



Council Meeting Agenda

Tuesday 26 July 2022 at 6:00 pm
Council Chambers (and by video conferencing)
East Gippsland Shire Council Corporate Centre
273 Main Street, Bairnsdale 3875



Acknowledgement to country

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

Council information

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

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

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

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.

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

Photo supplied by Destination Gippsland

Councillors

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

Executive Leadership Team

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

Purpose of Council meetings

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

Governance Rules

A copy of East Gippsland Shire Council's governance rules can be found at <https://www.eastgippsland.vic.gov.au/council/council-policies>

Councillors pledge

As Councillors of East Gippsland Shire Council, we solemnly and sincerely declare and affirm that we will consider each item on this agenda in the best interests of the whole municipal community.

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 | 7 |
| 1.1 Recognition of Traditional Custodians | 7 |
| 1.2 Apologies | 7 |
| 1.3 Declaration of Conflict of Interest..... | 7 |
| 1.4 Confirmation of minutes | 7 |
| 1.5 Next meeting..... | 7 |
| 1.6 Requests for leave of absence | 7 |
| 1.7 Open Forum..... | 8 |
| 1.7.1 Petitions | 8 |
| 1.7.1.1 Proposed plan to cut the hours of operation to Paynesville Library..... | 8 |
| 1.7.1.2 Omeo Library and Service Centre Service Review..... | 8 |
| 1.7.1.3 Lakes Entrance and Paynesville Library and Service Centre Service Review | 9 |
| 1.7.2 Questions of Council..... | 10 |
| 1.7.3 Public Submissions..... | 10 |
| 2 Notices of Motion | 11 |
| 3 Deferred Business | 11 |
| 4 Councillor and Delegate Reports | 11 |
| 5 Officer Reports | 12 |
| 5.1 Chief Executive Officer | 12 |
| 5.1.1 Nomination to the Recycling Victoria Local Government Advisory Committee... 12 | |
| 5.2 Business Excellence | 25 |
| 5.2.1 Draft Media Policy..... | 25 |
| 5.3 Place and Community..... | 54 |
| 5.3.1 Endorsement of the Independent Review of the East Gippsland Planning Scheme | 54 |
| 6 Urgent and Other Business | 114 |
| 7 Confidential Business | 114 |
| 7.1 Contract Variation CON2022 1415 Omeo Mountain Bike Trail Construction | 114 |

| | |
|---|------------|
| 7.2 Chief Executive Officer Key Performance Criteria 2022/23 | 114 |
| 7.3 Independent Member - Chief Executive Officer Employment and Remuneration Committee | 114 |
| 8 Close of Meeting | 114 |

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

1.3 Declaration of Conflict of Interest

1.4 Confirmation of minutes

That the minutes of the Council Meeting held Tuesday 28 June 2022 be confirmed.

1.5 Next meeting

The next Council Meeting of Tuesday 16 August 2022 to be held at the Corporate Centre, 273 Main Street Bairnsdale commencing at 6.00pm.

1.6 Requests for leave of absence

1.7 Open Forum

1.7.1 Petitions

1.7.1.1 Proposed plan to cut the hours of operation to Paynesville Library

Authorised by General Manager Business Excellence

Conflict of Interest

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

Executive Summary

This report informs Council of a petition submitted by Ms Fiona Seaton from Paynesville seeking Council reconsider the proposed cut back of library hours in Paynesville as part of Council's Library and Service Centre Service Review. The petition from 236 petitioners states:

'We ask that East Gippsland Shire Council to reconsider their proposed plan to cut the hours of opening to Paynesville Library by 18.5 hours a week'.

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

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

Officer Recommendation

That Council:

- 1. receives and notes this report;***
- 2. receives the petition submitted by Ms Fiona Seaton requesting Council to reconsider their proposed plan to cut the hours of opening to Paynesville Library by 18.5 hours a week;***
- 3. notes the petition has been referred to the Manager Customer Experience and Communications for inclusion in the submissions for the Library and Service Centre Review process; and***
- 4. notes that Council officers have written to the head petitioner advising them of the action outlined in recommendation 3.***

1.7.1.2 Omeo Library and Service Centre Service Review

Authorised by General Manager Business Excellence

Conflict of Interest

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

Executive Summary

This report informs Council of a petition submitted by Ms Pauline Connley asking Council to adequately resource the Bendigo Bank and VicRoads Services at the Omeo Service Centre as part of Council's Library and Service Centre Service Review. The petition from 33 petitioners states:

'We, the undersigned, request the Bendigo Bank Agency and VicRoads Services to be adequately resourced and remain at the Omeo Service Centre'.

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

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

Officer Recommendation

That Council:

- 1. receives and notes this report;***
- 2. receives the petition submitted by Ms Pauline Connley requesting that the Bendigo Bank and VicRoads Services be adequately resourced and remain at the Omeo Service Centre;***
- 3. notes the petition has been referred to the Manager Customer Experience and Communications for inclusion in the submissions for the Library and Service Centre Review process; and***
- 4. notes that Council officers have written to the head petitioner advising them of the action outlined in recommendation 3.***

1.7.1.3 Lakes Entrance and Paynesville Library and Service Centre Service Review

Authorised by General Manager Business Excellence

Conflict of Interest

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

Executive Summary

This report informs Council of a petition submitted by Ms Julia Ditterich, on behalf of the members of the Friends of Library - Lakes Entrance and Paynesville, asking Council to continue the current operating hours at the Lakes Entrance and Paynesville Service Centre as part of Council's Library and Service Centre Service Review. The petition from 999 petitioners states:

'We, the undersigned, hereby petition that East Gippsland Shire Council perform due diligence in the Service Centre and Library Review. We ask that:

- 1. Lakes Entrance and Paynesville Service Centre and Libraries to continue to operate from 8.30 am – 5.00 pm (Monday to Friday); and*
- 2. We request the current proposed Service Centre and Library Review recommendations to be void.'*

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

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

Officer Recommendation

That Council:

- 1. receives and notes this report;***
- 2. receives the petition submitted by Ms Julia Ditterich requesting Council continue the current operating hours at the Lakes Entrance and Paynesville Service Centres;***
- 3. notes the petition has been referred to the Manager Customer Experience and Communications for inclusion in the submissions for the Library and Service Centre Review process; and***
- 4. notes that Council officers have written to the head petitioner advising them of the action outlined in recommendation 3.***

1.7.2 Questions of Council

1.7.3 Public Submissions

2 Notices of Motion

3 Deferred Business

4 Councillor and Delegate Reports

5 Officer Reports

5.1 Chief Executive Officer

5.1.1 Nomination to the Recycling Victoria Local Government Advisory Committee

Authorised by Chief Executive Officer

Conflict of Interest

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

Executive Summary

On 14 December 2021, the *Circular Economy (Waste Reduction and Recycling) Act 2021* (the Act) was gazetted. The Act took effect on 1 July 2022, and this will result in the establishment of Recycling Victoria.

Recycling Victoria will bring a state-wide oversight to Victoria's waste management and recycling system, setting minimum standards and clearer responsibilities, stabilising the market and providing better information and data to plan and deliver the right infrastructure and services for a growing Victoria.

Recycling Victoria will establish a Local Government Advisory Committee (the Committee). The Committee will provide advice on the early functions and priorities of Recycling Victoria, including engagement with local governments, and regional and rural communities.

The Committee will be established for a period of up to 12 months as a formal advisory committee comprising of no more than 10 members, including one Councillor from each of the seven former Waste and Resource Recovery Group regions, a Municipal Association Victoria (MAV) representative, and a Victorian Local Governance Association (VLGA) representative. Membership composition will ensure a broad geographic spread across Victoria.

The timing of the invitation required Council to nominate a Councillor prior to formal endorsement at a Council Meeting. Cr Tom Crook was nominated by Council. This report is now seeking confirmation of that nomination.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report;***
- 2. confirms and endorses the nomination of Cr Tom Crook to the Recycling Victoria Local Government Advisory Committee; and***
- 3. notes that the nomination was sent to the Minister by the due date of 22 July 2022.***

Background

An invitation from the Department of Environment, Land, Water and Planning (DELWP) was received by Council on the 29 June 2022. The Council Meeting of 26 July 2022 is the first scheduled meeting since receipt of the correspondence for Council to formally resolve on a nomination to the Committee.

In discussing the correspondence with Councillors, it was agreed to submit a nomination to the Minister of Cr Tom Crook. This nomination was submitted by the closing date of 22 July 2022.

Cr Crook is experienced in environmental matters, and would take to the Committee East Gippsland's unique requirements in relation to the management of waste and participation in the circular economy.

Further background on the purpose of the Committee can be found in the Ministerial letter at **attachment 1** and Terms of Reference relating to the Committee at **attachment 2**.

Legislation

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

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

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

In preparing this report the Victorian *Gender Equality Act 2020* has been considered. The implications of the report have been assessed and are compliant with the obligations and principles of the *Gender Equality Act 2020*.

Collaborative procurement

Not applicable.

Council Plan

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

Strategic Objective 3: 3.4 Environmentally and financially sustainable practices reduce waste going to landfill.

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

Council Policy

Environmental Sustainability Strategy 2022 to 2032, Goal 6 - Growth in the circular economy.

Options

Council essentially has two options:

1. Confirm the nomination of Cr Tom Crook for the Committee; or
2. Not confirm the nomination, which will require the withdrawal of the nomination from consideration by DELWP.

Resourcing

Financial

There are no additional budgetary implications in becoming a member of the Committee outside existing allocations.

Risk

The risks of this proposal have been considered. The management of waste is a major activity for Council. It comes at a high cost to the community through management of transfer stations and landfill. Any efforts that seek to reduce the cost burden of waste on Council are a good thing.

Not fulfilling our obligations under the Circular Economy (Waste Reduction and Recycling) Act 2021 (Vic) would place Council at risk of non-compliance. Our ability to participate and influence the implementation of this Act are in the interests of the East Gippsland community.

Economic

Victoria's circular economy will create jobs and economic growth while reducing waste, cutting pollution and establishing a strong recycling system. Businesses, governments and individuals will all benefit from working together to realise the benefits of a circular economy.

Gender Impact Statement

Not applicable as this is a State Government request, noting the correspondence from the Minister refers to the Board diversity.

Environmental

Recycling Victoria will bring strong state-wide oversight to Victoria's waste management and recycling system, setting minimum standards and clearer responsibilities, stabilising the market and providing better information and data to plan and deliver the right infrastructure and services for a growing Victoria.

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

The Committee is seeking to ensure engagement with the Local Government sector.

Attachments

1. Ministerial Invitation - Local Governance Advisory Committee Recycling Victoria [5.1.1.1 - 2 pages]
2. Local Governance Advisory Committee Recycling Victoria Terms of Reference [5.1.1.2 - 7 pages]



Hon Lily D'Ambrosio MP

Minister for Energy, Environment and Climate Change
Minister for Solar Homes

8 Nicholson Street
East Melbourne, Victoria 3002
Telephone: 03 9637 9504
DX210098

Dear Mayor

LOCAL GOVERNMENT ADVISORY COMMITTEE – RECYCLING VICTORIA

As you may be aware, on 14 December 2021, the Circular Economy (Waste Reduction and Recycling) Act 2021 (the Act) was gazetted. The Act takes effect on 1 July 2022, and this will result in the establishment of Recycling Victoria, whose Head will oversee the waste, recycling and resource recovery sector, and support the development of a circular economy.

Recycling Victoria will bring strong state-wide oversight to Victoria's waste management and recycling system, setting minimum standards and clearer responsibilities, stabilising the market and providing better information and data to plan and deliver the right infrastructure and services for a growing Victoria.

Victoria's circular economy will create jobs and economic growth while reducing waste, cutting pollution and establishing a strong recycling system. Businesses, governments and individuals will all benefit from working together to realise the benefits of a circular economy.

I remain committed to local government involvement in this important reform, and have asked the Department of Environment, Land, Water and Planning (DELWP) to assist me to establish a Local Government Advisory Committee. The Committee will provide advice to me on the early functions and priorities of Recycling Victoria, including engagement with local governments, and regional and rural communities.

You are invited to put forward a nomination of an appropriate Councillor for consideration as a member of the Local Government Advisory Committee, if you wish.

The Victorian Government is committed to ensuring the diversity of our boards and committees represents the diversity of our communities. We encourage you to consider women, Aboriginal and Torres Strait Islander people, people with a disability, young people, people from culturally and linguistically diverse backgrounds and LGBTQI+ people in putting your nomination forward for the Local Government Advisory Committee.

The Local Government Advisory Committee will be established for a period of up to 12 months as a formal advisory committee comprising of no more than 10 members, including one Councillors from each of the seven former Waste and Resource Recovery Group regions, a Municipal Association Victoria representative, and a Victorian Local Governance Association representative. Membership composition will ensure a broad geographic spread across Victoria.

To fulfil the requirements of the Committee's purpose, I require members to have a keen interest in the efficient operation and regulation of the waste and resource recovery sector, have a sound understanding of the environment in which Recycling Victoria will operate, the broader trends which impact on that environment, and a proactive approach to sharing information and constructive advice.



OFFICIAL-Sensitive

A selection panel comprising DELWP senior leadership will shortlist suitable nominees for my approval.

The first Committee meeting is expected to be scheduled in August 2022, most likely virtually, where you will be introduced to Recycling Victoria's Interim Head.

Please advise the Department of Environment, Land, Water and Planning of your nominated representative by COB Friday, 22 July 2022 by email to [climate.change@governance@delwp.vic.gov.au](mailto:climate.change@governance.delwp.vic.gov.au).

I look forward to hearing from you and working with all members of the Committee.

Yours sincerely



Hon Lily D'Ambrosio MP
Minister for Energy, Environment and Climate Change
Minister for Solar Homes

28/06/2022

Cc MAV CEO

Recycling Victoria Local Government Advisory Committee Terms of Reference

The Minister may establish advisory committees from time to time to inform and advise the Minister and the Head of Recycling Victoria on any matters relating to the operation in accordance with Section 37 (1) of the Circular Economy (Waste Reduction and Recycling) Act 2021.

Purpose

1. The Recycling Victoria Local Government Advisory Committee has been established to advise the Minister and Head of Recycling Victoria (RV) on RV's early functions and priorities as they are established.

Definitions

2. In these Terms of Reference-
Committee means the Recycling Victoria Local Government Advisory Committee, established by the Minister by these Terms of Reference

Code of Conduct means the *Directors' Code of Conduct and Guidance Notes* issued by the Victorian Public Sector Commission¹;

Department means the Department of Environment, Water, Land and Planning or its successor.

Appointment and Remuneration Guidelines means the Government's *Appointment and Remuneration Guidelines*, as updated from time to time².

Member means a member of the Committee and includes a reference to the Chairperson unless the contrary intention is expressed.

Minister means the Minister for Environment and Climate Action;

PAA means the *Public Administration Act 2004*;

Public sector employee has the meaning given in section 4(1) of the PAA.

Secretary means the Secretary to the Department.

Establishment of Committee

3. The Minister establishes the Recycling Victoria Local Government Advisory Committee as a departmental advisory committee from the date of these Terms of Reference.
4. The Committee is classified as a Group C Band 3 advisory committee under the Appointment and Remuneration Guidelines (the Guidelines)

Functions

5. The function of the Committee is to provide advice to the Minister in consideration of RV's early functions and priorities as they are established, how these arrangements support local government and ensure effective strategic relationships across the state.

Accountabilities

6. The Committee is subject to the general direction of the Minister in the performance of its functions.³

¹ published at: <http://vpsc.vic.gov.au/resources/directors-code-of-conduct-and-guidance-notes/>

² available at: <http://www.dpc.vic.gov.au/index.php/policies/governance/appointment-and-remuneration-guidelines>

³ Note section 85(1) of the PAA

Recycling Victoria Local Government Advisory Committee Terms of Reference

7. The Committee must provide its advice as directed by the Minister or required by these Terms of Reference to the Head RV within 10 working days following each meeting, or following adoption of the minutes whichever is the earlier.
8. Where the Minister has requested advice, the Head RV may provide a response to the Committee's advice where required. The consolidated response will be provided to the Minister as soon as practicable (or within 15 working days whichever is the shortest time period) after each meeting by the Head RV.
9. Each member of the Committee is required to comply with these Terms of Reference, and each member's ongoing participation in the Committee represents their implied acceptance of these Terms of Reference.
10. Each member must at all times act in a manner that is consistent with the public sector values set out in section 7(1) of the *Public Administration Act 2004*. These are: Responsiveness, Integrity, Impartiality, Accountability, Respect, Leadership, and Human Rights,
11. Each member is required to act in the best interests of the Committee and to conduct themselves in a manner that is consistent with their standing as an appointed member.
12. The Code of Conduct for Victorian Public Entities applies to the Committee and its members as though a member is a director of a public entity.

Timeframe

13. The Committee operates from 1 July 2022 or the date of signature of this document for a period of up to 12 months.

Membership

14. The Committee consists of a Chairperson and a maximum of ten (10) other members, appointed by the Minister.
15. The Committee is to be constituted by:
 - a. One Councillor representative from each of the former seven Waste and Resource Recovery Group regions to be nominated by mayors.
 - b. An employee of the Municipal Association Victoria appointed by the Minister.
 - c. An employee of the Victorian Local Governance Association appointed by the Minister.
 - d. An employee of the Australian Services Union appointed by the Minister.
 - e. the Chairperson appointed by the Minister. The chairperson will be selected from amongst the Councillor nominees.
16. To fulfil the requirements of the committee's purpose, and scope, members are expected to:
 - a. Have sufficient expertise and authority to consider matters and provide views on behalf of local government.
 - b. Represent local government with interests in the efficient operation and regulation of the waste and resource recovery sector.
 - c. Have a sound understanding of the environment in which Recycling Victoria will operate and broader trends that could impact on that environment.
 - d. Provide sound advice, insights and leadership.
 - e. Proactively share information relevant to the scope of the committee's remit.
 - f. Commit to providing honest, constructive and timely feedback.

Chairperson

17. The role of the Chairperson includes: provision of leadership and oversight of the performance of the Committee's functions and delivery of its accountabilities.
 - b. approval of the agenda and minutes of meeting prior to circulation to members.

Recycling Victoria Local Government Advisory Committee Terms of Reference

Term of appointment

18. A Member is appointed for the term of office specified in his or her instrument of appointment.

Remuneration and expenses

19. A member of the committee as a nominated employer representative is not eligible for remuneration, as the work as a member of the committee forms a requirement of their substantive position.

20. A Member is entitled to the reimbursement of reasonable travelling and personal expenses directly related to their service on the Committee at the rates, and on the terms, that apply to employees of the Department.

21. To claim for remuneration and expenses, Members must:

- complete the Department's Commencement Form and other required forms, on appointment.
- submit Claim Forms to the Secretariat as required, together with supporting evidence.

Removal from office and resignation

22. The Minister, without cause or notice, may remove a member from office at any time.

23. The office of a member becomes vacant if:

- a member resigns in writing addressed to the Minister.
- a member is removed from office.
- a member dies or in the opinion of the Minister, becomes incapable of performing his/her duties.
- a member becomes a bankrupt or a person disqualified from acting.

24. Upon a vacancy occurring in the office of a member, the vacancy may be filled by the Minister in accordance with these Terms of Reference.

Meeting Procedure

25. Meetings of the Committee may be conducted in a manner determined by the Chairperson subject to these Terms of Reference and any direction given by the Minister.

26. The quorum of a meeting consists of a majority of members presently appointed to the Committee.

27. If the Chairperson is absent, or the office of Chairperson is vacant, the members present at a meeting may elect from the members present a member to preside at that meeting.

28. The Chairperson, or presiding member, must ensure, as far as practicable, that every member has adequate opportunity to participate in discussions.

Minutes

29. The Chairperson must:

- ensure that minutes of each meeting are kept.
- circulate the minutes for comment by members before being formally adopted at the next meeting.
- through the Head RV, keep the Minister informed of any significant matters resulting from the meeting. Or alternatively, provide the adopted minutes to the Minister within 14 days of being adopted.

Conflicts of Interest⁴

30. In these Terms of Reference:

⁴ Refer to the Guidance on these terms of reference for alternative Conflict of Interest clauses.

Recycling Victoria Local Government Advisory Committee Terms of Reference

- a. a '**conflict of interest**' is a conflict between a member's public duty to act in the best interests of the Committee and their private interests. It includes a **conflict of duty**, which is a conflict between a member's public duty to act in the best interests of the Committee and their duty to another organisation (e.g., due to their role as a board member or employee of that organisation).
 - b. A private interest:
 - may be **direct** or **indirect**; and
 - can be **pecuniary** (financial) or **non-pecuniary** (non-financial), or a mixture of both. A non-pecuniary interest may arise from personal or family relationships or from involvement in sporting, social, or cultural activities, etc.
 - c. A conflict of interest exists whether it is:
 - **real** (ie. it currently exists);
 - **potential** (ie. it may arise, given the circumstances); or
 - **perceived** (ie. members of the public could reasonably form the view that a conflict exists, or could arise, that may improperly influence the member's performance of his/her duty to the Committee, now or in the future).
31. At the commencement of each meeting, the Chairperson must enquire of all members whether there is any potential for a conflict of interest to arise in respect to any item on the meeting agenda or any matter to be discussed and an interest held by a member.
32. A member who has a conflict of interest in a matter being discussed at a meeting of the Committee must declare the nature of the interest:
- a. at the commencement of a meeting; or
 - b. if they become aware of an interest during discussions, as soon as possible after becoming aware of the interest.
- A declaration must be made even if the interest is already recorded in the Committee's Register of Interests.
33. A member who has made a declaration of a conflict of interest:
- a. must leave the room during the agenda item.
 - b. must not take part in any discussion of the issue with other members, either during or outside of the meeting.
 - c. must not vote on the matter to which the declaration relates.

The only exception is if the Committee agrees that it would be in the **public interest** for the member to take part in some or all of the discussion and/or voting on the issue. If the conflict is material it will not usually be in the public interest for the Committee to make an exception. If an exception is made, the minutes must record clear reasons why it is in the public interest to do so and what lesser measures will be put in place to manage the conflict. Careful monitoring must occur to ensure that the lesser measures remain in the public interest.

34. The Chairperson or member presiding at a meeting at which a declaration of an interest is made must cause the declaration and how the conflict of interest will be managed to be recorded in the minutes of the meeting.
35. The Chairperson must keep a record of declared interests (the Register of Interests). Any member may request and be granted access to this Register of Interests.
36. If a Committee member has breached their conflict of interest obligations in these Terms of Reference, the Chairperson must notify in writing the Ministers as soon as practicable after becoming aware of such a breach, including whether the breach is material.⁵

⁵ For further information, please refer to the Conflict of Interest support module on DELWP's OnBoard website.

Recycling Victoria Local Government Advisory Committee Terms of Reference

Gifts Benefits & Hospitality

37. A member must never make or accept offers of gifts, benefits and hospitality in their role as a member unless it is in the public interest to do so.
38. As part of this requirement, members:
- must never solicit gifts for themselves or anyone else.
 - must refuse and report any attempt to bribe them.
 - must refuse prohibited gifts (e.g. money or similar, gifts that raise a conflict of interest, inconsistent with community expectations, bring the Panel into disrepute, etc.).
 - must declare gift offers to the DELWP Relationship Manager, Executive Director, Waste and Recycling Division.
39. Members must disclose to the Chairperson any offers of gifts, benefits and hospitality. The Chairperson must keep a register of declared offers, which any member may access.

Dispute Resolution

40. For the purposes of this dispute resolution procedure, a '**dispute**' exists if:
- two or more Committee members have difficulty working together (e.g., due to a conflict of personalities or ideological differences); and
 - the situation is unduly affecting the ability of a member, or the Committee collectively, to perform their duties in an effective and efficient manner.⁶
41. All Committee members will avoid disputes, where possible. If a dispute arises:
- the Committee members in dispute (the **parties**) will, **acting in good faith, make a reasonable, thorough and conscientious effort** to resolve the dispute on an **informal** basis, as soon as possible, and in the public interest (the **best interests of the Committee**); and
 - the Chairperson will actively guide the parties towards resolution of the dispute.
42. It is preferable for disputes to be resolved on an **informal** basis. If a dispute cannot be resolved on an informal basis, then the Chairperson will place the matter on the agenda of the next Committee meeting.
43. At that meeting, if the Committee is satisfied that: (i) a dispute exists which cannot be resolved on an informal basis; and (ii) it is in the public interest to do so, then the Committee will notify the DELWP Relationship Manager in writing of the dispute, the parties and steps taken to resolve the dispute informally.
44. The DELWP Relationship Manager will notify the Chairperson within 21 business days of the options available to resolve the dispute.

Observers

45. A person who is not a member of the Committee, such as a presenter or an observer ('Observer'), may attend all or part of a Committee meeting on the Chairperson's written invitation.
46. An Observer may, at the invitation of the Chairperson, make a presentation to the Committee or participate in discussions in a Committee meeting and is required to step out of a meeting on the Chairperson's request.
47. An Observer who is not a public sector employee will be required to sign a Deed of Confidentiality.
48. An Observer must either destroy or return all copies of documents provided to them for the purposes of that meeting at the end of that meeting.

⁶ A difference of opinion between Committee members in relation to a proposed decision (e.g. strategic, business, policy, etc.) is not a 'dispute'. It is the normal difference of views that the Committee talks through together in a considered, courteous and constructive manner before voting to make its decision, in accordance with the Committee's meetings and decisions procedures.

Recycling Victoria Local Government Advisory Committee Terms of Reference

Confidentiality

49. Members of the Committee must not give to any other person, whether directly or indirectly, any information acquired by reason of being a Committee member, except to the extent necessary to exercise the Committee's functions or provide information in accordance with these Terms of Reference.
50. Members of the Committee must not improperly use their position or any information acquired by reason of their position to gain an advantage to themselves or other people or cause detriment to the Committee.
51. The Minister may authorise the Committee to release specified information to third parties
52. On the termination or expiry of a member's appointment, the member must return all documents relating to the Committee to the Chairperson.

Privacy

53. The Committee must have processes in place to ensure that its members, in the course of their duties on the Committee, comply with the requirements imposed by or under the Privacy and Data Protection Act 2014 as if the Committee is a public sector agency for the purposes of that Act.

Freedom of Information

54. Members of the Committee should be aware that all documents of the Committee (such as meeting agendas, board papers, minutes) will be held by the department and will be subject to the *Freedom of Information Act* 1982.

Intellectual Property

55. The rights to Intellectual property created by the members of the Committee in the course of their duties on the committee, including any reports required under these Terms of Reference, is the property of the State of Victoria. However, the Minister on behalf of the State grants the Committee a licence to use this property as authorised under these Terms of Reference.
56. In this clause, Intellectual property includes legal rights that protect the results of creative efforts including copyright, proprietary rights in relation to inventions (including patents), registered and unregistered trademarks, confidential information (including trade secrets and know how), registered designs, circuit layouts, and all other proprietary rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields, but does not include moral rights.

Time Commitment

57. The Committee is expected to meet at least 6 times a year.
58. The location of meetings will be held either in the Melbourne CBD, by remote video conferencing, or another location as advised.
59. Members are expected to attend a minimum of 75% of meetings.

Secretariat support to the Committee

60. Administrative support to the Committee will be provided by Recycling Victoria.
61. Day to day liaison for the Committee will be through Recycling Victoria.
62. Support provided by the Secretariat includes:
 - a. organising meeting rooms/video conferencing arrangements;
 - b. taking minutes;
 - c. preparing and distributing agendas for Committee meetings, in consultation with the Chair, including any meeting papers;

Recycling Victoria Local Government Advisory Committee Terms of Reference

- d. other administrative support (e.g. processing claims for reimbursement of remuneration and expenses); and
- e. assisting in drafting reports.

63. The Secretariat will disseminate information and papers to members in an efficient and effective manner.

64. The costs of the Committee will be met by Recycling Victoria.

Entity review, sunset date & amendments

65. The Committee operates until 31 July 2023 or for a period of up to 12 months from the date of signature of this document (whichever is sooner).

66. The Minister may amend these Terms of Reference in writing at any time.

67. The Minister may revoke these Terms of Reference in writing at any time and upon revocation of these Terms of Reference the Committee ceases to exist.

Dated 27 / 06 / 2022



The Hon. Lily D'Ambrosio
Minister for Environment and Climate Action

5.2 Business Excellence

5.2.1 Draft Media Policy

Authorised by General Manager Business Excellence

Conflict of Interest

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

Executive Summary

This report is seeking Council's consideration and adoption of a revised Media Policy which is provided as **Attachment 1**.

The Draft Media Policy (Policy) outlines how Council manages media communications, relationships with media outlets, stakeholders, and community.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report;*
- 2. adopts the Draft Media Policy as provided at Attachment 1; and*
- 3. authorises the Chief Executive Officer to amend the adopted policy without formal Council consideration, if the amendments required are of a minor administrative nature.*

Background

Through the media, Council communicates information to residents and stakeholders about its services, programs, and activities. The media and all communication channels play a critical role in facilitating education, transparency, and public trust. Importantly, the Policy outlines the protocols for managing Council's media communications and relationships with media outlets, stakeholders, and community.

How Council aims to ensure information is provided to media outlets in an accurate, timely and professional manner, and increases the likelihood of balanced information being published by media outlets and through Council's own media channels is an important part of this policy. As are the requirements for compliance with confidentiality, governance, legal, privacy and regulatory parameters when using the media to conduct Council business.

The Policy, at **Attachment 1**, outlines expected behaviours from elected representatives, staff and the public. If adopted, it will replace the current Social Media and Media Relations Policy, as provided at **Attachment 2**.

Since the adoption of the current policy, the media landscape has changed significantly, with the continued use of traditional mediums and digital and social media now commonplace. Council's use of social media is now an embedded and important 'business as usual' activity.

The move to a Media Policy better reflects all media and Council's relationships with media, residents, and ratepayers, with the customer experience at the forefront. The current and proposed policies have significant differences.

Council is active across many media channels, which provide avenues to reach different audiences in varied localities at various times.

The media provides both opportunities and risks. This Policy has an emphasis on how Council can provide quality media content to its customers and stakeholders, while also mitigating risks associated with the publication of inaccurate, misleading, or mischievous comment.

The Media Policy will form a critical part of how the organisation's renewed Communications Strategy will be enacted, which is under development and will come before Council later this year.

Legislation

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

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

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

In preparing this report the Victorian *Gender Equality Act 2020* has been considered. The implications of the report have been assessed and are compliant with the obligations and principles of the Gender Equality Act. The need for a Gender Impact Assessment has also been assessed. The implications of this report have been assessed and align with the principles and objects of the *Gender Equality Act 2020*.

Collaborative procurement

Pursuant of section 109(2) of the *Local Government Act 2020* does not apply as this report does not relate to 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: 5.1 A better everyday customer experience is created for our residents and visitors; and

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

Council Policy

This Council policy was last adopted in 2018 and is due for review.

Resourcing

Financial

The delivery of media content is considered as part of the annual budget processes. Media initiatives outside the budget process are considered on a case-by-case basis with respect to their cost, merit and community and Council benefit.

Plant and equipment

Not applicable.

Human Resources

Not applicable.

Risk

Policies mitigate risks by providing a framework that ensures consistency in the way council manages business functions. This policy provides clear direction for councillors and staff to support the management of liability and reputational risk through our media channels.

Economic

Council contributing to a local media landscape that improves the quality of content accessed by its customers can improve relationships with government, partners and stakeholders and in turn build confidence.

Social

Council can play a significant role in the dissemination of information about events and services that improve the community's access to information and opportunities to connect both in person and online.

Gender Impact Statement

This policy has considered the *Gender Equality Act 2020* in its preparation. The policy has been assessed as not requiring a Gender Impact Assessment (GIA).

Environmental

Not applicable.

Climate change

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

Attachments

1. Draft Media Policy 2022 [5.2.1.1 - 14 pages]
2. Social Media and Media Relations Policy Approved Final 2018 [5.2.1.2 - 12 pages]



Media Policy

DRAFT

Media Policy
Date approved: XXX
Document owner: Manager Customer Experience and Communications

Version number: 1
Next review date: 1 June 2023

This document is uncontrolled when printed

1

TABLE OF CONTENTS

Purpose3

Scope3

Policy Principles3

Social Media6

Definitions and Abbreviations13

References and Supporting Documents14

Applicable Legislation:14

Applicable Policy and Procedure:14

Privacy and Human Rights Consideration14

Revision History and Review15

DRAFT

Purpose

To outline the protocols for managing East Gippsland Shire Council's media communications and relationships with media outlets, stakeholders, and community.

Scope

Through the media, Council communicates information to residents and stakeholders about its services, programs, and activities. The media and all communication channels play a critical role in facilitating education, transparency, and public trust.

This policy applies to Councillors and Council staff, contractors and volunteers.

The policy applies to all media and communication channels where people create, publish, comment on, upload and/or share content including social media.

This policy aims to ensure:

- Information is provided to media outlets in an accurate, timely and professional manner; and
- An increase in the likelihood of balanced information being published by media outlets and through Council's media channels.

The policy also outlines requirements for compliance with confidentiality, governance, legal, privacy and regulatory parameters when using the media to conduct Council business. It seeks to:

- Inform appropriate use of Council's media tools;
- Promote effective and productive community engagement through the media;
- Minimise miscommunication or mischievous communications; and
- Help Council manage the challenges and opportunities of the media environment.

Policy Principles

Authorised media spokespersons

Mayor

The Mayor is the only member of Council authorised to respond to media enquiries on all matters relating to Council policy, decisions and direction. This includes state or federal matters affecting local government, and issues impacting the municipality.

The Mayor may authorise another Councillor to respond to media enquiries on a case-by-case basis.

Media Policy
 Date approved: XXX
 Document owner: Manager Customer Experience and Communications

Version number: 1
 Next review date: 1 June 2023

This document is uncontrolled when printed

3

Chief Executive Officer

The Chief Executive Officer is the official spokesperson for all operational matters, including Council's administration and the overall organisation.

Other authorised spokespeople

General Managers can act as authorised spokespersons on issues from their areas of responsibility, as delegated by the Chief Executive Officer.

Managers and staff are not authorised to make comment to the media unless authorised by the Chief Executive Officer.

Where staff are contacted directly by the media, staff need to refer the enquiry immediately to the Communications Unit.

Likewise, if a staff member becomes aware of an issue that has potential to escalate and harm Council's reputation, or an opportunity to be promoted, it should be brought to the attention of their Manager/General Manager immediately.

Comment as a private citizen

The policy is not intended to guide how Councillors or staff interact with the media as private citizens, including as spokespeople for clubs, organisations or causes.

Councillors and staff are advised to keep this policy in mind when interacting with media as private citizens. Sometimes content can indirectly or directly connect with Council, which may breach a code of conduct. For example, this may occur when a staff member is speaking as an authority on an issue but does not clearly indicate that the views are either personal or representing an organisation other than Council.

Communications support

Council's Communications Unit works to promote Council projects, services, programs and events, amongst others. It supports the communications and marketing aims of Council and all business units.

Content and approvals

Advertising

All advertising related to Council must be endorsed by the relevant General Manager and authorised by the Chief Executive Officer, or an officer delegated by the Chief Executive Officer, before publication.

Digital

Only authorised staff are to post digital content, including on the corporate website, Your Say engagement portal, social media and video and audio content platforms.

Media Policy
Date approved: XXX
Document owner: Manager Customer Experience and Communications

Version number: 1
Next review date: 1 June 2023

This document is uncontrolled when printed

4

Media releases, newsletters and reports

All media releases and newsletters for distribution by Council are approved by the Mayor and/or Chief Executive Officer. This also pertains to other information provided to the media.

Signage

Council's Branding Guidelines provide the parameters on how Council's logo and other branding elements are to be used. Signage, and adherence to the branding guidelines, is the responsibility of the business unit Manager implementing the signage.

Local government election period

During the local government election period, arrangements will be in place for the authorisation of media releases and media comment. This is to ensure no electoral matter, including the promotion of Councillors or election of candidates, is included in Council content during this period. See the Election Period Policy in the Governance Rules.

Media relations

News media enquiries will be addressed and responded to in a timely manner.

All enquiries should be directed to the Communications Unit who will action the request and coordinate a response. Email media@egipps.vic.gov.au.

Where media outlets publish inaccurate or misleading content about Council, Council will correct public inaccuracies.

If a staff member is contacted by the media directly, the officer needs to refer the enquiry to the Communications Unit.

After hours / emergency media response

All after hours media enquiries or emergency communication requirements made by media outlets must be referred to the Manager Customer Experience, Communications and Libraries by contacting Council on (03) 5153 9500.

Social Media

Social media provides opportunities for engaging two-way communication between Council and the community.

Council's social media accounts are intended to share Council views, news, information and advice; and raise public awareness about Council's work, challenges and services provided to communities.

If we 'follow' other organisations and individuals this does not imply endorsement of any kind.

Media Policy
Date approved: XXX
Document owner: Manager Customer Experience and Communications

Version number: 1
Next review date: 1 June 2023

This document is uncontrolled when printed

5

If we repost information from another organisation or individual, we do not guarantee the accuracy or factual correctness of that information.

Where we provide a forum that allows third parties to publish content, we have a responsibility for the accuracy and fairness of that content. We will take appropriate action to manage accordingly, without notice.

Official use of social media

Official use of any social media platform is when you use social media as a Council representative.

When using social media, staff, contractors and volunteers should:

- Follow Council policies and procedures;
- Conduct themselves within the parameters of the codes of conduct;
- Comply with relevant laws and regulations; and
- Act in a way that is consistent with Council's integrity, reputation and values.

When responding to social media, authorised staff should:

- Respond in a timely manner; and
- Treat general Council enquiries in the same manner as other customer requests, following Council's Customer Response Policy.

Requests for staff to be an authorised spokesperson on social media require General Manager and Chief Executive Officer approval. Requests should be emailed to: media@egipps.vic.gov.au

Responses to and moderation of public comments

We encourage comment, open conversation and debate, but expect participants to behave in a respectful manner, as guided by Council's Mutual Respect Charter, when engaging on Council social media channels.

Council accepts that there will, on occasions, be negative comments posted. Negative comments can remain published if they don't breach the page's house rules. Refer to the Communications Procedure for the response assessment chart for social media moderators.

Council reserves the right, without notice, to delete comments that are:

- Trolling – deliberately provoking others with inflammatory and offensive remarks;
- Knowingly false or mischievous complaints or statements about individuals, companies or government;
- Abusive, misleading, obscene, threatening, off-topic, sexist, racist or spam;
- Promotional or commercial in nature;
- Unlawful or incite others to break the law;
- Information that may compromise the safety or security of the public;
- Repetitive posts copied and pasted or duplicated by single or multiple users; or

Media Policy

Date approved: XXX

Document owner: Manager Customer Experience and Communications

Version number: 1

Next review date: 1 June 2023

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6

- Any other inappropriate content or comments as determined by Council.

When moderating comments, Council will use its judgement to determine if customers are asking questions or making comment and respond/not respond accordingly.

Customers who breach the above, will:

- On the first occurrence receive a warning and explanation of what house rules have not been followed;
- On the second occurrence, have their comment hidden with an explanation provided as to why, and advised that a third breach could result in a suspension from the page; and
- On the third occurrence could be suspended for 1 month, as authorised by the Chief Executive Officer.

Direct messaging on social media

- Customers who direct message during business hours will receive an initial response from the Communications Unit.
- Customers who direct message after hours receive an automatic reply acknowledging the message and noting Council's account is unmonitored at that time.

After-hours monitoring

Council's social media channels are actively monitored during business hours.

Outside normal business hours Council will:

- Where possible monitor, review content and provide responses deemed urgent; and
- Aim to not publish any potentially controversial content to assist with monitoring and limit after-hours exposure.

New social media accounts

All requests for new Council social media accounts, pages etc require prior approval of the Communications Unit and Executive Leadership Team, through a business case proposal.

Third-party social media accounts

Council does not actively monitor third-party social media accounts. It does 'follow' or 'like' third-party media accounts that may publish content related to Council business.

Where content is deemed inaccurate and/or defamatory, Council will contact the Administrator to remove content and in exceptional circumstances and with Chief Executive Officer approval comment on the post with Council's position.

Staff are encouraged to bring content deemed inaccurate or defamatory to the attention of their Manager and the Communication Unit as a matter of urgency.

Inappropriate content

Councillors, staff and the public should not post or share content on Council's accounts that

could be deemed as:

- Defamatory;
- Offensive (e.g. swearing), obscene, defamatory, threatening, harassing, bullying, discriminatory, hateful, racist, sexist;
- Unrelated to the topic of the blog, board, forum or site;
- Implies you are authorised to speak on behalf of Council;
- False or misleading;
- Confidential or personal information about Council, its staff or third parties;
- Under copyright or trademark;
- Discriminatory to a person or group;
- Illegal material or materials designed to encourage law breaking;
- Potentially compromising to the safety of Council, its staff, or systems; or
- A breach of applicable laws (privacy, trade practices, financial rules and regulations, fair use).

Personal use of social media

When using personal social media accounts, Councillors and staff are advised to keep this policy in mind. Personal content can be viewed by others and sometimes indirectly or directly connected with Council.

Sharing content on your personal accounts from official Council accounts is allowed.

This policy is not intended to cover personal use of social media where:

- The author publishes information in their personal capacity and not on behalf of Council
- No reference is made to Council, Councillors, staff, policies and services, suppliers or other stakeholders or Council-related issues.

Where a staff member refers to Council activities, issues, policy or Council decisions in their personal use of social media, Council will consider whether the staff member has breached the Staff Code of Conduct.

This policy should be read in conjunction with other relevant Council policies and procedures. When in doubt, seek guidance from the Communications Unit on how to comply with the following obligations.

Where the comments or profile of a staff member can identify that individual as linked to Council, the staff member should:

- Only disclose publicly available information;
- Consider if the comment is insulting or negative about Council, its staff or services etc;
- Ensure that all content is accurate;
- Clearly state on all postings (identifying you as a Council employee) that the views are your own and are not those of Council; and

Media Policy

Date approved: XXX

Document owner: Manager Customer Experience and Communications

Version number: 1

Next review date: 1 June 2023

This document is uncontrolled when printed

8

- Be polite and respectful.

Content and material should not be posted or shared that:

- Implies the person is authorised to speak on behalf of Council;
- Is confidential or personal information about Council, its staff or third parties;
- Could compromise the safety of Council, its staff, or systems; or
- May potentially bring the Council into disrepute.

Guiding Principles

Council representatives authorised to comment or provide media content for consideration should use these principles:

Expertise

Do not comment outside your area of expertise. Council must not be committed to actions or undertakings without specific prior authorisation.

Identity

Be clear you are a Council employee/contractor/volunteer. Use your own identity, or an approved official account. Participation anonymously or covertly via a third party or agency is not allowed.

Disclosure

Only use publicly available information. Do not share confidential information, internal discussions or decisions of Council, employees or third parties or where there is enough detail for potential identification of Councillors, Council staff or third parties.

Accuracy

Be accurate, constructive, helpful and informative. Correct any errors as soon as possible. Do not publish any information that is untrue or where you have a suspicion it may be untrue. This includes misleading or deceptive information.

Opinion and political bias

Personal and professional opinions must be clearly separated. Follow Council's Codes of Conduct when commenting on Council matters. Do not endorse any politician or political party.

Privacy

Protect personal information obtained, whether unsolicited or by request.
Get permission from anyone who appears in any photographs or video before publishing.

Language

Language and expression must always be professional and reflective of Council's values.

Copyright

You should respect copyright laws and fair use of copyrighted material and attribute work to the original author/source wherever possible.

Defamation

Users must not comment, contribute, create, forward, post, upload or share content that is malicious or defamatory.

Reward

Publishing content in exchange for reward of any kind is not allowed.

Transparency

Be open and transparent in how you engage with, or review Council personnel, services or wares.

Discrimination

Do not publish statements or information that may be discriminatory. Anti-discrimination laws should be kept in mind.

State of mind

Avoid responding to media or using social media when inebriated, irritated, upset or tired.

Accessibility

Government website standards pertaining to accessibility should always be met. Information made available via non-compliant platforms should be made accessible in another form where practical.

Timeliness of response

Timely responses to media enquiries are a high priority.

Enforcement

Staff, contractors or volunteers breach of this policy may result in disciplinary action, including dismissal in extreme cases.

The Councillor Code of Conduct guides any perceived breach of this policy by a Councillor.

Council reserves the right to remove content, where possible, that violates this policy.

Breaches of this policy should be reported to Manager Customer Experience, Communications and Libraries via: media@egipps.vic.gov.au

Media Policy
Date approved: XXX
Document owner: Manager Customer Experience and Communications

Version number: 1
Next review date: 1 June 2023

This document is uncontrolled when printed
10

Roles and Responsibilities

These management positions are responsible for the implementation, communication and compliance monitoring of the policy:

| Party / Parties | Roles and Responsibilities |
|-----------------------------------|---|
| Councillors | <ul style="list-style-type: none"> • Seek advice from Communications Unit on using social media if required. • Understand and follow this policy. • Seek social media training if required. • Seek advice from the Communications Unit or CEO if unsure about applying the provisions of this policy. |
| Staff, contractors and volunteers | <ul style="list-style-type: none"> • Refer all requests for media interviews to the Communications Unit. • Do not provide comment to a media outlet without prior approval from the CEO, via delegation. • Seek authorisation from the Communications Unit on using social media and developing a social media strategy. • Seek approval for Council branding of social media. • Register social media account/tools/site with the Communications team. • Seek social media training and development. • Understand and follow this policy. • Maintain records of email addresses, comments, 'friends', followers and printed copies or electronic 'screen grabs' when using externally hosted sites to the extent practicable. • Maintain a record of the team's social media accounts including the intended administrator, URL, login, password, and provide this information to the Communications Unit. • Seek advice from the Communications Unit if unsure about applying the provisions of this policy. • Ensure contractors are provided with a copy of this policy. • Familiarise yourself with the End User Licence Agreements of any external social media tools being used. |
| Business Unit Managers | <ul style="list-style-type: none"> • Endorse or reject a social media strategy for any new social media accounts proposed by their teams (Step 1 in approval process). • Ensure staff do not create social media platforms without approval. • Ensure staff members do not conduct media interviews without prior approval from CEO, via delegation. • Ensure contractors are provided with a copy of this policy. |
| Information Services Unit | <ul style="list-style-type: none"> • Support delivery of Council's social media platforms. • Help staff with social media record keeping so they retain some record explaining the context or purpose of social media, and a sample of posts where it is impractical to keep large volumes of screen grabs. |

Media Policy
 Date approved: XXX
 Document owner: Manager Customer Experience and Communications

Version number: 1
 Next review date: 1 June 2023

This document is uncontrolled when printed

11

| Party / Parties | Roles and Responsibilities |
|---------------------------|--|
| Communications Unit | <ul style="list-style-type: none"> Respond to media enquiries and identify spokespeople for interview requests for CEO approval via delegation when required. Endorse or reject a social media strategy for any new accounts proposed by business units (Step 2 in approval process). Provide authorisation for social media officers (eg staff approved to respond to comments on behalf of council) Identify and implement any new social media platforms for Council. Provide advice and assist with the development of communication plans. Educate councillors, staff, contractors and volunteers about this policy and their responsibilities. Advise appropriate precautions eg disclaimers. Maintain a register of council's social media accounts including Business Unit social media strategies, the intended administrator, URL, login, password. Assist staff to retain some record explaining the context or purpose of social media, and a sample of posts where it is impractical to retain large volumes of screen grabs. Monitor and moderate Council's registered social media accounts. This refers to council-wide social media accounts and excludes accounts developed by Business Units. Monitor social media for references to Council. Elevate media content of reputation risk to Executive Leadership Team at the earliest convenience. Seek legal advice as appropriate where an issue is likely to be contentious or may create legal risk. |
| Executive Leadership Team | <ul style="list-style-type: none"> Review and approve content for publication. Fulfil media enquiries and interviews on an as-needed basis. Approve or reject a social media strategy for any new accounts proposed by Business Units (Final step in approval process). |

Definitions and Abbreviations

| Party / Parties | Roles and Responsibilities |
|-------------------------|---|
| Authorised spokesperson | A person with pre-approval to speak to a media outlet on behalf of council. |
| Social media moderator | Person with pre-approval to add content and respond on behalf of Council. |
| Council | East Gippsland Shire Council. |
| Confidential | Not public. The private information of a person or group. |
| EDRMS | Council's electronic records management system. |

Media Policy

Date approved: XXX

Document owner: Manager Customer Experience and Communications

Version number: 1

Next review date: 1 June 2023

This document is uncontrolled when printed

12

| | |
|------------|---|
| URL | The address of a webpage. |
| Moderation | Controlling contents on an online platform. |
| Monitor | Watch; keep an eye out for. |

References and Supporting Documents

Applicable Legislation:

- *Local Government Act 2020*
- Local Government Regulation 2012

Applicable Policy and Procedure:

- East Gippsland Shire Council Plan 2021-25
- East Gippsland Shire Council Community Vision 2040
- Policies for email, internet, digital equipment, electronic communications
- Code of Conduct (Councillor and Staff)
- Employment contracts
- Human Resource policies
- Information Services and Communications policies
- Information Privacy Policy
- Community Engagement Policy
- Customer Experience Strategy
- Customer Response Policy
- Mutual Respect Charter
- Election Period Policy (Governance Rules)
- Communications Procedure, including Response Assessment Guide
- Social Media Request Form
- East Gippsland Shire Council Branding Guidelines

Privacy and Human Rights Consideration

All personal information collected by East Gippsland Shire Council in connection with the Media Policy will be handled in accordance with the applicable privacy legislation.

Generic principles for collecting and handling personal information by public bodies are legislated under the *Privacy and Data Protection Act 2014* (Vic), the *Health Records Act 2001* (Vic) and the *Privacy Act 1988* (Cth).

The Media Policy has been assessed as compliant with the obligations and objectives of the Victorian *Charter of Human Rights and Responsibilities Act 2006*.

Media Policy
 Date approved: XXX
 Document owner: Manager Customer Experience and Communications

Version number: 1
 Next review date: 1 June 2023

This document is uncontrolled when printed
 13

Revision History and Review

| Version Control | Approved Amended Rescinded | Date Effective | Approved By | ECM Document Reference | Summary of Changes |
|-----------------|----------------------------|----------------|-------------|------------------------|--|
| 1 | | | | | Rewrite of the former Social Media and Media Relations Policy. |
| | | | | | |

DRAFT

Media Policy
 Date approved: XXX
 Document owner: Manager Customer Experience and Communications

Version number: 1
 Next review date: 1 June 2023

This document is uncontrolled when printed
 14



Social Media and Media Relations Policy



Department Office of the CEO
Author Communications and Corporate Strategy Unit
Responsible Position Manager Communications and Corporate Strategy
Document Number 7527829
Policy Approved 06/03/18
Review Date October 2019

REVISIONS

| Date | Description | Authorised By | Approved by |
|------|------------------------|-----------------|---------------------|
| 1 | Introduction of policy | Executive Group | Council 06/03/18 |
| | | | |

- 1. PURPOSE3**
- 2. SCOPE3**
- 3. POLICY PRINCIPLES4**
- 4. SOCIAL MEDIA4**
- 5. ENFORCEMENT8**
- 6. ROLES AND RESPONSIBILITIES8**
- 7. REFERENCES AND SUPPORTING DOCUMENTS.....10**
- 8. DEFINITIONS AND ABBREVIATIONS.....10**
- 9. ANNEXURE A11**
- APPENDIX 1..... 12**

1. PURPOSE

The purpose of this policy is to specify the procedures for dealing with news media and provide guidance on the expected behaviours when using social media and new technologies. This policy applies to Councillors, Council staff, contractors and volunteers and aims to ensure Council's communications with all types of media are timely, professional and accurate.

2. SCOPE

Media is an independent source of information for readers/listeners/viewers, and can be a useful communications tool for Council.

Through the media, Council communicates important information to residents and stakeholders about its services, programs, and activities. Media plays a critical role in facilitating transparency and public trust.

This policy aims to ensure that information is provided to the media in an accurate, timely and professional manner, and to increase the likelihood of useful and balanced information being presented through the organisation's media channels.

The policy outlines requirements for compliance with confidentiality, governance, legal, privacy and regulatory parameters when using social media to conduct Council business. It aims to:

- Inform appropriate use of social media tools;
- Promote effective and productive community engagement through social media;
- Minimise miscommunication or mischievous communications; and
- Help Council manage the challenges of the social media environment

The policy applies to traditional, digital and social media channels where people may comment, create, upload and share content, including:

- Blogs
- Bulletin boards
- Citizen journalism and news sites
- Forums and discussion boards
- Instant messaging facilities
- Microblogging sites (e.g. Twitter)
- Online encyclopedias (e.g. Wikipedia)
- Podcasts
- Social networking sites (e.g. Facebook, LinkedIn)
- Video and photo sharing sites (e.g. Flickr, YouTube)
- Video podcasts
- Wikis
- Any other websites or new technologies that allow people to self-publish.

Given the evolving world of online media, this policy applies to all types of media, whether or not it is named in this policy.

3. POLICY PRINCIPLES

3.1 Contact with news media outlets

News media enquiries will be addressed and responded to in a timely manner. All enquiries are to be directed to the Communications and Corporate Strategy team who will action the request and coordinate a response. Email media@egipps.vic.gov.au

Staff organising or attending events are not permitted to invite the media to attend. Requests are to be submitted to the Communications and Corporate Strategy team who will liaise with media outlets on the officer's behalf. This allows for a coordinated organisational approach.

Any staff member who, in their role as a Council officer, speaks to the media without prior approval is in breach of this policy.

3.2 Authorised media spokespersons

Mayor

The Mayor is the only member of Council authorised to respond to media enquiry on all matters relating to Council policy, decisions and direction. This includes state or federal matters affecting local government, and issues impacting the municipality.

The Mayor may authorise another Councillor to respond to media enquiries on a case by case basis.

Chief Executive Officer

The Chief Executive Officer is the official spokesperson for all operational matters, including Council's administration and the overall organisation. The Chief Executive Officer may authorise another staff member to speak on a particular matter on a case by case basis.

3.3 Communications support

Council's Communications and Corporate Strategy Unit works to promote Council projects, services, programs and events, amongst others. It supports the communications and marketing aims of Council and all Business Units.

The team's services do not extend to Council's stakeholders, partners or other external organisations.

4. SOCIAL MEDIA

4.1 Official use of social media

Official use is when you use social media as a council representative.

All requests for new Council social media accounts, pages etc require prior approval, based on the completion of a Social Media Request Form. The form is available on the intranet and EDRMS.

When using social media, staff, contractors and volunteers are expected to:

- Follow Council policies and procedures, as detailed in Section 6.
- Conduct themselves with caution, courtesy, honesty and respect
- Comply with relevant laws and regulations
- Act in a way that is consistent with Council's integrity, reputation and values

Only officers with specific authorisation may respond to issues and requests referring to Council on social media sites, news sites and external channels.

When responding to social media, authorised staff will:

- Respond in a timely manner;
- Treat general Council enquiries in the same manner as other customer requests, following Council's Customer Response Policy; and
- In all cases, the Communications team should be contacted to ensure accurate, consistent and timely communication in accordance with policies.

To become an authorised spokesperson on social media, you need approval from your Director and the Chief Executive Officer via delegation. Requests should be emailed to: media@egipps.vic.gov.au.

4.2 Guiding principles

Once authorised to comment as a council representative, you must follow these principles:

- **Expertise and identity**
Do not comment outside your area of expertise. Council must not be committed to actions or undertakings without specific prior authorisation.

Be clear you are a Council employee/contractor/volunteer. Use your own identity, or an approved official account. Participation anonymously or covertly via a third party or agency is not allowed.
- **Disclosure**
Only use publicly available information. Do not share confidential information, internal discussions or decisions of Council, employees or third parties. This includes publishing confidential, personal or private information where there is sufficient detail for potential identification of Councillors, Council staff or third parties.
- **Accuracy**
Be accurate, constructive, helpful and informative. Correct any errors as soon as possible. Do not publish any information that is untrue or where you have a suspicion it may be untrue. This includes misleading or deceptive information.

- **Opinion and political bias**
Personal and professional opinions must be clearly separated. Follow Council's Codes of Conduct when commenting on Council matters. Do not endorse any politician or political party.
- **Privacy**
Protect personal information obtained through social media, whether unsolicited or by request.

Respect the privacy of others. Before publication, get permission from anyone who appears in any photographs or video. If someone asks you to remove information directly related to them and could be considered detrimental to their privacy, remove the information as soon as possible.

For more information see the Information Privacy Policy and Information Privacy Guidelines on the Hive. Generic principles for collecting and handling personal information by public bodies are legislated under the *Privacy and Data Protection Act 2014 (Vic)*, the *Health Records Act 2001 (Vic)* and the *Privacy Act 1988 (Cth)*.
- **Language**
Language and expression must be professional and reflective of Council's values at all times.
- **Copyright**
You should respect copyright laws and fair use of copyrighted material and attribute work to the original author/source wherever possible.
- **Defamation**
Users must not comment, contribute, create, forward, post, upload or share content that is malicious or defamatory. This includes statements that may impact negatively on the reputation of another.
- **Reward**
Publishing content in exchange for reward of any kind is not allowed.
- **Transparency**
Users must not seek to buy favourable social media commentary. Online publishers should be encouraged to be open and transparent in how they engage with, or review Council personnel, services or wares.
- **Discrimination**
Do not publish statements or information that may be discriminatory. Anti-discrimination laws should be kept in mind.
- **State of Mind**
Avoid using social media when inebriated, irritated, upset or tired.
- **Access**
Government web standards pertaining to accessibility should be met at all times. Information made available via non-compliant platforms should be made accessible in another form where practical.

Moderation of Council's social media

- The site owner must ensure a moderation policy is clear when inviting comments from the public on a council website or social media platform.

4.3 Personal use of social media

When using your personal social media accounts, you should keep this policy in mind.

You must be mindful that the way you represent yourself can be viewed by others and sometimes indirectly or directly connected with council.

Councillors, staff, contractors and volunteers need to maintain the same behaviour standards in their private social media use as is expected at work.

When in doubt, seek guidance from the Communications and Corporate Strategy team on how to comply with the following obligations.

Where your comments or profile can identify you as linked to Council, you must:

- only disclose publicly available information;
- not put down Council, its staff, services etc,
- ensure that all content is accurate;
- clearly state on all postings (identifying you as a Council employee) that the views are your own and are not those of Council; and
- be polite and respectful.

4.4 Inappropriate content

You are not allowed to post or share content that is:

- Offensive, obscene, defamatory, threatening, harassing, bullying, discriminatory, hateful, racist, sexist. This includes swearing.
- Unrelated to the topic of the blog, board, forum or site.
- Implying you are authorised to speak on behalf of Council.
- False or misleading.
- Confidential or personal information about Council, its staff or third parties.
- Under Copyright or Trademark.
- Discriminatory to a person or group. Illegal material or materials designed to encourage law breaking.
- Potentially compromising to the safety of Council, its staff, or systems.
- A breach of applicable laws (privacy, trade practices, financial rules and regulations, fair use).
- Potentially able to bring the Council into disrepute.
- Spam.

4.5 Timeliness of Response

Late responses to media enquiries can cause significant reputational damage. Any staff member required to provide information in order to help the Communications and Corporate Strategy team in responding to a media enquiry must do so within any reasonable timeframe set by the requesting officer.

4.6 After Hours / Emergency Media Response

All after hours media enquiries or emergency communication requirements must be referred to the Manager Corporate Communications and Strategy. If the Manager is unavailable, redirect your enquiry to your Director.

5. ENFORCEMENT

Breaching this policy may result in disciplinary action, performance management and/or review. Serious breaches may result in suspension or termination of employment or association.

A Councillor breach of this policy may result in a Councillor Code of Conduct complaint.

Council reserves the right to remove content, where possible, that violates this policy.

Breaches of this policy should be reported to Manager Communications and Corporate Strategy via media@egipps.vic.gov.au.

6. ROLES AND RESPONSIBILITIES

| Role | Responsibilities |
|-----------------------------------|--|
| Councillors | <ul style="list-style-type: none"> • Seek advice from Communications Department on using social media if required. • Understand and follow this policy. • Seek social media training if required. • Seek advice from the Communications Unit or CEO if unsure about applying the provisions of this policy. |
| Staff, contractors and volunteers | <ul style="list-style-type: none"> • Refer all requests for media interviews to the Communications Unit. • Do not provide comment to a media outlet without prior approval from the CEO, via delegation. • Seek authorisation from the Communications Unit on using social media and developing a social media strategy. • Seek approval for Council branding of social media. • Register social media account/tools/site with the Communications team. • Seek social media training and development. • Understand and follow this policy. • Maintain records of email addresses, comments, 'friends', followers and printed copies or electronic 'screen grabs' when using externally hosted sites to the extent practicable. |

| | |
|---------------------------|---|
| | <ul style="list-style-type: none"> • Maintain a record of the team's social media accounts including the intended administrator, URL, login, password, and provide this information to the Communications Unit. • Seek advice from the Communications Unit if unsure about applying the provisions of this policy. • Ensure contractors are provided with a copy of this policy. • Familiarise yourself with the End User Licence Agreements of any external social media tools being used. |
| Business Unit Managers | <ul style="list-style-type: none"> • Endorse or reject a social media strategy for any new social media accounts proposed by their teams (Step 1 in approval process). • Ensure staff do not create social media platforms without approval. • Ensure staff members do not conduct media interviews without prior approval from CEO, via delegation. • Ensure contractors are provided with a copy of this policy. |
| Information Services Unit | <ul style="list-style-type: none"> • Support delivery of council's social media platforms. • Help staff with social media record keeping so they retain some record explaining the context or purpose of social media, and a sample of posts where it is impractical to keep large volumes of screen grabs. |
| Communications Unit | <ul style="list-style-type: none"> • Respond to media enquiries and identify spokespeople for interview requests for CEO approval via delegation when required. • Endorse or reject a social media strategy for any new accounts proposed by Business Units (Step 2 in approval process). • Provide authorisation for social media officers (eg staff approved to respond to comments on behalf of council) • Identify and implement any new social media platforms for Council. • Provide advice and assist with the development of communication plans using social media. • Educate councillors, staff, contractors and volunteers about this policy and their responsibilities. • Advise appropriate precautions eg disclaimers. • Maintain a register of council's social media accounts including Business Unit social media strategies, the intended administrator, URL, login, password. • Assist staff to retain some record explaining the context or purpose of social media, and a sample of posts where it is impractical to retain large volumes of screen grabs. • Monitor and moderate Council's registered social media accounts. This refers to council-wide social media accounts and excludes accounts developed by Business Units. • Monitor social media for references to Council. • Seek legal advice as appropriate where an issue is likely to be contentious or may create legal risk. |

| | |
|-----------------|---|
| Executive Group | <ul style="list-style-type: none"> • Approve or reject a social media strategy for any new accounts proposed by Business Units (Final step in approval process). |
|-----------------|---|

7. REFERENCES AND SUPPORTING DOCUMENTS

Councillors and Council staff are expected to demonstrate standards of conduct and behaviour that are consistent with relevant legislation, regulations and policies (see Annexure A).

The following Council policies and guidelines must be followed:

- Response Assessment Guide (Appendix 1)
- policies for email, internet, digital equipment, electronic communications
- Code of Conduct (Councillor and Staff)
- employment contracts
- Human Resource policies
- Information Services and Communications policies
- Information Privacy Policy
- Community Engagement Policy

8. DEFINITIONS AND ABBREVIATIONS

| Term | Meaning |
|-------------------------|---|
| Authorised spokesperson | A person with pre-approval to speak to a media outlet on behalf of council. |
| Social media moderator | Person with pre-approval to add content and respond on behalf of council. |
| Council | East Gippsland Shire Council. |
| Confidential | Not public. The private information of a person or group. |
| EDRMS | Council's electronic records management system |
| URL | The address of a webpage |
| Monitor | Watch; keep an eye out for |

9. ANNEXURE A

Relevant legislation

- *Australian Human Rights Commission Act 1986 (Cth)*
- *Charter of Human Rights and Responsibilities Act 2006 (Vic)*
- *Copyright Act 1968 (Cth)*
- *Crimes Act 1958 (Vic)*
- *Defamation Act 2005 (Vic)*
- *Disability Discrimination Act 1991 (Cth)*
- *Equal Opportunity Act 2010 (Vic)*
- *Fair Trading Act 1999 (Vic)*
- *Fair Work Act 2009 (Cth)*
- *Freedom of Information Act 1982 (Vic)*
- *Local Government Act 1989 (Vic)*
- *Privacy Act 1988 (Cth)*
- *Privacy and Data Protection Act 2014*
- *Public Records Act 1973 (Vic)*
- *Racial and Religious Tolerance Act 2001 (Vic)*
- *Racial Discrimination Act 1985*
- *Spam Act 2003 (Cth)*
- *Wrongs Act 1958 (Vic)*

Response assessment chart for social media moderators

Appendix 1

This table will help you decide whether you need to respond to a post on council's social media platforms.

Only approved social media moderators are allowed to respond on behalf of the organisation to social media posts.

| Appropriate | Inaccurate | Low risk | High risk |
|--|---|--|--|
| <ul style="list-style-type: none"> • You can: <ul style="list-style-type: none"> • Agree with the post • Provide additional information to expand on the original post • Provide a positive review / appreciation • Not respond (let the post stand on its own two feet) | <ul style="list-style-type: none"> • Post contains inaccurate information about: <ul style="list-style-type: none"> • Council services, programs, or activities • A local law or regulation | <ul style="list-style-type: none"> • Post contains: <ul style="list-style-type: none"> • Offensive language • Inappropriate comments • Inflammatory statements • Criticism of staff or Councillors | <ul style="list-style-type: none"> • Post contains: <ul style="list-style-type: none"> • Threats against staff, Councillors or our facilities • Defamatory comments • High-level offensive language |
| Actions | Actions | Actions | Actions |
| <ul style="list-style-type: none"> • Respond to post | <ul style="list-style-type: none"> • Contact relevant business unit or Communications to confirm correct information; then • Respond to post | <ul style="list-style-type: none"> • Make a record of the post • Delete the post • Advise author why their comment was deleted (if appropriate) | <ul style="list-style-type: none"> • Make a record of the post • Delete the post • Flag the post • Contact Communications and Risk Management business units |

5.3 Place and Community

5.3.1 Endorsement of the Independent Review of the East Gippsland Planning Scheme

Authorised by General Manager Place and Community

Conflict of Interest

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

Executive Summary

To present and seek the endorsement by Council of the independent review of the of the East Gippsland Planning Scheme (the planning scheme) *Independent Review of the East Gippsland Planning Scheme – Final Review (April 2022)* (the Report) at **Attachment 1**, commissioned and prepared by Department of Environment, Land, Water and Planning (DELWP).

The Report was a desktop analysis and included consultation with Council officers, regular users of the planning scheme and stakeholders in relation to key questions regarding the performance of the scheme. The independent report is a requirement of the *Planning and Environment Act 1987* (the Act), in accordance with section 12B.

The Report was funded by DELWP as part of a Memorandum of Understanding executed between Council and DELWP to provide assistance to Council, specifically the strategic planning business unit, in response to bushfire recovery and current resourcing challenges.

The independent review is an audit of the performance of the planning scheme, which informs and sets the framework for the continuous improvement of the planning scheme by undertaking a comprehensive analysis of the operation and currency of the local planning provisions. The independent review identifies changes and a series of additional strategic planning work which is required to improve the performance of the planning scheme, which will align with the Council Plan 2021 – 2025 and adopted Council strategies.

The key areas for continuous improvement identified in the report are, in summary:

- need to include completed strategic work into the planning scheme;
- include new strategic work that has commenced; and
- identifying additional strategic work to address remaining policy gaps.

Future changes that flow from the review will be undertaken as planning scheme amendments separate to this review. There is a significant quantity and inherent complexity of projects identified to be undertaken as part of strategic workplan over the next 3- 5 years to address the improvements as identified to modernise the planning scheme. The Action Plan at **Attachment 2** is an indicative guide for implementation of the review recommendations over the next 3-4 years, giving priority in the first 1-2 years to work which has already commenced. This Action Plan will be subject to ongoing review based on resource availability.

The key outcomes of the planning scheme review process is to maintain the strategic focus of the planning scheme, ensure Council's continued ownership of, and commitment to the planning scheme and its continuous improvement, and to satisfy the requirements of section 12B of the Act.

The recommendation is to endorse the key findings of the independent review and to forward the independent report to the Minister for Planning as complying with the legislative requirements.

Officer Recommendation

That Council:

- 1. receives and notes this report and all attachments pertaining to this report;***
- 2. endorses the Independent Review of the East Gippsland Planning Scheme – Final Report (April 2022) as at Attachment 1; and***
- 3. authorises the Chief Executive Officer to report the findings of the review to the Minister for Planning in accordance with Section 12B(5) of the Planning and Environment Act 1987.***

Background

The Act requirements

The Act requires that Council reviews its planning scheme as a self-assessment process (in this case by appointed independent Planning Consultants on Council's behalf) with a view to:

- ensuring the planning scheme maintains a strategic focus;
- demonstrating a continued ownership and commitment to the planning scheme and its continuous improvement;
- satisfying the requirements of the Act in relation to review; and
- ensuring a framework to administer and enforce the planning scheme.

Benefits

The benefits of undertaking a review include:

- improving the performance of the planning scheme;
- strengthening the strategic objectives;
- streamlining planning process;
- reducing complexity of processes;
- identifying unnecessary permit requirements; and
- complying with best value reporting.

The key objective is to maintain the strategic focus of the planning scheme.

Outcomes

The Report aims to deliver the following outcomes:

- identify the major planning issues facing the municipality;
- demonstrate how the planning scheme implements the State Planning Policy Framework;
- assess the strategic performance of the planning scheme;
- demonstrate the strategic work that has been completed or carried out and additional work to strengthen the strategic direction of the planning scheme; and
- outline the engagement process undertaken.

In this case the streamlining of the planning permit process and operational improvements to the current planning processes are being concurrently addressed in other processes.

Methodology

The methodology included a desktop review of:

- the planning scheme and relevant State provisions;
- any approved State government strategy or regional strategies;
- any new strategic plans such as structure plans that have been developed by Council;
- any VCAT (Victorian Civil and Administrative Tribunal) decisions;
- key planning files;
- the Council Plan; and
- planning permit activity and performance data.

The process included key stakeholder consultation and meetings with the Coordinator Strategic Planning. The report outlines the issues arising from the consultation.

The planning scheme review sits beside a complimentary process which audits planning systems and process, identifying improvement of the administration of Council's statutory responsibilities. The audit process will be aligned with other functions relating to delegations, officer workload and resource allocations.

This step represents the reporting of the review findings to Council and report to the Minister for Planning. The next step is to continue to implement the findings.

The Action Plan is the proposed implementation plan. It is attached for information only and is subject to ongoing review dependent on resource availability.

Key recommendations

Overall, the findings of the independent review confirm that the planning scheme is consistent with the State Planning Policy Framework but would benefit from an update to the Municipal Planning Statement (the MPS). The report identifies the key policy gaps, projects and actions that need attention, many of the issues are either in progress or will be addressed as part of the Rural Land Use Strategy and the Housing and Settlement Strategy.

The recommendations are summarised in the following table under eight broad categories (not in order of priority).

| No. | Recommendation | Commentary |
|------------|--|---|
| 1. | Update the Municipal Planning Statement | Update and make contemporary the local planning policy provisions. Include statements in relation to rural land, environmental, urban design, water catchment and landscape issues. |
| 2. | Undertake comprehensive review of zone, overlay, schedules, and mapping extent | Review DDO (Design and Development Overlay), EMO (Erosion Management Overlay), LSIO (Land Subject to Inundation Overlay), ESO (Environmental Significance Overlay), RO (Restructure Overlay), CDZ (Comprehensive Development Zone) clause 22.0 Policies, referral agencies provisions. |
| 3. | Progress the Rural Land Use Strategy | Prepare, adopt, and implement a planning scheme amendment. |
| 4. | Prepare a Housing and Settlement Strategy | Prepare, adopt, and implement a planning scheme amendment. |
| 5. | Translate the planning scheme to the Planning Policy Framework | Translate requirements of VC148. |
| 6. | Implement completed strategic work | Paynesville, Eagle Point, East Bairnsdale- Lucknow, Tambo Bluff, Omeo, Heritage, Council Plan 2021-2025, Design & Development Overlay and Interface Study. |
| 7. | Progress and review identified strategic work | Flooding risks and floodplain strategies, infrastructure buffers, LENGA (Lakes Entrance Northern Growth Area) |
| 8. | New Strategic Work | Review Bairnsdale Growth Strategy, review land supply industrial areas, incorporate any relevant themes from the Environmental Sustainability Strategy, Open Space Strategy, Economic Development Strategy, review existing structure plans and bushfire controls, prepare new structure plans for smaller settlements, flooding policy, settlement and housing strategy. |

Legislation

As of 1 July 2021, all provisions of the *Local Government Act 2020* 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 *Planning and Environment Act 1987* (the Act) requires that Council review its planning scheme no later than one year after each date it is required to approve a Council Plan under section 90 of the *Local Government Act 2020* or within a longer period as is determined by the Minister. This project addresses that legislative requirement.

The Act requires that the review must include the effectiveness and efficiency of the planning scheme and ensure that the planning scheme's form and content meets the relevant guidelines, sets out effective policy for use and development of land in the area to which the planning scheme applies and makes effective use of State provisions and local provisions to give effect to State and local planning policy objectives.

On completion of the review under the relevant section of the Act the planning authority must without delay report the findings of the report to the Minister.

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

Not applicable.

Council Plan

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

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

Council Policy

The recommendations and actions are consistent with relevant Council Policies.

Options

The preparation, endorsement and reporting to the Minister for Planning are legislative requirements under the *Planning and Environment Act 1987*. This Council Report seeking a formal resolution is explicitly aimed to meet planning and responsible authority obligations in relation to planning scheme review, under section 12 of the Act.

There are no alternative options to be considered.

Resourcing

Financial

The Independent Report has been commissioned and funded by DELWP as part of the execution of a Memorandum of Understanding for identified agreed strategic planning projects for the Strategic Planning Business Unit (Strategic Planning).

The key findings and recommendations will have direct and future resource implications for Council. The preparation of the action plan has been designed to outline an implementation plan which will require the consideration of budget allocation to projects and resourcing of the Strategic Planning.

Plant and equipment

There are no implications to plant and equipment.

Human Resources

The responsibility for the implementation of the key findings and recommendations of the report rests with the Strategic Planning. The implementation of the recommendations will require an integrated approach to compliance with other business operational requirements.

Risk

The risks of this proposal have been considered as part of the prioritisation of the Strategic Planning and the preparation of the action plan for implementation. The action plan proposes a prioritisation based on a risk assessment analysis of each of the findings and the current resource allocation for the business unit.

Economic

The review has considered the importance of the need for consistent and sustained actions in relation to economic stimulus, population growth and land supply and to facilitate development.

Social

There are key social implications to be considered as part of population growth, coordinated delivery of services and infrastructure, and coordinated delivery of land supply for residential and commercial purposes.

Environmental

The preparation of an update Municipal Planning Statement will have regard for the DRAFT Environmental Sustainability Strategy and other relevant adopted strategies and positions.

Climate change

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

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

Engagement

Stakeholder consultation was undertaken as part of the preparation of the Report.

Attachments

1. Independent Review of the East Gippsland Planning Scheme – Final Report (April 2022) [5.3.1.1 - 50 pages]
2. Action Plan Independent Review Planning Scheme April 2022 Table [5.3.1.2 - 3 pages]

**Independent Review
East Gippsland Planning Scheme
Final Report**

April 2022

OFFICIAL

CONTENTS

| | | |
|-----------|--|-----------|
| 1 | INTRODUCTION | 7 |
| 2 | THE EAST GIPPSLAND PLANNING SCHEME..... | 8 |
| 2.1 | THE INTRODUCTION OF THE PLANNING SCHEME | 8 |
| 2.2 | COMPOSITION OF THE PLANNING SCHEME | 8 |
| 2.3 | PLANNING SCHEME REVIEWS..... | 9 |
| 2.4 | PLANNING SCHEME AMENDMENTS | 9 |
| 2.5 | STATE POLICIES AND INITIATIVES | 9 |
| 2.6 | FURTHER STRATEGIC WORK | 10 |
| 2.7 | STRATEGIC WORK YET TO BE IMPLEMENTED | 10 |
| 3. | THE PERFORMANCE OF THE EAST GIPPSLAND PLANNING SCHEME | 12 |
| 3.1 | STAKEHOLDER CONSULTATION | 12 |
| 3.2 | VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL DECISIONS..... | 13 |
| 3.3 | PANEL REPORTS | 14 |
| 3.4 | COMPARISON WITH SIMILAR PLANNING SCHEMES | 14 |
| 4 | CONSISTENCY WITH THE STATE PLANNING POLICY FRAMEWORK | 16 |
| 5 | THE LOCAL PLANNING POLICY FRAMEWORK | 19 |
| 5.1 | MUNICIPAL STRATEGIC STATEMENT | 19 |
| 5.2 | LOCAL PLANNING POLICIES | 23 |
| 5.3 | POLICY GAPS..... | 24 |
| 5.4 | POLICY CONCLUSIONS | 24 |
| 6 | ZONES, OVERLAYS AND OTHER PROVISIONS | 26 |
| 6.1 | ZONES..... | 26 |
| 6.2 | OVERLAYS..... | 29 |
| 6.3 | PARTICULAR PROVISIONS | 34 |
| 6.4 | INCORPORATED DOCUMENTS | 34 |
| 7 | STRATEGIC PROJECTS AND OTHER WORK..... | 36 |
| 7.1 | KEY STRATEGIC WORK THAT HAS BEEN IMPLEMENTED | 36 |
| 7.2 | EGPS LIST OF FURTHER STRATEGIC WORK..... | 36 |
| 7.3 | COUNCIL'S FURTHER STRATEGIC WORK YET TO BE IMPLEMENTED..... | 37 |
| 7.4 | OTHER COUNCIL PLANS AND POLICIES..... | 37 |
| 7.5 | COUNCIL STRATEGIC WORK THAT IS UNDERWAY..... | 37 |
| 7.6 | AGENCY PROJECTS, DOCUMENTS AND STRATEGIES | 39 |
| 8 | KEY POLICY GAPS AND OPERATIONAL IMPROVEMENTS | 41 |
| 8.1 | STRATEGIC PLANNING | 41 |

| | | |
|----------|--|-----------|
| 8.2 | RESILIENCE AND RISK..... | 43 |
| 8.3 | ECONOMIC DEVELOPMENT..... | 43 |
| 8.4 | HERITAGE | 44 |
| 8.5 | ZONES..... | 44 |
| 8.6 | OVERLAYS..... | 45 |
| 8.7 | OTHER PROVISIONS | 45 |
| 9 | CONSOLIDATED FINDINGS AND RECOMMENDATIONS..... | 46 |
| 9.1 | OVERVIEW | 46 |
| 9.2 | FURTHER STRATEGIC WORK..... | 46 |
| 9.3 | KEY COUNCIL PROJECTS AND RECOMMENDED ACTIONS..... | 47 |
| 9.4 | OTHER ACTIONS RECOMMENDED IN THIS REPORT | 48 |
| 9.5 | IMPLEMENTING STRATEGIC WORK PREPARED BY OTHER STAKEHOLDERS | 49 |

Abbreviations

| | |
|---------|---|
| DELWP | Department of Environment, Land, Water and Planning |
| EGCMA | East Gippsland Catchment Management Authority |
| EGPS | East Gippsland Planning Scheme |
| Council | East Gippsland Shire Council |
| PPV | Planning Panels Victoria |
| The Act | Planning and Environment Act, 1987 |
| VCAT | Victorian Civil and Administrative Tribunal |
| WGCMA | West Gippsland Catchment Management Authority |

Planning Scheme Abbreviations

| | |
|------|------------------------------------|
| BAO | Buffer area Overlay |
| BMO | Bushfire Management Overlay |
| DDO | Design and Development Overlay |
| EMO | Erosion Management Overlay |
| ESO | Environmental Significance Overlay |
| FZ | Farming Zone |
| HO | Heritage Overlay |
| LDRZ | Low Density Residential Zone |
| LPP | Local Planning Policy |
| LPPF | Local Planning Policy Framework |
| LSIO | Land Subject to Inundation |
| MSS | Municipal Strategic Statement |
| R1Z | Residential 1 Zone |
| RLZ | Rural Living Zone |
| SPPF | State Planning Policy Framework |
| SUZ | Special Use Zone |
| SLO | Significant Landscape Overlay |
| SMO | Salinity Management Overlay |
| TZ | Township Zone |
| VPO | Vegetation Protection Overlay |
| VPP | Victoria Planning Provisions |

EXECUTIVE SUMMARY

This report describes the process and key findings of the independent and targeted review of the East Gippsland Planning Scheme (EGPS) funded by the Department of Environment, Land, Water and Planning (DELWP). The report is intended to assist East Gippsland Shire Council (the Council) meet the planning scheme review requirements under the Planning and Environment Act.

Key elements of the Project included:

- Desktop analysis of the EGPS and various planning scheme related documents and projects.
- Consultation with Council staff and regular users and stakeholders on the performance of the EGPS, including policy gaps or recurring issues that need to be addressed.
- Analysis of zones, overlays, particular provisions, and schedules.
- Recommendations to update the LPPF to insert strategic work adopted or completed by Council or others.
- Recommendations relating to the application of zones, overlays and schedules and improving their performance.
- A consolidated and prioritised 'Strategic Work Program' to address key deficiencies of the EGPS.

These matters are addressed in the following report, while the more detailed analysis and discussion of issues is included in the Appendix report.

Local Planning Policy

The East Gippsland Local Planning Policy Framework is broadly consistent with the State Planning Policy Framework but would benefit from providing more local policy guidance and applying more transparent Victoria Planning Provision (VPP) tools in relation to rural, environmental, design, water catchment and landscape issues.

Council has committed to a wide-ranging strategic planning program, including the Rural Land Use Strategy that can address many of the EGPS 'rural' issues identified during this review, as well as Housing and Settlement Strategy and township specific studies to help manage ongoing development pressures. Other initiatives such as the DELWP Smart Planning Program and the 'rewrite' of the EGPS Local Planning Policy Framework will provide a more focussed and contemporary decision-making framework.

Local policy content could also be improved by incorporating new local policies based on existing adopted Council strategies or strategies prepared by other agencies. This is particularly so in relation to flooding and the need to implement flood mapping and the floodplain management strategies prepared by the East and West Gippsland Catchment Management Authorities.

Zones and Overlays

The review found that many of the zones and schedules in the EGPS require some level of review and further work, including possible deletion and map changes. These changes and updates will require future work being undertaken, although the Rural Land Use Strategy, Housing and Settlement Strategy and other local planning projects will provide the mechanism to address many of these issues.

Many of the overlays and schedules also require further work, including possible deletion, and changes to exemptions, decision guidelines and mapping. There is significant scope to exempt many unnecessary permit applications and to better focus the requirements of those controls. Some of this analysis has already been completed, such as the Coastal Areas Design and Development Overlay review that now needs to be implemented. Other changes will flow from the Geotechnical Review of the Erosion Management Overlay that is underway. It will also be necessary to implement strategic work by other agencies, such as the updated flood mapping and strategies.

Priorities and Recommendations

The EGPS has been progressively reviewed and updated, however some elements have become dated, and some have failed to keep pace with new and recurring planning issues. The pressure to update the planning scheme and ensure that it is 'fit for purpose' is intensifying as development pressure grows, and in recognition of the need to better address longstanding planning issues, particularly those in relation to physical risks such as flooding and bushfire.

This is not an uncommon situation for many rural and regional councils that have significant resourcing challenges and particularly for East Gippsland Shire Council that has had to contend with significant bushfire reconstruction issues in recent years.

The shortcomings of the EGPS can be addressed by:

- implementing strategic work that has been completed but not progressed,
- implementing the new strategic work that is underway but not finished, and
- commissioning additional strategic work to address remaining policy and implementation gaps.

In order to assist Council, navigate these issues through its formal planning scheme review, this report identifies and prioritises the key policy gaps, projects and actions that need attention. Many of these issues can be addressed through the Rural Land Use Strategy and Housing and Settlements Strategy that are underway.

1 INTRODUCTION

This Project was funded by the Department of Environment, Land, Water and Planning (DELWP) and is intended to assist East Gippsland Shire Council (the Council) in reviewing the East Gippsland Planning Scheme (the EGPS).

Specifically, the Project objectives are:

To provide a report to East Gippsland Shire Council to inform, focus and support a future full review of the East Gippsland Planning Scheme under section 12B of the Planning and Environment Act 1987.

To identify future strategic planning projects that can strengthen the planning scheme by addressing existing or emerging social, cultural, environmental or economic priorities, including all hazard risks and community resilience.

The East Gippsland region was significantly impacted by bushfire during the 2019-20 Black Summer fires, with the loss of many dwellings and buildings across the municipality. Council's planning team has had to focus on planning permit applications and other duties arising from the bushfires. In that context, DELWP is committed to assisting Council's Planning Scheme review process by funding and managing this Project.

Key elements of the Project included:

- Desktop analysis of the EGPS and various planning scheme related documents and projects.
- Consultation with Council staff and regular users and stakeholders on the performance of the EGPS, including policy gaps or recurring issues that need to be addressed.
- Analysis of zones, overlays, particular provisions and schedules.
- Recommendations to update the LPPF to insert strategic work adopted or completed by Council or others.
- Recommendations relating to the application of zones, overlays and schedules and improving their performance.
- A consolidated and prioritised 'Strategic Work Program' to address key deficiencies of the EGPS.

In undertaking this work, particular regard has been given to the performance of the EGPS in relation to economic development, risk and resilience.

This report is designed to assist Council meet the planning scheme review requirements of section 12B of the *Planning and Environment Act 1987*.

2 THE EAST GIPPSLAND PLANNING SCHEME

This section of the report describes the ongoing review and development of the Planning Scheme since its approval in 1999, as well as key factors and issues that have affected its development.

2.1 The introduction of the Planning Scheme

The EGPS was introduced in August 1999 following public exhibition and review by a Panel and Advisory Committee. The Planning Scheme implemented elements of the East Gippsland Planning and Development Strategy 1997-2010. The proposed zone and overlay regime largely reflected the relevant elements of the precursor planning schemes.

The Panel and Advisory Committee was generally supportive of the exhibited Planning Scheme, but recommended various changes, including the preparation of a more concise and focussed Municipal Strategic Statement (MSS).

Those changes were considered by a further Advisory Committee that reported in July 1999 and generally supported the revisions subject to some further changes.

The 1999 Planning Scheme also contained various proposals for further strategic work, some of which are still found in the current Planning Scheme.

2.2 Composition of the Planning Scheme

The key elements of the Planning Scheme are described below and are discussed in more detail later in this report.

The **Municipal Strategic Statement** (MSS) covers approximately 100 pages and is structured under overarching land use themes (Clauses 21.03-21.11) and place-based planning (Clause 21.12).

In addition, the Planning Scheme contains three place-based **Local Planning Policies**.

There are also 31 **maps** at Clauses 21 and 22.

The Planning Scheme applies 17 **zones**, including multiple schedules for the Rural Living, Rural Conservation and Farming Zones

The Planning Scheme applies 14 **overlays**, including multiple schedules for the Environmental Significance, Vegetation Protection, Significant Landscape, Design and Development, Development Plan and Bushfire Management Overlays.

Clause 51.01 (**Specific sites and exclusions**) lists 9 sites and accompanying Incorporated Documents.

The schedule to Clause 72.04 (**Incorporated Documents**) lists 24 'local' Incorporated Documents.

The schedule to Clause 72.08 (**Background Documents**) lists 27 'local' background documents.

2.3 Planning Scheme reviews

Two formal reviews of the East Gippsland Planning Scheme (2010 and 2018) have been undertaken by Council and authorised by the Minister as having met the requirements of Section 12B of the Act. The EGPS has also been the subject of periodic and informal reviews that have informed a number of important planning scheme amendments, implemented further strategic work, corrected errors and anomalies, and reformatted various elements of the scheme in accordance with revised State-wide drafting protocols.

The objective of a section 12B review is to enhance the effectiveness and efficiency of planning schemes in achieving:

- the objectives of planning in Victoria
- the objectives of the planning framework established by this Act.

Reviews must evaluate the planning scheme to ensure that it:

- is consistent in form and content with the directions or guidelines issued by the Minister
- sets out effectively the policy objectives for use and development of land
- makes effective use of State provisions and local provisions to give effect to State and local planning policy objectives.

This report will be an input into Council's upcoming section 12B review.

2.4 Planning scheme amendments

There have been approximately 100 local amendments to the EGPS. While most of these amendments have been reasonably minor in nature, including various site specific amendments and corrections to anomalies, some have been more significant and have implemented further strategic work undertaken by Council or other agencies. Appendix 1 contains a brief summary of those amendments.

2.5 State policies and initiatives

Since the approval of the EGPS, the State Government has introduced various planning policies and initiatives. These include the introduction of new suites of rural and residential zones, a modified native vegetation framework, a revised State Planning Policy Framework (SPPF) and revised wildfire provisions. It has also released various 'process' reports such as 'Cutting Red Tape' (2006); and the Ministerial report 'Making Local Policy Stronger' (2007). These initiatives have been implemented through various amendments.

More recently, the State Government initiated the **Smart Planning Program** to make the planning system more efficient and accessible. This included a new Planning Policy Framework (PPF) intended to replace the State and Local Planning Policy Frameworks in a more consistent and streamlined format. The PPF was introduced across the State in July 2018 and is progressively being implemented as LPPFs are converted into the PPF format.

A draft PPF has been prepared for East Gippsland by DELWP and is currently being reviewed and refined with Council input. The introduction of the revised PPF will provide an opportunity for the EGPS to better reflect Council's strategic planning priorities, including its strategic work program.

2.6 Further strategic work

The EGPS includes a lengthy list of 'further strategic work', elements of which have been completed, are no longer relevant or are yet to be undertaken. As noted earlier, some of these matters have been carried over from the 1999 Planning Scheme. A list of those projects is included at Appendix 2.

In addition, Council and other agencies have undertaken further strategic work that requires at least some level of implementation through the EGPS that will need to be progressed through appropriate amendments.

A key purpose of this project is to recommend strategic planning priorities, and this is discussed in Chapters 8 and 9.

2.7 Strategic work yet to be implemented

Council has completed the following key strategic work that is yet to be implemented in the EGPS. These projects are discussed in Chapter 7 and Appendix 10 and include:

- Review of Coastal Design and Development Overlays
- Council Plan 2021 - 2025
- Heritage Gap Study 2005
- Paynesville Growth Area Structure Plan
- Eagle Point Structure Plan
- East Bairnsdale/Lucknow Structure Plan (further implementation pending)
- Growing East Gippsland, Economic Development Strategy 2014-2018

2.8 Strategic work that is proposed or underway

Council has proposed or commissioned various projects that are underway and are likely to require amendments to the EGPS. These are discussed in Chapter 7 and Appendix 10 and include:

- Rural Land Use Strategy (RLUS)
- East Gippsland Housing and Settlement Strategy
- Lakes Entrance Growth and Adaptation Strategy
- Landfill buffer areas
- Omeo review
- 2021-2025 Economic Development Strategy.

2.9 Other strategic work

Various agencies have completed or are undertaking further strategic work whose implementation is also likely to require amendments to the EGPS. These are discussed in Chapter 7 and Appendix 10 and include:

- Smart Planning Program (DELWP)
- A Geotech Review of the Erosion Management Overlay (EMO) (DELWP)
- Updated Flood mapping (EGCMA and WGCMA)
- East Gippsland Municipal Boundary Interface Study (DELWP)

- Updated policy plans for the EGPS (DELWP)
- East Gippsland Floodplain Management Strategy 2017 (EGCMA)
- West Gippsland Floodplain Management Strategy 2018-2027 (WGCMA)
- Updated riverine and coastal flood mapping (EGCMA and WGCMA).

3. THE PERFORMANCE OF THE EAST GIPPSLAND PLANNING SCHEME

This section of the report assesses the EGPS's performance in light of the stakeholder consultation undertaken as part of this project. It also includes commentary about the recommendations and findings of relevant Victorian Civil and Administrative Tribunal (VCAT) decisions and Planning Panel reports, together with a desk top assessment against comparable planning schemes.

3.1 Stakeholder consultation

The following material is an overview of the key issues that were raised during the consultation undertaken during the review. A more complete record of submissions and discussions is provided in Appendix 3.

For ease of reference the following issues are presented under various 'themes' that relate to the EGPS. These issues and associated actions reflect the input of stakeholders and do not necessarily reflect the views of the consultants.

Overarching comments

- The EGPS has not had been subject to a comprehensive review since its introduction.
- Not all strategic work has been implemented.
- The Smart Planning Program (new PPF) process will provide an opportunity to update and streamline elements of the EGPS.

Policy gaps and key issues that need to be better addressed

- Riverine and coastal flood mapping and controls need to be updated.
- Heritage protection needs to be updated.
- Lack of an overarching (municipality wide) settlement strategy.
- Ongoing demand for small lot subdivision/excisions/dwellings in rural areas.
- Ongoing demand for RLZ and LDRZ land.
- Increasing residential development pressure associated with land supply and cost (particularly in and around East Bairnsdale and Lucknow).
- How the recent bushfire mapping relates to structure plans for towns and settlements.
- Implementing buffer areas for water treatments plants and landfills.

Operational issues

- Scope to review and update various overlay planning permit triggers and mapping (particularly the EMO, ESO, DDO and RO).
- Elements of the planning permit referral process are problematic, including CMA status and Council management of referrals.
- Need to review and implement the 'Coastal Inundation and Erosion Planning Policy' that currently sits 'outside' the EGPS.

Existing and current strategic work that needs to be implemented and/or reviewed

- WGCMA and EGCMA updated riverine and coastal flood mapping (completed)
- Rural Land Use Strategy (underway)
- Lakes Entrance Adaptation Study (underway)
- Coastal Design and Development Overlay (DDO) study (completed)
- Heritage Gap Study 2005 (completed)
- East Gippsland Floodplain Management Strategy (completed)
- West Gippsland Floodplain Management Strategy (completed)
- Bairnsdale East/Lucknow Structure Plan (completed)
- The review of bushfire mapping for potential impacts/inconsistencies with adopted structure plans and zoning that provide for future development (underway for Eagle Point, Paynesville, Lake Tyers Beach and Marlo)
- Paynesville/Eagle Point growth area planning (completed).

Additional strategic work that should be undertaken

- A municipality-wide settlement strategy should be prepared to guide future growth and development.
- Residential and industrial land supply and demand should be assessed and monitored to ensure adequate supplies are available in preferred locations.
- Structure plans should be prepared for smaller coastal towns (Mallacoota and Marlo).

3.2 Victorian Civil and Administrative Tribunal decisions

A review of relevant decisions of the Victorian Civil and Administrative Tribunal (VCAT) has been undertaken. Relevant features of those decisions are discussed in Appendix 4 and key issues addressed in those decisions include:

- Riverine flooding
- Coastal flooding
- Coastal development
- Residential development including low density residential
- Farming zone
- Infrastructure
- Heritage
- Vegetation clearance
- Erosion management
- Signage.

Some key observations of this assessment include:

- While no fundamental strategic issues have arisen, the need to holistically take account of the combined hazards of storm tides, river flooding, coastal

erosion and sand drift (as well as predicted sea level rise) was identified as critical in assessing coastal settlement planning against hazard vulnerability.

- The need to take account of view-sharing in coastal settlements.
- The importance of township character especially in coastal settings.
- While very few small lot/rural dwelling decisions have gone to VCAT over the last decade, an earlier decision noted that the ‘collective’ result of repeated approvals is the inevitable loss of rural land.
- The Tribunal has stressed the importance of considering access, especially emergency vehicular access, in areas of fire and flooding risk.
- The negative impacts of signage on the character of scenic routes and major highways.
- The confusing nature of some of the controls in the planning scheme, especially the schedules to the overlay controls for example The Erosion Management Overlay (EMO) .

3.3 Panel Reports

A review of relevant decisions of Planning Panels Victoria (PPV) has been undertaken. Relevant features of those amendments are discussed in Appendix 4 and issues addressed include:

- Coastal development
- Rural Living zone
- Low Density Residential zone
- Restructure overlay
- Lakes Entrance growth area
- Twin Rivers.

Some key observations of this assessment include:

- Support for new GRZ, RLZ and LDRZ areas at a variety of densities based on land, environment and risk assessment.
- Operational difficulties with the ‘daunting’ nature of the EGPS including its permit triggers and the drafting of its schedules.
- An integrated approach to ‘restructure’ planning aligning redesign of a subdivision with infrastructure planning.

3.4 Comparison with similar planning schemes

The Project requires an analysis of the EGPS policy composition against other comparable planning schemes. A desktop comparison of key features of the Wellington, Moyne, Glenelg, Colac Otway and Mildura Planning Schemes is included at Appendix 6. These planning schemes were selected on the basis of their land area, predominant rural character, extensive public land, agriculture, overall population, settlement structure and sizes and natural environmental features.

The key findings arising from the comparison include:

- Other schemes have more detailed policy directions than East Gippsland on rural housing and small lot subdivisions.
- Most schemes include mapping of the most productive agricultural land by way of both policy and statutory control.
- A settlement strategy and hierarchy are a consistent theme in many planning schemes.
- While the EGPS is yet to complete its PPF translation, only about half of the others have been approved.
- Other planning schemes have been regularly reviewed, as opposed to the EGPS which has been reviewed less recently in 2010 and 2018.
- There is a good record of implementing strategic work prepared by outside agencies (CMAs etc) in other planning schemes.

4 CONSISTENCY WITH THE STATE PLANNING POLICY FRAMEWORK

This section of the report assesses the performance of the existing EGPS in terms of its consistency with the State PPF.

The review has included assessments of the extent to which the existing LPPF is consistent with the PPF and the extent to which the LPPF assists in implementing the PPF.

This assessment is reflected in following table that highlights the key elements of the PPF and the corresponding references in the LPPF. It then identifies any inconsistencies between the two and any actions that would improve the performance of the LPPF in implementing the PPF.

| PPF Theme | LPPF References | Comment | Further Action |
|---|--|--|--|
| Clause 11 Settlement – provides the settlement pattern vision for Victoria and gives direction to the location and form of urban settlement | <p>Clause 21.02 Municipal Overview (Key issues) and Strategic Framework Plan</p> <p>Clause 21.03 Settlement, planning for growth areas and coastal development</p> <p>Clause 21.08 Housing with specific reference to residential development; and rural living development.</p> <p>Clause 21.12 Towns and Localities</p> <p>Clause 22.02 East Bairnsdale and Lucknow Precinct</p> | The LPPF is generally consistent with the PPF in terms of development, land supply and town boundaries, although the expansion of the towns will have to be reviewed based on the implications of updated 'risk' mapping for existing settlements. | Align risk mapping and 'strategic' planning for town growth. |
| Clause 12 Environmental and landscape values – provides direction to the protection, conservation and sustainable management of Victoria's environmental and landscape assets. | <p>Clause 21.02 Municipal Overview (Key issues)</p> <p>Clause 21.04 Environmental and landscape values including references to Biodiversity, important landscape and urban waterways.</p> | The LPPF is generally consistent with the PPF, although its references to urban waterways are better addressed under natural resource management. | Update the LPPF by including more contemporary 'environmental' material. |
| Clause 13 Environmental risk – provides direction for the management of man-made and naturally occurring environmental risks | <p>Clause 21.02 Municipal Overview (Key issues)</p> <p>Clause 21.05 Environmental Risk with specific references to erosion risk, bushfire, floodplain management and salinity.</p> | The LPPF is generally consistent with the PPF themes, although there is scope to refine the coverage of some of the environment controls and to update them on the basis of new mapping of some risk categories. | The extent of some of the environmental risk controls should be reviewed (EMO/SMO), while new/updated mapping should be included (flooding). |

| PPF Theme | LPPF References | Comment | Further Action |
|---|--|--|--|
| Clause 14 Natural resource management – provides direction to the sustainable use and management of natural resources which support and foster economic growth. | Clause 21.02 Municipal Overview (Key issues) Clause 21.06 Natural resources and the environment with specific references to Protection of agricultural land; Forestry and timber production; and Water quality. | The LPPF generally complements the PPF, particularly in regard to protecting agricultural land, although it does contain material that either repeats the PPF or elements of the Farming Zone. | The references to agriculture should be reviewed as an outcome of the current Rural Land Use Strategy. There is scope to simplify the existing suite of rural zones and to include clearer direction on the recurrent themes of dwellings on small lots; and rural excisions. |
| Clause 15 Built environment and heritage – provides direction to the design of buildings and places and the protection and conservation of cultural heritage values. | Clause 21.02 Municipal Overview (Key issues) Clause 21.07 Built Environment and Heritage with specific references to Urban design; Heritage; and Sustainable development. | The LPPF is generally consistent with the PPF although it has very little local direction on heritage matters. Council has prepared a heritage gap study (2005), but it has not been implemented. | Apart from implementing the Heritage Study, consultations suggest that there needs to be stronger emphasis on the issue of urban design in the LPPF especially in coastal areas despite the extensive DDOs in place. |
| Clause 16 Housing – provides direction to the provision and diversity of housing. | Clause 21.02 Municipal Overview (Key issues) Clause 21.08 Housing with specific reference to residential development; and rural living development. | The LPPF generally complements the PPF, although it contains some material that repeats the PPF provisions. | The references to low density residential development and rural living should be reviewed to remove any unnecessary repetition. |
| Clause 17 Economic development – provides direction to transport planning and development. | Clause 21.02 Municipal Overview (Key issues) Clause 21.09 Economic Development with specific reference to Commercial and Industrial land; and to Tourism Clause 22.03 Paynesville Town Centre | The LPPF generally complements the PPF, although there are only 'hidden' references to the importance of agriculture in an economic development context. These references (Objective 2) need to be elevated. There are | The LPPF should be updated by including some more contemporary 'economic development' material from the Economic Development Strategy and from the Rural Land Use |

| PPF Theme | LPPF References | Comment | Further Action |
|--|--|--|---|
| | | important town specific policies. | Strategy that are being prepared. |
| Clause 18 Transport – provides direction to transport planning and development. | Clause 21.02 Municipal Overview (Key issues) Clause 21.10 - Transport including specific references to the Road system; ports and Airports. | The LPPF generally complements the PPF | No further action is required. |
| Clause 19 Infrastructure – provides direction to the planning and development of social and physical; infrastructure. | Clause 21.02 Municipal Overview (Key issues) Clause 21.11 – Infrastructure with extensive references to education facilities, distribution of social and cultural infrastructure, development contributions plans, telecommunications, water and resource recovery and infrastructure planning. | The LPPF generally complements the PPF | It is noted that Council has recently included the Infrastructure Development Manual to guide infrastructure provision consistent with other Councils across the state. |

While the PPF and LPPF are structurally consistent, it is noted that the State PPF has been more regularly reviewed, updated and revised than the East Gippsland LPPF. The PPF also provides more policy guidance on some issues than the LPPF, reflecting that the LPPF is dated and, in some respects, only provides a superficial coverage of some issues (heritage, small lot subdivision etc).

The key weaknesses of the existing EGPS are that:

- It needs to reflect recent and future initiatives relating to rural land use and town development issues (e.g. risk planning associated with flooding, fire and erosion).
- Despite having Structure Plans for many towns, some of the plans are so dated as to be of limited value. (e.g. Nicholson, Swan Reach, Nungurner etc)
- It should provide more local policy guidance and apply more transparent VPP tools to better implement elements of the PPF, such as rural, environmental, design, water catchment and landscape issues. (e.g. Clause 21.05 – Environmental Risk; and Map 5 – Special Water Supply Catchment)
- Although the LPPF is generally consistent with and covers many of the PPF issues, it has become increasingly dated and of limited use in addressing some issues.

5 THE LOCAL PLANNING POLICY FRAMEWORK

This section of the report reviews the general content and structure of the LPPF, particularly in terms of Ministerial directions and DELWP Practice Notes including:

- Ministerial Direction on the Form and Content of Planning Schemes (April 2017).
- DELWP Practice Note (4): Writing a Municipal Strategic Statement (June 2015).
- DELWP Practice Note (8): Writing a Local Planning Policy (June 2015).

5.1 Municipal Strategic Statement

The MSS that has been reviewed as part of this project was most recently amended in late 2018 as part of Amendment C139. It is approximately 100 pages and is structured as shown in the table below. As noted elsewhere, there are a number of current strategic projects (Housing and Settlement Strategy; Rural Land Use Strategy; Colquhoun Review; etc.) that may inform significant changes to the existing LPPF. In addition, and as discussed at Section 7.6, the LPPF is being restructured to align with a new format introduced across the State (Amendment C162).

In the existing MSS, overarching objectives and strategies are generally provided in Clauses 21.03-21.11, while place-based objectives and strategies are included in Clause 21.12.

General content and structure of the existing MSS

The review has included an assessment of the general content and structure of the MSS that is provided in Appendix 5.

The following is a brief overview and commentary on the existing LPPF.

| Clause | Comment |
|---|--|
| 21.01 Introduction | This clause serves no role and should be deleted. |
| 21.02 Municipal Overview <ul style="list-style-type: none"> • Key Issues and Influences • Vision • Strategic Framework Plan • Strategic Directions <p>Clause 21.02 provides a profile of East Gippsland under headings of overview, vision and framework plan (which is attached).</p> <p>There is a brief profile of the Shire and then an extract from the 2030 Community Vision with its four key principles (few of which relate to land use planning).</p> | <p>While this clause helps ‘set the scene’, it is out of date and evidently is rarely used although the ‘Key issues and influences’ are high level strategic directions that reflect local issues.</p> <p>The ‘Vision’ lacks any meaningful connection with land use planning and should be improved or deleted.</p> <p>The inaccuracy of the Framework Plan means it serves no useful purpose. This plan should be revised and improved so that it clearly identifies important Shire assets (productive land; agriculture; town hierarchy; areas for economic growth etc).</p> |

| Clause | Comment |
|---|--|
| <p>The attached Strategic Framework Plan is a 'status quo' plan from the late 1990s.</p> <p>Key land use themes are also identified as 'Strategic Directions'.</p> | <p>The nine 'key land use themes' are then introduced for further discussion elsewhere in Clause 21.</p> |
| <p>21.03 Settlement</p> <ul style="list-style-type: none"> • Planning for Growth Areas • Coastal Settlement <p>Clause 21.03 is the first of the more detailed clauses in the MSS (at 5 pages) and it describes Council's strategic directions for <i>Settlement</i> under the sub-headings of <i>Planning for Growth Areas</i> and <i>Coastal Settlement</i>. It includes a very brief narrative, implementation, policy guidelines, a Strategic Work Program, other actions and a list of Reference Documents.</p> | <p>While this clause provides direction on some issues according to Council planning staff, the key issues and many of the objectives and strategies are repetitive of the PPF or later zones and overlays (orderly development, etc).</p> <p>The clause is a bit confused in that it purports to deal with settlement issues but has to be read in conjunction with Clause 21.12 to get the complete picture.</p> <p>There is repetition among strategies and some objectives are too long.</p> |
| <p>21.04 Environmental and Landscape Values</p> <ul style="list-style-type: none"> • Biodiversity • Landscape • Urban Waterways <p>Clause 21.04 describes (in 4 pages) Council's strategic directions for <i>Environmental and Landscape Values</i> identifying a brief overview, objectives, strategies, policy guidelines, other actions and reference documents.</p> | <p>The clause is generally of assistance to Council planning staff especially regarding the landscape impacts, although once again there is duplication with many PPF and overlay requirements.</p> |
| <p>21.05 Environmental Risk</p> <ul style="list-style-type: none"> • Floodplain Management • Erosion • Bushfire • Salinity <p>Clause 21.05 describes (in 3 pages) Council's strategic directions for <i>Environmental Risk</i> identifying a brief overview, objectives, strategies, policy guidelines, further strategic work and reference documents.</p> | <p>The clause is generally of little assistance to Council planning staff as the detail of most of the risk categories lie in the detail of the overlay controls for fire, flood and erosion rather than via policy. Once again there is duplication with some PPF and overlay requirements.</p> |

| Clause | Comment |
|---|---|
| <p>21.06 Natural Resource Management</p> <ul style="list-style-type: none"> • Protection of Agricultural Land • Forestry and Timber Production • Water Quality • Resource exploration and extraction <p>Clause 21.06 describes (in 4 pages) Council's strategic directions for <i>Natural Resource Management</i> identifying objectives, strategies, policy guidelines, and reference documents.</p> | <p>There is a map relating to high quality agricultural land; and another relating to water supply catchments that do not align with the planning scheme maps.</p> |
| <p>21.07 Built Environment and Heritage</p> <ul style="list-style-type: none"> • Urban Design • Heritage • Sustainable Development <p>Clause 21.07 describes (in 6 pages) Council's strategic directions for <i>Built Environment and Heritage</i>. It has limited or no narrative context and includes objectives, strategies, policy guidelines, an extensive Strategic Work Program, and a list of reference documents.</p> | <p>While this clause provides direction on some issues according to planning staff, the key issues and many of the objectives and strategies are repetitive of the PPF or later zones and overlays (heritage etc). The heritage section is very thin.</p> <p>There is repetition among strategies and some objectives are too long.</p> <p>Some of the material regarding Bairnsdale town centre could be included in an overlay (DDO etc).</p> |
| <p>21.08 Housing</p> <ul style="list-style-type: none"> • Residential Development • Rural Living Development <p>Clause 21.08 describes (in 5 pages) Council's strategic directions for <i>Housing</i>. It also includes objectives, strategies, very detailed policy guidelines, an extensive list of 'other actions' including provisions relating to small lots and excisions, and a list of reference Documents.</p> | <p>While the clause is of some assistance to Council officers regarding small lot subdivision and excisions, this information should be included in Clause 21.06.</p> |
| <p>21.09 Economic Development</p> <ul style="list-style-type: none"> • Commercial • Industry • Tourism | <p>It is notable that this clause does not refer to the importance of agriculture to the local economy and this will need to be redressed.</p> <p>The clause is of some assistance to Council officers especially regarding Tourism and is relied upon to support economic growth in the Shire. However, the clause is much too</p> |

| Clause | Comment |
|--|---|
| <p>Clause 21.09 describes (in 6 pages) Council's strategic directions for <i>Economic Development</i>, under the themes of Commercial, Industrial and Tourism.</p> | <p>wordy and could be significantly condensed.</p> <p>A number of the commercial strategies (floorspace etc) could be included in the zone schedule or in an appropriate overlay.</p> |
| <p>21.10 Transport</p> <ul style="list-style-type: none"> • Management of the Road System • Ports • Airports <p>Clause 21.10 describes (in 3 pages) Council's strategic directions for <i>Transport</i> including road safety and amenity obligations.</p> | <p>While the clause addresses important issues and assets, it does not inform decision making.</p> <p>Its 'other actions' needs to be reviewed to ensure it relates to planning scheme matters (fast train to Sydney etc).</p> |
| <p>21.11 Infrastructure</p> <ul style="list-style-type: none"> • Education Facilities • Distribution of Social and Cultural Infrastructure • Development Contributions Plans • Telecommunications • Water and Resource Recovery • Infrastructure Planning, Design and Construction <p>Clause 21.11 describes (in 4 pages) Council's strategic directions for <i>Infrastructure</i> under a wide variety of themes.</p> | <p>This clause is quite general although it is understood that it has helped in relation to the recently included Infrastructure Design Manual (IDM).</p> |
| <p>21.12 Strategies for Sub-Regions, Towns and Localities</p> <ul style="list-style-type: none"> • Sub-regions • Lakes and Coastal • Agricultural Hinterland • Highland • Valleys and Forests • Old Crown Townships | <p>This is the most recent and the most used of all the clauses in the MSS. All of the Framework Plans are now very dated and should be revised. The clause is 'interesting' and sometimes helpful but is much too wordy. It is unclear where this clause will sit in the new PPF format.</p> |

| Clause | Comment |
|--|---|
| Clause 21.12 addresses (in 46 pages including plans) the 'local areas' of the towns, settlements and hamlets in the Shire. It contains some narrative and lists a number of objectives, strategies, some vision, implementation measures, maps, 'Reference documents' and contains a "Framework Plan' for many, but not all of the towns. | |
| 21.13 Monitoring and Review | This clause no longer serves any role and is to be deleted. |

5.2 Local Planning Policies

The Planning Scheme contains three place-based Local Planning Policies (LPPs) shown in the table below.

| Clause | Comment |
|--------------------------------------|---|
| 22.01 Colquhoun Development | While there is no question that this is an important area, it is felt that there is a need to review and rationalise the planning controls on the land to be consistent with the title boundary and to devise a simpler zoning and overlay regime without the need for a local policy. Council staff advised that the subdivision is now finished and the policy could be removed. |
| 22.02 East Bairnsdale-Lucknow | There is a clear need to review and implement the planning controls on the land in the precinct consistent with the Structure Plan. The policy is still required for development co-ordination. |
| 22.03 Paynesville Town Centre | This is another local policy that could be better reflected in a zone schedule (ACZ) or an overlay schedule (DDO) to more transparently reflect the intentions of the structure plan. Council staff advised that the policy needs to be retained during consultation. |

5.3 Policy gaps

The 'policy' analysis indicates that the PPF and East Gippsland LPPF are broadly consistent, however there are some apparent weaknesses in linkages listed below.

Based on an analysis of Clause 21 and 22 (and informed by consultations), a number of key areas where local content could benefit is by incorporating new local policies based on existing adopted Council strategies or on other similar planning schemes with themes including;

- Updated demographic detail
- Urban design
- Dwellings on small rural lots
- Small lot rural subdivision
- Limited reference to important issues (that are implemented elsewhere in the EGPS) such as bushfire, salinity etc.

Current strategic work can also be implemented (in the MSS) as and when adopted (such as the RLUS, Heritage, Economic Development Strategy).

5.4 Policy conclusions

A modified State PPF has now been released and it is clear that changes will be required to the structure of the 'front end' of all planning schemes incorporating subsections for State, regional and local considerations. While this is a logical and well-integrated approach, it will require a total restructure of the existing East Gippsland LPPF - a project that is well underway.

Overall, and based on discussions with Council planning staff, while there are consistent attempts to use the 'strategic end' of the scheme (Clauses 21), there are aspects of the MSS which are typically not used at all (21.01, 21.02, 21.03, 21.06 and 22.01). It has also become a quite 'bulky' document, especially Clause 21.12, that is difficult to navigate. The MSS bundles many objectives and strategies together and they need to be separated.

The current MSS contains some information that is descriptive in nature and which does not assist in decision making. The removal of much of this descriptive content will be required as part of the new PPF format.

While Council staff consultations also suggest that the MSS is helpful in applications involving rural housing and small lot excisions, there is considerable scope to apply for non-agricultural uses in the Farming Zone and the MSS presently provides little meaningful direction on this. It is anticipated that the Rural Land Use Strategy will address this issue.

The Town Framework Plans remain a useful concept although they all need updating.

In addition to the policy gaps described elsewhere, the MSS also suffers from having:

- outdated, irrelevant and repetitive material;
- poorly expressed objectives, strategies and implementation actions; and a
- cumbersome format that is difficult to navigate, especially Clause 21.12.

There is significant scope to update and improve the legibility and usability of the MSS and its 31 maps and this is being undertaken as part of the 'PPF Translation' project.

The use of the three LPPs is diminishing as more use is made of zone and overlay schedules and MSSs (including policy guidelines) as the principle means of expressing planning policy. This approach is consistent with the State Government report 'Making Local Policy Stronger' (2007). There is also increasing recognition that LPPs are only useful where the planning scheme requires a planning permit that then triggers the application of the LPP. There is significant scope to reposition the LPP material to elsewhere in the planning scheme.

6 ZONES, OVERLAYS AND OTHER PROVISIONS

This section of the report provides an overview of the selection and application of zones, overlays and particular provisions. A more detailed analysis of the zones, overlays and particular provisions is provided at Appendices 7, 8 and 9.

6.1 Zones

The Planning Scheme applies 17 zones across the Shire. A detailed analysis of the zones and their application is included in Appendix 7.

Issues and gaps

As was normal at the time, the new format EGPS that was prepared prior to 1999 was assembled with most of the zones from the former Bairnsdale, Omeo, Orbost and Tambo schemes simply being 'carried over' into the new planning scheme.

The major issues and gaps to emerge from the review of the zones and schedules are discussed below under relevant themes.

Rural zones

In terms of rural zonings, the RLZ has been extensively applied across the Shire without much consistency. While it has been widely applied outside the township areas of Bairnsdale (RLZ1, 2 and 3) Bruthen and Nicholson, it is to be found 'inside' some townships (Omeo) and, more remotely on large tracts to the east of Sarsfield, the north east of Nicholson, north of Swan Reach, south of Nowa Nowa, north of Cunninghame and around Lake Tyers.

The Farming Zone (FZ) has been widely applied across the rural areas of the Shire and contains four schedules specifying a minimum lot size and 'as of right' dwelling triggers of 1ha; 15ha; 30ha and 40ha:

- FZ1 is the most commonly applied and it exists across most rural areas in the Shire.
- FZ2 has been applied to a defined area north of Bairnsdale and Lindenow. The same zone applies to rural land between Bairnsdale and Nicholson, north of the Princes Highway up to Sarsfield.
- FZ3 has been applied to a very small area north of Bairnsdale that is surrounded by GRZ and RLZ land; and to a defined area north of Lakes Entrance.
- FZ4 has been applied to an area of very high quality agricultural land west of Bairnsdale between Lindenow and Iguana Creek (and along parts of the Snowy River) based on the *Swan and Vollum* (1981) land capability review.

It is understood that the current Rural Land Use Strategy introduces the concept of 'land of strategic significance' and there appears considerable scope to rationalise the four schedules to the Farming Zone into one focussed on the most productive land; and another dealing with all other rural land.

Like nearly every other rural planning scheme in the State, there is local direction in the EGPS (at Clauses 21.06 and 21.08) on subdivision and housing in rural areas to accompany the FZ. Consultations suggest that there is an urgent need for revised local policy direction to address recurrent discretionary issues and to clarify Council's

attitude to matters such as rural dwellings, small lot rural subdivision (like excisions) and non-rural uses in rural areas which evidently are rarely denied, other than in the FZ4 area. There is also a need for local policy direction to ensure there is some connection between any industry and the agricultural production on the land.

Townships

There is an inconsistent approach to the zoning of townships across the Shire. While the GRZ has been appropriately applied to the residential areas of the larger towns ranging from Bairnsdale to Omeo, some smaller towns (e.g. Swifts Creek, Bemm River, Nowa Nowa) are in a TZ while others (Marlo, Sarsfield, Newmerella, Fernbank) are in one of the residential zones (GRZ, LDRZ etc). This inconsistency can also be traced to the introduction of the new format scheme in 1999 and in the absence of a Shire-wide 'Settlement Strategy' (or equivalent), this inconsistent approach will remain.

Industrial

The Industrial 1 Zone (INZ1) has been applied to the older and more established areas in the larger towns (either side of Bairnsdale etc) as well as outside some of the smaller towns like Cann River. IN3Z has been applied to a large site on the northern edge of Orbost and to an area on the eastern edge of Paynesville on the lakes.

Commercial

The Commercial 1 Zone has been applied to the older and more established areas in the main towns including Bairnsdale, Paynesville, Lakes Entrance and Orbost and to stand-alone centres at Brookfield and Eastwood.

The Commercial 2 Zone has been selectively applied to a precinct in Lakes Entrance surrounded by the C1Z; and to an area east of Bairnsdale. It has also been extensively used at Newmerella, south of Orbost.

Special Purpose

The four schedules to the SUZ have been in the EGPS for many years and have tailored requirements for 'use' and 'development'.

SUZ1 has been applied to Bullock Island, west of Lakes Entrance. SUZ2 has been applied to the Lake Tyers Aboriginal Trust area. SUZ3 has been applied to a remote location north of Bairnsdale for use as an Earth and Energy Resources industry. SUZ4 has been applied to the Patricia Baleen Gas Plant south of Orbost.

CDZ1 has been applied to the 'Nerana Resort and Marina' on the Nicholson River, immediately south of Nicholson township. Consultations (DELWP etc) suggest that this zoning goes back over 25 years, the site has never been developed and the control is well out of date. While the schedule has been structurally updated (via Amendment C153), aspects of it, such as the sunset provisions that lapsed the control in January 2010, need review in consultation with the landowners.

Zone schedules

The State government sponsored a 'global' change to zone and overlay schedules to make them conform with a new Ministerial Direction. Amendment VC153 to the EGPS in October 2019 introduced some of these changes. Despite this, it is apparent

from the current review that many zone schedules are still non-conforming and any subsequent re-write of the EGPS will require this to be rectified.

Risk assessment based on the existing zones

It is evident that there is something of a 'mis-match' between zoning opportunity and 'risk' constraint in a number of settlements in the Shire. Many of the coastal settlements were the subject of the 2007 Coastal UDF that introduced a suite of zones and overlays that are now found in the present scheme. The Coastal UDFs provided growth opportunities by way of expanded townships and settlement boundaries. While it did consider constraints, some of these used data that is now well out of date, especially the BMO and flooding overlays.

Taking Mallacoota as an example, the 2007 UDF modified its zoning regime and applied a BMO outside the boundaries of residential areas, as well as applying DDO12 over all GRZ land. Importantly, the land north of Karbethong Road (around Mirrabooka Road) and near the town centre (Maurice Ave/Rasmus Ave) was placed in a GRZ with no BMO based on the risk mapping of the day.

In Marlo, Amendment C83 identified land around Saleni Drive and north of Jorgensen Street as being outside the (then) WMO.

More accurate BMO mapping in the wake of the Black Saturday Royal Commission has now been introduced into the planning scheme and it now impacts on parts of those areas in both Mallacoota and Marlo (among many others). While it is understood that BMO mapping is being progressively reviewed, there remains the risk of a 'mis-match' until such time as this is completed.

In that same context, the submissions of the EGCMA and the WGCMA have commented on the degree to which updated flood data has yet to find its way into the EGPS thereby posing another planning risk. There are repeated examples where the updated risk mapping has not been followed by a recalibration of the underlying zoning. The EGCMA noted in its submission to the project:

The EGPS does not include any land within the Urban Floodway Zone, despite parts of the Bairnsdale urban area being subject to an extreme flood hazard as a result of significant flood depths and velocity.

Properties at the southern end of Robb Street and McEacharn Street in East Bairnsdale, at the eastern end of McLeod Street and Suding Road in Bairnsdale, and along Riverine Street in Bairnsdale need to be considered for inclusion in the Urban Floodway Zone owing to the extreme flood hazard experienced at these properties making them inappropriate for residential development.

The EGCMA also noted that much of Lakes Entrance is more accurately included in the Floodway Overlay rather than its existing LSIO.

Other examples are also apparent. In Lindenow, Amendment C89 included the area bounded by Grant, Robinson, Dargo and Henry Streets in a Township Zone with no flooding overlay. This land is now all affected by the LSIO based on updated data.

Finally, it was noted by East Gippsland Water and others, that Council has not used an 'amenity' type buffer around infrastructure facilities such as sewerage treatment plants and landfills. This is common place in many planning schemes in Victoria.

The disconnect between the planning scheme and the risks associated with inaccurate calibration of growth areas with dated fire, flood, erosion or amenity mapping are therefore readily apparent.

Conclusions regarding the Zones and Schedules

Ordinarily, a planning scheme review finds that the zone selections are usually 'about right', with any changes usually being limited to the schedules. The outcomes of this review are quite different, with the consultations supporting various zoning reviews.

Specific issues to emerge from consultation regarding the zones and alternative zone options include:

- The very extensive application of the Rural Living Zone and the Low Density Residential zone. While it is understood that the application of these zones is a carry-over from former schemes over 20 years ago, it is notable that significant areas in the east of the Shire are zoned for rural lifestyle purposes.
- A lot of the coastal zones were added after the 2007 UDF, but they have not been updated or aligned with more contemporary risk mapping for fire (BMO) or flooding (FO or LSIO). This represents a significant risk in that, based on the 2007 mapping, residential development is being encouraged in areas that are now known to have environmental risks.

Overall, most of the zones and schedules in the EGPS require some level of review and further work, including possible deletion and map changes. Changes to these zones need to be based on future work being undertaken.

6.2 Overlays

The EGPS applies 14 overlays. A detailed analysis of the overlays and their application is included in Appendix 8.

Issues and gaps

The major issues and gaps to emerge from the review of the overlays and schedules are discussed below.

Unlike the zoning regime, which inherited controls from past planning schemes, the overlay controls within the EGPS seem to have evolved over the last 20 years, either in response to strategic work (SLO, HO, coastal DDOs etc), new risk controls (LSIO, BMO, SMO) or as a replacement of former Clause 22 local policies such as DDO7.

The overlay selections appear fundamentally sound although their breadth of coverage, (especially environmental and risk controls) appear problematic.

The State government sponsored a 'global' change to zone and overlay schedules to make them conform with the Ministerial Direction and Amendment C153 to the EGPS introduced some of these changes in October 2019. Despite this, it is apparent from the current review that most schedules are still non-conforming and any subsequent re-write of the EGPS will require this to be rectified.

As an example, an ESO schedule is now restricted to one objective compared with the multiple objectives in ESO1 and 2. The DDO is restricted to five objectives which will require significant rationalisation of the coastal settlement DDOs which include 25 objectives for DDO12.

Environmental overlays

ESO1 applies to Sites of Biological Significance and maps and lists 94 sites derived from the East Gippsland Sites of Biological Significance Report, (*Department of Natural Resources and Environment, 1997*). The ESO extends over public and private land, roads, watercourses and parts of townships.

ESO2 applies to High Quality Agricultural Land in the Shire along the Mitchell River floodplain. This land is all within FZ4. It appears that the boundaries of the ESO used the same data as the LSIO other than being 'rounded' out to property boundaries. The schedule includes four environmental objectives whereas the Ministerial Direction allows for only one objective. Three of the objectives relate to matters of subdivision, use and excisions, none of which are controlled by the overlay.

ESO3 applies to land that have Conservation Covenants. Its two objectives will need to be reduced and its reliance on the comments of an external body will require a change to the schedule to Clause 66.06. More importantly, the role of the control is unclear as no permit requirements are specified.

The header to the ESO provides permit triggers for vegetation removal; and buildings and works. The schedules to the overlays all differ in their approach to the permit triggers. ESO3 provides no permit exemptions; ESO2 provides exemptions for building alterations, some agricultural activities, vegetation removal associated with farm fencing and dams less than 1000m³; while ESO1 provides similar exemptions to ESO2 as well as buildings, works or development on land not supporting environmental values listed in the table to the ESO.

The Vegetation Protection Overlay (VPO) has mainly been applied to coastal settlements (VPO2-8 inclusive). VPO1 is said to be applied to the Tambo-Bairnsdale roadside whereas in fact, its statement and the extent of its mapping suggest that it has Shire-wide application. It is unclear why this overlay 'stops and starts' so much (see Map 27).

The header to the VPO provides permit triggers for vegetation removal. The schedules to the overlay provide for exemptions ranging from (among other things) dead vegetation (VPO1, 5 and 6) to vegetation less than 2 metres high or 10 years old (VPO2, 3, 4 and 8), to vegetation less than 2 metres (VPO7). It is unclear why there are any variations.

SD Planning was engaged to conduct the Coastal Settlement DDO Review (2018) and in the course of that review it recommended (and provided generic examples) of other coastal controls including the VPO.

The application of the Significant Landscape Overlay (SLO) and its schedules are based on more recent strategic research in the form of the Coastal Spaces Landscape Assessment Study which has been replicated along much of the Victorian coastline. The SLO has been in the EGPS for over a decade and is strongly supported for providing control over some of the most sensitive environmental areas in the Shire,

especially the Ninety Mile Beach, the Gippsland Lakes and rivers and coastal settlements.

The SLO sits side by side with the coastal DDOs (see SLO6 and DDO12 at Mallacoota) yet they both seek similar outcomes of built form that sits comfortably in a coastal landscape. There appears scope to merge these overlays.

The header to the SLO provides permit triggers for vegetation removal; and buildings and works. The schedules to the overlay provide for a permit requirement for vegetation clearance in all areas and very detailed 'buildings and works' exemptions including post and wire fencing to 1.8m; minor buildings up to 3m high and 20m² in area (SLO1,2 and 6); and complex provisions for dwellings and farm buildings (SLO3,4 and 5) and an overarching exemption for buildings and works that are exempt under the ESO.

Built form overlays

The Heritage Overlay (HO) has not been extensively applied across the municipality despite the completion of the East Gippsland Heritage Study over fifteen years ago. The schedule to the HO contains a list of about 350 properties compared with the thousands identified in the Heritage Study.

Evidently a proposal to advance the heritage outcomes into an amendment was not pursued by Council at the time of its completion.

The DDO has been widely applied across the Shire although its most contentious application (according to consultations) has been its application to coastal settlements via DDO11, 12, 13 and 14 since 2010.

DDO7 applies to 'Highway Corridors, Princes Hwy and the Great Alpine Road'. Its objectives state that it only applies to 'non-urban' areas and so its application 'stops and starts' across the Shire being confined to the rural zones. That said, other objectives seek to prevent linear development and promote high standards of development which are presumably as relevant to the urban zones as the rural zones. Its extent varies enormously and it is unclear on what basis the boundaries of the DDO were established.

The most recent application of the DDO has been to the hospital flight paths into Bairnsdale. (see DDO15 and DDO16)

In 2010 Council introduced four coastal settlement DDO schedules, those being:

- Design and Development Overlay Schedule 11 (DDO11) - Residential Development in Coastal Settlements;
- Design and Development Overlay Schedule 12 (DDO12) – Mallacoota;
- Design and Development Overlay Schedule 13 (DDO13) – Lakes Entrance; and
- Design and Development Overlay Schedule 14 (DDO14) – Paynesville.

As noted earlier, SD Planning was engaged to conduct the Coastal Settlement DDO Review (2018) and in the course of that review provided generic examples of how the coastal controls at DDO11, 12, 13 and 14 could be rationalised and revised.

The header to the DDO provides permit triggers for buildings and works and subdivision. The schedules to the overlay provide a wide variety of very specific exemptions relating to fencing, floor area, height, setbacks, landscaping, building

envelopes, noise attenuation, materials, density, vehicle access, vegetation removal (DDO5), highway offset, landscaping (DDO8), and slope (DDO11).

Development overlays

IPO1 sits unusually in the EGPS as the sole incorporated plan. Its purpose is to regulate the use, development and subdivision of LDRZ land near Metung in much the same way that Development Plans are more widely and extensively used. Its origins are unclear and there is scope to rationalise it as another Development Plan Overlay (DPO).

DPO1 covers land that is already within SUZ1 and it requires the preparation of a development plan prior to development on Bullock Island. It is unclear what the overlay achieves that the zone doesn't.

DPO2 covers land at Lake Tyers and it also requires the preparation of a development plan for the land. Unusually, it acts as a 'use' vehicle by allowing a number of uses.

DPO3-9 are more recent and 'sophisticated' schedules that cover undeveloped land in a variety of locations. Unlike DPO1 and 2, there is typically a long list of conditions and requirements for permits as well as very detailed requirements for the preparation of a development plan.

The header to the DPO provides for conditions and requirements for permits. The schedule to the overlay does not specify any requirements for DPO1 and 8, but does contain requirements (including 'use') of varying complexity for all other schedules.

The Restructure Overlay (RO) identifies five estates or townships/settlements requiring restructure in accordance with a restructure plan at Glen Wills, Sunnyside, Fernbank, Newlands Arm and Tambo Bluff. While the overlay typically applies to whole estates or subdivisions, in Newlands Arm and Tambo Bluff it is applied to hundreds of site specific lots.

It is understood that these restructure plans are gradually being achieved with the objective of deleting the overlay once the restructure has been completed.

The Development Contributions Plan Overlay has not been extensively applied across the municipality and has been used in a specific area in Lakes Entrance where it identifies development and community infrastructure costs and levies to an area also covered by a Development Plan Overlay.

Risk overlays

The Erosion Management Overlay (EMO) is one of the 'risk' overlays that has been extensively applied across the Shire applying to geotechnical hazards. The basis for the mapping is understood to be some state sponsored erosion hazard mapping from the early 1990s by Agriculture Victoria (among others). The mapping of the overlay is unusual in that it adopts title and zone boundaries rather than identified hazard boundaries. While it principally applies to rural land, there are unexplained instances where it is turned off in some rural zones such as in parts of Benambra. It also applies to some roads but not others.

DELWP is in the process of commissioning a 'Geotechnical' review of the EMO on behalf of Council that will identify opportunities to remove areas from the extent of the EMO mapping; identify opportunities to modify the EMO schedule to increase

exemptions and reduce application requirements; and provide strategies for Council to reduce the burden associated with administering the EMO. Importantly, in the aftermath of the 2020 bushfires, it is felt that more areas of the Shire will be susceptible to erosion given the loss of vegetation cover. This is a clear risk for Council and the community.

The header to the EMO provides permit triggers for vegetation removal; and buildings and works. The schedule to the overlay provides detailed vegetation and buildings and works exemptions including for a sole dwelling on a lot.

The EMO schedule will also need to align with the outcomes of the ongoing geotechnical review. In the event that a permit is required, a geotechnical assessment report is to be provided which may need peer reviewing.

The Salinity Management Overlay (SMO) is yet another 'risk' overlay although unlike the EMO and LSIO it has been sparingly used and seems to be based on 1992 salinity hazard mapping for the State government. It has been applied to recharge areas including small rural areas north of Lindenow and south of Nicholson, yet there are unusual applications of it such as to industrial and public land within Bairnsdale township.

The LSIO overlay has been intermittently applied across the municipality and its mapping and schedule was informed by work carried out by the East Gippsland Catchment Management Authority.

It is notable that the mapping does not include the Floodway Overlay (FO) or Urban Floodway Zone (UFZ) which usually accompanies flood mapping identifying the most active part of the floodway. In an area notable for its rivers and lakes it is a surprise that the FO or UFZ has not been used.

While some areas are well covered, especially around Bairnsdale, Orbost and Lakes Entrance, other areas are not covered at all (e.g. Omeo, Buchan, Ensay) suggesting that there is no flood risk, however there are records of flooding in Omeo and Buchan as recently as 2022. According to the State Emergency Service (SES) Flood Guides, high river levels can erode the banks of the Tambo River, making the Great Alpine Road unstable. As a result this can isolate the communities of Ensay, Swifts Creek and Omeo due to landslips. Another unusual aspect of the mapping is that it stops suddenly in places, including on the Cunninghame Arm east of Lakes Entrance township. (It is understood that this issue relates to a misplaced flood map that has remained misplaced since the introduction of the scheme).

Another issue to be addressed is that of coastal inundation which is especially apparent around the coastal settlements and the lakes.

It is understood that more detailed and up to date mapping is available, but resourcing constraints within Council have precluded the implementation' amendment being prepared.

The header to the LSIO provides permit triggers for buildings and works. The schedule to the overlay provides exemptions for minor buildings and works.

The schedule to the overlay does not contain any objectives, statements of risk or decision guidelines but does contain an extensive list of permit requirements.

For an area such as East Gippsland with its rivers, lakes and coastal settlements, inundation is an ever-present risk that should be adequately reflected in the EGPS.

The State government has applied new BMO mapping (via Amendment GC13) and has identified areas as either BMO, BMO1 or BMO2 (to some township areas). The mapping extends over public and private land and all State and national parks are included in the BMO.

The schedule to BMO1 applies to Eagle Point, Kalimna, Lakes Entrance, Lake Tyers Beach, Marlo, Raymond Island BAL – 12.5 Areas. The schedule to BMO2 applies to Cann River, Mallacoota, Metung, Raymond Island BAL – 29 Areas.

There is little scope to modify the maps or schedules immediately as they are both DELWP driven however Council can request amendments as the BMO is reviewed at six monthly intervals. Evidently, the mapping is the most up-to-date and reflects the outcomes of the Royal Commission and the most recent 2020 bushfires.

Conclusions regarding the Overlays and Schedules

Most of the overlays and schedules require further work, including possible deletion, exemptions, decision guidelines, map changes and the like, especially given the new Ministerial Direction on Form and Content of Planning Schemes.

Notably, few of the overlay schedules provide any meaningful exemption provisions (e.g. EMO, SMO) meaning many buildings and works require a permit. It is quite possible that some planning permits are the result of unnecessary applications triggered by the extensive overlay network with inadequate exemptions.

In the context of the recent state initiatives to streamline the planning process and remove unnecessary permits, Council could minimise applications by including some realistic exemptions. It is also evident that on the basis of further strategic work done by Council and others that further overlays and detailed schedules are likely to be required. In particular, and as a result of strategic work done, there may be a need to include modified overlays for areas prone to flooding and to rationalise all DDOs in coastal settlements.

6.3 Particular provisions

There are a number of opportunities in Clauses 50 to 59 of the EGPS for Council to specify local variations to the Particular Provisions.

While Council has taken the opportunity to include local content in some of these schedules, there still remains significant opportunity to use these schedules, including revision of existing information. Consultations noted that the schedule to Clauses 53.01 could identify an open space contribution.

6.4 Incorporated Documents

There are 24 'local' documents listed in the Schedule to Clause 72.04. There are no apparent issues with these documents that need to be addressed.

6.5 Referral of permit applications

Based on submissions, the schedules to Clauses 66.04 and 66.06 will need updating to reflect requested changes as well as the modifications introduced by the amendments to the Planning and Environment Act which introduced concepts of a determining and recommending referral authority.

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7 STRATEGIC PROJECTS AND OTHER WORK

Council has undertaken a range of strategic work that has been implemented through various amendments to the EGPS. The EGPS also includes a lengthy list of 'further strategic work' (included at Appendix A of this report). Elements of this work have been completed, are no longer relevant or are yet to be undertaken. As noted earlier, some of these matters have been carried over from the 1999 EGPS.

In addition, Council and other agencies have undertaken further strategic work that is relevant to the EGPS but has not as yet been implemented through amendments.

This chapter provides an overview of those amendments and projects, while Appendix 10 describes them in greater detail and includes commentary on their status.

7.1 Key strategic work that has been implemented

Council has implemented a range of further strategic work that was prepared by itself and other agencies. This includes:

- East Bairnsdale/Lucknow Precinct Structure Plan 2013, implemented through Amendment C135 (June 2017)
- Twin Rivers Land Use Plan 2012, implemented through Amendment C121 (March 2016)
- Twin Rivers Land Use Plan 2012, implemented through Amendment C121 (March 2016)
- Various coastal town UDFs and the Coastal Spaces Landscape Assessment Study, implemented through Amendment C68 (July 2010)
- Paynesville Town Centre Structure Plan 2009 and Paynesville Town Centre Design Guidelines 2009 implemented through Amendment C133 (June 2017)
- Bairnsdale Growth Strategy, 2009, Re-Imagining Bairnsdale Master Plan, Volumes 1 & 2, 2013 and Improving Walking and Wayfinding in the Bairnsdale CBD - Report, 2011 implemented through Amendment C127 (March 2016)
- DPI erosion mapping 2009 implemented through Amendment C108 (December 2014)
- Lakes Entrance Northern Growth Area Outline Development Plan, Lakes Entrance Northern Growth Area Hydrology Plan, Lakes Entrance Northern Growth Area Social Impact Assessment, and Lakes Entrance Northern Growth Area Native Vegetation Precinct Plan implemented through Amendment C112 (June 2014)
- Bullock Island - Lakes Entrance Concept Plan 2011 implemented through Amendment C88 (June 2012).

7.2 EGPS list of further strategic work

As noted earlier, the EGPS contains an extensive list of further strategic work and other actions that Council has committed to undertake. The recording and monitoring of Council's strategic work program seems to have been haphazard, with

the status or relevance of various projects not readily apparent through this review process.

The relevance and currency of these projects should be reviewed and the EGPS updated to reflect that review. The introduction of the revised EGPS through the Smart Planning Program (the 'PPF Translation' project – Amendment C162) would be an appropriate process to update much of this material, as would the formal review under the Act.

7.3 Council's further strategic work yet to be implemented

Council has completed or commissioned a range of strategic work that is yet to be implemented and is described below.

Coastal Settlement Design and Development Overlay Review 2018

Implementing this project would better focus planning permit requirements and reduce the number of permits applications that add limited value to development outcomes. It should be implemented through an amendment to the EGPS.

East Gippsland Heritage Gap Study 2005

Given the age of this study, it would likely need to be reviewed/updated in the event that Council intended to proceed with its implementation or to augment existing heritage protection.

7.4 Other Council plans and policies

Other Council policies and plans that should inform the EGPS review and potentially warrant implementation through an amendment/s include:

East Gippsland Shire Council Plan 2021 – 2025

Relevant elements of the new Council Plan should be implemented through an amendment to the EGPS. The nature and extent of any changes should be determined through the upcoming planning scheme review process.

Coastal Inundation and Erosion Planning Policy

This policy currently sits 'outside' the EGPS, but is an important document relied upon by Council and other stakeholders. It is understood that its content will be reviewed and, where necessary, updated as part of future work in reviewing flooding and climate change planning controls. The outcome should then be implemented through an amendment to the EGPS to ensure that it has the appropriate status in decision making processes. This should be done in concert with implementing revised riverine and coastal flood mapping and the East and West Gippsland Floodplain Management Strategies

7.5 Council strategic work that is underway

Council has a number of strategic work projects that are underway and are likely to require amendments to the EGPS.

Rural Land Use Strategy

This is a key Council project and has the potential to address many of the rural area issues identified during the consultation for this review process. The recent broadening of the project's scope to include consideration of rural lifestyle housing

supply and demand as part of the East Gippsland Housing and Settlement Strategy is a positive initiative.

The Strategy should be finalised and implemented through an amendment to the EGPS as a matter of priority.

East Gippsland Housing and Settlement Strategy

This is a key Council project that will address the lack of an overarching settlement strategy for the municipality and guide future residential development.

The Strategy should be progressed and then implemented through an amendment/s to the EGPS as a priority.

Lakes Entrance Growth and Adaptation Strategy

This status of this project is unclear, and it seems to have been overtaken by other initiatives such as the Lakes Entrance Northern Growth Area project. Council should review the status of this project in consultation with DELWP and determine whether and how it might proceed.

Lakes Entrance Northern Growth Area ODP – implementation

The ongoing implementation of the ODP project (C112 Part 2) requires further assessment of infrastructure funding and the impacts of the Lakes Entrance transfer station.

While this project should proceed, its priority would depend on the residential land supply/demand situation in Lakes Entrance. This will be informed by the Settlement and Housing Strategy project being commissioned by Council, although there is anecdotal support for additional land supply.

Landfill buffers – Implementing the Environmental Significance Overlay

This project was deferred pending the introduction of a new state-wide Buffer Area Overlay. The new overlay is now available and should be introduced through an amendment to the EGPS. A similar situation arose for the proposed application of a buffer to East Gippsland Water treatment plants and that project can also now proceed.

Paynesville Growth Area Structure Plan 2016

The Structure Plan has been completed and now requires an implementation amendment. It is understood that this is a priority project given land supply and demand issues in Paynesville.

Eagle Point Structure Plan 2019

The Structure Plan has been completed and now requires an implementation amendment. It is understood that further work is being done as a precursor to preparing the amendment and that this is a priority project given land supply and demand issues in Eagle Point.

Bairnsdale Growth Strategy review

This project is yet to commence and is intended to be a limited review of the Strategy, including industrial land supply and demand. The scope of this project might need to be reviewed in light of the impending Settlement and Housing Strategy project.

Omeo review

This project is yet to commence and is intended to be a limited review of zoning and land supply issues.

Lindenow review

This project is yet to commence and is intended to be a limited review of zoning issues.

Tambo Restructure Overlay review

This project is yet to commence.

2021-25 Economic Development Strategy

This strategy is under preparation and will replace the current Growing East Gippsland, Economic Development Strategy 2014-2018. It is likely to have elements that are relevant to the EGPS and may require an amendment to implement them.

Open Space Strategy

This strategy is underway and might include elements that could be implemented through an amendment to the EGPS.

7.6 Agency projects, documents and strategies

Various agencies have prepared or are preparing documents and/or strategies that are will have implications for the EGPS and whose implementation is likely to require planning scheme amendments.

Smart Planning Program (DELWP)

This project will result in more streamlined, focussed and up to date policy content in the EGPS. The project is well advanced, subject to further Council input, and should proceed to a planning scheme amendment as a priority.

Planning Policy Plans (DELWP)

DELWP reviewed the 31 strategic maps that are currently located in Clauses 21 and 22. None of the maps are currently available electronically and they are inconsistent, with a mixture of black, white and grey scale and coloured maps. These maps have now been updated and can be implemented.

East Gippsland Municipal Boundary Interface Study (DELWP 2021)

This project includes a number of recommendations, principally to address zone and overlay inconsistencies around the EGSC border interfaces. Although not a priority, it should be an input into the formal planning scheme review.

Geotechnical Review of the Erosion Management Overlay (EMO) of the East Gippsland Planning Scheme (DELWP)

This review will identify opportunities to remove areas from the extent of the EMO mapping, identify opportunities to modify the EMO schedule to increase exemptions and reduce submission requirements and provide strategies for Council to reduce the burden associated with administering the EMO.

East Gippsland Floodplain Management Strategy 2017

This strategy is a key planning resource to address riverine and coastal flooding and identifies Council as the lead agency for its implementation in the EGPS. Combined with more recent and updated flood mapping, the relevant policy elements of the Strategy should be implemented through an amendment to the EGPS as a priority.

West Gippsland Floodplain Management Strategy 2018 – 2027

This strategy is a key planning resource to address coastal flooding in the west of the Shire, and identifies Council as the lead agency for its implementation in the EGPS. Combined with more recent and updated flood mapping, the relevant policy elements of the Strategy should be implemented through an amendment to the EGPS as a priority.

8 KEY POLICY GAPS AND OPERATIONAL IMPROVEMENTS

The key policy gaps and priorities identified through stakeholder consultation, the review of VCAT decisions and Panel reports, and the assessment of the LPPF against the SPPF are discussed below.

8.1 Strategic Planning Settlement Strategy

The EGPS lacks an overarching settlement strategy to guide the location and form of future development, particularly urban development and the role of various towns and settlements. The EGPS has a very strong ‘place-based’ approach to land use planning that has generally worked well and provides an implied hierarchy of towns and settlements. The Gippsland Regional Growth Plan (referenced in the PPF) also identifies elements of the municipal settlement strategy. However, the lack of an explicit, overarching settlement strategy is a weakness of the EGPS.

Council is in the process of commissioning a Housing and Settlement Strategy that will address this deficiency. This is a high priority project.

Residential land supply

It is apparent that there is continuing demand for residential land, particularly in the general Bairnsdale area and this has raised supply and cost issues. There is also a concern that unsatisfied demand, particularly in Bairnsdale, is directing new development to less preferred locations and resulting in higher densities than would otherwise be preferred. To some extent this may be a response to COVID-19 and people leaving metropolitan Melbourne, but this is difficult to quantify.

Council is in the process of commissioning a Housing and Settlement Strategy that will assess a broad range of housing related issues, including:

- Affordable housing
- Infrastructure requirements
- Rural/urban interface issues
- Development constraints
- Density and neighbourhood character
- Appropriate areas for residential growth
- Township boundaries.

This is a key project for informing and updating the EGPS and is a high priority.

Rural lifestyle

Extensive areas of rural lifestyle/‘hobby farm’ type zones that were very common in 1990 planning schemes were translated ‘as best fit’ into either the Rural Living Zone or the Low Density Residential Zone in the new VPP scheme. This was despite the prevailing state policy directions in Ministerial Direction 6 that sought to avoid large areas of farming land being converted to rural lifestyle development.

The legacy of extensive rural living areas remains, especially in the east in the former Omeo and Orbost Council areas.

On face value, there would appear to be a disproportionate amount of RLZ and LDRZ land (especially in the west) for a municipality of about 48,000 people that is expected to only grow to 58,000 by 2040.

Consultation and review undertaken as part of this project identified a number of issues, including:

- apparent demand for rural lifestyle opportunities
- variations in land supply, with perceived shortages in the western areas of the Shire
- potential conflicts with rural area policies and productive agricultural land.

As noted earlier, the Housing and Settlement Strategy is intended to provide input to the RLUS project in relation to 'rural lifestyle' land supply and demand, and urban/rural interface issues. The RLUS, informed by this work, will provide the mechanism to address the rural lifestyle issues that have been raised and is a high priority project.

Industrial land supply

Concerns have also been raised about the availability of land for industrial development.

The extent to which there are industrial land supply issues is difficult to assess as part of this project, but is a matter that would routinely be investigated as part of an 'industrial' or 'economic development' strategy. This could be addressed as part of Council's 2021-2025 Economic Development Strategy that is currently being prepared or as part of the formal review of the EGPS. In relation to Bairnsdale, the proposed review of the Bairnsdale Growth Strategy is intended to assess industrial land supply. This is potentially a medium priority issue depending on the findings of the EGPS review and associated consultation.

Rural land use issues

Consultation undertaken as part of this project identified a range of rural land use issues, focussed on protecting agricultural land, managing the demand for rural lifestyle properties, providing opportunities for tourism related development and other economic development opportunities.

The draft RLUS addresses these issues to varying degrees and proposes a policy framework for managing them and various implementation actions. Although this project has not involved a review of the draft RLUS, the strategy process will provide the mechanism to consider the concerns raised by stakeholders. Finalising the RLUS and implementing it through an amendment to the EGPS should be a high priority

As noted above, Council is commissioning an assessment of rural lifestyle issues as part of the Housing and Settlement Strategy. This will be an important input to the RLUS which is a high priority project.

Smart Planning project

The introduction of the new PPF through the Smart Planning project will significantly improve the focus, performance and usability of the EGPS. The draft PPF has been provided to Council for further comment before being implemented. In light of

Council's other resourcing priorities, the draft PPF has not progressed as quickly as it might have but is well advanced and could be implemented reasonably quickly. This project should be a high priority for Council.

8.2 Resilience and risk

Flooding

A recurring issue throughout this project has been the need to update the riverine and coastal flood mapping and provisions in the EGPS. In addition, the East and West Gippsland Floodplain Management Strategies and Council's Coastal Inundation and Erosion Planning Policy need to be implemented in the EGPS.

From discussions with the CMAs, these mapping changes will be quite significant and, in some areas, will introduce an important development constraint.

It is a fundamental tenet of the planning system that transparent planning controls should be used so that all stakeholders are aware of the planning opportunities, constraints and risks associated with a site. Flooding is a significant constraint and risk, and its existence should be transparent within the planning system

There is also an element of risk for Council in the 'do nothing' option as it open to criticism, and possible action for not alerting stakeholders to a known and documented risk. This is in contrast to the bushfire mapping in the EGPS for example, that reflects the most up-to-date and accurate mapping that is available.

For these reasons, the need to update flood mapping and the associated provisions should be a high priority.

Bushfire

The current EGPS bushfire mapping has been updated through various State amendments over recent years and reflects the current state of knowledge and policy.

The introduction of BMO mapping has potential implications for various areas identified for more intensive development. As noted elsewhere, there are numerous examples of the revised BMO sitting on top of land earmarked for residential development.

The BMO mapping should be reconciled with other elements of the EGPS that potentially provide for incompatible land use outcomes. Identifying areas of potential conflict would not be a significant task but revisiting and changing strategic plans or existing zonings that raise compatibility issues could be more challenging. Despite this, it is important that this issue be further investigated, and any remedial action be undertaken as a medium priority.

8.3 Economic development

Council's key economic development driver is the 2014 – 2018 Economic Development Strategy that will be replaced by the 2021 -2025 Strategy that is currently being prepared. Although the current Strategy has some higher order policy material that might be included in the EGPS, it would be preferable to wait for the completion of the new strategy and implement any relevant elements.

Consultation did not identify any specific economic development issues that clearly need to be addressed in the EGPS, except for industrial land supply – an issue that

can be addressed through the new Strategy and the review of the Bairnsdale Growth Strategy. Finalising the 2021 -2025 Strategy is a medium priority.

8.4 Heritage

The 2005 Heritage Gap Study has not been implemented, despite the Act including an objective to 'conserve and enhance' places of 'architectural or historic interest, or otherwise special cultural value'.

This project has not 'reviewed' the Gap Study or formed any views about its currency or merits, however, Council has a clear responsibility to protect the Shire's heritage. Whether or not the Gap Study is still relevant, or whether further heritage investigations should be undertaken are matters that should be reviewed, possibly through the upcoming review of the EGPS. This is a low priority project.

8.5 Zones

Given that many existing zones are a 'carry over' from old planning schemes that date back 25 years or more, it is apparent that there is a need to re-assess elements of the zoning regime, especially in rural areas and in some of the settlements.

It is also particularly important to evaluate the extent to which the EGPS adequately address the 'risk' factors that are now apparent in the Shire.

Ordinarily, the selection of zones (and overlays) would be based on strategic research including a 'SWOT' analysis identifying opportunities and, particularly constraints. The environmental constraints in East Gippsland include coastal inundation, riverine inundation, erosion, landslip, salinity and particularly bushfire.

Although the zoning regimes of the 1990s had regard to these constraints, more accurate risk mapping is now available (particularly in relation to bushfire and flooding). Some towns like Bruthen, Cann River and Omeo (among others) were seemingly zoned for future development based on land availability rather than in response to environmental constraints.

With the benefit of more contemporary and accurate risk mapping, it is now apparent that some areas zoned for residential purposes in these towns are clearly prone to a fire risk.

Similar observations can be made for flooding and other environmental risks. More contemporary mapping of 'risk' in and around settlements, now means that land zoned for housing in the EGPS is susceptible to bushfire and flooding. There is therefore a potential disconnect between development potential and risk.

As Council progressively rolls out its structure planning for all of its towns, the alignment of risk and opportunity should be remedied, inclusive of the possibly of back-zoning constrained land.

This should be a consideration as council assesses and implements planning scheme reviews and strategic studies.

8.6 Overlays

While the EGPS contains a more contemporary application of overlays than of zones, the scheme is beset by an inconsistent and confusing regime of schedules that all need to be rationalised.

As discussed in Chapter 6.2, the permit triggers in the overlay schedules often differ, without explanation, including within the same overlay.

The 'header' to the State provided overlays include permit triggers for a variety of activities including vegetation removal, and buildings and works. The schedules to the overlay (all of which have been inserted by Council) often provide inconsistent or confusing provisions especially around vegetation removal and/or buildings and works exemptions. As noted in *Neophytou v EGSC [2018] VCAT 374*, in the context of the EMO, the permit triggers in the overlay are complex.

The overlay schedules all need reviewing and will also need to align with the outcomes of current reviews (i.e. DELWP geotechnical review; SD Planning review of the VPO/DDO regime etc).

This should be a consideration as council assesses and implements planning scheme reviews and strategic studies

8.7 Other provisions

There are a number of opportunities in the EGPS for Council to specify local variations to the Particular Provisions.

Council has not yet fully explored the opportunity to include local content in many of these schedules.

In particular, the schedules to Clauses 66.04 and 66.06 will need updating so as to clarify the distinction between a 'determining' and a 'recommending' referral authority.

This should be a consideration as council assesses and implements planning scheme reviews and strategic studies

9 CONSOLIDATED FINDINGS AND RECOMMENDATIONS

9.1 Overview

Although the performance of the EGPS has been the subject of various amendments and initiatives since its introduction, some elements have become increasingly dated and some have failed to keep pace with new and recurring planning issues.

The EGPS would have benefited from more regular formal review in order to identify new issues and priorities, and in support of a more focussed strategic work program. It is evident that although various projects have been identified over the life of the planning scheme, many have not been acted upon.

It is notable that even when Council or other agencies have undertaken further strategic work, it has not always found its way into the planning scheme, or its implementation has been incomplete.

The pressure to update the planning scheme is intensifying as development pressure is growing, and in response to increasing concerns about the need to better address longstanding planning issues such as flooding, sea level rises, bushfire, environment protection, urban land supply and various rural issues. This is particularly so in relation to physical risks, including flooding and bushfire.

This is not an uncommon situation for many rural and regional councils that have significant resourcing challenges and particularly for EGSC that has had to contend with significant bushfire reconstruction issues in recent years. Nevertheless, Council has obligations under the Act to maintain a relevant and up to date planning scheme that addresses the land use issues and risks that confront the Shire.

9.2 Further strategic work

In order to address the policy gaps and priorities, Council needs to confirm and progress its further strategic work program, including important recent initiatives such as the Housing and Settlement Strategy. The performance and currency of the EGPS will be significantly improved when proposed and existing strategic planning projects are finalised and implemented through appropriate amendments. Although this Project provides some guidance around those matters, it will ultimately be up to Council through its formal planning scheme review process to determine what needs to be done and when it should be done.

Although there is a need for some new and emerging issues to be addressed through additional strategic work, there should be a clear focus on completing current and proposed Council projects and implementing key projects completed by other agencies. There has been a strong sense through the consultation for this project that while Council has been able to identify the planning issues that need to be addressed and instigate the necessary investigations, it has not always implemented the outcomes. It also has an inconsistent track record in implementing strategic work undertaken by other stakeholders, such as the need to update flood mapping and the associated provisions.

In order to assist Council navigate these issues through its formal planning scheme review, the key policy gaps, projects and actions are identified and prioritised below.

9.3 Key Council projects and recommended actions

This table lists the key Council projects (either proposed, underway or completed) that require further action to implement in the EGPS.

| Project | Status | Recommended action | Priority |
|---|--|---|----------|
| Coastal Settlement Design and Development Overlay Review 2018 | Completed but not implemented | Implement through a planning scheme amendment | High |
| Paynesville Growth Area Structure Plan | Completed but not implemented | Implement through a planning scheme amendment | High |
| East Gippsland Heritage Gap Study 2005 | Completed but not implemented | Review currency of the Study and how/whether it is able to be implemented. | Low |
| East Gippsland Shire Council Plan 2021 – 2025 | Completed | Review whether any elements of the Council Plan need to be implemented in the EGPS. Potentially assess as part of the upcoming planning scheme review. | Low |
| Eagle Point Structure Plan | Further investigations underway | Complete study and implement through a planning scheme amendment. | High |
| Rural Land Use Study | Underway and initial consultation completed. Awaiting input from Housing and Settlement Strategy project. | Complete study and implement through a planning scheme amendment. | High |
| Lakes Entrance Northern Growth Area – implementation | Underway | Complete further work (Amendment C112 Part B) and implement through a planning scheme amendment. | High |
| East Bairnsdale/Lucknow Structure Plan | Underway | Resolve outstanding issues. Implement through a planning scheme amendment. | High |
| 2021-25 Economic Development Strategy | Underway | Include a desk top assessment of industrial land supply and demand. | Medium |

| Project | Status | Recommended action | Priority |
|-----------------------------------|---------------|---|----------|
| Housing and Settlement Strategy | Underway | Complete study and implement through a planning scheme amendment. | High |
| Landfills – buffer protection | Not commenced | Undertake necessary investigations. Implement Buffer Area Overlay through a planning scheme amendment. | Medium |
| Bairnsdale Growth Strategy review | Not commenced | Confirm the scope of the study in light of the proposed Housing and Settlement Strategy. | Low |
| Omeo review | Not commenced | Confirm the scope of the study in light of the proposed Housing and Settlement Strategy. | Low |
| Lindenow review | Not commenced | Confirm the scope of the study in light of the proposed Housing and Settlement Strategy. | Low |

9.4 Other actions recommended in this report

The following table lists further recommendations to Council as a result of the assessment in this report.

| Project/Issue | Status | Recommendation | Priority |
|--|--|--|----------|
| PPF Translation | Required in accordance with Amendment VC148. | Finalise the translation as required by DELWP. | High |
| Planning Scheme Review | Required under section 12B of the Planning and Environment Act 1987. | Undertake the required review of the EGPS. Have regard to the contents, findings and recommendation of this report. | High |
| Coastal Inundation and Erosion Planning policy | Existing Council policy. | Review policy and implement through a planning scheme amendment. Potentially in combination with flooding amendment. | High |

| Project/Issue | Status | Recommendation | Priority |
|-----------------|-------------|--|----------|
| Zones | Recommended | Aligning growth area planning with updated 'risk' mapping. | Medium |
| Overlays | Recommended | Rationalise all schedules to align with permit triggers. | Medium |
| Referral status | Recommended | Revise schedules to Clauses 66.04 and 66.06 in consultation with agencies. | Low |

9.5 Implementing strategic work prepared by other stakeholders

This table identifies strategic work prepared by other stakeholders that should be implemented through amendments to the EGPS.

| Project/Author | Status | Recommendation | Priority |
|---|---|--|----------|
| East Gippsland Floodplain Management Strategy 2017 and updated flood mapping (EGCMA) | Completed, but not implemented in EGPS. | Council prepares an Amendment to the EGPS to introduce relevant policy content and update flood mapping. Consult with EGCMA. | High |
| West Gippsland Floodplain Management Strategy 2018 – 2027 and updated flood mapping (WGCMA) | Completed, but not implemented in EGPS. | Council prepares an Amendment to the EGPS to introduce relevant policy content and update flood mapping. Consult with WGCMA. | High |
| Smart Planning PPF translation | Underway | Council to work with DELWP to finalise the amendment. | High |
| Water treatment plants – buffer protection (EGWA) | Not commenced | Council Liaise with East Gippsland Water to implement a planning scheme amendment to introduce the Buffer Area Overlay. | Medium |
| East Gippsland Municipal Boundary Interface Study (DELWP 2021) | Completed but not implemented | Have regard to recommendations as part of the upcoming planning scheme review. | Low |
| Geotechnical Review of the | Underway | Have regard to recommendations as part of the | Medium |

| Project/Author | Status | Recommendation | Priority |
|--|--------|----------------------------------|----------|
| Erosion Management Overlay (EMO) of the East Gippsland Planning Scheme (DELWP) | | upcoming planning scheme review. | |

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Action Plan - Independent Review East Gippsland Planning Scheme Final Report (April 2022)

| | Recommendation | Tasks | Project | Timeframe |
|----|--|---|--|--|
| 1. | Provide increased guidance and apply more transparent VPP tools in relation to rural, environmental, design, water catchment and landscape issues. | <ul style="list-style-type: none"> - Update the Municipal Strategic Strategy (“the MPS”) at clause 2 of the planning scheme. - Refresh Local provisions in the Planning Policy Framework (“the PPF”) at Clauses 10 to 19. - Update the Schedule to clause 74.01 (Application of zones, overlays and provisions). - Consider importance of township character and view sharing in coastal settings. - Consider the importance of access in risk areas (fire and flooding). - Consider the negative impact of signage on scenic routes. - Need for integrated approach to planning restructure areas for infrastructure provision. - Align risk mapping for existing settlements. - Update planning scheme with contemporary environmental material. - Review references to ‘agriculture’. - Stronger emphasis on urban design. - Include contemporary economic development directions. - Vision lacks any meaningful connection to land use planning. - Current framework inaccurate. - Update demographics (or delete). - Update township strategies. | Planning Scheme Amendment (public notice). New work | Year 1 |
| 2. | Implement new local policies based on existing Council strategies or strategies prepared by other agencies. | <ul style="list-style-type: none"> - Floodplain Management Strategies. - Update riverine and coastal flood mapping. - LSIO does not contain any objectives or statement of risk. | Grant application for flooding update. New work | Year 2. |
| 3. | Review zones and schedules, including deletion and map changes. | <ul style="list-style-type: none"> - Progress the review of the Design & Development Overlay for coastal settlements. <i>New work</i> - Undertake a Geotechnical Review of the Erosion Management Overlay mapping and schedules. <i>New work</i> - Update the flood mapping and schedules. <i>New work</i> - Scope and review various overlay permit triggers and mapping (EMO, DDO, ESO and RO). <i>New work</i> - Review planning permit referrals clauses, confirm status. <i>New work</i> - Move some strategies relating to Bairnsdale CBD into schedules. <i>New work</i> | Ongoing. | Year 3 Year 2 Year 2 Year 3+. Year 3. To be determined. |

| | | | | |
|----|---|---|---|---|
| | | <ul style="list-style-type: none"> - Review ESO, EMO, DDO, VPO, SLO & HO mapping and schedules. New work - Update risk layers (flooding and bushfire). New work - Update Heritage Overlay and mapping. New work | | Year 3 To be determined |
| 4. | Progress and finalize the Rural Land Use Strategy. | <ul style="list-style-type: none"> - Address ongoing demand for small lot/ excisions/ dwellings in rural areas. - Consider the collective result of approvals to the loss of rural land. - Need for more detailed policy directions on rural housing and small lot subdivisions. - Mapping of productive agricultural land. - Simplify the existing suite of rural zones. | In progress. Existing work | Year 1 |
| 5. | Prepare a Housing and Settlement Strategy. | <ul style="list-style-type: none"> - Address increasing demand for residential land supply. - Address demand for rural living and low-density residential land supply. - Need for a settlement strategy and hierarchy. - Remove repetition in the planning scheme with reference to low density and rural living. - Review inconsistent zoning in smaller townships (GRZ and TZ). - Very extensive application of the rural living zone and the low-density zone. - Need to update risk mapping for fire and flooding in coastal settlements. - Address residential land supply, infrastructure requirements, affordable housing, development constraints, urban residential interface, township boundaries, density & character and areas for future growth. | In progress. Existing work | Year 1 and 2 |
| 6. | Implement the Planning Policy Framework reform program. | <ul style="list-style-type: none"> - Brief Council on the PPF Translation project. - Minister to approve Planning Scheme Amendment. | Planning Scheme Amendment (20(4)). Existing work | Year 1 |
| 7. | Implement completed strategic work. | <ul style="list-style-type: none"> - Review of Coastal Design and Development Overlays new work - Council Plan 2021 -2025 New work - Heritage Gaps Study 2005 New work – low priority - Paynesville Growth Area Structure Plan 2016 Existing work - Eagle Point Structure Plan 2019 Existing work - East Bairnsdale – Lucknow Structure Plan New work - Economic Development Strategy New work - Omeo Land Supply Review Existing work - Tambo Bluff Review of Restructure Plan New work – low priority | Various separate projects, | Years 3 Year 1 To be determined Year 1 and 2 Year 1 and 2 Year 2 Year 1 Year 1 To be determined |

| | | | | |
|-----|--|--|---|------------------|
| 8. | Implement East Gippsland Municipal Boundary and Interface Study (DELWP) (2021) | <ul style="list-style-type: none"> - Review recommendations. - Address zone and overlay inconsistencies. New work | PSA as part of the MPS review. | Year 2 |
| 9. | Review relevant structure plans for towns and settlements with regards to recent Bushfire Overlay Mapping updates | <ul style="list-style-type: none"> - Review existing structure plans. New work | Subject to future funding and resourcing. | To be determined |
| 10. | Implement buffer areas for water treatment plans and landfills (existing and legacy) | <ul style="list-style-type: none"> - EGW request to implement amenity buffers around infrastructure facilities such as sewerage treatment plans and landfills. - Implement an Environmental Significance Overlay. New work | Subject to collaboration with East Gippsland Water. | To be determined |
| 11. | Review Council Policy – ‘Coastal Inundation and Erosion Planning Policy’ that currently sits outside the East Gippsland planning scheme. | <ul style="list-style-type: none"> - Needs to be reviewed and implemented in the planning scheme. Existing work | Part of funding application. | Possible Year 2. |
| 12. | Program additional strategic work. | <ul style="list-style-type: none"> - Municipal wide settlement strategy. - Residential and industrial land supply and demand analysis - Prepare Structure Plans for smaller coastal townships (Marlo and Mallacoota). Existing work | Preparation of the Housing and Settlement Strategy. | Year 1 and 2 |
| 13. | Review clause 22 local policies | <ul style="list-style-type: none"> - Colquhoun Area Policy (deletion) - East Bairnsdale Lucknow (review) - Paynesville Town Centre (conversion to zone and schedules) New work - low priority | Ongoing. | To be determined |
| 14. | Review Comprehensive Development Zone Schedule 1 Nicholson | <ul style="list-style-type: none"> - Planning control has lapsed (deletion and rezoning). New work | Corrections Amendment. | Year 1 |
| 15. | Referral of permit applications (clauses 66.04 and 66.06) | <ul style="list-style-type: none"> - Review determining and recommending referral authority status. New work | Corrections Amendment. | Year 1 |
| 16. | Lakes Entrance Growth & Adaptation Strategy | <ul style="list-style-type: none"> - Review status of project in consultation with DELWP Existing work | Project discontinued. | |
| 17. | Lakes Entrance Northern Growth Area | <ul style="list-style-type: none"> - Review Outline Development Plan. - Consider impacts of the Lakes Entrance transfer station. New work | Planning Scheme Amendment | Year 2 & 3 |
| 18. | Review Bairnsdale Growth Strategy | <ul style="list-style-type: none"> - Industrial land supply New work | Preparation of new Strategy. | Year 2 |
| 19. | Open Space Strategy | <ul style="list-style-type: none"> - Open Space Strategy New work | Preparation of new Strategy (by others). Incorporation into Scheme. | To be determined |
| 20. | 2021 – 2025 Economic Development Strategy | <ul style="list-style-type: none"> - Implement as necessary upon completion New work | Planning Scheme Amendment. | Year 1 |

6 Urgent and Other Business

7 Confidential Business

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

7.1 **Contract Variation CON2022 1415 Omeo Mountain Bike Trail Construction**

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

7.2 **Chief Executive Officer Key Performance Criteria 2022/23**

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 personal information that would, if released, result in the unreasonable disclosure of information about personal affairs.

7.3 **Independent Member - Chief Executive Officer Employment and Remuneration Committee**

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 personal information that would, if released, result in the unreasonable disclosure of information about personal affairs.

8 Close of Meeting