

SOUTH GIPPSLAND SHIRE COUNCIL

Council Meeting Agenda

17 March 2021

Council Meeting No. 454
Virtual Meeting
Commencing at 1.00pm

Administrators
Julie Eisenbise, Chair
Christian Zahra, Deputy Chair
Rick Brown



agenda



*South Gippsland
Shire Council*

Come for the beauty, Stay for the lifestyle



OUR PURPOSE

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

Privacy

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

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

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

SOUTH GIPPSLAND SHIRE COUNCIL

Notice is hereby given that Council Meeting No. 454 of the
South Gippsland Shire Council will be held virtually on 17 March 2021
commencing at 1.00pm

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Anthony Seabrook
Acting Chief Executive Officer

1. PRELIMINARY MATTERS

1.1. LIVE-STREAMING COUNCIL MEETING DISCLAIMER

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

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

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

Thank you

1.2. WELCOME AND OPEN VIRTUAL COUNCIL MEETING VIA LIVE STREAM

Please ensure Mobile phones remain on 'silent' during the Council Meeting.

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 transitioning towards the return of open council meetings in the near future. It is envisaged that these meetings will include a limited public gallery in accordance with the guidelines of a COVID Safe Plan (the Plan). The Plan provides measures around physical attendance, mask wearing, recording attendance and other Pandemic safe measures whilst attending the Meeting.

Due to scheduling requirements this Meeting will need to be conducted virtually (an on-line meeting). The virtual and livestreaming of an Open Council Meeting is made in accordance with the *Local Government Act 2020*, section 394 that prescribes Administrators are able to participate in the Meeting by electronic means of communication and section 395(1)(a) that 'Meetings may be closed to the public during the prescribed period.'

Access to the live stream through Council's Internet is another available option to the 'open' component of a Council Meeting.

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

RECOMMENDATION

That Council:

1. Not allow members of the public to attend the 17 March 2021 Council Meeting in person;
2. Notes that this Council Meeting is being conducted as a virtual meeting, conducted by electronic means of communication pursuant to section 394 of the *Local Government Act 2020*. Section 394 prescribes that Administrators are able to participate in the Meeting by electronic means of communication and section 395(1)(a) that 'Meetings may be closed to the public during the prescribed period.'
3. Notes that the 17 March 2021 Council Meeting remains 'open' via the livestream on the Internet, in keeping with section 395 of the *Local Government Act 2020*.

1.3. OPENING PRAYER

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

Amen

1.4. ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS

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

1.5. APOLOGIES

1.6. CONFIRMATION OF MINUTES

RECOMMENDATION

That the Minutes of the South Gippsland Shire Council Meeting No. 453, held virtually on 24 February 2021 be confirmed.

1.7. DECLARATION OF CONFLICTS OF INTEREST FOR ADMINISTRATORS

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

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

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

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

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

1.8. DECLARATION OF CONFLICTS OF INTEREST FOR STAFF

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

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

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

Council staff must immediately upon becoming aware of a conflict of interest provide a written notice to the Chief Executive Officer disclosing the conflict of interest, explain the nature of the conflict and how it will be managed. Upon becoming aware and declaring a conflict of interest, a staff member may not exercise a power or perform a function in the matter. All prepared reports will record that staff member(s) have considered a conflict of interest and include if any, the details of a disclosure.

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

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

Ms Kerryn Ellis, Chief Executive Officer has declared a material interest in Agenda Item 5.1. APPOINTMENT OF INDEPENDENT CHAIRPERSON ON THE CEO EMPLOYMENT & REMUNERATION COMMITTEE, as the appointment of a Chair person to the CEO Employment and Remuneration Committee relates directly to her role.

2. OBJECTIVE 3 - INTEGRATED SERVICES AND INFRASTRUCTURE

2.1. LEASE PROPOSAL - EVANS PETROLEUM PTY LTD, FISH CREEK

Sustainable Infrastructure

Council Plan

Objective 3 - Integrated Services and Infrastructure. The community, business, and Council will benefit from leasing property managed by Council where appropriate.

EXECUTIVE SUMMARY

Council was appointed the Committee of Management of Crown Land temporarily reserved for Public Purposes (Rail Trail) on 1 July 2020. This land was formerly managed by the Great Southern Rail Trail Committee of Management Inc. (GSRTCOM). Upon becoming the Committee of Management, all leases and licences on this land were transferred from the GSRTCOM to Council.

One of these leases is with Evans Petroleum Pty Ltd (Evans) located on the corner of Falls Road and Foster Road, Fish Creek. The land has been used as a service station and general store for the term of the lease. The lease term was 21 years which ended on 29 October 2020. The lease is now in holding over on a month by month basis as provided for in the original lease.

It is proposed that Council commence the statutory procedures required by ss.190 and 223 of the *Local Government Act 1989* to enter into a new lease by direct negotiation with Evans for Part Allotment 24C in the Parish of Doomburrim being an area of 2627m² as shown as L1 in the attached plan (**Attachment [2.1.1]**) for a term of 20 years comprising of an initial term of 10-years with options of two further terms of 5-years each for a market rental as assessed by the Council Valuer, and subject to grant of Approval in Principle (AIP) by the Minister.

RECOMMENDATION

That Council:

- 1. Commences the statutory procedures in accordance with ss.190 and 223 of the *Local Government Act 1989* to lease Part Crown Allotment 24C in the Parish of Doomburrim with an area of 2,627m² to Evans Petroleum Pty Ltd for an initial term of 10-years with options of two further terms of five-years each for a market rental as assessed by the Council Valuer;**
- 2. Enter into direct negotiations with Evans Petroleum Pty Ltd, the incumbent tenant;**

- 3. Gives public notice on Council's website and in the local newspapers the week commencing 21 March 2021 on the proposal in accordance with s.223 of the *Local Government Act 1989* to commence a public consultation process inviting written submissions to the proposal from the community by 5:00pm, Wednesday 21 April 2021;**
- 4. Authorises the Chief Executive Officer to undertake the administrative procedures necessary to enable the Council to carry out its administrative functions under s.223 of the *Local Government Act 1989* in respect of the proposal;**
- 5. If submissions are received to the public notice:**
 - a. Authorises the Chief Executive Officer to set the time, date, and place to hear, consider and decide submissions at an Additional Council Meeting;**
 - b. Hears submitters who elected to speak to their submission at an Additional Council Meeting.**
 - c. If submissions are received requires the Chief Executive Officer to bring a report to the next appropriate Council Meeting after the outcome of the Hearing, to determine the outcome of the lease.**
- 6. Notes that if a decision is made to proceed, it will be subject to receiving Approval in Principle from the Department of Environment Land Water and Planning and the Minister's delegate executing the lease.**
- 7. If no submissions are received to the public notice, proceed with the proposal subject to receiving Approval in Principle from Department of Environment Land Water and Planning and the Minister's delegate executing the lease.**

REPORT

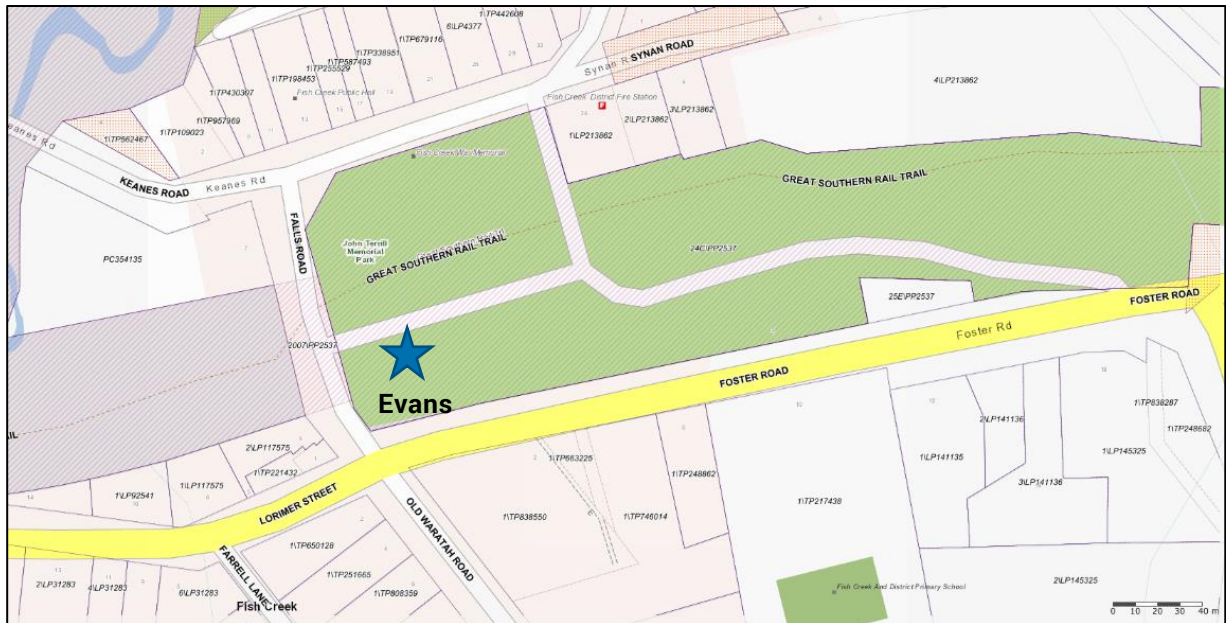
On 1 July 2020, Council was appointed the Committee of Management for Crown Land known as the Great Southern Rail Trail (Rail Trail). This Crown Land was formerly managed by the GSRTC.COM.

As part of this appointment, 43 leases and licences along the Rail Trail were transferred to Council. One of the leases is held by Evans Petroleum Pty Ltd (Evans) located on the corner of Falls Road and Foster Road, Fish Creek. The land has been used as a service station and general store for the term of the lease. The lease term was 21 years which ended on 29 October 2020. The lease is now in holding over on a month by month basis as provided for in the original lease.

Evans wishes to enter into a new lease for a 20-year term comprising of an initial 10-year term and options for two further terms of 5-years.

The land area proposed for lease is located on the corner of Falls Road and Foster Road, part Crown Allotment 24C in the Parish of Doomburrim comprising an area of 2627m² as shown as L1 in **Attachment [2.1.1]**. A locality plan of the leased area is shown as ★ in **Figure 1** below:

Figure 1 – Locality Plan – Evans Petroleum



The proposed lease (**Confidential Attachment [13.1.1]**) is a commercial lease, however, it is for land only as the buildings and improvements are owned by the incumbent tenant.

The term of the previous lease was 21 years and the land has been used as a service station and general store for the term of the current lease. The lease was transferred to the current tenant in 2007.

The proposed market rental has been assessed by Council’s Valuer and is included in **Confidential Attachment [13.1.1]**

Because the land is Crown Land and a lease will be made pursuant to section 17D of the *Crown Land (Reserves) Act 1978* and the Leasing Policy for Victorian Crown Land 2018, DELWP must be satisfied that direct negotiations with the current tenant are justified, and grant of Approval in Principle (AIP) by the Minister to be obtained before the lease can be entered into.

DELWP support for Council entering into direct negotiations with the incumbent tenant has been obtained. An application for grant of AIP will be

made immediately after this Council meeting if Council determines to proceed with the proposal.

CONSULTATION / COMMUNITY ENGAGEMENT

Consultation and community engagement involves:

- Proposed public consultation through the processes set out in s.223 of the *Local Government Act 1989*.
- Consultation has occurred with DELWP regarding the process to obtain consent to enter into direct negotiations, Approval in Principle to lease, and preparation of lease document.
- Licensed Surveyor in preparing lease plan.
- Council valuer in assessing valuation for market rental.
- Council's Planning Department to confirm that the land can continue to be used as a petrol station and general store under pre-existing right.
- Independent financial viability assessor.

RESOURCES / FINANCIAL VIABILITY

Management costs of the lease is provided for in current and forward budgets as will be the annual rental.

Annual rental will be current market rental as determined by Council's Valuer with provision for annual CPI increases and rent review before each further option is taken up.

RISKS

It is considered that the proposed tenant will be capable of fulfilling all the conditions of the lease because the tenant has the required experience based on proven record of good management, compliance with previous lease conditions, and independent detailed financial assessment.

A formal lease document has been prepared by Council's lawyer and contains a Director's Guarantee and conditions required by DELWP – refer to **Confidential Attachment [13.1.1]**.

STAFF DISCLOSURE

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

ATTACHMENTS

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

1. Evans Petroleum - Lease Plan [2.1.1 - 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 [13.1.1] – Evans Proposed Lease and Confidential Attachment [13.1.2] – Evans Valuation – is designated confidential information pursuant to the *Local Government Act 2020*, s.3(1)(a) - Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released (g) - private commercial information, 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.

The grounds for designation have been made as the proposed lease and valuation relate to contractual matters that are still in the negotiation stage between both parties.

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 3. Decision Making

Pillar 7. Risk & Compliance

Council Policy / Strategy / Plans

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

Leasing Policy (C62)

Legislative Provisions

Crown Land (Reserves) Act 1978

Local Government Act 1989

Local Government Act 2020

Retail Leases Act 2003

Regional, State and National Plan and Policies

Leasing Policy for Crown Land in Victoria 2018

2.2. LEASE PROPOSAL - DORLING TRANSPORT PTY LTD, FISH CREEK

Sustainable Infrastructure

Council Plan

Objective 3 - Integrated Services and Infrastructure. The community, business, and Council will benefit from leasing property managed by Council where appropriate.

EXECUTIVE SUMMARY

Council was appointed the Committee of Management of Crown Land temporarily reserved for Public Purposes (Rail Trail) on 1 July 2020. This land was formerly managed by the Great Southern Rail Trail Committee of Management Inc. (GSRTCOCOM). Upon becoming the Committee of Management, all leases and licences on this land were transferred from the GSRTCOCOM to Council.

One of these leases is with Dorling Transport Pty Ltd (Dorling) located on the corner of Falls Road and Foster Road, Fish Creek (adjacent to Evans Petroleum). The land has been used as a diesel mechanic service. The lease term was 21 years which ended on 29 October 2020. The lease is now in holding over on a month-by-month basis as provided for in the original lease.

It is proposed that Council commence the statutory procedure required by ss.190 and 223 of the *Local Government Act 1989* to enter into a new lease by direct negotiation with Dorling for Part Allotment 24C in the Parish of Doomburrim being an area of 1242 m² as shown as L2 in the attached plan (**Attachment [2.2.1]**) for a term of 20 years comprising of an initial term of 10-years with options of two further terms of five-years each for a market rental as assessed by the Council Valuer, and subject to grant of Approval in Principle (AIP) by the Minister.

RECOMMENDATION

That Council:

- 1. Commence the statutory procedures in accordance with ss.190 and 223 of the *Local Government Act 1989* to lease Part Crown Allotment 24C in the Parish of Doomburrim with an area of 1240m² to Dorling Transport Pty Ltd for an initial term of 10-years with options of two further terms of five-years each for a market rental as assessed by the Council Valuer;**
- 2. Enter into direct negotiations with Dorling Transport Pty Ltd, the incumbent tenant;**
- 3. Gives public notice on Council's website and in local newspapers the week commencing 21 March 2021 on the proposal in accordance with**

- s.223 of the *Local Government Act 1989* to commence a public consultation process inviting written submissions to the proposal from the community by 5:00pm, Wednesday 21 April 2021;**
- 4. Authorises the Chief Executive Officer to undertake the administrative procedures necessary to enable the Council to carry out its administrative functions under s.223 of the *Local Government Act 1989* in respect of the proposal;**
 - 5. If submissions are received to the public notice:
 - a. Authorises the Chief Executive Officer to set the time, date, and place to hear, consider and decide submissions at an Additional Council Meeting;**
 - b. Hears submitters who elected to speak to their submission at an Additional Council Meeting.**
 - c. It requires the Chief Executive Officer to bring a report to the next appropriate Council Meeting after the outcome of the Hearing, to determine the outcome of the lease.****
 - 6. Notes that if a decision is made to proceed, it will be subject to receiving Approval in Principle from the Department of Environment Land Water and Planning and the Minister's delegate executing the lease.**
 - 7. If no submissions are received to the public notice, proceed with the proposal subject to receiving Approval in Principle from Department of Environment Land Water and Planning and the Minister's delegate executing the lease.**

REPORT

On 1 July 2020, Council was appointed the Committee of Management Crown Land known as the Great Southern Rail Trail (Rail Trail). This Crown Land was formerly managed by the GSRTC.COM.

As part of this appointment, 43 leases and licences along the Rail Trail were transferred to Council. One of the leases is held by Dorling Transport Pty Ltd (Dorling) located on the corner of Falls Road and Foster Road, Fish Creek. The land has been used as a diesel mechanic service for the term of the lease. The lease term was 21 years which ended on 29 October 2020. The lease is now in holding over on a month by month basis as provided for in the original lease.

Dorling wishes to enter into a new lease for a 20-year term comprising of an initial 10-year term and options for two further terms of 5-years.

The land area proposed for lease is located on the corner of Falls Road and Foster Road, Part Crown Allotment 24C in the Parish of Doomburrim comprising an area of 1240m² as shown as L2 in **Attachment [2.2.1]**. A locality plan of the leased area is shown as ★ in **Figure 1** below:

Figure 1 – Locality Plan – Dorling Transport



The proposed lease (refer **Confidential Attachment [13.2.1]**) is a commercial lease, however, it is for land only as the buildings and improvements are owned by the incumbent tenant.

The proposed market rental has been assessed by Council’s Valuer and is included in **Confidential Attachment [13.2.2]**

Because the land is Crown Land and a lease will be made pursuant to section 17D of the *Crown Land (Reserves) Act 1978* and the Leasing Policy for Victorian Crown Land 2018, DELWP must be satisfied that direct negotiations with the current tenant are justified, and grant of Approval in Principle (AIP) by the Minister to be obtained before the lease can be entered into.

DELWP support for Council entering into direct negotiations with the incumbent tenant has been obtained. An application for grant of AIP will be made immediately after this Council meeting if Council determines to proceed with the proposal.

CONSULTATION / COMMUNITY ENGAGEMENT

Consultation and community engagement involves:

- Proposed public consultation through the processes set out in s.223 of the *Local Government Act 1989*.

- Consultation has occurred with DELWP regarding the process to obtain consent to enter into direct negotiations, Approval in Principle to lease, and preparation of lease document.
- Licensed Surveyor in preparing lease plan.
- Council valuer in assessing valuation for market rental.
- Council's planning department to confirm that the land can continue to be used as a diesel mechanic service under pre-existing right.
- Independent financial viability assessor.

RESOURCES / FINANCIAL VIABILITY

Management costs of the lease is provided for in current and forward budgets as will be the annual rental.

Annual rental will be current market rental as determined by Council's Valuer with provision for annual CPI increases and rent review before each further option is taken up.

RISKS

It is considered that the proposed tenant will be capable of fulfilling all the conditions of the lease because the tenant has the required experience based on proven record of good management, compliance with previous lease conditions, and independent bureau report relating to Directors.

A formal lease document has been prepared by Council's lawyer and contains a Director's Guarantee and conditions required by DELWP – refer to **Confidential Attachment [13.2.1]**.

STAFF DISCLOSURE

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

ATTACHMENTS

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

1. Dorling Transport - Lease Plan [2.2.1 - 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 [13.2.1] – Dorling Proposed Lease and Confidential Attachment [13.2.2] – Dorling Valuation – is designated confidential information pursuant to the *Local Government Act 2020*, s.3(1)(a) - Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released (g) - private commercial information, 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.

The grounds for designation have been made as the proposed lease and valuation relate to contractual matters that are still in the negotiation stage between both parties.

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 3 – Decision Making

Pillar 7 – Risk & Compliance

Council Policy / Strategy / Plans

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

Leasing Policy (C62)

Legislative Provisions

Crown Land (Reserves) Act 1978

Local Government Act 1989

Retail Leases Act 2003

Regional, State and National Plan and Policies

Leasing Policy for Crown Land in Victoria 2018

2.3. COMMUNITY INFRASTRUCTURE ADVISORY COMMITTEE (CIAC) – APPOINTMENT OF MEMBERS

Sustainable Infrastructure

Council Plan

Objective 1 - United Shire - Strategy 1.1 Develop a shared vision for the future direction of the Shire in partnership with the community

Objective 4 - Customer Focused Organisation - Strategy 4.1 Engage the community in developing strategic plans and decision making

The establishment of the Community Infrastructure Advisory Committee provides an opportunity for community members to be part of the development of a shared vision for the future direction of the Shire. The role of the committee is to serve the interests of the municipality as a whole, and members will broadly reflect the demographics of the community.

EXECUTIVE SUMMARY

The Community Infrastructure Advisory Committee (CIAC) recruitment process has concluded following an advertising campaign from October – December 2020.

A total of ten submissions, including two ineligible candidates, have been received from members of the public for Council's consideration.

This report discusses the Expression of Interest (EOI) process, proposes recommended candidates to appoint to the CIAC, and the adoption of the amended Terms of Reference for the Committee.

RECOMMENDATION

That Council:

- 1. Adopts the amended Terms of Reference for the Community Infrastructure Advisory Committee (CIAC) – Attachment [2.3.1];**
- 2. Receives the valid Expressions of Interest submissions for the Community Infrastructure Advisory Committee;**
- 3. Appoints five Community Infrastructure Advisory Committee (CIAC) members:**
 - a. Mr Darren Chandler;**
 - b. Mr Paul Katsieris;**
 - c. Mr Ian (Fred) Couper;**

d. Ms Deepthi Jayasekera; and

e. Ms Chris Trotman.

REPORT

Background

A recommendation from the Internal Audit – Budget Management for Capital and Major Works Budget, December 2019, recommended the establishment of a Community Infrastructure Advisory Committee (CIAC) that captures a broad cross section of demographics, interest, and knowledge within the community.

At the 23 September 2020 Council Meeting, Council considered the appointment of Community Infrastructure Advisory Committee members.

It was resolved:

“That Council:

1. *Endorses the formation of a Community Infrastructure Advisory Committee and adopts the associated terms of reference – Attachment [3.1.1] with an amendment under the heading ‘the CIAC’ to replace the second sentence with the words ‘the role of the committee members is to serve the interests of the municipality as a whole, and committee members will be selected on the basis of broadly reflecting the demographics of the community’;*
2. *Authorises the Chief Executive Officer to conduct an expression of interest process for Community Infrastructure Advisory Committee members refer Attachment [3.1.2] with an amendment under the heading ‘committee structure’ to include the sentence with the words ‘the role of the committee members is to serve the interests of the municipality as a whole, and committee members will be selected on the basis of broadly reflecting the demographics of the community’; and*
3. *At the conclusion of the expression of interest processes, considers and determines the members of the Community Infrastructure Advisory Committee at a future council meeting.”*

The Terms of Reference has been updated in line with the above resolution of Council and included in **Attachment [2.3.1]** for endorsement by Council.

Expression of Interest Outcome

Following the 23 September 2020 Council Meeting, an EOI process calling for potential CIAC members was published in Council's Noticeboard, on Council's website, and social media channels during the week commencing 16 October 2020 for a two-week period.

There have been delays in establishing this group due to the low number of applicants. As only three submissions were received in the initial advertising campaign, a re-advertised EOI process occurred with wider distribution in the anticipation of receiving applications. Between October and December 2020, a further seven submissions were received: a total of ten applications in all. Two submissions were received from applicants who do not reside in the municipality and therefore have been ruled invalid. The remaining eight are eligible for consideration. A summary of all applicants is included in **Confidential Attachment [13.3.1]**.

Full copies of all applications received as part of this EOI process are included in **Confidential Attachments [13.3.2] to [13.3.11]**.

Recommended Candidates

The following were considered when selecting candidates to ensure CIAC members serve the interests of the Shire as a whole:

- Demographics
- Gender equity;
- Business representation;
- Expertise and experience; and
- Applicants independent of Council processes (not directly involved), and have no current interest in projects under consideration or progressing towards budget requirements.

When considering the above, it is proposed that Council appoint the following candidates as members to the CIAC as they will bring a broad range of expertise and a comprehensive knowledge and skill set to the table:

Table 1 – EOI Applicants for CIAC

Recommended Candidates	Comment
Darren Chandler	Leongatha based business owner with experience of construction projects.
Deepthi Jayasekera	Leongatha based with experience / skills in accountancy.

Table 1 – EOI Applicants for CIAC

Paul Katsieris	Walkerville based architect with building experience.
Ian (Fred) Couper	Mirboo North based and experience with capital projects such as the Mirboo North Pool.
Chris Trotman	Leongatha rural based with board, CEO, and audit/risk experience.

CONSULTATION / COMMUNITY ENGAGEMENT

The EOI process was advertised and circulated over the period October 2020 to December 2020 in a Council media release (PR2589), social media channels, and Council Noticeboard. The process was also disseminated widely through Council’s Community Leadership Program, via tourism and economic forums and individual town community development groups.

EOIs were presented and considered by the Administrators at a Confidential Briefing on 3 March 2021.

RESOURCES / FINANCIAL VIABILITY

No resources implications.

RISKS

No risks are identified.

STAFF DISCLOSURE

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

ATTACHMENTS

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

1. Terms of Reference Community Infrastructure Advisory Committee (Revised 2021) [2.3.1 - 4 pages]

CONFIDENTIAL ATTACHMENTS

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

Confidential Attachment [13.3.1] – Summary of CIAC Applicants and Confidential Attachments [13.3.2] to [13.3.11] – Community Infrastructure Advisory Committee Expression of Interest Applications – is designated confidential information pursuant to the *Local Government Act 2020*, s.3(1)(f)

- personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.

The grounds for designation have been made to protect the privacy and personal information contained within the Expression of Interest applications received from members of the South Gippsland community.

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 3. Decision Making

Pillar 5. Communications & Community Engagement

Council Policy / Strategy / Plans

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

Social Community Infrastructure Blueprint

Legislative Provisions

Local Government Act 1989

Local Government Act 2020

2.4. GREAT SOUTHERN RAIL TRAIL RAILWAY STATION SITES DEVELOPMENT (LEONGATHA & KORUMBURRA) - BUILDING BETTER REGIONS FUND ROUND 5 GRANT APPLICATION

Sustainable Infrastructure

Council Plan

Objective 3 - Integrated Services and Infrastructure

Objective 3 - Integrated Services and Infrastructure - Strategy 3.3 Deliver services that enhance liveability and environmental sustainability for generations

This report responds to building a sustainable and growing economy and to deliver services that enhance liveability for current and future generations. It also supports the major initiative to identify and advocate for Council's Priority Projects to State and Federal Governments and other relevant stakeholders for funding support.

EXECUTIVE SUMMARY

The \$1.04 billion Building Better Regions Fund (BBRF) supports the Australian Government's commitment to create jobs, drive economic growth, and build stronger regional communities into the future. The Australian Government announced \$200 million in the 2020/21 Budget for a fifth round of the BBRF.

An opportunity exists to seek 50 per cent or more of eligible project costs through the Infrastructure Projects Stream to re-image the use of the land within the Leongatha and Korumburra railway station precincts to enhance the towns' centre activity and provide linkages to other uses. It is envisaged that the project will provide a precinct within the grounds of the railway stations which will bring together various community services and open space activities. The upgrade of the railway precinct will also enhance the extension of the Great Southern Rail Trail (GSRT) as it dissects through both railway sites. Concept plans and an independent Quantity Surveyors report have been developed for both sites. The estimated total project cost for the upgrade of both railway stations is \$6 million.

After consultation with the Administrators at a Confidential Briefing on 24 February 2021, an application was submitted to Round 5 of the BBRF for the GSRT Railway Precincts Upgrade (Leongatha and Korumburra) for a grant of \$3 million (closing date for submissions was 5 March 2021).

If Council is successful in securing \$3 million under this program, Council would need to allocate a further \$3 million towards the overall total project cost in the draft 2021/22 budget for consideration.

RECOMMENDATION

That Council:

1. **Notes the application submitted for \$3 million under the Australian Government's Building Better Regions Fund (Round 5) for the Great Southern Rail Trail (GSRT) Railway Precincts Upgrade (Leongatha and Korumburra).**
2. **Notes that Council's contribution of \$3 million towards the project is allocated in the draft 2021/22 budget for consideration; and**
3. **Acknowledges that the application was endorsed at the 24 February 2021 Strategic Council Briefing and was submitted prior to the due date of 5 March 2021.**

REPORT

Building Better Regions Fund

The Australian Government announced \$200 million in the 2020/21 Budget for a fifth round of the BBRF. Round 5 includes:

- \$100 million to support tourism-related infrastructure projects which are focussed on mitigating the economic impact of the COVID-19 pandemic on a region's tourism industry.
- The other \$100 million will support regional remote Australia more broadly, by funding general infrastructure projects and community investment projects.

Grant funding is available through two funding streams which include:

- **Infrastructure Projects Stream:** Supports projects that involve construction of new infrastructure, or the upgrade or extension of existing infrastructure. Grants of \$20,000 to \$10 million to cover 50 per cent or more of eligible project costs is available through this stream.
- **Community Investments Stream:** Funds community development activities including, but not limited to, new or expanded local events, strategic regional plans, leadership and capability building activities. Grants of \$5,000 to \$1 million to cover 50 per cent or more of eligible project costs is available through this stream.

Applications to the program closed on 5 March 2021.

GSRT Railway Precinct Upgrade (Leongatha and Korumburra) Project

The GSRT Railway Precincts Upgrade project includes the transformation of the Leongatha and Korumburra Railway Station precincts.

An opportunity exists to seek funding to re-image the use of the land within the railway station precincts to enhance the town centre activity of Leongatha and Korumburra and create new opportunities and linkages to other uses. It is envisaged that the project will provide a precinct within the grounds of the railway stations which will bring together various community services and open space activities. The upgrade of the railway precinct will also enhance the extension of the GSRT as it dissects through both railway sites.

Concept plans and an independent Quantity Surveyors reports have been developed for both sites.

Below is a summary of the anticipated project funding:

GSRT Railway Precinct Upgrade (Leongatha and Korumburra)	\$6M
Building Better Regions Fund request	\$3M
Council Contribution	\$3M

PROJECT SCOPE

Leongatha Railway Precinct

The project scope is based on the recommendations identified in the Leongatha Railway Site Transformation Concept Master Plan that was endorsed by Council on the 20 December 2017. The Concept Plan has been updated to reflect the design undertaken for the pedestrian bridge and request for additional car parking directly behind the businesses located in Bair Street (refer to Council report for the Leongatha Railway Station Project tabled at the 24 February 2021 Council Meeting).

An updated Concept Plan for the Leongatha Railway Station (**Attachment [2.4.1]**) provides more design detail and is accompanied by an Independent Quantity Surveyor's Cost Estimate Report (**Confidential Attachment [13.4.1]**).

Korumburra Railway Precinct

The project scope is based on the objective of the Korumburra Town Centre Framework. The Concept Plan supports the development of the GSRT extension, skate park, and car parking that have already been funded. The project includes the upgrade to the public amenities and picnic shelter as well as creating connecting pathways and open space for civic activities. It also

complements the refurbishment of the Railway Station building and the activities proposed by the Station Working Group for the building.

An updated Concept Plan for the Korumburra Railway Station (**Attachment [4.4.2]**) provides more design detail and is accompanied by an Independent Quantity Surveyor's Cost Estimate Report (**Confidential Attachment [13.4.2]**).

CONSULTATION / COMMUNITY ENGAGEMENT

The extension of the GSRT from Leongatha to Nyora is a priority project of Council. External funding has been approved from the State Government towards the extension with works to commence early 2021.

The upgrades to the railway precincts in Leongatha and Korumburra are components of the Leongatha and Korumburra Revitalisation Projects which are ongoing Priority Projects for Council. The Revitalisation Projects are outcomes of various community consultation with the development of the Korumburra Town Centre Framework Plan and the Leongatha Railway Site Transformation Plan.

Council endorsed the grant application under the BBRF Round 5 (Infrastructure Projects Stream) for the railway precinct upgrades at Leongatha and Korumburra at a Confidential Briefing on 24 February 2021.

RESOURCES / FINANCIAL VIABILITY

Leongatha Railway Precinct

The estimated cost for the Leongatha Railway Precinct is \$3.4 million which is expected to meet the cost of all the components identified in the updated Concept Plan (**Attachment [2.4.1]**).

There is currently \$850,000 allocated in the current budget for the development of stage one being the pedestrian bridge and car parking. There is no budget in the current Long Term Financial Plan to deliver the remaining components.

An Independent Quantity Surveyor's Cost Estimate Report is available in (**Confidential Attachment [13.4.1]**).

Korumburra Railway Precinct

The estimated cost for the Korumburra Railway Precinct is \$2.6 million which is anticipated to meet the cost of the components identified in the updated Concept Plan (**Attachment [2.4.2]**) which are not already funded. There is no budget in the current Long Term Financial Plan for these remaining components.

An Independent Quantity Surveyor's Cost Estimate Report is available in **(Confidential Attachment [13.4.2])**.

GSRT Railway Precincts Upgrade (Leongatha and Korumburra)

The total project cost for the GSRT Railway Precincts Upgrade (Leongatha and Korumburra) is estimated at \$6 million. Funding of \$3 million towards the overall project would be available in the draft 2021/22 budget for consideration.

If funding was successful, is anticipated the grant would provide the necessary funds to complete the components in the Concept Plans to the Leongatha and Korumburra Railway Precincts.

Approved projects must be completed by 31 December 2023 which would allow Council's Infrastructure Departments two years to deliver the project should it be approved.

RISKS

There is a risk that the costs of the GSRT Railway Precincts Upgrade (Leongatha and Korumburra) project will come in over budget, however, this has been mitigated by seeking external Quantity Surveyor reports for the Concept Plans.

The Quantity Surveyor reports will be revisited as the design progresses and prior to tenders being sought. This will ensure that the project budget is monitored and if necessary, scope adjusted.

Should an application to the BBRF not be submitted, there is a risk that Council will miss an opportunity to seek external funding to complete the upgrades to the Leongatha and Korumburra Railway Precincts.

STAFF DISCLOSURE

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

ATTACHMENTS

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

1. Leongatha Railway Precinct Landscape Concept Plan - February 2021 [2.4.1 - 1 page]
2. Korumburra Railway Precinct Landscape Concept Plan - February 2021 [2.4.2 - 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 [13.4.1] and [13.4.2] – Cost Estimate Reports for Leongatha and Korumburra Railway Station Precincts** – is designated confidential information pursuant to the *Local Government Act 2020*, s.3(1)(a) - Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.

The grounds for designation have been made as the information is deemed commercial-in-confidence as project costs are subject to change as the design progresses and scopes adjusted.

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 1. Direction & Leadership

Pillar 3. Decision Making

Pillar 4. Structure, Systems & Policies

Council Policy / Strategy / Plans

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

Arts, Culture and Creative Industry Strategy

Council Plan 2020-2024

Economic Development and Tourism Strategy

Korumburra Town Centre Framework

Leongatha Railway Site Transformation Final Master Plan

Open Space Strategy

Priority Projects

Social Community Infrastructure Blueprint

Town Centre Framework Plans

Regional, State and National Plan and Policies

Gippsland Destination Management Plan - Towards 2030 - A Blueprint for Growth (Destination Gippsland)

Gippsland Regional Plan 2020-2025

Gippsland Track & Trails Feasibility Study

3. OBJECTIVE 4 - CUSTOMER FOCUSED ORGANISATION

3.1. APPOINTMENT OF INDEPENDENT CHAIRPERSON ON THE CEO EMPLOYMENT & REMUNERATION COMMITTEE

Performance and Innovation

Council Plan

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

The appointment of an independent Chairperson for the CEO Employment and Remuneration Committee provides good governance and independent guidance in the management of the Committee.

EXECUTIVE SUMMARY

In line with *Chief Executive Officer Employment and Remuneration Policy (C71)* (the Policy) and following the appointment of the Independent Chairperson for the Chief Executive Officer (CEO) Employment and Remuneration Committee in 22 August 2018, it is timely that Council consider the extension of Philip Shanahan for a further term as Chairperson of the Committee.

RECOMMENDATION

That Council approves the extension of Mr Philip Shanahan as Independent Chairperson for the Chief Executive Officer Employment and Remuneration Committee for a further two (2) years through to 21 August 2022.

REPORT

The *Chief Executive Officer Employment and Remuneration Policy (C71)*, section 3.2 Independent Chairperson, provides that the Chairperson will be appointed for a two-year term with an option for a further two, one-year term extensions by mutual consent with Council.

Mr Philip Shanahan has provided this service to Council since August 2018 and offers experience and historical context for this role that will serve Council well for the period of extension sought.

CONSULTATION / COMMUNITY ENGAGEMENT

This recommendation has been provided with reference to:

- Local Government Act 2020
- Chief Executive Officer Employment and Remuneration Policy (C71)

RESOURCES / FINANCIAL VIABILITY

The Policy outlines the requirement for an Independent Chairperson on the CEO Employment and Remuneration Committee, with a sitting fee of \$1,200 per meeting for the four meetings per annum, along with payment for any further meetings required.

RISKS

Failure to adequately address legislative and contractual requirements may place Council in breach of the *Local Government Act 2020*.

If Council does not proceed with this extension for Mr Philip Shanahan's appointment as Independent Chairperson, a process will need to be undertaken to source a new chair person for the Committee and this will impact on timelines to implement this process for the current year.

STAFF DISCLOSURE

Ms Kerryn Ellis, Chief Executive Officer has declared a material interest in this matter, as the appointment of a Chair person to the CEO Employment and Remuneration Committee relates directly to her role.

ATTACHMENTS

Nil

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 1. Direction and Leadership

Council Policy / Strategy / Plans

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

CEO Employment and Remuneration Policy (C71)

Legislative Provisions

Local Government Act 2020

3.2. WEST GIPPSLAND REGIONAL LIBRARY CORPORATION (WGRLC) - LOCAL LAW REVIEW

Performance and Innovation

Council Plan

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

The review of the Local Law No.2, 2008 by West Gippsland Regional Library Corporation seeks to ensure the required governance provisions for meetings are in place, prior to the Local Law's sunset date. The establishment of two new Local Laws to replace Local Law No.2 2008 sets the new direction and requirements for the future.

EXECUTIVE SUMMARY

The purpose of this report is to seek endorsement from Council for West Gippsland Regional Library Corporation (WGRLC) to make two new Local Laws.

WGRLC makes Local Laws following the same legislative requirements as its Member Councils to provide good governance for its meeting procedures, community participation and appropriate management of library operations. Before WGRLC can adopt its Local Laws, they must be endorsed by each Member Council.

In March 2020, WGRLC began reviewing its Local Law as required by the *Local Government Act 1989* (the Act). This review is required every 10 years. The review included splitting the former Meetings, Operations and use of Libraries Local Law No. 2 2008 (**Attachment [3.2.3]**) into two Local Laws:

- Proposed Meeting Procedure Local Law No.1 – 2020 (**Attachment [3.2.1]**); and
- Proposed Operation and Use of Library Services Local Law No.2 – 2020 (**Attachment [3.2.2]**).

The review provided clarification and modern wording, updated definitions, new formatting, minor additions to the Chief Executive Officer's (CEO) authorisation, inclusion of Board Members to participate via electronic means, inclusion of a public participation section and clarification of what constitutes a vote.

WGRLC is required to follow the same extensive process as Councils, as outlined in *the Act*, to create a new Local Law. The process includes a public

notice period of 28 days, advertising in the Government Gazette, the Board hearing submissions from the community and the Local Law being ratified by each Member Council prior to final adoption by the WGRLC Board.

A detailed review was undertaken by the WGRLC Board and extended to Member Council's Governance Departments for advice and consistency. The proposed Meeting Procedure Local Law No. 1 closely aligns with that of Bass Coast Shire Council's Local Law.

Following the completion of the public consultation process (no submissions were received), WGRLC Board intends to adopt the two Local Laws and now requires Council's endorsement prior to Board adoption.

All three Member Councils: Baw Baw, Bass Coast and South Gippsland have been presented with the same report and resolution to ensure consistency across the WGRLC Council membership.

RECOMMENDATION

That Council:

- 1. Notes the review undertaken by West Gippsland Regional Library Corporation of the Meetings, Operations and Use of Libraries Local Law No. 2 2008;**
- 2. Approves the West Gippsland Regional Library Corporation Board to make:**
 - a. Meeting Procedure Local Law No.1 – 2020 (Attachment [3.2.1]);**
 - b. Operation and Use of Library Services Local Law No.2 – 2020 (Attachment [3.2.2]); and**
 - c. In accordance with Section 197F of the *Local Government Act 1989*.**

REPORT

WGRLC commenced a detailed review of its Local Laws in March 2020 as required by *the Act* and pursuant to section 122.

The review has been undertaken by the WGRLC CEO and Board and amendments have been made as follows:

1. Separation from one Local Law to two Local Laws for clarity, ease of reading and interpretation.
2. Provided a cessation date of the Local Law in alignment with *the Act*.

3. Reviewed definitions to provide greater clarity to readers of the Local Law. Definitions were removed to ensure there was not a contradiction between the definitions section and the clauses in the Local Laws. The definitions section was also reviewed in line with Bass Coast Shire Councils Meeting Procedures Local Law.
4. Improved formatting to make reading the Local Law easier, including combining, rearranging, and renumbering sections.
5. Inserting minor additions to the WGRLC CEO's authorisation within Local Law No 2. This includes the CEO's ability to make minor amendments to the opening hours (such as Christmas Eve and COVID-19) and the inclusion of the ability to issue electronic membership cards.
6. The inclusion of Board Members to participate in meetings by electronic means. Library Corporations have a clause in the Act that allows electronic participation despite Councils not being able to do so outside of COVID19 as outlined in section 197E. There are a number of Library Corporations that already have this inclusion in their Local Laws.
7. Clarification on what constitutes a vote under Local Law No. 1.
8. The inclusion of a Public Participation section in Local Law No 1 that highlights the importance of community participation and gives the Board the power to open meetings to the public when it is not required to do so [section 196(7)(b)]. There are several Library Corporations that do not open their meetings to the public under this provision.
9. Greater clarity to the offences imposed by the Local Law and the procedures associated with the offences outlined in Local Law No.2. This is consistent with the Library Operations Local Law at Campaspe Shire Council that provides greater clarity than was previously outlined.

Bass Coast Shire Council's Local Law has been used for guidance and consistency and to make reading the Local Laws as easy as possible for members of the public.

CONSULTATION / COMMUNITY ENGAGEMENT

West Gippsland Regional Library Corporation (WGRLC) gave notice of its intention to make the Local Laws at its Ordinary Board Meeting on Friday 11 September 2020. The review undertaken by the Board was documented in the publicly available Ordinary Meeting agendas between March and September 2020.

WGRLC published the following notices:

- A notice of its intention to make the Local Laws in the Government Gazette on the 17 September 2020;
- A notice and request for submissions from the public under Section 223 of the *Local Government Act 1989* published and advertised on WGRLC's website, Facebook Page and in local newspapers;
- The Proposed Local Laws were made available on WGRLC's website and at the Regional Library Corporation office at 65 Victoria Street, Warragul;
- Submissions remained open from the time the notice was published in the Government Gazette and closed on Friday 6 November 2020 at 5pm ensuring not less than 28 days' notice; and
- The Board noted at its Ordinary Board Meeting on Friday 4 December 2020 that no submissions were received.

RESOURCES / FINANCIAL VIABILITY

There were no financial implications. The review was conducted in house.

RISKS

Failure to adequately address legislative and contractual requirements may place Council in breach of the *Local Government Act 2020*.

STAFF DISCLOSURE

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

ATTACHMENTS

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

1. Proposed Meeting Procedures Local Law No 1 - 2020 [3.2.1 - 24 pages]
2. Proposed Operation and Use of Library Services Local Law No 2 - 2020 [3.2.2 - 13 pages]
3. Meetings, Operations and use of Libraries Local Law No. 2, 2008 [3.2.3 - 46 pages]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 7. Risk and Compliance

Legislative Provisions

Local Government Act 1989

Local Government Act 2020

Regional, State and National Plan and Policies

Bass Coast Shire Council's Local Law - Meeting Procedure Local Law No. 1

3.3. FINANCIAL PERFORMANCE REPORT - JULY 2020 TO DECEMBER 2020

Performance & Innovation

Council Plan

Objective 4 - Customer Focused Organisation

The Financial Performance report provides an overview of Council's financial performance for the period July 2020 to December 2020. The report provides timely communication to the community and Council regarding Council's financial performance and aligns with the Local Government Act 2020.

EXECUTIVE SUMMARY

The Financial Performance report has been prepared in accordance with section 97 of the *Local Government Act 2020* (the Act) and provides an overview of Council's financial performance for the period July 2020 to December 2020. The results in summary:

- Operating result: \$3.0M surplus which is \$0.5M favourable when compared with the year-to-date budget projection of a \$2.5M surplus.
- Capital works: \$12.8M expenditure which is \$3.7M behind the year-to-date budget of \$16.5M.
- Projected financial outcome for 2020/21 is a \$11.5M surplus. This is \$5.0M favourable compared to the original budgeted surplus of \$6.5M.

RECOMMENDATION

That Council:

- 1. Receives and notes the Financial Performance Report July 2020 to December 2020 (Attachment [3.3.1]); and**
- 2. Notes, as required by section 97(3) of the *Local Government Act 2020*, there is no indication that a revised budget will need to be adopted for the 2020/21 financial year.**

REPORT

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

- 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."*

As per s.97(3) of the Act, there is no indication that a revised budget will need to be adopted for the 2020/21 financial year.

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 2020 to December 2020 contains detailed reporting in (**Attachment [3.3.1]**).

Summary of Results

This section provides a high-level overview of Budget and Actual Operating performance and Capital Work expenditure.

Financial Statements

This section lists the three major financial statements as at 31 December 2020:

- Income Statement
- Balance Sheet
- Cash Flow Statement

Capital Works

This section has the Capital Works Statement as at 31 December 2020.

Annual Year-to-Date Financial Analysis

This section analyses the implications of the year-to-date performance and the projected outcome for the financial year end.

Long-Term Financial Plan Analysis

This section benchmarks and strategically analyses the financial impact of the projected financial results for the year against the adopted Annual Budget, Long-Term Financial Plan and the Long Term Financial Strategies key performance indicators.

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.

Council can assess both year-to-date performances, as well as understand the annual and longer-term financial implications.

STAFF DISCLOSURE

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

ATTACHMENTS

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

1. Financial Performance Report - December 2020 [3.3.1 - 19 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

Annual Budget

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

Legislative Provisions

Local Government Act 1989

Local Government Act 2020

3.4. SUMMARY OF STRATEGIC BRIEFINGS TO ADMINISTRATORS - 20 JANUARY - 12 FEBRUARY 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 on behalf of the community.

EXECUTIVE SUMMARY

Council in its requirement to give effect to the overarching governance principles and supporting principles of the *Local Government Act 2020, section 9(2)(i), s.9(3)(b) and s.58*, aim to assist the transparency of Council decisions, actions and information through the provision of public summaries of information. The types of information summarised are usually strategic briefing and public presentation 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 20 January 2020 and 12 February 2021.

RECOMMENDATION

That Council receives and notes this report.

REPORT

Meeting Title	Details
Wednesday 20 January 2021	
2021 Revaluation Progress Update	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: Nil disclosed
Wednesday 3 February 2021	
Planning Briefings	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: Nil disclosed
Social Housing Funding Victoria's Big Housing Build	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: Nil disclosed
Risk Management Framework/ Appointment Audit and Risk Committee	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: Nil disclosed
Wednesday 10 February 2021	
Strategic Extractive Resource Areas	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: Nil disclosed
Social Equity in South Gippsland	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: Nil disclosed
CEO Performance Review Committee	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: 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

Public Participation in Meetings with Council Policy (C65)

Public Transparency Policy (C75)

Legislative Provisions

Local Government (South Gippsland Shire Council) Act 2019

Local Government Act 1989

Local Government Act 2020

3.5. DOCUMENTS SEALED, CONTRACTS VARIED, AWARDED OR EXTENDED BY CEO - 16 JANUARY TO 12 FEBRUARY 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 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 16 January to 12 February 2021. Council's *Procurement Policy* requires the CEO to report to Council any of the following actions undertaken to the next appropriate Meeting:

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

RECOMMENDATION

That Council receives and notes this report.

REPORT

Documents Sealed

Under the *Local Government Act 2020* (the Act), 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 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 16 January to 12 February 2021.

1. Section 173 Agreement between South Gippsland Shire Council and the owner of 15 Manuka Street Sandy Point in relation to developing land with a dwelling. Seal applied 2 February 2021
2. Section 173 Agreement between South Gippsland Shire Council and the owner of 23 Alfred Crescent Venus Bay in relation to developing land with a dwelling. Seal applied 2 February 2021
3. Section 173 Agreement between South Gippsland Shire Council and the owner of 177 Lees Road Venus Bay in relation to developing land with a dwelling. Seal applied 2 February 2021
4. Section 173 Agreement between South Gippsland Shire Council and the owner of 590 Boolarra-Foster Road Wonga in relation to a two lot sub-division. Seal applied 9 February 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 16 January to 12 February 2021.
 - a. CON/273 for the Major Culvert Replacement – Boundary Road Foster was awarded to ACE Earthmoving. Signed by the CEO 28 January 2021.
2. Contracts awarded after a public tender process within the CEO's delegation between 16 January to 12 February 2021.

Nil

3. Contract variations approved by the CEO between 16 January to 12 February 2021.
 - a. CON/248-A for the Repair of Seven Landslips in the South Gippsland Region (Wild Dog Valley and Mount Eccles Road) was awarded to MACA Civil Pty Ltd. A contract variation of \$227,485.80 was signed by the CEO after consultation with the Administrator Chair on 02 February 2021.
4. Contract extensions approved by the CEO between 16 January to 12 February 2021.

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: 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

4. NOTICES OF MOTION AND/OR RESCISSION

Nil

5. ADMINISTRATOR REPORTS

5.1. REQUESTS FOR LEAVE OF ABSENCE

5.2. ADMINISTRATORS UPDATES

5.3. COMMITTEE UPDATES

6. URGENT OR OTHER BUSINESS

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

1. Urgent Business

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

Council's Governance Rules 2020 (clause 22 - Urgent Business) adopted on 26 August 2020, allows for where a situation has not been provided for under the Governance Rules, the Council may determine the matter by resolution. Established practice has provided for urgent motions to be raised at Council provided the matter cannot be dealt with at the next Council Meeting or by Officers under delegation.

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

'That consideration of (the issue) be dealt with as a matter of urgent business and Administrator....be allowed a 'short period' to indicate the reason(s) why the matter should be considered as a matter of urgent business.' If the Chairperson accepts the motion as meeting the urgent business criteria, normal meeting procedures in Council's Governance Rules 2020 (clause 22) will apply.

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

2. Other Business

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

7. PUBLIC QUESTIONS

7.1. PETITIONS AND JOINT LETTERS

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

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

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

7.2. ANSWERS TO PREVIOUS QUESTIONS ON NOTICE

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

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

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

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

Nil

7.3. SUBMITTED PUBLIC QUESTIONS

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

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

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

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

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

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

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

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

8. 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.

Nil

9. MEETING CLOSED

NEXT MEETING

The next Council Meeting open to the public will be held on Wednesday, 21 April 2021 commencing at 1pm in the Council Chambers, Leongatha.