



Council Meeting Agenda

Tuesday 16 August 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 Bidjawan 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.

In line with the *Local Government Act 2020*, Councillors are able to attend Council meetings electronically or in person and the meetings will be open to the public via livestreaming.

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.

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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 26 July 2022 be confirmed.

1.5 Next meeting

The next Council Meeting of Tuesday 6 September to be held at the Corporate Centre, 273 Main Street Bairnsdale commencing at 1.30 pm.

1.6 Requests for leave of absence

1.7 Condolences

That Council conveys condolences to the family, friends and past colleagues of former Mayor and Councillor, the late Harvey Bates MBE, who recently passed away.

1.8 Open Forum

1.8.1 Petitions

1.8.1.1 Cann River and Noorinbee Storm Water Drainage

Authorised by General Manager Business Excellence

Conflict of Interest

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

Executive Summary

This report informs Council of a petition submitted by Ms Averil Symons from Cann River seeking issues relating to storm water drainage be addressed. The petition states:

'We the undersigned, hereby petition East Gippsland Shire Council to work with the State Road Authorities to ensure there is adequate and maintained drainage of storm water from private residences and public spaces'.

The petition has been received and presented in accordance with Governance Rule 7.7.

Note: Councillors have been provided a copy of the petition separately. In the interests of respecting the privacy of signatories, and in accordance with the Privacy and Data Protection Act 2014, a copy of the petition has not been included with this report.

57 petitioners engaged in the petition, of those 34 signatories complied with Governance Rule 7.7 (e), 23 signatories didn't comply due to not providing their full address and one (1) did not sign the petition.

Officer Recommendation

That Council:

- 1. receives and notes this report;***
- 2. receives the petition lodged by Ms Averil Symons requesting Council to work with the State Road Authorities to ensure there is adequate and maintained drainage of storm water from private residences and public spaces;***
- 3. refers the petition to the General Manager Assets and Environment for a report to a future Council meeting; and***
- 4. notes that Council officers will write to the head petitioner advising them of these actions.***

1.8.1.2 Paynesville Library and Service Centre Service Review

Authorised by General Manager Business Excellence

Conflict of Interest

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

Executive Summary

This report informs Council of a petition submitted by Mr Bernard Mooney from Friends of Paynesville Library Inc, seeking Council to reconsider cutting operating hours at the Paynesville Library. The petition states:

'We ask East Gippsland Shire Council to reconsider their proposed plan to cut the hours of opening to Paynesville Library by 18.5 hours per week'.

The petition has been received and presented in accordance with Governance Rule 7.7.

Note: Councillors have been provided a copy of the petition separately. In the interests of respecting the privacy of signatories, and in accordance with the Privacy and Data Protection Act 2014, a copy of the petition has not been included with this report.

140 petitioners engaged in the petition. Of those, 53 signatories complied with Governance Rule 7.7 (e), 87 signatories didn't comply due to not providing their full address and three (3) did not sign the petition.

Submissions for the Service Centre and Library Service Review closed on 30 June 2022.

Officer Recommendation

That Council:

- 1. receives and notes this report;***
- 2. receives the petition lodged by Mr Bernard Mooney requesting Council to reconsider their proposed plan to cut the hours of opening to Paynesville Library by 18.5 hours per week;***
- 3. refers the petition to the Manager Customer Experience and Communications for noting only, as the submissions for the Service Centre and Library Service Review closed on 30 June 2022; and***
- 4. notes that Council officers will write to the head petitioner advising them of these actions.***

1.8.2 Questions of Council

1.8.3 Public Submissions

2 Notices of Motion

2.1 2022 State of the Environment Report

Take notice that it is my intention to move at the Council meeting to be held on Tuesday 16 August 2022 at 6.00 pm or at any adjournment of that meeting:

That Council:

- 1. acknowledges and supports the recommendations contained within the State of the Environment Report released on 19 July 2022 by the Minister for the Environment and Water; and***
- 2. writes to the Hon Tanya Plibersek MP, Federal Minister for the Environment and Water to:***
 - a. advocate for the implementation of the recommendations contained within the State of the Environment Report released on 19 July 2022 in recognition that a healthy environment ultimately underpins our health, wellbeing and economic prosperity; and***
 - b. request that the Federal Government provide adequate resources to the East Gippsland Shire Council, to ensure that matters of national environmental significance within our municipality can be appropriately managed.***

Signed: Councillor Tom Crook

Date: 19 July 2022

RATIONALE

Our Environment and Sustainability Strategy articulates our communities desire and our organisations commitment to have an environment that is healthy and well managed. But the recent national State of the Environment (SOE) report, unfortunately shows, this not to be the case. As we clearly have responsibilities and commitments to care for our local environment and much of our funding for this needs to come from other levels of government, specifically state and federal, it is with this in mind that I ask that we appeal to the federal government to do more about caring for the natural world and also resource Council to a much greater extent, to look after nationally significant environmental assets on land under our jurisdiction. The health of Australia's environment is poor and has deteriorated over the past five years due to pressures of climate change, habitat loss, invasive species, pollution and mining, according to the government SOE report that warns the natural world holds the key to human wellbeing and survival. The state of the environment report – a review completed by scientists last year but held back by the Morrison government until after the federal election – found abrupt changes in some Australian ecosystems over the past five years, with at least 19 now showing signs of collapse or near collapse. While national and state governments had tried to address the decline, the report found there was not enough funding dedicated to the environment and there had been a lack of coordination across jurisdictions to properly address the cumulative impact of the threats. We are blessed in East Gippsland with a lion's share of many unique environmental values, and I believe it is our responsibility to do our bit to look after them. I urge Councillors to support this motion so we can do this.

3 Deferred Business

4 Councillor and Delegate Reports

5 Officer Reports

5.1 Chief Executive Officer

5.1.1 Audit and Risk Committee Bi-annual Report January-June 2022 and revised Audit and Risk Committee Charter

Authorised by Chief Executive Officer

Conflict of Interest

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

Executive Summary

A requirement of the *Local Government Act 2020* section 54(5)(b), Council's Audit and Risk Committee (the Committee) must prepare a bi-annual audit and report that describes the activities of the Committee and includes its findings and recommendations and provide a copy of the bi-annual audit and risk report (bi-annual report) to the Chief Executive Officer for tabling at the next Council meeting. This is reflected in the Audit and Risk Committee Charter (the Charter) at clause 1.5(o).

This report provides the Council with the biannual report of the Committee, refer **Attachment 1**, which relates to the business undertaken by the Committee during the period 1 January – 30 June 2022.

The Committee has reviewed a wide range of reports from the internal auditors and management. Each meeting there is a standard suite of quarterly reports, as outlined in the annual work program, considered by the Committee. In line with its roles and responsibilities outlined in the Charter, the Committee provides feedback to management on the reports and matters presented to it.

In addition, this report is seeking Council's endorsement of the revised Audit and Risk Committee Charter at **Attachment 2**. Since the Charter was revised in line with the *Local Government Act 2020* (the Act) and adopted by Council in August 2020, there has been improved understanding of the principles of the Act and several Council policies have been amended to include additional responsibilities for the Committee that are not currently reflected in the Charter.

The Committee's annual performance evaluation 2021 indicated that the role and responsibilities of the Committee could be clearer. Subsequently, the Committee sought a review of the Charter to improve clarity of these aspects, along with the aforementioned legislative considerations.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report;***
- 2. notes the Audit and Risk Committee Bi-annual report January-June 2022; and***
- 3. adopts the revised Audit and Risk Committee Charter, provided at Attachment 2.***

Background

The Audit and Risk Committee assists the East Gippsland Shire Council to fulfil its oversight and corporate governance responsibilities. The Committee meets five times per year and consists of seven members—four independent members, the Mayor and two Councillors. One of the independent members is elected the Chair.

The biannual report, refer **Attachment 1**, is based on the Committee's annual work plan and includes several officer reports on other matters considered at the meetings.

The Committee has developed a strong reporting regime that meets the requirements set out in its Charter. It has monitored the progress of the annual internal audit program and reviewed and provided feedback on Council's management of financial and risk management.

Since the Charter was revised in line with the *Local Government Act 2020* (the Act) and adopted by Council in August 2020, there has been improved understanding of the principles of the Act and several Council policies have been amended to include additional responsibilities for the Committee that are not currently reflected in the Charter.

In addition, the Committee's annual performance evaluation 2021 indicated that the role and responsibilities of the Committee could be clearer. Subsequently, the Committee sought a review of the Charter to improve clarity of these aspects, along with the aforementioned legislative considerations.

There are several triggers for reviewing the Charter at this time, including:

- a requirement in the Charter to review the document within 12 months of a general local election;
- the Committee's annual performance review indicated that the Committee's role and responsibilities could be better defined in the document; and
- several Council policies have been implemented or amended that provide additional responsibilities to the Committee, such as the Councillor Support and Expenses Policy and the Gifts, Benefits and Hospitality Policy.

The amendments to the Charter, refer **Attachment 2**, are:

- further definition on the purpose of the Charter;
- Policy context updated to reference to the Victorian Auditor General's report 'Audit Committee Governance' of August 2016;
- clarification on the authority of the Committee;
- refinement of the objectives of the Committee's role;
- membership clauses refined. Inclusion of new clause to address diversity and inclusion, inclusion of induction process, clarification of the expertise of independent members, inclusion of a clause relating to the termination of a member's appointment, inclusion of Principles/Values clause, additional clarification of Conflict of Interest, Confidentiality clause and reference to the Governance Rules; and
- removal of the annual reports on Public Space Closed Circuit Television and Drone Programs.

A tracked changed version of the Charter is provided at **Attachment 3**, for reference.

The Committee at its meeting held on 25 July 2022 reviewed and endorsed the revised Audit and Risk Committee Charter to be presented for Council's consideration.

Legislation

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

This report has been prepared in accordance with sections 53 and 54 of the *Local Government Act 2020*, which establish the requirements for Council's Audit and Risk Committee

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 2020*. 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

As this report does not involve procurement, there is no requirement for collaboration.

Council Plan

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

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

Council Policy

The Audit and Risk Committee Charter, adopted by Council in August 2020, sets out the role and responsibilities of the Committee. The requirement to report bi-annually is outlined in clause 1.5(o) of the Charter and complies with the legislative requirements.

Resourcing

Financial

There are no financial implications with this report.

Plant and equipment

There are no plant and equipment implications with this report.

Human Resources

Secretariat support is provided to the Committee within existing resources.

Risk

This report ensures that Council is complying with the legislative requirements of the Act and its Charter.

Economic

There are no economic implications with this report.

Social

There are no social implications with this report.

Gender Impact Statement

The bi-annual Audit and Risk Committee report and the Audit and Risk Committee Charter have considered the *Gender Equality Act 2020* in its preparation. The report and Charter have been assessed as not requiring a Gender Impact Assessment (GIA).

Environmental

There are no environmental implications with this report.

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 report has been prepared with appropriate engagement with Committee members.

Attachments

1. Audit and Risk Committee bi annual report June 2022 [**5.1.1.1** - 5 pages]
2. Draft revised Audit and Risk Committee Charter [**5.1.1.2** - 19 pages]
3. Audit and Risk Committee Charter with track changes [**5.1.1.3** - 23 pages]



Audit and Risk Committee
Bi-annual report
January to June 2022



Background

Council is required by the *Local Government Act 2020* (the Act) to establish an Audit and Risk Committee (Committee). Under the Act, Council must prepare and approve an Audit and Risk Committee Charter (Charter) which specifies the Committee's objectives, authority, composition, tenure, roles and responsibilities along with reporting, administrative and governance arrangements. The current Charter was adopted by Council on 25 August 2020.

Section 54(5)(a) of the Act states that the Committee must prepare a bi-annual report that describes its activities, findings and recommendations. A copy of this report must also be provided to the Chief Executive Officer (CEO) for tabling at the next Council meeting.

The Committee consists of seven members, four of which are independent, including the Chair and are appointed by Council, and three Councillors.

This Report outlines the activities of the Audit and Risk Committee the first half of 2022. In the period the Committee had two regular meetings on 28 February and 2 May and a Charter Review meeting on 31 January. The Committee notes the appointment of the External Audit representative from the Victorian Auditor General's Office, endorsed the Annual Work Plan and the Internal Audit Plan 2022/23. It also confirmed the process for the Audit and Risk Committee's performance review 2021/22 and received the internal audit reports on Food Act and Health Compliance and Occupational Health and Safety (Staff).

Membership and meetings

The Committee consists of seven members, four independent members appointed by Council and three Councillors. Under section 53(4) of the Act the Chair of the Committee must be an independent member.

During this reporting period:

- one independent member term concluded;
- one independent member resigned; and subsequently
- two independent members were appointed.

The Committee met twice during this reporting period, 28 February and 2 May 2022. The February meeting was attended by five of the seven eligible members, due to the resignation of an independent member prior to the February meeting and an apology. The May meeting was attended by five of the seven eligible members, due to two apologies from members. However, the quorum of four or more members and independent member requirement was still achieved.

The meeting agenda is driven by the Committee's Annual Work Plan, which was formally endorsed at the meeting held on 2 May 2022. The matters considered by the Committee at each meeting are provided in **Table 1**.



TABLE 1

| | | Reporting Period 1 January - 30 June 2022 | | | | Comments |
|--|---|--|--------|------------|--------|---|
| | | 28 February 2022 | | 2 May 2022 | | |
| | Source | Planned | Actual | Planned | Actual | |
| Financial | | | | | | |
| Finance Report | LGA 54(2)(b)/ Charter 1.2 | ✓ | ✓ | ✓ | ✓ | |
| Capital Works and Landfill Rehabilitation Report | Part of the financial requirements | ✓ | ✓ | ✓ | ✓ | |
| Revised Investment Policy | LGA 54(2)(a)(i) | ✓ | ✓ | | | |
| External Auditor | | | | | | |
| External Auditor's Interim Management Letter and Audit Strategy for 2021/22 financial year | LGA 54(2)(b)/Charter 1.1 and 1.5(b) | ✓ | ✓ | | | |
| Performance Report/Council Plan | | | | | | |
| Performance Report (to include periodic updates on performance (against Local Government Performance Reporting Framework - KPIs and service outcomes); and development of performance targets for LGPRF indicators and KPIs to measure success). | LGA 54(2)(b)/Charter 1.5(a) and 1.5(e) | ✓ | ✓ | | | |
| Progress report on Council Plan 2021-25 | Charter 1.5(e) | ✓ | ✓ | | | |
| Risk Management/Occupational Health and Safety | | | | | | |
| Risk Management Report | LGA 54(2)(c) | ✓ | ✓ | ✓ | ✓ | |
| Occupational Health and Safety Report | LGA 54(2)(c) | ✓ | ✓ | ✓ | ✓ | |
| Legal Activities Report | Charter 1.5(h) | ✓ | ✓ | ✓ | ✓ | |
| Insurance Claims Report | Charter 1.5(h) | ✓ | ✓ | ✓ | ✓ | |
| Annual - Insurance Claims report | Charter 1.5(h) | | | | | |
| Governance | | | | | | |
| Councillor Expenses Report | Councillor Support and Expenses Policy/Charter 1.5(m) | ✓ | ✓ | ✓ | ✓ | |
| Gifts, Benefits and Hospitality, Fraud and Conflict Of Interest registers | Charter 1.5(d), Gifts Benefits and Hospitality Policy | ✓ | X | | | Due to resources, this report was not prepared for the scheduled meeting. |
| Review Audit and Risk Committee Charter | Charter 1.5(n) | | | ✓ | ✓ | |
| WorkForce Statistics/Human Resources Activity Report | Committee request 23/02/21 | ✓ | ✓ | ✓ | X | Report was not prepared for the scheduled meeting |



| | | Reporting Period 1 January - 30 June 2022 | | | | Comments |
|--|-----------------------------------|--|---------|------------|---------|--|
| | | 28 February 2022 | | 2 May 2022 | | |
| | | Source | Planned | Actual | Planned | Actual |
| Integrity Agency reports, as required | Charter 1.5(k) | ✓ | ✓ | | | |
| Internal Auditor | | | | | | |
| Internal Audit Plan delivery status updates (Internal Auditor report) | LGA 54(2)(b)/Charter | ✓ | ✓ | ✓ | ✓ | |
| Internal Audit Review Report - Food Act and Health Compliance | Charter 1.5(g) | ✓ | ✓ | | | |
| Internal Audit Review Report - Occupational Health and Safety (Staff) | Charter 1.5(g) | | | ✓ | ✓ | |
| Internal Audit Program Actions Report | LGA 54(2)(b)/Charter 1.5(g) | ✓ | ✓ | ✓ | ✓ | |
| Internal Audit Statutory Planning Actions Report | LGA 54(2)(b)/Charter 1.5(g) | ✓ | ✓ | ✓ | ✓ | |
| Annual Internal Audit Plan 2022/23 | LGA 54(2)(b)/Charter 1.5(g) | | | ✓ | ✓ | |
| | | | | | | |
| Audit and Risk Committee Meeting Actions Report | Committee request 17/10/11 | ✓ | ✓ | ✓ | ✓ | |
| Audit and Risk Committee Meeting Actions completed during the previous calendar year | Committee request 17/10/11 | ✓ | ✓ | | | |
| Annual Performance Review/Work Program/Biannual Report | | | | | | |
| Confirm process to be undertaken - Audit and Risk Committee's performance review 2021/22 | LGA 54(4)(a) | | | ✓ | ✓ | |
| Adopt annual Audit and Risk Committee work program for 2022 | LGA 54(3)/Charter 1.5 | ✓ | ✓ | ✓ | ✓ | Item deferred from 28 February meeting |
| Other matters considered at the meetings | | | | | | |
| Gender Audit Results presentation | Part of consultation process | ✓ | ✓ | | | Due to time constraints, item was deferred from the October 2021 meeting |
| Project Management Software and processes presentation | Request of the Committee 23/07/19 | ✓ | ✓ | | | Due to time constraints, item was deferred from the October 2021 meeting |
| Capital Works Projects cost escalations | Request of the Committee 19/10/21 | ✓ | ✓ | | | |
| Emerging Issues - new COVID-19 outbreak pressures/Staff Turnover | | ✓ | ✓ | | | |
| Emerging issues - Impact or rising fuel prices on Council's business | | | | ✓ | ✓ | |



Key highlights during the reporting period

The key highlights during this period were:

- Appointment of two new independent Committee members.
- Acknowledged the External Audit representative (RSD Audit) from the Victorian Auditor General's Office.
- Endorsement of the annual Work Plan.
- Endorsement of the Internal Audit Plan 2022/23.
- Confirmed the process for the Audit and Risk Committee's performance review 2021/22.
- Received the internal audit reports on *Food Act* and Health Compliance and Occupational Health and Safety (Staff).
- Endorsed the Investment Policy for 2022

The ARC has provided advice/assurance on the following key items:

- Recognised the challenges following both the impact of the bushfires of 2020 and COVID-19 on Council operations. This has led a far greater level than normal of grants and projects to be managed. In particular, the ARC noted that the difficulties in managing from both a staff and financial perspective. And noted Capital Works risks, carry forwards, grants and implementation issues.
- Acknowledged the improvements in OHS management, in particular the clean-up of data and increased focus on incident reporting. The ARC made some recommendations to gain greater clarity on the impact of reporting these improvements.

The following items are noted to be under consideration by the ARC as at the 30 June 2022:

- The desirability for the Committee to look at risk management for longer term financial planning
- The ARC is yet to finalise its recommendation to Council with respect to the Charter
- Requested a scoping paper to determine whether to undertake an additional internal audit on climate change impacts, risks and exposures

Version number: 11
Authorised by: General Manager Business Excellence



Audit and Risk Committee Charter

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Purpose

The Audit and Risk Committee Charter (the Charter) outlines the functions and responsibilities of the Audit and Risk Committee (the Committee) in assisting the East Gippsland Shire Council (the Council) fulfil its oversight and corporate governance responsibilities. The Charter provides for the structure and operation of the Committee.

The Committee is an independent advisory committee to Council established under section 53 of the *Local Government Act 2020* (the Act). The Committee does not have any delegated powers, including executive powers, management functions or delegated responsibility.

The Committee's role is to monitor, review and advise Council on the standard of its financial control, risk management and corporate governance.

Scope

This policy applies to all Audit and Risk Committee members, Councillors who are members of the Committee, the Internal and External auditors and relevant Council officers as defined in Roles and Responsibilities section.

Policy Context

The Committee has been established pursuant to section 53 of the *Local Government Act 2020* (the Act). The Council is required, under section 54 of the Act, to adopt a Charter that specifies the functions and responsibilities of the Committee as including:

- a) monitoring compliance of Council policies and procedures with the overarching governance principles¹, the Act and regulations and any Ministerial directions;
- b) monitoring Council financial and performance reporting;
- c) monitoring and providing advice on risk management and fraud prevention systems and controls; and
- d) overseeing internal and external audit functions.

The Audit and Risk Committee Charter has been developed having regard to Victorian Auditor General's report 'Audit Committee Governance' of August 2016 (including Standing Directions of the Minister for Finance 2016).

Policy Statement

1.1 Authority

The Committee is an advisory committee and does not have any delegated powers, executive powers, management functions, or delegated financial responsibility.

The Act states that the Audit and Risk Committee is not a delegated committee as per the provisions under section 53(2) of the Act.

¹ Section 9 of the *Local Government Act 2020* included in the definitions.

The East Gippsland Shire Council authorises the Committee, within its functions and responsibilities to:

- endorse key documents and reports that must be approved by Council, including annual financial reports, annual performance statements;
- monitor policies and procedures compliance with the overarching governance principles in the Act, the Act and regulations and any ministerial directions;
- oversee internal and external audit plans, including internal audit plans with an outlook of greater than one year;
- provide advice and make recommendations to Council on matters within its areas of responsibility;
- retain counsel of relevant independent experts where it considers that it is necessary in order to execute its responsibilities, subject to prior agreement with the Chief Executive Officer;
- seek any relevant information it requires from Council, Council officers and external parties;
- meet with Council Officers, internal and external auditors and other parties as required to discharge its responsibilities.

1.2 Objectives

The Audit and Risk Committee's primary role is to provide oversight, advice and guidance on Council's frameworks, systems and controls relating to:

- legislative and good governance compliance
- financial and performance reporting
- risk management with a focus on strategic risks
- internal and external audit.

The purposes of the Charter is to guide the operation of the Committee.

1.3 Membership

- (a) The Committee will comprise seven members: four independent members - one of whom will be Chair²; the Mayor of the day; and two other councillors appointed by Council. The majority of Committee members must be independent members (as per section 53(3)(b) of the Act). The Committee must not include any person who is a member of East Gippsland Shire Council's staff.³
- (b) Independent external members will be sought by way of public advertisement seeking expressions of interest.

Appointment of external independent members will be by Council resolution following receipt of a recommendation from a panel comprising the Audit and Risk Committee Chair (Or Committee member), the Mayor (or Committee Councillor) and the Chief Executive Officer (or delegate).

The Panel will evaluate candidates on the basis of their expertise and experience and likely their ability to apply appropriate analytical and strategic management skills, as well as the 'fit' of their skills within the overall skillset of the Committee.

² The chairperson of an Audit and Risk Committee must not be a Councillor of the Council (s53(4) of the *Local Government Act 2020*)

³ Section 53(3)(c) of the *Local Government Act 2020*

Having regard to Council's Workforce Plan 2021-2025 the Diversity and Inclusion Statement is relevant for all Committees of Council:

East Gippsland Shire Council is committed to promoting and supporting diversity in the workplace and recognises that our success depends upon our people with their diverse views, abilities, skills, languages, cultures, and backgrounds, as well as differences in race, religion and/or belief, gender and sexual orientation. We respect, value, and encourage diversity in the workplace. We are an inclusive organisation that values fairness, respect, equity, and diversity consistent with our policies and the Gender Equality Act 2020.

As part of an induction process, newly appointed members will meet with the Audit and Risk Committee Chair, Mayor, and Chief Executive Officer to discuss the functions of the Committee including coverage of the Charter, Council Governance Rules, the Committee's annual work plan and Annual Performance Review.

- (c) Terms for independent members will be a maximum of three years; however, members may re-apply at the end of their term and may be re-appointed for further terms up to a maximum of two (2), three-year terms (i.e. no more than six years in total). The position must be advertised after an independent member has completed two consecutive terms. The independent member may apply as part of the competitive process.
- (d) Terms of appointment will be arranged to ensure an orderly rotation and continuity of membership and will be made despite changes to Council's elected representatives.
- (e) The Act under section 53(3)(b) specifies that independent Committee members have, collectively, expertise in financial management and risk and experience in public sector management.

Further, the Committee should, collectively, possess sufficient knowledge and strategic skills in the areas of:

- Audit
- Governance
- Control
- Compliance

It is preferable that at least one of the independent members should be a member of CPA Australia (CPA status), the Institute of Chartered Accountants Australia (CA status) and/or the Institute of Internal Auditors.

As the focus and responsibilities of the Committee respond to emerging needs and regulatory, economic, and reporting developments, members' competencies and the overall balance of skills on the Committee will be re- evaluated in the appointment of new and returning members.

- (f) Members of the Committee will be covered by Council's professional indemnity insurance for the service they undertake on the Committee.

- (g) The four external independent members of the Audit and Risk Committee will be remunerated for the performance of their duties at Committee meetings in accordance with the rate determined by Council from time to time, indexed annually. The four external independent members will be remunerated for attendance at additional meetings such as workshops at 50% of the rate.
- (h) An independent member may resign or retire before the expiry of their term by notifying Council of their intention in writing.

In the event of an independent member resigning or retiring before the expiry of their term, the vacancy will be filled at the discretion of the Council provided the composition requirements of the Committee can be met.

If the resignation and/or retirement of two or more of the independent members coincide, the Council may extend one sitting member's term by one year to provide a level of continuity on the Committee.

- (i) The Committee may make a recommendation to Council to terminate a member's appointment. The recommendation must be accompanied by specific rationale that may include that the member:
- failed to comply with the provisions of the Act;
 - has not upheld the intent of this Charter and its Principles;
 - failed to comply with Council's Values, Governance Rules and expectations of conduct;
 - has been absent from three consecutive meetings without notification of leave of absence.

If Council decides to progress with the termination of a Committee member prior to the expiry of their term, the following steps must occur:

- consultation with the Chair of the Committee;
- the Committee member will be provided with written notice; and
- the Committee member will be given the opportunity to be heard at a meeting of Councillors.

Council will then make a final determination based on the outcomes of the aforementioned steps. A Council resolution will be required if the termination of a Committee member is to proceed.

1.4 Chair

- (a) The Chair of the Committee must be an independent member (section 53(4) of the Act). The Chair is appointed annually at the Committee's February meeting. At that meeting the Chief Executive Officer will open the meeting, assume the Chair and ask for nominations from among the four independent members. If there is only one nomination, that member will be declared elected. If there is more than one nomination the Chief Executive Officer will ask for a show of hands, with a simple majority of members present determining the result. The member newly elected as Chair will assume the Chair immediately.

- (b) An independent member may be appointed to serve as Chair:
 - for no more than four, 12-month terms; and/or
 - for no more than two consecutive 12-month terms in a three-year period.
- (c) In the absence of the Chair, the Committee will elect another independent member in attendance as Acting Chair.

1.5 Principles

1.5.1 Values

The Committee will conduct itself in accordance with Council's organisational values:

Respect – We treat all with courtesy and dignity

Collaboration – We build and maintain productive relationships

Integrity – we focus on taking correct the course of action

Accountability – We are responsible for our actions and outcomes

1.5.2 Members of the Audit and Risk Committee will:

1. Strive to attend all meetings, sending apologies to the Chair for necessary absences;
2. Prepare for the meeting by reading the agenda, papers and any emails before the meeting;
3. Talk to the Chair before the meeting if you need to clarify anything;
4. Arrive on time. Stay to the end;
5. Participate fully in the meeting;
6. Listen to what others have to say and keep an open mind;
7. Contribute positively to the discussions;
8. Try to be concise and avoid long drawn-out explanations;
9. Help others concentrate on the meeting. Discourage side conversations;
10. Have the best interests of the organisation/beneficiaries in mind at all times;
11. Draw attention to any potential conflicts of interest that may arise in the meeting;
12. Fulfil any responsibilities assigned to you at the meeting and be prepared to report back on your progress at the next meeting;
13. Treat all Committee Members and Council officers with respect and courtesy at all times;
14. Not interrupt or speak over another person speaking;
15. Direct all questions through the Chair;
16. Direct any requests for Council officers to provide information or perform an action through the Chair to the CEO;
17. Not criticise, chastise or insult an officer or the Council during the meeting; and
18. Provide constructive feedback which will not offend, imply incompetence of an officer or humiliate an officer attending the meeting.

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1.5.3 Conflict of Interest

In accordance with section 130 of the Act (Disclosure of Conflict of Interest) and Council's Governance Rules, Committee members must make a full disclosure of all conflicts of interest prior to discussion of the matter for which the conflict of interest has arisen.

It is the responsibility of a Committee member to make their own determination about whether to declare a conflict of interest, consistent with the Definitions outlined in section 126, General Conflict of Interest in section 127, Material Conflict of Interest in section 128 and the exemptions in section 129 of the Act.

Further, having declared such a conflict on a matter, the committee member must exclude themselves from the decision-making process in relation to the matter, including any discussion or vote on the matter, and any action in relation to the matter.⁴

1.5.4 Misuse of Position

The provisions of section 123 of the Act in relation to the misuse of position apply to Committee members. Members must not intentionally misuse their position to gain or attempt to gain directly or indirectly, an advantage for themselves or for any other person, or cause, or attempt to cause, detriment to Council or another person.

The misuse of position provisions include:

- Making improper use of information
- Disclosing information that is confidential information
- Exercising or performing (purporting to) a power, duty or function that the Committee member is not authorised to exercise or perform
- Participating in a decision on a matter in which the Committee member has a conflict of interest.

1.5.5 Confidentiality

Confidential information is defined in section 3 of the Act.

Committee members must comply with the requirements of sections 53 and 125 of the Act in relation to confidential information.

Committee members must not intentionally or recklessly disclose information that they know, or should reasonably know, is confidential information and commit to ensuring the safekeeping and disposal of confidential information.

Independent members will be required to sign a Confidentiality Agreement upon commencement of their initial term.

⁴ As per Section 130 (2) (b) of the Act

Failure to comply with the provisions of the Act and this Charter with regard to confidentiality may result in prosecution and the member's appointment being terminated by Council.

1.5.6 Governance Rules

Committee members must be familiar with and comply with the provisions of Council's Governance Rules in their conduct at Committee meetings and all other meetings that Committee members may attend from time to time.

1.6 Charter and Duties

The Committee is required to adopt an annual work program⁵. The work program will include activities that will assist the Committee to meet its objectives and responsibilities as defined in this Charter. The following activities are to be included in the work program:

- (a) Review Council's draft financial report and performance statement on an annual basis and:
 - in consultation with the external auditor, consider whether they are complete and consistent with information known to Committee members, and reflect appropriate accounting principles; and
 - if appropriate, recommend approval *in principle* to Council.
- (b) Review the external auditor's Final Management Letter (annual audit report) with the external auditor and management and if appropriate, frame recommendations for Council's consideration.
- (c) Review annually, the framework in place to ensure Council's risk exposure is managed appropriately. As a minimum, this will include:
 - a review of Council's risk management policies and procedures;
 - review of Council's risk registers in accordance with the reporting regimen documented in the Risk Management Policy, and consideration of the adequacy of actions taken to mitigate Council's risk; and
 - monitor and provide advice on risk management prevention systems and controls.
- (d) Review Council's Fraud Prevention policies and controls, including the Fraud Control Plan and fraud awareness programs at least every two years, this will include:
 - receiving reports from management about actual or suspected instances of fraud or corruption including analysis of the underlying control failures and action taken to address each event;
 - reviewing reports by management about the actions taken by Council to report such matters to the appropriate integrity bodies; and
 - monitor and provide advice on fraud prevention systems and controls.

⁵ Section 54(3) of the *Local Government Act 2020*

- (e) Review Council's reporting against the Local Government Performance Reporting Framework. The Audit and Risk Committee is responsible to:
- receive and consider performance reports;
 - annually review draft service performance indicators and other performance information disclosures and consider the results in the context of the reports received throughout the year, challenging any unusual or unexpected results;
 - review the internal control framework and level of assurance received around the accuracy and completeness of the information reported; and
 - provide a recommendation to Council.⁶
- (f) In respect of Council policies and procedures:
- review annually, the systems and processes in place to ensure Council policies and procedures comply with the overarching governance principles, the Act and regulations and Ministerial directions (e.g. in respect of risk, finance, business continuity, delegation, equal employment opportunity, workplace health and safety, privacy, etc.); and
 - receive reports from the Chief Executive Officer and other Council officers relevant to Council's compliance with relevant legislation, policies and procedures and if appropriate, make recommendations for Council's consideration.
- (g) In consultation with the internal auditor and management:
- through a process of mapping against Council's risk registers, prepare a draft three to five-year Internal Audit Plan for consideration by Council;
 - annually review the delivery of the Internal Audit Plan and if required, make a recommendation to Council on any amendments; and
 - review internal audit reports and monitor progress on actions required to achieve rectification of any identified issues.
- (h) Review written reports on significant insurance and legal claims that may impact on Council's financial performance or otherwise expose Council to a high or extreme degree of risk, and mitigation action being taken in response.
- (i) Where such matters fall within the Committee's Charter:
- receive reports on specific projects and investigations deemed necessary by the Chief Executive Officer and/or Council, including suspected or actual cases of fraud or any corrupt activity by Council officers or others having business with Council, and if deemed appropriate make recommendations for Council's consideration; and
 - address issues referred for the attention of the Committee, including requests from Council for advice.

⁶ Included as per Audit Committee Minutes Dec 17: The Roles and Responsibilities of the East Gippsland Shire Council Audit Committee referenced at p4-5 of the draft Local Government Performance Reporting Framework Policy and derived from p 11 of the extract (provided as Attachment 3) of the Local Government Better Practice Guide 2016-17 Performance Statement be incorporated in the next iteration of the Audit Committee Terms of Reference.

- (j) Conduct annually, an evaluation of the performance of the Audit and Risk Committee against the Audit and Risk Committee Charter⁷ and provide an assessment to the Chief Executive Officer for tabling at the next Council meeting.⁸
- (k) Review management's responses to any findings identified in the investigation reports of regulatory agencies (e.g. Independent Broad-Based Anti-Corruption Commission (IBAC), Local Government Inspectorate, Victorian Auditor-General's Office, Victorian Ombudsman's Office) and monitor any management actions arising from those reports.
- (l) Review quarterly, a management report detailing the expenses and reimbursement of out-of-pocket expenses of Councillors and members of delegated committees⁹ and if appropriate, make recommendations for Council's consideration.
- (m) Review and assess the adequacy of the Audit and Risk Committee Charter and if appropriate, present recommendations to Council for amendment. As a minimum, this review to occur once every four years, within 12-months after a general municipal election or otherwise is required.
- (n) Prepare a report to Council on the Committee's activities twice per annum. One of these reports will be prepared after the meeting at which the annual financial report and the annual performance statement have been considered and recommended to Council for adoption, such a report indicating how the Committee has discharged its responsibilities as set out in the Charter for the previous year.

1.7 Meetings

- (a) The Council's Governance Rules will apply to the conduct of meetings unless alternate procedures are stipulated in this Charter.
- (b) The Committee will hold an ordinary committee meeting once each quarter.
- (c) A joint meeting with East Gippsland Shire Councillors will be held in September each year to discuss Council's audited draft financial report and performance statement; the Committee's performance evaluation for the previous financial year and any other matters identified by the Mayor and/or Committee Chair.
- (d) Additional meetings may be convened at the discretion of the Chief Executive Officer or at the written request of any member of the Committee, the external auditor, or the internal auditor.
- (e) A quorum will exist if four or more Committee members are present and the number of external independent members present is equal to or greater than the number of internal Councillor members present.
- (f) The Committee will make every effort to arrive at its decisions by consensus. If consensus is not possible, matters will be resolved by a majority of votes cast by members in attendance. The Chair will have the casting vote if the votes are equal.

⁷ Section 54(4)(a) of the *Local Government Act 2020*

⁸ Section 54(4)(b) of the *Local Government Act 2020*

⁹ Section 40(2) of the *Local Government Act 2020*

- (g) Councillors who are not members of the Committee may attend meetings of the Committee as observers. Through the Chair, non-member Councillors may ask questions in relation to matters listed on the agenda but may not participate in discussion.
- (h) The external auditor, internal auditor, General Manager Business Excellence and Chief Executive Officer will, when practicable and appropriate, attend all meetings of the Committee. Other members of Council staff may be invited to attend at the discretion of the Committee to provide advice and information when required.
- (i) As the Audit and Risk Committee is an advisory committee of Council meetings are not open to the public.

1.8 Internal Control and Internal Audit

Where appropriate, the Audit and Risk Committee and Council will actively support the work of the contract internal auditor. Line managers are responsible for managing the internal control processes in their respective departments, as recommended by the internal auditor, and will report to the Chief Executive Officer about compliance with internal control measures.

1.9 General and Legal Advice

Through the Chief Executive Officer, the Committee may obtain information and advice on any Council matter that falls within the Committee's Charter.

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Roles and Responsibilities

Roles and responsibilities with respect to Committee function, as well as the implementation, communication and compliance monitoring of this Charter, are as follows:

| Party / Parties: | Roles and responsibilities: |
|--|--|
| Chief Executive Officer | <p>Overall responsibility for policy implementation and compliance. Ensure compliance with the Charter by all Audit and Risk Committee members.</p> <p>While not a member of the Committee, when practicable and appropriate will attend all meetings of the Committee and provide guidance and advice.</p> <p>Will also:</p> <ul style="list-style-type: none"> • ensure that an appropriate agenda is formulated for scheduled Committee meetings and circulated to members in a timely fashion; • facilitate meetings by arranging for members of management, auditors or others to attend to provide pertinent information, as necessary; • provide secretariat services in respect of matters before the Committee; • after meetings of the Committee, ensure that a report describing the activities of the Committee and explaining any recommendations or key findings is tabled at the next Council meeting; • table other reports of the Committee at meetings of the Council when required by the Act and when requested by the Committee; • ensure that accurate minutes of scheduled Committee meetings are taken, circulated to Committee members, Councillors and others in a timely fashion and once confirmed, stored securely in Council's electronic document record management system; • coordinate the selection process for independent external Committee members and together with the Committee Chair and the Mayor, comprise the interview panel for these positions; and • together with the Committee Chair, address any matters of concern arising in respect of a Committee member's performance or conduct. |
| General Manager Business Excellence | Responsible for review, updating and implementing the Charter. |
| Chair | <p>Conduct meetings efficiently to ensure all matters listed for consideration are afforded appropriate time and attention.</p> <p>Exercise a casting vote where:</p> <ol style="list-style-type: none"> (a) consensus cannot be reached; (b) a formal vote is required to resolve the matter; and (c) voting numbers are equal. <p>Approve the unconfirmed minutes of each meeting for circulation to Committee members, Councillors and others as determined by the Committee.</p> <p>Together with the Mayor and the CEO, participate in the selection process for independent external Committee members.</p> <p>Together with the Chief Executive Officer, address any matters of concern arising in respect of a Committee member's performance or conduct.</p> |

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| Party / Parties: | Roles and responsibilities: |
|--------------------------|---|
| Committee Members | <p>Actively participate in and contribute to the work of the Committee as outlined in clause 1.5.</p> <p>Complete a self-assessment survey and contribute actively to the annual evaluation of the performance of the Audit and Risk Committee against the Committee Charter.</p> <p>Make every effort to attend scheduled meetings of the Committee.</p> <p>In accordance with section 130 of the Act (Disclosure of Conflict of Interest), make a full disclosure of all conflicts of interest prior to discussion of the matter for which the conflict of interest has arisen. Further, having declared such a conflict, leave the room and remain outside the room and any gallery or other area in view or hearing of the room until the matter has been concluded.</p> <p>As prescribed by section 123 of the Act, members must not misuse their position on the Committee to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or cause, or attempt to cause, detriment to Council or any person.</p> <p>In accordance with section 125 of the Act (Confidential Information) members must not intentionally or recklessly disclose information that the person knows or should reasonably know to be confidential.</p> |
| Internal Auditor | <p>Under contract to Council, the internal auditor reports to the Committee on a quarterly basis on the outcomes of a range of audits of Council's operations including:</p> <ul style="list-style-type: none"> • internal control systems, policies and procedures and their effectiveness; • compliance with Council policies and procedures and any relevant government legislation; • financial systems and processes; • areas of risk exposure and the way in which these are managed; and • special investigations or assignments as requested by the Committee. <p>The focus of audits undertaken will be documented in a three to five-year internal Audit Plan adopted by Council. The plan will be formulated through a consultative process involving (as a minimum) the internal auditor, the Committee and management.</p> <p>The internal auditor will meet with the Committee at least once a year without management being present, to discuss any issues arising from internal audits carried out during the year. Unless determined otherwise by the Committee, this will occur at the meeting at which the Committee reviews the Internal Audit Plan for the coming year (April).</p> <p>The role of the internal auditor is independent of and separate to that of the external auditor.</p> |
| External Auditor | <p>As an agent of the Victorian Government Auditor-General, the external auditor forms an opinion on Council's financial report and performance statement and provides a copy of their Final Management Letter (audit report) to Council and the responsible Minister.</p> <p>The external auditor reports to a joint meeting of Council and Audit and Risk Committee annually on the completed draft financial report and performance statements for that year. At this meeting the findings of the external audit are discussed with the external auditor, focusing on</p> |

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| Party / Parties: | Roles and responsibilities: |
|-------------------------------|---|
| | <p>issues such as:</p> <ul style="list-style-type: none"> • any major issues that arose during the audit; • any accounting and audit judgements; and • levels of errors identified during the audit. <p>At least annually, an opportunity will be provided for the external auditor to meet with the Committee without management being present, to discuss their remit and any other relevant issues.</p> <p>The Committee may request a meeting with the external auditor at any other time during the year, as/if required.</p> <p>From time to time the external auditor may request and will be provided with copies of final reports prepared by the internal auditor.</p> |
| Mayor | Together with the Committee Chair and the Chief Executive Officer, participate in the selection process for independent external Committee members. |
| Officers in Attendance | <p>General Manager and/or Manager responsible for corporate governance, Manager responsible for finance and Manager responsible for risk will attend all meetings of the Committee where practicable and appropriate.</p> <p>Other members of Council's staff will attend Committee meetings from time to time to present a range of recurring and one-off reports and when requested to do so by the Committee Chair, provide advice and information.</p> |

References and Supporting Documents

Applicable Legislation:

Local Government Act 2020

Local Government Amendment (Performance and Reporting Accountability) Act 2014 and Local Government (Planning and Reporting) Regulations 2014 – prescribes financial and non-financial reporting required of Local Government.

Supporting Documents:

Audit Committees - A Guide to Good Practice for Local Government, January 2011

Conflict of Interest - A Guide for Members of Council Committees, October 2012

Audit Committee Governance, August 2016 (Victorian Auditor-General's Office Report)

Privacy and Human Rights Consideration

All personal information collected by East Gippsland Shire Council relating to the work of the Audit and Risk Committee will be handled in accordance with all applicable privacy legislation and will be used only for investigating audit matters.

The Audit and Risk Committee Charter has been assessed as compliant with the obligations and objectives of the Victorian *Charter of Human Rights and Responsibilities Act 2006*.

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Definitions

| Term: | Meaning: |
|--|--|
| Chief Executive Officer | Person appointed by Council to the position of Chief Executive Officer. |
| Committee Member | Member of East Gippsland Shire Council Audit and Risk Committee |
| Conflict of Interest | As defined in Part 6 Division 2 of the <i>Local Government Act 2020</i> (sections 126-131). |
| Councillor | Person who has been elected to the office of Councillor of East Gippsland Shire Council. |
| Council officer | A current member of East Gippsland Shire Council staff with the authority to engage in activities on behalf of Council. |
| External Auditor | Audit professional appointed by the Victorian Auditor-General who performs an audit in accordance with specific laws or rules on the financial statements of a company, government entity, other legal entity or organisation, and who is independent of the entity being audited. |
| Internal Auditor | A company (or its representative) charged with providing independent and objective evaluations of Council's financial and operational business activities, including its corporate governance. |
| Mayor | Councillor elected by Councillors to the role of Mayor. |
| Officers in Attendance | Council officers attending Audit and Risk Committee meetings to provide information or respond to queries. Officers do not hold membership of the Committee. |
| Overarching governance principles | <p>Overarching governance principles outlined in section 9(2) of the <i>Local Government Act 2020</i> are:</p> <ul style="list-style-type: none"> a) Council decisions are to be made and actions taken in accordance with the relevant law; b) priority is to be given to achieving the best outcomes for the municipal community, including future generations; c) the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risk, is to be promoted; d) the municipal community is to be engaged in strategic planning and strategic decision making; e) innovation and continuous improvement is to be pursued; f) collaboration with other Councils and Governments and statutory bodies is to be sought; g) the ongoing financial viability of the Council is to be ensured; h) regional, state and national plans and policies are to be taken into account in strategic planning and decision making; i) the transparency of Council decisions, actions and information is to be ensured. <p>Section 9(3) requires in giving effect to the overarching governance principles Councils must take into account the following supporting principles:</p> <ul style="list-style-type: none"> a) the community engagement principles; b) the public transparency principles; c) the strategic planning principles; d) the financial management principles; e) the service performance principles. |

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| Term: | Meaning: |
|----------------------------|---|
| Responsible Officer | An officer of East Gippsland Shire Council who has responsibility for the general area/subject matter to which a record pertains. |
| Risk Management | The culture, process and structures that are directed towards realising potential opportunities while managing adverse effects. (AS/NZS ISO 31000:2018) |
| Shire | The geographic area of East Gippsland Shire Council. |
| Staff | All staff engaged by East Gippsland Shire Council, including all full-time, part-time and casual employees, labour hire agency staff. |

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Revision History and Review

| Version Control | Approved Amended Rescinded | Date Effective | Approved By | ECM Document Reference | Summary of Changes |
|-----------------|----------------------------|----------------|--|------------------------|---|
| 1 | Approved | 12/11/2003 | Council | | |
| 2 | Approved | 02/11/2007 | Management | | |
| 3 | Approved | 03/2011 | Audit Committee, Council | | |
| 4 | Approved | 07/2011 | Audit Committee, Council | | |
| 5 | Approved | 07/2013 | Audit Committee, Council | 5523080 | |
| 6 | Approved | 05/05/2015 | Council (endorsed by Audit Committee 28/04/15) | 6288081 | |
| 7 | Approved | 10/05/2016 | Council (endorsed by Audit Committee 26/04/16) | 6752661 | |
| 8 | Approved | 05/06/2018 | Council and Audit and Risk Committee | 7648150 | |
| 9 | Approved | 18/02/2020 | Council (endorsed Audit and Risk Committee 22/10/19) | 8404863 | Converted to new template. Inclusion of provisions for election of Chair, maximum terms for Chair and independent members; recognition of specific obligations proposed by Local Government Bill 2018 Exposure Draft; administrative updates for clarity and readability. |
| 10 | Approved | 25/08/2020 | Council | 8618745 | Updated to reflect the requirements of the <i>Local Government Act 2020</i> . Under the Act the Charter has to be adopted by Council prior to 1 September 2020. Included a change to two consecutive terms as a member. |
| 11 | | | Council (endorsed by Audit and Risk Committee 25/07/22) | | Updated to reflect feedback received by the Audit and Risk Committee members as part of the review of the Charter. |

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Authorised by: General Manager Business Excellence



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Purpose

The Audit and Risk Committee Charter (the Charter) outlines the functions and responsibilities of the Audit and Risk Committee (the Committee) in assisting the East Gippsland Shire Council (the Council) fulfil its oversight and corporate governance responsibilities. The Charter provides for the structure and operation of the Committee.

The Committee is an independent advisory committee to Council established under section 53 of the Local Government Act 2020 (the Act). The Committee does not have any delegated powers, including executive powers, management functions or delegated responsibility.

The Committee's role is to monitor, review and advise Council on the standard of its financial control, risk management and corporate governance.

Scope

This policy applies to all Audit and Risk Committee members, Councillors who are members of the Committee, the Internal and External auditors and relevant Council officers as defined in Roles and Responsibilities section.

Policy Context

The Committee has been established pursuant to section 53 of the *Local Government Act 2020* (the Act). The Council is required, under section 54 of the Act, to adopt a Charter that specifies the functions and responsibilities of the Committee as including:

- a) monitoring compliance of Council policies and procedures with the overarching governance principles¹, the Act and regulations and any Ministerial directions;
- b) monitoring Council financial and performance reporting;
- c) monitoring and providing advice on risk management and fraud prevention systems and controls; and
- d) overseeing internal and external audit functions.

The Audit and Risk Committee Charter has been developed having regard to Victorian Auditor General's report 'Audit Committee Governance' of August 2016 (including Standing Directions of the Minister for Finance 2016).

Policy Statement

1.1 Authority

The Committee is an advisory committee and does not have any delegated powers, executive

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powers, management functions, or delegated financial responsibility.

The Act states that the Audit and Risk Committee is not a delegated committee as per the provisions under section 53(2) of the Act.

¹ Section 9 of the Local Government Act 2020 included in the definitions.

~~The Committee is directly responsible to the Council for discharging its responsibilities as set out in this Charter.~~

The East Gippsland Shire Council authorises the Committee, within its functions and responsibilities to:

The Committee has the authority to:

- endorse key documents and reports that must be approved by Council, including annual financial reports, annual performance statements;
- monitor policies and procedures compliance with the overarching governance principles in the Act, the Act and regulations and any ministerial directions;
- ~~approve/oversee~~ internal and external audit plans, including internal audit plans with an outlook of greater than one year;
- provide advice and make recommendations to Council on matters within its areas of responsibility;
- retain counsel of relevant independent experts where it considers that it is necessary in order to execute its responsibilities, subject to prior agreement with the Chief Executive Officer;
- seek any relevant information it requires from Council, Council officers ~~(who are expected to co-operate with the Committee's requests)~~ and external parties;
- meet with Council Officers, internal and external auditors and other parties as required to discharge its responsibilities.

~~In accordance with section 53(2), the Committee is not a delegated committee. The Audit and Risk Committee does not have executive powers or authority to implement actions in areas over which management has responsibility and does not have any delegated financial responsibility. The Audit and Risk Committee does not have any management functions and is therefore independent of management.~~

~~The Audit and Risk Committee that will operate as far as reasonably practicable in accordance with the Local Government Victoria publication, *Audit Committees – A Guide to Good Practice for Local Government January 2011*.~~

1.2 Objectives

The Audit and Risk Committee's primary role is to provide oversight, advice and guidance on

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Council's frameworks, systems and controls relating to:

- legislative and good governance compliance
- financial and performance reporting
- risk management with a focus on strategic risks
- internal and external audit.

The purpose of the Audit and Risk Committee Charter is to guide the operation of the Committee.

The Audit and Risk Committee's primary role is to provide independent assurance and advice to Council in the following areas:

- issues relevant to the integrity of Council's financial reporting;
- financial and non-financial performance reporting;
- risk management, including enterprise risk management, Occupational Health and Safety, fraud and corruption prevention, business continuity planning and disaster recovery;
- internal and external audit;
- internal control framework including policies and procedures as they apply to:
 - financial reporting;
 - management policies, for example entertainment expenses, use of corporate credit cards, etc; and
 - administrative policies, for example information management, data integrity and privacy, project management, risk management, etc;
- compliance of Council policies and procedures with the overarching governance principles, the Act, the regulations, any Ministerial directions and other relevant legislation and regulations.

It will do this through the provision of independent advice and recommendations on matters relevant to its Charter, to facilitate decision-making by Council.

1.3 Membership

- (a) The Committee will comprise seven members: four independent members - one of whom will be Chair²; the Mayor of the day; and two other councillors appointed by Council. The majority of Committee members must be independent members (as per section 53(3)(b) of the Act). The Committee must not include any person who is a member of ~~East Gippsland Shire Council's staff.~~³
- (b) Independent external members will be sought by way of public advertisement seeking expressions of interest.

Appointment of external independent members will be by Council resolution following receipt of a recommendation from a panel comprising the Audit and Risk Committee Chair (or Committee member), the Mayor (or Committee Councillor) and the Chief Executive Officer (or delegate).

The Panel will evaluate candidates on the basis of their expertise and experience and likely

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their ability to apply appropriate analytical and strategic management skills, as well as the 'fit' of their skills within the overall skillset of the Committee.

Having regard to Council's Workforce Plan 2021-2025 the Diversity and Inclusion Statement is relevant for all Committees of Council:

East Gippsland Shire Council is committed to promoting and supporting diversity in the workplace and recognises that our success depends upon our people with their diverse views, abilities, skills, languages, cultures, and backgrounds, as well as differences in race, religion and/or belief, gender and sexual orientation. We respect, value, and encourage diversity in the workplace. We are an inclusive organisation that values fairness, respect, equity, and diversity consistent with our policies and the Gender Equality Act 2020.

As part of an induction process, newly appointed members will meet with the Audit and Risk Committee Chair, Mayor, and Chief Executive Officer to discuss the functions of the Committee including coverage of the Charter, Council Governance Rules, the Committee's annual work plan and Annual Performance Review.

² The chairperson of an Audit and Risk Committee must not be a Councillor of the Council (s53(4) of the *Local Government Act 2020*)

³ Section 53(3)(c) of the *Local Government Act 2020*

- (c) Terms for independent members will be a maximum of three years; however, members may re-apply at the end of their term and may be re-appointed for further terms up to a maximum of two (2), three-year terms (i.e. no more than six years in total). The position must be advertised after an independent member has completed two consecutive terms. The independent member may apply as part of the competitive process.
- (d) Terms of appointment will be arranged to ensure an orderly rotation and continuity of membership and will be made despite changes to Council's elected representatives.
- (e) The Act under section 53(3)(b) specifies that independent Committee members have, collectively, expertise in financial management and risk and experience in public sector management.

Further, the Committee should, collectively, possess sufficient knowledge and strategic skills in the areas of:

- Audit
- Governance
- Control
- Compliance

It is preferable that at least one of the independent members should be a member of CPA Australia (CPA status), the Institute of Chartered Accountants Australia (CA status) and/or the Institute of Internal Auditors.

As the focus and responsibilities of the Committee respond to emerging needs and regulatory, economic, and reporting developments, members' competencies and the overall balance of skills on the Committee will be re- evaluated in the appointment of new and returning members.

Collectively, external independent members must have:

(i) expertise in financial management and risk; and (ii) — experience in public sector management⁴.

Individually, independent external members will have senior business or financial management knowledge and experience, be conversant with financial and other reporting requirements and possess high levels of personal integrity and ethics.

(f) Members of the Committee will be covered by Council's professional indemnity insurance for the service they undertake on the Committee, when engaged on or attending to Audit and Risk Committee duties.

(g) The four external independent members of the Audit and Risk Committee will be remunerated for the performance of their duties at Committee meetings in accordance with the rate determined by Council from time to time, indexed annually. The four external independent members will be remunerated for attendance at additional meetings such as workshops at 50% of the rate.

⁴ Section 53(2)(b) Local Government Act 2020

(h) An independent member may resign or retire before the expiry of their term by notifying Council of their intention in writing.

In the event of an independent member resigning or retiring before the expiry of their term, the vacancy will be filled at the discretion of the Council provided the composition requirements of the Committee can be met.

If the resignation and/or retirement of two or more of the independent members coincide, the Council may extend one sitting member's term by one year to provide a level of continuity on the Committee.

(i) Council can, by resolution, terminate a member's appointment, if in the opinion of the Council,

~~the member is not upholding the intent of this Charter and its principles. This includes absences from three consecutive meetings without agreed valid reasons. If the Council proposes to terminate the appointment of a member of the Committee prior to the expiry of their term, written notice will be given to the member and the member will be given the opportunity to be heard at a meeting of Councillors prior to the termination taking effect.~~

The Committee may make a recommendation to Council to terminate a member's appointment. The recommendation must be accompanied by specific rationale that may include that the member:

- failed to comply with the provisions of the Act;
- has not upheld the intent of this Charter and its Principles;
- failed to comply with Council's Values, Governance Rules and expectations of conduct;
- has been absent from three consecutive meetings without notification of leave of absence

If Council decides to progress with the termination of a Committee member prior to the expiry of their term, the following steps must occur:

- consultation with the Chair of the Committee;
- the Committee member will be provided with written notice; and
- the Committee member will be given the opportunity to be heard at a meeting of Councillors.

Council will then make a final determination based on the outcomes of the aforementioned steps. A Council resolution will be required if the termination of a Committee member is to proceed.

- ~~(h) Provisions relating to Misuse of Position (section 123), Confidential Information (section 125) and Conflict of Interest (sections 126-131) apply to external independent members as if they were a member of a delegated committee.⁵~~
- ~~(i) Council may resolve to remove a member of the Committee if they fail to attend three (3) consecutive meetings without leave of the Committee, or on the recommendation of the Committee.~~

1.4 Chair

- (a) The Chair of the Committee must be an independent member (section 53(4) of the Act). The Chair is appointed annually at the Committee's February meeting. At that meeting the Chief Executive Officer will open the meeting, assume the Chair and ask for nominations from among the four independent members. If there is only one nomination, that member will be declared elected. If there is more than one nomination the Chief Executive Officer will ask for a show of hands, with a simple majority of members present determining the result. The member newly elected as Chair will assume the Chair immediately.
- (b) An independent member may be appointed to serve as Chair:
- for no more than four, 12-month terms; and/or
 - for no more than two consecutive 12-month terms in a three-year period.
- (c) In the absence of the Chair, the Committee will elect another independent member in

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attendance as Acting Chair.

1.5. Principles

1.5.1. Values

The Committee will conduct itself in accordance with Council's organisational values:

Respect – We treat all with courtesy and dignity

⁵ Section 53(5) of the Local Government Act 2020

Collaboration – We build and maintain productive relationships

Integrity – we focus on taking correct the course of action

Accountability – We are responsible for our actions and outcomes

1.5.2. Appropriate Behaviour by Committee Members

Members of the Audit and Risk Committee will:

1. Strive to attend all meetings, sending apologies to the Chair for necessary absences;
2. Prepare for the meeting by reading the agenda, papers and any emails before the meeting;
3. Talk to the Chair before the meeting if you need to clarify anything;
4. Arrive on time. Stay to the end;
5. Participate fully in the meeting;
6. Listen to what others have to say and keep an open mind;
7. Contribute positively to the discussions;
8. Try to be concise and avoid long drawn out explanations;
9. Help others concentrate on the meeting. Discourage side conversations;
10. Have the best interests of the organisation/beneficiaries in mind at all times;
11. Draw attention to any potential conflicts of interest that may arise in the meeting;
12. Fulfil any responsibilities assigned to you at the meeting and be prepared to report back on your progress at the next meeting;
13. Treat all Committee Members and Council officers with respect and courtesy at all times;
14. Not interrupt or speak over another person speaking;
15. Direct all questions through the Chair;
16. Direct any requests for Council officers to provide information or perform an action through the Chair to the CEO; and
17. Not criticise, chastise or insult an officer or the Council during the meeting
18. Provide

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constructive feedback which will not offend, imply incompetence of an officer or humiliate an officer attending the meeting

1.5.3. Conflict of Interest

In accordance with section 130 of the Act (Disclosure of Conflict of Interest) and Council's Governance Rules, Committee members must make a full disclosure of all conflicts of interest prior to discussion of the matter for which the conflict of interest has arisen.

It is the responsibility of a Committee member to make their own determination about whether to declare a conflict of interest, consistent with the Definitions outlined in section 126, General Conflict of Interest in section 127, Material Conflict of Interest in section 128 and the exemptions in section 129 of the Act.

Further, having declared such a conflict on a matter, the Committee member must exclude themselves from the decision making process in relation to that matter, including any discussion or vote on the matter, and any action in relation to the matter¹.~~must leave the room and remain outside the room or other area in view or hearing of the room until the matter has been concluded.~~

1.5.4. Misuse of Position

The provisions of section 123 of the Act in relation to the misuse of position apply to Committee members. Members must not intentionally misuse their position to gain or

attempt to gain directly or indirectly, an advantage for themselves or for any other person, or cause, or attempt to cause, detriment to Council or another person.

The misuse of position provisions include:

- Making improper use of information
- Disclosing information that is confidential information
- Exercising or performing (purporting to) a power, duty or function that the Committee member is not authorised to exercise or perform
- Participating in a decision on a matter in which the Committee member has a conflict of interest.

1.5.5. Confidentiality

Confidential information is defined in section 3 of the Act.

Committee members must comply with the requirements of sections 53 and 125 of the Act in

¹ As per Section 130 (2) (b) of the Act

relation to confidential information.

Committee members must not intentionally or recklessly disclose information that they know, or should reasonably know, is confidential information and commit to ensuring the safekeeping and disposal of confidential information.

Independent members will be required to sign a Confidentially Agreement upon commencement of their initial term.

Failure to comply with the provisions of the Act and this Charter with regard to confidentiality may result in prosecution and the member's appointment being terminated by Council.

1.5.6. Governance Rules

Committee members must be familiar with and comply with the provisions of Council's Governance Rules in their conduct at Committee meetings and all other meetings that Committee members may attend from time to time.

1.6. 1.5 — Charter and Duties

The Committee is required to adopt an annual work program⁶. The work program will include activities that will assist the Committee to meet its objectives and responsibilities as defined in this Charter. The following activities are to be included in the work program: achieve its objectives and as a minimum, fulfil the responsibilities documented in this clause.

- (a) Review Council's draft financial report and performance statement on an annual basis and:
- in consultation with the external auditor, consider whether they are complete and consistent with information known to Committee members, and reflect appropriate accounting principles; and
 - if appropriate, recommend approval *in principle* to Council.

⁶ Section 54(3) of the Local Government Act 2020

- (b) Review the external auditor's Final Management Letter (annual audit report) with the external auditor and management and if appropriate, frame recommendations for Council's consideration.

- (c) Review annually, the framework in place to ensure Council's risk exposure is managed appropriately. As a minimum, this will include:
- a review of Council's risk management policies and procedures; **and**
 - review of Council's risk registers in accordance with the reporting regimen documented in the Risk Management Policy, and consideration of the adequacy of actions taken to mitigate Council's risk, **and**.

- mMonitor and provide advice on risk management prevention systems and controls

(d) Review Council's Fraud Prevention policies and controls, including the Fraud Control Plan and fraud awareness programmes at least every two years, this will include:

- receiving reports from management about actual or suspected instances of fraud or corruption including analysis of the underlying control failures and action taken to address each event; and
- reviewing reports by management about the actions taken by Council to report such matters to the appropriate integrity bodies, and
- mMonitor and provide advice on fraud prevention systems and controls

(e) Review Council's reporting against the Local Government Performance Reporting Framework. The Audit and Risk Committee is responsible to:

- receive and consider performance reports;
- annually review draft service performance indicators and other performance information disclosures and consider the results in the context of the reports received throughout the year, challenging any unusual or unexpected results;
- review the internal control framework and level of assurance received around the accuracy and completeness of the information reported; and
- provide a recommendation to Council.⁷

(f) In respect of Council policies and procedures:

- review annually, the systems and processes in place to ensure Council policies and procedures comply with the overarching governance principles, the Act and regulations and Ministerial directions (e.g. in respect of risk, finance, business continuity, delegation, equal employment opportunity, workplace health and safety, privacy, etc.); and
- receive reports from the Chief Executive Officer and other Council officers relevant to Council's compliance with relevant legislation, policies and procedures and if appropriate, make recommendations for Council's consideration.

(g) In consultation with the internal auditor and management:

⁷ Included as per Audit Committee Minutes Dec 17: The Roles and Responsibilities of the East Gippsland Shire Council Audit Committee referenced at p4-5 of the draft Local Government Performance Reporting Framework Policy and derived from p 11 of the extract (provided as Attachment 3) of the Local Government Better Practice Guide 2016-17 Performance Statement be incorporated in the next iteration of the Audit Committee Terms of Reference.

- through a process of mapping against Council's risk registers, prepare a draft three to five-year Internal Audit Plan for consideration by Council;
- annually review the delivery of the Internal Audit Plan and if required, make a recommendation to Council on any amendments; and

- review internal audit reports and monitor progress on actions required to achieve rectification of any identified issues.
- (h) Review written reports on significant insurance and legal claims that may impact on Council's financial performance or otherwise expose Council to a high or extreme degree of risk, and mitigation action being taken in response. ~~Reports will be provided in respect of new claims, and subsequently if developments occur in respect of reported risks that are considered likely to increase Council's exposure significantly.~~
- (i) Where such matters fall within the Committee's Charter:
- receive reports on specific projects and investigations deemed necessary by the Chief Executive Officer and/or Council, including suspected or actual cases of fraud or any corrupt activity by Council officers or others having business with Council, and if deemed appropriate make recommendations for Council's consideration; and
 - address issues referred for the attention of the Committee, including requests from Council for advice.
- (j) Conduct annually, an evaluation of the performance of the Audit and Risk Committee against the Audit and Risk Committee Charter⁸ and provide an assessment to the Chief Executive Officer for tabling at the next Council meeting.⁹

⁸ Section 54(4)(a) of the Local Government Act 2020

⁹ Section 54(4)(b) of the Local Government Act 2020

- (k) Review management's responses to any findings identified in the investigation reports of regulatory agencies (e.g. Independent Broad-Based Anti-Corruption Commission (IBAC), Local Government Inspectorate, Victorian Auditor-General's Office, Victorian Ombudsman's Office) and monitor any management actions arising from those reports.

~~(l) Annually review reports prepared by Council officers on the operation of Council's Corporate and Public Space Closed Circuit Television and Drone Programs to assess user compliance with legislation, policy and procedure.~~

- ~~(m)~~(l) Review ~~biannually~~quarterly, a management report detailing the expenses and reimbursement of out-of-pocket expenses of Councillors and members of delegated committees¹⁰ and if appropriate, make recommendations for Council's consideration.

- ~~(n)~~(m) Review and assess the adequacy of the Audit and Risk Committee Charter and if appropriate, present recommendations to Council for amendment. As a minimum, this review to occur once every four years, within 12-months after a general municipal election or otherwise is required.

- ~~(o)~~(n) Prepare a report to Council on the Committee's activities twice per annum. One of these reports will be prepared after the meeting at which the annual financial report and the annual performance statement have been considered and recommended to Council for adoption, such

a report indicating how the Committee has discharged its responsibilities as set out in the Charter for the previous year.

1.76 Meetings

- (a) The Council's Governance Rules will apply to the conduct of meetings unless alternate procedures are stipulated in this Charter.
- (b) The Committee will hold an ordinary committee meeting once each quarter.
- (c) A joint meeting with East Gippsland Shire Councillors will be held in September each year to discuss Council's audited draft financial report and performance statement; the Committee's performance evaluation for the previous financial year and any other matters identified by the Mayor and/or Committee Chair.
- (d) Additional meetings may be convened at the discretion of the Chief Executive Officer or at the written request of any member of the Committee, the external auditor, or the internal auditor.
- (e) A quorum will exist if four or more Committee members are present and the number of external independent members present is equal to or greater than the number of internal Councillor members present.
- (f) The Committee will make every effort to arrive at its decisions by consensus. If consensus is not possible, matters will be resolved by a majority of votes cast by members in attendance. The Chair will have the casting vote if the votes are equal.

¹⁰ Section 40(2) of the Local Government Act 2020

~~(g) In accordance with section 130 of the Act (Disclosure of Conflict of Interest) and Council's Governance Rules, Committee members must make a full disclosure of all conflicts of interest prior to discussion of the matter for which the conflict of interest has arisen. Further, having declared such a conflict, the Committee member must leave the room and remain outside the room or other area in view or hearing of the room until the matter has been concluded. Further guidance is available through the Victorian government's publication, Conflict of Interest – A Guide for Members of Council Committees, October 2012.~~

~~(h)~~(g) Councillors who are not members of the Committee may attend meetings of the Committee as observers. Through the Chair, non-member Councillors may ask questions in relation to matters listed on the agenda but may not participate in discussion.

~~(i)~~(h) The external auditor, internal auditor, General Manager Business Excellence and Chief Executive Officer will, when practicable and appropriate, attend all meetings of the Committee. Other members of Council staff may be invited to attend at the discretion of the Committee to provide advice and information when required.

~~(j)~~(i) As the Audit and Risk Committee is an advisory committee of Council, meetings are not open to the public.

1.78 Internal Control and Internal Audit

Where appropriate, the Audit and Risk Committee and Council will actively support the work of the contract internal auditor. Line managers are responsible for managing the internal control processes in their respective departments, as recommended by the internal auditor, and will report to the Chief Executive Officer about compliance with internal control measures.

1.89 General and Legal Advice

Through the Chief Executive Officer, the Committee may obtain information and advice on any Council matter that falls within the Committee's Charter ~~or is otherwise consistent with the intent and purpose of the Victorian Government's publication, *Audit Committees – A Guide to Good Practice for Local Government*.~~

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Roles and Responsibilities

Roles and responsibilities with respect to Committee function, as well as the implementation, communication and compliance monitoring of this Charter, are as follows:

| Party / Parties: | Roles and responsibilities: |
|--|--|
| Chief Executive Officer | <p>Overall responsibility for policy implementation and compliance. Ensure compliance with the Policy Charter by all Audit and Risk Committee members.</p> <p>While not a member of the Committee, when practicable and appropriate will attend all meetings of the Committee and provide guidance and advice.</p> <p>Will also:</p> <ul style="list-style-type: none"> ensure that an appropriate agenda is formulated for scheduled Committee meetings and circulated to members in a timely fashion; facilitate meetings by arranging for members of management, auditors or others to attend to provide pertinent information, as necessary; provide secretariat services in respect of matters before the Audit and Risk Committee; after meetings of the Committee, ensure that a report describing the activities of the Committee and explaining any recommendations or key findings is tabled at the next Council meeting; table other reports of the Audit and Risk Committee at meetings of the Council when required by the Act and when requested by the Committee chairperson of the Audit and Risk Committee; ensure that accurate minutes of scheduled Committee meetings are taken, circulated to Committee members, Councillors and others in a timely fashion and once confirmed, stored securely in Council's electronic document record management system; coordinate the selection process for independent external Committee members and together with the Committee Chair and the Mayor, comprise the interview panel for these positions; and together with the Audit and Risk Committee Chair, address any matters of concern arising in respect of a Committee member's performance or conduct. |
| General Manager Business Excellence | Responsible for review, updating and implementing policy Charter . |

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| Party / Parties: | Roles and responsibilities: |
|--------------------------|--|
| Chair | <p>Conduct meetings efficiently to ensure all matters listed for consideration are afforded appropriate time and attention. Exercise a casting vote where:</p> <ul style="list-style-type: none"> (a) consensus cannot be reached; (b) a formal vote is required to resolve the matter; and (c) voting numbers are equal. <p>Approve the unconfirmed minutes of each meeting for circulation to Committee members, Councillors and others as determined by the Committee.</p> |
| | <p>Together with the Audit and Risk Committee Chair Mayor and the CEO, participate in the selection process for independent external Committee members.</p> <p>Together with the Chief Executive Officer, address any matters of concern arising in respect of a Committee member's performance or conduct.</p> |
| Committee Members | <p>Actively participate in and contribute to the work of the Committee as outlined in clause 1.5.</p> <p>Complete a self-assessment survey and contribute actively to the annual evaluation of the performance of the Audit and Risk Committee against the Audit and Risk Committee Charter.</p> <p>Make every effort to attend scheduled meetings of the Committee.</p> <p>In accordance with section 130 of the Act (Disclosure of Conflict of Interest), make a full disclosure of all conflicts of interest prior to discussion of the matter for which the conflict of interest has arisen. Further, having declared such a conflict, leave the room and remain outside the room and any gallery or other area in view or hearing of the room until the matter has been concluded. As prescribed by section 123 of the Act, members must not misuse their position on the Committee to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or cause, or attempt to cause, detriment to Council or any person.</p> <p>Complete the Personal Interest return twice yearly. These will not form part of the Summary of Personal Interests in section 135 of the Act.</p> <p>In accordance with section 125 of the Act (Confidential Information) members must not intentionally or recklessly disclose information that the person knows or should reasonably know to be confidential.</p> |

| Party / Parties: | Roles and responsibilities: |
|-------------------------|--|
| Internal Auditor | <p>Under contract to Council, the internal auditor reports to the <u>Audit and Risk</u> Committee on a quarterly basis on the outcomes of a range of audits of Council's operations including:</p> <ul style="list-style-type: none"> • internal control systems, policies and procedures and their effectiveness; • compliance with Council policies and procedures and any relevant government legislation; • financial systems and processes; • areas of risk exposure and the way in which these are managed; and • special investigations or assignments as requested by the Committee. <p>The focus of audits undertaken will be documented in a three to five-year internal Audit Plan adopted by Council. The plan will be formulated through a consultative process involving (as a minimum) the internal auditor, the Committee and management. The internal auditor will meet with <u>Audit and Risk</u> the Committee at least once a year without management being present, to discuss any issues arising from internal audits carried out during the year. Unless determined otherwise by the Committee, this will occur at the meeting at which the Committee reviews the Internal Audit Plan for the coming year (April).</p> <p>The role of the internal auditor is independent of and separate to that of the external auditor.</p> |
| External Auditor | <p>As an agent of the Victorian Government Auditor-General, the external auditor forms an opinion on Council's financial report and performance statement and provides a copy of their Final Management Letter (audit report) to Council and the responsible Minister.</p> <p>The external auditor reports to a joint meeting of Council and <u>Audit and Risk</u> the Committee annually on the completed draft financial report and performance statements for that year. At this meeting the findings of the external audit are discussed with the external auditor, focusing on issues such as:</p> <ul style="list-style-type: none"> • any major issues that arose during the audit; • any accounting and audit judgements; and • levels of errors identified during the audit. <p>At least annually, an opportunity will be provided for the external auditor to meet with <u>Audit and Risk</u> the Committee without management being present, to discuss their remit and any other relevant issues.</p> <p><u>Audit and Risk</u> The Committee may request a meeting with the external auditor at any other time during the year, as/if required. From time to time the external auditor may request and will be provided with copies of final reports prepared by the internal auditor.</p> |
| Mayor | <p>Together with the <u>Audit and Risk</u> Committee Chair and the Chief Executive Officer, participate in the selection process for independent external Committee members.</p> |

| Party / Parties: | Roles and responsibilities: |
|-------------------------------|--|
| Officers in Attendance | General <u>M</u> anager and/or <u>M</u> anager responsible for corporate governance, Manager responsible for finance and <u>M</u> anager responsible for risk will attend all meetings of the Committee where practicable and appropriate. Other members of Council's staff will attend Committee meetings from time to time to present a range of recurring and one-off reports and when requested to do so by the <u>C</u> ommittee Chair, provide advice and information. |

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References and Supporting Documents

Applicable Legislation:

- *Local Government Act 2020*
- *Local Government Amendment (Performance and Reporting Accountability) Act 2014* and *Local Government (Planning and Reporting) Regulations 2014* – prescribes financial and non-financial reporting required of Local Government.

Supporting Documents:

Audit Committees - A Guide to Good Practice for Local Government, January 2011

Conflict of Interest - A Guide for Members of Council Committees, October 2012

Audit Committee Governance, August 2016 (Victorian Auditor-General's Office Report)

Privacy and Human Rights Consideration

All personal information collected by East Gippsland Shire Council relating to the work of the Audit and Risk Committee will be handled in accordance with all applicable privacy legislation and will be used only for investigating audit matters.

The Audit and Risk Committee Charter has been assessed as compliant with the obligations and objectives of the Victorian *Charter of Human Rights and Responsibilities Act 2006*.

Definitions

| Term: | Meaning: |
|--------------------------------|--|
| Chief Executive Officer | Person appointed by Council to the position of Chief Executive Officer. |
| Committee Member | Member of East Gippsland Shire Council Audit and Risk Committee |
| Conflict of Interest | As defined in Part 6 Division 2 of the <i>Local Government Act 2020</i> (sections 126-131). |
| Councillor | Person who has been elected to the office of Councillor of East Gippsland Shire Council. |
| Council officer | A current member of East Gippsland Shire Council staff with the authority to engage in activities on behalf of Council. |
| External Auditor | Audit professional appointed by the Victorian Auditor-General who performs an audit in accordance with specific laws or rules on the financial statements of a company, government entity, other legal entity or organisation, and who is independent of the entity being audited. |
| Internal Auditor | A company (or its representative) charged with providing independent and objective evaluations of Council's financial and operational business activities, including its corporate governance. |
| Mayor | Councillor elected by Councillors to the role of Mayor. |

Audit and Risk Committee Charter Date approved: 25 August 2020
Document owner: Governance and Compliance Coordinator

Version number: 1011
Next review date: Within 12 months after the election

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|--|--|
| Officers in Attendance | Council officers attending Audit and Risk Committee meetings to provide information or respond to queries. Officers do not hold membership of the Committee. |
| Overarching governance principles | <p>Overarching governance principles outlined in section 9(2) of the <i>Local Government Act 2020</i> are:</p> <ul style="list-style-type: none"> a) Council decisions are to be made and actions taken in accordance with the relevant law; b) priority is to be given to achieving the best outcomes for the municipal community, including future generations; c) the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risk, is to be promoted; d) the municipal community is to be engaged in strategic planning and strategic decision making; e) innovation and continuous improvement is to be pursued; f) collaboration with other Councils and Governments and statutory bodies is to be sought; g) the ongoing financial viability of the Council is to be ensured; h) regional, state and national plans and policies are to be taken into account in strategic planning and decision making; i) the transparency of Council decisions, actions and information is to be ensured. <p>Section 9(3) requires in giving effect to the overarching governance principles Councils must take into account the following supporting principles:</p> <ul style="list-style-type: none"> a) the community engagement principles; b) the public transparency principles; c) the strategic planning principles; d) the financial management principles; e) the service performance principles. |
| Responsible Officer | An officer of East Gippsland Shire Council who has responsibility for the general area/subject matter to which a record pertains. |
| Risk Management | The culture, process and structures that are directed towards realising potential opportunities while managing adverse effects. (AS/NZS ISO 31000:2018)(AS/NZS ISO 31000:2009, 20/11/2009) |
| Shire | The geographic area of East Gippsland Shire Council. |
| Staff | All staff engaged by East Gippsland Shire Council, including all full-time, part-time and casual employees, labour hire agency staff. |

Revision History and Review

| Version Control | Approved Amended Rescinded | Date Effective | Approved By | ECM Document Reference | Summary of Changes |
|-----------------|----------------------------------|----------------|---|------------------------|---|
| 1 | Approved | 12/11/2003 | Council | | |
| 2 | Approved | 02/11/2007 | Management | | |
| 3 | Approved | 03/2011 | Audit Committee, Council | | |
| 4 | Approved | 07/2011 | Audit Committee, Council | | |
| 5 | Approved | 07/2013 | Audit Committee, Council | 5523080 | |
| 6 | Approved | 05/05/2015 | Council (endorsed by Audit Committee 28/04/15) | 6288081 | |
| 7 | Approved | 10/05/2016 | Approved Council (endorsed by Audit Committee 26/04/16) | 6752661 | |
| 8 | Approved | 05/06/2018 | Council Audit and Risk Committee | 7648150 | |
| 9 | Approved | 18/02/2020 | Council (endorsed Audit and Risk Committee 22/10/19) | 8404863 | Converted to new template. Inclusion of provisions for election of Chair, maximum terms for Chair and independent members; recognition of specific obligations proposed by Local Government Bill 2018 Exposure Draft; administrative updates for clarity and readability. |

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| | | | | | |
|----|----------|------------|----------------|---------|---|
| 10 | Approved | 25/08/2020 | Council | 8618745 | Updated to reflect the requirements of the <i>Local Government Act 2020</i> . Under the Act the Charter has to be adopted by Council prior to 1 September 2020. Included a change to two consecutive terms as a member. |
| 11 | | | <u>Council</u> | | <u>Updated to reflect feedback received by the Audit and Risk Committee members as part of the review of the Charter.</u> |

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5.2 Assets and Environment

5.2.1 Addition of Roads to Council's Register of Public Roads

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 considers the inclusion of additional roads to Council's Register of Public Roads (ROPR), as part of Council's responsibilities under the *Road Management Act* 2004 (the Act).

The Act establishes a statutory requirement for road authorities to maintain a ROPR. Road authorities have a duty to inspect, maintain and repair roads that have been determined as public roads. Council's Road Management Plan establishes the standards that shall be met when discharging these duties to inspect, maintain and repair public roads.

Council Officers have received a number of requests from members of the community seeking maintenance on roads that are not currently included on the ROPR and consequently, are not currently inspected, repaired or maintained by Council. Other omissions have been identified through internal review.

The roads considered for inclusion to the ROPR in this report are:

- Laneway – Off Langford Parade Paynesville – Accessing IGA Carpark (0.031km);
- Tea Tree Lane – Raymond Island – (0.588km);
- Unnamed Road - Wiseleigh – (0.159km);
- Redcourt Lane – Lindenow South (1.586km);
- Gravely Point Road – Raymond Island (0.950km); and
- Peart Street – Bairnsdale – (0.113km).

These roads have been assessed against the criteria used to add roads to the ROPR and have been determined to meet the criteria.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report;***
- 2. declares the sections of road listed below as Public Roads and be added to Council's Register of Public Roads under the classifications shown; and***

| Road Name | Locality | Land Tenure | Principle Places of Residence | Approx. length | Classification |
|---------------------------|----------------|--------------|-------------------------------|----------------|----------------|
| Laneway – Langford Parade | Paynesville | Road Reserve | 0 | 0.031km | Urban Access |
| Tea Tree Lane | Raymond Island | Road Reserve | 2 | 0.588km | Rural Access |
| Unnamed Road | Wiseleigh | Road Reserve | 2 | 0.116km | Rural Access |
| Redcourt Lane | Lindenow South | Road Reserve | 1 | 1.586km | Rural Access |
| Gravelly Point Road | Raymond Island | Road Reserve | 1 | 0.950km | Rural Access |
| Pearl Street | Bairnsdale | Road Reserve | 0 | 0.113km | Urban Access |

- 3. notes that Council's Register of Public Roads will be updated accordingly as required by the Road Management Act 2004.***

Background

Council Officers periodically receive requests to add roads to the ROPR. In accordance with the Act, Council can make alterations to its ROPR to include any new roads it considers to be public roads.

Council must record on its ROPR any road for which it is the responsible authority and where it has made a decision that the road is 'reasonably required for general public use', in accordance with Section 17(3) of the Act.

While there is no statutory definition for what circumstances constitute 'reasonably required for general public use', the following list is guiding criteria that has been used historically by Council when assessing whether a road fits this definition, and therefore should be added to the ROPR. The road:

- provides access to a principal place of residence (PPR);
- provides a single closest point of access to a rateable property holding;
- is located on suitable land, in a road reserve or Crown land where the Council has relevant authority to lawfully have a road; and
- is not maintained by another authority.

The road also needs to be of an appropriately constructed standard, with only nominal works required to bring it up to an acceptable standard that can be maintained through routine operational activities.

Unused road reserves requiring full construction of a physical road to provide access to properties are not usually considered under this process. Such works would need to be undertaken by the landholder(s) to a satisfactory standard before consideration of their addition to the register would occur.

This report considers the suggested classifications of the following roads to be Urban and Rural Access. These road hierarchy classifications require annual hazard inspections and regular maintenance throughout the year.

The roads for addition as listed below total 3.384 kilometres in length and have been nominated for inclusion in the ROPR. A map of all the roads is provided as **Attachment 1**.

The following roads nominated in this report: Tea Tree Lane, Raymond Island; Unnamed Road, Wiseleigh; Redcourt Lane, Lindenow South; and Gravely Point Road, Raymond Island, all provide access to dwellings located on private property which are understood to contain a minimum of one principal place of residence.

Langford Parade Laneway, Paynesville and Peart Street, Bairnsdale do not service principal places of residence. These are recommended to be added to Council's RPOR for the following reasons:

- Langford Parade Laneway is an additional one-way access point to a much-used shopping precinct in Paynesville, the carpark at this location is owned and managed by Council; and
- Peart Street to be added for the purposes of maintenance currently does not extend to the end of the street, therefore it is recommended that Council add this additional section to the public road register for maintenance purposes. This access is utilised by many as an additional school drop off area for both Nagle College and St Mary's Primary schools. Council officers have been in initial discussions with Nagle College about the opportunity for a second entry point to assist with daily traffic congestion around these two schools.

The roads considered generally have alignments within road reserves.

Legislation

As of 1 July 2021, all provisions of the *Local Government Act 2020* 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 procedures and recommended actions within this report are consistent with the requirements of the *Road Management Act 2004* and Council's own Road Management Plan (2021).

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 2020*. 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

Pursuant of section 109(2) of the *Local Government Act 2020* this report has not been prepared in collaboration with other councils or agencies as the report relates directly to Council's individual road management responsibilities.

Council Plan

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

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

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

This report is prepared in accordance with the Council's Road Management Plan (2021).

Options

Council has the option of accepting or proposing an alternative to the recommendations made in this report.

Resourcing

Financial

It is estimated that the annual routine maintenance costs for the recommended roads would be \$4,400. This will be accommodated within the existing road maintenance budget.

Plant and equipment

Not applicable

Human Resources

Roads that are added to the ROPR as a result of this report will be maintained utilising the resources currently available through Council's two road maintenance contracts.

Risk

The risks of this proposal have been considered and adding this road to the register of public roads and maintenance will not pose any further risk to Council.

Economic

The addition of Langford Parade Laneway will improve access to Paynesville's retail sector.

Social

The addition of Tea Tree Lane, Raymond Island; Unnamed Road, Wiseleigh; Redcourt Lane, Lindenow South; and Gravely Point Road, Raymond Island, will increase the safety of traveling public as the standard of the road network will be maintained as per the Road Management Plan 2021.

The addition of Laneway Langford Parade, Paynesville will benefit the local community and visitors through the use of the additional access to the council managed carpark to utilise the shopping precinct.

Peart Street will create a connection between two schools in Bairnsdale and the projected better flow of traffic impacting on surrounding roads during the two busy periods of morning drop off and evening pickup at this location.

Gender Impact Statement

Not applicable.

Environmental

There are no environmental impacts associated with implementing this report.

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

Community engagement is primarily through receipt of customer or resident requests that the proposed roads be added to the register of public roads.

Attachments

1. Location of Proposed Roads to add to register [5.2.1.1 - 6 pages]

Attachment 1

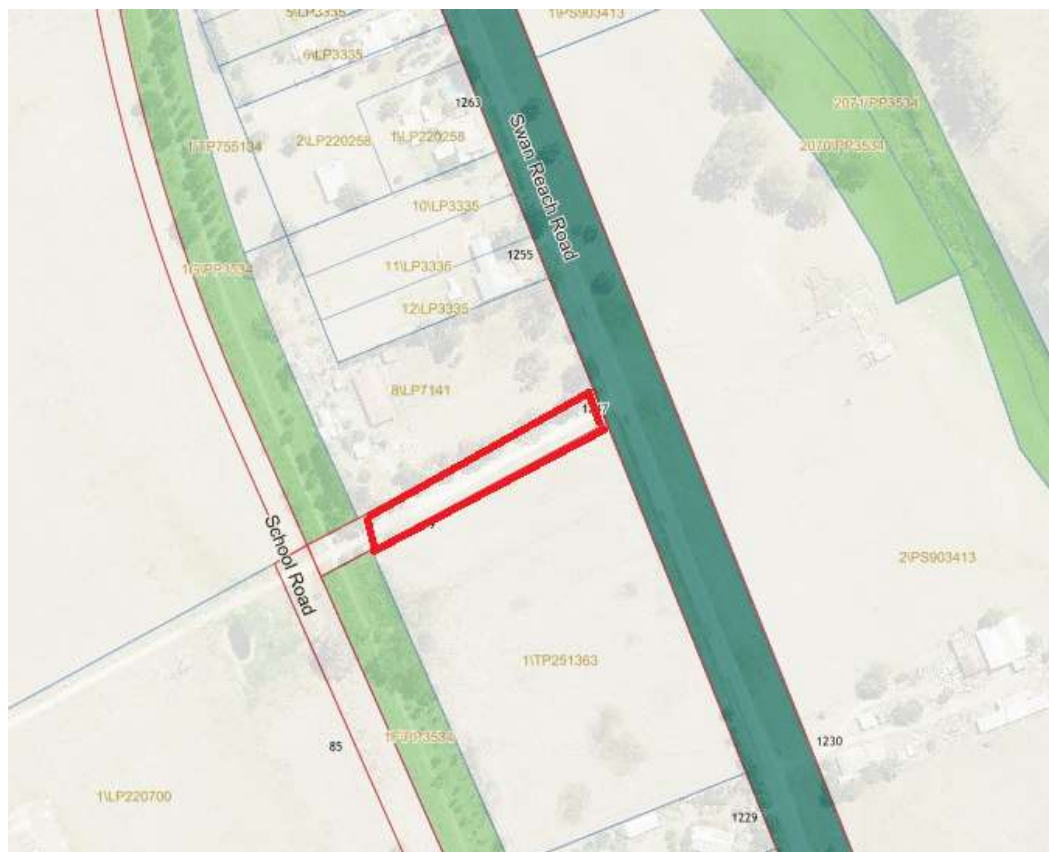
Langford Parade Laneway, Paynesville (0.031km)



Tea Tree Lane, Raymond Island – (0.588km)



Unnamed Road, Wiseleigh (0.116km)



Redcourt Lane, Lindenow South (1.586km)



Gravelly Point Road, Raymond Island (0.950km)



Peart Street, Bairnsdale (0.113km)



5.2.2 Contract Extension - CON2018 1195 Green Waste Processing and Removal Service

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 seeks Council's approval to exercise its option within CON2018 1195 Green Waste Processing and Removal Service, to extend the existing contract for the final extension period of one (1) year to 7 September 2023, based on tendered schedule of rates.

The contract commenced on 8 September 2018 with the initial term scheduled to end on 7 September 2021. Under the agreement, Council has the option to extend the contract for a further two (2) x twelve months. The initial twelve-month extension term was approved at the Council meeting held 22 June 2021.

Having evaluated the contractor's performance and the ongoing need for this service, this report recommends that Council exercise the final extension option and extend the final contract term for (12) months.

Officer Recommendation

That Council:

- 1. receives and notes this report;***
- 2. approves the contract extension to CON2018 1195 Green Waste Processing and Removal Service for the final contract term of twelve (12) months to 7 September 2023, to RPN Holdings Pty Ltd & Southridge Pty. Ltd. trading as Green Care Mulching for the tendered schedule of rates; and***
- 3. authorises the Chief Executive Officer to finalise the terms and to sign and seal the contract extension in the form proposed.***

Background

On 7 August 2018, CON2018 1195 Green Waste Processing and Removal Service was approved by Council to RPN Holdings Pty Ltd & Southridge Pty. Ltd. trading as Green Care Mulching for the tendered Schedule of Rates.

Council operates and manages its waste collection facilities across the region and this contract is designed to provide green waste mulching services as well as loading and removal services.

Current sources of green waste include the green waste collected through Council's kerbside service and self-haul and is stockpiled at 11 of Council's waste collection facilities:

- Bairnsdale;
- Lakes Entrance;
- Metung;
- Orbost;
- Swifts Creek;
- Omeo;
- Mallacoota;
- Buchan;
- Marlo;
- Cann River; and
- Bemm River.

Under the agreement, Council has the option to extend the contract for a final term of twelve (12) months.

Green Care Mulching have been contacted and have confirmed agreement to the twelve (12) month extension term subject to Council approval.

Legislation

As of 1 July 2021, all provisions of the *Local Government Act 2020* 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 2020*. 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 as this report relates to the extension of an existing contract.

Council Plan

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

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

Strategic Objective 5: 5.1 A better everyday customer experience is created for our residents and visitors.

Council Policy

Procurement has been undertaken in accordance with Council's Procurement Policy.

Options

There are two options available to Council with respect to this report:

1. Exercise the final extension option with Green Care Mulching with the contract completion date being 7 September 2023 (preferred option); or
2. Re-tender for the services provided by CON2018 1195 Green Waste Processing and Removal Service.

Option 1 is recommended for the reasons outlined earlier in this report.

Resourcing

Financial

The annual expenditure since the commencement of the Contract is between \$380,000 and \$600,000 excluding GST.

The contract is for lump sum and/or schedule of rates was submitted as part of the original tender response for a period of five years.

A variation to the contract will include a Consumer Price Index (CPI) increase for the final term extension period which will assist with the ongoing fuel and wage increases. Based on this, the year four (4) spend increase to Council is approximately \$25,000.

Council has allocated funding for the contract extension as part of its operational budget.

Plant and equipment

Not applicable

Human Resources

The contract is managed internally by existing staff. Exercising the contract extension option has no impact on existing staff capacity.

Risk

The risks of this proposal have been considered and the Contractor is required to carry out all activities as specified in the specification to a satisfactory standard throughout the term of the Contract.

There has been no performance or Occupation Health and Safety issues relating to this contract during the three (3) year term.

Economic

There are no identified economic implications in relation to this report.

Social

There are no identified social impacts in relation to this report.

Environmental

The mulching of green waste allows for efficient management of municipal green waste. At present this mulch is then re-used on landfill remediation projects. Other uses for this mulched green waste are currently being trialed.

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

Not applicable.

Attachments

Nil

5.2.3

CON2023 1485 Peppercorn Park - Bairnsdale City Oval Change Rooms Extension and Upgrade

Authorised by {custom-field-directorate-do-not-remove}

Conflict of Interest

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

Executive Summary

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 **Confidential Attachments** to this report is 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 background into the Extension and Upgrade of the existing football changeroom within the Bairnsdale City Oval (BCO) Sporting Facility and to present a tender recommendation for Council's consideration.

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. This Plan identified the redevelopment of the BCO sporting facilities for Australian Football League Women's (AFLW), Australian Football League (AFL) and cricket as a high priority of the plan. This therefore led to detailed design work.

Improvement of the existing changerooms at the BCO Sporting Facility is therefore identified as an important investment, and it is anticipated that the project will strongly support an increase in female participation by creating changeroom facilities which are female friendly.

The design of the changeroom extension and upgrade has been undertaken by 3875 Design & Drafting, and structural engineering by Simon Anderson Consultants.

This project is Stage One of a two-stage project, with the second stage being works to Peppercorn Park Oval (PPO) itself. Stage Two works are still progressing through the tender and evaluation phases. The work for Stage One covered by this contract will encompass a full refurbishment of the existing changerooms, including full redevelopment of the ablutions, independent trainer's room, and coaching rooms.

The works are partially funded by a Victorian government Local Sports Infrastructure Fund *Female Friendly Facilities Stream* grant.

As a result of the invitation to tender and the subsequent tender evaluation provided as **Confidential Attachment 1**, the Council is now able to consider the recommendation to award the contract.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report;***
- 2. accepts the tender submitted by _____ for CON2023 1485 – Bairnsdale City Oval Changeroom Upgrade for the tendered lump sum price of \$_____ (ex GST), as provided at Confidential Attachment 1;***
- 3. authorises the Chief Executive Officer to finalise the terms and to sign and seal the contract in the form proposed; and***
- 4. resolves that the attachments to this report and all discussions about the attachments remain confidential.***

Background

Bairnsdale City Oval is identified as Bairnsdale's premier sporting oval, home of the Bairnsdale Football Netball Club (male and female AFL, and netball), as well as West Bairnsdale Cricket Club. Bairnsdale's highest-level AFL and cricket is played at the facility, and it is the venue for all major finals, and representative games and a range of high-profile coaching and training functions.

While a significant work has occurred to develop various aspects of the facility in recent years, the change rooms are aged, in poor condition, and do not meet the necessary female-friendly standard. The ablutions still contain urinals, there are shared showers, and there is an absence of screening with the large change room doors facing directly onto the spectator viewing area and field. As the women's and junior girls AFL teams already regular users of the facility, female cricket participation on the rise, and a desire to attract elite sporting competitions and events, it is a high priority for East Gippsland that these facilities are made female friendly.

These needs were identified in the Bairnsdale Sporting Facilities Plan (2018) and Stakeholder Consultation Report.

The redevelopment of the BCO Change rooms will provide modern, fit for purpose, and most importantly, fully female friendly change room facilities.

Change room upgrades include:

- full redevelopment of the ablutions, replacing the group showers with 4 x lockable shower cubicles in both the home and visitor rooms;
- privacy screens at the entrance to the ablutions;
- storage, seating, and bathroom amenities;
- privacy screens at the entrance to both change rooms;
- expansion of the home change rooms, allowing the room to be divided if needed;
- an independent coach's room; and
- an independent trainer's room

These facilities will ensure that everyone who uses BCO, female, or male, will feel comfortable, safe, and secure. They ensure that any female individual, or team, does not feel like they are "using the men's" change room, but are welcomed at a facility that is constructed for all participants.

The 'Making Bairnsdale City Oval Female Friendly' project has been divided into two separable portions:

1. Bairnsdale City Oval Changeroom Extension and Upgrade – Female Friendly Facilities; and
2. Peppercorn Park Oval redevelopment.

In consideration of potential weather implications for the oval works, it was determined to tender the Peppercorn Park Oval redevelopment first. The Stage Two tender will now be considered by Council at a later date rather than as part of this report, as there were delays due to:

1. The tender submissions received through this tender process exceeded the entire budget allocation for the project;
2. A review of the design detail was initiated and in considerable consultation with the designer and Council it was proposed to reduce the drainage component of the design to better align to the available budget whilst still ensuring a quality oval; and
3. A second oval tender was issued to market and again, the tender submissions received, exceeded the allowable budget for the project.

This component of the project is now at a third-stage iteration and Council is working to further reduce the scope and associated costs of these works without compromising the quality of the oval. Additional consultation is now taking place between Council and Sport and Recreation Victoria (SRV) to ensure ongoing compliance with the project's funding agreement.

The tender process for the Bairnsdale City Oval Changeroom Extension and Upgrade – Female Friendly Facilities has been successful and informs the overall content of this report.

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

Legislation

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

This report has been prepared in accordance with *Local Government Act* 2020.

Under 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 **Confidential Attachment 1** to this report is 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.

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* 2020.

Collaborative procurement

Pursuant of section 109(2) of the *Local Government Act 2020* the development of the Peppercorn Park project has been prepared in collaboration with funding contributions from the Victorian Government.

Consultation with other government agencies and external stakeholders has been completed within the Bairnsdale Sporting Facilities Plan 2018. A summary of meetings and workshops is shown within the Stakeholder Consultation Report.

As this tender relates to the retrofitting of a specific facility, collaborative tendering 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 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

Procurement has been undertaken in accordance with Council's Procurement Policy.

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

Council has the option to:

1. award a contract in accordance with the Tender Evaluation Panel's recommendation (preferred); or
2. not proceed with the procurement.

Resourcing

Financial

The project is being funded in part by State Government's Local Sports Infrastructure Fund *Female Friendly Facilities Stream* and with additional Council funds as listed in the below table.

| | Budget |
|--|--------------------|
| Local Sport Infrastructure Fund <i>Female Friendly Facilities Stream – State Government</i> | \$500,000 |
| Council Cash | \$981,382 |
| Less Expenditure and Commitments to date | -\$60,775 |
| Total Available | \$1,420,607 |

Council has allocated additional funds from Council Cash to provide ongoing support for the progression of the oval component.

This additional budget may be reallocated to other projects if value for money proposals cannot be achieved.

The 2:1 funding will remain as per the funding agreement between Council and SRV.

Further detailed financial information is contained in **Confidential Attachment 1**.

Plant and equipment

All plant and equipment are to be supplied by the successful contractor.

Human Resources

This project will be supervised by a Project Supervisor from the Council's Capital Projects and Plant unit. No additional human resources are required to manage this project.

Risk

The risks of this proposal have been considered extensively during the design phase of this project. Tenderers were also requested to develop a construction method that minimises risks identified in relation to protection of existing services, traffic management, property access, vibration and other key issues associated with the works.

Economic

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

The tender evaluation process used for this tender included a 5% weighting for local content, with preference given to contractors who employ locally and purchase goods and any subcontracted services locally. As this project is within the Bairnsdale City sporting facility and will address issues associated with the current changeroom facilities not being fit for purpose or female friendly, the project is seen to support the sporting facility and all its user groups, which will positively impact participation growth and in conjunction with that, also economic growth.

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 a 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 all genders from a school to local to regional and higher levels of sports competition;
- enhancing club development and participation to include all genders for clubs and schools; and
- providing regional sports events.

Gender Impact Statement

A Gender Impact Assessment (GIA) completed was completed for the Construction of BCO Changeroom Extension and Upgrade which found the project to be compliant with the obligations and objectives of the Victorian *Gender Equality Act 2020*.

This is further supported through the adoption of the Bairnsdale Sporting Facilities Plan 2018 (BSFP18) which included actions supporting and promoting gender equity, along with the development and retrofitting of existing change rooms to become female friendly. There were nine principles which underpinned the development of the BSFP18 including:
Accessible and inclusive: Sport and recreation facilities will be accessible to and encourage people of all ages, genders, abilities, and cultural backgrounds.

A cornerstone of BSFP18 is to ensure equitable access to and increased prominence of women's sport in Bairnsdale and this project is a priority.

Encouraging and sustaining girls and women's involvement in female friendly clubs and facilities is integral for creating a safe place for females to prosper. The evidence tells us that there is a direct link between friendly facilities, club administrations and coaches and the level of participation by women and girls.

Environmental

In designing the project, consideration was given to irrigation, which will provide easy water access and will also take advantage of the Alternative Water Management project to provide low-cost irrigation, which is due for completion in 2021/22.

A 5% weighting was applied in the evaluation of tenders regarding environmental sustainability, with preference given to contractors who can demonstrate environmentally sustainable and environmentally sensitive practices.

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* which includes extensive consultation with user groups, stakeholders, and local community groups.

The Project Development Officer for the project has been responsible for providing initial engagement with user groups and this relationship will continue throughout the duration of the construction with the handover of the project to the Project Supervisor.

As part of the construction methodology, the Contractor will communicate regularly with all stakeholders regarding any impact throughout the delivery of the project.

Engagement activities targeting the broader community promoting the project and any potential impacts throughout its implementation will be initiated following the award of the contract.

Attachments

1. CONFIDENTIAL - CON2023 1485 Bairnsdale City Oval Changeroom Upgrade - Tender Evaluation Panel Report [5.2.3.1 - 7 pages]

Authorised by General Manager Assets and Environment

Conflict of Interest

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

Executive Summary

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 the **Confidential Attachments** to this report are confidential because they contain private commercial information, being information provided by a business, commercial or financial undertaking that relates to trade secrets.

This report seeks Council's approval to appoint a contractor for the second stage of Moroney Street reconstruction in Bairnsdale.

Moroney Street is a 2km urban access road in West Bairnsdale. It is a high-traffic street in a residential area with school and day-care facilities. Parts of the road currently have safety, drainage and amenity deficiencies, which will be addressed through this project.

The overall objective is to upgrade Moroney Street with a consistent seal width, new underground drainage, kerb and channel, footpath, parking lanes, tree planting and upgrade to all intersections. Given the length of the street, the upgrade will be undertaken in stages. The Stage 2 works will extend from the intersection of McKean Street to the intersection of Birchwood Court, Bairnsdale.

The upgrades to Moroney Street have been keenly anticipated by residents and users of the street for many years and will be well received once complete. This contract represents Stage 2 of the overall upgrade of Moroney Street.

As a result of the invitation to tender and the subsequent tender evaluation provided as **Confidential Attachment 1**, Council is now able to consider the recommendation to award the contract for stage 2. An independent probity auditor also oversaw the tender assessment process, and a probity report is provided as **Confidential Attachment 2**.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report;**
- 2. accepts the tender submitted by _____ for CON2023 1495 Reconstruction of Moroney Street Stage 2 for the contract amount of \$_____ exclusive of GST;**
- 3. authorises the Chief Executive Officer to finalise the terms and to sign and seal the contract in the form proposed; and**
- 4. resolves that the attachments to this report, and all discussions in relation to the attachments remain confidential.**

Background

Moroney Street does not meet current urban infrastructure standards. It has a two-way seal carriageway of an inconsistent width, large gravel shoulders, and intersections open to high speed. The drainage infrastructure is limited with a lack of underground infrastructure and no kerb and channel along the carriageway. The current conditions provide a low level of service for abutting residents with no defined on-street parking and incomplete sections of footpath.

To address deficiencies with the current conditions, the street was redesigned for a complete upgrade. Stage 1 of these works has recently been completed. Early consideration was given to constructing Moroney Street as a dual carriageway with a centre median in the same way as many of the Bairnsdale CBD streets. However, this would result in extensive and expensive relocation of services including gas and underground watermain. This idea was therefore not pursued, and the street was designed as a two-way carriageway with a general curvilinear alignment for traffic calming purposes.

Works will include pavement reconstruction and widening, an asphalt overlay, parking lanes, the installation of underground drainage infrastructure, kerb, and channel, new section of footpath, and tree planting (not part of the contracted works, but part of the overall project with the installation to be completed by the Council Parks and Gardens Unit).

Due to the extent of the works, the construction has been programmed in three stages.

- Stage 1 - Dawson Street to McKean Street - Complete
- Stage 2 - McKean Street to Birchwood Court - CON2022 1495
- Stage 3 - Birchwood Court to Riley Street – future works

Stage 2 construction works were advertised, and conforming tenders were evaluated, which are described in detail in the Tender Evaluation Report provided as **Confidential Attachment 1**.

Legislation

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

This report has been prepared in accordance with *Local Government Act 2020*.

Under 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 the **Confidential Attachments** to this report are confidential because they contain 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*.

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 2020*. 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

Given the specific location and contractual nature of this tender, this contract has not been prepared in collaboration with another local government or agency.

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

Procurement has been undertaken in accordance with Council's Procurement Policy (2021).

Options

When developing the specifications for the upgrade of Moroney Street a range of delivery options were considered, with three separate stages to be awarded under separate contract decided to be the most effective delivery method given the extensive nature of works. This report considers the awarding of Stage 2.

The tender process used for this project has seen multiple contractors bid for the works. The Tender Evaluation Panel evaluated these options to arrive at a preferred tenderer recommendation as outlined in **Confidential Attachment 1**.

The options available to Council are to award the contract or not award and re-tender the works. It is recommended that the Contract be awarded.

Resourcing

Financial

The project is being funded by the Federal Government's Road to Recovery (R2R) program and from Council cash. The funding is phased over the 2022/23 and 2023/24 fiscal years. Council cash has been budgeted to cover all costs not able to be claimed through the R2R program.

Plant and equipment

Plant and equipment are to be supplied as a condition in the contract by the successful contract in the entirety.

Human Resources

This project will be supervised by a Project Supervisor from Council's Capital Projects and Plan unit. No additional human resources are required to manage this project.

Risk

The risks of this proposal have been considered and tenderers were requested to develop a construction method that minimises risks identified in relation to property access, traffic management, vibration, dust and other key issues associated with the works.

Economic

The tender evaluation process used for this tender included a 5% weighting for local content, with preference given to contractors who employ locally and purchase goods and any subcontracted services locally.

Social

The residents and users of Moroney Street will directly benefit from this project with increased road safety and improved drainage. New on-street parking, footpath and trees will contribute to a higher level of amenities in the area.

The project will also have a positive impact on the overall Bairnsdale community who use Moroney Street to access the school and day-care facilities.

Gender Impact Statement

The *Gender Equality Act* 2020 was considered in the preparation of Contract CON2023 1495. Contract CON2023 1495 has been assessed as not requiring a Gender Impact Assessment (GIA).

Environmental

Sealing the existing wide gravel shoulders will decrease sediment going into the drainage system and have a positive environmental impact.

Tree planting, whilst not part of this contract, is part of the overall project and will be completed by Council Parks and Gardens Unit. This will increase the amenity of this area.

The tender evaluation process used for this tender included a 5% weighting for environmental sustainability, with preference given to contractors who are able to demonstrate environmentally sustainable and environmentally sensitive practices.

Climate change

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

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

Engagement

The Project Supervisor for the works will be responsible for providing initial advice to the Bairnsdale community regarding the construction works, location and expected date. As part of the construction methodology, the contractor will be responsible for ongoing communication with affected residents in terms of property access during the works.

Attachments

1. CONFIDENTIAL - CON2023 1495 Moroney Street Bairnsdale Reconstruction Stage 2 - Tender Evaluation Panel Report [**5.2.4.1** - 8 pages]
2. CONFIDENTIAL - CON2023 1495 Moroney Street Bairnsdale Reconstruction Stage 2 - Probity Review Report [**5.2.4.2** - 2 pages]

5.2.5 CON2022 1480 Asphaltting of Various Roads in East Gippsland Shire

Authorised by General Manager Assets and Environment

Conflict of Interest

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

Executive Summary

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 the **Confidential Attachments** 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 procurement is to secure a contract with a panel of suitably qualified and experienced contractors for the ongoing improvement of Council's sealed road network. All sealed roads across East Gippsland Shire that require asphalt work have been inspected and prioritised within an annual program. To maximise flexibility with the asphaltting program, this contract has been based on schedules of rates which allows Council the flexibility to adjust the project scope as annual budgets allow. This contract replaces the existing contract CON2019 1261 – Asphaltting of Various Roads in East Gippsland which expired 30 June 2022.

Council is responsible for approximately 1,294 kilometres of sealed roads, approximately 90 public car parks, three aerodromes including internal roads and 14 kilometres of shared pathways/footpath. These all require renewal and upgrading on a cyclic basis in the interest of asset improvement and maintenance, public safety, and in accordance with Council's Road Management Plan and Council's seal infrastructure condition survey data.

The initial term of CON2022 1480 is two years and eight months effective 1 September 2022 to 30 June 2025. There are a further two (2)- 12 month extension options. The contract is subject to price adjustments (rise and fall) as set out in the contract.

A request for tender (RFT) was advertised seeking responses from suitable vendors to undertake this contract. Two submissions were received by the closing date of Wednesday 27 April 2022.

The submissions were evaluated by the Tender Evaluation Panel (TEP) using a set list of weighted criteria that considered financial value (40%), capacity (15%), capability (35%), local contribution (5%) and sustainability (5%).

The RFT process attracted two submissions. As the subsequent tender evaluation process has been completed, Council is in a position to award the contract. The Evaluation Panel's recommendations are provided in **Confidential Attachment 1**. A Probity Report is provided at **Confidential Attachment 2**.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report;***
- 2. accepts the tenders submitted by _____ and _____ for CON2022 1480 – Asphaltting of Various Roads in East Gippsland Shire for the tendered Schedule of Rates (ex GST) for a period of three (3) years with the option of two (2) extensions up to twenty-four (24) months extension at Council's discretion, as provided at Confidential Attachment 1;***
- 3. authorises the Chief Executive Officer to finalise the terms and to sign and seal the contract in the form proposed;***
- 4. delegates the power to the Chief Executive Officer to exercise the up to two (2) additional extension options of up to twenty-four (24) months; and***
- 5. resolves that the attachments to this report and all discussions in relation to the attachments remain confidential.***

Background

Contract CON2020 1480 is a 'schedule of rates' contract subject to adjustment for rise and fall in costs for pre-qualified level G2-RSA (Road Surfacing Asphalt) contractors to provide asphaltting of various roads in East Gippsland Shire Council and the supply of asphalt products for Council's road maintenance contract.

Asphaltting is used to overlay and upgrade sealed road surfaces, car parks, walking tracks, footpaths, repair sealed pavement failures and regulate uneven road surfaces.

This contract (CON2020 1480) replaces CON2019 1261 Asphaltting of Various Roads in East Gippsland Shire.

Legislation

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 the **Confidential Attachments** 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*.

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 2020*. The need for a Gender Impact Assessment has also been assessed.

Collaborative procurement

Given the nature of the work contracted which is specific to the East Gippsland area, this report and contract have not been prepared as a collaborative tender.

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

Procurement has been undertaken in accordance with Council's Procurement Policy.

Once the panel is established, engagement of the contractors for specific work will occur within Council's financial delegations and the Procurement Policy and Procedure.

Options

There are no other options, as Contract Extension CON2019 1261 Asphaltting of Various Roads in East Gippsland Shire, expired on 30 June 2022. The option is therefore to either award CON2022 14880 or retender the works.

It is recommended that the contract be awarded for the reasons outlined in **Confidential Attachment 1**.

Resourcing

Financial

The Budget available is approximately \$3,000,000 per annum each year over the 5 years.

The asphaltting is a component of the budget for project number 11588.

The value of works conducted under CON2020 1480 Asphaltting of Various Roads in East Gippsland Shire between the commencement on 1 September 2022 and 30 June 2025 is detailed in the following table:

| | |
|---------|-------------|
| 2022/23 | \$3,151,000 |
| 2023/24 | \$2,582,000 |
| 2024/25 | \$3,332,000 |

Plant and equipment

All plant and equipment are to be provided by the contractor.

Human Resources

This project will be supervised by a Project Supervisor from Council's Assets and Projects Unit. No additional human resources are required to manage this project.

Risk

The risks of this proposal have been considered and the contractor is required to carry out all activities as detailed in the specifications and following the Occupational Health and Safety Regulations.

Economic

The tender evaluation process used for this tender included a 5% weighting for local content, with preference given to contractors who employ locally and purchase goods and any subcontracted services locally.

Social

The users of East Gippsland Shire roads will directly benefit from this project with increased road safety and access to schools, workplaces, recreation services and medical facilities.

Gender Impact Statement

The *Gender Equality Act 2020* was considered in the preparation of Contract CON2022 1480. Contract CON2022 1480 has been assessed as not requiring a Gender Impact Assessment (GIA).

Environmental

The tender evaluation process used for this tender included a 5% weighting for environmental sustainability, with preference given to contractors who are able to demonstrate environmentally sustainable and environmentally sensitive practices.

Climate change

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

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

Engagement

The contractor for the works will be responsible for providing initial advice to the East Gippsland community about construction works, location and expected dates.

As part of the construction methodology, the contractor will also be responsible for ongoing communication with affected residents in terms of property access during the works.

Attachments

1. CONFIDENTIAL - CON2022 1480 Asphaltting of Various Roads in East Gippsland Shire - Tender Evaluation Panel Report [5.2.5.1 - 22 pages]
2. CONFIDENTIAL - CON2022 1480 Asphaltting of Various Roads in East Gippsland Shire - Probity Review [5.2.5.2 - 2 pages]

5.3 Business Excellence

5.3.1 Transfer of Committee responsibilities – Beaufort Memorial Gardens

Authorised by General Manager Business Excellence

Conflict of Interest

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

Executive Summary

Council has been approached by the Hon. Tim Bull MP, Member for Gippsland East and Mr Alan Pappin CVO AM, President of the Bairnsdale Returned and Services League of Australia Sub-branch Inc. (Bairnsdale RSL Sub-branch Inc.) seeking to change the current committee arrangements for the Beaufort Memorial Gardens (Gardens), due to the membership of the Beaufort Memorial Gardens Committee Incorporated (the Committee) declining over time.

The Gardens named after the Beaufort aircraft and local squadrons, are located on the corner of Main Street and Victoria Street, Bairnsdale and form part of Bairnsdale's memorials in recognition of past wars and the fallen. The main feature in the Gardens is the large Royal Australian Air Force (RAAF) memorial sculpture, as well as the Path of Remembrance. The Gardens recognise the Second World War 1939–45, Peacekeeping 1947–present, Korean War 1950–53, Malayan Emergency 1950–60, Vietnam War 1962–75, Indonesian Confrontation 1963–66 and National Service.

The land on which the Gardens has been developed is owned wholly by Council. Council entered into a management agreement with the Committee on 21 December 2004.

The intent of the request is to amend the management arrangements through a new Committee structure whilst other arrangements stay the same.

The purpose of this report is to seek Council's approval to terminate the existing management agreement, refer **Attachment 1**, and to transfer the Committee's responsibilities to the Bairnsdale RSL Sub-branch Inc.

Officer Recommendation

That Council:

1. receives and notes this report and all attachments pertaining to this report;

2. revokes the resolution of the former Town of Bairnsdale on 02/10/89;

“That a community committee be formed to oversee the ongoing development of the Beaufort Gardens, comprising a representative from CAROB, Compass Building Society, RSL, I Henham (Parks & Gardens) and two (2) other community representatives”.

3. resolves to transfer the responsibilities of the Beaufort Memorial Gardens Committee Incorporated to the Bairnsdale Returned and Services League of Australia Sub-branch Incorporated (Bairnsdale RSL Sub-branch Inc.);

4. resolves to terminate the existing management agreement with the Beaufort Gardens Memorial Committee Inc. (Attachment 1);

5. resolves to enter into a new management agreement with the Bairnsdale RSL Sub-branch Inc, with the following clauses included:

- a. the land known as the Beaufort Memorial Gardens be secured as public parkland in perpetuity and not be available for any purpose other than that recommended by the Bairnsdale RSL Sub-branch Inc and approved by Council;***
- b. an Agreement under the terms of section 173 (i) of the Planning and Environment Act 1987 be developed to enact clause a. that will hold in perpetuity the Beaufort Memorial Gardens as public parkland;***
- c. the Bairnsdale RSL Sub-Branch Inc. must be consulted on any proposed major alterations or maintenance to the Beaufort Memorial Gardens by Council;***
- d. the Bairnsdale RSL Sub-branch Inc. must be formally notified in writing by Council of any proposed changes to the Beaufort Memorial Gardens management arrangements and given reasonable time to consider;***
- e. the Bairnsdale RSL Sub-branch Inc. must formally consider any proposals relating to the Beaufort Memorial Gardens and if accepted, seek approval in writing by Council to implement; and***
- f. Council maintains responsibility for the maintenance of the Beaufort Memorial Gardens and its lighting on the basis that it does not create an unreasonable cost burden on Council.***

6. authorises the Chief Executive Officer to execute documents as required to enact the arrangement.

Background

The Committee was formed in 1989 by way of a formal resolution of the former Town of Bairnsdale Council.

Extract from minute book –

Crs McCaughey / Martin

“That the minutes of the Environment Committee held on Monday 18 September 1989 be received”.

*CARRIED 2.10.1989
COUNCIL DECISION*

Crs McCaughey / Martin

“That the recommendations of the Environment Committee excluding 10 be adopted”.

*CARRIED 2.10.1989
COUNCIL DECISION*

SUMMARY OF ADOPTED RECOMMENDATIONS

1. Hospital Hill Reserve – Beaufort Gardens

- 1.1 *“That a community committee be formed to oversee the ongoing development of the Beaufort Gardens, comprising a representative from CAROB, Compass Building Society, RSL, I Henham (Parks & Gardens) and two (2) other community representatives”.*
- 1.2 *“That the Committee finalise a plan from J. Sheehan’s basic plan and investigate means of finance and refer back to the Environment Committee in six weeks”.*

The Committee has been the driving force in developing the Gardens as a key memorial to the RAAF and other service personnel across many different conflicts.

Over many years the care and management arrangements for the Gardens have evolved. Council's Parks and Gardens team has taken a more active role and has a strong working relationship with the Committee.

Due to a diminishing number of Committee members, there is a need to review the management arrangements of the Gardens to ensure longevity and care for this important memorial. The proposed actions essentially maintain the status quo, but through the Bairnsdale RSL Sub-branch Inc. instead of a separate incorporated committee.

Legislation

As of 1 July 2021, all provisions of the *Local Government Act 2020* 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 2020*. 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 1: 1.3 Community groups and volunteers are acknowledged, promoted and supported; and

Strategic Objective 5: 5.2 Strong relationships with government, partners and stakeholders are maintained and strengthened to advocate for the community.

Council Policy

Under Council's Leasing and Licensing Policy for Council-owned and Council-managed Land, a management agreement is issued between Council and a committee or other organisation that is managing land on Council's behalf, that documents the rights and responsibilities of all parties to the agreement.

Options

Two options have been considered in the preparation of this report being:

Option 1

Transfer the Committee's responsibilities to the Bairnsdale RSL Sub-Branch Inc. for the continued care and management of the Gardens.

This is the preferred option.

Option 2

Not transfer the Committee's responsibilities to the Bairnsdale RSL Sub-Branch Inc. This option not to transfer to the Bairnsdale RSL Sub-Branch Inc would result in the full responsibilities transferring back to Council and ceasing the partnership. This is not in the long-term interests of the Council or the community, as the knowledge of memorials is held with membership of the Returned Services League.

Resourcing

Financial

There is no rent associated with the management agreement as the Committee provides an oversight role in the management of Gardens and memorials on behalf of Council.

The lights at the memorial currently run on gas. This is estimated to be \$130 per annum. Council pays this cost. It may be prudent in the future to look at other more financially and environmentally sustainable options to create the same effect.

The cost to mow and maintain the Gardens is approximately \$20,000 per annum including materials.

Plant and equipment

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

Human Resources

The transfer of the Committee does not require any additional resources.

Risk

As membership of the current committee is declining, the ability to undertake the conditions of the management agreement may be at risk.

Economic

There are no perceived economic factors that will be impacted by this report.

Social

There are no perceived social impact implications associated with this report.

Gender Impact Statement

The report has been assessed as not requiring a Gender Impact Assessment (GIA). The *Gender Equality Act 2020* was considered in the preparation of this report.

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

Council was approached by the local member, the Hon. Tim Bull MP and Mr Alan Pappin on behalf of the Committee seeking Council's support of a new model. As there are no intended changes to the Gardens it is not believed that broader community engagement is required.

Attachments

1. Existing Management Agreement [**5.3.1.1** - 10 pages]

AGREEMENT

This Agreement is made the *21st* day of *December* 2004

BETWEEN:-

EAST GIPPSLAND SHIRE COUNCIL

of 273 Main Street, Bairnsdale
in the State of Victoria
("Council")

- and -

THE ASSOCIATION

as specified in Item 1 of Schedule A
("the Association")

RECITALS

Council wishes to enter into Agreements with appropriate incorporated associations throughout the Shire that perform functions which have an importance in the Shire in relation to properties owned or controlled by Council.

Council is the registered freehold proprietor of all that land described in Freehold Certificate of Title Vol 1045 Fol 926, containing Crown Allotments A & B, Section 63, Township of Bairnsdale.

Erected on the land is a Memorial and Honour Roll dedicated to the memory of 191 airmen and women who died whilst serving in the Royal Australian Air Force at Bairnsdale and Sale during the Second World War.

Also on such land is erected a helipad available for air ambulance services to the Bairnsdale Regional Hospital and Emergency Services and such helipad was constructed by way of public donations and voluntary labour by members of the Bairnsdale Lions Club. The Helipad area is excluded from this agreement.

Since 14 November 1993, the land has been known as the Beaufort Memorial Gardens and the original Management Committee and subsequent Committees, have worked to improve the area to establish not only a fitting memorial to RAAF personnel who served Australia in war and peace, but also to provide an attractive garden setting for persons visiting the adjoining Hospital and for tourists entering Bairnsdale on the Princes Highway.

- 2 -

Council has resolved to enter into a long-term agreement with the Association to ensure continuous protection of the land as a site for a War Memorial Garden and Path of Remembrance.

AGREEMENT

- 1 The Association will perform certain functions and activities and Council will at its sole discretion, provide assistance to the Association and permit the use of the Property specified in Item 5 of Schedule A.

- 1.1 This Agreement shall be recognized on the Title to the land by way of an instrument registered in the Office of Titles.

PERIOD OF AGREEMENT

- 2 This Agreement will commence on the date specified in Item 3 of Schedule A ("the commencement date") and continue for the period specified in Item 4 of Schedule A ("the period of Agreement"), subject to the terms of this Agreement.

MANAGEMENT

- 3 Council HEREBY AUTHORISES THE ASSOCIATION to use the Property in accordance with the terms and conditions of this Agreement.
- 4 The Occupation commences on the Commencement Date specified in Item 3 of Schedule A.

COVENANTS OR PROMISES BY THE ASSOCIATION

- 5 The Association COVENANTS with Council –

5.1 Use

To use the Property only for the Permitted Use specified in Item 6 of Schedule A;

5.2 Observe Legislation

To observe all legislation and all permits, licences or requirements relating to the Property;

5.3 Not to Cause a Nuisance

Not to use the Property, or allow it to be used, for any illegal or objectionable purposes or do any act or thing which is an annoyance or nuisance to Council or the owners and occupiers of adjoining and neighbouring properties;

5.4 Not to Prejudice Insurance

Not to use the Premise for any purpose that will prejudice the insurance cover for the Property or cause the insurance premiums to increase;

- 3 -

STRUCTURE OF THE ASSOCIATION

- 6.1 The Association acknowledges that it is an Association registered pursuant to the ***Associations Incorporation Act 1981*** and that it will at all times comply with the provisions of that Act and its Regulations;
- 6.2 The objectives of the Association are specified in its Statement of Purposes and are summarized in Item 2 of Schedule A;
- 6.3 If the Association proposes to alter its Statement of Purposes or Rules in any significant manner it will advise Council of these proposed changes.

REPORTING

- 7. Council may request the Association to provide Council any information or documents relative to the Association's performance as is reasonable.
- 8. Council may request an inspection of the Property, the Association's records, facilities, assets or operations as may be reasonable.

PROBITY

- 9. The Association will ensure that its Committee of Management and staff comply with proper standards of probity including not improperly or unfairly obtaining any financial or other advantages from their position or information at their disposal and not misusing such information.

INCOME

- 11. The Association may retain income derived by it from its activities or operation whether from the use of the Property or otherwise.

AUDIT

- 12. The financial affairs of the Association will be fully and independently audited and a copy of the audited accounts provided to Council.

RELATIONSHIP WITH COUNCIL

- 13. The Association will not, and will use its best endeavours to ensure that its staff and subcontractors will not, represent itself or its activities or its staff as belonging to Council.
- 14. The Association acknowledges that Council is not liable or responsible for the activities of the Association or for its debts, liabilities, expenses, losses or deficiencies.
- 15. The Association acknowledges that this Agreement does not constitute a partnership agreement or a guarantee or indemnity of the Association or its activities by Council.

- 4 -

INSURANCE

- 16.1. Council will arrange and pay for public liability insurance for the Property and will indemnify the Association in relation to public liability claims upon the following basis;
- 16.2. The Association must act within the proper scope of its Statement of Purposes and Rules.

INDEMNITY

- 17. To the full extent permissible by law the Association agrees to **INDEMNIFY AND KEEP INDEMNIFIED** and to hold harmless Council from and against all damages, losses, costs, charges, expenses, actions, claims and demands which may be sustained, suffered, recovered or made against Council or for which it may become liable whether during or after this Agreement in respect of or arising from any personal injury or property damage arising on or near the Property or from the activities of the Association in circumstances where the Association its members and/or volunteers are not working for and on behalf of Council.

FURTHER AGREEMENTS

- 18. Council and the Association further agree that:-
 - 18.1. Council may, at any reasonable time, enter the Property to view the state of repair and condition;
 - 18.2. Council will continue to carry out on ground maintenance of the property including regular grass mowing and edge trimming, tree maintenance, and maintenance and repair of facilities and structures and garden bed and footpath maintenance.

ASSOCIATION'S PROPERTY AT ITS RISK

- 19. The Association acknowledges that all its property and equipment on the Property for those users of the Property is there at its own risk and that it must take out such insurances for that property and equipment as it considers necessary.

TERMINATION

- 20. This Agreement may be terminated by Council in its discretion if:-
 - 20.1. A Controller is appointed to any of the property of the Association;
 - 20.2. Any application is made or resolution is passed for the winding up of the Association;
 - 20.3. The Association is insolvent within the meaning of the Corporations Law;
 - 20.4. A meeting of the Association's creditors is called with a view to entering into an arrangement or compromise with creditors;
 - 20.5. The objectives of the Association being changed substantially from those specified in Item 2 of Schedule A;

- 5 -

- 20.6. The structure of the Association being changed substantially without the knowledge of Council;
- 20.7. A substantial and confirmed breach of this Agreement.

DISPUTE RESOLUTION

- 21.1. The parties agree that if a dispute arises between them, they will not institute legal proceedings in any court or tribunal until the procedures specified in this Agreement have been completed;
- 21.2. If a dispute arises, either party may give written notice to the other party of the dispute and provide details of it;
- 21.3. The parties must meet within thirty (30) days of the notice being given;
- 21.4. At the meeting the parties will endeavour to resolve the dispute by negotiation, but if they are unable to resolve the dispute then the parties agree to refer the dispute to mediation in accordance with the terms of this Agreement.

MEDIATION

- 22. Where any dispute between the parties is to be referred to, or the parties agree to refer any dispute to mediation the following provisions apply:
 - 22.1. Either party may, by notice to the other detailing dispute, request the thirty (30) days of the notice then a mediator will be appointed by the President for the time being of the Law Institute of Victoria on the application of either party; appointment of a mediator;
 - 22.2. If the parties cannot agree on the appointment of a mediator within thirty (30) days of the notice then a mediator will be appointed by the President for the time being of the Law Institute of Victoria on the application of either party;
 - 22.3. The mediator's fee and its allocation between the parties will, in default of the agreement between the parties, be determined with the Law Institute of Victoria publication "*Mediation a Guide for Victorian Solicitors*";
 - 22.4. The parties will cooperate with the mediator in the conduct of the mediation.

NOTICES

- 23. Any notices, demands or other communications between the parties for the purposes of the Agreement must be in writing and be addressed to the party at that party's address specified in Item 8 of Schedule A, or any other address which that party may have substituted by written notice to the other.

OCCUPATION AFTER EXPIRY

- 24. If the Association continues to occupy the Property after the expiration of the Agreement Period, the Association shall continue on the terms of this Agreement

- 6 -

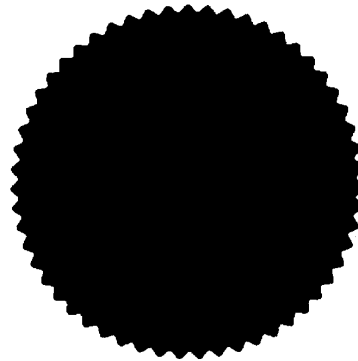
until terminated by either party, which either party may do by giving not less than twenty-one (21) days notice to the other, such notice to be given and expire at any time. The expression "the Period of Agreement" will include any such period of occupation.

- 7 -

IN WITNESS WHEREOF the parties hereto have hereunto set their hands the day and year first hereinafter written.

THE COMMON SEAL of EAST GIPPSLAND)
SHIRE COUNCIL was affixed)
 this 21st day of December 2004)

.....
 Chief Executive
Sandra Heath
 Witness



THE COMMON SEAL of BEAUFORT MEMORIAL
GARDENS COMMITTEE INCORPORATED

was hereunto affixed)
 this 29th day of November 2004)

.....
 President

.....
 Secretary



- 8 -

SCHEDULE A

1. **The Association is:** **Beaufort Memorial Gardens Committee Inc.**
41 Murphy Street, Bairnsdale 3875
Number:A0044934W

2. **Summary of Objectives of Association:** The main purposes for which the Association is established are:-

To provide on going care and management for the Beaufort Memorial Gardens and Path of Remembrance at Bairnsdale.

3. **Commencement Date:** The First day of December 2004

4. **Period of Agreement:** Ongoing.

5. **The Property:** Being all that piece of land together with all structural improvements thereon, being part of the land more particularly described in Freehold Certificate of Title Volume 1045 Folio 926 and being the area of land shown bordered red on the plan on Appendix A herein.

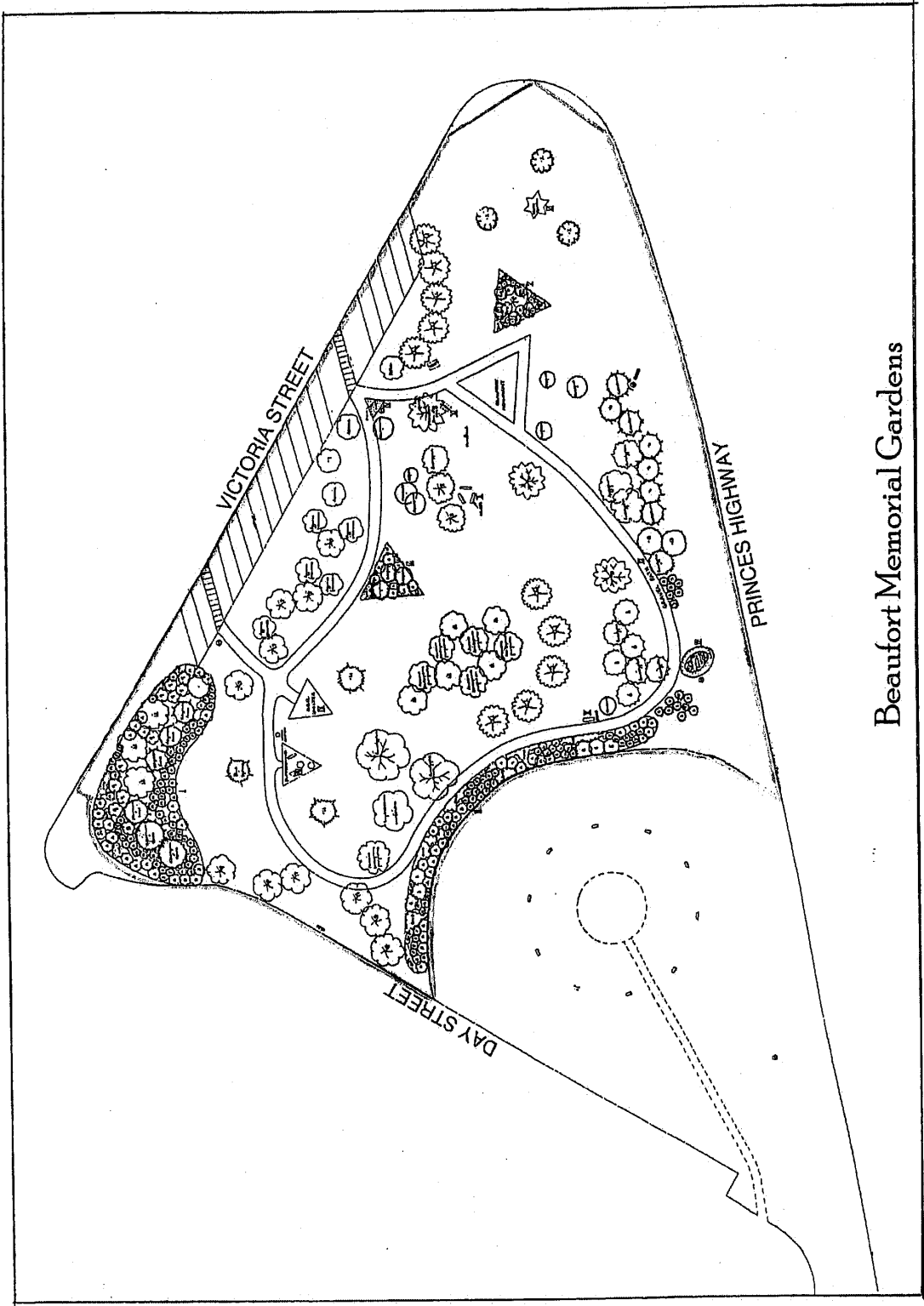
6. **Permitted Use:** Care, Maintenance and Development of the War Memorial Gardens.

7. **Agreement Fee:** One Dollar for the period of the term, if and when requested.

8. **Service of Notices:** Upon Council: The Chief Executive
East Gippsland Shire Council
PO Box 1618
BAIRNSDALE VIC 3875

Upon The Association:
The Secretary,
41 Murphy Street
BAIRNSDALE VIC 3875

APPENDIX A PLAN



Beaufort Memorial Gardens

| | | | | | | |
|-------------------------------|---|----|----|---|---|---|
| 3 | 8 | 15 | 17 | F | C | P |
| | | | | | | |
| 26 MAR 2009 | | | | | | |
| EGSC - Corporate Records Unit | | | | | | |

5.4 Place and Community

5.4.1 Planning Permit Application 171/2021/P 5317 Princes Highway Newmerella - Major Promotion Sign - Amended Plans

Authorised by General Manager Place and Community

Conflict of Interest

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

Executive Summary

The report seeks Council's resolution to affirm the determination to refuse planning permit application 171/2021/P made at the 26 October 2021 Meeting of Council.

This recommendation is in due consideration of an amendment to the permit application required during consideration of preliminary matters at the Victorian Civil and Administrative Tribunal (VCAT) hearing of 22 June 2022.

Officers are required to prepare conditions for discussion at VCAT, in the circumstance that VCAT resolves to grant the Planning Permit. Conditions for discussion are provided at **Attachment 1**.

The application was originally for development of a double-sided externally illuminated major promotion sign at 5317 Princes Highway, Newmerella (links to original Application Documents **Attachment 2**).

Council Officers, in preparation of the submission for the VCAT hearing, noted that an Ausnet Services powerline deviated from the verge through the section of the site proposed to be developed, meaning the sign would be situated in Ausnet's "No Go Zone." A late referral to Ausnet Services was undertaken, who indicated an objection to the grant of the permit **Attachment 3**.

The permit applicant has served the responsible authority with an Application to Amend the Permit Application before VCAT. The position of the sign has been altered, and the external illumination component has been removed. The application documentation to be considered is at **Attachment 4**.

The responsible authority must consider whether the amendment transforms the proposal to an acceptable outcome. The officer recommendation is that the amendment does not substantially change the impact of the proposal on the character of the locality, and therefore recommends that Council confirm its position.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report; and***
- 2. affirms that the amended planning application 171/2021/P is inconsistent with the requirements and objectives of the East Gippsland Planning Scheme and confirms that it does not support the granting of a planning permit for development of a double-sided major promotion sign at 5317 Princes Highway, Newmerella on the following grounds:***
 - a. the proposal is inconsistent with the Planning Policy Framework; specifically, being inconsistent with the rural environment and representing an unacceptable detriment to the amenity of the locality through visual clutter;***
 - b. the proposal is inconsistent with the Municipal Strategic Statement, specifically, representing development that is in stark contrast to the established built form and rural character of the settlement, and further that it disrupts a Scenic Road, as identified in 21.04-2 and Map 3 – Scenic roads;***
 - c. the proposal is inconsistent with the purpose of the Commercial 2 Zone, being that the proposal will affect the amenity of sensitive uses on adjoining land;***
 - d. the proposal is inconsistent with the purpose of Clause 52.05 Signs, through creating visual clutter in an otherwise rural environment and impacting on the current and future character of the area; and***
 - e. the proposal represents visual clutter and proliferation of signage in a rural context which has a detrimental impact on the amenity of local residents and the highway environs.***

Background

26 October 2021 Council Determination

The previous Council determination made on 26 October 2021 was:

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 171/2021/P is inconsistent with the requirements and objectives of the East Gippsland Planning Scheme and therefore resolves to issue a Notice of Refusal for development of a double-sided externally illuminated major promotion sign at 5317 Princes Highway, Newmerella on the following grounds:***
 - a. the proposal is inconsistent with the Planning Policy Framework; specifically, being inconsistent with the rural environment and representing an unacceptable detriment to the amenity of the locality through visual clutter;***
 - b. the proposal is inconsistent with the Municipal Strategic Statement, specifically, representing development that is in stark contrast to the established built form and rural character of the settlement, and further that it disrupts a Scenic Road, as identified in 21.04-2 and Map 3 – Scenic roads;***

- c. the proposal is inconsistent with the purpose of the Commercial 2 Zone, being that the proposal will affect the amenity of sensitive uses on adjoining land;**
- d. the proposal is inconsistent with the purpose of Clause 52.05 Signs, through creating visual clutter in an otherwise rural environment and impacting on the current and future character of the area; and**
- e. the proposal represents visual clutter and proliferation of signage in a rural context which has a detrimental impact on the amenity of local residents and the highway environs.**

Cr Mark Reeves / Cr Trevor Stow

THAT THE RECOMMENDATION BE ADOPTED

CARRIED

The Notice of Refusal was issued on 19 November 2021 to the Applicant, Department of Transport and the eight objectors.

The application for review was made shortly thereafter, with orders establishing the proceedings being sent on 10 December 2021 and corrected on 21 December 2021. These orders established timelines for the sending of notice to objectors, submission of application documents to the Tribunal and set a hearing date for 22 June 2022.

Current Status/Issues

During the preparation of a submission in relation to the hearing, the planning officer noted that the plans submitted for consideration demonstrated a powerline running in the verge at the southern side of the property. The aerial photography and on-site conditions demonstrate that there is a northward deviation of the power lines through the south eastern corner of the property, exactly in the location of the proposed development.

Neither Council officers nor the applicant had previously noticed the error, and as such no issue had been raised, no correction could occur before the hearing. However, Council officers did undertake to send a request for comment to Ausnet Services. Under normal circumstances, Ausnet Services would not comment on applications other than subdivision, and for subdivision and development where a major transmission line is present within a given buffer area – and that only applies to the transmission line which terminates in the Bairnsdale Power Station (Power Station Road Bairnsdale).

Ausnet Services responded in the days leading up to the hearing that, had they been given a copy of the application during the notice period, that they would have objected. Reasonably speaking, this would have caused the applicant to amend the application to move the proposed development away from the implied powerline easement.

VCAT therefore considered the preliminary matter at the commencement of the 22 June 2022 Hearing, and ordered that the application be amended, prior to a Hearing to be held on 23 August 2022.

The Amended Proposal

The application has been formally amended via the relevant VCAT procedure. A statement of changes in comparison to the original submission (**Attachment 2**) has been provided by the applicant, along with a copy of revised plans. The relevant documents are available at **Attachment 4**.

The proposed changes are:

1. Amendment to proposed development from an "Illuminated Major Promotion Sign" to a "Promotion Sign". The advertising face has been reduced by 0.5m in width and height, with a total display area of 17.74 m² (Previously 18.26 m²)
2. The proposed display face is now 8.25m wide by 2.15m high (Previously 8.3m x 2.2m);
3. The height of the proposed sign has been reduced by 0.5m, with a revised overall height of 4.65m (Previously 5.15m)
4. Removal of the Skirting Board below the display face - 850mm high Colorbond sheeting.
5. Removal of illumination from the display face
6. Removal of business identification sign - S1 on plans, promoting Regional Billboard Co
7. Revised location for the sign, a further setback of 13.47m to the eastern boundary and 2.00m from the southern boundary have been provided; and
8. to be 13.97m from the Eastern Boundary - Warrens Road, and 2.00m from the Southern Boundary - Princes Hwy (Previously 0.5m from the eastern boundary, and 0.0m from the southern boundary).

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 2020. 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 permit application has been processed and assessed in accordance with the *Planning and Environment Act 1987*. The ability for the applicant to Amend the application at VCAT is enabled by the VCAT Act 1998, Section 127.

East Gippsland Planning Scheme

Consideration of the Amended Application

In consideration of the amended application, Council officers assess that the changes do not substantially alter the application from what was considered previously. The minor changes to position and scale of the major promotion signs do not overcome concerns about proliferation of signage, visual clutter, and the need to protect the rural character of the locality and significance of the scenic road.

The key component of the proposal to be addressed remains the provisions for Signs, Clause 52.05.

Clause 52.05 Signs

This proposal relates to introducing a second major promotion sign in a rural township area. As such, Council is required by the Planning Scheme to ensure that the predominantly residential and minimal commercial amenity and character of the area is not adversely impacted. This is the most critical matter 'at contest'. Council conferred with VicRoads to ensure that the safe operation of the Princes Highway is not placed at risk by the development of the sign.

The amended proposal removes the element of external illumination from the proposal. The key change for Council is in the proposed conditions which were previously conveyed to VCAT, with the removal of restrictions on illumination and timing of illumination as a part of the proposed condition set.

Decision Guidelines

The relevant decision guidelines indicate that inappropriate development which will have amenity impacts should be discouraged, especially adjacent to transport systems and in rural areas with distinct characteristics. The proposal takes advantage of zoning which has not been realised in the landscape through use and development of the land. The proposed development is not consistent with the prevailing pattern and form of development, represents a detriment to the amenity of surrounding landowners, and as such the proposal should not be supported.

Council Officers would have made the same recommendation to Council had the amended application been considered by Council. Lighting is not the key element of concern in relation to amenity, but it is one way to minimise the ongoing amenity impacts to residents. The larger community amenity concern is the prevention of proliferation of signage. As such, Council officers strongly recommend adopting the officer recommendation and Officers will continue to advocate for the application to be refused at VCAT.

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

The function to represent Council at VCAT is a delegated authority in the Instrument of Delegation, with no condition. The current Planning Permit Applications Delegations Policy is silent on whether an amended application at VCAT should be referred back to Council for consideration. In the absence of certainty, the matter is re-reported for awareness and transparency of decision making.

Options

1. Move the Officer Recommendation; or
2. Move an alternate recommendation with Council's position to be recorded as supporting the amended application. This option is not recommended as officers still consider the proposal to be unacceptable.

Resourcing

Financial

Not applicable

Plant and equipment

Not applicable

Human Resources

The Statutory Planning Coordinator is representing the responsible authority at VCAT.

Risk

The risks of this proposal have been considered and there is relatively low risk based on the officer recommendation, as the process to amend the application has minimal bearing on the final outcomes.

Economic

The permit applicant argues that the proposal would contribute to the local economy by providing major promotion signage of a smaller size than the existing sign in Newmerella, which could be used by local businesses to promote local businesses from passing traffic. Officers question the economic value of the sign.

Social

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.

Officers contend that the proposal would be visually intrusive and would damage the rural/small town character of the settlement. It would be expected that further applications would be made for major promotional signage along the north side of Princes Highway, Newmerella, where the Commercial Zoning is relatively permissive in relation to other rural settlements which have Township or Residential Zoning along the highway, and are more restrictive, as is the Farming Zone along the majority of the rural highway.

The settlement is small, and the number of local residents who have objected is not insignificant.

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

The application was referred to Ausnet Services the week prior to the Hearing when the officer was preparing a final submission. The referral response is provided at **Attachment 3**. The referral response forms the basis for the amendment – moving the proposed development outside of the Ausnet Services “No Go Zone”.

The permit applicant was required to serve a copy of the amended application (**Attachment 4**) back to the objectors and all referral authorities. All parties were given an opportunity to join the proceedings as a party/respondent.

Attachments

1. Conditions for Hearing [5.4.1.1 - 2 pages]
2. Original Planning Application Documents [5.4.1.2 - 1 page]
3. Ausnet Referral Response [5.4.1.3 - 3 pages]
4. Amended Application (PNP E 9) [5.4.1.4 - 10 pages]

P11849/2021

Development of a double sided major promotion sign

WITHOUT PREJUDICE CONDITIONS FOR HEARING 23 August 2022
Submission by the responsible authority

Amended Plans

1. Before the works commence, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the plans submitted with the application/other specified plans but modified to show:
 - a) Proposed crossover with culvert to Warrens Road, reinstatement of current gate to Princes Highway, and new gate and fence to eastern boundary.
 - b) Landscaping in the form of shrubs, bushes, and/or tall grasses which will minimise the visual impact of the pillars when viewed from the north, west, and east, including plantings to the northern and western boundaries.

Endorsed Plans

2. The development must be undertaken in accordance with the endorsed plans and must not otherwise be altered without the prior written consent of the Responsible Authority.

Ongoing obligations

3. The sign must not, to the satisfaction of the responsible authority:
 - a) Dazzle or distract drivers due to its colouring.
 - b) Be able to be mistaken for a traffic signal because it has, for example, red circles, octagons, crosses or triangles.
 - c) Be able to be mistaken as an instruction to drivers.
4. The sign must be located within the property boundary.
5. Access to the sign must be from Warrens Road.

Permit Expiry

6. This permit will expire if any of the following circumstances applies:
 - The development is not completed within two years of the date the permit is issued.
 - After a period of 15 years from the date the permit is issued.

In accordance with section 69 of the Planning and Environment Act 1987, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

7. On expiry of the permit the sign and structures built specifically to support and illuminate it must be removed to the satisfaction of the responsible authority.

NOTES

1. Before undertaking works within a Council road reserve, a non-utility – minor works consent of works within road reserve application must be lodged with the

Roads and Traffic unit of Council and approved. Refer to the Infrastructure Design Manual (IDM) for crossover designs.

Planning Application documents

If you wish to access the relevant documentation, please download from the following weblink:

https://egswazstorage.blob.core.windows.net/pubwebcontent/advertised-planning-permit-applications/1712021P_5317_Princes_Highway_Newmerella.pdf

These files will not be removed until the matter is resolved.

Robert Pringle

From: Subdivisions <Subdivisions@ausnetservices.com.au>
Sent: Wednesday, 15 June 2022 3:45 PM
To: Planning Unit Administration
Cc: Robert Pringle
Subject: FW: URGENT - 171/2021/P - FOR COMMENT - VCAT P18499/2021 - PLANNING REFERRAL TO BUILD A ILLUMINATED SIGN UNDERNEATH HV POWER LINES

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.

Our Ref 75084053

Good afternoon Robert,

Thank you for contacting AusNet

The abovementioned Town Planning Application has been considered in respect of requirements of AusNet Electricity Services Pty Ltd and advises that AusNet Electricity Services Pty Ltd objects to the granting of a permit at this time, as it is in the vicinity of a No Go Zone area does not meet the required statutory clearances from AusNet's assets.

Prior to any works being undertaken, AusNet requests that the applicant contact Extec Services via email at nogozone@extec.com.au, or call (03) 5941 7333, to determine the best position for the illuminated sign and to assist in any No Go Zone requirements.

For more information regarding working safely near our power lines please click on the link below:

<https://www.ausnetservices.com.au/en/Safety/Working-Near-Lines>

Kind regards

Daryl
Customer Connect Consultant-Subdivision

AusNet

Wurundjeri Country
Level 31, 2 Southbank Boulevard
Southbank VIC 3006 Australia

E daryl.kelly@ausnetservices.com.au
W www.ausnetservices.com.au



From: Robert Pringle <RobertP@egipps.vic.gov.au>
Sent: Tuesday, 14 June 2022 1:56 AM

To: Subdivisions <Subdivisions@ausnetservices.com.au>
Cc: Planning Unit Administration <Planning@egipps.vic.gov.au>
Subject: URGENT - 171/2021/P - FOR COMMENT - VCAT P18499/2021
Importance: High

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning,

RE: EGSC 171/2021/P – VCAT P18499/2021 Major Promotion Sign proposal at 5317 Princes Highway Newmerella

With apologies for the urgency of the request, I am in the midst of preparing a VCAT hearing submission in relation to a proposed major promotion sign at 5317 Princes Highway Newmerella. The hearing is scheduled for 22 June 2022 and my submission is due 4pm on Wednesday 16 June.

Not considered in the application documentation nor Council's assessment of the proposal, which resulted in a notice of refusal to grant and is now subject to a S77 Application for Review, is that the proposed major promotion sign of total height 5.15 metres will sit partially below a distribution line running from the highway frontage to the eastern side of Warrens Road. I expect this may raise some concerns for Ausnet Services which would result in either:

- A mandatory re-siting of the proposal outside any implied easement OR
- Conditions regarding construction methodology/NGZ limitations.

Please find a copy of the application documents and plans for your consideration in the following sharepoint folder: https://egipps-my.sharepoint.com/:f/g/personal/robertp_egipps_vic_gov_au/Eh960nw_UBIBIAIFOBUSibIBJJ8bDpKU97L-Y_GdNrZREQ?e=nmLkRA.

Please treat this referral as a Section 52 referral unless you can provide justification for S55 with reference to the *Scheme* requirements.

Kind regards,



Robert Pringle ■ Statutory Planning Coordinator ■ [East Gippsland Shire Council](#)

■ P: 03 5153 9500 ■ F: 03 5153 9576 ■ PO Box 1618, Bairnsdale, Vic 3875

Please consider the environment before printing this e-mail.



East Gippsland Shire Council acknowledges the Gunaikurnai, Monero and the Bidjil people as the Traditional Custodians of the land that encompasses East Gippsland Shire.
We pay our respects to all Aboriginal and Torres Strait Islander people living in East Gippsland, their Elders past and present.

BUSINESS USE ONLY

BUSINESS USE ONLY

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BUSINESS USE ONLY

Robert Pringle

From: James Course <james@gawk.com.au>
Sent: Tuesday, 28 June 2022 10:20 AM
To: Planning Unit Administration
Cc: Robert Pringle
Subject: 171/2021/P - 5317 Princes Hwy, Newmeralla VIC 3886
Attachments: 20220627_CoverLetter.pdf; 20220627_Newmeralla_TPP_Issue03.pdf; PNPE 9 Form A - Notice of an Amendment of an Application.pdf

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.

Good Morning,

Please be advised that the application for a promotion sign at 5317 Princes Highway, Newmeralla VIC 3886 has been amended and VCAT has directed service of the following documents:

- PNPE9 – Form A
- Cover Letter – Inc. Statement of Changes & Supporting Material
- Amended application plans (20220627_Newmeralla_TPP_Issue03)

Should you have any queries in relation to the above matter, please do not hesitate to contact me.

Cheers
James

JAMES COURSE *director*

 0400 096 182  james@gawk.com.au  gawk.com.au

Giving all business' equal access to outdoor advertising
(big + small)

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PNPE 9 FORM A - NOTICE OF AN AMENDMENT OF AN APPLICATION



WHY HAVE I RECEIVED THIS NOTICE AND WHEN IS ANY RESPONSE DUE?

1. There is a VCAT proceeding about a planning permit application or application to amend a planning permit. Information about that application and the proceeding is set out below.

2. VCAT's reference number for the proceeding is:

P11849/2021

The type of proceeding is:

Section 77 of the Planning and Environment Act 1987 - Application to review refusal of permit

3. The applicant wants to amend its application, as described below.

4. You are a person who VCAT requires be given notice the proposed amendment. Information about what you need to do to respond to this notice is set out below.

5. If you want to respond to this notice, VCAT must receive your statement of grounds by the following date:

15/08/2022

ABOUT THE APPLICATION

6. Name of applicant:

Regional Billboard Co Pty Ltd

7. How to contact the applicant:

Email

james@gawk.com.au

Phone

0400 096 182

8. Permit / permit application number:

Regional Billboard Co Pty Ltd

9. Brief description of the proposal:

Double sided, Non-Illuminated, Promotion Sign

10. Name of responsible authority:

East Gippsland Shire Council

DETAILS OF PROPOSED AMENDMENT TO APPLICATION

11. The proposed amendments are to the:

☒ application plans

☒ proposed use, development or other reason for which a permit is required

Other, applicant to specify:

INFORMATION ABOUT THIS VCAT PROCEEDING**12. Date/s of hearing:**

23/08/2022

13. Date of compulsory conference (if any):**14. Date/s of practice day or preliminary hearing (if any):****ATTACH THESE DOCUMENTS**

In accordance with VCAT Practice Note PNPE9 Amendment of Planning Permit Applications and Plans, you must attach the following:

- Cover letter
- Statement of changes
- Amended application / plans
- Supporting material

In addition to the above, please attach any other documents in support of your application.

Attachments

| Title | File Name |
|---|-------------------------------------|
| Amended Plans | 20220627_Newmeralla_TPP_Issue03.pdf |
| Cover Letter, Supporting Evidence & Statement of Changes. | 20220627_CoverLetter.pdf |

Large files

For any file larger than 128MB a sharing link is required.

Please list (by line) the name of each file that is bigger than 128MB followed by the hyperlink.

| |
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| |
|--|

WHAT YOU HAVE TO DO TO RESPOND TO THIS NOTICE**16. If you are already a party to the VCAT proceeding you may:**

- do nothing, and continue to rely on the statement of grounds that you have already filed with the Tribunal;
- amend your statement of grounds by the date in paragraph 5 of this notice;
- object to the request for the amendment to the permit application, explaining the reasons for your objection by the date in paragraph 5 of this notice.

17. If you are not already a party to the VCAT proceeding, you may:

- if you do not want to be involved in the proceeding – do nothing;
- if you want to become a party to the proceeding –
 - lodge a statement of grounds with VCAT by the date in paragraph 5 of this notice using the statement of grounds form available from the VCAT website;
 - tick the box in the statement of grounds form indicating that you intend to appear and present a submission at the hearing;
 - pay the relevant fee; and

Victorian Civil and Administrative Tribunal (VCAT)

55 King Street Melbourne VIC 3000
 1300 01 8228
 GPO Box 5408 Melbourne VIC 3001
 Ausdoc DX 210576 Melbourne

Website www.vcat.vic.gov.au

Phone

Email admin@vcat.vic.gov.au

- iv. give a copy of the statement of grounds to the applicant and the responsible authority by the date in paragraph 5 of this notice.
- (c) if you do not want to become a party to the proceeding, but would like to provide a statement of grounds for the Tribunal's consideration:
 - i. lodge a statement of grounds with VCAT by the date in paragraph 5 of this notice using the statement of grounds form available from the VCAT website;
 - ii. tick the box in the statement of grounds form indicating that you do not intend to appear and present a submission at the hearing;
 - iii. give a copy of the statement of grounds to the applicant and the responsible authority by the date in paragraph 5 of this notice.

Note: If you choose this option (c), you will not be a party to the proceeding. This means that you will not receive any further correspondence from VCAT about the proceeding and will not be able to participate in any compulsory conference or be heard at the hearing.

CONTACTING VCAT

You can lodge your statement of grounds by email, post or in person using the details below.

If you have any questions, you can also contact VCAT using the details below or look at the information on the VCAT website.

Please quote VCAT's reference number in any communication with VCAT and give a copy of any correspondence to all other parties at the same time.

Victorian Civil and Administrative Tribunal (VCAT)

55 King Street Melbourne VIC 3000
1300 01 8228
GPO Box 5408 Melbourne VIC 3001
Ausdoc DX 210576 Melbourne

Website www.vcat.vic.gov.au

Phone

Email admin@vcat.vic.gov.au



June 28, 2022

Robert Pringle
Statutory Planning Coordinator
East Gippsland Shire Council
PO Box 1618,
Bairnsdale, Vic 3875

To Whom it may Concern,

RE: 171/2021/P - 5317 Princes Hwy, Newmeralla VIC 3886

Please be advised that the application for a promotion sign at 5317 Princes Highway, Newmeralla VIC 3886 has been amended and VCAT has directed service of the following documents:

- PNPE9 – Form A
- Statement of Changes
- Supporting Material
- Amended application plans (20220627_Newmeralla_TPP_Issue03)

If you are not a party to the Tribunal proceeding but wish to be, or if they are already a party and want to amend their statement of grounds, they must lodge a completed statement of grounds form with the Tribunal (available on the VCAT website).

Be advised that the Closing date for objectors and referral authorities to lodge statement of grounds with VCAT and serve on applicant and responsible authority is the **15th of August 2022**. Prior to this date a statement of grounds may be lodged with VCAT through their website at: www.vcat.vic.gov.au/respondplanning. The hearing is scheduled for 2:00pm on the 23rd of August, 2022 conducted through their online platform.

You can obtain more information including copies of amended plans and supporting material by reaching out to me on:

- Email: james@gawk.com.au
- Phone: 0400 096 182

Should you have any queries in relation to the above matter, please do not hesitate to contact me.

Yours sincerely,

James Course
Regional Billboard Co.

REGIONAL BILLBOARD CO. (Pty Ltd)

A: 62 John St, Eltham VIC 3095

E: james@regionalbillboardco.com.au

M: 0400 096 182

ABN: 44 623 929 215



Statement of Changes

1. Amendment to proposed development from an “Illuminated Major Promotion Sign” to a “Promotion Sign”. The advertising face has been reduced by 0.5m in width and height, with a total display area of 17.74 m² (Previously 18.26 m²)
2. The proposed display face is now 8.25m wide by 2.15m high (Previously 8.3m x 2.2m)
3. The height of the proposed sign has been reduced by 0.5m, with a revised overall height of 4.65m (Previously 5.15m).
4. Removal of the Skirting Board below the display face – 850mm high colorbond sheeting.
5. Removal of illumination from the display face.
6. Removal of business identification sign – S1 on plans, promoting Regional Billboard Co.
7. Revised location for the sign, a further setback of 13.47m to the eastern boundary and 2.00m from the southern boundary have been provided.
8. to be 13.97m from the Eastern Boundary - Warrens Road, and 2.00m from the Southern Boundary - Princes Hwy (Previously 0.5m from the eastern boundary, and 0.0m from the southern boundary).

Explanation/Justification for changes:

- Ausnet Services objected to the previously proposed location due to its proximity to there assets. The amended location is outside the ‘No Go Zones’ around electricity supply lines.
- The amended size, scale and height have been proposed to reduce the impacts of the sign on its surrounds and adjoining residents.
- The removal of illumination ensures the sign will only be visible during daylight hours, to mitigate any concerns about light spill.
- The adjustment in advertising area, means the stricter policies of Clause 52.05-8 relating to Major Promotion Signs no longer apply.
- The sign is further setback from the adjoining BP sign aids concerns over visual clutter.

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Supporting Material

Clause 52.05-8

The following Decision Guidelines are **no longer relevant** to the proposed development:

The effect of the proposed major promotion sign on:

- *Significant streetscapes, buildings and skylines.*
- *The visual appearance of a significant view corridor, viewline, gateway location or landmark site identified in a framework plan or local policy.*
- *Residential areas and heritage places.*
- *Open space and waterways.*

When determining the effect of a proposed major promotion sign, the following locational principles must be taken into account:

- *Major promotion signs are encouraged in commercial and industrial locations in a manner that complements or enhances the character of the area.*
- *Major promotion signs are discouraged along forest and tourist roads, scenic routes or landscaped sections of freeways.*
- *Major promotion signs are discouraged within open space reserves or corridors and around waterways.*
- *Major promotion signs are discouraged where they will form a dominant visual element from residential areas, within a heritage place or where they will obstruct significant viewlines.*

In areas with a strong built form character, major promotion signs are encouraged only where they are not a dominant element in the streetscape and except for transparent feature signs (such as neon signs), are discouraged from being erected on the roof of a building.

All Policies in relation to **All Signs** are still relevant to this proposal.

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NEWMERALLA - PROPOSED DOUBLE SIDED, NON- ILLUMINATED, PROMOTION SIGN

5317 PRINCES HIGHWAY,
NEWMERALLA, VIC 3886

TOWN PLANNING DRAWINGS

A01 COVER PAGE
A02 SITE PLAN
A03 FLOOR PLAN & ELEVATIONS



PHOTO 01



PHOTO 02



PHOTO 03



PHOTO 04



KEY PLAN
SCALE 1 : 2500

PHOTO LEGEND

| NO. | DESCRIPTION |
|-----|--|
| 01 | PHOTOGRAPHIC VIEW OF THE PROPOSED LOCATION FOR THE SIGN. |
| 02 | PHOTOGRAPHIC VIEW EAST FROM THE PROPOSED LOCATION OF THE SIGN. |
| 03 | PHOTOGRAPHIC VIEW OF THE SUBJECT SITE |
| 04 | PHOTOGRAPHIC VIEW FROM THE WEST TO THE LOCATION FOR THE PROPOSED SIGN. |

ISSUE/AMMENDMENTS SCHEDULE

| | |
|----|-----------------------------------|
| 01 | 23.04.2021 TOWN PLANNING ISSUE |
| 02 | 22.06.2022 VCAT ISSUE |
| 03 | 27.06.2022 VCAT ISSUE |

TOWN PLANNING

NOT FOR CONSTRUCTION



PROJECT
NEWMERALLA - PROPOSED DOUBLE SIDED,
NON-ILLUMINATED, PROMOTION SIGN
ADDRESS
5317 PRINCES HIGHWAY,
NEWMERALLA, VIC 3886

NORTH POINT



DATE
27.06.2022

PROJECT NO.
21-009

DRAWING NO.
A01

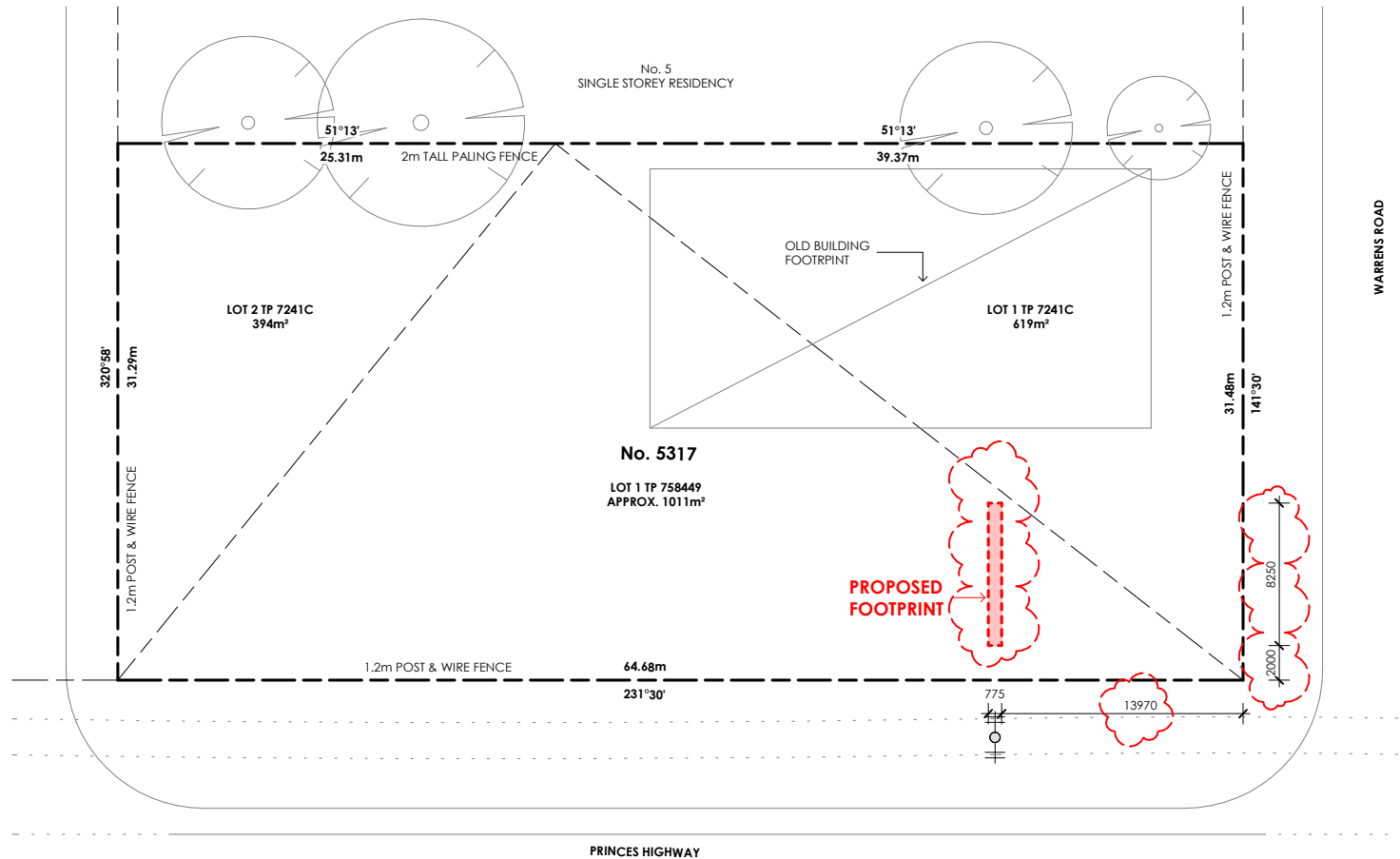
PAGE SIZE
A3

DRAWN BY
JC

ISSUE NO.
D3

REGIONAL BILLBOARD CO.

A 62 John Street, ELTHAM VIC 3095
E james@regionalbillboardco.com.au
M 0400 096 182



SITE PLAN
SCALE 1 : 250

ISSUE/AMMENDMENTS SCHEDULE

| | | |
|----|------------|---------------------|
| 01 | 23.04.2021 | TOWN PLANNING ISSUE |
| 02 | 22.06.2022 | VCAT ISSUE |
| 03 | 27.06.2022 | VCAT ISSUE |

LEGEND

| | |
|--|---|
| | PROPERTY BOUNDARY |
| | EXISTING BUILDINGS ONSITE |
| | PROPOSED MAJOR PROMOTION SIGN FOOTPRINT |

TOWN PLANNING

NOT FOR CONSTRUCTION



PROJECT
NEWMERALLA - PROPOSED DOUBLE SIDED,
NON-ILLUMINATED, PROMOTION SIGN
ADDRESS
5317 PRINCES HIGHWAY,
NEWMERALLA, VIC 3886

NORTH POINT



DATE
27.06.2022

PROJECT NO.
21-009

DRAWING NO.
A02

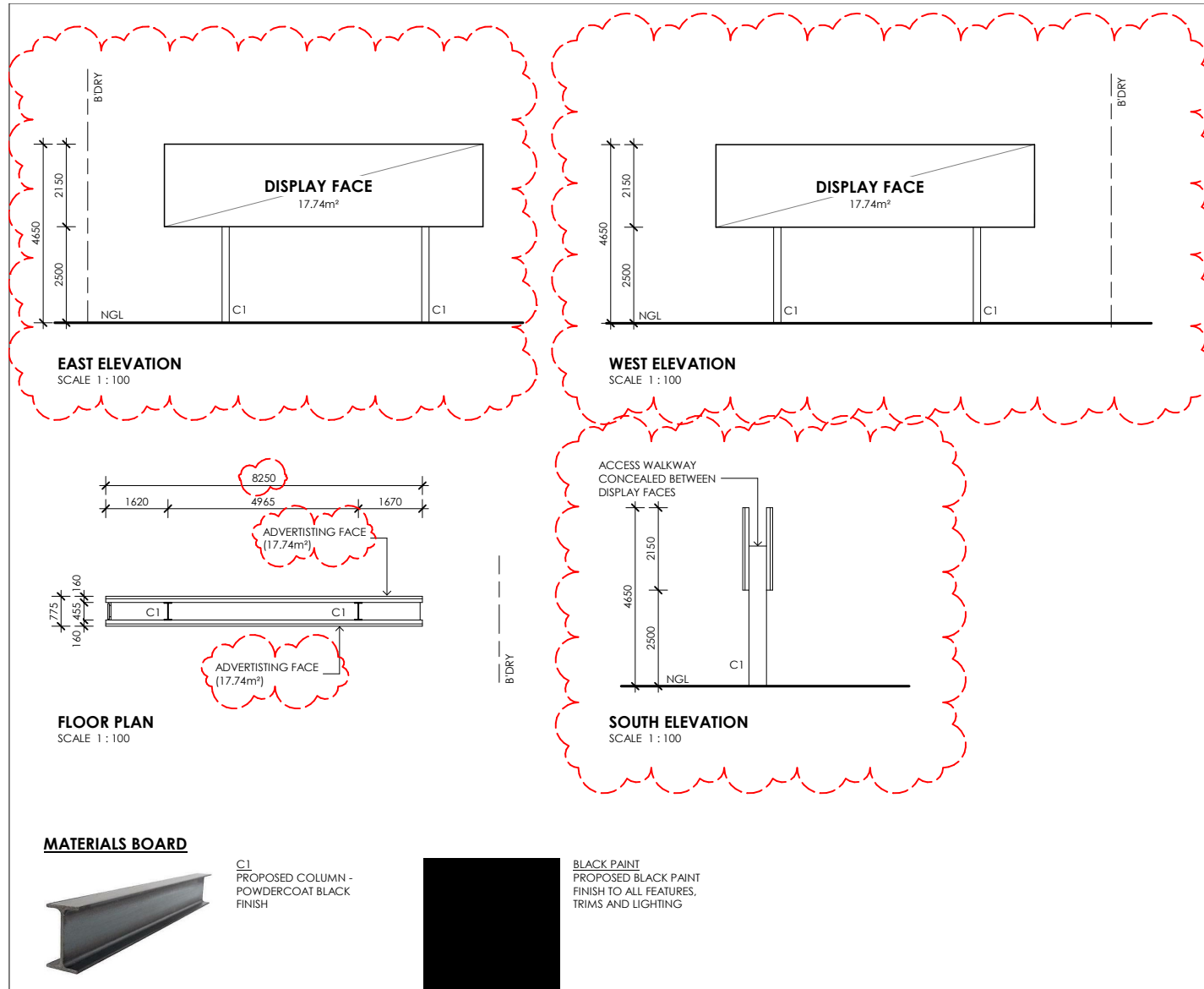
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JC

ISSUE NO.
D3

REGIONAL BILLBOARD CO.

A 62 John Street, ELTHAM VIC 3095
E james@regionalbillboardco.com.au
M 0400 096 182

**ISSUE/AMMENDMENTS SCHEDULE**

- | | | |
|----|------------|---------------------|
| 01 | 23.04.2021 | TOWN PLANNING ISSUE |
| 02 | 22.06.2022 | VCAT ISSUE |
| 03 | 27.06.2022 | VCAT ISSUE |

LEGEND

- | | |
|-----|---|
| C1 | PROPOSED COLUMN - POWDERCOAT BLACK FINISH |
| NGL | NATURAL GROUND LINE |
| S1 | PERMANENT SIGN 1 - REFER TO DETAIL |

TOWN PLANNING

NOT FOR CONSTRUCTION



PROJECT
NEWMERALLA - PROPOSED DOUBLE SIDED,
NON-ILLUMINATED, PROMOTION SIGN

ADDRESS
5317 PRINCES HIGHWAY,
NEWMERALLA, VIC 3886

NORTH POINT

DATE
27.06.2022

PROJECT NO.
21-009

DRAWING NO.
A03

PAGE SIZE
A3

DRAWN BY
JC

ISSUE NO.
D3

REGIONAL BILLBOARD CO.

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- M** 0400 096 182

5.4.2 Position Paper - Native Timber Harvesting in East Gippsland

Authorised by General Manager Place and Community

Conflict of Interest

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

Executive Summary

At the request of Councillors, a draft position paper on native timber harvesting in East Gippsland has been prepared for consideration and adoption by Council.

The draft position paper responds to the decision by the Victorian Government to phase out native timber harvesting by 2030 and the implications for East Gippsland communities and the supply of forest products.

East Gippsland has a rich history of native timber harvesting and our region includes extraordinary forests and other natural resources.

Council's position is summarised as follows:

The East Gippsland Shire Council supports a high quality, low volume native timber harvesting industry where our communities continue to thrive, forests have multiple uses and biodiversity is protected.

While recognising there are a wide range of views in relation to native timber harvesting, Council is concerned about the impact of the Victorian Government's decision to cease native timber harvesting by 2030 on businesses, workers and the communities of East Gippsland.

Council advocates that the practice of clear-fell native timber harvesting be replaced as soon as practical with a new approach to silviculture (utilising thinning and select harvest) that maintains or improves forest health and reduces vulnerability to the impacts of bushfire, while also providing sawlogs for timber processing and supports the use of forest resources by a range of other forest users, including tourism and recreation.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report; and***
- 2. adopts the draft Position Paper – Native Timber Harvesting in East Gippsland as presented at Attachment 1.***

Background

In November 2019, the Victorian Government released the Victorian Forestry Plan which included a commitment to phase out native timber harvesting on public land from 2030, with a step down in harvest quantities from 2024.

The Victorian Forestry Plan has significant implications for East Gippsland, its businesses and its communities. Notwithstanding the investment in the development of Local Development Strategies for the affected communities of Orbost, Nowa Nowa and Swifts Creek, significant impacts on the economies of affected communities will result from this transition.

Notwithstanding the impacts associated with the Victorian Forestry Plan, there are also concerns with the current and historic native timber harvesting practices employed by VicForests, including regeneration of forests following harvesting.

Native timber harvesting also needs to be considered within the broader context of forest management, and in particular for East Gippsland, the management of the forests in the context of climate change for a range of uses and in responses to risks such as bushfire.

Councillors requested officer assistance in drafting a position paper in relation to native timber harvesting to clearly articulate the consolidated view of Council in relation to the future of native timber harvesting, and where relevant, native forest management.

Over the last 12 months Councillors have visited native timber industry businesses, undertaken a tour of native forests and coupes, and invited presentations from a range of stakeholders including forest managers and environment groups.

While it is understood that a range of views are held across the East Gippsland community, the position paper seeks to focus on those matters where there is some consensus amongst Councillors.

The draft position paper is intended to form the basis of continuing advocacy on behalf of the East Gippsland community.

Legislation

As of 1 July 2021, all provisions of the *Local Government Act 2020* 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*.

Native timber harvesting on public land is governed by a complex suite of Victorian and Commonwealth legislation related to land management, resource allocation and management and environment protection.

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 2020*. 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 1: 1.4 Through targeted services, partnerships and advocacy, communities enjoy strong mental and physical health, well-being and resilience;

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

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.

Council Policy

Council has a Timber Encouragement Policy which was approved in 2018.

Options

Council may:

- adopt the attached position paper;
- not adopt the attached position paper; or
- adopt the attached position paper with amendments.

Council may also request Council officers to arrange for further stakeholder engagement before determining a position.

Resourcing

Financial

There are limited direct financial implications associated with the adoption of the position paper.

Plant and equipment

There are no plant and equipment implications associated with adoption of the position paper.

Human Resources

There are limited direct human resource implications associated with the adoption of the position paper.

Risk

The risks of this proposal have been considered in drafting of the position paper. As a position paper the risks directly associated with the adoption of the paper are minimal. However, current Victorian Government plan to cease native timber harvesting by 2030 poses a number of significant risks to East Gippsland communities. Similarly, the status quo (continued harvesting) carries a range of risks.

Economic

The Victorian Forestry Plan and the associated phase out of native timber harvesting by 2030 is expected to have significant economic impacts on communities in East Gippsland. This is one of the drivers for the position paper and for a range of the transition measures outlined in the Victorian Forestry Plan. Notwithstanding the transition measures, additional investment is likely to be required to secure the economic future of East Gippsland communities. The proposals in the position paper reduce the impact of the Victorian Forestry Plan.

Social

Many of the communities of East Gippsland have a rich history associated with native timber harvesting. Further, the phase out of native timber harvesting by 2030 will result in the loss and change of jobs, which in small communities can have a significant impact in terms of employment, population, prosperity, and wellbeing if an effective transition to new employment cannot be managed.

The draft position paper seeks to respond to these risks.

Gender Impact Statement

The Position Paper – Native Timber Harvesting in East Gippsland has considered the Gender Equality Act 2020 in its preparation. The Position Paper – Native Timber Harvesting in East Gippsland has been assessed as not requiring a Gender Impact Assessment (GIA).

Environmental

The impact of native timber harvesting on the environment is identified by the Victorian Government as one of the drivers for the Victorian Forestry Plan. In addition to biodiversity values, forests also play an important role in carbon management and water resources.

Climate change

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

Climate Risk Management: Council's risk management considers climate change issues in decision-making and includes responses to direct and indirect impacts; and

Community Risk: Climate change is considered as a community risk and includes responses to direct and indirect impacts.

Engagement

Councillors and Council officers have engaged with stakeholders in forest management and native timber harvesting and with the broader community in relation to the issues outlined in the position paper. This has included industry representatives, environment groups, local communities, timber harvest managers, foresters and other users of the forests. This engagement has been through information and formal means including site visits and presentations. It is acknowledged that this engagement, while broadly based, has not engaged every stakeholder related to the native timber harvesting issues.

Attachments

1. Native timber harvesting position paper final draft CLEAN [5.4.2.1 - 6 pages]

Draft Position Paper - Native Timber Harvesting in East Gippsland

August 2022

Council's Position

The East Gippsland Shire Council supports a high quality, low volume native timber harvesting industry where our communities continue to thrive, forests have multiple uses and biodiversity is protected.

While recognising there are a wide range of views in relation to native timber harvesting, Council is concerned about the impact of the Victorian Government's decision to cease native timber harvesting by 2030 on businesses, workers and the communities of East Gippsland.

Council advocates that the practice of clear-fell native timber harvesting be replaced as soon as practical with a new approach to silviculture (utilising thinning and select harvest) that maintains or improves forest health and reduces vulnerability to the impacts of bushfire, while also providing sawlogs for timber processing and supports the use of forest resources by a range of other forest users, including tourism and recreation.

Introduction

In response to the announcement of the Victorian Forestry Plan, and the plan to phase out native timber harvesting by the Victorian Government, Council has sought to better understand the issues, impacts and opportunities associated with this industry. While the Victorian Forestry Plan triggered this position paper, the native timber harvesting, and processing industry has been changing for decades.

In 2021 the East Gippsland community developed, and Council adopted the following Community Vision for 2040:

In 2040 our people, place, environment, and economy will be connected, in balance and resilient. Our unique and diverse communities will be accessible, inclusive, well connected and safe. We will value and care for each other and our natural environment. Our economy will support existing and emerging industries by being agile, innovative, and sustainable.

The vision recognises the central place of the natural environment of East Gippsland, our connectedness to it and our reliance on it economically. Balance, connectedness and change are inherent in the Vision.

In particular, the Community Vision includes the following aspiration *Our Environment will be managed and preserved for all generations* and in response Council has adopted a Strategic Objective as part of the Council Plan 2021-2025 as follows: *Strategic Objective 3 - A natural environment that is managed and enhanced.*

Similarly, the Community Vision includes the aspiration *Our Economy will be sustainable, innovative, and supportive of existing and emerging industries*. In response Council adopted the following Strategic Objective: *Strategic Objective 4 A thriving and diverse economy that attracts investment and generates inclusive local employment.*

Role of Council

Council has a broad role and interest in the issues associated with native timber harvesting. The *Local Government Act 2020* s.8(1) sets out that *the role of a Council is to provide good governance in its municipal district for the benefit and wellbeing of the municipal community.*

Section 9 of the Act sets out overarching governance principles and some that are relevant in this context include:

(b) priority is to be given to achieving the best outcomes for the municipal community, including future generations.

(c) the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted

The Act also sets out that while Council has specific functions set out in legislation it also has a broad remit in line with the purpose and governance principles above. In addition to the advocacy role of Council, Council also delivers specific services that are relevant to this issue including:

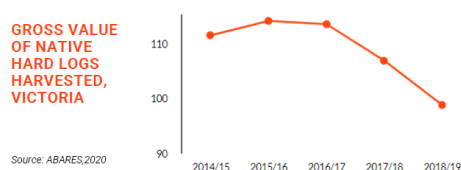
1. Economic development leadership and support
2. Land use planning, including in relation to plantations and for initiatives that may be proposed for employment growth
3. Emergency management
4. Roads and other infrastructure
5. Community services that support wellbeing

The Native Timber Industry in East Gippsland

The native timber industry is an integral part of the history and identity of many East Gippsland communities, and continues to be in a number of communities.

As significant as the industry remains, it was once much larger in East Gippsland – in 2019 the Victorian Commissioner for Environmental Sustainability noted “There has been a gradual decline in total timber annual production from state forests over the past two decades, from 729,000 cubic metre in 1996–97 to 299,740 cubic metre in 2016–17”. This is a 59% decrease.

Recent changes are illustrated below (from ID Profile 2021):



VEAC 2017 Fibre and Wood Supply Assessment also concluded “Sustainable harvest levels have been reduced by more than 50 per cent over the past decade”. The Victorian Government also has a legislated obligation to provide a nominated volume of pulp logs to Australian Paper in Maryvale until 2030.

Native timber harvesting has been important as an employer particularly in remote areas of the Shire, where it is or has been one of the largest sources of employment. This makes some communities more vulnerable to change in the native timber industry, although many have been navigating the slow change for 30 years or more.

In 2022 the Gippsland Forestry Hub reported that forest products harvested from public land native forests regionally were directed as follows: 437,000 cubic metre to hardwood sawmills, 492,000 cubic metre was pulp and 103,000 cubic metre to woodchip mills (export).

Availability of suitable timber for harvesting has been impacted by several landscape scale bushfires since 2000, including the 2019/20 Black Summer fires. Climate change will increase the likelihood and impact of future landscape scale bushfires (Victoria's Climate Science Report 2019). The areas available for harvesting have also been reduced over decades as new information about our natural ecosystems and species has importantly led to areas being allocated for their protection. There is also increasing understanding of the impacts of bush fires, use and management in the supply of water and other ecosystem services.

In 2021 East Gippsland Shire Council and Wellington Shire Council commissioned ID Profile to undertake an economic analysis of the timber industry in the two municipalities and the impact of the ban on native timber harvesting. The analysis in this report was based on the 2018/19 year and the size of the industry in 2020/21 is reduced compared to 2018/19.

The estimated impact for the East Gippsland region if native logging ceased immediately would be substantial. ID (informed decisions) provided additional preliminary advice based on the 2020/21 year indicating a possible loss of 309 direct jobs (forestry and logging, wood product manufacturing and timber wholesale) and loss of \$99.1 M of sales in East Gippsland.

"Forestry and logging" was ranked the 7th sub-industry category (in East Gippsland) by export value and "sawmill product manufacturing" was ranked 10th.

While timber harvesting practice continues to evolve, historical timber harvesting rates and approaches are seen as not sustainable, particularly in the context of climate change (and increasing risk of fire) and demand for increased protection of biodiversity values.

Council's concern

In response to both the long term changes in the native timber industry and the Victorian Government's 2019 Victorian Forestry Plan, Council is concerned:

1. For the prosperity and sustainability of our communities, particularly communities that have been reliant on native timber harvesting and processing for jobs, including Orbost, Swifts Creek, Nowa Nowa, Cann Valley, and Bendoc.
2. For the future of private businesses and investment engaged in the timber industry
3. That without forest contractors (which will not be available as native timber harvesting is phased out) the availability of equipment and experienced forest operators to respond to bushfires will be reduced, meaning that alternate equipment and experience will need to be sourced.
4. That those areas of particular biodiversity, historic or other value that have not been subject to recent intense fires and have not been subject to timber harvesting are protected (including in the period before 2030)
5. That areas that have been harvested are not being adequately regenerated.
6. While public land management and nature based tourism has the potential for significant growth and will be an important part of the future for our region, it will not fully replace the

jobs currently provided by the native timber harvesting and processing. Appropriate work for existing forest workers needs to be identified.

7. That while some jobs in forest management will need to be created to make up for the work currently completed by VicForests (eg track maintenance), in the absence of the private sector this will be entirely dependent on adequate public funding which has been difficult to secure in the past.
8. That East Gippsland communities have not been treated with respect by the Victorian Government not adequately explaining the basis of its decision to phase out native timber harvesting. Not sharing this information so that everyone to better understand the decision makes it hard for community members to move on and engage in planning for the future.
9. That the proposed transition to plantations for sawlog and pulp log supply will not be ready by 2030
10. The Victorian Government has not publicly canvassed and engaged a broad range of stakeholders about options that provide for enhanced environmental outcomes, improved fire resilience and timber production (albeit at a reduced level).

Council's call to action

A vision for a sustainable native forest wood products sector in East Gippsland:

That the Victorian Government adopt a vision for a future native forest logging industry in East Gippsland, based on high value, low volume inputs, almost exclusively sourced from 'Coastal Silver-top ash' regrowth forest, being processed locally to provide quality timber products for further manufacturing.

Provide the information used to make the decision

In fairness to the impacted communities and businesses the information used by the Victorian Government as the basis for the decision to phase out native timber harvest must be released publicly and explained to affected communities. This central to evidence-based, fair and transparent policy making.

A new approach to silviculture

Council advocates that the practice of clear-fell native timber harvesting be replaced with a new approach to silviculture that maintains or improves forest health and reduces vulnerability to the impacts of bushfire, while also providing sawlogs for timber processing and supports the use of forest resources by a range of other forest users, including tourism and recreation. Such an approach would utilize thinning and select harvest.

It is critical that any native timber harvesting, and more generally, forest management, is environmentally sustainable, protects the integrity of ecosystems and the special places and species of our forests, responds to a changing climate and complies with the law.

Harvested timber must be used for the highest value purpose

Council calls on the Victorian government to ensure that notwithstanding any existing supply agreements, that harvested material that is suitable for use as sawlogs is not directed lower value uses such as wood chip or use as pulp.

Inadequate timber resources in the absence of native timber harvesting

Council is concerned by the delay in the establishment of new sources of timber as committed in the Victorian Forestry Plan and recognises that plantation timber supply will not be available in time to replace native harvesting completely by 2030 (refer to analysis of plantation supply by Gippsland Forestry Hub, 2022).

Further both the Black Summer fires and COVID 19 has impacted the adequacy of timber supplies locally and globally, both in terms of available supply, supply chain limitations and local and global demand.

Council calls on the Victorian Government to demonstrate how timber resources will be provided for the local market and local timber producers before and after 2030.

In light of the supply challenges and the demand for hardwood sawlogs for a range of domestic uses, the Victorian Government should review the end date for native timber harvesting, currently set at 2030, subject to a new approach to silviculture being adopted as outlined above.

This would also enable time for the plantations to be established, supporting continued supply to the processors. Council believes there is also an opportunity to enhance the use of thinning, select harvest, and similar practices to both produce more resilience forests and maintain supply.

Future planning for plantations also needs to take into account the priority for use of suitable land for food production, noting there is the potential to integrate food production and fibre production in some circumstances.

Further, Council calls on the Victorian Government to review the current arrangements that see significant quantities of timber and wood chip exported for use overseas, while there are supply constraints locally to identify opportunities to address those constraints with material that is currently exported.

Role of forest contractors and funding required for forest management

Council's recognises the import role forest contractors have and continue to play in the management of Victoria's forest estate. Council calls on the Victorian Government to demonstrate how it will ensure adequate resources, experience and equipment to managed Victoria's forest estate in the absence of native timber harvesting.

A range of activities, including forest road maintenance, are currently funded through the prices paid by the private sector for timber resources. In the absence of this Council notes that there will be a need for a major increase in funding to the Department of Environment, Land, Water and Planning to compensate. Further, the Black Summer fires demonstrated both the critical need for enhanced forest management, particularly in the context of climate change.

Supporting business and community transition

The phase-out of native timber harvesting will have a major impact on those communities in East Gippsland that are dependent on timber harvesting and timber processing for jobs. Council welcomes the commitment to support the transition of impacted communities through the development of Local Development Strategies, however:

- This support should be extended to those communities that have been impacted by the slow decline in the native timber industry in East Gippsland, not just those communities with a

current sawmill that will be impacted by the 2030 cessation of native timber harvesting. This includes communities such as Buchan and Cann River.

- Council notes that the existing statewide funding commitment under the Victorian Forestry Plan is unlikely to be sufficient and calls on the Victorian Government to ensure there is the funding to support both business and community transition, and to create new jobs which are at the heart of prosperous and sustainable regional communities.

References

1. Victorian Forestry Plan, Victorian Government, 2019
2. East Gippsland Community Vision
3. Victorian Commissioner for Environmental Sustainability, 2019 "Victorian Governments action for long-term sustainability of Victoria's native timber forests"
4. VEAC 2017 Fibre and Wood Supply Assessment
5. "Economic analysis of the Timber Industry, Specialised industry sector analysis for the Wellington and East Gippsland regions" ID Profile, 2021
6. [Victorias-Climate-Science-Report-2019.pdf \(climatechange.vic.gov.au\)](#), [Vic Climate Projections 2019 Regional Report - Gippsland_20200219.pdf \(climatechangeinaustralia.gov.au\)](#)
7. Gippsland Forestry Hub (2022) Investing in Gippsland's Sustainable Forestry Future
8. VicForests Annual Report 2021

6 Urgent and Other Business

7 Confidential Business

Council will close the meeting to the public in accordance with the provision of section 66(2) of the *Local Government Act 2020* to consider the following list of items:

7.1 Sustainability Initiative

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 private commercial information, being information provided by a business, commercial or financial undertaking that relates to trade secrets.

7.2 Contract variation CON2019 1353 Lakes Entrance Landfill Capping

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 private commercial information, which if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.

8 Close of Meeting