



MINUTES ORDINARY COUNCIL MEETING

TUESDAY, 4 AUGUST 2009

IN THE COUNCIL CHAMBER, CORPORATE CENTRE
1ST FLOOR, 273 MAIN STREET, BAIRNSDALE

COMMENCING AT 6.00 P.M.

Present

Councillors Michael Freshwater (Acting Mayor), Trudy Anderson, Ben Buckley Richard Ellis, William Gamble, Peter Neal, Maryanne Pelz and Jane Rowe (6.47 pm).

Officers Steve Kozlowski (Chief Executive Officer), Andrew Fearn-Wannan (Manager Administration and Human Resources), Chris Waites (Director Development), John Websdale (Director Corporate and Economic Development), Matt Youell (Director Services) and Wendy Veldhuizen (Personal Assistant Services).

INDEX

1.	PROCEDURAL	621
1.1.	APOLOGIES	621
1.2.	DECLARATION OF CONFLICT OF INTEREST	621
1.3.	CONFIRMATION OF MINUTES	621
1.4.	REQUESTS FOR LEAVE OF ABSENCE	621
1.5.	PETITIONS	621
1.6.	NEXT MEETING	621
2.	PUBLIC QUESTION TIME	623
3.	COUNCILLORS' REPORTS	624
3.1.	CR PETER NEAL	624
3.2.	CR MARIANNE PELZ	624
3.3.	CR BEN BUCKLEY	624
3.4.	CR WILLIAM GAMBLE	625
3.5.	CR RICHARD ELLIS	625
3.6.	CR TRUDY ANDERSON	625
3.7.	CR MICHAEL FRESHWATER	626
4.	NOTICES OF MOTION AND/OR RESCISSION	627
5.	DEFERRED BUSINESS	628
5.1.	PLANNING APPLICATION NO. 632/2007/P- 3854 PRINCES HIGHWAY, BELLBIRD CREEK: BUILDING AND WORKS (TELECOMMUN-ICATIONS FACILITY)	628
6.	OFFICERS' REPORTS	629
6.1.	LIVEABILITY	629
	6.1.1. PUBLIC ART POLICY AND IMPLEMENTATION PLAN	629
	6.1.2. EAST GIPPSLAND SHIRE COUNCIL TOURISM ADVISORY BOARD REPORT FOR MEETING HELD ON 20 JULY 2009	631

6.2.	SUSTAINABILITY	635
6.2.1.	REQUEST TO END A SECTION 173 - 12A HEADLAND TERRACE, PAYNESVILLE	635
6.2.2.	PLANNING APPLICATION NO. 632/2007/P- 3854 PRINCES HIGHWAY, BELLBIRD CREEK: BUILDING AND WORKS (TELECOMMUNICATIONS FACILITY)	639
6.2.3.	PLANNING APPLICATION 59/2009/P- 1354 MARLO ROAD, MARLO - USE AND DEVELOPMENT OF A TELECOMMUNICATIONS FACILITY	647
6.2.4.	STATUTORY PLANNING MONTHLY REPORT – JUNE 2009	657
6.2.5.	PLANNING SCHEME AMENDMENT C81 – MAIN STREET, LINDENOW	660
6.3.	PRODUCTIVITY	664
6.3.1.	EAST GIPPSLAND SHIRE COUNCIL ECONOMIC DEVELOPMENT ADVISORY BOARD REPORT FOR MEETING HELD ON 8 JULY 2009	664
6.3.2.	OCEAN ACCESS BOAT RAMP, BASTION POINT, MALLACOOTA – COMMUNITY ADVISORY COMMITTEE	668
6.4.	GOVERNANCE	672
6.4.1.	LOCALITY NAMES AND BOUNDARIES – NEWMERELLA, CORRINGLE AND MARLO	672
6.4.2.	PLACE / FEATURE NAME PROPOSAL – FRED ALBERT BRIDGE	675
6.4.3.	PROPOSED LEASE AGREEMENT FOR OCCUPATION OF NEW WORKS COTTAGES, HUMMOCKS, LAKES ENTRANCE	677
6.4.4.	AUDIT COMMITTEE REPORT FOR MEETING HELD 20 JULY 2009	681
7.	URGENT AND OTHER BUSINESS	684
8.	FOR CONSIDERATION <i>IN CAMERA</i>	685
8.1.	CONTRACT 888/089 STRENGTHENING OF THE HISTORICAL WUK WUK BRIDGE OVER THE MITCHELL RIVER ON LINDENOW-GLENALADALE ROAD, LINDENOW	685
8.2.	CONTRACT 880/089 CONSTRUCTION OF STEEL AND CONCRETE BRIDGE OVER LIVINGSTONE CREEK, SWIFT CREEK OMEO ROAD	686
9.	MEETING CLOSED	688

Steve Kozlowski
Chief Executive Officer

ITEM 1

PROCEDURAL

1. PROCEDURAL

1.1. APOLOGIES

Cr Mendy Urie, Mayor and Cr Jane Rowe (for lateness)

1.2. DECLARATION OF CONFLICT OF INTEREST

Nil.

1.3. CONFIRMATION OF MINUTES

Cr Peter Neal / Cr Richard Ellis

***THAT THE MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 7 JULY 2009
BE CONFIRMED.***

CARRIED UNANIMOUSLY 04/08/2009

1.4. REQUESTS FOR LEAVE OF ABSENCE

Nil

1.5. PETITIONS

Nil

1.6. NEXT MEETING

Tuesday, 1 September 2009 commencing in the Corporate Centre at 6.00 p.m.

Cr Peter Neal / Cr Trudy Anderson

THAT STANDING ORDERS BE SUSPENDED.

CARRIED UNANIMOUSLY 04/08/09

Standing Orders were suspended at 6.02pm.

Presentation of 2009 Monash Gippsland – East Gippsland Shire Council Bursaries

Standing Orders were suspended at this juncture of the meeting to allow an opportunity for Councillors to congratulate and make a small presentation to three East Gippsland students who have been awarded a Monash Gippsland – East Gippsland Shire Council Bursary for 2009.

The students and their area of study are:

- Mr Clinton Bush Bachelor of Business and Commerce and Bachelor of Education;
- Ms Sharna Fitzpatrick Diploma of Tertiary Studies; and
- Mr Malcolm Pratt Bachelor of Visual and Media Arts.

Monash Gippsland – East Gippsland Shire Council Bursaries are funded jointly through the Monash Gippsland Education Scholarship Fund and East Gippsland Shire Council. Bursaries are valued at \$3000 and help defray the costs associated with student accommodation on campus during their first year of study.

Associate Professor Erik Eklund and Mr Alan Scarlett from Monash University made presentations to the students in attendance. Cr Freshwater congratulated the bursary recipients.

Cr Peter Neal / Cr Ben Buckley

THAT STANDING ORDERS BE RESUMED.

CARRIED UNANIMOUSLY 04/08/09

Standing Orders were resumed at 6.08 pm

ITEM 2

PUBLIC

QUESTION TIME

2. PUBLIC QUESTION TIME

There were no public questions.

ITEM 3

COUNCILLORS'

REPORTS

3. COUNCILLORS' REPORTS

3.1. CR PETER NEAL

Cr Neal reported that during the last month he attended the following events and meetings:

- Melbourne Boat Show on 2 to 4 July 2009.
- Cycling Strategy Group conducted by Municipal Association of Victoria on 3 July 2009.
- Orchestra of Victoria Chamber Concert at Bairnsdale Recreation and Aquatic Centre auditorium on 16 July 2009.
- Twin Rivers Business and Tourism Association – Twin Rivers Bream Classic on 19 July 2009.
- Public Meeting to discuss Public Land Management with regards to Fire and Fuel Management conducted by Victoria Land Alliance at Cann River held on 23 July 2009.
- Annual Councillor Development weekend held at Creswick conducted by Municipal Association of Victoria on 25 and 26 July 2009.

3.2. CR MARIANNE PELZ

Cr Pelz reported that during the last month she attended the following event Moogji Aboriginal Moogii Council – Snowy River Riparian Restoration Project Celebration and luncheon conducted by Moogji Aboriginal Council on 15 July 2009.

3.3. CR BEN BUCKLEY

Cr Buckley reported that during the last month he attended the following events:

- Omeo Historical Society – seeking a community grant from Shire for Back to Glenn Valley Reunion (31/10/09) held on 19 July 2009.
- NADOC week flag raising and street march around Bairnsdale held on 15 July 2009.

3.4. CR WILLIAM GAMBLE

Cr Gamble reported that during the last month he attended the following events and meetings:

- Orchestra of Victoria Chamber concert held at Bairnsdale Recreation and Aquatic Centre auditorium held on 16 July 2009.
- East Gippsland Shire Council Tourism Advisory Board meeting held on 20 July 2009.
- East Gippsland Shire Council Arts and Culture Strategic Advisory Board meeting held on 22 July 2009.
- Paynesville Face-to-Face meeting held on 28 July 2009. 80 residents attended. Update on Shire activities and activities undertaken by local groups. Update on Paynesville Library Service. Council allocation for new footpaths. Reports from Gippsland Ports, Paynesville Marine Industry Assoc., Raymond Island Community Assoc. and Paynesville Business and Tourism Association.

3.5. CR RICHARD ELLIS

Cr Ellis reported that during the last month he attended the following events and meetings:

- Wilderness Coast Artists - presentation of their project "Art on Show" to the Orbest Agricultural Society held on 19 July 2009.
- Surf Life Saving Lakes Entrance – 2009 Presentation Night conducted by Surf Life Saving Lake Entrance held on 25 July 2009.
- Medical Transport Forum with Gippsland East Health/Medical Services conducted by the Shire held on 3 August 2009.
- Proposal presented to East Gippsland on the construction of a Museum in Lakes Entrance to celebrate the history of the oil and fishing industries.

3.6. CR TRUDY ANDERSON

Cr Anderson reported that during the last month she attended the following events and meetings:

- East Gippsland Shire Council Economic Development Advisory Board meeting held on 8 July 2009.
- Let's GET Connected Winter Alps Bus Link held on 10 July 2009. Service Omeo to Bright – linking services from Bairnsdale to Wangaratta.
- Orchestra of Victoria Chamber concert held at Bairnsdale Recreation and Aquatic Centre auditorium held on 16 July 2009.
- Community Plan Get Together held at Mingling Waters, Nowa Nowa held on 17 July 2009.
- East Gippsland Shire Council Tourism Advisory Board meeting held on 20 July 2009.
- Paynesville Face-to-Face meeting held on 28 July 2009.

3.7. CR MICHAEL FRESHWATER

Cr Freshwater reported that during the last month he attended the following events and meetings:

- Meerlieu and District AgFuturesForum - Information and Discussion Forum conducted by Sustainable Rural Solutions held on 8 July 2009.
- Visit of The Hon. Gavin Jennings, Minister for Environment and Climate Change, held on 9 July 2009.
- Solemn Mass and Liturgical Reception of The Most Reverend Christopher Prowse, DD as the Eighth Bishop of the Diocese of Sale held on 15 July 2009.
- Orchestra of Victoria Chamber concert held at Bairnsdale Recreation and Aquatic Centre auditorium on 16 July 2009.
- Paynesville Ambulance Station - Announcement by Daniel Andrews, State Health Minister held on 17 July 2009.
- 49th Annual Gippstar Awards Presentation Night conducted by Gippsland Sports Academy held on 22 July 2009.
- Public Meeting to discuss Public Land Management with regards to Fire and Fuel Management conducted by Victorian Land Alliance held on 23 July 2009.
- Koori Justice Unit and Lakes Entrance Aboriginal Health Association – Elders and Respected Persons Dinner conducted by Department of Justice held on 24 July 2009.
- Paynesville Face-to-Face meeting held on 28 July 2009.
- Ceremony and Afternoon Tea - celebrating the completion, Blessing and Naming of new Administration Building by Bishop Prowse conducted by Nagle College held on 31 July 2009.
- Orbost Exhibition Centre Official Opening “Naturally Inspired” conducted by Orbost Exhibition Centre held on 1 August 2009.
- Attended the last leg of the Tour of Gippsland Bicycle Event.

ITEM 4

***NOTICES OF
MOTION AND/OR
RESCISSION***

4. NOTICES OF MOTION AND/OR RESCISSION

Nil

ITEM 5

DEFERRED

BUSINESS

5. DEFERRED BUSINESS

5.1. PLANNING APPLICATION NO. 632/2007/P- 3854 PRINCES HIGHWAY, BELLBIRD CREEK: BUILDING AND WORKS (TELECOMMUNICATIONS FACILITY)

NOTE: The above item was deferred at the Council Meeting of 7 July 2009, pending discussion with the State Minister for Environment and Climate Change in respect of native vegetation offset requirements for the site. The matter is listed again for this meeting at Item No. 6.2.2

ITEM 6

OFFICERS'

REPORTS

6. OFFICERS' REPORTS

6.1. LIVEABILITY

6.1.1. PUBLIC ART POLICY AND IMPLEMENTATION PLAN

DEPARTMENT Planning and Community

AUTHORED BY Andrea Court, Arts and Cultural Coordinator

ENDORSED BY John Websdale, Director Corporate and Economic Development

DOCUMENT NO. 3473858

In Attendance:

Anna Cook, Manager Community Programs and Partnership

1 OBJECTIVE

This report presents the Draft Public Art Policy and Implementation Plan for consideration and adoption by Council. The Draft Public Art Policy is provided at **Appendix 1**.

2 CURRENT STATUS AND/OR ISSUES

East Gippsland Shire Council adopted an Arts and Culture Policy on 12 October 2004, refer item 7.2.1. This Policy outlines Council's responsibility in ensuring Arts and Culture services are delivered to provide maximum benefit to the East Gippsland community.

A key outcome of the Policy was The East Gippsland Five Year Arts and Culture Reviewed Strategic Plan 2006/07-2010/11, which documents Council's medium term strategic direction. One of the strategic actions was the development of a Public Art Policy that can provide guidance for Council, the community and direction for Council Officers.

Inherent in the Public Art Policy document is background information and the rationale for seeking its implementation, together with any implications should the Public Art Policy be adopted.

3 CONSULTATION WITH STAKEHOLDERS

The Public Art Policy has been developed following Shire-wide open consultation about Public Art held in the following towns of Buchan, Orbost, Swifts Creek, Mallacoota, Lakes Entrance and Bairnsdale. Feedback from the consultation clearly expressed the value that communities place on their own 'place making' - the public expression of their ideas, their culture and heritage. Communities welcomed the prospect of expressing their local character through Public Art and the opportunity to employ local artists and artisans in that process.

4 APPENDIX

1 Draft Public Art Policy.

5 ATTACHMENTS

Nil

RECOMMENDATION

That Council adopts the Public Art Policy as provided at Appendix 1.

Cr Trudy Anderson / Cr William Gamble

THAT THE RECOMMENDATION BE ADOPTED.

CARRIED UNANIMOUSLY 04/08/09

6.1.2. EAST GIPPSLAND SHIRE COUNCIL TOURISM ADVISORY BOARD REPORT FOR MEETING HELD ON 20 JULY 2009**DEPARTMENT** Corporate and Economic Development**AUTHOR** Phil Rickards, Tourism Coordinator**DOCUMENT NO.** 3602916**In Attendance:**

John Websdale, Director Corporate and Economic Development

1 OBJECTIVE

To provide Council with an update on issues considered by the East Gippsland Shire Council Tourism Advisory Board (Board) at its meeting held on 20 July 2009.

2 BACKGROUND

East Gippsland Shire Council adopted a Tourism Policy on 28 July 2004. This Policy outlines Council's vision for tourism, and the extent of its responsibility in relation to development and support. A key outcome of the Policy was the establishment of a Tourism Advisory Board.

The Tourism Advisory Board meets quarterly to consider issues particularly relevant to providing guidance and recommendations to Council on community consultation mechanisms, best utilisation of the tourism budget, supporting the development of a tourism strategy and yearly action plans. Other matters that are consistent with the intent and purpose of the Board are also considered.

3 CURRENT STATUS AND/OR ISSUES**New East Gippsland Regional Business and Tourism Association member appointed to Board**

The East Gippsland Regional Business and Tourism Association (EGRBTA) has elected Neil Triggs, proprietor of Stringybark Cottages, as its second representative to the Board to fill the vacancy left by the resignation of Kaye Munro. The Board noted the nomination and welcomed Neil Triggs onto the Board.

2009 Priorities Summary of Strategic Tourism Plan 2006-2011 Update

The Board was provided with a report on the status of the Strategies and Actions in the 2009 Priorities Summary of the Strategic Tourism Plan 2006-2011 as at 30 June 2009. The 2009 Priorities Summary captures the key initiatives from the Strategic Tourism Plan for the Board to advise on during this calendar year. The Board noted the progress that has been made in relation to the actions.

Current Tourism Statistics

The Board received a report outlining the latest commonly used tourism statistics relating to East Gippsland, including those supplied by Tourism Victoria, those relating to visitation

to all of the Visitor Information Centres in the Municipality, as well as 'Unique Visitors' to the website www.discovereastgippsland.com.au.

The value of this information being provided to the Board is to enable them to advise Officers and Council on the most appropriate directions the industry should take to ensure its long-term health. The Board noted the report.

Destination Gippsland Limited

The Board was provided with a report on the current activities of Destination Gippsland Limited (DGL) by DGL's representative on the Board. The report included details on dispersal of 2009 Bushfire recovery funding, the "Inspired by Gippsland" marketing campaign, media publicity, involvement in trade show activity, the employment of an additional staff member, the announcement that DGL will receive \$585,000 over the next three years from Tourism Victoria for marketing support and the undertaking of 2009 Bushfire impact research. DGL is the region's independent, peak tourism body. Ongoing effective liaison between the Board and DGL is important for the progression of tourism in both the East Gippsland and Gippsland regions. The Board noted the report.

East Gippsland Marketing Inc

The Board was provided with a report on the current activities of East Gippsland Marketing Inc. Report details included the launch of the 'Victoria's East' brand at Parliament House and associated marketing activities, and the announcement by Regional Development Victoria of grant funding to support campaign activities. The Board noted the report.

National Landscapes

The Board was provided with a report by Council Officers on Australia's Coastal Wilderness National Landscape Tourism Master Plan and its ramifications to Council. Other than continuing support from East Gippsland Shire Council as a partner in Australia's Coastal Wilderness National Landscape no additional impacts on Council are anticipated from the Tourism Master Plan. It is considered that ongoing Council support of both Australia's Coastal Wilderness National Landscape and the Australian Alps National Landscape is a valuable investment ensuring East Gippsland's ongoing inclusion in 'Brand Australia' campaigns.

Economic Impact of the 2008 Blue Green Algae Bloom on the Gippsland Lakes tourism industry

The Board was provided with a written report by Council Officers regarding a research report funded by the Gippsland Lakes Task Force and the East Gippsland and Wellington Shires on the economic impact of the 2008 Blue Green Algae Bloom on the Gippsland Lakes tourism industry. The report included economic modelling determining the cost to the region and to the Victorian economy in terms of both financial loss and employment loss. In addition, economic forecasting was provided to a 20 year horizon, given that algal blooms will in all likelihood continue to affect the lakes system. The Board noted that the Gippsland Lakes Task Force would use this document to advocate for improved funding for Lakes projects.

Comments from community member re timber harvesting on Buchan-Orbost Road

The Board was provided with a report submitted by a community member highlighting their view that current forestry activities being undertaken by VicForests on the Buchan-Orbost Road were detrimental to the tourism amenity of the area.

The Board noted the report and determined to advise the community member that by having already contacted VicForests he had approached the correct agency, and also that he may wish to put in a submission to the review of the East Gippsland Forest Management Plan 2005 which the Board believed was imminent.

Economic Development Advisory Board Membership

The Board was provided with a report by Council Officers on the East Gippsland Shire Council Economic Development Advisory Board and the opportunity for the Board to elect a representative to the Economic Development Advisory Board to fill the vacancy left by Adrian Bromage. Will McCutcheon was the sole nomination and was duly elected by the Board to the position.

Visitor Information Services Position Paper

The Board was provided with a report regarding the provision of Visitor Information Services across the Municipality. The Board was informed that a Discussion Paper is being prepared by Officers that will cover issues such as location options for the Bairnsdale Visitor Information Centre (VIC), what level of support is appropriate for non-Shire operated VICs and how Council could optimally support the sector generally. The Board noted the report and determined that it would be appropriate for a special Board meeting to be called to review the Discussion Paper, when it was prepared, prior to its being presented to Council.

4 IMPLICATIONS**Financial**

Apart from for the staff time associated with updating the performance management system, continuing to progress actions within the East Gippsland Strategic Tourism Plan 2006-2011 and other associated support activities for the Board, there are no direct financial implications associated with this report.

Council Policy

The East Gippsland Strategic Tourism Plan 2006-2011 documents Council's medium term strategic direction. The proposed reporting framework provides a mechanism for the transparent reporting of achievements.

Human Resources

The Director Corporate and Economic Development, together with the Manager Major Projects and Economic Development and the Tourism Coordinator, are responsible for servicing Tourism Advisory Board requirements.

5 CONSULTATION WITH STAKEHOLDERS

Nil

6 CONCLUSIONS

Council is presented with an overview of the East Gippsland Shire Council Tourism Advisory Board meeting held on 20 July 2009.

The Board members present were satisfied with the reports and expressed confidence that the recommendations it subsequently made would provide a good foundation for maximising its support of the industry over the upcoming quarter.

Council is now in a position to note the report.

7 APPENDICES

Nil

8 ATTACHMENTS

Nil

RECOMMENDATION

That Council notes the issues considered by the East Gippsland Shire Council Tourism Advisory Board at the meeting held on 20 July 2009.

Cr Marianne Pelz / Cr Richard Ellis

THAT THE RECOMMENDATION BE ADOPTED.

CARRIED UNANIMOUSLY 04/08/09

6.2. SUSTAINABILITY

6.2.1. REQUEST TO END A SECTION 173 - 12A HEADLAND TERRACE, PAYNESVILLE

DEPARTMENT	Development
AUTHORED BY:	Richard Hoxley, Senior Statutory Planner
ENDORSED BY:	Chris Waites, Director Development
DOCUMENT NO.	3592909

In attendance

Aaron Hollow, Manager Development

1 OBJECTIVE

Council has received a request to end an agreement made in accordance with the requirements of Section 173 of the *Planning and Environment Act 1987*. The Agreement exists as a constraint on title to an approved development for a dwelling on the land at 12A Headland Terrace, Paynesville. This report seeks Council's decision on the request.

2 BACKGROUND

Section 173 Agreement AC476988W is registered to the titles of Lot 2 on PS515234D, 12A Headland Terrace Paynesville.

The Section 173 Agreement was registered on 17 November 2003 following the approval of a planning permit 02/00482/DS on 6 March 2003 for the subdivision of two lots.

Condition nine of permit 02/00482/DS required the owner of the land to enter into, and register on title, a Section 173 Agreement whereby:

- any building on a lot would be constructed within the designated building envelope;
- that stormwater collection and disposal be to the satisfaction of Council and shall contain litter and sediment control devices to limit impact on the canal;
- Only one jetty be allowed and licensed for each of the lots; and
- The jetty will be a design and standard approved by the East Gippsland Shire, in accordance with the Council's jetty policy for a single allotment.

The owner complied with the requirements of the permit and entered into the Section 173 Agreement which was subsequently registered on title. It is this Agreement that the owner now seeks to remove.

On 5 July 2005 a Planning Permit 380/2005/P was issued for the construction of a jetty.

On 19 September 2006 a building permit was issued for the development of a dwelling on the land. On 22 September 2006 Council received copy of a Building Notice advising that works were being undertaken on the land outside of the building envelope.

Investigation by Council officers determined that the construction of a deck, retaining walls and ramp were to be undertaken as part of the construction of the dwelling on the land. The dwelling for the most part was contained within the building envelope however parts of the development were not, thereby contravening the restrictions contained within the Section 173 Agreement.

The owner was advised that a planning permit was required for the development of a dwelling on the land. A planning permit was triggered for buildings and works outside the building envelope under the Design and Development Overlay Schedule 2. The owner was advised to apply for the removal of the Section 173 Agreement to ensure that the development would not be contrary to the Agreement.

On 4 December 2006 application 793/2006/P was lodged for the construction of a dwelling on the land and for the removal of the Section 173 Agreement. Application was advertised and no objections were received either to the proposed development or the removal of the Section 173 Agreement.

The owner of the land is now seeking approval from Council to remove the Section 173 Agreement as was included as part of planning permit application 793/2006/P.

A copy of the plans of the dwelling on the land are provided at **Attachment 1**.

A full copy of the Section 173 Agreement is provided at **Attachment 2**.

3 CURRENT STATUS AND/OR ISSUES

Section 173 Agreement AC476988W is included on the title of Lot 2 on PS 515234D, 12A Headland Terrace, Paynesville.

The Agreement was created as a requirement of conditions of the planning permit for the subdivision of the land into two lots. The agreement was not a requirement of the planning scheme with the lots being greater than 500 square metres and was not required by any of the overlays affecting the land. Now that the land has been developed with a dwelling it is considered that there is no on-going need for retaining the building envelope as referenced under the Agreement on title. Sufficient controls exist within the planning scheme to control any possible future development within 10 metres of the canal.

4 IMPLICATIONS

Financial

Nil

Legislative

The *Planning & Environment Act 1987* pursuant to Section 177 (2) provides the framework for a Section 173 Agreement to be ended wholly or in part as follows:

(2) An agreement may be ended wholly or in part or as to any part of the land by the responsible authority with the approval of the Minister or by the agreement between the responsible authority and all persons who are bound by any covenant in the agreement.

The applicant is seeking to end Section 173 Agreement AC476988W wholly as it applies to Lot 2 on PS 515234D via agreement between the responsible authority (Council) and all the owner of Lots 2 bound by any covenant in the agreement.

Planning Scheme and Strategies

The Planning Scheme requires that a planning permit is required for the development of a dwelling on land within an Erosion Management Overlay and for buildings and works on land within the Design and Development Overlay Schedule 2 outside of a designated building envelope and within 10 metres of a waterway.

The canal is contained within a Public Parks and Recreation Zone. A planning permit is required for the construction of a jetty on the canal if not constructed by or on behalf of the public land manager. A jetty has been constructed adjacent to the property. Any changes to the jetty or the construction of an additional jetty would require a planning permit.

Planning permit 793/2006/P allows for the construction of buildings and works outside of the building envelope. The discharge of stormwater from the dwelling is controlled by the building regulations. Stormwater is required to be discharged to a location approved by Council.

Sufficient planning controls remain over the land if the Section 173 Agreement is removed. Any further buildings and works on the land within 10 metres of the canal will require a planning permit. Any changes to the jetty requires a planning permit and approval from Council's Marine and Jetty Officer and must comply with Council's jetty policy.

Can Council end the Agreement?

As outlined earlier in this report, the *Planning and Environment Act* sets out the process for ending a Section 173 Agreement.

The Section 173 Agreement applies to Lot 2 on PS 515234D.

Legal advice has confirmed that, should Council wish to end the agreement, it can rely on a number of decisions made by senior and legally qualified VCAT members.

In this case Council sought to impose a restriction on the land to be subdivided to ensure appropriate development was undertaken in keeping with the standard for development within the canals

Now that the land has been developed with a dwelling the purpose of the Agreement is considered to have been achieved. There is no longer any requirement to maintain the Agreement of title.

5 CONSULTATION WITH STAKEHOLDERS

On 4 December 2006 an application for a planning permit was received for the development of a dwelling on the land being Lot 2 on PS 515234D at 12A Headland Terrace, Paynesville and removal of a Section 173 Agreement.

The application was advertised to neighbouring properties. No objections were received. The planning permit application was approved.

In order to facilitate the approved subdivision the landowner has sought to end Section 173 Agreement AC476988W.

6 CONCLUSIONS

Council has the legal ability to end the Section 173 Agreement as requested. The development of the land is consistent with the current planning scheme controls that apply to the land.

7 APPENDICES

Nil

8 ATTACHMENTS

1. Dwelling plans and elevations
2. Section 173 Agreement AC476988W

RECOMMENDATION

That Council determines to end Section 173 Agreement AC476988W (Lot 2 on PS 515234D 12A Headland Terrace, Paynesville) by agreement between the responsible authority and the owner bound by any covenant in the agreement in accordance with Section 177 (2) of the Planning and Environment Act 1987.

Cr Richard Ellis / Cr William Gamble

THAT THE RECOMMENDATION BE ADOPTED.

CARRIED 04/08/09

For Crs Anderson, Buckley, Ellis, Freshwater and Gamble.

Against Crs Neal and Pelz.

Attendance

Cr Jane Rowe entered the Chamber at 6.47pm.

6.2.2. PLANNING APPLICATION NO. 632/2007/P- 3854 PRINCES HIGHWAY, BELLBIRD CREEK: BUILDING AND WORKS (TELECOMMUNICATIONS FACILITY)

DEPARTMENT Development
AUTHOR Bill Williams, Planning Officer
ENDORSED BY: Chris Waites, Director Development
DOCUMENT NO. 3565951

In attendance

Aaron Hollow, Manager Development

1 OBJECTIVE

This application was previously reported to Council for review on 7 July 2009 however a decision on the application was deferred pending discussions about the application with the Minister for Environment and Climate Change. These discussions have now taken place and the application can now be re-considered. The planning application has been through an assessment process. This process has revealed that approval of the application would breach a condition on a previous planning permit requiring the land to be regenerated as native forest. This report presents the planning background to the proposal and seeks Council's decision on the application.

2 BACKGROUND

Application No.	632/2007/P	
Address	3854 Princes Highway Bellbird Creek	
Zone	Farming Zone (Schedule 1)	
Overlay	Part Environmental Significance Overlay 88 (Part ESO 88) Part Design and Development Overlay7 (Part DDO 7)	
Permit requirements	Clause	Complies
	15.09 Conservation of native flora and fauna	No
	18.13 Telecommunications	Yes
	21.05 Public Health and Safety	Yes
	35.07 Farming Zone	Yes
	43.02 Design and Development Overlay	Yes
	52.17 Native vegetation	No
	52.19 Telecommunications Facility	Yes
	65 Decision Guidelines	No
<i>Why is a planning permit required?</i>	A planning permit is required for building and works in a Farming Zone; on land covered by a Design and Development Overlay-Schedule 7(DDO7); and on land covered by an Environmental Significance Overlay where the identified environmental values of the site require protection.	

Site Plan

The land is located on the southern side of the Princes Highway in Bellbird Creek and bounded by the Princes Highway to the north, Hippo Track to the west, Wheelers Ridge track to the south and Bellbird Creek to the east.

The land is partially cleared rural property, surrounded mostly by state forest and currently developed with a dwelling. The property consists of gently rising terrain that rises to approximately 200 metres elevation. The land has been selectively logged in accordance with planning permits 401/2005/P and 402/2005/P. Both these permits require the area which has been selectively logged, to be regenerated as native forest and not utilised for cattle grazing or other activities.

The subject site is one of two parcels of Farming Zoned land located on the southern side of the Highway. The other land parcel on the south side of the highway is developed with the Bellbird Creek Hotel which fronts the Highway. One other parcel of Farming Zoned land is covered with native vegetation and located on the immediate northern side of the highway. All other surrounding land is State Forest, containing a network of gravel tracks providing vehicle access. To the west of the site is Hippo Track, which leads to a gas and power easement, the proposed location and route for power supply to the site.

A plan that includes details of the site location, the location of properties given notice of the application, and nearby objectors is provided at **Attachment 1**.

Description of Proposal

The proposal is to erect a telecommunications facility including one 81 metre guyed mast tower with an associated cable tray, equipment shelter and access track.

The proposed tower is designed to accommodate three panel antennas and two parabolic link dishes to form part of the telecommunications system.

Details of the proposal are provided at **Attachment 2**.

3 CURRENT STATUS AND/OR ISSUES

Referrals	Department of Sustainability and Environment (Section 52 referral only)
Notification	The application was advertised by means of written notification to adjoining properties and a public notice in the Snowy River Mail in accordance with the provisions of the <i>Planning and Environment Act 1987</i> .
Objections	One (Department of Sustainability and Environment)

Objections

Issues raised in the objection can be summarised as follows:

- *Approval of the facility will breach conditions of native vegetation harvesting and regeneration planning permits 401/2005/P and 402/2005/P, through preventing regeneration of the land;*
- *The conservation significance of the site is very high and in accordance with Victoria's Native Vegetation Management- A Framework for Action and vegetation clearing is generally not permitted and requires Ministerial consent to do so; and*

- *The application does not address the three- step process as required by the Framework, in particular offsets.*

4 CONSULTATION WITH STAKEHOLDERS

The application was advertised by means of written notification to adjoining properties and a public notice in the Snowy River Mail in accordance with the provisions of the *Planning and Environment Act 1987*.

The Department of Sustainability and Environment (DSE) has objected to the proposal. Advice was initially received from DSE in relation to the status and intent of Condition 4 of planning permits 401/2005/P and 402/2005/P. Copies of planning permits 401/2005/P and 402/2005/P are provided at **Attachment 3**.

The advice was that condition 4 had been required by DSE as a Section 55 referral authority requiring the land to be regenerated as native forest and not utilised for cattle grazing or other activities. DSE advised that approximately nine hectares of native vegetation will be removed from the land to enable development of this proposal and that additional offsets would be required for the areas that that won't be allowed to regenerate.

The applicant was advised of the situation and asked to advise whether the required offsets could be achieved on site. The applicant was further advised that Council and DSE would be prepared to amend planning permits 401/2005/P and 402/2005/P to remove Condition 4 to allow this important facility to be approved on the site if suitable offsets could be found. The applicant advised that the required offsets could not be achieved on the site.

Council officers and DSE conducted an assessment of possible alternative locations that had the potential to achieve the required coverage objectives without success.

Council advised the applicant of this result and suggested that they consider the option of the Bush Broker system. (This Bush Broker system allows an offset to be achieved if another landowner with a comparable Ecological Vegetation Class (ECV) of vegetation is prepared to protect vegetation on their land in perpetuity with a Covenant on the title to the land and with agreed management practices).

DSE assisted the applicant by identifying the type of vegetation (ECV) required to be offset. Council put the applicant in contact with the Trust for Nature which administered the Bush Broker system. A site was found which would have allowed the required offset to be achieved. The applicant relayed this information to their client Telstra Corporation which advised that the cost of the Bush Broker system exceeded the budget allocated for the siting of the proposed telecommunications facility.

At this point the applicant was asked to withdraw the application as there was no ability to approve the application without an offset, however they have elected not to do this and are seeking a decision by Council. It is understood that until such time as this application is formally refused, no further work will be undertaken to pursue a new application in this general area.

Councillors had the opportunity to discuss the challenges associated with this application and others where the provision of important community infrastructure is impacted by the requirements of the Native Vegetation Framework, with the Minister for Environment and Climate Change.

While the Minister acknowledges the information provided by Council, there are a number of reviews currently being undertaken that may have implications for the way that Native Vegetation controls will operate in Victoria. Council has made submissions to each of these reviews. It is unlikely that any changes will take place until those reviews have been completed.

5 IMPLICATIONS

Financial

Nil

Planning Scheme Requirements

State Planning Policy Framework (SPPF)

The State planning policies that are considered to be relevant to the proposal include:

Clause 15.09 Conservation of native flora and fauna

The objective of this provision is to protect and conserve biodiversity, native vegetation and the provision of habitat for native plants and animals and control of pest plants and animals. The removal of approximately nine hectares of native vegetation without the ability to provide necessary off-sets is contrary to the policy.

Clause 18.13 Telecommunications

This provision is to recognise the importance of telecommunications to all aspects of modern life and the essential contribution of modern telecommunications facilities to local communities and the State and national economy. This proposed facility if able to be approved would fill in an existing gap and improve the coverage of the telecommunications system in this area of East Gippsland.

Local Planning Policy Framework (LPPF)

The LPPF is comprised of the Municipal Strategic Statement (MSS) and local policies.

There are four principal elements of the MSS which are of relevance to the proposal. These policies are:

- Clause 21.02 Municipal Profile;
- Clause 31.03 Key issues;
- Clause 21.05 Objectives- Strategies- Implementation; and
- Clause 21.06 Strategies for Sub-regions, Towns and Localities.

The proposal has been assessed against these policies. The facility would assist in meeting these policy objectives by providing essential telecommunications services to support the local community and tourism role as well as economic activity in the area and region.

Zoning

The subject site is within a Farming Zone (Schedule 1). The application is defined as a Telecommunications Facility within the planning scheme. A permit is required for the facility proposed.

The zone directs consideration of a range of agricultural and environmental outcomes.

The proposal will not result in a loss of agricultural land and is considered not to impact on achieving the required agricultural outcomes.

However the application will result in the permanent loss of native vegetation and the biodiversity of the area.

Overlays

Clause 42.01 Environmental Significance Overlay 88

Part of the land the subject of this application is covered by this overlay. The overlay requires consideration of the environmental values listed in ESO88 in the schedule to the overlay. The environmental value stated as requiring protection is the Long-footed Potoroo which requires vegetation as habitat. The proposed removal of regenerating native vegetation will permanently remove habitat and does not positively satisfy the overlay requirement.

Clause 43.02 Design and Development Overlay (DDO7)

This overlay directs consideration towards minimising vegetation removal and habitat loss within the highway corridor to comply with the policy framework of the planning scheme. This proposal will remove vegetation and will not satisfy this required protection.

Particular provisions

Clause 52.17 Native vegetation

The purpose of this provision is to protect and conserve native vegetation. Where native vegetation is to be removed net gain must be achieved in accordance with the procedures outlined in the Native Vegetation Framework.

As outlined above this proposal will remove vegetation and the applicants have not been able to demonstrate that they can satisfy the offset requirements. Officers have worked with the applicant to source suitable land, including working with Trust for Nature, however securing an appropriate offset arrangement has proven unsuccessful.

Clause 52.19. Telecommunications facility

This provision applies to the construction and works associated with the use of the land for a telecommunications facility. The purpose of the provision is to encourage the provision of telecommunications infrastructure and services to meet community needs with minimal impact on the amenity of the area.

Response to objection

Approval of the facility will breach conditions of native vegetation harvesting and regeneration planning permits 401/2005/P and 402/2005/P, through preventing regeneration of the land.

The application will breach condition 4 of existing permits on the land preventing the regeneration of native vegetation on the part of the land where the telecommunication facility is proposed to be located.

The conservation significance of the site is very high and in accordance with Victoria's Native Vegetation Management- A Framework for Action and vegetation clearing is generally not permitted and requires Ministerial consent to do so.

The conservation significance of the land is high reflected by the Environmental Significance Overlay covering the land. Vegetation removal would be required to be in accordance with the framework. This application does not comply with the framework as no offset can be provided.

The application does not address the three- step process as required by the Native Vegetation Framework, in particular offsets.

As outlined above this application does not comply with the framework as no offset can be provided.

Outcomes of Telstra Discussions

Council officers have carried out discussions with Telstra regarding the provision of a telecommunications facility within the nearby vicinity.

Telstra have advised that there are no other suitable or available sites for a telecommunications facility within close proximity of the subject site.

Previous Planning Permit Approvals

As previously stated planning permits 401/2005/P and 402/2005/P contain conditions that require regeneration of native vegetation on the land. These conditions were required to ensure consistency with *Victoria's Native Vegetation Management – A Framework for Action*.

Victoria's Native Vegetation Management – A Framework for Action can be addressed in various ways and via many approaches which includes but is not limited to providing offsets on other land parcels. It is noted that such proposals must be to the satisfaction of Council and the Department of Sustainability and Environment.

Council has the ability to consider approval of the application on the basis that *Victoria's Native Vegetation Management – A Framework for Action* is met and the previous planning permits being 401/2005/P and 402/2005/P are amended to the satisfaction of the Department of Sustainability and Environment and Council.

Approval Sequencing

It is recognised that an applicant will often not progress with significant time investment, financial costs and regulatory requirements prior to ensuring that a permit would be issued. Often this is reflected within planning permit approvals by the use of conditions requiring plans, studies and relevant documentation to be provided to the satisfaction of Council and/or other authorities.

In this case Telstra and the land owner require assurance that the telecommunications facility will be approved prior to amending previous approvals and providing solutions to satisfactorily address *Victoria's Native Vegetation Management – A Framework for Action*.

It is considered that Council may consider the approval of the telecommunications facility as proposed with a conditional requirement ensuring planning permits 401/2005/P and 402/2005/P are amended to the satisfaction of Council and the Department of Sustainability and Environment and ensuring *Victoria's Native Vegetation Management – A Framework for Action* is satisfactorily addressed.

6 CONCLUSIONS

The Planning Scheme encourages the provision of telecommunications facilities to service the population and visitors to the Shire. The proposed telecommunications facility will provide community benefit in the form of a more comprehensive telecommunication network.

The approval will ensure *Victoria's Native Vegetation Management – A Framework for Action* is satisfactorily addressed.

7 APPENDICES

Nil

8 ATTACHMENTS

- 1 Site Plan.
- 2 Details of the proposal.
- 3 Planning permits 401/2005/P and 402/2005/P.

RECOMMENDATION

That Council, being the responsible authority and having considered all the relevant planning matters, determines that planning application 632/2007/P is consistent with the requirements and objectives of the East Gippsland Planning Scheme and therefore resolves to issue a notice of decision to grant a planning permit for the use and development of the land at 3854 Princes Highway Bellbird Creek for use and development of a telecommunications facility subject to the following conditions:

- 1. Prior to the endorsement of plans under this permit and the use and development commencing evidence to the satisfaction of the responsible authority must be provided demonstrating that planning permits 401/2005/P and 402/2005/P have been amended to address Victoria's Native Vegetation***

Management – A Framework for Action and provide native vegetation offsets to the satisfaction of the Department of Sustainability and Environment and the responsible authority enabling the telecommunications facility on the land.

2. *The use and development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.*
3. *This permit will expire if one of the following circumstances applies:*
 - *The use and development is not started within two years of the date of this permit; or*
 - *The development is not completed within four years of the date of this permit.*

The responsible authority may extend the periods referred to if a request made in writing before the permit expires or within three months afterwards

Note:

All buildings erected on this site must comply with the requirements of the Victorian Building Act and Regulations, the Building Code of Australia and relevant Council Local Laws.

Cr Marianne Pelz / Cr Peter Neal

THAT THE RECOMMENDATION BE ADOPTED.

CARRIED UNANIMOUSLY 04/08/09

6.2.3. PLANNING APPLICATION 59/2009/P- 1354 MARLO ROAD, MARLO - USE AND DEVELOPMENT OF A TELECOMMUNICATIONS FACILITY

DEPARTMENT Development

AUTHORED BY: Bill Williams, Planning Officer

ENDORSED BY: Chris Waites, Director Development

DOCUMENT NO. 3567484

In attendance

Aaron Hollow, Manager Development

1 OBJECTIVE

This planning application has been through the public notification process and has attracted objections. This report presents the planning background to the proposal and seeks Council's decision on the application.

2 BACKGROUND

Application No.	59/2009/P	
Address	1354 Marlo Road, Marlo	
Zone	Farming Zone Schedule 1	
Overlay	Environmental Significance Overlay	
	Land Subject to Inundation Overlay	
	Land adjacent to a Road Zone Category 1	
Permit requirements	Clause	Complies
	15.08 Coastal areas	Yes
	15.09 Conservation of native flora and fauna	Yes
	18.13 Telecommunications	Yes
	21.05 Objectives- Strategies- Implementation	Yes
	35.07-4 Farming Zone	Yes
	52.19 Telecommunications facility	Yes
<i>Why is a planning permit required?</i>	A planning permit is required for building and works associated with a section two use in a Farming Zone. A permit is also required for a telecommunications facility pursuant to the Particular Provision at Clause 52.19	

Site Plan

A plan that includes details of the site location, the location of properties given notice of the application, and nearby objectors is provided at **Attachment 1**.

The subject site for the proposed telecommunication facility is located on the north side of Healeys Road approximately 234 metres to the east of Marlo Road. The immediate location for the proposed tower is approximately 12 metres north of Healeys Road between an existing farm hay shed to the west, a relocated vacant dwelling to the north

and a vegetated unused road reserve to the immediate east. The land is formally described as Lot 1 on TP 896558G without encumbrances, caveats or notices.

The subject land is irregular in shape located within farming land on the east side of Marlo Road north of the township of Marlo. The property is predominantly cleared and used for mixed grazing and farming purposes and contains scattered trees and vegetation. Remnant vegetation is located within the Healeys Road road reserve adjacent to the southern boundary and within the unconstructed road reserve adjacent to the eastern boundary.

The broader area to the north, north east and west features farming land with scattered dwellings, vegetation and rural infrastructure.

Across the unused road reserve to the immediate east are four rural living lots three of which are developed with dwellings which form part of a low density residential area extending to the east beyond the boundaries of the township.

To the immediate south is a public reserve which is heavily vegetated and to south west are residential lots developed with dwellings with access from Healeys Road.

Description of Proposal

The application seeks approval to use and develop the land for a telecommunications facility. The application proposes the following:

- Construction of a 40 metre concrete monopole;
- Installation of nine 2.63 metre long panel antennas mounted on top of the monopole which will have a total height of 41.35 metres;
- Installation of two 1.2 metre diameter radio communication dishes; and
- An equipment shelter measuring 3 by 2.5 by 2.8 metres high, constructed in a pale eucalypt colourbond finish to be located near the base of the monopole.

The plans propose access to the site via a new short all weather track from Healeys Road at the south east corner of the land. It is noted that although the application did not apply for vegetation removal that the plans submitted note vegetation and trees to be removed for access.

Plans of the proposal are provided at **Attachment 2**.

3 CURRENT STATUS AND/OR ISSUES

Referrals	Department of Sustainability and Environment
Notification	Public notices were sent to abutting owners and occupiers and a sign was displayed on the site for 14 days.
Objections	Five (5) It is noted that one of these objections was a petition including 53 objections.

Objections

Issues raised in the objections can be summarised as follows: -

- Visual impact;
- Health risks;
- Loss of property values; and
- Alternate locations.

4 CONSULTATION WITH STAKEHOLDERS

The applicant requested and was provided with copies of the objections and provided a written response to Council. The response is provided at **Attachment 3**.

The application was discussed at a Planning Consultation Meeting (PCM) process held 19 May 2009. Record of this meeting is included at **Attachment 4**.

At the meeting the main concerns raised centred on the visual prominence of the facility.

After the PCM meeting concerns with the visibility of the proposal and selected location were conveyed to the applicant. The applicant was requested to provide further justification for the proposal and to address this issue including:

- An assessment against the *Coastal Spaces Landscape Assessment Study* (CSLAS) Department of Sustainability and Environment 2006 as referenced under Clause 15.08;
- Further investigation required of two possible alternative sites, Devils Backbone at Lochend and the Marlo Racecourse;
- A possible reduction of the height of the tower; and
- Justification for the removal of native vegetation.

The applicant has provided a response that has included a response to the provisions of against the (CSLAS) and an assessment of the suggested alternative locations at Devils Backbone and the Marlo Racecourse.

The alternative sites were inspected on 4 June 2009. The applicant has advised that neither site is suitable as they will not provide the required level of service coverage as they were too far removed from the desired coverage area. Neither site would provide the level of coverage that the proposed site achieves. The applicant maintains the selected site as the preferred location. A plan of the alternative locations is included at **Attachment 5**.

In response to the removal of vegetation the applicant has advised that existing access from Marlo Road to the land can be utilised without the need to construct separate access at the south east corner of the land. This change now avoids the need to remove any native vegetation.

The applicant advised the height of the facility could be reduced from 41.35 metres to 38.2 metres. This is achieved through a change in the design of the monopole and the mounting of panel antennas. The applicant has suggested the height of the monopole would be reduced to 35 metres with the antennas mounted on a narrow headframe attached to the top of the monopole. The total height of the structure is reduced by 3.12 metres. The level of the microwave dish is reduced from 37 metres to 32 metres.

The applicant has advised the changes to the design provide the lowest height required to achieve the necessary level of service coverage to the town and surrounds. It was further explained that the proposed height is required to enable the facility to achieve its line of sight linkages and connection to other sites in the network.

A copy of the revised plans with changes to the proposal are included at **Attachment 6**.

5 IMPLICATIONS

Financial

Nil

State Planning Policy Framework

Clause 15.08 Coastal areas

Clause 15.08 Objective

This clause aims to protect the landscapes of the marine environment and to achieve development that provides an environmental, social and economic balance.

Clause 15.08-3 Geographic strategies

The purpose of this policy is to ensure that development within coastal areas protect and enhance natural ecosystems and landscapes; achieve development that provides an environmental, social and economic balance; ensure sustainable use of natural coastal resources; recognise and enhance the communities value of the coast and to plan for and manage the potential coastal impacts of climate change.

The proposed telecommunications facility will be setback more than one kilometre from the coastline and will not have any immediate impact to natural ecosystems or coastal resources.

As part of the policy decision making by responsible authorities should be consistent with geographic strategies. In this instance the provisions of the CSLAS should be considered.

The CSLAS provides an assessment of landscape characteristics and identifies visually significant landscapes along the Victorian coastline and includes the East Gippsland region all the way to the New South Wales boarder.

The study identifies the Snowy River Floodplains as a significant landscape extending from north of Orbost to the mouth of the Snowy at Marlo. The flats are extensively cleared grazing lands and form a distinctive rural pocket contrasting with the vegetated hill slopes which surround and form the boundary to views from within the character area. This area is classified as being of Regional significance by the study.

Part 3 of the study includes recommendations to protect the identified significant landscapes including changes to the State Planning Policy 15.08, to establish guidelines and include the Best Practice Policies within the Local Planning Policy Framework and that the Significant Landscape Overlay (SLO) be applied to significant landscapes identified by the Study. The Snowy River Estuary and Surrounds is one of the recommended areas to be included within a SLO.

The Best Practice Policies under part 3.4 of the study have been developed to protect and manage the visual qualities of Victoria's coastal landscapes and include:

- Vegetation;
- Key Views and Vistas;
- All Settlements;
- Coastal Settlements;

- Ridges and Hill Slopes;
- Between Settlements – Coastal Locations;
- Between Settlements – Hinterland Locations;
- Signage;
- Infrastructure; and
- Cultural heritage Landscape.

Telecommunications facilities are integral forms of infrastructure that are heavily relied upon. The proposed telecommunications facility has been assessed against the Best Practice Policies for infrastructure under the study. The proposed facility is considered to satisfy the Best Practice Policies in that:

- The proposed facility is located on the edge of the character area and not within the Snowy floodplain. Whilst visible on the immediate approach to the Marlo township the facility is only visible from select locations from the Marlo Road and mostly only from the Brodribb River bridge. As the road changes direction the facility is removed from a motorists direct line of site.
- The selected location is situated within an existing cleared area and avoids the need to remove vegetation.
- The applicant has offered to have the structures painted green to minimise the contrast with surrounding vegetation.
- The selected location utilises road side trees and vegetation to screen the facility from residential properties nearest to the site.

Amendment C68 to the East Gippsland Planning Scheme includes the proposed SLO to be applied to areas recommended by the Coastal Spaces Landscape Assessment Study. The Snowy River Estuary and Surrounds is included within the proposed SLO, Schedule 5. The land subject to this application is not included within the proposed SLO but is immediately adjoining land within the SLO. Following the completion of the Panel Report for Amendment C68 it is possible that the subject land may be included.

The proposed SLO Schedule 5 - Snowy River Estuary and Surrounds aims to protect the landscape character of the area by protecting indigenous vegetation throughout the landscape; to protect significant views and vistas; to maintain an open and uncluttered character of rural landscape outside the settlement of Orbost, to retain productive agricultural practices, and to minimise the visual impact of signage and infrastructure on the open rural and uncluttered character, particularly in views from the Princes Highway and Orbost-Marlo Road.

The proposed telecommunications facility has been assessed against the decision guidelines. The proposal is considered to be consistent with the decision guidelines in that:

- The facility is setback on the edge of the significant landscape area and from the Orbost-Marlo Road.
- The facility is located against a backdrop of existing vegetation which helps to minimise the visual impact.
- The facility is not situated near lakes and waterways.
- Being located on the edge of the floodplain the visibility of the facility is limited from viewing corridors and scenic lookouts on the open floodplain and does not obstruct views to the Snowy River or Lake Corringale.

In summary the proposed telecommunications facility complies with the requirements of Clause 15.08. The nature of telecommunication facilities means that they are visible infrastructure. The location and design of the proposed facility will have limited impact on the coastal environment. The site of the proposed facility is located a considerable distance from the coastline and avoids the removal of native vegetation. The slimline design of the monopole minimises the visible impact on the surrounding landscape and on views to and from the significant landscape character area. The location of the proposal achieves a satisfactory balance of social, environmental and economic demands.

Clause 18.13 Telecommunications

Clause 18.13-1 Objective

This clause recognises that telecommunications is an essential utility service and outlines the measures to facilitate its growth and accessibility.

Clause 18.13-2 General implementation

The objective of this clause is to recognise the importance telecommunication facilities have on all aspects of modern life and the contribution they make to local communities and the State and national economy. Telecommunications facilities are recognised as an essential utility service and must be widely accessible to business, industry and the community.

The proposal will achieve a reasonable balance between environmental considerations and providing telecommunications services that are recognised as important all facets of the community. It is considered that this proposed facility will aid the growth of the network in the Marlo area and provide increased opportunities for an improved communication network and an alternative mobile telecommunication service to local business, community, tourists and the travelling public.

Municipal Strategic Statement

Clause 21.05 Objectives- Strategies- Implementation

This provision for *Communications* directs consideration to:

- *Encourage rapid extension of mobile phone networks to cover the whole of East Gippsland.*
- *Seek to ensure that all new communications facilities are located and constructed so that cultural, landscape and natural values are protected.*

This application will extend the existing mobile phone network by providing an alternative mobile telecommunications service. It is considered that the proposed facility is an essential utility service and that all reasonable steps have been taken in the location of the facility to minimise effects on landscape values.

Zone requirements

The subject land is contained within the Farming Zone. The proposed facility will in no way inhibit the current agricultural use of the land for grazing. The proposed lease area that will contain the monopole and equipment shelter occupies only a small area of land and is located between an existing hay shed and the property boundary. It is considered that the proposed facility will not significantly impact the productivity of the land.

Particular provisions

At Clause 52.19 Telecommunications facility consideration is required as follows:

- *To ensure that telecommunications infrastructure and services are provided in an efficient and cost effective manner to meet community needs;*
- *To ensure the application of consistent provisions for telecommunications facilities;*
- *To encourage an effective state-wide telecommunications network in a manner consistent with the economic, environmental and social objectives of planning in Victoria as set out in Section 4 of the Planning and Environment Act 1987; and*
- *To encourage the provision of telecommunications facilities with minimal impact on the amenity of the area.*

Before deciding on an application and in addition to the decision guidelines of Clause 65, the responsible authority must consider, as appropriate:

- *The principles for the design, siting, construction and operation of a Telecommunications facility set out in A Code of Practice for Telecommunications Facilities in Victoria; and*
- *The effect of the proposal on adjacent land.*

The Code of Practice for Telecommunications Facilities in Victoria outlines that a Telecommunications facility should be sited to minimise visual impact and should be located so as to minimise any interruption to a significant view of a heritage place; landmark; streetscape; vista or panorama, whether viewed from public or private land.

Vegetation along the road reserves to the south and east minimise the visibility of the proposed facility from the township to the south. It is more than a kilometre from the coast to minimise any interruption to coastal views. Viewed from the north, beyond approximately 800 metres, the proposed facility is visible from the road north of the Brodribb River until the road curves south-west towards Marlo. In the context of the Snowy River floodplain this view is limited and has a vegetated backdrop which is considered to obscure much of the facility.

Telecommunications facilities by nature are visible. The location of the proposed facility is setback a considerable distance from the Marlo Road. The use of a monopole minimises the visual bulk of the facility when compared to alternative structures such as lattice towers that present larger, bulkier structures which contrast more significantly against a natural treed or open environment. Changes to the design of the proposal recently presented by the applicant attempt to further minimise the visual impact of the proposal facility. The reduction to the height of the structure, incorporating an alternative headframe and painting the structure green to blend with the surrounding tree-lined background will contribute to utilising all available opportunities to minimise the visibility of the proposed facility whilst providing effective service coverage and connection to the surrounding telecommunications network.

Victorian Civil and Administrative Tribunal (VCAT) Members increasingly point out the significance of Clause 18.13 *Telecommunications* in their Planning Appeal decisions highlighting the importance of a robust telecommunications market, which has to be balanced against visual intrusion. The Tribunal Member had the following to say in *Telstra Limited v Bass Coast SC (2004) VCAT 1324 (2 July 2004)*

'With respect to the visual impact of the proposed facility, there is nothing in the planning scheme which requires these facilities to be completely screened from all view, and such an outcome would be clearly unrealistic. The fact that the structure will be visible is not in itself for me to form a view that its visual impact has not been minimised or that it will have an unacceptable impact. The fact that the structure will be visible must be balanced against the policy provisions of the planning scheme which support the provision of this form of infrastructure and the wider community benefit to be derived from the development of a comprehensive telecommunication network.'

This proposal is considered to satisfy the requirements of the Clause 52.19 and the Code as this facility is considered to meet community needs for improved telecommunications coverage. In this regard it is considered to represent a strategic, planned and coordinated action designed to integrate with other facilities at State, Regional and Municipal levels to build on the existing telecommunications system and to provide improved telecommunications coverage.

Responses to objections

Visual impact

The facility is designed to receive and transmit radio signals and relies on line of site radio transmission to achieve the coverage objectives and connection with the network. In this regard the facilities can not be invisible.

The location of the facility will be screened from nearby residential properties by established vegetation within the Healeys Road road reserve and by vegetation within the unconstructed road reserve to the east. The facility is setback the maximum distance on the land from Marlo Road to further minimise the visual prominence of the facility when viewed from the north on the approach to Marlo. The facility will blend into the treed background when viewed from the north up to the height of the tree canopy.

The use of a monopole with the design of the facility is commonly recognised as an appropriate method of construction for telecommunication facilities to minimise visibility. Monopoles are preferred to alternative types of towers such a steel lattice towers which are more visual against a natural treed environment. The narrow design of the antenna headframe, painting the extern surfaces of the structures and the reduction in the height of the facility demonstrate that all reasonable attempts have been made to minimise the visual prominence of the structure on the landscape.

This is considered to represent a significant attempt and reasonable balance between achieving the necessary service coverage and links with the network and minimising the visual impact of the proposed facility from the immediate surrounds from the wider rural landscape.

Health risks

The *Code of Practice for Telecommunications Facilities in Victoria* which forms part of the planning scheme requires that health standards for exposure to radio emissions be met.

The nominated standard for the mandated exposure limit is set by the Australian Communications and Media Authority (ACMA).

The operator of the proposed facility Optus has confirmed that the maximum cumulative radiofrequency (RF) and electromagnetic energy (EME) for the site will be 0.0059% of this nominated Australian standard. The EME emissions therefore comply with the requirements for a telecommunications facility.

Loss of property values

No evidence is available to Council to support this position.

Alternate locations

The selection of a site for a telecommunications facility must consider numerous matters surrounding the ability to provide suitable service coverage, connection with the telecommunications network, physical constraints such as access and the availability of electricity, vegetation as well as the various Federal and State regulations and controls, including the planning scheme. In the absence of existing buildings and structures new facilities are required to be constructed and this is often the case in regional locations.

As previously stated alternative sites have been investigated. The applicant has advised that none of the alternate sites can economically support a facility capable of achieving the necessary level of service coverage and links with other facilities within the network. The alternative sites suggested to the applicant following the PCM are too far removed from the desired coverage area.

6 CONCLUSIONS

This application seeks approval to use and develop land to the north of the township of Marlo for a telecommunications facility.

The application has been assessed against the requirements of the planning scheme as outlined above.

It is considered that appropriate steps have been taken to select a suitable location and to design the facility that will achieve the necessary service coverage levels while having regard to minimise the visibility of the facility within the landscape.

This application is considered to represent a balance between the provision of telecommunication services, visibility of the facility and the wider community benefit to be derived from the development of a more comprehensive telecommunication network.

It is considered to be consistent with the requirements of the planning scheme and the application is recommended for approval.

7 APPENDICES

Nil

8 ATTACHMENTS

1. Site plan.
2. Plans of the proposal.
3. Applicant's response to objections.
4. Minutes of PCM meeting 19 May 2009.
5. Plan of alternative sites reviewed by the applicant.
6. Amended plans of the proposal.

RECOMMENDATION

That Council, being the Responsible Authority and having considered all the relevant planning matters, determines that planning application 59/2009/P is consistent with the requirements and objectives of the East Gippsland Planning Scheme and therefore resolves to issue a Notice of Decision to Grant a Permit for the use and development of land at 1354 Marlo Road Marlo for use and development of a telecommunications facility in accordance with the endorsed plans and subject to the following conditions: -

1. *Before the use and development starts, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and two copies must be provided. The plans must be generally in accordance with the plans submitted but modified to show:*
 - a *Proposed access to the telecommunications facility utilising the existing access point from Marlo Road;*
 - b *Delete all notes and references to the removal of vegetation;*
 - c *The external surfaces of the equipment shelter and monopole being a green "pale eucalypt" colour; and*
 - d *The design of the telecommunications facility consistent with the revised plans submitted on 14 July 2009.*
2. *The development as shown on the endorsed plans must not be altered without the written consent of the responsible authority; and*
3. *This permit will expire if one of the following circumstances applies:*
 - *The development is not started within two years of the date of this permit; or*
 - *The development is not completed within four years of the date of this permit.*

The responsible authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.

Cr Peter Neal / Cr Richard Ellis

THAT THE RECOMMENDATION BE ADOPTED.

CARRIED UNANIMOUSLY 04/08/09

6.2.4. STATUTORY PLANNING MONTHLY REPORT – JUNE 2009

DEPARTMENT	Development
AUTHOR	Amber Parker, Statutory Planning Administration Officer
ENDORSED BY:	Chris Waites, Director Development
DOCUMENT NO.	3599179

In attendance

Aaron Hollow, Manager Development

1 OBJECTIVE

The purpose of this report is to provide a summary of strategic indicators relevant to the Council's statutory planning function.

2 BACKGROUND

Council, as part of its Council Plan requires regular reporting on strategic indicators relevant to certain functions. This report provides an update to Council in regard to processing of applications for planning permits on a monthly basis.

3 CURRENT STATUS AND/OR ISSUES**Current Application Status**

The table below provides a summary of the status of applications being lodged, determined and pending finalisation by East Gippsland Shire.

The number of new applications and applications to amend existing permits that have been lodged are recorded to indicate the level of activity by month for the current year and for previous years.

All decisions that conclude Council's dealing with an application are listed in the Decision Section of the Table. This includes all decisions where the application outcome has been finalised, including decisions by VCAT.

The number of applications pending includes all applications that remain unresolved at the end of the reported month. This includes circumstances where a Notice of Decision to Grant a Permit has been issued by delegation or by Council.

	Lodged		Decisions							Pending
	New Apps	Am'ded Apps	Permits App'ved	Permits Am'ded	Permits C'celled	W'dn/ NPR	Apps Refused	Apps Lapsed	Appeals Lodged	
2006	845	131	703	118	0	59	24	19	14	
2007	709	148	703	159	0	40	13	27	11	
2008	677	89	612	78	0	33	10	4	11	199
2009	282	40	283	38	0	16	5	5	1	
Jan	26	5	49	6	0	2	0	1	0	172
Feb	51	5	52	3	0	0	0	0	0	174
Mar	25	7	37	2	0	4	4	0	1	160
Apr	62	9	54	9	0	4	1	2	0	169
May	54	7	46	6	0	2	0	0	0	176
June	64	7	45	12	0	4	0	2	0	184

Decisions under delegated authority

44 applications were determined under delegated authority in June 2009, a list of which is provided at **Appendix 1**. This figure does not include amended applications.

The average statutory time for delegated decisions determined was 64 days. The nominal statutory period is 60 days. A graph showing the average statutory days to process applications since January 2007 is shown at **Attachment 1**.

4 IMPLICATIONS

Financial

Nil

Legislative

The *Local Government Act 1989* and the *Planning and Environment Act 1987* enabled Council to delegate certain duties and functions to officers within the municipality.

Council Plan

Strategy 2.1 of the Council's Plan states:

Provide strong leadership through responsible and transparent decision-making.

5 CONSULTATION WITH STAKEHOLDERS

Not applicable

6 CONCLUSIONS

This report is provided for information only.

7 APPENDICES

- 1 List of decisions under delegated authority.

8 ATTACHMENTS

- 1 Graph showing average statutory times for delegated decisions.
-

RECOMMENDATION

That Council notes planning permits issued in June 2009 in accordance with authority delegated to Development Unit Staff, as provided at Appendix 1.

Cr Trudy Anderson / Cr Marianne Pelz

THAT THE RECOMMENDATION BE ADOPTED.

CARRIED UNANIMOUSLY 04/08/09

6.2.5. PLANNING SCHEME AMENDMENT C81 – MAIN STREET, LINDENOW

DEPARTMENT	Corporate and Economic Development
AUTHORED BY	Nick Kearns, Manager Major Projects and Economic Development
ENDORSED BY	John Websdale, Director Corporate and Economic Development
DOCUMENT NO.	3601475

In Attendance:

Nick Kearns, Manager Major Projects and Economic Development

1 OBJECTIVE

The objective of this report is to seek authorisation from the Minister for Planning and subsequent exhibition of an amendment to modify the zone boundary within the township of Lindenow, which separates the Farming Zone (Schedule 1) from the Township Zone.

2 BACKGROUND

A request has been lodged by Crowther & Sadler Pty. Ltd. on behalf of Gordon and Lorraine Irish to rezone land adjoining the northern boundary of 146-148 Main Road, Lindenow. The request is made with written consent from all affected parties.

The amendment request proposes to change the location of the zone boundary, resulting in an exchange of land between the Farming Zone (Schedule 1) and the Township Zone.

Existing Conditions

The subject land is comprised of the following separate titles located north of Main Road and west of Ross Street, Lindenow:

- Lot 1 on TP 758208, located at 148 Main Street and owned by Gordon and Lorraine Irish. The property is approximately 1012m² in area and contains an existing dwelling.
- Land in CP 174029, located at 146 Main Street and owned by John Whitbourne. This allotment is approximately 5065m² in area and contains two existing dwellings.
- Lot 2 on PS 538588L, located at 65 Ross Street, Lindenow and owned by Bonaccord Ingram Pty Ltd. This allotment is approximately 19.58 hectares in area and is farmed in conjunction with the company's broader agricultural holding.

The land is dominated by a major escarpment which represents the northern periphery of the Lindenow township. The residential component is confined to the upper terrace, with all of the lower lying land having a high quality agricultural value given its proximity to the Mitchell River to the north.

The current zone boundary is somewhat irregular, reflecting the pattern of ownership rather than the topography. This provides for an inaccurate representation of land use potential, with some of the lower lying land zoned for Township purposes, whilst some land located on the upper terrace is zoned Farming.

The Proposal

The request seeks to rearrange the boundary between the Farming and Township Zones to mirror the location of the escarpment and is mostly representative of a housekeeping correction. It is proposed that all land on the upper terrace should be zoned for Township purposes, whilst the higher quality agricultural land at the lower level should be contained within the Farming Zone.

A copy of the Proposed Rezoning Plan is provided at **Attachment 1**.

It is anticipated that should the amendment be adopted by Council, a series of corrective boundary realignments will be undertaken to restructure the existing title boundaries to reflect their intended use, with all parties having provided consent to the exchange of land. Existing conditions would be maintained for each of the affected allotments, with no change in use or additional entitlements sought.

The consultants have submitted that the proposal would result in a sound planning outcome that reflects the topography of the landscape and maximises the agricultural productivity of a prime resource whilst avoiding the confluence of incompatible uses through the provision of appropriate separation from residential/urban land.

3 CURRENT STATUS AND/OR ISSUES

Part 3 of the *Planning and Environment Act 1987* enables the Shire to make changes to the Planning Scheme, including, where requested, the ability to approve an amendment. Authorisation from the Minister for Planning is required, nevertheless, before it may be prepared and exhibited.

4 IMPLICATIONS

State and Local Planning Policy Frameworks

State Planning Policy Framework (SPPF)

Clause 14.01 – Planning for urban settlement: Planning is to accommodate the needs of existing and future communities whilst acknowledging the limits of land capability and natural hazards. The proposal has regard for the physical context of the location and seeks to protect sensitive areas from development which would diminish their environmental value.

Clause 15.01 – Environment: The proposal seeks to protect the Mitchell River catchment by encouraging the separation of incompatible land use activities to avoid potential negative impacts.

Clause 17.05 – Agriculture: Planning authorities must consider the agricultural quality and productivity of the land, providing protection for land deemed to be of a strategic significance. The proposal promotes sustainable land use that does not detract from the long-term productive capacity of the land. Productive agricultural land is not removed from production, rather it is provided with appropriate separation from the residential component which is to be confined to the upper terrace.

Local Planning Policy Framework (LPPF)

The land is identified within the Municipal Profile (Clause 21.02) as forming part of the Agricultural Hinterland Sub-Region, and is recognised for its high quality agricultural land. The agricultural activities occurring within the farming component, namely vegetable growing, are identified as one of the region's major industries (Clause 21.02).

The local economy is heavily reliant on this source of primary production, with the objectives of Clause 21.05-2 relating to Economic Development and Employment including the protection of high quality agricultural land from inappropriate development. Strategies seek to protect and increase the sustainable productivity of soils through the prevention of inappropriate works and development.

The value of agricultural land is again acknowledged at Clause 21.06 Strategies for Sub-Regions, Towns and Localities, with strategies specific to Lindenow geared towards minimising the impacts of non-agricultural uses and preventing the fragmentation of agricultural land.

In considering the implications of the SPPF and LPPF strategies and objectives as they relate to the land, the proposal is considered to be consistent with all relevant elements and it is unlikely that any issues of concern will arise, given the minor nature of the request which will not result in a change in use or entitlement.

Financial

The proponents would meet all fees associated with the request, as is Council's usual practice.

Amenity/Environment

Given the significance of the lower area of the subject land, the request will provide a positive environmental outcome through the more precise placement of the zone boundary. The amendment as requested will facilitate the future consolidation of this high quality agricultural resource, providing greater separation of the residential and agricultural elements of the subject land.

Legislative

The request would be processed in line with the requirements of the *Planning and Environment Act 1987*.

5 CONSULTATION WITH STAKEHOLDERS

The proposal would be exhibited publicly in line with the requirements of the *Planning and Environment Act 1987*. Where there are concerns raised about the proposal, there are formal processes of review to guide Council consideration.

6 CONCLUSIONS

The request is considered to be a straightforward matter which results in a minor adjustment to the zone boundary which better represents the physical context. The proposal will provide a higher level of protection to the area of prime agricultural land which is currently contained within the Township Zone, and will facilitate the future boundary realignment which will correct the current fragmentation.

There are unlikely to be any issues of concern arising given that all existing uses, services and access provisions will be retained without change. The proposal will, nevertheless, be subject to the usual notification process.

A copy of the draft explanatory report is provided at **Attachment 2**.

It is recommended that Council seek authorisation from the Minister for Planning to prepare and exhibit amendment C81.

7 APPENDICES

Nil

8 ATTACHMENTS

1. Proposed Rezoning Plan Town planning submission
2. Draft explanatory report

RECOMMENDATION

That Council, having considered all relevant planning matters:-

1. *requests the Minister for Planning to authorise amendment C81 to the East Gippsland Planning Scheme to rezone land at 146 to 148 Main Road Lindenow from Farming Zone (Schedule 1) to Township Zone;*
2. *exhibits amendment C81 upon receiving authorisation of the Minister for Planning for the amendment; and*
3. *requests the Minister for Planning to authorise Council to approve the amendment (should it resolve in the future to adopt the amendment) pursuant to Section 35B of the Planning and Environment Act 1987.*

Cr Trudy Anderson / Cr Jane Rowe

THAT THE RECOMMENDATION BE ADOPTED.

CARRIED UNANIMOUSLY 04/08/09

6.3. PRODUCTIVITY

6.3.1. EAST GIPPSLAND SHIRE COUNCIL ECONOMIC DEVELOPMENT ADVISORY BOARD REPORT FOR MEETING HELD ON 8 JULY 2009

DEPARTMENT	Corporate and Economic Development
AUTHORED by	Brett Lynn, Investment Facilitation Manager
ENDORSED BY	John Websdale, Director Corporate and Economic Development
DOCUMENT NO.	3601240

1 OBJECTIVE

To provide Council with an update on the issues considered by the East Gippsland Shire Council Economic Development Advisory Board (Board) at its meeting held 8 July 2009 and consider the recommendations provided.

2 BACKGROUND

East Gippsland Shire Council adopted the East Gippsland Economic Development Strategic Plan on 14 November 2006. The development of the Economic Development Strategic Plan was identified as a key project in the Council Plan 2006-2010 and supports the strategic objective that "investment and visitation develop a sustainable and prosperous economy".

The East Gippsland Shire Council Economic Development Strategic Advisory Board meets on a quarterly basis to consider issues particularly relevant to providing guidance and recommendations to Council on economic development projects and economic development issues arising in the East Gippsland region, as well as any other matters that are consistent with the intent and purpose of the Board.

3 CURRENT STATUS AND/OR ISSUES

The following issues were considered at the meeting held on 8 July 2009.

Economic Development Strategic Plan Update

The Board was provided with a report that outlined the status of projects identified in the East Gippsland Shire Council's Economic Development Strategic Plan for the period April to June 2009. The Board acknowledged the progress that had been achieved, noted the report and encouraged officers to review the reporting process.

East Gippsland Food Processing Cluster

The Board was provided with a report on the East Gippsland Food Processing Cluster project. The board noted the progress of this project.

Economic Development Advisory Board Representatives - Call for New Members October 2009

The Board discussed the scheduled rotation of the four twenty-four month term board positions due to conclude in September 2009. The four Board members whose terms expire are Marg Supplitt, Alan Cross, Ross Ingram and Adrian Bromage. The Board recommended Council advertise calling for expressions of interest for the four vacant positions prior to the October 2009 Board meeting. The Board further recommended Council write to retiring Board members thanking them for their contribution.

Strategic Plan – Advocacy Projects

The Board was presented with the Advocacy Projects Template for consideration. The Board recommended that a formal process for advocacy projects was not required and officers should continue to call upon board members where appropriate to enable a more flexible approach. The Board noted the report.

Economic Development Discretionary Fund Projects for Consideration

Two applications were received requesting funding from the Economic Development Discretionary Fund (Fund). The Board recommended that one of these requests; being for the JC Dahlsen (Gippsland Lakes Steam Navigation Company) not be supported on the basis that the Fund was not the most appropriate source of funding for this project.

The Board supported the application from the East Gippsland Shire Council Arts and Culture Strategic Advisory Board for an Arts and Culture Economic Impact Study project.

The Board recommended the funding be released on the basis that the application submitted to Regional Development Victoria for matching funding is successful; and Board representatives are provided with the opportunity to review and comment on the consultant project tender brief.

4 IMPLICATIONS

Financial

Nil

Council Policy

The projects recommended by the Board are complementary to the Council's objective that "investment and visitation develop a sustainable and prosperous economy".

Human Resources

The Economic Development Unit is responsible for servicing the East Gippsland Shire Council Economic Development Advisory Board requirements.

5 CONSULTATION WITH STAKEHOLDERS

Consultation was undertaken with project proponents.

6 CONCLUSIONS

Council is presented with an overview of the East Gippsland Shire Council Economic Development Advisory Board's meeting held on 8 July 2009. Council is now in a position to note the report and adopt the Board's recommendations.

7 APPENDICES

- 1 Economic Development Discretionary Fund Projects for Consideration – July 2009

8 ATTACHMENTS

Nil

RECOMMENDATION

That Council:-

1. *notes the issues considered by the East Gippsland Shire Council Economic Development Advisory Board at the meeting held on 8 July 2009;*
2. *advertises in local newspapers calling for expressions of interest for the four Economic Development Advisory Board representative positions commencing in October 2009; and*
3. *writes to retiring Economic Development Advisory Board members Ms Margaret Supplitt, Mr Alan Cross, Mr Ross Ingram and Mr Adrian Bromage thanking them for their contribution.*

Cr William Gamble /

That Council:-

1. *notes the issues considered by the East Gippsland Shire Council Economic Development Advisory Board at the meeting held on 8 July 2009;*
2. *advertises in local newspapers calling for expressions of interest for the four Economic Development Advisory Board representative positions commencing in October 2009; and*
3. *writes to retiring Economic Development Advisory Board members Ms Margaret Supplitt, Mr Alan Cross, Mr Ross Ingram and Mr Adrian Bromage thanking them for their contribution.*
4. *support the application for the JC Dahlsen project and fund the project from the Economic Development Discretionary Fund.*

MOTION LAPSED AS THERE WAS NO SECONDER.

**6.3.2. OCEAN ACCESS BOAT RAMP, BASTION POINT,
MALLACOOTA – COMMUNITY ADVISORY COMMITTEE**

DEPARTMENT Development

AUTHORED BY Chris Waites, Director Development

DOCUMENT NO. 3605787

In Attendance:

Chris Waites, Director Development

1 OBJECTIVE

To approve the terms of reference for the Community Advisory Committee to be established to advise Council in respect to the design of the Boat Ramp Facility.

2 BACKGROUND

Council most recently considered this matter at the Council Meeting held on 1 July 2009, where it was resolved that:

THAT COUNCIL NOTES THE PLANNING MINISTER'S FINDINGS AND RECOMMENDATIONS IN RELATION TO THE PROPOSED OCEAN ACCESS BOAT RAMP, BASTION POINT, MALLACOOTA AND ESTABLISHES A COMMUNITY ADVISORY COMMITTEE AS DETAILED IN ITS DECISION OF 23 AUGUST 2005 TO ASSIST COUNCIL IN WORKING WITH DEPARTMENT OF SUSTAINABILITY AND ENVIRONMENT, MARINE SAFETY VICTORIA AND GIPPSLAND PORTS TO DEVELOP THE SPECIFIC CONSTRUCTION DESIGN AS HIGHLIGHTED IN THE MINISTER'S ASSESSMENT, SUBJECT TO RECEIVING GOVERNMENT FINANCIAL ASSISTANCE TO UNDERTAKE THE DESIGN WORK, AND THAT SUCH COMMITTEE PROVIDE SAFETY AND ECONOMIC ANALYSIS OF SUCH CONSTRUCTION DESIGNS AS AT THE CURRENT DATE AND THAT SUCH DESIGNS AND REPORTS BE BROUGHT FORWARD TO COUNCIL FOR FINAL ASSESSMENT PRIOR TO SUBMISSION TO THE MINISTER FOR ENVIRONMENT AND CLIMATE CHANGE TO SEEK COASTAL MANAGEMENT ACT CONSENT.

Should Council receive funding to progress the design of the boat ramp facility, it will be necessary for Council to establish and involve a Community Advisory Committee to advise Council through the design process.

3 CURRENT STATUS AND/OR ISSUES

The Community Advisory Committee needs to be established having regard to a number of requirements that Council needs to meet in undertaking the detailed design, these are:

- The design relates only to the boat ramp options supported by the Minister for Planning in his assessment of the Bastion Point Ocean Access Boat Ramp Environment Effects Statement (EES), that being a ramp that is generally in accordance with Option 3B as detailed in the EES.

- Council must design a ramp that meets specific construction design and associated operational, safety and management arrangements, and these are essentially technical or particular requirements specified by the Department of Sustainability and Environment, Marine Safety Victoria and Gippsland Ports.
- There are specific requirements in respect to seeking approval in respect to sites of cultural significance, which must be addressed through the approval of a Cultural Heritage Management Plan by Aboriginal Affairs Victoria (AAV).
- The role of the Advisory Committee, as set out in the resolution passed by Council in August 2005, limits the role of the Advisory Committee to matters relating to visual amenity standards, establishment of an Environmental Management Plan (during construction) and vegetation and habitat regeneration.
- Council has determined that it is appropriate to undertake a reassessment of the economic costs and benefits of the proposal in the context of a detailed design and known capital and operational costs.

It must also be recognised that a significant amount of detailed information already exists and is available to Council to assist with development of the specific design and construction requirements.

The Community Advisory Committee also needs to be structured in a way that adds value to the design process and so consideration needs to be given to a structure that:

- Is representative of key community stakeholders;
- Includes community members with necessary skills or knowledge;
- Is comprised of a manageable and effective number of representatives;
- Has a balanced membership structure; and
- Is adequately supported by Council.

4 IMPLICATIONS

Financial

The financial implications associated with supporting the operation of a Community Advisory Committee are able to be accommodated by existing budget allocations.

Terms of Reference

It is appropriate that a formal framework for the operation of the Committee be approved by Council prior to establishment. Having regard for the context for the Committee, as set out above, a draft Terms of Reference and operational arrangements, addressing matters relating to the membership and role of the Committee is attached at **Appendix 1**.

Human Resources

The Committee will be supported by Council Officers responsible for undertaking the design project.

Legislative

The boat ramp design must meet all necessary legislative and safety standards, including the requirements of the East Gippsland Planning Scheme.

5 CONSULTATION WITH STAKEHOLDERS

No specific consultation has taken place in respect to the establishment of the Community Advisory Committee.

6 CONCLUSIONS

Council has been progressing the Mallacoota Ocean Access Boat Ramp project for many years and it is reaching the final steps in the approvals process, with Council anticipating commencement of the detailed design process for the upgraded facility.

The detailed design requirements for the Boat Ramp and associated facilities will have particular technical and safety standards that need to be met as part of the design process. Council has determined that it is appropriate for community advice to be provided in respect to those aspects of the design process that do not have technical and safety requirements.

Given the history of this project, it is important to appoint a Community Advisory Committee that can provide Council with balanced advice in respect to the nominated design issues, and so the process for appointment will not involve an open invitation for appointment. Instead the proposal is to request nominations for key groups in the community who have been involved with the detail of the project for many years, and who can bring both a high level of understanding of the project as well as community knowledge and linkages, both for and against the development of the facility.

The Draft Terms of Reference provide a framework to support the operation of the Advisory Committee and are recommended for Council's endorsement.

7 APPENDICES

- 1 Draft Terms of Reference for the Mallacoota Ocean Access Boat Ramp Community Advisory Committee

8 ATTACHMENTS

Nil

RECOMMENDATION

That Council:

1. *endorses the Terms of Reference for the Mallacoota Ocean Access Boat Ramp Community Advisory Committee as set out at Appendix 1; and*
2. *requests the Mallacoota Ocean Access Committee Inc., the Friends of Mallacoota Inc., the Mallacoota and District Business and Tourism Association Inc. and Save Bastion Point Mallacoota to each nominate one (1) representative for appointment to the Mallacoota Ocean Access Boat Ramp Community Advisory Committee.*

6.4. GOVERNANCE

6.4.1. LOCALITY NAMES AND BOUNDARIES – NEWMERELLA, CORRINGLE AND MARLO

DEPARTMENT	Corporate and Economic Development
AUTHORED BY	Liona McNamara, Rates and Property Officer
ENDORSED BY	John Websdale, Director Corporate and Economic Development
DOCUMENT NO.	3571364

1 OBJECTIVE

To obtain Council endorsement of a proposal to amend the locality boundaries of Newmerella, Corringle and Marlo.

2 BACKGROUND

Several years ago Land Victoria, in consultation with all rural municipalities, undertook an extensive program to formalise locality names and boundaries throughout Victoria. Land Victoria then adopted boundaries within a municipality after an extensive public consultation and advertising program took place.

Following this process it was brought to Council's attention that Lake Road existed in both the localities of Newmerella and Marlo. This was an inappropriate outcome, as Marlo was on both sides of the Snowy River without any immediate access. Ratepayers localised to this area made a submission to Council with the objective to amend these locality boundaries. Under this proposal all of Lake Road would be included in the locality of Newmerella. The additional farming land along the western side of the Snowy River would also be included. This would mean the new locality boundary of Marlo would follow the eastern path of the River to its mouth. The area of land to the opposite side of the river and inland waterways would be incorporated into either the locality of Corringle or Newmerella (refer to map provided at **Appendix 1**).

Council wrote to all affected ratepayers regarding the proposal and asked that they make contact with us if they wished to retain the current locality boundaries. Alternatively, if they supported the proposed amendments no response was required. Council received no objections from affected property owners at the time of consultation.

3 CURRENT STATUS AND/OR ISSUES

Under Section 4.3.3 *Guidelines for Geographic Names (October 2004)* alterations to locality boundaries require Council to endorse and submit a proposal to the Registrar, following consultation with key stakeholders.

Consultation has taken place with the affected property owners, Emergency Service Providers, Australia Post and public consultation through public notice advertising in local newspapers as required under Section 4.3.3 *Guidelines for Geographic Names (October 2004)*. This advertising was undertaken in the following publications – Bairnsdale Advertiser, Lakes Post and Snowy River Mail.

4 IMPLICATIONS

Financial

The submission on establishing a new locality boundary will not have any financial impact to Council apart from Officer administrative requirements.

Human Resources

Rate Office staff will manage the administrative process.

Legislative

Every municipality, as a naming authority, must comply with the guidelines of Land Victoria *Geographic Place Names Act 1998*. This proposal follows directions under Section 4.3.3 of the *Guidelines for Geographic Names (October 2004)*.

5 CONSULTATION WITH STAKEHOLDERS

As detailed, consultation has taken place with the affected property owners; Public Notices were placed in local newspapers and Emergency Service Providers and Australia Post were consulted as required under Section 4.3.3 *Guidelines for Geographic Names (October 2004)*.

6 CONCLUSIONS

Having fulfilled all legislative requirements, Council is now in the position to endorse this proposal.

7 APPENDIX

- 1 Map of proposed amended locality boundaries of Newmerella, Corringale and Marlo

8 ATTACHMENTS

Nil

RECOMMENDATION

That Council:-

1. *endorses the proposal to amend the locality boundaries as provided at Appendix 1; and*
2. *requests Officers to submit the endorsed application to the Registrar of Geographic Place Names for registration.*

Cr Marianne Pelz / Cr Peter Neal

THAT THE RECOMMENDATION BE ADOPTED.

CARRIED UNANIMOUSLY 04/08/09

6.4.2. PLACE / FEATURE NAME PROPOSAL – FRED ALBERT BRIDGE

DEPARTMENT	Corporate and Economic Development
AUTHORED BY	Liona McNamara, Rates and Property Officer
ENDORSED BY	John Websdale, Director Corporate and Economic Development
DOCUMENT NO.	3573872

1 OBJECTIVE

To obtain Council endorsement of a proposal to name a feature on Stephenson Road, in the locality of Tambo Upper, as 'Fred Albert Bridge'.

2 BACKGROUND

Council has received a submission to name the newly constructed bridge on Stephenson Road in the locality of Tambo Upper as 'Fred Albert Bridge'. A locality plan is provided at **Appendix 1**. This submission made by members of the Tambo Upper community and outlines their proposal to name this feature after a local identity.

The proposed name for this feature would commemorate the life of Fredrick Thomas Albert 17/02/1924 – 7/06/2009. Mr Albert lived on the Albert family farm all his life, this farm is situated adjacent to the Tambo River crossing where the new bridge has been constructed. Mr Albert took a keen interest in the health of the river and served on the Tambo River Improvement Trust for many years. Mr Albert was also involved in many other Tambo Upper community ventures including Tambo Upper School Council, Tambo Upper Hall Committee, Tambo Upper Fire Brigade and local church. Mr Albert frequently visited the Tambo Upper School to share his knowledge of river

Given Mr Albert's outstanding contributions, the Tambo Upper community feels it would be fitting to name this feature as 'Fred Albert Bridge', in recognition of his life long commitment to their community.

3 CURRENT STATUS AND/OR ISSUES

Under Section 4.3.1 *Guidelines for Geographic Names (October 2004)* new place/feature names require Council to endorse and submit a proposal to the Registrar, following consultation with key stakeholders.

Consultation has taken place with Emergency Services Telecommunications Authority (ESTA) and public consultation through public notice advertising in local newspapers as required under Section 4.3.1 *Guidelines for Geographic Names (October 2004)*. This advertising was undertaken in the following publications – Bairnsdale Advertiser, Lakes Post and Snowy River Mail.

4 IMPLICATIONS**Financial**

The submission to name this feature will not have any financial impact to Council apart from Officer administrative requirements.

Human Resources

Rate Office staff will manage the administrative process.

Legislative

Every municipality, as a naming authority, must comply with the guidelines of Land Victoria *Geographic Place Names Act 1998*. This proposal follows directions under Section 4.3.1 of the *Guidelines for Geographic Names (October 2004)*.

5 CONSULTATION WITH STAKEHOLDERS

As detailed, consultation has taken place by the placement of Public Notices in local newspapers and ESTA were consulted as required under Section 4.3.1 *Guidelines for Geographic Names (October 2004)*.

6 CONCLUSIONS

Having fulfilled all legislative requirements, Council is now in the position to endorse this proposal.

7 APPENDIX

- 1 Map of feature to be named

8 ATTACHMENTS

Nil

RECOMMENDATION

That Council:-

1. ***endorses the proposal to name the feature on Stephenson Road Tambo Upper as 'Fred Albert Bridge', as provided at Appendix 1; and***
2. ***request Officers to submit the endorsed application to the Registrar of Geographic Place Names for registration.***

Cr Richard Ellis / Cr Peter Neal

THAT THE RECOMMENDATION BE ADOPTED.

CARRIED UNANIMOUSLY 04/08/09

6.4.3. PROPOSED LEASE AGREEMENT FOR OCCUPATION OF NEW WORKS COTTAGES, HUMMOCKS, LAKES ENTRANCE

DEPARTMENT	Corporate and Economic Development
AUTHORED BY	Frances Pinch, Senior Property Officer
ENDORSED BY	John Websdale, Director Corporate and Economic Development
DOCUMENT NO.	3604096

In Attendance:

Andrew Fearn-Wannan, Manager Administration and Human Resources

1 OBJECTIVE

To formalise the occupation of the New Works Cottages located at Cunninghame Arm, Lakes Entrance by undertaking the statutory process to enable the establishment of 21 year lease agreements.

2 BACKGROUND

There are ten (10) cottages situated on Cunninghame Arm, Lakes Entrance, known as the New Works Cottages (refer to **Attachment 2** for location details). These cottages have existed since the late 1800's and in most instances have been passed down through the generations since occupation. History of the occupation of the cottages is outlined in **Attachment 1**.

The cottages are all maintained by the families who occupy them, renewing sections of the cottages when necessary. Power was connected via cabling which is located on the shore bed of Cunninghame Arm and was installed at the expense of the New Works Cottages occupants.

The cottages form part of the Heritage Victoria Register listing known as the New Works Historic Complex. Heritage Victoria has indicated that the continuity of ownership has resulted in a largely unchanged landscape, and the oral history of the place has also been passed on within the families.

'The seaside hamlet is also remarkable for its continuity of occupation in some of the cottages by successive generations of the same families for almost a hundred years.' - Heritage Victoria

3 CURRENT STATUS AND/OR ISSUES

The New Works Cottages are situated on Cunninghame Arm, Lakes Entrance. The Cottages have been continuously occupied for many years with the Department of Sustainability and Environment (DSE) initially providing licence agreements to the occupants. Management responsibility was transferred to Council in 1 July 1997, since this time Council has issued three year licence agreements, granted under Section 17B of the *Crown Land (Reserves) Act 1978*.

A 12 month licence agreement has been issued to the current occupants to enable Council to determine the future arrangements of these cottages. The licences will expire on the 30 June 2010.

It has become increasingly difficult for the Shire to manage the escalating level of building maintenance associated with these very old structures and is compounded by the fact that the licencees are unwilling to commit to significant maintenance expenditure due to the short-term tenure and no guaranteed renewal.

In order to encourage the tenants to play a much greater role in maintaining the buildings over which they have exclusive occupancy rights, it is proposed to replace the three year licence with 21 year leases to provide a guaranteed tenure.

The lease term would be split up to allow for an initial term of 10 years with one eleven year option. This would enable works to be enforced if necessary and enable major and minor works scheduled to be implemented to guarantee that these cottages are kept in good condition for many years to come.

Discussions with DSE have been undertaken to gauge their initial support or opposition to the proposal to execute 21 year lease agreements which includes a works program to be undertaken by the tenants. DSE have indicated that they support the concept of introducing a 21 year lease agreement which incorporates the standard 17D lease clauses although request that the reinstatement clause which requires the lessee or lessor to reinstate the building if destroyed be removed as the "historic value" of the cottage once destroyed could not be replaced.

Regular inspections would be included as part of the lease agreement.

It is considered that the only way in which the cottages can be maintained to an acceptable condition, without placing additional financial burden on the Shire, (to effectively subsidise exclusive private use of a public asset) is to encourage greater occupier investment by granting certainty of tenure and the introduction of a works program.

A proposed schedule setting out pre-agreed maintenance responsibilities to be undertaken by the occupants during the term of the lease will be developed. The schedule would include roof replacements, rewiring, re-stumping, re-cladding and window replacement. It is proposed to offer an offset of costs incurred for the completion of capital works via a rental reduction in order to assist with the costs of the works.

The alternative to negotiating lease agreements with the current occupants is to seek tenders for occupation of the cottages. This course of action is not recommended due to views expressed by Heritage Victoria about maintaining and preserving the cottages and indications from DSE it would not approve leases allocated on a tender basis.

Prior to Council assuming management responsibility for the New Works area a Native Title Application was lodged with the National Native Title Tribunal by members of the Gunai/Kurnai people. At this stage it is unknown when or if the Tribunal will make a formal determination, however should a determination be made it may affect the Council and New Works Cottage occupants.

4 IMPLICATIONS

Financial

The current annual rental for the cottages ranges from \$6,000 to \$8,065 with rental reviews for the cottages to be completed every 3 years. A new rental valuation for the cottages would be completed prior to entering into a lease agreement.

Council Policy

Rental for the occupation of the cottages will be set according to the Rental Policy for Council Owned Land and Council Managed Crown Land.

Human Resources

The lease agreements will be prepared and negotiated by the Corporate and Economic Development Department.

Legislative

Council under Section 190 of the *Local Government Act 1989* has the power to lease any land to any person and must comply with all details contained under this section.

Advertising under Section 223 of the *Local Government Act 1989* will be completed, with consideration given to all submissions received to the intention to lease land and buildings.

5 CONSULTATION WITH STAKEHOLDERS

Consultation with the New Works Cottage occupants has been ongoing for several years. This has included meetings and inspections with the current occupants. Further consultation has been undertaken with DSE regarding the implementation of new lease agreements with DSE indicating they support the introduction of 21 year lease agreements.

Details contained in this report have been sourced from 'Carpentertown, A history of the New Works cottages at Lakes Entrance', a publication of the Lakes Entrance Regional Historical Society.

Two of the current occupants have been crucial in providing information and history on the occupation of the cottages.

6 CONCLUSIONS

In light of the established history of occupation of the cottages and references made by Heritage Victoria and DSE the introduction of formal long term lease arrangements are seen as the optimum outcome at this location.

It is recommended that lease agreement be issued to the current occupants should they wish to take up this agreement, the agreements would be advertised under Section 223 of the *Local Government Act 1989* and any submissions received would be addressed accordingly.

7 APPENDICES

Nil

8 ATTACHMENTS

- 1 History of the occupation of the New Works Cottages
- 2 Map of the New Works area

RECOMMENDATION***That Council:-***

- 1 ***pursuant to Section 190 of the Local Government Act 1989, instructs officers to prepare draft 21 year lease agreements for advertising for the following properties:-***

Crown Allotment 8, 8A, 9, 10, 11, 12, 13, 14, 15 and 16 Section A, Parish of Colquhoun, County of Tambo;
- 2 ***advertises its intention, pursuant to Section 223 of the Local Government Act 1989, to lease land and buildings to the current occupants;***
- 3 ***appoints a committee comprising the whole of Council with a quorum being five Councillors, to hear and consider any submissions received on the proposed intention to lease land and buildings pursuant to Section 223 of the Local Government Act 1989;***
- 4 ***nominates 2.00 p.m. on Tuesday, 22 September 2009 as the time and date for the Committee to hear submissions; and***
- 5 ***should no submissions be received, approves the preparation and execution of lease agreements for the New Works Cottages occupants.***

Cr Marianne Pelz / Cr Jane Rowe***THAT THE RECOMMENDATION BE ADOPTED.******CARRIED UNANIMOUSLY 04/08/09***

6.4.4. AUDIT COMMITTEE REPORT FOR MEETING HELD 20 JULY 2009

DEPARTMENT Corporate and Economic Development
AUTHORED BY John Websdale, Director Corporate and Economic Development
DOCUMENT NO. 3604997

In Attendance

John Websdale, Director Corporate and Economic Development

1 OBJECTIVE

To provide Council with an update on the issues considered by the East Gippsland Shire Council Audit Committee (Committee) at its meeting held on 20 July 2009.

2 BACKGROUND

The Committee meets on a quarterly basis to consider issues particularly relevant to the governance of Council and to formulate recommendations for Council to consider.

3 CURRENT STATUS AND/OR ISSUES

The following issues were considered at the meeting held on 20 July 2009.

Legal Matters

An update on the status of new and ongoing legal representation was provided for the period 1 April to 31 July 2009. The Committee noted the report.

Insurance Update

A report was provided to the Committee outlining the status of major and minor insurance claims made against the Council. The Committee was satisfied with the status of all claims and noted the report.

Lost Time Register

The Committee received a report outlining lost working hours as a result of workplace injuries. The report was noted.

Debtors

A debtor's register, as at 31 July 2009, was provided to the Committee from the Manager Finance. The Committee discussed Council's collection procedures and noted the report.

Investment Register

A report outlining Council's current investment portfolio was provided to the Committee from the Manager Finance. The Committee noted that the portfolio was within the parameters of Council's Investment Policy.

Annual Budget 2009-10

The Committee was provided with minuted report to Council and a copy of the Adopted Annual Budget 2009-10 for information.

Council Plan 2009-2013

The Committee was provided with minuted report to Council and a copy of the Adopted Council Plan 2009-2013 for information.

Internal Audit - Payroll

A report was provided to the Committee prepared by Council's Internal Auditor, McLean Delmo Hall Chadwick and reviewing Council's policies, processes and procedures with regard to Payroll. The Committee noted the report and supported three recommendations from the report, and that Officers provide the Committee with an update on how these recommendations are being implemented.

Internal Audit – Occupational Health and Safety

A report was provided to the Committee prepared by Council's Internal Auditor, McLean Delmo Hall Chadwick and reviewing Council's policies, processes and procedures with regard to Occupational Health and Safety. The Committee noted the report and supported Officers recommendations that a comprehensive review of Council's Occupational Health and Safety systems be undertaken by an external Occupational Health and Safety specialist.

Palmers Road Occupational Health and Safety

The Committee noted a Commercial In-Confidence report from the Manager Administration and Human Resources on an Occupational Health and Safety incident.

Financial Sustainability Index

As requested at the 4 May Audit Committee Meeting, the Municipal Association of Victoria's Commercial In-Confidence report on Financial Sustainability, was provided to the Committee for information. The Committee noted the report.

4 IMPLICATIONS**Financial**

Nil

Human Resources

The Director Corporate and Economic Development, together with the Finance and Administration and Human Resources Business Units, are responsible for servicing Audit Committee requirements.

5 CONSULTATION WITH STAKEHOLDERS

Nil

6 CONCLUSIONS

Council is presented with an overview of the East Gippsland Shire Council Audit Committee Meeting held on 20 July 2009. Council is now in a position to note the report.

7 APPENDIX

Nil

8 ATTACHMENTS

Nil

RECOMMENDATION

That Council notes the issues considered by the East Gippsland Shire Council Audit Committee at its meeting held on 20 July 2009.

Cr William Gamble / Cr Richard Ellis

THAT THE RECOMMENDATION BE ADOPTED.

CARRIED UNANIMOUSLY 04/08/09

ITEM 7

URGENT AND OTHER BUSINESS

7. URGENT AND OTHER BUSINESS

Nil.

Cr Ben Buckley / Cr Jane Rowe

THAT COUNCIL MOVE INTO 'IN CAMERA' PURSUANT TO SECTION 89 (2) (D) OF THE LOCAL GOVERNMENT ACT 1989, TO CONSIDER ITEMS 8.1 AND 8.2, AS THESE ITEMS RELATE TO CONTRACTUAL MATTERS.

CARRIED UNANIMOUSLY 04/08/09

ITEM 8 FOR CONSIDERATION IN CAMERA

***Consideration of confidential matters under Section 89(2) of the
Local Government Act 1989***

8. FOR CONSIDERATION *IN CAMERA*

COMMERCIAL IN CONFIDENCE

In Attendance:

Chris Waites, Director Development
John Websdale, Director Corporate and Economic Development

8.1. CONTRACT 888/089 STRENGTHENING OF THE HISTORICAL WUK WUK BRIDGE OVER THE MITCHELL RIVER ON LINDENOW- GLENALADALE ROAD, LINDENOW

DEPARTMENT	Corporate and Economic Development
AUTHORED BY	Barry Houghton, Works Coordinator Suzy Branch, Contract Administration Officer
ENDORSED BY	Chris Waites, Director Development John Websdale, Director Corporate and Economic Development
DOCUMENT NO.	3510426

Report and Attachments

Located in Council's Confidential Minute Book

Cr Richard Ellis / Cr Marianne Pelz

THAT COUNCIL:-

1. **ACCEPTS THE TENDER SUBMITTED BY JARVIS NORWOOD CONSTRUCTIONS PTY LTD FOR CONTRACT NO 888/089, STRENGTHENING OF THE HISTORICAL WUK WUK BRIDGE OVER MITCHELL RIVER ON LINDENOW – GLENALADALE ROAD, LINDENOW, FOR THE CONTRACT AMOUNT OF \$1,291,730;**
2. **ALLOCATES ADDITIONAL FUNDING OF \$421,730 TO THE CONSTRUCTION OF THE WUK WUK BRIDGE, WITH THAT FUNDING TO COME FROM DEFERRAL OF CONSTRUCTION OF THE LIVINGSTONE CREEK BRIDGE RESULTING IN COMPLETION OF THAT PROJECT IN THE 2010/2011 FINANCIAL YEAR; AND**
3. **SIGNS AND SEALS THE CONTRACTS IN THE FORM PROPOSED.**

CARRIED UNANIMOUSLY 04/08/09

8.2. CONTRACT 880/089 CONSTRUCTION OF STEEL AND CONCRETE BRIDGE OVER LIVINGSTONE CREEK, SWIFT CREEK OMEO ROAD

DEPARTMENT Corporate and Economic Development

AUTHORED BY Ron Glasser, Project Officer
Suzy Branch, Contract Administration Officer

ENDORSED BY Chris Waites, Director Development
John Websdale, Director Corporate and Economic Development

DOCUMENT NO. 3522248

Report and Attachments

Located in Council's Confidential Minute Book

Cr Ben Buckley / Cr Trudy Anderson

THAT COUNCIL:-

1. **ACCEPTS THE TENDER SUBMITTED BY FOCUS ENGINEERING & CONSTRUCTION PTY LTD FOR CONTRACT NO 880/089 CONSTRUCTION OF STEEL AND CONCRETE BRIDGE OVER LIVINGSTONE CREEK, SWIFTS**

CREEK OMEO ROAD, FOR THE CONTRACT AMOUNT OF \$675,424.97, TO BE DELIVERED OVER THE TWO FINANCIAL YEARS CONCLUDING IN 2010/2011;

- 2. REFERS ADDITIONAL FUNDING OF \$512,155.00 TO THE PROJECT IN THE 2010/2011 FINANCIAL YEAR AS PART OF 2010/2011 BUDGET DELIBERATIONS; AND**
- 3. SIGNS AND SEALS THE CONTRACTS IN THE FORM PROPOSED.**

CARRIED UNANIMOUSLY 04/08/09

9. MEETING CLOSED

The meeting closed at 8.16 p.m.

Confirmed _____

Cr Meredith Urie, Mayor

Date: 1 September 2009