



Minutes

Council Meeting

Tuesday 17 October 2023 at 6:00 pm

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

Councillors

Mark Reeves (Mayor), Arthur Allen (Deputy Mayor)
Tom Crook, Jane Greacen OAM, Trevor Stow, Mendy Urie and
John White (Online)

Attachments referenced in these minutes can be located in the meeting agenda on East Gippsland Shire Council's [website](#).

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.

Index

1 Procedural.....	5
1.1 Recognition of Traditional Custodians	5
1.2 Apologies	5
1.3 Declaration of Conflict of Interest	5
1.4 Confirmation of Minutes	5
1.5 Next Meeting.....	5
1.6 Requests for Leave of Absence	5
1.7 Open Forum.....	6
1.7.1 Petitions	6
1.7.1.1 Petition to Request Review of Books in East Gippsland Library Collection	6
1.7.2 Questions of Council	7
1.7.3 Public Submissions	9
1.8 Items for Tabling	9
1.8.1 Items to be tabled.....	9
2 Notices of Motion.....	9
3 Deferred Business	9
4 Councillor and Delegate Reports.....	10
5 Officer Reports.....	14
5.1 Place and Community	14
5.1.1 Planning Application 5.2022.344.1 (344/2022/P) - Multi-lot Subdivision and Native Vegetation Removal - 10 Fullarton Drive, Paynesville	14
5.1.2 Economic Development Advisory Committee Minutes of Meeting held 17 July 2023	15
5.2 Business Excellence	17
5.2.1 Council Plan Progress Report 2022-23 Quarter Four	17
5.2.2 Draft Annual Report 2022-23.....	17
6 Mayoral Term Address	19
7 Urgent Business	19

8 Confidential Business	19
8.1 Audit and Risk Committee Appointment.....	19
8.2 Contract Matter	19
9 Close of Meeting	20

1 Procedural

1.1 Recognition of Traditional Custodians

East Gippsland Shire Council acknowledges the Gunaikurnai, Monero and the Bidawal 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.

1.2 Apologies

Cr Sonia Buckley
Cr Kirsten Van Diggele

1.3 Declaration of Conflict of Interest

Nil

1.4 Confirmation of Minutes

Motion

That the minutes of the Council meeting held Tuesday 26 September 2023 be confirmed.

Moved: Cr Arthur Allen

Seconded: Cr Mendy Urie

CARRIED

1.5 Next Meeting

The next Council Meeting (Statutory) is scheduled to be held on Thursday 26 October 2023 at the Corporate Centre, 273 Main Street Bairnsdale commencing at 6.00 pm.

1.6 Requests for Leave of Absence

Nil

1.7 Open Forum

1.7.1 Petitions

1.7.1.1 Petition to Request Review of Books in East Gippsland Library Collection

Authorised by Acting General Manager Business Excellence

Request to Speak

Mr Carl Fechner

Motion

That Council:

- 1. receives and notes this report;***
- 2. receives the petition lodged by Mr Carl Fechner requesting to “I, the undersigned, urgently request your attention and action regarding the need to review and address the presence of adult sex education books in the children's section of the East Gippsland Shire Council public library”;***
- 3. that the petition be referred to the relevant General Manager for consideration and response; and***
- 4. notes that the Chief Executive Officer will arrange for Council Officers to write to the head petitioner advising them of these actions.***

Moved: Cr Trevor Stow

Seconded: Cr Mendy Urie

CARRIED

1.7.2 Questions of Council

1.7.2.1 10 Fullarton Drive, Paynesville

Ms Grace McCaughey submitted the following question which was read on her behalf by the Acting General Manager Business Excellence:

“Has Council budgeted for remediation works to the important stormwater management works on this floodplain, which will be required when major flooding and eventually sea level rise cause untreated water to be released into the all-important Ramsar site area? I understand that Increased and more frequent floods are predicted in the CSIRO report to Council in 2020?”.

General Manager Place and Community provided a response which is summarised below:

Under current predictions, flooding and sea level rise impacts on the stormwater detention infrastructure would occur by about 2070. Council does not budget that far ahead. The recommendation is that a coastal hazard vulnerability assessment will be undertaken prior to commencement of the development to assess these risks and make recommendations for adaptive management into the future.

I also note, as per responses to questions in previous meetings, that the risk of release of stormwater during major flooding was previously considered by the Victorian Civil and Administrative Tribunal with the member concluding the risks were low.

1.7.2.2 10 Fullarton Drive, Paynesville

Ms Kate Cooper asked the following question:

"What data and climate science did planners use in deciding that the proposed development (particularly the drainage infrastructure) has in fact minimised the natural hazard risks and financial costs to the community whilst safeguarding significant (and legally protected) natural values?"

General Manager Place and Community provided a response which is summarised below:

We have been informed by the advice of the East Gippsland Catchment Management Authority (EGCMA).

I also note that a proposed condition has been included for a coastal hazard vulnerability assessment and that assessment:

- needs to be the satisfaction of Council; and
- will provide recommendations about mitigation of risks to the stormwater management system

There is also a proposed condition in relation to a requirement for a stormwater management plan which must be to the satisfaction of Council and EGCMA.

1.7.2.3 10 Fullarton Drive, Paynesville

Ms Louise Crisp asked the following question:

"Given the drainage expert's reviews did not consider storm/tidal surge or foreshore erosion in their impact analysis, and the EGCMA did not assess the stormwater plans for flood or coastal hazard risks; how did the Shire planning department's internal review of the proposed stormwater management strategy determine the design will effectively treat stormwater runoff till 2100?"

General Manager Place and Community provided a response which is summarised below:

The recommended conditions of approval cover a number of aspects relating to detailed stormwater design, among other things, that are required to be undertaken to Council's satisfaction.

As has been covered in the answers to several questions over the past two Council meetings, there is a recommended requirement for a coastal hazard vulnerability assessment that will assess potential long-term impacts of coastal processes on the stormwater infrastructure and proposed management measures to be implemented.

1.7.2.4 10 Fullarton Drive, Paynesville

Mr David Nicastro asked the following question:

"How can the development's public open space contribution be met if the Council is to comply with proponents EPBC reserve plans which clearly prohibit public access?"

General Manager Place and Community provided a response which is summarised below:

The ultimate use and arrangements for the open space area will be guided by the outcomes of the *Environment Protection and Biodiversity Conservation Act 1999* referral.

The application before Council tonight is part of a multi-stage residential development and there have been previous contributions to open space in earlier stages of the development which satisfy the requirements set out in the planning scheme.

1.7.3 Public Submissions

1.7.3.1 Petition to Request Review of Books in East Gippsland Library Collection

Mr Carl Fechner addressed Council on the petition submitted in relation to a request to review books in East Gippsland library collections and spoke at item 1.7.1.1.

Procedural Note

At this point in proceedings, Mayor Cr Mark Reeves expressed his condolences on the passing of Vale Dr Kevin Tolhurst on behalf of Council.

"I would like to acknowledge the passing of Dr Kevin Tolhurst earlier this month.

Kevin's work focussed on bushfire behaviour. One of Kevin's skills was scientific communications - his ability to translate complex scientific information in a way the rest of us could understand.

Kevin passed away in Mallacoota after presenting a community talk about bushfire behaviour in native forests.

On behalf of Council, I extend my condolences to Kevin's family and friends, and acknowledge his great work for bushfire-prone communities."

1.8 Items for Tabling

In accordance with section 54(4)(b) of the *Local Government Act 2020*, a copy of the Audit and Risk Committee Annual Performance Report 2022/23 was tabled and subsequently recorded in the minutes of the meeting.

Attachments

1. Audit and Risk Committee Performance Report 2022/23 [1.8.1.1 - 44 pages]

2 Notices of Motion

Nil

3 Deferred Business

Nil

4 Councillor and Delegate Reports

4.1 Cr Arthur Allen

Cr Arthur Allen spoke to his written report at page 11.

4.2 Cr Trevor Stow

Cr Trevor Stow provided a verbal update.

4.3 Cr Tom Crook

Cr Tom Crook provided a verbal update.

4.4 Cr John White

Cr John White provided a verbal update.

4.5 Cr Jane Greacen OAM

Cr Jane Greacen OAM spoke to her written report at page 11.

4.6 Cr Mendy Urie

Cr Mendy Urie spoke to her written report at page 13.

4.7 Cr Mark Reeves

Cr Mark Reeves spoke to his written report at item 6 Mayoral Term Address.

Councillor Reports

Cr Arthur Allen

30/09/23 - The Mayor and I attended the opening of the Mallacoota Skate Park. What a fantastic facility! And what a great achievement by Don and his team in bringing the park to reality. Highlight of the event was the ribbon cutting. About 30 young skaters held the ribbon and each received a segment bearing the Shire logo as a keepsake of the occasion.

01/10/23 - Cr Greacen, my wife and I were guests of the Gippsland Lakes Yacht Club for their season opening. 40 knots of wind prevented the sail past but none the less a large turnout enjoyed the shelter of the club rooms. As usual with the Gippsland Lakes Yacht Club, it was a most enjoyable event.

08/10/23 - I attended the opening of the Mount Taylor Mountain Bike Track. The club enjoyed a great weekend of competition and following the presentations the chain was broken to unleash a "train" as one after the other riders tackled the jumps course at speed. Spectacular!

Beginning of October, we have experienced high winds, bush fire and the floods. I think all East Gippslanders appreciate the great work our emergency services do to keep us safe, and this includes a number of Council staff. Thank you for your service, it is very much appreciated and valued.

Cr Jane Greacen OAM

30/09/23 - AFL Grand Final, nothing else was happening on this day which ended with a great game and result.

01/10/23 - Opening of the Gippsland Lakes Yacht Club 2023 – 2024 Sailing Season. I attended with Cr Arthur Allen and Di Allen. It was a very well attended event with a presentation by Dr Kate Robb who is the Founding Director of the Marine Mammal Foundation which studies the Burruran Dolphin (Turstops Australia). This interesting presentation was followed by lunch, as the wind was blowing at 90 kph and the annual Sail Past had been cancelled.

09/10/23 - Cr Urie and I visited Point Fullarton with birders and ornithologists to learn more about Latham's Snipe in relation to the proposed development nearby. This provided valuable information as well as the opportunity to actually see 10 of these unusual water birds on the adjacent Ramsar Wetlands

10/10/23 - Cr Stow, Cr Van Diggele and I visited the proposed sites for a solar farm near Bengworden. This was at the request of local landowners who invited us to consider the concerns they had with the proposed location. It has raised important questions, as there will be more and more of this type of projects that will be proposed for large tracts of land in East Gippsland. While I totally support these renewable energy developments, like everything else, they need to be thoughtfully assessed against the most up to date information about issues like glare, fire from lithium batteries and risks to nearby assets and country, traffic and roads etc.

11/10/23 - Cr Van Diggele, Cr Crook, Cr Urie and I travelled together to participate in the Big Bonang Arvo and Service Equity Launch Event. Mayor Reeves, Chief Executive Officer and General Manager Place and Community met us there. We visited the Goongerah Wellbeing Space and the Bonang Hall to launch the Service Hub Network. Three Service Hubs have been renovated across the district – Goongerah, Bendoc and Tubbut, and the nurse-led digital health model utilising Microsoft HoloLens technology was also launched. This technology aims to reduce travel and costs for patients and helps coordinate healthcare between medical specialists, nurse, and allied health professionals in these remote towns. The Gippsland Primary Health Network and Orbost Regional Health supported this project plus funding from FRRR (Foundation for Rural Regional Renewal) and Council provided the three AEDs (Automated External Defibrillators).

12/10/23 - I was invited by Bairnsdale West Primary School to speak about leadership to 10 students selected because of their leadership qualities. I am very impressed with the way this school supports and promotes its students. And I was impressed with this session which started with a drumming exercise that I failed in, whereas these children had no problem keeping up with the quite complicated instructions from the teacher. I enjoyed the experience very much and encouraged them to become doctors and Councillors when they grow up.

14/10/23 - The Referendum. I wish to make comment about the potential impact of result of this Referendum, because I believe we have responsibility for our decisions and our actions. I am not questioning the result, but I am really concerned that the Aboriginal and Torres Strait Islander people here in East Gippsland do not lose trust in non-Indigenous Australia, nor lose hope for better lives with the same opportunities as we have.

I believe that people did not vote no because of denial of the First Nations people of this country, nor of their 65,000 years of history in this country. I think it was because of lack of understanding about how the proposed Voice would work, and also because of some dreadful misinformation and fear-mongering spread by extremists about this. I believe that we as a community will continue to be committed to closing the gap in health, education, jobs, and housing that the Aboriginal and Torres Strait Islander people have experienced since colonisation. And I believe we must now hold out our hands in friendship and love and walk alongside the First Nations people of Australia to provide them with the support that they ask for, for Reconciliation and to Close the Gap.

Cr Mendy Urie

I would like to briefly acknowledge the fire and flood events of 2 to 5 October 2023, when members of our community were on high alert and with some experiencing considerable damage to property (thankfully with no loss of life). Thank you to all the agencies: CFA, Police, SES and our own emergency response Officers for their work during these anxious times and since then to Council Officers in assessing and repairing damage in particular to Council infrastructure.

I attended the Rural Councils Victoria (RCV) annual general meeting online on 6 October 2023 and look to our representative Cr Buckley to provide a report.

As per Council resolution and along with the Mayor, I provided certification of annual financial statements, to be included into the Annual Report.

On Wednesday 11 October 2023, I attended a really wonderful Big Bonang afternoon (along with Cr Van Diggele, Cr Greacen and Cr Crook, the Chief Executive Officer and General Manager Place and Community) for the launch of Service Equity Program, a remote access medical project featuring Hollow Lense technology, which has been a long time in development and a huge achievement for all involved, including the communities of Goongerah, Bendock and Tubbit. Proud that Council contributed by providing support and defib machines which will be available for general and public use. Some great incidental meetings and conversations along the way. (Apologies for getting the Tesla lost for a short time. It was really Google leading us astray.)

On Thursday 12 October 2023, I attended Municipal; Association of Victoria (MAV) Gala Dinner and service awards in Melbourne (with the Mayor and Chief Executive Officer). Wonderful, high-spirited evening where I was delighted to receive my 10-year Councillor service award. Congratulations to our Mayor for also receiving this award along with the Mayor Emeritus award. Appreciation to the MAV for recognising service in the Local Government sector in this way. To me, it is quite meaningful. I also appreciate the support of Council in enabling myself and my husband to attend.

Monday 16 October, I attended (online) the Economic Development Advisory Committee meeting as an observer. This group is perhaps still hitting its straps as far as focused work and outcomes is concerned, but is well attended and keen, with strong diverse membership. I look forward to following future progress and outcomes.

Regarding the outcomes of the Referendum, just last Saturday, for those who voted 'no' there may be cause for relief or celebration. For those in our community who voted 'yes' there may be a lot of hurt and disappointment. I stand with and sympathise with those people, in particular with those First Nations people who were looking for change and betterment from the status quo. It seems like a wise response to take a week to reflect and contemplate and again I stand with our Indigenous community in doing this.

5 Officer Reports

5.1 Place and Community

5.1.1 Planning Application 5.2022.344.1 (344/2022/P) - Multi-lot Subdivision and Native Vegetation Removal - 10 Fullarton Drive, Paynesville

Authorised by General Manager Place and Community

Procedural Note

Cr Jane Greacen OAM moved an alternate motion.

That Council:

- 1. receives and notes this report and all attachments pertaining to this report; and***
- 2. being the Responsible Authority and having considered all the relevant planning matters, determines that Planning Permit Application 5.2022.344.1 (formerly referred to as 344/2022/P) is inconsistent with the requirements and objectives of the East Gippsland Planning Scheme and therefore resolves to issue a Notice of Refusal for the Multi-lot subdivision and native vegetation removal at 10 Fullarton Drive, Paynesville, for the following grounds:***
 - a) The proposal is generally considered to be inconsistent with the planning policy framework;***
 - b) The proposal is considered to be specifically inconsistent with Clauses:***
 - i. 11, Settlement, by inadequately responding to climate change adaptation and mitigation and protecting conserving and improving biodiversity, waterways and other natural resources;***
 - ii. 11.03-4A, Coastal Settlement, by promoting development in identified coastal hazard areas, wetlands, and low-lying coastal areas;***
 - iii. 11.02-4L-01, Coastal Settlements, by not ensuring development does not adversely affect landscape and environmental values and not incorporating measures to protect those values;***
 - iv. 12.01-1S, Protection of Biodiversity, for failing to consider the fragmentation of habitat of the Latham snipe, and also by developing immediately adjacent to the Ramsar Gippsland Lakes Reserves, which contains species of significance which could be affected by the proposed development;***
 - v. 12.02-1S, Protection of the marine and coastal environment, for failing to protect and enhance the overall extent and condition of native habitats and species diversity distribution across public and private land in the marine and coastal environment;***
 - vi. 12.02-1L, Protection of coastal areas, given the proposed development of privately owned coastal areas is not in sympathy with the values of adjoining Crown Land, including coastal wetlands identified under the Ramsar Convention;***
 - vii. 12.03-1R, High value water body assets – Gippsland and 12.03-1L Waterways by impacting on the high value water body asset, Gippsland Lakes, and by directing development in proximity to major wetlands;***

- viii. **12.05-1L, Environmentally Sensitive areas, by failing to protect and enhance environmental, cultural and aesthetic values within East Gippsland;**
- ix. **13, Environmental Risks and Amenity, 12.01-1S, natural hazards and climate change, and 13.01-2S Coastal inundation and erosion, by not responding to the impacts of climate change;**
- x. **15, Built environment and heritage, by failing to facilitate development that is adapted and resilient to climate related hazards; and**
- xi. **15.01-3S, Subdivision design, by failing to protect and enhance habitat for native flora and fauna.**
- c) **The proposal is considered to be contrary to the objectives of the General Residential Zone by failing to implement the planning policy framework as identified in ground b) (above);**
- d) **The proposal fails to meet the objectives of the Clause 56 – Residential Subdivision requirements, specifically failing standards C12 and C25:**
 - i. **Take account of the physical features of the land including landform, soil and climate.**
 - ii. **Protect and enhance any significant natural and cultural features.**
 - iii. **Protect and link areas of significant local habitat where appropriate.**

Moved: Cr Jane Greacen OAM

Seconded: Cr Mendy Urie

LOST

Procedural Note

The Mayor, Cr Mark Reeves then called for a mover for the Officer Recommendation.

Motion

That Council:

- 1. receives and notes this report and all attachments pertaining to this report; and**
- 2. being the Responsible Authority and having considered all the relevant planning matters, determines that Planning Permit Application 5.2022.344.1 (formerly referred to as 344/2022/P) is consistent with the requirements and objectives of the East Gippsland Planning Scheme and therefore resolves to issue a Notice of Decision to Grant a Permit for the Multi-lot subdivision and native vegetation removal at 10 Fullarton Drive, Paynesville, subject to permit conditions in Attachment 1.**

Moved: Cr Arthur Allen

Seconded: Cr Trevor Stow

CARRIED

**5.1.2 Economic Development Advisory Committee Minutes of Meeting
held 17 July 2023**

Authorised by General Manager Place and Community

Motion

That Council receives and notes this report and the draft minutes of the Economic Development Advisory Committee Meeting of 17 July 2023 as at attachment 1.

Moved: Cr Tom Crook

Seconded: Cr Trevor Stow

CARRIED

5.2 Business Excellence

5.2.1 Council Plan Progress Report 2022-23 Quarter Four

Authorised by Acting General Manager Business Excellence

Motion

That Council receives and notes this report and the Council Plan Progress Report 2022-23 Quarter Four at attachment 1.

Moved: Cr Jane Greacen OAM

Seconded: Cr Arthur Allen

CARRIED

5.2.2 Draft Annual Report 2022-23

Authorised by Acting General Manager Business Excellence

Motion

That Council:

- 1. receives and notes this report and all attachments pertaining to this report; and***
- 2. adopts the draft Annual Report 2022-23 provided at Attachment 1.***

Moved: Cr Arthur Allen

Seconded: Cr Jane Greacen OAM

CARRIED

6 Mayoral Term Address

Cr Mark Reeves reflected on his term as Mayor, and a copy of the Mayoral Term Address is provided as an attachment.

Attachments

1. Mayoral Term Address [6.1 - 10 pages]

7 Urgent Business

Nil

Motion

That Council resolves to move into confidential business pursuant to section 66(2) of the Local Government Act 2020.

Moved: Cr Trevor Stow

Seconded: Cr Arthur Allen

CARRIED

The meeting was closed to the public at 7.42 pm.

8 Confidential Business

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

8.1 Audit and Risk Committee Appointment

Under Section 66(2) of the *Local Government Act 2020* (the Act) a meeting considering confidential information may be closed to the public. Pursuant to sections 3(1) and 66(5) of the Act, the information contained in this report (including all attachments pertaining to this report) is confidential because it contains personal information that would if released result in the unreasonable disclosure of information about personal affairs of the applicants who submitted an Expression of Interest to be the member of the East Gippsland Shire Council Audit and Risk Committee.

8.2 Contract Matter

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 legal privileged information, being information to which legal professional privilege or client legal privilege applies, as it relates to possible litigation to which Council will be a party.

The meeting was re-opened to the public at 8.13 pm.

9 Close of Meeting

Cr Mark Reeves closed the meeting at 8.14 pm.