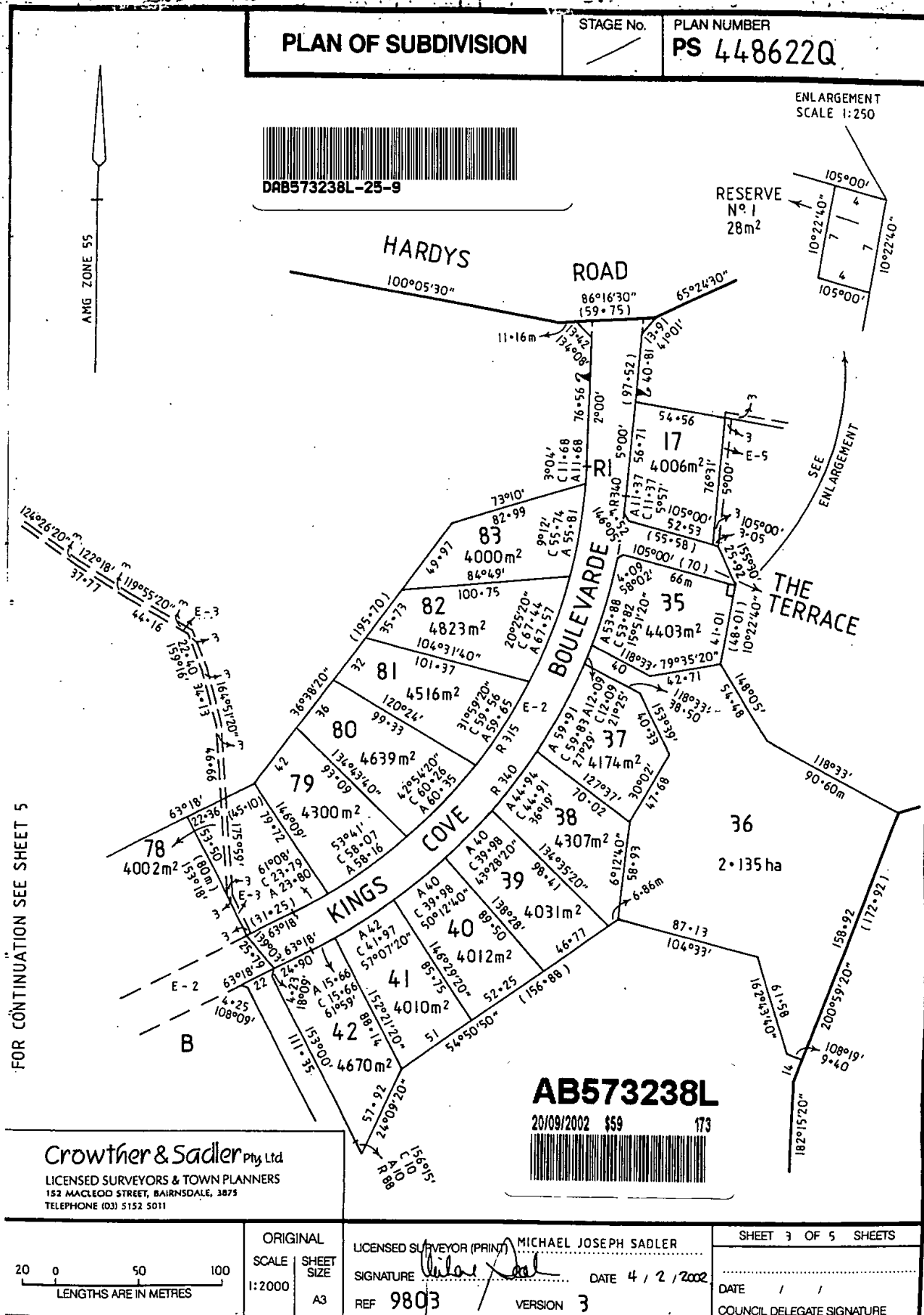
DB573238L-22-8

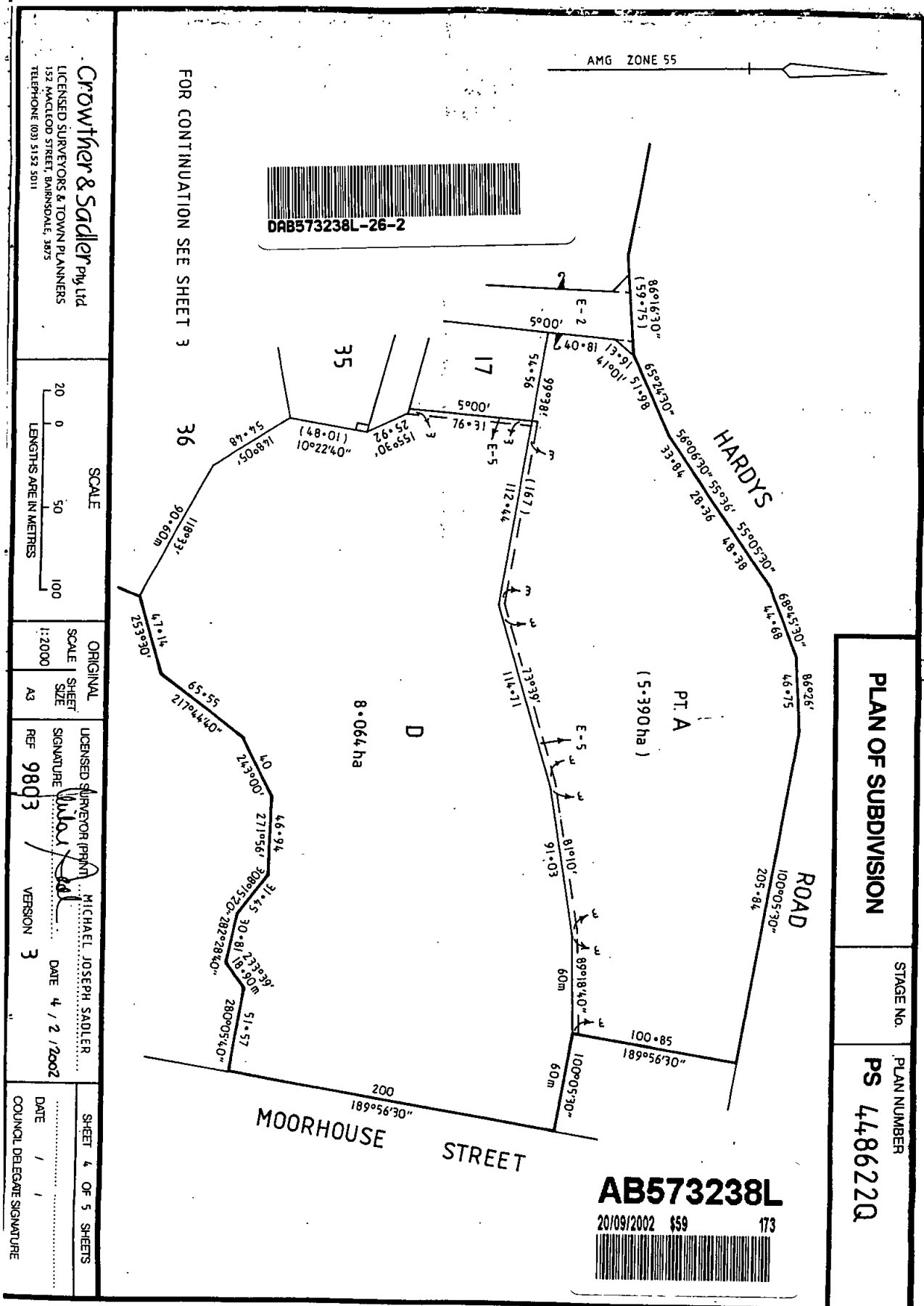
Crowther & Sadler Pty Ltd

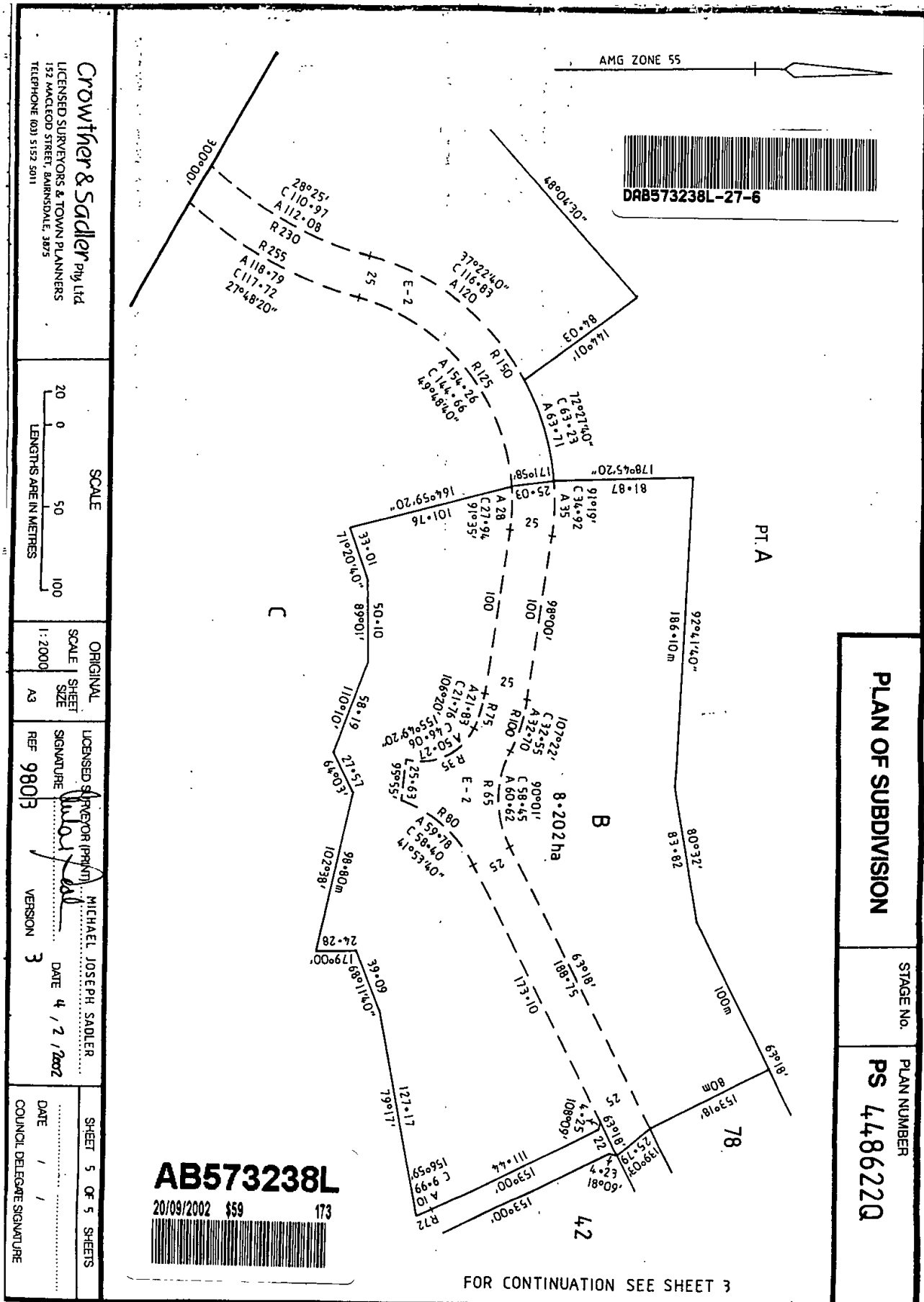
LICENSED SURVEYORS & TOWN PLANNERS
152 MACLEOD STREET, BAIRNSDALE, 3875
TELEPHONE (03) 5152 5011

PLAN OF SUBDIVISION		STAGE No. 3	LTO USE ONLY EDITION	PLAN NUMBER PS 448622Q				
LOCATION OF LAND PARISH: BUMBERRAH TOWNSHIP: — SECTION: — CROWN ALLOTMENT: 78A, 81A, 81D, 81E (PARTS) & PART OF FORMER GOVT. ROAD CROWN PORTION: — LTO BASE RECORD: TITLE REFERENCES: LAST PLAN REFERENCE/S: PS 434079N LOT D POSTAL ADDRESS: HARDYS ROAD, (At time of subdivision) METUNG, 3904 AMG Co-ordinates (of approx centre of land in plan) E 573 700 N 5807 100 ZONE: 55		COUNCIL CERTIFICATION AND ENDORSEMENT COUNCIL NAME: EAST GIPPSLAND SHIRE COUNCIL REF: 1. This plan is certified under Section 6 of the Subdivision Act 1988. 2. This plan is certified under Section 11(7) of the Subdivision Act 1988. Date of original certification under Section 6. / / 3. This is a statement of compliance issued under Section 21 of the Subdivision Act 1988. OPEN SPACE (i) A requirement for public open space under Section 18 of the Subdivision Act 1988 has/has not been made. (ii) The requirement has been satisfied. (iii) The requirement is to be satisfied in Stage Council Delegate Council Seal Date / / Re-certified under Section 11(7) of the Subdivision Act 1988. Council Delegate Council Seal Date / /						
VESTING OF ROADS AND/OR RESERVES <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 20%;">IDENTIFIER</th> <th>COUNCIL/BODY/PERSON</th> </tr> <tr> <td>RI RESERVE N°1</td> <td>EAST GIPPSLAND SHIRE COUNCIL TXU ELECTRICITY LTD.</td> </tr> </table>		IDENTIFIER	COUNCIL/BODY/PERSON	RI RESERVE N°1	EAST GIPPSLAND SHIRE COUNCIL TXU ELECTRICITY LTD.	NOTATIONS STAGING This is not a staged subdivision. Planning permit No. 01/00299/DS DEPTH LIMITATION 15.24 METRES BELOW THE SURFACE APPLIES TO CROWN ALLOTMENT 81A ONLY LOT NUMBERS 1 TO 16, 18 TO 34 & 43 TO 77 HAVE BEEN OMITTED FROM THIS PLAN		
IDENTIFIER	COUNCIL/BODY/PERSON							
RI RESERVE N°1	EAST GIPPSLAND SHIRE COUNCIL TXU ELECTRICITY LTD.							
 DAB573238L-23-1		AB573238L 20/09/2002 \$59 173 						
SURVEY THIS PLAN IS/IS NOT BASED ON SURVEY THIS SURVEY HAS BEEN CONNECTED TO PERMANENT MARKS No.(s) IN PROCLAIMED SURVEY AREA No.								
EASEMENT INFORMATION LEGEND A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)				LTO USE ONLY STATEMENT OF COMPLIANCE/ EXEMPTION STATEMENT RECEIVED <input type="checkbox"/> DATE / / LTO USE ONLY PLAN REGISTERED TIME DATE / / Assistant Registrar of Titles SHEET 1 OF 5 SHEETS				
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of				
E - 1	CARRIAGEWAY	30	INST. M22132T	VOL 9369 FOL 911, VOL 9369 FOL 912 & VOL 9369 FOL 913				
E - 2	CARRIAGEWAY	SEE DIAG.	PS 420967K	LOT 2 ON PS 420967K				
E - 3	WATER SUPPLY	3	THIS PLAN	EAST GIPPSLAND REGION WATER AUTHORITY & LAND IN THIS PLAN				
E - 4	SEWERAGE	SEE DIAG.	THIS PLAN	EAST GIPPSLAND REGION WATER AUTHORITY & LAND IN THIS PLAN				
E - 5	POWERLINE	3	THIS PLAN - SECTION 88 OF THE ELECTRICITY INDUSTRY ACT 2000	TXU ELECTRICITY LTD.				
Crowther & Sadler Pty Ltd LICENSED SURVEYORS & TOWN PLANNERS 152 MACLEOD STREET, BAIRNSDALE, 3875 TELEPHONE (03) 5152 5011			LICENSED SURVEYOR (PRINT) MICHAEL JOSEPH SADLER SIGNATURE  REF 9803 VERSION 3	DATE / / COUNCIL DELEGATE SIGNATURE ORIGINAL SHEET SIZE A3				









KING'S COVE – METUNG



**GUIDELINES FOR CONSTRUCTION, SITING OF, EXTERNAL ALTERATION AND ADDITIONS TO
BUILDING AND STRUCTURES ON "KING'S COVE"
STAGE 2 – LOT 17, 35-42, 78-83
"LOW DENSITY RESIDENTIAL ZONE"**

These guidelines are designed to protect the interests of all owners of property in the development and are not intended to be restrictive.

The subject land forms part of a quality residential land development.

For the protection of the purchaser's interest it is desirable that certain controls be implemented in relation to: the nature and type of construction; the preservation of the environment; the aesthetic appearance; and the general amenity of the development. Design of buildings, landscaping, fencing, paving, and all the elements of a high quality living environment, should be guided to establish visual continuity and compatibility throughout the development.

1.0 INTRODUCTION

"King's Cove" is an integrated Residential Resort and Marina development owned by Storth Ryes Pty. Ltd. ("Storth Ryes"). Storth Ryes administers these guidelines, for the benefit of existing and new land owners, through an Architectural Review Committee established by it and consisting of representatives nominated by Storth Ryes.

2.0 DESIGN CONFORMITY

Written application for approval of the design, external finishes and siting of all buildings (and external alterations and additions to buildings) at King's Cove must be made by the allotment owner to the Architectural Review Committee, or its nominee, prior to work commencing or applying for a building permit. These guidelines are intended to provide the criteria for assessment of the application.

2.1 Approval Procedure.

The initial step required is for each designer or builder to provide to the Architectural Review Committee a plan showing the contours of the site and proposed siting of the buildings together with a schematic presentation of the structure including: floor plans; elevations; materials and colours proposed. Once general agreement is reached and prior to lodgement of an application for a building permit from the East Gippsland Shire or its nominated subcontractor, the documents required for such application shall be lodged with the Architectural Review Committee for a final conformity assessment against these guidelines. Representations to the Architectural Review Committee in support of the proposed construction may be made by the applicants or their representatives.

The application and all supporting documents should be forwarded to the Architectural Review Committee at the following address:-

King's Cove Project Manager
PO Box 326
METUNG VIC 3904

The documents, together with a written assessment of conformity and approval, conditional approval or refusal of the proposal, shall be forwarded or given to the applicant as soon as practical and normally within 14 days of lodgement.

AB573238L

AB573238L

20/09/2002 \$59 173



3.0 BUILDING GUIDELINES

3.1 Building Envelopes

Designated Building Envelopes form part of the guidelines and the permitted use of the land under the zoning. These building envelopes, which are designed to maximise views whilst enabling vegetation corridors between buildings, are required by agreement between Storth Ryes and the Responsible Authority. The building envelope positions are designated as part of the Soil and Water Management Plan agreed between Storth Ryes and the Responsible Authority under the zone overlay. The minimum setback from the allotment boundaries are prescribed in the designated building envelopes.

3.2 Soil and Water Management Plan

The permitted use of the land under the zoning is also governed by the Soil and Water Management Plan as approved by the Responsible Authority. The construction of civil works and buildings and associated structures must comply with the Soil and Water Management Plan, in order to protect the subject land, adjacent land and the Gippsland Lakes waterways.

Annexed hereto and marked "A" is the Kings Cove – Stage 2 Soil and Water Management Plan Specifications for Construction of Dwellings.

3.3 Building Types Permitted

A single dwelling is permitted within the zone under the relevant incorporated plan overlay for King's Cove (formerly Storth Ryes).

Any dwelling erected on the site shall have a total floor area of not less than one hundred and seventy (170) square metres within the outer walls thereof calculated by excluding the area of any carport, garage, terrace, pergola or verandah and must be built only of new materials.

All outbuildings exposed to public view from the street, reserve, adjoining allotments or the lake shall be designed, constructed and maintained in all ways similar to the principal building on the lot. Garages and carports shall preferably be incorporated into the main roof structure. Where detached garages or carports are permitted they shall also be constructed of the same approved materials as stipulated for the dwelling and be part of an overall integrated design. Each lot shall make a provision for fully enclosed and covered parking for not less than two motor vehicles unless otherwise agreed to in writing by the Architectural Review Committee.

Innovative house plans that meet the requirements of 3.4 Building Form, set out below, but use materials other than those specified will be considered for approval if appropriately submitted to the Architectural Review Committee for assessment.

3.4 Building Form

Simple clear forms will be preferred for all structures. Unduly fragmented or flamboyant forms will not be preferred where they impact on adjoining properties or the amenity of the subject land when viewed from offsite. Sun protection of walls, openings and terraces shall preferably be achieved by roof overhangs, verandahs, pergolas or other structurally integrated elements of the building.

As stipulated by agreement between Storth Ryes and the Responsible Authority, the construction of dwelling shall conform to the following:

Buildings should be designed to minimise visual impacts, erosion and fire hazard.

Buildings should be designed with floor levels and roofs that sit in sympathy with the prevailing ground slopes.

Pergolas, decks and shading devices may be used to soften the interface between buildings and surrounding vegetation.

Split level buildings shall be encouraged on sloping land to reduce the height of the building.



DB573238L-29-3

3.5 External Finishes and Colours

The objective is to provide a level of finish and colours which are compatible with the natural environment of King's Cove. They should reflect the colour and texture of the coastal setting and take account of durability and weathering characteristics. The following list of suitable finishes and colours are considered desirable but not definitive:

- Walls: Brick or masonry-rendered or bagged and painted in colours suited to the coastal environment.
Stone.
Timber and/or composite weatherboards – treated or painted in colours suited to the coastal environment.
Glass – clear, grey or smoked (non-reflective).
Sheeting Materials – Harditex and similar manufactured sheeting materials suitably coated and painted.
Colourbonded metal in corrugated patterns
- Roof: Colourbonded Metal – in colours suited to the coastal environment.
Glass – or Polygal, Laserlight, Sailcloth and similar products.
- Trim: Timber, aluminium, sheeting materials and steelwork in colours suited to the coastal environment.

The above is not intended to be comprehensive and other colours and combinations would be considered against the objectives of suiting the coastal setting of the subject land.

3.6 Service Areas

Areas used for the purpose of drying or airing clothes shall be reasonably screened from public view from the street, reserves, adjoining allotments and the lake. Storage tanks shall be mounted at ground level and reasonably concealed from public view. Refuse storage areas shall be totally screened from public view.

3.7 Vehicle Driveways/Paved Areas

Vehicle driveways and other paved areas exposed to public view should be constructed of clay brick, masonry pavers, crushed stone, stone sheeted bitumen, hot mix, patterned and coloured concrete, exposed aggregate concrete or formed quality gravel surface. Adequate drainage and erosion protection measures must be incorporated in line with the Soil and Water Management Plan.

3.8 Alterations and Additions

The guidelines (as amended) shall also apply to all external structural alterations and additions to external surfaces of buildings and structures on the development. Such works shall involve the same application and approval procedure as applies to initial building construction.

3.9 Builders' Site Refuge Guidelines

Lot owners shall ensure that any builder of a residence on a lot complies with the Builders' Site Refuge Guidelines contained in Schedule B of these Guidelines.

3.10 Requirement of Certificate of Occupancy or approval of the Architectural Review Committee

No allotment of the development shall be occupied for residential purposes either temporarily or permanently until a Certificate of Occupancy is issued for the dwelling erected on the site or until such occupancy is otherwise approved by the Architectural Review Committee.



AB573238L

20/09/2002 \$59 173



4 Landscaping



AB573238L-31-2

AB573238L

20/09/2002 \$59 173



4.1 General

To enhance the amenity of King's Cove and to improve the aesthetic environment, owners of lots shall be required to landscape their properties within 12 months of entering into occupation and obtaining a certificate of occupancy. The plans for such landscaping shall be prepared by a competent landscape designer and submitted to the Architectural Review Committee for a conformity assessment at the same time as plans are presented for the buildings. Lot owners will lodge a Bank Guarantee or cash bond of satisfactory performance for the sum of \$2,000.00 with Storth Ryes or its nominee. The guarantee will be released when the agreed landscaping has been completed.

The use of native species of trees and shrubs is favoured, however, other varieties will be permitted. It is desired that some indigenous trees shall be planted on each site particularly on the setback areas. Landscape plans need to incorporate general schematic layouts only with main species listed and larger trees shown on the plan. Trees which exist on the site either naturally or as part of landscaping works by the developer cannot be removed without the permission of the Architectural Review Committee.

4.2 Maintenance

Maintenance and landscaping of all ground slopes shall be the responsibility of the lot owners. Treatment of the ground slopes incorporating terracing and or retaining walls, including proposed landscaping, shall be incorporated into the landscape plan for approval. The landscape plan shall take account of the Soil and Water Management Plan requirements, maintain vegetative cover on slopes and providing measures to avoid any erosion of the subject land during and following construction.

Where a retaining structure is required to support a swimming pool or to form a terrace, such structure shall preferably include sloping landscaped or stone pitched banks as a means of level transition and shall deal with drainage to avoid erosion.

4.3 Maintenance prior to construction

Maintenance prior to construction of the dwelling and/or site shall be the responsibility of the lot owners who shall be required to ensure that grass height does not exceed 200 millimetres at any time and that the lot is maintained generally in keeping with the overall maintenance of the King's Cove Development. To assist lot owners, Storth Ryes proposes to engage a sub contractor to provide grass cutting and like maintenance services at a reasonably competitive cost, which services will be available to lot owners.

In the event that such maintenance of the dwelling and/or site not being carried out in a timely manner by Lot owners, Storth Ryes shall be entitled to engage a subcontractor for the purpose of effecting the required grass cutting or maintenance works and the Lot owner shall reimburse Storth Ryes for any expenses reasonably incurred by Storth Ryes in so doing.

5 Fences

In principle it is considered that a parklike appearance is appropriate and that solid fences be kept to a minimum subject to the requirements of screening service areas, pools and other outdoor living areas. The use of screen planting areas to define boundaries is most desirable.

Post and wire fencing will be erected by Storth Ryes on most allotment boundaries excluding the street frontage and within 15 metres of the main street frontage which will be unfenced. Boundaries within the more vegetated areas may not be fenced to avoid disturbing the existing cover. No solid fence shall be built within 15 metres of front or rear boundaries or within 5 metres of a side boundary.

Where a solid fence is sought, the preferred materials shall be brush panel, stone, bagged and painted masonry or brickwork, hardwood or treated pine pickets of 75mm x 20mm with 20mm spacings. The planting of landscaping to soften such fences will be preferred. Front boundaries are preferred to be left unfenced. Where the owner seeks greater screening cover than planting alone can provide, fences will

need to be setback 15 metres from the front boundary and significant planting incorporated into the setback area within the landscape plan.

6 Liability

Storth Ryes Pty. Ltd. and its successors and associated companies, Riviera Properties Limited and its successors and the Responsible Authority, shall each be free from any liabilities and claims for damages and/or suits of any kind as a result of or arising out of the enforcement or implementation of all or any of these guidelines or any matters associated with the same or any application for approval hereunder or the decision made.



AB573238L-32-6

AB573238L

20/09/2002 \$59 173



SCHEDULE A

Kings Cove – Stage 2 Soil and Water Management Plan

Specifications for Construction of Dwellings

December, 2001

AB573238L

20/09/2002 \$59 173



DAB573238L-33-0

Our Ref #: 1046

Your Ref #:



13 December, 2001

Mr Michael Sadler
Crowther And Sadler Surveyors
152 Macleod Street,
BAIRNSDALE VIC 3875



DAB573238L-34-3

Dear Michael,

**Kings Cove, Metung
Stage 2, Kings Cove Boulevard
Soil and Water Management Plan**

Please find enclosed, for your records, a copy of the Kings Cove Stage 2 Soil and Water Management Plan.

The Plan conforms with the requirements of East Gippsland Shire planning permit 01/00299/DS.

A separate copy has been provided directly to Storth Ryes Pty Ltd.

Should you require any further information, please contact me on 5152 6298

Yours faithfully,

ERIC SJERP*Environmental Manager*

Encl.

AB573238L

20/09/2002 \$59 173



\\australia\svr\data\storth_ryes\1046 storth_ryes stage 2\1046 stage 2 soil & water to c&ls.doc

Crossco Australia Pty. Ltd.
ABN 13 300 520 525
152 Macleod Street,
P.O. Box 858, Bairnsdale Vic., 3875
Telephone: (03) 5152 6298
Facsimile: (03) 5152 5705
Email: consult@crossco.net.au
Website: www.crossco.net.au





KINGS COVE – Stage 2
Soil and Water Management Plan
Specifications for Construction
of Dwellings
December 2001

AB573238L

20/09/2002 \$59 173



Prepared by:

Crossco Australia Pty Ltd
 Engineering and Environmental Consultants
 152 Macleod Street, PO Box 858
 Balmesdale VIC 3875
 Tel. 03-5152 6298
 Fax. 03-5152 5705
 consult@crossco.net.au
 www.crossco.net.au



DRB573238L-35-7

Crossco Australia Pty. Ltd.
 ABN 13 300 568 528
 152 Macleod Street,
 P.O. Box 858, Balmesdale Vic., 3875
 Telephone: (03) 5152 6298
 Facsimile: (03) 5152 5705
 Email: consult@crossco.net.au
 Website: www.crossco.net.au



Kings Cove – Stage 2: Soil and Water Management Plan

KINGS COVE – Stage 2
Soil and Water Management Plan
Specifications for Construction of Dwellings

TABLE OF CONTENTS

1. BACKGROUND AND OBJECTIVE2

2. RESPONSIBILITY FOR COMPLIANCE2

3. SITE-SPECIFIC REQUIREMENTS.....2

4. STORMWATER DISCHARGE AND DRAINAGE LINE PROTECTION.....3

5. INSTALLATION SEQUENCE.....4

TABLES

TABLE 1: KINGS COVE STAGE 2 LOT NUMBERS AND EROSION CONTROL REQUIREMENTS 3

FIGURES

DRAWING 1: KING COVE – STAGE 2: DWELLING SOIL & WATER MANAGEMENT PLAN AT REAR

DRAWING 2: TYPICAL SILT FENCE AT REAR



Document information: 1046 kings cove stage 2 soil & water.doc
Issued: 13th December, 2001

Kings Cove – Stage 2: Soil and Water Management Plan

1. BACKGROUND and OBJECTIVE

This Soil and Water Management Plan outlines the minimum erosion control requirements necessary for the construction of dwellings on allotments within Stage 2, Kings Cove Boulevard of the Kings Cove subdivision in Metung, Victoria.

The objective of this Plan is to prevent soil erosion and control sedimentation by adoption of the following key principles:

- Implementation of sensible site planning and compliance with construction specifications
- Diversion of up-slope water from the construction site
- Minimisation of site disturbance
- Rationalisation of movement by construction vehicles
- Installation of sediment traps/controls along low-side of construction site
- Rationalisation of stockpile location
- Protection of stockpiles from erosion
- Minimise waste from wash-down and tile/brick cutting
- Minimisation of stormwater runoff from the construction site
- Reduce the erosive energy of stormwater leaving or diverted around the construction site
- Minimisation of building waste and debris
- Regular maintenance of all erosion control structures
- Prompt rehabilitation of all disturbed areas



A typical dwelling construction site, together with specific erosion control requirements are illustrated on Drawing 1. These controls should be adopted for development of all dwellings within Stage 2 at Kings Cove based on site specific details listed in Table 1.

2. RESPONSIBILITY FOR COMPLIANCE

Compliance with the erosion control techniques specified by this Plan (and accompanying drawings) is a mandatory requirement of East Gippsland Shire Council's Planning Permit 01/00299/DS for development of dwellings within Stage 2 at Kings Cove.

It is the land/dwelling owners responsibility to ensure all contractors engaged in the construction of a dwelling(s) on any allotment within Stage 2 at Kings Cove are aware of the need to implement the erosion controls specified by this Plan.

It is the individual responsibility of the builder and all sub-contractors to implement and maintain the various erosion control structures.

3. SITE-SPECIFIC REQUIREMENTS

This Soil and Water Management Plan stipulates erosion control requirements which can be adopted for all building envelopes within Stage 2 at Kings Cove. The location and orientation of each individual erosion control structure will vary depending on the relative position of the dwelling, access to the construction site, the direction and steepness of the land, and drainage conditions.

Site disturbance should, at all times, be kept to a minimum on all allotments by limiting the extent of cut and fill, limiting the steepness of batter slopes, and prompt rehabilitation of all disturbed sites.

Table 1 lists the different site-specific conditions prevailing across Stage 2 at Kings Cove.

The builder must establish the erosion control requirements in accordance with Table 1.

Kings Cove – Stage 2: Soil and Water Management Plan

Table 1. Kings Cove Stage 2 Lot numbers and erosion control requirements

Allotment No.	Landscape Type	Stage	Erosion Control Requirements
All Allotments (ie. 17, 35-42, 78-83)	i) Gently sloping or ii) Gently sloping with steeper escarpment		<ul style="list-style-type: none"> Implement all erosion control structures. Construct silt fences on ALL down slope sides of construction site. Cut & fill batters > 3.0 m long and steeper than 1H in 3V should be structurally retained. Construct silt fence on down slope side of construction site. Establish cut-off drains across high side of construction site. Utilise craneage and pumping for construction on steep erosion-prone slopes. Stormwater discharged on-site should exit via energy dissipater with silt fence across drainage line. Avoid stormwater discharge down steep slopes.
Lots 78 to 83 Inclusive	Gently sloping		<ul style="list-style-type: none"> All stormwater must be drained to the surface drain located immediately below the north-western (rear) boundary of the lots.
Lot 17 and Lots 35 to 42 Inclusive	Gently sloping Gently sloping with steeper escarpment		<ul style="list-style-type: none"> All stormwater must be drained to the drain fronting the allotments along Kings Cove Boulevard.



DAB573238L-38-8

4. STORMWATER DISCHARGE and DRAINAGE LINE PROTECTION

All stormwater from dwellings and associated access must be drained to an appropriate discharge point as specified below and in Table 1.

For Lots 78-83, Stage 2 Kings Cove, all stormwater must be drained to the surface drain located immediately below the north-western (rear) boundary of the lots.

For Lots 17, 35-42, Stage 2 Kings Cove, all stormwater must be drained to the drain fronting the allotments along Kings Cove Boulevard.

For Lots 36-42, stormwater should not be drained downslope in a south-eastern direction over the steep escarpment along the south-eastern (rear) of these allotments.

Particular care must be taken to protect all drainage lines, gullies and steep erosion-prone slopes. Stormwater discharged onsite (from buildings and driveways etc) must be suitably baffled to dissipate erosive energy. Where there is a threat of erosion, energy dissipaters consisting of rock aggregate (100 mm ALD) securely laid over needle-punched geotextile fabric, should be constructed at stormwater outlet points. Stormwater should exit over the aggregate and onto stable grassed areas. A silt fence should be constructed across the drainage line immediately below the stormwater outlet point during construction activities.

Early connection of stormwater lines and onsite storage for subsequent reuse is encouraged.

AB573238L

20/09/2002 \$59 173



Kings Cove – Stage 2: Soil and Water Management Plan

5. INSTALLATION SEQUENCE

Forward planning can minimise the number of erosion control structures required and their potential interference with the building process.

Installation of erosion control structures in an appropriate sequence will maximise the effect of the structures in preventing erosion and sediment movement, and further reduce the interference to builders.

The following sequence should be adopted:

1. Establish a single entry-exit point and 'parking' spot for all vehicles involved in construction activities
2. Peg-out the limits of the dwelling
3. Determine the limits of disturbance / earthworks (ie cut and fill)
4. Install sediment fences along the low side of the site immediately below the limit of disturbance, leaving sufficient room for construction activities and stockpiles. Sediment fence detail is shown in Drawing 2.
5. Install a cut-off drain above the upper limit of the cut batter to divert up-slope water around the site.
6. Stabilise cut-off drains and discharge points to dissipate erosive energy of water
7. Remove any remaining vegetation (confirming for planning approval if required)
8. Strip and stockpile topsoil within the sediment fence perimeter
9. Rehabilitate all disturbed areas (including cut and fill batters) not subject to further construction activity with erosion control matting and suitable fast growing grass species
10. Install on-site building waste and litter receptacles (ie mini skips etc)
11. Undertake construction activity
12. Minimise erosive potential of stormwater generated from the site and dwelling roofs. This will include the need to install and connect roof downpipes and stormwater drainage lines to discharge points.
13. Continue to maintain all erosion and sediment control structures, including regular removal of accumulated sediment.
14. Stabilise and rehabilitate all remaining disturbed slopes (cut and fill batters, service trenches) with suitable fast growing grass species.

AB573238L

20/09/2002 \$59

173



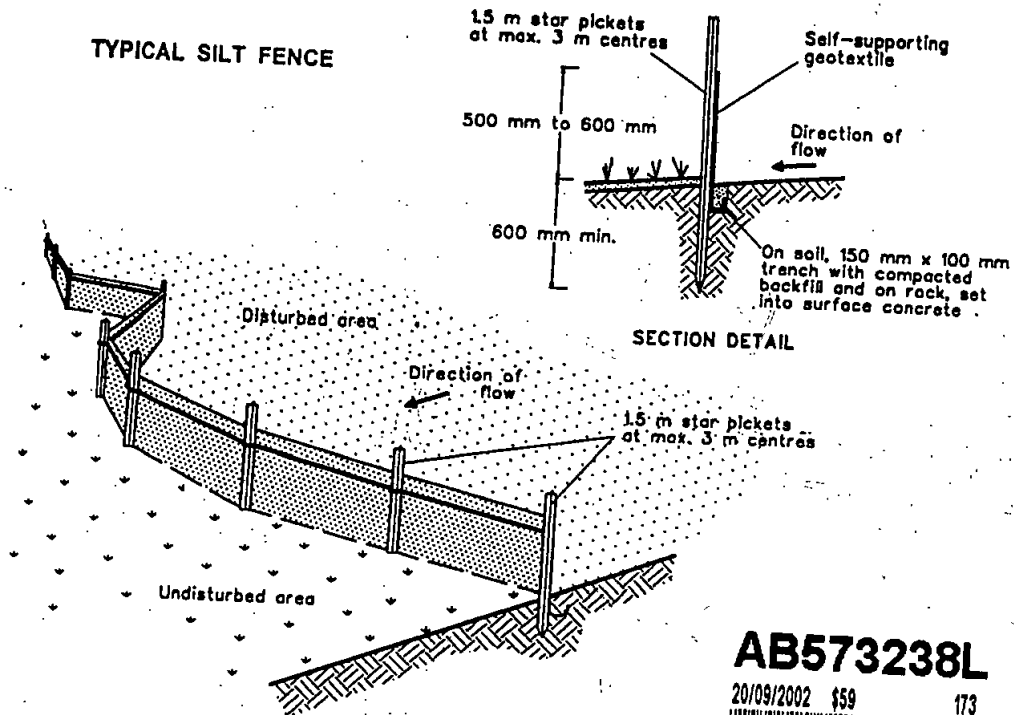
AB573238L-39-1



0AB573238L-40-7



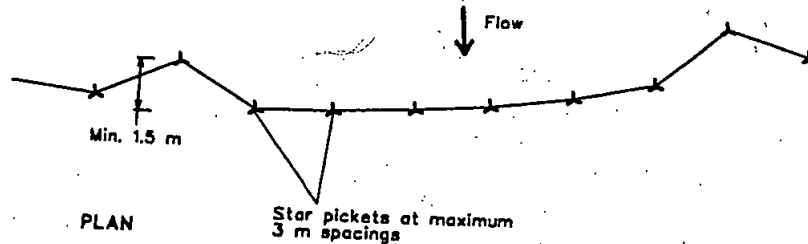
TYPICAL SILT FENCE



AB573238L

20/09/2002 \$59

173



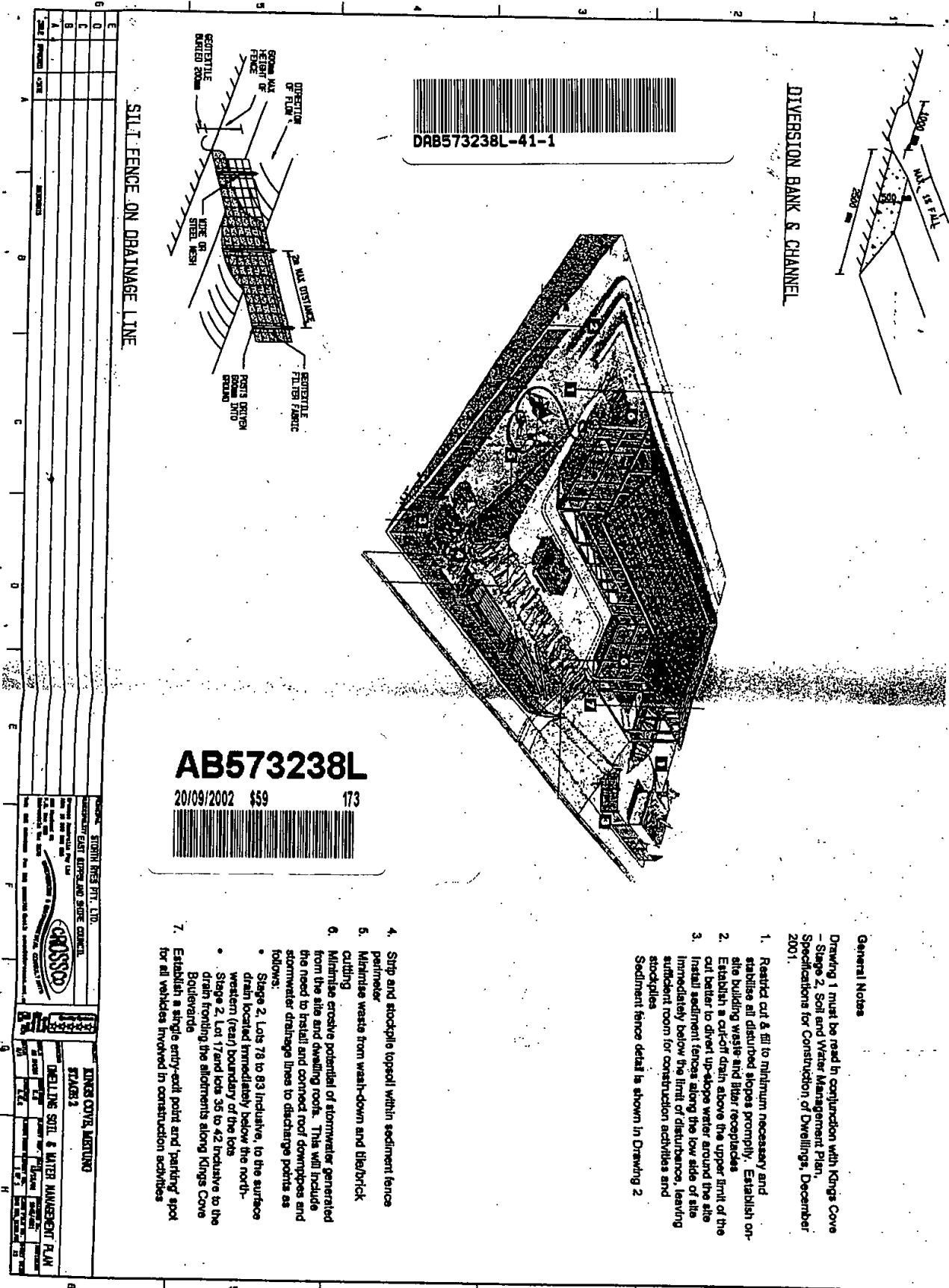
PLAN

Star pickets at maximum
3 m spacings

Construction Notes

1. Construct sediment fence at limit of disturbance
2. Drive 1.5 metre long star picket into ground, 3 metres apart.
3. Dig a 150mm deep trench along the upslope line of the fence for the bottom of the fabric to be entrenched.
4. Backfill trench over base of fabric.
5. Fix self-supporting geotextile to upslope side of posts with wire ties or as recommended by geotextile manufacturer.
6. Join sections of fabric at a support post with a 150mm overlap.

Drawing 2



SCHEDULE B

BUILDERS' SITE REFUSE GUIDELINES

1. All Owners have an obligation to keep the whole of "King's Cove" tidy.
2. It is an Owner's responsibility during the construction phase of a Residence on a Lot to inform the builder of the contents of these Builders' Site Refuse Guidelines.
3. All building materials and fittings must be stored within the property boundaries of a Lot at all material times and no building materials are permitted to be stored on the nature strip of a Lot.
4. Builders must provide a lockable 2 metre square bin on a Lot for the storage of all site refuse generated by that Lot and keep all such site refuse within such bin.
5. The "King's Cove Architectural Review Committee will impose a non-littering requirement as a standard clause of any approval granted by the Architectural Review Committee in respect of building works. The builder will be required to be diligent in the control of all site litter and to protect adjoining lots and verges from use by on site construction workers and sub-contractors of the Lot.
6. The owner must ensure that a sign is erected on the Lot during the construction phase of the Residence specifying the builder's obligations in relation to these Builders' Site Refuse Guidelines.
7. An Owner and their builder must comply with any litter notice issued by or on behalf of the Architectural Review Committee specifying breaches of the Builders' Site Refuse Guidelines and rectify such breaches, failing which an Owner and their builder will be exposed to prosecution by East Gippsland Shire Council under the Litter Control Act.



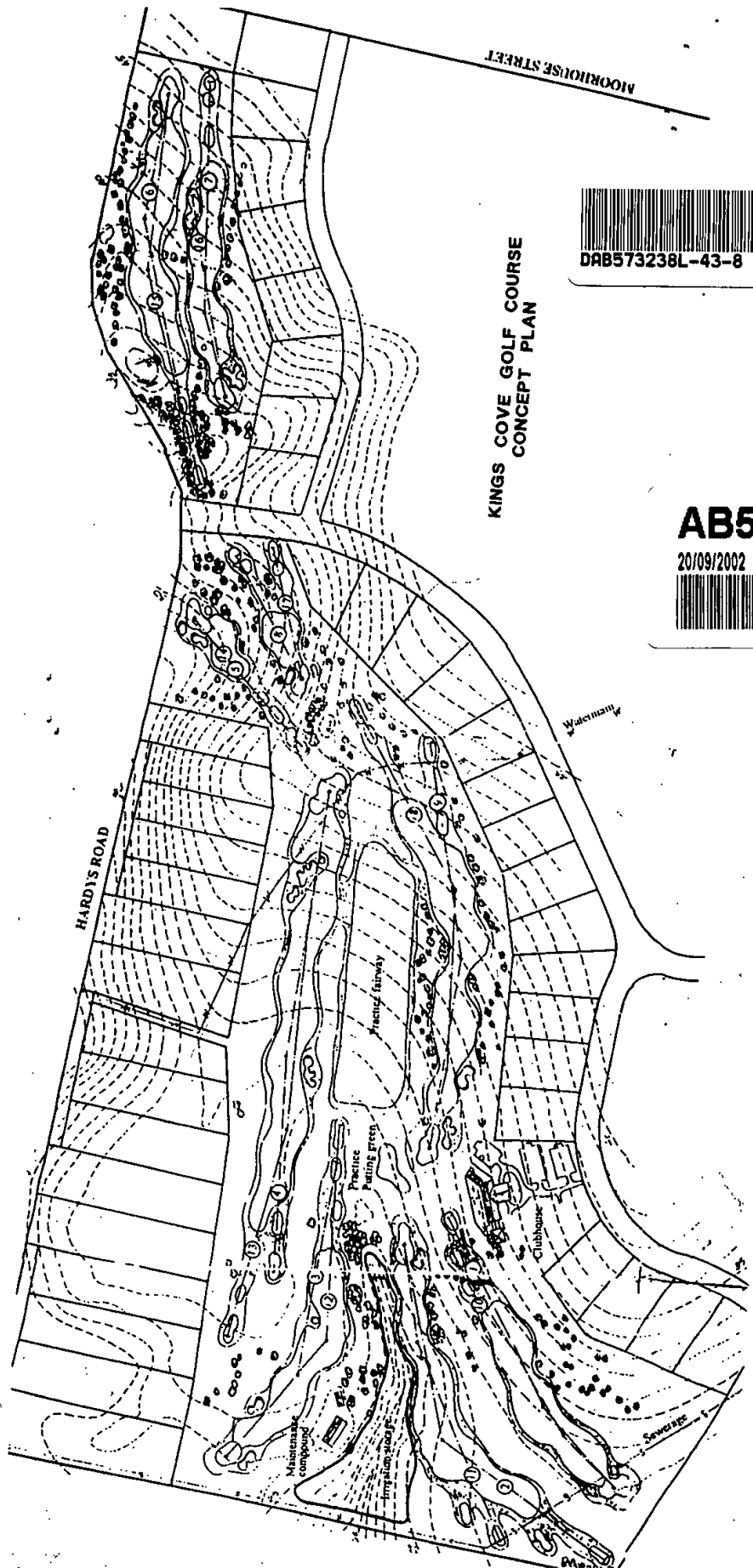
DB573238L-42-4

AB573238L

20/09/2002 \$59 173



StorthGuidelines 121201



KINGS COVE GOLF COURSE
CONCEPT PLAN



DAB573238L-43-8

AB573238L

20/09/2002 \$59 173



KING'S COVE, METUNGSTAGE 2SUMMARY OF SEWER STRATEGY

Storth Ryes Pty. Ltd. shall design and construct suitable sewer mains for the collection and disposal of all household wastewater. At the completion of the development phase such mains shall be handed over to East Gippsland Regional Water Authority (EGW) for the ongoing maintenance and management.

To service King's Cove Stage 2 there are two distinct catchments namely lots 39 – 42 and lots 17, 35 – 38, 78 – 83.

Lots 39 – 42 shall be adequately commanded by a modified gravity sewer laid in the abutting road reserve. Each allotment shall be serviced by a 100mm diameter property branch sewer installed to just inside the property boundary.

Lots 17, 35 – 38, 78 – 83 shall be serviced by a low pressure sewer rising main installed in King's Cove Boulevard. This small diameter rising main shall be capable of receiving sewage pumped from a packaged grinder pumping station to be installed on each allotment in conjunction with home development. A conventional property drain designed to collect wastes from all fixtures can be plumbed to discharge to the station. The packaged grinder pumping station shall be supplied and installed for the home builder by EGW upon payment of the appropriate purchase price at the time (in December 2001 this was approximately \$7,300.00). Electricity supply to the pump station shall be from the home supply. Electricity supply costs shall be the homeowners responsibility. EGW shall be responsible for the ongoing maintenance and replacement of the pumping stations.

Standard EGW sewerage rating structure shall apply to all allotments.

AB573238L

20/09/2002 \$59

173



DAB573238L-44-1

AB573238L

20/09/2002 \$59 173



DAB573238L-45-5

Environment One Pressure Sewers
"An equivalent level of service"**02 - A BRIEF DESCRIPTION OF THE PROPOSED PRESSURE SEWER TECHNOLOGY****1. Introduction**

Gravity sewers have been around since sewers were first developed. But networked pressure sewers are a relatively new concept. They were conceived and developed by the same people who later formed Environment One (EOne) Corporation in the USA. The first genuine network of pressure sewers was installed and thoroughly studied in Albany, New York in the late 1960s. It was from these studies that EOne developed the design rules that have allowed the subsequent installation of literally thousands of pressure sewer networks. Today 140,000+ EOne positive displacement grinder pumps have been installed.

Although virtually unknown in Australia, low pressure sewerage is a robust cost effective alternative to gravity sewerage, especially in the more difficult to sewer areas.

2. Description of System

EOne low-pressure sewers (LPS) consist of a network of pressure pipe, much like a water pipe network flowing but flowing away from houses, and EOne grinder pumps, which are installed serving all the properties throughout the collection system. Depending on local factors each pump unit may serve one or two residences or several home units or townhouses, or larger facilities. Upstream from the grinder pumps, conventional house drains from within the residence are connected to the unit inlet.

The Pressure Network

The pressure pipe network consists of black MDPE polyethylene SDR11, PE80, PN12.5 pipe. The pipe network is completely sealed through the use of electrofusion welding techniques for jointing. All branch lines and at other suitable locations, isolation valves have been located. Dead ends and other appropriate locations have flushing points. Air valves are used as required. The installation of the pressure network is not dissimilar to the easy installation of irrigation pipe. Depending on the topography, size of the system and planned rate of buildout, appurtenances may include isolation valves, flushing points, air release valves at significant high points, and check and stop valves on the house laterals at the junction of each house connection with the low pressure sewer main.

The pumps discharge a finely ground slurry into small-diameter pressure piping. In a completely pressurised collection system, all the piping downstream from the grinder pump (including laterals and mains) will normally be under low pressure (45m or less). Pipe sizes will start at 40mm for house connections (compared to 100mm in gravity systems) and will be proportionally smaller than the equivalent gravity pipeline throughout the system. All pipes are arranged as branch networks without loops.

The Grinder Pump

The semi-positive displacement pump in the grinder pump station has a nearly vertical H-Q curve. The pump delivers 0.75 L/s at 0m head and 0.47 L/s at 45m. This is the best type of pump for successful parallel operation of many pumps into a system of common pressure mains. Since each pump will be located at different point along common low pressure mains and at various elevations, each pump should operate in an efficient and predictable manner, whether one pump or numerous pumps are operating at any given moment; the pumps in such a system do not have a single fixed "operating point", but must operate consistently over a wide range of heads that are continually, and often rapidly, changing.

The Environment One grinder pump has the capability of operating above the LPS system design criteria of 45m. Based on the maximum daily number of pumps operating simultaneously versus the number of pumps connected to the system at the design pressure of 45m, the capability to operate significantly above the system's design pressure is mandatory in order for the system to operate properly during the approximately bimonthly peaks when the "absolutely maximum" numbers of pumps are operating. This feature also ensures that pumping will continue under those

- 1 -

20 P 960196

TO

FROM 11-FEB-2002 13:02

**AB573238L**

20/09/2002 \$59 173



conditions when higher-than-normal pressure occurs in the pipeline. With centrifugal type pumps under higher-than-normal pressure conditions, non-delivery or inadequate delivery from some pumps may result. Positive displacement pumps are, therefore, more reliable in pumping every time.

3. Motor Selection

A grinder pump station is an electromechanical system that depends on electric power for its operating, control and alarm functions. The design and selection of Environment One's pump, motor, grinder and level-sensing controls were accomplished by optimising the wastewater transport function of the unit within the necessary constraints for unattended, trouble-free operation in a residential environment.

The one model grinder pump core is common to all models of Environment One grinder pump stations (models GP 2010i 1500, GP2010i 2000, GP 2014i, GP 2015i and GP 2016i). This central core contains all of the working and control elements of the unit and is powered by a 4-pole, 0.75kw, 240v, 1,425 rpm capacitor start, thermally protected induction, single-phase motor. Each of these motor features was carefully considered in the design of the grinder pump station.

4. System Operation

Low pressure sewer systems have become feasible with the availability of the Environment One grinder pump, the reliability of which has been proven in more than 25 years of service. The grinder pump station provides holding capacity, reliable grinding and pressure transport of a fine slurry to an existing gravity sewer, pump station or directly to a wastewater treatment plant.

In operation, the grinder pump station will handle sewage and many items that should not, but often do, appear in domestic wastewater. For example, plastic, wood, rubber and light metal objects can be routinely handled without jamming the grinder or clogging the pump or piping system. Transporting sewage several thousand metres to a discharge point at a higher elevation is possible as long as the sum of the static and friction losses does not exceed design limits of 45m TDH. In fact, higher heads can be sustained without threat to the pump or the system providing the pressure is not sustained.

The grinder pump is actuated when the depth of the sewage in the tank reaches a predetermined "turn on" level, and pumping continues until the "turn off" level is reached. The pump's running time is short, power consumption is low, and long pump life is ensured. The unit is protected against backflow from discharge lines by an integral check valve. Several grinder pump station models are available to satisfy various total and peak demand conditions.

Deposits of solids or air accumulation will be purged from the line since the pump continues to produce an essentially constant flow, even though the cross section will provide the scouring action needed to correct such conditions as soon as they start to appear. Occasionally during "normal" operation, there will be short periods when higher-than-design pressures will be experienced. These can result from a variety of causes including solids buildup (obstructions) or air bubbles.

These higher-than-expected pressure conditions are transitory occurrences. The only requirement is that no damage be done to the pumping equipment, pipelines or appurtenances during these occasional short periods. Environment One grinder pumps are driven by motors rated for continuous operation at 40C above ambient temperature. They can operate at 50 percent above rated pressure for at least 5 minutes without excessive temperature rise. Based on the Albany, New York, demonstration project, for this type of overload to last even as long as one minute would be rare. The greatest pressure the pumps can generate is 98m. As the piping and appurtenances are rated at a minimum operating pressure of >125m, there is no possibility of damage occurring to them.

AB573238L

20/09/2002 \$59 173



EAST GIPPSLAND SHIRE COUNCIL

- and -

STORTH RYES PTY LTD
(A.C.N. 006 383 179)

AGREEMENT UNDER SECTION 173
OF THE PLANNING AND ENVIRONMENT
ACT 1987



DAB573238L-47-2

WARREN GRAHAM & MURPHY,
Solicitors,
119 Main Street,
BAIRNSDALE VIC 3875

REF: ACT;act4662/01 (Stage 2)

TEL: (03) 51522 661

D.X.: 82201, Bairnsdale

Planning Report

Multi Lot Subdivision
100 Kings Cove Boulevard, Metung
Lot G on PS509097V

Our Reference – 18722

31 March 2021



Principal: Michael J. Sadler, L.S., Dip Surv, M.I.S., MAICD

Contents

1.	Introduction	3
2.	Subject Land & Surrounding Context	4
3.	The Application & Proposal	11
4.	Cultural Heritage	13
5.	Planning Policy	14
5.1	Planning Policy Framework	14
5.2	Local Planning Policy	15
6.	Planning Elements	17
6.1	Low Density Residential Zone	17
6.2	Erosion Management Overlay	19
6.3	Incorporated Plan Overlay	20
7.	Conclusion	21
8.	Attachments	
	Proposed Subdivision Plan (Version 2, drawn 12/11/2020)	
	Bushfire Hazard Assessment	
	Geotechnical Risk Assessment (<i>Simon Anderson Consultants</i>)	
	Building Envelope Plan (Version 1, drawn 26/11/2020)	
	Copy of Title	

Note: Applicable Planning Application fee is \$1,318.10

1. Introduction

This Planning Report is prepared in support of a proposed Multi Lot Subdivision at 100 Kings Cove Boulevard, Metung. The Report addresses the provisions of the Low Density Residential Zone, Incorporated Plan Overlay (Schedule 1), Vegetation Protection Overlay (Schedule 3), and Erosion Management Overlay of the *East Gippsland Planning Scheme*.



Aerial view of subject land and context (Source: GeoVic)



Aerial view of subject land (Source: GeoVic)

2. Subject Land & Surrounding Context

The subject land is formally described as Lot G on Plan of Subdivision 509097V and is 3.645 hectares in area.



Aerial image of subject land (Source: GeoVic)

The landform of the site gently falls downward from east to west across the site. There site is vacant save for an existing shed located centrally on the property. Native vegetation scattered across the site and the broader Kings Cove Estate was planted by the original developer, Storth Ryes Pty Ltd, who undertook an extensive planting program to rehabilitate what was a barren, pest ravaged landscape.



Historic photo showing the denuded landscape of the former Storth Ryes property

18722 Planning Report.docx

The planted nature of the vegetation is evident upon inspection, with homogenous native species established in a largely linear pattern.

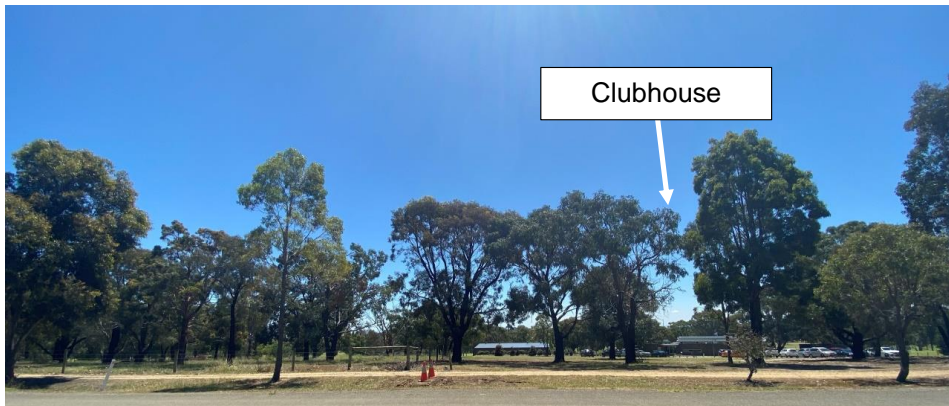


View north-west across site showing vegetation planted in rows

The subject land adjoins the Kings Cove Golf Course, a 9 hole course which adjoins the subject land to the north. The site enjoys varying views across the course, with the clubrooms and course entry located to the north-east of the subject land.



*Oblique view of Kings Cove Golf Club with subject land to right of picture
(Source: www.kingscoveclub.com.au)*



View north of subject land and adjoining Kings Cove Golf Course pavilion

The site has frontage to Kings Cove Boulevard which adjoins the full length of the south-eastern boundary. Kings Cove Boulevard is a good quality sealed bitumen road, comprising grassy swale drainage within generous carriageway and verges.



View north across subject land from southern corner

Formalised access is provided from Kings Cove Boulevard in the northern portion of the subject land's street frontage.



Existing access to Kings Cove Boulevard

The site is located approximately 2.1km north-west of the Metung activity centre, within an existing low density residential precinct. Dwellings throughout the precinct to the south and south-east are carefully placed to allow the open and spacious feeling within the precinct.



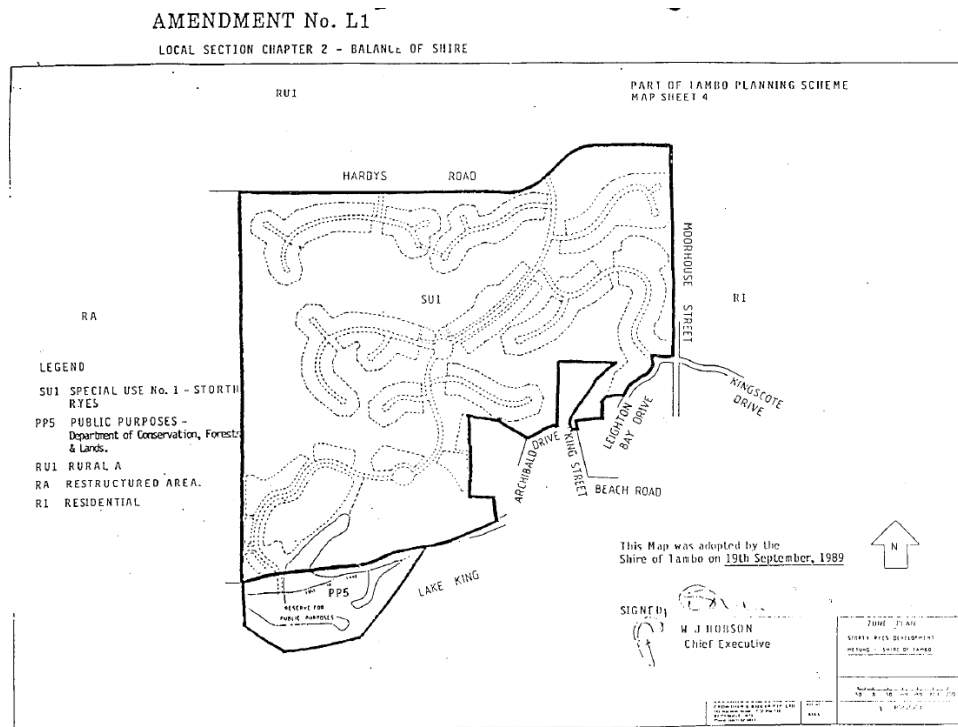
Subject land in relation to Metung Activity Centre (Source: GeoVic)

The property is serviced with reticulated water, sewer and electricity provisioned via underground means.

The subject land is contained entirely within the Low Density Residential Zone of the *East Gippsland Planning Scheme*. The property is also affected by the Incorporated Plan Overlay (Schedule 1), Vegetation Protection Overlay (Schedule 3), and the Erosion Management Overlay.

The strategic expectation that the subject land would accommodate further development is long held, dating back almost 32 years.

The 'Storth Ryes Concept Plan' was introduced into the former *Tambo Planning Scheme* in December 1989 through Amendment L1 to the local section of the scheme. The scheme amendment introduced a Special Use Zone which had an aim of providing for a range of tourist and residential accommodation, recreation and water based facilities and commercial activities.



Extract from Amendment L1 to the Tambo Planning Scheme

With the amalgamation of Councils and the translation to the *Victorian Planning Provisions*, the subject land was converted to four Schedules contained within Clause 51.01 relating to *Specific Sites and Exclusions*. Each of the four Schedules related to an element of the previously approved development comprising:

1. Golf Course and Residential cell;
2. Marina (on Crown land);
3. Service commercial centre; and
4. Resort Site comprising Hotel, Convention facilities and medium density residential development.

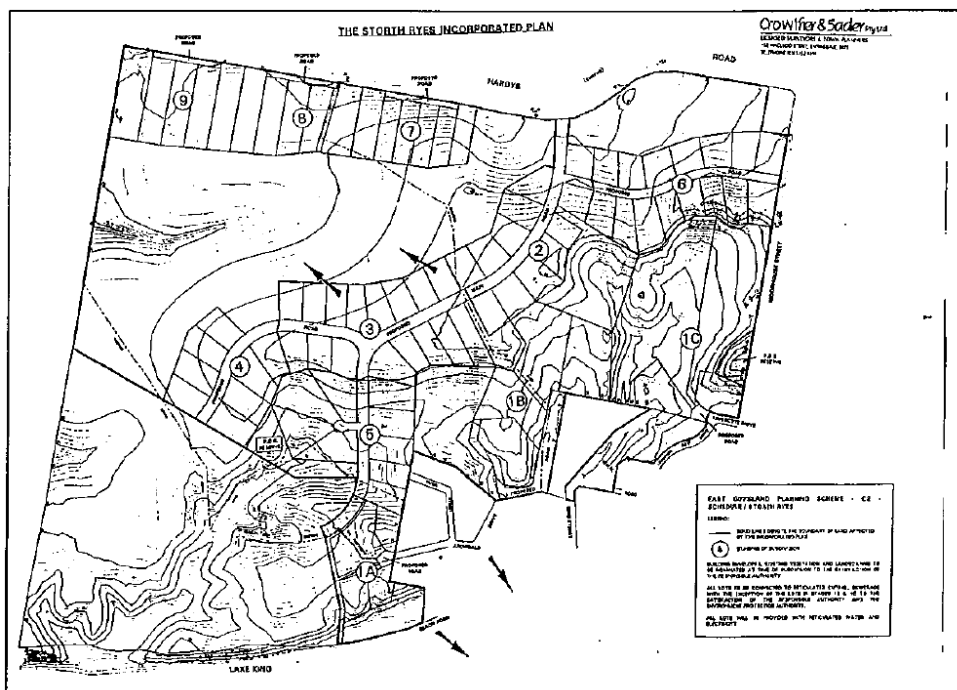
On translation to the VPPs the whole of the precinct was contained within the Low Density Residential Zone with the entire Estate also affected by the Incorporated Plan Overlay ('IPO').

In the event the Schedules were not enacted, the provisions of the IPO would require a Planning Scheme Amendment to introduce a staging plan for low density residential development. This reversion to the Low Density Residential Zone provisions would mean the surrendering of the site specific controls and exclusions as contained at Clause 51.01.

The Schedule relating to the Golf Course and Residential cell (known as 'the fourth Schedule') included approval for up to 450 allotments to be used and developed for the purpose of dwellings, together with the use of the land for the purposes of a golf course.

The fourth Schedule was surrendered in a process undertaken in part with the approval in 2000 of Amendment C2 to the *East Gippsland Planning Scheme*. The Planning Scheme Amendment removed approximately 117.9 hectares of the total 160 hectare Kings Cove Estate from the approved development, resulting in the surrender of the fourth Schedule.

The *Storth Ryes Incorporated Plan*, June 2000 and provisions of the Incorporated Plan Overlay - Schedule 1 (Clause 43.03) were incorporated into the *East Gippsland Planning Scheme* as part of Amendment C2 on 24 August 2000.



Storth Ryes Incorporated Plan, as exhibited with Amendment C2

Land previously included within the fourth Schedule has subsequently been progressively developed in accordance with the provisions of the Low Density Residential Zone. This has included the development of the Kings Cove Club Golf Course and Clubhouse, together with multiple stages of subdivision undertaken by Kings Cove Metung Pty Ltd (or its subsidiaries) and North Course Pty Ltd.

Land to the south-west of the subject land remains is affected by a Schedule to Clause 51.01, being the *Resort Hotel/Motel and Convention Facility Development*, May 1999 ('the Resort Schedule').

This area has been progressively developed in accordance with the Schedule, with nine stages of subdivision completed by three separate property developers over the last fifteen years, creating lot sizes varying in area, shape and topography.

Land to the immediate south of the subject land has recently been marketed and sold in full in anticipation of plans being prepared and submitted to Council for endorsement. This stage of development by Metung Developments Pty Ltd, known as 'The Wedge', proposes the creation of lots in accordance with the Resort Hotel/Motel and Convention Facility Development.

This unusual statutory context results in great diversity in allotment size. Properties to the east of the subject land typically have an area ranging from 4,000-5,000m², while allotments approximately 300m to the north of the Golf Course, developed by North Course Pty Ltd, vary between 2,000m² to 2,546m².

Properties developed in accordance with the Resort Schedule range in area, with lot sizes of between 521m² and 5,001m². The average (mean) allotment size within the Resort Schedule is 1,120.5m², which is considered to be skewed by the inclusion of larger lots earmarked for further subdivision. To assist with a more accurate statistical understanding we have calculated the mode and median averages within the Resort Schedule, which are 786m² and 860m² respectively.

Immediately adjoining the subject land, we understand proposed lot sizes within 'The Wedge', based on marketing material exhibited by King & Heath range from 864m² up to 1,744m², with an average lot size of 1156.89m².

The subject land represents a transition point between the established low-density precinct, to the north and east, and the evolving Resort precinct further south and south-east. Given the diversity in allotment size and configuration, both the existing and evolving neighbourhood character is considered to be highly varied.

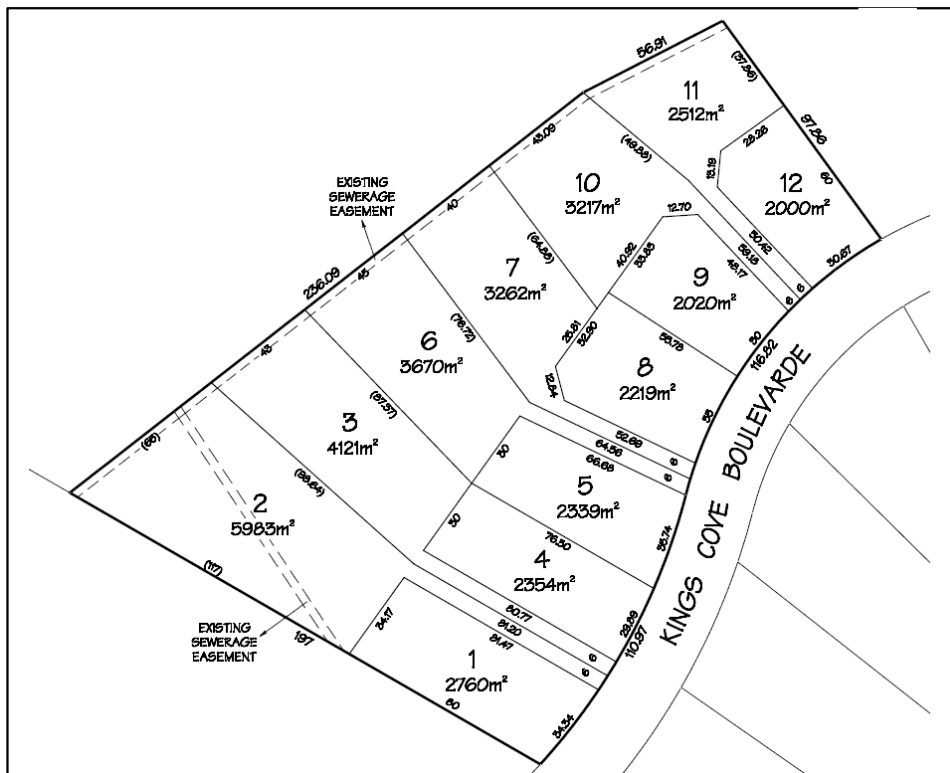
There are two Section 173 Agreements registered on title, both of which were the subject of a recent Council resolution at the Ordinary Council Meeting of 16 March 2021:

- Agreement **AB573238L** was ended as it applies to the subject land; and
- Agreement **AC166290V** is to be amended as it applies to the subject land.

A single Section 173 Agreement will now be retained on title, incorporating the amendments as exhibited by Council to remove the requirement to obtain approval from either an Architectural Review Panel or Architectural Review Committee.

3. The Application & Proposal

The Application seeks approval for a Multi Lot Subdivision to create twelve vacant lots for future low density residential development. The proposed allotments range in area from 2,000m² up to 5,983m².



Proposed Subdivision layout

Consistent with the Incorporated Plan, each allotment will have direct frontage to Kings Cove Boulevard, with no new roads proposed. The subdivision patterns proposes a series of sequestered lots, which is considered a respectful response to the prevailing neighbourhood character, and the site's abuttal to the Golf Course.

Each lot can be efficiently and economically serviced utilising existing infrastructure available within the precinct.

Each of the proposed lots exceeds the minimum subdivision area of 2,000m² specified for the Low Density Residential Zone, given each lot will be connected to reticulated sewerage. The proposed subdivision represents infill development that makes good use of existing investment in infrastructure, as anticipated with the gazettal of Amendment VC100 on 15 July 2013.

Building envelopes are proposed for each of the proposed allotments, respectful of existing easements located within the subject land. 5 metre setbacks are proposed from the adjacent Golf Club property and from Kings Cove Boulevard, and 3m from all other boundaries.

Each of the proposed allotments will be of sufficient area to accommodate development that will comply with the amended obligations of the Section 173 Legal Agreement, as recently approved by Council, with respect to the following:

- Buildings to be constructed within approved building envelopes;
- Development in accordance with the Soil and Water Management Plan;
- Limitation to one dwelling per lot;
- Minimum dwelling floor area of 170m² excluding the area of any carport, garage, terrace, pergola or verandah, and built only of new materials;
- All outbuildings visible from outside the site to be designed, constructed and maintained similar to the main building on the lot;
- All dwellings to be provided with fully enclosed and covered parking for not less than two motor vehicles;
- Areas used for drying or airing clothes, storage tanks or refuse storage must not be visible from the street, reserves, adjoining allotments and the lake;
- Vehicle driveways and other paved areas visible to the public must be constructed of clay brick, masonry pavers, crushed stone, stone sheeted bitumen, hot mix, patterned and coloured concrete, exposed aggregate concrete or formed quality gravel surface;
- No fences on any boundaries adjoining road reserves;
- No solid fences (i.e. less than 50% transparent) within 15m of the front or rear boundaries of any lot, or within 15m of a side boundary of a lot.

The proposed subdivision is considered to represent logical and orderly development, achieving an expected outcome.

The subject Application triggers approval at the following Clauses of the *East Gippsland Planning Scheme*:

- **Clause 32.03-3** of the Low Density Residential Zone for subdivision; and
- **Clause 44.01-4** of the Erosion Management Overlay for subdivision.

Whilst the future construction of dwellings will undoubtedly require the removal of planted vegetation, Planning approval is not required for vegetation removal. Both the Erosion Management Overlay (Clause 44.01) and the Vegetation Protection Overlay (Clause 42.02) provide exemptions from the need for a Planning Permit for the removal of planted vegetation, at Clause 44.01-4 and Clause 42.02-3 respectively.

4. Cultural Heritage

The proposal does not trigger any mandatory requirement to provide a Cultural Heritage Management Plan (CHMP) under the *Aboriginal Heritage Act 2006*.

Pursuant to Regulation 6 of the *Aboriginal Heritage Regulations 2018*, a CHMP is required for an activity where:

- (a) “all or part of the activity area for the activity is in an area of cultural heritage sensitivity; **and**
- (b) all or part of the activity is a high impact activity” [emphasis added].



Extract from Cultural Heritage Sensitivity mapping (Source: VicPlan)

The subject land is not contained within an area of cultural heritage sensitivity as defined by the *Aboriginal Heritage Regulations 2018*.

Therefore, despite the proposed subdivision representing a high impact activity as defined by the *Aboriginal Heritage Regulations 2018*, there is no mandatory requirement to provide a CHMP in support of the Application.

5. Planning Policy

5.1 State Planning Policy

The proposal gives effect to strategies relating to *Settlement* (Clause 11-01-1S), promoting sustainable growth and development whilst delivering choice and opportunity within an existing settlement. The subject land is an undeveloped cell forming part of an existing residential precinct, located within the defined settlement boundary of Metung. The site is well located, only a short drive from the village centre, and is serviced by reticulated water, power, sewer and telecommunications.

The proposal does not give rise to any concerns with respect to Clause 12.01-2S relating to Native Vegetation Management given the vegetation contained on site is planted. Whilst the proposed subdivision will result in the creation of lots less than 0.4ha in area, the removal of planted vegetation is exempt from consideration of the Vegetation Protection Overlay, Erosion Management Overlay, and particular provisions relating to Native Vegetation. Consideration of vegetation is therefore focussed on aesthetic, rather than conservational grounds.

As the subject land is identified as bushfire prone, Clause 13.02-1S relating to *Bushfire Planning* has been considered. The Application is supported by a Bushfire Hazard Assessment that determines the most likely bushfire scenario would result from a fire approaching from the north, and concludes that appropriate bushfire mitigation measures can be put in place to facilitate construction to BAL-12.5 standard. Vegetation contained within residential properties to the east and south-east, together with the Golf Course to the north and west of the subject land is able to be classified as 'low threat' given its managed status. Vacant residential land to the south-west has recently been offered for sale in a subdivided form, with the expectation it will soon be converted to residential development with associated 'low-threat' vegetation. The risk to human life can be appropriately minimised.

Consideration has been given to Clause 13.04-2S relating to *Erosion and landslip* due to the subject land being affected by the Erosion Management Overlay. The proposal is supported by a Geotechnical Risk Assessment prepared by Simon Anderson Consultants, which confirms that the site is capable of sustaining the proposed subdivision, and will not contribute to any adverse land degradation issues. Policy objectives that seek to protect areas prone to land degradation processes are considered to have minimal relevance to the subject land, given the absence of evidence of degradation.

The proposal responds positively to the provisions of Clause 15 relating to *Built Environment & Heritage*, providing an expected residential opportunity within a functional, accessible, safe and diverse physical and social environment. The proposal facilitates further development within an existing residential precinct which has good access to services and community facilities.

The proposed subdivision adheres to objectives relating to *Subdivision Design* (Clause 15.01-3S), with the scheme of subdivision has been designed to ensure each allotment is capable of accommodating appropriate future residential development. The proposal provides for the inclusion of twelve vacant residential allotments within an attractive, safe, accessible, diverse and sustainable neighbourhood.

The proposal creates allotments of appropriate dimensions and area having regard for the surrounding, diverse *neighbourhood character* (Clause 15.01-5S), with development able to retain the shared development characteristics of existing and evolving precincts throughout the Kings Cove Estate.

The subdivision design as proposed will deliver an attractive, safe, accessible, diverse and sustainable neighbourhood, consistent with Clause 15.01-3S relating to *Subdivision Design*. The scheme of subdivision has been designed to connect with and address existing and approved development along Kings Cove Boulevard, proposing allotments with varying street frontages reflect development elsewhere within the streetscape.

The proposal responds positively to strategies relating to *Residential Development* (Clause 16.01) which encourages a range of well located, diverse housing types to meet the varied needs and preferences of the community. The proposal gives effect to increased housing opportunities in an established urban area, contributing to urban consolidation. Consistent with strategies relating to *Housing supply* (Clause 16.01-1S), the proposed subdivision offers diversity and choice through variation in allotment size, with the direct abuttal to the existing Golf Course contributing to high levels of internal and external amenity.

5.2 Local Planning Policy

The proposed subdivision has had appropriate regard for objectives relating to *Erosion* (Clause 21.05-2) by directing development to an appropriate location and undertaken in a manner that will minimise vulnerability to the threat of erosion.

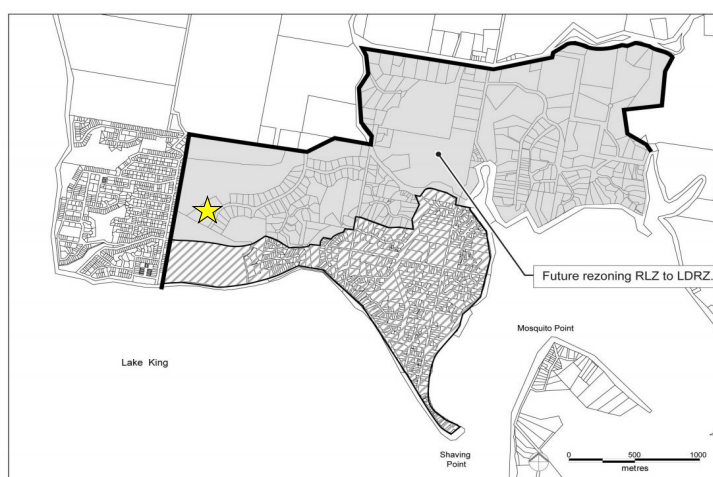
The land comprises good grass coverage with no obvious signs of erosion or other forms of land degradation. The objective and strategies to this Clause are addressed through the inclusion of a Geotechnical Risk Assessment which has been provided in support of the proposal.

Objectives relating to *Bushfire* (Clause 21.05-3) have been appropriately considered by providing for infill development within an established setting surrounded by managed properties, where the vulnerability to fire can be minimised. Careful consideration has been given proposed subdivision layout to achieves appropriate separation from classifiable vegetation to facilitate the future construction of dwellings provided with associated defensible space.

The proposal responds positively to Clause 21.08 of the Municipal Strategic Statement relating to *Housing*, which seeks to cater to diverse housing needs and preferences by activating a cell of residential land earmarked for further development, creating infill development opportunities within an existing settlements, and in an appropriately zoned location with access to a range of services.

The subject land forms part of the Lakes and Coastal sub-region, as identified at Clause 21.12-2, where the bulk of residential growth is encouraged from both a social and economic perspective. The Lakes & Coastal sub-region has the highest population density of the Shire, with the main commercial, retail and tourist centres located along this coastal fringe.

Local Planning Policy relating to *Metung* identifies the town's role as a strong residential community on the Gippsland Lakes. The proposal will not undermine the environmental and landscape values of the precinct, with the subdivision achieving an attractive outcome having regard for the context.



*Metung Strategy Plan Subject land denoted by a star
(Source: East Gippsland Planning Scheme)*

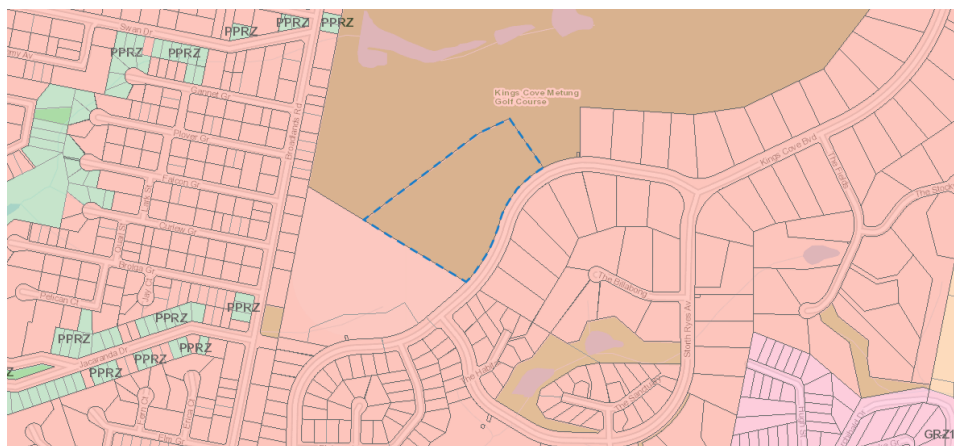
The subject land is well located to take advantage of the existing pedestrian pathway network that connects the Kings Cove estate to the broader Metung area, and is consistent with strategies that acknowledge the low-density residential use of the precinct.

6. Planning Elements

6.1 Low Density Residential Zone

The subject Application is entirely consistent with the purpose of the Low Density Residential Zone ('LDRZ') by providing for low-density residential development in a manner consistent with the Municipal Planning Strategy and the Planning Policy Framework.

The subdivision has been designed in accordance with the minimum lot size prescribed at Clause 32.03-3, which provides for the creation of lots with a minimum area of 2,000m² subject to the availability of reticulated sewer to the site.



Zone Mapping (Source: VicPlan)

The proposal utilises the amendment to zone provisions facilitated through Amendment VC100 that sought to make best use of existing investment in sewerage infrastructure, achieving positive public health and waterway outcomes by avoiding onsite wastewater disposal. The proposal is entirely consistent with the primary objective of VC100 which sought to “provide for the fair, orderly, economic and sustainable use and development of land”.¹

The size and dimensions of the proposed allotments are able to be easily integrated within the surrounding subdivision pattern which ranges from larger lots to the east and north-east, to smaller, conventional residential allotments to the south, south-east and west. The subdivision layout as proposed represents a transition between densities and topography, bleeding in a southerly direction towards the medium density housing as approved by the Schedule to Clause 51.01.

¹ Amendment VC100 Explanatory Report, file:///C:/Users/User/Downloads/adc0fd91-6c70-e811-a857-000d3ad11148_9dca2553-6afc-4675-be95-e33dda91e66b_VC100%20Explanatory%20Report%20Approval%20Gazetted.pdf

The Building Envelope Plan accompanying the Application demonstrates how each lot can be developed for the purposes of low-density residential living, which is expected to require the removal of selected planted species. The allotments are of appropriate area and dimension to accommodate landscaping established in a garden context, without requiring agricultural techniques and equipment for the purposes of maintenance.

The proposed subdivision will not have a negative impact on the existing or potential future use of any adjoining or nearby land given the residential context. No staging is proposed.

The following table provides an overview of the proposal's compliance with the relevant requirements of Clause 56, in accordance with the decision guidelines of Clause 32.03-6.

Objective	Design Response
56.07-1 Drinking water supply objectives	Complies The subject land is able to be connected to reticulated water, to the satisfaction of East Gippsland Water.
56.07-2 Reused and recycled water objective	Not applicable East Gippsland Water do not require the provision of reused and recycled water supply systems at this time, and there is no infrastructure available within the locality.
56.07-3 Wastewater management objective	Complies The subject land is able to be connected to reticulated sewer, to the satisfaction of East Gippsland Water.
56.07-4 Urban run-off management objectives	Complies The even landform, good coverage of vegetation and other permeable surfaces ensures there are no impediments to drainage. We note that land included within the LDRZ are excluded from the provisions of Clause 53.18 relating to Stormwater Management in Urban Development, which is understood to be due to the larger allotment sizes and extent of permeability available on site.

6.2 Erosion Management Overlay

The subject Application requires consideration of the Erosion Management Overlay for subdivision.

There is no evidence of erosion, landslip or other degradation on the subject land. The subject land has a good coverage of grass, with a gentle slope downward in a westerly direction.

The extent of earthworks will be minimised to that associated with the installation of reticulated services, with shared trenching to be utilised wherever possible.

The Application is supported by a Geotechnical Risk Assessment prepared by Simon Anderson Consultants, confirming that there will be no adverse effects resulting from the development of the land through subdivision. The proposed subdivision will not give rise to an increased risk of geotechnical hazard to life or property.

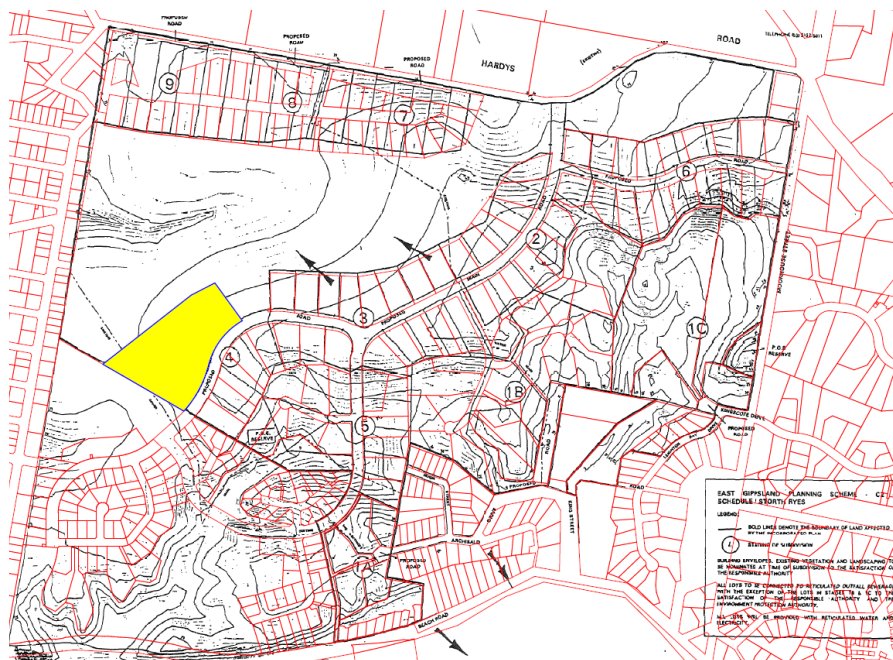
The future development of each proposed lot could be undertaken in a manner that avoids cut or fill exceeding 1 metre in depth. The proposed building envelopes are generously proportioned to accommodate any retaining structures (subject to further Council approval) should the need arise.

It is anticipated that the standard suite of conditions pertaining to sediment control will be included on permit.

6.3 Incorporated Plan Overlay – Schedule 1

The proposed subdivision is to be undertaken in a manner that is generally in accordance with the *Storth Ryes Incorporated Plan*, as introduced into the Planning Scheme on 24 August 2000 through Amendment C2.

Since then, the development of the Kings Cove Estate has been occurring progressively in a manner that is generally in accordance with, but not identical to the Incorporated Plan. Numerous variations are easily identified with respect to lot yield, lot dimensions and road alignments, as depicted by the composite diagram shown on the following page.



Composite diagram with Incorporated Plan shown in black, existing title structure shown in red, and subject land shown in yellow

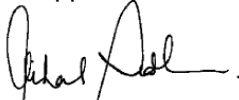
Of particular interest to the subject Application is the variation in lot yield and configuration for the North Course development, to the north of the Golf Course. This subdivision was approved following the gazettal of Amendment VC100, and is considered to set a contemporary precedent for subdivision of sewered, greenfield LDRZ land within the Kings Cove estate. In this section of the estate, the variation between the Incorporated Plan and the current title structure represents an increased lot yield in the order of 150% and a substantially different road design.

In response to the provisions of the Incorporated Plan Overlay, our position is that a Planning Permit may be granted, should Council determine the Application favourably, given an incorporated plan has been incorporated into the Planning Scheme in accordance with the requirements of Schedule 1 to the Overlay. The proposed layout is generally in accordance with the Incorporated Plan.


7. Conclusion

The proposed Multi Lot Subdivision is considered to accord with all relevant provisions of the Low Density Residential Zone, Vegetation Protection Overlay & Erosion Management Overlay of the *East Gippsland Planning Scheme*. The proposal is consistent with State and Local Policy and has been designed to complement the adjoining properties.

For these reasons we respectfully request that Council consider the merits of the Application favourably and resolve to issue a Planning Permit.



MICHAEL SADLER
Managing Director

 Simon Anderson Consultants <small>CIVIL STRUCTURAL PROJECT ENGINEERS</small> P.O. Box 1700 111 Main St Bairnsdale, Vic, 3875 ACN 073 392 266 P.O. Box 566 191-193 Raymond St Sale, Vic, 3850 ACN 145 437 065	Job: Proposed Subdivision 100 Kings Cove Blvd Metung	Date: 9 Mar 2021
	Client: Crowther & Sadler	Designed: SJA
	Checked:	Job No.: 407465
		Page No.: 1 of 6

GEOTECHNICAL RISK ASSESSMENT



100 Kings Cove Blvd, Metung

INTRODUCTION

This report is designed to demonstrate the level of geotechnical risk involved in relation to the proposed 12 Lot, low density residential subdivision at 100 Kings Cove Blvd, Metung, during and after construction of all roads and associated works.

SITE DESCRIPTION


This low density residential zoned allotment (approximately 3.6 ha) on the north side of Kings Cove Boulevard, has an existing single storey dwelling situated on a rolling low hill landform, with a yellow duplex sedimentary landscape. The site is predominantly cleared of vegetation and has excellent grass/pasture coverage throughout, with partial areas of Plains Grassy Forest (EVC 151). The subject site is adjacent to the Kings Cove Golf Course to the north and well developed residential allotments to the east and south.

PROJECT DETAILS

A 12 lot residential subdivision is proposed for the site. Proposed construction details will be as follows;

- Blocks to be sized between 2000 – 6,000m², with stable vehicle access to be provided for all lots off Kings Cove Boulevard.
- Existing drainage patterns to remain (during subdivision stage of development).

407465 GRA (Whelan)

 Simon Anderson Consultants CIVIL STRUCTURAL PROJECT ENGINEERS P.O. Box 1700 111 Main St Bairnsdale, Vic, 3875 ACN 073 392 266 P.O. Box 566 191-193 Raymond St Sale, Vic, 3850 ACN 145 437 065	Job: Proposed Subdivision 100 Kings Cove Blvd Metung	Date: 9 Mar 2021
	Client: Crowther & Sadler	Designed: SJA
	Checked:	Job No.: 407465
	Page No.: 2 of 6	

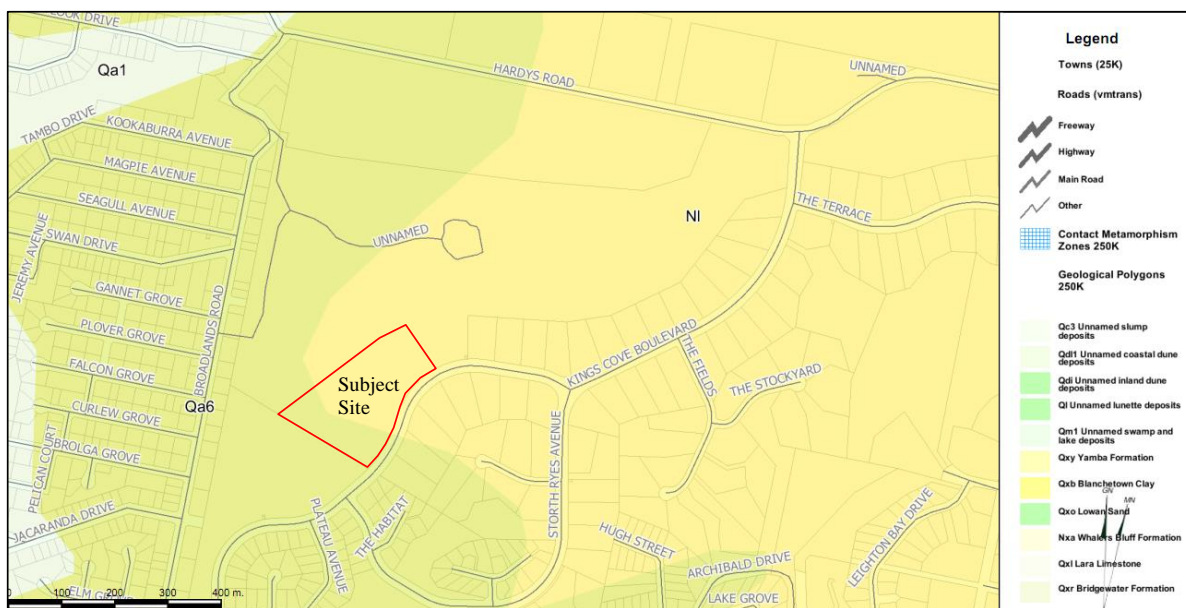
METHODOLOGY

1. DESKTOP INVESTIGATION

A desktop investigation of the subject site was carried out using DSE and GeoVIC mapping of published soil survey information and noted watercourse locations.

Soils of the south end of the site have been mapped and described in Sustainable Soil Management “*A reference manual to the major agricultural soils of the Bairnsdale and Dargo regions*”, and are described as belonging to the Briagolong (Br) map unit. The landform is a level to gently undulating plain, often dissected where it adjoins rivers and streams. All areas within the mapped area are cleared and used for grazing. The surface soils are generally fine sandy loams, greyish brown to pale brown to about 200-400mm. The B Horizon soils are brown to yellowish brown medium to heavy clays to at least 1m. Occasionally small to medium pebbles (2 to 20mm) often occur throughout the soil profile.

Soils at the north end of the site have been mapped and described in Sustainable Soil Management “*A reference manual to the major agricultural soils of the Bairnsdale and Dargo regions*”, and are described as belonging to the Stockdale (Sd) map unit. This unit occurs on rolling low hills and is comprised of Tertiary sediments. The surface soils are mostly fine textured soils, with a sandy loam to fine sandy loam sharply separated from a medium clay subsoil occurring at around 30-40cm, although some subsoils are clayey sands and sandy clays. Most of the land has been cleared of native vegetation (formerly grassy woodland) and is now used for grazing.




Disclaimer: This map is a snapshot generated from Victorian Government data.
This material may be of assistance to you but the State of Victoria does not guarantee that the publication is without flaw of any kind

REF: VANDENBERG, A.H.M., 1997. BAIRNSDALE SJ 55-7 Edition 2, 1:250 000 Geological Map (Series 1:250,000 geological maps. Geological Survey of Victoria.)

Geological Unit	Geological Description	Mapping Unit
Qa6 (Qp4)	Quaternary Non-marine (Alluvial) deposits consisting of Fluvial: gravel sand, silt.	Briagolong (Br)
N1 (Tnp)	Tertiary Marine, Non-marine deposits consisting of gravel, sand.	Stockdale (Sd)

407465 GRA (Whelan)

 Simon Anderson Consultants <small>CIVIL STRUCTURAL PROJECT ENGINEERS</small> P.O. Box 1700 111 Main St Bairnsdale, Vic, 3875 ACN 073 392 266 P.O. Box 566 191-193 Raymond St Sale, Vic, 3850 ACN 145 437 065	Job: Proposed Subdivision 100 Kings Cove Blvd Metung	Date: 9 Mar 2021
	Client: Crowther & Sadler	Designed: SJA
	Checked:	Job No.: 407465
	Page No.: 3 of 6	

Soil Profile Morphology – Stockdale (Sd) Map unit

Surface soil

- A1** 0 – 300 Dark greyish brown (10YR4/2); *sandy loam*; weak medium (10 – 20 mm) polyhedral structure; firm moist; clear wavy change to:
- A2** 300 – 500 Pale brown (10YR6/3) conspicuously bleached (10YR/8/1d); *sandy loam or loamy sand*; apedal, single grain; firm consistence dry; sharp change to:

Subsoil

- B21** 500 – 800 Yellowish brown (10YR5/6); *heavy clay*; moderate coarse (20 – 50 mm) polyhedral structure; strong consistence, moist; diffuse change to:
- B22** 800 – 1m Yellowish brown (10YR5/6) with greyish brown (10YR5/2) and increasing yellowish red (5YR5/6) mottles; *heavy clay*; moderate coarse (20 – 50 mm) lenticular structure; strong consistence moist.

Key profile features

- Strong texture contrast between the surface (A horizons) and subsoil (B horizons).
- Conspicuously bleached subsurface (A2) horizon.



Soil Profile Morphology – Briagolong Map Unit (Br)

Surface soil

- A** 0 – 15cm Very dark greyish brown (10YR3/2); *fine sandy clay loam*; weak medium subangular blocky structure; firm consistence dry; abrupt change to:

Subsoil


- B21** 15 – 40 cm Dark brown (10YR4/3); *medium clay*; strong very coarse columnar structure, parting to strong fine angular blocky; very strong consistence dry; few (<10 %) rounded cobbles (<200 mm); diffuse change to:
- B22** 40 – 90 cm Greyish brown (2.5Y5/3); *light medium clay*; strong coarse very prismatic to lenticular structure, parting to strong fine angular blocky; very strong consistence moderately moist; diffuse change to:
- B23** 90 – 120 cm Greyish brown (2.5Y5/3) few (<10%) coarse dark yellowish brown (10YR4/8) mottles; *light medium clay*; strong medium prismatic structure; very firm moderately moist; diffuse change to:
- C1** 120 – 170 cm Light grey (2.5Y7/3) with many (20-50%) very coarse (>30 mm) yellowish brown (10YR5/8) mottles; *light clay*; massive.



Key Profile Features

- Strong texture contrast between the surface (A) and subsoil (B) horizons
- Quartz cobbles present in the upper subsoil.

407465 GRA (Whelan)

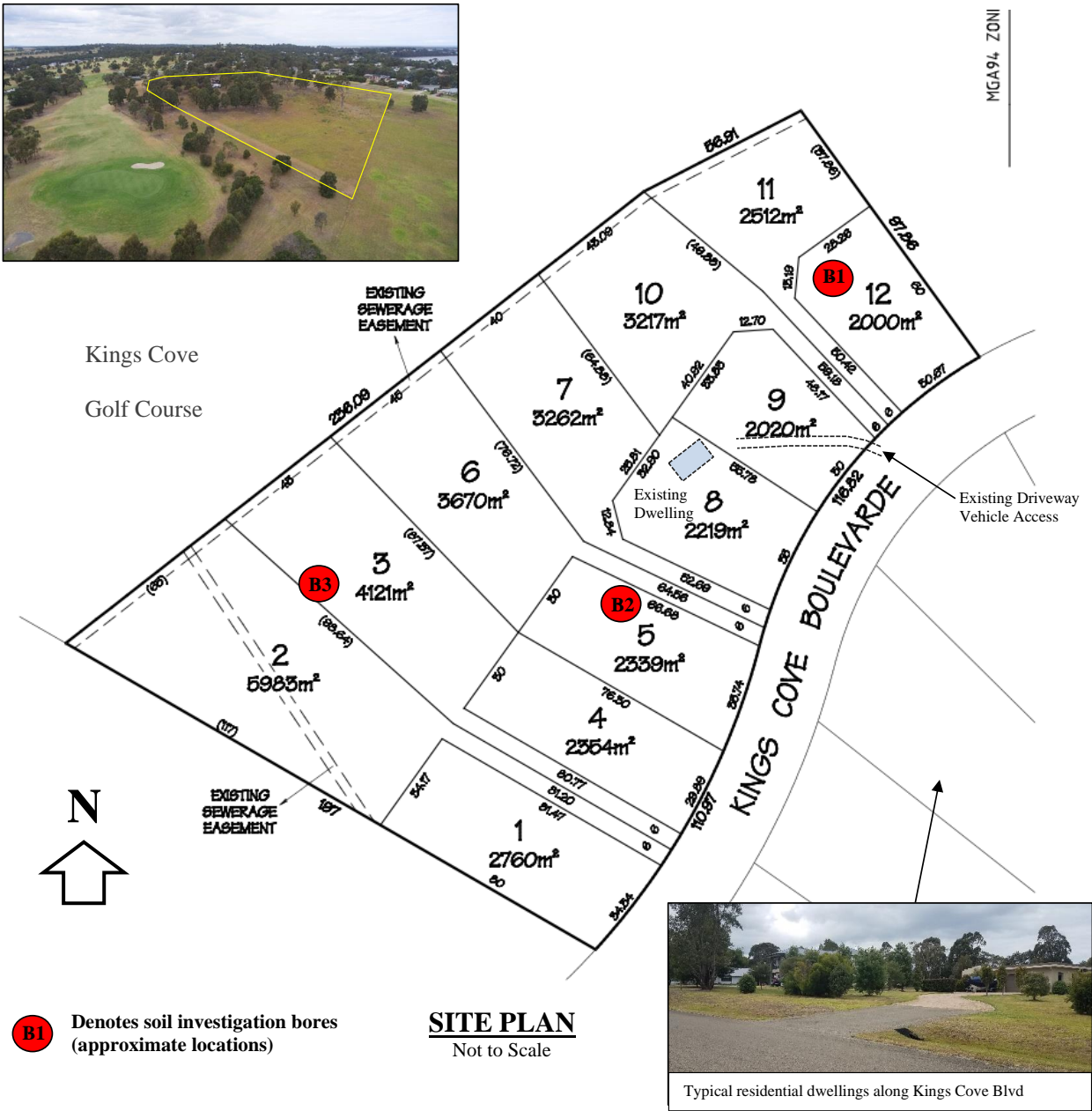
 Simon Anderson Consultants <small>CIVIL STRUCTURAL PROJECT ENGINEERS</small> P.O. Box 1700 111 Main St Bairnsdale, Vic, 3875 ACN 073 392 266 P.O. Box 566 191-193 Raymond St Sale, Vic, 3850 ACN 145 437 065	Job: Proposed Subdivision 100 Kings Cove Blvd Metung	Date: 9 Mar 2021
	Client: Crowther & Sadler	Designed: SJA
	Checked:	Job No.: 407465
		Page No.: 3 of 6


METHODOLOGY cont’d..

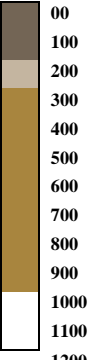

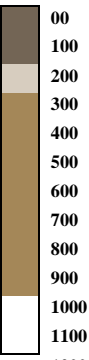

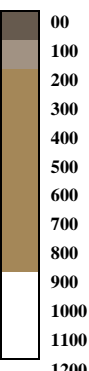

2. FIELD INVESTIGATION

A site visit was carried out with an inspection of the area of proposed subdivision and of nearby landforms, features and developments.


Soil investigation bores were taken on the site (B1-B2) as shown on the site plan below. The bore logs of these are shown on pg 4.



 Simon Anderson Consultants <small>CIVIL STRUCTURAL PROJECT ENGINEERS</small> P.O. Box 1700 111 Main St Bairnsdale, Vic, 3875 ACN 073 392 266 P.O. Box 566 191-193 Raymond St Sale, Vic, 3850 ACN 145 437 065	Job: Proposed Subdivision 100 Kings Cove Blvd Metung	Date: 9 Mar 2021
	Client: Crowther & Sadler	Designed: SJA
	Checked:	Job No.: 407465
		Page No.: 4 of 6

BORE LOG B1 	 BORE 1
BORE LOG B2 	 BORE 2
BORE LOG B2 	 BORE 3

407465 GRA (Whelan)

 Simon Anderson Consultants <small>CIVIL STRUCTURAL PROJECT ENGINEERS</small> P.O. Box 1700 111 Main St Bairnsdale, Vic, 3875 ACN 073 392 266 P.O. Box 566 191-193 Raymond St Sale, Vic, 3850 ACN 145 437 065	Job: Proposed Subdivision 100 Kings Cove Blvd Metung	Date: 9 Mar 2021
	Client: Crowther & Sadler	Designed: SJA
	Checked:	Job No.: 407465
	Page No.: 6 of 6	

SUMMARY OF RISK

LANDSLIDE	LOW
SHEET/RILL EROSION	LOW
TUNNEL EROSION	LOW

- Low grades over the subject site, ranging from approximately 1 in 20 to 1 in 100.
- Excellent grass coverage, preventing topsoils from being washed away (even in the heaviest torrential downpours).
- The well contoured landscape provides excellent surface water drainage. The waxing divergent slope provides good surface water drainage.
- There is no evidence of soil erosion or landslip on the subject site, or adjoining residential developed properties.
- Infill site with well-established residential dwellings on the opposite side of Kings Cove Boulevard.
- Natural soils of the site (dense sand silts, overlying stiff clays) will have adequate strength and stability for residential slabs and footings.
- There is negligible geotechnical risk attached to post & wire fence construction as a result of subdividing into twelve lots.
- Any future construction works associated with the development of allotments would be protected by Building Code of Australia, Australian Standards, Building and Planning Permit requirements and normal construction practise.

Based on findings from both the Desktop and Site investigations the site is suitable for development as proposed and further intensive investigation would not be necessary to confirm the above findings.

VERIFICATION

I, the author of this document, declare that I am suitably qualified and experienced to carry out this site assessment.



Simon Anderson BE (Civil)CPEng MIEAust No 930355

BCC Registration No EC-1711

Date 9 Mar 2021

407465 GRA (Whelan)

Crowther & Sadler Pty, Ltd.

A.B.N. 24 006 331 184

LICENSED SURVEYORS & TOWN PLANNERS

152 Macleod St.
PO Box 722,
Bairnsdale, VIC 3875

P: 5152 5011
F: 5152 5705

E: contact@crowthersadler.com.au

Bushfire Hazard Assessment

Multi Lot Subdivision
100 Kings Cove Boulevard, Metung
Lot G on PS509097V

Our Reference – 18722

March 2021



Principal: Michael J. Sadler, L.S., Dip Surv, M.I.S., MAICD

1. Introduction

This Report has been prepared to identify bushfire hazard and to provide a risk assessment relating to the proposal for a multi lot subdivision at 100 Kings Cove Boulevard, Metung.

The purpose of this report is to:

- Respond to State Planning Policy at Clause 13.02-1S relating to Bushfire Planning;
- Identify vegetation, topographic and climatic conditions that create a bushfire hazard;
- Provide an assessment of the bushfire hazard on the basis of landscape conditions, local conditions, neighbourhood conditions and conditions of the subject land; and
- Respond to the identified bushfire hazard, including proposed bushfire protection measures and demonstrate how the protection of human life has been prioritised.

2. Locality & Site Description

The subject land is formally described as Lot G on Plan of Subdivision 509097V, being 3.645ha in area, being a large parcel of land contained within the Low Density Residential Zone.



Aerial image of subject land outlined (Source: GeoVic)

An existing shed is located in the central portion of the property, accessed via the established crossover and driveway from Kings Cove Boulevard.

The site gently falls from the east to the north-west, comprising a good coverage of pastoral grasses.



View across western portion of site from Kings Cove Boulevard

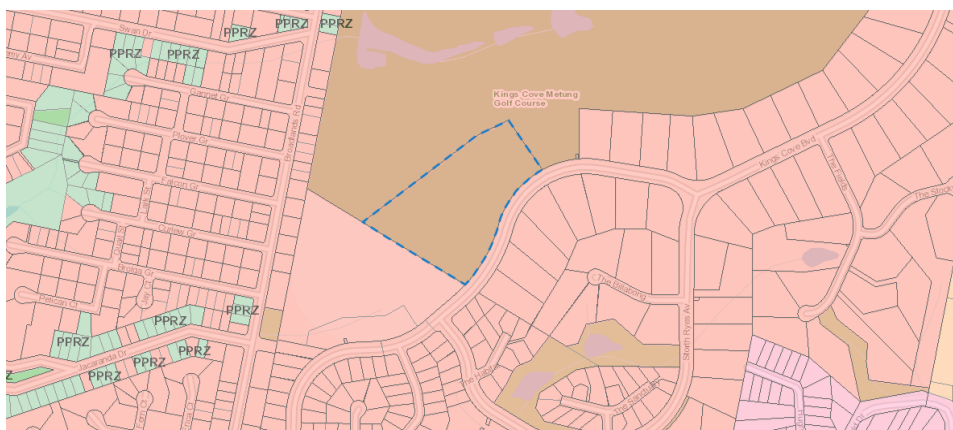
Planted trees are contained within the subject land, established in a linear pattern, planted with the intention of the original larger Kings Cove Golf Course scheme going ahead.

The established 9-hole Kings Cove Golf Course adjoins the subject land to the immediate north.



*Aerial image of subject land showing linear planted vegetation
(Source: Google Earth, dated 2004)*

The subject land forms part of an existing low density residential precinct with surrounding properties also contained within the Low Density Residential Zone.



Zone Mapping (Source: VicPlan)

The majority of properties within the immediate precinct contain established residential development, with some vacant residential properties expected to transition in the future to low density residential development. There are some patches of vegetation scattered throughout the wider landscape however the predominant vegetation classification surrounding the subject land is “*low threat*”.

3. State Planning Policy Assessment

Objective

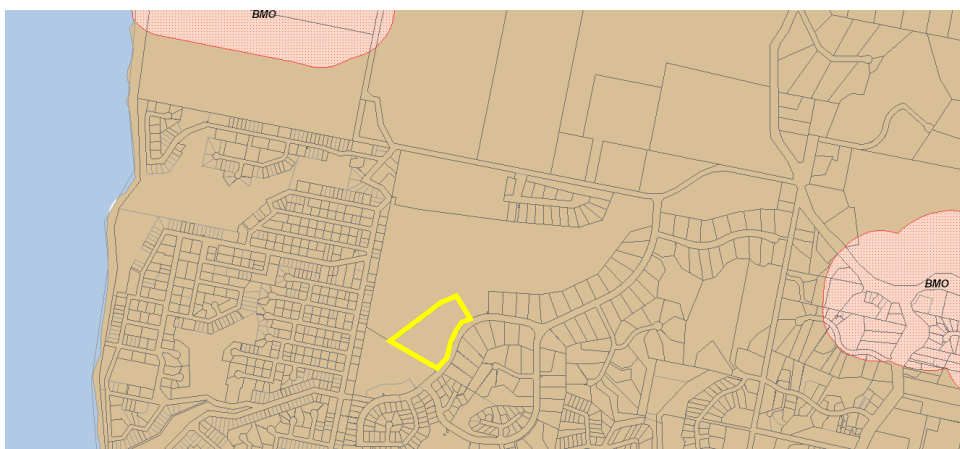
Clause 13.02-1S of the Planning Policy Framework seeks *'to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritizes the protection of human life'*.

Policy Application

The Bushfire Planning Policy at Clause 13.02-1S is to be applied to all planning and decision making under the *Planning & Environment Act 1987* relating to land that is:

- Within a designated bushfire prone area;
- Subject to a Bushfire Management Overlay; or
- Proposed to be used or developed in a way that may create a bushfire hazard.

Whilst the subject land is not affected by the provisions of the Bushfire Management Overlay, the Policy does need to be considered for the proposed Multi Lot Subdivision as the site is identified as a designated bushfire prone area.



Extract of Bushfire mapping (Source: VicPlan)

4. Strategies

The following tables outline the various strategies to be implemented under the provisions of Clause 13.02-1S relating to Bushfire Planning and provides responses specific to the proposal at hand.

Protection of Human Life	
Strategy	Response
Prioritising the protection of human life over all other Policy Considerations.	<p>The proposed subdivision in this location is considered to ensure protection of human life.</p> <ul style="list-style-type: none"> • The subject land is excluded from Bushfire Management Overlay mapping. • The site is located within an existing low density precinct located only a 2.1km north-west of Metung activity centre, 12km west of Lakes Entrance, and 18km west of Bairnsdale. • The subject land and adjoining properties are well managed and modified in nature. The landform gently falls towards the north-west and does not promote hazardous fire runs. • Surrounding properties contain low density residential development and the Kings Cove Golf Course. These surrounding developments do not provide a severe fire threat given they are actively maintained.
Directing population growth and development to low risk locations and ensuring the availability of, and safe access to, areas where human life can be better protected from the effects of bushfire.	<p>The subject land is considered to be in a low risk location given its close proximity to the main township areas of Metung, Lakes Entrance, and Bairnsdale, as well as the surrounding conditions.</p> <p>Vehicle access from the subject land to the primary settlement area of Metung is straightforward and provided via good quality bitumen sealed roads.</p> <p>The close proximity to the township area and good access enhances the protection of human life from bushfire risk.</p>
Reducing the vulnerability of communities to bushfire through the consideration of bushfire risk in decision making at all stages of the planning process.	<p>The subdivision has been designed having regard for the needs of future development under Australian Standard AS3959.</p> <p>Given the designation of the subject land as a Bushfire Prone Area, a Bushfire Attack Level (BAL) will need to be established for future dwellings on each of the allotments.</p> <p>The subdivision has been designed to ensure that each allotment can accommodate future residential development that can achieve a minimum BAL of 12.5.</p> <p>Demonstrational Building Envelopes on the accompanying plan have been designed to determine that future development can achieve BAL 12.5.</p>

Bushfire Hazard Identification & Assessment	
Strategy	Response
Identify bushfire hazard and undertake appropriate risk assessment by:	
Applying the best available science to identify vegetation, topographic and climatic conditions that create a bushfire hazard.	<p>The Planning Application triggers consideration of the proposal under Clause 13.02-1S of the East Gippsland Planning Scheme.</p> <p>The need to consider the requirements of Australian Standard AS3959 arises from the subject land being within a Designated Bushfire Prone Area.</p> <p>The Application has therefore considered the methodology and controls of Australian Standard AS3959 as part of the bushfire assessment.</p>
Considering the best available information about bushfire hazard including the map of designated bushfire prone areas prepared under Building Act 1993 or regulations made under that Act.	This report demonstrates that future development on each of the proposed allotments is able to meet the requirements of Table 2.4.2 of Australian Standard AS3959.
Applying the Bushfire Management Overlay to areas where the extent of vegetation can create an extreme bushfire hazard.	<p>The subject land is not affected by the Bushfire Management Overlay.</p> <p>The nearest Bushfire Management Overlay affected area is approximately 950m to the north-west.</p> <p>The exclusion of the site from the Bushfire Management Overlay highlights that the site is not considered to be at severe risk from bushfire.</p>
Considering and assessing the bushfire hazard on the basis of: <ul style="list-style-type: none"> - Landscape Conditions (Meaning conditions in the landscape within 20km (& potentially up to 75km) of a site). - Local Conditions (Meaning conditions in the area within approximately 1km of a site). - Neighbourhood conditions (Meaning conditions in the area within 400m of a site). - The site for the development. 	Section 6 of this report includes an assessment of the proposal against the landscape conditions, local conditions, neighbourhood conditions and site conditions.
Consulting with emergency management agencies and the relevant fire authority early in the process to receive their recommendations and implement appropriate bushfire protection measures.	The Planning Application for the subdivision will not need to be formally referred to the Country Fire Authority. The Responsible Authority will need to be satisfied that the proposal adequately addresses Clause 13.02-1S.

18722 Bushfire Assessment.docxx

Bushfire Hazard Identification & Assessment (continued)	
Strategy	Response
Identify bushfire hazard and undertake appropriate risk assessment by:	
Ensuring that strategic planning documents, planning scheme amendments, planning permit applications and development plan approvals properly assess bushfire risk and include appropriate bushfire protection measures.	This report demonstrates that the proposal has consideration and regard to bushfire risk. Appropriate bushfire mitigation measures will be achieved by adoption of appropriate setbacks as displayed through the demonstrational Building Envelope Plan.
Not approving development where a landowner or proponent has not satisfactorily demonstrated that the relevant policies have been addressed, performance measures satisfied or bushfire protection measures can be adequately implemented.	This report demonstrates that the proposal responds positively to the provisions of Clause 13.02-1S, and that appropriate bushfire protection measures can be implemented.

Settlement Planning	
Strategy	Response
Plan to strengthen the resilience of settlements and communities and prioritise protection of human life by:	
Directing population growth and development to low risk locations, being those locations assessed as having a radiant heat flux of less than 12.5 kilowatts/square metre under AS 3959-2018 Construction of Buildings in Bushfire-prone Areas (Standards Australia, 2018).	<p>The scheme of subdivision has been designed to ensure each of the proposed allotments can accommodate future development to BAL 12.5 based on assessment under Australian Standard AS 3959.</p> <p>Whilst each Lot can accommodate a dwelling with BAL 12.5 there will be the ability to construct future development to a higher level should a future purchaser prefer.</p> <p>The absence of the subject land from the Bushfire Management Overlay demonstrates that the subject land is not in a high risk bushfire area.</p> <p>It has always been an expectation that the subject land would be developed to contain residential development, since the 'Storth Ryes Concept Plan' was introduced into the former Tambo Planning Scheme in December 1989.</p> <p>In addition to this, the subject land is zoned Low Density Residential Zone and is therefore considered appropriate, and will not result in any adverse bushfire risk or risk to life and property.</p>

Settlement Planning (continued)	
Strategy	Response
Plan to strengthen the resilience of settlements and communities and prioritise protection of human life by:	
Ensuring the availability of, and safe access to, areas assessed as a BAL-Low rating under AS 3959-2018 Construction of Buildings in Bushfire-prone Areas (Standards Australia, 2018) where human life can be protected from the effects of bushfire.	The subject land is located only a short drive from the main commercial centres of Metung, Lakes Entrance, and Bairnsdale which provide safe refuge from bushfire. Access to both towns is facilitated by good quality sealed road networks.
Ensuring the bushfire risk to existing and future residents, property and community infrastructure will not increase as a result of future land use and development.	Bushfire risk will not increase as a result of the proposed subdivision. If anything, the establishment of residential development on the land will provide additional protection to existing and future development, as there will be ongoing assurance of management and continued maintenance of the land.
Achieving no net increase in risk to existing and future residents, property and community infrastructure, through the implementation of bushfire protection measures and where possible reducing bushfire risk overall.	There will be no net increase in risk resulting from the proposal, as appropriate bushfire protection measures will be implemented. A demonstrational Building Envelope has been nominated for each of the proposed vacant allotments, to show how future residential development can achieve BAL 12.5. Future dwellings contained within the Building Envelopes will be required to construct to a minimum of BAL 12.5, which is easily achieved. The subdivision has also been designed in a manner which will ensure that future development will have direct and convenient access to the existing road network.
Assessing and addressing the bushfire hazard posed to the settlement and the likely bushfire behavior it will produce at a landscape, settlement, local, neighbourhood and site scale including the potential for neighbourhood-scale destruction.	Although the site is not considered to be at high risk from bushfire, which is evident through the absence of the Bushfire Management Overlay, the risk of bushfire is evident through the inclusion within the Bushfire Prone Area designation. The main fire threat is provided further to the north of the subject land where the terrain becomes undulating and open grassy farmland north of Hardys Road. This main threat is more than 450m away. Further information on the bushfire behaviour at a landscape, local, neighbourhood and site level is provided at section 6 of this Report.
Assessing alternative low risk locations for settlement growth on a regional, municipal, settlement, local and neighbourhood basis.	The subject land is contained within an existing low density residential precinct which is anticipated to be developed in the proposed manner since the inception of the 'Storth Ryes Concept Plan', introduced into the former Tambo Planning Scheme in December 1989.

18722 Bushfire Assessment.docxx

Settlement Planning (continued)	
Strategy	Response
Plan to strengthen the resilience of settlements and communities and prioritise protection of human life by:	
Not approving any strategic planning document, local planning policy, or planning scheme amendment that will result in the introduction or intensification of development in an area that has, or will on completion have, more than BAL 12.5 rating under AS3959-2018 Construction of Buildings in Bushfire-prone Areas (Standards Australia, 2018).	This report is prepared in support of an Application for Planning Permit which can be approved given future dwellings can achieve construction to a minimum construction standard of BAL 12.5.

Areas of Biodiversity Conservation Value	
Strategy	Response
Ensure settlement growth and development approvals can implement bushfire protection measures without unacceptable biodiversity impacts by discouraging settlement growth and development in bushfire affected areas that area important areas of biodiversity.	<p>The proposed scheme of subdivision has been designed having regard for the context of the adjoining road network.</p> <p>This has been achieved by:</p> <ul style="list-style-type: none"> Nominating boundaries to ensure lots adjoining Kings Cove Boulevard occur in rhythm with development on the opposite side of the road. The subdivision has been designed to ensure the future development can be adequately accessed via Kings Cove Boulevard being required for direct access.

Use & Development Control in Bushfire Prone Area	
Strategy	Response
When assessing a Planning Permit Application for uses and development:	
Consider the risk of bushfire to people, property and community infrastructure.	<p>Whilst the Application seeks approval for subdivision of the land, it results in the expectation that the allotments will be utilised for residential development.</p> <p>Establishment of future residential development in this location is most appropriate having regard for the surrounding residential use, proximity to townships.</p> <p>Development will ultimately provide protection to one another by ensuring the environment remains at a managed low threat state.</p>

Require the implementation of appropriate bushfire protection measures to address the identified bushfire risk.	It is acknowledged however that in practice development is likely to exceed the construction requirements for BAL 12.5 thereby enhancing protection and resilience from fire. The low density residential size of the allotments will result in ongoing management and maintenance by future owners with allotments accommodating adequate area for future development to achieve BAL 12.5.
Ensure new development can implement bushfire protection measures without unacceptable biodiversity impacts.	Each of the proposed allotments are clear of native vegetation ensuring biodiversity impacts are not increased. The subdivision has also been designed to ensure that future development can be undertaken in accordance with the aspirations of the Metung Strategy Plan.

5. Policy Guidelines

Policy Guidelines & Documents	Response
The following must be considered as relevant:	
Any applicable approved state, regional and municipal fire prevention plan.	The Municipal Fire Prevention Plan has been considered. See section 6.7 of this report.
AS 3959-2018 Construction of Buildings in Bushfire-prone Areas (Standards Australia, 2018)	Australian Standard AS3959 has been used as part of this assessment to classify slope and vegetation to determine BAL 12.5 requirements for each lot.
Any bushfire prone area map prepared under the Building Act 1993 or regulations made under that Act.	The current Bushfire Prone Area mapping has been considered as part of this report. The subject land is considered Bushfire Prone.

6. Bushfire Risk

Under Clause 13.02-1S relating to Bushfire Planning triggers the need to consider and assess the bushfire hazard based on:

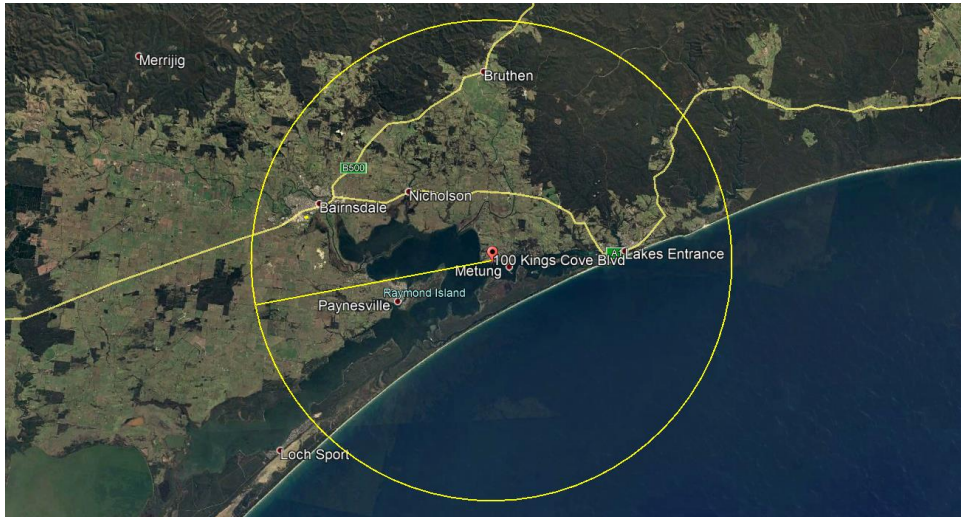
- Landscape conditions;
- Local conditions;
- Neighbourhood conditions; and
- The site for the development.

6.1 Landscape Conditions

When considering and assessing the bushfire hazard the landscape risk needs to be taken into consideration which includes the extent of vegetation cover, the area available to a landscape bushfire, terrain and accessibility to low threat areas.

18722 Bushfire Assessment.docxx

Under Clause 13.02-1S pertaining to Bushfire Planning 'landscape conditions' refers to conditions in the landscape within 20km (and potentially up to 75km) of a site.



Landscape Conditions within 25km of the subject land (Source: Google Earth)

The key features within the 25km assessment area surrounding the site include:

- Large areas of residential and rural residential development, particularly to the east, north-west and west of the property.
- Large areas of grassland coverage throughout most of the assessment area, much of which is utilized for grazing activities.
- Large area of the Gippsland Lakes network (mainly Lake King west, and south of the site, and Lake Wellington extending south-west of the site).
- The stretch of land in the southern portion of the 25km assessment area contains Crown Land and shrubby areas adjoining the 90 Mile Beach.
- The most north-eastern portion of the 25km assessment area contains forested areas connected to a larger expanse of vegetation extending north, providing a distant threat from bushfire.
- The land between the subject land and the township area of Bairnsdale to the north-west is not considered significantly vegetated and is easily accessed by a good quality sealed road network including the Princes Highway.

The subject land is surrounded by primarily residential and grazing properties. The vegetation within the wider landscape is mostly representative of either low threat/modified or grassland which generally provides a low risk to bushfire.

6.2 Local Conditions

Under Clause 13.02-1S pertaining to Bushfire Planning 'local conditions' refers to conditions in the area within approximately 1km of a site.



Local conditions within 1km of the subject land (Source: Google Earth)

The key features within the 1km assessment area surrounding the subject land include:

- Land immediately in all directions is best described as developed, containing the Kings Cove Golf Course to the north, and residential development to the east, south, and west. A transition to farmed grassland is evident beyond Hardys Road to the north and towards the northern edge of the assessment area.
- The vast majority of properties within the assessment area are low density residential.
- The landform is gently undulating on an elevated terrace, with Lake King and marina established south of the escarpment adjoining the lake shore.

6.3 Neighbourhood Conditions

Under Clause 13.02-1S pertaining to Bushfire Planning 'neighbourhood conditions' mean conditions in the area within 400 metres of a site.



Neighbourhood conditions within 400m assessment area (Source: Google Earth)

The key features within the 400m assessment area surrounding the subject land include:

- Presence of numerous low density residential properties. These properties represent a modified and low threat vegetation classification.
- The predominant vegetation classification in all directions is considered low threat.
- There is a small, established patch of vegetation within the south-east corner of the assessment area. The patch is not contiguous with other patches and is less than 1 hectare in area, this is not considered a significant threat to the subject land.
- The landform within the 400m assessment area gently falls from the east to the west.

6.4 Bushfire Scenarios

Bushfire from the North

The most likely bushfire scenario for this site considering the landscape, will be for a fire approaching from the north.

The subject land is separated from the nearest bushfire threat, being grassland beyond Hardy's Road, by established residential development and the Kings Cove Golf Course (maintained to a low fuel condition and 'excludable' vegetation).

Given the subject land's significant separation from forested areas, the site is not considered susceptible to long and uncontrolled fire runs.

Considering the climate of the area, a northerly wind represents less than 10% of all wind direction between the months of October and April, as recorded at the Bairnsdale Airport from 1942 and August 2020 data (Bureau of Meteorology, http://www.bom.gov.au/climate/averages/tables/cw_085279.shtml), further demonstrating prevailing winds in the local climate are more likely to originate from the east or south-east, with this number being over 55%.

Considering the climate, the largely residential development and waterways presiding over the encompassing directions in the wider landscape, the subject land is deemed to be of low fire risk from natural landscape.

Localised Grass Fires

There is a minor threat from more localised grassland fires. The terrain is gently undulating and the fire threat can be mitigated by appropriate setbacks, and surrounding residential properties and adjoining golf course maintaining any grass yards and garden area within the properties.

6.5 Bushfire Hazard Site Assessment

Vegetation on the subject land and the immediately surrounding area has been classified in accordance with Table 2.3 of Australian Standard AS 3959, consistent with Clause 13.02-1S of the *East Gippsland Planning Scheme*.



Aerial view of subject land and immediate surrounds (Source: Google Earth)

Exclusions & Low Threat Vegetation

The Kings Cove Golf Course and the adjoining residential development has been classified as low threat, as these areas contain minimal vegetation and are generally managed, cultivated garden areas. Kings Cove Boulevard provides a break between the subject land and more low threat vegetation to the south-east.

The small strip of vegetation contained within the south-eastern corner of the 400 metre assessment area are classified as excludable as they are less than 20 metres in width and are maintained to satisfy a classification of excludable.

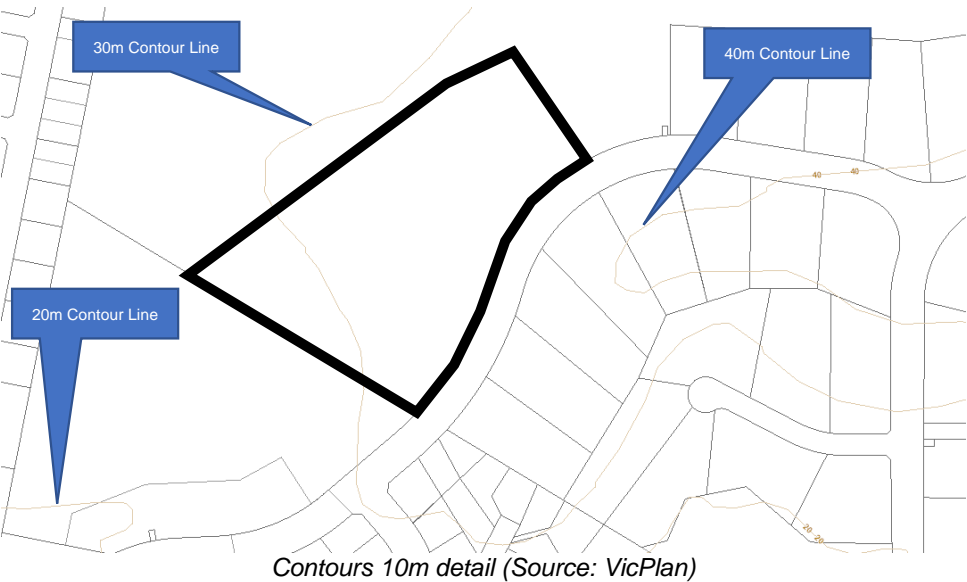
Grassland Classification

The majority of the subject land has a vegetation classification of 'low threat' given the presence of maintained grass. Noted however, is the existence of planted trees within the property which are exempt from any Planning consideration regarding vegetation removal due to their planted nature. Surrounding properties are best described as low threat due to their maintained condition.

The subject land in its current form is identified as being low threat. The environment will be further modified as a result of the subdivision and establishment of residential allotments into the future which will perpetuate the low threat classification.

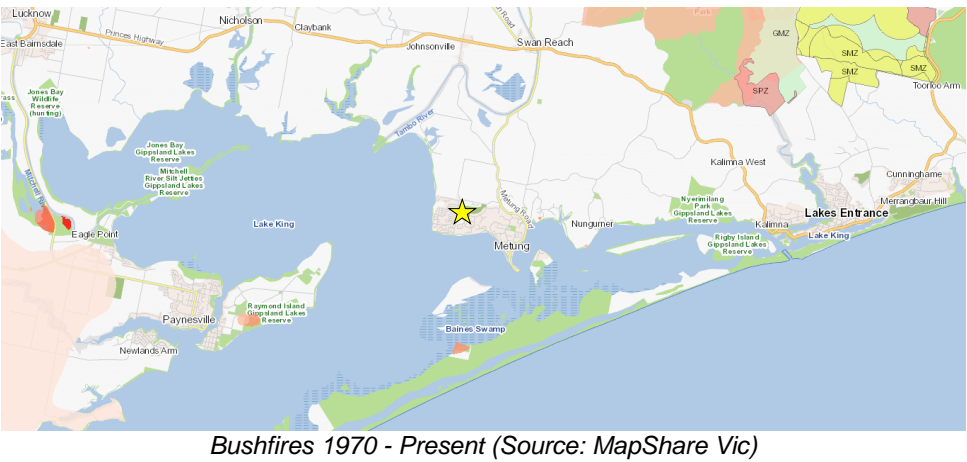
Topography

The topography of the subject land is best described as falling gently to the west.



6.6 Other Bushfire Matters

Although there is some record of fire history within the wider landscape since the early 1970's, there is no record of bushfire history on the subject land or generally within the Metung township, as demonstrated on the mapping below.



6.7 Municipal Fire Management Plan

The *East Gippsland Fire Management Plan 2017-2020 (Version 3.0)* identifies the fire risk and the associated works to be undertaken to reduce risk for the Municipality.

The Plan identifies that a bushfire from the north, with smoke impact and ember attack is the likely fire scenario for Metung and is the responsibility of the Metung Fire Brigade.

Existing treatments include community education, planned burn programs, and regular patrols/inspections.

7. Concluding Remarks

In summary the proposed multi lot subdivision at 100 Kings Cove Boulevard, Metung has considered the bushfire controls under the *East Gippsland Planning Scheme* and will not result in any adverse outcomes with respect to bushfire risk as appropriate bushfire mitigation measures can be put in place.

Crowther & Sadler Pty Ltd
March 2021

Your Reference: 18722
Contact: John Perry
Our Reference: 156/2021/P
Telephone No: (03) 5153 9500
Email: feedback@egipps.vic.gov.au

Corporate Centre
273 Main Street (PO Box 1618)
Bairnsdale Victoria 3875
Telephone: (03) 5153 9500
National Relay Service: 133 677
Residents' Info Line: 1300 555 886
Facsimile: (03) 5153 9576
Email: feedback@egipps.vic.gov.au
ABN 81 957 967 765

7 May 2021

Crowther & Sadler Pty Ltd
PO Box 722
BAIRNSDALE VIC 3875

Dear Sir or Madam,

Planning Application Number: 156/2021/P
Proposal: Multi-lot subdivision
Location: 100 Kings Cove Boulevard METUNG
Lot G PS 509097

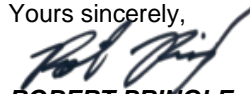
Thank you for your application for the above proposal.

We draw to your attention that the proposal is not supported and is likely to be the subject of an officer recommendation for refusal for the following reasons:

- It is the opinion of officer that the proposed subdivision is not consistent with the general subdivision layout as shown in the Incorporated Plans for the Storth Ryes Estate. The plan suggests that a four-lot subdivision is to be undertaken at this site, rather than the twelve-lot subdivision proposed.
- Notwithstanding the Low Density Residential Zone control which permits land to be subdivided to 2000 square meters where reticulated sewerage is provided, the proposal, especially with a prevalence of battle axe configurations, is inconsistent with the neighbourhood character of the Low Density Residential Zone/Kings Cove Boulevard Precinct.
- Officers do not share the view that the neighbourhood character can be assessed to include land within the resort/motel and convention schedule which specifically permits flats, apartments, townhomes and the like.
- Officers do not share the view that the North Course can be an appropriate strategic justification to depart from the established character, bearing in mind that the expectation of existing residential community along Kings Cove Boulevard, which would anticipate a similar streetscape, lot density and retention of existing vegetation to what is provided on their own land.

To the extent reasonable, Council will ensure that this matter is progressed in a fair and balanced process, giving you the opportunity to raise your concerns in the appropriate forums, however our position is unlikely to be waived. Should you wish to have a discussion please feel free to contact us on 5153 9500 to book an appointment.

Yours sincerely,



ROBERT PRINGLE
Statutory Planning Coordinator



133 Macleod Street, PO Box 52, Bairnsdale Victoria 3875
Tel: (03) 5150 4444 Fax: (03) 5150 4477
Email: egw@egwater.vic.gov.au Web: www.egwater.vic.gov.au

Our Ref: DOC/21/28195

26 May 2021

East Gippsland Shire Council
(planning@egipps.vic.gov.au)

Attention: Kerry Stow

EGSC REFERENCE NUMBER(S): 156/2021/P
FOR: SUBDIVISION OF LAND INTO 12 LOTS
LOCATION: 100 KINGS COVE BOULEVARD METUNG (LOT G PS509097V)
APPLICANT: CROWTHER & SADLER PTY LTD

In response to your email of 12 May 2021, regarding the above planning permit application, East Gippsland Water does not object provided the permit is subject to the following conditions:

1. Water and sewer reticulation infrastructure (including sewer connection points) must be extended to service each Lot to East Gippsland Water's requirements, at the cost of the Applicant/Developer. Subject to East Gippsland Water's requirements being met, relevant infrastructure will then become Gifted Assets (refer Notes). Each Lot is to be separately serviced by the water and sewer reticulation system and able to be separately metered (water) as appropriate to the satisfaction of East Gippsland Water.
2. Arrangements for the design, construction, commissioning and acceptance of all Gifted Assets required by East Gippsland Water to extend water and / or sewerage services to each Lot require written approval by East Gippsland Water. Design drawings to be sent to developerworks@egwater.vic.gov.au after certification application has been made.
3. Payment of applicable Development Planning Charges by the Applicant/Developer to East Gippsland Water (refer Notes)
4. Provide easements on the plan of subdivision over newly created or existing infrastructure, as required by East Gippsland Water.
5. No structure or fill is to be placed over East Gippsland Water works and/or easements without prior agreement by East Gippsland Water.

Notes:

- (A) Subject to its written acceptance of the Gifted Assets, East Gippsland Water will become responsible for ownership and the ongoing maintenance and operation of the assets in perpetuity.
- (B) Development Planning Charges apply where East Gippsland Water are involved in the developer's works (actual charge is based on the final cost of the works). Contact East Gippsland Water for further information on these fees.





133 Macleod Street, PO Box 52, Bairnsdale Victoria 3875
Tel: (03) 5150 4444 **Fax:** (03) 5150 4477
Email: egw@egwater.vic.gov.au **Web:** www.egwater.vic.gov.au

- (C) Any additional infrastructure required to adequately service the development would need to be provided by the developer at the developer's cost. The type and extent of additional infrastructure, if needed, is subject to detailed engineering design and approval by East Gippsland Water
- (D) For any Lot area that is not able to be fully serviced by a gravity sewer connection, building envelopes or minimum floor levels are required to be listed as restrictions on title to the satisfaction of East Gippsland Water.

Further enquiries may be directed to Gary Pini (5150 4421) at our Bairnsdale Office.

Yours faithfully,

A handwritten signature in black ink, appearing to read "CAROL ROSS", with a stylized flourish at the end.

CAROL ROSS
EXECUTIVE MANAGER CUSTOMERS

cc: Crowther & Sadler Pty Ltd (contact@crowthersadler.com.au)





Our Reference: 75074722
Your Reference: 156/2021/P
Surveyors Reference: 18722

Date: 11 June 2021

Locked Bag 14051
Melbourne City Mail Centre
Victoria 8001 Australia
T: 1300 360 795
www.ausnetservices.com.au

EAST GIPPSLAND SHIRE COUNCIL
PO Box 1618
BAIRNSDALE VIC 3875

Dear Sir/Madam,

PLANNING PERMIT NUMBER: 156/2021/P
APPLICANT: Crowther & Sadler Pty Ltd
DESCRIPTION OF LAND: 100 KINGS COVE BOULEVARD, METUNG

CONDITIONAL CONSENT TO ISSUE OF PERMIT

AusNet Electricity Services Pty Ltd does not object to the issue of a planning permit in respect of the abovementioned application if the permit is subject to the following conditions.

CONDITIONS REQUIRED BY AUSNET ELECTRICITY SERVICES PTY LTD

The plan of subdivision submitted for certification must be referred to AusNet Electricity Services Pty Ltd in accordance with Section 8 of the subdivision Act 1988.

The applicant must –

- Enter into an agreement with AusNet Electricity Services Pty Ltd for the extension, upgrading or rearrangement of the electricity supply to lots on the plan of subdivision. A payment to cover the cost of such work will be required.
- Provide electricity easements internal and external to the subdivision in favour of AusNet Electricity Services Pty Ltd to service the lots on the plan of subdivision and/or abutting lands as required by AusNet Electricity Services Pty Ltd. The provision of reserves for electricity substations may also be required.

END OF CONDITIONS

It is recommended that, at an early date the applicant commences negotiations with AusNet Services for a supply of electricity in order that supply arrangements can be worked out in detail, so prescribed information can be issued without delay (the release to the municipality enabling a Statement of Compliance with the conditions to be issued).

Arrangements for the supply will be subject to obtaining the agreement of other Authorities and any landowners affected by routes of the electric power lines required to supply the lots and for any tree clearing.

Prospective purchasers of lots on this plan should contact this office to determine the availability of a supply of electricity. Financial contributions may be required.

For all enquiries please email: subdivisions@ausnetservices.com.au

Yours sincerely,

Mark Taylor
Customer Connect
AusNet Services



Our patron, Her Excellency the Honourable Linda Dessau AC, Governor of Victoria

CFA Fire Prevention and Preparedness
8 Lakeside Drive Burwood East Vic 3151
Email: firesafetyreferrals@cfa.vic.gov.au

CFA Ref: 11000-73312-110486
Council Ref: 156/2021/P

2 July 2021

John Perry
East Gippsland Council
PO BOX 1618
BAIRNSDALE VIC 3875

Dear John,

REQUEST FOR FURTHER INFORMATION

Application No: 156/2021/P
Applicant: Crowther & Sadler
Address: 100 Kings Cove Boulevard Metung
Purpose: Multi Lot Subdivision

CFA, acting as a Referral Authority pursuant to Section 55 of the Planning and Environment Act for a subdivision at 100 Kings Cove Boulevard Metung, requests the following further information be provided.

Provide evidence that the proposed subdivision will meet the fire hydrant requirements.

1. Hydrants

- 1.1 Above or below ground operable hydrants must be provided. The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of building envelopes, the rear of the lots) must be 120 metres and the hydrants must be no more than 200 metres apart. These distances must be measured around lot boundaries.
- 1.2 The hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the Country Fire Authority.

Note –CFA's requirements for identification of hydrants are specified in 'Identification of Street Hydrants for Firefighting Purposes' available under publications on the CFA web site (www.cfa.vic.gov.au)

If you wish to discuss this matter in more detail, please do not hesitate to contact me on 0437 012 114.

Yours Sincerely

Peter Rogasch,
Fire Safety Officer

cc: Crowther & Sadler
contact@crowthersadler.com.au

6 Urgent and Other Business

7 Confidential Business

Council will close the meeting to the public in accordance with the provision of section 66(2) of the *Local Government Act 2020* to consider the following list of items:

7.1 Recreation Centre Creche Services

Under section 66(2) of the *Local Government Act 2020* a meeting considering confidential information may be closed to the public. Pursuant to sections 3(1) and 66(5) of the *Local Government Act 2020*, the information contained in this report is confidential because it contains Council business information, being information that would prejudice the Council's position in delivery of services to the community as it would prematurely disclose financial information.

8 Close of Meeting