



Council Meeting Agenda

Tuesday 22 February 2022 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 Mark Reeves (Mayor)
Cr Arthur Allen (Deputy Mayor)
Cr Sonia Buckley
Cr Tom Crook
Cr Jane Greacen OAM
Cr Trevor Stow
Cr Mendy Urie
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 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	7
1.1 Recognition of Traditional Custodians	7
1.2 Apologies	7
1.3 Declaration of Conflict of Interest	7
1.4 Confirmation of minutes	7
1.5 Next meeting	7
1.6 Requests for leave of absence	7
1.7 Open Forum	7
1.7.1 Petitions	7
1.7.2 Questions of Council	7
1.7.3 Public Submissions	7
2 Notices of Motion	8
2.1 1/2022 - Request Refund or Rebate Fees and Charges Waste Management	8
3 Deferred Business	8
4 Councillor and Delegate Reports	8
5 Officer Reports	9
5.1 Chief Executive Officer	9
5.1.1 Municipal Association of Victoria Rules Review	9
5.2 Assets and Environment	58
5.2.1 CON2021 1453 WORLD Construction Package 3 tender awards	58
5.2.2 Capital Works and Major Projects - Quarter Two 2021/22	67
5.2.3 Paynesville Canals Private Jetty Construction Policy	82
5.3 Business Excellence	101
5.3.1 Surrender of Bairnsdale Cemetery to the Crown	101
5.3.2 School Crossing Supervision Program Funding	108
5.3.3 Council Plan Quarterly Progress Report - Quarter Two 2021-22	114
5.4 Place and Community	155
5.4.1 Final Submission Central and Gippsland Region Sustainable Water Strategy	155

5.4.2 Planning Permit Application 403/2021/P - Two Lot Subdivision at 7 Sunset Boulevard Paynesville.....	188
5.4.3 Proposal to End Agreement AG845895P - 79 Angophora Drive, Mallacoota...	238
5.4.4 Request to end (in principle support) legal agreement AD089276J at 8B Kingscote Drive, Metung.....	276
6 Urgent and Other Business	315
7 Confidential Business	315
7.1 Chief Executive Officer Employment and Remuneration Committee Report	315
8 Close of Meeting	315

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 1 February 2022 be confirmed.

1.5 Next meeting

The next Council Meeting of Tuesday 15 March 2022 to be held at the Corporate Centre, 273 Main Street Bairnsdale commencing at 6.00 pm.

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

2.1 1/2022 - Request Refund or Rebate Fees and Charges Waste Management

Take notice that it is my intention to move at the Council meeting to be held on Tuesday 22 February 2022 at 6.00 pm or at any adjournment of that meeting:

The Council write to the State authorities(s) responsible for waste management policy, requesting a refund or rebate of a significant proportion of the fees and charges payed by our Shire so to provide both innovative waste management/minimisation solutions and incentives for the uptake of circular economy initiatives in East Gippsland.

Signed: Cr Tom Crook
Date: 8 February 2022

RATIONALE

Our Shire is subject to a range of statutory changes and fees in relation to waste management, over which we have little or no control. This money, changed by the state government, effectively leaves the region and at the same time we continue to experience increases in such fees. With little clear benefit to rate payers and the general community.

At a time when costs of waste management have never been higher and the need to minimise waste and embrace the circular economy never more urgent, this motion, if acted on by the State Government would provide a significant increase in our shires capacity to meet the waste challenge, be better equipped solve the challenges of waste management and maximise the benefits of the circular economy to the boarder East Gippsland community.

3 Deferred Business

4 Councillor and Delegate Reports

5 Officer Reports

5.1 Chief Executive Officer

5.1.1 Municipal Association of Victoria Rules Review

Authorised by Chief Executive Officer

Conflict of Interest

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

Executive Summary

The Municipal Association of Victoria (MAV) is constituted through the Municipal Association Act 1907 (The Act). The Act allows the MAV to make rules associated with the running of the organisation. The MAV are reviewing these rules and have released a discussion paper, “2021-22 Rules Review. A Future Focussed MAV”. The discussion paper includes a series of questions.

The questions raised through the discussion paper have been addressed at attachment 1 and are presented for Council’s consideration.

The MAV have requested that where a Council determines to submit a response to the discussion paper that this is supported by a resolution of the Council confirming the submission content.

As the MAV is the Victorian Local Government peak body and given East Gippsland Shire Council is a member, officers are recommending that a submission be lodged.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report;***
- 2. approves the submission at attachment 1 or as amended by Council as its submission to the “2021-22 Rules Review. A Future Focussed MAV”; and***
- 3. authorises the Chief Executive Officer to lodge the submission by the due date to the Municipal Association of Victoria.***

Background

The MAV is constituted through the Municipal Association Act 1907 (The Act). The Act allows the MAV to make rules associated with the running of the organisation.

The MAV are reviewing these rules and have released a discussion paper, “2021-22 Rules Review. A Future Focussed MAV”. The Rules are described as the “foundation of the MAV’s governance framework” and have not been amended since 2013.

The background to the Rules review and the full process is outlined in the discussion paper - "2021-22 Rules Review. A Future Focussed MAV" at attachment 2. For expedience the information has not been repeated here; however there are four key reasons outlined for the review:

1. the current rules need to be modernised;
2. the new rules should provide greater clarity;
3. the new rules should address oversights in the current rules; and
4. the rules need to enable State Council, the MAV Board and the Office of the MAV President to function effectively.

The discussion paper is split into multiple parts. For each part there are a number of questions that have been posed. The draft submission at attachment 1 addresses these questions based on the prompts and information provided in the discussion paper as well as Council's experience as a member of the MAV and other peak bodies.

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*.

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*.

In preparing this report the Victorian Gender Equality Act 2020 has been considered. The implications of the report have been assessed and are compliant with the obligations and principles of the Gender Equality Act. The need for a Gender Impact Assessment has also been assessed. The implications of this report have been assessed and align with the principles and objects of the Gender Equality Act 2020.

Collaborative procurement

Not applicable.

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: 5.2 Strong relationships with government, partners and stakeholders are maintained and strengthened to advocate for the community.

Council Policy

Not applicable.

Options

Council has the following options:

1. Provide a submission based on the response to questions at attachment 1 or as amended by Council; or
2. Do not lodge a submission.

The MAV is the peak body for Local Government in Victoria. This is an opportunity to ensure that the peak body operates at the highest possible standards and in the interest of all members. As such, it would be officers' recommendation that a submission be made.

Resourcing

Financial

Council is a financial member of the MAV. The membership is based on a formula taking into account population and is currently \$47,000 for the 2021/22 financial year.

Human Resources

Not applicable.

Risk

The risks of this proposal have been considered. Not having a peak body operating to its maximum effectiveness is a risk that can be averted by actively engaging in the review process as proposed in this report.

Economic

No applicable

Social

Not applicable

Gender Impact Statement

Not applicable.

Environmental

Not applicable.

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

Councillors have been engaged in the development of the response to the discussion paper.

Attachments

1. EGSC Draft submission to Municipal Association of Victoria Rules Review [**5.1.1.1** - 5 pages]
2. MAV Discussion Paper MAV - Rules Review 2021-22 [**5.1.1.2** - 20 pages]
3. MAV Strategy 2021-25 [**5.1.1.3** - 20 pages]



Municipal Association of Victoria Rules Review

Submission – East Gippsland Shire Council

East Gippsland Shire Council response to the Municipal Association of Victoria (MAV) rules review discussion paper themes and questions:

Principles that might guide revised Rules

1. Do you think these principles are the right ones to guide Rule changes?

Yes. However, the MAV need to ensure the diversity of MAV membership is recognised particularly rural and regional Council members.

2. Is the focus of this Discussion Paper on new Rules, which enable the MAV to be more effective the right focus?

Yes.

Rules affecting the office of the MAV President

1. Do the current MAV Rules sufficiently support the office of the President?

No. For the reasons outlined below and in the discussion paper, changes should be made to have better clarity on who and for how long a Councillor can be President and under what circumstances.

2. Is it important those who nominate for the office of MAV President are, at the time of the election, their Council's nominated MAV Representative?

No. If as outlined in the discussion paper the MAV Board is seeking to develop into a skills-based Board, then separating MAV representation from being a MAV Board member is an important distinction. Any Councillor from a member Council should be able to nominate to be on the MAV Board.

3. Would changing the qualification required to contest an election for the office of MAV President, by simply requiring a candidate be an elected Councillor at a participating member council, provide an overall benefit to the MAV?

Yes. The MAV President should be a Councillor of a member Council to ensure that they can accurately present the issues facing Local Government.

4. Would a four-year Presidential term better enable the President to make a more significant impact on the organisation and the sector?

No. The term of President should be a yearly appointment for a maximum of four consecutive years. An annual appointment for President ensures that if the person is not connecting with members or is unable to build relationships with State and Commonwealth Government they can be replaced.

5. Would a cap on sequential terms in office for the MAV President provide opportunities for new ideas and a renewal focus?

Yes. Capping the number of sequential terms ensures new ideas, approaches and connections are maximised through the President's position.

6. Should future Rules provide that a casual vacancy is declared in the office of the President if the council on which the President is a sitting Councillor becomes a non-participating member of the MAV?

Yes. The President of the MAV Board needs to be a sitting Councillor from a member Council. If either of these situations change then that should disqualify the person immediately from being President or a member of the Board.

Rules affecting the MAV Board

1. Would electing Board members "at large" and equally from the rural and metropolitan areas enable the MAV Board to place less emphasis on a representative role and provide more focus on addressing the MAV's strategic priorities in a conventional board fashion?

Potentially. However, this would depend on who puts up their hand to be on the Board and the skill mix that this brings to the Board. There needs to be a distinction and separation between MAV Representatives from member Councils and MAV Board members who would have specific duties and functions for operating a large complex organisation.

What is important is to ensure a mix of Council types on the Board (Metro, Rural and Regional) as well as diversity of Board members.

The issue of strategic plan priorities vs. State Council motions needs to be resolved. This would help focus the Board's attention on the agreed priorities.

2. Would "at large" Board elections be better served by a proportional representation model to ensure the kind of diversity that often accompanies high performing boards?

No. It is important that the MAV Board is representative of different Councils in Victoria.

3. Would a four-year term for Board members, aligned with local government general elections, enhance the Board's ability to govern successfully?

If all Board members were to depart the Board at the same time, there would be a loss of organisational and procedural knowledge. This may not enhance the "Board's ability to govern successfully" if they have to start from scratch every four years; however, given the uncertainty surrounding re-election of Councillors at the end of

any given term, this may be easier than a constant revolving door of Board members as terms expire. In today's dynamic political and social environment, four years of certainty may be as much as can be hoped for.

4. Should Board members have a limited tenure?

Yes. A four-year term and maximum of two consecutive terms should be applied to all Board positions.

5. Could fewer Board members be elected to govern the MAV as distinct from representing regional interests at the MAV?

Yes. There needs to be a separation as outlined previously between MAV Board membership and Council MAV Representatives.

6. Should the Board be empowered to add a small number of skill-based members to the Board to enhance its commercial capability or to address any obvious skill gaps?

Maybe, but contingent on it not being at the cost of a Council, financial member position. There would need to be careful criteria set up to ensure that disaffected Council election candidates or 'want to be Councillors' were not inadvertently appointed to the Board. It may be better to coopt people with relevant skills as and when required.

The Board also need to assess carefully what commercial activities it gets involved in. The recent MAV Workcover Insurance Program has demonstrated a need to carefully consider activities and the potential financial impact to members if the MAV moves into areas without due skill or consideration. Skill based members may assist in this assessment.

7. Should new Rules abolish the concept of an Interim Board and replace the current "caretaker" provisions with simpler checks and balances to ensure Board decisions, in the period between local government general elections and the declaration of electoral polls for the office of President and the Board, are supported by more than a simple majority of the Board?

It will depend on how the Board is ultimately structured. If the MAV Board aligns with Council elections, then caretaker provisions should be in place to allow the organisation to function accordingly. Not dissimilar to how Councils operate now although the timings may be longer.

If vacancies occur due to election results, assuming a quorum can be maintained, then the Board could continue to operate. Whatever occurs it needs to be simple and not create work for the organisation taking people away from the key tasks and priorities at hand.

8. Should the Rules allow a Board member who has been dis-endorsed by his or her Council to complete their term on the Board?

It will depend on Board composition. Separation between representation and Board membership is a key structural change that needs to be explored and determined as previously outlined.

9. Should the Rules require the Board to periodically evaluate its own performance?

Yes. Any organisation should review its performance on a regular basis. This needs to be done at arms-length and be more than a self-assessment. It should also be timed so there is an opportunity to action any identified weaknesses or issues during the term of the Board. Key performance indicators and key success factors must be agreed and established at the outset to enhance transparency and accountability.

In addition, performance also needs to be linked back to State Motions and Strategic Plan priorities, and their successful achievement or otherwise.

Rules affecting the State Council

1. Should new Rules require the MAV Board to play a stronger role in policy development and establish better standards for the matters which members wish to bring before State Council?

Policy development (including position papers) and better standards for State Council motions are two different issues. The Board should oversee agreed policy work; however, member Councils need to be able to raise matters at State Council of importance without significant interference of the Board.

2. Could State Council be modified to strategically introduce review processes, informed by expert and stakeholder advice and analysis that better ensure the quality of strategy development?

Yes. There is an opportunity for State Council to do more than just address motions. Bringing all 79 Councils together is a rare opportunity to provide collective input into matters, hear from and question politicians and collectively receive information about the sector. The opportunity should be maximised.

3. Is plural voting at State Council in the long-term best interests of the MAV?

No. Equal membership, equal voting, regardless of the formula used to determine annual fee.

4. Should MAV Rules require State Council members to declare and manage their conflicts of interest?

Yes. The Local Government Act would require this regardless as they would be acting in their role as a Councillor.

5. Should new Rules require participating member Councils, and not the Council's representative, to submit matters for the consideration of the MAV, through State Council or other appropriate "pathways", and should such matters being submitted be confirmed by a resolution of the Council concerned?

Yes. Any motion to State Council should be a motion from the Council not the individual Councillor regardless of their representative status. There may also need to be a mechanism for urgent or other business to be dealt with through clear eligibility criteria.

6. Should member Councils wishing to discontinue their financial membership be required to provide reasonable notice of their intention?

In our view, every effort should be made to maintain 100% membership.

In the event a Council wishes to leave the MAV, a notice period could be considered to allow a 'cooling off' period that also allows the MAV to better understand why the Council wants to relinquish its membership, any financial implications and possible intervention to prevent departure. This could be linked to the due date of membership fees.

7. Should the new MAV Rules retain provisions for excluding a non-participating council from using any MAV services?

Use of services by non-member Councils could come at a full cost recovery arrangement.



2021-22 Rules Review

A future focused MAV—————

Contents

2

Foreword

From the MAV President

3

Background

What are the MAV Rules?

Why review the Rules?

What is the process to review the Rules?

6

Principles that might guide revised Rules

8

Rules affecting the office of the MAV President

Who may nominate for the office of President?

The Presidential term

A casual vacancy in the office of President

Rules for the MAV President

11

Rules affecting the MAV Board

Board responsibilities

What kind of Board does the MAV need?

Managing the MAV's commercial interests

What might be the right size for the Board?

Is it necessary to have an Interim Board?

How does the MAV deal with a Board member who is no longer their Council's nominated representative?

Performance appraisal and accountability

Possible new Rules affecting the Board

15

Rules affecting the State Council

How the MAV adopts Policy

A more important role for State Council

Matters for consideration at State Council meetings

Plural or weighted voting

High standards of ethical behaviour

Councils discontinuing their MAV financial membership

19

Modernising the Rules

Adopting clearer Rules

Responding to this Discussion Paper

Foreword



From the MAV President

On behalf of the MAV Board, it is with great pleasure we release this Discussion Paper on the review of the MAV Rules of Association.

The Rules are the foundation of the MAV's governance framework. The existing Rules have been in place for many years and were last amended in 2013. It is timely as the peak body for local government in Victoria that we undertake a comprehensive review of our Rules to ensure we are best placed to support the sector now and into the future.

The release of the Discussion Paper marks the commencement of this process. This Paper poses some thought-provoking questions, critical issues for consideration and includes draft principles on which the new Rules could be based.

The MAV has engaged expert consultants to assist us. Local government professional, Mr. Phil Shanahan is the lead consultant and will be supported by Capire, a specialist community engagement company who design and deliver stakeholder engagement processes. Mr. Mark Hayes, Partner at Maddocks Lawyers, has been appointed to provide legal expertise throughout the process and in the later stages of the review will draft the new Rules for consideration by State Council.

We are committed to a deliberative engagement process and look forward to receiving feedback about this Discussion Paper by 28 February 2022.

Details about how to make a written submission are at the end of the Paper. In addition, we will be conducting stakeholder sessions commencing in early December and continuing into February 2022 to enable us to engage in fuller discussion about the issues canvassed in the Paper.

The Rules review will continue into the later half of next year. The MAV Board is committed to listening to all views. We will ensure our stakeholders have opportunities to provide feedback as we progress.

The release of this Discussion Paper is the first step in shaping the future of our MAV to ensure it best delivers its role in support of our member councils and their communities.

We look forward to engaging with you.



Cr David Clark
MAV President

22 November 2021

Background

For several years the MAV Board has sought a comprehensive review of the Rules of the MAV. The MAV State Council on 21 May 2021 adopted a resolution to refer a proposal to the MAV Board for a full MAV Rules review.

The MAV's current Rules were approved by an Order in Council dated 5 February 2013. This review will be the first comprehensive Rules review undertaken since 2006.

Rule changes, however, have tended to be incremental. That has led to a set of Rules that no longer serves the MAV well.

What are the MAV Rules?

The MAV is established by the *Municipal Association Act 1907*. The MAV is not a Council and is governed by its own legislation. The MAV's operations are subject to normal review mechanisms of the State, like the Victorian Auditor-General. In addition, the MAV is subject to prudential regulation (by virtue of its insurance business) required by the *Federal Corporations Act 2001*. It is reasonable to characterise the MAV entity as something between a corporation (in terms of its independence) and a statutory body (in terms of the accountability mechanisms applied to it).

It is the *Municipal Association Act 1907* which empowers the MAV to make Rules. The Act says:

"It shall be competent for the Association with the approval of the Governor in Council to make rules (a) for the management of the association; (b) for the regulation of its proceedings; (c) for fixing the amount of the subscription to be paid annually to the Association by each municipality; (d) for the regulation and management of and for fixing the rate of contributions to the Municipal Officers Fidelity Guarantee Fund and terms and conditions upon which the benefit of such fund shall be available; and (e) generally for all matters whatsoever affecting the management of the Association not inconsistent with the laws of Victoria."

This power to make Rules is a broad one. Any change to the Rules requires a State Council resolution. The resolution must be **both** carried by a majority of votes (noting the plural voting system) **and** have 60% of the representatives of participating member councils voting in favour. The Rules, and of course any changes to the Rules, require the approval of the Governor in Council and that will mean securing positive support from the Department of Jobs, Precincts and Regions and Local Government Victoria through to the Minister for Local Government.

The MAV's current Rules are on the MAV website at mav.asn.au.

Why review the Rules?

There are four key reasons for the current review of the Rules.

Firstly, the current Rules need to be **modernised**. The MAV needs Rules which enable good corporate governance "2021 style and beyond". Things like conducting virtual meetings and the option of digital elections, bringing the Rules into line with current Victorian legislation and eliminating references to redundant legislation. Conducting Board elections, using best practice as recommended by the Victorian Electoral Commission, should also be provided for in the new rules.

Secondly, new Rules should provide **more clarity**. The current Rules can be difficult to understand. They are complex and sometimes produce unintended and unsatisfactory consequences. New Rules should strive to be clearer. They need to be:

- less prescriptive
- streamlined
- more easily and widely understood
- generally enable better organisational governance without creating more problems than they solve.

Thirdly, new Rules should **address oversights** in the current Rules. For example, the Rules should require that the MAV establishes and maintains an Audit and Risk Advisory Committee. This should not be left to the good sense of the Board.

Finally, the current Rules need to enable the State Council, the MAV Board and the office of MAV President to **undertake their roles and functions effectively**.

The MAV has all 79 Victorian Councils as participating member councils. The MAV occupies a strong position as Victoria's peak body for Victorian local government. Better Rules will directly improve the performance of the MAV and keep up with contemporary good governance practices.

What is the process to review the Rules?

The MAV has engaged Mr. Philip Shanahan, an experienced former Local Government CEO and current consultant, to undertake the Rules review. Mr. Shanahan will be assisted by Capire Consulting Group, who have expertise and experience in stakeholder engagement and local government. The brief for the Rules review requires the consultants to undertake four key activities.

1. **A Discussion Paper** – which will outline a framework, principles and the opportunities for new Rules. The Discussion Paper will canvass possible Rule changes and seek sector and stakeholder responses.
2. **A Directions Paper** – based on feedback to the Discussion Paper, the Directions Paper will provide clarity around the kind of Rules that are under consideration. The Directions Paper will be sufficiently detailed to enable stakeholders to understand exactly what is being contemplated and to convey responses to those proposals.
3. **State Council deliberations** – the State Council scheduled for June 2022 will consider the Directions Paper and the feedback provided by stakeholders to that Paper. The State Council will decide on the matters set out in the Directions Paper and, by doing so, provide clear advice and direction to the MAV Board about State Council preferences in relation to the new set of Rules under consideration.
4. **Revised Rules and a Special State Council Meeting scheduled for September 2022** – the MAV Board will receive the State Council directions from the meeting in June 2022 and the consultant's final Report. The Board will then provide instructions to Mr. Mark Hayes, Partner at Maddocks Lawyers, to prepare the detailed and precise Rules which will go before a Special State Council in September 2022 for adoption. The new Rules will subsequently be submitted to the Minister for Local Government to seek Governor in Council approval.

2021-22 Rules Review



The process will be supported by extensive stakeholder engagement and consultation particularly around the Discussion Paper and the Directions Paper. MAV Representatives will be fully engaged through:

- A representatives and CEOs on-line workshop on 26 November 2021
- Small round table, on-line discussion groups to consider both Papers during December- February 2022 (Discussion Paper) and April and May 2022 (Directions Paper)
- Participation in the June State Council to provide clear direction on Rules change preferences to the Board, and
- The final adoption of new Rules at the Special State Council in September 2022.



The following important stakeholders will be included in engagement processes:

- MAV Representatives
- member councils
- mayors
- CEOs
- Minister for Local Government
- Local Government Victoria and Department of Jobs, Precincts and Regions
- Australian Local Government Association
- state associations
- the Victorian Electoral Commission
- the Victorian Auditor-General's Office
- other relevant state government departments and agencies.

The engagement process will encourage interested parties to take part to inform the various phases of the process.

The process is, by necessity, a long one. Current MAV Rules are specific about the kind of notice members must be given to consider any Rules changes. This Rules review can only reach a successful conclusion if timelines are kept. The consultant team will ensure stakeholders are keenly aware of the key dates in the process. Our focus will be on facilitating stakeholder responses.

Principles that might guide revised Rules

Establishing appropriate principles to support Rules changes can help to establish their worth.

In the first place, the MAV Rules should be heavily influenced, of course, by what it is the MAV does. That is, the purpose and the functions it performs. The MAV's Strategy for 2021-2025 describes its function and purpose as follows:

The MAV's purpose is to advance the interests of local government in Victoria. We do this in two primary ways. First through advocacy and policy development and secondly, through providing member-focussed services.

Our advocacy and policy development is focussed on:

- influencing decision-makers with informed data-driven and realistic policy positions
- highlighting future opportunities and challenges facing councils and communities
- leveraging local government's expertise to inform our advocacy activities
- developing relationships with stakeholders to build understanding of local government
- collaborating with governments to shape new initiatives and reform programs.

We deliver services to our members focussed on:

- building the capacity and capability of the local government sector
- offering commercial services and programs that meet council needs
- highlighting best practice and sharing knowledge from across Victoria and nationally
- engaging with member councils on emerging needs in relation to procurement and insurance services.

The MAV works diligently with Victorian Councillors through targeted training and development programs to continually improve sector capability. The role and functions of the MAV **remain important to the sector and are highly contemporary**.

Has there ever been a previous time when Australian society has so heavily relied upon the Australian federal system of government? Local governments are not fading into the background. Quite the contrary. It is local governments that lead on so many contemporary challenges. From climate change to First Peoples reconciliation, it is councils taking direct action. From bushfires and floods, it is councils partnering with state and federal agencies to protect and recover communities. No, local governments are grown up members of federalism in Australia. The intergovernmental challenges for local government may be more important than they have ever been. And the challenge for the MAV is to be **highly effective and influential** in this space.

The pace of change only increases. Digital transformation has and continues to sweep the nation. The 24 hour news cycle has turned conventional advocacy on its head. Councils are seeing the overwhelming need to be **agile, nimble and to create new ways of cutting through**. The MAV cannot afford to use outmoded models of decision making and governance while the world around it operates so differently.

The task of exerting influence on decision makers at State and National levels continues to evolve. There is a significant and growing concentration of power and control in the Private Offices of the Prime Minister in Canberra and the Premier in Victoria. The central public service departments, Prime Minister and Cabinet and Premier and Cabinet, are also expanding to support the concentration of power at the top. The practical outcome is the majority of important policy development and reform is now run centrally. At the same time, governments are becoming more adept at using competing voices to control debate, minimise valid policy alternatives and compress timelines for consultation and engagement.

2021-22 Rules Review



As a result, a refreshed approach is required to influence the policy agenda. The new "tools" that organisations like the MAV must employ to successfully influence government policy are **expert analysis, complex evidence-based policy development and sophisticated political positioning**. And these "tools" do not come cheap!

Finally, only high standards of good governance, accountability and ethical practices can address the growing cynicism felt about governments and institutions around the world. The MAV must aspire to gain and keep these credentials.

All of these trends and influences impact the MAV, its purpose and function. MAV Rules should respond to these trends and influences. Success for the MAV may well depend upon how successfully it can be:

- **A strong sector leader** – highly influential, strongly supported by its participating Councils and respected across a wide constituency.
- **Modern and contemporary** – an adopter of best practice and nimble and agile in the way it can respond and adjust to change and opportunity.

- **Credible** – well informed, highly skilled and capable of arguing complex issues with rigour, persuasion and timely data.
- **Well governed** – seek high performance, be highly accountable to its members and set a shining example of ethical practice.

It is through this kind of lens that new MAV Rules should be evaluated. This Discussion Paper will focus on contemplating new Rules that can help **the MAV** play its role more effectively. In many cases the changes may be quite significant. There will be a departure from the incremental approach taken over many years to make Rules changes.

This Discussion Paper will probably attract divergent views from stakeholders. That will largely be a consequence of the scope of changes being contemplated. The process of changing the Rules to meet the challenges of **now and the next decade or two** will not be well informed by looking in the rear vision mirror at where the MAV and the sector have been. The focus must be on what it is that we need the MAV to achieve and which Rules support that endeavour best.



Questions to consider

1. Do you think these principles are the right ones to guide Rule changes?
2. Is the focus of this Discussion Paper on new Rules which enable the MAV to be more effective the right focus?

Rules affecting the office of the MAV President

Who may nominate for the office of President?

The MAV President's role is critical to the success of the MAV. It is fundamental to the MAV's strength of **leadership and organisational credibility**. New MAV Rules should set out the role and function of the MAV President. This is currently accomplished by a Board protocol but is more appropriately included in the MAV Rules.

In many ways, the current Rules provide support for the President's role. For example, as soon as a member is elected as President, the Council on which the elected President is a sitting Councillor is invited to appoint an additional representative to the MAV. The elected President is then free to provide **independent organisational and sector leadership**.

The current Rules require that a Councillor can only nominate for the office of MAV President if they are the current nominated representative for their Council. This Rule addresses the issue of credibility. It also protects the interests of participating member councils. The Rule ensures the President of the MAV is drawn from the nominated representatives of the participating member councils. That is a conventional approach to a **member-based organisation** seeking to elect a President.

A proposal submitted to the May 2021 State Council sought to do away with the requirement that the MAV President always be a nominated Council representative. It would have enabled a President or Interim President who was **not** a nominated Council representative to nominate for the office of President. Note that the MAV is governed by an Interim Board during the 'Caretaker Period' between local government elections and the MAV Board elections.

It is difficult to think of any political structure where that kind of special entitlement extends to a former President or Interim President. The Interim President may or may not be the former President. It could be an Interim President, elected by the Board, in office for a short period, in a caretaker mode and not the nominated representative of their Council. Alternatively, such an Interim President might have extensive Board experience, or have previously made a strong and effective contribution to the MAV and be well regarded as a possible future President. The circumstances of their dis-endorsement as the MAV representative may, or may not, be a reflection of local issues as distinct from their capability in any Presidential role.

If such a proposal has merit, there might be a more significant and simpler reform to achieve a similar end. There is a school of thought which suggests the role of President could be filled by **any Victorian Councillor** from a participating member council at the time of the election. The thinking behind that idea revolves around providing a wider range of capable people from which to choose. There is no doubt that the role of MAV President demands serious skills and experience. The real role of the President is nothing like any kind of figurehead role. The role requires special leadership capabilities, a sophisticated understanding of contemporary intergovernmental relations, and a deep understanding of local government. Sound commercial skills are also important given the extent of the MAV's commercial services.

On the one hand, a broader field from which to elect a President might provide an opportunity to attract more "ideal candidates". On the other hand, an elected President who was not nominated as a Council's MAV Representative might create questions around the unity of the organisation. MAV credibility or even the independence of the President may come into question.

2021-22 Rules Review



Presidential elections where any sitting Councillor from a participating member council could nominate would attract larger candidate fields. This approach would be supported by organised political practices. Furthermore, larger numbers of Presidential candidates seems like an unwanted, unintended consequence. After all, there will only be 79 votes cast in the election and an exhaustive preferential voting system is currently in place. It is not difficult to imagine that, with a large field of candidates, the drawing of lots might determine the fate of some candidates!

The Presidential term

A strong argument can be made that a two year Presidential term is too short. A two year term may not provide sufficient time for building the relationships, networks and trust that accompany influential intergovernmental relations.

A four year Presidential term, synchronised with local government general elections, seems to be a viable alternative. At the same time, it would be useful to consider whether restricting a President to a maximum number of consecutive terms would be in the interests of contemporary practice. Good organisations excel at renewal and reinvigorating themselves. It shows an agility that keeps everyone on their toes.

A casual vacancy in the office of President

The current Rules allow a casual vacancy in the office of MAV President where the President:

- dies
- resigns, or
- ceases to be a Councillor.

However, it is unclear if a casual vacancy occurs under the current Rules if the Council, on which the President is a sitting Councillor, ceases to be a participating member council of the MAV. A Victorian Supreme Court judgment in 2018 pointed to the inadequacies of the Rules in this regard. On the one hand, it might be difficult to support a Rule where a President, who is a sitting Councillor at a non-participating Council, could complete their term in office. Could such a Rule be supportable on the grounds of MAV **credibility**?

While the MAV Rules do seek to protect the office of the President from destabilisation, it does seem unlikely that the MAV's credibility would be enhanced if a President's Council was not a participating member of the MAV. On the other hand, perhaps the MAV Rules should assist in removing the President's vulnerability to the whims of any particular local council. This would guarantee greater leadership stability and ensure the President represents the whole municipal sector rather than one particular constituency.

Rules for the MAV President

There is no doubt that the MAV Rules need a thorough overhaul. Under the current MAV Rules, in 2017 and 2018, the MAV found itself in the Victorian Supreme Court contesting issues around who could nominate for President and what was the impact of a council, where the President was a sitting Councillor, withdrawing from the MAV.

In the second matter Justice Ginnane had this to say:

"... While I accept that the court should attempt to avoid anomalous, absurd or unreasonable interpretations, the MAV Rules may create anomalies whichever interpretation is adopted and which cannot be avoided whichever interpretation is adopted.....The above analysis suggests that the MAV Rules have been amended from time to time without regard to the effect of the amendments on other parts of the rules. The rules might benefit from a revision."



Questions to consider

1. Do the current MAV Rules sufficiently support the office of the President?
2. Is it important those who nominate for the office of MAV President are, at the time of the election, their Council's nominated MAV Representative?
3. Would changing the qualification required to contest an election for the office of MAV President, by simply requiring a candidate be an elected Councillor at a participating member council, provide an overall benefit to the MAV?
4. Would a four year Presidential term better enable the President to make a more significant impact on the organisation and the sector?
5. Would a cap on sequential terms in office for the MAV President provide opportunities for new ideas and a renewal focus?
6. Should future Rules provide that a casual vacancy is declared in the office of the President if the council on which the President is a sitting Councillor becomes a non-participating member of the MAV?

Rules affecting the MAV Board

Board responsibilities

The Board's role is central to the MAV's success. The MAV Board must perform the same sort of role and functions as most corporate entities. The Board's key responsibilities are:

- **Establish strategic direction.** It is the MAV Board's responsibility to create and review the MAV's goals and the strategies to achieve those goals. The Board should allow Council representatives to have a strong voice in the goals and strategies of the MAV.
- **Appoint, support and evaluate the CEO.** The MAV Board is responsible for recruiting and appointing a high performing CEO. The Board will ensure the CEO has the necessary support and professional development opportunities to remain a skilled, capable and contemporary leader. The Board will monitor the performance of the CEO and appraise the CEO's performance against agreed Performance Criteria.
- **Ensure effective planning.** The MAV Board will participate in a planning process by establishing long term goals and strategies.
- **Provide oversight of programs and services.** The MAV Board is responsible for determining which services and programs are consistent with the MAV's Strategy. The Board will delegate powers to its management, and will monitor and evaluate the implementation of policies, strategies and business plans.
- **Oversee financial management and the protection of assets.** The MAV Board is responsible for developing and approving an annual budget supporting the organisation's programs and services. The Board is responsible for ensuring proper financial controls are in place to protect the assets of the organisation. The Board is also responsible for maintaining an effective Audit and Risk Advisory Committee and to respond to the results of external and internal audit procedures regularly.
- **Develop and maintain a competent Board.** The Board has a responsibility to explain to Board candidates the key responsibilities of Board members. This includes ensuring new Board members are inducted and supported. The Board is also responsible for evaluating its own performance.
- **Ensure legal and ethical integrity.** The MAV Board must set the ethical tone of the organisation and should articulate the values and principles that set that tone. The Board is ultimately responsible for adherence to legal standards and ethical norms.
- **Enhance the MAV's reputation.** The Board will be ambassadors for the organisation, articulating the importance of the goals and value of the organisation's work. The Board will work to garner support from its key stakeholders.

These responsibilities are usual for a Board. For the MAV, it will always be important that the Board can represent the interests of its member councils. The functions of the MAV Board currently set out in the Rules unfortunately do not adequately reflect those described above. As a part of the Rules review a contemporary description of the Board's role and function will be developed for consideration.

What kind of Board does the MAV need?

It would be a mistake to underestimate the breadth and depth of conventional Board responsibilities required at the MAV. The MAV's two primary functions (advocacy and member services) need much from Board governance. This Discussion Paper has already referred to the modern day challenges of exerting influence in a noisy, fast changing world. Commercial services, like insurances and procurement, represent large investments and risks for the MAV. These services are competitive and operate in well developed markets. The Board's oversight and understanding of these businesses

are essential. They sometimes require very sound commercial skills. The MAV Board must be prepared to provide effective corporate governance to these enterprises.

Current Board membership consists of 12 Councillors elected from small groupings of Councils. It is a highly **representative** Board. When electing Board members, the current Rules require the Board divide the State into 12 regional groupings. The strength of the current "regional groupings" Rule is it ensures a geographic distribution of Board members around Victoria. This geographic distribution enables the MAV Board to better understand what issues are important all over the State.

The weakness in this arrangement is it creates an obligation for Board members to **represent the interests of their region at the MAV**. And the practice of that representation has too little to do with conventional Board members' key responsibilities.

There are important differences between a **functional and representative** approach to board membership. A functional approach to board membership requires members to be selected (elected) for the skills they bring to the board to **address the strategic priorities of the organisation**. A representative approach sees board members elected to **represent the primary stakeholders of the organisation**.

The representative model is the dominant characteristic of the MAV Board. Although it is an obvious generalisation this representative model usually brings Councillors who:

- have a deep and practical understanding of local government in Victoria
- understand their region, its opportunities and challenges, and
- are effective Councillors respected by their peers in their region.

Are these capabilities sufficient? Does the representative model regularly bring to the Board the range of skills, experience and motivation needed to be more focussed on their functional role and less on their representative role? Could new Rules, electing Board members "at large" from both rural and metropolitan areas, enable a transition from a Board that has been created to represent diverse local government interests to a Board more concerned with the issues that conventional boards address?

The notion of abandoning the "geographic representative model" should not be construed as an argument against a Board of diverse interests, knowledge and skills. There is considerable research which substantiates the proposition that Board diversity usually results in stronger performance. The MAV Board should be reflecting the diversity of opinions and experiences of Victorians. The diversity of the Board may also be influenced by its electoral structure. A more proportional election model is often adopted to generate greater diversity and a different type of representation. Proportional models would, however, necessarily move representation further away from the geographic immediacy of the current regional model.

The democratic mandate of regional representatives is also an interesting consideration. On the one hand, the current model facilitates geographic immediacy, with close accountability to a small number of Council MAV Representatives in each region. On the other hand, elections for regional board members are frequently determined by names drawn from a hat whenever there is a tie following any distribution of preferences.

Managing the MAV's commercial interests

The MAV's commercial imperatives are evident, for example, in the MAV insurances business. Commercial risks are currently addressed by an expert Insurance Board, operating under a MAV Board delegation, with the MAV Board retaining final decision making powers and responsibilities. Is this a sound and sustainable model for the MAV into the future? The arrangement is seeking to "cover" for the skills gap on the MAV Board in relation to the insurances business. Would the addition of a small number of skill-based Board members, appointed by the Board, provide a more comprehensive governance arrangement? Would skill-based Board members enhance the Board's commercial credentials and function?

What might be the right size for the Board?

In the event of electing the Board "at large" from the rural and metropolitan areas, the **size of the Board** would also be a matter to consider. A President and 12 Board members is a considerable size for an organisation with a maximum of 79 members. The MAV Board probably contains 12 elected Board members for those **representative** reasons previously discussed. The right number of Board members to actually **govern** the MAV is probably a lesser number, especially if a small number of skill-based Board members were appointed.

Is it necessary to have an Interim Board?

Current Rules require the Board to operate as an **Interim Board (with an Interim President)** in the period between local government general elections and the declaration of the results of the election for the President and the Board members in March the following year. Current Rules prohibit an Interim Board making any "significant decisions" except by a unanimous vote. A significant decision relates to:

- a change in the policy position of the MAV
- entering into contracts with a value of \$200,000 or more
- the expenditure of unbudgeted funds, or
- the employment or remuneration of the CEO.

Current Rules require the Board to play something of a "caretaker" role during that time. Does that serve the MAV well? The label of "Interim" doesn't seem to sit well with the member councils' expectations that the Board is elected by the membership to govern. The four month hiatus represents a significant chunk of the Board term. Perhaps a simpler set of checks and balances, aimed at mitigating the circumstance of significant Board changes arising from the local government general elections, would suffice and not require the MAV Board to "tread water".

How does the MAV deal with a Board member who is no longer their Council's nominated representative?

There are strong arguments to suggest the **Board's accountability to its members** should be reflected in the Rules. Current Rules, aimed at **Board stability**, address the situation where a Council revokes the appointment of its representative and nominates another Councillor to be the representative (Councils are free to nominate a Councillor to be their MAV representative at any time). Current Rules provide that if the dis-endorsed Councillor has been elected to the MAV Board then the Councillor's Board membership is unaffected, enabling them to remain a Board member for the rest of their term.

This Rule seeks to provide **stability and continuity** on the Board and respect the regional groupings of Councils. However, it is somewhat at odds with the MAV's accountability to its membership. If the Rules are amended to provide for a Board term of four years, instead of two years, the situation might arise where the dis-endorsed Board member could remain for three or more years on the Board yet not even have a vote on matters at State Council. If the new Rules provide that a casual vacancy does occur if a Board member is dis-endorsed by his or her Council, the MAV Board might be favoured with discretion around how quickly an election would need to be conducted.

Should such a dis-endorsed Board Member complete their term? Or should a casual vacancy on the Board be declared and an election held, in due course, to fill that vacancy?

Performance appraisal and accountability

The MAV Board has in place a Board Performance and Assessment Policy. The Policy sets out how the individual and collective performance of MAV Board members will be assessed. There is a strong argument to say the requirement for periodic Board performance evaluation should form part of the Rules.

Some Rules changes will be necessary to ensure the Board at all times complies with the *Corporations Act 2001* requirements. (These requirements are mandatory, in spite of the MAV Insurances Board and its operation, to which the same provisions apply.)

Possible new Rules affecting the Board

MAV stakeholders might consider the following suite of Rule changes that may strengthen the MAV Board.

- Abandoning the regional groupings of Councils and electing a discrete number of Board members equally from the Rural and Metropolitan sectors at large. Under such a change, Board members would no longer be required to primarily act in a representative role and the MAV organisation, in a professional capacity, would provide the necessary "link" between members and organisational issues and progress.
- Changing the electoral system, in the event of "at large" Board elections using a proportional representation system to encourage Board diversity.
- A four year term for Board members along the same lines and for similar reasons to those advanced for a four year Presidential term.
- A limit on tenure for Board members by capping the number of consecutive terms a member can serve on the Board.
- Enabling the MAV to make a transition to a function based Board, by empowering the Board to add a small number of skill based "directors" to complement existing Board skills and capabilities and to add significant value to the Board's deliberations.
- Changing the number of Board members to be elected to be consistent with the task of governing the MAV rather than representing regional interests on the Board.
- Changing the Rules so that a casual vacancy on the Board is created if a Board member is no longer a Council's nominated representative.
- Changes to the "qualifications" required of Board candidates to ensure compliance with the *Corporations Act 2001*.
- Rules requiring the Board to periodically evaluate Board performance.



Questions to consider

1. Would electing Board members "at large" and equally from the rural and metropolitan areas enable the MAV Board to place less emphasis on a representative role and provide more focus on addressing the MAV's strategic priorities in a conventional board fashion?
2. Would "at large" Board elections be better served by a proportional representation model to ensure the kind of diversity that often accompanies high performing boards?
3. Would a four year term for Board members, aligned with local government general elections, enhance the Board's ability to govern successfully?
4. Should Board members have a limited tenure?
5. Could fewer Board members be elected to govern the MAV as distinct from representing regional interests at the MAV?
6. Should the Board be empowered to add a small number of skill based members to the Board to enhance its commercial capability or to address any obvious skill gaps?
7. Should new Rules abolish the concept of an Interim Board and replace the current "caretaker" provisions with simpler checks and balances to ensure Board decisions, in the period between local government general elections and the declaration of electoral polls for the office of President and the Board, are supported by more than a simple majority of the Board?
8. Should the Rules allow a Board member who has been dis-endorsed by his or her Council to complete their term on the Board?
9. Should the Rules require the Board to periodically evaluate its own performance?

Rules affecting the State Council

An anecdote

When I was a young local government officer in the early 1970s a part of my job was to attend to the fox shooters. I would count their fox scalps and arrange payment for their bounty at the rate of 75 cents per scalp. The more interesting part of my job was to light the incinerator in the council carpark and burn the scalps.

I attended my first MAV State Council as a Shire Secretary in 1976 (or was it 1977...) and listened to the debate about whether the state government should be pressed to increase the fox scalp bounty to \$1.

I thought then, "Is that what we should be talking about..?"

Phil Shanahan
Former Local Government CEO

How the MAV adopts Policy

State Council is a major strength but also a less obvious weakness in the MAV's governance framework. Usually twice each year, the participating MAV Representatives come together at State Council. They debate the various propositions submitted by the members. When propositions are agreed to at State Council, these matters are adopted as MAV policy.

The great strength of State Council is the diverse membership. Participating Councils bring a wide range of issues, from across the State, into a forum that establishes MAV policy. The *Achilles' heel* of this approach are parochial issues, important for too few of the members, which find their way into the MAV policy framework. Most participating Councils have learned how to use State Council as a forum to garner support for local, regional or sectoral causes. It is open to the members

of State Council to reject parochial propositions, but a strong spirit of "empathetic collegiate endeavour" sometimes means that doesn't happen.

Similarly, current Rules empower the MAV CEO and Board to collaboratively exclude proposals that are not matters of widespread local government significance. These powers are less often brought to bear. The "benefit of the doubt" is almost always given to the membership.

The MAV's limited resources must be strategically applied to achieve high influence across State and National policy. The MAV cannot afford the luxury of pursuing the parochial, and sometimes peripheral, issues that come from State Council. These distractions are at the expense of sector wide issues of significance. The great challenge in reviewing the MAV Rules is to **create a framework for the MAV's policy development which is a shared responsibility between participating member councils and the MAV Board through its responsibility for strategic planning.**

If a partnership between councils, the MAV Board and the State Council is an answer to better policy development, the MAV Rules might establish, in broad form, how that partnership would work. The Rules might provide that Councils could submit policy proposals to the MAV Board at any time during the year and would be encouraged to do so. The Board would determine the "pathway" for such policy proposals. Some would be rejected as failing to meet acceptable criteria like:

- sufficient widespread significance to Victorian Local Governments, or
- relevant to the adopted MAV Four Year Strategy, or
- responding to important emerging issues that require urgent policy direction.

Others might need further development, more research or be informed by better data and information. Still others would be quickly adopted into the MAV policy framework. And many others would form the policy agenda for the State Council debates.

2021-22 Rules Review



It does seem possible to achieve better outcomes from State Council if the Rules can create different classes of proposed motions, each being dealt with in different ways by the Board. As a consequence, many proposals would be dealt with in a more timely manner.

In part, this Discussion Paper is testing whether it is the MAV Board that should assume a stronger leadership role in more effective policy development. It is critical to achieve a convergence of MAV policy with MAV Strategy – **the two are inseparable**. Whilst there has always been much to admire and to excite about the debates at State Council, with all of the theatre and passion on show, it might be argued that those twice yearly debates about all and sundry no longer represents a best practice model. Those debates must be supported with critical information and context. The debates should be better connected to the MAV's primary goals and strategies.

A more important role for State Council

It would also seem there is an important role for State Council in the development and monitoring of the MAV's Four Year Strategy. For several years the arrangements made for State Council have had a wider scope than debating member propositions. In many ways the entire event has been a combination of policy forum, conference and a celebration. All of these ingredients are important enough.

It could be argued, however, that State Council plays too small a role in effective stewardship around the MAV Strategy. Can the Strategy's implementation and continuing relevance be more regularly evaluated through expert information and analysis at State Council? Whilst members are regularly exposed to high quality guest speakers in the "conference" mode of State Council, this would entail a more targeted use of expert participants and stakeholders to inform and alert members to emerging trends impacting the MAV's strategic approach. This kind of format would encourage members to bring to the Board's attention what they see and hear from contemporary thinkers about the key issues being addressed through the MAV Strategy. **A more dynamic, less insular model is one that may improve policy and strategy development and elevate the impact of State Council.**

State Council meetings that can convert quality information and expert analysis into opportunities for the Board to investigate and evaluate, and a Board that has a stronger mandate to develop policy,

monitor and evaluate strategy implementation and provide accountable reporting to the State Council, seem to represent a better balance or partnership between the two MAV organs that could advance the interests of the MAV.

Matters for consideration at State Council meetings

Current Rules provide only a Council's nominated representative may submit matters for consideration at meetings of the State Council. This hasn't been custom and practice for the MAV for many years. Councils have regularly submitted matters for State Council's consideration.

It would seem, however, that this custom and practice are sensible. There is a strong argument to say participating member councils should submit such matters for consideration. Furthermore, it might be further argued that Councils should be required to specifically resolve which matters are submitted for consideration by the MAV. It is also worth noting current Rules require a Council representative to exercise their vote at State Council in accordance with a resolution of his or her Council or the view of the majority of Councillors where it is known. And, of course, it would be up to a Council to ensure its representative was meeting this obligation.

Feedback from State Council

The MAV surveyed participants from the May 2021 State Council. Overall satisfaction was quite strong. However, among the commentary received from participants about their experience of State Council were the following:

- need to review the purpose of State Council as part of the review of the MAV Rules as too many motions are not relevant to Councils
- several motions relate to local issues or specific types of Councils
- the workload is unsustainable for MAV and dilutes what can be achieved
- motions not related to state issues or the MAV plan should be excluded from the process.

Plural or weighted voting

Under the current MAV Rules, "larger" councils receive two votes on matters before the State Council whereas "smaller" councils receive one vote on such matters. The relevant Rule says:

"At any meeting of State Council, voting entitlements on any motion or amendment will be:

- the representative of each participating member council paying an annual subscription to the Association which exceeds the mid-point between the lowest and highest subscriptions will have two (2) votes; and*
- the representative of each participating member council paying an annual subscription to the Association which does not exceed that mid-point will have one (1) vote."*

This Rule is, of course, intended to recognise the constituencies of larger councils are often many times greater than those of smaller councils. Larger councils "represent" more people. However, plural

voting isn't commonly found in member based organisations. By and large, each of the 79 Councils in Victoria exercise the same set of functions and powers and are treated as equals under the law. Victorian laws do not differentiate between larger and smaller councils. None is regarded as more or less important. They are simply uniquely different in many ways, including size.

The questions that arise from this Rule are clear enough but quite complex to answer definitively.

- Does plural voting make the MAV stronger?
- Does plural voting contribute to strengthening and uniting the MAV's member councils in setting the policy framework for Victorian local government?
- Does plural voting have any unintended consequences at the MAV, like creating any kind of city/country divide?

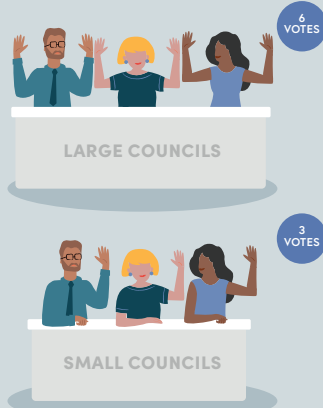
And finally, some of the most important matters settled by State Council include the election of the President and the Board, and neither of those processes is determined by plural voting.

Interesting to consider

Plural voting hasn't always been a feature of MAV Rules and the State Council meetings. There have been many past years when it was one council /one vote.

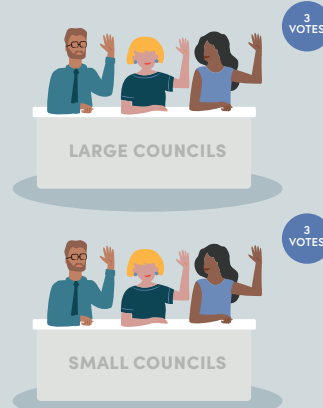
PLURAL VOTING

Under the current MAV Rules, large councils receive two votes, while smaller councils receive one.



NORMAL VOTING

Sometimes in the past, each council received one vote, regardless of size.



High standards of ethical behaviour

Current MAV Rules are silent about dealing with conflicts of interest held by the members of State Council. Current MAV Rules do prescribe how some conflicts of interest will be dealt with by Board members. It is conceivable situations will arise whereby MAV Representatives do have a conflict of interest in matters under consideration at State Council.

State Council should uphold best practice ethical standards. The MAV Rules should require the declaration of member's conflicts of interest and prescribe exactly how any member's conflict of interest must be handled.

Councils discontinuing their MAV financial membership

From time to time some Councils discontinue their financial membership of the MAV. The MAV is a membership based organisation. It currently enjoys a strong membership position – all 79 Councils are participating members. However, when Councils withdraw their financial membership the consequences are significant for the MAV. Firstly, the unanticipated loss of membership subscription directly affects MAV services. Job losses are sometimes an outcome.

Secondly, discontinuing financial membership has very occasionally been used to undermine the MAV or the President and Board for a political purpose. These situations are less than satisfactory. Membership of a local government peak body is surely not a year-to-year decision. Of course, the organisation must deliver value to its members, but it also requires a partnership with member councils to flourish. It requires member councils to appreciate the kind of commitment that is required to build an effective organisation that can lead the sector.

Across Australia similar peak organisations often require members to provide reasonable notice of a member's intention to withdraw from membership. Such notice provides the organisation with time to adjust programs and budgets. It mitigates against members using the tactic of withdrawing their membership to achieve a purely political purpose. These matters should require a mature approach.

Current MAV Rules provide a non-participating member council is not entitled to avail itself of the privileges and benefits of **any of the functions or services** carried out by the MAV. Given the significance of the insurance services and procurement services on offer from the MAV, this operates as a significant disincentive for a Council considering discontinuing its membership. The MAV is a membership based organisation and it would seem reasonable to continue with the current Rules in this respect.



Questions to consider

1. Should new Rules require the MAV Board plays a stronger role in policy development and establish better standards for the matters which members wish to bring before State Council?
2. Could State Council be modified to strategically introduce review processes, informed by expert and stakeholder advice and analysis that better ensure the quality of strategy development?
3. Is plural voting at State Council in the long term best interests of the MAV?
4. Should MAV Rules require State Council members to declare and manage their conflicts of interest?
5. Should new Rules require participating member councils, and not the Council's representative, to submit matters for the consideration of the MAV, through State Council or other appropriate "pathways", and should such matters being submitted be confirmed by a resolution of the Council concerned?
6. Should member councils wishing to discontinue their financial membership be required to provide reasonable notice of their intention?
7. Should the new MAV Rules retain provisions for excluding a non-participating council from using any MAV services?

Modernising the Rules

This Discussion Paper previously referred to the importance of modernising the MAV Rules. These changes will not intrude on the fundamental arrangements which apply to the role or function of the MAV President, Board or State Council. Any fundamental changes to be contemplated in these areas have already been outlined in this Discussion Paper. As examples, the modernisation of the Rules will include provisions like:

- virtual meetings
- digital elections
- referencing current legislation not redundant legislation, and
- conducting MAV Presidential and Board elections according to Victorian Electoral Commission's best practice arrangements.

Adopting clearer Rules

This will entail re-writing Rules to provide Rules that are clearer, more easily and widely understood and less likely to produce unintended consequences. Better written Rules will not make any fundamental changes to the intention of the current Rules. Changes will simply make them easier to understand. And, of course, the exact changes to the Rules must always be presented to State Council, in full detail, for adoption.

Responding to this Discussion Paper

The MAV wants widespread responses to this Discussion Paper.

Persons and organisations intending to make a response to the Discussion Paper should do so by close of business on Monday 28 February 2022. Responses will be posted on the MAV's website after the close of the submission period unless submitters indicate otherwise.

To assist in receiving your response, please complete the electronic survey form which is available on the MAV website at mav.asn.au. Alternatively, we would encourage more comprehensive submissions with expanded commentary about the ideas in the Discussion Paper. These submissions can be emailed to rules@mav.asn.au.

The MAV would encourage participating member councils to provide a response by adopting a position to the matters raised in the Discussion Paper by Council resolution, if possible.

Councils and other stakeholders wanting to ask questions about the content of the Discussion Paper, the processes to be followed to arrive at new Rules or avenues available to make a response to the Discussion Paper can contact Ms. Celia Robinson, MAV Manager Governance at (03) 9667 5535 or crobinson@mav.asn.au. The lead consultant, Mr. Phil Shanahan, will also be available to assist those with enquiries and can be contacted through Celia.

MAV STRATEGY 2021-25



THE VOICE OF LOCAL GOVERNMENT

The Municipal Association of Victoria (MAV) is the legislated peak body for Victoria's 79 councils. The MAV is a membership association, accountable to its constituent members through State Council and an elected Board. The MAV was formed in 1879, with the Municipal Association Act 1907 officially recognising us as the voice of local government in Victoria. We are a driving and influential force behind a strong and strategically positioned local government sector.

Our role is to:

- Represent and advocate local government interests
- Promote the role of local government
- Build the capacity of councils
- Facilitate effective networks
- Provide policy and strategic advice
- Support for Mayors and Councillors
- Provide insurance and procurement services.



ACKNOWLEDGEMENT OF COUNTRY

We acknowledge the traditional custodians of the land on which we live. We recognise their continuing connection to land, waters and culture and pay our respects to their Elders past, present and emerging.

VISION MISSION VALUES

INFORMED
INFLUENTIAL
CREDIBLE
CAPABLE

RESPONSIVE
ACCESSIBLE
CONNECTED
TRUSTED



MEMBER PRIORITIES

- Financial sustainability
- COVID-19 relief and recovery
- Health and well-being
- Waste and resource recovery
- Transport and infrastructure
- Planning and building
- Business and digital transformation
- Climate impacts and emergency management

MEMBER SERVICES

- Advocacy and representation
- Issue analysis and policy development
- Collaborative strategic procurement
- Resources and advice
- Network support and collaboration
- Insurance services
- Communications and engagement
- Representation of Victorian sector federally
- Training and professional development

A MESSAGE FROM THE MAV PRESIDENT AND CEO



CR DAVID CLARK
President



MS KERRY THOMPSON
Chief Executive Officer

Our 2021-25 Strategy will guide the MAV's policy and advocacy activities over the next four years. It outlines the priorities and actions that are needed to ensure we can continue to deliver for our communities and local businesses.

It is a commitment to serve the interests of our member Councils and their communities by representing and advocating for local government. This commitment will involve raising the sector's profile and providing strategic policy advice and capacity building programs as well as insurance and procurement services to local government.

This strategy has evolved from the achievements of the previous one, which was delivered in the most challenging of circumstances as the MAV was among those to respond to both bushfire emergencies and the COVID-19 pandemic. It also takes into account the current dynamic circumstances facing Victorian councils.

The bushfires of 2019-20 and the COVID-19 pandemic have highlighted the resilience of Victoria councils and their communities. Despite consistent hits to councils' financial positions throughout last year, councils have demonstrated an ability to innovate and lead in times of uncertainty. The consistent challenges of the past two years are likely to remain in some form over the next four years. The pandemic has engendered us with an understanding of what uncertainty truly means for our sector and beyond.

With this comes the opportunity to harness our experience to strengthen our work and our communities.

The economic impacts of COVID have given cause to an even greater focus on the need to support local business and develop regional economies. We acknowledge the financial sacrifices made by councils during the pandemic and will continue to call on other levels of government to make certain councils are not forced to fill shortfalls in state and federal funding.

Despite these challenges, nationally, our passion and appreciation for community has well and truly been re-invigorated.

Two examples of the value of locally-led policy delivering high quality outcomes for community can be seen in the Royal Commissions into Aged Care and Victoria's Mental Health System. Both Royal Commissions acknowledged the integral role community connections play in ensuring people have access to services when they need them most.

Strengthening our communities and local business in every region of Victoria will rely on councils' local knowledge and expertise. The MAV remains committed to advocating for councils' on the issues that affect them. Significant investments into current and future State Government reforms, such as social and affordable housing, kindergarten expansion and waste resource recovery, will rely on strong, constructive, and open partnerships. Top-down approaches to reform have time and time again fallen short of meaningful long-term improvements.

The MAV continues to advocate to other levels of government to acknowledge the central role of councils in the successful development and implementation of reforms affecting our communities.

As we move beyond the pandemic's immediate impacts, climate change will remain a concern for our sector.

The potential for meaningful intergovernmental action is considerable.

Councils have shown their commitment to tackling climate change, putting in place local adaptation and mitigation actions. Strong partnerships will be vital for encouraging whole of government commitments to addressing climate change and its impacts on waste recovery, planning, the natural environment, health, transport and emergency management.

The MAV will continue to support councils to navigate new legislative frameworks, including the new principle-based Local Government Act and the Gender Equality Act. These Acts place greater emphasis on local decision-making, equity and inclusion.

Through facilitating collaboration within our sector and influencing the decisions that affect our members, the MAV will ensure councils are ready to navigate changing legislative landscapes.

In the next four years and recognising that there remain uncertainties that may challenge intentions, the MAV will continue to deliver positive outcomes for its members.

This strategy sets out our intentions through objectives and actions, in line with the key themes of:

- Economically sound councils
- Healthy, diverse and thriving communities
- Well planned, connected and resilient built environment
- Changing climate and a circular economy
- Sector capability and good governance
- Effective and responsive MAV

Through this strategy, it will expand our deliverables to build sector capacity, engagement and resilience. This strategy is not just outwardly focused. It is part of our commitment to members to ensure that MAV also reflects, collaborates and improves its systems and processes.

So, among the priorities will be further organisational improvements, engagement with member Councils for the review of the MAV rules and the implementation of actions arising from our inaugural Staff Engagement Survey.

Through this approach, the MAV seeks to balance our planned activities with the unforeseen issues that will emerge. This will be essential to both our success and our members' success.



Cr David Clark
President



Ms Kerry Thompson
Chief Executive Officer

HOW WE GO ABOUT OUR BUSINESS

The MAV's purpose is to advance the interests of local government in Victoria. We do this in two primary ways. First, through advocacy and policy development and secondly, through providing member-focussed services.

Our advocacy and policy development is focussed on:

- influencing decision-makers with informed, data-driven and realistic policy positions
- highlighting future opportunities and challenges facing councils and communities
- leveraging local government's expertise to inform our advocacy activities
- developing relationships with stakeholders to build understanding of local government
- collaborating with governments to shape new initiatives and reform programs.

We deliver services to our members focussed on:

- building the capacity and capability of the local government sector
- offering commercial services and programs that meet council needs
- highlighting best practice and sharing knowledge from across Victoria and nationally
- engaging with member councils on emerging needs in relation to procurement and insurance services.



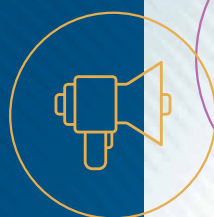
MAV President
Cr David Clark
Pyrenees Shire Council



Deputy President Metro
Cr Rohan Leppert
Metro Central Region
City of Melbourne



Deputy President Rural
Cr Ruth Gstrein
Rural South West Region
Corangamite Shire Council



BOARD



Cr Joseph Haweil
Interface Region
Hume City Council



Cr Brett Tessari
Rural Gippsland Region
Bass Coast Shire Council



Cr Tom Melican
Metro East Region
City of Banyule



Cr Jennifer Anderson
Rural North Central Region
Macedon Ranges Shire Council



Cr Jami Klisaris
Metro South East
City of Stonnington



Cr Aaron Scales
Rural North East Region
Towong Shire Council



Cr Kristopher Bolam
Metro Southern Region
City of Frankston



Cr Murray Emerson
Rural North West Region
Northern Grampians Shire Council



Cr Kathy Majdlik
Metro West Region
City of Melton



Cr Kylie Grzybek
Rural South Central Region
City of Greater Geelong

PREPARATION OF THIS STRATEGY

The MAV 2021-25 strategy was been developed in collaboration with our members. The aim is to capture our strategic objectives as a sector and how the MAV will deliver enhanced services and outcomes.

There were a number of opportunities for member input and feedback to validate and prioritise objectives. Key activities included:

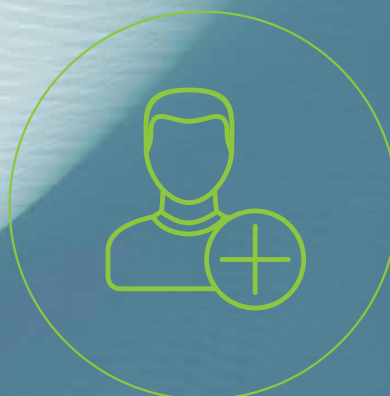
- **Regional consultation.** Meetings of the MAV's regional groups, including MAV representatives, Mayors and CEOs, were held in April 2021.
- **Member survey.** Members were asked to complete a wide-ranging survey on their perceptions of the opportunities and challenges facing the sector over the next four years. They were also able to identify priorities areas of focus for MAV-led activities.
- **Engagement activities.** Ongoing work by MAV board members, MAV staff, councillors and council officers is reflected in this strategy. This includes consideration of national local government issues as well as the policy and reform activities of external stakeholders, primarily Federal and State Governments.
- **MAV board deliberations.** The MAV board held a number of discussions on the emerging opportunities for the sector and the MAV's role in pursuing these opportunities. This included a board workshop to endorse the draft Strategy for consideration at State Council.
- **Current MAV priorities.** A number of the priorities and actions of the 2019-21 MAV Strategy continue to be a major focus of this Strategy. This includes relevant resolutions from past State Council meetings.

MONITORING AND REPORTING ON PERFORMANCE

The MAV strategy will be reviewed annually through reporting to State Council and the Annual Report over the next four years. Based on these reviews, the Strategy will be updated to reflect our performance and incorporate emerging issues.

After the second year of the MAV Strategy, the intention will be to refresh the priorities and actions in annual with the next board elections in 2023. The aim is to ensure that all MAV activities contribute to the delivery of our strategic objectives.

Using the measures identified for each activity, we will assess and report on the outcomes in our Annual Report to members. We will also report on the factors influencing the outcome, including our progress in building our capability and improving our processes.



STRATEGIC OUTCOMES



THEME 1

Economically sound councils



THEME 2

Healthy, diverse and thriving communities



THEME 3

Well-planned, connected and resilient built environment



THEME 4

Changing climate and a circular economy



THEME 5

Sector capability and good governance



THEME 6

Effective and responsive MAV



THEME 1

Economically sound councils

STRATEGIC OUTCOMES

To secure long term financial viability for Victoria's 79 councils

OBJECTIVES

INITIATIVES FOR 2021-22

Assist councils to provide COVID-19 recovery activities that enhance economic recovery and their communities

- Council COVID-19 recovery examples shared with Members of Parliament (MPs), Ministers and key State Government departments
- Participation in Department of Jobs, Precincts and Regions (DJPR) forums on employment and economic development

Undertake advocacy to protect the integrity of councils' rates base and financial position from unfair and unfunded decisions by State and Federal government

- Undertake a review of the current financial health of Victoria's councils, including changes to council revenue over the past five years
- Provide a regular report on the impact of State Government decisions on councils' financial position
- Renegotiate an increased maternal and child health unit cost and a new contemporary funding model to maintain the 50:50 partnership funding between State and local government

Support Australian Local Government Association (ALGA) national advocacy campaigns to secure additional Federal Government financial support for councils, including defending and extending Federal Financial Assistance Grants for Victorian councils

- Implements national advocacy actions agreed through ALGA
- Maintain relationship with the Victorian Local Government Grants Commission regarding Victoria's share of national Financial Assistance Grants

Support improvements to council asset management capacity and capability through policy development, advocacy and strategic partnerships

- Complete survey and sector forum to confirm priority issues
- Advocate for fair outcome from urban stormwater and drainage infrastructure reforms

Support a range of business improvement and transformation activities for councils, particularly in the digital and technology area

- Establish a Local Government Innovation Taskforce comprised of Council CEOs to champion digital leadership across the sector
- Advocate for equitable access to digital infrastructure and services, including new strategic procurement opportunities
- Coordinate multi-council digital committees on innovation and best practice across service delivery, information management and data governance



THEME 2

Healthy, diverse and thriving communities

STRATEGIC OUTCOMES

Councils have the capacity and capability to both plan for ongoing community need and deliver a range of services to meet that need

OBJECTIVES

INITIATIVES FOR 2021-22

Strengthen the ability of councils to undertake community well-being planning, implementation and partnership development through key strategic activities

- Participate in development of a new Victorian Disability Act and associated strategy
- Facilitate council networks and leadership around the Gender Equity and Prevention of Violence against Women Network, the Local Government Disability Planners Network and the emerging area of mental health and wellbeing
- Represent councils in the development of new State Government Strategies for Youth and for LGBTI+
- Participate in the finalisation of the Local Government Victoria's Victorian Local Government Aboriginal Strategy

Advocate for councils' role in current, emerging, and future policy directions in ageing, disability, and aged and community care

- Actively participate in the Federal Government Victorian Community Care Advisory Committee (VCCAC) and responded through ALGA to the next 10-year National Disability Strategy
- Participate in the advisory group supporting the Commissioner for Older Victorians
- Maintain regular council network meetings to continue communication to the sector regarding policy and advocacy issues

Continue to represent council's statutory role in the delivery of the Victorian Maternal and Child Health (MCH) Service

- Secure a new four year 2022-25 MCH MOU with the State Government on behalf of local government
- Influence new State Government policy and guidelines to ensure council's priorities and challenges are addressed

OBJECTIVES	INITIATIVES FOR 2021-22
Continue to work with the state and federal governments to advocate and represent council's role in early years education and care services	<ul style="list-style-type: none"> • Advocate for council priorities at the State Government Ministerial Kindergarten Reform Consultative Committee • Continue MAV network meetings with councils to ensure advocacy and representation of early educational and care services is targeted in State Government advisory and working groups
Advocate for councils' interests and activities in the areas of community safety and public health regulation	<ul style="list-style-type: none"> • Liaison undertaken regarding councils' role supporting the COVID-19 health response and vaccine rollout • Convene the Local Government Gambling, Alcohol and Other Drugs Issues Forum • New Department of Health/MAV tobacco control service agreements implemented
Represent the interests of councils with the emergency management sector, including through ongoing reform programs	<ul style="list-style-type: none"> • Participate in the third phase of Department of Jobs, Precincts and Region's Councils and Emergencies project • Collaborate with councils to influence and implement State Government reforms flowing from emergency management reviews, including the Royal Commission into National Natural Disaster Arrangements • Participate in the development of the Whole-of-Government Bushfire Management Strategy and support council input



THEME 3

Well-planned, connected and resilient built environment

STRATEGIC OUTCOMES

Councils continue to play a central role in creating and maintaining a well-planned, connected and resilient built environment

OBJECTIVES

INITIATIVES FOR 2021-22

Advocate for an effective Victorian planning system, which has local decision making at the centre

- Secure commitment from Department of Environment, Land, Water and Planning (DEWLP) to strengthen engagement and consultation with councils on planning reforms
- Pursue reforms to the planning scheme amendment process to reduce delay and improve efficiencies
- Establish a regular forum for council engagement and knowledge-sharing on planning issues

Advocate for a building regulatory system that puts community safety first and equitably assigns responsibilities and resources among regulators

- Secure commitments from the State Government for an increased role and funding for local government in building reform
- Strengthen dialogue and engagement with key building regulation agencies, including the Victorian Building Authority

Work with councils, State Government and non-government stakeholders to meet Victoria's current and future housing needs

- Influence development of a Local Government Housing Compact to support delivery of social and affordable housing
- Secured commitment from Victorian Government for mandatory affordable housing contributions
- Explore streamlining of land supply process to meet growing demand in regional Victoria

Strengthen advocacy and partnerships to influence key investments in freight productivity, first and last mile impediments, transport connectivity and road safety by all levels of government

- Develop and commence a local roads funding advocacy plan
- Support Department of Transport (DoT) to engage effectively with local government to deliver Victorian Freight Plan and road safety priorities

Improve the capability of local government to plan, design and deliver walking and riding programs and projects

- Hold at least three forums on walking and riding, and share information via an online resource hub



THEME 4

Changing climate and a circular economy

STRATEGIC OUTCOMES

Councils are supported to reduce emissions, manage the impacts of a changing climate and continue their transition to a circular economy

OBJECTIVES

INITIATIVES FOR 2021-22

Advocate for practical leadership and investment to support councils to reduce emissions and build resilience to climate change impacts

- Climate change advocacy evident across MAV activities and communications
- Deliver forums and resources that build council capacity and share practical learnings in climate adaptation and mitigation
- Strengthen collaboration with other organisations working to accelerate the transition to net zero emissions and a circular economy

Advocate to the State Government for greater support for councils and greater flexibility in the implementation of State-led waste and recycling reforms

- Actively influence State Government recycling reforms, including kerbside waste and e-waste
- Deliver forums that build council capacity in transitioning to a circular economy
- Represent local government on relevant reference groups including the Container Deposit Scheme Advisory Group and the High Risk and Hazardous Waste working group

Partner with the Environment Protection Agency (EPA) to develop and promote resources to support councils to implement the Environment Protection Act 2019 and relevant regulation

- Establish an Memorandum of Understanding with EPA to support the role of EPA and councils as co-regulators under the Environment Protection Act
- Develop joint resources and guidance to support councils to meet the requirements of the new EPA Act and regulations

Work with the State Government to protect and enhance the natural environment

- Represent the sector on relevant reference and advisory groups including the Environmental Sustainability Commissioner's Reference Group, the Native Vegetation Advisory Group and Electric Line Clearance Consultative Committee
- Deliver forums and resources that build councils' knowledge and capacity in natural resource management



THEME 5

Sector capability and good governance

STRATEGIC OUTCOMES

A diverse, engaged and highly capable local government sector grounded in good governance and connected to its community

OBJECTIVES

INITIATIVES FOR 2021-22

Strengthen local government's capacity to deliver good governance

- Represent council interests on the oversight board for the implementation of the Local Government Act
- Deliver capacity building activities in relation to good governance practices
- Prepare a positioning paper about future professional development pathways for governance professionals

Influence the development and implementation of State Government legislation that impacts local government

- Monitor the implementation of key legislation, particularly implementation of the government's response to the rates review
- Advocacy to the State Government to ensure the MCH qualification legislation regulations do not affect councils current MCH workforce.
- Represent and advocate for local government in the role out of new regulations affecting maternal child health and other community services

Develop a strategic framework to support the design and delivery of MAV learning and events activities

- Develop MAV Learning and Events Strategy
- Implement a learning management system and digital learning platform to support the design and delivery of online learning content
- Commence a review and update the 2006 MAV Councillor Capability Framework

Deliver a relevant and contemporary learning and events program that builds sector capacity and capability

- Deliver the agreed events program for 2021-22
- Achieve overall participant satisfaction of greater than 70% for learning and events programs



THEME 6

Effective and responsive MAV

STRATEGIC OUTCOMES

An MAV that is an influential voice for local government, providing effective advocacy and value-adding services

OBJECTIVES

INITIATIVES FOR 2021-22

Modernise the constitution of the MAV

- Commence the MAV Rules review with a target completion of May 2022
- Advocate to the State Government to update the Municipal Association Act

Invest in a proactive relationship program with Victorian Parliamentarians and State Government agencies

- Deliver engagement program targeting major political parties and influential upper house MPs in the State Parliament
- Renegotiate the Victorian State-Local Government Agreement
- Redevelopment of Partnership Agreements with the new departments of Health (DH) and Families, Fairness and Housing (DFFH) and the Department of Education and Training (DET)

Continue to build an effective communications and engagement experience for members

- Develop a new MAV communications and engagement strategy in consultation with councils
- Create advocacy campaign templates for Council communicators in the lead up to the State and Federal elections and on priority issues
- Establish an annual communications plan to promote the benefits of MAV procurement and insurance to increase opportunities for council participation

Provide insurance and procurement services that offer high quality and value for money outcomes for councils

- Complete negotiations with State Government on the future structure of LMI insurance
- Renew a range of key procurement vendor panels for councils
- Explore new procurement opportunities for councils in new and emerging markets

COUNCIL REPRESENTATIVES

Alpine Shire Council
Cr John Forsyth

Ararat Rural City Council
Cr Jo Armstrong

Ballarat City Council
Cr Amy Johnson

Banyule City Council
Cr Tom Melican

Bass Coast Shire Council
Cr Brett Tessari

Baw Baw Shire Council
Cr Tricia Jones

Bayside City Council
Cr Alex del Porto

Benalla Rural City Council
Cr Danny Claridge

Boroondara City Council
Cr Lisa Hollingsworth

Brimbank City Council
Cr Ranka Rasic

Buloke Shire Council
Cr Daryl Warren

Campaspe Shire Council
Cr Colleen Gates

Cardinia Shire Council
Cr Brett Owen

Casey City Council
Ms Noelene Duff

Central Goldfields Shire Council
Cr Grace La Vella

Colac Otway Shire Council
Cr Stephen Hart

Corangamite Shire Council
Cr Ruth Gstrein

Darebin City Council
Cr Susan Rennie

East Gippsland Shire Council
Cr Mendy Urie

Frankston City Council
Cr Kris Bolam

Gannawarra Shire Council
Cr Travis Collier

Glen Eira City Council
Cr Neil Pilling

Glenelg Shire Council
Cr Anita Rank

Golden Plains Shire Council
Cr Owen Sharkey

Greater Bendigo City Council
Cr Rod Fyffe

Greater Dandenong City Council
Cr Sean O'Reilly

Greater Geelong City Council
Cr Kylie Grzybek

Greater Shepparton City Council
Cr Seema Abdullah

Hepburn Shire Council
Cr Lesley Hewitt

Hindmarsh Shire Council
Cr Ron Ismay

Hobsons Bay City Council
Cr Matt Tyler

Horsham Rural City Council
Cr Robyn Gulline

Hume City Council
Cr Joseph Haweil

Indigo Shire Council
Cr Jenny O'Connor

Kingston City Council
Cr Steve Staikos

Knox City Council
Cr Lisa Cooper

Latrobe City Council
Cr Sharon Gibson

Loddon Shire Council
Cr Gavan Holt

Macedon Ranges Shire Council
Cr Jennifer Anderson

Manningham City Council
Cr Stephen Mayne

Mansfield Shire Council
Cr Mark Holcombe

Maribyrnong City Council
Cr Simon Crawford

Maroondah City Council
Cr Mike Symon

Melbourne City Council
Cr Rohan Leppert

Melton City Council
Cr Kathy Majdlik

Mildura Rural City Council
Cr Jason Modica

Mitchell Shire Council
Cr Rhonda Sanderson

Moira Shire Council
Cr Libro Mustica

Monash City Council
Cr Brian Little

Moonee Valley City Council
Cr Narelle Sharpe

Moorabool Shire Council
Cr Tom Sullivan

Moreland City Council
Cr Oscar Yildiz

**Mornington Peninsula
Shire Council**
Cr Despi O'Connor

Mount Alexander Shire Council
Cr Tony Cordy

Moyne Shire Council
Cr Daniel Meade

Murrindindi Shire Council
Cr Sandice McAulay

Nillumbik Shire Council
Cr Peter Perkins

**Northern Grampians
Shire Council**
Cr Murray Emerson

Port Phillip City Council
Cr Tim Baxter

Pyrenees Shire Council
Cr Damian Ferrari

Queenscliffe Borough Council
Cr Ross Ebbels

South Gippsland Shire Council
Ms Julie Eisenbise

**Southern Grampians
Shire Council**
Cr Bruach Colliton

Stonnington City Council
Cr Jami Klisaris

Strathbogie Shire Council
Cr Chris Raeburn

Surf Coast Shire Council
Cr Adrian Schonfelder

Swan Hill Rural City Council
Cr Les McPhee

Towong Shire Council
Cr Aaron Scales

Wangaratta Rural City Council
Cr Dean Rees

Warrnambool City Council
Cr Vicki Jellie

Wellington Shire Council
Cr Malcolm Hole*

West Wimmera Shire Council
Cr Bruce Meyer

Whitehorse City Council
Cr Andrew Munroe

Whittlesea City Council
Ms Lydia Wilson

Wodonga City Council
Cr Kev Poulton

Wyndham City Council
Cr Sahana Ramesh

Yarra City Council
Cr Claudia Nguyen

Yarra Ranges Shire Council
Cr Fiona McAllister

Yarriambiack Shire Council
Cr Graeme Massey



*Cr Hole sadly passed away on 10 April 2021.
Cr Scott Rossetti was the Substitute Representative at the time of printing.

Municipal Association of Victoria

Level 12, 60 Collins Street, Melbourne VIC 3000

GPO Box 4326, Melbourne 3001

Telephone: 03 9667 5555 Fax: 03 9667 5550

Email: inquiries@mav.asn.au Website: www.mav.asn.au

5.2 Assets and Environment

5.2.1 CON2021 1453 WORLD Construction Package 3 tender awards

Authorised by General Manager Assets and Environment

Conflict of Interest

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

Executive Summary

Pursuant to sections 3(1) and 66(5) of the *Local Government Act 2020*, the information contained in the attachment/s to this report are confidential because it contains private commercial information, being information provided by a business, commercial or financial undertaking that relates to trade secrets.

The purpose of this report is to provide the background to the WORLD Sporting Precinct project that has led to the development of a tender for the third package of works being CON2022 1453; and provide an overview of the tender itself and in accordance with the Council's Procurement Policy 2020 seek approval from Council to award the contract.

The proposed works originate from Council's adoption of the Bairnsdale Sporting Facilities Plan 2018 (the plan) at the Council meeting held on 4 September 2018 (item No 5.1.2). This plan identified the redevelopment of the WORLD sporting precinct for netball, hockey, soccer and Futsal as being one of the highest priorities of the plan. This led to detailed design work and property negotiations.

Netball is the highest participation sport in Bairnsdale with 909 players identified as participating in netball on a weekly basis (2016 figures). Many of these participants play at the WORLD centre which has the most netball courts and offers mid-week competitions. Most of the players are female and the majority are junior players.

The Bairnsdale Sporting Facilities Plan identified that the WORLD centre is the key facility for netball, but that the courts are in poor condition and the pavilion is inadequate. The poor quality of the facilities has been identified as restricting participation and the ability to hold high-level netball competitions in East Gippsland.

Improvement of netball facilities at the WORLD is therefore identified as a once-in-a-generation investment which will significantly improve playing conditions and encourage growth in participation. The design of the new facilities has been undertaken in collaboration with Bairnsdale Netball Association and Netball Victoria, with very strong support for the upgrades represented in this contract.

The new facilities will also accommodate two new hockey fields with associated infrastructure such as lighting and amenities.

The concept design, planning and detailed design of the WORLD Sporting Precinct has been undertaken by Thomson Adsett Pty Ltd. Their design contract was awarded at a Council meeting held on 12 November 2019 (item 7.2 CON2019 1330 Design of WORLD Sporting Facilities).

A Development Agreement has been executed between Council and the Department of Education and Training, for Council to take on long-term management of this Crown land site. A Collaboration Agreement has also been recently signed with the Gunaikurnai Land and Waters Aboriginal Corporation for the project.

Council has been successful in attracting four competitive grants, which collectively fund over 80% of the entire project costs. The remaining costs can be funded via low interest loans and/or through council funds.

Construction Package One of the project, consisting of construction of hockey fields and lighting, main car parking and access road, services and drainage, has commenced on site and is scheduled for completion in April 2022.

Construction Package Two of the project, consisting of construction of eight netball courts, lighting and team shelters, car parking, services and drainage, has been awarded and is due to commence on site in April 2022 and scheduled for completion in October 2022.

The tender for CON20222 1453 – WORLD Construction Package 3 is the third stage of construction. Construction will include:

- Construction of the new WORLD pavilion, services infrastructure and connections and hardscape elements.

As a result of the invitation to tender and the subsequent tender evaluation, Council is in a position to award the contract. The Evaluation Panel's recommendations are detailed in **Confidential Attachment 2**.

Given the value of the contract an external Probity Auditor observed the tender evaluation process in accordance with Councils Procurement Policy. A copy of the Probity Auditors report provided as **Confidential Attachment 3**.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report;***
- 2. accepts the tender submitted by _____ for CON20222 1453 – WORLD Construction Package 3 for the contract amount of \$_____ exclusive of GST;***
- 3. authorises the signing and sealing of the contract in the form proposed; and***
- 4. resolves that the attachments to this report and all discussions in relation to these attachments remain confidential.***

Background

The WORLD redevelopment project originates from Council's adoption of the Bairnsdale Sporting Facilities Plan 2018 (the plan) at the Council meeting held on 4 September 2018 (item No 5.1.2). The plan includes recommendations for the future development and management of Sporting Facility provision in Bairnsdale to meet the needs of our sporting community now and into the future. Key recommendations in the plan relating to the WORLD site include:

- New netball complex
- Upgrade the hockey pitches, including floodlights
- Expand and upgrade the netball-hockey pavilion
- New soccer complex to comprise of two soccer pitches, junior pitches
- New soccer pavilion

An initial stage of the WORLD redevelopment, comprising early works, main car park, site services, new hockey fields, field lighting and drainage system, is currently underway and progressing on site. The second stage of works has been awarded to the contractor executing the initial stage and is due to commence on site in early April 2022 once the Westdale Kindergarten commences utilisation of the new carpark.

CON20222 1453 – WORLD Construction Package 3, the subject of this report, is for the third of five main works packages that will deliver the complete WORLD redevelopment project. Focused on providing a new pavilion facility for use by netball and hockey, WORLD Construction Package 3 comprises the following activities:

- Construction of shared netball and hockey pavilion
- Services infrastructure and connections
- Hardscaping

This WORLD project is a priority for redevelopment as the netball courts and pavilion are the most utilised sporting facility in Bairnsdale on a weekly basis (over 900 female participants) and no longer meet compliance standards. This project will significantly enhance the participation of the East Gippsland community in organised sport - especially for girls and women. This is important as it aligns with the recently adopted Municipal Public Health and Wellbeing Plan Framework (Healthy and Well; and Able to Participate outcomes) and targets the key area of female participation in organised sport. This project will also ensure adequate facilities are available for use by hockey.

The current netball courts will be demolished and replaced as part of Construction Package 2.

The current netball pavilion has a series of functional issues including no hot water in the change rooms, the change rooms are non-compliant with Netball Victoria standards, and the facility is no longer considered fit for purpose. The pavilion has been demolished as part of Construction Package 1

WORLD Construction Package 3 will provide a new pavilion designed to Netball Victoria standards. The new pavilion includes change rooms, umpire facilities, social area, kitchen, canteen, storage areas and public toilets. Outdoor undercover spectator areas are also included. This project is critical to provide fit for purpose facilities for the netball and hockey community, for Bairnsdale and for the broader East Gippsland community.

Presently soccer in Bairnsdale does not have a permanent single-ground home. It currently functions from the West Bairnsdale Oval and Howitt Park, with both these venues having scheduling and capacity restrictions. The current arrangement creates capacity issues for the committee and volunteers coordinating organised sport across multiple venues, including the provision of umpires, canteen staff, first aid officers etc.

Construction Packages 4 and 5 will include the development of two new soccer pitches on the WORLD site and new soccer pavilion.

The WORLD site is located on land under management of the Department of Education and Training. A Development Agreement has been executed between Council and the Department of Education and Training for an initial term of 20 years with two further 10-year extension options.

The concept design, planning and detailed design of the WORLD Sporting Precinct has been undertaken by Thomson Adsett Pty Ltd. Their design contract was awarded at a Council meeting held on 12 November 2019 (See item 7.2 CON2019 1330 Design of WORLD Sporting Facilities).

A planning permit was issued on 05 May 2021 for all elements of the project. As part of the application process, advertising of the planning permit was conducted in September 2020, and again in March 2021. All requests for information from referral authorities were addressed.

The WORLD project area is covered by the Native Title Act. A collaboration agreement with respect to the project is in place between Council and Gunaikurnai Land and Waters Aboriginal Corporation (GLaWAC), the Registered Aboriginal Party that represents Gunaikurnai people, and also the Prescribed Body Corporate for the Gunaikurnai people, who are the traditional owners of the land on which the WORLD project is located. The collaboration agreement underpins both parties' collaboration intentions with respect to the project, the involvement of GLaWAC in the project including cultural input, and other matters related to the Native Title Act.

The tender for CON20222 1453 – WORLD Construction Package 3 was advertised via Tenderlink and in the local newspapers, with tenderers also able to attend a pre-tender information session conducted on line due to COVID restrictions. The tender the evaluation panel included two managers and a general manager and an external probity auditor. A copy of the Probity Audit Report is provided as **Confidential Attachment 3**.

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 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 the *Local Government Act 2020*.

Pursuant to sections 3(1) and 66(5) of the *Local Government Act 2020*, the information contained in the attachment/s to this report are confidential because it contains private commercial information, being information provided by a business, commercial or financial undertaking that relates to trade secrets.

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 the development of the WORLD project has been prepared with funding contributions from both the Australian and Victorian Governments.

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.

Council Policy

The tender and evaluation process for CON20222 1453 – WORLD Construction Package 3 has been undertaken in accordance with the East Gippsland Shire Council Procurement Policy 2021.

The project also helps implement the recommendations of the Bairnsdale Sporting Facilities Plan adopted by Council in 2018.

This project also aligns with the recently adopted Municipal Public Health and Wellbeing Plan Framework (Healthy and Well; and Able to Participate outcomes) and targets the key area of female participation in organised sport

Options

The delivery of the overall WORLD redevelopment project has been broken into a range of delivery packages. This is to provide logical sequencing of the works and to bring like works together to minimise mobilisation and management costs. A range of options were considered when developing the packages and work breakdown schedule.

A summary of the tender process and options considered to provide best value is provided as **Confidential Attachment 1**.

Tenders received have been assessed by a Tender Evaluation Panel. The Tender Evaluation Report (**Confidential Attachment 2**) details the assessment of options for the selection of a contractor for the project.

Council has the option to award a contract in accordance with Tender Evaluation Panel's recommendation, or to not proceed with the procurement.

Resourcing

Financial

Funding for the project is available from the following income sources. Further discussion about the way in which the project budget is intended to be managed is provided in **Confidential Attachment 1**.

Funding Source Description	Grant Amount	Funding Totals
Local Sports Infrastructure Fund – State Government	\$500,000	
The World Game Facilities Fund 2018 – State Government	\$153,700	
Building Better Regions Fund – Commonwealth Government	\$5,362,006	
Community Sports Infrastructure Stimulus Program Round 2– State Government	\$5,000,000	
<i>TOTAL ALL GRANTS:</i>		\$11,015,706
Community Sports Infrastructure Loans Scheme – State Government		\$5,000,000
Council Funding		\$524,000
Total Project Budget as Adopted in the 2021/22 Council Budget		\$16,539,706
Expenditure and Commitments to Date		\$11,081,712
Available Budget		\$5,457,000

Plant and equipment

NA – plant and equipment is all supplied by the recommended tenderer.

Human Resources

The project is managed by one of Council's contracted Project Supervisors, with these costs built into the overall project cost.

Risk

As part of the overall management of this project, the risks of this proposal have been thoroughly considered. Officers have prepared a Detailed Risk Assessment for the project.

Economic

Economic benefit for the project includes the economic activity associated with the construction maintenance and operation of community sport infrastructure and the increased productivity of those who are physically active as a result of such infrastructure.

An independent economic analysis of the project shows the benefits of the development at the WORLD Sporting Precinct as including:

- Construction will generate at least 29 full time direct jobs, with 2.13 indirect jobs created for every direct job. This equates to 62 total full-time jobs as a result of this development;
- 2 additional full-time, ongoing direct jobs will be created as a result of spending on maintenance and increased visitation to the area, with 1.5 indirect jobs created for every direct job. This results in 5 additional ongoing jobs;
- With the additional capacity for regional competitions – a conservative estimate of two additional regional competitions every four years will result in \$12,456 of additional spending in the local economy each year; and
- The local economy will see the total value of improved productivity reach \$103,223 per year with the increase in participation and health outcomes.

In addition to these overall project benefits, the tender evaluation process for this particular package of works included weighted criteria for local content and assessment of the contractor's ability to provide benefit to the local economy.

Social

The completion of the project will see numerous health and social benefits for the East Gippsland community. The increase in physical activity will see personal health benefits and reduced risk of accidents in the participant population.

Some of the social benefits for the project include:

- Growing participation in physical and social activity amongst people of all ages, genders, cultural backgrounds and abilities;
- Developing pathways for players from a school to local to regional and higher levels of sports competition;
- Enhancing club development and participation through year-round access to facilities for clubs and schools; and
- Providing for regional sports events.

Environmental

The removal of native vegetation and trees on the site has been considered through the detailed design stage. Changes were made to ensure that canopy trees along Wallace Street and on the eastern boundary of the Netball zone have been protected.

Patches of critically endangered native grasses have been identified throughout the proposed Soccer zone. The proposed removal of these grasses will require approval under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.

The Soccer zone works that impact this area are not contained within this contract and are in a future proposed package of works.

The tender for CON2022 1453 also included formal environmental sustainability criteria which were considered in the formal assessment of submissions.

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

Details on the engagement undertaken during the planning stage of this project can be found within the Bairnsdale Sporting Facilities Plan 2018. Since the adoption of that plan there has been consistent communication made with the end users of the development including:

- Bairnsdale Netball Association;
- East Gippsland United Football Club;
- Bairnsdale Hockey Club;
- Bairnsdale Soccer Club; and
- Westdale Kindergarten.

Further consultation occurred with the relevant state sporting bodies, such as Netball Victoria and Football Victoria. Engagement with adjoining properties was carried out prior to the project's Planning Permit application. This consisted of an introductory letter explaining the origins of the development, and an information pack that included copies of the masterplan and explanation of items such as parking and lighting. This letter and information pack were distributed to 187 residents. Two queries were received, and further information provided. No formal objections to the development were received.

An information video was made of the project, including interviews with the majority of the user groups. This video was widely circulated on social media and remains on the project's YourSay page.

Stakeholders and residents as well as the broader community will continue to be informed of the progress of the works throughout the construction phase. The Bairnsdale Netball Association has been a collaborative partner throughout this projects' journey from planning to concept design, detailed design, and now construction. The construction window has been planned to minimise disruption to the sport and its many participants.

Discussions are well advanced with the local aboriginal community via GLaWAC on how to recognise traditional owner culture in elements and naming of the facility components.

Attachments

1. CONFIDENTIAL - CON2022 1453 WORLD CP3 Tender Process and Analysis of Best Value [5.2.1.1 - 6 pages]
2. CONFIDENTIAL - CON 2022 1453 WORLD Construction Package 3 - TEP report [5.2.1.2 - 10 pages]
3. CONFIDENTIAL - Probity Review Report - CON 2022 1453 World Construction Package 3 [5.2.1.3 - 2 pages]

5.2.2 Capital Works and Major Projects - Quarter Two 2021/22

Authorised by General Manager Assets and Environment

Conflict of Interest

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

Executive Summary

As part of the delivery and monitoring of the annual Capital Works and Major Projects program, a quarterly review of the program is provided to Council. This report summarises the progress of Capital Works and Major Projects 2021-22 for the program up to the period ending 31 December 2021 (Quarter 2). A snapshot of this activity is provided in the table below and outlines in more detail through the body of the report and attachments. Pleasingly, as at the end of Quarter 2 67.83% of the forecast budget had been expended or committed.

	Q2 - 31/12/21
Total Adopted Budget - including actual carry forwards	\$94.09 m
Identified Carry Forwards to 22/23	\$19.86 m
Identified Bring Backs from 22/23	-
Other Budget variances 21/22	\$0.96 m
Revised Forecast	\$75.19 m
Actual Expenditure	\$14.83 m
Committed Expenditure	\$36.17 m
Percentage Capital Works Delivered or in Delivery (<i>against Forecast</i>)	67.83%
Percentage Capital Works Delivered or in Delivery (<i>against Adopted Budget</i>)	54.20%

Officer Recommendation

That Council receives and notes the Capital Works and Major Projects Report 2021/22 for the Quarter ending 31 December 2021 and all attachments pertaining to this report.

Background

This report details the progress of Capital Works and Major Projects 21/22 for the period up to 31 December 2021. The report will also be provided to the Audit and Risk Committee for their consideration at the next Audit and Risk Committee meeting.

2021/22 commenced with an adopted budget plus actual carry forwards of \$94.09 million. This has been revised to \$75.19 million during Quarter Two to reflect changes summarised below.

Budget Variances

The revised forecast is a decrease of \$18.90 million on the adopted budget as at 31 December 2021. This is summarised as follows:

Adopted Budget	\$94.09 m
Plus Additional Funding	\$0.10 m
Plus Additional funds from Operating Accounts	\$1.42 m
Less Savings Identified and Transferred to Holding Account	\$0.46 m
Less Funds returned to Parking Reserve	\$0.10 m
Less Carry Forwards to 22/23	\$19.86 m
Revised Forecast	\$75.19 m
Decrease	\$18.90 m

Holding Account Summary

The Holding Account commences the financial year with a zero balance. It is used to record savings from completed projects and redistribute to projects identified as requiring additional or new budget. During the second quarter savings from projects of \$1,053,547 were identified. Further to this, distribution to new projects or projects requiring additional funding totalled \$1,000,890. The balance of the Holding Account as at 31 December 2021 is \$456,887. A summary of Holding Account transactions is provided at **Attachment 1**.

Carry Forwards

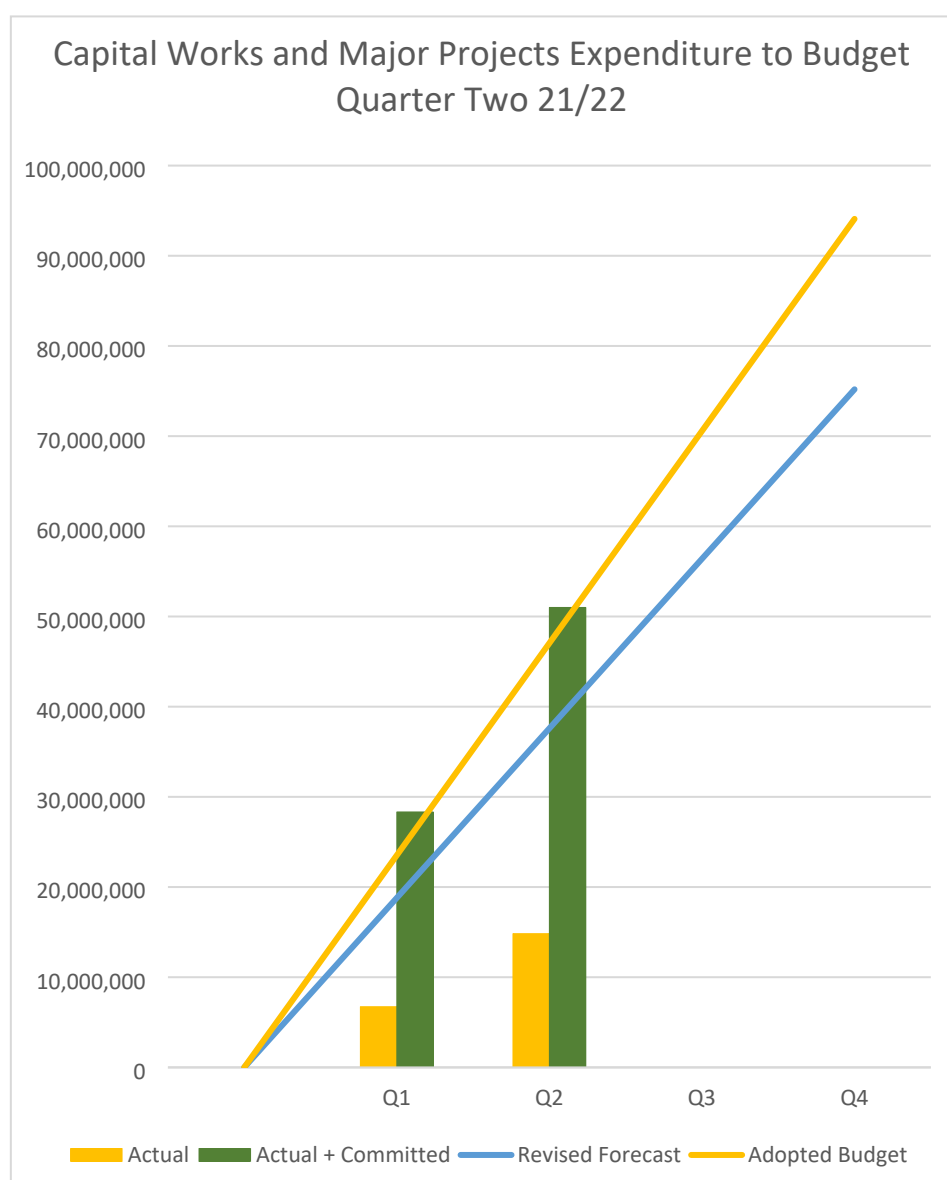
During the second quarter \$19.86 million of carry forwards were identified. These projects are multiyear projects and budget is phased over 2 years. Therefore, the carry forward reflects change in phasing, with the projects still anticipated to be delivered within their overall timeframe.

Project Name	Carry Forward
Omeo Mountain Bike Trails Stage 1	1,500,000
Progress Jetty Precinct	320,000
Gymnastics Pavilion, Lucknow Rec Res	500,000
Jemmy's Point - Stage 2	1,035,000
Eagle Point Foreshore Hub	1,100,000
Storage Facility- Giles St Depot	175,000
Mallacoota Seawalls, Stage 1& Stage 2	1,400,000
Cann River Roadside Rest Area	750,000
Orbost Forest Park Upgrade	1,000,000
Cann River Waste Transfer Station	400,000
Marlo Triangle Park Playground Renewal	125,000
Foreshore Management Plan Implementation - Marlo	55,000
Bruthen Streetscape	770,000
Slip Road Maritime Precinct	2,000,000
Lakes Entrance Marine Parade Upgrade	1,000,000
Bullock Island Masterplan Implementation	3,000,000
Lakes Entrance Foreshore Park	250,000

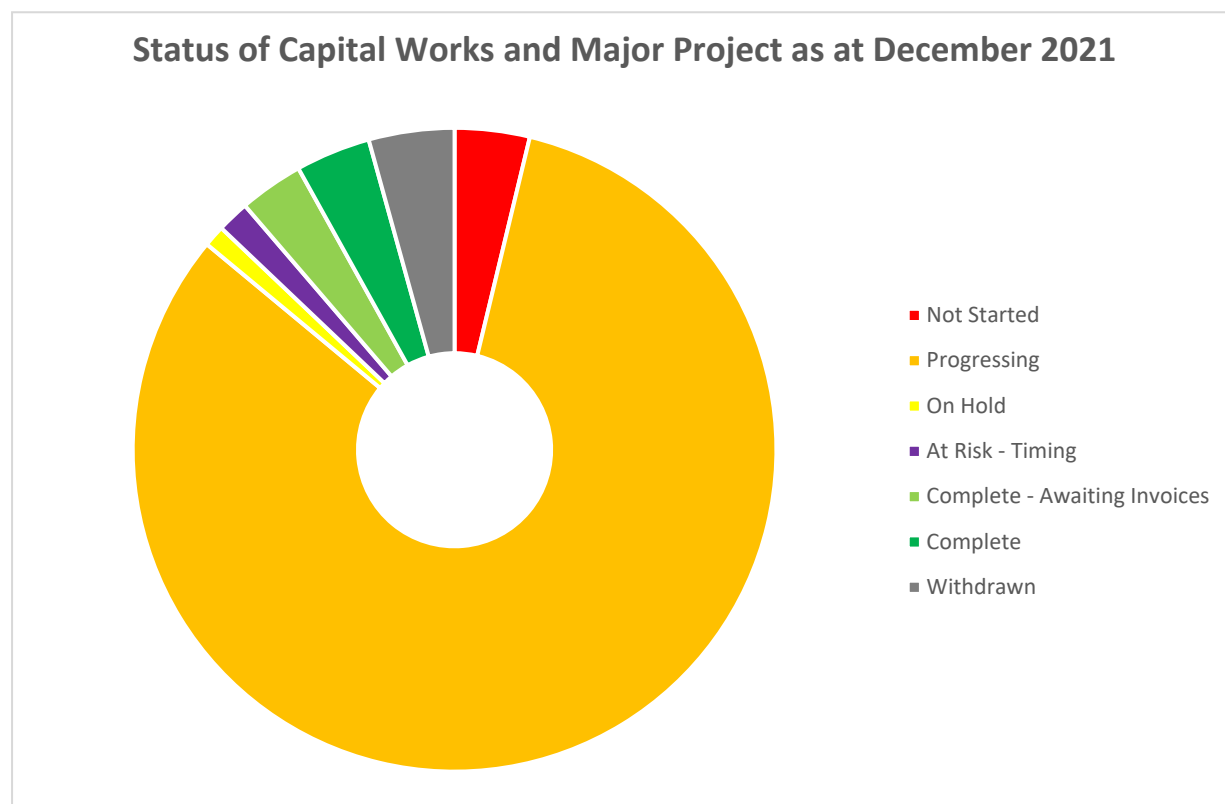
Livingstone Park Community Facilities	1,000,000
Mallacoota Streetscape	500,000
Buchan Streetscape	1,000,000
Krauatunglung Walk	1,000,000
Bairnsdale City Oval Changerooms Upgrade	250,000
Raymond Island Koala Experience	580,000
Lions Park Toilet, Bruthen	150,000
TOTAL AS AT 31 DECEMBER 2021	19,860,000

Project Status

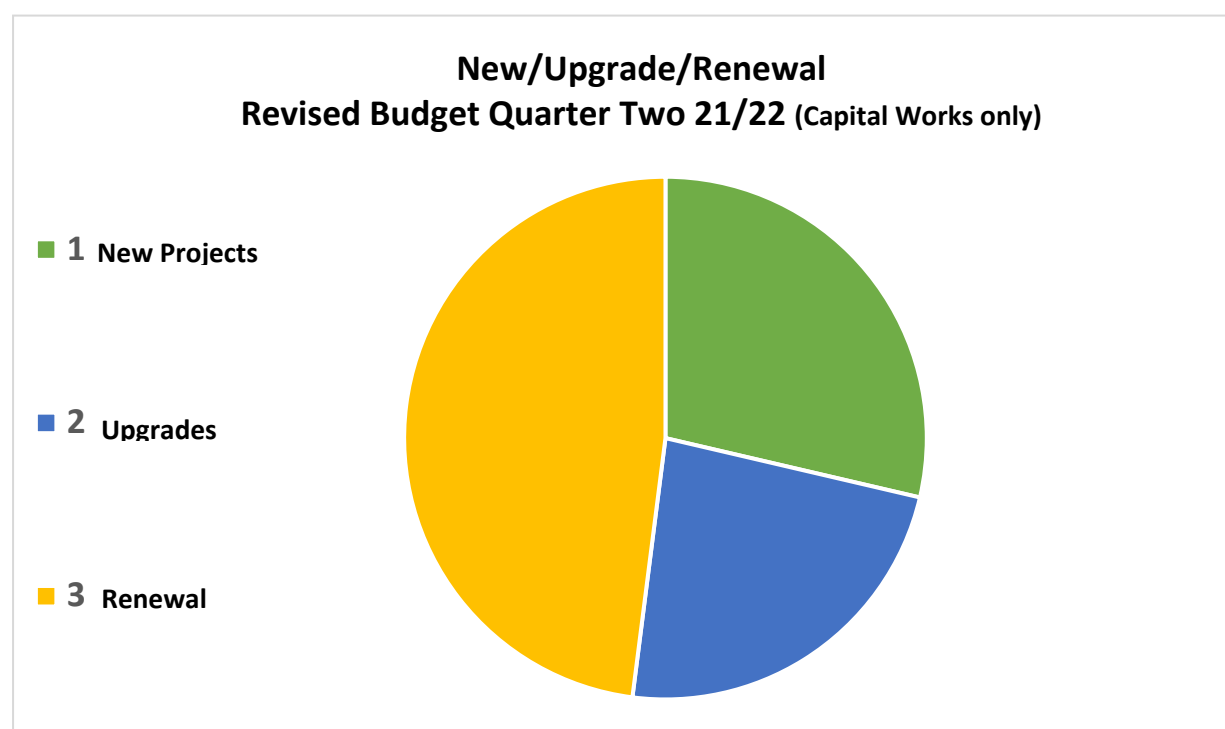
As at 31 December 2021, \$51 million (67.83% of total revised forecast) was expended or committed to works within the program.



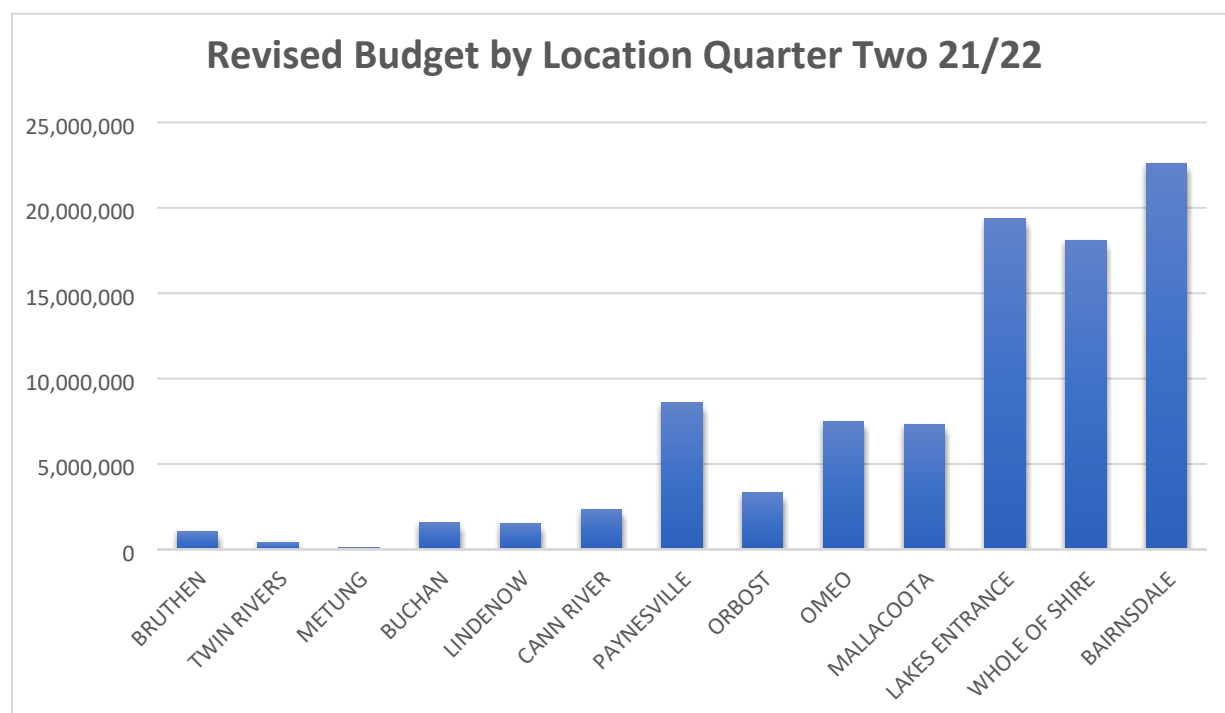
At the end of the second quarter, the program covered 186 separate projects of which 7 projects had been completed, 153 are on schedule for completion, 3 projects are listed as at risk due to timing, 7 projects have not yet commenced, and are programmed in the second half of the year and the remaining projects are either on hold or have been withdrawn. A detailed list of all project status is provided at **Attachment 2**.



Current year projects are identified by the following expenditure type, New, Renewal, Upgrade or Expansion. The following chart details the spread of current projects.



The following chart details the spread of current revised budget projects across the shire. It is important to note that 'Whole of Shire' includes the road reseal programs, all Information Technology projects, plant renewal and fleet renewal.



Significant Projects Completed during first half of 2021/22.

Project Name	Final Project Cost
Lucknow Recreation Reserve Upgrade	\$2,554,132
Tarbucks Bridge Timber Renewal	\$455,152
Lakeside Drive Culvert Replacement, Mallacoota	\$178,747

Quick Response Fund

The Quick Response Fund provides a flexible and responsive, yet accountable and transparent process to support undertaking small scale capital works. The program allows the funding of works of high community value when opportunity arises and there is no other funding available, or time frames do not allow for sourcing of other external funding. The program commenced the year with a budget of \$100,000. As at 31 December 2021, three projects had been allocated from the funding, leaving a balance of \$50,210.

Project Name	Allocation
Opening Balance	\$100,000
Metung Water Park Dosing System	\$22,200
Nowa Nowa Shed	\$25,000
Newlands Arm Community Hall Acoustics	\$2,590
Closing Balance	\$50,210

Contracts Awarded Under Delegation

The decision to award a contract can only be made by a delegate who has the authority (financial delegation) to commit the relevant sum of money. The decision is made after consideration of the tender evaluation panel report. The Chief Executive Officer has a financial delegation of \$500,000 including GST.

During the second quarter of 2021/22 a total of 3 contracts were awarded under CEO Delegation, these contracts are listed as below:

Project	Awarded to	Value (ex GST)
CON2022 1454 Swan Reach Netball Courts Reconstruction Works	Cranes Asphalting & Bitumen Sealing Pty Ltd	\$187,208.68
CON2021 1447 Nicholson Sarsfield Road Footpath Reconstruction	Middleton Lee Pty Ltd t/as CAL Civil	\$156,656.00
CON2022 1438 Bairnsdale Airport Water Reticulation Project	Maffra Trenching & Boring Pty Ltd	\$313,688.00

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*.

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

Not applicable for this report.

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.

Council Policy

Not applicable for this report.

Options

Not applicable for this report.

Resourcing

Financial

This report outlines the financial position of the 2021/22 Capital Works and Major Projects program as at the 31 December 2021.

Plant and equipment

The Capital program includes budget for the replacement of plant and equipment as per depreciation schedules.

Human Resources

The development of this report has no impact on human resource levels. The delivery of the Capital program relies on the engagement of a number of project supervisors, that are engaged under various terms by council.

Risk

Risk assessments are carried out on all projects within the Capital Program as part of the organisation's use of a Project Management Framework. As previously discussed with Council, the size of the 2021/22 program coupled with supply issues and escalation costs triggered by the global pandemic present risks to individual projects and the program overall.

Economic

Delivery of the Capital program includes the procurement of contractor services which stimulate the local economy and the betterment of areas of the Shire that support business and industry growth. Many of the projects further stimulate the economy and investment by supporting access and connectivity, improving amenity, and enhancing liveability.

Social

The delivery of a number of projects within the Capital program is seen to implement aspects of adopted strategies and plans and delivers positive social outcomes for our communities.

Gender Impact Statement

Given that this report provides an overview of the entire Capital program, a gender impact assessment is not applicable. Gender Equity needs consideration at the project level not that program level. Gender Equity consideration has therefore been built into the organisations Project management Framework used to manage all capital projects.

Environmental

The delivery of a number of the projects within the program have been designed to consider and / or provide environmental benefits. Additionally, all projects tendered use environmental sustainability as one of the tender assessment criteria, which allows the contractors response to environmental sustainability to be considered.

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

No engagement has been undertaken in the compilation of this report. However, engagement with community members, agencies and stakeholders has been a critical element in the design and delivery of many of the projects in the 2021/22 Capital program. The Capital program was also part of deliberative engagement undertaken to develop the Council Plan and Budget.

Attachments

1. Holding Transactions - Quarter Two 21-22 [**5.2.2.1** - 1 page]
2. Capital Works and Landfill Rehabilitation Status Report - December 2021 [**5.2.2.2** - 5 pages]

Holding Account Transactions

Opening Balance 1 October 2021		404,230	
Savings	Caravan Park Fire Safety Works - Withdrawn, rescope in future years	300,000	
	Lakes Entrance Ocean Rescue Seawall - Complete, savings	280,000	
	Lakes Entrance Parking - project withdrawn - rescope in future years	102,000	
	Lakeside Drive, Mallacoota Culvert Replacements - Complete, savings	121,253	
	Lakes Entrance Aquadome - Withdrawn, rescope in future years	108,000	
	BARC Main Pool Tiling - project postponed to a later year	100,000	
	Forward Design - Roads and Drainage - allocated to Bemm river footpaths	37,520	
	Replacement Bench seats at BARC - Complete, savings	211	
	Lucknow Rec Res - Complete, savings	4,563	
Total Savings end of Q2		1,053,547	
Additional Budget	Bairnsdale Banners Project	-54	
	Gymnastics Pavilion	-150,000	
	Additional Funds for Gymnastics Pavilion to award contract	-550,000	
	LRCI Bridge Replacement - Tarbucks rd	-4,316	
	Bairnsdale Outdoor Pool Change Rooms	-22,000	
	Gully Road, Lake Tyers	-10,000	
	Bemm River Footpath Connections (part funded from Forward Designs)	-57,520	
	Swan Reach Netball Courts - additional funds to award contract	-82,000	
	Mirraboooka Drive - additional funds to award contract	-125,000	
Total Additional Budget Allocated end of Q2		-1,000,890	
Reallocation - No Change to overall budget	Eagle Point Foreshore Road Hub - merge	342,000	
	Eagle Point Foreshore Road Development - merge	-342,000	
	Mallacoota Foreshore Holiday Park Fire Safety works	2,000	
	Mallacoota caravan park -Upgrade recreational facilities near the viewing deck look out	-2,000	
	Quick Response Fund	2,590	
	QRF Newlands Arm Community Hall Acoustics	-2,590	
	Quick Response Fund	25,000	
	QRF Nowa Nowa Shed	-25,000	
	Quick Response Fund	22,200	
	QRF Metung Water Park Dosing System	-22,200	
	Reseal roads	822,000	
	Nungurner Jetty Road, Nungurner	-3,000	
	Riverbank East Road, Bairnsdale	-5,000	
	Reseal Fernbank Glenaladale Road, Lindenow	-7,000	
	Swifts Creek East Road, Swifts Creek	-7,000	
	Lakes Entrance Foreshore Park	-800,000	
Reallocation - No Change to overall budget		0	
Closing Balance 31 December 2021		456,887	

See note below

Cash removed from Reseal program and directed to Lakes Entrance Foreshore Park, LRCI funding removed from Foreshore Park and directed to reseal program. Lakes Foreshore Park will not be completed before funding deadline.

East Gippsland Shire Council
Capital Works and Landfill Rehabilitation Projects - Finance Report - December 2021

Project	Status	ACTUALS	COMMITMENTS		ADOPTED	REVISED	CHANGE	REVISED	CARRY	BRING BACK
		YTD Actual Expenditure - 31 December, 2021	YTD Commitments - 31 December, 2021	YTD Actual Expenditure & Commitments - 31 December, 2021	Adopted Budget - Expenditure 1 Jul, 2021	Expenditure 1 October, 2021	Expenditure - Change	Forecast Expenditure 31 December, 2021	Expenditure Carry Forward	Funded from 2022/23 Budget
12044	Lakes Entrance Health Club Infrastructure Change	Withdrawn	0	0	0	54,000	0	0	0	-
11838	Parking Upgrade - Lakes Entrance	Withdrawn	0	0	0	202,000	202,000	(202,000)	0	-
11951	BARC Main Pool Tiling	Withdrawn	0	0	0	100,000	100,000	(100,000)	0	-
11955	Lakes Entrance Aquadome redevelopment - design	Withdrawn	0	0	0	54,000	108,000	(108,000)	0	-
11956	Tipsite handheld Trimble for 10 sites	Withdrawn	0	0	0	25,000	0	0	0	-
12020	Bastion Point Carparking	Withdrawn	0	480	480	4,176	0	0	0	-
12027	Bairnsdale Banners Project	Withdrawn	2,782	0	2,782	0	2,728	54	2,782	-
12041	Council Owned Caravan Parks-Fire Safety Works	Withdrawn	0	0	0	300,000	300,000	(300,000)	0	-
11297	Open space Eagle Point	Progressing	0	0	0	66,000	66,000	0	66,000	-
11395	Lakes Entrance Transfer Station Upgrade	Progressing	681,620	805,201	1,486,821	1,204,277	1,204,277	294,000	1,498,277	-
11456	Premiers Reading Challenge	Progressing	0	0	0	9,208	9,208	0	9,208	-
11569	Building Renewal	Progressing	216,284	273,471	489,755	700,000	650,000	0	650,000	-
11577	Plant Renewal	Progressing	639,336	266,759	906,095	1,774,620	1,774,620	0	1,774,620	-
11578	Vehicles Renewal	Progressing	812,021	670,862	1,482,883	1,346,428	1,346,428	145,000	1,491,428	-
11581	Raymond Island Ferry Renewal	Progressing	0	167,786	167,786	377,000	377,000	0	377,000	-
11583	Office Furniture Non-Specified	Progressing	363	0	363	30,000	30,000	0	30,000	-
11584	Equipment Renewal BARC	Progressing	0	0	0	28,000	28,000	0	28,000	-
11585	Information Technology Infrastructure	Progressing	89,583	338,847	428,430	700,000	700,000	0	700,000	-
11586	Purchase Library Resources non-specified	Progressing	114,818	45,444	160,262	200,000	200,000	0	200,000	-
11587	Gravel Road Resheet Non-Specified	Progressing	726,505	161,851	888,356	1,200,000	1,200,000	0	1,200,000	-
11588	Roads Resealed Non-Specified	Progressing	150,963	1,149,317	1,300,280	2,590,000	2,590,000	(822,000)	1,768,000	-
11589	Renew Guard Rails Non-Specified	Progressing	0	0	0	100,000	100,000	0	100,000	-
11591	Dust Suppression Seal Non-Specified	Progressing	4,698	235,920	240,618	250,000	250,000	0	250,000	-
11592	Culvert Renewal Non-Specified	Progressing	6,111	502,625	508,736	600,000	600,000	0	600,000	-
11605	Quick Response Fund	Progressing	0	0	0	100,000	100,000	(49,790)	50,210	-
11646	Soldiers Road Agri Links Improvement Project	Progressing	17,141	788,671	805,812	892,826	892,826	0	892,826	-
11671	Security and Duress Devices - Customer Service	Progressing	0	0	0	30,000	30,000	0	30,000	-
11672	Internal CCTV Renewal	Progressing	0	0	0	300,000	300,000	0	300,000	-
11675	Library Management System Renewal	Progressing	6,201	10,000	16,201	120,000	120,000	0	120,000	-
11679	Omeo Mountain Bike Trails - Stage 1	Progressing	90,581	80,381	170,962	2,936,941	2,936,941	(1,500,000)	1,436,941	-
11688	Bairnsdale Outdoor Pool Change rooms	Progressing	28,676	5,397	34,073	19,846	19,846	22,000	41,846	-
11698	Construction Cell 4 Bairnsdale Tip	Progressing	1,445,457	1,222,802	2,668,259	2,916,418	2,916,418	0	2,916,418	-
11709	Forward Design - Roads and Drainage	Progressing	92,464	150,812	243,276	528,000	528,000	(37,520)	490,480	-
11715	Progress Jetty Precinct Design	Progressing	14,523	3,520	18,043	370,000	370,000	(320,000)	50,000	-
11717	Strategic Property Acquisitions	Progressing	0	0	0	100,000	100,000	0	100,000	-
11718	Omeo Justice Precinct	Progressing	40,268	198,841	239,109	236,473	236,473	0	236,473	-
11738	Property Acquisitions (Admin Services)	Progressing	206,884	1,182	208,066	270,668	270,668	0	270,668	-
11767	Design for Gymnastics Facility at Lucknow	Progressing	51,126	1,907,357	1,958,483	1,222,000	1,222,000	220,000	1,442,000	-
11774	Jemmy Point lookout infrastructure renewal	Progressing	11,070	5,420	16,490	1,392,166	1,392,166	(1,035,000)	357,166	-
11800	EGSC Energy Efficiency 2019	Progressing	0	0	0	50,000	50,000	0	50,000	-

East Gippsland Shire Council
Capital Works and Landfill Rehabilitation Projects - Finance Report - December 2021

Project	Status	ACTUALS	COMMITMENTS		ADOPTED	REVISED	CHANGE	REVISED	CARRY	BRING BACK
		YTD Actual Expenditure - 31 December, 2021	YTD Commitments - 31 December, 2021	YTD Actual Expenditure & Commitments - 31 December, 2021	Adopted Budget - 1 Jul, 2021	Expenditure 1 October, 2021	Expenditure - Change	Forecast Expenditure 31 December, 2021	Expenditure Carry Forward	Funded from 2022/23 Budget
11805	Photocopiers / Printers Renewal	0	1,044	1,044	208,593	208,593	0	208,593	0	-
11806	Project Management Office ICT Equipment and Softwa	30,362	30,400	60,762	57,400	57,400	0	57,400	0	-
11807	Renewal and upgrade to corporate systems	0	0	0	900,000	900,000	200,000	1,100,000	0	-
11808	Renewal of EDRMS	0	0	0	760,000	760,000	0	760,000	0	-
11820	Footpath Renewal Program	0	0	0	210,000	170,000	0	170,000	0	-
11823	Parking Design - Marine Parade, Lakes Entrance	0	13,828	13,828	14,069	14,069	0	14,069	0	-
11825	Kerb and Channel Replacement, Shire-wide	28,902	25,091	53,993	400,000	400,000	0	400,000	0	-
11828	Lakes Entrance North Arm Bridge Boat ramp Upgrade	166,295	631,869	798,164	677,000	817,000	0	817,000	0	-
11834	Eagle Point Foreshore Hub	27,790	3,987,042	4,014,832	2,390,030	2,390,030	(393,000)	1,997,030	1,100,000	-
11835	Lakes Entrance streetscape pavement improvements	131,566	51,100	182,666	662,850	662,850	0	662,850	0	-
11839	Port of Bairnsdale Timber Jetty Renewal	0	2,968	2,968	3,644	3,644	0	3,644	0	-
11842	Storage Unit - Gile Street	5,790	0	5,790	475,000	475,000	(175,000)	300,000	175,000	-
11844	Mallacoota Seawall design	532,070	562,109	1,094,179	3,087,107	3,087,107	(1,900,000)	1,187,107	1,400,000	-
11854	Street Litter Bins	390,858	135,526	526,384	515,000	515,000	0	515,000	0	-
11879	Entrance Walk Boardwalk Replacement - Design	0	12,000	12,000	71,683	71,683	0	71,683	0	-
11900	Bullock Island Bridge Replacement	472,968	1,507,853	1,980,821	2,115,757	3,115,757	0	3,115,757	0	-
11906	QRF Dinni Birrak Walk - Backwater Ct Paynesville	0	8,636	8,636	9,500	9,500	0	9,500	0	-
11908	QRF Mallacoota Cricket Nets	3,354	5,920	9,274	72,565	72,565	0	72,565	0	-
11909	QRF The Entrance walk - signage	3,190	2,535	5,725	13,680	13,680	0	13,680	0	-
11916	DCE - Mallacoota Hall & Recreation Reserve Upgrade	9,887	47,735	57,622	42,259	42,259	0	42,259	0	-
11918	Cann River Roadside Rest Area	11,123	0	11,123	1,106,000	1,106,000	(750,000)	356,000	750,000	-
11919	Genoa Roadside Rest Area	439,825	315,826	755,651	817,000	817,000	0	817,000	0	-
11920	Newmerrelle Roadside Rest Area	1,126	11,172	12,298	490,228	490,228	0	490,228	0	-
11922	Orbost Forest Park Upgrade	65	11,060	11,125	1,206,000	1,206,000	(1,000,000)	206,000	1,000,000	-
11924	John Flynn Reserve - Buchan (RV Dump Point)	0	7,200	7,200	53,841	53,841	0	53,841	0	-
11926	Reinstatement of Mallacoota Coastal Infrastructure	70,039	62,019	132,058	75,037	75,037	0	75,037	0	-
11928	Mallacoota Foreshore Holiday Park Toilet Block 3 D	5,150	6,500	11,650	20,000	20,000	0	20,000	0	-
11929	Eagle Point Caravan Park Amenities Block Renewal D	0	17,550	17,550	20,000	20,000	0	20,000	0	-
11930	Mallacoota Foreshore Holiday Park Fire Safety work	0	0	0	434,154	434,154	(2,000)	432,154	0	-
11932	Council Managed Caravan Park - Fire Safety Works	0	23,450	23,450	54,000	54,000	0	54,000	0	-
11937	Scanner Refresh, Shirewide	12,575	0	12,575	162,000	162,000	0	162,000	0	-
11938	CCTV Commercial Marinas	0	0	0	42,000	42,000	0	42,000	0	-
11939	CCTV Cameras at Waste Transfer Stations	0	0	0	69,000	69,000	0	69,000	0	-
11940	Public Space CCTV Refresh	0	2,765	2,765	265,000	265,000	0	265,000	0	-

East Gippsland Shire Council
Capital Works and Landfill Rehabilitation Projects - Finance Report - December 2021

Project	Status	ACTUALS	COMMITMENTS		ADOPTED	REVISED	CHANGE	REVISED	CARRY	BRING BACK
		YTD Actual Expenditure - 31 December, 2021	YTD Commitment s - 31 December, 2021	YTD Actual Expenditure & Commitment s - 31 December, 2021	Adopted Budget - Expenditure 1 Jul, 2021	Expenditure 1 October, 2021	Expenditure - Change	Forecast Expenditure 31 December, 2021	Expenditure Carry Forward	Funded from 2022/23 Budget
11942	Eagle Point Foreshore Hub - road redevelopment	0	0	0	342,000	342,000	(342,000)	0	0	-
11943	R2R27 Moroney Street Bairnsdale Upgrade	960,814	606,908	1,567,722	1,592,289	1,592,289	0	1,592,289	0	-
11947	Eastwood Timbarra Footpath Connection	42,360	52,515	94,875	157,872	157,872	0	157,872	0	-
11948	Omeo Caravan Park to Livingston Park Footpath	0	0	0	250,000	250,000	0	250,000	0	-
11950	WORLD Sporting Precinct Stage 1	1,877,704	8,861,600	10,739,304	11,290,067	11,290,067	0	11,290,067	0	-
11953	BARC Solar Installation	92,885	9,201	102,086	101,703	101,703	0	101,703	0	-
11958	Cann River Waste Transfer Station	27,195	2,650	29,845	783,927	783,927	(400,000)	383,927	400,000	-
11960	LER - Marlo Triangle Park Playground Renewal	17,505	387,890	405,395	442,547	442,547	(125,000)	317,547	125,000	-
11961	Foreshore Management Plan Implentation - Marlo	58	23,000	23,058	80,000	80,000	(55,000)	25,000	55,000	-
11962	Bruthen Streetscape	17,777	27,190	44,967	873,735	873,735	(770,000)	103,735	770,000	-
11965	Bairnsdale Runway 04/22 Extension & Lighting Upgra	69,987	48,758	118,745	114,761	114,761	0	114,761	0	-
11969	Slip Road Maritime Precinct -Paynesville	255,779	3,464,718	3,720,497	4,188,790	4,148,790	(2,000,000)	2,148,790	2,000,000	-
11987	LRCI - Footpath Nicholoso Sarsfield Road	647	180,162	180,809	83,120	193,120	0	193,120	0	-
11988	LRCI - Footpath Paynesville Road	0	636	636	85,491	155,491	0	155,491	0	-
12000	LRCI2 Davison Oval Skate Park Stage 2	25,922	1,546	27,468	300,000	300,000	0	300,000	0	-
12001	Lakes Entrance Foreshore Park	9,340	19,682	29,022	1,265,719	1,265,719	(250,000)	1,015,719	250,000	-
12011	LER - Genoa Tennis Courts Upgrade	2,492	332,558	335,050	195,000	355,000	0	355,000	0	-
12013	LER - Livingstone Park Community Facilities	22,245	59,278	81,523	1,585,692	1,585,692	(1,000,000)	585,692	1,000,000	-
12014	LER - Nowa Nowa Boat Ramp Upgrade	28,626	61,251	89,877	79,000	154,000	0	154,000	0	-
12015	LER - Swan Reach Netball Courts Repair and Upgrade	48,917	152,209	201,126	129,523	129,523	89,500	219,023	0	-
12016	LER - Tambo Crossing Community Facility	114,577	99,809	214,386	441,000	441,000	0	441,000	0	-
12017	Lakes Entrance Club Spit Upgrade	0	640,000	640,000	840,000	840,000	0	840,000	0	-
12018	Mallacoota Streetscape	78,406	28,955	107,361	1,000,000	1,000,000	(500,000)	500,000	500,000	-
12021	Bruce Road Depot - Amenities Building	92,087	5,515	97,602	135,238	135,238	0	135,238	0	-
12023	Lakes Entrance Slipway Upgrade	33,141	51,797	84,938	590,000	990,000	0	990,000	0	-
12025	Bailey St Bairnsdale - Improvement Works	409,014	363,348	772,362	960,000	960,000	0	960,000	0	-
12026	IT Equipment for Emergency Management	2,233	0	2,233	0	0	30,000	30,000	0	-
12029	Community Resilience and Development Program	9,449	92,380	101,829	338,664	338,664	0	338,664	0	-
12034	LRCI Un allocated - Round 3	0	0	0	1,000,000	365,000	(365,000)	0	0	-
12035	LRCI2 EV Charge Points	2,060	5,182	7,242	450,000	450,000	0	450,000	0	-
12039	LRCI2 - Raymond Island Toilet Block Upgrade	14,625	35,290	49,915	315,000	315,000	0	315,000	0	-
12040	LRCI2 - Omeo Rec Reserve Carpark Upgrade	35,537	861	36,398	107,000	107,000	0	107,000	0	-
12042	Chinamans Creek Open Space Toilet Upgrade	2,678	8,560	11,238	20,000	20,000	0	20,000	0	-
12047	Network Equipment - Footprint Consolidation	15,450	12,273	27,723	700,000	700,000	0	700,000	0	-
12048	Delegations Management Solution	0	0	0	40,000	40,000	0	40,000	0	-
12049	Property Lease & Contract Management Solution	0	0	0	80,000	80,000	0	80,000	0	-
12053	Spring Creek, Jarrahmond Bridge Upgrade(Agrilinks)	0	0	0	400,000	400,000	145,000	545,000	0	-
12054	R2R B Road Jarrahmond Bridge Upgrade	1,126	805,966	807,092	400,000	329,718	0	329,718	0	-
12055	R2R Lousadas Rd - Timber Bridge Renewal	2,251	343,449	345,700	300,000	365,593	0	365,593	0	-

East Gippsland Shire Council
Capital Works and Landfill Rehabilitation Projects - Finance Report - December 2021

Capital Works and Landfill Rehabilitation Projects - Finance Report - December 2021			ACTUALS	COMMITMENTS		ADOPTED	REVISED	CHANGE	REVISED	CARRY	BRING BACK
Project		Status	YTD Actual Expenditure - 31 December, 2021	YTD Commitment s - 31 December, 2021	YTD Actual Expenditure & Commitment s - 31 December, 2021	Adopted Budget - Expenditure 1 Jul, 2021	Expenditure 1 October, 2021	Expenditure - Change	Forecast Expenditure 31 December, 2021	Expenditure Carry Forward	Funded from 2022/23 Budget
12056	R2R Tabberabbera Rd - Timber Bridge Renewal	Progressing	562	315,136	315,698	300,000	334,594	0	334,594	0	-
12058	East Gippsland Trail Network	Progressing	0	3,000	3,000	108,000	108,000	0	108,000	0	-
12059	Mirrabooka Drive - Mallacoota - New Footpath	Progressing	8,490	583,248	591,738	500,000	500,000	125,000	625,000	0	-
12060	Kruatungalong Walk	Progressing	1,191	22,600	23,791	2,280,000	2,280,000	(1,000,000)	1,280,000	1,000,000	-
12062	Integrated Water Management - Bairnsdale	Progressing	0	0	0	75,000	75,000	0	75,000	0	-
12064	Mallacoota Skatepark	Progressing	25,736	21,131	46,867	0	19,765	28,360	48,125	0	-
12065	Bairnsdale City Oval Changerooms Upgrade	Progressing	32,189	14,420	46,609	979,000	979,000	(250,000)	729,000	250,000	-
12068	Bairnsdale Landfill Security and Safety Upgrade	Progressing	24,837	0	24,837	81,000	81,000	0	81,000	0	-
12069	Upgrade for Glass Recycling	Progressing	74,182	99,900	174,082	445,000	328,950	0	328,950	0	-
12070	Upgrade Bairnsdale Landfill Compliance Works	Progressing	0	0	0	100,000	100,000	0	100,000	0	-
12071	Raymond Island Koala Experience	Progressing	487	0	487	435,000	585,000	(580,000)	5,000	580,000	-
12072	Moroney St Bairnsdale Stage 2	Progressing	1,126	0	1,126	250,000	250,000	0	250,000	0	-
12074	Bairnsdale Airport Potable Water Project	Progressing	948	313,688	314,636	475,000	475,000	0	475,000	0	-
12075	IT Equipment -(Flexible Working)	Progressing	77,931	74,690	152,621	200,000	200,000	0	200,000	0	-
12076	Forward Design Seawalls Shirewide	Progressing	0	1,080	1,080	75,000	75,000	0	75,000	0	-
12077	Lakes Entrance Ocean Rescue Seawall	Progressing	573	493,873	494,446	1,815,000	715,000	(180,000)	535,000	0	-
12080	Mallacoota Hall Upgrades	Progressing	9,570	26,000	35,570	863,000	863,000	0	863,000	0	-
12081	Playground Renewal - Omeo Recreation Reserve	Progressing	65,153	0	65,153	64,294	64,294	0	64,294	0	-
12083	Howitt Park Boat Ramp Upgrade	Progressing	258	0	258	77,000	77,000	0	77,000	0	-
12086	Bruce Road Depot - Safety Upgrades	Progressing	1,126	0	1,126	250,000	250,000	0	250,000	0	-
12087	AJ Freeman Cricket Nets Upgrade	Progressing	649	0	649	0	75,000	0	75,000	0	-
12089	Mobile devices for Out door crew	Progressing	3,740	0	3,740	0	225,000	0	225,000	0	-
12090	Library Self Service Kiosk	Progressing	0	25,972	25,972	0	29,426	0	29,426	0	-
12091	Eastern Beach Caravan Park toilet Block	Progressing	0	5,950	5,950	0	300,000	0	300,000	0	-
12092	King Street Shared Path and Laneway Upgrade, Payne	Progressing	32,939	20,105	53,044	0	80,000	0	80,000	0	-
12093	Swiftcreek Rec Reserve Upgrade	Progressing	23,263	74,706	97,969	0	50,000	0	50,000	0	-
12094	Nowa Nowa Streetscape	Progressing	3,410	0	3,410	0	5,000	0	5,000	0	-
12095	Lions Park Toilet, Bruthen	Progressing	1,837	1,400	3,237	0	0	10,000	10,000	150,000	-
12096	Bemm River Footpath Connections	Progressing	1,514	14,000	15,514	0	0	57,520	57,520	0	-
12097	LRCI2 - Reseal Fernbank Glenaladale Road, Lindenow	Progressing	0	636	636	0	0	263,000	263,000	0	-
12098	LRCI2 -Swifts Creek East Road, Swifts Creek	Progressing	0	636	636	0	0	259,000	259,000	0	-
12099	LRCI2 -Riverbank East Road, Bairnsdale	Progressing	0	636	636	0	0	212,000	212,000	0	-
12100	LRCI2 -Nungurner Jetty Road, Nungurner	Progressing	0	636	636	0	0	88,000	88,000	0	-
12101	Outdoor Activation 21/22	Progressing	0	0	0	0	0	250,000	250,000	0	-
12102	Mallacoota CP - BBQ Shelter -View deck	Progressing	0	0	0	0	0	30,530	30,530	0	-
12103	Nowa Nowa Rec Reserve - Storage Shed	Progressing	0	0	0	0	0	25,000	25,000	0	-
12104	QRF – Dosing System for Metung Waterpark	Progressing	0	19,545	19,545	0	0	22,200	22,200	0	-
12105	EV Charge Points -Streetscapes	Progressing	0	0	0	0	0	150,000	150,000	0	-
50008	Lakes Entrance Landfill Capping	Progressing	216,564	6,364	222,928	302,177	302,177	187,000	489,177	0	-
50009	Bosworth Road Aftercare	Progressing	32,220	1,364	33,584	21,000	21,000	15,000	36,000	0	-
50011	Orbost Landfill Aftercare	Progressing	0	0	0	7,000	7,000	0	7,000	0	-

East Gippsland Shire Council
Capital Works and Landfill Rehabilitation Projects - Finance Report - December 2021

Capital Works and Landfill Rehabilitation Projects - Finance Report - December 2021			ACTUALS	COMMITMENTS		ADOPTED	REVISED	CHANGE	REVISED	CARRY	BRING BACK
Project		Status	YTD Actual Expenditure - 31 December, 2021	YTD Commitment s - 31 December, 2021	YTD Actual Expenditure & Commitment s - 31 December, 2021	Adopted Budget - Expenditure - 1 Jul, 2021	Expenditure 1 October, 2021	Expenditure - Change	Forecast Expenditure 31 December, 2021	Expenditure Carry Forward	Funded from 2022/23 Budget
50012	Mallacoota Landfill Aftercare	Progressing	0	0	0	7,000	7,000	0	7,000	0	-
50016	Bairnsdale Cell 3A Capping Design	Progressing	562	0	562	100,000	100,000	0	100,000	0	-
50017	Bairnsdale Cell 1 Aftercare	Progressing	0	0	0	13,000	13,000	0	13,000	0	-
50018	Bairnsdale Cell 2 Aftercare	Progressing	0	32,090	32,090	11,000	11,000	0	11,000	0	-
50019	Bairnsdale RRC - Cell 1 and 2 - EPA Compliance Fla	Progressing	18,110	64,490	82,600	239,398	239,398	0	239,398	0	-
50020	Lakes Entrance Landfill Aftercare	Progressing	18,002	5,260	23,262	32,000	32,000	45,000	77,000	0	-
50021	Lakes Entrance Landfill Gas Remediation	Progressing	83,806	0	83,806	61,082	61,082	150,000	211,082	0	-
12043	Gilsenan Reserve Toilet Replacement	On Hold	58	0	58	20,000	20,000	0	20,000	0	-
12066	Bairnsdale City Oval Lighting & Scoreboard Upgrade	On Hold	0	0	0	240,000	86,000	0	86,000	0	-
11712	Marlo Township Drainage Design	Not Started	0	0	0	110,000	110,000	0	110,000	0	-
11963	East Bairnsdale Play Area Renewal	Not Started	0	0	0	20,000	20,000	0	20,000	0	-
12045	Omeo Council Precinct Redevelopment	Not Started	0	0	0	43,000	43,000	0	43,000	0	-
12046	Flagstaff Jetty Sewer Connection	Not Started	0	0	0	10,000	10,000	0	10,000	0	-
12050	McCulloch Sreet Safety Improvements	Not Started	562	0	562	179,000	179,000	0	179,000	0	-
12067	Bastion Point Geotactile Groin Wall	Not Started	0	0	0	54,000	54,000	0	54,000	0	-
12078	Event Infrastructure to be Nominated	Not Started	0	0	0	150,000	150,000	0	150,000	0	-
11748	Lucknow Recreation Reserve Upgrade Stage 1 Detaille	Completed	0	0	0	4,423	4,423	(4,423)	0	0	-
11845	Lakes Entrance Seawall Reconstruction Stage 2	Completed	0	0	0	0	0	0	0	0	-
11917	CW50301 Hospital Creek Wairewa Road Bridge	Completed	0	0	0	0	0	0	0	0	-
11985	LRCI - Tarbucks Road Bridge, Cabbage Tree Creek	Completed	455,188	0	455,188	449,909	450,872	4,316	455,188	0	-
12005	Newlands Arm Community Hall Acoustics	Completed	2,589	0	2,589	0	0	2,590	2,590	0	-
12030	Replacement Bench seats at BARC	Completed	16,289	0	16,289	16,500	16,500	(211)	16,289	0	-
12057	Lakeside Drive, Mallacoota Culvert Replacements	Completed	178,747	0	178,747	300,000	300,000	(121,253)	178,747	0	-
11700	Upgrade Marlo Transfer Station	Complete - awaiting invoices	0	43,114	43,114	43,114	43,114	0	43,114	0	-
11822	Gully Road Drainage Works, Lake Tyers Beach	Complete - awaiting invoices	0	11,039	11,039	1,257	1,257	10,000	11,257	0	-
11931	Eagle Point Caravan Park Fire Safety works	Complete - awaiting invoices	107,107	11,823	118,930	286,317	186,317	0	186,317	0	-
11945	R2R29 Omeo Valley Road - Major Rehabilitation	Complete - awaiting invoices	810,691	63,957	874,648	983,000	983,000	0	983,000	0	-
12022	R2R28 Limestone Road -Rehabilitaion	Complete - awaiting invoices	315,882	20,192	336,074	507,500	507,500	0	507,500	0	-
50004	Orbost Landfill Capping	Complete - awaiting invoices	1,257	258,175	259,432	16,737	16,737	0	16,737	0	-
11990	Lakes Entrance Marine Parade Upgrade	At Risk - Timing	0	0	0	1,396,000	1,396,000	(1,000,000)	396,000	1,000,000	-
11991	Bullock Island Masterplan Implementation	At Risk - Timing	45,469	214,825	260,294	4,973,262	3,973,262	(3,000,000)	973,262	3,000,000	-
12024	Buchan Streetscape	At Risk - Timing	32,697	41,587	74,284	1,161,000	1,161,000	(1,000,000)	161,000	1,000,000	-
Grand Total			14,832,808	36,168,550	51,001,358	94,089,552	93,748,113	(18,557,127)	75,190,986	19,860,000	

5.2.3 Paynesville Canals Private Jetty Construction Policy

Authorised by General Manager Assets and Environment

Conflict of Interest

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

Executive Summary

This report presents to Council the amended Paynesville Canals Private Jetty Construction Policy.

Council's *Private Jetty Construction Use within the Riviera Harbour Canals – Paynesville Policy Manual (Jetty Policy)* was first adopted by Council in December 1988 with amendments in September 1989 and August 1990, refer **Attachment 3**.

The Jetty Policy is no longer aligned with Council's current practices and processes for the construction of private jetties.

Under the current Jetty Policy, owners of properties abutting the Paynesville Canals proposing to construct a private jetty are required to complete an 'Application to Erect or Alter a Private Jetty on Canals at Paynesville' form and pay an application fee. Under the proposed revised Paynesville Canals Private Jetty Construction Policy, owners of properties abutting the Paynesville Canals proposing to construct a private jetty are now required to obtain a planning permit before commencing construction or alteration to the jetty. The owners are now required to complete an 'Application for Planning Permit' and pay a planning permit application fee, which is a statutory fee.

This amended policy provides clear guidance on the acceptable form for private jetties constructed in the Paynesville Canals and proposes to remove the application fee and replace it with the planning permit application fee, as a one-off fee.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report;***
- 2. resolves to adopt the revised Paynesville Canals Private Jetty Construction Policy and Guidelines provided as Attachment 1;***
- 3. resolves to adopt the removal of the application to erect or alter a Private Jetty on Canals at Paynesville application form and the payment of the application fee of \$194.00 inclusive of GST and replace it with a Planning Permit Application and the associated Planning Permit application fee which is a statutory fee set down by the Minister for Planning under the Planning and Environment (Fees) Regulations 2016; and;***
- 4. authorises the Chief Executive Officer to make administrative changes to the policy from time to time, that have no material change to the policy intent.***

Background

Council's *Private Jetty Construction Use within the Riviera Harbour Canals – Paynesville (Jetty Policy)* was first adopted by Council in December 1988 with amendments in September 1989 and August 1990.

The policy allows for construction of private jetties in the canals by abutting land owners and stipulates the requirements of such jetties. The policy has a complementary procedure that provides more specific detail of the requirements of private jetties constructed in the Paynesville Canals.

The Policy is outdated and no longer aligns with Council's current practices and processes for the construction of private jetties.

The updated and proposed Paynesville Canals Private Jetty Construction Policy and supporting procedure outlines the requirements, including materials and size, for the construction of a private jetty within the Paynesville Riviera Harbour Canals (Canals).

A substantial change to the previous Jetty Policy is the requirement of the owner to obtain a planning permit prior to construction of the private jetty within the Canals. To obtain a planning permit from Council's planning department, a 'to scale' construction drawing must be provided and payment of the correct planning permit application fee which is set down by the Minister for Planning under the *Planning and Environment (Fees) Regulations 2016*.

The changes to the Jetty Policy include:

- Throughout the policy the word 'boat(s)' have been replaced with vessel(s);
- Insertion of a purpose of the policy.
- Insertion of the scope of the policy.
- Insertion of the policy context.
- Insertion of a policy statement which outlines the roles of Council as the responsible authority for the Paynesville Canals and Gippsland Ports as the appointed port and waterway manager, which includes the Paynesville Canals.
- Clause 2.1 is updated titled 'Entitlement.' This sets out the residences that can have a private jetty and under what conditions.
- Reference to Marine Service Industrial Zone and the Tourist Commercial Zone had been deleted as they are no longer applicable.
- Insertion of 'Application to Council.' This sets out how the owner applies to Council for a licence to Council, the requirement to obtain a planning permit and the requirements for the construction of a private jetty.
- Insertion of 'Licence Fee' to inform that an annual licence fee is payable.
- Insertion of a 'Maintenance Clause' that sets out the maintenance requirements for private jetties, including the requirement for a six yearly independent inspection to ensure the private jetty remains compliant and in a safe condition.
- Insertion of 'Available Depth' to advise that the owner must not increase the available water depth at the private jetty without consent.
- Insertion of Roles and Responsibilities; and
- Insertion of References and Supporting Documents.

Importantly a set of clear guidelines have also been included in the policy, so property owners and planning permit application assessors alike are very clear about what form the Jetty structure must take. These guidelines were developed with input from Gippsland Ports.

The revised Policy is provided as **Attachment 1**. For ease of review an unedited copy of the former policy has also been provided as **Attachment 2**.

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 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 Private Jetty Construction Use within the Riviera Harbour Canals – Paynesville Policy Manual adopted in 1990 has been revised to reflect current practices and processes for the construction of private jetties.

Once adopted, the policy will be available on Council's website.

Options

Option 1

Adopt the amended Jetty Policy and Guidelines which reflects current practices and processes for the construction of private jetties and reflects the current economic and environmental conditions in which we currently work.

This is the preferred option.

Option 2

Council may elect not to adopt the amendments to the Jetty Policy and the current Jetty Policy remains as the Jetty Policy used by officers and members of the public which is not a true reflection of how the process is currently operating.

Resourcing

Financial

Currently, when a landowner proposes to construct a private jetty adjoining their private property, they are required to complete an application to Erect or Alter a Private Jetty on Canals at Paynesville form. This application has a fee of \$194.00 inclusive of GST. This fee is set annually by Council in the budget.

As landowners are now required to obtain a planning permit prior to the construction of a jetty adjoining their private property, they are required to complete a Planning Permit Application and pay the application fee of \$638.80 which is a statutory fee set down by the Minister for Planning under *the Planning and Environment (Fees) Regulations 2016*.

It is proposed to remove the need to prepare the Application to Erect or Alter a Private Jetty on Canals at Paynesville application form and the payment of \$194.00 inclusive of GST and revert to the requirement of having to obtain a planning permit which applies to all land zoned PPRZ (Public Parks and Recreation Zone) and the payment of the planning permit application fee which is a statutory fee.

Plant and equipment

There are no plant and equipment requirements associated with this report.

Human Resources

There are no additional human resources required.

Risk

The risks of this proposal have been considered and the adoption of the New Jetty Policy minimises the risk to Council.

The amendments to the Jetty Policy will provide operational benefits and efficiencies in the process to construct a private jetty and will minimise the risk with inconsistent methods and requirements for the construction of a private jetty. Additionally, it will reduce reputational risk to Council associated with different processes that have occurred with the application and construction of private jetties, providing Council with a more complete policy framework to work within.

Economic

Not applicable.

Social

The policy allows local landowners to enjoy their waterfrontage and build a Private Jetty to support their waterfront lifestyle. At present there are several property owners wishing to do just this, who are awaiting the adoption of this revised policy before their applications can be considered.

Gender Impact Statement

The *Paynesville Canals Private Jetty Construction Policy and supporting procedure* has considered the *Gender Equality Act 2020* in its preparation but is not relevant to its content.

The *Paynesville Canals Private Jetty Construction Policy and supporting procedure* has been assessed as not requiring a Gender Impact Assessment (GIA).

Environmental

Private Jetties constructed within the Paynesville Canals must meet specified environmental conditions outlined in the policy.

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

This revised and redrafted Jetty Policy and Guidelines has been prepared in collaboration with Gippsland Ports as the appointed port and waterway manager over the designated Port of Gippsland Lakes, which includes the Paynesville Canals and is responsible for ensuring, among other things, that any port safety and environmental risks associated with works are appropriately managed.

Internal consultation has been undertaken with relevant business areas.

External engagement has not been undertaken as this is a revision of an existing policy. However, feedback gathered informally from jetty applicants has been used in the internal review process.

Attachments

1. Paynesville Canals Private Jetty Construction Policy and Guidelines [**5.2.3.1** - 11 pages]
2. 1989 Private Jetty Construction Policy Manual [**5.2.3.2** - 3 pages]

Version number: 2
Authorised by: General Manager Assets and Environment



PAYNESVILLE CANALS PRIVATE JETTY CONSTRUCTION POLICY and GUIDELINES

TABLE OF CONTENTS

Purpose	2
Scope	2
Policy Context	2
Policy Statement	2
Role of Council	2
Role of Gippsland Ports	2
Entitlement.....	2
Application to Council.....	3
Licence Fee	4
Maintenance	4
Available Depth	4
Roles and Responsibilities	4
GUIDELINES FOR ASSESSING APPLICATIONS.....	5
Drawings and Plans (Construction Standards).....	5
Jetty Size	5
Materials	5
Floating Pontoon Jetty	6
Surface Treatment.....	6
Site Protection and Restoration	6
Revetment Wall, Footings and Footing Foundations.....	6
Boat Lifts.....	6
Jetty Licences.....	7
Changes to existing Jetty Specification	7
Definitions	7
References and Supporting Documents.....	8
Applicable Legislation	8
Applicable Policy and Procedure	8
Supporting Documents.....	8
Revision History and Review	8

Version number: 2
 Authorised by: General Manager Assets and Environment

Purpose

The Paynesville Canals Private Jetty Construction Policy (the Policy) is designed to guide the placement and construction of private jetties within the Paynesville Canals and ensure that such Jetties are compliant with specifications and standards set by Council.

The policy will allow for equitable and safe private jetty construction within Paynesville Canals, ensuring the waterway access through Paynesville Canals is always navigable.

This policy supersedes Council's Jetty Construction Policy CP-50-60-002 and the Toonalook Harbours Canal Development Policy.

Objectives

The policy is designed to ensure that:

1. Any jetty construction within the Paynesville Canals is designed and constructed to meet acceptable safety standards guided by Australian Standards and Gippsland Ports requirements;
2. Jetties constructed within the Paynesville Canals do not impact on the Navigable Fairway of Paynesville Canals; and
3. Jetties constructed within the Paynesville Canals do not negatively impact on the residential amenity of the area.

Scope

This policy applies to contractors, developers, builders and property owners within the Paynesville Canals. The Paynesville Canals are defined as the inland waterway system shown below:

Paynesville Canals Private Jetty Construction Policy
 Date approved:
 Document owner: General Manager Assets and Environment

Version number 2:
 Next review date 2024:

This document is uncontrolled when printed

1



Policy Context

Council implements and reviews this policy to ensure it aligns with current best practice for the construction of private jetties within Paynesville Canals.

Policy Statement

Role of Council

Council is the responsible authority for the area known as the Paynesville Canals.

Council will consider all proposed jetty constructions/configurations within the canals on a case by case basis to ensure that no part of the structure, mooring pole or moored vessel, shall be allowed to project into the Navigable Fairway of Paynesville Canals, or create an unreasonable impact on the users of adjoining properties and jetties.

Council as the responsible Planning Authority will also be responsible for the receipt and determination of Planning Applications associated with this policy.

Role of Gippsland Ports

Gippsland Ports is the appointed port and waterway manager over the designated Port of Gippsland Lakes, which includes the Paynesville Canals, and is responsible for ensuring, among other things, that any port safety and environmental risks associated with works are appropriately managed.

Paynesville Canals Private Jetty Construction Policy
Date approved:
Document owner: General Manager Assets and Environment

Version number 2:
Next review date TBA:

This document is uncontrolled when printed

2

Entitlement

Every lot of a subdivision with water frontage to the Paynesville Canals will be entitled to moor two vessels at a jetty accessed from the residential lot, which at all times is subject to:

- a. lot dimensions demonstrating that there is adequate canal frontage to accommodate the proposed moorings; and
- b. the requirements of Council in this policy being satisfied.

Any parent lot created at the time of the development that has been subsequently subdivided with water frontage to the Paynesville Canals will be entitled to moor one vessel at a shared jetty developed as part of the parent lot, or new shared jetty developed to service the newly created lots, which at all times is subject to:

- a. site dimensions demonstrating that there is adequate canal frontage to accommodate the proposed moorings; and
- b. the requirements of Council in this policy being satisfied.

The centreline of shared jetties must be located on a projection of the newly established common boundary line (into the waterway) of the adjoining properties.

Jetties in the canal "courts" or dead ends will be shared jetties between abutting lots, unless it can be demonstrated that adequate manoeuvring space is available to allow for safe docking of vessels at individual jetties.

Jetties shall only be located in a position approved by Council under the planning permit and shall be located and constructed so that no part of the jetty lies within four metres of the projection of the side boundaries of the Owners property (including mooring poles).

Where a Jetty Berth owner changes the vessel moored at the Jetty from the vessel the Jetty was originally designed to moor, there is an obligation for the Jetty owner to ensure that the vessel still complies with the original approval and there is no impact on the setbacks, clearances and navigable fairway requirements outlined in this policy.

Application to Council

Private Jetties are only permitted in the Paynesville Canals if they are licensed private jetties associated with a property lot with direct frontage to Paynesville Canals.

A planning permit is required for the construction or alteration of a private jetty prior to a private jetty licence being granted. Prior to the lodgement of the planning permit application, the owner must apply to Council for land manager consent to enable lodgement of the planning permit application.

All applications to Council will include:

- a. site plan and construction details of the proposed jetty (as set out in this policy);
- b. application for planning permit in the form set by Council, full copy of title for property and land manager consent;
- c. planning permit fee set by Council; and
- d. a certificate of currency for public liability insurance for not less than \$20 million.

Paynesville Canals Private Jetty Construction Policy
Date approved:
Document owner: General Manager Assets and Environment

Version number 2:
Next review date TBA:

This document is uncontrolled when printed

3

In preparing an application to Council, Owner's should have reference to:

- the Minimum Standards for Private Jetty Construction; and

Note to Owners: Minimum Standards for Private Jetty Construction is only a guide and there may be circumstances where this is unable to be followed. Council recommends the input of a structural engineer.

- 'Private Jetty Licences' dated March 2018 prepared by the Victorian Department of Environment, Land, Water and Planning.

Applicants will need to address Aboriginal and/or European cultural heritage and requirements in accordance with the *Aboriginal Heritage Act 2006* and the *Native Title Act 1993* (Commonwealth).

Licence Fee

An annual licence fee is payable by all jetty licence holders. This fee is reviewed by Council annually and available in the East Gippsland Shire Council annual budget document.

Maintenance

Maintenance of the jetty is the responsibility of the licensee, and includes all works as requested, by Council.

The Owner of the private jetty is required to have an independent maintenance inspection every six years and with details of inspection and compliance submitted to Council.

At the request of Council, the licensee shall supply a certificate of electrical safety by a qualified electrician and certification by a structural engineer that the structure piling and mooring poles are sound and conform to current Australian Standard requirements.

Upon completion of the jetty the specialised jetty builder must provide to Council a certificate of completion that the jetty is constructed as per the plans submitted to Council.

Large scale jetty maintenance or replacement may require a Gippsland Ports permit to carry out the works.

Available Depth

The licensee is not permitted to increase the available water depth at the property in any way without the prior consent of East Gippsland Shire Council and Gippsland Ports.

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
General Manager Assets and Environment	Overall responsibility for policy implementation and compliance.
Manager Community Facilities and Open Space	To receive Planning Application referrals and assess these referrals against the policy and guidelines.
Manager Planning	To ensure awareness and implementation of this policy and refer any private jetty planning applications to the

Paynesville Canals Private Jetty Construction Policy
Date approved:
Document owner: General Manager Assets and Environment

Version number 2:
Next review date TBA:

This document is uncontrolled when printed

4

	Community Facilities and Open Space unit for assessment against this policy.
Development Compliance Officer	To ensure awareness and implementation of this policy.
Property owners that have water frontage to the Paynesville Canals	To be aware of, and comply with, this policy.
Manager Governance	To manage the collection of annual fees and all data associated with the approved jetties.

DRAFT

Paynesville Canals Private Jetty Construction Policy
 Date approved:
 Document owner: General Manager Assets and Environment

Version number 2:
 Next review date TBA:

This document is uncontrolled when printed

5

GUIDELINES FOR ASSESSING APPLICATIONS

Drawings and Plans (Construction Standards)

Engineering and jetty construction drawings and plans must be supplied with all planning permit applications to Council. The drawings and plans supplied by the Owner must:

- a. be to scale;
- b. ensure the Navigable Fairway of Paynesville Canals is shown;
- c. show existing jetties appurtenant to adjoining properties; and
- d. must list all materials to be used for the proposed jetty.

Jetty Size

All private jetties must be constructed in accordance with Gippsland Ports Minimum Standards for Private Jetty Construction as updated from time-to-time Gippsland Ports which may be varied by Council on a case-by-case basis.

The Owner acknowledges that:

- a. all jetties, mooring poles and/or moored vessels must not intrude into the Navigable Fairway of Paynesville Canals.
- b. all jetties must not exceed a maximum length of **seven (7)** metres into the canal from the revetment wall;
- c. mooring poles will not be permitted to be at a greater distance from the revetment wall than **three (3)** metres;
- d. no part of the moored vessel or structure shall be closer than **three (3)** metres to the projection of the property boundary into the canal;
- e. in no case shall any part of any structure mooring pole or moored boat be allowed to project more than **eleven (11)** metres into the canal measured from the revetment wall; and
- f. the jetty must be constructed at the same angle as existing jetties appurtenant to adjoining properties.

Materials

Subject to Council's discretion, all jetties must meet the following construction requirements

- a. piles will be steel rail, not less than 40 kg/metre (for example, used in a railway track/rail or as otherwise approved by Council);
- b. bolts and spikes used throughout the structure must be hot dip galvanised finish;
- c. mooring poles will be timber with:
 - a minimum 200mm diameter at the small end for vessels less than 7.0 metres; and
 - a minimum 250 mm diameter at the small end for vessels greater than 7.0 metres,
- d. sawn timber used in the jetty structure will be a hardwood species and not less than B Grade quality (unless otherwise approved by Council);
- e. ensure mooring poles have reflective banding applied to the top of the mooring pole; and

Paynesville Canals Private Jetty Construction Policy
 Date approved:
 Document owner: General Manager Assets and Environment

Version number 2:
 Next review date TBA:

This document is uncontrolled when printed

6

- f. all jetties will display an identification label with licence number.

Floating Pontoon Jetty

A floating pontoon jetty is able to be constructed from other strong, durable materials such as marine-grade aluminium, concrete and polystyrene wrapped in an HDPE liner which are more water resistant than timber.

Other suitably corrosive resistant materials may be used in the jetty structure, but material specifications and details must be provided and all jetties must consider Gippsland Ports Minimum Standards for jetty construction and, if applicable, the standards set out in:

- a. AS 3962 Guidelines for Design of Marinas; and
- b. AS 4997 Guidelines for the Design of Maritime Structure

Surface Treatment

The jetty structure must not be painted, except for a clear preservative material, which may be applied to surfaces (unless otherwise approved by Council).

Site Protection and Restoration

All land areas and canal bed disturbed by the construction of jetties shall be reinstated to the satisfaction of Council, and any timber off-cuts or other rubbish must be collected and removed from the site by the Owner.

There must be:

- a. adequate warning signs; and
- b. lighting attached to the jetty to protect the public during construction.

All construction activities must be compliant with the *Occupational, Health and Safety Act 2004* to ensure public safety is maintained at all times.

Revetment Wall, Footings and Footing Foundations

The Revetment Wall for Paynesville Canals and associated grid cabling system (which reaches to 1.7 metres wide from the wall) is constructed inside the lot boundary. The design of the Revetment Wall does not allow for any structural loading or modification. There must be:

- a. no shackles, cables and fixing eyes shall be attached to the revetment wall; and
- b. no alteration or interference with the revetment wall without the written approval of Council.

Boat Lifts

Planning approval is required for the construction of all boat lifting structures.

The boat lift structures and vessels must not intrude into the Navigable Fairway of Paynesville Canals and must be wholly located within the designated jetty envelope.

No boat lifting structure shall be permitted to place a horizontal surcharge load on the Revetment Wall.

Paynesville Canals Private Jetty Construction Policy
Date approved:
Document owner: General Manager Assets and Environment

Version number 2:
Next review date TBA:

This document is uncontrolled when printed

7

The jetty structure must be approved prior to Council considering approval of a boat lifting structure. Floating boat lifting structures directly adjacent to a canal wall may be considered where it can be demonstrated that the structure will not place a horizontal surcharge load on the Revetment Wall.

Floating boat lifting structures are preferred for use in canal cul-de-sac heads.

Piles associated with boat lifting structures are located so as not to penetrate any Revetment Wall unless certification is provided by a structural engineer confirming there will be no associated structural impact.

Where the installation of any boat lifting structure is considered to have the potential to adversely impact neighbouring residents, Council will require the Owner to supply written comments from adjoining land owners to assist in Council determining the application.

Jetty Licences

A jetty licence will be refused for renewal in the following circumstances:

- where the owner fails to maintain the structure in a satisfactory condition in accordance with the Gippsland Ports minimum standards or Australian Standard guidelines;
- if the annual licence fee is not paid in full by the due date;
- where the use of the jetty creates a nuisance to the public; and/or
- where the conditions of the licence are not adhered to.

Upon cancellation of a jetty licence, all vessels and built structures in the canal must be removed at the owner's expense.

Changes to existing Jetty Specification

Should a Private Jetty Owner have a need to change the jetty / modify a jetty to suit a new vessel or requirements, these modifications will also require approval and will need to go through the same application and referral process as a new Jetty and meet the guidelines outlines in this policy.

Definitions

Term	Meaning
Council	East Gippsland Shire Council
Gippsland Ports	Appoint port and waterway manager over five local ports and two waterways including the designated port of Gippsland Lakes, principally responsible for administration under the <i>Port Management Act 1995</i> (local ports) and <i>Marine Safety Act 2010</i> . Port and waterway management responsibilities include navigation, port operations, regulation, security and compliance, boating safety, incident management, emergency response, maritime security, oil spill response and salvage and dredging and sand management.
Paynesville Canals	The canal system known as 'Paynesville Canals' formerly referred to as Riviera Harbour including all constructed waterways from Victoria Street to Point Fullerton
Owner	The owner of a lot with water frontage to Paynesville Canals.
Revetment Wall	A permanent structure located along the canal frontage of land.

Paynesville Canals Private Jetty Construction Policy

Date approved:

Document owner: General Manager Assets and Environment

Version number 2:

Next review date TBA:

This document is uncontrolled when printed

8

Navigable Fairway of Paynesville Canals	Area of the canal that must not be encroached upon by any part of structures, mooring poles or moored vessels. The minimum width is 20 metres, but, in some locations, may be required to be wider to facilitate safe navigation.
Private Jetty	A private jetty is for domestic recreational use only. It will typically be constructed by a specialist jetty builder at the request of an Owner.

References and Supporting Documents

Applicable Legislation

East Gippsland Shire Council General Local Law 2017

Applicable Policy and Procedure

East Gippsland Shire Council Compliance Policy
East Gippsland Shire Council Planning Compliance Policy

Supporting Documents

AS/NZS 3000:2007 Electrical Installations
AS/NZS 3004:2002 Electrical Installations – Marinas and Pleasure Craft Low Voltage
AS 3962 Guidelines for Design of Marinas

Revision History and Review

Version Control	Approved Amended Rescinded	Date Effective	Approved By	ECM Document Reference	Summary of Changes
1	Adopted	15/08/1990		108988	Private Jetty Construction
2	Draft	22/02/2022			Full revision of policy and inclusion of guidelines

Paynesville Canals Private Jetty Construction Policy
Date approved:
Document owner: General Manager Assets and Environment

Version number 2:
Next review date TBA:

This document is uncontrolled when printed

9

EAST GIPPSLAND SHIRE COUNCIL

POLICY MANUAL

			<u>POLICY NO.</u> CP 50-60-002
<u>MINUTE BOOK REFERENCES</u>			<u>BRIEF TITLE</u>
<u>DATE</u>	<u>PAGE NO.</u>	<u>DESCRIPTION</u>	PRIVATE JETTY CONSTRUCTION USE WITHIN RIVIERA HARBOURS CANALS - PAYNESVILLE
7/12/88	10331	ADOPTED	
20/9/89	11289	ADOPTED	
15/8/90	12676	AMENDED	
<u>FILE NO.</u> 50-65-0200		<u>OTHER REFERENCES</u>	

1. INTRODUCTION

This policy has been prepared by Council to outline general procedures and minimum construction requirements for the construction of PRIVATE JETTIES within the Riviera Harbours Canal Development at Paynesville. (Jetties for any commercial or industrial use require specific permits related to individual sites and type of use).

2. GENERAL2.1 Council Policy

The Council policy provides that each dwelling on an individual lot shall be entitled to moor two boats at a jetty accessed from the block frontage.

Any flat or duplex unit shall be entitled to moor one boat at a jetty shared with another unit owner on the same site.

Jetties in the canal "courts" or dead ends will be shared jetties between abutting allotments unless it can be demonstrated that adequate manoeuvring space is available to allow for safe docking of boats with individual jetties.

In the Marine Service Industrial Zone and Tourist Commercial Zones the Council will consider any jetty configuration provided that no part of the structure, mooring pole or moored boat shall be allowed to project more than 11 metres into the canal. (From the revetment wall).

Construction standards will be generally identical or greater than for private jetties.

No private jetties will be permitted in the canal system other than those licensed to abutting owners of land with direct canal frontage.

2.2 Procedures

The construction of private jetties shall be in accordance with this policy and shall be subject to the issue of a permit and an annual licence fee fixed by the Shire of Bairnsdale. Applicants shall enter into an agreement with

Council relating to construction, annual licensing and maintenance of jetties. Applications shall include the following: -

- (a) Site plan and construction details of the proposed jetty.
- (b) Application and agreement form.
- (c) Permit fee of \$110.00.
- (d) Annual licence renewable 30 September each year.

3. LOCATION

Jetties shall only be located in a position approved by the Shire Engineer and shall be located and constructed such that no part of the structure lies within four metres of the projection of the side boundaries of the applicant's block. (Including mooring poles).

4. CONSTRUCTION DETAILS

4.1 Jetty Size

Except for a specific case where a variation is considered necessary by Council, all jetties shall be constructed in accordance with Council standard detail and shall be permitted to protrude up to a maximum of 7.0m into the waterway and to contain a maximum length of deck of 10m mooring poles will not be permitted at a greater offset to the shorelines than 3 metres from the face of their appurtenant jetty. In no case shall any part of any structure mooring pole or moored boat be allowed to project more than 11 metres into the canal measured perpendicular to the revetment wall.

4.2 Materials

All piles shall be steel rail, not less than 40 kg/metre (80 lb/yard) used railway rails. Mooring poles shall be timber 250mm diameter at the small end.

All sawn timber used in the jetty structure shall be hardwood species not less than B Grade quality. All bolts and spikes used throughout the structure must be hot dip galvanised finish.

4.3 Surface Treatment

Jetties shall not be painted except that a clear preservative material may be applied. Mooring poles shall be painted white above the water line. (Refer to plan showing fenders and mooring poles).

4.4 Site Protection & Restoration

All beach areas and canal bed disturbed by the construction of jetties shall be reinstated to the satisfaction of the Shire Engineer and any timber off-cuts, or other rubbish must be collected and removed from the site.

Adequate warning signs and lighting shall be attached to the jetty to protect the public during construction.

5. INSPECTIONS

Jetty construction shall be inspected by the Shire Engineer at the following stages:-

- (a) At set out, before construction.
- (b) Following installation of piles.
- (c) Upon completion of jetty prior to return of construction bond.

6. MAINTENANCE

Maintenance of the jetty shall be the sole responsibility of the property owner and shall include all works as requested from time to time by Council.

7. JETTY LICENCE

The Council may cancel any jetty licence or refuse to renew a licence:-

- (a) where the owner fails to maintain the structure in a condition satisfactory to Council;
- (b) where the use of the jetty created a nuisance to the public.

5.3 Business Excellence

5.3.1 Surrender of Bairnsdale Cemetery to the Crown

Authorised by General Manager Business Excellence

Conflict of Interest

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

Executive Summary

Following an audit of Council-owned property titles, it was identified that the Bairnsdale Cemetery was in Council's name.

The Bairnsdale Cemetery (Cemetery) is managed by the Bairnsdale Cemetery Trust (Trust) appointed by the Department of Health (DoH) under the *Cemeteries and Crematoria Act 2003*.

As the Cemetery is managed by the Bairnsdale Cemetery Trust, Council does not have any obligations to maintain the Cemetery, therefore it is proposed that the Cemetery be surrendered to the Crown.

The Cemetery is located at 10 Cemetery Road Bairnsdale. The land on which the Cemetery is located is a conditional Crown grant of land, contained in Certificate of Title Volume 2603 Folio 244, being Crown Allotments 19C Section B and 19D Section B, Town of Bairnsdale, Parish of Bairnsdale (**Attachment 1**).

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report;***
- 2. determines that the property known as the Bairnsdale Cemetery located at 10 Cemetery Road Bairnsdale be surrendered to the Crown for no consideration, in accordance with the provisions of section 116 of the Local Government Act 2020; and***
- 3. authorises the Chief Executive Officer to undertake the necessary procedural requirements and to sign any relevant documentation to effect the transfer of the property known as the Bairnsdale Cemetery to the Crown.***

Background

The original town cemetery was ruined in the 1870s following floods in Bairnsdale. The Cemetery was then established in 1887 on the allocated parcel of land, being Crown Allotment 19, section B, with additional land added in 1888, being Crown Allotment 19C, section B. Both parcels of land are permanently reserved as a site for a cemetery **(Identified as 'A' and 'B' on Attachment 2)**.

A Crown grant was issued to the Shire of Bairnsdale as Trustee over both parcels of land. As Council is not performing this role as Trustee of the Cemetery, and the Trust, appointed by DoH is fulfilling this role, Council is not complying with the conditions of the Crown grant. The Trust is overseen by DoH, with the Trust providing annual reports to the DoH. If DoH becomes aware that a Trust Member has or is resigning or has passed away, the DoH acts on behalf of the Trust and advertises for new members and appoints the member to the Trust. Members of the Trust are appointed for five years and can reapply to remain on the Trust at the end of their term. The Trust currently has six active members.

The Cemetery is immaculately kept by the Trust, which was established in the 1990s to manage the site. The Cemetery is home to all denominations as well as housing a Chinese section and a War Cemetery. The Cemetery also holds the remains of Alfred Howitt who was one of the region's most notable citizens having been dispatched to search for Burke and Wills and being appointed as the magistrate for Omeo.

The Cemetery also has an additional parcel of land on the northern side of the Cemetery. This additional area of the Cemetery is vested in the Crown for the purpose of a public cemetery or burial ground, with the DoH appointed manager **(Identified as 'C' on Attachment 2)**.

Upon surrender of the Crown grant for the Cemetery the land will remain permanently reserved for the site of a cemetery. The Department of Environment, Land, Water and Planning will formally appoint DoH as the managers of the Cemetery and the Trust will continue to maintain and operate the Cemetery.

The Cemetery is managed under the *Cemeteries and Crematoria Act 2003* and the *Cemeteries and Crematoria Regulations 2015* by the Cemetery Sector Governance Support unit of DoH. Council do not have any role to play in the management of the Cemetery or other cemeteries within the Shire. This is the only Cemetery in the Shire where the title remains in Council's name.

The access to the Cemetery along Cemetery Road Bairnsdale is a Council managed road and is on the public road register. Council will retain management of Cemetery Road. There is also a public convenience located within the road reserve of Cemetery Road and Council will continue to maintain this public convenience.

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 section 116 of the new Act.

Land can be transferred or exchanged without consideration under section 116 of the new Act. Section 116(3) of the new Act provides that section 114 *Restriction on power to sell land* and section 115 *Lease of Land* do not apply when land is being transferred or exchanged under section 116. In accordance with the provisions of this section, Council would not be required to undertake community engagement to give public notice of the proposed transfer or obtain a market valuation prior to transfer.

The *Cemeteries and Crematoria Act 2003* (CCA) has been considered in the preparation of this report as the purpose of the CCA is to provide for the management and operation of cemeteries and crematoria.

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*.

In preparing this report the Victorian Gender Equality Act 2020 has been considered. The implications of the report have been assessed and are compliant with the obligations and principles of the Gender Equality Act.

Collaborative procurement

There are no aspects of this report that require entering into a procurement agreement and therefore external collaboration has not been required.

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: 5.2 Strong relationships with government, partners and stakeholders are maintained and strengthened to advocate for the community.

Council Policy

Under the current Sale of Council-owned Land Policy, all sales, exchanges and transfers of Council-owned land must comply with the provisions of the *Local Government Act 2020*.

Options

As Council is not currently complying with the conditions of the Crown grant for the Cemetery, but rather this function is being undertaken by the Trust, and to resolve this anomaly, the best outcome for Council is to surrender the Cemetery to the Crown, therefore no other options were considered.

Resourcing

Financial

There would be no financial implications for Council in surrendering the land to the Crown, as Council do not maintain the Cemetery.

The Trust is wholly self-funded from the sale of services i.e. burials, plaque sales and so forth. The Trust is also able to apply for grants from the DoH to undertake works at the Cemetery. Council do not contribute any funding to the operation and management of the Cemetery.

Plant and equipment

There are no plant and equipment requirements associated with this report.

Human Resources

The surrendering of the land that the Cemetery is located on to the Crown does not require any additional resources.

Risk

The risks of this proposal have been considered and determined that there is no risk to Council in surrendering this land to the Crown.

Economic

There are no economic benefits to Council or the community of Bairnsdale in surrendering the land to the Crown. The Trust will continue operating the Cemetery and members of the public will not notice any change in the management of the Cemetery.

Social

There are no social impact implications associated with this report.

Gender Impact Statement

The Surrender of Land – Bairnsdale Cemetery report has considered the *Gender Equality Act 2020* in its preparation but is not relevant to its content. The Surrender of Land – Bairnsdale Cemetery report has been assessed as not requiring a Gender Impact Assessment (GIA)

Environmental

There are no environmental implications associated with the report. The management of the Cemetery is undertaken in accordance with the *Cemeteries and Crematoria Act 2003* with the Cemetery Sector Governance Support managing the Trust to ensure that all statutory obligations are met.

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

Under section 116(3) of the new Act, community engagement to give public notice of the proposed surrender of the Crown grant for the Cemetery is not required.

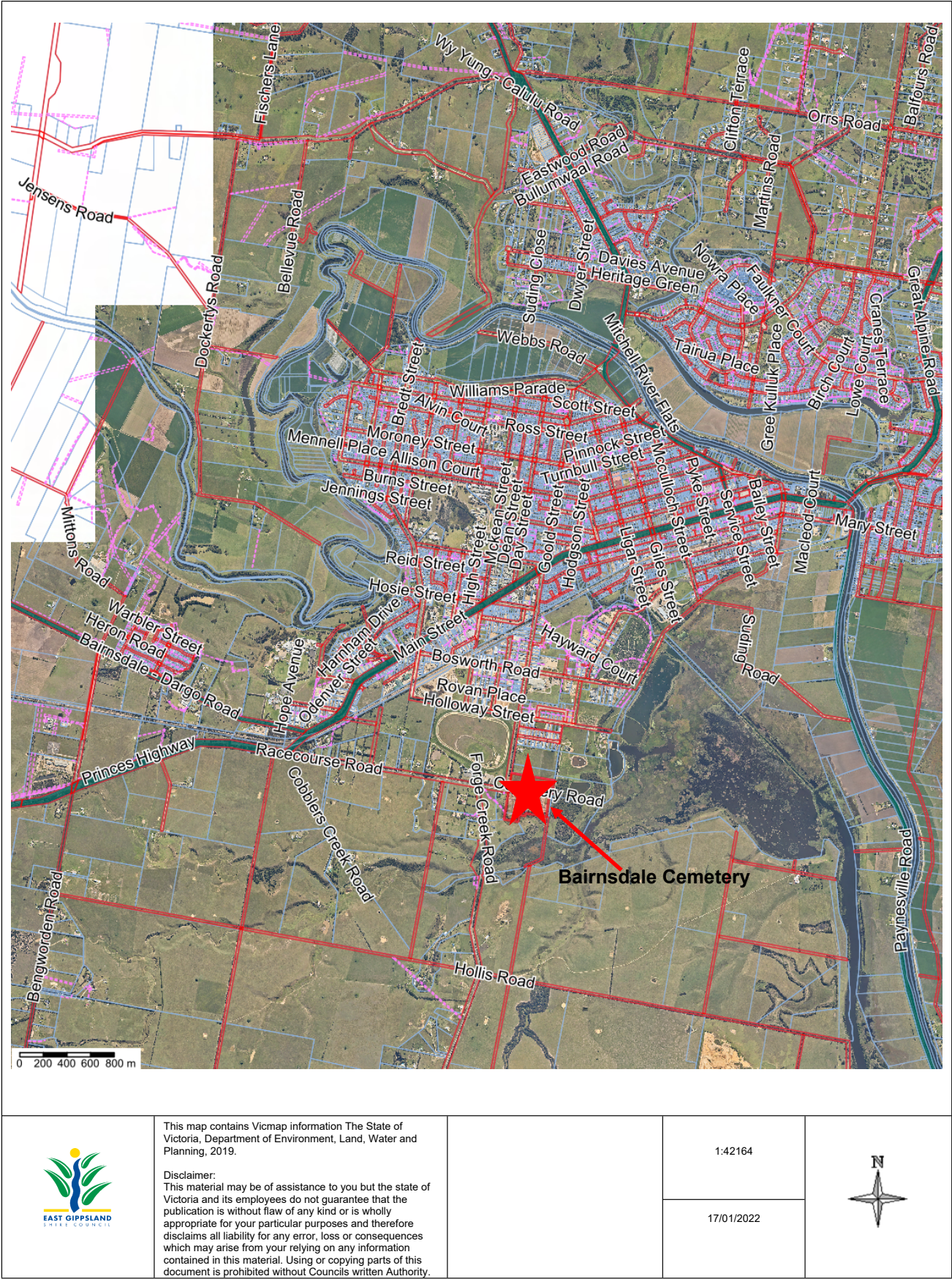
Liaison with the Senior Policy Officer Cemetery Sector Governance Support Program, DoH has been undertaken to ensure the surrender of the land is consistent with the *Cemeteries and Crematoria Act 2003*.

Council officers have also been consulted in the preparation of this report.

Attachments

1. Attachment 1 Bairnsdale Cemetery Location Plan [**5.3.1.1** - 1 page]
2. Attachment 2 Bairnsdale Cemetery Site Plan [**5.3.1.2** - 1 page]

Attachment A – Location Plan





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.

17/01/2022



5.3.2 School Crossing Supervision Program Funding

Authorised by General Manager Business Excellence

Conflict of Interest

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

Executive Summary

The School Crossing Supervision program was introduced during the 1970s under a joint funding arrangement between the Victorian Government, through the Department of Transport, and Councils. Through this program, Councils apply for and receive a subsidy from the State on an annual basis, with no guarantee in either the amount of subsidy received nor its continuation year on year.

School crossings are eligible for subsidy under this scheme if warrant requirements are met or special circumstances exist.

In addition to the staffing of the crossing, councils are also responsible for the maintenance of the crossing and associated infrastructure, when they are located on a council controlled road.

East Gippsland Shire currently employs 23 School Crossing Supervisors to staff 16 school crossings across the municipality, with two additional school crossings to be added during the 2022 school year.

Of these 18 school crossings, nine receive subsidy on the basis that the warrant requirements are met, the remaining nine are funded based on special circumstances.

Council will receive a subsidy of \$98,720 this financial year, with a forecast total expenditure of \$237,000 and net cost to Council of \$138,280. This equates to a 42% subsidy which is consistent with the five-year average of 41%. The variance in the cost of providing the service and the subsidy received from the State Government continues to increase and this is predicted to continue in future years.

Numerous other Victorian councils are either currently, or have previously, undertaken a review of their school crossing programs on the basis that the service is the responsibility of the State Government and that it should not continue to be subsidised by local ratepayers to the level which it currently is. The outcome of these reviews range from responsibility for school crossings being handed back to the State and individual schools to manage, to further sector wide advocacy for increased funding allocations to local government.

Multiple options were considered in the development of this report, including continuing service provision under the current funding arrangement, withdrawing from providing the service and returning responsibility to the State, and undertaking immediate action via advocating to the relevant Minister and the Municipal Association of Victoria (MAV) for increased funding and the creation of an alternate funding model.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report;**
- 2. writes to the Hon Ben Carroll MP, Minister for Roads and Road Safety:**
 - a. outlining its concerns over the increasing use of rate payer funds to provide the supervision and maintenance of school crossings, a service that relates to the provision of education which is a State Government responsibility;**
 - b. seeking an urgent review of subsidy allocations to Victorian Councils under the School Crossing Supervision program to ensure that a minimum 50/50 funding split is achieved ahead of the 2022/23 financial year;**
 - c. requesting the State Government develop an alternate operating model which removes the reliance on rate payer funds to supervise school crossings.**
- 3. writes to the Municipal Association of Victoria (MAV) requesting that the inadequate funding Councils receive under the School Crossing Supervision program be addressed as a sector wide issue.**

Background

East Gippsland Shire currently employs 23 School Crossing Supervisors to staff 16 school crossings across the municipality, with two additional school crossings to be added during the 2022 school year.

A joint funding arrangement, dating back to the 1970s, exists between local councils and the Victorian Government. Through this program, Council's apply for and receive a subsidy from the State on an annual basis, with no guarantee in either the amount of subsidy received nor its continuation year on year. Under the current funding agreement, the State contributes 42% of the total expenditure, with the remaining 58% funded by Council. In 2021/22, this results in a forecast net cost to Council in excess of \$138,000.

School crossings are eligible for subsidy under this scheme if warrant requirements are met or special circumstances exist.

Of Council's 18 school crossings, nine receive subsidy on the basis that the warrant requirements are met, the remaining nine are funded based on special circumstances. Details of these school crossings is shown in **Attachment 1**.

In addition to the staffing of these school crossings, Council is also responsible for the provision and maintenance of the crossing infrastructure, including marker posts, warning flags, line marking, and other civil works.

As a result of rising costs and restrictions placed on councils via rate capping, a number of Victorian councils have previously, or are currently, reviewing their provision of the school crossing service. Most recently, these councils included Southern Grampians Shire, which has resolved to return the responsibility for school crossing supervision back to the Department of Transport, and City of Monash, which is currently reviewing their service delivery and seeking sector wide advocacy for a renewed funding model.

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.

Section 205 of the *Local Government Act 1989* requires that Council has the care and management of municipal roads within its responsibility.

Section 40 of the *Road Management Act 2004* places a statutory duty on Council to inspect, maintain and repair public roads, including road-related infrastructure, for which it is responsible.

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

Pursuant of section 109(2) of the *Local Government Act 2020*, this report has not been prepared in collaboration with any external party.

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 does not currently have an adopted policy or position on the provision of school crossings within the municipality.

The Road Management Plan 2021 provides guidance relating to the maintenance and upkeep of the crossings.

Options

Option 1: Maintain Current Arrangements (Not Preferred)

Under this option Council will continue to bear the increasing financial cost of providing this service. This is not a financially sustainable long-term option for Council when the onus to provide sufficient funding should sit with the State Government.

Option 2: Return Responsibility Back to the State Government (Not Preferred)

The adoption of this option would require a significant level of consultation and engagement with the various stakeholders. At this point in time, this level of consultation has not been undertaken and as such this option is not preferred in the immediate short term.

Option 3: Advocate for Review of Funding Arrangements whilst Undertaking Further Investigations (Preferred)

Option 3 involves taking the immediate steps of writing to the responsible Government Minister requesting an urgent review of Council's funding allocation so that at a minimum a 50/50 funding split is achieved and also advocating for a new funding model be developed.

To ensure a sector wide approach to the matter, MAV will also be engaged via a request that they advocate for change on behalf of the sector.

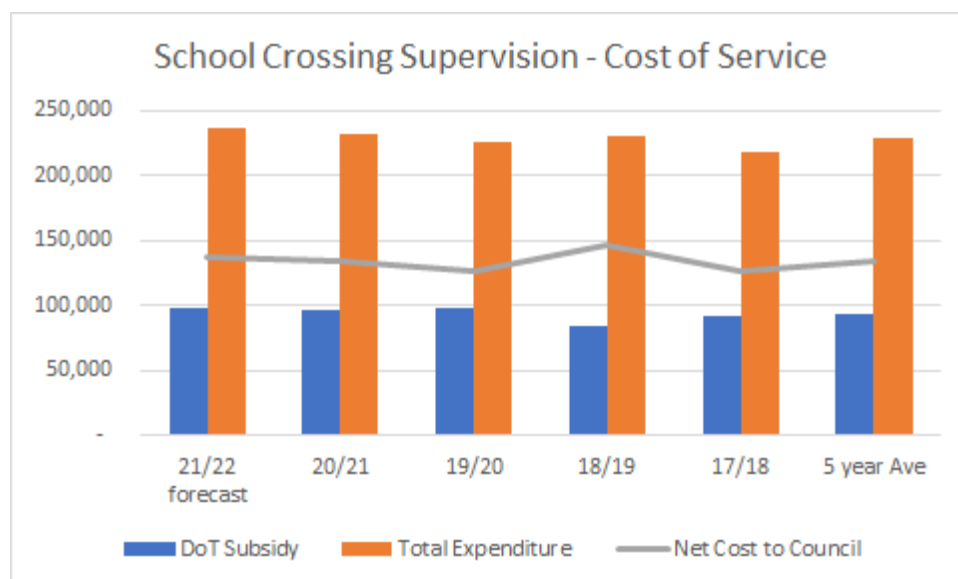
In addition to the above two actions, Officers will also continue to under a detailed review of school crossing operations ahead of funding submissions for the 2022/23 financial year. This will include the collection of detailed pedestrian and vehicle counts at each crossing during Term 1 2022.

This is the preferred option as it can be implemented immediately.

Resourcing

Financial

Under the current School Crossing Supervision program funding allocations, Council is responsible for approximately 60% of the annual operating cost to staff the crossings. This 60/40 funding split has been remained largely unchanged over the previous five years. In dollar terms, the average net cost to Council over the past five years to provide this service is over \$134,000 per annum.



Plant and equipment

This report does not require an increase to existing plant and equipment.

Human Resources

Council employs 23 School Crossing Supervisors. These employees are predominately engaged on permanent, part time contracts, with a small number employed on a casual basis to act as relief supervisors.

This report does not seek to alter any employment contracts of current staff.

Risk

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

A key risk for consideration is the annual nature of the subsidy program as this does not guarantee an annual allocation to Council into perpetuity. This is particular risk for those school crossings funded under Special Consideration. Removal of this classification would result in Council potentially needing to either close the crossing or fund 100% of its operation.

Economic

This Council report is likely to have little to no impact on the East Gippsland Shire economy.

Social

The provision of supervised school crossings is a key factor in providing children with safe access to school. As a consequence of providing this service, Council also helps promote and facilitate active transport options within the community.

This report does not propose the closure of any current school crossings within the municipality.

Environmental

This Council report is likely to have little to no environmental impact.

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

No engagement has been undertaken in the preparation of this report.

Attachments

1. EGSC School Crossing Locations [5.3.2.1 - 1 page]

East Gippsland Shire Council Funded School Crossing Locations		
Location	Reason for Funding	Road Ownership
Princes Hwy, Lucknow	Special Consideration	DoT
Main Street, Bairnsdale	Special Consideration	DoT
Nicholson Street, Bairnsdale	Funding Warrant Met	EGSC
Wallace Street, Bairnsdale	Funding Warrant Met	EGSC
McKean Street, Bairnsdale	Funding Warrant Met	EGSC
Balmoral Cres Eastwood	Funding Warrant Met	EGSC
Howitt Ave Eastwood	Funding Warrant Met	EGSC
Lawless Street	Funding Warrant Met	EGSC
Main Rd Paynesville	Funding Warrant Met	DoT
Princes Hwy, Nicholson	Special Consideration	DoT
Myer Street, Lakes Entrance	Funding Warrant Met	EGSC
Princes Hwy, Lakes Entrance	Funding Warrant Met	DoT
School St Lakes Entrance	Special Consideration	EGSC
Mill Point Rd Toorloo Arm	Special Consideration	EGSC
Great Alpine Road, Swifts Creek	Special Consideration	DoT
Day Avenue, Omeo	Special Consideration	DoT
Buchan Orbost Road, Buchan	Special Consideration	EGSC
Stirling Road, Metung	Special Consideration	EGSC

Conflict of Interest

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

Executive Summary

This report provides a summary of major initiatives, actions and strategic indicators listed in the Annual Action Plan 2021-22 covering the reporting period 1 October to 31 December 2021 (Quarter 2). The actions and strategic indicators are listed under the Council Plan Strategies they contribute to. The Council Plan Progress Report – Quarter Two 2021-22 Period ending 31 December 2021 is provided at **Attachment 1**.

The Annual Action Plan identifies 10 major initiatives that represent significant, high priority activities that will require substantial time and resources to deliver. They are important to achieving the strategic objectives in the Council Plan. For Quarter 2, Nine of the 10 major initiatives are on schedule, with the remaining one behind schedule. An update of the status of each major initiative is:

- Major initiative 1 - The Creative Arts and Culture Strategy is behind schedule as it has not commenced due to resourcing constraints.
- Major initiative 2 - The main components of the asset management framework are Asset Management Plans, which have commenced development.
- Major initiative 3 - Work commenced and is on schedule on the development of Asset Management Plans for seven of Council's main asset classes. This will lead to the development of high-level maintenance service standards.
- Major initiative 4 - The updated Municipal Emergency Management Plan has been completed and is being audited.
- Major initiative 5 – The Draft Environmental Sustainability Strategy 2021-2030 has been prepared and ready for community consultation.
- Major initiative 6 – A final draft of the Waste Minimisation Action Plan has been developed and is being reviewed internally.
- Major initiative 7 - Development of the Economic Development Strategy is progressing, with internal stakeholder consultation complete.
- Major initiative 8 – Now that the East Gippsland Events Growth Action Plan has been adopted by Council, the Tourism Events Strategy can be further progressed.
- Major initiative 9 – Implementing the Customer Service Strategy is on schedule with the Complaints Management Policy and related procedure being updated, an updated after-hours call service and a review of Council's customer service has commenced.
- Major initiative 10 – The community engagement toolkit is progressing, with a range of community engagement documents completed and available for Council officers when conducting any form of engagement with the community.

Officer Recommendation

That Council receives and notes this report and all attachments pertaining to this report.

Background

The attached report, refer **Attachment 1**, covers the reporting period 1 October to 31 December 2021 (Quarter 2) and provides a high-level summary of major initiatives and actions listed in the Annual Action Plan 2021-22. The actions and strategic indicators are listed under the Council Plan Strategies they contribute to.

This report has been created directly from General Managers and Managers, who provide quarterly updates on their actions that contribute to achieving the strategies of the Council Plan. Councillors are presented with these reports following the end of each quarter at a Council Meeting.

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, 18 (1)(d) section from the Act; The role of the Mayor is to report to the municipal community, at least once each year, on the implementation of the Council Plan.

By developing quarterly reporting Council is undertaking best practice in reporting to the community on the progress of implementing the Council Plan.

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*.

In preparing this report the Victorian *Gender Equality Act 2020* has been considered. The implications of the report have been assessed and are compliant with the obligations and principles of the *Gender Equality Act*. The need for a Gender Impact Assessment has also been assessed.

Collaborative procurement

Pursuant of section 109(2) of the *Local Government Act 2020*, this report has not been prepared in collaboration with any external party.

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

Not applicable

Options

No options available

Resourcing

Financial

Not applicable

Plant and equipment

Not applicable

Human Resources

Not applicable

Risk

The risks of this proposal have been considered and were managed accordingly.

Economic

Not applicable

Social

Not applicable

Gender Impact Statement

The Council Plan Progress Report has considered the *Gender Equality Act 2020* in its preparation. The Council Plan Progress Report has been assessed as not requiring a Gender Impact Assessment (GIA).

Environmental

Not applicable

Climate change

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

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.

Engagement

This report will be provided to the community following Council review. This will be made available on Council's website and promoted through social media channels.

Attachments

1. Quarter 2 - 2021-22 Council Plan Progress Report [5.3.3.1 - 37 pages]



Council Plan Progress Report – Quarter Two 2021-22

Period ending 31 December 2021

Contents

Major Initiatives	3
1. An inclusive and caring community that respects and celebrates diversity	4
2. Planning and infrastructure that enriches the environment, lifestyle, and character of our communities	12
3. A natural environment that is managed and enhanced	18
4. A thriving and diverse economy that attracts investment and generates inclusive local employment	23
5. A transparent organisation that listens and delivers effective, engaging, and responsive services	31

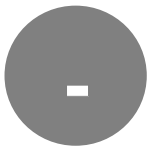


Major Initiatives

Status of major initiatives

Council identified 10 major initiatives for 2021-22. Major initiatives are high priority activities from the Council Plan that will require substantial time and resources to deliver.

Overall progress against these initiatives is summarised below.



Not commenced

Activity has not started for this initiative. It is scheduled to commence later in the year or a previous initiative needs to be finalised before it can commence.



Behind schedule

Progress is not as expected but action is being/has been undertaken and is expected to get back on track.



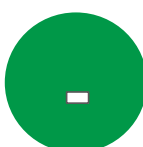
On hold

Progress has been placed on hold.



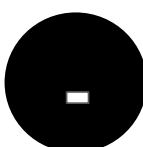
On schedule

Progress is on schedule



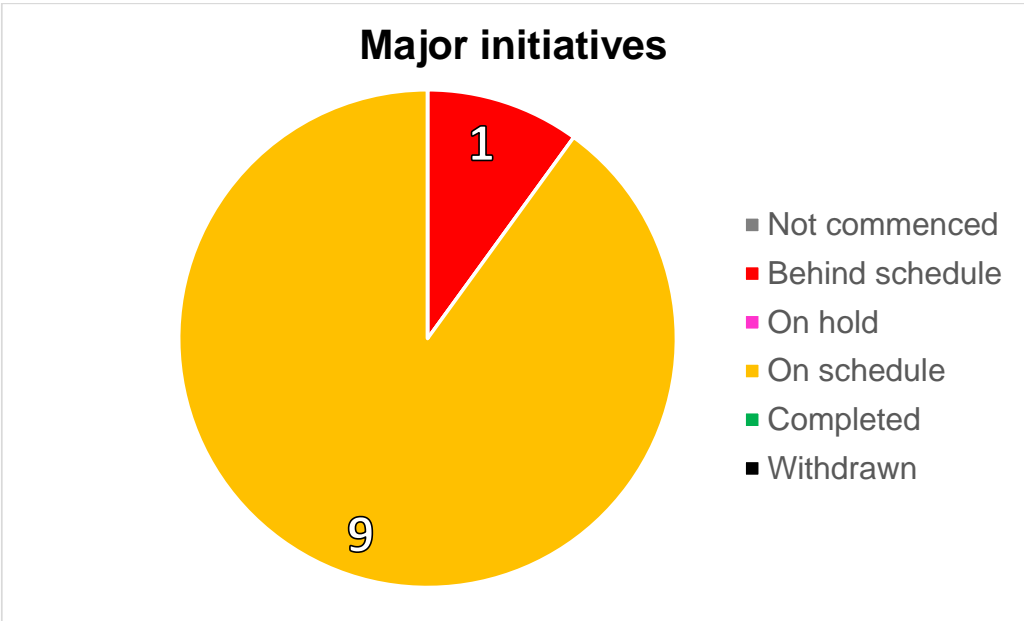
Completed

Activity or project is fully completed



Withdrawn

Activity is no longer a focus and has been withdrawn.







The Corporate Centre in Bairnsdale was lit up orange in support of the 16 Days of Activism.

1 An inclusive and caring community that respects and celebrates diversity

1.1: Council strives to provide equitable access to their services, support and facilities

Code	Action Name	Comments	Progress	Status
1.1.1	Universal access principles are applied to all infrastructure construction and upgrades	Project management software and project design includes hold points for assessing universal access. These hold points and investigations were applied to multiple projects during the quarter.	25%	
1.1.2	More deliberate use of an evidence-informed approach and identifying community need prior to development of any service or infrastructure in place including Place Plans	Community engagement was undertaken for the Municipal Public Health and Wellbeing Plan. There is increased use of Informed Decisions website to gather a demographic analysis of place based on results from the Census. Results include population, age structure, ethnicity, ancestry, religion, income, qualifications, occupations, employment, unemployment, disability, disadvantage, volunteering, childcare, family structure, household structure, housing tenure, mortgage and rental payments, and the size and type of the dwellings people live in. This has informed the Municipal Public Health and Wellbeing Plan.	50%	

Strategic Indicators


Name	Comments	Year to date result	Target
Develop a way to capture data that can be used to report on this strategy	<p>A collective reporting platform is being reviewed for initiatives presented to advisory committees for review and accessibility feedback initiative through Council Website.</p> <p>Council staff have been engaged in development of a gender equity service and program audit template and policy that will be used to reduce identified impacts and increase accessibility.</p> <p>AAA Accessibility training and accreditation has been recommended for identified staff and critical partners to build capacity to be able to undertake facilities audits and program recommendations.</p> <p>Accessibility training has been made available to all staff through Council's online learning system. There are specific modules for recreation centre staff to meet their unique service needs.</p> <p>The Disability Advisory Committee has been involved in the development and implementation of an Events Accessibility</p>	-	Achieved year 1

Progress Indicator Legend

 - Not commenced
  - Behind schedule
  - On hold
  - On schedule
  - Completed
  - Withdrawn

Name	Comments	Year to date result	Target
	Checklist to review and recommend inclusions into Council's inclusive events guidance materials.		
Community satisfaction with recreational facilities	Survey results will be made available later in 2022	-	≥ Large Rural Council average







1.2: Collaboration with key stakeholders fosters the cultural, arts and creative communities for all activities Council has facilitated or financially contributed to

Code	Action Name	Comments	Progress	Status
1.2.1	Provide arts and cultural services and experiences that encourages connection and creativity, while supporting businesses, community groups and individuals to foster the creative, cultural and artistic life of the region regardless of age or ability	<p>The development of the Arts and Culture Strategy is yet to commence, however officers continue to support cultural services and experiences through funding and grant opportunities, installation of public art and operation of the Forge Theatre.</p> <p>After a prolonged closure due to COVID-19 restrictions the Forge Theatre reopened late November with 999 attendees to seven performances.</p> <p>New public art was also installed in the Nicholson Street Mall and Bailey Street during the quarter.</p>	10%	
Major initiative 1	Develop an arts and culture strategy	Development of the strategy is yet to commence due to resourcing and changes to the internal structure. However, officers continue to support cultural services and experiences through funding and grant opportunities, installation of public art and operation of the Forge Theatre.	0%	

Strategic Indicators





Name	Comments	Year to date result	Target
Number of community organisations / individuals funded through Council's arts and heritage grants program	Eight projects funded in round one.	8	≥ Nine annually
Number of community organisations / individuals funded through Council's community grants program	11 projects were funded in round one.	11	≥ 25 annually
Total value of arts and heritage grants projects funded by Council	Council funded \$26,000 and the total value of the projects investment was \$193,099.	\$26,000	> \$45,000 annually

Progress Indicator Legend

 - Not commenced
  - Behind schedule
  - On hold
  - On schedule
  - Completed
  - Withdrawn

Name	Comments	Year to date result	Target
Total value of community grants projects funded by Council	Council approved \$45,696 in funding to community projects.	\$45,696	> \$100,000 annually

1.3: Community groups and volunteers are acknowledged, promoted and supported

Code	Action Name	Comments	Progress	Status
1.3.1	Plan and deliver an annual celebration to recognise the contribution of volunteers across the Shire	Preparation for this event will commence in Quarter 3 for it to be delivered later in 2022.	0%	
1.3.2	Develop an appropriate recruitment, training and management system for internal volunteers	Not commenced.	0%	
1.3.3	Improve the online customer experience to enable access to current information about the wide range of community groups and activities, services that is accessible to the public	Council is reviewing an online 'My Community' platform that will enable health, community and not for profit organisations to utilise, advertise and promote opportunities for community groups, events, volunteering and community participation activities across the shire. Positive features of the three-suite program is that individuals, groups and organisations upload and maintain their own contact details and content, have the ability to filter weekly update summaries to only include areas of interest and can join or create networks with other users which eliminates the complexities of sharing direct contact details and reduces email traffic.	50%	
1.3.4	Implementation of an online platform that supports the promotion of volunteer opportunities and events across the shire	An online 'My Community' platform will support the promotion of volunteer opportunities and events. Until this platform is implemented, work has commenced on setting up a volunteer page on Council's website. It is intended that this page will promote Council volunteer opportunities in areas such as Visitor Information Centres, Friends of the Library, Disability Advisory Committee, Youth and Aged Ambassador, FReeZA and have links to external search platforms. Capacity building opportunities such as training and accreditation events and dates will also be advertised here.	40%	




Progress Indicator Legend

 - Not commenced
  - Behind schedule
  - On hold
  - On schedule
  - Completed
  - Withdrawn





Strategic Indicators

Name	Comments	Year to date result	Target
Develop a survey to capture community group satisfaction with Council support	Not commenced due to limited capacity of both officers and community groups.	-	Achieved year 1
Number of events held that recognise and support volunteers	<p>An online thank you event was held in recognition of Council advisory committees - Disability Advisory Committee, Youth Ambassadors and Aged Ambassadors.</p> <p>There was also end of year celebration included for external FReeZA partners in a karaoke event in Swifts Creek Hang Out in collaboration with Omeo and District Regional Health.</p>	Three	≥ Five events annually

1.4: Through targeted services, partnerships and advocacy, communities enjoy strong mental and physical health, well-being and resilience

Code	Action Name	Comments	Progress	Status
1.4.1	Develop the Municipal Public Health and Wellbeing Plan 2021-25 and associated action plan	<p>The feedback received through community engagement has been collated and will be used to inform the future development of the Municipal Public Health and Wellbeing Plan.</p> <p>Council endorsed the Municipal Public Health and Wellbeing Plan framework and municipal scan in December 2021.</p>	50%	
1.4.2	Work with communities and partners to support development of local bushfire recovery plans	The second half of 2021 has seen progress in the development of recovery planning or priority actions. Different communities are at different stages of their planning, but there is a commitment to identify actions for community recovery.	50%	
1.4.3	Coordinate bushfire recovery planning at a municipal level	<p>Following the end of ongoing Recovery Committee meetings in September, Council and Bushfire Recovery Victoria continue to meet and monitor progress of recovery actions to identify needs, issues and risks.</p> <p>A working group has been established to commence a formal recovery needs assessment for social and wellbeing to inform future planning into 2022.</p>	50%	



Progress Indicator Legend

 - Not commenced
  - Behind schedule
  - On hold
  - On schedule
  - Completed
  - Withdrawn





Strategic Indicators

Name	Comments	Year to date result	Target
Develop health and wellbeing indicators through the development of the Municipal Public Health and Wellbeing Plan that integrate with the Council Plan	Health and wellbeing indicators will be developed through later stages of the plan's development.	-	Achieved year 1

1.5: Strong working relationships are further developed with Aboriginal people and organisations

Code	Action Name	Comments	Progress	Status
1.5.1	Work with our partners to develop appropriate agreements and actions to strengthen working relations with traditional owners and the broader aboriginal community	<p>Council has engaged with community leaders and organisations to promote increased cultural awareness and engagement in Council's work.</p> <p>Officers have informed and provided documented support for recent funding applications by Aboriginal healing service for their healing hearts project.</p> <p>Work has commenced with GLaWAC to develop youth specific cultural awareness training for delivery in 2022.</p>	50%	
1.5.2	Identify appropriate and effective collaboration opportunities to strengthen working relationships with Aboriginal communities and organisations	<p>Relationships and ongoing conversations were held to build elements into Council's Australia Day Awards event. The event site at Nowa Nowa was chosen as it is recognised as community gathering place with significant connection for First Nations community. The Aboriginal flag will be presented with the Australian Flag on the ceremonial flagpole and event bunting will include Aboriginal, Torres Strait Island and Australian flags. Aunty Sandra Patten will deliver a Welcome to Country with Uncle Lennie Hayes. Aunty Sandra and her daughter Alice have also been invited to attend the citizenship ceremony on 26 January to deliver the Welcome to Country, which will be a significant milestone.</p>	50%	


Progress Indicator Legend

 - Not commenced
  - Behind schedule
  - On hold
  - On schedule
  - Completed
  - Withdrawn







Strategic Indicators


Name	Comments	Year to date result	Target
Develop an action plan that promotes and facilitates positive relationships between Council, the East Gippsland community and Aboriginal and Torres Strait Islander peoples.	A collective social plan for reconciliation, youth, disability and social inclusion is being considered. This plan will have shared values, actions and identified individual measures. Research into an appropriate local consultant/s to undertake consultation and development components has been undertaken.	-	Achieved year 1
Percentage of new employees who participate in Culture Awareness training	All new staff had access to this training through a dedicated Cultural Awareness and Safety Training session in July, or Corporate Induction through the presentation of the Cultural Awareness video.	63.33%	100%

1.6: Council is culturally and linguistically inclusive and celebrates diversity

Code	Action Name	Comments	Progress	Status
1.6.1	Develop an evaluation process to verify inclusive and accessible features of Council programs	Disability Advisory Committee, Youth Ambassadors and Aged Ambassadors have been presented with existing and new Council initiatives and projects to review accessibility and inclusion features. The committees provide recommendations and consult on improvements or viability in a safe and confidential environment. Recommendations were made to establish a process for presentation and identification of Council's key capital projects for Disability Advisory Committee to review has been trialed. High level accredited accessible audit training has been investigated and is proposed to include Council staff, partners and recommended community members, such as representatives from Disability Advisory Committee and youth and aged committees.	30%	

Progress Indicator Legend





 - Not commenced
  - Behind schedule
  - On hold
  - On schedule
  - Completed
  - Withdrawn

Code	Action Name	Comments	Progress	Status
1.6.2	Undertake research to better understand the needs of different groups, and plan to incorporate these into Council's activities and services	<p>As part of the VicHealth Local Government Project, consultation has occurred with a group of young people to develop a systems mapping, focusing on health and wellbeing issues of children and young people. This includes a review and developing recommendations of actions as part of the Municipal Public Health and Wellbeing Plan action plan objectives.</p> <p>Planning has commenced for a series of workshops to be delivered to the wider youth community in 2022, which will be led by youth peers and will influence place-based approach and solutions.</p> <p>Council's gender equity initiatives' and working group are assisting with the development of Council's Gender Equity action plan, facilitating relationship and guidance through prevention of violence networks and lead organisations such as Gippsland Woman's Health.</p>	40%	

Strategic Indicators

Name	Comments	Year to date result	Target
The number of multicultural events supported by Council	Due to COVID-19 restrictions many established groups are not delivering events and activities in the traditional way, so creating a baseline at this stage is not viable. It is hoped in 2022 that scheduling of events can increase in a COVID safe way and Council and our multicultural community can come together to deliver activities and events.	-	Baseline to be developed Year 1
The number of multicultural people / groups engaging with Council	Council has supported Together Gippsland group and established working relationship with the East Gippsland Asylum Seekers group.	-	Baseline to be developed Year 1

Progress Indicator Legend




 - Not commenced
  - Behind schedule
  - On hold
  - On schedule
  - Completed
  - Withdrawn



Council was involved in the Cann Be Ready Day, an all-services expo with a focus on emergency preparedness in Cann River. Pictured: Tim Davidson (Emergency Management Officer), Shane Turner (Emergency Management Coordinator) and Mayor Cr Mark Reeves.

2 Planning and infrastructure that enriches the environment, lifestyle, and character of our communities

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

Code	Action Name	Comments	Progress	Status
2.1.1	Deliver rebuilding support for landholders that lost a house and/or sheds in the 2019-20 Black Summer Bushfire	<p>Significant work continues in support of landowners rebuilding dwellings and other buildings lost in the fires. An analysis has been undertaken to understand where each rebuild is up to, enabling targeted communication and support.</p> <p>Rebuilding continues, albeit slowly and impacted by COVID-19. Barriers in the capacity of the building sector are being investigated, with a view to determining whether there are options to specifically support bushfire recovery in the context of the broader sector challenges.</p> <p>Officers supported the Rebuilding Expo held in December 2021 in Sarsfield.</p>	60%	
2.1.2	Deliver Statutory Planning services that meet the Victorian target guidelines	<p>Applications outstanding more than 60 days have been reduced. The applications submitted in the reporting period continue to exceed historic levels.</p> <p>Service targets are unlikely to be met until June 2022.</p>	25%	
2.1.3	Develop and commence implementation of the Rural Land Use Strategy and associated action plan	<p>The Rural Land Use Strategy was prepared and released for community consultation. The community feedback received is being collated and leading to additional updating of data. The Councillors were presented with the outcomes of public consultation process.</p> <p>A brief has been prepared for rural living land supply/demand assessment.</p>	50%	

Strategic Indicators




Name	Comments	Year to date result	Target
Community satisfaction with building and planning	Survey results will be made available later in 2022	-	≥ Large Rural Council average
Council planning decisions upheld at VCAT	Council had two decisions reviewed at VCAT for the period, with one being upheld and the other was overturned.	50%	≥ 60%
Planning applications decided within required time frames	Council continues to work through a backlog of applications, with priority placed on older applications to get them out of the system. Until the backlog is gone, performance in this area will continue to be below expectation.	39%	≥ 77.5%

Progress Indicator Legend







 - Not commenced
  - Behind schedule
  - On hold
  - On schedule
  - Completed
  - Withdrawn



Name	Comments	Year to date result	Target
Average time taken to decide planning applications	Council continues to work through a backlog of applications, with priority placed on older applications to get them out of the system. Until the backlog is gone, performance in this area will continue to be below expectation.	94 days	< 61 days

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

Code	Action Name	Comments	Progress	Status
2.2.1	Work with community and stakeholders to plan, design, implement and maintain infrastructure to meet community needs in an affordable way	<p>Three streetscape projects are currently in planning phase, which has seen significant community engagement on the design. The engagement activities include working with project reference groups and face-to-face engagement sessions with communities in Buchan and Mallacoota.</p> <p>Online engagement was also undertaken using Council's YourSay platform on a range of projects. These included: Bairnsdale City Oval (Peppercorn Park Oval and female friendly changeroom upgrade); Eastwood Playspace; and Paynesville Progress Jetty precinct.</p> <p>Council's website was also enhanced to provide better access to our project pages featured in YourSay.</p>	50%	
2.2.2	Develop and implement a strategic approach to planning and prioritising capital infrastructure management and maintenance, with criteria for prioritisation, balancing communities needs with financial sustainability	There was significant focus on building the 2022-23 Capital Program. This program has been built (to first draft stage) using the information from the draft Asset Management Plans and guiding strategies. The structure of the program has also been reshaped to reflect the Asset Management Plan categories and sub-categories. The plan assists to drive capital delivery in a manner that supports both community need and financial stability and sustainability.	70%	
2.2.3	Build the capacity of volunteer groups and provide support for volunteer managed community facilities	Ongoing COVID-19 related restrictions have impacted on the ability of staff to work directly with volunteer committees in a meaningful way. However, staff were able to support committees and volunteers to develop a range of funding applications for community infrastructure.	10%	

Progress Indicator Legend







 - Not commenced
  - Behind schedule
  - On hold
  - On schedule
  - Completed
  - Withdrawn

Code	Action Name	Comments	Progress	Status
Major initiative 2	Develop an asset management framework to drive Council's capital and maintenance infrastructure investment in a transparent and financially sustainable way	The main components of this framework are Asset Management Plans, which have commenced for all asset categories and are on schedule for completion by June 2022	50%	
Major initiative 3	Develop service standards for the maintenance of asset classes	Council continued the process of developing Asset Management Plans for seven of Council's main asset classes, this will identify at a strategic level the management and maintenance standards for each class. Assets are considered against four performance criteria of: condition, functionality, capacity and environment. Service standards are also being developed at a finer grain level of parks, gardens and reserves.	50%	



Strategic Indicators

Name	Comments	Year to date result	Target
Community satisfaction with appearance of public areas in East Gippsland	Survey results will be made available later in 2022	-	≥ Large Rural Council average
Capital Works projects on schedule or complete	Of the 186 projects, 160 are listed as complete or on schedule	86%	≥ 80%
Committees of Management and volunteer groups for Council managed land with a guiding plan	Work on this has not yet commenced. Council and the Committees of Management have had a strong focus on responding to Black Summer Bushfire funding opportunities during the period.	-	≥ 10
Asset renewal and upgrade expenses as a percentage of depreciation	This indicator is only calculated at year end when the financial data has been reconciled.	-	> 100%
Percentage of sealed roads that meet Council's target condition rating	The condition of sealed road assets is only assessed every three years and were therefore not reassessed during the period.	96.70%	> 97%
Collect baseline data on community recreation reserves and halls asset condition for future years asset condition ratings	Inspections of recreation reserve buildings and halls has been conducted. The development of the East Gippsland Sporting Infrastructure Plan has commenced.	-	Achieved year 1






Progress Indicator Legend


 - Not commenced
  - Behind schedule
  - On hold
  - On schedule
  - Completed
  - Withdrawn

2.3: Planning with local communities for natural disasters and emergencies strengthens capacity, infrastructure, resilience, preparedness, and recovery

Code	Action Name	Comments	Progress	Status
2.3.1	Support and strengthen new municipal emergency planning arrangements to meet community expectations for resilience and preparedness	<p>The communities that have already identified community assembly areas within their Local Incident Management Plans (LIMP) have now had, or are having, the benefits recognised. The Community Development and Resilience Project is progressing works to improve the resilience of community facilities.</p> <p>Strengthening telecommunications against natural disaster satellite systems are being installed to provide wi-fi to many of these remote locations. Council is also working with communities which may be isolated, to give them the confidence and authority to run a community based relief support (similar to a relief centre) for the first 72 hours of an emergency. This will enable communities to look after themselves when they are isolated due to any major event and offer true community resilience back to their own community. This training has been piloted in Buchan.</p>	50%	
2.3.2	Develop and update Local Incident Management Plans in collaboration with local communities and stakeholders	Council's deadline to review all existing LIMPs was met, with new LIMPs being considered. A streamlined process to reduce the four meetings to one has been introduced to simplify the development process. An updated format is currently being considered to freshen the look but still maintain the vital information these documents hold.	90%	

Progress Indicator Legend






 - Not commenced
  - Behind schedule
  - On hold
  - On schedule
  - Completed
  - Withdrawn

Code	Action Name	Comments	Progress	Status
Major Initiative 4	Develop plans that enhance the organisations preparedness and ability to manage and mitigate the impact of natural disasters and streamline recovery	<p>The State Emergency Management Plan (SEMP) and the Gippsland Regional Emergency Management Plan have been released.</p> <p>These plans have informed Council's new Municipal Emergency Management Plan (MEMP), which has been completed and is currently being audited by the Regional Emergency Management Planning Committee.</p> <p>It must be noted that the SEMP has included the new Community Emergency Management Plans, which are effectively what Council and East Gippsland communities have in place with Local Incident Management Plans. This is the first time community level plans have been recognised at a formal level. East Gippsland have been working with communities to develop these plans since 2009.</p> <p>All these plans have the potential to reduce the recovery timelines for communities.</p>	95%	

Strategic Indicators

Name	Comments	Year to date result	Target
Community satisfaction with emergency and disaster management	Survey results will be made available later in 2022.	-	≥ Large Rural Council average
Percentage of communities that need a Local Incident Management Plan have one in place and reviewed annually	All communities that need a plan has a current one in place.	100%	100%

Progress Indicator Legend




 - Not commenced
  - Behind schedule
  - On hold
  - On schedule
  - Completed
  - Withdrawn



Council staff worked with the volunteers from the Lucknow Recreation Reserve Committee of Management to plan the installation of three Tesla Powerwall energy-storage batteries. These batteries are connected to the solar power system on the newly redeveloped Lucknow Recreation Reserve clubrooms. Pictured: Cr Mendy Urie with the 14kW Tesla 2.0 Powerwall batteries.

3 A natural environment that is managed and enhanced







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

Code	Action Name	Comments	Progress	Status
3.1.1	Adopt greenhouse gas emissions scenario for 2050 and identify actions and targets to reduce climate vulnerability	VECO energy agreement has been finalised, which will see Council participate in switching to 100% renewable energy early in 2022. This project has been delayed due to resourcing.	15%	
3.1.2	Implement infrastructure enhancement and improvements to respond and assist manage impacts of climate change	A \$150,000 funding application was successful to enable installation of 3 x 50kW destination charging fast chargers for electric vehicles at Mallacoota, Lakes Entrance and Buchan. The final consultant's report for the Bairnsdale Alternative Water Project has been received, with further discussions with stakeholders required to determine next steps required.	50%	
Major Initiative 5	Develop and commence implementation of Environmental Sustainability Strategy with a strong focus and framework for Council and community climate change mitigation measures	The draft Environmental Sustainability Strategy has been prepared and ready to be released for community consultation.	70%	





Strategic Indicators

Name	Comments	Year to date result	Target
Output from solar energy systems in East Gippsland	The increase in community small generation unit solar systems output in kW is 5.43% from 1 July to 30 November 2021	5.43%	> 10.00%
Emissions from Council's energy use	Emissions are reported annually.	-	< 5,535
Percentage of Council's electricity use from renewable sources	Electricity use is reported annually.	-	> 10.00%
Proportion of Council passenger vehicle fleet is electric, hybrid or uses alternate fuel sources	There are 10 vehicles in the passenger fleet of 110, which includes one full electric, seven hybrid and two alternative fuel sources.	9.09%	> 10.00%

Progress Indicator Legend

 - Not commenced
  - Behind schedule
  - On hold
  - On schedule
  - Completed
  - Withdrawn







3.2: Sustainable land use practices are used to manage council land to protect biodiversity and to provide education and incentives to support the management of private land

Code	Action Name	Comments	Progress	Status
3.2.1	Undertake community education to promote the need to protect the natural environment and actions community members can undertake to support this	Community education programs were limited due to COVID-19 restrictions and the focus on developing the Environmental Sustainability Strategy. Council released the Spring edition of the e-newsletter, Environmental Connect.	40%	
3.2.2	Develop and commence implementation of Environmental Sustainability Strategy with strong focus on supporting sustainable land use and landscape capacity	The draft strategy has been finalised and released for community engagement and public comment. A range of works associated with the strategy have already commenced, including work on electronic vehicle charging stations and the changing of remaining public lighting and streetlights to LED lighting.	50%	
3.2.3	Planning tools and policies are reviewed and used to identify and protect key public and private land	The East Gippsland Planning Scheme and related policies provide the primary basis for Council's planning decisions. Policies due for review have been identified.	50%	
3.2.4	Practices are introduced to manage fire effected Council land to protect biodiversity and ensure public safety	There has been limited activity on two weed management projects, as the effect of COVID-19 on staffing levels has impacted these projects. These projects have been kept moving until appropriate resourcing can be re-established.	25%	



Strategic Indicators

Name	Comments	Year to date result	Target
Kilometres of regionally controlled and prohibited weeds treated	The kilometres of weeds treated is not tracked periodically, it is calculated at the end of the financial year.	-	> 200 kilometers annually
Community satisfaction with slashing and weed control	Survey results will be made available later in 2022	-	≥ Large Rural Council average
A baseline for the quality and quantity of land being managed for 'at risk' habitat, biodiversity and community safety purposes on council and private land	Categorization of finance accounts to identify spending on environmental management has commenced and being monitored.	-	Achieved year 1

Progress Indicator Legend

 - Not commenced
  - Behind schedule
  - On hold
  - On schedule
  - Completed
  - Withdrawn







3.3: Natural values on key Council managed land are managed and enhanced

Code	Action Name	Comments	Progress	Status
3.3.1	Establish which values are to be managed and develop management plans to guide management of key Council land	Consultants have been engaged to develop a management plan for Toonalook Waters Estate. Given the operational pressures of COVID-19 and ongoing weather events, there has not been the ability to focus on this project area more broadly during the quarter.	10%	
3.3.2	Implement a framework to support partners and volunteers to work on key priority projects for Council land	No action this quarter. This action requires the development and adoption of a Volunteer Management Policy and Procedure before this action can be progressed further.	5%	



Strategic Indicators

Name	Comments	Year to date result	Target
Total investment in Council managed land to support natural areas	<p>In the second quarter Council spent \$335,952 on council managed land for environmental management purposes. This expenditure included staff resources and was spread across: environmental works; weed and pest management; erosion management (boat ramps); mosquito control; walking track maintenance; roadside weed control; and specific bushfire regeneration works.</p> <p>In Quarter Two council spend slightly less than the previous quarter, primarily due to less roadside fire slashing and weed control. This is directly attributed to the unusual growing season and the reduced fire risk that growth presented.</p>	\$792,683	≥ 2020-21 baseline

Progress Indicator Legend

 - Not commenced
  - Behind schedule
  - On hold
  - On schedule
  - Completed
  - Withdrawn







3.4: Environmentally and financially sustainable practices reduce waste going to landfill

Code	Action Name	Comments	Progress	Status
3.4.1	Waste education program developed and implemented to focus on key areas of waste reduction	<p>The Waste team worked to ensure all Council facilities have access to a standard set of bins for effective waste diversion.</p> <p>The compost bin subsidy program was also successfully rolled out, with 150 bins distributed over the first 10 days. A reduced subsidy program is planned to start early in 2022.</p> <p>The Get Grubby Program was also introduced to 20 schools, with a further 20 showing expressions of interest.</p> <p>Ongoing monthly waste information reminders have continued to be published in local newspapers, social media and newsletters.</p>	50%	
Major Initiative 6	Develop Waste Minimisation Action Plan	A final draft of the action plan has been prepared and going through an internal review process.	85%	

Strategic Indicators

Name	Comments	Year to date result	Target
Number of community waste education programs delivered	<p><i>East Gippsland Better Business Program</i> – There are seven businesses signed up</p> <p><i>Get Grubby Program</i> – now has 20 signed up</p> <p><i>Compost rebate</i> – has just re-launched with another 150 rebates now available</p>	Three	> Five programs annually
Use of recycled materials in construction projects on Council assets	The reporting for this indicator is still in development and will be calculated to be reported quarterly from the next report.	-	> 10.00% of projects
Community satisfaction with waste management	Survey results will be made available later in 2022	-	≥ Large Rural Council average
Kerbside collection waste diverted from landfill	Garbage and recycling collection has remaining relatively consistent over the past 18-months, while green organic collection was well above the historical average. The increase in green organic collection could be due to increased rainfall over late spring and early summer increased need for garden maintenance.	52.94%	> 52%

Progress Indicator Legend

 - Not commenced
  - Behind schedule
  - On hold
  - On schedule
  - Completed
  - Withdrawn



As COVID-19 restrictions continued to impact the region Council supported business through a range of initiatives, such as the development of a pilot innovative business centred initiative to endeavour to retain support as future COVID-19 and bushfire recovery support for business scales down over time.

4 A thriving and diverse economy that attracts investment and generates inclusive local employment



4.1: Leadership enables economic prosperity, investment, recovery, resilience and growth

Code	Action Name	Comments	Progress	Status
Major Initiative 7	Develop the Economic Development Strategy	Development of the Economic Development Strategy is progressing well with broad focus group and internal stakeholder consultation complete. The first draft is due to be ready February 2022 and is anticipated to be put out for public review and further workshopped internally to refine Council actions.	60%	

Strategic Indicators

Name	Comments	Year to date result	Target
Develop indicators through the Economic Development Strategy that integrate with the Council Plan	Preparation of the 2021-25 Economic Development Strategy is currently underway and indicators will be finalised on completion.	-	Achieved year 1

4.2: Collaboration amongst key partners is facilitated to improve pathways for education and skills training

Code	Action Name	Comments	Progress	Status
4.2.1	Identify key actions through the development of the Economic Development Strategy	The Economic Development Strategy is progressing well, with a first draft of both the 10-year Directions Paper and 4-year Council Action Plan anticipated in January 2022. A long list of potential Council actions across eight key focus areas has been developed and will be further refined through internal stakeholder workshop.	40%	
4.2.2	Strengthen partnerships with higher education providers, industry and other providers to explore opportunities for new targeted programs	Council supported Federation University Graduate Scholarship Program to assist one East Gippsland based tertiary student for a 3-year period. Council has strengthened links with relevant partners to explore opportunities for improved digital connectivity across the region to enhance online learning capability. Facilitation of focus group discussions between key industry and education providers planned for 2022 to determine priority areas of future skills training.	25%	



Progress Indicator Legend

 - Not commenced
  - Behind schedule
  - On hold
  - On schedule
  - Completed
  - Withdrawn







Strategic Indicators

Name	Comments	Year to date result	Target
Exiting secondary school students undertaking an apprenticeship / traineeship or TAFE training	The most common fields of study that students are entering are Health, Education, and Natural and Physical Sciences.	27.1%	> 20%
Year 12 students continuing to university education	Data shows that 5.1 per cent of Year 12 leavers are undertaking a Certificate or Diploma level course, and 22.9 per cent have commenced a traineeship/apprenticeship.	28%	> 24%

4.3: Council's work with stakeholders fosters entrepreneurship and new business opportunities, particularly with communities facing change

Code	Action Name	Comments	Progress	Status
4.3.1	Support entrepreneurship programs (such as Start Up Gippsland)	<p>Start Up Gippsland program was reviewed by Gippsland Local Government Partnerships (six Councils) to ensure the program delivered via GippsTech continues to meet the needs of regional stakeholders.</p> <p>The need for ongoing delivery of new business facilitation has been identified to ensure support is retained as future COVID-19 and bushfire recovery support for business scales down over time. The development of an innovative business centred initiative to address this is underway, with a pilot program to commence in Buchan and Bruthen in 2022.</p>	50%	
4.3.2	Partner with Victorian Government on industry transition programs to support new business and employment opportunities	<p>A range of initiatives are in progress to support new business and industry transition, including Start Up Gippsland programs, Business Facilitation Pilot (Bruthen and Buchan), Building Entrepreneurial Mindsets (ACRE - Mallacoota), Agribusiness Development (expansion, diversification, succession planning), East Gippsland Business Awards and a new Maximising Events Program.</p> <p>Council remains primed to support the Community Transition Plans for Swifts Creek and Nowa Nowa, and is awaiting confirmation from these communities. Several meetings have been held jointly with the Department of Jobs, Precincts and Regions and the Nowa Nowa and Swifts Creek communities and a funding application is being drafted in preparation.</p>	50%	

Progress Indicator Legend


 - Not commenced
  - Behind schedule
  - On hold
  - On schedule
  - Completed
  - Withdrawn

Code	Action Name	Comments	Progress	Status
4.3.3	Support industry awards programs	Council delivered the 10th Annual Federation University East Gippsland Business Awards, attended the 2021 Gippsland Wine Industry Awards as a major sponsor and has committed to sponsoring the 2022 Gippsland Business Awards.	80%	





Strategic Indicators



Name	Comments	Year to date result	Target
Participation in Council run programs delivered to support business growth	<p>Council run programs that supported business growth included;</p> <ul style="list-style-type: none"> • <i>Tourism 101 Graduation Evening</i> - 11 attended (9 businesses) • <i>Nature Based Tourism Forum</i> - 40 attended • <i>Small Business Social Media individual mentoring clinic</i> - 4 attended (4 businesses) • <i>Women in Agriculture and Business Networking Event</i> - 59 attended • <i>Business Confidence and Training Needs Survey</i> - 24 responses <p>Total businesses engaged, including online views of recordings post event = 138</p>	50%	> 70% uptake annually
Number of new businesses registered	This is only reported annually by Australian Bureau of Statistics and will be updated when the new figures are published.	-	> 4,446

4.4: Targeted information and streamlined approvals and processes make it easier for business to invest

Code	Action Name	Comments	Progress	Status
4.4.1	Continue pilot concierge program	The business concierge pilot continues to attract positive feedback from both internal and external stakeholders. Results of improved relationships and proactive business engagement in their interactions with Council and across internal Council business units is evident. Current funding for the role concludes in June 2022 with consideration of future funding options required.	50%	

Progress Indicator Legend







 - Not commenced
  - Behind schedule
  - On hold
  - On schedule
  - Completed
  - Withdrawn

Code	Action Name	Comments	Progress	Status
4.4.2	Update information to support business investment and approvals	Key recommendations from the Building Better Approvals Program (funded in 2020 by State Government) have been implemented with major information updates regularly made on Council's website. A new Invest East Gippsland website has been briefed into East Gippsland Marketing Inc for delivery under their contract with Council for Destination Marketing and Promotional Services, with the project due to commence in 2022.	40%	
4.4.3	Coordinate approvals and facilitation support for major projects	<p>Solid progress being made despite staff changes, recruitment and COVID-19 restrictions all impacting on program of works.</p> <p>Business and community engagement has been strong and consistent across all portfolios, and major projects are progressing well, such as the South Bairnsdale Industrial Park water augmentation, digital connectivity, tourism opportunity plans and regional events. New investment is flowing into the region with 22 new business enquiries, business infrastructure improvements (80+ facade enhancements) and new tourism developments progressing such as Metung Hot Springs, The Servo Lakes Entrance and Riverine Resort Bairnsdale.</p>	50%	




Strategic Indicators

Name	Comments	Year to date result	Target
Number of businesses engaged through business facilitation programs	96 businesses were engaged across four separate business facilitation programs.	180	> 300
Develop a baseline on Council processing time for goods on footpath, trading permits, domestic animal business and food premises registrations	Baseline information relating to processing time of permit applications is ongoing throughout 2021-22.	-	Baseline developed for 2021-22

Progress Indicator Legend

 - Not commenced
  - Behind schedule
  - On hold
  - On schedule
  - Completed
  - Withdrawn

4.5: Tourism sector investment is sought in business capability, product development and experience to meet the changing needs of domestic and international markets

Code	Action Name	Comments	Progress	Status
4.5.1	Implement bushfire and COVID-19 recovery plans and support delivery of key projects	<p>A new resource has been appointed to maintain focus on key bushfire, COVID-19 and timber transition projects. Council received \$500,000 grant funding for COVID-19 outdoor activation to further support business trade, particularly those unable to function due to prolonged COVID-19 restrictions.</p> <p>A range of initiatives were developed within a short timeframe and executed in time for the peak holiday period. These include a buy local campaign "Celebrate where you live", public entertainment and performances, wellness programs, activation of dormant precincts such as Devon Lane, Paynesville and Grey Street, Lakes Entrance to create new dining and recreation spaces.</p>	50%	
4.5.2	Partner with Destination Gippsland and other relevant stakeholders to implement key actions of the Destination Management Plan and associated strategies	<p>Council is engaged with Destination Gippsland across both tourism and events, and is actively involved in delivery of several priority initiatives. These initiatives are well underway, and include:</p> <ul style="list-style-type: none"> Gippsland Lakes Aquatic Trails Project; new destination brand roll-out; Dark Skies Project; regional events funding program; improved data insights systems for live-time information on visitor activity; Gippsland Tracks and Trails Strategy; and prefeasibility for East Gippsland Discovery Centre. <p>Joint planning is underway with Destination Branding and industry development on a regular basis. Partnerships have been created with Parks Victoria, the Department of Environment, Land, Water and Planning and GLaWAC to progress Eco Destination Status as a foundation priority for East Gippsland (due June 2022).</p>	50%	
Major Initiative 8	Implement the Tourism Events Strategy	The East Gippsland Event Growth Action Plan was adopted by Council and the previous RADES funding program has been retired. Planning for implementation is scheduled for early 2022.	10%	







Progress Indicator Legend

 - Not commenced
  - Behind schedule
  - On hold
  - On schedule
  - Completed
  - Withdrawn



Strategic Indicators

Name	Comments	Year to date result	Target
Number of tourism events held during the low and shoulder season periods	<p>The low and shoulder season period is May to October. Total number of event permits issued for Quarter 2 was five events.</p> <p>One of these events were sponsored by Council, the Vic Bream Classics - Metung (RADES funded).</p> <p>Three events were cancelled, Motorcycling Off-road Championship, Great East Rail Trail Ride and Head of the Mitchell Regatta.</p>	26	> 100
Total visitation to East Gippsland (international, domestic and daytrip combined)	Strong demand for short-breaks and holidays by metro Melbourne as a result of prolonged COVID restrictions and forced lockdowns, and low consumer confidence for interstate travel due to risk of border closures is driving increases in both intrastate visitation and expenditure	1,111,000 <i>(for period 1 September 2020 – 31 August 2021)</i>	> 1,300,000
Tourism expenditure in East Gippsland	Strong demand for short-breaks and holidays by metro Melbourne as a result of prolonged COVID restrictions and forced lockdowns, and low consumer confidence for interstate travel due to risk of border closures is driving increases in both intrastate visitation and expenditure	\$387,000,000 <i>(for period 1 September 2020 – 31 August 2021)</i>	> \$360,000,000

Progress Indicator Legend

 - Not commenced
  - Behind schedule
  - On hold
  - On schedule
  - Completed
  - Withdrawn







4.6: East Gippsland's natural strengths in agriculture and natural resource-based industries are enhanced to increase value, employment, sustainability and resilience

Code	Action Name	Comments	Progress	Status
4.6.1	Develop industry case studies which showcase best practice in: <ul style="list-style-type: none"> agribusiness and food manufacturing industry; opportunities for investment; farming diversification, expansion, and transformation opportunities for sustainable agriculture 	Development of case studies of best practice agribusiness, investment opportunities and sustainable agriculture flagged for focus in 2022. Content is already in progress and plan for PR with East Gippsland Marketing for mapping.	25%	
4.6.2	Engage with agriculture sector to identify key issues through the Agriculture Sector Advisory Committee	Consistently strong engagement has been delivered with the East Gippsland Agriculture Sector Advisory Committee, with key issues of sustainable water, weed suppression, rural land use planning and drought resilience emerging as priorities.	50%	

Strategic Indicators

Name	Comments	Year to date result	Target
Participation in Council run agricultural programs	<p>Council agriculture programs include;</p> <ul style="list-style-type: none"> <i>Agribusiness Development Program</i> - 42 farming families (84 in total) <i>Farm Gate Producers: Business First week</i> – 3 participants <i>Rural Agency Network Support Service forum</i> - 12 participants <i>Sustainable water strategy workshop</i> - 4 participants <i>Women in Agriculture Dinner</i> – 60 attendees <p>Total participation for the quarter was 163</p>	228	> 200 participants annually
Number of jobs in the agriculture sector in East Gippsland	This is only reported annually and will be updated when the new figures are published.	-	> 1,612
Value added by the agriculture sector in East Gippsland	This is only reported annually and will be updated when the new figures are published.	-	> \$288,043,000

Progress Indicator Legend

 - Not commenced
  - Behind schedule
  - On hold
  - On schedule
  - Completed
  - Withdrawn




Council advocate for the East Gippsland community at any opportunity. When Jeroen Weimar visited the region, Council discussed the stress on local businesses associated with COVID-19 lockdowns and restrictions. Pictured: Anthony Basford (CEO), Victoria's COVID-19 Commander Jeroen Weimar, and Mayor and Deputy Mayor at the time, Crs Mendy Urie and Mark Reeves.

5

A transparent organisation that listens and delivers effective, engaging, and responsive services


5.1: A better everyday customer experience is created for our residents and visitors

Code	Action Name	Comments	Progress	Status
Major Initiative 9	Implement the Customer Experience Strategy	<p>The Complaint Management Policy was revised and provided to Council for adoption. In addition, the Complaint Management Procedure and the Unreasonable Complainant Conduct Procedure were finalised.</p> <p>The first stage of the customer service and library review was completed with 34 recommendations. Councillors were briefed regarding progressing 12 recommendations to community consultation.</p> <p>An after-hours call service was implemented, where anyone calling in has a person record their enquiry and either direct them to Council's on-call officer for assistance or record the details of the request to address the next business day. By triaging the calls referred to the on-call officer, it allows them to focus on urgent matters.</p> <p>Work has commenced on a new IT system with a new customer response module.</p>	70%	

Strategic Indicators


Name	Comments	Year to date result	Target
Community satisfaction with customer service	Survey results will be made available later in 2022	-	≥ Large Rural Council average

5.2: Strong relationships with government, partners and stakeholders are maintained and strengthened to advocate for the community






Code	Action Name	Comments	Progress	Status
5.2.1	Develop advocacy plan for Federal and State elections	An advocacy policy was developed and adopted by Council in October 2021, followed by an Advocacy Strategy in November, detailing Council's current priorities. The target for completion of the detailed information sheets to support each priority is the end of January 2022.	90%	

Progress Indicator Legend

 - Not commenced
  - Behind schedule
  - On hold
  - On schedule
  - Completed
  - Withdrawn

Code	Action Name	Comments	Progress	Status
5.2.2	Participate in One Gippsland advocacy activities	<p>Through One Gippsland, Council participated in the following advocacy meetings:</p> <ul style="list-style-type: none"> • <i>Ms Louise Staley MP</i> (Shadow Minister for Transport Infrastructure; Roads; and Regional Recovery) to advise of freight projects in relation to sand transport, digital connectivity shortcomings, support for small business and recovery for regional areas. • <i>Mr Richard Riordan MP</i> (Shadow Minister for Local Government; Resources) and <i>Hon Ryan Smith MP</i> (Shadow Minister for Planning and Heritage; Housing) to discuss long term infrastructure projects that will assist freight efficiency and improve digital connectivity. • <i>Mr Bill Tilley MLA</i> (Shadow Minister for Regional Cities; Decentralisation; and Fishing and Boating) to discuss high house prices and the lack of housing/rentals; shortage of skilled staff for casual/seasonal work. • <i>Ms Bridget Vallence MLA</i> (Shadow Minister for Industry; Manufacturing; Innovation, Digital Economy and Medical Research) to discuss tourism, housing and connectivity challenges. • <i>Hon Dan Tehan</i> (Minister for Trade, Tourism & Investment) to discuss economic impacts to region, cancellation of events, skills shortages and focus of improving tourism infrastructure. • <i>The Hon Melissa Horne MP</i> (Minister for Ports and Freight; Consumer Affairs, Gaming and Liquor Regulation; Fishing and Boating) to discuss economic/efficiency benefits of priority projects. • <i>Hon Jason Clare MP</i> (Shadow Minister for Housing and Homelessness; Regional Services, Territories and Local Government) to discuss affordable housing shortage and digital connectivity problems in regions. • <i>Hon Jacinta Allan MP</i> (Minister for Transport Infrastructure; Suburban Rail Loop) to discuss priority projects and seek feedback on Government priorities. <p>Other meetings include the Regional Director Gippsland, Regional Development Victoria, Hon Martin Pakula, and Advisor to Minister Ben Carroll.</p>	50%	



Progress Indicator Legend

 - Not commenced
  - Behind schedule
  - On hold
  - On schedule
  - Completed
  - Withdrawn

Strategic Indicators

Name	Comments	Year to date result	Target
Community satisfaction with advocacy (lobbying on behalf of the community)	Survey results will be made available later in 2022	-	≥ Large Rural Council average







5.3: Communities are engaged in decision-making and support is provided to develop local solutions to local issues

Code	Action Name	Comments	Progress	Status
5.3.1	Continue to use place plans and local recovery plans as a primary mechanism for developing locally based solutions	Recovery plans continue to be used as the primary mechanism for developing locally based solutions. They are informing funding applications and Council is seeing funding bodies assessing these applications against recovery plan priorities. The priority actions in each plan or community document has allowed the community to direct their focus on a distinct number of projects for future resilience and preparedness for future emergencies.	50%	
Major Initiative 10	Finalise the community engagement toolkit	A range of community engagement documents have been developed and are available for Council officers when conducting any form of engagement with the community. These include: <ul style="list-style-type: none"> • Introductory guidance for community engagement; • Community Engagement Policy; • Community Engagement Checklist; • Community Engagement Action Plan Template; and • Community Engagement Evaluation Template. 	70%	




Strategic Indicators

Name	Comments	Year to date result	Target
Community satisfaction with advocacy (lobbying on behalf of the community)	Survey results will be made available later in 2022	-	≥ Large Rural Council average
Community satisfaction with making community decisions	Survey results will be made available later in 2022	-	≥ Large Rural Council average
Community satisfaction with informing the community	Survey results will be made available later in 2022	-	≥ Large Rural Council average

Progress Indicator Legend

 - Not commenced
  - Behind schedule
  - On hold
  - On schedule
  - Completed
  - Withdrawn

5.4: Continuous improvement systems are strengthened, and organisational efficiency enhanced

Code	Action Name	Comments	Progress	Status
5.4.1	Develop a strategic management framework	No further progress has been made since the draft strategic management framework and a list of priority initiatives were developed.	30%	
5.4.2	Service reviews are undertaken for priority services and the recommendations implemented.	The Service Review Framework has been further updated to include requirements to complete Gender Impact Assessments and the updated Integrated Strategic Planning and Reporting Framework (ISPRF). The Forge Theatre review is currently being undertaken and the scope of Part B of the Community Laws service review has been approved and is due to commence.	15%	
5.4.3	Fit for purpose technology is explored, implemented and used to generate productivity and efficiency gains across the organisation	All technology equipment to facilitate mobility and remote working requirements have been ordered. A global shortage of electronic components (due to impact of COVID-19 pandemic) continues to impact delivery time of the equipment. Estimated equipment delivery is now March 2022.	25%	



Strategic Indicators

Name	Comments	Year to date result	Target
Number of service reviews undertaken	Forge Theatre review is underway and Part B of Community Laws service review is due to commence.	2	= 4
Permanent workforce has access to mobile technology	Due to a global shortage of computer chips and delay in manufacturing of equipment, estimated delivery of new laptops and equipment is March 2022.	60%	> 70.00%

Progress Indicator Legend

 - Not commenced
  - Behind schedule
  - On hold
  - On schedule
  - Completed
  - Withdrawn







5.5: Resources are managed to meet current and future needs and priorities

Code	Action Name	Comments	Progress	Status
5.5.1	Manage resources in accordance with Council's 10-year Financial Plan	Council's 2021/22 budget is being managed in accordance with the 10-year Financial Plan. The 6 monthly financial performance report will be presented to Council in February 2022.	50%	
5.5.2	Opportunities to attract external and partner funding for high priority needs are maximised	<p>A range of funding applications have been made in the first half of the year including;</p> <ul style="list-style-type: none"> • 11 internal applications to the Black Summer Recovery Program. Significant applications were also made on Council's behalf (e.g. Buchan Recreation Reserve redevelopment) as well as support for community led applications; • Sustainability Victoria applications; • Preparing Australian Communities; • Fast Track Infrastructure Program (3 full applications); • Integrated Water Management (2 applications) and • the Regional Tourism Infrastructure Program. <p>Seven projects have also received confirmed funding from the Regional Recovery Partnerships Fund and three projects have received Destination Charging (Electric Vehicle) funding.</p> <p>Further funding was also confirmed from Department of Environment, Land, Water and Planning for the Mallacoota Seawall - Stage 2.</p>	25%	


Strategic Indicators

Name	Comments	Year to date result	Target
Victorian Auditor-General's Office assessment of Council's overall Financial Sustainability is low risk	The Auditor-General's report will not be made available to Council until early in 2022.	-	Achieve low risk rating

Progress Indicator Legend

 - Not commenced
  - Behind schedule
  - On hold
  - On schedule
  - Completed
  - Withdrawn







5.6: Council attracts, develops, and retains an inclusive workforce to deliver services and priorities

Code	Action Name	Comments	Progress	Status
5.6.1	Implement the Workforce Plan 2021-25	<p>The Service Review Framework has been updated to include requirements to complete Gender Impact Assessments and the updated Integrated Strategic Planning and Reporting Framework (ISPRF).</p> <p>The Workplace Gender Audit results were successfully uploaded to the Commission for Gender Equality in the Public Sector.</p> <p>Draft improvement strategies and actions have been developed through consolidation of direct staff feedback, feedback noted in the audit presentation meetings, through discussion, brainstorming and output across four internal gender equality working group sessions.</p> <p>Organisation values have been incorporated into workplans and work practices, including Corporate Induction and position descriptions. The values will continue to be promoted and integrated as part of ongoing policy review and update process. A review of the current Reward and Recognition Framework has been undertaken and a new draft version includes our new values.</p>	10%	

Strategic Indicators

Name	Comments	Year to date result	Target
The percentage of actions implemented from the Workforce Plan 2021-25	Actions have commenced but none are fully implemented.	0%	≥ 80% of actions implemented by 30 June 2022

Progress Indicator Legend

 - Not commenced
  - Behind schedule
  - On hold
  - On schedule
  - Completed
  - Withdrawn

5.4 Place and Community

5.4.1 Final Submission Central and Gippsland Region Sustainable Water Strategy

Authorised by General Manager Place and Community

Conflict of Interest

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

Executive Summary

The Department of Environment Land Water and Planning has sought submissions on the Central and Gippsland Region Sustainable Water Strategy (CRGSWS). Council officers prepared a submission which was lodged with DELWP on the 10 December 2021 (**Attachment 1**) with a caveat that the submission was subject to endorsement by Council.

This submission was developed in partnership with the Agriculture Sector Advisory Committee (ASAC). The submission identified:

1. Critical issues for East Gippsland with a focus on agriculture and the health of the Gippsland lakes
2. Opportunities to enhance productivity of agriculture and economic development
3. Identification of further issues and opportunities
4. Practical feedback from agricultural representatives and an understanding of the water allocation framework, available water resources in East Gippsland and the practical and realistic opportunities to deliver benefits to the agricultural community and economy of East Gippsland, and to the environment.

Subject to Council's decision, Officers will provide DELWP with updated information about the status of the submission.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report; and***
- 2. endorses the submission at attachment 1 provided by Officers to the Department of Environment Land Water and Planning on the draft Central and Gippsland Sustainable Water Strategy.***

Background

The CGRSWS was released for consultation and feedback on October 8 2021, with a closing date for lodgement of submissions of 10 December 2021.

The CGRSWS and associated documents can be found at: [Central and Gippsland Region Sustainable Water Strategy | Engage Victoria](#) .

At the 21 October 2021 ASAC meeting, Department Environment, Land, Water and Planning presented on the Central and Gippsland Region Sustainable Water Strategy and the potential impacts on agriculture and other sectors in East Gippsland. The Central and Gippsland Region includes Melbourne and so the CGRSWS necessarily includes significant information on urban water supply.

The ASAC discussed the various possible impacts to the agriculture section in East Gippsland and determined that it would be best to undertake a review of the potential impacts and recommended that Council prepare a submission on behalf of the Council and Agriculture Sector Advisory Committee.

A Working Group of ASAC assisted in the preparation of the submission. The resulting draft submission was circulated to all members of the ASAC. A consultant was engaged to assist in the preparation of the submission given the technical nature of the issues.

The confirmed minutes of the ASAC meeting on the 21 October 2021 are attached as **Attachments 2**.

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 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*.

In preparing this report the Victorian Gender Equality Act 2020 has been considered. The implications of the report have been assessed and are compliant with the obligations and principles of the Gender Equality Act. The need for a Gender Impact Assessment has also been assessed. No GIA is required. The implications of this report have been assessed and align with the principles and objects of the Gender Equality Act 2020.

Collaborative Procurement

Not applicable

Council Plan

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

Strategic Objective 3:

3.2 Sustainable land use practices are used to manage council land to protect biodiversity and to provide education and incentives to support the management of private land.

Strategic Objective 4:

4.6 East Gippsland's natural strengths in agriculture and natural resource-based industries are enhanced to increase value, employment, sustainability and resilience.

Strategic Objective 5:

5.2 Strong relationships with government, partners and stakeholders are maintained and strengthened to advocate for the community.

5.3 Communities are engaged in decision-making and support is provided to develop local solutions to local issues.

Council Policy

This report has been prepared in accordance with the adopted Charter for the Agriculture Sector Advisory Committee.

Options

Councillors have the following options:

1. Endorse the Central Gippsland Regional Sustainable Water Strategy submission as lodged;
2. Not endorse the Central Gippsland Regional Sustainable Water Strategy submission;
3. Endorse an amended Central Gippsland Regional Sustainable Water Strategy submission.

Resourcing

Financial

No additional resources are required.

The budget for the existing operation of the Agriculture Sector Advisory Committee is allocated through the existing Economic Development budget.

Plant and equipment

No additional resources are required.

Human Resources

Council's Economic Development team will be responsible for any actions resulting from this report.

Risk

The risks of this proposal have been considered and none have been identified.

Economic

The Victorian Government has identified the food and fibre sector as one of the growth sectors vital to the future economic prosperity of Victoria.

The waterways in the region significantly impact the region's ability to maintain a strong, competitive and sustainable economy, and for ensuring a resilient agriculture sector which is essential to East Gippsland's future. Without it, the region's ability to maintain and grow confidence, investment, and job opportunities - key to providing quality of life for current and future farming generations, will be challenged.

The health of the Gippsland Lakes are also central to East Gippsland's visitor economy.

Social

The ASAC consists of eleven community representatives who have provided feedback to Council on the CGRSWS and the impacts that will affect the agriculture sector of the Shire.

In addition, these representatives consult with their networks and the broader community on relevant issues and provide this feedback to Council.

The health of the Gippsland Lakes is critically important to the lifestyle of the East Gippsland Community. This submission ensures the concerns regarding the long-term health and existing recreational opportunities afforded by the Lakes' system which may be impacted by the Central Gippsland Regional Sustainable Water Strategy are considered.

Environmental

The ASAC members brought matters of water security concerns and the impact on the environment to Council's attention to ensure Council could advocate with a good understanding of what is happening 'on the ground' in relation to both the environmental and agricultural impacts of the Strategy.

This submission ensures the concerns regarding the long-term health of the Gippsland Lakes' system, which may potentially be impacted by the Central Gippsland Regional Sustainable Water Strategy, are considered.

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

This CRGSWS Submission was developed in consultation with the ASAC, at the meetings on the 21 October 2021 and 9 December 2021 and the ASAC Working Group on the 10 November 2021.

Attachments

1. Attachment 1 Lodged Central and Gippsland Region Sustainable Water Strategy Submission [**5.4.1.1** - 18 pages]
2. Attachment 2 Confirmed Minutes ASAC 21 October 2021 [**5.4.1.2** - 10 pages]



Submission for Central and Gippsland Region Sustainable Water Strategy

December 2021

Table of Contents

Key Recommendations	3
Introduction.....	5
1. Climate modelling and Water resources	7
2. Balance points: Existing catchments, water allocations to Traditional Owners, the Environment and Consumptive uses	9
3. Key issues facing primary production	11
4. Agricultural systems efficiencies	13
5. Other water resources – ground water and recovery	15
6. Other matters	17
7. Funding	18

Key Recommendations

1. Climate modelling and Water resources

- 1.1 Critical needs and gaps analysis conducted in collaboration with DELWP and other agencies to build capacity and capability within the local government to ensure that the emerging strategy becomes embedded across all business aspects.
- 1.2 Expansion, accountability and transparency of the monitoring network used to collect data and information on river discharge and whole of catchment hydrology, thereby providing detailed information for future water management across public and private land.
- 1.3 Improved public access and new decision tools designed to assist primary production in designing future water efficient farming systems (in particular how to manage variability and business risk management).
- 1.4 Improved workforce skills development to ensure optimal water use efficiency is maintained and drives future regional economic growth.

2 Balance points: Existing catchments, water allocations to Traditional Owners, the Environment and Consumptive uses

- 2.1 The balance (ratio) between all water users (Traditional owners, the Environment and Consumptive use) should be maintained. Actual allocations to consumptive use should be maintained. This poses the dilemma reflecting future total catchment volumes and actual water use.
- 2.2 Better use of unallocated and sustainable winter-fill opportunities should be considered and will need expenditure on infrastructure. However, additional winter fill licences need to be based on confidence that the flows remaining are sufficient for the health of the rivers and the Lakes
- 2.3 Future coordination of East Gippsland catchments and catchments immediately adjacent to ensure high environmental outcomes with the lakes complex. This has to be a coordinated approach with a whole of region approach. Balances struck, and decisions made across other catchments outside of the East Gippsland LGA boundary must not result in degradation of the Gippsland Lakes.
- 2.4 Full audit of the Gippsland Lakes to ensure that decisions are supported by current data and information to ensure the health of the Gippsland Lakes.
- 2.5 There is support that the share of unallocated water across each catchment bounded with East Gippsland LGA be allocated to Traditional Owners in accordance to the Four Principles identified in the DELWP consultation documents (**Proposal 4.1**).

3 Key issues facing primary production

- 3.1 Infrastructure development across areas of Snowy and Tambo catchments to ensure unallocated and winter-fill opportunities are able to be realised, while recognising these flows can also be important to the health of waterways and

lakes. It is acknowledged that any infrastructure development to better use allocated winter fill or unallocated water needs to be managed sensitively, reflecting duality of water use – primary production and maintenance of the health of the Gippsland Lakes.

- 3.2 Future funding of infrastructure development should be targeted to provide opportunities to grow the regional industries, drive water use efficiencies and assist in regional economic development.
- 3.3 Any development plans focused on expansion of food manufacturing processing expansion within some regional towns may affect the bulk entitlement requirements.
- 3.4 Development of infrastructure across all catchments to ensure:
 - 3.4.1 that future climate scenarios do not result in rapid soil loss, environmental damage,
 - 3.4.2 attenuation of pollutants,
 - 3.4.3 capture of winter fill and non-seasonal unallocated water (storm water recovery).

4 Agricultural systems efficiencies

- 4.1 Integration of digital and advanced monitoring technologies across major farming zones to ensure water stored in infrastructure (e.g. winter-fill storage dams) or harvested via allocations either from river flow or ground water is used efficiently.
- 4.2 Proactive agency engagement with farmers and irrigators to provide locally appropriate knowledge transfer and skills development focused on better use of water on farm.

5 Other water resources – ground water and recovery

- 5.1 Groundwater – aquifer storage and recovery may act as a buffer resource for unallocated water and support targets for consumptive water allocations.
- 5.2 Reuse recovery water sources need further investigation and potential deployment for agricultural production through enhanced infrastructure to prevent impacts of local substitution reducing overall abstraction volumes to farms away from peri-urban areas.

6 Other matters

- 6.1 Allocation mapping is required for consumptive water use within the Mitchell catchment reflecting the recent allocation of 2 GL to Traditional Owners, the maintenance of environmental flows, bulk entitlements for Bairnsdale and Paynesville and irrigation requirements.

7 Funding

- 7.1 Sufficient levels and suitability targeted funding are agreed between East Gippsland Shire Council and the State of Victoria to support the future development and implementation of the Central and Gippsland Sustainable Water Strategy

Introduction

East Gippsland Shire Council (Council) acknowledges that sustainable water strategies (SWSs) are one of the key elements for planning Victoria's water resources into the future.

In response to the request for consultation provided through Engage Victoria (<https://engage.vic.gov.au/ltwra/central-and-gippsland-region-sws>), Council has prepared this submission and as part of that process, sought feedback from Council's Agricultural Sector Advisory Committee (ASAC). Department of Environment, Land, Water and Planning presented to ASAC on the 21 October 2021, and a motion was moved to present a submission for the Central and Gippsland Region Sustainable Water Strategy (CGRSWS). This document represents that submission.

Council (and ASAC) recognise that there are continuing and identifiable threats to the supply and quality of Gippsland water resources. Careful management of those scarce resources need to consider the opinions of Traditional Owners groups, water corporations, catchment management authorities, entitlement holders, environmental groups and the community to identify and co-design options to solve water issues based on acceptable trade-offs. Council also recognises that the CGRSWS has a pivotal role in the future economic development of regional agriculture and horticulture, and tourism.

Central to the discussions with ASAC, the guiding premises identified in the 2021 Central and Gippsland Region Sustainable Water Strategy Discussion Draft were:

1. manufacture more of our water supplies to reduce reliance and pressure on our rivers
2. use water more efficiently
3. make better use of all sources of water including recycled water and stormwater
4. halt the decline in the region's waterways by returning river flows and preventing the damaging effects of stormwater
5. invest incrementally in water supply augmentations as our cities and towns grow
6. improve the way we share and distribute water resources while protecting the rights of existing entitlement holders
7. keep water prices affordable and as stable as possible
8. find local solutions to local problems.

Council supports the regional vision:

Ensure our waterways and aquifers can support a healthy environment and regional prosperity for current and future generations, where the water needs of our cities and towns, Traditional Owners and the environment are met — even as the climate becomes drier and more variable — and where agricultural, industrial and recreational activities can thrive.

The focus of the review paper is consumptive water for agriculture and horticulture and its future use in East Gippsland, as well as necessary steps to support the implementation of Water Sensitive Urban Design (WSUD), protection of the health of the Gippsland Lakes and similar initiatives. As a Local Government Area (LGA), Council approaches to regional water management can be influenced by the following core strategies/guidelines and regulations into the future:

1. Gippsland Sustainable Water Strategy
2. Urban Stormwater Management Guidelines
3. Victorian Rural Drainage Strategy
4. Integrated Water Management Framework
5. Bairnsdale Integrated Water Management Plan
6. EPA Wastewater Management Guidelines, Regulatory Obligations

These strategies and management plans are important in the management of water sustainably across the region as well as provide sufficient granular data and information to design a future resilient water strategy.

Council acknowledges the following findings of the discussion document, the Long-Term Water Resource Assessment for Southern Victoria, the Southern Rural Water Catchment Management plans, the Victorian Government Climate Adaptation Plan and the Southern Victorian Irrigation Development Report.

Agriculture (dryland cropping and livestock production) and irrigated horticulture are two major sectors of the East Gippsland economy. They are major employers across the region, manage large areas of the landscape and play a critical role in the management of surface water. These industries have expressed a desire to continue their sustainable management of water resources across private land and wish to increase their water use efficiencies as the resource can be a major cost to their businesses and operations. All parties however need to take a supply chain approach to the use of water in the primary production sector as well as maintain a significant interest in water allocations to Traditional Owners and the Environment.

Gippsland Lakes is one of Australia's biggest and most beautiful inland waterways. It is central to East Gippsland, Victorian and Australian tourism, an internationally important environment (RAMSAR) and critical to the agricultural and horticultural industries. The lakes cover 420 km² from Sale to Lakes Entrance, and includes Lake Wellington, Lake Victoria and Lake King. The lakes are fed through the Latrobe, Nicholson, Mitchell and Tambo rivers. Protection of the Lakes is central to our region and the management of water across our catchments critical.

1. Climate modelling and Water resources

Council accepts the long-term climate predictions that demonstrate further reductions in water flow in the catchments. The data and information provided by the Bureau of Meteorology, Commonwealth Scientific and Industrial Research Organisation (CSIRO), Department Environment, Land, Water and Planning DELWP, and Agriculture Victoria is compelling. Basin by basin analysis demonstrates (Long Term Water Resource Assessment (LTWRA) 2021) a range in declines in water volumes from 9 to 14% within the East Gippsland LGA. These declines seemingly have little impact on consumptive water reflecting current low volume allocations within the major catchments (about 1-2% maximum).

Long-term reductions provide one part of the narrative. Surface and (in some circumstances) groundwater resources will become scarcer in the future and be subject to greater variability. Intra and inter-year variability of water flow are important in terms of LGA strategic planning. Bureau of Meteorology Water course discharge information provides an example of what the region faces.

Catchment discharge monitoring point	Median discharge (min-max: cumecc)	Minimum (cumecc)	Maximum (cumecc)	Time series
Mitchell - Rosehill	1.44 – 28.42	0.01	1050	2003-2016
Tambo – Ramrod Creek	0.65 – 24.7	0.00	1708	1965-2021
Snowy – Jarrahmond	3.7 – 67.9	0.04	5433	1971-2016

Land managers across the majority of catchments have noted that there is a lack of up to date data concerning catchment discharge (active monitoring programs are seemingly rare). This lack of data and information reflecting the last 10 years may result in under-reporting of discharge rates and the impact of a drying environment that is more significant than the LWTRA (2021) and the SWS (2011) reports note. Furthermore, up to date data and information are critical to assist planning for future land use (e.g. forestry policy on public and private land – **Proposal 8-5**, food and fibre and tourism development). Early engagement in the development of **Proposal 8-5** is requested by Council as forest management practices can have significant impacts on water resource yield (for example establishment of forest resources are a considerable net consumer of water) and the impact of transition in the forestry industry is expected to have significant economic impacts on East Gippsland, and its communities.

Agriculture and horticulture are potentially facing constraints in water supply. Medium term (Representative Concentration Pathway (RCP 2.6 & RCP 4.5); CSIRO, 2020: Couple Model Intercomparison Project Phase 5 (CMIP5)) climate predictions demonstrate high confidence for longer duration drought / dry seasons across southern Australia, reduced soil moisture and streamflow, greater rates of evapotranspiration, reduced alpine snow cover, greater intensity of summer rainfall, risk of flash flooding, elevated risk of soil erosion and attenuation into catchments. These predictions have alerted the region to develop sustainable water use plans.

There is a critical need to address information gaps. Council wishes to receive further information on:

- Climate change impacts on future catchment hydrology and water discharge/availability.
- Real time monitoring that is transparent and accountable for the whole of catchments.
- Better understand the legacy of past planning decisions on our ability to implement the principles outlined in the water strategy.
- Environmental Protection Authority (EPA) Regulatory Guidelines for stormwater and wastewater use in rural and urban environments.

- Setting some clear targets around water reuse for industry and residents by LGA/Catchments would be useful (East Gippsland Water need to be involved in this as they are critical to delivery of this service).
- Flood modelling access needs to be improved if we are to identify impacts of past and future land use decisions on adjacent and downstream land users. It is costly and takes time. It needs to be cheaper and quicker.
- Better understanding of current and future forest management practices on water supplies to catchments, and in particular modelling of water use consumption at a catchment scale reflecting changes within the forest and plantation establishment. This is critical to the health of all catchments across East Gippsland where water flows into the river systems are driven by forest canopy cover.

It is noted by Council that **Proposal 6-1** outlines aspects of the governance of future water resources. This has been identified by the Victorian Government as a roadmap and a strategy concerning regular updating of the Central Gippsland Region Sustainable Water Strategy (CGRSWS). This is an important aspect of the future strategy and is supported.

Council also suggest that there are greater investments in capacity and capability to deliver on the proposed strategy. In particular, there is a general lack of capability across local government to embed Integrated Water Management Framework (IWM) and WSUD into Council planning and asset management. Local government needs to transition from information or knowledge into practical application of engineering and community engagement responses across multiple catchments *vis*:

- Applying the points listed above into planning and asset design/construction within local government so that planning and asset investment is fit for purpose.
- Increase community and organisational awareness of the possibilities and obligations relating to water management.

This approach will result in:

- Better informed stakeholders and more broadly the community thereby improving the quality of the consultation and build community consensus.
- Investment decisions will be informed so that they are prioritised, equitable and deliver the best return for public expenditure.
- Empower local communities to make those decisions that best help us deliver on the principles of the Central and Gippsland Sustainable Water Strategy.

Recommendations

- 1.1 Critical needs and gaps analysis conducted in collaboration with DELWP and other agencies to build capacity and capability within the local government to ensure that the emerging strategy becomes embedded across all business aspects.
- 1.2 Expansion, accountability and transparency of the monitoring network to collect data and information on river discharge and whole of catchment hydrology thereby providing detailed information for future water management across public and private land.
- 1.3 Improved public access and new decision tools designed to assist primary production in designing future water efficient farming systems (in particular how to manage variability and business risk management).
- 1.4 Improved workforce skills development to ensure optimal water use efficiency is maintained and drives future regional economic growth.

2. Balance points: Existing catchments, water allocations to Traditional Owners, the Environment and Consumptive uses

The review considered water allocations across all of the catchments bounded within East Gippsland. These were identified as Far East Gippsland, Snowy, Tambo, Mitchell. However, water management across adjacent catchments (e.g. Thomson and Latrobe) are also critical drivers of waterway health and economic development of East Gippsland.

East Gippsland is renowned for its pristine environment, world class 'clean green and ethically produced' food, trusted provenance integrated into its food and fibre supply chains, and its destination for many Australian and Overseas visitors. The balance between water managed by Traditional Owners, the Environment and Consumptive use is critical to the region, its people and its community. Much of the water flowing into our catchments is a result of alpine and upland catchments (crown land) with the major river systems flowing across plains to the ocean. There is no dispute that these stream flows that make up the majority of regional flow allocated to the Environment and need to be maintained. However, if the environment is drying, the balance between water use within the environment and for consumptive use is critical.

East Gippsland stakeholders want to assist the State of Victoria in developing a regional water balance (**Proposal 7-5**). Major frustrations voiced by the industry was the low efficacy of use (as it relates to consumptive uses) of unallocated water and the lack of opportunity to sustainably harvest and use winter fill. Unallocated water has been raised by primary producers as a significant issue within the Mitchell, Tambo and Snowy catchments. The principles applied to **Proposal 8-3** require in depth consultation across the whole community and industry as there are key intersects between this proposal and Proposals for water substitution (for example **Proposals 4-3, 4-4, 7-6 & 8-1**). Council wishes to be consulted urgently concerning **Proposal 10-10** (review the current management arrangements for the Mitchell River to meet a range of needs including agricultural, environmental and Traditional Owners, and consider whether additional winter-fill licences can be made available without compromising environmental and Traditional Owner cultural values). East Gippsland Council is also in discussion with Gunai Kurnai (GLAWAC) concerning the allocations of water to Traditional Owners, Environment and consumptive use (<https://gunaikurnai.org/wp-content/uploads/2021/07/Gunaikurnai-Whole-of-Country-Plan-ONLINE.pdf>).

Water management within adjacent catchments (e.g. Thomson, and Latrobe) impact on the agricultural water use (in particular ground water resources) and the Gippsland Lakes (tourism sector). Careful planning of water use from new Latrobe catchment allocations (formerly used by the mining and energy sectors) and the Thomson (within the Avon Catchment – Southern Victorian Irrigation Development Project SVID) must ensure that there is the ability to manage salinity within the Gippsland Lakes. These new flows must not result in degradation of the Gippsland Lakes through elevated rates of attenuation of soil, nitrogen and phosphorus, pesticides and other contaminants entering the broader lakes sub-catchment via Lake Wellington, and flow down to the ocean (within East Gippsland; **Proposals 10-1, 10-3, 10-4, 10-5, 10-8, 10-11, 10-12 & 10-13**). Furthermore, management of sub surface salinity across the Macalister Irrigation District (MID) is important in the management of the health of the Gippsland Lakes. Maintenance of a robust monitoring network is essential to ensure that the river discharge and water quality are not affecting the Lakes complex. Interestingly the SVID report did not consider the impacts of increased water allocations on adjacent catchments but noted:

There is also potential for irrigation runoff to impact on waterway flows and water quality and contribute to periodic algal blooms. The State Environment Protection Policy (Waters) (2018) has set a target to reduce average annual Total

Phosphorus inputs to Lake Wellington from 115 t/y to 100 t/y by 2030. Half of this, or 7.5 tonnes of phosphorus per year, is to be achieved in irrigation areas (focussed on the MID as the main contributor) through implementation of the Lake Wellington Land and Water Management Plan (West Gippsland Catchment Management Authority, 2018).

The health of Gippsland Lakes is central to this submission from EGSC. The sustainable management of water resources across the broad 'Lakes catchments' including the Lakes systems and the inflowing rivers. The broad 'Lakes catchment' lies within two CMA regions: East Gippsland CMA and West Gippsland CMA. Each CMA has a relevant Regional Catchment Strategy (RCS) that provides an overarching framework for land, water and biodiversity management. These RCS impact on the management of the Gippsland Lakes.

These RCS and the local SWSs are tasked to manage total freshwater inflows to the Lakes. It is noted that the largest contributors of freshwater to the Gippsland Lakes are from the Latrobe–Macalister–Thomson River (western) system (outside of LGA regional boundaries) and the Mitchell River. Smaller inflows are received from the Avon–Perry, Nicholson and Tambo Rivers. Approximately 20% of the total average freshwater inflow to the Gippsland Lakes is consumptive allocations with higher water use occurring to the west of the Lakes.

These rivers also provide potable water to Melbourne (Thomson River), support irrigated agriculture (e.g. Latrobe River, Glenmaggie Dam, Macalister River), and supply water for electricity generation (Latrobe River). Changes in, or any reduction of, freshwater inflows has far-reaching environmental consequences, including contributing an increase in salinity and reduction in water quality. Key to the future health of the Lakes is the quality of data and information that drives decision making. We noted in **Recommendation 1.2** that more up to date data and information is needed to drive some of the key decisions.

Recommendations

- 2.1 The balance (ratio) between all water users (Traditional owners, the Environment and Consumptive use) should be maintained. Actual allocations to consumptive use should be maintained. This poses the dilemma reflecting future total catchment volumes and actual water use.
- 2.2 Better use of unallocated and sustainable winter-fill opportunities should be considered and will need expenditure on infrastructure. However, additional winter fill licences need to be based on confidence that the flows remaining are sufficient for the health of the rivers and the Lakes.
- 2.3 Future coordination of East Gippsland catchments and catchments immediately adjacent to ensure high environmental outcomes with the lakes complex. This has to be a coordinated approach with a whole of region approach. Balances struck, and decisions made across other catchments outside of the East Gippsland LGA boundary must not result in degradation of the Gippsland Lakes.
- 2.4 Full audit of the Gippsland Lakes to ensure that decisions are supported by current data and information.
- 2.5 There is support that the share of unallocated water across each catchment bounded with East Gippsland LGA be allocated to Traditional Owners in accordance to the Four Principles identified in the DELWP consultation documents (**Proposal 4.1**).

3. Key issues facing primary production

East Gippsland agriculture and horticulture is renowned for its clean, green and trusted provenance of produce. This sector is critical to the local economy (workforce, tourism and hospitality). Water allocations are a significant cost to agriculture and horticulture, and therefore there is a drive in the industry to adopt technologies that will substantially improve water use efficiencies, both at a crop productivity level as well as a whole farm systems approach. **Proposals 7-11, 8-6 & 8-7** provides confidence to Council that a full appraisal of all water requirements by agriculture and horticulture will be considered at both a State and LGA/catchment level. This is critical to the future economic development of the industry. Water allocations for primary production are classified as 'consumptive'. Briefly, the five rules for consumptive uses depend on:

1. the rules in each water entitlement,
2. the volume of water available at the point of diversion,
3. the ability to store and deliver water,
4. the timing of the demand for water, and
5. water security considerations.

Primary producers understand well the approaches to risk management and future proofing medium (3-7 year) long term (7 to 10 years) economic targets for their businesses as well as the sector. Uncertainty in the allocation of water could constrain growth within the sector and potentially deter regional food processing and manufacturing that are integral to the supply chain. On the latter point, food processing and manufacturing is a high-water use sector and has traditionally been totally reliant on bulk water entitlements (town water) derived from the allocations of consumptive use. Currently many of the catchments face caps within unallocated water. For instance, some unallocated water is available within the Mitchell and Tambo catchments. This water could be managed and traded via the normal processes.

However, primary producers are frustrated at the lack in ability to store excess streamflow (winter-fill), and the inability of using unallocated water that is within private land (property boundaries) after significant rainfall events outside of the winter-fill allocation period. Council supports **Proposal 8-4** that identifies a monitoring framework for emerging risks to water resources and storage.

Best management practice and investment in infrastructure to store water has been central to the success of the Lindenow Valley Water Security project (<https://www.nationalwatergrid.gov.au/program/lindenow-valley-water-security-scheme>) and the Coal River Stage one Irrigation project (Tasmania; <https://www.tasmanianirrigation.com.au/schemes/south-east-stage-1>). These projects reflect the ability of water management systems to strike the balance between water use and resource allocation and also provide an opportunity to harvest water from periods of excess channel flow, winter-fill scenario, or in future climate scenario where stormwater recovery through overland flow is paramount to prevent environmental damage.

Council supports **Proposals 9-1 and 9-2** to develop investment plans for future water infrastructure. Producers across the Snowy and Tambo catchments have expressed an opinion that infrastructure such as that developed in the Mitchell catchment will assist future water management across the cropping zones within the catchment and may assist in better water management reflecting the consistency of high regional rainfall. This will allow an expansion of farm production as well as provide an opportunity for growers across the region to diversify cropping choices if water was allocated to agriculture and horticulture. The Council review of regional economic development planning supports an expansion in cropping and horticulture across the region, and the development of new and emerging crops through proactive industry diversification. This may result in less water use efficient

sectors being progressively superseded. This change in industry structure means that, in future, there is a lower risk of business failure if water allocations were optimised and unallocated and winter-fill were stored in efficient water infrastructure.

Recommendations

- 3.1 Infrastructure development across areas of Snowy and Tambo catchments to ensure unallocated and winter-fill opportunities are able to be realised, while recognising these flows can also be important to the health of waterways and lakes. It is acknowledged that any infrastructure development to better use allocated winter fill or unallocated water needs to be managed sensitively, reflecting duality of water use – primary production and maintenance of the health of the Gippsland Lakes.
- 3.2 Future funding of infrastructure development should be targeted to provide opportunities to grow the regional industries, drive water use efficiencies and assist in regional economic development.
- 3.3 Any development plans focused on expansion of food manufacturing processing expansion within some regional towns may affect the bulk entitlement requirements.
- 3.4 Development of infrastructure across all catchments to ensure:
 - 3.4.1 that future climate scenarios do not result in rapid soil loss, environmental damage,
 - 3.4.2 attenuation of pollutants, and
 - 3.4.3 capture of winter fill and non-seasonal unallocated water (storm water recovery).

4. Agricultural systems efficiencies

Increased efficiency of water use on farm is a foundational element of any future water management plan. Consultation with primary producers in East Gippsland support **Proposals 5-1 and 10-8** where the Victorian Government proposes to promote and invest in efficiency measures across all water users as a foundational element of water management, to enable all water users to contribute to Victoria's water security efforts. Council has been proactive in developing Integrated Water Management (IWM) plans for the built environment.

These plans are focused on recovery/reclaim of water, urban design and water use efficiency, outreach and extension programs to build better community awareness and support long-term change.

However, implementing IWM principles into planning and investment decision making is labour and time intensive. This is because IWM by its nature is; (i) multi-agency, (ii) will impact land users and owners and; (iii) deliver multiple benefits, i.e. indigenous, industry (future agriculture and manufacturing), residential, public (environmental) and private (reduced flooding risk, water pricing). Council has expressed strong engagement with DELWP and other State agencies to assist in building capacity and capability.

Proposal 5-9 (enhanced reporting of leakage) is central to ensuring water use efficiency plans are fulfilled. Further support to the agricultural and horticultural industries through the delivery of **Proposal 5-12** is critical to the economic development of the region. **Proposal 5-12** proposes to support continued improvements in agricultural water-use efficiency and best-practice land and water management. This support may be targeted to support water distribution, on-farm efficiencies and decision making-planning processes. East Gippsland supports this proposal.

If future water infrastructure is developed to recover water resources currently not allocated or during periods of the year where rainfall intensity/stream flow constraints may result in environmental damage, a parallel program is required to maximise water use efficiency in cropping and livestock systems. There are a number of digital technologies and decision tools that can be deployed to assist in this process. Industry adoption of these technologies has been moderate to low in the past, but under future conditions where water is an ever-scarce resource (with potentially high prices; impact on s51 licences), the benefit cost of deployment of these systems is more attractive. There are excellent examples of the adoption of automation and sensor networks across the major Victorian irrigation district (e.g. MID and Shepparton Irrigation Area), however the adoption rates for in field sensor, next generation irrigation technology, automation within field scale horticulture across the East Gippsland catchments has been low. Primary producers are disappointed that there are no large-scale demonstrations of these technologies in East Gippsland.

It has been commented on by several producers that financial matched grant systems for such technologies would assist adoption rates and deliver significant gains in water use efficiency. Furthermore, whole farm planning (water balance, in farm water allocation, crops production) integrated with best management practices to alert irrigators of water allocation, elevated flows etc. provide the basis of advanced management of water as well as cropping systems (for example rapid rotation cropping cycles, better scheduling of water delivery to crops, grow sustainably to total volume rather than maximise yield). These farm planning processes could also assist producers to adopt new approaches to manage water-related farm biodiversity (riparian management), soil carbon (higher water holding capacity in soils) and manage better sub surface salinity.

Recommendations

- 4.1 Integration of digital and advanced monitoring technologies across major farming zones to ensure water stored in infrastructure (e.g. winter-fill storage dams) or harvested via allocations either from river flow or ground water is used efficiently.
- 4.2 Proactive agency engagement with farmers and irrigators to provide locally appropriate knowledge transfer and skills development focused on better use of water on farm.

5. Other water resources – ground water and recovery

The majority of ground water across the four catchments in East Gippsland have been allocated. There are concerns that depletion of mid and lower aquifers has occurred and will build as a long-term issue facing consumptive water use. Aquifer storage and recovery (e.g. Wy Yung and deep Latrobe Group Aquifers at Woodglen) is a feasible option, if surface storage is not feasible. This approach to store and recover water may allow allocations to primary production after bulk entitlement abstraction. Council notes **Proposal 7-1** and supports the development a state-wide Groundwater Management Strategy.

Recovery of wastewater (storm and post processing) is a potential option for certain sectors of agriculture and horticulture. These water sources are identified potential water substitution sources. Considerable policy and operational work has been done by Council (EGSC Integrated Water Management Project) concerning these sources (new climate independent water sources). East Gippsland LGA welcomes **Proposals 5-10 and 5-11** where the Victorian Government proposes to provide incentives such as co-investing with councils, businesses, not for profit organisations and Traditional Owner corporations to use stormwater and recycled water to irrigate open spaces; and proposes to provide one-off grants to complete water efficiency audits for sporting grounds to identify and map opportunities to reduce, or substitute, demands on the potable water system.

Currently much of the stormwater across urban areas of East Gippsland towns is returned to the environment through unregulated run-off (principally storm water), whereas discussions concerning recycle/reclaim water from wastewater treatment is still on-going. Proactive urban design and planning has commenced to make the urban areas more water efficient and reduce runoff (aligning to **Proposals 7-7, 7-9, 7-10, 7-12, 7-13 and 10-7**). Many of these recovery opportunities are not integrated into agricultural or horticultural production reflecting no reclaim water infrastructure to farming zones.

Proposals 4.3 and 4.4 suggests that (a) all future business cases for investment in new sources of water include a commitment to hand back a proportion of water to Traditional Owners on the completion of these substitution projects, and (b) that water returned to rivers and creeks as a result of substitution by alternative water sources will be shared equally between the environment (the Victorian Environmental Water Holder) and Traditional Owners. The implications for agriculture and horticulture is no net gain in terms of water allocation and may actually have implications for winter-fill and other abstraction from unregulated rivers. The no net gain principle is demonstrated in **Proposal 4.4** where new, climate independent water sources can be used to meet future water needs (consumptive water allocation) and be used to reduce the volumes of water extracted from creeks and rivers. If insufficient water infrastructure is available to distribute water to agricultural and horticultural areas and the substitution principle is applied to river discharge volumes, recovered water will not be used by the agricultural industry but the entitlement for abstraction is reduced.

Proposal 4.3 and 4.4 seem to conflict with **Proposal 8-1** where water substitution is noted not to reduce existing water availability to primary production. **Proposal 8-1** does not seem to consider the relationship between volumes recovered and reduced water abstraction from channel and streamflow. Council understands that **Proposal 7-6** becomes central to the discussion concerning water substitution, and wishes to engage urgently with the Victorian Government, to understand the accountability and reporting (monitoring and verification) for recycled water.

The use of many substitution water products is prohibited in the fresh produce industry but does not preclude the use in broad acre cropping, livestock (with some constraints), and

perennial horticulture (orchards etc.) Further knowledge brokering activities concerning the use of recycled/reclaimed water for agriculture and horticulture is supported (**Proposals 7-4 and 7-8**). Currently these sources of water are limited (e.g. East Gippsland Water has 132 hectares of irrigated pasture available to receive recycled water from the Paynesville wastewater treatment facility) but an expansion of these resources may be feasible.

Recommendations

- 5.1 Groundwater – aquifer storage and recovery may act as a buffer resource for unallocated water and support targets for consumptive water allocations.
- 5.2 Reuse recovery water sources need further investigation and potential deployment for agricultural production through enhanced infrastructure to prevent impacts of local substitution reducing overall abstraction volumes to farms away from peri-urban areas.

6. Other matters

There is a need for careful risk management in relation to future water intensive proposals and their impact on water resources and the availability of water more generally for a range of productive, environmental and Traditional Owner uses.

While the recently published Minister's Assessment did not support the proposed Fingerboards Mineral Sands Project, the Environmental Effects Statement considered the impacts of the proposed project on water resource availability.

Water allocations from the Mitchell River as well as bore water from mid and deep aquifers were foreshadowed. Approximately 1.5 GL of water would be required per annum during mine construction and initial start-up. Approximately 3 GL per annum of water would be required for the 15-year operation period for ore processing, dust suppression and rehabilitation. Water for the project was proposed to be sourced from surface water from the Mitchell River (under a winter-fill licence allocation from Southern Rural Water (SRW)) and/or groundwater from the Latrobe Group Aquifer (from a bore-field south of the project area, subject to securing traded water allocations from existing users and a licence from SRW).

Recommendations

- 6.1 Allocation mapping is required for consumptive water use within the Mitchell catchment reflecting the recent allocation of 2 GL to Traditional Owners, the maintenance of environmental flows, bulk entitlements for Bairnsdale and Paynesville and irrigation requirements.

7. Funding

It is important that suitable levels of funding are agreed. In particular further information is sought concerning the delivery of the outcomes identified in this document and hence the Central and Gippsland Sustainable Water Strategy. In particular the funding requirements encompass:

- A long-term commitment to address all catchments in the region (particularly in the case of East Gippsland Shire which covers approx. 10% of Victoria's land area).
- The strategic planning process to be remote, rural and urban focused to ensure that multi-use benefits of water in our environment is realised across all catchments.
- Funding needs to be mutually agreed on and ongoing. Council suggests allocated funding of this initiative rather than grant dependant and periodic as is the current case.
- Divest decision making to local government and local water authorities so that IWM and WSUD principles can be incorporated and prioritised at the local level. This is important as it will achieve local targets, ensures decisions made locally and the broad objectives of the strategy can be tailored to specific regional economic and social objectives.

Recommendations

- 7.1 Sufficient levels and suitability targeted funding are agreed between East Gippsland Shire Council and the State of Victoria to support the future development and implementation of the Central and Gippsland Sustainable Water Strategy.



East Gippsland Agriculture Sector Advisory Committee

Thursday 21 October 2021

Teams Attendees: Alison Gunn, Anthony Basford (EGSC), Bruce Weston (AgVic), Cr. Mendy Urie (Mayor), Cr. John White, Ian Cane, Ken Eckersley, Leecia Angus, Matthew Zagami, Nick Blandford, Nicola Pero (FFG), Paul Menke, Sharon Raguse (EGSC), Stephen Kleinitz (EGSC), Stuart McConnell (EGSC) and Trevor Caithness

Apologies: David Caldwell, Graeme Dear (EGCMA), Jen Smith and Simon Turner

Minute Taker: Kaylene Wickham

No.	Issue	Resp. Officer	Notes
1	Acknowledgement of Country	Chair	
2	Welcome and apologies	Chair	<p>Attending: <u>Members:</u> Alison Gunn, Bruce Weston (AgVic), Cr. Mendy Urie (Mayor), Cr. John White, Ian Cane, Ken Eckersley, Leecia Angus, Matthew Zagami, Nick Blandford, Nicola Pero (FFG), Paul Menke and Trevor Caithness.</p> <p><u>EGSC Staff:</u> Anthony Basford, Kaylene Wickham, Sharon Raguse, Stephen Kleinitz and Stuart McConnell.</p> <p>Apologies: <u>Members:</u> David Caldwell, Graeme Dear (EGCMA), Jen Smith and Simon Turner.</p>



East Gippsland Agriculture Sector Advisory Committee

No.	Issue	Resp. Officer	Notes
3	Confirmation previous minutes	Chair	<p>Confirmation previous minutes: Moved: Trevor Caithness. Seconded: Nick Blandford.</p> <p>Actions from last minutes:</p> <ol style="list-style-type: none"> 1. Circulate The effects of the EPA Industrial Waste Ruling Presentation Outcome: Complete. <p>Summary of actions from current meeting:</p> <ol style="list-style-type: none"> 1. Email Economic Development Presentation to members to provide feedback direct to consultant. Circulate State and East Gippsland Export data. 2. Email Rural Land Use Presentation to members to provide feedback direct to consultant. <p><u>Motion:</u></p> <ul style="list-style-type: none"> - That Council prepare a submission on the Central Gippsland Regional Sustainable Water Strategy. - Circulate the presentation with a shared live spreadsheet for members to note feedback. - Form a SWS Working Group to compile the feedback and prepare a submission response. - Members self-nominated: Ian Cane, Ken Eckersley, Matt Zagami and Trevor Caithness. <p>Motion carried Matt Zagami. Seconded Trevor Caithness.</p>
4	Declaration of conflict of interest	Chair	No conflict of interest noted by the members.



East Gippsland Shire Council - Agenda
Council Meeting - Tuesday 22 February 2022



East Gippsland Agriculture Sector Advisory Committee

		Stuart McConnell	<ul style="list-style-type: none"> - Item 9. FFG partners with LVA in smart specialisation. One of the 4 streams is looking at the development of seaweed as a competitive regional advantage for use by pharmaceutical and human consumption. Working with Blue Carbon Lab out of Deakin University on Carbon Economy Workshops and University Queensland on Carbon Assets and liabilities across the region.
		Trevor Caithness	<ul style="list-style-type: none"> - Item 8. Platform developed with e-creators (now learning technologies) called KEDI. Incorporating mobile friendly 3&4G with social media interface. - Innovation and drought resilience funded programs will inform better practices.
		Leecia Angus	<ul style="list-style-type: none"> - Suggest focus on Item 2 increase productivity and better seed variety. Focus on basics. - Item 4. Better water management i.e. catching run-off, could increase productivity by 20%. Other activity will follow on with increased cash flow and money in the region.
		Alison Gunn	<ul style="list-style-type: none"> - Wonder if this picks up on the biosecurity issues and crop economy. - The word landscape may not be the best word, as there are other issues not landscape related i.e. weed, biosecurity etc
		Bruce Weston	<ul style="list-style-type: none"> - Want to reinforce the sentiment around bio-security. - Having a Food and Fibre theme as a sub component is great. - Would be good to focus on the actions that are going to give us best return. Can't do everything, but with limited resources, what will get best outcomes for the region. - A gap maybe building capabilities and future skills to support the F&F sector of the future.
		Nicola Pero	<ul style="list-style-type: none"> - The language is important, Food and Fibre versus Agriculture may not be broad enough. Interest from students is different for each sector.



East Gippsland Agriculture Sector Advisory Committee

No.	Issue	Resp. Officer	Notes
		Paul Menke	<ul style="list-style-type: none"> Diversifying in Aquaculture is difficult when have an innovative product. Would be good to have streamlined approval processes and reduced red tape. This will support growth and progress of innovative products i.e. abalone, seaweed, mussels, oysters. A limitation is also having skilled workers. Working with GippsTAFE to develop an aquaculture program to keep people in the region and to develop the industry.
		Ian Cane	<ul style="list-style-type: none"> Adapting to climate change is a consideration. What are the opportunities i.e. compliance for major businesses and barriers?
		Nicola Pero	<ul style="list-style-type: none"> Climate impact has challenges and opportunities i.e. technology. The sector value for all of Gippsland is \$7B of the \$14.2B State value. *
		Ken Eckersley	<ul style="list-style-type: none"> Interested in \$7B from the State export coming out of Gippsland. Are we able to access the statistics on what we are producing as % of GVP?**
		Nicola Pero	<ul style="list-style-type: none"> Agriculture in EG makes up 1.8% of the state production. <p><u>Action: Email Economic Development Presentation to members to provide feedback direct to consultant twalker@sgsep.com.au.</u></p> <p><u>Circulate State and East Gippsland export data.</u></p> <p>* https://www.abs.gov.au/statistics/industry/agriculture/value-agricultural-commodities-produced-australia/latest-release</p> <p>** https://agriculture.vic.gov.au/about/agriculture-in-victoria/victorias-agriculture-and-food-industries</p>



East Gippsland Agriculture Sector Advisory Committee

5.2 & 5.3 Issues raised by Members and Industry combined with Strategic Direction Discussion	Stuart McConnell	Issues raised by Members and Industry in view of Strategic discussions: What is it about the vision and leadership we are trying to tease out? What are the things that need collective action? What would success look like?
	Trevor Caithness	Member discussion: <ul style="list-style-type: none"> Water security is an ongoing concern. If we establish good water security, investment, productivity, employment and stimulus will naturally follow.
	Matt Zagami	<ul style="list-style-type: none"> Reducing the red tape would help producers produce. The regional and economy is diverse i.e. the strategy for Lindenow Valley for vegetable production is great, but the rest of the region is lagging behind i.e. water security, leadership, red tape, engaging other industries and productions.
		<ul style="list-style-type: none"> Strategy to support investment in Agriculture in EG to create better wealth and growth.
	Nicola Pero	<ul style="list-style-type: none"> Regulations are inevitable. Social licence is increasing i.e. vegetarianism is getting louder, animal welfare etc. In addition, there are environmental concerns, water is getting scarcer, what can we do to be innovative, invest in technology and knowledge sharing.
	Ian Cane	<ul style="list-style-type: none"> Quality of the forest in public land is to be considered as a contributor.
	Matt Zagami	<ul style="list-style-type: none"> Farmers need support and infrastructure funding in dry periods and to have a marketing strategy in place.
	Bruce Weston	<ul style="list-style-type: none"> Increase vision is important, to include adaption, climate variability, diversity and innovation. Needs to be different to other regions as EG is more diverse.



East Gippsland Agriculture Sector Advisory Committee

No.	Issue	Resp. Officer	Notes
			<ul style="list-style-type: none"> Vision could be aspirational 'to create a thriving agriculture industry in a highly variable climate with good resilient systems'.
6	Attached reports for noting by exception	<p>Bruce Weston</p> <p>Kaylene Wickham</p> <p>Stuart McConnell</p>	<p>6.1 Agriculture Victoria Report: Horticulture Industry Officer appointed to work out of Maffra.</p> <p>In the process of developing the Regional Drought and Resilience Plan.</p> <p>6.2 EGSC Agriculture Officer Report: Council contractors attended an African Love Grass workshop on risk mitigation.</p> <p>Survey analysis underway.</p> <p>6.3 Rural Agency Network Support Services Meeting Notes: People are still presenting post fires.</p> <p>6.4 Digital Connectivity Report and Assessment: Polis Planning completed the review following several months of deep community consultation. A brief description of the report was provided.</p> <p>Council is now assessing how to best use this intelligence to advocate for and secure State and Federal Government investment to address identified deficiencies.</p>



East Gippsland Agriculture Sector Advisory Committee

7	Presentations		
	Rural Land Use Strategy Update	Martin Richardson	<p>Rural Land Use Strategy Update:</p> <ul style="list-style-type: none"> - The strategy is to provide a clearer framework to guide protection of rural land and viable agriculture land in EG. - Members encouraged to send feedback and comments on the proposal direct to Martin. <p>Action: Email Rural Land Use Presentation to members to provide feedback to martinr@egipps.vic.gov.au.</p>
	East Gippsland Sustainable Water Strategy	Lisa Lowe Juliet Delardes Cr. White Lisa Lowe	<p>East Gippsland Sustainable Water Strategy:</p> <p>One of the key goals of this consultation is to increase awareness to ensure an equitable balance of responses across all sectors, it would be great if the group could assist us by distributing the communications materials (to be forwarded after the meeting) through their channels to generate greater awareness among the agriculture community.</p> <p>Points presented:</p> <ul style="list-style-type: none"> - River water is only at 90% capacity - Demand is higher than amount of water available - Need to manufacture water to fill the gaps by desalination, recycling and storm water using renewable energy - Online water exchange marketing is being reviewed - Webinar to engage the agriculture sector is being held on 11 November 2021 - Consultation closes on the 10 December 2021 <p>Question:</p> <ul style="list-style-type: none"> - We are working with DEWLP to assist farmers, what do you think is needed? <p>Members response:</p> <ul style="list-style-type: none"> - Is there consideration for the North South pipeline? - Yes there has been no changes suggested to its current use.



East Gippsland Agriculture Sector Advisory Committee

		Cr White:	<ul style="list-style-type: none"> - Desal plants are running ongoing, using a high amount of energy, even though it is renewable energy.
		Ken Eckersley:	<ul style="list-style-type: none"> - Is there a mention of the increasing efficiency of irrigators, what's been done to restrict poor practices?
		Lisa Lowe	<ul style="list-style-type: none"> - Working with partners to continue to promote efficient use of water.
		Anthony Basford Stuart McConnell	<ul style="list-style-type: none"> - Given the proposal is there a need to do a council submission from the ASAC? - Should there be a request for an East Gippsland focused forum, looking at our local water issues?
		Matt Zagami	<ul style="list-style-type: none"> - Given farming entities are under severe restrictions and there is a lot of potential east of Bairnsdale for irrigation to be used (which is often not considered). We do need to put in a detailed submission.
		Nicola Pero	<ul style="list-style-type: none"> - Do we engage One Gippsland to prepare a submission as well? <p><u>Motion:</u> <u>That Council prepare a submission on the Central Gippsland Regional Sustainable Water Strategy.</u></p> <p><u>Circulate the presentation with a shared live spreadsheet for members to note feedback.</u></p> <p><u>Form a SWS Working Group to compile the feedback and prepare a submission response.</u></p> <p><u>Members self-nominated: Ian Cane, Ken Eckersley, Matt Zagami, and Trevor Caithness.</u></p> <p><u>Motion moved by Matt Zagami seconded Trevor Caithness.</u></p>



East Gippsland Agriculture Sector Advisory Committee

No.	Issue	Resp. Officer	Notes
	Food and Fibre Gippsland		<p>Food and Fibre Gippsland</p> <p>FFG was formed as an amalgamation of the EG Food Cluster and provides an untied voice on behalf of individual shires. It is important to define what is meant by Food and Fibre.</p> <p>In addition to programs mentioned earlier, FFG projects include:</p> <ul style="list-style-type: none"> - Latrobe Valley Authority - Smart Specialisation Process in Orbost - Circular economy - Waste trading platform - Advance vegetable cropper - Logic mapping - Craft Malting Precinct - Working with Sailor's Grave and others want to duplicate hard spirit malting - Carbon Pooling - Carbon registration and trading - Veg Net 3.0 - Innovation and communication across region - Knowledge Education Development Information (KEDI) - Many features, variety of fees and costs for consumer and corporates. - Export Programs - Working with 23 companies to the export market. Exporting will get harder as china just added more requirements. Growth market is in Indonesia, Vietnam, and others. - FIAL - supports national food and agribusiness growth and works with export buyers. - The Victorian Government just opened Vic House in China to promote Gippsland providence and producers. - Gipps Food & Fibre Awards - Finalists announced, no physical event this year. - What your Food and Fibre Challenge - Looking at opportunities and challenges - GLAWAC – Bush Tucker business chain <p>To note Food and Fibre Gippsland only have two staff members.</p>
8	Close and next meeting date	Chair	<p>Next meeting 9 December 2021</p> <p>Items for next meeting: Food and Fibre Gippsland to present on the Drought Hub and KEDI platform.</p>

5.4.2 Planning Permit Application 403/2021/P - Two Lot Subdivision at 7 Sunset Boulevard Paynesville

Authorised by General Manager Place and Community

Conflict of Interest

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

Executive Summary

The planning permit application before Council seeks a permit to subdivide land into two lots, located at 7 Sunset Boulevard, Paynesville, part of the Eagle Bay Village Estate. The subject land is located on the western side of Sunset Boulevard with an approximate land area of 1,041 square metres.

A copy of the plans and supporting documents submitted with the application can be found via hyperlink at **Attachment 1**.

Due to the number of objections and in accordance with the Planning Permit Applications Delegations Policy 2018, the matter was presented at a Planning Consultation Meeting (PCM) on 24 January 2022 which allowed the applicant and the objectors the opportunity to speak to the proposal and for Councillors to be aware of the issues regarding the application. The minutes of the PCM are at **Attachment 2** and full copies of the objections are at **Attachment 3**.

A detailed assessment against the East Gippsland Planning Scheme has been undertaken (**Attachment 5**), and the proposal is viewed as being inconsistent with relevant planning policies. Additionally, based on the content of the objections received as well as concerns in relation to the neighbourhood character and amenity of the area, the recommendation is to refuse the proposal.

Pursuant to the instrument of delegation, a planning permit application may only be refused by decision of Council.

The officer recommendation is to issue a Notice of Refusal to Grant a planning permit based on the grounds of refusal outlined below.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report; and***
- 2. being the Responsible Authority and having considered all the relevant planning matters, determines that planning application 403/2021/P at 7 Sunset Boulevard, Paynesville is inconsistent with the requirements and objectives of the East Gippsland Planning Scheme and therefore resolves to issue a Notice of Decision to Refuse to Grant a Permit in accordance with the following grounds of refusal:***
 - a. The proposed subdivision is inconsistent with and does not adequately respond to the purpose and relevant decision guidelines of the General Residential Zone (Schedule 1) at Clause 32.08 in that it is inconsistent with the existing pattern of subdivision and neighbourhood character.***
 - b. The proposed subdivision has the potential to lead to development that is incompatible with the existing use of the surrounding land.***
 - c. The proposed subdivision is inconsistent with proper and orderly planning for the area.***

Background

Site Analysis

The estate includes a variety of lot sizes and differing lot shapes. The northern and southern properties adjacent to the subject land are developed with a dwelling as well as the eastern properties. To the west and partly to the south is a large rural holding used to graze cattle, which has been earmarked for future urban growth.

Access to the subject land is gained from Sunset Drive and the land has a minor fall to the rear of the property.

The precinct has a full range of reticulated services inclusive of power, water, sewer and telecommunications.

The land is located within the General Residential Zone and is subject to the Design and Development Overlay (Schedule 14).

The land is subject to a Covenant (Instrument AD446225P). The restriction dictates use and built form on the land, fencing, construction of driveways and earthworks. The restriction does not restrict the ability of the land to be subdivided. Any future development must accord with the restriction.

Proposal

The proposal includes the creation of two lots with Lot 1 to be 405sqm and Lot 2 to be 636sqm with both accesses to be gained from Sunset Boulevard, the property frontage.

Legislation

The proposal is considered in accordance with the provisions of the *Planning and Environment Act 1987*.

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*.

Considerations of Gender Equality in Planning are made in relation to planning strategy, including planning scheme amendments and policy changes. Individual assessment of planning applications tend to be gender neutral, however Council officers consider factors such as community safety, privacy, and accessibility in an integrated and multi-faceted decision-making process.

East Gippsland Planning Scheme

The key aspect of decision making in relation to this matter is to ensure that the application has appropriately addressed all the relevant planning policy, purposes and objectives of the Zone, Overlays and Particular Provisions relating to the subject site and immediate surrounds. A more detailed assessment against the relevant policy, zone purposes and objectives is included in the detailed Planning Scheme assessment at **Attachment 5**.

The subject land is zoned General Residential Zone (Schedule 1) and is subject to the Design and Development Overlay (Schedule 14).

A planning permit to subdivide land is required under the GRZ1 and DDO14.

Planning policy relating to the proposal generally seeks to:

- Direct development to appropriately zoned and serviced land;
- Protect productive agricultural land;
- Protect environmental features of significance; and
- Ensure that human life and property is not placed at an unacceptable level of risk.

The policies seek to ensure the promotion of sustainable growth and development whilst ensuring the character of a settlement is capable of being integrated into the immediate community.

In this instance, even though the proposal is capitalising on the opportunity for infill development, it has failed to take into account the physical context of the location by not appropriately meeting the existing neighbourhood character of the surrounding area. The proposed subdivision creates a dwelling density that does not meet the purpose of the zone and respond to the existing neighbourhood character.

General Residential Zone (Schedule 1)

The purpose of the zone is as follows:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To encourage development that respects the neighbourhood character of the area.
- To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

Pursuant to Clause 32.08-3 in relation to the GRZ, a permit is required to subdivide land. An application to subdivide land that would create a vacant lot less than 400 square metres capable of development for a dwelling or residential building, must ensure that each vacant lot created less than 400 square metres contains at least 25 percent as garden area. This does not apply to a lot created by an application to subdivide land where that lot is created in accordance with:

- An approved precinct structure plan or an equivalent strategic plan;
- An incorporated plan or approved development plan; or
- A permit for development.

An application to subdivide land, other than an application to subdivide land into lots each containing an existing dwelling or car parking space, must meet the requirements of Clause 56 and:

- Must meet all of the objectives included in the clauses specified in the following table.
- Should meet all of the standards included in the clauses specified in the following table.

Lot 1 is to be subdivided with an area of 405sqm and Lot 2 with an area of 636sqm.

The Decision Guidelines require the consideration of:

- The pattern of subdivision and its effect on the spacing of buildings.
- For subdivision of land for residential development, the objectives and standards of Clause 56.

The proposed two lot subdivision does not reflect the existing pattern of subdivision which in turn does not meet the overall neighbourhood character of the surrounding area (one of the purposes of the zone).

As mentioned earlier, the proposed subdivision has not been designed to meet the characteristic of the area in that the average lot sizes range about 800-1,000sqm.

The proposal is therefore inconsistent with the provisions of the Planning Scheme and the purpose of the General Residential Zone.

Collaborative procurement

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

The application was subject to a Planning Consultation Meeting as there were 10 or more objections, pursuant to the Planning Permit Applications Delegation Policy 2018. In addition, the officer recommendation is for refusal, so the matter must be reported to Council.

Options

1. Adopt the Officer's recommendation.
2. Move an alternate motion with Council's position to be recorded as supporting the application and delegating the issue of a Notice of Decision to grant a planning permit, subject to standard conditions, to the General Manager Place and Community.

Resourcing

Financial

There are no financial implications.

Plant and equipment

Not applicable.

Human Resources

The application has been assessed by Council officers.

Risk

The risks of this proposal have been considered and given the nature of the objections, it is likely that any decision (to grant or refuse the permit) would be challenged at VCAT, either by objectors or the Applicant. These are relatively minor risks to the organisation from a liability perspective.

Economic

The permit applicant argues that the proposal would contribute to the area by facilitating an additional allotment. On the other hand, the proposal is considered by officers to be inconsistent with the existing neighbourhood character.

Social

Officers contend that the proposal would detrimentally affect the neighbourhood character of the area.

The number of local residents who have objected is significant.

Gender Impact Statement

Considerations of Gender Equality in Planning are made in relation to planning strategy, including planning scheme amendments and policy changes. Individual assessment of planning applications tend to be gender neutral, however Council officers consider factors such as community safety, privacy, and accessibility in an integrated and multi-faceted decision making process.

Environmental

There are no significant environmental impacts of the proposal.

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. There are no likely impacts of the proposal from or by climate change processes.

Engagement

Referral

Consultation has been undertaken in the following manner:

Internal	Technical Officer Development (Drainage, Internal Access) - Conditional consent given.
----------	--

The internal response is at **Attachment 4**.

Public Notification

Notification was undertaken in the form of letters to adjoining landowners, occupiers and previous objectors and placing of a notice in the East Gippsland News, in accordance with Section 52 of the *Planning and Environment Act 1987*.

Copies and further details of the objections are at **Attachment 3**.

In summary the objections raised the following concerns/issues:

- Land fragmentation.
- Drainage.
- Increase in traffic.
- Noise.
- Increase in density in the area.
- Set precedence in subdividing further.
- Overdevelopment.
- Devaluation.
- Amenity and neighbourhood character.
- Proposed lots smaller than the other sites in the surrounding area.
- Possible commercial – air B&B.
- Overshadowing onto direct owners if the development is two storey built form.

Attachments

1. Application Documents Link [5.4.2.1 - 1 page]
2. Minutes PCM 24012022 7 Sunset Boulevard [5.4.2.2 - 4 pages]
3. App Submissions Redacted [5.4.2.3 - 28 pages]
4. Referral Response [5.4.2.4 - 1 page]
5. Detailed Assessment [PM6H] [5.4.2.5 - 10 pages]

For application documentation, refer to the advertised copy of the application listed on Council's website:

https://egswazstorage.blob.core.windows.net/pubwebcontent/advertised-planning-permit-applications/4032021P_7_Sunset_Boulevard_Eagle_Point.pdf



**EAST GIPPSLAND SHIRE COUNCIL
PLANNING CONSULTATION MEETING
403/2021/P – 7 Sunset Boulevard PAYNESVILLE
Two lot subdivision**

**Record of Meeting
(Minutes)**

MONDAY, 24 JANUARY 2022

VIA MICROSOFT TEAMS

COMMENCING AT 6:01 P.M.

1. PROCEDURAL

1.1 APOLOGIES

Councillors: Cr Trevor Stow, Cr Tom Crook, Cr John White, Cr Arthur Allen, Cr Sonia Buckley and Cr Kirsten Van Diggele

Objectors: Yvonne Brown, Mervyn Brown, Sue Lakey, Jessica Oliver, John Pearce, Max and Judi Shearman, John and Jean Humphreys, Alan and Lesley Taylor, Jeffrey Thorpe, Brian Plum, Gordon and Jillian Elsmore, Carol McNairn, Craig Rush, Wayne Thomas and Lena Lim, Ian Roberts, Melinda Spencer, Leanne Tattersall, Ann Gleeson, Terence Payne, Basil and Irene Prowse

1.2 IN ATTENDANCE

Councillors: Cr Mark Reeves, Cr Mendy Urie and Cr Jane Greacen

Applicant: Richard Hoxley – Crowther & Sadler

Objectors: John Humphreys, Alan and Lesley Taylor, Ann Gleeson, Carol and Daniel McNairn, Irene and Basil Prowse.

East Gippsland Shire Council Minutes Planning Consultation Meeting 403/2021/P – 24 January 2022

Officers: Anthony Basford, Chief Executive Officer; Stuart McConnell, General Manager Place & Community; Martin Richardson, Manager Planning; Emine Mestan, Acting Senior Land Use Planner.

1.3 DECLARATIONS OF CONFLICT OF INTERESTS

NIL

1.4 ACKNOWLEDGEMENT OF COUNTRY

2. REPORTS/PRESENTATIONS

2.1 PLANNERS REPORT

Emine Mestan – Acting Land Use Planning Officer

Provided background of the site location, planning controls, proposal details and summary of the number and content of objections and submissions.

2.2 APPLICANT PRESENTATION

Richard Hoxley – Crowther & Sadler

Provided some responses to the objections:

- Stormwater infrastructure – any current issues can be dealt with by raising it with the Council and to be maintained.
- Development of units – the Planning Scheme does not specify type of development but the proposed two lots may be developed as medium density.
- Covenant – there is no lot size of subdivision restriction listed; the lots will have the minimum lot size as per the GRZ1.
- Traffic and Parking – vehicle movements will be well within the average 10 vehicle movements per day per day.
- Property values – not a relevant planning consideration.

Noted that there's a variation of lot sizes within the area, with some lots at 400-500sqm. That shouldn't be the reason for grounds of refusal. If needed can place a condition or an agreement to restrict the number of dwellings and/or further subdivision on the permit if issued.

Q: Cr Greacen – requested clarity on what exactly the covenant restricts and noticed that the smallest lot size is around 700sqm.

A: Richard – the title is within the advertised documents which expires on 31/12/2024. There are a series of restrictions that states:

- Minimum dwelling floor area to be 170sqm excluding the porch, verandah, garage etc.
- To be built with new materials.
- Second hand materials to be rendered.
- Prevents use of cement sheet/hardiplank on external surfaces other than infill.
- Outbuildings to be of the same materials of the house – brick veneer / colorbond.
- Overall restricts on appearance of the building and not to subdivide.

Lots are of a size that can still accommodate a dwelling on each lot. The site context plan shows comparison of other lots in the estate showing other smaller lots.

Q: Cr. Urie – requested clarity which other lots are vacant.

A: Richard – stated that there is about 19 vacant lots remaining in the estate.

A: Martin – shared Council's Intramap system identifying the subject site and the vacant lots in the area.

2.3 OBJECTOR PRESENTATIONS

John Humphreys

- There are currently 18 vacant lots in the estate of which none are advertised for sale.
- If this proposal is approved, it will set a precedent for other landowners with those vacant lots.
- Do not want multi-units to be built up in the area. There should be single dwellings on the lots.
- The traffic will increase causing hoon driving and unsafe for pedestrians.

Lesley & Alan Taylor

- Similar concerns to John as above.
- Stated this is a money making opportunity for the landowner.
- Not in keeping with the character of the area.
- Moved out from Melbourne for quieter and safer living.

Carol & Daniel McNairn

- Drainage is a big issue that almost everyone is having problems with.
- Parking – lives on a slight bend and with the amount of tradies parking on the street will make it difficult to drive through the street. Concerns over parking on her nature strip as she maintains it.

Q: Cr Reeves – requested clarification with Council officers about parking on the street.

A: Martin – need to recognise it would be a temporary situation during a build and that anyone can park along the street. If a vehicle was to block a neighbour's driveway, then it's a compliance issue.

Ann Gleeson

- She gets direct drainage issues from the vacant subject site as she lives next door.
- Once dwellings are built the stormwater issues will become worse.
- The entry into the estate has a signboard illustrating "Paynesville's Premiere Residential Estate".
- Possible that a two-storey dwelling will be built that may have overlooking issues.
- Out of character and amenity issues.

Q: Cr Greacen – requested clarification on the drainage issues.

A: Martin – due to the recent rainfall, almost the entire Shire has had drainage issues. We can request and inspection by the works team to check for any blocked stormwater infrastructure.

Q: Cr Greacen - requested clarification on who else has drainage issues.

A: Cr Reeves – stated that we can have the site inspected and then explore how to overcome the issues.

Irene and Basil Prowse

- Most of the issues have been raised.
- The blocks at the entry of the estate from Palm Avenue are of a different build.
- Drainage is an issue.
- The driveway to the rear lot will be too close to the bedroom window.
- Impact on property values.
- Proposal of subdivision has been poorly designed.
- The notice on the site was erected for only two weeks which didn't give much opportunity for objections.

Q: Cr Urie – the driveway and battle-axe have been raised as an issue. Requested if Richard could explain whether the subdivision can be redesigned to be split through the middle.

A: Richard – the redesign has not been considered but dwellings could still be created on both sides. There would be driveways on either side creating more impacts.

2.4 CLOSING COMMENTS

Emine Mestan advised that Council will take into consideration all of the content of the evening's proceedings.

The application will be reported to a Council meeting for a determination. Further notification to the public is unlikely, however there will be advice sent when the application is brought before Council.

3. MEETING CLOSE

The meeting closed at 6:53 PM

Printed 10/01/2022
Page 1 of 28

From: Snapforms Notifications [no-reply@snapforms.com.au]
Sent: Monday, 13 December 2021 5:12:23 PM
To: Planning Unit Administration
Subject: Objection to a Planning Permit Application

Objection to a Planning Permit Application

An 'Objection to a Planning Permit Application' has been submitted via the East Gippsland Shire Council website, the details of this submission are shown below:

Name: Yvonne Brown

Email address:

Postal address :

Mobile phone number:

Planning permit number: 403/2021/P

What has been proposed?: Subdivision of land and erection of two units.

What is the address to be used or developed?: 7 Sunset Boulevard, Paynesville, 3880

Who has applied for the permit?: Owner

What are the reasons for your objection?: Eagle Bay Village is known as a premium living estate and as residents we want this to continue. No other blocks have been subdivided in this way and we do not wish to create a precedent. Tenancies of these properties may also impact the peaceful enjoyment of our estate. Drainage on Sunset Boulevard is already an issue and this proposal would create further storm water issues.

How would you be affected by the granting of this permit?: The downgrading of our premium estate. Also probably property values will decline.

Privacy Statement: Yes

Printed 10/01/2022
Page 2 of 28

From: Snapforms Notifications [no-reply@snapforms.com.au]
Sent: Monday, 13 December 2021 5:16:17 PM
To: Planning Unit Administration
Subject: Objection to a Planning Permit Application

Objection to a Planning Permit Application

An 'Objection to a Planning Permit Application' has been submitted via the East Gippsland Shire Council website, the details of this submission are shown below:

Name: Mervyn Brown

Email address: :

Postal address :

Mobile phone number: :

Planning permit number: 403/2021/P

What has been proposed?: Subdivision of land and erection of two units.

What is the address to be used or developed?: 7 Sunset Boulevard, Paynesville, 3880

Who has applied for the permit?: Owner

What are the reasons for your objection?: Eagle Bay Village is known as a premium living estate and as residents we want this to continue. No other blocks have been subdivided in this way and we do not wish to create a precedent. Tenancies of these properties may also impact the peaceful enjoyment of our estate. Drainage on Sunset Boulevard is already an issue and this proposal would create further storm water issues.

How would you be affected by the granting of this permit?: The downgrading of our premium estate. Also probably property values will decline.

Privacy Statement: Yes

Printed 10/01/2022
Page 3 of 28

From: Snapforms Notifications [no-reply@snapforms.com.au]
Sent: Tuesday, 14 December 2021 10:23:49 PM
To: Planning Unit Administration
Subject: Objection to a Planning Permit Application

Objection to a Planning Permit Application

An 'Objection to a Planning Permit Application' has been submitted via the East Gippsland Shire Council website, the details of this submission are shown below:

Name: Sue Lakey

Email address:

Postal address :

Mobile phone number:

Planning permit number: Lot 3 PS 524627

What has been proposed?: Subdivision of land and erection of two units

What is the address to be used or developed?: 7 Sunset Boulevard , Paynesville 3880

Who has applied for the permit?: Crowther & Sadler Pty Ltd 403/2021/P

What are the reasons for your objection?: It is unfair due to the Covenant restrictions which apply to this Estate. We have just built in the Estate and were penalised with all we wanted to achieve in our back yard - namely the Shed size,, front fences & gates , screening of Clothes line , Bins & water tanks - so as not to be seen from the Road. So it was all at an extra cost to us but due to being impressed overall with the Village development we decided it was worthwhile.

How would you be affected by the granting of this permit?: They should have to adhere to the same rules we did. What about conformity? ! What about drainage, general infrastructure which is not coping at all as it is. Just take the last down pour a week ago ? The land is not coping at all.

Privacy Statement: Yes

Printed 10/01/2022
Page 4 of 28

From: Snapforms Notifications [no-reply@snapforms.com.au]
Sent: Tuesday, 14 December 2021 7:37:46 PM
To: Planning Unit Administration
Subject: Objection to a Planning Permit Application

Objection to a Planning Permit Application

An 'Objection to a Planning Permit Application' has been submitted via the East Gippsland Shire Council website, the details of this submission are shown below:

Name: Jessica Oliver

Email address:

Postal address :

Mobile phone number:

Planning permit number: 403/2021/P

What has been proposed?: 2 subdivison of standard block

What is the address to be used or developed?: 7 Sunset Boulevard

Who has applied for the permit?: Crowther & Sadler Pty Ltd

What are the reasons for your objection?: I reside near the proposed development and object based on the proposed subdivision not being in keeping with the existing standards of the estate or the covenant and having a high probability of negatively impacting the environment & safety of the estate. I paid more than I otherwise would have to ensure our property was built in accordance with the covenant and I object to exceptions being made that set a precedent for future buildings. This estate has a strong community connection and environment in which children frequently ride their bikes and play without worries about traffic flow. Introducing subdivisions will increase traffic flow & parking congestion beyond what the estate was design for or what residence reasonably could have foreseen when purchasing land/property. In addition, as a volunteer member of the local SES and local resident I am aware that Sunset Blvd in particular has reoccurant issues with drainage & flooding that will only be increased by the introduction of higher density buildings.

How would you be affected by the granting of this permit?: Granting of this permit directly effects me as I reside within the estate and have abided by the covenant and existing parameters of the subdivison. As a young couple planning a family it also impacts my confidence in the liklihood of Paynesville/Eagle Point remaining a safe and desirable location to live. The shire setting a precedent for higher density development is counter to the exisitng infrustracture/service capacity and the community lifestyle that attracts tourists, retirees and young families. My concerns relate to increased congestion on the Paynesville Rd, which is already in poor condition; an increase in wait times for services such as GPs which on average are already 3+ weeks; decreased standard of environment - currently it is common for children to freely ride/play within the estate and surrounds without risks associated with increased parked vehicles/traffic flow.

Privacy Statement: Yes

Printed 10/01/2022

East Gippsland Shire Council Page 5 of 28

273 Main Street (PO Box 1618)
Bairnsdale Vic 3875
Website www.eastgippsland.vic.gov.au
Email feedback@egipps.vic.gov.au
Follow us on Twitter @egsc



Telephone: (03) 5153 9500
Fax: (03) 5153 9576
National Relay Service: 133 677
Residents' Information Line: 1300 555 886
ABN: 81 957 967 765

Objection to Planning Permit Application

Planning and Environment Act 1987

There are some hard words in this form. The hard words are in blue. You can read what they mean on page 3.

Your Details:

Name: <u>JOHN PEARCE</u>	
Postal address:	
	Postcode
Phone number: Home:	Work: Mobile:
Email address:	Fax:

Permit Details:

Planning permit number:	<u>403/2021/P.</u>	EGSC
What has been proposed?	<u>2 UNITS</u>	15 DEC 2021
What is the address to be used or developed?	<u>7 SUNSHINE</u>	INFORMATION
Who has applied for the permit?	<u>COWTHER & SADLER PTY LTD.</u>	MANAGEMENT

Objection Details:

What are the reasons for your objection?
<u>TO GIVE PERMIT FOR THIS APPLICATION WOULD</u>
<u>GIVE PRECEDENT FOR OTHER PROPERTIES IN</u>
<u>THE AREA.</u>
<div style="border: 1px solid black; padding: 5px; width: fit-content;"> Received EGSC Time: <u>11:45 am</u> 14 DEC 2021 <u>17</u> Corporate Centre </div>

Privacy Statement

The East Gippsland Shire Council asks for details about you to collect rates, approve permits and licences, and run a range of community services. The information you give to us on this form is used only for the reasons set out in the form and is not given to anybody else. Sometimes we may supply details about you to someone else, but only if we are allowed by law, or to protect someone or property.

When information is given out, Council will always try to make sure your privacy is protected in line with the *Privacy and Data Protection Act 2014*. You may ask for more information about Council's Privacy Policy by contacting our Information Privacy Officer on 03 5153 9500 or e-mail feedback@egipps.vic.gov.au

JUL15

Printed 10/01/2022

East Gippsland Shire Council Page 6 of 28

273 Main Street (PO Box 1618)
 Bairnsdale Vic 3875
 Website www.eastgippsland.vic.gov.au
 Email feedback@egipps.vic.gov.au
 Follow us on Twitter @egsc



Telephone: (03) 5153 9500
 Fax: (03) 5153 9576
 National Relay Service: 133 677
 Residents' Information Line: 1300 555 886
 ABN: 81 957 967 765

How would you be affected by the granting of this permit? _____

MY PROPERTY HAS A VACANT BLOCK NEXT DOOR.
 I WOULD NOT LIKE UNITS TO BE BUILT IN
 MY COURT

If you need more space for any part of this form please attach another sheet.

Signature: _____

Name: JOHN NEARRE

Date: 14/12/21

Office Use Only:

Objection Received by: Andrew Thomson Date Received: 14/12/2021

Planning officer responsible: Emine Mestan Date Received: 1/1/

Privacy Statement

The East Gippsland Shire Council asks for details about you to collect rates, approve permits and licences, and run a range of community services. The information you give to us on this form is used only for the reasons set out in the form and is not given to anybody else. Sometimes we may supply details about you to someone else, but only if we are allowed by law, or to protect someone or property.

When information is given out, Council will always try to make sure your privacy is protected in line with the *Privacy and Data Protection Act 2014*. You may ask for more information about Council's Privacy Policy by contacting our Information Privacy Officer on 03 5153 9500 or e-mail feedback@egipps.vic.gov.au

JUL15

Printed 10/01/2022

East Gippsland Shire Council Page 7 of 28

273 Main Street (PO Box 1618)
Bairnsdale Vic 3875
Website www.eastgippsland.vic.gov.au
Email feedback@egipps.vic.gov.au
Follow us on Twitter @egsc



Telephone: (03) 5153 9500
Fax: (03) 5153 9576
National Relay Service: 133 677
Residents' Information Line: 1300 555 886
ABN: 81 957 967 765

Objection to Planning Permit Application

Planning and Environment Act 1987

There are some hard words in this form. The hard words are in blue. You can read what they mean on page 3.

Your Details:

Name: <u>MAX + JUDI SHEARMAN</u>		
Postal address:		Postcode
Phone number: Home:	Work:	Mobile:
Email address:	Fax:	

Permit Details:

Planning permit number:	<u>APPL. REF N° 403/2021/P</u>
What has been proposed?	<u>TWO LOT SUBDIVISION.</u>
What is the address to be used or developed?	<u>7 SUNSET BOULEVARD, PAYNESVILLE.</u>
	<u>LOT 3 PS 524627</u>
Who has applied for the permit?	<u>CROWTHER AND SADLER</u>

EGSC

15 DEC 2021

INFORMATION
MANAGEMENT

Objection Details:

Re planning permit application at 7 Sunset Boulevard, Paynesville.

The entire estate including Sunset Boulevard is an excellent residential area.

We fear that splitting blocks in any way will set a precedent for similar developments within the estate. There are still undeveloped blocks to which this could apply as well as future creative battle axe arrangements on already developed sites.

We chose to live in this estate for the higher quality housing and lower density living.

Any deviation from the current density will impinge on the amenity of this excellent estate.

We strongly oppose the above planning application.

The East Gippsland Shire Council asks for details about you to collect rates, approve permits and licences, and run a range of community services. The information you give us on this form is used only for the reasons set out in the form and is not given to anybody else. Sometimes we may supply details about you to someone else, but only if we are allowed by law, or to protect someone or property.

When information is given out, Council will always try to make sure your privacy is protected in line with the Privacy and Data Protection Act 2014. You may ask for more information about Council's Privacy Policy by contacting our Information Privacy Officer on 03 5153 9500 or e-mail feedback@egipps.vic.gov.au

JUL15

Printed 10/01/2022

East Gippsland Shire Council Page 8 of 28

273 Main Street (PO Box 1618)
 Bairnsdale Vic 3875
 Website www.eastgippsland.vic.gov.au
 Email feedback@egipps.vic.gov.au
 Follow us on Twitter @egsc



Telephone: (03) 5153 9500
 Fax: (03) 5153 9576
 National Relay Service: 133 677
 Residents' Information Line: 1300 555 886
 ABN: 81 957 967 765

How would you be affected by the granting of this permit? AS STATED ON PREVIOUS PAGE
SETTING A PRECEDENT FOR INCREASED DENSITY

If you need more space for any part of this form please attach another sheet.

Signature: _____

Name: MAXWELL S SHEARMAN

Date: 8/12/2021

Office Use Only:

Objection Received by: _____ Date Received: ____/____/____

Planning officer responsible: _____ Date Received: ____/____/____

Privacy Statement

The East Gippsland Shire Council asks for details about you to collect rates, approve permits and licences, and run a range of community services. The information you give to us on this form is used only for the reasons set out in the form and is not given to anybody else. Sometimes we may supply details about you to someone else, but only if we are allowed by law, or to protect someone or property. When information is given out, Council will always try to make sure your privacy is protected in line with the *Privacy and Data Protection Act 2014*. You may ask for more information about Council's Privacy Policy by contacting our Information Privacy Officer on 03 5153 9500 or e-mail feedback@egipps.vic.gov.au

JUL15

To whom it may concern

12/12/2021

Planning Department.

East Gippsland Shire Council.

Re:- Proposed planning permit for subdivision of land and erection of two units at
No 7 Sunset Boulevard, Eagle Bay Village, Paynesville.

This letter is to voice our objections to the proposal, our reasons for objecting are that we purchased our property and built our house in this village as it offered a very pleasant neighbourhood with many retirees as we are, and is a very quiet and peaceful place to live. We moved to this area because of the peaceful environment, more on that below!

We live in Eagle Bay Terrace and we have 2 vacant blocks beside us and an empty block across the road from us, there is also around another 12 or more empty blocks on the estate. If this proposal were to go ahead it would set a precedent and many owners of the empty blocks would see an opportunity to make more money by subdividing their blocks, and as a precedent would have been set if this proposal was approved, any further applications would also succeed. If this were to happen the estate could end up with many units which could attract many renters who may not have the same concern for the peaceful & friendly environment of our estate?

There is a covenant on every property in this estate that not only dictates rules for house construction and size, but also rules for what can be done in front of every dwelling etc, renters traditionally don't follow the rules and could degrade the amenity of the estate and also add far more traffic than is envisioned even when all blocks have one dwelling each. We would be horrified if the owners of the block next door chose to subdivide and we had Units next door to us!!!!

My wife and I do trust that these concerns along with the grey water problems etc that would become apparent with units, that the council will not approve this proposal.

John Humphreys

Jean Humphreys

EGSC

15 DEC 2021

**INFORMATION
MANAGEMENT**

Printed 10/01/2022
Page 10 of 28

PLANNING DEPT
EAST GIPPSLAND SHIRE COUNCIL

RE:- PROPOSAL FOR SUBDIVISION
AT 7 SUNSET BLVD, PAYNESVILLE

Received
Time 8:34 0
14 DEC 2021
Corporate
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

Printed 10/01/2022
Page 11 of 28

From: Snapforms Notifications [no-reply@snapforms.com.au]
Sent: Monday, 13 December 2021 7:21:25 PM
To: Planning Unit Administration
Subject: Objection to a Planning Permit Application

Objection to a Planning Permit Application

An 'Objection to a Planning Permit Application' has been submitted via the East Gippsland Shire Council website, the details of this submission are shown below:

Name: A&L Taylor

Email address:

Postal address :

Mobile phone number:

Planning permit number: 403/2021/P

What has been proposed?: A 2 lot subdivision

What is the address to be used or developed?: 7 Sunset Boulevard, Eagle Point, 3878

Who has applied for the permit?: Crowther and Sadler Pty Ltd

What are the reasons for your objection?: No other land in Eagle Bay Village has been subdivided in this manner raising the concern that this is just a commercial enterprise for making money out of a small block. The drainage in Sunset Boulevard is also an issue and 2 extra dwellings on one small block will cause further grey water issues. The precedent of subdividing this block in this manner will only encourage others to do the same which is not the peaceful living lifestyle of the village which we have at the moment.

How would you be affected by the granting of this permit?: Indirectly we would be affected if other blocks in this village were subdivided in this way

Privacy Statement: Yes

Printed 10/01/2022
Page 12 of 28

From: Jeffery Thorpe
Sent: Monday, 13 December 2021 7:04:25 PM
To: Feedback Address For Web Page
Subject: 7 Sunset Boulevard Objections

EXTERNAL EMAIL: This email has originated from outside of the East Gippsland Shire Council network. Do not click links or open attachments unless you recognise the sender and know the content is safe. Contact ICT ServiceDesk if you are unsure.

I would like to object to the building of 2 units at 7 Sunset Boulevard. I bought my property last year as I and other residents of Caddie crt enjoy the nice quite area we have invested in. We have adhered too strict building codes ourselves, we can't even build a shed on our property until 2024, so why let number 7 build units?

We don't even know who is building the units or who there tenants will be, it will also open a precedent for other units to be built. We have a spare block in our small court, units could be built there, which we don't want too see. So it's a big no from me.

Jeff Thorpe

Sent from my iPhone

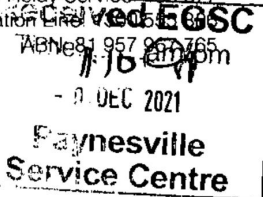
Printed 10/01/2022

East Gippsland Shire Council Page 13 of 28

273 Main Street (PO Box 1618)
Bairnsdale Vic 3875
Website www.eastgippsland.vic.gov.au
Email feedback@egipps.vic.gov.au
Follow us on Twitter @egsc



Telephone: (03) 5153 9500
Fax: (03) 5153 9576
National Relay Service 133 677
Residents' Information Line 1300 555 555



Objection to Planning Permit Application

Planning and Environment Act 1987

There are some hard words in this form. The hard words are in blue. You can read what they mean on page 3.

Your Details:

Name: <u>Brian Plum</u>			
Postal address:			Postcode
Phone number: Home: <u>—</u>		Work: <u>—</u>	Mobile: <u>—</u>
Email address: <u>—</u>		Fax: <u>—</u>	

Permit Details:

Planning permit number:	<u>403/2021P</u>
What has been proposed?	<u>2 Units</u> EGSC
What is the address to be used or developed?	<u>Lot 3 Sunset Boulevard.</u> <u>DS 524627.</u> INFORMATION MANAGEMENT
Who has applied for the permit?	<u>Crowther & Sandler Pty Ltd.</u>

Objection Details:

What are the reasons for your objection?
<u>Caveats are on this estate to protect homeowners from alternative types of buildings like units, they would lower value of houses in Sunset Boulevard. Lack of storm water pipes during construction of estate has lead to many homes having problems with flooding, 2 units on one block would cause more problems</u>

Privacy Statement

The East Gippsland Shire Council asks for details about you to collect rates, approve permits and licences, and run a range of community services. The information you give to us on this form is used only for the reasons set out in the form and is not given to anybody else. Sometimes we may supply details about you to someone else, but only if we are allowed by law, or to protect someone or property. When information is given out, Council will always try to make sure your privacy is protected in line with the *Privacy and Data Protection Act 2014*. You may ask for more information about Council's Privacy Policy by contacting our Information Privacy Officer on 03 5153 9500 or e-mail feedback@egipps.vic.gov.au

JUL15

Printed 10/01/2022

East Gippsland Shire Council Page 14 of 28

273 Main Street (PO Box 1618)
 Bairnsdale Vic 3875
 Website www.eastgippsland.vic.gov.au
 Email feedback@egipps.vic.gov.au
 Follow us on Twitter @egsc



Telephone: (03) 5153 9500
 Fax: (03) 5153 9576
 National Relay Service: 133 677
 Residents' Information Line: 1300 555 886
 ABN: 81 957 967 765

How would you be affected by the granting of this permit? _____

It would be possible that more trees will be removed due to blocking.

It would make the whole estate subject to more units that are neither wanted or needed.

Water pressure will be reduced.

Not friendly to prime street and estate.

If you need more space for any part of this form please attach another sheet.

Signature: _____

Name: Brian Plon

Date: 10 / 12 / 2021

Office Use Only:

Objection Received by: _____ Date Received: ____/____/____

Planning officer responsible: _____ Date Received: ____/____/____

Privacy Statement

The East Gippsland Shire Council asks for details about you to collect rates, approve permits and licences, and run a range of community services. The information you give to us on this form is used only for the reasons set out in the form and is not given to anybody else. Sometimes we may supply details about you to someone else, but only if we are allowed by law, or to protect someone or property. When information is given out, Council will always try to make sure your privacy is protected in line with the *Privacy and Data Protection Act 2014*. You may ask for more information about Council's Privacy Policy by contacting our Information Privacy Officer on 03 5153 9500 or e-mail feedback@egipps.vic.gov.au

JUL15

Printed 10/01/2022
Page 15 of 28

From: PlanningAlerts [contact@planningalerts.org.au]
Sent: Wednesday, 8 December 2021 4:09:43 PM
To: Feedback Address For Web Page
Subject: Comment on application 403/2021/P

EXTERNAL EMAIL: This email has originated from outside of the East Gippsland Shire Council network. Do not click links or open attachments unless you recognise the sender and know the content is safe. Contact ICT ServiceDesk if you are unsure.

For the attention of the General Manager / Planning Manager / Planning Department

Application 403/2021/P
Address 7 Sunset Boulevard Eagle Point, VIC
Description Two lot subdivision
Name of commenter Gordon Peter Elsmore /Jillian Elsmore
Address of commenter
Email of commenter

Comment

We along with our fellow estate property owners are astounded council would consider granting a permit to subdivide the above address.

The planning of this estate has never covered units or flats and the obvious devaluation of surrounding properties. This type of subdivision would only encourage others to do the same and completely alter the peaceful living of the estate we have all invested in.

This comment was submitted via PlanningAlerts, a free service run by [the OpenAustralia Foundation](#) for the public good. [View this application on PlanningAlerts](#)

Printed 10/01/2022
Page 16 of 28

From: Snapforms Notifications [no-reply@snapforms.com.au]
Sent: Wednesday, 8 December 2021 1:29:12 PM
To: Planning Unit Administration
Subject: Objection to a Planning Permit Application

Objection to a Planning Permit Application

An 'Objection to a Planning Permit Application' has been submitted via the East Gippsland Shire Council website, the details of this submission are shown below:

Name: Carol McNairn

Email address:

Postal address :

Mobile phone number:

Home phone number: 039371 1111

Planning permit number: 403/2021/P

What has been proposed?: Two lot subdivision

What is the address to be used or developed?: 7 Sunset Boulevard

Who has applied for the permit?: Crowther & Sadler Pty Ltd

What are the reasons for your objection?: I object to the proposed subdivision for the following reasons: 1. There are currently no other subdivisions on the estate and this estate has a certain quality and appeal to it that I feel that a subdivision will de-value the property in the area. 2. This year has seen a large amount of rain fall in this local area. This estate has had huge issue with water and drainage, I am concerned that having two dwellings on the same lot will compound this issue and cause possible issues for the adjacent neighbours and the already poorly functioning drainage system on this estate. 3. I am also concerned with space for cars and possible parking congestion issues two properties on the same lot would bring to the street.

How would you be affected by the granting of this permit?: As I reside directly opposite the proposed subdivision all the above stated concerns will impact me directly as an adjacent neighbour. I am also concerned as to the traffic issues and hazards the construction of two dwellings will bring to this part of the street given the property concerned falls on a bend in the street and driver visibility and parking for trades will be a big issue for the many months construction will be underway.

Privacy Statement: Yes

Printed 10/01/2022

Page 17 of 28

East Gippsland Shire Council

273 Main Street (PO Box 1618)
Bairnsdale Vic 3875
Website www.eastgippsland.vic.gov.au
Email feedback@egipps.vic.gov.au
Follow us on Twitter @egsc



Telephone: (03) 5153 9500
Fax: (03) 5153 9576
National Relay Service: 133 677
Residents' Information Line: 1300 555 886
ABN: 81 957 967 765

Objection to Planning Permit Application

Planning and Environment Act 1987

There are some hard words in this form. The hard words are in blue. You can read what they mean on page 3.

Your Details:

Name: <u>CAROL RUSH</u>			Received EGSC Time: <u>11:35 am</u> 08 DEC 2021 Corporate Centre
Postal address: <u>[REDACTED]</u>			
Postcode: <u>[REDACTED]</u>			
Phone number: Home: <u>[REDACTED]</u>	Work: <u>[REDACTED]</u>	Mobile: <u>[REDACTED]</u>	
Email address: <u>[REDACTED]</u>	Fax: <u>[REDACTED]</u>		

Permit Details:

Planning permit number: <u>403/2021/P</u>
What has been proposed? <u>SUBDIVISION OF LAND</u>
What is the address to be used or developed? <u>7 SUNSET BVD</u> <u>DAYNESVILLE.</u>
Who has applied for the permit? <u>THE OWNER.</u>
EGSC - 9 DEC 2021

Objection Details:

INFORMATION
MANAGEMENT

What are the reasons for your objection? <u>THIS ESTATE HAS ALWAYS BEEN PREMIUM LIVING</u> <u>NO OTHER PROPERTIES IN THE ESTATE HAVE BEEN SUB-DIVIDED</u> <u>TO KEEP THE REPUTE AND VALUE OF SURROUNDING PROPERTIES</u> <u>DRAINAGE ISSUES ARE ALREADY OF A CONCERN AS WELL</u> <u>COVENANTS WERE PUT IN PLACE SO THIS COULDN'T</u> <u>HAPPEN IN MY ESTATE.</u>

Privacy Statement

The East Gippsland Shire Council asks for details about you to collect rates, approve permits and licences, and run a range of community services. The information you give to us on this form is used only for the reasons set out in the form and is not given to anybody else. Sometimes we may supply details about you to someone else, but only if we are allowed by law, or to protect someone or property.

When information is given out, Council will always try to make sure your privacy is protected in line with the *Privacy and Data Protection Act 2014*. You may ask for more information about Council's Privacy Policy by contacting our Information Privacy Officer on 03 5153 9500 or e-mail feedback@egipps.vic.gov.au

JUL15

Printed 10/01/2022

Page 18 of 28

East Gippsland Shire Council

273 Main Street (PO Box 1618)
 Bairnsdale Vic 3875
 Website www.eastgippsland.vic.gov.au
 Email feedback@egipps.vic.gov.au
 Follow us on Twitter @egsc



Telephone: (03) 5153 9500
 Fax: (03) 5153 9576
 National Relay Service: 133 677
 Residents' Information Line: 1300 555 886
 ABN: 81 957 967 765

How would you be affected by the granting of this permit? _____

IT OPENS UP THE IDER OF OTHER VACANT LAND
 TO BE SUB-DIVIDED WHICH COULD DE VALUE MY
 OWN PROPERTY.

LOTS OF RESIDENTS IN SUNSET BLVD ALREADY HAVE
 DRAINAGE PROBLEMS WHICH THIS DEVELOPMENT COULD
 FURTHER HINDER THIS ISSUE.

If you need more space for any part of this form please attach another sheet.

Signature: _____

Name: _____

CAROL RUSH

Date: 9/12/2021.

Office Use Only:

Objection Received by: _____ Date Received: ____/____/____

Planning officer responsible: _____ Date Received: ____/____/____

Privacy Statement

The East Gippsland Shire Council asks for details about you to collect rates, approve permits and licences, and run a range of community services. The information you give to us on this form is used only for the reasons set out in the form and is not given to anybody else. Sometimes we may supply details about you to someone else, but only if we are allowed by law, or to protect someone or property.

When information is given out, Council will always try to make sure your privacy is protected in line with the *Privacy and Data Protection Act 2014*. You may ask for more information about Council's Privacy Policy by contacting our Information Privacy Officer on 03 5153 9500 or e-mail feedback@egipps.vic.gov.au

JUL15

Printed 10/01/2022
Page 19 of 28

Date: Tuesday 7th December 2021
To – East Gippsland Shire Council
From – Mr. Wayne M Thomas and Lena G S Lim

Reference – Notice of an application for planning permit
Land affected by the application – 7 Sunset Boulevard Eagle Point Lot 3 PS 524627
The application is for a permit to - Two lot subdivision
The application reference number is – 403/2021/P

To whom it may concern,
I am writing to you to object to the above mentioned planning application for sub division of land on the following reasons and how we would be affected:

1 PREMIER RESIDENTIAL ESTATE

Eagle Bay Village is considered a premier residential estate and advertised as such by the billboard on the corner of Paynesville Road and Palm Avenue. Approximately 10 years ago we purchased land and built in this estate for this very reason as all the homes have very specific building and design principles to keep the estate aesthetically appealing. The majority of residents' show pride in the presentation of their properties.

This sub division would not be aesthetically appealing and goes against everything we as a home owner in this estate bought into.



2 PROPERTY VALUES

Property values in the Eagle Bay Village Estate have risen in recent times and in no small way can be attributed to the quality of our estate and the planning principles; if this sub division of land is allowed to proceed our property and all the properties in the estate will be devalued. This would also set a precedent for others to follow and further property devaluations will occur. This is a one dwelling per property estate.

3 OVERCROWDING and ON STREET PARKING

This estate was designed with the resident in mind, our streets are designed for resident traffic to pass through and does not cater for overcrowding and does not have the streets wide enough for designated on street parking. As residents we park our cars on our property keeping our road ways clear and not in the streets, this sub division will undoubtedly create overcrowding and on street parking.

EGSC

- 9 DEC 2021

**INFORMATION
MANAGEMENT**

4 PEACEFUL QUIET ENJOYMENT

As residents we have a right to peaceful quiet enjoyment of our property and live in a peaceful quiet estate the way it was designed. This was a major contributing factor in having us purchase land and build in this estate. Allowing land to now be sub divided goes against everything this estate was designed for and will adversely impact on our peaceful quiet existence in this neighborhood.

5 OWNER OCCUPANCY

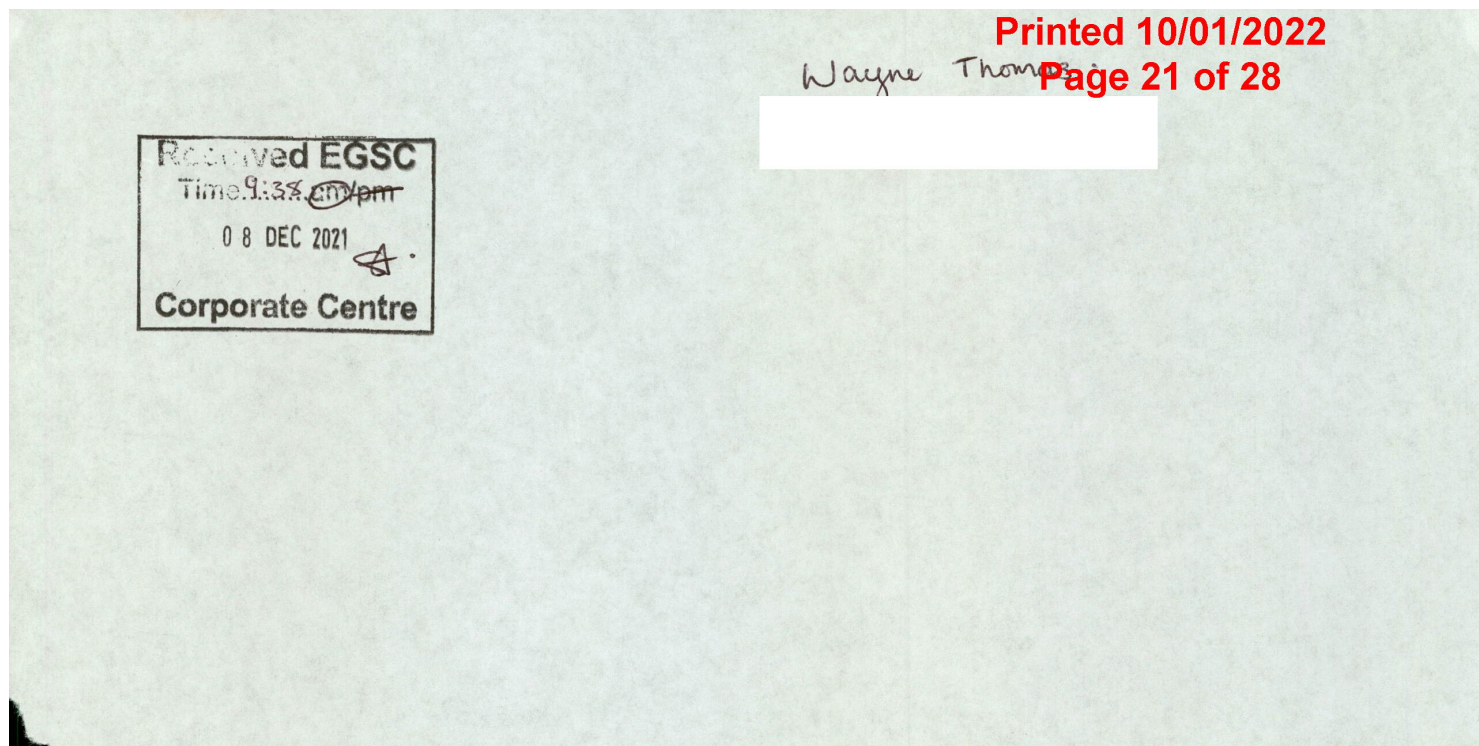
If this sub division is approved it will set precedence for others to follow and before long we will have more and more sub divisions and a growing number of rental properties and have a negative impact on our quiet, peaceful, friendly, and safe living environment and neighborhood.

Thank you for taking the time to consider our objections.

Yours truly,

A large white rectangular box redacting the signature of Wayne Thomas and Lena Lim.

Wayne Thomas and Lena Lim



Printed 10/01/2022

East Gippsland Shire Council Page 22 of 28

273 Main Street (PO Box 1618)
Bairnsdale Vic 3875
Website www.eastgippsland.vic.gov.au
Email feedback@egipps.vic.gov.au
Follow us on Twitter @egsc



Telephone: (03) 5153 9500
Fax: (03) 5153 9576
National Relay Service: 133 677
Residents' Information Line: 1300 555 886

Received EGSC
Time: 11:05 am/pm
- 7 DEC 2021
Paynesville
Service Centre

Objection to Planning Permit Application

Planning and Environment Act 1987

There are some hard words in this form. The hard words are in blue. You can read what they mean on page 3.

Your Details:

Name: <u>ION ROBERTS</u>			
Postal address: <u>[REDACTED]</u>			
			Postcode: <u>[REDACTED]</u>
Phone number: Home: <u>[REDACTED]</u>	Work: <u>[REDACTED]</u>	Mobile: <u>[REDACTED]</u>	
Email address: <u>[REDACTED]</u>		Fax: <u>[REDACTED]</u>	

Permit Details:

Planning permit number: <u>403 / 20-20 21 / P</u>
What has been proposed? <u>SUB DIVISION OF LAND & ERECTION OF 2 UNITS</u>
What is the address to be used or developed? <u>[REDACTED]</u>
EGSC
Who has applied for the permit? <u>[REDACTED]</u>
- 9 DEC 2021
INFORMATION
MANAGEMENT

Objection Details:

What are the reasons for your objection? <u>2 UNITS ON A BUILDING BLOCK (UNUSUALLY)</u>
<u>NO OTHER LAND HAS BEEN SUBDIVIDED IN</u>
<u>AREA FOR UNITS</u>
<u>EXISTING WATER PROBLEMS GREY WATER & FLOODING</u>
<u>SUBDIVISION WOULD ENCOURAGE OTHERS</u>
<u>1 BELIEVE COVENANTS ON BLOCKS.</u>
<u>WHITE ANT AREA FOR WOODEN AREA (HOUSES)</u>
<u>FLOODING AREA.</u>

Privacy Statement

The East Gippsland Shire Council asks for details about you to collect rates, approve permits and licences, and run a range of community services. The information you give to us on this form is used only for the reasons set out in the form and is not given to anybody else. Sometimes we may supply details about you to someone else, but only if we are allowed by law, or to protect someone or property.

When information is given out, Council will always try to make sure your privacy is protected in line with the *Privacy and Data Protection Act 2014*. You may ask for more information about Council's Privacy Policy by contacting our Information Privacy Officer on 03 5153 9500 or e-mail feedback@egipps.vic.gov.au

JUL15

Printed 10/01/2022

East Gippsland Shire Council Page 23 of 28

273 Main Street (PO Box 1618)
 Bairnsdale Vic 3875
 Website www.eastgippsland.vic.gov.au
 Email feedback@egipps.vic.gov.au
 Follow us on Twitter @egsc



Telephone: (03) 5153 9500
 Fax: (03) 5153 9576
 National Relay Service: 133 677
 Residents' Information Line: 1300 555 886
 ABN: 81 957 967 765

How would you be affected by the granting of this permit? _____

If you need more space for any part of this form please attach another sheet.

Signature: _____

Name: IAN ROBERTS

Date: 13 / 12 / 21

Office Use Only:

Objection Received by: _____ Date Received: ____/____/____

Planning officer responsible: _____ Date Received: ____/____/____

Privacy Statement

The East Gippsland Shire Council asks for details about you to collect rates, approve permits and licences, and run a range of community services. The information you give to us on this form is used only for the reasons set out in the form and is not given to anybody else. Sometimes we may supply details about you to someone else, but only if we are allowed by law, or to protect someone or property.

When information is given out, Council will always try to make sure your privacy is protected in line with the *Privacy and Data Protection Act 2014*. You may ask for more information about Council's Privacy Policy by contacting our Information Privacy Officer on 03 5153 9500 or e-mail feedback@egipps.vic.gov.au

JUL15

Printed 10/01/2022
Page 24 of 28

From: Snapforms Notifications [no-reply@snapforms.com.au]
Sent: Tuesday, 7 December 2021 2:13:15 PM
To: Planning Unit Administration
Subject: Objection to a Planning Permit Application

Objection to a Planning Permit Application

An 'Objection to a Planning Permit Application' has been submitted via the East Gippsland Shire Council website, the details of this submission are shown below:

Name: Melinda Spencer

Email address: - -

Postal address : - -

Planning permit number: 403/2021/P

What has been proposed?: subdivision of block

What is the address to be used or developed?: 7 sunset boulevard, eagle point.

Who has applied for the permit?: land owner

What are the reasons for your objection?: I live in the estate, and recently purchased my 1st home and current address. I am worried about the impact this will have on prices for all neighbouring and estate properties. Also 420m seems very small for a section. considering we are in East Gippsland not Melbourne CBD. I object to the proposed subdivision strongly.

How would you be affected by the granting of this permit?: lowers the standard of local area. allows for more cars in area (already a growing number) other property owners are not allowed to put up sheds why can this land owner be allowed to subdivide. considering how long the have owned the site for 15 years plus why was this not discussed previously?

Privacy Statement: Yes

Printed 10/01/2022
Page 25 of 28

From: Snapforms Notifications [no-reply@snapforms.com.au]
Sent: Tuesday, 7 December 2021 7:18:51 PM
To: Planning Unit Administration
Subject: Objection to a Planning Permit Application

Objection to a Planning Permit Application

An 'Objection to a Planning Permit Application' has been submitted via the East Gippsland Shire Council website, the details of this submission are shown below:

Name: Leanne Tattersall

Email address:

Postal address :

Mobile phone number:

Planning permit number: 403/2021/P

What has been proposed?: The sub division of a small block into a duel dwelling

What is the address to be used or developed?: Duel dwelling

Who has applied for the permit?: Owner

What are the reasons for your objection?: The draining around here is not adequate enough for the houses that are already here. There will be more sewage and grey water which is flood our drains which have a hard time at the best of times without extra people here. And the block size will not fit 2 dwellings

How would you be affected by the granting of this permit?: It's in my street, the noise, the extra sewage, the extra drainage coming into to gutters is just ridiculous. Our street has water issues when it rains already

Privacy Statement: Yes

OBJECTION

Planning Permit Application for 7 Sunset Boulevard, Paynesville

I, Ann Gleeson, of [redacted] strongly object to the proposed subdivision and building of two separate dwellings on the land known as 7 Sunset Boulevard, Paynesville.

Eagle Bay Estate has always been known as Paynesville's Premium living. This estate has single dwelling properties and should remain that way.

To start subdividing blocks and building multiple residences will not only cheapen the estate, but will add to the already insufficient drainage and flooding we endure.

It will act as a precedent for others to subdivide.

I, Myself, bought into this estate because of the very reasons I'm raising here. It is a nice quiet area where all the neighbours are friendly and know each other. There is no rentals and all houses are owner occupied.

To start bringing in tenants will change the entire demographic, and could bring with it unwanted issues.

The flooding issue is not new to the East Gippsland Shire, especially in Sunset Boulevard. The block at number 7 (applicant) already floods and drains directly down my driveway. (of which I have photographic evidence)

To erect multiple dwellings on this block will create twice as much grey water, which is a huge concern considering the issues we have already encountered with the inadequate drainage. My property at number 5 has been flooded several times already, and I fear that if this application is passed, I will be in danger of this happening on a more regular basis.

There is also the issue of increased traffic and parking. There is no room for cars to park in the street, and I fear this will be the case should this application go ahead.

From the proposed subdivision plan, it appears that from the size of the land (405m²), the front dwelling will have to be two story and border close to the fence line.

This was never what this estate was about. It was about having single dwellings on good sized blocks, allowing people their privacy and quiet enjoyment of their property. This application if approved will change that.

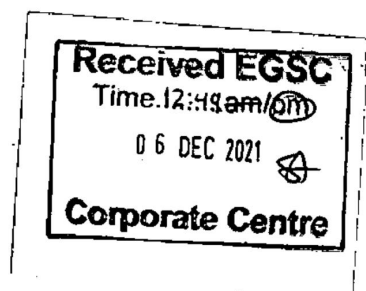
To approve this application would be in direct opposition to all neighbouring property owners.

EGSC

7 DEC 2021

INFORMATION

MAINTENANCE



Printed 10/01/2022
Page 27 of 28

From: Snapforms Notifications [no-reply@snapforms.com.au]
Sent: Tuesday, 7 December 2021 7:36:27 AM
To: Planning Unit Administration
Subject: Objection to a Planning Permit Application

Objection to a Planning Permit Application

An 'Objection to a Planning Permit Application' has been submitted via the East Gippsland Shire Council website, the details of this submission are shown below:

Name: Terence Payne

Email address:

Postal address :

Mobile phone number:

Home phone number: (

Work phone number: N/a

Planning permit number: 403/2021/P

What has been proposed?: 2 lot subdivision

What is the address to be used or developed?: 7 Sunset Boulevard Eagle Point VIC 3878

Who has applied for the permit?: Crowther & Sadler Pty/Ltd.

What are the reasons for your objection?: A building on lot 2, as proposed, will have a full length driveway in very close proximity to the length of the adjoining home on the Northern boundary. Vehicle noise would impact on that resident. If a two story building is erected on either of Lot 1 and 2, winter sun would create an issue of a lengthy period of shade over the residence on the Southern boundary in winter. By erecting two residential buildings in the style shown on the proposed plans, current rainwater issues would be exacerbated for the adjoining properties.

How would you be affected by the granting of this permit?: Other than the risk of these two homes being built for use as a commercial business, especially with the local trend for a proliferation Air B & B appearing in the Eagle Point, Paynesville and Raymond Island areas, I would not be affected by the proposed development of Lot 3. The problem that would be created in this estate is the very real possibility of the quiet and good order of the neighbourhood being impact adversely with additional traffic and parking issues, as well as noise issues, if the proposed application is approved.

Privacy Statement: Yes

Printed 10/01/2022
Page 28 of 28

From: Snapforms Notifications [no-reply@snapforms.com.au]
Sent: Tuesday, 30 November 2021 12:01:07 PM
To: Planning Unit Administration
Subject: Objection to a Planning Permit Application

Objection to a Planning Permit Application

An 'Objection to a Planning Permit Application' has been submitted via the East Gippsland Shire Council website, the details of this submission are shown below:

Name: Basil and Irene Prowse

Email address:

Postal address :

Mobile phone number:

Planning permit number: 403/2021/P

What has been proposed?: Sub division into 2 lots

What is the address to be used or developed?: 7 Sunset Boulevard Paynesville 3880

Who has applied for the permit?: Crowther and Sadler

What are the reasons for your objection?: We note that on the plan there is to be a driveway installed along our boundary fence. We do not approve of this as it will directly impact on our property in regards to water run off and noise of vehicles alongside bedrooms. We have also been informed of the intention to build 2 double storey dwellings. This would overshadow our property which is utilised in growing a substantial amount of our food. In this estate there is a covenant in place until the end of 2024. As such all buildings have to be built to specifications as stated in said covenant.

How would you be affected by the granting of this permit?: As above the extra noise from the driveway near our bedroom and the overshadowing of established vegetables beds from double storey dwellings would be a significant problem. Also this area has inadequate drainage and water run off from the driveway would severely exacerbate this problem.

Privacy Statement: Yes

ENGINEERING REFERRAL COMMENTS

Application No. 403/2021/P
Applicant: Crowther & Sadler Pty Ltd
Development: Two lot subdivision
Location: 7 Sunset Boulevard EAGLE POINT
Lot 3 PS 524627
Planning Officer: Emine Mestan

INSPECTION COMMENTS

LMcArthur
27/09/2021

RECOMMENDED CONDITIONS

1. Before the issue of Statement of Compliance each lot as shown on the endorsed plans must be drained to the satisfaction of the Responsible Authority.
2. Before the issue of Statement of Compliance, a concrete crossover must be constructed to each Lot at right angles to the road, to the satisfaction of the Responsible Authority.
3. Before the issue of a Statement of Compliance, any portion of Council's existing infrastructure damaged as a result of work undertaken on the site or associated with the development must be repaired/reinstated to the satisfaction of the responsible authority.

Note:

Before undertaking works within a Council road reserve, a non-utility – minor works consent of works within road reserve must be obtained from the *Roads and Traffic* unit of Council. Refer to the Infrastructure Design Manual (IDM) for crossover designs.

27-Sep-2021



DETAILED PLANNING REPORT

Permit Application: 403/2021/P

**7 Sunset Boulevard EAGLE POINT
Lot 3 PS 524627**

Two lot subdivision

This report has been prepared to document the statutory planning assessment pursuant to the provisions of the *Planning and Environment Act 1987* and *Local Government Act 1989*.

KEY DETAILS

Subject address	7 Sunset Boulevard EAGLE POINT Lot 3 PS 524627
Land owner	R M McNaughton and N A McNaughton
Applicant	Crowther & Sadler Pty Ltd
Land area	1,041sqm
Zone	GRZ1
Overlays	DDO14
Cultural sensitivity	The land is not culturally sensitive
Site inspected	Desktop Assessment only
Restrictions on Title	There is a restriction on title that does not restrict the application. COVENANT AD446225P

	<p>(a) (i) except in the case of Lot D erect, place, permit, licence or authorise on any of the Lots any buildings other than dwellings (together with usual outbuildings) containing a floor area of less than 170 m² within the outer walls thereof calculated by excluding the area of any carport, garage, terrace, pergola, porch, verandah or other outbuildings.</p> <p>(ii) erect, place, permit, licence or authorise on the said land any building which is built other than of new materials save for second hand bricks.</p> <p>(iii) Erect, place, permit, licence or authorise on the said land any building constructed of materials other than bricks of nominal dimensions unless such materials are finished with a permanent render or texture coating.</p> <p>(iv) Erect, place, permit, licence or authorise on the said land any building with wall finishes of heavily blended, mottled or rock faced brick work (it being agreed that use of blended brick work shall be limited to not more than 2 closely matched colours.)</p> <p>(v) Erect, place, permit, licence or authorise on the said land any building constructed with Hardiplank or cement sheet on any external walls or roof (such materials being acceptable only for eave linings, gable-ends and in-fills).</p> <p>(vi) Erect, place, permit, licence or authorise on the said land any building having a roof other than of slate, clay tile, cement tile or colorbonded material.</p> <p>(vii) Erect, place, permit, licence or authorise on the said land any outbuilding with a floor area greater than 10m² unless the same is constructed with materials of the same type and in the same style as the dwelling.</p> <p>(viii) Erect, place, permit licence or authorise on the said land any single storey dwelling or outbuilding of a size greater than 10m² which has a roof pitch of less than 22 degrees.</p> <p>Dated: (ix) Erect, place, permit, licence or authorise on the said land any single storey dwelling with internal ceiling heights of less than 2700 mm (excluding bathroom and laundry areas.)</p> <p>Execution and maintenance: (x) Erect, place, permit, licence or authorise on any building any gutters and down pipes that are not colour coated or painted with at least 2 coats of first quality paint.</p> <p>(b) Erect, place, permit, licence or authorise on the said land any fence on the side boundaries or boundaries facing roadways unless the same is constructed of brick, concrete, timber picket, palings, or aluminium pickets or any combination thereof and (except in the case of a fence constructed of new bricks) such fence shall be painted with at least 2 coats of first quality paint or finished with a permanent render or texture coating.</p> <p>(c) Erect, place, permit, licence or authorise on the said land any retaining wall constructed of treated pine timber, which is visible to the public from a roadway.</p> <p>(d) Construct any driveway, parking and paved areas on the land of materials other than clay brick, masonry pavers, stone sheeted bitumen, hot mix or concrete.</p> <p>(e) Extract or remove or permit the extraction or removal of any soil, gravel or earth or other materials from the said land except for the purpose of excavating for the foundations of a building or of a swimming pool or tennis court or for gardening, landscaping or driveway within the said land.</p> <p>(f) Use or permit the use of the said land for any offensive or noxious purpose.</p> <p>(g) Permit the land or any part thereof to be used for the purpose of commercial breeding or boarding of or training kennels for cats or dogs or for the purpose of keeping poultry or pigeons thereon.</p> <p>(h) Permit the land to be used for the parking, garaging or servicing of any motor vehicle in excess of 5 tonnes gross vehicle mass (GVM) except for the purpose of loading or unloading goods unless the vehicle is a vehicle engaged in construction works on the said land.</p> <p>(i) Permit the land or any part thereof to be used for the parking, garaging or servicing of any boat (on a trailer or hard stand), caravan, campervan or similar vehicle unless such vehicle is screened from public view from the roadways;</p> <p>(i) Permit or authorise any part of the land to be used for the purposes of storage of garbage, housing of gas, fuel or water tanks, drying of clothes or similar uses unless such areas are screened from public view from adjoining roadways;</p> <p>(j) Permit the occupancy of any dwelling or other building on the land unless an occupancy permit has issued for such dwelling or other building.</p>
<p>A determination cannot be made under delegation for the following reasons</p>	<p>20 objections received</p>

PROPOSAL DETAILS/DISCUSSION

Site Analysis

The estate includes a variety of lot sizes and differing lot shapes. The northern and southern properties adjacent to the subject land are developed with a dwelling as well as the eastern properties. To the west and partly to the south is a large rural holding used to graze cattle, which has been earmarked for future urban growth.

Access to the subject land is gained from Sunset Drive and the land has a minor fall to the rear of the property.

The precinct has a full range of reticulated services inclusive of power, water, sewer and telecommunications.

The land is located within the General Residential Zone and is subject to the Design and Development Overlay (Schedule 14).

The land is subject to a Covenant (Instrument AD446225P). The restriction dictates use and built form on the land, fencing, construction of driveways and earthworks. The restriction does not restrict the ability of the land to be subdivided. Any future development must accord with the restriction.

Proposal

The proposal includes the creation of two lots with Lot 1 to be 405sqm and Lot 2 to be 636sqm with both accesses to be gained from Sunset Boulevard, the property frontage.



Figure 1: Site and Locality Plan

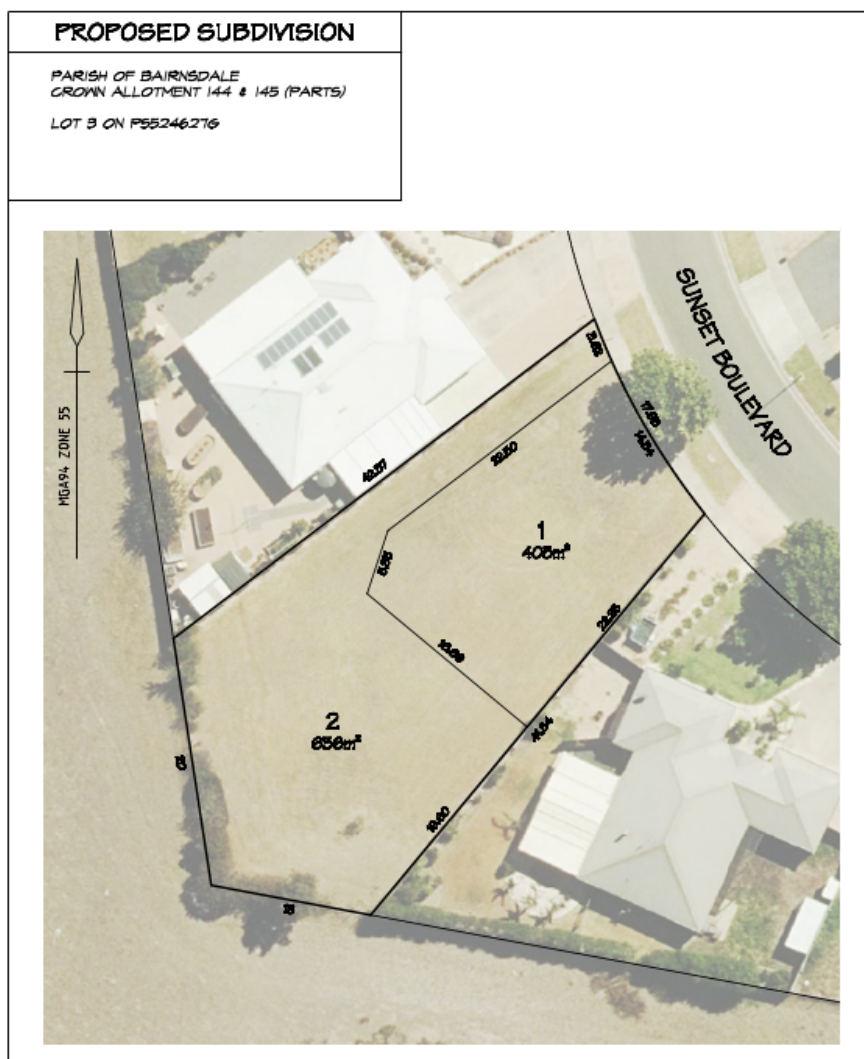


Figure 2: Proposed Subdivision

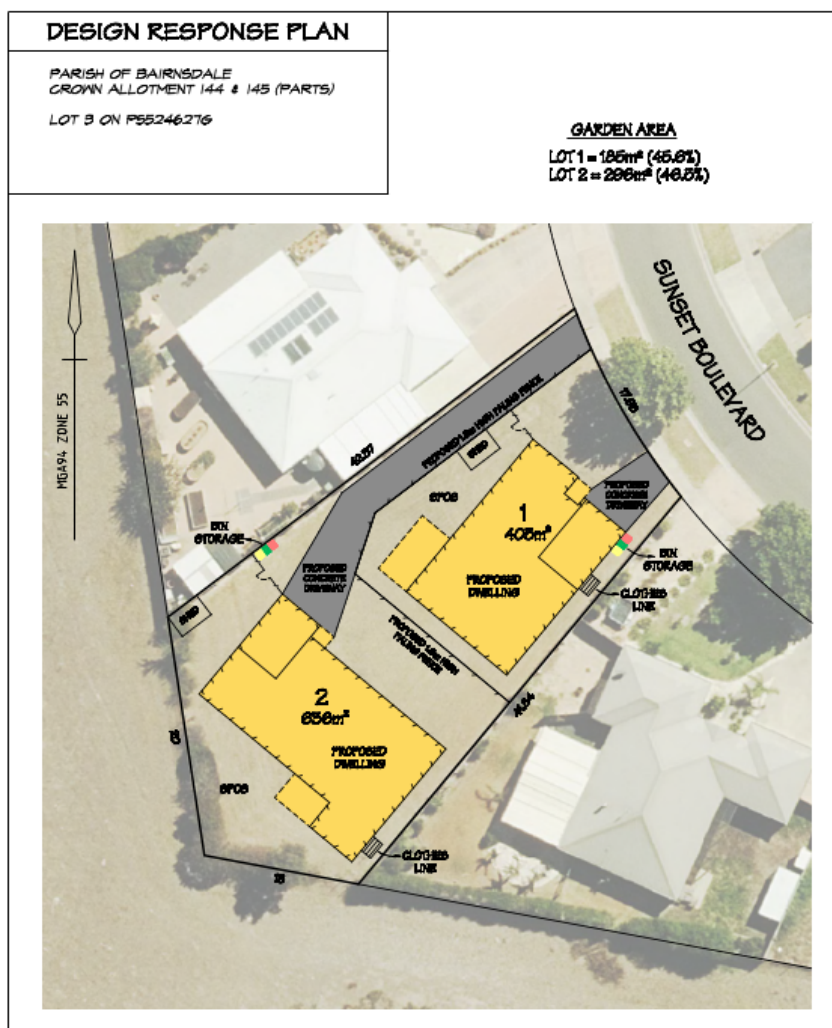


Figure 3: Proposed Design Response Plan

PLANNING CONTROLS

Control	Clause(s)	Consideration
General Residential Zone (Schedule 1)	32.08	A permit is required to subdivide land.
Design and Development Overlay (Schedule 14)	43.02	A permit is required to subdivide land.

Cultural sensitivity

Pursuant to the *Aboriginal Heritage Regulations 2007*, a Cultural Heritage Management Plan (CHMP) is not required as the land is not mapped as having values of cultural heritage.

REQUEST FOR FURTHER INFORMATION

N/A

REFERRAL AUTHORITIES

N/A

INTERNAL ADVICE

DEPARTMENT	SCOPE OF ADVICE	OUTCOME
Technical Officer Development - Engineering	Drainage, Internal Access	Conditional consent

PUBLIC NOTIFICATION
Advertising Required:

Public notification was undertaken in the form of letters to adjoining landowners, occupiers and previous objectors and a sign on site, in accordance with Section 52 of the Planning and Environment Act 1987.

Copies of the objections are at **Attachment 3**.

In summary the objections raised the following concerns/issues:

- Land fragmentation.
- Drainage.
- Increase in traffic.
- Noise.
- Increase in density in the area.
- Set precedence in subdividing further.
- Overdevelopment.
- Devaluation.
- Amenity and neighbourhood character.
- Proposed lots smaller than the other sites in the surrounding area.
- Possible commercial – air b&b.
- Overshadowing onto direct owners if the development is two storey built form.

Officer comments

Many of the grounds for objection are valid and reasonable, however precedent, devaluation and potential use for Air BnB are not relevant considerations. It is also unlikely that the proposal will contribute to significant increases in traffic or noise to the extent that they would cause losses of amenity or safety.

Impact on neighbourhood character is the primary issue to be considered. The character of an area is often difficult to define, however in this surrounding neighbourhood the character of the existing lot layout is quite apparent (i.e. prevalent lot size around 800-1,000sqm), even though there are a small number of lots in the 400-500sqm range.

The lot configuration is inconsistent with the immediate surrounds and represents a departure from the size and configuration of neighbouring lots, which present an overall character of dwellings addressing the street. There are no other battle-axe shaped lots in the neighbourhood.

REPORT – PLANNING CONSIDERATION

Planning Policy Framework (PPF)

The assessment of the application before Council requires assessment against Planning Policy Framework.

The clauses that have an influence upon the assessment of this application include:

- 11 Settlement
- 15 Built Environment and Heritage
- 16 Housing
- 17 Economic Development
- 18 Transport
- 19 Infrastructure

Assessment:

Municipal Strategic Statement (MSS)

Council is required to consider Local Policy as a part of this assessment.

Local Policy clauses that are relevant include:

- 21.02 Municipal Overview
- 21.03 Settlement
- 21.07 Built Environment and Heritage
- 21.08 Housing
- 21.11 Infrastructure
- 21.12 Strategies for Sub-Regions, Towns and Localities

Assessment:

The policies seek to ensure the promote sustainable growth and development whilst ensuring the character of a settlement is capable to be integrated into the immediate community.

In this instance, even though the proposal is capitalising on the opportunity for infill development, it has failed to take into account the physical context of the location by not appropriately meeting the existing neighbourhood character of the surrounding area. The proposed subdivision creates a dwelling density that does not respond to the existing neighbourhood character.

Local Policies

N/A

ZONE

General Residential Zone (Schedule 1)

the purpose of the zone is as follows:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.

- To encourage development that respects the neighbourhood character of the area.
- To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

Assessment:

Pursuant to 32.08-3 of the GRZ1, a permit is required to subdivide land.

An application to subdivide land that would create a vacant lot less than 400 square metres capable of development for a dwelling or residential building, must ensure that each vacant lot created less than 400 square metres contains at least 25 percent as garden area. This does not apply to a lot created by an application to subdivide land where that lot is created in accordance with:

- An approved precinct structure plan or an equivalent strategic plan;
- An incorporated plan or approved development plan; or
- A permit for development.

An application to subdivide land, other than an application to subdivide land into lots each containing an existing dwelling or car parking space, must meet the requirements of Clause 56 and:

- Must meet all of the objectives included in the clauses specified in the following table.
- Should meet all of the standards included in the clauses specified in the following table.

Class of subdivision	Objectives and standards to be met
2 lots	Clauses 56.03-5, 56.04-2, 56.04-3, 56.04-5, 56.06-8 to 56.09-2.

Lot 1 is to be subdivided with an area of 405sqm and Lot 2 with an area of 636sqm.

Residential Subdivision

As stipulated under the Zone, a two lot subdivision must meet the following objectives and standards:

	Description	COMMENTS
56.03-5	Neighbourhood Character	The proposed subdivision is considered not to positively respond to the existing neighbourhood character of the area – the average lot size is around 1,000sqm.
56.04-2	Lot Area and Building Envelopes	The proposed subdivision may easily accommodate a 10x15 metre rectangle.
56.04-3	Solar Orientation of Lots	Both lots contain sufficient area to provide appropriate solar orientation.
56.04-5	Common Area	N/A
56.06-8	Lot Access	Access to Lot 1 is proposed along the southern boundary and access to Lot 2 along the northern boundary of the subject site.

	Description	COMMENTS
56.07-1	Drinking water supply	Reticulated water is provided to the subject land and will be connected to both lots as part of the subdivision.
56.07-2	Reused and recycled water	Reused and recycled water will be dependent upon future owners and future development.
56.07-3	Wastewater management	Reticulated sewer is established within the precinct. Both proposed lots can be connected to sewer as part of the subdivision consistent with Standard C24.
56.07-4	Urban run-off management	Drainage will be dealt with to the satisfaction of the responsible authority.
56.08-1	Site management	The site will be managed to the satisfaction of the responsible authority.
56.09-1	Shared trenching	Given the established infrastructure in this area connections to services will be provided via trenching.
56.09-2	Electricity, Telecommunications & Gas	Standard conditions relating to the provision of utility services will be placed on any permit issued. It is considered that the site will be able to accommodate of the required infrastructure associated to such services in an efficient and satisfactory manner.

The Decision Guidelines require the consideration of:

- The pattern of subdivision and its effect on the spacing of buildings.
- For subdivision of land for residential development, the objectives and standards of Clause 56.

The proposed two lot subdivision does not meet the pattern of subdivision which in turn does not meet the overall neighbourhood character of the surrounding area.

OVERLAY

Design and Development Overlay (Schedule 14)

Pursuant to Clause 43.02-3, a permit is required to subdivide land.

The decision guidelines require the consideration of whether the subdivision will result in development which is not in keeping with the character and appearance of adjacent buildings, the streetscape or the area.

As mentioned earlier, the proposed subdivision has not been designed to meet the characteristic of the area in that the average lot sizes range about 800-1,000sqm.

PARTICULAR PROVISIONS

Public Open Space Contribution

Subdivisions of land requires consideration under Clause **53.01**. An application is exempt from the requirements of this Clause if the application entails subdivision of land into two lots and Council considers it unlikely that each lot will be further subdivided.

It is not considered likely that the subject site will be further subdivided in future. In light of this, the application is considered exempt from the requirements of Public Open Space.

GENERAL PROVISIONS

Clause 65 - Decision Guidelines

The Decision Guidelines of Clause 65 of the East Gippsland Planning Scheme are relevant to this application and require consideration to be given to a variety of matters including planning scheme policies, the purpose of the zone, orderly planning and the impact on amenity.

The application is not consistent with the typical lot sizes of the surrounding land and has the potential to diminish the neighbourhood character and amenity of the area. The development of the land for an additional lot will result in a subdivision design that does not conform with the current neighbourhood character. The proposal may provide for future dwellings to be consistent with the registered restrictive covenant but the proposal is not an acceptable planning outcome and is inconsistent with the purpose of the zone and the objectives of planning in Victoria.

5.4.3 **Proposal to End Agreement AG845895P - 79 Angophora Drive, Mallacoota**

Authorised by General Manager Place and Community

Conflict of Interest

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

Executive Summary

The purpose of this report is to seek Council's decision to end the Section 173 Agreement AG845895P ('the Agreement') as it relates to 79 Angophora Drive, Mallacoota.

The catalyst to end the Agreement is the potential for future subdivision of the land. The Agreement was entered into in relation to the previous subdivision, which has since lapsed, having only been partially implemented. It is unlikely that the subdivision could be approved in the same format today, given the extension of the Bushfire Management Overlay to the whole of the land and other environmental constraints. The obligations of the Agreement are now inconsistent with the Planning Scheme. The request to end the Agreement and the relevant title documents, including the Agreement, can be found at **Attachment 1**.

Council provided in principle support to end the Agreement at the 26 October 2021 Meeting (Item 5.4.3). Consultation has now been carried out. Notices were sent directly to the affected landowners with a note that Council would not determine the matter prior to 1 February 2022. At the time of writing the report, no objections have been received, and officers are confident none will be received before the determination is made, as there were no objections or queries from affected landowners in relation to the proposed two-lot subdivision.

Ending the agreement as it relates to 79 Angophora Drive, Mallacoota is a reasonable request and will enable the land to be developed or further subdivided in accordance with the applicable zone and overlays set out in the East Gippsland Planning Scheme. The subdivision is subject to a separate determination to be made under delegation and is pending Council's resolution in relation to the Agreement so that the matters can be progressed concurrently.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report;***
- 2. agrees to the ending of Section 173 Agreement AG845895P wholly as it relates to Lot 3 on plan of subdivision 616253 at 79 Angophora Drive, Mallacoota in accordance with Section 178A of the Planning and Environment Act 1987 and resolves to End the Agreement in accordance with S178E(2) of the Planning and Environment Act 1987; and***
- 3. resolves that all costs of ending the legal agreement are to be borne by the landowner.***

Background

Council has received a request to end Agreement AG845895P (**Attachment 1**) wholly as it relates to Lot 3 on plan of subdivision 616253, as was registered on the subject land in accordance with Condition 3 of Planning Permit 11/2006/P. The land affected by the Agreement includes Lots 9-27, Lots 44-47, Lot 60 and Lot S3 (for Stage 3) on Plan of Subdivision 616253L.

Condition 3 was included within Planning Permit 11/2006/P to satisfy the requirements imposed by DELWP and the CFA as referral authorities in accordance with Clause 66 of the East Gippsland Planning Scheme.

In summary the purpose of the Agreement was to ensure:

- Dwellings will be constructed within Building Envelopes where specified.
- Retention and protection of significant trees.
- Construction and maintenance of fences on the boundaries around specified lots.
- The removal of vegetation as required and maintenance of cleared areas thereafter, in accordance with CFA referral response.
- Prevention of environmental weeds and exclusion of domestic stock.

The Agreement was executed on 3 September 2009. The Agreement remains relevant to stages 1 and 2 of the subdivision.

The owner of the subject land proposes to undertake a Two Lot Subdivision of the land which requires a Planning Permit under the provisions of the General Residential Zone 1, Bushfire Management Overlay, Erosion Management Overlay, and Design and Development Overlay Schedule 12.

In preparing the Planning Permit application the applicants determined that the specific obligations of the owner under part 3 of Agreement AG845895P were found to be inconsistent with the current requirements of Clause 53.02: Bushfire Planning. Any future subdivision must consider the relevant planning controls which apply when the application is made. There has already been significant change in planning controls which makes the Agreement difficult to fulfil.

Current Status

Officers considered that the request to end the Agreement is reasonable, and as such recommended in principle support for the ending of the Agreement. Officers advised the applicant that the planning permit would not be determined until notice of the proposal to end the agreement was undertaken.

Notice has been given in accordance with the requirements of the *Act* and with no objections received at the time of writing, officers are recommending that the agreement be ended. This is further justified under "Legislation".

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.

In preparing this report the Victorian Gender Equality Act 2020 has been considered. The implications of the report have been assessed and are compliant with the obligations and principles of the Gender Equality Act. The need for a Gender Impact Assessment has also been assessed. The implications of this report have been assessed and align with the principles and objects of the Gender Equality Act 2020.

The *Planning & Environment Act* 1987 pursuant to section 178A provides the opportunity for Council to consider ending an agreement, either wholly or in part, without the consent of all persons who are bound by the agreement.

The applicant is seeking to end section 173 Agreement AG845895P wholly as it relates to 79 Angophora Drive, Mallacoota; however, the consent of all parties bound by the agreement has not been obtained. Where the consent of all parties has not been obtained, section 178B (2) of the *Planning & Environment Act* 1987 provides the framework for the proposal to be assessed and considered by Council.

The proposal to end the Section 173 Agreement has been submitted pursuant to section 178A of the Act. A proposal submitted under this section of the Act, pursuant to section 178B must be considered against set requirements. An assessment against these requirements is as follows:

The purpose of the Agreement

The purpose of the agreement was to implement conditions of Planning Permit 11/2006/P, which had requirements imposed by DELWP and the CFA as referral authorities.

In summary the purpose of the Agreement was to ensure:

- Dwellings will be constructed within Building Envelopes where specified.
- Retention and protection of significant trees.
- Construction and maintenance of fences on the boundaries around specified lots.
- The removal of vegetation as required and maintenance of cleared areas thereafter, in accordance with CFA referral response.
- Prevention of environmental weeds and exclusion of domestic stock.

Whether and why the Agreement is no longer required

Permit 11/2006/P has expired. The provisions of the agreement would be in conflict with any further proposed subdivision of the land, as the planning controls have changed significantly since the permit was granted. There are no ongoing obligations that aren't otherwise provided for in the planning scheme.

Whether the ending of the Agreement would disadvantage any person, whether or not a party to the Agreement

It is considered that the ending of the Agreement itself would not disadvantage any person whether party to the Agreement or not.

The reasons why the responsible authority entered into the Agreement

Council entered into the Agreement to reinforce conditions imposed by Country Fire Authority and DELWP (previously DEPI or DSE), specifically to ensure bushfire protection/impact mitigation and prevention of damage to native vegetation as a result of the proposed development.

Any relevant permit or other requirements the land is subject to under the Subdivision Act 1988.

Officers have not yet determined 410/2021/P to prevent conflict between determinations should the ending of the agreement not be supported. Should Council resolve in accordance with the officer's recommendation, a decision to grant the planning permit will be issued concurrently.

Any other prescribed matter

The Act is prescriptive as to the processing and consideration of proposals to end section 173 Agreements. In accordance with section 178E (2) the responsible authority may, after considering the matters in section 178B – resolve to issue a Decision to End the Agreement in accordance with the proposal, or to consider a variation from that which was proposed. There is no consideration given to a variation, as the proposal provides the greatest certainty for future planning outcomes for the land.

Collaborative procurement

Not applicable.

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

There is no specific Council policy established for consideration of these matters.

Options

For 79 Angophora Drive, the options are limited as:

- there is not an ongoing obligation as the subdivision which required the execution of the Agreement cannot proceed; and
- the removal of the Agreement will allow for alternative applications to be made, which must now consider bushfire risk and will significantly alter the subdivision potential of the land.

Other than resolving not to support the officer recommendation and issuing a notice of refusal to end the agreement, there are no other options available. The officer recommendation is considered the best planning outcome for the land.

Resourcing

Financial

There are no financial implications.

Plant and equipment

Nil

Human Resources

Assessment is by planning department officers.

Risk

The risks of this proposal have been considered and there is relatively low risk in the determinations as recommended.

Economic

The proposal relates to a proposed land subdivision, creating two lots suitable for development of single dwellings or further subdivision. The ending of the agreement will remove a barrier to the subdivision into two lots and may create opportunity for further subdivision.

Social

Ending the Agreement is not likely to have a negative impact on the wider community.

Consultation during the approval process for the Planning Permit has assessed future amenity impacts.

Gender Impact Statement

Considerations of Gender Equality in Planning are made in relation to planning strategy, including planning scheme amendments and policy changes. Individual assessment of planning applications tend to be gender neutral, however Council officers consider factors such as community safety, privacy, and accessibility in an integrated and multi-faceted decision making process.

Environmental

The proposal will not have any significant environmental impacts.

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.

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

Engagement

The procedure to assess proposals to end section 173 agreements under section 178A of the *Planning and Environment Act 1987* directs that notice of the proposal to all parties bound by the agreement is undertaken after obtaining in principle support.

Notice took place in the form of direct mail to all persons who own land that has the same agreement included on their title, and to surrounding landowners. Notices were sent by the proponent in accordance with the instructions of the responsible authority and a statutory declaration has been provided advising that the recipients were advised that the responsible authority would not make a determination prior to 1 February 2022.

No objections have been received by Council objecting to the request to end the Agreement. If any objections are received prior to the Council meeting, they will need to be considered and the recommendation altered. Officers are confident that this will not occur based on the lack of objection to the proposed two-lot subdivision, which was advertised in 2021 to a wider group of potentially affected individuals.

Attachments

1. Request end S173 AG845895P 79 Angophora [**5.4.3.1** - 32 pages]

Our ref: 18569AMP

17 August 2021

Statutory Planning Coordinator
East Gippsland Shire Council
Via email: planning@egipps.vic.gov.au

Attention: Mr. Robert Pringle

Dear Robert,

**Re: Request to amend Agreement AG845895P
Lot S3 on Plan of Subdivision PS616253L
79 Angophora Drive, Mallacoota**

We respectfully seek Council's consent to the ending of Section 173 Legal Agreement AG845895P as applying to our client's land at 79 Angophora Drive, Mallacoota.

The request to end Agreement AG845895P is made pursuant to Section 178(B) of the *Planning and Environment Act 1987* and on behalf of *Mr. Noel & Mrs. Catherine Bruce*, the registered owners of the property.

Request to end Agreement AG845895P

Agreement AG845895P ('the Agreement') was registered on the subject land in accordance with Condition 3 of Planning Permit 11/2006/P. The land affected by the Agreement includes Lots 9-27, Lots 44-47, Lot 60 and Lot S3 on Plan of Subdivision 616253L.

Condition 3 was included within Planning Permit 11/2006/P to satisfy the requirements imposed by DELWP (formally NRE) and the CFA in their capacity as referral authorities in accordance with Clause 66 of the *East Gippsland Planning Scheme*.

In summary the purpose of the Agreement was to ensure:

- Dwellings constructed within Building Envelopes where specified.
- Retention and protection of significant trees.
- Construction and maintenance of fences on the boundaries around specified lots.
- The removal of vegetation as required and maintenance of cleared areas thereafter, in accordance with CFA referral response.
- Prevention of environmental weeds and exclusion of domestic stock.

The Agreement was executed on 3 September 2009.

18569 request to end S173.doc

Principal: Michael J. Sadler, L.S., Dip Surv, M.I.S., MAICD

152 Macleod St.
PO Box 722,
Bairnsdale, VIC 3875

P: 5152 5011
F: 5152 5705

E: contact@crowthersadler.com.au



Application requirements

Section 178A(2)(b) requires the application to be “*accompanied by the information required by the regulations*”. In accordance with the requirements of Regulation 55 of the *Planning & Environment Regulations 2015* we provide the following requisite information.

Regulation 55(a)

The Applicant for the request to end the Agreement is *Mr. Noel Bruce and Mrs. Catherine Bruce* of 1472 Genoa Road, Mallacoota VIC 3892.

Regulation 55(b)

The Agreement is to be ended as it applies to the subject land is AG845895P.

Regulation 55(c)

The requirements of this Regulation are not applicable to the request at hand as the proposal does not seek to amend the Agreement.

Regulation 55(d)(i)

The requirement of this Regulation is not applicable to the request at hand as the proposal does not seek to end the Agreement in part.

Regulation 55(d)(ii)

The request seeks agreement with the Responsible Authority to end the Agreement in full as it applies to 79 Angophora Drive, Mallacoota, formally described as Lot S3 on Plan of Subdivision 616253L.

Regulation 55(d)(iii)

The owner of the subject land proposes to undertake a Two Lot Subdivision of the land which requires a Planning Permit under the provisions of the Bushfire Management Overlay. An application of this nature must also comply with Clause 53.02: *Bushfire Planning*.

A Planning Permit Application has recently been submitted to Council for the proposed Two Lot Subdivision which has been prepared in accordance with the *Approved measures* of Clause 53.02.

In preparing the Planning Permit application it was determined the *specific obligations of the owner* under part 3 of the Agreement were found to be inconsistent with the current requirements of Clause 53.02: *Bushfire Planning*.

The purpose of the Bushfire Management Overlay includes a requirement to “prioritise the protection of human life and strengthens community resilience to bushfire”. The provisions of the Bushfire Management Overlay are considered therefore to take priority over the requirements of the Agreement with respect to bushfire protection and maintenance and management of vegetation.

It is also relevant to highlight that only two stages of the subdivision anticipated by the Agreement were completed, and Planning Permit 11/2006/P/A has now expired. Any further subdivision of the remaining land therefore triggers further planning approval and the nominated Building Envelopes do not respond to the current scheme of subdivision or reflect the current Planning Scheme controls.

The current application for subdivision is subject to current planning scheme controls including provisions relating to bushfire protection and native vegetation, irrespective of what was previously approved under the previous permit (now expired).

A Bushfire Hazard Site Assessment and Bushfire Management Plan have been submitted with the Planning Permit application for the proposed Two Lot Subdivision. The Bushfire Hazard Site Assessment determines the extent of defensible space required and therefore the appropriate location for a future dwelling (Lot 1).

The extent of defensible space required to comply with *Approved Measures* under Clause 53.02 is substantially greater than that stipulated within the specific obligations of the owner within Clause 3.3.3.

It is proposed the Agreement be ended in order to avoid any discrepancy or confusion between the requirements of the Bushfire Management Plan and the Agreement.

It is however expected that the current Planning Application for Two Lot Subdivision will result in a Condition on Permit which triggers the need for a new Section 173 Legal Agreement to be entered into, consistent with the mandatory Conditions prescribed at Clause 44.06-5.

We are not aware of any other prescribed matter which is relevant to the request to end the Agreement as it applies to the subject land.

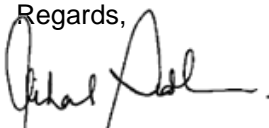
Conclusion

The Agreement stipulates bushfire mitigation measures that are inconsistent with current requirement of the *East Gippsland Planning Scheme*. Ending the Agreement as requested will enable the proposed subdivision to be provided with an appropriate level of protection from the risk of bushfire that is not otherwise possible under the Agreement.

We trust this information provides sufficient detail to facilitate Council's commencement of the process associated with ending the Agreement as it applies to the subject land. We respectfully await Council's timely advice regarding the scheduling of this matter on the next available Ordinary Council Meeting agenda.

As always, please do not hesitate to contact our office should any further information be required to assist with the reporting of this matter to Council.

Regards,



MICHAEL SADLER
Managing Director

*Encl: Application fee \$643.00 (to be paid by cheque)
Copy of Title (Lot S3 on PS616253L)
S173LA AG845895P*



Copyright State of Victoria. No part of this publication may be reproduced except as permitted by the Copyright Act 1968 (Cth), to comply with a statutory requirement 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, its agents or contractors, accepts responsibility for any subsequent publication or reproduction of the information.

The Victorian Government acknowledges the Traditional Owners of Victoria and pays respects to their ongoing connection to their Country, History and Culture. The Victorian Government extends this respect to their Elders, past, present and emerging.

REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

Page 1 of 1

VOLUME 11849 FOLIO 791

Security no : 124091645049U

Produced 05/08/2021 11:14 AM

LAND DESCRIPTION

Lot S3 on Plan of Subdivision 616253L.
 PARENT TITLE Volume 11194 Folio 697
 Created by instrument PS616253L Stage 2 24/01/2017

REGISTERED PROPRIETOR

Estate Fee Simple
 Joint Proprietors
 CATHERINE MARGARET BRUCE
 NOEL ALLAN BRUCE both of 1472 GENOA ROAD MALLACOOTA VIC 3892
 AS313099E 01/07/2019

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AS313100Y 01/07/2019
 BENDIGO AND ADELAIDE BANK LTD

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 as to part Section 173 Planning and Environment Act 1987
 AG845895P 30/10/2009

DIAGRAM LOCATION

SEE PS616253L 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)



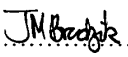
Street Address: 79 ANGOPHORA DRIVE MALLACOOTA VIC 3892

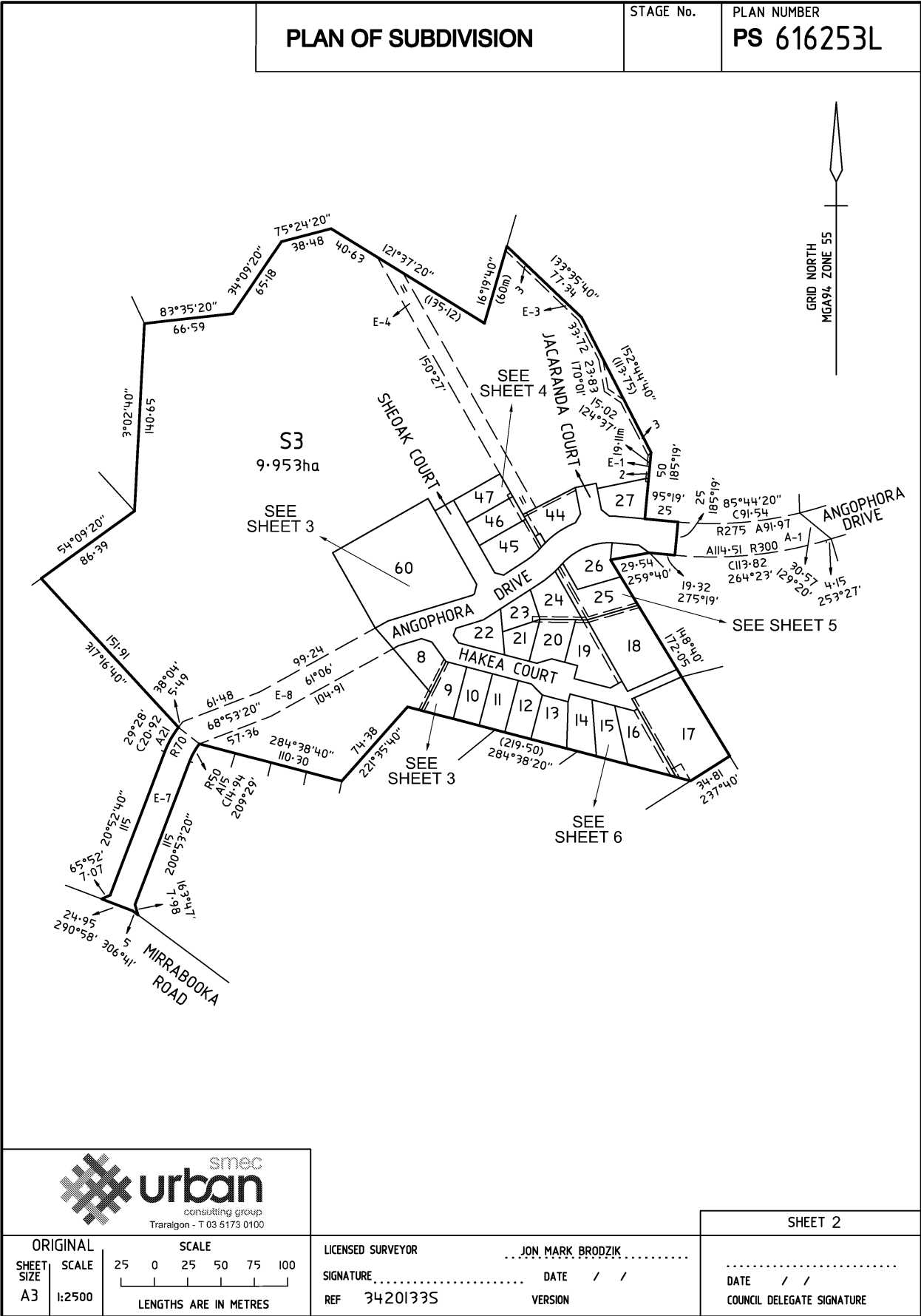
ADMINISTRATIVE NOTICES

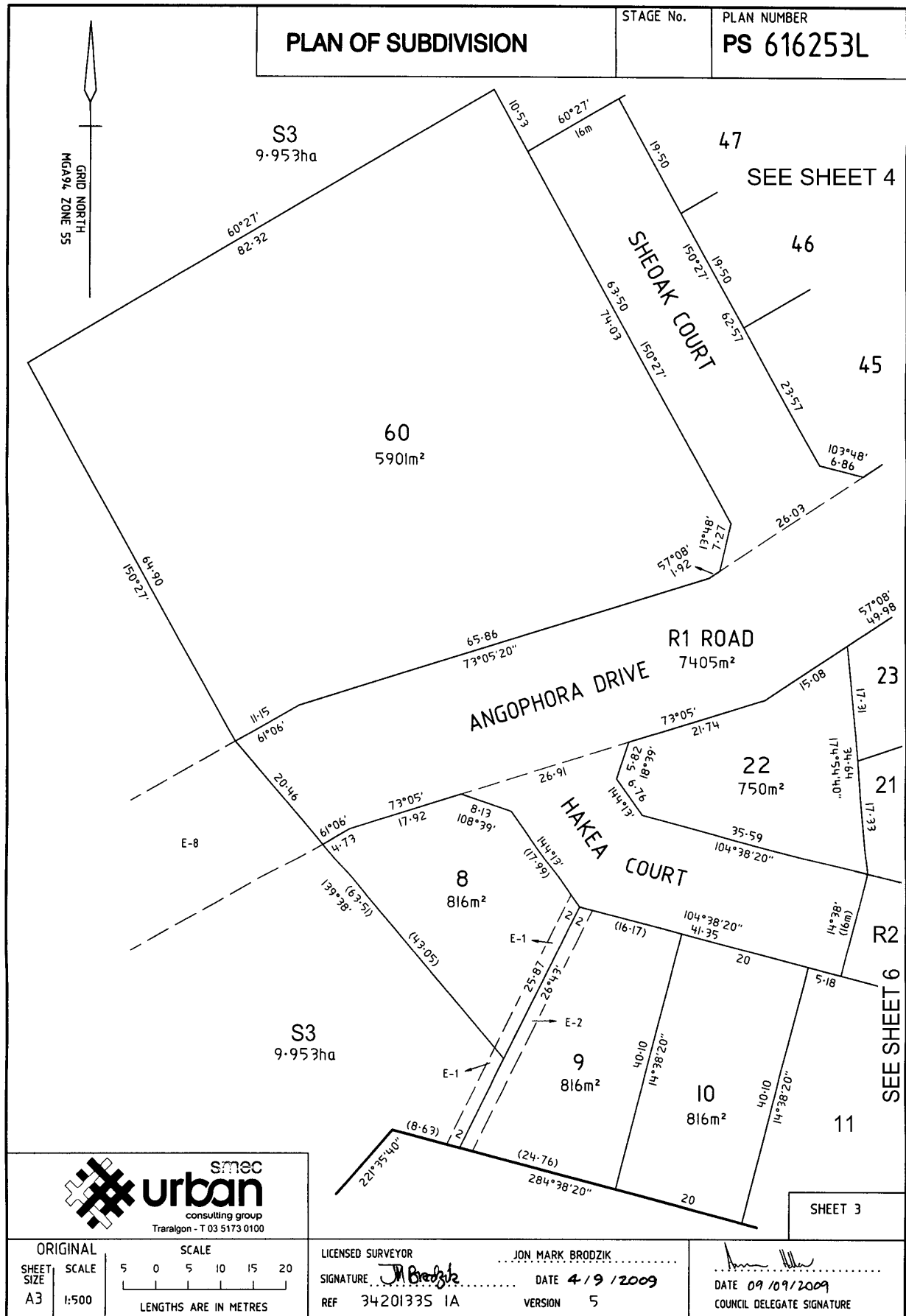
NIL

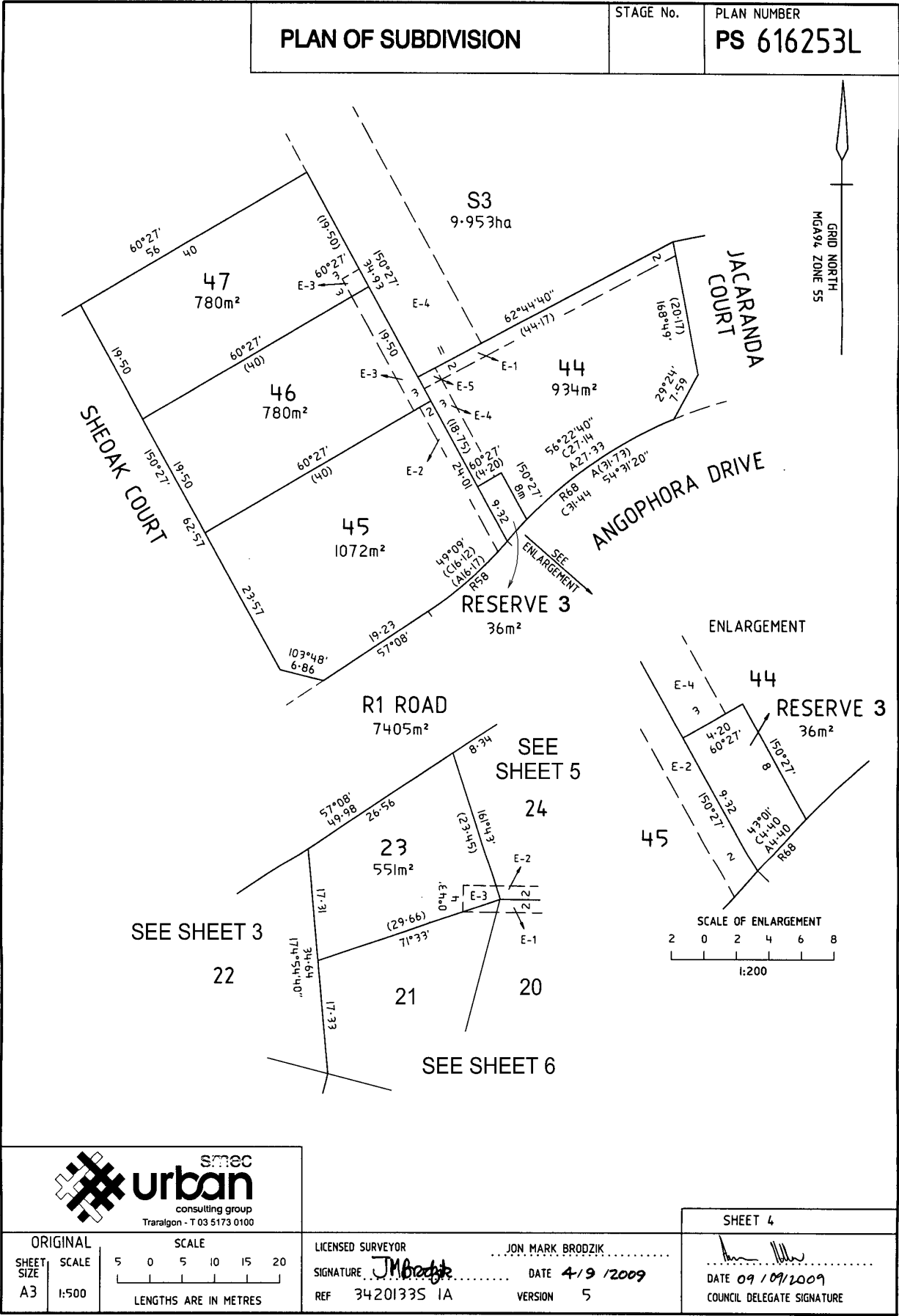
eCT Control 18057S BENDIGO BANK
 Effective from 01/07/2019

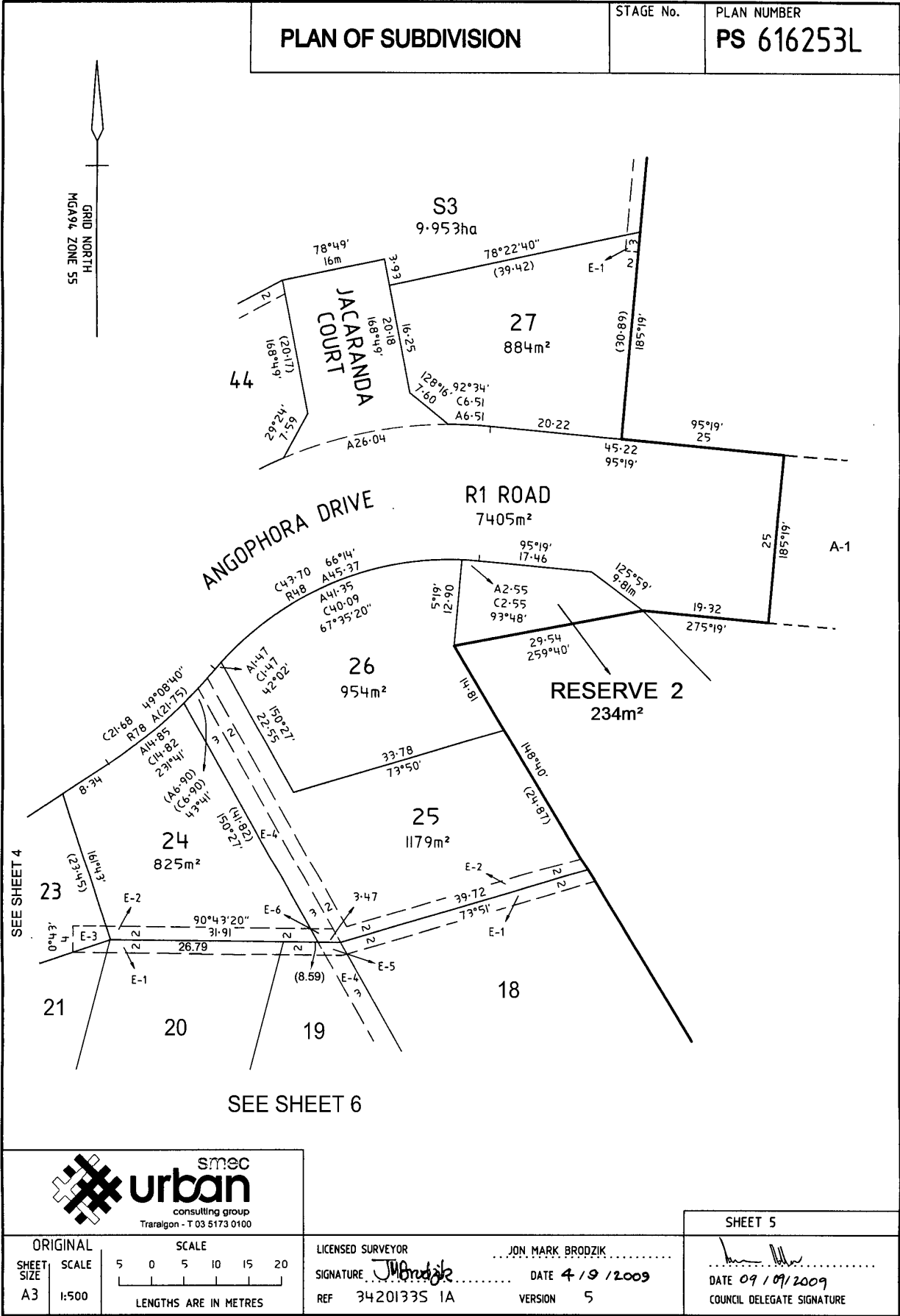
DOCUMENT END

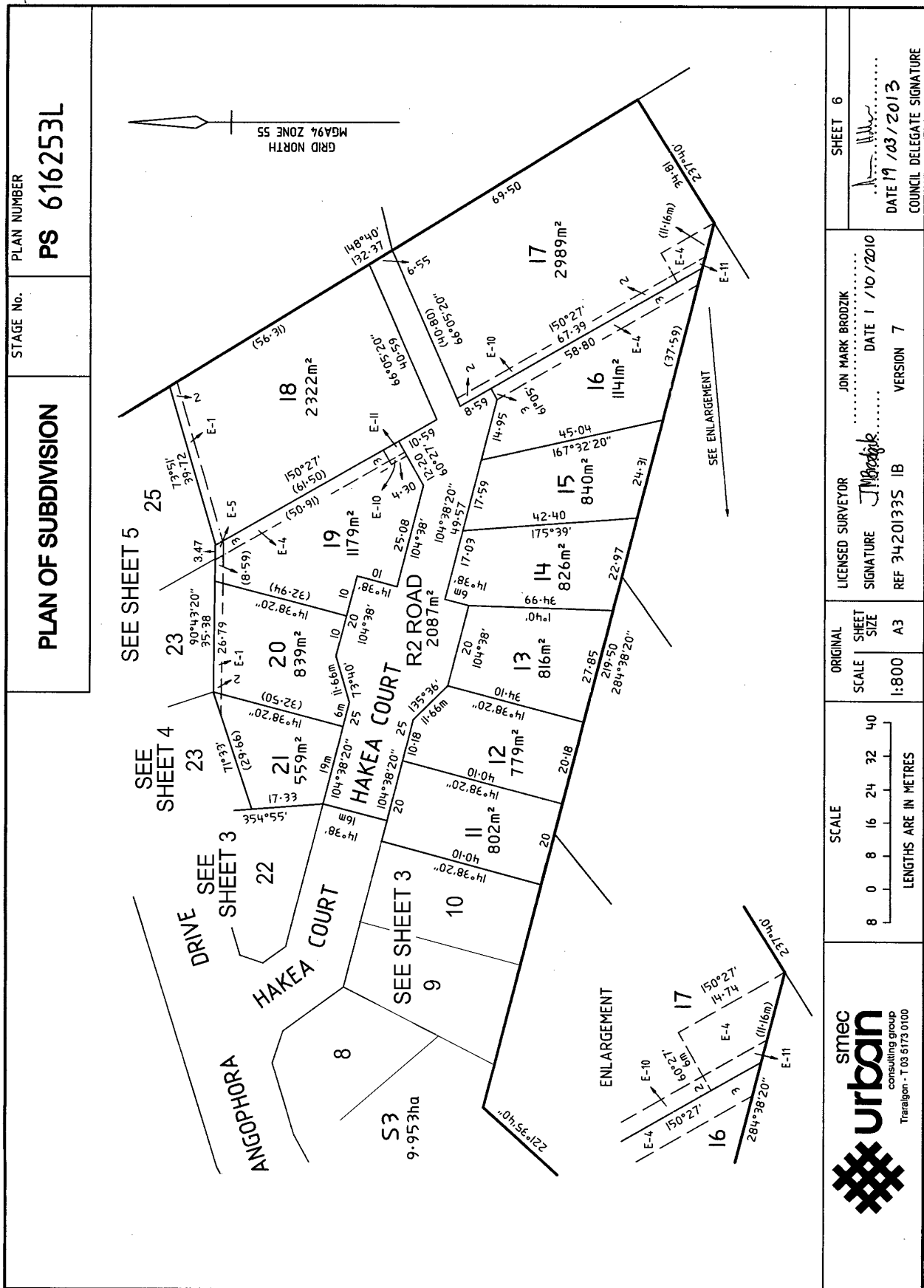
PLAN OF SUBDIVISION		STAGE No.	LRS USE ONLY EDITION 2	PS616253L 23/03/2010 \$2539.70 PS 
LOCATION OF LAND PARISH: MALLACOOTA TOWNSHIP: — SECTION: — CROWN ALLOTMENT: 4 (PART) CROWN PORTION: — TITLE REFERENCES: VOL 10600 FOL 829 LAST PLAN REFERENCE: LOT 4 PS420978E POSTAL ADDRESS: MIRRABOOKA ROAD (At time of subdivision) MALLACOOTA, 3892 MGA84CO-ORDINATES: E 742 700 (Of approx. centre of land in plan) N 5841 300 ZONE: 55		COUNCIL CERTIFICATION AND ENDORSEMENT COUNCIL NAME: EAST GIPPSLAND SHIRE COUNCIL REF: 43/2008/CRT 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 Council seat Date 09/09/2009 Re-certified under Section 11(7) of the Subdivision Act 1988 Council Delegate Council seat Date — / — / —		
VESTING OF ROADS AND/OR RESERVES		NOTATIONS		
IDENTIFIER R1 ROAD R2 ROAD RESERVE 2 RESERVE 3	COUNCIL/BODY/PERSON EAST GIPPSLAND SHIRE COUNCIL EAST GIPPSLAND SHIRE COUNCIL EAST GIPPSLAND SHIRE COUNCIL SPI ELECTRICITY PTY LTD	STAGING This is / is not a staged subdivision Planning Permit No 11/2006/P DEPTH LIMITATION 15.24m BELOW THE SURFACE LOTS NUMBERS 1 TO 7, 28 TO 43 AND 48 TO 59 HAVE BEEN OMITTED FROM THIS PLAN UPON REGISTRATION OF THIS PLAN THE EASEMENTS E-2, E-3, E-4 AND E-5 AS SHOWN ON C/T VOL 10600 FOL 829 WILL BE VARIED OR REMOVED BY DIRECTION IN PLANNING PERMIT 11/2006/P. SURVEY: THIS PLAN IS / IS NOT BASED ON SURVEY THIS SURVEY IS CONNECTED TO PERMANENT MARK No(s)		
MIRRABOOKA ESTATE STAGE 1A				
EASEMENT INFORMATION				LRS USE ONLY
LEGEND A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)				STATEMENT OF COMPLIANCE / EXEMPTION STATEMENT
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
A-1	CARRIAGEWAY, SEWERAGE WATER & ELECTRICITY	SEE DIAG.	PS322377E	LAND IN THIS PLAN
E-1, E-3, E-5,	DRAINAGE	SEE DIAG.	THIS PLAN	LAND IN THIS PLAN
E-2, E-3, E-6,	SEWERAGE	SEE DIAG.	THIS PLAN	EAST GIPPSLAND REGION WATER AUTHORITY
E-4, E-5, E-6, E-11	POWERLINE	SEE DIAG.	PS 322377E - STAGE 2 SECTION 44 OF THE ELECTRICITY INDUSTRY ACT 1993	EASTERN ENERGY LTD.
E-7	WAY, DRAINAGE, GAS TELEPHONE, SEWERAGE, ELECTRICITY & WATER	SEE DIAG.	LP 209167P	LAND IN LP 209167P
E-8	CARRIAGEWAY	SEE DIAG.	THIS PLAN	LAND IN THIS PLAN
E-11, E-10	DRAINAGE	SEE DIAG.	THIS PLAN	LAND IN THIS PLAN
				RECEIVED <input checked="" type="checkbox"/> DATE 23/3/2010 THIS IS A LAND VICTORIA COMPILED PLAN FOR DETAILS SEE MODIFICATION TABLE HEREIN SHEET 1 OF 6 SHEETS
LICENSED SURVEYOR JON MARK BRODZIK SIGNATURE  DATE 4/9/2009 REF 34201335 1A VERSION 5				DATE 09/09/2009 COUNCIL DELEGATE SIGNATURE ORIGINAL SHEET SIZE A3











RECORD OF ALL ADDITIONS OR CHANGES TO THE PLAN

PS616253L

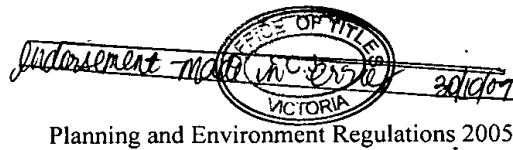
MASTER PLAN (STAGE 1) REGISTERED DATE 01/04/2010 TIME 3:17 pm

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.

[illegible]

Delivered by LANDATA®, timestamp 05/09/2021 11:18 Page 1 of 20

© 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.



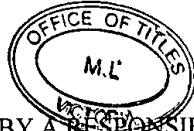
AG845895P

30/10/2009 \$107.90 173



Planning and Environment Regulations 2005

Form 18



Section 181

APPLICATION BY A RESPONSIBLE AUTHORITY FOR THE MAKING OF A RECORDING OF AN AGREEMENT

Planning and Environment Act 1987

APPLICATION BY A RESPONSIBLE AUTHORITY FOR THE MAKING OF A RECORDING OF AN AGREEMENT

Planning and Environment Act 1987

Lodged by:

Name: NPR Legal

Phone: (02) 49102500

Address: 103 Beaumont St Hamilton NSW 2303

Ref: 08/24 Customer Code:

The Authority having made an agreement referred to in section 181(1) of the Planning and Environment Act 1987 requires a recording to be made in the Register for the Land.

Land: Part of the land situated at 124 Mirrabooka Rd, Mallacoota, being part of the land referred to in Certificate of Title Volume 10600 Folio 829, and more particularly being the land described as proposed lots 26, 31, 45, 58, 59, 60 and 61 on the attached plan

Authority: East Gippsland Shire Council of Corporate Centre, 273 Main St Barinsdale

Section and Act under which agreement made: **Section 173 Planning and Environment Act 1987**

A copy of the Agreement is attached to this Application.

Signature for the Authority:

Name of Officer: AARON HOLLOW - MANAGER DEVELOPMENT

Date: 02/09/2009

AG845895P

30/10/2009 \$107.90 173



Date 03 / 09 / 2009

**Agreement under Section 173
of the Planning and Environment Act 1987**
Subject Land: 124 Mirrabooka Rd Mallacoota, Lot 4 LP 420978

**East Gippsland Shire Council
and**

Rasputen Pty Ltd ACN 116 092 329

Table of Contents

1.	DEFINITIONS	5
2.	INTERPRETATION.....	6
3.	SPECIFIC OBLIGATIONS OF THE OWNER	6
4.	FURTHER OBLIGATIONS OF THE OWNER.....	7
4.1	Notice and Registration	7
4.2	Further actions	7
4.3	Council's Costs to be Paid	8
5.	AGREEMENT UNDER SECTION 173 OF THE ACT	8
6.	OWNER'S WARRANTIES	8
7.	SUCCESSORS IN TITLE.....	8
8.	GENERAL MATTERS	8
8.1	Notices	8
8.2	Service of Notice	9
8.3	No Waiver.....	9
8.4	Severability.....	9
8.5	No Fettering of Council's Powers.....	9
9.	COMMENCEMENT OF AGREEMENT	9



Agreement under Section 173 of the Planning and Environment Act 1987

DATE 03 / 09 / 2009

AG845895P



BETWEEN

EAST GIPPSLAND SHIRE COUNCIL
of Corporate Centre, 273 Main Street, Bairnsdale

(Council)

AND

Rasputen Pty Ltd ACN 116 092 329
of 101 – 103 Beaumont St Hamilton NSW 2303

(Owner)

RECITALS

- A. Council is the Responsible Authority pursuant to the Act for the Planning Scheme.
- B. The Owner is or is entitled to be the registered proprietor of the Subject Land.
- C. On 14 March 2007 Council issued Planning Permit No. 11/2006/P (**Planning Permit**) allowing the Subject Land to be subdivided into 61 lots, the variation of a carriageway easement and the removal of select vegetation in accordance with the Endorsed Plan. Condition 3 of the Planning Permit requires the Owner to enter into this Agreement to provide for the matters set out in that condition. A copy of the Planning Permit is available for inspection at Council offices during normal business hours upon giving the Council reasonable notice.
- D. Condition 3 of the Planning Permit provides that:

Prior to a Statement of Compliance being granted for each stage the applicant/landowner must:

.....

Enter into an agreement with the responsible authority in accordance with Section 173 of the Planning & Environment Act 1987, which will covenant Lots 58, 59, 60 and 61 that:

- All buildings must be located within the approved building envelopes endorsed as part planning permit 11/2006/P/A.

Enter into an agreement with the responsible authority in accordance with Section 173 of the Planning & Environment Act 1987, which will covenant Lots 26, 31, 45, and 60 that:

- Dwellings and associated outbuilding(s) must be constructed within the approved building envelopes. The existing trees as identified on the endorsed plan(s) of Planning Permit 11/2006/P/A must not be removed unless deemed by a qualified Arborist to present a risk to person or property.

Enter into an agreement with the responsible authority in accordance with Section 173 of the Planning & Environment Act 1987, which will covenant Lots 58 - 61 that:

- The land, excluding the building envelopes, is to form the area to which the covenants are to apply
- Building envelopes on Lots 58 to 61 are to be excluded from the covenanted area by fencing to the satisfaction of the responsible authority.
- Owners will not keep domestic stock or allow domestic stock to remain on the covenanted land
- Owners will prevent the growth and survival of noxious and environmental weeds within the covenanted areas
- Owners will not remove or destroy native vegetation or allow the removal or destruction of native vegetation from the covenanted areas except where this is necessary to maintain protective fencing of those areas.

Enter into an agreement with the responsible authority in accordance with Section 173 of the Planning & Environment Act 1987, which will covenant Lots 58 - 61 that:

- That vegetation management is to occur prior to the occupation of any new dwelling on the Lot and maintained at all times during the occupation of any dwelling on the Lot.
- Vegetation management for a distance of 30 metres around the dwelling or to the property boundary, whichever is less to comply with the following:
 - grass must be no more than 100 millimetres in height.
 - leaf litter must be less than 10 millimetres deep.
 - There be no elevated fuel on at least 50% of the inner zone. On the remaining 50% of the inner zone, the elevated fuel must be at most sparse with very little dead material.
 - Dry shrubs must be isolated in small clumps more than 10 metres away from any dwelling.
 - Trees must not overhang the roofline of the dwelling.

The Section 173 Agreement are to be finalised and a copy provided to the CFA prior to issuing of the statement of compliance of Stage 1 of the development.

The agreement will bind the applicant as the owner and shall run with the land so that all successors in title are bound by the agreement. This agreement will be prepared by the applicant, at the applicant's cost and to the satisfaction of the responsible authority, and shall be registered on the title in accordance with Section 181 of the Planning and Environment Act 1987.

E. The parties enter into this Agreement:

- E.1 to give effect to the requirements of the Planning Permit; and
- E.2 to achieve and advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land.

AG845895P

30/10/2009 \$107.90 173



AG845895P

30/10/2009 \$107.90 173

**THE PARTIES AGREE****1. DEFINITIONS**

In this Agreement the words and expressions set out in this clause have the following meanings unless the context admits otherwise:

Act means the *Planning and Environment Act 1987*.

Agreement means this agreement and any agreement executed by the parties expressed to be supplemental to this agreement.

Building has the same meaning as in the Act

Building Envelope means any area delineated and identified on the Endorsed Plan as a 'building envelope' or the like.

Endorsed Plan means the plan endorsed with the stamp of Council from time to time as the plan which forms part of the Planning Permit. A copy of the Endorsed Plan is available for inspection at Council offices during normal business hours upon giving the Council reasonable notice.

Environmental Weed means a weed declared noxious under the *Catchment and Land Protection Act 1994* or any other plant that is causing damage to the environment on the Subject Land.

Existing Tree means any tree which is identified on the Endorsed Plan as an 'existing tree'.

Inner Zone means the area within 10 metres of the dwelling

lot means a lot on the Endorsed Plan.

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.

Native Vegetation has the same meaning as in the Planning Scheme

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.

party or parties means the Owner and Council under this Agreement as appropriate.

Planning Scheme means the East Gippsland Planning Scheme and any other planning scheme that applies to the Subject Land.

Subject Land means part of the land situated at 124 Mirrabooka Rd Mallacoota being part of the land referred to in Certificate of Title Volume 10600 Folio 829 and more particularly being the land described as proposed lots 26, 31, 45, 58, 59, 60 and 61 on the Endorsed Plan. Any reference to the Subject Land in this Agreement includes any lot created by the subdivision 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 term used in this Agreement has its ordinary meaning unless that term is defined in this Agreement. If a term is not defined in this Agreement and it is defined in the Act it has the meaning as defined in the Act.
- 2.6 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.
- 2.7 The introductory clauses to this Agreement are and will be deemed to form part of this Agreement.
- 2.8 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

3.1 Specific obligations of the owner of lots 26, 31, 45, 58, 59, 60 & 61: Building Envelopes

The Owner covenants and agrees that the Owner must not build, construct or erect or cause or permit to be built, constructed or erected a Building on lots 26, 31, 45, 58, 59, 60 and 61 outside the Building Envelope for the relevant lot.

3.2 Specific obligations of the owner of lots 26, 31, 45 & 60: Tree retention

The Owner covenants and agrees that no Existing Tree may be destroyed, felled, lopped, ringbarked, uprooted, or otherwise removed on lots 26, 31, 45 and 60 unless with the prior written consent of Council. That approval will not be given unless the removal of that Existing Tree is deemed necessary by a qualified arborist due to the Existing Tree presenting an unreasonable risk to person or property.

AG845895P



3.3 Specific obligations of the owner of lots 58, 59, 60 & 61

3.3.1 Fencing

The Owner covenants and agrees that the Owner must construct and maintain a fence to the satisfaction Council around each Building Envelope on Lots 58, 59, 60 and 61.

3.3.2 Keeping of Animals & Vegetation Protection

In relation to any land outside a Building Envelope on Lots 58, 59, 60 and 61, the Owner covenants and agrees that:

- a) the Owner must not keep domestic stock or allow domestic stock to remain on a lot;
- b) the Owner must prevent the establishment and presence of any Environmental Weed on a lot; and
- c) Native Vegetation must not be removed, destroyed, felled, lopped, ringbarked or uprooted without the prior written consent of Council unless the removal of the native vegetation is required to maintain protective fencing of the areas or to comply with clauses 3.3.3 or 3.3.4;

3.3.3 Vegetation Management

Prior to the occupation of any dwelling on any of lots 58, 59, 60 or 61, the Owner must ensure that within 30 metres of the dwelling or to the respective lot boundary (whichever is the closer):

- a) grass is no more than 100 millimetres in height;
- b) leaf litter is less than 10 millimetres deep;
- c) there is no elevated fuel on at least 50 per cent of the Inner Zone and the other 50 per cent of the Inner Zone, elevated fuel must be sparse, with very little dead vegetation;
- d) dry shrubs are more than 10 metres away from any dwelling and are isolated in small clumps; and
- e) a tree does not overhang the roofline of a dwelling

3.3.4 Ongoing Vegetation Management

The Owner must comply with Clause 3.3.3 at all times after commencing occupation of a dwelling to the satisfaction of Council.

4. FURTHER OBLIGATIONS OF THE OWNER

4.1 Notice and Registration

The Owner further covenants and agrees that the Owner will bring this Agreement to the attention of all prospective purchasers, lessees, mortgagees, chargees, transferees and assigns.

4.2 Further actions

The Owner further covenants and agrees that:

- 4.2.1 the Owner will do all things necessary to give effect to this Agreement;
- 4.2.2 the Owner will make 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 for this to be done including signing any further agreement, acknowledgment 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 Council's Costs to be Paid

The Owner further covenants and agrees that the Owner will immediately pay to Council, Council's reasonable costs and expenses (including legal expenses) of and incidental to the preparation, drafting, review, finalisation, engrossment, execution, registration and enforcement of this Agreement which are and until paid will remain a debt due to Council by the Owner.

5. AGREEMENT UNDER SECTION 173 OF THE ACT

Council and the Owner agree that without limiting or restricting the respective powers to enter into this Agreement and, insofar as it can be so treated, this Agreement is made as a Deed pursuant to Section 173 of the Act, and the obligations of the Owner under this Agreement are obligations to be performed by the Owner as conditions subject to which the Subject Land may be used and developed pursuant to the Planning Permit.

6. OWNER'S 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 affected by this Agreement.

7. SUCCESSORS IN TITLE

Without limiting the operation or effect that 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;

AG845895P

30/10/2009 \$107.90 173



- 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 by hand delivery or prepaid post.

8.2 Service of Notice

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 7 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 Council to the Owner or any variation of the terms and conditions of this Agreement or any judgment or order obtained by Council against the Owner will not in any way amount to a waiver of any of the rights or remedies of 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 Council's Powers

It is acknowledged and agreed that this Agreement does not fetter or restrict the power or discretion of Council to make 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.

AG845895P

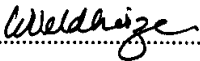
30/10/2009 \$107.90 173


SIGNED, SEALED AND DELIVERED as a Deed by the parties on the date set out at the commencement of this Agreement.

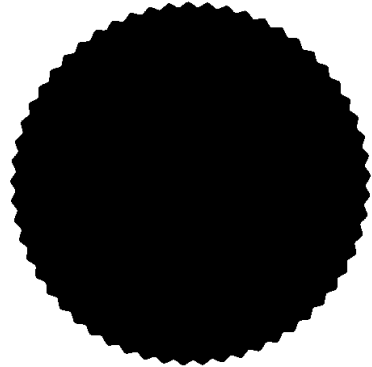
The Common Seal of the East Gippsland Shire Council was hereunto affixed on the 3rd day of September 2009 in the presence of:

..... 


Chief Executive

..... 

Witness

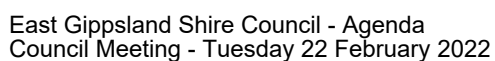


Executed by Rasputen Pty Ltd
ACN 116 092 329 Pursuant to
s 127(1) of the Corporations
Act 2001 in the presence of:


.....
William Hugh Ellis
Sole Director/Secretary

AG845895P





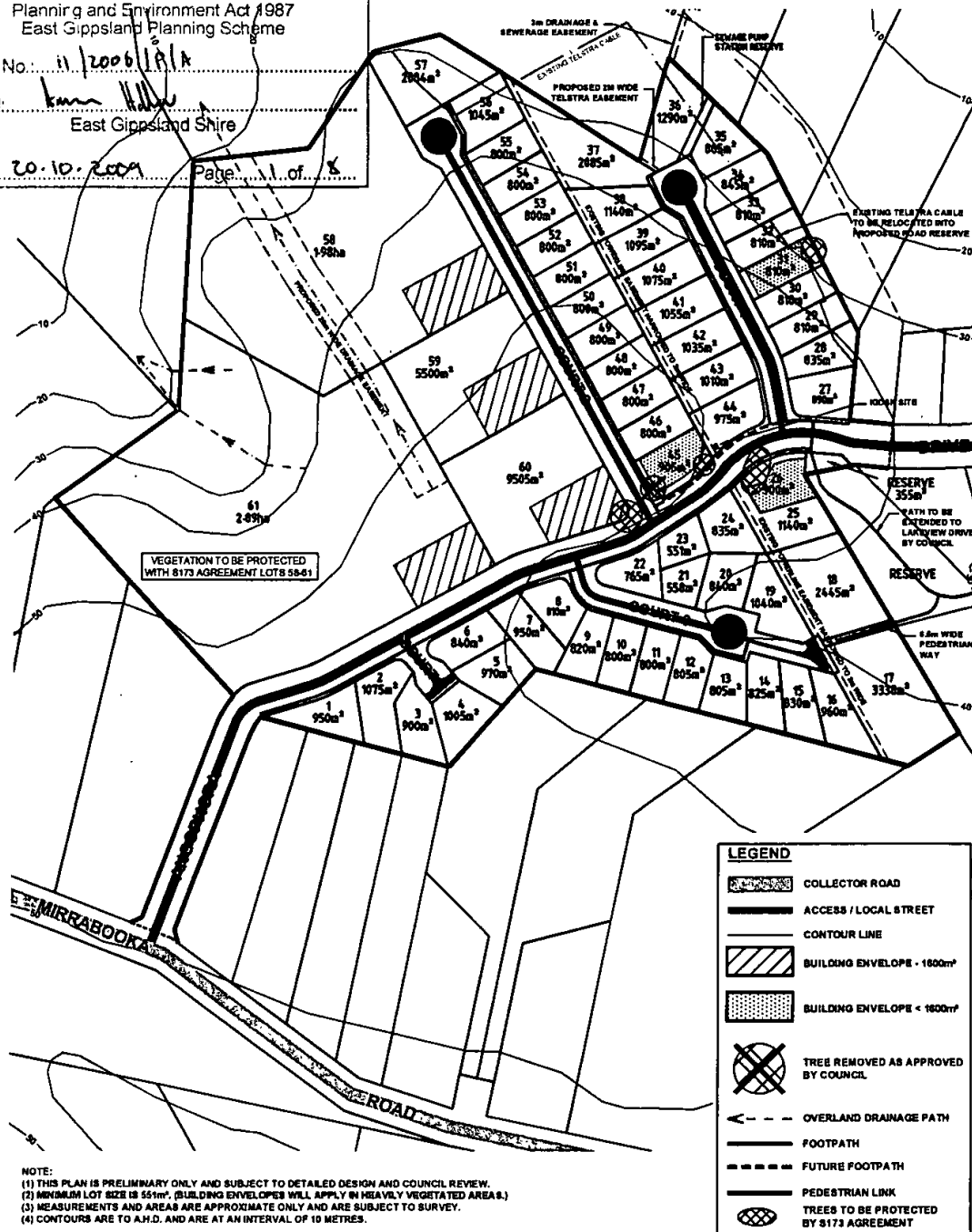
PURPOSES OF SECTION 173 AGREEMENT

Endorsed Plan
Planning and Environment Act 1987
East Gippsland Planning Scheme

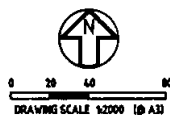
Permit No.: 11/2006/PA/A

Signed: *[Signature]*
East Gippsland Shire

Date: 20.10.2009 Page: 11 of 18



Amended 6/10/2009

**Concept Development Plan of "Mirrabooka Estate"****Infrastructure Solutions P/L.**Designed: Trevor Woodcock May 2005
Drawn: GPR Nov 2005**Mirrabooka Road, Mallacoota**

Dwg No. IS05102/01

Issue Date: 26/03/2009

Sheet 1 of 8

AG845895P

30/10/2009 \$107.90 173



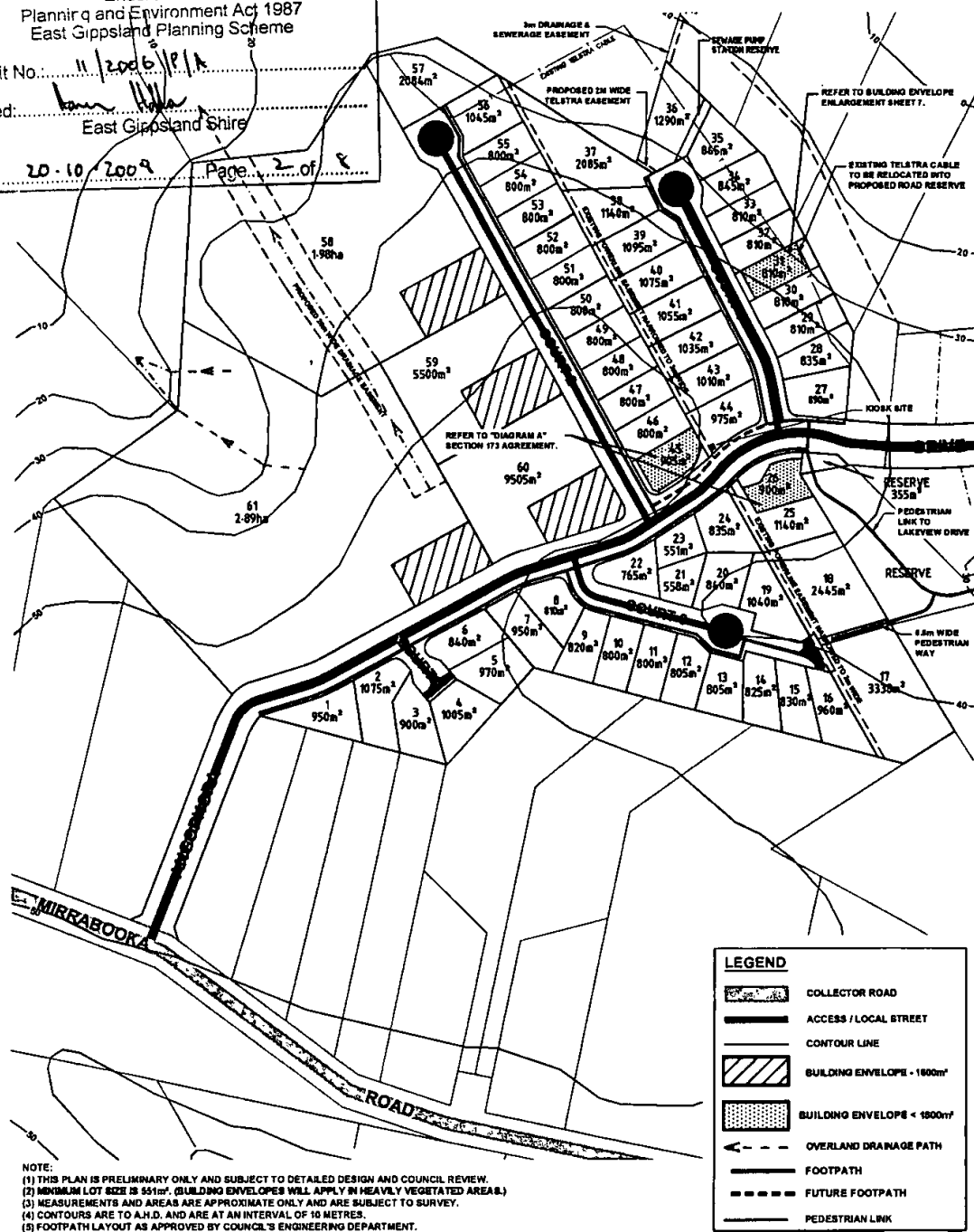
PURPOSES OF SECTION 173 AGREEMENT

Endorsed Plan
Planning and Environment Act 1987
East Gippsland Planning Scheme

Permit No.: 11/2006/P/LA

Signed: *[Signature]*
East Gippsland Shire

Date: 20-10-2009 Page: 2 of 8



Amended 6/10/2009

Layout Plan of "Mirrabooka Estate"**Infrastructure Solutions P/L.****Mirrabooka Road, Mallacoota**Designed: Trevor Woodcock May 2005
Drawn: GMR Nov 2005

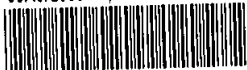
Dwg No. IS05102/02

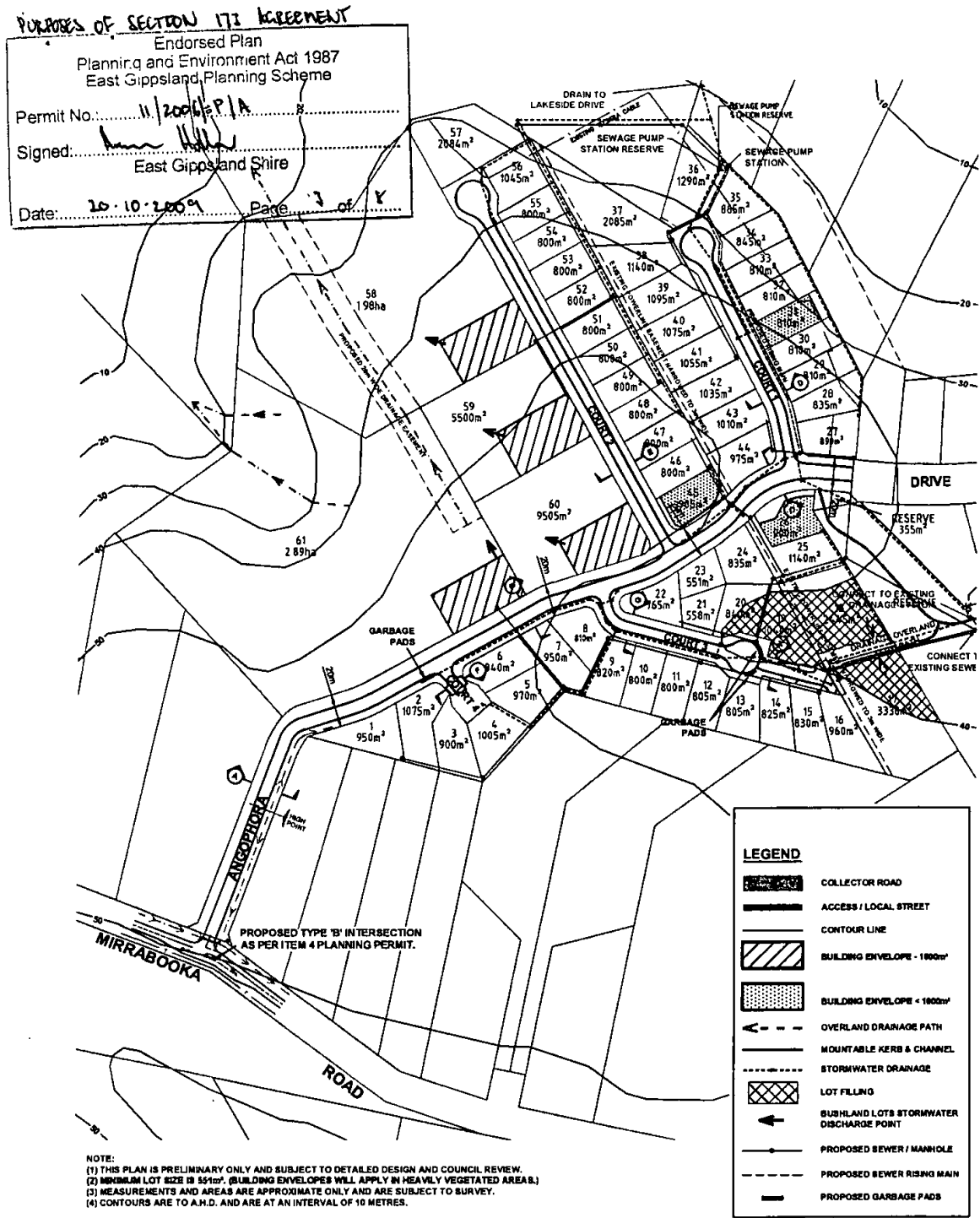
Issue Date: 26/03/2009

Sheet 2 of 8

AG845895P

30/10/2009 \$107.90 173





Amended 6/10/2009



Infrastructure Plan of "Mirrabooka Estate"
Infrastructure Solutions P/L.

Designed: Traver Woodcock May 2005
Drawn: GPR May 2005

Mirrabooka Road, Mallacoota

Dwg No. IS05102/03

Issue Date: 26/03/2009

Sheet 3 of 8

AG845895P

30/10/2009 \$107.90 173



PURPOSES OF SECTION 173 AGREEMENT

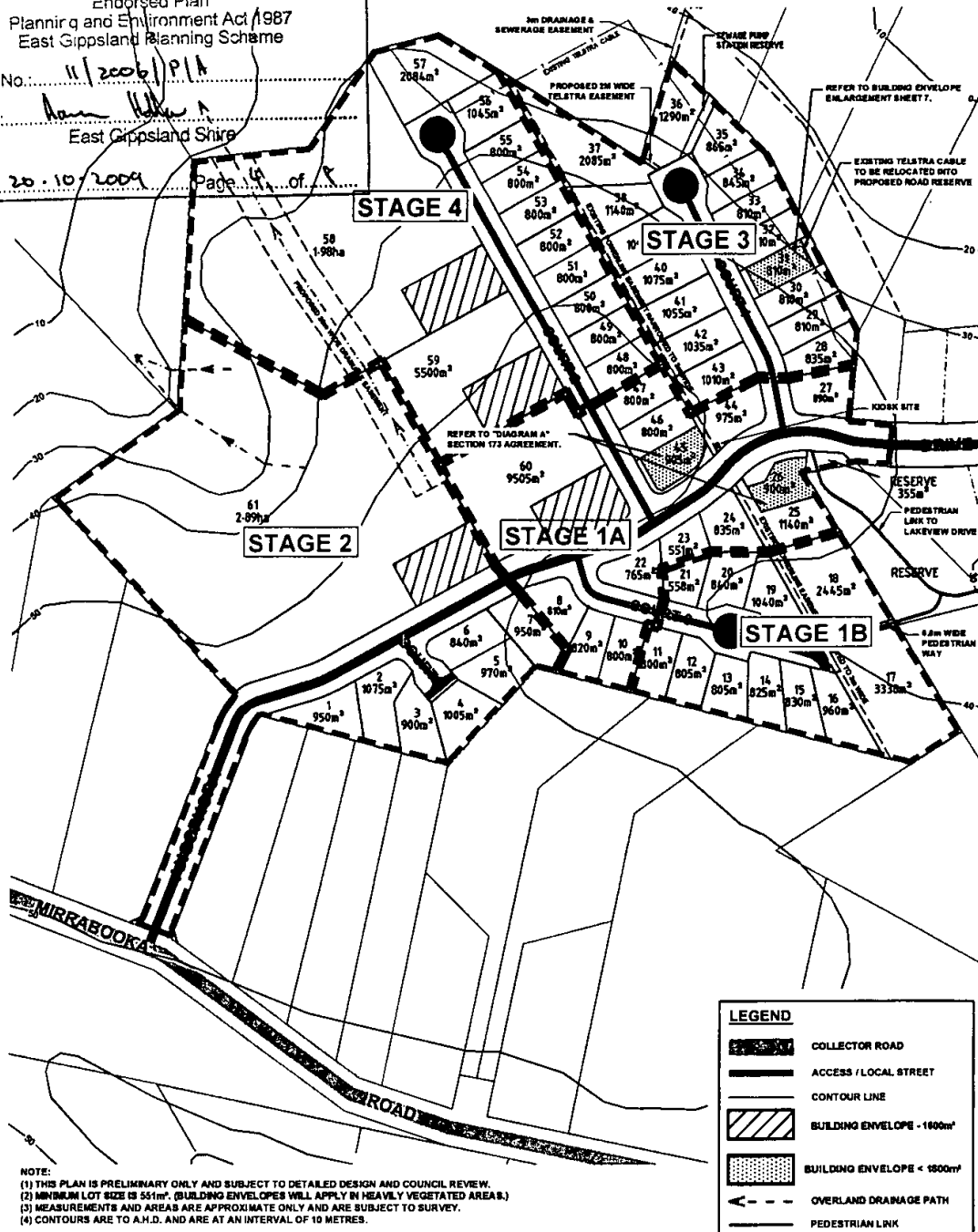
Endorsed Plan
Planning and Environment Act 1987
East Gippsland Planning Scheme

Permit No.: 11/2006/PIA

Signed: *[Signature]*
East Gippsland Shire

Date: 20.10.2009

Page 14 of 17



Amended 6/10/2009

Staging Plan of "Mirrabooka Estate"

Infrastructure Solutions P/L.

Mirrabooka Road, Mallacoota

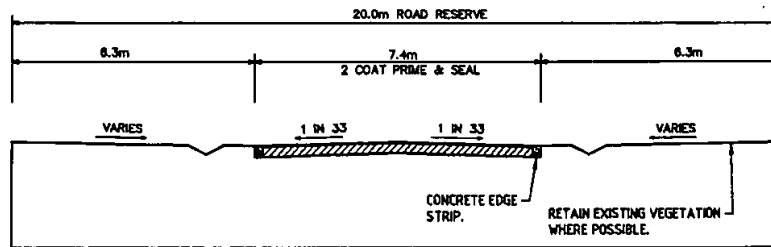
Designed: Trevor Woodcock May 2005
Drawn: GMR Nov 2005

Dwg No. IS05102/04

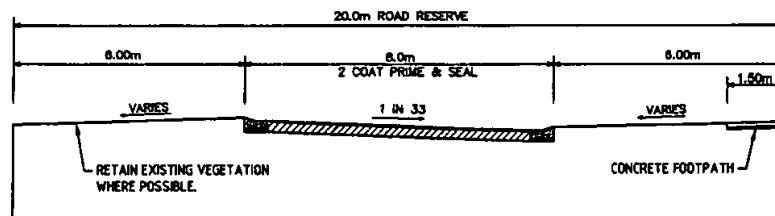
Issue Date: 26/03/2009

Sheet 4 of 8

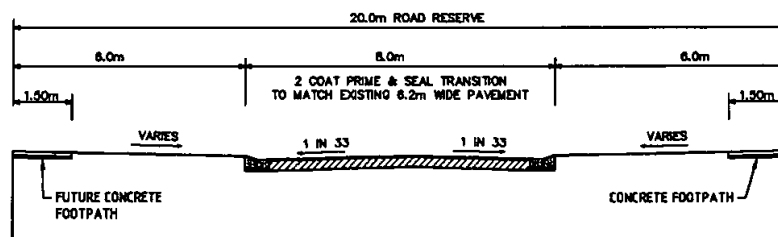




SECTION A
COLLECTOR STREET – ANGOPHORA DRIVE



SECTION B
COLLECTOR STREET – ANGOPHORA DRIVE



SECTION C
COLLECTOR STREET – ANGOPHORA DRIVE

NOTES

1. FOR SECTION LOCATION REFER TO SHEET 3.

PURPOSE OF SECTION 173 AGREEMENT

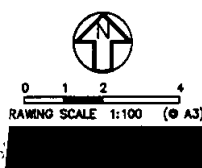
Endorsed Plan
Planning and Environment Act 1987
East Gippsland Planning Scheme

Permit No. 11/2006/P/A

Signed: *[Signature]*
East Gippsland Shire

Date: 20-10-2009 Page 5 of 8

Amended 1/06/2009



Typical Road Cross Sections "Mirrabooka Estate"

Infrastructure Solutions P/L.

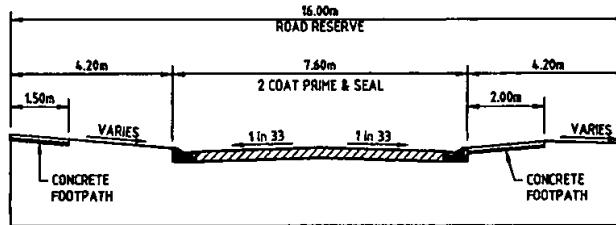
Designed: Trevor Woodcock May 2005
Drawn: GMR Nov 2005

Mirrabooka Road, Mallacoota

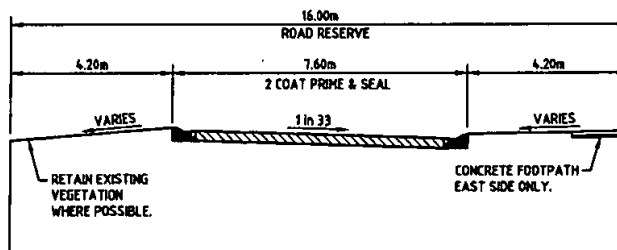
Dwg No. IS05102/05

Issue Date: 16/01/2007

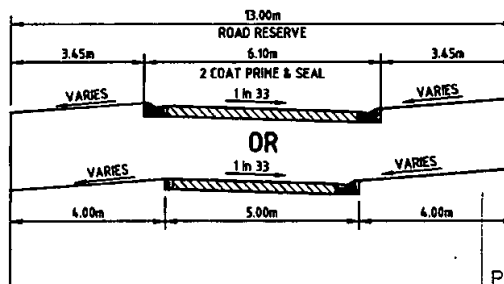
Sheet 5 of 8



SECTION D
ACCESS STREET- COURT 1 - JACARANDA COURT



SECTION E
ACCESS STREET - COURT 2 - SHEOAK COURT



SECTION F
ACCESS PLACE - COURT 4

NOTES

1. FOR SECTION LOCATION REFER TO SHEET 3.

PURPOSES OF SECTION 173 AGREEMENT
Endorsed Plan
Planning and Environment Act 1987
East Gippsland Planning Scheme

Permit No.: 11/2006/P/A

Signed: *[Signature]*
East Gippsland Shire

Date: 20-10-2009 Page 6 of 8
Amended 1/06/2009

AG845895P

30/10/2009 \$107.90 173

DRAWING SCALE 1:100 (A3)

Typical Road Cross Sections "Mirrabooka Estate"

Infrastructure Solutions P/L.

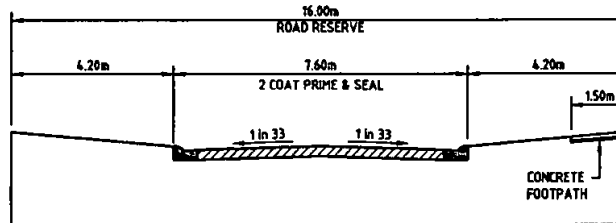
Designed: Trevor Woodcock May 2005
Drawn: GMR Nov 2005

Mirrabooka Road, Mallacoota

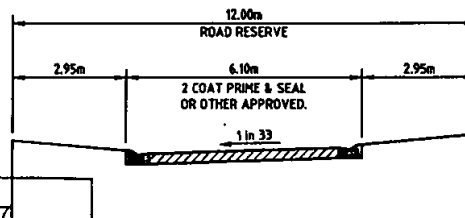
Dwg No. IS05102/06

Issue Date: 16/01/2007

Sheet 6 of 8



SECTION G
ACCESS STREET- COURT 3 - HAKEA COURT



SECTION H
ACCESS STREET- COURT 3 - HAKEA COURT

REVOKES OF SECTION 173 AGREEMENT

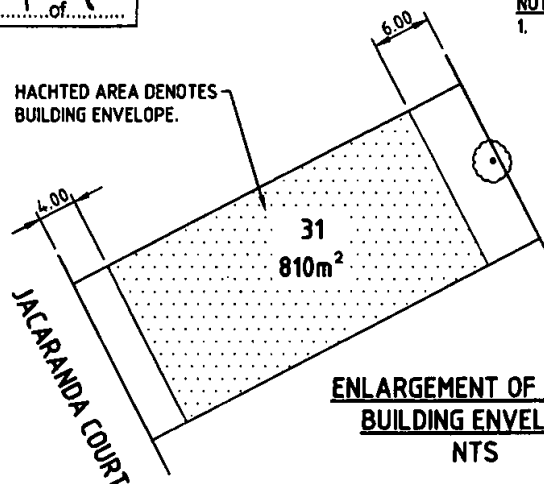
Endorsed Plan
Planning and Environment Act 1987
East Gippsland Planning Scheme

Permit No: 11/2006/P/A

Signed: *[Signature]*
East Gippsland Shire

Date: 20-10-2009 Page 7 of 8

HATCHED AREA DENOTES
BUILDING ENVELOPE.



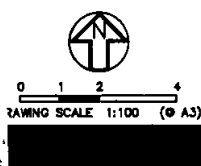
NOTES

1. FOR SECTION LOCATION REFER
TO SHEET 3.

Amended 6/10/2009

AG845895P

30/10/2009 \$107.90 173



Typical Road Cross Sections "Mirrabooka Estate"

Infrastructure Solutions P/L.

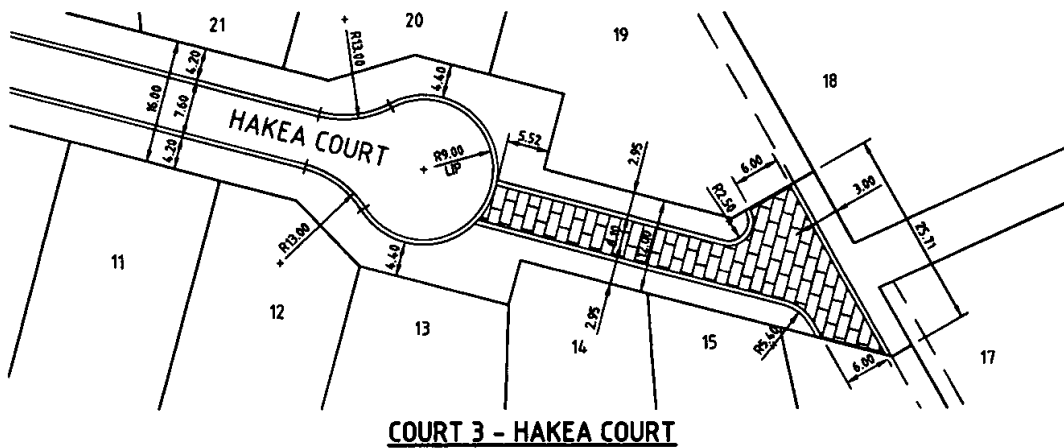
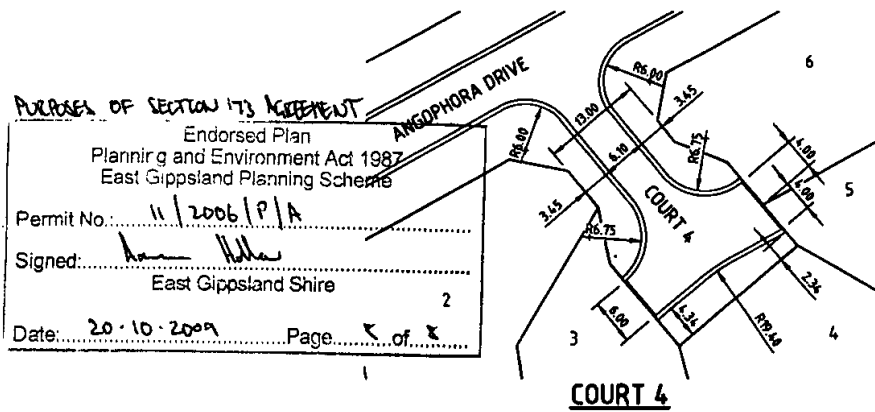
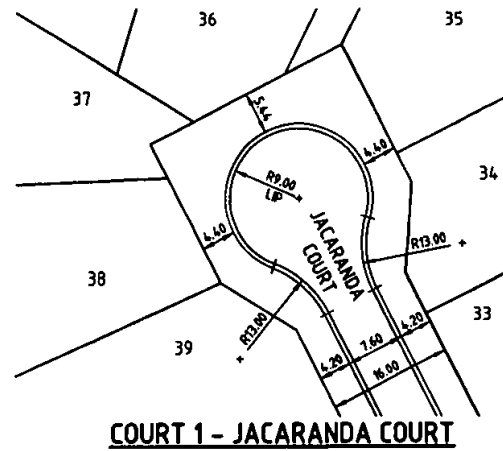
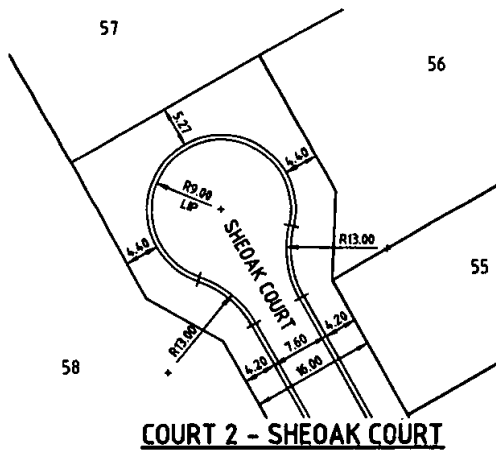
Designed: Trevor Woodcock 2005
Drawn: GMR Nov 2005

Mirrabooka Road, Mallacoota

Dwg No. IS05102/06

Issue Date: 16/01/2007

Sheet 7 of 8



Amended 6/10/2009

AG845895P



Court Head Arrangements "Mirrabooka Estate"

Infrastructure Solutions P/L.

Mirrabooka Road, Mallacoota

Designed: Trevor Woodcock May 2005
Drawn: GMR Nov 2005

Dwg No. IS05102/06

Issue Date: 18/01/2007

Sheet 8 of 8

5.4.4 Request to end (in principle support) legal agreement AD089276J at 8B Kingscote Drive, Metung

Authorised by General Manager Place and Community

Conflict of Interest

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

Executive Summary

The purpose of this report is to seek Council's in principle support for the landowners' request to end the Section 173 Agreement AD089276J (the Agreement) for 8B Kingscote Drive, Metung. This will allow for the implementation of stage two of the process to end the Agreement which will involve community consultation and a further report to Council to determine the proposal.

The catalyst to end the Agreement AD089276J as it relates to 8B Kingscote Drive, Metung is that Condition No. 2 of the Planning Permit Application 555/2021/P requires the Agreement to be ended prior to the construction of the dwelling commencing on the site. A request to end the Agreement and the relevant title documents, including the Agreement, can be found at **Attachment 1**. The responsible authority has approved the earthworks associated to a dwelling, conditional on the ending of the Agreement.

The request is considered suitable to be progressed to notification, which allows for stakeholder submissions. As such, it is recommended that the request is supported in principle, and thereafter is subject to notification and final consideration by Council.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report; and***
- 2. agrees in principle to the ending of Section 173 Agreement AD089276J wholly as it relates to Volume 09852 Folio 701 being Lot 2 on plan of subdivision PS521927K at 8B Kingscote Drive, Metung in accordance with Section 178A of the Planning and Environment Act 1987; and***
- 3. determines to undertake the necessary public notice of the proposal in accordance with Section 178C of the Planning and Environment Act 1987 before the matter is brought back to Council for determination; and***
- 4. directs that all costs incurred in the ending of the Agreement AD089276J must be paid by the owners of the land.***

Background

Council has received a request to end the Agreement AD089276J (**Attachment 1**) wholly as it relates to Lot 2 on plan of subdivision PS521927K at 8B Kingscote Drive, Metung. A Planning Permit Application 555/2021/P was received for "Earthworks associated with the development of a dwelling within an Erosion Management Overlay and Design and Development Overlay".

The Agreement seeks to ensure that the former land parcel was developed in accordance with Planning Permit Application 269/2003/P, which allowed for the subdivision of the parent title into three lots and development of two dwellings and associated outbuildings.

It would appear that this precinct was a growth area of Metung at the time the Planning Permit was issued and there were concerns as to whether services and infrastructure would be able to appropriately service the precinct. It would also appear that there were concerns that the land was constrained by native vegetation, topography and easements.

The subdivision layout was endorsed in accordance with Condition No. 1 as part of Planning Permit Application 269/2003/P to apply by virtue of Agreement AD089276J including the subdivision plan and building footprint, being registered on title to the subject land.

Section 173 Agreement AD089276J provides the following specific obligations on the landowner(s):

3. SPECIFIC OBLIGATIONS OF THE OWNER

The Owner covenants and agrees that –

3.1 Development in accordance with Endorsed Plans

the Subject Land shall only be developed in accordance with the Endorsed Plans, and the notation thereon, of the Planning Permit or any subsequent amendment to the plan approved by Council.

3.2 the lots created by the subdivision approved in Planning Permit 02/00269/DS will only be developed in accordance with the endorsed development plans for the lots; and

3.3 the land, which is the subject of this application must not be further subdivided.

3.

Councils Costs to be paid

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 the Agreement and until those costs are paid they will remain a debt of the Owner to the Council.

Figure 1: Specific Obligations of the Owner as pertained within Section 173 Agreement AD089276J

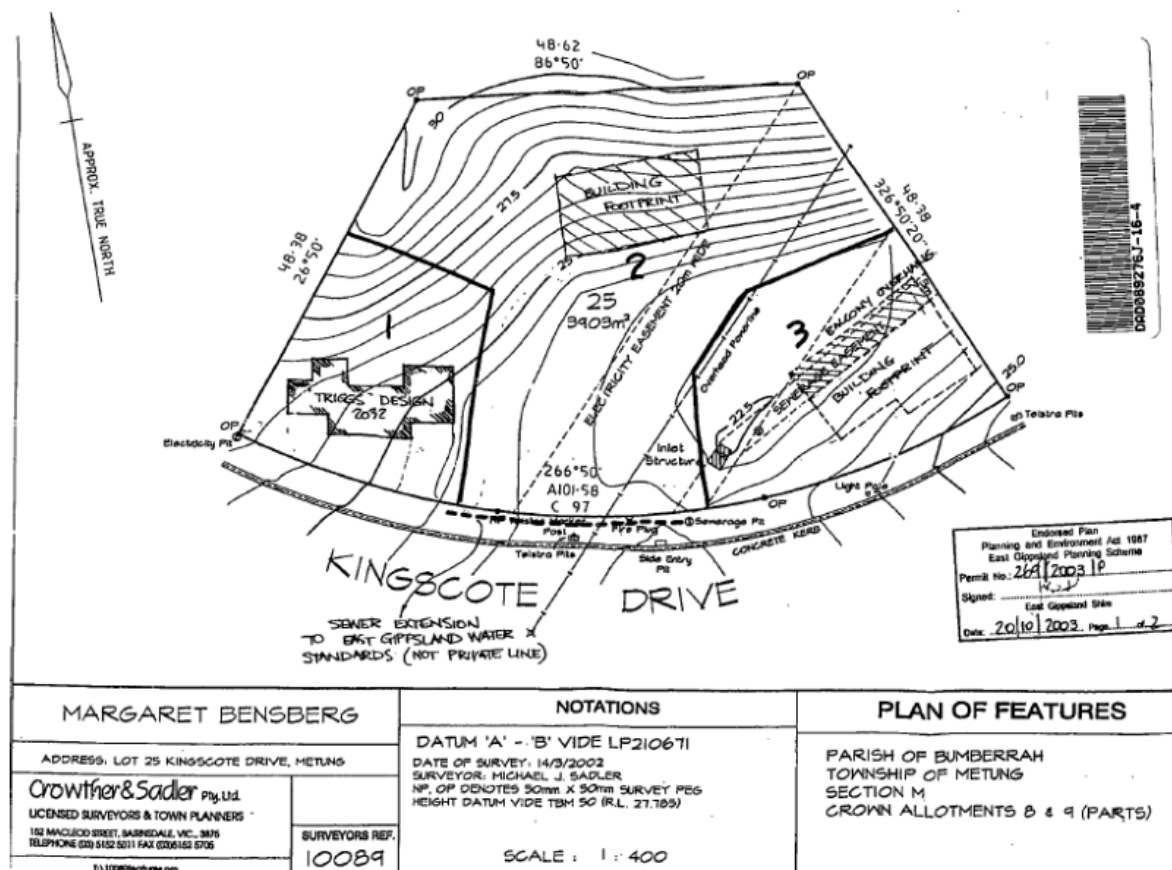


Figure 2: Latest Endorsed Plan, Planning Permit Application 269/2003/P

The ending of the agreement will allow for the orderly and efficient development of the land consistent with State and Local Planning Policy.

On this basis it is recommended that the responsible authority should determine to support the end Section 173 Agreement AD089276J in principle, allowing for public consultation to occur and thereafter to consider the views of any affected parties in making a determination.

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*.

In preparing this report the Victorian Gender Equality Act 2020 has been considered. The implications of the report have been assessed and are compliant with the obligations and principles of the Gender Equality Act. The need for a Gender Impact Assessment has also been assessed. No GIA is required. The implications of this report have been assessed and align with the principles and objects of the Gender Equality Act 2020.

The *Planning and Environment Act 1987* pursuant to section 178A provides the opportunity for Council to consider ending an Agreement, either wholly or in part, without the consent of all persons who are bound by the Agreement.

The applicant is seeking to end the Agreement, however, the consent of all parties bound by the Agreement has not been obtained.

In some instances, such as the case at hand, it is not always reasonable nor practical to obtain the consent of all parties to an Agreement, particularly where there are a significant number of parties, or the parties might initially disagree with the proposal and refuse to provide consent before lodgement.

Where the consent of all parties has not been obtained, section 178B(2) of the Planning and Environment Act 1987 provides the framework for the proposal to be assessed and considered by Council.

Collaborative procurement

Not applicable

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

There is no specific Council policy established for consideration of these matters.

Options

For 8B Kingscote Drive, Metung, not giving in principle support would prevent the development of a dwelling. Lot 2 on the endorsed plans of Planning Permit Application 555/2021/P contains a building footprint that essentially already has services provided within the existing settlement. The changes in planning policy and building regulations from 2003 has been significant enough that the building envelope as specified on the subject land is considered no longer necessary for the following reasons:

- The subject land is constrained by native vegetation to the north of the property. A dwelling developed within the building envelope would attract a very high Bushfire Attack Level rating (BAL rating) and would result in the need to remove significant amounts of vegetation.
- The land is constrained by topography falling from the north to the south. An Erosion Management Overlay applies to the land. The building envelope would require significant excavations and fill to enable the development of a dwelling and intensifies the risk of creating an erosion hazard.
- The removal of vegetation that would result from developing within the building envelope would detrimentally impact the stability of the land and is inconsistent with the objective to retain vegetation as sought by the Vegetation Protection Overlay.
- There is an alternative location available on the land to develop a dwelling that is more consistent with current planning policy (i.e. avoiding steep slopes, vegetation removal and visual intrusion as expressed in the Design and Development Overlay 11).
- The alternative dwelling location achieves a more environmentally sustainable outcome.

As such, the officer recommendation is to process the request and give notice of the proposal before further reporting to outline any responses received.

Resourcing

Financial

Notification of the proposal is required, which is included in the application fees.

Plant and equipment

Nil

Human Resources

Assessment is by planning department officers.

Risk

The risks of this proposal have been considered and there is relatively low risk in the determinations as recommended, as there are further determinations required after notification is given.

Economic

The proposal will facilitate the approved development of a single dwelling on the land.

Social

The procedure to assess proposals to end section 173 Agreements under section 178A of the *Planning and Environment Act 1987* directs that notice of the proposal to all parties bound by the Agreement is undertaken after obtaining 'in principle' support.

Notice for the proposal will take place in the form of direct mail to all persons who own land that has the same Agreement included on their title.

Gender Impact Statement

Considerations of Gender Equality in Planning are made in relation to planning strategy, including planning scheme amendments and policy changes. Individual assessment of planning applications tends to be gender neutral; however, Council officers consider factors such as community safety, privacy, and accessibility in an integrated and multi-faceted decision-making process.

Environmental

The proposals will not have any significant environmental impacts

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.

Land Use Planning: Consideration is given to climate change in the local land use planning and includes responses to direct and indirect impacts.

Engagement

The procedure to assess proposals to end Section 173 Agreements under section 178A of the Planning and Environment Act 1987 directs that notice of the proposal to all parties bound by the Agreement is undertaken after obtaining in principle support.

Notice for the proposal will take place in the form of direct mail to all persons who own land that has the same Agreement included on their title.

Attachments

1. Title & Request- Report to end Agreement AD089276J [**5.4.4.1** - 33 pages]

Copyright State of Victoria. No part of this publication may be reproduced except as permitted by the Copyright Act 1968 (Cth), to comply with a statutory requirement 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, its agents or contractors, accepts responsibility for any subsequent publication or reproduction of the information.

The Victorian Government acknowledges the Traditional Owners of Victoria and pays respects to their ongoing connection to their Country, History and Culture. The Victorian Government extends this respect to their Elders, past, present and emerging.

REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

VOLUME 10835 FOLIO 925

Security no : 124094152069X
Produced 02/12/2021 02:52 PM

LAND DESCRIPTION

Lot 2 on Plan of Subdivision 521927K.
PARENT TITLE Volume 09852 Folio 701
Created by instrument PS521927K 20/10/2004

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
SEAN ROBERT BENSBERG of 8A KINGSCOTE DRIVE METUNG VIC 3904
AU673882J 10/08/2021

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
P137853Q 18/04/1989

AGREEMENT Section 173 Planning and Environment Act 1987
AD089276J 02/09/2004

DIAGRAM LOCATION

SEE PS521927K FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NUMBER	CONV PCT & NOM ECT TO LC	STATUS	DATE
AU673270S (E)	Completed	10/08/2021	
AU673882J (E)	TRANSFER	Registered	10/08/2021

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: 8B KINGSCOTE DRIVE METUNG VIC 3904

ADMINISTRATIVE NOTICES

NIL

eCT Control 22692Q EASTCOAST CONVEYANCING
Effective from 10/08/2021

DOCUMENT END

Delivered from the LANDATA System by GlobalX Terrain Pty Ltd



Imaged Document Cover Sheet

The document following this cover sheet is an imaged document supplied by LANDATA®, Victorian Land Registry Services.

Document Type	Instrument
Document Identification	AD089276J
Number of Pages (excluding this cover sheet)	17
Document Assembled	19/11/2021 10:42

Copyright and disclaimer notice:

© 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.

The document is invalid if this cover sheet is removed or altered.

Delivered by LANDATA®, timestamp 19/11/2021 10:41 Page 1 of 17

© 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.

**APPLICATION BY A RESPONSIBLE
AUTHORITY under Section 181
Planning and Environment Act 1987 for
ENTRY OF A MEMORANDUM OF
AGREEMENT under Section 173 of the Act**



AD089276J

02/09/2004 \$59 173



Lodged by:
EASTCOAST CONVEYANCING
P O BOX NO 695
BAIRNSDALE VIC 3875
Ph: 03 51521171
Customer Code: 549U

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 the Agreement be entered on the Certificate of the Title to the land referred to.

LAND VOLUME 09852 FOLIO 701

ADDRESS OF THE LAND Lot 25 Kingscote Drive Metung 3904

RESPONSIBLE AUTHORITY EAST GIPPSLAND SHIRE COUNCIL
273 MAIN STREET, BAIRNSDALE

PLANNING SCHEME EAST GIPPSLAND SHIRE PLANNING SCHEME

AGREEMENT DATE 5th DAY OF AUGUST 2004

AGREEMENT WITH Margaret Lucille BENSBERG

A copy of the Agreement is attached to this Application

Signature for the Responsible Authority.....

JOHN TRAPP, STATUTORY PLANNER
DATE 06/08/2004



AD089276J-1-0

EAST GIPPSLAND SHIRE COUNCIL

-and-

Margaret Lucille BENSBERG

**Agreement under Section 173 of the *Planning and
Environment Act 1987***



**Subject Land: Lot 25 Kingscote Drive, Metung in the State of Victoria
(Lot Lot 25 LP 210671U)**

AD089276J



2



PLANNING AND ENVIRONMENT ACT 1987

SECTION 173 AGREEMENT

THIS AGREEMENT is made the **5th** day of **AUGUST** 2004

BETWEEN:

EAST GIPPSLAND SHIRE COUNCIL
of 273 Main Street, Bairnsdale in the State of Victoria

("Council")

-and-

Margaret Lucille BENSBERG
C/O Swan Reach Post Office, Swan Reach in the State of Victoria

("the Owner")

INSTRUCTION

- 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. The Council has issued Planning Permit No. 269/2003/P ("the Planning Permit") to subdivide the land into three lots and development of two dwellings and associated outbuildings. A copy of the Planning Permit is attached to this Agreement and marked "A".
- D. It is a condition of Planning Permit No. 269/2003/P that the Owner enter into this Agreement to develop the land in accordance with the Endorsed Plans of the Planning Permit. A copy of the Endorsed Plans are attached to this Agreement and marked "B".
- E. 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.

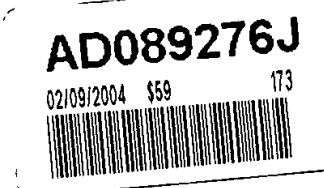


3

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 & 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 Council, that forms part of the Planning Permit.
- 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 applies to the subject land.
- 1.7 **"Subject Land"** means the land situated at **Lot 25 Kingscote Drive Metung** in the State of Victoria being the land referred to in certificate of Title Volume **09852 Folio 701** 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.
- 1.8 **"Mortgage"** 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.



4

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, Regulations 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.



5

3. SPECIFIC OBLIGATIONS OF THE OWNER

The Owner covenants and agrees that –

3.1 Development in accordance with Endorsed Plans

the Subject Land shall only be developed in accordance with the Endorsed Plans, and the notation thereon, of the Planning Permit or any subsequent amendment to the plan approved by Council.

- 3.2 the lots created by the subdivision approved in Planning Permit 02/00269/DS will only be developed in accordance with the endorsed development plans for the lots; and

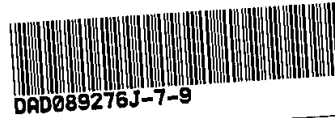
- 3.3 the land, which is the subject of this application must not be further subdivided.

3.

Councils Costs to be paid

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 the 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, mortgages, transferees and assigns;

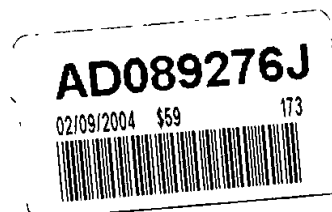
4.2 Further actions

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;

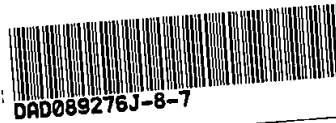
4.2.2 the Owner will consent to the Council making application to the Registrar of Titles to make a recording of this Agreement in the Registrar on the Certificate of Title of the Subject Land in accordance with Section 181 of the Act and do all things necessary to enable the Council to do so including signing any further agreement, acknowledgment or document or procuring the consent to this Agreement of any mortgage 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 incur or suffer, or be or become liable for or in respect of any suit, action, proceeding, judgement or claim brought by any non-compliance thereof.



7



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 affected 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 the 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;
- 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



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 day 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 judgement 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 served 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 by Agreement between Council and the Owner.

AD089276J

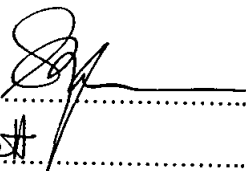
02/09/2004 \$59 173



9

EXECUTED by the parties on the date set out at the commencement of this Agreement.

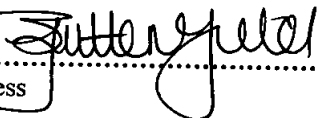
The **COMMON SEAL** of the
EAST GIPPSLAND SHIRE COUNCIL
 was affixed on behalf of Council by
 authority of the Chief Executive Officer
 on the 5th day of August.....2004
 in the presence of:



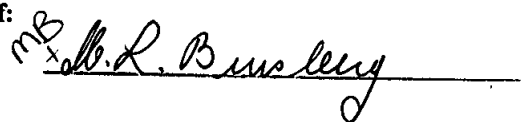
 M. Bennett



SIGNED SEALED AND DELIVERED
 by Margaret Lucille BENSBERG in the presence of:



 # Witness


 M.B. Bensberg





DAD089276J-11-6

PLANNING PERMIT

Permit No:
Planning Scheme:
Responsible Authority:

Form 4.4
269/2003/P AMENDED
East Gippsland
East Gippsland Shire

ADDRESS OF THE LAND

8 Kingscote Drive METUNG VIC 3904
Lot 25 LP 210671

BN: 45522 0

THE PERMIT ALLOWS

A subdivision into three lots and development of two dwellings and associated outbuildings in accordance with the endorsed plans and subject to the following conditions:

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

Subdivision not altered

- (1) *The subdivision as shown on the endorsed plan(s) must not be altered without the written consent of the Responsible Authority*

Section 173 Agreement

- (2) *Before the issue of a Statement of Compliance, the owner of the land shall enter into an agreement with the Responsible Authority in accordance with Section 173 of the Planning and Environment Act 1987, which will covenant that: -*

- *the lots created by the subdivision approved in Planning Permit 02/00269/DS will only be developed in accordance with the endorsed development plans for the lots; and*
- *the land, which is the subject of this application must not be further subdivided.*

The agreement will bind the applicant as the owner and shall run with the land so that all successors in title are bound by the agreement. This agreement will be prepared at the applicant's cost and to the satisfaction of the Responsible Authority, and shall be registered on the title in accordance with Section 181 of the Planning and Environment Act 1987.

Access

- (3) *Prior to construction, plans showing the design of the driveways shall be submitted and approved by Council. Construction shall be in accordance with Council requirements and to Council satisfaction.*

Drainage

- (4) *The stormwater drainage system for future development of the proposed lots shall be designed in accordance with standard engineering practice for the collection and control of all stormwater runoff, resulting from a*



"A"

storm having an ARI of 1 in 20 Years, and concentrated by buildings, pavements, and/or site works to avoid damage to any other neighbouring property. The outlet or discharge point shall be constructed with an appropriate device to prevent sedimentation, pollution, erosion and scouring. Detailed drainage design shall be submitted to and approved by Council prior to the commencement of that stage of construction.

Earthworks

- (5) **All earthworks associated with the development shall be stabilized in accordance with standard engineering design and practices against erosion and failure. No earthworks may encroach across neighbouring property boundaries.**

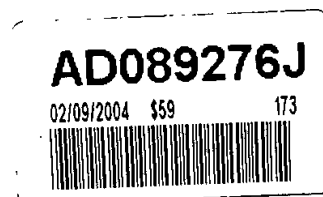
Protection of infrastructure and environment

- (6) **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.**
- (7) **Temporary debris and sediment control measures shall be installed to prevent debris and sediment from entering the adjacent water course during all construction stages of both the land division and future development on the proposed allotments. Pollution prevention measures, shall be in accordance with the Environment Protection Authority's Publication Number 275 Construction Techniques for Sediment Pollution Control;**

East Gippsland Water's Requirements are: -

- (8) **the applicant shall enter into an Agreement under the Water Act for the provision of sewer supply works;**
- (9) **the applicant shall meet the cost of the necessary sewer mains extension;**
- (10) **the applicant shall 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 21/05/2003 is \$4,000.00 for the additional two lots created by the subdivision;**
- (11) **the applicant shall modify existing water service piping (if necessary);**
- (12) **the applicant shall provide easements as necessary;**
- (13) **the applicant shall pay an outfall and disposal charge at a level determined by the Authority at the time of payment. As a guide applicable on 21/05/2003 is \$4,200.00 for the additional two lots created by the subdivision; and**
- (14) **the applicant shall connect development to the Authority's water and sewerage (if available) services to the satisfaction of the Responsible Authority.**

TXU Electricity Limited's (TXU) requirements are: -



"A"

- (15) *The applicant shall enter into an agreement for the extension, upgrading or re-arrangement of the electricity supply to the lots on the Plan of Subdivision as required by TXU. (A payment to cover the cost of such work will be required and easements internal and external to the subdivision and provision of sited for substations may also be required).*

Department of Primary Industries requirements are: -

Soil conservation

- (16) *All earthworks associated with the proposed subdivision, including road works, must be undertaken in accordance with the provisions of Environment Protection Authority (EPA) Publication No. 275 Construction Techniques for Sediment Pollution Control (Copy available from EPA, Traralgon)*
- (17) *During construction and maintenance activities, adequate steps shall be taken to stop soil erosion and the movement of sediment off site and into drainage lines and watercourses and onto adjoining Crown land. Adequate steps include: -*

- *control on-site drainage by intercepting and redirecting run-off in a controlled manner to stable vegetated areas on site;*
- *install sediment control structures such as sediment basins, sediment fences and sediment traps when construction commences and maintain until site is stabilised; and*
- *revegetate all disturbed areas as quickly as possible or within 14 days after construction works are completed*

Topsoil shall be striped from any roads, driveways and building sites requiring excavation, prior to excavation and forming, and stockpiled for re-spreading over the disturbed sites.

Roads and driveways on gradients steeper than 5% are to be surfaced with a non-erodible surface to the satisfaction of the Responsible Authority.

Vegetation

- (18) *Clearing of vegetation must be limited to the minimum required to facilitate fencing of the subdivision and to ensure that there is no immediate risk of personal injury or damage to the property.*

Certification

- (19) *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.*

Time Limit - Subdivision and development

- (20) *This permit will expire if: -*

- *the subdivision is not certified within two years; or*
- *if certified within two years, is not completed within five years of the date of certification; or*



"A"

- the development is not started within two years of the date of certification of the subdivision; or
- the development is not completed within two years of the date of commencement.

The Responsible Authority may consider extending the periods referred to above if a request is made in writing before the permit expires or within three months afterwards.

Notes

Cultural Heritage



DAD089276J-14-7

- (1) All works associated with the development must be in a manner consistent with the provisions of the Archaeological and Aboriginal Relics Preservation Act 1992 and Part 11A of the Commonwealth Aboriginal and Torres Strait Islander Heritage Protection Act 1984. Aboriginal Affairs Victoria (AAV) is the Responsible Authority for the administration of those Acts, and the proponent is be advised to contact Mr Gerry Laughton, PO Box 1240, Sale, 3850 or phone 41431644 in relation to the above.

Erosion Management

- (2) The land subject to this application has been identified as highly erodible. All earthworks undertaken on the land should be carefully monitored and any signs of active erosion stabilised as quickly as possible. Advice on the most practical and cost effective methods of erosion control can be obtained from the Department of Sustainability and Environment's Bairnsdale office (phone 5152 0600).

TXU

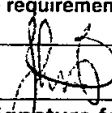
- (3) It is recommended that, an early date, the applicant commences negotiations with TXU for supply of electricity in order that supply arrangements can be worked out in detail, so prescribed information can be issued without delay (the release to the municipality enabling a Statement of Compliance with the conditions to be issued).
- (4) Arrangements for supply will be subject to obtaining the Agreement of other Authorities and any landowners affected by the routes of electric lines required to supply the lots, and planning permits for any tree clearing.

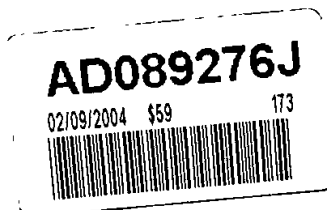
Permit Amended 05/01/2004: Amended to delete Public Open Space requirement.

Date Amended: 05/01/2004

Date Issued: 20/10/2003

Page 4 of 4


Signature for the
Responsible Authority



"A"

IMPORTANT INFORMATION ABOUT THIS NOTICE**WHAT HAS BEEN DECIDED?**

The Responsible Authority has issued a permit.

WHEN DOES A PERMIT BEGIN?

A permit operates:

From the date specified in the permit, or

If no date is specified, from:

- The date of the decision of the Tribunal, if the permit was issued at the direction of the Tribunal, or
- The day on which it is issued, in any other case.

WHEN DOES A PERMIT EXPIRE?

A permit for the development of land expires if:

- The development or any stage of it does not start within the time specified in the permit, or
- the development requires the certification of a plan of subdivision or consolidation under the *Subdivision Act 1988* and the plan is not certified within two years of the issue of the permit, unless the permit contains a different provision, or
- the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the *Subdivision Act 1988*.

A permit for the use of land expires if:

- The use does not start within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit, or
- The use is discontinued for a period of two years.

A permit for the development and use of the land expires if:

- The development or any stage of it does not start within the time specified in the permit, or
- The development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
- The use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
- The use is discontinued for a period of two years.

If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in Section 6A(2), of the *Planning and Environment Act 1987*, or to any combination of use, development or any of those circumstances requires the certification of a plan under the *Subdivision Act 1988*, unless the permit contains, a different provision:

- The use or development of any stage is to be taken to have started when the plan is certified; and
- The permit expires if the plan is not certified within two years of the issue of the permit.

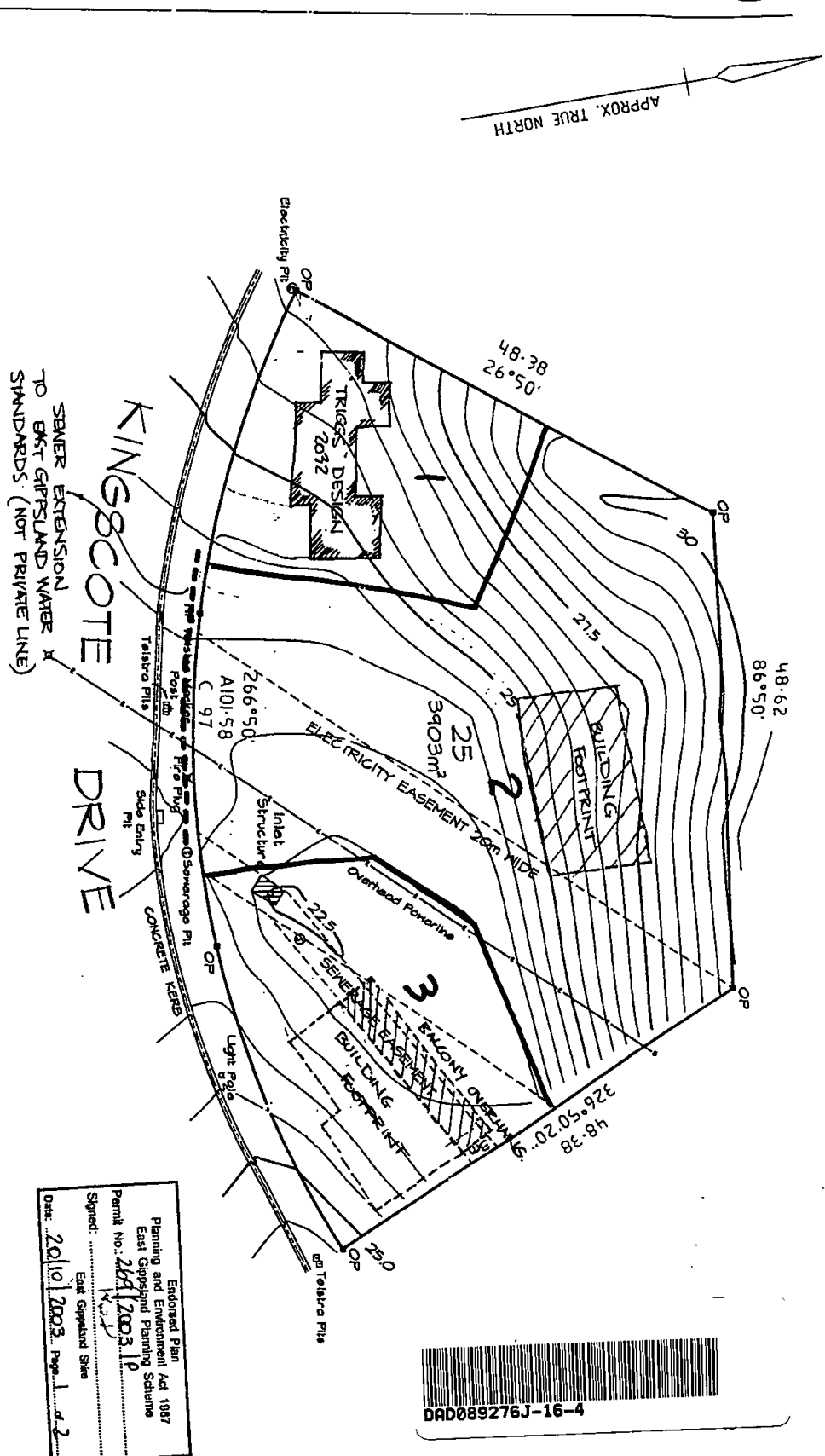
The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT APPEALS?

- The person who applied for the permit may appeal against any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal where, in such case, no right of appeal exists.
- An appeal must be lodged within 60 days after the permit was issued, unless a Notice of Decision to Grant a permit has been issued previously, in which case the appeal must be lodged within 60 days after the giving of that notice.
- An appeal is lodged with the Victorian Civil and Administrative Tribunal.
- An appeal must be made on a Notice of Appeal form and lodged with the Victorian Civil and Administrative Tribunal, and be accompanied by the prescribed fee. An appeal must state the grounds on which it is based.
- An appeal must also be served on the responsible authority.
- Details about appeals, notice of appeal forms and the fees payable can be obtained from the Planning & Environment List at the Victorian Civil and Administrative Tribunal.




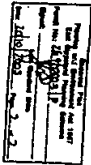
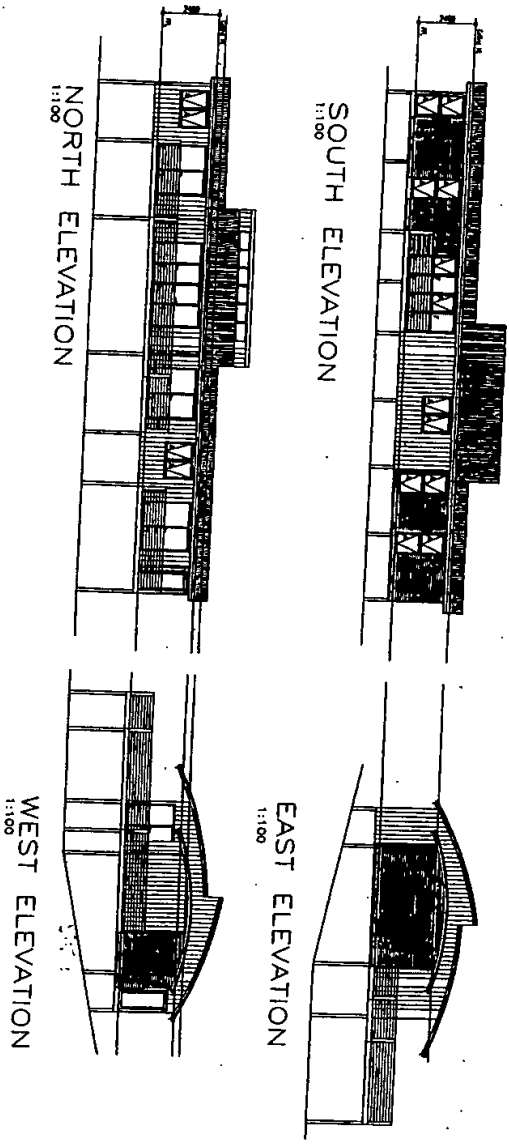
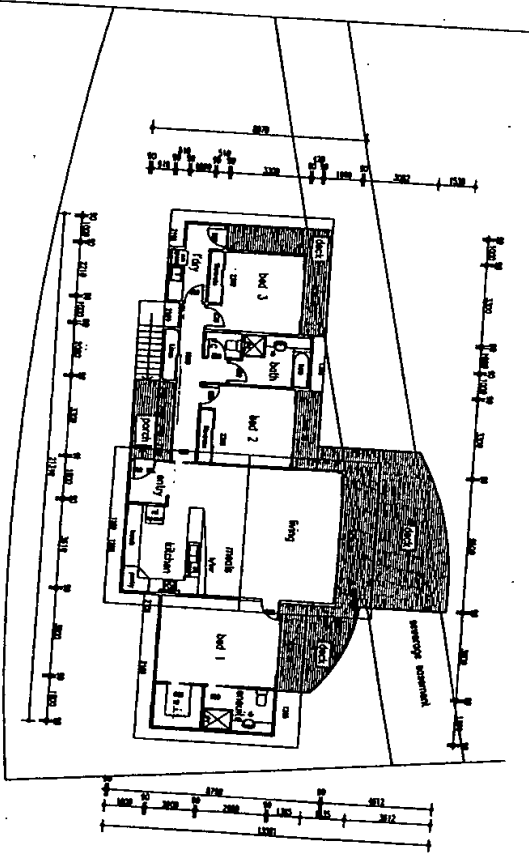
'B'




MARGARET BENSBERG		NOTATIONS		PLAN OF FEATURES	
ADDRESS: LOT 25 KINGSCOTE DRIVE, METUNG		DATUM 'A' - 'B' VIDE LP210671 DATE OF SURVEY: 14/3/2002 SURVEYOR: MICHAEL J. SADLER N.P. OF DENOTES 50mm X 50mm SURVEY PEG HEIGHT DATUM VIDE TBM 50 (R.L. 27.785)		PARISH OF BUMBERAH TOWNSHIP OF METUNG SECTION M CROWN ALLOTMENTS 8 & 9 (PARTS)	
Crowthorn & Sadler Pty Ltd LICENSED SURVEYORS & TOWN PLANNERS 182 MACLEOD STREET, BUNDSDALE VIC., 3085 TELEPHONE (03) 5182 5011 FAX (03) 5182 5705		SURVEYORS REF: 10089			
TS110099tech@macqto		SCALE : 1 : 400			

'B'


FLOOR PLAN
1:100
AREA OF RESIDENCE 131.14 sqm EXCLUDING DECKS



	
BROADBENT BUILDING SERVICES 10/11/2021 10:42 10/11/2021 10:42 10/11/2021 10:42	
PROPOSED RESIDENCE at LOT 3 KINGSFORD DRIVE METTING for MRS. M. BEYENBERG	
DATE 10/11/2021	BY 10/11/2021
10/11/2021	10/11/2021



Imaged Document Cover Sheet

The document following this cover sheet is an imaged document supplied by LANDATA®, Victorian Land Registry Services.

Document Type	Instrument
Document Identification	P137853Q
Number of Pages (excluding this cover sheet)	5
Document Assembled	19/11/2021 10:42

Copyright and disclaimer notice:

© 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.

The document is invalid if this cover sheet is removed or altered.

Delivered by LANDATA®, timestamp 19/11/2021 10:41 Page 1 of 5

© 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

P137853Q

REGD

190489 1038 HISC 445 P13785330

APPLICATION BY A RESPONSIBLE
AUTHORITY under Section 181 Planning
and Environment Act 1987 for ENTRY
OF A MEMORANDUM OF AGREEMENT under
Section 173 of the 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 the Agreement be entered on the Certificate of Title to the land referred to.

LAND Certificates of Title Volume 9852 Folio 696 to Volume 9852 Folio 719 (both inclusive)

ADDRESS OF LAND ~~Tambo Upper Road, Swan Road~~
Stirling Road, Metung

RESPONSIBLE AUTHORITY Shire of Tambo

PLANNING SCHEME Tambo Shire Planning Scheme

AGREEMENT DATE

7th March, 1989

AGREEMENT WITH

MT. NELSE PTY. LTD.
as owner

A copy of the Agreement is attached to this Application

Signature for the Responsible Authority

Name of Officer

Date

N. J. Holden
.....
Chief Executive
.....
4 April.....1989

Prepared by Warren, Graham & Murphy of 119 Main Street, Bairnsdale (IRC)

1330w

A Memorandum of the within instrument
has been entered in the Register Book.



THIS AGREEMENT is made the 7th day of March 1989
B E T W E E N:

THE PRESIDENT COUNCILLORS AND RATEPAYERS
OF THE SHIRE OF TAMBO (the Council)
 of Municipal Offices, Lakes Entrance

of the first part

- and -

MT. NELSE PROPRIETARY LIMITED (the Owner)
 of 74 Main Street, Bairnsdale of the second part.



W H E R E A S:

- A. The Owner is the registered proprietor of the land described in the First Schedule hereto (the subject land) and has made application to the Council as the Responsible Authority under the Tambo Shire Planning Scheme (the Scheme) for the subdivision of the subject land into 24 Lots.
- B. The Council has granted Planning Permit No. 4018 dated 31st October 1988 for subdivision of the subject land including a condition as follows:-
 "8. Reticulated sewerage, water and electricity shall be provided to the allotments prior to the development or use of the created allotments.
 Notwithstanding the above, the Developer and the Council may enter into an agreement under Section 173 of the Planning and Environment Act to permit a dwelling to be constructed on an allotment but the agreement must state that the dwelling cannot be occupied until the reticulated services (particularly sewerage) is available."
- C. The subdivision has been lodged for registration at the Land Titles Office and is numbered 210671U (the subdivision).
- D. The Council and the Owner have agreed that without restricting or limiting their respective powers to enter into this agreement and insofar as it can be so treated this agreement shall be treated as being an agreement under Section 173(1) of the Planning and Environment Act 1987.

NOW THIS AGREEMENT WITNESSETH as follows:-

1. In this agreement unless inconsistent with the context or subject matter:-
 "Owner" shall mean the person or persons entitled from time to time to be registered by the Registrar of Titles as the proprietor or proprietors of an estate in fee simple of the subject land;
 "subdivision" includes:-

- 2 -

- .1 the dividing of land into two or more parts:-
 (a) by sale, conveyance, transfer or partition; or
 (b) by procuring the issue of a Certificate of Title under the Transfer of Land Act 1958 in respect to a part of the land;
- .2 the subdivision of land by sale, transfer or partition into two or more lots and common property, none of which consists in whole or in part of a stratum or strata;
- .3 the subdivision of land by sale, transfer or partition into two or more units or into two or more units and common property whether or not any unit is on the same level as any other unit;
- and "subdivided" has a corresponding interpretation.
2. The Owner with the intent that its covenants hereunder shall run with the land hereby covenants and agrees that it (which term shall include the owner or owners of the subject land or any part thereof from time to time) will:-
- .1 comply with the conditions of the permit;
- .2 not cause allow or permit any dwelling constructed on any allotment on the subdivision to be occupied until sewerage, water and electricity services are provided to that allotment ~~unless with the consent in writing of the Council and on such terms as are stipulated by the Council.~~ 
3. The Owner agrees to do all things necessary to enable the Council to enter a memorandum of this agreement on the Certificate of Title to the subject land in accordance with Section 181 of the Act including signing any further agreement acknowledgement or document to enable the said memorandum to be registered under that section.
4. The Owner covenants and agrees to pay the Council's costs of and incidental to the preparation and execution of this agreement and the registration of a memorandum of the agreement at the Office of Titles pursuant to Section 181 of the Act and any duties or fees payable in connection with either the agreement or the registration of the memorandum at the Office of Titles.
5. This agreement will end pursuant to Section 177 of the Act on reticulated sewerage, water and electricity being provided to the subject land ~~or such earlier date as the Responsible Authority may authorise in writing.~~ 
- IN WITNESS whereof the parties hereto have hereunto set their hands and seals the day and year first hereinbefore written.

- 3 -

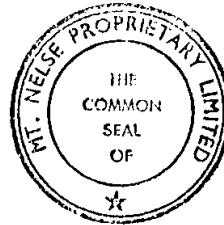
THE COMMON SEAL of THE PRESIDENT)
 COUNCILLORS AND RATEPAYERS OF THE)
 SHIRE OF TAMBO was hereunto affixed)
 in the presence of:)

[Signature]Councillor

[Signature]Councillor

[Signature]Shire Secretary

THE COMMON SEAL of MT. NELSE)
 PROPRIETARY LIMITED was hereunto)
 affixed in accordance with its)
 Articles of Association in the)
 presence of:)



[Signature]Director

[Signature]Director Secretary

FIRST SCHEDULE

THE SUBJECT LAND

Lot 20 on Plan of Subdivision 140180 Parish of Bumberrah being the whole of the land comprised in Certificate of Title Volume 9551 Folio 319 as subdivided by Plan of Subdivision 210671 into Lots numbered 20 to 43 both inclusive being the land comprised in Certificates of Title Volume 9852 Folio 696 to Volume 9852 Folio 719 (both inclusive).



Imaged Document Cover Sheet

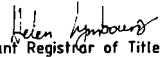

The document following this cover sheet is an imaged document supplied by LANDATA®, Victorian Land Registry Services.

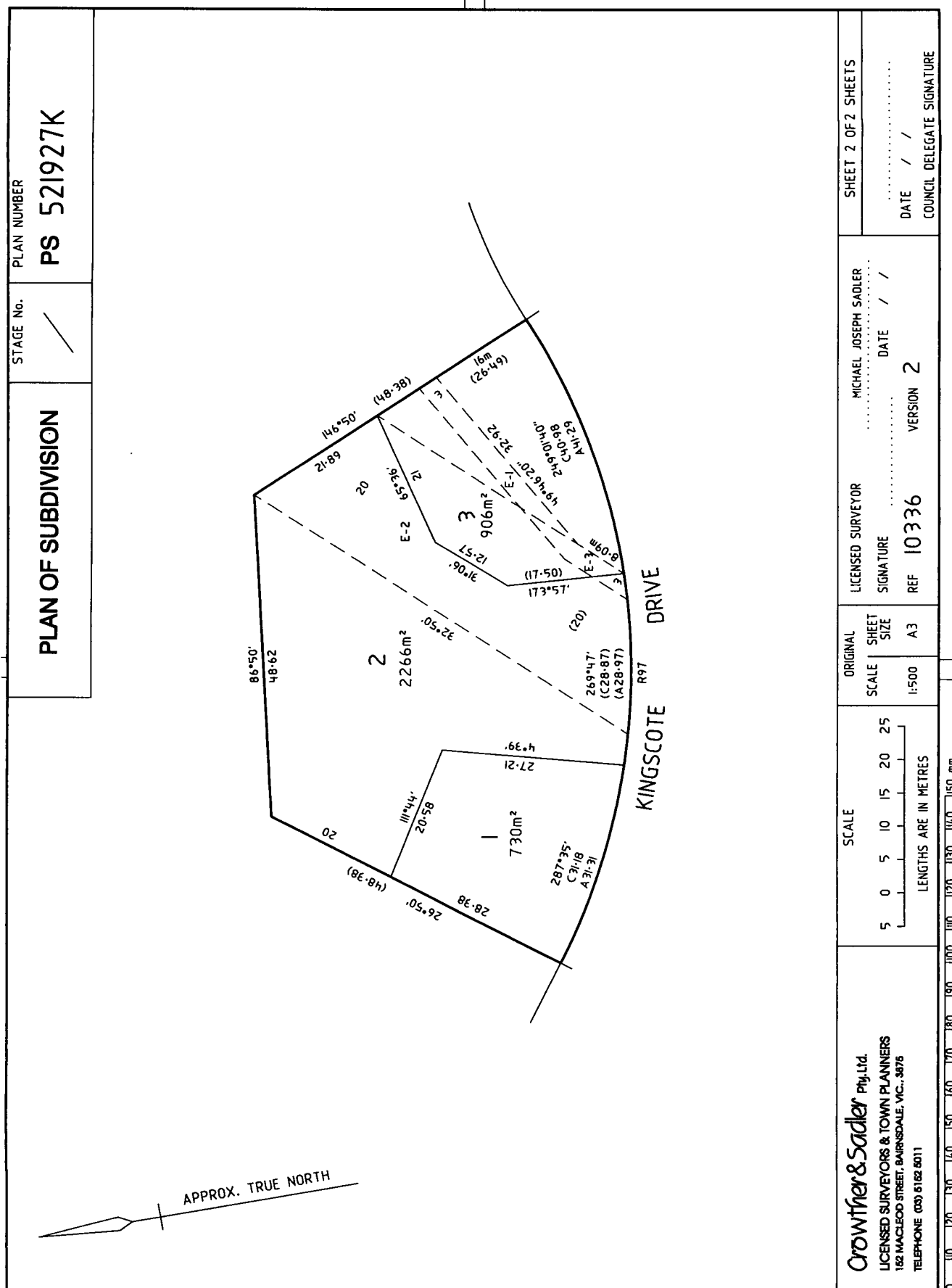
Document Type	Plan
Document Identification	PS521927K
Number of Pages (excluding this cover sheet)	2
Document Assembled	19/11/2021 10:42

Copyright and disclaimer notice:

© 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.

The document is invalid if this cover sheet is removed or altered.

PLAN OF SUBDIVISION				STAGE No. <div style="text-align: center;">/</div>	LTO USE ONLY EDITION 1	PLAN NUMBER PS 521927K
LOCATION OF LAND PARISH: BUMBERRAH TOWNSHIP: METUNG SECTION: M CROWN ALLOTMENT: 8 & 9 (PARTS) CROWN PORTION: _____ TITLE REFERENCES: VOL 9852 FOL 701 LAST PLAN REFERENCE: LOT 25 ON LP 21067IU POSTAL ADDRESS: 8 KINGSCOTE DRIVE, (At time of subdivision) METUNG, 3903 AMG CO-ORDINATES: E 574 670 (Of approx. centre of land in plan) N 5806 800 ZONE: 55				COUNCIL CERTIFICATION AND ENDORSEMENT COUNCIL NAME: EAST GIPPSLAND SHIRE COUNCIL REF: 4/2004/CRT 1. This plan is certified under Section 6 of the Subdivision Act 1988. 2. This plan is certified under Section III(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 seal Date 11/05/2004 Re-certified under Section III(7) of the Subdivision Act 1988 Council Delegate Council seal Date / /		
VESTING OF ROADS AND/OR RESERVES				NOTATIONS		
IDENTIFIER	COUNCIL/BODY/PERSON					
NIL	NIL					
				STAGING This is / is not a staged subdivision Planning Permit No JT/269/2003/P		
				DEPTH LIMITATION DOES NOT APPLY		
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	
LEGEND A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)					RECEIVED <input checked="" type="checkbox"/> DATE 21/9/04	
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of		
E-1, E-3	DRAINAGE	3	LP 140180	LAND IN LP 140180	LTO USE ONLY PLAN REGISTERED TIME 11:47 DATE 20/10/04  Assistant Registrar of Titles	
E-1	SEWERAGE	3	LP 21067IU	LAND IN LP 21067IU		
E-2, E-3	POWER LINE	20	STATE ELECTRICITY COMMISSION - SECTION 103B OF THE STATE ELECTRICITY COMMISSION ACT 1958	S.E.C.V.		
E-3	SEWERAGE	3	THIS PLAN	LAND IN THIS PLAN		
 LICENSED SURVEYORS & TOWN PLANNERS 182 MACLEOD STREET, BAIRNSDALE, VIC., 3675 TELEPHONE (03) 5162 5011				LICENSED SURVEYOR MICHAEL JOSEPH SADLER		
				SIGNATURE DATE 12/12/2003		
				REF 10336 VERSION 2		
				DATE 11/05/2004 COUNCIL DELEGATE SIGNATURE		
				ORIGINAL SHEET SIZE A3		



Our ref: 19727

2 December 2021

Statutory Planning Coordinator
East Gippsland Shire Council
Via Email: planning@egipps.vic.gov.au

Attention: Mr. Robert Pringle

Dear Robert,

**Re: Request to end Legal Agreement AD089276J
Lot 2 PS521927
8B Kingscote Drive, Metung**

We refer to Condition 2 in Planning Permit 555/2021/P which requires the Agreement AD089276J to be removed ended prior to construction of the development commencing. On behalf of the registered owner, Sean Bensberg, we respectfully request Council's consent to the ending of Legal Agreement AD089276J as currently registered on title.

Purpose for Removal and Background

The purpose of the Agreement was to ensure that the former land parcel was developed in accordance with Planning Permit 269/2003/P. The Planning Permit allowed for the subdivision of the parent title into three lots and development of two dwellings and associated outbuildings.

It would appear that this precinct was a growth area of Metung at the time the Planning Permit was issued and there were concerns as to whether services and infrastructure would be able to appropriately service the precinct. It would also appear that there were concerns that the land was constrained by native vegetation, topography and easements.

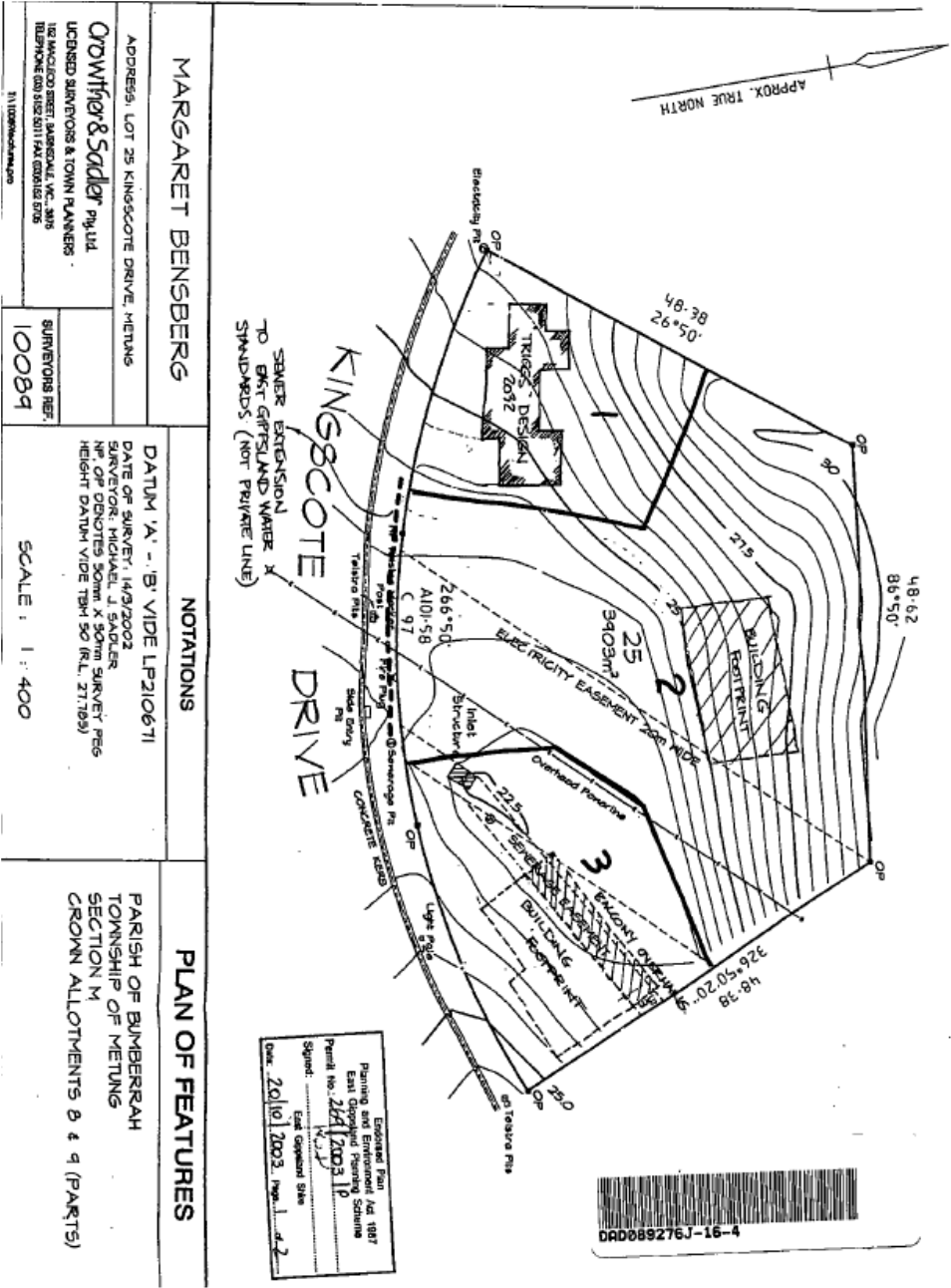
The subdivision layout endorsed in accordance with Condition 1 as part of Planning Permit 269/2003/P continue to apply by virtue of Agreement AD089276J including the subdivision plan and building footprint, being registered on title to the subject land.

152 Macleod St.
PO Box 722,
Bairnsdale, VIC 3875

P: 5152 5011
F: 5152 5705

E: contact@crowthersadler.com.au





Extract of Plan referenced within the Agreement

We believe the Legal Agreement should be ended as the precinct is developed, services have been provided and the agreement is no longer consistent with state and local policy that seeks to promote infill development in existing serviced and zoned land within settlements. However, we also recognise that the land has significant constraints (particularly after the dwelling is developed on the land) and there would be little opportunity to further subdivide the property.

Lot 2 on the endorsed plans also contains a building footprint. The resultant changes in planning policy and building regulations from 2003 has been significant. The building envelope as specified on the subject land is considered no longer necessary or appropriate for the following reasons:

- The subject land is constrained by native vegetation to the north of the property. A dwelling developed within the building envelope would attract a very high Bushfire Attack Level rating (BAL rating) and would result in the need to remove significant amounts of vegetation.
- The land is constrained by topography falling from the north to the south. An Erosion Management Overlay applies to the land. The building envelope would require significant excavations and fill to enable the development of a dwelling and intensifies the risk of creating an erosion hazard.
- The removal of vegetation that would result from developing within the building envelope would detrimentally impact the stability of the land and is inconsistent with the objective to retain vegetation as sought by the Vegetation Protection Overlay.
- There is an alternative location available on the land to develop a dwelling that is more consistent with current planning policy (i.e avoiding steep slopes, vegetation removal and visual intrusion as expressed in the Design and Development Overlay 11).
- The alternative dwelling location achieves a more environmentally sustainable outcome.

The Proposal

Our request to end the Agreement as it applies to the subject land is made pursuant to Section 178A(1)(b) of the *Planning & Environment Act 1987*.

Section 178A(2)(b) requires the application to be “*accompanied by the information required by the regulations*”. In accordance with the requirements of Regulation 55

Regulation 55(a) - we confirm the applicant for the request to end the Agreement is Mr. Sean Bensberg, C/- Crowther & Sadler Pty. Ltd of 152 Macleod Street, Bairnsdale, Victoria, 3875. Phone number for the Applicant is 5152 5011.

Regulation 55(b) – the Agreement AD089276J is to be ended as it applies to 8B Kingscote Drive, Metung, formally described as Lot 2 on PS521927.

Regulation 55(c) - not applicable as the proposal does not seek to amend the Agreement.

Regulation 55(d)(i) – not applicable to the proposal does not seek to end the Agreement in part.

Regulation 55(d)(ii) – the proposal seeks to end the Agreement as applying to part of the land. The Agreement is to be ended as it applies to 8B Kingscote Drive, Metung, formally described as Lot 2 on PS521927.

Regulation 55(d)(iii) – the Agreement is an unnecessary restriction on the land and does not reflect current state and local planning policy and will be at conflict with our Client's desire to develop a dwelling in a less constrained location on the property.

To assist with Council's consideration of our request in accordance with Section 178(B)(2) of the Act, we are pleased to provide the following information.

Purpose of the Agreement

The purpose of the Agreement was to ensure the land was serviced (which it now is) and to address the then provisions of the planning scheme (which have changed significantly).

Why the Agreement is no longer required

The agreement at Clause 3 *specific obligations of the owner*, is no longer required as it relates to 8B Kingscote Drive, Metung, formally described as Lot 2 on PS521927 because the subdivision is complete, serviced and it does not accurately reflect today's current state and local planning policy.

The Agreement is considered to impose an unreasonable limitation on the land that is inconsistent with the provisions of the East Gippsland Planning Scheme. It is therefore appropriate that it be ended.

Whether the ending of the agreement would disadvantage any person, whether or not a party to the agreement

The ending of the Agreement will not give rise to any form of disadvantage to any other person.

The ending of the Agreement will simply enable the subject land to be developed consistent with the provisions as currently applying to the subject land.

The reasons why the responsible authority entered into the agreement

The Agreement was appropriately entered into by Council at the time in accordance with conditions on Planning Permit 269/2003/P.

Any relevant permit or other requirements the land is subject to under the Subdivision Act 1988

None applicable.

Any other prescribed matter

We are not aware of any other prescribed matter which is relevant to the request to end the Agreement as it applies to the subject land.

Section 178A(2)(c) of the Act requires an application of this type to be accompanied by the requisite fee as prescribed by the *Planning & Environment (Fees) Regulations 2016*.

Payment to the *East Gippsland Shire Council* in the amount of \$668.84 (Regulation 16) has been made to facilitate the processing of this request.

We trust this information provides sufficient detail to facilitate Council's commencement of the process associated with the ending of the Agreement as it applies to the subject land. We respectfully await Council's timely advice regarding the scheduling of this matter on the next available Ordinary Council Meeting agenda.

Regards,



RICHARD HOXLEY
Principal Planner

Encl. Copy of Title (Lot 2 PS521927)
S173LA AD089276J
Required fee of \$668.84

6 Urgent and Other Business

7 Confidential Business

7.1 **Chief Executive Officer Employment and Remuneration Committee Report**

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 personal information that would if released result in the unreasonable disclosure of information about personal affairs.

8 Close of Meeting