



Council Meeting Agenda

TUESDAY 23 JUNE 2020

**Meeting will be held on
Tuesday 23 June 2020
Council Chamber (and by video conferencing)
273 Main Street
commencing at 1.00 pm**

Council Information

East Gippsland Shire Council live streams, records and publishes its meetings via webcasting 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.

Please ensure that mobile phones and other electronic devices are turned off or in silent mode for the duration of the meeting.

Our Vision

East Gippsland is the most liveable region in Australia. A place of natural beauty, enviable lifestyles, and opportunities.

Our Mission

A leading local government that works together with our communities to make East Gippsland the most liveable region in Australia.

Our Values

Accountability

We will take responsibility for our actions and decisions in an open and transparent way.

Inclusion

We will be accessible and active in engaging with our community. We will invite, listen to and seek to understand the views of others, and proactively share information about Council's plans, projects, services and activities.

Integrity

We will honour our commitments and conduct ourselves in an honest, ethical way.

Respect

We will value, support and help to develop our diverse community. We will respect the views and contributions of others and act with courtesy and consideration in all our interactions.

Resourcefulness

We will turn the challenges faced by our community into opportunities by being flexible and innovative in our response. We will actively seek better and more cost-effective ways to achieve the best outcomes for East Gippsland.

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Anthony Basford
Chief Executive Officer

1. Procedural

1.1 Opening and Recognition of Traditional Custodians

The Victorian Government announced on 23 April 2020 amendments to the *COVID-19 Omnibus (Emergency Measures) Bill 2020*, which relates to the *Local Government Act 2020*, allowing Council meetings to be conducted by electronic means (video conferencing from 1 May 2020 until 1 November 2020). The amendments have provisioned that Councillors will be able to electronically attend Council meetings and the requirement that Council meetings be open to the public will be satisfied where the meeting is live streamed. The amendments do not inhibit Councillors from attending a meeting in person in the Council chamber.

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

On behalf of Council, I would like to acknowledge the Gunaikurnai People, the traditional owners of the land on which we are gathered and pay our respects to their elders both past and present.

1.2 Apologies

1.3 Declaration of Conflict of Interest

1.4 Confirmation of minutes

That the minutes of the Ordinary Council Meeting 2 June 2020 be confirmed.

1.5 Next meeting

Ordinary Council Meeting, Tuesday 7 July 2020 be held at the Corporate Centre, 273 Main Street, Bairnsdale commencing at 1.00 pm.

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

1.6 Requests for leave of absence

1.7 Requests to speak about your Community Project

Note At Ordinary Meetings of Council, community groups and registered businesses may be allowed to speak on community projects they are seeking to carry out that will promote Council's vision for East Gippsland, as set out in its four-year Council Plan.

If you would like to take up this opportunity, please access the form on Council's website and lodge it with the Chief Executive Officer at least 10 days prior to the Council meeting at which your organisation wishes to speak.

1.8 Public question time

Note Questions must be received at Council's Corporate Centre via hand delivery, postal delivery or email by no less than four hours before the meeting's published commencement time on the day of the Ordinary Meeting of Council, or handed to the Council Officer on duty fifteen minutes before the meeting's published commencement time on the day of the Ordinary Meeting.

While every effort will be made to respond to questions on the night, if this is not possible, then questions will be taken on notice. A response will be provided to the member of the community who posed the question in accord with Council's Customer Response Policy standard for written correspondence, that is within 10 business days, or within 30 days in relation to a complex or sensitive matter. The response will also be attached to the Minutes of the meeting at which the question was put.

1.9 Petitions

Nil

2 Notices of Motion and/or Rescission

3 Deferred Business

4 Councillor and Delegate Reports

5 Officer Reports

5.1 Strong Communities

5.1.1 Proposed locality boundary amendment – Paynesville and Eagle Point

Authored by	Kylie Mitchell, Rates and Valuations Coordinator
Endorsed by	Peter Cannizzaro, General Manager Business Excellence
Document No	8363508
In Attendance	Liz Collins, Manager Finance

EXECUTIVE SUMMARY

This report seeks Council's endorsement to amend the Paynesville and Eagle Point locality boundary.

Council received several submissions as part of the proposed Eagle Point Structure Plan consultation in 2018, to consider amending the locality boundary between Paynesville and Eagle Point. As part of the adoption of the Eagle Point Structure Plan at the Council Meeting held on 6 August 2019, item 5.2.1, Council approved the recommendation of Officers to commence the consultation process to seek public feedback on the proposed locality boundary amendment (as shown in **Appendix 1**).

The submission was reviewed and found to comply with the *Naming rules for places in Victoria. – Statutory requirements for naming roads, features and localities 2016 (The Naming Rules)*. In accordance with Council's requirements under *The Naming Rules*, consultation in the form of a public advertisement in the local newspapers and on Council's website has now been completed. Letters with surveys were also sent to all affected property owners.

The outcome of the survey and public consultation indicates support for the proposal with the next step in the process to submit the proposal to realign the locality boundaries with the Office of Geographic Place Names (OGN). In accordance with Section 10 of *The Naming Rules*, OGN requires a copy of the minutes from a Council meeting, indicating Council's endorsement of the proposal, to be attached as part of the submission process.

If the OGN considers the submission conforms to the *Naming Rules* they will proceed to gazette the proposal. The gazette notice acts as official notification that the name will be registered in VICNAMES.

RECOMMENDATION

That Council:

- 1. endorses the proposal to amend the locality boundary between Paynesville and Eagle Point as per Appendix 1; and***
- 2. notes that officers will now submit the endorsed application to the Registrar of Geographic Place Names for registration.***

OFFICER COMMENT / CONTEXT

Discussion

This report seeks Council's endorsement to amend the Paynesville and Eagle Point locality boundary.

Letters including the survey form and information on the Naming Rules process were sent on 15 November 2019 to affected residents, ratepayers and businesses, seeking their written support or objection for the proposal.

In line with Council's agreed process for conducting surveys, those receiving the survey were advised that although undertaking the survey was voluntary, non-return of the form would be taken to mean the addressee did not oppose the proposal.

Under the proposal (depicted in the map at **Appendix 1**):

- a change to 112 property addresses would be required;
- all properties in the Estate of Eagle Bay Village, along with 2 others along Paynesville Road currently in the locality of Eagle Point would become Paynesville.

Results from feedback of the survey

Council received several submissions as part of the proposed Eagle Point Structure Plan consultation in 2018, to consider amending the locality boundary between Paynesville and Eagle Point.

Of the 112 surveys issued, 57 were not returned. Of the 55 that were returned:

- 25 supported the proposal without modification;
- 29 opposed the proposal without modification;
- 1 supported the proposal to amend the locality boundary with some modification.

	Agreed		Agreed with Modification		Disagreed	
Not Returned	57	51%				
Returned	25	19%	1		29	26%
TOTAL	82	74%	1	0.01%	29	26%

Most of the respondents to the survey provided additional comments in support of their decision. The respondents that disagreed with the proposal provided additional feedback that demonstrated the main objection was to the inconvenience that a change of address created. A few felt that their property valuation could either increase or decrease as a result of an amendment, while some just preferred to live in Eagle Point as opposed to Paynesville.

The respondents that agreed with the proposal provided feedback that the estate was marketed by real estate agents as "Paynesville's prime estate", that the current boundaries are confusing and that people, including tradesman, delivery persons and service providers have had difficulty in locating their property in the past.

One property owner supported the proposal regarding amending the locality boundary however suggested that the proposal be changed to extend the proposed locality boundary to include their property that abuts the foreshore to the north of the proposal.

In accordance with the *Naming Rules*, locality boundaries must align with the cadastral fabric or easily distinguishable topographical features such as a roadway. The property owner's suggestion was considered; however as the locality boundary would then follow his property boundary, it was not considered to conform with the relevant principles of the Naming Rules.

Council has followed due process in accordance with its adopted practice for surveys (tacit responses) and therefore the outcome of the survey suggests that the proposal is supported (with 57 surveys not returned being counted as in support to the proposal).

As the naming authority, Council must adhere to the *Naming rules for places in Victoria – Statutory requirements for naming roads, features and localities 2016* (the *Naming Rules*). In accordance with the *Naming Rules*, Council must consider all responses and decide whether to accept or reject the proposal.

Council Plan

Strong Communities Goal 1 - East Gippsland has connected, inclusive and vibrant communities

Strong Communities Goal 2 – East Gippsland Communities plan for their future

Legislation

As the "Naming Authority", Council must comply with the provisions of the *Geographic Place Names Act 1998*. This locality boundary amendment follows directions under the *Naming rules for places in Victoria - Statutory requirements for naming roads, features and localities 2016* (the *Naming Rules*).

In accordance with Section 10 of *The Naming Rules*, the Office of Geographic Place Names (OGN) requires a copy of the minutes from a Council meeting, indicating Council's endorsement of the proposal, to be attached with the submission lodged with OGN.

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*.

Community

This proposal aligns the boundaries as shown in Council's Eagle Point Structure Plan and the Paynesville Growth Structure Plan.

As communities grow there is a need to ensure that a locality's name and boundaries reflect community needs. A locality boundary change may be considered due to changes in the distribution of homes, business or other demographic changes.

All visitors and residents within the East Gippsland municipality should be able to accurately identify their location for the purposes of service delivery, including but not limited to, emergency services.

Eliminating any potential confusion within the Eagle Bay Estate regarding property addressing is crucial in the instance of accurate and timely dispatch of emergency services.

Organisational

- **Financial**

Any signage costs associated with this project will be funded from within Council's budget.

- **Climate Change**

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

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

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

This is a procedural matter and has no direct climate change impacts in East Gippsland.

Consultation

A consultation process in accordance with the Naming Rules has been undertaken, with public notices being placed in local newspapers, on Council's website and in social media. Letters were also issued surveying all affected landowners.

All surveyed participants will be notified of the outcome of the survey. If the proposal proceeds, all affected owners and residents will be advised of their new property address after the proposal has been approved and gazetted by OGN.

APPENDICES AND ATTACHMENTS

Appendices:

1. Map of existing and proposed locality boundaries – Paynesville / Eagle Point

Attachments:

Nil

5.1.2 Mallacoota Kindergarten

Authored by Jodie Pitkin, General Manager Place and Community

Endorsed by Anthony Basford, Chief Executive Officer

Document No 8534358

In Attendance Jodie Pitkin, General Manager Place and Community

EXECUTIVE SUMMARY

On the 27 February 2020 the Minister for education, James Merlino announced the allocation of 2.5 million dollars for the establishment of a 66-place new kindergarten facility for the Mallacoota community.

The project is being managed by the Department of Education and Training Victoria (DET), who have engaged the Victorian Schools Building Authority (VSBA) to ensure the effective implementation of the project on their behalf.

The kindergarten is currently managed by the YMCA and operated from the Council owned building located at 23 Greer Street, Mallacoota. Both the YMCA and Council have been included as partners to the project from the beginning.

- Council has provided summary information to the project stakeholders including:
 - There are no green field sites available in Mallacoota owned by Council that would be suitable for a 66-place kindergarten building,
 - The building that is currently used for the delivery of kindergarten services is nearing its use by date and will not be suitable for renovation or extension,
 - Cultural Heritage Assessment undertaken on surrounding sites indicate that the land is of significant interest to local Aboriginal elders and therefore Council has made the recommendation that any extension to the foot print of the existing building would not be supported without further Cultural Heritage Assessment work (that is not part of Councils current budget and would need to be undertaken utilising project funds),
 - The existing site due to the Bushfire Management Overlay would planning approval; and
 - There are issues with tree roots on the existing site in relation to a protected species.

There is concern from some stakeholders that DET have not undertaken a transparent community engagement process; however, there have been efforts to ensure this is the case.

Information available in relation to the current site and the desire to have a new kindergarten available for the beginning of the 2021 school year would indicate that the Mallacoota P-12 college to be the most appropriate site for the establishment of this important community resource.

East Gippsland Shire Council has endorsed a clear commitment to the health and development of children demonstrated through its Municipal Early Years Plan, notably in relation to increasing school readiness and the support of children's social and cognitive development.

RECOMMENDATION

That Council:

- 1. Supports the establishment of a new 66 place kindergarten service for the Mallacoota community.***
- 2. Supports the Mallacoota P-12 college site as the preferred option for the placement of the Mallacoota kindergarten.***
- 3. Supports Council Officers to work with the existing and future parents to ensure that the transition to a new site is successful.***
- 4. Notes the intent to demolish the current building at the Greer Street site once vacated, due to the prohibitive costs of restoration due to the buildings age and condition.***
- 5. Notes a further briefing and report will be presented to Council on the future management and ownership of the new kindergarten building.***

OFFICER COMMENT / CONTEXT

Discussion

On 27 February 2020 the Minister for Education, James Merlino announced funding of up to \$2.5 million to establish or reinstate a purpose-built kindergarten building in Mallacoota, as soon as possible. Mr Merlino further advised that the Labour Government would work with East Gippsland Shire Council, the YMCA Ballarat, the kindergarten community, and the Mallacoota P-12 college to find the best permanent solution for the Mallacoota kindergarten, noting that the options included the installation of a modular kindergarten at a preferred location or working with Council to reinstate the existing site.

The project is being managed by the Department of Education and Training (DET) who have engaged the Victorian Schools Building Authority (VSBA) to ensure effective community engagement and overall project delivery on their behalf.

The existing kindergarten is managed under a cluster management arrangement by the YMCA, Ballarat and is delivered from a Council owned building at 23 Greer Street Mallacoota. The current building is aged and nearing the end of its life. The building underwent significant repair following flooding at the beginning of the 2020 year, which required the kindergarten students to relocate to a temporary site at the Mallacoota P-12 school for part of the year. The building has been repaired and the 2020 students have returned to this site. The current building:

- is licenced for the delivery of kindergarten services to 25 children
- is close to the end of its used by date
- is constrained to the existing footprint without further cultural heritage assessment
- is affected by two trees of significance
- includes a bushfire management overlay

There have been several consultation meetings conducted that have included identified key stakeholders including; the current kindergarten Parents advisory Group (PAG), YMCA, East Gippsland Shire Council. These meetings have occurred over social media platforms as a result of social distancing restrictions and have taken place as outlined:

- 16 March 2020
- 24 April 2020 and
- 01 June 2020

In addition to the above stakeholder meetings the following information sessions have been undertaken by DET and VSBA:

- 08 May 2020 – presentation to PAG RE building options
- 14 May 2020 – presentation to Mallacoota P-12 RE building options
- 21 May 2020 – meeting with East Gippsland Shire Council Senior Officers

The announcement of up to \$2.5 million possibly provides a 2 room 66 (total) place facility that could possibly:

- Allow for future growth
- Includes two rooms, one of which could be used for alternate service provision if not used for preschool.
- Allow for the delivery of 15 hours of 3-year-old kindergarten in 2021

Given the timeframes the above is only possible on a site alternate to the existing site (within the timeframe listed). As a result, the VSBA have sought and been provided with the support of the Mallacoota P-12 college to allow the establishment of a modular kindergarten on their site. The proposed location of the new kindergarten on the P-12 site suggests that the preferred placement is at the 'back' of the school oval. It is the position of council officers that a location closer to the school building that physically encourages integrated service delivery would be of a higher benefit to the children accessing both the kindergarten and school programs. This has been suggested to the DET and the VSBA who have indicated that this is not the preference of the school.

It is important to note that the establishment of a new kindergarten service is still possible on the existing site, however, it will not be available for the beginning of the 2021 kindergarten year and will likely result in the inability to run a 15 hour three year old program for the same year.

The existing stakeholders have been unable to come to an agreement about the preferred location for the kindergarten moving forward. There are divided views amongst PAG members and there has been a change in membership of the existing PAG during the process. DET and VSBA have advised the PAG that they are part of a broader stakeholder group and are now seeking broader community engagement in the decision-making process.

It is clear that some members of the community are seeking additional time in order to make a fully informed decision in relation to the location of the future kindergarten; however, there is currently no evidence to suggest that this is the broader community view. The YMCA, as the existing Cluster Manager have indicated that any service running on less than 33 licenced places will not be a viable one for them to manage in the longer term (supported through funding agreements that are attached to staffing ratios based on this number) so a smaller service is not efficient in the longer term.

It has been Councils position to advocate for an open and transparent consultation process. Council Officers are of the view that this has been challenging, but that genuine efforts are being made. It is clear that it is unlikely that a united community view will be forthcoming.

As an essential stakeholder Councils position regarding the establishment of a Mallacoota Kindergarten Service for the 2021 school year is sought.

Council Plan

This report has been prepared and aligned with the following goals set out in the Council Plan 2017-2021:

Strong Communities Goal 1 - East Gippsland has connected, inclusive and vibrant communities

Council Policy

Councils Municipal Early Years Plan provides the following policy context:

Outcome Area 1: Our Children Are Healthy, Developing Well, Safe and Secure:

Objective 1.1: to increase the number of children who are developing well

Objective 1.2: to increase school readiness and learning outcomes for all children

Outcome Area 2: Our Families are Able to Meet the Needs and Promote the Development of Their Children:

Objective 2.1: to increase the capacity of families to meet their children's basic needs

Objective 2.2: to increase the capacity of families to support their children's social, cognitive, physical and emotional development

The Victorian School Buildings Authority note the following position in relation to co-located services:

Benefits of co-located kinders:

Building co-located kindergarten facilities on or next to school sites provides many benefits for Victorian families, including making:

- kindergarten programs easier to access
- drop-off time simpler and more convenient
- transitions to kindergarten programs and school smoother for children.

Having kindergarten facilities and schools on the same site also helps create a hub that benefits the whole community.

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*.

Community

It is important to note that this decision will impact a fire effected community. It is currently unclear what the view of the broader community is; however, the PAG members have identified that broader community engagement is important to them. This engagement is currently being undertaken and this decision of Council is seen to be part of that.

The establishment of a new kindergarten for the 2021 school year will allow the provision of 15 hours of 3-year-old kindergarten for children in the Murrumbidgee community. This cannot be guaranteed without the establishment of a new facility.

Organisational

- **Financial**

Building ownership:

Council is the owner of the current Murrumbidgee Kindergarten. Ownership responsibilities include building maintenance costs that are budgeted each year as part of Councils maintenance budget.

DET has advised that they have an interest in Council assuming ownership of the new building regardless of the site of operation (ie if the building is established on the Murrumbidgee P-12 site DET would be eager for Council to play an ownership role), therefore some building maintenance cost obligation would continue if this arrangement was accepted.

This matter needs to be considered in detail and will be the subject of a separate report to Council at a later date.

Local infrastructure:

Should the Kindergarten be established at the Murrumbidgee P-12 site it is likely that there will need to be improvements to local infrastructure including roads, specifically Lees Road.

Detailed costings have not yet been undertaken. Initial conversations with VSBA indicate that they are happy to engage in discussions about a possible funding contribution to the establishment of such infrastructure should program budget allow. Likely costs would include sealing the road and creation of parking to accommodate drop off and pick up (outside of parking provided on site). It is important to note that following the establishment of such infrastructure ongoing costs would be the responsibility of Council.

Transition support:

It is important to note that some financial contribution may be required to ensure smooth transition; however, this will be off set against the reduced need for ongoing repair and maintenance to an existing and aged facility.

- **Climate Change**

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

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

Consultation

There have been several consultation meetings conducted that have included identified key stakeholders including; the current kindergarten Parents advisory Group (PAG), YMCA, East Gippsland Shire Council. These meetings have occurred over social media platforms as a result of social distancing restrictions and have taken place as outlined:

- 16 March 2020
- 24 April 2020 and
- 01 June 2020

In addition to the above stakeholder meetings the following information sessions have been undertaken by DET and VSBA:

- 08 May 2020 – presentation to PAG RE building options
- 14 May 2020 – presentation to Mallacoota P-12 RE building options
- 21 May 2020 – meeting with East Gippsland Shire Council Senior Officers

A broader community consultation process has been undertaken by the VSBA. This consultation was widely advertised and included targeted questions seeking community input into the decision-making process. At the time of writing this report this consultation process has not yet concluded, however is due to close in the near future.

APPENDICES AND ATTACHMENTS

Appendices

Nil

Attachments

Nil

5.1.3	Planning permit application 319/2019/P - 31 Boyd Court Eagle Point - Multi lot subdivision (staged)
Authored by:	Land Use Planning Officer
Endorsed by	Jodie Pitkin, General Manager Place and Community
Document No	8413254
In Attendance	Nicole Reynolds, Acting Manager Planning

EXECUTIVE SUMMARY

This report seeks Council's decision to issue a Notice of Decision to Refuse to Grant a Permit for planning permit application 319/2019/P at 31 Boyd Court, Eagle Point.

Officers have undertaken an assessment of the proposal and recommend that Council resolves to refuse the planning permit application.

The basis for the refusal is summarised as follows:

- The layout of the subdivision fails to address the prevailing neighbourhood character and pattern of subdivision;
- The lot density will result in a subdivision pattern which is inconsistent with the existing neighbourhood character; and
- The lot density will result in a subdivision pattern which is inconsistent with the strategic outcomes of the Eagle Point Structure Plan (May 2019) (EPSP) as adopted by Council in August 2019 (Item 5.2.1).

The zoning of the land and the in-principle notion of subdividing this land is not contested; however, the specific design of the subdivision results in an unacceptable outcome.

The application has been referred to all the required authorities and has been the subject of public notification.

The application has attracted three objections. All referral authorities responded with consent or conditional consent.

RECOMMENDATION

That Council being the Responsible Authority and having considered all the relevant planning matters, determines that planning application 319/2019/P is inconsistent with the requirements and objectives of the East Gippsland Planning Scheme and therefore resolves to issue a Notice of Decision to Refuse to Grant a Planning Permit for a Multi-lot subdivision (staged) at 31 Boyd Court Eagle Point on the following grounds:

- 1. The Application is inconsistent with the Local Planning Policy Framework, specifically Clauses 21.04 environmental and landscape values, 21.07 built environment and heritage and 21.12-2 sub-regions lakes and coastal;***
- 2. The Application will result in a subdivision pattern which is inconsistent with the existing and proposed neighbourhood character; and***
- 3. The Application is inconsistent with the Eagle Point Structure Plan (May 2019).***

OFFICER COMMENT / CONTEXT

Discussion

The planning permit application currently before Council seeks a permit to subdivide land in the form of a low-density residential estate. The subject land is approximately 7.56 hectares in area and currently contains one dwelling and several ancillary outbuildings. A copy of the application and plans can be found at **Attachment 1**.

The proposal includes the creation of 17 lots ranging between 0.20 hectares and 2.68 hectares in area. Access to proposed lots 1 to 16 is proposed via a new road, with lot 17 being accessed directly off Boyd Court.

The land is in the Low Density Residential Zone (LDRZ), and is subject to the following overlays:

- Design and Development Overlay – Schedule 11; and
- Vegetation Protection Overlay – Schedule 1.

A series of low-density subdivisions are present in the area, and the general local character is of a low-density style and form.

The northern side of the land adjoins Boyd Court and the southern boundary adjoins Paynesville Road.

The land is included in the Eagle Point Structure Plan (May 2019) area.

The land features a gentle slope and enjoys legal and practical road access via Boyd Court.

The application has been referred to utility service providers, all have responded with conditional approval. East Gippsland Water have indicated that the proposed subdivision can be connected to the reticulated town water supply network and the reticulated sewer network, and will not cause any overloading issues from a supply perspective (provided upgrades are implemented at the applicant's cost).

The application was referred to the CFA for comment in relation to bushfire risk. The CFA has responded with conditional consent.



Fig.1 – The subject land



Fig. 2 – The locality in reference to the subject land (in red)



Fig. 3 – The zoning arrangement in the area (pink denotes General Residential Zone, green denotes Farming Zone, light red denotes Low Density Residential Zone, tan denotes Rural Living Zone and yellow Public Use Zone)

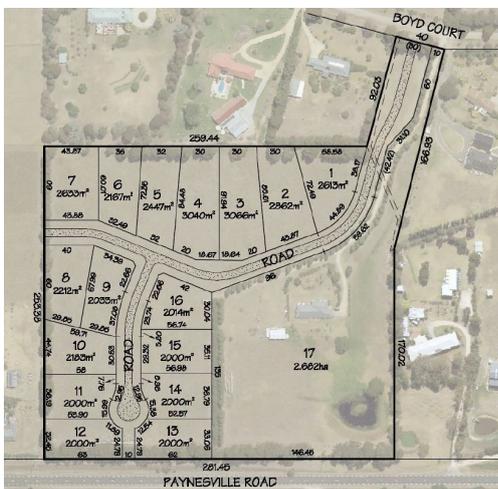


Fig. 4 – The proposed Plan of Subdivision

Assessment of proposal against planning policy

A full assessment of the proposal against the East Gippsland Planning Scheme is included at **Attachment 2**. Referral responses are provided at **Attachment 3**.

The proposal currently before Council seeks to significantly increase the lot yield in accordance with the zoning provisions without taking into account other policy, including the EPSP which had been adopted by Council prior to the lodgement of the application. Seeking to subdivide in accordance with the provisions of the zone is a legitimate desire. The design of the subdivision and its response to the neighbourhood character is the matter at contest and forms the grounds for refusal.

The application currently before Council seeks to create lots as small as 2,000 square metres (the average of lots 1 to 16 is 2,329 square metres in area). These lot sizes are not indicative of those found elsewhere in the area and are significantly smaller than that anticipated in the EPSP. As demonstrated below, the average lot size of land within the Low Density Residential Zone bounded by Lake Victoria Road, Eagle Point Road and Paynesville Road, is approximately 8,600 square meters.

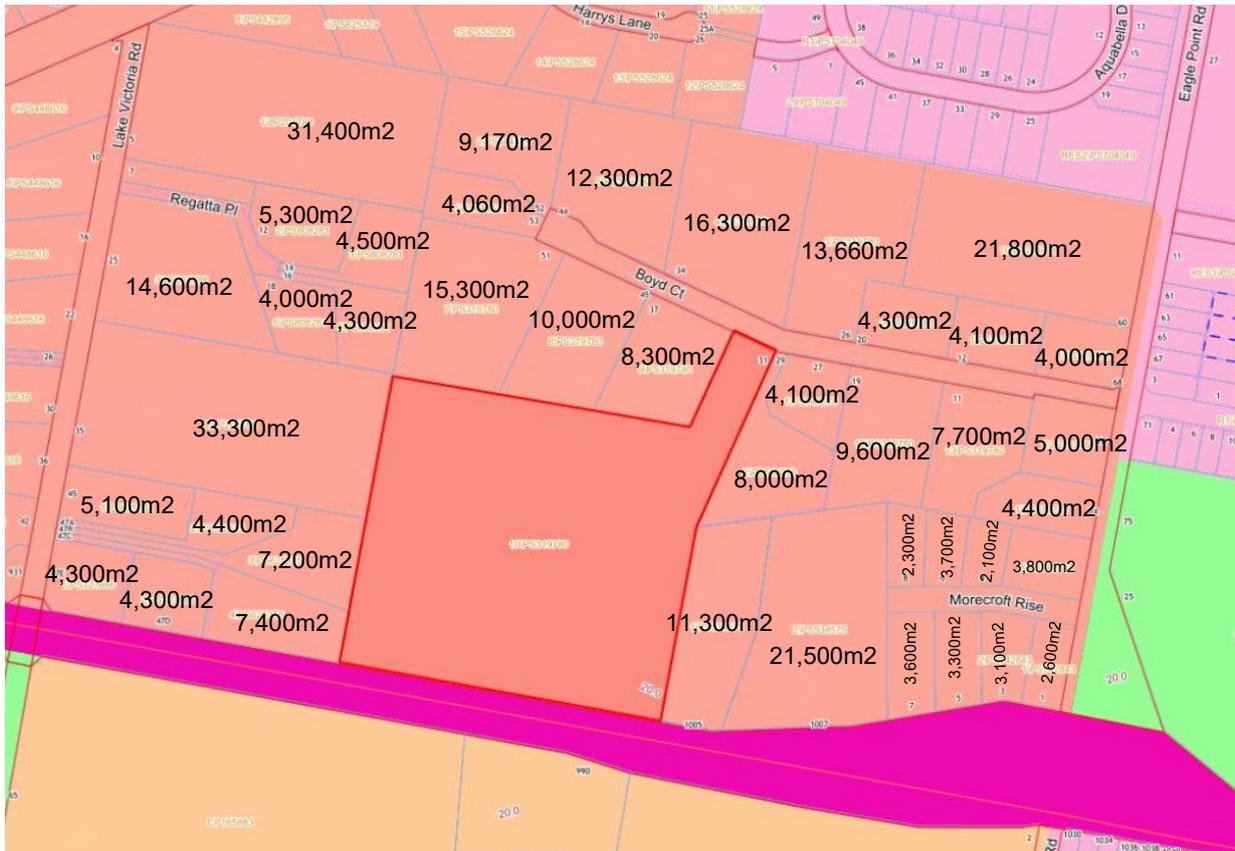


Fig. 5 – Analysis of lot sizes adjacent and close to the subject lot

Minimum lot sizes form a part of a range of matters that decision makers are required to consider when deciding on a planning permit application. Council in this case, is still required to balance the pattern of subdivision proposed with the policy objectives set out in the state-wide *Planning Policy Framework* and the *Local Planning Policy Framework*.

A review of the prevailing subdivisitional character (i.e. pattern of subdivision and development of the 41 blocks within the immediate surrounds) shows that this proposal is inconsistent with the existing low-density character of this area of Eagle Point. The proposed lots are far smaller than the existing average lot size, as depicted above.

Council is also required to consider the impact that the subdivision will have upon the use of the land and give regard to possible built outcomes that are generated ‘as of right’ by virtue of the subdivision.

The subdivision (if approved) would logically lead to at least one dwelling on each new lot. In light of the lot sizes, 16 additional dwellings in this area, and on lots of these sizes, would introduce a new built form outcome and a character which is inconsistent and at odds with the existing and preferred character of Eagle Point. The area is defined by lots that are at least 4000 square metres (1 acre) although many are larger as clearly documented in figure 5.

The Eagle Point Structure Plan

The proposed lot areas are, on average, roughly half the size that is sought within the recently adopted EPSP. Additionally, the layout and connectivity of the proposal is inconsistent with that set out within the EPSP – this includes roads, pedestrian linkages and future recreation areas. The extract below shows an approximate comparison between the desired layout set out within the EPSP, and the proposed layout.

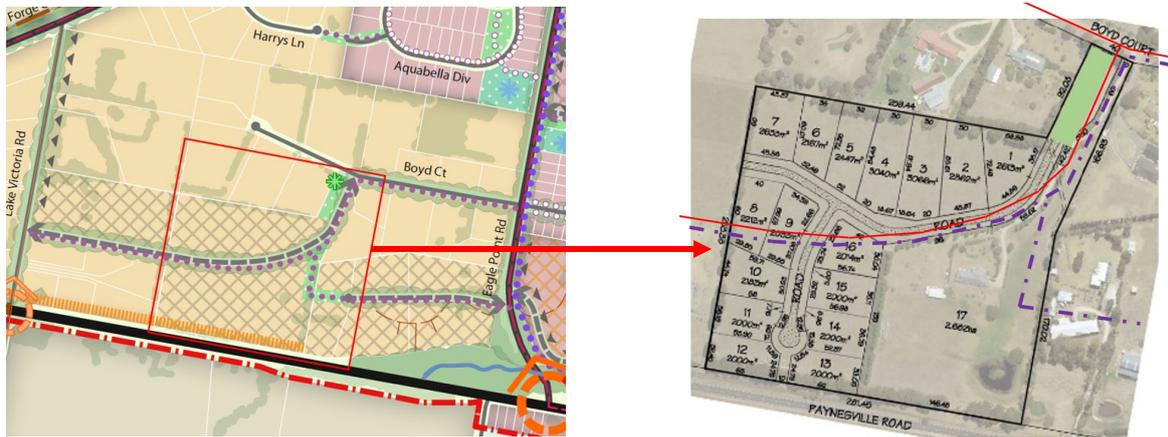


Fig. 6 – Eagle Point Structure Plan extract comparison with the proposed Plan of Subdivision

The graphic above (left) is an extract from the Eagle Point Structure Plan (May 2019) setting out the desired development pattern in the vicinity. The image above (right) shows the proposed plan of subdivision. The red line is an overlay of the road layout within the EPSP, dotted purple line is the pedestrian connectivity sought within the EPSP and the green shaded area is a planned 'pocket park'.

This graphical analysis demonstrates that the proposal is clearly inconsistent with the EPSP and its approval would not only create an outcome which is at-odds, but would further compromise the EPSP by virtue of impacting road and pedestrian connections on adjoining lots to the east and west, and thereby affecting all future development of this area.

At the time of writing this report the EPSP has been adopted by Council. It is a major piece of strategic work which will have both beneficial and long-term implications for the locality. Among the positive attributes of the Structure Plan, is the strategic decision to introduce a new schedule for the LDRZ in Eagle Point. This includes raising the minimum lot size from 2,000 square metres to 4,000 square metres, even if reticulated sewer is available, to reflect the prevailing neighbourhood character.

The proposal currently meets the technical requirements of the zone, however, it is inconsistent with the strategic policy intent of the EPSP.

Whilst the EPSP has not yet been incorporated into the East Gippsland Planning Scheme, Section 60 of the Planning and Environment Act 1987 requires decision makers to '*...consider any other strategic plan, policy statement, code or guideline which has been adopted by a Minister, government department, public authority or municipal council;*' The EPSP represents Council's view to protect and enhance the neighbourhood character in this part of Eagle Point and introduce connectivity within this precinct. The plan resulted from significant consultation and has been adopted by Council. It is considered appropriate and entirely reasonable to consider the strategic intent provided within the adopted EPSP.

Council Plan

Strong Communities Goal 1 - East Gippsland has connected, inclusive and vibrant communities

Strong Communities Goal 2 - East Gippsland communities plan for their future

Council Policy

This application has been processed in accordance with Council's Planning Permit Delegations Policy 2018.

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*.

Organisational

- **Financial**

Nil

Consultation

Consultation has been undertaken in the following manner:

Referrals	East Gippsland Water – Conditional approval given Ausnet Services – Conditional approval given VicRoads – Conditional approval given APA Group (Gas) – Conditional approval given CFA – Conditional approval given
Advertising	The permit applicant was required to send letters to adjoining and surrounding neighbours and place an A3 sign along the Boyd Court and Paynesville Road title boundaries. A statutory declaration has been provided by the permit applicant confirming that public notice was undertaken, and the site notice was displayed for a minimum of 14 days. Advertising was undertaken in accordance with section 52 of the <i>Planning and Environment Act 1987</i> .
Objections	Three (at the time of writing this report)

Objections received

The planning application was advertised in accordance with section 52 of the Act. It is considered that on balance the concerns of objectors are reasonable, although there are some elements officers do not agree with, discussed in detail below. Copies of objections are provided at **Attachment 4**. A total of three objections have been received, and the grounds are listed below with officer comments:

Number of Lots / Density

Objectors are concerned that the proposed density exceeds that supported by the EPSP and this will result in a subdivision which is out of character. Officers agree that the proposal is considered inconsistent with the strategic policy adopted by Council on the basis that the proposed subdivision layout is inconsistent with the existing and preferred neighbourhood character, and the policy direction contained within the EPSP.

Loss of Neighbourhood Character

Objectors are concerned that the proposed density / lot layout will result in a development pattern which is out of character with that found in the neighbourhood now, and what is desired within the EPSP. Officers agree that the proposed lot layout and density is inconsistent with the general lot density and layout currently existing in the neighbourhood.

Increased Traffic

Objectors are concerned that the proposed lot density, at roughly double that anticipated within the EPSP, will impact traffic and safety in the vicinity. Officers do not believe that the traffic volumes would exceed the capacity of the road network.

Loss of Privacy / Amenity to Existing Dwellings

Objectors have raised concerns that the proposed higher density outcome will decrease privacy and reduce amenity experienced by existing dwellings through more people in a smaller area, and developments being closer to each other. As this application is for subdivision, not development, approval as proposed would not affect privacy per-se. However, officers agree with the sentiment of the objections which is that future development, on smaller lots, is more likely to impact adjoining dwellings given reduced separation.

Insufficient Infrastructure to Support Proposed Density

Objectors have noted that there is currently inadequate infrastructure in the locality to service the proposed number of lots. Whilst officers agree this is currently the case, if the proposal were to be approved, conditions could be included requiring relevant upgrades to the satisfaction of relevant authorities.

Conclusion

On the balance of planning policy in respect to the subdivision design response, neighbourhood character, access arrangements, lack of public open space provision and the loss of connectivity within the precinct, the proposal is considered inconsistent with the East Gippsland Planning Scheme and it is recommended that the application should be refused.

APPENDICES AND ATTACHMENTS

Appendices

Nil

Attachments

1. Copy of the planning permit application.
2. Assessment against the East Gippsland Planning Scheme.
3. Copy of the referral authority responses.
4. Copy of objections.

5.2 A Liveable Region

5.2.1 Planning Permit Application 219/2019/P – for refusal – Removal of one native tree at 29A Bay Road, Eagle Point

Endorsed by Jodie Pitkin, General Manager Place and Community

Document No 8461200

In Attendance Nicole Reynolds, Acting Manager Planning

EXECUTIVE SUMMARY

A planning permit application has been made to remove a single (forest redgum) native tree from the property at 29A Bay Road, Eagle Point. The documentation submitted in support of the application, inclusive of additional information requested by the reporting officer is attached at **Attachment 1**.

The application is supported by an arborists report prepared by Tree Limits P/L, which suggests that the tree is in poor health, is a risk to the property, and must be removed. The report has been reviewed by Council officers. Councils arborist advises that the tree is considered to be indigenous, remnant, has significance in the landscape, displays good health and should be maintained and protected.

Throughout the assessment and consideration of the subject application, and following objections lodged (**Attachment 2**) concerns regarding the tree removal have been discussed. The primary issue is that the proposed removal was to facilitate a dwelling development. As the dwelling would encroach into the Land Subject to Inundation Overlay, and there were alternative siting locations available for a dwelling, the planning officer responsible for the assessment of the application has indicated to the applicant and landowner several times that the application would be subject to a recommendation for refusal.

Subsequently a planning permit application was made for a dwelling on the land, and has been issued subject to conditions that vegetation not be removed from the land without a separate permit. Throughout this application and granting of the permit, the officer was assured by the Permit Applicant that through the demonstration of the root protection zone of the tree that it will not be impacted by the proposed dwelling development.

As such, the landowner was again advised that the application was likely to be refused. Additionally, the application was subject to public notification and two objections have been received. The content of the objections relates to the aesthetics and biodiversity significance of the tree proposed to be removed.

On the balance of all considerations, it is recommended that the application for removal of one native tree be refused.

RECOMMENDATION

That Council being the responsible authority under the Planning and Environment Act 1987, resolves to issue a notice of decision to refuse to grant a planning permit for the removal of one native tree at 29A Bay Road, Eagle Point for the following reasons:

- 1. The Proposal is inconsistent with the Planning Policy Framework, specifically Clauses 12 (all), 13.01 through to 13.04, and 15.01-5S.*
- 2. The proposal is inconsistent with the local planning policy framework, specifically Clause 21.04 and 21.12-2 (Eagle Point Strategy Plan).*
- 3. The proposal is inconsistent with the Council-adopted Eagle Point Structure Plan, specifically through the removal of remnant native vegetation where such is encouraged to be protected.*
- 4. The proposal is inconsistent with Clause 52.17, specifically by not avoiding the need for vegetation removal and by not providing a compelling reason for the vegetation removal.*
- 5. The tree which is proposed to be removed is indigenous and remnant and is therefore worthy of protection.*

OFFICER COMMENT / CONTEXT

Discussion

Background

The land at 29A Bay Road, Eagle Point, is a large general residential zoned lot, with a narrow frontage to Bay Road of 3.7 metres. The property, as shown centrally in **Figure 1** expands after the standard residential block depth and expands north, south and north east towards the Eagle Point foreshore reserve, adjacent the public boat launch facility.

This parcel of land is significantly affected by the land subject to inundation overlay (LSIO), except for the southern extent and driveway. The unaffected area is roughly triangular and approximately 724 square metres, with the larger width being to the south of the land. A shed was previously constructed on this land. The tree to be removed is shown at **Figure 1** in plan view. The full tree is shown at **Figure 2** in current condition as at 21 May 2020.



Figure 1: 29A Bay Road in neighbourhood context. Tree (red) subject to application. Trees (green) approximate location of comparative trees

In addition to being restricted by the LSIO, Council previously engaged with the landowner to provide drainage infrastructure on the land to service adjacent properties. The creation of easements over such infrastructure results in a further constrained building envelope. This information was revealed by the landowner through the application for development of a dwelling.



Figure 2: Subject tree, with fill material for dwelling in background (photo taken 21 May 2020 by officer)

Permit Assessment

Application 219/2019/P was submitted initially to council on 18 July 2019. Additional information was initially requested from the applicant informally, as the tree was identified as native, and required a planning permit in accordance with Clause 52.17 of the East Gippsland Planning Scheme. If the tree is permitted to be removed, an offset must be secured and as such a Native Vegetation Information Management (NVIM) report was required to be submitted alongside the permit application.

The initial NVIM report (02 August 2019) was completed incorrectly, with the tree diameter measurement used to populate the circumference field. A revised report was prepared on 09 August 2019. On the basis of the report 1 small (less than a benchmark circumference) scattered tree was proposed to be removed. From a biodiversity perspective, the required offset is not substantial.

Assessment of applications for vegetation removal are subject to public notification under Section 52(a) of the *Planning and Environment Act 1987*. Following receipt of a complete and accurate NVIM report, the application was made subject to notification. This attracted the first objection (see Attachment 2) from a neighbour. The response provided justification for further review, and the application was referred to qualified Council officers for peer review of the application.

This review found deficiencies in the submitted application, and as a result, on 13 September 2019 the following additional information request was sent to the permit applicant:

Council Officers have requested a peer review of your planning permit application by Council's Arborist and we now require the following additional information based on the peer assessment:

- *The report is inadequate on this tree.*
- *The tree is listed as a native, however it is an indigenous and most likely remnant tree.*
- *The report should ideally include;*
 - *More accurate dimensions of trunk and canopy,*
 - *photos of structural integrity issues noted in report; and*
 - *reason for removal*
- *If not being removed for building, then the occupancy rate for risk management does not increase.*
- *Council's records indicate the tree is well separated from works which were approved for drainage construction and associated fill. Further evidence to support the claim that the drainage and fill has compromised the tree is required.*

This information is requested pursuant to Section 54(1) of the Planning and Environment Act 1987.

Dwelling Assessment

On 16 December 2019, an application 392/2019/P was submitted for development of a dwelling. Additional information was requested from the applicant on 2 January 2019, with key points being:

- Plans must demonstrate any and all existing development on the land (noting an additional permit trigger might have applied).
- Plans must demonstrate root protection zone of the native vegetation on the land, noting that no permit has been granted for its removal and the responsible authority maintains the position that the tree not be removed without significant justification.
- Demonstrate through the application that the purposes and decision guidelines of the land subject to inundation overlay are met.

The application was referred to East Gippsland Catchment Management Authority (CMA). Initially, CMA objected to the grant of the permit, however additional information/land history was provided by the applicant directly to CMA in relation to the history of works undertaken and previous flood advice provided indicating the proposed siting would be supported. Revised referral response was provided on 03 March 2020.

Officers maintained concerns regarding the protection of the tree and were furnished with a plan showing the tree root protection zone on 16 March 2020. Subsequently the planning permit for the dwelling was granted on 16 April 2020, with requirement that the plans be amended to show the root protection zone fully dimensioned. The root protection zone plan endorsed 27 May 2020 shows fill material from the dwelling will encroach a maximum 10 percent, which is the maximum tolerance amount in accordance with *AS 4970 -2009 Protection of Trees on Development Sites*. It is noted that the fill material currently located on the site in an uncontrolled manner may impact on the root protection zone and the landowner was made aware of Council's concerns by email on 29 May 2020.

Following the submission of the root protection zone diagram, officers asked the landowner if the tree could therefore be retained without removal, however the landowner maintained that the position of the tree was dangerous and required removal, and he wanted to proceed with the application.

Officers have advised the permit applicant and landowner on a number of occasions from 13 September 2019 through to the present day that it is unlikely that the application for removal of the tree would be supported.

Council Plan

This report has been prepared and aligned with the following goals set out in the Council Plan 2017-2021:

A Liveable Region Goal 2 - Sustainable planning and growth supports thriving townships, while maintaining our commitment to sustainability and protecting our natural environment

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 planning permit application has been assessed in accordance with the provisions of the *Planning and Environment Act 1987*. A planning permit is required for removal of native vegetation under *East Gippsland Planning Scheme* Clause 52.17.

The purpose of the Native Vegetation provision are:

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 decision guidelines of the provision are:

1. *Efforts to avoid the removal of, and minimise the impacts on, native vegetation should be commensurate with the biodiversity and other values of the native vegetation and should focus on areas of native vegetation that have the most value. Taking this into account consider whether:*
 - *the site has been subject to a regional or landscape scale strategic planning process that appropriately avoided and minimised impacts on native vegetation*
 - *the proposed use or development has been appropriately sited or designed to avoid and minimise impacts on native vegetation*
 - *feasible opportunities exist to further avoid and minimise impacts on native vegetation without undermining the key objectives of the proposal.*
2. *The role of native vegetation to be removed in:*
 - *Protecting water quality and waterway and riparian ecosystems, particularly within 30 metres of a wetland or waterway in a special water supply catchment area listed in the Catchment and Land Protection Act 1994.*
 - *Preventing land degradation, including soil erosion, salination, acidity, instability and water logging particularly:*
 - *where ground slopes are more than 20 per cent*
 - *on land which is subject to soil erosion or slippage*
 - *in harsh environments, such as coastal or alpine areas.*
 - *Preventing adverse effects on groundwater quality, particularly on land:*
 - *where groundwater recharge to saline water tables occurs*
 - *that is in proximity to a discharge area*
 - *that is a known recharge area.*
3. *The need to manage native vegetation to preserve identified landscape values.*
4. *Whether any part of the native vegetation to be removed, destroyed or lopped is protected under the Aboriginal Heritage Act 2006.*
5. *The need to remove, destroy or lop native vegetation to create defensible space to reduce the risk of bushfire to life and property, having regard to other available bushfire risk mitigation measures.*
6. *Whether the native vegetation to be removed is in accordance with any Property Vegetation Plan that applies to the site.*
7. *Whether an offset that meets the offset requirements for the native vegetation to be removed has been identified and can be secured in accordance with the Guidelines.*

Assessment

The application made and considered, despite the request for additional information, does not adequately address the avoid and minimise principles of the Scheme. Through the assessment of the applications, the landowner was asked to consider also avoiding construction within the LSIO, however persisted in the desired dwelling location which brings the dwelling into conflict with the tree.

By demonstrating that the tree did not need to be removed to facilitate dwelling development, the remaining consideration appears to be future safety considerations. This does not avoid or minimise the loss of vegetation appropriately.

The Eagle Point Structure Plan adopted by Council in 2019 sets a priority for protection of vegetation within the settlement. The tree is a part of the community landscape values and should be retained.

The tree is not identified for removal to reduce the risk of bushfire to life and property. Although within an identified bushfire prone area, the tree cannot be removed without a planning permit to create defensible space as the property is not within a bushfire management overlay, and the dwelling could reasonably have been sited elsewhere on the land if this was a concern.

For the reasons outlined in the officer recommendation, the application to remove one native tree cannot be supported.

Organisational

- **Financial**

Nil

- **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.

The recommendation to refuse to grant a planning permit for removal of a native (indigenous and remnant) tree contributes to carbon storage and prevents potential carbon emissions of a significant tree. Given how many trees have been removed from the landscape in the past months, every action should be taken to preserve healthy and viable trees across East Gippsland.

Consultation

The planning permit application was subject to public notification via letters to neighbours in accordance with Section 52 (a) of the *Planning and Environment Act 1987*.

Two objections have been received and are provided at **Attachment 2**.

The objections, in summary, document that the tree has been in place for several decades during which time no significant limbs have fallen. The tree provides significant habitat for local wildlife, especially bird species. Follow up enquiries have been made in the intervening months, and when fill materials were dumped on site and adjacent to the tree, complaints were lodged with council to ensure no approval had been granted.

The application was peer reviewed internally by the Parks and Gardens Coordinator and Arborist.

APPENDICES AND ATTACHMENTS

Appendices

Nil

Attachments

1. Submitted planning permit documentation including additional information (NVIM version 2)
2. Copy of redacted objections

5.2.2 Environmental Sustainability Strategy Annual Report Review 2018 - 19

Authored by Rebecca Lamble, Sustainability Officer

Endorsed by Fiona Weigall, General Manager Assets and Environment

Document No 8501668

In Attendance Simon Arkinstall, Manager Sustainability and Waste Minimisation

EXECUTIVE SUMMARY

The Environmental Sustainability Strategy Annual Report 2018-19 provided at **Appendix 1** outlines the major achievements, project highlights and key performance indicators achieved against the Environmental Sustainability Strategy by Council during 2018-19. The Annual Report monitors and reports on the actions of the East Gippsland Shire Council Environmental Sustainability Strategy and is the fourth report of its kind presented to Council. This report is normally provided earlier in the year when data for the previous year becomes available. This year the report's compilation has been delayed by bushfires and the need to give priority to managing the solar installation projects. The next report (for 2019-20) is planned to align with the timing of the Council Annual report.

The Environmental Sustainability Strategy Annual Report is an important tool for Council to review the progress of the Strategy's implementation. It is also a mechanism for sharing and highlighting Shire activities and shares the successes and challenges of activities and actions identified in the Environmental Sustainability Strategy.

Highlights within the Strategy Annual Report include improvements in Council's resource use, and actions implemented to improve information and provide education activities for Council and the community. These actions include installation of grid connected solar on the Lakes Entrance Aquadome, Bairnsdale City Oval and The Hub in Bairnsdale and a range of other significant actions detailed within the report.

Following consideration by Council, the Strategy Annual Report will be made publicly available and will be used to show case the environmental sustainability work that Council has implemented during the 2018-2019 period.

The current Environmental Sustainability Strategy is now in review, with a new strategy to be prepared and presented to Council later in the year.

RECOMMENDATION

That Council:

- 1. endorses the Environmental Sustainability Strategy Annual Report 2018-19, as provided at Appendix 1; and***
- 2. approves release of the Environmental Sustainability Strategy Annual Report 2018-19 provided as Appendix 1 to the community electronically.***

OFFICER COMMENT / CONTEXT

Discussion

Council adopted the current East Gippsland Environmental Sustainability Strategy on 3 March 2015 (refer Item No 5.2.1). The Strategy outlines Council's policy position on issues relating to the protection, preservation and enhancement of our environment. It provides practical initiatives that deliver Council's primary environmental and sustainability commitments.

The Strategy ensures that environmental sustainability is a considered function of Council and is implemented as part of the organisation's business responsibilities and management practices. The Strategy also continues to provide guidance for the sustainable use and enjoyment of the significant natural attributes of the East Gippsland Shire.

Key issues, priority objectives and actions for East Gippsland identified within the Strategy relate to Council's areas of influence, specifically what Council can act on, regulate or advocate for.

Council Officers use a number of data management tools to assist in collecting data for the Strategy Annual Report, particularly for utility use. This requires the gathering of information and cross referencing same against different data tools to ensure data accuracy.

This Annual Report does not attempt to provide details on every action undertaken rather it focusses on impacts, major achievements and project highlights.

Highlights Achieved

- Council progressed the strategic planning and review into electric vehicles, including participating in a Gippsland wide electric vehicle feasibility study.
- Council was involved in 8 school waste education sessions and Council events across the community with an estimated reach of 250 people.
- Continued facilitation of the Sustainability Victoria funded ResourceSmart Schools program.
- Completed the business cases for the second stage of the Bright Futures Renewable Energy Project, which included the East Gippsland Shire Solar Bulk Buy, Multi-site Feasibility Study and Energy Info Hub.
- Installation of grid connected solar on the:
 - Lakes Entrance Aquadome, which at 46 kW it is the largest installation on an East Gippsland Shire Council building to date;
 - Bairnsdale City Oval, had a 10.5 kW solar system installed with 15kW inverter (funded in conjunction with Sustainability Victoria); and
 - The Hub in Bairnsdale also had a 7-kW solar system installed.
- Implemented Streams 1 and 2 of the Local Government Energy Saver program (LGES) and applied for Stream 3 funding. The aim of the program is to help eligible regional Local Governments identify, prioritise and implement energy efficiency and renewable energy upgrades on Council owned and managed buildings:
 - Stream 1: Establish a Local Government Corporate Emissions Profile and Reduction Plan which was completed in late 2018.
 - Stream 2: Local Government Owned Facility Energy Audits resulting in energy audits being undertaken on eight of Council's high energy use facilities by Ironbark Sustainability consultants, (\$25,000) with the final report being submitted in January 2019.

- Applied for Stream 3: Implementation of Retrofit Work. Lodged a (successful) funding application seeking \$100,000 from Sustainability Victoria, using matched EGSC funds of \$100,000 (allocated in 2018/19 and 2019/20 capital works project for energy efficiency upgrades) to implement energy efficiency and renewable energy upgrades to Council buildings including:
 - Squash and Table Tennis, 64 Great Alpine Rd, Lucknow
 - Library, 1 Ruskin Street, Orbost
 - AJ Freeman Reserve, Main Rd, Paynesville
 - East Gippsland Historic Society, 40 MacArthur St, Bairnsdale
 - Bairnsdale City Oval, MacArthur St, Bairnsdale
 - East Gippsland Art Gallery, 2 Nicholson St, Bairnsdale
 - Library, 22 Service St, Bairnsdale
 - Corporate Centre & Council Chambers, 273 Main St, Bairnsdale
 - The Forge, McKean St, Bairnsdale
- A Roadside Weeds and Pests Program Control Plan was funded by the Victorian Government for 2018-19. This funding and in-kind contribution from Council staff resulted in over 480 km of roadside weeds treated in 2018-19.
- In total 453 km of Regionally Controlled Weeds and 27 km of Regionally Prohibited Weeds were treated under the Catchment and Land Protection Act 1994.
- Council's operations were responsible for 6,548 tonnes of CO₂-e (equivalent) emissions, a decline of 1,052 tonnes compared to the baseline in 2014/15. This excludes landfill emissions, or emissions from contractors or refrigerants.
- Despite using less energy from the following, the cost has risen and increased by \$48,032 for electricity in Council buildings and facilities; \$53,561 for residential streetlights; and \$6,340 for bottled gas at the Lakes Entrance Aquadome when compared to 2017- 18 financial year.
- However, mains gas use was down by 2,525 GJ making a saving of \$32,150 compared to the previous financial year. This was due to the cogen system not being used during the BARC pool upgrade.
- Water use was 130,532kL at a cost \$280,652, similar to the previous financial year.
- Four quarterly Environment Connect newsletters were developed and distributed electronically with hardcopies made available in all service centres and libraries. There was an average open rate of 37%, which is 13% higher than the industry average.

The following community small grant environmental projects received funding in 2018/19:

- Anglican Earth Care Gippsland Inc: Bush Learning Program Pilot, \$2,440
- Swifts Creek Ensay Landcare Group: A Poet's Walk – Story in Stone, \$5,000
- Great Alpine Gallery Inc: Living River, \$4,000
- Regional Centre of Expertise on Education for Sustainable Development (RCE Gippsland): East Gippsland Sustainable Schools Expo, \$2,800
- Marine Mammal Foundation: Marine Champions - Inspiring tomorrow's change-makers! \$4,469
- Bairnsdale Recycling Enterprise Inc: Reducing landfill mattress pick up \$4,750

Challenges

There were significant challenges during 2018/19 most notably the drought in East Gippsland being declared due to a one in 20-year rainfall deficiency. Farmers faced the third failed spring in a row and many spent thousands of dollars a week to feed stock. As a result of low rainfall, the Orbost phytocapping revegetation project was severely impacted with big losses onsite of about 70% of 2,000 plants. However, Council's parks and gardens crew planted more succulent varieties in streetscapes as a result. The low rainfall also meant less freshwater inflows into the Gippsland Lakes than previous years.

Other challenges related to waste, resulting from global changes to the recycling industry. Principally when China stopped taking Australia's recyclable plastics at the beginning of 2018, it became apparent how dependent the industry was on shipping waste overseas.

The implementation of sustainability initiatives is also reliant on external funding. Whilst some funding was attracted during the year there were also unfortunately some unsuccessful funding applications:

- \$50,000 to the Renewable Community Program for solar and energy efficiency on various community facilities (submitted Sept 2018)
- Community Climate Change Adaptation grants (3CA) (submitted March 2019 but informed of outcome in Sept 2019):
 - \$75,000 for climate change indicators on Boole Poole peninsula
 - \$75,000 for stress testing and vulnerability of infrastructure
- \$47,000 for Collaborative Council Grant to develop a Gippsland wide community emissions profile (with Gippsland local government partners)

This either delayed or prevented the implementation of these initiatives.

Strategy Review Process

The current Environmental Sustainability Strategy is now in review, with the process to align with the Council Plan timelines taking into consideration resourcing, priorities and community consultation. Whilst this review process is undertaken, Officers will continue to focus on key areas of priority as evidenced through this Annual Report.

Council Plan

This report has been prepared and aligned with the following goals set out in the Council Plan 2017-2021:

A Liveable Region Goal 2 - Sustainable planning and growth supports thriving townships, while maintaining our commitment to sustainability and protecting our natural environment

The East Gippsland Shire Council Plan 2017-21 recognises the importance of our natural environment to the community that live in and visit East Gippsland based on the contribution it makes to our amenity, maintenance of biodiversity, tourism and economic activity. Through proactive planning, relevant design work and strong advocacy our aim is to ensure East Gippsland's natural and built environment is the product of leading practices that ensure its sustainability, viability and ability to meet community needs now and in the future.

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*.

Community

The Strategy gives clear recognition to the very important environmental characteristics of East Gippsland and the important role that the environment plays economically and socially in the operation of our community.

Organisational

- **Financial**

The Annual Report was developed in-house and will only be released electronically, resulting in no direct financial implications associated with this report. The actions reported on within the annual report had budget and staff time costs addressed through Council's Annual Budget.

The projects that the Annual Report summaries have been delivered within budget including those which attracted grant funding to co-fund their implementation.

Many of the projects have assisted to deliver efficiencies and savings for the organisation.

Human Resources

Council Officers will continue to initiate the implementation of the Strategy and associated actions as part of normal work requirements.

- **Amenity/Environment**

The Strategy and actions within are all focused on improving the environment. The key Strategy objectives are to:

- ensure East Gippsland Shire makes the pursuit of environmental sustainability a priority when undertaking its operations and fulfilling its responsibilities;
- ensure East Gippsland Shire develops new, and strengthens existing, partnerships to effectively deliver environmentally sustainable outcomes;
- ensure East Gippsland Shire and the people of East Gippsland are informed on ways to better protect and enhance our unique environment; and
- promote the collective responsibility for environmental sustainability by engaging community and supporting change.

- **Climate Change**

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

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

The Environmental Sustainability Annual Report is the main mechanism for voluntary public reporting of Council's corporate emissions

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

The intent of the Environmental Sustainability Annual Report is to provide an overview of Council's corporate and strategic activities and actions in relation to environmental outcomes, of which a key theme is climate change.

Consultation

Broad consultation was undertaken whilst preparing the Environmental Sustainability Strategy and when implementing the specific actions and projects that resulted from the strategy.

Providing information to the local community in relation to environmental sustainability is recognised as an important tool in 'developing a culture of sustainability' within the community. Effective dialogue and information sharing not only connects the community with Council activities, but also helps everyone understand what Council can and cannot achieve. Communication and engagement, particularly sharing the successes and challenges of activities and actions, is a fundamental component of the implementation of the Strategy.

In addition to developing the Strategy Annual Report as a means of communicating outcomes to stakeholders and interested community members, officers have also developed 'Environment Connect'. This is a quarterly e-newsletter which updates the community on the environmental activities implemented by Council and community organisations as well as providing details of environmental sustainability initiatives. Environment Connect also outlines opportunities for community involvement.

APPENDICES AND ATTACHMENTS

Appendices

1. Environmental Sustainability Strategy Annual Report 2018-19

Attachments

Nil

5.3 A Growing Region of Opportunities

5.3.1 Omeo Mountain Bike Destination Project Business Case and Master Plan

Authored by Tom Weatherall, Manager Assets and Projects

Endorsed by Fiona Weigall, General Manager Assets and Environment

Document No 8513900

In Attendance Tom Weatherall, Manager Assets and Projects

EXECUTIVE SUMMARY

Council has been pursuing and progressing the development of the Omeo Mountain Bike Destination Project (the Project) over the past four years. Adventure Tourism, particularly mountain biking, is one of the fastest growing tourism markets in Australia. Attributes of the area in immediate vicinity of Omeo, including the spectacular natural scenery, iconic terrain and rock formations, and significant useable elevation combine to provide an excellent opportunity for development of a large-scale trail destination with significant economic development and associated social benefits for the township.

Council approved funding of \$1,500,000 as part of the 2019/20 budget process, complemented by a \$1.5M grant provided by the Commonwealth Government Building Better Regions Fund and \$1.0M grant from the State Government Regional Tourism Infrastructure Fund. The funding is phased over the 2019/20 and 2020/21 financial years.

A tender was awarded by Council in May 2019, to a consultant group led by Biosis Pty Ltd, for the development of a detailed Master Plan (**Appendix 2**) for the Project. In parallel to the Master Plan development, an Omeo Mountain Bike Destination Business Case has also been developed. The Business Case can be found at **Appendix 1**.

The Master Plan provides all needed information to progress the trail to construction stage, detailing all technical requirements for the full 121km trail network, in addition to significant investigative biodiversity and heritage investigations needed to progress relevant required approvals. Associated planning and approval processes currently in progress will also encapsulate the full scope of work, to ensure the project in its entirety is in a shovel ready state.

This work ensures that all approvals and associated information and specifications will be in place for the entire track length – 121km. It also allows Council to tender all high and medium priority tracks as a parcel for stage one of the works and award a track length based on the tender submissions received. The approvals and works in the masterplan also allow the remaining stages and lengths of track to be constructed as funds become available. In short this means that the entire track will be 'shovel ready'.

This report presents the abovementioned reports to Council for receipt and clarifies next steps to progress the Omeo Mountain Bike Destination Project to the construction stage.

RECOMMENDATION

That Council:

- 1. receives and notes the Omeo Mountain Bike Complex Master Plan; and*
- 2. receives and notes the Omeo Mountain Bike Destination Business Case;*
- 3. authorises the Chief Executive Officer to enter into a Memorandum of Understanding or similar agreement with the Victorian government to formalise the land tenure arrangements for the Omeo Mountain Bike Trail and any necessary offset sites;*
- 4. notes the intent to tender construction of all high and medium priority trails identified in the Omeo Mountain Bike Complex Master Plan; and*
- 5. authorises officers to seek further external funding for any budget shortfall to deliver the trail network as detailed in the Omeo Mountain Bike Complex Master Plan.*

OFFICER COMMENT / CONTEXT

Discussion

The township of Omeo has been identified as having potential to become a mountain biking destination of significance. The opportunity is presented largely due to spectacular natural scenery, iconic terrain and rock formations, and significant useable elevation. The proposed project area directly integrates with the small but well serviced township of Omeo. These factors combine to provide an excellent opportunity for development of a large-scale trail destination with significant economic development and associated social benefits for the township.

Council has been pursuing and progressing the development of the Omeo Mountain Bike Destination Project (the Project) over the past four years. The Project is seen to offer potential for significant economic and social benefits. Adventure Tourism, particularly mountain biking, is one of the fastest growing tourism markets in Australia.

An Omeo Mountain Bike Feasibility Report was prepared by Dirt Art during 2017. The Feasibility study, presented to Councillors at a briefing session in April 2018, included economic assessment, trail assessment, project development strategies and detailed operational considerations. The report identified a trail network in excess of 170 km's could be established and that Omeo could become a unique and appealing mountain bike destination. Conceptual trail design identified potential for diverse experiences suitable for all ability levels, an attribute that was leveraged to maximise visitation and economic development opportunity.

Council Officers produced several reports following the Feasibility Report, including preliminary Environmental and Heritage Reviews and several other supporting documents. An update to Councillors was provided in January 2019.

Council approved funding of \$1,500,000 as part of the 2019/20 budget process, complemented by a \$1.5M grant provided by the Commonwealth Government Building Better Regions Fund and \$1.0M grant from the State Government Regional Tourism Infrastructure Fund. The funding is phased over the 2019/20 and 2020/21 financial years.

A tender was awarded by Council in May 2019, to a consultant group led by Biosis Pty Ltd, for the development of a detailed Master Plan for the Project. The Master Plan is intended to provide all needed information to progress to the trail construction stage. The Master Plan final report was presented to the Project Control Group on schedule in March 2020. It is now complete with further work currently being undertaken to formalise and Vegetation Offset Management Plan within the project area.

Business Case

While the Omeo Mountain Bike Feasibility Report prepared by Dirt Art during 2017 provided a sound level of economic analysis, the \$1.0M grant from the State Government Regional Tourism Infrastructure Fund required the development of a detailed Business Case to support the investment.

The Omeo Mountain Bike Destination Business Case (the Business Case) has been developed alongside development of the Master Plan for Project. The Business case is provided as **Appendix 1**. The Business Case has an important role in assisting to ensure that there is alignment between the Project design and factors that will drive the desired economic benefits.

The Business Case takes a detailed and conservative approach to examining growth and trends in mountain biking tourism, the potential impact that the development of the Project will have on Omeo and beyond through both the construction and the operational phases of the Project.

The Business Case made the following conclusions based on construction of 114km of trail network, incorporating construction costs of \$3.4M and maintenance costs over 10 years of \$1.02M:

- The present value of total benefits generated by the investment in the Project exceeds the total costs of the Project over a 10-year period by a factor of 4.7 times;
- The economic benefits that can be realised are driven primarily by visitor expenditure in the local economy and will be maximised when visitors stay for longer periods of time;
- The Project will provide an increase in direct and indirect employment opportunities in the order of 16 Full Time Equivalent (FTE) Jobs during construction and the potential to create 20 FTE Jobs during the first year of operation; and
- The Project design is appropriately aligned to the mountain biking markets that are showing the greatest current and future potential for growth, in particular gravity trails and ensuring that all levels of riders are accommodated.

The Master Plan comprises a design for a total of 121km of trail, including a mix of trail grading for all abilities targeting a broad range of markets. The Masterplan has identified a total estimated cost for all trails at \$5.8M, as opposed to the \$3.4M identified in the business case.

The Master Plan includes a prioritised and staged approach to implementation, as summarised:

- High Priority – 55km - \$2.9M
- Medium Priority – 36km – \$1.5M
- Low Priority – 30km - \$1.4M

Based on the Master Plan cost estimates, it is envisioned that, at a minimum, 55km of trail could be developed within the existing budget. Notwithstanding these estimates, it is proposed that elements of the 'Medium Priority' trails group would be included as separable portions within a Request for Tender process should it eventuate, to allow these to be pursued in the event that tendered prices allow for it.

Sensitivity Analysis was undertaken as part of the Business Case to examine alternate scenarios. 3 additional cases were examined based on a reduction in trail users who have an overnight stay, including 10%, 20% and 30% reduction's in visitation. In the worst-case scenario modelled, a 30% reduction in anticipated visitation, the Project returns a benefit cost ratio of 2.7. Both the 2017 report and conducted by Dirt Art and the 2019 Business case, emphasise that trail quality, rather than quantity or total length, in addition to supporting infrastructure to build the visitor experience, is critical to success.

The Business Case also identifies a number of opportunities that should be considered if activation of the Project is to result in the anticipated benefits as quickly as possible. This includes addressing:

- Marketing and Advertising;
- Effective Signage;
- Event attraction; and
- Identifying a range of potential commercial opportunities that could be capitalised on.

The importance of Livingstone Park is noted in the Business Case, as it will play an important role in providing effective Trail Head Infrastructure and experience. The location of Trail Head infrastructure in Omeo being in a central and easily accessible place in town is seen as one of the key advantages of the Project, compared to other Mountain Biking facilities. The Trail Head at Livingstone Park makes the connection to town and to local businesses, accommodation and other services, all of which will be in riding or walking distance.

Master Plan

Focusing on development of the trail network itself, the Project Master Plan has been produced by a consortium of consultants led by Biosis Pty Ltd, a contract awarded by Council in May 2019. The development of a trail Master Plan provides a fully designed trail network, having regard for:

- The anticipated users and skill levels of riders to be accommodated;
- Topography, soil and vegetation types, natural and historical features;
- Cultural sensitivity and historical significance; and
- Vegetation removal and other approval requirements to support all required approvals.

The Masterplan, included as **Appendix 2**, has included detailed examination of a wide range of factors and significant on ground examination and ground truthing. The considerable design and investigative work provided all information needed to progress planning approvals and all technical information needed to tender construction of the project. A Project Control Group (PCG) was formed to oversee development of the Masterplan comprising representation of DELWP, Parks Victoria, funding bodies and community representatives. The final Masterplan has been presented to the PCG for approval prior to presentation to Council.

The complex flora and fauna assessment formed a key component of the Master Plan. The assessment identified vegetation impacts of approximately 18.2 ha in total area. This impact will need to be 'offset' as part of the planning permit process. Specific offsets requirements have been assessed as:

- 0.332 General Habitat Units
- 4.158 Species Specific Units of Habitat for Rock Grevillea, *Grevillea willisii*
- 10.454 Species Specific Units of Habitat for Shining Anchor Plant, *Discaria nitida*
- 6.502 Species Specific Units of Habitat for Honey Hood-orchid, *Caladenia hildae*

Council Officers have been working with the Department of Environment Land Water and Planning (DELWP) to seek their agreement to establish an offset area within the 2000ha project site. DELWP have provided a draft Memorandum of Understanding (MoU) to Council to facilitate this outcome and Biosis are continuing to undertake detailed work on assessment and planning in preparation for registering an appropriate area for vegetation offsets. Council would be required to manage the offset area for a period of 10 years. It is currently anticipated that this area would be approximately 150 ha in size.

The Project scope and trail network involves development on public land. There is a need to determine a sustainable approach to project implementation and ongoing management with respect to land tenure and governance arrangements.

Three (3) different land tenures and associated management arrangements are currently in place across the project area:

- Mount Sam State Forest – which is unallocated Crown Land managed by various provisions in the *Land Act 1958* and the *Forests Act 1958*;
- Mount Mesley Reserve – a Reserve under the *Crown (Lands) Reserve Act 1978* for which Council is the appointed Land Manager as a Committee of Management; and
- Oriental Claims Historic Area – also reserved un the *Crown (Lands) Reserve Act 1978* and currently managed by Parks Victoria for the purpose of preserving historic heritage of the area.

The Business Case has undertaken a detailed analysis of the potential management options available given the complexity of the current land management arrangement and examines the feasibility of:

- A single Agency Management approach
- A new or special purpose organisation
- A Partnership of Memorandum of Understanding between existing land managers
- Multiple Agency Management

The strengths and weaknesses of each potential option is detailed within the Business Case. It has been recommended to enter into an MoU between Council, DELWP and Parks Victoria, to progress and manage the project as a collaborative approach by the land managers, in the first instance.

The proposed MoU seeks to establish collaborative arrangements for all Parties to work together constructively to manage the facility, establish an operational framework, provide accountabilities for each of the Parties and prescribe a set of maintenance standards for the trails and associated infrastructure. This agreement may them be formalised into a Committee of Management arrangement for the trails and any potential native vegetation offset sites, providing a stronger tenure arrangement.

Council Plan

This report has been prepared and aligned with the following goals set out in the Council Plan 2017-2021:

A Growing Region of Opportunities Goal 1 - East Gippsland is a region of economic opportunity with strong industry sectors, a skilled workforce and local jobs

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*.

Community

The project aims to provide direct benefit for the community of Omeo. The proposed project area connects directly with the Omeo township, through its integration with Livingstone Park in close proximity to the town's central commercial and service area. The Project is seen to offer potential for significant economic and social benefits for the township and broader region.

Organisational

- **Financial**

The Business Case and inclusive benefit cost analysis is modelled on construction cost of \$3.4M. This is largely comparative to the current budget allocation for trail construction of \$2.9M and anticipated 10-year costs associated with management of vegetation offsets of \$434,000.

Likewise, the Business Case assumes an operational expenditure of \$102,000 per year, or \$1.02M over 10 years, in its workings. This is calculated based on 3% of capital expenditure. The 2017 Dirt Art report presented to Council in April 2017 referenced anticipated maintenance costs to be 2% - 6% of capital, or approximately \$1000 - \$1,500 per year per km of trail, consistent with the estimate provided in the Business Case.

The capital works budget for the Project is \$4.02M comprised of \$1,520,358 from Council, additional funding through the Federal Government Building Better Regions Fund of \$1,500,000 and the Victorian State Government, Regional Tourism Infrastructure Fund of \$1,000,000.

Additional budget will potentially be required to build the entire 121km of trail and associated infrastructure. There is potential for this additional budget to be sourced externally from Victorian and/or Australian government funding streams. Once the project is tendered, the anticipated funding shortfall will be able to be quantified.

- **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.

- **Environmental Impacts**

As detailed in the Masterplan and Business Case, the trail traverses through State forest and vegetated areas. Under State planning legislation the removal of native vegetation requires formal offsetting. These offsets have been quantified in the reports and the manner in which they are achieved and managed is under discussion with DELWP and Parks Victoria.

Consultation

The Omeo Mountain Bike Complex Master Plan and Destination Business case have been developed in consultation with a Project Control Group (PCG). The PCG is made up of other relevant Government agencies and community representatives.

A further broader community update will be provided in relation to the Omeo Mountain Bike Complex Business Case, Master Plan and project generally.

APPENDICES AND ATTACHMENTS

Appendices

1. Omeo Mountain Bike Destination Business Case
2. Omeo Mountain Bike Complex Master Plan

Attachments

Nil

5.4 Good Governance

5.4.1 Draft Budget 2020/21 – Adoption for Public Exhibition

Authored by Liz Collins, Manager Finance

Endorsed by Peter Cannizzaro, General Manager Business Excellence

Document No 8521375

In Attendance Liz Collins, Manager Finance

EXECUTIVE SUMMARY

Under the provisions of the *Local Government Act* 1989 (the Act), Council is required to prepare and adopt an annual budget by 30 June each year. Section 129 of the Act requires Council to give public notice of a proposed budget. A person then has a right to make a submission on the proposed budget in accordance with section 223 of the Act.

The draft Budget 2020/21 (the draft Budget) has been prepared and is provided at **Appendix 1**.

The draft Budget proposes the delivery of a range of projects and programs to the East Gippsland community in 2020/21, while forecasting an operating surplus of \$19.845 million for the year. Taking into account income to be received from grants and contributions for capital works, the underlying surplus is \$252,000.

A Capital Works program of \$58.605 million is proposed, along with \$2.041 million for landfill rehabilitation works.

As well as supporting a range of operating initiatives for the forthcoming year, the draft Budget continues to retire old debt, maintains existing service levels, and enables Council to meet the obligations imposed on it by the Victorian Government in relation to the management of waste services - all within the confines of the imposed rate cap.

Whilst the rate cap set by the Victorian Government's Fair Go Rates System is 2 percent, Council proposes a zero rate percentage increase so that general rates and the municipal charge will not increase from the average of the 2019/20 general rates and municipal charge. Domestic waste collection charges sit outside of the rate cap and it is proposed that domestic waste collection charges be increased by 2 percent over the 2019/20 charges. User fees and charges have been kept at the 2019/20 level with no increase proposed.

Included in the proposed Budget is forecast financial information for the four years from 2020/21 to 2023/24. The financial information and associated financial indicators that are used to assess financial sustainability, all indicate Council's ongoing financial sustainability over the short to medium term.

Part of the statutory process for giving public notice of the proposed budget is for Council to declare a range of information regarding rates and charges and the budget. These requirements are included in the recommendation that follows.

The draft Budget 2020/21 is now presented for Council to consider adopting it for public consultation.

RECOMMENDATION

That Council, having prepared the draft Budget 2020/21 provided at Appendix 1, in accordance with section 127 of the Local Government Act 1989:

- 1. authorises the Chief Executive Officer to give public notice of the draft Budget 2020/21 in accordance with section 129 of the Local Government Act 1989 and the Local Government (Planning and Reporting) Regulations 2014;*
- 2. advertises its intention, pursuant to section 223 of the Local Government Act 1989, to invite written submissions until 12 noon on Friday 24 July 2020;*
- 3. appoints a Committee comprising the whole of Council with a quorum being five Councillors, to hear and consider submissions received on the draft Budget 2020/21, pursuant to section 223 of the Local Government Act 1989;*
- 4. nominates 1.00 pm on Tuesday 11 August 2020 as the time and date for the Committee to hear submissions; and*
- 5. notes that the following declarations are proposed for formal adoption at the Council Meeting to be held on Tuesday 25 August 2020 at 6.00 pm:*

- (A) An amount of \$58,728,746 be declared as the amount that Council intends to raise by general rates, municipal charge and waste collection charge, which is calculated as follows:*

<i>Category</i>	<i>Income</i>
<i>General Rate</i>	<i>\$33,259,952</i>
<i>Commercial / Industrial</i>	<i>\$ 5,635,885</i>
<i>Farm Rate</i>	<i>\$ 4,745,185</i>
<i>Total Rates</i>	<i><u>\$43,641,022</u></i>
<i>Charges</i>	
<i>Municipal Charge</i>	<i>\$ 7,105,850</i>
<i>Kerbside Waste with recycling collection (120 litre bin)</i>	<i>\$ 1,085,064</i>
<i>Kerbside Waste with recycling collection (240 litre bin)</i>	<i>\$ 11,583</i>
<i>Kerbside Waste with recycling and green waste collection (120 litre bin)</i>	<i>\$ 6,726,200</i>
<i>Kerbside Waste with recycling and green waste collection (240 litre bin)</i>	<i>\$ 61,087</i>
<i>Rural Waste Collection Charge</i>	<i><u>\$ 97,940</u></i>
<i>Total Charges</i>	<i><u>\$15,087,724</u></i>
<i>Total Rates and Charges</i>	<i><u>\$ 58,728,746</u></i>

- (B) The general rate be declared for the period commencing 1 July 2020 and concluding on 30 June 2021:*

- i) It be further declared that subject to paragraph (iii) of this Part, the general rates be raised through the application of differential rates.*
- ii) The following rates in the dollar apply to property classifications:*

<i>Category</i>	<i>Rate in the Dollar</i>
<i>General Rate</i>	<i>0.00392622</i>
<i>Commercial/ Industrial Rate</i>	<i>0.00569302</i>
<i>Farm Rate</i>	<i>0.00314098</i>

- iii) **Differential rates apply to rateable properties with the following characteristics:**
- (a) **General**
General land is any land that is:
- **Used primarily for residential purposes; or**
 - **Unoccupied but zoned Residential, Township or Rural Living under the East Gippsland Shire Council Planning Scheme; or**
 - **Any land that is not defined as Farm Land or Commercial/Industrial Land.**
- (b) **Commercial and Industrial**
Commercial and Industrial Land is any land used primarily for:
- **the manufacture, or production of, or trade in, goods or services; or**
 - **Obviously adapted for the primary use of commercial or industrial purposes; or**
 - **Occupied primarily for the purpose of service delivery for tourism leisure and/or accommodation; or**
 - **Unoccupied but zoned Business, Industrial, Mixed Use, Special Use or Comprehensive Development Zone under the East Gippsland Shire Council Planning Scheme; or.**
 - **Conforming to East Gippsland Shire Council guidelines for the classification of property as Commercial/Industrial Land.**
- (c) **Farm Land**
Farm land is defined as any land which:
- **Is used primarily for a farming or agricultural business; and,**
 - **Conforms to the definition of “farm land” as specified within the Valuation of Land Act 1960; and,**
 - **Conforms to East Gippsland Shire Council guidelines for the classification of property as “farm land” as stipulated within East Gippsland Shire Council’s “Application for Farm Rate”; and**
 - **The ratepayer has Primary Producer status with the Australian Taxation Office and be located in a Farm Zone in accordance with Council’s planning scheme, or have a permit from Council to operate a farming business.**
- iv) **Council has determined that the application of a differential rate for Farm and Commercial/Industrial Land will contribute to the equitable and efficient carrying out of its functions.**

- v) ***Council has determined it will provide a rate rebate equivalent to \$58.45 to eligible properties in the ownership of pensioners who qualify for a Victorian Government approved pension rebate. This rebate is provided in accordance with section 169(1)(a) of the Local Government Act 1989.***

(C) *Municipal Charge*

- i) ***A municipal charge be declared for the period commencing 1 July 2020 and concluding on 30 June 2021.***
- ii) ***A municipal charge be declared for the purpose of covering some of the administrative costs of Council.***
- iii) ***The municipal charge be the sum of \$230.00 per each rateable property in respect of which a municipal charge can be levied.***

(D) *Waste Collection Charge*

- i) ***A charge for kerbside collection of waste with recycling, and for kerbside collection of waste with recycling and green waste, be declared for the period commencing 1 July 2020 and concluding on 30 June 2021.***
- ii) ***The collection charge for kerbside waste with recycling with a 120 litre waste bin be \$348.00.***
- iii) ***The collection charge for kerbside waste with recycling with a 240 litre waste bin be \$429.00.***
- iv) ***The collection charge for kerbside waste with recycling and green waste with a 120 litre waste bin be \$398.00.***
- v) ***The collection charge for kerbside waste with recycling and green waste with a 240 litre waste bin be \$481.00.***
- vi) ***The charge for provision of a Rural Waste Collection service be \$236.00.***

- (E) *Authorises General Manager Business Excellence to levy and recover the general rates, municipal charge, kerbside waste with recycling collection charge and kerbside waste with recycling and green waste collection charge as per section 167 of the Local Government Act 1989.***

(F) **Council allows the following payment options in accordance with section 167 of the Local Government Act 1989:**

- **In full**
15 February 2021
- **Four instalments**
30 September 2020
30 November 2020
28 February 2021
31 May 2021
- **Nine instalments**
30 September 2020
31 October 2020
30 November 2020
31 December 2020
31 January 2021
28 February 2021
31 March 2021
30 April 2021
31 May 2021

(G) **Interest on unpaid rates and charges will be charged in accordance with section 172 of the Local Government Act 1989.**

OFFICER COMMENT / CONTEXT

Overview of Financial Performance

In developing the draft Budget 2020/21, it is proposed to set general rates and the municipal charge at the same average as the 2019/20 general rates and municipal charge, being a zero percent increase from the 2019/20 base rates and municipal charge. Fees and charges will also remain at the 2019/20 level with no increase proposed for the 2020/21 year. Total rates and charges, excluding supplementary rates, valuation objection adjustments and rating agreements, are forecast to be \$58,728,746 for 2020/21. The impact of this is reflected in the following tables:

Type of Property	Proposed rate in the dollar	Total Income
General	0. 00392622	\$33,259,952
Commercial / Industrial	0. 00569302	\$5,635,885
Farm	0. 00314098	\$4,745,185
Total Rates Income		\$43,641,022

Type of Charge	Charge per rateable property	Total Income
Municipal Charge	\$230	\$7,105,850
Kerbside waste with recycling collection (120 litre Bin)	\$348	\$1,085,064
Kerbside waste with recycling collection (240 litre Bin)	\$429	\$11,583
Kerbside waste with recycling and green waste collection (120 litre Bin)	\$398	\$6,726,200
Kerbside waste with recycling and green waste collection (240 litre Bin)	\$481	\$61,087

Type of Charge	Charge per rateable property	Total Income
Rural Waste Collection Charge	\$236	\$97,940
Total		\$15,087,724

Some key financial statistics for the draft Budget 2020/21 as compared with the forecast results for the 2019/20 year are shown below:

Key Statistics	2019/20 Forecast Actual \$'000	2020/21 Budget \$'000
Total expenditure	\$108,533	\$104,945
Surplus for the year *	\$9,713	\$19,845
Adjusted underlying surplus/(Deficit) *	\$983	\$ 252
Cash and investment balance at year end	\$53,026	\$34,783
Cash flows from operations	\$35,894	\$36,346
Capital works expenditure	\$39,680	\$58,605

* The forecast results for 2019/20 were impacted by the prepayment of \$8.2M of the 2020/21 Victoria Grants Commission allocation in the 2019/20 year.

The draft Budget 2020/21 forecasts an operating surplus of \$19.845 million, after raising rates and charges of \$58.391 million and capital revenue of \$19.593 million. Excluding non-recurring capital funding, an adjusted underlying operating surplus of \$252,000 is forecast for 2020/21.

The financial performance indicators used to analyse Council's financial position indicate that Council has developed a budget for the 2020/21 year that provides financial sustainability going forward over the four years of the Strategic Resource Plan.

Included in the draft Budget is a wide range of initiatives and projects that will be delivered in 2020/21. A summary of the capital program and significant projects is shown in the following table:

Project Highlights	Proposed Budget
Roads - including <ul style="list-style-type: none"> • Reseal program, Shire wide - \$4.267 million • Gravel Road Renewal program, Shire wide - \$1.2 million • Upgrade of Moroney Street, Bairnsdale - \$1.0 million • Omeo Valley Road Major Rehabilitation - \$1.038 million 	Total Roads \$12.133 million
Bridges – including <ul style="list-style-type: none"> • Genoa Pedestrian Bridge from rest area - \$1.5 million • Bullock Island Bridge - \$2.250 million 	Total Bridges \$6.213 million
Drainage – including <ul style="list-style-type: none"> • Gully Road, Lake Tyers Beach - \$0.498 million 	Total Drainage \$0.612 million
Footpaths and Cycleways– including <ul style="list-style-type: none"> • Omeo Mountain Bike Trails – Stage 2 - \$1.9 million 	Total Footpaths \$2.622 million

Project Highlights	Proposed Budget
Buildings and improvements - including <ul style="list-style-type: none"> • Building renewal (Council owned), Shire Wide - \$1.0 million • Eagle Point Foreshore Hub - \$1.244 million • Lucknow Recreation Reserve Upgrade - \$2.3 million 	Total Property and Buildings \$6.655 million
Recreation, Leisure, Parks and Open Spaces – including <ul style="list-style-type: none"> • WORLD Sporting Precinct Stage 1 - \$5.424 million • Bullock Island Masterplan implementation - \$2.687 million • Lakes Entrance Streetscapes- \$1.131 million 	Total Recreation \$11.192 million
Plant and Equipment - including <ul style="list-style-type: none"> • Renewal of vehicles, plant and machinery - \$2.730 million • Information and Communications Technology systems, Shire wide - \$3.790 million 	Total Plant/Equipment \$6.759 million
Waste Management - including <ul style="list-style-type: none"> • Lakes Entrance Transfer Station upgrade - \$2.472 million • Bairnsdale Landfill – Cell 4 construction - \$3.0 million 	Total Waste \$6.556 million
Other Infrastructure - including <ul style="list-style-type: none"> • Mallacoota Seawalls Construction - \$1.40 million • Jemmy's Point, Lakes Entrance – Stage 2 - \$0.800 million • Cann River Off Street Parking - \$0.700 million • Newmerrella – Upgrade of Princes Highway Rest Area - \$0.300 million 	Total Other \$5.863 million

Other initiatives included in the draft Budget 2020/21 include a rate rebate, totalling \$1.0 million, to all commercial/industrial ratepayers and rate waivers for all properties where the main dwelling was destroyed during the 2019/20 bushfires. A new Bushfire Recovery directorate was established following the 2019/20 bushfires with the support of the Victorian government. The Bushfire Recovery directorate will continue to operate in the 2020/21 year to provide support and assistance to communities and individuals impacted by the bushfires.

Council Plan

Good Governance Goal 3 Council is in a strong financial position and can provide for future generations of East Gippslanders.

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 *Local Government Act 1989* prescribes and informs the preparation and public notification of the annual Budget. Relevant provisions include:

- Sections 127 and 129 outline the information that is required to be contained within the budget document and the necessary public notice that is to be provided in order to allow the public to make submissions to Council prior to adoption of the Budget.
- Section 167 outlines the requirements relating to payment of rates and charges.
- Section 169(1)(a) allows Council to grant a rebate or concession.
- Section 172 allows Council to charge interest on unpaid rates and charges.
- Section 223 outlines the requirements associated with receiving and hearing public submissions.

The *Local Government (Planning and Reporting) Regulations 2014* (Reporting Regulations) outline the reporting requirements for the budget document.

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*.

Organisational

- **Financial**

Refer to the draft Budget 2020/21 at **Appendix 1**

- **Climate Change**

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

Consultation

The draft Budget has been formulated over the course of several months, during which a number of workshops have been held involving councillors and senior officers. All senior officers have contributed to and had input into the development of the draft Budget.

Should Council resolve to advertise the draft Budget for exhibition and public comment, in accordance with section 223 of the *Local Government Act 1989* members of the public will have the opportunity to lodge written submissions on the proposals contained within the draft Budget 2020/21 and if they so request, to be heard by a Committee of Council in relation to their submission.

APPENDICES AND ATTACHMENTS

1. Draft Budget 2020/21.

Attachments

Nil

5.4.2	Adoption of Revised Procurement Policy
Authored by	Cheryl Nicholson, Procurement Coordinator
Endorsed by	Peter Cannizzaro, General Manager Business Excellence
Document No	8494356
In Attendance	Peter Cannizzaro, General Manager Business Excellence

EXECUTIVE SUMMARY

This report seeks Council's endorsement and adoption of the revised Procurement Policy provided at **Appendix 1**. A version of the current policy marked-up to reflect all changes proposed, is provided at **Attachment 1**.

The periodic review of the Procurement Policy ensures the document reflects any legislative changes that have occurred during the year. It also allows an opportunity to assess the policy against other insightful resources, such as the Victorian Local Government Best Practice Procurement Guidelines.

RECOMMENDATION

That Council:

- 1. adopts the Procurement Policy, as provided at Appendix 1; and**
- 2. authorises the Chief Executive Officer to amend the adopted policy without formal Council consideration if amendment is required because of changes to officer titles or administrative arrangements that occur from time to time.**

OFFICER COMMENT / CONTEXT

Discussion

Policies reflect the rules governing the implementation of Council processes.

The *Local Government Act 1989* Section 186A (the Act) requires Councils to review its Procurement Policy on an annual basis. The purpose of the Procurement Policy is to provide a framework to support the procurement of goods, services or works by Council to ensure that financial resources are used efficiently, and purchases are made in a transparent manner. The procurement of goods and services is an important function to ensure that Council is receiving value for money and that processes are transparent and accountable.

The *Competition and Consumer Act 2010* is a national law that governs how businesses, including Councils must deal with suppliers, competitors and customers. The *Competition and Consumer Act 2010* is designed to promote competition and to ensure that all companies and other entities, including Council, compete freely and fairly. The *Competition and Consumer Act 2010* has been incorporated into section 3.15 of the Procurement Policy to demonstrate Council's commitment to comply with this Act.

Council Plan

This report has been prepared and aligned with the following goals set out in the Council Plan 2017-2021:

Good Governance Goal 1 East Gippsland Shire Council is inclusive, engaged and open

Good Governance Goal 3 Council is in a strong financial position and can provide for future generations of East Gippslanders.

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.

This report has been prepared in accordance with *Local Government Act 1989* – Section 186A.

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* and the *Competition and Consumer Act 2010*.

Community

By identifying procurement strategies and implementing changes in procurement practice, Council believes there will be a direct benefit to the community. While the commitment to local and social procurement is still maintained in the policy (supporting the economic development of the region), it is anticipated that savings created by the policy will enable a redistribution of resources to support Council's work in other strategic areas.

Organisational

- **Climate Change**

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

Financial Management: Climate change is budgeted for and resources are allocated for mainstreaming through a financial management plan, policy or strategy.

Consultation

The draft Procurement Policy has been reviewed by Council's Executive Leadership Group and feedback has been incorporated in the Procurement Policy.

APPENDICES AND ATTACHMENTS

Appendix

1. Procurement Policy

Attachment

1. Procurement Policy (*tracked changes version*)

5.5 Responsive Services

5.5.1 Adoption of Minor Changes to Council Plan 2017-2021

Authored by Jamie Lynch, Corporate Planning and Performance Officer

Endorsed by Peter Cannizzaro, General Manager Business Excellence

Document No 8500803

In Attendance Rebecca Aston, Manager People Performance and Culture

EXECUTIVE SUMMARY

Following an internal review of the Revised Council Plan 2017-2021 (the Council Plan), it was recommended that minor adjustments would be required for the final year of the Council Plan.

Council is now in a position to consider adopting the minor changes to the Council Plan, **provided at Appendix 1**. The Strategic Resource Plan 2020-24 has not been updated at this time, as the Minister for Local Government has granted East Gippsland Shire Council an extension to 31 August 2020 to adopt the updated plan. This will be presented to Council prior to this deadline.

The following changes have been made to the Council Plan;

- an update to the message from the Mayor and Councillors,
- an update to the Mayor and Deputy Mayor titles on the Councillor detail page,
- an update to the Major Initiatives for 2020-21, and
- removing the Major Planned Projects for 2020-21 page.

Under the *Local Government Act 1989* (the Act) a person has the right to make a submission under section 223 on a proposed adjustment to a Council Plan which relates to the strategic objectives, strategies, strategic indicators or the Strategic Resource Plan. As these aspects of the Council Plan were not altered as part of this review, advertising the changes for public submissions was not required.

Under the provisions of the Act, Council is required to adopt the minor changes made to the Revised Council Plan 2017-2021 by 30 June 2020.

RECOMMENDATION

That Council:

1. ***adopts the minor changes made to the Revised Council Plan 2017-2021, as provided at Appendix 1;***
2. ***notes that the Strategic Resource Plan attached to the Council Plan will be updated and presented to Council for adoption prior to 31 August 2020;***
3. ***notes that a copy of the Revised Council Plan 2017-2021 will be submitted to the Minister for Local Government by the due date of 30 June 2020; and***
4. ***notes that copies will be made available at Council's Customer Service Centres and on its website.***

OFFICER COMMENT / CONTEXT

Discussion

The Council Plan expresses the Council's broad vision for the future development of East Gippsland Shire and gives a clear direction to the organisation about specific outcomes for the term of this Council and how they will be funded.

Council is required under the Act to review its Council Plan each year to determine whether it requires any adjustment. Following an internal review of the Revised Council Plan held in May 2020, it was recommended that that only minor adjustments would be required for the final year of the plan.

Council is now in a position to consider adopting the minor changes to the Council Plan, provided at **Appendix 1**.

The following changes have been made to the Council Plan;

- an update to the message from the Mayor and Councillors,
- an update to the photos and the Mayor and Deputy Mayor titles on the Councillor detail page,
- an update to the major initiatives for 2020-21, and
- removing the Major Planned Projects for 2020-21 page.

Removing the Major Planned Projects page was deemed necessary due to the Capital Works Expenditure Program for 2020-21 still being in development and working towards the extended deadline of 31 August 2020. The information regarding the major planned projects will be made available to the community through the East Gippsland Shire Council Annual Budget 2020/21.

The major initiatives are key projects to support achieving the objectives throughout the Council Plan and together they provide part of an operational plan for officers to deliver on. The major initiatives for 2020-21 are:

1. Continue to implement Place Planning in selected communities across the Shire with a focus in bushfire affected communities.
2. Implement the Bairnsdale Sporting Facility Plan and extend this approach to the communities across the Shire.
3. Support the East Gippsland community and economic recovery following the impacts of Drought, Bushfire Event and COVID-19 Pandemic.
4. Complete road reconstruction and repair projects to 250 roads and 17 bridges effected by the bushfire.
5. Deliver projects to improve amenity in Lakes Entrance, including the main street and Bullock Island.
6. Optimise asset management through the development of guiding policies and elevated use of management systems.
7. Reduce waste going into landfill, through introduction of e-waste services, education and introducing new approaches to reusing waste.
8. Progress projects and contracts that will reduce resource consumption and increase use of clean energy.
9. Develop a revised Economic Development and Tourism Strategy that responds to the range of issues facing East Gippsland.
10. Deliver the Omeo Mountain Bike Destination Project.
11. Respond to changing financial and community expectations by undertaking service planning in focused areas.
12. Implement the Customer Service Strategy.

Under Section 126(9) of the *Local Government Act 1989*, a person has the right to make a submission under section 223 on a proposed adjustment to a Council Plan which relates to the strategic objectives, strategies, strategic indicators or the Strategic Resource Plan. As these aspects of the Council Plan were not altered as part of this review, advertising the changes for public submissions was not required.

Council is required to develop a Strategic Resource Plan that outlines the resources required to achieve the strategic objectives documented in the Council Plan. The Strategic Resource Plan 2020-24 has not been updated at this time, as the Minister for Local Government has granted East Gippsland Shire Council an extended deadline of 31 August 2020 to adopt the updated plan. The Strategic Resource Plan will be developed alongside the Annual Budget 2020/21, with both to be presented to Council prior to this deadline.

Under the provisions of the Act, Council is required to adopt the minor changes made to the Revised Council Plan by 30 June 2020.

Council Plan

Responsive Services Goal 1 East Gippsland Shire Council is a leading local government service provider

Good Governance Goal 3 Council is in a strong financial position and can provide for future generations of East Gippslanders

Council Policy

The Council Plan is a key strategic document and provides the vision, values and objectives that will support the drafting of Council Policy.

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.

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 report has been prepared in accordance with *Local Government Act 1989* Section 125 and 126.

Community

The Council Plan 2017-2021 was developed following a significant engagement process with the community and key stakeholders between October 2016 and March 2017.

The Council Plan has also undergone two previous revision processes that included a public exhibition period of at least 28 days on each occasion, during which time written submissions on the Council Plan's content were welcome. Any submitter would be granted the invitation to appear before a Committee of Council to support their submission.

Organisational

- **Financial**

The Council Plan is linked to Council's strategic and financial planning documents - the Council Plan, Budget, Capital Expenditure Program and Long Term Financial Plan. It therefore has a significant impact on the financial management of Council.

- **Human Resources**

All East Gippsland Shire staff will be impacted by the adoption of the Council Plan, as Business Unit Plans and Individual Work Plans are developed to support the strategic outcomes required in this document.

- **Climate Change**

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

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

Consultation

Significant and broad consultation with Councillors and Council Officers has been undertaken to develop the initial Council Plan. The Council Plan as presented reflects the outcomes from the consultation process.

The Council Plan has also undergone two previous revision processes that included a public exhibition period of at least 28 days on each occasion, during which time written submissions on the Council Plan's content were welcome. Any submitter would be granted the invitation to appear before a Committee of Council to support their submission.

APPENDICES AND ATTACHMENTS

Appendices

1. Draft Revised Council Plan 2017-21

Attachments

Nil

5.5.2	Sale of Land - 565 Nungurner Road Nungurner
Authored by	Lou Wigg, Senior Property Officer
Endorsed by	Peter Cannizzaro, General Manager Business Excellence
Document No	8499766
In Attendance	Peter Cannizzaro, General Manager Business Excellence

EXECUTIVE SUMMARY

To obtain Council approval to commence proceedings for a road discontinuance and sale for a portion of unused road reserve that goes through private property, bisecting the property into two parts and discontinuance and sale of a small area of road reserve fenced into the property, with Council owning both areas of road reserve. **(Appendix 1)**.

RECOMMENDATION

That Council:

- 1. determines that the unused road reserve that dissects the property at 565 Nungurner Road Nungurner and the small area of road reserve abutting the property at 565 Nungurner Road Nungurner is not required for public access or any future public use (refer in Appendix 1);***
- 2. pursuant to Section 206 including clause 3 of schedule 10 and section 207(b) of the Local Government Act 1989, resolves to advertise its intention to discontinue the unused road reserve that dissects the property at 565 Nungurner Road Nungurner and to discontinue the small area of road reserve adjacent to 565 Nungurner Road Nungurner that is fenced into the property and sell to the owner of the property;***
- 3. authorises Council Officers to place a public notice of the proposed road discontinuance in local newspapers;***
- 4. notes that section 5.5.2 of Council's Sale of Council-owned Land Policy stipulates that land will not be sold for less than market value, unless Council specifically resolves otherwise;***
- 5. appoints a Committee comprising the whole of Council with a quorum of five councillors, to hear and consider any written public submissions received in relation to the proposed sale in accordance with section 223 of the Local Government Act 1989;***
- 7. nominates 18 August 2020 at 1.00pm as the date and time for the Committee to hear any submissions;***
- 8. proceeds to publish a notice in the Government Gazette and all relevant documentation surrounding the sale to be lodged with the Registrar of Title if no submissions are received on the proposed sale, and***
- 9. notes that as part the Section 223 process, a report providing a recommendation from the Committee Hearing will be presented at a future Council meeting for its consideration, should any submissions be received regarding the proposed sale.***

OFFICER COMMENT / CONTEXT

Discussion

The purpose of this report is to seek authorisation from Council to complete a discontinuance and sale of unused road reserve and discontinuance and sale of part of the road reserve, both of which are owned by Council, to the owners of 565 Nungurner Road Nungurner (Property).

Nungurner Road (the Road) commences at the Princes Highway East Kalimna and travels in a southwesterly direction, for approximately 8.4 kilometres where it joins Metung Road. The Property is approximately 5.7km along Nungurner Road from the Princes Highway East. The Property is approximately six kilometres northeast from the township of Metung and approximately 14km west of Lakes Entrance.

The Property is irregular in shape and comprised in two parts that are separated by road reserve. One part of the Property on the north side of the unused road reserve is completely surrounded by road reserve on all sides. The other part of the Property is on the south side of the unused road reserve (**Attachment 1**). The total area of the Property is 10.26 hectares. The part of the Property surrounded by road reserve (**outlined blue and labelled 'A' on Appendix 1**) has an area of 0.93 hectares and the other part (**outlined green and labelled 'B' on Appendix 1**) contains the balance of 9.33 hectares. The land is gently undulating and contains some large vegetation patches. However, there are some cleared areas in close proximity to the road.

The owner of the Property has approached Council to purchase the unused road reserve that bisects the Property (**outlined red and labelled 'C' on Appendix 1**) and a small area of road reserve (**outlined purple and labelled 'D' on Appendix 1**) that is fenced into the Property. This small area of road reserve was fenced into the Property prior to the current owner purchasing the Property.

Provided the land is no longer required for road purposes, Council can discontinue the road pursuant to Section 206 including clause 3 of Schedule 10 and 207(b) of the *Local Government Act 1989* (the Act).

Once an unused road has been formally discontinued the land vests in Council. The land can then be sold to the adjoining owner at a price to be determined by a registered valuer, subject to the requirements of section 189 of the Act.

Council Plan

Responsive Services Goal 2 - We put the customer first and give each customer a great experience of Council's services

Council Policy

Clause 5.5.2 of Council's *Sale of Council-Owned Land Policy* provides for "where a proposed sale of land comprises a parcel of land or discontinued road that would otherwise not be able to be lawfully utilised or developed in its own right, the land may be sold by private treaty to the adjoining registered freehold proprietor at a price not less than current market valuation and to achieve a consolidation of title with the adjoining freehold property.

As this matter relates to a bisection of private property, there is no requirement to offer the land for sale at public auction or the open market.

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 proposed sale of the unused road reserve is required to be conducted in accordance with sections 206, 207B, 207D(1)(b) and 207E of the *Local Government Act 1989*, including Clauses 2 and 3 of Schedule 10.

The sale can be completed as a private treaty sale and effected under the provisions of Section 189 of the *Local Government Act 1989* (the Act), provided that all details of Council's intention to sell are clearly disclosed during the proposed sale.

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*.

Organisational

- **Financial**

All valuation, surveying and legal costs associated with the discontinuance and subsequent sale of land, including Council's legal costs would be met by the applicant.

The purchase price of the unused road reserve and small area of road reserve adjacent to the Property will be determined in accordance with a report from a registered valuer.

Climate Change

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

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

Consultation

Members of the public will be entitled to make a submission in response to the public notice and hearing process conducted in accordance with section 223 of the Act.

The General Manager Assets and Environment has been consulted and has provided consent to the sale of the unused road reserve and small area of road reserve adjacent to the Property.

Officer Declaration of Conflict of Interest

Section 80C of the Act requires members of Council staff and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council officers involved in the preparation of this report have no conflict of interest in this matter.

APPENDICES AND ATTACHMENTS

Appendices

1. Plan showing proposed sale of two areas of road reserve

Attachments

1. Plan of Property

6 Urgent and Other Business

Council will now close the meeting to the public in accordance with the provision of section 66(2) of the *Local Government Act 2020* to consider Item 7.1 as the item relates to Council business matters.

7 Confidential Business

Consideration of confidential matters under section 66(2) of the *Local Government Act 2020*.

7.1 Gippsland Business Initiative

Note Pursuant to sections 3(1) and 66(5) of the Local Government Act 2020 (the 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 if prematurely released and information that was confidential information for the purposes of section 77 of the Local Government Act 1989 (the Act 1989).

Council will now re-open the meeting to the public.

8 Close of meeting