

SOUTH GIPPSLAND SHIRE COUNCIL

Council Meeting Minutes

16 June 2021

**Council Meeting No. 460
Virtual Council Meeting
Commenced at 1.00pm**

Administrators

Julie Eisenbise, Chair
Christian Zahra, Deputy Chair
Rick Brown



minutes



*South Gippsland
Shire Council*

Come for the beauty, Stay for the lifestyle



OUR PURPOSE

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

Privacy

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

PRESENT

ADMINISTRATORS:	Julie Eisenbise, Administrator Chair Christian Zahra, Administrator Deputy Chair Rick Brown, Administrator
NOT PRESENT:	-
OFFICERS:	Kerryn Ellis, Chief Executive Officer Natasha Berry, Corporate and Council Business Officer

SOUTH GIPPSLAND SHIRE COUNCIL

Council Meeting No. 460 (virtual online)
Wednesday 16 June 2021 commenced at 1.00pm

Link to the Live Stream on Council's website: [Live Streaming | Live Streaming | South Gippsland Shire Council](#)

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Kerryn Ellis
Chief Executive Officer

1. PRELIMINARY MATTERS

1.1. LIVE-STREAMING COUNCIL MEETING DISCLAIMER

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

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

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

Thank you

1.2. WELCOME TO THE VIRTUAL (ONLINE) COUNCIL MEETING

Please ensure mobile phones are set to '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. The recent restrictions whilst relaxed for regional Victoria have not for metro Melbourne, it is advised and encouraged that those who can work from home do so. For the safety of community and staff the 16 June 2021 meeting of Council be conducted virtually.

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

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

Link to the Live Stream on Council's website: [Live Streaming | Live Streaming | South Gippsland Shire Council](#)

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

RECOMMENDATION

That Council:

1. Not allow members of the public to attend the 16 June 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*. The 'Minister's Good Practice Guideline MGPG-1: Virtual Meetings' have been used to ensure that local government decision making can continue in line with COVID-19 Pandemic requirements;
3. Notes that the 16 June 2021 Council Meeting remains 'open' via the livestream on the Internet, in keeping with section 395 of the *Local Government Act 2020*; and
4. Notes that this decision is made to protect the health and wellbeing of all people required to be in attendance.

MOVED: Administrator Eisenbise

SECONDED: Administrator Brown

THAT COUNCIL:

1. **NOT ALLOW MEMBERS OF THE PUBLIC TO ATTEND THE 16 JUNE 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. THE 'MINISTER'S GOOD PRACTICE GUIDELINE MGPG-1: VIRTUAL MEETINGS' HAVE BEEN USED TO ENSURE THAT LOCAL GOVERNMENT DECISION MAKING CAN CONTINUE IN LINE WITH COVID-19 PANDEMIC REQUIREMENTS;**
3. **NOTES THAT THE 16 JUNE 2021 COUNCIL MEETING REMAINS 'OPEN' VIA THE LIVESTREAM ON THE INTERNET, IN KEEPING WITH SECTION 395 OF THE LOCAL GOVERNMENT ACT 2020; AND**
4. **NOTES THAT THIS DECISION IS MADE TO PROTECT THE HEALTH AND WELLBEING OF ALL PEOPLE REQUIRED TO BE IN ATTENDANCE.**

CARRIED UNANIMOUSLY

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

Nil

Administrator Chair, Julie Eisenbise addressed Council by extending thanks on behalf of Administrators to members of the community who have worked tirelessly over the recent weather event that has had a huge impact on our Shire. In particular thanks was extended to the Emergency Services, Volunteers and Council staff, each who have put in many hours towards the emergency response. A round of applause was extended by the Administrators to all the Volunteers and 'our resilient residents'.

Administrator Chair, Julie Eisenbise requested an update on the response and recovery efforts from the Chief Executive Officer.

Chief Executive Officer (CEO), Ms Kerry Ellis provided an extensive update on the response taken by Council staff, contractors and collaboration with essential services to aid in the clean-up and reestablishment of services. Ms Ellis further provided an update of the emergency relief that supports the recovery following the weather event.

The CEO reminded the community that if there are requests or support is needed then please contact Council on the main number 03 5662 9200.

1.6. CONFIRMATION OF MINUTES

RECOMMENDATION

That the Minutes of the South Gippsland Shire Council Meeting No.458 held virtually on 2 June 2021 be confirmed.

MOVED: Administrator Brown

SECONDED: Administrator Zahra

THAT THE MINUTES OF THE SOUTH GIPPSLAND SHIRE COUNCIL MEETING NO.458 HELD VIRTUALLY ON 2 JUNE 2021 BE CONFIRMED.

CARRIED UNANIMOUSLY

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.

Nil

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.

Nil

2. OBJECTIVE 3 - INTEGRATED SERVICES AND INFRASTRUCTURE

2.1. PROPOSED PART ROAD DISCONTINUANCE AND SALE ABUTTING 10 CLARENCE STREET LOCH

Sustainable Infrastructure

Council Plan

Objective 1 – United Shire - Strategy 1.3 – Deliver efficient and responsive services that enhance the health, safety, and well-being of the community.

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

The road discontinuance and sale proposes to consolidate unused road reserve into private ownership which will enhance the well-being and liveability of the adjoining landowners as the shed encroachment issue will be remedied, thereby alleviating any issues for current / future land owners. Council will also benefit as this will reduce Council's potential liabilities over the road.

EXECUTIVE SUMMARY

Officers have been contacted by representatives of the owners of 10 Clarence Street, Loch requesting that Council discontinue the part unused road reserve at the rear of their client's property (shown in **Figure 1**) and sell the land to their clients due to long standing encroachments on the road reserve.

The purpose of this report is for Council to commence statutory procedures to discontinue part of a road reserve abutting the rear of 10 Clarence Street, Loch and sell the land to the owners of 10 Clarence Street, Loch.

RECOMMENDATION

That Council:

1. Commences the statutory procedures to discontinue part of the unused road being part crown allotment 30 Parish of Jeetho West (shown in Figure 1) with an area of 78m² and sell the land to the abutting owner of 10 Clarence Street Loch, for not less than a valuation received within six months prior to the sale, pursuant to s.206, s.207A, s.223, and Schedule 10 clause 3 of the Local Government Act 1989.
2. Gives public notice on Council's website and in the local newspapers in the week commencing 21 June 2021 in accordance with s.223 of the Local Government Act 1989 on the proposal (item 1) inviting written submissions to be received by 5pm Wednesday 21 July 2021.

3. Authorises the Chief Executive Officer to undertake the administrative procedures necessary to enable the Council to carry out its functions under s.223 of the Local Government Act 1989 in respect of the proposal in item 1 above.
4. If submissions are received to the public notice:
 - a. Authorise the Chief Executive Officer to fix the time, date, and place of a meeting for the section 223 hearing for persons who wish to be heard in support of their submission; and
 - b. Receives a further report to consider submissions and determine outcome at the next available Council Meeting.
5. If no submissions are received to the public notice:
 - a. Implement the proposal in recommendation 1; and
 - b. Publish the road discontinuance notice in the Victorian Government Gazette.

MOVED: Administrator Brown

SECONDED: Administrator Zahra

THAT COUNCIL:

1. **COMMENCES THE STATUTORY PROCEDURES TO DISCONTINUE PART OF THE UNUSED ROAD BEING PART CROWN ALLOTMENT 30 PARISH OF JEETHO WEST (SHOWN IN FIGURE 1) WITH AN AREA OF 78M2 AND SELL THE LAND TO THE ABUTTING OWNER OF 10 CLARENCE STREET LOCH, FOR NOT LESS THAN A VALUATION RECEIVED WITHIN SIX MONTHS PRIOR TO THE SALE, PURSUANT TO S.206, S.207A, S.223, AND SCHEDULE 10 CLAUSE 3 OF THE LOCAL GOVERNMENT ACT 1989.**
2. **GIVES PUBLIC NOTICE ON COUNCIL'S WEBSITE AND IN THE LOCAL NEWSPAPERS IN THE WEEK COMMENCING 21 JUNE 2021 IN ACCORDANCE WITH S.223 OF THE LOCAL GOVERNMENT ACT 1989 ON THE PROPOSAL (ITEM 1) INVITING WRITTEN SUBMISSIONS TO BE RECEIVED BY 5PM WEDNESDAY 21 JULY 2021.**
3. **AUTHORISES THE CHIEF EXECUTIVE OFFICER TO UNDERTAKE THE ADMINISTRATIVE PROCEDURES NECESSARY TO ENABLE THE COUNCIL TO CARRY OUT ITS FUNCTIONS UNDER S.223 OF THE LOCAL GOVERNMENT ACT 1989 IN RESPECT OF THE PROPOSAL IN ITEM 1 ABOVE.**

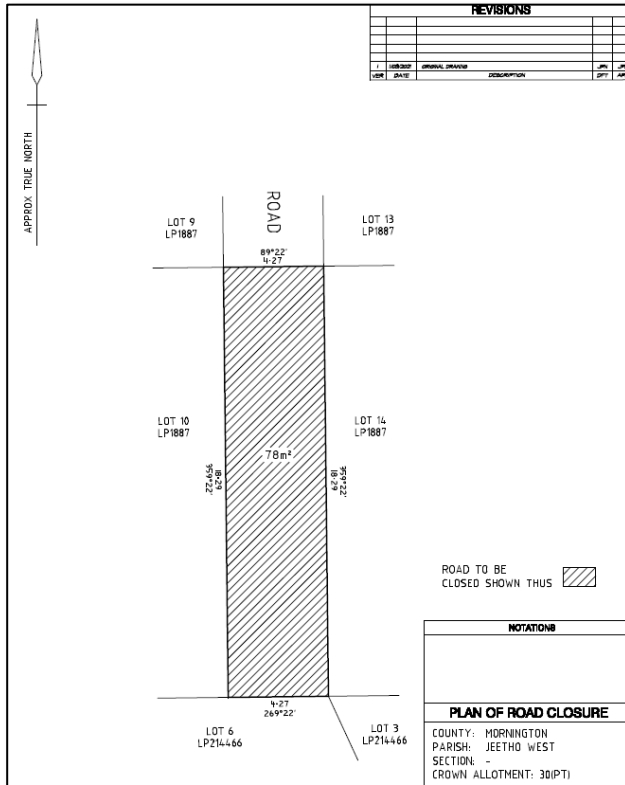
- 4. IF SUBMISSIONS ARE RECEIVED TO THE PUBLIC NOTICE:**
 - a. AUTHORISE THE CHIEF EXECUTIVE OFFICER TO FIX THE TIME, DATE, AND PLACE OF A MEETING FOR THE SECTION 223 HEARING FOR PERSONS WHO WISH TO BE HEARD IN SUPPORT OF THEIR SUBMISSION; AND**
 - b. RECEIVES A FURTHER REPORT TO CONSIDER SUBMISSIONS AND DETERMINE OUTCOME AT THE NEXT AVAILABLE COUNCIL MEETING.**
- 5. IF NO SUBMISSIONS ARE RECEIVED TO THE PUBLIC NOTICE:**
 - a. IMPLEMENT THE PROPOSAL IN RECOMMENDATION 1; AND**
 - b. PUBLISH THE ROAD DISCONTINUANCE NOTICE IN THE VICTORIAN GOVERNMENT GAZETTE.**

CARRIED UNANIMOUSLY

REPORT

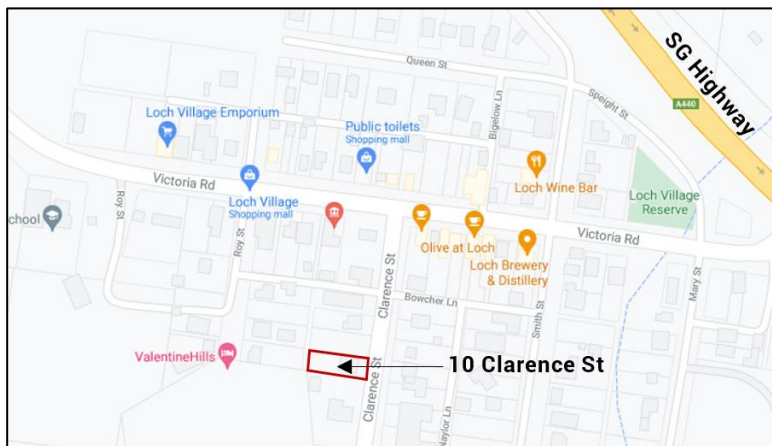
Officers have been contacted by representatives of the owners of 10 Clarence Street, Loch requesting that Council discontinue the part unused road at the rear of their client’s property (shown in **Figure 1**) and sell the land to their clients due to long standing encroachments on the road reserve.

Figure 1: Road Discontinuance Plan – Part Road Reserve - Rear of 10 Clarence Street Loch



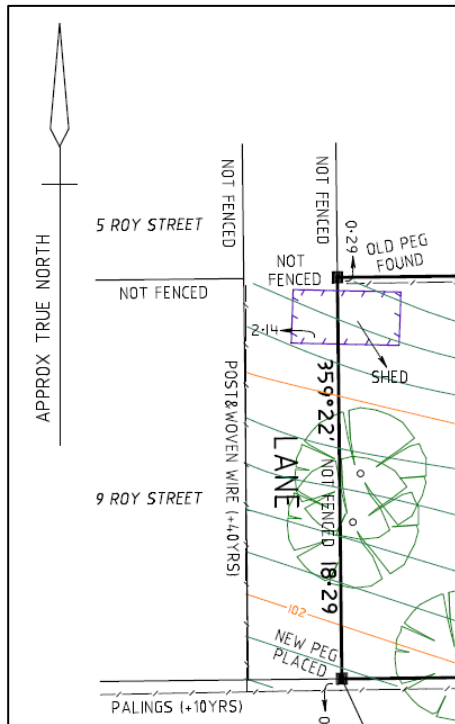
A locality Plan showing 10 Clarence Street is shown in **Figure 2**.

Figure 2: Locality Plan - Loch



The road reserve is currently fenced on two sides and forms part of the backyard of 10 Clarence Street, Loch. Part of their shed is encroaching on the road reserve as shown in **Figure 3**.

Figure 3: Feature Plan of Proposed Part Road Discontinuance



This section of unused road proposed to be discontinued and sold is not on Council's Public Road Register and does not appear to be used by public traffic.

If the road discontinuance and sale is successful, the purchaser will be required to consolidate the land from the road reserve with their abutting land.

CONSULTATION / COMMUNITY ENGAGEMENT

Officers have consulted internal valuers to determine the value of the land. The valuation has been included in **Confidential Attachment [11.1.1]**.

For Council to discontinue a road and sell it to the adjoining landowner, Council must call for public submissions in accordance with s.207A and s.223 of the *Local Government Act 1989*.

RESOURCES / FINANCIAL VIABILITY

Applicant – The applicant has paid for the surveying for the road discontinuance plan and title plan.

Council – Officer’s time and advertising of the public notice and Victorian Government Gazette Notice.

RISKS

The proposed road discontinuance and sale of the part unused road reserve will remedy the adjoining landowners shed encroachment and reduce Council’s liabilities over the road.

STAFF DISCLOSURE

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

CONFIDENTIAL ATTACHMENTS

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

Confidential Attachment [11.1.1] – Valuation - Lane Rear 10 Clarence Street Loch - March 2021 – is designated confidential information pursuant to the *Local Government Act 2020*, s.3(1)(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 valuation contains commercial in confidence information relating to land disposal.

REFERENCE DOCUMENTS

Council’s Good Governance Framework

Pillar 3. Decision Making

Pillar 7. Risk & Compliance

Legislative Provisions

Local Government Act 1989

2.2. STRATEGY REVIEW: ENVIRONMENTAL SUSTAINABILITY STRATEGY FRAMEWORK 2021

Sustainable Infrastructure

Council Plan

Objective 3 - Integrated Services and Infrastructure

Objective 3 - Integrated Services and Infrastructure - Strategy 3.1 Establish a sustainable long-term program for capital works

South Gippsland Shire Council's Council Plan 2020-2024 lists "Review and update the Sustainability Strategy and present to Council for adoption" as an initiative for Infrastructure Planning in the "Year 1 Action Plan". This Council report delivers on this initiative.

EXECUTIVE SUMMARY

The Draft *Environmental Sustainability Strategy Framework 2021* is presented for adoption by Council, replacing the previous *Sustainability Strategy 2016-2020*. The new high-level Strategy Framework provides a context and broad platform for Council's work in this space.

It is broken into the three over-arching and interrelated areas of:

2. Climate Change
3. Waste Management and Resource Recovery; and
4. Sustainable Land Use and Biodiversity

Where the previous strategy provided both an overarching context as well as detailing specific actions, it is intended that this document simply "sets the scene" for Council's work in sustainability, with the detail to come in subsequent strategic documents. Individual action plans will be developed for each of the above three focus areas. These action plans will set targets, specify actions, and detail desired outcomes relevant to each sector.

The above approach will enable any further direction for activity across these three areas to be considered and supported by elected representatives, following Council elections later this year. This will allow the opportunity for community input into these particularly sensitive areas, through a process of broad community consultation.

RECOMMENDATION

That Council:

1. Adopts the Environmental Sustainability Strategy Framework 2021 (Attachment [2.2.1]); and
2. Publishes the Environmental Sustainability Strategy Framework 2021 on Council's website.

MOVED: Administrator Zahra

SECONDED: Administrator Brown

THAT COUNCIL:

1. **ADOPTS THE ENVIRONMENTAL SUSTAINABILITY STRATEGY FRAMEWORK 2021 (ATTACHMENT [2.2.1]); AND**
2. **PUBLISHES THE ENVIRONMENTAL SUSTAINABILITY STRATEGY FRAMEWORK 2021 ON COUNCIL'S WEBSITE.**

CARRIED UNANIMOUSLY

REPORT

Over the past five years, South Gippsland Shire Council's work in the sustainability field has been guided by the *South Gippsland Shire Council Sustainability Strategy 2016-2020*. It identified three 'Key Actions' and a total of 39 actions altogether, across five areas:

1. Climate Change
2. Community
3. Energy and Water
4. Biodiversity
5. Waste Management

Overall, the implementation of the Sustainability Strategy 2016-2020 has been largely successful, with the majority of actions either fully implemented or substantially progressed.

There has been increased awareness and focus on climate change action within the community, as well as more defined obligations for Council action in this space, under both the *Climate Change Act 2017* and the *Local Government Act 2020*.

With consideration of these changes, and following a recent review of the previous Sustainability Strategy (Council Briefing, April 2021), it was decided that a different approach would be taken to tackling the various challenges in the sustainability space going forward.

Council's new *Environmental Sustainability Strategy Framework 2021* looks quite different from the previous strategy. It no longer contains a broad list of detailed actions, but has instead been developed as a high-level guiding document outlining the vision for a sustainable South Gippsland. Key focus areas for the Strategy Framework include:

1. Climate Change
2. Waste Management and Resource Recovery; and
3. Sustainable Land Use and Biodiversity.

Specific initiatives from across these three areas will be identified and implemented by the work teams responsible for the respective sectors. For example, the review and update of the *Waste Management Strategy* and the development of a new *Waste Management Plan* will identify specific measures

to address going forward; the development of a Climate Action Plan will formulate a future emissions target and outline focus actions in the climate change space; and planning done across the organisation, from the Planning Department to the Open Space and Environment Department, will guide future work in Sustainable Land Use.

This approach will enable the development of individual plans for these three areas to be adopted by elected representatives following Council elections later this year, allowing the opportunity for community input into these particularly sensitive areas.

The broad structure and direction of each of the three areas is outlined in the draft *Environmental Sustainability Strategy Framework 2021*, being presented for adoption, with subsequent work in each of these areas to be completed in the coming months.

CONSULTATION / COMMUNITY ENGAGEMENT

A Confidential Strategic Briefing was held with the Administrators to discuss the review of the Sustainability Strategy.

Community consultation has not been carried out for the development of the new *Environmental Sustainability Strategy Framework* as it is a high-level, guiding document outlining the vision for a sustainable South Gippsland.

Council will engage both internally and with the wider community on the development of any directions or sub-plans for further activity across the three key areas identified by the new high-level strategy. For example, the development of a Climate Action Plan and associated municipal emissions reduction target would involve internal and external consultation, and could be adopted by elected representatives following elections later in 2021.

RESOURCES / FINANCIAL VIABILITY

The development of the Sustainability Strategy Framework itself has been completed with existing resources. However, the development of more detailed Action Plans, particularly in relation to climate change, where an obligation exists for Council under the *Climate Change Act 2017* to engage with the community on the development of such a plan, may require the engagement of specialised consultants. Refer to "Risks" below, for more detail around obligations to consult.

RISKS

There are both reputational and legislative risks for Council in its approach to addressing sustainability. There exists a level of community expectation around a new Environmental Sustainability Strategy Framework, particularly in

relation to activities and actions around climate change and the development of an emissions reduction target for beyond 2020.

Additionally, the Victorian *Climate Change Act 2017* provides a number of principles which “provide criteria for assessing the suitability of council decision making” with respect to climate change, including (but not limited to) the principles of informed decision-making, integrated decision-making, risk management, and community engagement.

Further, the *Local Government Act 2020* explicitly requires Council to “promote the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks”.

The development of a Sustainability Strategy Framework and an associated Climate Action Plan detailing Council’s work in addressing climate change ensures that both the reputational and legislative risks are mitigated.

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. Environmental Sustainability Strategy Framework 2021 (Final For Adoption)
[2.2.1 - 20 pages]

REFERENCE DOCUMENTS

Council’s Good Governance Framework

Pillar 4. Structure, Systems and Policies

Council Policy / Strategy / Plans

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

Sustainability Strategy 2016-2020

Waste Management Strategy 2016-2021

Internal Working Document

Greenhouse Gas Reduction Plan 2013

Legislative Provisions

Local Government Act 2020

Climate Change Act 2017

Climate Change Regulations 2017

2.3. NEW POLICY: CAPITAL WORKS POLICY (C85)

Sustainable Infrastructure

Council Plan

Objective 3 - Integrated Services and Infrastructure - Strategy 3.1 Establish a sustainable long-term program for capital works and Objective 3 - Integrated Services and Infrastructure - Strategy 3.3 Deliver services that enhance liveability and environmental sustainability for generations

The development of a new Capital Works Policy (C85) is a Council Plan Annual Initiative for 2020/21.

EXECUTIVE SUMMARY

The development of the Capital Works Policy is a Council Plan Annual Initiative for 2020/21 and follows the standards as set out in the Project Management Framework and the Social Community and Economic Infrastructure Blueprint (the Blueprint).

The Community Infrastructure Advisory Committee have reviewed and endorsed the *Draft Capital Works Policy (C85)*.

The purpose of this report is to present the *Capital Works Policy (C85)* (the Policy) for consideration and adoption – refer to **Attachment [2.3.1]**.

RECOMMENDATION

That Council:

1. Adopts the new Capital Works Policy (C85) contained in Attachment [2.3.1]; and
2. Publishes the Capital Works Policy (C85) on Council's website.

MOVED: Administrator Brown

SECONDED: Administrator Zahra

THAT COUNCIL:

1. **ADOPTS THE NEW CAPITAL WORKS POLICY (C85) CONTAINED IN ATTACHMENT [2.3.1]; AND**
2. **PUBLISHES THE CAPITAL WORKS POLICY (C85) ON COUNCIL'S WEBSITE.**

CARRIED UNANIMOUSLY

REPORT

A recommendation from the Internal Audit – Budget Management for Capital and Major Works Budget, December 2019, recommended the development and implementation of an evaluation criteria/policy for the selection of capital and major works projects which incorporates projects identified as part of the Social Community and Economic Infrastructure Blueprint (the Blueprint).

The development of the *Capital Works Policy (C85)* was included in the Council Plan as an Annual Initiative for 2020/21 and follows the standards as set out in the Project Management Framework and the Social Community and Economic Infrastructure Blueprint (the Blueprint). The Policy is supported by a range of organisational strategies, policies, and master plans which guide infrastructure development.

Another recommendation from the Internal Audit report was the establishment of a Community Infrastructure Advisory Committee (CIAC) that captures a broad cross section of demographics, interests, and knowledge within the community. The CIAC members were appointed at the 17 March 2021 Ordinary Council Meeting and have reviewed and endorsed the *Capital Works Policy (C85)*.

CONSULTATION / COMMUNITY ENGAGEMENT

The CIAC have reviewed the draft Policy providing valuable input into the final draft as presented in **Attachment [2.3.1]**.

RESOURCES / FINANCIAL VIABILITY

The implementation of this Policy will be managed within existing resources.

RISKS

This Policy will help to mitigate the risk of poor project selection in future Capital Works Programs.

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. Capital Works Policy (C85) - June 2021 [2.3.1 - 9 pages]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 3. Decision Making

Council Policy / Strategy / Plans

Asset Management Policy (C04)

Occupational Health and Safety Policy (C27)

Procurement Policy and Manual (C32)

Community Infrastructure Project Management Guidelines

Community Infrastructure Project Process Map

Community and Consultation Strategy Toolkit

Social Community Infrastructure Blueprint 2020-2030

2.4. POLICY REVIEW: LEASING POLICY (C62)

Sustainable Infrastructure

Council Plan

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

The community, business, and Council will benefit from leasing property managed by Council and issuing licenses where appropriate.

EXECUTIVE SUMMARY

The current *Leasing Policy 2014 (C62)* (Current Policy) was due for revision in 2018 in accordance with the Corporate Policy review timetable. A copy is provided in **Attachment [2.4.1]**.

The Current Policy has now been revised to take into consideration the below items and is presented for Council for consideration and adoption. A copy of the revised *Leasing Policy (C62)* (Revised Policy) is included in **Attachment [2.4.2]**.

The revision of the Current Policy was delayed to consider:

- Changes to legislation relating to leasing in the *Local Government Act 2020*.
- Council becoming the Committee of Management of the Great Southern Rail Trail.
- An initial review of Council's leasing portfolio that found that the current uses of Council buildings are not adequately covered by the Current Policy; in respect to no mechanism to optimise co-location and flexibility by users, and no Council position or information regarding how to address requests for signage on Council's buildings.
- Provision of clarity to staff regarding their powers in respect of leasing matters.

RECOMMENDATION

That Council:

1. Adopts the revised Leasing Policy (C62) contained in Attachment [2.4.2];
and
2. Publishes the Leasing Policy (C62) on Council's website.

MOVED: Administrator Zahra

SECONDED: Administrator Brown

THAT COUNCIL:

1. **ADOPTS THE REVISED LEASING POLICY (C62) CONTAINED IN ATTACHMENT [2.4.2]; AND**
2. **PUBLISHES THE LEASING POLICY (C62) ON COUNCIL'S WEBSITE.**

CARRIED UNANIMOUSLY

REPORT

Council will have a portfolio of 110 leases and licenses as of 1 July 2021. This portfolio will comprise of 11 commercial type leases and 99 community leases and licenses (includes 44 licenses transferred from the Great Southern Rail Trail Committee of Management). An Indicative Schedule of Community Type Leases/Licences by General Category is included in Attachment [2.4.3].

The Current Policy **Attachment [2.4.1]** was due for revision in 2018 in accordance with the Corporate Policy Timetable. This revision was delayed for various reasons outlined in the Executive Summary.

Overview of Proposed Changes

An overview of the proposed changes to the Current Policy is discussed below with references to the relevant page in the Revised Policy.

1. Policy Objective

Proposed change:

A general recognition of requirements for community engagement in the *Local Government Act 2020* and Council Plan (p.1).

3. Standardised Documents

Proposed changes:

The lease / license term of no longer than five years for community leases / licenses.

References the *Local Government Act 2020* (p.3).

4. Specified Purpose

Proposed changes:

Stresses the need for the specified purpose of the land for lease / license is clear and unambiguous (p.3).

5. Use of Licenses rather than leases to optimise co-location

The Current Policy has a focus on “leases”. A lease provides an exclusive use for users. This presents a problem when trying to address co-location/sharing of space for users.

Proposed change:

Introduce licenses as the preferred mechanism over a lease to remove the exclusive use issue and ensure Council optimises co-location of services and sharing of space (p.5).

6. Use of other management arrangements

Proposed change:

The Revised Policy introduces the need to assess the most appropriate form of management as part of the process of making a lease/license given the options in the *Local Government Act 2020* (p.5).

7. Maintenance Responsibilities and Capital Improvements

The Current Policy does not fully address the situations of maintenance responsibilities for improvements made after the commencement of a lease or the granting of approval to make improvements, both of which can incur unexpected and ongoing costs to Council.

Proposed changes:

- Agreement to a Maintenance Schedule is made clearer (p.5).
- Approval levels are now proposed (p.6).

8. Signage

The Current Policy is silent on signage. Council is often approached by tenants to erect/install signage on Council's buildings but does not have a basis to form a decision.

Proposed change:

Introduces a position that consent is required (p.6).

9. Delegations to approve and sign leases or licenses

Proposed Change:

Inclusion of a table of approval levels and approvers to clarify staff responsibilities related to approving and signing leases/licenses (p.6).

10. Schedule of Eligibility Criteria for Community – Lease / Licenses

Inclusion of a schedule to make assessment more rigorous and to identify if 'business' from the premises is likely (p.11).

CONSULTATION / COMMUNITY ENGAGEMENT

Consultation will occur with the tenant(s) as and when current leases or licences expire and when new leases or licenses are entered into in accordance with the Revised Policy.

RESOURCES / FINANCIAL VIABILITY

The proposed Revised Policy will be more resource intensive in the short-term whilst managing the changes and transition, but the effect on the Council budget is not considered material.

RISKS

The introduction of the proposed Revised Policy will not affect tenants and licensees during the current term of their lease / license. The changes will be introduced as and when current leases expire and new leases or licenses are entered into.

Without the appropriate policies and procedures in place, Council is exposed to the risk of users not being aware of their permitted use and associated obligations and responsibilities. This has an impact to Council resulting in increased maintenance costs, equity of access, and managing non-compliance with lease obligations.

The proposed changes also ensure that any new leases and licenses accords with relevant legislation including 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. Leasing Policy (C62) - May 2014 (Current) [2.4.1 - 18 pages]
2. Leasing Policy (C62) - June 2021 (Revised) [2.4.2 - 16 pages]
3. Indicative Schedule of Community Leases - By General Category [2.4.3 - 1 page]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 4. Structure, Systems & Policies

Council Policy / Strategy / Plans

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

Community Engagement Policy (C06)

Community Engagement Principles and Procedures

Leasing Policy (C62)

Public Transparency Policy (C75)

Social Community and Economic Infrastructure Blueprint

Legislative Provisions

Aboriginal Heritage Act 2006 (Vic)

Coastal Management Act 1995 (Vic)

Crown Land (Reserves) Act 1978 (Vic)

Crown Land Leasing Policy Victoria 2010

Forests Act 1958 (Vic)

Freedom of Information Act 1982

Land Act 1958 (Vic)

Local Government Act 1989

Local Government Act 2020 (Vic) s115 and s116

Native Title Act 1993 (Cth)

Planning and Environment Act 1997 (Vic)

Residential Tenancies Act 1997 (Vic)

Retail Leases Act 2003 (Vic)

Retail Leases Regulations 2003 (Vic)

Traditional Owner Settlement Act 2010 (Vic)

Transport Integration Act 2010 (Vic)

3. OBJECTIVE 4 - CUSTOMER FOCUSED ORGANISATION

3.1. POLICY REVOCATION: PUBLIC PARTICIPATION IN MEETINGS WITH COUNCIL (C65)

Performance & Innovation

Council Plan

Objective 4 - Customer Focused Organisation - Strategy 4.1 Engage the community in developing strategic plans and decision making and Strategy 4.2 Review and implement Council plans, policies and practices aligned with the Local Government Act 2020 and the Commission of Inquiry recommendations and Strategy 4.4 Build on leadership, governance, financial sustainability, shared values and cultural capabilities within the organisation

The Public Participation in Meetings with Council Policy (C65) has been reviewed as part of the suite of Council policies. Recent changed organisational approaches have been made to the framework and structure of Council meetings and briefings as part of the good governance reforms required by the Commission of Inquiry's recommendations into South Gippsland Shire Council. These new approaches now enable Administrators and future Councillors to engage more broadly with community members across the Shire.

This review has identified that the Policy may be revoked, due to extensive duplication between the current Policy and the Governance Rules.

EXECUTIVE SUMMARY

The purpose of this report is for Council to consider revoking the *Public Participation in Meetings with Council Policy (C65)* (the Policy) contained in **Attachment [3.1.1]**.

A review of the Policy has determined that recent changes introduced have created meaningful and engaging opportunities for community members to interact with Councillors through 'Community Days', now held on the fourth week of each month. Further, opportunities to speak to planning matters or submissions on specific matters are being provided, as required. These changes embrace the means for a broader cross-section of the community to be involved in discussions with Councillors.

The *South Gippsland Shire Council - Governance Rules (C82)* (Governance Rules) have also been adopted in the past year. The review identified a significant overlap between the Policy and the Rules, particularly for questions to Council Meetings and petitions.

In considering all of these changes, it is proposed the Policy can be revoked and managed appropriately through the Governance Rules, the Mayor's roles and powers in chairing meetings and general instructions on Council's website to assist community members or groups seeking to engage with Councillors.

RECOMMENDATION

That Council:

1. Notes a review of the *Public Participation in Meetings with Council Policy* (C65) has been undertaken as part of the good governance reforms required by the Commission of Inquiry's recommendations for South Gippsland Shire Council;
2. Revokes the *Public Participation in Meetings with Council Policy* (C65) – December 2019 and removes it from Council's website; and
3. Notes that general instructions for community members to engage with Council through questions to Council meetings, lodging petitions and Community Days, will be provided on Council's website.

MOVED: Administrator Brown

SECONDED: Administrator Zahra

THAT COUNCIL:

1. **NOTES A REVIEW OF THE *PUBLIC PARTICIPATION IN MEETINGS WITH COUNCIL POLICY* (C65) HAS BEEN UNDERTAKEN AS PART OF THE GOOD GOVERNANCE REFORMS REQUIRED BY THE COMMISSION OF INQUIRY'S RECOMMENDATIONS FOR SOUTH GIPPSLAND SHIRE COUNCIL;**
2. **REVOKES THE *PUBLIC PARTICIPATION IN MEETINGS WITH COUNCIL POLICY* (C65) – DECEMBER 2019 AND REMOVES IT FROM COUNCIL'S WEBSITE; AND**
3. **NOTES THAT GENERAL INSTRUCTIONS FOR COMMUNITY MEMBERS TO ENGAGE WITH COUNCIL THROUGH QUESTIONS TO COUNCIL MEETINGS, LODGING PETITIONS AND COMMUNITY DAYS, WILL BE PROVIDED ON COUNCIL'S WEBSITE.**

CARRIED UNANIMOUSLY

REPORT

During their term, the Administrators have been actively seeking to streamline and simplify Council policies through process and policy reviews, as part of the suite of reforms addressing the recommendations in the *Report of the Commission of Inquiry Report into South Gippsland Shire Council – 2019*.

In relation to this Policy, the Administrators have actively sought to create new meaningful opportunities and greater flexibility for community members to interact with themselves and future Councillors. A range of changes have been introduced in the past three months, including:

1. **Community Days** - now form part of the regular scheduling program on the fourth week of each month. These days pursue a much broader community-connected approach by taking Administrators/Councillors out to meet with the community, rather than requiring the community come in to present to them. Activities on these days may involve site visits, workshops, presentations or a combination of these types of activities.

Within this change, community members are encouraged to submit an Expression of Interest (EOI) if they wish to request a meeting with Administrators/Councillors.

Arrangements for these days will be tailored to best suit the topics, areas of interest, currency or relevance of the matters and the achievement of Council's strategic directions and outcomes. EOI requests will be considered and managed appropriately within this context.

2. Advisory Groups have been established for various strategic services of Council. New groups formed are currently supporting Council to consider important future economic, tourism and community infrastructure requirements;
3. Opportunities for submitters to speak to specific planning or other formal engagement matters are being provided for submitters at appropriate stages in the development process and prior to decisions being made. This approach aims to achieve more informed decision-making. These are scheduled as required;
4. Various consultation activities continue to be held in the development of various strategies, plans and policy directions. These are advertised widely and individuals are encouraged to provide their thoughts and opinions at various stages within the project.

It is considered that greater flexibility for these community interacting activities can continue to be developed and adapted without the specific constraints of a formal policy position. General information provided on Council's website can provide the required advice to community members or groups interested in submitting an EOI.

The Policy was last reviewed and adopted in December 2019. Since that date the new *Local Government Act 2020* (Act) has commenced, providing clearly defined roles and powers for the Mayor and Chief Executive Officer (CEO). These roles and powers address many components that are also covered within this Policy.

Council has also adopted the *Governance Rules (C82)* and the revised meeting procedure *Local Law No.2 2020* (Local Law) since December 2019. These two documents contain clear direction to Council for managing community questions to Council Meetings, petitions, and the role and responsibilities of the Mayor as Chair and the CEO for Council and Committee meetings.

The review considered that many parts of the Policy are either duplicated or superseded through the Act, the Governance Rules and the Local Law. The Mayor and CEO will be able to adequately manage meeting requirements and interactions with the members of the public through these legislative and policy provisions and organisational processes to enact them.

The consideration of all of these changes has led to recommendation that the Policy should now be revoked.

CONSULTATION / COMMUNITY ENGAGEMENT

The Policy review was discussed with Administrators at the 12 May 2021 Strategic Briefing session.

RESOURCES / FINANCIAL VIABILITY

Budget requirements for the changed practices have been factored into the Proposed 2021/22 Annual Budget for the Community Days.

RISKS

The risks are considered minimal if the Policy is revoked, as the core elements of the Policy are addressed by powers given to the Mayor and CEO under the Act and clauses within the Governance Rules and the Local Law. Information is available on Council's website to assist community members to submit expressions of interest to meet with Council, submit questions to Council meetings or submit a petition.

There are many other means by which community members regularly interact with Council. They are not limited to the opportunities outlined in this report.

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. Revoke - Public Participation in Meetings with Council Policy (C65) - June 2021 [3.1.1 - 6 pages]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 3. Decision Making

Pillar 4. Structure, Systems & Policies

Council Policy / Strategy / Plans

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

Public Participation in Meetings with Council Policy (C65)

Community Engagement Strategy

Legislative Provisions

Local Government Act 2020

3.2. INSTRUMENT OF DELEGATION – COUNCIL TO STAFF

Performance & Innovation

Council Plan

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

Council's governance is strengthened by 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 updated Instrument of Delegation to Council Staff (**Attachment [3.2.1]**) to reflect improvements recommended through legal advice and positional changes to Council's Organisational Structure.

RECOMMENDATION

That Council resolves that, in the exercise of the powers conferred by s.11(1) of the *Local Government Act 2020* and the other legislation referred to in the attached Instrument of Delegation (Instrument of Delegation) Council to Members of Staff (Attachment [3.2.1]):

1. There be delegated to the members of Council staff holding, acting in or performing the duties of the officers or positions referred to in (Attachment [3.2.1]) the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument of Delegation;
2. The Instrument of Delegation (Attachment [3.2.1]) to staff comes into force immediately that the common seal of Council is affixed to the Instrument of Delegation;
3. On the coming into force of the Instrument of Delegation (Attachment [3.2.1]) all previous delegations from Council to members of Council staff (other than the Instrument of Delegation to the Chief Executive Officer) are revoked; and
4. The duties and functions set out in the Instrument of Delegation (Attachment [3.2.1]) must be performed, and the powers set out in the Instrument of Delegation must be executed, in accordance with any guidelines or policies that Council may adopt.

MOVED: Administrator Brown

SECONDED: Administrator Zahra

THAT COUNCIL RESOLVES THAT, IN THE EXERCISE OF THE POWERS CONFERRED BY S.11(1) OF THE *LOCAL GOVERNMENT ACT 2020* AND THE OTHER LEGISLATION REFERRED TO IN THE ATTACHED INSTRUMENT OF DELEGATION (INSTRUMENT OF DELEGATION) COUNCIL TO MEMBERS OF STAFF (ATTACHMENT [3.2.1]):

- 1. THERE BE DELEGATED TO THE MEMBERS OF COUNCIL STAFF HOLDING, ACTING IN OR PERFORMING THE DUTIES OF THE OFFICERS OR POSITIONS REFERRED TO IN (ATTACHMENT [3.2.1]) THE POWERS, DUTIES AND FUNCTIONS SET OUT IN THAT INSTRUMENT, SUBJECT TO THE CONDITIONS AND LIMITATIONS SPECIFIED IN THAT INSTRUMENT OF DELEGATION;**
- 2. THE INSTRUMENT OF DELEGATION (ATTACHMENT [3.2.1]) TO STAFF COMES INTO FORCE IMMEDIATELY THAT THE COMMON SEAL OF COUNCIL IS AFFIXED TO THE INSTRUMENT OF DELEGATION;**
- 3. ON THE COMING INTO FORCE OF THE INSTRUMENT OF DELEGATION (ATTACHMENT [3.2.1]) ALL PREVIOUS DELEGATIONS FROM COUNCIL TO MEMBERS OF COUNCIL STAFF (OTHER THAN THE INSTRUMENT OF DELEGATION TO THE CHIEF EXECUTIVE OFFICER) ARE REVOKED; AND**
- 4. THE DUTIES AND FUNCTIONS SET OUT IN THE INSTRUMENT OF DELEGATION (ATTACHMENT [3.2.1]) MUST BE PERFORMED, AND THE POWERS SET OUT IN THE INSTRUMENT OF DELEGATION MUST BE EXECUTED, IN ACCORDANCE WITH ANY GUIDELINES OR POLICIES THAT COUNCIL MAY ADOPT.**

CARRIED UNANIMOUSLY

REPORT

The allocation of delegations to the Chief Executive Officer or other employees contributes to the effective functioning of Council. It is important to update delegations to reflect changes in personnel/legislation and improvements recommended by legal advisors to ensure decisions made are valid.

The updated Instrument of Delegation (**Attachment [3.2.1]**) consists of the following edits recommended by Maddocks Lawyers:

- Five new provisions: Food Act 1984;
- Seven changed provisions: *Residential Tenancies Act 1997* was changed, and minor edits were made to better express existing delegations; and
- One deleted provision: from the Local Government Act 1989.

RISKS

Failure to update an Instrument of Delegation (**Attachment [3.2.1]**) could result in the decisions of delegated Officers being declared invalid or unenforceable.

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. S6 Instrument of Delegation Members of Staff 16 June 2021 [**3.2.1** - 123 pages]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 3. Decision Making

Legislative Provisions

Food Act 1984

Local Government Act 1989

Local Government Act 2020

Residential Tenancies Act 1997

3.3. INSTRUMENT OF APPOINTMENT AND AUTHORISATION - PLANNING AND ENVIRONMENT ACT 1987

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 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 new staff members: Dekodah Brewer, Peter Connell, Sue-Anne Harmer, Caitlin Howard and for Director Sustainable Infrastructure Anthony Seabrook under the *Planning and Environment Act 1987*.

RECOMMENDATION

That Council resolves that, in the exercise of the powers conferred by s.224 of the *Local Government Act 1989* and the other legislation referred to in the attached Instruments of Appointment and Authorisation (Attachments [3.3.1] [3.3.2.] [3.3.3] [3.3.4.] [3.3.5] Instruments of Appointment and Authorisation) Council to Staff under the *Planning and Environment Act 1987*:

1. The members of Council staff referred to in the Instruments of Appointment and Authorisation be appointed and authorised as set out in the instruments;
2. The Instruments of Appointment and Authorisation come into force⁴ immediately when the common seal of Council is affixed to the instruments 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; and
3. The Instruments of Appointment and Authorisation be sealed.

MOVED: Administrator Zahra

SECONDED: Administrator Brown

THAT COUNCIL RESOLVES THAT, IN THE EXERCISE OF THE POWERS CONFERRED BY S.224 OF THE *LOCAL GOVERNMENT ACT 1989* AND THE OTHER LEGISLATION REFERRED TO IN THE ATTACHED INSTRUMENTS OF APPOINTMENT AND AUTHORISATION (ATTACHMENTS [3.3.1] [3.3.2.] [3.3.3] [3.3.4.] [3.3.5] INSTRUMENTS OF APPOINTMENT AND AUTHORISATION) COUNCIL TO STAFF UNDER THE *PLANNING AND ENVIRONMENT ACT 1987*:

- 1. THE MEMBERS OF COUNCIL STAFF REFERRED TO IN THE INSTRUMENTS OF APPOINTMENT AND AUTHORISATION BE APPOINTED AND AUTHORISED AS SET OUT IN THE INSTRUMENTS;**
- 2. THE INSTRUMENTS OF APPOINTMENT AND AUTHORISATION COME INTO FORCE IMMEDIATELY WHEN THE COMMON SEAL OF COUNCIL IS AFFIXED TO THE INSTRUMENTS 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; AND**
- 3. THE INSTRUMENTS OF APPOINTMENT AND AUTHORISATION BE SEALED.**

CARRIED UNANIMOUSLY

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.

New Instruments are presented for adoption for new employees (Dekodah Brewer, Peter Connell, Sue-Anne Harmer, Caitlin Howard) recently recruited to positions within the Planning Services department. A new Instrument is also required for Director Sustainable Infrastructure Anthony Seabrook enabling Anthony to act as Director Economic and Community Development when necessary. The five Instruments are contained in **Attachments [3.3.1]; [3.3.2.] [3.3.3]; [3.3.4.] and [3.3.5].**

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: www.southgippsland.vic.gov.au

1. S11A Instrument of Appointment - P&E Act 1987 - Director Infrastructure Sustainability - June 2021 [3.3.1 - 1 page]
2. S11A Instrument of Appointment - P&E Act 1987 - Caitlin Howard - June 2021 [3.3.2 - 1 page]
3. S11A Instrument of Appointment - P&E Act 1987 - Dekodah Brewer - June 2021 [3.3.3 - 1 page]
4. S11A Instrument of Appointment - P&E Act 1987 - Peter Connell - June 2021 [3.3.4 - 1 page]
5. S11A Instrument of Appointment - P&E Act 1987 - Sue Anne Harmer - June 2021 [3.3.5 - 1 page]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 3. Decision Making

Legislative Provisions

Local Government Act 1989

Local Government Act 2020

Planning and Environment Act 1987

3.4. SUMMARY OF STRATEGIC BRIEFINGS TO ADMINISTRATORS - 13 APRIL - 12 MAY 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*, 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 April and 12 May 2021.

RECOMMENDATION

That Council receives and notes this report.

MOVED: Administrator Brown

SECONDED: Administrator Zahra

THAT COUNCIL RECEIVES AND NOTES THIS REPORT.

CARRIED UNANIMOUSLY

REPORT

Meeting Title	Details
Wednesday 14 April 2021	
Agenda Topic Discussion – Council Meeting 21 April 2021	Administrators Attending: Julie Eisenbise, Rick Brown Conflict of Interest: Nil disclosed
Planning Scheme Amendment C124 Rezone Council Land	Administrators Attending: Julie Eisenbise, Rick Brown Conflict of Interest: Nil disclosed
Community Engagement Strategy	Administrators Attending: Julie Eisenbise, Rick Brown Conflict of Interest: Nil disclosed
West Gippsland Regional Library Corporation	Administrators Attending: Julie Eisenbise, Rick Brown Conflict of Interest: Nil disclosed
Policy Reviews	Administrators Attending: Julie Eisenbise, Rick Brown Conflict of Interest: Nil disclosed Policy Reviews: <ul style="list-style-type: none"> • Pandemic Rates & Hardship Policy (C81) • Councillor Self-Assessment Policy (C84) • Policy Framework Policy (C72) • Councillor Standing as State or Federal Candidate Policy (C74) • Human Rights Policy (C52) • Fraud and Corrupt Conduct Policy (C19)
Wednesday 21 April 2021	
Agenda Topic Discussion – Council Meeting 21 April 2021	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: Nil disclosed

Meeting Title	Details
Wednesday 5 May 2021	
Community Leadership Program	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: Nil disclosed
Economic Development and Visitor Economy Strategies	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: Nil disclosed
Priority Projects and Roads for Advocacy	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: Nil disclosed
Policy Review – Leasing Policy (C62)	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: Nil disclosed
Wednesday 12 May 2021	
Agenda Topic Discussion – Council Meeting 19 May 2021	Administrators Attending: Julie Eisenbise, Rick Brown Conflict of Interest: Nil disclosed
Policy Review – Public Participation in Meetings with Council Policy (C65)	Administrators Attending: Julie Eisenbise, 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 - 17 APRIL TO 14 MAY 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 17 April to 14 May 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.

MOVED: Administrator Zahra

SECONDED: Administrator Brown

THAT COUNCIL RECEIVES AND NOTES THIS REPORT.

CARRIED UNANIMOUSLY

REPORT

Documents Sealed

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

Use of the Local Law No. 2 2020, Part 9, clause 107(f)(iv) – Common Seal of Council, states that if the Chief Executive 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 17 April to 14 May 2021.

1. Section 173 Agreement between South Gippsland Shire Council and the owner of 6 Sandy Point Road Sandy Point in relation to Use and develop land with single dwelling and domestic outbuilding and create or alter access to a Road Zone Category 1. Seal applied 28 April 2021.
2. Section 173 Agreement between South Gippsland Shire Council and the owner of 22 Satellite Crescent Venus bay in relation to a develop land with a dwelling. Seal applied 5 May 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.

2. Contracts awarded by Council after a public tender process, signed by the CEO between 17 April to 14 May 2021.

- a. CON/282 for the Laptop Fleet Replacement was awarded to Computer System Australia Pty Ltd. Signed by the CEO 22 April 2021.
3. Contracts awarded after a public tender process within the CEO's delegation between 17 April to 14 May 2021.
 - a. Nil
4. Contract variations approved by the CEO between 17 April to 14 May 2021.
 - a. Nil
5. Contract extensions approved by the CEO between 17 April to 14 May 2021.
 - 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: 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

4.1. NIL

5. ADMINISTRATOR REPORTS

5.1. REQUESTS FOR LEAVE OF ABSENCE

Nil

5.2. ADMINISTRATORS UPDATES

Administrator Chair, Julie Eisenbise addressed Council by reporting that attendance meetings has mostly been online. Administrator Eisenbise also relayed that many phone calls have been made to a number of groups throughout the Shire in respect of the recent weather and encouraged the community to contact Council should they need support.

5.3. COMMITTEE UPDATES

Nil

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.

Nil

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.

Nil

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.

Mr Lindsay Love submitted written questions and responses are provided in these Minutes.

Question 1

Can Council please advise what number of council staff are currently involved in park operations [Council Caravan Parks] including at Council office as well as at each site?

Response

Tourism is seasonal, and this can be reflected in the occupancy within Council's Caravan Park's over a 12 month period. In the quieter winter months, occupancy is generally less, resulting in less staff, and during the peak summer season, additional staff is required to maintain a high level of customer service to cater for increased visitors. There is one caravan park Caretaker at each site, and they ensure that adequate staff are on site throughout the year to cater for the fluctuating visitation.

Question 2

Can Council advise how many staff will be made redundant?

Response

Council is currently undertaking a tender process and will address all operational issues throughout that process. It is not possible to answer this question until this process is complete.

Question 3

Will Council make available output reports from these advisory committees [Economic Development and Visitor Economy Committees] prior to August 2021 and the subsequent Council elections?

Response

The Draft Economic Development and Visitor Economy Strategies have been informed by extensive community engagement throughout April, May and June 2021 with business and community groups, industry leaders and members of the community already having provided significant input. The Draft Strategies will be considered at the Council Meeting of 23 June 2021 for release as draft documents for final community feedback.

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.

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)(f) Agenda item 10.1, designated as personal information,
 - a. being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;
 - b. the designation is made to protect the privacy of applicants and organisation information.

2. Per s.3(1)(g) Agenda items 10.2, 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 designation is made as the information is deemed commercial-in-confidence to protect the privacy of the contractors, tender scores, and tendered amounts submitted for consideration.

MOVED: Administrator Zahra

SECONDED: Administrator Brown

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)(F) AGENDA ITEM 10.1, DESIGNATED AS PERSONAL INFORMATION,**
 - a. **BEING INFORMATION WHICH IF RELEASED WOULD RESULT IN THE UNREASONABLE DISCLOSURE OF INFORMATION ABOUT ANY PERSON OR THEIR PERSONAL AFFAIRS;**
 - b. **THE DESIGNATION IS MADE TO PROTECT THE PRIVACY OF APPLICANTS AND ORGANISATION INFORMATION.**

2. **PER S.3(1)(G) AGENDA ITEMS 10.2, 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 DESIGNATION IS MADE AS THE INFORMATION IS DEEMED COMMERCIAL-IN-CONFIDENCE TO PROTECT THE PRIVACY OF THE CONTRACTORS, TENDER SCORES, AND TENDERED AMOUNTS SUBMITTED FOR CONSIDERATION.**

CARRIED UNANIMOUSLY

9. MEETING CLOSED

NEXT MEETING

The next Council Meeting open to the public will be held virtually (online) on Wednesday, 23 June 2021 commencing at 1pm.

The Council Meeting closed at 1.32pm.

Confirmed this

21st day of July 2021.

Administrator Chair, Julie Eisenbise