

SOUTH GIPPSLAND SHIRE COUNCIL

# Council Meeting Minutes

24 November 2021

**Council Meeting No.465  
Council Chambers, Leongatha  
Commenced at 1.00pm**



# minutes



*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*".

Copy of this Policy is located on Council's website  
[www.southgippsland.vic.gov.au](http://www.southgippsland.vic.gov.au).



## PRESENT

COUNCILLORS:	<p>Councillor Mohya Davies, Mayor                  Councillor Nathan Hersey, Deputy Mayor                  Councillor Sarah Gilligan                  Councillor Scott Rae                  Councillor Jenni Keerie                  Councillor Michael Felton                  Councillor John Schelling                  Councillor Clare Williams                  Councillor Adrian Darakai</p>
MUNICIPAL MONITOR:	Prue Digby
NOT PRESENT:	-
OFFICERS:	<p>Kerryn Ellis, Chief Executive Officer                  Anthony Seabrook, Director Sustainability Infrastructure                  Allison Jones, Director Performance and Innovation                  Renae Littlejohn, Director Economy and Community Development                  June Ernst, Acting Manager Governance                  Natasha Berry, Corporate and Council Business Officer</p>

## **SOUTH GIPPSLAND SHIRE COUNCIL**

Council Meeting No. 465  
Wednesday 24 November 2021  
Council Chambers, Leongatha, commenced at 1.00pm.

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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 TO THE COUNCIL MEETING

#### ***COVID Safe Plan***

Over the past year the Federal and State Governments have had clear directives about social gatherings in respect of the COVID19 Pandemic. While restrictions have now eased across the State, Council is able to open the meetings to include a limited public gallery in accordance with the guidelines of a COVID Safe Plan. The Plan provides measures around physical distance, mask wearing, recording attendance and other Pandemic safe measures whilst attending the Meeting.

Access to the live stream through Council's Internet is another available option to the 'open' component of a Council Meeting. Link to the Live Stream on Council's website: [Live Streaming | Live Streaming | South Gippsland Shire Council](#)

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

#### ***Section 8 - Public Questions***

In accordance with *Governance Rules (C82)*, clause 56.4(d) the placement of public questions has now closed. Questions must be received prior to the commencement of the Council Meeting and placed in the receptacle at Governance Officers table. Questions received after the commencement of the Meeting will be considered at the next 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**

We acknowledge the Bunurong and Gunaikurnai people as the Traditional Custodians of South Gippsland and pay respect to their Elders, past, present, and future, for they hold the memories, traditions, culture, and hopes of Aboriginal and Torres Strait Islander people of Australia.

### **1.5. APOLOGIES**

Nil

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

#### **RECOMMENDATION**

That the Minutes of the South Gippsland Shire Council Additional Council Meeting, held on 17 November 2021 in the Council Chambers, Leongatha be confirmed.

#### **RESOLUTION**

**MOVED:** Cr Keerie

**SECONDED:** Cr Rae

**That the Minutes of the South Gippsland Shire Council Additional Council Meeting, held on 17 November 2021 in the Council Chambers, Leongatha be confirmed.**

**CARRIED UNANIMOUSLY**

## 1.7. DECLARATION OF CONFLICTS OF INTEREST FOR COUNCILLORS

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, 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 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](http://www.legislation.vic.gov.au).

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

**Councillor Clare Williams has declared a direct material interest in Confidential Agenda Item 9.1 PRIVATE COMMERCIAL INFORMATION - Request for Tender – Streetscape Redevelopment - Little Commercial Street Korumburra (RFT/307) as she is a joint owner of a business that has made a submission to this tender process.**



## 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, 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 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](http://www.legislation.vic.gov.au).

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

**Nil**

## 2. OBJECTIVE 4 - CUSTOMER FOCUSED ORGANISATION

### 2.1. RECORDING OF OATH AND AFFIRMATION DECLARATION OF OFFICE BY COUNCILLOR MINUTES - 16 NOVEMBER 2021

Performance and Innovation

#### **Council Plan**

*Objective 4 - Customer Focused Organisation*

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

*This report ensures governance and transparency in reporting the mandatory requirements for Councillors elected to South Gippsland Shire Council recording that all Councillors have taken their oath or affirmation of office and indicated they have read, signed and declared to abide by Council's Councillor Code of Conduct (C14).*

#### **EXECUTIVE SUMMARY**

The purpose of this report is to minute that candidates elected to South Gippsland Shire Council at the 2021 Council election, have taken the oath or affirmation of office to be a Councillor and read, signed and dated their declaration to abide by Council's *Councillor Code of Conduct (C14)*, as required by ss.30 and 31 of the *Local Government Act 2020* (the Act).

The declaration ceremony was conducted at 9:30am on 16 November 2021. The Chief Executive Officer (CEO), Kerry Ellis, administered proceedings and witnessed the taking of the Oath or Affirmation of Office in accordance with the *Local Government (Governance and Integrity) Regulations 2020*.

A person elected to be a Councillor is not capable of acting as a Councillor until these two declarations are made and witnessed by the CEO and these declarations having been made within three months after the day on which the person was declared elected. The declaration of the election was made on 9 November 2021.

This report includes the declarations (**Attachment [2.1.1]**) made by Councillors on 16 November 2021 for inclusion in the Minutes, as required by s.30(2)(c) of the Act and the *Local Government (Governance and Integrity) Regulations 2020*. It also includes the *Councillor Code of Conduct (C14)*, signed by each Councillor, that is to be published on Council's website (**Attachment [2.1.2]**).

## RECOMMENDATION

That Council:

1. Notes all Councillors elected in the 23 October 2021 Council Election for South Gippsland Shire Council have taken, signed and dated their oath or affirmation of office at a public ceremony held at 9:30am on 16 November 2021;
2. Notes that all Councillors have read, signed and dated that they will abide by Council's Councillor Code of Conduct (C14);
3. That the signed and dated oaths or affirmations, incorporating the Councillor Code of Conduct (C14) declarations in Attachment [2.1.1], will be recorded and included in the minutes at the Council Meeting held at the Council Chambers, Leongatha on 24 November 2021; and
4. That the signed and dated Councillor Code of Conduct (C14) contained in Attachment [2.1.2] will be published on Council's website.

## RESOLUTION

**MOVED:** Cr Williams

**SECONDED:** Cr Schelling

That Council:

1. **Notes all Councillors elected in the 23 October 2021 Council Election for South Gippsland Shire Council have taken, signed and dated their oath or affirmation of office at a public ceremony held at 9:30am on 16 November 2021;**
2. **Notes that all Councillors have read, signed and dated that they will abide by Council's Councillor Code of Conduct (C14);**
3. **That the signed and dated oaths or affirmations, incorporating the Councillor Code of Conduct (C14) declarations in Attachment [2.1.1], will be recorded and included in the minutes at the Council Meeting held at the Council Chambers, Leongatha on 24 November 2021; and**
4. **That the signed and dated Councillor Code of Conduct (C14) contained in Attachment [2.1.2] will be published on Council's website.**

**CARRIED UNANIMOUSLY**

[Link to next Agenda Item.](#)

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## **REPORT**

### **Background**

Sections 30 and 31 of the Act stipulates that a person elected to be a Councillor is not capable of acting as a Councillor unless they have taken an oath (or affirmation) of office and has declared they will abide by Council's *Councillor Code of Conduct (C14)* (the Code) under s.49.

Section 30(2) of the Act requires the oath (or affirmation) of office to be:

- a. Administered by the Chief Executive Officer; and
- b. Dated and signed before the Chief Executive Officer; and
- c. Recorded in the minutes of the Council Meeting.

Section 139 of the Act requires the Councillors' declaration to abide by the Code to be:

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

Under s.31 of the Act the office of Councillor becomes vacant if a person elected to be a Councillor does not, within three months after the day on which the person was declared elected, take the oath (or affirmation) of office.

This report documents that all Councillors elected in the 23 October 2021 election for South Gippsland Shire Council have taken the oath or affirmation of office as per s.30 of the Act and declared in writing they will abide by the Code of Conduct as required by s.139 of the Act.

### **CONSULTATION / COMMUNITY ENGAGEMENT**

Not applicable as this is a statutory requirement.

### **RESOURCES / FINANCIAL VIABILITY**

There are no financial implications associated with this report.

### **RISKS**

Council is required under the *Local Government Act 2020* to record in the minutes of a Council Meeting, that all newly elected Councillors take, sign and date the oath or affirmation of office and read, sign and date the *Councillor Code of Conduct (C14)* before they can take up the office of Councillor.

## **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](http://www.southgippsland.vic.gov.au)*

1. Councillors Oath and Affirmation of Office Declarations - 16 November 2021 [2.1.1 - 11 pages]
2. Councillor Code of Conduct C14 - Signed - 16 November 2021 [2.1.2 - 26 pages]

### **Council's Good Governance Framework**

Pillar 1. Direction & Leadership

#### **Council Policy / Strategy / Plans**

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

Councillor Code of Conduct Policy (C14)

Governance Rules (C82)

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

#### **Legislative Provisions**

Local Government Act 2020

Local Government (Governance and Integrity) Regulations 2020

## 2.2. DETERMINATION OF ALLOWANCES FOR MAYOR AND COUNCILLORS

Performance and 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 is required as per s.39 of the Local Government Act 2020 to determine the level of the Mayor and Councillor allowances.*

*This report contains references to the Local Government Act 2020 (2020 Act) and the Local Government Act 1989 (1989 Act), as requirements from both Acts are currently required as part of the transition to 2020 Act.*

### **EXECUTIVE SUMMARY**

The purpose of this report is to set the Mayor and Councillor allowances for their term in office. Section 39 of the *Local Government Act 2020* (2020 Act) stipulates that the Mayor and Councillors are entitled to receive an allowance while performing their duty as an elected official. A Mayor, Deputy Mayor or Councillor may choose to receive the entire allowance to which they are entitled, to receive a specified part of the allowance or to receive no allowance.

The Victorian Government sets the upper and lower levels for allowances paid to Councillors. South Gippsland Shire Council is classified as a Category 2 level council. This report proposes to continue the current level of Mayoral and Councillor allowances as designated at the upper level of Category 2, determined by the former elected Councillors, until such time as the Victorian Independent Remuneration Tribunal determination comes into effect. This is anticipated to be made on, or around 18 December 2021.

The Mayoral allowance is currently up to \$81,204 per annum and the Councillor allowance range is from \$10,914 - \$26,245. In addition to the allowances, the Mayor and Councillors receive an additional 10 per cent superannuation contribution. These amounts are adjusted annually in accordance with Ministerial advice and gazettal.

The transition between the *Local Government Act 1989* (1989 Act) and the *Local Government Act 2020* differs in regard to formal community engagement on the Councillor allowances. It is anticipated that the *Local Government Act 2020* will be fully operational in regard to allowances within one month, when the determination is made. The 2020 Act does not require a formal engagement process.

## RECOMMENDATION

That Council:

1. Reviews the Mayoral and Councillor allowances in accordance with s.39 of the Local Government Act 2020 and s.74(1) of the Local Government Act 1989 and determines:
  - a. To set the Mayoral and Councillor allowances at the upper level of Category 2 per annum which is currently \$81,204 for Mayor and \$26,245 for Councillors with a further compulsory 10 per cent superannuation guarantee;
2. Notes and awaits the Victorian Independent Remuneration Tribunal's decision and Order in Council on the new determination for Mayoral and Councillor allowances currently being undertaken as part of the Local Government Act 2020 transition;
3. Adjusts the Mayor and Councillor allowances to the top rate set for this Shire's category according to the outcome of the Victorian Independent Remuneration Tribunal's decision determined through the Order in Council; and
4. Reviews the Councillor allowances in accordance with s.74(1) of the Local Government Act 1989 if the Victorian Independent Remuneration Tribunal's decision through the Government Gazette is not determined within six months of the Council Election.

## RESOLUTION

**MOVED:** Cr Keerie

**SECONDED:** Cr Gilligan

That Council:

1. **Reviews the Mayoral and Councillor allowances in accordance with s.39 of the Local Government Act 2020 and s.74(1) of the Local Government Act 1989 and determines:**
  - a. **To set the Mayoral and Councillor allowances at the upper level of Category 2 per annum which is currently \$81,204 for Mayor and \$26,245 for Councillors with a further compulsory 10 per cent superannuation guarantee;**

- 2. Notes and awaits the Victorian Independent Remuneration Tribunal's decision and Order in Council on the new determination for Mayoral and Councillor allowances currently being undertaken as part of the Local Government Act 2020 transition;**
- 3. Adjusts the Mayor and Councillor allowances to the top rate set for this Shire's category according to the outcome of the Victorian Independent Remuneration Tribunal's decision determined through the Order in Council; and**
- 4. Reviews the Councillor allowances in accordance with s.74(1) of the Local Government Act 1989 if the Victorian Independent Remuneration Tribunal's decision through the Government Gazette is not determined within six months of the Council Election.**

**CARRIED UNANIMOUSLY**

[Link to next Agenda Item.](#)



## REPORT

The Mayor and Councillors provide a significant contribution in time and effort to represent all community members within the Shire, at Council. Both roles have become more multifaceted over the years as the breadth of services provided by councils has expanded, community expectations increased and the legislative requirements associated with each service becomes more complex.

The Mayor and Councillors are not Council staff and therefore are not paid a salary. Section 39 of the 2020 Act, recognises the contribution of Mayors and Councillors does warrant the need for an allowance to compensate them for the contribution they provide to the community.

The State Government currently has a category based standard and assigned all Victorian councils to the category most appropriate to a council's size and population. Each category has a range with a minimum and maximum limit. The ranges are reviewed and adjusted annually by the Minister with new ranges normally gazetted in November.

Under the 1989 Act, each newly elected Council must determine the level of allowances to be paid within the applicable category range by 30 June following an election. South Gippsland Shire Council is determined to be a Category 2 Council.

Local Government Victoria requires that each Council must pay the equivalent of the Superannuation Guarantee contribution, currently 10 per cent, to all Councillors. This is paid in addition to the allowance and may also be adjusted by the Minister for Local Government annually.

The transition from the *Local Government Act 1989* to the *Local Government Act 2020* creates an unusual situation for the setting of allowances. Despite the repeal of ss.73B and 74 to 74B of the 1989 Act, Council is required to continue to apply these sections until the first determination is made by the Victorian Independent Remuneration Tribunal (Tribunal) under s.23A of the *Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019* (Remuneration Tribunal Act) comes into effect.

A decision by the Tribunal is anticipated in early December 2021 to take effect on, or close to, 18 December 2021.

Section 74(4) of the 1989 Act states that a person has a right to make a submission under s. 223 of the 1989 Act in respect of a review of allowances. This formal submission process under the 1989 Act will become redundant once the Tribunal decision is made under the 2020 Act.

In the unforeseen circumstance the Tribunal has not made a determination within the next three months and the 2020 Act transition requirements are delayed, Council may be required to review and determine the level of Mayoral and Councillor allowances within six months of the Council elections or by next 30 June 2022, in accordance with s.74(1) of the *Local Government Act 1989*.

As at 1 December 2019, Category 2 council allowances were set by an Order in Council to be within the range of \$10,914 to \$26,245 for Councillors and up to \$81,204 for Mayors, per annum. An increase was not provided in December 2020, so these rates remain current.

The former 2016-2019 Council determined Mayor and Councillors allowances would be set at the upper level of the Category 2 range. This determination for the rates continues until the 2021-2024 Council reviews and determines the level applicable.

Councillors are also entitled to reimbursement of expenses and provision of resources and facilities as outlined in *Council's Councillor Support and Expenditure Policy (C06)*.

#### **CONSULTATION / COMMUNITY ENGAGEMENT**

Not applicable as the Council is required to provide Councillor and Mayor allowances as per legislated requirements.

#### **RESOURCES / FINANCIAL VIABILITY**

The Mayor and Councillors are entitled to receive an allowance within the limits set by the State Government. These are funded through the Annual Budget and Long-Term Financial Plan. Councillors may choose to set an alternative amount but it must fall within the specified category range.

The 2020 Act allows for an individual Mayor, Deputy Mayor or Councillor to choose to receive the entire allowance to which they are entitled, to receive a specified part of the allowance to which they are entitled or to receive no allowance.

The Budget also contains the compulsory 10 per cent superannuation contribution. The superannuation contribution may also increase in line with government superannuation adjustments/increases in future years.

The Budget also covers out-of-pocket reimbursements and resource support for Councillors in the performance of the Council responsibilities, in accordance with the *Councillor Support and Expenditure Policy (C51)*.

## **RISKS**

Section 74 of the 1989 Act requires Council to review and determine Mayor and Councillor allowances. Section 39 of the 2020 Act requires Council's to provide an allowance to Mayor and Councillors at a rate that will be made through an Order in Council by the State Government.

Setting Councillor allowances at the upper level of the applicable range supports current Councillors in their role and seeks to attract a broader range of future candidates at the 2024 general election. Determining a lower level within the range may be a detractor to current Councillors and future candidates, resulting in potentially lesser quality representation.

## **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**

Nil

## **REFERENCE DOCUMENTS**

### **Council's Good Governance Framework**

Pillar 1. Direction & Leadership

Pillar 8. Monitoring & Performance Review

### **Council Policy / Strategy / Plans**

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

Governance Rules (C82)

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

Annual Budget

### **Legislative Provisions**

Local Government Act 2020

## 2.3. COUNCILLOR APPOINTMENTS 2021/22

Performance and Innovation

### **Council Plan**

*Objective 4 - Customer Focused Organisation*

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

*This report ensures Councillors are represented appropriately on internal and external committees, boards and advisory committees to provide leadership, advocacy, support and active engagement with the community and to have access to relevant strategic advice and information that can inform Council.*

### **EXECUTIVE SUMMARY**

The purpose of this report is for Council to consider representation appointments of the Mayor and Councillors to various internal and external advisory groups, boards and committees.

Representational appointments ensure Council is represented and involved in key discussion and planning within the community and at State and Federal levels.

These appointments are reviewed annually at an open Council Meeting to ensure appropriate representation and contribution can be provided by Councillors. This report provides a schedule of the recommended Councillor appointments for the period commencing 25 November 2021 for a one-year term, or otherwise stated in **Attachment [2.3.1]**. Further it is proposed where the Mayor and Deputy Mayor are stated as the appointed representatives, these are to be allocated to the Councillors elected to those roles annually.

### **RECOMMENDATIONS**

That Council:

1. Appoints Councillors to represent Council on the internal and external Boards, Advisory Groups, Committees and Bodies as per Attachment [2.3.1] for the terms of each appointment, being for one, two or three years as listed, commencing 25 November 2021 until 6.00am on the day of an open Meeting of Council to be scheduled, following the completion of the Mayoral term in accordance with ss.25 and 26 of the Local Government Act 2020;
2. Approves that the Mayor and Deputy Mayor elected each year will be the appointed representatives where these positions are listed as per Attachment [2.3.1];

3. Notes that the Resource Recovery Group is a Ministerial appointment, to which Council is nominating a Councillor for Ministerial consideration;
4. Notes that the appointment to the Audit and Risk Committee is for a three (3) year period, subject to a satisfactory Police Check as per the Audit and Risk Committee Charter (C08);
5. Notes that the West Gippsland Regional Library Corporation Board is for a two (2) year period, including a twelve month period for the transition of the WGL Board to MyLi;
6. Notifies the relevant internal and external Boards and Advisory Groups, Committees and Bodies of the appointed Councillor representatives; and
7. Considers new Councillor appointments where changes are required throughout the year, or if representation on additional groups is deemed strategically warranted.

## RESOLUTION

**MOVED:** Cr Keerie

**SECONDED:** Cr Rae

**That Council:**

- 1. Appoints Councillors to represent Council on the internal and external Boards, Advisory Groups, Committees and Bodies as per Attachment [2.3.1] for the terms of each appointment, being for one, two or three years as listed, commencing 25 November 2021 until 6.00am on the day of an open Meeting of Council to be scheduled, following the completion of the Mayoral term in accordance with ss.25 and 26 of the Local Government Act 2020;**
- 2. Approves that the Mayor and Deputy Mayor elected each year will be the appointed representatives where these positions are listed as per Attachment [2.3.1];**
- 3. Notes that the Resource Recovery Group is a Ministerial appointment, to which Council is nominating a Councillor for Ministerial consideration;**
- 4. Notes that the appointment to the Audit and Risk Committee is for a three (3) year period, subject to a satisfactory Police Check as per the Audit and Risk Committee Charter (C08);**
- 5. Notes that the West Gippsland Regional Library Corporation Board is for a two (2) year period, including a twelve month period for the transition of the WGL Board to MyLi;**
- 6. Notifies the relevant internal and external Boards and Advisory Groups, Committees and Bodies of the appointed Councillor representatives; and**
- 7. Considers new Councillor appointments where changes are required throughout the year, or if representation on additional groups is deemed strategically warranted.**

**CARRIED UNANIMOUSLY**

[Link to next Agenda Item.](#)

## REPORT

A number of internal and external advisory groups, boards and committees exist where the Mayor and/or Councillors are invited to participate across a broad interest area. Some of these representational positions have legislated requirements but most operate in an advisory capacity.

Councillors appointed to represent Council, do so to provide leadership, advocacy, support and active engagement with the community and to have access to relevant strategic advice and information that can inform Council.

During the year, Council may nominate to form internal Council advisory and/or delegated committees, or give consideration to additional requests for representation on external groups. Any further Councillor appointments arising throughout the year will be referred to Council for consideration and determination.

It is recommended Councillor appointments commence on 25 November 2021 until 6.00am on the day of an open Council Meeting to be scheduled, following the completion of the Mayoral term in accordance with s.25 of the *Local Government Act 2020*, noting two or three year appointments are not required to be renewed annually unless a vacancy occurs. Refer to **Attachment [2.3.1]**.

The *Audit and Risk Committee* is a committee where a three-year appointment is recommended, as per the *Audit and Risk Committee Charter (C08)*. Councillor members will be appointed to the Committee by Council for a term of three years, or until the next Council election, whichever is the shorter term. The appointment for a three-year period ensures regularity for the Committee and in-turn offers stability and consistency across the full-term of Council.

As per the *Audit and Risk Committee Charter (C08)*, should an appointed Councillor not be able to attend an *Audit and Risk Committee* meeting, Council may appoint an alternate member to act in such circumstances, either on a meeting by meeting basis or for the entire year, dependent on the unavailability of the appointed Councillor.

The *West Gippsland Regional Library Board (MyLi)* recommends that Council appoints one Councillor, with a non-voting substitute Councillor for a two-year period to be consistent with other Councillor representation on the board and to ensure regulatory for the external Committee.

Councillors have considered the Councillor appointments prior to this Council Meeting as indicated in **Attachment [2.3.1]**. Councillor Appointments will be posted to Council's website and each of the external executive bodies formally notified of which Councillor has been appointed. The Councillor nomination to the Resource Recovery Group will be referred to the relevant government

department for Ministerial consideration, as this position is a Ministerial appointment.

Once appointed there is an expectation and obligation that the nominated Councillor/s will attend as many scheduled meetings as practicable, then report back to Council on their attendance and any significant or noteworthy outcomes; this is usually in the form of a verbal report in the Council Meeting.

A 'substitute' attendance role requires the second Councillor nominated as 'Substitute' to provide back-up support should the first Councillor be unable to attend a meeting. The primary appointed Councillor is to advise the substitute Councillor in advance of the meeting if they are unable to attend.

### **CONSULTATION / COMMUNITY ENGAGEMENT**

Councillors have considered and discussed representative appointments at a Councillor Briefing.

### **RESOURCES / FINANCIAL VIABILITY**

Funds are allocated in current and forward annual budgets where appropriate for membership fees and any subscriptions required as part of the memberships of the approved committees.

### **RISKS**

The investment of Councillors' time and resources returns positive outcomes and opportunities for Council and the community through access to strategic information, and supports Councillors in their community advocacy and leadership roles.

### **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](http://www.southgippsland.vic.gov.au)

1. Councillor Appointments 2021/22 - List [2.3.1 - 7 pages]

### **REFERENCE DOCUMENTS**

#### **Council's Good Governance Framework**

Pillar 1. Direction & Leadership

#### **Council Policy / Strategy / Plans**

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



Councillor Code of Conduct Policy (C14)  
Governance Rules (C82)

**Legislative Provisions**

Local Government Act 2020

Local Government (Governance and Integrity) Regulations 2020

## 2.4. ORGANISATIONAL PERFORMANCE REPORT - JULY 2021 TO SEPTEMBER 2021

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 purpose of this report is for Council to consider the Organisational Performance Report July 2021 to September 2021, including progress against the *2021/22 Annual Initiatives* for the *2020 – 2024 Council Plan*.

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 an adopted Budget that contains the first (annual) financial year and subsequent three financial years. These requirements are legislated under s.90 and 94 of the *Local Government Act 2020 (Act)*.

Council endorsed the *2021/22 Annual Initiatives* (Annual Initiatives) as part of the *Council Plan 2020-2024* (Council Plan) at the 23 June 2021 Council Meeting. The Council Plan outlines the strategic objectives, strategies and indicators of Council for the next four years.

These Annual Initiatives further the implementation of activities to progress the achievement of the Council Plan Objectives and Strategies for the 2021/22 financial year. The Annual Initiatives are also captured in Section 2 of the Budget 2021/22 (Budget) through which they are funded.

The Organisational Performance Report for the period July 2021 to September 2021 (refer to **Attachment [2.4.1]**) is presented to Council and provides detailed reporting on Council's performance against these Annual Initiatives, Performance Indicators, and Capital Works Program.

The Organisational Performance Report (**Attachment [2.4.1]**) will also be presented to Council's Audit & Risk Committee on 7 December 2021.

## **RECOMMENDATION**

That Council:

1. Receives and notes the Organisational Performance Report for the period July 2021 to September 2021 (Attachment [2.4.1]);
2. Publishes the Organisational Performance Report (Attachment [2.4.1]) to Council's website; and
3. Presents the Organisational Performance Report (Attachment [2.4.1]) to Council's 7 December 2021 Audit & Risk Committee meeting.

## **RESOLUTION**

**MOVED:** Cr Williams

**SECONDED:** Cr Schelling

That Council:

1. **Receives and notes the Organisational Performance Report for the period July 2021 to September 2021 (Attachment [2.4.1]);**
2. **Publishes the Organisational Performance Report (Attachment [2.4.1]) to Council's website; and**
3. **Presents the Organisational Performance Report (Attachment [2.4.1]) to Council's 7 December 2021 Audit & Risk Committee meeting.**

**CARRIED UNANIMOUSLY**

[Link to next Agenda Item.](#)

## REPORT

### Background

Council endorsed the *2021/22 Annual Initiatives* (Annual Initiatives) as part of the *Council Plan 2020-2024* (Council Plan) at the 23 June 2021 Council Meeting.

The Council Plan includes key Strategic Objectives, Strategies and a series of indicators called 'Measures of Success' (Indicators).

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 Indicators are monitored and reported to Council in each Quarterly Performance Report.

Annual Initiatives are developed annually and include significant activities that progress the achievement of the Objectives and Strategies in the Council Plan. These Annual Initiatives are adopted each year in the Budget. The current Annual Initiatives are in the *2021/22 Budget* adopted at the 23 June 2021 Council Meeting. For connectivity, they are also captured each year as an update to the Council Plan. Progress against these Annual Initiatives are also reported to Council within each Quarterly Performance Report.

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 Objectives and Strategies.

The Organisational Performance Report – July 2021 to September 2021 has been prepared and is presented to Council for consideration. It is contained in **Attachment [2.4.1]**.

### Discussion

This report provides an overview of the major activities undertaken by Council in the first quarter of the 2021/22 financial year (1 July 2021 to 30 September 2021). Where possible, comparisons of results have been made and reflected throughout the report.

Significant highlights during the period include:

- 90 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 either target achieved or on-track as at end of September 2021.
- The second round of Council's *Community Leadership Program* with 20 participants began in July 2021.
- The *Municipal Public Health and Wellbeing Plan - Healthy Communities Plan 2021/22* was endorsed by Council at the 15 September 2021 Council Meeting.
- The *Economic Development Strategy 2021-2031* and the *Visitor Economy Strategy 2021-2031* were adopted at the 21 July 2021 Council Meeting.
- Contract awarded for the Korumburra Community Hub on 21 July 2021.
- Contract awarded for the Leongatha Early Learning Centre on 15 September 2021.
- The Performance and Financial Statement and LGPRF results were audited by VAGO for the year ended 30 June 2021 and endorsed by Council at the 15 September 2021 Council Meeting.

#### **CONSULTATION / COMMUNITY ENGAGEMENT**

The Organisational Performance Report (**Attachment [2.4.1]**) will be presented to Council's Audit & Risk Committee on 7 December 2021.

#### **RESOURCES / FINANCIAL VIABILITY**

The *2021/22 Annual Initiatives* and *Capital Works Program* are funded through the *2021/22 Annual Budget*.

#### **RISKS**

The Organisational Performance Report (**Attachment [2.4.1]**) 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.

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## **ATTACHMENTS**

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

1. Organisational Performance Report - July 2021 to September 2021 [2.4.1 - 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](http://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 2020

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

## 2.5. QUARTERLY FINANCIAL PERFORMANCE REPORT - JULY 2021 TO SEPTEMBER 2021

Performance and 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*

*The Financial Performance report provides an overview of Council's financial performance to the community and aligns with the Local Government Act 2020.*

### **EXECUTIVE SUMMARY**

The purpose of this report is to present the Financial Performance report (**Attachment 2.5.1**) which has been prepared in accordance with s.97 of the *Local Government Act 2020* (the Act) and provides an overview of Council's financial performance for the period July 2021 to September 2021.

The results in summary:

- Operating result: \$3.5M deficit which is \$0.7M unfavourable when compared with the year-to-date budget projection of a \$2.8M deficit primarily due to storm related costs.
- Capital works: \$4.4M expenditure which is \$0.5M behind the year-to date forecast of \$5.2M.
- Projected financial outcome for 2021/22 is a \$4.3M surplus. This is \$0.4M favourable compared to the original budgeted surplus of \$3.9M, primarily due to capital grants which were expected in 2020/21 which will now be received in 2021/22.

### **RECOMMENDATION**

That Council receives and notes the Financial Performance Report for the period of July 2021 to September 2021 (**Attachment [2.5.1]**).

**RESOLUTION**

**MOVED:** Cr Gilligan

**SECONDED:** Cr Keerie

**That Council receives and notes the Financial Performance Report for the period of July 2021 to September 2021 (Attachment [2.5.1]).**

**CARRIED UNANIMOUSLY**

[Link to next Agenda Item.](#)



## REPORT

Section 97 of the Local Government Act 2020 (Quarterly budget report) states:

*“That Council:*

- 1. As soon as practicable after the end of each quarter of the financial year, the Chief Executive Officer must ensure that a quarterly budget report is presented to Council at a Council meeting which is open to the public.*
- 2. A quarterly budget report must include a. A comparison of the actual and budget results to date; and b. An explanation of any material variations; and c. any other matters prescribed by the regulations.*
- 3. In addition, the second quarterly report of a financial year must include a statement by the Chief Executive Officer as to whether a revised budget is, or may be, required.”*

Council each year sets an Annual Budget within the framework of a 15-year Long-Term Financial Plan. Guidance is provided by the Long-Term Financial Strategies when developing annual and longer-term budgets. The financial integrity of the budgeted financial statements in the annual and forward budgets can be assessed by reference to financial performance indicators.

Throughout the course of the financial year the actual financial performance is managed by:

1. Comparing year-to-date actual financial performance with the year-to-date budgets.
2. Monitoring the financial impact of changes made to budget projections on the forecast financial results at year end; and
3. Monitoring the longer-term financial ramifications against the originally adopted Long-Term Financial Plan.

The financial performance indicators that were used to develop the annual and long-term budgets are used to monitor projected financial outcomes at year-end as well as the longer-term financial ramifications. At the end of the financial year, comprehensive financial statements and performance statements are produced, subject to external audit and included in the Annual Report.

*Financial Performance Report July 2021 to September 2021* contains detailed reporting in **(Attachment [2.5.1])**.

### **Section 1 - Financial Performance Statement**

This section provides an overview of Operating performance and expenditure on the Capital Works program. It also includes commentary around the treasury function including:

- Cash position and investments held; and
- Debtors (rates and general).

### **Section 2 - Financial Statements**

This section lists the following financial statements (including variance commentary) as at 30 September 2021:

- Balance Sheet
- Cash Flow Statement

### **Section 3 – Annual Year to Date Financial Analysis**

This section provides key financial sustainability indicators for the adopted budget and the full year forecast.

### **RESOURCES / FINANCIAL VIABILITY**

Financial reporting is performed internally within budgeted resources.

### **RISKS**

Transparency in reporting is a risk management control measure that allows the community and Council to view and assess the financial management of year to date results as well as the annual and longer-term financial implications.

Quarterly reporting reduces finance and procurement risk by increasing the transparency and accountability to Council and the Community.

### **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](http://www.southgippsland.vic.gov.au)*

1. Financial Performance Report - July 2021 to September 2021 [2.5.1 - 17 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](http://www.southgippsland.vic.gov.au)*

Long-Term Financial Strategies

Annual Budget

**Legislative Provisions**

Local Government Act 2020

## **2.6. QUARTERLY LOCAL PROCUREMENT REPORT - 1 JULY 2021 TO SEPTEMBER 2021**

Performance and Innovation

### **Council Plan**

#### *Objective 4 – Customer Focused Organisation*

*The 2021/22 Quarterly Local Procurement Report– 1 July to 30 September 2021 provides an overview of Council’s local procurement performance for this first quarter of the 2021/22 financial year. The report provides timely communication to the community and Council local procurement within the broader financial performance of Council.*

### **EXECUTIVE SUMMARY**

The purpose of this report is to provide a quarterly report on Council’s efforts towards increasing the percentage of local spend on Council goods and services.

The *2020/21 Quarterly Local Procurement Report– 1 July to 30 September 2021 (Attachment [2.6.1])* report (the Report) indicates Council’s local procurement performance for the first quarter period of the financial year. The Report provides trend data over several years and a summary for the financial quarter.

### **RECOMMENDATION**

That Council notes the 2021/22 Quarterly Local Procurement Report– 1 July to 30 September 2021 (Attachment [2.6.1]).

### **RESOLUTION**

**MOVED:** Cr Felton

**SECONDED:** Cr Rae

**That Council notes the 2021/22 Quarterly Local Procurement Report– 1 July to 30 September 2021 (Attachment [2.6.1]).**

**CARRIED UNANIMOUSLY**

[Link to next Agenda Item.](#)

## REPORT

The 2020-2024 Council Plan 'Measure of Success' under Objective 2 – Economic Development has placed emphasis on Council's efforts to increase local spend on Council's goods and services, as follows:

*Measure: The effectiveness of efforts to increase local procurement will be measured by the percentage of local spend on Council goods and services*

*Target: An adopted policy position and definition of 'local spend' together with baseline targets established by June 2021.*

The 'Local Procurement Action Plan' was approved by Council at the 26 August 2020 Council Meeting under Agenda item 4.4. Resolution 3 from that report requires:

*"That Council:*

- 3. Brings a future local procurement report to Council at the completion of each financial quarter."*

The Report in **Attachment [2.6.1]** fulfils the requirement for reporting on Council's performance for the 1 July 2021 to 30 September 2021 period. It provides graphical and statistical reporting, commentary on trending information over time, and details initiatives undertaken to enhance local procurement.

### **Local Procurement Report**

Aspects highlighted in the report are:

- Local procurement spending has continued to strengthen following the COVID-19 Pandemic impacted periods of 2020 and consistently trending to \$1.4M per month (including significant suppliers within the Shire);
- Progress of local procurement increases are heading favourably towards targets posed when these initiatives were created; and
- Invoice payment processing times have reduced considerably and consistently to ease cashflow pressures especially on local businesses.

## CONSULTATION / COMMUNITY ENGAGEMENT

The planned local contractor engagement activity for the quarter was cancelled due to COVID-19 Pandemic restrictions but will be rescheduled. This was intended as an opportunity to provide local contractor awareness of upcoming tendering opportunities, as well as specific guidance on how to best prepare and present tenders for best chances of success.

## **RESOURCES / FINANCIAL VIABILITY**

Local Procurement Reporting is performed internally within budgeted resources.

## **RISKS**

Quarterly reporting reduces finance and procurement risk by increasing the transparency and accountability on 'local spend' to Council and the community.

## **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](http://www.southgippsland.vic.gov.au)*

1. Local Procurement Report Financial Performance Report - July 2021 to September 2021 [2.6.1 - 4 pages]

## **REFERENCE DOCUMENTS**

### **Council's Good Governance Framework**

Pillar 3. Decision Making

Pillar 8. Monitoring & Performance Review

### **Council Policy / Strategy / Plans**

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

Procurement Policy (C32)

### **Legislative Provisions**

Local Government Act 1989

Local Government Act 2020

## **2.7. SUMMARY OF STRATEGIC BRIEFINGS TO ADMINISTRATORS - 13 SEPTEMBER - 12 OCTOBER 2021**

Performance and 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 in Council Meetings 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*, aims to assist the transparency of Council decisions, actions and information through the provision of public summaries of information. The types of information summarised are usually strategic briefing and public presentations to items that will subsequently come before Council for a future decision. The information is summarised so that it is accessible, understandable, relevant and timely.

The information provided in this report is recorded from sessions held between 13 September and 12 October 2021.

### **RECOMMENDATION**

That Council receives and notes this report.

### **RESOLUTION**

**MOVED:** Cr Williams

**SECONDED:** Cr Felton

**That Council receives and notes this report.**

**CARRIED UNANIMOUSLY**

[Link to next Agenda Item.](#)

**REPORT**

<b>Meeting Title</b>	<b>Details</b>
<b>Wednesday 15 September 2021</b>	
<b>Agenda Topic Discussion – Council Meeting 15 September 2021</b>	<b>Administrators Attending:</b> Julie Eisenbise, Rick Brown, Christian Zahra <b>Conflict of Interest:</b> Nil disclosed
<b>Wednesday 13 October 2021</b>	
<b>Agenda Topic Discussion – Council Meeting 20 October 2021</b>	<b>Administrators Attending:</b> Julie Eisenbise, Rick Brown, Christian Zahra <b>Conflict of Interest:</b> Nil disclosed
<b>Audit &amp; Risk Committee Chair Report</b>	<b>Administrators Attending:</b> Julie Eisenbise, Rick Brown, Christian Zahra <b>Conflict of Interest:</b> Nil disclosed

**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](http://www.southgippsland.vic.gov.au)*

Public Transparency Policy (C75)

**Legislative Provisions**

Local Government (South Gippsland Shire Council) Act 2019

Local Government Act 1989

Local Government Act 2020



## **2.8. DOCUMENTS SEALED, CONTRACTS VARIED, AWARDED OR EXTENDED BY CEO - 17 SEPTEMBER TO 15 OCTOBER 2021**

### **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 18 September to 15 October 2021. Council's *Procurement Policy (C32)* 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.

### **RESOLUTION**

**MOVED:** Cr Darakai

**SECONDED:** Cr Schelling

**That Council receives and notes this report.**

**CARRIED UNANIMOUSLY**

## REPORT

### Documents Sealed

Under the *Local Government Act 2020* (the Act), s.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 Officer (CEO) 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 18 September to 15 October 2021.

1. Section 173 Agreement between South Gippsland Shire Council and the owner of 17 Pedersen Street Welshpool in relation to a 12-lot subdivision. Seal applied 21 September 2021.
2. Section 173 Agreement between South Gippsland Shire Council and the owner of 6 Isabella Boulevard Korumburra in relation to a 20-lot subdivision. Seal applied 29 September 2021.
3. Section 173 Agreement between South Gippsland Shire Council and the owner of 22 Bayside Drive Walkerville North in relation to three-lot subdivision. Seal applied 29 September 2021.
4. Section 173 Agreement between South Gippsland Shire Council and the owner of 6 Darlimurla Road Mirboo North in relation to use and development of land. Seal applied 29 September 2021.
5. Section 173 Agreement between South Gippsland Shire Council and the owner of 30 Ennisvale Avenue Sandy Point in relation to development of a dwelling. Seal applied 14 October 2021.

### **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 by Council after a public tender process, signed by the CEO between 18 September to 15 October 2021.
  - a. CON/302 for the Construction of Footpath Renewals and Footpath Extensions was awarded to Hugh Patrick Pty Ltd t/as Bj's Earthmoving. Signed by the CEO 20 September 2021.
  - b. CON/296 for the Construction Leongatha Early Learning Centre was awarded to Kubale Construction Pty Ltd. Signed by the CEO 4 October 2021.
2. Contracts awarded after a public tender process within the CEO's delegation between 18 September to 15 October 2021.
  - a. Nil
3. Contract variations approved by the CEO between 18 September to 15 October 2021.
  - a. Nil
4. Contract extensions approved by the CEO between 18 September to 15 October 2021.
  - a. CON/187 for the Multifunction Device Replacement and Ongoing Support was awarded to Chris Humphrey Office National. An extension of 1 year has been approved, signed by the CEO 14 October 2021.

### **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**

Nil

### **REFERENCE DOCUMENTS**

**Council's Good Governance Framework**  
Pillar 3. Decision Making

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**Council Policy / Strategy / Plans**

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

### **3. NOTICES OF MOTION AND/OR RESCISSION**

#### **3.1. NIL**

### **4. COUNCILLOR REPORTS**

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

**Nil**

#### **4.2. COUNCILLOR UPDATES**

**Councillors have expressed their openness to be contacted by, and meet with, community groups and members of the community.**

---

**Councillor Clare Williams addressed Council by reporting on attendance at:**

- **Tour of the new Mirboo North Pool**
- **Friends of Agnes Falls Annual General Meeting (AGM)**
- **New Wave Group meeting**

**Cr Williams commented that the Leongatha Business Association has joined with the Community Carols group to plan a Christmas Carnival to be held in Leongatha on Saturday 11 December 2021.**

**Cr Williams congratulated the Mirboo North community upon the opening of a new Medical Centre, planned for 11 December 2021.**

---

**Councillor John Schelling addressed Council by reporting on attendance at:**

- **Remembrance Day Service in Mirboo North**

**Councillor Schelling has welcomed hearing ideas from the community and welcomes invitations to attend community meetings.**

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**Councillor Adrian Darakai addressed Council by reporting on attendance at:**

- **Friends of Agnes Falls Annual General Meeting (AGM)**
- **Tour of the new Mirboo North Pool and encouraged attendance at the opening this coming weekend.**

**Councillor Jenni Keerie addressed Council by reporting on attendance at:**

- Remembrance Day Service in Korumburra
- Korumburra Round Table meeting
- Korumburra Business Association meeting
- Tour of the new Mirboo North Pool
- Bena Community Hall meeting and community BBQ

**Councillor Keerie commented on a newly created access point to the Great Southern Rail Trail at Bena that a community member had requested, they noted how pleased this request was received and actioned by Council.**

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**Councillor Scott Rae addressed Council by reporting on attendance at:**

- Remembrance Day Service in Toora
  - Friends of Agnes Falls Annual General Meeting (AGM)
  - Victorian Mountain Bike Championships in Foster
- 

**Councillor Sarah Gilligan addressed Council by reporting on:**

- Preparation for the summer in the Coastal Prom Ward in respect of increased tourism and community safety.
  - The community sharing social enterprise initiatives and welcomes more ideas.
  - Future attendance at Food & Fibre AGM
  - Future attendance at South Gippsland Hospital AGM
- 

**Councillor Michael Felton addressed Council by reporting on:**

- Welcoming invitations from the community to attend meetings and events.
  - Attendance at Remembrance Day Service in Loch.
- 

**Councillor Nathan Hersey, Deputy Mayor addressed Council by attendance at:**

- Remembrance Day Service in Loch
  - Korumburra A & P Society AGM
  - Loch Lawn Bowls Club
  - Korumburra Business Association meeting
-

**Councillor Mohya Davies, Mayor addressed Council by reporting on:**

- **Contact from the ABC media and discussed her new role as Mayor.**
- **Attendance at online meeting with the Municipal Association of Victoria (MAV) and One Gippsland.**
- **Meeting with Danny O'Brien MP Member for Gippsland South and Peter Walsh, MP Member for Murray Plains and Leader of the National Party to discuss advocacy opportunities for funding for Council.**
- **Attendance at an inspiring presentation from Beau Vernon to the students at Leongatha Secondary students about making the most of opportunities.**

#### **4.3. COMMITTEE UPDATES**

**Nil**

## 5. URGENT OR OTHER BUSINESS

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

### 1. Urgent Business

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

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 Councillor wishing to raise a matter of urgent business to raise a motion similar to the following:

'That consideration of (the issue) be dealt with as a matter of urgent business and Councillor ...be allowed a 'short period' to indicate the reason(s) why the matter should be considered as a matter of urgent business.' If the Chairperson accepts the motion as meeting the urgent business criteria, normal meeting procedures in 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 Councillors to raise items of general interest to the Council and the community. It may relate to an up and coming event or the outcomes of a recent meeting with a Minister etc.

**Nil**



## 6. PUBLIC QUESTIONS

### 6.1. PETITIONS AND JOINT LETTERS

Petitions and Joint Letters are written requests that have been signed by a number of community members. According to the *Governance Rules (C82)*, *clause 57*, members of the community may submit a valid petition or joint letter to a Councillor or to Council addressed to the Chief Executive Officer.

At the Meeting a petition or joint letter is presented, Council will consider a motion to receive it, the matter itself will not be considered unless determined as urgent business.

The Councillor presenting the petition or joint letter is responsible for ensuring that they are familiar with the contents and purpose of the petition or joint letter and that it does not contain language disrespectful to Council.

The requirements of the lead petitioner are detailed in the *Governance Rules (C82)*, *clause 57*.

Source: [Governance Rules \(C82\)](#) – adopted August 2020.

**Nil**

## 6.2. 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: [Governance Rules \(C82\)](#) – adopted August 2020.*

**Nil**

### 6.3. 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.

On the day of the Meeting, questions on the prescribed form must be received prior to the commencement of the Council Meeting by 1.00pm and placed in the receptacle at the Governance Officers table. 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: [Governance Rules \(C82\)](#) – adopted August 2020.

**Mr David Amor submitted written questions during the caretaker period, as he was a Candidate in the elections his questions were responded to but were not able to be included in the Minutes of the Council Meeting 20 October 2021. As the Caretaker period has now passed those questions and responses can now be included in this month's Meeting Minutes.**

**Question 1**

**With Bair St now finished. What is the final cost of this massive project?**

**Response**

Details on the Bair Street project (Leongatha Business Precinct) including the final cost are located on Council's website: [Bair Street Project | South Gippsland Shire Council](#)

**Question 2**

**Do you feel without having public Question time has it made your job easier or harder?**

**Response**

Council's Public Question Time in Council Meetings has not ceased and continues to be one of the many ways that Council is committed to communicating with and hearing the views of the community to inform its decision making.

**Question 3**

**Looking back now at your appointment, What would the Administrators do differently?**

**Response**

As Council is in the Election Period it cannot comment on electoral matters and therefore it would be inappropriate to engage in self-promotion. Details on Administrator Updates are located on Council's website: [Administrators' Community Updates | Administrators' Community Updates | South Gippsland Shire Council](#).

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**Mr David Amor submitted written questions and responses are provided in these Minutes.**

**Question 1**

**Still waiting on your Answer to last meeting. Also by your own Agenda and Guide lines has the CEO failed/ Administers also in my Questions?**

**Response**

A response was provided in previous correspondence from Council, dated 27 October 2021, and is also in these Minutes (refer above).

**Question 2**

**Mirboo North Pool, it was stated in papers 3 months ago the pool was to open. Did at any time the Administers or CEO look first hand at this project? If not who is responsible?**

**Response**

The Mirboo North Pool opened over the weekend, with a number of Councillors in attendance, with a more formal official opening to occur early in the new year. The Chief Executive Officer visited the site on multiple occasions during the project's development. There is some terrific footage and imagery available online for those who are interested in viewing this new community asset, refer to [Mirboo North Pool Refurbishment on Vimeo](#)

**Question 3**

**In the papers Acting Administers Julie Wrote the Korumburra Hub at long last is happening, Work start soon August 2021? Why is shire so far wrong when stating their facts?**

**Response**

The Korumburra Hub Project was scheduled to commence in early September, however weather and pandemic restrictions meant that the commencement of the project was delayed until October, and is now underway.

## 7. 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 9.1 PRIVATE COMMERCIAL INFORMATION - Request for Tender – Streetscape Redevelopment - Little Commercial Street Korumburra (RFT/307), 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 information submitted for consideration.

## **RESOLUTION**

**MOVED:** Cr Keerie

**SECONDED:** Cr Hersey

**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 9.1 PRIVATE COMMERCIAL INFORMATION - Request for Tender – Streetscape Redevelopment - Little Commercial Street Korumburra (RFT/307), 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 information submitted for consideration.**

**CARRIED UNANIMOUSLY**

## **8. MEETING CLOSED**

### **NEXT MEETING**

The next Council Meeting open to the public will be held on Wednesday, 15 December 2021 commencing at 1pm in the Council Chambers, Leongatha.

**The Council Meeting closed at 1.48pm.**

**Confirmed this**

**15<sup>th</sup> day of December 2021.**

**Councillor Mohya Davies, Mayor**