

# **COLLABORATION AGREEMENT - WORLD SPORTING PRECINCT UPGRADE PROJECT**

**East Gippsland Shire Council**

**ABN 81 957 765**

and

**Gunaikurnai Land and Waters Aboriginal  
Corporation**

**ABN 43 709 397 769**

**THIS AGREEMENT** is made on

2021(day and month)

**BETWEEN:**

- (1) **East Gippsland Shire Council** ABN 81 957 765 (**Council**); and
- (2) **Gunaikurnai Land and Waters Aboriginal Corporation** ABN 43 709 397 769 (**GLaWAC**);

**About Gunaikurnai Land and Waters Aboriginal Corporation**

GLaWAC Corporate Vision

That the Gunaikurnai community is proud of the way that we represent and include the mob in achieving broad respect for our culture, for the protection and healing of our land and to gain genuine economic independence.

GLaWAC was established in 2007 in preparation for the historic settlement between our people and the State of Victoria and was legally recognised by the Federal Court of Australia under the Traditional Owners Settlement Act in 2010.

The Gunaikurnai Land and Waters Aboriginal Corporation (GLaWAC) is the Registered Aboriginal Party that represents the Gunaikurnai people, the Traditional Owners of our Country, as determined by the Victorian Aboriginal Heritage Council under the Aboriginal Heritage Act, 2006.

We are the Prescribed Body Corporate (PBC) for the Gunaikurnai people and claim area, as outlined in the agreement, providing joint management of 10 parks and reserves within the State. We have a membership of more than 600 Traditional Owners, all of whom have proven their ancestral links to one of 25 Apical Ancestors registered in the Native Title Consent Determination.

**About East Gippsland Shire Council**

East Gippsland Shire Council is the local government for the Shire of East Gippsland in Victoria. Our vision is to develop East Gippsland into the most liveable region in Australia. A place of natural beauty, enviable lifestyles, and opportunities.

Our mission is to be a leading local government that works together with our communities to make East Gippsland the most liveable region in Australia. We value:

- **Respect** - We treat all with courtesy and respect.
- **Collaboration** - We build and maintain productive relationships.
- **Integrity** - We focus on taking the correct course of action.
- **Accountability** – We are responsible for our actions and outcomes.

## Background to this Collaboration Agreement

- **Council's plan for the Sporting Precinct:** Council is upgrading and expanding the WORLD Sporting Precinct (**Sporting Precinct**) in Bairnsdale, Victoria (**Project**). The site will provide improved and expanded netball, soccer and hockey facilities to the neighbouring school communities and the broader East Gippsland community. Further details of the Project are included at Schedule 1.
- **Project on Gunaikurnai land:** The Sporting Precinct is located on Gunaikurnai country on a parcel of land described as Crown Allotment 2025, Township of Bairnsdale, Parish of Bairnsdale (**Land**). The Gunaikurnai People are determined native title holders of the Land, whose interests are held in trust by GLaWAC. Council wishes to involve GLaWAC and Gunaikurnai People in the Project.
- **Tenure arrangements:** The Land has been reserved for educational purposes and managed by the Minister for Education (**Minister**). The Minister has agreed to grant Council a licence and lease over part of the Land to carry out the Project (**Licence and Lease**). The grant of the Licence and Lease are "future acts" that affect native title under the *Native Title Act 1993* (Cth) (**Native Title Act**).
- **Native Title Act validation:** The State of Victoria and GLaWAC have entered into a settlement package under the *Traditional Owner Settlement Act 2010* (Vic). This settlement includes the Gunaikurnai Settlement Indigenous Land Use Agreement, being an agreement under the Native Title Act dated 22 October 2010 and registered 8 February 2011 (**Settlement ILUA**). The Settlement ILUA provides the Gunaikurnai People's consent to the grant of tenures for a "Community and Sporting Facility" as well as the construction of "public works", which covers buildings or other structures constructed by or on behalf of a local government body. These consents are given over a wide area, and apply to the Land, although it is not clear whether the entirety of the Project is validated under the Settlement ILUA.

## The purpose of this Collaboration Agreement

The purpose of this Agreement is to set out:

- Council and GLaWAC's shared intention to collaborate in respect of the delivery of the Project;
- Council's commitments to involve GLaWAC in the Project and seek GLaWAC's cultural input into the Project;
- Council and GLaWAC's agreement as to Native Title Act processes applying to the Project; and
- GLaWAC's consent to the grant of the Licence and the Lease.

## The parties have agreed to the following:

### 1. COMMITMENT TO COLLABORATE

- (a) Council recognises the Gunaikurnai People as the traditional owners and native title holders of the Land and affirms its commitment to provide GLaWAC opportunities to participate in the Project.

- (b) GLaWAC affirms its support for the Project and its willingness to participate in and provide cultural input into the Project.
- (c) The parties agree to collaborate in good faith for the delivery of the Project.

## **2. FUNDING OF GLAWAC PARTICIPATION AND CULTURAL INPUT**

### **2.1 Participation and cultural input**

The parties agree that GLaWAC will participate in and provide cultural input into the Project as outlined in clauses 2.2 to 2.5 of this Agreement.

### **2.2 Commissioning artwork**

Council will collaborate with GLaWAC to develop opportunities for Gunaikurnai artists to provide art works within the pavilions and outdoors at the Sporting Precinct.

The parties will separately enter into a licence agreement pursuant to which Council will commission and obtain rights to display the art works which will remain the property of GLaWAC.

### **2.3 Procurement Opportunities**

Council will use reasonable efforts to provide procurement opportunities for GLaWAC in respect of the Project, for example, by requiring within future contracts relating to the Project that relevant contractors must seek to enter into partnership agreements with GLaWAC and/or provide employment opportunities for Gunaikurnai People.

### **2.4 Programming**

Council will facilitate opportunities for Bairnsdale Regional Unlimited Sports Inc to host programmes at and utilise the Sporting Precinct for the term of the Lease. These opportunities will be agreed in collaboration with other user groups.

### **2.5 Committee of Management**

Council will make available a designated, unpaid position on the WORLD Committee of Management for a representative from GLaWAC.

## **3. NATIVE TITLE**

### **3.1 Application of the Native Title Act**

The parties agree that:

- (a) the grant of the Licence and the Lease are future acts as defined in the Native Title Act;
- (b) the Lease and Licence and any works carried out pursuant to these:
  - (i) are validated under the Settlement ILUA or alternatively under section 24JA of the Native Title Act; and
  - (ii) do not extinguish native title.

### **3.2 Notification of the grant of the Licence and Lease**

The parties agree that no formal notification of the grant of the Lease and Licence is required under the Native Title Act.

GLaWAC agree that they have received sufficient notice of the Project and the grant of the Lease and Licence to meet any notification requirements under the Settlement ILUA.

### 3.3 **Consent to the grant of the Licence and Lease**

- (a) GLaWAC consents to:
  - (i) the grant of the Licence; and
  - (ii) the grant of the Lease.

### 3.4 **Native Title Act compensation**

- (a) GLaWAC agrees that because of the operation of the Settlement ILUA which provides that no Compensation is payable in respect of valid future acts in relation to the Land that are attributable to the State of Victoria, Council is not liable to pay Compensation in respect of:
  - (i) the Project;
  - (ii) the grant of the Licence and the Lease to Council; and
  - (iii) the construction of works permitted under the Licence and Lease.
- (b) GLaWAC agrees that it will not make or support any application for Compensation payable by Council in respect of the matters at clause 3.4(a).
- (c) The parties acknowledge that GLaWAC is currently in negotiations with the State of Victoria regarding a future Land Use Activity Agreement which may apply to the Land in future.

## 4. **GENERAL TERMS**

### 4.1 **DEFINITIONS**

The following definitions apply in this Agreement.

**Agreement** means this agreement including all schedules.

**Compensation** means compensation potentially payable under Part 2, Divisions 2, 2A, 2B, 3 or 4 of the Native Title Act, pursuant to an application under section 61 of the Native Title Act.

**Land** means the parcel of land described Crown Allotment 2025, Township of Bairnsdale, Parish of Bairnsdale.

**Land Use Activity Agreement** has the meaning given by the *Traditional Owner Settlement Act 2010* (Vic).

**Lease** means an agreement between the Minister and Council regarding Council's ongoing occupation and use of the Land for the Sporting Precinct.

**Licence** means a licence to enter, occupy and use the Land for the purpose of delivering the Project granted by the Minister to Council.

**Minister** means the Minister administering the *Education and Training Reform Act 2006* (Vic) as amended from time to time.

**Project** means the redevelopment of the Sporting Precinct.

**Settlement ILUA** means the Gunaikurnai Settlement Indigenous Land Use Agreement between GLaWAC and the State of Victoria, being an agreement under the Native Title Act dated 22 October 2010 and registered 8 February 2011

**Settlement Agreement** means the Recognition and Settlement Agreement between GLaWAC and the State of Victoria, being an agreement under the *Traditional Owner Settlement Act 2010* (Vic).

**Sporting Precinct** means the WORLD Sporting Precinct in Bairnsdale.

#### 4.2 **Rules for interpreting this document**

- (a) Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.
- (b) A reference to:
  - (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (ii) a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated; and
  - (iii) a party to this document or to any other document or agreement includes a successor in title, permitted substitute or a permitted assign of that party;
- (c) A singular word includes the plural, and vice versa.
- (d) A word which suggests one gender includes the other genders.
- (e) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (f) The expression **this document** includes the agreement, arrangement, understanding or transaction recorded in this document.
- (g) A reference to **dollars** or **\$** is to an amount in Australian currency.

#### 4.3 **Amendment**

This document can only be amended or replaced by another document executed by the parties.

#### 4.4 **Assignment**

A party may only assign, encumber, declare a trust over or otherwise deal with its rights under this document with the consent of the other party.

#### 4.5 **Confidentiality**

This document is not confidential.

#### 4.6 **Governing law**

- (a) This document and any dispute arising out of or in connection with this document is governed by the laws of Victoria.

- (b) Each party submits to the exclusive jurisdiction of the courts of that State and courts of appeal from them, in respect of any proceedings arising out of or in connection with this document.

**4.7 Liability for expenses**

Each party must pay its own expenses incurred in negotiating, executing, stamping and registering this document.

**4.8 Address for notices**

The address and email contact for the parties are those set out below, or as the person otherwise notifies all other parties in writing:

**Council:**

Address: PO Box 1618, Bairnsdale, Victoria 3875

E-mail address: feedback@egipps.vic.gov.au

Attention: Chief Executive Officer

**GLaWAC:**

Address: [REDACTED]

E-mail address: [REDACTED]

Attention: Chief Executive Officer

**4.9 Giving effect to documents**

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that any other party may reasonably require to give full effect to this document.

**4.10 Counterparts**

This document may be executed in counterparts.

## Schedule 1 – Project overview

### Map of the Sporting Precinct





**EXECUTED** as an agreement.

**EXECUTED** on behalf of **EAST GIPPSLAND SHIRE COUNCIL** by its duly authorised delegate:



\_\_\_\_\_  
Signature of authorised delegate

**Anthony Basford**

\_\_\_\_\_  
Print full name of authorised delegate

**Chief Executive Officer**

\_\_\_\_\_  
Position of authorised delegate



\_\_\_\_\_  
Signature of Witness


**Colleen Smith - EAtoCEO**

\_\_\_\_\_  
Print full name of Witness

**EXECUTED** on behalf of **GLaWAC** by its duly authorised delegate:



\_\_\_\_\_  
Signature of authorised delegate


  
\_\_\_\_\_  
Print full name of authorised delegate

**Chief Executive Officer**

\_\_\_\_\_  
Position of authorised delegate



\_\_\_\_\_  
Signature of Witness

  
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Print full name of Witness