



# Minutes Council Meeting

**Tuesday 13 July 2021 at 6:00 PM**

**Council Chambers (and by video conferencing)  
East Gippsland Shire Council Corporate Centre  
273 Main Street, Bairnsdale 3875**

*Councillors*

Crs Mendy Urie (Mayor), Mark Reeves (Deputy Mayor) via Microsoft Teams, Arthur Allen, Sonia Buckley, Tom Crook, Jane Greacen OAM, Trevor Stow, Kirsten Van Diggele and John White

## Vision

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

## Our Strategic Objectives

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

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# 1 Procedural

## 1.1 Recognition of Traditional Custodians

Welcome to East Gippsland Shire Council's meeting of Tuesday 13 July 2021.

East Gippsland Shire Council live streams, records and publishes its meetings via webcasting ([youtube.com/c/East Gippy TV](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 2022. The Minister for Local Government re-issued the Ministerial Good Practice Guideline for Virtual Meetings on 20 October 2020 outlining the provisions relating to the Local Government Act 2020 allow Councillors to attend Council meetings electronically, and the requirement where Council meetings are open to the public will be satisfied where the meeting is livestreamed. The amendments do not preclude Councillors from attending a meeting in person in the Council chambers.

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

East Gippsland Shire Council acknowledges the Gunaikurnai, Monero and the Bidjil people as the Traditional Custodians of this land that encompasses East Gippsland Shire, and their enduring relationship with country. The Traditional Custodians have cared and nurtured East Gippsland for tens of thousands of years.

Council value their living culture and practices and their right to self-determination. Council pays respect to all Aboriginal and Torres Strait Islander people living in East Gippsland, their Elders, past, present, and future.

A member's attendance can only be recorded as present where the member can confirm that they meet all three of the following:

1. They can hear proceedings;
2. They can see other members in attendance and can be seen by other members;
3. They can be heard (to speak).

Councillors MUST confirm ALL of the above conditions to be noted as present for the meeting.

A quorum will not be made if these conditions are not met and the meeting will be adjourned until a quorum is met or postponed if a quorum cannot be met.

If technical difficulties are encountered by Council during the meeting including with the livestreaming, we will adjourn until resolution of the issue or postpone to later time and/or date.

I will now confirm with Councillor Reeves that he can see, hear and be heard and to note assurance that the location she is participating from is secure to ensure deliberations are confidential.

- Can you see and hear us?
- Can you confirm that the location you are participating from is secure to ensure confidential items are dealt with in a confidential manner?

Councillor Reeves confirmed.

## **1.2 Apologies**

Nil

## **1.3 Declaration of Conflict of Interest**

Cr Kirsten Van Diggele declared a conflict of interest in item 5.4.2 *Environmental Effects Statement Advocacy* as a material interest due to family matters in relation to shareholdings.

## **1.4 Confirmation of minutes**

*Cr Arthur Allen / Cr John White*

***THAT THE MINUTES OF THE COUNCIL MEETING HELD 22 JUNE 2021 AND THE UNSCHEDULED COUNCIL MEETING HELD 29 JUNE BE CONFIRMED.***

***CARRIED***

## **1.5 Next meeting**

The next Council Meeting of Tuesday 3 August 2021 to be held at the Genoa Public Hall, 4642 Princes Highway, Genoa commencing at 1.30 pm.

## **1.6 Requests for leave of absence**

Nil

## **1.7 Open Forum**

### **1.7.1 Petitions**

#### **1.7.1.1 Request for footpath in Fort King Road Paynesville**

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**

This report is prepared in response to a petition received by Council at the Ordinary Meeting of 22 June 2021, regarding the installation of footpaths on Fort King Island, Paynesville, in addition to improved car parking on Fort King Road, adjacent to the aged care facility.

Footpaths on Fort King Island have been identified in a prior strategic review of footpath priorities in the Paynesville township. The Paynesville Footpaths Map (**Attachment 1**) provides a summary of this strategic planning.

The Paynesville Footpaths Map identifies the installation of footpaths on Fort King Road, east of the Fort King Bridge, and paths on Kings Road. Within the context of path priorities identified in Paynesville, these paths were classified as long-term priorities.

Notwithstanding the identified need to provide improved footpath facilities on Fort King Island, these paths are currently assessed as a lower priority relative to several other outstanding footpath projects within Paynesville.

A full review of Council's footpath priorities is scheduled for completion by June 2022, by way of development of a new strategic plan. This process will provide opportunity for all members of the community to participate in a review of outstanding gaps in the footpath network across all of East Gippsland's townships.

There is opportunity for on-street parking within the road reserve of Fort King Road, adjacent to the aged car facility in proximity to the roundabout intersection with Paynesville Road and Main Road. The provision of further parking is the responsibility of the facility owners and operator.

#### **Officer Recommendation**

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

- 1. receives and notes this report and all attachments pertaining to this report; and***
- 2. notes that the Chief Executive Officer will write to the head petitioner, outlining the strategic priorities for footpath projects in Paynesville and future opportunities to participate in a review of these priorities; and the obligations of business owners to provide adequate parking.***

***Cr Trevor Stow / Cr Arthur Allen***

**THAT THE RECOMMENDATION BE ADOPTED**

**CARRIED**

## Background

This report is prepared in response to a petition received by Council at the ordinary Council meeting of 22 June 2021. The petition from 38 signatories' states:

*There are approximately 232 allotments on Fort King Island, 8 of which are vacant land. All of these use Fort King Rd for access to their property.*

*There is currently no footpath for the entire length of Fort King Rd from just east of the bridge or paths on any of the streets and courts with exception of a few small sections of gravel paths.*

*Fort King Road is a major arterial road to the island and carries a large volume of vehicles every day. There is no safe place to walk and with an ageing demographic in this area it is unsafe. If you would like to see paths constructed, please put your name on this list to lobby Council to put paths on the budget as a matter of urgency. Also there are no adequate parking spaces outside the aged care facilities. If you would like to see parking provided please add your name to lobby Council to provide parking spaces and curb and channel to the RHS of the road from the roundabout.*

Fort King Island is located at the northern end of Paynesville bounded by McMillan Straits, Lake King and the Paynesville Canals. Fort King Road, intersecting with Main Road and Paynesville Road, provides the sole access to Fort King Island via a bridge over the canal. The road is classified as an Urban Collector to the Fort King Bridge, and an Urban Access Road east of Fort King Road, in accordance with the road hierarchy specified within Council's Road Management Plan.

Presently the path network is largely continuous along Fort King Road to Fort King Bridge, crossing the canal. There is a further 500m of Fort King Road to the east of Fort King Bridge, where currently no pedestrian facilities exist. Similarly, most access roads on Fort King Island, do not presently have pedestrian facilities, with the exception of North Quay Place and Government Road.

A strategic review of footpath priorities across many townships within East Gippsland has been undertaken. The intent was to identify and prioritise strategic gaps in the footpath network to guide the staged implementation of projects.

The Paynesville Footpaths Map (**Attachment 1**) identifies the short-term, medium-term and longer-term priorities. Since its development, many of the short and medium-term priorities within Paynesville have been implemented through a combination of Council funding and grants. A medium-term priority project on Paynesville Road is currently in detailed planning for imminent delivery, funded through the Australian Government Local Roads and Community Infrastructure Program.

The installation of paths on Fort King Road, east of Fort King Bridge and Kings Road, located centrally through Fort King Island, has been identified as long-term priorities within the Paynesville Footpaths Map. These paths total approximately 1.0km in length.

Notwithstanding the identified need to provide improved footpath facilities on Fort King Island, these paths are currently assessed, relatively, as a lower priority than several other outstanding projects within Paynesville, including locations on Main Road and King Street. Further to this, there are many other footpath projects throughout East Gippsland that have a higher priority based on current assessments.

Based on this existing prioritisation, the further installation of footpaths on Fort King Island are not currently featured within the four-year capital works program.



A full review of Council's path priorities is scheduled for completion by June 2022, by way of development of a new strategic plan. This process will provide opportunity for all members of the community to participate in a review of outstanding gaps in the footpath network across all of East Gippsland's townships, review the prioritisation model and consider various funding options to achieve target levels of service.

There is opportunity for on-street parking within the road reserve of Fort King Road, adjacent to the aged care facility in proximity to the roundabout intersection with Paynesville Road and Main Road. The provision of further parking is the responsibility of the facility owners and operators. Parking for this facility was considered as part of the original planning permit for the facility. Council has no obligation to provide parking for visitors to this business and it would be highly unusual for a council to provide parking for a specific business – especially a business outside of the central business area of the town.

## 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 Plan

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

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

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

## Council Policy

Not applicable

## Options

Council has numerous options with respect to what footpath priorities across the municipality are included as part of each annual Capital Works budget. The priorities identified in strategic planning exercises, such as development of the Paynesville Footpaths Map provided as **Attachment 1**, are used to guide the budget allocations. The option exists to reconsider the priority of footpath installations of Fort King Island.

## **Resourcing**

### *Financial*

The financial cost of installing a concrete footpath on for the remainder of Fort King Road as identified in the Paynesville Footpaths Map is approximately \$112,500, based on a high-level unit rate estimate. Similar costs are anticipated for the footpath identified on Kings Road.

### *Plant and equipment*

This report has no plant and equipment implications.

### *Human Resources*

This report has no human resource implications.

### *Risk*

The risks of this proposal have been considered and while footpaths on Fort King Island have been identified as a priority in the context of the Paynesville Township, there remains several other uncompleted higher priorities.

## **Economic**

Fort King Island is largely a residential node within the Paynesville township, with limited economic activity. While the installation of footpaths would provide other benefits, there would be limited economic impact from such a project.

## **Social**

The installation of footpaths of Fort King Island would provide social benefits for the local residents. The provision of footpaths would encourage recreation, through the provision of improved facilities and infrastructure. Notwithstanding this positive benefit, the investment of footpath funding to the installation of footpaths on Fort King Island would also reduce the social benefit of other competing projects, that would not proceed.

## **Environmental**

The installation of footpaths reduces barriers to selective active transport modes such as walking and cycling, to move within communities, providing positive environmental outcomes through the reduction of vehicle use. To maximise this benefit, footpaths with higher potential utilisation have been prioritised over those with lower levels of utilisation potential.

### *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**

Not applicable

## **Attachments**

1. Paynesville Footpaths Map [1.7.1.1.1 - 1 page]

### **1.7.2 Questions of Council**

Nil

### **1.7.3 Public Submissions**

Cath McMahon, President, St Vincent's De Paul, Bairnsdale spoke to Council on homelessness in East Gippsland.

## 2 Notices of Motion

### 2.1 Notices of Motion 3/2021 - East Gippsland Forestry

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Take notice that it is my intention to move at the Meeting of Council to be held on Tuesday 13 July 2021 at 6.00 pm or at any adjournment of that meeting:

***That a brief be prepared and presented to Councillors outlining the costs and implications of having an independent report prepared on East Gippsland forestry, to inform the Council's Economic Development Strategy, which:***

- a) Compiles a report from existing information and data on what the future East Gippsland Native Forest Industries could look like;***
- b) Explores the range of uses and economic, social and environmental benefits of the East Gippsland forests;***
- c) Identifies and considers a range of forest management practices that maximise future use of the forests; and***
- d) In the context of future economic growth and East Gippsland community commitment to the environment, considers the capacity of existing and future forest estates.***

**Signed:** Cr Jane Greacen  
**Date:** Tuesday 8 July 2021

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### RATIONALE

Current state government policy, different perspectives on forest use and our responsibility to ensure and guide the future economic prosperity of the region, highlights the importance of council understanding both the existing and potential future uses of forest and the various existing and possible future industries which rely on them.

There is also an expressed desire to understand the conditions and circumstances which have led to the current Victorian Government forestry policy following various unsuccessful approaches to State Government to gain this information.

This information/report will allow council to better understand the value of forest products and the forests capacity to deliver them and therein provide economic development and prosperity for the region.

**Cr Jane Greacen OAM / Cr Tom Crook**

**THAT THE RECOMMENDATION BE ADOPTED**

**AMENDMENT (Additional wording to point (c))**

**THAT A BRIEF BE PREPARED AND PRESENTED TO COUNCILLORS OUTLINING THE COSTS AND IMPLICATIONS OF HAVING AN INDEPENDENT REPORT PREPARED ON EAST GIPPSLAND FORESTRY, TO INFORM THE COUNCIL'S ECONOMIC DEVELOPMENT STRATEGY, WHICH:**

- a) COMPILES A REPORT FROM EXISTING INFORMATION AND DATA ON WHAT THE FUTURE EAST GIPPSLAND NATIVE FOREST INDUSTRIES COULD LOOK LIKE;**
- b) EXPLORES THE RANGE OF USES AND ECONOMIC, SOCIAL AND ENVIRONMENTAL BENEFITS OF THE EAST GIPPSLAND FORESTS;**
- c) IDENTIFIES AND CONSIDERS A RANGE OF FOREST MANAGEMENT PRACTICES THAT MAXIMISE FUTURE USE OF THE FORESTS INCLUDING LOGGING; AND**
- d) IN THE CONTEXT OF FUTURE ECONOMIC GROWTH AND EAST GIPPSLAND COMMUNITY COMMITMENT TO THE ENVIRONMENT, CONSIDERS THE CAPACITY OF EXISTING AND FUTURE FOREST ESTATES.**

**CARRIED**

### 3 Deferred Business

Nil

### 4 Councillor and Delegate Reports

#### Attendance

Cr Kirsten Van Diggele left the Council Chamber at 6.52 pm and returned at 6.56 pm.

#### 4.1 Cr Tom Crook

Cr Crook spoke on events attended over the past month; details of these events can be listened to in the recording of this meeting.

#### 4.2 Cr Trevor Stow

Cr Stow spoke on events attended over the past month; details of these events can be listened to in the recording of this meeting.

#### 4.3 Cr Jane Greacen OAM

Cr Greacen OAM spoke on events attended over the past month; details of these events can be listened to in the recording of this meeting.

#### 4.4 Cr John White

Cr White spoke on events attended over the past month; details of these events can be listened to in the recording of this meeting.

#### 4.5 Cr Arthur Allen

Cr Allen spoke to his written report at folio 16.

#### 4.6 Cr Kirsten Van Diggele

Cr Van Diggele spoke to her written report at folio 16.

#### 4.7 Cr Sonia Buckley

Cr Buckley spoke on events attended over the past month; details of these events can be listened to in the recording of this meeting.

#### 4.8 Cr Mark Reeves

Cr Reeves congratulated Dr Rob Gordon on receiving an Order of Australia medal recently.

#### 4.9 Cr Mendy Urie

Cr Urie spoke to her written report at folio 17.

## **COUNCILLOR WRITTEN REPORTS**

### **Cr Arthur Allen**

On July 1 2021, along with the Mayor and CEO, I attended the East Gippsland Family History Group at Morgan Street. This is a very active and dedicated group who do some amazing research with an extensive archive and library.

On July 4 2021, I had the pleasure of opening the National Maritime Museums traveling exhibition "remarkable stories of Australians and their boats". Featured along with their boat Anchovette were Lakes Entrance Fishermen Kevin and Frank Mitchelson. Remarkable men indeed. Congratulations to the small band of volunteers at the Lakes History Centre for securing this exhibition for Lakes Entrance.

On July 6, 2021, I had the pleasure of attending the citizenship ceremony at the St Mary's Parish Centre. It was a great occasion to witness 31 candidates become Aussies and to see the joy and pride of our newest Australians. As well there was the flag raising for NAIDOC week on Monday 5 July 2021 and a march on the 7 July 2021. Both events were very well attended and great events. It was a particular joy for me to be joined on the march by three of my grandchildren who had a great day and caught up with some good friends.

On July 11, 2021, I accompanied Mayor Mendy to Mallacoota where she officially opened the new community facility at the recreation reserve. The day opened on the right note with the Mallacoota Woman's side victorious in the lead up. Federal member Darren Chester was also in attendance for the opening of this exceptionally multi use facility.

### **Cr Kirsten Van Diggele**

#### Citizenship Ceremony

I was able to attend the Citizenship Ceremony on Tuesday, 6 July. At the event, I was able to watch 32 people take the Australian citizen pledge and take their final steps in the journey of becoming an Australian. As someone who was born abroad, it was heart-warming to see the smiles on the faces of those in the room.

#### Fenning Timbers

We had the chance to meet with Leonard and Brian from Fennings to learn more about the Intermodal Freight Terminal that is being built in Bairnsdale. This establishment will provide better linkages to Melbourne and the rest of the state for East Gippsland businesses.

#### NAIDOC Week – Flag Raising and Morning Tea at GEGAC

I attended the NAIDOC Week morning tea at GEGAC. It was great to hear the speech from the CEO, as well as learn about the significance of 'heal country' to the Aboriginal and Torres Strait Islander community here in East Gippsland.

#### East Gippsland Primary Care Partnerships Forum

I attended the PCP Forum, which was facilitated by Jeremy Schrivens. The session aimed at using the 'appreciative inquiry' model, which incorporates principles and methods of positive transformation to engage communities to collaborate, re-imagine and co-create desired futures for growth and vibrancy. It was good to connect with other members of the community to discuss our ideal and desired community and how we can get there.



## **Cr Mendy Urie**

### Community Engagements

26<sup>th</sup> June 2021 (with Cr Greacen). Winter Festival's Lantern Parade in Lakes. Very special welcome to Country by Alice Anne Pepper and smoking ceremony by Uncle Lennie Hayes, attended by many people it was a joyful event. Walking over the footbridge to view spectacular lantern creations on the South side, it was a stunningly successful event. Congratulations to the many organisers of the whole Winter Festival (finishing on 11<sup>th</sup> July) and this event in particular.

1<sup>st</sup> July 2021 (with Cr Allen and CEO) Visit to East Gippsland Family History Group at their premises at Morgan Street. Wonderful presentation of the great work this passionate group of volunteers does to preserve our history and solve family mysteries. Also offered a beautiful morning tea. Huge thanks for inviting us.

5<sup>th</sup> July 2021 NAIDOC flag raising at Corporate Centre (with Councillors Stow, Greacen, Van Diggele, Crook, the CEO and Council staff), on a lovely sunny morning. Attended by a good gathering. Later attended GEGAC flag raising, speeches and morning tea. Thanks to Bec Pantry for the lovely hand-made face-masks.

7<sup>th</sup> July 2021 NAIDOC street march (with Councillors Crook and Allen). Wonderful happy event with big number of participants (approx.1000) on a glorious East Gippsland morning. Hosted by GEGAC.

11<sup>th</sup> July 2021 Opening of Mallacoota Club Rooms. (With Cr Allen, the CEO and also with Federal member, Darren Chester). Really happy occasion. Fantastic facilities, meeting rooms, change rooms, umpires room, kitchen facilities already being very well used by the community. Lots of positive feedback to Council staff for their skill in developing and delivering this project. And Mallacoota Women's soccer team won!

### Representation

24<sup>th</sup> June 2021 On-line presentation: 10 years Beyond (Black Saturday) Bushfire Study; Melbourne University. Excellent presentation, with many relevant findings and further research being undertaken. Now sent to all Councillors.

24<sup>th</sup> June 2021 (with Councillors Buckley and Allen and the CEO). Met with Emily Garnett, Senior Advisor to Minister Hon Lily D'Ambrosio as a follow up action to Council's resolution re feral horse management in Alpine areas.

26<sup>th</sup> June 2021 Attended Lakes Entrance SLSC Annual Presentation evening. Wonderful, happy evening which celebrated the many successes of the previous 2 years (no presentation night last year). This is an exceptional club which deserves so much appreciation from all of us for the valuable services they provide, including saving lives. They also provide a nurturing environment for leadership development and mentoring for so many young people. Congratulations to their many stellar volunteers who contribute.

29<sup>th</sup> June 2021 (with Councillors Crook, Greacen, Stow, Allen) Various visits around Lakes Entrance. These visits are valuable and provide useful insights. Thank you to organising staff.

30<sup>th</sup> June 2021 (with CEO). Opportunistic meeting with Chair and CEO of Parks Vic in Lakes Entrance, as they and members of their BOM made site visits. Discussion of shared issue; eg Buchan pool.

1<sup>st</sup> July 2021 Bushfire Recovery Committee meeting (Chaired by CEO). Multi-agency attendance. A few (random) important points:

- Our recovering communities continue to progress at different rates hard and fast deadlines are not helpful
- East Gippsland has been the recipient of significant funding eg from RDV and Park
- Volunteer fatigue is a thing
- Housing is an issue
- What does 'community-led' really mean?
- There are some great things happening and these need to be promoted; eg Aboriginal community, investment levels, farming and the importance of hope.

6<sup>th</sup> July 2021 Citizenship ceremony (with Councillors Stow, Van Diggele, Greacen and Allen). 32 Conferees (one was unable to get back into Victoria due to COVID lockdowns).

From India, South Africa, Britain, Philippines, New Zealand, Poland, Iran, Iraq, Turkey and Malaysia. It was a happy and sometimes emotional ceremony and a special joy (and privilege of the Mayoral role) to preside over this event. With so many places in the world continuing to suffer at this time of Global pandemic it is wonderful to be able to welcome people – individuals and families to Australia (and East Gippsland in particular).

I believe many of us have been especially appreciative for the beauty, relative safety, sense of community and opportunities which a life in East Gippsland affords. Many of these people are already active and valued contributors to our community.

Thank the CEO and Staff who contribute to making these events such welcoming occasions. Live streaming is a special feature, so people can view the event live, even from overseas.

9<sup>th</sup> July 2021 (with CEO) On-line "Stories of Bushfire Recovery" to coincide with NAIDOC week. Three guest speakers (including from Gunaikurnai country) and chance to ask questions. Highlighting some of the many positives which are still developing, like the uncovering of artefacts, New ways of working (from advocacy to partnerships) the close monitoring of totem plants and animals and new training and skills development. Recognizing that Healing Country = Healing People.

### Training

23<sup>rd</sup> June 2021 (with Cr Van Diggele). Participants from a variety of organisations in East Gippsland including several from EGSC. All day workshop in Lakes Entrance. Facilitated by Jeremy Scrivens, an "Appreciative Futurist" doing work with young people in Mallacoota.

Based on the principles of a strength-based approach to planning, leading to the designing of a piolet program. Our small group built a child-led Funfest for the Future. Inspiring program and very pertinent to recovery and building resilience towards thriving lives. It was a pleasure to work with several members of Council staff and witness the passion and commitment they have for their work.

## 5 Officer Reports

### 5.1 Assets and Environment

#### 5.1.1 MAV Contract SL3911 Energy Efficient Street Lighting Hardware and Installation 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

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

The purpose of this report is to seek approval by Council to approve an LED streetlight supply contract, procurement through a MAV procurement panel.

The MAV undertook a tender *SL3911 Energy Efficient Street Lighting Hardware (Luminaires and PE Cells) and installation services* which resulted in eight LED hardware suppliers submitting applications. MAV Procurement undertook a *Recommendation Report (Confidential Attachment 1)* assessing and ranking options.

The Recommendation Report (**Confidential Attachment 1**) has been used by streetlighting consultants from Ironbark to provide an evaluation of options for East Gippsland which recommends an LED street lighting supplier based on prices provided from the MAV panel (refer to **Confidential Attachment 2**).

Streetlights are Council's biggest electricity user and cost \$452,159 in 2019/20 in combined energy consumption and operating, maintenance and replacement (OMR) costs.

Mercury vapour (MV) streetlights will need to be replaced within the next 2-5 years as a result of international agreements to limit mercury, resulting in a reduced commercial supply.

The release of the Federal Government *Local Roads and Community Infrastructure Program* (LRCI) funding offered an excellent opportunity to now swap all remaining inefficient streetlights on both minor roads (category P) and major roads (category V) to LED by early 2022. In response to this a streetlight audit was undertaken in December 2020 and a business case to determine project costs. This was used to apply to the Department of Infrastructure, Transport, Regional Development and Communications to seek \$1,466,500 to be allocated from round two of the LRCI funding to an LED streetlight upgrade project. Approval for this amount was granted on 1 April 2021.

East Gippsland has 1,755 inefficient streetlights which were not swapped in the previous LED bulk streetlighting project.

This streetlight project has a payback period of 3.7- 4.9 years, resulting from reduced energy consumption and reduced OMR costs. Upgrading all remaining category P & V streetlights is anticipated to make annual savings of approximately \$228,000 and cumulative net savings of \$4,563,907. The project has a net present value of \$3,165,370 using a discount rate of 2.75% over 20 years.

The project would be expected to reduce energy use by over 500,000 kWh a year and emissions of 476 tonnes of CO2 each year. The LED streetlight project will reduce Council's operating costs and lower the overnight consumption from the electricity grid from Council's biggest energy source, possibly delaying network grid upgrades.

The project is consistent with the Council Plan to reduce energy consumption and support sustainable planning and growth for thriving townships, while maintaining our commitment to sustainability and protecting our natural environment.

Council's procurement requirements can be met through the use of the MAV procurement contract *SL9311 for Energy efficient street lighting hardware and installation services* (refer to **Confidential Attachment 1**).

### **Officer Recommendation**

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

- 1. receives and notes this report and all attachments pertaining to this report;***
- 2. accepts the MAV 'Tender Recommendation Report 2018 for SL3911' provided as Confidential Attachment 2, and 'Evaluation of Suppliers for East Gippsland' provided as Confidential Attachment 1;***
- 3. accepts the tender submitted to MAV for SL3911 for the supply of approximately 1,755 category P and V approved LED streetlights at a cost of \$ \_\_\_\_\_ exclusive of GST over the period July 2021 to May 2022 from \_\_\_\_\_;***
- 4.***
- 5. authorises the signing and sealing of the contract in the form presented; and***
- 6. resolves that the attachments to this report, and all discussions in relation to the attachments remain confidential.***

**THAT COUNCIL:**

- 1. RECEIVES AND NOTES THIS REPORT AND ALL ATTACHMENTS PERTAINING TO THIS REPORT;**
- 2. ACCEPTS THE MAV 'TENDER RECOMMENDATION REPORT 2018 FOR SL3911' PROVIDED AS CONFIDENTIAL ATTACHMENT 2, AND 'EVALUATION OF SUPPLIERS FOR EAST GIPPSLAND' PROVIDED AS CONFIDENTIAL ATTACHMENT 1;**
- 3. ACCEPTS THE TENDER SUBMITTED TO MAV FOR SL3911 FOR THE SUPPLY OF APPROXIMATELY 1,755 CATEGORY P AND V APPROVED LED STREETLIGHTS AT A COST OF \$847,708.00, EXCLUSIVE OF GST OVER THE PERIOD JULY 2021 TO MAY 2022 FROM SYLVANIA SCHREDER;**
- 4. AUTHORISES THE SIGNING AND SEALING OF THE CONTRACT IN THE FORM PRESENTED; AND**
- 5. RESOLVES THAT THE ATTACHMENTS TO THIS REPORT, AND ALL DISCUSSIONS IN RELATION TO THE ATTACHMENTS REMAIN CONFIDENTIAL.**

**Cr Tom Crook / Cr Jane Greacen OAM**

**THAT THE RECOMMENDATION BE ADOPTED**

**CARRIED**

**Background**

Streetlights are Council's biggest electricity user and cost \$452,159 in 2019/20 in combined energy consumption and operating, maintenance and replacement (OMR) costs.

A previous bulk street lighting project undertaken in 2014/15 replaced 2,693 of Council's residential 80 watt mercury vapour (MV) lights with energy efficient 18 watt LED. Council contributed \$651,430 and secured competitive external funding from the federal Community Energy Efficiency Program (CEEP) to assist. The project has saved Council over \$200,000 and 900 tonnes of CO2 equivalent emissions each year since.

The release of the Federal Government Local Roads and Community Infrastructure Program (LRCI) funding offers an excellent opportunity to now swap all remaining 1,755 inefficient mercury vapour (MV), high pressure sodium (HPS), twin 5 fluorescent (T5) and compact fluorescent (CFL) streetlights on both minor roads (category P) and major roads (category V) to LED by early 2022.

The Department of Infrastructure, Transport, Regional Development and Communications in April 2021 has approved the allocation of \$1,466,500 to be used from round two of the LRCI funding for the next LED streetlight upgrade project.

The project will solve an emerging problem with the planned phase out of mercury in lights, of which Council would be expected to fund the replacement cost.

The project is a joint project with Wellington Shire and South Gippsland Shire, who have also secured LRCI funding to swap remaining lights to LED. Wellington Shire has the same planned scope to allocate funding to swap all remaining category P and V lights (including cost-shared and decorative lights) to LED.

This funding can be used to progress the replacement of the remaining lights which are not LED, and there will be no upfront cost implications for Council, however savings have been estimated to be \$228,000 each year for 20 years.

With the release of the Federal Government *Local Roads and Community Infrastructure Program* (LRCI) many Victorian Councils are allocating a portion to fund the replacement of remaining inefficient streetlights to distribution network approved LEDs.

### **Banning mercury in lights**

The Federal government is considering ratifying the Minamata convention to ban mercury vapour (MV) lamps from 2021. This would result in a ban on importing mercury lamps into Australia, and even without Australia being signatory, all major lamp manufacturers have already signed the agreement marking their commitment to cease the production of mercury containing lamps.

Drivers and timing for retirement of lamp-based assets include:

<b>Technology</b>	<b>Driver of phase out</b>	<b>Timing</b>
Mercury Vapour (MV)	Regulation	2021 (+ 3-4 yrs)
Compact Fluorescent Lamps (CFL)	Commercial supply	2020-25
Twin 5 fluorescent (T5)	Commercial supply	2030
High Powered Sodium (HPS)	Commercial supply	2030

In addition to offering lower maintenance costs and energy consumption, the new lights provide better lighting outcomes for the community.

### **LED Project Design Workshop**

Consultants have been appointed to run a design workshop in the coming weeks to identify the complete list of lights from the audit which will be included in the scope of the project. Specifically, streetscape upgrades will be identified where undergrounding of power is planned or public lights are already funded for upgrades, so as to avoid duplication or installing lights which are planned in the next 3 to 5 years to be replaced as part of a streetscape upgrade.

The project is intended to be implemented through an MAV Supply Contract SL3911.

### **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*

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

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

### **Collaboration**

Pursuant of section 109(2) of the *Local Government Act 2020* this report has been prepared in collaboration with officers from Wellington Shire and South Gippsland Council, where a joint project plan has been developed. Each Council has sought LRCI funding to undertake an LED street light project using the MAV contract 'SL9311 for Energy efficient street lighting hardware installation services' to purchase LED category P and V hardware, and will combine the purchase of installation services in the coming months to reap savings.

### **Council Plan**

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

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

Strategic Objective 3: 3.1 Council works to reduce its own and the communities carbon emissions while supporting the community to mitigate the impact of a changing climate on the environment, safety, health and lifestyles.

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

### **Council Policy**

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

### **Options**

1. Council agrees to change remaining non-LED category P and V streetlights to LED approved luminaires from the MAV contract SL3911 using the \$1.4 million from the Federal Government Local Roads and Community Infrastructure Program (LRCI) to reap operational savings ahead of time; or
2. Council does not upgrade streetlights to LED at this time and will seek alternative funds in the coming years.

## Resourcing

### *Financial*

East Gippsland Council has an approved Federal LRCI grant to replace an estimated 1,755 streetlights with LED approved equivalents. The LED streetlight project is proposed to be fully funded by LRCI funding, which has allocated \$1.4 million to carry out:

- Project Management
- Supply of hardware
- Installation of hardware

The analysis identifies that, when considering the range of models (pessimistic to optimistic), total Council savings over 20 years after paying off project costs could be as high as \$4.64m or as low as \$2.70m. The payback period for Council ranges from 3.7 to 5.0 years. The analysis has assumed Council will pay all upfront costs for the project of which the project can be fully funded by LRCI funding.

In addition to estimated operation savings of \$228,000 a year for 20 years, the inclusion of the generation of Victorian Energy Efficiency Certificates (VEECs) within this project is expected to generate approximately \$240,000 (based on range of \$120,000-\$290,000) worth of reimbursement/income for Council once the project is completed (based on predicted certificate prices).

### *Plant and equipment*

Not applicable

### *Human Resources*

The internal project management is to be carried out using existing internal officer time. The installation works will be overseen by an existing project supervisor, and Ironbark (consultancy) have been engaged to carry out the joint project management across the three Gippsland Councils referred to earlier in this report.

### *Risk*

The risks of this proposal have been considered and the key risks associated with this project are around tight timeframes for project completion, with the LRCI funding agreement requiring project completion prior to the end of the 2021 calendar year. Early indications are that there are long lead times for lighting hardware, due to a combination of high demand for lights as a number of Councils across Australia take advantage of available funding streams and roll out lighting upgrade projects; and supply constraints around lighting hardware resulting from the global shortage of semiconductors.

Officers will endeavour to seek certainty from suppliers around timeframes for delivery of their product, and if need be, commence communication with the funding body around possible extensions to timeframes for delivery. Given the large number of Councils in the same situation, also accessing funding via the Local Roads and Community Infrastructure stream, it is anticipated that there will be a number of similar requests coming from across the country.



## **Economic**

Savings will be retained with the local community and economy.

## **Social**

The new lights provide better lighting outcomes for the community, including:

- Greater uniformity of light across and along the street
- Better colour rendering and visibility
- Less depreciation of the light output over time, and
- Lower glare
- Less light pollution (spill light)

## **Environmental**

The project will principally address the use of mercury in public streetlighting, which is harmful to the environment.

The Minamata Convention lists mercury as a chemical of global concern because:

- it is persistent in the environment once released
- it can travel large distances in the atmosphere and oceans and affect human health and the environment even in remote locations
- it can bioaccumulate in ecosystems and up the food web
- it can have significant negative effects on human health and the environment.

All lights will be recycled appropriately, which is a key intent of this project.

The project would be expected to reduce energy use by over 500,000 kWh a year and emissions of 476 tonnes of CO<sub>2</sub> each year (if Council sourced electricity from the grid which was not offset by 100% renewable energy).

### *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.

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

## **Engagement**

There is a joint engagement plan currently being developed by Ironbark consultants with Wellington and South Gippsland Shire's as part of the project management and which will be delivered in collaboration with Council's communications and media unit.

## **Attachments**

1. CONFIDENTIAL - Evaluation of Supplier for East Gippsland Commercial in Confidence [5.1.1.1 - 2 pages]
2. CONFIDENTIAL - Recommendation Report for MAV Tender S L 3911 [5.1.1.2 - 14 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

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

The purpose of this report is to provide Council with an overview of the tender process and seek approval to appoint a contractor for CON2021 1443 North Arm Boat Ramp Upgrade, comprising new pontoons, boat ramp, fish weigh facilities and revetment wall.

The North Arm Boat Ramp is located to the west of the North Arm Bridge in Lakes Entrance, near the base of Kalimna Hill. It is one of the highest usage fishing and boating facilities in East Gippsland and provides on-water access to both the Gippsland Lakes and offshore boating.

The existing facility is in poor condition and nearing the end of its useful life. This upgrade will renew existing above and below water infrastructure and in doing so, address several high priority condition and functional issues. The upgrade will provide significant regional economic benefits by catering for growth in recreational fishing which supports increased employment and expenditure.

Acknowledging the benefits of this project, the Victorian State Government has contributed a total of \$400,000 toward the North Arm Boat Ramp upgrade, from Better Boating Victoria and the Recreational Fishing and Camping Facilities Grants Program (Commonwealth funding administered by the State).

The North Arm Boat Ramp Upgrade project is to be constructed under a contract tender which was advertised nationally. As a result of the invitation to tender and the subsequent tender evaluation provided as **Confidential Attachment 1**, Council is now able to consider the recommendation to award the contract.

## **Officer Recommendation**

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

- 1. Receives and notes this report and all attachments pertaining to this report;***
- 2. Accepts the tender submitted by \_\_\_\_\_ for CON2021 1443 North Arm Boat Ramp Upgrade for the contract amount of \$ \_\_\_\_\_, exclusive of GST;***
- 3. Authorises the signing and sealing of the contract in the form presented; and***
- 4. Resolves that the attachments to this report and all discussions in relation to the attachments remain confidential.***

### ***THAT COUNCIL:***

- 1. RECEIVES AND NOTES THIS REPORT AND ALL ATTACHMENTS PERTAINING TO THIS REPORT;***
- 2. ACCEPTS THE TENDER SUBMITTED BY TAS MARINE CONSTRUCTION PTY LTD FOR CON2021 1443 NORTH ARM BOAT RAMP UPGRADE FOR THE CONTRACT AMOUNT OF \$768,790.00, EXCLUSIVE OF GST;***
- 3. AUTHORIZES THE SIGNING AND SEALING OF THE CONTRACT IN THE FORM PRESENTED; AND***
- 4. RESOLVES THAT THE ATTACHMENTS TO THIS REPORT AND ALL DISCUSSIONS IN RELATION TO THE ATTACHMENTS MAIN CONFIDENTIAL.***

***Cr Arthur Allen / Cr John White***

***THAT THE RECOMMENDATION BE ADOPTED***

***CARRIED***

## **Background**

Recreational fishing at Lakes Entrance is continuing to grow in popularity due to growth in recreational fishing generally and the emergence of new opportunities in offshore game fishing. The North Arm Boat Ramp facility which includes two jetties, a boat ramp, a fish weigh-station and related infrastructure is a popular location for boat launching/retrieval, weighing of game fish and fish cleaning.

The facility currently has several high priority condition and functional issues which require urgent attention to support the demand. These issues include no all-abilities access, limited ramp length for boat launching/retrieval and limited on-water access to the fish weigh-station. There are also issues with displacement of sand onto the boat ramp and shoreline erosion.

These issues are to be resolved through a major facility upgrade to the North Arm Boat Ramp facility. The scope of work for this project is as follows:

- Replacement of the existing concrete boat ramp and bitumen apron.
- Replacement of the existing western jetty with a new floating pontoon that provides access for all abilities.
- Replacement of the existing eastern jetty with a new fixed jetty that incorporates the fish weigh-station (gantry) at its deepest end.
- Construction of a new groyne wall to the south of the facility to control erosion and to minimise build-up of sand on the boat ramp.

The North Arm Boat Ramp Upgrade has been keenly anticipated by recreational and commercial users alike. It has been designed in close consultation with the community and the Gippsland Lakes Angling, Game and Sports Fishing Club. It will be well received when complete.

It is anticipated that the project works under this contract are anticipated to be implemented between August and November 2021.

## **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 1989*.

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

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

## **Collaboration**

Procurement collaboration has not been possible for this contract as it relates lump-sum works solely for the upgrade of a single East Gippsland Shire Council managed facility. The project has been funded collaboratively by all tiers of government.

## Council Plan

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

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

## Council Policy

Procurement processes associated with CON2021 1443 North Arm Boat Ramp Upgrade have been undertaken in accordance with the East Gippsland Shire Council Procurement Policy (2020).

## Options

When developing the new design for the North Arm Boat Ramp, a range of options were considered and discussed with stakeholders to ensure that the new facility is fit for purpose and meets the needs of the recreational fishing community. This included considerations with respect to the design, layout, accessibility, safety and operation of the new facility. Based on feedback received, several design changes were made including layout and sizing the jetties, length of the boat ramp and relocation of the fish weigh station (gantry).

Options were considered for delaying and/or staging the works in anticipation of tenderers not being able to complete construction before Christmas 2021. However, the preferred tenderer has indicated that they can complete the works before this date which is the best possible outcome for minimising impact to the community due to facility closure during construction. It will also allow for optimal use in the forthcoming summer.

## Resourcing

### *Financial*

This project budget is a total of \$852,504, funded via the following sources:

- \$400,000 from the Victorian State Government, comprising:
  - \$200,000 from the Recreational Fishing and Camping Facilities Grants Program.
  - \$200,000 from Better Boating Victoria.
- \$452,504 from East Gippsland Shire Council, comprising:
  - \$175,504 within the 2020/21 Budget, including a transfer of \$140,000 from the Holding Account.
  - \$277,000 within the 2021/22 Budget.

A detailed budget and cost summary for the overall project is provided in **Confidential Attachment 1**

### *Plant and equipment*

Plant and equipment used to deliver the works will be provided by the successful tenderer, as detailed in their tender submission.

## *Human Resources*

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

## *Risk*

The risks of this proposal have been considered and tenderers were requested to develop a construction methodology that minimises risks identified with timing, public safety, traffic management, works on waterways, pollution and other key issues associated with the works.

## **Economic**

The total expenditure by offshore recreational fishers in East Gippsland is estimated at approximately \$97.3m. per annum with a value-added component of approximately \$37.2m. per annum. Most of this activity is concentrated at Lakes Entrance. Further growth in this sector will continue to bring direct economic benefits to the broader region.

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

## **Social**

This project will upgrade and improve existing infrastructure which serves the growing recreational boating and fishing community. It will support the growth in demand for recreational fishing, support employment growth in the recreational fishing sector and increase visitor confidence in the region by meeting visitor expectations for high quality infrastructure.

## **Environmental**

This project has provided opportunity to reduce environmental impact associated with sand movement along the shoreline by constructing a groyne wall. The groyne wall will assist in reducing shoreline erosion and minimise sand build-up on the boat ramp, leading to reduced ongoing maintenance.

The tender evaluation process included a 5% weighting towards environmental and sustainability aspects, with preference given to contractors who are able to demonstrate environmentally friendly work practices and sustainability.

In evaluating the tenderers' construction methodologies, consideration was given to the anticipated level of disturbance to the seabed and shoreline.

## *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**

Officers have conducted extensive initial engagement with the local fishing and boating community, agencies and authorities during the planning phase of the project. The Project Supervisor will continue to engage with these stakeholders and foster positive ongoing relationships by providing regular updates throughout the delivery phase of the project.

Engagement activities promoting the project to the broader community and advising of potential impacts throughout its implementation will be initiated following award of the construction contract and the commencement date being known.

## **Attachments**

1. CONFIDENTIAL - Tender Evaluation Panel Report - CON2021 1443 North Arm Boat Ramp Upgrade Lakes Entrance [5.1.2.1 - 5 pages]

### 5.1.3

## Additions of Roads to Council's Register of Public Roads

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

This report considers the inclusion of additional roads to East Gippsland Shire Council Register of Public Roads (ROPR), as part of Council's responsibilities under the *Road Management Act 2004 (the Act)*. The Act establishes a statutory requirement for road authorities to maintain a ROPR. Road authorities have a duty to inspect, maintain and repair roads that have been determined as public roads.

The East Gippsland Shire Council Road Management Plan establishes the standards that shall be met when discharging these duties to inspect, maintain and repair public roads.

Council staff have received a number of requests from members of the community seeking maintenance of roads that are not currently included on the ROPR and consequently, are not currently inspected, repaired or maintained by Council. This review also addresses any gaps and omissions identified through internal review.

The roads being considered for inclusion to the Register of Public Roads in this report include:

- King Street, Benambra (0.760km)
- Callaghan's Road, Anglers Rest (1.869km)
- Dukes Road, Mallacoota (2.700km)
- Pebbly Beach Track, Mallacoota (0.370km)
- Secret Beach Track Carpark, Mallacoota (30m x 10m)
- Lower Tablelands Road, Benambra (1.530km)
- Wombat Lane, Genoa (0.125km)

When considering requests for additions to the ROPR the following factors are considered, including: whether the road:

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

Based on these criteria, this report recommends that four of the seven requested road sections are added to the ROPR



## **Officer Recommendation**

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

- 1. receives and notes this report and all attachments pertaining to this report;***
- 2. declares the sections of roads listed below and shown in Attachment 1 be added to Council's Register of Public Roads as follows:***
  - a. Callaghan's Road, Anglers Rest to be listed as a Rural Access Road;***
  - b. Wombat Lane, Genoa to be listed as a Rural Access Road;***
  - c. Pebbly Beach Track, Mallacoota to be listed as a Rural Limited Access Road; and***
  - d. Secret Beach, Mallacoota to be listed as a Rural Limited Access road;***
- 3. refuses the requests to have King Street, Benambra and Lower Tablelands Road, Benambra listed as Public Roads until such time as Council is advised that a principal place of residence exists, and the roads have been brought to the required standard for a Rural Limited Access Road by the benefitting owner/s to Council's satisfaction, at which time a new recommendation on these roads should be presented to Council;***
- 4. determines not to add Dukes Road in Mallacoota to the Public Road Register at this time as this road is maintained by another authority; and***
- 5. authorises Council's Register of Public Roads to be updated accordingly as required by the Road Management Act 2004.***

***Cr John White / Cr Jane Greacen OAM***

### ***THAT THE RECOMMENDATION BE ADOPTED***

***CARRIED***

## **Background**

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

Council must record on its ROPR, any road in respect of which it is the responsible authority and where it has made a decision that the road is reasonably required for general public use, in accordance with Section 17(3) of the *Road Management Act (2004)*.

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

- The road provides access to a principal place of residence (PPR).
- The road in question provides a single closest point of access to a rateable property holding,
- The road is located on suitable land, in a road reserve or Crown land where Council has relevant authority to lawfully have a road.
- The road is not maintained by another authority.
- The underlying condition of the track / ability to convert it to a public road.

This report considers the suggested classifications of the roads to be added to the ROPR as Rural Access and Limited Rural Access. These road hierarchy classifications require annual hazard inspections and regular maintenance throughout the year (a suggested minimum of one grade per annum for gravel roads).

The roads as requested for addition and as listed below total **2.394** kilometres in length. A map showing the locality of each of the roads is provided in **Attachment 1**.

Road Name	Locality	Land Tenure	Principle Places of Residence	Approx. length	Proposed Classification	Conditions
Callaghan's Road	Anglers Rest	Road Reserve	2	1.869km	Rural Access	Gravel Road
Pebbley Beach, Track	Mallacoota	Road Reserve	0	0.370km	Rural Limited Access	Gravel Road
Secret Beach Track Carpark	Mallacoota	Road Reserve	0	30mx10 m	Rural Limited Access	Gravel Area
Wombat Lane	Genoa	Road Reserve	2	0.125km	Rural Access	Gravel Road

**King Street** - Benambra, is currently an unconstructed road, primarily used to access farming land, there are also residential blocks that abut this street but at this time there are no principal places of residence. The current condition of this unconstructed road is quite poor and would require significant pavement works to bring it up to the standard that council would accept. These works would need to be completed at the cost of the benefiting property owners prior to a further request for King Street to be added to the ROPR.

**Callaghan's Road** - The section of the road and focus for this report is the last section of the road that services the end properties along this road. This road section therefore provides access to principal places of residence. This section has been previously maintained by Council however not formally placed on the ROPR. It is considered reasonable to add this road section to the ROPR.

**Dukes Road** - Mallacoota, is currently managed and maintained by Parks Victoria, there is one rateable property on this road however it does not contain a principal place of residence. Given the road is managed by another authority it is not considered necessary to add the road to the ROPR at this time.

**Pebbley Beach Track and Secret Beach Track Carpark** - While these tracks do not service any principal places of residence, Council is the Crown Land Manager for 273 hectares of foreshore reserve adjacent to Betka Road in Mallacoota and these roads are used by not only local residents but also tourists to access two pristine beach reserves. Council maintains the walking paths through the reserve and to the beaches including a significant amount of associated infrastructure along these trails such as signage, BBQ's, picnic benches and seats. This infrastructure has recently been replaced and upgraded as part of Mallacoota's bushfire recovery work.

As Council is the manager of this reserve there is an implied responsibility to maintain these two vehicular access tracks in a safe and serviceable condition. Therefore, it is recommended these two tracks be added to the register of public roads to allow these assets to be tracked in Council's asset management system and funding allocated for routine maintenance accordingly. These tracks have been routinely maintained by council in the past however, under the new road maintenance contract arrangements they need to be added to the register of public roads to allow for maintenance to be continued.

**Lower Tablelands Road** – This section of the road does not currently provide access to any properties with a principal place of residence. There is however one house at the end of the track before it descends the escarpment to the Dartmouth Reservoir. It is a gravel track with limited pavement material and no formal drainage structures. A principal place of residence would need to be confirmed and upgrade works undertaken on the road prior to Council considering it for inclusion to the register of public roads. The cost associated with the upgrade works will need to be borne by the benefiting property owner/s. Alternatively Council would need to determine the provision of access to Dartmouth Reservoir from this road to be a priority and fund the upgrade itself.

**Wombat Lane** - Genoa, services two principal places of residence and is in suitable condition for Council to accept for adding to the public road register as is, as there is sufficient existing pavement material and drainage infrastructure along the alignment. It is therefore considered reasonable to add this lane to the ROPR.

## 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* and in accordance with *Local Government Act 2020*

The procedures and recommended actions within this report are consistent with the requirements of the *Road Management Act 2004* and Council's own Road Management Plan (2017).

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 other councils or agencies as the report relates directly to Council's individual road management responsibilities.

## **Council Plan**

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

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

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

## **Council Policy**

This report is prepared in accordance with the East Gippsland Shire Council Road Management Plan (2017).

## **Options**

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

## **Resourcing**

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

## *Financial*

It is estimated that the annual routine maintenance costs for the roads recommended for addition to the register of public roads being, Callaghan's Road, Pebbly Beach Track, Secret Beach Track Carpark and Wombat Lane would be \$3,270 p/a. Gravel re-sheeting of these road pavements on a periodic basis is estimated to cost \$72,500 and would occur at a frequency between 10- 20 years as required by the material and conditions on each road at a given time.

Estimated costs for King Street and Lower Tablelands Road not recommended to be added to the register of public roads until such time as they contain principal place/s of residence, and they are brought up to an acceptable condition have not been costed. If the roads were brought to the required standard for council to take on the annual maintenance costs of the assets would be \$2,507 p/a. Gravel re-sheeting of these road pavements on a periodic basis is estimated to cost \$52,700 and would occur at a frequency between 10- 20 years as required by the material and conditions on each road at a given time.

Should the recommendations in this report be adopted, Council officers will manage the additional costs within the existing annual road maintenance and capital works budgets as adjusted each financial year.

## *Plant and equipment*

Not applicable

## *Human Resources*

Not applicable

## *Risk*

The risks of this proposal have been considered and adding these roads to the register of public roads and maintaining these roads will not pose any further risk to Council. Adding the roads not recommended, would bring with them considerable costs to bring these roads to the required standard.

## **Economic**

Some road listed for addition to the register of public roads will further enhance the regions tourism by allowing increase access to the region's natural surrounds.

## **Social**

Addition of these road to the register will enhance drivability conditions and safety for residents. it will also create opportunities for locals and visitors to further access and explore East Gippsland's diverse region. Those roads providing access to principal places of residence will create safer access to community members homes.

## **Environmental**

No environmental impacts

### *Climate change*

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

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

## **Engagement**

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

## **Attachments**

1. Register of Public Roads - Road Map Sections - July 2021 [5.1.3.1 - 4 pages]

## 5.2 Bushfire Recovery

### 5.2.1 CON2021 1428 Regional Marketing and Promotion Services

Authorised by General Manager Bushfire Recovery

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#### Conflict of Interest

An Officer preparing this report has disclosed a conflict of interest. The officer has had no involvement in the tender evaluation process or recommendation.

#### Executive Summary

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

The purpose of this report is to provide the background of the tender and evaluation process for CON2021 1428 East Gippsland Regional Marketing Services and seek approval by Council to accept the recommendations made by the Tender Evaluation Panel. The Tender Evaluation Report is detailed in the Confidential Attachment contained in the closed Council meeting agenda for this item.

Council has had an arrangement in place for the delivery of regional marketing services for a number of years. This includes marketing and promotion to increase visitation, investment and migration of residents to live in East Gippsland. With the pending conclusion of the existing funding agreement, Council determined a multi-year agreement was preferable to give certainty.

A Request for Tender (RFT) was advertised seeking appropriately qualified contractors to provide regional marketing services for East Gippsland, with multiple conforming tender submissions being received before the closing date of Wednesday 28 April 2021.

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

## **Officer Recommendation**

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

- 1. receives and notes this report and any attachments pertaining to this report;***
- 2. accepts the tender submitted by \_\_\_\_\_ for CON2021 1428 East Gippsland Regional Marketing Services for the contract amount of \$\_\_\_\_\_ exclusive of gst, per annum, for a period of four years with an option for a further four-year period, at councils' sole discretion, in accordance with the specification;***
- 3. authorises the signing and sealing of the contract in the form presented;***
- 4. authorises allocation of funding from the Economic Development Discretionary Fund, as required by recommendation 2; and***
- 5. resolves that the attachments to this report and all discussions in relation to these attachments remains confidential, except to the extent necessary for the Chief Executive Officer to give effect to this resolution.***

### ***THAT COUNCIL:***

- 1. RECEIVES AND NOTES THIS REPORT AND ANY ATTACHMENTS PERTAINING TO THIS REPORT;***
- 2. ACCEPTS THE TENDER SUBMITTED BY EAST GIPPSLAND MARKETING INC FOR CON2021 1428 EAST GIPPSLAND REGIONAL MARKETING SERVICES FOR THE CONTRACT AMOUNT OF \$158,350.00 EXCLUSIVE OF GST, PER ANNUM, FOR A PERIOD OF FOUR YEARS WITH AN OPTION FOR A FURTHER FOUR-YEAR PERIOD, AT COUNCILS' SOLE DISCRETION, IN ACCORDANCE WITH THE SPECIFICATION;***
- 3. AUTHORIZES THE SIGNING AND SEALING OF THE CONTRACT IN THE FORM PRESENTED;***
- 4. AUTHORIZES ALLOCATION OF FUNDING FROM THE ECONOMIC DEVELOPMENT DISCRETIONARY FUND, AS REQUIRED BY RECOMMENDATION 2; AND***
- 5. RESOLVES THAT THE ATTACHMENTS TO THIS REPORT AND ALL DISCUSSIONS IN RELATION TO THESE ATTACHMENTS REMAINS CONFIDENTIAL, EXCEPT TO THE EXTENT NECESSARY FOR THE CHIEF EXECUTIVE OFFICER TO GIVE EFFECT TO THIS RESOLUTION.***

***Cr Tom Crook / Cr Jane Greacen OAM***

***THAT THE RECOMMENDATION BE ADOPTED***

***CARRIED***

## Background

Council's support in marketing and promoting the region as a place to visit, live and invest is outsourced through a private service provider and formalised through a Service Agreement. The Service Agreement helps facilitate greater flexibility, agility and efficiency when responding to outward facing marketing and promotion enquiries and opportunities. Additionally, it successfully leverages joint funding initiatives to better raise awareness and attractiveness of East Gippsland as a place to work, live and play.

The agreement supports local economies and provides a collective marketing service for our business and wider community. Examples of these include:

- Development and maintenance of the [www.visiteastgippsland.com.au](http://www.visiteastgippsland.com.au) and [www.investeastgippsland.com.au](http://www.investeastgippsland.com.au) websites
- an 'always on' presence through social media marketing – Facebook, Instagram
- Electronic Direct Marketing (EDM) to over 4000 subscribers
- Amplifying East Gippsland's presence in cooperative marketing campaigns into Melbourne
- Design, production and distribution of supporting collateral (maps, brochures, visitor guides)
- Year-round editorial through short and long form media
- Development and promotion of case studies to support investment attraction
- Tailored sector specific campaigns to stimulate where needed – such as attracting health professionals to the region

Council's marketing service is currently delivered by East Gippsland Marketing Inc (EGMI). The current Service Agreement is valued at \$120,000 (exclusive of GST) and will expire on 30 June 2021. Council is required under the Local Government Act to prepare, approve, and comply with a Procurement Policy for all purchases of goods, services and works. The value of the proposed multi-year service agreement means that a public tender process is required. A public tender process has recently been completed.

## 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 2020* No: 9 Part 5 Procurement section from the Act (1) A, Council must comply with its Procurement Policy before entering into a contract for the purchase of goods or services or the carrying out of works.

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



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

There is no State or Federal Government legislation that impacts on Council's decision to enter into a multi-year service agreement with providers

## **Collaboration**

Pursuant of section 109(2) of the *Local Government Act 2020* this report has considered opportunities for collaboration with other Councils and determined to proceed on the basis of a singular local government area tender. This does not preclude collaborative campaigns or similar work under this tender.

## **Council Plan**

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

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

Strategic Objective 4: 4.5 Tourism sector investment is sought in business capability, product development and experience to meet the changing needs of domestic and international markets.

## **Council Policy**

The recommendations within this Council report are made in accordance with Council's Procurement Policy and process for approving forward budget expenditure.

## **Options**

Council has considered various options for the delivery of regional marketing services that ensure Council is able to appropriately promote East Gippsland including the utilization of in-house resources. However, it was determined that in order to achieve the best outcome for the region, Council would require the assistance of appropriately qualified external specialists, as they will provide greater flexibility, agility and efficiency when responding to outward facing marketing and promotion enquiries and opportunities.

Additionally, the duration of the contract was considered and a 4+4 time frame was identified as the most applicable as it allows for the implementation of the longer-term strategy to more effectively align and assist in achieving Councils overall Economic Development objectives. It also provides Council with the ability to assess trends, understand what works and optimise on those observations throughout the duration of the contract more accurately. Furthermore, the contract is structured so that it allows Council to determine, at its sole discretion, if it will exercise the further four year option.

## **Resourcing**

### *Financial*

Entering into a four-year service agreement will commit Council's forward budget until 30 June 2025, with a possible extension of another four years to 30 June 2029 at the contracted amount as indicated in the attachment.

Funding for marketing services is currently drawn from the Economic Development Discretionary Fund and subject to continuing contributions to the fund, the fund is anticipated to have sufficient balance to fund this contract.

### *Plant and equipment*

There are no plant and equipment implications of this report.

### *Human Resources*

There are no human resource implications of this report.

### *Risk*

The risks associated with the implementation of the officer's recommendations have been considered as low.

## **Economic**

The delivery of regional marketing and promotion services are designed to increase visitation, investment and migration of residents to East Gippsland. Each of these result in positive economic outcomes for the East Gippsland community.

## **Social**

There are no negative social implications as a result of this report.

## **Environmental**

There are no negative environmental implications as a result of 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**

No public engagement process has been undertaken in the preparation of this report. A local industry marketing advisory group will help to inform the key deliverables of the marketing plan with the appointed service provider annually.

## **Attachments**

1. CONFIDENTIAL - CON2021 1428 East Gippsland Regional Marketing 2021 2025 Tender Evaluation Panel Report [5.2.1.1 - 6 pages]

## 5.3 Business Excellence

### Attendance

Cr Trevor Stow was left the Council Chamber at 7.50 pm and Returned at 7.52 pm

### 5.3.1 Leasing and Licensing Policy and Sale of Council-owned Land 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 to Council the amended Leasing and Licensing Policy for Council-owned Land and Council-managed Land (Leasing Policy), provided at **Attachment 1** and the Sale of Council-owned Land Policy (Sale of Land Policy), provided at **Attachment 2**, to align with the *Local Government Act 2020* (the Act). A tracked change version of the Leasing Policy is provided at **Attachment 3**.

The Leasing Policy has been updated to reflect:

- legislative changes;
- minor administrative changes;
- the inclusion of additional sections on telecommunications providers and government departments that provide a public safety benefit; and
- exceptional circumstances that arise from unavoidable or unexpected situations (Bushfires or COVID-19) that equates to tenants being unable to comply with the terms and conditions of their agreements.

A tracked version of the Sale of Council-owned Land policy has not been provided, as there were no substantive changes to the policy, only the following minor administrative changes were made to align to the Act:

- references to the *Local Government Act 1989* amended to the *Local Government Act 2020*;
- Legislation section – acts put in alphabetical order;
- updated East Gippsland Shire Council Plan 2013-17 to East Gippsland Shire Council, Council Plan 2017-2021 (or its successor) last revised 2020
- updated key roles and responsibilities to reflect the current organization structure; and
- removed the definition of Public Open Space, as public open space is sold in the same way as Council land and there is no requirement to differentiate.

Once adopted, the updated Leasing Policy and the updated Sale of Land Policy will be available on Council's website.

## **Officer Recommendation**

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

- 1. receives and notes this report and all attachments pertaining to this report;***
- 2. resolves to adopt the revised draft Leasing and Licensing Policy for Council-owned Land and Council-managed Land at Attachment 1; and***
- 3. resolves to adopt the revised draft Sale of Council-owned Land Policy at Attachment 2.***

***Cr Arthur Allen / Cr John White***

### **THAT THE RECOMMENDATION BE ADOPTED**

**CARRIED**

## **Background**

### ***Leasing and Licensing Policy for Council-owned Land and Council-managed Land***

The Leasing Policy was previously amended to reflect a resolution at the Council meeting of 15 December 2020. However, it was not updated at that time to reflect the requirements of the Act coming into force on 1 July 2021. The proposed changes in the draft Leasing Policy, at **Attachment 1**, provide for the following administrative changes including:

- References to the *Local Government Act 1989* have been amended to the *Local Government Act 2020*;
- Updating applicable legislation;
- Inserting definition of Staff; and
- Updating key roles and responsibilities.

Additionally, the draft Leasing Policy also proposes that telecommunications providers, government departments that provide a public safety benefit and tenants that have a complementary agreement with Council or a government department are exempt from the expression of interest process.

The current Leasing Policy requires telecommunications providers (Carrier) to have an expression of interest process prior to entering into a new lease agreement for their own infrastructure as they are deemed to be commercial operations. Telecommunications are a specialised area and the infrastructure is owned and operated by the licensed Carrier under the *Telecommunications Act 1997* (Cth) (Telecommunications Act) and is unable to be used and accessed by any other person or company or any other carrier, subsequently rendering an EOI futile and as such it is proposed to exempt a Carrier from the EOI. Additionally under the Telecommunications Act the Carriers have to meet their obligations to ensure that the Carrier is able to strike the right balance between the community's needs to access reliable, affordable telecommunications services with further obligations including good engineering practices, and the requirements to follow the Telecommunications Code of Practice.

Where a State or Federal Government department provides a public safety benefit it is proposed it exempt these from the expression of interest process. An example of this is the Department of Environment, Land, Water and Planning (DELWP) airbase at the Bairnsdale Aerodrome which provides aerial firefighting support during bushfires. This provides a public safety benefit to the residents of East Gippsland and they do not receive any income from providing this service.

It is proposed that for some of Council's tenants who have a complementary agreement with Council or a government department be exempt from the expression of interest process. An example of this is the livestock agents at the saleyards in Bairnsdale. The livestock agents hold an agreement with Council to operate livestock auctions at the saleyards and have an ancillary agreement for the use of office space to facilitate the auctions. As continued access to Council office space is required for the ongoing operation of the business, an exemption to the expression of interest process is required to ensure they are still able to continue with their complementary agreement with Council.

Due to the recent events of 2020, being the bushfires of summer 2019/2020 and the COVID-19 pandemic which required the closure of public facilities and tourist businesses throughout the Shire, it has been identified that this has impacted the ability of some of Council's tenants to comply with the terms and conditions of their agreements, for example completing their agreed capital works programs. The draft Leasing Policy has been updated to simply allow for consideration to be given to varying tenants agreements if they have been impacted by exceptional circumstances beyond their control, however this does not exempt the tenants from the EOI process it merely provides an extension of time in exceptional circumstances.

The revised Leasing Policy includes the following key changes:

- As an amendment to the Act, section 3 Public Advertising has been revised to include the undertaking of a community engagement process as per Council's Community Engagement Policy, as adopted by Council on 16 March 2021, or an opportunity to include the relevant leases as a proposal in the annual budget in accordance with the provisions of the Act. Where a lease agreement is required to have public consultation as a legislative requirement under the Act, and it has been identified in the budget prior to the adoption of Council's annual budget, Council are able to identify the revenue from this lease in the budget and community consultation is not required. Should Council not identify the lease in the annual budget, a community engagement process must be undertaken. (This will remain unchanged from the current public submission process as section 223 of the 1989 Act remains in force).
- Section 4 has been amended to reflect the provisions of the new Act which include updating reference from the *Local Government Act 1989* to the new *Local Government Act 2020*. The requirement for a formal public submission process has been removed from this section 4 as it has been included in section 3 Public Advertising.
- Section 4 has been amended to enable agreements to be extended if it is identified that extenuating circumstances impact on the tenant's ability to comply with the terms and conditions of their agreement;
- Section 6, Commercial or Private Use has been updated to include an additional paragraph that clarifies that the provisions of the *Retail Leases Act 2003* will prevail in respect of a market review if the lease is a retail tenancy;
- Section 6, Commercial or Private Use has been updated to include an additional paragraph that sets the minimal rental for government departments providing a public / community safety use at not less than four times the community use rent of \$416.00 exclusive of GST, unless otherwise approved. . The government departments that provide a public safety benefit are not commercial operations and do not receive any income from providing that public safety benefit, this allows the rent to be set at a non-commercial value in these circumstances; and
- Section 6, the second to last paragraph has been amended to include approval by the Chief Executive Officer to vary rent for a commercial/private occupation, where it cannot be reasonable to obtain a commercial rent, for example, the private grazing of horses on Council land where the horses are required for rehabilitation programs.

## ***Sale of Council-owned Land Policy***

Council policies are required to be reviewed at regular intervals. The Sale of Land Policy was due for review in May 2021 as part of this regular review process.

The draft Sale of Land Policy at **Attachment 2** has only required minor administrative changes, including:

- transfer of the Sale of Land Policy to Council's new policy template;
- references to the *Local Government Act 1989* amended to the *Local Government Act 2020*;
- Legislation section – acts put in alphabetical order;
- updated East Gippsland Shire Council Plan 2013-17 to East Gippsland Shire Council, Council Plan 2017-2021 (or its successor) last revised 2020
- updated key roles and responsibilities to reflect the current organization structure; and
- removed the definition of Public Open Space, as public open space is sold in the same way as Council land and there is no requirement to differentiate.

These administration changes bring the Sale of Land Policy into accordance with the Act.

## **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 114, 115 and 116 of the *Local Government Act 2020*.

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

## **Collaboration**

There are no aspects of this report that require entering into a procurement agreement and therefore external collaboration is not appropriate.

## **Council Plan**

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

Strategic Objective 5: 5.3 Communities are engaged in decision-making and support is provided to develop local solutions to local issues.

## **Council Policy**

The Leasing and Licensing Policy for Council-owned Land and Council-managed Land adopted in December 2020 has been revised to incorporate the requirements of the *Local Government Act 2020*.

The Sale of Council-owned Land Policy adopted in March 2017 has been revised to incorporate the requirements of the *Local Government Act 2020*.

Once adopted the policies will be available on Council's website.

## **Options**

There are no options available to Council for the amendments to the Leasing Policy and the Sale of Land Policy that update provisions of the Act as these are legislative requirements which must be satisfied.

The proposed amendments to the Leasing Policy which have been outlined above, provide for an accommodating policy which reflects the current economic and environmental conditions in which we currently work. These changes are designed to make operational decisions easier and more flexible to assist officers in providing timely and informed advice and information to the community.

Council may elect not to include the proposed amendments to the Leasing Policy which are not required under the Act, but that would negate the benefits outlined above.

## **Resourcing**

### *Financial*

There are no identified financial implications with the report.

### *Plant and equipment*

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

### *Human Resources*

There are no additional human resources required.

### *Risk*

The adoption of the policies minimises the risk of Council acting contrary to the legislative changes that commenced on 1 July 2021.

The amendments to the Leasing Policy will provide operational benefits and efficiencies in leasing and licensing of Council assets and will minimise the risk associated with inconsistent arrangements. Additionally, it will reduce reputational risk associated with an inability to consider different situations that arise within the leasing landscape and impact on external stakeholders including local business and community members, ultimately providing Council with a more holistic policy framework to work within.

## **Economic**

The adoption of these policies will provide the municipal community with on-going confidence in Council's leasing, licensing and sale of land activities. Ensuring Council assets are accessible and will generate flow on effects to other economic activity in the Shire.

## **Social**

Benefits will flow to the East Gippsland Shire through greater access to Council assets, particularly those that provide for community safety and security.

## **Environmental**

These policies will provide for the consideration of environmental factors in leasing, licensing and sale of land activities.

### *Climate change*

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

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

## **Engagement**

Internal consultation has been undertaken with the Management team in the revision of these policies.

## **Attachments**

1. Draft Amended Leasing and Licensing Policy [**5.3.1.1** - 17 pages]
2. Draft Sale of Council owned Land Policy [**5.3.1.2** - 6 pages]
3. Tracked Change Version Leasing and Licensing Policy [**5.3.1.3** - 19 pages]



## 5.4 Place and Community

### 5.4.1 Gender Equality / Free from Violence

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

The importance of an endorsed position confirms Council's commitment to take action to reduce the prevalence and impact of violence against women across East Gippsland.

Commitment to the Charter and endorsed statement provides a strategic avenue for consistent messaging to promote the existing work being done by council to achieve gender equality and improve outcomes for women and men. It ensures that gender equality remains central to the work that Council does in supporting staff and communities, aligns with Council's principles and objectives of capacity building (diversity and active participation) and compliance requirements pertinent to the Victorian government's Gender Equality Act.

The *Gender Equality Act 2020* (the Act) came into effect on 31 March 2021. The government states that the Act "aims to improve workplace gender equality across the Victorian public sector, universities and local councils. It will also lead to better results for the Victorian community through improved policies, programs and services."

Under the Act "Gender equality means equality of rights, opportunities, responsibilities and outcomes between persons of different genders."

The Act applies to Victorian public organisations with 50 or more employees. Around 300 organisations, including all Victorian councils, are covered by the Act. The requirements of the Act complement provisions within the Local Government Act 2020.

#### Officer Recommendation

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

- 1. receives and notes this report and all its attachments;***
- 2. endorses the following statement to confirm commitment to the prevention of violence against women:***

***'East Gippsland Shire Council acknowledges the prevalence and impact of violence against women in our community and regards all forms of violence against women as unacceptable. Council will lead by example as an employer, service provider, advocate, funder and key stakeholder by acting in a manner that demonstrates relationships built on respect and by providing opportunities that are gender-equitable and non-discriminatory';***

- 3. endorse East Gippsland Shire Councils reaffirmation of the Victorian Local Government Women's Charter; and***
- 4. nominates two Councillors as Charter Champions.***

**THAT THE RECOMMENDATION BE ADOPTED**

**CARRIED**

**Procedural Note**

Councillors Jane Greacen OAM and Allen were nominated as Charter Champions.

**Background**

Victoria Police statistics show that in the 2019-20 period, East Gippsland had the highest level of prevalence of reported family violence crime of Victoria's 79 Local Government Areas (rate calculated per 100,000 population).

Research demonstrates that violence against women increases during every type of emergency, including epidemics and bushfires. Preceding the 2019 - 2020 Black Summer bushfires, East Gippsland experienced three years of drought, contributing to the cumulative effects of back-to-back emergencies. Notably, in East Gippsland 40% of reported incidents have children as witnesses, further deepening the impact.

The 2016 Royal Commission into Family Violence showed that Victoria needs to address gender inequality in order to reduce family violence and all forms of violence against women. Evidence tells us that this and other primary prevention strategies are effective in reducing the prevalence of violence. Much work has been undertaken to shift the prevalence of these incidents occurring. In addition to the National Plan to Reduce Violence Against Women and their Children 2010-2022 – which draws together the work of Commonwealth, state and territory governments into a 12-year strategy, and the National Framework 'Change the Story' – the Victorian Gender Equality Act 2020 (the Act) came into effect in March 2021.

The Act requires public entities including councils, to take genuine steps to improve gender equality outcomes in workplaces and the community, and to report on these publicly. The Act is a first for Australia and it is expected to reduce levels of violence in our communities, drive better balance for all genders, increase female participation in public and community life, and create new opportunities for everyone.

As an employer of over 500 people, Council has the opportunity to work to these standards and lead by example. Further, as a key stakeholder, funder (through grants programs), advocate, and service provider, Council has many touch points across the community through which clear and consistent messages can have a positive impact in shifting community norms – that violence against women is unacceptable in our community. The endorsement of a position on this issue is a key action Council can take to publicly and explicitly demonstrate commitment to the values and behaviours that will contribute to shifting rates of violence against women in our community.

**Victorian Local Government Women's Charter**

History of the Charter

The Charter was established in 1998 by the Women's Participation in Local Government Coalition (WPILGC) to recognise the need for increased women's participation in the key decision-making forums in the community and in democratic governance.

The WPILGC was a coalition of organisations, including peak bodies in local government, the Victorian Immigrant and Refugee Women's Coalition, Victorian Women's Trust, Women's Electoral Lobby Victoria, Women's Planning Network and YWCA Victoria. Following council amalgamations in 1996, the number of women councillors was at a record low (134 out of more than 600). In 2013, the WPILGC dissolved itself and handed responsibility for this work to the Municipal Association of Victoria (MAV) and the Victorian Local Governance Association (VLGA). At present, the VLGA manages the administration of the Charter signatories and network, working alongside the MAV on promoting the charter and achieving gender equity in local government.

In 2020, 73 of 79 Victorian councils were signatories to the Charter. Cross sector/community collaboration is crucial to achieving the Charter's aims, from the women's groups who were part of the original WPILGC to the VLGA and MAV jointly holding responsibility for the coordination of the Charter today.

### Purpose of the Charter

The emphasis of the Charter is not only on increasing the number of women in elected representative roles, but on encouraging and empowering women from a diverse range of backgrounds to actively participate in decision-making roles in their communities. Victorian State Government's Gender Equality Strategy 'Safe and strong' identifies a target of 50 per cent women councillors by 2025 – this will require a concerted effort from peak bodies, councils and communities, supported by the state government. It is clear from the Charter's history and the ebbs and flows of women's representation that achieving (and maintaining) gender equality in local government requires ongoing attention.

The Royal Commission into Family Violence identified a lack of women in leadership positions as a key driver of violence against women. Increasing the representation of women in decision-making roles improves democracy – a diversity of views leads to better representation and we see that around the board table as well as in the parliament and the council chamber.

### Rationale for Council to reaffirm commitment to the charter.

On Friday 21 June 2019, the VLGA hosted a forum for Victorian council signatories of the Victorian Local Government Women's Charter. Participants included council CEOs, officers and Councillors, representing a vast array of metro, rural and regional councils that are signatories to the Charter. The aim was to discuss of how the Women's Charter could be utilised to maintain the momentum for gender equity, diversity and active participation in communities and develop tangible actions that can be undertaken by Charter Champions and relevant organisations.

### Suggested actions/outcomes:

#### Council chamber

- Encourage councils to reaffirm their commitment to the Charter with a formal motion – at the start of each council cycle
- Standing item on council agendas – appointing Charter Champions at the same time as other delegations
- Encourage councils to rotate the Champion role among councillors

### How the position statement and Charter commitment will be implemented

- The position statement provides the backbone to Council's consistent messaging for this work towards the prevention of violence against women in our communities that can be publicly promoted.
- Have Charter-related actions enshrined in council policies and strategies – this outlives election cycles
- Avenue for grant funding /Links to state government policies and strategies
- Empower council staff to use the Charter in their work, including providing them with the time/delegation to implement action items and attend network meetings or development sessions related to the Charter
- Support Gender equity, diversity and active participation to be seen as part of councils' core business.
- Explore the concept of mandatory reporting on Charter measures – similar to other reporting councils undertake like asset management. This may tie in well with the Gender Equality Bill.

Commitment to the Charter provides an avenue to promote the existing work being done by council to achieve gender equality and improve outcomes for women and men. It ensures that gender equality remains central to the work that Council does in supporting communities and ties in with councils' gender equality strategies and family violence prevention plans, as well as community capacity building (diversity and active participation).

The Charter principles are pertinent to the Victorian government's Gender Equality Act, which requires councils (as state government agencies) to audit their gender equity status. Initiatives under LGV's Listen, Learn and Lead program can be included as Charter activities.

### **Legislation**

On 24 March 2020 the Government passed the *Local Government Act 2020* (the Act). Provisions from the 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 2020*, Section 46 'Functions of the Chief Executive Officer' (4)(iii), sets out measures to seek to ensure gender equality, diversity and inclusiveness; A Council and the Chief Executive Officer must, in giving effect to gender equality, diversity and inclusiveness, comply with any processes and requirements prescribed by the regulations for the purposes of this section.

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

## **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.

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

## **Council Policy**

Council's Municipal Public Health and Wellbeing Plan includes objectives to reduce the incidence of family violence in the community. Safe Families and Communities: We want an East Gippsland where families are free from abuse and violence, and communities are safe for people of all ages, cultures and abilities.

Relevant council policies and procedures:

- Equal Employment Opportunity (EEO) and Anti-Discrimination Policy
- Anti-Bullying and Harassment Policy
- Bullying and Harassment Resolution Procedure
- Councillor Code of Conduct
- Staff Code of Conduct
- Anti-Discrimination Policy
- Staff Leave Policy
- Staff Recruitment and Selection Policy
- Staff Recruitment and Selection Procedures
- Unacceptable Behaviour by a Member of the Public Procedure
- East Gippsland Shire Council Enterprise Agreement No 5

In 2015, East Gippsland Shire Council agreed to the inclusion of a Family Violence leave clause in the staff Enterprise Agreement – Council recognises that family violence is a serious issue in our society generally, and in our communities, and that Council can play a role in supporting staff members who may be subject to family violence.

## **Options**

The importance of an endorsed position confirms Council's commitment to take action to reduce the prevalence and impact of violence against women across East Gippsland. Commitment to the Charter and endorsed statement provides an avenue to promote the existing work being done by Council to achieve gender equality and improve outcomes for women and men. It ensures that gender equality remains central to the work that Council does in supporting staff and communities, aligns with Council's principles and objectives of capacity building (diversity and active participation) and compliance requirements pertinent to the Victorian government's Gender Equality Act.

#### Option 1

##### ***That Council support the recommendations:***

Council has ongoing obligations under the Act to develop and drive outcomes to meet future objectives. Meeting these obligations results in compliance with The Act.

The position statement provides the backbone to Council's consistent messaging for this work towards the prevention of violence against women in our communities that can be publicly promoted.

#### Option 2:

##### ***That Council supports some of the recommendations***

Given the importance of the issues to Council and recently adopted strategic documents and visions, partial commitment doesn't embrace these commitments and can lead to inconsistent messaging.

#### Option 3:

##### ***That Council does not support the recommendations***

Whilst an option, this would seem at odds with Council's vision and community expectations.

#### **Resourcing**

##### *Financial*

There is no additional financial requirement to endorse these recommendations. Expenditure to meet initial and ongoing marketing requirements to deliver within the required guidelines have been covered through current grant funding and future applications.

##### *Plant and equipment*

There are no plant and equipment implications with this report.

##### *Human Resources*

There are no additional human resources required for Council to endorse the recommendations.

However, Council has ongoing obligations under the Act to develop and drive outcomes to meet future objectives. This will increase over time. Currently, officer resourcing to action this work has been grant funded and shared within existing portfolios. Council may need to consider a dedicated EFT to support future program delivery and reporting compliance as defined by the Act.

## **Risk**

The risks of this proposal have been considered and with the prevalence of reported incidents of violence against women unacceptably high, Council has the opportunity to provide leadership to our staff, community and agency partners on gender equity. By taking a clear position on this issue through clear and consistent messaging Council can have a positive impact in shifting community norms – that violence against women is unacceptable in our community.

Management strategies to respond to backlash are provided through lead provider Our Watch and MAV project support officers. Data indicates minimal to no backlash has been reported by other LGA's who have also implemented a position statement on this issue and anecdotal evidence reported an overwhelmingly positive response.

## **Economic**

Family violence has significant social, economic and community impacts. These impacts are felt beyond the individuals and families directly affected by violence. They manifest in an increased burden on government and community services, as well as the broader economy. For example, family violence is the single largest cause of homelessness for women .Intimate partner violence contributes to more death, disability and illness in women aged 18–44 than any other preventable risk factor.

It has been estimated that violence against women costs Australia \$21.7 billion a year, representing an approximate cost of \$7.8 billion to each state and territory for health, administration and social welfare costs.

The Royal Commission into Family Violence called for a rigorous and consistent measurement of the cost of family violence to government, the community and individuals. The Victorian Government commissioned KPMG to produce a report to fulfil recommendation 219 of the Royal Commission into Family Violence.

The report estimates that in 2015-16 the:

- total cost of family violence in Victoria was \$5.3 billion.
- cost to individuals and their families was \$2.6 billion.
- cost to the Victorian community and broader economy was \$918 million.

## **Social**

Recommendations align with Goal 4 of the Current Council Plan – East Gippsland has Safe and resilient Communities.

The endorsement of a position on this issue is a key action for Council to publicly and explicitly demonstrate commitment to the values and behaviours that will contribute to shifting rates of violence against women in our community.

East Gippsland Shire Council does not provide support services for victims of family violence. Its role is in primary prevention, supporting local agencies and partnerships that undertake family violence prevention work and as a leader of best practice. As the level of government closest to the community it is well placed to respond to local concerns and to lead responses to local issues.

East Gippsland Shire Council provides a range of services to the community and is able to strategically utilise these to influence community attitudes. The promotion of gender equity and respectful relationships through programs and services can have a profound impact.

Council can support and promote positive community events and infrastructure, ensuring design, delivery, engagement, internal and external communications and media support respectful modelling and best practice. Council can also support local community groups through the provision of grants, training and mentoring to build community capacity and understanding.

## **Environmental**

Not applicable

### *Climate change*

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

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

## **Engagement**

As one of four key priority areas in the Municipal Health and Wellbeing Plan 'Well Placed for Wellbeing, Partnering for Healthier and More Connected Communities in East Gippsland (2017-2021) this issue is of high importance across East Gippsland. Through the process of implementing the WER (Workplace Equity and Respect) Standards, Council has sought advice and guidance and accessed research through Office for Women, Municipal Association of Victoria, Our Watch and over 35 other local councils. Council is also a member of the East Gippsland Partners in Violence Prevention Network which brings together key stakeholders working within East Gippsland with the shared goal of reducing the incidents of violence across our communities.

## **Attachments**

1. East Gippsland Shire Council VLGWC [5.4.1.1 - 1 page]
2. Change the Story Infographic [5.4.1.2 - 2 pages]



**Conflict of Interest**

Cr Kirsten Van Diggele having declared a conflict of interest in item 5.4.2 Environmental Effects Statement Advocacy, left the meeting at 8.16 pm and was absent during discussion on this item.

**Attendance**

Cr Buckley left the Council Chamber at 8.23 pm

**5.4.2 Environmental Effects Statement Advocacy**

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**

Kalbar Operations Pty Ltd (Kalbar) has been working on a proposal to establish a mineral sand mine at Glenaladale. The Fingerboards Mineral Sands project is targeting an ore body with high levels of zircon, titanium minerals and rare-earth minerals. The project area is approximately 1,675 hectares, which includes a mine project area and infrastructure area.

The mine license approvals process includes a requirement for the proponent to make public an Environmental Effects Statement (EES) available to the public for comment following input from a Technical Review Panel. Following EES submissions an Inquiry and Advisory Committee is called for presentation and review of evidence and information presented as part of the EES process. The system is designed to secure outcomes and make it clear who will be responsible for what actions, outcomes and costs into the future.

The proposal has generated significant community interest and polarised opinion on the benefits and impacts of such a proposal. The East Gippsland Shire Council (the Council), as a representative body of the people of East Gippsland, is keen to ensure that the proposal is in the best interests of the community.

The system, from the beginning, including timing of EES release has put East Gippsland Shire Council, and as a result the community that it represents, at a significant disadvantage in terms of affordable and meaningful participation. The advocacy paper prepared and included at attachment one to this document outlines in detail the financial, social and human resource implications of this process for Local Government.

Importantly this paper presents an opportunity for East Gippsland Shire Council to partner with other Local Government Authorities who have been through similar processes and have similar feedback to have a positive impact on future processes, with a view to an improved outcome for all stakeholders.

## **Officer Recommendation**

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

- 1. receives and notes this report and all attachments pertaining to this report; and***
- 2. resolve to use the advocacy document, 'Council's Voice in the Environmental Effects Statement Process', at attachment 1. to advocate to the State Government on the need for an urgent review and change to the EES process through:***
  - a. The Local Government Mayoral Advisory Panel;***
  - b. Writing to the Premier, Minister for Planning and the Chair of the current Inquiry and Advisory Committee; and***
  - c. Seeking support from the Municipal Association of Victoria and Rural Councils Victoria to establish a Local Government working group that has a focus on improving processes and outcomes for community and Local Government throughout the mine licence application process.***

***Cr Tom Crook / Cr Jane Greacen OAM***

### ***THAT THE RECOMMENDATION BE ADOPTED***

***CARRIED***

## **Background**

The Council has, through officers, been involved in the meetings and working groups (such as the Technical Reference Group (the TRG) which is formed at the very beginning of the process to advise and make recommendations regarding information that should be considered as part of the preparation of the Environmental Effects Statement (EES).

Council at its meeting on 3 April 2018 resolved:

***THAT COUNCIL WRITE TO THE HON LILY D'AMBROSIO, MINISTER FOR ENERGY, ENVIRONMENT AND CLIMATE CHANGE AND RESPECTFULLY REQUEST THAT THE ENVIRONMENTAL EFFECTS STATEMENT CURRENTLY UNDER DEVELOPMENT IN RESPECT OF THE FINGER BOARDS MINERAL SANDS MINING PROJECT BE SUBJECT TO AN INDEPENDENT THIRD-PARTY REVIEW UPON ITS RELEASE.***

A copy of this letter was also provided to The Minister for Planning, the Hon. Richard Wynne who agreed to do this.

The EES was released for public comment between 3 September and Thursday 29 October 2020 for a period of 40 days. The EES documentation contained approximately 30 technical reports and many thousand pages of information and plans. Council engaged a Professional Consultant SLR Consulting to undertake an independent technical peer review of certain elements of the EES that it believed were critical to the economic, social and physical health of people, communities and the environment.

Council at its meeting on 1 December 2021 unanimously resolved:

THAT COUNCIL:

1. *RECEIVES AND NOTES THE REPORT AND THE FINGERBOARDS MINERAL SANDS PROJECT TECHNICAL REVIEW PREPARED BY SLR CONSULTING PTY LTD AS AT ATTACHMENT 1;*
2. *ON THE BASIS OF CLAUSE 1 ABOVE, OPPOSES THE PROPOSED FINGERBOARDS MINERAL SANDS MINE AS PROPOSED BY KALBAR OPERATIONS OR ANY OTHER PROPONENT ON THE BASIS OF THE EVIDENCE BEFORE COUNCIL;*
3. *ENDORSES THE FINGERBOARDS MINERAL SANDS PROJECT TECHNICAL REVIEW, AS AT ATTACHMENT 1, AND THE KEY MATTERS FOR EAST GIPPSLAND SHIRE COUNCIL, AT ATTACHMENT 2, AS COUNCIL'S SUBMISSION;*
4. *REQUIRES THE CHIEF EXECUTIVE OFFICER, OR DELEGATE, TO PREPARE AN ADDENDUM TO THE SUBMISSION THAT INCLUDES, BUT IS NOT LIMITED TO, ISSUES RELATING TO HUMAN HEALTH AND CLIMATE CHANGE, AS THE SCOPE FOR THE TECHNICAL REVIEW DID NOT INCLUDE DETAILED REVIEW;*
5. *AUTHORISES THE CHIEF EXECUTIVE OFFICER TO LODGE THE AMENDED COUNCIL SUBMISSION AND COUNCIL OBJECTION TO THE PROPOSED MINE WITH THE MINISTER FOR PLANNING FOR CONSIDERATION AS PART OF THE ENVIRONMENTAL EFFECTS STATEMENT, DRAFT PLANNING SCHEME AND DRAFT WORKS APPROVAL PROCESSES;*
6. *AUTHORISES THE CHIEF EXECUTIVE OFFICER OR THEIR DELEGATE TO PRESENT AT THE INQUIRY ADVISORY COMMITTEE PANEL HEARING BEFORE THE MINISTERIAL ADVISORY COMMITTEE IN RELATION TO THE FINGERBOARDS MINERAL SANDS PROJECT;*
7. *AUTHORISES THE CHIEF EXECUTIVE OFFICER TO ENGAGE APPROPRIATE LEGAL REPRESENTATION FOR PREPARATION AND REPRESENTATION AT THE INQUIRY ADVISORY COMMITTEE PANEL HEARING; AND*
8. *OBJECTS TO THE DRAFT PLANNING SCHEME AMENDMENT SPECIAL CONTROLS OVERLAY PROVISIONS WHICH EFFECTIVELY REMOVE THE EAST GIPPSLAND SHIRE COUNCIL AS THE RESPONSIBLE AUTHORITY FOR LAND USE PLANNING AND IMPLEMENTATION STRATEGIES FOR THE PRIVATELY OWNED LAND OUTSIDE THE MINE FOOTPRINT THAT THE MINE PROPOSES FOR ITS OWN PURPOSES.*

The State Government formed an Inquiry and Advisory Committee (IAC) to assess the EES and make a recommendation to the Minister in relation to the proposed mineral sands mine. Council resolved to be represented at the IAC to ensure that the shortcomings identified by the SLR technical review were adequately presented. Lawyers were engaged to manage this representation and engage suitably qualified practitioners to present the Council case to the IAC.

Council procured four Experts to provide Witness Reports and statements to the IAC as part of Council's case.

While acknowledging the decision to be represented by people with the appropriate qualifications and experience at the IAC was a Council decision, this comes at a significant cost to Council, and Council questions whether the way the process plays out in reality (versus the perception of State as to how it should play out) is in the best interests of the community.

Council recognises the importance of participation in the process with an aim to reduce the negative impacts and have influence over the outcomes to the local environment. The concept of 'the environment' encompasses social, environmental, human health and economic impacts.

Council anticipates improved outcomes for the community as a direct result of their active participation in the process. This participation and knowledge represent a firsthand opportunity to be a supporter of positive change of the process in the future.

## **Legislation**

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 of the planning and environment Act 1987.

This report has been prepared in accordance with section from the Act section 59(1) of the *Local Government Act 2020*.

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

## **Collaboration**

If the recommendation is adopted by Council, a whole of Local Government approach to advocating and improving the EES process will be required.

## **Council Plan**

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

Strategic Objectives 2: 2.1 Statutory and strategic planning for land use delivers sustainable outcomes that balance the need for growth with the enhancement of our lifestyle, character, the built and natural environment.

## **Council Policy**

Council does not currently have a policy position in relation to participation in EES or IAC processes.

## **Options**

Council has the following options:

1. Endorse the recommendation made in this report  
This is a complex issue that involves many parties and many considerations, for any possible solutions to be successful all involved parties will need to be prepared to participate, and importantly be clear about what their role is in the process at each step along the way. The advocacy document attached to this report outlines a number of possible solutions to this complex matter. It will require some Council resources; however it is likely to present an improved outcome into the future.

2. Take no further action

Council can choose to complete the current IAC process and take no further action. Should an EES and/or IAC present in the future Council will be able to draw on the information presented in this and other reports as a learning and to support planning, however it is likely that the system as it stands will not have altered.

3. Take alternate action at Councils discretion

Council may choose to present an alternate option.

## **Resourcing**

### *Financial*

The recommendation in this report can be completed using existing resources.

### *Plant and equipment*

N/A

### *Human Resources*

This project would be managed within existing staffing levels.

### *Risk*

The risks of this proposal have been considered and it is the view of Officers that not progressing this work is of higher long-term risk than progressing it.

## **Economic**

Not applicable

## **Social**

There is no doubt that the issuing of a mine licence in any area has significant social implications. The opportunity for Council and community to be engaged in the process early and work with the proponent to a successful outcome potentially has a positive impact in longer term.

## **Environmental**

The Environmental Effect Statement and associated process are in place to support appropriate environmental outcomes. This paper and the Advocacy document attached outline the difficulties that the process in its current form present for Local government to participate and make suggestions to review and improve.

### *Climate change*

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

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

## **Engagement**

During the preparation of the Advocacy document officers canvassed the views of other Local government authorities who have been involved in similar processes. It is noteworthy that their views regarding the process were similar to those of East Gippsland Shire Council, these views have been considered and included in the Advocacy paper. With permissions pending, at the time of the report preparation, these LGA's cannot be identified at this time.

## **Attachments**

1. Proposed Mineral Sands Mine MAV Submission [**5.4.2.1** - 10 pages]

## **Attendance**

Cr Kirsten Van Diggele and Cr Sonia Buckley returned to the Council Chamber at 8.38 pm

## **6 Urgent and Other Business**

Nil

## **7 Confidential Business**

Nil

## **8 Close of Meeting**

Cr Mendy Urie declared the Council Meeting closed at 8.38 pm

Confirmed

Cr Mendy Urie Mayor  
3 August 2021