

SOUTH GIPPSLAND SHIRE COUNCIL

# Council Meeting Minutes

Wednesday 17 April 2024

**Council Meeting No. 493  
Council Chamber, Leongatha  
Commenced at 2:00pm**



# minutes



*South Gippsland  
Shire Council*

*Come for the beauty, Stay for the lifestyle*

## OUR COUNCIL VISION

***We care deeply about our people, the land and future of South Gippsland.***

***Our vision is to support the whole Shire in creating economic, environmental and social prosperity for this and future generations.***

The Council Agenda relates to the Strategic Objectives of the *Council Plan 2022-2026* indicated in this diagram:



### **Privacy**

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

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Access to the live stream is available on Council's website – [Link](#).

A copy of the *Policy* is located on Council's website - [Link](#).

## PRESENT

COUNCILLORS:	Councillor Clare Williams, Mayor Councillor Nathan Hersey, Deputy Mayor Councillor Michael Felton Councillor Mohya Davies Councillor Scott Rae Councillor Jenni Keerie Councillor John Schelling Councillor Adrian Darakai
NOT PRESENT:	Councillor Sarah Gilligan
OFFICERS:	Kerryn Ellis, Chief Executive Officer Tony Peterson, Director Sustainable Infrastructure Allison Jones, Director Performance and Innovation Renaë Littlejohn, Director Future Communities Rhys Matulis, Coordinator Governance Natasha Berry, Corporate and Council Business Officer

## **SOUTH GIPPSLAND SHIRE COUNCIL**

Council Meeting No.493  
Wednesday 17 April 2024  
Council Chambers, Leongatha, commenced 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.

Access to the live stream through Council's Internet is an option to view 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 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**

#### ***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**

As we gather here from diverse backgrounds and beliefs, may we hold privilege with good care and trust. As we deliberate and discuss, may we be wise in our discernment, fair in our decisions and visionary in our planning. May we be guided by our common goal of a strong and united South Gippsland.

#### **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**

**Councillor Sarah Gilligan**

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

##### **RECOMMENDATION**

**That the Minutes of the South Gippsland Shire Council Meeting No. 492, held on Wednesday 20 March 2024 in the Council Chambers, Leongatha be confirmed.**

##### **RESOLUTION**

**MOVED:** Councillor Keerie

**SECONDED:** Councillor Schelling

**That the Minutes of the South Gippsland Shire Council Meeting No. 492, held on Wednesday 20 March 2024 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 Nathan Hersey declared a general conflict of interest in Confidential Agenda items 11.1 – Award Contract CON/402 Building Maintenance Services as a family member's business is a subcontractor to one of the tenders.**



## 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 - CONNECTING OUR PEOPLE AND PLACES

### 2.1. FOSTER COUNTRY FIRE AUTHORITY LEASE

Directorate:	Sustainable Infrastructure
Department:	Infrastructure Planning

#### Council Plan

*Objective - Connecting our People and Places*

*Leasing this parcel of land realises the Country Fire Authority's preferred position within Foster to deliver a new facility for those volunteers to carry out their emergency services and to protect the community.*

#### EXECUTIVE SUMMARY

The purpose of this report is to commence the community engagement process to consider a lease to the Country Fire Authority (CFA), of an area of land known as 5 Lower Franklin Road, Foster, for the construction of a fire station.

#### RECOMMENDATION

**That Council:**

- In accordance with section 115 of the *Local Government Act 2020* commence the community engagement process via the *Proposed Budget 2024/25 – 2027/28* community engagement process, to lease the land only to the Country Fire Authority, being 3,656m<sup>2</sup> known as 5 Lower Franklin Road Foster for 21 Years commencing 1 July 2024 for a community rental amount of \$104 plus GST per annum for the construction of a Fire Station.**
- Approves commencement of community engagement from 18 April to 5 May 2024 for the *Lease*, in accordance with Council's Community Engagement Strategy 2020 - 2024.**

**RESOLUTION**

**MOVED:** Councillor Keerie

**SECONDED:** Councillor Davies

**That Council:**

- 1. In accordance with section 115 of the *Local Government Act 2020* commence the community engagement process via the *Proposed Budget 2024/25 – 2027/28* community engagement process, to lease the land only to the Country Fire Authority, being 3,656m<sup>2</sup> known as 5 Lower Franklin Road Foster for 21 Years commencing 1 July 2024 for a community rental amount of \$104 plus GST per annum for the construction of a Fire Station.**
- 2. Approves commencement of community engagement from 18 April to 5 May 2024 for the *Lease*, in accordance with Council's Community Engagement Strategy 2020 - 2024.**

**CARRIED UNANIMOUSLY**

[Link to next Agenda Item.](#)

## **REPORT**

The current fire station on Main Street, Foster was constructed in 1955 and has failed to meet brigade and community expectations for some time.

The facility does not support the required functions of a modern-day fire station. Day to day station activities are hindered including hose maintenance, vehicle cleaning, onsite training activities, administrative functions in addition to social activities and functions. The station has no on-site water hydrant for filling trucks, and currently members use a hydrant located in the median strip of the dual carriageway, adjacent to the fire station for this purpose.

In 2022, a document that details seven suggested locations for a new Foster Fire Station was submitted to Council with the preferred site being the Great Southern Rail Trail land on the corner of Fuller Road and Lower Franklin Road Foster where Council is committee of management for this Crown Land area. refer **Confidential Attachment [12.1.1]**.

A surveyed lease plan refer **Attachment [2.1.1]** and concept drawings **Attachment [2.1.2]** have been completed and submitted to Council for consideration.

The CFA are eager to progress the leasing of the site and understand that the community engagement will occur through Council's budget process in accordance with section 115 of the *Local Government Act 2020*.

## **CONSULTATION / COMMUNITY ENGAGEMENT**

The community engagement activity will be conducted through Council's budget process where public submissions can be made.

## **RESOURCES / FINANCIAL VIABILITY**

The land only rental is proposed as a community-based rental of \$104 plus GST per annum. The CFA will construct and maintain the new Fire Station.

Council will not be responsible for any assets that are constructed as part of this lease arrangement.

## **RISKS**

The proposed land lease has been prepared by Council's legal representatives to mitigate as many risks as possible or liabilities to Council.

## ATTACHMENTS

Attachments are available on Council's website at the following [LINK](#).

1. Survey Plan - Foster - Fullers Road and Lower Franklin Road - Proposed CFA Site [2.1.1 - 1 page]
2. CFA Foster Plan - February 2024 [2.1.2 - 1 page]

## 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 [12.1.1] – Foster Country Fire Authority Future Infrastructure Investigation** is designated confidential information pursuant to the *Local Government Act 2020*, s.3(1)(g) - private commercial information, have been made as the information is deemed commercial-in-confidence to protect the privacy of the contractors tender information submitted for consideration.

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.

## REFERENCE DOCUMENTS

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

Pillar 3. Decision Making

### **Legislative Provisions**

Local Government Act 2020

### 3. OBJECTIVE - LEADING WITH INTEGRITY

#### 3.1. PROPOSED LONG TERM FINANCIAL PLAN (10 YEAR PLAN) AND PROPOSED 2024/25 - 2027/28 BUDGET, INCLUDING 2024/25 COUNCIL PLAN INITIATIVES

Directorate:	Performance and Innovation
Department:	Financial Strategy

#### Council Plan

##### *Objective – Leading with Integrity*

*The Financial Plan and Budget, including the 2024/25 Annual Initiatives provide the resources to progress the achievement of the Strategic Objectives and Strategies outlined in the 2022 - 2026 Council Plan.*

#### EXECUTIVE SUMMARY

The purpose of this report is to present the Proposed Financial Plan 2024/25 – 2033/34 (**Attachment [3.1.1]**), and the Proposed Budget 2024/25 – 2027/28 (**Attachment [3.1.2]**) including the 2024/25 Council Plan Annual Major Initiatives (Proposed Plans) for consideration and endorsement for community consultation from 18 April to 5 May 2024.

The Proposed Budget 2024/25 are fundamental documents for Council as they outline Council's future financial and other resource planning to support the delivery of the Council Plan. The *Proposed Budget* notes Council's aspirations for the year ahead (and the following three years), and outlines how we intend to serve the community with the services and facilities that Council provides. The document also includes the *2024/25 Annual Major Initiatives* to progress the *2022-2026 Council Plan*. The scope of the *Proposed Financial Plan* is a period of at least the next ten financial years.

These *Proposed Plans* have been prepared in accordance with the *Local Government Act 2020* (the Act) and reference:

- Financial Plan (s.91).
- Adoption of the Annual Budget (s.94 of the Act); and
- Preparation of the Budget or revised Budget (s.94 and 96 of the Act);

This report recommends that Council formally endorses the *Proposed Plans* in accordance with s.91, s.93, s.94 and 96 of the Act and advertise these documents for community consultation.

Council will provide opportunities for community consultation using a number of engagement methods, from 18 April to 5 May 2024. Details are available online at <https://yoursay.southgippsland.vic.gov.au/> or by contacting Council on (03) 5662 9200 during business hours.

#### **RECOMMENDATION**

**That Council:**

- 1. Endorses the Proposed Financial Plan 2024/25 – 2033/34 (Attachment [3.1.1]) and Proposed Budget 2024/25 – 2027/28 (Attachment [3.1.2]) including the 2024/25 Council Plan Annual Initiatives (Proposed Plans) for community consultation; and**
- 2. Approves commencement of community engagement from 18 April to 5 May 2024 for these Proposed Plans, in accordance with Council’s Community Engagement Strategy 2020 - 2024.**

#### **RESOLUTION**

**MOVED:** Councillor Hersey

**SECONDED:** Councillor Keerie

**That Council:**

- 1. Endorses the Proposed Financial Plan 2024/25 – 2033/34 (Attachment [3.1.1]) and Proposed Budget 2024/25 – 2027/28 (Attachment [3.1.2]) including the 2024/25 Council Plan Annual Initiatives (Proposed Plans) for community consultation; and**
- 2. Approves commencement of community engagement from 18 April to 5 May 2024 for these Proposed Plans, in accordance with Council’s Community Engagement Strategy 2020 - 2024.**

**CARRIED UNANIMOUSLY**

[Link to next Agenda Item.](#)

## REPORT

### ***Proposed Financial Plan and Budget***

The *Proposed Financial Plan* document in **Attachment [3.1.1]** is the Financial Plan for the next ten years and has been prepared in accordance with s.91 of the Act.

The *Proposed Budget 2024/25* and *2024/25 Annual Major Initiatives* document in **Attachment [3.1.2]** has been prepared in accordance with s.96 of the Act.

Both of these documents follow the *Better Practice Guidelines* and *Model Budget* issued by Local Government Victoria (LGV) in accordance with the *Local Government (Planning and Reporting) Regulations 2020*.

Councils are required to set targets for the Local Government Performance Reporting Framework (LGPRF). Section 5 of the *Proposed Budget 2024/25* document (**Attachment [3.1.2]**) includes indicators with a target for the budgeted year and subsequent three financial years.

The *Proposed Plans* that are being presented for endorsement in this Council Meeting include:

1. Financial Plan 2024/25 – 2033/34 (**Attachment [3.1.1]**); and
2. Budget 2024/25 (**Attachment [3.1.2]**) including 2024/25 Annual Initiatives of the Council Plan 2022-2026.

Following the endorsement of these *Proposed Plans* a community consultation process will take place from 18 April to 5 May 2024.

### **CONSULTATION / COMMUNITY ENGAGEMENT**

The Act requires councils to take an integrated approach to strategic planning and reporting, including deliberative community engagement practices.

Councillors have worked together to articulate and represent the voice of their constituents and communities, and provide recommendations and direction, while being mindful to responsibly manage resources. They will be engaging with the community through various activities during the exhibition of the *Proposed Plans*.

Council's *Proposed Plans* will be available and promoted for community feedback from 18 April to 5 May 2024. Further details available on Council's website: <https://yoursay.southgippsland.vic.gov.au>.

The community feedback will be analysed and incorporated into the final *Proposed Plans* and will be considered for adoption at the Council Meeting 26 June 2023.



## **RESOURCES / FINANCIAL VIABILITY**

The Budget and Financial Plan are key strategic documents that outline the direction and resources required to achieve the Council's direction in the Council Plan and the range of services provided. The Financial Plan provides an outlook of Council's financial position for at least the next ten years.

## **RISKS**

The risk of not adopting these Plans by the statutory deadline of 30 June is that Council will suffer reputational damage and be constrained in its ability to raise the necessary funds to carry out its functions and meet its objectives.

## **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 at the following [LINK](#).*

1. Proposed Annual Budget 2024-25 [3.1.1 - 94 pages]
2. Proposed Financial Plan 2024-25 - 2033-34 [3.1.2 - 43 pages]

## **REFERENCE DOCUMENTS**

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

Pillar 1. Direction & Leadership

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

*Documents are available on Council's website at the following [LINK](#).*

Long-Term Financial Strategies

Proposed Budget

Proposed Financial Plan

Council Plan

### **Legislative Provisions**

*Local Government Act 2020*

### 3.2. MOTION TO MUNICIPAL ASSOCIATION OF VICTORIA

Directorate:	Office of the CEO
Department:	Regional Partnerships

#### Council Plan

##### *Objective - Leading with Integrity*

*The recommendation in this report addresses the Council Plan Objective 'Leading with Integrity'. The proposed Motion would provide regional direction and support coastal resilience in South Gippsland.*

#### EXECUTIVE SUMMARY

The purpose of this report is to seek Council's endorsement to submit an additional Motion for consideration at the Municipal Association of Victoria (MAV) State Council. This will be held on 17 May in Melbourne. Member councils from across Victoria can lodge Motions to MAV that have state-wide significance.

This Motion would be in addition to another that was previously endorsed at the March 2024 Council Meeting. This Motion related to:

- Support for rural councils impacted by Renewable Energy transition targets by seeking funding and resourcing from the Victorian Government to support land use and infrastructure planning to accommodate anticipated growth; and
- Dedicated funding in lieu of rates through Community Benefit Scheme payments to rural councils impacted by offshore wind.

The proposed Motion aligns with Council's endorsed Advocacy priorities.

#### RECOMMENDATION

**That Council endorses the following Motion to the Municipal Association Victoria (MAV):**

*That the Municipal Association Victoria calls on the Victorian Government to:*

- *Fund and complete updated coastal hazard mapping across Victoria by 2025.*
- *Implement hazard mapping data into all affected Victorian Planning Schemes*
- *Fund the rollout of consultation with affected communities to raise awareness of known coastal hazard risks and aide adaptation measures.*

**RESOLUTION**

**MOVED:** Councillor Keerie

**SECONDED:** Councillor Schelling

**That Council endorses the following Motion to the Municipal Association Victoria (MAV):**

*That the Municipal Association Victoria calls on the Victorian Government to:*

- *Fund and complete updated coastal hazard mapping across Victoria by 2025.*
- *Implement hazard mapping data into all affected Victorian Planning Schemes.*
- *Fund the rollout of consultation with affected communities to raise awareness of known coastal hazard risks and aide adaptation measures.*

**CARRIED UNANIMOUSLY**

[Link to next Agenda Item.](#)

## **REPORT**

Each year councils have an opportunity to put forward Motions relating to matters of strategic and state-wide significance to the MAV State Council. Decisions made at these events constitute policy directions and remain active until the issue is resolved.

The MAV Motion, if supported by Council, would address the following MAV Strategic outcomes:

- Healthy, diverse and thriving communities
- Well-planned, connected and resilient built environment
- Changing climate and circular economy

Should this Motion be carried, MAV will make representations on behalf of Local Government to the Victorian Governments as appropriate, to advocate for these matters.

## **CONSULTATION / COMMUNITY ENGAGEMENT**

Significant community engagement was undertaken during development of the *South Gippsland Coastal Strategy*.

## **RESOURCES / FINANCIAL VIABILITY**

There are no resource implications to Council if this Notice of Motion is endorsed.

## **RISKS**

Nil

## **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 3. Decision Making

Pillar 6. Capability

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

*Documents are available on Council's website at the following [LINK](#).*

Priority Projects

### **Legislative Provisions**

Local Government Act 2020

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### 3.3. AUDIT AND RISK COMMITTEE - 5 MARCH 2024 MEETING MINUTES

Directorate:	Performance and Innovation
Department:	Financial Strategy

#### Council Plan

*Objective - Leading with Integrity*

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

#### EXECUTIVE SUMMARY

The draft minutes of the Audit and Risk Committee meeting held 5 March 2024 (**Attachment [3.3.1]**) are provided to Council for noting.

Audit and Risk Committee members at the meeting included:

- Ms Jen Johanson (Audit Committee Chair)
- Mr Mick Jaensch
- Ms Marilyn Kearney
- Cr Sarah Gilligan (Council member)
- Cr Jenni Keerie (Council member)

#### RECOMMENDATION

**That Council notes the draft Audit and Risk Committee Minutes – 5 March 2024 (Attachment [3.3.1]).**

#### RESOLUTION

**MOVED:** Councillor Schelling

**SECONDED:** Councillor Keerie

**That Council notes the draft Audit and Risk Committee Minutes – 5 March 2024 (Attachment [3.3.1]).**

**CARRIED UNANIMOUSLY**

[Link to next Agenda Item.](#)

## **REPORT**

The matters considered by the Audit and Risk Committee at the 5 March 2024 meeting are contained in (**Attachment [3.3.1]**)

## **CONSULTATION / COMMUNITY ENGAGEMENT**

The draft Audit and Risk Committee Minutes for 5 March 2024 (**Attachment [3.3.1]**) have been circulated to the Audit and Risk Committee for feedback which is included in the attached, and will be formally accepted by the Committee at the next meeting.

## **RESOURCES / FINANCIAL VIABILITY**

Budget allowances for Council's three Independent Audit and Risk Committee Members' attendance fees are included within Council's current and forward budgets.

## **RISKS**

Council must establish an Audit and Risk Committee under s.53 of the *Local Government Act 2020*. The Committee supports Council in discharging its oversight responsibilities as set out in the Audit and Risk Committee Charter, including risk management.

## **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 at the following [LINK](#).*

1. Audit Risk Committee Meeting 5 March 2024 Draft Minutes (4) [**3.3.1** - 15 pages]

## **REFERENCE DOCUMENTS**

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

Pillar 7. Risk & Compliance

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

*Documents are available on Council's website at the following [LINK](#).*

Audit and Risk Committee Charter (C08)

Audit and Risk Committee Charter and Terms of Reference

### **Legislative Provisions**

Local Government Act 2020

### 3.4. DOCUMENTS SEALED, CONTRACTS VARIED, AWARDED OR EXTENDED BY CEO - 13 FEBRUARY 2024 TO 12 MARCH 2024

Directorate:	Office of the CEO
Department:	Office of the CEO

#### **Council Plan**

*Objective - Leading with Integrity*

*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 13 February 2024 to 12 March 2024. 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:** Councillor Davies

**SECONDED:** Councillor Keerie

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

**CARRIED UNANIMOUSLY**

[Link to next Agenda Item.](#)

## 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(h)(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.

In accordance with the Local Law No. 2 2020, Part 9, clause 107(h)(iv), the following are presented to Council as documents sealed during the period from 13 February 2024 to 12 March 2024:

*Nil*

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 13 February 2024 to 12 March 2024:

1. Section 173 Agreement between South Gippsland Shire Council and the owner of 205 Downings Hill Road, Toora for use and development of land with group accommodation and a second dwelling. Seal applied 27 February 2024.

### 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 13 February 2024 to 12 March 2024.



- a. Nil.
2. Contracts awarded after a public tender process within the CEO's delegation between 13 February 2024 to 12 March 2024.
  - a. Nil.
3. Contract variations approved by the CEO between 13 February 2024 to 12 March 2024.
  - a. Nil.
4. Contract extensions approved by the CEO 13 February 2024 to 12 March 2024.
  - a. Nil.

### **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

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

*Documents are available on Council's website at the following [LINK](#).*

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

### 3.5. SUMMARY OF STRATEGIC BRIEFINGS - 13 FEBRUARY TO 12 MARCH 2024

Directorate:	Performance and Innovation
Department:	Governance

#### **Council Plan**

*Objective - Leading with Integrity*

*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 February and 12 March 2024.

#### **RECOMMENDATION**

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

#### **RESOLUTION**

**MOVED:** Councillor Davies

**SECONDED:** Councillor Felton

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

#### **CARRIED UNANIMOUSLY**

[Link to next Agenda Item.](#)

## REPORT

Meeting Title	Details
<b>Wednesday 14 February 2024</b>	
<b>Strategic Briefings scheduled for today were cancelled due to the significant storm event on Tuesday 13 February 2024.</b>	
<b>Wednesday 21 February 2024</b>	
<b>Storm Update</b>	<p><b>Councillors Attending:</b> Mohya Davies, Scott Rae, Clare Williams, John Schelling, Adrian Darakai, Nathan Hersey and Jenni Keerie.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>
<b>Council Meeting Agenda Topic Discussion – 21 February 2024</b>	<p><b>Councillors Attending:</b> Mohya Davies, Scott Rae, Clare Williams, John Schelling, Adrian Darakai and Jenni Keerie.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>
<b>ALGA &amp; MAV Motions Discussion</b>	<p><b>Councillors Attending:</b> Mohya Davies, Scott Rae, Clare Williams, John Schelling, Adrian Darakai, Nathan Hersey and Jenni Keerie.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>
<b>Grants Funding Proposal – Regional Precincts and Partnerships Program</b>	<p><b>Councillors Attending:</b> Mohya Davies, Scott Rae, Clare Williams, John Schelling, Adrian Darakai, Nathan Hersey and Jenni Keerie.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>
<b>Grant Funding Opportunities for Regional Community Sports Infrastructure Fund</b>	<p><b>Councillors Attending:</b> Mohya Davies, Scott Rae, Clare Williams, John Schelling, Adrian Darakai, Nathan Hersey and Jenni Keerie.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>
<b>Wednesday 6 March 2024</b>	
<b>Council Plan and Budget Briefing</b>	<p><b>Councillors Attending:</b> Mohya Davies, Scott Rae, Clare Williams, John Schelling, Sarah Gilligan, Adrian Darakai, Nathan Hersey and Jenni Keerie.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>

Meeting Title	Details
<b>Arts Policies</b>	<p><b>Councillors Attending:</b> Mohya Davies, Scott Rae, Clare Williams, John Schelling, Sarah Gilligan, Adrian Darakai, Nathan Hersey and Jenni Keerie.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>

**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

**Council Policy / Strategy / Plans**

*Documents are available on Council's website at the following [LINK](#).*

Governance Rules (C82)

Public Transparency Policy (C75)

**Legislative Provisions**

Local Government Act 2020

### 3.6. S11A INSTRUMENT OF APPOINTMENT AND AUTHORISATION (PLANNING & ENVIRONMENT ACT 1987)

Directorate:	Performance and Innovation
Department:	Governance

#### Council Plan

*Objective - Leading with Integrity*

*Council's governance is strengthened by maintaining currency in the delegations to Officers with the functions they are required to perform on behalf of Council.*

#### EXECUTIVE SUMMARY

This report recommends that Council adopts an appointment and authorisation for staff member John Holland under the *Planning and Environment Act 1987*.

#### RECOMMENDATION

**That Council resolves, in the exercise of the powers conferred by s 147(4) of the *Planning and Environment Act 1987*, s.224 of the *Local Government Act 1989* and s.313 of the *Local Government Act 2020*:**

- 1. The member of Council staff referred to in the Instrument of Appointment and Authorisation be appointed and authorised as set out in the instrument and detailed in this report; and**
- 2. The Instrument of Appointment and Authorisation come into force immediately when signed by Council's Chief Executive Officer and remain in force until Council determines to vary it or it is revoked by Council's Chief Executive Officer in the event the officer resigns from Council or is appointed to a position where this appointment and authorisation is not required or suitable.**

**RESOLUTION**

**MOVED:** Councillor Davies

**SECONDED:** Councillor Keerie

**That Council resolves, in the exercise of the powers conferred by s 147(4) of the *Planning and Environment Act 1987*, s.224 of the *Local Government Act 1989* and s.313 of the *Local Government Act 2020*:**

- 1. The member of Council staff referred to in the Instrument of Appointment and Authorisation be appointed and authorised as set out in the instrument and detailed in this report (refer Attachment [3.6.1]); and**
- 2. The Instrument of Appointment and Authorisation come into force immediately when signed by Council's Chief Executive Officer and remain in force until Council determines to vary it or it is revoked by Council's Chief Executive Officer in the event the officer resigns from Council or is appointed to a position where this appointment and authorisation is not required or suitable.**

**CARRIED UNANIMOUSLY**

[Link to next Agenda Item.](#)

## **REPORT**

The allocation of authorisations and appointments to Council employees contributes to the effective functioning of Council. It is important to ensure that formal Instruments are updated to reflect changes in personnel as well as changes in the legislation.

One new Instrument, refer **Attachment [3.6.1]** is presented for adoption for new Strategic Planning Officer John Holland, enabling him to fulfil the required duties as a Strategic Planning Officer within the Planning and Building Services department.

## **CONSULTATION / COMMUNITY ENGAGEMENT**

Nil

## **RESOURCES / FINANCIAL VIABILITY**

Nil

## **RISKS**

Failure to adopt, update or revoke an Instrument of Appointment and Authorisation could result in a decision of the employee being invalidated or Council being held liable for the actions of former employees.

## **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 at the following [LINK](#).*

1. S11A Instrument of Appointment (P&E Act) - John Holland [3.6.1 - 1 page]

## **REFERENCE DOCUMENTS**

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

Pillar 3. Decision Making

### **Legislative Provisions**

Local Government Act 2020

Planning and Environment Act 1987

## 4. OBJECTIVE - SUSTAINABLE GROWTH

### 4.1. PROPOSED SALE OF COUNCIL LAND - SUBMISSION CONSIDERATION AND DETERMINATION

Directorate:	Sustainable Infrastructure
Department:	Infrastructure Planning

#### Council Plan

##### *Objective - Sustainable Growth*

*The disposing of surplus properties contributes to the sustainable growth of the municipality.*

#### EXECUTIVE SUMMARY

The purpose of this report is to consider the removal of the Public Use Zone and the commencement of the sale of 14 Radovick Street, Korumburra.

The community engagement process was undertaken, and Council received one submission which is to be considered and determined. Refer **Attachment [4.1.1]**.

#### RECOMMENDATION

##### That Council:

1. **Having considered the submission to the sale of 14 Radovick Street, Korumburra – being the land described in Volume 07208 Folio 519 with an area of 1618.6m<sup>2</sup>, removes the Public Use Zone and proceeds to sell the land by public sale for not less than a valuation obtained for the land which is made not more than six months prior to the sale.**
2. **Advises the submitter of the reasons why Council intends to proceed with the sale of 14 Radovick Street, Korumburra.**



**RESOLUTION**

**MOVED:** Councillor Schelling

**SECONDED:** Councillor Davies

**That Council:**

- 1. Having considered the submission to the sale of 14 Radovick Street, Korumburra – being the land described in Volume 07208 Folio 519 with an area of 1618.6m<sup>2</sup>, removes the Public Use Zone and proceeds to sell the land by public sale for not less than a valuation obtained for the land which is made not more than six months prior to the sale.**
- 2. Advises the submitter of the reasons why Council intends to proceed with the sale of 14 Radovick Street, Korumburra.**

**MOVED:** Councillor Hersey

**SECONDED:** Councillor Rae

**That Councillor Hersey be granted a 2-minute speaking time extension.**

**CARRIED UNANIMOUSLY**

**The Motion before the Chair was CARRIED.**

**[Link to next Agenda Item.](#)**

## **REPORT**

Council, at its ordinary meeting held 13 December 2023 resolved to commence community engagement to sell the following properties:

- 270 Mount Best Tin Mine Road, Toora North
- 44 Pound Road, Foster
- 14 Radovick Street, Korumburra
- 21 Shellcot Road, Korumburra

Community engagement process commenced in the week of 29 January 2024 by placing a public notice in local papers and on Council's Website, calling for public submissions for 28 days.

Council received one submission regarding 14 Radovick Street, Korumburra (former Senior Citizens Centre) which is to be considered and determined.

In summary, the submitter believes that 14 Radovick Street Korumburra was not owned by the former Shire of Korumburra but owned by the rate payers and that South Gippsland Shire Council had no right to transfer the land as successor in title.

Council (known by pre-amalgamation entity "The President, Councillors and Ratepayers of the Shire of Korumburra) purchased the land from Michael Joseph O'Shannassy on 1 November 1948 for the purchase price of seven hundred and five pounds. Refer **Attachment [4.1.2]**.

The South Gippsland Shire Council, once formed, became the successor in title.

In 2016, the State Government encouraged all municipalities to digitalise their certificates of title. To enable this to occur, the Registrar of Titles required all certificates of titles in the name of pre-amalgamation entities to be transferred into South Gippsland Shire Council, as successor in title. The transfer was signed by the Acting Chief Executive Officer.

## **CONSULTATION / COMMUNITY ENGAGEMENT**

Community engagement process has been employed for the required 28 days.

## **RESOURCES / FINANCIAL VIABILITY**

The sale of the Korumburra properties was identified in the Long-Term Financial Plan to support the development of the Korumburra Hub.

The sale of surplus Council land will generate income from the sale and attract rate revenue.

## **RISKS**

The sale of Council land must proceed in accordance with section 114 of the *Local Government Act 2020*. If Council doesn't proceed with the proposed sales, it may not realise its adopted budget.

## **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 at the following [LINK](#).*

1. Korumburra Senior Citizens submission [4.1.1 - 6 pages]
2. Korumburra Senior Citizens original Transfer of Land [4.1.2 - 3 pages]

## **REFERENCE DOCUMENTS**

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

Pillar 3. Decision Making

### **Legislative Provisions**

Local Government Act 2020

## 4.2. AREAS SUSCEPTIBLE TO EROSION - AMENDMENT C119SGIP

Directorate:	Economy and Community
Department:	Planning and Building Services

### Council Plan

*Objective – Protecting and Enhancing our Environment*

*Amendment C119 will support decision making around sustainable use and development in response to areas susceptible to erosion.*

### EXECUTIVE SUMMARY

The purpose of this report is to present South Gippsland Planning Scheme Amendment C119 to Council for adoption and to then submit the Amendment to the Minister for Planning for approval.

Amendment C119 proposed to replace both the existing Erosion Management Overlay (EMO) Schedule and the Environmental Significance Overlay Schedule 5 (ESO5) with an improved EMO Schedule (EMO1) to specifically address erosion and soil stability issues. The amendment is an implementation action in Council's recently adopted Planning Scheme Review.

Amendment C119 was exhibited from 8 February 2024 to 22 March 2024. The exhibition period was extended by two weeks in response to the February wind storm event. No objections were received. Three submissions were received in support of the amendment.

Two minor changes to the exhibited amendment provisions are proposed. Both changes are clerical in nature and are detailed in **Attachment [4.2.1]**. The changes have been included in Amendment C119 approval documents that will be submitted to the Minister for Planning.

### RECOMMENDATION

**That Council adopts the exhibited South Gippsland Planning Scheme Amendment C119sgip with changes as detailed in Attachment [4.2.1] and submit to the Minister for Planning for approval.**

**RESOLUTION**

**MOVED:** Councillor Rae

**SECONDED:** Councillor Davies

**That Council adopts the exhibited South Gippsland Planning Scheme Amendment C119sgip with changes as detailed in Attachment [4.2.1] and submit to the Minister for Planning for approval.**

**CARRIED UNANIMOUSLY**

[Link to next Agenda Item.](#)

## **REPORT**

The existing erosion controls in the South Gippsland Planning Scheme have been in place since the new format planning schemes were introduced in 1999. The Environmental Significance Overlay Schedule 5 (ESO5), which applies to 49 per cent of the Shire, identifies land susceptible to erosion. The EMO, which affects a much smaller area of land, was originally introduced into the Planning Scheme from a similar control that existed in the former Shire of Mirboo Planning Scheme.

Amendment C119 seeks to improve erosion-risk related planning controls. A new Erosion Management Overlay Schedule proposes to replace the existing EMO schedule and ESO5. The EMO is specifically designed to protect areas susceptible to erosion by the use of its tailored application and decision guidelines. Use of the ESO as a tool to manage erosion is now discouraged by the Victorian Planning Provisions (VPP). Applying the EMO brings our planning scheme into VPP compliance.

Changes to the planning permit triggers are proposed so that permit applications are triggered where erosion risk impacts resulting from development are more likely, mainly where cut or fill exceeds one vertical metre in depth. This will result in more targeted and relevant assessments. The current ESO5 provisions are imprecisely drafted and can be interpreted to trigger a permit for earthworks less than one vertical metre in some instances and include an exemption for 'agricultural activities' which is poorly defined and confusing, both for landowners and planning officers. Clearer planning scheme provisions reduce risks in relation to the potential for misinterpretation.

The ESO5 and EMO controls only apply to rural land. In some areas around Mirboo North (where the EMO currently applies), land affected by the EMO is also affected by the ESO5, meaning the overlay controls overlap, which is an unnecessary burden on landowners. Amendment C119 removes the duplication of controls and reduces the burden of the planning scheme on these landowners.

## **CONSULTATION / COMMUNITY ENGAGEMENT**

Amendment C119 was on exhibition from 8 February 2024 to 22 March 2024.

Public notices were placed in the local newspapers, on the internet/social media and in the Government Gazette. Comprehensive details of the Amendment were also placed on Council's and Department of Transport and Planning's webpages.

Council sent notices to agencies and authorities affected by the amendment.

## **RESOURCES / FINANCIAL VIABILITY**

Amendment C119 was prepared and processed as part of Council's normal Planning Department operations.

## **RISKS**

Existing local permit exemptions do not always reflect the potential erosion risks which could have environmental, landscape, servicing and health and safety impacts. Avoiding erosion risk to persons and property is an important element of Council's risk management obligations.

## **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 at the following [LINK](#).*

1. Planning Scheme Amendment C119 - Submissions and Post Exhibition Amendment Changes Report [4.2.1 - 6 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 at the following [LINK](#).*

South Gippsland's Planning Scheme

### **Legislative Provisions**

Planning and Environment Act 1987

### 4.3. PLANNING SCHEME REVIEW AMENDMENT

Directorate:	Future Communities
Department:	Planning and Building Services

#### Council Plan

*Objective - Sustainable Growth*

*Regional Australia is going through unprecedented growth and demographic change and Council plays an important role in advocacy across all levels of government to attract funding and implement planning controls that ensure South Gippsland's growth is socially, environmentally and economically sustainable.*

#### EXECUTIVE SUMMARY

The purpose of this report is to present South Gippsland Planning Scheme Amendment C129 to Council for adoption and submission to the Minister for Planning for approval.

Amendment C129 implements the collective recommendations of the [South Gippsland Planning Scheme Review 2023](#) by introducing new and revised local content in the Municipal Planning Strategy and the Planning Policy Framework, and by amending zone and overlay schedule provisions, general provisions and operational provisions.

Amendment C129 was exhibited from 18 January 2024 to 16 February 2024. Submitters to the previous Planning Scheme Review consultation were notified of the exhibition. A submission suggesting changes was received but later withdrawn. Two submissions of support were received. One submission of support was received after exhibition closed.

Three minor changes to the [exhibited amendment ordinance](#) have been identified and proposed by officers. These changes are clerical in nature and are detailed in **Attachment [4.3.1]**. The changes have been included in the Amendment C129 approval documents that will be submitted to the Minister of Planning.

#### RECOMMENDATION

**That Council adopts the exhibited South Gippsland Planning Scheme Amendment C129sgip with changes as detailed in Attachment [4.3.1] and submit to the Minister for Planning for approval.**



**RESOLUTION**

**MOVED:** Councillor Davies

**SECONDED:** Councillor Hersey

**That Council adopts the exhibited South Gippsland Planning Scheme Amendment C129sgip with changes as detailed in Attachment [4.3.1] and submit to the Minister for Planning for approval.**

**CARRIED UNANIMOUSLY**

## REPORT

Council has a statutory obligation under the *Planning and Environment Act 1987* to efficiently administer and enforce its planning scheme. This includes ensuring the planning scheme is kept up to date and free of basic errors and anomalies.

Amendment C129 seeks to fulfil this requirement by applying planning scheme best practice and correcting errors and anomalies identified since the previous Planning Scheme Review was completed in 2018.

Council resolved on 28 June 2023 to adopt the [Planning Scheme Review Report 2023](#) and prepare a planning scheme amendment to implement its recommendations.

Amendment C129 implements the collective recommendations of the *South Gippsland Planning Scheme Review Report 2023* by introducing new and revised local content in the Municipal Planning Strategy and the Planning Policy Framework, and by amending the schedules to zones, overlays, general provisions and operational provisions.

The amendment also proposes to remove onerous permit triggers in the rural zone schedules and to include the following background documents in the Schedule to Clause 72.08 (Background Documents) being the *Giant Gippsland Earthworm Environmental Significance Overlay Reference Document* (South Gippsland Shire Council, September 2015), *South Gippsland Social and Affordable Housing Strategy* (Hornsby & Co, 2022) and *Nyora Development Strategy* (Planisphere, 2016).

### **Changes to exhibited documents**

Since the exhibition of Amendment C129, officers have identified a few additional clerical errors to be corrected. These are detailed in **Attachment [4.3.1]** and include:

1. Update [Clause 02.02](#) to amend Council Plan date to “2022-2026” and align the vision with that of the Council Plan 2022-2026.
2. Update [Clause 02.04](#) Framework Map legend to correctly name the Gippsland Coalfields Policy Area and align with other related Planning Scheme Clauses.
3. Update [37.01 Special Use Zone Section 2](#) to change wording from “Wilson’s Promontory Gateway Tourist Facility” to “Waratah Park Tourist Facility” to correctly reflect the applicable location.

As these are generally clerical in nature and the Council Vision underwent significant community consultation in its development, no further exhibition is required.

### **CONSULTATION / COMMUNITY ENGAGEMENT**

Amendment C129 was exhibited from 18 January 2024 to 16 February 2024. Submitters to the previous Planning Scheme Review consultation were notified of the amendment's exhibition.

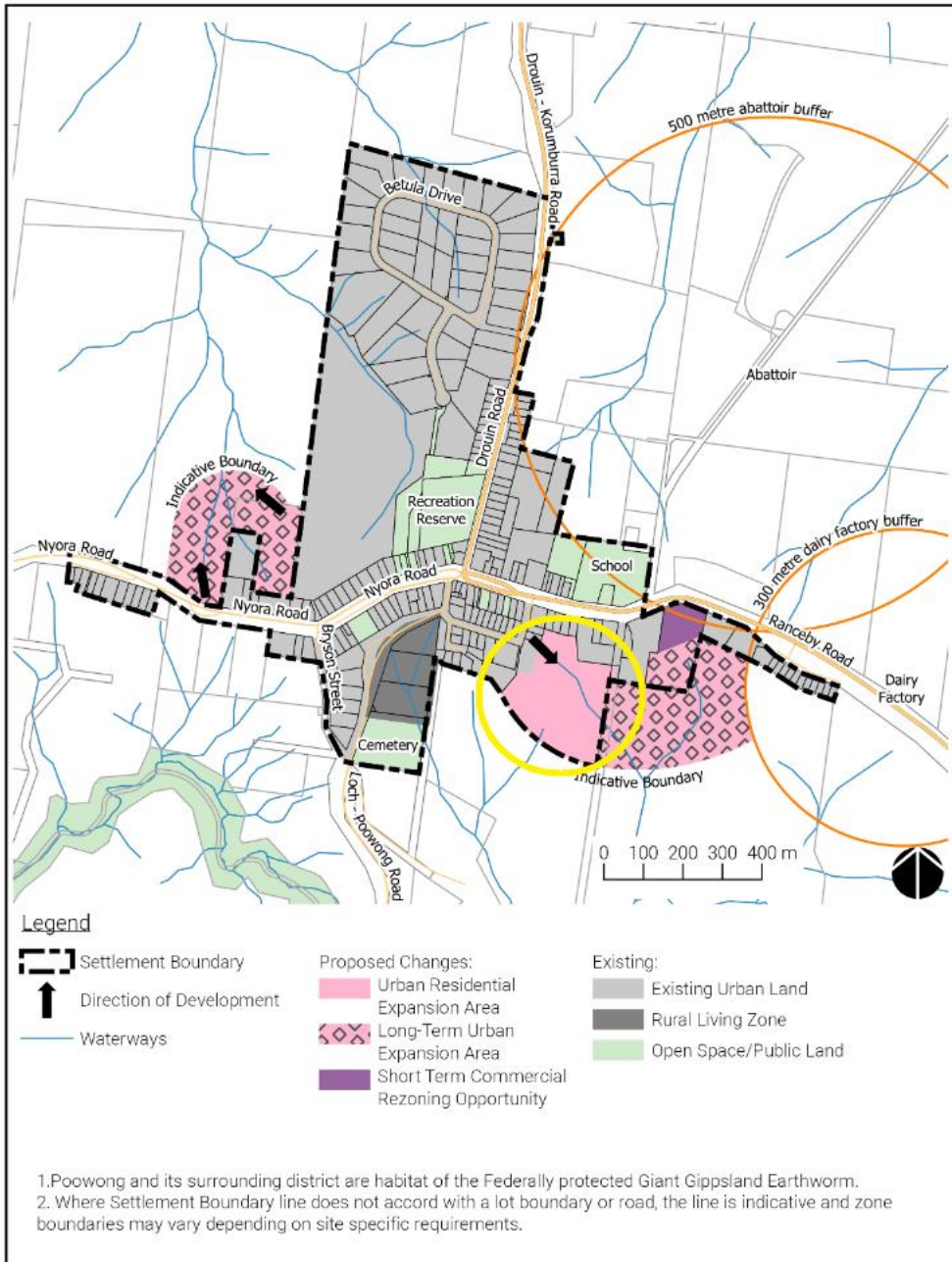
Public notices were placed in the Government Gazette, local newspapers, internet and social media. Details of the amendment were placed on Council's and the Department of Transport and Planning's webpages.

Council sent notices to agencies and authorities affected by the amendment.

A total of four submissions were received (**Attachment [4.3.2]**). These included three submissions of support (Submissions 2, 3 & 4) and one submission (Submission 1) that proposed a change that has now been resolved. Under the *Planning and Environment Act 1987* ss.22 and 23, planning authorities must consider all submissions and either, make suggested changes, abandon the amendment or refer objections, unresolvable by negotiation, to an independent planning panel before the amendment can be considered for adoption.

#### **Submission proposing change**

Submission 1, (resident submitter) proposed a change to Poowong's local settlement strategies and framework plan at [Clause 11.01-1L-07 – Small Towns](#) to add a strategy to "Support protection of Giant Gippsland Earthworm habitat and populations" and remove a section identified for residential growth (see area within yellow circle in **Figure 1**) in an endeavour to protect potential giant earthworms and their habitat.



**Figure 1 – South Gippsland Planning Scheme’s Poowong Framework Plan ([Clause 11.01-1L-07](#)) with annotations**

Protection of Giant Gippsland Earthworm habitat areas from disturbance caused by the development of new residential subdivisions and other greenfield forms of urban development is currently achieved by a combination of local, state and federal legislation, regulations and practices. For example, Council requires earthworm habitat surveys for new urban subdivisions in areas likely to contain earthworm colonies.

Where colonies are located, state and federal approvals must be gained before they can be disturbed regardless of if a Council planning permit is required.

In consideration of the current earthworm protection requirements, the submission was withdrawn. Withdrawal of the submission avoided the need to refer the submission to an independent planning panel.

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

Amendment costs are accommodated within existing budgets.

#### **RISKS**

Failure to undertake these corrections to the planning scheme provisions could create landowner frustration and unnecessarily burden the administrative duties and processes of Council.

#### **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 at the following [LINK](#).*

1. c129 Post exhibition ordinance changes [4.3.1 - 9 pages]
2. c129 Submissions Report - Redacted [4.3.2 - 10 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 at the following [LINK](#).*

Annual Budget

Community Engagement Policy (C06)

Council Plan 2022-2026

South Gippsland's Planning Scheme

##### **Legislative Provisions**

Planning and Environment (Planning Schemes) Act 1996

Planning and Environment Act 1987

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

**Nil**

## **6. COUNCILLOR REPORTS**

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

**Nil**

### **6.2. COUNCILLOR UPDATES**

**Councillor Mohya Davies, addressed Council by reporting on attendance at or made comments on:**

- **Toora Bendigo Bank 25<sup>th</sup> Birthday Celebrations and commented that it has achieved an enormous benefit to our community.**
- **Prom Coast U3A (University of the 3rd Age) Annual General Meeting (AGM) and highlighted that U3A offer a number of courses throughout the Shire.**
- **MyLi (My Library) Board Meeting and expressed her appreciation of both being a newly appointed representative on the Board and that she took part in a strategic planning exercise that aimed to develop the MyLi grand vision for the future.**

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**The Deputy Mayor, Councillor Nathan Hersey, addressed Council by reporting on attendance at or made comments on:**

- **Poowong and Loch Country Women's Association (CWA) Exhibitions and commented on the fellowship and community fostered by these groups.**
- **Korumburra Olsen's walk, commented it was a lovely walk, and that he has relayed concerns with the appropriate channels.**
- **Municipal Association of Victoria (MAV) representation.**
- **Upcoming town event celebrations that he will attending:**
  - **Poowong 150 years celebration**
  - **Korumburra Fire Brigade 125 years celebration**
  - **Korumburra Coal Creek 50 years celebration**

**Councillor Jenni Keerie, addressed Council by reporting on attendance at or made comments on:**

- **Enjoyment of interactions with community members.**
- **Power Outage Review meeting held in Mirboo North, and shared that she attended so that she could share the experiences of the Strzelecki Ward with this group.**
- **Korumburra Hub, Staying Strong Forum, and commend that the learnings will help shape the Korumburra Emergency Management Plan.**
- **Country Women's Association event and shared that one of the Associations original role in the community was to support new people to the area by helping them make connections.**

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**Councillor John Schelling, addressed Council by reporting on attendance at or made comments on:**

- **Sandy Point Art Show**
- **Responding to Rate Payer and Council issues.**
- **Mirboo North following the February storm and felt grateful to the community for their understanding as Council has focused its maintenance work on helping this community recover.**

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**Councillor Scott Rae, addressed Council by reporting on attendance at or made comments on:**

- **Privilege to serve the community.**
- **Yooralla Community Café**
- **Walkerville Rate Payer AGM**
- **Walkerville CFA Dinner**
- **Sandy Point Art Show**
- **Toora Produce Sharing, and commented that it is a great community program.**
- **Toora Bendigo Bank 25th Birthday Celebrations and commented that the Bank has given approximately \$2m back to the community.**
- **Following the adoption of the new Local Law, he is looking forward to action on weeds throughout the Shire.**

**Councillor Michael Felton, addressed Council by reporting on attendance at or made comments on:**

- **Community enquiries always welcome.**
  - **Nyora Speedway were calling for vehicles to cut some laps around the speedway to compress the course, please contact the speedway if you are interested in helping out.**
- 

**The Mayor, Councillor Clare Williams, addressed Council by reporting on attendance at or made comments on:**

- **Focus on youth which she is passionate about and made comment on some of the programs offered through Council:**
  - **Youth Council**
  - **Live 4 Life**
  - **Freeza Committee**
  - **Schools are invited to come along to Council and have the opportunity to chat with Councillors, please reach out if you are interested.**
- **Korumburra Coal Creek 50 years celebration and encouraged the community to come along and celebrate this weekend.**



## 7. URGENT BUSINESS

This section of the Agenda is for urgent business items:

### 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 19 October 2022, 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.

**Nil**

## 8. PUBLIC QUESTIONS

### 8.1. 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 19 October 2022.

**Nil**

## 8.2. 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.

Source: [Governance Rules \(C82\)](#) – adopted 19 October 2022.

**Questions received from Mr David Amor at the 20 March 2024 Council Meeting were taken on notice. The responses to the questions are provided in these Minutes.**

### Question 1

**As seen by your own agenda once again, local law is not in your March 20, 2024 minutes. Why have you or our councillors not talking about this prior to your own deadline April 2024?**

### Response

Review of the General Local Law was considered at Council Meeting 20 March 2024, item 4.2. GENERAL LOCAL LAWS REVIEW, refer Council's website: [Agendas and minutes | South Gippsland Shire Council](#), page 28 of the Minutes.

### Question 2

**There is a lot going on in the Shire why hasn't the Shire told the community of the shire's own building with issues? And more?**

### Response

Council has issued two media releases relating to the exterior cladding works (17 November 2023 - [Link](#) and 6 February 2024 - [Link](#)). The refurbishment was also part of Council's adopted budget for capital works in 2023/24.

### Question 3

**With the present issues, storms, roads drainage etc is the Shire exposed with extra outside help? Has the shire got equipment or people within the Shire to do normal or extra works? What size crew is available? To help?**

### Response

During storms and weather events Council works alongside emergency service agencies like the SES, Victoria Police, CFA and other agencies like Department of Transport and Planning (VicRoads) and Ausnet Services.

Council does not have any works crews specifically for emergency events. Our Infrastructure Maintenance and Open Space & Environment teams and work crews, who share on call responsibilities, reprioritise their work schedules during emergency events. This re-prioritising allows us make roads and public areas safe. Depending on the scale of the event, this can last from one day and one small crew,

to many days and many teams working together. Council also has pre-qualified contractors who support these efforts by providing machinery and skills to support emergency response.

South Gippsland Shire Council is also a signatory to the [Inter-Council Emergency Management Resource Sharing Protocol](#), which sets out an agreed position between Victorian councils regarding the provision of resources to assist each other with response and recovery tasks during and after emergencies.

### 8.3. SUBMITTED PUBLIC QUESTIONS

All community member questions for Council Meetings are to be written and submitted to the Governance 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 2.00pm 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 19 October 2022.

**Questions were received prior to commencement of the Meeting and taken on notice for consideration.**

## 9. 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 11.1 – Award Contract CON/402 Building Maintenance Services, 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:** Councillor Darakai

**SECONDED:** Councillor Davies

**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 11.1 – Award Contract CON/402 Building Maintenance Services, 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**

## **10. MEETING CLOSED**

### **NEXT MEETING**

The next Council Meeting open to the public will be held on Wednesday, 15 May 2024 commencing at 2pm in the Council Chambers, Leongatha.

**The Council Meeting closed at 3:11pm.**

**Confirmed this 15<sup>th</sup> day of May 2024**

**Councillor Clare Williams, Mayor**