



Council Meeting Agenda

TUESDAY 17 MARCH 2020

**Meeting will be held on
Tuesday 17 March 2020
Cann River Hall and Recreation Reserve
24 Tamboon Road, Cann River
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

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

Cr Natalie O'Connell (leave of absence)

1.3 Declaration of Conflict of Interest

1.4 Confirmation of minutes

That the minutes of the Ordinary Council Meeting Tuesday 3 March 2020 be confirmed.

1.5 Next meeting

Ordinary Council Meeting, 7 April 2020 be held at the Corporate Centre, 273 Main Street, Bairnsdale commencing at 6.00 pm.

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 A Liveable Region

5.1.1 Planning permit application 187/2019/P – Use and development of a dwelling and creation of access to a road zone, category 1 at 515 Lindenow-Glenaladale Road, Lindenow South

Authored by Nick Anderson, NBA Group Pty/Ltd

Endorsed by Jodie Pitkin, Acting General Manager Place and Community

Document No 8390533

In Attendance Nick Anderson, NBA Group Pty/Ltd

EXECUTIVE SUMMARY

This report seeks Council's decision regarding a permit application for the use and development of a dwelling and creation of access to a road zone, category 1 at 515 Lindenow-Glenaladale Road, Lindenow South. The proposal seeks to erect a dwelling on an allotment containing 18.97ha on land within a Farming Zone (FZ1).

The land is not used for substantive agricultural purposes at the present time and is in a degraded state. The application included a Farm Management Plan with the aim:

To create a viable agricultural enterprise by improving the current site conditions in order to graze sheep.

Subject to a condition requiring the occupation of the dwelling being dependent upon the implementation of the Farm Management Plan, the planning policies for the enhancement of sustainable agriculture would be satisfied. Recommended conditions are provided at **Appendix 1**.

A full copy of the application is provided in **Attachment 1**.

Twenty-six objections have been received with respect to the proposal, a copy of which are available as **Attachment 2**. A Planning consultation meeting was held on 26 November 2019, with minutes at **Attachment 3**. The application was subject to referral to VicRoads and DELWP, with responses provided at **Attachment 4**.

An independent planning consultant Nick Anderson, NBA Group Pty/Ltd was commissioned to carry out an assessment of this application. The purpose of doing so was to ensure transparency and independence as the property is currently owned by a serving Councillor.

RECOMMENDATION

That Council being the Responsible Authority and having considered all the relevant planning matters, determines that application 187/2019/P is consistent with the requirements and objective of the East Gippsland Planning Scheme and therefore resolves to issue a permit for the use and development of a dwelling at 515 Lindenow-Glenaladale Road, Lindenow South subject to the conditions as outlined at Appendix 1.

OFFICER COMMENT / CONTEXT

Discussion

The subject land is located at Lindenow South, a farming community established approximately 4 kilometres south of Lindenow, and 16 kilometres west of Bairnsdale. The township contains a general store and sporting facilities.

The Zoning Map (Figure 1) indicates the proximity of the subject land to the township area. The map also indicates a wide range of lot sizes in the FZ1 area. It is noted that a large number of these lots are also less than the 40ha minimum specified for a dwelling exemption for a permit in the FZ1 area.

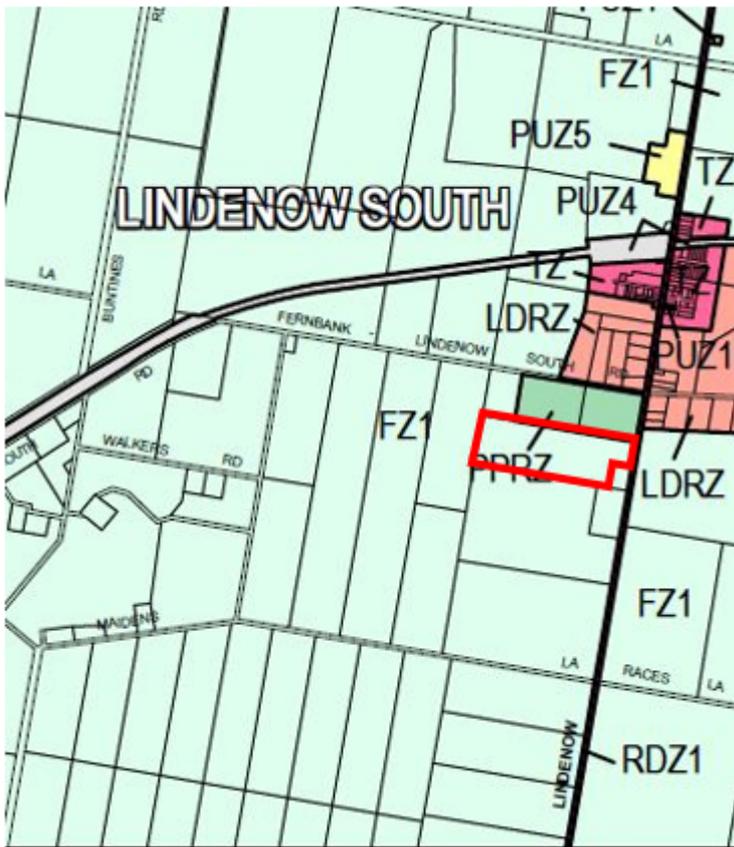


Figure 1: Zoning map (site highlighted in red)

Lots less than 40ha are subject to a permit for the development and use of a dwelling and a condition that the requirements of Clause 35.07-2 (access, waste containment, potable water supply, reticulated electricity) are satisfied. This proposal satisfies these requirements.

The subject land does not appear to have been farmed for some time, with the result that the action suggested in the Farm Management Plan regarding fence repairs and replacement, weed eradication and removal of regrowth, would result in a substantial improvement to agricultural activity potential. It appears to be logical that the existence of an on-site dwelling will result in increased agricultural potential and improved visual appearance. The end result is seen to be similar to what has occurred in the surrounding area.

Additional agricultural activity will result in a small positive outcome through improved agricultural output.

Key Issues

The major issue for consideration is the erection of a further dwelling and the resultant loss of agricultural potential. It is noted that the residential component of the overall development will result in the potential loss of between 0.5 and 1% (approximately 1000m² - 2000m²) of the total site, conversely any intensive agricultural use is more likely to occur with on-site occupation.

There does not appear to be any evidence to indicate that a dwelling would result in any loss of viability of agricultural land. The site currently supports minimal agricultural use, and this proposal seeks to provide an active farming facility that will have minimal impact on the amenity of surrounding properties.

It must be noted that the use of a dwelling on a lot less than 40ha is a permit trigger rather than a prohibition. It is the appropriate assessment of the dwelling which must be considered. In this case, the subject land is a separate parcel with no abuttal to land in the same ownership, and it is located within an area comprising land parcels and development similar to what is proposed. It is reasonable that a dwelling is required to support an agricultural activity based on sheep breeding.

General Issues

The existing pattern of a wide mixture of various sized farms would appear to eliminate any potential for a broadscale consolidated grazing enterprise.

Farming Zone

In addition to implementing planning policies the purposes of the zone include:

- *To provide for the use of land for agriculture.*
- *To encourage the retention of productive agricultural land.*
- *To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.*

In this case the erection of a dwelling is seen to be a direct link to improved agricultural activities.

The use of the subject land for a dwelling is subject to a permit, and a condition which requires compliance with Clause 35.07-2. This application satisfies those requirements.

Planning Policy Framework (PPF)

The applicable clauses of the PPF suggest that the intention to increase agricultural activity is consistent with the Planning Scheme:

- *Clause 14.01-1S Protection of agricultural land* seeks to protect the states' agricultural base by preserving productive farmland. They need to balance any potential off-site effects of the proposed use against the benefits of the proposal recognised.
- *Clause 14.01-1R Protection of agricultural land - Gippsland* seeks the protection of productive land as an important food bowl.
- *Clause 14.01-2S Sustainable agricultural land use* has the objective of encouraging sustainable agricultural land use.
- *Clause 15.01-6S Design for rural areas* requires that the siting, scale and appearance of development protects and enhances rural character.

Local Planning Policy Framework (LPPF)

The LPPF supports the PPF policies in seeking to ensure sustainable agricultural land use which would appear to be a direct outcome from the proposed erection of the dwelling, and accord with the Planning Scheme:

- *Clause 21.06-1 Protection of Agricultural Land* requires that rural land is used and developed in a way that will support efficient agricultural production.
- *Clause 21.07-3 Sustainable Development* requires that any new development consider potential positive and negative social impacts on the community
- *Clause 21.08-2 Rural Living Development: Rural Dwelling* proposals are subject to a satisfactory Land Capability Assessment and, as in this case, if the subject land abuts Crown land, must be sited to provide buffer and protection zones to the CFA satisfaction.

Clause 35.07-6 Decision Guidelines requires consideration of the following applicable issues, an assessment follows each of the Decision Guideline headings:

General Issues

- This proposal satisfies the Municipal Planning Strategy and Planning Policy Framework
- The subject land does not contain any watercourses, and the dwelling will not have any detrimental impact on the landscape, native vegetation or ecosystems. It is not located within the areas identified as being a priority within the East Gippsland Management Authority Strategy.
- A land capability report, forming part of this application, indicated the capability of this land to accommodate the proposed use
- The existence of on-site residents will facilitate sustainable land management.
- The site is suitable for grazing and compatible with similar nearby uses.
- The proposal will utilise the existing road access and electricity supply.

Agricultural Issues

- This proposal will support and enhance agricultural production.
- The development will not adversely affect soil quality or permanently remove land from agricultural production.
- This proposal will not limit the operation and expansion of surrounding agricultural uses.
- The development will enhance the capability of sustaining the agricultural use.
- A detailed Land Management Plan formed part of this application.

Dwelling Issues

- The dwelling will result in an insignificant loss of agricultural land.
- The dwelling will not be adversely affected by agricultural activities.
- The dwelling will have no adverse effect on nearby agricultural uses.
- The proposal is basically an in-fill of vacant land similar in scale and land use to surrounding agricultural activities.

Environmental Issues

- The use of a dwelling will have no impact on soil or water quality, or on-site flora and fauna.
- The use of a dwelling will have no adverse impact on the biodiversity of the area.
- The location of the on-site effluent disposal area will not impact on nutrient loads or waterways or native vegetation.

Design and Siting Issues

- The dwelling will not adversely affect surrounding agricultural uses and will foster more agricultural activity.
- The dwelling is located approximately 700 metres from the road and at least 90 metres from any other boundary, this will minimise any adverse impacts.
- The existing access driveway is to be extended and the dwelling connected to the electricity supply. The potable water supply and sewerage treatment facility will be located as part of the dwelling development.
- The utilisation of the existing access will eliminate any need for traffic management measures.

Subject Land

The subject land is as indicated in Section 2. Site and Surrounds (page 3-9) in **Attachment 1**. An overall picture is provided in Figure 2, which is an aerial photo of the existing conditions with incorporated lot dimensions:



Figure 2: Aerial Photograph & Dimensions

At the present time there is no substantive agricultural activity, with the result being regrowth and weed infestation. The Farm Management Plan forming part of this application indicates the requirement of works necessary to provide for the best possible agricultural outcome.

Proposed Development

A reduced sized copy of the proposed Site Plan is provided as Figure 3:

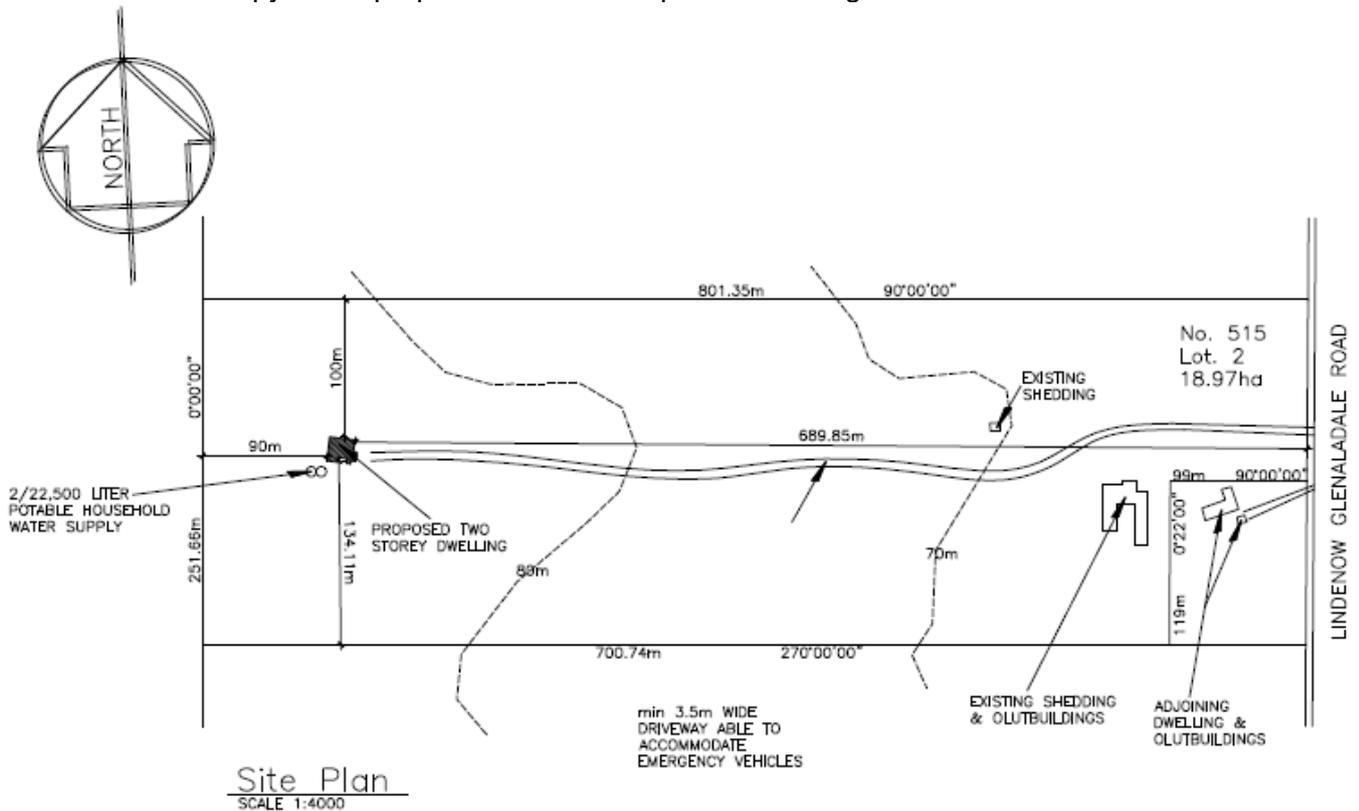


Figure 3: Site Plan

Sustainable Design

The proposed development of a single dwelling has been assessed for sustainable design as follows:

- The proposed dwelling achieves healthy indoor environments through light filled windows and skylights.
- Openable windows are provided that are positioned to offer cross ventilation as far as practicable.
- The dwelling has been designed to ensure the efficient use of energy and reduction in greenhouse gas. North and east facing living and private open space areas are provided where possible to achieve appropriate solar access.
- Eaves are provided to assist with shading and lessen the reliance on artificial cooling.
- The reliance on reticulated water is minimised through the provision of water tanks proximate to the dwelling that can capture roof run off and can be connected to toilet and laundry facilities if so desired.
- As the site is within a bushfire prone area, the size of the tanks will be sufficient to aid in firefighting if required.
- The proposed dwelling is to be constructed of brick and stone cladding, with render and timber detailing, with a Colorbond roof. All of these materials offer a good lifespan and can be recycled.

Bushfire Prone Area

It is noted that the proposed development is within a Bushfire Prone Area and appropriate building materials will be required to be utilised to ensure preservation of life, particularly with regard to the vegetated site to the north and grassland to the west. Significant bushfires occurred in 2014 to the north-west of the site, extending to approximately 6km from the subject site.

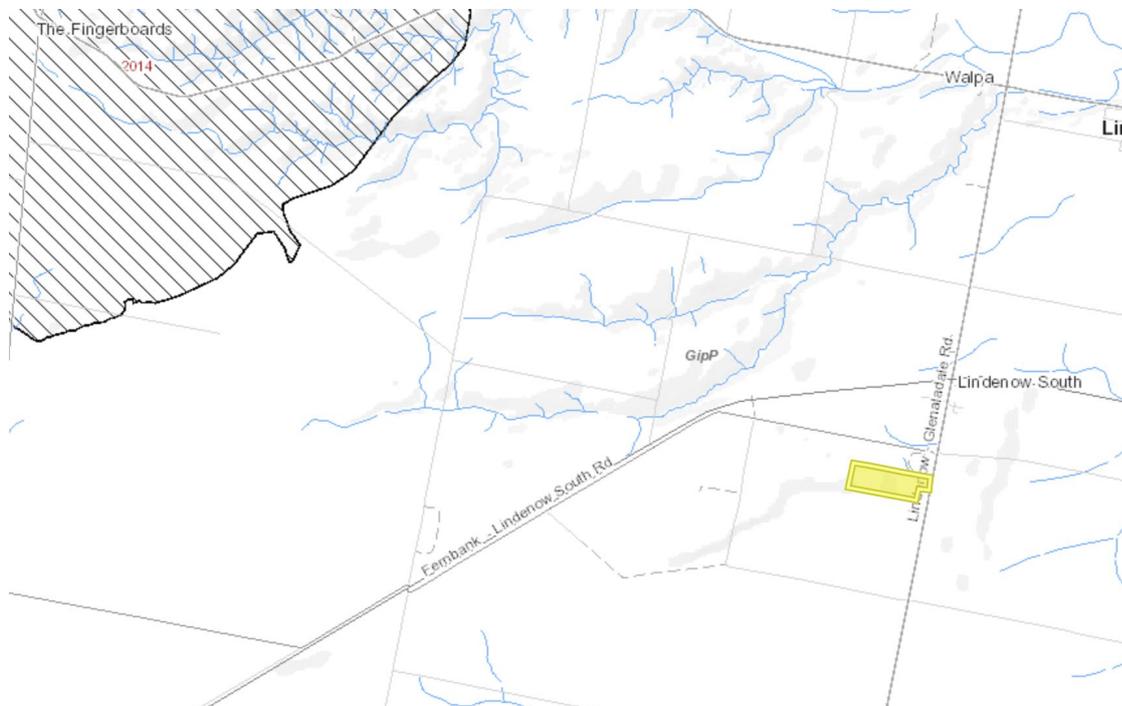


Figure 4: Extent of historic bushfire activity in the area

Clause 42.01 – Environmental Significance Overlay (ESO1-51)

Aside from implementing the Municipal Planning Strategy and the Planning Policy Framework, the purposes of this clause are:

- *To identify areas where the development of land may be affected by environmental constraints.*
- *To ensure that development is compatible with identified environmental values.*

The schedule (ESO1-51) seeks to protect specific flora that is significant to the environment of this area.

The application states that there is no vegetation to be removed and therefore, no approval is required under the provisions of the ESO.

Clause 44.01 – Erosion Management Overlay (EMO)

Aside from implementing the Municipal Planning Strategy and the Planning Policy Framework, the purpose of this clause is:

- *To protect areas prone to erosion, landslip or other land degradation processes, by minimising land disturbance and inappropriate development.*

Pursuant to the Schedule to clause 44.01 of the EMO, a permit is required to construct a building or to carry out works. A dwelling, including a replacement dwelling, is exempt from a permit, where it is to be the only dwelling on the lot. It is noted that there are no earthworks required and therefore no approval is required under the provisions of the EMO.

Areas of Aboriginal Cultural Heritage Sensitivity

Under the provisions of the *Aboriginal Heritage Act 2006* the subject site and location of the proposed dwelling is within an Area of Aboriginal Cultural Heritage Sensitivity. The development of a single dwelling and associated outbuildings is an exempt activity under the provisions of the *Aboriginal Heritage Act 2006* and as such a Cultural Heritage Management Plan (CHMP) is not required.

Site Photographs



Photograph 1: From Road - looking North West in to the site



Photograph 2: Internal – looking North from Dwelling site



Photograph 3: Road abuttal – looking North West



Photograph 4: Internal – looking North West



Photograph 5: From Road - looking West to Dwelling Site



Photograph 6: Internal view of Dwelling site

Surrounding Development



Figure 5: Aerial Photograph - surrounding area

The subject land can be seen to abut the Lindenow South Football and Netball facilities to the north, the golf course to the east and the township to the north east amidst the range of surrounding rural properties.

Conclusion

There is a nexus between the proposed dwelling and the potential for increased agricultural activity, in accordance with planning policies and objectives, subject to the proposed conditions.

Council Plan

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

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

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*.

Organisational

- **Financial**

Nil

Consultation

Public notice was undertaken in accordance with section 52 of the *Planning and Environment Act 1987*. Adjoining landowners were notified, and a sign was placed on site.

There were 26 objections received, many from the metropolitan Melbourne area and as far away as Hoppers Crossing and Daylesford. Whilst most of the objections were from absentee land owners of the Shire, there did not appear to be any objection from anyone that may possibly be directly adversely affected by this proposal. A planning consultation meeting was organised, but no objectors attended. Minutes of the meeting are at **Attachment 3**.

A main issue appeared to be the incorrect assumption that the erection and use of a dwelling on a lot less than 40ha was prohibited, rather than the fact that such use was subject to a permit.

As stated, the dwelling is to be located almost 700 metres from the road. Any development is to be subject to the implementation of the proposed Farm Management Plan, which includes the works necessary to provide for a farming operation.

It is difficult to see how the utilisation of farming land could adversely affect wildlife or tourism or be seen as inappropriate in the FZ1. There is little support for the reasons for objection in the planning policies or objectives.

Referrals

VicRoads – advised that they had no objection to the granting of a permit, subject to conditions.

DELWP – advised that the department has no objection to the granting of a permit.

These referral responses are attached at **Attachment 4**.

APPENDICES AND ATTACHMENTS

Appendices

1. Proposed permit conditions

Attachments

1. Planning permit application submission from the applicant.
2. Copies of objections received.
3. Minutes of the Planning Consultation Meeting.
4. Copies of referral responses received.

5.1.2	Proposal to End Section 173 Agreement P624303X as it relates to 41, 43, and 79 Bunga Creek Road, Lakes Entrance
Authored by	Robert Pringle, Land Use Planner
Endorsed by	Jodie Pitkin, Acting General Manager Place and Community
Document No	8393499
In Attendance	Aaron Hollow, Manager Planning

EXECUTIVE SUMMARY

This report seeks Council's decision to provide in principle support for a landowner's request to end a section 173 Agreement P624303X (provided at **Appendix 1**) with all relevant title documentation) in relation to 41, 43 and 79 Bunga Creek Road, Lakes Entrance. This will allow for the implementation of stage two of the process to end the agreement. Stage two involves community consultation whereby notices will be sent directly to all of the affected landowners. A further report will be presented to Council in order to determine the proposal.

The land owner of 79 Bunga Creek Road had previously entered into this agreement in relation to a permit to subdivide land. The subdivision provided for creation of a smaller lot than was the minimum in the Rural A Zone of the Shire of Tambo Planning Scheme. The Agreement was due to be removed if the land was rezoned to Rural B.

Due to the merger of local governments and eventual consolidation to the East Gippsland Planning Scheme and translation of zones, it is unclear whether the provisions of Rural B would be equivalent to the Rural Living Zone Schedule 4 (15 hectare minimum subdivision size) that now applies.

In 2017 a planning permit was granted for a three-lot subdivision of land, which proposes to create two additional lots with frontage to Bunga Creek Road. The subdivision permit allows the outcome, subject to the Agreement being removed from the title.

It is considered that the ending of the Agreement is appropriate and that it will facilitate approved subdivision of the land. It is recommended that Council provides in-principle support and resolves to undertake notification of the proposal to end the Agreement.

RECOMMENDATION

That Council

- 1. agrees in principle to the ending of section 173 Agreement P624303X provided at Appendix 1, wholly as it relates to:***
 - Vol. 9965 Fol.201 being lot 1 LP220047I, 41 Bunga Creek Road, Lakes Entrance, 3909;***
 - Vol. 11535 Fol.720 being Lot 1 PS725586M, 43 Bunga Creek Road, Lakes Entrance, 3909; and***
 - Vol. 11535 Fol.721 being Lot 2 P727586M, 79 Bunga Creek Road, Lakes Entrance, 3909;******in accordance with Section 178A of the Planning & Environment Act 1987; and***
- 2. determines to undertake the necessary public notice of the proposal in accordance with Section 178C of the Planning & Environment Act 1987.***

OFFICER COMMENT / CONTEXT

Discussion

The subject land is located at the northern edge of the Lakes Entrance Northern Growth Area, and nearby to the existing landfill site. A locality plan can be viewed at **Figure 1**. The land is zoned Rural Living Zone 4 (see **Figure 2**), and the land is covered to varying degrees by a range of overlays that do not have any bearing over the current consideration.



Figure 1 – Locality map

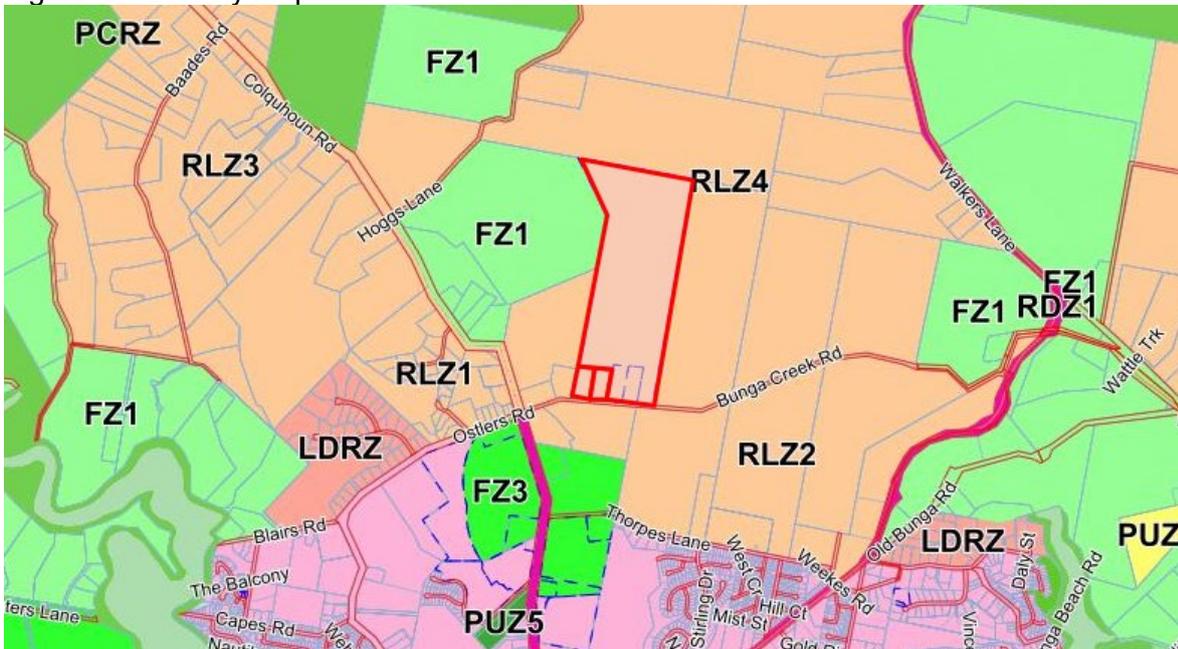


Figure 2 – Zone map

A Condition of the Shire of Tambo Planning Permit 4676 (11 October 1988) for a three-lot subdivision required the subdivider to enter into a section 173 agreement that would prevent

further subdivision of the land so long as the subject land is zoned Rural A and where the land was rezoned to Rural B, the agreement is to be cancelled.

The Agreement P624303X was executed in December 1989. It included reference to the permit for subdivision and condition, and stated the following:

2. The Owner with the intent that (t)he covenant hereunder shall run with the Land hereby covenants and agrees that he which term shall include the Owner or owners of the subject land or any part thereof from time to time) will -

- .1 comply with the conditions of the permit;*
- .2 not cause to allow or Demit the balance of the land on the Proposed Subdivision attached hereto being part of the subject land to be further subdivided whether under the provisions of the Local Government Act 1958, The Cluster Titles Act 1974, The Strata Titles Act 1967 or any amendment or consolidation thereof or otherwise.*

6: This Agreement will end pursuant to Section 177 of the Act in the event of:-

- .1 the subject land being rezoned to Rural B;*

A planning permit to restructure two of those lots was considered and granted in 2014. As no new lots were created, it was considered appropriate and not contrary to the Agreement to allow for this outcome. Also, given the land had by this time been rezoned to Rural Living Zone Schedule 4, the consideration regarding the Agreement was that it had little effect on the proposed restructure.

The responsible authority has already considered and determined to grant a planning permit allowing further subdivision of this land, it is considered appropriate to end the Agreement and progress that new planning outcome.

Council Plan

Strong Communities Goal 2 East Gippsland communities plan for their future

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 & Environment Act 1987* pursuant to section 178A provides the opportunity for Council to consider ending an agreement, either wholly or in part, without the consent of all persons who are bound by the agreement.

The applicant is seeking to end section 173 Agreement P624303X wholly as it applies to

- Vol. 9965 Fol.201 being lot 1 LP220047I, 41 Bunga Creek Road, Lakes Entrance, 3909;
- Vol. 11535 Fol.720 being Lot 1 PS725586M, 43 Bunga Creek Road, Lakes Entrance, 3909; and
- Vol. 11535 Fol.721 being Lot 2 P727586M, 79 Bunga Creek Road, Lakes Entrance, 3909;

however, the consent of all parties bound by the agreement has not been obtained.

It is not always reasonable nor practical for the applicant to obtain the consent of all parties to an agreement, particularly where there are a number of parties and non-resident owners.

Where the consent of all parties has not been obtained, section 178B (2) of the *Planning & Environment Act 1987* provides the framework for the proposal to be assessed and considered by Council. This process includes sending notices directly to all of the affected landowners as part of the consultation process.

Community

It is not anticipated that ending the agreement as proposed will have a negative impact on the community.

Organisational

- **Financial**

Nil

Consultation

It has not been necessary at this point in the process to consult with the community.

Consultation by way of formal notice to all of the affected landowners of the proposal to end the agreement will be undertaken as part of the process outlined under the *Planning and Environment Act 1987* should in principle support to the proposal be decided by Council.

APPENDICES AND ATTACHMENTS

Appendices

1. 173 Agreement P624303X

Attachments

Nil

5.1.3	East Gippsland Planning Scheme Amendment C151egip (Corrections Amendment)
Authored by	Ben Marchbank, Strategic Planner
Endorsed by	Jodie Pitkin, Acting General Manager Place and Community
Document No	8366652
In Attendance	Aaron Hollow, Manager Planning

EXECUTIVE SUMMARY

Periodically minor errors, corrections and redundant planning controls are identified in the East Gippsland Planning Scheme. To rectify this a planning scheme amendment is required.

Planning scheme Amendment C151egip is proposed as a corrections amendment to address zoning and overlay mapping errors and anomalies relating to 29 properties in the Shire.

The amendment primarily seeks to undertake a routine process to remove the Restructure Overlay from 18 consolidated residential properties in the Tambo Bluff Estate and 6 consolidated residential properties in the Newlands Arm estates. These private properties have been consolidated in accordance with the configurations in the Restructure Plans for these areas. The removal of the Restructure Overlay is necessary and is a good planning outcome in that the overlay has 'done its job' by way of ensuring lots are consolidated and is therefore redundant and should be removed. This assists in 'cutting red tape' by reducing unnecessary planning permit triggers.

The other amendment items comprise correcting zoning at the Lucknow, Howitt Park and Mallacoota Recreation Reserves to facilitate better management. A public zone is proposed to be replaced with a private zone on a freehold property in Omeo and a Heritage Overlay removed from a property in Bairnsdale where the heritage house has burnt down.

The reason for these zone changes are that public zones should not be applied to private land and public land should be zoned for public purposes. Public zones are intended to set out appropriate statutory requirements that apply to the use and development of land for public purposes. They assist in allowing public land managers to use and develop land for any purpose under the relevant land management legislation without the need for a planning permit. Relevant land management legislation includes the Local Government Act 1989 and the Crown Land Reserves Act 1978. As an example, a community sports building would not need a planning permit under the Public Park and Recreation Zone, but it would require a planning permit if a residential zone was to apply to the recreation reserve.

The proposed amendment includes amending 7 planning maps in the East Gippsland Planning Scheme to reflect the proposed overlay deletion and zone changes.

A full list of all properties that are affected by the amendment, including rationale for inclusion in the amendment can be viewed in **Attachment 1**.

Written consent to proceed with the proposed amendment have been received from landowners in relation to the Lucknow, Howitt Park and Mallacoota Recreation Reserves, the freehold property in Omeo and Heritage property in Bairnsdale.

The planning scheme amendment will be required to undergo a one-month exhibition period where notice of the amendment will be placed on Council's and DELWP's websites and in Council's service centres. Letters will be sent to all affected property owners as part of this exhibition process.

This process allows landowners to review the proposed amendment and make a submission.

Proposed Planning Scheme Amendment C151egip documentation is provided at **Appendix 1**.

RECOMMENDATION

That Council, having considered all relevant planning matters resolves to:

- 1. seek authorisation from the Minister for Planning to prepare a Planning Scheme Amendment (Amendment C151egip) generally in accordance with the draft planning scheme documentation as detailed in Appendix 1;***
- 2. authorise the exhibition of Planning Scheme Amendment C151egip generally in accordance with the draft document as detailed at Appendix 1, subject to any modifications by the Department of Environment, Land, Water and Planning, upon receiving authorisation from the Minister for Planning for the Amendment; and***
- 3. authorise planning officers to make any minor modifications to the draft planning scheme documentation which do not substantially alter the purpose and intent of the draft documentation prior to authorisation and commencement of the public notice required by the Department of Environment, Land, Water and Planning.***

OFFICER COMMENT / CONTEXT

Discussion

Planning Scheme amendment C151egip is a corrections amendment that address zoning and overlay mapping corrections and anomalies relating to 29 properties across the Municipality.

The amendment primarily seeks to undertake a routine 'clean up' to remove the Restructure Overlay from 18 consolidated residential properties in the Tambo Bluff Estate and 6 consolidated residential properties in the Newlands Arm estate.

The purpose of the Restructure Overlay is to ensure lots are consolidated in accordance with the Tambo Bluff Restructure Plan 2018 and the Newlands Arm Restructure Plan 2017. The lots identified in C151egip have been consolidated in accordance with the respective restructure plans and therefore have satisfied the requirements of the Restructure Overlay. It is important to remove controls from the planning scheme that have served their purpose and are no longer required. This assists to streamline the planning permit process by decluttering the planning scheme, removing red tape and avoiding unnecessary planning permit triggers.

The amendment also seeks to correct zoning at the Lucknow, Howitt Park and Mallacoota Recreation Reserves to facilitate better management, replace a public zone with a private zone on a freehold property in Omeo and remove the Heritage Overlay from a property in Bairnsdale where the heritage house and outbuildings no longer occupy the land due to domestic fire damage.

Public zones should not be applied to private land. Public zones are intended to set out appropriate statutory requirements that apply to the use and development of land for public purposes. They assist in allowing public land managers to use and develop land for any purpose under the relevant land management legislation without the need for a planning permit. Relevant land management legislation includes the Local Government Act 1989 and the Crown Land Reserves Act 1978. For example, a community sports building would not need a planning permit under the Public Park and Recreation Zone but would require a planning permit if the surrounding residential zone were to apply to the recreation reserve.

The proposed amendment includes amending 7 planning maps in the East Gippsland Planning Scheme to reflect the proposed overlay deletion and zone changes in relation to the specifically identified sites.

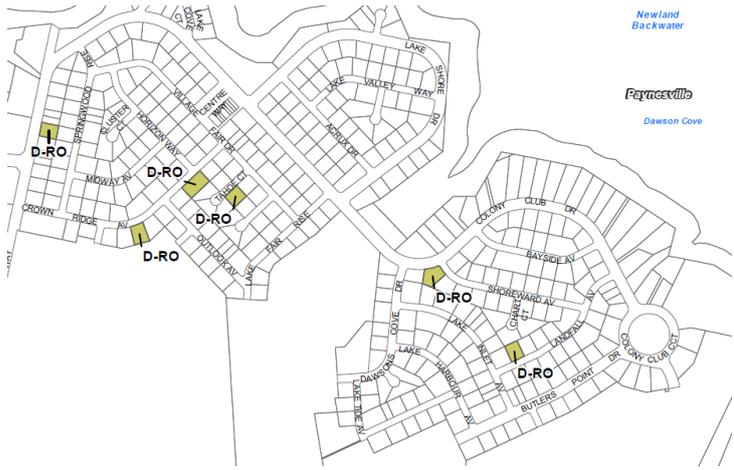
The proposed amendment will improve certainty and clarity to the community and decision makers.

Written consent to proceed with the proposed amendment has been received from DELWP in relation to the Lucknow, Howitt Park and Mallacoota Recreation Reserves and landowner consent has been obtained in relation to the freehold property in Omeo and Heritage property in Bairnsdale.

The planning scheme amendment will be required to undergo a one-month exhibition period where notice of the amendment will be placed on Council's and DELWP's websites and in Council's service centres. Letters will be sent to all affected property owners as part of this exhibition process.

The table below provides a summary of the proposed changes:

#	Location	Proposal	Map
1	18 Residential consolidated lots in the Tambo Bluff Estate	Remove the Restructure Overlay from the properties coloured yellow as the properties have been consolidated in accordance with the overlay and the Tambo Bluff Restructure Plan 2018.	

#	Location	Proposal	Map
2	6 Residential consolidated lots in the Newlands Arm Estate	Remove the Restructure Overlay from the properties coloured yellow as the properties have been consolidated in accordance with the overlay and the Newlands Arm Restructure Plan 2017.	
3	46 Riverine Street Bairnsdale (Private land)	Remove Heritage Overlay 157 as the heritage dwelling and all outbuildings have been removed following a domestic fire (2015).	
3	256 Day Avenue Omeo (Private land)	Part rezone from Public Conservation and Resource Zone to Farming Zone 1 as its inappropriate to zone private land with a public zone.	

#	Location	Proposal	Map
4	Mallacoota Recreation Reserve (Crown land managed by EGSC)	Part rezone from General Residential Zone to Public Park and Recreation Zone to facilitate better management of the recreation reserve.	
5	Howitt Park Recreation Reserve (Crown land managed by EGSC)	Part rezone from General Residential Zone to Public Park and Recreation Zone to facilitate better management of the recreation reserve.	
6	Lucknow Recreation Reserve (EGSC owned and managed)	Part rezone from General Residential Zone to Public Park and Recreation Zone to facilitate better management of the recreation reserve.	

Council Plan

This proposed planning scheme amendment meets objectives of the East Gippsland Shire Council Plan 2017-2021 at the following goals:

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

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

Legislation

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

Section 8A of the *Planning and Environment Act 1987* enables Council to propose changes to the East Gippsland Planning Scheme. This includes authorisation from the Minister for Planning before an amendment is prepared. The amendment has been prepared consistent with section 20(2) of the *Planning and Environment Act 1987 which relates to the Ministers powers to exempt a planning authority from any of the public notice requirements of section 19*.

Community

The amendment will positively affect the community as it will rectify errors and anomalies within the planning scheme and as a result provide greater clarity to the community, landowners, applicants and decision makers. The amendment will also reduce red tape by removing the need for landowners to apply for unnecessary planning permits.

Organisational

- **Financial**

There are some administrative costs associated with the preparation and lodgement of the planning scheme amendment and some additional costs may arise if the matter is referred to an independent planning panel. However, the long term council costs associated with the amendment will be minimal as the amendment will remove redundant controls and therefore decrease the number of planning permits required for development to proceed. This also allows Council's planning resources to be better directed towards planning matters vital to our communities.

Changing the zoning of sections of the three identified recreation reserves will achieve consistency with the existing remainder of the reserves and result in better management opportunities by reducing the likelihood of planning permits being required for reserve infrastructure and improvements. The removal of the Heritage Overlay from residential land due to the heritage values being fire damaged and removed will not result in any financial burden for council.

- **Human Resources**

The Strategic Planning Unit will be responsible for the management of the planning scheme amendment process until a decision is made and the amendment is either adopted or abandoned.

- **Amenity/Environment**

The amendment will lead to better planning outcomes as the correct controls will be in place and redundant controls removed. The flow on effect of this will be improved outcomes for the community.

Consultation

Written consent to proceed with the proposed amendment have been received from landowners in relation to the Lucknow, Howitt Park and Mallacoota Recreation Reserves, the freehold property in Omeo and Heritage property in Bairnsdale.

The planning scheme amendment will be required to undergo a one-month exhibition period where notice of the amendment will be placed on Council's and DELWP's websites and in Council's service centres. Letters will be sent to all affected property owners as part of this exhibition process. The matter will be exhibited at the direction of the Minister for Planning.

APPENDICES AND ATTACHMENTS

Appendices

1. Draft East Gippsland Planning Scheme Amendment C151egip documentation.

Attachments

1. Table of affected properties

5.2 Good Governance

5.2.1 Report on Audit and Risk Committee Meeting held on 24 February 2020

Authored by Chris Feil, Manager Governance

Endorsed by Peter Cannizzaro, General Manager Business Excellence

Document No 8413226

In Attendance Chris Feil, Manager Governance

EXECUTIVE SUMMARY

This report provides Council with an overview of the issues considered by the East Gippsland Shire Council Audit and Risk Committee (the Committee) at its meeting held on 24 February 2020.

Items of note considered by the Committee included the following:

- Jason Hellyer was elected as Chair of the Committee for all meetings to be held in 2020;
- Two reappointed Committee members attending the meeting: independent member Michael McStephen and Councillor Mark Reeves;
- The Committee noted the Victorian Auditor General's Office(VAGO) report Performance Audit Work Program (2019-2022) This program provided Councils and other stakeholders with an insight into VAGO's goals and priorities for the next two years and also provided Council with the necessary preparation time for scheduled audits in advance.

The Committee also received and considered the suite of quarterly reports and updates on regularly reported or previously identified matters and provided feedback on these as required.

RECOMMENDATION

That Council notes this report on issues considered by the East Gippsland Shire Council Audit and Risk Committee at its meeting held on 24 February 2020.

OFFICER COMMENT / CONTEXT

The Committee meets on a quarterly basis to consider issues particularly relevant to the governance of Council and to formulate recommendations for Council's consideration. Issues considered at the meeting held on 24 February 2020 included the following:

Internal Audit Plan Status update

In its quarterly report to the Committee, Crowe Horwath, Council's internal auditors, provided an update on the internal audit plans for completion 2019/20

Regular Updates

The Committee received and noted updates in respect of several regularly reported or previously identified agenda items, including reports for the period ended 30 June 2019 relating to:

- Debtors;
- Finance;
- Risk Management;
- Legal Activities;
- Major Insurance Claims; and

Victorian Auditor General's Office Performance Audit work program (2019 – 2022)

The Committee noted:

- The program provided Councils and other stakeholders with an insight into VAGO's goals and priorities for the next two years and also provided Council with the necessary preparation time for scheduled audits in advance.
- In the 2019-2020 financial year VAGO will be auditing Council Libraries to determine whether local government councils achieve value for money from their library services.
- In 2020-2021 VAGO will be focusing on Council waste management services and maintaining local roads to determine whether Council services are achieving value for money.

While the proposed Councils being audited do not include East Gippsland Shire Council, learnings could be reviewed and considered by the Library Service team and Waste Management Services and Works teams.

- In 2021-2022 VAGO will be focusing on Council parks and open space management to determine whether councils are effectively and efficiently planning for and managing their parks and open spaces. In particular, VAGO will audit Councils effectiveness in addressing the need for parks and open spaces in their strategic planning and explore ways councils could improve their management of these important assets. Councils being nominated has not yet been determined. I

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

Section 139 of the *Local Government Act* 1989 requires all Councils to establish an Audit Committee.

Organisational

- **Financial**

An attendance fee is paid to the four external members of the Audit and Risk Committee. This expense is accommodated within Council's annual operating budget.

Consultation

Not applicable

APPENDICES AND ATTACHMENTS

Appendices

Nil

Attachments

Nil

5.2.2 Council Assistance Fund Allocation

Authored by	Liz Collins, Manager Finance
Endorsed by	Peter Cannizzaro, General Manager Business Excellence
Document No	8406827
In Attendance	Liz Collins, Manager Finance

EXECUTIVE SUMMARY

On 27 January 2020 the Premier of Victoria announced a *Council Assistance Fund* (the Fund) of \$10 million. Victorian Councils who had been impacted by recent bushfires were required to submit an application for a share of the Fund.

Council submitted an application and have been advised that the allocation for East Gippsland Shire Council is \$3,620,000.

The Fund is provided to Council for applying to people who have damaged or destroyed property and businesses, and/or to assist tourism, economic development and property owners and businesses indirectly affected by the recent fires.

In assessing the criteria for the use of the funds a proposed allocation of the funds totalling \$3,620,000 was undertaken (refer to **Appendix 1**).

The proposed allocation would see \$1,082,000 allocated over three years for rate waivers for fire impacted properties where the main dwelling(s) has been destroyed or significantly damaged. A further amount of \$475,000 has been identified as supporting the loss of Council's rate base for a three-year period. Services for bushfire fencing collection of \$63,000 to address illegal dumping of the material and a rate rebate proportionally allocated to commercial/industrial classed properties of \$1,000,000 for the 2019/20 rating period and a further \$1,000,000 for the 2020/21 rating period.

Recommendations required for the use of the funds identified to be applied to ratepayers is included below for Council's consideration.

RECOMMENDATION

That Council:

- 1. Approve the application of the Council Assistance Fund of \$3,620,000 in accordance with Appendix 1;***
- 2. Resolves in accordance with Section 171 (1)(b) of the Local Government Act 1989 to waive rates and charges levied for the 2019/2020 financial year for all properties where the main dwelling(s) has been destroyed or assessed as requiring demolition as a result of the 2019/2020 bushfires;***

3. ***Resolves in accordance with Section 171 (1)(b) of the Local Government Act 1989 to waive rates and charges levied for the 2020/2021 financial year for all properties where the main dwelling(s) has been destroyed or assessed as requiring demolition as a result of the 2019/2020 bushfires until the date of a certificate of occupancy is issued for any rebuilt dwelling or the settlement date for any of these properties that are sold or transferred into new ownership;***
4. ***Resolves in accordance with Section 171 (1)(b) of the Local Government Act 1989 to waive rates and charges levied for the 2021/2022 financial year for all properties where the main dwelling(s) has been destroyed or assessed as requiring demolition as a result of the 2019/2020 bushfires until the date of a certificate of occupancy is issued for any rebuilt dwelling or the settlement date for any of these properties that are sold or transferred into new ownership;***
5. ***Resolves in accordance with Section 171 (2) of the Local Government Act 1989 that the purpose of a rates and charges waiver under Section 171 (1) (b) as detailed in resolutions 2, 3 and 4 is to provide direct financial assistance to ratepayers who have suffered loss of the main dwelling(s) as a result of the 2019/2020 bushfires in East Gippsland;***
6. ***Resolves to provide a rate rebate for the 2019/2020 financial year totalling \$1,000,000 to property assessments classified in Council's rating system as commercial/industrial at 31 March 2020, excluding any telecommunication, gas and electricity infrastructure and utilities and vacant land, on a proportional basis, based on the applicable 2019/2020 commercial/industrial general rates raised after the processing of supplementary valuation adjustments that resulted from the 2019/2020 bushfires, excluding any municipal or waste charge; and***
7. ***Resolves to provide a rate rebate for the 2020/2021 financial year totalling \$1,000,000 to property assessments classified in Council's rating system as commercial/industrial at 1 July 2020, excluding any telecommunication, gas and electricity infrastructure and utilities and vacant land, on a proportional basis, based on the applicable 2020/2021 commercial/industrial general rates generated effective at 1 July 2020, excluding any municipal or waste charge.***

OFFICER COMMENT / CONTEXT

The municipality of East Gippsland has been significantly impacted in many ways as a result of the 2019/20 bushfires. As part of the Victorian government support for municipalities that have been impacted by the bushfires on 27 January 2020 the Premier of Victoria announced a *Council Assistance Fund* (the Fund) of \$10 million. Victorian Councils who had been impacted by recent bushfires were requested to submit an application for a share of the fund.

Council submitted an application and has been advised that the allocation for East Gippsland Shire Council is \$3,620,000.

The Fund is provided to Council for applying to people who have damaged or destroyed property and businesses, and/or to assist tourism, economic development and property owners and businesses indirectly affected by the recent fires.

In assessing the proposed allocation of the funds, officers have considered the criteria set out for the use of the Fund. Whilst assessment of all fire impacted properties is still to be completed, preliminary information has provided data that has been able to be used to calculate the approximate impact on Council's rate base and the value of main dwellings that have been destroyed or significantly damaged as a result of the bushfire. The term main dwellings, in this context, may include a principal place of residence or a holiday house.

The proposed rate rebate for all properties classified as commercial/industrial in Council's rates data base, would provide a similar percentage rebate amount over a two-year period as that applied to farm properties through the Local Government Services Support Payment rate rebate in January 2020.

As a result of a reduction in Council's valuation base, the impact on Council's rate revenue for the current financial year and the next two financial years has been assessed and it is proposed that part of the funding be allocated to offset the loss of rate revenue.

Services for bushfire fencing collection of \$63,000 to address illegal dumping of the material has been included.

Council Plan

Good Governance Goal 2 Our relationships with other levels of government and partners deliver great outcomes for East Gippslanders

Legislation

Section 171 of the *Local Government Act 1989* prescribes the requirements for Council to provide a rate waiver.

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**

The funding for the allocation of \$3,620,000 is provided by the Victorian Government through the *Council Assistance Fund*.

APPENDICES AND ATTACHMENTS

Appendices

1. Council Assistance Fund – Proposed Allocation

Attachments

Nil

5.2.3	2020 Australian Local Government Association National General Assembly – Notices of Motions
Authored by	Chris Feil, Manager Governance
Endorsed by	Peter Cannizzaro, General Manager Business Excellence
Document No	8372520
In Attendance	Chris Feil, Manager Governance

EXECUTIVE SUMMARY

This report seeks Council's endorsement for three motions titled *Telecommunication companies to provide additional communication infrastructure and devices (Appendix 1)*, *Telecommunication companies to ensure all infrastructure is fire resistant and regularly maintained (Appendix 2)* and *Expand and Increased funding of the Roads of Strategic Importance initiative*, as it relates to the Princes Highway (**Appendix 3**). The motions are be tabled at the 2020 National General Assembly (NGA) of the Australian Local Government Association (ALGA) to be held in Canberra in June 2020. The detail for these three motions is provided below.

Telecommunication companies to provide additional communication infrastructure and devices. This motion seeks the support of the ALGA to request the Federal Government mandates Telecommunication companies to provide devices and infrastructure that are always resilient and reliable in all areas. All Australian communities should therefore have access to NBN satellite infrastructure to receive news and other critical information particularly in times of high risk such as fire, flood and other emergency declared events.

Telecommunication companies to ensure their infrastructure is fire resistant and regularly maintained. This motion, building on the above, seeks Federal Government support to require Telecommunication companies minimise the risk of infrastructure loss during critical risk events such as fire, flood and other emergency declared events.

Expand and increase the funding of the Roads of Strategic Importance initiative by focusing on rural regions hit by the 2019/2020 bushfires and floods with an increase in funding for improvements to the Princes Highway as a road of strategic importance. This funding will enable fire and flood ravaged communities to upgrade freight and road corridors to fund bridge and culvert upgrades, road sealing, strengthening and widening, creating a more reliable and safer road network and facilitate tourism opportunities, which will all assist the economic recovery of fire and flood ravaged rural communities.

RECOMMENDATION

That Council endorses the three proposed Notices of Motions titled:

- 1. Telecommunication companies to provide additional communication infrastructure and devices (Appendix 1);***
- 2. Telecommunication companies to ensure all infrastructure is fire resistant and regularly maintained (Appendix 2); and***
- 3. Expand and increase the funding of Roads of Strategic Importance initiative, as it relates to the Princes Highway (Appendix 3).***

OFFICER COMMENT / CONTEXT

Issues/Discussion

In December 2019 Council received a notification letter from the ALGA CEO Adrian Beresford-Wylie, refer **Attachment 1**, calling for Notices of Motions for the 2020 NGA. The theme for the 2020 NGA is “Working Together for our Communities” and acknowledges the need to come together and with other partners including the Federal Government to deliver for Australian wide communities.

To be eligible for inclusion in the NGA Business Papers, Notices of Motions must meet the following criteria:

1. Be relevant to the work of local government on a nationwide basis,
2. Notices of Motion must have strategic importance,
3. Be consistent with the themes of the NGA,
4. Complement or build on the policy objectives of state and territory local government associations,
5. Propose a clear action and outcome (i.e. call on the Australian Government to specifically do or address a particular issue), and
6. Not be advanced on behalf of external third parties that may seek to use the NGA to gain national political exposure for positions that are not directly relevant to the work of, or in the national interests of, local government.

Notices of Motions should generally be in a form that seeks the NGA's support for a particular action or policy change at the Federal level which will assist local governments to meet local community needs. Notices of Motion are not to be procedural in nature and should relate to the theme of the 2020 Assembly.

Potential Motions and Third-Party Council Consultation

Given the recent state of bushfire emergency East Gippsland experienced, the proposed motions are timely and relevant. This is because not only do they align with this year's NGA theme, but more pertinently go to Council's existing and necessary future interaction with the various external stakeholders including the various tiers of government, telecommunication and infrastructure providers and other essential service providers relied upon in times of natural disaster and emergency.

Council Plan

A Liveable Region Goal 1 - East Gippsland has safe, accessible and well utilised open spaces and built environments that reflect the priorities of our community

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

Council Policy

Council adopted the Risk Management Policy in August 2019 with a purpose acknowledging that “effect risk management is vital to ensure the delivery of Council's strategic and operational objectives and the safety and security of Councillors, employees, contractors, service providers, service partners, volunteers, citizens, visitor and Council's assets”.

Legislation

The Commonwealth *Telecommunications Act* 1997 provides the regulatory framework for the provision of adequate community safeguards in relation to telecommunication infrastructure. The framework seeks to promote the equitable distribution of benefits across the community from improvements in the efficiency and effectiveness of telecommunications networks and facilities; and the supply of carriage services.

The Commonwealth *National Land Transport Act* 2014 has as its objective to assist both national and regional economic and social development by the provision of Commonwealth funding aimed at improving the performance of land transport infrastructure.

The implications of this report have also 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

In the aftermath to the recent bushfire emergency clear deficiencies in critical infrastructure (e.g. telecommunications and roads) were identified and experienced by communities across the East Gippsland Shire. The ALGA motions being put forward by East Gippsland Shire Council seek to redress these by seeking from the Federal Government the requisite funding and cooperation from essential service providers to ensure critical infrastructure is built and maintained.

Organisational

- **Financial**

There are no financial implications inherent on Council's consideration of the three motions

Consultation

There was no community consultation required in the consideration of this report

Officer Declaration of Conflict of Interests

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

APPENDICES AND ATTACHMENTS

Appendices

1. Motions for Australian National General Assembly meeting June 2020

Attachments

1. Australian Local Government Association letter 4 December 2019, calling for Notices of Motions for National General Assembly 2020 (NGA).

6 Urgent and Other Business

Council will now close the meeting to the public in accordance with the provision of section 89(2)(d) of the *Local Government Act 1989* to consider Item 7.1 as this item relates to a contractual matter.

7 Confidential Business

Consideration of confidential matters under section 89(2) of the *Local Government Act 1989*.

7.1 Proposed Sub-licence of Water Licence #BEE024939

Note In accordance with section 77(2)(c) of the *Local Government Act 1989*, on 4 March 2020 the Chief Executive Officer designated as confidential, the report and attachments prepared in respect of this contract. The confidential delegation recognises that because the documentation deals with a contract, when considered by Council it will fall within section 89(2)(d) of the *Local Government Act 1989* and may be considered in closed session.

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

8 Close of meeting