

SOUTH GIPPSLAND SHIRE COUNCIL

# Council Agenda

Ordinary Meeting of Council

23 October 2019

**Ordinary Meeting No. 439**  
**Council Chambers, Leongatha**  
**Commencing at 2pm**



# agenda



*South Gippsland  
Shire Council*

*Come for the beauty, Stay for the lifestyle*



## MISSION

***South Gippsland Shire will be a place where our quality of life and sense of community are balanced by sustainable and sensitive development, population and economic growth.***

### Privacy

Council is required to keep minutes of each Council meeting. The minutes contain details of proceedings which may include personal information about community members disclosed as part of presentations, submissions and questions. The minutes of Council meetings are a public record and can be inspected by members of the public.

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## SOUTH GIPPSLAND SHIRE COUNCIL

Notice is hereby given that Ordinary Meeting No. 439 of the  
South Gippsland Shire Council will be held on 23 October 2019  
in the Council Chambers, Leongatha commencing at 2pm

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**Bryan Sword**  
**Acting 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, present and emerging, their Spirits and Ancestors.

#### **1.5. APOLOGIES**

#### **1.6. CONFIRMATION OF MINUTES**

##### **RECOMMENDATION**

That the Minutes of the South Gippsland Shire Council Ordinary Meeting No. 438, held on 25 September 2019 in the Council Chambers, Leongatha be confirmed.

## 1.7. DECLARATION OF CONFLICTS OF INTEREST FOR ADMINISTRATORS

Any interest that an Administrator 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](http://www.legislation.vic.gov.au).

An interest may be by close association, financial, conflicting duties or receipt of gifts. If an Administrator 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 Administrator 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.

Administrators should check the Minutes of the Council Meeting to ensure their disclosure is recorded accurately. Administrators 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 – October 2012*.

## 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*.



## **2. OBJECTIVE 1 - STRENGTHEN ECONOMIC GROWTH AND PROSPERITY**

### **2.1. REVIEW OF COUNCIL'S GENERAL LOCAL LAW 2014**

Development Services Directorate

#### **EXECUTIVE SUMMARY**

This report is before Council to consider the proposed amendments to Council's *General Local Law (2014)* (Local Law) and to endorse public consultation with the community of South Gippsland in relation to the proposed amendments.

The intent of Council's Local Law is to respond to issues and community needs within our municipality. Local laws are adopted to protect public health, safety and amenity in a municipality. Any local law passed by council is designed to ensure that the actions of an individual or group do not have an adverse impact on the rest of the community, and only apply within the municipality in which they are passed.

If a council wishes to make a new local law, it must advertise this publicly and consider any submissions it receives before implementing the law. A draft *General Local Law Amendment 1 of 2019* has been developed for public consultation (**Attachment [2.1.1]**). Once the public consultation phase is complete, a Council Report with possible amendments to the Local Law will be considered at a future Ordinary Meeting of Council.

#### **RECOMMENDATION**

**That Council:**

- 1. Notes the proposed amendments to the General Local Law 2014 to be referred to as *General Local Law (Amendment 1 of 2019)* (Attachment [2.1.1]); and**
- 2. Approves commencement of the statutory procedures to *General Local Law (Amendment 1 of 2019)* pursuant to s.119 and s.223 of the *Local Government Act 1989 (the Act)*.**
- 3. Gives notice in the Government Gazette and public notice in Council's Noticeboard section of the local newspapers stating:**
  - a. The purpose and general purport of the proposed amended *General Local Law (Amendment 1 of 2019)*;**

- b. A copy of the proposed Local Law can be obtained from the Council office; and
  - c. That any person may make a submission under s.223 of the *Local Government Act 1989*.
4. States in the public notice:
- a. The proposed amendments to the *General Local Law 2014* to be referred to as *General Local Law (Amendment 1 of 2019)*;
  - b. A person proposing to make a submission under s.223 of the *Local Government Act 1989* must submit no later than 10 January 2020;
  - c. The submission must be addressed to the Acting Chief Executive Officer, South Gippsland Shire Council, Private Bag 4, Leongatha 3953 or delivered to the Council office, 9 Smith Street, Leongatha;
  - d. All submissions will be considered in accordance with s.223 of the *Local Government Act 1989*;
  - e. Any person(s) making a written submission is entitled to state in their submission that he or she wishes to appear in person, or be represented by a person specified in their submission, at a meeting to be heard in support of their submission;
  - f. Copies of submissions (including submitters' names and addresses) will be made available to the public at the appropriate Ordinary Meeting of Council at which the submissions are considered and Council is required to make submissions available for public inspection for a period of twelve months;
  - g. The time, date and place for hearing of submissions; and
  - h. Following the consideration of any submissions, Council may or may not decide to adopt the *General Local Law (Amendment 1 of 2019)*.
5. Authorises the Acting Chief Executive Officer to fix the time, date and place for the s.223 hearing for persons who wish to be heard in support of their submission;
6. Advises those person(s) who wish to be heard in support of their submission of the date, time and place of the hearing of their submissions;
7. Hears, considers and determines the submissions; and
-

**8. Receives a further Council report at the next appropriate Ordinary Meeting of Council to discuss the outcome of the s.223 process.**

**REPORT**

The Local Law was created in accordance with the *Minister's Guidelines for Local Laws Manual 2010* (the Guidelines) and input from the Council-appointed Macquarie Local Government Lawyers (MLGL). The current Local Law was adopted by Council on 16 April 2014 and will expire on 17 April 2024.

The Guidelines recommend that a review of a Local Law should happen periodically, to ensure it is functioning in the way it was intended to operate; and if a Local Law is actually required to address ongoing issues.

The survey of our community in late 2018 and early 2019 was evidence that the Local Law is out-of-touch with what our community's standards when handling certain issues such as domestic animals within our Shire. The survey undertaken in mid-2018 in relation to the cat curfew and dog leash order showed that our community is ready for change and would like to implement a dog leash order in our townships and a 24-hour cat curfew across the Shire. Other areas of community concern raised as part of Council's community satisfaction survey included: illegal camping, car parking, recreational use of motorbikes on farming land, excess animals and the illegal dumping of rubbish.

The resolution to implement a dog leash order and cat curfew at Council's 19 December 2018 Ordinary Meeting of Council, requires an amendment to the Local Law. It is an opportune time to undertake a full review of the Local Law and include amendments to address these additional issues raised by the community.

**Proposed Amendments**

Full details of the proposed amendments are summarised in **Attachment [2.1.2]**, with a brief review of each area provided below:

- Enable enforcement of Council's *Domestic Wastewater Management Plan 2016-2020* to ensure septic systems are maintained to cause no nuisance to the community or protected water catchments;
- Extend the scope of recreation vehicle (motor bikes) local law requirements, to greatly reduce the amenity impacts on surrounding property owners;
- Enhance the protection of Council employees from the effects of antisocial behaviour whilst undertaking their duties;

- Protection of Council property from unlawful damage;
- Greater clarity around the keeping of animals in our Shire;
- Introduction of the Cat Curfew and Dog Leash Order;
- Defining who is permitted to camp on private land; and
- General grammatical amendments throughout the document.

### **Council Plan Objectives**

The Council Plan objective achieved through the review of the Local Law are:

Objective Overview 3 of the Council Plan is:

*"...Our infrastructure is well-maintained and our asset management practices ensure they are sustainable and fit for purpose.*

*Council encourages sustainable practices, seeks to reduce its carbon footprint and diverts a greater proportion of its waste away from landfill.*

*Council seeks to protect and enhance the natural environment.*

*Revitalisation of our major commercial precincts will be encouraged through infrastructure and streetscape renewals..."*

Specifically, the review of the Local Law will achieve Strategic Objective 3.3 to;

*"Promote a safe and healthy community through our municipal public health programs, Emergency Management Plans and regulatory activities that meet our statutory obligations."*

Due to the Strategic Objectives stated above, it is recommended that Council accept the proposed amendments, subject to feedback from our community through the consultation process.

### **CONSULTATION**

Consultation with the following internal Council departments has been undertaken to assist with the formulation of the Amendment 1 of 2019 version of the Local Law:

- Statutory Planning
- Parks and Works Depot
- Environmental Health

- Building and Planning Compliance
- Infrastructure Delivery
- Community Strengthening
- Economic Development
- Customer Service

In accordance with the *Guidelines*, any changes to a Local Law other than an obvious error or minor grammatical correction, requires public consultation. Section 119(2)(c) of the *Local Government Act 1989*, states that

*“...any person affected by the proposed local law may make a submission relating to the proposed local law under section 223”.*

The consultation process for the Local Law is proposed to be undertaken for a period of 66 days using Council’s online “Our Say” platform, and printed material at all Council libraries and offices. Promotion will be undertaken on Facebook, Council’s website, local papers and at community events.

A list of community consultation process is contained within **Attachment [2.1.3]**. Every opportunity will be given to community members to present their submissions before the Council, at an Ordinary Meeting of Council in early 2020.

## **RESOURCES**

The review of the Local Law is being undertaken within existing resources.

## **RISKS**

The review of the Local Law will manage risks associated with community expectations and ensuring it remains relevant with legislative changes.

## **STAFF DISCLOSURE**

Nil

## **ATTACHMENTS**

*Attachments are available on Council’s website: [www.southgippsland.vic.gov.au](http://www.southgippsland.vic.gov.au)*

1. Draft General Local Law 2014 Amendment 1 of 2019 [2.1.1 - 29 pages]
2. Local Law Amendment 2019 - List of Amendments [2.1.2 - 21 pages]
3. Local Law Amendment 2019 - Community Consultation Process [2.1.3 - 2 pages]

## **REFERENCE DOCUMENTS**

### **Council Policy**

*Documents are available on Council's website: [www.southgippsland.vic.gov.au](http://www.southgippsland.vic.gov.au)*

Domestic Wastewater Management Plan 2016-2020

### **Legislative Provisions**

Building Act 1993

Country Fire Authority Act 1958

Domestic Animals Act 1994

Emergency Management Act 1986

Environment Protection Act 1970

Graffiti Prevention Act 2007

Impounding of Livestock Act 1994

Liquor Control Reform Act 1998

Local Government Act 1989

Ministers Guidelines for Local Laws Manual 2010

Planning and Environment Act 1987

Road Management Act 2004

Road Safety Act 1986

Summary Offences Act 1966

The Regulations made under these Acts

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

**3.1. NIL**

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

### **4.1. COMPULSORY LAND ACQUISITION - JUMBUNNA ROAD, KORUMBURRA SHARED FOOTPATH**

Infrastructure Directorate

#### **EXECUTIVE SUMMARY**

The *2019/20 Capital Works Program* includes the construction of a 2.5m wide concrete shared path from the intersection of Radovick Street and Guys Road in Korumburra along Jumbunna Road down to the Korumburra Secondary College. This project is designed to better cater for pedestrians and cyclists along this route, particularly students and staff at the secondary college.

Council has engaged an engineering consulting firm to design this asset. As part of their investigations, Council has been made aware of the need to acquire two strips of land from 121 Jumbunna Road being volume 9472 folio 481 and volume 9472 folio 482.

In order to proceed with this project, a compulsory land acquisition process is required to be carried out in accordance with the *Land Acquisition and Compensation Act 1986*. The land is required for road purposes to construct a new 2.5m wide shared path along Jumbunna Road (**Attachment [4.1.1]**).

#### **RECOMMENDATION**

**That Council:**

- 1. Pursuant to the *Land Acquisition and Compensation Act 1986* and *Land Acquisition and Compensation Regulations 2010*:**
  - a. Undertakes the process to compulsorily acquire two parcels of land (shown in Attachment [4.1.1]) required for road purposes for the construction of a new shared path along Jumbunna Road, Korumburra as follows:**
    - i. Road R1 – 436m<sup>2</sup> of Lot 2 LP139824 being part of the land contained in certificate of title volume 9472 folio 481 ; and**
    - ii. Road R2 – 442m<sup>2</sup> of Lot 4 LP135303 being part of the land contained in certificate of title volume 9472 folio 482.**



## **REPORT**

The construction of a new concrete shared path has been in Council's *Capital Works Program* for a number of years. This shared path will replace the existing concrete and asphalt narrow footpath which is generally in very poor condition and not useable by cyclists.

The proposed acquisition is from 121 Jumbunna Road Korumburra which is land currently subject to a development process that has been running for a number of years. The indicative subdivision and staging plan prepared by the developer's consultant details 5.0m and 2.5m strips of land designated on the plan as "widening for a pedestrian path" for two parcels which are identical in detail to the proposed acquisition.

Whilst this land would eventually most likely transfer to Council under the development approval process, Council officers are of the view that the timeframes for this process will not align with the construction program for this project. Therefore, to ensure this land is available in time for construction of the shared path, the decision was taken to obtain the land through a compulsory acquisition process. Design for the shared path is well advanced and this process has confirmed that this land is required.

It is proposed that the land acquisition be carried out under a compulsory acquisition process under the 10 per cent rule provided for in accordance with regulation 6 of the *Land Acquisition and Compensation Regulations 2010*. This rule allows the compulsory acquisition of land without a Planning Scheme Amendment provided that each parcel is less than 10 per cent of the allotment size and value. The proposed acquisition for this allotment complies with this rule.

A survey plan for both acquisitions has already been prepared, preliminary valuations undertaken, and notices of intention to acquire are currently being prepared.

## **CONSULTATION**

Discussions have occurred with the landowner with the most recent being carried out during September 2019. The landowner is supportive of the project.

## **RESOURCES**

There is adequate allowance within the project budget for the land acquisition.

## **RISKS**

Following the compulsory land acquisition process reduces the risk of the land acquisition impacting on the delivery of the project.

Reaching agreement with the property owner on the compensation valuation is a risk with Council's offer being based on an independent valuation. Council's valuer has commenced this process.

## **STAFF DISCLOSURE**

Nil

## **ATTACHMENTS**

Attachments are available on Council's website: [www.southgippsland.vic.gov.au](http://www.southgippsland.vic.gov.au)

1. Plan of Subdivision for Acquisition [4.1.1 - 3 pages]

## **REFERENCE DOCUMENTS**

### **Council Policy**

*Documents are available on Council's website:* [www.southgippsland.vic.gov.au](http://www.southgippsland.vic.gov.au)

Annual Budget 2019/20

Paths and Trails Strategy

Planning Scheme Amendment

### **Legislative Provisions**

Land Acquisition and Compensation Act 1986

Land Acquisition and Compensation Regulations 2010

Local Government Act 1989

Road Management Act 2004

Road Safety Act 1986

## **4.2. NEW POLICY: WASTEWATER MANAGEMENT POLICY (C78)**

Development Services Directorate

### **EXECUTIVE SUMMARY**

Council is responsible for issuing permits to install and use wastewater 'septic' systems and investigate complaints related to them. The *Wastewater Management Policy (C78)* (the Policy) (**Attachment [4.2.1]**), sets out how Council will undertake these activities and make these decisions in a transparent and outcome focussed way.

The Policy fulfils a key action within the *Municipal Domestic Wastewater Management Plan* and ensures continued management of risks to health and the environment.

### **RECOMMENDATION**

**That Council:**

- 1. Adopts the Wastewater Management Policy (C78) (Attachment [4.2.1]); and**
- 2. Publishes the Wastewater Management Policy (C78) on Council's website.**

### **REPORT**

Council has a legislative role under the *Environment Protection Act 1970* to:

- Issue permits to install or alter septic tank systems;
- Approve their use once installed or altered; and
- Investigate complaints of non-permitted or underperforming septic tank systems.

The Policy sets out how Council will perform these functions and ensures that septic tank systems don't cause harm to health of the community or the environment, including:

- Clarifying when sewer connection is required or septic installation permitted;
- Defining the criteria for authorising alteration of a system which cannot meet current standards but result in a better overall health or environmental outcome; and

- Setting out the conditions under which systems for containing but not treating wastewater would be considered acceptable – for example assessed as part of a recent tourism initiative for temporary group accommodation.

The Policy also outlines non-legislative activities which will help to address:

- Education of the general public, to overcome a general lack of knowledge across the Shire, resulting in poor maintenance frequency and purchasing of failing systems by unsuspecting buyers; and
- Data improvement, to give a more accurate indication of the quantity and location of septic systems across the Shire, enabling better decision making around planning and wastewater management.

In addition, adoption of this Policy fulfils an action with Council's *Municipal Domestic Wastewater Management Plan 2016-2020*.

## **CONSULTATION**

This Policy has been developed in consultation with South Gippsland Water.

## **RESOURCES**

Implementation of this Policy will not affect the current resourcing of wastewater management.

## **RISKS**

Implementation of this Policy will ensure that:

- There is a consistent approach to managing the risks posed by septic tank systems and wastewater generally;
- Safe and sustainable use of land is enabled wherever possible;
- Current and future property owners are aware of the health, environmental and financial risks associated with septic tank systems and are able to make informed decisions when buying, selling and developing property; and
- Issuing permits for appropriate lots under 40 hectares within the Tarwin Open Potable Water Catchment is able to continue, in accordance with the exemption under the *Ministerial Guidelines for planning permit applications in open potable water supply catchments*.

## **STAFF DISCLOSURE**

Nil

## **ATTACHMENTS**

*Attachments are available on Council's website: [www.southgippsland.vic.gov.au](http://www.southgippsland.vic.gov.au)*

1. Wastewater Management Policy (C78) - Draft [4.2.1 - 4 pages]

## **REFERENCE DOCUMENTS**

### **Council Policy**

*Documents are available on Council's website: [www.southgippsland.vic.gov.au](http://www.southgippsland.vic.gov.au)*

Municipal Domestic Wastewater Management Plan 2016-2020

### **Legislative Provisions**

Environment Protection Act 1970

Ministerial Guidelines for planning permit applications in open potable water supply catchments

### 4.3. PETITION RESPONSE: PEART STREET, LEONGATHA TREE CONCERNS

Infrastructure Directorate

#### EXECUTIVE SUMMARY

Council-managed trees are a significant asset that are of a high value to the community and contribute greatly to the amenity of the built environment.

At the 26 June 2019 Ordinary Meeting of Council, a petition was received containing 81 signatures in total (70 signatures from directly affected Peart Street residents) who believe that the Queensland Brush Box (*Lephostemon confertus*) street trees are a hazard and would like to see them removed from the streetscape.

A copy of the petition is included in (**Confidential Attachment [15.1.1]**). At that meeting it was resolved that Council receive and note the petition and that the Petition lay on the table until the matter is considered and decided on at the 24 July 2019 Ordinary Meeting of Council.

At the 24 July 2019 Ordinary Council Meeting, Council resolved to survey all residents and property owners along Peart Street to seek their opinion on whether to retain the Queensland Brush Box trees or remove and replace them with a more suitable tree such as the *Prunus blireana*. The reason for proposing *Prunus blireana* as the replacement trees is due to the fact that these were planted along the south side of Peart Street during 2015/16.

In August 2019, Council surveyed all Peart Street residents and property owners in order to provide an opportunity to indicate their preference on retaining the Queensland Brush Box street trees or removing and replacing them. All survey responses are included in **Confidential Attachment [15.1.2]**.

Based on the outcome of the resident's survey, it is therefore recommended to remove all seventeen (17) Queensland Brush Box street trees and replace them with *Prunus blireana*.

#### RECOMMENDATION

**That Council:**

- 1. Considers the results of the survey (Confidential Attachment [15.1.2]) for the proposed removal of the Queensland Brush Box Street trees on Peart Street, Leongatha;**
- 2. Based on the outcome of the resident's survey results conducted in August 2019, determine that the Queensland Brush Box Street trees are removed and replaced with *Prunus blireana*; and**

**3. Writes to the lead petitioner advising them of the outcome of this Council Report.**

**REPORT**

South Gippsland Shire Council has a responsibility for the ongoing maintenance, upkeep, renewal, and risk management of a wide range assets. This includes urban trees on Council land within the 40km to 80km per hour speed limit zone and in Council-managed parks.

Council-managed trees are a significant asset that are of a high value to the community and contribute greatly to the amenity of the built environment, providing a sense of place and improved neighbourhood character within the Shire. These values on occasion conflict with the overall asset management obligations and community’s expectations in regards to safety and nuisance issues. On occasions, a balance needs to be found and the replacement of trees is necessary.

**Background**

**2015/16 Tree Replacement Program**

In December 2015, as part of Council’s Tree Replacement Program, the existing Queensland Brush Box on the south side of the street were removed (**Figure 1**) and replaced with *Prunus blireana* (**Figure 2**) in the autumn of 2016.

**Figure 1 - Queensland Brush Box**



**Figure 2 - Prunus blireana**



The decision to implement this program was primarily due to the rising maintenance costs and having little amenity value as they were unattractive from the continual pruning during the annual Powerline Clearance program.

**Ordinary Council Meeting on 26 June 2019 (The Petition)**

At the 26 June 2019 Ordinary Council Meeting, a petition was received from Leongatha residents requesting Council review the street trees along Peart

Street, Leongatha. The petition contains 81 signatures in total (70 signatures from Peart Street residents) who believe that the street trees are a hazard for the following reasons:

- They drop a large amount of branches thus creating a tripping hazard for the residents, particularly the elderly who reside in the area.
- They drop berries at various times of the year, which cause the path to become slippery and are a danger (as per previous point).
- The footpath is constantly lifting as a consequence of hydraulic pressure of tree roots, creating a tripping hazard to the public.
- The debris constantly falling from the trees creates considerable build-up of a potential fire hazard particularly under resident's houses.

A copy of the petition is available in **Confidential Attachment [15.1.1]**.

### **Arborist Report – Findings**

In response to the petition received, Council engaged Arborzone Professional Tree Services to conduct a thorough visual tree inspection / assessment and produce an arborist report detailing the health, condition, and risk (if any) of the seventeen Queensland Brush Box street trees on Peart Street. The subject trees were identified and assessed under the criteria such as age, height, diameter at breast height, canopy spread, health class, structural condition.

The trees were found to be generally in good health, however the main challenges in retaining these trees into the future will be dealing with driveway and footpath damage as the basal flare and root plates expand. Management could consider using flexible concrete substitutes, or alternatively, continue to repair damaged concrete as problems occurs, as has clearly taken place over the last two decades.

The most relevant of the nuisance factors listed by the residents encountered on site were the slipperiness of the shed seed pods on the ground.

### **Ordinary Council Meeting 24 July 2019 (First Petition Response)**

At the 24 July 2019 Ordinary Council Meeting, it was resolved to survey all tenants and owners along Peart Street to officially seek their preference on whether to retain/remove the Queensland Brush Box street trees and to bring the findings back to Council to assist in establishing a formal response to the petition for Council's consideration.

*"That Council:*



1. *Notes the petition detailing the residents' concerns in regards to the Queensland Brush Box street trees in Peart Street, Leongatha (Confidential Attachment [15.6.1]);*
2. *Surveys all residents along Peart Street, Leongatha to seek their preference on the Queensland Brush Box street trees (remove and replacement vs retain);*
3. *Receives a further report at the next appropriate Ordinary Council Meeting detailing the survey results to assist in establishing a formal response to the petition for Council's consideration."*

The outcome of the survey is discussed under Consultation of this report.

### Customer Requests

Over the past five years, Council has received 20 customer requests specifically in relation to the removal and / or maintenance of the Queensland Brush Box street trees along Peart Street. The requests are summarised in **Table 1** below:

**Table 1 - Customer Requests (Peart Street, Leongatha)**

Request	Complete	Comment
<b>2015 (4 requests)</b>		
1. Tree removal (no. 34-36) due to fall from lifting tree roots.	Yes	Tree replaced as per Tree Replacement Program.
2. Fallen limb	Yes	Limb removed.
3. Powerline maintenance (property no. 47)	Yes	Tree pruned.
4. Trimming for site distance at intersection	No	No site distance issue upon inspection.
<b>2016 (6 requests)</b>		
5. Tree removal (no. 19) due to nuts falling into Telstra pit and causing trip hazard.	No	No signs of debris on the footpath or Telstra pit. Advised customer that tree will not be removed on the basis that it drops nuts.
6. Fallen limb.	Yes	Limb removed.

Request	Complete	Comment
7. Fallen limb.	Yes	Limb removed.
8. Exposed tree root from tree removal (no. 44).	Yes	Root has been cut off and the area levelled.
9. Notification of the removal of new trees planted.	Yes	Trees found and replaced.
10. Notification of the removal of new trees planted (no. 32).	Yes	Tree replaced.
<b>2017 (9 requests)</b>		
11. Tree removal (no. 61) due to mess.	No	Advised customer that there is no budget or resources to remove healthy trees for reasons like fallen debris, leaves, gum nuts etc.
12. Tree removal due to lifting footpath and fall resulting in a broken shoulder from nuts.	No	As above.
13. Tree removal due to footpath lifting and fallen nuts causing tripping hazard.	No	As above.
14. Tree removal due to fallen nuts causing trip hazard and mess.	No	As above.
15. Notification of the removal of new trees planted.	Yes	Tree replaced.
16. Notification of the removal of new trees planted.	Yes	Tree replaced.
17. Notification of the removal of new trees planted.	Yes	Tree replaced.
18. Trimming.	Yes	Tree trimmed.
19. Overhanging private property (no. 61).	Yes	Tree trimmed including all other trees in the street.

Request	Complete	Comment
<b>2019 (1 request)</b>		
20.Fallen limb (no. 39).	Yes	Branch cleared.

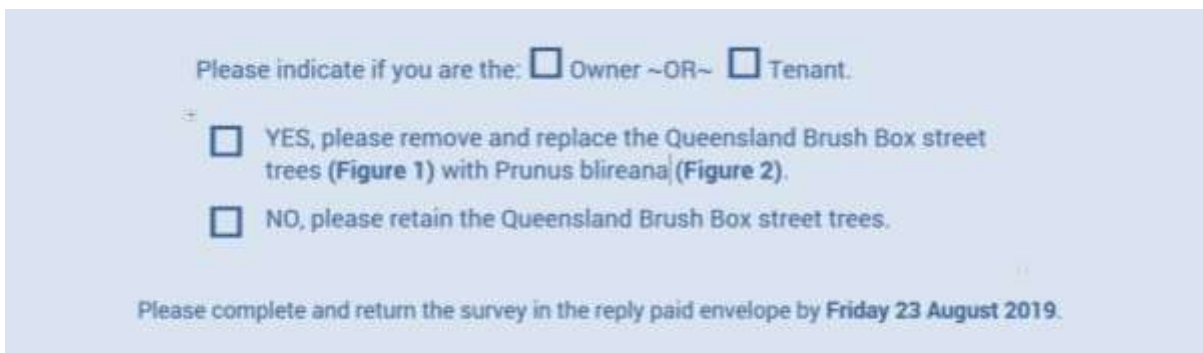
**CONSULTATION**

**Residential Survey – Conducted in August 2019**

In response to Item 2 of the 24 July 2019 Council resolution, affected land owners / occupiers were consulted via a survey to gauge their preference on whether to retain or remove/replace the Queensland Brush Box.

This survey provided an opportunity for the community to agree or disagree with the proposal to remove the trees, and to tick one box to indicate if they wanted to have the street trees removed and replaced with a *Prunus blireana* – refer to **Figure 2**.

**Figure 3 – Resident’s Survey**



The general guideline for a good survey response rate is approximately 10 to 15 per cent of the surveys sent out are returned. A total of 122 surveys were sent out (69 to owners and 53 to tenants) with 49 surveys returned which provides Council with a very good survey response rate of 40 percent. Of the 49 surveys, a total of 42 surveys were supportive of the proposal to remove the Queensland Brush Box and a total of 7 survey responses were against the removal of these trees. A breakdown of the responses are included in the table below and a copy of each survey response is included in **Confidential Attachment [15.1.2]**.

**Table 2 – Residential Survey Results**

Item	Owner	Tenant	Not specified	Total
Surveys sent out:	69	53	N/A	<b>122</b>
Surveys returned:	34 (69%)	11 (22%)	4 (8%)	<b>49 (100%)</b>
YES (remove trees)	*31 (63%)	7 (14%)	4 (8%)	<b>42 (86%)</b>
NO (retain trees)	**3 (6%)	4 (8%)	0 (0%)	<b>7 (14%)</b>

\* Owner indicated that they would prefer a *crepe myrtle* to be planted as opposed to a *Prunus blireana*.

\* Owner indicated that they would prefer small natives (as in Long Street, Leongatha) to be planted as opposed to a *Prunus blireana*.

\*\* Owner wants to retain the Queensland Brush Box, however, if the trees are going to be removed, they would prefer a *Telopia speciosissima* or at least an Australian native to be planted as opposed to a *Prunus blireana*.

**RESOURCES**

The removal and replacement of the seventeen Queensland Brush Box street trees with *Prunus blireana* will cost approximately \$8,500 and this can be accommodated in the urban tree maintenance budget.

**RISKS**

By removing the existing trees and replacing them with *Prunus blireana*, a precedent is set which may result in future requests from residents to remove and replace their existing street trees.

The risks associated with trees is mitigated by Council’s *Tree Management Plan*.

**STAFF DISCLOSURE**

Nil

**CONFIDENTIAL ATTACHMENT**

**Confidential Attachment [15.1.1]** – Petition Submission - Peart Street, Leongatha Tree Concerns and **Confidential Attachment [15.1.2]** Resident Survey Responses - Peart Street Leongatha – have been provided in accordance with s.77(2)(c) of the Local Government Act 1989. The Chief Executive Officer designates these items 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.

These items are deemed confidential for the privacy of the Petition signatories.

## **REFERENCE DOCUMENTS**

### **Council Policy**

*Documents are available on Council's website: [www.southgippsland.vic.gov.au](http://www.southgippsland.vic.gov.au)*

Electric Line Clearance Management Plan

Municipal Fire Management Plan

Road Management Plan

Roadside Vegetation Management Plan

Tree Management Plan

### **Legislative Provisions**

Australian Standard AS 4373 2007 Pruning of Amenity Trees

Australian Standard AS 4970 2009 Protection of Trees on Development Sites

Electricity Safety Act 1998

Heritage Act 1995

Local Government Act 1989

Planning and Environment Act 1987

Road Management Act 2004

SP AusNet: Your Guide to Planting near Electricity Lines

#### **4.4. PETITION RESPONSE: KEEPING PONY IN BACKYARD AT 45 TOWNSEND STREET, PORT WELSHPOOL**

Development Services Directorate

##### **EXECUTIVE SUMMARY**

At the Ordinary Meeting of Council 25 September 2019, a petition was received from residents of Port Welshpool requesting the keeping of a horse in the backyard at 45 Townsend Street, Port Welshpool (the Proposal). The petition contains 62 valid signatures from residents in Port Welshpool and surrounding towns supporting the keeping of a horse in the backyard.

At the meeting, it was resolved:

*“That Council:*

- 1. Receives and notes the petition: and*
- 2. Receives a report at the Ordinary Meeting of Council 23 October 2019.”*

Prior to the submission of the petition a complaint was received from a nearby property owner regarding the horse. A subsequent investigation conducted by Council revealed that conditions of the current permit to keep the horse were not being adhered to. At the conclusion of the investigation all conditions of the permit were being complied with by the property owner and the concerns of the complainant addressed.

The permit has since been renewed.

##### **RECOMMENDATION**

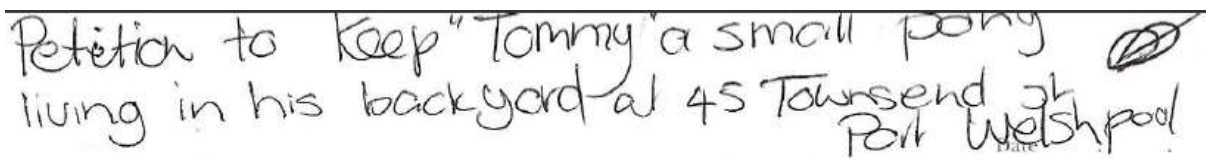
**That Council:**

- 1. Notes that the owners of 45 Townsend Street, Port Welshpool have a permit with conditions to keep a horse in their backyard; and**
- 2. Writes to the lead petitioner to inform them of the outcome of this report.**

##### **REPORT**

At the Ordinary Meeting of Council 25 September 2019, a petition was received from residents of Port Welshpool requesting the keeping of a horse in the backyard at 45 Townsend Street, Port Welshpool (the Proposal). A copy of the petition is available in **Confidential Attachment [15.2.1]**. The petition prayer is available in **Figure 1** below.

**Figure 1 - Petition Prayer**



Petition to keep "Tommy" a small pony living in his backyard at 45 Townsend St Port Welshpool ②

The current petition states that there are 62 valid signatures from Port Welshpool and surrounding towns, eight signatures from outside the Shire (five invalid signatures) that support keeping the horse in the backyard.

**RESOURCES**

Council has allocated budget and resources for the issue and management of Local Law permits, including permit to keep livestock.

**RISKS**

Officers have identified there are minimal risks to the amenities of surrounding properties based on the complaint received and these risks are mitigated if all permit conditions are adhered to.

**STAFF DISCLOSURE**

Nil

**CONFIDENTIAL ATTACHMENTS**

**Confidential Attachment [15.2.1]** – Petition Submission - Livestock in Township - 45 Townsend Street Port Welshpool – 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**

**Council Policy**

Documents are available on Council's website: [www.southgippsland.vic.gov.au](http://www.southgippsland.vic.gov.au)  
General Local Law 2014

**Legislative Provisions**

Local Government Act 1989

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

### **5.1. 2018/19 ANNUAL REPORT**

Corporate and Community Services Directorate

#### **EXECUTIVE SUMMARY**

Section 131(6) of the *Local Government Act 1989* (the Act) requires Council to submit an Annual Report to the Minister for Local Government by 30 September each year. It contains a Report of Operations, an audited Performance Statement and the Financial Statements and is based on the 2018/19 financial year.

The Performance Statement and Financial Statements have been audited by the Victorian Auditor General's Office (VAGO) and were submitted to Council for endorsement on 25 September 2019. The endorsed Annual Report was provided to the Minister by 30 September 2019. Once submitted, a period of public inspection is required prior to final adoption by Council.

The 2018/19 Annual Report (**Attachment [5.1.1]**) has been advertised in a Public Notice and was made available for public inspection for a two-week period, from 1 October 2019.

It is recommended that Council adopt this 2018/19 Annual Report. Once adopted it will be published on Council's website.

#### **RECOMMENDATION**

**That Council:**

- 1. Adopts the 2018/19 Annual Report including the audited Performance and Financial Statements contained in Attachment [5.1.1]; and**
- 2. Publishes the 2018/19 Annual Report (Attachment [5.1.1]) on Council's website and makes printed copies available at local libraries and Council's Customer Service Centre.**

#### **REPORT**

Section 131 of the *Local Government Act 1989* requires Council to prepare an Annual Report that provides a succinct end-of-year summary of Council's performance.



The Annual Report begins with a snapshot of Council's key achievements against the *2017-2021 Council Plan* Strategic Objectives and 2018/19 Annual Initiatives.

This is followed by four main sections:

- Overview
- Reporting (against Council Plan and Strategic Objectives)
- Governance
- Performance (Audited Performance Statement Indicators and Financial Statement)

The Report of Operations section abides by the *2018/19 Better Practice Guide – Report of Operations (February 2019)* produced by Local Government Victoria (LGV). These guidelines set the context of the report and the performance data requirements for all Victorian councils.

Council's *Local Government Performance Reporting Framework (LGPRF)* indicators and results are presented under each Strategic Objective of the Council Plan in *Section 2 – Reporting*, under the heading 'Service Performance Indicators' (refer to **Attachment [5.1.1]**). These indicators are compared against the previous three-year results. Some indicators are also included in the Performance Statement and are audited by VAGO.

Council will publish the adopted Annual Report on its website. Hard copies will be available in local libraries and at the Council office.

The LGPRF indicators will be published on the 'Know Your Council' website as at 30 November 2019.

## **CONSULTATION**

The Report of Operations, the Performance Statement and Financial Statements were endorsed by the Audit Committee on 9 September 2019.

The draft 2018/19 Annual Report - Report of Operations and unaudited Financial Statements and Performance Statements were presented to Council on 25 September 2019. These were endorsed and signed for approval by Council.

VAGO provided an 'Independent Auditors' Report' for certification and approval of the Performance Statement and Financial Statements, which have been combined into the 2018/19 Annual Report for final certification purposes in accordance with the Act.

The final Annual Report has been advertised on 1 October 2019 for a two-week period prior to its presentation to Council for formal adoption.

## **RESOURCES**

Costs associated with the publication of the Annual Report are covered within approved budget allocations. The Annual Report is developed in-house, with limited printing to keep the costs of publishing and printing as low as possible.

## **RISKS**

Completion and submission of the Annual Report to the Minister for Local Government are annual legislative requirements. The endorsed Annual Report and certification was provided to the Minister by 30 September 2019.

## **STAFF DISCLOSURE**

Nil

## **ATTACHMENTS**

*Attachments are available on Council's website: [www.southgippsland.vic.gov.au](http://www.southgippsland.vic.gov.au)*

1. 2018/19 Annual Report (**[5.1.1]**)

## **REFERENCE DOCUMENTS**

### **Council Policy**

*Documents are available on Council's website: [www.southgippsland.vic.gov.au](http://www.southgippsland.vic.gov.au)*

Annual Budget 2018/19

Annual Budget Incorporating 15 Year Long Term Financial Plan and Annual Plan Initiatives

Council Plan 2017-2021

### **Legislative Provisions**

Local Government Act 1989, s. 131, 132, 133 and 134 relating to the Annual Report

Local Government Better Practice Guide 2018/19 – Performance Reporting Framework – Strategic Directions Paper 2018-21, February 2019

Local Government Better Practice Guide 2018/19 - Planning and Reporting 2018/19, February 2019

Local Government Better Practice Guide 2018/19 – Report of Operations, February 2019

Local Government Better Practice Guide 2018/19 – Performance Reporting Indicator Workbook, February 2019

## **5.2. AUDIT COMMITTEE MEETING - 10 SEPTEMBER 2019**

Corporate and Community Services Directorate

### **EXECUTIVE SUMMARY**

The minutes of the Audit Committee Meeting held on 10 September 2019 (**Attachment [5.2.1]**) are provided for Council's noting.

### **RECOMMENDATION**

**That Council notes the Audit Committee Minutes – 10 September 2019 (Attachment [5.2.1]).**

### **REPORT**

The matters considered by the Audit Committee at the 10 September 2019 meeting (**Attachment [5.2.1]**) 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;
- Increase 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](http://www.southgippsland.vic.gov.au)

1. 2019.09.10 Audit Committee Minutes [**5.2.1** - 6 pages]

### **REFERENCE DOCUMENTS**

#### **Council Policy**

*Documents are available on Council's website:* [www.southgippsland.vic.gov.au](http://www.southgippsland.vic.gov.au)

Council's Audit Committee Charter

#### **Legislative Provisions**

Local Government Act 1989

**6. OTHER COUNCIL REPORTS**

**6.1. NIL**

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

**7.1. NIL**

## **8. PROCEDURAL REPORTS**

### **8.1. ASSEMBLY OF COUNCILLORS - 22 AUGUST TO 21 SEPTEMBER 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 August and 21 September 2019.

The matters summarised in this report 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.**

**REPORT**

Meeting Title	Details
<b>Wednesday 28 August 2019</b>	
<b>Korumburra Community Hub – site options</b>	<p><b>Administrators Attending:</b> Julie Eisenbise, Rick Brown, Christian Zahra</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrators considered the proposed site locations and site option drawings.</p>
<b>Ordinary Agenda Topic Discussion: 28 August 2019</b>	<p><b>Administrators Attending:</b> Julie Eisenbise, Rick Brown, Christian Zahra</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrators considered and asked questions relating to Agenda items for the Ordinary Meeting of Council 28 August 2019.</p>
<b>Internal Audit Plan 2020/21</b>	<p><b>Administrators Attending:</b> Julie Eisenbise, Rick Brown, Christian Zahra</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrators reviewed the proposed Internal Audit Plan for 2020/21.</p>
<b>Wednesday 4 September 2019</b>	
<b>Recreational Vehicle (RV) and Camping</b>	<p><b>Administrators Attending:</b> Julie Eisenbise, Christian Zahra, Rick Brown</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrators considered an update on Recreational Vehicles (RV) and Camping and how they relates to Shire-wide Tourism Strategy.</p>

Meeting Title	Details
<b>Wednesday 4 September 2019</b>	
<b>Planning Briefing</b>	<p><b>Administrators Attending:</b> Julie Eisenbise, Christian Zahra, Rick Brown</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrators considered Planning Items including:</p> <ul style="list-style-type: none"> <li>• Strategic Planning Project List</li> <li>• Planning Applications of Interest</li> <li>• Decisions for July 2019</li> <li>• VCAT Decisions</li> <li>• Applications received July 2019</li> </ul>
<b>Coal Creek Community Park and Museum</b>	<p><b>Administrators Attending:</b> Julie Eisenbise, Christian Zahra, Rick Brown</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrators received a brief on the current operations and management model of Coal Creek.</p>
<b>Rail Trail Committee of Management</b>	<p><b>Administrators Attending:</b> Julie Eisenbise, Christian Zahra, Rick Brown</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrators considered an external briefing from members of the Rail Trail Committee of Management.</p>
<b>Executive Update</b>	<p><b>Administrators Attending:</b> Julie Eisenbise, Christian Zahra, Rick Brown</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> Costs to Council under Administration</p>
<b>Korumburra Community Hub – site options</b>	<p><b>Administrators Attending:</b> Julie Eisenbise, Christian Zahra, Rick Brown</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrators considered the proposed site locations for the Korumburra Community Hub.</p>

Meeting Title	Details
<b>Wednesday 4 September 2019</b>	
<b>Council Plan, Annual Initiatives &amp; Vision Direction</b>	<p><b>Administrators Attending:</b> Julie Eisenbise, Rick Brown, Christian Zahra</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrators considered a workshop on the Revision of the Council Plan and the related Annual Initiatives for future planning, including a discussion on a Community Vision for the Council.</p>
<b>Public Participation in Meeting with Council Policy (C65)</b>	<p><b>Administrators Attending:</b> Julie Eisenbise, Rick Brown, Christian Zahra</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrators considered proposed changes to Public Participation in Meeting with Council Policy (C65).</p>
<b>Executive Update</b>	<p><b>Administrators Attending:</b> Julie Eisenbise, Christian Zahra, Rick Brown</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> Capital Works Program and Mirboo North Pool</p>
<b>Tuesday 10 September 2019</b>	
<b>Project Marinus</b>	<p><b>Administrators Attending:</b> Julie Eisenbise, Rick Brown, Christian Zahra</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrators considered an external presentation regarding Project Marinus, an investigation in the case for further Bass Strait interconnection as part of Australia's future electricity grid.</p>



Meeting Title	Details
<b>Wednesday 11 September 2019</b>	
<b>Administrator Tour of Shire</b>	<p><b>Administrators Attending:</b> Julie Eisenbise, Rick Brown, Christian Zahra</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrators undertook a tour of sites in the Shire that relate to future Council decisions and operations of Council.</p>
<b>Wednesday 18 September 2019</b>	
<b>Proposed Delburn Wind Farm</b>	<p><b>Administrators Attending:</b> Julie Eisenbise, Rick Brown, Christian Zahra</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrators considered an external presentation regarding a proposed Wind Farm at Delburn, part of the Windfarm is proposed within the South Gippsland Shire.</p>
<b>Social Planning</b>	<p><b>Administrators Attending:</b> Julie Eisenbise, Rick Brown, Christian Zahra</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrators received a brief on the Social Planning activities of Council including relevant strategies and plans.</p>
<b>Draft Recreation Strategy 2020 - 2030</b>	<p><b>Administrators Attending:</b> Julie Eisenbise, Rick Brown, Christian Zahra</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrators considered the key issues, current commitment and proposed priorities in regard to developing the <i>South Gippsland Sport and Recreation Strategy 2020 – 2030</i>.</p>

Meeting Title	Details
<b>Wednesday 18 September 2019</b>	
<b>Executive Update</b>	<p><b>Administrators Attending:</b> Julie Eisenbise, Rick Brown, Christian Zahra</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrators considered their weekly newsletter and asked questions.</p>
<b>Ordinary Agenda Topic Discussion: 25 September 2019</b>	<p><b>Administrators Attending:</b> Julie Eisenbise, Rick Brown, Christian Zahra</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrators considered and asked questions relating to Agenda items for the Ordinary Meeting of Council 25 September 2019.</p>

## REFERENCE DOCUMENTS

### Council Policy

Documents are available on Council's website: [www.southgippsland.vic.gov.au](http://www.southgippsland.vic.gov.au)

Public Participation in Meetings with Council Policy (C65)

### Legislative Provisions

Local Government Act 1989

Local Government (South Gippsland Shire Council) Bill 2019

## **8.2. DOCUMENTS SEALED, AWARDED OR EXTENDED BY CEO - 24 AUGUST TO 20 SEPTEMBER 2019**

Corporate and Community Services Directorate

### **EXECUTIVE SUMMARY**

This document reports to Council the following actions undertaken by the Acting Chief Executive Officer (CEO) which occurred during the period from 24 August to 20 September 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.**

### **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, clause 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 24 August to 20 September 2019:

1. Section 173 Agreement between South Gippsland Shire Council and the owner of 33 McIndoe Avenue, Venus Bay in relation to the development of a dwelling - Seal applied 27 August 2019.
2. Section 173 Agreement between South Gippsland Shire Council and the owner of 18-24 Whitelaw Street, Meeniyan in relation to a 2 Lot subdivision – Seal applied 29 August 2019.
3. Section 173 Agreement between South Gippsland Shire Council and the owner of 62 Mercury Drive, Venus Bay in relation to the development of a dwelling – Seal applied 29 August 2019.
4. Section 173 Agreement between South Gippsland Shire Council and the owner of 48 Orion Road, Venus Bay in relation to an extension to existing dwelling – Seal applied 29 August 2019.
5. Section 173 Agreement between South Gippsland Shire Council and the owner of 340 Millar Road, Yanakie in relation to a 2 Lot subdivision – Seal applied 2 September 2019.
6. Section 173 Agreement between South Gippsland Shire Council and the owner of 150 One Chain Road, Kardella in relation to a 2 Lot subdivision – Seal applied 12 September 2019.
7. Section 173 Agreement between South Gippsland Shire Council and the owner of 385 O'Mearas Road South, Poowong North in relation to a 2 Lot subdivision – Seal applied 12 September 2019.
8. Section 173 Agreement between South Gippsland Shire Council and the owner of 2750 Meeniyan-Mirboo North Road, Mirboo North in relation to the development of a dwelling – Seal applied 17 September 2019.

#### **Contracts Awarded, Varied or Extended**

1. Contracts awarded after a public tender process within the CEO's delegation between 24 August to 20 September 2019:  
  
Nil
2. Contracts awarded after a public tender process under the Statutory threshold by staff other than the CEO between 24 August to 20 September 2019:  
  
Nil
3. Contract variations approved by the CEO between 24 August to 20 September 2019:

Nil

4. Contract extensions approved by the CEO between 24 August to 20 September 2019:

Nil

#### **STAFF DISCLOSURE**

Nil

#### **REFERENCE DOCUMENTS**

##### **Council Policy**

*Documents are available on Council's website: [www.southgippsland.vic.gov.au](http://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

### **8.3. INSTRUMENT OF DELEGATION - COUNCIL TO STAFF**

Corporate and Community Services Directorate

#### **EXECUTIVE SUMMARY**

This report recommends that Council adopts an updated Instrument of Delegation to Council Staff to reflect minor improvements recommended by Council's legal advisors and minor positional changes to Council's organisation structure.

#### **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])*:**

- 1. There be delegated to the members of Council staff holding, acting in or performing the duties of the officers or positions referred to in (Attachment [8.3.1]) the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument of Delegation;**
- 2. The Instrument of Delegation (Attachment [8.3.1]) to staff comes into force immediately that the common seal of Council is affixed to the Instrument of Delegation;**
- 3. On the coming into force of the Instrument of Delegation (Attachment [8.3.1]) 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 (Attachment [8.3.1]) 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.**

#### **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]**) consists of the following minor edits recommended by Maddocks as well as minor positional changes to Council's organisational structure:

- New provisions:
  - *Local Government Act 1989*: s.185L(4) relating to the 'power to declare and levy a cladding rectification charge' which is not relevant to SGSC and as such no delegate has been applied.
  - *Planning and Environment Act 1987*: s.61(2A) relating to the 'power to decide to refuse to grant a permit if a relevant recommending referral authority objects the grant of permit' which has been delegated to Planning staff.
- Deleted provisions: from the *Planning and Environment Act 1987*: s.46AS(ac), s.50(6) and s.61(2A).

## **RISKS**

Failure to update an Instrument of Delegation (**Attachment [8.3.1]**) 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](http://www.southgippsland.vic.gov.au)

1. Instrument of Delegation Council to Members of Staff – 23 October 2019  
[8.3.1 - 49 pages]

## **REFERENCE DOCUMENTS**

### **Legislative Provisions**

Local Government Act 1989

## **9. ADMINISTRATOR REPORTS**

### **9.1. REQUESTS FOR LEAVE OF ABSENCE**

### **9.2. ADMINISTRATORS UPDATES**

### **9.3. COMMITTEE UPDATES**



## 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 Administrators 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 Administrator 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 Administrator...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 Administrators 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.

## 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 an Administrator. 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 an Administrator at a Public Presentation session speak briefly to its contents. At the following Ordinary Meeting of Council, an Administrator would accept the petition and introduce it to Council for formal noting and actioning by Council.

The Administrator 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.

## 11.2. ANSWERS TO PREVIOUS QUESTIONS ON NOTICE

## 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.*

## **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.

**Nil**

## **13. MEETING CLOSED**

### **NEXT MEETING**

The next Ordinary Meeting of Council open to the public will be held on Wednesday, 20 November 2019 commencing at 2pm in the Council Chambers, Leongatha.