



# Council Meeting Agenda



*Lakes Entrance*

**Tuesday 15 December 2020 at 6:00 PM**  
Council Chambers (and by video conferencing)  
East Gippsland Shire Council Corporate Centre  
273 Main Street, Bairnsdale 3875



## Acknowledgement to country

East Gippsland Shire Council acknowledges the Gunaikurnai, Monero and the Bidawal people as the Traditional Custodians of the land that encompasses East Gippsland Shire.

We pay our respects to all Aboriginal and Torres Strait Islander people living in East Gippsland, their Elders past and present.

## Council information

East Gippsland Shire Council live streams, records and publishes its meetings via webcasting ([youtube.com/c/EastGippyTV](https://youtube.com/c/EastGippyTV)) to enhance the accessibility of its meetings to the broader East Gippsland community.

These recordings are also archived and available for viewing by the public or used for publicity or information purposes. At the appropriate times during the meeting, any members of the gallery who are addressing the council will have their image, comments or submissions recorded.

No other person has the right to record Council meetings unless approval has been granted by the Chair.

The Victorian Government has amended the *COVID-19 Omnibus (Emergency Measures) and Other Acts Amendment Act 2020* that enables Council meetings to be conducted by electronic means (videoconferencing) until 26 April 2021. The Minister for Local Government re-issued the Ministerial Good Practice Guideline for Virtual Meetings on 20 October 2020 outlining the provisions relating to the Local Government Act 2020 allow Councillors to attend Council meetings electronically, and the requirement where Council meetings are open to the public will be satisfied where the meeting is livestreamed. The amendments do not preclude Councillors from attending a meeting in person in the Council chambers.

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

*Photo supplied by Destination Gippsland  
Location – Lakes Entrance*

## Councillors

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

## Executive Leadership Team

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

## Purpose of Council meetings

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

## Governance Rules

A copy of East Gippsland Shire Council's governance rules can be found at

[https://www.eastgippsland.vic.gov.au/About\\_Us/Publications\\_and\\_Policies/Council\\_Policies](https://www.eastgippsland.vic.gov.au/About_Us/Publications_and_Policies/Council_Policies)

## 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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# 1 Procedural

## 1.1 Recognition of Traditional Custodians

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

## 1.2 Apologies

## 1.3 Declaration of Conflict of Interest

Cr John White declared a conflict of interest in item 5.2.1 *CON2020 1385 Fire Slashing and Roadside Pest Weed Management*, as a material interest due to being a tenderer of the contract.

## 1.4 Confirmation of minutes

That the minutes of the Council Meeting held on Tuesday 1 December 2020 be confirmed.

## 1.5 Next meeting

The next Council Meeting of Tuesday 2 February 2021 to be held at the Corporate Centre, 273 Main Street Bairnsdale commencing at 6.00 pm.

## 1.6 Requests for leave of absence

## 1.7 Request to speak about your Community Project

### **Note:**

*At Council meetings, 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 Council meeting or handed to the Council Officer on duty fifteen minutes before the meeting's published commencement time on the day of the Council 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 Adoption of Amendment C151egip to the East Gippsland Planning Scheme Corrections Amendment

Authorised by General Manager Place and Community

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#### Conflict of Interest

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

#### Executive Summary

Under section 66(2) of the *Local Government Act 2020* a meeting considering confidential information may be closed to the public.

This report seeks Council approval to adopt, without changes, Amendment C151egip to the East Gippsland Planning Scheme and authority to request Minister for Planning approval. Council undertakes regular corrections amendments ensuring that identified errors and anomalies are resolved to ensure the integrity of the Planning Scheme.

The Amendment is a corrections amendment affecting 29 properties across the municipality addressing the zoning and overlay mapping controls.

It seeks to:

- remove redundant restructure overlay controls from land that has been consolidated in accordance with restructure strategies
- remove a redundant Heritage Overlay
- rezone private land from a public zone
- rezone land adjoining and forming part of 3 municipal recreation reserves to a public zone

#### Officer Recommendation

***That Council as the Planning Authority for the East Gippsland Planning Scheme and having considered all relevant planning matters resolves to:***

- 1. Receive and note this report and all attachments pertaining to this report;***
- 2. Adopt Planning Scheme Amendment C151egip without changes, in accordance with the documentation at Attachments 1, 2 and 3;***
- 3. Submit Planning Scheme Amendment C151egip to the Minister for Planning for approval.***

## Background

### *Tambo Bluff Estate and Newlands Arm Estate*

Removing the Restructure Overlay from private properties in Tambo Bluff (17 sites, see figure 1) and Newlands Arm (6 properties, see figure 2) following consolidation of land in accordance with strategic Restructure Plans is appropriate. The Restructure Overlay no longer serves a purpose as it has achieved the strategic planning outcome of consolidation. It also assists in streamlining the development process, eliminating an unnecessary planning permit trigger contained within the Overlay and cutting red tape.

**FIGURE 1: TAMBO BLUFF ESTATE SITES TO BE REMOVED FROM THE RESTRUCTURE OVERLAY**



**FIGURE 2: NEWLANDS ARM ESTATE SITES TO BE REMOVED FROM THE RESTRUCTURE OVERLAY**



### ***Remove Heritage Overlay***

A dwelling at 46 Riverine Street, Bairnsdale (see figure 3) was recognised for its heritage significance with a Heritage Overlay applied over the land. In 2015 a house fire and subsequent removal of all structures for safety reasons has seen the loss of heritage values on this site. Consequently, the Heritage Overlay is no longer required and the Amendment removes the control. This ensures that the Scheme reflects current circumstances, unnecessary planning permit triggers are removed and red tape cut.

**FIGURE 3: 46 RIVERINE STREET, BAIRNSDALE  
SITE TO BE REMOVED FROM THE HERITAGE  
OVERLAY**



### ***Rezone land to Farming Zone, Schedule 1***

Land at 256 Day Avenue, Omeo is held in private ownership, however, a public zone – the Public Conservation and Resource Zone, applies to part of the land. The Amendment rezones the land to the underlying zone being the Farming Zone, Schedule 1 being the appropriate zone for land of this type in private tenure.

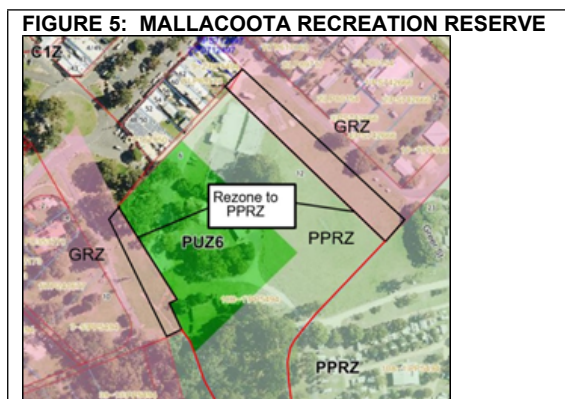
**FIGURE 4: 256 DAY AVENUE, OMEO, REZONE  
PART OF THE LAND FROM PUBLIC  
CONSERVATION AND RESOURCE ZONE TO  
FARMING ZONE, SCHEDULE 1**



## ***Municipal Recreation Reserves***

### ***Mallacoota Recreation Reserve***

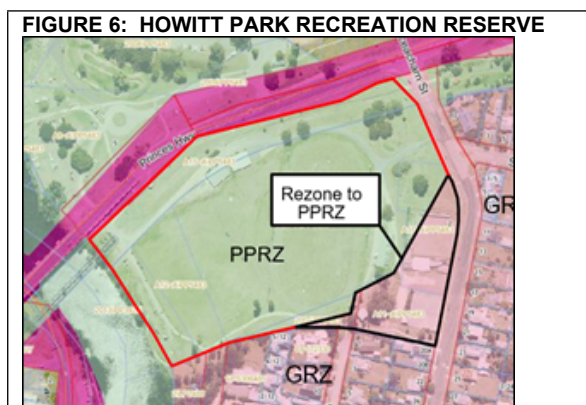
Located at 12 Greer Street, Mallacoota (see figure 5) the Mallacoota Recreation Reserve includes land currently in the General Residential Zone. The land is Crown land managed by East Gippsland Shire Council. Rezoning to Public Park and Recreation Zone will facilitate streamlined management of the reserve, reduce unnecessary planning permit triggers and cut red tape.



### ***Howitt Park Recreation Reserve***

Howitt Park Recreation Reserve located at 2 McEacharn Street, Bairnsdale (see figure 6) is Crown land managed by East Gippsland Shire Council. Part of the Reserve is currently zoned General Residential Zone. Rezoning to Public Park and Recreation Zone will reduce unnecessary planning permit triggers and cut red tape.

Registered on the Title is an Indigenous Land Use Agreement (the Agreement) and the Traditional Owners have been notified of the proposed rezoning. The proposed rezoning does not materially change the current use of the land, it will have the effect of restricting future use to public purpose activities consistent with the current use (recreation reserve) and tenure (Crown land) of the land. The Department of Environment, Land, Water and Planning in their capacity as Crown land manager has also provided advice that the Agreement is not an impediment on the proposed rezoning.



## *Lucknow Recreation Reserve*

Land in a reserve at Hueton Place Lucknow (see figure 7) adjoining 64 Great Alpine Road Lucknow on the southern boundary (Lucknow Recreation Reserve) is a reserve created by residential subdivision and is currently zoned General Residential Zone. The reserve is 5 metres wide and 850m<sup>2</sup> in size with a footpath connecting the surrounding residential area to the established sporting facilities on the adjacent sporting ground. The reserve is owned and managed by East Gippsland Shire Council and forms part of the existing East Gippsland Shire Lucknow Recreation Reserve sporting ground. Rezoning the reserve from General Residential Zone to Public Park and Recreation Zone will facilitate better management of the whole of the land that comprises the sporting recreation facility.



### ***Planning Scheme Amendment Authorisation Stage***

Planning scheme amendments progress through stages. The first stage is authorisation, the second is exhibition, the third is consideration of submissions, if required and may include a panel hearing process, and the fourth stage is the Council decision. The decision having considered all relevant matters, including panel recommendations if any, can be to adopt, adopt with changes (so long as the amendment is not transformed) or abandon the amendment. The final stage rests with the Minister for Planning who approves the amendment.

This Amendment was previously considered by Council at the authorisation stage at its meeting of 17 March 2020 (item 5.1.3) where Council resolved to seek authorisation from the Minister for Planning to prepare the Amendment. Council also resolved to exhibit the Amendment at this meeting.

Authorisation was granted by the Minister for Planning to prepare the amendment on 16 June 2020.

### ***Planning Scheme Amendment Exhibition Stage***

The Amendment has progressed through the exhibition stage and no opposing submissions have received. Consequently, no panel hearing is required.

Under the exhibition activities required under the *Planning and Environment Act 1987* the Planning Authority is required to give notice to prescribed Ministers and public authorities. Of those directly given notice the Department of Transport (incorporating VicRoads and Public Transport Victoria) responded having no objection to the Amendment.

## ***Planning Scheme Amendment Adoption and Approval Stages***

Following exhibition and the giving of notice to affected landowners, prescribed Ministers and relevant authorities no issues have been raised with the proposed changes to the Planning Scheme. Consequently, this report seeks adoption of the Amendment by Council and a resolution to seek Ministerial approval of the Amendment.

A copy of the Amendment documentation in the form for adoption and submission to the Minister for Planning for approval is provided at **attachments 1, 2 and 3**.

### **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 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.

Under section 66(2) of the *Local Government Act 2020* a meeting considering confidential information may be closed to the public.

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*.

Amendment C151egip is being undertaken following the planning scheme amendment process set out in the *Planning and Environment Act 1987*.

### **Collaboration**

Pursuant of section 109(2) of the *Local Government Act 2020* this report has been prepared in collaboration – not applicable.

Not applicable.

### **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.

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

## **Council Policy**

Not applicable

## **Options**

Council has three options following the exhibition of a planning scheme amendment, being:

1. adopt the amendment without changes;
2. adopt the amendment with changes; and
3. abandon all or part of the amendment.

As a Council prepared amendment for which no opposing submissions have been received the first option of adopting the amendment without changes will achieve the required outcomes.

## **Resourcing**

### *Financial*

The preparation and exhibition of a planning scheme amendment has costs in relation to investigating matters, drafting amendment documentation, administration, advertising, fees and should a panel hearing be required, panel costs. For a Council initiated planning scheme amendment, such as this Amendment, these costs are absorbed within existing budgets.

Amendment C151egip has no opposing submissions, consequently, panel and associated panel cost will not be incurred.

### *Plant and equipment*

Not applicable

### *Human Resources*

The Strategic land use planning business unit undertakes a corrections planning scheme amendment on a periodic basis and is part of the business workplan.

### *Risk*

The risks of this proposal have been considered and determined to not contribute further risk to the operation of the East Gippsland Planning Scheme.

## **Economic**

The Amendment will provide more certainty for private landowners whereby appropriate zoning allows private land to be developed and correctly rated. The proposed matters in the Amendment that relate to Council owned land used for public or community use will have the effect of reinforcing first principles of achieving net community benefit.

## **Social**

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.

## **Environmental**

The Amendment will lead to better land use outcomes as the most appropriate controls will be in place and redundant controls removed. The flow on effect of this will be improved outcomes for the community.

The East Gippsland Catchment Management Authority identified that the only flood prone land affected by the proposed Amendment is that 2 McEachern Street, East Bairnsdale (Howitt Park Recreation Reserve). Given that the land is being rezoned to a more appropriate zone, that is, Public Park and Recreation Zone which will not provide for intensification of development of land as under the existing zone (General Residential Zone) the proposed Amendment is not likely to increase the flood risk.

### *Climate change*

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

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

No material change will be caused to land use outcomes by the correction changes from this Amendment. For example, in Tambo Bluff a dwelling can still be developed under the existing zone. The removal of the Restructure Overlay removes an unnecessary trigger for dwelling development from the controls in the Scheme. This example holds true for each of the matters in this Amendment with the corrections not affecting development outcomes that already exist in the Scheme. Therefore, no changes (positive or negative) are expected in relation to climate change outcomes as a result of the Amendment.

## **Engagement**

The Amendment was on formal exhibition from 9 July 2020 to 7 August 2020. Notice of exhibition was given by:

- publishing notice in the Government Gazette on 9 July 2020;
- e-mailing notice to prescribed Ministers and public authorities on 6 July 2020;
- mailing notice to owners and occupiers on 6 July 2020;
- e-mailing notice to Traditional Owners (with a land agreement interest registered on Title for the Howitt Park site) on 6 July 2020

- making a copy of the amendment, explanatory report and related documentation available on the Department of Environment, Land, Water and Planning website; and
- making a copy of the amendment, explanatory report and related documentation available on Council's website.

Note that the Amendment was exhibited during the coronavirus (COVID – 19) pandemic restrictions and was compliant with the requirements under the COVID – 19 Omnibus (Emergency Measures) Act 2020. This means that planning documents previously required to be physically available to view at state and local government offices are only required to be available for online inspection.

No opposing submissions were received.

East Gippsland Catchment Management Authority submitted that the proposed Amendment is not likely to increase the flood risk and supports the Amendment.

### **Attachments**

1. Am C 151 egip Explanatory Report ( Adoption) [**5.1.1.1** - 9 pages]
2. Am C 151 egip Instruction Sheet ( Adoption) [**5.1.1.2** - 1 page]
3. Am C 151 egips Maps ( Adoption) [**5.1.1.3** - 7 pages]

## 5.2 A Liveable Region

### 5.2.1 CON2020 1385 Fire Slashing and Roadside Pest Weed Management

Authorised by General Manager Assets and Environment

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#### Conflict of Interest

No Officer who has provided advice in the preparation of this report has disclosed a conflict of interest.

#### Executive Summary

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

The purpose of this report is to seek Council approval to appoint contractors for a schedule of rates panel contract for 2.5 years to provide fire slashing and pest weed management services for East Gippsland Shire Council. Previously these works were appointed from a panel of providers contracted from contract CON2017 1166 Provision of Fire Hazard Clearing and Roadside Slashing Service Panel of Contractors. This contract expires in December 2020.

CON2020 1385 provides for a variety of service such as roadside slashing, fire slashing and weed management. The contract covers a range of property and land tenure types including municipal roadsides, Council reserves; non-compliant fire hazard slashing on private property; fire hazard debris removal on Council managed land; and pest weed treatment for Council managed roadsides and reserves.

For ease of management and to assist tenderers with their submissions, the Contract was broken into four discrete areas, with tenderers able to submit pricing for one or more of these areas.

These services form an important component of both Council's weed management program and our fire-preparedness activities. It is usual for most roadsides and reserves to be slashed twice in the spring / summer months.

Given the short duration of time available to undertake these pre-fire season works, and the expanse of the Shire to be serviced; a schedule of rates panel contract is the preferred procurement tool. This contract form allows for multiple contractors to be working concurrently across the Shire.

## Officer Recommendation

### ***That Council:***

- 1. Receives and notes this report and any attachments pertaining to this report for the awarding of CON2020 1385;***
- 2. Accepts the Schedule of Rates for Area 1 – Bairnsdale, Lakes Entrance and Orbost of CON2020 1385 Fire Slashing and Roadside Pest Weed Management Services (Panel of Suppliers) for an initial two and a half years with two (2) extension options of up to twelve (12) months to be made available solely at Council's discretion as outlined in Appendix 1 of Confidential Attachment 1 and as submitted by:***
  - a. \_\_\_\_\_;***
  - b. \_\_\_\_\_;***
  - c. \_\_\_\_\_;***
  - d. \_\_\_\_\_;***
  - e. \_\_\_\_\_;***
  - f. \_\_\_\_\_;***
  - g. \_\_\_\_\_;***
  - h. \_\_\_\_\_;***
  - i. \_\_\_\_\_;***
  - j. \_\_\_\_\_; and***
  - k. \_\_\_\_\_.***
- 3. Accepts the Schedule of Rates for Area 2 – Omeo, for Contract No CON2020 Fire Slashing and Roadside Pest Weed Management Services (Panel of Suppliers) for an initial two and a half years with two (2) extension options of up to twelve (12) months to be made available solely at Council's discretion as outlined in Appendix 1 of Confidential Attachment 1 and as submitted by:***
  - a. \_\_\_\_\_;***
  - b. \_\_\_\_\_;***
  - c. \_\_\_\_\_;***
  - d. \_\_\_\_\_;***
  - e. \_\_\_\_\_;***
  - f. \_\_\_\_\_;***
  - g. \_\_\_\_\_;***
  - h. \_\_\_\_\_;***
  - i. \_\_\_\_\_; and***
  - j. \_\_\_\_\_.***
- 4. Accepts the Schedule of Rates for Area 3 – Mallacoota for Contract No CON2020 Fire Slashing and Roadside Pest Weed Management Services (Panel of Suppliers) for an initial two and a half years with two (2) extension options of up to twelve (12) months to be made available solely at Council's discretion as outlined in Appendix 1 of Confidential Attachment 1 and as submitted by:***
  - a. \_\_\_\_\_;***
  - b. \_\_\_\_\_;***
  - c. \_\_\_\_\_;***
  - d. \_\_\_\_\_;***
  - e. \_\_\_\_\_;***
  - f. \_\_\_\_\_;***
  - g. \_\_\_\_\_;***
  - h. \_\_\_\_\_; and***
  - i. \_\_\_\_\_.***

**5. Accepts the Schedule of Rates for Area 4 – North East for Contract No CON2020 Fire Slashing and Roadside Pest Weed Management Services (Panel of Suppliers) for an initial two and a half years with two (2) extension options of up to twelve (12) months to be made available solely at Council's discretion as outlined in Appendix 1 of Confidential Attachment 1 and as submitted by:**

- a. \_\_\_\_\_;
- b. \_\_\_\_\_;
- c. \_\_\_\_\_;
- d. \_\_\_\_\_;
- e. \_\_\_\_\_;
- f. \_\_\_\_\_;
- g. \_\_\_\_\_;
- h. \_\_\_\_\_; **and**
- i. \_\_\_\_\_.

**6. Authorises signing and sealing of the contracts in the form proposed; and**

**7. Resolves that all attachments to this report and all discussions in relation to these attachments remain confidential.**

## **Background**

The management of Council controlled land to prevent fire risk and weed growth is an important component of Council's land manager responsibilities. Given the expanse of Council's local road network and public reserves, it is not possible to undertake this work in-house whilst also ensuring the continuation of normal parks and gardens management duties. Therefore, this service has traditionally been delivered by a panel of contractors appointed for multiple years on a schedule of rates basis.

The current contract for this service expires in December 2020 and this report seeks approval to enter into new contractual arrangements with a range of contractors to ensure continuation of this function. The service was therefore tendered as a Schedule of Rates Panel Contract for a two- and half-year term, with scope for two (2), one-year (1) extensions. The reason for the initial contract being a two and a half year period is to break the cycle of renewing the contract in the peak growing / slashing season. Therefore, by ending the contract in June there is sufficient time to renew the contract or bring in another style of service prior to the next spring growth season.

Prior to seeking new tenderers, the contractual instrument was completely reviewed and redrafted to provide additional clarity and to improve the management of the contract and contractors. The tender was then widely advertised, and all existing contractors advised that the tender was currently open.

The contract has been broken onto four discrete geographic areas, allowing contractors the choice to submit prices for either one or more areas. This also allowed contractors to submit different prices for the four areas recognising the impact of travel and other factors on their pricing. The areas are defined as:

- Area 1 – Bairnsdale, Lakes Entrance and Orbost and surrounds
- Area 2 – Omeo and surrounds
- Area 3 – Mallacoota and surrounds; and
- Area 4 – North East

Within each of these areas tenderers had the further opportunity to submit prices for all or some of the five defined activities below:

- a. Slash/Cut of Municipal Roadsides and Municipal fire break roads;
- b. Slash/Cut of Council reserves including nature strips;
- c. Slash/Cut grass on non-compliant fire hazards on private property including nature strips;
- d. Removal of Fire Hazard debris Council managed land; and
- e. Pest Weed Treatment

A pleasing number of tenders were received, which are described in detail in the Tender Evaluation Report provided as **Confidential Attachment 1**.

Based on the schedule of rates approach and the multiple contractors recommended, officers managing this service will have the ability to choose the most appropriate contractor for the location and works required, based on availability, location of work, and the quoted rates. Performance of the contractors and quality of work will be monitored throughout the contract period by council's Road Supervisors and Open Space teams, in a similar manner to the management of the road management contractors.

## 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.

Council undertakes this fire prevention work in accordance with our obligations under the relevant provisions of the Country Fire Authority Act 1958.

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

## Collaboration

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

## Council Plan

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

Strong Communities Goal 4 - East Gippsland has safe, resilient communities.

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.

## **Council Policy**

This tender process has been managed in accordance with Council's Procurement Policy (2020).

## **Options**

As outlined earlier in this report, a range of options have been considered for the delivery of this service, including: in-house delivery; individual place- based quotations; selection of a sole contractor; and use of a schedule of rates panel contract. A schedule of rates panel contract is considered the most appropriate delivery option based on:

1. The short time window in which the service must be delivered across the entire Shire;
2. Insufficient in-house capacity and plant;
3. A desire to not have to contract the service annually;
4. Ensuring there was sufficient contractor capacity to undertake the works in a short period of time; and
5. Provision of price certainty for annual budgeting

## **Resourcing**

### *Financial*

This service will be funded from operational budgets or grant funding. The estimated operational budget for the service is \$370,000 p.a. The fact that this is a multi-year contract means that Council is considering a service with an estimated value of \$1,000,000 over the life of the contract (excluding extensions).

### *Plant and equipment*

Council will be outsourcing all plant and equipment for work issued from the panel of providers.

### *Human Resources*

Council's Civil Works Coordinator will be the Project Supervisor for awarding of works from the panel of providers.

### *Risk*

The risks of this proposal have been considered and Council will not be able to meet its fire prevention requirements nominated in the Municipal Fire Prevention Plan if this contract is not awarded.

## **Economic**

The risk of fire on the local economy is well documented and was experienced very recently. Fire slashing is an important part of mitigating this risk. Similarly, roadside weeds present a risk to our agricultural sector, therefore roadside and reserve weed management is an important component of mitigating the risk of spread into private property and pastures.

Tenders were also formally evaluated against a range of local content criteria, which favours contractors positively benefiting the local economy.

## **Social**

As detailed above fire has a serious and devastating effect on communities and individuals. Fire prevention such as roadside slashing is an important part of mitigating this risk.

## **Environmental**

Tenders were evaluated on the potential environmental impact that the plant and equipment might make. Tenders specified the equipment they would be utilising to provide this service to Council and the TEP reflected on direct damage to vegetation and emissions. This included the age, proposed slashing attachment mechanism and specifications for each piece of plant and equipment.

More broadly fire and weed slashing assists to prevent fire and the spread of weeds, both of which have significant environmental benefit.

### *Climate change*

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

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

## **Engagement**

Not applicable

## **Attachments**

1. CONFIDENTIAL REDACTED - Tender Evaluation Panel Report CON2020 1385 Fire Slashing and Roadside Pest Weed Management Services [5.2.1.1 - 68 pages]

## 5.2.2

## CON2020 1407 Provision of Plumbing Services

Authorised by General Manager Assets and Environment

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### Conflict of Interest

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

### Executive Summary

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

The purpose of this report is to provide the background on a tender to for a Panel Contract for the provision of plumbing services (CON2020 1407) and seek approval by Council to accept the recommendations made by the Tender Evaluation Panel. The Tender Evaluation Panel Report is detailed in **Confidential Attachment 1**.

The proposed contract is in the format of a panel of providers and includes the provision of plumbing services inclusive of all staff, labour, materials and plant for both Emergency Response Services, and General Scheduled Services.

The tender process provides options for pricing services in 8 geographic locations throughout East Gippsland Shire, promoting the utilisation of local contractors to each area.

The format provides certainty and efficiency for service providers and will enable Council to be responsive while having price certainty for specific tasks in various geographic locations

The initial term of the contract is three years at a fixed rate effective 8 February 2021 to 7 February 2024. There is a further two (2) extension options inclusive of CPI increase each of one (1) year at Council's sole discretion.

### Officer Recommendation

#### ***That Council:***

- 1. Receives and notes this report and all attachments pertaining to this report;***
- 2. Accepts the Schedule of Rates for Area A – Bairnsdale and District for Contract No CON2020 1407 Provision of Plumbing Services for a three-year term with two extension options of twelve months to be made available solely at Council's discretion as outlined in Appendix 1 of Confidential Attachment 1 and as submitted by:***
  - a.*** \_\_\_\_\_,
  - b.*** \_\_\_\_\_,
  - c.*** \_\_\_\_\_, ***and***
  - d.*** \_\_\_\_\_;

3. ***Accepts the Schedule of Rates for Area B – Lakes Entrance and District for Contract No CON2020 1407 Provision of Plumbing Services for a three-year term with two extension options of twelve months to be made available solely at Council’s discretion, as outlined in Appendix 1 of Confidential Attachment 1 and as submitted by:***
- a. \_\_\_\_\_,
  - b. \_\_\_\_\_,
  - c. \_\_\_\_\_,
  - d. \_\_\_\_\_, and
  - e. \_\_\_\_\_;
4. ***Accepts the Schedule of Rates for Area C – Paynesville / Eagle Point for Contract No CON2020 1407 Provision of Plumbing Services for a three-year term with two extension options of twelve months to be made available solely at Council’s discretion, as outlined in Appendix 1 of Confidential Attachment 1 and as submitted by:***
- a. \_\_\_\_\_,
  - b. \_\_\_\_\_,
  - c. \_\_\_\_\_, and
  - d. \_\_\_\_\_;
5. ***Accepts the Schedule of Rates for Area D – Orbost and District for Contract No CON2020 1407 Provision of Plumbing Services for a three-year term with two extension options of twelve months to be made available solely at Council’s discretion, as outlined in Appendix 1 of Confidential Attachment 1 and as submitted by:***
- a. \_\_\_\_\_, and
  - b. \_\_\_\_\_;
6. ***Accepts the Schedule of Rates for Area E – Cann River / Bemm River for Contract No CON2020 1407 Provision of Plumbing Services for a three-year term with two extension options of twelve months to be made available solely at Council’s discretion, as outlined in Appendix 1 of Confidential Attachment 1 and as submitted by:***
- a. \_\_\_\_\_, and
  - b. \_\_\_\_\_.
7. ***Accepts the Schedule of Rates for Area F – Mallacoota for Contract No CON2020 1407 Provision of Plumbing Services for a three-year term with two extension options of twelve months to be made available solely at Council’s discretion, as outlined in Appendix 1 of Confidential Attachment 1 and as submitted by:***
- a. \_\_\_\_\_,
  - b. \_\_\_\_\_, and
  - c. \_\_\_\_\_;
8. ***Accepts the Schedule of Rates for Area G – Metung and District for Contract No CON2020 1407 Provision of Plumbing Services for a three-year term with two extension options of twelve months to be made available solely at Council’s discretion, as outlined in Appendix 1 of Confidential Attachment 1 and as submitted by:***
- a. \_\_\_\_\_,
  - b. \_\_\_\_\_,
  - c. \_\_\_\_\_,
  - d. \_\_\_\_\_, and
  - e. \_\_\_\_\_.

**9. Accepts the Schedule of Rates for Area H – Omeo and District for Contract No CON2020 1407 Provision of Plumbing Services for a three-year term with two extension options of twelve months to be made available solely at Council's discretion, as outlined in Appendix 1 of Confidential Attachment 1 and as submitted by:**

- a.** \_\_\_\_\_, **and**  
**b.** \_\_\_\_\_;

**10. Authorises signing and sealing of the contracts in the form proposed; and**

**11. Resolves that Attachment 1 to this report and all discussions in relation to Attachment 1 remain confidential.**

## **Background**

Council's expenditure for plumbing services throughout the Shire is between \$100,000 - \$150,000 per annum. These works include proactive and reactive maintenance of Council assets, in addition to activities associated with capital works projects.

The panel of providers procurement format provides certainty and efficiency for service providers, as it removes the need for pricing of individual small jobs. The structure also enables Council to be responsive while having price certainty for specific tasks in various geographic locations.

The panel of providers is for the provision of plumbing services inclusive of all staff, labour, materials and plant. Services and associated rates under the contract are in two parts. Firstly, Part A – Emergency Response Services, and secondly, Part B – General Scheduled Services.

The tender allows for suitable contractors to tender pricing for services within any or all of the following geographic localities across East Gippsland Shire:

- Area A – Bairnsdale and District
- Area B – Lakes Entrance and District
- Area C – Paynesville / Eagle Point
- Area D – Orbost and District
- Area E – Cann River / Bemm River
- Area F – Mallacoota
- Area G – Metung and District
- Area H – Omeo and District

The initial term of the contract is three years at a fixed rate effective 8 February 2021 to 7 February 2024. There is a further two (2) extension options inclusive of CPI increase each of one (1) year at Council's sole discretion.

## **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* as it relates to procurement.

Under section 66(2) of the *Local Government Act 2020* a meeting considering confidential information may be closed to the public.

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

## **Collaboration**

Given the nature of the works and locations within the Shire, it has not been possible to pursue collaboration on this matter.

## **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 1 - East Gippsland has safe, accessible and well utilised open spaces and built environments that reflect the priorities of our community.

## **Council Policy**

The tender process for this report was undertaken in accordance with Council's Procurement Policy.

## **Options**

Before selecting a Schedule of Rates Panel Contract as the preferred procurement method, officers considered the continuation of quoting for individual jobs, single supply contracts and a panel of contractor options. The Schedule of Rates Panel Contract was the preferred option as:

1. It provides price certainty for Council for the period of the contract, which allows for efficient budgeting;
2. It provides a range of suppliers who can be selected based on location and availability;
3. It means that local businesses aren't continually being asked to quote work; and
4. It provides certainty for suppliers.

The option is available to Council to pursue alternative procurement methods for the supply of plumbing services.

## **Resourcing**

### *Financial*

Annual expenditure related to services applicable to the proposed Contract for all areas with East Gippsland Shire is approximately \$100,000 - \$150,000 per year. These funds are sourced from of Councils annual adopted budget, including both operating budgets and capital works projects.

### *Plant and equipment*

There is no plant or equipment implications with this report.

### *Human Resources*

The contracts will be managed by the Senior Works Coordinator.

### *Risk*

The risks of this proposal have been considered and no risks perceived. This option gives us the benefit of locking in labour pricing for the next three years.

## **Economic**

Evaluation of the tender includes assessment of each tender against local economic impact criteria, which includes the location of the company, local employment to be generated as part of the project delivery, local purchasing of materials and other ways in which the company supports the local economy.

## **Social**

There are no social impact implications associated with this report.

## **Environmental**

There are no environmental implications with this report.

### *Climate change*

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

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

## **Engagement**

Not applicable for this report.

## **Attachments**

1. CONFIDENTIAL REDACTED - Tender Evaluation Panel Report - CON2020 1407 Provision of Plumbing Services [5.2.2.1 - 19 pages]

Authorised by General Manager Assets and Environment

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### Conflict of Interest

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

### Executive Summary

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

The purpose of this report is to provide the background on a tender for a Panel Contract for the provision of Provision of Electrical Services (CON2020 1406) and seek approval by Council to accept the recommendations made by the Tender Evaluation Panel. The Tender Evaluation Report is detailed in **Confidential Attachment 1**.

The proposed contract is in the format of a panel of providers and includes the provision of electrical services inclusive of all staff, labour, materials and plant for both Emergency Response Services, and General Scheduled Services.

The tender process provides options for pricing services in 8 geographic locations throughout East Gippsland Shire, promoting the utilisation of local contractors to each area.

The format provides certainty and efficiency for service providers and will enable Council to be responsive while having price certainty for specific tasks in various geographic locations

The initial term of the contract is three years at a fixed rate effective 8 February 2021 to 7 February 2024. There is a further two (2) extension options inclusive of CPI increase each of one (1) year at Council's sole discretion.

### Officer Recommendation

#### *That Council:*

- 1. Receives and notes this report and all attachments pertaining to this report,**
- 2. Accepts the Schedule of Rates for Area A – Bairnsdale and District for Contract No CON2020 1406 Provision of Electrical Services for a three-year (3) term with two (2) extension options of twelve months (12) to be made available solely at Council's discretion as outlined in Appendix 1 of Confidential Attachment 1 and as submitted by:**
  - a.** \_\_\_\_\_,
  - b.** \_\_\_\_\_,
  - c.** \_\_\_\_\_, **and**
  - d.** \_\_\_\_\_.

3. ***Accepts the Schedule of Rates for Area B – Lakes Entrance and District for Contract No CON2020 1407 Provision of Electrical Services for a three-year (3) term with two (2) extension options of twelve (12) months to be made available solely at Council’s discretion as outlined in Appendix 1 of Confidential Attachment 1 and as submitted by:***
- a. \_\_\_\_\_,
  - b. \_\_\_\_\_,
  - c. \_\_\_\_\_, and
  - d. \_\_\_\_\_.
4. ***Accepts the Schedule of Rates for Area C – Paynesville / Eagle Point for Contract No CON2020 1407 Provision of Electrical Services for a three-year (3) term with two (2) extension options of twelve (12) months to be made available solely at Council’s discretion as outlined in Appendix 1 of Confidential Attachment 1 and as submitted by:***
- a. \_\_\_\_\_,
  - b. \_\_\_\_\_,
  - c. \_\_\_\_\_, and
  - d. \_\_\_\_\_.
5. ***Accepts the Schedule of Rates for Area D – Orbost and District for Contract No CON2020 1407 Provision of Electrical Services for a three-year (3) term with two (2) extension options of twelve (12) months to be made available solely at Council’s discretion as outlined in Appendix 1 of Confidential Attachment 1 and as submitted by:***
- a. \_\_\_\_\_,
  - b. \_\_\_\_\_,
  - c. \_\_\_\_\_, and
  - d. \_\_\_\_\_.
6. ***Accepts the Schedule of Rates for Area E – Cann River / Bemm River for Contract No CON2020 1407 Provision of Electrical Services for a three-year (3) term with two (2) extension options of twelve (12) months to be made available solely at Council’s discretion as outlined in Appendix 1 of Confidential Attachment 1 and as submitted by:***
- a. \_\_\_\_\_,
  - b. \_\_\_\_\_,
  - c. \_\_\_\_\_, and
7. ***Accepts the Schedule of Rates for Area F – Mallacoota for Contract No CON2020 1407 Provision of Electrical Services for a three-year (3) term with two extension options of twelve (12) months to be made available solely at Council’s discretion as outlined in Appendix 1 of Confidential Attachment 1 and as submitted by:***
- a. \_\_\_\_\_, and
  - b. \_\_\_\_\_.

**8. Accepts the Schedule of Rates for Area G – Metung and District for Contract No CON2020 1407 Provision of Electrical Services for a three-year (3) term with two (2) extension options of twelve (12) months to be made available solely at Council’s discretion as outlined in Appendix 1 of Confidential Attachment 1 and as submitted by:**

- a. \_\_\_\_\_,
- b. \_\_\_\_\_,
- c. \_\_\_\_\_, and
- d. \_\_\_\_\_.

**9. Accepts the Schedule of Rates for Area H – Omeo and District for Contract No CON2020 1407 Provision of Electrical Services for a three-year (3) term with two (2) extension options of twelve (12) months to be made available solely at Council’s discretion as outlined in Appendix 1 of Confidential Attachment 1 and as submitted by:**

- a. \_\_\_\_\_,
- b. \_\_\_\_\_,
- c. \_\_\_\_\_,
- d. \_\_\_\_\_, and
- e. \_\_\_\_\_.

**10. Authorises signing and sealing of the contracts in the form proposed; and**

**11. Resolves that Attachment 1 to this report and all discussions in relation to Attachment 1 remain confidential.**

## **Background**

Council’s expenditure for electrical services throughout the Shire is between \$100,000 - \$150,000 per annum. These works include proactive and reactive maintenance of Council assets, in addition to activities associated with capital works projects.

The panel of providers procurement format provides certainty and efficiency for service providers, as it removes the need for pricing of individual small jobs. The structure also enables Council to be responsive while having price certainty for specific tasks in various geographic locations.

The panel of providers is for the provision of electrical services inclusive of all staff, labour, materials and plant. Services and associated rates under the contract are in two parts. Firstly, Part A – Emergency Response Services, and secondly, Part B – General Scheduled Services.

The tender allows for suitable contractors to tender pricing for services within any or all of the following geographic localities across East Gippsland Shire:

- Area A – Bairnsdale and District
- Area B – Lakes Entrance and District
- Area C – Paynesville / Eagle Point
- Area D – Orbost and District
- Area E – Cann River / Bemm River
- Area F – Mallacoota
- Area G – Metung and District
- Area H – Omeo and District

The initial term of the contract is three years at a fixed rate effective 8 February 2021 to 7 February 2024. There is a further two (2) extension options inclusive of CPI increase each of one (1) year at Council's sole discretion.

## **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* as it relates to procurement.

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

## **Collaboration**

Given the nature of the works and locations within the Shire, it has not been possible to pursue collaboration on this matter.

## **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 1 - East Gippsland has safe, accessible and well utilised open spaces and built environments that reflect the priorities of our community.

## **Council Policy**

The tender process for this report was undertaken in accordance with Council's Procurement Policy.

## **Options**

When considering the best means for procuring electrical repair services a range of options were considered including, sole supplier contract; panel contract or no contract and continue to procure the service on a job-by-job basis. It was determined that a panel contract was the preferred procurement option as:

1. It only requires contractors to quote once and then be eligible to work on multiple jobs;
2. It determines the price for each service which allows for accurate budgeting by officers; and
3. It allows for a spread of contractors across the shire that can be called on based on availability and location of the work.

The option is available to Council to pursue alternative procurement methods for the supply of electrical services.

## **Resourcing**

### *Financial*

Annual expenditure related to services applicable to the proposed Contract for all areas with East Gippsland Shire is approximately \$100,000 - \$150,000 per year. These funds are sourced from of Council's annual adopted budget, including both operating budgets and Capital Works projects.

### *Plant and equipment*

There is no plant or equipment implications with this report.

### *Human Resources*

The contracts will be managed by the Senior Works Coordinator.

### *Risk*

The risks of this proposal have been considered and no risks perceived. This option gives us the benefit of locking in labour pricing for the next three years.

## **Economic**

Evaluation of the tender includes assessment of each tender against local economic impact criteria, which includes the location of the company, local employment to be generated as part of the project delivery, local purchasing of materials and other ways in which the company supports the local economy.

## **Social**

There are no social implications with this report.

## **Environmental**

There are no environmental implications with this report.

### *Climate change*

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

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

## **Engagement**

Not applicable for this report.

## **Attachments**

1. CONFIDENTIAL REDACTED - Tender Evaluation Panel Report - CON2020 1406 Provision of Electrical Services [5.2.3.1 - 22 pages]

Authorised by General Manager Assets and Environment

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### Conflict of Interest

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

### Executive Summary

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

The purpose of this report is to provide the background of the tender and evaluation process for the above contract and seek approval by Council to accept the recommendations made by the Tender Evaluation Panel (TEP). The Tender Evaluation Report is detailed in **Confidential Attachment 1**. Due to the value of the contract an external probity auditor also observed the tender evaluation process pursuant with Council's Procurement Policy. A copy of the Probity Auditor's report provided as **Confidential Attachment 2**.

During Level 1 bridge inspections carried out in 2018, the Bullock Island bridge was assessed as having severe cracking in several critical components, which if not repaired would severely compromise the bridge's structural integrity. Council officers along with consultants and structural engineers investigated several options for the repair of the bridge and quickly identified that replacement of the entire structure would be the most cost-effective option.

A replacement bridge has been designed to the current bridge loading requirements, which comprises of specific concrete mixtures, steel re-enforcement and levels of cover that allows the bridge to have a 100-year design life. The bridge width has been increased to cater for a pedestrian footpath on the Northern side and a shared footway on the Southern side of the bridge. These paths will link the existing pathways in Lakes Entrance to the new pathways on Bullock Island, as depicted in the Bullock Island Master Plan.

The construction of the new bridge is proposed to begin onsite in April 2021, this will minimise disruption to access to Bullock Island during the busy summer period. Once construction commences it will be undertaken in two stages, this will allow local industry, local users and visitors to have continued access to Bullock Island during the six-month construction period.

The project will be funded by part of the Commonwealth Government's \$5M commitment to the Bullock Island Redevelopment project. A formal funding agreement is yet to be executed however is anticipated within the coming weeks.

## **Officer Recommendation**

### ***That Council:***

- 1. Receives and notes this report and any attachments pertaining to this report to the awarding of CON2020 0411 Bullock Island Lakes Entrance Bridge Replacement***
- 2. Accepts the tender submitted by \_\_\_\_\_ for Bullock Island Lakes Entrance Bridge Replacement for the contract amount of \$\_\_\_\_\_ (ex GST);***
- 3. Notes that budgeted external funding is yet to be confirmed for the project;***
- 4. Subject to adequate project funding being confirmed by the Australian Government, authorises signing and sealing of the contract in the form proposed; and***
- 5. resolves that the attachments to this report and all discussions in relation to the attachments remain confidential.***

## **Background**

During Level 1 bridge inspections carried out in 2018, the Bullock Island bridge was assessed as having severe cracking and salt ingress in several critical bridge components. Council officers along with Consultants and structural engineers looked at several options for the repair of the bridge, including removing replacing or repairing all failing components. All these options were extremely expensive and could not ensure the bridge's load rating capacity or life span would not be severely compromised.

The Bullock Island bridge provides the only vehicle access to Bullock Island including access to Lakes Entrance Fishing Ltd and the Gippsland Ports boat yard. Being load limited would therefore be detrimental to the businesses located on Bullock Island. Many of these businesses logistically require heavy vehicles for deliveries of essential items such as fuel and materials associated with each of the business's needs and requirements.

The Lakes Entrance Fishing Limited requires unlimited access to Bullock Island to guarantee fresh seafood can be delivered to markets throughout Victoria in a timely manner and ensure the freshest product is available to the consumer. Any restriction to seafood associated transportation would be disastrous for the local economy.

Council has recently taken on Committee of Management responsibilities for the public areas of Bullock Island and is in the early stages of upgrading these areas as a tourist attraction. Bullock Island is a key destination for recreational fishers and crabbers and those boat watching.

Due to the strategic importance of the bridge, expensive repair costs and the inability to increase the life of the existing structure, after considering all options, it was determined that replacement of the entire structure would be the most cost-effective option.

A replacement bridge has been designed to the current bridge loading requirements, which comprises of specific concrete mixtures, steel re-enforcement and levels of cover that allows the bridge to have a 100-year design life.

The bridge design incorporates a pedestrian footpath on the Northern side and a shared footway on the Southern side of the bridge. These paths will link the existing pathways in Lakes Entrance to the new pathways on Bullock Island, as depicted in the Bullock Island Master Plan.

The construction of the new bridge is proposed to begin onsite in April 2021, this will minimise disruption to access to Bullock Island during the busy summer period.

Construction will be undertaken in two stages, with a traffic lane always remaining available. This will allow local industry, local users and visitors to have continued access to Bullock Island during the six-month construction period.

## **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 the *Local Government Act 2020* Sections 66(2)(2) and 77(2)(c).

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 bridge is also being replaced in accordance with the Road Management Act (2004).

## **Collaboration**

Pursuant of section 109(2) of the *Local Government Act 2020* the design of this bridge has been developed with advice from Victorian Government (Heritage Victoria) and Commonwealth government funding. It is not possible to undertake collaborative procurement for this bridge given its unique design and location.

## **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 1 - East Gippsland has safe, accessible and well utilised open spaces and built environments that reflect the priorities of our community.

## **Council Policy**

Procurement has been undertaken in accordance with the East Gippsland Shire Council Procurement Policy (2020).

## **Options**

When considering the design of this replacement bridge a range of design options were considered and informally discussed with both local community and industry representatives and bridge design consultants. The design option chosen reflects the most cost effective, robust and aesthetically pleasing design option.

Rather than just undertaking a like-for-like replacement, the bridge was designed to link with pedestrian and cycle paths connecting to both the central business area of Lakes Entrance and Kalimna. Several options were considered for how this access should be configured.

The option is available to Council to not proceed with the bridge replacement as recommended. The option to not replace the bridge would involve risks associated with future access restriction for industry through load limits required due to the condition of the existing structure and jeopardise the current external funding available from the Commonwealth government.

## **Resourcing**

### *Financial*

Funding for the replacement of the Bullock Island bridge was subject to an announcement by the Australian Government as part of a broader funding package to improve the Princes Highway corridor.

The adopted Council budget reflects a portion of funds from this Australian Government funding and funding from Council for costs not eligible to be funded via the external funding. The budget also makes allowance for 3% project management costs and 3% of project overheads.

At this time, a funding agreement is yet to be finalised with the Australian Government. Council officers are continuing to work through a funding strategy to cater for all budgeted projects including the Bullock Island Bridge with in-principal support received and are confident that the formal agreement will soon be finalised.

Given the current financial circumstances of this contract, the report recommendation limits authorisation to enter into a contract for this project only when adequate funding being confirmed.

### *Plant and equipment*

Not applicable

### *Human Resources*

The project will be managed by a project supervisor allocated from the Assets and Projects team. There are no additional human resources required to deliver this project.

## *Risk*

Project risks have been considered as part of Council's Project Management Framework and are considered to be of low magnitude with suitable and established controls.

## **Economic**

Part of the evaluation of the tenders for this works, formally considered local content and the contribution to the local economy.

The project outcomes will ensure continued unrestricted access to Bullock Island for residents, tourists and businesses located on the Island with flow on and multiplier cost benefits for the local economy.

Conversely should Council not award this contract this would lead to a need apply load limit restrictions to the Bullock Island bridge which would be detrimental to the businesses located on Bullock Island.

## **Social**

Bullock Island is an important recreational fishing destination for the local community and allows those who do not wish or are unable to walk to the Entrance via the Entrance Walk to still enjoy watching the entrance and boating activity. Ongoing access to the Island is therefore necessary for these activities to continue to occur.

## **Environmental**

The aesthetically pleasing design of the proposal will support the local amenity. The project will have no impact on the natural environment, with the works having gone through a formal environmental assessment. This has identified a need for some minor vegetation removal, which will be formally offset in accordance with Victorian legislation.

## *Climate change*

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

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

## **Engagement**

Council officers have consulted informally with members of the community, in particular with key stakeholders who have businesses on the island (within the challenges of COVID-19 restrictions) and will continue to do so throughout the project. The replacement of the bridge is also included in the recently revised Bullock Island Masterplan which was led by a project reference group including local community, agency and industry representation and went through a public exhibition process which included use of media, online surveys and social media.

Community feedback in response to design concepts that are sympathetic to the aesthetic and strategic values of the bridge and provides good access to Kalimna and the central business area was very positive.

Council Officers will continue to consult with all relevant stakeholders during construction and keep the broader community informed of the status of construction.

## **Attachments**

1. CONFIDENTIAL REDACTED - CON2020 0411 Tender Evaluation Panel Report  
Bullock Island Bridge Replacement Lakes Entrance [**5.2.4.1** - 6 pages]
2. CONFIDENTIAL REDACTED - Probity Report - CON 2020 0411 Bullock Island Bridge  
Replacement Lakes Entrance [**5.2.4.2** - 2 pages]

## 5.3 Good Governance

### 5.3.1 Audit and Risk Committee meeting 8 December 2020

Authorised by General Manager Business Excellence

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#### Conflict of Interest

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

#### Executive Summary

This report provides Council with an overview of the items considered by the East Gippsland Shire Council Audit and Risk Committee (the Committee) at its meeting held on 8 December 2020.

The Mayor, Cr Mendy Urie and Cr Arthur Allen attended their first Audit and Risk Committee meeting as the newly appointed Council representatives on the Committee. Cr John White was an apology for the meeting. All independent members of the Committee were present for the meeting.

The Committee discussed reports presented by Council staff and Council's internal auditors. The Committee acknowledged the efforts of staff to continue to deliver projects and programs through the difficulties presented by the 2019-20 bushfires and the COVID-19 restrictions.

#### Officer Recommendation

***That Council receives and notes this report on items considered by the East Gippsland Shire Council Audit and Risk Committee, at its meeting held on 8 December 2020.***

#### Background

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

At the meeting on the 8 December 2020 the Audit and Risk Committee was provided with updates on the East Gippsland Shire 2019-20 Bushfire Recovery and COVID-19 impacts on Council business. The Committee discussed the Inspector-General for Emergency Management Phase 1 report and the Bushfire Preparedness for the Shire ahead of the 2020-21 bushfire season. Following the Government's announcement to ease COVID-19 restrictions, the Committee was advised that most of the Council businesses are now open, and the focus is on returning office staff to the workplace.

The Committee discussed the progress on internal audit actions and recently completed internal audits. The internal Auditors have commenced the 2020/21 internal audit program and provided a report on the Management of Plant and Equipment. The Committee was advised that the recommendations in the report were primarily about strengthening the governance around the established practices for managing Council's plant and equipment. Management has agreed to implement the recommendations.

The Committee was provided with an audit report on Council's Statutory Planning activities which has identified opportunities to strengthen governance, manage conflicts of interest and clarify the role of Councillors in mediation discussions. Management had requested this audit as part of a wider review of Council's planning activities including a culture review of the Planning Unit. These reviews will ensure Council's planning activities are delivering good decisions for the sustainability of the community.

The Committee received and noted quarterly updates relating to:

- risk management;
- legal activities;
- major insurance claims;
- finance; and
- capital works and major projects.

The Committee suggested opportunities for collaboration with other Councils on developing aspects of the risk management framework. The Committee encouraged officers to review the identification and classification of potential risks when reporting on the Occupational Health and Safety framework. The Committee re-acknowledged the efforts of staff across the scope of Council's business to complete projects and programs in the difficult situation presented by the 2019-20 bushfires and COVID-19 restrictions.

## **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 sections 53 and 54 of the *Local Government Act 2020* which establish the requirements for Council's Audit and Risk Committee.

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

## **Collaboration**

There are no collaborative implications with this report.

## **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.

## **Resourcing**

### *Financial*

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

### *Plant and equipment*

There are not plant and equipment implications with this report.

### *Human Resources*

There are no human resource implications with this report.

### *Risk*

The Audit and Risk Committee is encouraging Council officers to collaborate with other Councils to build on East Gippsland Shire Council's risk management framework.

The risks of this report have been considered by the General Manager Business Excellence to be low.

## **Economic**

The Audit and Risk Committee provides the checks and balances to ensure Council is making decisions for its financial viability and the best outcomes for the municipality.

## **Social**

Through its annual work program, the Audit and Risk Committee monitors and provides advice on Council's policies and procedures, financial performance, risk management, fraud prevention and audit program to ensure Council projects and programs are delivering outcomes for the sustainability of the East Gippsland community.

## **Environmental**

The Audit and Risk Committee has regard to the risks and implications of Council's projects and programs on the environment of the Shire.

### *Climate change*

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

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

**Engagement**

There are no engagement requirements for this this report.

**Attachments**

Nil

### **5.3.2 Instrument of Appointment and Authorisation**

Authorised by      General Manager Business Excellence

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#### **Conflict of Interest**

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

#### **Executive Summary**

This report seeks Council's approval for the Instrument of Appointment and Authorisation (*Planning and Environment Act 1987*) for the Statutory Land Use Planning Officer – Bushfire Rebuild, Place and Community Directorate.

Instruments of Appointment and Authorisations need to be updated from time to time to reflect changes in legislation, organisational and administrative requirements.

The Instrument of Appointment and Authorisation enables officers to act on behalf of Council in certain circumstances. Council staff are authorised under the *Planning and Environment Act 1987* to represent the Council in enforcing the provisions of the Act. An Instrument of Appointment and Authorisation is required for Daniella Natautama who was recently been appointed as Statutory Land Use Planning Officer – Bushfire Rebuild to enable the enforcement of the provisions of the *Planning and Environment Act 1987*.

#### **Officer Recommendation**

##### ***That Council:***

- 1.    *Receives and notes this report and all attachments pertaining to this report;***
- 2.    *In the exercise of the powers conferred by section 224 of the Local Government Act 1989 and section 147 (4) of the Planning and Environment Act 1987 resolves that:***
  - a) the Instrument of Appointment and Authorisation and Instrument of Appointment and Authorisation certificates dated 6 October 2020 be revoked,***
  - b) Council Officers named in the Instrument of Appointment and Authorisation provided at Attachment 1 and Instrument of Appointment and Authorisation certificates provided at Attachment 2 be appointed and authorised,***
  - c) the Instrument of Appointment and Authorisation and Instrument of Appointment and Authorisation certificates come into force once the common seal is affixed and remain in force until Council determines to vary or revoke these; and***
  - d) the Instrument of Appointment and Authorisation at Attachment 1 and Instrument of Appointment and Authorisation certificates provided at Attachment 2 be signed and sealed.***

## Background

The appointment of Authorised Officers allows certain Council staff to act on behalf of the Council in the administration and enforcement of various Acts, regulations or local laws in accordance with the powers granted to them. Under the *Planning and Environment Act 1987* staff represent the Council in enforcing the provisions of the Act.

The Statutory Land Use Planning Officer – Bushfire Rebuild, Place and Community Directorate is required to be an authorised officer under the *Planning and Environment Act 1987*. This position was recently filled by Daniella Natautama necessitating the update of the Instrument of Appointment and Authorisation for the *Environment and Planning Act 1987* at **Attachment 1** and the Instrument of Appointment and Authorisation certificates at **Attachment 2**.

All appointments are being updated to ensure these are managed in an effective and efficient manner.

## 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 Instrument of Appointment and Authorisation has been prepared in accordance with the *Local Government Act 1989* and 2020 and the *Planning and Environment Act 1987*.

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

## Collaboration

As this report does not detail procurement arrangements there is no collaboration required.

## 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.

## Council Policy

There is no applicable Council Policy for this report.

## **Options**

There are no alternative options for Council to consider in relation to Instruments of Appointment and Authorisation.

## **Resourcing**

### *Financial*

There are no financial implications from this report.

### *Plant and equipment*

There are no plant and equipment implications from this report.

### *Human Resources*

Appointing the Statutory Land Use Planning Officer – Bushfire Rebuild, Place and Community Directorate an authorised officer under the *Environment and Planning Act 1987* will enable the officer to enforce the requirements under the Act for the benefit of the municipal community.

### *Risk*

The risks of this proposal have been considered and determined by the General Manager Business Excellence to be low.

## **Economic**

There are no economic impacts for the East Gippsland Shire from the approval of the Instruments outlined in this report.

## **Social**

The East Gippsland Shire will have confidence that Council is applying the powers, duties and functions of the various legislative requirements for the well-being and benefit of the municipal community.

## **Environmental**

The East Gippsland Shire will have confidence that Council is applying the powers, duties and functions of the various legislative requirements for the environmental sustainability of the Shire.

### *Climate change*

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

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

## **Engagement**

The Instruments in the report have been prepared in consultation with appropriate personal across the Council.

## **Attachments**

1. Instrument of Appointment Planning and Environment Act 1987 [**5.3.2.1** - 1 page]
2. Instrument of Appointment and Authorisation Certificates [**5.3.2.2** - 10 pages]

### 5.3.3 Service Provisions and Fire Danger Ratings Policy

Authorised by General Manager Business Excellence

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#### Conflict of Interest

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

#### Executive Summary

This report presents a new Service Provision and Fire Danger Ratings Policy (the Policy) provided at **Attachment 1** for Council's review and consideration for formal adoption.

East Gippsland Shire Council has been declared a bushfire prone area by the State Government. The Policy outlines changes to Council's service provision on days predicted to pose the highest fire danger risks to minimise risks to personnel safety.

This Policy will apply on Code Red days as declared by the Country Fire Authority (CFA). The Chief Executive Officer (CEO) may also enact parts of this Policy on days with a Severe or Extreme Fire Danger Rating based on advice from emergency services. Council's Municipal Emergency Management Plan (MEMP), if enacted, may override this Policy during declared emergencies.

#### Officer Recommendation

***That Council adopts the draft East Gippsland Shire Council Service Provision and Fire Danger Ratings Policy, as provided at Attachment 1.***

#### Background

East Gippsland Shire Council has been declared a bushfire prone area by the State Government<sup>1</sup>. Consequently, it is anticipated that the public will be on heightened alert on days with the highest Fire Danger Ratings and vigilant for information that assists them in their contingency planning. It is therefore important that information is readily available to the public regarding Council's preparedness and service availability on such days, to aid individual decision making.

Fire Danger Ratings, issued by the Bureau of Meteorology in consultation with fire agencies, predict how dangerous a fire would be if one started. The higher the rating, the more likely a fire will be dangerous. More information on fire danger ratings and preparedness can be found on the Country Fire Authority (CFA) [website](https://www.cfa.vic.gov.au/). A Code Red Rating is the highest Fire Danger Rating, followed by ratings of Extreme and Severe.

Council will operate with altered or reduced service levels on Code Red days and/or State Government declared State of Disaster (and may do so on days predicted to be of Severe or Extreme fire danger based on local conditions and/or advice from emergency services) for the following reasons:

- Large areas within the Shire considered to be of high bushfire risk;
- A need to ensure Council's operations do not unintentionally cause a fire to start;

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<sup>1</sup> Declared by Minister of Planning - <https://www.planning.vic.gov.au/policy-and-strategy/bushfire-protection/building-in-bushfire-prone-areas>

- A need to provide for the safety of Council staff and to ensure that the public is not placed in situations of undue risk when travelling to and accessing Council services;
- To ensure sufficient staff resources can be re-deployed to emergency response planning functions and, in the event of a fire event, provision of support to fire combating agencies and emergency relief centres; and
- A likelihood that some staff will take approved leave on such days to attend to family arrangements and to enact personal bushfire survival plans.

This Policy therefore addresses Council's responsibility to plan and manage for the provision of services and Council information on days with the highest fire danger risks in order to maximise employee and community safety, whilst ensuring appropriate emergency responses can be enacted as required.

## **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*.

Council is obliged under the *Occupational Health and Safety Act 2004* to provide a duty of care to its employees, senior officers, Councillors and the general public. Therefore, Council needs to mitigate potential risks on days of significant fire danger by restricting work to essential services and those services that do not impose unnecessary risks.

## **Collaboration**

Not applicable for this report.

## **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.

## **Council Policy**

The Policy has been prepared with respect to Council's Customer Response Policy, noting a key purpose is to:

Ensure customers receive appropriate levels of service within the bounds of available resources.

## **Options**

Not applicable for this report.

## **Resourcing**

### *Financial*

There are no direct cost implications associated with the implementation of the Policy.

However, there may be indirect costs associated with loss of revenue from not providing the services mentioned within the Policy.

### *Plant and Equipment*

There are no direct implications for Plant and Equipment associated with the implementation of the Policy.

### *Human Resources*

All travel for Council business on Code Red days and/or State Government declared State of Disaster involving Councillors, staff, contractors or volunteers will be reduced to the delivery of essential services subject to Manager approval.

On Code Red days (and potentially on days predicted to be of Severe or Extreme fire danger based on local conditions and/or advice from emergency services) there is a likelihood that some staff will take approved leave on such days to attend to family arrangements and to enact personal bushfire survival plans. Staff can also be re-deployed to emergency response planning functions and, in the event of a fire event, provision of support to fire combating agencies and emergency relief centres.

### *Risk*

The risks of this proposal have been considered and the Policy represents a strong risk mitigation strategy to protect the health and wellbeing of Council employees, contractors, visitors and the general public.

## **Economic**

There are no direct economic implications associated with the implementation of the Policy.

## **Social**

There are no direct social implications associated with the implementation of the Policy.

## **Environmental**

There are no direct environmental implications associated with the implementation of the Policy.

### *Climate Change*

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

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

## **Engagement**

The Policy was developed through engagement with Murrindindi Shire Council who provided a similar Policy for Council to review.

The Policy was further developed through internal consultation with Assets and Projects, Community Facilities and Open Space, Council Enterprises, Customer Experience and Communications, Emergency Management, Sustainability and Waste Minimisation and Works.

## **Attachments**

1. Service Provision and Fire Danger Ratings Policy [**5.3.3.1** - 8 pages]

### 5.3.4 **Amendment Council Leasing and Licencing policy for Council Owned Land and Council Managed Land**

Authorised by      General Manager Business Excellence

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#### **Conflict of Interest**

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

#### **Executive Summary**

The purpose of the report is to seek Council's endorsement and subsequent adoption of the identified amendment to the Leasing and Licensing Policy for Council-owned Land and Council-managed Land, (Leasing and Licensing Policy).

At a Council Meeting held on 15 September 2020, Council resolved to amend the Leasing and Licensing Policy and to present a report to Council in December 2020. The Council Resolution is provided at **Attachment 2**.

Officers have made the amendment to the Leasing and Licensing Policy, as provided at **Attachment 1**, in accordance with the Council Resolution.

Officers have also identified that in accordance with the implementation of the *Local Government Act 2020*, the Leasing and Licensing Policy for Council-owned Land and Council-managed Land is required to be reviewed, in its entirety, under Section 115 and accordingly will be brought back to Council for further consideration, prior to July 2021.

#### **Officer Recommendation**

##### ***That Council:***

- 1. Receives and notes this report and all attachments pertaining to this report;***
- 2. Adopts the amendment to the Draft Leasing and Licensing Policy for Council-owned Land and Council-managed Land, as provided at Attachment 1; and***
- 3. Notes that a further report will be presented to Council, post the review of the Leasing and Licensing Policy for Council-owned Land and Council-managed Land, in accordance with the Local Government Act 2020, prior to July 2021.***

#### **Background**

At the Council meeting held on 15 September 2020, a Notice of Motion (NoM), provided at **Attachment 2**, was carried to amend Section 2 '**Expression of Interest**' of the Leasing and Licensing Policy to provide an opportunity for Councillors to discuss, debate, assess and decide on whether Council will pursue a competitive expression of interest process prior to the expiry of partly commercial leases.

The Leasing and Licensing Policy, Section 2 '**Expression of Interest**' sub section titled **Commercial or Partly Commercial tenants** currently states:

*In the case of a commercial lease, licence or agreement where there are demonstrable social, environmental and/or economic benefits for the wider community, the Chief Executive Officer can exempt the proposed lease or licence from the requirement for a competitive expression of interest process.*

The Council Resolution carried at the Council Meeting held on 15 September 2020 reads as follows:

**THAT COUNCIL'S LEASING AND LICENSING POLICY FOR COUNCIL-OWNED LAND AND COUNCIL -MANAGED LAND, SECTION 2 'EXPRESSION OF INTEREST' SUBSECTION TITLED 'COMMERCIAL OR PARTLY COMMERCIAL TENANTS' (PAGE 4) BE AMENDED TO READ:**

**IN THE CASE OF A PARTLY COMMERCIAL LEASE, LICENSE OR AGREEMENT WHERE THE CHIEF EXECUTIVE OFFICER HAS DETERMINED THERE ARE DEMONSTRABLE ECONOMIC, SOCIAL AND/OR ENVIRONMENTAL BENEFITS FOR THE WIDER COMMUNITY, THROUGH A FORMAL RESOLUTION, COUNCIL CAN EXEMPT THE PROPOSED LEASE OR LICENSE FROM THE REQUIREMENT FOR A COMPETITIVE EXPRESSION OF INTEREST PROCESS TO BE UNDERTAKEN.**

**IN ACCORDANCE WITH THE GOVERNANCE RULES SECTION 10.14 (5)(C), I AM REQUESTING THE CHIEF EXECUTIVE OFFICER PRESENT A REPORT TO COUNCIL, WITHIN THREE MONTHS, THAT REFLECTS THE ABOVE PROPOSED AMENDMENT TO THE LEASING AND LICENSING POLICY FOR COUNCIL-OWNED LAND AND COUNCIL - MANAGED LAND.**

The rationale contained in the originating Notice of Motion stated that the requested amendment will align with the best practice principles as outlined in the State government's *Leasing policy for Victorian Crown Land* document. If the amendment is adopted, it will apply to all partly commercial leases and licences.

## **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 stage of provisions commenced on 6 April 2020 with other stages 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 new Act as in force at the date of the decision.

The sections of the new Act that are relevant to leasing and licensing come into effect on 1 July 2021. Prior to this date a review of the Council's Leasing and Licensing Policy will be undertaken to ensure continued compliance with the new Act and a report will be presented to Council for consideration.

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

### **Collaboration**

Not applicable for this report.

### **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.

### **Council Policy**

The intent of the requirement for an Expression of Interest at the conclusion of an existing lease is to ensure there is an equitable and transparent process in the provision of public land for partly commercial purposes. This requirement ensures that a particular individual does not hold the right to use this public land in perpetuity, that this opportunity is made available to others.

### **Options**

As per the Council Resolution made at the Council Meeting held on 15 September 2020, the amendment to the Leasing and Licensing Council, as provided at **Attachment 1**, is provided to Council for consideration.

### **Resourcing**

#### *Financial*

There are no direct cost implications associated with the amendment to the Policy.

#### *Plant and equipment*

Not applicable to this report.

#### *Human Resources*

Not applicable to this report.

#### *Risk*

The risks of this proposal have been considered and there are no risks associated with the preparation of this report.

### **Economic**

Not applicable to this report.

### **Social**

Not applicable to this report.

## **Environmental**

Not applicable to this report.

### *Climate change*

The preparation of this report is perceived as having no direct impact on climate change.

## **Engagement**

Not applicable to this report.

## **Attachments**

1. Leasing and Licencing Policy for Council owned and Council managed land [**5.3.4.1** - 17 pages]
2. Notice of Motion 3 2020 - Council's Leasing and Licensing Policy for Council owned and Council [**5.3.4.2** - 2 pages]

## 6 Urgent and Other Business

## 7 Confidential Business

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

**7.1                                      Supporting Confidential Document - Attachment 5.2.1.1 CON2020  
1385 Fire Slashing and Roadside Pest Weed Management**

Pursuant to sections 3(1) and 66(5) of the *Local Government Act 2020*, the information contained in this report is confidential because it contains private commercial information, which if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage. Under section 66(2) of the *Local Government Act 2020* a meeting considering confidential information may be closed to the public.

**7.2                                      Supporting Confidential Document - Attachment 5.2.2.1 CON2020  
1407 Provision of Plumbing Services**

Pursuant to sections 3(1) and 66(5) of the *Local Government Act 2020*, the information contained in this report is confidential because it contains private commercial information, which if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage. Under section 66(2) of the *Local Government Act 2020* a meeting considering confidential information may be closed to the public.

**7.3                                      Supporting Confidential Document Attachment 5.2.3.1 CON2020  
1406 Provision of Electrical Services**

Pursuant to sections 3(1) and 66(5) of the *Local Government Act 2020*, the information contained in this report is confidential because it contains private commercial information, which if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage. Under section 66(2) of the *Local Government Act 2020* a meeting considering confidential information may be closed to the public.

**7.4                                      Supporting Confidential Document - Attachment 5.2.4.1 CON2020  
0411 Bullock Island Bridge Replacement**

Pursuant to sections 3(1) and 66(5) of the *Local Government Act 2020*, the information contained in this report is confidential because it contains private commercial information, which if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage. Under section 66(2) of the *Local Government Act 2020* a meeting considering confidential information may be closed to the public.

Pursuant to sections 3(1) and 66(5) of the *Local Government Act 2020*, the information contained in this report is confidential because it contains private commercial information, which if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage. Under section 66(2) of the *Local Government Act 2020* a meeting considering confidential information may be closed to the public.

## 8 Close of Meeting