



Council Meeting Agenda

Tuesday 14 September 2021 at 6:00 PM
Council Chambers (and by video conferencing)
East Gippsland Shire Council Corporate Centre
273 Main Street, Bairnsdale 3875



Acknowledgement to country

East Gippsland Shire Council acknowledges the Gunaikurnai, Monero and the 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.

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

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

Photo supplied by Destination Gippsland

Councillors

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

Executive Leadership Team

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

Purpose of Council meetings

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

Governance Rules

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

Councillors pledge

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

Vision

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

Our Strategic Objectives

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

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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.

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1.2 Apologies

1.3 Declaration of Conflict of Interest

1.4 Confirmation of minutes

That the minutes of the Council Meeting held Tuesday 24 August 2021 be confirmed.

1.5 Next meeting

The next Council Meeting of Tuesday 5 October 2021 to be held at the Corporate Centre, 273 Main Street Bairnsdale commencing at 6.00pm.

1.6 Requests for leave of absence

1.7 Open Forum

1.7.1 *Petitions*

1.7.2 *Questions of Council*

1.7.3 *Public Submissions*

2 Notices of Motion

3 Deferred Business

3.1 156/2021/P - 100 Kings Cove Boulevard, Metung

Authorised by General Manager Place and Community

Conflict of Interest

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

Executive Summary

Planning permit application 156/2021/P (**Attachments 1, 2 & 3**) was lodged in March 2021. The application seeks to subdivide the land at 100 Kings Cove Boulevard, Metung into twelve (12) lots. The lot sizes proposed vary from 2000 to 6000 square metres. Lots 1, 4, 5, 8, 9 and 12 will front onto Kings Cove Boulevard, with Lots 2, 3, 6, 7, 10 and 11 to be situated behind those that front the road. These lots will be in a 'battle-axe' form, with 6m accessways to be provided to the lots furthest from the road.

Notice was undertaken in accordance with Section 52 of the *Planning and Environment Act* 1987. No objections were received. The application has been referred to relevant statutory authorities, with responses explained in the report and provided at **Attachment 5**.

The land is situated within the Kings Cove residential estate. The land is zoned Low Density Residential Zone, which recommends that lots be at least 4000 square metres where reticulated sewerage is not connected, and 2000 square metres where lots are connected to reticulated sewerage, which the property under assessment has access to.

A Report was presented to Council on 24 August 2021 (Item 5.3.1) with an Officer Recommendation for Refusal to Grant a Permit. The Council resolution was that the motion was defeated, and an alternative motion passed for Deferral of the matter for resolution at the next Ordinary Council meeting scheduled for 14 September 2021.

In further discussions, the proponent has put forward an alternative arrangement for provision of fire services to the proposed allotments, which does not accord with the CFA correspondence pertaining to the matter but is deemed to be satisfactory on further clarification with all parties.

As a result of the additional information provided and proposed changes to the subdivision layout, officers are satisfied that the provision of fire services utilising the provision of static water tanks is a reasonable alternative solution to the servicing of the land.

However, due to Officer's continuing concerns regarding the impact of the subdivision on the prevailing neighbourhood character and inconsistencies with the planning policy framework, refusal of the application is recommended for grounds outlined in the recommendation to Council. The recommendation is consistent with response provided early in the processing of the application to the permit applicant (**Attachment 4**).

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report; and**
- 2. being the Responsible Authority and having considered all the relevant planning matters, determines that planning application 156/2021/P at 100 Kings Cove Boulevard, Metung for a twelve lot subdivision is inconsistent with the requirements and objectives of the East Gippsland Planning Scheme and therefore resolves to issue a Notice of Refusal to Grant a Planning Permit in accordance with the following grounds of refusal:**
 - a. the proposed subdivision is inconsistent with the Incorporated Plan Overlay Schedule 1 – Storth Ryes Incorporated Plan C0002 June 2000;**
 - b. the proposed subdivision is inconsistent with the prevailing neighbourhood character for low density residential zone area of this estate;**
 - c. the proposed subdivision is inconsistent with the planning policy framework relating to neighbourhood character at clause 15.01-5S; and**
 - d. the proposed subdivision is inconsistent with the local planning policy framework at clause 21.12-2, Metung Strategy Plan, particularly in relation to landscape and environmental values and character of the area.**

Background

The Land

The site under assessment sits within the Kings Cove estate. In relation to landmarks in the area, it is adjacent to the golf course in the north, and is a short distance to the proposed Metung Hot Springs (73 Storth Ryes Avenue).

The land, shown in **Figure 1**, is located along Kings Cove Boulevard, which is the major thoroughfare within the estate. As previously mentioned, the adjacent lot to the north is currently part of the golf course. To the east is a carpark and reserve with access to development owned by Kings Cove Club Pty Ltd. On the other side of the road, there are four lots which are between 4000 to 5000sqm each in size. Three of the four lots are developed with single dwellings. To the west is undeveloped land, which is to be the site of further residential development and the inclusion of a new road coming from the roundabout at the intersection of Kings Cove Boulevard and Storth Ryes Avenue. This development is subject to the Resort/Motel and Convention Centre Incorporated Plan (May 1999) and requires final sign-off by the responsible authority before the subdivision progresses.



Figure 1 – The site in neighbourhood context (Source: Intramaps)

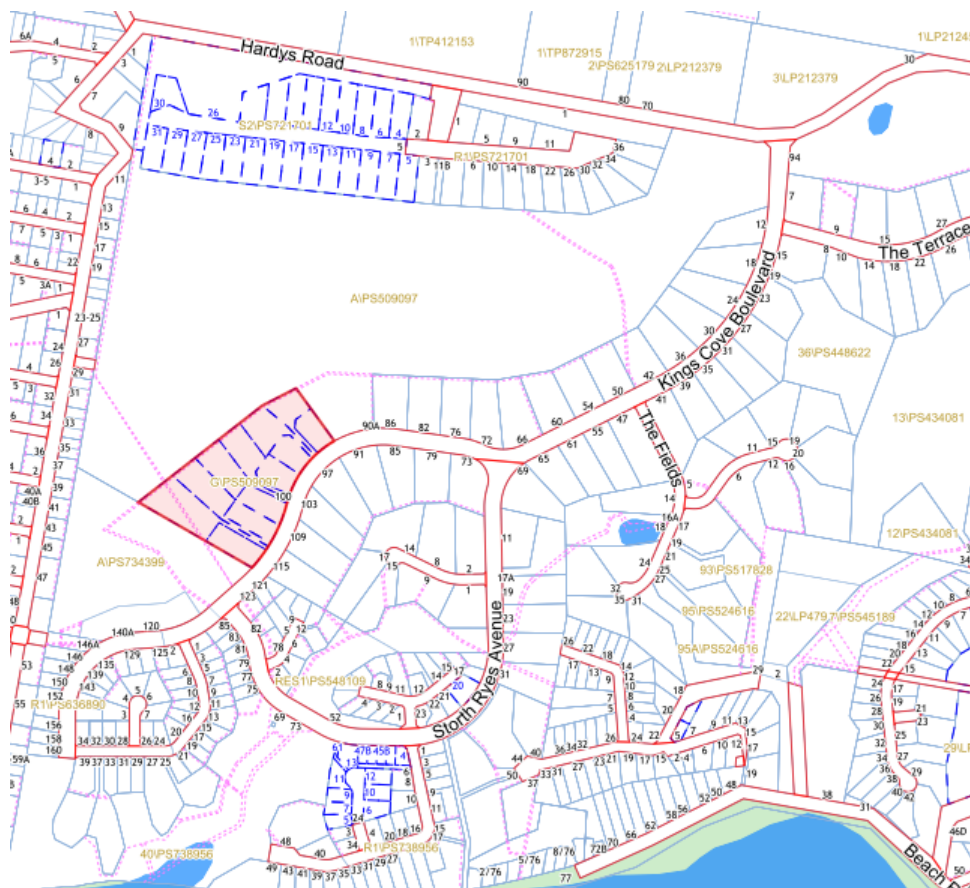
The land is 46,034 square metres (4.6 hectares) and is roughly rectangular in shape. Two existing sewerage easements are located on the site, with sewerage easement 'E-2' (as named in the plan of subdivision for the site) running across the north-western corner of the site and sewerage easement 'E-6' running across the rear of the site. The site only contains a single outbuilding as well as an estimated 50 to 100 trees of mature size and canopy as shown at **Figure 2**. There is currently only a single gravel crossover, located where proposed lot 9 is shown in **Figure 5**.



Figure 2 – Photo taken on site from the far south west corner near the road reserve. (Source: Officer)

The land is encumbered by two Section 173 Legal Agreements, which are subject to current processes led by council (see *Current Issues/Status* section of this report).

The Neighbourhood Context



The Kings Cove estate is a carefully planned and managed area. The lots mapped under the Storth Ryes Incorporated Plan allow for previously planted vegetation to be maintained with ample room on lots to support low density residential development and associated outbuildings. The legal agreements found on lots across the area have been created to guide an ideal pattern of development and design of homes as can be seen throughout the estate.

The lot sizes within the estate can be broadly categorised under those which are in accordance with the Storth Ryes Incorporated Plan, and those which are not.

The former can be found primarily along Kings Cove Boulevard, The Terrace and partially down Storth Ryes Avenue. These can be considered as demonstrating the desired lot structure in the Storth Ryes Incorporated Plan (C002) as shown in **Figure 4**.

A separate and distinct Incorporated Plan operates to the south and west of the subject land. This Incorporated Plan (*Resort Hotel/Motel and Convention Facility Development, May 1999*) provides for the subdivision, use and development of the land for such things as a licenced resort hotel/motel, flats, townhouses, attached houses and the subdivision of the land including Bearham Chase, Plateau, parts of Kings Cove Boulevard and Storth Ryes Avenue, and associated courts that have progressed over the last decade at a density similar to General Residential zoning.

The Proposal

The subject Application seeks approval for a multi-lot subdivision which entails twelve lots ranging from 2000 to 6000 square metres (as shown on **Attachment 2**).

Each of the proposed lots exceeds the minimum subdivision size for lots specified for the Low-Density Residential Zone, given each lot can be connected to reticulated sewerage. In considering the number of lots as well as the connection to existing infrastructure, the proposal could be considered as being 'infill' development relative to the larger lots in the Kings Cove area.

Lots 1, 4, 5, 8, 9 and 12 will have frontage to Kings Cove Boulevard and will be provided with vehicle access as well as the installation of new crossovers to the satisfaction of the responsible authority. The remainder of the lots will be in 'battle-axe' form, with access to the lots behind those fronting the road being provided with 6m being provided for access down the 'handle' of the lots (see **Figure 5 and Attachment 2**).

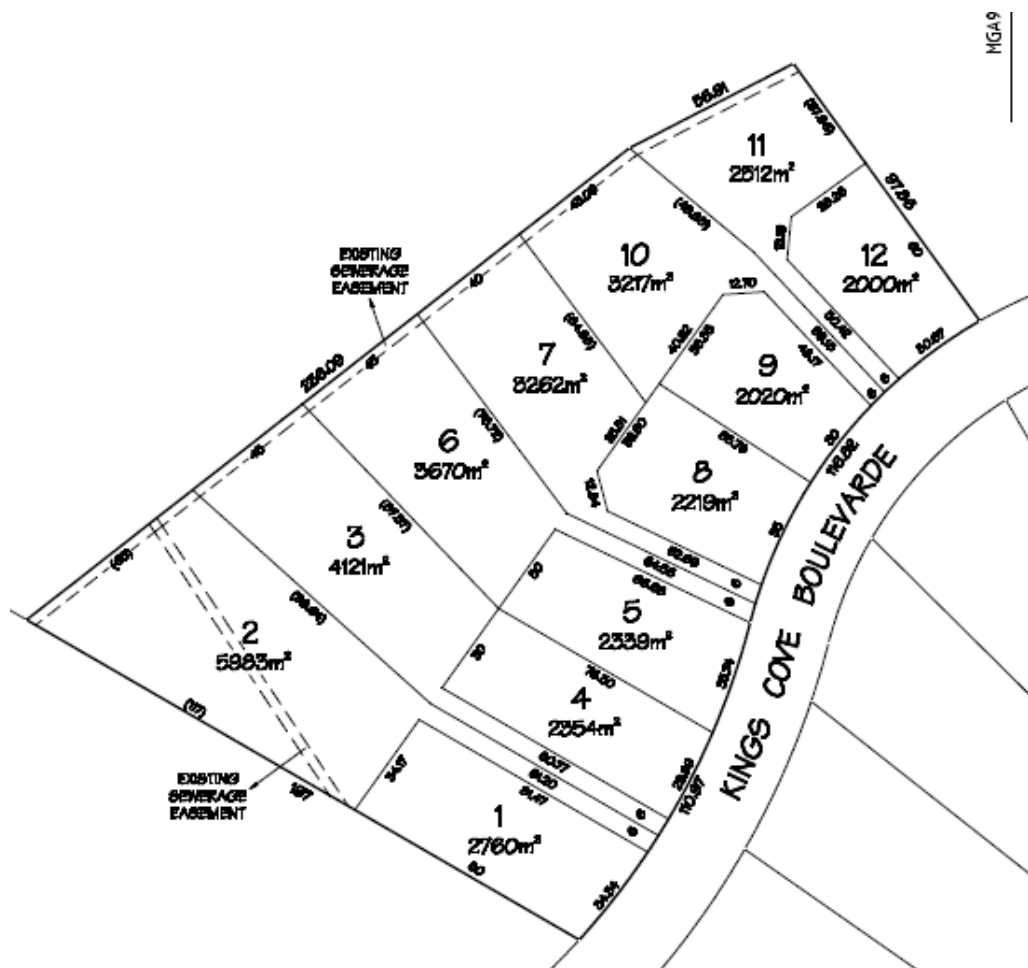


Figure 5 – Proposed Plan of Subdivision (Source: Crowther & Sadler, Version 2, Drawn 12/11/2020)

Application Process

The application (**Attachments 1, 2, & 3**) was submitted to Council in March 2021.

A site inspection by Officers was undertaken on 22 of April 2021.

A response to the application was sent to the applicant in the form of a concerns letter on 7 May 2021 (**Attachment 4**). In summary, the key points were as follows:

- The proposed subdivision is not consistent with the subdivision layout as shown in the Incorporated Plans for the Storth Ryes Estate.
- The proposal is inconsistent with the neighbourhood character of the Low Density Residential Zone/Kings Cove Boulevard Precinct.
- Officers did not share the applicants view regarding the proposed departure from neighbourhood character.

Notice was undertaken in accordance with Section 52 of the *Planning and Environment Act 1987*, with letters sent to adjoining owners as well as signs at both corners of the property adjoining Kings Cove Boulevard. No objections were received.

The applicant has carried out the notice to the satisfaction of the responsible authority and carried out a statutory declaration advising that the last day of the notice period was 14 May 2021.

Referrals were sent to:

- Ausnet Services under clause 66.01
- East Gippsland Water under clause 66.01
- APA Group under clause 66.01
- CFA under Section 52 of the *Planning and Environment Act 1987*.
- Council's Senior Technical Officers for internal comment.

Referral authority responses are provided at **Attachment 5**.

- Conditional consent was given by East Gippsland Water and Ausnet Services. Standard conditions apply.
- CFA requested further information regarding the fire hydrant requirements for the proposal. Officers have requested that the applicant provide a response to this further information request before a determination is made, however this does not alter the officer recommendation.
- APA did not respond to the referral task within the statutory timeframe. This is not unusual for an area which does not have reticulated gas supply.
- Councils Senior Technical Officers advised that as there is no drainage outfall or waterway immediately available to this proposed subdivision, a concept drainage Management Plan must be provided before a determination is made.

Current Status/Issues

The estate is undergoing a significant transition with respect to Section 173 Legal Agreements (Agreements) registered across the estate, including introducing consistent and standard amended Agreements through a Council-led process.

There are no restrictive covenants on the land, as is typical for other lots in the estate. Two Agreements applied to the subject land at the time the permit was lodged:

1. Agreement AB573238L, which has been ended and removed from title since the application was lodged.
2. Agreement AC166290V, which is in the final process to be amended, with the effect of the amendment due within the coming weeks following final lodgment of the amendment paperwork with Land Use Victoria.

These Agreements were registered in relation to the subdivision of the land and implemented design controls as desired by the developer of the estate and are not considered as typical restrictions that would have been required by the responsible authority. The guidelines attached to the Agreements on the titles set out:

- Building envelopes and single dwelling construction guidelines
- Soil and water management plans
- Landscaping and fencing controls.

A specific control and requirement enforced through covenants entered into at the transfer of land was that the developer (Kings Cove Metung Architectural Review Committee) must review and approve the proposed development plans prior to commencement of construction. In most cases, the developments would meet planning permit exemptions as a result of the zoning and title controls combined. As explored through the process of ending and amending the Agreements in 2020/2021, Kings Cove Metung became insolvent, and once the liquidators had completed all activities, the entity ceased to exist and the restrictions on title could not be met.

The intent of the process to amend the Agreements (as carried out by Council in the past 8 months) is to maintain the existing neighbourhood character which is influenced by pattern of development, design of homes, retention of existing planted vegetation, separation between dwellings, and presentation to the streetscape. This resulted in Council carrying forward the fencing requirements, general amenity considerations, size of dwellings, building envelopes through the Amended Agreement.

It is noted that feedback on the proposed Amendments to the Agreements from the community reinforced the desire for the estate to maintain its character and that the responsible authority should continue to preserve the character through the prevention of further subdivision. This was also clear in relation to permit application 61/2020/P for a two lot subdivision at 9 The Billabong, Metung (May 4 2021, Item 5.2.2), which saw 42 objections and the endorsement of a recommendation to refuse that application on similar grounds to those proposed therein by Council.

Legislation

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

The processing of the planning permit application is undertaken in accordance with the provisions of the *Planning and Environment Act 1987*.

The proposal is made pursuant to the East Gippsland Planning Scheme:

Zone: Low Density Residential Zone (LDRZ)
Overlays: Erosion Management Overlay (EMO); Vegetation Protection Overlay Schedule 3 (VPO3); Incorporated Plan Overlay Schedule 1 (IPO1)

Planning Permit Triggers:

- Clause 32.03-3 for subdivision in accordance with the LDRZ;
- Clause 44.01-5; for subdivision in accordance with the EMO; and
- There is no trigger for the proposal pursuant to the:
 - o IPO1 – The schedule provides that “Except with the grant of a permit, the use, subdivision and development of the land must be generally in accordance with the Incorporated Plan”.
 - o VPO3 - no vegetation removal required for the subdivision and no trigger for subdivision in the overlay.

Assessment of the Proposal against the East Gippsland Planning Scheme

State and Local Policy

The proposed subdivision appropriately responds to the majority of State and Local Planning Policy. The proposal is to provide for additional housing in well serviced townsites areas. Where the proposal is considered to fail is in relation to the character of the neighbourhood.

15.01-5S Neighbourhood character

Objective

To recognise, support and protect neighbourhood character, cultural identity, and sense of place.

Strategies

Support development that respects the existing neighbourhood character or contributes to a preferred neighbourhood character.

Ensure the preferred neighbourhood character is consistent with medium and higher density housing outcomes in areas identified for increased housing.

Ensure development responds to its context and reinforces a sense of place and the valued features and characteristics of the local environment and place by respecting the:

- *Pattern of local urban structure and subdivision.*
- *Underlying natural landscape character and significant vegetation.*
- *Neighbourhood character values and built form that reflect community identity*

It is considered that the proposal is highly inconsistent with the prevailing neighbourhood character when considering the relevant controls applicable to the land. It is important to distinguish between this land and land to the south which is subject to a different set of controls, and therefore, has a contrasting neighbourhood character. The character area assessed is limited to Storth Ryes Avenue, Kings Cove Blvd, and Golf Course Precinct, and does not include an assessment related to the North Course area to the North-West, which is clearly distinguished by the golf course in-between.

The proposed design, specifically battle-axe configuration of half of the lots, is therefore not consistent with the development pattern and intensity along Kings Cove Boulevard.

Vision

Metung will be a key destination for visitors to the Gippsland Lakes system and a significant boating hub.

It will continue to have a strong residential community. Preservation of environmental and landscape values will be a key priority.

It will have an attractive village centre that promotes community interaction, with extensive pathways linking the village centre to other attractions. The village will be contained and meet the day to day needs of residents and visitors, but there will remain a reliance on external sources for higher order goods and services.

The buildings in Metung will remain modest in scale – generally two to three levels. Materials and colours will complement the natural environment.

Objectives

- *To retain the landscape setting, environmental qualities and lifestyle that contribute to the 'village' character of Metung.*
- *To ensure that development does not adversely affect landscape and environmental values.*
- *To support Metung's boating centre role and improve water access.*
- *To create a cohesive and attractive village centre.*
- *To improve pedestrian circulation and safety.*

Strategies

- *Ensure that the development of Metung occurs generally in accordance with the Metung Strategy Plan.*
- *Limit urban development to areas south of Metung – Nungurner Road and Hardys Road.*
- *Retain the north-east area of Metung as low density residential development, reflecting the physical constraints and existing character of the area.*
- *Ensure new development does not adversely affect landscape and environmental values and incorporates measures to protect those values including by protecting visually and environmentally significant native vegetation, the vegetated escarpment of Lake King and vegetated wildlife corridors; protecting wetlands; provision for on-site storm water management and erosion protection; minimisation of building footprints; and encouraging additional planting of indigenous plant species.*
- *Contain commercial development to suitably zoned areas or approved sites.*
- *Provide better visual connections to the water and increase water edge activities.*
- *Limit building height to retain the human and village scale of the area.*
- *Provide additional parking opportunities on the fringe of the village centre.*
- *Ensure consistent signage that communicates an appropriate village theme.*
- *Improve pedestrian connections along both sides of the peninsula, providing waterfront links between the village centre and the rest of Metung.*
- *Ensure that development adjoining the Village Green and Patterson Park preserves the village atmosphere.*
- *If the resort proposal on the Storth Ryes site between Metung and Tambo Bluff does not go ahead, encourage the progressive development of this site for low density residential uses, subject to the preparation of an Incorporated Plan.*
- *Ensure that land use and development adjoining Metung Road, Nungurner Road and Kalimna West Road do not detract from the scenic landscape values of the road corridors and the views from them.*

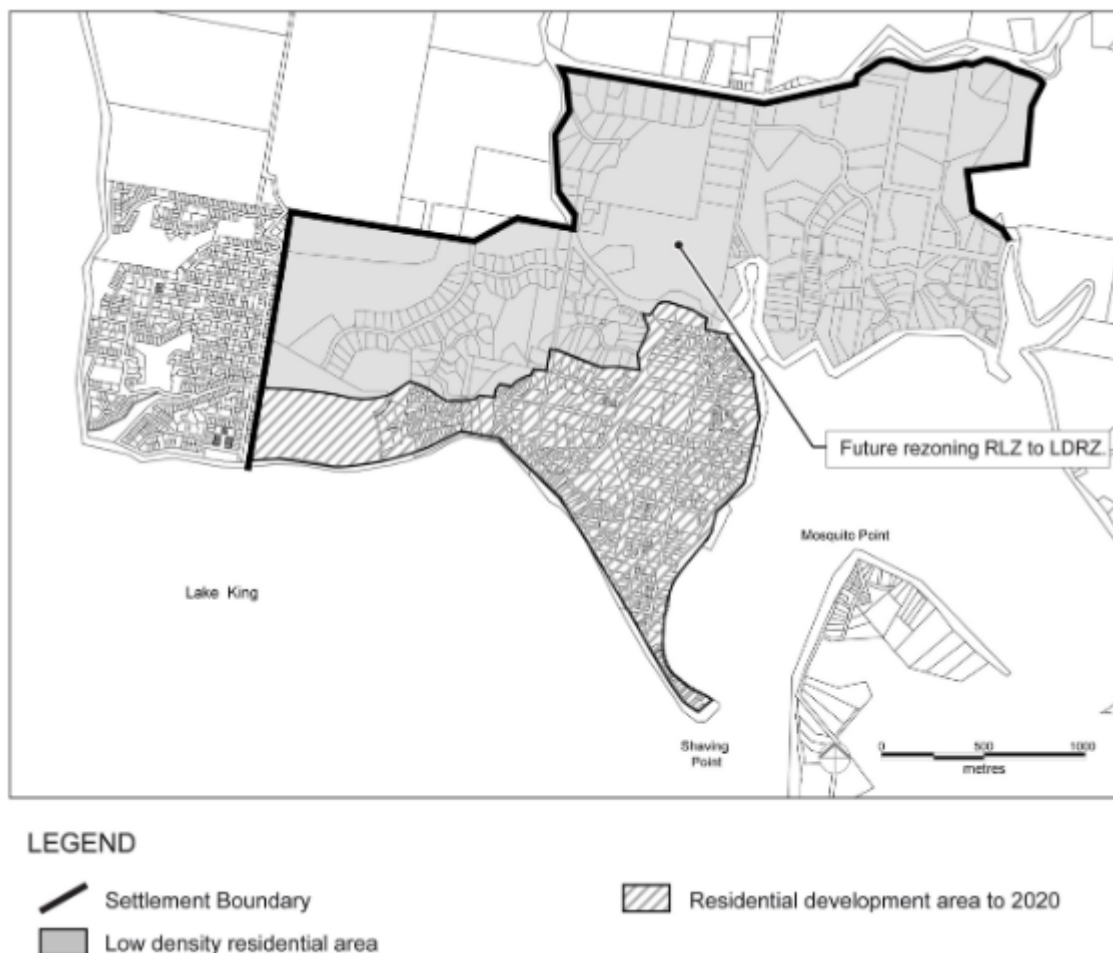


Figure 6 – Metung Strategy Plan (Source: East Gippsland Planning Scheme)

In considering the proposal's location in Metung, the land is clearly within the Low Density Residential Zone precinct for development, and meets the majority of the strategies towards the objectives of the settlement. Officers contend that the proposal is a poor response to landscape and environmental values designated in this area. Despite the vegetation on the site being planted, much of the vegetation could be retained with fewer lots being developed on the site. The guidelines which were established for the development will arguably not have the same impact to ensure landscaping consistent with the remaining estate. The loss of these trees cannot be immediately made up by new plantings on private property, and therefore their removal must be limited by refusing to grant the permit.

Zones and Overlays

Pursuant to the Low Density Residential Zone, the application is compliant and can be supported in relation to lot size for sewered areas. The relevant decision guidelines for subdivision focus on these aspects, but also requires consideration of:

The protection and enhancement of the natural environment and character of the area including the retention of vegetation and faunal habitat and the need to plant vegetation along waterways, gullies, ridgelines and property boundaries.

There is not a specific neighbourhood character assessment required as in other residential zones.

Pursuant to the Erosion Management Overlay, a Geotechnical Risk Assessment has been provided which demonstrates that the land can be subdivided and developed with a single dwelling on each lot with no increased erosion risk.

It is identified and agreed upon that the vegetation present on the land is planted and is therefore exempt from planning permission for native vegetation removal under Clause 52.17 of the Scheme. No request is made in relation to this application to have vegetation removed pursuant to the Vegetation Protection Overlay, however the future development of dwellings may first require vegetation removal permits, where officers would consider the avoid and minimise principle in advice to purchasers.

The Incorporated Plan Overlay, including Schedule 1 of that overlay, notes:

Purpose

To identify areas which require:

- *The form and conditions of future use and development to be shown on an incorporated plan before a permit can be granted to use or develop the land.*
- *A planning scheme amendment before the incorporated plan can be changed.*

To exempt an application from notice and review if it is generally in accordance with an incorporated plan.

Requirement before a permit is granted

A permit must not be granted to use or subdivide land, construct a building or construct or carry out works until an incorporated plan has been incorporated into this scheme.

This does not apply if a schedule to this overlay specifically states that a permit may be granted before an incorporated plan has been incorporated into this scheme.

A permit granted must:

- *Be generally in accordance with the incorporated plan, unless a schedule to this overlay specifies otherwise.*

Exemption from notice and review

An application under any provision of this planning scheme which is generally in accordance with the incorporated plan is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act.

Decision guidelines

Before deciding on an application under any provision of this scheme which is not generally in accordance with the incorporated plan, in addition to the decision guidelines in Clause 65, the responsible authority must consider:

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The incorporated plan.*

Preparation of the incorporated plan

The incorporated plan may consist of plans or other documents and may, with the agreement of the planning authority, be prepared and implemented in stages.

The incorporated plan must describe:

- *The land to which the plan applies.*
- *The proposed use and development of each part of the land.*
- *Any other requirements specified for the plan in a schedule to this overlay.*

SCHEDULE 1 TO CLAUSE 43.03 INCORPORATED PLAN OVERLAY STORTH RYES, METUNG

Requirement before a permit is granted

A permit must not be granted to use or subdivide the land, construct a building or construct or carry out works until an incorporated plan has been incorporated into this Scheme. This does not apply to a use, subdivision, development or buildings and works if they are in accordance with the specific site controls set out in the Schedule to Clause 51.01 of this Scheme.

Except with the grant of a permit, the use, subdivision and development of the land must be generally in accordance with the Incorporated Plan.

Preparation of the incorporated plan

The purpose of the Incorporated Plan Overlay control is to regulate the future use, subdivision and development of the land pursuant to the provisions of the Low Density Residential Zone until an incorporated plan has been incorporated into this Scheme. The incorporated plan must contain the following information to the satisfaction of the responsible authority:

- Details of all existing significant physical features of the land including topography, vegetation, viewpoints*
- The general subdivisional layout for the land*
- The position and width of existing and proposed major access roads*
- The staging of subdivisional works within particular development areas or stages*
- Building envelopes*
- Areas of proposed landscaping*
- The nature of utility services (including waste disposal arrangements)*
- Any other matter which is considered appropriate by the responsible authority to satisfy the requirements of this Scheme*

The entirety of the Incorporated Plan is outlined at **Figure 4**. Quite obviously, the requirements of the Incorporated Plan Overlay and Schedule have been amended since the preparation of C002, as little of the detail now required is demonstrated in this incorporated plan.

As demonstrated in **Figure 4** and more closely in **Figure 7**, the incorporated plan demonstrates four lots to be developed on the (approximate) subject land, with frontages fully to the road. It is noted that the development brought forward over the years is not absolutely, but generally in accordance with the plan, as suitable under the Overlay and Schedule. The argument put forth by officers is that by increasing the lot yield by a multiple of three (3) to create a total of twelve (12) lots in the area, the proposal is no longer generally in accordance with the plan. As such, notice of the proposal was given, and officers content that the exemption provided by the overlay does not apply. This has not been debated by the applicant as of the time of writing.



Figure 7 – Detail from the Incorporated Plan (C002) of the subject site in neighbourhood context (Source: DELWP Resource Library).

Decision Guidelines: Approval of an Application to Subdivide Land

Before deciding on an application to subdivide land, the responsible authority must also consider, as appropriate:

- *The suitability of the land for subdivision.*
- *The existing use and possible future development of the land and nearby land.*
- *The availability of subdivided land in the locality, and the need for the creation of further lots.*
- *The effect of development on the use or development of other land which has a common means of drainage.*
- *The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.*
- *The density of the proposed development.*
- *The area and dimensions of each lot in the subdivision.*
- *The layout of roads having regard to their function and relationship to existing roads.*
- *The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots.*
- *The provision and location of reserves for public open space and other community facilities.*
- *The staging of the subdivision.*
- *The design and siting of buildings having regard to safety and the risk of spread of fire.*
- *The provision of off-street parking.*
- *The provision and location of common property.*
- *The functions of any body corporate.*
- *The availability and provision of utility services, including water, sewerage, drainage, electricity and gas.*
- *If the land is not sewered and no provision has been made for the land to be sewered, the capacity of the land to treat and retain all sewage and sullage within the boundaries of each lot.*

- *Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas.*

In relation to the Clause 65.02 'Decision Guidelines', Officers attest that there is a suitability for some level of subdivision to occur in relation to the property. Key areas where the proposal is deemed as failing includes the density, layout, existing vegetation, movement of access and ease of access.

The applicant at Page 20 of their submission in **Attachment 3** notes that variations to the incorporated plan have previously been approved, as is the case in the North Course and lot layouts to the east along Kings Cove Boulevard, Storth Ryes Avenue and The Billabong. Officers contend that decision guidelines above with relation to vegetation, site access, and servicing are key points of difference that made the North Course an amenable outcome. New roads were proposed, and vegetation loss was minimised along Hardys Road in this instance. Further, the North Course is not adjacent to the remaining 4000 plus square metre allotments in the same incorporated plan area, thus the neighbourhood character arguments put forth do not hold the same amount of weight.

Along with the decision guidelines and servicing is the referral response from Country Fire Authority which highlights that the proposal may have a servicing issue for Hydrants. Hydrants are currently provided at every other lot along the south/east of Kings Cove Boulevard. Hydrants must service the rear of the lot within 120 metres, which is a requirement based on hose reel lengths and water pressure. With a battle-axe configuration, some of the rear/furthest points from the road reserve on the proposed lots are closer to 200 metres. As of the time of writing a response is being prepared by the applicant, but it is argued that this would not necessarily alter the officer recommendation without significant amendment to and further public notice of the proposal.

Key to the officer argument against the proposal is neighbourhood character, relying on the specific history of the development, the recent amendments to Agreements, public response to the Agreements, some recent variations to covenants, and the assessment and subsequent decision made in relation to planning permit application 61/2020/P. Officers acknowledge that no objections were lodged with respect to this proposal, however the public sentiment is being carried forward from those other consultation processes.

As per the officer recommendation, the assessment is made that the application cannot be supported. The proposed grounds of refusal are:

- the proposed subdivision is inconsistent with the Incorporated Plan Overlay Schedule 1 – Storth Ryes Incorporated Plan C0002 June 2000;
- the proposed subdivision is inconsistent with the prevailing neighbourhood character for low density residential zone area of this estate;
- the proposed subdivision is inconsistent with the planning policy framework relating to neighbourhood character at clause 15.01-5S; and
- the proposed subdivision is inconsistent with the local planning policy framework at clause 21.12-2, Metung Strategy Plan, particularly in relation to landscape and environmental values and character of the area.

The proposal increases the anticipated lot yield for this section by a multiple of three (3). Lots which were to have full frontage to the road are in this application proposed to include a battle axe configuration, which is inconsistent with the prevailing lot layout. Nowhere else in the estate is there such an intensity of fragmented property accesses proposed. From a traffic safety and site servicing perspective, this is an undesirable outcome. Typically this arrangement would be proposed in areas with significant environmental constraints which limit access, such as slope or vegetation, or where there is an established dwelling to be retained in a two-lot subdivision.

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

As officers have determined that an application is not supported, the matter has been reported to Council for consideration and determination pursuant to *Council's Planning Permit Application Delegations Policy 2018*.

Options

The matter must be determined by Council. The options available include:

1. Refusal, subject to specific grounds as listed in the recommendation, or
2. Approval, subject to conditions.

Should Councillors choose to grant a planning permit, it is recommended that an alternative motion be considered which sets out in-principal support for the application and parameters for delegation of the setting of conditions to the General Manager, Place and Community, as the outstanding matter of Country Fire Authority referral response may require some modifications to the design and further conditions to be imposed.

Resourcing

Financial

The assessment of the planning permit application is subject to standard statutory fees which contribute to cost recovery.

Plant and equipment

Nil resources required outside standard working equipment.

Human Resources

The application assessment is undertaken by staff in the planning team.

Risk

The risks of this proposal have been considered and there is limited organizational assessed risk outside the typical planning assessment process.

Economic

It could be considered that the proposal will provide minor opportunities for development through an increase in provision of lots for housing.

Social

Despite there being no objections received by the proposal, it is argued that there is the potential for the proposal to create stress on community infrastructure as well as a likely increase in the amount of traffic, noise, and the creation of related amenity impacts on the surrounding neighbourhood as mentioned.

Environmental

From a land capability and biodiversity perspective, it is likely that environmental features would be impacted by the proposal. As mentioned, there is no drainage outfall or waterway available to the proposed subdivision.

Due to the proposed lot sizes and the planning provisions which apply to the property, planning approval will not be required for the removal of vegetation on the proposed lots, which may ultimately lead to a loss in trees on the site as mentioned.

Climate change

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

Land Use Planning: Consideration is given to climate change in the local land use planning and includes responses to direct and indirect impacts.

Engagement

Pursuant to the *Planning and Environment Act 1987*, notification of the proposal was carried out via a sign on site and letters to directly affected landowners/occupiers. There have been no objections received. The requirement to carry out notice has been undertaken by the applicant to the satisfaction of the responsible authority.

Attachments

1. Application Form [3.1.1 - 2 pages]
2. Plans [3.1.2 - 2 pages]
3. Copy of Title, Agreements and Supporting Documentation [3.1.3 - 138 pages]
4. Officer Response to Application [3.1.4 - 1 page]
5. Referral Responses [3.1.5 - 5 pages]

Alex Murphy

From: Snapforms Notifications <no-reply@snapforms.com.au>
Sent: Wednesday, 31 March 2021 4:24 PM
To: Planning Unit Administration
Subject: Planning Permit application
Attachments: 18722 Copy of Title Vol_10743 Fol_419.pdf; 18722 Prop V2.pdf; 18722 Planning Report.pdf

Planning Permit Application

A Planning Permit Application' has been submitted via the East Gippsland Shire Council website, the details of this submission are shown below:

Name: Crowther & Sadler Pty Ltd

Business trading name: Crowther & Sadler Pty Ltd

Email address: contact@crowthersadler.com.au

Postal address : PO Box 722, Bairnsdale 3875

Mobile phone number: 03 5152 5011

Owner's name: EXON TONE PTY LTD

Street number: 100

Street name: Kings Cove Boulevard

Town: Metung

Lot number: G

Plan number: 509097V

Plan type: Plan of subdivision

Has there been a pre-application meeting: No

Your reference number: 18722

Is there any encumbrance on the Title such as a restrictive covenant, section 173 agreement or other obligation such as an easement or building envelope?: Yes

Will the proposal result in a breach of a registered covenant restriction or agreement?: No

Description of proposal - Describe the use, development or other matter which requires a permit: Proposed 12 Lot subdivision

Existing conditions - Describe how the land is used and developed now: Vacant land

Estimated cost of development. Note: You may be required to verify this estimate: \$0.00

Title (must have been generated within the past 30 days: [18722 Copy of Title Vol 10743 Fol 419.pdf](#)

Site plan/floor - plan/elevations: [18722 Prop V2.pdf](#)

Planning report: [18722 Planning Report.pdf](#)

1. Supporting information/reports: [18722 Bld Envel V1.pdf](#)

2. Supporting information/reports: [18722 Bushfire Assessment.pdf](#)

3. Supporting information/reports: [18722 GRA Report.pdf](#)

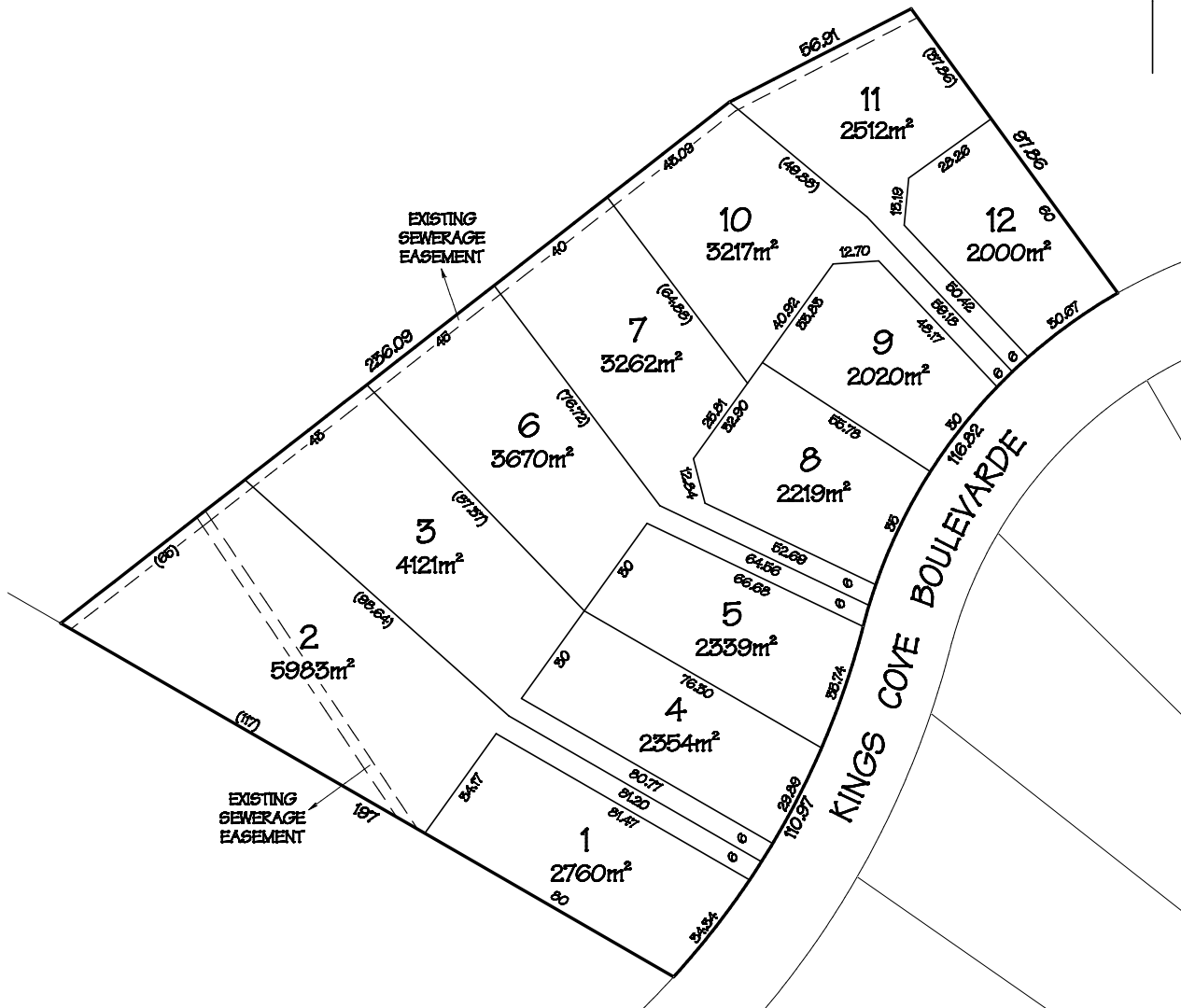
Declaration: Yes

Privacy Statement: Yes

PROPOSED SUBDIVISION

PARISH OF BUMBERRAH
CROWN ALLOTMENT 81A (PART)
LOT 6 ON P550909TV

MGA94 ZONE 55



EXON TONE PTY LTD

100 KINGS COVE BOULEVARD, METUNG

Crowthier & Sadler Pty. Ltd.

LICENSED SURVEYORS & TOWN PLANNERS
162 MACLEOD STREET, BAIRNSDALE, VIC., 3875
P. (03) 5162 5011 E. contact@growthiersadler.com.au

FILENAME: Y:\18000-18999\18700-18799\18722 Exon Tone\18722 Prop V2.pro

NOTATIONS

AREAS ARE APPROXIMATE ONLY
DIMENSIONS ARE SUBJECT TO SURVEY

SCALE (SHEET SIZE A3)

1 : 1250

SURVEYORS REF.

18722

VERSION 2 - DRAWN 12/11/2020

BUILDING ENVELOPE PLAN

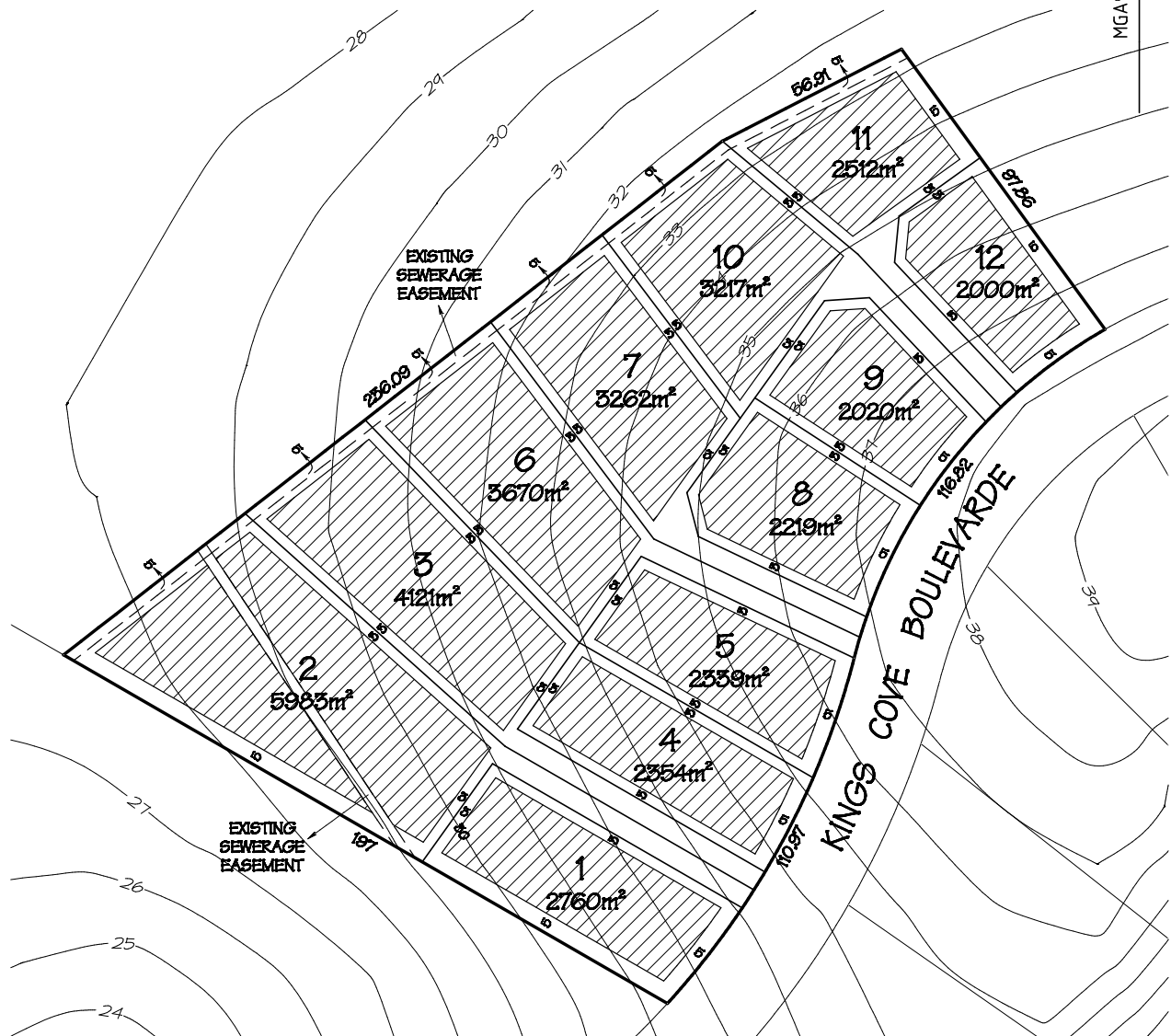
PARISH OF BUMBERRAH
CROWN ALLOTMENT 81A (PART)

LOT 6 ON P550909TV



- DENOTES BUILDING ENVELOPE

MGA94 ZONE 55



DEMONSTRATIONAL PURPOSES ONLY
NOT FOR ENDORSEMENT

EXON TONE PTY LTD

100 KINGS COVE BOULEVARD, METUNG

Crowthier & Sadler Pty. Ltd.

LICENSED SURVEYORS & TOWN PLANNERS

162 MACLEOD STREET, BAIRNSDALE, VIC., 3875
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FILENAME: Y:\18000-18999\18700-18799\18722 Exon Tone\18722 Bld Envel V1.pro

NOTATIONS

AREAS ARE APPROXIMATE ONLY
DIMENSIONS ARE SUBJECT TO SURVEY

SCALE (SHEET SIZE A3)

1 : 1250

SURVEYORS REF.

18722

VERSION 1 - DRAWN 26/11/2020

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REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

VOLUME 10743 FOLIO 419

Security no : 124089031451M
Produced 31/03/2021 04:02 PM

LAND DESCRIPTION

Lot G on Plan of Subdivision 509097V.

PARENT TITLES :

Volume 10678 Folio 247 Volume 10678 Folio 249 Volume 10678 Folio 251
Created by instrument PS509097V 12/08/2003

REGISTERED PROPRIETOR

Estate Fee Simple

Sole Proprietor

EXON TONE PTY LTD of 388 RAYMOND STREET SALE VIC 3850
AL046146V 29/04/2014

ENCUMBRANCES, CAVEATS AND NOTICES

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

AGREEMENT Section 173 Planning and Environment Act 1987
AB573238L 20/09/2002

AGREEMENT Section 173 Planning and Environment Act 1987
AC166290V 30/06/2003

DIAGRAM LOCATION

SEE PS509097V FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

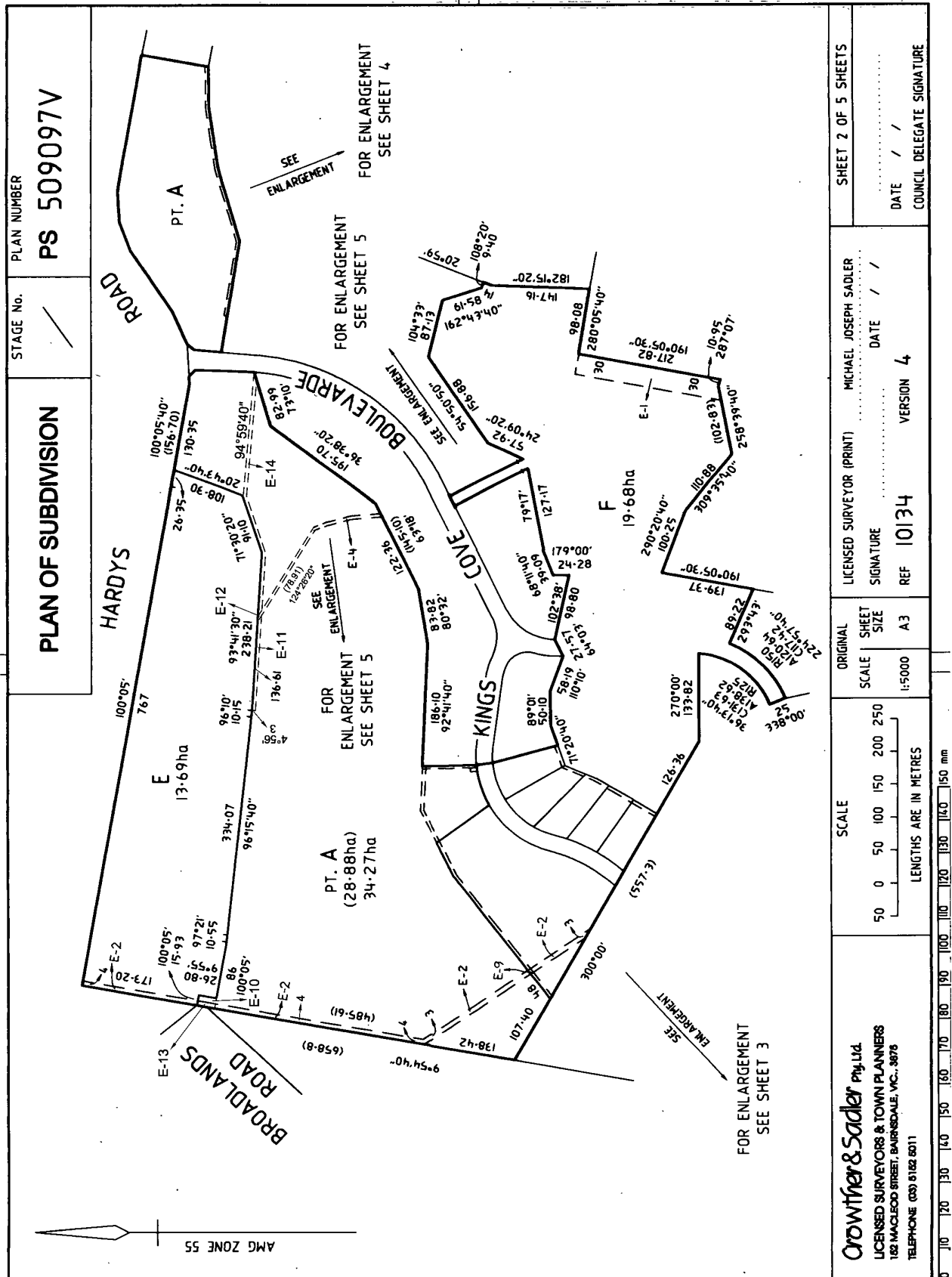
Street Address: 100 KINGS COVE BOULEVARD METUNG VIC 3904

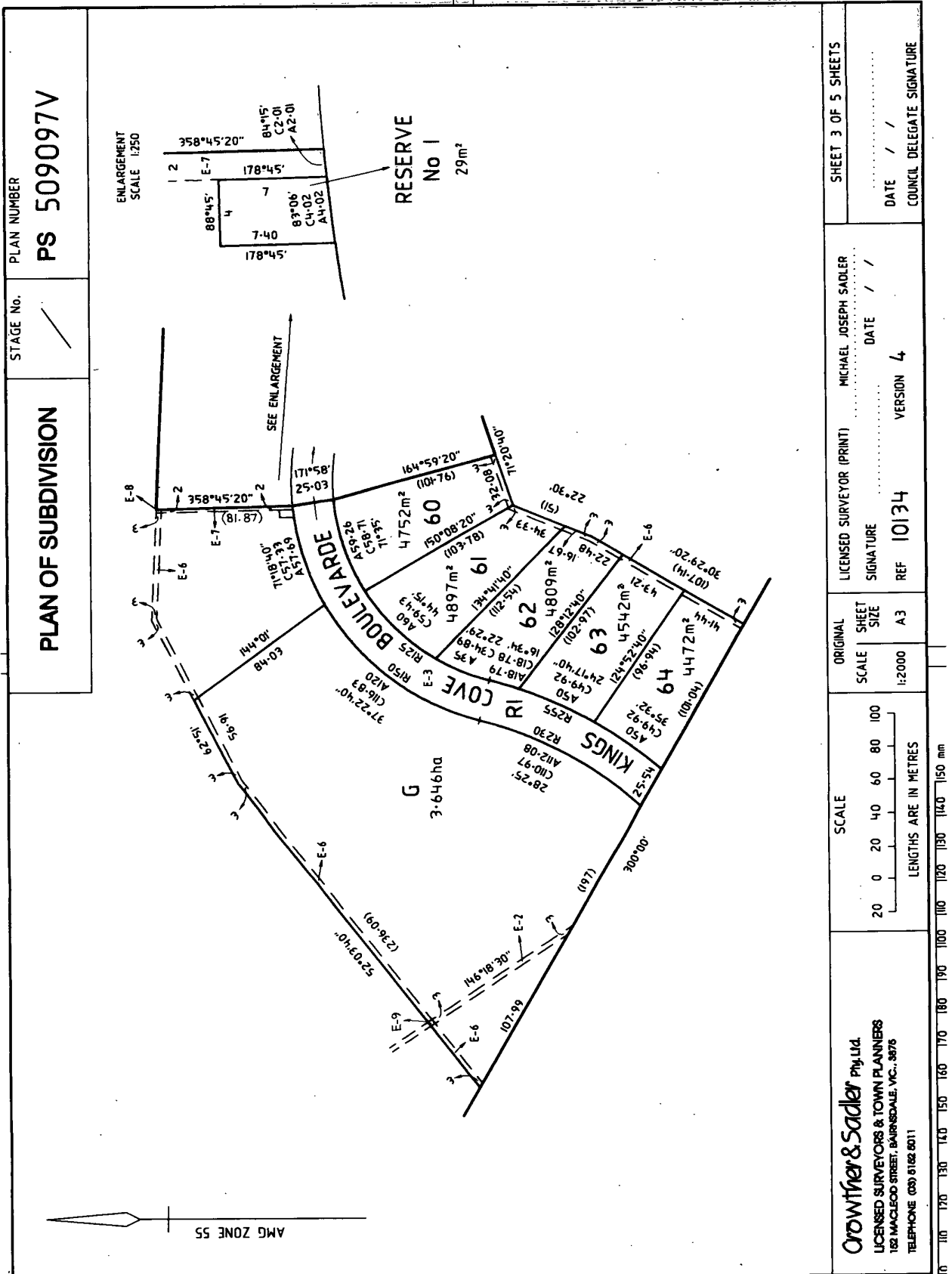
DOCUMENT END

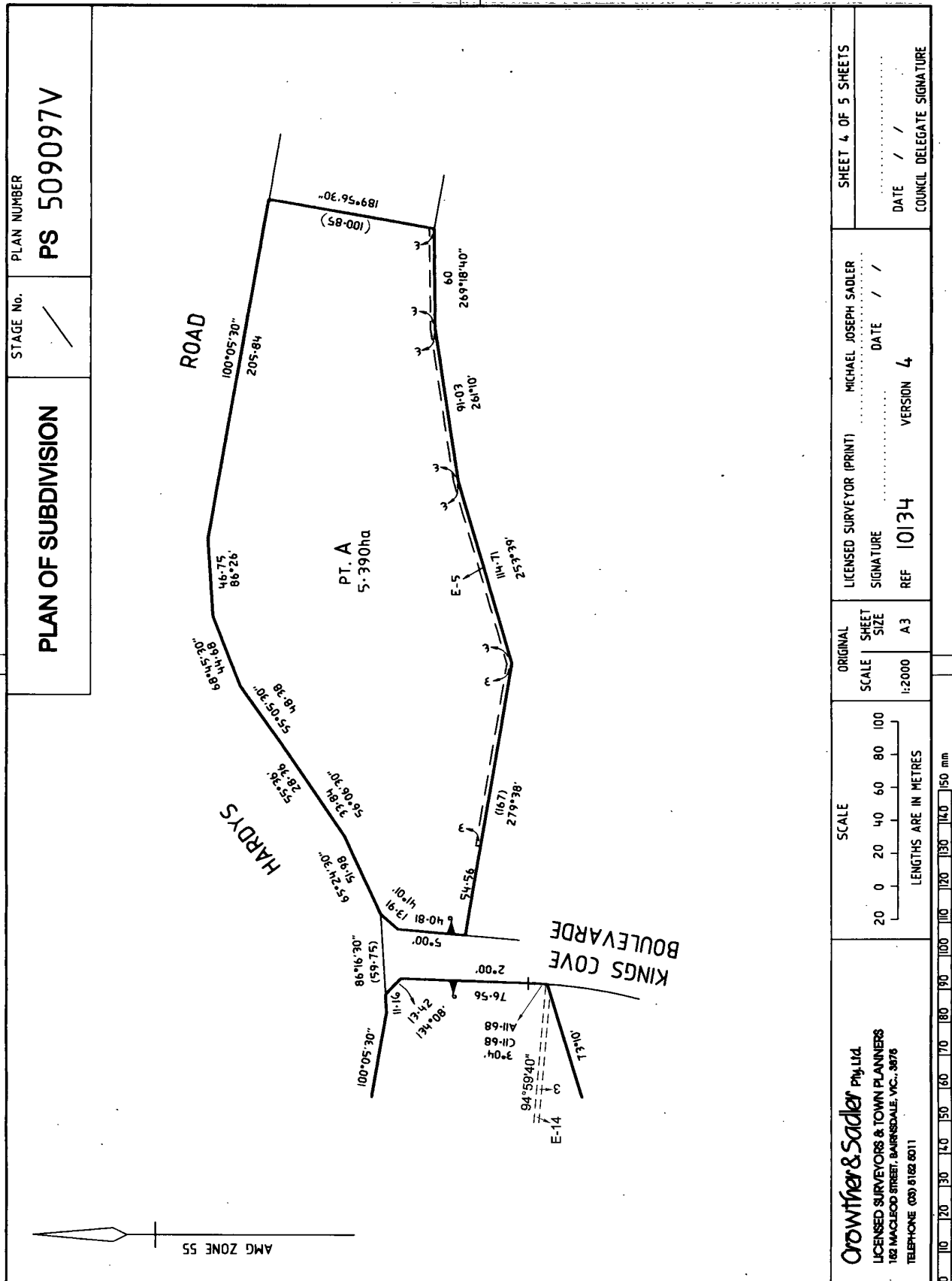
Delivered from the LANDATA System by GlobalX Terrain Pty Ltd

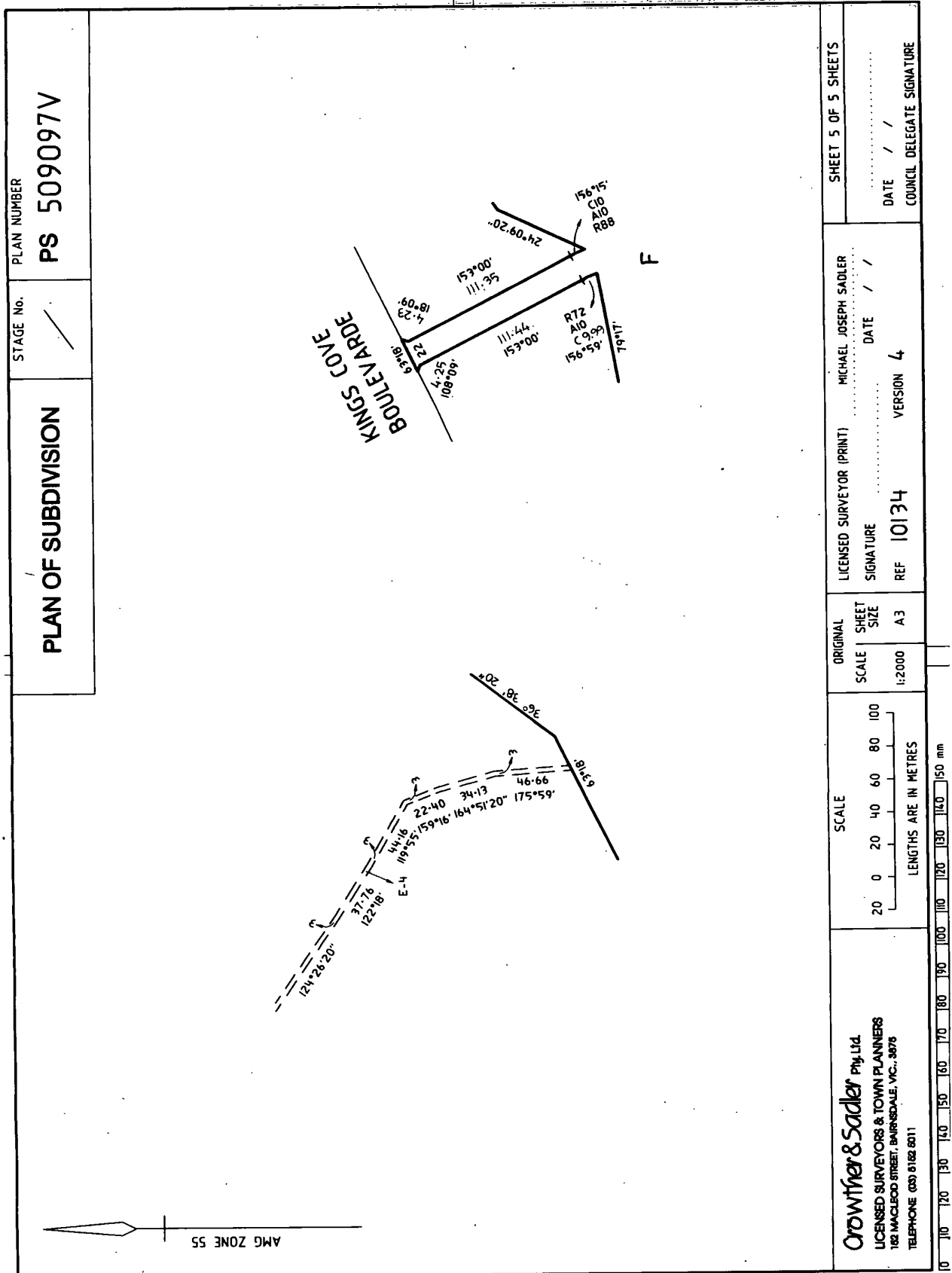
PLAN OF SUBDIVISION		STAGE No. /	LTO USE ONLY EDITION 2	PLAN NUMBER PS 509097V
LOCATION OF LAND PARISH: BUMBERRAH TOWNSHIP: — SECTION: — CROWN ALLOTMENT: 78A, 81A, 81E (PARTS) CROWN PORTION: — TITLE REFERENCES: VOL. 10678 FOL. 247 VOL. 10678 FOL. 249 VOL. 10678 FOL. 251 LAST PLAN REFERENCE: LOTS A, C & E ON PS 448622Q POSTAL ADDRESS: KINGS COVE BOULEVARDE, (At time of subdivision) METUNG, 3904 AMG CO-ORDINATES: E 573 750 (Of approx. centre of N 5807 000 land in plan) ZONE: 55		COUNCIL CERTIFICATION AND ENDORSEMENT COUNCIL NAME: EAST GIPPSLAND SHIRE COUNCIL REF: 02/00053/SD 1. This plan is certified under Section 6 of the Subdivision Act 1988. 2. This plan is certified under Section 11(7) of the Subdivision Act 1988. Date of original certification under Section 6 / / 3. This is a statement of compliance issued under Section 21 of the Subdivision Act 1988. OPEN SPACE (i) A requirement for public open space under Section 18 Subdivision Act 1988 has / has not been made. (ii) The requirement has been satisfied. (iii) The requirement is to be satisfied in stage Council Delegate Council seat Date 4 / 11 / 2002 Re-certified under Section 11(7) of the Subdivision Act 1988 Council Delegate Council seat Date / /		
VESTING OF ROADS AND/OR RESERVES				
IDENTIFIER	COUNCIL/BODY/PERSON			
RI RESERVE No 1	EAST GIPPSLAND SHIRE COUNCIL TXU ELECTRICITY LTD.			
NOTATIONS				
STAGING This is / is not a staged subdivision Planning Permit No 01/00299/DS				
DEPTH LIMITATION DOES NOT APPLY				
LOTS 1 TO 59 HAVE BEEN OMITTED FROM THIS PLAN				
SURVEY: THIS PLAN IS / IS NOT BASED ON SURVEY THIS SURVEY IS CONNECTED TO PERMANENT MARK No(s)				
EASEMENT INFORMATION				LTO USE ONLY
LEGEND A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)				STATEMENT OF COMPLIANCE / EXEMPTION STATEMENT
				RECEIVED <input checked="" type="checkbox"/>
				DATE 3 / 7 / 03
				LTO USE ONLY PLAN REGISTERED TIME 2:11 P.M. DATE 12 / 8 / 03
				Assistant Registrar of Titles
				SHEET 1 OF 5 SHEETS
				DATE 4 / 11 / 2002 COUNCIL DELEGATE SIGNATURE
				ORIGINAL SHEET SIZE A3

Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
E-1	CARRIAGEWAY	30	INST. M22132T	VOL 9369 FOL 911, VOL 9369 FOL 912 & VOL 9369 FOL 913
E-2, E-9 & E-13	SEWERAGE	SEE DIAG.	PS 448622Q	EAST GIPPSLAND REGION WATER AUTHORITY & LAND IN PS448622Q
E-3	CARRIAGEWAY	SEE DIAG.	PS 420967K	LOT 2 ON PS 420967K
E-4 & E-12	WATER SUPPLY	3	PS 448622Q	EAST GIPPSLAND REGION WATER AUTHORITY & LAND IN PS448622Q
E-5	POWERLINE	3	PS 448622Q	TXU ELECTRICITY LTD.
E-6, E-8	SEWERAGE	3	THIS PLAN	EAST GIPPSLAND REGION WATER AUTHORITY & LAND IN THIS PLAN
E-7, E-8	DRAINAGE	2	THIS PLAN	EAST GIPPSLAND SHIRE COUNCIL
E-10 & E-13	SEWERAGE & WATER SUPPLY	SEE DIAG.	AN566731Q	EAST GIPPSLAND WATER CORPORATION
E-11	WATER SUPPLY	3	AN566731Q	EAST GIPPSLAND WATER CORPORATION
E-11, E-12 & E-14	SUPPLY OF ELECTRICITY	3	AN566731Q	AUSNET ELECTRICITY SERVICES PTY LTD









RECORD OF ALL ADDITIONS OR CHANGES TO THE PLAN

PS509097V

AFFECTED LAND/PARCEL	LAND/PARCEL IDENTIFIER CREATED	MODIFICATION	DEALING NUMBER	DATE	EDITION NUMBER	ASSISTANT REGISTRAR OF TITLES
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LODGED BY Warren, Graham & Murphy,
STORTH RYES P/L
CODE 1716W VICTORIA



AC166290V

30/06/2003 \$59 173
[Barcode]

Titles Office Use Only

**APPLICATION BY A RESPONSIBLE AUTHORITY under Section 181
Planning and Environment Act 1987 for ENTRY OF A
MEMORANDUM OF AGREEMENT under Section 173 of that Act.**

The Responsible Authority under the Planning Scheme having entered into an Agreement with the parties named for the land described requires that a Memorandum of Agreement be entered on the Certificate of Title to the land referred to.

LAND Certificates of Title Volume 10678 Folios 247, 249 and 251

ADDRESS OF LAND 15 Hardys Road, Metung, Victoria 3904

RESPONSIBLE AUTHORITY East Gippsland Shire Council

PLANNING SCHEME East Gippsland Planning Scheme

AGREEMENT DATE 23 day of June, 2003

AGREEMENT WITH Storth Ryes Pty. Ltd. (ACN 006 383 179)

A copy of the Agreement is attached to this Application

Signature of the Responsible Authority

Name of Officer

Date

[Signature]
JOHN TRAA (STATUTORY PLANNER)
23/6/03



DAC166290V-1-4

Rt 300605



EAST GIPPSLAND SHIRE COUNCIL

Council

- and -

STORTH RYES PTY LTD (A.C.N. 006 383 179)

the Owner

**Agreement under Section 173 of the Planning and
Environment Act 1987**

Subject Land: 15 Hardys Road, METUNG VIC 3904
PLAN OF SUBDIVISION NO. 509097 (Stage Four)



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- 1. DEFINITIONS**
- 2. INTERPRETATION**
- 3. SPECIFIC OBLIGATIONS OF THE OWNER**
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 - 3.2. Condition 11 of Planning Permit No. 01/00299/DS**
 - 3.3. Council's Costs to be paid**
- 4. FURTHER OBLIGATIONS OF THE OWNER**
 - 4.1. Notice and Registration**
 - 4.2. Further actions**
 - 4.3. Exemption**
- 5. AGREEMENT UNDER SECTION 173 OF THE ACT**
- 6. OWNER'S WARRANTIES**
- 7. SUCCESSORS IN TITLE**
- 8. GENERAL MATTERS**
 - 8.1. Notices**
 - 8.2. Notices (continued)**
 - 8.3. No Waiver**
 - 8.4. Severability**
 - 8.5. No Fettering of the Council's Powers**
- 9. COMMENCEMENT OF AGREEMENT**
- 10. ENDING OF AGREEMENT**

AC166290V

30/06/2003 \$59

173



DAC166290V-3-1

PLANNING AND ENVIRONMENT ACT 1987 SECTION 173 AGREEMENT

THIS AGREEMENT is made the 23 day of June 2003

BETWEEN

EAST GIPPSLAND SHIRE COUNCIL of 273 Main Street, Bairnsdale

("Council")

- and -

STORTH RYES PTY LTD (A.C.N. 006 383 179)

("the Owner")

INTRODUCTION



- A. The Council is the Responsible Authority for the Planning Scheme under the Act.
- B. The Owner is the registered proprietor of the Subject Land.
- C. It is a condition of planning Permit Number 01/00299/DS (Amended) ("the Planning Permit") that the Owner enter into this Agreement to develop and use the land in accordance with the Endorsed Plans and conditions of the Planning Permit. A copy of the Planning Permit is attached to this Agreement and marked "A".
- D. The parties enter into this Agreement:
 - (a) to give effect to the requirements of the Planning Permit; and
 - (b) to achieve and advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land.



IT IS AGREED:**1. DEFINITIONS**

In this Agreement the words and expressions set out in this clause have the following meanings unless the context admits otherwise:

- 1.1. **"the Act"** means the Planning and Environment Act 1987.
- 1.2. **"this Agreement"** means this agreement and any agreement executed by the parties expressed to be supplemental to this agreement.
- 1.3. **"the Endorsed Plan"** means the plan, endorsed with the stamp of the Council that forms part of the Planning Permit. A copy of the plan, as at the date of this Agreement, is attached to this Agreement and marked with the letter "B".
- 1.4. **"Owner"** means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as proprietor or proprietors of an estate in fee simple of the Subject Land or any part of it and includes a Mortgagee-in-possession.
- 1.5. **"Planning Permit"** means the Planning Permit referred to in recital C. of this Agreement.
- 1.6. **"Planning Scheme"** means the East Gippsland Planning Scheme and any other planning scheme which applied to the Subject Land.

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30/06/2003 \$59 173



DAC166290V-5-7



DAC166290V-6-5

1.7. **“Subject Land”** means the land situated at King’s Cove Boulevard, Metung being:-

- Lot A on Plan of Subdivision No. 448622Q and being the land described in Certificate of Title Volume 10678 Folio 247; and
- Lot C on Plan of Subdivision No. 448622Q and being the land described in Certificate of Title Volume 10678 Folio 249; and
- Lot E on Plan of Subdivision No. 448622Q and being the land described in Certificate of Title Volume 10678 Folio 251.

Any reference to the Subject Land in this Agreement will include a reference to any lot created by the subdivision of the Subject Land or any part of it.

1.8. **“Mortgagee”** means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as Mortgagee of the Subject Land or any part of it.

2. INTERPRETATION

In this Agreement unless the context admits otherwise:

- 2.1. The singular includes the plural and vice versa.
- 2.2. A reference to a gender includes a reference to each other gender.
- 2.3. A reference to a person includes a reference to a firm, corporation or other corporate body and that person’s successors in law.
- 2.4. If a party consists of more than one person this Agreement binds them jointly and each of them severally.
- 2.5. A reference to an Act, Regulation or the Planning Scheme includes any Acts, Regulations or amendments amending, consolidating or replacing the Act, Regulation or Planning Scheme.



2.6. The introductory clauses to this Agreement are and will be deemed to form part of this Agreement.

2.7. The obligations of the Owner under this Agreement, will take effect as separate and several covenants which are annexed to and run at law and equity with the Subject Land PROVIDED THAT if the Subject Land is subdivided, this Agreement must be read and applied so that each subsequent owner of a lot is only responsible for those covenants and obligations which relate to that owner's lot.

3. SPECIFIC OBLIGATIONS OF THE OWNER



The Owner covenants and agrees that:

3.1. Development in accordance with Planning Permit

the Subject Land shall only be developed in accordance with the Endorsed Plans and the conditions of the Planning Permit or any subsequent amendment to the permit approved by the Council.

3.2. Condition 11 of the Planning Permit No. 01/00299/DS (Amended) requires that:

- (a) The development of each lot approved by this permit will only be carried out in accordance with the requirements of a Soil and Water Management Plan.
- (b) Each lot will be developed and used for the purpose of a single dwelling and associated outbuildings in accordance with the document "*Kings Cove – Metung- Guidelines for Construction, Siting of, External Alterations and Additions to Buildings and Structures on Kings Cove Stages 2 to 9, Low Residential Zone*", dated December, 2001 (or as amended) (The Document). A copy of the Document is attached hereto and marked "C".
- (c) Any amendment to The Document will be to the satisfaction of the Responsible Authority.





DAC166290V-8-1

- (d) No lot created within Stage 1B will have vehicular access to Archibald Drive.
- (e) The provision of access to and development of the proposed Public Open Space Reserve shall be to the satisfaction of the responsible authority.
- (f) A copy of Planning Permit 01/00299/DS (Amended) will be attached to and will form part of the Contract of Sale for every lot.
- (g) Landscaping works around private residences will have regard to the Storth Ryes Landscape Concept Report, which encourages the use of indigenous plant species and recommends appropriate planting objectives and plant lists for site conditions. Known weed or invasive "pest" plants will not be encouraged.
- (h) This Agreement will bind the Owner and must run with the land so that all successors in the title are bound by this Agreement.

3.3. Council's Costs to be Paid

This Agreement will be prepared at the Owner's cost and to the satisfaction of the responsible authority, and must be registered on title in accordance with Section 181 of the Planning and Environment Act 1987.

The Owner must pay to the Council, the Council's reasonable costs and expenses (including legal expenses) of and incidental to the preparation, drafting, finalisation, engrossment, execution, registration and enforcement of this Agreement and until those costs are paid they will remain a debt of the Owner to the Council.





4. FURTHER OBLIGATIONS OF THE OWNER

The Owner further covenants and agrees that:

4.1. Notice and Registration

the Owner will bring this Agreement to the attention of all prospective purchasers, mortgagees, transferees and assigns;

4.2. Further actions

4.2.1. the Owner will do all things necessary, including signing any further agreements, undertakings, covenants and consents, approvals or other documents necessary for the purpose of ensuring that the Owner carries out the Owner's covenants under this Agreement and to enable the Council to enforce the performance by the Owner of such covenants and undertakings;

4.2.2. the Owner will consent to the Council making application to the Registrar of Titles to make a recording of this Agreement in the Register on the Certificate of Title of the Subject Land in accordance with Section 181 of the Act and do all things necessary to enable the Council to do so including signing any further agreement, acknowledgement or document or procuring the consent to this Agreement of any mortgagee or caveator to enable the recording to be made in the Register under that Section;

4.3. Exemption

The Owner will exempt the Council, its employees, contractors and agents from and against all costs, expenses, losses or damages whatsoever which they or any of them may sustain incur or suffer, or be or become liable for or in respect of any suit, action, proceeding, judgment or claim brought by any

AC166290V



person whatsoever arising from or referable to this Agreement or any non-compliance thereof.

5. AGREEMENT UNDER SECTION 173 OF THE ACT



The Council and the Owner agree that without limiting or restricting their respective powers to enter into this Agreement and, insofar as it can be so treated, this Agreement is made pursuant to Section 173 of the Act.

6. OWNERS WARRANTIES

Without limiting the operation or effect which this Agreement has, the Owner warrants that apart from the Owner and any other person who has consented in writing to this Agreement, no other person has any interest, either legal or equitable, in the Subject Land which may be effected by this Agreement.

7. SUCCESSORS IN TITLE

Without limiting the operation or effect which this Agreement has, the Owner must ensure that, until such time as a memorandum of this Agreement is registered on the title to the Subject Land, successors in title shall be required to:

- 7.1. give effect to and do all acts and sign all documents which will require those successors to give effect to this Agreement; and
- 7.2. execute a deed agreeing to be bound by the terms of this Agreement.

8. GENERAL MATTERS

8.1. Notices

A notice or other communication required or permitted to be served by a party on another party must be in writing and may be served:

- 8.1.1. by delivering it personally to that party;



8.1.2. by sending it by prepaid post addressed to that party at the address set out in this Agreement or subsequently notified to each party from time to time; or

8.1.3. by sending it by facsimile provided that a communication sent by facsimile shall be confirmed immediately in writing by the sending party hand delivery or prepaid post.

8.2. A notice or other communication is deemed served:

8.2.1. if delivered, on the next following business day;

8.2.2. if posted, on the expiration of two business days after the date of posting; or

8.2.3. if sent by facsimile, on the next following business day unless the receiving party has requested retransmission before the end of that business day.

8.3. No Waiver



DAC166290V-11-1

Any time or other indulgence granted by the Council to the Owner or any variation of the terms and conditions of this Agreement or any judgment or order obtained by the Council against the Owner will not in any way amount to a waiver of any of the rights or remedies of the Council in relation to the terms of this Agreement.

8.4. Severability

If a court, arbitrator, tribunal or other competent authority determines that a word, phrase, sentence, paragraph or clause of this Agreement is unenforceable, illegal or void then it must be severed and the other provisions of this Agreement will remain operative.





DAC166290V-12-4

8.5. No Fettering of the Council's Powers

It is acknowledged and agreed that this Agreement does not fetter or restrict the power or discretion of Council any decision or impose any requirements or conditions in connection with the granting of any planning approval or certification of any plans of subdivision applicable to the Subject Land or relating to any use or development of the Subject Land.

9. COMMENCEMENT OF AGREEMENT

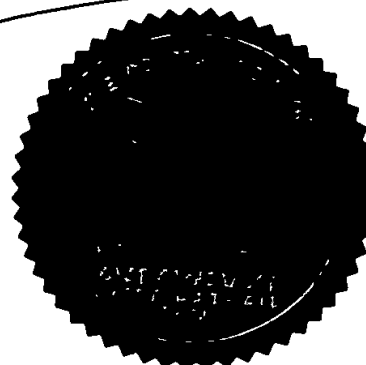
Unless otherwise provided in this Agreement, this Agreement commences from the date of this Agreement.

10. ENDING OF AGREEMENT

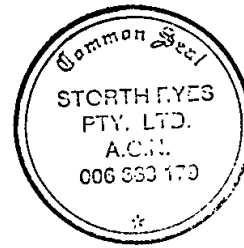
This Agreement may be ended wholly or in part or as to any part of the land by the Responsible Authority with the approval of the Minister or by agreement between the Responsible Authority and all persons who are bound by the agreement.

EXECUTED by the parties on the date set out at the commencement of this Agreement.

The **COMMON SEAL** of **EAST GIPPSLAND**
SHIRE COUNCIL was affixed on behalf of)
 Council by authority of the Chief Executive)
 Officer on the 23RD day of JUNE)
 2003 in exercise of the power delegated)
 under Administrative Procedures (Use of)
 Common Seal) Local Law in the presence of)

The **COMMON SEAL** of **STORTH RYES**)
PTY LTD (A.C.N. 006 383 179) was)
 Hereunto affixed in accordance with its)
 Constitution in the presence of:-



.....
 Signature

.....
 Full Name

.....
 Usual Address

.....
 Office Held

.....
 Signature

.....
 Full Name

.....
 Usual Address

.....
 Office Held



Mortgagee's Consent

A Gippsland Secured Investments as Mortgagee of Registered Mortgages Numbered ~~W348823V~~ and X256305M consents to the Owner entering into this Agreement and in the event that the Mortgagee becomes Mortgagee-in-possession, agrees to be bound by the covenants and conditions of this Agreement.

.....
 For and on behalf of the Mortgagee, G.S.I.

PETER MILTON MURPHY AS DIRECTOR

AC166290V



PLANNING PERMIT

Permit No: 01/00299/DS (AMENDED)
 Planning Scheme: EAST GIPPSLAND
 Responsible Authority: East Gippsland Shire

Form 4.4

ADDRESS OF THE LAND

15 Hardys Road, METUNG VIC 3904
 Lot 2 LP 420967

BN: 79570

THE PERMIT ALLOWS

The land to be subdivided into 68 Lot (Stages 2, 3, 4, 5 & 6) in accordance with the endorsed plans.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:



DAC166290V-14-1

Subdivision not altered

1. The subdivision as shown on the endorsed plans must not be altered without the prior written consent of the responsible authority.

Engineering requirements

2. The applicant shall engage a suitably qualified consultant to undertake the preparation of detailed engineering design, drawings, documentation and specifications for the construction of road and drainage works and for the provision of services, all to the satisfaction of Council and meeting the requirements of the relevant service authorities.
3. Infrastructure shall be designed in accordance with standard engineering principles and practices. Full and detailed calculations shall be provided. The design shall provide for the following minimum requirements.

Roads, Pavement and Access

- (a) Investigation shall be undertaken to determine existing site conditions to determine design requirements. All reports and full details of all investigations undertaken shall be provided with designs submitted to Council for approval. Full and detailed calculations supporting all aspects of design shall be provided.
- (b) Pavement design shall be undertaken in accordance with accepted engineering practice. Pavement design for collector roads shall also take into consideration traffic that may be generated from the potential for future development to the south-west of the subject site. Supporting calculations for pavement design including the provision of geotechnical reports shall be provided.
- (c) The cul-de-sac or turning heads of proposed new roads shall be constructed and sealed to provide sufficient space for the manoeuvring of all service and emergency vehicles. "T" or "Y" shaped turning heads are acceptable. Provision of suitable area for vehicles to perform a 3 point turn will be acceptable.
- (d) A driveway crossover or culvert shall be constructed for all allotments to Council's satisfaction and in accordance with Council requirements. Crossing places shall incorporate features to prevent erosion which may include but not be limited to suitable stone pitching in the invert or energy dissipation devices. Proposed details of design and construction for crossovers shall be provided.

Drainage

- (e) The stormwater drainage system shall be designed in accordance with standard engineering practice to provide for the collection of all stormwater



runoff, resulting from a storm having an ARI of 1 in 20 Years, and concentrated by buildings, pavements, and/or siteworks to avoid damage or inundation to any property. Each allotment shall be provided with a connection to the drainage system. Connections to the drainage system shall be in accordance with Council requirements. Pipes through the council verge area shall be constructed of steel or concrete, not PVC.

(f) The stormwater drainage system shall incorporate measures to ensure the quality of stormwater discharging from the development is maintained. The drainage system shall provide such water quality measures as considered necessary which may include, but not be limited to, the provision of sediment traps, wetlands, detention basins, Gross Pollutant Traps and drainage pits incorporating litter baskets.

(g) Drains shall incorporate features to prevent erosion which may include but not be limited to suitable stone pitching in the invert or energy dissipation devices placed at regular intervals along the length of the drain.

(h) Where a proposed drainage system submitted to Council for approval indicates that construction of drains will be on private property easements for drainage purposes and meeting the requirements of Council for access and maintenance purposes shall be vested in Council free of charge.

(i) Outlets shall incorporate an energy dissipation devices to prevent any erosion.

Earthworks

(j) With the exception of roadside drainage structures roadside verges shall have a batter slope no greater than 8 horizontal to 1 vertical.

(k) All earthworks associated with the development shall be stabilised in accordance with standard engineering design and practices against erosion and failure. No earthworks may encroach across neighbouring property boundaries.

Services

(l) Design for the installation of services shall meet the requirements of the relevant authorities and shall be approved by those authorities.

Signage and Traffic Control

(m) The design shall address and include all applicable and statutory signage and traffic control requirements. Design drawings and specifications shall provide for the installation of appropriate signage and pavement markings conforming with the requirements of AS 1742 Manual of uniform traffic control devices. Provision of necessary signage and pavement marking shall be undertaken by the developer

Documentation

(n) All documentation for the construction of infrastructure shall include adequate provision for:

- (i) maintenance and repair of damage to existing infrastructure damaged as a result of works associated with this development
- (ii) quality assurance and testing procedures
- (iii) provision for adequate notification and inspections by Council representatives at various key stages of the works
- (iv) works to be undertaken with due regard to environmental requirements.

(o) An agreement shall be entered into which shall be noted on title requiring the property being developed as a golf course to accept all stormwater runoff

from the development. This agreement shall be a continuing agreement and binding on all future registered proprietors of that property.

Supervision of Works

(p) An appropriately qualified and registered practitioner to the satisfaction of the Responsible Authority must supervise all stages of works to be constructed on the site. Copies of all test results certified by a NATA accredited laboratory shall be provided with a certification by a Chartered Professional Engineer that all works have been constructed in accordance with approved plans and specifications will be required.

4. Any portion of Council's existing infrastructure damaged as a result of work undertaken on the site or associated with the development shall be repaired/reinstated to Council's satisfaction at the developer's expense.
5. No works shall commence until such time as all necessary approvals from Council and relevant service authorities have been obtained.
6. Construction works on the subject land may only be conducted between the hours of 7.00 am to 6.00 pm Monday to Saturday (inclusive).
7. During and after construction works, the site must be managed to minimise dust generation and movement causing loss of amenity to the surrounding neighbourhood to the satisfaction of the responsible authority.
8. All earthworks associated with the proposal must be undertaken in accordance with the provisions of Environment Protection Authority (EPA) Publication No. 275 "Construction Techniques for Sediment and Pollution Control" (Copy available from EPA, Traralgon).
9. Prior to the issue of a Statement of Compliance the applicant shall pay to the Council an amount of money equal to 0.75% of the estimated cost of the engineering works plus 2.5% of the actual cost of the engineering works for checking of plans and specifications and for on-site supervision of the engineering works respectively in accordance with Clause 8 and 9 of the Subdivision (Permit and Certification Fees) Regulations.

Tree removal

10. Trees that do not fit the category of being "planted" as part of the initial development require a separate planning permit for removal unless exempted by provisions of the East Gippsland Planning Scheme.

173 agreement

11. Prior to the issue of a Statement of Compliance, the applicant must enter into an Agreement under Section 173 of the Planning and Environment Act 1987 with the responsible authority to covenant that:
 - the development of each lot approved by this permit will only be carried out in accordance with the requirements of a Soil and Water Management Plan.
 - each lot will be developed and used for the purpose of a single dwelling and associated outbuildings in accordance with the document "Kings Cove - Metung - Guidelines for Construction, Siting of, External Alterations and Additions to Buildings and Structures on Kings Cove Stages 2 to 9, Low Density Residential Zone", dated December 2001 (or as amended) (The Document).
 - Any amendment to The Document will be to the satisfaction of the Responsible Authority.
 - no lot created within Stage 1B will have vehicular access to Archibald Drive.



- the provision of access to and development of the proposed Public Open Space Reserve shall be to the satisfaction of the responsible authority.
- a copy of this permit will be attached to and will form part of the contract of sale for every lot.
- landscaping works around private residences will have regard to the Storth Ryes Landscape Concept Report, which encourages the use of indigenous plant species and recommends appropriate planting objectives and plant lists for site conditions. Known weed or invasive "pest" plants will not be encouraged.
- the agreement may be ended wholly or in part or as to any part of the land by the responsible authority with the approval of the responsible authority with the approval of the Minister or by agreement between the responsible authority and all persons who are bound by the agreement.
- the agreement will bind the owner(s) and must run with the land so that all successors in the title are bound by the agreement.
- this agreement will be prepared at the owner's cost and to the satisfaction of the responsible authority, and must be registered on title in accordance with Section 181 of the Planning and Environment Act 1987.

Construction of dwellings

12. The development of lots approved by this permit for the purpose of a dwelling will be exempt from the need to obtain a separate planning permit provided:
- all buildings are constructed wholly within approved building envelopes;
 - all construction and site development works are carried out strictly in accordance with the approved Soil and Water Management Plan, to the satisfaction of the responsible authority, and
 - the requirements of Clause 32.03-2 (Use for one or two dwellings or a dependent persons unit) can be met.

Street Names

13. Street names must be to the satisfaction of the responsible authority.

Landscaping

14. Prior to the issue of a Statement of Compliance, the subject land must be landscaped and planted in accordance with the requirements of the "Storth Ryes Landscape Concept Report" prepared by Murphy Design Group and dated April 2000. Specifically the following requirements must be met:
- Section 1.13 Other Roads
 - Section 1.15 Pedestrian Walkways
 - Section 1.16 Boundaries
15. Plans detailing the landscaping and streetscaping treatments, consistent with the "Storth Ryes Landscape Concept Report" and the Typical Landscape treatments contained in this report, and must be prepared by an appropriately qualified person and approved by the responsible authority prior to the commencement of any landscaping works.

East Gippsland Water

The owner/applicant must:

16. Enter into an agreement under the Water Act for the provision of water supply works.



17. Meet the cost of the necessary water mains extension.
18. Pay a headworks and distribution charge at a level determined by the Authority at the time of payment. As a guide the level applicable on 18/7/01 is \$2,000 per lot created by the subdivision.
19. Enter into an agreement under the Water Act for the provision of sewerage works.
20. Meet the cost of the necessary sewer mains extension.
21. Pay an outfall and disposal charge at a level determined by the Authority at the time of payment. As a guide, the level of charge on 18/7/01 is \$2,100 per lot created by the subdivision.
22. Provide easements as necessary.
23. Connect development to Authority's water and sewerage services to the satisfaction of the Authority.

TXU Electricity Ltd

The applicant must:

24. Enter into an agreement with TXU Electricity Ltd for supply of electricity to each lot on the endorsed plan.
25. Enter into an agreement with TXU Electricity Ltd for the rearrangement of the existing electric supply system.
26. Enter into an agreement with TXU Electricity Ltd for rearrangement of the points of supply to any existing installations affected by any private electric power line which would cross a boundary created by the subdivision, or by such means as may be agreed by TXU Electricity Ltd.
27. Provide easements satisfactory to TXU Electricity Ltd for the purpose of "Electricity (power lines)" in the favour of TXU Electricity Ltd pursuant to Section 44 of the Electricity Industry Act 1993, where easements have not been otherwise provided, for all existing TXU Electricity Ltd electric power lines and for any new power lines required to service the lots on the endorsed plan and /or abutting land.
28. Obtain for the use of TXU any other easement external to the subdivision required to service the lots.
29. Adjust the position of any existing TXU Electricity Ltd easement to accord with the position of the electricity line(s) as determined by survey.
30. Set aside on the plan of subdivision for the use of TXU, reserves satisfactory to TXU where any electric substation (other than a pole mounted type) is required to service the subdivision.
31. Provide survey plans for any electric substation required by TXU Electricity Ltd and for associated power lines and cables and execute leases for a period of 30 years, at a nominal rental with a right to extend the lease for a further 30 years. TXU Electricity Ltd requires that such leases are to be noted on the title by way of a caveat or a notification under section 88(2) of the Transfer of Land Act prior to the registration of the plan of subdivision.

Telstra

32. The applicant shall enter into an agreement with Telstra or other licensed Telecommunications carrier for the satisfactory provision of telephone cable reticulation one metre into each lot created.
33. The applicant shall set aside on the plan of subdivision reserve/s satisfactory to Telstra, for telecommunication/s substations if required.



Certification

34. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of the Act.

DNRE

35. Prior to any works commencing on the development of the subdivision, the Soil and Water Management Plan prepared for the works shall be referred to DNRE for comment.
36. The siting of building envelopes on individual allotments shall be established so as to ensure minimal vegetation removal and the Envelope Plan shall be submitted to DNRE for comment prior to certification of each stage of the subdivision.

CFA

37. All roads must be designed, constructed and maintained for a load capacity of at least 15 tonnes.
38. There must be no obstructions within one metre of the formed width of roads at any time and there must be four metres height clearance above all roads to allow fire vehicle access.
39. The amount and location of parking facilities must be determined in such a manner as to encourage users not to impede access of emergency vehicles.
40. Adequate provisions for turning of brigade vehicles must be provided in dead end roads and cul-de-sacs. This may be through either the provision of a court bowl with a trafficable area of minimum 10 metres radius or a "wye" or "tee" head with formed road surface of each leg being of at least 8 metres length from the centre point of the head and four metres width.
41. The water reticulation plan must be approved by the CFA prior to commencement of construction.
42. There must be a hydrant within 120 metres from the outer edge of building envelope.
43. Fire hydrants must be clearly identified in accordance with the Fire Service Guideline – Identification of Hydrants for Fire Fighting Purposes.
44. Areas of public open space must be managed in a minimum fuel condition during the fire danger period.

Time

45. The permitted approval for subdivision will expire if the subdivision is not started or completed within five years of the date of this permit.
46. The permitted approval for buildings and works associated with the development of dwellings, including vegetation removal within approved building envelopes, will expire if one of the following circumstances applies:
- The building or works is not started within fifteen years of the date of this permit.
 - The building or works is not completed within two years of commencement on each lot within the subdivision.

This applies only to the construction of dwellings and the removal of vegetation within approved building envelopes and as permitted in line with the requirements specified in Condition 7 of this permit.



Notes:**East Gippsland Water**

The payment of headworks and outfall charges will be at the time of sale/settlement of each lot, or all outstanding monies to be paid in full within two years from the date of issue of Statement of Compliance for the subdivision by the Authority, whichever occurs first.

TXU

It is recommended that, at an early date the applicant commences negotiations with TXU Electricity Ltd in order that supply arrangements can be worked out in detail, so prescribed information can be issued without delay.

Arrangements for supply will be subject to obtaining the agreement of other Authorities and any landowners affected by routes of the electric power lines required to supply the lots and for any tree clearing.

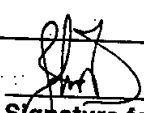
Prospective purchasers of lots on this plan should contact the TXU Electricity Ltd Bairnsdale office to determine the availability of a supply of electricity. Financial contributions may be required.

Permit amended to include a range of extra conditions controlling development of the subdivision.


Date Issued: 19 October, 2001

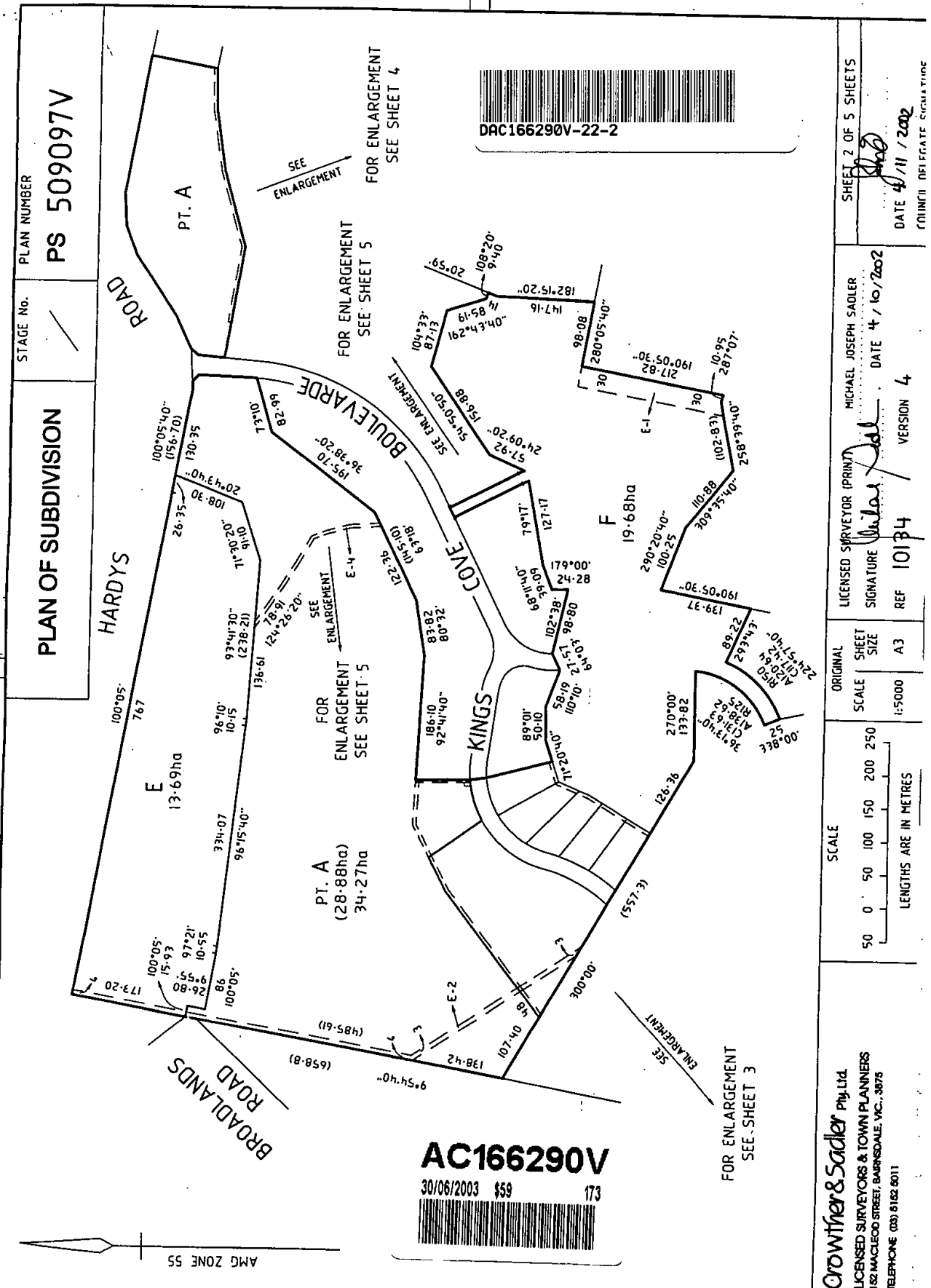
Amended on: 4 February, 2002

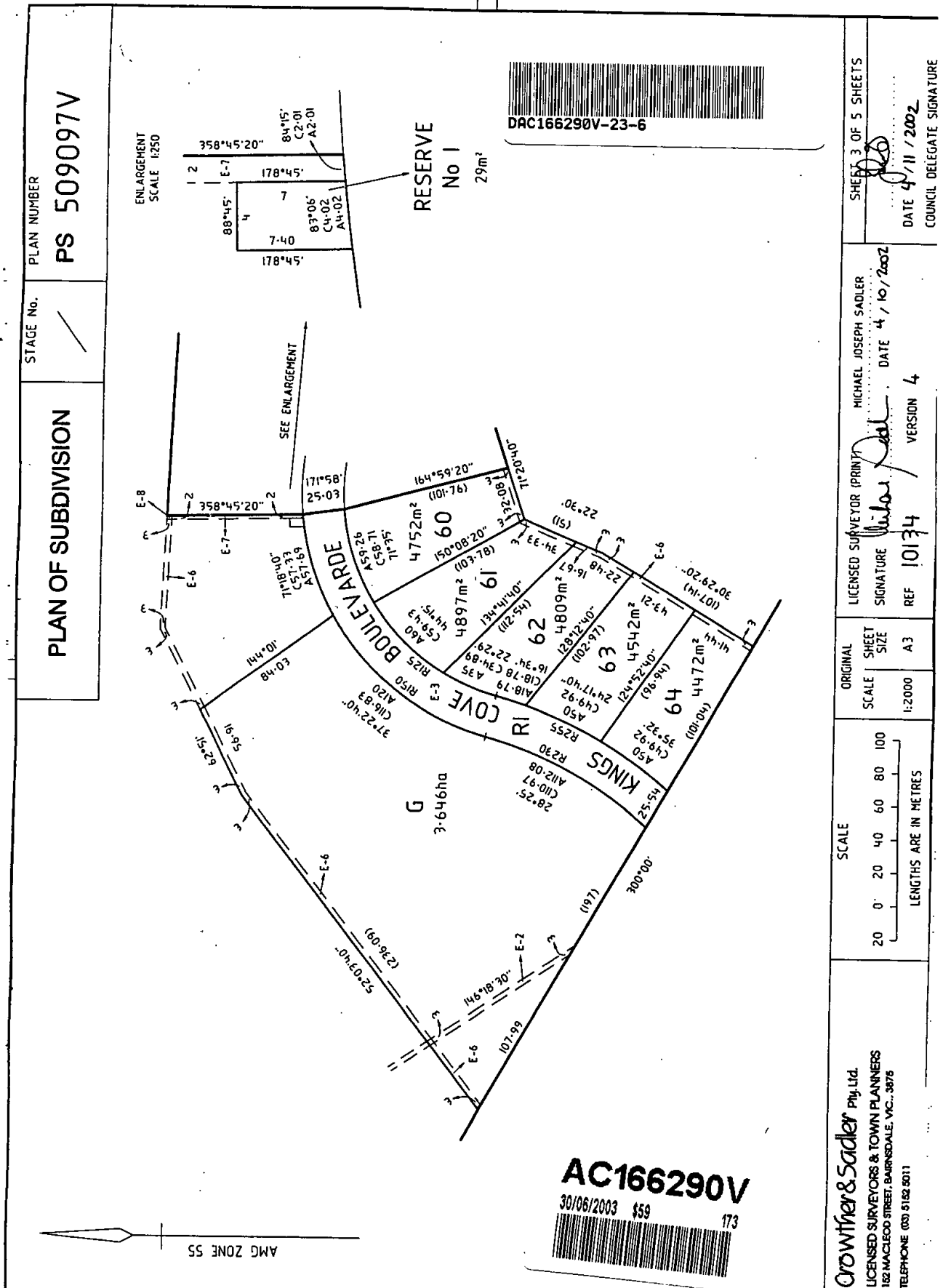
Page 7 of 7

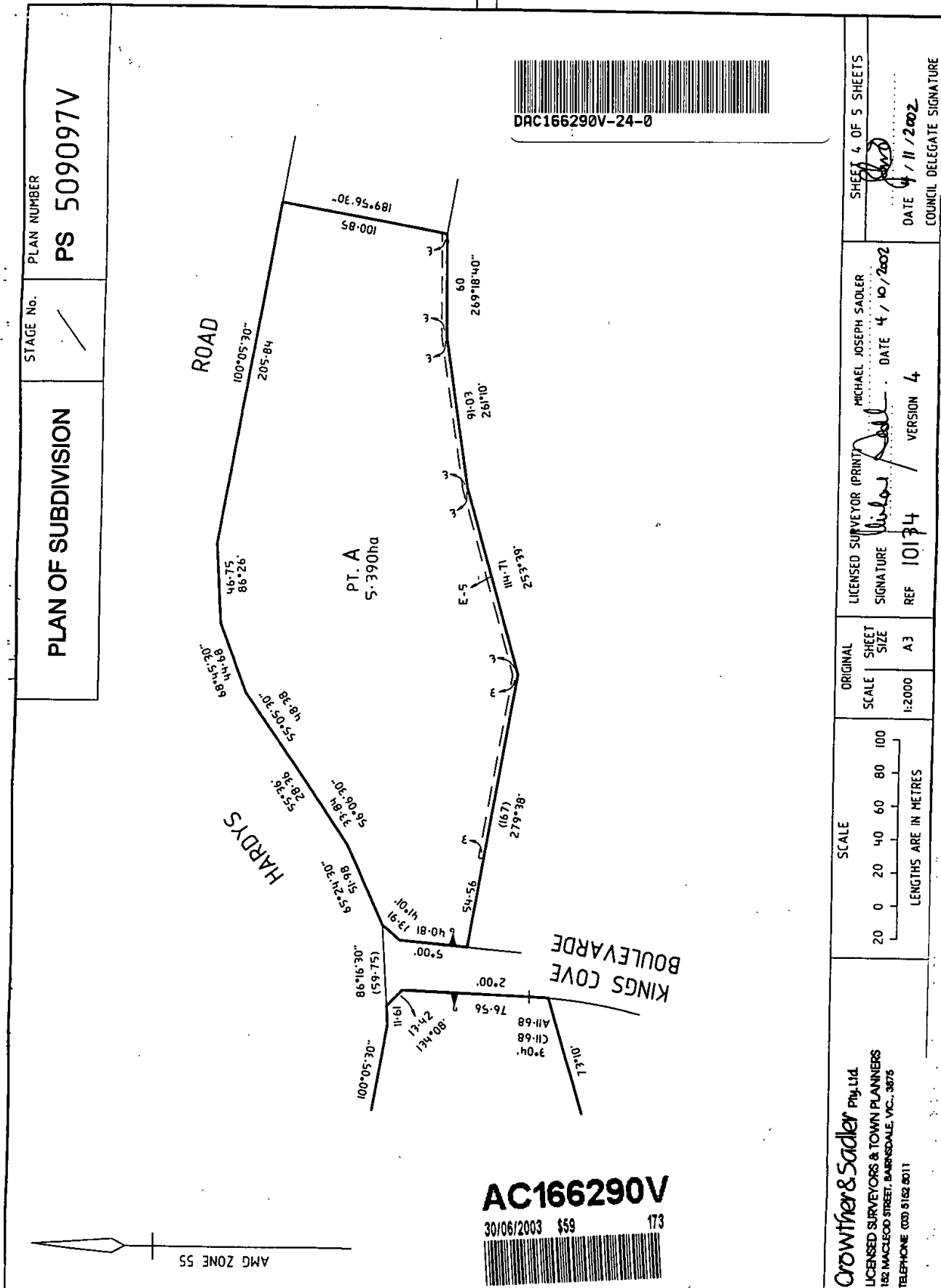

Signature for the
Responsible Authority



PLAN OF SUBDIVISION		STAGE No. /	LTO USE ONLY EDITION	PLAN NUMBER PS 509097V				
LOCATION OF LAND PARISH: BUMBERRAH TOWNSHIP: — SECTION: — CROWN ALLOTMENT: 78 ^A , 81 ^A , 81 ^E (PARTS) CROWN PORTION: — TITLE REFERENCES: LAST PLAN REFERENCE: LOTS A, C & E ON PS 448622Q POSTAL ADDRESS: (At time of subdivision) KINGS COVE BOULEVARDE, METUNG, 3904 AMG CO-ORDINATES: (Of approx. centre of land in plan) E 573 750 N 5807 000 ZONE: 55		COUNCIL CERTIFICATION AND ENDORSEMENT COUNCIL NAME: EAST GIPPSLAND SHIRE COUNCIL REF: 02/00053/SD 1. This plan is certified under Section 6 of the Subdivision Act 1988. 2. This plan is certified under Section 11(7) of the Subdivision Act 1988. Date of original certification under Section 6 / / 3. This is a statement of compliance issued under Section 21 of the Subdivision Act 1988. OPEN SPACE (i) A requirement for public open space under Section 18 Subdivision Act 1988 has has not been made. (ii) The requirement has been satisfied. (iii) The requirement is to be satisfied in stage Council Delegate <i>[Signature]</i> Council seal Date 4 / 11 / 2002 Re-certified under Section 11(7) of the Subdivision Act 1988. Council Delegate Council seal Date / /						
VESTING OF ROADS AND/OR RESERVES <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 20%;">IDENTIFIER</th> <th>COUNCIL/BODY/PERSON</th> </tr> <tr> <td>RI RESERVE No 1</td> <td>EAST GIPPSLAND SHIRE COUNCIL TXU ELECTRICITY LTD.</td> </tr> </table>		IDENTIFIER	COUNCIL/BODY/PERSON	RI RESERVE No 1	EAST GIPPSLAND SHIRE COUNCIL TXU ELECTRICITY LTD.	NOTATIONS STAGING This is / is not a staged subdivision Planning Permit No 01/00299/DS DEPTH LIMITATION DOES NOT APPLY LOTS 1 TO 59 HAVE BEEN OMITTED FROM THIS PLAN		
IDENTIFIER	COUNCIL/BODY/PERSON							
RI RESERVE No 1	EAST GIPPSLAND SHIRE COUNCIL TXU ELECTRICITY LTD.							
 DAC166290V-21-9		SURVEY: THIS PLAN IS / IS NOT BASED ON SURVEY THIS SURVEY IS CONNECTED TO PERMANENT MARK No(s)						
EASEMENT INFORMATION				LTO USE ONLY STATEMENT OF COMPLIANCE / EXEMPTION STATEMENT RECEIVED <input type="checkbox"/> DATE / /				
LEGEND A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)				LTO USE ONLY PLAN REGISTERED TIME DATE / / Assistant Registrar of Titles				
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of				
E-1	CARRIAGEWAY	30	INST. M22132T	VOL 9369 FOL 91, VOL 9369 FOL 912 & VOL 9369 FOL 913				
E-2	SEWERAGE	3	PS 448622Q	EAST GIPPSLAND REGION WATER AUTHORITY & LAND IN THIS PLAN				
E-3	CARRIAGEWAY	SEE DIAG.	PS 420967K	LOT 2 ON PS 420967K				
E-4	WATER SUPPLY	3	PS 448622Q	EAST GIPPSLAND REGION WATER AUTHORITY & LAND IN THIS PLAN				
E-5	POWERLINE	3	PS 448622Q	TXU ELECTRICITY LTD.				
E-6, E-8	SEWERAGE	3	THIS PLAN	EAST GIPPSLAND REGION WATER AUTHORITY & LAND IN THIS PLAN				
E-7, E-8	DRAINAGE	2	THIS PLAN	EAST GIPPSLAND SHIRE COUNCIL				
Crowther & Sadler Pty. Ltd. LICENSED SURVEYORS & TOWN PLANNERS 162 MACLEOD STREET, BAIRNSDALE, VIC., 3875 PHONE (03) 5152 5011				LICENSED SURVEYOR (PRINT) MICHAEL JOSEPH SADLER SIGNATURE <i>[Signature]</i> DATE 4 / 10 / 2002 REF 10134 VERSION 4				
DATE 4 / 11 / 2002 COUNCIL DELEGATE SIGNATURE <i>[Signature]</i> ORIGINAL SHEET SIZE A3								







PLAN OF SUBDIVISION	STAGE No. 	PLAN NUMBER PS 509097V	 DAC166290V-25-3
 AMG ZONE 55			
 SCALE 20 0 20 40 60 80 100 LENGTHS ARE IN METRES		ORIGINAL SHEET SIZE SCALE 1:2000 A3	
AC166290V 30/06/2003 \$59 173 		LICENSED SURVEYOR (PRINT) MICHAEL JOSEPH SADLER SIGNATURE DATE 4/10/2002 VERSION 4	
Crowther & Sadler Pty Ltd LICENSED SURVEYORS & TOWN PLANNERS 182 MACLEOD STREET, BARNSDALE, VIC., 3675 TELEPHONE (03) 5102 8011		SHEET 5 OF 5 SHEETS DATE 4/11/2002 COUNCIL DELEGATE SIGNATURE	

"C"

KING'S COVE – METUNG



**GUIDELINES FOR CONSTRUCTION, SITING OF, EXTERNAL ALTERATION AND ADDITIONS TO
BUILDING AND STRUCTURES ON "KING'S COVE"
STAGE 4 – LOTS 60 – 64 "LOW DENSITY RESIDENTIAL ZONE"**

These guidelines are designed to protect the interests of all owners of property in the development and are not intended to be restrictive.

The subject land forms part of a quality residential land development.

For the protection of the purchaser's interest it is desirable that certain controls be implemented in relation to: the nature and type of construction; the preservation of the environment, the aesthetic appearance; and the general amenity of the development. Design of buildings, landscaping, fencing, paving, and all the elements of a high quality living environment, should be guided to establish visual continuity and compatibility throughout the development.

1.0 INTRODUCTION

King's Cove is an integrated Residential Resort and Marina development owned by Storth Ryes Pty. Ltd. ("Storth Ryes"). Storth Ryes administers these guidelines, for the benefit of existing and new land owners, through an Architectural Review Committee established by it and consisting of representatives nominated by Storth Ryes.

2.0 DESIGN CONFORMITY

Written application for approval of the design, external finishes and siting of all buildings (and external alterations and additions to buildings) at King's Cove must be made by the allotment owner to the Architectural Review Committee, or its nominee, prior to work commencing or applying for a building permit. These guidelines are intended to provide the criteria for assessment of the application.

2.1 Approval Procedure

The initial step required is for each designer or builder to provide to the Architectural Review Committee a plan showing the contours of the site and proposed siting of the buildings together with a schematic presentation of the structure including: floor plans, elevations, materials and colours proposed. Once general agreement is reached and prior to lodgement of an application for a building permit from the East Gippsland Shire or its nominated subcontractor, the documents required for such application shall be lodged with the Architectural Review Committee for a final conformity assessment against these guidelines. Representations to the Architectural Review Committee in support of the proposed construction may be made by the applicants or their representatives.

The application and all supporting documents should be forwarded to the Architectural Review Committee at the following address:-

King's Cove Project Manager
PO Box 326
METUNG VIC 3904

The documents, together with a written assessment of conformity and approval, conditional approval or refusal of the proposal, shall be forwarded or given to the applicant as soon as practical and normally within 14 days of lodgement.

3.0 GUIDING GUIDELINES

3.1 Building Envelopes



Designated Building Envelopes form part of the guidelines and the permitted use of the land under the zoning. These building envelopes, which are designed to maximise views whilst enabling vegetation corridors between buildings, are required by agreement between Storth Ryes and the Responsible Authority. The building envelope positions are designated as part of the Soil and Water Management Plan agreed between Storth Ryes

AC166290V

30/06/2003 \$59 173

and the Responsible Authority under the zone overlay. The minimum setback from the allotment boundaries are prescribed in the designated building envelopes.

3.2 Soil and Water Management Plan

The permitted use of the land under the zoning is also governed by the Soil and Water Management Plan as approved by the Responsible Authority. The construction of civil works and buildings and associated structures must comply with the Soil and Water Management Plan, in order to protect the subject land, adjacent land and the Gippsland Lakes waterways.

Annexed hereto and marked "**Schedule A**" is the King's Cove – Stage 4 Soil and Water Management Plan Specifications for Construction of Dwellings.

3.3 Building Types Permitted



DAC166290V-27-1

A single dwelling is permitted within the zone under the relevant incorporated plan overlay for King's Cove (formerly Storth Ryes).

Any dwelling erected on the site shall have a total floor area of not less than one hundred and seventy (170) square metres within the outer walls thereof calculated by excluding the area of any carport, garage, terrace, pergola or verandah and must be built only of new materials.

All outbuildings exposed to public view from the street, reserve, adjoining allotments or the lake shall be designed, constructed and maintained in all ways similar to the principal building on the lot. Garages and carports shall preferably be incorporated into the main roof structure. Where detached garages or carports are permitted they shall also be constructed of the same approved materials as stipulated for the dwelling and be part of an overall integrated design. Each lot shall make a provision for fully enclosed and covered parking for not less than two motor vehicles unless otherwise agreed to in writing by the Architectural Review Committee.

Innovative house plans that meet the requirements of 3.4 Building Form, set out below, but use materials other than those specified will be considered for approval if appropriately submitted to the Architectural Review Committee for assessment.

3.4 Building Form

Simple clear forms will be preferred for all structures. Unduly fragmented or flamboyant forms will not be preferred where they impact on adjoining properties or the amenity of the subject land when viewed from offsite. Sun protection of walls, openings and terraces shall preferably be achieved by roof overhangs, verandahs, pergolas or other structurally integrated elements of the building.

As stipulated by agreement between Storth Ryes and the Responsible Authority, the construction of dwelling shall conform to the following:

- Buildings should be designed to minimise visual impacts, erosion and fire hazard.
- Buildings should be designed with floor levels and roofs that sit in sympathy with the prevailing ground slopes.
- Pergolas, decks and shading devices may be used to soften the interface between buildings and surrounding vegetation.
- Split level buildings shall be encouraged on sloping land to reduce the height of the building.

3.5 External Finishes and Colours

The objective is to provide a level of finish and colours which are compatible with the natural environment of King's Cove. They should reflect the colour and texture of the coastal setting and take account of durability and weathering characteristics. The following list of suitable finishes and colours are considered desirable but not definitive.

- Walls: Brick or masonry-rendered or bagged and painted in colours suited to the coastal environment.
- Stone.
- Timber and/or composite weatherboards – treated or painted in colours suited to the coastal environment.

- Glass – clear, grey or smoked (non-reflective).
- Sheeting Materials – Harditex and similar manufactured sheeting suitably coated and painted.
- Colourbonded metal in corrugated patterns.
- Roof: Colourbonded Metal – in colours suited to the coastal environment.
- Glass – or Polygal, Laserlight, Sailcloth and similar products.
- Trim: Timber, aluminium, sheeting materials and steelwork in colours suited to the coastal environment.

The above is not intended to be comprehensive and other colours and combinations would be considered against the objectives of suiting the coastal setting of the subject land.

3.6 Service Areas

Areas used for the purpose of drying or airing clothes shall be reasonably screened from public view from the street, reserved, adjoining allotments and the land. Storage tanks shall be mounted at ground level and reasonably concealed from public view. Refuse storage areas shall be totally screened from public view.

3.7 Vehicle Driveways/Paved Areas

Vehicle driveways and other paved areas exposed to public view should be constructed of clay brick, masonry pavers, crushed stone, stone sheeted bitumen, hot mix, patterned and coloured concrete, exposed aggregate concrete or formed quality gravel surface. Adequate drainage and erosion protection measures must be incorporated in line with the Soil and Water Management Plan.

3.8 Alterations and Additions

The guidelines (as amended) shall also apply to all external structural alterations and additions to external surfaces of buildings and structures on the development. Such works shall involve the same application and approval procedure as applies to initial building construction.

3.9 Builders' Site Refuge Guidelines

Lot owners shall ensure that any builder of a residence on a lot complies with the Builders' Site Refuge Guidelines contained in **Schedule B** of these Guidelines.

3.10 Requirement of Certificate of Occupancy or approval of the Architectural Review Committee

No allotment of the development shall be occupied for residential purposes either temporarily or permanently until a Certificate of Occupancy is issued for the dwelling erected on the site or until such occupancy is otherwise approved by the Architectural Review Committee.

4. Landscaping

4.1 General



DAC166290V-28-4

To enhance the amenity of King's Cove and to improve the aesthetic environment, owners of lots shall be required to landscape their properties within 12 months of entering into occupation and obtaining a certificate of occupancy. The plans for such landscaping shall be prepared by a competent landscape designer and submitted to the Architectural Review Committee for a conformity assessment at the same time as plans are presented for the buildings. Lot owners will lodge a Bank Guarantee or cash bond of satisfactory performance for the sum of \$2,000.00 with Storth Ryes or its nominee. The guarantee will be released when the agreed landscaping has been completed.

The use of native species of trees and shrubs is favoured, however, other varieties will be permitted. It is desired that some indigenous trees shall be planted on each site particularly on the setback areas. Landscape plans need to incorporate general schematic layouts only with main species listed and larger trees shown on the plan. Trees which exist on the site either naturally or as part of landscaping worked by the developer cannot be removed without the permission of the Architectural Review Committee.

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4.2 Maintenance

Maintenance and landscaping of all ground slopes shall be the responsibility of the lot owners. Treatment of the ground slopes incorporating terracing and or retaining walls, including proposed landscaping, shall be incorporated into the landscape plan for approval. The landscape plan shall take account of the Soil and Water Management Plan requirements, maintain vegetative cover on slopes and providing measures to avoid any erosion of the subject land during and following construction.

Where a retaining structure is required to support a swimming pool or to form a terrace, such structure shall preferably including sloping landscaped or stone pitched banks as a means of level transition and shall deal with drainage to avoid erosion.

4.3 Maintenance prior to construction

Maintenance prior to construction of the dwelling and/or site shall be the responsibility of the lot owners who shall be required to ensure that grass height does not exceed 200 millimetres at any time and that the lot is maintained generally in keeping with the overall maintenance of the King's Cove Development. To assist lot owners, Storth Ryes proposes to engage a subcontractor to provide grass cutting and like maintenance services at a reasonably competitive cost, which services will be available to lot owners.

In the event that such maintenance of the dwelling and/or site not being carried out in a timely manner by Lot owners, Storth Ryes shall be entitled to engage a subcontractor for the purpose of effecting the required grass cutting or maintenance works and the Lot owner shall reimburse Storth Ryes for any expenses reasonably incurred by Storth Ryes in so doing.

5. Fences

In principle it is considered that a parklike appearance is appropriate and that solid fences be kept to a minimum subject to the requirements of screening service areas, pools and other outdoor living areas. The use of screen planting areas to define boundaries is most desirable.

Post and wire fencing will be erected by Storth Ryes on most allotment boundaries excluding the street frontage and within 15 metres of the main street frontage which will be unfenced. Boundaries within the more vegetated areas may not be fenced to avoid disturbing the existing cover. No solid fence shall be built within 15 metres of front or rear boundaries or within 5 metres of a side boundary.

Where a solid fence is sought, the preferred materials shall be brush panel, stone, bagged and painted masonry or brickwork, hardwood or treated pine pickets of 75mm x 20mm with 20mm spacings. The planting of landscaping to soften such fences will be preferred. Front boundaries are preferred to be left unfenced. Where the owner seeks greater screening cover than planting alone can provide, fences will need to be setback 15 metres from the front boundary and significant planting incorporated into the setback area within the landscape plan.

6. Liability

Storth Ryes Pty. Ltd. and its successors and associated companies, Riviera Properties Limited and its successors and the Responsible Authority, shall each be free from any liabilities and claims for damages and/or suits of any kind as a result of or arising out of the enforcement or implementation of all or any of these guidelines or any matters associated with the same or any application for approval hereunder or the decision made.

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SCHEDULE A

King's Cove – Stage 4 Soil and Water Management Plan

Specifications for Construction of Dwellings

June, 2002





KINGS COVE – Stage 3 & 4
Soil and Water Management Plan
Specifications for Construction
of Dwellings
June 2002



Prepared by:

Crossco Australia Pty Ltd
Engineering and Environmental Consultants
152 Macleod Street, PO Box 858
Bairnsdale VIC 3875
Tel. 03-5152 6298
Fax. 03-5152 5705
consult@crossco.net.au
www.crossco.net.au



Kings Cove – Stage 3 & 4: Soil and Water Management Plan

KINGS COVE – Stage 3 & 4
Soil and Water Management Plan
Specifications for Construction of Dwellings

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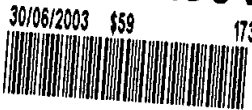
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FIGURES

DRAWING 1: KING COVE – STAGE 3 & 4: DWELLING SOIL & WATER MANAGEMENT PLAN ..AT REAR

AC166290V

Document Information: 1072 kings cove stage 3 & 4 soil & water.doc
 Issued: 18th June, 2002



DAC166290V-32-1



DAC166290V-33-4

Kings Cove – Stage 3 & 4: Soil and Water Management Plan

1. BACKGROUND and OBJECTIVE

This Soil and Water Management Plan outlines the minimum erosion control requirements necessary for the construction of dwellings on allotments within Stage 3 & 4, Kings Cove Boulevard of the Kings Cove subdivision in Metung, Victoria.

The objective of this Plan is to prevent soil erosion and control sedimentation by adoption of the following key principles:

- Implementation of sensible site planning and compliance with construction specifications
- Diversion of up-slope water from the construction site
- Minimisation of site disturbance
- Rationalisation of movement by construction vehicles
- Installation of sediment traps/controls along low-side of construction site
- Rationalisation of stockpile location
- Protection of stockpiles from erosion
- Minimise waste from wash-down and tile/brick cutting
- Minimisation of stormwater runoff from the construction site
- Reduce the erosive energy of stormwater leaving or diverted around the construction site
- Minimisation of building waste and debris
- Regular maintenance of all erosion control structures
- Prompt rehabilitation of all disturbed areas

A typical dwelling construction site, together with specific erosion control requirements are illustrated on Drawing 1. These controls should be adopted for development of all dwellings within Stage 3 & 4 at Kings Cove based on site specific details listed in Table 1.

2. RESPONSIBILITY FOR COMPLIANCE

Compliance with the erosion control techniques specified by this Plan (and accompanying drawings) is a mandatory requirement of East Gippsland Shire Council's Planning Permit 01/00299/DS for development of dwellings within Stages 3 & 4 at Kings Cove.

It is the land/dwelling owners responsibility to ensure all contractors engaged in the construction of a dwelling(s) on any allotment within Stages 3 & 4 at Kings Cove are aware of the need to implement the erosion controls specified by this Plan.

It is the individual responsibility of the builder and all sub-contractors to implement and maintain the various erosion control structures.

3. SITE-SPECIFIC REQUIREMENTS

This Soil and Water Management Plan stipulates erosion control requirements which can be adopted for all building envelopes within Stages 3 & 4 at Kings Cove. The location and orientation of each individual erosion control structure will vary depending on the relative position of the dwelling, access to the construction site, the direction and steepness of the land, and drainage conditions.

Site disturbance should, at all times, be kept to a minimum on all allotments by limiting the extent of cut and fill, limiting the steepness of batter slopes, and prompt rehabilitation of all disturbed sites.

Table 1 lists the different site-specific conditions prevailing across Stages 3 & 4 at Kings Cove.



Kings Cove – Stage 3 & 4: Soil and Water Management Plan

The builder must establish the erosion control requirements in accordance with Table 1.

Table 1. Kings Cove Stage 3 & 4 Lot numbers and erosion control requirements

Allotment No.	Landscape Type	Stage	Erosion Control Requirements
All Allotments (ie. 43-47, 57-64, 70-77)	i) Gently sloping or ii) Gently sloping with steeper escarpment		<ul style="list-style-type: none"> Implement all erosion control structures. Construct silt fences on ALL down slope sides of construction site. Cut & fill batters > 3.0 m long and steeper than 1H in 3V should be structurally retained. Construct silt fence on down slope side of construction site. Establish cut-off drains across high side of construction site. Utilise craneage and pumping for construction on steep erosion-prone slopes. Stormwater discharged on-site should exit via energy dissipater with silt fence across drainage line. Avoid stormwater discharge down steep slopes.
Lots 70 to 77 inclusive	Gently sloping		<ul style="list-style-type: none"> All stormwater must be drained to the surface drain located immediately below the north-western (rear) boundary of the lots.
Lots 43-47 & 57-64 inclusive	Gently sloping with steeper escarpment		<ul style="list-style-type: none"> All stormwater must be drained to the drain/kerb fronting the allotments along Kings Cove Boulevard.

4. STORMWATER DISCHARGE and DRAINAGE LINE PROTECTION

All stormwater from dwellings and associated access must be drained to an appropriate discharge point as specified below and in Table 1.

For Lots 70-77, Stage 2 Kings Cove, all stormwater must be drained to the surface drain located immediately below the northern (rear) boundary of the lots.

For Lots 43-47, 57-64 Stage 3 & 4 Kings Cove, all stormwater must be drained to the drain/kerb fronting the allotments along Kings Cove Boulevard.

For Lots 43-47 & 57-64, stormwater should not be drained downslope in a south-eastern direction over the steeper slopes along the south-eastern (rear) of these allotments.

Particular care must be taken to protect all drainage lines, gullies and steep erosion-prone slopes. Stormwater discharged onsite (from buildings and driveways etc) must be suitably baffled to dissipate erosive energy. Where there is a threat of erosion, energy dissipaters consisting of rock aggregate (100 mm ALD) securely laid over needle-punched geotextile fabric, should be constructed at stormwater outlet points. Stormwater should exit over the aggregate and onto stable grassed areas. A silt fence should be constructed across the drainage line immediately below the stormwater outlet point during construction activities.

Early connection of stormwater lines and onsite storage for subsequent reuse is encouraged.





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Kings Cove – Stage 3 & 4: Soil and Water Management Plan

5. INSTALLATION SEQUENCE

Forward planning can minimise the number of erosion control structures required and their potential interference with the building process.

Installation of erosion control structures in an appropriate sequence will maximise the effect of the structures in preventing erosion and sediment movement, and further reduce the interference to builders.

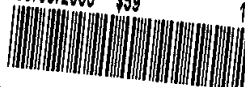
The following sequence should be adopted:

1. Establish a single entry-exit point and 'parking' spot for all vehicles involved in construction activities
2. Peg-out the limits of the dwelling
3. Determine the limits of disturbance / earthworks (ie cut and fill)
4. Install sediment fences along the low side of the site immediately below the limit of disturbance, leaving sufficient room for construction activities and stockpiles. Sediment fence detail is shown on the Dwelling Soil and Water Management Plan.
5. Install a cut-off drain above the upper limit of the cut batter to divert up-slope water around the site
6. Stabilise cut-off drains and discharge points to dissipate erosive energy of water
7. Remove any remaining vegetation (confirming for planning approval if required)
8. Strip and stockpile topsoil within the sediment fence perimeter
9. Rehabilitate all disturbed areas (including cut and fill batters) not subject to further construction activity with erosion control matting and suitable fast growing grass species
10. Install on-site building waste and litter receptacles (ie mini skips etc)
11. Undertake construction activity
12. Minimise erosive potential of stormwater generated from the site and dwelling roofs. This will include the need to install and connect roof downpipes and stormwater drainage lines to discharge points.
13. Continue to maintain all erosion and sediment control structures, including regular removal of accumulated sediment.
14. Stabilise and rehabilitate all remaining disturbed slopes (cut and fill batters, service trenches) with suitable fast growing grass species.

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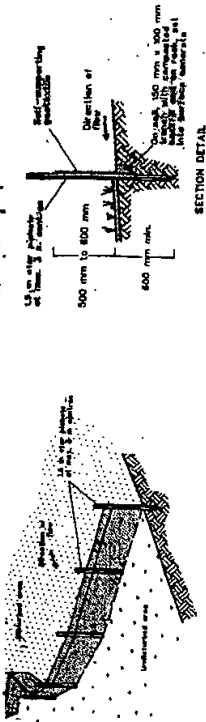
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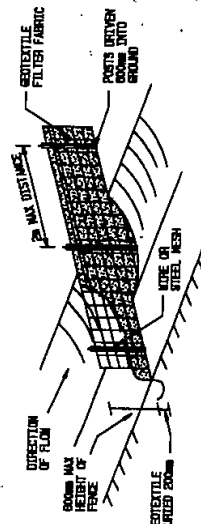
CONSTRUCTION NOTES

1. Construct sediment fence at limit of disturbance.
2. Drive a 15mm star picket into ground. An expert.
3. Dig a 150mm deep trench along the upslope line of the fence for the bottom of the fabric to be entrenched.
4. Backfill trench over base of fabric.
5. Fix self supporting geotextile to upslope side of posts with wire pins or as recommended by geotextile manufacturer.
6. Join sections of fabric at a support post with a 150mm overlap.

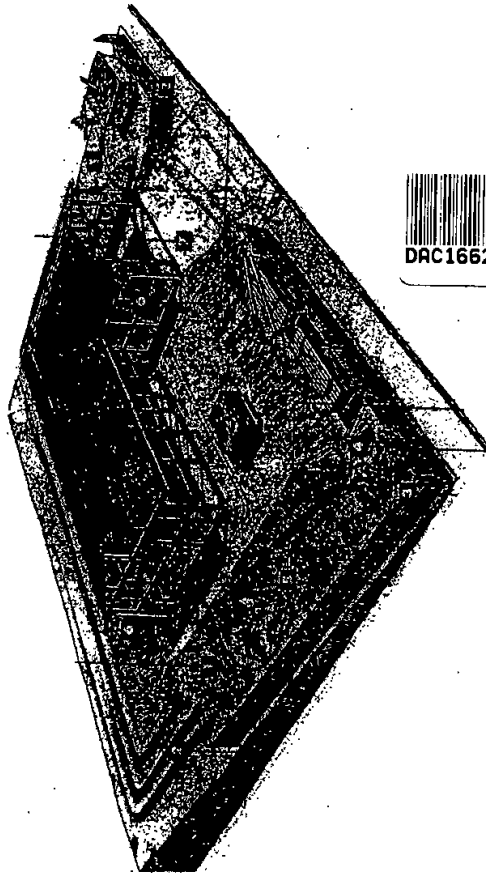
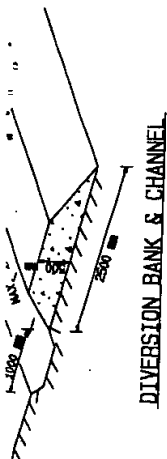
TYPICAL SILT FENCE

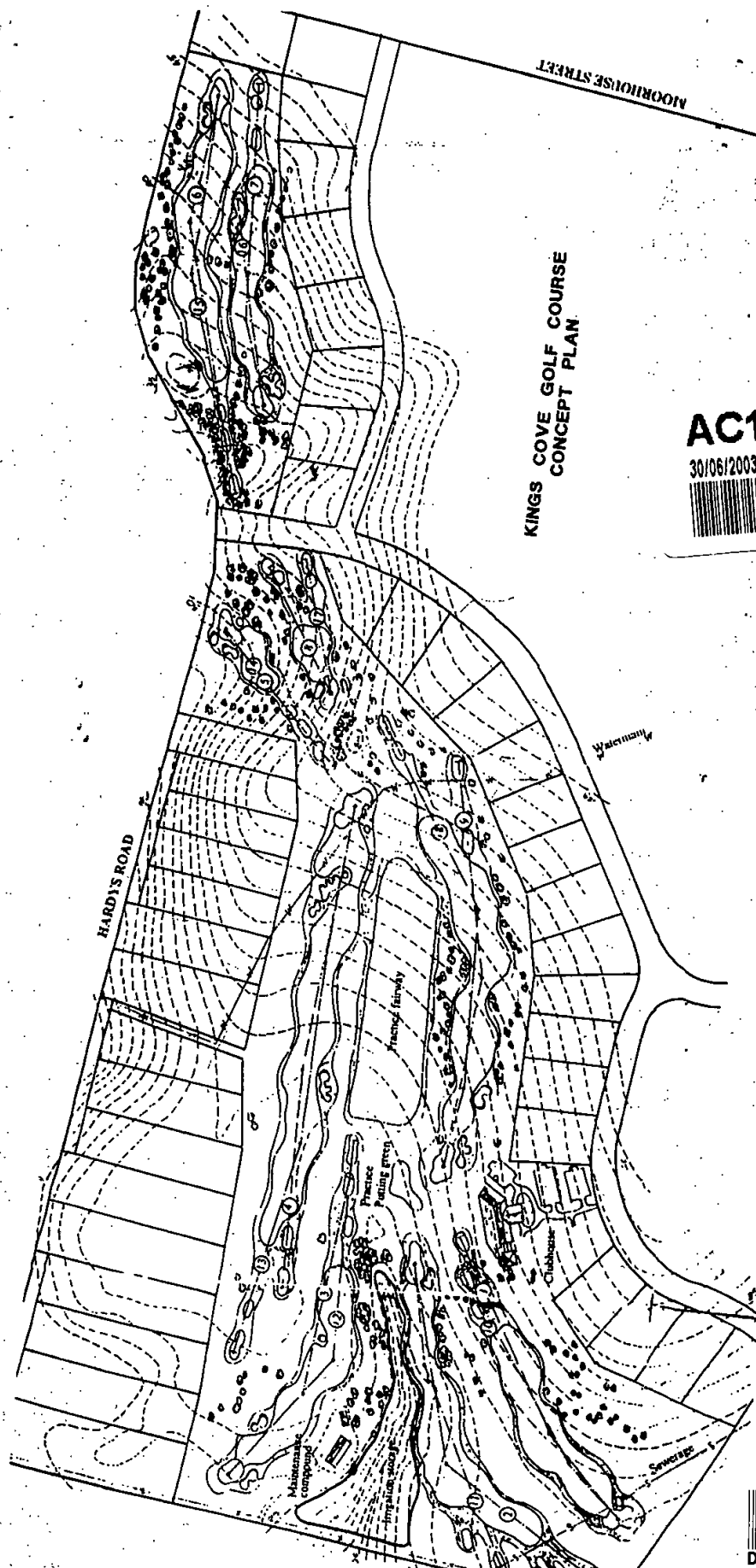
GENERAL NOTES

1. Restrict cut & fill to minimum necessary and stabilize all disturbed slopes promptly. Establish on-site building waste and litter receptacles
2. Establish a cut-off drain above the upper limit of the cut better to divert up-slope water around the site
3. Install sediment fences along the low side of site immediately below the limit of disturbance, leaving sufficient room for construction activities and stockpiles
4. Sediment fence detail is shown attached.
5. Strip and stockpile topsoil within sediment fence perimeter
6. Minimize waste from near-down and till/drill cutting
7. Minimize erosive potential of stormwater generated from the site and dwelling roofs. This will include the need to install and connect roof downpipes and stormwater drainage lines to discharge points as follows:
 - Stage 3, Lots 70 - 77 inclusive to the surface drain located immediately below the northern 'leaky' boundary of the lots.
 - Stage 3 & 4, Lots 43 - 46 & 57 - 64 inclusive to the drain fronting the allotments along Kings Cove Boulevard.
 - Stage 3 Lot 47 to the kerb and channel fronting the allotment.



SILT FENCE ON DRAINAGE LINE

[illegible]



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SCHEDULE B

BUILDERS' SITE REFUSE GUIDELINES

1. All Owners have an obligation to keep the whole of "King's Cove" tidy.
2. It is an Owner's responsibility during the construction phase of a Residence on a Lot to inform the builder of the contents of these Builder's Site Refuse Guidelines.
3. All building materials and fittings must be stored within the property boundaries of a Lot at all material times and no building materials are permitted to be stored on the nature strip of a Lot.
4. Builders must provide a lockable 2 metre square bin on a Lot for the storage of all site refuse generated by that Lot and keep all such site refuse within such bin.
5. The King's Cove Architectural Review Committee will impose a non-littering requirement as a standard clause of any approval granted by the Architectural Review Committee in respect of building works. The builder will be required to be diligent in the control of all site litter and to protect adjoining lots and verges from use by on site construction workers and subcontractors of the Lot.
6. The owner must ensure that a sign is erected on the Lot during the construction phase of the Residence specifying the builder's obligations in relation to these Builders' Site Refuse Guidelines.
7. An Owner and their builder must comply with any litter notice issued by or on behalf of the Architectural Review Committee specifying breaches of the Builders' Site Refuse Guidelines and rectify such breaches, failing which an Owner and their builder will be exposed to prosecution by East Gippsland Shire Council under the Litter Control Act.



StorthGuidelines



DAC166290V-39-6

EAST GIPPSLAND SHIRE COUNCIL

- and -

STORTH RYES PTY LTD
(A.C.N. 006 383 179)

AGREEMENT UNDER SECTION 173
OF THE PLANNING AND ENVIRONMENT
ACT 1987



WARREN GRAHAM & MURPHY,
Solicitors,
119 Main Street,
BAIRNSDALE VIC 3875

REF: ACT:jl Storthryessection 173(Stage 4)

TEL: (03) 51522 661

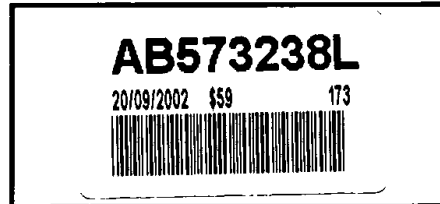
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CODE 1716W VICTORIA



**APPLICATION BY A RESPONSIBLE AUTHORITY under Section 181
Planning and Environment Act 1987 for ENTRY OF A
MEMORANDUM OF AGREEMENT under Section 173 of that Act.**

IX Agreement

The Responsible Authority under the Planning Scheme having entered into an Agreement with the parties named for the land described requires that a Memorandum of Agreement be entered on the Certificate of Title to the land referred to.

LAND	Certificate of Title Volume 40569 Folio 313 <i>CANC Now = Vol 10678 Fol 232-251 (B1)</i> <i>(WH)</i>
ADDRESS OF LAND	15 Hardys Road, Metung, Victoria 3904
RESPONSIBLE AUTHORITY	East Gippsland Shire Council <i>22 NOV 2002</i> <i>With consent of</i> <i>Consent Practitioner for</i> <i>Applicant</i>
PLANNING SCHEME	East Gippsland Planning Scheme
AGREEMENT DATE	The <i>28th</i> day of <i>AUGUST</i> 2002
AGREEMENT WITH	Storth Ryes Pty. Ltd. (ACN 006 383 179)

A copy of the Agreement is attached to this Application

Signature of the Responsible Authority

[Signature]

Name of Officer

JOHN TRAA, STATUTORY PLANNER

Date

06/09/2002

12 OCT 2002



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EAST GIPPSLAND SHIRE COUNCIL

Council

- and -

STORTH RYES PTY LTD (A.C.N. 006 383 179)

the Owner

**Agreement under Section 173 of the Planning and
Environment Act 1987**

Subject Land: 15 Hardys Road, METUNG VIC 3904
PLAN OF SUBDIVISION 448622Q (Stage Two)



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DB573238L-3-6

PLANNING AND ENVIRONMENT ACT 1987 SECTION 173 AGREEMENT

THIS AGREEMENT is made the 28 day of AUGUST 2002

BETWEEN

EAST GIPPSLAND SHIRE COUNCIL of 273 Main Street, Bairnsdale

("Council")

- and -

STORTH RYES PTY LTD (A.C.N. 006 383 179)

("the Owner")

INTRODUCTION

- A. The Council is the Responsible Authority for the Planning Scheme under the Act.
- B. The Owner is the registered proprietor of the Subject Land.
- C. It is a condition of planning Permit Number 01/00299/DS (Amended) ("the Planning Permit") that the Owner enter into this Agreement to develop and use the land in accordance with the Endorsed Plans and conditions of the Planning Permit. A copy of the Planning Permit is attached to this Agreement and marked "A".
- D. The parties enter into this Agreement:
 - (a) to give effect to the requirements of the Planning Permit; and
 - (b) to achieve and advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land.

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IT IS AGREED:**1. DEFINITIONS**

In this Agreement the words and expressions set out in this clause have the following meanings unless the context admits otherwise:

- 1.1. **"the Act"** means the Planning and Environment Act 1987.
- 1.2. **"this Agreement"** means this agreement and any agreement executed by the parties expressed to be supplemental to this agreement.
- 1.3. **"the Endorsed Plan"** means the plan, endorsed with the stamp of the Council that forms part of the Planning Permit. A copy of the plan, as at the date of this Agreement, is attached to this Agreement and marked with the letter "B".
- 1.4. **"Owner"** means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as proprietor or proprietors of an estate in fee simple of the Subject Land or any part of it and includes a Mortgagee-in-possession.
- 1.5. **"Planning Permit"** means the Planning Permit referred to in recital C. of this Agreement.
- 1.6. **"Planning Scheme"** means the East Gippsland Planning Scheme and any other planning scheme which applied to the Subject Land.
- 1.7. **"Subject Land"** means the land situated at 15 Hardys Road, Metung being Lot D on Plan of Subdivision No. 434079N and being the land described in Certificate of Title Volume 10569 Folio 313 and any reference to the Subject Land in this Agreement will include a reference to any lot created by the subdivision of the Subject Land or any part of it.



- 1.8. **"Mortgagee"** means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as Mortgagee of the Subject Land or any part of it.

2. INTERPRETATION



In this Agreement unless the context admits otherwise:

- 2.1. The singular includes the plural and vice versa.
- 2.2. A reference to a gender includes a reference to each other gender.
- 2.3. A reference to a person includes a reference to a firm, corporation or other corporate body and that person's successors in law.
- 2.4. If a party consists of more than one person this Agreement binds them jointly and each of them severally.
- 2.5. A reference to an Act, Regulation or the Planning Scheme includes any Acts, Regulations or amendments amending, consolidating or replacing the Act, Regulation or Planning Scheme.
- 2.6. The introductory clauses to this Agreement are and will be deemed to form part of this Agreement.
- 2.7. The obligations of the Owner under this Agreement, will take effect as separate and several covenants which are annexed to and run at law and equity with the Subject Land PROVIDED THAT if the Subject Land is subdivided, this Agreement must be read and applied so that each subsequent owner of a lot is only responsible for those covenants and obligations which relate to that owner's lot.

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3. SPECIFIC OBLIGATIONS OF THE OWNER



The Owner covenants and agrees that:

3.1. Development in accordance with Planning Permit

the Subject Land shall only be developed in accordance with the Endorsed Plans and conditions of the Planning Permit or any subsequent amendment to the permit approved by the Council.

3.2. Condition 11 of the Planning Permit No. 01/00299/DS (Amended) requires that:

- (a) The development of each lot approved by this permit will only be carried out in accordance with the requirements of a Soil and Water Management Plan.
- (b) Each lot will be developed and used for the purpose of a single dwelling and associated outbuildings in accordance with the document "*Kings Cove – Metung- Guidelines for Construction, Siting of, External Alterations and Additions to Buildings and Structures on Kings Cove Stages 2 to 9, Low Residential Zone*", dated December, 2001 (or as amended) (The Document). A copy of the Document is attached hereto and marked "C".
- (c) Any amendment to The Document will be to the satisfaction of the Responsible Authority.
- (d) No lot created within Stage 1B will have vehicular access to Archibald Drive.
- (e) The provision of access to and development of the proposed Public Open Space Reserve shall be to the satisfaction of the responsible authority.

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- (f) A copy of Planning Permit 01/00299/DS (Amended) will be attached to and will form part of the Contract of Sale for every lot.
- (g) Landscaping works around private residences will have regard to the Storth Ryes Landscape Concept Report, which encourages the use of indigenous plant species and recommends appropriate planting objectives and plant lists for site conditions. Known weed or invasive "pest" plants will not be encouraged.
- (h) This Agreement will bind the Owner and must run with the land so that all successors in the title are bound by this Agreement.

3.3. Council's Costs to be Paid

This Agreement will be prepared at the Owner's cost and to the satisfaction of the responsible authority, and must be registered on title in accordance with Section 181 of the Planning and Environment Act 1987.

The Owner must pay to the Council, the Council's reasonable costs and expenses (including legal expenses) of and incidental to the preparation, drafting, finalisation, engrossment, execution, registration and enforcement of this Agreement and until those costs are paid they will remain a debt of the Owner to the Council.

4. FURTHER OBLIGATIONS OF THE OWNER

The Owner further covenants and agrees that:



4.1. Notice and Registration

the Owner will bring this Agreement to the attention of all prospective purchasers, mortgagees, transferees and assigns;





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4.2. Further actions

- 4.2.1. the Owner will do all things necessary, including signing any further agreements, undertakings, covenants and consents, approvals or other documents necessary for the purpose of ensuring that the Owner carries out the Owner's covenants under this Agreement and to enable the Council to enforce the performance by the Owner of such covenants and undertakings;
- 4.2.2. the Owner will consent to the Council making application to the Registrar of Titles to make a recording of this Agreement in the Register on the Certificate of Title of the Subject Land in accordance with Section 181 of the Act and do all things necessary to enable the Council to do so including signing any further agreement, acknowledgement or document or procuring the consent to this Agreement of any mortgagee or caveator to enable the recording to be made in the Register under that Section;

4.3. Exemption

The Owner will exempt the Council, its employees, contractors and agents from and against all costs, expenses, losses or damages whatsoever which they or any of them may sustain incur or suffer, or be or become liable for or in respect of any suit, action, proceeding, judgment or claim brought by any person whatsoever arising from or referable to this Agreement or any non-compliance thereof.

5. AGREEMENT UNDER SECTION 173 OF THE ACT

The Council and the Owner agree that without limiting or restricting their respective powers to enter into this Agreement and, insofar as it can be so treated, this Agreement is made pursuant to Section 173 of the Act.

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DAB573238L-10-2

6. OWNERS WARRANTIES

Without limiting the operation or effect which this Agreement has, the Owner warrants that apart from the Owner and any other person who has consented in writing to this Agreement, no other person has any interest, either legal or equitable, in the Subject Land which may be effected by this Agreement.

7. SUCCESSORS IN TITLE

Without limiting the operation or effect which this Agreement has, the Owner must ensure that, until such time as a memorandum of this Agreement is registered on the title to the Subject Land, successors in title shall be required to:

- 7.1. give effect to and do all acts and sign all documents which will require those successors to give effect to this Agreement; and
- 7.2. execute a deed agreeing to be bound by the terms of this Agreement.

8. GENERAL MATTERS

8.1. Notices

A notice or other communication required or permitted to be served by a party on another party must be in writing and may be served:

8.1.1. by delivering it personally to that party;

8.1.2. by sending it by prepaid post addressed to that party at the address set out in this Agreement or subsequently notified to each party from time to time; or

8.1.3. by sending it by facsimile provided that a communication sent by facsimile shall be confirmed immediately in writing by the sending party hand delivery or prepaid post.

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8.2. A notice or other communication is deemed served:

8.2.1. if delivered, on the next following business day;

8.2.2. if posted, on the expiration of two business days after the date of posting; or

8.2.3. if sent by facsimile, on the next following business day unless the receiving party has requested retransmission before the end of that business day.

8.3. No Waiver



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Any time or other indulgence granted by the Council to the Owner or any variation of the terms and conditions of this Agreement or any judgment or order obtained by the Council against the Owner will not in any way amount to a waiver of any of the rights or remedies of the Council in relation to the terms of this Agreement.

8.4. Severability

If a court, arbitrator, tribunal or other competent authority determines that a word, phrase, sentence, paragraph or clause of this Agreement is unenforceable, illegal or void then it must be severed and the other provisions of this Agreement will remain operative.

8.5. No Fettering of the Council's Powers

It is acknowledged and agreed that this Agreement does not fetter or restrict the power or discretion of Council any decision or impose any requirements or conditions in connection with the granting of any planning approval or certification of any plans of subdivision applicable to the Subject Land or relating to any use or development of the Subject Land.

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9. COMMENCEMENT OF AGREEMENT

Unless otherwise provided in this Agreement, this Agreement commences from the date of this Agreement.

10. ENDING OF AGREEMENT

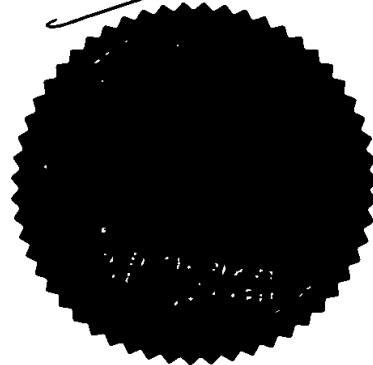
This Agreement may be ended wholly or in part or as to any part of the land by the Responsible Authority with the approval of the Minister or by agreement between the Responsible Authority and all persons who are bound by the agreement.

EXECUTED by the parties on the date set out at the commencement of this Agreement.

The **COMMON SEAL** of **EAST GIPPSLAND**
SHIRE COUNCIL was affixed on behalf of)
 Council by authority of the Chief Executive)
 Officer on the 28th day of August.)
 2002 in exercise of the power delegated)
 under Administrative Procedures (Use of)
 Common Seal) Local Law in the presence of)

..... M. Bennett

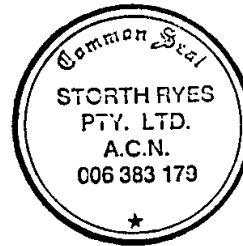
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The **COMMON SEAL** of **STORTH RYES**)
PTY LTD (A.C.N. 006 383 179) was)
 Hereunto affixed in accordance with its)
 Constitution in the presence of:-



[Signature]
 Signature

[Signature]
 Signature

Therese Annand Watson
 Full Name

THOMAS EAGER
 Full Name

Level 1, 637 The Esplanade, Rayville.
 Usual Address

74 MAIN ST. BARRISDALE
 Usual Address

DIRECTOR
 Office Held

SECRETARY
 Office Held

Mortgagee's Consent



Gippsland Secured Investments as Mortgagee of Registered Mortgages Numbered W348833Y and X256305M consents to the Owner entering into this Agreement and in the event that the Mortgagee becomes Mortgagee-in-possession, agrees to be bound by the covenants and conditions of this Agreement.

[Signature]
 For and on behalf of the Mortgagee, G.S.I.



AB573238L



PLANNING PERMIT

Permit No: 01/00299/DS (AMENDED)
Planning Scheme: EAST GIPPSLAND
Responsible Authority: East Gippsland Shire

Form 4.4

ADDRESS OF THE LAND

15 Hardys Road, METUNG VIC 3904
Lot 2 LP 420967)

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DB573238L-14-7

THE PERMIT ALLOWS

The land to be subdivided into 68 Lot (Stages 2, 3, 4, 5 & 6) in accordance with the endorsed plans.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

Subdivision not altered

1. The subdivision as shown on the endorsed plans must not be altered without the prior written consent of the responsible authority.

Engineering requirements

2. The applicant shall engage a suitably qualified consultant to undertake the preparation of detailed engineering design, drawings, documentation and specifications for the construction of road and drainage works and for the provision of services, all to the satisfaction of Council and meeting the requirements of the relevant service authorities.
3. Infrastructure shall be designed in accordance with standard engineering principles and practices. Full and detailed calculations shall be provided. The design shall provide for the following minimum requirements.

Roads, Pavement and Access

(a) Investigation shall be undertaken to determine existing site conditions to determine design requirements. All reports and full details of all investigations undertaken shall be provided with designs submitted to Council for approval. Full and detailed calculations supporting all aspects of design shall be provided.

(b) Pavement design shall be undertaken in accordance with accepted engineering practice. Pavement design for collector roads shall also take into consideration traffic that may be generated from the potential for future development to the south-west of the subject site. Supporting calculations for pavement design including the provision of geotechnical reports shall be provided.

(c) The cul-de-sac or turning heads of proposed new roads shall be constructed and sealed to provide sufficient space for the manoeuvring of all service and emergency vehicles. "T" or "Y" shaped turning heads are acceptable. Provision of suitable area for vehicles to perform a 3 point turn will be acceptable.

(d) A driveway crossover or culvert shall be constructed for all allotments to Council's satisfaction and in accordance with Council requirements. Crossing places shall incorporate features to prevent erosion which may include but not be limited to suitable stone pitching in the invert or energy dissipation devices. Proposed details of design and construction for crossovers shall be provided.

Drainage

(e) The stormwater drainage system shall be designed in accordance with standard engineering practice to provide for the collection of all stormwater

runoff, resulting from a storm having an ARI of 1 in 20 Years, and concentrated by buildings, pavements, and/or siteworks to avoid damage or inundation to any property. Each allotment shall be provided with a connection to the drainage system. Connections to the drainage system shall be in accordance with Council requirements. Pipes through the council verge area shall be constructed of steel or concrete, not PVC.

(f) The stormwater drainage system shall incorporate measures to ensure the quality of stormwater discharging from the development is maintained. The drainage system shall provide such water quality measures as considered necessary which may include, but not be limited to, the provision of sediment traps, wetlands, detention basins, Gross Pollutant Traps and drainage pits incorporating litter baskets.

(g) Drains shall incorporate features to prevent erosion which may include but not be limited to suitable stone pitching in the invert or energy dissipation devices placed at regular intervals along the length of the drain.

(h) Where a proposed drainage system submitted to Council for approval indicates that construction of drains will be on private property easements for drainage purposes and meeting the requirements of Council for access and maintenance purposes shall be vested in Council free of charge.

(i) Outlets shall incorporate an energy dissipation devices to prevent any erosion.

Earthworks

(j) With the exception of roadside drainage structures roadside verges shall have a batter slope no greater than 8 horizontal to 1 vertical.

(k) All earthworks associated with the development shall be stabilised in accordance with standard engineering design and practices against erosion and failure. No earthworks may encroach across neighbouring property boundaries.

Services

(l) Design for the installation of services shall meet the requirements of the relevant authorities and shall be approved by those authorities.

Signage and Traffic Control

(m) The design shall address and include all applicable and statutory signage and traffic control requirements. Design drawings and specifications shall provide for the installation of appropriate signage and pavement markings conforming with the requirements of AS 1742 Manual of uniform traffic control devices. Provision of necessary signage and pavement marking shall be undertaken by the developer

Documentation

(n) All documentation for the construction of infrastructure shall include adequate provision for:

- (i) maintenance and repair of damage to existing infrastructure damaged as a result of works associated with this development
- (ii) quality assurance and testing procedures
- (iii) provision for adequate notification and inspections by Council representatives at various key stages of the works
- (iv) works to be undertaken with due regard to environmental requirements.

(o) An agreement shall be entered into which shall be noted on title requiring the property being developed as a golf course to accept all stormwater runoff

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from the development. This agreement shall be a continuing agreement and binding on all future registered proprietors of that property.

Supervision of Works

(p) An appropriately qualified and registered practitioner to the satisfaction of the Responsible Authority must supervise all stages of works to be constructed on the site. Copies of all test results certified by a NATA accredited laboratory shall be provided with a certification by a Chartered Professional Engineer that all works have been constructed in accordance with approved plans and specifications will be required.

4. Any portion of Council's existing infrastructure damaged as a result of work undertaken on the site or associated with the development shall be repaired/reinstated to Council's satisfaction at the developer's expense.
5. No works shall commence until such time as all necessary approvals from Council and relevant service authorities have been obtained.
6. Construction works on the subject land may only be conducted between the hours of 7.00 am to 6.00 pm Monday to Saturday (inclusive).
7. During and after construction works, the site must be managed to minimise dust generation and movement causing loss of amenity to the surrounding neighbourhood to the satisfaction of the responsible authority.
8. All earthworks associated with the proposal must be undertaken in accordance with the provisions of Environment Protection Authority (EPA) Publication No. 275 "Construction Techniques for Sediment and Pollution Control" (Copy available from EPA, Traralgon).
9. Prior to the issue of a Statement of Compliance the applicant shall pay to the Council an amount of money equal to 0.75% of the estimated cost of the engineering works plus 2.5% of the actual cost of the engineering works for checking of plans and specifications and for on-site supervision of the engineering works respectively in accordance with Clause 8 and 9 of the Subdivision (Permit and Certification Fees) Regulations.

Tree removal

10. Trees that do not fit the category of being "planted" as part of the initial development require a separate planning permit for removal unless exempted by provisions of the East Gippsland Planning Scheme.

173 agreement

11. Prior to the issue of a Statement of Compliance, the applicant must enter into an Agreement under Section 173 of the Planning and Environment Act 1987 with the responsible authority to covenant that:
 - the development of each lot approved by this permit will only be carried out in accordance with the requirements of a Soil and Water Management Plan.
 - each lot will be developed and used for the purpose of a single dwelling and associated outbuildings in accordance with the document "Kings Cove - Metung - Guidelines for Construction, Siting of, External Alterations and Additions to Buildings and Structures on Kings Cove Stages 2 to 9, Low Density Residential Zone", dated December 2001 (or as amended) (The Document).
 - Any amendment to The Document will be to the satisfaction of the Responsible Authority.
 - no lot created within Stage 1B will have vehicular access to Archibald Drive.

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- the provision of access to and development of the proposed Public Open Space Reserve shall be to the satisfaction of the responsible authority.
- a copy of this permit will be attached to and will form part of the contract of sale for every lot.
- landscaping works around private residences will have regard to the Storth Ryes Landscape Concept Report, which encourages the use of indigenous plant species and recommends appropriate planting objectives and plant lists for site conditions. Known weed or invasive "pest" plants will not be encouraged.
- the agreement may be ended wholly or in part or as to any part of the land by the responsible authority with the approval of the responsible authority with the approval of the Minister or by agreement between the responsible authority and all persons who are bound by the agreement.
- the agreement will bind the owner(s) and must run with the land so that all successors in the title are bound by the agreement.
- this agreement will be prepared at the owner's cost and to the satisfaction of the responsible authority, and must be registered on title in accordance with Section 181 of the Planning and Environment Act 1987.

Construction of dwellings

12. The development of lots approved by this permit for the purpose of a dwelling will be exempt from the need to obtain a separate planning permit provided:
- all buildings are constructed wholly within approved building envelopes;
 - all construction and site development works are carried out strictly in accordance with the approved Soil and Water Management Plan, to the satisfaction of the responsible authority, and
 - the requirements of Clause 32.03-2 (Use for one or two dwellings or a dependent persons unit) can be met.

Street Names

13. Street names must be to the satisfaction of the responsible authority.

Landscaping

14. Prior to the issue of a Statement of Compliance, the subject land must be landscaped and planted in accordance with the requirements of the "Storth Ryes Landscape Concept Report" prepared by Murphy Design Group and dated April 2000. Specifically the following requirements must be met:
- Section 1.13 Other Roads
 - Section 1.15 Pedestrian Walkways
 - Section 1.16 Boundaries
15. Plans detailing the landscaping and streetscaping treatments, consistent with the "Storth Ryes Landscape Concept Report" and the Typical Landscape treatments contained in this report, and must be prepared by an appropriately qualified person and approved by the responsible authority prior to the commencement of any landscaping works.



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East Gippsland Water

The owner/applicant must:

16. Enter into an agreement under the Water Act for the provision of water supply works.

17. Meet the cost of the necessary water mains extension.
18. Pay a headworks and distribution charge at a level determined by the Authority at the time of payment. As a guide the level applicable on 18/7/01 is \$2,000 per lot created by the subdivision.
19. Enter into an agreement under the Water Act for the provision of sewerage works.
20. Meet the cost of the necessary sewer mains extension.
21. Pay an outfall and disposal charge at a level determined by the Authority at the time of payment. As a guide, the level of charge on 18/7/01 is \$2,100 per lot created by the subdivision.
22. Provide easements as necessary.
23. Connect development to Authority's water and sewerage services to the satisfaction of the Authority.

TXU Electricity Ltd

The applicant must:

24. Enter into an agreement with TXU Electricity Ltd for supply of electricity to each lot on the endorsed plan.
25. Enter into an agreement with TXU Electricity Ltd for the rearrangement of the existing electric supply system.
26. Enter into an agreement with TXU Electricity Ltd for rearrangement of the points of supply to any existing installations affected by any private electric power line which would cross a boundary created by the subdivision, or by such means as may be agreed by TXU Electricity Ltd.
27. Provide easements satisfactory to TXU Electricity Ltd for the purpose of "Electricity (power lines)" in the favour of TXU Electricity Ltd pursuant to Section 44 of the Electricity Industry Act 1993, where easements have not been otherwise provided, for all existing TXU Electricity Ltd electric power lines and for any new power lines required to service the lots on the endorsed plan and/or abutting land.
28. Obtain for the use of TXU any other easement external to the subdivision required to service the lots.
29. Adjust the position of any existing TXU Electricity Ltd easement to accord with the position of the electricity line(s) as determined by survey.
30. Set aside on the plan of subdivision for the use of TXU, reserves satisfactory to TXU where any electric substation (other than a pole mounted type) is required to service the subdivision.
31. Provide survey plans for any electric substation required by TXU Electricity Ltd and for associated power lines and cables and execute leases for a period of 30 years, at a nominal rental with a right to extend the lease for a further 30 years. TXU Electricity Ltd requires that such leases are to be noted on the title by way of a caveat or a notification under section 88(2) of the Transfer of Land Act prior to the registration of the plan of subdivision.

Telstra

32. The applicant shall enter into an agreement with Telstra or other licensed Telecommunications carrier for the satisfactory provision of telephone cable reticulation one metre into each lot created.
33. The applicant shall set aside on the plan of subdivision reserve/s satisfactory to Telstra, for telecommunication/s substations if required.

Planning Permit No. 01/00299/DS - Page 5

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Certification

34. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of the Act.

DNRE

35. Prior to any works commencing on the development of the subdivision, the Soil and Water Management Plan prepared for the works shall be referred to DNRE for comment.
36. The siting of building envelopes on individual allotments shall be established so as to ensure minimal vegetation removal and the Envelope Plan shall be submitted to DNRE for comment prior to certification of each stage of the subdivision.

CFA

37. All roads must be designed, constructed and maintained for a load capacity of at least 15 tonnes.
38. There must be no obstructions within one metre of the formed width of roads at any time and there must be four metres height clearance above all roads to allow fire vehicle access.
39. The amount and location of parking facilities must be determined in such a manner as to encourage users not to impede access of emergency vehicles.
40. Adequate provisions for turning of brigade vehicles must be provided in dead end roads and cul-de-sacs. This may be through either the provision of a court bowl with a trafficable area of minimum 10 metres radius or a "wye" or "tee" head with formed road surface of each leg being of at least 8 metres length from the centre point of the head and four metres width.
41. The water reticulation plan must be approved by the CFA prior to commencement of construction.
42. There must be a hydrant within 120 metres from the outer edge of building envelope.
43. Fire hydrants must be clearly identified in accordance with the Fire Service Guideline – Identification of Hydrants for Fire Fighting Purposes.
44. Areas of public open space must be managed in a minimum fuel condition during the fire danger period.

Time

45. The permitted approval for subdivision will expire if the subdivision is not started or completed within five years of the date of this permit.
46. The permitted approval for buildings and works associated with the development of dwellings, including vegetation removal within approved building envelopes, will expire if one of the following circumstances applies:
- The building or works is not started within fifteen years of the date of this permit.
 - The building or works is not completed within two years of commencement on each lot within the subdivision.

This applies only to the construction of dwellings and the removal of vegetation within approved building envelopes and as permitted in line with the requirements specified in Condition 7 of this permit.

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Notes:**East Gippsland Water**

The payment of headworks and outfall charges will be at the time of sale/settlement of each lot, or all outstanding monies to be paid in full within two years from the date of issue of Statement of Compliance for the subdivision by the Authority, whichever occurs first.

TXU

It is recommended that, at an early date the applicant commences negotiations with TXU Electricity Ltd in order that supply arrangements can be worked out in detail, so prescribed information can be issued without delay.

Arrangements for supply will be subject to obtaining the agreement of other Authorities and any landowners affected by routes of the electric power lines required to supply the lots and for any tree clearing.

Prospective purchasers of lots on this plan should contact the TXU Electricity Ltd Bairnsdale office to determine the availability of a supply of electricity. Financial contributions may be required.

Permit amended to include a range of extra conditions controlling development of the subdivision.

Date Issued: 19 October, 2001

Amended on: 4 February, 2002

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Signature for the
Responsible Authority

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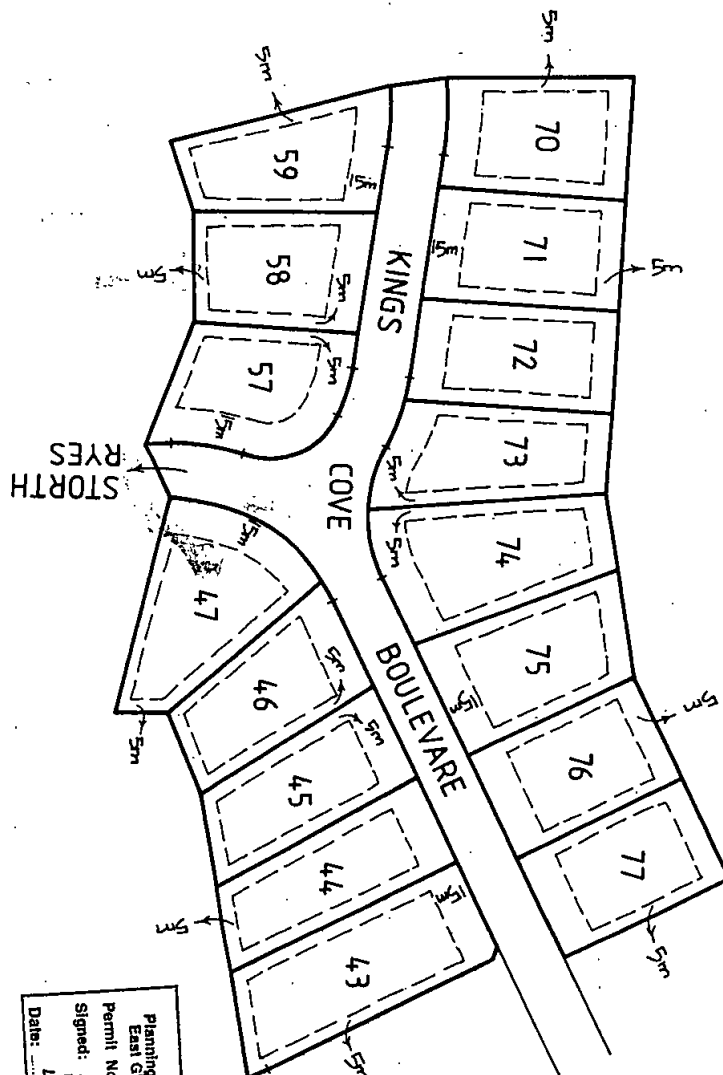
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BUILDING ENVELOPE DIAGRAM "KINGS COVE" DEVELOPMENT STAGE 3

REF No: 9804-1
SCALE: 1:2000 (A3)

AB573238L

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Endorsed Plan	
Planning and Environment Act 1987	
East Gippsland Planning Scheme	
Permit No:	01002791/DS
Signed:	East Gippsland Shire
Date:	4/7/07
Page:	2 of 2



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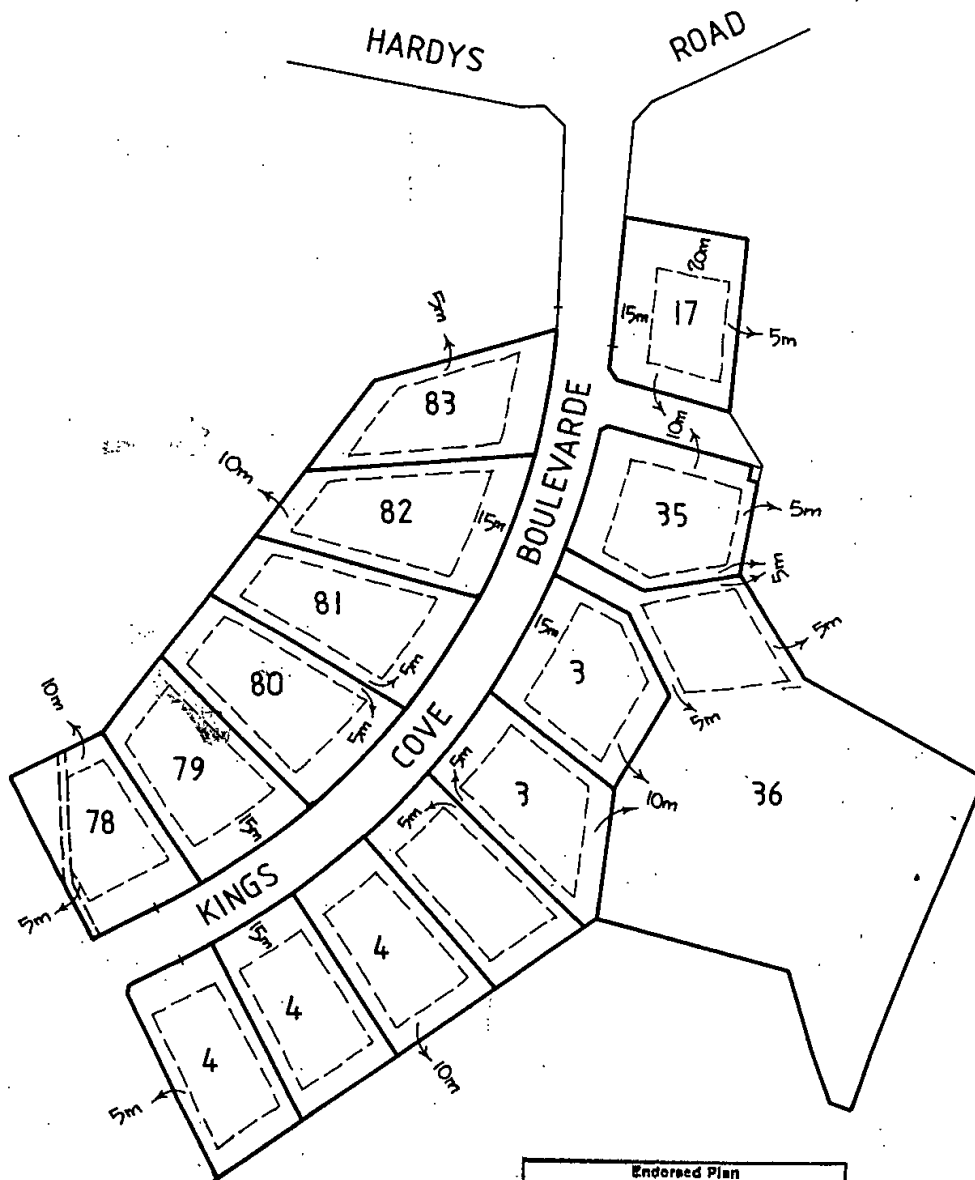
Crowther & Sadler Pty Ltd
LICENSED SURVEYORS & TOWN PLANNERS
152 MACLEOD STREET, BAIRNSDALE, 3875
TELEPHONE (03) 5152 2011

BUILDING ENVELOPE DIAGRAM "KINGS COVE" DEVELOPMENT STAGE 2

REF NO.: 9803-1
SCALE: 1:2000 (A3)

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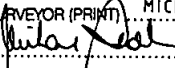
Endorsed Plan	
Planning and Environment Act 1987	
East Gippsland Planning Scheme	
Permit No.:	91/00279/05
Signed:	[Signature]
East Gippsland Shire	
Date:	4/2/02 Page 1 of 1



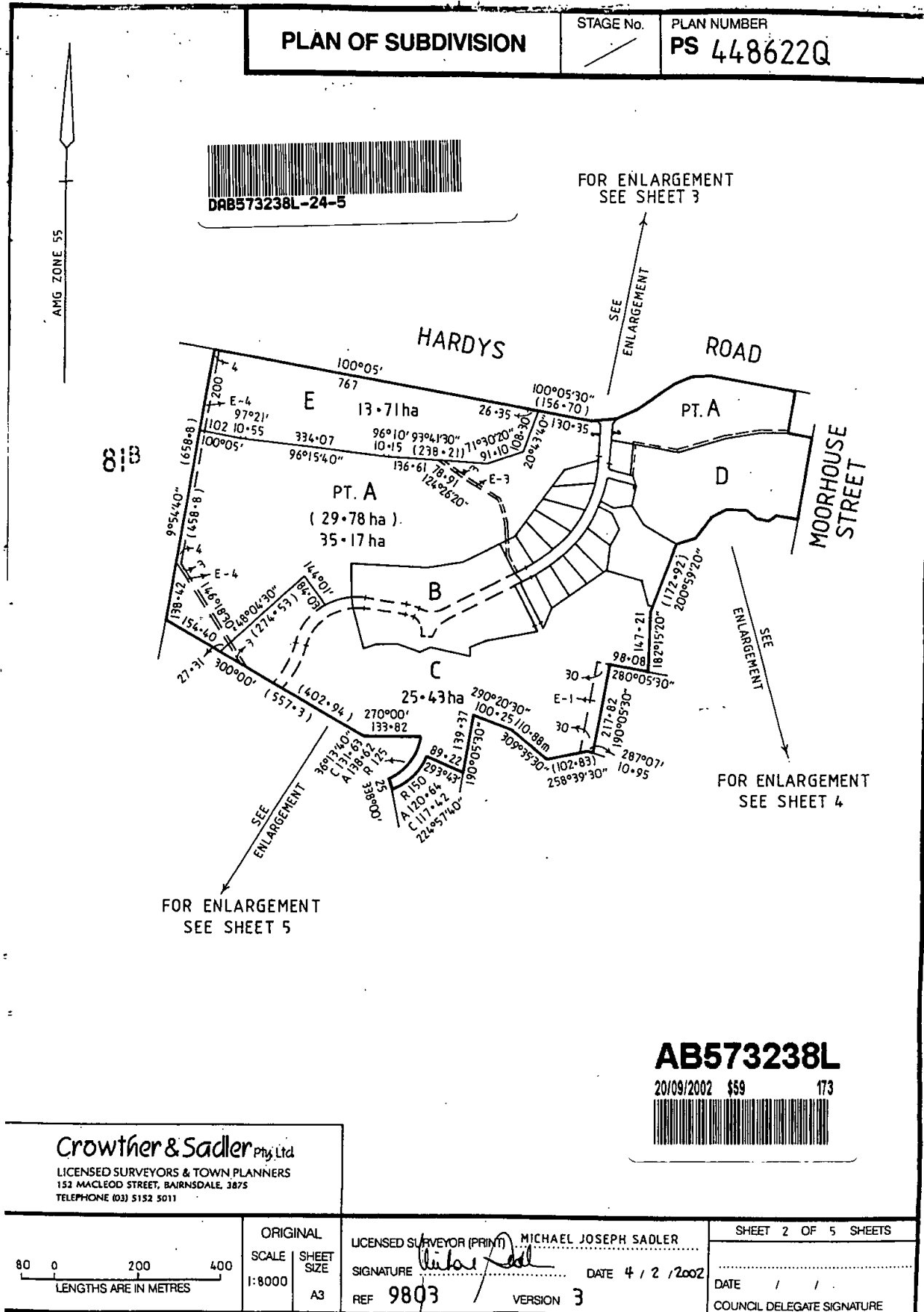
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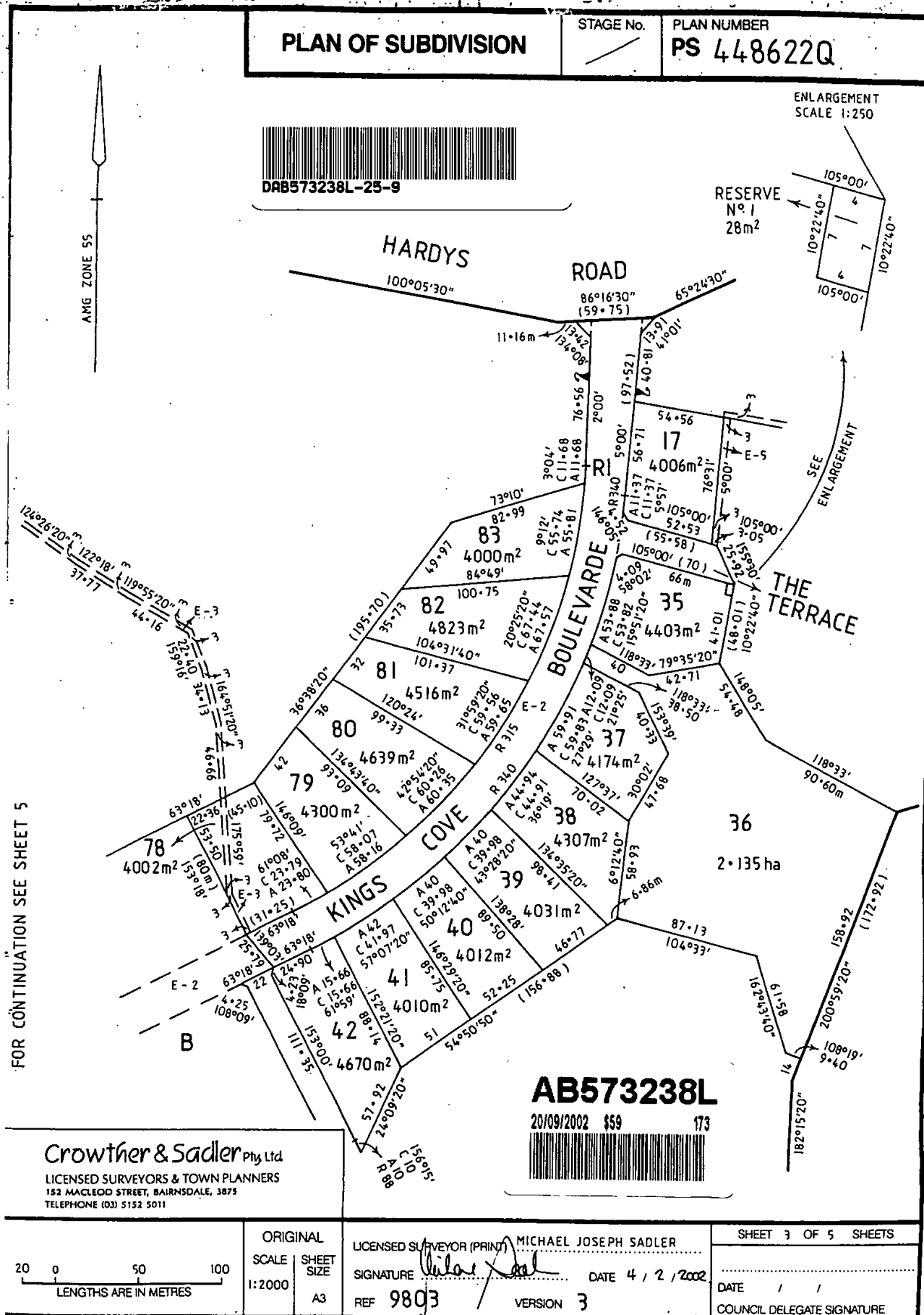
Crowther & Sadler Pty Ltd

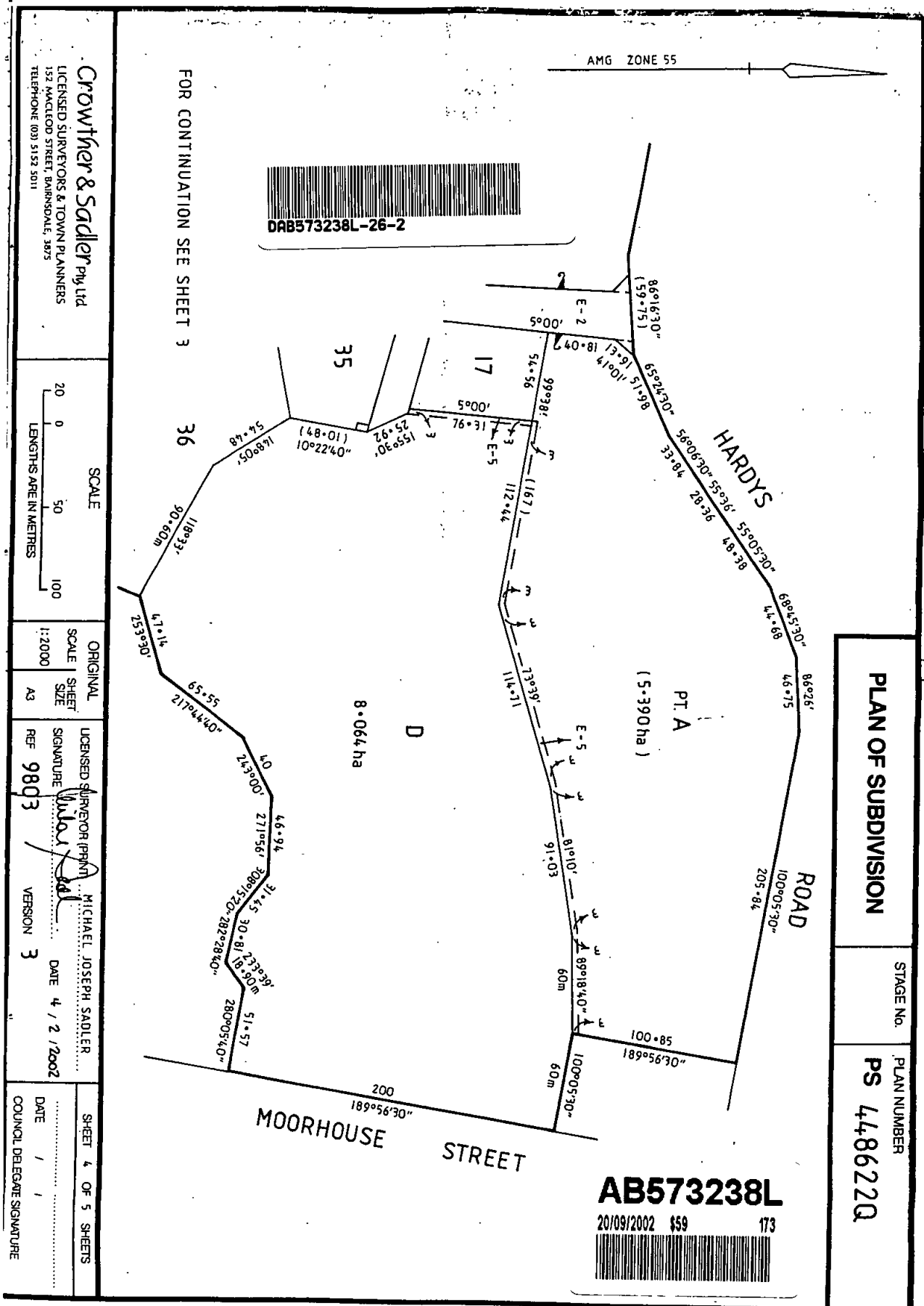
LICENSED SURVEYORS & TOWN PLANNERS
152 MACLEOD STREET, BAIRNSDALE, 3875
TELEPHONE (03) 5152 5011

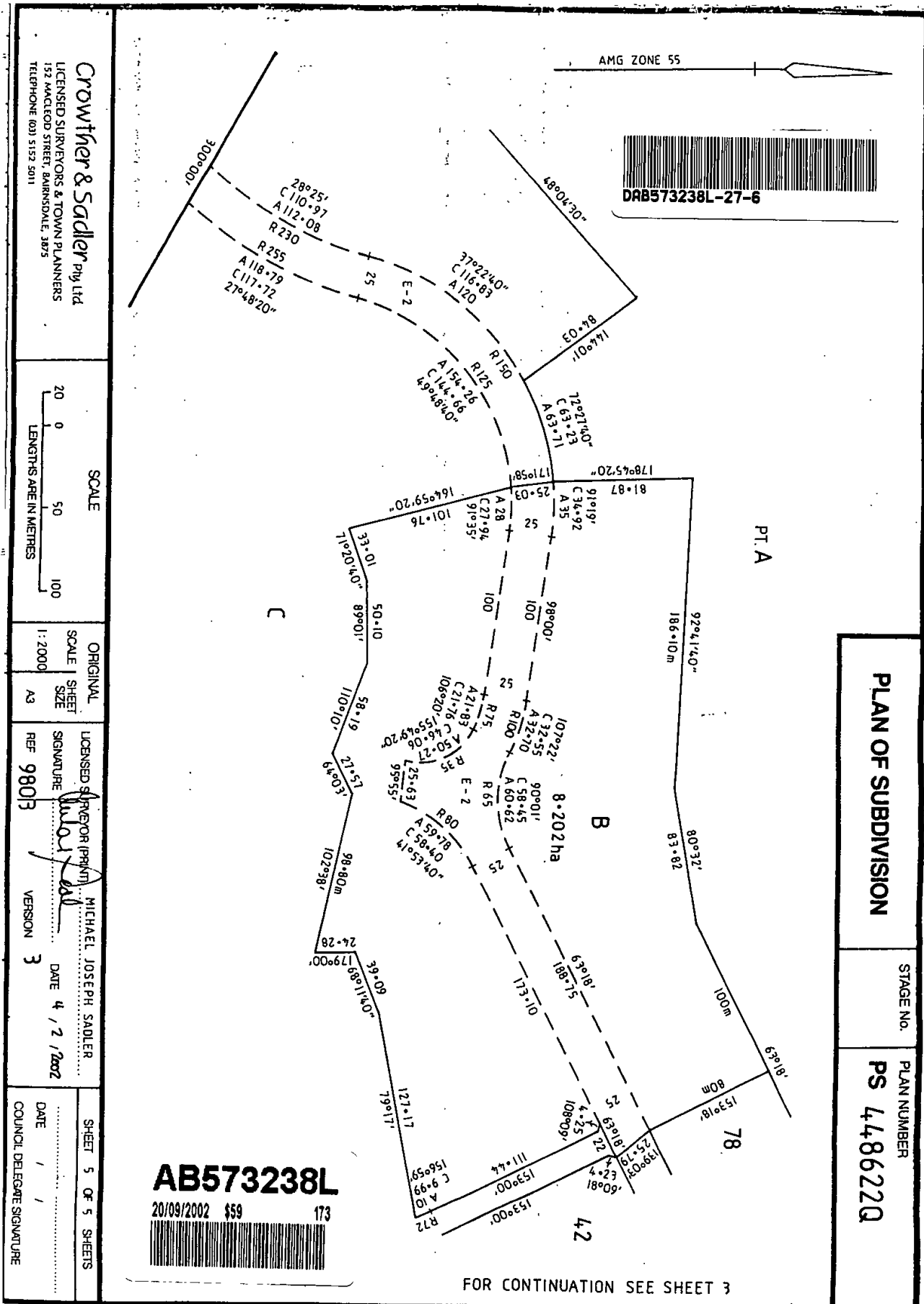
PLAN OF SUBDIVISION		STAGE No. 3	LTO USE ONLY EDITION	PLAN NUMBER PS 448622Q				
LOCATION OF LAND PARISH: BUMBERRAH TOWNSHIP: — SECTION: — CROWN ALLOTMENT: 78A, 81A, 81D, 81E (PARTS) & PART OF FORMER GOVT. ROAD CROWN PORTION: — LTO BASE RECORD: TITLE REFERENCES: LAST PLAN REFERENCE/S: PS 434079N LOT D POSTAL ADDRESS: HARDYS ROAD, (At time of subdivision) METUNG, 3904 AMG Co-ordinates (of approx centre of land in plan) E 573 700 N 5807 100 ZONE: 55		COUNCIL CERTIFICATION AND ENDORSEMENT COUNCIL NAME: EAST GIPPSLAND SHIRE COUNCIL REF: 1. This plan is certified under Section 6 of the Subdivision Act 1988. 2. This plan is certified under Section 11(7) of the Subdivision Act 1988. Date of original certification under Section 6. / / 3. This is a statement of compliance issued under Section 21 of the Subdivision Act 1988. OPEN SPACE (i) A requirement for public open space under Section 18 of the Subdivision Act 1988 has/has not been made. (ii) The requirement has been satisfied. (iii) The requirement is to be satisfied in Stage Council Delegate Council Seal Date / / Re-certified under Section 11(7) of the Subdivision Act 1988. Council Delegate Council Seal Date / /						
VESTING OF ROADS AND/OR RESERVES <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 20%;">IDENTIFIER</th> <th>COUNCIL/BODY/PERSON</th> </tr> </thead> <tbody> <tr> <td>RI RESERVE N°1</td> <td>EAST GIPPSLAND SHIRE COUNCIL TXU ELECTRICITY LTD.</td> </tr> </tbody> </table>		IDENTIFIER	COUNCIL/BODY/PERSON	RI RESERVE N°1	EAST GIPPSLAND SHIRE COUNCIL TXU ELECTRICITY LTD.	NOTATIONS STAGING This is not a staged subdivision. Planning permit No. 01/00299/DS DEPTH LIMITATION 15.24 METRES BELOW THE SURFACE APPLIES TO CROWN ALLOTMENT 81A ONLY LOT NUMBERS 1 TO 16, 18 TO 34 & 43 TO 77 HAVE BEEN OMITTED FROM THIS PLAN		
IDENTIFIER	COUNCIL/BODY/PERSON							
RI RESERVE N°1	EAST GIPPSLAND SHIRE COUNCIL TXU ELECTRICITY LTD.							
<div style="display: flex; justify-content: space-around; align-items: center;">  <div style="text-align: right;"> AB573238L 20/09/2002 \$59 173  </div> </div>								
SURVEY THIS PLAN IS/IS NOT BASED ON SURVEY THIS SURVEY HAS BEEN CONNECTED TO PERMANENT MARKS No.(s) IN PROCLAIMED SURVEY AREA No.								
EASEMENT INFORMATION LEGEND A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)				LTO USE ONLY STATEMENT OF COMPLIANCE/ EXEMPTION STATEMENT RECEIVED <input type="checkbox"/> DATE / / LTO USE ONLY PLAN REGISTERED TIME DATE / / Assistant Registrar of Titles SHEET 1 OF 5 SHEETS				
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of				
E - 1	CARRIAGEWAY	30	INST. M22132T	VOL 9369 FOL 911, VOL 9369 FOL 912 & VOL 9369 FOL 913				
E - 2	CARRIAGEWAY	SEE DIAG.	PS 420967K	LOT 2 ON PS 420967K				
E - 3	WATER SUPPLY	3	THIS PLAN	EAST GIPPSLAND REGION WATER AUTHORITY & LAND IN THIS PLAN				
E - 4	SEWERAGE	SEE DIAG.	THIS PLAN	EAST GIPPSLAND REGION WATER AUTHORITY & LAND IN THIS PLAN				
E - 5	POWERLINE	3	THIS PLAN - SECTION 88 OF THE ELECTRICITY INDUSTRY ACT 2000	TXU ELECTRICITY LTD.				
Crowther & Sadler Pty Ltd LICENSED SURVEYORS & TOWN PLANNERS 152 MACLEOD STREET, BAIRNSDALE, 3875 TELEPHONE (03) 5152 5011			LICENSED SURVEYOR (PRINT) MICHAEL JOSEPH SADLER SIGNATURE  DATE 4 / 2 / 2002 REF 9803 VERSION 3					
			DATE / / COUNCIL DELEGATE SIGNATURE ORIGINAL SHEET SIZE A3					

PAGE PS01









KING'S COVE – METUNG



**GUIDELINES FOR CONSTRUCTION, SITING OF, EXTERNAL ALTERATION AND ADDITIONS TO
BUILDING AND STRUCTURES ON "KING'S COVE"
STAGE 2 – LOT 17, 35-42, 78-83
"LOW DENSITY RESIDENTIAL ZONE"**

These guidelines are designed to protect the interests of all owners of property in the development and are not intended to be restrictive.

The subject land forms part of a quality residential land development.

For the protection of the purchaser's interest it is desirable that certain controls be implemented in relation to: the nature and type of construction; the preservation of the environment; the aesthetic appearance; and the general amenity of the development. Design of buildings, landscaping, fencing, paving, and all the elements of a high quality living environment, should be guided to establish visual continuity and compatibility throughout the development.

1.0 INTRODUCTION

"King's Cove" is an integrated Residential Resort and Marina development owned by Storth Ryes Pty. Ltd. ("Storth Ryes). Storth Ryes administers these guidelines, for the benefit of existing and new land owners, through an Architectural Review Committee established by it and consisting of representatives nominated by Storth Ryes.

2.0 DESIGN CONFORMITY

Written application for approval of the design, external finishes and siting of all buildings (and external alterations and additions to buildings) at King's Cove must be made by the allotment owner to the Architectural Review Committee, or its nominee, prior to work commencing or applying for a building permit. These guidelines are intended to provide the criteria for assessment of the application.

2.1 Approval Procedure.

The initial step required is for each designer or builder to provide to the Architectural Review Committee a plan showing the contours of the site and proposed siting of the buildings together with a schematic presentation of the structure including: floor plans; elevations; materials and colours proposed. Once general agreement is reached and prior to lodgement of an application for a building permit from the East Gippsland Shire or its nominated subcontractor, the documents required for such application shall be lodged with the Architectural Review Committee for a final conformity assessment against these guidelines. Representations to the Architectural Review Committee in support of the proposed construction may be made by the applicants or their representatives.

The application and all supporting documents should be forwarded to the Architectural Review Committee at the following address:-

King's Cove Project Manager
PO Box 326
METUNG VIC 3904

The documents, together with a written assessment of conformity and approval, conditional approval or refusal of the proposal, shall be forwarded or given to the applicant as soon as practical and normally within 14 days of lodgement.

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3.0 BUILDING GUIDELINES

3.1 Building Envelopes

Designated Building Envelopes form part of the guidelines and the permitted use of the land under the zoning. These building envelopes, which are designed to maximise views whilst enabling vegetation corridors between buildings, are required by agreement between Storth Ryes and the Responsible Authority. The building envelope positions are designated as part of the Soil and Water Management Plan agreed between Storth Ryes and the Responsible Authority under the zone overlay. The minimum setback from the allotment boundaries are prescribed in the designated building envelopes.

3.2 Soil and Water Management Plan

The permitted use of the land under the zoning is also governed by the Soil and Water Management Plan as approved by the Responsible Authority. The construction of civil works and buildings and associated structures must comply with the Soil and Water Management Plan, in order to protect the subject land, adjacent land and the Gippsland Lakes waterways.

Annexed hereto and marked "A" is the Kings Cove – Stage 2 Soil and Water Management Plan Specifications for Construction of Dwellings.

3.3 Building Types Permitted

A single dwelling is permitted within the zone under the relevant incorporated plan overlay for King's Cove (formerly Storth Ryes).

Any dwelling erected on the site shall have a total floor area of not less than one hundred and seventy (170) square metres within the outer walls thereof calculated by excluding the area of any carport, garage, terrace, pergola or verandah and must be built only of new materials.

All outbuildings exposed to public view from the street, reserve, adjoining allotments or the lake shall be designed, constructed and maintained in all ways similar to the principal building on the lot. Garages and carports shall preferably be incorporated into the main roof structure. Where detached garages or carports are permitted they shall also be constructed of the same approved materials as stipulated for the dwelling and be part of an overall integrated design. Each lot shall make a provision for fully enclosed and covered parking for not less than two motor vehicles unless otherwise agreed to in writing by the Architectural Review Committee.

Innovative house plans that meet the requirements of 3.4 Building Form, set out below, but use materials other than those specified will be considered for approval if appropriately submitted to the Architectural Review Committee for assessment.

3.4 Building Form

Simple clear forms will be preferred for all structures. Unduly fragmented or flamboyant forms will not be preferred where they impact on adjoining properties or the amenity of the subject land when viewed from offsite. Sun protection of walls, openings and terraces shall preferably be achieved by roof overhangs, verandahs, pergolas or other structurally integrated elements of the building.

As stipulated by agreement between Storth Ryes and the Responsible Authority, the construction of dwelling shall conform to the following:

Buildings should be designed to minimise visual impacts, erosion and fire hazard.

Buildings should be designed with floor levels and roofs that sit in sympathy with the prevailing ground slopes.

Pergolas, decks and shading devices may be used to soften the interface between buildings and surrounding vegetation.

Split level buildings shall be encouraged on sloping land to reduce the height of the building.



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3.5 External Finishes and Colours

The objective is to provide a level of finish and colours which are compatible with the natural environment of King's Cove. They should reflect the colour and texture of the coastal setting and take account of durability and weathering characteristics. The following list of suitable finishes and colours are considered desirable but not definitive:

- Walls: Brick or masonry-rendered or bagged and painted in colours suited to the coastal environment.
Stone.
Timber and/or composite weatherboards – treated or painted in colours suited to the coastal environment.
Glass – clear, grey or smoked (non-reflective).
Sheeting Materials – Harditex and similar manufactured sheeting materials suitably coated and painted.
Colourbonded metal in corrugated patterns
- Roof: Colourbonded Metal – in colours suited to the coastal environment.
Glass – or Polygal, Laserlight, Sailcloth and similar products.
- Trim: Timber, aluminium, sheeting materials and steelwork in colours suited to the coastal environment.

The above is not intended to be comprehensive and other colours and combinations would be considered against the objectives of suiting the coastal setting of the subject land.

3.6 Service Areas

Areas used for the purpose of drying or airing clothes shall be reasonably screened from public view from the street, reserves, adjoining allotments and the lake. Storage tanks shall be mounted at ground level and reasonably concealed from public view. Refuse storage areas shall be totally screened from public view.

3.7 Vehicle Driveways/Paved Areas

Vehicle driveways and other paved areas exposed to public view should be constructed of clay brick, masonry pavers, crushed stone, stone sheeted bitumen, hot mix, patterned and coloured concrete, exposed aggregate concrete or formed quality gravel surface. Adequate drainage and erosion protection measures must be incorporated in line with the Soil and Water Management Plan.

3.8 Alterations and Additions

The guidelines (as amended) shall also apply to all external structural alterations and additions to external surfaces of buildings and structures on the development. Such works shall involve the same application and approval procedure as applies to initial building construction.

3.9 Builders' Site Refuge Guidelines

Lot owners shall ensure that any builder of a residence on a lot complies with the Builders' Site Refuge Guidelines contained in Schedule B of these Guidelines.

3.10 Requirement of Certificate of Occupancy or approval of the Architectural Review Committee

No allotment of the development shall be occupied for residential purposes either temporarily or permanently until a Certificate of Occupancy is issued for the dwelling erected on the site or until such occupancy is otherwise approved by the Architectural Review Committee.



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4 Landscaping



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4.1 General

To enhance the amenity of King's Cove and to improve the aesthetic environment, owners of lots shall be required to landscape their properties within 12 months of entering into occupation and obtaining a certificate of occupancy. The plans for such landscaping shall be prepared by a competent landscape designer and submitted to the Architectural Review Committee for a conformity assessment at the same time as plans are presented for the buildings. Lot owners will lodge a Bank Guarantee or cash bond of satisfactory performance for the sum of \$2,000.00 with Storth Ryes or its nominee. The guarantee will be released when the agreed landscaping has been completed.

The use of native species of trees and shrubs is favoured, however, other varieties will be permitted. It is desired that some indigenous trees shall be planted on each site particularly on the setback areas. Landscape plans need to incorporate general schematic layouts only with main species listed and larger trees shown on the plan. Trees which exist on the site either naturally or as part of landscaping works by the developer cannot be removed without the permission of the Architectural Review Committee.

4.2 Maintenance

Maintenance and landscaping of all ground slopes shall be the responsibility of the lot owners. Treatment of the ground slopes incorporating terracing and or retaining walls, including proposed landscaping, shall be incorporated into the landscape plan for approval. The landscape plan shall take account of the Soil and Water Management Plan requirements, maintain vegetative cover on slopes and providing measures to avoid any erosion of the subject land during and following construction.

Where a retaining structure is required to support a swimming pool or to form a terrace, such structure shall preferably include sloping landscaped or stone pitched banks as a means of level transition and shall deal with drainage to avoid erosion.

4.3 Maintenance prior to construction

Maintenance prior to construction of the dwelling and/or site shall be the responsibility of the lot owners who shall be required to ensure that grass height does not exceed 200 millimetres at any time and that the lot is maintained generally in keeping with the overall maintenance of the King's Cove Development. To assist lot owners, Storth Ryes proposes to engage a sub contractor to provide grass cutting and like maintenance services at a reasonably competitive cost, which services will be available to lot owners.

In the event that such maintenance of the dwelling and/or site not being carried out in a timely manner by Lot owners, Storth Ryes shall be entitled to engage a subcontractor for the purpose of effecting the required grass cutting or maintenance works and the Lot owner shall reimburse Storth Ryes for any expenses reasonably incurred by Storth Ryes in so doing.

5 Fences

In principle it is considered that a parklike appearance is appropriate and that solid fences be kept to a minimum subject to the requirements of screening service areas, pools and other outdoor living areas. The use of screen planting areas to define boundaries is most desirable.

Post and wire fencing will be erected by Storth Ryes on most allotment boundaries excluding the street frontage and within 15 metres of the main street frontage which will be unfenced. Boundaries within the more vegetated areas may not be fenced to avoid disturbing the existing cover. No solid fence shall be built within 15 metres of front or rear boundaries or within 5 metres of a side boundary.

Where a solid fence is sought, the preferred materials shall be brush panel, stone, bagged and painted masonry or brickwork, hardwood or treated pine pickets of 75mm x 20mm with 20mm spacings. The planting of landscaping to soften such fences will be preferred. Front boundaries are preferred to be left unfenced. Where the owner seeks greater screening cover than planting alone can provide, fences will

need to be setback 15 metres from the front boundary and significant planting incorporated into the setback area within the landscape plan.

6 Liability

Storth Ryes Pty. Ltd. and its successors and associated companies, Riviera Properties Limited and its successors and the Responsible Authority, shall each be free from any liabilities and claims for damages and/or suits of any kind as a result of or arising out of the enforcement or implementation of all or any of these guidelines or any matters associated with the same or any application for approval hereunder or the decision made.



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SCHEDULE A

Kings Cove – Stage 2 Soil and Water Management Plan

Specifications for Construction of Dwellings

December, 2001

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20/09/2002 \$59 173



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Our Ref #: 1046

Your Ref #:



13 December, 2001

Mr Michael Sadler
Crowther And Sadler Surveyors
152 Macleod Street,
BAIRNSDALE VIC 3875



DAB573238L-34-3

Dear Michael,

**Kings Cove, Metung
Stage 2, Kings Cove Boulevard
Soil and Water Management Plan**

Please find enclosed, for your records, a copy of the Kings Cove Stage 2 Soil and Water Management Plan.

The Plan conforms with the requirements of East Gippsland Shire planning permit 01/00299/DS.

A separate copy has been provided directly to Storth Ryes Pty Ltd.

Should you require any further information, please contact me on 5152 6298

Yours faithfully,

ERIC SJERP*Environmental Manager*

Encl.

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KINGS COVE – Stage 2
Soil and Water Management Plan
Specifications for Construction
of Dwellings
December 2001

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Prepared by:

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Kings Cove – Stage 2: Soil and Water Management Plan

KINGS COVE – Stage 2
Soil and Water Management Plan
Specifications for Construction of Dwellings

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DRAWING 2: TYPICAL SILT FENCE	AT REAR



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Document Information: 1046 kings cove stage 2 soil & water.doc
 Issued: 13th December, 2001

Kings Cove – Stage 2: Soil and Water Management Plan

1. BACKGROUND and OBJECTIVE

This Soil and Water Management Plan outlines the minimum erosion control requirements necessary for the construction of dwellings on allotments within Stage 2, Kings Cove Boulevard of the Kings Cove subdivision in Metung, Victoria.

The objective of this Plan is to prevent soil erosion and control sedimentation by adoption of the following key principles:

- Implementation of sensible site planning and compliance with construction specifications
- Diversion of up-slope water from the construction site
- Minimisation of site disturbance
- Rationalisation of movement by construction vehicles
- Installation of sediment traps/controls along low-side of construction site
- Rationalisation of stockpile location
- Protection of stockpiles from erosion
- Minimise waste from wash-down and tile/brick cutting
- Minimisation of stormwater runoff from the construction site
- Reduce the erosive energy of stormwater leaving or diverted around the construction site
- Minimisation of building waste and debris
- Regular maintenance of all erosion control structures
- Prompt rehabilitation of all disturbed areas



A typical dwelling construction site, together with specific erosion control requirements are illustrated on Drawing 1. These controls should be adopted for development of all dwellings within Stage 2 at Kings Cove based on site specific details listed in Table 1.

2. RESPONSIBILITY FOR COMPLIANCE

Compliance with the erosion control techniques specified by this Plan (and accompanying drawings) is a mandatory requirement of East Gippsland Shire Council's Planning Permit 01/00299/DS for development of dwellings within Stage 2 at Kings Cove.

It is the land/dwelling owners responsibility to ensure all contractors engaged in the construction of a dwelling(s) on any allotment within Stage 2 at Kings Cove are aware of the need to implement the erosion controls specified by this Plan.

It is the individual responsibility of the builder and all sub-contractors to implement and maintain the various erosion control structures.

3. SITE-SPECIFIC REQUIREMENTS

This Soil and Water Management Plan stipulates erosion control requirements which can be adopted for all building envelopes within Stage 2 at Kings Cove. The location and orientation of each individual erosion control structure will vary depending on the relative position of the dwelling, access to the construction site, the direction and steepness of the land, and drainage conditions.

Site disturbance should, at all times, be kept to a minimum on all allotments by limiting the extent of cut and fill, limiting the steepness of batter slopes, and prompt rehabilitation of all disturbed sites.

Table 1 lists the different site-specific conditions prevailing across Stage 2 at Kings Cove.

The builder must establish the erosion control requirements in accordance with Table 1.

Kings Cove – Stage 2: Soil and Water Management Plan

Table 1. Kings Cove Stage 2 Lot numbers and erosion control requirements

Allotment No.	Landscape Type	Stage	Erosion Control Requirements
All Allotments (ie. 17, 35-42, 78-83)	i) Gently sloping or ii) Gently sloping with steeper escarpment		<ul style="list-style-type: none"> Implement all erosion control structures. Construct silt fences on ALL down slope sides of construction site. Cut & fill batters > 3.0 m long and steeper than 1H in 3V should be structurally retained. Construct silt fence on down slope side of construction site. Establish cut-off drains across high side of construction site. Utilise craneage and pumping for construction on steep erosion-prone slopes. Stormwater discharged on-site should exit via energy dissipater with silt fence across drainage line. Avoid stormwater discharge down steep slopes.
Lots 78 to 83 inclusive	Gently sloping		<ul style="list-style-type: none"> All stormwater must be drained to the surface drain located immediately below the north-western (rear) boundary of the lots.
Lot 17 and Lots 35 to 42 inclusive	Gently sloping Gently sloping with steeper escarpment		<ul style="list-style-type: none"> All stormwater must be drained to the drain fronting the allotments along Kings Cove Boulevard.



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4. STORMWATER DISCHARGE and DRAINAGE LINE PROTECTION

All stormwater from dwellings and associated access must be drained to an appropriate discharge point as specified below and in Table 1.

For Lots 78-83, Stage 2 Kings Cove, all stormwater must be drained to the surface drain located immediately below the north-western (rear) boundary of the lots.

For Lots 17, 35-42, Stage 2 Kings Cove, all stormwater must be drained to the drain fronting the allotments along Kings Cove Boulevard.

For Lots 36-42, stormwater should not be drained downslope in a south-eastern direction over the steep escarpment along the south-eastern (rear) of these allotments.

Particular care must be taken to protect all drainage lines, gullies and steep erosion-prone slopes. Stormwater discharged onsite (from buildings and driveways etc) must be suitably baffled to dissipate erosive energy. Where there is a threat of erosion, energy dissipaters consisting of rock aggregate (100 mm ALD) securely laid over needle-punched geotextile fabric, should be constructed at stormwater outlet points. Stormwater should exit over the aggregate and onto stable grassed areas. A silt fence should be constructed across the drainage line immediately below the stormwater outlet point during construction activities.

Early connection of stormwater lines and onsite storage for subsequent reuse is encouraged.

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Kings Cove – Stage 2: Soil and Water Management Plan

5. INSTALLATION SEQUENCE

Forward planning can minimise the number of erosion control structures required and their potential interference with the building process.

Installation of erosion control structures in an appropriate sequence will maximise the effect of the structures in preventing erosion and sediment movement, and further reduce the interference to builders.

The following sequence should be adopted:

1. Establish a single entry-exit point and 'parking' spot for all vehicles involved in construction activities
2. Peg-out the limits of the dwelling
3. Determine the limits of disturbance / earthworks (ie cut and fill)
4. Install sediment fences along the low side of the site immediately below the limit of disturbance, leaving sufficient room for construction activities and stockpiles. Sediment fence detail is shown in Drawing 2.
5. Install a cut-off drain above the upper limit of the cut batter to divert up-slope water around the site.
6. Stabilise cut-off drains and discharge points to dissipate erosive energy of water
7. Remove any remaining vegetation (confirming for planning approval if required)
8. Strip and stockpile topsoil within the sediment fence perimeter
9. Rehabilitate all disturbed areas (including cut and fill batters) not subject to further construction activity with erosion control matting and suitable fast growing grass species
10. Install on-site building waste and litter receptacles (ie mini skips etc)
11. Undertake construction activity
12. Minimise erosive potential of stormwater generated from the site and dwelling roofs. This will include the need to install and connect roof downpipes and stormwater drainage lines to discharge points.
13. Continue to maintain all erosion and sediment control structures, including regular removal of accumulated sediment.
14. Stabilise and rehabilitate all remaining disturbed slopes (cut and fill batters, service trenches) with suitable fast growing grass species.

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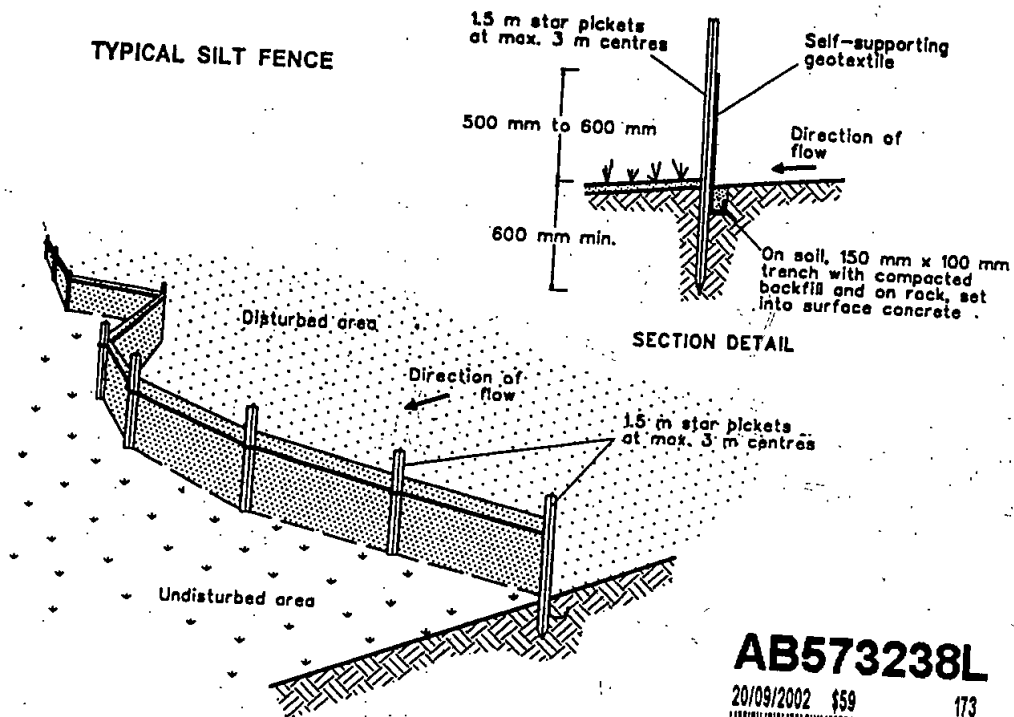
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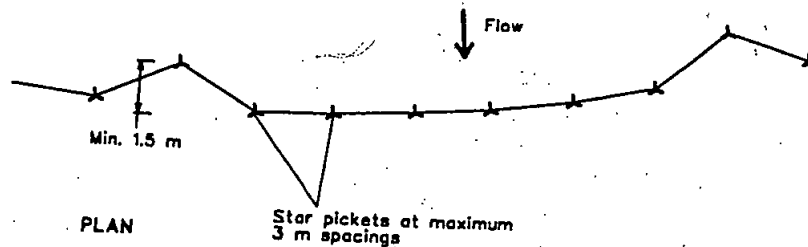


TYPICAL SILT FENCE



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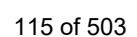
PLAN

Star pickets at maximum
3 m spacings

Construction Notes

1. Construct sediment fence at limit of disturbance
2. Drive 1.5 metre long star picket into ground, 3 metres apart.
3. Dig a 150mm deep trench along the upslope line of the fence for the bottom of the fabric to be entrenched.
4. Backfill trench over base of fabric.
5. Fix self-supporting geotextile to upslope side of posts with wire ties or as recommended by geotextile manufacturer.
6. Join sections of fabric at a support post with a 150mm overlap.

Drawing 2



SCHEDULE B

BUILDERS' SITE REFUSE GUIDELINES

1. All Owners have an obligation to keep the whole of "King's Cove" tidy.
2. It is an Owner's responsibility during the construction phase of a Residence on a Lot to inform the builder of the contents of these Builders' Site Refuse Guidelines.
3. All building materials and fittings must be stored within the property boundaries of a Lot at all material times and no building materials are permitted to be stored on the nature strip of a Lot.
4. Builders must provide a lockable 2 metre square bin on a Lot for the storage of all site refuse generated by that Lot and keep all such site refuse within such bin.
5. The "King's Cove Architectural Review Committee will impose a non-littering requirement as a standard clause of any approval granted by the Architectural Review Committee in respect of building works. The builder will be required to be diligent in the control of all site litter and to protect adjoining lots and verges from use by on site construction workers and sub-contractors of the Lot.
6. The owner must ensure that a sign is erected on the Lot during the construction phase of the Residence specifying the builder's obligations in relation to these Builders' Site Refuse Guidelines.
7. An Owner and their builder must comply with any litter notice issued by or on behalf of the Architectural Review Committee specifying breaches of the Builders' Site Refuse Guidelines and rectify such breaches, failing which an Owner and their builder will be exposed to prosecution by East Gippsland Shire Council under the Litter Control Act.



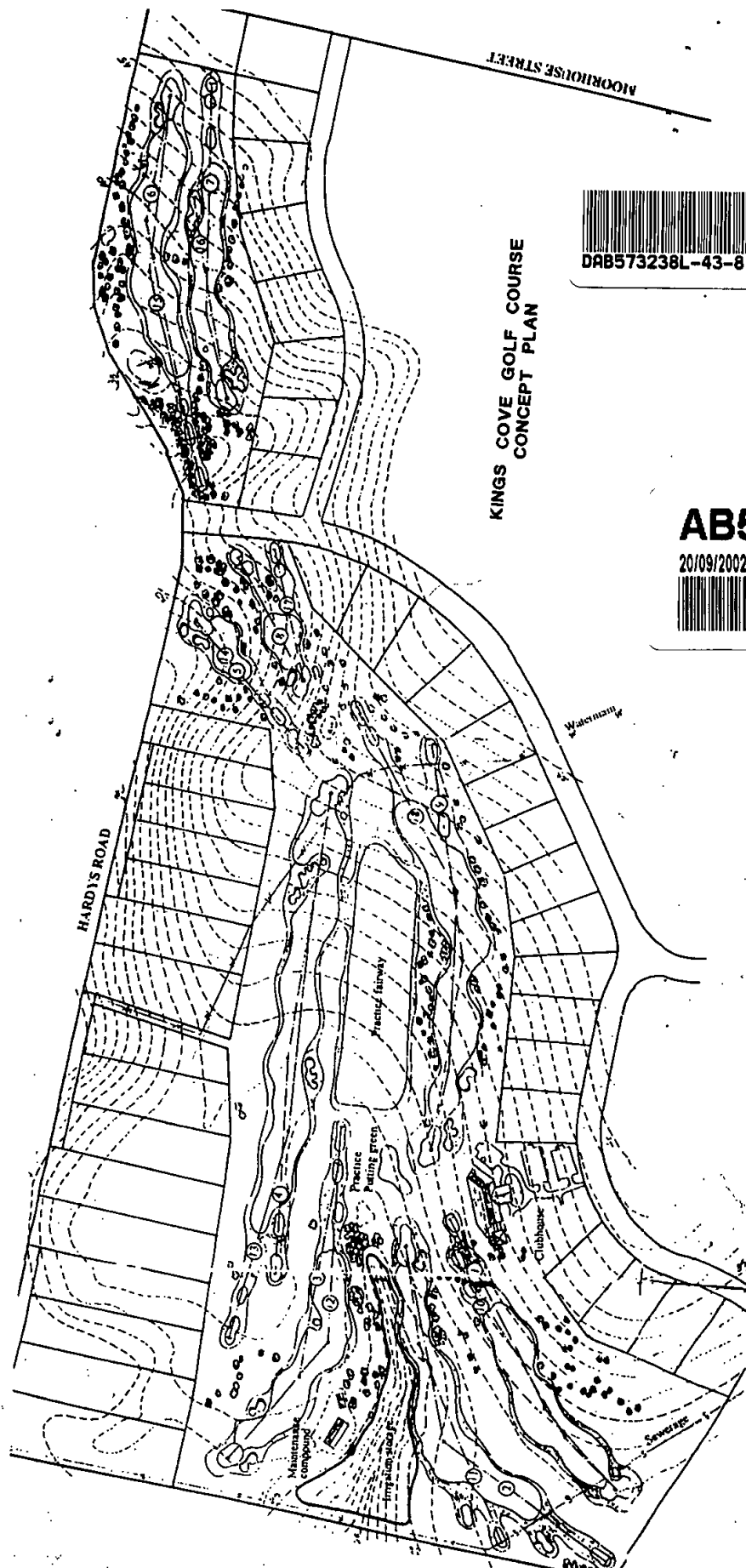
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KINGS COVE GOLF COURSE
CONCEPT PLAN



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KING'S COVE, METUNGSTAGE 2SUMMARY OF SEWER STRATEGY

Storth Ryes Pty. Ltd. shall design and construct suitable sewer mains for the collection and disposal of all household wastewater. At the completion of the development phase such mains shall be handed over to East Gippsland Regional Water Authority (EGW) for the ongoing maintenance and management.

To service King's Cove Stage 2 there are two distinct catchments namely lots 39 – 42 and lots 17, 35 – 38, 78 – 83.

Lots 39 – 42 shall be adequately commanded by a modified gravity sewer laid in the abutting road reserve. Each allotment shall be serviced by a 100mm diameter property branch sewer installed to just inside the property boundary.

Lots 17, 35 – 38, 78 – 83 shall be serviced by a low pressure sewer rising main installed in King's Cove Boulevard. This small diameter rising main shall be capable of receiving sewage pumped from a packaged grinder pumping station to be installed on each allotment in conjunction with home development. A conventional property drain designed to collect wastes from all fixtures can be plumbed to discharge to the station. The packaged grinder pumping station shall be supplied and installed for the home builder by EGW upon payment of the appropriate purchase price at the time (in December 2001 this was approximately \$7,300.00). Electricity supply to the pump station shall be from the home supply. Electricity supply costs shall be the homeowners responsibility. EGW shall be responsible for the ongoing maintenance and replacement of the pumping stations.

Standard EGW sewerage rating structure shall apply to all allotments.

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Environment One Pressure Sewers
"An equivalent level of service"**02 - A BRIEF DESCRIPTION OF THE PROPOSED PRESSURE SEWER TECHNOLOGY****1. Introduction**

Gravity sewers have been around since sewers were first developed. But networked pressure sewers are a relatively new concept. They were conceived and developed by the same people who later formed Environment One (EOne) Corporation in the USA. The first genuine network of pressure sewers was installed and thoroughly studied in Albany, New York in the late 1960s. It was from these studies that EOne developed the design rules that have allowed the subsequent installation of literally thousands of pressure sewer networks. Today 140,000+ EOne positive displacement grinder pumps have been installed.

Although virtually unknown in Australia, low pressure sewerage is a robust cost effective alternative to gravity sewerage, especially in the more difficult to sewer areas.

2. Description of System

EOne low-pressure sewers (LPS) consist of a network of pressure pipe, much like a water pipe network flowing but flowing away from houses, and EOne grinder pumps, which are installed serving all the properties throughout the collection system. Depending on local factors each pump unit may serve one or two residences or several home units or townhouses, or larger facilities. Upstream from the grinder pumps, conventional house drains from within the residence are connected to the unit inlet.

The Pressure Network

The pressure pipe network consists of black MDPE polyethylene SDR11, PE80, PN12.5 pipe. The pipe network is completely sealed through the use of electrofusion welding techniques for jointing. All branch lines and at other suitable locations, isolation valves have been located. Dead ends and other appropriate locations have flushing points. Air valves are used as required. The installation of the pressure network is not dissimilar to the easy installation of irrigation pipe. Depending on the topography, size of the system and planned rate of buildout, appurtenances may include isolation valves, flushing points, air release valves at significant high points, and check and stop valves on the house laterals at the junction of each house connection with the low pressure sewer main.

The pumps discharge a finely ground slurry into small-diameter pressure piping. In a completely pressurised collection system, all the piping downstream from the grinder pump (including laterals and mains) will normally be under low pressure (45m or less). Pipe sizes will start at 40mm for house connections (compared to 100mm in gravity systems) and will be proportionally smaller than the equivalent gravity pipeline throughout the system. All pipes are arranged as branch networks without loops.

The Grinder Pump

The semi-positive displacement pump in the grinder pump station has a nearly vertical H-Q curve. The pump delivers 0.75 L/s at 0m head and 0.47 L/s at 45m. This is the best type of pump for successful parallel operation of many pumps into a system of common pressure mains. Since each pump will be located at different point along common low pressure mains and at various elevations, each pump should operate in an efficient and predictable manner, whether one pump or numerous pumps are operating at any given moment; the pumps in such a system do not have a single fixed "operating point", but must operate consistently over a wide range of heads that are continually, and often rapidly, changing.

The Environment One grinder pump has the capability of operating above the LPS system design criteria of 45m. Based on the maximum daily number of pumps operating simultaneously versus the number of pumps connected to the system at the design pressure of 45m, the capability to operate significantly above the system's design pressure is mandatory in order for the system to operate properly during the approximately bimonthly peaks when the "absolutely maximum" numbers of pumps are operating. This feature also ensures that pumping will continue under those

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conditions when higher-than-normal pressure occurs in the pipeline. With centrifugal type pumps under higher-than-normal pressure conditions, non-delivery or inadequate delivery from some pumps may result. Positive displacement pumps are, therefore, more reliable in pumping every time.

3. Motor Selection

A grinder pump station is an electromechanical system that depends on electric power for its operating, control and alarm functions. The design and selection of Environment One's pump, motor, grinder and level-sensing controls were accomplished by optimising the wastewater transport function of the unit within the necessary constraints for unattended, trouble-free operation in a residential environment.

The one model grinder pump core is common to all models of Environment One grinder pump stations (models GP 2010i 1500, GP2010i 2000, GP 2014i, GP 2015i and GP 2016i). This central core contains all of the working and control elements of the unit and is powered by a 4-pole, 0.75kw, 240v, 1,425 rpm capacitor start, thermally protected induction, single-phase motor. Each of these motor features was carefully considered in the design of the grinder pump station.

4. System Operation

Low pressure sewer systems have become feasible with the availability of the Environment One grinder pump, the reliability of which has been proven in more than 25 years of service. The grinder pump station provides holding capacity, reliable grinding and pressure transport of a fine slurry to an existing gravity sewer, pump station or directly to a wastewater treatment plant.

In operation, the grinder pump station will handle sewage and many items that should not, but often do, appear in domestic wastewater. For example, plastic, wood, rubber and light metal objects can be routinely handled without jamming the grinder or clogging the pump or piping system. Transporting sewage several thousand metres to a discharge point at a higher elevation is possible as long as the sum of the static and friction losses does not exceed design limits of 45m TDH. In fact, higher heads can be sustained without threat to the pump or the system providing the pressure is not sustained.

The grinder pump is actuated when the depth of the sewage in the tank reaches a predetermined "turn on" level, and pumping continues until the "turn off" level is reached. The pump's running time is short, power consumption is low, and long pump life is ensured. The unit is protected against backflow from discharge lines by an integral check valve. Several grinder pump station models are available to satisfy various total and peak demand conditions.

Deposits of solids or air accumulation will be purged from the line since the pump continues to produce an essentially constant flow, even though the cross section will provide the scouring action needed to correct such conditions as soon as they start to appear. Occasionally during "normal" operation, there will be short periods when higher-than-design pressures will be experienced. These can result from a variety of causes including solids buildup (obstructions) or air bubbles.

These higher-than-expected pressure conditions are transitory occurrences. The only requirement is that no damage be done to the pumping equipment, pipelines or appurtenances during these occasional short periods. Environment One grinder pumps are driven by motors rated for continuous operation at 40C above ambient temperature. They can operate at 50 percent above rated pressure for at least 5 minutes without excessive temperature rise. Based on the Albany, New York, demonstration project, for this type of overload to last even as long as one minute would be rare. The greatest pressure the pumps can generate is 98m. As the piping and appurtenances are rated at a minimum operating pressure of >125m, there is no possibility of damage occurring to them.

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EAST GIPPSLAND SHIRE COUNCIL

- and -

STORTH RYES PTY LTD
(A.C.N. 006 383 179)

AGREEMENT UNDER SECTION 173
OF THE PLANNING AND ENVIRONMENT
ACT 1987



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Planning Report

Multi Lot Subdivision
100 Kings Cove Boulevard, Metung
Lot G on PS509097V

Our Reference – 18722

31 March 2021



Principal: Michael J. Sadler, L.S., Dip Surv, M.I.S., MAICD

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Note: Applicable Planning Application fee is \$1,318.10

1. Introduction

This Planning Report is prepared in support of a proposed Multi Lot Subdivision at 100 Kings Cove Boulevard, Metung. The Report addresses the provisions of the Low Density Residential Zone, Incorporated Plan Overlay (Schedule 1), Vegetation Protection Overlay (Schedule 3), and Erosion Management Overlay of the *East Gippsland Planning Scheme*.



Aerial view of subject land and context (Source: GeoVic)



Aerial view of subject land (Source: GeoVic)

2. Subject Land & Surrounding Context

The subject land is formally described as Lot G on Plan of Subdivision 509097V and is 3.645 hectares in area.



Aerial image of subject land (Source: GeoVic)

The landform of the site gently falls downward from east to west across the site. There site is vacant save for an existing shed located centrally on the property. Native vegetation scattered across the site and the broader Kings Cove Estate was planted by the original developer, Storth Ryes Pty Ltd, who undertook an extensive planting program to rehabilitate what was a barren, pest ravaged landscape.



Historic photo showing the denuded landscape of the former Storth Ryes property

18722 Planning Report.docx

The planted nature of the vegetation is evident upon inspection, with homogenous native species established in a largely linear pattern.

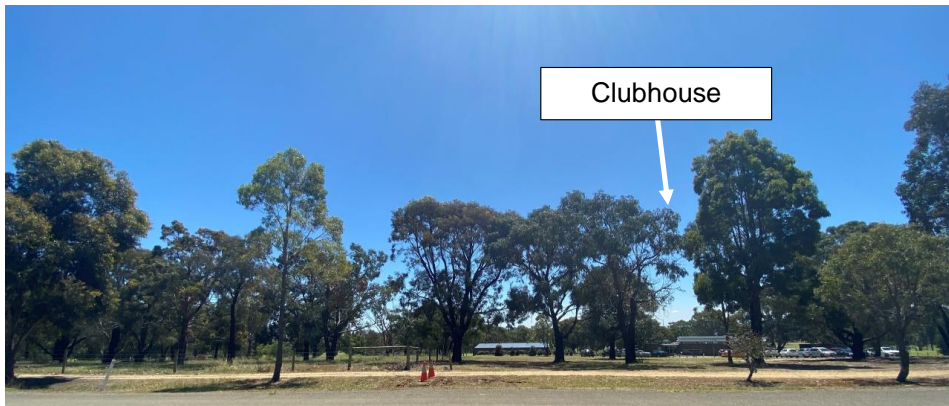


View north-west across site showing vegetation planted in rows

The subject land adjoins the Kings Cove Golf Course, a 9 hole course which adjoins the subject land to the north. The site enjoys varying views across the course, with the clubrooms and course entry located to the north-east of the subject land.



*Oblique view of Kings Cove Golf Club with subject land to right of picture
(Source: www.kingscoveclub.com.au)*



View north of subject land and adjoining Kings Cove Golf Course pavilion

The site has frontage to Kings Cove Boulevard which adjoins the full length of the south-eastern boundary. Kings Cove Boulevard is a good quality sealed bitumen road, comprising grassy swale drainage within generous carriageway and verges.



View north across subject land from southern corner

Formalised access is provided from Kings Cove Boulevard in the northern portion of the subject land's street frontage.



Existing access to Kings Cove Boulevard

The site is located approximately 2.1km north-west of the Metung activity centre, within an existing low density residential precinct. Dwellings throughout the precinct to the south and south-east are carefully placed to allow the open and spacious feeling within the precinct.



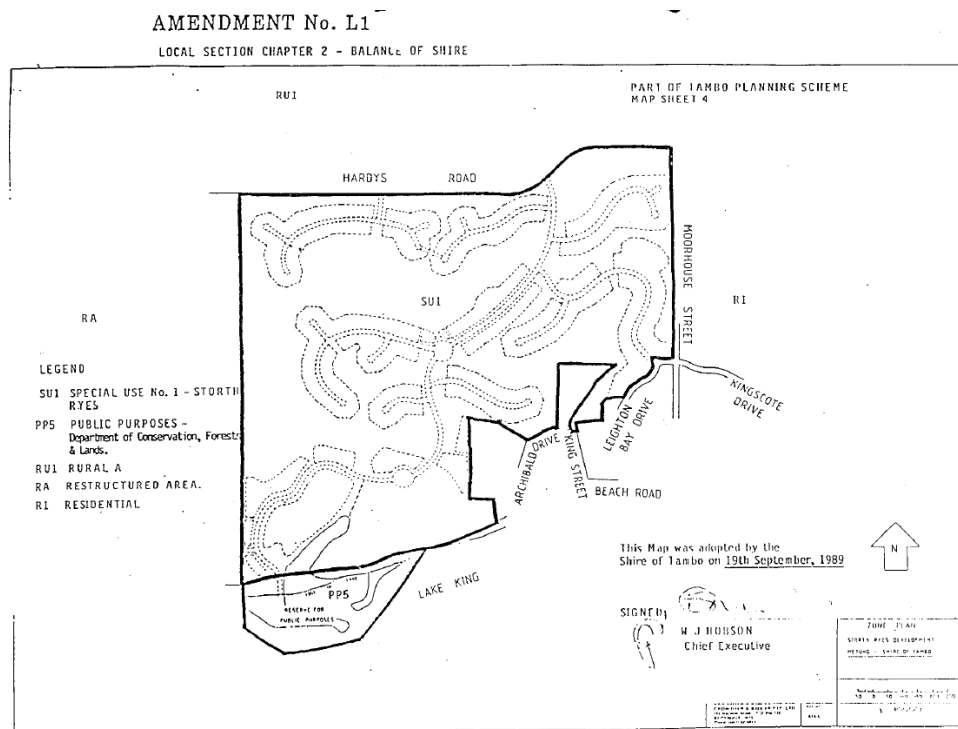
Subject land in relation to Metung Activity Centre (Source: GeoVic)

The property is serviced with reticulated water, sewer and electricity provisioned via underground means.

The subject land is contained entirely within the Low Density Residential Zone of the *East Gippsland Planning Scheme*. The property is also affected by the Incorporated Plan Overlay (Schedule 1), Vegetation Protection Overlay (Schedule 3), and the Erosion Management Overlay.

The strategic expectation that the subject land would accommodate further development is long held, dating back almost 32 years.

The 'Storth Ryes Concept Plan' was introduced into the former *Tambo Planning Scheme* in December 1989 through Amendment L1 to the local section of the scheme. The scheme amendment introduced a Special Use Zone which had an aim of providing for a range of tourist and residential accommodation, recreation and water based facilities and commercial activities.



Extract from Amendment L1 to the Tambo Planning Scheme

With the amalgamation of Councils and the translation to the *Victorian Planning Provisions*, the subject land was converted to four Schedules contained within Clause 51.01 relating to *Specific Sites and Exclusions*. Each of the four Schedules related to an element of the previously approved development comprising:

1. Golf Course and Residential cell;
2. Marina (on Crown land);
3. Service commercial centre; and
4. Resort Site comprising Hotel, Convention facilities and medium density residential development.

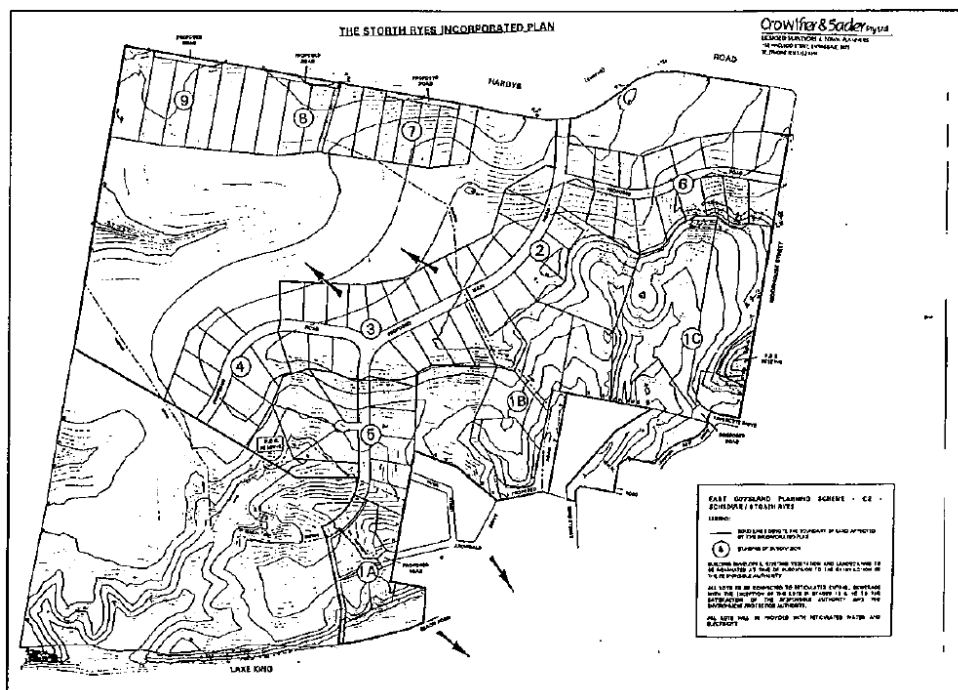
On translation to the VPPs the whole of the precinct was contained within the Low Density Residential Zone with the entire Estate also affected by the Incorporated Plan Overlay ('IPO').

In the event the Schedules were not enacted, the provisions of the IPO would require a Planning Scheme Amendment to introduce a staging plan for low density residential development. This reversion to the Low Density Residential Zone provisions would mean the surrendering of the site specific controls and exclusions as contained at Clause 51.01.

The Schedule relating to the Golf Course and Residential cell (known as 'the fourth Schedule') included approval for up to 450 allotments to be used and developed for the purpose of dwellings, together with the use of the land for the purposes of a golf course.

The fourth Schedule was surrendered in a process undertaken in part with the approval in 2000 of Amendment C2 to the *East Gippsland Planning Scheme*. The Planning Scheme Amendment removed approximately 117.9 hectares of the total 160 hectare Kings Cove Estate from the approved development, resulting in the surrender of the fourth Schedule.

The *Storth Ryes Incorporated Plan*, June 2000 and provisions of the Incorporated Plan Overlay - Schedule 1 (Clause 43.03) were incorporated into the *East Gippsland Planning Scheme* as part of Amendment C2 on 24 August 2000.



Storth Ryes Incorporated Plan, as exhibited with Amendment C2

Land previously included within the fourth Schedule has subsequently been progressively developed in accordance with the provisions of the Low Density Residential Zone. This has included the development of the Kings Cove Club Golf Course and Clubhouse, together with multiple stages of subdivision undertaken by Kings Cove Metung Pty Ltd (or its subsidiaries) and North Course Pty Ltd.

Land to the south-west of the subject land remains is affected by a Schedule to Clause 51.01, being the *Resort Hotel/Motel and Convention Facility Development*, May 1999 ('the Resort Schedule').

This area has been progressively developed in accordance with the Schedule, with nine stages of subdivision completed by three separate property developers over the last fifteen years, creating lot sizes varying in area, shape and topography.

Land to the immediate south of the subject land has recently been marketed and sold in full in anticipation of plans being prepared and submitted to Council for endorsement. This stage of development by Metung Developments Pty Ltd, known as 'The Wedge', proposes the creation of lots in accordance with the Resort Hotel/Motel and Convention Facility Development.

This unusual statutory context results in great diversity in allotment size. Properties to the east of the subject land typically have an area ranging from 4,000-5,000m², while allotments approximately 300m to the north of the Golf Course, developed by North Course Pty Ltd, vary between 2,000m² to 2,546m².

Properties developed in accordance with the Resort Schedule range in area, with lot sizes of between 521m² and 5,001m². The average (mean) allotment size within the Resort Schedule is 1,120.5m², which is considered to be skewed by the inclusion of larger lots earmarked for further subdivision. To assist with a more accurate statistical understanding we have calculated the mode and median averages within the Resort Schedule, which are 786m² and 860m² respectively.

Immediately adjoining the subject land, we understand proposed lot sizes within 'The Wedge', based on marketing material exhibited by King & Heath range from 864m² up to 1,744m², with an average lot size of 1156.89m².

The subject land represents a transition point between the established low-density precinct, to the north and east, and the evolving Resort precinct further south and south-east. Given the diversity in allotment size and configuration, both the existing and evolving neighbourhood character is considered to be highly varied.

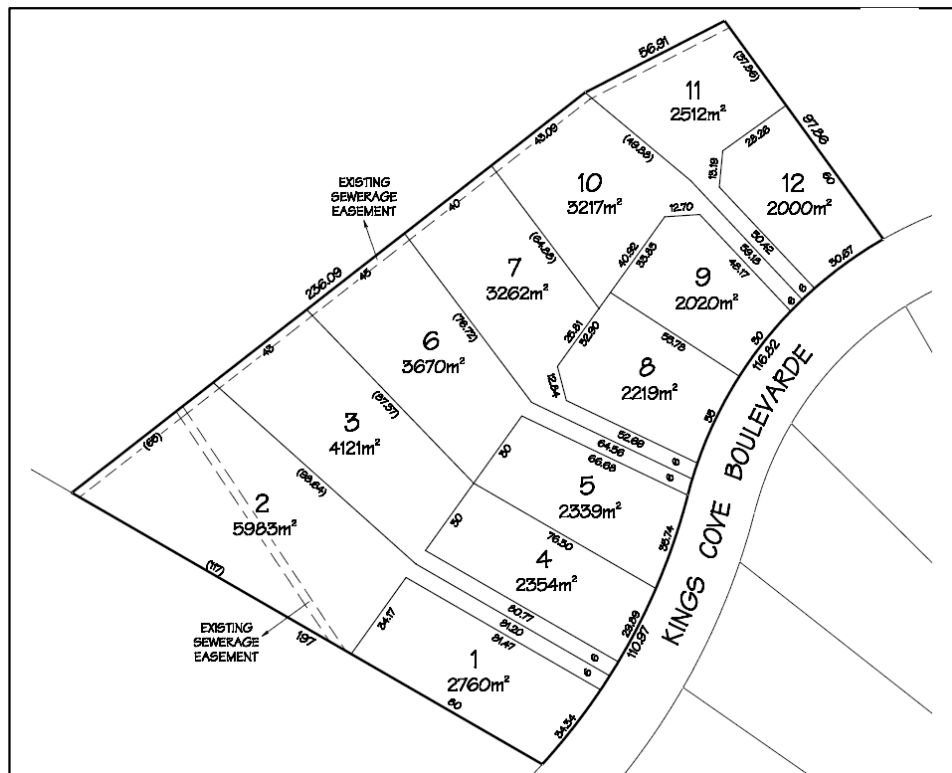
There are two Section 173 Agreements registered on title, both of which were the subject of a recent Council resolution at the Ordinary Council Meeting of 16 March 2021:

- Agreement **AB573238L** was ended as it applies to the subject land; and
- Agreement **AC166290V** is to be amended as it applies to the subject land.

A single Section 173 Agreement will now be retained on title, incorporating the amendments as exhibited by Council to remove the requirement to obtain approval from either an Architectural Review Panel or Architectural Review Committee.

3. The Application & Proposal

The Application seeks approval for a Multi Lot Subdivision to create twelve vacant lots for future low density residential development. The proposed allotments range in area from 2,000m² up to 5,983m².



Proposed Subdivision layout

Consistent with the Incorporated Plan, each allotment will have direct frontage to Kings Cove Boulevard, with no new roads proposed. The subdivision patterns proposes a series of sequestered lots, which is considered a respectful response to the prevailing neighbourhood character, and the site's abuttal to the Golf Course.

Each lot can be efficiently and economically serviced utilising existing infrastructure available within the precinct.

Each of the proposed lots exceeds the minimum subdivision area of 2,000m² specified for the Low Density Residential Zone, given each lot will be connected to reticulated sewerage. The proposed subdivision represents infill development that makes good use of existing investment in infrastructure, as anticipated with the gazettal of Amendment VC100 on 15 July 2013.

Building envelopes are proposed for each of the proposed allotments, respectful of existing easements located within the subject land. 5 metre setbacks are proposed from the adjacent Golf Club property and from Kings Cove Boulevard, and 3m from all other boundaries.

Each of the proposed allotments will be of sufficient area to accommodate development that will comply with the amended obligations of the Section 173 Legal Agreement, as recently approved by Council, with respect to the following:

- Buildings to be constructed within approved building envelopes;
- Development in accordance with the Soil and Water Management Plan;
- Limitation to one dwelling per lot;
- Minimum dwelling floor area of 170m² excluding the area of any carport, garage, terrace, pergola or verandah, and built only of new materials;
- All outbuildings visible from outside the site to be designed, constructed and maintained similar to the main building on the lot;
- All dwellings to be provided with fully enclosed and covered parking for not less than two motor vehicles;
- Areas used for drying or airing clothes, storage tanks or refuse storage must not be visible from the street, reserves, adjoining allotments and the lake;
- Vehicle driveways and other paved areas visible to the public must be constructed of clay brick, masonry pavers, crushed stone, stone sheeted bitumen, hot mix, patterned and coloured concrete, exposed aggregate concrete or formed quality gravel surface;
- No fences on any boundaries adjoining road reserves;
- No solid fences (i.e. less than 50% transparent) within 15m of the front or rear boundaries of any lot, or within 15m of a side boundary of a lot.

The proposed subdivision is considered to represent logical and orderly development, achieving an expected outcome.

The subject Application triggers approval at the following Clauses of the *East Gippsland Planning Scheme*:

- **Clause 32.03-3** of the Low Density Residential Zone for subdivision; and
- **Clause 44.01-4** of the Erosion Management Overlay for subdivision.

Whilst the future construction of dwellings will undoubtedly require the removal of planted vegetation, Planning approval is not required for vegetation removal. Both the Erosion Management Overlay (Clause 44.01) and the Vegetation Protection Overlay (Clause 42.02) provide exemptions from the need for a Planning Permit for the removal of planted vegetation, at Clause 44.01-4 and Clause 42.02-3 respectively.

4. Cultural Heritage

The proposal does not trigger any mandatory requirement to provide a Cultural Heritage Management Plan (CHMP) under the *Aboriginal Heritage Act 2006*.

Pursuant to Regulation 6 of the *Aboriginal Heritage Regulations 2018*, a CHMP is required for an activity where:

- (a) “all or part of the activity area for the activity is in an area of cultural heritage sensitivity; **and**
- (b) all or part of the activity is a high impact activity” [emphasis added].



Extract from Cultural Heritage Sensitivity mapping (Source: VicPlan)

The subject land is not contained within an area of cultural heritage sensitivity as defined by the *Aboriginal Heritage Regulations 2018*.

Therefore, despite the proposed subdivision representing a high impact activity as defined by the *Aboriginal Heritage Regulations 2018*, there is no mandatory requirement to provide a CHMP in support of the Application.

5. Planning Policy

5.1 State Planning Policy

The proposal gives effect to strategies relating to *Settlement* (Clause 11-01-1S), promoting sustainable growth and development whilst delivering choice and opportunity within an existing settlement. The subject land is an undeveloped cell forming part of an existing residential precinct, located within the defined settlement boundary of Metung. The site is well located, only a short drive from the village centre, and is serviced by reticulated water, power, sewer and telecommunications.

The proposal does not give rise to any concerns with respect to Clause 12.01-2S relating to Native Vegetation Management given the vegetation contained on site is planted. Whilst the proposed subdivision will result in the creation of lots less than 0.4ha in area, the removal of planted vegetation is exempt from consideration of the Vegetation Protection Overlay, Erosion Management Overlay, and particular provisions relating to Native Vegetation. Consideration of vegetation is therefore focussed on aesthetic, rather than conservational grounds.

As the subject land is identified as bushfire prone, Clause 13.02-1S relating to *Bushfire Planning* has been considered. The Application is supported by a Bushfire Hazard Assessment that determines the most likely bushfire scenario would result from a fire approaching from the north, and concludes that appropriate bushfire mitigation measures can be put in place to facilitate construction to BAL-12.5 standard. Vegetation contained within residential properties to the east and south-east, together with the Golf Course to the north and west of the subject land is able to be classified as 'low threat' given its managed status. Vacant residential land to the south-west has recently been offered for sale in a subdivided form, with the expectation it will soon be converted to residential development with associated 'low-threat' vegetation. The risk to human life can be appropriately minimised.

Consideration has been given to Clause 13.04-2S relating to *Erosion and landslip* due to the subject land being affected by the Erosion Management Overlay. The proposal is supported by a Geotechnical Risk Assessment prepared by Simon Anderson Consultants, which confirms that the site is capable of sustaining the proposed subdivision, and will not contribute to any adverse land degradation issues. Policy objectives that seek to protect areas prone to land degradation processes are considered to have minimal relevance to the subject land, given the absence of evidence of degradation.

The proposal responds positively to the provisions of Clause 15 relating to *Built Environment & Heritage*, providing an expected residential opportunity within a functional, accessible, safe and diverse physical and social environment. The proposal facilitates further development within an existing residential precinct which has good access to services and community facilities.

The proposed subdivision adheres to objectives relating to *Subdivision Design* (Clause 15.01-3S), with the scheme of subdivision has been designed to ensure each allotment is capable of accommodating appropriate future residential development. The proposal provides for the inclusion of twelve vacant residential allotments within an attractive, safe, accessible, diverse and sustainable neighbourhood.

The proposal creates allotments of appropriate dimensions and area having regard for the surrounding, diverse *neighbourhood character* (Clause 15.01-5S), with development able to retain the shared development characteristics of existing and evolving precincts throughout the Kings Cove Estate.

The subdivision design as proposed will deliver an attractive, safe, accessible, diverse and sustainable neighbourhood, consistent with Clause 15.01-3S relating to *Subdivision Design*. The scheme of subdivision has been designed to connect with and address existing and approved development along Kings Cove Boulevard, proposing allotments with varying street frontages reflect development elsewhere within the streetscape.

The proposal responds positively to strategies relating to *Residential Development* (Clause 16.01) which encourages a range of well located, diverse housing types to meet the varied needs and preferences of the community. The proposal gives effect to increased housing opportunities in an established urban area, contributing to urban consolidation. Consistent with strategies relating to *Housing supply* (Clause 16.01-1S), the proposed subdivision offers diversity and choice through variation in allotment size, with the direct abuttal to the existing Golf Course contributing to high levels of internal and external amenity.

5.2 Local Planning Policy

The proposed subdivision has had appropriate regard for objectives relating to *Erosion* (Clause 21.05-2) by directing development to an appropriate location and undertaken in a manner that will minimise vulnerability to the threat of erosion.

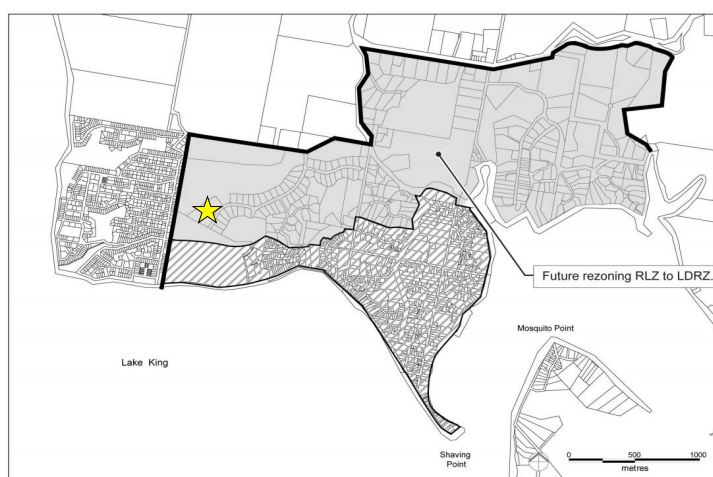
The land comprises good grass coverage with no obvious signs of erosion or other forms of land degradation. The objective and strategies to this Clause are addressed through the inclusion of a Geotechnical Risk Assessment which has been provided in support of the proposal.

Objectives relating to *Bushfire* (Clause 21.05-3) have been appropriately considered by providing for infill development within an established setting surrounded by managed properties, where the vulnerability to fire can be minimised. Careful consideration has been given proposed subdivision layout to achieves appropriate separation from classifiable vegetation to facilitate the future construction of dwellings provided with associated defensible space.

The proposal responds positively to Clause 21.08 of the Municipal Strategic Statement relating to *Housing*, which seeks to cater to diverse housing needs and preferences by activating a cell of residential land earmarked for further development, creating infill development opportunities within an existing settlements, and in an appropriately zoned location with access to a range of services.

The subject land forms part of the Lakes and Coastal sub-region, as identified at Clause 21.12-2, where the bulk of residential growth is encouraged from both a social and economic perspective. The Lakes & Coastal sub-region has the highest population density of the Shire, with the main commercial, retail and tourist centres located along this coastal fringe.

Local Planning Policy relating to *Metung* identifies the town's role as a strong residential community on the Gippsland Lakes. The proposal will not undermine the environmental and landscape values of the precinct, with the subdivision achieving an attractive outcome having regard for the context.



*Metung Strategy Plan Subject land denoted by a star
(Source: East Gippsland Planning Scheme)*

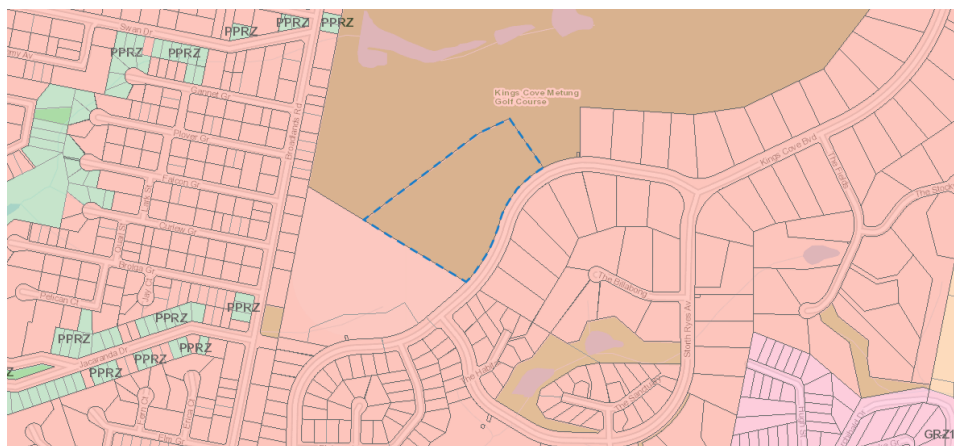
The subject land is well located to take advantage of the existing pedestrian pathway network that connects the Kings Cove estate to the broader Metung area, and is consistent with strategies that acknowledge the low-density residential use of the precinct.

6. Planning Elements

6.1 Low Density Residential Zone

The subject Application is entirely consistent with the purpose of the Low Density Residential Zone ('LDRZ') by providing for low-density residential development in a manner consistent with the Municipal Planning Strategy and the Planning Policy Framework.

The subdivision has been designed in accordance with the minimum lot size prescribed at Clause 32.03-3, which provides for the creation of lots with a minimum area of 2,000m² subject to the availability of reticulated sewer to the site.



Zone Mapping (Source: VicPlan)

The proposal utilises the amendment to zone provisions facilitated through Amendment VC100 that sought to make best use of existing investment in sewerage infrastructure, achieving positive public health and waterway outcomes by avoiding onsite wastewater disposal. The proposal is entirely consistent with the primary objective of VC100 which sought to “provide for the fair, orderly, economic and sustainable use and development of land”.¹

The size and dimensions of the proposed allotments are able to be easily integrated within the surrounding subdivision pattern which ranges from larger lots to the east and north-east, to smaller, conventional residential allotments to the south, south-east and west. The subdivision layout as proposed represents a transition between densities and topography, bleeding in a southerly direction towards the medium density housing as approved by the Schedule to Clause 51.01.

¹ Amendment VC100 Explanatory Report, file:///C:/Users/User/Downloads/adc0fd91-6c70-e811-a857-000d3ad11148_9dca2553-6afc-4675-be95-e33dda91e66b_VC100%20Explanatory%20Report%20Approval%20Gazetted.pdf

The Building Envelope Plan accompanying the Application demonstrates how each lot can be developed for the purposes of low-density residential living, which is expected to require the removal of selected planted species. The allotments are of appropriate area and dimension to accommodate landscaping established in a garden context, without requiring agricultural techniques and equipment for the purposes of maintenance.

The proposed subdivision will not have a negative impact on the existing or potential future use of any adjoining or nearby land given the residential context. No staging is proposed.

The following table provides an overview of the proposal's compliance with the relevant requirements of Clause 56, in accordance with the decision guidelines of Clause 32.03-6.

Objective	Design Response
56.07-1 Drinking water supply objectives	Complies The subject land is able to be connected to reticulated water, to the satisfaction of East Gippsland Water.
56.07-2 Reused and recycled water objective	Not applicable East Gippsland Water do not require the provision of reused and recycled water supply systems at this time, and there is no infrastructure available within the locality.
56.07-3 Wastewater management objective	Complies The subject land is able to be connected to reticulated sewer, to the satisfaction of East Gippsland Water.
56.07-4 Urban run-off management objectives	Complies The even landform, good coverage of vegetation and other permeable surfaces ensures there are no impediments to drainage. We note that land included within the LDRZ are excluded from the provisions of Clause 53.18 relating to Stormwater Management in Urban Development, which is understood to be due to the larger allotment sizes and extent of permeability available on site.

6.2 Erosion Management Overlay

The subject Application requires consideration of the Erosion Management Overlay for subdivision.

There is no evidence of erosion, landslip or other degradation on the subject land. The subject land has a good coverage of grass, with a gentle slope downward in a westerly direction.

The extent of earthworks will be minimised to that associated with the installation of reticulated services, with shared trenching to be utilised wherever possible.

The Application is supported by a Geotechnical Risk Assessment prepared by Simon Anderson Consultants, confirming that there will be no adverse effects resulting from the development of the land through subdivision. The proposed subdivision will not give rise to an increased risk of geotechnical hazard to life or property.

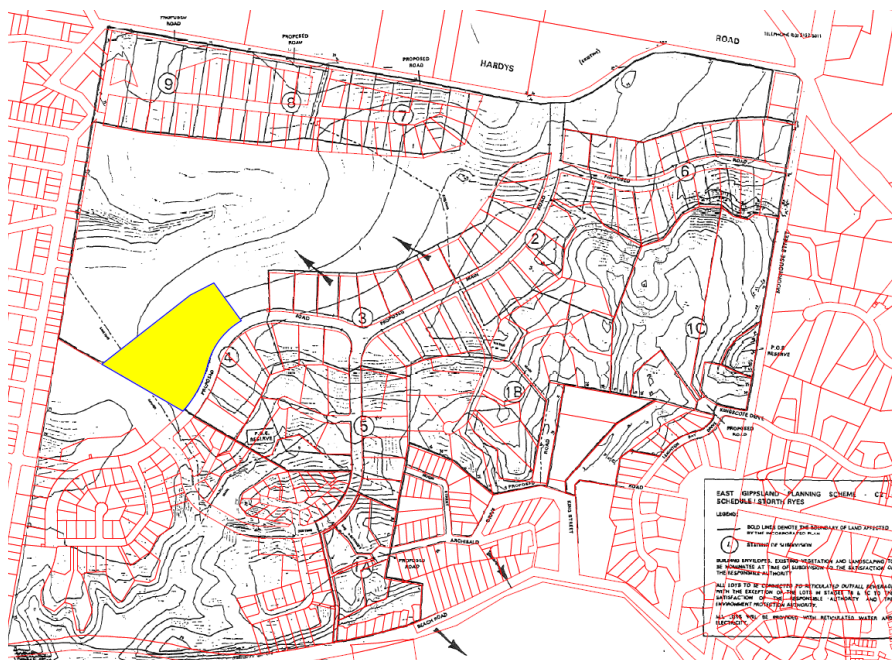
The future development of each proposed lot could be undertaken in a manner that avoids cut or fill exceeding 1 metre in depth. The proposed building envelopes are generously proportioned to accommodate any retaining structures (subject to further Council approval) should the need arise.

It is anticipated that the standard suite of conditions pertaining to sediment control will be included on permit.

6.3 Incorporated Plan Overlay – Schedule 1

The proposed subdivision is to be undertaken in a manner that is generally in accordance with the *Storth Ryes Incorporated Plan*, as introduced into the Planning Scheme on 24 August 2000 through Amendment C2.

Since then, the development of the Kings Cove Estate has been occurring progressively in a manner that is generally in accordance with, but not identical to the Incorporated Plan. Numerous variations are easily identified with respect to lot yield, lot dimensions and road alignments, as depicted by the composite diagram shown on the following page.



Composite diagram with Incorporated Plan shown in black, existing title structure shown in red, and subject land shown in yellow

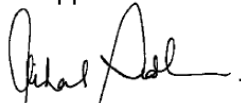
Of particular interest to the subject Application is the variation in lot yield and configuration for the North Course development, to the north of the Golf Course. This subdivision was approved following the gazettal of Amendment VC100, and is considered to set a contemporary precedent for subdivision of sewerred, greenfield LDRZ land within the Kings Cove estate. In this section of the estate, the variation between the Incorporated Plan and the current title structure represents an increased lot yield in the order of 150% and a substantially different road design.

In response to the provisions of the Incorporated Plan Overlay, our position is that a Planning Permit may be granted, should Council determine the Application favourably, given an incorporated plan has been incorporated into the Planning Scheme in accordance with the requirements of Schedule 1 to the Overlay. The proposed layout is generally in accordance with the Incorporated Plan.


7. Conclusion

The proposed Multi Lot Subdivision is considered to accord with all relevant provisions of the Low Density Residential Zone, Vegetation Protection Overlay & Erosion Management Overlay of the *East Gippsland Planning Scheme*. The proposal is consistent with State and Local Policy and has been designed to complement the adjoining properties.

For these reasons we respectfully request that Council consider the merits of the Application favourably and resolve to issue a Planning Permit.



MICHAEL SADLER
Managing Director

 Simon Anderson Consultants <small>CIVIL STRUCTURAL PROJECT ENGINEERS</small> P.O. Box 1700 111 Main St Bairnsdale, Vic, 3875 ACN 073 392 266 P.O. Box 566 191-193 Raymond St Sale, Vic, 3850 ACN 145 437 065	Job: Proposed Subdivision 100 Kings Cove Blvd Metung	Date: 9 Mar 2021
	Client: Crowther & Sadler	Designed: SJA
	Checked:	Job No.: 407465
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GEOTECHNICAL RISK ASSESSMENT



100 Kings Cove Blvd, Metung

INTRODUCTION

This report is designed to demonstrate the level of geotechnical risk involved in relation to the proposed 12 Lot, low density residential subdivision at 100 Kings Cove Blvd, Metung, during and after construction of all roads and associated works.

SITE DESCRIPTION


This low density residential zoned allotment (approximately 3.6 ha) on the north side of Kings Cove Boulevard, has an existing single storey dwelling situated on a rolling low hill landform, with a yellow duplex sedimentary landscape. The site is predominantly cleared of vegetation and has excellent grass/pasture coverage throughout, with partial areas of Plains Grassy Forest (EVC 151). The subject site is adjacent to the Kings Cove Golf Course to the north and well developed residential allotments to the east and south.

PROJECT DETAILS

A 12 lot residential subdivision is proposed for the site. Proposed construction details will be as follows;

- Blocks to be sized between 2000 – 6,000m², with stable vehicle access to be provided for all lots off Kings Cove Boulevard.
- Existing drainage patterns to remain (during subdivision stage of development).

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 Simon Anderson Consultants CIVIL STRUCTURAL PROJECT ENGINEERS P.O. Box 1700 111 Main St Bairnsdale, Vic, 3875 ACN 073 392 266 P.O. Box 566 191-193 Raymond St Sale, Vic, 3850 ACN 145 437 065	Job: Proposed Subdivision 100 Kings Cove Blvd Metung	Date: 9 Mar 2021
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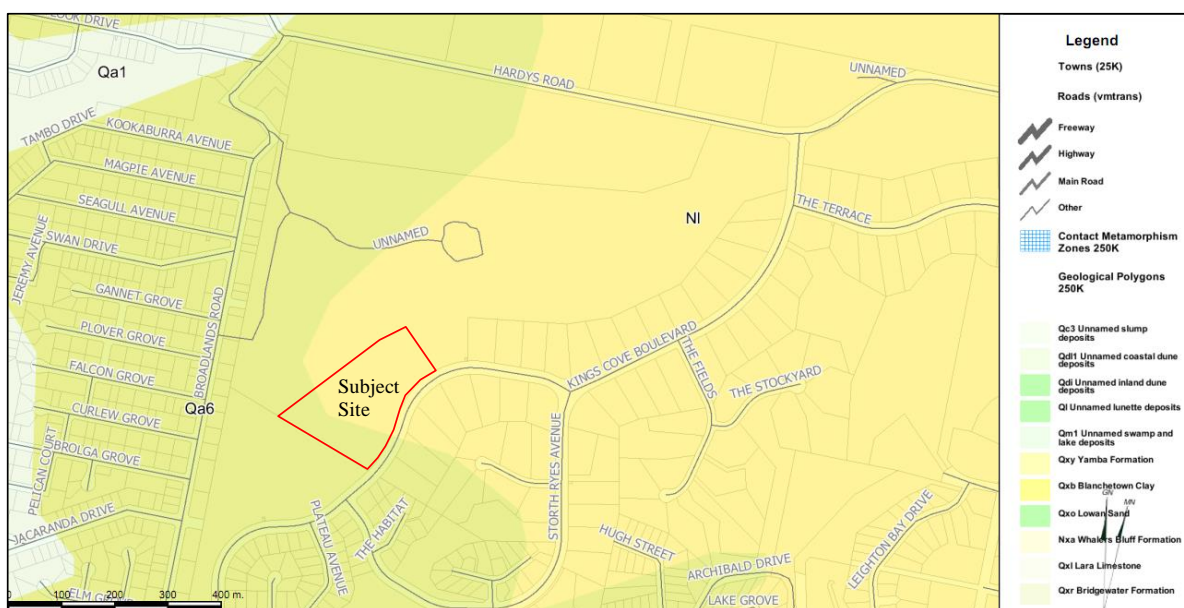
METHODOLOGY

1. DESKTOP INVESTIGATION

A desktop investigation of the subject site was carried out using DSE and GeoVIC mapping of published soil survey information and noted watercourse locations.

Soils of the south end of the site have been mapped and described in Sustainable Soil Management “*A reference manual to the major agricultural soils of the Bairnsdale and Dargo regions*”, and are described as belonging to the Briagolong (Br) map unit. The landform is a level to gently undulating plain, often dissected where it adjoins rivers and streams. All areas within the mapped area are cleared and used for grazing. The surface soils are generally fine sandy loams, greyish brown to pale brown to about 200-400mm. The B Horizon soils are brown to yellowish brown medium to heavy clays to at least 1m. Occasionally small to medium pebbles (2 to 20mm) often occur throughout the soil profile.

Soils at the north end of the site have been mapped and described in Sustainable Soil Management “*A reference manual to the major agricultural soils of the Bairnsdale and Dargo regions*”, and are described as belonging to the Stockdale (Sd) map unit. This unit occurs on rolling low hills and is comprised of Tertiary sediments. The surface soils are mostly fine textured soils, with a sandy loam to fine sandy loam sharply separated from a medium clay subsoil occurring at around 30-40cm, although some subsoils are clayey sands and sandy clays. Most of the land has been cleared of native vegetation (formerly grassy woodland) and is now used for grazing.




Disclaimer: This map is a snapshot generated from Victorian Government data.
This material may be of assistance to you but the State of Victoria does not guarantee that the publication is without flaw of any kind

REF: VANDENBERG, A.H.M., 1997. BAIRNSDALE SJ 55-7 Edition 2, 1:250 000 Geological Map (Series 1:250,000 geological maps. Geological Survey of Victoria.)

Geological Unit	Geological Description	Mapping Unit
Qa6 (Qp4)	Quaternary Non-marine (Alluvial) deposits consisting of Fluvial: gravel sand, silt.	Briagolong (Br)
N1 (Tnp)	Tertiary Marine, Non-marine deposits consisting of gravel, sand.	Stockdale (Sd)

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Soil Profile Morphology – Stockdale (Sd) Map unit

Surface soil

- A1** 0 – 300 Dark greyish brown (10YR4/2); *sandy loam*; weak medium (10 – 20 mm) polyhedral structure; firm moist; clear wavy change to:
- A2** 300 – 500 Pale brown (10YR6/3) conspicuously bleached (10YR/8/1d); *sandy loam or loamy sand*; apedal, single grain; firm consistence dry; sharp change to:

Subsoil

- B21** 500 – 800 Yellowish brown (10YR5/6); *heavy clay*; moderate coarse (20 – 50 mm) polyhedral structure; strong consistence, moist; diffuse change to:
- B22** 800 – 1m Yellowish brown (10YR5/6) with greyish brown (10YR5/2) and increasing yellowish red (5YR5/6) mottles; *heavy clay*; moderate coarse (20 – 50 mm) lenticular structure; strong consistence moist.

Key profile features

- Strong texture contrast between the surface (A) horizons and subsoil (B) horizons.
- Conspicuously bleached subsurface (A2) horizon.



Soil Profile Morphology – Briagolong Map Unit (Br)

Surface soil

- A** 0 – 15cm Very dark greyish brown (10YR3/2); *fine sandy clay loam*; weak medium subangular blocky structure; firm consistence dry; abrupt change to:

Subsoil


- B21** 15 – 40 cm Dark brown (10YR4/3); *medium clay*; strong very coarse columnar structure, parting to strong fine angular blocky; very strong consistence dry; few (<10 %) rounded cobbles (<200 mm); diffuse change to:
- B22** 40 – 90 cm Greyish brown (2.5Y5/3); *light medium clay*; strong coarse very prismatic to lenticular structure, parting to strong fine angular blocky; very strong consistence moderately moist; diffuse change to:
- B23** 90 – 120 cm Greyish brown (2.5Y5/3) few (<10%) coarse dark yellowish brown (10YR4/8) mottles; *light medium clay*; strong medium prismatic structure; very firm moderately moist; diffuse change to:
- C1** 120 – 170 cm Light grey (2.5Y7/3) with many (20-50%) very coarse (>30 mm) yellowish brown (10YR5/8) mottles; *light clay*; massive.



Key Profile Features

- Strong texture contrast between the surface (A) and subsoil (B) horizons
- Quartz cobbles present in the upper subsoil.

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 Simon Anderson Consultants <small>CIVIL STRUCTURAL PROJECT ENGINEERS</small> P.O. Box 1700 111 Main St Bairnsdale, Vic, 3875 ACN 073 392 266 P.O. Box 566 191-193 Raymond St Sale, Vic, 3850 ACN 145 437 065	Job: Proposed Subdivision 100 Kings Cove Blvd Metung	Date: 9 Mar 2021
	Client: Crowther & Sadler	Designed: SJA
	Checked:	Job No.: 407465
		Page No.: 3 of 6


METHODOLOGY cont'd..

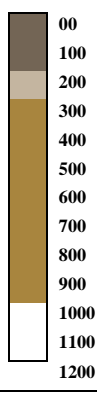

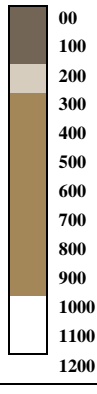

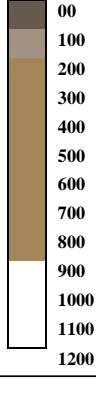

2. FIELD INVESTIGATION

A site visit was carried out with an inspection of the area of proposed subdivision and of nearby landforms, features and developments.


Soil investigation bores were taken on the site (B1-B2) as shown on the site plan below. The bore logs of these are shown on pg 4.



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BORE LOG B1 	 BORE 1
BORE LOG B2 	 BORE 2
BORE LOG B2 	 BORE 3

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	Client: Crowther & Sadler	Designed: SJA
	Checked:	Job No.: 407465
		Page No.: 6 of 6

SUMMARY OF RISK

LANDSLIDE	LOW
SHEET/RILL EROSION	LOW
TUNNEL EROSION	LOW

- Low grades over the subject site, ranging from approximately 1 in 20 to 1 in 100.
- Excellent grass coverage, preventing topsoils from being washed away (even in the heaviest torrential downpours).
- The well contoured landscape provides excellent surface water drainage. The waxing divergent slope provides good surface water drainage.
- There is no evidence of soil erosion or landslip on the subject site, or adjoining residential developed properties.
- Infill site with well-established residential dwellings on the opposite side of Kings Cove Boulevard.
- Natural soils of the site (dense sand silts, overlying stiff clays) will have adequate strength and stability for residential slabs and footings.
- There is negligible geotechnical risk attached to post & wire fence construction as a result of subdividing into twelve lots.
- Any future construction works associated with the development of allotments would be protected by Building Code of Australia, Australian Standards, Building and Planning Permit requirements and normal construction practise.

Based on findings from both the Desktop and Site investigations the site is suitable for development as proposed and further intensive investigation would not be necessary to confirm the above findings.

VERIFICATION

I, the author of this document, declare that I am suitably qualified and experienced to carry out this site assessment.



Simon Anderson BE (Civil)CPEng MIEAust No 930355
BCC Registration No EC-1711
Date 9 Mar 2021

407465 GRA (Whelan)

Crowther & Sadler Pty. Ltd.

A.B.N. 24 006 331 184

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Bushfire Hazard Assessment

Multi Lot Subdivision
100 Kings Cove Boulevard, Metung
Lot G on PS509097V

Our Reference – 18722

March 2021



Principal: Michael J. Sadler, L.S., Dip Surv, M.I.S., MAICD

1. Introduction

This Report has been prepared to identify bushfire hazard and to provide a risk assessment relating to the proposal for a multi lot subdivision at 100 Kings Cove Boulevard, Metung.

The purpose of this report is to:

- Respond to State Planning Policy at Clause 13.02-1S relating to Bushfire Planning;
- Identify vegetation, topographic and climatic conditions that create a bushfire hazard;
- Provide an assessment of the bushfire hazard on the basis of landscape conditions, local conditions, neighbourhood conditions and conditions of the subject land; and
- Respond to the identified bushfire hazard, including proposed bushfire protection measures and demonstrate how the protection of human life has been prioritised.

2. Locality & Site Description

The subject land is formally described as Lot G on Plan of Subdivision 509097V, being 3.645ha in area, being a large parcel of land contained within the Low Density Residential Zone.



Aerial image of subject land outlined (Source: GeoVic)

An existing shed is located in the central portion of the property, accessed via the established crossover and driveway from Kings Cove Boulevard.

The site gently falls from the east to the north-west, comprising a good coverage of pastoral grasses.



View across western portion of site from Kings Cove Boulevard

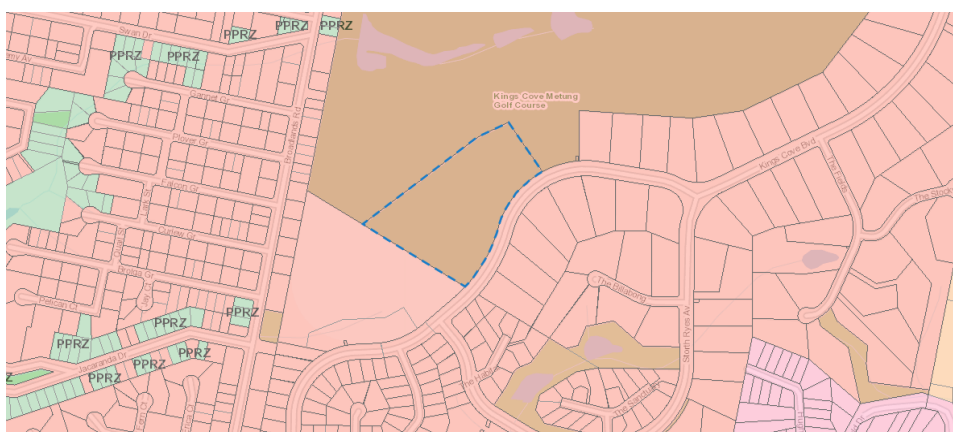
Planted trees are contained within the subject land, established in a linear pattern, planted with the intention of the original larger Kings Cove Golf Course scheme going ahead.

The established 9-hole Kings Cove Golf Course adjoins the subject land to the immediate north.



*Aerial image of subject land showing linear planted vegetation
(Source: Google Earth, dated 2004)*

The subject land forms part of an existing low density residential precinct with surrounding properties also contained within the Low Density Residential Zone.



Zone Mapping (Source: VicPlan)

The majority of properties within the immediate precinct contain established residential development, with some vacant residential properties expected to transition in the future to low density residential development. There are some patches of vegetation scattered throughout the wider landscape however the predominant vegetation classification surrounding the subject land is “*low threat*”.

3. State Planning Policy Assessment

Objective

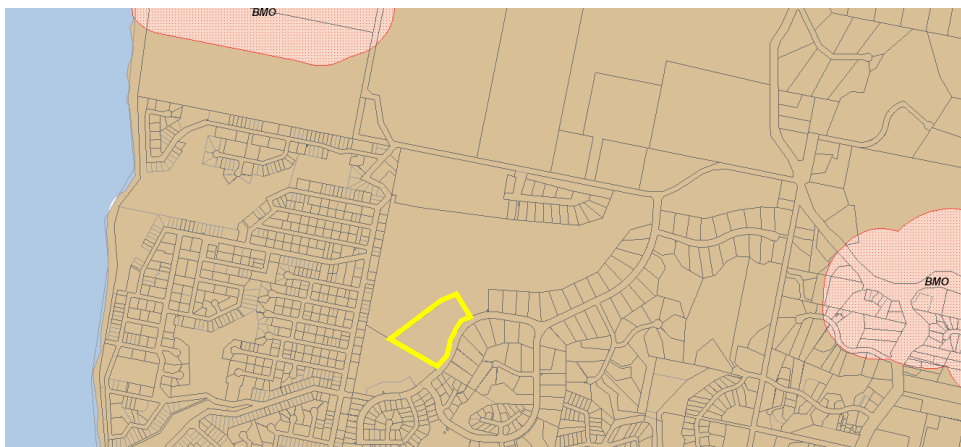
Clause 13.02-1S of the Planning Policy Framework seeks *'to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritizes the protection of human life'*.

Policy Application

The Bushfire Planning Policy at Clause 13.02-1S is to be applied to all planning and decision making under the *Planning & Environment Act 1987* relating to land that is:

- Within a designated bushfire prone area;
- Subject to a Bushfire Management Overlay; or
- Proposed to be used or developed in a way that may create a bushfire hazard.

Whilst the subject land is not affected by the provisions of the Bushfire Management Overlay, the Policy does need to be considered for the proposed Multi Lot Subdivision as the site is identified as a designated bushfire prone area.



Extract of Bushfire mapping (Source: VicPlan)

4. Strategies

The following tables outline the various strategies to be implemented under the provisions of Clause 13.02-1S relating to Bushfire Planning and provides responses specific to the proposal at hand.

Protection of Human Life	
Strategy	Response
Prioritising the protection of human life over all other Policy Considerations.	<p>The proposed subdivision in this location is considered to ensure protection of human life.</p> <ul style="list-style-type: none"> The subject land is excluded from Bushfire Management Overlay mapping. The site is located within an existing low density precinct located only a 2.1km north-west of Metung activity centre, 12km west of Lakes Entrance, and 18km west of Bairnsdale. The subject land and adjoining properties are well managed and modified in nature. The landform gently falls towards the north-west and does not promote hazardous fire runs. Surrounding properties contain low density residential development and the Kings Cove Golf Course. These surrounding developments do not provide a severe fire threat given they are actively maintained.
Directing population growth and development to low risk locations and ensuring the availability of, and safe access to, areas where human life can be better protected from the effects of bushfire.	<p>The subject land is considered to be in a low risk location given its close proximity to the main township areas of Metung, Lakes Entrance, and Bairnsdale, as well as the surrounding conditions.</p> <p>Vehicle access from the subject land to the primary settlement area of Metung is straightforward and provided via good quality bitumen sealed roads.</p> <p>The close proximity to the township area and good access enhances the protection of human life from bushfire risk.</p>
Reducing the vulnerability of communities to bushfire through the consideration of bushfire risk in decision making at all stages of the planning process.	<p>The subdivision has been designed having regard for the needs of future development under Australian Standard AS3959.</p> <p>Given the designation of the subject land as a Bushfire Prone Area, a Bushfire Attack Level (BAL) will need to be established for future dwellings on each of the allotments.</p> <p>The subdivision has been designed to ensure that each allotment can accommodate future residential development that can achieve a minimum BAL of 12.5.</p> <p>Demonstrational Building Envelopes on the accompanying plan have been designed to determine that future development can achieve BAL 12.5.</p>

Bushfire Hazard Identification & Assessment	
Strategy	Response
Identify bushfire hazard and undertake appropriate risk assessment by:	
Applying the best available science to identify vegetation, topographic and climatic conditions that create a bushfire hazard.	<p>The Planning Application triggers consideration of the proposal under Clause 13.02-1S of the East Gippsland Planning Scheme.</p> <p>The need to consider the requirements of Australian Standard AS3959 arises from the subject land being within a Designated Bushfire Prone Area.</p> <p>The Application has therefore considered the methodology and controls of Australian Standard AS3959 as part of the bushfire assessment.</p>
Considering the best available information about bushfire hazard including the map of designated bushfire prone areas prepared under Building Act 1993 or regulations made under that Act.	This report demonstrates that future development on each of the proposed allotments is able to meet the requirements of Table 2.4.2 of Australian Standard AS3959.
Applying the Bushfire Management Overlay to areas where the extent of vegetation can create an extreme bushfire hazard.	<p>The subject land is not affected by the Bushfire Management Overlay.</p> <p>The nearest Bushfire Management Overlay affected area is approximately 950m to the north-west.</p> <p>The exclusion of the site from the Bushfire Management Overlay highlights that the site is not considered to be at severe risk from bushfire.</p>
Considering and assessing the bushfire hazard on the basis of: <ul style="list-style-type: none"> - Landscape Conditions (Meaning conditions in the landscape within 20km (& potentially up to 75km) of a site). - Local Conditions (Meaning conditions in the area within approximately 1km of a site). - Neighbourhood conditions (Meaning conditions in the area within 400m of a site). - The site for the development. 	Section 6 of this report includes an assessment of the proposal against the landscape conditions, local conditions, neighbourhood conditions and site conditions.
Consulting with emergency management agencies and the relevant fire authority early in the process to receive their recommendations and implement appropriate bushfire protection measures.	The Planning Application for the subdivision will not need to be formally referred to the Country Fire Authority. The Responsible Authority will need to be satisfied that the proposal adequately addresses Clause 13.02-1S.

18722 Bushfire Assessment.docxx

Bushfire Hazard Identification & Assessment (continued)	
Strategy	Response
Identify bushfire hazard and undertake appropriate risk assessment by:	
Ensuring that strategic planning documents, planning scheme amendments, planning permit applications and development plan approvals properly assess bushfire risk and include appropriate bushfire protection measures.	This report demonstrates that the proposal has consideration and regard to bushfire risk. Appropriate bushfire mitigation measures will be achieved by adoption of appropriate setbacks as displayed through the demonstrational Building Envelope Plan.
Not approving development where a landowner or proponent has not satisfactorily demonstrated that the relevant policies have been addressed, performance measures satisfied or bushfire protection measures can be adequately implemented.	This report demonstrates that the proposal responds positively to the provisions of Clause 13.02-1S, and that appropriate bushfire protection measures can be implemented.

Settlement Planning	
Strategy	Response
Plan to strengthen the resilience of settlements and communities and prioritise protection of human life by:	
Directing population growth and development to low risk locations, being those locations assessed as having a radiant heat flux of less than 12.5 kilowatts/square metre under AS 3959-2018 Construction of Buildings in Bushfire-prone Areas (Standards Australia, 2018).	<p>The scheme of subdivision has been designed to ensure each of the proposed allotments can accommodate future development to BAL 12.5 based on assessment under Australian Standard AS 3959.</p> <p>Whilst each Lot can accommodate a dwelling with BAL 12.5 there will be the ability to construct future development to a higher level should a future purchaser prefer.</p> <p>The absence of the subject land from the Bushfire Management Overlay demonstrates that the subject land is not in a high risk bushfire area.</p> <p>It has always been an expectation that the subject land would be developed to contain residential development, since the 'Storth Ryes Concept Plan' was introduced into the former Tambo Planning Scheme in December 1989.</p> <p>In addition to this, the subject land is zoned Low Density Residential Zone and is therefore considered appropriate, and will not result in any adverse bushfire risk or risk to life and property.</p>

Settlement Planning (continued)	
Strategy	Response
Plan to strengthen the resilience of settlements and communities and prioritise protection of human life by:	
Ensuring the availability of, and safe access to, areas assessed as a BAL-Low rating under AS 3959-2018 Construction of Buildings in Bushfire-prone Areas (Standards Australia, 2018) where human life can be protected from the effects of bushfire.	The subject land is located only a short drive from the main commercial centres of Metung, Lakes Entrance, and Bairnsdale which provide safe refuge from bushfire. Access to both towns is facilitated by good quality sealed road networks.
Ensuring the bushfire risk to existing and future residents, property and community infrastructure will not increase as a result of future land use and development.	Bushfire risk will not increase as a result of the proposed subdivision. If anything, the establishment of residential development on the land will provide additional protection to existing and future development, as there will be ongoing assurance of management and continued maintenance of the land.
Achieving no net increase in risk to existing and future residents, property and community infrastructure, through the implementation of bushfire protection measures and where possible reducing bushfire risk overall.	There will be no net increase in risk resulting from the proposal, as appropriate bushfire protection measures will be implemented. A demonstrational Building Envelope has been nominated for each of the proposed vacant allotments, to show how future residential development can achieve BAL 12.5. Future dwellings contained within the Building Envelopes will be required to construct to a minimum of BAL 12.5, which is easily achieved. The subdivision has also been designed in a manner which will ensure that future development will have direct and convenient access to the existing road network.
Assessing and addressing the bushfire hazard posed to the settlement and the likely bushfire behavior it will produce at a landscape, settlement, local, neighbourhood and site scale including the potential for neighbourhood-scale destruction.	Although the site is not considered to be at high risk from bushfire, which is evident through the absence of the Bushfire Management Overlay, the risk of bushfire is evident through the inclusion within the Bushfire Prone Area designation. The main fire threat is provided further to the north of the subject land where the terrain becomes undulating and open grassy farmland north of Hardys Road. This main threat is more than 450m away. Further information on the bushfire behaviour at a landscape, local, neighbourhood and site level is provided at section 6 of this Report.
Assessing alternative low risk locations for settlement growth on a regional, municipal, settlement, local and neighbourhood basis.	The subject land is contained within an existing low density residential precinct which is anticipated to be developed in the proposed manner since the inception of the 'Storth Ryes Concept Plan', introduced into the former Tambo Planning Scheme in December 1989.

Settlement Planning (continued)	
Strategy	Response
Plan to strengthen the resilience of settlements and communities and prioritise protection of human life by:	
Not approving any strategic planning document, local planning policy, or planning scheme amendment that will result in the introduction or intensification of development in an area that has, or will on completion have, more than BAL 12.5 rating under AS3959-2018 Construction of Buildings in Bushfire-prone Areas (Standards Australia, 2018).	This report is prepared in support of an Application for Planning Permit which can be approved given future dwellings can achieve construction to a minimum construction standard of BAL 12.5.

Areas of Biodiversity Conservation Value	
Strategy	Response
Ensure settlement growth and development approvals can implement bushfire protection measures without unacceptable biodiversity impacts by discouraging settlement growth and development in bushfire affected areas that area important areas of biodiversity.	<p>The proposed scheme of subdivision has been designed having regard for the context of the adjoining road network.</p> <p>This has been achieved by:</p> <ul style="list-style-type: none"> Nominating boundaries to ensure lots adjoining Kings Cove Boulevard occur in rhythm with development on the opposite side of the road. The subdivision has been designed to ensure the future development can be adequately accessed via Kings Cove Boulevard being required for direct access.

Use & Development Control in Bushfire Prone Area	
Strategy	Response
When assessing a Planning Permit Application for uses and development:	
Consider the risk of bushfire to people, property and community infrastructure.	<p>Whilst the Application seeks approval for subdivision of the land, it results in the expectation that the allotments will be utilised for residential development.</p> <p>Establishment of future residential development in this location is most appropriate having regard for the surrounding residential use, proximity to townships.</p> <p>Development will ultimately provide protection to one another by ensuring the environment remains at a managed low threat state.</p>

Require the implementation of appropriate bushfire protection measures to address the identified bushfire risk.	It is acknowledged however that in practice development is likely to exceed the construction requirements for BAL 12.5 thereby enhancing protection and resilience from fire. The low density residential size of the allotments will result in ongoing management and maintenance by future owners with allotments accommodating adequate area for future development to achieve BAL 12.5.
Ensure new development can implement bushfire protection measures without unacceptable biodiversity impacts.	Each of the proposed allotments are clear of native vegetation ensuring biodiversity impacts are not increased. The subdivision has also been designed to ensure that future development can be undertaken in accordance with the aspirations of the Metung Strategy Plan.

5. Policy Guidelines

Policy Guidelines & Documents	Response
The following must be considered as relevant:	
Any applicable approved state, regional and municipal fire prevention plan.	The Municipal Fire Prevention Plan has been considered. See section 6.7 of this report.
AS 3959-2018 Construction of Buildings in Bushfire-prone Areas (Standards Australia, 2018)	Australian Standard AS3959 has been used as part of this assessment to classify slope and vegetation to determine BAL 12.5 requirements for each lot.
Any bushfire prone area map prepared under the Building Act 1993 or regulations made under that Act.	The current Bushfire Prone Area mapping has been considered as part of this report. The subject land is considered Bushfire Prone.

6. Bushfire Risk

Under Clause 13.02-1S relating to Bushfire Planning triggers the need to consider and assess the bushfire hazard based on:

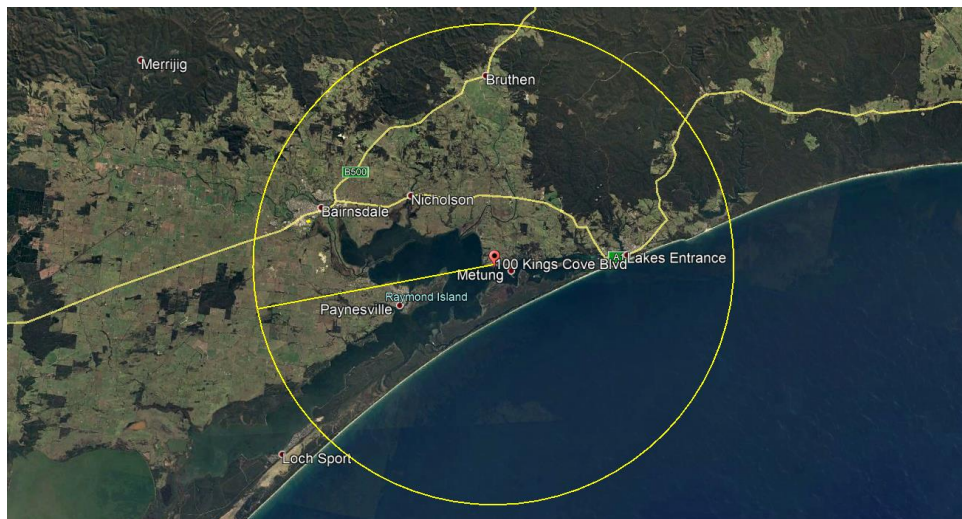
- Landscape conditions;
- Local conditions;
- Neighbourhood conditions; and
- The site for the development.

6.1 Landscape Conditions

When considering and assessing the bushfire hazard the landscape risk needs to be taken into consideration which includes the extent of vegetation cover, the area available to a landscape bushfire, terrain and accessibility to low threat areas.

18722 Bushfire Assessment.docxx

Under Clause 13.02-1S pertaining to Bushfire Planning 'landscape conditions' refers to conditions in the landscape within 20km (and potentially up to 75km) of a site.



Landscape Conditions within 25km of the subject land (Source: Google Earth)

The key features within the 25km assessment area surrounding the site include:

- Large areas of residential and rural residential development, particularly to the east, north-west and west of the property.
- Large areas of grassland coverage throughout most of the assessment area, much of which is utilized for grazing activities.
- Large area of the Gippsland Lakes network (mainly Lake King west, and south of the site, and Lake Wellington extending south-west of the site).
- The stretch of land in the southern portion of the 25km assessment area contains Crown Land and shrubby areas adjoining the 90 Mile Beach.
- The most north-eastern portion of the 25km assessment area contains forested areas connected to a larger expanse of vegetation extending north, providing a distant threat from bushfire.
- The land between the subject land and the township area of Bairnsdale to the north-west is not considered significantly vegetated and is easily accessed by a good quality sealed road network including the Princes Highway.

The subject land is surrounded by primarily residential and grazing properties. The vegetation within the wider landscape is mostly representative of either low threat/modified or grassland which generally provides a low risk to bushfire.

6.2 Local Conditions

Under Clause 13.02-1S pertaining to Bushfire Planning 'local conditions' refers to conditions in the area within approximately 1km of a site.



Local conditions within 1km of the subject land (Source: Google Earth)

The key features within the 1km assessment area surrounding the subject land include:

- Land immediately in all directions is best described as developed, containing the Kings Cove Golf Course to the north, and residential development to the east, south, and west. A transition to farmed grassland is evident beyond Hardys Road to the north and towards the northern edge of the assessment area.
- The vast majority of properties within the assessment area are low density residential.
- The landform is gently undulating on an elevated terrace, with Lake King and marina established south of the escarpment adjoining the lake shore.

6.3 Neighbourhood Conditions

Under Clause 13.02-1S pertaining to Bushfire Planning 'neighbourhood conditions' mean conditions in the area within 400 metres of a site.



Neighbourhood conditions within 400m assessment area (Source: Google Earth)

The key features within the 400m assessment area surrounding the subject land include:

- Presence of numerous low density residential properties. These properties represent a modified and low threat vegetation classification.
- The predominant vegetation classification in all directions is considered low threat.
- There is a small, established patch of vegetation within the south-east corner of the assessment area. The patch is not contiguous with other patches and is less than 1 hectare in area, this is not considered a significant threat to the subject land.
- The landform within the 400m assessment area gently falls from the east to the west.

6.4 Bushfire Scenarios

Bushfire from the North

The most likely bushfire scenario for this site considering the landscape, will be for a fire approaching from the north.

The subject land is separated from the nearest bushfire threat, being grassland beyond Hardy's Road, by established residential development and the Kings Cove Golf Course (maintained to a low fuel condition and 'excludable' vegetation).

Given the subject land's significant separation from forested areas, the site is not considered susceptible to long and uncontrolled fire runs.

Considering the climate of the area, a northerly wind represents less than 10% of all wind direction between the months of October and April, as recorded at the Bairnsdale Airport from 1942 and August 2020 data (Bureau of Meteorology, http://www.bom.gov.au/climate/averages/tables/cw_085279.shtml), further demonstrating prevailing winds in the local climate are more likely to originate from the east or south-east, with this number being over 55%.

Considering the climate, the largely residential development and waterways presiding over the encompassing directions in the wider landscape, the subject land is deemed to be of low fire risk from natural landscape.

Localised Grass Fires

There is a minor threat from more localised grassland fires. The terrain is gently undulating and the fire threat can be mitigated by appropriate setbacks, and surrounding residential properties and adjoining golf course maintaining any grass yards and garden area within the properties.

6.5 Bushfire Hazard Site Assessment

Vegetation on the subject land and the immediately surrounding area has been classified in accordance with Table 2.3 of Australian Standard AS 3959, consistent with Clause 13.02-1S of the *East Gippsland Planning Scheme*.



Aerial view of subject land and immediate surrounds (Source: Google Earth)

Exclusions & Low Threat Vegetation

The Kings Cove Golf Course and the adjoining residential development has been classified as low threat, as these areas contain minimal vegetation and are generally managed, cultivated garden areas. Kings Cove Boulevard provides a break between the subject land and more low threat vegetation to the south-east.

The small strip of vegetation contained within the south-eastern corner of the 400 metre assessment area are classified as excludable as they are less than 20 metres in width and are maintained to satisfy a classification of excludable.

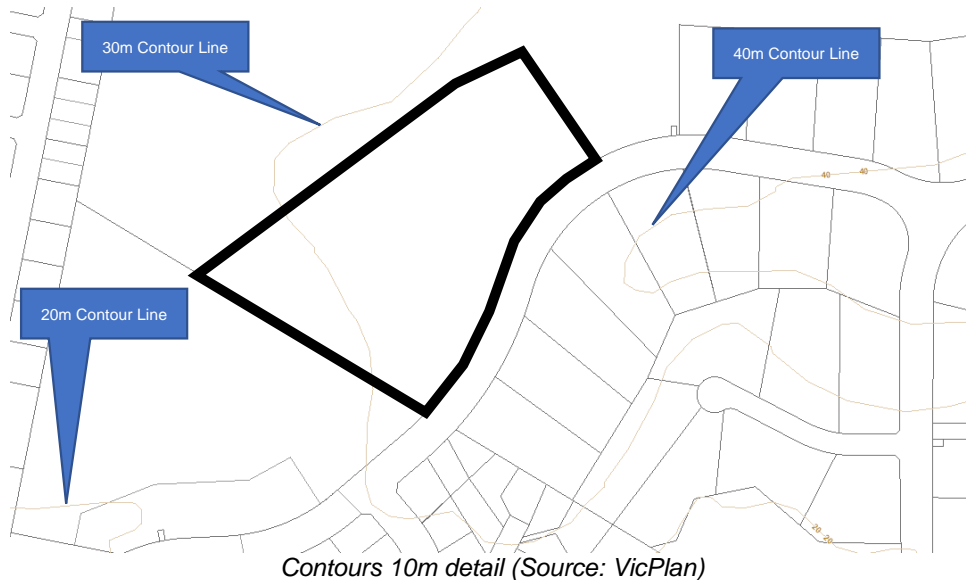
Grassland Classification

The majority of the subject land has a vegetation classification of 'low threat' given the presence of maintained grass. Noted however, is the existence of planted trees within the property which are exempt from any Planning consideration regarding vegetation removal due to their planted nature. Surrounding properties are best described as low threat due to their maintained condition.

The subject land in its current form is identified as being low threat. The environment will be further modified as a result of the subdivision and establishment of residential allotments into the future which will perpetuate the low threat classification.

Topography

The topography of the subject land is best described as falling gently to the west.



6.6 Other Bushfire Matters

Although there is some record of fire history within the wider landscape since the early 1970's, there is no record of bushfire history on the subject land or generally within the Metung township, as demonstrated on the mapping below.



6.7 Municipal Fire Management Plan

The *East Gippsland Fire Management Plan 2017-2020 (Version 3.0)* identifies the fire risk and the associated works to be undertaken to reduce risk for the Municipality.

The Plan identifies that a bushfire from the north, with smoke impact and ember attack is the likely fire scenario for Metung and is the responsibility of the Metung Fire Brigade.

Existing treatments include community education, planned burn programs, and regular patrols/inspections.

7. Concluding Remarks

In summary the proposed multi lot subdivision at 100 Kings Cove Boulevard, Metung has considered the bushfire controls under the *East Gippsland Planning Scheme* and will not result in any adverse outcomes with respect to bushfire risk as appropriate bushfire mitigation measures can be put in place.

Crowther & Sadler Pty Ltd
March 2021

Your Reference: 18722
Contact: John Perry
Our Reference: 156/2021/P
Telephone No: (03) 5153 9500
Email: feedback@egipps.vic.gov.au

Corporate Centre
273 Main Street (PO Box 1618)
Bairnsdale Victoria 3875
Telephone: (03) 5153 9500
National Relay Service: 133 677
Residents' Info Line: 1300 555 886
Facsimile: (03) 5153 9576
Email: feedback@egipps.vic.gov.au
ABN 81 957 967 765

7 May 2021

Crowther & Sadler Pty Ltd
PO Box 722
BAIRNSDALE VIC 3875

Dear Sir or Madam,

Planning Application Number: 156/2021/P
Proposal: Multi-lot subdivision
Location: 100 Kings Cove Boulevard METUNG
Lot G PS 509097

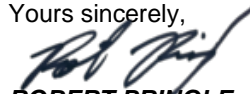
Thank you for your application for the above proposal.

We draw to your attention that the proposal is not supported and is likely to be the subject of an officer recommendation for refusal for the following reasons:

- It is the opinion of officer that the proposed subdivision is not consistent with the general subdivision layout as shown in the Incorporated Plans for the Storth Ryes Estate. The plan suggests that a four-lot subdivision is to be undertaken at this site, rather than the twelve-lot subdivision proposed.
- Notwithstanding the Low Density Residential Zone control which permits land to be subdivided to 2000 square meters where reticulated sewerage is provided, the proposal, especially with a prevalence of battle axe configurations, is inconsistent with the neighbourhood character of the Low Density Residential Zone/Kings Cove Boulevard Precinct.
- Officers do not share the view that the neighbourhood character can be assessed to include land within the resort/motel and convention schedule which specifically permits flats, apartments, townhomes and the like.
- Officers do not share the view that the North Course can be an appropriate strategic justification to depart from the established character, bearing in mind that the expectation of existing residential community along Kings Cove Boulevard, which would anticipate a similar streetscape, lot density and retention of existing vegetation to what is provided on their own land.

To the extent reasonable, Council will ensure that this matter is progressed in a fair and balanced process, giving you the opportunity to raise your concerns in the appropriate forums, however our position is unlikely to be waived. Should you wish to have a discussion please feel free to contact us on 5153 9500 to book an appointment.

Yours sincerely,



ROBERT PRINGLE
Statutory Planning Coordinator



133 Macleod Street, PO Box 52, Bairnsdale Victoria 3875
Tel: (03) 5150 4444 Fax: (03) 5150 4477
Email: egw@egwater.vic.gov.au Web: www.egwater.vic.gov.au

Our Ref: DOC/21/28195

26 May 2021

East Gippsland Shire Council
(planning@egipps.vic.gov.au)

Attention: Kerry Stow

EGSC REFERENCE NUMBER(S): 156/2021/P
FOR: SUBDIVISION OF LAND INTO 12 LOTS
LOCATION: 100 KINGS COVE BOULEVARD METUNG (LOT G PS509097V)
APPLICANT: CROWTHER & SADLER PTY LTD

In response to your email of 12 May 2021, regarding the above planning permit application, East Gippsland Water does not object provided the permit is subject to the following conditions:

1. Water and sewer reticulation infrastructure (including sewer connection points) must be extended to service each Lot to East Gippsland Water's requirements, at the cost of the Applicant/Developer. Subject to East Gippsland Water's requirements being met, relevant infrastructure will then become Gifted Assets (refer Notes). Each Lot is to be separately serviced by the water and sewer reticulation system and able to be separately metered (water) as appropriate to the satisfaction of East Gippsland Water.
2. Arrangements for the design, construction, commissioning and acceptance of all Gifted Assets required by East Gippsland Water to extend water and / or sewerage services to each Lot require written approval by East Gippsland Water. Design drawings to be sent to developerworks@egwater.vic.gov.au after certification application has been made.
3. Payment of applicable Development Planning Charges by the Applicant/Developer to East Gippsland Water (refer Notes)
4. Provide easements on the plan of subdivision over newly created or existing infrastructure, as required by East Gippsland Water.
5. No structure or fill is to be placed over East Gippsland Water works and/or easements without prior agreement by East Gippsland Water.

Notes:

- (A) Subject to its written acceptance of the Gifted Assets, East Gippsland Water will become responsible for ownership and the ongoing maintenance and operation of the assets in perpetuity.
- (B) Development Planning Charges apply where East Gippsland Water are involved in the developer's works (actual charge is based on the final cost of the works). Contact East Gippsland Water for further information on these fees.





133 Macleod Street, PO Box 52, Bairnsdale Victoria 3875
Tel: (03) 5150 4444 **Fax:** (03) 5150 4477
Email: egw@egwater.vic.gov.au **Web:** www.egwater.vic.gov.au

- (C) Any additional infrastructure required to adequately service the development would need to be provided by the developer at the developer's cost. The type and extent of additional infrastructure, if needed, is subject to detailed engineering design and approval by East Gippsland Water
- (D) For any Lot area that is not able to be fully serviced by a gravity sewer connection, building envelopes or minimum floor levels are required to be listed as restrictions on title to the satisfaction of East Gippsland Water.

Further enquiries may be directed to Gary Pini (5150 4421) at our Bairnsdale Office.

Yours faithfully,

A handwritten signature in black ink, appearing to read "CAROL ROSS", written over a light blue horizontal line.

CAROL ROSS
EXECUTIVE MANAGER CUSTOMERS

cc: Crowther & Sadler Pty Ltd (contact@crowthersadler.com.au)





Our Reference: 75074722
Your Reference: 156/2021/P
Surveyors Reference: 18722

Date: 11 June 2021

Locked Bag 14051
Melbourne City Mail Centre
Victoria 8001 Australia
T: 1300 360 795
www.ausnetservices.com.au

EAST GIPPSLAND SHIRE COUNCIL
PO Box 1618
BAIRNSDALE VIC 3875

Dear Sir/Madam,

PLANNING PERMIT NUMBER: 156/2021/P
APPLICANT: Crowther & Sadler Pty Ltd
DESCRIPTION OF LAND: 100 KINGS COVE BOULEVARD, METUNG

CONDITIONAL CONSENT TO ISSUE OF PERMIT

AusNet Electricity Services Pty Ltd does not object to the issue of a planning permit in respect of the abovementioned application if the permit is subject to the following conditions.

CONDITIONS REQUIRED BY AUSNET ELECTRICITY SERVICES PTY LTD

The plan of subdivision submitted for certification must be referred to AusNet Electricity Services Pty Ltd in accordance with Section 8 of the subdivision Act 1988.

The applicant must –

- Enter into an agreement with AusNet Electricity Services Pty Ltd for the extension, upgrading or rearrangement of the electricity supply to lots on the plan of subdivision. A payment to cover the cost of such work will be required.
- Provide electricity easements internal and external to the subdivision in favour of AusNet Electricity Services Pty Ltd to service the lots on the plan of subdivision and/or abutting lands as required by AusNet Electricity Services Pty Ltd. The provision of reserves for electricity substations may also be required.

END OF CONDITIONS

It is recommended that, at an early date the applicant commences negotiations with AusNet Services for a supply of electricity in order that supply arrangements can be worked out in detail, so prescribed information can be issued without delay (the release to the municipality enabling a Statement of Compliance with the conditions to be issued).

Arrangements for the supply will be subject to obtaining the agreement of other Authorities and any landowners affected by routes of the electric power lines required to supply the lots and for any tree clearing.

Prospective purchasers of lots on this plan should contact this office to determine the availability of a supply of electricity. Financial contributions may be required.

For all enquiries please email: subdivisions@ausnetservices.com.au

Yours sincerely,

Mark Taylor
Customer Connect
AusNet Services



Our patron, Her Excellency the Honourable Linda Dessau AC, Governor of Victoria

CFA Fire Prevention and Preparedness
8 Lakeside Drive Burwood East Vic 3151
Email: firesafetyreferrals@cfa.vic.gov.au

CFA Ref: 11000-73312-110486
Council Ref: 156/2021/P

2 July 2021

John Perry
East Gippsland Council
PO BOX 1618
BAIRNSDALE VIC 3875

Dear John,

REQUEST FOR FURTHER INFORMATION

Application No: 156/2021/P
Applicant: Crowther & Sadler
Address: 100 Kings Cove Boulevard Metung
Purpose: Multi Lot Subdivision

CFA, acting as a Referral Authority pursuant to Section 55 of the Planning and Environment Act for a subdivision at 100 Kings Cove Boulevard Metung, requests the following further information be provided.

Provide evidence that the proposed subdivision will meet the fire hydrant requirements.

1. Hydrants

- 1.1 Above or below ground operable hydrants must be provided. The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of building envelopes, the rear of the lots) must be 120 metres and the hydrants must be no more than 200 metres apart. These distances must be measured around lot boundaries.
- 1.2 The hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the Country Fire Authority.

Note –CFA's requirements for identification of hydrants are specified in 'Identification of Street Hydrants for Firefighting Purposes' available under publications on the CFA web site (www.cfa.vic.gov.au)

If you wish to discuss this matter in more detail, please do not hesitate to contact me on 0437 012 114.

Yours Sincerely

Peter Rogasch,
Fire Safety Officer

cc: Crowther & Sadler
contact@crowthersadler.com.au

4 Councillor and Delegate Reports

5 Officer Reports

5.1 Assets and Environment

5.1.1 CON2018 1254 Maintenance Services for the Raymond Island Ferry - Contract Extension

Authorised by General Manager Assets and Environment

Conflict of Interest

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

Executive Summary

The purpose of this report is to seek Council's approval to exercise its option with CON2018 1254, to extend the existing maintenance services for the Raymond Island Ferry for a period of twenty-four (24) months, to 30 September 2023 for three of the current contractors and for a period up to 10 December 2021 for one of the current contractors.

This contract is for the inspection and maintenance of the Raymond Island Ferry including all fixtures and components to ensure the ferry and all components of the ferry are well maintained and in a safe and working condition. The tender was split into five packages to reflect the variety of trades and skills required to deliver the works. The five packages are:

- A) maintenance coordination
- B) mechanical services
- C) electrical services
- D) hydraulic services and
- E) welding and fabrication services

The contract commenced on 1 October 2018 with the initial term scheduled to end on 30 September 2021. Under the agreement, Council has the option to extend the contract for a further twenty-four (24) months solely exercisable by Council. The intention is to extend the contract for the full contract extension term for three out of the four contractors with the completion date being 30 September 2023 and extend the contract for part of the contract extension term up to 10 December for one of the contractors being The Trustee for Curtis Family Trust due to this contractor deciding to close its business effective 11 December 2021.

Officer Recommendation

That Council:

- 1. Receives and notes this report,***
- 2. Approves the contract extension to CON2018 1254 Maintenance Services for the Raymond Island Ferry for a period of twenty-four (24) months to 30 September 2023, for the tendered lump sum and schedule of rates to the following contractors:***
 - a. Sixtyninth Calajero Proprietary Limited;***
 - b. MGL Electrical Pty Ltd;***
 - c. Gary's Hydraulic Services Pty. Ltd and***
- 3. Approves the contract extension to CON2018 1254 Maintenance Services for the Raymond Island Ferry for a period up to Friday, 10 December 2021 for the tendered schedule of rates to the following contractor:***
 - a. The Trustee for Curtis Family Trust***
 - b. The Trustee for Curtis Family Trust***

Background

CON2018 1254 is a lump sum and schedule of rates contract for appropriate contractors to undertake:

- A) maintenance coordination
- B) mechanical services
- C) electrical services
- D) hydraulic services and
- E) welding and fabrication services

On 13 November 2018 CON2018 1254 Maintenance Services for the Raymond Island Ferry was awarded by Council for the initial term commencing 1 October 2018 and expiring 30 September 2021.

As a result of the request for tender process, contracts were formed with five (5) tender packages as follows:

CON2018 1254A	-	Sixtyninth Calajero Proprietary Limited;
CON2018 1254B	-	The Trustee for Curtis Family Trust;
CON2018 1254C	-	MGL Electrical Pty Ltd;
CON2018 1254D	-	Gary's Hydraulic Services Pty. Ltd. and
CON2018 1254E	-	The Trustee for Curtis Family Trust.

Three of the four contractors have agreed to the contract extension, subject to Council approval. The Trustee for Curtis Family Trust has decided to opt out as they are intending to close their business toward the end of the year.

The works completed to date by all contractors as part of the above contracts have been satisfactory. Based on performance and availability, this report recommends that three contractors be offered the extension option, a period of twenty-four (24) months, to 30 September 2023 and that The Trustee for Curtis Family Trust for a period up to 10 December 2021, subject to Council approval.

Legislation

On 24 March 2020 the Government passed the *Local Government Act 2020* (the new Act). Provisions from the new Act are being commenced in four stages. The first tranche of provisions commenced on 6 April 2020 with other tranches commencing on 1 May 2020 and 24 October 2020. All remaining provisions are commencing on 1 July 2021. The *Local Government Act 1989* applies in circumstances where the new Act has not commenced.

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

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

Collaborative Procurement

Not applicable

Council Plan

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

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

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

Council Policy

This report and its recommendations are in accordance with the East Gippsland Shire Council Procurement Policy (2020).

Options

There are three options available to Council with respect to this report.

1. Exercise the twenty-four month extension option with Sixtyninth Calajero Proprietary Limited, MGL Electrical Pty Ltd and Gary's Hydraulic Services Pty. Ltd. with the completion date being 30 September 2023 and up to 10 December with The Trustee for Curtis Family Trust.
2. Exercise the extension options listed above with only some of the current panel.
3. Re-tender for the services provided by Contract CON2018 1254 Maintenance Services for the Raymond Island Ferry.

Option 1 is recommended for the reasons outlined earlier in this report, as it provides Council continued reliability in inspection and maintenance of the ferry.

Resourcing

Financial

The lump sum value of works conducted under CON2018 1254 Maintenance Services for the Raymond Island Ferry between the commencement on 1 October 2018 to 30 September 2021 is detailed in the following table:

YEAR	PERIOD	SERVICE	AMOUNT GST EXL.
1	1 Oct 2018 – 30 Sep 2019	maintenance coordination mechanical services electrical services hydraulic services welding & fabrication services	\$13,520.00 & Schedule of rates \$22,855.68 & Schedule of rates Schedule & rates only \$5,700.00 & Schedule of rates \$3,750.00 & Schedule of rates
2	1 Oct 2019 – 30 Sep 2020	maintenance coordination mechanical services electrical services hydraulic services welding & fabrication services	\$13,520.00 & Schedule of rates \$22,855.68 & Schedule of rates Schedule & rates only \$5,700.00 & Schedule of rates \$3,750.00 & Schedule of rates
3	1 Oct 2020 – 30 Sep 2021	maintenance coordination mechanical services electrical services hydraulic services welding & fabrication services	\$13,520.00 & Schedule of rates \$22,855.68 & Schedule of rates Schedule & rates only \$5,700.00 & Schedule of rates \$3,750.00 & Schedule of rates
TOTAL			

Plant and equipment

Not applicable

Human Resources

The contract is managed internally by existing staff within the Assets and Environment Directorate. Exercising the contract extension has no impact on existing staff capacity.

Risk

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

Council Officers are currently working on a plan to bring the mechanical services and welding and fabrication services in-house utilising the current qualified mechanic and owner of The Trustee for the Curtis Family Trust. This operator has been working on the ferry for the past 15 years and holds more mechanical and structural knowledge of the ferry than any other person. This plan will negate the risk of knowledge loss and will ensure continuity of these particularly important services to the ferry.

Economic

Offering contract extensions to the four recommended local contractors (5 tender packages) supports local business and employment

Social

The maintenance of the ferry is a critical component ensuring that access to Raymond Island is maintained. Outage of the ferry services will impact residents and emergency services.

Environmental

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

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.

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

Engagement

Not applicable

Attachments

Nil

5.1.2 CON2022 1444 - Major Culvert Repairs – Various Locations Shire Wide

Authorised by General Manager Assets and Environment

Conflict of Interest

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

Executive Summary

Pursuant to sections 3(1) and 66(5) of the *Local Government Act 2020*, the information contained in the attachment/s to this report are confidential because it contains private commercial information, which if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.

The purpose of this report is to provide the detail and background of the tender and evaluation process for CON2022 1444 Major Culvert Repairs Various Locations Shire Wide and seek approval by Council to accept the recommendations made by the Tender Evaluation Panel.

Bridges and major culverts play a critical role across Council's 3,018km road network. All 132 major culverts managed by Council are inspected to assess their condition every three years, to ensure serviceability and public safety.

44 sites of 132 inspected were identified as needing some form of reactive works during the three-yearly inspection conducted throughout 2020-21. A tender has been prepared to address these needs, ranging from minor repairs to significant rehabilitation works.

The Tender Evaluation Report is provided as **Confidential Attachment 1** and Council is now in a position to award a 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 CON2022 1444 Major Culvert Repairs Various Locations Shire Wide for the contract amount of \$_____, exclusives of GST;**
- 3. authorises signing and sealing of the contract in the form proposed; and**
- 4. resolves that the attachments to this report and all discussions in relation to the attachments remain confidential.**

Background

Bridges and major culverts play a critical role across Council's 3,018km road network. All major culverts are inspected to assess their condition every three years, to ensure serviceability and public safety.

Throughout late 2020 and early 2021, all of Council's 132 major culverts were subject to the three-yearly inspection by a third-party qualified engineer. As a result of this assessment, 44 sites were identified as needing some form of reactive works to maintain their integrity and ensure maximum longevity. The required works range from minor repairs to major rehabilitation works.

A tender was prepared and advertised covering the scope of works needed to address all issues identified during the 2020/21 major culvert inspection across 44 sites. These works will ensure an appropriate response to the issues identified, maintaining road user safety, asset longevity, resilience to storm events and reliable service to the community.

A Tender Evaluation Panel (TEP) was established to assess the tenders received. A report and recommendation from the TEP is provided as **Confidential Attachment 1** and Council is now in a position to award a contract.

Legislation

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

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

Pursuant to sections 3(1) and 66(5) of the *Local Government Act 2020*, the information contained in the attachment/s to this report are confidential because it contains private commercial information, which if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.

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

Collaborative procurement

Pursuant of section 109(2) of the *Local Government Act 2020*, this report has not been prepared in collaboration with other municipalities or agencies, as it is direct response to a condition assessment undertaken on East Gippsland Shire Council managed assets.

Council Plan

This report has been prepared and aligned with the following goals 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.

Resourcing

Human Resources

The project will be supervised by existing personnel from the Assets and Projects team.

Risk

The risks of this proposal have been considered low, as the recommendation pertains to mitigating identified risks associated with major culverts.

Environmental

When complete, the project will ensure that waterways in these locations will have unimpeded stream flows and improved erosion protection.

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

Affected communities will be consulted as required throughout the project.

Attachments

1. CONFIDENTIAL - CON2022 1444 Major Culvert Repairs Various Locations - Tender Evaluation Panel Report [5.1.2.1 - 9 pages]

5.2 Bushfire Recovery

5.2.1 South Bairnsdale Industrial Estate Declaration of a Special Charge Scheme

Authorised by General Manager Bushfire Recovery

Conflict of Interest

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

Executive Summary

This report recommends that Council formally provide a notice of intent to commence the statutory process required under section 163 of the Local Government Act 1989 to implement a Special Charge Scheme. The Public Notice of Intent to Declare a Special Charge Scheme for the South Bairnsdale Industrial Estate is at **Attachment 1**.

The proposed scheme will require some landholders located in the South Bairnsdale Industrial Estate (the estate), to contribute a portion of the funding required to facilitate works to upgrade the water supply to the estate.

Works to upgrade the water supply will significantly reduce the costs to property owners located in the estate when installing private firefighting services for buildings with floor areas greater than 500 m², thus removing what has been identified by landholders as a key barrier to developing effective use of the land.

The overall project cost to upgrade the water supply to the estate is \$2.4M. Of that, East Gippsland Water has already contributed \$1.1M in works and Regional Development Victoria has provided a grant of \$500,000. This Special Charge Scheme is intended to raise \$400,000 from benefiting landowners and the final \$400,000 contribution will be from Council. The contribution from Council is proposed to be allocated from the Economic Development Discretionary Fund and a report seeking Council's endorsement of that allocation will be made at a future meeting.

Officer Recommendation

That Council:

- 1. *Receives and notes this report and all attachments pertaining to this report;***
- 2. *Gives notice of its intention to declare a special charge in accordance with section 163 of the Local Government Act 1989 (Act) as follows:***
 - 2.1 *A special charge is declared for the period commencing on the day on which Council issues a notice levying payment of the special charge and concluding on 30 June 2026.***
 - 2.2 *The special charge be declared for the purpose of repaying a debt to be incurred by Council in engaging East Gippsland Water to make arrangements to upgrade the water supply service at the South Bairnsdale Industrial Estate (Estate), which:***
 - 2.2.1 *Council considers will confer a special benefit on those persons required to pay the special charge (and who are described in succeeding parts of this resolution); and***
 - 2.2.2 *arises out of Council's functions of:***
 - (a) *advocating and promoting proposals which are in the best interests, and for the benefit and wellbeing, of the municipal community;***
 - (b) *providing property and infrastructure services;***
 - (c) *ensuring the economic sustainability of the Estate and the broader municipal community;***
 - (d) *enhancing the safety and wellbeing of properties, owners and occupiers within the Estate; and***
 - (e) *generally ensuring the peace, order and good government of the municipal district.***
 - 2.3 *The total:***
 - 2.3.1 *cost to Council of performing the functions described in paragraph 2.2.2 of this resolution is estimated to be \$1,300,000; and***
 - 2.3.2 *amount to be levied under the special charge is \$400,000, or such other amount as is lawfully levied as a consequence of this resolution.***
 - 2.4 *The special charge is to be declared in relation to the land identified as the 'Designated Zone' shown on the Scheme Plan of Area in Attachment 4, and the properties in relation to which the special charge is to be levied are all of the properties identified in the Special Charge Property Application Plan at Attachment***
 - 2.5 *The amount of the Special Charge for which each owner is liable is listed alongside each property specified in Attachment 3.***

- 2.6 The owners of the land described in paragraph 2.4 of this resolution will, subject to a further resolution of Council, pay the special charge in the amount set out in paragraph 2.5 of this resolution in the following manner:**
- 2.6.1 payment by a lump sum within 90 days of receiving a notice levying payment under section 163(4) of the Act; or**
- 2.6.2 payment under an instalment plan to be paid over a period of 5 years, which may include a component for reasonable interest in accordance with section 167(6) of the Act, at the election of the owner.**
- 3. Considers that there will be a special benefit to the persons required to pay the special charge because there will be a benefit to those persons that is over and above, or greater than, the benefit that is available to persons who are not subject to the proposed special charge, as a result of the expenditure proposed by the special charge, as the expenditure and resulting works will obviate the need for those persons to install private water supply works before constructing or occupying a building with a floor area greater than 500 square metres;**
- 4. For the purposes of having determined the total amount of the special charge to be levied:**
- 4.1 considers and formally records that only those properties located within the 'Designated Zone' shown on the Scheme Plan in Attachment 4 will derive a special benefit from the imposition of the special charge; and**
- 4.2 determines for the purposes of sections 163(2)(a), (2A) and (2B) of the Act that the estimated proportion of the total benefits of the special charge to which the performance of the function or the exercise of the power relates (including all special benefits and community benefits) that will accrue as special benefits to the persons who are liable to pay the special charge is 100%.**
- 5. Give public notice in the Bairnsdale Advertiser of Council's intention to declare, at its Ordinary Council meeting to be held on 7 December 2021, the special charge in the form set out above;**
- 6. Send separate letters, enclosing an outline of the proposed declaration set out in this resolution and a copy of the public notice referred to in paragraph 4 of this resolution, to the owners of the properties identified in paragraph 2.4 of this resolution, advising of Council's intention to levy the special charge, the amount for which the property owner will be liable, the basis of calculation of the special charge, and notification that submissions in relation to the proposal will be considered by Council in accordance with sections 163A and 223 of the Act;**
- 7. Authorises Anthony Basford, Chief Executive Officer, to carry out any and all administrative procedures necessary to enable Council to give effect to this resolution and to carry out its functions under sections 163A, 163(1A), (1B) and (1C), 163B and 223 of the Act; and**
- 8. Notes Council's financial commitment of \$400,000 should Council declare the special charge scheme described in this resolution.**

Background

The South Bairnsdale Industrial Estate is considered East Gippsland's premier industrial estate for large scale developments and is partially developed with several significant and many smaller operations. There remains considerable potential for further development on the estate in terms of new developments as well as upgrades to existing developments.

The water supply (flow and pressure) provided to the estate by East Gippsland Water is such that any buildings over 500 m² in floor area must provide their own firefighting service. The costs of these systems can vary from \$50,000 - \$150,000 per building. This requirement has limited development of the estate and economic development within the Shire.

When the original subdivision was undertaken, it was not considered necessary to upgrade the water reticulation system for firefighting purposes. It was customary practice for the Country Fire Authority (CFA) to provide an exemption for the need to install a private supplementary firefighting service to buildings over 500 m².

However, in the wake of the Black Saturday bushfires in 2009 the CFA stopped providing such exemptions, leading to a need for those constructing buildings over 500 m² to provide a private firefighting service. (*East Gippsland Regional Towns Study, 2012, Spatial Economics*)

Upgrades to the current water supply system on the estate have the potential to unlock industry investment into the estate and support much needed job creation in East Gippsland. There is a higher unemployment rate in East Gippsland compared to regional Victoria. Drought, bushfires, COVID-19, and a decline in the timber industry, have also impacted employment in East Gippsland.

Ongoing representations have been made to Council by existing and potential developers advocating the need for a suitable fire protection solution for the estate to assist in unlocking investment into new and expanding businesses. The project will help maintain existing jobs in the estate and encourage potential investment into these sites.

Outlined in **Attachment 2 – Scheme Plan of Area** and **Attachment 3 – Special Charge Property Application Plan** is the area and individual lots that the scheme will apply to.

At its meeting on 22 June 2021, Council approved executing an agreement with East Gippsland Water for upgrading the water supply at Estate.

Economic benefits of the proposal

Using REMPLAN to analyse the estimated value in terms of financial investment and jobs is as follows:

- Project Implementation, \$2.3M investment into civil construction creating a total of seven jobs.
- Non-residential building construction and upgrades to industrial buildings. Estimate of \$100,000 into each vacant lot, and upgrade of \$50,000 into 27 under-utilised lots, gives a total \$4.75M into Non-Residential Building Construction, creating an additional 25 jobs.
- Investment into 34 new lots and 27 upgrades is estimated to create on average of two jobs per lot for new buildings and one additional job per lot for upgrades, totaling an additional 95 ongoing direct jobs.
- The total number of jobs created due to direct, supply-chain and consumption effects is up to 178 jobs.

The above figures are based on REMPLAN outputs; however, case studies of recent business set-up indicate there are greater benefits.

Case Study

A boat building company recently moved from a small site to a larger new facility in the estate. Moving to this larger facility has enabled the business to scale up and increased employment from three employees in early 2020 to 26 at the end of 2020, with the intention to expand further.

To significantly improve fire-fighting standards to the estate, it is proposed that East Gippsland Water will upgrade the existing potable water supply to the necessary pressure and flow rate that meets the building code.

East Gippsland Water have agreed to undertake the necessary upgrade works at a total project cost of \$1.3M, having already independently invested \$1.1M in earlier works to enable the proposed fire-fighting standard to be achieved. The estimated cost to complete the upgrade is \$1.3M.

Council officers propose that Council fund the remaining cost to complete the project from the following:

- \$500,000 grant from Regional Development Victoria (approved);
- \$400,000 East Gippsland Shire Council contribution; and
- \$400,000 to be raised from estate landowners through a proposed Special Charge Scheme.

Legislation

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

This report has been prepared in accordance with the *Local Government Act 1989*, Section 163 - Special Rate and Special Charges, which remains in force.

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.

Under the *Local Government Act* 1989 Section 163, to declare a Special Charge Scheme Council must give 28 days' public notice of its intention to declare a Special Charge Scheme.

Additionally, Council must send a copy of the public notice to each person who will be liable to pay the Special Charge within 3 working days of the day on which the public notice is published.

Once Council has given public notice of its intention to declare the Special Charge, Council must undertake formal consultation in accordance with section 223 of the *Local Government Act* 1989. The formal consultation will invite submissions from those affected by the scheme to be followed by a Council decision on whether to proceed with the scheme.

This decision is then subject to possible appeal through Victorian Civil and Administrative Tribunal (VCAT).

Collaborative procurement

Section 109(2) of the *Local Government Act* 2020 is not applicable to this report.

Council Plan

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

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

Strategic Objective 4: 4.3 Council's work with stakeholders fosters entrepreneurship and new business opportunities, particularly with communities facing change.

Council Policy

This recommendation is in accordance with the Special Charge Scheme Policy 2021.

Options

Should Council wish to enable a fire-fighting standard water supply at the estate then there are two options for funding the remaining \$400,000 required.

Option 1 is a Special Charge Scheme where landowners who benefit from the scheme will contribute under the Special Charge Scheme policy.

Option 2 is that additional funding is sought from the State Government or from Council.

The Victorian Government has already provided \$500,000 in funding and through communications they have indicated they are highly unlikely to contribute further.

Council could consider paying an additional \$400,000 (on top of \$400,000 it is already proposing to contribute). This additional \$400,000 could be recovered from current or future rates revenue, or from a new differential rate on all sites in the estate. These options are not recommended. These options are not considered fair, as not all lots/landowners or contributing rate payers will receive the direct benefit of the increased water supply to the estate (i.e. could build a building over 500 m²).

Given that the Victorian Government has already provided \$500,000 in funding and that the Council is already contributing \$400,000, and that the benefit of the water upgrades accrues to the landowners, Option 1 is more equitable.

For the purposes of effecting Option 1 above, there are a variety of ways of applying the Special Charge Scheme to landholders. The method to identify the optimal process is clarified in the Special Charge Scheme Policy 2021.

In accordance with the formula outlined in the Local Government Act 1989, for calculating the Benefit Ratio, which establishes the maximum amount Council can collect under a special charge scheme, Council can levy the amount of \$400,000. See **Attachment 4 - Benefit Ratio Calculation**.

How the scheme will be applied to each property is outlined in **Attachment 5 – Statement of Methodology**.

Council officers have already undertaken informal consultation and will be presenting a scheme that they are satisfied is equitable across the estate.

Resourcing

Financial

There are no financial implications for declaring an intent to implement a Special Charge Scheme. Should Council then choose to declare a Special Charge Scheme, then Council will also need to commit \$400,000 funding for the project. It is proposed that this funding be made available from the Economic Development Discretionary Fund.

Plant and equipment

There are no implications on plant and equipment.

Human Resources

There are no human resources implications to administer the scheme, above those already available.

Risk

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

There is no risk in declaring an intent to declare a Special Charge Scheme.

Should Council decide to implement a Special Charge Scheme there are a range of risks in relation to East Gippsland Water's ability to deliver the project on time and on budget. These risks are mitigated by the fact that these works are not complex and East Gippsland Water is experienced in the delivery of such works.

As per the agreement with East Gippsland Water, they have agreed to cover the cost of any over-expenditure on the project and any savings will accrue to Council.

Economic

This agreement will facilitate further development of the South Bairnsdale Industrial Estate with subsequent economic benefits.

Social

There are no social implications of the project.

Environmental

There are no environmental implications of this report. Should the Special Charge Scheme go ahead then all works will be undertaken in accordance with East Gippsland Water's environmental policies and practices.

Climate change

This report has been prepared and aligned with the following Climate Change function/category of building resilience through the increasing of fire-fighting capabilities given the expected (and recently experienced) increase in frequency and intensity of bushfire.

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

Engagement

To date, informal community consultation regarding the proposed Special Charge Scheme to fund this project has been undertaken. The project and Special Charge Scheme are broadly supported by the owners of land in the South Bairnsdale Industrial Estate.

A notification of intent to declare a Special Charge Scheme will trigger formal consultation with affected landowners and will be undertaken once Council has resolved in the terms of the recommendation outlined in this paper.

The Act outlines that Council need to undertake formal consultation with impacted property owners, and a letter to be distributed to those impacted by the Scheme which will be distributed within three working days of publishing notice of intent to declare a special charge scheme for the South Bairnsdale Industrial Estate in a newspaper generally circulating in the municipal district. See **Attachment 6 - Draft Letter to Ratepayers**

Attachments

1. Public Notice [**5.2.1.1** - 2 pages]
2. Scheme Plan of Area [**5.2.1.2** - 1 page]
3. Special Charge Property Application Plan [**5.2.1.3** - 5 pages]
4. Benefit Ratio Calculation [**5.2.1.4** - 6 pages]
5. Statement of Methodolgy [**5.2.1.5** - 2 pages]
6. Draft Letter to Ratepayers [**5.2.1.6** - 4 pages]

**ATTACHMENT 1: NOTICE OF INTENT TO DECLARE A SPECIAL CHARGE SCHEME FOR THE
SOUTH BAIRNSDALE INDUSTRIAL ESTATE**

Notice is hereby given of Council's intention to declare, at its Ordinary Council Meeting to be held on 7 December 2021, a special charge scheme (Scheme) under section 163 of the Local Government Act 1989 (Act).

The purpose of the Scheme is to repay a debt to be incurred by Council in making arrangements for the upgrade of the water supply systems at the South Bairnsdale Industrial Estate (Estate) so that the volume, pressure and flow of water to the Estate is sufficient to satisfy firefighting standards for buildings with a floor area greater than 500 m2.

The amount to be levied under the Scheme is \$400,000, or such other amount as is lawfully levied as a consequence of the declaration.

Copies of the proposed declaration are available for inspection on Council's website and at Council's offices at 273 Main St, Bairnsdale (COVID-19 restrictions permitting) for a period of at least 28 days after the publication of this notice.

The Scheme is to be declared, and will remain in force, for the period commencing on the day on which Council issues a notice levying payment of the special charge and concluding on 30 June 2026.

The proposed special charge declared under the Scheme will be levied on properties located in the Estate, as shown within the 'Designated Zone' on the Scheme Plan (which is available for inspection at Council's offices and on Council's website), except those expressly excluded by Council.

Council has determined that the following properties are to be excluded from the Scheme on the basis that they will derive no special benefit from the Scheme:

- land owned by Council and East Gippsland Water on the basis that they are government-owned and no buildings greater than 500 m2 will be constructed on them; and
- properties on which there is already a building greater than 500 m2 in floor area and the services required to meet the firefighting standards have already been installed at the owner's cost.

The proposed special charge will be levied on the basis of Benefit Units in the amount of \$1,075.27 each in accordance with the following table:

Land area m2	Benefit Units	Land area m2	Benefit Units
0-999	0	16,000-17,999	9
1000-2500	1	18,000-19,999	10
2500-3999	2	20,000-21,999	11
4000-5999	3	22,000 - 23,999	12
6000-7999	4	24,000 - 25,999	13

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8000-999	5	26,000 - 27,999	14
10,000-11,999	6	28,000 - 29,999	15
12,000-13,999	7	Above 30,000	16
14,000-15,999	8		

Where Council has identified circumstances in which, because of the characteristics or use of particular land, land area alone is not a good indicator of potential benefit conferred under the Scheme. Benefit Units attributed to those properties will be adjusted to reflect any reduced benefit.

Council considers that each property subject to the Scheme and liable to pay the proposed special charge will receive a special benefit because they will be able to own, use, occupy and enjoy buildings with a gross floor area of 500 m2 or more, without incurring the costs associated with privately funding the works necessary to meet the firefighting standards.

The proposed special charge will be levied by Council by sending a notice of levy to the persons who are liable to pay it. Payments are to be made either in instalments or by a lump sum, at the election of the person paying it.

For further details regarding the Scheme, please refer to the proposed declaration, which is available for inspection on Council's website and at Council's offices at 273 Main St, Bairnsdale (COVID-19 restrictions permitting).

Right to make a submission

Any person may make a written submission regarding the Scheme and the proposed declaration to Council under sections 163A and 233 of the Act.

Submissions must be made before 5.00 PM on [##Date that is at least 28 days after the notice of intent to declare the special charge is published].

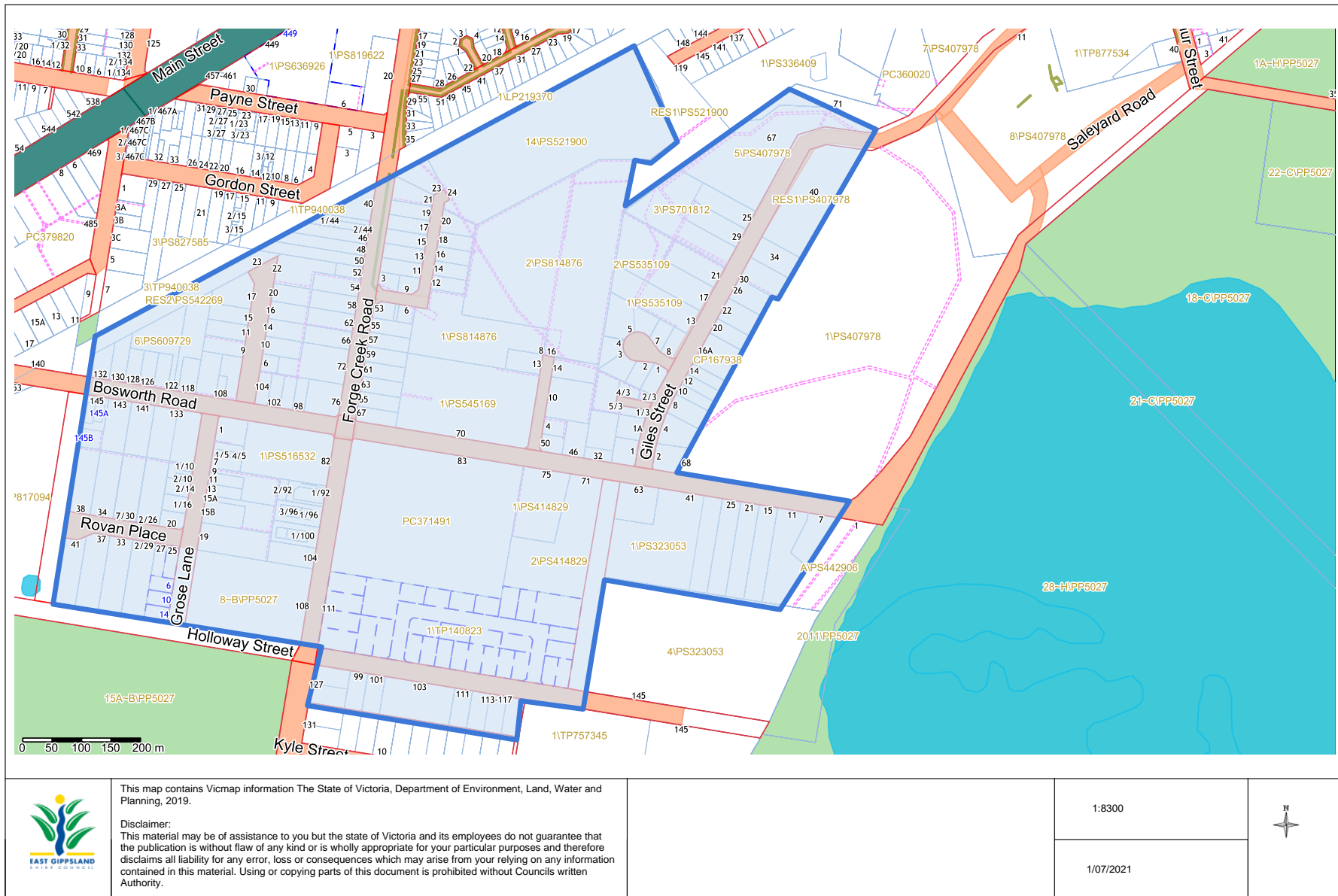
Any person who makes a submission is entitled to request in their submission to appear personally, or to be represented by a person specified in the submission, to be heard in support of the submission. Any person who wishes to be heard in support of their written submission will be advised of the day, time and place on which they may attend to be heard.

Council will consider any written submissions received in accordance with s 163A and 223 of the Act.

Any person requiring further information concerning the proposed declaration of Special Charge should in the first instance contact Stephen Kleinitz on 5153 9500 or email [##Insert].

ANTHONY BASFORD

CHIEF EXECUTIVE OFFICER



Attachment 3 - Special Charge Property Application Plan

Lot Number	Property Address	GIS Area (m2)	Number of Benefit Units	Proposed Cost
CP 170548	1 Giles Street BAIRNSDALE VIC 3875	1841.19	1	\$1,075.27
Lot 9 LP 132371	1 Hayward Court BAIRNSDALE VIC 3875	1438.42	1	\$1,075.27
PC 378227	1 Rovon Place BAIRNSDALE VIC 3875	2286.41	1	\$1,075.27
Lot 1 PS 738967	1/10 Rovon Place BAIRNSDALE VIC 3875	318.5	0	0
Lot 1 PS 644533	1/100 Forge Creek Road BAIRNSDALE VIC 3875	324.55	0	0
Part Lot 3 PS 635568	1/14 Rovon Place BAIRNSDALE VIC 3875	1186.44	1	\$1,075.27
Part Lot 2 PS 635568	1/16 Rovon Place BAIRNSDALE VIC 3875	1185.56	1	\$1,075.27
Part Lot 6 PS 528615	1/26 Rovon Place BAIRNSDALE VIC 3875	4524.06	3	\$3,225.81
Part Lot 13 PS 528615	1/29 Rovon Place BAIRNSDALE VIC 3875	5226.17	3	\$3,225.81
Lot 1 PS 349932	1/3 Giles Street BAIRNSDALE VIC 3875	723.54	0	0
Part Lot 7 PS 528615	1/30 Rovon Place BAIRNSDALE VIC 3875	4522.92	3	\$3,225.81
Lot 2 PS 715871	1/44 Forge Creek Road BAIRNSDALE VIC 3875	602.95		0
Lot 1 PS 702477	1/92 Forge Creek Road BAIRNSDALE VIC 3875	1266.48	1	\$1,075.27
Lot 1 PS 712494	1/96 Forge Creek Road BAIRNSDALE VIC 3875	326.78	0	0
Lot 18 PS 609729	10 Railway Court BAIRNSDALE VIC 3875	2011.05	1	\$1,075.27
Lot 10 PS 613284	10 Sammon Place BAIRNSDALE VIC 3875	5362.75	3	\$3,225.81
Lot 3 PS 634473	100 Bosworth Road BAIRNSDALE VIC 3875	1252.1	1	\$1,075.27
Lot 28 LP 10515	101 Holloway Street BAIRNSDALE VIC 3875	2003.74	1	\$1,075.27
Lot 2 PS 634473	102 Bosworth Road BAIRNSDALE VIC 3875	1252.28	1	\$1,075.27
Lot 1 TP 643363	103 Holloway Street BAIRNSDALE VIC 3875	7921.9	4	\$4,301.08
Lot 1 PS 634473	104 Bosworth Road BAIRNSDALE VIC 3875	1253.79	1	\$1,075.27
Lot 5 PS 516532	104 Forge Creek Road BAIRNSDALE VIC 3875	2871.94	2	\$2,150.54
Lot 1 PS 749439	106 Bosworth Road BAIRNSDALE VIC 3875	2081.16	1	\$1,075.27
Lot 2 PS 749439	108 Bosworth Road BAIRNSDALE VIC 3875	570.77	0	0
CA 8 Sec B	108 Forge Creek Road BAIRNSDALE VIC 3875	26316.78	14	\$15,053.76
Lot 2 PS 715253	11 Bosworth Road BAIRNSDALE VIC 3875	7713.39	4	\$4,301.08
Lot 2 PS 521900	11 Campbells Drive BAIRNSDALE VIC 3875	1763.79	1	\$1,075.27
Lot 11 PS 609729	11 Railway Court BAIRNSDALE VIC 3875	1957.26	1	\$1,075.27
Lot 2 PS 631898	11 Rovon Place BAIRNSDALE VIC 3875	1185.97	1	\$1,075.27
Lot 8 PS 609729	110 Bosworth Road BAIRNSDALE VIC 3875	2631.96	2	\$2,150.54
Lot 1 TP 140823	111 Forge Creek Road BAIRNSDALE VIC 3875	60880.29	16	\$17,204.30

Lot Number	Property Address	GIS Area (m2)	Number of Benefit Units	Proposed Cost
Lot 1 TP 207779	111 Holloway Street BAIRNSDALE VIC 3875	2010.99	1	\$1,075.27
Lot 1 TP 186008, Lot 1 TP 88954, Lot 1 TP 550627	113-117 Holloway Street BAIRNSDALE VIC 3875	5560.84	3	\$3,225.81
Lot 19 PS 609729	118 Bosworth Road BAIRNSDALE VIC 3875	1808.53	1	\$1,075.27
Lot 13 PS 521900	12 Campbells Drive BAIRNSDALE VIC 3875	1454.2	1	\$1,075.27
Lot 18 LP 132371	12 Giles Street BAIRNSDALE VIC 3875	1279.49	1	\$1,075.27
Lot 5 PS 609729	124 Bosworth Road BAIRNSDALE VIC 3875	1497.55	1	\$1,075.27
Lot 25 LP 10515, Lot 26 LP 10515	127 Forge Creek Road BAIRNSDALE VIC 3875	4084.39	3	\$3,225.81
Lot 3 PS 521900	13 Campbells Drive BAIRNSDALE VIC 3875	1764.27	1	\$1,075.27
Lot 1 PS 535109	13 Giles Street BAIRNSDALE VIC 3875	7297.56	4	\$4,301.08
Lot 3 PS 631898	13 Rovon Place BAIRNSDALE VIC 3875	1194.38	1	\$1,075.27
Lot 1 PS 613284	13 Sammon Place BAIRNSDALE VIC 3875	2099.94	1	\$1,075.27
Lot 2 PS 609729	130 Bosworth Road BAIRNSDALE VIC 3875	2043.49	1	\$1,075.27
Lot 1 PS 609729	132 Bosworth Road BAIRNSDALE VIC 3875	1835.93	1	\$1,075.27
Lot 4 PS 524605, Lot 5 PS 524605	133 Bosworth Road BAIRNSDALE VIC 3875	7375.59	4	\$4,301.08
Lot 12 PS 521900	14 Campbells Drive BAIRNSDALE VIC 3875	1502.25	1	\$1,075.27
Lot 19 LP 132371	14 Giles Street BAIRNSDALE VIC 3875	1294.4	1	\$1,075.27
Lot 17 PS 609729	14 Railway Court BAIRNSDALE VIC 3875	2017.86	1	\$1,075.27
Lot 9 PS 613284	14 Sammon Place BAIRNSDALE VIC 3875	2565.09	2	\$2,150.54
Lot 3 PS 524605	141 Bosworth Road BAIRNSDALE VIC 3875	3599.96	2	\$2,150.54
Lot 2 PS 524605	143 Bosworth Road BAIRNSDALE VIC 3875	3598.5	2	\$2,150.54
Lot 1 PS 524605	145 Bosworth Road BAIRNSDALE VIC 3875	3596.78	2	\$2,150.54
Lot 4 PS 442906	15 Bosworth Road BAIRNSDALE VIC 3875	5254.42	3	\$3,225.81
Lot 4 PS 521900	15 Campbells Drive BAIRNSDALE VIC 3875	1764.38	1	\$1,075.27
Lot 12 PS 609729	15 Railway Court BAIRNSDALE VIC 3875	1950.02	1	\$1,075.27
Lot 11 PS 521900	16 Campbells Drive BAIRNSDALE VIC 3875	1503.5	1	\$1,075.27
CP 167938	16 Giles Street BAIRNSDALE VIC 3875	3839.62	2	\$2,150.54
Lot 16 PS 609729	16 Railway Court BAIRNSDALE VIC 3875	2026.26	1	\$1,075.27
CP 167938	16A Giles Street BAIRNSDALE VIC 3875	3839.62	2	\$2,150.54
Lot 5 PS 521900	17 Campbells Drive BAIRNSDALE VIC 3875	1763.12	1	\$1,075.27
Lot 2 PS 535109	17 Giles Street BAIRNSDALE VIC 3875	11907.6	6	\$6,451.61
Lot 13 PS 609729	17 Railway Court BAIRNSDALE VIC 3875	3068.45	2	\$2,150.54
Lot 10 PS 521900	18 Campbells Drive BAIRNSDALE VIC 3875	1504.19	1	\$1,075.27
Lot 6 PS 521900	19 Campbells Drive BAIRNSDALE VIC 3875	1764.02	1	\$1,075.27
Lot 4 PS 528615	19 Rovon Place BAIRNSDALE VIC 3875	5830.7	3	\$3,225.81
PC 361698	1A Giles Street BAIRNSDALE VIC 3875	1704.9	1	\$1,075.27
CP 155570	2 Giles Street BAIRNSDALE VIC 3875	2198.76	1	\$1,075.27
Lot 10 LP 132371	2 Hayward Court BAIRNSDALE VIC 3875	1341.3	1	\$1,075.27

Lot Number	Property Address	GIS Area (m2)	Number of Benefit Units	Proposed Cost
Lot 2 PS 738967	2/10 Rovon Place BAIRNSDALE VIC 3875	245.8	0	0
Lot 2 PS 644533	2/100 Forge Creek Road BAIRNSDALE VIC 3875	325.46	0	0
Part Lot 3 PS 635568	2/14 Rovon Place BAIRNSDALE VIC 3875	1186.44	1	\$1,075.27
Part Lot 2 PS 635568	2/16 Rovon Place BAIRNSDALE VIC 3875	1185.56	1	\$1,075.27
Part Lot 6 PS 528615	2/26 Rovon Place BAIRNSDALE VIC 3875	4524.06	3	\$3,225.81
Part Lot 13 PS 528615	2/29 Rovon Place BAIRNSDALE VIC 3875	5226.17	3	\$3,225.81
Lot 2 PS 349932	2/3 Giles Street BAIRNSDALE VIC 3875	392.5	0	0
Part Lot 7 PS 528615	2/30 Rovon Place BAIRNSDALE VIC 3875	4522.92	3	\$3,225.81
Lot 1 PS 715871	2/44 Forge Creek Road BAIRNSDALE VIC 3875	695.37	0	0
Lot 2 PS 702477	2/92 Forge Creek Road BAIRNSDALE VIC 3875	539.38	0	0
Lot 9 PS 521900	20 Campbells Drive BAIRNSDALE VIC 3875	1845.53	1	\$1,075.27
Lot 24 PS 319773	20 Giles Street BAIRNSDALE VIC 3875	1809.54	1	\$1,075.27
Lot 15 PS 609729	20 Railway Court BAIRNSDALE VIC 3875	2033.98	1	\$1,075.27
Lot 1 PS 635568	20 Rovon Place BAIRNSDALE VIC 3875	1173.02	1	\$1,075.27
Lot 3 PS 442906	21 Bosworth Road BAIRNSDALE VIC 3875	5263.98	3	\$3,225.81
Lot 7 PS 521900	21 Campbells Drive BAIRNSDALE VIC 3875	2173.86	1	\$1,075.27
Lot 3 PS 422547	21 Giles Street BAIRNSDALE VIC 3875	3988.89	2	\$2,150.54
Lot 25 PS 319773	22 Giles Street BAIRNSDALE VIC 3875	2576.16	2	\$2,150.54
Lot 14 PS 609729	22 Railway Court BAIRNSDALE VIC 3875	4160.74	3	\$3,225.81
Lot 8 PS 521900	23 Campbells Drive BAIRNSDALE VIC 3875	2488.94	1	\$1,075.27
Lot 14 PS 521900	24 Campbells Drive BAIRNSDALE VIC 3875	60776.08	16	\$17,204.30
Lot 2 PS 442906	25 Bosworth Road BAIRNSDALE VIC 3875	5273.56	3	\$3,225.81
Lot 1 PS 701812, Lot 3 PS 701812	25 Giles Street BAIRNSDALE VIC 3875	15276.99	8	\$8,602.15
Lot 2 PS 707809	25 Rovon Place BAIRNSDALE VIC 3875	4220.71	3	\$3,225.81
Lot 26 PS 319773	26 Giles Street BAIRNSDALE VIC 3875	2455.06	1	\$1,075.27
Lot 1 PS 707809	27 Rovon Place BAIRNSDALE VIC 3875	1098.98	1	\$1,075.27
Lot 2 PS 701812	29 Giles Street BAIRNSDALE VIC 3875	3617.3	2	\$2,150.54
Part Lot 2 PS 712494	2A/96 Forge Creek Road BAIRNSDALE VIC 3875	325.71	0	0
Part Lot 2 PS 712494	2B/96 Forge Creek Road BAIRNSDALE VIC 3875	325.71	0	0
Lot 11 LP 132371	3 Hayward Court BAIRNSDALE VIC 3875	1698.81	1	\$1,075.27
Lot 3 PS 644533	3/100 Forge Creek Road BAIRNSDALE VIC 3875	327.31	0	0
Part Lot 13 PS 528615	3/29 Rovon Place BAIRNSDALE VIC 3875	5226.17	3	\$3,225.81
Lot 3 PS 349932	3/3 Giles Street BAIRNSDALE VIC 3875	364.52	0	0

Lot Number	Property Address	GIS Area (m2)	Number of Benefit Units	Proposed Cost
Part Lot 7 PS 528615	3/30 Rovon Place BAIRNSDALE VIC 3875	4522.92	3	\$3,225.81
Lot 3 PS 712494	3/96 Forge Creek Road BAIRNSDALE VIC 3875	326.78	0	0
Lot 2 PS 407978	30 Giles Street BAIRNSDALE VIC 3875	3134.38	2	\$2,150.54
Lot 2 LP 120268, CA 32 Sec B	32 Bosworth Road BAIRNSDALE VIC 3875	4053.54	3	\$3,225.81
Lot 12 PS 528615	33 Rovon Place BAIRNSDALE VIC 3875	5224.32	3	\$3,225.81
Lot 3 PS 407978	34 Giles Street BAIRNSDALE VIC 3875	3042.45	2	\$2,150.54
Lot 8 PS 528615	34 Rovon Place BAIRNSDALE VIC 3875	4521.05	3	\$3,225.81
Lot 11 PS 528615	37 Rovon Place BAIRNSDALE VIC 3875	5178.9	3	\$3,225.81
Lot 9 PS 528615	38 Rovon Place BAIRNSDALE VIC 3875	4493.99	3	\$3,225.81
Part Lot 6 PS 528615	3-8/26 Rovon Place BAIRNSDALE VIC 3875	4524.06	3	\$3,225.81
Lot 6 LP 127423	4 Giles Street BAIRNSDALE VIC 3875	2754.28	2	\$2,150.54
Lot 2 PS 312015	4 Hayward Court BAIRNSDALE VIC 3875	1474.4	1	\$1,075.27
Lot 4 PS 349932	4/3 Giles Street BAIRNSDALE VIC 3875	469.06	0	0
Part Lot 7 PS 528615	4/30 Rovon Place BAIRNSDALE VIC 3875	4522.92	3	\$3,225.81
Lot 1 TP 588484	40 Forge Creek Road BAIRNSDALE VIC 3875	2260.18	1	\$1,075.27
Lot 1 PS 323053, Lot 1 PS 442906	41 Bosworth Road BAIRNSDALE VIC 3875	25127.11	13	\$13,978.49
Part Lot 5 PS 407978	41 Giles Street BAIRNSDALE VIC 3875	22612.98	12	\$12,903.23
Lot 10 PS 528615	41 Rovon Place BAIRNSDALE VIC 3875	4602.52	3	\$3,225.81
Lot 16 LP 204553	46 Bosworth Road BAIRNSDALE VIC 3875	2243.99	1	\$1,075.27
Lot 1 TP 549492	46 Forge Creek Road BAIRNSDALE VIC 3875	2356	1	\$1,075.27
Lot 52 LP 869	48 Forge Creek Road BAIRNSDALE VIC 3875	2892.11	2	\$2,150.54
Lot 5 PS 349932	5/3 Giles Street BAIRNSDALE VIC 3875	2723.51	2	\$2,150.54
Part Lot 7 PS 528615	5/30 Rovon Place BAIRNSDALE VIC 3875	4522.92	3	\$3,225.81
Lot 1 TP 611259	50 Forge Creek Road BAIRNSDALE VIC 3875	3334.51	2	\$2,150.54
Lot 1 TP 134225	52 Forge Creek Road BAIRNSDALE VIC 3875	974.64	0	0
Lot 1 PS 527887	53 Forge Creek Road BAIRNSDALE VIC 3875	1027.04	1	\$1,075.27
Lot 17 PS 517808	54 Forge Creek Road BAIRNSDALE VIC 3875	2437.72	1	\$1,075.27
Lot 7 LP 213976	55 Forge Creek Road BAIRNSDALE VIC 3875	1754.61	1	\$1,075.27
Lot 6 LP 213976	57 Forge Creek Road BAIRNSDALE VIC 3875	1755.72	1	\$1,075.27
Lot 16 PS 517808	58 Forge Creek Road BAIRNSDALE VIC 3875	2450.56	1	\$1,075.27
Lot 5 LP 213976	59 Forge Creek Road BAIRNSDALE VIC 3875	1825.11	1	\$1,075.27
Lot 2 PS 527887	6 Campbells Drive BAIRNSDALE VIC 3875	840.37	0	0
Lot 1 PS 808317	6 Railway Court BAIRNSDALE VIC 3875	861.77	0	0
Part Lot 7 PS 528615	6/30 Rovon Place BAIRNSDALE VIC 3875	4522.92	3	\$3,225.81
Lot 4 LP 213976	61 Forge Creek Road BAIRNSDALE VIC 3875	1826.72	1	\$1,075.27
Lot 15 PS 517808	62 Forge Creek Road BAIRNSDALE VIC 3875	2451.99	1	\$1,075.27
Lot 1 TP 567627	63 Bosworth Road BAIRNSDALE VIC 3875	4322.67	3	\$3,225.81
Lot 3 LP 213976	63 Forge Creek Road BAIRNSDALE VIC 3875	1825.19	1	\$1,075.27

Lot Number	Property Address	GIS Area (m2)	Number of Benefit Units	Proposed Cost
Lot 2 LP 213976	65 Forge Creek Road BAIRNSDALE VIC 3875	1825.34	1	\$1,075.27
Lot 14 PS 517808	66 Forge Creek Road BAIRNSDALE VIC 3875	2451.25	1	\$1,075.27
Lot 1 LP 213976	67 Forge Creek Road BAIRNSDALE VIC 3875	1814.3	1	\$1,075.27
Part Lot 5 PS 407978	67 Giles Street BAIRNSDALE VIC 3875	22612.98	12	\$12,903.23
Lot 1 PS 715253	7 Bosworth Road BAIRNSDALE VIC 3875	3642.82	2	\$2,150.54
Lot 15 LP 132371	7 Hayward Court BAIRNSDALE VIC 3875	1238.15	1	\$1,075.27
Part Lot 7 PS 528615	7/30 Rovon Place BAIRNSDALE VIC 3875	4522.92	3	\$3,225.81
Lot 1 PS 545169	70 Bosworth Road BAIRNSDALE VIC 3875	29672.18	15	\$16,129.03
Lot 2 PS 414829	71 Bosworth Road BAIRNSDALE VIC 3875	19361.93	10	\$10,752.69
Lot 2 PS 808317	72 Forge Creek Road BAIRNSDALE VIC 3875	5926.85	3	\$3,225.81
Lot 1 PS 414829	75 Bosworth Road BAIRNSDALE VIC 3875	9508.39	5	\$5,376.34
Lot 3 PS 618835	76 Forge Creek Road BAIRNSDALE VIC 3875	3400.52	2	\$2,150.54
Lot 7 LP 127423	8 Giles Street BAIRNSDALE VIC 3875	2233.65	1	\$1,075.27
Lot 16 LP 132371	8 Hayward Court BAIRNSDALE VIC 3875	1389.47	1	\$1,075.27
Part Lot 7 PS 528615	8/30 Rovon Place BAIRNSDALE VIC 3875	4522.92	3	\$3,225.81
Lot 1 PS 516532	82 Forge Creek Road BAIRNSDALE VIC 3875	13433.15	7	\$7,526.88
PC 371491	83 Bosworth Road BAIRNSDALE VIC 3875	68656.82	16	\$17,204.30
Lot 10 PS 609729	9 Railway Court BAIRNSDALE VIC 3875	1966.53	1	\$1,075.27
Lot 1 PS 631898	9 Rovon Place BAIRNSDALE VIC 3875	3444.92	2	\$2,150.54
Lot 4 PS 634473	98 Bosworth Road BAIRNSDALE VIC 3875	1161.05	1	\$1,075.27
Lot 1 TP 94328	99 Holloway Street BAIRNSDALE VIC 3875	1993.09	1	\$1,075.27

ATTACHMENT 4 - Benefit Ratio Calculation**South Bairnsdale Industrial Estate – Special Charge Scheme – Firefighting Water Augmentation Project ('Project')****Determination of and by the East Gippsland Shire Council ('Council') under Sections 163(2)(a), (2A) and (2B) of the *Local Government Act 1989* ('Act')****Calculation of Total Amount of Special Charges to be Levied ('Maximum Total Levy')****Introduction and background**

The South Bairnsdale Industrial Estate is East Gippsland Shire's premier industrial estate for large scale land use and development (Estate). At present, the Estate is only partially developed, and there are several significant, and many smaller operations being conducted within the Estate, some of which do not have occupancy permits. There remains considerable potential for further and better development of land in the Estate, both in terms of new developments and upgrade of existing smaller developments.

The Designated Area within the Estate is currently made up of 172 lots. *Note: some lots are being sub-divided, and the exact lot number may change at implementation of the Scheme.*

The current water and flow pressure to the estate is lower than that required by the building code and fire-fighting Australian Standards for buildings greater than 500 square meters floor area. Therefore, anyone within the Estate who wishes to build a building greater than 500 square meters floor area must install a private fire-fighting service at significant cost. This is significantly impacting the development of the Estate and the economic potential of the Bairnsdale areas.

The Project seeks, partially by way of special charge scheme (Special Charge) under section 163 of the *Local Government Act 1989* (LGA and Scheme respectively), to fund water supply augmentation works which would significantly reduce the cost of fire-fighting services for buildings of floor area 500 square meters floor area. This will enhance the development potential (and higher and better use) of land in the Estate (Works and Project respectively).

The objective of the Project is also to be seen in the context of a decision of East Gippsland Water (EGW) to construct assets in the Designated Estate (properties) that will provide the properties with an upgraded water supply service (Present EGW Works). The Scheme and the Works will seek to augment and improve upon the Present EGW Works by providing additional water supply capability and capacity to the properties. .

EGW is the responsible authority for the provision of water supply in the municipal district of East Gippsland Shire. As noted, EGW has already decided to proceed with (and has budgeted for) the EGW Present Works.

EGW does not ordinarily have the obligation in their customer charter to provide services for a water supply which would assist property owners of buildings greater than 500 square meters floor area meet the requirements of the building code and the Australian fire-fighting standards without installing a private fire-fighting service.

Council has previously attempted to implement a special charge scheme to raise the necessary funds to install the infrastructure necessary to provide the Estate with an overall improved water supply capability and capacity sufficient that would significantly reduce the cost of meeting the building code and the Australian fire-fighting standards for property owners wishing to construct buildings greater than 500 square meters in floor area. This has proved unsuccessful due to the relatively high level of cost which would be charged to each benefiting property.

Council has now received \$500,000 in funding from Regional Development Victoria (RDV) and EGW has decided to deliver the EGW Present Works. This changed circumstance makes it appropriate for Council to revisit the establishment of a special benefits scheme to enable the Project to be fully funded and implemented.

The Project provides for those properties in the Estate, as shown within the Designated Zone on the 'Scheme Plan' (Scheme Plan), to be made liable for the Special Charge on the basis that they will receive a special benefit from the Works if they have the potential to extend an existing building or install a new building of greater than 500 square meters floor area or they already occupy a building greater than 500 square meters of floor area and do not have an occupancy permit.

Beyond the actual Scheme costs, additional costs associated with the actual connection of the properties to the EGW infrastructure (being the new pipeline to be installed by EGW) and other internal property works would be borne by the property owners.

It is considered that the Project, if implemented, would also lower the overall costs of investing into the Estate, and that this in turn would assist to unlock private capital and divert it into industry-creation opportunities and promoting employment in the region.

As a debt to be incurred by Council under a formal funding agreement which Council has entered into with EGW (and otherwise consistent with the requirements which have been imposed on Council under the agreement it has with RDV), Council would be required to fund the costs of upgrading the water supply to the properties in the Designated Zone (over and above EGW's standard requirements) with Council recouping those costs from the funds which, over the life of the Scheme, Council would receive from the proceeds of the Special Charge.

The Project would be completed as a part of EGW's capital assets delivery program. With some of the asset upgrades already being in place as a part of EGW's existing capital works program.

EGW is considered to have a strong history of project and budget delivery, including the successful delivery of previous programs set out in its corporate plans. The Project would be publicly tendered to ensure best value for money and undertaken by appropriate contractors. While the Works would be undertaken by EGW through its normal procurement and delivery processes, there would be accountability and cooperation between EGW and EGSC, and this is seen as critical to the overall success of the Project.

For the purposes of a Special Charge, Council is required to make a determination under sections 163(2)(a), (2A) and (2B) of the LGA (Determination). The Determination addresses the calculation of the 'benefit ratio' to determine the total amount of the special charges that may be levied on those property owners who it is considered will receive a benefit from the proposed Works through the imposition of the Special Charge under the Scheme (Maximum Total Levy).

The calculation of the Maximum Total Levy requires Council to –

- Calculate the total cost of the Works; and
- Calculate the 'benefit ratio' based on reasonable estimates being made of –
 - i. the 'total special benefits' to the properties included in the Scheme (called 'TSB_(in)');
 - ii. the 'total special benefits' to the properties not included in the Scheme (if any) (called 'TSB_(out)'); and
 - iii. the 'total community benefits' (if any) to be provided by the Scheme (called 'TCB').

A. Define Purpose

The purpose of the proposed water supply augmentation works is to significantly reduce the costs incurred by property owners within the Estate wishing to build or occupy buildings with a floor area of 500 square metres or more.

By installing the necessary infrastructure as part of the Project, it will be significantly cheaper for property owners to meet the requirements of the Building Code and the Australian fire-fighting standards.

The works will also assist those properties in the Designated Zone who are occupying the buildings greater than 500 square metres of floor area and do not currently have Occupancy Permits to obtain such permits.

B. Ensure Coherence

The proposed works have a natural coherence with the proposed beneficiaries, as the works will confer a special benefit on the 173 lots located within the Designated Zone who can take advantage of the upgraded water reticulation system.

C. Calculate Total Costs

The 'total cost' is the total aggregate cost to be incurred by Council for the purposes of s 163. The total estimated cost set out below has been calculated by Council in reliance on costing estimates provided by EGW.

The total cost to Council in giving effect to the Project is \$800,000.

This figure has been calculated in accordance with the amounts specified in the table below:

EGW estimate of the total cost of the Project	\$2,400, 000
<u>Less</u> cost to be incurred by EGW	\$1,100,000
<u>Less</u> Grant Contribution Received by Council from RDV	\$500,000
Total Cost to Council	\$800,000

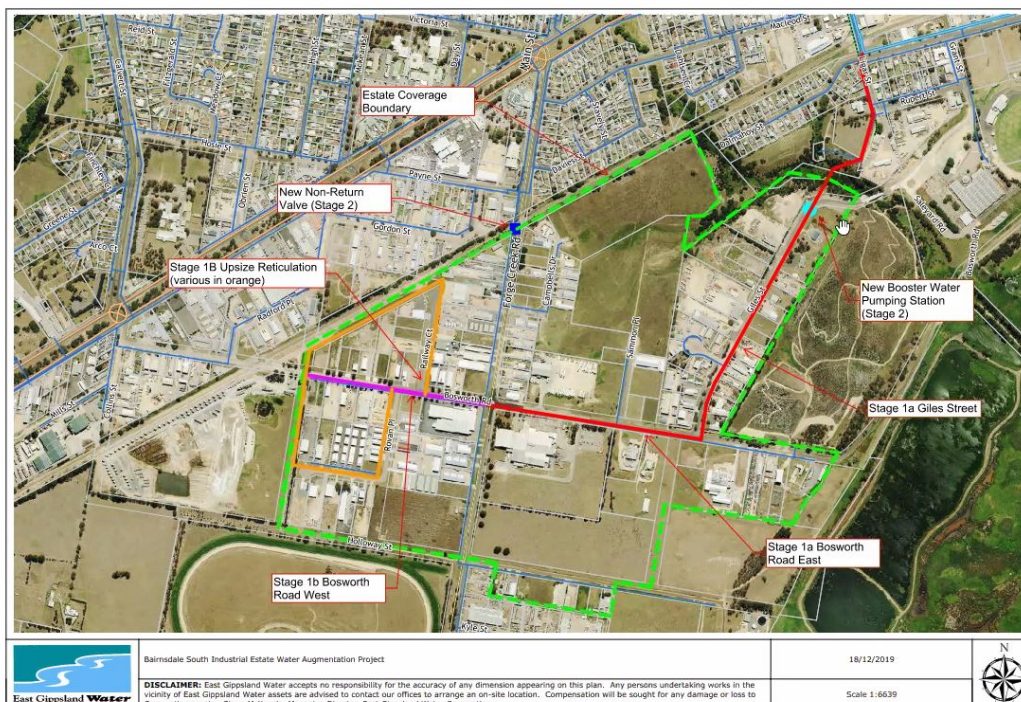
D. Identify Special Beneficiaries

Council is required to identify those properties that would receive a special benefit from the works. A special benefit is considered to be received by a property if the Works will provide a benefit that is additional to or greater than the benefit to other properties.

The Ministerial Guidelines note that a special benefit is considered to exist if it could reasonably be expected to benefit the owners or occupiers of the property. It is not necessary for the benefit to be actually used by the particular owners or occupiers of a specified property at a particular time in order for a special benefit to be attributed to the property.

In summary, the special benefit is in the form of an ability for the owners of properties in the Designated Zone, who have the capability now or in the future, to own, use, occupy and enjoy buildings with a gross floor area of 500 square meters or more, with significantly reduced costs that would have otherwise been incurred to ensure compliance with the Building Code and Australian fire-fighting standards. This benefit would apply now or in the future, as a result of any existing or future land development or use requirement.

It is considered that the 173 rateable properties in the Designated Zone below and otherwise listed in Attachment 5, will receive a special benefit from the works.



E. Determine Properties to Include

The properties included in the Scheme are the properties that will be required to pay the Special Charge.

All properties located within the Designated Zone will be liable for the Special Charge, except for those specifically excluded by Council.

For the purposes of calculating the Benefit Ratio, a notional benefit value – to be called a ‘Benefit Unit’ (BU) – will be used. A BU for the purposes of the Benefit Ratio is explained as a ‘deemed’ benefit equal to the average benefit for each property included in the Scheme.

It is proposed that one BU will apply for each building that could be constructed larger than 500 square meters in floor area. For present purposes, this assessment disregards whether particular properties in the Designated Zone have subdivision or other development or higher and better use potential (these issues will be separately dealt with when Council decides on the appropriate method of distributing the Special Charge amongst all of the properties required to pay the Special Charge).

Despite being located within the Designated Zone, Council proposes to exclude the following classes of properties from the Scheme:

- properties owned by EGW or Council or other government agencies;
- properties which have already installed a private fire-fighting service that meets the building code and fire-fighting Australian Standard and have received an Occupancy Permit; and
- properties which in Council’s judgement could not reasonably have constructed on them one or more buildings of greater than 500 square metres floor area because of the size and

configuration of the block or other limitations such as current site development, easements or topography. Estimate Total Special Benefits

Total Special Benefits = Total Special Benefits (In) + Total Special Benefits (Out), that is –

$$(TSB = TSB_{(in)} + TSB_{(out)})$$

$TSB_{(in)}$ has been calculated as follows – 372, this being the

total number of Benefit Units accrued to properties subject to the Special Charge calculated in accordance with Part E.

$TSB_{(out)}$ has been calculated as follows – the total number of Benefit Units attributable to each property not required to pay the Special Charge.

F. Estimate Total Community Benefit

In addition to establishing the Total Special Benefits for the Scheme, an assessment of any Community Benefit is also required to be undertaken in order to calculate the Total Maximum Total Levy.

Community benefits are considered to exist where works will provide tangible and direct benefits to people in the broader community. These will generally derive from the provision of facilities or services that are generally available to people, other than owners or occupiers of properties with special benefits.

In terms of assessing the level of any Community Benefit, it is generally considered that the Works included in the Scheme will primarily benefit those properties which are included in the Designated Zone.

Where there are Community Benefits, Council is required to pay for these benefits, and not the Special Charge contributors.

Community Benefits of this Project are likely to be limited to indirect and intangible benefits, like –

- Generally improved conditions for growth and development within the Estate and the creation of future employment opportunities;
- Amelioration of issues associated with the unlawful occupation of properties and buildings in the Designated Zone which do not have any or any compliant private fire service; and
- Enhanced fire protection for the Estate generally, and the wider municipal community and the State of Victoria.

Enhancing opportunities for economic and industrial development, upgrading fire safety measures and reducing non-compliance with building standards will generally benefit the municipal community. However, these are not direct and quantifiable benefits to the broader community for the purposes of assessing the benefit ratio associated with the Project.

$$TCB = 0$$

G. Calculating the 'Benefit Ratio'

The Benefit Ratio ('R') is calculated as follows –

$$R = \frac{TSB_{(in)}}{TSB_{(in)} + TSB_{(out)} + TCB}$$

$= 372 / 372 + 0 + 0$

$= 372 / 372$

Benefit Ratio = 1 = 100%

This may be recalculated if any of the properties excluded from liability for the Special Rate accrue 1 or more Benefit Units, despite not being liable to pay the Special Rate.

H. Calculating the Maximum Total Levy

The following formula, as set out in the LGA, is used to determine the Maximum Total Levy –

$R \times C = S$

where –

R is the Benefit Ratio determined by Council;

C is the Total Scheme Cost; and

S is the Maximum Total Levy

Maximum Total Levy Amount (R x C = S)
1 x \$800,000 = \$800,000

Council may levy up to the Total Scheme Cost, or **\$800,000**.

Attachment 5: Statement of Methodology

Purpose:

The purpose of this document is to describe the methodology for determining the number of benefit units to be attributed to each property in the Designated Zone that is liable to pay the Special Charge.

Methodology:

A benefit unit accrues to those property owners who can currently, or in the future reasonably expect to benefit from the improvement of water supply to the Designated Zone which would significantly reduce the cost of meeting the requirements of the Building Code, and the Australian fire-fighting standards for buildings of a floor area greater than 500 square meters.

The theoretical benefit unit has been calculated based on the size of block in accordance with the table below.

Theoretical Benefit Units Calculations	
Land area m ²	Theoretical Benefit Units Applicable
0-999	0
1000-2500	1
2500-3999	2
4000-5999	3
6000-7999	4
8000-999	5
10,000-11,999	6
12,000-13,999	7
14,000-15,999	8
16,000-17,999	9
18,000-19,999	10
20,000-21,999	11
22,000-23,999	12
24,000-25,999	13
26,000-27,999	14
28,000-29,999	15
Above 30,000	16

The theoretical benefit unit table has been determined based on the following assumptions:

- It is practical to construct a building greater than 500 square meters floor area on block sizes greater than 999 square meters, taking into consideration the need for setbacks, internal roads and parking;
- Based on the number of smaller building (just under 500 square meters) in larger lots, and anecdotal feedback Council believes there is demand for erecting buildings greater than 500 square meters in floor area;
- Based on existing buildings the likely average building size has been assumed at 1500 square meters in floor area requiring on average 2000 square meters of land area taking into consideration the need for setbacks, internal roads and parking; and

[8582763: 29912847_1]

- For lots with a block size of 30,000 square meters or more, a subdivision will be required for buildings to be erected and meaningfully used, which will require some of the land area to be dedicated to internal roads which will be vested in council. Accordingly, Council has set a maximum number of benefit units for lots of this size.

Council has identified that there are circumstances in which the size of block is not a good indicator of the potential to construct a building, or buildings, with a floor area greater than 500 square meters. In respect of these properties, Council has adjusted the number of theoretical benefit units to correspond with the reduced benefit conferred on the property. Such circumstances include where:

- The shape of the block is likely to limit the ability to construct building(s) of greater than 500 square meters;
- The location and nature of easements on the property are such that the construction of a building(s) with a floor area greater than 500 square meters is impractical or impermissible;
- The layout of existing buildings on the block would make it impractical and unfeasible to conveniently construct additional buildings of greater than 500 square meters floor area; and
- The existing use of the land is such that the construction of additional buildings of greater than 500 square meters in floor area is likely to be of little benefit or utility to landowners. For example, there are several sites within the Estate whereby the land is primarily used as outdoor laydown or storage areas and for which there is consequently little demand for buildings larger than 500 square meters in floor area. In relation to these properties Council has assumed that current land use is a likely predictor of future land use.

Council has reviewed every property within the Designated Zone and determined the number of theoretical benefit units to be allocated to the property.

Council has adjusted the number of benefits units in relation to properties for which Council is reasonably satisfied, having regard to the above, adjustment is reasonable and appropriate.

Further, Council has determined that the following properties are exempt from the Special Charge Scheme:

- Land owned by East Gippsland Shire Council and East Gippsland Water on the basis that these are government owned enterprises and will not be building buildings greater than 500 square meters in floor area and hence will not receive a special benefit; and
- Those properties where there is already a building greater than 500 square meters floor area and a fire system has been installed which is compliant with the building code and the Australian fire-fighting standards, then no benefit will be accrued by improving the water supply and hence no benefit unit allocated. There may be some benefit based to these properties, by removing existing firefighting services, enlargement to existing buildings or reduction in maintenance costs. However, Council acknowledges the expense these properties have already undertaken and does not intend for them to have further costs.

[8582763: 29912847_1]

DRAFT LETTER TO RATEPAYERS

1 September 2021

Name
Address
Suburb State P'Code

Email:

Dear [Occupier/Owner]

Bairnsdale South Industrial Estate - Council Intent to Declare a Special Charge Scheme for Firefighting Water Supply Upgrade

The purpose of this letter is to:

- Provide you a copy of the notice published in the Bairnsdale Advertiser on [##Date] outlining Council's intention to declare a Special Charge Scheme for the South Bairnsdale Industrial Estate (Estate); and
- Seek your feedback to guide Council's decision as to whether to declare the Special Charge Scheme and advise you of your right to make submissions in relation to the proposal.

The Special Charge Scheme

Council has been working with East Gippsland Water to undertake an upgrade to the water supply to the Estate. This upgrade would support the development of the Estate by reducing the cost of meeting the Building Code regulations regarding firefighting requirements, for buildings over 500m2 in floor space.

The Building Code of Australia makes it necessary for buildings over 500m2 of floor space to have greater levels of firefighting services than smaller buildings. The current water supply to the Estate does not make it possible for building over 500m2 to meet their firefighting service obligations. Anyone wanting to construct a building over 500m2 of floor space is required, at their own cost to install additional private firefighting services. These costs are estimated to be \$50,000-\$150,000 for each property. This cost is an impediment to industry development and limiting economic growth in the region.

Council, the Victorian Government, through Regional Development Victoria and East Gippsland Water are working towards upgrading the water supply which will reduce the cost of providing firefighting service for larger buildings in the Estate. The total cost of this project is \$2.4M.

East Gippsland Water have committed \$1.1M to the project, the Victorian Government has provided \$500,000 and Council is proposing to contribute \$400,000 to the project.

Council is now seeking feedback on raising the final \$400,000 through a special charge scheme which will require a payment from lot owners located within the Estate who stand to directly benefit from the scheme.

Council has considered every block in the affected area to determine the cost payable to each landowner.

As part of its consideration with respect to which lots should be subject to the Special Charge, Council has proposed exempting certain lots from liability on the basis that they will not derive any direct benefit from the project, including:

- smaller lots that cannot reasonably fit a building over 500m2 in floor space; and

- sites that have already installed their own firefighting services and have been granted a permit of occupancy accordingly.

For further detail in relation to the proposed Special Charge Scheme, please visit Council's website at [\[##Insert relevant web pages\]](#).

Your liability under the Special Charge Scheme

Based on our assessment, the total liability under the scheme for [\[##PROPERTY ADDRESS\]](#) will be \$[\[##XXXXX\]](#) (which is XXXX benefit units).

If the proposed Special Charge Scheme does not go ahead, the issues regarding water supply for firefighting will not be resolved and the estate will continue to experience problems with development.

Right to make a submission

You have a right to make a submission in relation to the proposed Special Charge Scheme. If you have any comments or concerns related to Council's intent to declare the Special Charge Scheme then please email council on economic.development@egipps.vic.gov.au

Submissions must be made before 5.00 PM on [\[##Date that is at least 28 days after the notice of intent to declare the special charge is published\]](#).

Your feedback will be considered by Council and you will be advised of Council's decision as to whether to proceed with the special charge scheme and improved water supply.

If you make a submission in relation to the above, you are entitled to request in the submission to appear personally, or to be represented by a person specified in the submission, to be heard in support of your submission. If you wish to appear, or for a person to appear on your behalf, please indicate this in your submission.

If you would like to discuss this project further with an officer please contact Stephen Kleinitz, Senior Economic Development Officer, on 5153 9500.

Yours Sincerely

Stuart McConnell
General Manager Bushfire Recovery

Methodology for the Calculation of Payments

A benefit unit accrues to those property owners who can currently, or in the future reasonably expect to, benefit from the improvement of water supply to the Designated Zone which would significantly reduce the cost of meeting the requirements of the Building Code and the Australian fire-fighting standards for buildings of a floor area greater than 500 square meters.

The theoretical benefit unit has been calculated based on the size of block in accordance with the table below.

Theoretical Benefit Units Calculations	
Land area m ²	Theoretical Benefit Units Applicable
0-999	0
1000-2500	1
2500-3999	2
4000-5999	3
6000-7999	4
8000-9999	5
10,000-11,999	6
12,000-13,999	7
14,000-15,999	8
16,000-17,999	9
18,000-19,999	10
20,000-21,999	11
22,000-23,999	12
24,000-25,999	13
26,000-27,999	14
28,000-29,999	15
Above 30,000	16

The benefit unit table has been determined based on the following assumptions:

- It is practical to construct a building greater than 500 square meters floor area on block sizes greater than 999 square meters, taking into consideration the need for setbacks, internal roads and parking.
- There is likely demand for erecting buildings greater than 500 square meters in floor area and up to 2000 square meters in floor area. Likely average building size has been assumed at 1500 square meters in floor area, which would require on average 2000 square meters of land area taking into consideration the need for setbacks, internal roads and parking.
- For lots with a block size of 30,000 square meters or more, a subdivision will be required for buildings to be erected and meaningfully used, which will require some of the land area to be dedicated to internal roads which will be vested in council. Accordingly, Council has set a maximum number of benefit units for lots of this size.

Council has identified that there are circumstances in which the size of block is not a good indicator of the potential to construct a building, or buildings, with a floor area greater than 500 square meters. In respect of these properties, Council has adjusted the number of theoretical benefit units to correspond with the reduced benefit conferred on the property. Such circumstances include where:

- The shape of the block is likely to limit the ability to construct building(s) of greater than 500 square meters;

- The location and nature of easements on the property are such that the construction of a building(s) with a floor area greater than 500 square meters is impractical or impermissible;
- The layout of existing buildings on the block would make it impractical and unfeasible to conveniently construct additional buildings of greater than 500 square meters floor area;
- The existing use of the land is such that the construction of additional buildings of greater than 500 square meters in floor area is likely to be of little benefit or utility to landowners. For example, there are several sites within the Estate whereby the land is primarily used as outdoor laydown or storage areas and for which there is consequently little demand for buildings larger than 500 square meters in floor area. In relation to these properties Council has assumed that current land use is a likely predictor of future land use.

Council has reviewed every property within the Designated Zone and determined the number of theoretical benefit units to be allocated to the property.

Council has adjusted the number of benefits units in relation to properties for which Council is reasonably satisfied, having regard to the above, adjustment is reasonable and appropriate.

Further, Council has determined that the following properties are exempt from the Special Charge Scheme:

- Land owned by East Gippsland Shire Council and East Gippsland Water on the basis that these are government owned enterprises and will not be building buildings greater than 500 square meters in floor area and hence will not receive a special benefit.
- Those properties where there is already a building greater than 500 square meters floor area and a fire system has been installed which is compliant with the building code and the Australian fire-fighting standards, then no benefit will be accrued by improving the water supply and hence no benefit unit allocated.

Based on the above assumptions there are (currently) 372 benefit units in the area under consideration. The scheme is designed to recover \$400,000. Hence the cost per benefit unit is (currently) \$1,075.27.

5.3 Business Excellence

5.3.1 Draft Annual Financial Statements 2020/21 and Draft Performance Statement 2020/21

Authorised by General Manager Business Excellence

Conflict of Interest

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

Executive Summary

Councils are required to produce an annual report within three months of the end of the financial year. The annual report includes the annual financial statements (accounts), a performance statement and a range of other information to discharge councils' reporting requirements.

Due to the limited time available to achieve these requirements, provision exists in the *Local Government Act 1989* (the Act) for Councils to adopt the accounts and performance statement 'in principle' before submission to the Auditor General, the responsible Minister and later, inclusion in councils' Annual Report.

In line with the process in place to achieve 'in principle' adoption, the auditor will present the accounts and performance statement to Audit and Risk Committee (the Committee) on Tuesday 14 September 2021. After discussion between the Committee and the auditor, it is anticipated that the Committee will recommend that Council adopt the accounts and performance statement 'in principle'.

A copy of the draft accounts has been provided at **Attachment 1** and the draft performance statement at **Attachment 2**

Officer Recommendation

That Council, having considered a recommendation from the East Gippsland Shire Council Audit and Risk Committee:

- 1. receives and notes the report and its attachments;***
- 2. gives its 'in principle' approval to the Annual Financial Statements 2020/21 as provided at Attachment 1, subject to the Auditor General's review;***
- 3. gives its 'in principle' approval to the Performance Statement 2020/21 as provided at Attachment 2, subject to the Auditor General's review; and***
- 4. appoints Councillors _____ and _____ to certify the Annual Financial Statements 2020/21 and the Performance Statement 2020/21 in their final form.***

Background

Councils are required to produce an annual report within three months of the end of the financial year. The annual report includes a range of information that is required to be provided in order to discharge councils' reporting requirements.

Due to the limited time available to achieve these requirements, provision exists in the *Local Government Act 1989* (the Act) for Councils to adopt the accounts and performance statement 'in principle' before submission to the Auditor General, the responsible Minister and later, inclusion in councils' Annual Report.

To achieve the timeline, officers prepare the accounts and performance statement, which are then audited by the Auditor General's contractor (the auditor). Any adjustments are discussed and implemented, with the accounts and performance statement then presented to Council's Audit and Risk Committee (the Committee) for review and subsequently to Council for 'in principle' adoption.

The accounts and performance statement are then sent to the auditor, who conducts a further review and signs the audit reports. These are then returned to Council for final certification by two Councillors, the Chief Executive Officer and the Principal Accounting Officer for inclusion in the Annual Report. Past practice has been that two Councillors who sit on the Committee are nominated to sign the accounts and performance statement.

The auditor will present the accounts and performance statement to the Committee meeting on Tuesday 14 September 2021. After discussion between the Committee and the auditor, it is anticipated that the Committee will recommend that Council adopt the accounts and performance statement 'in principle'.

Legislation

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

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

This report has been prepared in accordance with *Local Government Act 1989* Sections 131 and 132 which details the requirements in respect of the preparation and certification of the Annual Report, annual financial statements and performance statement.

Council is required to submit the accounts and performance statement in their final form to the auditor for auditing as soon as possible after the end of the financial year. Council, after passing a resolution giving its approval in principle to the accounts and performance statement, must submit the statements to the auditor for reporting on the audit.

The auditor must prepare a report on the accounts and performance statement. The auditor must not sign a report on the accounts or performance statement unless they have been certified by Council after ensuring that the accounts and performance statement are in their final form after any changes recommended or agreed by the auditors have been made. The certification must then be made by the two Councillors who have been appointed by Council for this purpose.

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

Collaborative procurement

Not applicable to this report.

Council Plan

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

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

Council Policy

Not applicable to this report.

Options

Not applicable to this report.

Resourcing

Financial

Not applicable to this report.

Plant and equipment

Not applicable to this report.

Human Resources

Not applicable to this report.

Risk

The risks of this proposal have been considered and are not applicable to this report.

Economic

Not applicable to this report.

Social

Not applicable to this report.

Environmental

Not applicable to 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

Ongoing discussions have occurred with Council's auditor in the preparation of the accounts and the performance statement. The auditor will present the accounts and performance statement to the Audit and Risk Committee for discussion and review on 14 September 2021.

Attachments

1. Annual Finance Statements 2020/21 [**5.3.1.1** - 50 pages]
2. Performance Statement 2020/21 [**5.3.1.2** - 12 pages]

**East Gippsland Shire Council
ANNUAL FINANCIAL REPORT**

For the Year Ended 30 June 2021

East Gippsland Shire Council
Financial Report
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Certification of the Financial Statements

In my opinion, the accompanying financial statements have been prepared in accordance with the *Local Government Act 1989*, the *Local Government (Planning and Reporting) Regulations 2014*, the Australian Accounting Standards and other mandatory professional reporting requirements.

Elizabeth Collins CPA
Principal Accounting Officer

Date : 14 September 2021
Bairnsdale

In our opinion the accompanying financial statements present fairly the financial transactions of the East Gippsland Shire Council for the year ended 30 June 2021 and the financial position of the Council as at that date.

At the date of signing, we are not aware of any circumstances that would render any particulars in the financial statements to be misleading or inaccurate.

We have been authorised by the Council and by the *Local Government (Planning and Reporting) Regulations 2014* to certify the financial statements in their final form.

Councillor
Date : 14 September 2021
Bairnsdale

Councillor
Date : 14 September 2021
Bairnsdale

Anthony Basford
Chief Executive Officer
Date : 14 September 2021
Bairnsdale

***East Gippsland Shire Council
2020/2021 Financial Report***

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**Comprehensive Income Statement
For the Year Ended 30 June 2021**

	Note	2021 \$'000	2020 \$'000
Income			
Rates and charges	3.1	60,536	58,845
Statutory fees and fines	3.2	2,220	2,083
User fees	3.3	12,684	19,520
Grants - operating	3.4	24,391	28,143
Grants - capital	3.4	11,898	10,732
Contributions - monetary	3.5	58	90
Contributions - non monetary	3.5	6,077	1,593
Fair value adjustments for investment property	6.2	178	-
Other income	3.7	15,362	4,098
Total income		133,404	125,104
Expenses			
Employee costs	4.1	33,697	30,253
Materials and services	4.2	49,157	44,432
Depreciation	4.3	21,569	20,788
Amortisation - intangible assets	4.4	977	602
Amortisation - right of use assets	4.5	84	73
Bad and doubtful debts	4.6	52	150
Borrowing costs	4.7	290	300
Net loss on disposal of property, infrastructure, plant and equipment	3.6	64	(59)
Landfill rehabilitation provision movement	5.5	(746)	1,395
Finance costs - leases	4.8	17	6
Other expenses	4.9	8,726	8,488
Total expenses		113,887	106,428
Surplus/(deficit) for the year		19,517	18,676
Other comprehensive income			
Items that will not be reclassified to surplus or deficit in future periods			
Net asset revaluation increment/(decrement)	6.1	114,424	-
Total comprehensive result		133,941	18,676

The above comprehensive income statement should be read in conjunction with the accompanying notes.

Balance Sheet
As at 30 June 2021

	Note	2021 \$'000	2020 \$'000
Assets			
Current assets			
Cash and cash equivalents	5.1	92,198	35,137
Trade and other receivables	5.1	10,993	12,234
Other financial assets	5.1	-	33,500
Other assets	5.2	7,726	7,361
Total current assets		110,917	88,232
Non-current assets			
Trade and other receivables	5.1	241	410
Property, infrastructure, plant and equipment	6.1	1,237,274	1,110,713
Right-of-use assets	5.8	785	869
Investment property	6.2	8,882	8,704
Intangible assets	5.2	1,882	2,756
Total non-current assets		1,249,064	1,123,452
Total assets		1,359,981	1,211,684
Liabilities			
Current liabilities			
Trade and other payables	5.3	9,474	9,995
Trust funds and deposits	5.3	2,835	2,799
Unearned Income	5.3	20,977	2,952
Provisions	5.5	9,571	9,811
Interest-bearing liabilities	5.4	1,700	-
Lease liabilities	5.8	62	72
Total current liabilities		44,619	25,629
Non-current liabilities			
Unearned Income	5.3	383	527
Provisions	5.5	9,417	12,157
Interest-bearing liabilities	5.4	1,650	3,350
Lease liabilities	5.8	759	809
Total non-current liabilities		12,209	16,843
Total liabilities		56,828	42,472
Net assets		1,303,153	1,169,212
Equity			
Accumulated surplus		418,286	398,827
Reserves	9.1	884,867	770,385
Total Equity		1,303,153	1,169,212

The above balance sheet should be read in conjunction with the accompanying notes.

**Statement of Changes in Equity
For the Year Ended 30 June 2021**

	Note	Total \$'000	Accumulated Surplus \$'000	Revaluation Reserve \$'000	Other Reserves \$'000
2021					
Balance at beginning of the financial year		1,169,212	398,827	769,323	1,062
Surplus/(deficit) for the year		19,517	19,517	-	-
Net asset revaluation increment	6.1	114,424	-	114,424	-
Transfers to other reserves	9.1	-	(58)	-	58
Transfers from other reserves	9.1	-	-	-	-
		<u>1,303,153</u>	<u>418,286</u>	<u>883,747</u>	<u>1,120</u>
Balance at end of the financial year		1,303,153	418,286	883,747	1,120

		Total \$'000	Accumulated Surplus \$'000	Revaluation Reserve \$'000	Other Reserves \$'000
2020					
Balance at beginning of the financial year		1,152,025	381,721	769,323	981
Impact of change in accounting policy - AASB 15 Revenue from Contracts with Customers		(148)	(148)	-	-
Impact of change in accounting policy - AASB 1058 Income of Not-for-Profit Entities		(1,341)	(1,341)	-	-
Impact of change in accounting policy - AASB 16 Leases		-	-	-	-
Adjusted Opening balance		<u>1,150,536</u>	<u>380,232</u>	<u>769,323</u>	<u>981</u>
Surplus/(deficit) for the year		18,676	18,676	-	-
Transfers to other reserves	9.1	-	(81)	-	81
Transfers from other reserves	9.1	-	-	-	-
		<u>1,169,212</u>	<u>398,827</u>	<u>769,323</u>	<u>1,062</u>
Balance at end of the financial year		1,169,212	398,827	769,323	1,062

The above statement of changes in equity should be read in conjunction with the accompanying notes.

Statement of Cash Flows
For the Year Ended 30 June 2021

	Note	2021 Inflows/ (Outflows) \$'000	2020 Inflows/ (Outflows) \$'000
Cash flows from operating activities			
Rates and charges		61,006	57,802
Statutory fees and fines		2,172	2,038
User fees		17,788	15,042
Grants - operating		23,620	28,791
Grants - capital		31,844	7,875
Contributions - monetary		58	90
Interest received		589	1,172
Trust funds and deposits taken		11,034	9,905
Other receipts		10,417	3,219
Net GST refund/payment		4,119	3,289
Employee costs		(33,149)	(30,761)
Materials and services		(58,698)	(45,137)
Trust funds and deposits repaid		(10,998)	(8,673)
Other payments		(1,489)	(2,965)
Net cash provided by/(used in) operating activities		58,313	41,687
Cash flows from investing activities			
Payments for property, infrastructure, plant and equipment	6.2	(35,233)	(29,507)
Proceeds from sale of property, infrastructure, plant and equipment		933	412
Payments for investments		-	(33,500)
Proceeds from sale of investments		33,500	34,000
Net cash provided by/(used in) investing activities		(800)	(28,595)
Cash flows from financing activities			
Finance costs		(292)	(304)
Repayment of borrowings		-	(727)
Interest paid - lease liability		(17)	(6)
Repayment of lease liabilities		(143)	(61)
Net cash provided by/(used in) financing activities		(452)	(1,098)
Net increase (decrease) in cash and cash equivalents		57,061	11,994
Cash and cash equivalents at the beginning of the financial year		35,137	23,143
Cash and cash equivalents at the end of the financial year		92,198	35,137
Financing arrangements	5.6		
Restrictions on cash assets	5.1		

The above statement of cash flows should be read in conjunction with the accompanying notes.

Statement of Capital Works
For the Year Ended 30 June 2021

	Note	2021 \$'000	2020 \$'000
Property			
Land		80	243
Total land		80	243
Buildings		4,282	2,738
Heritage buildings		162	13
Total buildings		4,444	2,751
Total property		4,524	2,994
Plant and equipment			
Plant, machinery and equipment		1,772	1,963
Fixtures, fittings and furniture		804	520
Computers and telecommunications		372	361
Library books		211	214
Total plant and equipment		3,159	3,058
Infrastructure			
Roads		12,403	10,666
Bridges		6,063	5,939
Footpaths and cycleways		1,035	1,788
Drainage		1,081	2,295
Recreational, leisure and community facilities		1,755	476
Waste management		1,146	372
Parks, open space and streetscapes		434	844
Aerodromes		179	-
Off street car parks		110	262
Other infrastructure		3,362	2,133
Total infrastructure		27,568	24,775
Total capital works expenditure		35,251	30,827
Represented by:			
New asset expenditure		3,395	2,349
Asset renewal expenditure		26,334	21,750
Asset expansion expenditure		-	-
Asset upgrade expenditure		5,522	6,728
Total capital works expenditure		35,251	30,827

The above statement of capital works should be read in conjunction with the accompanying notes.

OVERVIEW

Introduction

The East Gippsland Shire Council was established by an Order of the Governor in Council on 2 December 1994 and is a body corporate.

The Council's main office is located at 273 Main Street Bairnsdale Victoria 3875.

Statement of compliance

These financial statements are a general purpose financial report that consists of a Comprehensive Income Statement, Balance Sheet, Statement of Changes in Equity, Statement of Cash Flows, Statement of Capital Works and Notes accompanying these financial statements. The general purpose financial report complies with the Australian Accounting Standards (AAS), other authoritative pronouncements of the Australian Accounting Standards Board, the *Local Government Act 1989*, and the *Local Government (Planning and Reporting) Regulations 2014*.

Significant accounting policies

(a) Basis of accounting

The accrual basis of accounting has been used in the preparation of these financial statements, whereby assets, liabilities, equity, income and expenses are recognised in the reporting period to which they relate, regardless of when cash is received or paid.

Judgements, estimates and assumptions are required to be made about the carrying values of assets and liabilities that are not readily apparent from other sources. The estimates and associated judgements are based on professional judgement derived from historical experience and various other factors that are believed to be reasonable under the circumstances. Actual results may differ from these estimates.

Revisions to accounting estimates are recognised in the period in which the estimate is revised and also in future periods that are affected by the revision. Judgements and assumptions made by management in the application of AAS's that have significant effects on the financial statements and estimates relate to:

- the fair value of land, buildings, infrastructure, plant and equipment (refer to Note 6.1)
- the determination of depreciation for buildings, infrastructure, plant and equipment (refer to Note 6.1)
- the determination of employee provisions (refer to Note 5.5)
- the determination of landfill provisions (refer to Note 5.5)
- the determination of whether performance obligations are sufficiently specific so as to determine whether an arrangement is within the scope of *AASB 15 Revenue from Contracts with Customers* or *AASB 1058 Income of Not-for-Profit Entities* (refer to Note 3)
- the determination, in accordance with *AASB 16 Leases*, of the lease term, the estimation of the discount rate when not implicit in the lease and whether an arrangement is in substance short-term or low value (refer to Note 5.8)
- whether or not *AASB 1059 Service Concession Arrangements: Grantors* is applicable (refer to Note 8.2)
- other areas requiring judgements

Unless otherwise stated, all accounting policies are consistent with those applied in the prior year. Where appropriate, comparative figures have been amended to accord with current presentation, and disclosure has been made of any material changes to comparatives.

(b) Impact of Covid-19

On 16 March 2020 a state of emergency was declared in Victoria due to the global pandemic COVID-19 virus, known as coronavirus. A state of disaster was subsequently declared on 2 August 2020. While the impacts of the pandemic have abated somewhat through the 2020-21 year, Council has noted the following significant impacts on its financial operations:

Additional revenue

- Working for Victoria funding of \$2.006M

Impact on Services/Facilities

A number of facilities were closed or had restrictions to their operations during the year. As a result there was a reduction in revenue for these services; but there was also a reduction in the cost of running these facilities. The impact for services that were significantly impacted are as follows:

Bairnsdale and Lakes Entrance Aquatic and Recreation Centres

- Reduction in income from memberships, entry fees and other sales \$886k
- Reduction in costs as a result of facility closures \$983k

Forge Theatre

Whilst income was reduced by \$121k, there was a cost reduction of \$328k as a result of not being able to hold shows for most of the year.

Additional costs

Council waived a number of Community Laws and Health permits during the year at a cost of \$104k

Working for Victoria

Council received a government grant under the Working for Victoria program to provide employment for 60 people for a period of six months. During the 2020/21 year the grant income of \$2.006M covered the costs associated with employing eligible people.

Note 1 Performance against budget

The performance against budget notes compare Council's financial plan, expressed through its annual budget, with actual performance. The *Local Government (Planning and Reporting) Regulations 2014* requires explanation of any material variances. Council has adopted a materiality threshold of the lower of 10 percent or \$500,000 where further explanation is warranted. Explanations have not been provided for variations below the materiality threshold unless the variance is considered to be material because of its nature.

The budget figure below were adopted by Council on 25/08/2020. The budget was based on assumptions that were relevant at the time of adoption of the Budget. Councils sets guidelines and parameters for income and expense targets in the budget in order to meet Council's planning and financial performance targets for both the short and long-term.

These notes are prepared to meet the requirements of the *Local Government Act 1989* and the *Local Government (Planning and Reporting) Regulations 2014*.

1.1 Income and expenditure

	Budget 2021 \$'000	Actual 2021 \$'000	Variance 2021 \$'000	Variance 2021 %	Ref
Income					
Rates and charges	59,381	60,536	1,155	2%	1
Statutory fees and fines	1,974	2,220	246	12%	2
User fees	12,652	12,684	32	0%	
Grants - operating	14,820	24,391	9,571	65%	3
Grants - capital	23,503	11,898	(11,605)	(49%)	4
Contributions - monetary	141	58	(83)	(59%)	5
Contributions - non monetary	2,000	6,077	4,077	204%	6
Net gain/(loss) on disposal of property, infrastructure, plant and equipment	-	(64)	(64)	100%	
Fair value adjustments for investment property	-	178	178	100%	7
Other income	18,839	15,362	(3,477)	(18%)	8
Total income	133,310	133,340	30		
Expenses					
Employee costs	33,453	33,697	(244)	(1%)	
Materials and services	52,399	49,157	3,242	6%	9
Depreciation	21,952	21,569	383	2%	
Amortisation - Intangible assets	900	977	(77)	(9%)	
Amortisation - Right of use assets	-	84	(84)	100%	
Bad and doubtful debts	68	52	16	24%	
Borrowing costs	328	290	38	12%	
Landfill rehabilitation provision movement	-	(746)	746	100%	10
Finance costs - Leases	-	17	(17)	100%	
Other expenses	1,537	8,726	(7,189)	(468%)	11
Total expenses	110,637	113,823	(3,186)		
Surplus/(deficit) for the year	22,673	19,517	(3,156)		

Note 1 Performance against budget (cont'd)

(i) Explanation of material variations

Variance		Explanation
Ref	Item	
1	Rates and charges - \$1.155M greater than budget	Supplementary rates were greater than budget by \$1.115M as a result of some significant commercial/industrial developments.
2	Statutory fees and fines - \$246k greater than budget	Planning and subdivision activities increased these fees by \$322k greater than budget. There were additional animal registrations of \$53k and additional land information and building certificates of \$69k. Building and other licences were also greater than budget by 114k. These were offset with debt recovery fees under budget by \$122k due to unpaid rates recovery being paused during most of the year due to COVID-19 (this is offset with a corresponding reduction in debt recovery costs), health registration fees being under budget by \$89k as a result of COVID-19 waivers and animal and parking fines were underbudget by \$135k as a result of a reduction in issuing these infringements during COVID-19 periods.
3	Grants - operating - \$9.571M greater than budget	<p>The Victoria Grants Commission advance payment of part of the 2021/22 grant in the 2020/21 year accounted for \$7.945M of the additional grant income. There were a number of bushfire grants totalling \$4.811M included in the 2020/21 budget but were brought to account in the 2019/20 year. In 2020/21 Council also received a number of unbudgeted grants to support the community following the 2019/20 bushfires, the drought and as a result of the impact of COVID-19. These grants are detailed below:</p> <p>Bushfire Grants</p> <ul style="list-style-type: none"> - Concierge Business Support - \$116k - Immediate Assistance - \$250k - Rebuild Support Services - \$378k - Community Resilience and Development Program - \$339k - Resourcing Grant - \$2M <p>COVID-19 Grants</p> <ul style="list-style-type: none"> - Outdoor Eating and Entertainment - \$120k - Working for Victoria - \$2.006M <p>Drought</p> <ul style="list-style-type: none"> - Recharge Shearing Shed Events - \$226k - Recharge Family Packages - \$52k <p>Other</p> <ul style="list-style-type: none"> - Lakes Entrance Reserve Netball Court Development - \$94k - Bairnsdale South Industrial Estate - \$120k - Mallacoota Fuel Management Project - \$70k - Mallacoota and District Recovery Association - \$200k - Lake Tyers Trust - \$210k
4	Grants - capital - \$11.605M less than budget	<p>Capital grants were \$11.605M less than the adopted budget. The timing of the works for a number of large capital projects will see those projects completed in the 2021/22 year. As a result grant income associated with the projects will now not be received until the 2021/22 year. Some of those more significant projects and the capital grant income variances are as follows:</p> <ul style="list-style-type: none"> - Ormeo Mountain Bike Trails - \$1.784M - Lucknow Recreation Reserve Upgrade - \$259k - Jemmy Point Lookout Infrastructure renewal - \$425k - Cann River Roadside Rest Area - \$280k - Genoa Roadside Rest Area - \$980k - Newmerrella Roadside Rest Area - \$240k - WORLD Sporting Precinct Stage 1 - \$1.718M - Lakes Entrance Marine Parade Upgrade - \$800k - Bullock Island Masterplan Implementation - \$1.088M - Mallacoota Recreation Reserve Upgrade - \$789k - Slip Road Maritime Precinct Paynesville - \$260k - Mallacoota Seawall - \$681k - Design for Gymnastics facility Lucknow - \$421k - Roads to Recovery - \$413k - Lakes Entrance Seawall Reconstruction Stage 2 - \$202k - Bullock Island Bridge Replacement - \$616k

Note 1 Performance against budget (cont'd)

(i) Explanation of material variations
Variance

Ref	Item	Explanation
5	Contributions - monetary - \$83k less than budget	Capital contributions of \$91k were not received as a result of the timing of related capital projects. Subdivision developer contributions exceeded budget by \$8k.
6	Contributions - non monetary - \$4.077M greater than budget	Contributed assets of \$6.077M were received during the year against a budget of \$2M. Developer contributed assets vary from year to year depending on subdivision activity.
7	Fair value adjustments for investment property - \$178k greater than budget	There was an increase in the fair value of investment properties as at the end of year. No budget had been provided for this increase in value.
8	Other income - \$3.477M less than budget	The timing for reimbursements for replacement and rehabilitation works following the 2019/20 fire events is the most significant variance. Reimbursements for bridges destroyed was \$907k less than budget due to the costs for reconstruction being less than the original estimate. The timing of reimbursements for rehabilitation works has impacted on the income expected in 2020/21 and was less than budget by \$3.527M. It is expected that further reimbursements of \$4.544M will be received in the 2021/22 year as works are undertaken. Interest received on investments was less than budget by \$61K as a result of interest rates being lower than anticipated at the time of adopting the budget. Offsetting these underbudget income items were additional income received for foreshore, caravan parks and other property leases of \$182k, additional insurance reimbursement for walking tracks destroyed/damaged and other claims for losses incurred as a result of the 2019/20 bushfire of \$690k. Workcover reimbursements exceeded budget by \$51k as a result of additional workcover costs.
9	Materials and services - \$3.242M less than budget	A number of programs and projects underspent on materials and services during the year as a result of interruptions to services during COVID-19 restrictions. The Forge Theatre underspent on other services by \$252k, Economic Development by \$218k, Community Development by \$216k and Bushfire Recovery by \$665k. Utility payments were also \$278k less than budget partly as a result of the lesser costs whilst facilities were closed or operating at a reduced capacity during COVID-19 restrictions. Corporate training programs were also underspent by \$361k. The EPA waste levy was less than budget by \$217k as a result of less waste to landfill than originally expected. Information technology software licencing and other costs were under budget by \$381k. Grants and contributions were less than budget by \$1.126M as a result in delays to some projects and annual operating grant requirements. These underspends were partly offset by additional payments for consultants of \$465k to provide assistance in a number of areas of Council works.
10	Landfill rehabilitation provision movement - \$746k less than budget	There was an adjustment to the present value calculation of a reduction of \$560k and other adjustments that reduced the required provisions for landfill rehabilitation works.
11	Other expenses - \$7.189M greater than budget	There was \$6.626M of buildings, roads, bridges and other assets written off primarily as a result of assets being replaced. Legal costs exceeded the budget by \$292k as a result of additional legal costs in excess of the budget for a planning matter offset by less costs for legal services for debt recovery of \$140k and corporate legal costs of \$89k.

1.2 Capital works

	Budget 2021 \$'000	Actual 2021 \$'000	Variance \$'000	Variance %	Ref
Property					
Land	100	80	(20)	(20%)	1
Total land	100	80	(20)		
Buildings	6,719	4,282	(2,437)	(36%)	2
Heritage buildings	363	162	(201)	(55%)	3
Total buildings	7,082	4,444	(2,638)		
Total property	7,182	4,524	(2,658)		
Plant and equipment					
Plant, machinery and equipment	2,930	1,772	(1,158)	(40%)	4
Fixtures, fittings and furniture	30	804	774	2580%	5
Computers and telecommunications	3,936	372	(3,564)	(91%)	6
Library books	209	211	2	1%	
Total plant and equipment	7,105	3,159	(3,946)		
Infrastructure					
Roads	15,642	12,403	(3,239)	(21%)	7
Bridges	7,706	6,063	(1,643)	(21%)	8
Footpaths and cycleways	3,249	1,035	(2,214)	(68%)	9
Drainage	1,043	1,081	38	4%	
Recreational, leisure and community facilities	4,497	1,755	(2,742)	(61%)	10
Waste management	5,843	1,146	(4,697)	(80%)	11
Parks, open space and streetscapes	5,863	434	(5,429)	(93%)	12
Aerodromes	337	179	(158)	(47%)	13
Off street car parks	685	110	(575)	(84%)	14
Other infrastructure	5,614	3,362	(2,252)	(40%)	15
Total infrastructure	50,479	27,568	(22,911)		
Total capital works expenditure	64,766	35,251	(29,515)		
Represented by:					
New asset expenditure	10,962	3,395	(7,567)	(69%)	16
Asset renewal expenditure	47,503	26,334	(21,169)	(45%)	17
Asset expansion expenditure	30	-	(30)	(100%)	
Asset upgrade expenditure	6,271	5,522	(749)	(12%)	18
Total capital works expenditure	64,766	35,251	(29,515)		

East Gippsland Shire Council
2020/2021 Financial Report

Notes to the Financial Report
For the Year Ended 30 June 2021

Note 1 Performance against Budget (cont'd)
(i) Explanation of material variations

Variance Ref	Item	Explanation
1	Land - \$20k less than budget	Minor variance in the acquisition of land.
2	Buildings - \$2.437M less than budget	Building renewal had a budget of \$1M but actual expense of only \$93k as a result of the majority of expenses being reclassified to operating. Several projects were delayed and will be completed in the 2021/22 year. The most significant of these projects were the Pavilion at Mallacoota Recreation Reserve under budget by \$452k, Mallacoota Caravan Park Toilet Block under budget by \$119k, Gymnastic Facility at Lucknow under budget by \$750k and Eagle Point Caravan Park Fire Safety Works under budget by \$236k. There were several projects that had components of the project classified as Buildings but the budget had been classified in a different classification. The most significant of these were the WORLD Sporting Precinct Stage 1 expenditure of \$267k and the Bullock Island Masterplan implementation with expenditure of \$412k. There were also a number of projects that were classified as Buildings at the time of adopting the budget but have been reclassified to other classifications. The most significant of these projects and the associated budgets are the Livestock Exchange Sheep Pen renewal of \$477k and the Eagle Point Hub \$500k.
3	Heritage Buildings - \$201k less than budget	The Omeo Justice Precinct is under budget by \$201k and will be completed in the 2021/22 year.
4	Plant, Machinery and Equipment - \$1.158M less than budget	The timing of plant and vehicle renewals has been delayed and as a result Plant renewals were under budget by \$1.221M and Vehicles renewals were under budget by \$519k. These under budgets were partly offset by other works that were reclassified as plant at year end. The most significant of those was expenditure for the Waste Hook Truck of \$391k.
5	Fixtures, fittings and furniture - \$774k greater than budget	Unbudgeted funding was received for Outdoor Dining Activation and the expenditure for this project was \$130k. There were other adhoc purchases the were reclassified from other projects totalling \$158k that were not included in this classification at budget time. Street Litter Bins had been classified as Waste but reclassified at year end to fixtures and the expenditure for this item was \$297k. There was also \$210k of expenditure for the Lakes Entrance Streetscape works that was reclassified to fixtures at year end.
6	Computers and telecommunications - \$3.564M less than budget	A number of system upgrades for information technology systems have been delayed and will not be implemented until the 2021/22 year. These projects accounted for \$3.459M of the variance.
7	Roads - \$3.239M less than budget	There were a number of road projects that have been delayed and will be completed in the 2021/22 year. The most significant of these projects and the related budget variances are Eagle Point Foreshore Hub - Road Development \$342k, Carpenter Street Lakes Entrance \$102k and Parking Lanes Lakes Entrance \$100k. Roads to Recovery projects were \$414k less than the adopted budgets as a result of the timing for project works. There were also a number of projects that were classified as roads in the budget but have had components reclassified to other asset categories. The most significant of these projects is McMillan Street Lucknow \$484k, Phillips Lane \$132k, Road Reseals \$202k and Lake Tyers Beach Road \$131k.
8	Bridges - \$1.643M less than budget	A number of bridge projects have been delayed and will be completed in 2021/22. The most significant of these is the Bullock Island Bridge \$616k, the Genoa Roadside Stop \$396k and Tarbucks Road Bridge Cabbage Tree Creek \$450k.
9	Footpaths and cycleways - \$2.214M less than budget	The Omeo Mountain Bike Trails - Stage 1 is a multi year project and works completed in the 2020/21 year were under budget by \$1.716M. This project will be completed over coming years. The Great Alpine Road footpath project expenditure was split over a number of classifications and accounted for \$166k of the variance. The Omeo Caravan Park to Livingston Park Footpath project was also delayed and accounted to \$250k of the variance.

Note 1 Performance against Budget (cont'd)

(i) Explanation of material variations

Variance Ref	Item	Explanation
10	Recreational, leisure and community facilities - \$2.742M less than budget	The WORLD Sporting Precinct Stage 1 was classified as Recreation and Leisure in the adopted budget but has been reclassified to Buildings at year end. The budget for this project was \$3.858M. There were several other projects that had been classified as Parks and Other Infrastructure in the budget but have been classified as Recreation and Leisure at year end. The most significant of these projects and the associated expenditure were Davison Oval Skatepark Upgrade \$539k, Mallacoota Seawall Design \$319k and Slip Road Maritime Precinct - Paynesville \$361k.
11	Waste Management - \$4.697M less than budget	There were a number of Waste projects classified as Buildings at year end and the budgets associated with these projects amounted to \$180k. The Lakes Entrance Transfer Station project had a budget of \$2.218M and was reclassified from Waste to Other Infrastructure. The Marlo Transfer Station project was also reclassified to Other Infrastructure at year end and the budget for this project was \$405k. The Lakes Entrance Landfill E-Waste Infrastructure, Skip Bins, Leachate Irrigation System and the Waste Hook Truck and Trailer were reclassified to Plant and Equipment with budgets totalling \$625k. Street Litter Bins with a budget of \$300k were reclassified to Fixtures. The Construction of Cell 4 Bairnsdale Landfill was delayed and was under budget by \$916k with these works to be completed in the 2021/22 year.
12	Parks, open space and streetscapes - \$5.429M less than budget	Lakes Entrance Marine Parade Project was delayed and was underbudget by \$800k with the works to be completed in 2021/22. A number of Playground renewal projects were delayed and underbudget by \$120k. Likewise there were a number of park upgrades that were also delayed and were underspent by \$543k, the largest being Orbost Forest Park - underspent by \$256k. The Eagle Point Foreshore Hub project with a budget of \$623k was reclassified as Buildings at year end. The Bullock Island Masterplan Implementation Project with a budget of \$2M was reclassified to Buildings at year end. Davison Oval Skatepark Upgrade with a budget of \$375k was reclassified as Recreation and the Lakes Entrance Streetscape Pavement Improvements with a budget of \$1.587M was reclassified to footpaths at year end. There were also a number of smaller projects that were reclassified to other asset classes at year end.
13	Aerodromes - \$158k less than budget	Both the Bairnsdale Runway Project and the Orbost Aerodrome Lighting and Fencing Projects with budgets totalling \$337k were reclassified to Other Infrastructure at year end. Offsetting this was the reclassification from Roads to Aerodromes of actual expenditure of \$179k.
14	Off Street car parks - \$575k less than budget	Off Street Car parks budgets of \$685k for Cann River and Newmerralla Roadside Rest areas were reclassified as Roads at year end. This was offset projects that were classified in other asset categories at budget adoption but reclassified to Carpark at year end. The most significant project was Lake Tyers Beach Road with expenditure of \$101k.
15	Other infrastructure - \$2.252M less than budget	Jemmy Point Lookout Infrastructure project is delayed and will be completed in 2021/22 and was under budget by \$376k. Mallacoota Seawall Project was reclassified to Recreation and had a budget of \$1.406M. Lakes Entrance Seawall Reconstruction Stage 2 was delayed and will be completed in 2021/22 and was under budget by \$470K. Slip Road Maritime Precinct - Paynesville, with a budget of \$600k, was reclassified as Recreation. These were partly offset by projects that were reclassified to Other Infrastructure at year end. These projects included the Livestock Sheep Pen Renewal \$439K and Orbost Aerodrome Lighting and Fencing \$216k.
16	New asset expenditure - \$7.567M less than budget	A number of projects included in the adopted budget were delayed and will now be completed in the 2021/22 year. These projects included the Omeo Mountain Bike Trails - Stage 2 \$1.716M, WORLD Sporting Precinct Stage 1 - \$1.662M, Gymnastics Pavillion Lucknow Recreation Reserve \$721k, Eagle Point Hub \$250k, Construction of Cell 4 Bairnsdale Landfill \$916k, Cann River Waste Transfer Station \$100k, Storage Unit Giles Street \$146k and the Great Alpine Road Footpath \$166k. There were also a number of projects where the budget was included in New Assets but the actual expenditure has been reclassified as either Renewal or Upgrade. The most significant of these budgets were Cann River and Newmerralla Roadside Rest Areas \$685k and Slip Road Maritime Precinct Paynesville \$600k.

Note 1 Performance against Budget (cont'd)

(i) Explanation of material variations

Variance Ref	Item	Explanation
17	Asset renewal expenditure - \$21.169M less than budget	A number of projects included in the adopted budget were delayed and some others re-priorised and will be completed in the 2021/22 year. These projects included the Lakes Entrance Transfer Station upgrade \$1.020M, various road construction projects \$3.046M, Mallacoota Seawall \$1.087M, Bullock Island Bridge \$616k, Genoa Rest Area \$396k, WORLD Sporting Precinct \$1.929M and Information Technology projects \$3.104M. There were also several bridge replacements for 2019/20 bushfire destroyed bridges that were completed in 2019/20 and were therefore a budget savings of \$429k. The Tarbuck Road Bridge construction was delayed and will be completed in 2021/22 with a budget variance of \$450k. There were a number of projects where the budget was classified as Renewal but the expenditure has been reclassified as New or Upgrade. The most significant variances from budget as a result of the reclassification are Lucknow Recreation Reserve \$1.8M, Davison Oval Skatepark \$400k, Gully Road Drainage Works Lake Tyers Beach \$611k and Lakes Entrance Streetscape Improvements \$1.597M. There were also a number of projects that had expenditure less than budget including the Building Renewal Program which was under budget by \$907k as a result of expenditure being transferred to operating. The renewal of Plant and Vehicles was also less than budget by \$1.740M as a result of delays in the replacement of plant and vehicles and will be completed in 2021/22.
18	Asset upgrade expenditure - \$749k less than budget	There were a number of projects classified as upgrades in the adopted budget but the expenditure for the year has been classified as either New or Renewal. The most significant of these variances are Lakes Entrance Transfer Station Upgrade \$734k, Dust Suppression Seal program \$650k, Jemmy Point Lookout Infrastructure \$400k, Renewal and Upgrade to Corporate Systems \$450k, Orbost Aerodrome Lighting and Fencing \$237k, Lakes Entrance Marine Parade Upgrade \$800k and Bullock Island Masterplan Implementation \$2M. The Lucknow Recreation Reserve Upgrade was budgeted to be renewal and upgrade but all of the expenditure has been classified as upgrade which exceeded the budget of \$400k for upgrade by \$1.805M. The Lakes Entrance Streetscape and Pavement Improvements was budgeted as renewal but the expenditure of \$708k has been classified as upgrade. There were several other projects where the expenditure was classified as upgrade but the budget had been classified as New or Renewal. The most significant of these projects and the expenditure classified as upgrade were Fernbank Glenaladale Road Widening \$455K, Davison Oval Skatepark upgrade \$539K McMillan Street Lucknow \$485k, and Slip Road Maritime Precinct - Paynesville \$361k.

Note 2 Analysis of Council results by program

Council delivers its functions and activities through the following programs.

2 (a) Office of the CEO

Activities associated with municipal governance including the Chief Executive Officer.

Business Excellence

Activities associated with financial management, rate collection, risk management, valuations, information services and human resources, procurement, the cost of Councillors, corporate planning, customer service, communications, governance administration and property services.

Place and Community

Activities associated with building control, environmental health and community laws, immunisations, strategic and statutory planning, economic development and tourism, commercial business operations, emergency management, family and childrens services, aged services, community planning and development, libraries, Forege Theatre and recreational facilities.

Assets and Environment

Activities associated with roads, bridges, drainage, signs, footpaths and street sweeping, parks and reserves, tree management, playgrounds, public toilets, waste and environmental management, asset management, capital works program, fleet and plant management.

Bushfire Recovery

Activities associated with providing support and assistance to the community in recovering from the 2019/20 bushfires.

Unattributed

Where expenditure was not able to be identified as a specific activity cost, such as loan interest associated with a Private Street Scheme, it has been included in this category. The income that is shown in unattributable is the surplus over the costs shown for each category of activity with the net result equal to the surplus for the year.

2 (b) Summary of revenues, expenses, assets and capital expenses by program

	Income	Expenses	Surplus/(Deficit)	Grants included in income	Total assets
	\$'000	\$'000	\$'000	\$'000	\$'000
2021					
Office of the CEO	704	704	-	-	-
Business Excellence	16,595	16,595	-	2,401	8,119
Place and Community	18,001	18,001	-	999	61,470
Assets and Environment	71,787	71,787		18,041	1,290,392
Bushfire Recovery	5,940	5,940	-	3,733	-
Unattributed	20,377	860	19,517	11,115	-
	133,404	113,887	19,517	36,289	1,359,981

	Income	Expenses	Surplus/(Deficit)	Grants included in income	Total assets
	\$'000	\$'000	\$'000	\$'000	\$'000
2020					
Office of the CEO	699	699	-	-	-
Business Excellence	14,050	14,050	-	51	7,803
Place and Community	24,036	24,036	-	1,867	56,736
Assets and Environment	63,642	63,642	-	15,529	1,147,145
Bushfire Recovery	4,019	1,009	3,010	4,010	-
Unattributed	18,658	2,992	15,666	17,418	-
	125,104	106,428	18,676	38,875	1,211,684

Note 3 Funding for the delivery of our services	2021	2020
3.1 Rates and charges	\$'000	\$'000

Council uses capital improved value (CIV) as the basis of valuation of all properties within the municipal district. The CIV of a property is the value of the land and all of its improvements.

The valuation base used to calculate general rates for 2020/21 was \$8,471 million (2019/20 \$8,133 million). Commercial/Industrial rates was \$990 million (2019/20 \$995 million) and Farm rates was \$1,511 million (2019/20 \$1,412 million). The 2020/21 rate in the CIV dollar for General rates was 0.00392622 (2019/20 0.0040361), Commercial/Industrial rates was 0.00569302 (2019/20 0.00577169) and Farm rates was 0.00314098 (2019/20 0.00332982).

General rates	43,641	43,272
Municipal charge	7,106	7,042
Waste management charge	8,001	7,779
Supplementary rates and rate adjustments	1,337	451
Interest on rates and charges	320	131
Revenue in lieu of rates	131	170
Total rates and charges	60,536	58,845

The date of the latest general revaluation of land for rating purposes within the municipal district was 1 January 2020, and the valuation was first applied in the rating year commencing 1 July 2020

Annual rates and charges are recognised as revenues when Council issues annual rates notices. Supplementary rates are recognised when a valuation and reassessment is completed and a supplementary rates notice issued.

3.2 Statutory fees and fines

Infringements and costs	131	130
Application Registration Fees	250	369
Animal Registrations	453	434
Town planning fees	885	753
Land information certificates	160	96
Permits	77	69
Other	264	232
Total statutory fees and fines	2,220	2,083

Statutory fees and fines (including parking fees and fines) are recognised as revenue when the service has been provided, the payment is received, or when the penalty has been applied, whichever first occurs.

3.3 User fees

Aged and health services	22	28
Leisure centre and recreation	1,248	2,015
Raymond Island Ferry	280	181
Arts and Culture	70	140
Caravan Parks	2,578	1,125
Saleyards	781	895
Marinas	1,119	1,090
Child care/children's programs	79	197
Tourism	46	96
Building services	74	78
Waste management services	6,267	13,444
Other fees and charges	120	231
Total user fees	12,684	19,520

User fees by timing of revenue recognition

User fees recognised over time	1,935	2,224
User fees recognised at a point in time	10,749	17,296
Total user fees	12,684	19,520

User fees are recognised as revenue at a point in time, or over time, when (or as) the performance obligation is satisfied. Recognition is based on the underlying contractual terms.

3.4 Funding from other levels of government	2021	2020
	\$'000	\$'000
Grants were received in respect of the following :		
Summary of grants		
Commonwealth funded grants	25,533	25,016
State funded grants	10,692	13,503
Other	64	356
Total grants received	36,289	38,875
(a) Operating Grants		
Recurrent - Commonwealth Government		
Financial Assistance Grants	15,811	15,895
Aged Services	44	43
Recurrent - State Government		
Arts and Culture	100	100
Asset Maintenance	260	89
Community Development	149	215
Community Laws	97	99
Emergency Management	192	165
Environmental Management	94	97
Libraries	361	352
Parks and Gardens	7	2
Public Health	37	39
Recurrent - Other		
Environmental Sustainability	22	18
Total recurrent operating grants	17,174	17,114
Non-recurrent - Commonwealth Government		
Community Development	679	91
Bushfire Recovery	250	1,117
Economic Development	65	-
Environmental Management	50	-
Recreational, Leisure and Community Facilities	5	-
Non-recurrent - State Government		
Community Development	95	35
Arts and Culture	16	-
Economic Development	659	527
Drought assistance	-	1,510
Bushfire Recovery	3,118	7,671
Emergency Management	85	-
Libraries	15	-
Environmental Sustainability	-	8
Environmental Management	4	-
Work for Victoria	2,007	-
Roads	15	-
Recreational, Leisure and Community Facilities	106	28
Waste	10	-
Non-recurrent - Other		
Environmental Management	2	6
Community Development	2	2
Economic Development	29	-
Arts and Culture	5	-
Libraries	-	7
Recreational, Leisure and Community Facilities	-	27
Total non-recurrent operating grants	7,217	11,029
Total operating grants	24,391	28,143

3.4 Funding from other levels of government (cont'd)		
	2021	2020
	\$'000	\$'000
(b) Capital Grants		
<i>Recurrent - Commonwealth Government</i>		
Roads to recovery	3,803	5,195
<i>Recurrent - State Government</i>		
Recreational, Leisure and Community Facilities	9	9
Total recurrent capital grants	3,812	5,204
<i>Non-recurrent - Commonwealth Government</i>		
Buildings	374	813
Bridges	1,801	350
Aerodrome	111	-
Footpath and Cycleways	400	494
Other Infrastructure	182	483
Parks, Open Space and Streetscapes	57	-
Recreational, Leisure and Community Facilities	261	300
Roads	1,640	235
<i>Non-recurrent - State Government</i>		
Buildings	24	333
Other Infrastructure	20	194
Parks, Open Space and Streetscapes	152	405
Recreational, Leisure and Community Facilities	1,696	73
Governance	100	-
Waste Management	28	-
Roads	1,218	1,321
Footpath and Cycleways	18	231
<i>Non-recurrent - Other</i>		
Other Infrastructure	-	24
Plant and Equipment	-	22
Drainage	-	250
Other	4	-
Total non-recurrent capital grants	8,086	5,528
Total capital grants	11,898	10,732
(c) Unspent grants received on condition that they be spent in a specific manner		
<i>Operating</i>		
Balance at start of year	7,711	1,626
Received during the financial year and remained unspent at balance date	3,960	7,183
Received in prior years and spent during the financial year	(4,703)	(950)
Transition application of AASB15 from 18/19	-	(148)
Balance at year end	6,968	7,711
<i>Capital</i>		
Balance at start of year	-	2,212
Received in prior years and spent during the financial year	-	(871)
Transition application of AASB58 from 18/19	-	(1,341)
Balance at year end	-	-

Grant income is recognised at the point in time when the council satisfies its performance obligations as specified in the underlying agreement.

	2021 \$'000	2020 \$'000
3.5 Contributions		
Monetary	58	90
Non-monetary	6,077	1,593
Total contributions	6,135	1,683
<i>Contributions of non monetary assets were received in relation to the following asset classes.</i>		
Land	1,949	-
Buildings	-	153
Roads	2,079	1,013
Drainage	1,152	-
Off Street Car Park	334	-
Footpath	563	-
Other infrastructure	-	265
Other	-	162
Total non-monetary contributions	6,077	1,593

Monetary and non monetary contributions are recognised as revenue when Council obtains control over the contributed asset.

3.6 Net gain/(loss) on disposal of property, infrastructure, plant and equipment

Proceeds of sale	933	412
Written down value of assets disposed	(997)	(353)
Total net gain/(loss) on disposal of property, infrastructure, plant and equipment	(64)	59

The profit or loss on sale of an asset is determined when control of the asset has passed to the buyer.

3.7 Other income

Interest	499	969
Investment property rental	942	803
Reimbursements - Other	2,366	1,017
Reimbursements - Natural Disasters	11,438	1,115
Other	117	194
Total other income	15,362	4,098

Interest is recognised as it is earned.

Other income is measured at the fair value of the consideration received or receivable and is recognised when Council gains control over the right to receive the income.

Note 4 The cost of delivering services

4.1 (a) Employee costs

Wages and salaries	27,002	23,408
WorkCover	1,180	1,191
Casual staff	2,580	3,071
Superannuation	2,792	2,482
Fringe benefits tax	143	101
Total employee costs	33,697	30,253

(b) Superannuation

Council made contributions to the following funds:

Defined benefit fund

Employer contributions to Local Authorities Superannuation Fund (Vision Super)	27	27
	27	27

Accumulation funds

Employer contributions to Local Authorities Superannuation Fund (Vision Super)	1,431	1,351
Employer contributions - other funds	1,334	1,104
	2,765	2,455

Employer contributions payable at reporting date.	145	114
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Refer to note 9.3 for further information relating to Council's superannuation obligations.

East Gippsland Shire Council
2020/2021 Financial Report

Notes to the Financial Report
For the Year Ended 30 June 2021

4.2 Materials and services	2021 \$'000	2020 \$'000
- Bridge Maintenance	142	292
- Road maintenance	17,666	8,402
- Road and Bridge design	60	135
- Vegetation management	1,207	950
- Ferry maintenance	142	122
- Aerodrome Operations and maintenance	92	40
- Building maintenance	131	24
- Ferry service	520	517
- Waste collection	3,938	3,827
- Waste Management	891	946
- Animal pound services	241	225
- Courier services	86	87
- Cleaning	995	919
- Other	87	192
Total Contractors	26,198	16,678
Building maintenance	313	843
General maintenance	11,089	15,041
Utilities	2,042	2,077
Office administration	1,105	770
Information technology	2,053	1,967
Insurance	1,141	926
Consultants	1,750	1,565
Contributions	3,466	4,565
Total materials and services	49,157	44,432
 4.3 Depreciation		
Property	3,449	3,417
Plant and equipment	3,278	3,153
Infrastructure	14,842	14,218
Total depreciation	21,569	20,788
<i>Refer to note 5.2(b), 5.8 and 6.1 for a more detailed breakdown of depreciation and amortisation charges and accounting policy.</i>		
 4.4 Amortisation - Intangible assets		
Software	77	156
Landfill Airspace	900	446
Total Amortisation - Intangible assets	977	602
 4.5 Amortisation - Right of use assets		
Property	70	70
Plant and Equipment	14	3
Total Amortisation - Right of use assets	84	73
 4.6 Bad and doubtful debts		
Parking fine debtors	6	32
Animal fine debtors	17	97
Rates debtors	32	24
Other debtors	(3)	(3)
Total bad and doubtful debts	52	150
 Movement in provisions for doubtful debts		
Balance at the beginning of the year	988	844
New provisions recognised during the year	52	150
Amounts already provided for and written off as uncollectible	(24)	(2)
Amounts provided for but recovered during the year	-	(4)
Balance at end of year	1,016	988

Provision for doubtful debt is recognised based on an expected credit loss model. This model considers both historic and forward looking information in determining the level of impairment.

4.7 Borrowing costs	2021	2020
	\$'000	\$'000
Interest - Borrowings	290	300
Total borrowing costs	290	300

Borrowing costs are recognised as an expense in the period in which they are incurred, except where they are capitalised as part of a qualifying asset constructed by Council.

4.8 Finance Costs - Leases

Interest - Lease Liabilities	17	6
Total finance costs	17	6

4.9 Other expenses

Auditors' remuneration - VAGO - audit of the financial statements, performance statement and grant acquittals	40	45
Auditors' remuneration - Internal	56	36
Councillors' allowances	330	387
Operating lease rentals	394	117
Memberships/Subscriptions	255	166
Bank fees and charges	201	183
Legal fees	774	354
Assets written-off -Buildings	950	476
Assets written-off -Bridges	3,035	3,934
Assets written-off -Roads	2,426	1,519
Assets written-off -Open Space	-	801
Assets written-off -Others	215	458
Others	50	12
Total other expenses	8,726	8,488

Note 5 Our financial position

5.1 Financial assets

(a) Cash and cash equivalents

Cash on hand	12	13
Cash at bank	87,162	120
Term deposits	5,024	35,004
Total cash and cash equivalents	92,198	35,137

(b) Other financial assets

Term deposits - current	-	33,500
Total other financial assets	-	33,500
Total financial assets	92,198	68,637

Council's cash and cash equivalents are subject to external restrictions that limit amounts available for discretionary use. These include:

- Trust funds and deposits (Note 5.3(b))	2,835	2,799
- Unexpended grants (Note 3.4(c))	6,968	7,711
- Non-Discretionary Reserves (Note 9.1(b))	1,120	1,062
	10,923	11,572
Total unrestricted cash and cash equivalents	81,275	23,565

Intended allocations

Although not externally restricted the following amounts have been allocated for specific future purposes by Council:

- Cash held to fund carried forward capital works	26,097	11,219
- Cash held to fund carried forward landfill rehabilitation projects	719	2,128
- Tambo Bluff Estate	394	401
- Water transport replacement reserve	2,300	2,000
- Orbost Landfill Discretionary Reserve Bushfire 2019/20	9,626	7,662
Total funds subject to intended allocations	39,136	23,410

Cash and cash equivalents include cash on hand, deposits at call, and other highly liquid investments with original maturities of three months or less, net of outstanding bank overdrafts.

Other financial assets are valued at fair value, at balance date. Term deposits are measured at original cost. Any unrealised gains and losses on holdings at balance date are recognised as either a revenue or expense.

	2021	2020
	\$'000	\$'000
(c) Trade and other receivables		
Current		
Rates debtors	3,936	4,406
Special rate assessment	662	862
Infringement debtors	792	768
Provision for doubtful debts - infringements	(960)	(909)
GST Receivable	874	894
Non statutory receivables		
Other debtors	5,745	6,292
Provision for doubtful debts - other debtors	(56)	(79)
Total current trade and other receivables	10,993	12,234
Non-current		
Statutory receivables		
Special rate scheme	241	410
Total non-current trade and other receivables	241	410
Total trade and other receivables	11,234	12,644

Short term receivables are carried at invoice amount. A provision for doubtful debts is recognised when there is objective evidence that an impairment has occurred. Long term receivables are carried at amortised cost using the effective interest rate method.

(d) Ageing of Receivables

The ageing of the Council's trade and other receivables (excluding statutory receivables) that are not impaired was:

Current (not yet due)	5,447	6,013
Past due by up to 30 days	142	118
Past due between 31 and 180 days	42	43
Past due between 181 and 365 days	29	37
Past due by more than 1 year	29	2
Total trade and other receivables	5,689	6,213

(e) Ageing of individually impaired Receivables

At balance date, other debtors representing financial assets with a nominal value of \$56,000 (2020: \$79,000) were impaired. The amount of the provision raised against these debtors was \$56,000 (2020: \$79,000). They individually have been impaired as a result of their doubtful collection. Many of the long outstanding past due amounts have been lodged with Council's debt collectors or are on payment arrangements.

The ageing of receivables that have been individually determined as impaired at reporting date was:

Past due by more than 1 year	56	79
Total trade & other receivables	56	79

5.2 Non-financial assets	2021	2020	
(a) Other assets	\$'000	\$'000	
Prepayments	946	828	
Accrued income	5,219	3,904	
Grant income receivable	1,529	2,508	
Other	32	121	
Total other assets	7,726	7,361	
(b) Intangible assets			
Software	528	502	
Landfill air space	1,354	2,254	
Total intangible assets	1,882	2,756	
	Software	Landfill	Total
	\$'000	\$'000	\$'000
Gross carrying amount			
Balance at 1 July 2020	1,936	4,854	6,790
Additions from internal developments	-	-	-
Other additions	104	-	104
Balance at 30 June 2021	2,040	4,854	6,894
Accumulated amortisation and impairment			
Balance at 1 July 2020	1,434	2,600	4,034
Amortisation expense	78	900	978
Balance at 30 June 2021	1,512	3,500	5,012
Net book value at 30 June 2020	502	2,254	2,756
Net book value at 30 June 2021	528	1,354	1,882

Intangible assets with finite lives are amortised as an expense on a systematic basis over the asset's useful life. Amortisation is generally calculated on a straight line basis, at a rate that allocates the asset value, less any estimated residual value over its estimated useful life. Estimates of the remaining useful lives and amortisation method are reviewed at least annually, and adjustments made where appropriate.

	2021	2020
5.3 Payables	\$'000	\$'000
(a) Trade and other payables		
Trade payables	8,204	8,213
Accrued expenses	1,270	1,782
Total trade and other payables	9,474	9,995
(b) Trust funds and deposits		
Refundable deposits	2,248	2,028
Fire services levy	233	336
Retention amounts	354	433
Other refundable deposits	-	2
Total trust funds and deposits	2,835	2,799
(c) Unearned income		
Grants received in advance - operating	35	781
Grants received in advance - capital	20,516	1,573
Caravan Park and other	243	383
Prepaid Marina Income	183	215
Total unearned income	20,977	2,952
(c) Unearned income - Non Current		
Prepaid Marina Income	383	527
	383	527

Amounts received as deposits and retention amounts controlled by Council are recognised as trust funds until they are returned, transferred in accordance with the purpose of the receipt, or forfeited. Trust funds that are forfeited, resulting in council gaining control of the funds, are to be recognised as revenue at the time of forfeit.

Purpose and nature of items

Refundable deposits - Deposits are taken by Council as a form of surety in a number of circumstances, including contract deposits and the use of civic facilities. Refundable deposits also include other monies received by Council in excess of amounts due to be paid and will either be returned or transferred in accordance with the purpose of the receipt.

Fire Service Levy - Council is the collection agent for fire services levy on behalf of the State Government. Council remits amounts received on a quarterly basis. Amounts disclosed here will be remitted to the state government in line with that process.

Retention Amounts - Council has a contractual right to retain certain amounts until a contractor has met certain requirements or a related warrant or defect period has elapsed. Subject to the satisfactory completion of the contractual obligations, or the elapsing of time, these amounts will be paid to the relevant contractor in line with Council's contractual obligations.

5.4 Interest-bearing liabilities	2021 \$'000	2020 \$'000
Current		
Borrowings - secured	1,700	-
	<u>1,700</u>	<u>-</u>
Non-current		
Borrowings - secured	1,650	3,350
	<u>1,650</u>	<u>3,350</u>
Total	<u>3,350</u>	<u>3,350</u>

Borrowings are secured by mortgages over the general rates of Council.

(a) The maturity profile for Council's borrowings is:

Not later than one year	1,700	-
Later than one year and not later than five years	-	1,700
Later than five years	1,650	1,650
	<u>3,350</u>	<u>3,350</u>

Borrowings are initially measured at fair value, being the cost of the interest bearing liabilities, net of transaction costs. The measurement basis subsequent to initial recognition depends on whether the Council has categorised its interest-bearing liabilities as either financial liabilities designated at fair value through the profit and loss, or financial liabilities at amortised cost. Any difference between the initial recognised amount and the redemption value is recognised in net result over the period of the borrowing using the effective interest method.

The classification depends on the nature and purpose of the interest bearing liabilities. The Council determines the classification of its interest bearing liabilities at initial recognition.

5.5 Provisions

	Employee \$ '000	Landfill restoration \$ '000	Native Vegetation \$ '000	Total \$ '000
2021				
Balance at beginning of the financial year	6,717	15,040	211	21,968
Additional provisions	951	(186)	1	766
Amounts used	(460)	(2,502)	(20)	(2,982)
Change in the discounted amount arising because of time and the effect of any change in the discount rate	(204)	(560)	-	(764)
Balance at the end of the financial year	7,004	11,792	192	18,988

2020				
Balance at beginning of the financial year	6,122	11,763	220	18,105
Additional provisions	925	3,380	10	4,315
Amounts used	(497)	(818)	(19)	(1,334)
Change in the discounted amount arising because of time and the effect of any change in the discount rate	167	715	-	882
Balance at the end of the financial year	6,717	15,040	211	21,968

	2021 \$'000	2020 \$'000
(a) Employee provisions		
Current provisions expected to be wholly settled within 12 months		
Annual leave	2,367	2,105
Long service leave	362	365
	<u>2,729</u>	<u>2,470</u>
Current provisions expected to be wholly settled after 12 months		
Annual leave	359	240
Long service leave	3,261	3,282
	<u>3,620</u>	<u>3,522</u>
Total current employee provisions	6,349	5,992
Non-current		
Long service leave	655	725
Total non-current employee provisions	655	725
Aggregate carrying amount of employee provisions:		
Current	6,349	5,992
Non-current	655	725
Total aggregate carrying amount of employee provisions	7,004	6,717

The calculation of employee costs and benefits includes all relevant on-costs and are calculated as follows at reporting date.

Wages and salaries and annual leave

Liabilities for wages and salaries, including non-monetary benefits, annual leave and accumulated sick leave expected to be wholly settled within 12 months of the reporting date are recognised in the provision for employee benefits in respect of employee services up to the reporting date, classified as current liabilities and measured at their nominal values.

Liabilities that are not expected to be wholly settled within 12 months of the reporting date are recognised in the provision for employee benefits as current liabilities, measured at the present value of the amounts expected to be paid when the liabilities are settled using the remuneration rate expected to apply at the time of settlement.

Long service leave

Liability for long service leave (LSL) is recognised in the provision for employee benefits. LSL is measured at present value. Unconditional LSL is disclosed as a current liability. Conditional LSL that has been accrued, where an employee is yet to reach a qualifying term of employment, is disclosed as a non - current liability.

Key assumptions:

- discount rate	0.88%	0.57%
- inflation rate	1.50%	2.00%
- settlement period	12 years	12 years

	2021	2020
	\$'000	\$'000
(b) Landfill restoration provisions		
Current	3,222	3,819
Non-current	8,570	11,221
	11,792	15,040

Council is obligated to restore landfill sites to a particular standard. The forecast life of the site is based on current estimates of remaining capacity and the forecast rate of infill. The provision for landfill restoration has been calculated based on the present value of the expected cost of works to be undertaken. The expected cost of works has been estimated based on current understanding of work required to reinstate the site to a suitable standard. Accordingly, the estimation of the provision required is dependent on the accuracy of the forecast timing of the work, work required and related costs.

Key assumptions:

- discount rate	0.013%	0.81%
- inflation rate	2.00%	2.00%
- settlement period	30 years	30 years

(c) Native Vegetation Offset provision

Non-current	192	211
	192	211
Total Current	9,571	9,811
Total Non-current	9,417	12,157
Total Provisions	18,988	21,968

5.6 Financing arrangements

The Council has the following funding arrangements in place as at 30 June 2021

Bank overdraft	1,500	1,500
Credit card facilities	300	300
Borrowings	6,655	3,350
Total facilities	8,455	5,150
Used facilities	3,386	3,371
Unused facilities	5,069	1,779
Total facilities	8,455	5,150

5.7 Commitments

The Council has entered into the following commitments. Commitments are not recognised in the Balance Sheet. Commitments are disclosed at their nominal value and presented inclusive of the GST payable.

	Not later than 1 year	Later than 1 year and not later than 2 years	Later than 2 years and not later than 5 years	Later than 5 years	Total
	\$'000	\$'000	\$'000	\$'000	\$'000
2021					
Operating					
Cleaning	127	-	-	-	127
Ferry Operations/Maintenance	504	39	-	-	543
Road Infrastructure Maintenance	600	600	1,255	-	2,455
Waste Management	3,317	3,185	5,096	-	11,598
Other Service Contracts	568	436	527	-	1,531
Total	5,116	4,260	6,878	-	16,254
Capital					
Buildings	552	-	-	-	552
Roads	3,850	-	-	-	3,850
Bridges	3,384	-	-	-	3,384
Recreation	5,216	-	-	-	5,216
Waste	4,292	-	-	-	4,292
Other	1,010	-	-	-	1,010
Total	18,304	-	-	-	18,304
2020					
Operating					
Cleaning	1,067	129	-	-	1,196
Ferry Operations/Maintenance	542	504	41	-	1,087
Road Infrastructure Maintenance	3,220	590	1,769	49	5,628
Waste Management	3,317	3,183	8,147	-	14,647
Other Service Contracts	873	523	980	-	2,376
Total	9,019	4,929	10,937	49	24,934
Capital					
Buildings	131	-	-	-	131
Roads	2,221	-	-	-	2,221
Bridges	2,337	-	-	-	2,337
Drainage	2,751	-	-	-	2,751
Other	2,739	-	-	-	2,739
Total	10,179	-	-	-	10,179

5.8 Leases

At inception of a contract, all entities would assess whether a contract is, or contains, a lease. A contract is, or contains, a lease if the contract conveys the right to control the use of an identified asset for a period of time in exchange for consideration. To identify whether a contract conveys the right to control the use of an identified asset, it is necessary to assess whether:

- The contract involves the use of an identified asset;
- The customer has the right to obtain substantially all of the economic benefits from use of the asset throughout the period of use; and
- The customer has the right to direct the use of the asset.

This policy is applied to contracts entered into, or changed, on or after 1 July 2019.

As a lessee, Council recognises a right-of-use asset and a lease liability at the lease commencement date. The right-of-use asset is initially measured at cost which comprises the initial amount of the lease liability adjusted for:

- any lease payments made at or before the commencement date less any lease incentives received; plus
- any initial direct costs incurred; and
- an estimate of costs to dismantle and remove the underlying asset or to restore the underlying asset or the site on which it is located.

The right-of-use asset is subsequently depreciated using the straight-line method from the commencement date to the earlier of the end of the useful life of the right-of-use asset or the end of the lease term. The estimated useful lives of right-of-use assets are determined on the same basis as those of property, plant and equipment. In addition, the right-of-use asset is periodically reduced by impairment losses, if any, and adjusted for certain measurements of the lease liability.

The lease liability is initially measured at the present value of the lease payments that are not paid at the commencement date, discounted using the interest rate implicit in the lease or, if that rate cannot be readily determined, an appropriate incremental borrowing rate. Generally, Council uses an appropriate incremental borrowing rate as the discount rate.

Lease payments included in the measurement of the lease liability comprise the following:

- Fixed payments
- Variable lease payments that depend on an index or a rate, initially measured using the index or rate as at the commencement date;
- Amounts expected to be payable under a residual value guarantee; and
- The exercise price under a purchase option that Council is reasonably certain to exercise, lease payments in an optional renewal period if Council is reasonably certain to exercise an extension option, and penalties for early termination of a lease unless Council is reasonably certain not to terminate early.

When the lease liability is remeasured in this way, a corresponding adjustment is made to the carrying amount of the right-of-use asset, or is recorded in profit or loss if the carrying amount of the right-of-use asset has been reduced to zero.

Council has elected to apply the temporary option available under AASB 16 Leases which allows not-for-profit entities to not measure right-of-use assets at initial recognition at fair value in respect of leases that have significantly below-market terms.

- Nature and term of leases such as any qualitative information about restrictions on use of asset, information about lease term, description of underlying assets.

Right-of-Use Assets	Property \$'000	Equipment \$'000	Total \$'000
Balance at 1 July 2019	914	-	914
Additions	-	28	28
Amortisation charge	(70)	(3)	(73)
Balance at 30 June 2020	844	25	869
Balance at 1 July 2020	844	25	869
Additions	-	-	-
Amortisation charge	(70)	(14)	(84)
Balance at 30 June 2021	774	11	785

Lease Liabilities	2021 \$'000	2020 \$'000
Maturity analysis - contractual undiscounted cash flows		
Less than one year	77	79
One to five years	288	294
More than five years	673	717
Total undiscounted lease liabilities as at 30 June:	1,038	1,090

Lease liabilities included in the Balance Sheet at 30 June:

Current	62	72
Non-current	759	809
Total lease liabilities	821	881

Short-term and low value leases

Council has elected not to recognise right-of-use assets and lease liabilities for short-term leases of machinery that have a lease term of 12 months or less and leases of low-value assets (individual assets worth less than existing capitalisation thresholds for a like asset up to a maximum of AUD\$10,000), including IT equipment. Council recognises the lease payments associated with these leases as an expense on a straight-line basis over the lease term.

Expenses relating to:	\$'000	\$'000
Short-term leases	362	65
Leases of low value assets	28	16
Total	390	81
Variable lease payments (not included in measurement of lease liabilities)	Nil	Nil

Non-cancellable lease commitments - Short-term and low-value leases

Commitments for minimum lease payments for short-term and low-value leases are payable as follows:

Payable:

Within one year	40	103
Later than one year but not later than five years	35	15
Later than five years	40	41
Total lease commitments	115	159

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6.1 Property, infrastructure, plant and equipment

Summary of property, infrastructure, plant and equipment

	At Fair Value 30 June 2020	Additions	Contributions	Revaluation	Depreciation	Disposal	Write-off	Transfers	At Fair Value 30 June 2021
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Property	244,430	4,654	1,949	20,304	(3,449)	(786)	(951)	-	266,151
Plant and equipment	14,628	3,162	-	-	(3,279)	(211)	(30)	-	14,270
Infrastructure	838,440	30,871	4,128	94,120	(14,842)	-	(5,626)	-	947,091
Work in progress	13,215	35,250	-	-	-	-	(19)	(38,687)	9,759
	1,110,713	73,937	6,077	114,424	(21,570)	(997)	(6,626)	(38,687)	1,237,271

Summary of Work in Progress

	Opening WIP	Additions	Write-off	Transfers	Closing WIP
	\$'000	\$'000	\$'000	\$'000	\$'000
Property	1,362	4,524	(8)	(4,617)	1,261
Plant and equipment	96	3,159	-	(3,095)	160
Infrastructure	11,757	27,567	(11)	(30,975)	8,338
Total	13,215	35,250	(19)	(38,687)	9,759

(a) Property

	Land - specialised \$'000	Land - non specialised \$'000	Total Land & Land Improvements \$'000	Heritage buildings \$'000	Buildings - specialised \$'000	Total Buildings \$'000	Work In Progress \$'000	Total Property \$'000
At fair value 1 July 2020	124,925	3,168	128,093	17,095	167,681	184,776	1,362	314,231
Accumulated depreciation at 1 July 2020	-	-	-	(8,547)	(59,892)	(68,439)	-	(68,439)
	124,925	3,168	128,093	8,548	107,789	116,337	1,362	245,792
Movements in fair value								
Additions	82	-	82	-	4,572	4,572	4,524	9,178
Contributions	1,949	-	1,949	-	-	-	-	1,949
Revaluation	19,838	466	20,304	-	-	-	-	20,304
Disposal	(786)	-	(786)	-	-	-	-	(786)
Write-off	-	-	-	-	(2,861)	(2,861)	(8)	(2,869)
Transfers	-	-	-	-	-	-	(4,617)	(4,617)
	21,083	466	21,549	-	1,711	1,711	(101)	23,159
Movements in accumulated depreciation								
Depreciation and amortisation	-	-	-	(252)	(3,197)	(3,449)	-	(3,449)
Accumulated depreciation of disposals	-	-	-	-	1,910	1,910	-	1,910
	-	-	-	(252)	(1,287)	(1,539)	-	(1,539)
At fair value 30 June 2021	146,008	3,634	149,642	17,095	169,392	186,487	1,261	337,390
Accumulated depreciation at 30 June 2021	-	-	-	(8,799)	(61,179)	(69,978)	-	(69,978)
	146,008	3,634	149,642	8,296	108,213	116,509	1,261	267,412

(b) Plant and Equipment

	Plant machinery and equipment	Fixtures fittings and furniture	Computers and telecomms	Library books	Work In Progress	Total plant and equipment
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
At fair value 1 July 2020	21,385	9,695	4,872	4,894	96	40,942
Accumulated depreciation at 1 July 2020	(12,150)	(6,325)	(3,900)	(3,843)	-	(26,218)
	9,235	3,370	972	1,051	96	14,724
Movements in fair value						
Additions	1,812	843	296	211	3,159	6,321
Disposal	(797)	-	-	-	-	(797)
Write-off	-	(12)	(144)	-	-	(156)
Transfers	-	-	-	-	(3,095)	(3,095)
	1,015	831	152	211	64	2,273
Movements in accumulated depreciation						
Depreciation and amortisation	(1,897)	(690)	(408)	(284)	-	(3,279)
Accumulated depreciation of disposals	586	11	115	-	-	712
	(1,311)	(679)	(293)	(284)	-	(2,567)
At fair value 30 June 2021	22,400	10,526	5,024	5,105	160	43,215
Accumulated depreciation at 30 June 2021	(13,461)	(7,004)	(4,193)	(4,127)	-	(28,785)
	8,939	3,522	831	978	160	14,430

(c) Infrastructure

	Roads	Bridges	Footpaths and cycleways	Drainage	Recreational, leisure and community	Waste Management	Parks open spaces and streetscapes	Aerodromes	Off street car parks	Other Infrastructure	Work In Progress	Total Infrastructure
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
At fair value 1 July 2020	661,971	98,081	29,315	77,703	31,301	9,746	30,621	7,629	10,761	21,231	11,757	990,116
Accumulated depreciation at 1 July 2020	(81,791)	(8,234)	(4,889)	(18,188)	(11,619)	(3,628)	(4,247)	(286)	(1,410)	(5,627)	-	(139,919)
	580,180	89,847	24,426	59,515	19,682	6,118	26,374	7,343	9,351	15,604	11,757	850,197
Movements in fair value												
Additions	13,857	6,133	2,424	3,589	728	146	54	178	101	3,661	27,567	58,438
Contributions	2,079	-	563	1,152	-	-	-	-	334	-	-	4,128
Revaluation	73,745	9,690	3,061	8,674	3,258	917	3,378	870	1,155	2,258	-	107,006
Disposal	-	-	-	-	-	-	-	-	-	-	-	-
Write-off	(4,364)	(4,302)	(42)	-	-	-	-	-	(127)	(17)	(11)	(8,863)
Transfers	-	-	-	-	-	-	-	-	-	-	(30,975)	(30,975)
Impairment losses recognised in operating result	-	-	-	-	-	-	-	-	-	-	-	-
	85,317	11,521	6,006	13,415	3,986	1,063	3,432	1,048	1,463	5,902	(3,419)	129,734
Movements in accumulated depreciation												
Depreciation and amortisation	(9,630)	(1,150)	(505)	(760)	(650)	(687)	(442)	(89)	(224)	(705)	-	(14,842)
Revaluation	(7,336)	(572)	(471)	(1,944)	(1,213)	(298)	(400)	(15)	(119)	(518)	-	(12,886)
Accumulated depreciation of write-off	1,939	1,267	2	-	-	-	-	-	14	4	-	3,226
Transfers	-	-	-	-	-	-	-	-	-	-	-	-
	(15,027)	(455)	(974)	(2,704)	(1,863)	(985)	(842)	(104)	(329)	(1,219)	-	(24,502)
At fair value 30 June 2021	747,288	109,602	35,321	91,118	35,287	10,809	34,053	8,677	12,224	27,133	8,338	1,119,850
Accumulated depreciation at 30 June 2021	(96,818)	(8,689)	(5,863)	(20,892)	(13,482)	(4,613)	(5,089)	(390)	(1,739)	(6,846)	-	(164,421)
	650,470	100,913	29,458	70,226	21,805	6,196	28,964	8,287	10,485	20,287	8,338	955,429

6.1 Property, infrastructure, plant and equipment (cont'd)*Acquisition*

The purchase method of accounting is used for all acquisitions of assets, being the fair value of assets provided as consideration at the date of acquisition plus any incidental costs attributable to the acquisition. Fair value is the price that would be received to sell an asset (or paid to transfer a liability) in an orderly transaction between market participants at the measurement date.

Where assets are constructed by Council, cost includes all materials used in construction, direct labour, borrowing costs incurred during construction, and an appropriate share of directly attributable variable and fixed overheads.

In accordance with Council's policy, the threshold limits have applied when recognising assets within an applicable asset class and unless otherwise stated are consistent with the prior year.

	Depreciation Period	Threshold Limit \$'000
<i>Asset recognition thresholds and depreciation periods</i>		
Land & land improvements		
land	-	-
Buildings		
buildings	15-80 years	5
building and leasehold improvements	15-80 years	5
Plant and Equipment		
ferry equipment	40 years	1
plant, machinery and equipment	5-10 years	1
fixtures, fittings and furniture	10-20 years	1
computers and telecommunications	5-10 years	1
library books	5-10 years	1
Infrastructure		
road pavements and seals	18-80 years	5
road wearing course	15-60 years	5
road formation and earthworks	-	5
road kerb, channel and minor culverts	70 - 80 years	5
bridges	60-100 years	5
footpaths and cycleways	15-65 years	5
drainage	100 years	5
recreational, leisure and community facilities	15-60 years	5
aerodromes	15-80 years	5
waste management landfill cells	3 years	5
waste management infrastructure	60 years	5
parks, open space and streetscapes	20-40 years	5
Intangible assets	3-10 years	1

Land under roads

Council recognises land under roads it controls at fair value after 30 June 2008.

Depreciation and amortisation

Buildings, land improvements, plant and equipment, infrastructure, and other assets having limited useful lives are systematically depreciated over their useful lives to the Council in a manner which reflects consumption of the service potential embodied in those assets. Estimates of remaining useful lives and residual values are made on a regular basis with major asset classes reassessed annually. Depreciation rates and methods are reviewed annually.

Where assets have separate identifiable components that are subject to regular replacement, these components are assigned distinct useful lives and residual values and a separate depreciation rate is determined for each component.

Road earthworks are not depreciated on the basis that they are assessed as not having a limited useful life.

Straight line depreciation is charged based on the residual useful life as determined each year.

Depreciation periods used are listed above and are consistent with the prior year unless otherwise stated.

Repairs and maintenance

Where the repair relates to the replacement of a component of an asset and the cost exceeds the capitalisation threshold the cost is capitalised and depreciated. The carrying value of the replaced asset is expensed.

Leasehold improvements

Leasehold improvements are recognised at cost and are amortised over the unexpired period of the lease or the estimated useful life of the improvement, whichever is the shorter. At balance date there were no leasehold improvements.

6.1 Property, infrastructure, plant and equipment (cont'd)**Valuation of land and buildings**

Valuation of land and buildings were undertaken by a qualified independent valuer Todd Svanberg, Certified Practising Valuer CPV AAPI AM ASA, Director of JLL Public Sector Valuations Pty Ltd and Emily Villani RPV PMAPI, Valuer JLL Public Sector Valuations Pty Ltd. The valuation of land and buildings is at fair value, being market value based on highest and best use permitted by relevant land planning provisions. Where land use is restricted through existing planning provisions the valuation is reduced to reflect this limitation. This adjustment is an unobservable input in the valuation. The adjustment has no impact on the comprehensive income statement. An index based revaluation was conducted in the current year, this valuation was based on the Victoria Valuer-General's indices. A full revaluation of these assets will be conducted in 2022/23.

Specialised land is valued at fair value using site values adjusted for englobo (undeveloped and/or unserviced) characteristics, access rights and private interests of other parties and entitlements of infrastructure assets and services. This adjustment is an unobservable input in the valuation. The adjustment has no impact on the comprehensive income statement.

Any significant movements in the unobservable inputs for land and land under roads will have a significant impact on the fair value of these assets.

The date of the current valuation is detailed in the following table.

Details of the Council's land and buildings and information about the fair value hierarchy as at 30 June 2021 are as follows:

	Level 1	Level2	Level 3	Date of Valuation
Specialised Land	-	-	146,008	30/06/2021
Non Specialised land	-	3,634	-	30/06/2021
Heritage Buildings	-	-	8,296	30/06/2019
Buildings	-	-	108,213	30/06/2019
Total	-	3,634	262,517	

Valuation of infrastructure

Valuation of all infrastructure assets was undertaken by Council's engineering and asset management staff as at 31 December 2017.

The date of the current valuation is detailed in the following table. An index based revaluation was conducted in the current year, this valuation was based on Construction industries producer price indices for Victoria, a full revaluation of these assets will be conducted in 2021/22.

The valuation is at fair value based on replacement cost less accumulated depreciation as at the date of valuation.

Details of the Council's infrastructure and information about the fair value hierarchy as at 30 June 2021 are as follows:

	Level 1	Level2	Level 3	Date of Valuation
Roads	-	-	650,470	30/06/2021
Bridges	-	-	100,913	30/06/2021
Footpaths and cycleways	-	-	29,458	30/06/2021
Drainage	-	-	70,226	30/06/2021
Recreational, leisure and community facilities	-	-	21,805	30/06/2021
Waste management	-	-	6,196	30/06/2021
Parks, open space and streetscapes	-	-	28,964	30/06/2021
Aerodromes	-	-	8,287	30/06/2021
Off street car parks	-	-	10,485	30/06/2021
Other infrastructure	-	-	20,287	30/06/2021
Total	-	-	947,091	

6.1 Property, infrastructure, plant and equipment (cont'd)

Description of significant unobservable inputs into level 3 valuations

Specialised land and land under roads is valued using a market based direct comparison technique. Significant unobservable inputs include the extent and impact of restriction of use and the market cost of land per square metre. The extent and impact of restrictions on use varies and results in a reduction to surrounding land values between 0% and 90%. The market value of land varies significantly depending on the location of the land and the current market conditions. Currently land values range between \$0.02 and \$720 per square metre.

Specialised buildings are valued using a depreciated replacement cost technique. Significant unobservable inputs include the current replacement cost and remaining useful lives of buildings. Current replacement costs are calculated on a square metre basis and ranges from \$257 to \$8,442 per square metre. The remaining useful lives of buildings are determined on the basis of the current condition of buildings and vary from 30 years to 80 years. Replacement cost is sensitive to changes in market conditions, with any increase or decrease in cost flowing through to the valuation. Useful lives of buildings are sensitive to changes in expectations or requirements that could either shorten or extend the useful lives of buildings.

Infrastructure assets are valued based on the depreciated replacement cost. Significant unobservable inputs include the current replacement cost and remaining useful lives of infrastructure. The remaining useful lives of infrastructure assets are determined on the basis of the current condition of the asset and vary from 15 years to 100 years. Replacement cost is sensitive to changes in market conditions, with any increase or decrease in cost flowing through to the valuation. Useful lives of infrastructure are sensitive to changes in use, expectations or requirements that could either shorten or extend the useful lives of infrastructure assets.

	2021	2020
Reconciliation of specialised land	\$'000	\$'000
Land under roads	2,691	2,038
Parks and reserves	74,596	66,105
Recreation and Leisure	38,582	28,733
Residential Land	469	361
Commercial Land	480	480
Aerodrome Land	2,413	2,413
Community Services Land	4,940	4,739
Business Centre/Library Land	3,929	3,929
Caravan Park Land	2,380	2,377
Carpark Land	3,693	3,693
Depot Land	239	230
Quarry Reserve Land	155	155
Drainage Reserve Land	6,541	5,471
Saleyard and Pound Facility Land	731	731
Waste Management Land	3,852	3,209
Road Reserves	317	261
Total specialised land	146,008	124,925

	2021 \$'000	2020 \$'000
6.2 Investment property		
Balance at beginning of financial year	8,704	8,704
Fair value adjustments	178	-
Balance at end of financial year	8,882	8,704

Investment property is held to generate long-term rental yields. Investment property is measured initially at cost, including transaction costs. Costs incurred subsequent to initial acquisition are capitalised when it is probable that future economic benefit in excess of the originally assessed performance of the asset will flow to the Council. Subsequent to initial recognition at cost, investment property is carried at fair value, determined annually by independent valuers. Changes to fair value are recorded in the comprehensive income statement in the period that they arise.

Valuation of investment property

Valuation of investment property has been determined in accordance with an independent valuation by Todd Svanberg, Certified Practising Valuer CPV AAPI AM ASA, Director of JLL Public Sector Valuations Pty Ltd and Emily Villani RPV PMAPI, Valuer JLL Public Sector Valuations Pty Ltd, who has recent experience in the location and category of the property being valued. The valuation is at fair value, based on the current market value for the property. An index based valuation was conducted in the current year. This valuation was based on Indices provided by the Victoria Valuer-General. A full valuation of these assets will be conducted in 2022/23.

	2021 No.	2020 No.
Note 7 People and relationships		
7.1 Council and key management remuneration		
(a) Related Parties		
<i>Parent entity</i>		
East Gippsland Shire Council is the parent entity.		
(b) Key Management Personnel		
Details of persons holding the position of Councillor or other members of key management personnel at any time during the year are:		
Councillors		
Councillor Mendy Urie (Mayor - 17/11/2020 to 30/06/2021)		
Councillor Arthur Allen (17/11/2020 to 30/06/2021)		
Councillor Jane Greacen (17/11/2020 to 30/06/2021)		
Councillor Tom Crook (17/11/2020 to 30/06/2021)		
Councillor Mark Reeves (1/7/2020 to 24/10/2020 and 17/11/2020 to 30/06/2021)		
Councillor Trevor Stow (17/11/2020 to 30/06/2021)		
Councillor Kirsten Van Diggele (17/11/2020 to 30/06/2021)		
Councillor Sonia Buckley (17/11/2020 to 30/06/2021)		
Councillor John White (01/07/2020 to 24/10/2020 and 17/11/2020 to 30/06/2021 was Mayor - 01/07/2020 to 24/10/2020)		
Councillor Ben Buckley (1/7/2020 to 24/10/2020)		
Councillor Richard Ellis (1/7/2020 to 24/10/2020)		
Councillor Natalie O'Connell (1/7/2020 to 24/10/2020)		
Councillor Joe Rettino (1/7/20 to 24/10/20)		
Councillor Marianne Pelz (1/7/20 to 24/10/20)		
Councillor Colin Toohey (1/7/20 to 24/10/20)		
Councillor Jackson Roberts (1/7/20 to 24/10/20)		
Chief Executive Officer		
General Manager Business Excellence		
General Manager Assets and Environment		
General Manager Place and Community		
General Manager Bushfire Recovery		
Total Number of Councillors	16	9
Total of Chief Executive Officer and other Key Management Personnel	5	8
Total Number of Key Management Personnel	21	17
(c) Remuneration of Key Management Personnel	2021	2020
	\$	\$
Total remuneration of key management personnel was as follows:		
Short-term benefits	1,318	1,732
Long-term benefits	25	29
Post employment benefits	92	110
Total	1,435	1,871
The numbers of key management personnel whose total remuneration from Council and any related entities, fall within the following bands:		
	2021 No.	2020 No.
\$1 - \$9,999	6	-
\$10,000 - \$19,999	7	-
\$20,000 - \$29,999	1	-
\$30,000 - \$39,999	-	7
\$40,000 - \$49,999	1	-
\$50,000 - \$59,999	1	1
\$60,000 - \$69,999	-	2
\$70,000 - \$79,999	-	1
\$80,000 - \$89,999	-	1
\$90,000 - \$99,999	-	1
\$100,000 - \$109,999	-	1
\$110,000 - \$119,999	-	1
\$120,000 - \$129,999	-	1
\$130,000 - \$139,999	-	1
\$140,000 - \$149,999	-	1
\$150,000 - \$159,999	-	1
\$160,000 - \$169,999	-	1
\$170,000 - \$179,999	-	1
\$180,000 - \$189,999	-	1
\$190,000 - \$199,999	-	1
\$200,000 - \$209,999	2	1
\$210,000 - \$219,999	2	1
\$220,000 - \$229,999	1	-
\$230,000 - \$239,999	-	1
\$240,000 - \$249,999	-	1
\$250,000 - \$259,999	-	1
\$260,000 - \$269,999	-	1
\$270,000 - \$279,999	-	1
\$280,000 - \$289,999	-	1
\$290,000 - \$299,999	-	1
\$300,000 - \$309,999	-	1
	21	17

(d) Senior Officer Remuneration

A Senior Officer is an officer of Council, other than Key Management Personnel, who:

- a) has management responsibilities and reports directly to the Chief Executive; or
- b) whose total annual remuneration exceeds \$151,000 (\$151,000 in 2019/20)

The number of Senior Officers are shown below in their relevant income bands:

Income Range:	2021 No.	2020 No.
\$180,000 - \$189,999	1	1
	<u>1</u>	<u>1</u>
Total Remuneration for the reporting year for Senior Officers included above, amounted to:	\$186,852	\$182,294

7.2 Related party disclosure

(a) Transactions with related parties

During the period Council entered into the following transactions with related parties.

For the year ended 30 June 2021 there were no staff related to Key Management Personnel.

For the year ended 30 June 2021, Council paid \$128,630 to suppliers and contractors related to Key Management Personnel on normal commercial terms and conditions. Details of these related party transactions for Key Management Personnel are as follows:

Cr Pelz	Pelz Haulage Pty Ltd - \$6,820 for works and services
Cr Allen	Leftrade Ltd - \$5923 for works and services
	Wy Yung Hotel \$2,790 for services
Cr White	Melwood Investments Pty Ltd - \$48,152 for contracted slashing services
Cr O'Connell	Alps Links Regional Communities - \$10,000 Regional and District Events Sponsorship (RADES) funding
General Manager Assets and Environment	The Right Man - \$54,945 for consulting services

(b) Outstanding balances with related parties

The following balances are outstanding at the end of the reporting period in relation to transactions with related parties

Nil

(c) Loans to/from related parties

The aggregate amount of loans in existence at balance date that have been made, guaranteed or secured by the council to a related party as follows:

Nil

(d) Commitments to/from related parties

The aggregate amount of commitments in existence at balance date that have been made, guaranteed or secured by the council to a related party are as follows:

Nil

Note 8 Managing uncertainties**8.1 Contingent assets and liabilities*****Operating lease receivables***

The Council has entered into commercial property leases on its investment property, consisting of surplus freehold office complexes. These properties held under operating leases have remaining non-cancellable lease terms of between 1 and 10 years. All leases include a CPI based revision of the rental charge annually.

Future undiscounted minimum rentals receivable under non-cancellable operating leases are as follows:

	2021	2020
	\$'000	\$'000
Not later than one year	718	721
Later than one year and not later than five years	2,097	1,950
Later than five years	1,849	2,092
	4,664	4,763

(b) Contingent liabilities

Contingent assets and contingent liabilities are not recognised in the Balance Sheet, but are disclosed and if quantifiable, are measured at nominal value. Contingent assets and liabilities are presented inclusive of GST receivable or payable, respectively.

Superannuation

Council has obligations under a defined benefit superannuation scheme that may result in the need to make additional contributions to the scheme, matters relating to this potential obligation are outlined below. As a result of the volatility in financial markets the likelihood of making such contributions in future periods exists.

Future superannuation contributions

There were *no* contributions outstanding and *no* loans issued from or to the above schemes as at 30 June 2021. The expected contributions to be paid to the Defined Benefit category of Vision Super for the year ending 30 June 2022 are \$29,503.

Landfill

Council operates a number of landfills. Council will have to carry out site rehabilitation works in the future. Council has provided the Environment Protection Authority with a bank guarantee in their favour of \$1.3 million to meet the remedial action financial assurance requirements for licenced landfill sites.

Liability Mutual Insurance

Council is a participant of the MAV Liability Mutual Insurance (LMI) Scheme. The LMI scheme provides public liability and professional indemnity insurance cover. The LMI scheme states that each participant will remain liable to make further contributions to the scheme in respect of any insurance year in which it was a participant to the extent of its participant's share of any shortfall in the provision set aside in respect of that insurance year, and such liability will continue whether or not the participant remains a participant in future insurance years.

MAV Workcare

In November 2017, the Victorian Workcover Authority (the Authority) granted the Municipal Association of Victoria (MAV) a three-year self-insurance licence allowing it to provide workers compensation insurance to Victorian councils. When the MAV Workcover Scheme commenced there were 31 inaugural members, including the MAV.

In accordance with the Authority's decision not to renew the MAV's self-insurance licence, the MAV WorkCare Scheme ceased operation on 30 June 2021. The MAV is continuing to support the orderly transition of claims management responsibilities to the Authority.

Council was a participant of the MAV WorkCare Scheme.

The MAV WorkCare Scheme participation agreement stated that each participant would remain liable to make further contributions to the Scheme in respect of any insurance year in which it was a participant to the extent of its participant's share of any shortfall in the provision set aside in respect of that insurance year, and such liability would continue whether or not the participant remained a participant in future insurance years.

The net financial impact on Council as a result of the cessation of the MAV WorkCare Scheme for the 2020-21 financial year is yet to be determined. Any obligation is dependent upon the Authority's initial actuarial assessment of the tail claims liabilities of the MAV WorkCare Scheme.

In accordance with the Workplace Injury Rehabilitation and Compensation Act 2013, there is a six year liability period following the cessation of the MAV WorkCare Scheme. During the liability period, adjustment payments may be required (or received) by Council. The determination of any adjustment payments is dependent upon revised actuarial assessments of the Scheme's tail claims liability as undertaken by the Authority.

8.2 Change in accounting standards

Certain new Australian Accounting Standards and interpretations have been published that are not mandatory for the 30 June 2021 reporting period. Council assesses the impact of these new standards. As at 30 June 2021 there were no new accounting standards or interpretations issued by the AASB which are applicable for the year ending 30 June 2022 that are expected to impact Council.

8.3 Financial instruments**(a) Objectives and policies**

The Council's principal financial instruments comprise cash assets, term deposits, receivables (excluding statutory receivables), payables (excluding statutory payables) and bank borrowings. Details of the significant accounting policies and methods adopted, including the criteria for recognition, the basis of measurement and the basis on which income and expenses are recognised, in respect of each class of financial asset, financial liability and equity instrument is disclosed in the notes of the financial statements. Risk management is carried out by senior management under policies approved by the Council. These policies include identification and analysis of the risk exposure to Council and appropriate procedures, controls and risk minimisation.

(b) Market risk

Market risk is the risk that the fair value or future cash flows of council financial instruments will fluctuate because of changes in market prices. The Council's exposure to market risk is primarily through interest rate risk with only insignificant exposure to other price risks and no exposure to foreign currency risk.

Interest rate risk

Interest rate risk refers to the risk that the value of a financial instrument or cash flows associated with the instrument will fluctuate due to changes in market interest rates. Council's interest rate liability risk arises primarily from long term loans and borrowings at fixed rates which exposes council to fair value interest rate risk / Council does not hold any interest bearing financial instruments that are measured at fair value, and therefore has no exposure to fair value interest rate risk. Cash flow interest rate risk is the risk that the future cash flows of a financial instrument will fluctuate because of changes in market interest rates. Council has minimal exposure to cash flow interest rate risk through its cash and deposits that are at floating rates.

Investment of surplus funds is made with approved financial institutions under the *Local Government Act 1989*. Council manages interest rate risk by adopting an investment policy that ensures:

- diversification of investment product;
- monitoring of return on investment; and
- benchmarking of returns and comparison with budget.

There has been no significant change in the Council's exposure, or its objectives, policies and processes for managing interest rate risk or the methods used to measure this risk from the previous reporting period.

Interest rate movements have not been sufficiently significant during the year to have an impact on the Council's year end result.

(c) Credit risk

Credit risk is the risk that a contracting entity will not complete its obligations under a financial instrument and cause Council to make a financial loss. Council have exposure to credit risk on some financial assets included in the balance sheet. Particularly significant areas of credit risk exist in relation to outstanding fees and fines as well as loans and receivables from sporting clubs and associations. To help manage this risk:

- council have a policy for establishing credit limits for the entities council deal with;
- council may require collateral where appropriate; and
- council only invest surplus funds with financial institutions which have a recognised credit rating specified in council's investment policy.

Receivables consist of a large number of customers, spread across the ratepayer, business and government sectors. Credit risk associated with the council's financial assets is minimal because the main debtor is secured by a charge over the rateable property.

There are no material financial assets which are individually determined to be impaired.

Council may also be subject to credit risk for transactions which are not included in the balance sheet, such as when council provide a guarantee for another party. Details of our contingent liabilities are disclosed in Note 8.1(b).

The maximum exposure to credit risk at the reporting date to recognised financial assets is the carrying amount, net of any provisions for impairment of those assets, as disclosed in the balance sheet and notes to the financial statements. Council does not hold any collateral.

(d) Liquidity risk

Liquidity risk includes the risk that, as a result of council's operational liquidity requirements it will not have sufficient funds to settle a transaction when required or will be forced to sell a financial asset at below value or may be unable to settle or recover a financial asset.

To help reduce these risks Council:

- have a liquidity policy which targets a minimum and average level of cash and cash equivalents to be maintained;
- have readily accessible standby facilities and other funding arrangements in place;
- have a liquidity portfolio structure that requires surplus funds to be invested within various bands of liquid instruments;
- monitor budget to actual performance on a regular basis; and
- set limits on borrowings relating to the percentage of loans to rate revenue and percentage of loan principal repayments to rate revenue.

The Council's maximum exposure to liquidity risk is the carrying amounts of financial liabilities as disclosed on the face of the balance sheet and the amounts related to financial guarantees disclosed in Note 8.1(b), and is deemed insignificant based on prior periods' data and current assessment of risk.

There has been no significant change in Council's exposure, or its objectives, policies and processes for managing liquidity risk or the methods used to measure this risk from the previous reporting period.

With the exception of borrowings, all financial liabilities are expected to be settled within normal terms of trade. Details of the maturity profile for borrowings are disclosed at Note 5.4.

Unless otherwise stated, the carrying amounts of financial instruments reflect their fair value.

(e) Sensitivity disclosure analysis

Taking into account past performance, future expectations, economic forecasts, and management's knowledge and experience of the financial markets, Council believes the following movements are 'reasonably possible' over the next 12 months:

- A parallel shift of + 0.3% and -0.3% in market interest rates (AUD) from year-end rates of 0.4%.

These movements will not have a material impact on the valuation of Council's financial assets and liabilities, nor will they have a material impact on the results of Council's operations.

8.4 Fair value measurement*Fair value hierarchy*

Council's financial assets and liabilities are not valued in accordance with the fair value hierarchy, Council's financial assets and liabilities are measured at amortised cost.

Council measures certain assets and liabilities at fair value where required or permitted by Australian Accounting Standards. AASB 13 Fair value measurement, aims to improve consistency and reduce complexity by providing a definition of fair value and a single source of fair value measurement and disclosure requirements for use across Australian Accounting Standards.

All assets and liabilities for which fair value is measured or disclosed in the financial statements are categorised within a fair value hierarchy, described as follows, based on the lowest level input that is significant to the fair value measurement as a whole:

Level 1 — Quoted (unadjusted) market prices in active markets for identical assets or liabilities

Level 2 — Valuation techniques for which the lowest level input that is significant to the fair value measurement is directly or indirectly observable; and

Level 3 — Valuation techniques for which the lowest level input that is significant to the fair value measurement is unobservable.

For the purpose of fair value disclosures, Council has determined classes of assets and liabilities on the basis of the nature, characteristics and risks of the asset or liability and the level of the fair value hierarchy as explained above.

In addition, Council determines whether transfers have occurred between levels in the hierarchy by re-assessing categorisation (based on the lowest level input that is significant to the fair value measurement as a whole) at the end of each reporting period.

Revaluation

Subsequent to the initial recognition of assets, non-current physical assets, other than plant and equipment, are measured at their fair value, being the price that would be received to sell an asset (or paid to transfer a liability) in an orderly transaction between market participants at the measurement date. At balance date, the Council reviewed the carrying value of the individual classes of assets measured at fair value to ensure that each asset materially approximated its fair value. Where the carrying value materially differed from the fair value at balance date, the class of asset was revalued.

Fair value valuations are determined in accordance with a valuation hierarchy. Changes to the valuation hierarchy will only occur if an external change in the restrictions or limitations of use of an asset result in changes to the permissible or practical highest and best use of the asset. In addition, Council undertakes a formal revaluation of land, buildings, and infrastructure assets on a regular basis ranging from two to four years. The valuation is performed either by experienced council officers or independent experts.

Where the assets are revalued, the revaluation increments are credited directly to the asset revaluation reserve except to the extent that an increment reverses a prior year decrement for that class of asset that had been recognised as an expense in which case the increment is recognised as revenue up to the amount of the expense. Revaluation decrements are recognised as an expense except where prior increments are included in the asset revaluation reserve for that class of asset in which case the decrement is taken to the reserve to the extent of the remaining increments. Within the same class of assets, revaluation increments and decrements within the year are offset.

Impairment of assets

At each reporting date, the Council reviews the carrying value of its assets to determine whether there is any indication that these assets have been impaired. If such an indication exists, the recoverable amount of the asset, being the higher of the asset's fair value less costs of disposal and value in use, is compared to the assets carrying value. Any excess of the assets carrying value over its recoverable amount is expensed to the comprehensive income statement, unless the asset is carried at the revalued amount in which case, the impairment loss is recognised directly against the revaluation surplus in respect of the same class of asset to the extent that the impairment loss does not exceed the amount in the revaluation surplus for that same class of asset.

8.5 Events occurring after balance date

No matters have occurred after balance date that require disclosure in the financial report.

Note 9 Other matters

	Balance at beginning of reporting period \$'000	Increment (decrement) \$'000	Share of increment (decrement) on revaluation of <name asset class> by an associate \$'000	Balance at end of reporting period \$'000
9.1 Reserves				
(a) Asset revaluation reserves				
2021				
Property				
Land and land improvements	91,334	20,304	-	111,638
Buildings	84,209	-	-	84,209
	175,543	20,304	-	195,847
Infrastructure				
Roads	438,692	66,409	-	505,101
Bridges	64,857	9,118	-	73,975
Footpaths and cycleways	14,489	2,590	-	17,079
Drainage	37,015	6,730	-	43,745
Recreational, leisure and community facilities	11,715	2,045	-	13,760
Waste management	2,461	619	-	3,080
Parks, open space and streetscapes	7,991	2,978	-	10,969
Aerodromes	111	855	-	966
Offstreet car parks	846	1,036	-	1,882
Other infrastructure	15,603	1,740	-	17,343
	593,780	94,120	-	687,900
Total asset revaluation reserves	769,323	114,424	-	883,747
2020				
Property				
Land and land improvements	91,334	-	-	91,334
Buildings	84,209	-	-	84,209
	175,543	-	-	175,543
Infrastructure				
Roads	438,692	-	-	438,692
Bridges	64,857	-	-	64,857
Footpaths and cycleways	14,489	-	-	14,489
Drainage	37,015	-	-	37,015
Recreational, leisure and community facilities	11,715	-	-	11,715
Waste management	2,461	-	-	2,461
Parks, open space and streetscapes	7,991	-	-	7,991
Aerodromes	111	-	-	111
Offstreet car parks	846	-	-	846
Other infrastructure	15,603	-	-	15,603
	593,780	-	-	593,780
Total asset revaluation reserves	769,323	-	-	769,323
The asset revaluation reserve is used to record the increased (net) value of Council's assets over time.				
	Balance at beginning of reporting period \$'000	Transfer from accumulated surplus \$'000	Transfer to accumulated surplus \$'000	Balance at end of reporting period \$'000
(b) Other reserves				
2021				
Car Parking	193	-	-	193
Development Contribution Plans	19	-	-	19
Lakes Entrance Northern Growth Area	1	-	-	1
Recreational Land	815	58	-	873
Road Upgrading	34	-	-	34
Total Other reserves	1,062	58	-	1,120
2020				
Car Parking	193	-	-	193
Development Contribution Plans	19	-	-	19
Lakes Entrance Northern Growth Area	-	1	-	1
Recreational Land	735	80	-	815
Road Upgrading	34	-	-	34
Total Other reserves	981	81	-	1,062

The Recreation Land Reserve receives developer contributions for future development of public open space.

Development Contribution Plans receive contribution from developers upon the sale of land in a prescribed planning area.

The Car Parking Reserve receives developer funds for future development of public car parks.

The Road Upgrading Reserve receives contributions from developers for the future upgrade of specific roads as required by development plans.

Lakes Entrance Northern Growth Area receive contributions in accordance with the development plan.

	2021 \$'000	2020 \$'000
9.2 Reconciliation of cash flows from operating activities to surplus/(deficit)		
Surplus/(deficit) for the year	19,517	18,676
Depreciation/amortisation	22,630	21,463
Profit/(loss) on disposal of property, infrastructure, plant and equipment	64	(59)
Write off property, plant and equipment	6,626	7,188
Fair value adjustments for investment property	(178)	-
Contributions - Non-monetary assets	(6,077)	(1,593)
Financing cost in financing activities	309	310
<i>Change in assets and liabilities:</i>		
(Increase)/decrease in trade and other receivables	1,410	(3,445)
Increase/(decrease) in other current assets	(365)	(6,185)
Increase/(decrease) in trade and other payables	(560)	1,868
(Decrease)/increase in other liabilities	17,881	1,069
Increase/(decrease) in provisions	(2,980)	1,163
Increase/(Decrease) in trust funds	36	1,232
Net cash provided by/(used in) operating activities	58,313	41,687

9.3 Superannuation

Council makes the majority of its employer superannuation contributions in respect of its employees to the Local Authorities Superannuation Fund (the Fund). This Fund has two categories of membership, accumulation and defined benefit, each of which is funded differently. Obligations for contributions to the Fund are recognised as an expense in Comprehensive Operating Statement when they are made or due.

Accumulation

Council makes both employer and employee contributions to The Fund's accumulation category, Vision MySuper/Vision Super Saver, on a progressive basis. Employer contributions are normally based on a fixed percentage of employee earnings (for the year ended 30 June 2021, this was 9.5% as required under Superannuation Guarantee (SG) legislation).

Defined Benefit

Council does not use defined benefit accounting for its defined benefit obligations under the Fund's Defined Benefit category. This is because the Fund's Defined Benefit category is a pooled multi-employer sponsored plan.

There is no proportional split of the defined benefit liabilities, assets or costs between the participating employers as the defined benefit obligation is a floating obligation between the participating employers and the only time that the aggregate obligation is allocated to specific employers is when a call is made. As a result, the level of participation of Council in the Fund cannot be measured as a percentage compared with other participating employers. Therefore, the Fund Actuary is unable to allocate benefit liabilities, assets and costs between employers for the purposes of AASB 119 Employee Benefits.

Funding arrangements

Council makes employer contributions to the Defined Benefit category of the Fund at rates determined by the Trustee on the advice of the Fund Actuary.

A triennial actuarial review for the Defined Benefit category as at 30 June 2020 was conducted and completed by the due date of 31 December 2020. The vested benefit index (VBI) of the Defined Benefit category of which Council is a contributing employer was 104.6%. The financial assumptions used to calculate the VBI were:

- Net investment returns 5.6% pa
- Salary information 2.5% pa for two years and 2.75% pa thereafter
- Price inflation (CPI) 2.0% pa.

As at 30 June 2021, an interim actuarial investigation is underway as the Fund provides lifetime pensions in the Defined Benefit category.

Vision Super has advised that the VBI at 30 June 2021 was 109.7%.

The VBI is used as the primary funding indicator. Because the VBI was above 100%, the 30 June 2020 actuarial investigation determined the Defined Benefit category was in a satisfactory financial position and that no change was necessary to the Defined Benefit category's funding arrangements from prior years.

Employer contributions**Regular contributions**

On the basis of the results of the 2020 triennial actuarial investigation conducted by the Fund Actuary, Council makes employer contributions to the Fund's Defined Benefit category at rates determined by the Fund's Trustee. For the year ended 30 June 2021, this rate was 9.5% of members' salaries (9.5% in 2019/2020). This rate is expected to increase in line with any increases in the SG contribution rate and was reviewed as part of the 30 June 2020 triennial valuation.

In addition, Council reimburses the Fund to cover the excess of the benefits paid as a consequence of retrenchment above the funded resignation or retirement benefit.

Funding calls

If the Defined Benefit category is in an unsatisfactory financial position at an actuarial investigation or the Defined Benefit category's VBI is below its shortfall limit at any time other than the date of the actuarial investigation, the Defined Benefit category has a shortfall for the purposes of SPS 160 and the Fund is required to put a plan in place so that the shortfall is fully funded within three years of the shortfall occurring. The Fund monitors its VBI on a quarterly basis and the Fund has set its shortfall limit at 97%.

In the event that the Fund Actuary determines that there is a shortfall based on the above requirement, the Fund's participating employers (including Council) are required to make an employer contribution to cover the shortfall.

Using the agreed methodology, the shortfall amount is apportioned between the participating employers based on the pre-1 July 1993 and post-30 June 1993 service liabilities of the Fund's Defined Benefit category, together with the employer's payroll at 30 June 1993 and at the date the shortfall has been calculated.

Due to the nature of the contractual obligations between the participating employers and the Fund, and that the Fund includes lifetime pensioners and their reversionary beneficiaries, it is unlikely that the Fund will be wound up.

If there is a surplus in the Fund, the surplus cannot be returned to the participating employers.

In the event that a participating employer is wound-up, the defined benefit obligations of that employer will be transferred to that employer's successor.

The 2020 triennial actuarial investigation surplus amounts

An actuarial investigation is conducted annually for the Defined Benefit category of which Council is a contributing employer. Generally, a full actuarial investigation is conducted every three years and interim actuarial investigations are conducted for each intervening year. A full investigation was conducted as at 30 June 2020.

The Fund's actuarial investigation identified the following for the Defined Benefit category of which Council is a contributing employer:

	2020 (Triennial)	2019 (Interim)
	\$m	\$m
- A VBI Surplus	100.0	151.3
- A total service liability surplus	200.0	233.4
- A discounted accrued benefits surplus	217.8	256.7

The VBI surplus means that the market value of the fund's assets supporting the defined benefit obligations exceed the vested benefits that the defined benefit members would have been entitled to if they had all exited on 30 June 2020.

The total service liability surplus means that the current value of the assets in the Fund's Defined Benefit category plus expected future contributions exceeds the value of expected future benefits and expenses as at 30 June 2020.

The discounted accrued benefit surplus means that the current value of the assets in the Fund's Defined Benefit category exceeds the value of benefits payable in the future but accrued in respect of service to 30 June 2020.

Council was notified of the 30 June 2020 VBI during August 2020 (2019: August 2019).

The 2021 interim actuarial investigation

An interim actuarial investigation is being conducted for the Fund's position as at 30 June 2021 as the Fund provides lifetime pensions in the Defined Benefit category. It is anticipated that this actuarial investigation will be completed by October 2021.

Superannuation contributions

Contributions by Council (excluding any unfunded liability payments) to the above superannuation plans for the financial year ended 30 June 2021 are detailed below:

Scheme	Type of Scheme	Rate	2021 \$'000	2020 \$'000
Vision super	Defined benefit	9.50%	27	27
Vision super	Accumulation fund	9.50%	1,431	1,351
Various other funds	Accumulation fund	9.50%	1,334	1,007

There were contributions outstanding of \$144,692 as at 30 June 2021 and no loans issued from or to the above schemes as at 30 June 2021.

The expected contributions to be paid to the Defined Benefit category of Vision Super for the year ending 30 June 2022 is \$29,503.

10 Change in accounting policy

AASB 1059 Service Concession Arrangements: Grantors

Council has adopted AASB 1059 Service Concession Arrangements: Grantors , from 1 July 2020.

AASB 2018-7 Amendments to Australian Accounting Standards - Definition of Material

Council has adopted AASB 2018-7 Amendments to Australian Accounting Standards - Definition of Material, from 1 July 2020 .

AASB 2019-1 Amendments to Australian Accounting Standards - References to the Conceptual Framework

Council has adopted AASB 2019-1 Amendments to Australian Accounting Standards - References to the Conceptual Framework from 1 July 2020.

It is not expected that these standards will have any significant impact on council.

East Gippsland Shire Council

Performance Statement

For the year ended 30 June 2021

Description of municipality

East Gippsland is a large and vibrant region in a beautiful natural setting, home to proud and involved communities that embrace and encourage self-reliance, responsibility and new ideas. The past 30 years have seen East Gippsland evolve from its rural origins to a flourishing economic and tourism region in Eastern Victoria, drawing more than one million visitors each year.

The region has kept its identity and sense of place as it has grown. The shire stretches from west of Bairnsdale to the New South Wales border, covering approximately 21,000 square kilometres or 10 per cent of the State. East Gippsland has an Estimated Residential Population of approximately 47,725 residents (as at 30 June 2020).

East Gippsland's unique qualities are both its strength and challenges. The region is distinguished by its natural setting, with its southern edge defined by the Gippsland Lakes and rugged coastline and the rising backdrop of the High Country. Historical rural landscapes and natural bushland areas characterise the region and surround its communities.

We are responsible for maintaining 2,958 km of roads, 195 bridges, over 3,500 km of table drains, 540 km of kerb and channel, 350 hectares of Parks and Gardens and over 4,500 street lights.

East Gippsland Shire Council Sustainable Capacity Indicators

For the year ended 30 June 2021

	<i>Indicator/measure</i>	Results				Material Variations and Comments
		2018	2019	2020	2021	
	Population					
C1	<i>Expenses per head of municipal population</i> [Total expenses / Municipal population]	\$1,918.95	\$1,953.22	\$2,250.55	\$2,386.32	There was an increase of \$7.4M of expenditure relating to Bushfire recovery works and the Working for Victoria program that increased the expenses per head. These increased expenses though were reimbursed and increase the income in 2020/21 as a result.
C2	<i>Infrastructure per head of municipal population</i> [Value of infrastructure / Municipal population]	\$20,505.46	\$21,029.01	\$20,767.18	\$22,789.57	A revaluation increment of \$114.424M in 2020/21 increased infrastructure per head of population.
C3	<i>Population density per length of road</i> [Municipal population / Kilometres of local roads]	15.58	15.86	15.89	15.99	
	Own-source revenue					
C4	<i>Own-source revenue per head of municipal population</i> [Own-source revenue / Municipal population]	\$1,603.61	\$1,599.56	\$1,788.08	\$1,906.34	An increase in other revenue relating to natural disaster recovery expenditure reimbursements and insurance reimbursements increase own source revenue in 2020/21.
	Recurrent grants					
C5	<i>Recurrent grants per head of municipal population</i> [Recurrent grants / Municipal population]	\$447.58	\$414.07	\$471.68	\$439.73	Recurrent capital grant income for Roads to Recovery decreased by \$1.4M whilst population numbers increased.
	Disadvantage					
C6	<i>Relative Socio-Economic Disadvantage</i> [Index of Relative Socio-Economic Disadvantage by decile]	3.00	3.00	3.00	3.00	
	Workforce Turnover					
C7	<i>Percentage of staff turnover</i> [Number of permanent staff resignations and terminations / Average number of permanent staff for the financial year] x 100	11.4%	11.6%	9.6%	12.8%	The increase in staff turnover is due to an increase in unplanned resignations.

East Gippsland Shire Council Service Performance Indicators

For the year ended 30 June 2021

	Service/indicator/measure	Results				Material Variations and Comments
		2018	2019	2020	2021	
AF6	Aquatic Facilities Utilisation <i>Utilisation of aquatic facilities</i> [Number of visits to aquatic facilities / Municipal population]	8.45	8.31	5.63	4.06	The result is impacted by mandated COVID-19 closures of aquatic facilities. Both the Bairnsdale Aquatic and Recreation Centre and Lakes Aquadome facilities were forced to close between 1/08/20 and 20/10/20; and between 25/05/21 and 11/6/21. There was also a period where the facilities were open but under strict attendance restrictions between 20/10/20 and 29/10/20. When the facilities were reopened to the public, attendance figures were low.
AM7	Animal Management Health and safety <i>Animal management prosecutions</i> [Number of successful animal management prosecutions]	New in 2020	New in 2020	100%	0	Council had no prosecution hearings during 2020-21. Due to COVID-19 restrictions imposed a number of animal prosecutions were unable to be heard during the reporting period and remain postponed to a later date.
FS4	Food Safety Health and safety <i>Critical and major non-compliance outcome notifications</i> [Number of critical non-compliance outcome notifications and major non-compliance notifications about a food premises followed up / Number of critical non-compliance outcome notifications and major non-compliance notifications about a food premises] x100	100.00%	90.48%	85.71%	100.00%	All major and critical non-compliance notifications for food premises were followed up. For the 2020 period, there were 11 critical and major non-compliance notifications.
G5	Governance Satisfaction <i>Satisfaction with council decisions</i> [Community satisfaction rating out of 100 with how council has performed in making decisions in the interest of the community]	51.00	46.00	54.00	51.00	Since being elected in November 2020, Council has considered a number of matters in which community interest was high. A focus for Council continues to be on improving community satisfaction with its decisions by being open and transparent about the reasons they were made.

East Gippsland Shire Council Service Performance Indicators

For the year ended 30 June 2021

	Service/indicator/measure	Results				Material Variations and Comments
		2018	2019	2020	2021	
LB4	Libraries Participation <i>Active library borrowers in municipality</i> [Number of active library borrowers in the last three years / The sum of the population for the last three years] x100	20.13%	19.60%	19.01%	16.88%	COVID-19 lockdown periods that forced libraries to be closed to the public, impacted on the ability of members to borrow physical items. COVID-19 has also resulted in many members of the community being cautious about returning to public spaces.
R5	Roads Satisfaction <i>Satisfaction with sealed local roads</i> [Community satisfaction rating out of 100 with how council has performed on the condition of sealed local roads]	50.00	49.00	55.00	53.00	Although the rating decreased two points from the previous year's result, it still remained three points higher than the large rural councils average rating. Council continued to invest significantly in sealed road reconstruction, sealing and the improvement of urban streets, while also striving to maximise external Victorian and Australian Government grants for road projects. In these satisfaction surveys Council finds that responders often assume that all roads are managed by Council and don't understand that some of the roads they express dissatisfaction with are actually controlled by the Victorian Government (DOT and DELWP)
SP4	Statutory Planning Decision making <i>Council planning decisions upheld at VCAT</i> [Number of VCAT decisions that did not set aside council's decision in relation to a planning application / Number of VCAT decisions in relation to planning applications] x100	66.67%	25.00%	100%	50.00%	Six of Council's planning decisions were appealed to VCAT, with one being upheld, two being varied and the remaining three were set aside (overturned) by VCAT as they did not agree with Council's decision
WC5	Waste Collection Waste diversion <i>Kerbside collection waste diverted from landfill</i> [Weight of recyclables and green organics collected from kerbside bins / Weight of garbage, recyclables and green organics collected from kerbside bins] x100	50.81%	51.45%	52.48%	53.48%	The increase in this indicator is due to the higher volume of green organics collected. This is attributed to the higher rainfall across the year causing more need for garden maintenance. Also, as residents were home more with COVID-19 restrictions, it is anticipated that some spent increased time maintaining properties and removing green organics.

East Gippsland Shire Council Service Performance Indicators

For the year ended 30 June 2021

Definitions

"active library borrower" means a borrower of a library who has borrowed a book from the library.

"annual report" means an annual report prepared by a council under sections 98 of the Act

"class 1 food premises" means food premises, within the meaning of the *Food Act 1984*, that have been declared as class 1 food premises under section 19C of that Act

"class 2 food premises" means food premises, within the meaning of the *Food Act 1984*, that have been declared as class 2 food premises under section 19C of that Act

"critical non-compliance outcome notification" means a notification received by council under section 19N (3) or (4) of the *Food Act 1984*, or advice given to council by an authorised officer under that Act, of a deficiency that poses an immediate serious threat to public health

"food premises" has the same meaning as in the *Food Act 1984*

"local road" means a sealed or unsealed road for which the council is the responsible road authority under the Road Management Act 2004

"major non-compliance outcome notification" means a notification received by a council under section 19N (3) or (4) of the *Food Act 1984*, or advice given to council by an authorized officer under that Act, of a deficiency that does not pose an immediate serious threat to public health but may do so if no remedial action is taken

"population" means the resident population estimated by council.

East Gippsland Shire Council Financial Performance Indicators

For the year ended 30 June 2021

	Dimension/ <i>indicator</i> /measure	Results				Forecasts				Material Variations and Comments
		2018	2019	2020	2021	2022	2023	2024	2025	
	Efficiency									
	<i>Expenditure level</i>									
E2	<i>Expenses per property assessment</i> [Total expenses / Number of property assessments]	\$2,793.63	\$2,882.19	\$3,356.25	\$3,549.43	\$3,158.63	\$2,957.76	\$3,060.17	\$3,087.99	In 2020/21 there was a \$7.4M increase in expenditure relating to Bushfire recovery works and Working for Victoria Program. All of these works were fully funded.
	<i>Revenue level</i>									
E4	<i>Average residential rate per residential property assessment</i> [Residential rate revenue / Number of residential property assessments]	New in 2020	New in 2020	\$1,599.31	\$1,623.26	\$1,644.38	\$1,670.83	\$1,697.10	\$1,723.76	
	Liquidity									
	<i>Working capital</i>									
L1	<i>Current assets compared to current liabilities</i> [Current assets / Current liabilities] x100	333.34%	349.01%	344.27%	248.59%	214.51%	221.04%	200.76%	177.80%	There was an increase in unearned income of \$18M in 20/21 mainly as a result of capital grants received in advance of works being undertaken.
	<i>Unrestricted cash</i>									
L2	<i>Unrestricted cash compared to current liabilities</i> [Unrestricted cash / Current liabilities] x100	5.73%	-8.44%	48.17%	123.66%	128.97%	129.27%	103.82%	93.73%	In 2019/20 \$33.5M of investments were classified as other financial assets, but in 2020/21 all surplus funds were classified as Cash and Cash equivalents. This increased the Cash and Cash equivalents at 2020/21 year end.

East Gippsland Shire Council Financial Performance Indicators

For the year ended 30 June 2021

	Dimension/ <i>indicator</i> /measure	Results				Forecasts				Material Variations and Comments
		2018	2019	2020	2021	2022	2023	2024	2025	
	Obligations									
	<i>Loans and borrowings</i>									
O2	<i>Loans and borrowings compared to rates</i> [Interest bearing loans and borrowings / Rate revenue] x100	10.80%	7.15%	5.69%	5.53%	12.41%	15.66%	14.13%	12.64%	
O3	<i>Loans and borrowings repayments compared to rates</i> [Interest and principal repayments on interest bearing loans and borrowings / Rate revenue] x100	2.03%	3.99%	1.75%	0.48%	3.30%	0.61%	1.61%	1.57%	There were no borrowings repaid in the 2020/21 year compared to \$727,000 being repaid in 2019/20
	<i>Indebtedness</i>									
O4	<i>Non-current liabilities compared to own source revenue</i> [Non-current liabilities / Own source revenue] x100	16.72%	16.35%	19.91%	13.42%	27.09%	25.19%	23.58%	21.88%	Own sourced revenue increased in 2020/21 as a result of Natural Disaster reimbursements increasing by \$10.3M over the 2019/20 amount. There was also an insurance reimbursement of \$1.4M in 2020/21 and supplementary rates and charges also increased by \$886,000 over the 2019/20 amount. Non-Current provisions also decreased as a result of the landfill rehabilitation decreasing.
	<i>Asset renewal</i>									
O5	<i>Asset renewal and upgrade compared to depreciation</i> [Asset renewal and asset upgrade expense / Asset depreciation] x100	New in 2020	New in 2020	136.06%	147.69%	273.03%	175.67%	144.81%	113.99%	There was an increase renewal expenditure in 2020/21 year as a result of the increased capital works expenditure being greater than the previous year.

East Gippsland Shire Council Financial Performance Indicators

For the year ended 30 June 2021

	Dimension/ <i>indicator</i> /measure	Results				Forecasts				Material Variations and Comments
		2018	2019	2020	2021	2022	2023	2024	2025	
OP1	Operating position									The adjusted underlying surplus was \$6.2M less in 2020/21 when compared to 2019/20 as a result of an increase in expenditure of \$7.4M in 2020/21 compared to 2019/20 and the 2020/21 adjusted underlying revenue being \$1.2M less than in 2019/20. The increase in expenditure is mainly due to an increase in bushfire recovery expenditure of \$5.4M over the expenditure incurred in 2019/20 and Working for Victoria expenditure of \$2M incurred in 2020/21.
	Adjusted underlying result									
	<i>Adjusted underlying surplus (or deficit)</i> [Adjusted underlying surplus (deficit)/ Adjusted underlying revenue] x100	7.06%	4.34%	9.78%	4.49%	-7.76%	6.29%	2.07%	3.73%	
S1	Stability									
	Rates concentration									
	<i>Rates compared to adjusted underlying revenue</i> [Rate revenue / Adjusted underlying revenue] x100	57.85%	59.64%	49.85%	50.77%	65.51%	61.89%	63.57%	62.98%	
S2	Rates effort									
	<i>Rates compared to property values</i> [Rate revenue / Capital improved value of rateable properties in the municipality] x100	0.57%	0.57%	0.55%	0.55%	0.51%	0.50%	0.48%	0.47%	

East Gippsland Shire Council Financial Performance Indicators

For the year ended 30 June 2021

Definitions

"adjusted underlying revenue" means total income other than:

- (a) non-recurrent grants used to fund capital expenditure; and
- (b) non-monetary asset contributions; and
- (c) contributions to fund capital expenditure from sources other than those referred to above

"adjusted underlying surplus (or deficit)" means adjusted underlying revenue less total expenditure

"asset renewal expenditure" means expenditure on an existing asset or on replacing an existing asset that returns the service capability of the asset to its original capability

"current assets" has the same meaning as in the AAS

"current liabilities" has the same meaning as in the AAS

"non-current assets" means all assets other than current assets

"non-current liabilities" means all liabilities other than current liabilities

"non-recurrent grant" means a grant obtained on the condition that it be expended in a specified manner and is not expected to be received again during the period covered by a council's Strategic Resource Plan

"own-source revenue" means adjusted underlying revenue other than revenue that is not under the control of council (including government grants)

"population" means the resident population estimated by council

"rate revenue" means revenue from general rates, municipal charges, service rates and service charges

"recurrent grant" means a grant other than a non-recurrent grant

"residential rates" means revenue from general rates, municipal charges, service rates and service charges levied on residential properties

"restricted cash" means cash and cash equivalents, within the meaning of the AAS, that are not available for use other than for a purpose for which it is restricted, and includes cash to be used to fund capital works expenditure from the previous financial year

"unrestricted cash" means all cash and cash equivalents other than restricted cash.

East Gippsland Shire Council Other Information

For the year ended 30 June 2021

	Retired measures <i>Service/indicator/measure</i>	Results				Material Variations and Comments
		2018	2019	2020	2021	
AM4	Animal Management					
	Health and Safety					
	<i>Animal management prosecutions</i> [Number of successful animal management prosecutions]	7.00	2.00	Retired in 2020	Retired in 2020	This measure was replaced by AM7 from 1 July 2019.
	Efficiency					
E1	Revenue level					
	<i>Average residential rate per residential property assessment</i> [Residential rate revenue / Number of residential property assessments]	\$1,642.79	\$1,689.12	Retired in 2020	Retired in 2020	This measure was replaced by E4 from 1 July 2019.
	Obligations					
O1	Asset renewal					
	<i>Asset renewal compared to depreciation</i> [Asset renewal expense / Asset depreciation] x 100	71.86%	112.51%	Retired in 2020	Retired in 2020	This measure was replaced by O5 from 1 July 2019.

East Gippsland Shire Council Financial Performance Indicators

For the year ended 30 June 2021

1. Basis of preparation

Council is required to prepare and include a performance statement within its annual report. The performance statement includes the results of the prescribed sustainable capacity, service performance and financial performance indicators and measures together with a description of the municipal district and an explanation of material variations in the results. This statement has been prepared to meet the requirements of the *Local Government Act 1989* and *Local Government (Planning and Reporting) Regulations 2014* (as per the transitional provisions of the *Local Government Act 2020*).

Where applicable the results in the performance statement have been prepared on accounting bases consistent with those reported in the Financial Statements. The other results are based on information drawn from council information systems or from third parties (e.g. Australian Bureau of Statistics).

The performance statement presents the actual results for the current year and for the prescribed financial performance indicators and measures, the results forecast by the council's strategic resource plan. The *Local Government (Planning and Reporting) Regulations 2014* requires explanation of any material variations in the results contained in the performance statement. Council has adopted materiality thresholds relevant to each indicator and measure and explanations have not been provided for variations below the materiality thresholds unless the variance is considered to be material because of its nature.

The forecast figures included in the performance statement are those included in the 2021/22 budget which was adopted by Council on 29 June 2021. Detailed information on the actual financial results is contained in the General Purpose Financial Statements.

East Gippsland Shire Council Financial Performance Indicators

For the year ended 30 June 2021

In my opinion, the accompanying performance statement has been prepared in accordance with the *Local Government Act 1989* and the *Local Government (Planning and Reporting) Regulations 2014* (as per the transitional provisions of the *Local Government Act 2020*).

Elizabeth Collins, CPA
Principal Accounting Officer
Dated: 14 September 2021

In our opinion, the accompanying performance statement of the East Gippsland Shire Council for the year ended 30 June 2021 presents fairly the results of council's performance in accordance with the *Local Government Act 1989* and the *Local Government (Planning and Reporting) Regulations 2014* (as per the transitional provisions of the *Local Government Act 2020*).

The performance statement contains the relevant performance indicators, measures and results in relation to service performance, financial performance and sustainable capacity.

At the date of signing, we are not aware of any circumstances that would render any particulars in the performance statement to be misleading or inaccurate.

We have been authorised by the council and by the *Local Government (Planning and Reporting) Regulations 2014* to certify this performance statement in its final form.

Councillor
Councillor
Dated: 14 September 2021

Councillor
Councillor
Dated: 14 September 2021

Anthony Basford
Chief Executive Officer
Dated: 14 September 2021

5.3.2 CON2016 133 Provision of Banking and Associated Services - Contract Extension

Authorised by General Manager Business Excellence

Conflict of Interest

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

Executive Summary

The purpose of this report is to seek Council's approval to exercise its option within CON2016 133, to extend the existing contract Provision of Banking and Associated Services, for a period of three (3) years to 21 September 2024.

This contract is a schedule of rates contract for banking and associated services, such as day-to-day transactional banking including Bpay/direct debits/period payments/electronic funds transfers and banking from Council facilities.

The contract commenced on 22 September 2016 with the initial five-year term scheduled to end on 21 September 2021. The contract was awarded for a fixed term period of five years with an option, solely exercisable by Council, for a further three years. The intention is to extend the contract for the full extension term of three years, with the completion date being 21 September 2024.

Officer Recommendation

That Council:

- 1. receives and notes this report, and***
- 2. approves the contract extension to CON2016 133 Provision of Banking and Associated Services for a period of three (3) years to 21 September 2024, to National Australia Bank.***

Background

On 2 August 2016 Council awarded CON2016 133 Provision of Banking and Associated Services to National Australia Bank for the initial five-year term commencing 22 September 2016 and expiring on 21 September 2021 with an option, solely exercisable by Council, for a further three years.

This contract is a schedule of rates contract for banking and associated services such as transactional banking and/or collection services to East Gippsland Shire Council. It provides our customers with enhanced, easy to use systems for making payments to Council, as well as streamlined processes for use by Council staff in the facilitation of payments to external customers, as well as receipt of payments. It also provides value added services for functions such as expense management for corporate card approvals and account allocations.

The services provided by National Australia Bank have been in accordance with the contract and no issues have been experienced during the initial contract period.

Legislation

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

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

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

Collaborative Procurement

Not applicable

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

Council Policy

This report and its recommendations are in accordance with the East Gippsland Shire Council Procurement Policy (2020).

Options

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

1. exercise the three (3) year extension with National Australia Bank with the contract completion date being 21 September 2024; or
2. re-tender for the services provided by Contract CON2016 133 Provision of Banking and Associated Services.

Resourcing

Financial

The total contract value for the initial five years plus the optional three-year period of the life of the contract is \$614,408.00 gst excl.

Plant and equipment

Not applicable

Human Resources

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

Risk

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

Economic

Offering this contract extension supports internal and external customers with easy-to-use systems for making payments and streamlined process for receipting payments.

Social

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

Environmental

There are no identified environmental impacts in relation to 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

Not applicable

Attachments

Nil

5.3.3 Instrument of Appointment and Authorisation and Instrument of Sub-Delegation

Authorised by General Manager Business Excellence

Conflict of Interest

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

Executive Summary

This report is seeking Council's approval for the Instrument of Sub-Delegation under the *Environment Protection Act 2017*, at **Attachment 1**, to enable officers to enforce the provisions that have come into force on 1 July 2021. The provisions in the *Environment Protection Act 1970* have been repealed and replaced with the new provisions in the *Environment Protection Act 2017*.

In addition, this report seeks Council's approval of the Instrument of Appointment and Authorisation under the *Environment Protection Act 2017* for the Council staff in the Environmental Health, Community Laws and Waste teams, at **Attachment 2**.

These are two new Instruments that will enable Council staff to enforce the *Environment Protection Act 2017* following the repeal of the *Environment Protection Act 1970*.

This report is also seeking approval for the Instrument of Appointment and Authorisation under the *Planning and Environment Act 1987* for the Manager Planning at **Attachment 3** and the revocation of Instruments of Appointment and Authorisation for those authorised officers no longer employed by Council.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report;**
- 2. in the exercise of the powers conferred by s 437(2) of the *Environment Protection Act 2017* resolves that:**
 - a. the Instrument of Sub-Delegation provided at Attachment 1 is approved;**
 - b. Council Officers named in the Instruments of Appointment and Authorisation provided at Attachment 2 be appointed and authorised;**
 - c. the Instrument of Appointment and Authorisation and Instrument of Sub-Delegation come into force once the common seal is affixed and remain in force until Council determines to vary or revoke these; and**
 - d. the Instrument of Sub-Delegation at Attachment 1 and Instrument of Appointment and Authorisation at Attachment 2 be signed and sealed; and**

3. ***in the exercise of the powers conferred by section 147(4) of the Planning and Environment Act 1987 resolves that:***
- a. the Instruments of Appointment and Authorisation for Aaron Hollow, Stephen Daly, Stefani Risteska and Daniella Natautama are revoked;***
 - b. the Council Officer named in Instrument of Appointment and Authorisation provided at Attachment 3 be appointed and authorised;***
 - c. the Instrument of Appointment and Authorisation comes into force once the common seal is affixed and remains in force until Council determines to vary or revoke it;***
 - d. the Instrument of Appointment and Authorisation provided at Attachment 3 be signed and sealed.***

Background

The appointment of Authorised Officers allows certain Council staff to act on behalf of the Council in the administration and enforcement of various Acts, regulations or local laws in accordance with the powers granted to them.

Under the *Environment Protection Act 2017* Council staff act on behalf of Council in enforcing the provisions of the Act. The Instrument of Delegation of the Environment Protection Authority issued on 4 June 2021 gave Councils the power to exercise the Environment Protection Authority's powers and functions under the *Environment Protection Act 2017* for the purpose of regulating:

- onsite wastewater management systems with a design or actual flow rate of sewage not exceeding 5,000 litres on any day; and
- noise from construction, demolition and removal residential premises.

The Instrument of Sub-Delegation under the *Environment and Planning Act 2017* at **Attachment 1** allows Council to delegate these powers to Council staff in the nominated positions.

This Instrument of Sub-Delegation requires that the Council staff members in the nominated positions are authorised officers under the *Environment Protection Act 2017*. Therefore, the following officers are required to be authorised officers under the *Environment Protection Act 2017* as per **Attachment 2**:

Anthony Basford, Chief Executive Officer
Jodie Pitkin, General Manager Place and Community
Fiona Weigall, General Manager Assets and Environment
Wayne Bath, Manager Sustainability and Waste Minimisation
Sam McPherson, Manager Regulatory and Compliance Services
Leah McLeod, Environmental Health Coordinator
Darren Lang, Community Laws Coordinator
Angus Howlett, Waste Planner Coordinator
Heidi Thewma, Coordinator Waste Operations
Guy Corney, Environmental Health Officer
Matt Blow, Environmental Health Officer
Peter Anderson, Environmental Health Officer
Jody Haberfield, Community Laws Officer
Zoe Jennings, Community Laws Officer
Nicole Guns, Community Laws Officer
Christopher Boyer, Community Laws Officer
Buck Cerridwyn, Community Laws Officer

Under the *Planning and Environment Act 1987* Council can appoint authorised officers to act on behalf of Council in certain circumstances and represent Council in enforcing provisions of the Act. Martin Richardson has been appointed Manager Planning and is required to be an authorised officer under the *Planning and Environment Act 1987*.

The Instruments of Appointment and Authorisation for the following officers are to be revoked as they are no longer employed by Council:

Aaron Hollow
Stephen Daly
Stefani Risteska
Daniella Natautama

Legislation

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

This report is being prepared in accordance with Council's delegation under the *Environment Protection Act 2017* and the *Planning and Environment Act 1987*.

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

Collaborative procurement

This report does not involve collaborative procurement.

Council Plan

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

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

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

Council Policy

There is no applicable Council Policy for this report.

Options

There are no alternative options for Council to consider in relation to Instruments of Appointment and Authorisation and Instrument of Sub-Delegation.

Resourcing

Financial

There are no financial implications from this report.

Plant and equipment

There are no plant and equipment implications from this report.

Human Resources

There are not implications for human resources. Existing resources will enforce the provisions of the *Environment Protection Act 2017* and the *Planning and Environment Act 1987*.

Risk

Implementing the Instrument of Sub-Delegation and appointing authorised officers minimises the risks of failing to comply with the *Environment Protection Act 2017* when officers are acting on behalf of Council under this Act.

Economic

The application of the powers, functions and duties under the *Environment Protection Act 2017* and *Planning and Environment Act 1987* will ensure businesses are operating within the legislative requirements and can effectively contribute to the Shire's economy.

Social

The East Gippsland Shire will have confidence that Council is applying the powers, duties and functions of the *Environment Protection Act 2017* and the *Planning and Environment Act 1987* for the well-being and benefit of the municipal community.

Environmental

The East Gippsland Shire will have confidence that Council is applying the powers, duties and functions of the *Environment Protection Act 2017* and the *Planning and Environment Act 1987* for the environmental sustainability of the Shire.

Climate change

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

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

Engagement

The Instruments in the report have been prepared in consultation with appropriate personal across the Council.

Attachments

1. Instrument of Sub- Delegation [**5.3.3.1** - 8 pages]
2. Instrument of Appointment of Authorisation EPA [**5.3.3.2** - 17 pages]
3. Instrument of Appointment and Authorisation P&E Act [**5.3.3.3** - 1 page]



East Gippsland Shire Council
Instrument of Sub-Delegation
Council
to
Members of Council staff

Approved by Council on 14 September 2021

Instrument of Sub-Delegation

By this Instrument of Sub-Delegation, in exercise of the power conferred by s 437(2) of the *Environment Protection Act 2017* ('**Act**') and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021, the Council:

1. delegates each duty and/or function and/or power described in column 1 of the Schedule (and summarised in column 2 of the Schedule) to the member of Council staff holding, acting in or performing the duties of the office or position described in column 3 of the Schedule;
2. this Instrument of Sub-Delegation is authorised by a resolution of Council passed on 14 September 2021 pursuant to a power of sub-delegation conferred by the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021;
3. the delegation:
 - 3.1 comes into force immediately the common seal of Council is affixed to this Instrument of Sub-Delegation;
 - 3.2 remains in force until varied or revoked;
 - 3.3 is subject to any conditions and limitations set out in sub-paragraph 5, and the Schedule; and
 - 3.4 must be exercised in accordance with any guidelines or policies which Council from time to time adopts; and
4. this Instrument of Sub-Delegation is subject to the following limitations:
 - 4.1 the powers, duties and functions described in column and summarised in column 2 of the Schedule are only delegated for the purpose of regulating:
 - 4.1.1 onsite wastewater management systems with a design or actual flow rate of sewage not exceeding 5000 litres on any day; and
 - 4.1.2 noise from the construction, demolition or removal of residential premises;
5. the delegate must not determine the issue, take the action or do the act or thing:
 - 5.1 if the issue, action, act or thing is an issue, action or thing which Council has previously designated as an issue, action, act or thing which must be the subject of a Resolution of Council;
 - 5.2 if the determining of the issue, taking of the action or doing of the act or thing would or would be likely to involve a decision which is inconsistent with a
 - (a) policy; or
 - (b) strategy
 adopted by Council;

- 5.3 if the determining of the issue, the taking of the action or the doing of the act or thing cannot be the subject of a lawful delegation; or
- 5.4 the determining of the issue, the taking of the action or the doing of the act or thing is already the subject of an exclusive delegation to another member of Council staff.

THE COMMON SEAL of EAST GIPPSLAND SHIRE COUNCIL was hereunto affixed on the

..... day of _____ 2021 in the presence of:

..... Councillor

..... Chief Executive Officer



SCHEDULE

ENVIRONMENT PROTECTION ACT 2017			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 271	Power to issue improvement notice	Chief Executive Officer General Manager Assets and Environment General Manager Place and Community Manager Regulatory and Compliance Services Manager Sustainability and Waste Minimisation Coordinator Waste Operations Waste Planner Coordinator Environmental Health Coordinator Senior Community Laws Officer Environmental Health Officer Community Laws Coordinator Community Laws Officer	
s 272	Power to issue prohibition notice	Chief Executive Officer General Manager Assets and Environment General Manager Place and Community Manager Regulatory and Compliance Services Manager Sustainability and Waste Minimisation Coordinator Waste Operations	

ENVIRONMENT PROTECTION ACT 2017			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
		Waste Planner Coordinator Environmental Health Coordinator Senior Community Laws Officer Environmental Health Officer Community Laws Coordinator Community Laws Officer	
s 279	Power to amend a notice	Chief Executive Officer General Manager Assets and Environment General Manager Place and Community Manager Regulatory and Compliance Services Manager Sustainability and Waste Minimisation Coordinator Waste Operations Waste Planner Coordinator Environmental Health Coordinator Senior Community Laws Officer Environmental Health Officer Community Laws Coordinator Community Laws Officer	
s 358	Functions of the Environment Protection Authority	Chief Executive Officer General Manager Assets and Environment	

ENVIRONMENT PROTECTION ACT 2017			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
		General Manager Place and Community Manager Regulatory and Compliance Services Manager Sustainability and Waste Minimisation Coordinator Waste Operations Waste Planner Coordinator Environmental Health Coordinator Senior Community Laws Officer Environmental Health Officer Community Laws Coordinator Community Laws Officer	
s 359(1)(b)	Power to do all things that are necessary or convenient to be done for or in connection with the performance of the Environment Protection Authority's functions and duties and to enable the Authority to achieve its objective.	Chief Executive Officer General Manager Assets and Environment General Manager Place and Community Manager Regulatory and Compliance Services Manager Sustainability and Waste Minimisation Coordinator Waste Operations Waste Planner Coordinator Environmental Health Coordinator Senior Community Laws Officer	

ENVIRONMENT PROTECTION ACT 2017			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
		Environmental Health Officer Community Laws Coordinator Community Laws Officer	
s 359(2)	Power to give advice to persons with duties or obligations	Chief Executive Officer General Manager Assets and Environment General Manager Place and Community Manager Regulatory and Compliance Services Manager Sustainability and Waste Minimisation Coordinator Waste Operations Waste Planner Coordinator Environmental Health Coordinator Senior Community Laws Officer Environmental Health Officer Community Laws Coordinator Community Laws Officer	

East Gippsland Shire Council

Instrument of Appointment and Authorisation (*Environment Protection Act 2017*)

In this instrument "**officer**" means -

Anthony Basford, Chief Executive Officer

By this instrument of appointment and authorisation East Gippsland Shire Council -

under s 242(2) of the *Environment Protection Act 2017* ('Act') and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021 - appoints this officer to be an authorised officer for the purposes of exercising the powers and functions set out in the Instrument of Direction of the Environment Protection Authority under the Act dated 4 June 2021.

It is declared that this instrument -

- (a) comes into force immediately upon its execution;
- (b) remains in force until varied or revoked.

This instrument is authorised by a resolution of the East Gippsland Shire Council made on 14 September 2021.

THE COMMON SEAL of EAST GIPPSLAND SHIRE COUNCIL was hereunto affixed on the

..... day of 2021 in the presence of:

..... Councillor

..... Chief Executive Officer

EGSC common
seal to be
placed here.



East Gippsland Shire Council

Instrument of Appointment and Authorisation (*Environment Protection Act 2017*)

In this instrument "**officer**" means -

Jodie Pitkin, General Manager Place and Community

By this instrument of appointment and authorisation East Gippsland Shire Council -

under s 242(2) of the *Environment Protection Act 2017* ('Act') and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021 - appoints this officer to be an authorised officer for the purposes of exercising the powers and functions set out in the Instrument of Direction of the Environment Protection Authority under the Act dated 4 June 2021.

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East Gippsland Shire Council

Instrument of Appointment and Authorisation (*Environment Protection Act 2017*)

In this instrument "**officer**" means -

Fiona Weigall, General Manager Assets and Environment

By this instrument of appointment and authorisation East Gippsland Shire Council -

under s 242(2) of the *Environment Protection Act 2017* ('Act') and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021 - appoints this officer to be an authorised officer for the purposes of exercising the powers and functions set out in the Instrument of Direction of the Environment Protection Authority under the Act dated 4 June 2021.

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East Gippsland Shire Council

Instrument of Appointment and Authorisation (*Environment Protection Act 2017*)

In this instrument "**officer**" means -

Wayne Bath, Manager Sustainability and Waste Minimisation

By this instrument of appointment and authorisation East Gippsland Shire Council -

under s 242(2) of the *Environment Protection Act 2017* ('Act') and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021 - appoints this officer to be an authorised officer for the purposes of exercising the powers and functions set out in the Instrument of Direction of the Environment Protection Authority under the Act dated 4 June 2021.

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East Gippsland Shire Council

Instrument of Appointment and Authorisation (*Environment Protection Act 2017*)

In this instrument "**officer**" means -

Sam McPherson, Manager Regulatory and Compliance Services

By this instrument of appointment and authorisation East Gippsland Shire Council -

under s 242(2) of the *Environment Protection Act 2017* ('Act') and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021 - appoints this officer to be an authorised officer for the purposes of exercising the powers and functions set out in the Instrument of Direction of the Environment Protection Authority under the Act dated 4 June 2021.

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..... Chief Executive Officer

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East Gippsland Shire Council

Instrument of Appointment and Authorisation (*Environment Protection Act 2017*)

In this instrument "**officer**" means -

Heidi Thewma, Coordinator Waste Operations

By this instrument of appointment and authorisation East Gippsland Shire Council -

under s 242(2) of the *Environment Protection Act 2017* ('Act') and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021 - appoints this officer to be an authorised officer for the purposes of exercising the powers and functions set out in the Instrument of Direction of the Environment Protection Authority under the Act dated 4 June 2021.

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East Gippsland Shire Council

Instrument of Appointment and Authorisation (*Environment Protection Act 2017*)

In this instrument "**officer**" means -

Angus Howlett, Waste Planner Coordinator

By this instrument of appointment and authorisation East Gippsland Shire Council -

under s 242(2) of the *Environment Protection Act 2017* ('Act') and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021 - appoints this officer to be an authorised officer for the purposes of exercising the powers and functions set out in the Instrument of Direction of the Environment Protection Authority under the Act dated 4 June 2021.

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East Gippsland Shire Council

Instrument of Appointment and Authorisation (*Environment Protection Act 2017*)

In this instrument "**officer**" means -

Darren Lang, Community Laws Coordinator

By this instrument of appointment and authorisation East Gippsland Shire Council -

under s 242(2) of the *Environment Protection Act 2017* ('Act') and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021 - appoints this officer to be an authorised officer for the purposes of exercising the powers and functions set out in the Instrument of Direction of the Environment Protection Authority under the Act dated 4 June 2021.

It is declared that this instrument -

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East Gippsland Shire Council

Instrument of Appointment and Authorisation (*Environment Protection Act 2017*)

In this instrument "officer" means -

Leah McLeod, Environmental Health Coordinator

By this instrument of appointment and authorisation East Gippsland Shire Council -

under s 242(2) of the *Environment Protection Act 2017* ('Act') and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021 - appoints this officer to be an authorised officer for the purposes of exercising the powers and functions set out in the Instrument of Direction of the Environment Protection Authority under the Act dated 4 June 2021.

It is declared that this instrument -

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East Gippsland Shire Council

Instrument of Appointment and Authorisation (*Environment Protection Act 2017*)

In this instrument "**officer**" means -

Matt Blow, Environmental Health Officer

By this instrument of appointment and authorisation East Gippsland Shire Council -

under s 242(2) of the *Environment Protection Act 2017* ('Act') and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021 - appoints this officer to be an authorised officer for the purposes of exercising the powers and functions set out in the Instrument of Direction of the Environment Protection Authority under the Act dated 4 June 2021.

It is declared that this instrument -

- (a) comes into force immediately upon its execution;
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East Gippsland Shire Council

Instrument of Appointment and Authorisation (*Environment Protection Act 2017*)

In this instrument "**officer**" means -

Peter Anderson, Environmental Health Officer

By this instrument of appointment and authorisation East Gippsland Shire Council -

under s 242(2) of the *Environment Protection Act 2017* ('Act') and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021 - appoints this officer to be an authorised officer for the purposes of exercising the powers and functions set out in the Instrument of Direction of the Environment Protection Authority under the Act dated 4 June 2021.

It is declared that this instrument -

- (a) comes into force immediately upon its execution;
- (b) remains in force until varied or revoked.

This instrument is authorised by a resolution of the East Gippsland Shire Council made on 14 September 2021.

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..... Councillor

..... Chief Executive Officer

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East Gippsland Shire Council

Instrument of Appointment and Authorisation (*Environment Protection Act 2017*)

In this instrument "**officer**" means -

Guy Corney, Environmental Health Officer

By this instrument of appointment and authorisation East Gippsland Shire Council -

under s 242(2) of the *Environment Protection Act 2017* ('Act') and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021 - appoints this officer to be an authorised officer for the purposes of exercising the powers and functions set out in the Instrument of Direction of the Environment Protection Authority under the Act dated 4 June 2021.

It is declared that this instrument -

- (a) comes into force immediately upon its execution;
- (b) remains in force until varied or revoked.

This instrument is authorised by a resolution of the East Gippsland Shire Council made on 14 September 2021.

THE COMMON SEAL of EAST GIPPSLAND SHIRE COUNCIL was hereunto affixed on the

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..... Councillor

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East Gippsland Shire Council

Instrument of Appointment and Authorisation (*Environment Protection Act 2017*)

In this instrument "**officer**" means -

Zoe Jennings, Community Laws Officer

By this instrument of appointment and authorisation East Gippsland Shire Council -

under s 242(2) of the *Environment Protection Act 2017* ('Act') and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021 - appoints this officer to be an authorised officer for the purposes of exercising the powers and functions set out in the Instrument of Direction of the Environment Protection Authority under the Act dated 4 June 2021.

It is declared that this instrument -

- (a) comes into force immediately upon its execution;
- (b) remains in force until varied or revoked.

This instrument is authorised by a resolution of the East Gippsland Shire Council made on 14 September 2021.

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..... Councillor

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East Gippsland Shire Council

Instrument of Appointment and Authorisation (*Environment Protection Act 2017*)

In this instrument "**officer**" means -

Jody Haberfield, Community Laws Officer

By this instrument of appointment and authorisation East Gippsland Shire Council -

under s 242(2) of the *Environment Protection Act 2017* ('Act') and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021 - appoints this officer to be an authorised officer for the purposes of exercising the powers and functions set out in the Instrument of Direction of the Environment Protection Authority under the Act dated 4 June 2021.

It is declared that this instrument -

- (a) comes into force immediately upon its execution;
- (b) remains in force until varied or revoked.

This instrument is authorised by a resolution of the East Gippsland Shire Council made on 14 September 2021.

THE COMMON SEAL of EAST GIPPSLAND SHIRE COUNCIL was hereunto affixed on the

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..... Councillor

..... Chief Executive Officer

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East Gippsland Shire Council

Instrument of Appointment and Authorisation (*Environment Protection Act 2017*)

In this instrument "**officer**" means -

Nicole Guns, Community Laws Officer

By this instrument of appointment and authorisation East Gippsland Shire Council -

under s 242(2) of the *Environment Protection Act 2017* ('Act') and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021 - appoints this officer to be an authorised officer for the purposes of exercising the powers and functions set out in the Instrument of Direction of the Environment Protection Authority under the Act dated 4 June 2021.

It is declared that this instrument -

- (a) comes into force immediately upon its execution;
- (b) remains in force until varied or revoked.

This instrument is authorised by a resolution of the East Gippsland Shire Council made on 14 September 2021.

THE COMMON SEAL of EAST GIPPSLAND SHIRE COUNCIL was hereunto affixed on the

..... day of 2021 in the presence of:

..... Councillor

..... Chief Executive Officer

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placed here.



East Gippsland Shire Council

Instrument of Appointment and Authorisation (*Environment Protection Act 2017*)

In this instrument "**officer**" means -

Buck Cerridwyn, Community Laws Officer

By this instrument of appointment and authorisation East Gippsland Shire Council -

under s 242(2) of the *Environment Protection Act 2017* ('Act') and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021 - appoints this officer to be an authorised officer for the purposes of exercising the powers and functions set out in the Instrument of Direction of the Environment Protection Authority under the Act dated 4 June 2021.

It is declared that this instrument -

- (a) comes into force immediately upon its execution;
- (b) remains in force until varied or revoked.

This instrument is authorised by a resolution of the East Gippsland Shire Council made on 14 September 2021.

THE COMMON SEAL of EAST GIPPSLAND SHIRE COUNCIL was hereunto affixed on the

..... day of 2021 in the presence of:

..... Councillor

..... Chief Executive Officer

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seal to be
placed here.



East Gippsland Shire Council

Instrument of Appointment and Authorisation (*Environment Protection Act 2017*)

In this instrument "**officer**" means -

Christopher Boyer, Community Laws Officer

By this instrument of appointment and authorisation East Gippsland Shire Council -

under s 242(2) of the *Environment Protection Act 2017* ('Act') and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021 - appoints this officer to be an authorised officer for the purposes of exercising the powers and functions set out in the Instrument of Direction of the Environment Protection Authority under the Act dated 4 June 2021.

It is declared that this instrument -

- (a) comes into force immediately upon its execution;
- (b) remains in force until varied or revoked.

This instrument is authorised by a resolution of the East Gippsland Shire Council made on 14 September 2021.

THE COMMON SEAL of EAST GIPPSLAND SHIRE COUNCIL was hereunto affixed on the

..... day of 2021 in the presence of:

..... Councillor

..... Chief Executive Officer

EGSC common
seal to be
placed here.



East Gippsland Shire Council

Instrument of Appointment and Authorisation

(*Planning and Environment Act 1987*)

In this instrument "**officer**" means -

Martin Richardson, Manager Planning

By this instrument of appointment and authorisation East Gippsland Shire Council -

1. under section 147(4) of the *Planning and Environment Act 1987*, appoints this officer to be an authorised officer for the purposes of the *Planning and Environment Act 1987* and the regulations made under that Act; and
2. under section 313 of the *Local Government Act 2020*, authorises this officer either generally or in a particular case to institute proceedings for offences against the Acts and regulations described in this instrument.

It is declared that this instrument -

- (a) comes into force immediately upon its execution;
- (b) remains in force until varied or revoked.
- (c) This instrument is authorised by a resolution of the East Gippsland Shire Council made on 14 September 2021.

THE COMMON SEAL of EAST GIPPSLAND SHIRE COUNCIL was hereunto affixed on the

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..... Councillor

..... Chief Executive Officer

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placed here.



5.3.4 Draft Procurement Policy

Authorised by General Manager Business Excellence

Conflict of Interest

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

Executive Summary

In accordance with the new *Local Government Act 2020* (the new Act) Council is required to prepare and adopt a new procurement policy prior to 1 January 2022, refer **Attachment 1** for the new draft Procurement Policy and **Attachment 2** for the current Procurement Policy.

The Procurement Policy is required to specify the principles, processes and procedures applying in respect of the purchase of goods and services by the Council, including for the carrying out of works, whilst also seeking to promote open and fair competition and provide value for money.

The Procurement Policy must include the following:

1. the contract value above which the Council must invite a tender or seek an expression of interest;
2. a description of the criteria to be used by the Council to evaluate whether a proposed contract provides value for money;
3. a description of how the Council will seek collaboration with other Councils and public bodies in the procurement of goods or services; and
4. the conditions under which the Council may purchase goods or services without inviting a public tender or expression of interest.

Governance has prepared Council's new Procurement Policy and Procurement Procedure (**refer Attachment 3**) (Procurement Framework) to align with the intent of the new Act, whilst also incorporating feedback from within the organisation to ensure the framework represents best-practice for Council's procurement activities.

The approach has been to develop a Procurement Framework which includes the establishment of processes with clear roles and responsibilities and fosters effective decision-making processes, reflecting the key principles of transparency and accountability, which will create an environment that is also conducive to good governance.

Council's policy pursues innovation and continuous improvement and promotes economic, social and environmental sustainability and collaboration within Council and with other Councils.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report;***
- 2. adopts the draft Procurement Policy, at Attachment 1; and***
- 3. notes that the subsequent Procurement framework templates will be developed, upon adoption of the draft Procurement Policy.***

Background

The new Act removes a lot of the rigidity that was contained in the old *Local Government Act* 1989 (such as removing ministerial exemptions and delegated market-engagement thresholds) in favour of allowing Councils to approach their procurements more flexibly.

However, the intent of the new Act is still subject to the key principles of:

- Value for Money;
- Open and Fair competition;
- Accountability;
- Risk Management;
- Probity and Transparency; and
- Sustainable and social procurement objectives.

The new Procurement Framework adopts and incorporates these key principles into Council's procurement activities by:

- clarifying what value for money includes and how value for money can be realised in Council's procurement activities (including for example, explaining how collaborative arrangements can be identified or utilised in a procurement) – see section 4.1 of the Policy;
- including processes for ensuring open and fair competition (such as by ensuring competitive neutrality is included and considered in each stage of the process – particularly for In-house Bids) – see section 6.3 of the Policy;
- ensuring there are clear responsibilities and delegations for each member of Council who are involved in a procurement process – see section 7.1 of the Policy;
- amending the exemptions for market engagement which may apply to procurement activities given the flexibility afforded by the new Act – see section 7.4 of the Policy;
- clarifying how contract variations of contracts already underway may be requested and approved to align with Council's risk management processes – see section 7.5 of the Policy;
- specifying when probity auditors or advisors are required to be engaged, how conflicts of interest are to be managed and delegation and expenditure thresholds are easily understood to assist Council's risk management and enable probity and transparency of the procurement process to be maintained – see section 5.2 of the Policy;

- promoting and encouraging sustainable and social procurement objectives, such as support for Indigenous Businesses, local content and environmental sustainability – see sections 4.4 – 4.7 of the Policy; and
- including options for innovative and contemporary methods and mechanisms of procurement to encourage new solutions and enhanced methods of procurement to be explored or utilised for particular procurements – see section 6 of the Policy.

Furthermore, officers have addressed these principles and requirements in great detail within the Procurement Procedure, providing context and actions to enable Council officers to be accountable to the process and ensure these outcomes can be achieved.

There are also a number of new inclusions to the framework to ensure Council can realise the benefit of the broader scope of the new Act and how Council may procure goods and services including:

- the ability to adjust evaluation criteria, prior to releasing to the market, to emphasise the importance of particular objectives (such as sustainability and local content) on a case-by-case basis, acknowledging that one size does not fit all – see sections 4.4 – 4.7 of the Policy;
- recognition and compliance with the Local Jobs First Regime when Council obtains State Government funding and an optional adjustment to the tender evaluation weightings where local content is a preferred factor - see section 4.4 of the Policy;
- sustainable procurement processes and recognition that sustainable procurement is of key benefit to the wider EGS community - see section 4.5 of the Policy;
- explaining the importance of awareness for the circular economy and circular procurement (which also responds to the key principle of sustainable procurement) – see section 4.6 of the Policy;
- adjusting the exemptions for when Council may undertake a time-sensitive or urgent procurement activity without a prior market process, this addresses the removal of ministerial approvals from the new Act, (while also ensuring the steps and approval processes remain in place to maintain the integrity and accountability of Council in the procurement process) – see section 6 of the Policy;
- inclusion of bidding at auction provisions (which allows a new way for Council to approach a competitive market process and obtain value for money) – section 6.5 of the Policy; and
- adjusted flexibility around Council being able to procure critical post-disaster/ emergency goods, services or works without issuing and proceeding through the usual market process – see section 6 and section 7.4 of the Policy.

Legislation

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

This report has been prepared in accordance with new Act specifically sections 108 and 109.

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

Collaborative procurement

Pursuant of section 109(2) of the *Local Government Act 2020* this report has been prepared to provide a framework to Council when undertaking collaborative procurement.

Council Plan

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

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

Council Policy

The revised draft Policy redevelops Council's Procurement Framework to one of a strategic nature, utilising the opportunities presented with the new Act whilst ensuring compliance with the required principles. The development of a strategic procurement framework allows Council to approach procurement in a manner that serves the organisations objectives but also the community in an efficient and effective manner whilst ensuring that transparent and accountable practices still underpin the framework.

Options

Section 108 of the new Act requires Council to adopt a Procurement Policy which specifies the principles, processes and procedures applying in respect of the purchase of goods and services by the Council, including carrying out works, additionally the Act stipulates under sections 108 (3) (a-f) the mandatory inclusions that are to be captured within Council's Procurement Policy.

The draft policy, at **attachment 1**, addresses the requirements of the new Act and as such there are no alternative options to be considered.

Resourcing

Financial

There are no financial implications arising from the adoption of the Policy.

Plant and equipment

There is no implication for Council's plant and equipment from the adoption of this Policy.

Human Resources

The management of the Policy is effectively resourced within current arrangements.

Risk

The adoption and implementation of the Procurement Policy will strengthen Council's robust governance framework and assist in the mitigation of risks associated with the procuring of goods, services and works.

Economic

The new Framework demonstrates Council's commitment to procurement that supports Local Business and economic diversity. Where applicable, Council will give preference to goods manufactured or produced in Australia and will actively seek quotations and tenders from Local Businesses in the local government area. Council's sustainable procurement will be underpinned by the following principles, where possible:

- ensuring probity, accountability and transparency in the procurement process;
- ensuring Value for Money on a whole of life basis, rather than just initial cost;
- ensuring open and effective competition, and the development of competitive Local Business and industry;
- building relationships with Local Business;
- increasing local employment;
- fostering innovation and emerging sectors; and
- considering life cycle costs.

Social

The new Framework demonstrates Council's commitment to building a stronger community and meeting social objectives which benefit the Shire and commits to incorporating measures in its procurement processes and documentation which promote improved social outcomes.

Council's social procurement will be underpinned by the following principles:

- a thorough understanding of the socio-economic issues affecting our community;
- creation of training and employment opportunities for unemployed or disadvantaged residents in the Shire to address socio-economic issues;
- increasing social procurement spend;
- increasing employment opportunities for indigenous people, people with a disability, disadvantaged people and long term unemployed;
- promotion of equity, diversity and equal employment;
- prevent, detect and remove modern slavery from Council's supply chain; and
- respect for human rights, the rule of law and international norms of behaviour.

Environmental

The new Framework will support the purchase of goods, services and works that reduce air, water and soil pollution, greenhouse gas emissions, waste production, natural resource depletion and biodiversity depletion whenever they present an acceptable Value for Money outcome, and in some cases where they might not. Council's strategies will be underpinned by the following principles:

- considering a product's or asset's lifecycle;
- promoting circular economy participation;
- increase the use of recycled materials;
- improve energy and water efficiency;
- minimise waste production;
- reduce pollution;
- managing demand to reduce procurement requirements;
- encouraging innovation through specifications; and
- engaging suppliers who are also committed to reducing their environmental impact.

Climate change

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

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

Engagement

Internal engagement with has been undertaken with key stakeholders regarding the development of this policy.

Attachments

1. New Draft Procurement Policy [**5.3.4.1** - 23 pages]
2. Old Procurement Policy [**5.3.4.2** - 13 pages]
3. New Draft Procurement Procedure [**5.3.4.3** - 49 pages]
4. Old Procurement Procedure [**5.3.4.4** - 29 pages]



PROCUREMENT POLICY

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DRAFT

1. Purpose

Council is required under section 108 of the *Local Government Act 2020* (the **Act**) to prepare and adopt a Procurement Policy. In accordance with the Act, this Procurement Policy seeks to promote open and fair competition and Value for Money in respect of the purchase of Goods, Services and for carrying out of Works by Council. Council must review its Procurement Policy every 4 years.

1.1 Key outcomes

The purpose of this Procurement Policy is to:

- provide a framework that seeks to achieve best value through consistent, competitive and transparent processes;
- achieve compliance with relevant legislative requirements;
- establish a social procurement environment;
- minimise and manage risks in procurement;
- specify the overarching requirements, principles, policies and processes Council will follow when procuring Goods, Services or Works;
- prioritise, where practical, the procurement of locally sourced Goods, Services or Works and procurement of environmentally sustainable Goods, Services or Works;
- facilitates the efficient provision of goods, services and works to meet the needs of Council and the community; and
- give effect to the overarching governance principles of the Act.

1.2 Key principles

The key principles of the Procurement Policy are:

- **Value for Money** - provide a procurement framework for Council that achieves the best value mix of cost, quality, environmental responsibility, social responsibility and sustainability;
- **Open and fair competition** – ensuring that the market is given a fair opportunity to respond to invitations from Council to supply Goods, Services or Works to Council;
- **Probity** – demonstrate fairness, impartiality, transparency, accountability and confidentiality, and effectively manage any perceived or actual Conflict of Interest;
- **Efficiency** – minimise the cost of procurement activities to Council and participants without compromising quality or other procurement principles;
- **Continuous improvement** – promote continuous improvement and innovation in design and delivery of Goods, Services and Works;
- **Collaboration** – collaborate with other councils and relevant bodies where appropriate to share better practices and achieve Value for Money;
- **Risk management** – minimising and managing risk in procurement through ensuring issues are identified, mitigated and documented;
- **Compliance** – comply with relevant legislative requirements; and
- **Source and procure locally** – procure from local sources where appropriate whilst maintaining Value for Money and commitment to public benefit to increase social value.
- **Responsiveness and agility** – allows procurement to occur in a time efficient manner that does not impact the business of Council whilst also meeting legislative and transparency requirements.

2. Scope of Policy

A Council must comply with its Procurement Policy before entering into a contract for the purchase of Goods or Services or the carrying out of Works in accordance with section 109 of the Act. Accordingly, this policy applies to all procurement activities undertaken by Council and is binding upon Councillors, Council officers, Staff, contractors and consultants while engaged by Council.

3. Policy Statement

Council is committed to the effective procurement of Goods, Services and Works through adopting key principles and policies and identifying opportunities for collaborative and sustainable procurement. The adoption of these key principles and policies will support the achievement of Council's objectives in relation to sustainable and socially responsible procurement, support for the local economy and obtaining Value for Money. Achievement of these objectives will lead to better outcomes in the provision of services for the community.

Councillors, Council officers, Staff, contractors and consultants while engaged by Council are required to comply with this Procurement Policy.

4. Key Principles

4.1 Value for Money

The principle of Value for Money underpins all of Council's procurement functions. Council considers Value for Money to be the achievement of a desired procurement outcome at the best possible price, not necessarily the lowest price, based on a set list of financial and non-financial criteria relevant to the procurement. Value for Money also considers the total cost of procurement from planning to disposal and everything in between. This is commonly known as total cost of ownership.

Value for Money encompasses opportunities to deliver social and sustainable outcomes which provide meaningful benefits to the community.

Value for Money will be achieved by:

- developing, implementing and managing procurement frameworks that support the co-ordination and streamlining of activities throughout the lifecycle;
- development, implementation and management of a procurement strategy to encourage and facilitate procurement that supports and stimulates the local economy;
- determining opportunities where procurement can be improved to enable greater social and sustainable service delivery;
- effective use of competition between suppliers and contractors;
- identifying strategic opportunities to collaborate with and share arrangements or resources with other councils, bodies and government agencies where advantageous for Council;
- using aggregated contracts where appropriate;
- identifying and rectifying inefficiencies in procurement processes;
- developing cost efficient procurement processes including appropriate use of e-solutions; and
- working with suppliers to create relationships that are professional and productive and adhere to the requirements of the relevant contract in place.

4.2 Accountability and Transparency

Accountability and transparency in procurement means being able to explain and provide evidence on the process followed to procure the Goods, Services or Works. The test of accountability is that an independent third party must be able to see clearly that a process has been followed and that the process is fair and reasonable.

Council conducts its procurement and contracting activities in a transparent manner which demonstrates probity and accountability. Council must not change the terms of a procurement process after the process is released to the market to maintain accountability and transparency of the procurement process, except where this Procurement Policy or the Procurement Procedure allows an adjustment or amendment of the particular procurement process.

All procurement activities undertaken by Council must be in accordance with the Act, the Procurement Policy, the Procurement Procedure, other relevant Council policies and all other legislative requirements.

4.3 Fair and Honest Dealings

Council is committed to providing equal opportunity for all businesses, to bid for work through open and transparent market processes. Impartiality is to be maintained by Council, the Council officers and other personnel involved in the procurement throughout the procurement process. This is to eliminate the prospect of any bias in decisions, to ensure Council decisions avoid public scrutiny and to ensure Council decisions are defensible.

4.4 Support for Local Content

Council will include in its Tender processes a mandatory weighting of five (5) percent for local content when engaging and contracting with suppliers, service providers and contractors. This weighting may be increased to 10% if the particular Tender process may benefit from the increased weighting for Local Content, and such increased weighting is approved by the relevant General Manager. This is to acknowledge the suppliers whose activities contribute to the economic and social wellbeing of the East Gippsland region.

This weighting may be removed in the event of a collaborative Tender where the evaluation criteria does not align with the requirements of other participants.

4.4.1 Local Jobs First

The *Local Jobs First Act 2003 (LJF Act)* applies to the full range of Victorian Government projects that meet financial thresholds, including for instance, all types of procurement for Goods, Services or Works.

Council must comply with the requirements of the LJF Act and the currently published Local Jobs First Policy when seeking the procurement of Goods, Services or Works over the thresholds (or below the thresholds if classified as an eligible project), and where that procurement has State Government funding.

Compliance with the LJF Act includes process and reporting requirements.

A Local Jobs First **standard project** is a project:

- with a budget of \$1 million or more in rural and regional Victoria;
- with a budget of \$3 million or more for state-wide projects or for projects in metropolitan Melbourne; or
- declared to be a standard project by the Minister under section 7A(1) of the LJF Act.

A Local Jobs First **strategic project** is a project:

- with a budget of \$50 million or more; or
- any other project declared to be a Strategic Project by the Minister under section 7A(2) of the LJJ Act.

The requirements differ for each type of project and should be managed in accordance with the Procurement Procedure if the procurement meets any of these requirements.

4.5 Support for Sustainability, Sustainable Procurement and Environment

Sustainable procurement aims to reduce the adverse impacts of purchased goods, services and works on our environment locally, nationally and globally. This includes considerations such as planning for the future climate, reducing carbon emissions, minimising resource wastage, and the cost of construction, operations and maintenance over the life of goods, services and works.

In line with Climate Change requirements, Council will consider sustainability during the specification of the goods or service required and will expect tenderers to respond to this requirement to demonstrate how delivery will meet this requirement.

Council will include in its Tender processes a mandatory weighting of five (5) percent for sustainability when engaging and contracting with suppliers, service providers and contractors. This weighting may be increased to 10% if the particular Tender process may benefit from the increased weighting for sustainability. Increased weighting will be approved by the relevant General Manager.

Council officers must consider and investigate opportunities in procurement activities which seek to maximise the environmental and whole-of-life sustainability of the Goods, Services or Works being procured and minimise the impact of the procurement on the environment.

Council demonstrates sustainable procurement by:

- being accountable for its impacts on society, the economy and the environment including the impacts of the organisation's supply chain;
- examining anticipated organisational, project and/or community needs;
- applying a price or evaluation score preference (when it is determined to be appropriate) to quotations and Tenders received from an Indigenous Business;
- applying a price or evaluation score preference (when it is determined to be appropriate) to quotations and Tenders received from any businesses that demonstrates other desirable sustainability practices and outcomes;
- continually improving sustainability specifications, practices and outcomes; and
- planning and undertaking sustainability evaluations as part of contracting activities.

4.6 Circular Economy and Circular Procurement

The objective of a circular economy is to maximise value at each point in a product's life. The circular economy is an alternative to the traditional linear model, where the goal is to keep resources in use for as long as possible, extract the maximum value from them whilst in use, then recover and regenerate products and materials at the end of each service life. A circular economy seeks to eliminate waste and to keep resources in a continually flowing loop.

Council is committed to minimising waste of resources and maximising value retention of resources and materials in its procurement processes.

Council will consider at all stages of the procurement process whether the Goods, Services or Works can be re-used or re-purposed at end-of-life and that the procurement properly considers the opportunity to maximise the options for recycling or utilising components to ensure the benefit of circular procurement can be realised.

4.7 Social Procurement

Social procurement aims to ensure Value for Money considerations are not solely focused on price but encompass opportunities to deliver social and sustainable outcomes that benefit the Council's local community.

Council aims to incorporate "social benefits" into this Procurement Policy and all procurement documentation (e.g. request for tender, request for quote, procurement plans, evaluation plans, risk management plans) to ensure that social procurement activities are embedded, integrated and implemented across all of Council's procurement activities.

Such social procurement principles will be used to embed aboriginal participation in project delivery where possible and practical; support for social enterprises; and support for procurement of works, services and goods in a manner that supports the communities of East Gippsland.

5. Risk Management

5.1 General

Appropriate risk management is to be applied at all stages of procurement activities. This must be properly planned and carried out in a manner that will protect and enhance Council's capability to prevent, withstand and recover from interruption to the supply of Goods, Services or Works. Council's risk exposure will be minimised by measures such as:

- standardisation of contracts including necessary and relevant clauses;
- requiring security deposits where appropriate;
- referring specifications to relevant experts (including external experts where it is appropriate to do so);
- requiring contracts be fully executed before acceptance of the Goods or prior to the commencement of the Services or Works; and
- incorporating relevant Australian Standards (or equivalent) or best practice guidelines.

5.2 Probity

Where procurement activities are Strategic Procurement or sensitive in nature, or of significant value (of \$2,000,000 or above), where there is an In-house Bid, a conflict or other situation that could compromise the integrity of the process, an external probity advisor or a probity auditor should be engaged by Council.

Probity Auditors

A probity auditor's role is to focus on compliance to procurement processes according to the procurement requirements, set criteria, standards or principles, to ensure adherence to Council's policies and rules and to provide appropriate sign-off for Council at completion of the procurement process (and/or designated milestones).

Probity auditors must be engaged in accordance with the Procurement Procedure.

Probity Advisor

A probity advisor's role is to observe the procurement process, provide the Procurement Team, the Procurement Coordinator and Tender Evaluation Panel, with independent advice and guidance on probity issues throughout the procurement process and to provide a probity report at conclusion of the procurement process as to probity of the process, whether the recommendations of the Tender Evaluation Panel are consistent with the evaluation, if there is any impediment for Council acting on the recommendations and provide confirmation that the Tender Evaluation report reflects the evaluation.

Probity advisors must be engaged in accordance with the Procurement Procedure.

5.3 Insurance Requirements

In order to minimise Council's risk exposure, Council will ensure that engaged suppliers, contractors and consultants have appropriate insurances in place and that the insurance remains valid throughout the entire life of awarded contracts, including any defects liability period for the Goods, Services or Works.

Council will maintain a register of suppliers', contractors' and consultants' insurance details in a manner that will ensure that certificates can be easily reviewed for currency and for updates to be requested as required.

5.4 Competition and Consumer Act Compliance

Council will comply with the *Competition and Consumer Act* 2010 and other fair-trading legislation applicable to its operations. Council is committed to the public policy goals embodied by these laws, which include the protection and promotion of competition.

Council is committed to ensuring Staff are informed of their obligations arising under competition and consumer legislation, and to not allow the following to occur:

- restrictive trade practices (including price fixing and exclusionary provisions relating to a division of territories);
- market sharing (including allocation of customers), anti-competitive agreements, exclusive dealing and misuse of market power;
- inaccurate communication or promotion (including misleading or deceptive conduct, false claims and unsubstantiated predictions); and
- unconscionable and / or unfair business practices.

Where it is found that Council has breached the *Competition and Consumer Act* 2010 or been involved in the practices described above, Council and the Councillors, Council officers or Council Staff involved in the breach or practices may be subject to disciplinary action and/or prosecution under the *Competition and Consumer Act* 2010, *Local Government Act* 2020 or other legislation.

Where a decision of Council to award a contract does not follow the recommendation of the Tender Evaluation Panel, Council exposes itself to risk of liability for failing to comply with probity principles in conducting its procurement processes.

5.5 Gifts, Benefits and Hospitality

Councillors and Council officers must not, either directly or indirectly, solicit or accept gifts, benefits or hospitality from any member of the public where:

- it is made during a procurement or Tender process by a person or organisation involved in, or with an interest in, the process;
- acceptance could be perceived as endorsement of Goods, Services or Works; or
- acceptance could be seen to advantage the member of the public in future procurement decisions.

Council's Gifts Benefits and Hospitality Policies further set out Councillors and Council officers' obligations in respect of gifts, benefits and hospitality.

5.6 Fraud and Corruption Control

Council takes allegations of fraudulent activity and corrupt conduct seriously. Council is committed to preventing, deterring and reporting corrupt and fraudulent behaviour. Council has developed a Fraud and Corruption Control Policy which provides a framework for preventing the risk of fraud and strengthening organisational integrity.

Complaints of improper conduct and behaviour of Councillors and Council officers will be managed in accordance with Council's Public Interest Disclosure Policy.

5.7 Disclosure of Information

The commercial interests of existing and potential suppliers must be protected. Confidentiality of information provided by existing and prospective suppliers must be maintained, particularly commercially sensitive material such as, but not limited to prices, discounts, rebates, profit, manufacturing, intellectual property and product information.

At no stage should Councillors or Council officers have discussions with potential suppliers about active procurements prior to the approval process being finalised and the contract being awarded (other than authorised procurement negotiations undertaken by the appointed Tender Evaluation Panel). Councillors and Council officers should take care that their duty to consider issues fairly and properly is not compromised by participating in discussions with suppliers where the intent of the supplier is to influence the decision-making of a Councillor or Council officer in procurement related matters.

5.8 Conduct of Councillors and Council officers throughout the Procurement Process

5.8.1 Involvement in the procurement process

Councillors cannot participate in any aspect of the procurement process unless acting in the capacity of Council at a formally constituted Council meeting to consider the awarding of a contract. The exclusion of Councillors from participation in procurement processes is to safeguard the integrity of the process and ensure that the evaluation of Tenders is separate from the ultimate decision making and award process. It is also essential to avoid the perception that those involved in the evaluation of Tenders can be influenced by the involvement of Councillors.

Councillors having involvement in the procurement process is contrary to a Councillor's function under the Act, as a Councillor is charged with the task of participating in the decision making of Council (section 28 of the Act) whereas the Chief Executive Officer and Council Staff are charged with the task of carrying out the day-to-day operations of Council (section 46 of the Act). If Councillors were to participate in the procurement process this would create a Conflict of Interest when the Councillor was ultimately required to perform their decision-making function in approving a contract at the conclusion of the procurement process.

5.8.2 Conduct of Council officers and Councillors

Council officers and Councillors must exercise the highest standards of integrity in a manner able to withstand the closest possible scrutiny. In accordance with Part 6 of the Act, Councillors and Council officers have an overriding responsibility to act properly, impartially and with integrity, avoiding Conflicts of Interest and misuse of their position.

Council officers and Councillors, must:

- not misuse their position to gain, or attempt to gain, any advantage for themselves or any other person or any detriment to Council or another person;
- not use public funds or resources in a manner which is unauthorised;
- at all times avoid situations in which private interests conflict, or might reasonably be thought to conflict, or have the potential to conflict, with their Council duties;
- not participate in any action or matter associated with the arrangement of a Tender or contract (i.e., evaluation, negotiation, recommendation or approval) where that person has a Conflict of Interest;
- not intentionally, or recklessly disclose information which is confidential, or which the person should reasonably know is confidential;
- on becoming aware of a Conflict of Interest, promptly declare the Conflict of Interest in accordance with the Governance Rules. If Council officers have a Conflict of Interest, the conflict must be disclosed to the Procurement Team and that Council officer must exclude themselves from any decision-making process or any action in relation to that matter (in addition to any other requirements);
- in the case of Councillors declaring a Conflict of Interest, the conflict must be declared to the Mayor or the Committee Chair, depending on whether the matter is to be considered by Council or an Assembly of Councillors, as well as the Chief Executive Officer; and
- treat potential and existing suppliers with equality and fairness.

5.8.3 Determining the award of a contract

Councillors (where the procurement requires a resolution of Council) and the Chief Executive Officer (where the procurement requires approval of the Chief Executive Officer under their financial delegation) must act on the recommendation of the Tender Evaluation Panel unless:

- there is insufficient Council budget for the relevant procurement;
- State or Commonwealth government policy or legislative requirements have changed which means the relevant procurement is no longer in the best interests of Council;
- Council decides not to proceed with the project for reasons unrelated to the procurement process which means the relevant procurement is no longer in the best interests of the Council.

The above provisions are in place to protect Council from breaching the key principles of the Act, this Procurement Policy, competition and consumer laws, other legislative requirements, probity principles and to ensure compliance with Council's internal governance requirements and risk management. More generally, as the Chief Executive Officer or Councillors are not involved in the evaluation process, a significant probity issue arises if an award is made contrary to a recommendation. This may be evidence of a breach of fairness or a failure to comply with the process terms.

5.9 Auditing and Compliance

Compliance auditing determines whether a procurement process has or has not been followed in accordance with this Procurement Policy.

The Procurement Team will undertake audits to determine the level of compliance across the organisation, as appropriate.

6. Procurement Planning and Methods

6.1 Determining the appropriate method of Procurement

Council's standard methods for purchasing Goods, Services and Works are:

- **Credit Card** - using Council's corporate credit card;
- **Purchase Order** - following a quotation process undertaken with suppliers for Goods, Services or Works that represents Value for Money under directed quotation thresholds (refer to section 7.3 for more information);
- **Contract** - under contract following a request for quotation or request for Tender process; or

Aggregated purchase arrangement - using aggregated purchasing arrangements with other councils or bodies such as MAV Procurement, Procurement Australia, Victorian Government (e.g. State Purchasing Contracts, Whole of Government Contracts); and Commonwealth Government (e.g. Federal Purchasing Contracts). However, Council may also utilise alternative methods of procurement such as collaborative tendering arrangements, direct approaches to other Councils, state or federal agencies, procurement auctions and other ways set out in this Procurement Policy to purchase Goods, Services or Works where the particular procurement may be suitable for an alternative arrangement and Council's policies and the key principles under this Procurement Policy are maintained.

6.2 Collaborative Tendering

Council is committed to identifying and pursuing opportunities for collaboration with the Municipal Association of Victoria (MAV), Procurement Australia (PA), other local governments, State Government departments and other public bodies to maximise Value for Money and achieve Council's objectives.

Collaborative approaches to procurement may include joint tendering or partnership approaches, depending on the complexity, value and risk of the procurement. Value for Money and achievement of Council's objectives can be achieved through shared services and innovative procurement arrangements with these other parties to leverage the combined resources, market power and expertise of Council and other parties.

When developing a Procurement Conduct Plan (in accordance with the Procurement Procedure), Council officers must consider and set out any opportunities for collaborative arrangements with other local governments or government agencies (if appropriate for the particular procurement).

The Chief Executive Officer must ensure that any report to Council that recommends entering into a procurement agreement includes information in relation to any opportunities for collaboration with other councils or public bodies which may be available.

6.3 In-House Bids

Council is committed to the effective procurement of Goods, Services and Works, including the management of Council-owned and Council-managed assets, through adopting best practice principles, policies and procedures.

Council will ensure the procurement process is fair and consistent to all and will use its best endeavours to demonstrate its transparency to Invitees and potential Invitees, including In-House Bidders. Council must uphold the highest standards of probity and integrity to safeguard the procurement activities and ensure that all procurement processes are robust and can withstand scrutiny. This will be achieved by:

- maintaining an open and accountable procurement process ensuring all Invitees' information remains secure and confidential;
- giving clear notice to all Invitees whenever an In-House Bidder is participating in a procurement process;
- applying the same conditions for each Invitee, whether they are external or in-house;
- ensuring the requirements and expected outcomes are clearly specified in the procurement documentation to allow Invitees to accurately provide their substantive responses and prices;
- packaging requests to meet the requirements of relevant regulations and ethical obligations and to encourage competition to achieve the best outcome for Council and the community; and
- identifying and managing all Conflicts of Interest.

As part of any procurement process involving In-House Bids, Council must ensure that the In-House Bidder(s) submit all required information to enable Council to comply with the competitive neutrality principles (see section 10.4 of the Procurement Procedure).

Council or the Chief Executive Officer (depending on the appropriate financial delegation of the procurement) will only award the contract on the basis of best quality and Value for Money for the community and in line with the above core principles.

6.4 Internal Delivery of Service

Where Council has in-house capacity and skills, Council may determine that it would be in the best interest of the Community to deliver certain services or activities internally. Any determination as to whether it is in the best interest of the community will be undertaken in accordance with the principles identified in s106 of the *Local Government Act 2020* and the Victorian Competitive Neutrality Policy, as appropriate.

6.5 Procurement Auctions

Council may use an auction process as part of a procurement process.

A procurement auction is a process for approaching a competitive market to buy Goods, Services or Works or to sell or dispose of assets or other items.

Benefits of a procurement auction may include:

- cost savings through low prices;
- transparency, fairness, process credibility and accountability;
- increased supplier and bidder participation and competition due to perceptions of greater probity (as a result of the transparency of an open process where all participants are aware of the rules and the competitiveness of their bids);
- time savings (through a reduced negotiation phase);
- real time price feedback for participating suppliers and bidders;
- elimination of unconscious bias; and
- procurement cost efficiencies, particularly when used for frequent, repetitive buying or selling.

For purchasing processes, procurement auctions may be a suitable process to use where the Goods, Services or Works are of relatively low complexity or low risk or are routine or off-the-shelf type items which are readily available.

Buying and selling at auction does not reduce Council's obligations to comply with the core principles of this Procurement Policy, including all Value for Money and probity requirements. Council must take into account all relevant planning and market analysis before choosing an appropriate market approach and put in place all methods and processes for the auction process in order to maximise the opportunity to obtain Value for Money and ensure compliance with its Procurement Policy principles.

Procurement auctions should be considered in accordance with the Procurement Procedure.

6.6 Tender evaluation and evaluation criteria

A Tender Evaluation Panel will be established to evaluate each Tender submission against the specified evaluation criteria. Tender Evaluation Panels can include both internal and external personnel in order to ensure the best outcome for a procurement activity and must comprise of at least 3 persons which includes the chairperson.

External personnel can also be included in the procurement process in an advisory role and not sit on the Tender Evaluation Panel or may sit on the Tender Evaluation Panel where technical or professional experience is required for the appropriate evaluation of submissions. Engagement of external advisors must be approved by the relevant General Manager.

A detailed Tender Evaluation Plan shall be developed, approved and strictly adhered to by the Tender Evaluation Panel. This involves the establishment of detailed evaluation criteria and the application of a pre-approved and robust weighted scoring system.

The Tender Evaluation and Probity Plan should be completed and signed off prior to the Tender or quotation being issued to market.

All tender evaluation panel members must complete necessary declarations of no conflict of interest prior to receiving or evaluating any tenders.

Evaluation Criteria

Council may include the following evaluation criteria categories to determine whether a proposed contract provides Value for Money and complies with Council's key principles and objectives (in addition to other relevant criteria for the particular procurement):

- tendered price;
- mandatory compliance criteria (e.g. ABN registration, OH&S, Fair Work Act);
- capacity of the tenderer to provide the Goods, Services or Works;
- capability of the tenderer to provide the Goods Services or Works;
- demonstration of sustainability;
- social procurement (including supporting Indigenous Business);
- environment;
- Local Content; and
- Other specialised criteria may also be used from time to time, depending on the goods, service or works being sought.

7. Procurement Thresholds and Delegations

7.1 Financial Delegations and Authorisations

Delegations define the limitations within which individual Council officers are permitted to work. Delegation of procurement authority allows specified Council officers to approve certain purchases, quotations, Tender and contractual processes without referral to Council. This enables the organisation to conduct procurement activities in an efficient and timely manner while maintaining transparency and integrity.

The following table provides the current Financial Delegation Levels which apply for all procurement activities, including for the procurement of Goods, Services or Works.

Delegate	Total Procurement Value
Resolution of Council (awarded at Ordinary Council Meeting)	More than \$500,000 (including GST)
Chief Executive Officer	Up to \$500,000 (including GST)
General Managers, Manager Assets and Projects, Manager Works	Up to \$100,000 (including GST)
All other managers, Senior Works Coordinator, Works Engineer, Assets Engineer	Up to \$75,000 (including GST)
Coordinators, Essential Safety Measures Officer and Staff member appointed to manage a project	Up to \$50,000 (including GST)
Supervisors	Up to \$10,000 (including GST)
All other Staff	Up to \$2,000 (including GST)

7.2 Matters not Delegated to Council officers

Tender recommendations and contract approvals for all expenditure over \$500,000 (including GST) must be approved by Council.

7.3 Procurement Expenditure Thresholds

The below expenditure thresholds detail the market engagement and record keeping requirements which Council must comply with when procuring Goods, Services or Works. These requirements apply to all procurement activities unless an exemption applies (in accordance with section 7.4). The below thresholds and related exemptions also apply to collaborative procurements.

Procurement Value (Including GST)	Market Engagement Minimum Requirement - (*exemptions apply)	Council Contract Required?	Record Keeping Requirements (<i>Council Use Only</i>)
\$0 to \$5,000	One (1) verbal quote	Not required	A note must be attached to the Purchase Order in the Finance system providing details of the verbal quote received.
\$5,001 to \$50,000	Two (2) written quotes	Not Required	Written Quote Forms must be stored in the finance system.
\$50,001 to \$150,000	Three (3) written quotes	Not required	Along with the written quotes received, a Council Quote Form must be stored in the financial system if the minimum number of quotes have not been obtained (or due to a valid exemption) or the lowest priced quote has not been accepted.
\$150,001 to \$300,000	Public Request for Quote (RFQ) (In partnership with the Procurement Team)	Required	In accordance with this Procurement Policy and the Procurement Procedure.
More than \$300,000	Public Request for Tender (RFT) (In partnership with the Procurement Team)	Required	In accordance with this Procurement Policy and Procurement Procedure.

**Council and Council officers and Staff must also comply with Council's Credit Card Procedure for all procurements where a credit card purchase is appropriate.*

7.4 Exemptions from Procurement Expenditure Thresholds

An exemption to the procurement levels and market engagement requirements detailed in section 7.3 above may be sought and given under the following circumstances:

- **Policy Exemption** - where a policy exemption exists and is approved;
 - **Council or CEO approved Exemption** – where Council or the Chief Executive Officer approves an exemption from market engagement requirements (see section 13.2 of the Procurement Procedure); following the tender or procurement process would mean substantial delay or would be impractical, disadvantageous or unreasonable in the circumstances; or
 - directly approaching or contracting with another council, state or federal agency or company represents best Value for Money or would better achieve Council's key principles and objectives.
- **Emergencies** - in matters of Emergency including public health, security or safety as a result of an unforeseen event or occurrence (see also section 13.3 of the Procurement Procedure);
- **Collaborative Arrangements** - where a competitive process has been undertaken as part of a collaborative procurement arrangement (including through third party organisations e.g. MAV Procurement, Procurement Australia or State Government);
- **Specific Goods, Services or Works required** - situations where a change in supplier would necessitate the procurement of Goods, Services or Works that do not meet the requirements of Council for interoperability or interchangeability (such as renewal of software licences, the upgrade of existing systems or for maintenance and support of those current systems);
- **Professional Services Contracts** – for the procurement of legal services;
- **Statutory compulsory insurance** – where Council must take out specific insurance requirements specified by law or other instrument (e.g. WorkCover);
- **Absence of competition** - where there is an absence of competition for technical reasons, for example, one supplier having legal ownership of design or intellectual property or there being only one possible or suitable supplier of the relevant Goods, Services or Works (evidence of this must be provided to the Procurement Team prior to awarding a contract on this basis) and the contract must be approved by the Chief Executive Officer or Council;
- **Extension of contracts while at market** - extension of contracts is required while Council is at market (see section 13.4 of the Procurement Procedure); or
- **Exempt Procurement** - where the procurement is identified on Council's Policy Exemptions List including (see section 13.1 of the Procurement Procedure):
 - **Panel Arrangements;**
 - **Council or CEO approved Exemption;**
 - **Emergencies;**
 - **Agency Contracts;**
 - **specific goods, services or works required;**
 - **professional services contracts;**
 - **statutory compulsory insurance;**
 - **absence of competition;**
 - **extension of contracts while at market;** and
 - **Exempt Procurement** where the procurement is identified on Council's Procurement Exemptions List.

Exemptions may only be granted where they have been approved by the Chief Executive Officer (for procurements up to \$500,000 inc. GST) or Council (for procurements above \$500,000 inc. GST) in accordance with section 13.1 of the Procurement Procedure.

7.5 Contract Variations

Contract variations are variations to awarded contracts which increase the overall value of the contract. Contract variations may occur where:

- the specifications for Goods or scope of the Services or Works changes after the contract is awarded;
- the timing for the delivery or installation of Goods or performance of Services or Works changes;
- Council requires changes to the Goods, Services or Works; or
- Council exercises an additional option or ability under the relevant contract which increases the time before completion of the contract or overall value of the contract.

Contract variations are subject to the financial delegation thresholds specified in the Procurement Procedure and must be dealt with in accordance with the Procurement Procedure.

Unless a variation to the contract falls within the original procurement financial delegation threshold (in which case the officer with the relevant delegation may approve the variation under their delegation), contract variations must be approved by the Chief Executive Officer where the variation causes the original contract value to increase above \$150,000 inc. GST or more.

Contract variations must be approved by Council where:

- the variation causes an increase to the original contract value of a Contract originally awarded by resolution of Council of 20% or more; or
- the contract was awarded under delegation and the variation would result in a total contract value greater than \$500,000 inc. GST.

The above thresholds for variations apply cumulatively over the life of the contract. Examples of how contract variations should be approved are contained in the Procurement Procedure. All variations to contracts will also require an amended Purchase Order be submitted and approved through Council's finance system.

Where a contract variation pushes the procurement process from verbal quotes to written quotes or alters the number of written quotes that should have been required but is still under the total value for which CEO approval is required, General Manager approval is required to proceed with the variation.

8. Administrative Updates

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

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

9. Roles and Responsibilities

9.1 Responsibilities of the Procurement Team

The Procurement Team will assist Council officers to obtain Goods, Services and Works using the most appropriate purchasing method.

This includes:

- assisting with the development, implementation and management of a procurement strategy;
- providing assistance and advice regarding Council's procurement procedures and delegations;
- developing appropriate documents and forms to be used in the procurement process;
- educating internal and external stakeholders on Council's Procurement Policy and procurement procedures; and
- managing and coordinating Council's procurement processes.

9.2 Management roles and responsibilities

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

Party / Parties	Roles and Responsibilities
Chief Executive Officer	Ensuring the overall organisational compliance with this Procurement Policy.
General Managers	Ensuring compliance with this Procurement Policy by all Council officers under their supervision.
General Manager Business Excellence	Holds overall responsibility for this Procurement Policy implementation and compliance.
Manager Governance	Responsible for reviewing, updating and implementing policy. Together with the Procurement Team, they are the primary source for procurement advice, training and guidance.
Managers	Ensuring compliance with the Procurement Policy by all Council officers under their supervision.
All staff	Ensure compliance with the Procurement Policy at all times.

10. References and Supporting Documents

10.1 Applicable Legislation

This policy is made under section 108 of the Act. The Act is the key legislative framework that regulates the process of all local government procurement in Victoria.

The policy should be read in conjunction with the following:

- *Local Government Act 2020*;
- *Privacy Act 1988*;
- *Competition and Consumer Act 2010*;
- *Victorian Competitive Neutrality Policy*;
- *Security of Payments Act 2002*; and
- *Local Jobs First Act 2003*.

10.2 Applicable Policy

- Credit Card Procedure;
- Cash Handling Policy;
- Councillor Code of Conduct;
- Instrument of Delegation and Instrument of Sub-Delegation by the Chief Executive Officer;
- Fraud and Corruption Control Policy;
- Access to Information (Records) Policy;
- Risk Management Policy;
- Staff Code of Conduct; and
- Councillor Code of Conduct.

11. Privacy and Human Rights Consideration

All personal information collected by Council in connection with procurement activities will be handled in accordance with all applicable privacy legislation and will be used only for the purpose of investigating procurement matters.

The Procurement Policy has been assessed as compliant with the obligations and objectives of the Victorian Charter of Human *Rights and Responsibilities Act 2006*. Please refer to www.humanrightscommission.vic.gov.au for assistance with this section.

12. Definitions

Term	Meaning
Act	The <i>Local Government Act 2020</i> .
Conflict of Interest	Means a <i>general conflict of interest</i> or <i>material conflict of interest</i> , as defined by sections 127 and 128 of the Act.
Council	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.
Councillor	Person who has been elected to the office of 'councillor' of East Gippsland Shire Council.
Emergency	Means an emergency due to the actual or imminent occurrence of an event which in any way endangers or threatens to endanger the safety or health of any person in Victoria or which destroys or damages, or threatens to destroy or damage, any property in Victoria or endangers or threatens to endanger the environment or an element of the environment in Victoria including but not limited to: <ul style="list-style-type: none"> (a) an earthquake, flood, wind-storm or other natural event; (b) a fire; (c) an explosion; (d) a road accident or any other accident; (e) a plague, epidemic, pandemic or contamination; (f) a warlike act or act of terrorism, whether directed at Victoria or a part of Victoria or at any other State or Territory of the Commonwealth; (g) a hi-jack, siege or riot; or (h) a disruption to an essential service for example, waste, transport and road access.
Goods, Services or Works	The relevant deliverable(s) the preferred Invitee will be required to provide to Council, once the conditions of contract have been agreed between the preferred Invitee and Council.
Indigenous Business	An Indigenous Business is one that is at least 50% owned by an Aboriginal or Torres Strait Islands person(s) (consistent with Supply Nation's definition) or employees indigenous persons.
In-House Bid	A Tender, quote or other requested submission to Council from an In-House Bidder for consideration as part of a procurement process.
In-House Bidder	A person or group within Council who submit a Tender, quote or other requested submission to Council for consideration as part of a procurement process.

Term	Meaning
Invitee	A company, person or entity (including representatives) which submits a Tender, a quote or other requested submission to Council as part of a procurement process; and includes, where the context permits, prospective Invitees and other recipients of the request for Tender, request for quote or other request (as applicable).
Local Content	Defined as labour, materials, plant and supervision which are sourced from within the East Gippsland Shire region.
Staff	All staff engaged by East Gippsland Shire Council, including all full-time, part-time and casual employees, labour hire agency staff, contractors and volunteers.
Strategic Procurement	Means a procurement process in which the relevant General Manager and the Procurement Team approve a procurement strategy which does not accord strictly with the Procurement Policy and Procurement Procedure in order for Council to realise Value for Money, innovation or another beneficial opportunity which could not be realised by adhering strictly with the Procurement Policy and Procurement Procedure.
Tender	An offer in writing as part of the Tender process to supply Goods, Services or Works, usually submitted in response to an invitation such as a request for Tender. For the purpose of this Procurement Policy, reference to a Tender also includes quotations or other documents submitted in response to an invitation from Council to bid to supply Goods, Services or Works.
Value for Money	The achievement of a desired procurement outcome at the best possible price, not necessarily the lowest price, based on a balanced judgement of financial and non-financial factors relevant to the procurement.

13. Revision History and Review

Version Control	Approved Amended Rescinded	Date Effective	Council / Management	ECM Document Reference	Summary of Changes
1	Approved	06/10/09	Council	4350630	
2	Approved	05/06/12	Council	4858155	
3	Approved	19/11/13	Council	5523287	
4	Amended/Approved	16/12/14	Council	6050822	
5	Approved	15/12/15	Council	6553548	
6	Approved	13/12/16	Council	7012421	
7	Approved	12/12/17	Council	7441835	Update to market engagement method table, procurement and variation thresholds. Inclusion of Multiuser List clause. Removal of Purchase card procurement method.
8	Approved	13/11/18	Council	7824121	Full rewrite of policy.
9	Approved	23/06/20	Council		Minor revisions to record keeping requirements, inclusion of insurance requirements, removal of Supplier Register, minor revision to Support for Local Content, inclusion of Support for Sustainability and Environment, minor revisions due to changes in organisational structure.
10					Complete rewrite of the Procurement Policy to align with the <i>Local Government Act 2020</i> . Revisions to procurement thresholds and requirements including the introduction of a Strategic Procurement framework.

Version number: 9
Authorised by: General Manager Business Excellence



PROCUREMENT POLICY

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1. Purpose

Council is required under section 186 of the *Local Government Act 1989* (the Act) to prepare, approve and comply with a Procurement Policy. In accordance with the Act, this Procurement Policy sets out the key principles and processes applied to the purchases of Goods, Services or Works by Council.

The purpose of this Procurement Policy is to:

- provide a framework that seeks to achieve best value through consistent, competitive and transparent processes;
- achieve compliance with relevant legislative requirements;
- minimise and manage risks in procurement; and
- prioritise, where practical, the procurement of locally sourced goods, services or works and procurement of environmentally sustainable goods, services or works.

The key principles of the Procurement Policy provides:

- Best Value - provide a procurement framework for Council that achieves the best value mix of cost, quality, environmental and social responsibility, sustainability and where possible, locally sourced.
- Probity – demonstrate fairness, impartiality, transparency, accountability, confidential and effectively manage any perceived and actual conflict of interest.
- Efficiency – minimize the cost of procurement activities to the organization and participants without compromising other procurement principles or quality.
- Continuous improvement – promote continuous improvement and innovation in design and delivery of services, goods and works.
- Collaboration – collaborate with other councils and relevant bodies where appropriate, share better practices and achieve best value.
- Advanced practice – achieve advanced practice in procurement.
- Risk management–minimizing and manage risk in procurement through ensuring issues are identified, mitigated and documented.
- Compliance – comply with relevant legislation requirements.
- Source and procure locally – procure from local sources, where appropriate demonstrating value for money.

2. Scope of Policy

This policy applies to all procurement activities undertaken by Council and is binding upon Councillors, Council officers, contractors and consultants while engaged by Council. This Procurement Policy does not cover contract management activities.

3. Policy Statement

Council is committed to the effective procurement of Goods, Services and Works through adopting key principles and policies. It is recognised this will support the achievement of Council objectives about sustainable and socially responsible procurement, support for the local economy and obtaining Value for Money, which in turn, will lead to a better outcome for Council in the provision of services for the community.

Councillors, Council officers, contractors and consultants while engaged by Council are required to comply with this Procurement Policy.

3.1 Treatment of GST

All monetary values stated in the Policy include GST except where specifically stated otherwise.

3.2 Value for Money

The principle of Value for Money underpins Council's procurement function. It is the achievement of a desired procurement outcome at the best possible price, not necessarily the lowest price, based on a set list of financial and non-financial criteria relevant to the procurement. It is a common, internationally recognised method for benchmarking expenditure to achieve policy objectives. Value for Money considers the total cost of procurement from planning to disposal and everything in between. This is commonly known as total cost of ownership.

Value for Money will be facilitated by:

- developing, implementing and managing procurement frameworks that support the co-ordination and streamlining of activities throughout the lifecycle;
- development, implementation and management of a procurement strategy to encourage and facilitate procurement that supports and stimulates the local economy;
- effective use of competition;
- using aggregated contracts where appropriate;
- identifying and rectifying inefficiencies in procurement processes;
- developing cost efficient Tender processes including appropriate use of e-solutions;
- working with suppliers to create relationships that are professional and productive.

3.3 Conduct of Councillors and Council Officers

Council officers must exercise the highest standards of integrity in a manner able to withstand the closest possible scrutiny. In accordance with section 95 of the Act, Council officers have an overriding responsibility to act impartially and with integrity, avoiding conflicts of interest.

Councillors and Council officers, must:

- at all times avoid situations in which private interests conflict, or might reasonably be thought to conflict, or have the potential to conflict, with their Council duties;
- not participate in any action or matter associated with the arrangement of a Tender or contract (i.e. evaluation, negotiation, recommendation, or approval) where that person has a direct or indirect conflict as defined by the Act;
- becoming aware of a conflict, promptly declare the direct or indirect Conflict of Interest to the Procurement team, or in the case of councillors declaring a conflict to the Mayor or the Committee Chair, depending on whether the matter is to be considered by Council or an Assembly of Councillors, as well as the Chief Executive Officer.

Councillors cannot participate in any aspect of the procurement process unless acting in the capacity of Council at a formally constituted Council meeting to consider the awarding of a contract.

3.4 Gifts and Hospitality

Councillors and Council officers must not, either directly or indirectly, solicit or accept gifts or hospitality from any member of the public where:

- it is made during a procurement or tender process by a person or organisation involved in the process;
- acceptance could be perceived as endorsement of Goods, Services or Works; or
- acceptance could be seen to advantage the member of the public in future procurement decisions.

3.5 Accountability and Transparency

Accountability and Transparency in procurement means being able to explain and provide evidence on the process followed to procure the goods, services or works. The test of accountability is that an independent third party must be able to see clearly that a process has been followed and that the process is fair and reasonable.

All procurement activities must be in accordance with the Act, this Procurement Policy, other relevant Council policies and all other legislation.

3.6 Fair and Honest Dealings

Council is committed to providing equal opportunity for all businesses, irrespective of their size and location, to bid for work through open and transparent market processes. Impartiality is to be maintained throughout the procurement process so it can eliminate the prospect of any bias in decisions and withstand public scrutiny.

3.7 Fraud and Corruption Control

Council takes allegations of fraudulent activity and corrupt conduct seriously. Council is committed to preventing, deterring and reporting corrupt and fraudulent behaviour. Council has developed a Fraud and Corruption Control Policy which provides a framework for preventing the risk of fraud and strengthening organisational integrity.

3.8 Disclosure of Information

The commercial interests of existing and potential suppliers must be protected. Confidentiality of information provided by existing and prospective suppliers must be maintained, particularly commercially sensitive material such as, but not limited to prices, discounts, rebates, profit, manufacturing, intellectual property and product information.

At no stage should councillors or Council officers have discussions with potential suppliers about active procurements prior to the approval process being finalised, other than authorised procurement negotiations. Councillors and Council officers should take care that their duty to consider issues fairly and properly is not compromised by participating in discussions with suppliers where the intent of the supplier is to influence the decision-making of a councillor or Council officer in procurement related matters.

3.9 Financial Delegations and Authorisations

Delegations define the limitations within which individual Council officers are permitted to work. Delegation of procurement authority allows specified Council officers to approve certain purchases, quotations, Tender and contractual processes without referral to Council. This enables the organisation to conduct procurement activities in an efficient and timely manner while maintaining transparency and integrity.

3.10 Matters not Delegated to Council Officers

Tender recommendations and contract approvals for all expenditure over \$500,000 including GST must be approved by Council.

3.11 Expenditure thresholds

Procurement Value (Including GST)	Market Engagement Minimum Requirement - (*exemptions apply)	Agreement Council Contract	Record Keeping Requirements (Council Use Only)
\$0 to \$5,000	One (1) verbal quote	Not Required	Receipt of purchase.
\$5,001 to \$20,000	Two (2) verbal quotes	Not Required	Verbal Quote Form must be stored in the financial system.
\$20,001 to \$75,000	Two (2) written quotes	Not Required	Along with the written quotes received, a Council Quote Form (\$75k) must be stored in the financial system, if the minimum number of quotes has not been obtained or the lowest priced quote has not been accepted.
\$75,001 to \$100,000	Three (3) written quotes	Required for strategic procurement	Along with the written quotes received, a Council Quote Form (\$100k) must be stored in the financial system if the minimum number of quotes has not been obtained or the lowest priced quote has not been accepted.
\$100,001 to \$150,000 (Goods and Services) or \$200,000 (Works)	Public Request for Quote (RFQ) (In partnership with the Procurement Team)	Required	In accordance with the Procurement Policy

Procurement Value (Including GST)	Market Engagement Minimum Requirement - (*exemptions apply)	Agreement Council Contract	Record Keeping Requirements (Council Use Only)
More than \$150,000 (Goods and Services) or \$200,000 (Works)	Public Request for Tender (RFT) (In partnership with the Procurement Team)	Required	In accordance with the Procurement Policy

3.12 Exemptions from thresholds

An exemption to the procurement levels detailed in section 3.11 above may be requested under the following circumstances:

- in matters of Emergency including public health, security or safety as a result of an unforeseen event or occurrence (see also section 3.12.1 below);
- where a competitive process has been undertaken in line with the requirements of section 186 of the Act through third party organisations e.g. MAV Procurement, Procurement Australia, State Government;
- installations where a change in supplier would necessitate the procurement of goods and services that do not meet the requirements for interoperability or interchangeability; and
- an absence of competition for technical reasons for example, one vendor having legal ownership of design or intellectual property.

3.12.1 Exemptions from thresholds - Emergencies

Circumstances under which procurement may be undertaken under this clause are as follows:

- an Emergency exists as defined by the *Emergency Management Act 1986* (see Section 7 - Definitions); and
- the Chief Executive Officer has declared in writing that an Emergency exists; and the Chief Executive Officer is satisfied that procurement needs to be undertaken immediately.

Situations where this might occur include:

- during the period where a natural disaster has been declared such as flooding, bushfire or epidemic that may require the immediate procurement of goods, services or works to provide relief;
- the occurrence of an event such as flooding or fire at a Council property which may require the immediate procurement of goods, services or works to ensure business continuity;
- the unforeseen cessation of trading of a core service provider to Council resulting in a need to appoint a replacement service provider on the grounds of public safety;
- an unforeseen event which impacts heavily and unsustainably on Council's level of service to the community and represents an immediate risk to health or safety; or
- any other situation which may constitute a risk to health, life or property.

Procurement made under the Emergency provisions must be in accordance with Council's

Financial Delegations and be limited in scope to what is necessary to deal with the immediate emergency.

The Emergency provision must not be used for new or extended works and services after the need for an Emergency response has passed. Immediately the Chief Executive Officer declares that an Emergency no longer exists, the use of this power ceases.

3.13 Risk Management

Appropriate risk management is to be applied at all stages of procurement activities. This must be properly planned and carried out in a manner that will protect and enhance Council's capability to prevent, withstand and recover from interruption to the supply of Goods, Services or Works. Council's risk exposure will be minimised by measures such as:

- standardisation of contracts including necessary and relevant clauses;
- requiring security deposits where appropriate;
- referring specifications to relevant industry experts;
- contracts must be fully executed before acceptance of the good or prior to the commencement of the service or work; and
- use of or reference to relevant Australian Standards (or equivalent).

3.14 Insurance Requirements

In order to minimise Council's risk exposure, Council will ensure that contractors and consultants have appropriate insurances in place and that the insurance remain valid throughout the entire life of the contract including any defects liability period.

Types of insurance required and indicative liability limits may include but are not limited to current:

- WorkCover insurance for the State of Victoria;
- Public Liability insurance with a minimum liability limit of \$20,000,000;
- Product Liability insurance with a minimum liability limit of \$20,000,000;
- Motor Vehicle, Plant and Equipment and Tools of Trade insurance;
- Business Interruption insurance; and
- Professional Indemnity insurance with a minimum liability limit of \$10,000,000.

Council will maintain a register of contractors' and consultants' insurance details in a manner that will ensure that Certificates can be easily reviewed for currency and for updates to be requested as required.

3.15 Competition and Consumer Act Compliance

Council will comply with the *Competition and Consumer Act 2010* and other fair-trading legislation applicable to its operations. Council is committed to the public policy goals embodied by these laws, which include the protection and promotion of competition.

Council is committed to ensuring staff are informed of their obligations arising under competition and consumer legislation, and to not allow the following to occur:

- restrictive trade practices (including price fixing and exclusionary provisions relating to a division of territories);
- market sharing (including allocation of customers), anti-competitive agreements, exclusive dealing and misuse of market power;
- inaccurate communication or promotion (including misleading or deceptive conduct, false claims and unsubstantiated predictions); and
- unconscionable and / or unfair business practices.

3.16 Determining the appropriate method of Procurement

Council's standard methods for purchasing goods, services and works are:

- corporate credit card;
- purchase order following a quotation process undertaken with suppliers for goods, services or works that represents Value for Money under directed quotation thresholds (refer to section 3.11 for more information);
- under contract following a request for quotation or request for Tender process; or
- using aggregated purchasing arrangements with other Councils or other bodies such as MAV Procurement, Procurement Australia, Victorian Government (e.g. State Purchasing Contracts, Whole of Government Contracts); and Commonwealth Government (e.g. Federal Purchasing Contracts).

3.17 Ministerial Approval

The requirements of section 186 of the Act do not apply if a contract is entered into in accordance with arrangements approved by the Minister.

3.18 Support for Local Content

Council will include in its Tender process a mandatory weighting of five (5) percent for Local Content when engaging and contracting with suppliers. This is to acknowledge the suppliers whose activities contribute to the financial and social wellbeing of the region.

3.19 Support for Sustainability and Environment

Council will include in its Tender process a mandatory weighting of five (5) percent for Sustainability and Environment when engaging and contracting with suppliers. This is to acknowledge the suppliers whose activities contribute to the sustainability and environmental wellbeing of the region.

4 Roles and Responsibilities

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

Party / Parties	Roles and Responsibilities
Chief Executive Officer	Ensure overall organisation compliance with the policy.
General Managers	Ensure compliance with the policy by all Council officers under their supervision.
General Manager Business Excellence	Overall responsibility for the policy implementation and compliance.
Managers	Ensure compliance with the policy by all Council officers under their supervision.
Manager Governance	Responsible for review, updating and implementing policy. Together with the Procurement team, primary source for procurement advice, training and guidance.

5 References and Supporting Documents

5.1 Applicable Legislation:

This policy is consistent with the following Council Plan 2017-2021 Good Governance goals – “East Gippsland Shire is inclusive, engaged and open”, and “Council is in a strong financial position and can provide for future generations of East Gippslanders”.

On 24 March 2020 the Government passed the *Local Government Act 2020* (the new Act). Provisions from the new Act are being commenced in four stages. The first tranche of provisions commenced on 6 April 2020 with other tranches commencing on 1 May 2020 and 24 October 2020. All remaining provisions are commencing on 1 July 2021. The *Local Government Act 1989* applies in circumstances where the new Act has not commenced.

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

This policy is made under section 186A of the Act. The Act is the key legislative framework that regulates the process of all local government procurement in Victoria.

The policy should be read in conjunction with the following:

- *Privacy Act 1988*;
- *Competition and Consumer Act 2010*;
- *Security of Payments Act 2002*; *Local Government Act 1989*; and
- *Local Government Act 2020*.

5.2 Applicable Policy:

- Credit Card Policy;
- Cash Handling Policy;
- Councillor Code of Conduct;
- Instrument of Delegation and Instrument of Sub-Delegation by the Chief Executive Officer;
- Fraud and Corruption Control Policy;
- Access to Information (Records) Policy;
- Risk Management Policy; and
- Staff Code of Conduct.

6 Privacy and Human Rights Consideration

All personal information collected by Council in connection with procurement activities will be handled in accordance with all applicable privacy legislation and will be used only for the purpose of investigating procurement matters.

The procurement policy has been assessed as compliant with the obligations and objectives of the Victorian Charter of Human *Rights and Responsibilities Act 2006*. Please refer to www.humanrightscmission.vic.gov.au for assistance with this section.

7 Definitions

Term	Meaning
Conflict of Interest	Where a Councillor or Council officer has private interests that could improperly influence, or be seen to influence, their decisions or actions in the performance of their public duties, defined under the Act as a direct or indirect interest.
Council	East Gippsland Shire Council
Councillor	Person who has been elected to the office of 'councillor' of East Gippsland Shire Council.
Council officer	A current member of East Gippsland Shire Council staff with the authority to engage in activities on behalf of Council.

Term	Meaning
Emergency	<p>Means an emergency due to the actual or imminent occurrence of an event which in any way endangers or threatens to endanger the safety or health of any person in Victoria or which destroys or damages, or threatens to destroy or damage, any property in Victoria or endangers or threatens to endanger the environment or an element of the environment in Victoria, including but not limited to:-</p> <p>(a) an earthquake, flood, wind-storm or other natural event;</p> <p>(b) a fire;</p> <p>(c) an explosion;</p> <p>(d) a road accident or any other accident;</p> <p>(e) a plague, epidemic, pandemic or contamination;</p> <p>(f) a warlike act or act of terrorism, whether directed at Victoria or a part of Victoria or at any other State or Territory of the Commonwealth;</p> <p>(g) a hi-jack, siege or riot; and</p> <p>(h) a disruption to an essential service.</p>
Goods, Services or Works	The deliverable(s) the preferred Invitee will be required to provide to Council, once the conditions of contract have been agreed between the preferred Invitee and Council.
Local Content	Defined as labour, materials, plant and supervision which are sourced from within the East Gippsland Shire region.
Tender	An offer in writing to supply Goods, Services or Works, usually submitted in response to an invitation such as a request for tender.
Value for Money	The achievement of a desired procurement outcome at the best possible price, not necessarily the lowest price, based on a balanced judgement of financial and non-financial factors relevant to the procurement.

8 Revision History and Review

Version Control	Approved Amended Rescinded	Date Effective	Council / Management	ECM Document Reference	Summary of Changes
1	Approved	06/10/09	Council	4350630	
2	Approved	05/06/12	Council	4858155	
3	Approved	19/11/13	Council	5523287	
4	Amended/Approved	16/12/14	Council	6050822	
5	Approved	15/12/15	Council	6553548	
6	Approved	13/12/16	Council	7012421	
7	Approved	12/12/17	Council	7441835	Update to market engagement method table, procurement and variation thresholds. Inclusion of Multi User List clause. Removal of Purchase card procurement method.
8	Approved	13/11/18	Council	7824121	Full rewrite of policy
9	Approved	23/06/20	Council	8533626	Minor revisions to record keeping requirements, inclusion of insurance requirements, removal of Supplier Register, minor revision to Support for Local Content, inclusion of Support for Sustainability and Environment, minor revisions due to changes in organisational structure.

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Authorised by:



Procurement Procedure

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1. Purpose

Council is required under section 108 of the *Local Government Act 2020* (the **Act**) to prepare and adopt a Procurement Policy. This Procurement Procedure supports Council's Procurement Policy for Council's purchase of Goods, Services and Works.

This Procurement Procedure has been prepared in accordance with the *Local Government Act 2020* section 108 and 109. The Act is the key legislative framework that regulates the process of all local government procurement in Victoria.

Council Staff must read this Procurement Procedure in conjunction with the Procurement Policy.

This Procurement Procedure will help Council Staff to understand how the Procurement Policy is to be applied to the operational elements of purchasing Goods, Services or Works on behalf of Council.

2. Scope

This Procurement Procedure explains how Councillors and Council Staff are to conduct procurement activities on Council's behalf for Goods, Services and Works in accordance with the Act, Council's Procurement Policy and best practice guidance. This Procurement Procedure does not cover contract management activities. These activities are regulated by the Contract Management Procedure.

3. Procedure Statement

Council is committed to the effective procurement of Goods, Services and Works through adopting key principles and policies and identifying opportunities for collaborative and sustainable procurement. The adoption of these key principles and policies will support the achievement of Council's objectives in relation to sustainable and socially responsible procurement, support for the local economy and obtaining Value for Money. Achievement of these objectives will lead to better outcomes in the provision of services for the community.

Councillors, Staff, contractors and consultants while engaged by Council are required to comply with the Procurement Procedure and Policy..

4. Treatment of GST

All monetary values stated in this Procurement Procedure include GST (including in delegations) except where specifically stated otherwise.

5. Conflict of Interest

A Conflict of Interest arises where a Council Staff member has an affiliation or interest that might prejudice or be seen to prejudice, their impartiality.

The Act provides that when a Staff member has a Conflict of Interest in relation to a matter, they must:

- disclose, in the way required by the Governance Rules, that they have a general conflict of interest or material conflict of interest (as defined in sections 127 to 129 of the Act); and
- exclude themselves from the decision-making process in relation to that matter.

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Many Staff, especially those dealing with procurement processes, are likely to hold delegations and therefore be impacted by these requirements.

In identifying whether a Staff member has a Conflict of Interest, consideration must be had to the definitions and exemptions in sections 127 to 129 of the Act. In addition, consideration must be given to the Staff member's relationships including whether a decision in relation to the relevant matter could offer some advantage to a family member, friend or an organisation with which the Staff member is connected in some form e.g. as a member of a committee or a business relationship (accountant, lawyer, regular client etc).

If a Tender evaluation report or other report in relation to a procurement process is to be considered by Council and any Staff members involved with the preparation of that report have a Conflict of Interest in relation to the matter being considered, this must be disclosed in accordance with the Governance Rules.

Any Tender Evaluation Panel members, consultants or other Council Staff involved in a procurement process are required to disclose any Conflicts of Interest, whether they are actual or perceived. As a Conflict of Interest can occur at any stage during a procurement process or evaluation, panel members need to be aware of the requirement to immediately disclose any Conflicts of Interest and manage them in accordance with the Acts and the Governance Rules. Every panel relating to a procurement process will keep a record of all actions taken to address Conflicts of Interest.

6. Risk Management

6.1 Approval to Procure

To protect the interests of the Council, terms and conditions of the procurement of Goods, Services or Works must be settled in advance of any commitment to purchase.

Council Staff must not make any commitments to purchase Goods, Services or Works without an approved purchase order from Council's finance system (*CouncilFirst*) unless purchased via a corporate credit card. This ensures that the procurement is electronically approved by the responsible delegate for the appropriate level of expenditure.

Levels of delegation are detailed in the relevant Instrument of Delegation and Instrument of Sub-Delegation by the Chief Executive Officer.

All credit card purchasers must be undertaken in accordance with Council's Credit Card procedure. Instructions on raising purchase orders and sending for approval can be obtained by contacting the Finance team.

6.1.1 Record Keeping

Electronic Document and Records Management System (ECM)

Council Staff must ensure that all documents and records relating to procurements required to be kept by the Procurement Policy and this Procedure are stored securely in Council's Electronic Document and Records Management System (ECM) or the finance system in accordance with record keeping requirements. The maintenance of records is important for safeguarding information and keeping a record of all information received in relation to a procurement process. It is also important to maintain a record to:

- demonstrate the processes followed and any decisions made; and
- support contract matters or disputes.

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The structure and extent of records kept will depend on the value and complexity of the procurement as detailed in the Procurement Policy.

For procurements activities with a Procurement Value of \$150,000 or more, all documents and records relating to the procurement must be stored in the ECM, including:

- internal Council documents recording any decisions made in relation to the procurement;
- all communications with the market regarding the procurement, including invitations, addenda, advertisements or public statements;
- all communications received from Invitees, including any correspondence, Tenders or other written communication; and
- internal communications amongst Council Staff or between Council Staff and any consultants, Probity Advisers or Probity Auditors concerning the procurement.

Records will be kept in accordance with the *Public Records Act 1973* and Public Record Standard PROS 09/05 (Retention and Disposal Authority for Records of Local Government Functions).

Further information on the use of ECM can be obtained by contacting the Information Management team.

Finance System (CouncilFirst)

Council Staff must ensure that the record keeping requirements for expenditure thresholds that are detailed in this Procedure and the Procurement Policy are met at all times.

It is the responsibility of the Council Staff member raising the purchase order in the Finance system (*CouncilFirst*) to ensure that the correct documents are uploaded to the purchase order prior to sending it for approval. This includes:

- the appropriate number of quotes for the expenditure threshold; or
- in the absence of the appropriate number of quotes or if the cheapest of the appropriate number of quotes has not been selected, a signed and authorised written quote form as well as any quotes that have been received.

It is the responsibility of each Council Staff member who is approving a purchase order to ensure that the correct documents are attached to the purchase order prior to providing their electronic approval.

Further information on the use of CouncilFirst can be obtained by contacting the Finance team.

6.2 Probity

Where a procurement activity:

- is a Strategic Procurement;
- is significantly complex;
- is sensitive in nature;
- is of significant value;
- involves an In-house Bid; or
- involves a conflict or other situation that could compromise the integrity of the process,

and this is identified prior to the conclusion of the procurement activity, an external probity practitioner should be engaged by Council.

Probity practitioners must be independent of the Procurement Team to ensure impartiality is maintained.

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6.2.1 Probity Advisor

A probity advisor provides guidance and advice on how to reduce the risk of probity issues arising and how probity issues should be managed and addressed. In the course of providing probity advice, the probity advisor may become aware of real, perceived or potential breaches of probity. Where there is potential probity issue, the probity advisor will be required to report these issues to Council.

Where required, the probity advisor may also prepare a probity report.

The use of an external, independent probity advisor is recommended when:

- the procurement relates to collaborative procurement or multi-council bids;
- the procurement is considered Strategic Procurement, is sensitive in nature or complex (as determined by the project supervisor in conjunction with their General Manager).

The use of an external, independent probity advisor is mandated when the procurement relates to or includes In-House Bids.

The role of the probity advisor includes:

- considering procurement material and providing advice on whether the material offends probity principles;
- attendance at Tender closing, public Tender briefing sessions and Tender Evaluation Panel meetings (such attendance may be via telephone, on-line or other method which may be required by Council in the circumstances);
- observing, reporting and advising on any probity issues which may arise during the procurement process;
- assisting with compliance and maintaining probity standards in the procurement process; and
- reporting at the conclusion of the process to advise if any outstanding probity issues and confirming the recommendation and Tender evaluation report is consistent with the evaluation and whether there is any impediment to council acting on the recommendation.

The cost associated with the engagement of a probity advisor will be funded by the relevant Department undertaking the procurement.

The Procurement Team is responsible for engaging the probity advisor.

6.2.2 Probity Auditor

A probity auditor conducts an audit of a procurement activity at the conclusion of the activity and reports to Council on whether or not the procurement activity was conducted to a high standard of probity and whether any opportunities for improvement exist.

The results and opinion of the probity auditor as to whether the probity requirements have been met for the particular procurement are documented in a probity audit report, which includes any significant issues that have been identified and the impact of those issues (if any) on the defensibility of the outcome of the procurement activity.

The use of an external, independent probity auditor is mandated when the value of the Goods, Services or Works being procured exceeds \$2,000,000 (including GST).

The cost associated with the engagement of a probity auditor will be funded by the relevant Department undertaking the procurement.

The Procurement Team is responsible for engaging the probity auditor.

6.3 Insurance Requirements

Procurement of insurance will be subject to the market engagement and procurement thresholds and any other requirements (including any exemptions).

Council Staff engaging contractors or consultants are responsible for ensuring that such parties have appropriate insurances in place in order to minimise Council's exposure to risk. These insurances must be in place prior to procuring the Goods, Services or Works and must remain valid throughout the life of the contract.

Types of insurance required and indicative liability limits may include but are not limited to current:

- WorkCover insurance for the State of Victoria;
- Public Liability insurance with a minimum liability limit of \$20,000,000;
- Product Liability insurance with a minimum liability limit of \$20,000,000;
- Motor Vehicle, Plant and Equipment and Tools of Trade insurance;
- Business Interruption insurance; and
- Professional Indemnity insurance with a minimum liability limit of \$10,000,000.

Insurance information on contractors and consultants who are pre-qualified under Council's contract management procedures will be stored in Council's risk management system (*Elumina*).

Further information on the use of *Elumina* can be obtained by contacting the Occupational Health and Safety team.

6.4 Disclosure of Information

Councillors and Council Staff must not enter into discussions with potential suppliers about active procurements prior to the approval process being finalised, other than authorised procurement negotiations undertaken by the appointed Tender Evaluation Panel. Councillors and Council Staff should take care that their duty to consider issues fairly and properly is not compromised by participating in discussions with suppliers where the intent of the supplier may be perceived to be to influence decision-making on procurement related matters. In the event of any doubt or concern in this area, the Councillor or Council Staff member should remove themselves from any further discussions with the supplier and immediately delegate the procurement activity to an impartial person.

Council Staff are responsible for ensuring that the commercial interests of existing and potential suppliers are protected at all times. Confidentiality of information provided by existing and prospective suppliers must be maintained, particularly 'commercial in confidence' information which may include, but is not limited to, prices, discounts, rebates, profit, manufacturing, intellectual property and product information.

Requests under the *Freedom of Information Act* 1982 may include files maintained by Council, including working files but excluding information that is considered 'commercial in confidence'. All Council Staff should be particularly mindful about the contents of letters or notes placed onto Council files, as any file may be requested under the *Freedom of Information Act* 1982 and potentially be viewed by a range of individuals and company representatives.

Further information on Council's responsibilities in respect to the *Freedom of Information Act* 1982 or other similar legislation can be obtained by contacting the Governance team.

6.6 Reward and Loyalty Program Participation

Councillors and Council Staff cannot accumulate reward or loyalty program credits on purchases made on behalf of Council or accept any discounts through the use of Council corporate credit or fuel cards.

Councillors may retain frequent flyer and accommodation program benefits. The benefits gained through the programs should only be redeemed on Council-related activities when the Councillor is undertaking their official duties. Membership fees and expenses related to frequent flyer programs are not reimbursable.

Participation in a reward or loyalty program must not influence procurement decisions.

6.8 Conduct of Council Staff and Councillors throughout the Procurement Process

These provisions apply to all procurement activities undertaken by Council and Council Staff.

Councillors cannot participate in any aspect of the procurement process unless acting in the capacity of Council at a formally constituted Council meeting to consider the awarding of a contract.

Council Staff and Councillors must exercise the highest standards of integrity in a manner able to withstand the closest possible scrutiny. Councillors and Council Staff have an overriding responsibility to act properly, impartially and with integrity, avoiding Conflicts of Interest and misuse of their position.

Council Staff and Councillors, must:

- not misuse their position to gain, or attempt to gain, any advantage for themselves or any other person or any detriment to Council or another person;
- not use public funds or resources in a manner which is unauthorised;
- at all times avoid situations in which private interests conflict, or might reasonably be thought to conflict, or have the potential to conflict, with their Council duties;
- not participate in any action or matter associated with the arrangement of a Tender or contract (i.e., evaluation, negotiation, recommendation or approval) where that person has a Conflict of Interest;
- not intentionally, or recklessly disclose information which is confidential, or which the person should reasonably know is confidential;
- on becoming aware of a Conflict of Interest, promptly declare the Conflict of Interest in accordance with the Governance Rules. If Council Staff have a Conflict of Interest, the conflict must be disclosed to the Procurement Team and that Council Staff member must exclude themselves from any decision-making process or any action in relation to that matter (in addition to any other requirements);
- in the case of Councillors declaring a Conflict of Interest, the conflict must be declared to the Mayor or the Committee Chair, depending on whether the matter is to be considered by Council or an Assembly of Councillors, as well as the Chief Executive Officer; and
- treat potential and existing suppliers with equality and fairness.

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6.9 Auditing and Compliance

Compliance auditing determines whether a procurement process has or has not been followed in accordance with this Procurement Procedure or the Procurement Policy.

The Procurement Team will undertake audits to determine the level of compliance across the organisation.

Audit Item	Description
Purchase Order Compliance	Audit undertaken for compliance with purchase order requirements. If the invoice date precedes the purchase order date, then the procurement is deemed non-compliant.
Threshold Compliance	Audit undertaken for compliance with the procurement thresholds as approved by Council in the Procurement Policy. Procurements are checked to see if the correct process has been undertaken and that the required documentation is attached to the purchase order in Council's Finance system. If either of these conditions are not met the procurement is deemed non-compliant.

Compliance reports will be provided to relevant internal stakeholders including the Executive Leadership Team.

7. Social Procurement

7.1 General

Council aims to incorporate "social benefits" into all procurement documentation (e.g. request for Tender, request for quote, procurement plans, evaluation plans, risk management plans) to ensure that social procurement activities are embedded, integrated and implemented across all of Council's procurement activities.

Council will include and adjust evaluation criteria (where it is appropriate to do so) to support beneficial social and sustainable outcomes in its procurement processes.

7.2 Support for Local Content

Council will include in its Tender processes a mandatory weighting of five (5) percent for Local Content when engaging and contracting with suppliers. This weighting may be increased to 10% if the particular Tender process may benefit from the increased weighting for Local Content (if approved by the relevant General Manager).

This is to acknowledge the suppliers whose activities contribute to the financial and social wellbeing of the East Gippsland region. This weighting may be removed in the event of a collaborative Tender where the evaluation criteria do not meet other Councils' requirements.

As part of the contract management process, social procurement outcomes can be monitored and assessed at the same time as quality, delivery, service and price.

Criteria	Description	Weighting
Local Contribution	Principal place of business is located within East Gippsland Shire.	2.0 %
Local Contribution	Percentage of Goods, Services or Works sourced from within East Gippsland Shire	1.0 %
Local Contribution	Sponsorship of community or sporting groups from within East Gippsland Shire.	1.0 %
Local Contribution	Employment of trainees and apprentices from within East Gippsland Shire.	1.0 %

The overall weighting for Local Content may be increased to a maximum of 10% but only if:

- the particular procurement activity may benefit from the increased weighting for Local Content;
- there are exceptional circumstances which cause Local Content to be of particular relevance to, or critical to, the procurement activity; and
- the increase in weighting is approved by the relevant General Manager.

7.3 Support for Sustainability and Environment

Sustainable procurement aims to reduce the adverse impacts of purchased goods and services throughout their life. This includes considerations such as waste disposal and the cost of operations and maintenance over the life of goods and services.

Council will include in its Tender processes a mandatory weighting of five (5) percent for sustainability and environment when engaging and contracting with suppliers. This weighting may be increased to 10% but only if:

- the particular Tender process may benefit from the increased weighting for sustainability and environment; and
- there are exceptional circumstances, or the sustainability and environmental impacts of the particular procurement is a critical factor in the outcome of the procurement; and
- the increase in weighting is approved by the relevant General Manager.

This is to acknowledge the suppliers whose business activities include a commitment to sustainable and environmental principles by prioritising environmentally preferable Goods, Services or Works when compared with competing Goods, Services or Works that serve the same purpose.

Criteria	Description	Weighting
Sustainability and Environment	Recycled and / or environmentally friendly materials or supplies are used in the production of the Goods, Services or Works	1.0 %
Sustainability and Environment	Environmentally friendly plant and equipment are used in the production of the Goods, Services or Works	1.0 %
Sustainability and Environment	Sustainably sourced utilities (water and / or electricity) are used in the production of the Goods, Services or Works	1.0 %
Sustainability and Environment	Sustainable waste disposal systems are utilised in the production of the Goods, Services or Works	1.0 %
Sustainability and Environment	The business engages in workplace activities that encourage its employees to support sustainability and environmental practices	1.0 %

7.4 Support for Indigenous Business

Council will also support Indigenous Business and businesses where the relevant General Manager considers it is appropriate to the relevant procurement activity to give preference to Indigenous Businesses. Where the relevant General Manager has determined that it is appropriate to apply a weighting for Indigenous Business, a weighting of up to 5% will be applicable where the Invitee can demonstrate that it is an Indigenous Business.

7.5 Circular Economy and Circular Procurement

Council is committed to minimising waste of resources and maximising value retention of resources and materials in its procurement processes.

Council will consider at all stages of the procurement process whether the Goods, Services or Works can be re-used or re-purposed at end-of-life and that the procurement properly considers the opportunity to maximise the options for recycling or utilising components to ensure the benefit of circular procurement can be realised.

The relevant General Manager may decide that a weighting of up to 5% should apply to Tenders which can demonstrate minimisation of waste or the ability to re-purpose Goods, Services or Works following those materials' end-of-life.

8. Procurement Planning

8.1 General

Procurement planning and the adoption of sound procurement practices lead to consistently better Value for Money, higher quality project and service delivery and reduced risks to Council. Procurement planning involves consulting key stakeholders to define requirements, analysing how the supply market works, assessing risks and ultimately defining the best procurement strategy to meet Council's objectives and purpose.

8.2 Model of Procurement

Council's procurement function is decentralised for all purchases under the value of \$150,000 (including GST).

8.3 Procurement Planning

The objectives of the planning phase of any procurement activity are to:

- ensure the Goods, Services or Works being procured will meet Council's needs;
- ensure that any collaborative methods of procurement or other arrangements are appropriately identified (if any) in line with Council's objectives;
- ensure all legislative requirements and Council's Procurement Policy are followed and a successful Value for Money outcome is achieved; and
- manage the risks associated with the procurement.

Consideration also needs to be given to ensuring that adequate resources, including appropriate knowledge and skills, are available to ensure a successful and compliant procurement outcome.

8.4 Procurement Conduct and Probity Plan

A procurement conduct and probity plan should be completed for all Strategic Procurements and for procurements expected to have a value over \$2,000,000 (including GST), except where the responsible General Manager decides the plan would be of no benefit due to the nature of the procurement.

A procurement conduct plan must cover a range of matters including:

- potential collaborative procurement opportunities available;
- strategic contracting opportunities;
- the scope of the requirement;
 - strategic analysis/feasibility study;
 - evaluation criteria and methodology;
 - procurement timeframe;
 - risk management framework;
 - due diligence requirements;
- composition and responsibilities of the Tender Evaluation Panel;
- the requirement to appoint an external probity auditor or advisor;
- the principles of probity under which the procurement activity is to be undertaken;
- the probity protocols to be implemented for each step of the procurement process;
- identification of any high-risk probity activities to be undertaken during the procurement process;
- probity instructions for any high-risk probity activities to be undertaken during the procurement process;
- the probity roles of all participants in the procurement activity, including the probity adviser/auditor; and

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- the procedure for identification and management of probity risks which arise during the procurement process.

Each Tender Evaluation Panel member must consider and sign the procurement conduct and probity plan.

8.5 Local Jobs First

Council must comply with the requirements of the LJF Act and Local Jobs First Policy when seeking the procurement of Goods, Services or Works where there is State Government funding and the procurement is classified as an eligible project below.

A Local Jobs First project may be a 'standard project' or a 'strategic project'.

A Local Jobs First **standard project** is a project:

- with a budget of \$1 million or more in rural and regional Victoria;
- with a budget of \$3 million or more for state-wide projects or for projects in metropolitan Melbourne; or
- declared to be a standard project by the Minister under section 7A(1) of the *Local Jobs First Act 2003*.

A Local Jobs First **strategic project** is a project:

- with a budget of \$50 million or more; or
- any other project declared to be a Strategic Project by the Minister under section 7A(2) of the *Local Jobs First Act 2003*.

Where the procurement is identified as a standard project or strategic project, before the release of the Tender documents, Council will need to register the project including project specifications, scope of works and cost breakdown with the Victorian Local Jobs First Management Centre (VMC).

To register the project, Council is required to provide the specifications, scope of works, project phasing information to the ICN (see below). For example:

- if the project is part of a larger one, e.g. a quantity surveyor project which is part of a strategic design and construction project, and provide details of the overall project;
- if the project is a panel contract by selecting the panel box;
- the project type and category; and
- ensure all fields are completed before submitting the Tender.

Project registration should occur no less than 30 days before the release of procurement documents to bidders. The project supervisor is required to ensure compliance with any LJF requirements.

Industry Capability Network (ICN)

Where a procurement process or project receives State Government funding, to increase opportunities for local businesses within their project, Council will be required to consult with ICN regarding opportunities for local businesses, particularly with regard to Goods, Services or Works which may be obtained from international or local suppliers.

Council is required to consult with ICN after any funding agreement has been executed. Payment of monies to Council under a funding agreement is based upon Council's compliance with the consultation requirement.

Further information and requirements in relation to compliance with and implementation of the Local Jobs First framework can be found at <https://localjobsfirst.vic.gov.au/key-documents>.

8.6 Procurement Estimate, Scope and Budget Provision

The value of all contracts for the purpose of the Procurement Policy and compliance with the Act includes:

- costs for the full term of the procurement, including any options for either party to extend the contract;
- applicable Goods and Services Tax (GST);
- anticipated contingency allowances or variations; and
- all other known, anticipated and reasonably foreseeable costs.

In determining the value of a proposed procurement, due diligence should be exercised to ensure that realistic assessments are made of all factors that may impact on the value of the procurement. This assessment should consider all aspects of the proposed procurement which are reasonably foreseeable. This has particular application to procurement activities that involve schedules of rates or unit prices requiring projections of usage rates, or unit prices requiring projections of usage rates and volumes in order to derive the total value of the proposed procurement. The assessment of a procurement's likely value must be made before entering into a contract.

8.7 Cost Splitting

Cost splitting is a banned practice through which the procurement of like Goods, Services or Works is intentionally split into smaller portions to avoid the requirement to undertake the market engagement method prescribed in Council's Procurement Policy. It is unacceptable to split projects or work into smaller lots to avoid the proper market engagement method. The value of the procurement is determined by the total value of all components, which includes any possible extension options.

For example, a two-year services contract with a supplier valued at \$120,000 (including GST) per annum, is a contract with a value of \$240,000 (including GST). The correct market engagement method in this instance must be based on the contract value of \$240,000 (including GST), unless an exemption applies to the procurement.

Council takes any identified instances of cost splitting very seriously. Disciplinary procedures may apply to any Council Staff member found breaching the Procurement Policy or this Procurement Procedure by intentional cost splitting.

8.8 Access to Victorian Government Contracts

Council may access State Purchase Contracts or contracting arrangements (SPCs) in accordance with its Procurement Policy.

Access to SPCs enables Council to leverage the buying power of the State Government while taking confidence in the best practice procurement processes undertaken in establishing these contracts. As with all purchasing decisions, Council Staff should consider whether use of

Victorian Government contracts represents the optimal outcome achievable for that procurement.

Utilising a SPC is an exemption to the market engagement requirements of this Procurement Procedure provided that the utilisation of the SPC is approved by the relevant General Manager and the Procurement Team.

Procuring through the utilisation of a SPC is to be done in compliance with any requirements imposed by the Victorian Government on the utilisation of the SPC.

For further advice or access to SPCs please contact the Procurement Team.

8.9 Access to Municipal Association of Victoria (MAV) Contracts

Council may access Municipal Association of Victoria Contracts or contracting arrangements (MAV Contracts) in accordance with its Procurement Policy.

Access to MAV Contracts may enable Council to access greater cost savings through economies of scale and aggregating expenditure while taking confidence in the best practice procurement processes undertaken in establishing these contracts. As with all purchasing decisions, Council Staff should consider whether use of MAV Contracts represents the optimal outcome achievable for that procurement.

The contracts include a range of Goods and Services such as: library materials, park and playground equipment, plant, equipment and machinery, records management and imaging services, specialised trucks and bodies, and maternal and child health information systems.

Utilising a MAV Contract is an exemption to the market engagement requirements of this Procurement Procedure provided that the utilisation of the MAV Contract is approved by the relevant General Manager and the Procurement Team.

Procuring through the utilisation of a MAV Contract is to be done in compliance with any requirements imposed by the MAV on the utilisation of the MAV Contract.

For further advice or to access MAV contracts please contact the Procurement Team.

8.10 Access to Procurement Australia (PA) Contracts

Council may access contracts or contracting arrangements made available by Procurement Australia (PA Contracts) in accordance with its Procurement Policy.

PA Contracts include a range of Goods and Services such as: fleet services and fleet consumables, hardware, plumbing, cement products and herbicides, traffic control and pavement marketing services and tree pruning and associated services.

Utilising a PA Contract is an exemption to the market engagement requirements of this Procurement Procedure provided that the utilisation of the PA Contract is approved by the relevant General Manager and the Procurement Team.

Procuring through the utilisation of a PA Contract is to be done in compliance with any requirements imposed by PA on the utilisation of the PA Contract.

For further advice or to access PA Contracts please contact the Procurement Team.

8.12 Access to Agency Contracts

Council may access contracts or contracting arrangements made by other Agencies (Agency Contracts) in accordance with their Procurement Policy.

Council may leverage good procurement practices undertaken by other Agencies in establishing Agency Contracts for the same or similar Goods, Services and Works as Council is seeking to procure provided that Council is satisfied that good procurement practices were undertaken in establishing the Agency Contract and the utilisation of the Agency Contract will result in Value for Money.

Utilising an Agency Contract is an exemption to the market engagement requirements of this Procurement Procedure provided that the utilisation of the Agency Contract is approved by the relevant General Manager and the Procurement Team.

8.13 Continuous Improvement

Appropriate performance measures and regular reporting systems will be used to monitor performance and compliance with Council's Procurement Policy and this Procurement Procedure. The performance measurements will be used to:

- provide reports to internal stakeholders on compliance with the Procurement Policy and this Procurement Procedure;
- highlight trends and exceptions where necessary to enhance performance; and
- improve the efficiency of the procurement process.

9. Procurement Methods and Mechanisms

9.1 Methods

Council Staff must select the method of procurement that will achieve the best overall result in regard to Value for Money and the key principles. The method should enable a consistent and standard approach to procurement which assures accountability, transparency, and open and fair competition. The minimum market engagement requirements for procurements of different values are set out in the table in section 11.1 – Procurement Thresholds.

The below are the primary methods available to purchase Goods, Services or Works:

- directly via credit card or purchase order;
- request for quotation (RFQ);
- request for Tender (RFT);
- State Purchasing contracts;
- MAV Procurement contracts;
- Procurement Australia contracts;
- collaborative tendering arrangements;
- multi-stage tenders commencing with an EOI followed by a tender process; and
- procurement auctions.

Council may utilise alternative methods of procurement such as collaborative tendering arrangements, direct approaches to other Councils, procurement auctions and other ways to

purchase Goods, Services or Works where the particular procurement may be suitable for an alternative arrangement and Council's policies and the key principles under the Procurement Policy are maintained.

In selecting any option, Council Staff must first consider whether the Goods, Services or Works have simple requirements that present a low level of risk to Council or have complicated requirements that present a higher risk to Council.

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For example, it may be beneficial that a Tender process is used even though the procurement amount is below the expenditure threshold for novel or complex procurement processes, the Goods, Services or Works are unique or likely to be subject to a unique arrangement (for example, where Goods, Services or Works are novel or complex and may require additional information to be received from participants so Council can properly evaluate any Tender for those Goods, Services or Works before making any decision to award a contract).

9.2 Mechanisms

Once a procurement method has been determined, Council Staff need to obtain authority to purchase the Goods, Services or Works on behalf of Council. There are four primary mechanisms available to purchase Goods, Services or Works:

- corporate credit cards;
- approved purchase order;
- under contract; or
- using an aggregated purchase arrangement.

If a corporate credit card is not used for the procurement, then an approved purchase order must be generated before committing to the procurement.

9.3 Collaborative Tendering

Collaborative approaches to procurement may include joint tendering or partnership approaches, depending on the complexity, value and risk of the procurement. Value for Money and achievement of Council's objectives can be achieved through shared services and innovative procurement arrangements with other parties to leverage the combined resources, market power and expertise of Council and other parties.

When developing a procurement conduct and probity plan, Council Staff must consider and set out any opportunities for collaborative arrangements with other Agencies (if appropriate for the particular procurement). These opportunities (if any) must be included in any report to Council or the Chief Executive Officer where a procurement arrangement is being recommended.

Collaborative tendering may refer to instances where Council approaches other Agencies to establish a joint-tender approach to market (for example, to procure waste disposal services for multiple local government areas). It does not include direct approaches to an Agency to utilise that Agency's service providers.

For any collaborative tendering approach to be successful, Council must be involved in and participate in the collaborative method and process chosen. Where a collaborative method is proposed, for example in a joint tendering or multi-council approach to market, Council must approve the proposed approach prior to any arrangements or contracts being executed which may commit Council to a specific collaborative arrangement.

All collaborative procurement arrangements must be appropriately justified and planned in accordance with the Procurement Policy and Procurement Procedure.

Where collaborative procurement is to be pursued:

- A pre-market approval submission will be submitted to each Agency prior to commitment to collaboration, seeking delegation of contract approval to Chief Executive Officers (or equivalents);

- The lead Agency will establish a Heads of Agreement that gives authority for a lead Agency to act as each other Agency's agent in the collaborative procurement;
- Each of the Agencies who participate will be able to enter into a contract with the preferred supplier identified through the collaborative procurement process, or may choose as a group to enter into a contract using "jump in/opt-in" contract provisions during the contract term, or with the Agency who conducted the public tender; and
- Each participating Agency must be involved in:
 - the initial decision to undertake the collaborative procurement;
 - preparation of, and agreement to, the specifications;
 - ensuring probity is maintained for the collaborative procurement; and
 - the acceptance of tender(s) and awarding of contract(s).

For further advice in relation to collaborative arrangements please contact the Procurement Team.

9.4 Procurement Auctions

Council may use an auction process as part of a procurement or disposal process.

A procurement auction is a process for approaching a competitive market to buy Goods, Services or Works or to sell or dispose of assets or other items.

Where a procurement auction is being considered, Council Staff must determine:

- what preparation is necessary for the auction team;
- the amount of time and effort required to plan and conduct the procurement auction;
- clarification/negotiation of the bids to prepare for price competition; and
- the process required to train potential suppliers or bidders to take part in the procurement auction.

All planning requirements for a procurement auction must be documented and recorded by the relevant Council Staff member.

Buying or selling at auction does not reduce Council's obligations to comply with the core principles of the Procurement Policy, including all Value for Money and probity requirements.

10. In-House Bids

10.1 Purpose

This section applies to procurement processes involving In-House Bidders. Compliance with this section ensures high standards of ethical practice in Council's procurement processes involving In-House Bidders.

10.2 Objective

The objective of this section is to ensure that the same conditions of all procurement processes apply to all participants, including In-House Bidders, in order for all participants to receive fair

and equal treatment in public procurement and/or management of Council-owned or Council-managed assets.

High ethical standards are enforced by Council, ensuring fairness and impartiality will be achieved at all stages throughout any procurement process involving In-House Bidders. Council needs to be aware of how their actions will be perceived by procurement process participants and potential participants.

10.3 Principles

Council will ensure the procurement process is fair and consistent to all Invitees and will use its best endeavours to demonstrate its transparency to Invitees and potential Invitees including In-House Bidders by:

- maintaining an open and accountable procurement process ensuring all Invitees' information remains secure and confidential;
- giving clear notice to all Invitees whenever an In-House Bidder is participating in a procurement process;
- applying the same conditions for each Invitee, whether they are external or an In-House Bidder;
- ensuring the requirements and expected outcomes are clearly specified in the procurement documentation to allow Invitees to accurately provide their substantive responses and prices;
- packaging requests to meet the requirements of relevant regulations and ethical obligations and to encourage competition to achieve the best outcome for Council and the community; and
- identifying and managing all conflicts of interest.

Council is aware that the procurement process must be fair to all parties. Council must uphold the highest standards of probity and integrity to safeguard the procurement activities and ensure that all procurement processes are robust and can withstand scrutiny.

Council will treat any In-House Bid the same as it treats any external submission. This will be achieved by:

- ensuring there is a clear separation of duties between In-House Bidders and those who have the responsibility for evaluating the submissions;
- ensuring good record keeping;
- maintaining an audit trail throughout the procurement process;
- ensuring security and confidentiality of information and submissions received from external Invitees; and
- identifying and managing conflicts of interest whether actual, perceived or potential.

In-House Bids must be prepared and evaluated on the basis that all direct costs and indirect or over-head costs attributable to the In-House Bid are included in the price. In allocating overhead costs to In-House Bids, Council will exclude those costs which it would incur even if all its services were contracted out.

The excluded overhead costs are limited to:

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- Governance costs – conduct of elections, administration support for Councillors, Council meetings, making and enforcing local laws, property valuations, making and levying rates and charges and other statutory duties not related to the In-House Bid;
- Strategic Management of Service Costs – long term planning and supervision of all services, including tendering and contract administration costs; and
- Core Corporate Costs – administrative support for the governance and strategic management of services functions.

10.4 Competitive Neutrality

Council must ensure that when evaluating submissions made by corporatized government entities or other significant government businesses, the evaluation of those submissions conforms to the requirements of the State Government Policy on competitive neutrality. The principle underlying competitive neutrality is that government business should not enjoy any net competitive advantage simply by virtue of public sector ownership.

Compliance with competitive neutrality principles involves the assessment of cost-benefits and undertaking a public interest test. Council must ensure both a cost benefit test and public interest test is performed as part of the procurement process and must ensure that all procurements involving In-House Bids are subject to these tests.

Competitive neutrality measures need not be applied when costs exceed benefits, that is, the stream of competitive costs incurred over time is greater than the corresponding stream of benefits accrued over the same period.

It is important that any comparison of costs and benefits is undertaken by amortising costs over the period for which the benefits are expected to accrue or converting both the cost and benefit streams to their current values so that they can be compared properly. In this regard, the costs of implementation in most cases are likely to be small relative to overall expenditures relating to the significant business activity.

The cost-benefit assessment should be documented and recorded.

After examining competitive neutrality costing and assessing net financial benefits of a competitive neutrality measure, Council will need to undertake a public interest test if it considers that another policy objective or objectives of Council would be compromised by the implementation of a competitive neutrality measure.

A public interest test should:

- clearly identify the public policy objective(s) for Council's procurement undertaking;
- demonstrate that achievement of the stated policy objective(s) would be jeopardised if the particular competitive neutrality measure under consideration was implemented; and
- determine the best available means of achieving the overall policy objectives, including an assessment of alternative approaches.

10.5 Probity – In-House Bids

Probity is a fundamental part of every procurement process. As probity issues can arise at any stage of a procurement activity, probity needs to be anticipated as early as possible when planning a procurement process and must be considered through the entire procurement lifecycle. Should any probity issues emerge it is important that Council can clearly demonstrate

that its decisions were made using proper and ethical processes and that any probity issues that have been identified have been properly addressed.

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As part of any procurement process involving In-House Bids, Council needs to ensure that all information about the procurement process is secure and confidential information is not accessible to any Staff member that is involved in submitting the In-House Bid. Council must ensure a clear separation between those submitting the In-House Bid and those evaluating the submissions.

Ensuring appropriate probity practice is important for:

- business and community confidence in the integrity of Council processes;
- encouraging and enabling Invitees and Council to deal with each other on the basis of mutual trust and respect; and
- ensuring the defensibility of competitive processes and outcomes.

10.6 Probity Plan – In-House Bids

If a procurement conduct and probity plan has not been prepared for the procurement, Council will prepare a probity plan for each procurement process involving In-House Bidders. A probity plan will ensure that all probity issues are considered and addressed prior to the start of the procurement process. A probity plan may include:

- the description of the procurement process;
- the probity requirements and how they will be applied to the procurement process;
- the decision-making process for the evaluation of submissions;
- probity tasks and steps;
- description and scope of work to be undertaken by a designated probity practitioner;
- details of how conflicts of interest will be managed;
- details of how security and confidentiality of information will be maintained;
- a plan for communication with Invitees;
- guidelines for the behaviour of Staff involved in the procurement process (including those involved with submitting the In-House Bid, those involved in administering the process and those involved in evaluating submissions);
- a plan for record keeping;
- the evaluation plan, criteria, timelines and measures;
- a plan for communication between the probity advisor and the TEP or other people involved in evaluating submissions; and
- details of any written reports to be provided by the probity advisor.

Council will engage a probity advisor for all procurement processes involving In-House Bidders to ensure the documentation does not offend the probity principles and that the probity plan and processes are in place as early as possible in the procurement process.

10.7 Award of Contract

The decision to award a contract to an In-House Bidder will be made by the Chief Executive Officer or Council. If there is an In-House Bid, the written report on the award of the contract will be prepared by the Manager Governance and will be presented to the Chief Executive Officer or at a meeting of Council. The contract will be awarded on the basis of the recommendations of the TEP or other personnel involved in evaluating submissions (as applicable).

11. Thresholds and Delegations

11.1 Procurement Thresholds

The following thresholds and market engagement requirements apply to all procurement activities undertaken by Council unless an exemption under this Procurement Policy applies.

Procurement Value (including GST)	Market Engagement (minimum requirement)
\$0 to \$5,000	One (1) verbal quote
\$5,001 to \$50,000	Two (2) written quotes
\$50,001 to \$150,000	Three (3) written quotes
\$150,001 to \$300,000	Public request for quote (RFQ) (In partnership with the Procurement Team)
More than \$300,000	Public request for tender (RFT) (In partnership with the Procurement Team)

11.2 Authorised Procurement Delegations

Delegations define the limitations within which Council Staff are permitted to work. Delegation of procurement authority allows specified Council Staff members to approve certain purchases, quotations, procurement and contractual processes without prior referral to Council. This enables Council to conduct procurement activities in an efficient and timely manner while maintaining transparency and integrity. There are two types of delegations relevant to procurement:

- financial delegations which specify the amount of money that Council Staff are authorised to expend on behalf of Council; and
- procurement delegations which specify the authority conferred on Council Staff to conduct specific procurement related functions.

Council Staff are authorised to undertake a procurement with a contract value up to the limit of their financial delegation listed in the Instrument of Delegation and Sub-Delegation by the Chief Executive Officer.

Financial Delegation (including GST)	Council Staff
\$2,000	All Staff
\$10,000	Supervisors
\$50,000	Coordinators, Essential Safety Measures Officer and Staff member appointed to manage a project
\$75,000	Assets Engineer, All other Managers, Senior Works Coordinator and Works Engineer
\$150,000	Executive Leadership Team Members, Manager Assets and Projects and Manager Works
\$500,000	Chief Executive Officer
More than \$500,000	Requires Council Approval

12. Expenditure Thresholds

Purchase of Goods, Services or Works having a total value of \$300,000 (including GST) or less may be undertaken using the procurement by quotation method as described below. Procurement activities with a total procurement value of more than \$300,000 (including GST) must be undertaken via a public request for tender process (unless an exemption applies).

Procurement Value (Including GST)	Market Engagement Minimum Requirement -	Agreement Council Contract	Record Keeping Requirements
\$0 to \$2,000	One (1) verbal quote	Not required	Credit card transaction history and receipt for all credit card transactions. For purchase orders a note will be attached to the purchase order in the finance system providing details of the verbal quote received.
\$2,001 to \$20,000	Two (2) written quotes	Not Required	Written Quote Forms must be stored in the finance system. Receipt of purchase.
\$20,001 to \$150,000	Three (3) written quotes	Not Required	Along with the written quotes received, a Council Quote Form must be stored in the finance system if the minimum number of quotes have not been obtained (or due to a valid exemption) or the lowest priced quote has not been accepted.
\$150,001 to \$300,000	Public request for quote (RFQ) (In partnership with the Procurement Team)	Required	In accordance with the Procurement Policy and Procurement Procedures.

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More than \$300,000	Public request for tender (RFT) (In partnership with the Procurement Team)	Required	In accordance with the Procurement Policy and Procurement Procedure.
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The total procurement value of each procurement includes the full length of the procurement period (including all extension options).

For example, a \$50,000 (inc. GST) procurement per year for three years (with an extension option of up to 24 months) means the total procurement value would be \$250,000 (inc. GST).

Increases to the procurement value due to the procurement taking place over a number of years (such as due to CPI increases or other mechanisms which may increase the overall value of the procurement) must be factored into the total procurement value. For increases or variations to procurement values see section 15 of this Procurement Procedure (Contract Variations).

13. Exemptions from Procurement Expenditure Thresholds

13.1 Policy Exemptions

While it is expected that this Procurement Procedure will suit most occasions where Goods, Services or Works are being procured, it is acknowledged that situations will arise where exemptions to Council's standard procurement procedure may be required such as:

- **Panel Arrangements** – procuring through any Panel Arrangements established by Council in accordance with this Procurement Procedure;
- **Policy Exemption** - where a policy exemption exists and is approved;
- **Council or CEO approved Exemption** – where Council or the Chief Executive Officer approves an exemption from market engagement requirements (see section 13.2);
- **Emergencies** - in matters of Emergency including public health, security or safety as a result of an unforeseen event or occurrence (see section 13.3);
- **Collaborative Arrangements** - where a competitive process has been undertaken as part of a collaborative procurement arrangement (including through third party organisations e.g., MAV Procurement, Procurement Australia or State Government);
- **Agency Contracts** – where Council utilises Agency Contracts, SPCs, MAV Contracts or PA Contracts to achieve Value for Money without undertaking the market engagement required by the Procurement Procedure;
- **Specific Goods, Services or Works required** - situations where a change in supplier would necessitate the procurement of Goods, Services or Works that do not meet the requirements of Council for interoperability or interchangeability (such as renewal of software licences, the upgrade of existing systems or for maintenance and support of those current systems);
- **Professional Services Contracts** – for the procurement of insurance or legal services;
- **Statutory compulsory insurance** – where Council must take out specific insurance requirements specified by law or other instrument (e.g. WorkCover);
- **Absence of competition** - where there is an absence of competition for technical reasons, for example, one supplier having legal ownership of design or intellectual property or there being only one possible or suitable supplier of the relevant Goods,

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Services or Works (evidence of this must be provided to the Procurement Team prior to awarding a contract on this basis);

- **Extension of contracts while at market** - extension of contracts is required while Council is at market (see section 13.4); or
- **Exempt Procurement** - where the procurement is identified on Council's Procurement Exemptions List (see Appendix 1).

Before an exemption to a procurement process can be granted, the relevant officer must complete a procurement exemption report and provide to the Chief Executive Officer or Council which will contain, at a minimum the following information:

- the objectives of the procurement process;
- how the objectives of the procurement process are to be achieved;
- how the achievement of the procurement objectives will be measured;
- any alternative options of achieving the procurement objectives and why alternative options cannot be adopted;
- how the exemption still achieves the objectives of the Procurement Policy;
- the proposed terms of the procurement for the relevant Goods, Services or Works; and
- a risk analysis of the market from which the Goods, Services or Works are to be obtained.

The Chief Executive Officer or Council (as relevant) will consider the report provided and either approve or reject the exemption and give reasons for their decision.

The table below specifies the available exemptions and their requirements, depending on the value of the procurement.

Procurement Value (including GST)	Policy Exemption
\$0 to \$5,000	A note must be attached to the purchase order in the finance system.
\$5,001 to \$50,000	The exemption from quotes section at the bottom of the written quote form must be completed by the relevant financial delegate and attached to the purchase order prior to approving the procurement.
\$50,001 to \$150,000	The exemption from quotes section at the bottom of the written quote form must be completed by the relevant financial delegate and attached to the purchase order prior to approving the procurement.
\$150,001 to \$300,000	Must be approved by the Chief Executive Officer by Memorandum. The Chief Executive Officer must note their approval on the document in the records management system.
More than \$300,000	Must be approved by the Chief Executive Officer by Memorandum. The Chief Executive Officer must note their approval on the document in the records management system.

13.2 Council Specific Exemptions

The Chief Executive Officer may approve ad-hoc exemptions to compliance with the market engagement requirements in circumstances where:

- following the tender or procurement process would mean substantial delay or would be impractical, disadvantageous or unreasonable in the circumstances; or
- directly approaching or contracting with another council, state or federal agency or company represents best Value for Money or would better achieve Council's key principles and objectives.

This exemption may be applicable where, for example:

- it would be in the best interests of the community for Council to directly approach another council or company to provide the relevant Goods, Services or Works;
- an interim extension of the contract is required to ensure service continuity (for instance where Council is awaiting approval from Procurement Australia or other Agency and the relevant contract will expire before that approval is likely to be given);
- because of the specialised or confidential nature of the Goods, Services or Works that are sought, it would be impractical or disadvantageous for the Council to invite quotes or Tenders; or
- where the Goods, Services or Works are time-critical to Council's on-going operations or responsibilities and proceeding with a standard procurement process would be unreasonable in the circumstances or adversely affect Council's operations.

13.3 Exemptions from thresholds - Emergencies

Exemptions to compliance with the market engagement requirements may be granted in matters of Emergency, including public health, security or safety as a result of an unforeseen event or occurrence. Circumstances under which this exemption may apply is as follows:

- where an Emergency exists (as defined in Section 18 – Definitions); and
- the Chief Executive Officer has declared in writing that an Emergency exists; and the Chief Executive Officer is satisfied that procurement needs to be undertaken immediately.

Situations where this might occur include:

- during the period where a natural disaster has been declared such as flooding, bushfire or epidemic that may require the immediate procurement of Goods, Services or Works to provide relief;
- the occurrence of an event such as flooding or fire at a Council property which may require the immediate procurement of Goods, Services or Works to ensure business continuity;
- the unforeseen cessation of trading of a core service provider to Council resulting in a need to appoint a replacement service provider on the grounds of public safety;
- an unforeseen event which impacts heavily and unsustainably on Council's level of service to the community and represents an immediate risk to health or safety; or
- any other situation which may constitute a risk to health, life or property.

Procurement made under the Emergency provisions must be in accordance with Council's Financial Delegations and be limited in scope to what is necessary to deal with the immediate Emergency.

The Emergency provision must not be used for new or extended works and services after the need for an Emergency response has passed. When the Chief Executive Officer declares that an Emergency no longer exists, the exemption to comply with procurement thresholds will cease.

13.4 Exemptions from thresholds – Extensions while Council at market

Sometimes during the life of a contract, an extension of contracts is required while Council is at market to renew the contract. This exemption is designed to cover 'gaps' between when a contract may expire and when a new contract or arrangement may be approved. This may include contract extensions which require the approval of Procurement Australia or another party or Agency. This exemption:

- allows Council to extend an existing contract where the procurement process to replace the contract has commenced, and where the tender process or negotiations will take or are taking longer than the remaining duration of the existing contract, and the procurement is critical; or
- may be appropriate where the extension is required as a result of, or to assist with responding to, an Emergency situation (in accordance with section 13.3).

This exemption may be used when:

- the establishment of an interim short-term arrangement with an alternative supplier is considered not to be in the public interest, as it may be cost prohibitive and/or present a risk in the delivery of critical public services to the municipality; and
- the Chief Executive Officer has provided approval for the extension of the contract.

13.5 Exemptions from thresholds – Panel Arrangements

A Panel Arrangement may be established by Council where the relevant General Manager is satisfied that:

- the Goods, Services or Works being procured are likely to be required by Council on a regular basis;
- Council will be able to achieve Value for Money by the establishment and utilization of a Panel Arrangement; and
- the cost to Council (including resources, staffing, consultants, advertising and other costs) of procuring the Goods, Services or Works otherwise than through a Panel Arrangement would be prohibitive.

A Panel Arrangement may only be established by conducting an EOI or Tender process. If Council conducts an EOI process for a Panel Arrangement and shortlists Invitees based on the evaluation criteria, Council may appoint shortlisted Invitees to a Panel Arrangement or proceed to request Tenders for the Panel Arrangement.

If Council conducts a Tender process for the establishment of a Panel Arrangement (whether or not Council has first conducted an EOI process), Council can appoint selected Tenderers to the Panel Arrangement.

Once a Panel Arrangement is established, Council may procure the Goods, Services and Works for which the Panel Arrangement was established through the Panel Arrangement without first conducting the market engagement required by this Procurement Policy.

14. Tenders and Expressions of Interest

14.1 Purpose

Section 108 of the Act requires that before the Council enters into a contract for Goods, Services or Works over the value specified in its Procurement Policy, it must be released to the market as part of a public tender process or expression of interest.

Unless there is an applicable exemption for the procurement (specified in section 13), all procurement for the purchase of Goods, Services or Works over \$300,000 must be released as part of a public tender process.

The requirements and processes provided in this section may be modified or adjusted in accordance with the relevant conditions of tendering or Tender documents.

14.2 Tender Documents

Each set of Tender Documents comprises four main parts and several attachments:

Document	Description	Responsible to Complete	Responsible for Accuracy
Part 1 - conditions of tendering	The purpose of this part is to set out the rules applying to the RFT documents and to the RFT process. These rules are deemed to be accepted by all Invitees and by all persons who respond to or, in the case of obligations regarding intellectual property rights, confidentiality, canvassing of officials, anti-competitive conduct and publicity, have received or obtained the RFT.	Contract Owner	Procurement Team
Part 2 - Proposed Conditions of Contract	Contains a draft copy of the Conditions of Contract that Council proposes to enter into with the successful Invitee (subject to any changes requested by the Invitee in its Tender, which will be negotiated between the parties).	Contract Owner	Procurement Team
Part 3 - Specification	Provides details of the Goods, Services or Works required, including outputs, deliverables and drawings (if applicable).	Contract Owner	Contract Owner
Part 4 - Response Schedules	Contains the information and/or schedules to be provided by the Invitee when submitting a Tender and may also specify any information to be provided by other means.	Contract Owner	Procurement Team
Attachment 1 - OHSMS Questionnaire	Contractor OHS Management System Questionnaire	Contract Owner	Procurement Team
Attachment 2 - Pricing Schedule	Pricing schedule for the Good, Service or Work including Schedule of Rates.	Contract Owner	Contract Owner

14.3 Expressions of Interest (EOI)

An expression of interest (**EOI**) may be called where Council is uncertain of the specific requirements of the Goods, Services or Works, or are unsure of the current market position to accurately determine the value or scope of the project.

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The process for calling an EOI is the same as calling a Tender, however the specification detailing the scope of works may not be as detailed as it would for a Tender process.

For an EOI process, Council will establish an Evaluation Panel who will consider and evaluate EOIs received from Invitees and, if they consider appropriate, shortlist the preferable Invitees based on the evaluation criteria.

At the conclusion of an EOI process, Council may determine:

- to proceed with a selective Tender process, which will be conducted with shortlisted EOI respondents, of a quantity determined by the Tender Evaluation Panel (which may be all of the EOI respondents), with a detailed specification outlining the project deliverables and outcomes;
- to proceed with a standard Tender process (including a request for Tender or request for quote invitation to the market generally); or
- to not proceed to procure the Goods, Services or Works the subject of the EOI process.

In all instances, the reason for the decision or determination must be adequately documented and recorded.

14.4 Development of Tender Documents and calling of Tenders

The following procedures are to be followed when developing Tender documents.

The Contract Owner prepares the Tender documents and provides these to the Procurement Team.

The Procurement Team completes a quality assurance review of the Tender documentation and seeks approval from the relevant Manager or General Manager to approve the calling of Tenders.

To allow sufficient time for the Procurement Team to prepare for the public tendering process, the relevant final Tender documents are to be approved by the relevant Manager or General Manager by the close of business on the Monday before Tender upload.

All recommendations for Tenders over the value of \$500,000 (including GST) require Council approval. Council Staff must consider Council meeting dates to ensure timelines are met. Meeting dates can be located on the Council website listed under Council Meeting Dates. Because a staged approvals process must be undertaken before Council can consider awarding a contract, Staff are encouraged to seek assistance on their timeline from their Directorate Personal Assistant.

The Tender process duration will vary depending on the complexity of the process and the Goods, Services or Works required.

14.5 Advertising

The Procurement Team will prepare the request for Tender / request for quote advertisement and submit it to the Communications Officer. The advertisement is to include the following information as a minimum:

- contract description and contract number;
- date, time and location of pre-tender briefing session (if applicable);
- clearly stated date and time that Tenders must be received by; and

- any other relevant information which may be required or may be useful to potential participants.

All Tenders will be advertised through the Bairnsdale Advertiser and online through the E-Tender Portal.

14.6 E-Tender Portal

All Invitees are to be registered on the E-Tender Portal for access and registration of Tender Documents. The E-Tender Portal records an audit trail of all Invitees who have registered and accessed the Tender documents and provides reports of all Invitees who have submitted a Tender.

14.7 Tender briefing sessions

It may be necessary to conduct a Tender briefing session after release of Tender documents to:

- outline service objectives;
- provide additional information on the Tender process;
- clarify the specification;
- offer an opportunity for questions; and
- offer site visits relevant to the Tender process.

The date and time of the Tender briefing session will be published in the advertisement and in the conditions of tendering. Attendance at Tender briefings can be made optional or mandatory, according to Council's preference. If it is mandatory, only those recorded as having attended will be permitted to submit a Tender. If a submission is received from a tenderer who did not attend a mandatory Tender briefing session, their submission is automatically considered non-conforming unless an exemption to this requirement applies in the conditions of tendering.

The Tender briefing session will be organised by the Procurement Team in conjunction with the Contract Owner, and the following guidelines must be observed:

- attendees must provide their details on arrival at the Tender briefing session. The Procurement Team will be responsible for making a record of attendees;
- the Tender briefing session will be conducted by the Contract Owner, with assistance from the Procurement Team;
- the Contract Owner responsible for the Tender process must be prepared to provide an overview of the Goods, Services or Works required and answer related questions;
- the Procurement Team will arrange for minutes of the meeting to be recorded where applicable; and
- minutes will be forwarded as an addendum to all parties who have obtained Tender documents by the Procurement Team where applicable.

14.8 Addendums to Tender documents

Advice that necessitates addendums to Tender documents must be circulated to all Invitees who have requested Tender documents via the E-Tender Portal. The Procurement Team in consultation with the Contract Owner is responsible for the issue of an addendum or an answer to a Tender enquiry.

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Council must transmit all modifications, amendments or clarifications to all potential Invitees participating in the Tender process no later than 72 hours prior to the close of Tenders. This will ensure adequate time is provided for potential Invitees to modify and re-lodge their submissions, if required.

If an addendum is required to be issued within 72 hours prior to the close of Tenders, the closing time must be extended by at least seven (7) days, depending on the complexity level of the addendum.

14.9 Responding to Invitee Questions

The Procurement Team, in consultation with the Contract Owner will respond to all questions from potential Invitees regarding the Tender process. Questions must be answered as soon as possible. Responses containing new or additional information will be forwarded automatically to all Invitees who have registered for the Tender process via the E-Tender Portal.

When responding to Invitees' queries, regard will be given to the closing date and time and allowing sufficient time to notify all Invitees before the closing time and date. Opportunity for questions and answers will cease 72 hours prior to the close of the Tenders.

14.10 Extending the Closing Date

In certain circumstances, it may be beneficial to extend the closing date for Tenders. This will generally be required:

- when there has been a delay in issuing documents; or
- where an addendum is required to be issued within five (5) days of the closing date.

The Contract Owner is responsible for approving any extension of the closing date and the Procurement Team will amend the date within the E-Tender Portal and notify all attendees of the extension if approved.

14.11 Tender Opening

All Tenders are required to be submitted electronically. Submissions lodged via the E-Tender Portal will be accessed and downloaded by a member of the Procurement Team.

The Procurement Team will be responsible for registering all submissions into the records management system and forwarding Tenders to the Tender Evaluation Panel members once all 'Conflict of Interests declarations' have been received.

14.12 Late Tenders

Tenders lodged or received by Council after the Tender closing time are deemed to be late and will be disqualified and ineligible for consideration unless the Invitee can clearly document to the satisfaction of the Procurement Team that exceptional circumstances caused the Tender to be lodged after the closing time or the relevant conditions of tendering provide for an alternative process.

Consideration of a Tender under this circumstance will be at the Procurement Team's sole discretion. The determination by the Procurement Team of the actual time that the Tender was lodged is final. All Tenders lodged after the closing time will be recorded by the Procurement Team. Unless the Procurement Team is satisfied there are exceptional circumstances, the Procurement Team will inform an Invitee whose Tender was lodged after the closing time that its Tender is ineligible for consideration.

14.13 No Tenders Received

If no Tenders are received or all Tenders are rejected for any reason, Council may:

- re-advertise the Tender, either with or without amendments to the scope of the procurement and the Tender documents;
- seek an alternative means of procuring the Goods, Services or Works required under the Tender (including for example, Council obtaining the Goods or performing the Services or Works itself or utilising an alternative procurement method (as set out in section 8); or
- cancel the procurement process.

The decision of whether to re-Tender or take other actions will be considered and determined by both the Contract Owner and the Procurement Team.

14.14 Alternative Tenders

Council reserves the right, in its absolute discretion, to consider an alternative Tender provided it meets all the conditions described in the conditions of tendering and Tender documents and explains how it will meet the requirements of the project even if it does not meet all mandatory evaluation criteria.

If an Invitee submits an alternative Tender it must also submit a complying Tender and clearly identify the alternative Tender and how it departs from the complying Tender.

Council reserves the right to consider an alternative Tender without offering other respondents the opportunity to revise their response on the same basis.

14.15 Appointment of the Tender Evaluation Panel

The Contract Owner is to nominate the members of the Tender Evaluation Panel (TEP) and notify the Procurement Team at the time of requesting Tender advertising. The Procurement Team will arrange for the TEP to meet for an evaluation meeting and ensure that all Tender submissions are made available to the TEP at least three (3) days prior to the evaluation meeting if practical.

14.16 Tender Evaluation Panel

The objective of the TEP is to assess all Tenders or quotes received against the Tender evaluation criteria in order to determine and recommend to Council or the delegated Council Staff member, the best value option to achieve the objectives and outcomes of the Goods, Services or Works required.

Membership of the TEP should be appropriate to the operational and technical aspects of the Tender and preferably represent internal stakeholders as well as those Council Staff who will be responsible for the supervision of the resulting contract.

The inclusion of a TEP member who is independent of the organisational area conducting the procurement or external to Council should be considered where it is central to, or will improve, the objectivity of the TEP if the independent TEP member has technical expertise in the relevant area.

The TEP will consist of a minimum of three (3) Council Staff members and will be coordinated by a member of the Procurement Team whose contribution will be in an advisory capacity only.

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A Council Staff member of at least Manager level must be included on the TEP where the procurement is:

- greater than \$500,000 including GST;
- of significant public interest; and / or
- considered politically sensitive.

14.17 Tender Evaluation

All Tenders must be considered in a fair and equitable manner taking into account the nominated evaluation criteria, weighted scores and merits of each Tender submission.

A member of the Procurement Team will oversee the evaluation process. If at any time, the member of the Procurement Team has concerns about the probity of the process or any other concern, the member of the Procurement Team has the authority to suspend the meeting.

The Procurement Team will prepare and provide an evaluation matrix to the TEP. The evaluation matrix will be used to document the evaluation scores for each evaluation criteria and must be retained as evidence of the evaluation outcome.

The Tender evaluation scores will be calculated and used in the evaluation summary including an analysis identifying price and percentage difference +/- from the lowest submitted price in the Tender evaluation report as supporting material. If the recommended tenderer's price is 5% greater than the lowest submitted price, further comprehensive detail must be provided in the Tender evaluation report to justify recommending the preferred tenderer.

The TEP will not recommend awarding a contract to any other tenderer other than the tenderer who has achieved the overall highest score. To ensure that price is considered in conjunction with capability and capacity to achieve overall 'Value for Money' the price criteria component of the evaluation criteria must not exceed a total of 30% of the total evaluation criteria.

Quotations valued \$20,000 to \$75,000 inc. GST are to be evaluated by a minimum of 2 Staff members. Quotations valued over \$75,000 inc. GST are to be evaluated by a minimum of 2 Staff including one Manager. It is beneficial if the Council Staff member who wrote the specification/designed the project is included on the TEP.

It is recommended that an evaluation matrix is used for quotations over \$75,000 (inc. GST). The matrix assesses both price and quality using a weighting process and gives each submission a combined mark. The evaluation matrix is an evaluation tool based on the TEP's opinion of the submission. If the submissions have similar scores, choose best value for Council.

Note: evaluation documentation may be the subject of a Freedom of Information request, and therefore any notes or comments held within the evaluation notes may become available under such a request.

14.18 Evaluating Non-Conforming and Incomplete Tenders

A conforming Tender is one which meets all the conditions described in the conditions of tendering.

Where a Tender is incomplete, the TEP can discard the Tender as non-compliant. When a submission is partially incomplete the TEP may elect to include the Tender, provided the integrity of the tender process is maintained and including the Tender does not negatively impact the probity of the Tender process.

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Under no circumstances will an Invitee be permitted to amend its submitted price unless an obvious typographical or arithmetic error has been made, a best and final offer has been sought by Council or due to budget restrictions. At Council's discretion, cost savings may be sought from all short-listed Invitees without significant change to scope.

14.19 Interviewing Invitees

To gain a greater understanding or to clarify any ambiguity, the TEP may undertake interviews with Invitees as a second step in the evaluation process. The process for interviewing Invitees will be coordinated by the Procurement Team in consultation with the TEP.

If the TEP chooses to interview Invitees, the following actions are to be undertaken:

- the Procurement Team to organise interview dates and times with TEP members;
- the Procurement Team to issue interview invitations to Invitees;
- TEP members to agree on questions to be asked and interview process;
- all TEP members must be present at interviews with Invitees;
- when interviewing Invitees, the TEP must take care not to negotiate with Invitees in relation to the price submitted; and
- the TEP must treat Tenders as "commercial-in-confidence". No information regarding any other Tender response must be communicated to an Invitee.

14.20 References

Where the procurement is estimated to be greater than \$300,000 (including GST), the Procurement Team will undertake referee checks for Invitees (optional if the Invitee has been engaged by Council in the preceding 3 years) and will make relevant notes for the TEP members.

The following is a guide of the topics about which questions which may be asked:

- Invitee performance;
- Invitees understanding of the requirements and outcomes;
- quality of Invitee's work;
- whether the Invitee completed their work according to specified timeframes;
- why previous performance was satisfactory/unsatisfactory;
- nature of relationship with the Invitee (positive/productive/negative/adversarial/pro-active or reactive);
- level of supervision required of the Invitee;
- level of communication with the Invitee;
- any major issues experienced with the Invitee; and
- whether the Invitee would be considered for future work.

The above list does not in any way limit the questions that may be asked of any Invitee as part of a reference check.

14.21 Financial Viability Assessment

For procurements over \$300,000 (including GST) an independent financial viability assessment will be undertaken on the recommended Invitee following the evaluation meeting. The cost associated with this assessment will be funded by the relevant Department.

This requirement does not apply to Panel Arrangements and / or 'schedule of rates' contracts where no work is guaranteed to the Invitee by Council.

The assessment evaluates the risk that, over the life of the contract an Invitee:

- may not be able to deliver the Goods or undertake the Services or Works as specified in the contract; or
- may not be able to fulfil guarantees or warranties provided for in the contract.

The Procurement Team must arrange for the financial viability assessment to be undertaken if a successful financial viability assessment has not been received from the Invitee within the previous (12) twelve months.

If the Invitee scores less than three (3) points (Highly Vulnerable / Unsatisfactory) then the assessment is considered to be unsuccessful and the contract should not be entered into with the Invitee unless additional risk mitigation strategies are also implemented.

14.22 Post Tender Negotiations

The objective of post-tender negotiations is securing the best Value for Money outcome for Council. By the end of the negotiation process, Council and the Invitee must have the same expectations about the obligations of each party and how the contract will operate.

If the TEP proposes, or seeks the option, to conduct negotiations then the conduct of negotiations must follow these steps:

- The TEP selects a preferred Invitee or shortlists the Invitees that most closely meet the requirements of the contract and will best deliver Council's objectives for the contract. The shortlist must be defensible, based on both weighted score and price. There must be a clear break between the shortlist and other Invitees, such that given the weighted scores, even if the non-shortlisted Invitees were given an opportunity to participate in the post-tender negotiations, they would be unlikely to be shortlisted from an overall Value for Money perspective. If any other Invitees can bridge the gap they should be granted the opportunity to take part in the same negotiations as the preferred Invitees.
- A deadline for post-tender negotiations to conclude must be established. The actual time to provide a response should vary depending on the complexity of the request.
- Shortlisted Invitees will be contacted by email and provided with details related to the items Council would like to negotiate. All items must be able to be applied to the evaluation criteria.
- The TEP will assess the responses from the Invitees and determine whether the Invitees' scores for evaluation criteria should be updated based on the information provided. If an Invitee submits a response after the deadline for negotiations it will not be considered (unless a legitimate reason can be provided and agreed to by TEP members) and the Invitees original score will remain unchanged.
- All meetings, discussions and communications regarding post-tender negotiations will be recorded (and confirmed) in writing. Complete records will be maintained to form an audit trail and demonstrate that the integrity of the process has been maintained.

14.23 Tender evaluation report

All Requests for Tender, regardless of value, require the evaluation to be documented, including a summary of the evaluation process and a justification for why an Invitee is recommended for award over other Invitees. The TEP or Procurement Team (in consultation with the TEP) will prepare the Tender evaluation report following the final meeting of the TEP. The Tender evaluation report will form an appendix to the Council report or memorandum to Chief Executive Officer which is to be prepared by the Contract Owner.

The purpose of the Tender evaluation report is to report on the process conducted, the Invitation issues, the Tenders submitted and to outline the recommendations of the TEP.

All Tender evaluation reports must include information in relation to any opportunities for collaboration with other Councils or public bodies which may be available in accordance with section 109 of the Act.

14.24 Decision to award the contract

The decision to award a contract can only be made by a delegate who has the authority (financial delegation) to commit the relevant sum of money. The decision is made after consideration of the Tender evaluation report and any objections or other comments in relation to the award of the contract.

Once approved (inclusive of Council resolution if Council awarded the contract/s), the Procurement Team will notify the successful and unsuccessful Invitees of the procurement outcome. Unsuccessful Invitees will also be provided an opportunity to receive feedback on their submission.

14.25 Unsuccessful Submissions

Invitees may request some feedback regarding their unsuccessful submission.

Only general information should be released to the Invitee, with specific reference to their submission only. Under no circumstances is it appropriate to release any information regarding any other Invitees' submissions.

15. Contract Variations

Contract variations are variations to awarded contracts which increase the overall value of the contract. Contract variations may occur where:

- the specifications for Goods or scope of the Services or Works changes after the contract is awarded;
- the timing for the delivery or installation of Goods or performance of Services or Works changes;
- Council requires changes to the Goods, Services or Works; or
- Council exercises an additional option or ability under the relevant contract which increases the time before completion of the contract or overall value of the contract.

Unless a variation to the contract falls within the original procurement financial delegation threshold (in which case the officer with the relevant delegation may approve the variation under their delegation), contract variations must be approved by the Chief Executive Officer where the variation causes the original contract value to increase above \$150,000 inc. GST or more.

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Contract variations must be approved by Council where:

- the variation causes an increase to the original contract value of a Contract originally awarded by resolution of Council of 20% or more; or
- the contract was awarded under delegation and the variation would result in a total contract value greater than \$500,000 inc. GST.

The above thresholds for variations apply cumulatively over the life of the contract.

All variations to contracts will also require an amended Purchase Order be submitted and approved through Council's Finance system.

16. Roles and Responsibilities

16.1 Responsibilities of the Procurement Team

The Procurement Team will assist Council Staff to obtain Goods, Services and Works using the most appropriate purchasing method.

This includes:

- assisting with the development, implementation and management of a procurement strategy;
- providing assistance and advice regarding Council's procurement procedures and delegations;
- developing appropriate documents and forms to be used in the procurement process;
- educating internal and external stakeholders on Council's Procurement Policy and Procurement Procedure; and
- managing and coordinating Council's procurement processes.

16.2 Management roles and responsibilities

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

Party / Parties	Roles and Responsibilities
Chief Executive Officer	Ensuring the overall organisational compliance with this Procurement Procedure.
General Managers	Ensuring compliance with this Procurement Procedure by all Council Staff under their supervision.
General Manager Business Excellence	Holds overall responsibility for this Procurement Procedure's implementation and compliance.
Manager Governance	Responsible for reviewing, updating and implementing policy. Together with the Procurement Team, they are the primary source for procurement advice, training and guidance.
Managers	Ensuring compliance with the Procurement Procedure by all Council Staff under their supervision.

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17. References and Supporting Documents

17.1 Applicable Legislation

This Procurement Procedure is intended to support Council's Procurement Policy made under section 108 of the Act.

This Procurement Procedure forms part of Council's overall procurement policies and procedures, and should be read in conjunction with the following:

- *Privacy Act 1988*;
- *Competition and Consumer Act 2010*;
- *Victorian Competitive Neutrality Policy*;
- *Security of Payments Act 2002*;
- *Local Government Act 2020*;
- *Local Jobs First Act 2003*; and
- *Public Records Act 1973*.

17.2 Applicable Policy and Procedure

- Credit Card Procedure;
- *Competitive Neutrality Policy*;
- Cash Handling Policy;
- Councillor Code of Conduct;
- Instrument of Delegation and Instrument of Sub-Delegation by the Chief Executive Officer;
- Fraud and Corruption Control Policy;
- Information Management (Records) Policy;
- Information Privacy Policy;
- Procurement Exemption List;
- Procurement Policy;
- Risk Management Policy;
- Staff Code of Conduct; and
- Councillor Code of Conduct.

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18. Definitions

Term	Meaning
Act	The <i>Local Government Act</i> 2020.
Agency	Means a government agency, including a State, Federal or local government body or department.
Conflict of Interest	Means a <i>general conflict of interest</i> or <i>material conflict of interest</i> , as defined by sections 127 and 128 of the Act.
Contract Owner	The Council Officer member responsible for a given procurement process, who works directly with the Procurement Team if necessary.
Council	East Gippsland Shire Council.
Councillor	Person who has been elected to the office of “councillor” of East Gippsland Shire Council.
Emergency	Means an emergency due to the actual or imminent occurrence of an event which in any way endangers or threatens to endanger the safety or health of any person in Victoria or which destroys or damages, or threatens to destroy or damage, any property in Victoria or endangers or threatens to endanger the environment or an element of the environment in Victoria including but not limited to:- (a) an earthquake, flood, wind-storm or other natural event; (b) a fire; (c) an explosion; (d) a road accident or any other accident; (e) a plague, epidemic, pandemic or contamination; (f) a warlike act or act of terrorism, whether directed at Victoria or a part of Victoria or at any other State or Territory of the Commonwealth; (g) a hi-jack, siege or riot; or (h) a disruption to an essential service.
E-Tender Portal	Means Council's online tendering platform notified to Invitees in the Invitation.
Goods, Services or Works	The relevant deliverable(s) the preferred Invitee will be required to provide to Council, once the conditions of contract have been agreed between the preferred Invitee and Council.
In-House Bid	A Tender, quote or other requested submission to Council from an In-House Bidder for consideration as part of a procurement process.
In-House Bidder	A person or group within Council who submit a Tender, quote or other requested submission to Council for consideration as part of a procurement process.

Term	Meaning
Invitee	A company, person or entity (including representatives) which submits a Tender, a quote or other requested submission to Council as part of a procurement process; and includes, where the context permits, prospective Invitees and other recipients of the request for Tender, request for quote or other request (as applicable).
Invitation	Means an invitation issued by Council to one or more Invitees, or to the open market, to engage in an EOI or Tender process under this Procurement Procedure
Local Content	Defined as labour, materials, plant and supervision that is sourced from within East Gippsland Shire.
Panel Arrangement	Means a list of pre-qualified or approved suppliers of certain Goods, Services or Works established pursuant to this Procurement Procedure.
Procurement Team	Means those members of Staff working in the procurement team.
Staff	All staff engaged by East Gippsland Shire Council, including all full-time, part-time and casual employees, labour hire agency staff, contractors (and their employees and subcontractors) and volunteers.
Strategic Procurement	Means: <ul style="list-style-type: none"> • procurement which incorporates actions aimed at reducing the supplier base, negotiations, communication and maintaining long-term relationships with suppliers; and/or • a procurement approach that identifies potential opportunities, while managing adverse risks (for example, to maximise Council's Value for Money realised from a procurement while managing cost increases and minimising safety and environmental risks).
Tender	An offer in writing as part of a Tender process to supply Goods, Services or Works, usually submitted in response to an invitation such as a request for Tender. For the purpose of this Procurement Procedure, reference to a Tender also includes quotations or other documents submitted in response to a request from Council to supply Goods, Services or Works.
Tender Evaluation Panel or TEP	Means the panel of persons appointed to evaluate responses to a procurement activity under this Procurement Procedure.
Value for Money	The achievement of a desired procurement outcome at the best possible price, not necessarily the lowest price, based on a balanced judgement of financial and non-financial factors relevant to the procurement.

19. Revision History and Review

Version Control	Approved Amended Rescinded	Date Effective	Approved By	ECM Document Reference	Summary of Changes
1	Approved	13/11/18	Executive Group	7824125	New procedure. Former procurement policy has been disaggregated into a policy and a procedure.
2	Approved	19/10/20	Strategic Leadership Group	8715592	Minor revisions with continued refinement of separation between policy and procedure.
3					Complete rewrite of the Procurement Procedure to align with the updated Procurement Policy and <i>Local Government Act 2020</i> . Revisions to procurement thresholds and requirements including the introduction of a Strategic Procurement framework.

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20. Appendix 1

The following procurements are either exempt from market engagement and/or the requirement for a Purchase Order (as described in the Procurement Policy section 7.4).

Category	Description	Exempt from Market Engagement	Exempt from Purchase Order
Utilities	Electricity, Gas, Water and Telephone services.	No	Yes
Payroll expenses	Superannuation, PAYG, East Gippsland Shire Staff Social Club and other payroll deductions.	Yes	Yes
GST	Goods and Services Tax payable.	Yes	Yes
Postage	Australia Post	No	No
Vehicle registrations	VicRoads vehicle registrations.	Yes	Yes
Councillor expenses	Allowances and Reimbursements.	Yes	Yes
Refundable trust funds	Includes Security Bonds, Contract Retentions and other funds held in trust.	Yes	Yes
Other	Acquisition of Land and Buildings.	Yes	No
	Fire Services Property Levy.	Yes	Yes
	EPA Victoria levy	Yes	Yes
	Medical expenses.	Yes	Yes
	Venue hire.	Yes	No
	Memberships and subscriptions.	Yes	Yes
	External audit fees – Victorian Auditor-General's Office	Yes	No
	HACC service agreement.	Yes	No
	Committee Members sitting fees	Yes	Yes
	Staff expense Reimbursements	Yes	Yes
	Bank Fees	No	Yes
	Fringe Benefits Tax	Yes	Yes
	Annual community grants.	Yes	Yes
	Professional workshop and conference registration fees and associated costs.	Yes	No
	Loans and investments.	Yes	Yes
	General advertising.	Yes	No
	Recruitment advertising.	Yes	No
	Public Auctions	No	Yes

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Procurement Procedure

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1. Purpose

Council is required under section 186 of the *Local Government Act* 1989 (the Act) to prepare, approve and comply with a Procurement Policy. In accordance with the Act, the Procurement Policy sets out the key principles and processes applied to the purchases of **Goods, Services** and Works by Council.

On 24 March 2020 the Government passed the Local Government Act 2020 (the new Act). Provisions from the new Act are being commenced in four stages. The first tranche of provisions commenced on 6 April 2020 with other tranches commencing on 1 May 2020 and 24 October 2020. All remaining provisions are commencing on 1 July 2021. The Local Government Act 1989 applies in circumstances where the new Act has not commenced.

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

This procedure has been prepared in accordance with Local Government Act 1989 186A. The Act is the key legislative framework that regulates the process of all local government procurement in Victoria.

Council officers must read this Procurement Procedure in conjunction with the Procurement Policy.

This Procurement Procedure will help Council officers understand how the Procurement Policy is to be applied to the operational elements of purchasing Goods, Services or Works on behalf of Council.

2. Scope

This Procurement Procedure explains how Councillors, Council officers, contractors and consultants are to conduct procurement activities for Goods, Services and Works in accordance with the Act, Council's Procurement Policy and best practice guidance while engaged by Council. This procedure does not cover contract management activities.

3. Procedure Statement

Council is committed to the effective procurement of Goods, Services and Works through adopting best practice principles, policies and procedures. It is recognised this will also support the achievement of Council objectives regarding sustainable and socially responsible procurement, support of the local economy and obtaining Value for Money, which in turn, will lead to a better outcome for Council in the provision of services for the community.

Councillors, Council officers, contractors and consultants while engaged by Council are required to comply with Council's Procurement Policy and this procedure in all circumstances.

4. Treatment of GST

All monetary values stated in this procedure include GST except where specifically stated otherwise.

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5. Responsibilities of the Procurement team

The Procurement team will assist Council officers to obtain Goods, Services and Works using the most appropriate purchasing method.

This includes:

- providing assistance and advice regarding Council's procurement procedures and delegations;
- developing appropriate documents and forms used in the procurement process;
- educating internal and external stakeholders on Council's Procurement Policy and procurement procedures; and
- managing and coordinating Council's Tenders.

6. Risk Management

6.1 Approval to Procure

To protect the interests of the Council, terms and conditions of the procurement must be settled in advance of any commitment to purchase.

For all procurements above \$2,000 inc GST, Council officers must not make any commitments to purchase goods, services or works without an approved purchase order from Council's finance system (*CouncilFirst*). This ensures that the procurement is electronically approved by the responsible delegate for the appropriate level of expenditure.

Levels of delegation are detailed in the Instrument of Delegation and Instrument of Sub-Delegation by the Chief Executive Officer; and highlighted in the Procurement Guide Card.

Instructions on raising purchase orders and sending for approval can be obtained by contacting the Finance team.

6.1.1 Record Keeping

Electronic Document and Records Management System (*ECM*)

Council officers must ensure that all records relating to procurements are stored in Council's Electronic Document and Records Management System (*ECM*) in order to provide evidence that:

- the processes followed and any decisions made during the procurement can be substantiated; and
- there are adequate records to support contract matters or disputes.

The structure and extent of records kept will depend on the value and complexity of the procurement.

Records will be kept in accordance with the *Public Records Act 1973* Public Record Standard PROS 09/05 (Retention and Disposal Authority for Records of Local Government Functions).

Further information on the use of ECM can be obtained by contacting the Information Management team.

Finance System (*CouncilFirst*)

Council officers must ensure that the record keeping requirements for expenditure thresholds that are detailed in the Procurement Policy and highlighted in the Procurement Guide Card are met at all times.

It is the responsibility of the Council officer raising the purchase order in the Finance system (*CouncilFirst*) to ensure that the correct documents are uploaded to the purchase order prior to sending it for approval. This includes the appropriate number of quotes for the expenditure threshold; or, in the absence of the appropriate number of quotes or if the cheapest of the appropriate number of quotes has not been selected, then a signed and authorised Written Quote Form as well as any quotes that have been received.

It is the responsibility of each Council officer who is approving a purchase order to ensure that the correct documents are attached to the purchase order prior to providing their electronic approval.

Further information on the use of CouncilFirst can be obtained by contacting the Finance team.

6.2 Probity Auditor

The use of an external, independent probity auditor is mandated when the value of the Goods, Services or Works exceeds \$2,000,000 (including GST).

A probity auditor ensures process compliance and helps ensure high standards of probity in the conduct of the procurement activity.

The role of the probity auditor includes:

- attendance at Tender closing, public tender briefing sessions and Tender Evaluation Panel meetings;
- endorsement of the Tender Evaluation Panel report; and
- submission of an independent probity audit report.

The Procurement team is responsible for engaging the probity auditor and will do so at the earliest available opportunity.

6.3 Insurance Requirements

Council officers engaging contractors or consultants are responsible for ensuring that such parties have appropriate insurances in place in order to minimise Council's exposure to risk. These insurances must be in place prior to procuring the goods, services or works and must remain valid throughout the life of the procurement.

Insurance information on contractors and consultants who are pre-qualified under Council's contract management procedures will be stored in Council's risk management system (*Elumina*).

Further information on the use of Elumina can be obtained by contacting the Risk Management team.

6.4 Disclosure of Information

Councillors and Council officers must not enter into discussions with potential suppliers about active procurements prior to the approval process being finalised, other than authorised procurement negotiations. Councillors and Council officers should take care that their duty to consider issues fairly and properly is not compromised by participating in discussions with suppliers where the intent of the supplier may be perceived to be to influence decision-making on procurement related matters. In the event of any doubt or concern in this area, the Councillor or Council officer should remove themselves from any further discussions with the supplier and immediately delegate the procurement activity to an impartial person.

Council officers are responsible for ensuring that the commercial interests of existing and potential suppliers are protected at all times. Confidentiality of information provided by existing and prospective suppliers must be maintained, particularly 'commercial in confidence' information which may include, but is not limited to, prices, discounts, rebates, profit, manufacturing, intellectual property and product information.

Requests under the *Freedom of Information Act* 1982 may include files maintained by Council, including working files but excluding information that is considered 'commercial in confidence'. All Council officers should be particularly mindful about the contents of letters or notes placed onto Council files, as any file may be requested under the *Freedom of Information Act* 1982 and potentially be viewed by a range of individuals and company representatives.

Further information on Council's responsibilities in respect to the Freedom of Information legislation can be obtained by contacting the Governance team.

6.5 Gifts and Hospitality

Councillors and Council officers must not, either directly or indirectly, solicit or accept gifts or hospitality from any member of the public where:

- it is made during a procurement or tender process by a person or organisation involved in the process; and
- acceptance could be perceived as endorsement of a Good, Service or Work; or
- acceptance would unfairly advantage the member of the public in future procurement decisions.

Further information on receiving Gifts and Hospitality can be obtained by contacting the Governance team.

6.6 Reward and Loyalty Program Participation

Councillors and Council officers cannot accumulate reward or loyalty program credits on purchases made on behalf of Council or accept any discounts through the use of Council corporate credit or fuel cards.

Councillors may retain frequent flyer and accommodation program benefits. The benefits gained through the programs should only be redeemed on Council-related activities when the Councillor is undertaking their official duties. Membership fees and expenses related to frequent flyer programs are not reimbursable.

Participation in a reward or loyalty program must not influence procurement decisions.

6.8 Auditing and Compliance

Compliance auditing determines whether a procurement process has or has not been followed in accordance with this Procedure or the Procurement Policy.

The Procurement team shall undertake regular audits to determine the level of compliance across the organisation.

Audit Item	Description
Purchase Order Compliance	<p>Audit undertaken for compliance with purchase order requirements.</p> <p>If the invoice date precedes the purchase order date, then the procurement is deemed non-compliant.</p>
Threshold Compliance	<p>Audit undertaken for compliance with the procurement thresholds as approved by Council in the Procurement Policy.</p> <p>Procurements are checked to see if the correct process has been undertaken and that the required documentation is attached to the purchase order in Council's Finance system.</p> <p>If either of these conditions are not met the procurement is deemed non-compliant.</p>

Compliance reports are provided on a regular basis to a number of internal stakeholders including the Audit and Risk Committee and the Executive Leadership Team.

7. Social Procurement

7.1 Support for Local Content

Council will include in its Tender process a mandatory weighting of five (5) percent for Local Content when engaging and contracting with suppliers. This is to acknowledge the suppliers whose activities contribute to the financial and social wellbeing of the Shire and of the Gippsland region.

Criteria	Description	Weighting
Local Contribution	Principal place of business is located within East Gippsland Shire.	2.0 %
Local Contribution	Percentage of Goods, Services or Works sourced from within East Gippsland Shire	1.0 %
Local Contribution	Sponsorship of community or sporting groups from within East Gippsland Shire.	1.0 %
Local Contribution	Employment of trainees and apprentices from within East Gippsland Shire.	1.0 %

7.2 Support for Sustainability and Environment

Council will include in its Tender process a mandatory weighting of five (5) percent for Sustainability and Environment when engaging and contracting with suppliers. This is to acknowledge the suppliers whose business activities include a commitment to sustainable and environmental principles by prioritising environmentally preferable goods, services or works when compared with competing goods, services or works that serve the same purpose.

Criteria	Description	Weighting
Sustainability and Environment	Recycled and / or environmentally friendly materials or supplies are used in the production of the goods, services or works	1.0 %
Sustainability and Environment	Environmentally friendly plant and equipment are used in the production of the goods, services or works	1.0 %
Sustainability and Environment	Sustainably sourced utilities (water and / or electricity) are used in the production of the goods, services or works	1.0 %
Sustainability and Environment	Sustainable waste disposal systems are utilised in the production of the goods, services or works	1.0 %
Sustainability and Environment	The business engages in workplace activities that encourage its employees to support sustainability and environmental practices	1.0 %

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8. Procurement Planning

8.1 General

Procurement planning and adoption of sound procurement practices lead to consistently better Value for Money, higher quality project and service delivery and reduced risks to Council. Procurement planning involves consulting key stakeholders to define requirements, analysing how the supply market works, assessing risks and ultimately defining the best procurement strategy to meet Council's business needs.

8.2 Model of Procurement

Council's procurement function is decentralised for all purchases under the value of \$100,000 including GST.

8.3 Procurement Planning

The objectives of the planning phase of any procurement activity are to:

- ensure the Goods, Services or Works being procured meet Council's needs;
- ensure both the legislative requirements and Council's Procurement Policy are followed and a successful Value for Money outcome is achieved; and
- manage the risks associated with the procurement.

Consideration also needs to be given ensuring that adequate resources, including appropriate knowledge and skills, are available to ensure a successful and compliant procurement outcome.

8.4 Procurement Conduct Plan

A procurement conduct plan should be completed for all procurements that are considered strategic and for procurements over \$2,000,000 including GST, except where the responsible General Manager and Chief Executive Officer (CEO) decide the plan would be of no benefit due to the nature of the procurement.

This plan must cover a range of matters including:

- the scope of the requirement;
- strategic analysis/feasibility study;
- evaluation criteria and methodology;
- procurement timeframe;
- risk management framework;
- due diligence requirements;
- composition and responsibilities of the evaluation Panel; and
- the requirement to appoint an external probity auditor or advisor.

8.5 Procurement Estimate, Scope and Budget Provision

The value of all contracts for the purpose of compliance with section 186 of the Act includes:

- costs for the full term of the procurement, including any options for either party to extend the contract;
- applicable Goods and Services Tax (GST);
- anticipated contingency allowances or variations; and
- all other known, anticipated and reasonably foreseeable costs.

In determining the value of a proposed procurement, due diligence should be exercised to ensure that realistic assessments are made of all factors that may impact on the value of the procurement. This assessment should consider all aspects of the proposed procurement which are reasonably foreseeable. This has particular application to procurement activities that involve schedules of rates or unit prices requiring projections of usage rates, or unit prices requiring projections of usage rates and volumes in order to derive the total value of the proposed procurement. The assessment of a procurement's likely value must be made before entering into a contract.

8.6 Cost Splitting

Cost splitting is a process through which the procurement of like Goods, Services or Works is intentionally split into smaller portions to avoid the requirement to undertake the Market Engagement Method prescribed in Council's Procurement Policy. It is unacceptable to split projects or work into smaller lots to avoid the proper Market Engagement Method. The value of the procurement is determined by the total value of all components, which includes any possible extension options.

For example, a two-year services contract with a supplier valued at \$80,000 including GST per annum, is a contract with a value of \$160,000 including GST. The correct Market Engagement Method in this instance is a public request for tender, based on the contract value of \$160,000 including GST.

Council takes any identified instances of cost splitting very seriously. Disciplinary procedures may apply to any officer found breaching the Procurement Policy by intentional cost splitting.

8.7 Access to Victorian Government Contracts

The Minister for Local Government has approved arrangements under section 186(5)(c) of the Act that allow Council access to a range of State Purchase Contracts (SPCs).

Access to Victorian Government contracts enables Council to leverage the buying power of the state government while taking confidence in the best practice procurement processes undertaken in establishing these contracts. As with all purchasing decisions, Council officers should consider whether use of Victorian Government contracts represents the optimal outcome achievable for that procurement.

The Procurement team is Council's point of contact for all Victorian Government contracts and will provide guidance on the best procurement method to use in addition to advice regarding existing contracts.

8.8 Access to Municipal Association of Victoria (MAV) Contracts

In 2014, Municipal Association of Victoria (MAV) Procurement was given Ministerial approval under s186 of the Act, allowing Council to access any MAV contract without the requirement to appoint MAV as Tendering agent.

The contracts include a range of goods and services such as: library materials, park and playground equipment, plant, equipment and machinery, records management and imaging services, specialised trucks and bodies, and maternal and child health information systems.

To access MAV Procurement contracts please contact the Procurement team.

8.9 Access to Procurement Australia (PA) Contracts

In 2014, the Minister for Local Government made arrangements for Councils to enter into contracts made available by Procurement Australia for the provision of Goods, Services or Works.

The contracts include a range of goods and services such as: fleet services and fleet consumables, hardware, plumbing, cement products and herbicides, traffic control and pavement marketing services and tree pruning and associated services.

To access Procurement Australia contracts please contact the Procurement team.

8.10 Policy Exemptions

While it is expected that this guideline will suit most occasions where Goods, Services or Works are being procured, it is acknowledged that situations will arise where exemptions may be required such as:

- in matters of **Emergency** including public health, security or safety as a result of an unforeseen event or occurrence;
- installations where a change in supplier would necessitate the procurement of goods and services that do not meet the requirements for interoperability or interchangeability;
- an absence of competition for technical reasons; and
- where the procurement is on Council's Procurement Exemptions List.

Where the procurement activity falls outside of the procurement thresholds and the quoting requirements, authority must be obtained to proceed with the procurement.

Procurement Value (Including GST)	Policy Exemption
\$0 to \$5,000	The exemption from quotes section at the bottom of the verbal quote form must be completed by the relevant financial delegate and attached to the purchase order prior to approving the procurement.
\$5,000 to \$20,000	The exemption from quotes section at the bottom of the verbal quote form must be completed by the relevant financial delegate and attached to the purchase order prior to approving the procurement.
\$20,001 to \$75,000	The exemption from quotes section at the bottom of the written quote form must be completed by the relevant financial delegate and attached to the purchase order prior to approving the procurement.
\$75,001 to \$100,000	The exemption from quotes section at the bottom of the written quote form must be completed by the relevant financial delegate and attached to the purchase order prior to approving the procurement.
\$100,001 to \$150,000 (Goods and Services) or \$200,000 (Works)	Must be approved by the CEO by Memorandum. The CEO must note their approval on the document in the records management system.
More than \$150,000 (Goods and Services) or \$200,000 (Works)	Ministerial exemption must be sought unless the CEO has declared an emergency.

8.11 Continuous Improvement

Appropriate performance measures and regular reporting systems will be used to monitor performance and compliance with Council's Procurement Policy and this Procedure. The performance measurements will be used to:

- provide reports to internal stakeholders on compliance with the Procurement Policy and this Procedure;
- highlight trends and exceptions where necessary to enhance performance; and
- improve the efficiency of the procurement process.

9. Procurement Methods, Mechanisms, Thresholds and Delegations

9.1 Methods

Council officers must select the method of procurement that will achieve the best overall result in regard to Value for Money. The method should enable a consistent and standard approach to procurement which assures accountability, transparency, open and fair competition.

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There are seven methods available to purchase Goods, Services or Works:

- verbal quotations;
- written quotations;
- request for Quotation (RFQ); and
- request for Tender (RFT)
- State Purchasing contracts;
- MAV Procurement contracts;
- Procurement Australia contracts

In selecting any option, officers must first consider whether the Goods, Services or Works are simple requirements that present a low level of risk to the Council, or whether they are complicated requirements that present a higher risk to the Council.

For example, it may be beneficial that a Tender process is used even though the procurement amount is below the expenditure threshold.

9.2 Mechanisms

Once a procurement method has been determined, Council officers need to obtain authority to purchase the Goods, Services or Works on behalf of Council. There are two mechanisms available to purchase Goods, Services or Works:

- corporate Credit Cards (recommended for procurements less than \$75); or
- approved purchase order.

If a corporate Credit Card is not used for the procurement, then an approved purchase order must be generated before committing to the procurement.

9.3 Procurement Thresholds

Procurement Value (Including GST)	Market Engagement (minimum requirement)
\$0 to \$5,000	One (1) verbal quote
\$2,001 to \$20,000	Two (2) verbal quotes
\$20,001 to \$75,000	Two (2) written quotes
\$75,001 to \$100,000	Three (3) written quotes
\$100,001 to \$150,000 (Goods and Services) or \$200,000 (Works)	Public Request for Quote (RFQ) (In partnership with the Procurement team)
More than \$150,000 (Goods and Services) or \$200,000 (Works)	Public Request for Tender (RFT) (In partnership with the Procurement team)

9.4 Authorised Procurement Delegations

Delegations define the limitations within which Council officers are permitted to work. Delegation of procurement authority allows specified Council officers to approve certain purchases, quotations, Tender and contractual processes without prior referral to Council. This enables Council to conduct procurement activities in an efficient and timely manner while maintaining transparency and integrity. There are two types of delegations relevant to procurement:

- financial delegations specify the amount of money that Council officers are authorised to expend on behalf of Council; and
- procurement delegations specify the authority conferred on Council officers to conduct specific procurement related functions.

Council officers are authorised to undertake a procurement up to the limit of their financial delegation listed in the Instrument of Delegation and Sub-Delegation by the Chief Executive Officer.

Financial Delegation (Including GST)	Council officer
\$2,000	All other staff.
\$10,000	Supervisors.
\$50,000	Coordinators, Essential Safety Measures Officer and Staff member appointed to manage a project.
\$75,000	Assets Engineer, All other Managers, Senior Works Coordinator and Works Engineer.
\$100,000	Executive Leadership Team Members, Manager Assets and Projects and Manager Works.
\$500,000	Chief Executive Officer
More than \$500,000	Council Approval

10. Expenditure Thresholds

Purchase of goods or services having a total value of \$150,000 including GST or less and works having a total value of \$200,000 including GST or less may be undertaken using the procurement by quotation method as described below.

Procurement Value (Including GST)	Market Engagement Minimum Requirement -	Agreement Council Contract	Record Keeping Requirements
\$0 to \$5,000	One (1) verbal quote	Not Required	Verbal Quote Form be recorded as a note to the Purchase Order. Receipt of purchase.
\$5,001 to \$20,000	Two (2) verbal quotes	Not Required	Verbal Quote Form must be stored in the financial system. Receipt of purchase.
\$20,001 to \$75,000	Two (2) written quotes	Not Required	Along with the written quotes received, a Council Quote Form (75k) must be stored in the financial system if the minimum number of quotes has not been obtained or the lowest priced quote has not been accepted.
\$75,001 to \$100,000	Three (3) written quotes	Required for strategic procurement	Along with the written quotes received, a Council Quote Form (100k) must be stored in the financial system if the minimum number of quotes has not been obtained or the lowest priced quote has not been accepted.

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\$100,001 to \$150,000 (Goods and Services) or \$200,000 (Works)	Public Request for Quote (RFQ) (In partnership with the Procurement Team)	Required	In accordance with the Procurement Procedure
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11. Tenders

11.1 Purpose

Section 186 of the Act requires that before the Council enters into a contract for goods or services over the value of \$150,000 including GST and \$200,000 including GST for works, it must be released to the market as a public Tender.

11.2 Tender Documents

The Tender Document comprises four main parts and several attachments:

Document	Description	Responsible to Complete	Responsible for Accuracy
Part 1 - Conditions of Tendering	The purpose of this part is to set out the rules applying to the RFT documents and to the RFT process. These rules are deemed to be accepted by all Invitees and by all persons who respond to or, in the case of obligations regarding intellectual property rights, confidentiality, canvassing of officials, anti-competitive conduct and publicity, have received or obtained the RFT.	Contract Owner	Procurement team
Part 2 - Proposed Conditions of Contract	Contains a draft copy of the Conditions of Contract that Council proposes to enter into with the successful Invitee (subject to any changes requested by the Invitee in its Tender, which will be negotiated between the parties).	Contract Owner	Procurement team
Part 3 - Specification	Provides details of the Goods, Services or Works required, including outputs, deliverables and drawings (if applicable).	Contract Owner	Contract Owner
Part 4 - Response Schedules	Contains the information and/or schedules to be provided by the Invitee when submitting a Tender and may also specify any information to be provided by other means.	Contract Owner	Procurement team
Attachment 1 - OHSMS Questionnaire	Contractor OHS Management System Questionnaire	Contract Owner	Procurement team
Attachment 2 - Pricing Schedule	Pricing schedule for the Good, Service or Work including Schedule of Rates.	Contract Owner	Contract Owner

11.3 Procedures for the Development of Tender Documents

The following procedures are to be followed when developing Tender Documents.

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The Contract Owner prepares the Tender Documents and provides these to the Procurement team. The process duration for Tenders will vary depending on the complexity of the Goods, Services or Works required.

All recommendations for Tenders over the value of \$500,000 including GST require Council approval. Council officers must consider Council meeting dates to ensure timelines are met. Meeting dates can be located on the Council website listed under Council Meeting Dates. Because a staged approvals process must be undertaken before Council can consider awarding a tender, officers are encouraged to seek assistance on their timeline from their Directorate Personal Assistant.

11.4 Advertising

The Procurement team will prepare the Request for Tender / Request for Quote advertisement and submit to the Communications Officer. The advertisement is to include the following information as a minimum:

- contract description and contract number;
- date, time and location of pre-tender briefing session (if applicable); and
- clearly stated date and time that Tenders must be received by.

All Tenders will be advertised through the Bairnsdale Advertiser and online through the E-Tender Portal.

11.5 E-Tender Portal

All Invitees are to be registered on the E-Tender Portal for access and registration of Tender Documents. The E-Tender Portal records an audit trail of all Invitees who have registered and accessed the Tender Documents and provides reports of all Invitees who have submitted a Tender response.

11.6 Tender Briefing Sessions

It may be necessary to conduct a Tender Briefing Session to:

- outline service objectives;
- provide additional information on the Tender;
- clarify the specification;
- offer an opportunity for questions; and
- offer site visits relevant to the Tender.

The date and time of the Tender Briefing Session will be published in the advertisement and in Part 1 – Conditions of Tendering. Attendance at Tender Briefings can be optional or mandatory. If it is mandatory, only those recorded as having attended will be permitted to Tender.

The briefings will be organised by the Procurement team in conjunction with the Contract Owner, and the following guidelines must be observed:

- attendees must provide their details on arrival at the Tender Briefing Session. The Procurement team will be responsible for making a record of attendees;
- the Tender Briefing Session will be conducted by the Contract Owner, with assistance from the Procurement team;
- the Contract Owner responsible for the Tender must be prepared to provide an overview of the Goods, Services or Works required and answer related questions;
- the Procurement team will arrange for minutes of the meeting to be recorded where applicable;
- minutes will be forwarded as an addendum to all parties who have obtained Tender Documents by the Procurement team where applicable.

11.7 Addendums to Tender Documents

Advice that necessitates addendums to Tender Documents must be circulated to all Invitees who have requested Tender Documents via the E-Tender Portal. The Procurement team in consultation with the Contract Owner is responsible for the issue of an addendum or an answer to a tender enquiry.

Council must transmit all modifications, amendments or clarifications to all potential Invitees participating in the Tender no later than 72 hours prior to the close of Tenders. This will ensure adequate time is provided for potential Invitees to modify and re-lodge their submissions, if required.

If an addendum is required to be issued within 72 hours prior to the close of Tenders, the closing time must be extended by seven (7) days depending on the complexity level of the Addendum.

11.8 Responding to Invitee Questions

The Procurement team, in consultation with the Contract Owner will respond to all questions from potential Invitees regarding the Tender. Questions must be answered as soon as possible. Responses containing new or additional information will be forwarded automatically to all Invitees who have registered for the Tender via the E-Tender Portal.

When responding to Invitees' queries, regard will be given to the closing date and time and allowing sufficient time to notify all Invitees before the closing time and date. Opportunity for questions and answers will cease 72 hours prior to the close of the Tender.

11.9 Extending the Closing Date

In certain circumstances, it may be beneficial to extend the closing date for Tenders. This will generally be required:

- when there has been a delay in issuing documents; or
- where an addendum is required to be issued within five (5) days of the closing date.

The Contract Owner is to approve any extension of the closing date and the Procurement team will amend the date within the E-Tender Portal.

11.10 Tender Opening

All tender submissions are required to be submitted electronically. Submissions lodged via the E-Tender Portal will be accessed and downloaded by a member of the Procurement team.

The Procurement team will be responsible for registering all submissions into the Records Management System and forwarding tender submissions to the Tender Evaluation Panel members.

11.11 Late Tenders

Tenders lodged or received by Council after the Tender Closing Time are deemed to be late and will be disqualified and ineligible for consideration unless the Invitee can clearly document to the satisfaction of the Procurement team that exceptional circumstances caused the Tender to be lodged after the Closing Time.

Consideration of a Tender under this circumstance will be at the Procurement team's sole discretion. The determination by the Procurement team of the actual time that the Tender was lodged is final. All Tenders lodged after the closing time will be recorded by the Procurement team. Unless the Procurement team is satisfied there are exceptional circumstances, the Procurement team will inform an Invitee whose Tender was lodged after the closing time that its Tender is ineligible for consideration.

11.12 No Tenders Received

If no Tenders are received or all Tenders are rejected for any reason, two options are available to Council officers:

- to re-advertise the Tender, either with or without amendments to the scope of the procurement and the Tender Documents; or
- to seek an alternative means of delivering the service or works required under the Tender without changing the requirements (including Council undertaking the service or works itself).

The decision to re-Tender or other actions will be considered and determined by the Contract Owner.

11.13 Alternative Tenders

- Council reserves the right, in its absolute discretion, to consider an Alternative Tender provided the Invitee has met the mandatory evaluation criteria. If an Invitee submits an Alternative Tender it must also submit a complying tender and clearly identify the Alternative Tender and how it departs from the complying tender.

Council reserves the right to consider an Alternative Tender without offering other respondents the opportunity to revise their response on the same basis.

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11.14 Appointment of the Tender Evaluation Panel

The Contract Owner is to nominate the members of the Tender Evaluation Panel (TEP) and notify the Procurement team at the time of requesting tender advertising. The Procurement team will arrange for the Panel to meet and ensure that all Tender submissions are made available to the Panel at least three (3) days prior to the evaluation meeting if practical.

11.15 Tender Evaluation Panel

The objective of the TEP is to assess all offers received against the Tender evaluation criteria in order to determine and recommend to Council or the delegated Council officer, the best value option to achieve the objectives and outcomes of the Goods, Services or Works required.

Membership of the Panel should be appropriate to the operational and technical aspects of the Tender and preferably represent internal stakeholders as well as those Council officers who will be responsible for the supervision of the resulting contract. The inclusion of a Panel member who is independent of the organisational area conducting the procurement or external to the organisation should be considered where it is central to, or will improve, the objectivity of the Panel if the independent Panel member has technical expertise in the relevant area.

The Panel will consist of a minimum of three (3) Council officers and will be coordinated by a member of the Procurement team whose contribution will be in an advisory capacity only.

A Council officer of at least Manager level must be included on the Panel where the procurement is:

- greater than \$1,000,000 including GST; and / or
- of significant public interest; and / or
- considered politically sensitive.

11.16 Tender Evaluation

All Tenders must be considered in a fair and equitable manner taking into account the nominated evaluation criteria, weighted scores and merits of each Tender submission.

A member of the Procurement team will oversee the evaluation process. If at any time, the member of the Procurement team has concerns about the probity of the process or any other concern, the member of the Procurement team has the authority to suspend the meeting.

The Procurement team will prepare and provide an evaluation matrix to the Panel. The evaluation matrix will be used to document the evaluation scores for each evaluation criteria and must be retained as evidence of the evaluation outcome.

The Tender evaluation scores will be calculated and used in the evaluation summary including an analysis identifying price and percentage difference +/- from the lowest submitted price in the Tender Evaluation Report as supporting material. If the recommended tenderer's price is 5% greater than the lowest submitted price, further comprehensive detail will be provided in the TEP report to justify recommending the preferred tenderer.

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11.17 Evaluating Non-Conforming and Incomplete Tenders

A conforming Tender is one which meets all the conditions described in Part 1 - Conditions of Tendering, Part 2 - Proposed Contract Conditions of Contract and meets the requirements set out in Part 3 – Specification and a completed Pricing Schedule.

Where a Tender is significantly incomplete, the evaluation Panel can discard the Tender as non-compliant. When a submission is partially incomplete the evaluation Panel may elect to include the Tender and seek further clarification ensuring Probity is met.

Under no circumstances will an Invitee be permitted to amend its price unless an obvious typographical or arithmetic error has been made, best and final offer has been sought or due to budget restrictions, cost savings may be sought from all short listed without significant change to scope.

11.18 Interviewing Invitees

To gain a greater understanding or to clarify any ambiguity, the Panel may undertake interviews with Invitees as a second step in the evaluation. The process for interviewing Invitees will be coordinated by the Procurement team in consultation with the Panel.

The following action is to be undertaken:

- Procurement team to organise interview dates and times with Panel members;
- Procurement team to issue interview invitations to Invitees;
- Panel members to agree on questions to be asked and interview process;
- all Panel members must be present at interviews with Invitees;
- when interviewing Invitees, the Panel must take care not to negotiate with Invitees in relation to the price submitted; and

the Panel must treat Tenders as “commercial-in-confidence”. No information regarding any other Tender response must be communicated to an Invitee.

11.19 References

Where the procurement is estimated to be greater than \$300,000 including GST, the Procurement team will undertake referee checks for Invitees (optional if invitee is known to Council) and will make relevant notes for the Panel members.

The following is a guide of questions which may be asked:

- Invitee performance;
- Invitees understanding of the requirements and outcomes;
- quality of work;
- completion according to specified timeframes;
- why the performance was satisfactory/unsatisfactory;

- nature of relationship (positive/productive/negative/adversarial/pro-active or reactive);
- level of supervision required;
- level of communication with the Invitee;
- any major issues experienced with the Invitee; and
- whether the Invitee would be considered for future work.

11.20 Financial Viability Assessment

For procurements over \$300,000 including GST an independent financial viability assessment will be undertaken on the recommended tenderer following the evaluation meeting.

This requirement does not apply to 'panel of suppliers' and / or 'schedule of rates' contracts where no work is guaranteed to the vendor by Council.

The assessment evaluates the risk that, over the life of the contract an Invitee:

- may not be able to deliver the goods or undertake the services or works as specified in the contract; or
- may not be able to fulfil guarantees or warranties provided for in the contract.

The Procurement team will arrange for the financial viability assessment to be undertaken if a successful financial viability assessment has not been received within the previous twelve months.

If the Invitee scores less than three (3) points (Highly Vulnerable / Unsatisfactory) then the assessment is considered to be unsuccessful and the procurement should not be entered into with the Invitee unless additional risk mitigation strategies are also implemented.

9.21 Post Tender Negotiations

The objective of post-tender negotiations is securing the best Value for Money outcome for Council, in respect of both financial and non-financial outcomes. By the end of the negotiation process, Council and the Invitee must have the same expectations about the obligations of each party and how the contract will operate.

If the Panel proposes, or seeks the option, to conduct negotiations then the conduct of negotiations must follow these steps:

- The Panel should select a preferred Invitee or shortlist the Invitees that most closely meet the requirements of the contract and will best deliver Council's objectives for the contract. The shortlist must be defensible, based on both weighted score and price. There must be a clear break between the shortlist and other Invitees, such that given the weighted scores, even if the non-shortlisted Invitees were given an opportunity to participate in the post tender negotiations, they would be unlikely to be shortlisted from an overall value for money perspective. If they can bridge the gap they should be granted the opportunity to take part in the same negotiations as the preferred Invitees.
- A deadline for post tender negotiations to conclude must be established. The actual time to provide a response should vary depending on the complexity of the request.

- Shortlisted Invitees will be contacted by email and provided with details related to the items Council would like to negotiate. All items must be able to be applied to the evaluation criteria.
- The Panel will assess the responses from the Invitees and determine whether the Invitees' scores for evaluation criteria should be updated based on the information provided. If an Invitee submits a response after the deadline for negotiations it will not be considered (unless a legitimate reason can be provided and agreed to by panel members) and the Invitees original score will remain unchanged.
- All meetings, discussions and communications regarding post tender negotiations will be recorded (and confirmed) in writing. Complete records will be maintained to form an audit trail and demonstrate that the integrity of the process has been maintained.

9.22 Tender Evaluation Panel Report

All Request for Tenders, regardless of value, require the evaluation to be documented including a summary of the evaluation process and a justification for why an Invitee is recommended for award over other Invitees. The Procurement team will prepare the tender evaluation panel report following the final tender evaluation panel meeting. The tender evaluation panel report will form an appendix to the Council report or memorandum to CEO which is to be prepared by the Contract Owner.

9.23 Decision to award the contract

The decision to award a contract can only be made by a delegate who has the authority (financial delegation) to commit the relevant sum of money. The decision is made after consideration of the tender evaluation panel report. Once approved (inclusive of Council resolution if Council awarded Contract/s), the Procurement team will notify the successful and unsuccessful Invitees of the procurement outcome. Unsuccessful Invitees will also be provided an opportunity to receive feedback on their submission.

10 Roles and Responsibilities

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

Party / Parties	Roles and Responsibilities
Chief Executive Officer	Ensure overall organisation compliance with the procedure.
General Managers	Ensure compliance with the procedure by all Council officers under their supervision.
General Manager Business Excellence	Overall responsibility for the procedure implementation and compliance.
Managers	Ensure compliance with the procedure by all Council officers under their supervision.

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Party / Parties	Roles and Responsibilities
Manager Governance	Responsible for review, updating and implementing policy. Together with the Procurement team, primary source for procurement advice, training and guidance.

11 References and Supporting Documents

11.1 Applicable Legislation:

This procedure is consistent with Council Plan 2017-21 Good Governance goals – “East Gippsland Shire is inclusive, engaged and open” and “Council is in a strong financial position and can provide for future generations of East Gippslanders”.

This procedure is intended to support Council's Procurement Policy made under section 186A of the Act. The Act is the key legislative framework that regulates the process of all local government procurement in Victoria.

This procedure forms part of Council's overall procurement policies and procedures, and should be read in conjunction with the following:

- *Privacy Act 1988*;
- *Competition and Consumer Act 2010*;
- *Security of Payments Act 2002*;
- *Local Government Act 1989*; and
- *Public Records Act 1973*.

11.2 Applicable Policy and Procedure:

- Credit Card Policy;
- Cash Handling Policy;
- Councillor Code of Conduct;
- Instrument of Delegation and Instrument of Sub-Delegation by the Chief Executive Officer;
- Fraud and Corruption Control Policy;
- Information Management (Records) Policy;
- Information Privacy Policy;
- Procurement Exemption List;
- Procurement Policy;
- Risk Management Policy; and
- Staff Code of Conduct.

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12 Definitions

Term	Meaning
Conflict of Interest	Where a Councillor or Council officer has private interests that could influence, or be seen to influence, their decisions or actions in the performance of their public duties, defined under the Act as a direct or indirect interest.
Council	East Gippsland Shire Council.
Councillor	Person who has been elected to the office of “councillor” of East Gippsland Shire Council.
Council officer	A current member of East Gippsland Shire Council staff with the authority to engage in activities on behalf of Council.
Emergency	Means an emergency due to the actual or imminent occurrence of an event which in any way endangers or threatens to endanger the safety or health of any person in Victoria or which destroys or damages, or threatens to destroy or damage, any property in Victoria or endangers or threatens to endanger the environment or an element of the environment in Victoria including, without limiting the generality of the foregoing- (a) an earthquake, flood, windstorm or other natural event; and (b) a fire; and (c) an explosion; and (d) a road accident or any other accident; and (e) a plague or an epidemic, pandemic or contamination; and (f) a warlike act or act of terrorism, whether directed at Victoria or a part of Victoria or at any other State or Territory of the Commonwealth; and (g) a hi-jack, siege or riot; (h) a disruption to an essential service;
Goods, Services or Works	The deliverable(s) the preferred Invitee will be required to provide to Council, once the conditions of contract have been agreed between the preferred Invitee and Council.
Invitee	A company, person or entity (including representatives) which submits a Tender; and includes, where the context permits, prospective Invitees and other recipients of the request for tender.
Local Content	Defined as labour, materials, plant and supervision that is sourced from within East Gippsland Shire.
Tender	An offer in writing to supply Goods, Services or Works, usually submitted in response to an invitation such as a request for tender.

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Term	Meaning
Value for Money	The achievement of a desired procurement outcome at the best possible price, not necessarily the lowest price, based on a balanced judgement of financial and non-financial factors relevant to the procurement.

13 Revision History and Review

Version Control	Approved Amended Rescinded	Date Effective	Approved By	ECM Document Reference	Summary of Changes
1	Approved	13/11/18	Executive Group	7824125	New procedure. Former procurement policy has been disaggregated into a policy and a procedure
2	Approved	19/10/20	Strategic Leadership Group	8715592	Minor revisions with continued refinement of separation between policy and procedure.

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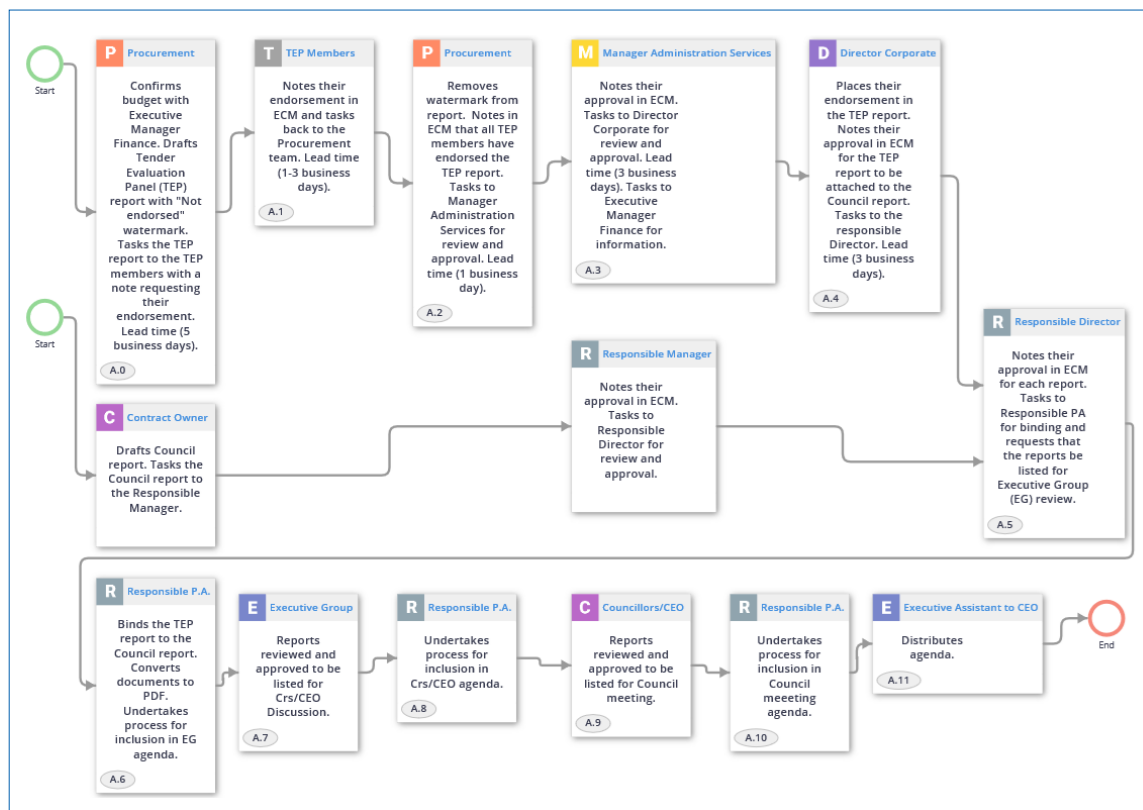
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14 Appendix

14.1 Approval Process for Tender Evaluation Report:

Approval process for the Tender Evaluation Panel report (Council award).

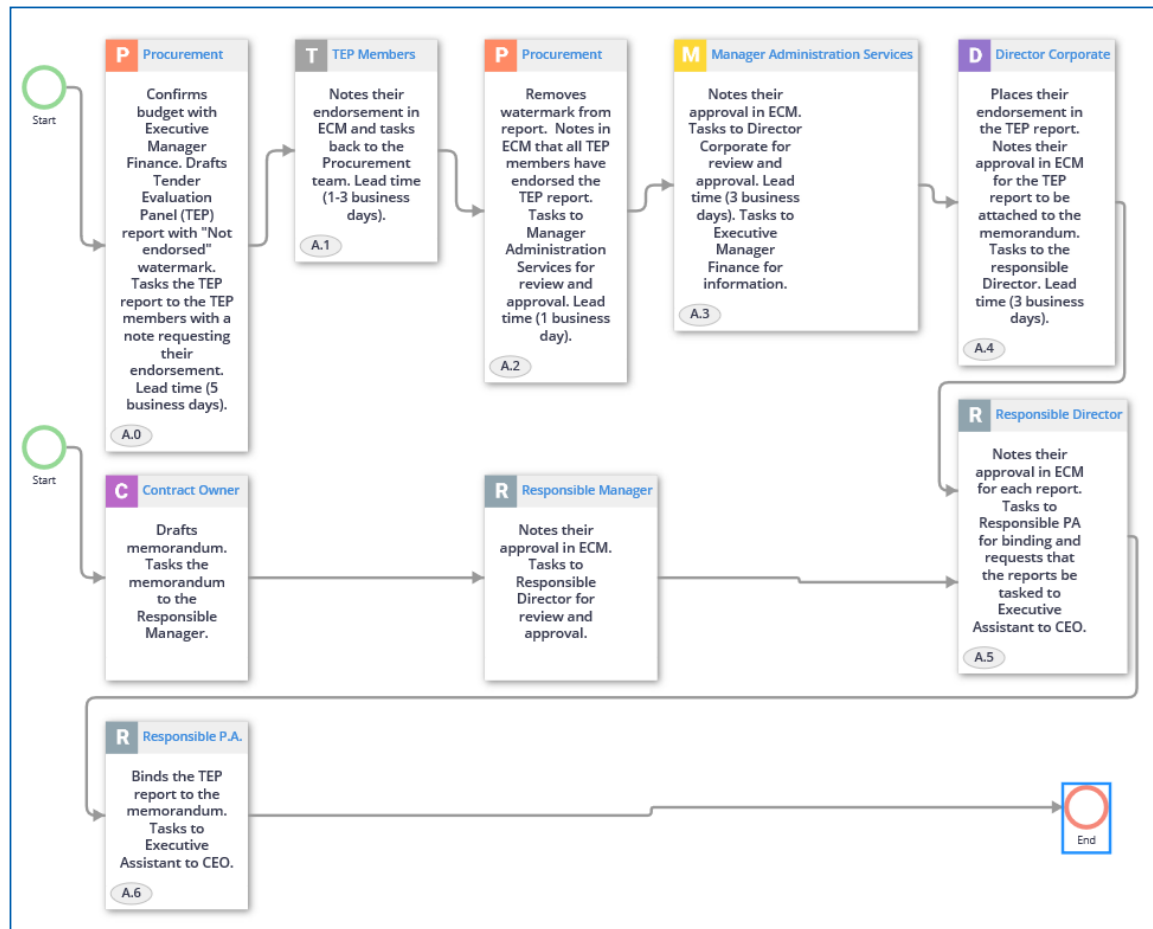


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Approval process for the Tender Evaluation Panel report (CEO award).



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5.4 Place and Community

5.4.1 Planning Permit Application - Slip Road Foreshore Redevelopment

Authorised by General Manager Place and Community

Conflict of Interest

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

Executive Summary

This report relates to the proposed buildings and works to alter the existing surface levels and native vegetation removal for the Crown foreshore reserve at Slip Road, Paynesville. The proposal triggered assessment under the land subject to inundation overlay and the native vegetation provisions but was exempt from notice.

The proposed plans are provided at **Attachment 2**, and generally provide for a range of improvements to the existing foreshore reserve, particularly in improvements to the existing car parking and drainage regimes, improving pedestrian accesses and provision of park amenities, upgrades and additions to marine facilities such as boat ramps, jetties, and marina infrastructure, and improves the public ablutions. Native vegetation removal includes vegetation within the seabed where the seawall and jetties will be constructed.

The application has been subject to referral to relevant authorities and various consents have been obtained, the confirmation of these responses and consents is provided at **Attachment 3**.

The project has a cost of works in excess of \$5 million and must be determined by Council in accordance with the *Planning Permit Applications Delegations Policy 2018*.

A detailed assessment of the application is provided in the Legislation Section of the report, and the finding is that the application is suitable for endorsement, having satisfied the concerns and considerations of the East Gippsland Planning Scheme and associated Acts and Regulations with respect to Aboriginal Cultural Heritage, and development on Crown foreshores.

The officer recommendation, having considered all relevant matters, is to grant a planning permit, subject to the conditions outlined at **Attachment 1**.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report; and***
- 2. Being the responsible authority and having considered the relevant planning matters, determines that planning application 236/2021/P is consistent with the requirements and objectives of the East Gippsland Planning Scheme and therefore resolves to Grant a Planning Permit for Buildings and works which alter existing surface levels and native vegetation removal at Slip Road, Paynesville, subject to the conditions provided at Attachment 1 to this report.***

Background

The planning permit application relates to proposed development of the Slip Road Foreshore. Council most recently considered an addendum to the Paynesville Maritime Precinct Master Plan in a report to Council Tuesday 20 May 2021 (refer to Item No 5.2.4). The proposed Addendum, specifically in relation to the Slip Road Foreshore area, was adopted.

The Slip Road Maritime Precinct (Squatter's Row), Paynesville is approximately 5 ha of Crown Reserve foreshore on McMillan Strait, one of Victoria's busiest recreational waterways – this is an identified precinct within the Paynesville Maritime Precinct master plan. The site adjoins the Gippsland Ports Boatyard and sits opposite a range of boatbuilding, maritime servicing and related businesses. The marine industry within this precinct is Victoria's third largest marine industry and is an important employer in the area.

East Gippsland Shire Council is the designated Crown Land Committee of Management on behalf of the Department of Environment, Land, Water and Planning (DELWP). Despite the master planning in 2009 the site remains underdeveloped and disconnected from the main services of the town. Existing features are a boat ramp, adjoining jetties, Paynesville Boat Harbour (North), amenities block and car parking accommodating approximately 120 boat trailers.

The Land and Proposal

The development area is generally as shown in **Figure 1**, being the Slip Road Crown Foreshore outlined in orange dashed lines. The existing condition includes ablutions, car parking areas, both formal (constructed and linemarked) and informal (unsealed and uncontrolled), a public boat ramp and jetties for boat launching, and a portion of a marina under Council management. There are very basic associated services including a toilet block. There is minimal pedestrian or other park amenities.

Currently, the interface with McMillan Straight is informal and where construction has occurred over the years, it has generally worn down through years of inundation. Drainage infrastructure is insufficient to contribute to post-inundation clearance of standing water.

The proposal generally provides for the following, as shown in overview at **Figure 2**:

- Seawall renovation (Paynesville Boat Harbour North (south of boat ramp));
- New seawall (north boat ramp)
- Access pathways and boardwalks;
- Three floating jetties to accommodate berthing for; boat brokerage, itinerate berthing, permanent berthing and valet berthing;
- A fixed jetty to accommodate working berths and commercial usage.
- Existing boat ramp renovation
- New boat ramp at north end of the site
- Fish cleaning provisions;
- Provision for marine industry access;
- Small boat launch eg kayaks;
- Parking provisions;
- Amenity block improvements; and
- General landscaping and planting

Detailed plans are provided for consideration at **Attachment 2**.



Figure 1 – The site in neighbourhood context. Development area is outlined orange.

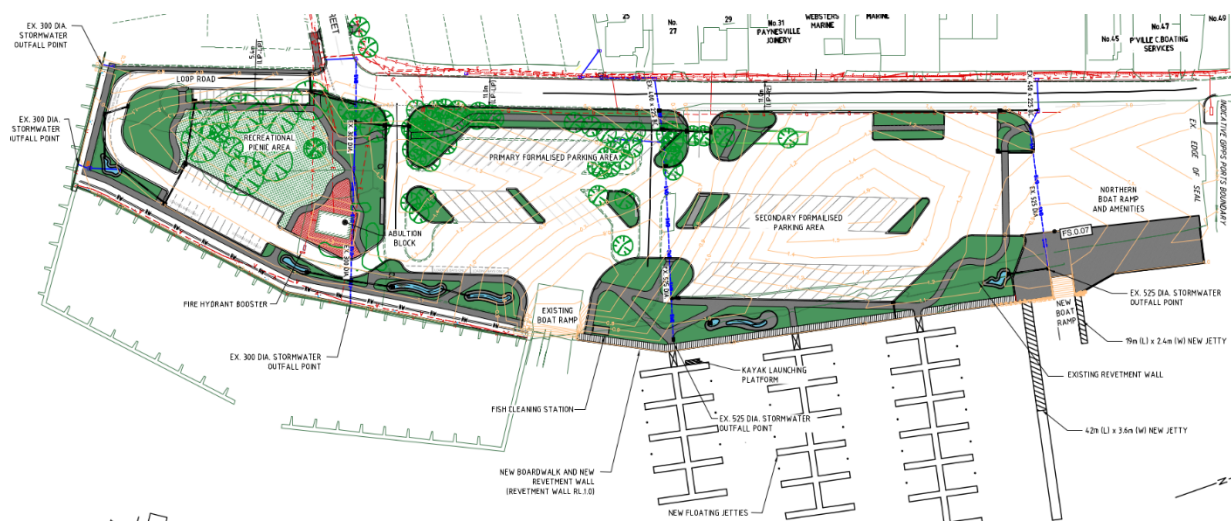


Figure 2 – Most recent functional design layout of the proposed works.

Current Status/Issues

In discussion between the planning department and assets and environment project team, it was determined that a planning permit application was required for:

- Native vegetation removal – both on land and in water
- Buildings and works which alter existing surface levels

The application was made, providing the required information, and has been processed in the standard assessment pathway. The application was not subject to notification. The application was referred to relevant referral authorities.

All consents required prior to the determination of the application have been received, and the application is ready for final determination. Under Council's Planning Permit Applications Delegations Policy, the matter must be reported to Council for determination.

Legislation

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

The application has been assessed against the East Gippsland Planning Scheme in accordance with the *Planning and Environment Act 1987*.

The applicable controls under the planning scheme are summarised below:

Application No.	236/2021/P
Address	Slip Road, Paynesville (Crown Land, including part of McMillan Straight)
Zone	Public Park and Recreation Zone, Industrial Zone 3, General Residential Zone 1
Overlays	Land Subject to Inundation Overlay
Particular Provisions	52.17 Native Vegetation 52.31 Local Government Projects
General Provisions	62 General Exemptions 65 Decision Guidelines 66 Referral and Notice Provisions
Public Notification	Exempt pursuant to Clause 52.31-2 of the Scheme
Referrals	Internal: Senior Technical Officer – Development External: Gippsland Ports; Department of Environment, Land, Water and Planning; East Gippsland Catchment Management Authority

East Gippsland Planning Scheme

Government Amendment VC 194 on 25 March 2021 inserted Clause 52.31 - Local Government Projects provision into all Planning Schemes in Victoria. This application is the first example for East Gippsland Shire of a proposal which is subject to certain exemptions as set out in the provision:

The purpose of the provision at Clause 52.31 is to facilitate the development of land by or on behalf of municipal councils.

Permit exemptions and exemption from notice and review of the proposal are provided for as follows:

*Any requirement in a **zone** or a schedule to a zone to obtain a permit to construct a building or construct or carry out works does not apply to the development of land carried out by or on behalf of a **municipal council**. This exemption does not apply to:*

- A development with an estimated cost of more than \$10 million.*

Any requirement in the Floodway Overlay, Land Subject to Inundation Overlay and Special Building Overlay to obtain a permit to construct a building or construct or carry out works does not apply to the development of land carried out by or on behalf of a municipal council to the satisfaction of the relevant floodplain management authority.

This clause prevails over any inconsistent provision in this planning scheme.

*Emphasis added

An application under any provision of this planning scheme to develop land by or on behalf of a municipal council is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act. This exemption does not apply to:

- *An application for a development with an estimated cost of more than \$10 million.*
- *An application to remove, destroy or lop more than:*
 - *0.5 hectares of native vegetation other than a tree; or*
 - *15 native trees with a trunk diameter of less than 40 centimetres at a height of 1.3 metres above ground level; or*
 - *5 native trees with a trunk diameter of 40 centimetres or more at a height of 1.3 metres above ground level.*

Assessment of Impact of Clause 52.31

The above extracted portions of the Clause identify whether or not the proposal requires a permit, and if so, under what circumstances is public notice required.

In assessing the overall development proposal against this provision, officers note that:

- All provisions relating to the buildings and works proposed under the Public Park and Recreation Zone are exempt from planning consideration (no permit trigger) as the cost of the total works is less than \$10 million.
- Native Vegetation provisions at Clause 52.17 and supporting referral requirements at Clause 66.02-2 confirm that an application made by a municipal council for native vegetation removal is required, and must be assessed by the Department of Environment, Land, Water and Planning as a recommending referral authority.
- Despite the above permit requirement for native vegetation removal to be subject to a permit, Clause 52.31-2 exempts the application from public notice. This is because the area of vegetation removal is less than 0.5 hectares and does not include the number and size of trees specified in the exemption.
- The buildings and works which alter the existing surface level under the Land Subject to inundation overlay must be undertaken under Clause 52.31-1 to the satisfaction of the relevant floodplain management authority. In assessment of the proposal, it is unclear how to verify the exemption without an application being made. For the purpose of this application, the referral and response from East Gippsland Catchment Management Authority is taken to be their satisfaction, obtained through the planning permit process.
- The buildings and works in the overlay are already exempt from notice and review pursuant to the Land Subject to Inundation Overlay provisions, but are further exempted under Clause 52.31-2.

What remains from the above is assessment of the proposal against the relevant State and Local Planning Policies, the Land Subject to Inundation Overlay, and the Native Vegetation provisions.

Planning Policy

Planning policy at both State and local levels generally seeks to:

- Direct development to appropriately zoned and serviced land.
- Deliver networks of high-quality integrated settlements that have a strong identity and sense of place, are prosperous and are sustainable by:
 - Developing settlements that will support resilient communities and their ability to adapt and change.
- Provide clear direction for the future sustainable use of the coast, including the marine environment, for recreation, conservation, tourism, commerce and similar uses in appropriate areas.

- Plan for marine development and infrastructure that is sensitive to marine national parks and environmental assets.
- Ensure that use and development on or adjacent to coastal foreshore Crown land:
 - Maintains safe, equitable public access and improves public benefit.
 - Protects local environmental and social values.
 - Demonstrates need and coastal dependency.
 - Minimises impact on the coast by locating within a defined activity or recreation node.
- Minimise development on flood prone land to reduce the likelihood of impeding or redirecting floodwaters, and to protect against future claims for compensation for flood damage.
- Encourage provision of tourism facilities, such as toilets, picnic facilities and barbecues, jetties and launching ramps, interpretive signage, and public art in appropriate locations.

The Municipal Strategic Statement Identifies Paynesville as a part of the Lakes and Coastal subregion, directing significant expansion of Paynesville as a District Town. Key considerations for Paynesville as a part of the subregion include the focus on marine recreation activity, availability of and accessibility of services and amenities, and providing for upgrades of the townscape to improve appeal to residents and tourists.

Paynesville will build on its strengths as the best recreational boating destination to access the Gippsland Lakes to become a vibrant maritime town that reflects the international standard of the lakes for boating, the natural environment and cultural heritage. The preservation and enhancement of the natural environment will have high priority.

Policy Assessment:

The development demonstrates a high level of consistency with the State and Local Planning Policy Framework, and the strategic vision and objectives for Paynesville as a District Town. The proposal seeks to rejuvenate the foreshore precinct, making it more inviting and engaging, including a variety of services to the maritime activity, increasing pedestrian safety by reducing conflict points and providing separate walking paths. Ample car and boat trailer parking is provided, including formalised overflow areas which will allow for a more clear parking arrangement, and will minimise the potential for environmental damage by containing car parking to formalised areas which can be better managed, especially in flood and inundation events.

Vegetation removal is kept to an absolute minimum, and the introduction of landscaping elements will contribute to environmental amenity.

Land Subject to Inundation Overlay (LSIO)

To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.

To protect water quality and waterways as natural resources by managing urban stormwater, protecting water supply catchment areas, and managing saline discharges to minimise the risks to the environmental quality of water and groundwater.

To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.

Decision Guidelines:

- *Any local floodplain development plan.*
 - *Any comments from the relevant floodplain management authority.*
 - *The existing use and development of the land.*
 - *The susceptibility of the development to flooding and flood damage.*
 - *The potential flood risk to life, health and safety associated with the development.*
- Flood risk factors to consider include:*
- o *The frequency, duration, extent, depth and velocity of flooding of the site and accessway.*
 - o *The flood warning time available.*
 - o *The danger to the occupants of the development, other floodplain residents and emergency personnel if the site or accessway is flooded.*
- *The effect of the development on redirecting or obstructing floodwater, stormwater or drainage water and the effect of the development on reducing flood storage and increasing flood levels and flow velocities.*
 - *The effect of the development on river health values including wetlands, natural habitat, stream stability, erosion, environmental flows, water quality and sites of scientific significance.*

LSIO – Assessment

The application was subject to referral to the relevant floodplain management authority – East Gippsland Catchment Management Authority (EGCMA). Through negotiation, certain modifications were made to the proposal that satisfied the project design. Consideration was given to the susceptibility of the land to inundation, the drainage regime being maintained after a flood event, and the prevention of off-site impacts to the surrounding residential and industrial developments in the precinct and beyond.

The negotiations specifically related to a redesign the site works to minimise the amount of fill required while still maintaining functional drainage of the site.

In the referral response dated 23 June 2021 (part of **Attachment 3**), EGCMA provided a single condition, requiring detailed construction drawings prior to commencement of works. This condition will be imposed on the permit, however an overview plan has already been prepared which demonstrates general compliance with the condition, and further sets of drawings will be prepared once the permit is granted.

The referral response gives certainty to the responsible authority that the proposal will not have ongoing detrimental impact on the natural environment and surrounding development, especially in future inundation events which are certain to occur.

Clause 52.17 Native Vegetation

To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. This is achieved by applying the following three step approach in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning, 2017) (the Guidelines):

- 1. Avoid the removal, destruction or lopping of native vegetation.*
- 2. Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.*
- 3. Provide an offset to compensate for the biodiversity impact if a permit is granted to remove, destroy or lop native vegetation.*

To manage the removal, destruction or lopping of native vegetation to minimise land and water degradation.

The Guidelines for the removal, destruction and lopping of native vegetation set out the decision guidelines to inform the decision maker.

The proposal to remove vegetation involves removal of 0.307 hectares of native vegetation, with 0 large trees. The removal is required to facilitate the new car parking layout, and the construction of a new seawall and jetties, as shown in **Figure 3**. East Gippsland Shire maintains offset sites for the purposes of providing direct offsets of loss of native vegetation through infrastructure and built form proposals. As such, the proposed loss of vegetation is proposed to be accounted back to one or more of Council's strategic offset sites.

Native Vegetation Assessment

As outlined above, the purpose of the provision is to ensure there is no net loss to biodiversity through the removal, destruction or lopping of native vegetation. The application materials at **Attachment 2** include a report for Native Vegetation Assessment. Section 4.1.2 speaks to principals of avoid, minimise and offset.

A conservative assessment has been undertaken, wherein the proposal may result in the complete loss of native vegetation on the site, however some may be retained depending on the final scope of works and construction plans. The design work for the project considered whether there were suitable alternative arrangements, but ultimately the traffic safety and access design issues led to the design outcomes which necessitate the vegetation removal.

Additional landscape plantings are a component of the design, and although they will not directly address the loss of biodiversity from the existing vegetation, it will contribute to a suitable landscape amenity.

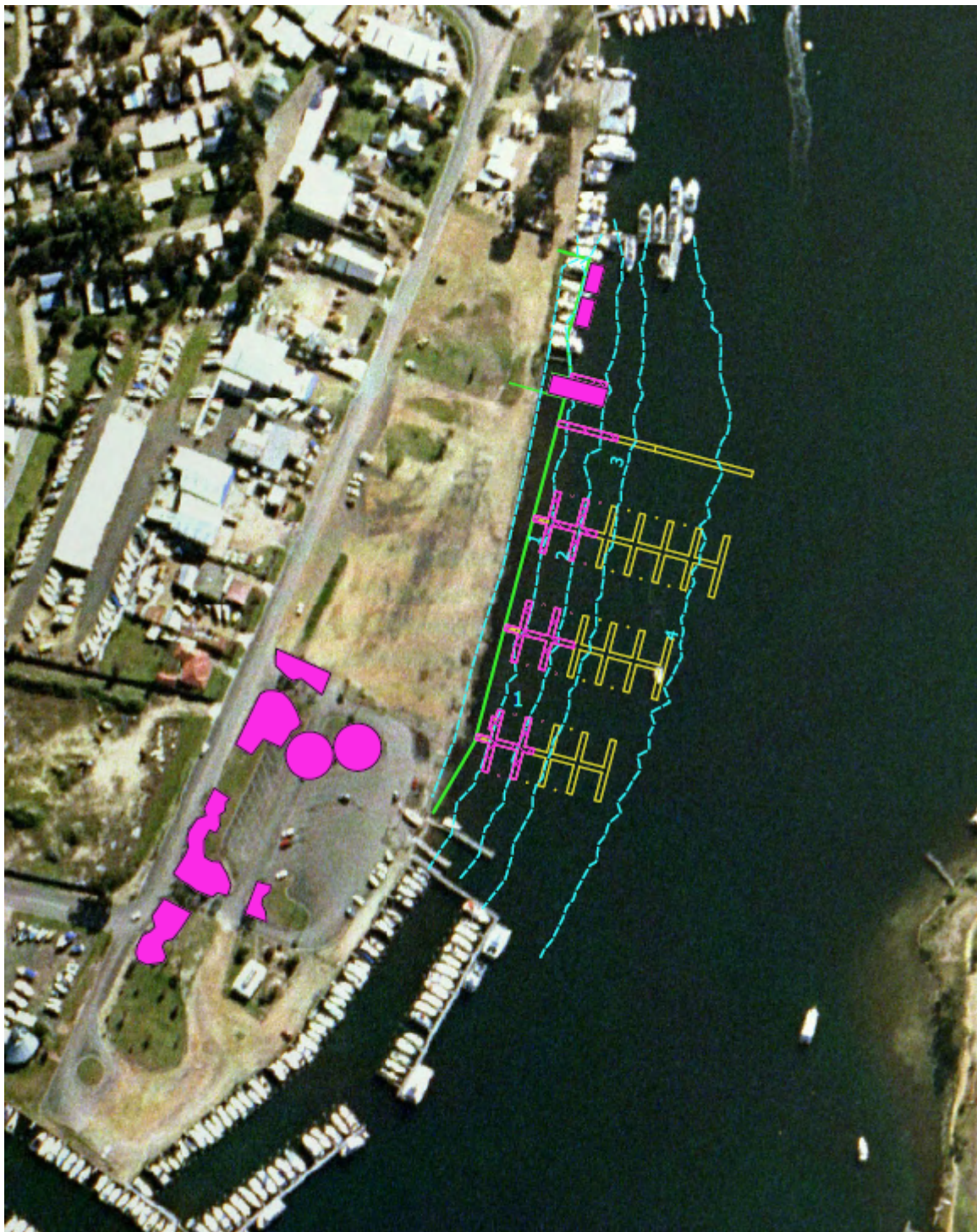


Figure 2. Overview of proposed development at Slip Road Maritime Precinct, Paynesville.

- | | |
|----------------|-------------------------|
| — Seawall | Full Vegetation Loss |
| - - - Contours | Partial Vegetation Loss |
| — Float Jetty | |

1 : 2,000

27/07/2021

Coordinate System:
GDA 94 MGA Zone 55



Map Produced by: EARTHSONRM
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Notes: This map is not intended for survey purposes. EARTHSONRM and its employees do not guarantee that the map is without error of any kind or that it is suitable for any particular purpose and therefore disclaims all liability for any errors, loss or other consequences which may arise from any reliance on any information in this map.

Figure 3 – Proposed native vegetation removal in context of the existing and proposed development.

Clause 65 Decision Guidelines and Section 60 and 61 Matters which must be considered

The proposal is generally consistent with the policies, objectives and provisions of the East Gippsland Planning Scheme. It represents orderly planning in the municipal district, and

takes into consideration and responds effectively to the zones, overlays and other provisions, specifically native vegetation which apply.

The proposal is a high impact activity on land (and water) within an area of cultural heritage sensitivity as defined by the *Aboriginal Heritage Regulations 2018*. The applicant has submitted evidence that the project has obtained an approved Cultural Heritage Management Plan (CHMP), with endorsement by the Registered Aboriginal Party (Gunaikurnai Land and Waters Aboriginal Corporation) dated 13 April 2021 (refer **Attachment 3**). A determination can be made with respect to the application in accordance with the Planning and Environment Act and Aboriginal Heritage Regulations as the relevant approval has been granted. A permit condition will require the development to accord with the conditions of the endorsed CHMP.

The proposal is for buildings and works on Coastal Crown land. As such, Marine and Coastal Act (MACA) Consent is required prior to determination of the application. The application for MACA Consent was submitted directly to DELWP by the project officer, and MACA Consent for the proposal has been issued (refer **Attachment 3**). As such, a determination can be made in accordance with the relevant Acts, and a permit condition will require the development to accord with the conditions of the endorsed MACA Consent.

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.

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

Strategic Objective 2: 2.3 Planning with local communities for natural disasters and emergencies strengthens capacity, infrastructure, resilience, preparedness, and recovery.

Council Policy

Pursuant to the Planning Permit Application Delegations Policy 2018, the matter is reported to Council as the total cost of development is greater than \$5 million (circa \$6.1 million). The application is exempt from notice and review as explained elsewhere, so no additional processes have been required in accordance with the Policy.

Consideration has been given to the Coastal Inundation and Erosion Planning Policy (2017). The proposal is a matter that should be supported under the policy. Working with Gippsland Ports, East Gippsland Catchment Management Authority, and the Department of Environment, Land, Water and Planning, the proposal appropriately addresses coastal inundation risk.

Council adopted the Paynesville Maritime Precinct master plan in 2009 and more recently adopted the Paynesville Foreshore Management Plan in 2017- which also incorporates this area.

Options

As a strategic priority development, the options available would be in and around amendments to conditions only. It is highly recommended that the planning permit is granted.

Resourcing

Financial

Financial considerations have previously been addressed, refer Ordinary Council Minutes of Tuesday 20 May 2021, Item 5.2.4. No additional financial considerations are required, and any offset contribution for native vegetation is considered in the project works.

Plant and equipment

Assessment of the proposal is undertaken within the scope of existing resources.

Human Resources

Assessment of the application was undertaken by existing planning department staff.

Risk

The risks of this proposal have been considered and there is low risk assessed, given the general support by relevant referral authorities. Public opinion regarding the planning permit application processing is not factored in and presents low risk as a result of exemptions for notice and review afforded under the East Gippsland Planning Scheme.

A detailed organisational risk assessment for the proposed development was put at the Ordinary Council Meeting of Tuesday 20 May 2021, Item 5.2.4.

Economic

Economic considerations for the project are assessed through the project assessment. The project is generally consistent with the state and local policy objectives for economic development. Refer again to Ordinary Council Minutes of Tuesday 20 May 2021, Item 5.2.4.

Social

Social impacts for the project are assessed through the project assessment. The project is generally consistent with the state and local policy objectives for social impact, and did not trigger additional assessment under Council's Social Impact Assessment guidelines. Refer again to Ordinary Council Minutes of Tuesday 20 May 2021, Item 5.2.4 for a detailed discussion of Social benefits of the proposal.

Environmental

Assessment of environmental impact is managed through the Coastal Inundation and Erosion Planning Policy, Clause 52.17 Native Vegetation, and the Marine and Coastal Act consent. The proposal adequately responds to issues and impacts of sea level rise.

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.

Land Use Planning: Consideration is given to climate change in the local land use planning and includes responses to direct and indirect impacts.

Engagement

As previously outlined, the planning permit application is exempt from notice pursuant to Clause 52.31-2. Any further project engagement would be managed through the project planning team.

Statutory referrals have been carried out, involving Gippsland Ports, East Gippsland Catchment Management Authority, and the Department of Environment, Land, Water and Planning. All agencies have provided consent/conditional consent. Referral responses are available at **Attachment 3**.

A detailed discussion regarding the engagement undertaken with the community in respect of the Master Plan and Concept plan which are recommended for approval through this report is set out in the Ordinary Council Minutes of Tuesday 20 May 2021, Item 5.2.4. Through the planning permit application, some further minor modifications to the proposal have been made in response to stakeholder engagement, specifically East Gippsland Catchment Management Authority, and are assessed as being generally consistent with the endorsed addendum.

Attachments

1. Proposed Permit Conditions [**5.4.1.1** - 4 pages]
2. Plans and Reports Considered Slip [**5.4.1.2** - 40 pages]
3. Consents and Referrals [**5.4.1.3** - 17 pages]

236/2021/P - Slip Road PAYNESVILLE
147K\PP2042 & 2007\PP2184 - Buildings and works which alter
existing surface levels and native vegetation removal

1. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
2. Before the commencement of works, a construction plan to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority. When approved, the plans will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must show:
 - a) Fully sealed, or concrete or asphalt pavement for any new road, car parking and access way pavement with kerb and channel both sides.
 - b) Verge areas with a width sufficient for the construction of drainage infrastructure and for pedestrian access.
 - c) Concrete footpaths to be a minimum of 1.5 metres wide in accordance with Infrastructure Design Manual standard drawing SD 205.
 - d) Vehicular crossings and pram crossings as required
 - e) Street lighting (using LED technology) as required.
 - f) Statutory signage and traffic control devices and line marking as required.

The documentation for the road works must include provision for maintenance and repair of damage to any existing road and drainage infrastructure.

The works must be subject to a twelve month defects liability period.

All works and requirements must be undertaken and completed to the satisfaction of the Responsible Authority.

3. Before the use commences, areas set aside for parked vehicles and access lanes, as shown on the approved plan(s) must be:
 - a) Constructed to the satisfaction of the Responsible Authority.
 - b) Properly formed to appropriate levels to the satisfaction of the Responsible Authority.
 - c) Constructed in concrete/with a two coat bitumen sealed pavement to satisfaction of the Responsible Authority.
 - d) Drained and maintained to the satisfaction of the Responsible Authority.
 - e) Line-marked to indicate each car space and all access lanes to the satisfaction of the Responsible Authority.

Parking areas and access lanes must be kept available for these purposes at all times to the satisfaction of the Responsible Authority.

4. Before the commencement of works, a drainage management plan must be submitted to and approved by the Responsible Authority. All drainage works and requirements must be undertaken and completed to the satisfaction of the Responsible Authority.
5. All works and activities must be undertaken in accordance with the approved cultural heritage management plan.

6. All works and activities must be undertaken in accordance with the *Marine and Coastal Act 2018* Consent for the proposal.

Time Limit condition

7. This permit will expire if any of the following circumstances applies:
 - The development including native vegetation removal is not started within two years of the issue date of this permit.
 - The development including native vegetation removal is not completed within four years of the issue date of this permit.

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.

Catchment Management Authority conditions

8. Prior to the commencement of any works at the site, detailed construction drawings must be submitted to and endorsed by the East Gippsland Catchment Management Authority.

Gippsland Ports conditions

9. Application being made to Gippsland Ports, and a permit pursuant to the Port Management Act 1995 being issued, prior to commencement of marine construction works, (i.e. seawalls, jetties, ramp) associated with the development.
10. All vessels and their crewing associated with the works must comply with the Marine Safety (Domestic Commercial Vessel) National Laws and the National Standards for Commercial Vessels. Approval to operate is through submission and consideration of a site, and project specific, Construction Safety and Environment Management Plan, which includes a formal Safety Management System (including relevant vessel Master qualification), for the work to be done.
11. For commercial activities, application being made to Gippsland Ports by the facility operator, and a permit pursuant to the Port Management Act 1995, being issued prior to commencement of operations. Details of proposed on water maintenance activities, including proposed safety and environmental management plan and controls, are to be provided with this application. An Operations Safety and Environment Management Plan will be required for the operation of the commercial boat ramp and the maintenance jetty.
12. Plans and specifications for marine works (including proposed navigation aids and facility lighting) submitted to Gippsland Ports and approved prior to commencement of any works.
13. Design of marine works to comply with relevant Australian Standards and guidelines. In particular, Australian Standard AS 4997 - 2005 Guidelines for the Design of Maritime Structures, Australian Standard AS AS3962-2020 – Marina Design Guidelines for the Design of Marinas, and Australian Standard AS 1428 (parts 1, 2 and 3) – Design for Access and Mobility.
14. Development, or on water construction work, may require a review of Vessel Operating Zoning Rules (VOZR) by the port/waterway manager. Proponents should be aware that this process can be relatively lengthy, and as prescribed

by the regulator (Transport Safety Victoria) requires, consultation, advertising and promulgation.

15. A Notice to Mariners or Local Navigation Warning is required to be issued at least 2 weeks prior to any construction works commencing. (if any permit requires promulgation of temporary or permanent vessel exclusion zones Gippsland Ports is required by the Marine Safety Act 2010 to give notice to Transport Safety Victoria)
16. The proposed Construction Safety and Environment Management Plan, including details of temporary navigation aids and other measures to maintain waterway safety and to control potential environmental impacts, and construction timeframes, for marine works are to be submitted to Gippsland Ports, Assistant Harbour Master, prior to its issuing a Notice to Mariners or Local Navigation Warning.
17. Construction and ongoing maintenance of marine works, including the integrity of the associated waterway, shall be the responsibility of the proponent/operator and to the satisfaction of Gippsland Ports.
18. A permit from Gippsland Ports will be contingent on any other statutory consents including Coastal Management Act Consent, Planning Permits being obtained.

Department of Environment, Land, Water & Planning conditions

Notification of Permit Conditions

19. Before works start, the permit holder must advise all persons undertaking the vegetation removal or works on site of all relevant permit conditions and associated statutory requirements or approvals.

Protection of native vegetation and/or trees to be retained

20. Except with the written consent of the responsible authority and the Department of Environment, Land, Water and Planning, within the area of native vegetation to be retained and any tree or vegetation protection zone associated with the permitted use and/or development, the following is prohibited:
 - a) vehicular or pedestrian access
 - b) trenching or soil excavation
 - c) storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products
 - d) entry and exit pits for the provision of underground services
 - e) any other actions or activities that may result in adverse impacts to retained native vegetation.

Native vegetation permitted to be removed, destroyed or lopped

21. The native vegetation permitted to be removed, destroyed or lopped under this permit is 0.307 hectares of native vegetation.

Native vegetation offsets

22. To offset the removal of native vegetation for the Slip Road foreshore redevelopment project, the permit holder must secure the following native vegetation offsets in accordance with [Guidelines for the removal, destruction or lopping of native vegetation \(DELWP 2017\)](#), before any native vegetation removal can begin:

- a) A general offset of 0.158 general habitat units located within the East Gippsland Catchment Management Authority boundary or East Gippsland municipal area with a minimum strategic biodiversity value of at least 0.479.
23. Before any native vegetation is removed, evidence that the required offset for that section of the project has been secured must be provided to the satisfaction of the responsible authority. This evidence must be either:
- a) an established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10-year management actions and ongoing management of the site, and/or
 - b) credit extract(s) allocated to the permit from the Native Vegetation Credit Register that identifies the relevant section of the project.

Offset evidence and timing

24. A copy of the offset evidence will be endorsed by the responsible authority and form part of this permit. Within 30 days of endorsement of the offset evidence, a copy of the endorsed offset evidence must be provided to Planning and Approvals at the Department of Environment, Land, Water and Planning Gippsland regional office via Gippsland.planning@delwp.vic.gov.au



Biodiversity Investigation, Native Vegetation Assessment, & Offset Requirement

*Carpark, Seawalls and Jetties Development:
Slip Road, Paynesville.*

Final Report



Prepared for:
East Gippsland Shire Council

August 2021



ETHOS NRM

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Biodiversity Investigation, Native Vegetation Assessment, & Offset Requirement: **Carpark**, Seawalls and Jetties Development:
Slip Road, Paynesville.
Final Report

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EXECUTIVE SUMMARY

Ethos NRM has conducted a biodiversity investigation and native vegetation assessment at Slip Road, Paynesville, for the proposed removal of native terrestrial vegetation and seagrass associated with the redevelopment of the area for boating and associated purposes. The impacts on native vegetation (terrestrial and aquatic) have been assessed in accordance with the *Guidelines for the removal, destruction and lopping of native vegetation* (DELWP, 2017) and based a site inspection and designs provided by East Gippsland Shire Council (EGSC).

The proposed development consists of:

- Redevelopment of car and boat trailer parking area.
- Establishment of a seawall, backfilled with clean fill, of approximately 250 metres in length between existing boat ramp and jetty infrastructure.
- One (1) boat ramp and associated ramp jetty.
- Four (4) floating jetties extending up to 84 metres.

Biodiversity Values

The Gippsland Lakes are one of the largest inland waterways in Australia, covering approximately 366 km², with five major rivers draining into the lakes from a combined catchment area of approximately 20,000 km² (Bird, 1993). The lakes and catchments support a diverse variety of landscapes with high conservation value. The lakes are listed under the Ramsar Convention as a wetland of international importance, supporting numerous threatened ecological communities, flora and fauna.

Approvals

The application pathway for the proposed development has been identified as **Intermediate** due to removal of 0.307 ha of native vegetation in a **Location Risk 2**. Native terrestrial vegetation to be affected by the proposed development occurs within EVC 151 Plains Grassy Forest, and the aquatic vegetation (i.e. seagrass) within EVC 9 Coastal Saltmarsh and the DELWP Wetlands layer. The following approvals and regulations require attention:

- A **Planning Permit** and a **Marine and Coastal Act Permit** will be required prior to the commencement of works for the development of carpark, seawall and jetties at Slip Road Paynesville.
- An **FFG Permit** will not be required as neither the species (including seagrass) nor the communities that occur are listed on the *Flora and Fauna Guarantee Act*.
- No *Environment Protection and Biodiversity Conservation* (EPBC) Act 1999 **referral** is required as **no significant impact** is expected to occur on any threatened ecological community, flora or fauna species listed under the EPBC Act.
- The site is included as an 'Area of Cultural Heritage Sensitivity' as defined under the Aboriginal Heritage Regulations 2018.

Offset Requirement

If a permit to remove vegetation removal is granted under the Guidelines, there is a requirement to offset the loss of native vegetation and ensure a 'no net loss' outcome for biodiversity (DELWP, 2017a). The Offset Requirement for removal of 0.307 ha is:

- 0.158 General Habitat Units (GHUs)
- A minimum Strategic Biodiversity Value Score of 0.479
- All offsets are required to be achieved within the East Gippsland Catchment Management Authority or East Gippsland Shire Council region.

1 INTRODUCTION

Ethos NRM has been engaged by East Gippsland Shire Council to assess impacts to native vegetation (terrestrial and aquatic) associated with the proposed development of car and boat trailer parking, seawalls and jetties at the Slip Road Maritime Precinct on Burrabogie Island, Paynesville. Ethos NRM understands that this vegetation assessment is solely for the area of terrestrial vegetation identified during site inspection on 14th July 2021, and the extent of aquatic vegetation highlighted in the plans dated 9th March 2021.

Ethos NRM undertook site inspections on 31st March, 21st April, and 14th July 2021 to determine the impacts on vegetation and to map the extent required to be removed for the proposed works. The area assessed is based on information provided by East Gippsland Shire Council including site plans and descriptions of works.

Vegetation assessment and quantification of the offset requirements for vegetation removal has been undertaken in accordance with the **Guidelines for the removal, destruction and lopping of native vegetation** (DELWP, 2017) herein referred to as the '*Guidelines*'. This report quantifies the vegetation loss and the Offset Requirement in Habitat Units (HUs) and details information required for assessment within an '**intermediate assessment pathway**' application, see **Table 1** below for location of specific components of the application.

Table 1. Application Requirements

Application Requirements	Section of Report
Assessment pathway and reason, location risk category.	Native Vegetation Report
A description of the native vegetation to be removed.	Section 4.2
Maps of native vegetation and property context.	Figures 1 & 2
Offset requirement.	Section 4.4 & Appendix 4
Topographic and land information relating to native vegetation to be removed.	Section 3.5
Recent dated photographs of native vegetation to be removed.	Appendix 2
A detail of any other native vegetation approved to be removed or was removed without the required approvals on the same property or on contiguous land in the same ownership as the applicant, in the five-year period before the application for a permit was lodged.	Section 1.4
An avoid and minimise statement	Section 4.1.2
A copy of any Property Vegetation Plan.	Not Applicable
Whether the vegetation removal is for defensible space under the Bushfire Management Overlay.	Not Applicable
If the proposal relates to a Native Vegetation Precinct Plan.	Not Applicable
An offset statement explaining that an offset that meets the offset requirements for the native vegetation to be removed has been identified and how it will be secured.	Section 4.5

1.1 Objectives

The broad objectives of this Biodiversity Investigation and Vegetation Assessment are to:

- map the extent of vegetation (terrestrial and aquatic) that may be impacted by the proposed works,
- identify and describe any Rare or Threatened Species and Threatened Ecological Communities listed under EPBC or FFG Acts potentially affected by the proposed works,
- quantify vegetation loss associated with construction of the proposed works and associated infrastructure, and
- quantify offset requirements under current legislation.

1.2 Description of Works

The proposed works will involve:

- Redevelopment of car and boat trailer parking area.
- Establishment of a seawall, backfilled with clean fill, of approximately 250 metres in length between existing boat ramp and jetty infrastructure.
- Construction of one (1) boat ramp and associated ramp jetty.
- Construction of four (4) floating jetties extending up to 84 metres.
- Development of jetties will include use of a gridded material that increases the amount of sunlight available to seagrass patches below. Where appropriate, this will result in a partial loss of vegetation only.
- Development of seawall and boat-ramp will result in a total vegetation loss in areas where seagrass is currently present or due to highly variable distribution, have the potential to be present.

1.3 Location and Site Description

The terrestrial site for the redevelopment of the car and boat trailer parking area is entirely flat, situated only slightly above water level on the western banks of McMillan Strait (opposite Raymond Island), part of the Gippsland Lakes system. The site for the proposed seawall, boat ramp, and jetties is located within the estuarine waters of Lake King, immediately adjacent to Slip Road, Paynesville, within the channel between Burrabogie and Raymond Islands (**Figure 1**).

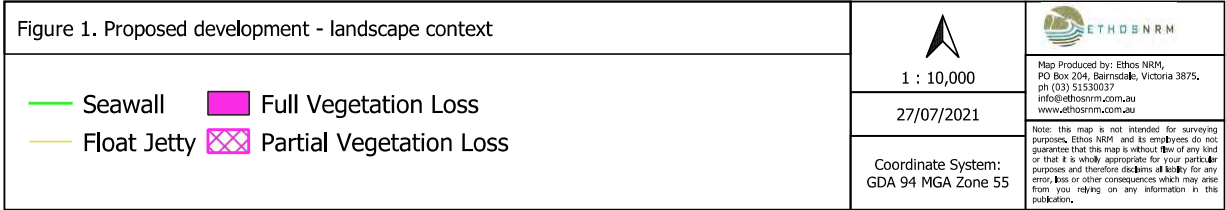
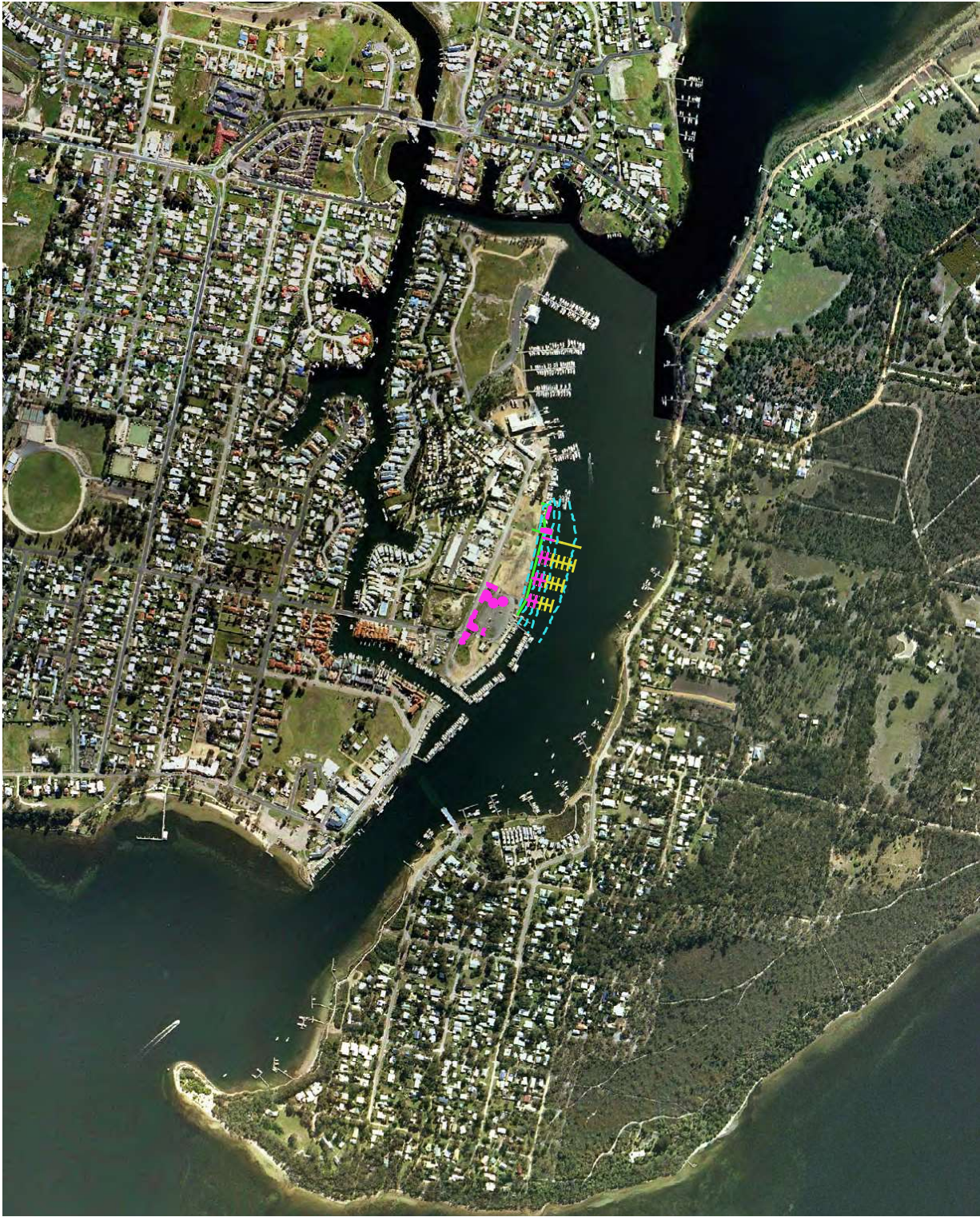
The terrestrial area currently comprises an 'undeveloped' open gravel area (northern section) used for boating maintenance purposes, and formalised sealed car & boat trailer parking associated with the Slip Road Boat Ramp (southern section). This area is subject to inundation during high tides and flood events.

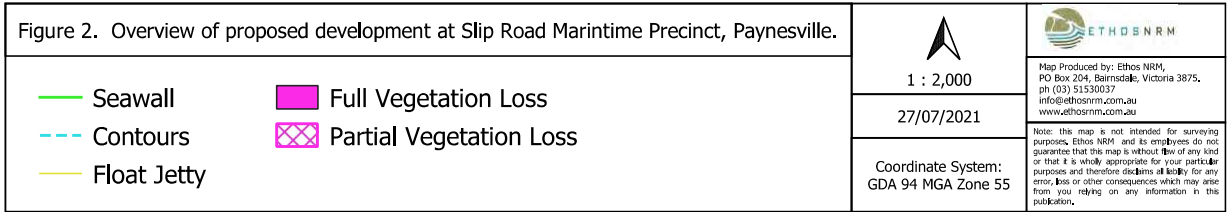
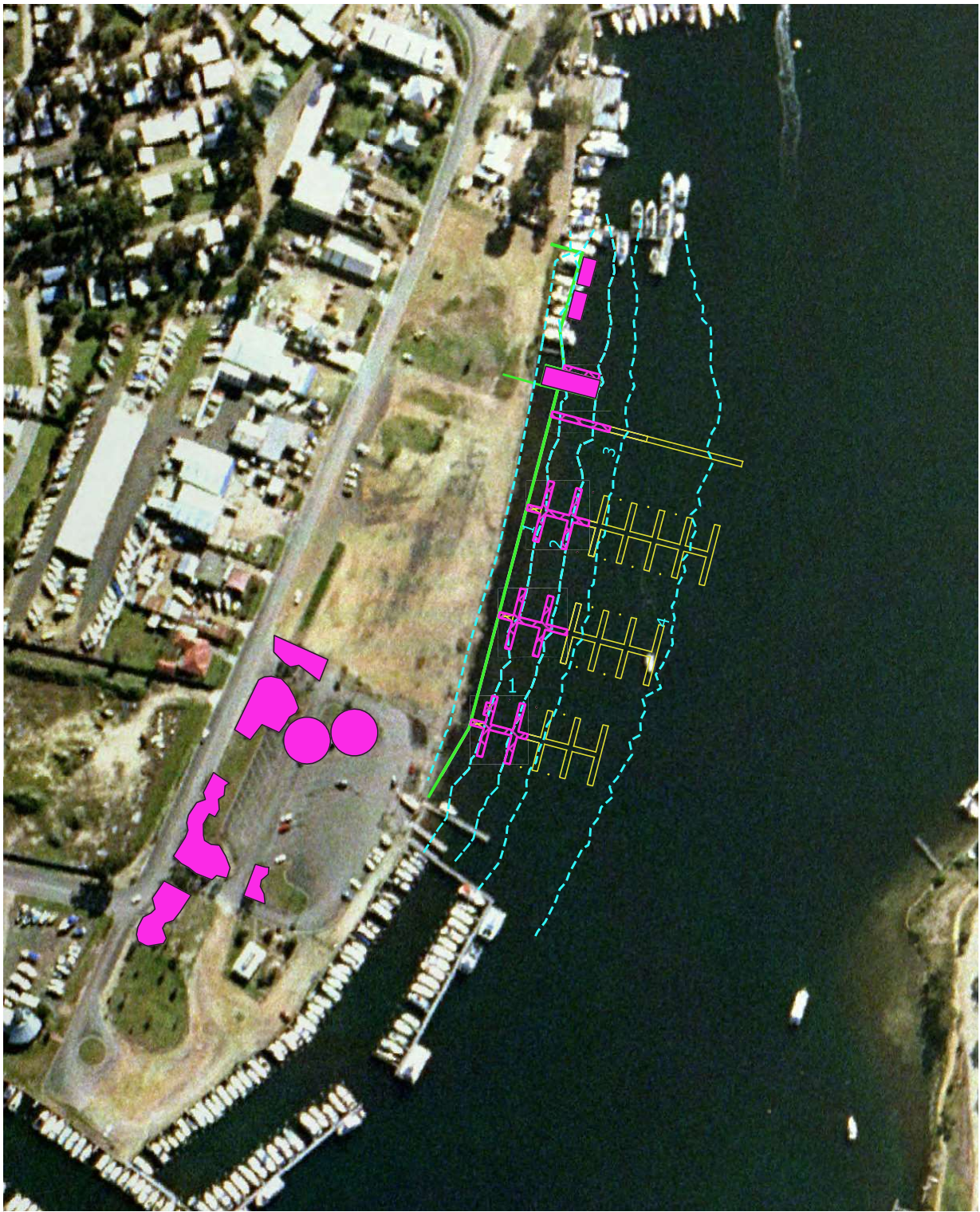
The terrestrial study area comprises land adjacent to McMillan Strait, between Bulls Cruisers / Gippsland Ports Slipway in the north and the Paynesville Canals entrance channel to the south. This study area was reduced from an earlier version that included land further north adjacent to the Paynesville Motor Cruiser Club. The area for the proposed seawall, boat ramp and jetties is located

immediately north of existing boat-ramp and jetty structures and continues along to the established refueling jetty near the Gippsland Ports slipway / boatyard (**Figure 2**).

1.4 Past Vegetation Removal

Ethos NRM notes that it is a requirement of any planning application under the *Guidelines* (DELWP, 2017) to include details of past (within 5 years) vegetation removal on the same property or land in contiguous ownership or part of the same project. Ethos NRM has confirmed that there has been no vegetation removal conducted at this site on the Gippsland Lakes within the past 5 years.





2 POLICY AND LEGISLATIVE CONTEXT

2.1 Commonwealth Laws

2.1.1 *Environment Protection and Biodiversity Conservation Act 1999*

The *Environment Protection and Biodiversity Conservation (EPBC) Act 1999* is the Australian Government's environmental legislation which provides a legal framework to protect and manage nationally and internationally significant flora, fauna, ecological communities and heritage places, defined in the EPBC Act as Matters of National Environmental Significance.

If a proposed action has the potential to have a significant impact on a Matter of National Environmental Significance, then an EPBC Referral is required to determine whether approval will be required to undertake the activity (i.e. controlled action).

No significant impacts on Matters of National Environmental Significance are expected to result from the activities associated with the seawall and jetties development works at Slip Road Maritime Precinct, Paynesville.

Refer to separate EPBC Significant Impact Assessment completed by Ethos NRM.

2.2 State Laws and Policy

Legislation relevant to native vegetation conservation and management in Victoria includes; the *Flora and Fauna Guarantee (FFG) Act 1988*, the *Marine and Coastal Act 2018*, the *Planning and Environment Act 1987* and the *Catchment and Land Protection Act 1994*. Relevant policy documents include the 'Guidelines for the removal, destruction and lopping of native vegetation' (DELWP, 2017) which is discussed in Section 2.3.

2.2.1 *Flora and Fauna Guarantee Act 1988*

The *FFG Act 1988* is the Victorian Government's legislation for the conservation of threatened species and communities and for the management of potentially threatening processes. The FFG Act provides for the listing of threatened plant and animal species and ecological communities (Threatened List) and potentially threatening processes (Processes List). It also contains provisions for **protected flora**, which are not listed as threatened, but declared to be protected under Section 46 of the FFG Act.

There are no **protected flora** recorded from the proposed development site at Slip Road, Paynesville.

An FFG Act permit is not required to remove vegetation, including seagrass, from the proposed development site at the Slip Road Maritime Precinct, Paynesville.

2.2.2 *Marine and Coastal Act 2018*

The Marine and Coastal Act 2018 covers Crown land (whether covered by water or not) within the area between the outer limit of Victorian coastal waters and 200 metres inland of the high-water mark of the sea. The definition of 'sea' under the Act specifically includes the Gippsland Lakes. All

use, development and works on marine and coastal Crown land, including local government, requires consent under the *Marine and Coastal Act 2018*.

To gain consent, a copy of a planning permit application can also be taken to be an application for consent under the *Marine and Coastal Act 2018*. Under section 61(3) of the *Planning and Environment Act 1987*, the local government cannot issue a planning permit on marine and coastal Crown land unless consent under the *Marine and Coastal Act 2018* has been issued. If the Minister (or delegate) refuses to issue consent, the local government must also refuse to issue a planning permit.

A **Marine and Coastal Act 2018 permit** is required prior to commencing the proposed development works at the Slip Road Maritime Precinct, Paynesville.

2.2.3 Catchment and Land Protection Act 1994

The *Catchment and Land Protection (CALP) Act 1994* contains provisions relating to catchment planning, land management, noxious weeds and pest animals. The Act provides a legislative framework for the management of private and public land. It sets out the responsibilities of landowners declaring that they must take all reasonable steps to:

- avoid causing or contributing to land degradation which causes or could cause damage to land of another landowner
- protect water resources and conserve soil
- eradicate regionally prohibited weeds and prevent the growth and spread of regionally controlled weeds
- prevent the spread of and eradicate established pest animals.

Land managers are required to prevent the spread of Regionally Controlled weeds under the *CaLP Act 1994*.

2.3 Planning and Environment Act 1987 (Local Government Regulations)

2.3.1 Planning Zones and Overlays

Planning schemes contain provisions relating to the management of native vegetation, where a permit to remove, destroy or lop native vegetation may be required. The land immediately adjacent to the proposed development site is located within a Public Park and Recreation Zone (PPRZ) and is subject to a "Land Subject to Inundation Overlay (LSIO)". An Aboriginal Cultural Sensitivity layer applies to the entire project site. See **Appendix 1** for the Planning Property Report.

2.3.2 Clause 52.17 Native Vegetation

Removal of native vegetation under Clause 52.17 requires a planning permit from the East Gippsland Shire Council in accordance with the *Guidelines for the removal, destruction and lopping of native vegetation* (DELWP 2017) unless an exemption or 'as of right use' applies.

A planning permit is required to remove vegetation for the development of carpark, seawalls, boat ramp and jetties at the Slip Road Maritime Precinct, Paynesville.

2.4 Victoria's Native Vegetation Permitted Clearing Regulations

The *Guidelines for the removal, destruction and lopping of native vegetation* (DELWP, 2017) are incorporated into the Victorian Planning Provisions and guide how impacts on biodiversity are considered when assessing an application for a permit to remove, lop or destroy native vegetation.

The *Guidelines* (DELWP, 2017) adopt a risk-based assessment pathway which aims to:

- ensure a stronger focus on the value of native vegetation for state-wide biodiversity (no net loss to biodiversity),
- reduce the regulatory burden for landholders while at the same time providing upfront information about the value of native vegetation on their land, and
- improve decision making.

The *Guidelines* (DELWP, 2017) define the requirements for applications to remove vegetation through determination of **assessment pathways**. The assessment pathway is classified through several factors; the map-based *Location Risk* identified by DELWP modelling, *Extent Risk* determined by the area of proposed native vegetation removal. The assessment pathway will then dictate the level of detail and assessment required to accompany the application for removal of vegetation.

Vegetation removal for the development of seawall and jetties at Slip Road, Paynesville, is within an "INTERMEDIATE" assessment pathway.

3 SURVEY RESULTS

3.1 Bioregion

The project site is located within the Gippsland Plains bioregion. This bioregion is located in the south-east of Victoria and includes flat low lying coastal and alluvial plains with a gently undulating terrain dominated by barrier dunes and floodplains and swampy flats (DELWP, 2021)

3.2 Ecological Vegetation Class

The terrestrial vegetation is classified as EVC 151 Plains Grassy Forest.

The site is part of the Lake King wetlands which are described as Coastal Saltmarsh in 'Type' and 'Dominant Vegetation' in the DELWP current wetland layer. In mapping the extent of vegetation (seagrass) loss for NVR Ensym testing, EVC 9 Coastal Saltmarsh was recorded.

3.3 Native Vegetation Description

Terrestrial vegetation onsite comprises of both native remnant and planted vegetation. The planted vegetation is both native and exotic. In accordance with the Native Vegetation Management Guidelines (DELWP, 2017) only native vegetation (patches and trees) have been mapped and assessed.

The vegetation assessment also encompassed the area of 'lakebed' subject to disturbance by the development of seawall and jetties.

The spatial distribution, density, length, and condition of seagrass within the Gippsland Lakes is highly variable, however the depth distribution of seagrass within the Lakes system seems to be within the 0 to 2.5 metre depth range (Roob & Ball, 1997).

Consultation with Arthur Rylah Institute (Kitchingman *pers. comm.* ARI, DELWP) suggested that the dynamics of seagrass distribution varied greatly from year to year within the Lakes system and could not definitively be discounted from this area.

During the current surveys, there were no seagrasses recorded within the footprint of the seawall. Hence, this area has been removed from calculation of vegetation loss. Mapping of potential vegetation loss extended to the limits of seagrass depth distribution (i.e. 2.5 metres) for the floating jetties. The vegetation loss for the floating jetties was considered "partial loss" (i.e. 50%) due to the proposed use of seagrass friendly mesh which limits light attenuation.

3.4 Weeds

There were no High Threat weeds identified during current surveys of this site.

3.5 Topographic and Land Information

The Gippsland Lakes are one of the largest inland waterways in Australia, covering approximately 366 km². There are five major rivers that drain into the lakes from a combined catchment area of approximately 20,000 km² (Bird, 1993). The proposed development site is in and immediately adjacent to McMillan Strait, located between Burrabogie and Raymond Islands.

4 VEGETATION REMOVAL AND OFFSETS

4.1 Victoria's Native Vegetation Permitted Clearing Regulations

State Policy for vegetation removal requires that the impacts on biodiversity from proposals to remove native vegetation are assessed according to the *Guidelines* (DELWP, 2017) within the relevant risk-based pathway. The risk-based approach comprises of three main factors; extent risk, location risk and Conservation Status. These factors determine the pathway an application is assessed through. Extent risk relates to the amount of vegetation proposed to be removed. Location risk is based on DELWP modelling which maps the strategic landscape value of a site.

Three applicant pathways for applications for a permit to remove native vegetation exist; **basic**, **intermediate** and **detailed**. These pathways dictate the detail of information, including whether detailed on-site vegetation condition assessment (Habitat Hectares), which is required to be provided with an application, and the decision guidelines for assessment of that application (DELWP, 2017).

4.1.1 Identification of the Applicant Pathway and Application Requirements

Preliminary examination of the online DELWP *Native Vegetation Information Management (NVIM)* Tool *Location Risk Map* indicated that the proposed development site and impacts will occur within **Location 2**. The assessment pathway was confirmed to be **Intermediate** by the DELWP '*Native Vegetation Removal report*' which is provided in **Appendix 3**.

The project will impact on 0.307 hectares (ha) of native vegetation, within Location 2.

The applicant pathway for this project is **INTERMEDIATE**, due to removal of **0.307 ha** of native vegetation within **Location 2**.

4.1.2 Avoid and Minimisation Statement

Total avoidance of native vegetation (terrestrial and aquatic) removal is not feasible as the proposed works cannot be relocated to an area where native vegetation does not exist.

Based on the site inspection, the design and fill drawings, and continued uncertainties regarding the final design and construction techniques, Ethos NRM have adopted a very conservative approach and have assumed full loss of all remnant terrestrial native vegetation within the project area. If any of the trees are ultimately retained, we may seek an adjustment to the Vegetation Offset and have the Offset Credits re-allocated back to the EGSC (for use on another project).

Materials used in the construction of the jetties will include a gridded mesh that will enable light penetration. In other areas, use of these materials have enabled seagrasses to survive by reducing shading (Cardno (NSW/ACT), 2014).

In order to mitigate potential disturbance to EPBC listed species, certain measures may be required. These include:

- Limiting works/activities that may cause significant increases in sedimentation/plume during the Australian Grayling migration period (i.e. September to January). During this period,

plume caused by the proposed works should not exceed 25NTU at a distance of 50 metres from the site.

- If Burruran Dolphins are sighted within 300m of the project site, all activities with potential to disturb the animals or increase sedimentation/plume must cease until the dolphins have moved beyond this limit.

4.2 Type and Extent of Native Vegetation Removal

4.2.1 Patches of Native Vegetation

The areas of native vegetation (terrestrial and aquatic) to be removed meet the definition of a 'patch' under the *Guidelines*.

4.3 Offsetting Native Vegetation Losses

Where vegetation removal cannot be avoided, provision of offsets is required to compensate for the impacts on biodiversity; the purpose of an offset is to achieve a 'no net loss' in the contribution made by native vegetation to Victoria's biodiversity.

Offsets are achieved through the long-term protection, enhancement and management of the quality and quantity of native vegetation. Offsets can be achieved on private land owned by the proponent ('first-party' offset) or a third party, or by purchasing a Native Vegetation Credit from the DELWP Native Vegetation Credit Register.

A formal agreement is required in all instances to secure the ongoing protection and management of the nominated offset site.

4.4 Determination of Offset Requirements

Following calculation of the Habitat Hectares (quality x quantity) of vegetation to be removed the mapped vegetation is assessed against DELWP models to determine the type, quantity and attributes of the offset required.

Offsets under the *Guidelines* comprise of:

- **general habitat units** and/or
- **specific habitat units**

A NVR report for the vegetation removal was supplied by DELWP and is provided in **Appendix 3**. The vegetation impacts and offset requirements are summarised in **Table 2** below.

Whilst desktop searches for records of rare or threatened flora and fauna species have been undertaken by Ethos NRM, the *Guidelines* methodology relies on model-based data to assess the proportional impact of proposed vegetation removal on habitat for rare or threatened species. The

specific-general offset test measures on a case-by-case basis the proportion of habitat, against a threshold, each significant species will lose if the removal of native vegetation is permitted.

This offset test has been applied to the proposed carpark, seawall and jetties development works at the Slip Road Maritime Precinct, Paynesville, and no specific offset for rare or threatened species were identified. The offset requirement calculated by DELWP under the *Guidelines*, consists of only *General Habitat Units (GHUs)* (refer to **Table 2**).

Table 2. Vegetation Offset Summary

Impact		Offset	
Removal component	Total (ha)	General habitat units	Minimum Strategic Biodiversity Value Score
Remnant Vegetation	0.307	0.158	0.479

All offsets are required to be achieved within the East Gippsland Catchment Authority or East Gippsland Shire Council region.

4.5 Offset Statement

The applicant has an offset requirement to be secured within the East Gippsland Catchment Management Authority or East Gippsland Shire Council region of:

- **0.158 General habitat units** with a
- **> 0.479 Strategic Biodiversity Value score**

Ethos NRM can confirm that the required offset is available from East Gippsland Shire Council's offset site (refer **Appendix 4**). The General habitat units, with the appropriate offset attributes will either be allocated from Council's offset site or purchased from the DELWP Native Vegetation Credit Register. An allocated credit extract will be provided to DELWP prior to works commencing.

5 REFERENCES

- Bird, E. C. (1993). *The coast of Victoria: the shaping of scenery*. Melbourne: Melbourne University Press.
- Cardno (NSW/ACT). (2014). *Aquatic Ecology Assessment: Koolewong Marina Development*. NSW/ACT: Cardno (NSW/ACT) Pty Ltd.
- DELWP. (2017). *Guidelines for the removal, destruction and lopping of native vegetation*. Melbourne: Victorian Government Department of Environment, Land, Water and Planning.

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DELWP. (2021). *Ecological Vegetation Class Benchmark Descriptions*.
<https://www.environment.vic.gov.au/biodiversity/bioregions-and-evc-benchmarks>:
Victorian Government Department of Environment, Land, Water and Planning.

Roob, R., & Ball, D. (1997). *Victorian MARine Habitat Database: Gippsland Lakes Seagrass Mapping*.
Queenscliff: Marine and Freshwater Resources Institute.

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6 APPENDICES

Appendix 1. Property Plan

Appendix 2. Site Photos – Figures 3 to 9



Figure 3. View from existing 'Ramp Jetty' located at the southern boundary of the proposed development site.

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Figure 4. View from approximate mid-point looking south.

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Figure 5. View from approximate mid-point looking north. Seawall to be located along the alignment with the observed posts.

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Figure 6. Inundation of existing carpark during high tides and storm events.

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Figure 7. Trees at south-eastern patch of proposed carpark development site.

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Figure 8. Trees at south-western patch of proposed carpark development site.



Figure 9. View south through the northern patch of the proposed carpark redevelopment site.

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Appendix 3. DELWP Native Vegetation Removal Report

Date of issue: 02/08/2021
Time of issue: 1:56 pm

Project ID	NVR Slip Rd_combined_v1
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Assessment pathway	Intermediate Assessment Pathway
Extent including past and proposed	0.307 ha
Extent of past removal	0.000 ha
Extent of proposed removal	0.307 ha
No. Large trees proposed to be removed	0
Location category of proposed removal	<p>Location 2</p> <p>The native vegetation is in an area mapped as a wetland designated under the Convention on Wetlands of International Importance (the Ramsar Convention); and a wetland listed in the Directory of Important Wetlands of Australia. Removal of less than 0.5 hectares of native vegetation in this location will not have a significant impact on any habitat for a rare or threatened species.</p>

The map displays the distribution of 1000 randomly generated points across three land use categories in Victoria. The legend on the right indicates the categories: 1 (light blue), 2 (dark green), and 3 (brown). The map shows a high concentration of points in category 2, particularly in the central and southern regions, and a lower concentration in category 3, primarily in the northern region. Category 1 is represented by the light blue areas in the west and south.

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Native vegetation removal report

Offset requirements if a permit is granted

Any approval granted will include a condition to obtain an offset that meets the following requirements:

General offset amount ¹	0,158 general habitat units
Vicinity	East Gippsland Catchment Management Authority (CMA) or East Gippsland Shire Council
Minimum strategic biodiversity value score ²	0.479
Large trees	0 large trees

NB: values within tables in this document may not add to the totals shown above due to rounding

Appendix 1 includes information about the native vegetation to be removed

Appendix 2 includes information about the rare or threatened species mapped at the site.

Appendix 3 includes maps showing native vegetation to be removed and extracts of relevant species habitat importance maps

¹ The general offset amount required is the sum of all general habitat units in Appendix 1.

² Minimum strategic biodiversity score is 80 per cent of the weighted average score across habitat zones where a general offset is required

Native vegetation removal report

Next steps

Any proposal to remove native vegetation must meet the application requirements of the Intermediate Assessment Pathway and it will be assessed under the Intermediate Assessment Pathway.

If you wish to remove the mapped native vegetation you are required to apply for a permit from your local council. Council will refer your application to DELWP for assessment, as required. **This report is not a referral assessment by DELWP.**

This report must be submitted with your application for a permit to remove, destroy or lop native vegetation.

Refer to the Native Vegetation Removal Guidelines for a full list of application requirements. This report provides information that meets the following application requirements:

- The assessment pathway and reason for the assessment pathway
- A description of the native vegetation to be removed (met unless you wish to include a site assessment)
- Maps showing the native vegetation and property
- The offset requirements determined in accordance with section 5 of the Guidelines that apply if approval is granted to remove native vegetation.

Additional application requirements must be met including:

- Topographical and land information
- Recent dated photographs
- Details of past native vegetation removal
- An avoid and minimise statement
- A copy of any Property Vegetation Plan that applies
- A defensible space statement as applicable
- A statement about the Native Vegetation Precinct Plan as applicable
- An offset statement that explains that an offset has been identified and how it will be secured.

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Authorised by the Victorian Government, 8 Nicholson Street, East Melbourne.

For more information contact the DELWP Customer Service Centre 136 186

www.delwp.vic.gov.au

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This publication may be of assistance to you but the State of Victoria and its employees do not guarantee that the publication is without flaw of any kind or is wholly appropriate for your particular purposes and therefore disclaims all liability for any error, loss or other consequence which may arise from you relying on any information in this publication.

Obtaining this publication does not guarantee that an application will meet the requirements of Clauses 52.16 or 52.17 of the Victoria Planning Provisions and Victorian planning schemes or that a permit to remove native vegetation will be granted.

Notwithstanding anything else contained in this publication, you must ensure that you comply with all relevant laws, legislation, awards or orders and that you obtain and comply with all permits, approvals and the like that affect, are applicable or are necessary to undertake any action to remove, lop or destroy or otherwise deal with any native vegetation or that apply to matters within the scope of Clauses 52.16 or 52.17 of the Victoria Planning Provisions and Victorian planning schemes.

Appendix 1: Description of native vegetation to be removed

All zones require a general offset, the general habitat units each zone is calculated by the following equation in accordance with the Guidelines:

General habitat units = extent x condition x general landscape factor x 1.5, where the general landscape factor = 0.5 + (strategic biodiversity value score/2)

The general offset amount required is the sum of all general habitat units per zone.

Native vegetation to be removed

Information provided by or on behalf of the applicant in a GIS file							Information calculated by EnSym					
Zone	Type	BioEVC	BioEVC conservation status	Large tree(s)	Partial removal	Condition score	Polygon Extent	Extent without overlap	SBV score	HI score	Habitat units	Offset type
6-A	Patch	gipp0009	Least Concern	0	no	0.800	0.000	0.000	0.250		0.000	General
5-A	Patch	gipp0009	Least Concern	0	no	0.800	0.000	0.000	1.000		0.000	General
7-A	Patch	gipp0009	Least Concern	0	no	0.800	0.000	0.000	0.250		0.000	General
1-B	Patch	gipp0009	Least Concern	0	yes	0.400	0.018	0.018	0.271		0.007	General
2-A	Patch	gipp0009	Least Concern	0	no	0.800	0.000	0.000	1.000		0.000	General
1-A	Patch	gipp0009	Least Concern	0	no	0.800	0.000	0.000	0.250		0.000	General
4-A	Patch	gipp0009	Least Concern	0	no	0.800	0.000	0.000	1.000		0.000	General
3-A	Patch	gipp0009	Least Concern	0	no	0.800	0.000	0.000	1.000		0.000	General
5-B	Patch	gipp0009	Least Concern	0	yes	0.400	0.019	0.019	0.663		0.009	General
9-A	Patch	gipp0009	Least Concern	0	no	0.800	0.000	0.000	1.000		0.000	General
11-A	Patch	gipp0009	Least Concern	0	no	0.800	0.000	0.000	1.000		0.000	General
10-A	Patch	gipp0009	Least Concern	0	no	0.800	0.000	0.000	1.000		0.000	General
8-A	Patch	gipp0009	Least Concern	0	no	0.800	0.000	0.000	1.000		0.000	General
2-B	Patch	gipp0009	Least Concern	0	yes	0.400	0.018	0.018	1.000		0.011	General
4-B	Patch	gipp0009	Least Concern	0	yes	0.400	0.006	0.006	1.000		0.004	General

Information provided by or on behalf of the applicant in a GIS file							Information calculated by EnSym					
Zone	Type	BioEVC	BioEVC conservation status	Large tree(s)	Partial removal	Condition score	Polygon Extent	Extent without overlap	SBV score	HI score	Habitat units	Offset type
3-B	Patch	gipp0009	Least Concern	0	yes	0.400	0.004	0.004	1.000		0.002	General
2-C	Patch	gipp0009	Least Concern	0	no	0.800	0.019	0.019	1.000		0.023	General
1-C	Patch	gipp0009	Least Concern	0	no	0.800	0.007	0.007	1.000		0.009	General
3-C	Patch	gipp0009	Least Concern	0	no	0.800	0.007	0.007	1.000		0.009	General
7-D	Patch	gipp0151	Vulnerable	0	no	0.320	0.020	0.020	0.250		0.006	General
2-D	Patch	gipp0151	Vulnerable	0	no	0.320	0.037	0.037	0.250		0.011	General
3-D	Patch	gipp0151	Vulnerable	0	no	0.510	0.050	0.050	0.840		0.035	General
6-D	Patch	gipp0151	Vulnerable	0	no	0.510	0.010	0.010	0.840		0.007	General
1-D	Patch	gipp0151	Vulnerable	0	no	0.350	0.028	0.028	0.840		0.014	General
1-E	Scattered Tree	gipp0151	Vulnerable	0	no	0.200	0.031	0.031	0.270		0.006	General
2-E	Scattered Tree	gipp0151	Vulnerable	0	no	0.200	0.031	0.031	0.250		0.006	General

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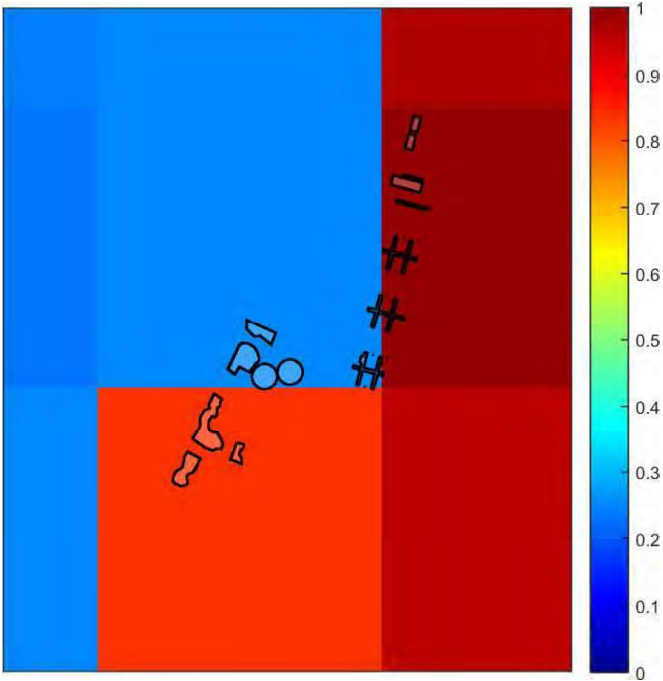
Appendix 2: Information about impacts to rare or threatened species' habitats on site

This is not applicable in the Intermediate Assessment Pathway.

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Appendix 3 – Images of mapped native vegetation

2. Strategic biodiversity values map



3. Aerial photograph showing mapped native vegetation



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Appendix 4. Available Native Vegetation Credits Report

Report of available native vegetation credits

This report lists native vegetation credits available to purchase through the Native Vegetation Credit Register.

This report is **not evidence** that an offset has been secured. An offset is only secured when the units have been purchased and allocated to a permit or other approval and an allocated credit extract is provided by the Native Vegetation Credit Register.

Date and time: 27/07/2021 02:15

Report ID: 10133

What was searched for?

General offset

General habitat units	Strategic biodiversity value	Large trees	Vicinity (Catchment Management Authority or Municipal district)	
0.158	0.475	0	CMA	East Gippsland
			or LGA	East Gippsland Shire

Details of available native vegetation credits on 27 July 2021 02:15

These sites meet your requirements for general offsets.

Credit Site ID	GHU	LT	CMA	LGA	Land owner	Trader	Fixed price	Broker(s)
BBA-0115	2.987	0	West Gippsland	East Gippsland Shire	Yes	Yes	No	Bio Offsets
BBA-2323	15.080	87	East Gippsland	East Gippsland Shire	Yes	Yes	No	Bio Offsets, Ethos, VegLink
BBA-2843	15.109	905	East Gippsland	East Gippsland Shire	Yes	Yes	No	Contact NVOR
TFN-C0698	3.248	0	West Gippsland	East Gippsland Shire	Yes	Yes	No	Ecocentric, Ethos, VegLink
TFN-C1621	1.387	1	East Gippsland	East Gippsland Shire	Yes	Yes	No	TFN
VC_CFL-3720_01	2.942	244	East Gippsland	East Gippsland Shire	Yes	Yes	No	Contact NVOR
VC_CFL-3724_01	1.861	106	East Gippsland	East Gippsland Shire	Yes	Yes	No	Contact NVOR
VC_CLO-3034_01	5.815	27	East Gippsland	Mount Hotham Alpine Resort (Unincorporated)	No	Yes	No	VegLink
VC_CLO-3034_01	2.801	0	East Gippsland, North East	Mount Hotham Alpine Resort (Unincorporated)	No	Yes	No	VegLink

These sites meet your requirements using alternative arrangements for general offsets.

Credit Site ID	GHU	LT	CMA	LGA	Land owner	Trader	Fixed price	Broker(s)
----------------	-----	----	-----	-----	------------	--------	-------------	-----------

There are no sites listed in the Native Vegetation Credit Register that meet your offset requirements when applying the alternative arrangements as listed in section 11.2 of the Guidelines for the removal, destruction or lopping of native vegetation.

These potential sites are not yet available, land owners may finalise them once a buyer is confirmed.

Credit Site ID	GHU	LT	CMA	LGA	Land owner	Trader	Fixed price	Broker(s)
----------------	-----	----	-----	-----	------------	--------	-------------	-----------

There are no potential sites listed in the Native Vegetation Credit Register that meet your offset requirements.

LT - Large Trees

CMA - Catchment Management Authority

LGA - Municipal District or Local Government Authority

Next steps

If applying for approval to remove native vegetation

Attach this report to an application to remove native vegetation as evidence that your offset requirement is currently available.

If you have approval to remove native vegetation

Below are the contact details for all brokers. Contact the broker(s) listed for the credit site(s) that meet your offset requirements. These are shown in the above tables. If more than one broker or site is listed, you should get more than one quote before deciding which offset to secure.

Broker contact details

Broker Abbreviation	Broker Name	Phone	Email	Website
Abezco	Abzeco Pty. Ltd.	(03) 9431 5444	offsets@abzeco.com.au	www.abzeco.com.au
Baw Baw SC	Baw Baw Shire Council	(03) 5624 2411	bawbaw@bawbawshire.vic.gov.au	www.bawbawshire.vic.gov.au
Bio Offsets	Biodiversity Offsets Victoria	0452 161 013	info@offsetsvictoria.com.au	www.offsetsvictoria.com.au
Contact NVOR	Native Vegetation Offset Register	136 186	nativevegetation.offsetregister@delwp.vic.gov.au	www.environment.vic.gov.au/native-vegetation
Ecocentric	Ecocentric Environmental Consulting	0410 564 139	ecocentric@me.com	Not available
Ethos	Ethos NRM Pty Ltd	(03) 5153 0037	offsets@ethosnrm.com.au	www.ethosnrm.com.au
Nillumbik SC	Nillumbik Shire Council	(03) 9433 3316	offsets@nillumbik.vic.gov.au	www.nillumbik.vic.gov.au
TFN	Trust for Nature	8631 5888	offsets@tfn.org.au	www.trustfornature.org.au
VegLink	Vegetation Link Pty Ltd	(03) 8578 4250 or 1300 834 546	offsets@vegetationlink.com.au	www.vegetationlink.com.au
Yarra Ranges SC	Yarra Ranges Shire Council	1300 368 333	biodiversityoffsets@yarraranges.vic.gov.au	www.yarraranges.vic.gov.au

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For more information contact the DELWP Customer Service Centre 136 186 or the Native Vegetation Credit Register at nativevegetation.offsetregister@delwp.vic.gov.au

Disclaimer

This publication may be of assistance to you but the State of Victoria and its employees do not guarantee that the publication is without flaw of any kind or is wholly appropriate for your particular purposes and therefore disclaims all liability for any error, loss or other consequence which may arise from you relying on any information in this publication.

Obtaining this publication does not guarantee that the credits shown will be available in the Native Vegetation Credit Register either now or at a later time when a purchase of native vegetation credits is planned.

Notwithstanding anything else contained in this publication, you must ensure that you comply with all relevant laws, legislation, awards or orders and that you obtain and comply with all permits, approvals and the like that affect, are applicable or are necessary to undertake any action to remove, lop or destroy or otherwise deal with any native vegetation or that apply to matters within the scope of Clauses 52.16 or 52.17 of the Victoria Planning Provisions and Victorian planning schemes



Department of Environment,
Land, Water & Planning

28 April 2021

574 Main Street
Bairnsdale Victoria 3875
DX 214196
Telephone: (03) 5152 0600
Facsimile: (03) 5152 6865
ABN 90 719 052 204

Jenny Bailey
East Gippsland Shire Council
PO Box 1618
BAIRNSDALE, VIC 3875

Email: JennyBai@egipps.vic.gov.au

Ref: 1601980

Dear Jenny,

RE: LANDOWNER CONSENT – PROJECT TO BUILD SEAWALL, JETTIES AND GENERAL LANDSCAPING, SLIP ROAD PAYNESVILLE

I refer to the above matter and wish to advise that the Department of Environment, Land, Water and Planning acknowledges your request for landowner consent for the project and proposed works to build the seawall, jetties and general landscaping works located on the Paynesville Foreshore Reserve. (1601980)

The subject land known as Crown allotment 147K, in the Parish of Bairnsdale is Crown land reserved for public recreation and managed by East Gippsland Shire Council as Committee of Management.

To confirm in writing, the Department has no objection to the proposal and herenow consents to the works subject to you obtaining all appropriate permits and statutory approvals prior to the commencements of the works.

The department consents to a planning permit application being made in relation to this land. For the purposes of Section 48 of the *Planning and Environment Act 1987*, this letter acknowledges that the applicant has notified the landowner about the proposed development. Works must be carried out in accordance with the plan submitted and no native vegetation is to be removed.

Should you have any queries regarding this matter please contact Tracey West on (03) 5152 0422 or email tracey.west@delwp.vic.gov.au.

Yours sincerely

Chantal Allen
Program Officer

Privacy Statement

Any personal information about you or a third party in your correspondence will be protected under the provisions of the Privacy and Data Protection Act 2014. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorised by law. Enquiries about access to information about you held by the Department should be directed to the Privacy Coordinator, Department of Environment, Land, Water and Planning, PO Box 500, East Melbourne, Victoria 8002

OFFICIAL





ABN 98 943 634 870

www.gippslandports.vic.gov.au

feedback@gippslandports.vic.gov.au

www.gippslandportsboatyards.vic.gov.au

info@gippslandportsboatyards.vic.gov.au

File 08-1204

29 April 2021

Fiona Weigall
General Manager Assets and Environment
East Gippsland Shire
PO Box 1618
Bairnsdale VIC 3875

Dear Fiona

Slip Road Maritime Precinct

As the designated Port Manager for the Port of Gippsland Lakes, which includes the abutting Mc Millan Straits, and as manager on behalf of the Crown over the adjacent Paynesville Boatyard and Boat Harbours, Gippsland Ports (GP) confirms its support for East Gippsland Shires', proposed Slip Road Maritime Precinct redevelopment.

The proposed redevelopment of this key maritime precinct, with its focus on existing uses, recreational and commercial boating, marine industry interests, on water development, and related tourism, will provide a long overdue, revitalising of this precinct.

GP looks forward to its implementation.

Again, thank you for providing GP with the opportunity to contribute to this redevelopment planning,

Yours sincerely

Greg Hatt

Executive Manager

Infrastructure and Operations

Port Managers

Anderson Inlet
Corner Inlet & Port Albert
Gippsland Lakes
Snowy River
Mallacoota Inlet

Waterway Manager

Shallow Inlet
Lake Tyers

Head Office

PO Box 388
(97 Main Street)
Bairnsdale Vic 3875
Ph 03 5150 0500
Fax 03 5150 0501

Depots

Bullock Island
Lakes Entrance Vic 3909
Ph 03 5155 6900
Fax 03 5155 6901

Lewis Street
Port Welshpool Vic 3965
Ph 03 5688 1303
Fax 03 5688 1658

Boatyards

Slip Road
Paynesville Vic 3880
Ph 03 5156 6352
Fax 03 5156 6816

Bullock Island
Lakes Entrance Vic 3909
Ph 03 5155 6950
Fax 03 5155 6951

CELEBRATING 20 YEARS SERVING GREATER GIPPSLAND
1996 - 2016

From: Greg Hatt []
Sent: Monday, 7 June 2021 10:57:25 AM
To: Planning Unit Administration
CC: David Holding; Steve Martin; Carl Hodgkins; Bevis Hayward; David Rose
Subject: FW: 236/2021/P - Slip Road PAYNESVILLE - Buildings and works which alter existing surface levels and native vegetation removal

Dear Kerry

Thank you for providing Gippsland Ports with the opportunity to provide comment on this proposal.

Gippsland Ports is the designated Port Manager for the Port of Gippsland Lakes, which includes the abutting Mc Millan Straits, and is also manager on behalf of the Crown over the adjacent Paynesville Boatyard and Boat Harbours.

Its consent requirements are particular to its remit relating to port and waterway safety and environment, and of its associated obligations relating to works and activities on/ or adjacent, which may impact port waters,.

Which, with regard to this development, includes construction and operation of marine works

Gippsland Ports Consent Requirements

1. Application being made to Gippsland Ports, and a permit pursuant to the Port Management Act 1995 being issued, prior to commencement of marine construction works, (i.e. seawalls, jetties, ramp). associated with the development.
2. All vessels and their crewing associated with the works must comply with the Marine Safety (Domestic Commercial Vessel) National Laws and the National Standards for Commercial Vessels. Approval to operate is through submission and consideration of a site, and project specific, Construction Safety and Environment Management Plan , which includes a formal Safety Management System (including relevant vessel Master qualification), for the work to be done.
3. For commercial activities, application being made to Gippsland Ports by the facility operator, and a permit pursuant to the Port Management Act 1995, being issued prior to commencement of operations. Details of proposed on water maintenance activities, including proposed safety and environmental management plan and controls, are to be provided with this application. An Operations Safety and Environment Management Plan will be required for the operation of the commercial boat ramp and the maintenance jetty.

4. Plans and specifications for marine works (including proposed navigation aids and facility lighting) submitted to Gippsland Ports and approved prior to commencement of any works
5. Design of marine works to comply with relevant Australian Standards and guidelines. In particular, Australian Standard AS 4997 - 2005 Guidelines for the Design of Maritime Structures, Australian Standard AS AS3962-2020 – Marina Design .Guidelines for the Design of Marinas, and Australian Standard AS 1428 (parts 1, 2 and 3) – Design for Access and Mobility.
6. Development, or on water construction work , may require a review of Vessel Operating Zoning Rules (VOZR) by the port/waterway manager. Proponents should be aware that this process can be relatively lengthy , and as prescribed by the regulator {Transport Safety Victoria} requires, consultation, advertising and promulgation.
7. A Notice to Mariners or Local Navigation Warning is required to be issued at least 2 weeks prior to any construction works commencing. (if any permit requires promulgation of temporary or permanent vessel exclusion zones Gippsland Ports is required by the Marine Safety Act 2010 to give notice to Transport Safety Victoria)
8. The proposed Construction Safety and Environment Management Plan, including details of temporary navigation aids and other measures to maintain waterway safety and to control potential environmental impacts, and construction timeframes, for marine works are to be submitted to Gippsland Ports, Assistant Harbour Master, prior to its issuing a Notice to Mariners or Local Navigation Warning.
9. Construction and ongoing maintenance of marine works, including the integrity of the associated waterway, shall be the responsibility of the proponent/operator and to the satisfaction of Gippsland Ports.
10. A permit from Gippsland Ports will be contingent on any other statutory consents including Coastal Management Act Consent, Planning Permits being obtained.

It should be noted that Gippsland Ports is supportive of the proposed redevelopment.

Please contact me should any clarifications be required

Regards
Greg Hatt
Executive Manager
Infrastructure and Operations

Aboriginal Heritage Act 2006
Section 65

Cultural Heritage Management Plan – Notice of Approval

CHMP NAME: Proposed Infrastructure Refurbishment and Development, 'Slip Road Maritime Precinct', Burrabogie Island, Paynesville, Slip Road, East Gippsland

CHMP NUMBER: 17386

SPONSOR: East Gippsland Shire Council

ACN/ABN: 81 957 967 765


Cultural Heritage Advisor(s): Joanna Freslov

Author(s): Joanna Freslov

Cover date: 24th March 2021

Pages: 87

Received for approval: 24th March 2021

TO BE COMPLETED BY THE Registered Aboriginal Party DELEGATE	Yes	No
I have considered the Evaluation Report for this CHMP and:		
<i>I am satisfied that the CHMP has been prepared in accordance with the standards prescribed for the purposes of section 53 (in the Aboriginal Heritage Regulations 2007 and the Approved Form).</i>	Yes	
<i>I am satisfied that the CHMP adequately addresses the matters set out in section 61.</i>	Yes	
<p>I, Russell Mullett, RAP Manager, Gunaikurnai Land and Waters Aboriginal Corporation, acting under authority delegated to me by the BOARD OF DIRECTORS, and pursuant to section 65(2) of the <i>Aboriginal Heritage Act 2006</i> hereby approve this cultural heritage management plan:</p> <p>Signed: </p> <p style="text-align: center;">RUSSELL MULLETT</p> <p>Dated: 13th April 2021</p>		
<ul style="list-style-type: none"> This notice of approval should be inserted after the title page and bound with the body of the management plan. The recommendations in this management plan are now compliance requirements. Officers from the Department of Premier and Cabinet may attend the subject land to monitor compliance with the recommendations. 		

EAST GIPPSLAND
CATCHMENT
MANAGEMENT
AUTHORITY



574 Main Street
(PO Box 1012)
Bairnsdale Vic 3875
PHONE: (03) 5152 0600
FAX: (03) 5150 3555
EMAIL: egcma@egcma.com.au
ABN 72 411 984 201

EGCMA Ref: EGCMA-F-2021-00143
Document No: 2
Date: 23 June 2021

OFFICIAL

Robert Pringle
Statutory Planning Coordinator
East Gippsland Shire Council

Dear Robert,

Planning Permit Application No.: 236/2021/P

Property Street: Slip Road Paynesville Vic 3880
Cadastral: Allotment 147K & 2007, Parish of Bairnsdale

Applicant(s): East Gippsland Shire Council

I refer to your correspondence received at the East Gippsland Catchment Management Authority ('the Authority') on 1 June 2021 in accordance with the provisions of Section 55 of the *Planning and Environment Act 1987*. The Authority notes that the application is for the proposed refurbishment and development of the Slip Road/King Street boat ramp, including importation of fill to alter the existing surface levels.

The 1% Annual Exceedance Probability (AEP³) flood level (commonly known as the 1 in 100 year flood) under current climatic conditions is 2.0 metres AHD⁴. Under future climatic conditions this level increases to 2.8 metres AHD.

The applicable 1% AEP flood level for this property is 2.0 metres AHD.

The Authority has concerns regarding the significant volume of fill proposed to be imported to the site. We are continuing to liaise with Council (Jenny Bailey) and Crossco (Marg Supplitt) to redesign the site works to minimise the amount of fill required while still maintaining functional drainage of the site. We have agreed on a revised conceptual layout for the site, however detailed design is still required to determine the finished land levels and volume of fill required.

The Authority is a recommending referral authority for this application. Pursuant to Section 56(1) of the *Planning and Environment Act 1987*, the Authority **does not object** to the issue of a Planning Permit, subject to the following condition being included in the permit:

1. Prior to the commencement of any works at the site, detailed construction drawings must be submitted to and endorsed by the East Gippsland Catchment Management Authority.

The property will remain subject to flooding during a 1% AEP flood event, despite the importation of fill to the site.

ABN 88 062 514 481

Correspondence PO Box 1374, Traralgon VIC 3844

Telephone 1300 094 262 | Facsimile (03) 5175 7899 | Email westgippy@wgcm.vic.gov.au | Website www.wgcm.vic.gov.au

Traralgon Office 16 Hotham Street, Traralgon VIC 3844 | Leongatha Office Corner Young & Bair Streets, Leongatha VIC 3953

Pursuant to Sections 64 to 66 of the *Planning and Environment Act 1987*, please ensure that you provide the Authority a copy of your decision in a timely manner to allow for an application for review to VCAT if required.

The Authority **objects** to the issue of the Planning Permit if this condition is not included.

The attached **explanatory report** provides further detail regarding the Authority's assessment.

Should you have any queries, please do not hesitate to contact Penny Phillipson on 1300 094 262 or email planning@wgcm.vic.gov.au. To assist the Authority in handling any enquiries please quote **EGCMA-F-2021-00143** in your correspondence with us.

Yours sincerely,



Adam Dunn
Gippsland Floodplain Officer

The information contained in this correspondence is subject to the disclaimers and definitions attached.

Table 1 – Flood Data

	Current conditions	2100 conditions
1% AEP flood level – property	2.0 m AHD	2.8 m AHD
Lowest land elevation – development site	0.2m AHD	
Highest land elevation – development site	1.6m AHD	
Lowest land elevation – road (evacuation route)	1.0m AHD	
FLOOD DEPTH		
Minimum depth of flooding on property	0.4m	1.2m
Maximum depth of flooding on property	1.8m	2.6m
Percentage of property flooded	100%	100%
Maximum flood depth on road (evacuation route)	1.0m	1.8m
HAZARD ASSESSMENT		
Hazard category – development site	Medium-Extreme	Extreme
Hazard category – road	High	Extreme

1% AEP³ Flood Level Determination

Floods are classified by the frequency at which they are likely to occur. In Victoria, all proposals for development on floodplains are assessed against a flood that, on average, will occur once every 100 years. A flood of this size has a 1% chance of occurring in any given year and is known as either the 100 year Average Recurrence Interval (ARI⁵) flood or the 1% Annual Exceedance Probability (AEP) flood.

Please note that the 1% AEP flood is the minimum standard for planning in Victoria and is not the largest flood that could occur. There is always a possibility that a flood larger in height and extent than the 1% AEP flood may occur in the future.

Flood levels for the 1% AEP flood event (commonly known as the 1 in 100 year flood) have been declared for this area under the *Water Act 1989*. The declared 1% AEP flood level for this location is 2.0 metres AHD⁴, which was obtained from the *Gippsland Lakes Flood Level Modelling Project (2004)*.

Current Victorian Government policy recommends that coastal communities should also be aware of and plan for mean sea level rise of not less than 0.8 metres by the year 2100. The 1% AEP flood level for Paynesville is likely to increase by 0.8 metres to 2.8 metres AHD by 2100.

The *Guidelines for Coastal Catchment Management Authorities: Assessing development in relation to sea level rise* (DSE, 2012) outlines the Victorian Government response to the likely impacts of possible sea level rise. The Guidelines include policy direction allowing agreement between Councils and Catchment Management Authorities on appropriate flood level for anticipated sea level rise.

In April 2017 the East Gippsland Shire Council adopted Version 4 of the *Coastal Inundation and Erosion Planning Policy*. The Policy adopts the existing 1% AEP flood level as the benchmark flood level to be used to assess infill development against.

The applicable 1% AEP flood level for this property is 2.0 metres AHD.

The Authority holds no information in relation to the arrangement and capacity of stormwater drainage infrastructure in the area.

Flood Hazard Assessment

The subject land is subject to an extreme flood hazard. The Authority notes that the proposal is in accordance with the zoning of the property and unlikely to increase the existing flood risk, subject to the conditions in the cover letter.

Definitions and Disclaimers

1. The area referred to in this letter as the 'proposed development location' is the land parcel(s) that, according to the Authority's assessment, most closely represent(s) the location identified by the applicant. The identification of the 'proposed development location' on the Authority's GIS has been done in good faith and in accordance with the information given to the Authority by the applicant(s) and/or the local government authority.
2. While every endeavour has been made by the Authority to identify the proposed development location on its GIS using VicMap Parcel and Address data, the Authority accepts no responsibility for or makes no warranty with regard to the accuracy or naming of this proposed development location according to its official land title description.
3. **AEP** as Annual Exceedance Probability – is the likelihood of occurrence of a flood of given size or larger occurring in any one year. AEP is expressed as a percentage (%) risk and may be expressed as the reciprocal of ARI (Average Recurrence Interval).

Please note that the 1% probability flood is not the probable maximum flood (PMF). There is always a possibility that a flood larger in height and extent than the 1% probability flood may occur in the future.

4. **AHD** as Australian Height Datum - is the adopted national height datum that generally relates to height above mean sea level. Elevation is in metres.
5. **ARI** as Average Recurrence Interval - is the likelihood of occurrence, expressed in terms of the long-term average number of years, between flood events as large as or larger than the design flood event. For example, floods with a discharge as large as or larger than the 100 year ARI flood will occur on average once every 100 years.
6. Nominal Flood Protection Level – is the minimum height required to protect a building or its contents, which includes a freeboard above the 1% AEP flood level.
7. No warranty is made as to the accuracy or liability of any studies, estimates, calculations, opinions, conclusions, recommendations (which may change without notice) or other information contained in this letter and, to the maximum extent permitted by law, the Authority disclaims all liability and responsibility for any direct or indirect loss or damage which may be suffered by any recipient or other person through relying on anything contained in or omitted from this letter.
8. This letter has been prepared for the sole use by the party to whom it is addressed and no responsibility is accepted by the Authority with regard to any third party use of the whole or of any part of its contents. Neither the whole nor any part of this letter or any reference thereto may be included in any document, circular or statement without the Authority's written approval of the form and context in which it would appear.
9. The flood information provided represents the best estimates based on currently available information. This information is subject to change as new information becomes available and as further studies are carried out.
10. Please note that land levels provided by the Authority are an estimate only and should not be relied on by the applicant. Prior to any detailed planning or building approvals, a licensed surveyor should be engaged to confirm the above levels.



Department of Environment, Land, Water & Planning

71 Hotham Street
Traralgon Victoria 3844
Australia
Telephone: +61 3 5172 2111
www.delwp.vic.gov.au

11 August 2021

Robert Pringle
Planning Officer
East Gippsland Shire Council
PO Box 1618
BAIRNSDALE VIC 3875

Our ref: SP476231
Your ref: 236/2021/P

Dear Robert

PROPOSAL: ALTERING EXISTING SURFACE LEVELS, DEVELOPMENT OF NEW FACILITIES & AMMENITIES AND REMOVAL OF NATIVE VEGETATION

APPLICANT: 236/2021/P

ADDRESS: SLIP ROAD, PAYNESVILLE VIC 3880

LEGAL DESCRIPTION: CA 147K PARISH OF BAIRNSDALE

I am writing in response to your email request made today to review the referral advice provided on 4 August 2021 in relation to your correspondence of 1 June 2021. The basis of the review being the submission of a revised Native Vegetation Removal Report.

The correspondence dated and received 1 June 2021, consistent with section 55 of the *Planning and Environment Act 1987* (Act), seeks advice in relation to a planning permit application from DELWP as a referral authority.

The application seeks to alter existing surface levels, develop and repair new facilities & amenities, and remove native vegetation.

The Department of Environment, Land, Water and Planning (DELWP) is providing advice in response to the referred planning permit application which may affect its responsibilities or assets. The referral trigger being Clause 66.02-2 of the East Gippsland Planning Scheme.

I wish to advise DELWP **does not object** the granting of a Planning Permit and recommends the following conditions:

1. Before works start, the permit holder must advise all persons undertaking the vegetation removal or works on site of all relevant permit conditions and associated statutory requirements or approvals.

Protection of native vegetation and/or trees to be retained

2. Except with the written consent of the responsible authority and the Department of Environment, Land, Water and Planning, within the area of native vegetation to be retained

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Any personal information about you or a third party in your correspondence will be protected under the provisions of the Privacy and Data Protection Act 2014. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorised by law. Enquiries about access to information about you held by the Department should be directed to foi.unit@delwp.vic.gov.au or FOI Unit, Department of Environment, Land, Water and Planning, PO Box 500, East Melbourne, Victoria 8002.



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and any tree or vegetation protection zone associated with the permitted use and/or development, the following is prohibited:

- a) vehicular or pedestrian access
- b) trenching or soil excavation
- c) storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products
- d) entry and exit pits for the provision of underground services
- e) any other actions or activities that may result in adverse impacts to retained native vegetation.

Native vegetation permitted to be removed, destroyed or lopped

- 3. The native vegetation permitted to be removed, destroyed or lopped under this permit is 0.307 hectares of native vegetation.

Native vegetation offsets

- 4. To offset the removal of native vegetation for the Slip Road foreshore redevelopment project, the permit holder must secure the following native vegetation offsets in accordance with [Guidelines for the removal, destruction or lopping of native vegetation \(DELWP 2017\)](#), before any native vegetation removal can begin:
 - a. A general offset of 0.158 general habitat units located within the East Gippsland Catchment Management Authority boundary or East Gippsland municipal area with a minimum strategic biodiversity value of at least 0.479.
- 5. Before any native vegetation is removed, evidence that the required offset for that section of the project has been secured must be provided to the satisfaction of the responsible authority. This evidence must be either:
 - a) an established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10-year management actions and ongoing management of the site, and/or
 - b) credit extract(s) allocated to the permit from the Native Vegetation Credit Register that identifies the relevant section of the project.

Offset evidence

- 6. A copy of the offset evidence will be endorsed by the responsible authority and form part of this permit. Within 30 days of endorsement of the offset evidence, a copy of the endorsed offset evidence must be provided to Planning & Approvals at the Department of Environment, Land, Water and Planning Gippsland regional office via Gippsland.planning@delwp.vic.gov.au.

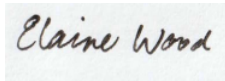
The accompanying **supporting information** provides further detail regarding DELWPs assessment of this application.

In accordance with section 66 of the *Planning and Environment Act 1987*, please provide a copy of the permit to the above address.

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If you have any further queries, or require clarification please contact
gippsland.planning@delwp.vic.gov.au

Yours sincerely

A handwritten signature in black ink that reads "Elaine Wood". The signature is written in a cursive style and is positioned above the printed name and title.

Elaine Wood
Planning Approvals Program Officer

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Supporting Information

Context

DELWP is a determining referral authority under Section 55 of the *Planning and Environment Act 1987*. The specific referral trigger is 66.02-2 of the East Gippsland Planning Scheme for vegetation removal on land managed by the responsible authority.

The subject land is affected by the Public Park and Recreation Zone, Industrial 3 Zone, General Residential Zone Schedule 1, Public Conservation and Resource Zone and the Commercial Zone Schedule 1. It is affected partially by the Design and Development Overlay Schedule 2, Heritage Overlay Schedule (HO237) and the Land Subject to Inundation Overlay Schedule. The land also contains an Area of Aboriginal Cultural Heritage Sensitivity.

DELWP considered this application against the decision guidelines of the following planning provision:

- Clause 52.17 *Native vegetation*

DELWP considered the following reports in determining its response

- Native Vegetation Report reference no. ETH_2021_008
- *Biodiversity Investigation, Native Vegetation Assessment and Offset Requirements: Carpark, Seawalls and Jetties Development: Slip Road, Paynesville. Final Report* (EthosNRM, August 2021)

OFFICIAL



Department of Environment,
Land, Water & Planning

72 Hotham St
Traralgon VIC 3844
Telephone: (03) 5172 2110
Fax: (03) 5172 2100
ABN 90 719 052 204

DELWP File Ref: 1601980/SP476066

Attn: Jenny Bailey
Project Manager
East Gippsland Shire Council
PO Box 1618
BAIRNSDALE VIC 3875
(via email: JennyBai@egipps.vic.gov.au)

Dear Jenny

**RE: CONSENT FOR USE AND DEVELOPMENT OF COASTAL CROWN LAND
SLIP ROAD (PAYNESVILLE) MARITIME PRECINCT DEVELOPEMENT**

Thank you for your application for the use and development of coastal Crown land pursuant to Section 68 of the *Marine and Coastal Act 2018*. Your application was received 17 May 2021.

Pursuant to Section 70 of the *Marine and Coastal Act 2018* and as delegated by the Minister, I consent to the proposed use and development subject to the conditions in the attached consent notice.

Note the *Aboriginal Heritage Act 2006* requires the discovery of Aboriginal cultural heritage places or objects on any land in Victoria be reported to the Secretary, Department of Premier and Cabinet.

If you have any further enquiries, please call Tracey West, Land and Built Environment Program Officer at the Department of Environment, Land, Water and Planning Bairnsdale office on 0457 501 299 or contact her via email at tracey.west@delwp.vic.gov.au

Yours sincerely

DARRIN MCKENZIE
REGIONAL DIRECTOR
GIPPSLAND

DATE: 20/07/2021



DELWP File Ref: 1601980/SP476066

**CONSENT FOR USE AND DEVELOPMENT OF COASTAL CROWN LAND
SECTION 70 MARINE AND COASTAL ACT 2018**

Crown Description: Part of Crown Allotment 147K & 147F, Parish of Bairnsdale
Part of Crown Allotment 2007, Parish of Boole Poole
Local Name: Paynesville Foreshore Reserve
Street Address: Slip Road, Paynesville
Consent for: **SLIP ROAD (PAYNESVILLE) MARITIME PRECINCT DEVELOPEMENT**

Pursuant to *Section 70(1)(d)* of the *Marine and Coastal Act 2018*, and as delegated by the Minister, I consent to the proposed use and development subject to the following conditions:

1. The works are to be carried out in accordance with application form and supporting information and plans, received on 17 May 2021.
2. Any modification to the works proposed, siting or design must be requested in writing and written approval obtained from the Regional Manager, Land and Built Environment Programs Gippsland prior to any changes being implemented.
3. Construction equipment, building materials, refuse and site run-off must be contained and controlled and not permitted to impact on the public area, foreshore or waterway. The construction site must be managed in accordance with EPA requirements.
4. The work site is to be maintained to a safe standard to avoid public risk and where practical public access is to be excluded from the construction area using appropriate signage and barriers.
5. Should the site be found to contain acid sulphate soils which may be disturbed by the proposed works an *Acid Sulphate Soils Management Plan* must be developed in line with the Victorian Best Practice Guidelines for Assessing and Managing Coastal Acid Sulphate Soils. A copy of this plan must be submitted to the Department of Environment, Land, Water and Planning prior to the commencement of any works.
6. All planting of vegetation within coastal Crown land must utilise indigenous species.
7. All works must be completed and maintained to the satisfaction of the Regional Manager, Land and Built Environment Programs Gippsland.
8. This consent under the *Marine and Coastal Act 2018* will expire if the works are not completed within three (3) years of the date of issue, unless an extension of time is applied for and granted by the Regional Manager, Land and Built Environment Programs, Gippsland.

DARRIN MCKENZIE
REGIONAL DIRECTOR
GIPPSLAND

DATE: 20/07/2021

OFFICIAL

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 Performance and Remuneration Review 2020/21 and 2021/22 Key Performance Indicators - Chief Executive Officer

Under section 66(2) of the *Local Government Act 2020* a meeting considering confidential information may be closed to the public. Pursuant to sections 3(1) and 66(5) of the *Local Government Act 2020*, the information contained in this report is confidential because it contains personal information that would if released result in the unreasonable disclosure of information about personal affairs.

7.2 CON2022 1457 Bushfire Road Repairs

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.

7.3 Datacentre Operations

Under section 66(2) of the *Local Government Act 2020* a meeting considering confidential information may be closed to the public. Pursuant to sections 3(1) and 66(5) of the *Local Government Act 2020*, the information contained in this report is confidential because it contains Council business information being information that would prejudice the Council's position in commercial negotiations.

7.4 Gippsland Business 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 Council business information being information that would prejudice the Council's position in commercial negotiations.

8 Close of Meeting