

SOUTH GIPPSLAND SHIRE COUNCIL

Council Meeting Agenda

25 November 2020

Council Meeting No. 451
Virtual Meeting
Commencing at 2:00 pm

Administrators

Julie Eisenbise, Chair
Christian Zahra, Deputy Chair
Rick Brown



agenda



*South Gippsland
Shire Council*

Come for the beauty, Stay for the lifestyle



OUR PURPOSE

To serve in the best interests of the whole Shire, delivering quality services and advocating for community needs.

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.

Council undertakes audio recordings of Council Meetings as a contribution to good governance and accuracy of minutes. An audio recording of this meeting is being made for the purpose of verifying the accuracy of minutes of the meeting. In some circumstances the recording may be disclosed, such as where Council is compelled to do so by court order, warrant, and subpoena or by any other law such as the *Freedom of Information Act 1982*. It should be noted that other people present at the meeting may be recording the meeting and Council has limited power to regulate this. Council has developed a policy to regulate recordings, "*Sound Recording of Council Meetings*".

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

SOUTH GIPPSLAND SHIRE COUNCIL

Notice is hereby given that Council Meeting No. 451 of the
South Gippsland Shire Council will be conducted as a virtual meeting on
25 November 2020, commencing at 2.00pm

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Kerryn Ellis
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*.

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.

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

Thank you

1.2. WELCOME AND OPEN VIRTUAL COUNCIL MEETING VIA LIVE STREAM

Please ensure mobile phones are set to 'silent' during the Council Meeting.

Over the past months the Federal and State Governments have been increasingly clear in their directives about social gatherings. To that end Council has taken the unprecedented step of closing its doors to the public for this Council Meeting.

This Council Meeting will be conducted virtually (an on-line meeting) and does not include an open gallery. The virtual and livestreaming of an Open Council Meeting is made in accordance with the *Local Government Act 2020*, section 394 that prescribes Administrators are able to participate in the Meeting by electronic means of communication and section 395(1)(a) that 'Meetings may be closed to the public during the prescribed period.'

Access to the live stream through Council's Internet will be the 'open' component of this Meeting.

The safety of the community and staff and the continuation of vital services remain Council's highest priority.

RECOMMENDATION

That Council:

1. Not allow members of the public to attend the 25 November 2020 Council Meeting in person;
2. Notes that this Council Meeting is being conducted as a virtual meeting, conducted by electronic means of communication pursuant to section 394 of the *Local Government Act 2020*. The 'Minister's Good Practice Guideline MGP-1: Virtual Meetings' have been used to ensure that local government decision making can continue in line with COVID-19 Pandemic requirements;
3. Notes that the 25 November 2020 Council Meeting remains 'open' via the livestream on the Internet, in keeping with section 395 of the *Local Government Act 2020*; and
4. Notes that this decision is made to protect the health and wellbeing of all people required to be in attendance.

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:

- 1. Council Meeting No. 450, held on 28 October 2020 conducted as a virtual meeting; and**
- 2. Additional Council Meeting (Revision of the Local Law No.2) held on 18 November 2020 conducted as a virtual meeting be confirmed.**

1.7. DECLARATION OF CONFLICTS OF INTEREST FOR ADMINISTRATORS

The *Local Government Act 2020 (the Act)*, Division 2 sets out the requirements relating to Conflict of Interest. Disclosure of a conflict of interest in respect of a matter to be considered at a Council Meeting is required under section 130(1)(a) and specifically applies to a relevant person being a Councillor (Administrator), member of a delegated committee who is not a Councillor and a member of Council staff.

Council's *Governance Rules (C82) (the Rules)*, clause 3.0 Disclosure of a Conflict of Interest at a Council Meeting sets out the prescribed manner required to disclose a conflict of interest at South Gippsland Shire Council.

The *Rules* require a Councillor (Administrator) and/ or staff member who has a conflict of interest in a matter being considered at a Council Meeting to announce before the matter is considered and disclose this in a written notice to the Chief Executive Officer. The details included in the disclosure, explain the nature conflict of interest, whether it is classified as general or material (s.127 and s.128), the name of the relevant person(s) and their relationship to them.

Failure to comply with disclosures of conflict of interest (s.130) may be subject to penalty points and/ or other disciplinary measures depending on the nature of the conflict.

The *Local Government Act 2020* can be accessed from the Victorian Legislation and Parliamentary documents website at www.legislation.vic.gov.au. Council's *Governance Rules (C82)* can be accessed from [Council's Policies](#) webpage.

1.8. DECLARATION OF CONFLICTS OF INTEREST FOR STAFF

The *Local Government Act 2020 (the Act)*, Division 2 sets out the requirements relating to Conflict of Interest. Disclosure of a conflict of interest in respect of a matter to be considered at a Council Meeting is required under section 130(1)(a) and specifically applies to a relevant person being a Councillor (Administrator), member of a delegated committee who is not a Councillor and a member of Council staff.

Council's *Governance Rules (C82)(the Rules)*, Chapter 5, clause 7, 8 and 9 sets out the prescribed manner required for staff to disclose a conflict of interest when:

- *Preparing Reports for Meetings*
- *Exercise of Delegated Power*
- *Exercise of a Statutory Function*

Council staff must immediately upon becoming aware of a conflict of interest provide a written notice to the Chief Executive Officer disclosing the conflict of interest, explain the nature of the conflict and how it will be managed.

Upon becoming aware and declaring a conflict of interest, a staff member may not exercise a power or perform a function in the matter. All prepared reports will record that staff member(s) have considered a conflict of interest and include if any, the details of a disclosure.

Failure to comply with disclosures of conflict of interest (s.130) may be subject to penalty points and/ or other disciplinary measures depending on the nature of the conflict.

The *Local Government Act 2020* can be accessed from the Victorian Legislation and Parliamentary documents website at www.legislation.vic.gov.au.

Council's *Governance Rules (C82)* can be accessed from [Council's Policies](#) webpage.

2. OBJECTIVE 1 - UNITED SHIRE

2.1. GOOD GOVERNANCE FRAMEWORK - LOCAL LAW NO.2 2020 REPEAL AND AMENDMENTS

Performance & Innovation

Council Plan

Objective 4 - Customer Focused Organisation - Strategy 4.2 Review and implement Council plans, policies and practices aligned with the Local Government Act 2020 and the Commission of Inquiry recommendations

Objective 4 - Customer Focused Organisation - Strategy 4.4 Build on leadership, governance, financial sustainability, shared values and cultural capabilities within the organisation

The final adoption of the rescinded and amended Local Law No 2 2020, proposed in this report, will complete a significant project to establish new Governance Rules and adjust Council's meeting procedure local law to align with requirements of the Local Government Act 2020 and to address recommendations made by the Commission of Inquiry.

EXECUTIVE SUMMARY

Following the adoption of Council's Governance Rules in August 2020, final adjustments have been made to *Local Law No.2 2020 – Processes of Municipal Government – Meeting Procedures and Common Seal (Revised Local Law 2020)* to avoid duplication and overlap with the *Governance Rules (C82)*.

At the 23 September 2020 Council Meeting, Council endorsed the proposed rescission of numerous clauses and amendment of some retained clauses in the Local Law. The changes seek to provide greater clarity for the community, Council and Council staff.

A formal s.223 public submission process was then undertaken following the Government Gazettal on 1 October 2020 through to 5.00pm on Thursday 29 October 2020, in accordance with the *Local Government Act 1989 (1989 Act)*. One submission was received by the close of submissions.

This report seeks Council's final consideration of the Revised Local Law 2020 (**Attachment [2.1.1]**), incorporating amendments agreed in the consideration and determination of a submission at the 18 November 2020 additional Council Meeting.

This report incorporates references to the *Local Government Act 1989* and the *Local Government Act 2020*, as there is a transition period between the two Acts. At this point in time both Acts contain sections applicable to this report.

RECOMMENDATION

That Council:

1. **Adopts the 'Local Law No.2 2020 – Processes of Municipal Government – Meeting Procedures and Common Seal – Revised 25 November 2020' in Attachment [2.1.1], having repealed a majority of clauses and two penalties, while retaining or amending remaining clauses and including several additional clauses;**
2. **Applies the revised version date being the day after the Local Law No.2 2020 – Processes of Municipal Government – Meeting Procedures and Common Seal – Revised 25 November 2020' is published in the Government Gazette.**
3. **Notes 'Local Law No.2 2020 – Processes of Municipal Government – Meeting Procedures and Common Seal – Revised 25 November 2020' is automatically revoked on 4 June 2020 having reached its sunset date, being ten years after the original local law came into operation, unless revoked sooner;**
4. **Gives public notice in the Government Gazette of the adopted 'Local Law No.2 2020 – Processes of Municipal Government – Meeting Procedures and Common Seal – Revised 25 November 2020' specifying:**
 - a. **The title of the local law;**
 - b. **The purpose and general purport of the local law; and**
 - c. **That a copy of the local law may be inspected at the Council Office and on Council's website www.southgippsland.vic.gov.au**
5. **Requires the Chief Executive Officer to apply the common seal to 'Local Law No.2 2020 – Processes of Municipal Government – Meeting Procedures and Common Seal – Revised 25 November 2020', following gazettal;**
6. **Requires the Chief Executive Officer to provide the Minister for Local Government with a copy of the adopted 'Local Law No.2 2020 – Processes of Municipal Government – Meeting Procedures and Common Seal – Revised 25 November 2020'; and**
7. **Requires that a copy of 'Local Law No.2 2020 – Processes of Municipal Government – Meeting Procedures and Common Seal – Revised 25 November 2020' is available on Council's website, and is available for inspection, or to obtain a copy, during office hours at the Council offices.**

REPORT

The *Governance Rules 2020 (C82)*, including the *Election Period Policy (C30)* (Governance Rules) were adopted by Council at the 26 August 2020 Council meeting. In accordance with s.60 of the *Local Government Act 2020*, (2020 Act) the Governance Rules have been adopted to replace the majority of meeting procedures contained within *Local Law No.2 2020 – Processes of Municipal Government – Meeting Procedures and Common Seal* (Local Law 2020).

Redundant clauses in Local Law 2020 were presented for Council to consider for repeal on 23 September 2020. Several clauses were also retained and/or amended; predominantly to allow for the continuation of penalties and infringements to be applied as required. These penalties could not be captured in the Governance Rules.

Council endorsed the proposed changes at the 23 September 2020 Council meeting and commenced the required statutory community consultation process following the government gazettal on 1 October 2020, in accordance with s.223 of the *Local Government Act 1989*, (1989 Act).

The public consultation process was held between 1 and 29 October 2020. One submission was received.

An additional Council meeting was held at 11.00am on 18 November 2020 to hear, consider and decide on the submission. The Revised Local Law 2020 (**Attachment [2.1.1]**) incorporates final amendments resolved by Council in the consideration and determination of the submission.

The Revised Local Law will retain the current sunset date of 5 June 2030, being ten years after the original gazettal date of 4 June 2020, unless revoked sooner. This is in accordance with s.122 of *Local Government Act 1989*.

Due to fewer than expected submissions received, and requirements for minimal changes, the initial scheduled date of 16 December 2020 proposed in the 23 September 2020 resolution has been able to be brought forward. This will allow the Revised Local Law to be gazetted and final requirements actioned prior to end of the calendar year. The Council resolution of 23 September 2020 included:

“That Council

7. *Requires the ‘Local Law No.2 2020 – Processes of Municipal Government – Meeting Procedures and Common Seal’ to be presented to Council for adoption at the Council Meeting scheduled for 16 December 2020.”*

The adopted Revised Local Law will need to be gazetted in the Victorian Government Gazette before the revised version can officially commence on the following day. The publication date is currently scheduled for Thursday 3 December 2020, with commencement date being 4 December 2020.

Once gazetted, the Common Seal of Council is to be affixed to the Revised Local Law 2020 by Kerryn Ellis, Chief Executive Officer, on behalf of Council. A copy is to be provided to the Minister for Local Government, made available on Council's website and made available for inspection, or to obtain a copy, at the Council offices.

Together the Revised Local Law and the *Governance Rules (C82)* establish the foundation for managing Council meetings, thereby strengthening Council's 'Decision Making Pillar' for achieving the 'South Gippsland Shire Council Good Governance Framework – December 2019' outcomes.

Revised Local Law No.2 2020

The Revised Local Law 2020 is to be found in **Attachment [2.1.1]**. Final changes arising from the consideration and determination of the community submission, are included in the Attachment.

The changes to the Revised Local Law 2020 include in summary:

1. Repealed sections:
 - a. clauses 6 to 100;
 - b. clauses 101 to 102;
 - c. clause 104;
 - d. clause 106 to 107; and
 - e. other wording as required within remaining clauses;
 - f. Schedule 1 Infringement Notice; and
 - g. clauses and penalties applicable to the Common Seal.
2. Sections amended in summary include:
 - a. Clause 105(a) has been amended to improve the structure of the sentence and intent.
 - b. Clause 108 (a) and (b) – Infringement Notices – the amendment removes the reference to the Schedule 1 notice/form, but aligns the notice to be in accordance with most current requirements of the *Infringements Act 2006*, thereby reducing potential inconsistencies.
 - c. Clause 109 (a) has been amended for penalty payment options to be paid in accordance with the infringement notice. This will allow for a wider range of payment options to be offered than by mail alone.
 - d. Clause 109 (b) has been amended to recognise that due dates will be incorporated on the infringement notice, rather than the former

specified 28 days. In accordance with the *Infringements Act 2006* the dates must be more than 21 days from the date of the infringement. There can be some flexibility in setting the due by date based on the time of year and circumstances under which the penalty is issued.

- e. Clause 109 (c) – has been amended slightly indicating a person may elect to have the matter heard and determined in the court in accordance with the *Infringements Act 2006*.
- f. Clause 109 (d) to (e) – Payment of Penalty - the additional amendments provide the wider coverage of options open to people issued with an infringement notice. The additional clauses have been added to provide more awareness that these options exist.
- g. Schedule 3 (103) – the order of the penalties has been amended to place infringement 103 before 105(a) and align the wording with the clause it relates to.

A public consultation process has been undertaken in accordance with s.223 of the 1989 Act. A notice was placed in the Government Gazettal on 1 October 2020, to commence the public consultation period. Public notices were also placed on Council's Noticeboard and website. The submission closing date and time was 5.00pm on Thursday 29 October 2020.

One submission was received. Administrators were provided with a copy of the submission in the first week of November. The submitter was heard in regard to the submission at the additional Council meeting held on 18 November 2020. Council then considered and determined the outcome of that submission. The changes determined at that meeting have been incorporated into the Revised Local Law in **Attachment [2.1.1]**.

RESOURCES / FINANCIAL VIABILITY

There are no financial implications with the proposed changes, other than minimal costs for the government gazettal's to undertake the formal consultation process and advertise the final adoption of the Revised Local Law 2020.

RISKS

The repeal of redundant sections of the Revised Local Law 2020 aims to remove the risk of confusion as to the applicability of the 'Governance Rules' versus the 'Local Law 2020'. The Governance Rules are required under the 2020 Act to contain the meeting procedures for Council. There are clauses in the Revised Local Law 2020 that require retention and/or amendment to allow for penalties and infringements to be issued, when required. These cannot be applied under the Governance Rules.

The Revised Local Law 2020 and the Governance Rules, in part, addresses requirements from the *Commission of Inquiry Report into South Gippsland Shire Council 2019* raised by the Minister for Local Government being:

“During the period of administration, the Council reviews and implements improved council policies and processes, with a focus on councillors’ induction and training, the Councillor Code of Conduct and meeting procedures.”

The consultation for the Revised Local Law 2020 provided an opportunity for the community to be engaged in the review process. Amendments arising from the submission process have assisted in completing the final steps of the review requirements.

STAFF DISCLOSURE

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

ATTACHMENTS

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

1. Local Law No 2 2020 - June 2020 - Revised 25 November 2020 [2.1.1 - 8 pages]

REFERENCE DOCUMENTS

Council’s Good Governance Framework

Pillar 1. Direction & Leadership

Pillar 3. Decision Making

Council Policy / Strategy / Plans

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

Governance Rules (C82)

Human Rights Policy (C52)

Legislative Provisions

Local Government Act 1989

Local Government Act 2020

3. OBJECTIVE 2 - ECONOMIC PROSPERITY

3.1. PLANNING SCHEME AMENDMENT - ENVIRONMENTAL AUDIT OVERLAY - CONTAMINATED LAND

Economic & Community Development

Council Plan

Objective 2 - Economic Prosperity - Strategy 2.2 Develop plans that balance and utilise the natural values of the environment and improve liveability in the Shire.

The Environmental Audit Overlay aims to identify potentially contaminated land requiring further investigation or works before sensitive land uses can occur, protecting the environment, human health and improving liveability in the Shire.

EXECUTIVE SUMMARY

Council is a statutory Planning Authority responsible for considering planning applications and amendments to the South Gippsland planning scheme.

Included in the matters Council must consider when making planning decisions are “any significant effects” the environment may have on a proposed land use or development. This includes the potential for land contamination from past uses such as service stations and factories.

In 2019 the planning department identified approximately 900 potentially contaminated sites when investigating current and former land uses in the Shire. The identification of these sites does not mean that the land is contaminated only that the land use is/was of a type recognised by the Environment Protection Authority (EPA) as having the potential to contaminate land.

This report recommends to include approximately 78 sites in the Environmental Audit Overlay (EAO) of the South Gippsland Planning Scheme see **Confidential Attachment [13.1.1]**.

A review of the 2019 work determined the EAO candidate sites based on the following land use types and criteria:

- Former petrol stations and industrial uses in planning scheme zones that allow sensitive land uses to occur;
- Public utility sites where fuel and chemical storage is known to have occurred; and
- Sites where land contamination investigations have previously confirmed land contamination.

The EAO requires that before a planning permit approves a sensitive land use (e.g. dwelling, child care, school) soil testing must demonstrate the site is safe

for a sensitive use or alternatively remediation is completed before the use can commence.

It is proposed to exhibit the amendment for six weeks and to consult with the affected land owners to consider any new information before proceeding with application of the EAO.

RECOMMENDATION

That Council:

- 1. In consultation with the Environment Protection Authority (EPA) and the Department of Environment, Land, Water and Planning (DELWP) finalises site selection for the application of the Environmental Audit Overlay generally in accordance with the lands identified in Confidential Attachment [13.1.1];**
- 2. Seeks authorisation from the Minister for Planning to prepare a Planning Scheme Amendment to apply the Environmental Audit Overlay;**
- 3. Makes public the Confidential Attachment [13.1.1] for exhibiting the Planning Scheme Amendment for a period of not less than six weeks;**
- 4. Provides a minimum of two months between the close of exhibition and a Panel Hearing to allow consideration of new evidence / information submitted to Council during exhibition of the Planning Scheme Amendment; and**
- 5. Refers submissions to the Planning Scheme Amendment that cannot be resolved by negotiation to an Independent Planning Panel for consideration.**

REPORT

Land potentially contaminated from historic activities presents a risk to Council and prospective land purchasers as planning permission for inappropriate uses could be issued. For example, sensitive uses including dwellings, childcare, or food processing could be approved on potentially contaminated sites. Some Councils have approved sensitive land uses on contaminated land, resulting in legal action and compensation. A recent case in Melbourne involved the demolition of a new residential unit development on land the council suspected was contaminated but did not properly investigate before approving the development. Brimbank City Council is currently responding to issues surrounding the development of dwellings on a former landfill site that operated until the late 1970s.

The Brookland Greens residential development in the City of Casey is a high-profile example of soil contamination affecting a new residential development. While the circumstances surrounding this example are complex, soil contamination resulted in dangerous levels of methane gas accumulating inside dwellings to an extent that the dwellings became uninhabitable. The

development was the subject of an Ombudsman Report which demonstrated the financial and emotional impact that can occur when sensitive land uses are impacted by contamination.

In 2019 the planning department identified approximately 900 potentially contaminated sites based on current and former land uses in the Shire. The identification of these sites does not mean that the land is contaminated and should be included in the EAO, only that the land use is/was of a type recognised by the EPA as having the potential to contaminate land.

A review of the 2019 work has refined the EAO candidate sites based on the following land use types and criteria:

- Former petrol stations and industrial uses in planning scheme zones that allow sensitive land uses to occur;
- Public utility sites where fuel and chemical storage is known to have occurred; and
- Sites where land contamination investigations have already identified the presence of levels of contamination that warrant concern.

How Council communicates its knowledge of potential contamination is benefitted by applying the EAO. The EAO ensures that information is publicly available and provided in vendor statements which are used to inform land sale and development decisions.

CONSULTATION / COMMUNITY ENGAGEMENT

Consultation with the EPA and the Department of Environment, Land, Water and Planning (DELWP) continues to finalise the amendment. Some of the EAO candidate sites identified in **Confidential Attachment [13.1.1]** may be removed from the amendment before exhibition if recommended by the EPA and DELWP.

A planning scheme amendment is required to apply the EAO. Consultation with landowners will occur as part of the amendment process. The amendment proposes to apply the EAO to those sites known to be, or highly likely to be contaminated.

RESOURCES / FINANCIAL VIABILITY

The project has been undertaken within existing resource allocations. It is not anticipated that Council will undertake any soil testing as part of the project.

It may be necessary for Council to present independent expert evidence at a Panel Hearing.

RISKS

Application of the EAO intends to address the public health, financial and reputational risks associated with Council being complicit to the inappropriate development or use of contaminated land. Application of the EAO safeguards the community against inappropriate land use or development.

Having a robust planning scheme with publicly accessible information about potentially contaminated land better informs decision making and promotes good governance.

STAFF DISCLOSURE

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

CONFIDENTIAL ATTACHMENTS

The consideration of confidential information in a closed session of Council is in accordance with s.66(2)(a) and s.66(5)(a) and (b) of the *Local Government Act 2020*.

Confidential Attachment [13.1.1] – Planning Scheme Amendment – Environmental Audit Overlay – Contaminated Land – Candidate Sites is designated confidential information pursuant to the Local Government Act 2020, s.3(1)(c) - land use planning information, being information that if prematurely released is likely to encourage speculation in land values.

The grounds for designation have been made to protect the privacy of properties listed and the recommendations being put forward for this planning scheme amendment. Application of the Environmental Audit Overlay can affect how land is used and developed, which can affect its value or perceived value. To avoid unnecessary concern, public knowledge of the proposal should occur after Ministerial Authorisation to exhibit the amendment has been given.

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 1. Direction & Leadership

Pillar 3. Decision Making

Council Policy / Strategy / Plans

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

Open Space Strategy

Rural Land Use Strategy

South Gippsland Housing and Settlement Strategy

Sustainability Strategy

Waste Management Strategy

Council Plan 2020-24

Domestic Wastewater Management Plan

South Gippsland's Good Governance Framework
South Gippsland's Planning Scheme

Legislative Provisions

Catchment and Land Protection Act 1994
Country Fire Authority Act 1958
Crown Land (Reserves) Act 1978
Environment Protection Act 1970
Environment Protection Act 1994
Local Government Act 1989
Local Government Act 2020
Marine and Coastal Act 2018
Planning and Environment (Planning Schemes) Act 1996
Planning and Environment Act 1987
Regional Development Victoria Act 2002
Water Act 1989

Regional, State and National Plan and Policies

Gippsland Regional Growth Plan, State Government Victoria
Gippsland Regional Plan 2020-2025

4. OBJECTIVE 3 - INTEGRATED SERVICES AND INFRASTRUCTURE

4.1. PETITION RESPONSE: CLIMATE EMERGENCY DECLARATION PROPOSAL

Sustainable Infrastructure

Council Plan

Objective 1 – United Shire | Objective 2 - Economic Prosperity

Objective 3 - Integrated Services and Infrastructure | Objective 4 - Customer Focused Organisation

Climate change is a significant issue that impacts all four objectives of the Council Plan.

EXECUTIVE SUMMARY

At the 28 October 2020 Council Meeting, a petition was received from the Prom Area Climate Action Group requesting that Council consider making a declaration of a climate emergency for South Gippsland. At the meeting, Council resolved to receive a report at the 25 November 2020 Council Meeting, in response to the submission.

The pending development of a new Sustainability Strategy, incorporating Council's Greenhouse Gas Reduction Plan and associated emissions reduction targets, provides an opportunity to obtain a wide view of community opinions in relation to sustainability and with regard to addressing the current and future risks and impacts of climate change.

A decision on Council's direction with regards to addressing climate change more broadly, and whether to declare a climate emergency more specifically, would best be made by elected Councillors representing the views of the South Gippsland community.

It is therefore recommended that Council continue to address the impacts of climate change by implementing the actions within Council's Sustainability Strategy, pending the development of a new Sustainability Strategy and a decision on the matter by the future elected Council.

RECOMMENDATION

That Council:

- 1. Continues to implement the actions within Council's Sustainability Strategy to address the impacts of climate change; and**
- 2. Writes to the lead petitioner detailing the outcome of this report.**

REPORT


At the 28 October 2020 Council Meeting, a petition was received from the Prom Area Climate Action group (PACA) requesting that Council consider making a declaration of a climate emergency for South Gippsland. At the meeting, Council resolved to receive a report at the 25 November 2020 Council Meeting, in response to the submission.

The petition contains approximately 2,004 signatures broken down as follows:

- Total valid signatures within Shire: 737 (37 per cent).
- Total valid signatures outside Shire: 871 (43 per cent).
Note: signatures from Victoria, other Australian States, and International.
- Invalid Signatures: 396 (20 per cent).
Note: invalid signatures are those without a full or identifiable residential address, no signature etc)

The petition prayer is included in **Figure 1** and the petition is available in **Confidential Attachment [13.2.1]**.

Figure 1 – Petition Prayer

<p><u>Petition: South Gippsland Shire to declare a Climate Emergency</u></p> <p>We the undersigned:</p> <ol style="list-style-type: none"> 1. acknowledge that dangerous climate change is happening now and is accelerating, 2. demand action at a pace far beyond business and politics as usual, and 3. hereby petition South Gippsland Shire Council to <ol style="list-style-type: none"> (a) take a leadership role within the South Gippsland community for urgent action on climate change, (b) require all reports to Council to include a section on climate implications, both for Council's own operations and for the broader South Gippsland community, and (c) declare a climate emergency along with more than 990 governments which have already done so around the world (www.cedamia.org/global) 	 <p>Prom Area Climate Action. Independently organized Community group of Australian Conservation Foundation</p>
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Council has considered the petition and acknowledges the significant work being undertaken by PACA to raise awareness of climate change within the community and to advocate for change.

A review of Council's Sustainability Strategy is scheduled for this financial year, which will incorporate Council's previously separate Greenhouse Gas Reduction Plan and associated emissions reduction target. The development of this strategic document presents an opportunity to consult with the community in the development of Council's plans for addressing climate change, with the outcome of this process to be considered by elected Councillors.

CONSULTATION / COMMUNITY ENGAGEMENT

Given the relevance of sustainability to the lives of community members, and the high level of community interest in the issue of climate change, it is important to engage broadly with South Gippsland residents when developing Council's position and response to climate change.

There will be an opportunity to undertake community engagement on this issue this financial year during the review of Council's Sustainability Strategy, and

next financial year as part of the development of the Council Vision by the future elected Council.

RISKS

Council has a responsibility to address the effects of climate change which it will continue to do through the Sustainability Strategy scheduled for review this financial year.

STAFF DISCLOSURE

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

CONFIDENTIAL ATTACHMENTS

The consideration of confidential information in a closed session of Council is in accordance with s.66(2)(a) and s.66(5)(a) and (b) of the *Local Government Act 2020*.

Confidential Attachment [13.2.1] – Climate Emergency Petition – is designated confidential information pursuant to the Local Government Act 2020, s.3(1)(f) - - personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.

The grounds for designation have been made to protect the privacy of the petition signatories (personal information).

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 5. Communications & Community Engagement

Council Policy / Strategy / Plans

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

Community Engagement Policy (C06)

Sustainability Strategy

Waste Management Strategy

Legislative Provisions

Local Government Act 1989

Local Government Act 2020

5. OBJECTIVE 4 - CUSTOMER FOCUSED ORGANISATION

5.1. ORGANISATIONAL PERFORMANCE REPORT - JULY 2020 TO SEPTEMBER 2020

Performance & Innovation

Council Plan

Objective 4 - Customer Focused Organisation - Strategy 4.4 Build on leadership, governance, financial sustainability, shared values and cultural capabilities within the organisation

Council's governance is strengthened by regular organisational performance reporting against the Council Plan 2020-2024 Measures and Annual Initiatives.

EXECUTIVE SUMMARY

The role of Council is to provide leadership for the good governance of the Shire. This is achieved, in part, by establishing strategic directions articulated in a four-year Council Plan and supported by a four-year Strategic Resource Plan. These requirements are legislated under s.125 of the *Local Government Act 1989* (Act).

Council endorsed the Council Plan 2020-2024 (Council Plan) at the 24 June 2020 Council Meeting. The Council Plan outlines the strategic objectives, strategies and indicators of Council for the next four years includes the rolling four-year Strategic Resource Plan (SRP).

The Council Plan contains the 2020/21 Annual Initiatives (Annual Initiatives). These Annual Initiatives commence the implementation of activities to progress the achievement of the Council Plan Objectives and Strategies for the 2020/21 financial year. The Annual Initiatives are also captured in Section 2 of the Annual Budget 2020/21 (Annual Budget) through which they are funded.

The Organisational Performance Report for the period July 2020 to September 2020 (refer to **Attachment [5.1.1]**) is presented to Council and provides detailed reporting on Council's performance against the 2020/21 Annual Initiatives, Performance Indicators, and Capital Works Program.

The Organisational Performance Report (**Attachment [5.1.1]**) will also be presented to Council's Audit & Risk Committee on 8 December 2020.

This report incorporates references to the *Local Government Act 1989* and the *Local Government Act 2020*, as there is a transition period between the two Acts. At this point in time both Acts contain sections applicable to this report.

RECOMMENDATION

That Council:

1. **Receives and notes the Organisational Performance Report for the period July 2020 to September 2020 (Attachment [5.1.1]);**
2. **Publishes the Organisational Performance Report (Attachment [5.1.1]) to Council's website; and**
3. **Presents the Organisational Performance Report (Attachment [5.1.1]) to Council's 8 December 2020 Audit & Risk Committee meeting.**

REPORT

Background

The Council Plan 2020-2024 and the 2020/21 Annual Budget (inclusive of the Annual Initiatives) were adopted by Council on 24 June 2020. The Council Plan sets the indicators and initiatives/activities which are reported in the Organisational Performance Report – July 2020 to September 2020 (**Attachment [5.1.1]**).

The Council Plan is reviewed annually and includes key Strategic Outcomes, Objectives and Initiatives. A series of indicators are allocated to the four Outcomes of the Council Plan and progress against these indicators and service performance measures are outlined within the report.

The four Strategic Objectives of the 2020-2024 Council Plan are:

- United Shire – *shared community direction*;
- Economic Prosperity – *corner stone for local employment and business growth*;
- Integrated Services and Infrastructure - *enhance liveability*; and
- Customer Focused Organisation – *accountable decision making*.

The alignment of the Council Plan, Organisational Performance Report and Council Agenda topics in Council Meetings all outline the various activities and initiatives that work towards achieving the Council Plan Strategic Outcomes and Strategies.

Discussion

This report provides an overview of the major activities undertaken by Council in the first quarter of the 2020/21 financial year (1 July 2020 to 30 September 2020). Where possible, comparisons of results have been made and reflected throughout the report.

Significant highlights during the period include:

- 60 per cent of the Council Plan 2020-2024 Measures of Success indicators are on track or target achieved.
- 100 per cent of the Annual Plan initiatives for 2020/21 are on track or have target achieved as at end of September 2020.
- 76 per cent of the 111 Capital Works and Major Works Program initiatives for 2020/21 have been completed or are on track as at September 2020.
- Council endorsed a \$2M Community Support Package at the 24 June 2020 Council Meeting. The Package aims to assist in the recovery of, and re-investment within, the Shire and provide support to community members and local business through additional grant funding opportunities.
- As part of the \$2M Community Support Package, Council issued COVID-19 Quick Response Grants of \$1,000 per applicant to small businesses experiencing hardship and decline in business.
- To ensure compliance with the *Local Government Act 2020* deadline of 1 September 2020, the following were reviewed and endorsed by Council at the 26 August 2020 Council Meeting:
 - Governance Rules and Council Election Policy
 - Public Transparency Policy
 - Councillor Support and Expenditure Policy
- Review of Council's Delegated Committees and Community Asset Committees were conducted and the *Audit and Risk Charter* and Committee were adopted at the 26 August 2020 Council Meeting.

The COVID-19 Pandemic continues to have considerable impact on the community. Council has been able to adapt quickly and continually to the unanticipated disruptions created by the pandemic, while still continuing the delivery of services to the community. The final outcome of some Council Plan initiatives may be impacted as a result of the pandemic.

CONSULTATION / COMMUNITY ENGAGEMENT

The Organisational Performance Report (**Attachment [5.1.1]**) will be presented to Council's Audit & Risk Committee on 8 December 2020.

RESOURCES / FINANCIAL VIABILITY

The 2020/21 Annual Initiatives and Capital Works Program are funded through the 2020/21 Annual Budget.

RISKS

The Organisational Performance Report (**Attachment [5.1.1]**) mitigates the risk of annual initiatives and capital works activities not being monitored throughout the financial year. These activities are priority actions required by Council. Inadequate monitoring of their progress may result in activities not being achieved, without understanding the reasons for any delay.

STAFF DISCLOSURE

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

ATTACHMENTS

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

1. Organisational Performance Report - July 2020 to September 2020 [5.1.1 - 38 pages]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 8. Monitoring & Performance Review

Council Policy / Strategy / Plans

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

Annual Budget

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

Council Plan 2020-2024

Legislative Provisions

Local Government Act 1989

Local Government Act 2020

Local Government Better Practice Guide – Performance Framework Indicator Workbook, Strategic Resource Plan 2020 and Planning and Reporting

5.2. WEST GIPPSLAND REGIONAL LIBRARY BOARD - APPOINTMENT

Performance & Innovation

Council Plan

Objective 4 - Customer Focused Organisation - Strategy 4.4 Build on leadership, governance, financial sustainability, shared values and cultural capabilities within the organisation

Council's library service is a valued means of providing information and inspiration to the South Gippsland community. The service is delivered in partnership with Bass Coast and Baw Baw Shire Councils through the West Gippsland Regional Library Corporation. Council has two positions on the Board; one position is currently held by Administrator Brown, the second is an Officer appointment to be made by Council. This report builds on the leadership responsibilities Council has in regard to decision making by the West Gippsland Regional Library Corporation.

EXECUTIVE SUMMARY

The West Gippsland Regional Library Corporation (WGRLC) has an agreement with South Gippsland Shire Council, Bass Coast Shire Council and Baw Baw Shire Council to deliver library services on behalf of each Council.

Council has two positions on the WGRLC Board being for one Councillor and one senior officer. This report seeks Council's approval to fill the existing vacancy for a senior officer position to be appointed to the WGRLC Board.

RECOMMENDATION

That Council:

- 1. Appoints the Director Performance and Innovation, or an officer acting in this position, to be Council's senior officer representative on the West Gippsland Regional Library Corporation board;**
- 2. Appoints the Manager Community Services to be the deputy senior officer representative on the West Gippsland Regional Library Corporation, when the Director Performance and Innovation, or acting Director, is unavailable; and**
- 3. Notifies the West Gippsland Regional Library Corporation of Council's resolution.**

REPORT

The 2014 WGRLC Agreement provides the governance framework within which library services are provided to the communities of South Gippsland, Baw Baw and Bass Coast. The membership of the WGRLC Board (Board) consists of one Councillor and one Director of Council staff appointed by each Council. A

Council may appoint a deputy Councillor and a deputy officer in place of the appointed members.

Administrator Rick Brown is Council's appointed Councillor to the Board, with Administrator Chair Julie Eisenbise as deputy/substitute.

A vacancy currently exists for Council's Director of Council staff position on the Board. This report seeks Council's direction to appoint a Director and deputy to the Board.

The Director position on the Board has traditionally been held by the Director Corporate and Community Services. Following the resignation of the former Director Corporate and Community Services, this position has been replaced with the Director Performance and Innovation position. It is recommended that Council appoint the Director Performance and Innovation, or person acting in this role, to fill the senior officer vacancy on the Board.

Previously the Manager of Community Services has been the deputy; attending when the Director has been unavailable. It is recommended that this position be appointed as the deputy to be the substitute for the Director Performance and Innovation, or acting Director, when they are unable to attend.

CONSULTATION / COMMUNITY ENGAGEMENT

This position on the WGRLC Board is considered by the CEO to be the most appropriate and valuable role to serve as senior executive representative on the Board.

RESOURCES / FINANCIAL VIABILITY

There are no resource implications associated with this proposal.

RISKS

The library services enjoyed by the South Gippsland community are delivered by Council through the library corporation partnership. It is important that two suitably experienced senior representatives of Council are appointed to the board, to ensure Council and the community's interests are appropriately represented in the strategic direction and operation of the Corporation.

STAFF DISCLOSURE

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 3. Decision Making

Pillar 4. Structure, Systems & Policies

Council Policy / Strategy / Plans

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

Council Plan 2020-2024

South Gippsland's Good Governance Framework

West Gippsland Regional Library Corporation – Regional Library Agreement 2014

Legislative Provisions

Local Government Act 1989

Local Government Act 2020

5.3. AUDIT COMMITTEE CHAIR ANNUAL REPORT TO COUNCIL

Performance & Innovation

Council Plan

Objective 4 - Customer Focused Organisation - Strategy 4.4 Build on leadership, governance, financial sustainability, shared values and cultural capabilities within the organisation

Council's risk management and governance is strengthened by effectively monitoring and reporting on the activities and advice provided by the Audit and Risk Committee.

EXECUTIVE SUMMARY

Presentation from Council's Audit Committee Chair, Mr Chris Badger of the Audit Committee Chair Annual Report to Council for 2019/20.

RECOMMENDATION

That Council receives and considers the report of Council's Audit Committee Chair, Mr Chris Badger for the 2019/20 Financial Year (Attachment [5.3.1]).

REPORT

The objective of the Audit Committee is to assist Council in the effective conduct of its responsibilities for financial reporting, management of risk including Council's exposure to fraud, maintaining a reliable system of internal control and facilitating Council's ethical development.

It is good practice for the Chair to report to Council annually on the work of the Committee in addition to the minutes of the four meetings of the Committee being reported to Council during the year. This allows members of Council other than the Councillor (Administrator) appointee to engage directly with the Audit Committee Chair.

Audit and Risk Committee Chair Mr Chris Badger presented the Audit and Risk Committee Annual Chair Report to Administrators at their briefing meeting of 28 October 2020.

CONSULTATION / COMMUNITY ENGAGEMENT

This report has received feedback from Council's Audit and Risk Committee and Administrators.

RESOURCES / FINANCIAL VIABILITY

Resources for the administration of Council's Audit and Risk Committee and outsourced Internal Audit function are contained with Council's current and forward budgets.

RISKS

Presenting the report is a requirement of the *Local Government Act 2020*.

STAFF DISCLOSURE

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

ATTACHMENTS

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

1. Audit Committee Chair Annual Report to Council 2019/20 [5.3.1 - 6 pages]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 1. Direction & Leadership

Pillar 7. Risk & Compliance

Council Policy / Strategy / Plans

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

Audit and Risk Committee Charter Policy (C08)

Audit and Risk Committee Charter and Terms of Reference

Legislative Provisions

Local Government Act 2020

Regional, State and National Plan and Policies

Audit Committees - A Guide to Good Practice for Local Government, January 2011

5.4. POLICY REVIEW: INFORMATION PRIVACY POLICY (C22)

Performance & Innovation

Council Plan

Objective 4 - Customer Focused Organisation - Strategy 4.2 Review and implement Council plans, policies and practices aligned with the Local Government Act 2020 and the Commission of Inquiry recommendations

This Policy has been updated to align to the Local Government Act 2020 and meets the requirement of Information Privacy Principle 5 – Openness, required under the Privacy and Data Protection Act 2014.

EXECUTIVE SUMMARY

Council has an obligation to its community and staff to ensure that data and information it collects is stored, used and protected appropriately.

Council obligations are set out in the *Privacy and Data Protection Act 2014* (Vic). Schedule 1 contains the Information Privacy Principles. Principle 5 – Openness, requires an organisation to set out a document with clearly expressed policies on its management of personal information. This document must be available to anyone who asks for it.

The Information Privacy Policy (the Policy) (**Attachment [5.4.1]**) states how Council meets these obligations including data access provisions, disclosure and freedom of information (FOI), collection and use of website data, and Council security actions.

The Policy strengthens Council's 'Risk and Compliance' pillar of the *Good Governance Framework*. Establishing an updated policy position for managing privacy, ensures the important requirement for managing and protecting personal information remains current and in line with Council's legislated responsibilities.

RECOMMENDATION

That Council adopts the revised C22 Information Privacy Policy (Attachment [5.4.1]).

REPORT

The current C22 Information Privacy Policy (**Attachment [5.4.1]**) is due for review and the attached Policy is proposed as a result of this review.

Key changes to note are:

- The Office of the Victorian Information Commissioner (OVIC) has recommended that a two-yearly review period is adopted.
- The Local Government Act 2020 has been included.

- A new statement to establish that Council maintains data and security protection in accordance with the Victorian Data Protection Security Standards V2.0 (VPDSS 2.0).
- Changed the appointment of Council's Privacy Officer to the Director Performance and Innovation.
- Included a reference to the Council's CE74 Complaint Handling Policy.

CONSULTATION / COMMUNITY ENGAGEMENT

The review of the Policy was presented to the Executive Leadership Team.

A training program will be delivered as part of our regular learning and development process to update and refresh staff knowledge on the revised Policy.

RESOURCES / FINANCIAL VIABILITY

Nil

RISKS

Establishing an updated policy position for managing privacy, ensures the important requirement for managing and protecting personal information remains current and in line with Council's legislated responsibilities.

STAFF DISCLOSURE

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

ATTACHMENTS

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

1. Draft Information Privacy Policy (C22) - November 2020 [5.4.1 - 7 pages]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 7. Risk & Compliance

Council Policy / Strategy / Plans

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

Information Privacy Policy (Website Privacy Statement) (C22)

Legislative Provisions

Local Government Act 2020

5.5. POLICY REVIEW: INTELLECTUAL PROPERTY POLICY (C23)

Performance & Innovation

Council Plan

Objective 4 - Customer Focused Organisation - Strategy 4.2 Review and implement Council plans, policies and practices aligned with the Local Government Act 2020 and the Commission of Inquiry recommendations

This Policy has been reviewed to ensure it aligns to the Local Government Act 2020.

EXECUTIVE SUMMARY

Council's C23 Intellectual Property (IP) Policy (**Attachment [5.5.1]**) (Policy) has been reviewed in accordance with Council Policy and governance process.

This review recommends no changes to the current Policy.

RECOMMENDATION

That Council adopts the updated C23 Intellectual Property Policy (Attachment [5.5.1]).

REPORT

Council's Intellectual Property Policy (**Attachment [5.5.1]**) remains aligned to regulations that relate to the Intellectual Property rights. This applies:

- To protecting and maintaining Council's Intellectual Property (IP).
- Ensuring that all staff understand their obligations as Council employees in the use of third-party IP.

Council continues to engage the Copyright Agency that offers advice and guidance along with some copyright protection when using other people's work and also in situations where Council may need to protect its copyright.

The review and updated Intellectual Property Policy will strengthening the 'Risk and Compliance' pillar of Council's Good Governance Framework. Protecting Council's intellectual property is a preventative risk management measure.

CONSULTATION / COMMUNITY ENGAGEMENT

The review of the Policy was presented to the Executive Leadership Team.

A training program will be delivered as part of our regular learning and development process to update and refresh staff knowledge on the revised Policy.

RESOURCES / FINANCIAL VIABILITY

Nil

RISKS

This Policy provides structure to address Council's risks relating to Intellectual Property and Copyright.

STAFF DISCLOSURE

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

ATTACHMENTS

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

1. Draft Intellectual Property Policy (C23) - November 2020 [5.5.1 - 4 pages]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 7. Risk & Compliance

Council Policy / Strategy / Plans

Documents are available on Council's website: www.southgippsland.vic.gov.au
Intellectual Property Policy (C23)

Legislative Provisions

Local Government Act 2020

5.6. SUMMARY OF STRATEGIC BRIEFINGS TO ADMINISTRATORS: 22 SEPTEMBER - 21 OCTOBER 2020

Performance & Innovation

Council Plan

Objective 4 - Customer Focused Organisation - Strategy 4.4 Build on leadership, governance, financial sustainability, shared values and cultural capabilities within the organisation

Council's transparency and governance is strengthened by regularly reporting on summaries of briefings held, that assist Council to make informed decisions on behalf of the community.

EXECUTIVE SUMMARY

Council in its requirement to give effect to the overarching governance principles and supporting principles of the *Local Government Act 2020*, section 9(2)(i), s.9(3)(b) and s.58, aim to assist the transparency of Council decisions, actions and information through the provision of public summaries of information presented and considered at Council Strategic Briefing Sessions, Public Presentation Sessions and Advisory Committees. These summaries provide understandable, relevant, timely and accessible information to members of the public that are captured in the minutes of the next Council meeting.

The matters listed in this report demonstrate information presented and considered at sessions held between 22 September and 21 October 2020.

RECOMMENDATION

That Council receives and notes this report.

REPORT

Meeting Title	Details
Tuesday 22 September 2020	
CEO / Administrators Weekly meeting	<p>Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown</p> <p>Conflict of Interest: Nil disclosed</p> <p>Matters Considered:</p> <ul style="list-style-type: none"> • Council meeting timelines and schedule • Gippsland Regional Plan • Community Support Package • Better Approvals Project • Local procurement
Wednesday 23 September 2020	
Public Presentation Virtual Meeting Sessions (open)	<p>Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown</p> <p>Conflict of Interest: Nil disclosed</p> <p>Matters Considered: The Administrators considered community presentation from:</p> <p>Tim Farrell, objector to application regarding agenda item Agenda Item 2.1. PLANNING PERMIT APPLICATIONS - 1996/831417/A - 150 FISH CREEK QUARRY ROAD FISH CREEK VIC 3959 - QUARRY & EXTRACTIVE INDUSTRIES - AMEND WHAT THE PERMIT ALLOWS, CONDITIONS AND ENDORSED PLANS.</p>
Council Meeting Agenda Topic Discussion – 23 September 2020	<p>Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown</p> <p>Conflict of Interest: Nil disclosed</p> <p>Matters Considered: The Administrators considered and asked questions relating to Agenda items for the Council Meeting 23 September 2020.</p>
Executive Update	<p>Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown</p> <p>Conflict of Interest: Nil disclosed</p> <p>Matters Considered:</p> <ul style="list-style-type: none"> • Planning application

Meeting Title	Details
Wednesday 23 September 2020	
Suicide Prevention Post-vention Project 2020/21	<p>Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown</p> <p>Conflict of Interest: Nil disclosed</p> <p>Matters Considered: The Administrators considered the project plan for the externally funded Suicide Prevention and Post-vention Project.</p>
Tuesday 29 September 2020	
CEO / Administrators Weekly meeting	<p>Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown</p> <p>Conflict of Interest: Nil disclosed</p> <p>Matters Considered:</p> <ul style="list-style-type: none"> • Municipal Association Victoria (MAV) State Council • Process for funding for landslips
Tuesday 6 October 2020	
CEO / Administrators Weekly meeting	<p>Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown</p> <p>Conflict of Interest: Nil disclosed</p> <p>Matters Considered:</p> <ul style="list-style-type: none"> • Coastal Councils group • Audit Committee recruitment of independent member • Community Leadership Program launch
Wednesday 7 October 2020	
External Presentation	<p>Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown</p> <p>Conflict of Interest: Nil disclosed</p> <p>Matters Considered: The Administrators considered an external presentation from Attentis Sustainability Technology.</p>
Planning Briefing	<p>Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown</p> <p>Conflict of Interest: Nil disclosed</p> <p>Matters Considered: The Administrators considered:</p> <ul style="list-style-type: none"> • Strategic Planning Project List • Planning Applications of Interest • Decisions for August 2020 • VCAT Decisions

Meeting Title	Details
	<ul style="list-style-type: none"> • Applications received August 2020
Wednesday 7 October 2020	
Executive Update	<p>Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown</p> <p>Conflict of Interest: Nil disclosed</p> <p>Matters Considered:</p> <ul style="list-style-type: none"> • Tourism Update • Economic Development and Visitor Economy Advisory Committees
Tuesday 13 October 2020	
CEO / Administrators Weekly meeting	<p>Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown</p> <p>Conflict of Interest: Nil disclosed</p> <p>Matters Considered:</p> <ul style="list-style-type: none"> • Korumburra Hub • Council Committees update • Working for Victoria program
Wednesday 14 October 2020	
External Presentation	<p>Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown</p> <p>Conflict of Interest: Nil disclosed</p> <p>Matters Considered: The Administrators considered an external presentation from Major Roads Projects Victoria in respect of the Black Spur Realignment near Koonwarra.</p>
Korumburra Business Precinct Update	<p>Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown</p> <p>Conflict of Interest: Nil disclosed</p> <p>Matters Considered: The Administrators considered an update on the Korumburra Business Precinct.</p>

Meeting Title	Details
Wednesday 14 October 2020	
Executive Update	<p>Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown</p> <p>Conflict of Interest: Nil disclosed</p> <p>Matters Considered:</p> <ul style="list-style-type: none"> • Mirboo North Pool update • Road Slips update • Korumburra Precinct Project update • Fish Creek WiFi connectivity signage • Economic Development and Visitor Economy Advisory Committees • Planning Application • NBN Connectivity • Finance improvement project
Council Meeting Agenda Topic Discussion – 28 October 2020	<p>Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown</p> <p>Conflict of Interest: The CEO has a declared direct Conflict of Interest on a Confidential Agenda item.</p> <p>Matters Considered: The Administrators considered and asked questions relating to Agenda items for the Council Meeting 28 October 2020.</p>
Tuesday 20 October 2020	
CEO / Administrators Weekly meeting	<p>Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown</p> <p>Conflict of Interest: Nil disclosed</p> <p>Matters Considered:</p> <ul style="list-style-type: none"> • Camping • Advisory Committees updates • Media briefing • State government regulations and restrictions on travel to regional areas

Meeting Title	Details
Wednesday 21 October 2020	
Corporate Timetable 2021/22	<p>Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown</p> <p>Conflict of Interest: Nil disclosed</p> <p>Matters Considered: The Administrators considered the key steps associated with the Annual Budget and Annual Initiative development.</p>
Policy Review: Intellectual Property and Information Privacy	<p>Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown</p> <p>Conflict of Interest: Nil disclosed</p> <p>Matters Considered: The Administrators considered a review of Council Policy for Intellectual Property and Information Privacy.</p>
Community Support Package	<p>Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown</p> <p>Conflict of Interest: Nil disclosed</p> <p>Matters Considered: The Administrators considered an update to the Community Support Package Project.</p>
Community Leadership Program	<p>Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown</p> <p>Conflict of Interest: Nil disclosed</p> <p>Matters Considered: The Administrators considered an update on the progress of the development of a Community Leadership Program.</p>

Meeting Title	Details
Wednesday 21 October 2020	
Executive Update	<p>Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown</p> <p>Conflict of Interest: Nil disclosed</p> <p>Matters Considered:</p> <ul style="list-style-type: none"> • COVID-19 pandemic update • Customer First project • Impacts of excessive rainfall on Council infrastructure
<p>Public Presentation</p> <p>Virtual Meeting (open session)</p>	<p>Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown</p> <p>Conflict of Interest: Nil disclosed</p> <p>Matters Considered: The Administrators considered community presentations from: Leongatha Rotary Club - Mr Lindsay Moore, President, Mr David Panther, Secretary and Mr Jol Dutton, Committee member regarding a proposed Rotary Leongatha Rail Trail Shelter Project at Koonwarra.</p> <p>Walkerville Foreshore Reserve Committee of Management Inc. - Mr Bill Bray, President and Mrs Margaret Robertson, Treasurer regarding parking at Walkerville South beach during summer.</p> <p>Prom Area Climate Action - Ms Veronique Haider, Lead Petitioner and Mr Tony Walker regarding submitting a petition asking South Gippsland Shire Council to declare a Climate Emergency.</p>

Council’s Good Governance Framework

Pillar 3. Decision Making

Council Policy / Strategy / Plans

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

Public Participation in Meetings with Council Policy (C65)

Public Transparency Policy (C75)

Legislative Provisions

Local Government (South Gippsland Shire Council) Act 2019

Local Government Act 1989

Local Government Act 2020

5.7. DOCUMENTS SEALED, CONTRACTS VARIED, AWARDED OR EXTENDED BY CEO - 21 SEPTEMBER TO 18 OCTOBER 2020

Performance & Innovation

Council Plan

Objective 4 - Customer Focused Organisation - Strategy 4.4 Build on leadership, governance, financial sustainability, shared values and cultural capabilities within the organisation.

Council's transparency of financial decisions made and overall financial sustainability is strengthened by regularly reporting on documents sealed, contracts awarded, varied or extended under the CEO's delegation.

EXECUTIVE SUMMARY

This report documents the following actions undertaken by the Chief Executive Officer (CEO) which occurred during the period from 21 September to 18 October 2020. Council's *Procurement Policy* requires the CEO to report to Council any of the following actions undertaken to the next appropriate Meeting:

- 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 2020* (the Act), section 14 states that each Council is a body corporate with perpetual succession; and must have a common seal. Sealing a document makes it an official document of Council as a corporate body. Documents that require sealing include agreements, leases or any other contractual or legally binding document that binds Council to another party.

Use of the Local Law No. 2 2020, Part 9, clause 107(f)(iv) – Common Seal of Council, states that if the Chief Executive uses the Common Seal in a manner prescribed by sub-clause (c), this means on the authority of a Council resolution, then Council must be advised of such use on a regular basis.

'Section 173 Agreements' are prepared in accordance with s.173 of the *Planning and Environment Act 1987*, allowing Council to enter into agreements

relating to the use or development of land, conditions to which the land may be used or developed or any matter that relates to planning or planning schemes in Victoria. Section 174 of the *Planning and Environment Act 1987* requires that such an agreement be under seal and must bind the owner to the covenants specified in the agreement.

In accordance with the Local Law, Instrument of Delegation and *Planning and Environment Act 1987*, the following are presented to Council as documents sealed during the period from 21 September to 18 October 2020.

1. Section 173 Agreement between South Gippsland Shire Council and the owner of 6 Centre Road Venus Bay in relation to develop land with a dwelling. Seal applied 1 October 2020.
2. Section 173 Agreement between South Gippsland Shire Council and the owner of 5 Sun Court Venus Bay in relation to develop land with a dwelling. Seal applied 1 October 2020.
3. Section 173 Agreement between South Gippsland Shire Council and the owner of 14 Carol Court Venus Bay in relation to develop land with a dwelling. Seal applied 1 October 2020.
4. Section 173 Agreement between South Gippsland Shire Council and the owner of 458 Walkerville South Road Walkerville South in relation to two lot subdivision. Seal applied 1 October 2020.
5. Section 173 Agreement between South Gippsland Shire Council and the owner of 37 June Road Venus Bay in relation to two lot subdivision. Seal applied 7 October 2020.
6. Section 173 Agreement between South Gippsland Shire Council and the owner of 34 Orion Road Venus Bay in relation to develop land with a dwelling. Seal applied 7 October 2020.
7. Section 173 Agreement between South Gippsland Shire Council and the owner of 40 Fishermans Road Venus Bay in relation to develop land with a dwelling. Seal applied 14 October 2020.
8. Section 173 Agreement between South Gippsland Shire Council and the owner of 15 Mercury Road Venus Bay in relation to develop land with a dwelling. Seal applied 14 October 2020.
9. Terms of Reference for seven members of the Economic Development Strategy Advisory Group. Seal applied 14 October 2020
10. Terms of Reference for seven members of the Visitor Economy Strategy Advisory Group. Seal applied 14 October 2020

Contracts Awarded, Varied or Extended

In accordance with Council's Procurement Policy where contracts are awarded under delegation, varied or extended, they are required to be reported to the next practicable Council Meeting.

1. Contracts awarded after a public tender process within the CEO's delegation between 21 September to 18 October 2020.
 - a. CON/248-C for the Repair of Seven Landslips in the South Gippsland Region was awarded to Hugh Patrick Pty Ltd T/A BJ's Earthmoving. Signed by the CEO 22 September 2020.
 - b. CON/259-I for the Panel of Suppliers for Supply and Delivery of Quarry Products and Road Making Materials was awarded to Fulton Hogan Pty Ltd. Signed by the CEO 24 September 2020.
 - c. CON/248-B for the Repair of Seven Landslips in the South Gippsland Region was awarded to South Gippsland Quarries Pty Ltd. Signed by the CEO 28 September 2020.
 - d. CON/265 for the Bena Kongwak Road, Bena and Ferrier Street, Korumburra - Reconstruction was awarded to South Gippsland Quarries Pty Ltd. Signed by the CEO 28 September 2020.
 - e. CON/258-I for the Panel of Dry Hire of Plant and Equipment Suppliers was awarded to William Adams Pty Ltd T/A CAT Rental. Signed by the CEO 29 September 2020.
 - f. CON/264-C for the Construction of Footpath and Kerb & Channel Renewals and Footpath Extensions was awarded to M&M Paving. Signed by the CEO 30 September 2020.
 - g. CON/264-B for the Construction of Footpath and Kerb & Channel Renewals and Footpath Extensions was awarded to Formplus Concrete Constructions Pty Ltd. Signed by the CEO 01 October 2020.
2. Contract variations approved by the CEO between 21 September to 18 October 2020.
 - a. SGC13/08 for the Provision of Kerbside Garbage and Recycling Collection Services awarded to Transpacific Cleanaway. The rates for recycling collected and delivered to the Sorting Facility have increased by \$45 per tonne to \$125 per tonne. For indicative purposes, based on the 2019/20 financial year disposal, this increase represents an increase of \$105,373.
3. Contract extensions approved by the 21 September to 18 October 2020.
 - a. CON/134 for the Management and Operation of the Toora Swimming Pool was extended for a 3-year period, expiring 30 June 2023. This

extension was an option in the Contract. Signed by CEO 25 September 2020.

- b. CON/186 for Develop a Master Plan for the Korumburra Railway Station Site and the Design of the Community Hub was extended by an additional 55 days due to additional scope requirements and impacts of COVID-19.

STAFF DISCLOSURE

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 3. Decision Making

Council Policy / Strategy / Plans

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

Governance Rules (C82)

Local Law No. 2 2020, Processes of Municipal Government (Meeting Procedures and Common Seal)

Procurement Policy (C32)

Legislative Provisions

Local Government Act 1989

Local Government Act 2020

Planning and Environment Act 1987

6. NOTICES OF MOTION AND/OR RESCISSION

6.1. NIL

7. ADMINISTRATOR REPORTS

7.1. REQUESTS FOR LEAVE OF ABSENCE

7.2. ADMINISTRATORS UPDATES

7.3. COMMITTEE UPDATES

8. 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.

Council's Governance Rules 2020 (clause 22 - Urgent Business) adopted on 26 August 2020, allows for where a situation has not been provided for under the Governance Rules, 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 Council Meeting 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 Council's Governance Rules 2020 (clause 22) 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.

9. PUBLIC QUESTIONS

9.1. 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 Council Meeting 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 Council Meeting, 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.

9.2. ANSWERS TO PREVIOUS QUESTIONS ON NOTICE

Answers to previous questions taken on notice at a former Council Meeting, are included in the Minutes of this Meeting.

Background material submitted with a question will not be recorded in the Council Meeting Minutes.

A submitter will receive a letter outlining the response to a question after the Minutes have been produced.

Source: Public Participation in Meetings with Council Policy (C65) – adopted 18 December 2019.

Nil

9.3. SUBMITTED PUBLIC QUESTIONS

All community member questions for Council Meetings are to be written and submitted to the Council Business Team by 9.00am on the Monday morning preceding the Council Meeting to allow time for a response to be prepared, where possible, for the Council Meeting. All reasonable attempts will be made to answer pre-submitted questions at the Meeting. When further time is required to prepare an answer, questions may be taken on notice and responses will be provided at the next Council Meeting.

Questions can also be submitted in hard copy format into the 'Public Question Box' during a Council Meeting on the prescribed form. These questions will be taken on notice, included in the Minutes and responses provided at the next Council Meeting.

Public Question Time in Council Meetings is to be used for matters that are relevant to the business or functions of Council and are clear and legible. Questions may not be allowed where the question(s) is deemed to be:

- Related to a matter beyond or outside the powers of Council;
- Trivial or frivolous;
- Defamatory, indecent, abusive or objectionable;
- Derogatory or designed to embarrass a Councillor, a member of Council staff or a member of the community;
- Related to subject matter previously received and responded to;
- Related to a matter already considered and resolved upon by Council;
- Breach Council's confidentiality obligations; and/or
- Illegible, vague or not make sense.

A person may submit a maximum of three (3) questions for any one Council Meeting, this includes a combined total of three (3) questions for related parties or groups. The total word count of all questions submitted is to be 100 words or fewer.

Background material submitted with a question will not be read out or recorded in the Council Meeting Minutes.

The CEO retains the discretion, in consultation with the Mayor, to not refer questions to Council meetings if there is a more effective or appropriate way to respond to the matters raised. Answers to questions from a member of the community who is present in the gallery will be read out at the Council Meeting by the CEO or Mayor.

Source: Public Participation in Meetings with Council Policy (C65) – adopted 18 December 2019.

10. CLOSED SESSION

The *Local Government Act 2020* (the Act), section 66 provides that if a Council or delegated committee determines that a meeting is to be closed to the public to consider confidential information, the Council or delegated committee must record in the minutes of the meeting that are available for public inspection—

- (a) the ground or grounds for determining to close the meeting to the public by reference to the grounds specified in the definition of *confidential information* in section 3(1); and
- (b) an explanation of why the specified ground or grounds applied.

The Act defines *confidential information* in s.3(1)(a)-(l), and includes information that may prejudice or impact; commercial negotiations, the security of council, land use planning, law enforcement, legal privilege, personal information, private commercial information, confidential meeting information, internal arbitration, Councillor conduct panel information and information specified under s.77 of the previous *Local Government Act 1989*.

Once confidential information has been considered and decided in a closed session of a Council Meeting, a further resolution to resume open Council is required.

RECOMMENDATION

That Council pursuant to section 66(5)(a) and (b) of the *Local Government Act 2020* close the Council Meeting to the public to consider the following confidential information:

- 1. Per s.3(1)(g) Agenda items 12.1, 12.2 and 12.3, designated as private commercial information,**
 - a. being information provided by a business, commercial or financial undertaking that –**
 - i. Relates to trade secrets; or**
 - ii. If released, would unreasonably expose the business, commercial or financial undertaking to disadvantage; and**
 - b. The grounds for designation have been made as the information is deemed commercial-in-confidence to protect the privacy of the contractors, tender scores, and tendered amounts submitted for consideration.**

11. MEETING CLOSED

NEXT MEETING

The next Council Meeting open to the public will be held on Wednesday, 16 December 2020 as a virtual meeting commencing at 2pm.