

SOUTH GIPPSLAND SHIRE COUNCIL

Council Minutes

Ordinary Meeting of Council

24 April 2019

Ordinary Meeting No. 433
Council Chambers, Leongatha
Commenced at 2pm



minutes



*South Gippsland
Shire Council*

Come for the beauty, Stay for the lifestyle



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A copy of this policy is located on Council's website www.southgippsland.vic.gov.au.

PRESENT

COUNCILLORS:	<p>Cr Don Hill, Mayor Cr Alyson Skinner, Deputy Mayor Cr Ray Argento Cr Andrew McEwen Cr Rosemary Cousin Cr Aaron Brown Cr Steve Finlay Cr Frank Hirst</p>
COUNCILLORS NOT PRESENT:	<p>Cr Jeremy Rich</p>
OFFICERS:	<p>Tim Tamlin, Chief Executive Officer Faith Page, Director Corporate and Community Services Anthony Seabrook, Director Infrastructure Services Bryan Sword, Director Development Services Rick Rutjens, Manager Executive Support and Community Information June Ernst, Coordinator Council Business Natasha Berry, Corporate and Council Business Officer</p>

SOUTH GIPPSLAND SHIRE COUNCIL

Ordinary Meeting No. 433
Wednesday 24 April 2019
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Tim Tamlin
Chief Executive Officer

1. PRELIMINARY MATTERS

1.1. LIVE-STREAMING COUNCIL MEETING DISCLAIMER

This Council Meeting is being streamed live, recorded and published in accordance with Council's *Live Streaming in Council Meetings Policy*.

To those present in the gallery today, by attending a public meeting of the Council you are consenting to your image, voice and comments being recorded and published.

Anyone who is invited to read out a question or a presentation will be recorded and their voice, image and comments will form part of the live stream and recording.

The Chair and/or the CEO have the discretion and authority at any time to direct the termination or interruption of live streaming. Such direction will only be given in exceptional circumstances where deemed relevant. Circumstances may include instances where the content of debate is considered misleading, defamatory or potentially inappropriate to be published.

Attendees are advised that they may be subject to legal action if their actions results in inappropriate and/or unacceptable behaviour and/or comments.

Today's Meeting is being streamed live as well as recorded and published on Council's website.

Thank you

1.2. WELCOME

Please ensure Mobile phones remain 'off' during the Council Meeting.

1.3. OPENING PRAYER

We pray to God to guide us so that the thoughts we have and the decisions made this day, are in the best interests of the people of the South Gippsland Shire.

Amen

1.4. ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS

The South Gippsland Shire Council respectfully acknowledges the Traditional Custodians of this Land, Elders past and present, their Spirits and Ancestors.

1.5. APOLOGIES

Councillor Jeremy Rich

The Mayor addressed Council by informing that Cr Jeremy Rich has submitted his resignation to Council, effective 9 May 2019.

1.6. CONFIRMATION OF MINUTES

RECOMMENDATION

That the Minutes of the South Gippsland Shire Council Ordinary Meeting No. 432, held on 27 March 2019 in the Council Chambers, Leongatha be confirmed.

MOVED: Cr Skinner

SECONDED: Cr Argento

THAT THE MINUTES OF THE SOUTH GIPPSLAND SHIRE COUNCIL ORDINARY MEETING NO. 432, HELD ON 27 MARCH 2019 IN THE COUNCIL CHAMBERS, LEONGATHA BE CONFIRMED.

CARRIED UNANIMOUSLY

1.7. DECLARATION OF CONFLICTS OF INTEREST FOR COUNCILLORS

Any interest that a Councillor or staff member has deemed to be significant and has disclosed as either a direct or an indirect interest is now considered to be a conflict of interest. Conflict of interest legislation is in sections 77A, 77B, 78, 78A-D and 79 of the Local Government Act 1989 (the Act). This legislation can be obtained by contacting the Council's Corporate & Community Services Directorate (Council Business) or by accessing the Victorian Legislation and Parliamentary Documents website at www.legislation.vic.gov.au.

An interest may be by close association, financial, conflicting duties or receipt of gifts. If a Councillor or staff member discloses any interest in an item discussed at any Council Meeting (whether they attend or not) they must:

- Complete a disclosure of interest form prior to the Meeting (forms are available from Council Business Department at South Gippsland Shire Council).
- Advise the Chair of the interest immediately before the particular item is considered (if attending the Meeting).
- Leave the Council Chamber or Meeting room while the item is being discussed and during any vote taken (if attending the Meeting).

The Councillor or staff member will be advised to return to the Council Chamber or Meeting room immediately after the item has been considered and the vote is complete.

Councillors should check the Minutes of the Council Meeting to ensure their disclosure is recorded accurately. Councillors are not required to disclose conflict of interest in relation to matters only considered at Meetings they do not attend. Detailed information is available in *Conflict of Interest – A Guide for Councillors – October 2012*.

Nil

Note: Later in the Council Meeting at Agenda Item 11.1. PETITIONS, The Mayor paused the Agenda item as Cr Finlay was not aware of this pending item, he submitted an indirect conflict of interest by conflict of duty as he is the President of the South Gippsland Action Group (SGAG) who submitted the petition.

1.8. DECLARATION OF CONFLICTS OF INTEREST FOR STAFF

Sections 80B and 80C of the Local Government Act 1989 require members of Council staff who have delegated functions and/or provide advice to Council or a Special Committee to disclose conflicts of interest. If Council staff have written, provided information/advice or approved a Council Report and have a conflict of interest, it is the responsibility of that staff member to disclose the interest.

Guidance to identifying and disclosing a conflict of interest is contained in the Victorian State Government, Department of Transport, Planning and Local Infrastructure – *Conflict of Interest – A Guide for Council Staff – October 2011*.

Nil

2. OBJECTIVE 1 - STRENGTHEN ECONOMIC GROWTH AND PROSPERITY

Nil

3. OBJECTIVE 2 - BUILD STRONG PARTNERSHIPS, STRENGTHEN ARTS & CULTURE AND DELIVER EQUITABLE OUTCOMES

Nil

4. OBJECTIVE 3 - IMPROVE SOUTH GIPPSLAND'S BUILT ASSETS AND VALUE OUR NATURAL ENVIRONMENT

4.1. 2018/19 CAPITAL WORKS PROGRAM AMENDMENTS

Infrastructure Directorate

EXECUTIVE SUMMARY

Council adopts the Capital Works Program as part of the Annual Budget process, however, from time to time, program changes are required. This report proposes numerous project reductions and a number of increases to the 2018/19 Capital Works Program, including carry forward amounts to the 2019/20 financial year equating to a \$3,997,579 reduction in expenditure to the overall program for this financial year compared to current budgets.

The major contributions to this outcome are the delays with the Mirboo North Pool redevelopment, Jumbunna Road, Korumburra shared path, and the Loch Streetscape for the reasons detailed in this report. Income has decreased by \$1,119,250 from current budgets with the vast majority of this income now expected during the 2019/20 financial year.

RECOMMENDATION

That Council:

1. Approves the following amendments to the 2018/19 Capital Works Program and carry forward income and expenditure budget reductions to the 2019/20 financial year:
 - a. Cost Centre 85010 – Bena Kongwak Bridge: Reduce the income budget by \$413,000 and reduce the expenditure budget by \$301,650 (2018/19 revised income budget \$300,000 and revised expenditure budget \$970,000).
 - b. Cost Centre 66000 – Leongatha Gymnastics Extension: Reduce the income budget by \$40,000 and reduce the expenditure budget by \$205,000 (2018/19 revised income budget \$30,000 and revised expenditure budget \$15,000).
 - c. Cost Centre 44020 – Poowong Netball Development: Reduce the income budget by \$61,250 and reduce the expenditure budget by \$187,500 (2018/19 revised income budget \$90,000 and revised expenditure budget \$15,000).

- d. Cost Centre 93070 – Pools Renewal Program: Reduce the income budget by \$225,000 (2018/19 revised income budget \$0).
- e. Cost Centre 99020 – Pools – Refurbishment Design – Mirboo North: Reduce the income budget by \$200,000 and reduce the expenditure budget by \$465,000 (2018/19 revised income budget \$0 and expenditure budget \$35,000).
- f. Cost Centre 93130 – Recreation – Baromi Park Masterplan & Associated Works: Reduce the income budget by \$180,000 and reduce the expenditure budget by \$50,000 (2018/19 revised income budget \$45,000 and revised expenditure budget \$50,000).
- g. Cost Centre 93080 – Pools – Splash Hydrotherapy Pool & Gymnasium - Leongatha: Reduce the expenditure budget by \$30,000 (2018/19 revised expenditure budget \$0).
- h. Cost Centre 82270 – Civil – Korumburra Commercial Streetscape: Reduce the expenditure budget by \$164,393 (2018/19 revised expenditure budget \$15,000).
- i. Cost Centre 82350 – Civil – Loch Main Street Renewal: Reduce the expenditure budget by \$610,852 (2018/19 revised expenditure budget \$100,000).
- j. Cost Centre 85060 – Ruby Arawata Road Bridge: Reduce the expenditure budget by \$100,000 (2018/19 revised expenditure budget \$575,100).
- k. Cost Centre 43670 – Leongatha Knights Soccer Club – Lights & Pitch Upgrade: Reduce the expenditure budget by \$171,611 (2018/19 revised expenditure budget \$68).
- l. Cost Centre 88090 – Footpath Extension – Jumbunna Road, Korumburra: Reduce the expenditure budget by \$400,000 (2018/19 revised expenditure budget \$22,500).
- m. Cost Centre 98010 – Long Jetty Caravan Park Capital: Reduce the expenditure budget by \$230,000 (2018/19 revised expenditure budget \$8,359).
- n. Cost Centre 98020 – Yanakie Caravan Park Capital: Reduce the expenditure budget by \$190,000 (2018/19 revised expenditure budget \$2,868).

- o. Cost Centre 73670 – Buildings – Caravan Park Capital Works Upgrade – Waratah Bay: Reduce the expenditure budget by \$120,000 (2018/19 revised expenditure budget \$485,000).
- p. Cost Centre 82110 – Roads – Reseals: Reduce expenditure budget by \$771,573 (2018/19 revised expenditure budget \$950,000).

MOVED: Cr Argento

SECONDED: Cr Skinner

THAT COUNCIL:

1. **APPROVES THE FOLLOWING AMENDMENTS TO THE 2018/19 CAPITAL WORKS PROGRAM AND CARRY FORWARD INCOME AND EXPENDITURE BUDGET REDUCTIONS TO THE 2019/20 FINANCIAL YEAR:**
 - a. **COST CENTRE 85010 – BENA KONGWAK BRIDGE: REDUCE THE INCOME BUDGET BY \$413,000 AND REDUCE THE EXPENDITURE BUDGET BY \$301,650 (2018/19 REVISED INCOME BUDGET \$300,000 AND REVISED EXPENDITURE BUDGET \$970,000).**
 - b. **COST CENTRE 66000 – LEONGATHA GYMNASTICS EXTENSION: REDUCE THE INCOME BUDGET BY \$40,000 AND REDUCE THE EXPENDITURE BUDGET BY \$205,000 (2018/19 REVISED INCOME BUDGET \$30,000 AND REVISED EXPENDITURE BUDGET \$15,000).**
 - c. **COST CENTRE 44020 – POOWONG NETBALL DEVELOPMENT: REDUCE THE INCOME BUDGET BY \$61,250 AND REDUCE THE EXPENDITURE BUDGET BY \$187,500 (2018/19 REVISED INCOME BUDGET \$90,000 AND REVISED EXPENDITURE BUDGET \$15,000).**
 - d. **COST CENTRE 93070 – POOLS RENEWAL PROGRAM: REDUCE THE INCOME BUDGET BY \$225,000 (2018/19 REVISED INCOME BUDGET \$0).**
 - e. **COST CENTRE 99020 – POOLS – REFURBISHMENT DESIGN – MIRBOO NORTH: REDUCE THE INCOME BUDGET BY \$200,000 AND REDUCE THE EXPENDITURE BUDGET BY \$465,000 (2018/19 REVISED INCOME BUDGET \$0 AND EXPENDITURE BUDGET \$35,000).**
 - f. **COST CENTRE 93130 – RECREATION – BAROMI PARK MASTERPLAN & ASSOCIATED WORKS: REDUCE THE INCOME BUDGET BY \$180,000 AND REDUCE THE EXPENDITURE BUDGET BY**

\$50,000 (2018/19 REVISED INCOME BUDGET \$45,000 AND REVISED EXPENDITURE BUDGET \$50,000).

- g. COST CENTRE 93080 – POOLS – SPLASH HYDROTHERAPY POOL & GYMNASIUM - LEONGATHA: REDUCE THE EXPENDITURE BUDGET BY \$30,000 (2018/19 REVISED EXPENDITURE BUDGET \$0).**
- h. COST CENTRE 82270 – CIVIL – KORUMBURRA COMMERCIAL STREETScape: REDUCE THE EXPENDITURE BUDGET BY \$164,393 (2018/19 REVISED EXPENDITURE BUDGET \$15,000).**
- i. COST CENTRE 82350 – CIVIL – LOCH MAIN STREET RENEWAL: REDUCE THE EXPENDITURE BUDGET BY \$610,852 (2018/19 REVISED EXPENDITURE BUDGET \$100,000).**
- j. COST CENTRE 85060 – RUBY ARAWATA ROAD BRIDGE: REDUCE THE EXPENDITURE BUDGET BY \$100,000 (2018/19 REVISED EXPENDITURE BUDGET \$575,100).**
- k. COST CENTRE 43670 – LEONGATHA KNIGHTS SOCCER CLUB – LIGHTS & PITCH UPGRADE: REDUCE THE EXPENDITURE BUDGET BY \$171,611 (2018/19 REVISED EXPENDITURE BUDGET \$68).**
- l. COST CENTRE 88090 – FOOTPATH EXTENSION – JUMBUNNA ROAD, KORUMBURRA: REDUCE THE EXPENDITURE BUDGET BY \$400,000 (2018/19 REVISED EXPENDITURE BUDGET \$22,500).**
- m. COST CENTRE 98010 – LONG JETTY CARAVAN PARK CAPITAL: REDUCE THE EXPENDITURE BUDGET BY \$230,000 (2018/19 REVISED EXPENDITURE BUDGET \$8,359).**
- n. COST CENTRE 98020 – YANAKIE CARAVAN PARK CAPITAL: REDUCE THE EXPENDITURE BUDGET BY \$190,000 (2018/19 REVISED EXPENDITURE BUDGET \$2,868).**
- o. COST CENTRE 73670 – BUILDINGS – CARAVAN PARK CAPITAL WORKS UPGRADE – WARATAH BAY: REDUCE THE EXPENDITURE BUDGET BY \$120,000 (2018/19 REVISED EXPENDITURE BUDGET \$485,000).**
- p. COST CENTRE 82110 – ROADS – RESEALS: REDUCE EXPENDITURE BUDGET BY \$771,573 (2018/19 REVISED EXPENDITURE BUDGET \$950,000).**

CARRIED UNANIMOUSLY

[Link to next Agenda Item.](#)

REPORT**1. Cost Centre 85010 – Bena Kongwak Bridge: Reduce income budget by \$413,000 and reduce expenditure budget by \$301,650**

2018/19 Income Budget:	\$713,000	Revised:	\$300,000
2018/19 Expenditure Budget:	\$1,271,650	Revised:	\$970,000

The final income milestone for this Bridges Renewal Program grant is to the value of around \$400,000. Even though the works on site for this project are complete, the final milestone will not be achieved in the foreseeable future as this requires final acquittal for the project which is dependent on land acquisition from VicTrack – this will not be completed this financial year. The expenditure budget has been reduced to match costs to date and the balance will be carried forward to 2019/20 to cater for land acquisition costs for the VicTrack land. Savings on the project are expected but the quantum depends on the VicTrack acquisition costs.

2. Cost Centre 66000 – Leongatha Gymnastics Extension: Reduce income budget by \$40,000 and reduce expenditure budget by \$205,000

2018/19 Income Budget:	\$70,000	Revised:	\$30,000
2018/19 Expenditure Budget:	\$220,000	Revised:	\$15,000

This project has been delayed due to the Catholic Education Office (Project Manager) not being able to obtain the necessary internal approvals. Recent advice is that tender documents are currently being prepared and hence both income and expenditure will be reduced accordingly this financial year and these reductions need to be carried forward to 2019/20.

3. Cost Centre 44020 – Poowong Netball Court Development: Reduce income budget by \$61,250 and reduce expenditure budget by \$187,500

2018/19 Income Budget:	\$151,250	Revised:	\$90,000
2018/19 Expenditure Budget:	\$202,500	Revised:	\$15,000

The scope of this project was based on widening an existing court to make it compliant in size. During detailed design prior to the works going to tender, it had been discovered that the existing concrete court could be deficient in terms of its thickness and reinforcement. This matter is currently being investigated by Council's design consultant but as a

consequence, the works have been delayed and both income and expenditure budgets need to be adjusted accordingly and these reductions need to be carried forward to the 2019/20 financial year.

4. Cost Centre 93070 – Pools Renewal Program: Reduce income budget by \$225,000

2018/19 Income Budget:	\$225,000	Revised:	\$0
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This income is for Stage 2 works at the Toora Pool. These works are not scheduled until the 2019/20 financial year so the income will not be received until that time therefore needs to be carried forward to the 2019/20 financial year.

5. Cost Centre 99020 – Pools – Refurbishment Design – Mirboo North: Reduce income budget by \$200,000 and reduce expenditure budget by \$465,000

2018/19 Income Budget:	\$200,000	Revised:	\$0
2018/19 Expenditure Budget:	\$500,000	Revised:	\$35,000

The tender assessment for the Mirboo North Pool has been delayed due to all tender bids being over budget. Currently, the two short-listed tenderers are pricing a revised scope of works to reduce costs. Due to this delay, it is proposed to adjust both the income and expenditure budgets accordingly and carry forward these reductions to the 2019/20 financial year.

6. Cost Centre 93130 – Recreation – Baromi Park Masterplan & Associated Works: Reduce income budget by \$180,000 and reduce expenditure budget by \$50,000

2018/19 Income Budget:	\$225,000	Revised:	\$45,000
2018/19 Expenditure Budget:	\$100,000	Revised:	\$50,000

Income budget of \$45,000 has already been received from Regional Development Victoria (RDV). The balance of the \$50,000 from RDV and all of the \$200,000 from Sport & Recreation Victoria (SRV) is now expected in 2019/20. The \$100,000 expenditure for 2018/19 is for the new public toilet. This work requires Council's approval at the 27 April 2019 Ordinary Council Meeting, therefore expenditure is likely to be reduced to around \$50,000 and the remaining \$50,000 needs to be carried forward to 2019/20.

7. Cost Centre 93080 – Pools – Splash Hydrotherapy Pool & Gymnasium - Leongatha: Reduce expenditure budget by \$30,000

2018/19 Expenditure Budget:	\$30,000	Revised:	\$0
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This budget has been allocated for the design of the building modifications required to accommodate a spectator area along the east wall (Roughead Street side) of the main pool area. This work will not occur in 2018/19 and the budget needs to be carried forward to 2019/20.

8. Cost Centre 82270 – Civil – Korumburra Commercial Streetscape: Reduce expenditure budget by \$164,393

2018/19 Expenditure Budget:	\$179,393	Revised:	\$15,000
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The construction works for the Commercial Street Streetscape are currently programmed for 2021/22 financial year. It was intended to commence the civil design work during 2018/19 and coincide this work with the detailed design work for the Korumburra Hub, in particular, any proposed civil works in the vicinity of Commercial Street. The detailed design works for the Hub are now not occurring until 2019/20 so the majority of the Commercial Street design budget is being carried forward accordingly.

9. Cost Centre 82350 – Civil – Loch Main Street Renewal: Reduce expenditure budget by \$610,852

2018/19 Expenditure Budget:	\$710,852	Revised:	\$100,000
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This project was brought forward to the 2018/19 financial year when the Bair Street project failed to obtain funding through the State Government's Regional Jobs and Infrastructure Fund. Designs then needed to be prepared and the community consulted about the proposed works. The community consultation process was completed in January 2019 and the project tendered on 9 February 2019. A contract is expected to be awarded in early April 2019 with works likely to commence shortly thereafter. However, the bulk of the works will be completed in 2019/20 and the majority of the \$710,852 budget needs to be carried forward accordingly.

10. Cost Centre 85060 – Bridge – Ruby Arawata Road: Reduce expenditure budget by \$100,000

2018/19 Expenditure Budget:	\$675,100	Revised:	\$575,100
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When this project was tendered in October 2018, all tender prices received were in excess of Council's budget. This necessitated the project being referred to Council to seek additional funding which occurred at the 19 December 2018 Ordinary Council Meeting. As a consequence, the expected completion date has been pushed out with the project completion now expected in August 2019. Some of the budget therefore needs to be moved to the 2019/20 financial year to reflect this completion date.

11. Cost Centre 43670 – Leongatha Knights Soccer Club – Lights & Pitch Upgrade: Reduce expenditure budget by \$171,611

2018/19 Expenditure Budget:	\$171,679	Revised:	\$68
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Similar to the Leongatha Gymnastics Extension, this project has been delayed due to Mary MacKillop Catholic Regional College not being able to obtain the necessary internal approvals. Council has already engaged a contractor to deliver the lighting component but this and the pitch works cannot proceed until the approvals are obtained. The expenditure budget (with the exception of costs to date) is being moved to 2019/20.

12. Cost Centre 88090 – Footpath Extension – Jumbunna Road, Korumburra: Reduce expenditure budget by \$400,000

2018/19 Expenditure Budget:	\$422,500	Revised:	\$22,500
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This project has been the subject of design challenges caused by encroachments into the road reserve at the northern end of the project, which was reported to Council in December 2018. More recently, it has been decided to compulsorily acquire land required for this project from the developer adjacent to and on the north side of the Korumburra Secondary College. This approach is now being taken rather than waiting for the land to be gifted to Council through the subdivision approval process, which is dependent on the developer. Based on current expectations, this is not expected to occur in the foreseeable future hence the decision to commence the compulsory acquisition process. This means construction will now occur in the 2019/20 financial year and the budget is being adjusted accordingly with \$400,000 being carried forward to the 2019/20 financial year.

13. Cost Centre 98010 – Long Jetty Caravan Park Capital: Reduce expenditure by \$230,000

2018/19 Expenditure Budget:	\$238,359	Revised:	\$8,359
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Budgeted works on new cabins and an updated residence / kiosk have been postponed and these funds are to be carried forward to the 2019/20 financial year.

14. Cost Centre 98020 – Yanakie Caravan Park Capital: Reduce expenditure by \$190,000

2018/19 Expenditure Budget:	\$192,868	Revised:	\$2,868
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Similar to Long Jetty Caravan Park above, budgeted electrical works at the Yanakie Caravan Park have been postponed and these funds are to be carried forward to the 2019/20 financial year.

15. Cost Centre 73670 – Buildings – Caravan Park Capital Works Upgrade – Waratah Bay: Reduce expenditure by \$120,000

2018/19 Expenditure Budget:	\$605,000	Revised:	\$485,000
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Included in the works being carried out at the Waratah Bay Caravan Park is an upgrade of the fire services system. The scope of works being carried out this year will be the installation of four storage tanks to meet the Country Fire Authority's (CFA) requirements. Replacement of the supply line to the feeder dam will now be carried out in 2019/20 and a budget of \$120,000 will be carried forward for this purpose.

16. Cost Centre 82110 – Roads – Reseals: Reduce expenditure by \$771,573

2018/19 Expenditure Budget:	\$1,721,573	Revised:	\$950,000
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The contractor (Boral Asphalt) has recently advised Council that they will not be able to deliver the full Reseal Program this financial year due to lost time from inclement weather during their first visit to the site in March 2019, commitments to other clients, and the lateness in the sealing season. The current expenditure to date is \$699,865 and a further \$250,000 of work should be completed this financial year taking the expected expenditure to approximately \$950,000. Therefore the remaining funds of \$771,573 are to be carried forward to the 2019/20 financial year to enable these works to be completed.

CONSULTATION

Discussions with the relevant Council officers managing the various projects in this report have taken place to ascertain the status of each project and the likely expenditure for 2018/19.

RESOURCES

The proposed amendments have a significant change to the current budget for the 2018/19 Capital Works Program with expenditure reduced by \$3,997,579 and income also reduced by \$1,119,250 meaning a nett favourable position amounting to \$2,878,329. The significant carried forward amount into the 2019/20 financial year (increase of \$1,119,250 in income and \$3,997,579 in expenditure) will increase the workload in that year.

The breakdown of the proposed changes are provided in **Table 1** below:

Table 1 – Proposed Budget Changes			2018/19 Current Budget	2018/19 Revised Budget	Favourable / (Unfavourable)	2019/20 Carry Forward
INCOME						
1	85010	Bena Kongwak Bridge	713,000	300,000	(413,000)	413,000
2	66000	Leongatha Gymnastics	70,000	30,000	(40,000)	40,000
3	44020	Poowong Netball	151,250	90,000	(61,250)	61,250
4	93070	Pools Renewal (Toora)	225,000	0	(225,000)	225,000
5	99020	Mirboo North Pool	200,000	0	(200,000)	200,000
6	93130	Baromi Park	225,000	45,000	(180,000)	180,000
		Total Income	1,584,250	465,000	(1,119,250)	1,119,250

EXPENDITURE						
1	85010	Bena Kongwak Bridge	1,271,650	970,000	301,650	(301,650)
2	66000	Leongatha Gymnastics	220,000	15,000	205,000	(205,000)
3	44020	Poowong Netball	202,500	15,000	187,500	(187,500)
5	99020	Mirboo North Pool	500,000	35,000	465,000	(465,000)
6	93130	Baromi Park	100,000	50,000	50,000	(50,000)
7	93080	Splash Spectator Design	30,000	0	30,000	(30,000)
8	82270	Commercial Street Design	179,393	15,000	164,393	(164,393)
9	82350	Loch Streetscape	710,852	100,000	610,852	(610,852)
10	85060	Ruby Arawata Bridge	675,100	575,100	100,000	(100,000)

Table 1 – Proposed Budget Changes			2018/19 Current Budget	2018/19 Revised Budget	Favourable / (Unfavourable)	2019/20 Carry Forward
11	43670	Leongatha Knights Soccer	171,679	68	171,611	(171,611)
12	88090	Jumbunna Road	422,500	22,500	400,000	(400,000)
13	98010	Long Jetty Caravan Park	238,359	8,359	230,000	(230,000)
14	98020	Yanakie Caravan Park	192,868	2,868	190,000	(190,000)
15	73670	Waratah Bay Caravan Park	605,000	485,000	120,000	(120,000)
16	82110	Road Reseals	1,721,573	950,000	771,573	(771,573)
		Total Expenditure	7,241,474	3,243,895	3,997,579	(3,997,579)

NET 2018/19 (IMPACT ON BUDGET)				
Total Income	1,584,250	465,000	(1,119,250)	1,119,250
Total Expenditure	7,241,474	3,243,895	3,997,579	(3,997,579)
NET Favourable / (Unfavourable)			2,878,329	(2,878,329)

RISKS

The budget adjustments recommended in this report will minimise the likelihood of budget variation explanations for the remainder of the financial year by better aligning budgets with expected outcomes.

STAFF DISCLOSURE

Nil

REFERENCE DOCUMENTS

Council Policy

Documents are available on Council's website: www.southgippsland.vic.gov.au

2018/19 Capital Works Program
 Asset Management Strategy
 Long Term Financial Plan
 Procurement Policy (C32)

Legislative Provisions

Local Government Act 1989
 Road Management Act 2004

4.2. VENUS BAY SURF LIFESAVING CLUB - COMMUNITY CAPITAL WORKS ALLOCATION BUDGET FUNDS EXTENSION REQUEST

Infrastructure Directorate

EXECUTIVE SUMMARY

During the development of the 2017/18 Annual Budget, Council engaged with four South Gippsland communities – Korumburra, Mirboo North, Foster and Venus Bay – regarding their priorities for capital works within their townships as part of a Community Capital Works Allocation Budgeting program.

Following these discussions, the 2017/18 Capital Works Program included funding of \$400,000 for each community to allocate to capital projects they identified as a priority.

The Venus Bay Surf Lifesaving Club was allocated \$150,000 as a contribution towards the redevelopment of the club's building. A condition of these funds were that the club secured additional funding to complete the project by the end of the 2018/19 financial year. The scale of the proposed club redevelopment will require several million dollars in funding to be secured. Following discussions with external funding bodies, the Venus Bay Surf Lifesaving Club has requested that this allocation be extended until 30 June 2021 – refer to **Attachment [4.2.1]**.

RECOMMENDATION

That Council agrees to extend the availability of its \$150,000 contribution towards the redevelopment of the Venus Bay Surf Lifesaving Club building until 30 June 2021.

MOVED: Cr Skinner

SECONDED: Cr Argento

THAT COUNCIL AGREES TO EXTEND THE AVAILABILITY OF ITS \$150,000 CONTRIBUTION TOWARDS THE REDEVELOPMENT OF THE VENUS BAY SURF LIFESAVING CLUB BUILDING UNTIL 30 JUNE 2021.

CARRIED UNANIMOUSLY

[Link to next Agenda item.](#)

REPORT

At the Ordinary Meeting of Council held 14 December 2016, the following was resolved.

“THAT COUNCIL ALLOCATE:

... 3. \$150,000 TO THE VENUS BAY SURF LIFE SAVING CLUB FOR THE EXTENSION PROJECT DETAILED IN THE VENUS BAY SURF LIFE SAVING CLUB COMMUNITY BUDGETING SUBMISSION THAT INCLUDES PROVISION OF NEW TOILET FACILITIES SUBJECT TO:

- i. THE VENUS BAY LIFE SAVING CLUB OBTAINING THE REQUIRED FUNDING TO PLAN AND COMPLETE THE PROJECT; AND*
- ii. FUNDING BEING OBTAINED BY THE END OF THE 2018/19 FINANCIAL YEAR.”*

The Venus Bay Surf Lifesaving Club has requested that this allocation be extended until 30 June 2021. A copy of the letter to Council from the Venus Bay Surf Lifesaving Club is included in **Attachment [4.2.1]**.

Each year, Life Saving Victoria allocates funds received from the State Government towards improvements to facilities at surf lifesaving clubs. To date, the Venus Bay Lifesaving Club has been unsuccessful in securing additional funding, however, it believes it will be considered for an allocation of funds during 2020 to enable it to complete a redevelopment of its facility.

CONSULTATION

The Venus Bay Surf Lifesaving Club has been in continual discussions with Life Saving Victoria and other stakeholders, such as Parks Victoria, regarding its redevelopment plans.

On 12 December 2018, Venus Bay Surf Lifesaving Club representatives provided an update on their progress to Council at a public presentation session. Following this briefing, the Venus Bay Surf Lifesaving Club formally requested an extension to the original date of 30 June 2019 to 30 June 2021.

RESOURCES

The Community Capital Works Allocation Budgeting program funds were allocated as part of the 2017/18 Capital Works Program. The funds were then carried forward to the current financial year (2018/19). If the Venus Bay Surf Lifesaving Club's request is approved, the funds will need to be carried forward again for potentially another two financial years.

RISKS

There is no guarantee that the Venus Bay Surf Lifesaving Club will be able to secure the required additional funds within the extended timeframe.

There is also a risk that other proposed projects requiring funding in Venus Bay may not progress within the timeframes desired by the community due to money being held for the Venus Bay Lifesaving Club as part of the 2017/18 Community Capital Works Allocation Budgeting program.

STAFF DISCLOSURE

Nil

ATTACHMENTS

Attachments are available on Council's website: www.southgippsland.vic.gov.au

1. Correspondence - Venus Bay Surf Lifesaving Club - Extension Request **[4.2.1]**

4.3. CARINYA LODGE INC. KORUMBURRA - CHANGE TO RULES OF INCORPORATION

Infrastructure Directorate

EXECUTIVE SUMMARY

Carinya Lodge Inc. (Carinya) is the operator of an aged care facility located at 1 Carinya Crescent in Korumburra.

Carinya is about to embark on an extensive \$7 million redevelopment of the facility and as a consequence, is reviewing its governance framework. As part of this review, Carinya has recognised a need to change the wind-up clause in its existing Rules of Incorporation. The proposed change is, in the event of a closure or wind-up, that all the estate and interest of Carinya in any real property would be transferred to a benevolent society of Carinya's choice, rather than the Council. Carinya asks if Council has any objection to its proposal (refer to **Attachment [4.3.1]**).

RECOMMENDATION

That Council:

1. Offers no objection to Carinya Lodge Inc. regarding the change in the Rules of Incorporation, in the event of a closure or wind-up, that all the estate and interest of the association in any real property would be transferred to a benevolent society of Carinya's choice; and
2. Writes to Carinya to congratulate them on its substantial contribution to the provision of aged care services and facilities within the Shire.

MOVED: Cr McEwen

SECONDED: Cr Brown

THAT COUNCIL:

1. **OFFERS NO OBJECTION TO CARINYA LODGE INC. REGARDING THE CHANGE IN THE RULES OF INCORPORATION, IN THE EVENT OF A CLOSURE OR WIND-UP, THAT ALL THE ESTATE AND INTEREST OF THE ASSOCIATION IN ANY REAL PROPERTY WOULD BE TRANSFERRED TO A BENEVOLENT SOCIETY OF CARINYA'S CHOICE; AND**
2. **WRITES TO CARINYA TO CONGRATULATE THEM ON ITS SUBSTANTIAL CONTRIBUTION TO THE PROVISION OF AGED CARE SERVICES AND FACILITIES WITHIN THE SHIRE.**

CARRIED UNANIMOUSLY

[Link to next Agenda item.](#)

REPORT

Carinya Lodge Inc. (Carinya) was established in 1969 and became an incorporated association in 1991. Carinya operates a facility comprising of 43 residential aged care beds and 41 independent living units at 1 Carinya Crescent, Korumburra.

The former Shire of Korumburra supported and assisted in the development and operation of the facility. In 1995, South Gippsland Shire Council (Council), as successor to the former Shire of Korumburra, transferred the title of the facility to Carinya.

The facility has been, and remains, self-funding and self-sufficient and is managed by a volunteer committee of management comprising of well-qualified business leaders and community members.

Carinya is about to embark on an extensive redevelopment of the facility including a proposed \$7 million capital works program. As a consequence, Carinya is reviewing its governance framework and have recognised a need to change its Rules of Incorporation (Rules).

The current Rules includes a wind-up clause, which states that: *"All the estate and interest of the Association in any real property shall be transferred to the South Gippsland Shire Council or its successor"*.

Carinya's strategic plan articulates the establishment of a benevolent organisation, as determined by Carinya, will be used to distribute funds and assets throughout the community as appropriate. Therefore, Carinya will be amending the wind-up clause in their revised Rules to assign all assets to the benevolent society in the event of closure or wind-up of Carinya.

CONSULTATION

Consultation has occurred between the Property team and the Chief Executive Officer of Carinya.

RESOURCES

There are no resource implications to Council because Carinya is not a Council asset and Council has no financial commitment in respect of developing, maintaining, or managing the facility or service delivery.

RISKS

Under the current wind-up clause in the Rules, there could be an assumption that if Council takes over the building that Council will be responsible to deliver the aged care service. There is also the risk that the current wind-up

clause could be interpreted that Council is limiting the expansion of aged care services and facilities in the Shire.

This risk is mitigated by amending the wind-up clause to include all the estate and interest of Carinya in any real property would be transferred to a benevolent society of Carinya's choice, rather than the Council.

STAFF DISCLOSURE

Nil

ATTACHMENTS

Attachments are available on Council's website: www.southgippsland.vic.gov.au

1. Correspondence - Carinya Lodge Inc - March 2019 **[4.3.1]**

4.4. PETITION RESPONSE: RELOCATE ROAD CLOSURE TRAFFIC BOLLARDS ON FOREST WAY, MIRBOO NORTH

Infrastructure Directorate

EXECUTIVE SUMMARY

At the Ordinary Meeting of Council held 27 March 2019, a petition was received from residents of Mirboo North requesting Council consider relocating the road closure bollards on Forest Way, Mirboo North (the Proposal) due to health and safety concerns pertaining to dust and speeding vehicles. At the meeting, it was resolved:

"That Council:

- 1. Receive and note the petition; and*
- 2. The petition lay on the table until the next Ordinary Council Meeting to enable officers to prepare a report to Council."*

The petition contains approximately 24 signatures in total from directly affected residents objecting to the current location of the bollards.

It is proposed to survey the residents directly affected by the road closure bollards on Forest Way to officially seek their views on the proposal, and to place traffic counters at a suitable location to establish traffic volumes and speeds in Forest Way. The survey results and traffic data will then be presented to Council at the next appropriate Ordinary Meeting of Council to assist in establishing a formal response to the petition for Council's consideration.

RECOMMENDATION

That Council:

1. Surveys abutting residents along Forest Way, Mirboo North to seek their views on the preferred position of the road closure bollards;
2. Places traffic counters at the suggested location stated in the petition approximately 100 metres from Inglis Avenue to assess traffic volumes and vehicle speeds using Forest Way, Mirboo North; and
3. Receives a further report on the findings of the survey and traffic data at the next appropriate Ordinary Council Meeting to assist in establishing a formal response to the petition for Council's consideration.

Cr Cousin moved a Motion that was different from the recommendation.

MOVED: Cr Cousin

SECONDED: Cr Finlay

THAT COUNCIL:

- 1. SURVEYS ABUTTING RESIDENTS ALONG FOREST WAY, INGLIS AVENUE AND BAROMI ROAD, MIRBOO NORTH TO SEEK THEIR VIEWS ON THE PREFERRED POSITION OF THE ROAD CLOSURE BOLLARDS;**
- 2. PLACES TRAFFIC COUNTERS AT THE SUGGESTED LOCATION STATED IN THE PETITION APPROXIMATELY 100 METRES FROM INGLIS AVENUE TO ASSESS TRAFFIC VOLUMES AND VEHICLE SPEEDS USING FOREST WAY, MIRBOO NORTH; AND**
- 3. RECEIVES A FURTHER REPORT ON THE FINDINGS OF THE SURVEY AND TRAFFIC DATA AT THE NEXT APPROPRIATE ORDINARY COUNCIL MEETING TO ASSIST IN ESTABLISHING A FORMAL RESPONSE TO THE PETITION FOR COUNCIL'S CONSIDERATION.**

CARRIED UNANIMOUSLY

[Link to next Agenda item.](#)

REPORT

At the Ordinary Meeting of Council held 27 March 2019, a petition was received from residents of Mirboo North requesting Council relocates the road closure traffic bollards on Forest Way, Mirboo North (the Proposal) due to health and safety concerns pertaining to dust and speeding vehicles. A copy of the petition is available in **Confidential Attachment [15.1.1]**. The petition prayer is available in **Figure 1** below.

Figure 1 – Petition Prayer

The image shows a rectangular box with a blue border containing handwritten text in blue ink. The text reads: "To change position of bollards on Forest Way".

The current petition states that there are 24 properties in Forest Way directly affected by the road closure bollards, 25 residents are in favour of the proposal, and 8 residents are against the proposal to relocate the road closure bollards to the Inglis Avenue end of Forest Way as proposed in the petition.

The residents in favour of the proposal believe that:

- *"This allows entrance at each end of Forest Way and will still remain as a no through road"; and*
- *"By moving the bollards position to a more suitable place, will solve all the above concerns and be a much safer & healthier place to live."*

In 2016, Council received a similar request stating concerns regarding increased traffic, vehicle speeds, and dust in Forest Way. A survey of abutting residents was undertaken in August 2016 asking a [Yes / No] response to moving the road closure in Forest Way from its current location near Murray Street to a location approximately 100 metres from Inglis Avenue. The survey resulted in 67 per cent of respondents wanting to leave the closure in its existing location near the Murray Street end of Forest Way.

Although 67 per cent of respondents supported leaving the bollards in the current position, this data is over two years old. Traffic usage, road conditions, and occupiers of properties abutting the road closure may have changed, therefore current data is required for Council to consider this proposal.

It is proposed to undertake another survey with abutting residents and property owners to officially establish their position with respect to the location of the road closure bollards in Forest Way.

It is also proposed to undertake another traffic assessment to establish current traffic volumes and speeds in Forest Way at the location proposed by the petition, namely in Forest Way at the rear of 13 Baromi Road approximately 100 metres from Inglis Avenue.

CONSULTATION

It is proposed to survey abutting property occupiers/owners along Forest Way to seek their position regarding the location of the road closure bollards in Forest Way.

The proposed survey tick box options are:

- YES, please move the road closure bollards to a position in Forest Way at the rear of 13 Baromi Road approximately 100 metres from Inglis Avenue.
- NO, please leave the road closure bollards at their current location in Forest Way approximately 50 metres from Murray Street.

The results of the survey, including the outcome of the traffic assessment, will be presented to Council at an upcoming Council Meeting to assist in establishing a formal response to the petition.

RISKS

No risks are currently identified with respect to the proposed resident survey and traffic assessment to assist in establishing a formal response to the petition for Council's consideration at a future meeting of Council.

STAFF DISCLOSURE

Nil

CONFIDENTIAL ATTACHMENT

Confidential Attachment [15.1.1] – Petition – Relocate Road Closure Traffic Bollards on Forest Way, Mirboo North (20 March 2019) – has been provided in accordance with s.77(2)(c) of the Local Government Act 1989. The Chief Executive Officer designates this item as confidential information on the grounds that it relates to s.89(2)(h) - any other matter which the Council or Special Committee considers would prejudice the Council or any persons.

This item is deemed confidential to protect the privacy of the petition signatories.

REFERENCE DOCUMENTS

Legislative Provisions

Local Government Act 1989

4.5. CONTRACT EXTENSION SGC13/08 - PROVISION OF KERBSIDE GARBAGE AND RECYCLING COLLECTION SERVICES

Infrastructure Directorate

EXECUTIVE SUMMARY

Council provides kerbside garbage and recycling collection services to more than 12,000 properties and kerbside green waste collection services to more than 7,500 properties across the municipality.

Since February 2013, these services have been delivered under the contract *SGC13/08 Provision of Kerbside Garbage and Recycling Collection Services* by Cleanaway Pty Ltd. This contract has an initial contract term of seven years and includes three optional one-year extension periods.

The initial contract term expires on 31 January 2020. This report recommends that the first one year extension period be awarded to extend the term of the contract to 31 January 2021.

RECOMMENDATION

That Council approves the first of three optional one-year extensions of contract SGC13/08 Provision of Kerbside Garbage and Recycling Collection Services, extending the term of the contract to 31 January 2021.

MOVED: Cr McEwen

SECONDED: Cr Hirst

THAT COUNCIL APPROVES THE FIRST OF THREE OPTIONAL ONE-YEAR EXTENSIONS OF CONTRACT SGC13/08 PROVISION OF KERBSIDE GARBAGE AND RECYCLING COLLECTION SERVICES, EXTENDING THE TERM OF THE CONTRACT TO 31 JANUARY 2021.

CARRIED UNANIMOUSLY

[Link to next Agenda item.](#)

REPORT

Council provides kerbside garbage, recycling, and green waste collection services to commercial and residential properties across the municipality.

These services have been delivered under contract SGC13/08 by Cleanaway Pty Ltd since 1 February 2013. The initial contract term is for a seven-year period that expires on 31 January 2020. The terms of the contract allow three optional one year extension options by mutual agreement between Council and the contractor.

It is proposed that the contract be extended for the first of the three available extension options. Extending the contract will provide best value for Council.

Extending the contract provides Council with the opportunity to participate in the Gippswide Kerbside joint procurement project being managed by the Gippsland Waste and Resource Recovery Group (GWRRG). Through the implementation of an Expression of Interest process, the project aims to identify potential benefits that could be achieved by jointly procuring waste collection services in partnership with two or more of the other five Gippsland councils. If the project proceeds to tender, it is expected that savings in collection costs would be achieved and localised recycling processing facilities for both regular recycling and organic waste could be developed.

Contractor Performance

Since the commencement of the current contract, annual contract performance reviews have been undertaken to assess Cleanaway's compliance with the contract documents and review the standard of service they have provided. The results of each review to date have been positive, with no major contract non-compliance or performance issues identified. In general terms, Cleanaway has consistently provided very good to excellent kerbside collection services to the South Gippsland community throughout the contract term. Extending the contract will ensure that the current standard of service will continue to be provided.

CONSULTATION

A meeting was held with appropriate representatives from Cleanaway to discuss the option of extending the current contract. Following that meeting, written advice was received confirming that Cleanaway supported an extension to the contract in accordance with the current contract terms and conditions.

Extensive consultation has also been conducted with the other five Gippsland councils and with the GWRRG through the Gippswide Kerbside joint

procurement project to ensure alignment of contract expiry dates. Extending the contract will help to facilitate alignment of waste management contracts within Gippsland and enable participation in future joint procurement of services, if the project proceeds to tender.

RESOURCES

Costs for providing garbage, recycling, and organics kerbside collection services have been included in Council's long term budget.

The cost for providing the service in its current form for the 12 months of the proposed extension period is approximately \$2,471,690.

The cost of providing kerbside waste collection services is fully recovered through the Garbage Charge levied on properties receiving the service.

RISKS

If Council was to decide not to extend the current contract and instead tender for waste, recycling, and organics collections independently from the other Gippsland councils, South Gippsland Shire Council runs the risk of missing out on potential contract cost savings that could be realised through the Gippswide Kerbside joint procurement project.

STAFF DISCLOSURE

Nil

REFERENCE DOCUMENTS

Council Policy

Documents are available on Council's website: www.southgippsland.vic.gov.au

Procurement Policy (C32)

Waste Management Strategy

Legislative Provisions

Local Government Act 1989

5. OBJECTIVE 4 - ENHANCE ORGANISATIONAL DEVELOPMENT AND IMPLEMENT GOVERNANCE BEST PRACTICE

5.1. COUNCILLOR DECLARATION OF THE OATH OF OFFICE MINUTE

Corporate and Community Services Directorate

EXECUTIVE SUMMARY

The purpose of this report is to minute that:

- Councillor Frank Hirst elected to South Gippsland Shire Council at the Council election countback held on 1 April 2019 has taken the Affirmation of Office and read, signed and dated his declaration to abide by the Councillor Code of Conduct as required by s.63(1)(a) and (b) of the Local Government Act 1989 (the Act) at a ceremony conducted at 4.30pm on 10 April 2019 (refer **Attachment [5.1.1]**); and
- Councillor Steve Finlay, elected to South Gippsland Shire Council at the Council election countback held on 8 April 2019 has taken the Affirmation of Office and read, signed and dated their declaration to abide by the Councillor Code of Conduct, as required by s.63(1)(a) and (b) of the *Local Government Act 1989* (the Act) at a ceremony conducted at 4.30pm on 10 April 2019 (refer **Attachment [5.1.2]**);

The oath, affirmation and declarations have been made and signed in the presence of the Chief Executive Officer (CEO), Tim Tamlin, as their witness. A person elected to be a Councillor is not capable of acting as a Councillor until these two declarations are made and witnessed by the CEO.

The Ordinary Meeting of Council 24 April 2019 is to include the signed Oath, Affirmation and Declarations made by these Councillors for inclusion in the Minutes, as required by s.63(2)(c) of the Act.

RECOMMENDATION

That Council:

1. Notes Councillor Hirst elected at the election countback held on 1 April 2019 Council for South Gippsland Shire Council has taken, signed and dated the Oath of Office and the declaration to abide by the Councillor Code of Conduct, Attachment [5.1.2], at a ceremony held at 4.30pm on 10 April 2019.
2. Notes Councillor Steve Finlay elected at the election countback held on 8 April 2019 Council for South Gippsland Shire Council has taken, signed

and dated the Affirmation of Office and the declaration to abide by the Councillor Code of Conduct, Attachment [5.1.1], at a ceremony held at 4.30pm on 10 April 2019.

3. The signed and dated Oath, Affirmation and Councillor Code of Conduct declarations, will be recorded and included in the minutes of the 24 April 2019 Ordinary Meeting of Council.

MOVED: Cr Argento

SECONDED: Cr Skinner

THAT COUNCIL:

1. **NOTES COUNCILLOR HIRST ELECTED AT THE ELECTION COUNTBACK HELD ON 1 APRIL 2019 COUNCIL FOR SOUTH GIPPSLAND SHIRE COUNCIL HAS TAKEN, SIGNED AND DATED THE OATH OF OFFICE AND THE DECLARATION TO ABIDE BY THE COUNCILLOR CODE OF CONDUCT, ATTACHMENT [5.1.2], AT A CEREMONY HELD AT 4.30PM ON 10 APRIL 2019.**
2. **NOTES COUNCILLOR STEVE FINLAY ELECTED AT THE ELECTION COUNTBACK HELD ON 8 APRIL 2019 COUNCIL FOR SOUTH GIPPSLAND SHIRE COUNCIL HAS TAKEN, SIGNED AND DATED THE AFFIRMATION OF OFFICE AND THE DECLARATION TO ABIDE BY THE COUNCILLOR CODE OF CONDUCT, ATTACHMENT [5.1.1], AT A CEREMONY HELD AT 4.30PM ON 10 APRIL 2019.**
3. **THE SIGNED AND DATED OATH, AFFIRMATION AND COUNCILLOR CODE OF CONDUCT DECLARATIONS, WILL BE RECORDED AND INCLUDED IN THE MINUTES OF THE 24 APRIL 2019 ORDINARY MEETING OF COUNCIL.**

CARRIED UNANIMOUSLY

[Link to next Agenda item.](#)

REPORT

Background

Section 63(1)(a) of the Act stipulates that a person elected to be a Councillor is not capable of acting as a Councillor unless he or she has taken an oath of office and has declared they will abide by the Councillor Code of Conduct under s.63(1)(b). A Councillor has the option to make an affirmation in place of the oath should they wish.

Section 63(2) of the Act requires the oath (or affirmation) of office to be:

- a. Made before the Chief Executive Officer; and
- b. Dated and signed before the Chief Executive Officer; and
- c. Recorded in the minutes of the next Council meeting.

Section 63(3) of the Act requires the Councillors' declaration to abide by the Code to be:

- a. In writing; and
- b. Witnessed by the Chief Executive Officer.

Under s.64 the office of Councillor becomes vacant if a person elected to be a Councillor does not, within three months after the day on which the person was declared elected:

- a. Take the oath/affirmation of office; or
- b. Make the declaration specified in s.63(1)(b).

Proposal

That Council notes Councillor Frank Hirst elected in the election countback held on 1 April 2019 and Councillor Steve Finlay elected in the election countback held on 8 April 2019 for the South Gippsland Shire Council have taken the Affirmation of Office and declared in writing they will abide by the Councillor Code of Conduct as required by s.63 of the Act.

CONSULTATION

The Councillors were provided with information on the requirements to take up the office of Councillor at a session held prior to the declaration ceremony.

RESOURCES

The two election countbacks have been conducted by the Victorian Electoral Commission at an estimated cost of \$3,500 excluding GST, although some further adjustments may be required due to the additional two countbacks. This is an unbudgeted expenditure. This cost does not include officer administration time in preparing the election countback and induction program for the new Councillors.

RISKS

Council is required by law to ensure all newly elected Councillors take, sign and date the Oath or Affirmation of Office and read, sign and date the Councillor Code of Conduct before they can take up the office of Councillor.

The following actions have all contributed to ensuring the Councillors have been elected in accordance with the legislative requirements of s.63 of the Act:

1. The pre-declaration information sessions held with both Councillors on 10 April 2019;
2. The declaration ceremony for both Councillors held at 4.30pm on 10 April 2019;
3. The inclusion of the signed Councillor Oath and Affirmations – Minute Versions (**Attachment [5.1.1]** and **Attachment [5.1.2]**) are captured in the Ordinary Meeting of Council Minutes 24 April 2019.

STAFF DISCLOSURE

Nil

ATTACHMENTS

Attachments are available on Council's website: www.southgippsland.vic.gov.au

1. Councillor Oath and Affirmations - April 2019 - Councillor Hirst **[5.1.1]**
2. Councillor Oath and Affirmations - April 2019 - Councillor Finlay **[5.1.2]**

REFERENCE DOCUMENTS

Council Policy

Documents are available on Council's website: www.southgippsland.vic.gov.au

Councillor Code of Conduct Policy (C14)

Local Law No. 3 2010, Processes of Municipal Government (Meeting Procedures and Common Seal)

Legislative Provisions

Local Government Act 1989

6. OTHER COUNCIL REPORTS

6.1. AUDIT COMMITTEE MEETING - 12 MARCH 2019

Corporate and Community Services Directorate

EXECUTIVE SUMMARY

The minutes of the Audit Committee Meeting held on 12 March 2019 (**Attachment [6.1.1]** – Minutes – Audit Committee – 12 March 2019) are provided for Council's noting.

RECOMMENDATION

That Council notes the Audit Committee Minutes – 12 March 2019 (Attachment [6.1.1]).

MOVED: Cr Cousin

SECONDED: Cr Hill

THAT COUNCIL NOTES THE AUDIT COMMITTEE MINUTES – 12 MARCH 2019 (ATTACHMENT [6.1.1]).

CARRIED UNANIMOUSLY

[Link to next Agenda item.](#)

REPORT

The matters considered by the Audit Committee at the 12 March 2019 meeting (**Attachment [6.1.1]**) are provided to the Council for noting.

RISKS

A failure by Council to effectively monitor the activities and advice provided by the Audit Committee could lead to:

- Not effectively managing risks and compliance obligations under Council's Risk Management Framework:
- Increasing the likelihood of adverse impacts to Council's operations; and
- Not achieving some strategic objectives set within the Council Plan.

STAFF DISCLOSURE

Nil

ATTACHMENTS

Attachments are available on Council's website: www.southgippsland.vic.gov.au

1. MINUTES - Audit Committee - 12 March 2019 (Revised Version 3) **[6.1.1]**

REFERENCE DOCUMENTS

Council Policy

Documents are available on Council's website: www.southgippsland.vic.gov.au

Council's Audit Committee Charter

Legislative Provisions

Local Government Act 1989

7. NOTICES OF MOTION AND/OR RESCISSION

Nil

8. PROCEDURAL REPORTS

8.1. DOCUMENTS SEALED AWARDED OR EXTENDED BY CEO - 23 FEBRUARY 2019 TO 22 MARCH 2019

Corporate and Community Services Directorate

EXECUTIVE SUMMARY

This document reports to Council the following actions undertaken by the Chief Executive Officer (CEO) which occurred during the period from 23 February to 22 March 2019, as required by the Council's Instrument of Delegation to the Chief Executive Officer and Procurement Policy:

- Documents sealed;
- Contracts awarded after a public tender process within the CEO's delegation; and
- Contracts varied or extended by the CEO which exceeded the CEO's delegation.

RECOMMENDATION

That Council receives and notes this report.

MOVED: Cr Cousin

SECONDED: Cr Skinner

THAT THE RECOMMENDATIONS IN AGENDA ITEMS 8.1, 8.2, 8.3 AND 8.4 BE ADOPTED.

CARRIED UNANIMOUSLY

[Link to next Agenda Item.](#)

REPORT

Documents Sealed

Under the *Local Government Act 1989* (the Act), each Council is a body corporate and a legal entity in its own right. Each Council must have a common seal that is an official sanction of that Council.

Sealing a document makes it an official document of Council as a corporate body. Documents that require sealing may include agreements, contracts, leases or any other contractual or legally binding document that binds Council to another party.

Local law No. 3 2010, Part 9, Section 107 (f)(iv) – the Common Seal of Council, states that ‘If the Chief Executive uses the Common Seal in a manner prescribed by sub-clause (c) then he/she must advise Council of such use on a regular basis.’ Council’s Instrument of Delegation to the CEO also delegates to the CEO the power to ‘use the Common Seal of Council subject to that use being reported to Council’.

In accordance with the Local Law and Instrument of Delegation, the following are presented to Council as documents sealed during the period from 23 February to 22 March 2019:

1. Section 173 Agreement between South Gippsland Shire Council and the owner of 530 Old Chain Road, Kardella in relation to subdivision of the land into two lots – Seal applied 25 February 2019.

Contracts Awarded, Varied or Extended

1. Contracts awarded after a public tender process within the CEO’s delegation between 23 February and 22 March 2019 – Nil.
2. Contracts awarded after a public tender process under the Statutory threshold by staff other than the CEO between 23 February and 22 March 2019 – Nil.
3. Contract variations approved by the CEO between 23 February and 22 March 2019 – Nil.
4. Contract extensions approved by the CEO between 23 February and 22 March 2019 – Nil.

STAFF DISCLOSURE

Nil

REFERENCE DOCUMENTS

Council Policy

Documents are available on Council's website: www.southgippsland.vic.gov.au

Local Law No. 3 2010, Processes of Municipal Government (Meeting Procedures and Common Seal)

Procurement Policy (C32)

Instrument of Delegation to the Chief Executive Officer, 22 February 2017

Legislative Provisions

Local Government Act 1989, ss.5 and 186

8.2. ASSEMBLY OF COUNCILLORS - 22 FEBRUARY TO 21 MARCH 2019

Corporate and Community Services Directorate

EXECUTIVE SUMMARY

Council is committed to making relevant, timely and useful information available for members of the public with the aim of enhancing transparency. The matters listed in this report were presented or considered at either an Advisory Committee Meeting, Councillor Strategic Briefing Session or Public Presentation Session between 22 February and 21 March 2019.

The matters summarised in this report also satisfy Council's requirements under the *Local Government Act 1989*, s.80A(2):

The Chief Executive Officer must ensure that the written record of an assembly of Councillors is, as soon as practicable –

- a. reported at an ordinary meeting of the Council; and*
- b. incorporated in the minutes of that Council meeting.*

RECOMMENDATION

That Council receives and notes this report.

NOTE: The recommendation was CARRIED UNANIMOUSLY as part of a single motion, refer to page 41.

[Link to next Agenda item.](#)

REPORT

Meeting Title	Details
Tuesday 26 February 2019	
Access and Inclusion Advisory Committee	<p>Councillors Attending: Councillor Brunt</p> <p>Conflict of Interest: Nil disclosed</p> <p>Matters Considered:</p> <ul style="list-style-type: none"> • Pedestrian Lights for Leongatha • Membership by this Committee of Leongatha Business Association • Venus Bay Active Open Space Planning • SGSC Change Makers Community Leadership Project
Wednesday 27 February 2019	
Public Presentations	Nil presentations booked by the community.
Ordinary Council Agenda Topics Discussion – 27 February 2019	<p>Councillors Attending: Councillors Fawcett, Cousin and Hill.</p> <p>Conflict of Interest: Nil disclosed</p> <p>Matters Considered: Councillors considered and asked questions relating to Agenda items for the Ordinary Meeting of Council 27 February 2019.</p>
Councillor Strategic Discussion	<p>Councillors Attending: Councillors Fawcett, Brunt, Cousin, Rich, Hill, Argento, Brown, Skinner and McEwen.</p> <p>Conflict of Interest: Nil disclosed</p> <p>Matters Considered:</p> <ul style="list-style-type: none"> • Bald Hill Wind Farm Update • Long Jetty Opening • List of Council Decisions • Planning • Chair’s Behaviour Report • Mayor’s Message

Meeting Title	Details
Wednesday 27 February 2019	
Ordinary Council Agenda Topics Discussion – 27 February 2019	<p>Councillors Attending: Councillors Fawcett, Brunt, Cousin, Hill, Argento, Brown, Skinner and McEwen.</p> <p>Conflict of Interest: Cr Rich left the assembly with a direct conflict of interest in Agenda item 4.1 Walkerville Retarding Basin as he is Director of Ansevata Nominees who are a party to the matter. Tim Tamlin left the assembly with a conflict of interest in Confidential Agenda Item 14.3 Personnel Matter.</p> <p>Matters Considered: Councillors considered and asked questions relating to Agenda items for the Ordinary Meeting of Council 27 February 2019.</p>
Draft Annual Budget 2019/20 and Annual Initiatives Discussion	<p>Councillors Attending: Councillors Fawcett, Brunt, Cousin, Hill, Argento, Brown, Skinner, McEwen and Rich.</p> <p>Conflict of Interest: Nil disclosed</p> <p>Matters Considered: Councillors considered an overview of the draft 2019/20 Annual Budget, Annual Initiatives, Long Term Financial Plan and Capital Works.</p>
Executive Update	<p>Councillors Attending: Councillors Fawcett, Brunt, Cousin, Rich, Hill, Argento, Brown, Skinner and McEwen.</p> <p>Conflict of Interest: Nil disclosed</p> <p>Matters Considered:</p> <ul style="list-style-type: none"> • Statement of compliance • Quarry Meikle Road and Planning Permit

Meeting Title	Details
Wednesday 6 March 2019	
Rate Recovery process	<p>Councillors Attending: Councillors Fawcett, Brunt, Cousin, Hill, Argento and McEwen.</p> <p>Conflict of Interest: Cr Fawcett left the assembly with an indirect conflict of interest by close association in briefing item Rate Recovery process.</p> <p>Matters Considered: Councillors considered the Local Government Act 1989, s.181 provision to recover rates.</p>
New Policy: Port Welshpool Maritime Museum and Collection Policy	<p>Councillors Attending: Councillors Fawcett, Brunt, Cousin, Hill and Argento.</p> <p>Conflict of Interest: Nil disclosed.</p> <p>Matters Considered: Councillors considered the development of a new policy for the Port Welshpool Maritime Museum Collection.</p>
Executive Update	<p>Councillors Attending: Councillors Fawcett, Brunt, Cousin, Hill, Argento and McEwen.</p> <p>Conflict of Interest: Nil disclosed.</p> <p>Matters Considered:</p> <ul style="list-style-type: none"> • Home and Community Care update • Boat Ramp Fee project • Quarry Meikle Road update • Closure of Wilsons Promontory due to bush fire emergency

Meeting Title	Details
Wednesday 6 March 2019	
Policy Review: Councillor Support and Expenditure Policy	<p>Councillors Attending: Councillors Fawcett, Brunt, Cousin, Rich, Hill, Argento and McEwen.</p> <p>Conflict of Interest: Nil disclosed.</p> <p>Matters Considered: Councillors considered a review of Councillor Support and Expenditure Policy.</p>
Councillor Strategic Discussion	<p>Councillors Attending: Councillors Fawcett, Brunt, Cousin, Rich, Hill, Argento and McEwen.</p> <p>Conflict of Interest: Nil disclosed.</p> <p>Matters Considered:</p> <ul style="list-style-type: none"> • Project monitoring, included in the Council Plan • Long Jetty opening • Development sub committees • Major events policy
Revolving Sustainability Fund	<p>Councillors Attending: Councillors Fawcett, Cousin, Rich, Hill, Argento and McEwen.</p> <p>Conflict of Interest: Nil disclosed.</p> <p>Matters Considered: Councillors considered projects that have been funded through the Revolving Sustainability Fund (RSF) and the benefits that have been achieved, both in costs savings and emission reductions.</p>
Gravel Roads Review Project	<p>Councillors Attending: Councillors Brunt, Cousin, Rich, Hill, Argento and McEwen.</p> <p>Conflict of Interest: Nil disclosed.</p> <p>Matters Considered: Councillors considered an update on the progress of a service level review of gravel roads and roadside maintenance.</p>

Meeting Title	Details
Wednesday 6 March 2019	
Planning Briefing	<p>Councillors Attending: Councillors Fawcett, Brunt, Cousin, Rich, Argento and McEwen.</p> <p>Conflict of Interest: Cr Argento left the assembly with a conflict in two items, Item 1: Planning Item C116 Land Subject to inundation – Direct Interest as “land subject to overlay includes property owned by myself and my wife”. Item 2: Planning Item C120 Amendment Rezoned Land - Indirect Interest by close association.</p> <p>Matters Considered:</p> <ul style="list-style-type: none"> • Strategic Planning Project List • Planning Applications of Interest • Decisions for November, Dec 2018 and Jan 2019 • VCAT Decisions • Applications received 1 Nov 2018 to 31 Jan 2019 • Strategic Briefing Agenda - 6 March 2019 • Statutory Planning Fee Policy
Economic Development & Tourism Steering Briefing	<p>Councillors Attending: Councillors Fawcett, Brunt, Cousin, Rich, Hill, Argento and McEwen.</p> <p>Conflict of Interest: Nil disclosed.</p> <p>Matters Considered:</p> <ul style="list-style-type: none"> • Aligning Council priority projects with South East Australia Transport Strategy (SEATS) key freight infrastructure. • Statistical data from the South Gippsland economy and its performance as compared with other locations in Gippsland.

Meeting Title	Details
Wednesday 13 March 2019	
Councillor Strategic Discussion	<p>Councillors Attending: Councillors Fawcett, Cousin, Rich, Hill, McEwen and Skinner.</p> <p>Conflict of Interest: Nil disclosed.</p> <p>Matters Considered:</p> <ul style="list-style-type: none"> • Project Monitoring • Australian Coastal Conference • Bald Hills Wind Farm Agenda Item
Gippsland Shared Services update	<p>Councillors Attending: Councillors Cousin, Rich, Hill, Skinner and McEwen.</p> <p>Conflict of Interest: Nil disclosed.</p> <p>Matters Considered: Councillors considered an update of the Gippsland Shared Services project.</p>
Gippsland Kerbside Collaborative Procurement Project	<p>Councillors Attending: Councillors Skinner, Hill and McEwen.</p> <p>Conflict of Interest: Nil disclosed.</p> <p>Matters Considered: Councillors considered a briefing on Gippswide Kerbside Collaborative Procurement Project.</p>

Meeting Title	Details
Wednesday 20 March 2019	
Recreational Vehicle and Camping Position Paper	<p>Councillors Attending: Councillors Fawcett, Skinner, Argento, Hill, McEwen and Cousin.</p> <p>Conflict of Interest: Nil disclosed.</p> <p>Matters Considered: Councillors considered a briefing on Recreational Vehicle (RV) and Camping Position Paper.</p>
Korumburra Railway Station / Community Hub	<p>Councillors Attending: Councillors Cousin, Rich, Hill, Skinner and McEwen.</p> <p>Conflict of Interest: Nil disclosed.</p> <p>Matters Considered: Councillors considered a briefing and external presentation by Francis-Jones Morehen Thorpe Consultants for the Korumburra Railway Station & Community Hub.</p>
Korumburra Railway Station Site Master Plan	<p>Councillors Attending: Councillors Fawcett, Brunt, Skinner, Argento, Hill, McEwen, Rich and Cousin.</p> <p>Conflict of Interest: Nil disclosed.</p> <p>Matters Considered: Councillors considered a briefing on the Korumburra Railway Station Master Plan.</p>

Meeting Title	Details
Wednesday 20 March 2019	
Public Presentation Sessions Open Session	Councillors Attending: Councillors Fawcett, Brunt, Skinner, Argento, Hill, McEwen, Rich and Cousin. Conflict of Interest: Nil disclosed.
<p>A presentation was made to Council by the following community members:</p> <p>Jan Martin, representing Bald Hills Wind Farm Community Fund Committee regarding grant funding for 2020.</p> <p>Laurie Martin, representing the Great Southern Rail Trail Committee of Management regarding recently adopted Business Plan.</p> <p>David Amor, regarding road conditions.</p> <p>Lindsay Love, regarding growth for reduced rates.</p>	
Municipal Early Years Plan update Open Session	Councillors Attending: Councillors Fawcett, Skinner, Argento, Hill, McEwen, Rich and Cousin. Conflict of Interest: Nil disclosed. Matters Considered: Councillors considered an update of the 2016-2021 Municipal Early Years Plan 2018/19.
Councillor Strategic Discussion	Councillors Attending: Councillors Skinner, Argento, Hill, McEwen, Rich and Cousin. Conflict of Interest: Tim Tamlin left the assembly with a direct conflict of interest when the final item, 'Communication to Staff re: CEO recruitment process' was discussed. Matters Considered: <ul style="list-style-type: none"> • Australian Coastal Conference • Transparency • Discussion on Equitable Capital Works Expenditure • Communication to Staff re: CEO recruitment process.

Meeting Title	Details
Wednesday 20 March 2019	
Executive Update	<p>Councillors Attending: Councillors Skinner, Argento, Hill, McEwen, Rich and Cousin.</p> <p>Conflict of Interest: Nil disclosed.</p> <p>Matters Considered:</p> <ul style="list-style-type: none"> • ViPlus, Toora • Mirboo North Pool
Ordinary Council Agenda Topics Discussion – 27 March 2019	<p>Councillors Attending: Councillors Cousin, Rich, Hill, Argento, Skinner and McEwen.</p> <p>Conflict of Interest: Nil disclosed.</p> <p>Matters Considered: Councillors considered and asked questions relating to Agenda items for the Ordinary Meeting of Council 27 March 2019.</p>
Thursday 21 March 2019	
Active Retirees Advisory Committee	<p>Councillors Attending: Councillors Rich and McEwen.</p> <p>Conflict of Interest: Nil disclosed.</p> <p>Matters Considered:</p> <ul style="list-style-type: none"> • Recruitment of new members for the Committee • Advocacy for increased public transport across South Gippsland • Advocacy for improvements to emergency medical services in South Gippsland • The Committee supports wider range of free Wi-Fi across South Gippsland • The Committee is seeking their role in monitoring the Age Friendly South Gippsland implementation plan • Potential to improve mobile phone coverage in South Gippsland • Lack of ambulance services across the Shire • Concern re bulk billing practices at Leongatha clinics • Korumburra Hub • Council Hardship Policy re paying of rates/fees

REFERENCE DOCUMENTS

Council Policy

Public Participation in Meetings with Council Policy (C65)

Legislative Provisions

Local Government Act 1989

8.3. INSTRUMENTS OF DELEGATION, AUTHORISATION AND APPOINTMENT - COUNCIL TO MEMBERS OF STAFF

Corporate and Community Services Directorate

EXECUTIVE SUMMARY

This report recommends Council adopt an updated Instrument of Delegation Council to Staff to reflect minor improvements recommended by Council's legal advisors.

RECOMMENDATION

That Council resolves that, in the exercise of the powers conferred by s.98(1) of the Local Government Act 1989 and the other legislation referred to in the attached Instrument of Delegation (Instrument of Delegation) Council to Members of Staff (**Attachment [8.3.1]** - Instrument of Delegation Council to Members of Staff – 24 April 2019):

1. There be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in (Attachment [8.3.1] - Instrument of Delegation Council to Members of Staff – 24 April 2019) the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument;
2. The Instrument of Delegation to staff comes into force immediately the common seal of Council is affixed to the instrument;
3. On the coming into force of the Instrument of Delegation all previous delegations from Council to members of Council staff (other than the Instrument of Delegation to the Chief Executive Officer) are revoked; and
4. The duties and functions set out in the Instrument of Delegation must be performed, and the powers set out in the Instrument of Delegation must be executed, in accordance with any guidelines or policies that Council may adopt.

NOTE: The recommendation was CARRIED UNANIMOUSLY as part of a single motion, refer to page 41.

REPORT

The allocation of delegations to the Chief Executive Officer or other employees contributes to the effective functioning of Council. It is important to update delegations to reflect changes in personnel / legislation and improvements recommended by legal advisors to ensure decisions made are valid.

The updated Instrument of Delegation (**Attachment [8.3.1]** - Instrument of Delegation Council to Members of Staff – 24 April 2019) consists of minor edits and deletions recommended by Maddocks as outlined in the attached summary (**Attachment [8.3.2]** - Maddocks Recommended Changed Provisions).

RISKS

Failure to update an Instrument of Delegation could result in the decisions of delegated Officers being declared invalid or unenforceable.

STAFF DISCLOSURE

Nil

ATTACHMENTS

Attachments are available on Council's website: www.southgippsland.vic.gov.au

1. S6 Instrument of Delegation- Members of Staff - 24 April 2019 **[8.3.1]**
2. S6 Instrument of Delegation - Members of Staff MADDOCKS Recommended Changed Provisions **[8.3.2]**

REFERENCE DOCUMENTS

Legislative Provisions

Local Government Act 1989

8.4. INSTRUMENT OF AUTHORISATION AND APPOINTMENT TO STAFF UNDER THE PLANNING AND ENVIRONMENT ACT 1987

Corporate and Community Services Directorate

EXECUTIVE SUMMARY

This report recommends that Council revokes the Instrument of Appointment and Authorisation of an employee who has resigned.

RECOMMENDATION

That Council revokes the Instrument of Appointment and Authorisation under the Planning and Environment Act 1987 of Fraser Orr.

NOTE: The recommendation was CARRIED UNANIMOUSLY as part of a single motion, refer to page 41.

[Link to Agenda item.](#)

REPORT

The allocation of delegations, authorisations and appointments to the Chief Executive Officer and other employees contributes to the effective functioning of Council. Therefore it is important to ensure that formal Instruments of Appointment and Authorisation are updated to reflect changes in personnel. The employee identified in this report has resigned from the position of Coordinator and Coordinator Compliance and Municipal Building Surveyor.

RISKS

Failure to revoke an Instrument of Appointment and Authorisation could result in Council being held liable for the actions of former employees.

STAFF DISCLOSURE

Nil

REFERENCE DOCUMENTS

Legislative Provisions

Local Government Act 1989

Planning and Environment Act 1987

9. COUNCILLOR REPORTS

9.1. REQUESTS FOR LEAVE OF ABSENCE

Nil

9.2. COUNCILLOR UPDATES

Cr Argento

Cr Argento addressed Council by reporting on the passing of former Mayor of previous South Gippsland Shire Council, Lou Vale and noted his many contributions to the community. Cr Argento expressed condolences to the Vale family.

Cr Skinner

Cr Skinner addressed Council by reporting on attendance at:

- Leongatha Arts and Crafts Society meeting
- Foster Stockyard Gallery meeting (Section 86)
- Walkerville Residents and Ratepayers Association Annual General Meeting (AGM)
- Venus Bay Surf Life Saving Club presentation evening
- West Gippsland Regional Library Board meeting

Cr Cousin

Cr Cousin addressed Council by reporting on:

- Chairing the Mossvale Park Advisory Committee, AGM.
- The process of addressing the Municipal Monitor report.

Cr Hirst

Cr Hirst addressed Council by reporting on:

- His decision to recently join Council.
- Attendance at Poowong Community Consultation meeting about the future of the reservoirs.
- Judging children's coloring competition for Easter.

Cr Finlay

Cr Finlay addressed Council by reporting on:

- Recent election to Council.
- Attendance at ANZAC dawn service tomorrow.

9.3. COMMITTEE UPDATES

Nil

[Link to next Agenda item.](#)

10. URGENT OR OTHER BUSINESS

There are two basic parts to this section of the Agenda:

1. Urgent Business

Normally no motion should be debated by Councillors unless the matter is already included as an item on the Agenda. However, in some circumstances it is possible to raise urgent motions.

The Meeting Procedure Local Law No. 3 (Clause 46) allows for where a situation has not been provided for under the Local Law, the Council may determine the matter by resolution. Established practice has provided for urgent motions to be raised at Council provided the matter cannot be dealt with at the next Ordinary Meeting of Council or by Officers under delegation.

It is necessary for the Councillor wishing to raise a matter of urgent business to raise a motion similar to the following:

'That consideration of (the issue) be dealt with as a matter of urgent business and Councillor....be allowed a 'short period' to indicate the reason(s) why the matter should be considered as a matter of urgent business.' If the Chairperson accepts the motion as meeting the urgent business criteria, normal meeting procedures in Local Law No. 3 will apply.

If the motion to accept the item as a matter of urgent business is passed by Council, the motion relating to the specific issue can then be put and debated in the normal way.

2. Other Business

This provides an opportunity for Councillors to raise items of general interest to the Council and the community. It may relate to an up and coming event or the outcomes of a recent meeting with a Minister etc.

MOVED: Cr Argento

SECONDED: Cr McEwen

THAT AGENDA ITEM 10.1 – DECISION TO SEEK APPLICANTS FOR AN ACTING CHIEF EXECUTIVE OFFICER (CEO) POSITION BE DEALT WITH AS A MATTER OF URGENT BUSINESS AS COUNCIL MAY NOT BE IN A POSITION TO APPROVE THE CEO'S POSITION BEFORE THE EXPIRY OF THE CURRENT CONTRACT.

CARRIED

FOR: Councillors Finlay, Hirst, Skinner, Cousin, Argento, McEwen and Hill.

AGAINST: Councillor Brown

10.1. DECISION TO SEEK APPLICANTS FOR AN ACTING CHIEF EXECUTIVE OFFICER (CEO) POSITION

PURPOSE

Council needs to appoint an acting CEO for the period June 25th 2019 for a 12 month period.

EXECUTIVE SUMMARY

That, having regard to:

1. The desirability of providing a degree of continuity and certainty to South Gippsland Shire Council employees about the leadership of the Council organisation after 24th June 2019,
2. The importance of protecting employee morale during the uncertainty surrounding the elected Council's immediate future,
3. The possibility of diminished market interest in the permanent CEO role at South Gippsland Shire Council in the current environment and the consequent reduced likelihood of interest in the position from highly credentialed applicants, and,
4. The clear desirability of any decision about the appointment of a permanent Chief Executive Officer to South Gippsland Shire Council being made by a democratically elected Council,

The South Gippsland Shire Council's CEO Employment and Remuneration Committee proposes that:

- An Acting CEO be appointed by the Council for a period of one year commencing on 25th June 2019
- Appropriately experienced and qualified South Gippsland Shire Council employees, as determined by the Committee, be invited to express an interest in the Acting CEO role, and
- A preferred appointment be recommended by the Committee to a Special Council Meeting, to be called by the Mayor, for Wednesday 8th May 2019.

RECOMMENDATION

That Council:

1. Appoint an Acting CEO for a period of one year commencing on 25th June 2019, and
2. Invite expressions of interest in the Acting CEO role from appropriately experienced and qualified South Gippsland Shire Council employees, as determined by the committee, and
3. The Committee recommend a preferred appointment to a Special Meeting of Council to be called by the Mayor for Wednesday 8th May 2019.

MOVED: Cr Argento

SECONDED: Cr McEwen

THAT COUNCIL:

1. **APPOINT AN ACTING CHIEF EXECUTIVE OFFICER (CEO) FOR A PERIOD OF ONE YEAR COMMENCING ON 25TH JUNE 2019, AND**
2. **INVITE EXPRESSIONS OF INTEREST IN THE ACTING CEO ROLE FROM APPROPRIATELY EXPERIENCED AND QUALIFIED SOUTH GIPPSLAND SHIRE COUNCIL EMPLOYEES, AS DETERMINED BY THE CEO EMPLOYMENT AND REMUNERATION COMMITTEE (the Committee), AND**
3. **THE COMMITTEE RECOMMEND A PREFERRED APPOINTMENT TO A SPECIAL MEETING OF COUNCIL TO BE CALLED BY THE MAYOR FOR WEDNESDAY 8TH MAY 2019.**

CARRIED

FOR: Councillors McEwen, Cousin, Argento, Hill, Skinner, Finlay and Hirst.

AGAINST: Councillor Brown

11. PUBLIC QUESTIONS

11.1. PETITIONS AND JOINT LETTERS

Petitions and Joint letters are written requests that have been signed by a number of community members. According to the Local Law No.3 2010 petitions may be presented to Council by a Councillor. A petition presented to the Council must lay on the table until the next Ordinary Meeting of Council and no motion, other than to receive the petition, may be accepted by the Chair unless the Council agrees to deal with it earlier.

The lead petitioner or person organising the petition may in presenting the petition to a Councillor at a Public Presentation session speak briefly to its contents. At the following Ordinary Meeting of Council, a Councillor would accept the petition and introduce it to Council for formal noting and actioning by Council.

The Councillor presenting the petition is responsible for ensuring that they are familiar with the contents and purpose of the petition and that it is not derogatory or defamatory.

Councillor McEwen presented a petition to Council (the prayer outlined below) on behalf of lead petitioner Lindsay Love, representing South Gippsland Action Group. The petition contains approximately 67 signatures, from residents mostly within the Shire.

Petition – Growth for Reduced Rates

Prayer:

We the undersigned seek council to undertake the following:-

To educate themselves on the issues including opportunities and constraints and any administration blockages (difficulties?) to adopting a quantum step in the growth of the shire in order to achieve a greater number of ratepayers in an accelerated time-frame.

Council to conduct meetings and forums as needed to acquire a full understanding of the Shire Growth change and formulate suitable time lines and to pass resolutions and give clear and un-ambiguous directions to the administration to affect the desired change in the growth trajectory of the Shire”.

The Mayor paused the Agenda item as Cr Finlay was not aware of this pending item, he left the Council Meeting at 2.58pm with an indirect conflict of interest by conflict of duty as he is the President of the South Gippsland Action Group who submitted the petition.

RECOMMENDATION

That Council:

1. Receive and note the petition; and
2. The petition lay on the table until the next Ordinary Council Meeting to enable officers to prepare a report to Council.

MOVED: Cr McEwen

SECONDED: Cr Argento

THAT COUNCIL:

1. **RECEIVE AND NOTE THE PETITION; AND**
2. **THE PETITION LAY ON THE TABLE UNTIL THE NEXT ORDINARY COUNCIL MEETING TO ENABLE OFFICERS TO PREPARE A REPORT TO COUNCIL.**

CARRIED UNANIMOUSLY

11.2. ANSWERS TO PREVIOUS QUESTIONS ON NOTICE

All community member questions for Ordinary Council Meetings are to be written and submitted to the Council Business Team by close of business on the Friday preceding the meeting to allow time for a response to be prepared, where possible, for the Council Meeting.

Questions can also be submitted in hard copy format into the 'Public Question Box' within the first 15 minutes of an Ordinary Council Meeting.

Public Question Time in Ordinary Council Meetings is to be used for matters that are generally political in nature or that cannot be addressed by other means. This session should not be used for questions on routine works or operational matters, planning (application) matters or for repeating previously answered questions.

Source: Public Participation in Meetings with Council Policy (C65) – adopted 28 November 2018.

Gus Blaauw submitted questions and read them aloud at Ordinary Council Meeting 27 March 2019. The questions were taken on notice and responses are now provided.

Question 1

Does Council agree that openness and transparency is far better used to serve all ratepayers and residents than to serve just one Councillor?

Response

Where appropriate openness and transparency is preferred. It should however be noted that there are limitations on disclosing information for various legislative and privacy reasons.

Question 2

Does Council agree that time and effort wasted on self-serving grandstanding, I see in this motion 724, is better directed to owning and correcting the real problems such as the disastrous 2019/20 budget?

Response

Mr Blaauw is invited to raise specific questions regarding the Proposed 2019/20 Budget to the Director of Corporate and Community Services by the due date for submissions.

Question 3

Does Council agree that this review pales into insignificance when compared to important matters such as the wiping out of the \$28 million reserves, new borrowings of \$3.6 million and an underlying Operating Loss of \$4.2 million, all part of a serious decline?

Response

Council is unable to confirm the dollar amounts quoted in the question. Mr Blaauw is invited to raise specific questions regarding the Proposed 2019/20 Budget to the Director of Corporate and Community Services by the due date for submissions. The proposed budget provides the correct figure held in reserves and indicates an operating surplus not a loss.

Charles Price submitted questions and read them aloud at Ordinary Council Meeting 27 March 2019. The questions were taken on notice and responses are now provided.

Question 1

Can the Council make the Hardship policy and wavering in relation to rates available to the rate payers, by placing a notice in the local papers and the local Council flyer?

Response

Council does not intend to incur the unnecessary expense of public notices because the policy is easily found on Council's website. Our rates staff always inform ratepayers of the policy whenever ratepayers mention financial hardship.

Question 2

Make this Hardship policy available to the public?

Response

Council Rates and Charges Hardship Policy (C53) is easily found on Council's website. Our rates staff always inform ratepayers of the policy whenever ratepayers mention financial hardship.

[Weblink to Council's *Rates and Charges Hardship Policy (C53)*
http://www.southgippsland.vic.gov.au/downloads/file/165/c53_-_rates_and_charges_hardship_policy_-_adopted_may_2013pdf]

11.3. SUBMITTED PUBLIC QUESTIONS

All community member questions for Ordinary Council Meetings are to be written and submitted to the Council Business Team by close of business on the Friday preceding the meeting to allow time for a response to be prepared, where possible, for the Council Meeting.

Questions can also be submitted in hard copy format into the 'Public Question Box' within the first 15 minutes of an Ordinary Council Meeting.

Public Question Time in Ordinary Council Meetings is to be used for matters that are generally political in nature or that cannot be addressed by other means. This session should not be used for questions on routine works or operational matters, planning (application) matters or for repeating previously answered questions.

Source: Public Participation in Meetings with Council Policy (C65) – adopted 28 November 2018.

Marie Gerrard-Staton submitted a question which was read aloud at the Public Presentation session earlier at 10am. A response to the question is provided.

Question

At our community rates meeting 1/10/18 Cr Hill publicly assured the audience that there were sufficient funds in council for a rates decrease to be honored by SGSC. By March 2019 this information was overturned by a proposed rating strategy that increases SGSC rates making them disproportionately high to those of our neighbours. Why did this change?

Response

The Mayor, Cr Hill responded to this question in the Council Meeting.

Council has established Budget Committees where proposals are discussed and recommended to the draft budget which was approved by this Council, this is the position of Council. I expressed a view on the day that was not reported correctly, 'a rate reduction of 10% was achievable over time I probably said over 10 years and that certain things would need to happen. ... I never suggested that a 10% rate reduction could be achieved overnight'.

The 2.5% rate increase is Consumer Price Index (CPI). All Councils have CPI increases as a matter of fact, whether we can reduce the overall rate burden or not, the 2.5% CPI is applied this year. It is not a turnaround as suggested.

The current Council Plan 2017 – 21, does include [Objective] 4.3 statement about the 3% reduction and at the moment this is in Council's Plan. The proposed

Council Plan, out for consultation does not have that in there that is the recommendation of the Council at the current moment. It is open for the community members to submit submissions (section 223 process) to the Budget, Council Plan and Rating Strategy. When responses are received, they will then be heard and possible changes made to those documents by Council.

It will be voted on in June this year after the consultation process.

[Weblink to Council's documentations on public exhibition:

http://www.southgippsland.vic.gov.au/news/article/128/key_documents_ready_for_review]

12. CLOSED SESSION

Consideration of confidential matters under the Local Government Act 1989, section 89(2).

According to section 89 of the Local Government Act 1989, Council may consider items in closed session. There must be a resolution to move 'In-Committee' stating the reasons why the matter(s) need to be considered in this way. The reasons provided for within the Act are matters concerning personnel, personal hardship, industrial issues, contracts, proposed developments, legal advice or any other matter that Council considers would be prejudicial, to it or any other person.

Once 'In-Committee' discussions and debate have concluded, a further resolution to resume open Council is required.

RECOMMENDATION

That Council close the meeting to the public to allow for consideration of:

1. Closed Item 14.1, 14.2 and 14.5 Prejudicial Matter pursuant to Local Government Act 1989, section 89(2)(h) a matter which the Council or Special Committee considers would prejudice the Council or any person.
2. Closed ITEM 14.3 CONTRACTUAL MATTER pursuant to Local Government Act 1989, section 89(2)(d) a contractual matter; and
3. Closed ITEM 14.4 Personnel Matter pursuant to Local Government Act 1989, section 89(2)(a) a personnel matter.

MOVED: Cr Skinner

SECONDED: Cr Argento

THAT COUNCIL CLOSE THE MEETING TO THE PUBLIC TO ALLOW FOR CONSIDERATION OF:

1. **CLOSED ITEM 14.1, 14.2 AND 14.5 PREJUDICIAL MATTER PURSUANT TO LOCAL GOVERNMENT ACT 1989, SECTION 89(2)(H) A MATTER WHICH THE COUNCIL OR SPECIAL COMMITTEE CONSIDERS WOULD PREJUDICE THE COUNCIL OR ANY PERSON.**
2. **CLOSED ITEM 14.3 CONTRACTUAL MATTER PURSUANT TO LOCAL GOVERNMENT ACT 1989, SECTION 89(2)(D) A CONTRACTUAL MATTER; AND**
3. **CLOSED ITEM 14.4 PERSONNEL MATTER PURSUANT TO LOCAL GOVERNMENT ACT 1989, SECTION 89(2)(A) A PERSONNEL MATTER.**

CARRIED UNANIMOUSLY

The Mayor adjourned the Council Meeting for 8 minutes in order to clear the room for the Confidential Session of the Ordinary Meeting.

14.3. CONTRACTUAL MATTER - HOME AND COMMUNITY CARE (AGED AND DISABILITY) SERVICES - SERVICE LEVELS UNTIL 30 JUNE 2020

THAT COUNCIL:

- 1. ENDORSES THE ALLOCATION OF FUNDING TO MAINTAIN EXISTING SERVICE LEVELS OF 3,100 HOURS PER ANNUM WITH A NET ALLOCATION OF \$92,690 IN THE 2019/20 ANNUAL BUDGET UNTIL 30 JUNE 2020;**
- 2. AUTHORISES THE CHIEF EXECUTIVE OFFICER TO ENTER INTO A SERVICE AGREEMENT WITH MECWACARE TO PROVIDE AN ADDITIONAL 3,100 HOURS OF HOME AND COMMUNITY CARE ON BEHALF OF COUNCIL UNTIL 30 JUNE 2020; AND**
- 3. AUTHORISES THE CHIEF EXECUTIVE OFFICER TO MAKE PUBLIC THE DECISIONS IN THE OPEN MINUTES OF THIS MEETING.**

14.4. PERSONNEL MATTER - COUNCILLOR AND STAFF OCCUPATIONAL HEALTH AND SAFETY INVESTIGATION

THAT COUNCIL:

- 1. DETERMINES TO WITHDRAW THE PERSONAL INTERACTION CONTROL MEASURES AS RESOLVED BY COUNCIL AT ITS COUNCIL MEETING 26 SEPTEMBER 2018, WHICH WAS DEEMED PUBLIC AS A RESOLUTION OF COUNCIL AT COUNCIL MEETING 24 OCTOBER 2018; AND**
- 2. AUTHORISES THE CHIEF EXECUTIVE OFFICER TO MAKE THIS COUNCIL RESOLUTION PUBLIC IN THE OPEN COUNCIL MINUTES OF THIS MEETING.**

14.5. LEGAL ADVICE - BALD HILLS WIND FARM - SUFFICIENCY OF EVIDENCE

THAT COUNCIL NOTES:

- A. THAT THE FOLLOWING PERSONS HAVE NOTIFIED COUNCIL OF THE EXISTENCE OF A NUISANCE CONTRARY TO THE PROVISIONS OF THE PUBLIC HEALTH AND WELLBEING ACT 2008 (THE ACT):**
 - 1. [REDACTED], TARWIN LOWER;**

3. [REDACTED], BUFFALO;
4. [REDACTED], TARWIN
LOWER; AND
5. [REDACTED], TARWIN LOWER.

(COLLECTIVELY THE COMPLAINANTS), AND [REDACTED]
[REDACTED], TARWIN LOWER.

- B. THAT AN INVESTIGATION INTO THE ALLEGED NUISANCE WAS CARRIED OUT ON COUNCIL'S BEHALF BY JAMES C. SMITH & ASSOCIATES, THE RESULTS OF THAT INVESTIGATION BEING PRESENTED IN A REPORT COMPILED BY JAMES C. SMITH & ASSOCIATES (THE SMITH REPORT).
- C. THAT WITH THE EXCEPTION OF [REDACTED], NONE OF THE COMPLAINANTS WAS ABLE OR WILLING TO PROVIDE EVIDENCE OF THE ALLEGED NUISANCE TO JAMES C. SMITH & ASSOCIATES.
- D. THE EVIDENCE PROVIDED TO JAMES C. SMITH & ASSOCIATES BY [REDACTED] WAS INCONCLUSIVE.
- E. EVIDENCE OF A NUISANCE AFFECTING [REDACTED] CAN BE DISCERNED FROM THE SMITH REPORT; AND
- F. THE RESOLUTION MADE BY COUNCIL AT ITS ORDINARY MEETING ON 27 MARCH 2019 CONCERNING THE BALD HILLS WIND FARM.

RESOLVE THAT:

1. COUNCIL IS NOT SATISFIED THAT THERE EXISTS SUFFICIENT EVIDENCE OF A NUISANCE OF THE KIND ALLEGED BY THE COMPLAINANTS.
2. COUNCIL WRITE TO THE COMPLAINANTS, INFORMING THEM OF THIS DECISION AND THE REASON FOR IT (BEING INSUFFICIENT EVIDENCE THAT A NUISANCE EXISTS).
3. COUNCIL IS SATISFIED THAT THERE EXISTS A NUISANCE OF THE KIND ALLEGED BY [REDACTED], FOR THE FOLLOWING REASONS:
 - a. THE CREDIBLE AND CONSISTENT CHARACTER OF THE NOISE LOGS PROVIDED BY [REDACTED] AND/OR THE COMPLAINTS MADE BY [REDACTED] ABOUT SLEEP DISTURBANCE AND THE INJURY TO [REDACTED] PERSONAL COMFORT;
 - b. THE CONCLUSIONS OF THE SMITH REPORT; AND

- c. THE WEIGHT OF THE OTHER EVIDENCE PRESENTED TO COUNCILLORS SUGGESTS THE EXISTENCE OF A NUISANCE IN RESPECT OF [REDACTED]

BUT NOTES THAT THE NUISANCE EXISTS ONLY INTERMITTENTLY.

4. COUNCIL IS, FOR THE PURPOSES OF SECTION 62(3)(B) OF THE ACT, OF THE OPINION THAT THE MATTER CONCERNING [REDACTED] IS BETTER SETTLED PRIVATELY BECAUSE THE NUISANCE IS MORE LIKELY TO BE ABATED IF:

- a. THE PARTIES ARE ABLE TO NEGOTIATE A MUTUALLY SATISFACTORY RESOLUTION; OR
- b. [REDACTED] INITIATES PROCEEDINGS OF THE KIND DESCRIBED IN PARAGRAPH 5 OF THIS RESOLUTION

AND BECAUSE OF THE DIFFICULTIES ASSOCIATED WITH EACH ACTION SPECIFIED IN SECTION 62(4) OF THE ACT SET OUT IN THE OPINION OF PAUL CONNOR QC (A COPY OF WHICH HAS, IN REDACTED FORM, BEEN MADE PUBLICLY AVAILABLE BY COUNCIL).

5. COUNCIL WRITE TO [REDACTED] ADVISING OF THE FOLLOWING METHODS FOR SETTLING THE MATTER PRIVATELY:

- a. THE JOINT APPOINTMENT OF A MEDIATOR TO ASSIST THE PARTIES TO RESOLVE THE DISPUTE;
- b. THE COMMENCEMENT OF LEGAL PROCEEDINGS IN PRIVATE NUISANCE;
- c. THE COMMENCEMENT OF PROCEEDINGS PURSUANT TO SECTION 114 OF THE PLANNING AND ENVIRONMENT ACT 1987, CLAIMING THAT THE BALD HILLS WIND FARM IS NOT COMPLYING WITH THE ACOUSTIC CONDITIONS CONTAINED IN THE RELEVANT PLANNING PERMIT; AND/OR
- d. THE COMMENCEMENT OF PROCEEDINGS PURSUANT TO SECTION 149B OF THE PLANNING AND ENVIRONMENT ACT 1987 SEEKING A DECLARATION THAT THAT THE BALD HILLS WIND FARM IS NOT COMPLYING WITH THE ACOUSTIC CONDITIONS CONTAINED IN THE RELEVANT PLANNING PERMIT.

6. AUTHORISE THE CHIEF EXECUTIVE OFFICER TO:

- a. PROVIDE A COPY OF THE RESOLUTION TO ALLENS LINKLATERS (SOLICITORS FOR THE OPERATOR OF THE BALD HILLS WIND FARM);**
- b. PROVIDE A COPY OF THE RESOLUTION TO [REDACTED], SUBJECT TO THE REDACTION OF THE NAMES OF ALL INDIVIDUALS WHO, FOR REASONS OF PRIVACY, SHOULD, IN THE OPINION OF THE CHIEF EXECUTIVE OFFICER, HAVE THEIR NAMES REDACTED; AND**
- c. MAKE PUBLIC THIS RESOLUTION IN THE OPEN COUNCIL MINUTE OF THIS MEETING, SUBJECT TO THE REDACTION OF THE NAMES OF ALL INDIVIDUALS WHO, FOR REASONS OF PRIVACY, SHOULD, IN THE OPINION OF THE CHIEF EXECUTIVE OFFICER, HAVE THEIR NAMES REDACTED.**

13. MEETING CLOSED

NEXT MEETING

The next Ordinary Meeting of Council open to the public will be held on Wednesday, 29 May 2019 commencing at 2pm in the Council Chambers, Leongatha.

The Council Meeting closed at 3.57pm.

Confirmed this

29th day of May 2019.

Mayor, Councillor Don Hill