



Minutes Council Meeting

Tuesday 26 October 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), Arthur Allen, Sonia Buckley (Via Microsoft Teams), 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 26 October 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 Bidawel 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 Buckley that she 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 Buckley confirmed.

1.2 Apologies

1.3 Declaration of Conflict of Interest

1.4 Confirmation of minutes

Cr Trevor Stow / Cr Arthur Allen

***THAT THE MINUTES OF THE COUNCIL MEETING HELD TUESDAY 5 OCTOBER 2021
BE CONFIRMED.***

CARRIED

1.5 Next meeting

The next Council Meeting of Thursday 28 October 2021 to be held at the Corporate Centre, 273 Main Street Bairnsdale commencing at 6.00 pm.

1.6 Requests for leave of absence

Nil

1.7 Open Forum

1.7.1 Petitions

1.7.1.1 Petition Non-Reduction of Carparking along Paynesville Foreshore

Authorised by General Manager Business Excellence

Conflict of Interest

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

Executive Summary

This report informs Council of a petition submitted by Mr Simon and Mrs Kristy Groves from Paynesville Newsagency & Lotto seeking Council to retain carparking along Paynesville foreshore. The petition from 472 petitioners states:

We, the undersigned, are concerned citizens who urge our Shire to act now to retain and increase carparking along the Paynesville foreshore.

The petition has been received and presented in accordance with Governance Rule 7.7.

Note: Councillors have been provided a copy of the petition separately. In the interests of respecting the privacy of signatories, and in accordance with the Privacy and Data Protection Act 2014, a copy of the petition has not been included with this report.

Officer Recommendation

That Council:

- 1. receives and notes this report;***
- 2. receives the petition lodged by Mr and Mrs Groves requesting Council to retain and increase carparking along Paynesville foreshore;***
- 3. refers the petition to the Chief Executive Officer for a report to a future Council meeting; and***
- 4. notes that Council officers will write to the head petitioner advising them of these actions.***

Cr Trevor Stow / Cr Kirsten Van Diggele

THAT THE RECOMMENDATION BE ADOPTED

CARRIED

1.7.2 Questions of Council

Nil

1.7.3 Public Submissions

Ms Sally Kendall, East Gippsland Climate Action Network Group, spoke in relation to item 2.2 Support for a Net Zero Target.

Mr James Course spoke in relation to item 5.4.1 Planning Permit Application 171/2021/P 5317 Princes Highway Newmerella - Major Promotion Sign. Mr Course spoke at item 5.4.1

Mr Stefan Kempff spoke in relation to item 5.4.1 Planning Permit Application 171/2021/P 5317 Princes Highway Newmerella - Major Promotion Sign. Mr Kempff spoke at item 5.4.1

2 Notices of Motion

2.1 Sealing of Power Station Road

Take notice that it is my intention to move at the Council Meeting to be held on Tuesday 26 October 2021 at Corporate Centre Bairnsdale or at any adjournment of that meeting:

That Council:

- 1. acknowledges that with the growth in the western Bairnsdale residential area and the growth of vehicle movements along the Dargo Lindenow Road, there is a compelling case for an alternate link road to be provided between the two State managed arterial roads of Princes Highway and Dargo Road – with Power Station Road providing such a potential link;***
- 2. request that officers undertake a Road Safety Audit for Power Station Road that focuses on the potential upgrade of this road as an arterial link and fast-tracks the detailed design work required to support such an upgrade; and***
- 3. advocates to our State and Commonwealth Members of Parliament and Department of Transport to fund this important link between two State managed arterial roads.***

Cr Trevor Stow / Cr Arthur Allen

THAT THE RECOMMENDATION BE ADOPTED

CARRIED

Signed: Cr Trevor Stow

Date: 04/10/21

RATIONALE

The rationale for prioritising the sealing of Power Station Road, Bairnsdale are:

1. the growth in residential development on the western edge of Bairnsdale, coupled with the growth in school numbers and increasing Lindenow to Bairnsdale traffic, is placing increasing pressure on the Dargo Road / Princes Highway intersection;
2. quite a bit of traffic, including trucks, use this road as it links the Princess Highway and Lindenow Road, these trucks could avoid the busy Dargo Road / Princes highway intersection, if an alternate appropriate link between these two arterial roads was provided;
3. the Power Station Road conditions, which include a level crossing, poor site lines, narrow laneways, insufficient drainage and power line easements, do not make it a safe linkage road in its current condition;
4. the upgrade of this road would improve safety to users and residents as well as taking pressure off other intersections – especially intersections used heavily by school and residential traffic; and

5. once designed there would be a compelling case for this linkage upgrade to be funded as either part of the Princes Highway East upgrade works or through the State Government's 'last mile' program.

Take notice that it is my intention to move at the Council meeting to be held on Tuesday 26 October 2021 at 6.00 pm or at any adjournment of that meeting:

That Council demonstrates its support for a Net Zero Target by writing immediately to the Prime Minister, Mr. Scott Morrison, to;

- 1. Express East Gippsland Shire Council's congratulations for his decision to attend the United Nations Climate Change Conference, COP26; and***
- 2. Request that the Prime Minister commits our country (Australia) to a net zero emissions target by 2050, if not 2030 or before.***

Signed: Cr Tom Crook

Date: 19 October 2021

RATIONALE

Setting a target for the transition to a net-zero emissions economy is critical to limit catastrophic global heating and maximise the opportunities this challenge presents. Nations attending the international climate change conference (COP26) next month, representing a majority of global emissions, are expected to increase current pledges to transition to net zero by 2050, if not before.

Based on global understanding, in line with developing climate science, of the costs associated with further delaying the transition. Australia will be represented at the summit by our Prime Minister, Scott Morrison. But currently no firm commitment has been made to a specific emissions reduction target.

Global markets and community sentiment are shifting rapidly with many major economic players now signing up to the net zero by 2050 commitment or sooner. Including the National Farmers federation, Meat and Livestock Australia, BHP, our largest banks, the Business Council of Australia and over 130 of our country's largest companies. Australia has some of the best clean energy resources in the world, which can be used to drive investment into new and existing industries, creating and securing future jobs while increasing climate stability.

Setting a target would both signal our commitment to do our bit as a global citizen while providing the policy certainty required to invest in the zero net carbon technologies required to reduce emissions, keep our communities safe and provide future prosperity for our Shire and our nation.

Cr Mark Reeves / Cr Jane Greacen OAM

THAT THE RECOMMENDATION BE ADOPTED

AMENDMENT (Raised Cr Crook)

Cr Mark Reeves / Cr Jane Greacen OAM

**THAT COUNCIL DEMONSTRATES ITS SUPPORT FOR A NET ZERO TARGET BY
WRITING IMMEDIATELY TO THE PRIME MINISTER, MR. SCOTT MORRISON, TO;**

- 1. EXPRESS EAST GIPPSLAND SHIRE COUNCIL'S CONGRATULATIONS FOR HIS
DECISION TO ATTEND THE UNITED NATIONS CLIMATE CHANGE
CONFERENCE, COP26; AND HIS COMMITMENT TO A NET ZERO EMISSIONS
TARGET BY 2050; AND**
- 2. ASKS THE PRIME MINISTER TO COMMIT TO ADHERING TO THE
RECOMMENDATIONS OF THE INTERGOVERNMENTAL PANEL FOR CLIMATE
CHANGE TO LIMIT GLOBAL HEATING TO BELOW 1.5 DEGREES, BY
INCREASING OUR EMISSIONS REDUCTION TARGETS FOR 2030.**

CARRIED

3 Deferred Business

Nil

4 Councillor and Delegate Reports

4.1 Cr Mark Reeves

Cr Reeves spoke to his written report at folio 14.

4.2 Cr Trevor Stow

Cr Stow provided a verbal update.

4.3 Cr Tom Crook

Cr Crook provided a verbal update.

4.4 Cr John White

Cr White provided a verbal update.

4.5 Cr Arthur Allen

Cr Allen spoke to his written report at folio 14.

4.6 Cr Kirsten Van Diggele

Cr Van Diggele spoke to her written report at folio 14.

Attendance

Cr Van Diggele left the Chamber at 6.55 pm.

4.7 Cr Jane Greacen OAM

Cr Greacen OAM provided a verbal update.

Attendance

Cr Van Diggele returned to the Chamber at 6.59 pm

4.8 Cr Sonia Buckley

Cr Buckley provided a verbal update.

4.9 Cr Mendy Urie

Cr Urie spoke to her written report at folio 15.

COUNCILLOR WRITTEN REPORTS

Cr Mark Reeves

Two matters I'd like to draw attention to this evening:

Cann River Cann Be Ready day. This was a fantastic opportunity for Cann River to share its readiness, preparedness and wrap around capacity from all services. This included the full planning, preparation, response and recovery agencies in attendance. A great community of day that celebrated this small remote town's resilience and readiness. Cann Be Ready demonstrated a community that is preparing for another fire season.

Secondly, I like to note the Future of Orbost quarterly conversation. This conversation focused on waste and energy. Good involvement from many presenters and attendees. This event showed again the power of the Smart Specialisation process to draw out innovative and sustainable thinking. The Future of Orbost conversation continued the exciting work being undertaken in this space using the Smart Specialisation model.

Cr Arthur Allen

The highlight of the last three weeks for me was to drive the length of the esplanade on Thursday 14th as the RAAF Roulettes went through their routine over the Lakes township. The response was amazing. Cars were pulled over the length of the esplanade, people out of their houses and shops, everyone down tools to watch the awesome display of precision flying. Thank you to East Sale RAAF, truly amazing.

On Friday 15th October, along with Councillor Stow, I had the pleasure of visiting the Lakes Entrance Men's Shed. Thanks to the crew there for the tour of their impressive shed and well done for the important role you play in the health and well-being of men in our community, providing purpose and friendship.

Cr Van Diggele

CoDesign Workshop for East Gippsland Economic Development Strategy

I attended the online workshop to inform the development of the East Gippsland Shire Economic Development Strategy. The Strategy will support economic prosperity in East Gippsland, which includes increased access to jobs by all, as well as increasing income levels, promote and sustain diversity, innovation, competition and entrepreneurship. The Strategy will guide the mid-term recovery of jobs and business activity and promote the long-term growth of the East Gippsland economy.

I was proud to be in attendance as a Councillor, but also wear my Youth Worker hat to inform the strategy.

Disability Advisory Committee

I attended the Disability Advisory Committee, which was held virtually on the 25th of October. I feel very lucky to be part of this committee, as it truly provides me with greater insight into the role that Council plays into accessible communities.

Community Panel Tree Planting

I attended the Community Panel Tree Planting event at Howitt Park. The weather was absolutely beautiful and perfect for tree-planting! The Community Panel Members planted trees to thank the Council for letting them take part in the development of the Community Vision and Council Plans. I really enjoyed getting to meet the panel members in an informal setting and I am grateful for the time, expertise, passion, and ideas of the panel members that has shaped this important vision and plan.

Cr Mendy Urie

Community Engagements

08/10/21 - Economic Development online workshop - >60 people attended and well organised.

08/10/21 - Gippsland Business Awards online event. Congratulations to Big Bear Donuts in Lakes Entrance for their win in the Business Agility award. Also congratulations to the finalists, Gippsland Jersey, Snowy River Black Garlic, Aroma Café in Eastwood, Beachcomber Holiday Units, Lakes Entrance and Natural Health Balance also in Lakes Entrance.

13/10/21 - Online meeting to learn about the Angler's Rest Loop Trail from advocate, Jeffe Aronson. A lovely walking trail for which Jeffe is seeking support and funding.

26/10/21 - Tree-Planting event with members of our Community Panel who worked so diligently to help review and craft the foundational Community Vision at the start of the year. Trees were gifted to Councillors and it was great to get them in the ground.

Representation

15/10/21 – One Gippsland meeting - Work continues delivering on the Regional Plan through advocacy, meeting with Ministers, budget submissions and developing new policy papers.

19/10/21 - Audit and Risk Committee meeting - Verbal report provided and minutes available to Councillors through our Portal.

20/10/21 - Exciting day as we celebrated the installation of 3 14kW Powerwall Tesla Batteries at Lucknow Rec Reserve, which will work with the 20kW solar panel system and provide great back-up for their system, saving the club approx. \$3K - \$4K annually, while reducing emissions and helping save the planet. Funding for batteries (\$42K) provided through Gippsland Climate Change Network (GCCN) and installed by East Gippsland Solar. Congratulations to Fiona and her team for driving this excellent project and the first of many, showing what's possible in the community.

20/10/21 - East Gippsland Art Gallery Annual General Meeting – Face to Face and Virtual. Very active year with a lot on innovative ways to engage and continue to offer innovative cultural activities in various forms over the last 12 months. Congratulations to this group of dedicated volunteers and (small) staff. New COM elected

21/10/21 - Agricultural Sector Advisory Committee breakfast meeting - Half in person/half virtual. Great meeting with full agenda. Valuable forum for input into council work, disseminating information and learning what's important for this critical sector which faces many challenges and exciting opportunities.

Training

13/10/21 - Getting to Net Zero webinar, hosted by Renew Economy and speakers, Audrey Zibelman (AEMO) Kathy Danaher (Sun Metals, heavy industrial user) and Anna Skarbek (Climate Works). Many insights about what is already being done, what's possible and what we need to do. 'Green choices need to be easier for consumers.' Importance of Nature-Based sequestration. This transition is a challenge and we can't fail. Next webinar is on Hydrogen.

Other

COVID - Our communities continue to be impacted in many ways despite having some restrictions eased. Visiting in the home a great relief and joy for many. Congratulations on the great levels of vaccination but encourage people to continue lining up as the virus is now in our community. A time of great uncertainty for our health services and we stand with them and thank them. Council doesn't play a leading role but has been having informal meetings to understand how we can support the efforts to keep people and communities safe. One way is to remain alert to the fact that we will have many people feeling isolated in our communities as a result of COVID public health and perhaps personally and individually we can look out for these people and help them connect with others as needed and desired. Having fun and connecting with others is important at this time. Recognise that our staff are no different to other organisations and continue to juggle admin arrangements for meetings re-scheduling, staff rostering etc

16/10/21 - Media ABC breakfast TV interview in relation to digital connectivity in East Gippsland - Increased interest since work commissioned by our staff on this subject, "Digital Connectivity – Gaps and Priorities".

17/10/21 - Councillors community trip - We have all been missing getting out and about, so this Sunday trip to Buchan was enjoyable and interesting. Thanks to Cr Stow for organising.

This meeting tonight, Tuesday 26 October 2021, is the last meeting I will be chairing as Mayor as this Mayoral term ends early on Thursday morning of 28th October, before the Statutory Meeting on Thursday evening to elect a new Mayor. I am hoping to have an opportunity to speak a little about my term at the end of the meeting this evening.

5 Officer Reports

5.1 Assets and Environment

5.1.1 CON2022 1451 Slip Road Precinct – Marine Package - CP1

Authorised by General Manager Assets and Environment

Conflict of Interest

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

Executive Summary

Pursuant to sections 3(1) and 66(5) of the *Local Government Act 2020*, the information contained in the attachments to this report are confidential because they contain 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 to the Slip Road Maritime Precinct project; provide an overview of the tender for the first package of works being CON2022 1451 - Marine Package; and in accordance with the Procurement Policy seek approval from Council to award the contract as per the recommendation of the Tender Evaluation Panel.

The proposed works originate from Council's adoption of the Paynesville Maritime Precinct Master Plan in 2009. This Plan was prepared to guide development on Burrabogie Island and support the marine industry and recreational boating tourism. It was revised in 2020 and a concept plan was developed for the Slip Road Precinct aimed at improving safe water access, increasing mooring capacity, and reducing frequent inundation. In February 2020, the Victorian Government committed \$1.1M for improvement works at the Slip Road site. Since then, Regional Development Victoria have committed a further \$4M from the Regional Infrastructure Fund and the Federal Government have committed an additional \$1M. In addition to a \$250,000 State Government grant for project planning and Council's contribution, the total budget for the project is \$6.51M.

The design of the Slip Road Maritime Precinct has been undertaken by local consultants Crossco Consulting, Tibar Services and MaCEngineering.

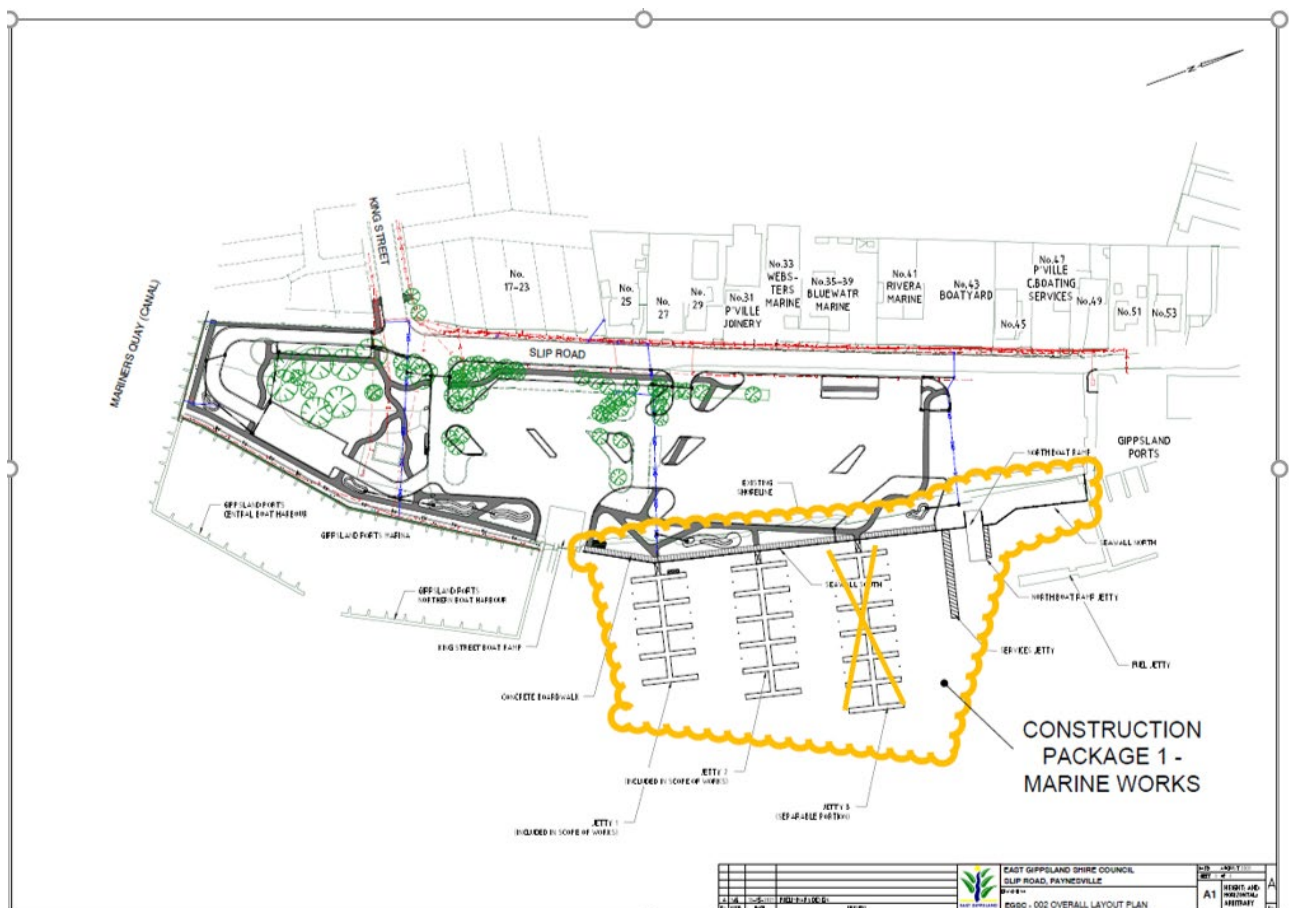
The Marine Package tender is the first of three construction packages and includes:

Separable Portion A

- Two new seawalls and a concrete boardwalk
- A new second boat ramp and associated fixed jetty
- A services jetty (trafficable jetty) for minor works
- Two pontoon jetties and a kayak launching platform
- Earthworks and preliminary pavement behind the new seawalls

Separable Portion B

- Third and largest pontoon jetty



Two additional construction packages yet to be tendered are planned to implement all outcomes of the Slip Road Maritime Precinct Plan.

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

An external Probity Auditor also observed the tender evaluation process in accordance with Council's Procurement Policy for contracts above \$2M. A copy of the Probity Auditor's report is provided as **Confidential Attachment 2**.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report;**
- 2. accepts the tender submitted by _____ for CON2022 1451 Slip Road Precinct Marine Package - Separable Portion A 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 CARTER MARINE GROUP PTY LTD FOR CONTRACT NO CON2022 1451 – SLIP ROAD PRECINCT – MARINE PACKAGE – SEPARABLE PORTION A FOR THE CONTRACT AMOUNT OF \$3,286,656.48 EXCLUSIVE OF GST AT ATTACHMENT 1;**
- 3. AUTHORISES 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.**

Cr Tom Crook / Cr Mark Reeves

THAT THE RECOMMENDATION BE ADOPTED

CARRIED

Background

In 2009, Council adopted the Paynesville Maritime Precinct Master Plan, which was intended to guide development and use of the area within Paynesville sometimes referred to as Burrabogie Island.

Within the overall Burrabogie Island area is a precinct known as Slip Road (or Squatters Row) This site is approximately 5 ha of Crown Reserve foreshore managed by Council, adjacent to McMillan Strait, one of Victoria's busiest recreational waterways. This area is an identified precinct within the Paynesville Maritime Precinct Master plan. The site is managed by Council.

In early 2020, Council received a \$250,000 grant from the Victorian Government to develop a new foreshore Master Plan for this area. A Project Reference Group was established to develop an Addendum to the Paynesville Maritime Precinct Master Plan and a clear Concept Plan for the upgrade of the Slip Road Precinct to guide future works at the site.

The Paynesville Maritime Precinct Master Plan Addendum comprising a new concept plan for the upgrade of the Slip Road Precinct was adopted by Council on 25 May 2021.

A total of \$6.1M in funding from the Victorian State Government and Australian Government has been allocated to deliver on the adopted plans for the Slip Road Precinct. This funding and associated projects, will deliver on the following Paynesville Maritime Precinct Master Plan objectives:

1. Improving safe water access

- Achieved by the construction of a second and longer boat ramp catering for larger boats and enabling greater separation of recreational boating and marine industry activities.
- The redevelopment of the carpark will also contribute to formalising safer movements around the precinct.

2. Increasing mooring capacity

- The construction of two pontoon jetties will reduce the significant shortage of itinerant berths around Paynesville and develop the economic potential of the site.
- Construction of a marine services jetty for low risk on-water works.

3. Reduce frequent inundation

- The construction of new seawalls from the existing boat ramp to the Gippsland Ports Yard will reduce frequent inundation of the shoreline.
- The redevelopment of the carpark will also improve overall drainage and overland flows.

Also included within the overall scope of work is additional infrastructure that will contribute to an increased level of amenity within the precinct and generally encourage boaters to spend more time in the area. Further features include construction of paths and a boardwalk, landscaping and interpretive arts installations within the precinct.

A detailed design of the Slip Road Maritime Precinct has been undertaken by local consultants Crossco Consulting, Tibar Services and MaCEngineering, bringing valuable local input to the project.

CON2022 1451 Slip Road Precinct – Marine Package, the subject of this report, is one of three intended construction packages to deliver on the objectives of the Slip Road Precinct Concept Plan.

- *Construction Package 1 – CON2022 1451 Marine Package - subject of this report:*
 - o Two new seawalls and a concrete boardwalk
 - o A new second boat ramp and associated fixed jetty
 - o A services jetty (trafficable jetty) for minor works
 - o Two pontoon jetties and a kayak launching platform
 - o Earthworks and preliminary pavement behind the new seawalls

Two further stages to be progressed in 2022, also funded from the total available \$6.1M in funding, include the following.

- *Construction Package 2*
 - o Replacement of the existing Boat Harbour seawall
 - o Repair to the existing boat ramp
- *Construction Package 3*
 - o Car parking works
 - o Landscaping and aboriginal art
 - o Services relocation and lighting

A planning permit was issued on 15 September 2021 for the whole project and Construction Package 1 – CON2022 1451 Marine Package is considered shovel ready and able to commence.

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.

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

This report has been prepared in accordance with *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

Given the contractual nature of this report, this report has not been prepared in collaboration with another local government or agency. However, the project has been guided by a project reference group and a technical working group. DELWP and Gippsland Ports are represented on both these groups.

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 has been undertaken in accordance with the East Gippsland Shire Council Procurement Policy (2020). The works were tendered prior to the adoption by Council of the new Procurement Policy and Procedure in September 2021.

Options

Phasing options - construction packages

In recognising the tight delivery timeframe driven by the grant funding requirements, the decision was made to deliver the works in three separate construction packages to be awarded under separate contracts. The Marine Package was tendered first to allow for additional time to progress the design for construction packages 2 and 3; and in recognition that contractors may require extended time to procure the necessary materials for the water-based infrastructure.

This delivery method will also alleviate technical challenges associated with constructing new pavement on unconsolidated ground. The Marine Package scope of works includes the consolidation of all the reclaimed foreshore area (between the new seawall and the existing shoreline) several months prior to constructing the final pavement as part of construction package 3. This methodology has been designed to minimise risks of future settlement and cracking of the concrete path/kerb and asphalted areas.

Tendering options - separable portions

The works for the Marine Package were tendered in two separable portions A and B:

- Separable Portion A – all items excluding Jetty 3;
- Separable Portion B – Jetty 3

The construction of the third and largest pontoon jetty was advertised as a separable portion B to allow the Tender Evaluation Panel to award or not proceed with this item depending on the tendered cost. This recognises that construction prices are volatile with materials pricing changing frequently as a consequence of COVID19. In reviewing the tendered cost against the project budget, the Panel has made the decision not to include Jetty 3 in the recommended TEP scope of works due to the very high risk of exceeding the total budget, noting that the total budget covers several construction packages.

Resourcing

Financial

The project has received the following external funding:

Fund	Contribution	Funded items
Infrastructure Stimulus Fund – State Government	\$1,100,000	Seawalls, boardwalk, amenity block improvements, landscaping
Regional Recovery Fund – State Government	\$4,000,000	Boat ramp, jetties, pavement and drainage works
Regional Recovery Partnership – Federal Government	\$1,000,000	All items
Victorian State Government	\$250,000	Project Planning
East Gippsland Shire Council	\$160,000	Project Overheads

The funding is phased over the 2021/22 and 2022/23 financial years.

Plant and equipment

Provision of all plant and equipment is part of the contracted works.

Human Resources

This project will be supervised by Council's Project Engineer from the Assets and Projects unit.

Risk

As part of the overall management of this project, the risks of this proposal have been thoroughly considered. Officers have prepared a risk assessment for the project and implemented mitigation measures to minimise risks such as financial risk or environmental risk.

Economic

The development of the precinct presents one of the best opportunities in regional Victoria to enhance boating and visitor experience and create economic and social benefits for the region.

Visitation to the region is increasing, driving demand for additional tourism and boating services. 33% of overnight visitors to East Gippsland undertake fishing, boating or water sport activities. The development of the Slip Road Precinct will support the growth in recreational boating and support the local marine industry.

- The construction of safer and more adequate facilities recognises the key role played by the marine industry in the Paynesville area. East Gippsland has the sixth largest employment in boat building of all Victorian municipalities, and the second largest in regional Victoria (behind Geelong). 30 businesses registered in Paynesville are directly related to marine industries, 18 of which have a Slip Road address, including 10 boat building and repair businesses; 2 boat hire, 3 marine equipment retailing, 1 boat storage. The boat manufacturing sub-sector generates 6% of the Paynesville economy's output and supports 33 jobs. The project will introduce cost savings and efficiency gains for the maritime service businesses and generate new businesses opportunity.
- The provision of additional berthing, footpaths and increased amenity will encourage boaters to spend more time in the area and support the tourism industry. Industries linked to tourism and recreational boating including retail, accommodation and food services equate to 12% of Paynesville economic activity.

Economic benefit for the project also includes the economic activity associated with the construction. The tender evaluation process for this tender included weighted criteria for local content and assessment of the contractor's ability to provide benefit to the local economy. This project will contribute to creating and retaining jobs in East Gippsland for a minimum of 18 months.

Social

The completion of the project will see numerous social benefits for the East Gippsland community:

- Improve the boating experience for the local community
- Through the separation of commercial and recreational boat launching and retrieval, improve the safety of these activities and release additional capacity for efficient launching and retrieval
- Incorporate Gunaikurnai story telling into the landscaping to support the region's indigenous tourism sector
- Provide berthing and boat launching to support sea-changers choosing Paynesville as a lifestyle destination – contributing to population growth
- The construction of new footpaths will encourage walking longer distances
- The site will be more aesthetically pleasing as well as having improved environmental benefits through landscaping and plantings. The improved amenity of the site will not just attract tourists but be a great asset to the community, many of whom are enthusiastic boat owners themselves

Environmental

The environmental impact associated with the works have been assessed at every step of the project lifecycle and associated risks have been minimised by mitigation measures.

Planning

- Geotechnical investigations were carried out including soil testing for acid sulphate soil.
- A native vegetation assessment was completed to support the planning permit application. Before any vegetation removal occurs, Council will secure the general offset of 0.158 general habitat units.

Design

- The Working Group considered the need to build resilient infrastructure and adapt to climate change. DELWP and the CMA agreed that 1.0m AHD was the optimal height for the new seawall to protect the site from frequent inundation whilst ensuring that the chosen wall height does not have an adverse impact on flooding of Slip Road and private properties. The current Slip Road site has been designed for intermittent flooding.
- The design allows for reuse of materials, such as fill material from the Johnson's Road landfill and recycled materials for elements of the jetties.

Construction

- The project is situated in an environmentally sensitive area within the Gippsland Lakes. As part of the contract requirements, the Contractor will develop and implement a site-specific Construction Environmental Management Plan.
- The Planning Permit allows for "Buildings and works which alter existing surface levels and native vegetation removal in accordance with the endorsed plans". The Planning Permit and associated conditions will form part of the Contract.
- Construction package 3 will include extensive landscaping works to ensure that the new precinct integrates well in the environment.

Maintenance

- All materials used in the works are durable and easy to maintain.

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

A stakeholder engagement plan was developed to guide the planning and design of the project.

Council Officers established a Project Reference Group and a Technical Working Group to lead the planning and design phase involving representatives from:

- Government agencies (DELWP, Gippsland Ports, CMA),
- the local community and boating industry (Business & Tourism Association Paynesville, Boating Industry Association)
- the funding body (Regional Development Victoria)
- the designer's team

This diverse panel of representatives has enabled Council to understand all community interests and respond to the needs of different stakeholder groups.

Wider community and stakeholder engagement was undertaken during the planning stage of this project and involved media releases, letters to local residents, and drop-in sessions for community members, the marine industry and boat owners. In response to the feedback from the community, the concept plan was revised to increase parking and add a second boat ramp at the north end of the site to provide safer movements for larger boats. Details of the engagement and feedback can be found on Council's YourSay website.

More recently, as part of the landscape design, Council also engaged Aboriginal Artists to incorporate Gunaikurnai story-telling into the site with art installations.

Engagement will continue as part of the design of construction packages 2 and 3 and throughout the entire construction works. An engagement plan specific to the construction stage is currently being developed.

Attachments

1. CONFIDENTIAL - CON2022 1451 Slip Road Precinct - Marine Package - TEP Report [5.1.1.1 - 10 pages]
2. CONFIDENTIAL - CON2022 1451 - Probity Review Report [5.1.1.2 - 2 pages]

5.1.2 Capital Works and Major Projects - Quarter One 21/22

Authorised by General Manager Assets and Environment

Conflict of Interest

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

Executive Summary

As part of the delivery and monitoring of the annual Capital Works and Major Projects program, a quarterly review of the program is provided to Council. This report summarises the progress of Capital Works and Major Projects 2021-22 for the program up to the period ending 30 September 2021 (Quarter 1). A snapshot of this activity is provided in the table below and outlines in more detail through the body of the report and attachments. Pleasingly as at the end of Quarter 1 30.21% of the forecast budget had been expended or committed.

	Q1 - 30/09/21
Total Adopted Budget - including actual carry forwards	\$94.09 m
Identified Carry Forwards to 21/22	-
Identified Bring Backs from 21/22	-
Other Budget variances 20/21	-\$0.34 m
Revised Forecast	\$93.75 m
Actual Expenditure	\$6.73 m
Committed Expenditure	\$21.59 m
Percentage Capital Works Delivered or in Delivery (<i>against Forecast</i>)	30.21%
Percentage Capital Works Delivered or in Delivery (<i>against Adopted Budget</i>)	30.10%

Officer Recommendation

That Council receives and notes the Capital Works and Major Projects Report 21/22 for the Quarter ending 30 September 2021 and all attachments pertaining to this report.

Cr Arthur Allen / Cr Jane Greacen OAM

THAT THE RECOMMENDATION BE ADOPTED

CARRIED

Background

This report details the progress of Capital Works and Major Projects 21/22 for the period up to 30 September 2021. The report will also be provided to the Audit and Risk Committee for their consideration at the next Audit and Risk Committee meeting.

2021/22 commenced with an adopted budget plus actual carry forwards of \$94.09 million. This has been revised to \$93.75 million during Quarter One to reflect changes summarised below.

Budget Variances

The revised forecast is a decrease of \$0.34 million on the adopted budget as at 30 September 2021. This is summarised as follows:

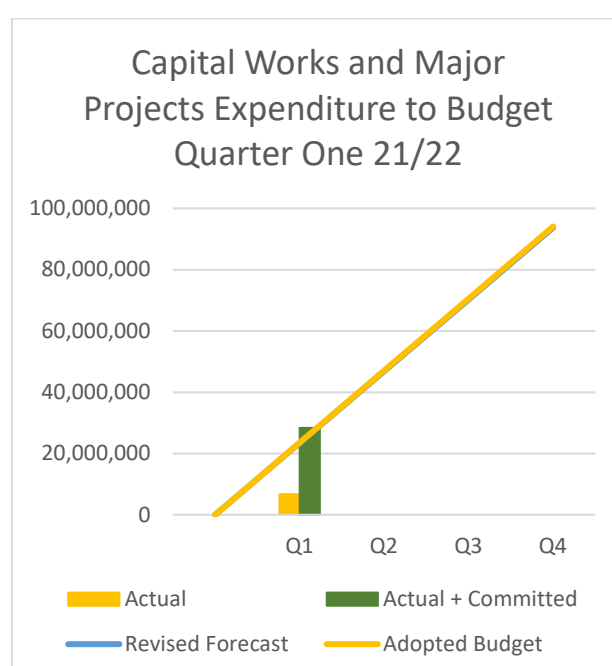
Changes to Funding	-\$257,224
Savings Identified and Transferred to Holding Account	-\$404,230
Additional funds from Operating Accounts	\$320,015
Overall decrease to Budget	-\$341,439

Holding Account Summary

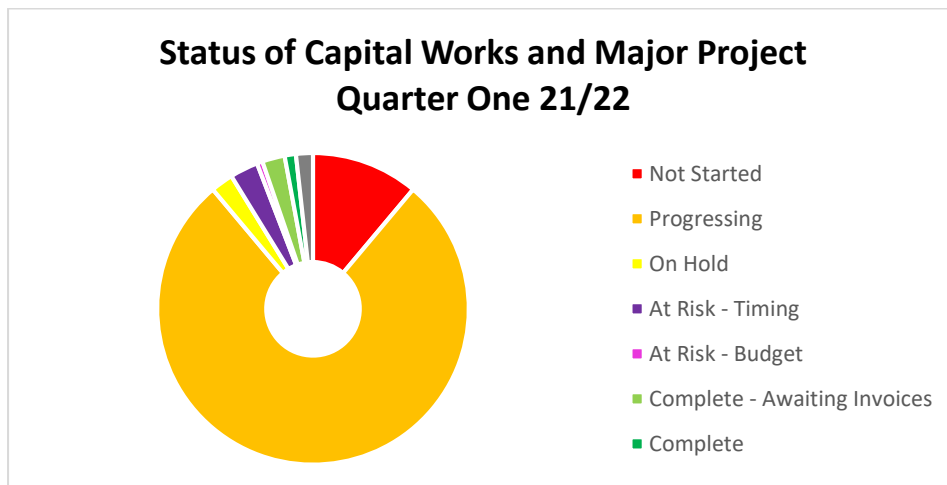
The Holding Account commences the financial year with a zero balance. It is used to deposit savings from completed projects and redistribute to projects identified as requiring additional or new budget. During the first quarter savings from projects of \$600,000 were identified. Further to this, distribution to new projects or projects requiring additional funding totalled \$195,770. The balance of the Holding Account as at 30 September 2021 is \$404,230. A summary of Holding Account transactions is provided at **Attachment 1**.

Project Status

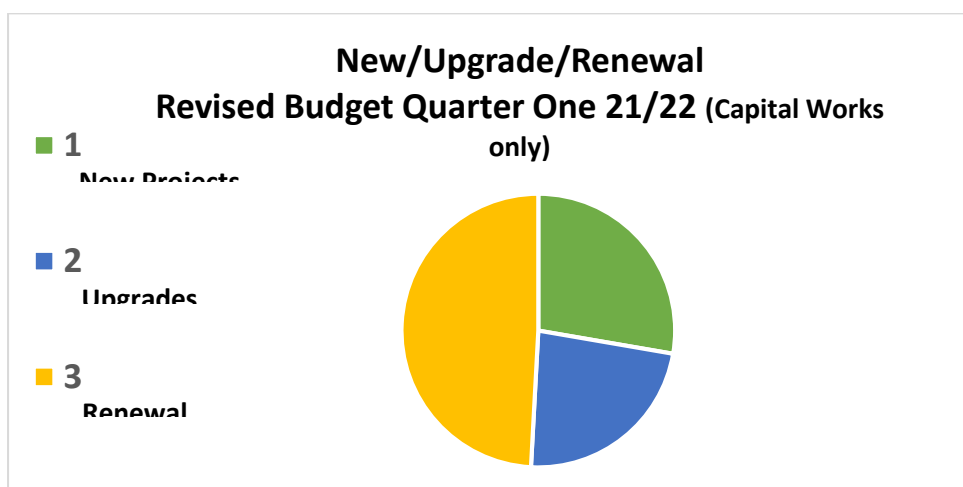
As at 30 September 2021, \$28.32 million (30.21% of total revised budget) was expended or committed to works within the program.



At the end of the first quarter, the program covered 171 separate projects of which 6 projects had been completed, 133 are on schedule for completion, 6 projects are listed as at risk due to either timing or budget or are multi-year projects, 19 projects have not yet commenced and are programmed in the second half of the year and the remaining projects are either on hold or have been withdrawn. A detailed list of all project status is provided at **Attachment 2**.



Current year projects are identified by the following expenditure type, New, Renewal, Upgrade or Expansion. The following chart details the spread of current projects.

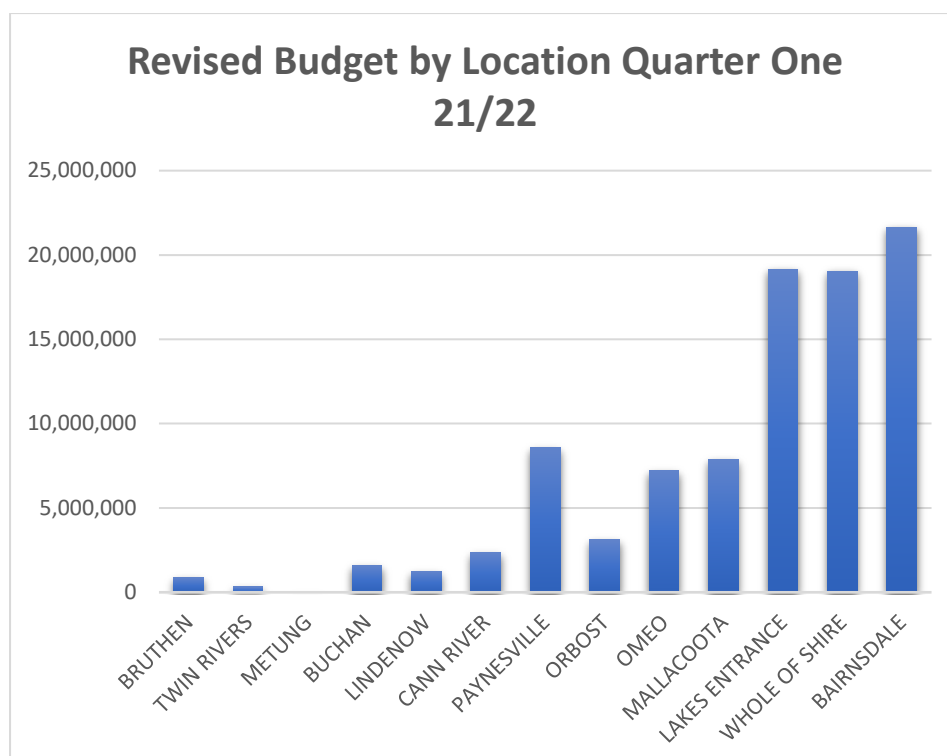


Additionally, the asset maintenance expenses year to date are calculated as follows:-

Asset Maintenance expenses for the period 1/7/2021 to 30/9/2021

	Materials and services	Employee	Total
Buildings	97,100	107,674	204,774
Plant and Equipment	139,450	22,216	161,666
Roads and Drainages	2,197,027	192,899	2,389,926
Car Parks and Footpaths	22,405	123,733	146,138
Bridges	-	36,852	36,852
Aerodromes	13,650	39,628	53,278
Ferry - inc operation	182,659	14,209	196,868
Recreation and Open Space	235,352	819,749	1,055,101
Waste	4,980	-	4,980
	2,892,623	1,356,960	4,249,583

The following chart details the spread of current revised budget projects across the shire in comparison to the adopted budget. It is important to note that 'Whole of Shire' includes the road reseal programs, all Information Technology projects, plant renewal and fleet renewal.



Significant Projects Completed by end of Quarter One 21/22.

Project Name	Final Project Cost
Lucknow Recreation Reserve Upgrade	\$2,554,132
Tarbucks Bridge Timber Renewal	\$455,152

Quick Response Fund

The Quick Response Fund provides a flexible and responsive, yet accountable and transparent process to support undertaking small scale capital works. The program allows the funding of works of high community value when opportunity arises and there is no other funding available, or time frames do not allow for sourcing of other external funding.

The program commenced the year with a budget of \$100,000. As at 30 September 2021 no projects had been identified from the fund.

Contracts Awarded Under Delegation:

The decision to award a contract can only be made by a delegate who has the authority (financial delegation) to commit the relevant sum of money. The decision is made after consideration of the tender evaluation panel report. The Chief Executive Officer has a financial delegation of \$500,000 including GST.

During the first quarter of 2021/22 a total of 5 contracts were awarded under CEO Delegation, these contracts are listed as below:

Project	Awarded to	Value (ex GST)
Bridge Replacement, Wentworth River Tabberabbera Road	Tambo Constructions Pty Ltd	\$314,500.00
Bridge Replacement Buchan River, Lousadas Road, Buchan	Tambo Constructions Pty Ltd	\$342,813.00
Bridge Replacement Garnetts Track Jarrahmond	Tambo Constructions Pty Ltd	\$310,475.00
Genoa Tennis Court Upgrade	The Richards family Trust t/as ET Richards and Sons	\$331,980.00
LER Community Resilience and Development Program IT - AV Hardware Supply & Install	DCAP Pty Ltd T/as DCAP Venue Systems	\$154,660.00* <i>* Split between Operating & Capital</i>

Legislation

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

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

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 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 for this report.

Options

Not applicable for this report.

Resourcing

Financial

This report outlines the financial position of the 2021/22 Capital Works and Major Projects program as at the 30 September 2021.

Plant and equipment

The Capital program includes budget for the replacement of plant and equipment as per depreciation schedules.

Human Resources

The development of this report has no impact on human resource levels. The delivery of the Capital program relies on the engagement of a number of project supervisors, that are engaged under various terms by council.

Risk

Risk assessments are carried out on all projects within the Capital Program as part of the organisation's use of a Project Management Framework. As previously discussed with Council, the size of the 2021/22 program coupled with supply issues and escalation costs triggered by the global pandemic present risks to individual projects and the program overall.

Economic

Delivery of the Capital program includes the procurement of contractor services which stimulate the local economy and the betterment of areas of the Shire that support business and industry growth. Many of the projects further stimulate the economy and investment by supporting access and connectivity, improving amenity, and enhancing liveability.

Social

The delivery of a number of projects within the Capital program is seen to implement aspects of adopted strategies and plans and delivers positive social outcomes for our communities.

Environmental

The delivery of a number of the projects within the program have been designed to consider and / or provide environmental benefits. Additionally, all projects tendered use environmental sustainability as one of the tender assessment criteria, which allows the contractors response to environmental sustainability to be considered.

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

No engagement has been undertaken in the compilation of this report, however engagement with community members, agencies and stakeholders has been a critical element in the design and delivery of many of the projects in the 2021/22 Capital program. The Capital program was also part of deliberative engagement undertaken to develop the Council Plan and Budget.

Attachments

1. Holding Account Transactions as at 30 September 2021 [**5.1.2.1** - 1 page]
2. Capital Works Status Report as at 30 September 2021 [**5.1.2.2** - 5 pages]

5.1.3 Response to Draft Victorian Boating Strategy

Authorised by General Manager Assets and Environment

Conflict of Interest

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

Executive Summary

The purpose of this item is to seek Council endorsement of the submission to the Draft Victorian Recreational Boating Strategy (The Strategy).

In January 2021 BBV commenced the development of a Victorian Recreational Boating Strategy to support underpin prioritisation of boating infrastructure across Victoria. Officers have participated in online engagement sessions and provided feedback throughout the development of the Strategy.

Following the release of the Draft Strategy Officers have drafted a formal submission to address key points that are believed critical for East Gippsland, given the importance of recreational boating to many East Gippslanders through lifestyle, attraction of tourism, environmental implications and cultural significance.

Given the relatively short timeframe for responses, an officer level response was submitted. This response has since been augmented and is provided as **Attachment 1**. Should Council endorse this submission it will be submitted to Better Boating Victoria with an indication that it supersedes the existing submission.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report;***
- 2. endorses the submission to the Draft Victorian Recreational Boating Strategy as provided at Attachment 1.***

Cr Tom Crook / Cr Jane Greacen OAM

THAT THE RECOMMENDATION BE ADOPTED

CARRIED

Background

Better Boating Victoria (BBV) is a division within the Victorian Fisheries Authority, established to oversee Victorian Government investment in recreational boating facilities. In January 2021 BBV commenced the development of a Victorian Recreational Boating Strategy to support and underpin prioritisation of boating infrastructure.

Council Officers have actively provided input into the Draft Strategy including providing a list of East Gippsland's recreational boating priorities, it was understood that this feedback would be used to develop a Draft document, which was released for review on 20 August. The draft Strategy can be viewed at [Victorian Recreational Boating Strategy | Engage Victoria](#)

Council was also afforded the opportunity to respond to an online survey about the Draft Strategy, as well as participating in workshops to assist in informing a Municipal Association of Victoria response.

However, while the MAV submission raises some excellent points for consideration, Officers believe that a separate submission was warranted as East Gippsland has been significantly overlooked for funding and project prioritisation despite all evidence showing the significance of boating in the region. Due to timeframes, an Officer level initial submission was submitted to Better Boating Victoria for consideration.

Further engagement has taken place based on the Officer submission and edits made to the draft based on this feedback. Notably these include the importance of recognition of Aboriginal values when considering both land and water, as well as the importance of environmental implications including the protection of sea grass. The final proposed submission is provided as **Attachment 1**.

In Officers' view the needs of East Gippsland could have been better represented in the draft strategy and given the level of engagement with East Gippsland Shire Council representatives, the outcome is disappointing.

Legislation

On 24 March 2020 the Government passed the *Local Government Act 2020* (the new Act). As of 1 July 2021, all provisions from the new Act have commenced.

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

Collaborative procurement

This is not relevant to this Council Report.

Council Plan

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

Strategic Objective 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

This item does not conflict with any existing Council Policy.

Options

This item recommends the endorsement, and submission of the attached response to the Draft Victorian Recreational Boating Strategy. Council may:

1. Endorse the submission as presented
2. Endorse the submission with any changes of emphasis required by Council; or
3. Not endorse the submission.

As noted in the submission, Officers believe there are a number of key points that have been omitted from the draft Strategy that must be included to recognise the importance of and impact of boating on the Gippsland Lakes.

Option 1 is recommended.

Resourcing

Financial

There are no financial implications to Council associated with making this submission.

The recommendations provided within the submission to Better Boating Victoria seek a greater emphasis on funding for infrastructure development, and maintenance of boating infrastructure in East Gippsland, and recognition of the challenges of providing and maintaining facilities across a broad area with a relatively low-rate base.

Plant and equipment

There are no implications on plant and equipment as a result of submission.

Human Resources

There are no human resource implications as a result of this submission.

Risk

The risks of this proposal have been considered and the proposed submission is believed to support improved management of risk through prioritising maintenance and development of boating infrastructure.

Economic

As outlined in the Submission, the draft Strategy makes a number of recommendations in relation to prioritisation of funding for East Gippsland boating facilities. Boating infrastructure is also considered of high importance to the attraction of tourists as a boating destination.

Social

Further investment in boating infrastructure will support positive outdoor activity and social interaction.

The submission includes support for the inclusion of recognition of Aboriginal values in relation to boating, and boating infrastructure.

Environmental

The submission includes reference to the importance of and need to protect sea grass when developing boating infrastructure provision, and other mechanisms such as education.

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

There was no external consultation undertaken with reference to the preparation of Council's written submission. Better Boating Victoria have conducted an open engagement process where community members have had the opportunity to provide independent feedback.

Attachments

1. East Gippsland Shire Council Submission to Victorian Recreation Boating Strategy
[5.1.3.1 - 7 pages]

Attendance

Cr Stow left the Chamber at 7.37 pm and returned at 7.39 pm

5.2 Bushfire Recovery

5.2.1 East Gippsland Event Growth Action Plan 2021-2026

Authorised by General Manager Bushfire Recovery

Conflict of Interest

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

Executive Summary

This report seeks Council endorsement of the East Gippsland Event Growth Action Plan 2021-2026.

For the past eleven years, Council has maintained support for the development of events which provide an economic boost to East Gippsland through the Regional and District Events Sponsorship program (RADES). In addition to supporting these 'homegrown' events, Council actively works with external partners to identify and acquire new events to supplement the local event calendar and support a smoothing of visitation across the year.

With an increasingly competitive environment for event procurement in general, and rising expectations regarding event delivery and the visitor experience, a review of Council's approach to growing East Gippsland's event portfolio was required. These same challenges were similarly considered by Destination Gippsland, the Regional Tourism Organisation and peak tourism body for Gippsland. As a result, the Gippsland Regional Events Strategy https://assets.visitgippsland.com.au/images/DestinationGippsland_Regional-Events-Strategy_2Page.pdf and the East Gippsland Event Growth Action Plan (**Attachment 1**) were developed concurrently to better leverage alignment of the two approaches.

The East Gippsland Event Growth Action Plan takes a fresh approach to growing and strengthening existing signature events and leveraging the existing event-procurement budget to ensure better value of Council's investment in this area.

Officer Recommendation

That Council:

- 1. receives and notes this report and attachments pertaining to this report;***
- 2. endorse the East Gippsland Event Growth Action Plan 2021 – 2026 (Attachment 1); and***
- 3. endorse Option 4 (transition out of RADES and phase implementation of the Plan within existing budget) for implementation from 2021-22.***

Councillor Motion

Cr Jane Greacen OAM / Cr Kirsten Van Diggele

That council:

- 1. receives and notes this report and attachments pertaining to this report;***
- 2. endorses the East Gippsland Event Growth Action Plan 2021 – 2026 (Attachment 1);***
- 3. retains the existing RADES program and commences implementation of the action plan in part, focusing on the external and regional grants streams to the value of \$70,000;***
- 4. defers implementation of the pathways to growth program of the action plan pending further consideration; and***
- 5. requests officers prepare a report prior to the 2022/23 budget outlining options for consideration in that budget to provide greater support for events.***

LOST

Cr Mark Reeves / Cr Trevor Stow

THAT THE OFFICER RECOMMENDATION BE ADOPTED

CARRIED

Background

Destination Gippsland developed the Gippsland Regional Events Strategy 2020-2025. The strategy was a joint project of Destination Gippsland and Gippsland's six Local Government Authorities and the Latrobe Valley Authority in collaboration with event stakeholders across the region and State. The Regional Event Strategy was endorsed earlier this year by the Destination Gippsland Regional Tourism Board and is now publicly available.

East Gippsland Shire Council plays a significant role in procuring events for East Gippsland along with building the capacity of our homegrown events through event sponsorship programs and development masterclasses. Examples of successfully procured events include Cycling Australia Masters - Road National Championship, The Great Victorian Bike Ride, Field and Game Association National Carnival, Tennis Victoria Junior Championship and Victorian Masters Open Squash Tournament. Examples of homegrown events include Paynesville Food Van Fiesta, Paynesville Classic Wooden Boat Rally, and the recent East Gippsland Winter Festival.

Council currently provides a significant level of support in shaping the events program for East Gippsland including:

1. Regional and District Events Sponsorship Program (RADES) - \$105,000

The RADES program aims to stimulate direct and indirect economic benefit to East Gippsland by attracting visitors from outside our region, that is; from around Victoria, interstate and internationally, and leveraging marketing opportunities to raise destination awareness. The RADES program was adopted by Council in 2010-2011 and offers two rounds a year in a competitive grants process that is publicly advertised.

The program attracts an average of 15-20 applications each round and typically provides funding of between \$1,000 (minimum) and \$10,000 (maximum) for any individual event for a period of one, two or up to three years. Applications are assessed by a panel including East Gippsland Marketing Inc (EGMI), Destination Gippsland and Council Officers. Council's 2020-21 budget for the RADES program is \$105,000 and is subject to Council's annual financial audit.

2. Event Attraction (Acquisition) - \$37,000

Acquired event applications are received throughout the year and assessed against a process which models return on investment (ROI). Most events secured through this initiative are facilitated by Sports Marketing Australia (SMA) - brokers for events with no distinct 'home' location and that can be attracted for staging in East Gippsland. More recently Council has been working with Latrobe Valley Authority as they pilot a Regional Event Acquisition approach. The Great Victorian Bike Ride event secured for East Gippsland in 2023 is a good example of this. The ability to acquire new events ongoing is entirely budget dependent.

3. Events Training and Development Program - \$7,000

In 2020, Council tailored and successfully delivered an event development program for existing and prospective event organisers. This series of free workshops covering core areas such as marketing, risk management and event finance and a full-day masterclass saw 83 separate event organisations enrolled in one or more of the workshops. The program was rated *excellent* by participants across content, usefulness, quality of facilitators, and communication and was delivered again in 2021, building on last year's themes.

4. Provision of Event Equipment - \$3,000

Council provides local event organisers access to basic event equipment such as road traffic signs, bollards, and marquees at no cost.

5. Commonwealth and State Government Grants

Where the opportunity presents, Council Officers actively applies for event funding to boost our ability to attract new events. The successful application to Austrade (Stream 1 & 2 Bushfire Tourism Recovery Program) in 2020 of \$190,000 is a good example. This additional funding unlocked the ability to secure a new Super-trail Running Event as part of a National series for Lakes Entrance and will seed-fund three new mountain bike events for Omeo along with a public arts trail event along the East Gippsland Rail Trail.

6. Event Permit Approvals

Council Event Officers coordinate the concierge services for all event approvals within Council (currently tourism and community focused events) and assist organisers in their preparation of comprehensive risk management and COVID-safe operating plans. Over 200 event permits are processed by the team each year. The team has streamlined this process over the past couple of years, enabling this service to be delivered more efficiently and vastly improving the customer experience. It should be noted that the frequently changing event guidelines due to COVID-19 have increased the work involved in this process, with most events having been postponed, rescheduled, or cancelled – and for many, this has occurred multiple times.

7. Event Planning Guide

A comprehensive A-Z guide to event planning in East Gippsland was developed and is maintained by the team as a valuable resource for existing and prospective event organisers. It is viewed as a leading example by other Gippsland Councils.

Council's ability to respond to the growing need for event facilitation in East Gippsland is limited. The proposed Event Growth Action Plan (the Plan) considers and responds to support economic and social recovery post COVID-19, bushfires, prolonged drought and takes a realistic approach to event procurement, growth, and regional capacity building over time. It recommends a sustainable approach that can continue to be managed within existing Council resources yet delivers improved economic outcomes.

The Plan:

- focuses on events that drive economic outcomes as distinct from community events.
- provides a transparent basis for decision making on event support; and
- is framed to deliver the best value for the event investment made by Council.

The changed approach outlined in the Plan may raise concerns for some stakeholders for instance, the proposed phasing out of Council's current RADES program. Consideration for maintaining some level of support for new events initiated within the community that may eventually deliver tourism outcomes is presented in the Options section of this report.

Legislation

On 24 March 2020, the Government passed the *Local Government Act 2020* (the new Act). As of 1 July 2021, all provisions from the new Act have commenced. Some provisions of the *Local Government Act 1989*, that have not been repealed, will remain applicable until such time as they are revoked. This report has considered the Financial Management Principals, Section 101 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

Pursuant of section 109(2) of the *Local Government Act* 2020 this report is not applicable.

Council Plan

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

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

Strategic Objective 4: 4.3 Council's work with stakeholders fosters entrepreneurship and new business opportunities, particularly with communities facing change.

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.

Strategic Objective 5: 5.2 Strong relationships with government, partners and stakeholders are maintained and strengthened to advocate for the community.

Council Policy

There is no impact on Council Policies as a result of this report.

Options

Endorsement of the East Gippsland Event Growth Action Plan should consider existing budget and resourcing impacts. In implementing the Plan, several options are available for Council's consideration and are summarised below.

OPTION 1: Retain existing RADES program and implement the Plan in full.
Requires additional budget of \$130,000.

Not recommended due to Council budget and additional resources required.

OPTION 2: Transition out of RADES and phase implementation of the Plan within existing budget. RADES would cease by 2023-24 as legacy funding commitments are expended.

Maintain a modest funding program to support tourism focused events newly initiated by the Community - A single round per year offering matched funds of up to \$5,000. A proposed additional budget of \$30,000 and delivered through the Community Grants stream in consultation with the Events team.

For consideration.

OPTION 3: Implement the Plan in full while transitioning out of RADES by 2023-24.

Requires an allocation of funding for the difference until 2023-24.
Total budget: \$236,000 in 2021-22, \$195,000 in 2022-23, and returning to base budget of \$152,000 by 2023-24.

Not recommended due to Council budget and resourcing implications.

OPTION 4: Transition out of RADES and phase implementation of the Plan within existing budget. RADES would cease by 30 June 2023 as legacy funding commitments are expended.

Note that community-initiated events that have a community benefit, as well as attracting visitors, can also be supported through the Community Grants stream. The adequacy of this program in supporting community events can be monitored and allocations considered as part of future budget processes. Note that at present there is additional sources of funding available for both community and visitor events in response to the Black Summer fires and COVID 19 recovery.

Recommended.

OPTION 5: Do not endorse the Plan
Continue with no changes to existing events funding and attraction program.

Not recommended as does not help to address existing challenges.

Resourcing

Financial

The East Gippsland Event Growth Action Plan proposes a redistribution of funds from the current Events Sponsorship Budget of \$152,000, across three core investment initiatives:

1. Pathway to Growth Program (Home – grown events development): \$80,000 (53% of the budget)

Supporting established, locally owned (home-grown) events identified as having potential for growth requires deliberate investment in tailored mentoring, guidance, and event development. The Pathway to Growth Program' is therefore proposed as an advanced mentoring program and would supplement existing workshops delivered by Council. An allocation of \$80,000 (4 x \$20,000) is recommended to provide accelerated development support for up to four different events per year as part of their multi-year funding agreement.

2. External Events: \$20,000 (13% of the budget)

An allocation of \$20,000 is recommended to go towards state and regional championship events, regional sport and participation events, arts/culture events and business events, working with external bodies and partners to strategically acquire the best fit events to smooth out the annual event calendar.

3. Regional Events Fund: \$50,000 (33% of the budget)

By contributing to a joint regional funding pool, as suggested in the Gippsland Regional Events Strategy, the potential to secure major regional events for East Gippsland is significantly improved. A \$50,000 allocation to be used strategically with the Regional Event Acquisition Fund will allow East Gippsland to be more competitively pitched and gain a return that may otherwise not be achieved independently. This is pending a formal request from Destination Gippsland and consideration by Council.

The funding allocations outlined above are scaleable in the event that Council makes a future decision to alter the budget allocated to support visitor events.

The balance of the budget \$2,000 (<2%) would be directed into event equipment and/or training programs. This amount can be supplemented by other operational budgets within the Economic Development unit if required.

Financial implications of the options for consideration and recommendation are outlined below:

OPTION 2: Transition out of RADES and phase implementation of the Plan within existing budget. RADES would cease by 2023-24 as legacy grant funding commitments are expended.

Maintain a modest funding program to support tourism focused events newly initiated by the Community. A single round per year offering matched funds of up to \$5,000. A proposed additional budget of \$30,000 and delivered through the Community Grants steam in consultation with the Events team. Potentially the Economic Development Discretionary Fund (EDDF) could sustain this subject to ongoing contribution to the fund.

Annual Budget \$152,000 + \$30,000 (EDDF) - Total \$182,000

Transition approach would result in:

- Reduced contribution to Regional Event Acquisition Fund for year one
- Reduced event participation in the Pathways to Growth Program until year three
- Provides scope to maintain up to six sponsored local events per year (at \$5,000 each)

Program	Budget Actual* plus Plan	2021-2022	2022-2023	2023-2024	2024-2025	2025-2026	5-year TOTAL
RADES (previously committed)	\$107,508	\$76,000^	\$35,000^	n/a	n/a	n/a	\$111,000
RADES (EDDF)		\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	\$150,000
Pathway to Growth Program	\$80,000	\$20,000 (1 event)	\$40,000 (2 events)	\$80,000 (4 events)	\$80,000 (4 events)	\$80,000 (4 events)	\$300,000
External Events	\$37,262*	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$100,000
Regional Events Fund	\$50,000	\$30,000	\$50,000	\$50,000	\$50,000	\$50,000	\$230,000
Event Training & Equipment	\$10,000*	\$6,000	\$7,000	\$2,000	\$2,000	\$2,000	\$19,000
Total	\$284,770	\$182,000	\$182,000	\$182,000	\$182,000	\$182,000	\$910,000

*existing Events budget

^includes existing forward commitments under RADES

OPTION 4: Transition out of RADES and phase implementation of the Plan within existing budget. RADES would cease by 2023-24 as legacy funding commitments are expended.

Annual Budget \$152,000

Existing budget and staffing resources are maintained, but results in:

- Slower implementation of the Pathways to Growth Program
- Variable external events acquisition fund
- Reduced contribution to Regional Event Acquisition Fund for years 1 and 2
- Reduces the number of sponsored local events beyond 2023-24

Program	Budget Actual* plus Plan	2021-2022	2022-2023	2023-2024	2024-2025	2025-2026	5-year TOTAL
RADES	\$107,508*	\$76,000^	\$35,000^				\$111,000
Pathway to Growth Program	\$80,000	\$20,000 (1 event)	\$40,000 (2 events)	\$60,000 (3 events)	\$80,000 (4 events)	\$80,000 (4 events)	\$280,000
External Events	\$37,262*	\$20,000	\$27,000	\$32,000	\$20,000	\$20,000	\$119,000
Regional Events Fund	\$50,000	\$30,000	\$40,000	\$50,000	\$50,000	\$50,000	\$220,000
Event Training & Equipment	\$10,000*	\$6,000	\$10,000	\$10,000	\$2,000	\$2,000	\$30,000
Total	\$284,770	\$152,000	\$152,000	\$152,000	\$152,000	\$152,000	\$760,000

*existing Events budget

^existing forward commitments RADES

Plant and equipment

There may be minor plant and equipment implications for Council as a result of the Event Growth Action Plan. A reduction in the equipment replacement budget is foreshadowed in implementing the Plan within the existing budget.

Human Resources

Human resources implications will be dependent on Council's preferred option:

OPTION 2: Transition out of RADES and phase implementation of the Plan within existing budget. RADES would cease by 2023-24 as legacy funding commitments are expended. Maintain a modest funding program to support tourism focused events newly initiated by the Community

This option may require an increase in human resources to assist delivery of services at peak times.

OPTION 4: Transition out of RADES and implement new Plan within existing budget.

This option has minimal impact on existing human resources.

Risk

The following risks have been identified and considered:

1. Phasing out the RADES program may impact some smaller tourism event delivery by local organisers. However, potential funding for these through other avenues, such as Council's community grants program, other business sponsorship or by addressing alternative event management solutions.
2. The Gippsland Regional Event Acquisition Fund may not be successful in delivering the returns to East Gippsland for Council's investment. This will require ongoing monitoring and evaluation.
3. The Pathway to Growth Program takes time for benefits to fully emerge and may not drive the desired result of event growth with increased visitation and destination awareness – particularly in a volatile COVID-19 environment. Ongoing monitoring and evaluation of the approach may be required to ensure benefits are realised.
4. The proposed changes may be negatively received by some event stakeholders. While increased support for new or growing events is proposed in the Plan, ongoing financial support for existing events at the same level may no longer be provided. There will be an expectation that supported events evolve after a maximum of three years to become self-sustaining.

Economic

Tourism events play a key role in driving increased visitation which supports local business and tourism operators through stimulating greater trade and flow-on expenditure across our communities. The inability to host events this past year due to COVID-19 restrictions on public gatherings has significantly impacted East Gippsland's visitor economy with results showing a 37.2% decline in visitors (Source: International Visitor Survey and National Visitor Survey, YE March 21, Tourism Research Australia) and loss of business trade due to the compounding impacts of bushfire and COVID-19 which continues to present challenges.

Over the past three years (2017 - 2020), Council has invested \$634,500 into event acquisition and sponsorship funding programs to support a total of 87 regional events. These events returned over \$10M of direct economic input into East Gippsland*.

In the same period, Council invested \$229,060 into the RADES funding program supporting a total of 56 events. These events have returned an estimated direct economic impact of over \$7.2M*. The estimated return on this investment (ROI) is calculated at 31:1. In other words, for every sponsorship dollar invested, the local benefits of RADES sponsored events are \$31.00. *Note: Industry standard for ROI on acquired events is 5:1.*

In 2017, Council approved the additional allocation of \$180,000 over three years (\$60,000 per year) from the Economic Development Discretionary Fund, to boost Council's event attraction strategy at that time. These additional funds unlocked a more proactive and flexible approach toward event procurement for East Gippsland which resulted in securing additional major events throughout the year and generating increased economic activity across the region.

Specifically, the extra investment (\$180,000) secured 31 new events to East Gippsland over the three-year period and contributed an estimated direct economic impact of \$2.8M* (ROI of 13:1)

The Event Growth Action Plan proposes a different way of supporting events in East Gippsland in future by providing increased levels of support to a smaller number of homegrown events to help them reach Signature Event status and shifting the coordination of larger event attraction and acquisition the regional level with input from Council.

Standard Definitions:

- Major Event - attracts over 5,000 people, from outside the region, interstate and international eg: Woodford Folk Festival, QLD (6 days 132 000 attendees) and Toowoomba Carnival of Flowers, QLD (11 days, 294 000 attendees)
- Signature Event - attracts over 5,000 people, from outside the region and interstate and usually runs under a sustainable business model eg: Denny Ute Muster and Port Ferry Folk Festival.
- Local Event – attracts under 5,000 people, mostly from within the region and are usually community led.

Taking a consolidated approach rather than spreading resources over many small local events is the key to unlocking sustained event growth within our communities with existing Council resources.

**As calculated by the REMPLAN Tourism Impact Scenario. REMPLAN is a widely used data analysis tool aggregating data directly from the Australian Bureau of Statistics.*

Social

Events support local business operators through driving increased visitation into the region, increased trade, and the flow-on expenditure across our communities. Events also help build confidence and grow capacity within our sporting clubs and community groups to continue to deliver local events.

Other benefits of a vibrant tourism events program include:

1. Greater awareness of Council support
2. Increased destination awareness through leveraged promotion of the region
3. Increased community pride, a sense of connectedness, good health, and wellbeing

Environmental

There are no specific environmental implications from 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

The following stakeholders were consulted by individual conversation or group consultation regarding the development of the East Gippsland Events Strategy.

Stakeholders Engaged	
East Gippsland Shire Council	
East Gippsland Marketing Inc	
Gippsland East LLEN	
C4 Impact	
Gippsland Land and Water Aboriginal Corporation (GLaWAC)	
East Gippsland Economic Development Advisory Committee	
Event organisers <ul style="list-style-type: none">Alpine RallyFar East Victoria Land CareSailors Grave Brewing	<ul style="list-style-type: none">Gippsland OperaWild Harvest Seafood FestivalSeventy EventsEast Gippsland Mountain Bike Club
Business & Tourism Associations <ul style="list-style-type: none">BairnsdalePaynesvilleLakes Entrance (LEBTA & LEADA)	<ul style="list-style-type: none">Orbost and DistrictOmeoCann River
Business Event organisers/venue operators <ul style="list-style-type: none">Lakes Entrance Golf ClubVenture OutRiversleigh HotelBairnsdale Race Club Committee	<ul style="list-style-type: none">Captains CoveAlbert and CoBellevue HotelBairnsdale Art Gallery
Destination Gippsland	
Visit Victoria	
Parks Victoria	
Sports Marketing Australia	

Attachments

1. East Gippsland Event Growth Action Plan 2021-26 [5.2.1.1 - 45 pages]

Authorised by General Manager Bushfire Recovery

Conflict of Interest

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

Executive Summary

The *Telecommunications Act* 1999 provides for an independent review of regional telecommunications every three years. The review committee has released an issues paper and invited submissions. Officers have prepared a submission that was provided to the Review Committee in line with the closing date of submissions of 30 September 2021. The submission builds on and incorporates a report recently commissioned by Council "Digital Connectivity-Gaps and Priorities" prepared by Polis Planning.

The submission is provided for Council endorsement.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report;***
- 2. endorses the submission at attachment 1. provided by Officers to the 2021 Regional Telecommunications Review***

Cr Tom Crook / Cr Arthur Allen

THAT THE RECOMMENDATION BE ADOPTED

CARRIED

Background

Digital connectivity in East Gippsland is consistently raised as:

- a critical barrier (or enabler if addressed) for economic development, including increasing the attractiveness of regional living, enabling agriculture and supporting the visitor economy
- a barrier to effective access to health, education and other government services, particularly during the COVID-19 pandemic where many services have moved online
- a critical issue for public safety, especially in the context of the reliance of the emergency services on digital connectivity to communicate with the public and the failure of telecommunication systems during the 2019/20 fires.

The *Telecommunications Act* 1999 provides for an independent review of regional telecommunications every three years. The review committee has released an issues paper and invited submissions. Officers have prepared a submission that was provided to the Review Committee in line with the closing date of submissions of 30 September 2021. The submission builds on and incorporates a report recently commissioned by Council "Digital Connectivity-Gaps and Priorities" prepared by Polis Planning.

The report “Digital Connectivity-Gaps and Priorities” prepared by Polis Planning outlines a number of risks and opportunities for East Gippsland associated with digital connectivity and provides the basis for further planning, engagement and advocacy in relation to this issue.

The report includes attachments that set out verbatim comments from members of the East Gippsland community and a list of identified telecommunication gaps by locality. The report highlights the important issue of equity of access in East Gippsland.

Council and the communities of East Gippsland have been active in advocating for improved telecommunications infrastructure. While at the same time as continuing to advocate for further improvements it is important to recognise the improvements that have been committed or delivered, based on State and Commonwealth Government funding, including:

- A 42km fibreoptics link through the Tambo Valey between Tambo Crossing and Swifts Creek, and associated upgrades improving both the coverage and resilience of telecommunications across significant parts of the Omeo District.
- Completion of the NBN connection to Mallacoota
- \$2.2 million capacity upgrade for mobile telecommunications in Mallacoota to better respond to peak visitor period demand
- Thirteen new or upgraded mobile phone towers
- Installation of eight STAND satellite emergency backup telecommunication systems at community facilities.

Legislation

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

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

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

The Telecommunications Act 1997 (Commonwealth) provides for a review of regional telecommunications to be undertaken every three years by an independent review committee.

Collaborative Procurement

Not applicable.

Council Plan

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

Strategic Objective 2: 2.3 Planning with local communities for natural disasters and emergencies strengthens capacity, infrastructure, resilience, preparedness, and recovery.

Council Policy

Not applicable.

Options

Not applicable.

Resourcing

Financial

There are no financial implications for Council associated with this submission.

Plant and equipment

There are no plant and equipment considerations relevant to this submission.

Human Resources

There are no human resource implications associated with this submission.

Risk

The risks of this proposal have been considered and the risks associated with this submission are low. Note that there are significant risks to our East Gippsland community associate with inadequate telecommunications including emergency management and public safety, risk of loss of access to services (or less access to other communities in Victoria) and loss of economic opportunities.

Economic

The submission addresses the economic impacts of limitations in digital connectivity in East Gippsland. Addressing the limitations in digital connectivity is critical to the future economic development of East Gippsland including the opportunities associated with agriculture, the visitor economy, regional living and much more.

Social

The submission identifies the critical issues of equity of access to telecommunications and the associated access to services in supporting communities in East Gippsland. The submission notes the equity of access issues across infrastructure, access to devices and cost and digital literacy.

Environmental

There are no specific environmental implications associated with this submission.

Climate change

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

Emergency Management: Consideration is given to climate change in all elements of the Planning, Preparation, Response, Recovery (PPRR) process.

Engagement

The submission is based on a report commissioned by Council to identify digital gaps and priorities in East Gippsland. The report seeks to capture of the lived experience of East Gippsland residents and businesses. The report is based on significant community and business engagement as outlined in the report and further engagement is proposed.

Attachments

1. EGSC Telecommunications Submission [**5.2.2.1** - 6 pages]
2. EGSC Digital Connectivity Report and Assessment [**5.2.2.2** - 30 pages]

Attendance

Cr Reeves left the meeting at 8.00 pm and returned at 8.02 pm

5.3 Business Excellence

5.3.1 WorkCare member financial liability

Authorised by General Manager Business Excellence

Conflict of Interest

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

Executive Summary

This report is to inform Council of the financial impost by Work Safe Victoria, following its decision not to renew the licence of the Municipal Association of Victoria's (MAV) WorkCare Scheme.

The MAV WorkCare Scheme (the Scheme) was Victoria's only local government workers' compensation self-insurance scheme. Council was a member of the Scheme from 2017 until the Scheme ceased operations on 30 June 2021.

With the Scheme having now come to an end, its council members - the majority of whom are regional and rural councils - are required to absorb significant financial cost as required by WorkSafe. It is an ongoing financial burden that will be felt by members potentially until the latter half of 2027.

The financial impact on Council is \$1,125,000 of which \$1,013,800 is due and payable by 31 October 2021.

Officer Recommendation

That Council:

- 1. receives and notes this report;***
- 2. authorises the Chief Executive Officer to provide for the financial liability imposed by the cessation of MAV WorkCare Scheme, to the value of \$1,125,000 in the Council's operating budget for financial year 2021/2022; and***
- 3. authorises the Chief Executive Officer to pay MAV WorkCare the amount of \$1,013,800 by 31 October 2021 in accordance with the tax invoice.***

Cr Trevor Stow / Cr Arthur Allen

THAT THE RECOMMENDATION BE ADOPTED

CARRIED

Background

The MAV WorkCare Scheme (the Scheme) was Victoria's only local government workers' compensation self-insurance scheme; at its peak, it had 31 members.

East Gippsland Shire Council was a member of the Scheme from 2017 until it ceased operations on 30 June 2021. The decision to cease the operation of MAV WorkCare followed WorkSafe Victoria's refusal of the MAV's application for renewal of approval as a self-insurer.

Council's Participation Agreement with MAV WorkCare which was executed with MAV on 27 May 2015 which indicated Council's interest in joining the Scheme. A report on the MAV WorkCare Scheme was presented to Council on 10 May 2016 which outlined that the MAV's actuary's projections, at that time, was that the Scheme would provide WorkCover premium cost savings to participants of at least 15% over the first self-insurance approval period of three years and that experience from other States indicates that savings of 30% are achievable in the short term.

With the Scheme having now come to an end, its council members and their communities - the majority of whom are regional and rural councils - will be required to absorb significant financial cost as required by WorkSafe. It is an ongoing financial burden that will be felt by members potentially until the latter half of 2027.

As of 30 June 2021, WorkSafe's valuation estimated the scheme members' unpaid claims was \$74 million, of which \$59 million is funded by existing assets held by MAV.

The outstanding claims liabilities has significantly increased as a consequence of the cessation of the Scheme and the related funding gap has escalated materially. Among the reasons for the higher claims' liabilities include:

- The impairment of the scheme's reinsurance assets due to WorkSafe not recognising these contracts despite purchasing this reinsurance being a condition of the self-insurance licence
- A higher cost of claims management within the WorkSafe Victoria system
- Significant costs associated with the closure and transition of the scheme to a ceased self-insurer

Obligations now exist for the MAV as a ceased self-insurer and the 31 members of the scheme until June 2027. These obligations are significant and will impose significant obligations and risks to the MAV and the Scheme's constituent members. These risks are particularly acute as WorkSafe has now assumed control of the outstanding claims.

The Scheme is constituted as a mutual which is formalised via a Participation Agreement between the MAV and each of its members. A mutual is a mechanism to operate collaboratively and share risk to reduce the overall harm to participants' workers and ultimately reduce costs.

As part of this structure, there exist a range of obligations on each participants, the most relevant of which is that any deficiency in funding is required to be paid by those members.

The WorkSafe Victoria obligations are set out in the Workplace Injury Rehabilitation and Compensation Act, which requires:

- Valuations of claims liabilities to occur annually by the WorkSafe appointed actuary.
- Any increase in the value of claims at the three and six-year period will be funded by the ceased self-insurer, which in this case is MAV
- Any reduction in the value of claims at the three and six-year period will be refunded to the ceased self-insurer by WorkSafe Victoria
- The ceased self-insurer is required to hold a bank guarantee of 50 per cent of the outstanding claims liabilities at all times until June 2027
- The ceased self-insurer is required to meet the cost of the actuarial review and audits for this six-year liability period.

The MAV has held briefing sessions for member councils since March 2021 to inform Council of the winddown of MAV WorkCare and forecast potential financial implications.

The MAV has advocated for a range of solutions to reduce the financial consequence on councils. Among genuine solutions it had pursued - through meetings and correspondence with Work Safe Victoria, the Victorian Government and the State Opposition - to mitigate the financial consequences for members are:

- Calling on WorkSafe agree to recognise the MAV's re-insurance in the transfer of scheme assets;
- Deferral or waiver of the bank guarantee
- Recognition of WorkSafe's underfunding of the Scheme at its commencement, and
- Recognition of WorkSafe's investment income that it will earn on the returned scheme assets.

The MAV has ceased its advocacy efforts and has requested more modest forms such as recognising the high credit rating of participating members by seeking a waiver of the bank guarantee requirement, or alternatively for the guarantee to be provided by the Treasury Corporation of Victoria and for an extension to the payment terms.

To date, there has been little acknowledgement of the significance of the cost to councils despite previous WorkSafe Victoria public concerns about the financial consequence to scheme members in its consideration of the licence.

WorkSafe has determined and is invoicing the liabilities to the MAV. Full payment is due to WorkSafe Victoria on 12 November 2021. The initial payment of \$59 million will be made by the MAV on 11 October 2021.

MAV invoiced all members with invoices required to be paid to the MAV by 31 October 2021.

Legislation

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

Options

Council's Participation Agreement with MAV WorkCare which was executed with MAV on 27 May 2015, provides for the conditions upon which the Scheme ends including the recovery of amounts from members in the event the Scheme ends.

Resourcing

Financial

The financial impact on Council has been assessed by MAV and the contribution on Council is \$1,125,000 of which \$1,013,800 is due by 31 October 2021.

Council has identified this matter as a contingent liability in its 30 June 2021 Financial Statements, which at that point time, the amount of the financial liability was not known.

Council will fund \$593,000 available from the existing WorkCover 2021/22 operating budget with the remaining \$532,000 being an unbudgeted additional expense which will be offset by additional unbudgeted income, therefore will not have a material impact on Council's operating surplus for financial year 2021/22.

Plant and equipment

Not applicable

Human Resources

Not applicable

Risk

The risks of this report have been considered

Economic

Not applicable

Social

Not applicable

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

Not applicable

Attachments

Nil

Attendance

Cr Van Diggele left the Chamber at 8.12 pm

5.3.2 Finance Report - period ending 30 September 2021

Authorised by General Manager Business Excellence

Conflict of Interest

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

Executive Summary

The forecast operating result for the 2021/22 financial year is \$29.114 million compared to the adopted operating surplus of \$35.735 million. This is a forecast reduction in operating surplus of \$6.621 million.

The most significant forecast variances relate to operating and capital grant income increases of \$3.788 million as a result of new or increased grants. There is also an increase in the forecast reimbursement for the 2019/20 fire event of \$843,000 as a result of expenditure incurred in the 2020/21 year that is to be reimbursed in the current financial year. Offsetting the increase in income is an increase in expenditure as a result of new/amended grant funding of \$2.971 million and increased expenditure of \$8.2 million for projects and programs that were funded in the 2020/21 year but will not be completed until the current financial year. There has also been an increase in the Workcover cost as a result of the MAV Workcover scheme ceasing to operate from 30 June 2021. Council's liability as a result of the scheme ending has added \$532k to the forecast employee costs.

The expected end-of-year cash position of \$26.992 million (\$772,000 less than the adopted budget) is the result of the actual 2020/21 end of year end-of-year cash position, less the additional cash outflow as a result of projects that have been carried forward from 2020/21 for completion in 2021/22 year.

Details of the forecast variances and other financial information are included in **Attachments 1 to 7**.

Officer Recommendation

That Council:

- 1. receives and notes this report and its attachments; and***
- 2. adopts the Finance Report for the three-month period ended 30 September 2021, as outlined in Attachments 1 to 7.***

Cr Mark Reeves / Cr Jane Greacen OAM

THAT THE RECOMMENDATION BE ADOPTED

CARRIED

Background

Overview of Financial Performance

Provided in this report as at the end of September 2021 is an overview of the year-to-date (YTD) operating and capital expenditure compared to the forecast result, and adjustments to the adopted budget for the full year that have been incorporated into the full year forecast result.

Year-to-Date

Net Comprehensive Result

The YTD favourable variance of \$14.569 million is primarily the result of grant income being received earlier than expected offset by delays in the delivery of some works as a result of COVID-19 restrictions. There are also some capital reimbursements that were also received earlier than expected.

Refer to **Attachment 1** for a full explanation of all variances.

Full Year – Budget

Net Comprehensive Result

The expected operating surplus for the year is \$29.114 million which is \$6.621 million less than the adopted budget of \$35.735 million.

There is \$8.2 million of additional expenditure added to the 2021/22 year as a result of projects that were incomplete at the end of the 2020/21 year, that has reduced the operating surplus. This is offset by additional revenue for reimbursement of expenses incurred in the 2020/21 year for reinstatement works following the 2019/20 bushfire events as well as additional Victoria Grants Commission funding of \$533,000 greater than the adopted budget.

Additional operating grants of \$2.971 million is offset by matching additional expenditure for the year.

Adjusted Underlying result

The adjusted underlying deficit is the net surplus for the year adjusted for non-recurrent capital grants, non-monetary contributions and capital contributions from other sources. The unfavourable variance of \$6.894 million is primarily a result of the forecast reduction in operating surplus of \$6.621 million together with the increase in non-recurrent capital funding of \$284,000.

Attachment 1 provides further explanation of the variances discussed above.

Cash Position

Year-to-Date:

As at September 2021, Council held cash of \$95.896 million. This is greater than YTD expectations as a result of the timing of works and services and the delivery of the capital works and landfill rehabilitation program.

Full Year

The end-of-year forecast cash position of \$39.464 million is \$772,000 less than the adopted budget of \$40.237 million. This forecast cash position has been adjusted to account for the actual 2020/21 end-of-year result after taking into account advance revenue received in 2020/21 as well as the expenditure for projects that were incomplete at year end and carried forward for completing in the current financial year.

For further details, please refer to the Balance Sheet variance explanations in **Attachment 2** and Statement of Cash Flows at **Attachment 3**.

Capital Works and Landfill Rehabilitation Projects

Year-to-Date:

The adopted budget for the 2021/22 financial year was \$88.758 million in capital works and a further \$536,000 in landfill rehabilitation projects, giving a total of \$89.294 million.

Actual YTD capital and landfill rehabilitation projects expenditure at the end of September 2021 was \$6.734 million.

Full Year:

The forecast capital and landfill rehabilitation expenditure for the 2021/22 year is \$93.748 million. There has been a forecast increase in capital works and landfill rehabilitation expenditure of \$4.454 million mainly as a result of an increase in the carry forwards for incomplete projects at the end of the 2020/21 year.

Legislation

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

This report has been prepared in accordance with *Local Government Act 2020*. Section 97 of the *Local Government Act 2020* requires a quarterly budget report be presented to the Council at a Council meeting which is open to the public. The quarterly budget report must include a comparison of the actual and budgeted results to date and an explanation of material variances. The second quarterly report of a financial year must include a statement by the Chief Executive Officer as to whether a revised budget is, or may be, required.

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

Collaborative procurement

This is not applicable for this report.

Council Plan

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

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

Council Policy

Not applicable for this report.

Options

Not applicable for this report.

Resourcing

Financial

Refer to the following **attachments**:

1. Income and Expenditure Statement and Explanation of Variances
2. Balance Sheet and Explanation of Variances
3. Statement of Cash Flows and Explanation of Variances
4. Reconciliation of Adopted (Operating) budget to Forecast budget
5. Summary of Capital Works and Landfill Rehabilitation
6. Rates Performance
7. Financial Performance Indicators

Plant and equipment

Not Applicable

Human Resources

Not Applicable

Risk

The risks of this proposal have been considered and are not applicable to this report.

Economic

Not applicable for this report.

Social

Not applicable for this report.

Environmental

Not applicable for this report.

Climate change

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

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

Engagement

Not applicable for this report.

Attachments

1. Income and Expenditure Statement and Explanation of Variances [5.3.2.1 - 6 pages]
2. Balance Sheet and Explanation of Variances [5.3.2.2 - 3 pages]
3. Statement of Cash Flows and Explanation of Variances [5.3.2.3 - 2 pages]
4. Reconciliation of Adopted (Operating) budget to Forecast budget [5.3.2.4 - 1 page]
5. Summary of Capital Works and Landfill Rehabilitation [5.3.2.5 - 2 pages]
6. Rates Performance [5.3.2.6 - 1 page]
7. Financial Performance Indicators [5.3.2.7 - 1 page]

Attendance

Cr Van Diggele returned to the Chamber at 8.15 pm

5.3.3

Draft Advocacy Policy

Authorised by General Manager Business Excellence

Conflict of Interest

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

Executive Summary

Council acknowledges and accepts the critical role it plays in advocating for its communities on a broad range of issues. It is with this purpose in mind that Council is committed to a fluid framework that is responsive to support and guide our advocacy strategy. The first step in this process is to develop and adopt an Advocacy Policy, provided at **Attachment 1**.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report; and***
- 2. adopts the draft Advocacy Policy, as provided at Attachment 1.***

Cr Mark Reeves / Cr Tom Crook

THAT THE RECOMMENDATION BE ADOPTED

CARRIED

Background

Following consultation with the Councillors Group, this draft Advocacy Policy has been prepared to outline the need for an advocacy policy to guide the approach to the development of the Advocacy Strategy which is still under development.

The Advocacy Strategy will undergo further consultation with the Councillors Group.

These key documents will provide a framework to assist Council in its advocacy to Federal, State and other bodies for the benefit to the community.

Legislation

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

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

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 5: 5.2 Strong relationships with government, partners and stakeholders are maintained and strengthened to advocate for the community.

Council Policy

This Policy does not change or replace an existing policy, it is a new policy document.

Resourcing

Financial

There are no financial implications as a result of implementing the recommendations of this report.

Plant and equipment

Not Applicable

Human Resources

Not Applicable

Risk

There are no risks to council as a result of implementing the recommendations of this report.

Economic

Working in partnership with their communities, councils develop priorities to attract government investment through Advocacy. The identified items link to the council plan objectives to seek economic support for range of capital expenditure projects and non-capital programs to support the community need.

Social

Councils provide a pathway to policy, advocating for resources and educating policy makers on issues relevant to our community.

Environmental

Through advocacy council seeks to influence policy makers on strategic positions that align with East Gippsland's values and principles.

Climate change

This report is assessed as having no direct impact on climate change. However, the Policy document guides the development of the advocacy strategy priorities which would include environmental sustainability and climate change as key priorities.

Attachments

1. Draft Advocacy Policy Council Briefing 19 October 2021 [**5.3.3.1** - 6 pages]

5.3.4 Lease - Operation, Management and Maintenance of the Marlo Ocean Views Caravan and Camping Park

Authorised by General Manager Business Excellence

Conflict of Interest

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

Executive Summary

The lease agreement for the operation, management and maintenance of the Marlo Ocean Views Caravan and Camping Park (Marlo Caravan Park) was for a term of 21 years. The current lease arrangement enabling approved capital works program that were delayed due to the impacts of the 2019/20 bushfires and the COVID pandemic to be completed expires on 30 June 2022. It is proposed to establish a 21-year term lease arrangement consistent with previous lease agreements for the operation, management and maintenance of the Marlo Caravan Park as it provides a security of tenure for the lessee and incentive to invest in the development of the park.

Under section 115 of the *Local Government Act 2020* (the Act), Council has the power to lease land, however if the lease is to be for 10 years or more, Council must include any proposal to lease land in a financial year budget. If Council has not included a proposal to lease land in a financial year budget, Council must undertake a community engagement process in accordance with the Community Engagement Policy in respect of the proposal before entering into the lease.

The detailed proposal to lease the Marlo Caravan Park was not included in the 2021/2022 financial year budget as the provisions in the Act commenced on 1 July 2022 after the budget process was completed. As the current lease will expire prior to the completion of the 2022/2023 financial year budget process it is proposed that a community engagement process is undertaken in accordance with the Community Engagement Policy and provide the community with an opportunity to provide feedback on the proposed 21-year term for the lease.

Officer Recommendation

That Council:

- 1. receives and notes this report;***
- 2. endorses a 21-year term for the lease for the operation, management and maintenance of the Marlo Caravan Park;***
- 3. notes that a community engagement process will be undertaken in respect of the 21-year term of the lease; and***
- 4. notes an expression of interest process for the operation, management and maintenance of the Marlo Caravan Park will be conducted following the community engagement process provided no objections are received.***

Cr Trevor Stow / Cr Tom Crook

THAT THE RECOMMENDATION BE ADOPTED

CARRIED

Background

The Marlo Caravan Park is situated on Crown land for which Council is appointed the committee of management on behalf of the State Government. Under the *Crown Land (Reserves) Act 1978* section 17D Council may lease the land. However, section 115 of the *Local Government Act 2020* provides the power for entering into a lease arrangement. The current lease arrangement is due to expire and the lessee has been advised that Council will be undertaking an expression of interest for the ongoing operation, management and maintenance of the Marlo Caravan Park.

Consistent with the current lease term it is proposed that the new lease agreement for the Marlo Caravan Park is for a term of 21-years. Section 115(3) of the Act requires where the lease is to be for 10 years or more, Council must include any proposal to lease land in a financial year budget. Due to the timing of the commencement of the provisions in the Act this was not part of the 2021/22 budget process. If a lease arrangement is not included in the budget then Council must undertake a community engagement process in accordance with the Community Engagement Policy.

A community engagement process will be undertaken for a period of 21 days to allow for feedback on the proposed 21-year lease term for the Marlo Caravan Park. Any feedback received will be considered in determining the length of term for the lease agreement for the operation, management and maintenance of the Marlo Caravan Park.

If no feedback is received an expression of interest will be prepared and advertised for the operation, management and maintenance of the Marlo Caravan Park which will provide consistency and transparency in leasing processes and adhere to Councils Leasing and Licensing Policy for Council-owned Land and Council-managed Land. The combination lease terms i.e. the breakdown of years, will be outlined in the expression of interest documentation.

Council's endorsement is sought for a 21-year lease for the Marlo Caravan Park prior to undertaking the community engagement process. It is proposed to continue with the 21-year term lease arrangement for the operation, management and maintenance of the Marlo Caravan Park as it provides a security of tenure for the lessee and incentive to invest in the development of the park.

Legislation

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

This report has been prepared in accordance with section 115 of the *Local Government Act 2020*. Section 115(3) of the Act requires where the lease is to be for:

- a) one year or more and
 - (i) the rent for any period of the lease is \$100,000 or more a year; or
 - (ii) the current market rental value of the land is \$100,000 or more a year; or
- b) the lease is for 10 years or more,

Council must include any proposal to lease land in a financial year budget.

If Council proposes to lease land that was not included in the financial year budget, under section 115(4) of the Act Council must undertake a community engagement process in accordance with Council's Community Engagement Policy in respect of the proposal before entering into the lease.

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

Collaborative Procurement

Collaborative procurement is not applicable to this report.

Council Plan

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

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

Council Policy

The Community Engagement Policy ensures that members of the East Gippsland Shire community and stakeholders have genuine and transparent opportunities to participate in community engagement about matters that affect them.

The expression of interest process for a term of 21 years where the issue or renewal of a lease or licence that is wholly commercial or partly commercial, is consistent with clause 2 (Expression of Interest) in Council's Leasing and Licensing Policy for Council-owned Land and Council-managed Land.

Options

There are no other options available to Council as it is a requirement of section 115 of the Act that for any term greater than ten years, Council must include any proposal to lease in a financial year budget. If Council proposes to lease land that was not included in the financial year budget, Council must undertake a community engagement process in accordance with the Council's Community Engagement Policy in respect of the proposal before entering into the lease.

Resourcing

Financial

There are no identified financial implications with this report.

Plant and equipment

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

Human Resources

The community engagement process will be undertaken with existing resourcing.

Risk

Following the statutory requirement under section 115 of the Act and undertaking a community engagement process for a lease term of 21 years term for operation, management and maintenance of the Marlo Caravan Park, will eliminate the risk of Council being non-compliant with its legislative requirement of undertaking community engagement for a lease term of 21 years for the Marlo Caravan Park.

Economic

The process outlined in the report will provide the best economic, environmental and social outcome for the future management of the public land where the Marlo Caravan Park is located.

Social

The community engagement process will enable the community to be involved in the decision making regarding the future operation, management and maintenance of the Marlo Caravan Park.

Environmental

The expression of interest process to identify a future lessee of the Marlo Caravan Park will include environmental considerations as part of the criteria advertised to the public.

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

This report seeks Council endorsement for a lease term of 21-years for the operation, management and maintenance of the Marlo Caravan Park prior to undertaking a community engagement process as required under section 115 of the Act.

Attachments

Nil

5.3.5 Council meeting schedule 2022

Authorised by General Manager Business Excellence

Conflict of Interest

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

Executive Summary

This report seeks a Council resolution to set the dates, venue and times on which Council meetings will be held in 2022.

Governance Rule 3.1(1) states *At or before the last meeting each calendar year, Council must fix the date, time and place of all Council meetings and any delegated committee meeting for the following calendar year.* And 3.1(2) states *Council by resolution, or the CEO, may change the date, time and place of, or cancel, any meeting which has been fixed and must provide notice of the change to the public.*

The Council meeting times proposed will provide Council with a schedule that continues to facilitate timely decision-making.

The key points of the Council Meeting schedule are:

1. maximise best use of Councillor and staff time,
2. three 'Council in the Community' meetings proposed, outside of the Council Corporate Centre Chamber in 2022, with locations being Orbost region, Mallacoota region and Lindenow region,
3. localised community/Council activities to be clustered around 'Council in the Community' meetings to maximise community/Councillor participation, building on the success and positive community feedback; and
4. a winter recess in July.

Officer Recommendation

That Council:

1. *adopts the following Council Meeting dates, times and locations for 2022:*

Day	Date	Time	Location
Tuesday	1 February	6.00 pm	Corporate Centre
Tuesday	22 February	6.00 pm	Corporate Centre
Tuesday	15 March	6.00 pm	Corporate Centre
Tuesday	5 April	1.30 pm	Orbost region
Tuesday	26 April	6.00 pm	Corporate Centre
Tuesday	17 May	1.30 pm	Mallacoota region
Tuesday	7 June	6.00 pm	Corporate Centre
Tuesday	28 June	6.00 pm	Corporate Centre
Tuesday	26 July	6.00 pm	Corporate Centre
Tuesday	16 August	6.00 pm	Corporate Centre
Tuesday	6 September	1.30 pm	Lindenow region
Tuesday	20 September	6.00 pm	Corporate Centre
Tuesday	11 October	6.00 pm	Corporate Centre
Tuesday	25 October **	6.00 pm	Corporate Centre
Tuesday	8 November	6.00 pm	Corporate Centre
Tuesday	13 December	6.00 pm	Corporate Centre

**** Mayoral election meeting
and;**

2. *resolves that unless determined otherwise and notified to community members through appropriate public notice, Council meetings will be held in accordance with the table above.*

Cr Mark Reeves / Cr Trevor Stow

THAT THE RECOMMENDATION BE ADOPTED

CARRIED

Background

The principle means by which Council provides good governance for the benefit and well-being of the municipal community is by meeting to decide, by voting, to do an act, matter or thing. In accordance with the *Local Government Act 2020* where the Council is empowered to do the act, matter or thing the decision is to be made by resolution at a Council meeting.

Since 2006 Council has met at 6.00pm on a Tuesday night from February to December at the Corporate Centre, Bairnsdale. In 2021, Council has continued to meet on a Tuesday night at 6.00pm except on those occasions where Council has held *Council in the Community Meetings* outside Bairnsdale; these meetings have commenced at 1.30pm.

Council meetings are open to the public and the community can attend. For those unable to attend the Corporate Centre Council meetings are livestreamed and recorded. Since the COVID-19 restrictions have been in place the community has been encouraged to participate in Council meetings through electronic means with attendance at the Corporate Centre restricted. The COVID-19 restrictions on public attendance at Council meetings are in place until at least 26 April 2022.

At the end of each year the Council considers and agrees the schedule of Council meetings for the next twelve months taking into consideration the timing for statutory requirements, such as budget processes and annual reporting and the annual election of the Mayor each October/November. The annual schedule for Council meetings is available on the Council website and is updated as required.

Legislation

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

This report is prepared in accordance with sections 60 and 61 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*.

Collaborative procurement

There is no collaborative procurement involved with this report.

Council Plan

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

Strategic Objective 5: 5.4 Continuous improvement systems are strengthened, and organisational efficiency enhanced.

Council Policy

This report has been prepared under Governance Rule 3.1(1) - *at or before the last meeting each calendar year, Council must fix the date, time and place of all Council meetings and any delegated committee meeting for the following calendar year*. And 3.1(2) states *Council by resolution, or the CEO, may change the date, time and place of, or cancel, any meeting which has been fixed and must provide notice of the change to the public*.

Resourcing

Financial

The cost of Council meeting are covered in the current budget arrangements.

Plant and equipment

There are no plant and equipment implications arising from this report.

Human Resources

Preparation of Council Reports and agendas will be managed within existing resources.

Risk

Consideration of the options enabled Councillors to minimise the risk of not deciding the date, time and location of the 2022 Council meetings prior to the end of 2021, as required in the Governance Rules.

Economic

There are no economic implications with this report.

Social

There are no social implications with this report.

Environmental

There are no environmental implications with this report.

Climate change

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

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

Engagement

There are no engagement implications with this report.

Attachments

Nil

5.4 Place and Community

5.4.1 Planning Permit Application 171/2021/P 5317 Princes Highway Newmerella - Major Promotion Sign

Authorised by Acting General Manager Place and Community

Conflict of Interest

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

Executive Summary

The report seeks Council's resolution to refuse planning permit application 171/2021/P for development of a double-sided externally illuminated major promotion sign at 5317 Princes Highway, Newmerella (links to Application Documents at **Attachment 1**).

The application has been made subject to advertising in accordance with section 52 of the Planning and Environment Act 1987. Eight (8) objections (**Attachment 2**) have been received, identifying amenity impacts from the intrusion of the proposed signage and illumination. Internal and external (**Attachment 3**) referrals were also undertaken.

An assessment against the East Gippsland Planning Scheme has been undertaken, and the proposal is viewed as being inconsistent with relevant planning policies. Additionally, based on the content of the objections received as well as the concerns raised in relation to the proliferation of signage in a rural township, the recommendation is to refuse the proposal.

A previous application at 10 Prestons Road, Newmerella was refused by VCAT, which is also relevant to the officer recommendation to refuse the permit.

Pursuant to the instrument of delegation, a planning permit application may only be refused by decision of Council.

Procedural motion

Cr Tom Crook / Cr Kirsten Van Diggele

THAT COUNCIL RESOLVES TO EXTEND THE DURATION OF THE MEETING FOR AN ADDITIONAL 1.5 HOURS

CARRIED

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report; and***
- 2. being the responsible authority and having considered all the relevant planning matters, determines that planning application 171/2021/P is inconsistent with the requirements and objectives of the East Gippsland Planning Scheme and therefore resolves to issue a Notice of Refusal for development of a double-sided externally illuminated major promotion sign at 5317 Princes Highway, Newmerella on the following grounds:***
 - a. the proposal is inconsistent with the Planning Policy Framework; specifically, being inconsistent with the rural environment and representing an unacceptable detriment to the amenity of the locality through visual clutter;***
 - b. the proposal is inconsistent with the Municipal Strategic Statement, specifically, representing development that is in stark contrast to the established built form and rural character of the settlement, and further that it disrupts a Scenic Road, as identified in 21.04-2 and Map 3 – Scenic roads;***
 - c. the proposal is inconsistent with the purpose of the Commercial 2 Zone, being that the proposal will affect the amenity of sensitive uses on adjoining land;***
 - d. the proposal is inconsistent with the purpose of Clause 52.05 Signs, through creating visual clutter in an otherwise rural environment and impacting on the current and future character of the area; and***
 - e. the proposal represents visual clutter and proliferation of signage in a rural context which has a detrimental impact on the amenity of local residents and the highway environs.***

Cr Mark Reeves / Cr Trevor Stow

THAT THE RECOMMENDATION BE ADOPTED

CARRIED

Background

Site and Locality

The site is a corner allotment, with Warrens Road to the east and Princes Highway to the south. Princes Highway is a declared a road, identified as Road Zone, Category 1. The site is currently vacant, located within the Newmerella Township. The land is relatively flat and cleared of vegetation, other than overgrown grass and weeds.

The subject site consists of three individual lots under one Title. The site is rectangular in shape with a length of 64 metres fronting Princes Highway, a length of 65 metres along the northern boundary and a width of 31 metres to the east and west boundaries.

The site is approximately 3.5 km south-west from the edge of the Orbost Township. There is no direct vehicular access to the site, although there is an existing gate along the southern boundary.



Figure 1. The site in locality context and location of Existing and previously considered major promotion signs

The immediate area surrounding the subject site is zoned and developed with industrial and commercial sites. To the north, residential dwellings are established within the Commercial 2 Zone. To the east over Warrens Road is the BP service station, also within the Commercial 2 Zone. To the south over the Princes Highway and Thomas Road the land includes several industrial properties within the Industrial 1 Zone. To the west is Mectec Sawmill within the Industrial 1 Zone.

A major promotion sign was permitted in 2017 at 5299 Princes Highway, which is also in the Commercial 2 Zone. The sign is located approximately 290 metres west of the proposal. The sign was approved to be illuminated, but the lighting has not been installed.

Another 200 metres west at 10 Prestons Road, an application made in 2018 for another major promotion sign was approved by Council, but was refused at VCAT ([Kempft v East Gippsland SC \[2019\] VCAT 786 \(30 May 2019\)](#) (austlii.edu.au)). This sign was initially proposed as externally illuminated, and the applicant offered to remove the illumination to potentially satisfy concerns of the objectors.

The Proposal

The application proposes the following, and the plans and supporting documents are available at **Attachment 2**:

- Major promotion signage is proposed 775mm along the southern boundary and setback 500mm from the eastern boundary;
- The proposed total height of the signage is 5.15 metres, with two posts at a height at 2 metres and 775 mm wide;
- The signage will consist of 2 displays (double sided sign face) fronting east and west, with billboard display face consisting of 18.26 sqm (8.3 metres long x 2.2 metres wide), a total area of 36.52 sqm of signage;
- A smaller corporate logo (measuring 1.3 metres long and 550 mm wide) is to be located below the main panels along the skirting board;
- The skirting board below each signage will be 850 mm wide, consisting of colorbond colour in black paint finish (Night Sky);
- External illumination is provided above the skirting board, two on each sign face, totalling four external lighting projectors, extending 100 mm, with the lights angled upwards towards each panel.

Current Status/Issues

The application has been subject to a mediation session where no resolution was achieved. Officers do not support the proposal, as such the application is presented before Council for determination, with the recommendation to Issue a Notice of Refusal to Grant the Planning Permit for various grounds which are supported by the East Gippsland Planning Scheme.

The recommendation considers the similarities between the proposal and the previous application at 10 Prestons Road which was refused at VCAT. Mitigating factors include the smaller scale and improved proximity to other commercial activities (such as the service station). However, these mitigating factors cannot resolve key policy considerations regarding amenity and scenic value of the township.

Legislation

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

The planning permit application has been processed and assessed in accordance with the Planning and Environment Act 1987.

East Gippsland Planning Scheme

Policy

Direct consideration is given the following State policies, broadly:

- Clause 11 Settlement
- Clause 13.07 Amenity
- Clause 15 Built Environment and Heritage
- Clause 15.01-6S Design for rural areas
- Clause 18.01-2S Transport Systems

Some of the primary objectives of the policy provide that planning must anticipate and respond to the needs of existing and future communities. A high standard of urban design and amenity is expected. Planning is to safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects. This may be achieved through ensuring the compatibility of a use or development as appropriate to the land use functions and character of the area by directing land uses to appropriate locations and using a range of building design, urban design, operational and land use separation measures.

Planning is to ensure all land use and development appropriately responds to its surrounding landscape and character, valued built form and cultural context. Urban design is to be considered and is to create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.

Planning is to ensure development respects valued areas of rural character. This can be achieved through ensuring that the siting, scale and appearance of development protects and enhances rural character; by protecting the visual amenity of valued rural landscapes and character areas along township approaches and sensitive tourist routes by ensuring new development is sympathetically located; and by siting and designing development to minimise visual impacts on surrounding natural scenery and landscape features including ridgelines, hill tops, waterways, lakes and wetlands.

Municipal Strategic Statement

21.04-2 Landscape

Large areas of East Gippsland, including Gippsland Lakes and surrounds, are classified by the National Trust as landscapes of special regional significance.

Objective 1

To enhance the aesthetic quality of the built environment and ensure that the integrity and character of localities and the quality of the natural environment are recognised and protected.

Strategy 1.1

Ensure that development in significant landscape areas is designed and implemented in a way that is sympathetic to the character of the area and preserves its aesthetic values.

Strategy 1.2

Protect:

- Areas of high landscape sensitivity, including visually prominent ridgelines, areas adjacent to the coastline or lake shorelines and remnant vegetation in generally cleared areas.*
- Landscapes with high aesthetic or cultural values as identified by the National Trust of Australia (Victoria) (Map 2).*
- Views from significant lookout points.*
- Scenic roads, including those referenced in the Forest Management Plan, East Gippsland Forest Management Area, the Forest Management Plan for Gippsland, the East Gippsland Forest Management Zoning and the Gippsland Lakes Strategy (Map 3).*
- Attractive landscapes and important vistas, through development and application of siting and design guidelines for coastal townships, recreation activity centres and other areas of high landscape quality.*

Assessment (Policy)

The policy provisions reviewed suggest that amenity conflicts need to be reduced. The neighbouring properties to the site have a range of amenity, some sensitive, some not. The nearest neighbouring property is used residentially despite the Commercial zoning, and this must be taken into account. The proposal is located within 40 metres of a neighbouring dwelling, and by appearances, habitable rooms would have direct or partially obstructed views of the sign. This is a potential severe detriment to the neighbours, especially if the sign is illuminated.

A review of the origins of the Scenic Roads (Map 3) has been undertaken, in order to confirm the appropriateness of the determination made in *Kempff v East Gippsland*. It is confirmed that Map 3 originally featured as Map 8 in the East Gippsland Planning Scheme when established in 1999. The Scenic Roads designation applies broadly to the Princes Highway, Great Alpine Road, Bonang Road, and other major highways. This designation has origins in the Gippsland Lakes Strategy.

Clause 52.05 Signs

This proposal relates to introducing a second major promotion sign in a rural township area. As such, Council is required by the Planning Scheme to ensure that the predominantly residential and minimal commercial amenity and character of the area is not adversely impacted. This is the most critical matter 'at contest'. Council conferred with VicRoads to ensure that the safe operation of the Princes Highway is not placed at risk by the development of the sign.

Decision Guidelines

The relevant decision guidelines indicate that inappropriate development which will have amenity impacts should be discouraged, especially adjacent to transport systems and in rural areas with distinct characteristics. The proposal takes advantage of zoning which has not been realised in the landscape through use and development of the land. The proposed development is not consistent with the prevailing pattern and form of development, represents a detriment to the amenity of surrounding landowners, and as such the proposal should not be supported.

Collaborative Procurement

Not applicable

Council Plan

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

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

Council Policy

The application was subject to a mediation session as there are between 5 and 9 objections, pursuant to the Planning Permit Applications Delegation Policy 2018. However, the officer recommendation is for refusal, so the matter must be reported to Council.

Options

1. Move the Officer Recommendation.
2. Move an alternate recommendation with Council's position to be recorded as supporting the outcome, but delegating the issue of a Notice of Decision to grant a planning permit, subject to conditions, to the General Manager Place and Community to resolve with officers. This is generally consistent with the Planning Permit Applications Delegation Policy, in that if there was officer support for the proposal, the matter could be determined under delegation.

Resourcing

Financial

Not applicable

Plant and equipment

Not applicable

Human Resources

Not applicable

Risk

The risks of this proposal have been considered and given the nature of the objections, it is likely that a decision to grant the permit will be challenged at VCAT, both by local residents and the sign company that had a permit refused previously. These are relatively minor risks to the organisation from a liability perspective; however they present additional resourcing issues.

Economic

The permit applicant argues that the proposal would contribute to the local economy by providing major promotion signage of a smaller size than the existing sign in Newmerella, which could be used by local businesses to promote local businesses from passing traffic. Officers question the economic value of the sign.

Social

Officers contend that the proposal would be visually intrusive and would damage the rural/small town character of the settlement. It would be expected that further applications would be made for major promotional signage along the north side of Princes Highway, Newmerella, where the Commercial Zoning is relatively permissive in relation to other rural settlements which have Township or Residential Zoning along the highway, and are more restrictive, as is the Farming Zone along the majority of the rural highway.

The settlement is small, and the number of local residents who have objected is not insignificant.

Environmental

There are no significant environmental impacts of the proposal.

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. There are no likely impacts of the proposal from or by climate change processes.

Engagement

The application was subject to one external referral and internal advice from the Senior Technical Officer – Development.

Department of Transport Response

The application was referred to the Department of Transport as a Section 55 determining authority under Clauses 52.05-3, 52.29-4 and 66.03. However, it is acknowledged that the application was incorrectly referred to VicRoads as a Section 55 determining authority under Clauses 52.05-3, 52.29-4 and 66.03, as the proposed signage is not animated or electronic (Clause 52.05-3) and is not a planning permit trigger under Clause 52.29-3, therefore referral under Clause 66.03 should not have occurred as a determining referral authority. Instead, should have been a Section 52 recommending for comments only due to the size and location of the sign as it could impact on road users.

Subsequently, the Department of Transport responded (attached) with no objections to the proposal subject to the following conditions:

1. *The sign must be located within the property boundary.*
2. *The luminance of the advertising sign must be such that it does not give a veiling luminance to the driver of greater than 0.25 cd/ma, throughout the driver's approach to the advertising sign.*
3. *Access to the sign must be from Warrens Road.*

It is intended that the above conditions would be added onto a permit if issued, adopted as conditions of the responsible authority.

Council's Technical Officer Advice

Council's Technical Officer advised of no objections to the proposal subject to the following condition:

Before the development starts, detailed design plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and then form part of the permit. The plans must be drawn to scale, with offsets and dimensions. The plans must generally be in accordance with the Layout Plans submitted with the application but modified to include:

- a) *Footing details;*
- b) *Construction notes*

It is intended that the above conditions would be included in a permit, if issued.

As noted previously, the application was made subject to notice via letters to adjacent landowners and occupiers and a notice was placed on the site. Following notice, eight objections were received. A planning mediation session was held on Monday 9 August 2021, with Cr White and Cr Greacen attending. The applicant and only one objector were present, and no resolution was reached.

The Grounds of Objection are summarised as:

Marni Joiner	<ul style="list-style-type: none"> • Impact on views/aesthetics. • Causing distraction to motorists. • Alter in character of the community/area.
Shadow Aldenhoven	<ul style="list-style-type: none"> • Change in streetscape. • Impact on views. • Extra lighting not necessary. • Alter in character of the community/area.
John Mekken	<ul style="list-style-type: none"> • Contrary statement in Appendix 6 of application report stating signage will not be illuminated. • Location of sign will be directly opposite a V/Line bus stop and intersection of school traffic. • Alter in character of the community/area. • Poor location as Princes Highway is identified as a "Scenic Route".
Larry Beswick	<ul style="list-style-type: none"> • Impact on views/aesthetics. • Causing distraction to motorists.
Stefan Kempff	<ul style="list-style-type: none"> • Poor location as Princes Highway is identified as a "Scenic Route". • Alter in character of the community/area. • Contrary statement in Appendix 6 of application report stating signage will not be illuminated. • Causing distraction to motorists. • Location of sign will be directly opposite a V-line bus stop and intersection of school traffic. • Causing distraction to motorists.
Peter Mekken	<ul style="list-style-type: none"> • Traffic congestion at the intersection would be increased • Proposed sign will be overly dominating (blocking view/sightlines) and out of character.
Total Outdoor Media	<ul style="list-style-type: none"> • Proposed sign is inappropriate to the site context. • Insufficient separation distance from other major promotion sign. • Proposal is inconsistent with Clause 21.04-2 and 21.12 of the East Gippsland Planning Scheme (Objectives and Policy). • Proposal is inconsistent with Clause 52.05 of the East Gippsland Planning Scheme. • Proposal is inconsistent with the findings of the Tribunal in <i>Kempft v East Gippsland SC [2019] VCAT 786 ('Kempft')</i>.
J O'Hehir	<ul style="list-style-type: none"> • Insufficient grounds against policy framework and Clause 52.05. • Clutter and adverse amenity impact.

Response to Objections

The grounds of objection are noted as generally sharing the concerns that have been raised by Officers. There are some statements of a technical nature which are not necessarily supported, such as the sign increasing traffic, as the sign itself is not a traffic generator.

Distraction and visual clutter are concerning, and these factors are potentially more detrimental in this proposal than in relation to the 10 Prestons Road sign. This is due to the proximity to the intersection, and nature of other services (such as a bus stop) in same intersection.

It is probable, if a permit were to be granted, that sign companies would make further applications for major promotional signs, and the justification to refuse would be eroded. The character of the area could be further degraded over time.

Attachments

1. Planning Application Documents [**5.4.1.1** - 1 page]
2. Objections [**5.4.1.2** - 11 pages]
3. Referral Responses [**5.4.1.3** - 2 pages]

5.4.2 Request to End S173 Agreement 91 Coast Ave Paynesville

Authorised by General Manager Place and Community

Conflict of Interest

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

Executive Summary

The purpose of this report is to seek Council's decision to end Section 173 Agreement AQ868619Y ('the Agreement') in relation to 91 Coast Avenue, Paynesville. Council provided in-principal support to end the agreement at the 13 April 2021 Ordinary Meeting (Item 5.1.5). Community consultation has now been carried out whereby notices were sent directly to the affected landowners on 16 June 2021, with responses due 30 June 2021. One objection was received.

The catalyst to end the Agreement as it relates to 91 Coast Avenue is the approval of planning permit 349/2020/P for use and development of a retirement village, business identification signage and subdivision (creation of road and reserve). Ending the Agreement was contemplated during the planning permit application assessment and as such permit condition 9 requires the Agreement to be ended wholly as it relates to 91 Coast Avenue before the permit is implemented.

Ending the agreement as it relates to 91 Coast Avenue is a reasonable request and will enable the land to be developed in accordance the applicable zone and overlays contained in the East Gippsland Planning Scheme. The Agreement will remain on the broader residential estate being developed in accordance with the most recent endorsed plans under 583/2004/P/D. The concerns of the objector have been addressed in consultation with the proponent, however the objector wishes to retain their rights to challenge the determination.

A copy of the request to end the Agreement, copy of title for 91 Coast Avenue, and Section 173 Agreement AQ868619Y can be viewed at **Attachment 1**. A copy of the objection is provided at **Attachment 2**.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report,***
- 2. agrees to the ending of Section 173 Agreement AQ868619Y wholly as it relates to Lot A on PS802718E Volume 11985 Folio 122, being 91 Coast Road Paynesville, 3880 in accordance with Section 178A of the Planning and Environment Act 1987 resolves to issue a Notice of Decision to End an Agreement in accordance with S178E(3) of the Planning and Environment Act 1987; and***
- 3. resolves that all costs of ending the legal agreement are to be borne by the landowner.***

Cr Mark Reeves / Cr Kirsten Van Diggele

THAT THE RECOMMENDATION BE ADOPTED

CARRIED

Background

Council has received a request to end the Agreement wholly as it relates to 91 Coast Avenue Paynesville. Planning permit 349/2020/P for a two-lot subdivision and development of two single storey dwellings was granted 13 November 2019. The subdivision layout differs from the Agreement, hence the request to end the agreement has been lodged.

The Agreement was entered into in accordance with Condition 2 of Planning Permit 94/2007/P (2 lot subdivision) to establish a connection to the detailed multi lot subdivision approved under Planning Permit 583/2004/P.

The Agreement seeks to ensure development is consistent with the configuration, layout and staging reflected in the plans endorsed under Planning Permit 583/2004/P as amended from time to time. Plans endorsed under the latest amendment to 583/2004/P can be seen at Figure 1 below.

The intention of the Agreement was not to limit the development and subdivision potential of the land, but rather to ensure good connectivity and to preserve the broader structure of the residential estate. It is noted that the planning scheme seeks to facilitate the development of a variety of lot sizes and housing options particularly close to social infrastructure such as childcare centres, schools and recreational facilities.

The owner obligations of Section 173 agreement AQ868619Y are:

4.1 Compliance with other permits

- (a) The Owner agrees that regardless of any rights conferred by the Planning Scheme, except with the prior written consent of Council, the Subject Land, or any part of it, must only be subdivided in a manner which depicts a lot layout and title boundaries which are:*
 - (i) generally in accordance with the configuration and layout of the subdivision authorised by the Planning Permit and the various conditions included in that permit; and*
 - (ii) wholly in accordance with the plans from time to time endorsed pursuant to condition 3 of the Planning Permit, which shows the required staging of the subdivision authorised by that permit.*

4.2 Development must be to approval of Council

The Owner agrees that if the Planning Permit expires after this Agreement commences, the subdivision of the Subject Land must be to the satisfaction of Council.

Strategic plans

Paynesville Growth Area Structure Plan, June 2016.

The Paynesville Growth Area Structure Plan was adopted by Council in August 2016.

The subject land is located in the structure plan area.

The purpose of the Paynesville Growth Area Structure Plan (PGASP) is to provide a set of desired outcomes, objectives, guidelines and requirements for future development of the growth area, based on principles of good urban design and sustainability.

The proposal is consistent with the strategic direction of the structure plan.

Legislation

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

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

The applicant is seeking to end section 173 Agreement AQ868619Y wholly as it applies to 91 Coast Avenue, Paynesville; however, the consent of all parties bound by the agreement has not been obtained.

In some instances, such as the case at hand, it is not always reasonable nor practical to obtain the consent of all parties to an agreement, particularly where there are a significant number of parties.

Where the consent of all parties has not been obtained, section 178B (2) of the *Planning & Environment Act 1987* provides the framework for the proposal to be assessed and considered by Council.

The proposal to end the Section 173 Agreement has been submitted pursuant to section 178A of the Act. A proposal submitted under this section of the Act, pursuant to section 178 B must be considered against set requirements. An assessment against these requirements is as follows:

The purpose of the Agreement

The purpose of the agreement is to implement permits 583/2004/P and 94/2007/P as amended from time to time resulting from the subsequent subdivision and sale of land to a separate developer. The Agreement provides for the subdivision of the land to proceed generally in accordance with the endorsed plans, which consider road hierarchy, reserve networks and linkages, and vegetation removal.

Whether and why the Agreement is no longer required

The Agreement will largely be implemented through the proposed development at 91 Coast Avenue under permit 349/2020/P, and the ongoing subdivision activity for residential development will continue under the same agreement. Permit 349/2020/P anticipated ongoing obligations to continue, and as such, a draft agreement has been prepared in readiness to lodge on title to uphold relevant aspects of this Agreement. Key to the implementation is the continuation of Coast Avenue in a North-South alignment, reserves and Ashley Street continuation in an East-West alignment. The proposal preserves these key infrastructure provisions.

Whether the ending of the Agreement would disadvantage any person, whether or not a party to the Agreement

It is considered that the ending of the Agreement itself would not disadvantage any person whether party to the Agreement or not. Notification of the proposal to end the Agreement as it relates 91 Coast Avenue, Paynesville was given to all parties to the Agreement and one objection was received. The objector raises valid considerations, which can be considered as follows:

1. The controls (Agreements) which have been implemented from time to time on the land anticipate the development of the estate for lots which could accommodate single dwellings. However, the responsible authority has already considered past subdivision of the land, and also development of a childcare centre within the estate. The zone and locality is suitable for the retirement village, and the permit has been issued.
2. The proposed use of a portion of Ashley Street (northside) for caravan and boat storage can be considered a temporary use, subject to the release of land to the west in the Paynesville Growth Area Structure Plan area. Once further land is available to the west, the caravan and boat storage area could be re-subdivided and the road, through the replacement Agreement, would continue. The applicant made clear their intentions to eventually construct Ashley Street at a later date through the planning permit application submission. This future stage would permit passive street surveillance.

Caravan and boat storage is an activity commonly associated with retirement villages. Ultimately, this activity could be achieved in the service industrial precinct proposed to the West of Grandview Road, or contained in a more controlled/internalised way in an expanded retirement village precinct in land further west, once rezoned.

3. Clause 55.02-5, integration with the street objective, does not apply to a proposal for a retirement village as a distinct land use/classification from multiple dwellings on a lot. Notwithstanding the lack of application, the use lends to active surveillance of public open space, generally by nature of increased availability of time for recreational activity, including walking in the surrounds. Security features for the retirement village, such as CCTV, can also contribute to enforcement and active surveillance.

The reasons why the responsible authority entered into the Agreement

The responsible authority entered into the Agreement to ensure the orderly development of the land and infrastructure. The intention of the Agreement was not to prevent further subdivision of the lots approved under permit 583/2004/P, nor to restrict what type of development could occur subject to the General Residential Zone.

The objector makes certain statements regarding “intent” at the time of subdivision, which have not necessarily been translated into strict restrictions on title. In the absence of such restrictions, the reasonableness of development should be assessed against the planning scheme provisions.

Any relevant permit or other requirements the land is subject to under the Subdivision Act 1988.

Permit 349/2020/P provided for the land to be used and developed for a retirement village, and for provision of business identification signage and also for subdivision (creation of road and reserve). The permit was granted with condition that this Agreement is ended wholly in relation to the land, with further expectation that relevant aspects of the Agreement are carried forward in a new Agreement. The ending of this Agreement is a logical next step in the progression of that permit being implemented. It is considered that no additional matters under the Subdivisions Act 1988 will be impacted upon by this proposal.

Any other prescribed matter

The Act is prescriptive as to the processing and consideration of proposals to end section 173 Agreements. In accordance with section 178E (3) where objections are made under section 178D, the responsible authority may, after considering the matters in section 178B – resolve to issue a Notice of Decision to End the Agreement in accordance with the proposal.

Collaboration

Nil

Council Plan

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

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

Council Policy

Past determinations of a similar nature include:

- 75 Paynesville Road, Paynesville 3880 – Section 173 Agreement AF202923J – Council resolved to end the Agreement in 2018
- 72 Ashley Street Paynesville, 3880 – Section 173 Agreement AF2020923J – Council resolved to end the Agreement in 2019
- 78 Ashley Street Paynesville, 3880 – Section 173 Agreement AF2020923J – Council resolved to end the Agreement in 2021

Options

Not applicable

Resourcing

Financial

The assessment has been undertaken utilising existing operational budget and is supported by statutory application fees for consideration. Future actions will require applicants to bear the cost of removing the Agreement from the title.

Plant and equipment

Nil

Human Resources

No additional human resources are required.

Risk

The risks of this proposal have been considered and it is concluded there is minimal risk. It is considered that the proposed development, already approved, is a reasonable and expected outcome, and that due process was followed in relation to the grant of the permit. With respect to the objection, there is little risk associated with a review of the officer recommendation.

Economic

The proposal will facilitate additional development as previously approved. The development relates to a retirement village.

Social

Ending the Agreement will not have a negative impact on the community. It is noted that consultation during the approval process for Planning Permit for the retirement village and subdivision did not attract any objections.

Environmental

The proposal will not have any significant environmental impacts.

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

The procedure to assess proposals to end section 173 agreements under section 178A of the Planning and Environment Act 1987 directs that notice of the proposal to all parties bound by the agreement is undertaken after obtaining 'in principle' support.

Notice took place in the form of direct mail to all persons who own land that has the same agreement included on their title. The notices were sent on 16 June 2021, with responses due on 30 June 2021.

One objection has been received by Council objecting to the request to end the agreement, which is provided at **Attachment 2**. The objection was lodged by agents for the landowners of land to the immediate west (Ah Yee family), who were previously owners of the land subject of the development.

The objection details objections to the planning permit application 349/2020/P and makes claims that notice of that proposal was not given appropriately. Officers and the Applicant have confirmed that instructions were carried out appropriately and the notice was sent to the nominated address for service of Council documents (same as rates). Through consultation, the Ah Yee family and their advocate acknowledge that they missed their opportunity to object to the permit but wish their objections to stand in relation to the ending of the agreement. This position was confirmed by the applicant on 9 September 2021.

The grounds of objection in relation to the proposed development and by association the ending of the agreement include:

1. *The original application to subdivide, lodged by my clients, sought to create a high quality residential estate, that reflected contemporary standards, would provide high standards of living for local residents and would also be a tribute to the more than 100 years occupation of the land by our client's family.*
2. *The intention was also that the development should integrate seamlessly into the future development of their landholding to the west, when that land became available for development. Recognition of the development potential of that land occurred with council's approval of the Paynesville Growth Area Structure Plan on 2 August 2016.*
3. *A key element in what became known as the Master Plan was that each lot would contain a house which would face the street.*
4. *It was never intended that forms of group housing or multi-unit-development would be prevented, however it was acknowledged that there were urban design attractions and public safety benefits as a result of individual dwellings facing onto local streets, where the comings and goings of those in the street can be passively observed by residents and anti-social behaviour reported to the Police by residents.*
5. *The retirement village has been designed so that the rear of dwellings face towards the adjoining streets and the adjoining public open space and high fences are located along those boundaries.*
6. *This aspect of design does not meet the requirements of Clause 55.02-5 of the planning scheme, Integration with the Street Objective, which requires the integration of a multi-unit development with the adjoining street and open space. In particular the clause requires that:*
 - *Development should be oriented to front existing and proposed streets.*
 - *High fencing in front of dwellings should be avoided if practicable.*
 - *Development next to existing public open space should be laid out to complement the open space.*
7. *In regard to the extension of Ashley Street, there is an expectation that Ashley Street will be constructed to the western boundary of the site when the adjoining land is being developed.*

This will enable the land to the west to be developed as soon as planning approval has been granted and for Ashley Street to provide the necessary access to it. The decision in this proposal to not extend Ashley Street to the boundary appears to be a deliberate ploy to ensure that it is not constructed, and therefore not able to be used for access to land to the west.
8. *The design of the retirement village does not allow for the construction of residential lots facing the south side of Ashley Street, and therefore the normal cost equation for the funding of road and infrastructure in a subdivision is not available to enable the future construction of Ashley Street.*
9. *The establishment of a low quality industrial style facility, the boat and the caravan storage and workshop area, on the north side of Ashley Street and separate from the main area of retirement village, is considered to be undesirable and inappropriate and totally unsuitable in what is a high quality residential neighbourhood.*

10. *Firstly, it is considered that these areas are best located within the main body of land occupied by the retirement village, and not separated from it.*
11. *Secondly, the use of this land in this manner, will prejudice the use of adjoining and nearby land in Ashley Street, for residential purposes. In this location, Ashley Street will be the gateway to the residential land to the west, when it is developed, and the form of development which is constructed between Coast Avenue and the boundary should be of a high quality and establish the high standard of development required to be undertaken in that land.*
12. *It is considered that the development in its current form will be extremely prejudicial to the orderly and proper planning of the area.*
13. *In regard to the amendment of the agreement, our clients are opposed to this unless the agreement provides for:*
 - *The deletion of the proposed boat and caravan storage and workshop area on the north side of Ashley Street.*
 - *The creation of residential lots on both sides of Ashley Street extension and the provision of dwellings to face onto Ashley Street.*
 - *The construction of Ashley Street to the western boundary, as part of this development.*

The specific considerations given to the grounds, where relevant to the ending of the Agreement, are contained within this report at **Legislation**.

Although within their rights to object, the substance of the objection does not warrant a deviation from previous approval to alter the proposed development pattern for the land, and on the basis that the proposal is considered consistent with the objectives of planning for Victoria, the ending of the agreement is recommended to be supported.

In accordance with the conditions of the parent permit, a new S173 agreement has been drafted, and officers have reviewed and approved the draft agreement.

Attachments

1. Ending Agreement Request [5.4.2.1 - 22 pages]
2. Objection - Redacted [5.4.2.2 - 5 pages]

5.4.3 Ending Agreements in Principle Support - 236 Clifton West Road Wy Yung and 79 Angophora Drive Mallacoota

Authorised by Acting General Manager Place and Community

Conflict of Interest

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

Executive Summary

The purpose of this report is to seek Council's in-principle support for landowners' requests to end two Section 173 Agreements for properties in Wy Yung and Mallacoota. This will allow for the implementation of stage two of the process to end the Agreements which will involve community consultation and further reports to Council in order to determine the proposals.

The catalyst to end the Agreement AG108268G as it relates to 236 Clifton West Road is the application for planning permit for a two-lot subdivision. Ending the Agreement has previously been contemplated for another affected lot but was not completed. As a result, Lot A is burdened, and the burden cannot be met. A request to end the Agreement and the relevant title documents, including the Agreement, can be found at **Attachment 1**.

The catalyst to end the Agreement AG845895P as it relates to 79 Angophora Drive, Mallacoota is the potential for future subdivision of the land. The Agreement was entered into in relation to the previous subdivision, which has since lapsed, having only been partially implemented. It is unlikely that the subdivision could be approved in the same format today, given the extension of the Bushfire Management Overlay to the whole of the land and other environmental constraints. The obligations of the Agreement are now inconsistent with the Planning Scheme. The request to end the Agreement and the relevant title documents, including the Agreement, can be found at **Attachment 2**.

Both requests are suitable to be progressed to notification, which allows for stakeholder submissions. As such, it is recommended that both requests are supported in-principle, and thereafter are subject to notification and final consideration by Council.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report;**
- 2. agrees in principle to the ending of Section 173 Agreement AG108268G wholly as it relates to lot A on plan of subdivision 748423B at 236 Clifton West Road, Wy Yung in accordance with Section 178A of the Planning and Environment Act 1987; and**
- 3. agrees in principle to the ending of Section 173 Agreement AG845895P wholly as it relates to lot 3 on plan of subdivision 616253 at 79 Angophora Drive, Mallacoota in accordance with Section 178A of the Planning and Environment Act 1987; and**
- 4. determines to undertake the necessary public notice of the proposals in accordance with Section 178C of the Planning and Environment Act 1987.**
- 5. notes that the matters will be reported to a future Council meeting for decision following the completion of the public notice processes.**

Cr Tom Crook / Cr Mark Reeves

THAT THE RECOMMENDATION BE ADOPTED

CARRIED

Background

AG108268G – 236 Clifton West Road, Wy Yung

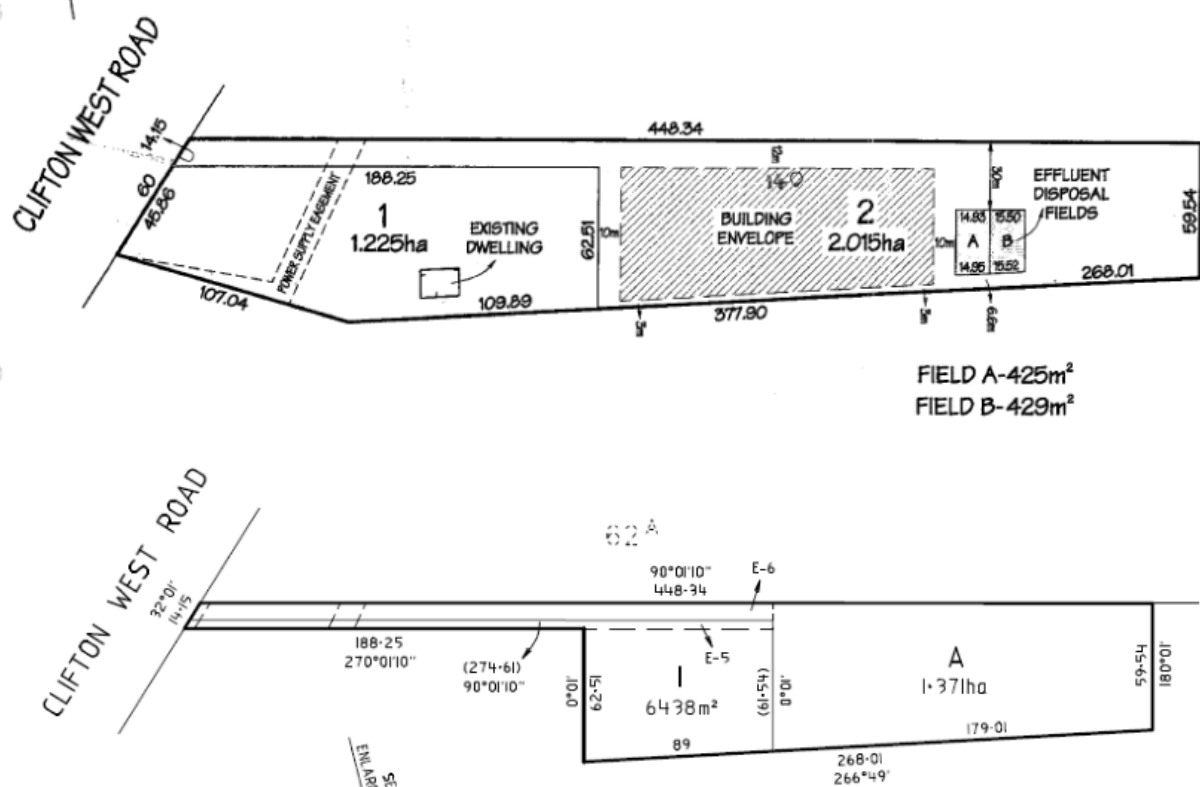
Council has received a request to end Agreement AG108268G (**Attachment 1**) wholly as it relates to lot A on plan of subdivision 748423B at 236 Clifton West Road, Wy Yung. Planning permit application 323/2021/P for a two Lot subdivision and creation of a carriageway easement is currently under consideration. Two objections have been received, which raise concerns about the proposed ending of the Agreement, alongside concerns related to the intensification of the development, such as management of the carriageway, dust, and general amenity.

The Agreement was entered into in accordance with conditions of Planning Permit 150/2008/P, for a two lot subdivision. The purpose of the Agreement was to ensure any buildings erected on the subject land were constructed within the Building Envelope as shown on the Plan endorsed as part of Permit.

Section 173 agreement AG108268G states:

SPECIFIC OBLIGATIONS OF THE OWNER

The Owner covenants and agrees that the Owner will not build, construct or erect or cause or permit to be built, constructed or erected any Building on the Subject Land or any part of the Subject Land outside a Building Envelope without the prior written consent of Council.



The Building Envelope was nominated on the Proposed Subdivision Plan in response to the provisions of the Low Density Residential Zone of the East Gippsland Planning Scheme. The provisions of the Low Density Residential Zone do not require the Building Envelope to be registered on title under an Agreement, although this was the common practice of Council at the time Planning Permit 150/2008/P was issued.

A review of the planning file indicates that the subject land does not contain any significant site constraints or characteristics that necessitated the registration of the Agreement on title to the land. Under current practices Council receives the Building Envelope Plan for demonstrative purposes only, to ensure the requirements of the Zone provisions can be satisfied.

On this basis, officers consider that the request to end the agreement is reasonable, however, given the objections received to date, would not make a determination for permit 323/2021/P until the matter is resolved.

AG845895P - 79 Angophora Drive, Mallacoota

Council has received a request to end Agreement AG845895P (**Attachment 2**) wholly as it relates to lot 3 on plan of subdivision 616253, as was registered on the subject land in accordance with Condition 3 of Planning Permit 11/2006/P. The land affected by the Agreement includes Lots 9-27, Lots 44-47, Lot 60 and Lot S3 (for Stage 3) on Plan of Subdivision 616253L.

Condition 3 was included within Planning Permit 11/2006/P to satisfy the requirements imposed by DELWP and the CFA as referral authorities in accordance with Clause 66 of the East Gippsland Planning Scheme.

In summary the purpose of the Agreement was to ensure:

- Dwellings constructed within Building Envelopes where specified.
- Retention and protection of significant trees.
- Construction and maintenance of fences on the boundaries around specified lots.
- The removal of vegetation as required and maintenance of cleared areas thereafter, in accordance with CFA referral response.
- Prevention of environmental weeds and exclusion of domestic stock.

The Agreement was executed on 3 September 2009. The Agreement remains relevant to stages 1 and 2 of the subdivision.

The owner of the subject land proposes to undertake a Two Lot Subdivision of the land which requires a Planning Permit under the provisions of the General Residential Zone 1, Bushfire Management Overlay, Erosion Management Overlay, and Design and Development Overlay Schedule 12.

In preparing the Planning Permit application the applicants determined that the specific obligations of the owner under part 3 of Agreement AG845895P were found to be inconsistent with the current requirements of Clause 53.02: Bushfire Planning. Any future subdivision must consider the relevant planning controls which apply when the application is made. There has already been significant change in planning controls which makes the Agreement difficult to fulfill.

The application is being made subject to public notification. It is unlikely, however possible, that the application will receive objections.

Officers consider that the request to end the agreement is reasonable, and therefore recommends that Council provides in-principle support to end the agreement, with a subsequent requirement for notice of the proposal to end the agreement for Lot S3 before making a final determination at a future Council meeting.

Legislation

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

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

The applicants are seeking to end agreements, however, the consent of all parties bound by each of the agreements has not been obtained.

In some instances, such as the case at hand, it is not always reasonable nor practical to obtain the consent of all parties to an agreement, particularly where there are a significant number of parties.

Where the consent of all parties has not been obtained, section 178B (2) of the *Planning & Environment Act 1987* provides the framework for the proposal to be assessed and considered by Council.

Collaborative Procurement

Not Applicable

Council Plan

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

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

Council Policy

There is no specific Council policy established for consideration of these matters.

Options

For 236 Clifton West Road, there are alternative options, including considering whether it is appropriate to give in-principle support based on objections which have been received to the proposed subdivision. In considering the options, giving in-principle support to the proposal does not give finality to the responsible authority's decision, it merely facilitates the engagement process.

It is expected that objections will be made, and that the applicant will seek to respond to those objections and make a case to Council in the final determination. If in-principle support is not granted, then only the requestor can request a review of the determination in the early stage of the process. If notice is given and a determination is made, then neighbours can also respond to or appeal the determination.

For 79 Angophora Drive, the options are limited as:

- there is not an ongoing obligation as the subdivision which required the execution of the Agreement cannot proceed; and
- the removal of the Agreement will allow for alternative applications to be made, which must now consider bushfire risk and will significantly alter the subdivision potential of the land.

As such, the officer recommendation is to process the request and give notice of the proposal, before further reporting.

Resourcing

Financial

Notification of the proposal is required, which is included in the application fees.

Plant and equipment

Nil

Human Resources

Assessment is by planning department officers.

Risk

The risks of this proposal have been considered and there is relatively low risk in the determinations as recommended, as there are further determinations required after notification is given.

Economic

The proposals may facilitate additional or alternative development/subdivision.

Social

Ending the Agreements will not likely have a negative impact on the community.

Consultation during the approval process for any Planning Permits will assess future amenity impact.

Environmental

The proposal will not have any significant 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

The procedure to assess proposals to end section 173 agreements under section 178A of the Planning and Environment Act 1987 directs that notice of the proposal to all parties bound by the agreement is undertaken after obtaining 'in principle' support.

Notice for each proposal will take place in the form of direct mail to all persons who own land that has the same agreement included on their title.

Attachments

1. Request end S 173 A G 108268 G 236 Clifton West [5.4.3.1 - 17 pages]
2. Request end S 173 A G 845895 P 79 Angophora [5.4.3.2 - 32 pages]

6 Urgent and Other Business

Nil

7 Confidential Business

Cr Arthur Allen / Cr Jane Greacen OAM

COUNCIL WILL NOW CLOSE THE MEETING TO THE PUBLIC IN ACCORDANCE WITH THE PROVISION OF SECTIONS 3(1) AND 66(5) OF THE LOCAL GOVERNMENT ACT 2020, THE INFORMATION IS CONFIDENTIAL BECAUSE IT CONTAINS PRIVATE COMMERCIAL INFORMATION, WHICH IF RELEASED, WOULD UNREASONABLY EXPOSE THE BUSINESS, COMMERCIAL OR FINANCIAL UNDERTAKING TO DISADVANTAGE.

CARRIED

The meeting was closed to the public at 9.25 pm

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

Deliberations of Council while in closed session are recorded in Council's Confidential Minute Book.

Reports and Attachments are located in Council's Confidential Minute Book.

The meeting was re-opened to the public at 9:32 pm

7.1 Contract Variation - CON2020 1932 Lakes Entrance Transfer Station

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

Cr Mark Reeves / Cr Trevor Stow

THAT COUNCIL SUSPEND STANDING ORDERS TO ALLOW CR MENDY URIE TO ADDRESS THE COUNCIL ON HER TERM AS MAYOR.

CARRIED

Standing Orders were suspended at 9.33 pm.

Standing Orders were suspended at this juncture of the meeting to allow an opportunity Cr Mendy Urie to reflect on her term as Mayor.

Cr Mark Reeves / Cr Kirsten Van Diggele

THAT STANDING ORDERS BE RESUMED

CARRIED

Standing Orders were resumed at 9.45 pm.

8 Close of Meeting

Cr Mendy Urie declared the Council Meeting closed at 9.46 pm.

Confirmed

Cr Mark Reeves
16 November 2021