



# Unconfirmed Minutes Unscheduled Council Meeting

**Thursday 16 December 2021 at 6:00 pm**

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

*Councillors*

Crs Mark Reeves (Mayor), Arthur Allen (Deputy Mayor),  
Sonia Buckley (via Microsoft Teams), Tom Crook, Jane Greacen OAM,  
Trevor Stow (via Microsoft Teams), Mendy Urie, 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 Thursday 16 December 2021.

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.

The East Gippsland Shire Council live streams, records and publishes its meetings via webcasting. During the meeting, any members of the public who are addressing the Council will have their image and comments recorded.

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

In line with the *Local Government Act 2020* Councillors are able to attend Council meetings electronically or in person and the meetings will be open to the public via livestreaming.

If Council encounters technical difficulties with the livestreaming during the meeting, we will adjourn until the issue is resolved. If technical issues can't be resolved the meeting may be postponed to a later time or date.

A member's attendance can only be recorded as present at a Council meeting when the member can confirm that they meet all of these criteria:

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).

I will now confirm with Councillors Stow and Buckley that they can see, hear and be heard and to note assurance that the location that they are 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?

Councillors Stow and Buckley confirmed.

## 1.2 Purpose of meeting

In accordance with Rule 3.3 of East Gippsland Shire Council Governance Rules, Anthony Basford Chief Executive Officer, in consultation with the Mayor and Councillors, has called an unscheduled Council meeting to consider items relating to Council business.

The Chief Executive Officer as required under Rule 3.3 of East Gippsland Shire Council Governance Rules, has given notice on the Council website of the unscheduled Council Meeting on Thursday 16 December 2021 at 6.00 pm.

### **1.3 Apologies**

Nil

### **1.4 Declaration of Conflict of Interest**

Nil

### **1.5 Next meeting**

The next Council Meeting of Tuesday 1 February 2022 to be held at the Corporate Centre, 273 Main Street Bairnsdale commencing at 6.00 pm.

### **1.6 Open Forum**

#### **1.6.1 Petitions**

Nil

#### **1.6.2 Questions of Council**

Nil

#### **1.6.3 Public Submissions**

Nil

## 2 Officer Reports

### 2.1 Assets and Environment

#### 2.1.1 CON2022 1466 Mallacoota Seawall - Stage 2

Authorised by General Manager Assets and Environment

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#### Conflict of Interest

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

#### Executive Summary

Pursuant to sections 3(1) and 66(5) of the *Local Government Act 2020*, the information contained in the attachment/s to this report are confidential because it contains private commercial information, being information provided by a business, commercial or financial undertaking that relates to trade secrets.

The purpose of this report is to provide an overview of the tender for the second stage of the seawall reconstruction adjacent to the Mallacoota Foreshore Holiday Park; 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 Mallacoota foreshore is protected by sections of seawall. Following concerns over the condition of the ageing seawall infrastructure, Council and the Department of Environment, Land, Water and Planning (DELWP) have been working together on a program of replacement works based on seawall condition and risk assessment. The seawall adjacent to the Mallacoota Foreshore Holiday Park was identified as the highest priority in Mallacoota.

The reconstruction of the seawall has been staged over multiple years. Stage 1 of the replacement works is scheduled for completion in early December 2021. This contract is for Stage 2 and will replace 132m of seawall with funding received from the State Government.

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

## **Officer Recommendation**

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

- 1. receives and notes this report and all attachments pertaining to this report;***
- 2. accepts the tender submitted by \_\_\_\_\_ for CON2022 1466 Mallacoota Seawall Stage 2 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 JARVIS NORWOOD CONSTRUCTIONS PTY LTD FOR CON2022 1466 MALLACOOTA SEAWALL STAGE 2 FOR THE CONTRACT AMOUNT OF \$470,812.00 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.***

***Cr Arthur Allen / Cr Tom Crook***

***THAT THE RECOMMENDATION BE ADOPTED***

***CARRIED***

## **Background**

In 2018, DELWP and Council engaged Black Geotechnical to complete a condition assessment of the seawalls along the Mallacoota Foreshore Holiday Park. The purpose of the investigations and subsequent report was to provide a risk rating for each damaged section of seawall to allow the prioritisation of replacement works.

- Stage 1 of the replacement works is near completion and reconstructed 190 metres of seawall including a section that was fenced off due to public risk.
- Stage 2, this contract, will replace a further 132m of seawall and continue the footpath constructed along stage 1 works.
- Stage 3 is currently being designed and will replace the remaining section of seawall along the Foreshore Park.

Stage 2 follows the same design principles as Stage 1. It utilises the same construction materials, concrete panels and galvanised piles. And it also adopts the same seawall height of 1.0m AHD, which is higher than the existing wall but does not interfere with vessels moorings located immediately off the wall.



## **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*.

Pursuant to sections 3(1) and 66(5) of the *Local Government Act 2020*, the information contained in the attachment/s to this report are confidential because it contains private commercial information, being information provided by a business, commercial or financial undertaking that relates to trade secrets.

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**

Given the contractual nature of this work, it has not been prepared in collaboration with another local government or agency. However, the overall program of seawall replacement is being managed in close collaboration with DELWP and is being co-funded by the Victorian government.

## **Council Plan**

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

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

## **Council Policy**

Procurement has been undertaken in accordance with the East Gippsland Shire Council Procurement Policy (2021).

## **Options**

A range of options were considered when developing the design for Stage 1. The design settled on was considered the best option for a range of reasons including, aesthetics, effectiveness, cost, ability to be maintained, and ability to be modified over time if required.

The options before Council are to either award or not award the contract.

## **Resourcing**

### *Financial*

The project has received \$500,000 in external funding from the Victorian Government through the Department of Environment, Land, Water and Planning, and together with a contribution from Council, provides an adequate budget for the proposed works and overheads. Budget detail is provided within **Confidential Attachment 1**, Tender Evaluation Report.

### *Plant and equipment*

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

### *Human Resources*

This project will be supervised by an existing Project Supervisor from the Assets and Projects unit.

### *Risk*

The risks of this proposal have been considered and as part of his contract the successful contractor will develop a Project Management Plan to mitigate identified risks.

## **Economic**

Economic benefit for the project includes the economic activity associated with the Construction itself plus the long-term benefits for the local economy. 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 retaining jobs in East Gippsland for a minimum of 6 months.

Contractor's staff will also reside in Mallacoota during the week and as such contribute to the local economy through accommodation and food expenditure in addition to the purchase of locally produced materials such as concrete for the project works.

The works will maintain the visitor experience in Mallacoota, particularly access to water and vessel moorings from the foreshore. Given the reliance of the Mallacoota economy on tourism, this project is therefore an important aspect of the continued tourism appeal of Mallacoota and maintenance of visitation numbers.

## **Social**

The Mallacoota foreshore is an important aspect of the liveability of Mallacoota. The replacement of the seawall and the construction of the concrete path will improve the local amenity and provide safer walking opportunities in this area.

## **Environmental**

The project is situated in an environmentally sensitive area. As part of the contract requirements, the Contractor will develop and implement a site-specific Construction Environmental Management Plan to mitigate environmental risks such as sediment run off.

The project also addresses erosion issues that would occur if the seawall was left to continue to deteriorate.

## *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.

As detailed earlier in this report the seawall has been designed at a higher level than the existing wall, recognising the changing climatic conditions that see the Mallacoota estuary mouth closed more often and localised flooding occurring more often.

## **Engagement**

Discussions were held with the Mallacoota and District Recovery Association (MADRA) during the Stage 1 design. Communication is ongoing with the Mallacoota Foreshore Holiday Park in regard to the impact of the works on their infrastructure and site availability.

Regular updates will be provided to the Mallacoota community during the construction phase.

## **Attachments**

1. CONFIDENTIAL - CON2022 1466 Mallacoota Seawall Stage 2 - Tender Evaluation Panel Report Reviewed [2.1.1.1 - 6 pages]

Authorised by General Manager Assets and Environment

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### Conflict of Interest

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

### Executive Summary

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

The purpose of this report is to provide an overview of the tender for the construction of a footpath along Mirrabooka Road in Mallacoota; and in accordance with the Procurement Policy seek approval from Council to award the contract as recommended by the Tender Evaluation Panel.

The construction of a new footpath along Mirrabooka Road and Lakeside Drive was highlighted as a high priority on the Access and Mobility Plan 2012. At the time, the project was not pursued due to cost and budget constraints.

The project has continued to be a high priority for the Mallacoota community and funding for the project has been allocated as part of Council's 2021-22 capital works program. This pedestrian route is used daily by students attending the P-12 College, with limited available space, the construction of a footpath will provide improved safety at this location.

Design for the project was recently finalised and the proposal was put forward to the community for feedback. The scope of works includes a new section of kerb and channel, associated drainage and a small retaining wall to facilitate the construction of a safe footpath. This new footpath will connect with the Lakeside Drive shared pathway, reconstructed following the bushfires in January 2020.

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

## **Officer Recommendation**

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

- 1. receives and notes this report and all attachments pertaining to this report;***
- 2. accepts the tender submitted by \_\_\_\_\_ for CON2022 1455 Mirrabooka Road Footpath Redevelopment Mallacoota for the contract amount of \_\_\_\_\_ exclusive of GST;***
- 3. authorises the signing and sealing of the contract in the form proposed; and***
- 4. resolves that the attachments to this report and all discussions in relation to these attachments remain confidential.***

### **THAT COUNCIL:**

- 1. RECEIVES AND NOTES THIS REPORT AND ALL ATTACHMENTS PERTAINING TO THIS REPORT;**
- 2. ACCEPTS THE TENDER SUBMITTED BY THINKGREEN CONSTRUCTIONS PTY LTD T/AS GROUND TECHNIQUE EXCAVATIONS FOR CONTRACT NO CON2022 1455 MIRRABOOKA ROAD FOOTPATH REDEVELOPMENT MALLACOOTA FOR THE CONTRACT AMOUNT OF \$581,517.74 EXCLUSIVE OF GST;**
- 3. AUTHORIZES THE SIGNING AND SEALING OF THE CONTRACT IN THE FORM PROPOSED; AND**
- 4. RESOLVES THAT THE ATTACHMENTS TO THIS REPORT AND ALL DISCUSSIONS IN RELATION TO THESE ATTACHMENTS REMAIN CONFIDENTIAL.**

***Cr Mendy Urie / Cr Jane Greacen OAM***

**THAT THE RECOMMENDATION BE ADOPTED**

**CARRIED**

## **Background**

The construction of a new footpath along Mirrabooka Road and Lakeside Drive was highlighted as a high priority on the Est Gippsland Access and Mobility Plan 2012. At the time, Council engaged an engineering consultant to investigate design options on site and consider available options.

The community's preferred option was to construct a footpath on the Eastern side of the Mirrabooka Road, however, multiple site constraints were highlighted during the planning stage. Technical challenges included steep vehicle access onto properties and limited space within the road shoulder to construct a safe footpath. The project planning also identified very high cost for the proposed works.

Over the past 5 years, Council has received numerous requests from the Mallacoota community to revisit this project and allocate funding as part of Council's capital works program. In early 2020, a vehicle accident on Mirrabooka Road triggered further site investigation. A section of road shoulder, which was heavily vegetated prior to the bushfires, was identified as a high-risk location requiring installation of a guardrail to protect vehicles from going down a bare steep embankment.

As a consequence, the option of constructing a footpath on the eastern side of Mirrabooka Road has not been viable and an alternative design on the western side of the road has been pursued. Detailed design was finalised in 2021 and this new proposal was put forward to the community for feedback. The scope of works includes a new section of kerb and channel, associated drainage and a small retaining wall to facilitate the construction of a safe footpath.

This new footpath will connect with the Lakeside Drive shared pathway, reconstructed after the January 2020 bushfires, and will be used daily by students attending the P-12 College and broader community members.

Following community engagement and confirmation of sufficient budget as part of the 2021/22 capital works program, the project was publicly tendered through October and November 2020. As a result of the invitation to tender and the subsequent tender evaluation provided as **Confidential Attachment 1**, Council is in a position to deliver this for the Mallacoota community.

Should Council proceed with approving award of the contract, works will be carried out from February 2022, following conclusion of the peak tourism period during the January school holidays.



**Figure 1 – impression of new path and retaining wall**

## 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*.

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

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

## Collaborative Procurement

Pursuant of section 109(2) of the *Local Government Act 2020* collaborative procurement was considered however not assessed as a viable option given the specificity of the project to East Gippsland Shire Council.

## 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 (2021).

## Options

Two options were considered during the design stage:

1. construction of a footpath on the Eastern side of Mirrabooka Road with an elevated boardwalk along Mirrabooka Road
2. construction of a footpath on the Western side of Mirrabooka Road and Lakeside Drive with a crossing point near the Lakeside Drive intersection

The Eastern option was not pursued due to issues associated with privacy (boardwalk overlooking onto private properties), steep vehicle access onto properties and limited space within the road shoulder to construct a safe footpath. The viability of this option was further reduced following a vehicle accident in 2020 and the need to install a guardrail on the eastern side of the road.

The selected design, on the western side, represents the safest option and passed the third-party road safety audit.

Council has the option to award a contract in accordance with Tender Evaluation Panel's recommendation, or to not proceed with the procurement.

## **Resourcing**

### *Financial*

In recognising the priority of this project, Council has allocated \$500,000 as part of the 2021/22 capital works budget.

A detailed analysis of anticipated project costs budget is provided in the attached Tender Evaluation Report, provided as **Confidential Attachment 1**.

### *Plant and equipment*

All plant and equipment requirements will be provided in accordance with the proposed contract.

### *Human Resources*

This project will be supervised by a Project Supervisor from the Assets and Projects Unit.

### *Risk*

Risks associated with the safety of the footpath and crossing were identified during the planning and design stage whilst considering design options. The selected design represents the safest option and minimises risk to pedestrians.

As part of the contract requirements, the Contractor will develop and implement a site-specific Project Management Plan to mitigate identified risks such as traffic management.

## **Economic**

Economic benefit generated by the project include 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 retaining jobs in East Gippsland.

## **Social**

The completion of this project will greatly improve pedestrian safety in the area. The lack of existing footpath and safe crossing is causing great concerns amongst the school students who attend the P-12 College. This new infrastructure will ensure their safety.



## **Environmental**

As part of the contract requirements, the Contractor will develop and implement a site-specific Construction Environmental Management Plan to mitigate environmental risks such as sediment run off in the drain line.

### *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**

As part of the planning and design stage, extensive community engagement was undertaken.

The detailed design and artist impressions were advertised onto Council's YourSay page and posted on social media seeking community feedback. Various face to face meetings were organised with key stakeholders being Mallacoota & District Recovery Association (MADRA) and the Mallacoota & District Business & Tourism Association (MDBTA).

## **Attachments**

1. CONFIDENTIAL - CON2022 1455 Mirrabooka Road Footpath Redevelopment Mallacoota - TEP Report [2.1.2.1 - 8 pages]

Authorised by      General Manager Assets and Environment

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### **Conflict of Interest**

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

### **Executive Summary**

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

The purpose of this report is to provide an overview of the tender for the development of the Eagle Point Foreshore Hub and in accordance with the East Gippsland Shire Council Procurement Policy, seek approval from Council to award a contract as recommended by the Tender Evaluation Panel.

The development of a community hub on the Eagle Point Foreshore is an outcome of the Eagle Point Structure Plan and the Eagle Point Marine and Coastal Management Plan.

Guided by these strategic documents, the project has been developed and designed capturing the following outcomes:

- Realignment of the existing road away from the foreshore to create an improved recreational space.
- Introduction of new water-based play elements which would remove the planned introduction of these elements to the Eagle Point Caravan Park, making the infrastructure more widely available for community use.
- Significant new landscaping to create play areas, paths and walkways and introduce shade to the foreshore.
- Enlarged beach to enhance swimming opportunities
- Removal of existing toilet block from the foreshore and relocation to a new multi-purpose hub.
- Development of a new multi-functional building accommodating the caravan park kiosk, toilets, water-based activity equipment hire storage, café and community meeting space.

The project is anticipated to introduce new economic activity into the rapidly growing Eagle Point hamlet and support the visitor economy, while also realising extensive community benefits through the provision of high-quality community facilities and enhancements to the amenity, accessibility and safety of the Eagle Point Foreshore. There are currently no such facilities within Eagle Point.

Delivery of the project is supported by a \$3.305M allocation from the Victorian State Government Community Infrastructure Load Scheme.

As a result of the invitation to tender and the subsequent tender evaluation provided as **Confidential Attachment 1**, Council is now able to consider the recommendation to award the contract. An independent Probity 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 1461 Eagle Point Foreshore Hub for the contract amount of \_\_\_\_\_ exclusive of GST;***
- 3. authorises the signing and sealing of the contract in the form proposed; and***
- 4. resolves that the attachments to this report and all discussions in relation to these attachments remain confidential.***

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

- 1. RECEIVES AND NOTES THIS REPORT AND ALL ATTACHMENTS PERTAINING TO THIS REPORT;***
- 2. ACCEPTS THE TENDER SUBMITTED BY EASTERN VICTORIA CONSTRUCTION GROUP PTY LTD FOR CON2022 1461 – EAGLE POINT FORESHORE HUB FOR THE CONTRACT AMOUNT OF \$3,946,016.55 EXCLUSIVE OF GST;***
- 3. AUTHORIZES THE SIGNING AND SEALING OF THE CONTRACT IN THE FORM PRESENTED; AND***
- 4. RESOLVES THAT THE ATTACHMENTS TO THIS REPORT AND ALL DISCUSSIONS IN RELATION TO THE ATTACHMENTS REMAIN CONFIDENTIAL.***

***Cr Tom Crook / Cr Kirsten Van Diggele***

***THAT THE RECOMMENDATION BE ADOPTED***

***CARRIED***

## **Background**

The development of a community hub on the Eagle Point Foreshore is the result of two long-term plans for Eagle Point: The Eagle Point Structure Plan and the Eagle Point Marine and Coastal Management Plan. Both plans were developed with extensive community consultation, with the community indicating that the development of this hub was one of their highest priorities for Eagle Point.

Guided by these strategic documents, a detailed design brief was developed for the Foreshore Hub was developed capturing the following outcomes:

- Realignment of the existing road away from the foreshore to create an improved recreational space.
- Introduction of new water-based play elements which would remove the planned introduction of these elements to the Eagle Point Caravan Park.
- Significant new landscaping to create play areas, paths and walkways and introduce shade to the foreshore.
- Enlarged beach to enhance swimming opportunities.

- Removal of existing toilet block from the foreshore and relocation to a new multi-purpose hub
- Development of a new multi-functional building accommodating caravan park kiosk, toilets, water-based activity equipment hire storage, café and community space.

A contract was awarded by Council on 21 April 2020 to Bild Architecture, for all design deliverables for the project and relevant planning reports to support approvals processes.

Following the development of schematic designs for the project, an open information session was held at Eagle Point Foreshore on 5 December 2020. The project design and progress was also communicated via online channels including Council's website and social media, where opportunity was available to provide feedback on the plans.

Community feedback showed general support for the Foreshore Hub project which reinforced earlier consultation on the Foreshore Plan and Structure Plan, where the need for a community hub was identified as a high priority by the local community. However, the consultation did raise some concerns about the configuration of the relocated road and the impact on School Road. Officers have reviewed the safety of intersection and incorporated further safety improvements into the final design. In addition to this, further safety improvements are being considered for the intersection of School Road and Eagle Point Road adjacent to the School.

A planning permit for the project was received on 8 July 2021 finalising all necessary approvals to proceed with the project.

Council has been successful in securing \$3.305M Victorian State Government Community Infrastructure Low Interest Loan Scheme to deliver the Eagle Point Foreshore Hub project.

A tender was prepared and advertised for a four-week period through October and November 2021. As a result of the invitation to tender and the subsequent tender evaluation provided as **Confidential Attachment 1**, Council is now able to consider the recommendation to award the contract. An independent Probity Report is provided as **Confidential Attachment 2**.

## 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*, as it relates to procurement in accordance with Councils Procurement Policy prepared in accordance with section 108 from the Act.

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

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

## **Collaborative Procurement**

Pursuant of section 109(2) of the *Local Government Act 2020* collaborative procurement was considered however not assessed as a viable option given the specificity of the project to East Gippsland Shire Council.

## **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**

The tender for CON 2022 1461 Eagle Point Foreshore Hub has been prepared in accordance with Council Procurement Policy and Procurement Procedure (2021).

## **Options**

Multiple options for the project have been considered throughout the design process and refined through engagement with key stakeholders and community, considering the budget and broader constraints for the project.

A final design has been tendered with tenders received assessed by a Tender Evaluation Panel. The Tender Evaluation Report (**Confidential Attachment 1**) details the assessment of options for the selection of a contractor for the project.

Council has the option to award a contract in accordance with Tender Evaluation Panel's recommendation, or to not proceed with the procurement.

## **Resourcing**

### *Financial*

Council has been successful in securing \$3.305M Victorian State Government Community Infrastructure Low Interest Loan Scheme to deliver the Eagle Point Foreshore Hub project.

A detailed analysis of anticipated project costs budget is provided in the attached Tender Evaluation Report, provided as **Confidential Attachment 1**.

### *Plant and equipment*

All plant and equipment requirements will be provided in accordance with the proposed contract.

### *Human Resources*

A Project Supervisor is allocated to oversee delivery of the proposed contract.

## *Risk*

The risks of this proposal have been considered and considered low, as projects risks have been assessed and mitigated through the development and design of the project and will continue to be managed through detailed construction risk management plans.

## **Economic**

Eagle Point Foreshore Hub project will include the provision of a café, introducing new economic activity and opportunities to Eagle Point. This assist in servicing the needs of the local community while providing a new attraction for visitors, supporting the visitor economy.

## **Social**

Eagle Point Foreshore Hub project will include the provision of a space for community and social use, greatly enhancing the quality of facilities available for local community groups and a rapidly growing community. At present there are no suitable spaces for this community to come together. The space will also be used by the nearby Eagle Point Primary Scholl for their all-school functions and celebrations.

The project will also greatly enhance the amenity, accessibly and safety of the Eagle Point Foreshore, resulting in improved spaces for enjoyment, recreation, and social interaction.

## **Environmental**

The Eagle Point Foreshore has been subject to erosion and the loss of sand and useable beach. The project incorporates significant beach nourishment with imported sand to protect the foreshore and improve the amenity for recreational use.

The project has been designed to utilise energy efficiency insulations and materials. Roof-top solar will also be installed on the building, with this to be sourced outside of this tender.

## *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**

The development of a community hub on the Eagle Point Foreshore is the result of two long-term plans for Eagle Point, being the Eagle Point Structure Plan and the Eagle Point Marine and Coastal Management Plan. Both plans were developed with extensive community consultation, with the community indicating that the development of this hub was one of their highest priorities for Eagle Point.

As part of the design and process, an open information session was held at Eagle Point Foreshore on 5 December 2020. The project design and progress has also been communicated via online channels including Council's website and social media, where opportunity was available to provide feedback on the plans.

This feedback showed general support for the project outcomes however did raise some concerns about the configuration of the relocated road and the impact on School Road. Council have reviewed the safety of intersection and incorporated further safety improvements. In addition to this further safety improvements are being considered for the intersection of School Road and Eagle Point Road adjacent to the School.

The local school has also been involved as part of a project reference group during the design process and has indicated strong support for the hub and the community meeting facilities in particular. The facility will be used by the growing school for its all-school functions and celebrations.

### **Attachments**

1. CONFIDENTIAL - CON 2022 1461 Eagle Point Foreshore Hub - TEP Report [2.1.3.1 - 13 pages]
2. CONFIDENTIAL - CON 2022 1461 Eagle Point Foreshore Hub - Probity Review Report [2.1.3.2 - 2 pages]

Authorised by General Manager Assets and Environment

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### Conflict of Interest

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

### Executive Summary

Pursuant to sections 3(1) and 66(5) of the *Local Government Act 2020*, the information contained in 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 WORLD Sporting Precinct project that has led to the development of a tender for the second package of works being CON2022 1452; and
- provide an overview of the tender itself and in accordance with the East Gippsland Shire Council Procurement Policy 2020 seek approval from Council to award the contract.

The proposed works originate from Council's adoption of the Bairnsdale Sporting Facilities Plan 2018 (the plan) at the Council meeting held on 4 September 2018 (item No 5.1.2). This plan identified the redevelopment of the WORLD sporting precinct for Netball, Hockey, Soccer and Futsal as being one of the highest priorities of the plan. This therefore led to detailed design work and property negotiations.

Netball is the highest participation sport in Bairnsdale with 909 players identified as participating in Netball on a weekly basis (2016 figures). Many of these players play at the WORLD centre which has the most netball courts and offers mid-week competitions. Most of the players are female and the majority are junior players.

The Bairnsdale Sporting Facilities Plan identified that the WORLD centre is the key facility for netball, but that the courts are in poor condition and the pavillion is inadequate. The poor quality of the facilities has been identified as restricting participation and the ability to hold high-level netball competitions in East Gippsland.

Improvement of netball facilities at the WORLD is therefore identified as a once-in-a-generation investment which will significantly improve playing conditions and encourage growth in participation. The design of the new facilities has been undertaken in collaboration with Bairnsdale Netball Association and Netball Victoria, with there being very strong support for the upgrades represented in this contract.

The concept design, planning and detailed design of the WORLD Sporting Precinct has been undertaken by Thomson Adsett Pty Ltd. Their design contract was awarded at a Council meeting held on 12 November 2019 (item 7.2 CON2019 1330 Design of WORLD Sporting Facilities).

A Development Agreement has also been executed between Council and the Department of Education and Training, for Council to take on long-term management of this Crown land site. A Collaboration Agreement has also been recently signed with the Gunaikurnai Land and Waters Aboriginal Corporation for the project.



Council has also been successful in attracting four competitive grants, which collectively fund over 80% of the entire project costs. The remaining costs can be funded via low interest loans and/or through council funds.

Construction Package One of the project, consisting of construction of hockey fields and lighting, main car parking and access road, services and drainage, has commenced on site and scheduled for completion in early 2022.

The tender for CON2022 1452 is the second stage of construction. Construction will include:

- Construction of 8 netball courts, lighting and team shelters
- Construction of netball court car parking

Award of this construction package will also enable a new carpark to be built that will service the Westdale Kindergarten. This is key to ensure that the Westdale Kindergarten can continue to provide services while construction occurs through the various construction packages. The site will be graded with retention basins built and site services run throughout. Improvements to two of the hockey fields will be completed that include irrigation, fencing and lighting.

As a result of the invitation to tender and the subsequent tender evaluation, Council is in a position to award the contract. The Evaluation Panel's recommendations are detailed in **Confidential Attachment 2**.

Given the value of the contract an external Probity Auditor also observed the tender evaluation process in accordance with Councils Procurement Policy. A copy of the Probity Auditors report provided as **Confidential Attachment 3**.

### **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 1452 WORLD Construction Package 2 for the contract amount of \_\_\_\_\_ exclusive of GST;***
- 3. authorises the signing and sealing of the contract in the form proposed; and***
- 4. resolves that the attachments to this report and all discussions in relation to these attachments remain confidential.***

**THAT COUNCIL:**

- 1. RECEIVES AND NOTES THIS REPORT AND ALL ATTACHMENTS PERTAINING TO THIS REPORT;**
- 2. ACCEPTS THE TENDER SUBMITTED BY CRANES ASPHALTING & BITUMEN SEALING PTY LTD FOR CON2022 1452 – WORLD CONSTRUCTION PACKAGE 2 FOR THE CONTRACT AMOUNT OF \$5,385,000.00 EXCLUSIVE OF GST;**
- 3. AUTHORISES THE SIGNING AND SEALING OF THE CONTRACT IN THE FORM PROPOSED; AND**
- 4. RESOLVES THAT THE ATTACHMENTS TO THIS REPORT AND ALL DISCUSSIONS IN RELATION TO THESE ATTACHMENTS REMAIN CONFIDENTIAL.**

**Cr Mendy Urie / Cr John White**

**THAT THE RECOMMENDATION BE ADOPTED**

**CARRIED**

**Background**

The WORLD redevelopment project originates from Council's adoption of the Bairnsdale Sporting Facilities Plan 2018 (the plan) at the Council meeting held on 4 September 2018 (item No 5.1.2). The plan includes recommendations for the future development and management of Sporting Facility provision in Bairnsdale to meet the needs of our sporting community now and into the future. Key recommendations in the plan relating to the WORLD site include:

- New netball complex
- Upgrade the hockey pitches, including floodlights
- Expand and upgrade the netball-hockey pavilion
- New soccer complex to comprise of two soccer pitches, junior pitches
- New soccer pavilion

An initial stage of the WORLD redevelopment, comprising early works, main car park, site services, new hockey fields, field lighting and drainage system, is currently underway and progressing on site.

CON2022 1452 – WORLD Construction Package 2, the subject of this report, is for the second of five main works packages that will deliver the complete WORLD redevelopment project. Focused on a complete redevelopment of the netball precinct within the site, WORLD Construction Package 2 comprises the following activities:

- Demolition of existing Netball Courts
- Construction of 8 concrete Netball and Futsal Courts including
- Court lighting
- Construction of Netball precinct car parking
- Installation of car park and precinct lighting.
- Landscaping, and furniture including team shelters

This WORLD project is a priority for redevelopment as the netball courts are the most utilised sporting facility in Bairnsdale on a weekly basis (over 900 female participants) and no longer meet compliance standards. This project will significantly enhance the participation of the East Gippsland community in organised sport - especially for girls and women.

WORLD Construction Package 2 will provide 8 new eight netball courts to current standards and also line mark some of these courts to outdoor Futsal use. This project is critical to provide fit for purpose facilities for the netball community, not only in Bairnsdale but for the broader East Gippsland community.

The current netball pavilion has a series of functional issues including no hot water in the change rooms, the change rooms are non-compliant with Netball Victoria standards, and the facility is no longer considered fit for purpose. The pavilion has been demolished as part of Construction Package 1, and the next stage of the project, Construction Package 3, will ensure adequate facilities for both netball and hockey, through development of a new pavilion.

Presently soccer in Bairnsdale does not have a permanent single-ground home. It currently functions out of West Bairnsdale Oval and Howitt Park, with both these venues having scheduling and capacity restrictions. The current arrangement creates capacity issues for the committee and volunteers coordinating organised sport across multiple venues, including the provision of umpires, canteen staff, first aid officers etc.

Construction Packages 4 and 5 will include the development of two new soccer pitches on the WORLD site and new soccer pavilion.

The WORLD site is located on land under management of the Department of Education and Training. A Development Agreement has been executed between Council and the Department of Education and Training for an initial term of 20 years with two further 10-year extension options.

The concept design, planning and detailed design of the WORLD Sporting Precinct has been undertaken by Thomson Adsett Pty Ltd. Their design contract was awarded at a Council meeting held on 12 November 2019 (See item 7.2 CON2019 1330 Design of WORLD Sporting Facilities).

A planning permit was issued on 05 May 2021 for all elements of the project. As part of the application process, advertising of the planning permit was conducted in September 2020, and again in March 2021. All requests for information from referral authorities were addressed.

The WORLD project area is covered by the Native Title Act. A collaboration agreement with respect to the project is in place between Council and Gunaikurnai Land and Waters Aboriginal Corporation (GLaWAC), the Registered Aboriginal Party that represents Gunaikurnai people, and also the Prescribed Body Corporate for the Gunaikurnai people, who are the traditional owners of the land on which the WORLD project is located. The collaboration agreement underpins both parties' collaboration intentions with respect to the project, the involvement of GLaWAC in the project including cultural input, and other matters related to the Native Title Act.

The tender for CON2022 1452 – WORLD Construction Package 2 was advertised via Tenderlink and in the local newspapers, with tenderers also able to attend a pre-tender information session on site. The tender the evaluation panel included two managers and a general manager and an external probity auditor. A copy of the Probity Audit Report is provided as **Confidential Attachment 3**.

## **Legislation**

On 24 March 2020 the Government passed the Local Government Act 2020 (the new Act). Provisions from the new Act are being commenced in four stages. The first tranche of provisions commenced on 6 April 2020 with other tranches commencing on 1 May 2020 and 24 October 2020. All remaining provisions are commencing on 1 July 2021. The Local Government Act 1989 applies in circumstances where the new Act has not commenced.

The East Gippsland Shire Council is required to make decisions under both Acts as the transition occurs. Council has implemented mechanisms to ensure decisions are made according to the relevant provisions of the Local Government Act 2020.

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 it contains private commercial information, which if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.

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

## **Collaboration**

Pursuant of section 109(2) of the Local Government Act 2020 the development of the WORLD project has been prepared with funding contributions from both the Australian and Victorian Governments.

## **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**

The tender and evaluation process for CON2022 1452 – WORLD Construction Package 2 has been undertaken in accordance with the East Gippsland Shire Council Procurement Policy 2021.

The project also helps implement the recommendations of the Bairnsdale Sporting Facilities Plan adopted by Council in 2018.

This project also aligns with the recently adopted Municipal Public Health and Wellbeing Plan Framework (Healthy and Well; and Able to Participate outcomes) and targets the key area of female participation in organised sport

## Options

The delivery of the overall WORLD redevelopment project has been broken into a range of delivery packages. This is to provide logical sequencing of the works and to bring like works together to minimise mobilisation and management costs. A range of options were considered when developing the packages and work breakdown schedule.

A summary of the tender process and options considered to provide best value is provided as **Confidential Attachment 1**.

Tenders received have been assessed by a Tender Evaluation Panel. The Tender Evaluation Report (**Confidential Attachment 2**) details the assessment of options for the selection of a contractor for the project.

Council has the option to award a contract in accordance with Tender Evaluation Panel's recommendation, or to not proceed with the procurement.

## Resourcing

### *Financial*

Funding for the project is available from the following income sources. Further discussion about the way in which the project budget is intended to be managed is provided in **Confidential Attachment 1**.

<b>Funding Source Description</b>	<b>Grant Amount</b>	<b>Funding Totals</b>
Local Sports Infrastructure Fund – State Government	\$500,000	
The World Game Facilities Fund 2018 – State Government	\$153,700	
Building Better Regions Fund – Commonwealth Government	\$5,362,006	
Community Sports Infrastructure Stimulus Program Round 2– State Government	\$5,000,000	
<i>TOTAL ALL GRANTS:</i>		\$11,015,706
Community Sports Infrastructure Loans Scheme – State Government		\$5,000,000
Council Funding		\$524,000
<b>Total Project Budget as Adopted in the 2021/22 Council Budget</b>		<b>\$16,539,706</b>
<b>Expenditure and Commitments to Date</b>		<b>\$5,579,000</b>
<b>Available Budget</b>		<b>\$10,960,706</b>

### *Plant and equipment*

NA – plant and equipment is all supplied by the recommended tenderer.

## *Human Resources*

The project is managed by one of Council's contracted Project Supervisors, with these costs built into the overall project cost.

## *Risk*

As part of the overall management of this project, the risks of this proposal have been thoroughly considered. Officers have prepared a Detailed Risk Assessment for the project.

## **Economic**

Economic benefit for the project includes the economic activity associated with the construction maintenance and operation of community sport infrastructure and the increased productivity of those who are physically active as a result of such infrastructure.

An independent economic analysis of the project shows the benefits of the development at the WORLD Sporting Precinct as including:

- Construction will generate at least 29 full time direct jobs, with 2.13 indirect jobs created for every direct job. This results in 62 total full-time jobs as a result of this development;
- 2 additional full-time direct jobs will be created on an ongoing basis as a result of spending on maintenance and increased visitation to the area, with 1.5 indirect jobs created for every direct job. This results in 5 additional ongoing jobs;
- With the additional capacity for regional competitions – a conservative estimate of two additional regional competitions every four years will result in \$12,456 of additional spending in the local economy each year; and
- The local economy will see the total value of improved productivity reach \$103,223 per year with the increase in participation and health outcomes

In addition to these overall project benefits, the tender evaluation process for this particular package of works included weighted criteria for local content and assessment of the contractor's ability to provide benefit to the local economy.

## **Social**

The completion of the project will see numerous health and social benefits for the East Gippsland community. The increase in physical activity will see personal health benefits and reduced risk of accidents in the participant population.

Some of the social benefits for the project include:

- Growing participation in physical and social activity amongst people of all ages, genders, cultural backgrounds and abilities;
- Developing pathways for players from a school to local to regional and higher levels of sports competition;
- Enhancing club development and participation through year-round access to facilities for clubs and schools;
- Providing for regional sports events.

## **Environmental**

The removal of native vegetation and trees on the site has been considered through the detailed design stage. Changes were made to ensure that canopy trees along Wallace Street and on the eastern boundary of the Netball zone have been protected.

Patches of critically endangered native grasses have been identified throughout the proposed Soccer zone. The proposed removal of these grasses will require approval under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.

The Soccer zone works that impact this area is not contained within this contract and is in a future proposed package of works.

The tender for CON2022 1452 also included formal environmental sustainability criteria which were considered in the formal assessment of submissions.

### *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**

Details on the engagement undertaken during the planning stage of this project can be found within the Bairnsdale Sporting Facilities Plan 2018. Since the adoption of that plan there has been consistent communication made with the end users of the development including:

- Bairnsdale Netball Association
- East Gippsland United Football Club
- Bairnsdale Hockey Club
- Bairnsdale Soccer Club and;
- Westdale Kindergarten

Further consultation has been made with the relevant state sporting bodies such as Netball Victoria and Football Victoria. Engagement with adjoining properties was carried out prior to the project's Planning Permit application. This consisted of an introductory letter explaining the origins of the development and an info pack that included copies of the masterplan and explanation of items such as parking and lighting. This letter and info pack was distributed to 187 residents. Two queries were received, and further information provided. No formal objections to the development were received.

An information video has also been made of the project, including interviews with the majority of the user groups. This video was widely circulated on social media and remains on the project's YourSay page.

Stakeholders and residents as well as the broader community will continue to be informed of the progress of the works throughout the construction phase. The Bairnsdale Netball Association has been a collaborative partner throughout this projects' journey from planning to concept design, detailed design, and now construction. The construction window has been planned to minimise disruption to the sport and its many participants.

Discussions are also well advanced with the local aboriginal community via GLaWAC on how to recognise traditional owner culture in elements and naming of the facility components.

### **Attachments**

1. CONFIDENTIAL - WORLD CP2 Tender Process and Analysis of Best Value [**2.1.4.1** - 5 pages]
2. CONFIDENTIAL - CON 2022 1452 WORLD Construction Package 2 - TEP Report [**2.1.4.2** - 10 pages]
3. CONFIDENTIAL - CON 2022 1452 WORLD Construction Package 2 - Probity Review Report [**2.1.4.3** - 2 pages]



## 2.2 Business Excellence

### 2.2.1 Councillor Code of Conduct

Authorised by General Manager Business Excellence

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#### Conflict of Interest

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

#### Executive Summary

Council adopted its Councillor Code of Conduct (the Code) in February 2021, in accordance with section 139 of the *Local Government Act 2020*. The adopted Code does not include a dispute resolution process.

Some Councillors have requested that the Code be amended to include a dispute resolution process, to assist with the effective and consistent management of disputes between Councillors, if and when they arise.

The request to amend the Code to include a dispute resolution process, is also supported by advice received on an Occupational Health and Safety matter which recommended that the Councillor Code of Conduct be amended to include specific provisions and process to allow the Mayor, the Chief Executive, or both, to better assist in resolving disputes between Councillors.

Under the *Local Government Act 2020*, Council may amend the Code at any time by a formal resolution of Council.

A revised draft Councillor Code of Conduct that includes a dispute resolution process is provided at **Attachment 1**. A copy of the adopted Code is provided at **Attachment 2**, marked up to show the proposed changes.

To support the dispute resolution process, a Councillor Code of Conduct Dispute Resolution Procedure (the Procedure) has also been created and is provided at **Attachment 3**. The Procedure is not part of the Code, but will support administration of the dispute resolution process by providing additional detail about each of the phases within it.

The only amendment made to the adopted Code is the inclusion of a schedule (Schedule 1) which outlines a dispute resolution process and the referencing of the Schedule 1 and the Procedure in the body of the Code. In all other respects the content of the draft Councillor Code of Conduct is the same as the Code adopted in February 2021.

## Officer Recommendation

### *That Council:*

- 1. receives and notes this report and all attachments pertaining to this report;**
- 2. adopts the Councillor Code of Conduct provided at Attachment 1; and**
- 3. notes the Councillor Code of Conduct Dispute Resolution Procedure provided at Attachment 3.**

**Cr Tom Crook / Cr Arthur Allen**

**THAT THE RECOMMENDATION BE ADOPTED**

**CARRIED**

## Background

The adopted Councillor Code of Conduct does not provide guidance on resolving disputes between Councillors. As a result, any disputes that arise would require Councillors to agree on an approach for resolving their issues on a case-by-case basis.

The lack of guidance is seen as problematic for several reasons, being:

- The need to agree on a process to resolve individual disputes is considered likely to cause further tension between the parties involved in the dispute.
- Case-by-case decisions about how to resolve individual disputes are likely to result in an inconsistency of approach over time which in turn, may give rise to inequity.
- Without an agreed internal dispute resolution process, Councillors would need to rely on the process of internal arbitration set out in section 141 of the *Local Government Act* 2020.

To remedy this situation, inclusion in the Councillor Code of Conduct of a schedule (Schedule 1, provided at **Attachment 1**) that outlines a pre-determined dispute resolution process is proposed. A clear, transparent mechanism for managing disputes between Councillors can only help to ensure these are managed fairly, consistently and with as little formality as possible.

The proposed dispute resolution process is based on the premise that Councillors who are parties to a dispute will use their best endeavours to resolve the matter between themselves in a courteous and respectful manner. However, it also recognises that sometimes assistance may be required to reach an outcome that is satisfactory to the parties involved. The proposed process includes three facilitated phases:

- direct negotiation between the parties with facilitation and guidance from the Mayor and as required, the Chief Executive Officer; and/or
- mediation by an external mediator engaged by the Chief Executive Officer; and/or
- arbitration involving an independent external arbiter.

The schedule outlining the process is at a relatively high level, consistent with the Code's streamlined approach. To promote clarity and consistency and facilitate administration of the dispute resolution process, a document titled Councillor Code of Conduct Dispute Resolution Procedure (at **Attachment 3**) has been created. While the procedure does not form part of the Code, it is referenced within it and will be publicly available via both hyperlink and as a stand-alone document.

## **Legislation**

On 24 March 2020 the Victorian Government passed the *Local Government Act 2020* (the Act). As of 1 July 2021, all provisions from the new Act have commenced. Some provisions of the *Local Government Act 1989* have not been repealed and remain applicable.

This report has been prepared in accordance with section and Part 6 – *Council Integrity* of the *Local Government Act 2020*.

Specifically, section 139 of the Act requires Councils to adopt a Councillor Code of Conduct in line with the standards of behaviour outlined in the Local Government (Governance and Integrity) Regulations 2020 (regulation). Section 140 of the Act allows Councils to review and amend their Councillor Code of Conduct by formal resolution at any time, with a two-thirds majority of elected Councillors.

Other sections of Part 6 of the Act outline the processes for dealing with alleged breaches of integrity such as internal arbitration, Council Conduct Panels, Local Government Inspectorate and Victorian Civil and Administrative Tribunal (VCAT).

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 associated with the Councillor Code of Conduct.

## **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**

The current Councillor Code of Conduct was adopted by Council in February 2020, in accordance with the requirements of section 139 of the Act.

## **Options**

Resolving a disagreement can be difficult and it is considered that having a pre-determined process through which the parties involved will attempt to resolve their dispute is more likely to expedite resolution than having to agree on a process before dispute resolution can begin.

The dispute resolution process proposed in Schedule 1 comprises three different phases, which can be undertaken sequentially or on a stand-alone basis. This represents a degree of flexibility while at the same time, ensuring consistency, clarity and transparency around the process. That said, any one of the elements or the process overall can be amended to meet Council's requirements.

If Council decides not to adopt the proposed dispute resolution process as part of the Code of Conduct, Councillors will have no option other than to attempt to agree on a process for resolving disagreements on an individual basis. Where agreement cannot be reached, Councillors would need to apply to the Principal Councillor Conduct Register for internal arbitration in accordance with the Act. Under this process, application must be made within three months of the alleged misconduct. If assessed by the Principal Councillor Conduct Register as having substance, the application would be accepted and an independent arbiter appointed to make a determination.

## **Resourcing**

### *Financial*

The cost of the proposed dispute resolution process will be covered by existing operational budgets, except for any legal fees incurred by the Councillors involved.

The dispute resolution process stipulates that where the internal arbiter agrees that a Councillor may have legal representation for the internal arbitration process, the costs of the representation will be borne by the Councillor entirely.

### *Plant and equipment*

No additional plant and equipment are required to facilitate the proposed dispute resolution process.

### *Human Resources*

No additional human resources will be required if the proposed dispute resolution process is adopted.

### *Risk*

Including a dispute resolution process in the Councillor Code of Conduct will reduce the risk to Council of lengthy or unresolved disputes between Councillors impacting negatively on the performance of individual Councillors, and/or on Council's ability to make decisions fairly and impartially.

In addition, having a good understanding of an approved, pre-determined dispute resolution process may help to minimise occupational health and safety concerns for individuals who are party to a dispute.

Advice received on an Occupational Health and Safety matter, made a risk mitigation recommendation that the Councillor Code of Conduct be amended to include specific provisions and process to allow the Mayor, the Chief Executive, or both, to better assist in resolving disputes between Councillors.

## **Economic**

There are no environmental impacts associated with the proposal to adopt a dispute resolution process in the Councillor Code of Conduct.

## **Social**

Adopting a process to guide Councillors through dispute resolution will increase the likelihood of disagreements being resolved quickly and effectively. This will demonstrate to the community that Councillors are committed to working cohesively and making fair and impartial decisions in the best interests of East Gippsland and its community.

## **Environmental**

There are no environmental impacts associated with the proposal to adopt a dispute resolution process in the Councillor Code of Conduct.

## *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.

## **Attachments**

1. Draft revised Councillor Code of Conduct Dec 21 clean [**2.2.1.1** - 13 pages]
2. Draft revised Councillor Code of Conduct Dec 21 marked up [**2.2.1.2** - 14 pages]
3. Draft Councillor Code of Conduct Dispute Resolution Procedure with flowcharts clear [**2.2.1.3** - 11 pages]

## 2.2.2

### Councillor Representation Register and draft revised Council Representation Policy

Authorised by General Manager Business Excellence

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#### Conflict of Interest

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

#### Executive Summary

This report is presented to Council for the annual review and endorsement of the Councillor Representation Register 2022 (the Register) for internal advisory committees and external organisations (a copy of the Register is provided at **Attachment 1**) and to endorse the draft revised Council Representation Policy (the Policy), provided at **Attachment 2**.

Following the Statutory Council meeting held on Thursday 28 October 2021 for the election of Mayor and Deputy Mayor of East Gippsland Shire Council, there is an opportunity to review the Register.

Effective representation on relevant external organisations and internal advisory committees is a critical element of Council's advocacy program. Through its membership of and representation on a diverse range of relevant local, regional and state committees and organisations, Council is well placed to represent and advocate for the interests of East Gippslanders.

Councillor representation on these committees and organisations is guided by the Policy, refer **Attachment 2**.

The current Council Representation Policy is due for Council review. Minor administrative changes have been made to the Policy and are listed below:

- removal to the reference to Boards;
- removal of reference to Councillor Code of Conduct, as it related to former Code of Conduct; and
- updated reference of the *Local Government Act* (the Act) to 2020, previously 1989.

#### Officer Recommendation

##### *That Council:*

1. ***receives and notes this report and all attachments pertaining to this report;***
2. ***adopts the Councillor Representation Register 2022, for internal committees and external organisations, as provided at Attachment 1; and***
3. ***adopts the Council Representation Policy, for internal committees and external organisations, as provided at Attachment 2.***

***Cr Tom Crook / Cr Arthur Allen***

**THAT THE RECOMMENDATION BE ADOPTED**

**CARRIED**

## Procedural Note

The following administrative corrections were made to the *Councillor Representation Register 2022*:

Committee/Board/External Group	Current appointed Councillor/s	Position	Forum Allocated	Date Allocated	Contact	Meeting Frequency
<b>Economic Development Advisory Committee</b>	Cr Arthur Allen Cr Tom Crook Cr Jane Greacen OAM Cr Trevor Stow	Committee members  Substitute	Council Meeting	16/12/2021	<i>Stuart McConnell</i> <i>PA Place and Community</i>	Bi-monthly
<b>Livestock Exchange Committee</b>	Cr Trevor Stow Cr John White Cr Senja Sonia Buckley	Committee members Substitute	Council Meeting	16/12/2021	<i>GM Place and Community</i> <i>PA Place and Community</i>	
<b>Municipal Association of Victoria – Emergency Management Committee</b>	Cr Jane Greacen OAM  Cr John White	Committee member Substitute	Council Meeting	16/12/2021	<i>Stuart McConnell,</i> <i>PA Place and Community</i> MAV - 9667 5529 elindsay@mav.asn.au	Quarterly
<b>Australian Coastal Councils Association Inc.</b>	Cr Tom Crook Cr Mandy Urie	Representative Substitute	Council Meeting	16/12/2021	<i>Fiona Weigall</i> <i>PA Assets &amp; Environment</i> Alan Stokes - Executive Officer (03) 9399 8558 stokes@bigpond.net.au	Monthly

## Background

Council is represented on a range of internal and external committees, reference groups, industry groups, forums and other local and regional organisations. Ensuring that Council has proper appointments of Councillors to these organisations is a critical element of Council's advocacy program. The Policy guides Council's advocacy program and establishes expectations of Councillors when representing Council in these forums.

Following the Statutory Council meeting held on Thursday 28 October 2021 for the election of Mayor and Deputy Mayor of East Gippsland Shire Council, there is an opportunity to review the Register that outlines the Mayor ex-officio and Councillor representations. A copy of the Register for 2022 is provided at **Attachment 1**.

There are some internal advisory committees and external organisations that require the Mayor to attend as Mayor ex-officio. There is also an opportunity for Councillors to participate on a range of committees that are important to the future economic, environmental and social sustainability of the municipality.

Councillor representatives are supported by a member of the Executive Leadership Team who will provide information, advice and context in respect of matters being considered by the Committees.

Councillors are required to disclose conflicts of interest that are identified with any agenda item for the meetings of the internal and external committees and organisations that they attend. These disclosures will be recorded in the publicly available conflict of interest register.

Councillors are required under the Policy to provide a report at the next Council meeting about the meetings they have attended. Council officers will prepare a report for Council relating to meetings of Council's advisory committees.

The amendments made to the Policy, provided at **Attachment 2**, are minor administrative changes being the removal of the reference to Boards, removal of reference to Councillor Code of Conduct, as this related to the former Code of Conduct, and updating the *Local Government Act* to 2020, previously 1989.

## **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.

The East Gippsland Shire Council is required to make decisions under both Acts as the transition occurs. Council has implemented mechanisms to ensure decisions are made according to the relevant provisions of either the *Local Government Act* 1989 or the *Local Government Act* 2020 as in force at the date of the decision.

This report has been prepared in accordance with the overarching governance principles in section 9 of the *Local Government Act* 2020. This report outlines compliance with the conflict of interest requirements in sections 126-131 of the *Local Government Act* and the procedure for disclosure outlined in the East Gippsland Shire Council Governance Rules.

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 report does not involve procurement.

## **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 report has been prepared in accordance with the Council Representation Policy.

## **Options**

Councillors have discussed and subsequently nominated the identified appointments to the committees and organisations, as outlined in **Attachment 1**.

## **Resourcing**

### *Financial*

Costs associated with attendance at these meetings is covered by current budget allocations. Payment or reimbursement of costs and expenses associated with Councillor representation will be managed in accordance with the Councillor Support and Expenses Policy.



### *Plant and equipment*

Not Applicable

### *Human Resources*

All Councillor representatives will be supported by a member of the Executive Leadership Team, who on request, will be available to provide information, advice and context in respect of matters being considered by the relevant organisation.

### *Risk*

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

## **Economic**

Councillor membership of and representation on a diverse range of committees and organisations ensures Council is aware of and understands the economic situation of the municipality. It also enables Council to make informed decisions for the economic sustainability of the Shire.

## **Social**

By ensuring Council has a 'voice at the table' through its representation arrangements, Councillors will be able to work proactively with other members of these organisations to achieve the best possible social outcomes for Council and the East Gippsland community.

## **Environmental**

Councillor representatives will advocate on environmental issues in line with Council policies at meetings and other forums where appropriate. Councillors will report to Council on emerging issues and other environmental matters that are likely to impact on Council's many areas of responsibility.

### *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**

Councillors have discussed the purposes of the internal advisory committees and external organisations and the Council Representation Policy with the Executive Leadership Team.

## **Attachments**

1. Councillor Representation Register 2022 [8M5U] [2.2.2.1 - 2 pages]
2. DRAFT Council Representation Policy [2.2.2.2 - 9 pages]

## **2.2.3 Complaint Management Policy**

Authorised by General Manager Business Excellence

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### **Conflict of Interest**

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

### **Executive Summary**

Council is required under section 107 of the *Local Government Act 2020* to develop and implement a Complaints Policy.

In July 2021 the Victorian Ombudsman released the Council and complaints – A good practice guide 2<sup>nd</sup> Edition. The guide aims to provide practical advice for building a positive culture around complaints and good complaint handling practices and systems that can be adapted to suit local contexts.

The guide also contains a “Model complaints policy” to align with the *Local Government Act 2020* which has been used for the development of the revised East Gippsland Complaint Management Policy.

### **Officer Recommendation**

***That Council:***

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

***Cr Mendy Urie / Cr Kirsten Van Diggele***

***THAT THE RECOMMENDATION BE ADOPTED***

***CARRIED***

### **Background**

#### **Complaint Management Policy**

The purpose of the Complaint Management Policy is to define what a complaint is, and to facilitate a fair and reasonable resolution of all customer complaints. This policy provides Council with an organisational approach to complaints handling and supports and empowers staff in the facilitation and resolution of complaints in an efficient and transparent manner

The Policy identifies

- what is and what is not a complaint;
- how a complaint can be made;
- an overview of the process; and
- how complaints can be escalated for internal and external review.

## 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, Complaints Policy section 107 from the Act*.

*A Council must develop and maintain a complaints policy that includes—*

*(a) a process for dealing with complaints made to the Council; and*

*(b) a process for reviewing any action, decision or service in respect of which the complaint is made; and*

*(c) a discretion for the Council to refuse to deal with a complaint which is otherwise subject to statutory review; and*

*(d) the prescribed processes for dealing with complaints about the Council; and*

*(e) the prescribed processes for internal review of complaints made to a Council; and*

*(f) the prescribed processes for exercising the discretion referred to in paragraph (c); and*

*(g) any other matter prescribed by the regulations.*

*(2) A review process must provide for a review that is independent of—*

*(a) the person who took the action; and*

*(b) the person who made the decision; and*

*(c) the person who provided the service.*

*(3) For the purposes of the complaints policy, complaint includes the communication, whether orally or in writing, to the Council by a person of their dissatisfaction with—*

*(a) the quality of an action taken, decision made or service provided by a member of Council staff or a contractor engaged by the Council; or*

*(b) the delay by a member of Council staff or a contractor engaged by the Council in taking an action, making a decision or providing a service; or*

*(c) a policy or decision made by a Council or a member of Council staff or a contractor.*

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: 5.1 A better everyday customer experience is created for our residents and visitors.

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

## **Council Policy**

The Complaint Management Policy replaces the existing council policy, refer **Attachment 3** and is aligned with the model policy provided by the Victorian Ombudsman in July 2021, refer **Attachment 2**

## **Resourcing**

### *Financial*

There are no financial implication as a result of the adoption of this policy and associated procedures.

## **Economic**

Having an effective complaints framework, and a clear process and communication strategy for categorising requests versus complaints, can improve the management of community expectations. This in turn has a flow on impact to legitimate complaint volumes and the resources required to manage them.

## **Social**

Enabling people to complain is not just about making it easy for a person to lodge a complaint. The concept includes a reasonable assumption that members of the public expect that when they complain, Council will properly consider and respond to their concerns. This can only be achieved through a combination of established systems for receiving and managing complaints, and a positive organisational culture that addresses complaints in a constructive light.

## **Environmental**

There are no environmental implications associated with the content of this report.

### *Climate change*

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

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

## **Engagement**

During the development of these documents consultation has been undertaken with the Local Government Complaints Handling Forum. In addition the draft documents were provided to the Strategic Leadership Group for feedback for the period 27 October to 7 November 2021.

Feedback from this engagement has been incorporated into these documents.

## **Attachments**

1. Draft Complaint Management Policy Clean Version [**2.2.3.1** - 11 pages]
2. Model Complaints Policy For Councils - Victorian Ombudsman July 2021 [**2.2.3.2** - 7 pages]
3. Complaints Management Policy Current [**2.2.3.3** - 13 pages]

## **2.2.4 Sale of Land - Laneway adjacent to (east of) 259 Main Street, Bairnsdale**

Authorised by General Manager Business Excellence

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### **Conflict of Interest**

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

### **Executive Summary**

The purpose of this report is to seek a Council resolution to commence the formal sale of land process of a section of Road located to the immediate East of land at 259 Main Street Bairnsdale, West of land in Pyke Street Bairnsdale. The Road is a north south alignment and is currently used for public access purposes.

The road in question has been the subject of a separate formal process undertaken for road closure and amendment by deletion from the Public Roads Register for municipal roads purposes. This process has been subject to public notification in the form of public notice in the local paper and received no written submissions. This formal process has not been completed. A separate Certificate of Title for the Road has not been issued to date.

The road, together with other adjoining land parcels is the subject of Planning Permit 441/2021/P, which was issued on 18 November 2021. The land is subject to consolidation prior to the use of the land commencing.

The Planning Permit Application was lodged for approval on the basis that written consent had been obtained from all adjoining landowners in relation to the Road closure. Written consent from property owners at 255 Main Street Bairnsdale was not evidenced as part of the application documentation.

A written request was lodged with the Council on 30 August 2021 by Development Solutions on behalf of Castlerock Property to close an existing road and purchase the road adjoining land at 259 Main Street, 124 Macleod Street and 48 Pyke Street, Bairnsdale.

The formal request for closure is at **Attachment 1**. The title plan showing the road and adjoining lots is at **Attachment 2**.

### **Officer Recommendation**

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

- 1. receives and notes this report and all attachments pertaining to this report;***
- 2. resolves that the road reserve that abuts the property at 259 Main Street, Bairnsdale is not required for public access or any future public use (refer Attachments 1 and 2);***
- 3. gives notice of its intention to sell the Road Reserve to the adjoining landowner, in accordance with the provisions of section 189 of the Local Government Act 1989;***

4. *pursuant to Section 206, including clause 3 of Schedule 10 and section 207(b) of the Local Government Act 1989, resolves to advertise its intention to discontinue the road reserve that abuts the property at 259 Main Street, Bairnsdale and sell the road reserve to the owner of the property at 259 Main Street, Bairnsdale;*
5. *authorises the Chief Executive Officer to place a public notice of the proposed road discontinuance and sale of the road reserve in local newspapers;*
6. *requires the creation of a carriageway easement in favour of land at 54 Pyke Street Bairnsdale for the length of property boundary frontage to facilitate continued access to Macleod Street frontage via the easement;*
7. *resolves the issue relating to the existing carriageway easement over the Road Reserve in favour and to the benefit of land at 255 Main Street Bairnsdale;*
8. *notes that section 5.5.2 of Council's Sale of Council-owned Land Policy stipulates that land will be sold at a price not less than current market value, unless Council specifically resolves otherwise;*
9. *appoints a Committee comprising the whole of Council (with a quorum of five Councillors), to hear and consider any written public submissions received in relation to the proposed sale of the road reserve, in accordance with section 223 of the Local Government Act 1989;*
10. *nominates 15 February 2022, at 1:30pm as the date and time for the Committee to hear any submissions regarding the road reserve;*
11. *authorises the Chief Executive Officer to publish a notice in the Government Gazette and all relevant documentation surrounding the sale of the road reserve to be lodged with the Registrar of Titles, if no submissions are received about its proposed sale through the section 223 process on the proposed sale of the road reserve; and*
12. *notes that as part of the Section 223 process, a report providing a recommendation from the Committee Hearing will be presented at a future Council meeting for its consideration, should any submissions be received regarding the proposed sale of the road reserve, as part of the section 223 process.*

**Cr Trevor Stow / Cr Arthur Allen**

**THAT THE RECOMMENDATION BE ADOPTED**

**CARRIED**

## **Background**

A written request was lodged with the Council on 30 August 2021 by Development Solutions Victoria (advocate) on behalf of Castlerock Property to close an existing road adjoining land at 259 Main Street, 124 Macleod Street and 48 Pyke Street Bairnsdale.

The advocate provided written advice that consultation with adjoining owners had been undertaken and that consent to the closure of the road had been obtained. There is no written evidence of such consent from the property owners at 255 Main Street Bairnsdale.

The property owners at 54 Pyke Street Bairnsdale have given conditional consent, being the creation of a carriage way easement on the western frontage to the Road for the entire length of the property boundary. The sale of the land will be conditional upon the creation of a new Certificate of Title to include the creation of the carriageway easement as described.

There is an existing carriageway easement within the road reserve to the benefit of the land at 255 Main Street Bairnsdale. This matter pertaining to the existing carriageway easement will require clarification and resolution prior to the commencement of the formal sale of land process. It is unclear as to whether the formal closure of the road reserve results in the extinguishing of the existing carriageway easement benefiting the land at 255 Main Street Bairnsdale. It is anticipated that it will be necessary to undertake a separate formal process, to formally remove the existing carriageway easement. This will result in additional processing time and expenditure.

The subject land is approximately 365 square metres (100m length x 3.65m wide) which is currently sealed and provides access to the adjoining land. There is no vehicle access provided to 255 Main Street Bairnsdale from the road reserve, which is either fenced or narrow enough only for pedestrian access at the rear of the service station building. Under planning permit 441/2021/P the area of the current road adjacent 255 Main Street Bairnsdale will be landscaped, used for a footpath and part of the parking area.

At this stage, it is understood that there is existing infrastructure built within the road reserve, including drainage, reticulated power, sewerage and water services. These services will need to be provided with appropriate easements or relocated to the satisfaction of the relevant authority.

Council officers previously considered the road discontinuance (closure) under delegation, and following public notice there were no submissions made. The deletion of the road reserve in question is the subject of a separate Council Report for formal resolution (for 7 December 2021).

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

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

## **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.

The East Gippsland Shire Council is required to make decisions under both Acts as the transition occurs. Council has implemented mechanisms to ensure decisions are made according to the relevant provisions of either the *Local Government Act 1989* or the *Local Government Act 2020* as in force at the date of the decision.

The proposed sale of the road reserve is required to be conducted in accordance with sections 206, 207B, 207D(1)(b) of the Act, including clauses 2 and 3 of Schedule 10.

The sale of the road reserve can be completed as a private treaty sale and effected under the provisions of section 189 of the Act provided that all details of Council's intention to sell are clearly disclosed during the proposed sale.

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

### **Collaborative procurement**

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

### **Council Plan**

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

Strategic Objective 4: 4.4 Targeted information and streamlined approvals and processes make it easier for business to invest.

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

### **Council Policy**

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

As the proposed sale of the road reserve is to the adjoining landowner, there is no requirement to offer the land for sale at public auction or the open market.

### **Options**

Two options have been considered in the preparation of this report being:

#### **Option 1 (Preferred Option)**

As per the Officers' recommendations, determine that:

- the road reserve that abuts the property is not required for public access or any future public use; and
- resolve to advertise Council's intention to discontinue the road reserve that abuts the property and sell the road reserve to the owner of the property.

#### **Option 2**

That Council does not proceed with the road discontinuance and sale to the property owner as recommended. This option not to sell the land and retain in Council ownership will result in an inability for the proposed use and development, the subject of planning permit 441/2021/P to proceed, based on the conditions of the permit.



## **Resourcing**

### *Financial*

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

The purchase price of the road reserve adjacent to the property will be determined in accordance with a report from a registered valuer.

### *Plant and equipment*

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

### *Human Resources*

The implementation of the proposed road discontinuance and sale for a portion of Council-owned road reserve abutting the private property at 259 Main Street Bairnsdale does not require any additional resources outside of the current Governance Unit structure.

### *Risk*

The proposed road discontinuance and sale for a portion of Council-owned road reserve abutting the private property at 259 Main Street Bairnsdale, when advertised, may receive submissions that oppose the sale. At which time Council will consider any written public submissions received, in accordance with section 223 of the *Local Government Act 1989* and evaluate on a case-by-case basis, taking into consideration each submissions merits and associated risks.

## **Economic**

There are no perceived economic factors that will be impacted by this report.

## **Social**

There are no identified social impacts in relation to this report.

## **Environmental**

There are no identified environmental impacts in relation to this report.

### *Climate change*

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

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

## **Engagement**

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

## **Attachments**

1. Request for the Road Closure to Council [**2.2.4.1** - 8 pages]
2. Existing Title Plan [**2.2.4.2** - 1 page]

## 2.2.5 Information Communication and Technologies (ICT) Professional Services Panel of Providers - Contract Number 2022-018

Authorised by General Manager Business Excellence

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### Conflict of Interest

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

### Executive Summary

Under section 66(2) of the *Local Government Act 2020* a meeting considering confidential information may be closed to the public. Pursuant to sections 3(1) and 66(5) of the *Local Government Act 2020*, the information contained in the attachment/s to this report are confidential because it contains Council business information being information that would prejudice the Council's position in commercial negotiations.

The purpose of this report is to seek endorsement for the issuing of contracts to the preferred tenderers, provided at **Attachment 1**, of a collaborative tender that East Gippsland Shire Council and Wellington Shire Council jointly went to market for the Information Communication and Technologies (ICT) Professional Services Panel of Providers - Contract Number 2022-018.

The lead council for this collaborative tender has been Wellington Shire Council. The confidential Tender Evaluation Report, provided at **Attachment 2**, is in Wellington Shire Council's format and the tender was assessed by staff members who work in a shared capacity for both East Gippsland Shire Council and Wellington Shire Council.

The ICT Professional Services Panel of Providers is a non-mandatory panel arrangement being established for the supply of suitably qualified vendors to support and assist East Gippsland Shire Council and Wellington Shire Council in their delivery of ICT enabled services and specialist projects.

The ICT Professional Services Panel of Providers contract will cover several ICT service categories.

The collaborative procurement will ensure that both East Gippsland Shire Council and Wellington Shire Council can secure the appropriate skill and expertise, in the most cost-effective manner, to support ICT project and service delivery requirements for the next 4-year period.

The estimated value of the ICT Professional Services Panel of Providers is approximately \$500,000 (exclusive of GST) for East Gippsland Shire Council for the duration of the contract from 1 December 2021 to 1 December 2025.

## **Officer Recommendation**

### ***That Council***

- 1. receives and notes this report and all attachments pertaining to this report;**
- 2. accepts the:**
  - a. Schedule of Rates submitted by \_\_\_\_\_ for the Information Communication and Technologies (ICT) Professionals Services Panel of Providers, Contract Number 2022-018 for a four-year term;**
  - b. Schedule of Rates submitted by \_\_\_\_\_ for the Information Communication and Technologies (ICT) Professionals Services Panel of Providers, Contract Number 2022-018 for a four-year term;**
  - c. Schedule of Rates submitted by \_\_\_\_\_ for the Information Communication and Technologies (ICT) Professionals Services Panel of Providers, Contract Number 2022-018 for a four-year term;**
  - d. Schedule of Rates submitted by \_\_\_\_\_ for the Information Communication and Technologies (ICT) Professionals Services Panel of Providers, Contract Number 2022-018 for a four-year term;**
  - e. Schedule of Rates submitted by \_\_\_\_\_ for the Information Communication and Technologies (ICT) Professionals Services Panel of Providers, Contract Number 2022-018 for a four-year term;**
  - f. Schedule of Rates submitted by \_\_\_\_\_ for the Information Communication and Technologies (ICT) Professionals Services Panel of Providers, Contract Number 2022-018 for a four-year term;**
  - g. Schedule of Rates submitted by \_\_\_\_\_ for the Information Communication and Technologies (ICT) Professionals Services Panel of Providers, Contract Number 2022-018 for a four-year term;**
  - h. Schedule of Rates submitted by \_\_\_\_\_ for the Information Communication and Technologies (ICT) Professionals Services Panel of Providers, Contract Number 2022-018 for a four-year term;**
  - i. Schedule of Rates submitted by \_\_\_\_\_ for the Information Communication and Technologies (ICT) Professionals Services Panel of Providers, Contract Number 2022-018 for a four-year term;**
  - j. Schedule of Rates submitted by \_\_\_\_\_ for the Information Communication and Technologies (ICT) Professionals Services Panel of Providers, Contract Number 2022-018 for a four-year term;**
  - k. Schedule of Rates submitted by \_\_\_\_\_ for the Information Communication and Technologies (ICT) Professionals Services Panel of Providers, Contract Number 2022-018 for a four-year term;**
  - l. Schedule of Rates submitted by \_\_\_\_\_ for the Information Communication and Technologies (ICT) Professionals Services Panel of Providers, Contract Number 2022-018 for a four-year term;**

- m. Schedule of Rates submitted by \_\_\_\_\_ for the Information Communication and Technologies (ICT) Professionals Services Panel of Providers, Contract Number 2022-018 for a four-year term;*
  - n. Schedule of Rates submitted by \_\_\_\_\_ for the Information Communication and Technologies (ICT) Professionals Services Panel of Providers, Contract Number 2022-018 for a four-year term;*
  - o. Schedule of Rates submitted by \_\_\_\_\_ for the Information Communication and Technologies (ICT) Professionals Services Panel of Providers, Contract Number 2022-018 for a four-year term;*
  - p. Schedule of Rates submitted by \_\_\_\_\_ for the Information Communication and Technologies (ICT) Professionals Services Panel of Providers, Contract Number 2022-018 for a four-year term;*
  - q. Schedule of Rates submitted by \_\_\_\_\_ for the Information Communication and Technologies (ICT) Professionals Services Panel of Providers, Contract Number 2022-018 for a four-year term;*
  - r. Schedule of Rates submitted by \_\_\_\_\_ for the Information Communication and Technologies (ICT) Professionals Services Panel of Providers, Contract Number 2022-018 for a four-year term;*
  - s. Schedule of Rates submitted by \_\_\_\_\_ for the Information Communication and Technologies (ICT) Professionals Services Panel of Providers, Contract Number 2022-018 for a four-year term;*
  - t. Schedule of Rates submitted by \_\_\_\_\_ for the Information Communication and Technologies (ICT) Professionals Services Panel of Providers, Contract Number 2022-018 for a four-year term;*
  - u. Schedule of Rates submitted by \_\_\_\_\_ for the Information Communication and Technologies (ICT) Professionals Services Panel of Providers, Contract Number 2022-018 for a four-year term;*
  - v. Schedule of Rates submitted by \_\_\_\_\_ for the Information Communication and Technologies (ICT) Professionals Services Panel of Providers, Contract Number 2022-018 for a four-year term;*
  - w. Schedule of Rates submitted by \_\_\_\_\_ for the Information Communication and Technologies (ICT) Professionals Services Panel of Providers, Contract Number 2022-018 for a four-year term;*
  - x. Schedule of Rates submitted by \_\_\_\_\_ for the Information Communication and Technologies (ICT) Professionals Services Panel of Providers, Contract Number 2022-018 for a four-year term;*
  - y. Schedule of Rates submitted by \_\_\_\_\_ for the Information Communication and Technologies (ICT) Professionals Services Panel of Providers, Contract Number 2022-018 for a four-year term;*
- 3. authorises the Chief Executive Officer to execute such documents as are necessary to give effect to the arrangements of the Information Communication and Technologies (ICT) Professionals Services Panel of Providers, Contract Number 2022-018; and**

4. ***resolves that all 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:***
  - a. ***SCHEDULE OF RATES SUBMITTED BY 3COLUMNS FOR THE INFORMATION COMMUNICATION AND TECHNOLOGIES (ICT) PROFESSIONALS SERVICES PANEL OF PROVIDERS, CONTRACT NUMBER 2022-018 FOR A FOUR-YEAR TERM;***
  - b. ***SCHEDULE OF RATES SUBMITTED BY BAMITS FOR THE INFORMATION COMMUNICATION AND TECHNOLOGIES (ICT) PROFESSIONALS SERVICES PANEL OF PROVIDERS, CONTRACT NUMBER 2022-018 FOR A FOUR-YEAR TERM;***
  - c. ***SCHEDULE OF RATES SUBMITTED BY CAMERON VALE FOR THE INFORMATION COMMUNICATION AND TECHNOLOGIES (ICT) PROFESSIONALS SERVICES PANEL OF PROVIDERS, CONTRACT NUMBER 2022-018 FOR A FOUR-YEAR TERM;***
  - d. ***SCHEDULE OF RATES SUBMITTED BY CENTORRINO FOR THE INFORMATION COMMUNICATION AND TECHNOLOGIES (ICT) PROFESSIONALS SERVICES PANEL OF PROVIDERS, CONTRACT NUMBER 2022-018 FOR A FOUR-YEAR TERM;***
  - e. ***SCHEDULE OF RATES SUBMITTED BY CHARLIE MAC FOR THE INFORMATION COMMUNICATION AND TECHNOLOGIES (ICT) PROFESSIONALS SERVICES PANEL OF PROVIDERS, CONTRACT NUMBER 2022-018 FOR A FOUR-YEAR TERM;***
  - f. ***SCHEDULE OF RATES SUBMITTED BY CSS FOR THE INFORMATION COMMUNICATION AND TECHNOLOGIES (ICT) PROFESSIONALS SERVICES PANEL OF PROVIDERS, CONTRACT NUMBER 2022-018 FOR A FOUR-YEAR TERM;***
  - g. ***SCHEDULE OF RATES SUBMITTED BY CTRL GROUP FOR THE INFORMATION COMMUNICATION AND TECHNOLOGIES (ICT) PROFESSIONALS SERVICES PANEL OF PROVIDERS, CONTRACT NUMBER 2022-018 FOR A FOUR-YEAR TERM;***
  - h. ***SCHEDULE OF RATES SUBMITTED BY DATA#3 FOR THE INFORMATION COMMUNICATION AND TECHNOLOGIES (ICT) PROFESSIONALS SERVICES PANEL OF PROVIDERS, CONTRACT NUMBER 2022-018 FOR A FOUR-YEAR TERM;***
  - i. ***SCHEDULE OF RATES SUBMITTED BY DATACOMMAND FOR THE INFORMATION COMMUNICATION AND TECHNOLOGIES (ICT) PROFESSIONALS SERVICES PANEL OF PROVIDERS, CONTRACT NUMBER 2022-018 FOR A FOUR-YEAR TERM;***

- j. SCHEDULE OF RATES SUBMITTED BY DAVIDSON GROUP FOR THE INFORMATION COMMUNICATION AND TECHNOLOGIES (ICT) PROFESSIONALS SERVICES PANEL OF PROVIDERS, CONTRACT NUMBER 2022-018 FOR A FOUR-YEAR TERM;**
- k. SCHEDULE OF RATES SUBMITTED BY GALAXY42 FOR THE INFORMATION COMMUNICATION AND TECHNOLOGIES (ICT) PROFESSIONALS SERVICES PANEL OF PROVIDERS, CONTRACT NUMBER 2022-018 FOR A FOUR-YEAR TERM;**
- l. SCHEDULE OF RATES SUBMITTED BY HAYS FOR THE INFORMATION COMMUNICATION AND TECHNOLOGIES (ICT) PROFESSIONALS SERVICES PANEL OF PROVIDERS, CONTRACT NUMBER 2022-018 FOR A FOUR-YEAR TERM;**
- m. SCHEDULE OF RATES SUBMITTED BY IN2 PROJECT MANAGEMENT FOR THE INFORMATION COMMUNICATION AND TECHNOLOGIES (ICT) PROFESSIONALS SERVICES PANEL OF PROVIDERS, CONTRACT NUMBER 2022-018 FOR A FOUR-YEAR TERM;**
- n. SCHEDULE OF RATES SUBMITTED BY IONIZE FOR THE INFORMATION COMMUNICATION AND TECHNOLOGIES (ICT) PROFESSIONALS SERVICES PANEL OF PROVIDERS, CONTRACT NUMBER 2022-018 FOR A FOUR-YEAR TERM;**
- o. SCHEDULE OF RATES SUBMITTED BY IPSEC FOR THE INFORMATION COMMUNICATION AND TECHNOLOGIES (ICT) PROFESSIONALS SERVICES PANEL OF PROVIDERS, CONTRACT NUMBER 2022-018 FOR A FOUR-YEAR TERM;**
- p. SCHEDULE OF RATES SUBMITTED BY LOGICALIS FOR THE INFORMATION COMMUNICATION AND TECHNOLOGIES (ICT) PROFESSIONALS SERVICES PANEL OF PROVIDERS, CONTRACT NUMBER 2022-018 FOR A FOUR-YEAR TERM;**
- q. SCHEDULE OF RATES SUBMITTED BY M-SQUARE FOR THE INFORMATION COMMUNICATION AND TECHNOLOGIES (ICT) PROFESSIONALS SERVICES PANEL OF PROVIDERS, CONTRACT NUMBER 2022-018 FOR A FOUR-YEAR TERM;**
- r. SCHEDULE OF RATES SUBMITTED BY PERFEKT FOR THE INFORMATION COMMUNICATION AND TECHNOLOGIES (ICT) PROFESSIONALS SERVICES PANEL OF PROVIDERS, CONTRACT NUMBER 2022-018 FOR A FOUR-YEAR TERM;**
- s. SCHEDULE OF RATES SUBMITTED BY POWERED SOLUTIONS FOR THE INFORMATION COMMUNICATION AND TECHNOLOGIES (ICT) PROFESSIONALS SERVICES PANEL OF PROVIDERS, CONTRACT NUMBER 2022-018 FOR A FOUR-YEAR TERM;**
- t. SCHEDULE OF RATES SUBMITTED BY SOFTLABS FOR THE INFORMATION COMMUNICATION AND TECHNOLOGIES (ICT) PROFESSIONALS SERVICES PANEL OF PROVIDERS, CONTRACT NUMBER 2022-018 FOR A FOUR-YEAR TERM;**

- u. **SCHEDULE OF RATES SUBMITTED BY TELSTRA PURPLE/CIRRUS NETWORK FOR THE INFORMATION COMMUNICATION AND TECHNOLOGIES (ICT) PROFESSIONALS SERVICES PANEL OF PROVIDERS, CONTRACT NUMBER 2022-018 FOR A FOUR-YEAR TERM;**
  - v. **SCHEDULE OF RATES SUBMITTED BY UPLINX FOR THE INFORMATION COMMUNICATION AND TECHNOLOGIES (ICT) PROFESSIONALS SERVICES PANEL OF PROVIDERS, CONTRACT NUMBER 2022-018 FOR A FOUR-YEAR TERM;**
  - w. **SCHEDULE OF RATES SUBMITTED BY VIATEK FOR THE INFORMATION COMMUNICATION AND TECHNOLOGIES (ICT) PROFESSIONALS SERVICES PANEL OF PROVIDERS, CONTRACT NUMBER 2022-018 FOR A FOUR-YEAR TERM;**
  - x. **SCHEDULE OF RATES SUBMITTED BY VOTAR PARTNERS FOR THE INFORMATION COMMUNICATION AND TECHNOLOGIES (ICT) PROFESSIONALS SERVICES PANEL OF PROVIDERS, CONTRACT NUMBER 2022-018 FOR A FOUR-YEAR TERM;**
  - y. **SCHEDULE OF RATES SUBMITTED BY ZORO GROUP FOR THE INFORMATION COMMUNICATION AND TECHNOLOGIES (ICT) PROFESSIONALS SERVICES PANEL OF PROVIDERS, CONTRACT NUMBER 2022-018 FOR A FOUR-YEAR TERM;**
3. **AUTHORISES THE CHIEF EXECUTIVE OFFICER TO EXECUTE SUCH DOCUMENTS AS ARE NECESSARY TO GIVE EFFECT TO THE ARRANGEMENTS OF THE INFORMATION COMMUNICATION AND TECHNOLOGIES (ICT) PROFESSIONALS SERVICES PANEL OF PROVIDERS, CONTRACT NUMBER 2022-018; AND**
  4. **RESOLVES THAT ALL ATTACHMENTS TO THIS REPORT AND ALL DISCUSSIONS IN RELATION TO THE ATTACHMENTS REMAIN CONFIDENTIAL.**

**Cr Mendy Urie / Cr Tom Crook**

**THAT THE RECOMMENDATION BE ADOPTED**

**CARRIED**

## **Background**

East Gippsland Shire Council (EGSC) and Wellington Shire Council (WSC) have completed evaluation of the Information Communication and Technologies (ICT) Professional Services Panel of Providers - Contract Number 2022-018.

The objective of the joint tender with Wellington Shire Council is to achieve procurement and service delivery efficiencies across both Councils.

The ICT Professional Services Panel of Providers is a non-mandatory panel arrangement being established for the supply of suitably qualified vendors to support and assist East Gippsland Shire Council and Wellington Shire Council in their delivery of ICT enabled services and specialist projects.



The ICT Professional Services Panel of Providers contract will include the following ICT service categories:

- Business Analysis and Application Support Services
- Infrastructure Technical Services
- Operational Services
- Cyber Security Services
- Project Management

There was a total of 29 tenderers assessed with 25 assessed to meet all requirements and best value to council and total 25 recommended to the panel.

- 9 Gippsland based tenderers have met requirements and been included as preferred panel tenderers within the 25 recommended to the panel
- 2 Wellington based tenderers met requirements and been included as preferred panel tenderers within the 25 recommended to the panel
- 1 Bairnsdale based tenderer met requirements and has been included as a preferred panel tenderer within the 25 recommended to the panel

The collaborative procurement with Wellington Shire Council will ensure Council can secure the appropriate skill and expertise, in the most cost-effective measures, to support ICT project and service delivery requirements for the next 4-year period.

The estimated value of the ICT Professional Services Panel of Providers is approximately \$500,000 (exclusive of GST) for the duration of the contract from 1 December 2021 to 1 December 2025 (4-year period).

## **Legislation**

On 24 March 2020 the Government passed the *Local Government Act 2020*. From 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*, sections 108 Procurement Policy and 109 Procurement.

Under section 66(2) of the *Local Government Act 2020* a meeting considering confidential information may be closed to the public. Pursuant to sections 3(1) and 66(5) of the *Local Government Act 2020*, the information contained in the attachment/s to this report are confidential because it contains Council business information being information that would prejudice the Council's position in commercial negotiations.

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**

The joint procurement is consistent with the value for money principles and that it is also consistent with provisions of the *Local Government Act 2020*, specifically:

- Section 9 ‘Overarching governance principles and supporting principles’ sub-section (f) collaboration with other Councils and Governments and statutory bodies is to be sought; and;
- 
- Section 109 ‘Procurement’, sub-sections (1) A Council must comply with its Procurement Policy before entering into a contract for the purchase of goods or services or the carrying out of works. (2) The Chief Executive Officer must ensure that any report to the Council that recommends entering into a procurement agreement includes information in relation to any opportunities for collaboration with other Councils or public bodies which may be available.

## **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.

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

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

## **Council Policy**

Collaborating with Wellington Shire Council for a joint tender complies with East Gippsland Shire Council’s Procurement Policy.

## **Options**

Council officers have considered the following options in preparation of this report before determining that the listed recommendation will provide Council the best outcome:

### **Option 1 – Establish ICT Professional Services Panel of Providers with Wellington Shire Council (recommended)**

It is expected that the following outcomes will be achieved for both councils as a result of the establishment of this ICT Professional Services Panel of Providers:

- Opportunity to establish procurement panel of local ICT skill and expertise (supporting local economy and ICT industry).
- Procurement efficiencies which result in cost-effective ICT project and service delivery for both councils.
- To ensure council can secure the appropriate skill and expertise to support ICT project and service delivery requirements for the next 4-year period.

## **Option 2 - Do nothing**

This is not a feasible option given the complex requirements of ICT professional services to support council operations and the forecasted expenditure required to deliver major ICT projects over the next 4-year period. Another major consideration is the strong requirement for Council to secure the appropriate skill and expertise to support ICT project and service delivery requirements for the next 4-year period.

### **Resourcing**

#### *Financial*

This report has been prepared by officers within existing budgets.

The impact of adopting the ICT Professional Services Panel of Providers is estimated to garner approximately \$120,000 cost benefit over a 4-year period.

#### *Plant and equipment*

This report is assessed as having no impact to plant and equipment.

#### *Human Resources*

There is an increasing shortage of available personnel with appropriate ICT skill and expertise within the Gippsland Region due to the impact of COVID and the changing employment landscape. ICT professionals and specialist skills are in high demand. Access to specialist expertise is becoming a challenge for many organisations who require specialist skills and services to facilitate major project requirements. The ICT Professional Services Panel of Providers will enable Council to mitigate this issue and secure appropriate skill and expertise.

#### *Risk*

The risks of this proposal have been considered as having no impact to business-as-usual operations. There is an elevated risk of not being able to secure specialist ICT skills and expertise if the ICT Professional Services Panel of Providers is not established which may impact future project requirements, and delivery outcomes.

### **Economic**

The joint tender procurement with Wellington Shire Council has provided the opportunity to establish a procurement panel of local ICT skill and expertise, supporting the local economy and ICT industry.

### **Social**

This report is assessed as having no direct social impact.

### **Environmental**

#### *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 is assessed as having no requirement for external consultation.

## **Attachments**

1. CONFIDENTIAL - Information Communication and Technologies ICT Professional Services Panel of Providers Contract [ALGV] **[2.2.5.1 - 3 pages]**
2. CONFIDENTIAL - WSC EGSC ICT Panel of Providers Tender Evaluation Report Nov2021 **[2.2.5.2 - 10 pages]**

## **2.3 Place and Community**

### **2.3.1 Declaration of Special Charge Scheme for South Bairnsdale Industrial Estate Water Supply Upgrade**

Authorised by      General Manager Bushfire Recovery

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#### **Conflict of Interest**

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

#### **Executive Summary**

This report recommends that Council implement a Special Charge Scheme under section 163 of the Local Government Act 1989.

The proposed scheme will require some landholders located in the South Bairnsdale Industrial Estate (the estate), to contribute a portion of the funding required to facilitate works to upgrade the water supply to the estate.

Works to upgrade the water supply will significantly reduce the costs to property owners located in the estate when installing private firefighting services for buildings with floor areas greater than 500 m<sup>2</sup>, thus removing what has been identified by landholders as a key barrier to developing effective use of the land.

The overall project cost to upgrade the water supply to the estate is \$2.4M. Of that, East Gippsland Water has already contributed \$1.1M in works and Regional Development Victoria has provided a grant of \$500,000. This Special Charge Scheme is intended to raise \$400,000 from benefiting landowners and the final \$400,000 contribution will be from Council. The contribution from Council will be allocated from the Economic Development Discretionary Fund.

There were 11 objections to the scheme which represents 7% of landowners. Of these, there were five objectors who indicated their properties had the wrong number of benefit units allocated to their property. Council officers have reviewed these properties and amendments have been made to the proposed scheme accordingly. Given the overall support from landowners and requests for resolution of the issue over a number of years, officers conclude that on balance there is support for the scheme and the case for action remains.

## **Officer Recommendation**

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

- 1. receives and notes this report and all attachments pertaining to this report;***
- 2. declares a special charge in accordance with section 163 of the Local Government Act 1989 (Act) as follows:***
  - a. A special charge is declared for the period commencing on the day on which Council issues a notice levying payment of the special charge and concluding on 30 June 2026.***
  - b. The special charge be declared for the purpose of defraying expenses to be incurred by Council in engaging East Gippsland Water to make arrangements to upgrade the water supply service at the South Bairnsdale Industrial Estate (Estate), which:***
    - i. Council considers will confer a special benefit on those persons required to pay the special charge (and who are described in succeeding parts of this resolution); and***
    - ii. arises out of Council's functions of:***
      - advocating and promoting proposals which are in the best interests, and for the benefit and wellbeing, of the municipal community;***
      - providing property and infrastructure services;***
      - ensuring the economic sustainability of the Estate and the broader municipal community;***
      - enhancing the safety and wellbeing of properties, owners and occupiers within the Estate; and***
      - generally ensuring the peace, order and good government of the municipal district.***
  - c. The total:***
    - i. cost to Council of performing the functions described in Attachment 1 – Benefit Ratio Calculation of this resolution is estimated to be \$800,000 (noting that the total cost to Council is \$1.3M and Council has received a grant from the Victorian Government of \$500,000, resulting in a residual cost of Council of \$800,000) and***
    - ii. amount to be levied under the special charge is \$400,000, or such other amount as is lawfully levied as a consequence of this resolution.***
  - d. the special charge is to be declared in relation to the land identified as the 'Designated Zone' shown on the Scheme Plan of Area in Attachment 2, and the properties in relation to which the special charge is to be levied are all of the properties identified in the Special Charge Property Application Plan at Attachment 3.***
  - e. The amount of the Special Charge for which each owner is liable is listed alongside each property specified in Attachment 3 – Special Charge Property Application Plan.***

- f. *The owners of the land described in Attachment 3 – Special Charge Property Application Plan of this resolution will, pay the special charge in the amount set out in Attachment 3 – Special Charge Property Application Plan of this resolution in the following manner:*
  - i. *payment by a lump sum within 90 days of receiving a notice levying payment under section 163(4) of the Act; or*
  - ii. *payment under an instalment plan to be paid over a period of 5 years, which may include a component for reasonable interest in accordance with section 167(6) of the Act, at the election of the owner.*
3. *considers that there will be a special benefit to the persons required to pay the special charge because there will be a benefit to those persons that is over and above, or greater than, the benefit that is available to persons who are not subject to the proposed special charge, as a result of the expenditure proposed by the special charge, as the expenditure and resulting works will obviate the need for those persons to install private water supply works before constructing or occupying a building with a floor area greater than 500m<sup>2</sup>;*
4. *for the purposes of having determined the total amount of the special charge to be levied:*
  - a. *considers and formally records that only those properties located within the ‘Designated Zone’ shown on the Scheme Plan in Attachment 1 will derive a special benefit from the imposition of the special charge; and*
  - b. *determines for the purposes of sections 163(2)(a), (2A) and (2B) of the Act that the estimated proportion of the total benefits of the special charge to which the performance of the function or the exercise of the power relates (including all special benefits and community benefits) that will accrue as special benefits to the persons who are liable to pay the special charge is 100%.*
5. *authorises the Chief Executive Officer, to:*
  - a. *carry out any and all administrative procedures necessary to enable Council to give effect to this resolution; and*
  - b. *give notice to all owners and occupiers of properties included in the Special Charge Property Application Plan and all persons who have lodged a submission in respect of the special charge of the decision of Council to declare and levy the special charge, and the reasons for the decision.*
6. *approves allocation of \$400,000 from the Economic Development Discretionary Fund to upgrade the water supply service at the South Bairnsdale Industrial Estate.*

**Cr Tom Crook / Cr Arthur Allen**

**THAT THE RECOMMENDATION BE ADOPTED**

**CARRIED**

## Background

The South Bairnsdale Industrial Estate is considered East Gippsland's premier industrial estate for large scale developments and is partially developed with several significant and many smaller operations. There remains considerable potential for further development on the estate in terms of new developments as well as upgrades to existing developments.

The water supply (flow and pressure) provided to the estate by East Gippsland Water is such that any buildings over 500m<sup>2</sup> in floor area must provide their own firefighting service. The costs of these systems can vary from \$50,000 - \$150,000 per building. This requirement has limited development of the estate and economic development within the Shire.

When the original subdivision was undertaken, it was not considered necessary to upgrade the water reticulation system for firefighting purposes. It was customary practice for the Country Fire Authority (CFA) to provide an exemption for the need to install a private supplementary firefighting service to buildings over 500m<sup>2</sup>.

However, in the wake of the Black Saturday bushfires in 2009 the CFA stopped providing such exemptions, leading to a need for those constructing buildings over 500 m<sup>2</sup> to provide a private firefighting service. (*East Gippsland Regional Towns Study, 2012, Spatial Economics*)

Upgrades to the current water supply system on the estate have the potential to unlock industry investment into the estate and support much needed job creation in East Gippsland. There is a higher unemployment rate in East Gippsland compared to regional Victoria. Drought, bushfires, COVID-19, and transition in the timber industry, have also impacted employment in East Gippsland.

Ongoing representations have been made to Council by existing and potential developers advocating the need for a suitable fire protection solution for the estate to assist in unlocking investment into new and expanding businesses. The project will help maintain existing jobs in the estate and encourage potential investment into these sites.

Outlined in **Attachment 2 – Scheme Plan of Area** and **Attachment 3 – Special Charge Property Application Plan** is the area and individual lots that the scheme will apply to.

At its meeting on 22 June 2021, Council approved executing an agreement with East Gippsland Water for upgrading the water supply at Estate. Council approved the formal advertising and requested feedback on its intention to declare the Special Charge Scheme at its 24 August 2021 meeting. Feedback that was received from the formal consultation is summarised at **Attachment 4 - Formal Consultation Summary**

### Economic benefits of the proposal

Using REMPLAN to analyse the estimated value in terms of financial investment and jobs is as follows:

- Project Implementation, \$2.4M investment into civil construction creating a total of seven jobs.
- Non-residential building construction and upgrades to industrial buildings. Estimate of \$100,000 into each vacant lot, and upgrade of \$50,000 into 27 under-utilised lots, gives a total \$4.75M into Non-Residential Building Construction, creating an additional 25 jobs.
- Investment in 34 new lots and 27 upgrades is estimated to create on average two jobs per lot for new buildings and one additional job per lot for upgrades, totaling an additional 95 ongoing direct jobs.



- The total number of jobs created due to direct, supply-chain and consumption effects is up to 178 jobs.

The above figures are based on REMPLAN outputs; however, case studies of recent business set-up indicate there are greater benefits.

To significantly improve fire-fighting standards to the estate, it is proposed that East Gippsland Water will upgrade the existing potable water supply to the necessary pressure and flow rate that meets the building code.

East Gippsland Water have agreed to undertake the necessary upgrade works at a total project cost of \$1.3M, having already independently invested \$1.1M in earlier works to enable the proposed fire-fighting standard to be achieved. The estimated cost to complete the upgrade is \$1.3M.

Council officers propose that Council fund the remaining cost to complete the project from the following:

- \$500,000 grant from Regional Development Victoria (approved);
- \$400,000 East Gippsland Shire Council contribution; and
- \$400,000 to be raised from estate landowners through a proposed Special Charge Scheme.

## **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 the *Local Government Act 1989*, Section 163 - Special Rate and Special Charges, which remains in force.

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**

Section 109(2) of the *Local Government Act 2020* 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 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.

## Council Policy

This recommendation is in accordance with the Special Charge Scheme Policy 2021.

## Options

Should Council wish to enable a fire-fighting standard water supply at the estate, then there are three options for funding the remaining \$400,000 required.

**Option 1:** A Special Charge Scheme where landowners who benefit from the scheme will contribute under the Special Charge Scheme policy.

**Option 2:** Additional funding is sought from the State Government or from Council.

The Victorian Government has already provided \$500,000 in funding and through communications they have indicated they are highly unlikely to contribute further.

**Option 3:** Council makes a contribution of \$800,000 (an additional \$400,000)

Council could consider paying an additional \$400,000 (on top of \$400,000 it is already proposing to contribute). This additional \$400,000 could be recovered from current or future rates revenue, or from a new differential rate on all sites in the estate. This option is not recommended. This option is not considered fair, as not all lots/landowners or contributing rate payers will receive the direct benefit of the increased water supply to the estate (i.e. could build a building over 500m<sup>2</sup>).

Given that the Victorian Government has already provided \$500,000 in funding and that the Council is already contributing \$400,000, and that the benefit of the water upgrades accrues to the landowners, **Option 1** is most equitable.

For the purposes of effecting **Option 1** above, there are a variety of ways of applying the Special Charge Scheme to landholders. The method to identify the optimal process is clarified in the Special Charge Scheme Policy 2021.

In accordance with the formula outlined in the Local Government Act 1989, for calculating the Benefit Ratio, which establishes the maximum amount Council can collect under a special charge scheme, Council can levy the amount of \$400,000. See **Attachment 1 - Benefit Ratio Calculation**.

How the scheme will be applied to each property is outlined in **Attachment 5 – Statement of Methodology**.

Council officers have already undertaken informal and formal consultation and are presenting a scheme that they are satisfied is equitable across the estate.

## Resourcing

### *Financial*

Acceptance of the recommendations of this report commits Council to \$400,000 to be allocated from the Economic Development Discretionary Fund.

### *Plant and equipment*

There are no implications on plant and equipment.

### *Human Resources*

There are no human resources implications to administer the scheme, above those already available.

### *Risk*

Should Council decide to implement a Special Charge Scheme, there are a range of risks in relation to East Gippsland Water's ability to deliver the project on time and on budget. These risks are mitigated by the fact that these works are not complex and East Gippsland Water is experienced in the delivery of such works.

As per the agreement with East Gippsland Water, they have agreed to cover the cost of any over-expenditure on the project and any savings will accrue to Council.

### **Economic**

As outlined above, using REMPLAN to analyse the estimated value in terms of financial investment and jobs is as follows:

- Project Implementation, \$2.4M investment into civil construction creating a total of seven jobs.
- Non-residential building construction and upgrades to industrial buildings. Estimate of \$100,000 into each vacant lot, and upgrade of \$50,000 into 27 under-utilised lots, gives a total \$4.75M into Non-Residential Building Construction, creating an additional 25 jobs.
- Investment into 34 new lots and 27 upgrades is estimated to create on average of two jobs per lot for new buildings and one additional job per lot for upgrades, totaling an additional 95 ongoing direct jobs.
- The total number of jobs created due to direct, supply-chain and consumption effects is up to 178 jobs.

The above figures are based on REMPLAN outputs; however, case studies of recent business set-up indicate there are greater benefits.

### **Social**

There are no social implications of the project.

### **Environmental**

There are no environmental implications of this report. Should the Special Charge Scheme go ahead then all works will be undertaken in accordance with East Gippsland Water's environmental policies and practices.

### *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 project was initiated in response to landowner concerns about the requirements for private fire-services and the associated costs and the possibility to mitigate the cost of private fire services through enhancement of East Gippsland Water's water supply infrastructure.

Before giving notice of its intention to declare the Special Charge, informal community consultation was undertaken regarding the proposal to fund the works using a special charge and was broadly supported by the owners of land in the Estate.

Formal consultation was undertaken with an advertisement declaring Council's intent to declare a Special Charge Scheme being advertised in the Bairnsdale Advertiser on 22 September 2021. Letters were sent to every property owner on 23 September 2021.

Council received 11 submissions opposing the declaration of the Special Charge in response to its public notice, which represents 7% of affected landowners. Five of the submitters felt that their properties had the wrong number of benefit units allocated to their property and, upon review, Council officers agreed that an incorrect number of benefit units had been allocated.

Submissions opposing the Special Charge were primarily on the basis that the relevant submitter did not want to pay for something that they considered would not confer a special benefit on them. Some saw benefit of the scheme but thought that Council should pay for the works. A summary of the objections is listed in **Attachment 4**.

Five of the objections received are considered reasonable and result in a reduction in the number of benefit units payable. A summary of these is listed below:

Property	Benefit unit Reductions	Reason
2/26 Rovon Place	3 BU to zero BU	Has been fully developed with storage units (under 500m <sup>2</sup> ) so unlikely to be developed for large buildings.
5/3 Giles Street	2 BU to zero BU	Already has a fire service in place and should not have been included in the scheme
67 & 41 Giles Street	12 BU to 4 BU	There are many easements on this property, including communication tower and sewage easements, which means that development of large buildings on the site is unlikely.
25 Giles Street	8 BU to 2 BU	Has a strange shaped block that has easement and vegetation that run through it and also uses much of the block for hard stand of timber, which means that development of eight large buildings on the site is unlikely.
34 Giles Street	2 BU to 1 BU	Construction business with much of block dedicated to a laydown area, which means that development of two large buildings on the site is unlikely.
<b>TOTAL</b>	<b>20 BU</b>	

As a result of the engagement and adjustment to accommodate these changes, the number of Benefit Units included in the Scheme has been reduced by 20 Benefit Units, which represents a 5.6% reduction in the total number of Benefit Units included in the Scheme. Consequently, after redistributing the proportion of the \$400,000 to be recovered by the Scheme, the amount payable per Benefit Unit has been increased by 5.6%. This means that the liability of each person liable to pay the Special Charge has been increased. The Act specifies that, in response to public consultation, Council can alter the declaration to increase the liability of any person to pay the special charge, but only if the increase to liability does not exceed 10%. This proposed change to the value of a Benefit Unit meets these criteria.

## **Attachments**

1. Benefit Ratio Calculation [2.3.1.1 - 6 pages]
2. Scheme Plan of Area [2.3.1.2 - 1 page]
3. Special Charge Property Application Plan [2.3.1.3 - 6 pages]
4. Formal Consultation Summary [2.3.1.4 - 2 pages]
5. Statement of Methodology [2.3.1.5 - 2 pages]

### 3 Confidential Business

*Cr Tom Crook / Cr Arthur Allen*

**COUNCIL WILL NOW CLOSE THE MEETING TO THE PUBLIC IN ACCORDANCE WITH THE PROVISION OF SECTIONS 66(2) OF THE LOCAL GOVERNMENT ACT 2020 TO CONSIDER ITEM 3.1.**

**CARRIED**

The meeting was closed to the public at 7.41 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 8.45 pm.

#### **3.1 Asset Investment Opportunity**

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 Council business information being information that would prejudice the Council's position in commercial negotiations.

### 4 Close of Meeting

Cr Mark Reeves took the opportunity to reflect on the past year and thanked Councillors and Staff for their hard work. Cr Reeves also acknowledged the tragic event that occurred at the Hillcrest Primary School in Devonport, Tasmania and expressed his condolences on behalf of the East Gippsland community.

Cr Mark Reeves declared the Council Meeting closed at 8.47 pm.

Confirmed

Cr Mark Reeves Mayor  
1 February 2022