

SOUTH GIPPSLAND SHIRE COUNCIL

# Council Meeting Agenda

21 July 2021

**Council Meeting No. 461**  
**Council Chambers, Leongatha**  
**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

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## SOUTH GIPPSLAND SHIRE COUNCIL

Notice is hereby given that Council Meeting No. 461 of the South Gippsland Shire Council will be held on Wednesday 21 July 2021 in the Council Chambers, Leongatha commencing at 1.00pm.

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**Kerryn Ellis**  
**Chief Executive Officer**

## 1. PRELIMINARY MATTERS

### 1.1. LIVE-STREAMING COUNCIL MEETING DISCLAIMER

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

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

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

Thank you

### 1.2. WELCOME

Please ensure Mobile phones remain 'off' during the Council Meeting.

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

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

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

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

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

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

### **1.3. OPENING PRAYER**

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

Amen

### **1.4. ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS**

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 Council confirm the Minutes of the South Gippsland Shire Council Meetings, held on:

1. 23 June 2021 in the Council Chambers, Leongatha; and
2. 14 July 2021 conducted virtually (online) in a closed confidential session.

## 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](http://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](http://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 ITEM 4.7 POLICY REVIEW: CHIEF EXECUTIVE OFFICER EMPLOYMENT & REMUNERATION POLICY (C71), as the Policy relates directly to her role.



## **2. OBJECTIVE 2 - ECONOMIC PROSPERITY**

### **2.1. ECONOMIC DEVELOPMENT AND VISITOR ECONOMY STRATEGIES 2021 - 2031**

Economic & Community Development

#### **Council Plan**

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

*Presentation of the Economic Development and Visitor Economy Strategies by 30 June 2021 are Council Plan Annual Initiatives for 2020/21.*

#### **EXECUTIVE SUMMARY**

This report presents the *Economic Development Strategy 2021-2031 (Attachment [2.1.1])* and the *Visitor Economy Strategy 2021-2031 (Attachment [2.1.2])* (The Strategies) for final adoption at Council.

The Strategies are listed in the Council Plan 2020-2024 amongst the 2021/22 Annual Initiatives.

It states:

*"Draft Economic Development Strategy presented to Council for adoption by 30 June 2021"; and*

*"Draft Tourism Strategy presented to Council for adoption by 30 June 2021"*

The adoption of the Strategies is the culmination of extensive research, consultation and engagement, and development. Their implementation marks the start of a new phase of economic and tourism development in South Gippsland.

#### **RECOMMENDATION**

**That Council:**

- 1. Adopts the Economic Development Strategy 2021-2031, Attachment [2.1.1] and the Visitor Economy Strategy 2021-2031, Attachment [2.1.2];**
- 2. Notes the next steps in the implementation of the Economic Development and Visitor Economy Strategies;**
- 3. Writes to all submitters to the Economic Development and Visitor Economy Strategies to thank them for their submission to this process;**

4. **Commences the process to establish an Implementation Leadership Group that includes public representation, to guide the Strategies implementation over the longer term; and**
5. **Receives a future report by 30 June 2022 on implementation actions of the Economic Development and Visitor Economy Strategies.**

## **REPORT**

This report is presented to Council to consider the adoption of the *Economic Development Strategy 2021-2031* and the *Visitor Economy Strategy 2021-2031* (the Strategies). It provides context on their development, the consultation and engagement process, feedback from the public exhibition period, and the commencement of implementation.

The Strategies are listed in the Council Plan 2020-2024 amongst the 2021/22 Annual Initiatives.

It states:

*“Draft Economic Development Strategy presented to Council for adoption by 30 June 2021”; and*

*“Draft Tourism Strategy presented to Council for adoption by 30 June 2021”*

The adoption of the Strategies is the culmination of extensive research, consultation and development. It also marks the start of a new phase to commence their implementation.

The Strategies are designed to achieve Council’s vision to create a thriving, diverse and sustainable local economy, built on our region’s natural advantages.

They are deliberately action-focussed and each is built around Six Strategic Themes to maximise the positive impacts in the most practical ways.

For the Economic Development Strategy, they are:

1. Attracting and retaining investment
2. Supporting enabling infrastructure
3. Developing key industry sectors
4. Building partnerships
5. Increasing capability

6. Enhancing towns and main streets

For the Visitor Economy Strategy, they are:

1. Increasing marketing and promotion
2. Supporting visitor economy infrastructure
3. Diversifying and expanding products and experiences
4. Enhancing visitor servicing
5. Building partnerships
6. Providing business development and support

The Strategies take a people-centric approach that include Council's interaction with investors, businesses, and the community. In doing so, Council is also addressing its intention to improve customer service, liveability and sustainability within the Shire. This approach seeks to also improve the visitor experience, and the capability of local businesses and workers to grow the economy together.

***Development Process***

Council has developed the Strategies in consultation with the Economic Development and Visitor Economy Strategy Advisory Groups (the Groups). The Groups include highly skilled and knowledgeable experts who have provided key strategic support into the Strategies. This work has been supported by an extensive consultation and engagement campaign that ensured the community; including residents, visitors, and other stakeholder; could provide input to help define the strategic direction for South Gippsland.

**Strategy Implementation**

Both Strategies include Action Plans which will now be developed into an Annual Action Plan. These will include detailed budgets and timelines.

It is intended to commence the implementation immediately, and meetings of the Economic Development Strategy Advisory Committee (EDSAG) and Visitor Economy Strategy Advisory Group (VESAG) will be convened to consider the immediate priorities.

***Gender Impact Assessments***

The Victorian Government has recently introduced a requirement for gender impact assessments for new policies, programs and services that directly and

significantly impact the public. As the Strategies fall within this scope, Officers have commenced the process to prepare the assessments. A future Council report will be presented regarding the assessments and the methods to promote equality through the Action Plans.

## **CONSULTATION / COMMUNITY ENGAGEMENT**

### ***Advisory Groups***

The Strategies were prepared in consultation with two Advisory Groups, the Economic Development Strategy Advisory Group (EDSAG) and Visitor Economy Strategy Advisory Group (VESAG). The Advisory Groups are comprised of seven independent members in each group including a Chair, as well as one member of Council's Executive Leadership Team.

The Advisory Groups were appointed for their high level of specialist skills, knowledge and expertise by Council at the 26 August 2020 Council Meeting.

Formal meetings of the Advisory Groups and extensive liaison with Administrators and staff throughout the process has been held to discuss the development of the Strategies. Lead government and tourism agencies have also presented to the Advisory Groups.

### ***External Consultation***

Council has undertaken a range of consultation and engagement activities since 2019, and these concluded in May 2021.

As part of the public consultation and engagement process it is to be noted that submissions to the *Draft Recreational Vehicle (RV) and Camping Position paper (Draft Paper) 2019* were included in the development of the Visitor Economy Strategy. 19 Submissions on this Draft Paper were received from January until February 2019 and submitters were informed by email that their submissions would be considered in the Visitor Economy Strategy development process.

Council undertook an extensive consultation and engagement process that commenced in March 2021 and concluded in May 2021. A press release was circulated at the commencement of this period, and extensive promotion continued throughout on Council's communication platforms.

Nearly 400 pieces of feedback were collected via various communication methods, and these were also distributed to peak bodies, government agencies and strategic partners.

Workshops included the advisory groups, local business associations, specific industry/business, and relevant Council departments.

Communication platform Social Pinpoint allowed businesses and the community to share their ideas on our economic strengths, issues and opportunities via questionnaires, an interactive map and ideas wall.

The feedback received during consultation will continue to be used to inform the implementation process.

### ***Public Exhibition***

Both Draft Strategies were presented to Council at its meeting of 23 June 2021. It was resolved by Council to place the Draft Strategies on public exhibition for two weeks following the Council Meeting, from 23 June 2021 until 7 July 2021.

This public exhibition process was widely promoted through a range of methods including: a media release, direct notification to all previous submitters, Council's Business newsletter, and on Council's website.

12 submissions (refer **Confidential Attachment [12.1.1]**) were received during that period and they included support for key elements of the Strategies around improved marketing, the artisan food sector, rural economic development practice, electric vehicle charging, Community Wealth Building, and main street development.

There was a theme in a number of the submissions seeking greater emphasis on climate change response and the low carbon economy. There were some concerns over extractive industry development, and others seeking planning to improve development in Leongatha. There were submissions relating to specific projects that submitters believe should have been included, notably some tourism projects and a conservation project. There was a request for a stronger emphasis on Wilsons Promontory, and clarification of destination branding and roles and responsibilities.

### **Changes from the Exhibited Strategies**

Amendments have been incorporated into the final Strategies following the public exhibition process. These include, a strengthened emphasis on climate change, changes in the Action Plans related to marketing, branding and main street projects. There were design, wording, photography and layout changes to improve the appearance of the documents, and an executive summary was also included in each document.

Many of the other issues raised in the submissions will be addressed through defined projects included in the Action Plan, specifically related to investment attraction, tourism product development, Circular Economy, and structure planning for the larger town centres.

The Strategies are designed to work in cooperation with other Council and regional plans and strategies. This includes Council's Sustainability Strategy, which is also being prepared, and will allow the climate change and low carbon economy issues to be addressed in more detail.

## **RESOURCES / FINANCIAL VIABILITY**

The development of the Strategies is a current Council priority and resourced in the 2021/22 Annual Budget and is a current 2020-2024 Council Plan Annual Initiative.

## **RISKS**

Development and implementation of the Strategies allows Council to plan for and mitigate against the risks to our economy into the future. The Strategies have been developed with the flexibility to create a responsive approach to the economic, natural and policy changes that will occur over the next 10 years.

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

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

## **ATTACHMENTS**

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

1. Economic Development Strategy 2021-2031 [2.1.1 - 19 pages]
2. Visitor Economy Strategy 2021-2031 [2.1.2 - 20 pages]

## **REFERENCE DOCUMENTS**

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

Pillar 1. Direction & Leadership

Pillar 2. Culture & Behaviour

Pillar 3. Decision Making

Pillar 4. Structure, Systems & Policies

Pillar 5. Communications & Community Engagement

Pillar 6. Capability

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

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

Annual Budget

Community Engagement Policy (C06)

Community Engagement Strategy

Community Strengthening Strategy

Council Plan 2020-2024

Economic Development and Tourism Strategy

South Gippsland's Good Governance Framework

### **Legislative Provisions**

Local Government Act 1989

Local Government Act 2020

Local Government Act 2020, s.9(c) - the economic, social and environmental sustainability of the municipal district, is to be promoted

### **Regional, State and National Plan and Policies**

Connecting Regional Victoria 2016

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

Gippsland Food Plan, March 2014

Gippsland Freight Strategy 2013

Gippsland Regional Growth Plan, State Government Victoria

Gippsland Regional Plan 2020-2025

Gippsland Track & Trails Feasibility Study

## **2.2. NEW FORMAT LOCAL PLANNING POLICY – STATE GOVERNMENT SMART PLANNING AMENDMENT**

Economy & Community

### **Council Plan**

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

*The policy neutral reformatted provisions of the South Gippsland Planning Scheme will simplify the current planning scheme and create efficiencies in use and provide clearer direction for those using the planning scheme.*

### **EXECUTIVE SUMMARY**

As part of the State Government's Smart Planning initiative all Victorian planning schemes are required to be brought into compliance with a new format that changes how planning policy is structured. Translation to the new format (commonly known as the Planning Policy Framework – PPF) is largely a procedural exercise that standardises the language and terminology used in schemes, relocates text and updates maps and graphics to standard formats. The PPF will assist the planning system to go fully online and greatly improve it overall usability.

Translation of Victoria's planning schemes to the new format is occurring in batches. The South Gippsland Planning Scheme (SGPS) has now been completed and the next step is to introduce the new provisions into the SGPS by Ministerial planning scheme amendment. The new provisions are policy neutral (no change to the overarching Vision, Objectives or Strategies of the current planning scheme) and will be introduced without public consultation. To date, 18 planning schemes across the State have been updated by Ministerial Amendment.

### **RECOMMENDATION**

**That Council:**

- 1. Supports the restructuring of the South Gippsland Planning Scheme as proposed by the Department of Environment, Land, Water and Planning in accordance with the provisions in Attachment [2.2.1]; and**
- 2. Consents under Section 20(5) of the Planning and Environment Act 1987 (the Act) to the Minister for Planning preparing and approving an amendment to the South Gippsland Planning Scheme without exhibition under Section 20(4) of the Planning and Environment Act 1987 to approve the revised planning scheme format.**



## **REPORT**

The PPF translation is the most significant change to the format of planning schemes since the creation of the current format in 1997. The aim of the existing system was to move planning decision making away from zones and overlays and towards policy, allowing for more nuanced and 'local area specific' decision making. These aims worked, however over time it has resulted in cases of planning schemes developing excessive, repetitive, unenforceable and sometimes inconsistent local policies. The SGPS share some of these issues. For example, the heritage provisions of the SGPS are currently split across four separate policy areas and the local provisions repeat many of the State provisions. In the new PPF format all the key heritage policies will be located together and the repetition removed.

The clustering of policy issues into specific areas is a key benefit of the PPF. Each key policy area will commence with the state-wide policy, then the regional policy and then the local policy. The challenge of the translation process has been to reformat the key policy statements Council wants to retain in the new format having regard to the tightly controlled structure (called Form and Content) that guides the process. Four draft versions were required to achieve the agreed version detailed in **Attachment [2.2.1]**.

In addition to the clustering of policy areas, the process also translates the Municipal Strategic Statement (MSS) into a new format called the Municipal Planning Strategy (MPS). The translation reduces the size of the current MSS and ensures that the statements made in the MPS are directly related to a planning policy matter.

It is important to note that an overarching principle of the translation process is that it remains policy neutral. Policy statements have not been added or removed if they change the burden on residents or referral authorities. The translation does not affect planning scheme zones and overlay. Policy neutrality means that a Ministerial amendment can approve the translation without requiring public exhibition.

## **CONSULTATION / COMMUNITY ENGAGEMENT**

No consultation has occurred and none is required. The proposed changes are considered policy neutral and the amendments are being introduced across the state by the Minister for Planning without public consultation.

## **RESOURCES / FINANCIAL VIABILITY**

Nil

## **RISKS**

The new planning scheme provisions are a policy neutral translation of the existing provisions. There are no risks directly related to the transition to the new format planning scheme.

### **STAFF DISCLOSURE**

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

### **ATTACHMENTS**

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

1. Planning Scheme Amendment - Policy Neutral Amendment [2.2.1 - 122 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](http://www.southgippsland.vic.gov.au)*

Council Plan 2020-2024

Open Space Strategy

Paths and Trails Strategy

Rural Land Use Strategy

South Gippsland Heritage Study

South Gippsland Housing and Settlement Strategy

South Gippsland's Good Governance Framework

South Gippsland's Planning Scheme

Town Centre Framework Plans

#### **Legislative Provisions**

Aboriginal Heritage Act 2006

Catchment and Land Protection Act 1994

Country Fire Authority Act 1958

Crown Land (Reserves) Act 1978

Environment Protection Act 1970

Environment Protection Act 1994

Land Acquisition and Compensation Act 1986

Land Act 1958

Marine and Coastal Act 2018

Planning and Environment (Planning Schemes) Act 1996

Planning and Environment Act 1987

Road Management Act 2004

Regional Development Victoria Regulations 2019  
Subdivision Act 1988  
Transfer of Land Act 1960  
Victorian Civil and Administrative Tribunal Rules 2018  
Water Act 1989

**Regional, State and National Plan and Policies**

Connecting Regional Victoria 2016  
Gippsland Regional Growth Plan, State Government Victoria  
Gippsland Regional Plan 2020-2025

## **2.3. WEST GIPPSLAND REGIONAL LIBRARY CORPORATION - ENTITY OPTION REVIEW**

Performance & Innovation

### **Council Plan**

*Objective 2 - Economic Prosperity - Strategy 2.4 Work together with surrounding councils to support regional growth and prosperity*

*The review of Legal Entity by West Gippsland Regional Library Corporation seeks to ensure that the transition to Not-For-Profit (NFP) meets the requirements of the Local Government Act 2020.*

### **EXECUTIVE SUMMARY**

The purpose of this report is to seek Council consideration of the transition of the West Gippsland Regional Library Corporation (WGRLC).

This report outlines the significant due diligence undertaken over the past 18 months for West Gippsland Libraries to transition to a company limited by guarantee, Not-For-Profit (NFP) following changes to *the Local Government Act 2020* (the Act) that came into effect from 1 July 2021. The WGRLC Board has been in discussions about this required change for three years, commencing from a presentation by the then Director Sector Investment of Local Government Victoria.

Board discussions have focused on the best option for WGRLC, which is to transition to a NFP (**Attachment [2.3.3]**). This is substantiated by the Victorian Auditor General's Council Libraries Performance Audit Report 2019 (VAGO Audit Report) that highlighted overall "Library Corporations and Cooperative models are more efficient than standalone Council Libraries".

WGRLC engaged Russell Kennedy Lawyers (RKL) 18 months ago to assist with understanding the requirements of the transition process and advise on how to proceed. RKL were engaged based on their experience in establishing NFP's, on behalf of other Councils. RKL performed a similar formation/transition for the City of Greater Shepparton in 2016/17 when it established a NFP company to grow its Arts Museum.

This decision provided benefits including capitalising on opportunities such as philanthropic donations, private sector funding and innovation. The decision created a strong sense of independence whilst limiting the financial risks facing the Council.

## RECOMMENDATION

**That Council having considered the recommendations from the Board of West Gippsland Regional Library Corporation (WGRLC) and the requirement to restructure regional library corporations as a result of the *Local Government Act 2020 (Vic) (2020 Act)*, resolves as follows:**

- 1. Myli – My Community Library Ltd Establishment: that pursuant to section 110(1) and section 111 of the *Local Government Act 2020* and having assessed the total investment involved and total risk exposure and ensured the total risk exposure does not exceed the total investment and that risk management frameworks are in place, Council:**
  - a. participate in the formation of a beneficial enterprise to be known as, and become a founding member of;**
  - b. Myli – My Community Library Ltd (Company), being:**
    - i. a public company limited by guarantee;**
    - ii. a not-for-profit and charitable institution to be registered with the Australian Charities and Not-for-profits Commission; and**
    - iii. a public library recognised by the Australian Taxation Office; and**
  - c. on the terms of the Myli – My Community Library Ltd constitution circulated to Council and incorporating such other changes as may be agreed by the Company’s founding members (Constitution) provided that Council continues to comply with section 111 of the *Local Government Act 2020* in relation to Council’s involvement in the Company as a beneficial enterprise.**
- 2. Myli – My Community Library Ltd Appointments: that pursuant to section 110(2) and (3) of the *Local Government Act 2020* and the Constitution, Council appoints the following South Gippsland Shire Council persons to the roles set out in the table below and notes the appointments for the Shires of Bass Coast and Baw Baw:**

Role	Appointee(s)	Director Name	Expiry of First Term
Representatives of Council as an ordinary member of the Company: refer to clause 3.3.1 of the Constitution	South Gippsland Shire Council Ordinary Appointed Member	Rick Brown	October 2021
	South Gippsland Shire Council Ordinary Appointed Member	Allison Jones	2025
	Bass Coast Shire Council Ordinary Appointed Member	Councillor Leticia Laing	2023
	Bass Coast Shire Council Ordinary Appointed Member	Jodi Kennedy	2025
	Baw Baw Shire Council Appointed Ordinary Member	Councillor Annemarie McCabe	2023
	Baw Baw Shire Council Appointed Ordinary Member	Martin Hopley	2025
Ordinary Member Appointed Directors appointed by Council: refer to clause 6.1.1 and 6.3 of the Constitution	Independent Director 1	Vacant	N/A
	Independent Director 2	Vacant	N/A
	Independent Director 3	Vacant	N/A

- 3. Library Agreement Novation: Enter into a deed of novation and variation (Novation Deed) in relation to the West Gippsland Regional Library Corporation Agreement dated 22 October 2014 (Library Agreement) which Novation Deed has the effect, in general terms, that on and from 1 July 2022:**
- a. the Library Agreement continues as an agreement between Bass Coast Shire Council, Baw Baw Shire Council, South Gippsland Shire Council and the Company on its current funding and commercial terms (Novated Library Agreement); and**
  - b. in the Novated Library Agreement, provisions are taken to be deleted where equivalent matters are now contained in the Company's Constitution or to the extent the Company is not**

regulated by the *Local Government Act 1989 (Vic)* (1989 Act).  
Without limitation, the following provisions are taken to be deleted:

- i. creation and governance of the West Gippsland Regional Library Corporation board;
  - ii. power of the West Gippsland Regional Library Corporation board to appoint a CEO;
  - iii. Ministerial approval of agreement amendments; and
  - iv. dissolution of West Gippsland Regional Library Corporation as a regional library corporation.
4. The Chief Executive Officer be delegated responsibility to negotiate and execute the Novation Deed.
5. Gift of West Gippsland Regional Library Corporation Assets: That pursuant to section 10 of the *Local Government Act 2020*, Council enter into a gift and transfer deed between Bass Coast Shire Council, Baw Baw Shire Council, South Gippsland Shire Council, West Gippsland Regional Library Corporation and the Company (Gift and Transfer Deed) which provides in general terms, that with effect at 11:59pm on 30 June 2022:
- a. Council is one of the ultimate owners of West Gippsland Regional Library Corporation, and is therefore one of the ultimate owners of West Gippsland Regional Library Corporation's business, assets and liabilities;
  - b. in order to restructure West Gippsland Regional Library Corporation and replace it with the Company, Council wishes to gift Council's interests in West Gippsland Regional Library Corporation, and therefore Council's interests in West Gippsland Regional Library Corporation's business, assets and liabilities, to the Company (except that any transfer of land will be subject to West Gippsland Regional Library Corporation following the procedure in section 189 of the *Local Government Act 1989* (as applicable under section 330 of the *Local Government Act 2020*);
  - c. so as to give effect to Council's gift, Council directs and authorises West Gippsland Regional Library Corporation to transfer in specie all its business, asset and liabilities to the Company pursuant to sections 196(4)(d) and (e) of the *Local Government Act 1989* and any other power enabling West Gippsland Regional Library Corporation to do so; and

6. **The Chief Executive Officer be delegated responsibility to negotiate and execute the Gift and Transfer Deed.**
7. **Dissolution/Winding Up of West Gippsland Regional Library Corporation: That, subject to giving full effect to the Novation Deed and the Gift and Transfer Deed:**
  - a. **Agrees that its intention is that the original Library Agreement is taken to be terminated with effect at 11:59pm on 30 June 2022;**
  - b. **Agrees to the dissolution of West Gippsland Regional Library Corporation pursuant to clause 13 of the Library Agreement with the mutual agreement of all other Councils who are party to the Library Agreement, with the Gift and Transfer Deed constituting the distribution of assets and liabilities in full and final satisfaction of clause 13.2 of the Library Agreement;**
  - c. **Agrees to the winding up of West Gippsland Regional Library Corporation pursuant to section 197G of the *Local Government Act 1989*; and**
8. **The Chief Executive Officer be delegated responsibility to give effect to the resolution to dissolve and wind-up West Gippsland Regional Library Corporation.**

## **REPORT**

### ***West Gippsland Libraries – Leaders and innovators***

WGRLC is a leader and innovator within the Library sector. It has been providing quality, specialist library services to the Shires of Baw Baw, Bass Coast and South Gippsland for over 25 years, offering extensive benefits to ratepayers and the broader community. WGRLC has a high reputation that punches above its weight, demonstrated by:

- WGRLC rating in the top third of all library services in Victoria according to the VAGO Audit Report for both core library services and programs and events (**see Attachment [2.3.2]**). WGRLC rating in the top third for the number of active members (member used the service in the last 12 months) as a percentage of the population (PLV annual survey 2018.19).
- WGRLC rating in the top third for attendance at library programs (PLV annual survey 2018.19).



- Top third for lowest operating cost per opening hour (PLV annual survey 2018.19). WGRLC was the first library in Australia to offer a 24/7 library (just like a 24/7 gym) where members gained increased access and convenience at no additional cost to Council. This attracted media attention and enquires from all over Australia. The service has been incredibly successful, so the Board has since voted to support implementation of the 24/7 service in all libraries as the opportunity arises.
- The 24/7 library has been highlighted as a case study in Infrastructure Victoria's *Draft 30-Year Infrastructure Strategy* as an innovative means to increase access to "*fast, free internet services, leveraging existing library infrastructure*".
- First *Children in the Workplace Policy* (sought after by local businesses).
- Mental health framework supporting staff and the community.
- First library in Victoria to offer an online chat-bot to engage with users.
- Adaptive online programming reaching over 123,000 people (more than the regions total population) and having over 32,000 views between March 2020 and September 2020. Users of WGRLC's online programming are growing in metro Melbourne.
- 81 per cent growth in social media followers in the last two years.

To support WGRLC's progressive service, it has established modern corporate service automations utilising best of breed products for Small and Medium Enterprises (SME's); an adaptive Enterprise Agreement that is based on a percentage of the rate cap (ensuring long term financial sustainability), has a sound financial management framework and is in a strong financial position.

### **Why now?**

The changes to the 2020 Act have become a catalyst for WGRLC to capitalise on opportunities for the future, ensuring it remains innovative, competitive, and progressive. Whilst the 2020 Act provides ten years for Corporations to transition, there are immediate implications and limitations to WGRLC if the decision is delayed. Further there are benefits to member Councils, ratepayers, the community and WGRLC by making the decision sooner rather than later.

- From 1 July 2021, WGRLC is frozen in time by the 2020 Act. It cannot grow or offer services outside its existing region nor to other Councils. This impact prevents WGRLC from capitalising on opportunities if, and when, they arise.

- It cannot expand its revenue base in other areas such as philanthropic funding, donations, and sponsorships from the private sector, to share in or reduce the cost of programs delivered to the community. A local government entity is not an attractive proposition when competing against other NFP's for funding. This was a significant factor highlighted in the City of Greater Shepparton's Council report when it decided to establish its NFP.
- Growing the revenue base provides greater resources and the ability to broaden the products and services offered to users and the community at no additional cost to Council.
- The NFP, through growth, advances the interests of Member Councils and ratepayers to reduce the cost base per capita.
- Delaying the decision will not improve the quality of the decision and the cost of the project will continue to increase the longer it is delayed.
- Board turnover is inevitable when its composition consists of high calibre people. In fact, WGRLC has experienced more than 100 per cent turnover of its Board in less than two years. WGRLC is now in a phase of Board stability which is essential for the transition phase. Board Member continuity also assists with keeping the cost of the project down. Stability and continuity will be provided to WGRLC users, members, and staff.
- Support for innovation will continue. Innovation is intrinsically linked to stability and growth, enabling adaptability and a future focus.
- It positions WGRLC well to continue to grow its brand, profile and reputation as an employer of choice. Growth of the service also creates more jobs and economic benefit to the community.
- Every \$1.00 invested in Victorian public libraries generates \$4.30 of benefits to the local community (SGS Economics and Planning).

### ***Due Diligence***

Significant due diligence has been undertaken over the past three years. Local Government Victoria commissioned a report in June 2018 that explored the various options available. A number of these options were not applicable to WGRLC (refer to **Attachment [2.3.3]**).

### ***Legal***

As outlined, Russell Kennedy have been engaged to assist with the due diligence prior to a decision being made, based on their work creating the City

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of Greater Shepparton's NFP. They will also undertake the necessary work to establish and transition to a NFP once the Board and Councils have passed a resolution to support the NFP. Over the past year Russell Kennedy have provided:

- Summary of the scope and key legal requirements.
- Board Discussion Paper.
- Entity structure draft.
- Attended Board Briefing Sessions, presented and answered questions from the Board.
- Developed a conversion checklist.
- Drafted and finalised the Constitution.

Refer to the Constitution (**Attachment [2.3.1]**).

### ***Naming***

WGRLC engaged Icon Agency to undertake a brand strategy development process that considers the world around WGRLC and its community to inform and inspire a new name for the NFP. Icon Agency has a proven four-stage process to inform the strategy development and proposed name options for consideration. The WGRLC Board and Leadership Team provided input into the process and were presented with four options for consideration. There was unanimous consensus amongst the Board on the preferred name option being put forward as Myli – My Community Library for final adoption which has been included in the new Constitution.

The new name has been presented to all WGRLC staff with overwhelming support. Staff were consulted and voted on the brand positioning statement that complements the name "There's more to explore". Feedback from staff about the name and process included comments like *"the name really does feel like a friend"*, *"I really like it"*, and *"It really grows on you over time"*. WGRLC presented the new name to the WGRLC Community Advisory Committee who also supported it.

A new name for the NFP and the process undertaken by WGRLC was necessary for a number of reasons:

- Some in the community over many years have indicated that a name change was necessary due to the geographical name not connecting with some parts of the region.

- A new name was required for the Not-for-Profit transition so that library services and partnerships can be provided beyond the existing region.
- WGRLC recognised it is not an expert in developing names and wanted to ensure that any new name was considered through the lens of experts in their field and supported by their research.
- The Agency engaged was briefed to respect the history of libraries and build on the future of how the service is changing and evolving.
- There is no change to the library logo symbol.
- The Agency provided 4 options for consideration and the options presented were researched to ensure that they were available for use and not already taken by other organisations.
- The selected name had unanimous support from the WGRLC Board and Executive.
- It is understood that the name won't resonate with everyone however the new name is flexible. For example, people can choose to use a component of the name that suits them:
  - My Community Library; or
  - Myli; or
  - Myli – My Community Library.
- Buildings will all remain named as Libraries.
- It was not considered appropriate to source community input into the name due to the complexities associated with the legal naming, business registrations, website registrations and availability. The Agency and Lawyers were engaged to ensure that these requirements were met.

You can read more about Naming Development and Brand Positioning in **Attachment [2.3.5]** and the Myli Brand Manifesto in **Attachment [2.3.6]**.

### **Accounting**

WGRLC engaged Pitcher Partners to undertake the assessment in investment as required by section 111(1)(a) on behalf of all three Member Councils. Pitcher Partners were engaged based on their independence from the audit and accounting functions for WGRLC and all Member Councils to ensure there were no conflicts of interest.

Pitcher Partners have also developed a memorandum outlining accounting options for the accounting redistribution of WGRLC to the new NFP and have met with the Chief Financial Officers from all Member Councils.

Refer to the Accounting Assessment Overview Report and Pitcher Partners section 111 Assessment (**Attachment [2.3.4]**) that addresses the *Local Government Act 2020* requirements.

### **Processes and timeline**

There are many requirements that have been undertaken to progress the NFP process and now be ready for Council adoption and formation. A summary is provided below:

Stage/Action	External Support	Date	Status
WGRLC CEO met with Council CEO's to provide an overview	N/A	December 2020 – February 2021	Completed
Entity conversion checklist developed	Russell Kennedy	January 2021	Completed
Risk assessment and framework	Business Olympian	January - February 2021	Completed
WGRLC Board risk workshop	Business Olympian	February 2021	Completed
Draft constitution developed	Russell Kennedy	February – March 2021	Completed
Brand Strategy developed	Icon Agency	March 2021	Completed
WGRLC Board Briefing Risk Strategy & Appetite	Business Olympian	March 2021	Completed
WGRLC Board training - strategy and governance	Business Olympian	March 2021	Completed
WGRLC Board briefing entity name options	Icon Agency	March 2021	Completed
WGRLC Board briefing Engagement and Communication Plan	N/A	March 2021	Completed
WGRLC Board briefing draft Constitution	Russell Kennedy	March 2021	Completed
Constitution amended following WGRLC Board feedback	Russell Kennedy	April 2021	Completed
Brief Member Councils	N/A	April 2021	Completed
Accounting implications briefing report	Pitcher Partners	April 2021	Completed
Council CFO's and Directors met with WGRLC CEO and External Accountant	Pitcher partners	April 2021	Completed
WGRLC Board adopted Not-For-Profit Constitution and the new name	N/A	May 2021	Completed
Member Councils final briefing	N/A	June 2021	Completed
Member Councils adopt NFP Constitution, thus creating a new NFP for WGRLC to transition to.	N/A	July 2021	This report
Commence transition process	Russell Kennedy	Post Member Councils adoption	Scheduled

## CONSULTATION / COMMUNITY ENGAGEMENT

### WGRLC Board

The WGRLC Board with the support of the CEO have led the project and have been involved in the process every step of the way over the past three years.

Whilst there has been significant board turnover, each new board member has been inducted and updated on the status of the project.

### **Council CEO's and Mayors**

The WGRLC CEO met with each member Council CEO separately in December 2020 and January 2021. Each Council CEO has at some point served as a board member of either WGRLC or another Library Corporation and therefore; understands the governance of the entity. Each Council CEO was provided with a verbal overview of the changes to the *Local Government Act 2020* that is prompting the transition, the due diligence that has been undertaken and why the transition needs to occur now.

The WGRLC CEO provides updates to the council mayors and CEO's after each board meeting, briefing or workshop via email. The Legal Entity project was introduced via an email update to the mayors and CEO's in February 2021 and monthly updates have continued since that time.

### **WGRLC staff**

The WGRLC leadership team have been included in various elements of the project over the past nine months.

WGRLC staff were informed of the project and the various elements outlined in this report at a number of in person and video-based presentations at the end of April 2021. Feedback from staff has been very positive including that of the new name.

### **Members, Patrons and Community**

WGRLC engaged with the Community to develop its next four-year Strategic Plan. An online survey was promoted and had 2,371 responses. Collection methods were via social media, patron point, and WGRLC's website. 96.74 per cent of respondents were members of WGRLC.

One of the questions asked of respondents was do they agree with the "*Strategic Pillar: Belong – We are inclusive and work with you*". One of the areas of focus within the pillar was "*Transform – The long-term success and sustainability of our organisation is dependent on core functions such as how we are governed, how we are funded and how we build relationships. Ongoing review of the functions is required to ensure we are meeting the needs of the community*". 98.74 per cent of respondents (from 1,823 responses) agreed with this strategic pillar.

The Draft Strategic Plan which was on public exhibition during April 2021 and May 2021 specifically outlined transitioning to a NFP as an action. No

submissions disagreed with the strategic objective to transition to a NFP. Submissions received on the strategic plan included the following comments:

*"i am very happy to see that many of the initiatives which i consider important have been included"*

*"so pleased to see our libraries are keeping up with modern trends"*

### **Community Advisory Committee (CAC)**

The WGRLC CEO presented an overview of the project and the new name to the CAC at a video session at the end of April 2021. Feedback from the CAC was positive. Further, the CAC were involved in the development of the community engagement survey and provided their input on the Strategic Plan at the WGRLC Ordinary Board meeting held on 5th March 2021.

### **RESOURCES / FINANCIAL VIABILITY**

There are financial implications to this project of which legal and consulting costs have already been incurred to support the due diligence process. The costs have been projected to span three to four financial years with most costs incurred in year two (2020/21) and year three (2021/22). The budget is allocated at \$100,000 across the four years and it is expected that costs in the 2020/21 financial year will be approximately \$50,000.

The CEO of WGRLC has met with Local Government Victoria to seek financial support for the imposed transition and WGRLC will be submitting an Expression of Interest (EOI) for a grant shortly. The aim of the EOI is recognition of the technical requirements that have needed to be undertaken and the critical specialist advice that will also support the other nine Library Corporations with their process.

There is no cost to Member Councils for this project. All costs are incurred by WGRLC.

### **RISKS**

Policy and Legislative requirements have been outlined in this report.

In summary, the *Local Government Act 2020* removes Library Corporations (section 196 of the *Local Government Act 1989*) from the 2020 Act and gives a ten-year sunset provision prior to a forced windup/liquidation by the Local Government Minister.

This provision came into effect from 1 July 2021. Councils will be required to establish the Not-for-Profit Entity under the Beneficial Enterprises section 110 of the 2020 Act.



The Victorian Auditor General's Office (VAGO) has also identified the 2020 Act changes as part of their scope for the 2020/21 Annual Financial Audit.

WGRLC engaged Business Olympian Group to develop a Risk Management Framework, fulfilling obligations required under the 2020 Act. The risk consultants were engaged to develop and have completed:

- Organisational Risk Strategy.
- Board Risk Appetite Statement.
- undertake a workshop with the WGRLC board to identify risks.
- Risk register that has been categorised into:
  - business case risks;
  - entity incorporation (and transition) risks;
  - operational risks;

The risk register incorporates:

- key controls to mitigate the identified risks;
- key actions that provide assurance that the controls are being addressed; and
- the status of each identified risks.

Refer to the *Risk Management Strategy* in **Attachment [2.3.2]** attached to 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](http://www.southgippsland.vic.gov.au)*

1. WGRLC - Company Constitution - Myli - My Community Library Ltd [2.3.1 - 22 pages]
2. WGRLC - Risk Management Strategy [2.3.2 - 19 pages]
3. WGRLC - Accounting Assessment Overview Report [2.3.3 - 6 pages]
4. WGRLC - Accounting Assessment Overview Report - Section 111 Assessment [2.3.4 - 2 pages]

5. WGRLC Naming Development and Brand Positioning - Presentation [2.3.5 - 45 pages]
6. WGRLC Myli Brand Manifesto Document [2.3.6 - 25 pages]

**REFERENCE DOCUMENTS**

**Council's Good Governance Framework**

Pillar 4 Structure Systems & Policies

**Council Policy / Strategy / Plans**

Council Plan 2020-2024

**Legislative Provisions**

Local Government Act 1989

Local Government Act 2020

### **3. OBJECTIVE 3 - INTEGRATED SERVICES AND INFRASTRUCTURE**

#### **3.1. 2021/22 PRIORITY PROJECTS FOR ADVOCACY (INCLUDES STRATEGIC ROADS)**

Sustainable Infrastructure

##### **Council Plan**

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

*Directly responds to the 2021/22 Annual initiative to identify and advocate for Council's adopted Priority Projects to State and Federal Governments and other relevant stakeholders for funding support.*

##### **EXECUTIVE SUMMARY**

The purpose of this report is to identify and advocate for Council's Priority Projects to State and Federal Governments and other relevant stakeholders for funding support.

Council performs an important role in advocating for Government funding and/or commitments needed to deliver Priority Projects (including Strategic Roads) of local significance, with the objective of enhancing economic prosperity and liveability of the municipality.

Previously, Council endorsed Strategic Roads for Advocacy in a separate report, however, it is recommended that the Strategic Roads for Advocacy be included as part of Council's overall Priority Projects.

This report also provides an update on the progress of the 2020/21 Priority Projects and Strategic Roads.

##### **RECOMMENDATION**

**That Council adopts the following 2021/22 Priority Projects for advocating to the State and Federal Governments for funding:**

- 1. Korumburra Streetscape (Commercial Street)**
- 2. Great Southern Rail Trail (GSRT) Railway Precincts Development (Leongatha and Korumburra);**
- 3. South Gippsland Highway, Korumburra Realignment (Coal Creek Bends);**
- 4. Leongatha Heavy Vehicle Alternate Route – Stage 2 (Hughes Street);**
- 5. Wilsons Prom Revitalisation Project;**

6. **South Gippsland Urban Water Strategy;**
7. **Bass Highway – Leongatha to Anderson;**
8. **South Gippsland Highway – Grassy Spur Realignment;**
9. **Strzelecki Highway – Crichtons Hill Realignment; and**
10. **The Gippsland Tracks and Trails Project.**

## REPORT

### 2020/21 Priority Projects for Advocacy – Progress Report

In July 2020, Council endorsed its 2020/21 Priority Projects which included the Korumburra Streetscape and Leongatha Early Learning Centre Project. The Leongatha Early Learning Centre Project is now funded and therefore, will no longer be considered a Priority Project for Advocacy.

An update is provided for these two projects including nine (five of which were previously identified as Strategic Roads) new projects recommended for Council's consideration as 2021/22 Priority Projects for Advocacy.

#### 1. **Leongatha Early Learning Centre Project**

The Leongatha Early Learning Centre will address the demand for children's services in our region, particularly with the introduction of 3-year-old kindergarten. An application of \$2,379,921 has been approved through the Victorian School's Building Blocks Program.

**Proposal:** *As a result of the application being successful, this project will no longer be considered a Priority Project for Advocacy in 2021/22 with works to commence late 2021.*

#### 2. **Korumburra Streetscape**

The project includes three distinct components being Upper Commercial Street (Railway Station Precinct), Little Commercial Street Precinct, and Commercial Street.

- a. **Upper Commercial Street** – this component involves the construction of a new car park comprising of at least 30 new parking spaces with associated access and infrastructure in the Korumburra Railway Station Precinct. Designs are currently being developed with works anticipated to commence in 2021. The total cost of this section is estimated at \$700,000 with \$450,000 recently

approved through the Federal Government's Local Roads and Community Infrastructure Program.

During 2019/20, an application to the Victorian State Government's *Community Infrastructure Loan Scheme* for \$5M was approved for the next two components being Little Commercial Street Precinct and Commercial Street between Bridge Street and Radovick Street.

- b. **Little Commercial Street Precinct** – Council recently announced the purchase of the “Top of the Town” site, which has been secured to help facilitate traffic movements and parking arrangements around the new Korumburra Community Hub. Detailed designs for this section of Little Commercial Street are anticipated to be completed in 2021 with the construction tender to follow.
- c. **Commercial Street** – It is anticipated the detailed designs for this final component will be developed following the design of Little Commercial Street.

***Proposal:** Although the loan has been approved, there may still be an opportunity to seek additional funding towards the Commercial Street component of the project in 2021/22. Therefore, it is recommended that this project remain a Priority Project for Advocacy in 2021/22.*

## **Proposed New Projects for 2021/22**

### **1. Great Southern Rail Trail (GSRT) Railway Precincts Development (Leongatha and Korumburra)**

Development of the railway precincts is a key element of the Leongatha and Korumburra Revitalisation Projects which were first adopted as Priority Projects in 2016. The revitalisation projects are a suite of initiatives intended to re-activate the central business area of Leongatha and Korumburra.

The project involves undertaking significant public realm upgrades to the railway sites in each town centre in order to improve the economic vitality of each centre and to assist in attracting visitors to the towns, and to the overall Shire. The development will coincide with the extension of the GSRT from Leongatha to Nyora, with the first section of Leongatha to Korumburra to be completed mid-2021. Once completed, the GSRT will be 108km in length and connect Nyora to Port Welshpool.

**Proposal:** *Planning has been undertaken and progressed enough for a \$3M application to be submitted to the Federal Government's Building Better Regions Fund – Round 5 in March 2021. Despite the pending application, the project is recommended as a Priority Project for Advocacy in 2021/22.*

## 2. South Gippsland Highway Realignment, Korumburra (Coal Creek Bends)

The South Gippsland Highway Realignment, Korumburra (Coal Creek bends) is a current priority project endorsed by One Gippsland. One Gippsland is the peak regional advocacy body representing this diverse region.

The South Gippsland Highway is the main arterial road through South Gippsland. It connects Gippsland's major agriculture and food production industry to domestic and international markets and connects tourists to the illustrious attractions of the region such as Wilsons Promontory National Park. Not only does this strategic economic route connect Gippsland to Melbourne, it is also essential for residents and public transport.

The highway south of Korumburra contains a series of difficult bends that have resulted in multiple serious crashes, often causing serious injury and in some cases, fatalities. To mitigate these issues and to increase connectivity and productivity within the region, the South Gippsland Highway realignment of the bends at Coal Creek has been identified as a priority by Regional Roads Victoria (RRV) and the community.

**Proposal:** *The project was endorsed as a Priority Strategic Road Project in 2020/21, however, due to the significance of the project and as a priority project of One Gippsland, it is recommended that this project also be listed as a Council Priority Project for Advocacy in 2021/22.*

## 3. Leongatha Heavy Vehicle Alternate Route – Stage 2

The Leongatha Heavy Vehicle Alternate Route – Stage 2 is a current priority project endorsed by One Gippsland.

Leongatha is one of South Gippsland's major industrial, government, medical, retail, and service centres that currently contributes \$1.2 billion to the regional economy.

This hub has had significant traffic congestion and safety issues caused by the South Gippsland Highway cutting through the centre of the town.

To redirect heavy vehicles away from the town centre and improve amenity and safety, a two-phase Leongatha Heavy Vehicle Alternate Route plan was developed.

Stage 1 was completed in 2016 and has diverted heavy vehicle traffic out of the main centre of town. This is now allowing for important safety enhancements, beautification, and pedestrian-friendly treatments to be currently undertaken.

Stage 2 is now requiring the detailed planning and design to complete the main town centre bypass and reduce congestion by improving freight and visitor movements, while also resolving vehicle safety and accessibility issues.

**Proposal:** *The project was endorsed as a Priority Strategic Road Project in 2020/21, however, due to the significance of the project and as a priority project of One Gippsland, it is recommended that this project also be listed as a Council Priority Project for Advocacy in 2021/22.*

#### 4. **Wilson's Prom Revitalisation Project**

The Wilson's Prom Revitalisation Project is a current priority project endorsed by One Gippsland which seeks to deliver a superior visitor experience while reducing the environmental impacts associated with traditional visitation.

The Victorian Government has already invested \$21 million towards this project, however, an additional funding amount of \$8 million is required for it to be fully realised.

Key aspects of the project include:

- Creation of a new visitor precinct in the Northern 'Prom'.
- Construction of 20 new Canopy - Eco Sleeper Pods.
- Establishment of a congestion free park offering.
- Creation of an all-accessible wildlife track.
- Create 'The Prom Sanctuary', a premier 50,000-hectare biodiversity sanctuary.

The project is shovel ready with project planning currently underway. If funding is secured in a timely manner, construction will be completed by November 2023.

**Proposal:** *Due to the significant impact of the project and as a priority project of One Gippsland, it is recommended that this project be listed as a Council Priority Project for Advocacy in 2021/22.*

## 5. South Gippsland Urban Water Strategy

The Urban Water Strategy is a 50-year plan developed by South Gippsland Water that outlines the actions required to manage demand for, and ensure sufficient supplies of, drinking water across their service region.

The Urban Water Strategy is revisited every five years in response to the constantly changing outlook in the supply of, and demand for, water. South Gippsland Water's *2017 Urban Water Strategy* is being reviewed and redeveloped in 2021.

**Proposal:** *Due to the importance of adequate water supplies to support the growth and prosperity of the municipality, it is recommended this project is listed as a Council Priority Project for Advocacy in 2021/22.*

## 6. Bass Highway – Leongatha to Anderson

The Bass Highway Corridor Planning Study identifies a series of potential upgrades along on the highway. This is the main southern route through Bass Coast and South Gippsland Shires. It passes through the main towns of Wonthaggi and Inverloch, and connects to Leongatha. Major upgrades to the highway have been completed on the section from Melbourne to Anderson (which connects to Phillip Island), but major upgrades will be needed along the route to cope with expected increase in traffic volumes and population.

Bass Coast and South Gippsland Shire Councils have complimentary and strongly connected economies. Bass Coast is one of Victoria's most important tourist destinations and is rapidly increasing in population while South Gippsland Shire is one of the State's key food production centres and includes the iconic Wilsons Promontory National Park.

Bass Coast and South Gippsland Shire Councils support first stage projects along the corridor including intersection safety improvements and redevelopment at Leongatha South-Outtrim Road and Rougheads Road.

Council continues to work with RRV and Bass Coast Shire Council on the Planning Study for upgrades to the Bass Highway from Anderson to Leongatha.



**Proposal:** The project was endorsed as a Priority Strategic Road Project in 2020/21 and it is recommended that this project become a Priority Project for 2021/22.

## 7. South Gippsland Highway – Grassy Spur Alignment

The project seeks the realignment of the South Gippsland Highway between the towns of Stony Creek and Foster at an area known as Grassy Spur.

The South Gippsland Highway is the main arterial route through South Gippsland Shire and part of the Sydney to Melbourne Touring Route. Works on this section of road about 15 years ago removed some bends but others remain. These are electronically sign posted and speed restricted. With improvements to the highway at other locations, this area will become the most difficult section of the highway and limit further economic expansion.

The section of road is a key connector to the southern districts of South Gippsland Shire including Wilsons Promontory National Park, Corner Inlet, and towns such as Foster and Toora.

This project is in the preliminary stages with RRV.

**Proposal:** The project was endorsed as a Priority Strategic Road Project in 2020/21 and it is recommended that this project become a Priority Project for 2021/22.

## 8. Strzelecki Highway – Crightons Hill Realignment

The project seeks a realignment of the Strzelecki Highway at a location known as Crightons Hill, Leongatha North. The Strzelecki Highway connects South Gippsland Shire with the Latrobe Valley and this section of the highway connects Leongatha, the Shire's largest town, with Mirboo North, the third largest town.

The section at Crightons Hill is steep and particularly tight with a number of fatal accidents occurring on this section of road. To reduce accidents, some road widening has been undertaken, wire rope barriers installed, and speed restrictions introduced. These are only temporary treatments and a complete realignment is required to provide a long-term solution to ultimately solve the issue.

The highway carries a large amount of freight and passengers, including tourists between Bass Coast, South Gippsland, and the Latrobe Valley.

This project is currently in the cost benefit stage at RRV.

**Proposal:** *The project was endorsed as a Priority Strategic Road Project in 2020/21 and it is recommended that this project become a Priority Project for 2021/22.*

## 9. The Gippsland Tracks and Trails Project

The Gippsland Tracks and Trails project is the region's integrated plan to bring the various tracks and trails throughout Gippsland together into an internationally acclaimed tourist attraction. The project aims to connect the 475 kilometres of existing rail trail corridors throughout Gippsland together, connect visitors to the region's diverse experiences including iconic lakes and beaches, lush valleys, and ranges.

The trail will make use of existing off-road tracks, roads less travelled, and the rail network to link visitors from north to south and west to east, making the whole of Gippsland accessible by bike, and providing visitor access to villages and towns along its route.

There are a range of track projects within this overarching project, most notably the GSRT. The Leongatha to Nyora section of the GSRT has been funded and well advanced however, the Welshpool to Alberton section is yet to be completed.

For the GSRT to reach its full potential, it is important that the overarching project is realised and Council continues to work in partnership with Destination Gippsland and neighbouring councils in advocating for the Gippsland Tracks and Trails Project.

**Proposal:** *For the GSRT to reach its full potential, it is important that this overarching project is realised and Council continues work in partnership with Destination Gippsland in advocating for funding to implement this project. Therefore, it is recommended this project is listed as a Council Priority Project for Advocacy in 2021/22.*

Projects for Advocacy:

1. Korumburra Streetscape (Commercial Street);
2. GSRT Railway Precincts Development (Leongatha and Korumburra);
3. South Gippsland Highway Realignment – Coal Creek, Korumburra;
4. Leongatha Heavy Vehicle Alternate Route – Stage 2;
5. Wilsons Prom Revitalisation Project;
6. South Gippsland Urban Water Strategy;
7. Bass Highway – Leongatha to Anderson;
8. South Gippsland Highway – Grassy Spur realignment;
9. Strzelecki Highway – Crightons Hill realignment; and
10. The Gippsland Tracks and Trails Project.

**CONSULTATION / COMMUNITY ENGAGEMENT**

Consultation with the relevant key stakeholders for each of the proposed 2021/22 Priority Projects has been or is currently being undertaken.

Progress updates for the Priority Projects are included in the quarterly Organisational Performance Report.

**RESOURCES / FINANCIAL VIABILITY**

Council's anticipated financial contributions towards the Korumburra Streetscape (Commercial Street) and GSRT Railway Precincts Development (Leongatha and Korumburra) has been accounted for in the Long-Term Financial Plan. Where required, Council will seek grant funding to support the endorsed projects.

Any decision to increase or alter the amounts already committed will need to be accounted for elsewhere in the budget and would have a direct impact on the organisation's ability to deliver its adopted Capital Works Program. Further, any variation to existing financial commitments would need to be formally accounted for and adopted through Council's statutory annual budget process.

There is no anticipated financial contribution required for the remaining proposed 2021/22 Priority Projects, however Council will need to commit adequate resources to advocate for the projects.

## **RISKS**

Endorsing the 2021/22 Priority Projects for Advocacy provides Council and the community a clear direction of what initiatives will be advocated to the State and Federal Governments.

Council is also encouraged to consider the potential financial risk associated with varying its existing contributions towards each of the recommended 2021/22 Priority Projects.

## **STAFF DISCLOSURE**

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

## **ATTACHMENTS**

Nil

## **REFERENCE DOCUMENTS**

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

Pillar 1. Direction & Leadership

Pillar 3. Decision Making

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

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

Annual Budget

Arts, Culture and Creative Industry Strategy

Council Plan 2020-2024

Economic Development and Tourism Strategy

Paths and Trails Strategy

Priority Projects

Social Community Infrastructure Blueprint

Town Centre Framework Plans

### **Legislative Provisions**

Local Government Act 2020

### **Regional, State and National Plan and Policies**

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

Gippsland Food Plan, March 2014

Gippsland Freight Strategy 2013

Gippsland Regional Growth Plan, State Government Victoria

Gippsland Regional Plan 2020-2025

Gippsland Track & Trails Feasibility Study

### **3.2. COUNTRY FOOTBALL AND NETBALL PROGRAM GRANT APPLICATION - FOSTER SHOWGROUNDS OVAL UPGRADE AND IRRIGATION PROJECT**

Sustainable Infrastructure

#### **Council Plan**

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

*The purpose of this report is to seek external funding and an allocation of Council funds.*

#### **EXECUTIVE SUMMARY**

The purpose of this report is to seek external funding of \$150,000 through the first round of the CFNP for the Foster Showgrounds – Oval Upgrade and Irrigation Project (the Project). The anticipated total Project cost is \$430,000 which has been based on estimates from specialised external contractors and suppliers for the various elements of the design. The Foster Showgrounds Committee has generously committed \$20,000 towards the Project. Therefore, if an application is successful, Council will be required to contribute \$260,000.

In April 2021, the Minister for Community Sport, the Hon. Ros Spence opened applications to the *2021/22 Country Football and Netball Program (CFNP)* which provides funding to assist regional football and netball clubs, associations, and umpiring organisations to upgrade and develop facilities in rural, regional, and outer metropolitan locations.

It is underpinned by the Department of Jobs, Precincts and Regions' priorities to ensure the state's economy benefits all Victorians by creating more jobs for more people, building thriving places and regions, and nurturing inclusive communities.

The program (only open to councils) closed on 22 June 2021 with funding of up to \$150,000 available.

#### **RECOMMENDATION**

**That Council:**

- 1. Endorses the application for \$150,000 under the Victorian Government's 2021/22 Country Football Netball Program for the Foster Showgrounds – Oval Upgrade and Irrigation Project;**
- 2. Notes the application for the Foster Showgrounds – Oval Upgrade and Irrigation Project was submitted to the Victorian Government's 2021/22**

**Country Football Netball Program prior to the closing date of 22 June 2021;**

- 3. Allocates the \$260,000 contribution from the Community Infrastructure Projects budget in the 2021/22 Annual Budget towards the Foster Showgrounds – Oval Upgrade and Irrigation Project if the grant is approved; and**
- 4. Notes the community contribution of \$20,000 from the Foster Showgrounds Committee towards the Foster Showgrounds – Oval Upgrade and Irrigation Project.**

**REPORT**

***Foster Showgrounds – Oval Upgrade and Irrigation Project***

The Project scope is to utilise the recycled water from the waste water treatment plant, which is now available at the Foster Showgrounds, with the installation of an automatic irrigation system for the oval. The Project will also include appropriate drainage, levelling, and resurfacing of the oval.

The benefits that this Project will bring to the community are noted below:

- An unlimited supply of affordable recycled water for use on the Foster oval and recreation reserve which is a Council-owned asset.
- A saving of \$5,000 to \$10,000 per year in water costs for maintaining the ground for community use such as football (pre-season and season), markets (with the Rotary train), and Agricultural Show with equestrian events.
- Foster is the only Council-owned ground that has to support this range of events in the dry summer months from December to April. The quality of the surface is important for the safety of the equestrian riders and horses, as well as the footballers in pre-season training, practise matches, and the early rounds of the season. Resurfacing works will improve the safety and longevity of the playing surface at the Foster Showgrounds.
- Both Meeniyah and Toora ovals are very well maintained through recycled water from their local treatment plants.

The Foster Showgrounds - Oval Upgrade and Irrigation Project was internally assessed as eligible for the 2020/21 Sport and Recreation Fund which Council endorsed an application at the 26 February 2020 Council Meeting.

Unfortunately, the application was unsuccessful and after feedback was provided by SRV, it was recommended that the application be resubmitted to the next appropriate round of funding.

### **2021/22 Country Football and Netball Program (CFNP)**

The objective of the CFNP is to upgrade and develop infrastructure for football and netball clubs across rural and regional Victoria and outer Metropolitan communities so they can meet growing demand and welcome even more members.

Examples of projects eligible for funding include the following:

- development of new, or upgrade to existing change rooms and pavilions to increase capacity, inclusion and safety.
- development of new, or upgrade to existing sports ovals and courts to increase capacity and safety.
- sports lighting that improves facility capacity and participant safety.
- projects that result in energy or water efficiency, with a direct impact on participation, such as warm season grass conversions.

Grants of up to \$150,000 were available with a ratio of SRV \$2: \$1 Local.

Applications to the program closed 22 June 2021 with notifications of outcomes expected in September 2021.

### **CONSULTATION / COMMUNITY ENGAGEMENT**

In 2015, Council resolved to allocate \$400,000 each to Foster, Korumburra, Mirboo North, and Venus Bay (\$1.6 million in total) for capital works projects to be determined by the community through a participatory budgeting process – the *Community Capital Works Allocation project*. External consultation for Foster was held across two stages including an online forum in September 2016 and community workshops in October 2016 to determine the Foster community's preferred project. At the 14 December 2016 Ordinary Council Meeting, Council allocated \$400,000 to implement recycled water infrastructure for the Foster Showgrounds.

Council worked in partnership with South Gippsland Water to deliver piped recycled water to the main oval for irrigation which was completed in May 2019. This Project completes the works so that water can be irrigated automatically and the playing surface of the oval can be re-instated.

The Foster Showgrounds Committee and the Foster Football Netball Club (major user) have been consulted throughout all the stages of this Project.

The Project is strategically supported by Council's *Social Community Infrastructure Blueprint*, *Sport and Recreation Infrastructure Strategy*, and the *Environmental Sustainability Strategy Framework*.

SRV has been consulted on this Project.

## **RESOURCES / FINANCIAL VIABILITY**

If Council is successful in securing \$150,000 under the CFNP, a Council contribution of \$260,000 will be required.

In the previous application, the Foster Showgrounds Committee of Management committed to contributing \$20,000 towards the Project if it was successful. This commitment has been reconfirmed by the committee.

Below is a breakdown of the funding for the Project based on the concept plans and cost estimate. The cost estimate was developed by seeking external advice from a specialised contractor.

<b>Estimated Total Project Cost</b>	<b>\$430,000</b>
2021/22 Country Football and Netball Program	\$150,000
Council Contribution	\$260,000
Community Contribution (Foster Showgrounds Committee)	\$20,000

Funding of \$415,200 is available in Council's 2021/22 Annual Budget for Community Infrastructure Projects which is adequate to cover Council's contribution for the Project.

## **RISKS**

There is a potential risk that the Project may come in over budget. This has been mitigated by developing cost estimates that are based on previous projects as well as seeking external advice from specialised contractors and suppliers.

## **STAFF DISCLOSURE**

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

## **ATTACHMENTS**

Nil



## **REFERENCE DOCUMENTS**

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

Pillar 1. Direction & Leadership

Pillar 3. Decision Making

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

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

Annual Budget

Community Infrastructure Project Management Policy (C09)

Strategic Direction for Aquatic Facilities in South Gippsland

### **Legislative Provisions**

Local Government Act 2020

### **3.3. PROVISION OF DELEGATION TO THE CHIEF EXECUTIVE OFFICER (CEO) FOR RECOVERY EXPENDITURE RELATED TO EMERGENCY STORM EVENT**

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*

#### **EXECUTIVE SUMMARY**

This report seeks to provide the Chief Executive Officer (CEO) with the delegation to approve the anticipated expenditure of \$17,320,164 excluding GST, to undertake eligible emergency and immediate reconstruction works that have occurred due to the declared Emergency Event on 9 June 2021.

On 9 June 2021, a storm front crossed South Eastern Victoria, bringing damaging winds and heavy localised rainfall. The storm front caused significant damage to Council's road network with over 160 roads reported to have multiple fallen trees. A number of roads were subjected to flooding and numerous landslips occurred, resulting the closure of 4 roads.

The Commonwealth subsequently declared the storm as an Emergency Event and advised that this event has been allocated the reference AGRN 969 (Australian Government Reference Number) under the Disaster Recovery Funding Arrangements (DRFA). Council will be fully reimbursed for the costs of these works.

Preliminary estimates to repair the road network have been calculated as \$17,320,164 excluding GST. To assist the recovery works, a Memorandum of Understanding (MoU) (refer **Confidential Attachment [12.2.1]**) has been executed between Council and Regional Roads Victoria (RRV) to support Council reconstruction works required. The joint works between Council and RRV will include the collection of evidence, development of detailed estimations to demonstrate post-disaster damage impacts in accordance with the DRFA and restorative works by contractors. The MoU commits to supporting local businesses including the use of suitably qualified local subcontractors for the works.

#### **RECOMMENDATION**

**That Council:**

- 1. Declares the event ARGN 969 (Australian Government Reference Number), which occurred on 9 June 2021, to be an emergency event;**

- 2. Delegates to the Chief Executive Officer (CEO) the authority to approve expenditure via purchase order/s to undertake the program of eligible emergency and immediate reconstruction works that have occurred due to the declared Emergency Event (Australian Government Reference Number 969) valid until 30 June 2022 or until restorative work is deemed to be completed (whichever is sooner) to a total maximum overall program value of \$17,320,164 excluding GST; and**
- 3. Approves the claim to the Victorian Disaster Recovery Fund for reimbursement to Council of the costs of the eligible restorative works.**

## **REPORT**

On 9 June 2021 a cold front crossed South Eastern Victoria, bringing damaging winds and heavy localised rainfall. Severe flooding and strong winds heavily impacted the South Gippsland Shire Council municipal area.

Council's road network sustained significant damage due to the magnitude of the emergency event. Severe rainfall and winds heavily impacted the Shire throughout 9 and 10 June 2021. Over 160 roads (essential public assets) were impacted by damaged trees, many of which were completely blocking access to properties. There were four reported incidents where people were isolated due to blocked access. One of these incidents resulted in two people being airlifted to safety. In addition to the tree damage, a number of roads were subjected to flooding and landslips.

Council officers, contractors, State Emergency Service, Department of Environment, Land, Water and Planning and Australian Defence Force crews undertook emergency response work during the emergency event and over the subsequent days. The works ensured that Council's road network was cleared to a category C level (cleared pathway with tree debris left on the side of the road).

Council continues to operate under emergency event conditions and is currently utilising panel contractors and working with Regional Roads Victoria (RRV) to complete the emergency response and immediate works (as classified by the Commonwealth).

Section 186 of the *Local Government Act 2020* (the Act) requires a public tender to be undertaken to enter into contracts for construction works over the value of \$200,000. However, section 186(5)(a) of the Act provides that Council may enter into a contract, the value of which reaches or exceeds the threshold amount, for the provision of goods, services or works without first putting that contract to public tender if the council resolves that the contract must be entered into because of an emergency. Whilst the Act does not define what constitutes an emergency situation, for the purposes of best practice in

procurement it is usual for the meaning of the term 'an emergency' to be a sudden or unexpected occurrence requiring immediate action.

The DRFA requirements include the need for restorative works to be undertaken by contractors outside of Council's business as usual operations. Therefore, the contracts entered into under the emergency delegation provisions will be limited in scope to be only that which is necessary to deal with the restorative works emergency.

It is deemed that the recovery works to be undertaken via the MoU with RRV constitute the definition of 'an emergency' for the basis of procurement under the Act, due to the urgency for restorative works to be completed, both for service to the community and to meet the requirements of the DRFA.

In order to qualify for disaster recovery funding and to claim 100% of Council's eligible expenditure, Council has been required to submit a 'Request to Notify of an Event' form (refer **Confidential Attachment [12.2.2]**). Council's submission included estimates of the total eligible expenditure for category B assistance (Emergency Works and Immediate Works). The estimated total expenditure is \$17,320,164.

The estimate included the following details:

Description	Unit Rate	Quantity	Unit of Measure	Per 100 meters	Total Value
Emergency Works - Estimated Expenditure as at 28th June 2021 <i>based on the 3 week average at the time of calculation</i>					\$ 426,199
<b>Emergency Works - Estimated cost based on 100 meters</b>					
Day rate for Elevated Work Platform, Truck and Chipper plus 3 operators	\$ 3,840	2	Days	\$ 7,680	
Traffic control and labour for clean up works	\$ 660	2	Days	\$ 1,320	
Estimated 30% of the road length will need emergency and immediate works, on the		161,690	per mtr	<b>\$ 9,000</b>	\$ 14,552,100
<b>Immediate Works - Estimated cost based on 100 meters</b>					
Day rate for Elevated Work Platform, Truck and Chipper plus 3 operators	\$ 3,840	2	Days	\$ 7,680	
Traffic Management x 2 Operators	\$ 720	2	Days	\$ 1,440	
Qualified Arborist	\$ 560	2	Days	\$ 1,120	
Excavator 14-20 tonne plus labour and float hire	\$ 1,680	2	Days	\$ 3,360	
Waste removal, stump grinding, white post replacement	\$ 1,475	1	No	\$ 1,475	
Resheeting - 50mm cover	\$ 32	10	per mtr	\$ 320	
Estimated 30% of the road length will need emergency and immediate works, on the		11,100	per mtr	<b>\$15,395</b>	\$ 1,708,845
Estimated total slip repairs (based on prior project costings)					\$ 900,000
<b>Total Estimated Costs as per the Request to Notify of an Event</b>					<b>\$ 17,587,144</b>
Less estimated cost of McCartins Road, Turtons Creek Slip Repair Project (Approved at Special Council Meeting on 14 July 2021)					\$ 266,980.00
<b>Remaining Estimated cost of works</b>					<b>\$ 17,320,164</b>

The MoU outlines that the restorative works packages will be completed by RRV, using South Gippsland Shire Council contractors or RRV existing contractors, including via alliance with Fulton Hogan. Value for money principles will be applied to the expenditure and the CEO will ensure that each

works package will be assessed and awarded to the contractor who offers the best value to Council.

While the MoU does not constitute a legally binding agreement between the parties, nor provide the normal contractual provisions, the method proposed of providing these works, as discrete work packages, individually reviewed and approved, then subject to allocated purchase orders per work package, provide the mechanism by which Council's required terms and conditions are ensured.

The MoU commits to ensuring appropriate subcontractors are utilised for the works by applying the National Disaster Financial Assistance Contractor Guidelines which ensure pre-qualification of suppliers. The MoU also commits to utilising and preferencing works to suitably qualified local subcontractors in support of Council's local procurement principles.

It is anticipated that it will take 12 months to complete all the works and bring Council's road network back to its pre-storm condition.

Due to the magnitude of the damage, the associated repair work and administration burden, an MoU was developed and executed between Council and RRV to assist with the additional work associated with the recovery works.

Council and RRV have committed to working together to support the recovery of the community through a coordinated road recovery effort. RRV is providing Council with resources to collect evidence of the damage sustained and develop detailed estimations for the repair work required.

RRV will be providing Council with a number of work packages that will be allocated via individual purchase orders for each package to either RRV Contractors or Council's panel contractors. The details of the work packages break up is currently in progress, however the combined total of the remaining packages is estimated to be \$17,320,164.

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

Media releases, social media and council's noticeboard will be utilised to keep the public up to date on the planned works and progress so far. Local contractors have been contacted and RRV are assisting them to become sub-contractors via RRV's alliance with Fulton Hogan; this is to ensure the local contractors have every opportunity to participate in work packages as per the terms of the MoU. In addition, Council has been in close and regular direct communication with residents whose road access has been impacted.

## RESOURCES / FINANCIAL VIABILITY

Total project costs, including the administration costs, will be covered by DRFA and Council will be reimbursed 100 per cent.

As each works package is completed, Council will be able to claim reimbursement via the DRTA.

The parties commit to supporting local business involvement in recovery works to foster economic development and jobs growth in South Gippsland Shire.

## RISKS

If the works are not undertaken via the MoU arrangement with RRV, Council is at risk of not receiving the 100% DRFA funding, which would significantly impact Council's budget and long term financial position, and reduce the likelihood of works being undertaken in a timely fashion. This report ensures works are delivered in a timely way, while ensuring procurement processes are robust and provide best value for money.

To ensure compliance with the Act, the delegation for the CEO to approve the anticipated expenditure for the eligible emergency and reconstruction program for AGRN 969 will end when all of the restorative work is deemed completed, or on 30 June 2022 (whichever is sooner).

## 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

## 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*.

The Chief Executive Officer designates **Confidential Attachment [12.2.1] – Memorandum of Understanding** Agenda item as confidential information on the grounds that it relates to 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 information is deemed commercial-in-confidence to protect the privacy of the contractors and amounts submitted for consideration.

**Confidential Attachment [12.2.2] – Funding Disaster Notification of Event Form AGRN 96** – is designated confidential information pursuant to the Local Government Act 2020, s.3(1)(f) - personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.

The grounds for designation have been made to protect the privacy of the personal information contained.

## **REFERENCE DOCUMENTS**

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

Pillar 3. Decision Making

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

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

Procurement Policy (C32)

### **Legislative Provisions**

Local Government Act 1989

Local Government Act 2020

## **4. OBJECTIVE 4 - CUSTOMER FOCUSED ORGANISATION**

### **4.1. AUDIT COMMITTEE MEETING - JUNE 2021 MINUTES**

Performance & Innovation

#### **Council Plan**

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

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

#### **EXECUTIVE SUMMARY**

The draft minutes of the Audit and Risk Committee meeting held on 8 June 2021 (**Attachment [4.1.1]**) are provided to Council for noting.

Audit and Risk Committee members at the meeting included:

- Mr Chris Badger (Audit Committee Chair)
- Mr Homi Burjorjee
- Ms Jen Johanson
- Mr Rick Brown (Administrator member)

#### **RECOMMENDATION**

**That Council notes the draft Audit and Risk Committee Minutes – 8 June 2021 (Attachment [4.1.1]).**

#### **REPORT**

The matters considered by the Audit and Risk Committee at the 8 June 2021 meeting are contained in **Attachment [4.1.1]**.

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

The draft Audit and Risk Committee Minutes for 8 June 2021 (**Attachment [4.1.1]**) have been circulated to the Audit and Risk Committee for feedback and will be formally accepted by the Committee at the next meeting.



## **RESOURCES / FINANCIAL VIABILITY**

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

## **RISKS**

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

## **STAFF DISCLOSURE**

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

## **ATTACHMENTS**

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

1. Audit and Risk Committee Minutes - 8 June 2021 [4.1.1 - 15 pages]

## **REFERENCE DOCUMENTS**

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

Pillar 7. Risk & Compliance

Pillar 8. Monitoring & Performance Review

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

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

Audit Policy (C55)

Audit and Risk Committee Charter Policy (C08)

Audit and Risk Committee Charter and Terms of Reference

### **Legislative Provisions**

Local Government Act 2020

## 4.2. TREATMENT OF CONFIDENTIAL DOCUMENTS - JULY 2021

Performance & Innovation

### **Council Plan**

*Objective 4 - Customer Focused Organisation*

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

*This report responds to a resolution of the former Council. It speaks to the requirements for managing confidential information in accordance with relevant legislation.*

### **EXECUTIVE SUMMARY**

The purpose of this report is to present a response to the former Council's resolution made at the Ordinary Meeting of Council 27 March 2019, where Council resolved:

*"That Council requests the Chief Executive Officer to bring a future report on confidential documents to Council that may be released."*

### **RECOMMENDATION**

**That Council:**

- 1. Notes the information contained within this report; and**
- 2. Determines not to commit any further resources to this resolution of the former Council.**

### **REPORT**

#### ***Context***

At the 27 March 2019 Ordinary Meeting of Council, a Notice of Motion was moved by Cr Fawcett calling for a suitable summary document of the findings and recommendations of the confidential Report Internal Audit – Councillor Expenditure and Code of Conduct Internal Audit – June 2017 to be made public.

An amendment to the original motion was moved and Council resolved as follows:

*"That Council requests the Chief Executive Officer to bring a future report on confidential documents to Council that may be released."*

Without a defined scope of document types, and with no articulated span of time, the resolution effectively requested a report on all confidential documents ever produced or held by South Gippsland Shire Council.

### ***Considerations***

Consideration has been given to the exceptionally broad range of documents that fit under the determination of being considered 'Confidential', particularly given the lack of clarity the former Council provided to adequately define the relevant time period, or the breadth and nature of 'documents' to be considered.

In implementing this resolution and in the absence of any defined boundaries Council officers would need to consider – at a minimum – every document from the formative days of South Gippsland Shire Council in 1994 through to the current day. That would include every document held by Council that contains sensitive or personal information about a community member, business, staff member, community group, or contractor, including any confidential information provided to Council.

It is estimated that for Council officers to undertake such a task would take several years of dedicated searching and consideration of what could be deemed relevant to be released against various pieces of legislation. This work would cost several hundred-thousands of dollars.

### ***Legislative Controls***

Council is governed by over 200 pieces of legislation and regulations, many of which contain limitations and specific requirements on the management of sensitive, personal and/or confidential documentation. Managing confidential information has clearly defined requirements for Councils, particularly in the *Local Government Act 1989* (1989 Act), that was in place at the time the resolution was made, and in the *Local Government Act 2020* (2020 Act) that is currently in place.

Council, on every occasion it was/is presented with confidential information, had/has the opportunity to determine if information deemed confidential under the various pieces of legislation should remain confidential or be released in part, or full. Many Council resolutions included the release of information in a governed way as part of the decision on the matter at hand. This is considered the most appropriate good governance approach to determining what confidential information should be made public, when and by what means.

The *Freedom of Information Act 1982* (FOI Act), is the key enabling piece of legislation by which the public can seek to obtain confidential information.

This allows the various controls to be managed regarding what information may or may not be made public. This protects personal information from being released without due consideration, while still entitling the people to which it pertains to gain reasonable access to it.

These various pieces of legislation have been established to create a level of balance between protecting the rights of individuals to access Council held information and providing guidance to Councils in responsibly managing and releasing the information entrusted to it.

### ***Council Policy Controls***

Council's *Councillor Access to Council Information Policy (C66)* is designed to ensure all Councillors have access to the information they require to make informed strategic decisions in the best interest of the community.

At the time the resolution was made in March 2019 it was framed within the legislative context of s.77 of the 1989 Act, which made it unlawful for a Councillor or former Councillor to release information that the person knows, or should reasonably know, is confidential information.

Section 125 of the 2020 Act maintains a similar requirement, in that Council must not intentionally or recklessly disclose information that the person knows is confidential information. Penalty units applied for breaches of both Acts.

Privacy laws apply not only to disclosing personal or health information to persons outside Council, but also to access and use of such information by Councillors and staff. Councillor access to Council documents is to be guided by the principle of what is required for a Councillor to undertake his or her "representative role as a Council". The information must not be used for any other purpose.

In accordance with the due diligence required by Council to meet the requirements of these Acts, a thorough and considered approach of every piece of confidential, sensitive and personal information held by Council would be required to determine what could or could not be released, in order to meet the former Council's resolution of 27 March 2019.

### ***Conclusion***

It is considered not in the community of South Gippsland's best interest to allocate any further resources to undertake what would be a voluminous, expensive and complicated review of all 'confidential information' held by Council where no clear beneficial intent, purpose or outcome was provided by the former Council. The release of information could place Council in a

position whereby individuals or companies could litigate against Council for breaches of their personal information. This would not be an act of good governance or responsible allocation of resources.

Given the undefined requirements of the resolution, or outcomes to be achieved in the community's best interest through the Council resolution, it is proposed that this report be noted and no further resources be allocated to pursue the resolution further.

In accordance with good governance requirements, Council is encouraged to consider whether or not confidential information associated with it should be released in the determination of each matter.

### **CONSULTATION / COMMUNITY ENGAGEMENT**

This matter has been considered by members of the current Executive Leadership Team.

### **RESOURCES / FINANCIAL VIABILITY**

This project is currently unfunded. Should the project proceed, it will require additional skilled records management and freedom of information officers to complete the review, a detailed project and management plan and guidance from Council to determine the boundaries within which to manage the review and timeline for completing it.

### **RISKS**

There is a high probability of Council exposing sensitive, personal and/or confidential information outside the controls of the 200 pieces of legislation within which Council operates. The risk of damages being pursued against Council for unauthorised access to, misuse of, or release of private information could be anticipated.

Community members and businesses expect Council to maintain the control of and limited access by others to their personal information. Council policies and legislative controls provide this protection, however a broad ill-defined project to review and report on confidential information for release, may heighten community concerns about Council's ability and responsibilities, thereby diminishing community trust and resulting in reputational damage to Council.

### **STAFF DISCLOSURE**

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

## **ATTACHMENTS**

Nil

## **REFERENCE DOCUMENTS**

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

Pillar 1. Direction & Leadership

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

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

Audit and Risk Committee Charter Policy (C08)

Code of Conduct for Staff Policy (CE20)

Councillor Access to and Request for Council Information Policy (C66)

Councillor Code of Conduct Policy (C14)

Information Privacy Policy (Website Privacy Statement) (C22)

Occupational Health and Safety Policy (CE78)

Risk Management Framework (C35)

Risk Management Policy (C35)

Good Governance Framework

### **Legislative Provisions**

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

Equal Opportunity and Anti-Discrimination 2010

Freedom of Information Act 1982

Local Government (Planning and Reporting) Regulations 2015

Local Government Act 1989

Local Government Act 2020

Public Records Act 1973

### 4.3. POLICY REVIEW: PROCUREMENT POLICY (C32)

Performance & Innovation

#### **Council Plan**

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

*The update and review of the Procurement Policy (C32) seeks to align the Policy to the requirements of the Local Government Act 2020.*

#### **EXECUTIVE SUMMARY**

The *Procurement Policy (C32)* (the Policy) (**Attachment [4.3.1]**) sets the objectives and requirements for all Council procurement to ensure the goods, services and works obtained for Council represents good value for money, considers any procurement risk, and ensures rigour of process commensurate with the value.

This update seeks to align the Policy to the requirements of the *Local Government Act 2020* (the Act) as well as incorporates process improvements and efficiencies sought by the internal Procurement Working Group and Maturing Contracting Strategy.

#### **RECOMMENDATION**

**That Council:**

- 1. Adopts the revised Procurement Policy (C32) June 2021 contained in Attachment [4.3.1]; and**
- 2. Publishes the Procurement Policy (C32) on Council's website.**

#### **REPORT**

This *Procurement Policy (C32)* revision incorporates changes to meet the requirements of the Act. The Act stipulates that a compliant Procurement Policy must be established by each Council from 1 July 2021 and implemented no later than 31 December 2021.

This Policy update includes revision throughout the Policy to meet the requirements of the Act by:

- Aligning the policy objectives;
- Nominating a public tendering threshold (\$250,000) given the removal of a threshold provided in the previous 1989 Act and for each Council to self-nominate;

- Including a mechanism for seeking collaboration with other Councils and government organisations based on a value for money principle; and
- Re-alignment to the Act clause changes and renumbering.

This Policy also includes changes to improve procurement processes to ensure the Policy supports required practices including:

- Adding the ability (with approval) to sole source justifiable procurements;
- Providing guidance on considerations for Value For Money;
- Ability to utilise period based and blanket based procurements where it provides greater efficiency and procurement process compliance;
- Ability to accept vendor provided terms and conditions as typically occurs with software licencing and consulting engagements; and
- Inclusion of the requirement to comply with the Victorian Competitive Neutrality Policy.

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

The collaboration section introduced in this Policy was reviewed with the Gippsland Regional Procurement Excellence Network (RPEN) representatives. Each has included the same wording in their respective policy updates for effective functioning of the collaboration.

The Policy changes were circulated for comment with the internal Procurement Working Group and suggestions received were incorporated or clarified. The Executive Leadership Team have reviewed and endorsed the Policy changes.

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

This Policy revision does not require additional financial or labour resources.

#### **RISKS**

The Policy revision reduces procurement risk through improved connection to the broader policy framework for code of conduct, disciplinary actions and fraudulent behaviour.

#### **STAFF DISCLOSURE**

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



## **ATTACHMENTS**

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

1. C32 Procurement Policy 2021 Final clean 2 [4.3.1 - 9 pages]

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

Procurement Policy (C32)

### **Legislative Provisions**

Local Government Act 2020

#### **4.4. DOCUMENTS SEALED, CONTRACTS VARIED, AWARDED OR EXTENDED BY CEO - 15 MAY TO 18 JUNE 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 15 May to 18 June 2021. Council's *Procurement Policy (C32)* requires the CEO to report to Council any of the following actions undertaken to the next appropriate Meeting:

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

##### **RECOMMENDATION**

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

##### **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 15 May to 18 June 2021.

1. Section 173 Agreement between South Gippsland Shire Council and the owner of 3 Cantor Drive Venus Bay in relation to develop land with a dwelling. Seal applied 19 May 2021.
2. Section 173 Agreement between South Gippsland Shire Council and the owner of 75 Atherton Drive Venus bay in relation to costal climate change and associated inundation which may impact access and egress to the subject land. Seal applied 15 June 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.

6. Contracts awarded by Council after a public tender process, signed by the CEO between 15 May to 18 June 2021.
  - a. CON/275 - Repair of Two Landslips in South Gippsland Region was awarded to MACA Civil Pty Ltd. Signed by the CEO 18 May 2021.
  - b. CON/283 - Provision of Cleaning Services – Various Office Sites was awarded to Peopleworks Cleaning Services Pty Ltd. Signed by the CEO 26 May 2021.
7. Contracts awarded after a public tender process within the CEO's delegation between 15 May to 18 June 2021.
  - a. CON/259 - Panel of Suppliers for Supply & Delivery of Quarry Products and Road Making Materials - 2021/22 Resheet Program (Unsealed Roads) was awarded to Casacir Pty Ltd, Holcim (Australia) Pty Ltd and Kennedy Haulage Pty Ltd. Signed by the CEO 9 June 2021

8. Contract variations approved by the CEO between 15 May to 18 June 2021.
  - a. Nil
9. Contract extensions approved by the CEO between 15 May to 18 June 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](http://www.southgippsland.vic.gov.au)*

Governance Rules (C82)

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

Procurement Policy (C32)

##### **Legislative Provisions**

Local Government Act 1989

Local Government Act 2020

Planning and Environment Act 1987

#### **4.5. SUMMARY OF STRATEGIC BRIEFINGS TO ADMINISTRATORS - 13 MAY - 12 JUNE 2021**

Performance and Innovation

##### **Council Plan**

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

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

##### **EXECUTIVE SUMMARY**

Council, in its requirement to give effect to the overarching governance principles and supporting principles of the *Local Government Act 2020, section 9(2)(i), s.9(3)(b) and s.58*, aims to assist the transparency of Council decisions, actions and information through the provision of public summaries of information. The types of information summarised are usually strategic briefing and public presentations to items that will subsequently come before Council for a future decision. The information is summarised so that it is accessible, understandable, relevant and timely.

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

##### **RECOMMENDATION**

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

## REPORT

<b>Meeting Title</b>	<b>Details</b>
<b>Wednesday 19 May 2021</b>	
<b>Agenda Topic Discussion – Council Meeting 19 May 2021</b>	<b>Administrators Attending:</b> Julie Eisenbise, Rick Brown, Christian Zahra <b>Conflict of Interest:</b> Nil disclosed
<b>Wednesday 2 June 2021</b>	
<b>Agenda Topic Discussion – Council Meeting 2 June 2021</b>	<b>Administrators Attending:</b> Julie Eisenbise, Rick Brown, Christian Zahra <b>Conflict of Interest:</b> Nil disclosed
<b>Community Transport</b>	<b>Administrators Attending:</b> Julie Eisenbise, Rick Brown, Christian Zahra <b>Conflict of Interest:</b> Nil disclosed
<b>Community Grants Program</b>	<b>Administrators Attending:</b> Julie Eisenbise, Rick Brown, Christian Zahra <b>Conflict of Interest:</b> Nil disclosed
<b>Economic Development and Visitor Economy Strategies</b>	<b>Administrators Attending:</b> Julie Eisenbise, Rick Brown, Christian Zahra <b>Conflict of Interest:</b> Nil disclosed
<b>Leongatha Early Learning Centre</b>	<b>Administrators Attending:</b> Julie Eisenbise, Rick Brown, Christian Zahra <b>Conflict of Interest:</b> Nil disclosed
<b>Predictive Modelling for Roads</b>	<b>Administrators Attending:</b> Julie Eisenbise, Rick Brown, Christian Zahra <b>Conflict of Interest:</b> Nil disclosed
<b>Tree Management Plan</b>	<b>Administrators Attending:</b> Julie Eisenbise, Rick Brown, Christian Zahra <b>Conflict of Interest:</b> Nil disclosed
<b>Wednesday 9 June 2021</b>	
<b>Agenda Topic Discussion – Council Meeting 16 June 2021</b>	<b>Administrators Attending:</b> Julie Eisenbise, Rick Brown, Christian Zahra <b>Conflict of Interest:</b> Nil disclosed

Meeting Title	Details
<b>Wednesday 9 June 2021</b>	
<b>Agenda Topic Discussion – Council Meeting 19 May 2021</b>	<b>Administrators Attending:</b> Julie Eisenbise, Rick Brown, Christian Zahra <b>Conflict of Interest:</b> Nil disclosed
<b>Councillor Code of Conduct (C14)</b>	<b>Administrators Attending:</b> Julie Eisenbise, Rick Brown, Christian Zahra <b>Conflict of Interest:</b> Nil disclosed
<b>Community Satisfaction Survey</b>	<b>Administrators Attending:</b> Julie Eisenbise, Rick Brown, Christian Zahra <b>Conflict of Interest:</b> Nil disclosed
<b>Council Budget Submissions</b>	<b>Administrators Attending:</b> Julie Eisenbise, Rick Brown, Christian Zahra <b>Conflict of Interest:</b> Nil disclosed

## REFERENCE DOCUMENTS

### Council's Good Governance Framework

Pillar 3. Decision Making

### Council Policy / Strategy / Plans

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

Public 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

#### **4.6. INSTRUMENT OF DELEGATION - COUNCIL TO CHIEF EXECUTIVE OFFICER**

Corporate and Community Services Directorate

##### **EXECUTIVE SUMMARY**

The purpose of this report is to revise the Instrument of Delegation (Instrument) to the Chief Executive Officer (CEO). This seeks to provide the CEO with the ability to quickly respond to emergency events where the safety of the community requires urgent actions. The revised Instrument of Delegation (Instrument) to the Chief Executive Officer is found in **Attachment [4.6.1]**.

##### **RECOMMENDATION**

**That Council, under the power conferred by s.11(1)(b) of the *Local Government Act 2020*, resolves that:**

- 1. There be delegated to the person holding the position, or acting in or performing the duties, of Chief Executive Officer the powers, duties and functions set out in the attached Instrument of Delegation to the Chief Executive Officer (Attachment [4.6.1] Instrument of Delegation to the Chief Executive Officer – 21 July 2021), subject to the conditions and limitations specified in that Instrument.**
- 2. The instrument comes into force immediately the common seal of Council is affixed to the instrument.**
- 3. On the coming into force of the instrument all previous delegations to the Chief Executive Officer are revoked.**
- 4. The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.**

##### **REPORT**

###### **Background**

The effective functioning of local government would not be possible if all decisions were made by Council, hence many decision-making powers are allocated by formal delegations to the CEO.

The recent storm event that caused so much damage in South Gippsland, highlighted that the current delegation hindered the CEO in being able to respond quickly to procure services to respond to the emergency.



The proposed Instrument (**Attachment [4.6.1]**) has been updated to provide the CEO with the ability to quickly respond to emergency events, such as a major weather event, where the safety of the community requires urgent actions.

Clause C.3 in the Instrument has been reworded as follows:

*C.3. in case of an emergency caused by an extraordinary event, including severe weather conditions, when the response must be taken urgently in order to ensure the safety of the community, the repair and remediation works directly attributable to that emergency and a contract does not exceed the value of \$ 1,000,000 (inclusive of GST), the CEO:*

- a. may declare an 'emergency event'; and*
- b. determine that a contract must be entered into due to this emergency, subject to that contract being within the Chief Executive Officer's 'emergency event' financial delegation; and*
- c. the declaration being reported to the next Council meeting.*

The exercise of these powers continues to be subject to any decision made by the CEO being reported to the next Council Meeting.

This review has also allowed the Instrument to be updated to align with the most current template provided by Council's lawyer, Maddocks.

## **CONSULTATION**

Consultation on the revised Instrument (**Attachment [4.6.1]**) has occurred with Council's legal advisors, Maddocks, the Director Performance and Innovation and the CEO.

## **RESOURCES**

The Instrument provides an emergency event financial delegation to the CEO to enable the efficient and flexible functioning of Council when an emergency event is declared by the CEO. The Instrument requires reporting to Council on the exercising of this financial delegation, in accordance with the requirements of the *Procurement Policy (C32)*.

## **RISKS**

The proposed amendment to the Instrument allows Council to delegate to the CEO additional powers if there is a local emergency event. The CEO will be able to respond urgently in order to ensure the safety of the community in that emergency.

The exercise of these additional powers will be subject to any decision made by the CEO being reported to the next available Council Meeting.

### **STAFF DISCLOSURE**

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

### **ATTACHMENTS**

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

1. S5 Instrument of Delegation Council to CEO 21 July 2021 [4.6.1 - 5 pages]

### **REFERENCE DOCUMENTS**

#### **Council Policy**

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

Procurement Policy (C32)

#### **Legislative Provisions**

Local Government Act 2020

#### **4.7. POLICY REVIEW: CHIEF EXECUTIVE OFFICER EMPLOYMENT & REMUNERATION POLICY (C71)**

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*

##### **EXECUTIVE SUMMARY**

The purpose of this report is to seek Council consideration of the *Chief Executive Officer Employment & Remuneration Policy (C71)* (the Policy) (**Attachment [4.7.1]**). This Policy provides direction on Council's commitment to the application of good governance, transparency and fairness in all matters relating to the employment, management and remuneration of the Chief Executive Officer (CEO).

Supporting the high performance of the CEO is one of the key responsibilities of the Council. This Policy ensures that the Council meets its obligations to support the ongoing high performance of the CEO through recruitment, professional development, performance planning and management and appropriate recognition and remuneration.

##### **RECOMMENDATION**

**That Council:**

- 1. Adopts the Chief Executive Officer Employment & Remuneration Policy (C71) (Attachment [4.7.1]); and**
- 2. Publishes the Chief Executive Officer Employment & Remuneration Policy (C71) (Attachment [4.7.1]) on Council's website.**

##### **REPORT**

This Policy revision incorporates changes to meet the requirements of the *Local Government Act 2020* (the Act). The Act requires all Councils to adopt a revised Chief Executive Officer Employment & Remuneration Policy by 31 December 2021. The majority of Council's *Chief Executive Officer Employment & Remuneration Policy 2018* is retained in the Policy.

The Policy has been developed in accordance with s.45 of the Act and provides for the following matters which the Council is responsible for under the Act or as a requirement of this Policy:

- a. the recruitment and appointment of the Chief Executive Officer;

- b. approving the Contract of Employment entered into between the Council and the Chief Executive Officer;
- c. the appointment of an Acting Chief Executive Officer for periods over 28 days;
- d. the provision of independent professional advice in relation to the matters dealt within the Policy;
- e. the monitoring of the Chief Executive Officer's performance and professional development;
- f. an annual review;
- g. determining the Chief Executive Officer's remuneration.

The Policy, if approved by Council will be required to be reviewed within six-months of the Council election.

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

The Policy has been developed after benchmarking of sector best policies and through the provision of independent expertise.

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

The resource implications of the Policy can be accommodated within existing resources and budget.

#### **RISKS**

This Policy reduces risk through the provision of direction on Council's commitment to the application of good governance, transparency and fairness in all matters relating to the employment, management and remuneration of the Chief Executive Officer.

#### **STAFF DISCLOSURE**

Ms Kerryn Ellis, Chief Executive Officer has declared a material interest in this matter, as the Policy relates directly to her role.

#### **ATTACHMENTS**

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

1. CEO Employment and Remuneration Policy C71 July 2021 [4.7.1 - 11 pages]

**REFERENCE DOCUMENTS**

**Council's Good Governance Framework**

Pillar 1. Direction & Leadership

**Council Policy / Strategy / Plans**

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

CEO Employment and Remuneration Policy (C71)

**Legislative Provisions**

Local Government Act 2020

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

**5.1. NIL**

**6. ADMINISTRATOR REPORTS**

**6.1. REQUESTS FOR LEAVE OF ABSENCE**

**6.2. ADMINISTRATORS UPDATES**

**6.3. COMMITTEE UPDATES**

## 7. 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.

## **8. PUBLIC QUESTIONS**

### **8.1. PETITIONS AND JOINT LETTERS**

Petitions and Joint letters are written requests that have been signed by a number of community members. According to the 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.



## **8.2. ANSWERS TO PREVIOUS QUESTIONS ON NOTICE**

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

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

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**

### 8.3. 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.*

## 9. CLOSED SESSION

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

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

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

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

### RECOMMENDATION

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

1. **Per s.3(1)(g) Agenda items 11.1, 11.2 and 11.3, designated as private commercial information,**
  - a. **being information provided by a business, commercial or financial undertaking that –**
    - i. **Relates to trade secrets; or**
    - ii. **If released, would unreasonably expose the business, commercial or financial undertaking to disadvantage; and**
  - b. **The grounds have been applied as the information is deemed commercial-in-confidence to protect the privacy of tender information submitted for consideration.**

## **10. MEETING CLOSED**

### **NEXT MEETING**

The next Council Meeting open to the public will be held on Wednesday, 18 August 2021 commencing at 1pm in the Council Chambers, Leongatha.