

SOUTH GIPPSLAND SHIRE COUNCIL

Council Meeting Agenda

16 March 2022

Council Meeting No. 468
Council Chambers, Leongatha
Commencing at 2.00pm



agenda



*South Gippsland
Shire Council*

Come for the beauty, Stay for the lifestyle



OUR PURPOSE

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

Privacy

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

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

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

SOUTH GIPPSLAND SHIRE COUNCIL

Notice is hereby given that Council Meeting No.468 of the South Gippsland Shire Council will be held on 16 March 2022 in the Council Chambers, Leongatha commencing at 2:00 PM

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Kerryn Ellis
Chief Executive Officer

1. PRELIMINARY MATTERS

1.1. LIVE-STREAMING COUNCIL MEETING DISCLAIMER

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

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

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

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

Thank you

1.2. WELCOME TO THE COUNCIL MEETING

COVID Safe Plan

Council Meetings are conducted in line with its *COVID Safe Plan*.

Public Questions

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

1.3. OPENING PRAYER

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

Amen

1.4. ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS

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

1.5. APOLOGIES

1.6. CONFIRMATION OF MINUTES

RECOMMENDATION

That the Minutes of the South Gippsland Shire Council Meeting No. 467, held on 16 February 2022 in the Council Chambers, Leongatha be confirmed.

1.7. DECLARATION OF CONFLICTS OF INTEREST FOR COUNCILLORS

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

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

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

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

The *Local Government Act 2020* can be accessed from the Victorian Legislation and Parliamentary documents website at www.legislation.vic.gov.au.

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

Councillor Clare Williams has declared a direct material conflict of interest in Confidential Agenda Item 12.2 PRIVATE COMMERCIAL INFORMATION - Request for Tender - Port Welshpool Boat Ramp Parking Facility Enhancement Project (RFT/314) as she is a joint owner of a business that has made a submission to the tender process.

1.8. DECLARATION OF CONFLICTS OF INTEREST FOR STAFF

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

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

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

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

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

The *Local Government Act 2020* can be accessed from the Victorian Legislation and Parliamentary documents website at www.legislation.vic.gov.au.

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

2. OBJECTIVE 1 - UNITED SHIRE

2.1. POLICY REVOCATION: VOLUNTEER POLICY (C54)

Economy and Community

Council Plan

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

This report provides for the delivery of efficient and responsive services that enhance the health, safety and wellbeing of the community through the renewal of a policy that provides direction and guidance for the management of Council Volunteers.

EXECUTIVE SUMMARY

The purpose of this report is for Council to consider the revocation of *Volunteer Policy (C54)* (this Policy) (**Attachment [2.1.1]**).

This Report recommends that this Policy is revoked and becomes a Chief Executive Officer (CEO) Policy, as the volunteers that are guided by the Policy take direction, guidance and management from Council officers as Council volunteers (Volunteers).

RECOMMENDATION

That Council notes:

- 1. The Volunteer Policy 2021 (C54) is revoked as a Council Policy (Attachment [2.1.1]);**
- 2. The Volunteer Policy (C54) (Attachment [2.1.1]) will be removed from Council's website; and**
- 3. The 'Council Volunteer Policy' will be administered as a Chief Executive Officer Policy.**

REPORT

The *Volunteer Policy (C54)* (the Policy) was first adopted 22 May 2013 to provide direction and guide Council Volunteer management. The Policy was due for revision, and it was recommended that this Policy be revoked by Council and become a Chief Executive Officer (CEO) Policy.

This recommendation is based on the premise that as the policy directs and guides the management of Council Volunteers by Council Officers, it is

operational in nature. It is proposed to rename the policy to 'Council Volunteer Policy' to clearly define the volunteer cohort the Policy refers to.

Council engages with over 200 volunteers annually to assist with the delivery of a wide range of Council services. Council Volunteers are usually involved in activities in areas such as:

- Coal Creek Community Park & Museum;
- Visitor Information Centres;
- L2P Learner Driver Program and other youth programs; and
- Biodiversity and Waste Management services.

Please see **Attachment [2.1.1]** for a copy of the Policy that is being revoked.

CONSULTATION / COMMUNITY ENGAGEMENT

Nil

RESOURCES / FINANCIAL VIABILITY

No impact is anticipated on Council's Long-Term Financial Plan if the proposed changes are made.

RISKS

Council's reputational risk for volunteers and staff who supervise them is mitigated through the implementation of this Policy and requirements including Police Checks, Working with Children, equal opportunity, fitness for work, occupational health and safety measures and other legislative requirements.

STAFF DISCLOSURE

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

ATTACHMENTS

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

1. C54 Volunteer Policy - draft November 2021 [2.1.1 - 8 pages]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 4. Structure, Systems & Policies

Pillar 5. Communications & Community Engagement

Council Policy / Strategy / Plans

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

Anti-Discrimination Bullying and Harassment Policy (CE25)

Fitness for Work (CE52)

Volunteer Policy (C54)

Arts, Culture and Creative Industry Strategy

Community Strengthening Strategy

Economic Development and Tourism Strategy

An Age-Friendly South Gippsland Plan

Council Plan 2020-2024

Disability Action Plan

Municipal Public Health and Wellbeing Plan

Legislative Provisions

Disability Act 2006

Disability Discrimination Act 1992

Equal Opportunity Act 2020

Fair Work Act 2009

Federal Privacy Policy Act 1988

Local Government Act 2020

Occupational Health and Safety Act 2004

Privacy Act 1988

Public Health and Wellbeing Act 2008

Public Health and Wellbeing Regulations 2019

Victorian Information Privacy Policy 2000

National Standards for Volunteer Involvement 2015

3. OBJECTIVE 2 - ECONOMIC PROSPERITY

3.1. PLANNING SCHEME AMENDMENT - C124 COUNCIL LAND SALES - MARCH 2022

Economy and 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

This report seeks to rezone Council land to reduce over burdening of Council's Infrastructure Maintenance operations and improve liveability within the community through open space asset retirement, sale and capital reinvestment.

EXECUTIVE SUMMARY

The purpose of this report is to present South Gippsland Planning Scheme Amendment C124 to Council for consideration and adoption.

The Amendment proposes to rezone 15 Old Waratah Road, Fish Creek from Public Park and Recreation Zone (PPRZ) to the Township Zone and 6A Warralong Court Leongatha from the PPRZ to the General Residential 1 Zone in combination with a Planning Permit application to remove the open space reservation from the title.

Council exhibited Amendment C124 from 1 December, 2020 to 15 January, 2021. This provided an opportunity for public submissions to be formally made and considered. Council received 43 objections that were unable to be resolved by negotiation.

Council resolved at the 21 April 2021 Council Meeting to refer Amendment C124 to an independent planning panel for consideration after reviewing unresolved submissions.

The Panel Hearing was held on 26 July, 2021 and the Panel Report was received on 2 September 2021. The Report recommends that Amendment C124, as exhibited, should be adopted by Council.

RECOMMENDATION

That Council:

- 1. Adopts the South Gippsland Planning Scheme Amendment C124 in accordance with the Amendment provisions and Planning Permit 2020/214 in Attachment [3.2.1] - South Gippsland Planning Scheme Amendment C124sgip Approval Documents;**

2. **Submits the adopted South Gippsland Planning Scheme Amendment C124 and the Planning Permit 2020/214 to the Minister for Planning for approval (Attachment [3.2.1]); and**
3. **Writes to all submitters to the South Gippsland Planning Scheme Amendment C124 to thank them for their submission to this process.**

REPORT

Background

In 2011, a 'Strategic Review of Landholdings Project' (SRLP) commenced to identify Council owned land considered surplus to its open space requirements. Upon its completion in 2014, it identified 15 Old Waratah Road, Fish Creek and 6A Warralong Court, Leongatha as two, within a series of lots, considered surplus to Council's public open space requirements.

At its 24 February 2016 Council Meeting, Council resolved to sell 15 Old Waratah, Road Fish Creek.

At its 24 August 2016 Council Meeting, Council resolved to sell 6A Warralong Court Leongatha.

To prepare for the sale of these properties, a Planning Scheme Amendment was required to change the land zoning and remove a title reserve on the 6A Warralong Court land. A more detailed discussion of the Amendment's planning policy context is provided in the Amendment Approval Documents included in **Attachment [3.1.1]**.

At the 21 April 2021 Council Meeting, Council resolved to prepare a Planning Scheme Amendment to rezone 15 Old Waratah Road, Fish Creek from Public Park and Recreation Zone (PPRZ) to the Township Zone and 6A Warralong Court, Leongatha from the PPRZ to the General Residential 1 Zone in combination with a Planning Permit application to remove the open space reservation from the title.

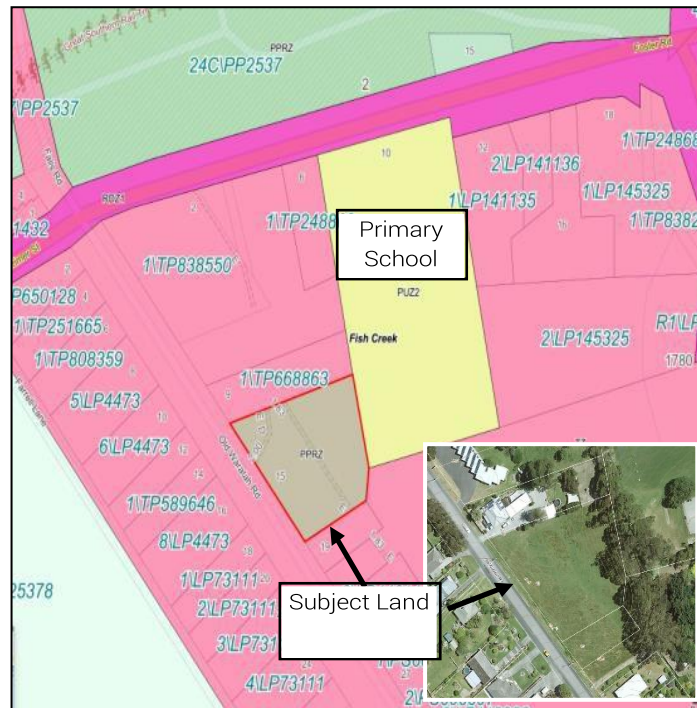
15 Old Waratah Road Fish Creek

The subject land is 4,107m² and zoned PPRZ. It is proposed to be rezoned Township Zone (TZ), making it consistent with the surrounding area. The TZ provides for a broad range of potential uses including residential, commercial and light industrial developments.

The site is undeveloped grassland with a small gully and easement running north west through the land. Its size, configuration, topography and location near the town centre add to its development potential. Investigations have

found no former uses or developments that may have resulted in soil contamination.

Figure 1. Land Zoning and Aerial – 15 Old Waratah Road Fish Creek



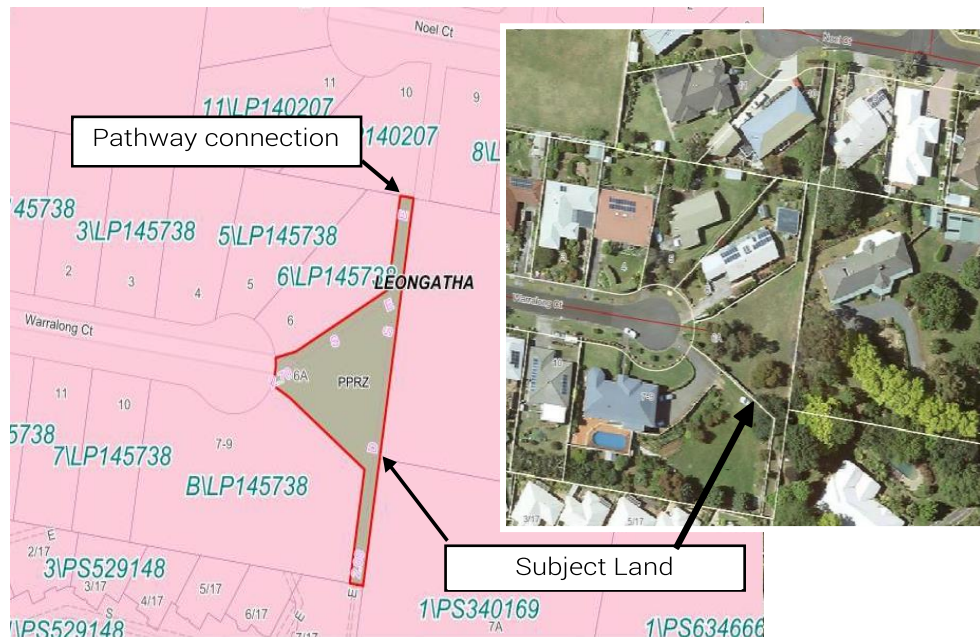
6A Warralong Court Leongatha

The subject land is 1,262m² and is in the PPRZ. It is proposed to be rezoned General Residential Zone 1. The site was identified by the SRLP for sale because its irregular shape makes it poorly suited for use as open space and its narrow pedestrian connection to Noel Court provides poor passive surveillance.

The land is undeveloped (containing no open space / play equipment) and is notable for providing informal pedestrian connectivity to Noel Court to the north and for its various service entry points (access covers) along the eastern boundary. The open space reserve was created when the surrounding area was initially subdivided in the 1980s and its status as a reserve is formally recognised on the land title as a restriction.

Before the land can be used for any purpose other than open space, the reserve restriction must be removed from the title and the land rezoned.

Figure 2. Land Zoning and Aerial – 6A Warralong Court Leongatha



Panel Recommendations

The Panel Report, see **Attachment [3.1.2]**, recommends Council adopt the Planning Scheme Amendment and issue the planning permit as exhibited.

The Panel members considered “whether there is a clear strategy for the delivery of open space in the relevant parts of Leongatha and Fish Creek”. The Panel concluded that there is clear strategy, and “the sale of this land will assist in delivering improved open space”.

When considering the Amendment’s merits, Panel members employed the “principles of net community benefit and sustainable development, as set out in the Planning Scheme’s Clause 71.02-3 (Integrated decision making) of the Planning Scheme.” They considered how the Amendment addressed the “relationship between the obligations of Council as a Planning Authority in regard to open space provision, the contribution these sites make to that obligation, and if removed, additional or replacement parkland is identified”.

The Panel concluded that the 15 Old Waratah Road, Fish Creek property is unlikely to have been acquired strategically by Council for open space, its use as a local neighbourhood park “does not meet contemporary standards in terms of size and slope”, that as a nature reserve “it is not appropriately located” and that more suitable open space is provided at sufficient quantity and quality within the same population catchment.

The Panel concluded that the 6A Warralong Court, Leongatha property “does not meet contemporary standards in terms of size and slope” for use as a local neighbourhood park. It agreed that “local provision [of open space is] better met by the more recently developed MacDonald Street Reserve and the continuing development of this space, combined with improved connectivity to larger recreation reserves and the rail trail” will better service a “growing township and provide greater interest in walking and cycling based activities.”

The Panel emphasised that “proceeds of the sale of open space land need to be reinvested in open space acquisition and improvements” within the local catchment. Council accepts this requirement.

CONSULTATION / COMMUNITY ENGAGEMENT

Amendment C124 was on exhibition for a period of one month, from 1 December, 2020 to 15 January, 2021.

Council sent letters to owners and occupiers of the areas surrounding the subject lands, agencies and authorities and community groups materially affected by the amendment.

Public notices were placed in the local newspapers, on the subject lands and in the Government Gazette. Comprehensive details of the Amendment were also placed on Council’s and DELWP webpages.

A copy of the Panel Report is provided on Council’s and DELWP’s web pages and all submitters have been notified that the report is available to view.

RESOURCES / FINANCIAL VIABILITY

Adoption of Amendment C124 will provide short term benefits to Council in the funding received from the sale of the lands, and longer-term benefits by reducing ongoing yearly maintenance costs.

RISKS

Failure to rezone the subject land and remove the title reservation will prevent the sale of the land, result in ongoing land maintenance cost to Council and a missed opportunity to fund upgrades to local public open spaces.

STAFF DISCLOSURE

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

ATTACHMENTS

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

1. C124 Planning Scheme Amendment - Documents - Approval [3.1.1 - 9 pages]
2. C124 Planning Scheme Amendment - Planning Panel Report [3.1.2 - 20 pages]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 4. Structure, Systems & Policies

Council Policy / Strategy / Plans

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

Council Land Ownership Policy (C34)

Council Plan 2020-2024

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

Environment Protection Act 1994

Environment Protection Act 2017

Local Government Act 2020

Planning and Environment (Planning Schemes) Act 1996

Planning and Environment Act 1987

4. OBJECTIVE 3 - INTEGRATED SERVICES AND INFRASTRUCTURE

4.1. LEONGATHA INTEGRATED EARLY LEARNING CENTRE - PROPOSED LEASE

Sustainable Infrastructure

Council Plan

Objective 3 – To provide the community services and infrastructure that enhance the liveability and environmental sustainability for current and future generations

This report contributes to addressing kindergarten capacity shortfalls identified in the Early Years Infrastructure Plan

EXECUTIVE SUMMARY

The purpose of this report is to seek Council approval to commence the community engagement process for the lease of the Leongatha Early Learning Centre (the Centre) to the Leongatha Children's Centre Incorporated (LCC Inc.) for an initial term of five (5) years with an option of a further four (4) year term.

RECOMMENDATION

That Council:

- 1. Commences the community engagement process in accordance with section 115 of the Local Government Act 2020 to lease the Leongatha Early Learning Centre to the Leongatha Children's Centre Incorporated (Incorporation No. A0015555E) particulars of the lease being (the Proposal):**
 - a. Tenant particulars: Leongatha Children's Centre Incorporated (Incorporation No. A0005555E) Symmons Street, Leongatha Vic 3953;**
 - b. Description of leased premises: Part Lot 2 Plan of Subdivision 448872Q being an area of 3150m² situated at 13 Symmons Street Leongatha and as shown bordered in orange on the plan in Attachment [4.1.1];**
 - c. Initial term of lease: Five (5) years;**
 - d. Option for further term of lease: Four (4) years;**
 - e. Commencement date of lease: 1 January 2023;**
 - f. Annual rental: Community rental \$104.00 plus GST per annum; and**

the highest priority location requiring additional early years investment within the Shire.

Council formally sought requests for proposals to lease the Centre and the LCC Inc. was assessed in September 2021 as the preferred tenant.

Because the proposed lease was not included in Council's budget for 2021/22, Council is required to undertake a community engagement process before entering into the lease. In this case, it will follow the *Community Engagement For Property Proposals Policy / Guidelines (CE84)* – in summary, the main steps are:

1. At least 28 days prior to leasing, publish a notice of intention to do so on Council's website and noticeboard inviting submissions to the proposal.
2. Provide notice to adjoining landowners and occupiers and formally constituted and recognised business organisations/residents' groups in the area the proposal is located.
3. Consider submissions if any are received.

RESOURCES / FINANCIAL VIABILITY

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.

RISKS

The LCC Inc. has leased from Council the adjoining premises from which it has operated a preschool/kindergarten since 2001. The LCC Inc. is considered a good tenant having met all of their tenancy requirements and is considered to have the capacity to lease the new centre and deliver early learning services from the premises.

The responsibilities of both the LCC Inc. and Council will be clearly set out in a formal lease agreement which will also include a Maintenance Schedule and Service Agreement. The lease will be prepared by Council's lawyers and will be similar to recent leases used in the leasing of pre-school premises to Uniting and the YMCA.

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 13.1.1 – Rental Assessment - Leongatha Early Learning Centre – is designated confidential information pursuant to the *Local Government Act 2020*, s.3(1).

The grounds for designation have been made as the information is deemed commercial-in-confidence, being information that would prejudice Council's position in commercial negotiations if prematurely released.

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 3. Decision Making

Council Policy / Strategy / Plans

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

Community Engagement Policy C06

Leasing Policy C62

The following documents are internal documents.

Community Engagement for Property Proposals Policy / Guidelines (CE84)

Early Years Infrastructure Strategy

Legislative Provisions

Local Government Act 2020 s.115

4.2. PROPOSED ROAD DISCONTINUANCE AND SALE - PART GARDNER LANE POOWONG - DETERMINATION OF SUBMISSIONS

Sustainable Infrastructure

Council Plan

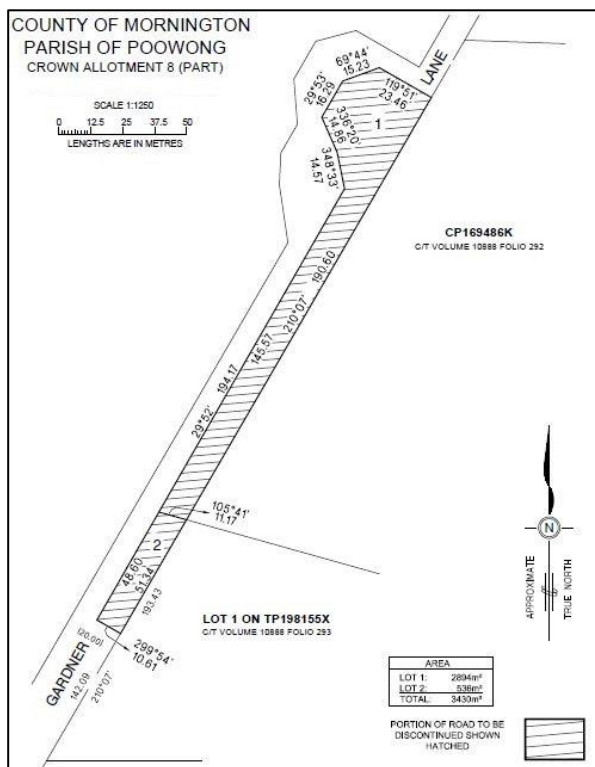
Objective 4 - Customer Focused Organisation

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

EXECUTIVE SUMMARY

The purpose of this report is to formally consider the submissions received from the public regarding the proposed road discontinuance and sale of part Gardner Lane, Poowong – refer **Figure 1** – and seek Council approval to proceed with the road discontinuance and sale of part Gardner Lane, Poowong

Figure 1 – Gardner Lane Poowong – Part Section of Road to be Discontinued and Sold



RECOMMENDATION

That Council:

- Pursuant to Sections 206, 207A, 223 and Schedule 10, Clause 3 of the Local Government Act 1989 to discontinue an area of 3430m² of Gardner Lane, Poowong being part crown allotment 8 Parish of Poowong, shown**

hatched in Figure 1, and sell the land from the discontinued road to the adjoining landowner subject to:

- a. A road discontinuance notice being publish in the Victoria Government Gazette;**
 - b. The sale of the land from the discontinued road to the adjoining land owner be on the conditions that:**
 - i. The purchase price of the land is no less than a valuation determined by Council's Valuer not more than six months prior to the sale;**
 - ii. The land is consolidated into the titles of adjoining land owned by the purchaser.**
- 2. Construct the new section of Gardner Lane, Poowong as a sealed road on the basis that the renewal of the road should not be at a lesser standard than what Council currently provides being a sealed road; and**
 - 3. Writes to the submitters to advised them of the decision and thanks them for their submissions.**

REPORT

Background

In response to a longstanding issue with the location for loading and unloading of cattle to the abattoir's kill room located in Gardner Lane, Poowong, Council at its Ordinary Meeting held 15 December 2021, resolved to commence the statutory procedures (pursuant to Sections 206, 207A, 223 and Schedule 10, Clause 3 of the Local Government Act 1989) to discontinue an area of 3430m² of Gardner Lane, Poowong and sell the land from the discontinued road to the adjoining landowner (the Proposal).

A public notice was published to commence the public consultation process inviting written submissions from the community by 19 January 2022. In this notice, persons that wished to speak to Council in support of their submission were to indicate this in writing.

Council received four submissions in response to the public notice of which three submitters requested that they, or a representative, be heard in support of their submission. Redacted copies of the submissions are available in the following attachments:

- **Submission No.1 – Noel and Barbara Tonkin – requested to speak – Attachment [4.2.1].**

- **Submission No.2** – Samantha Tonkin, owner of Gippsland Paws and More Boarding Kennels and Cattery – requested to speak by Mr Noel Tonkin – **Attachment [4.2.2]**.
- **Submission No.3** – Darcy Laycock and Emily Parry – **Attachment [4.2.3]**.
- **Submission No.4** – James Pippey on behalf of the Estate of Angelo d'Agostino – requested to speak – **Attachment [4.2.4]**.

At a Committee of Council (Public Submissions Hearing) held 9 February 2022, Council heard from Mr Noel Tonkin and Mr James Pippey.

The main objection to the proposal from all four submissions was not the discontinuance and sale of part Gardner Lane Poowong, it was the proposed replacement of the section of road for property access on the eastern side of Gardner Lane, being gravel instead of sealed.

The submissions make the point that it is not just residential traffic accessing the western side of Gardner Lane, as there are other commercial businesses being run from the properties.

The current road construction of Gardner Lane is sealed and has been sealed for the past 25 years.

There is expected to be sufficient funds within the budget allocation for this project to construct the new road with a sealed surface. Therefore, it is recommended that the new section of Gardner Lane is constructed to a sealed road standard.

CONSULTATION / COMMUNITY ENGAGEMENT

The calling of public submissions was advertised on the week commencing 20 December 2021 and closed at 5pm 19 January 2022.

At a Committee of Council (Public Submissions Hearing) held on 9 February 2022, Council heard from Mr Noel Tonkin and Mr James Pippey.

RESOURCES/FINANCIAL VIABILITY

A budget of \$251,000 has been allocated in the 2021/22 Capital Works Program for the roadworks in Gardner Lane. It is proposed that the income from the land sale will be included in the 2022/23 Annual Budget.

The preliminary estimate indicates that the roadworks can be completed within the current budget allocation and it is proposed that this will be reviewed upon completion detailed design and sale of the road.

RISKS

If the road discontinuance process is not completed, and the new gravel road to provide separate access to adjacent properties is not constructed, the longstanding issue with the location for loading and unloading of cattle to the abattoir's kill room located in Gardner Lane Poowong will not be resolved.

STAFF DISCLOSURE

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

ATTACHMENTS

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

1. Submission 1 - Gardner Lane Poowong - N Tonkin (Redacted) [4.2.1 - 10 pages]
2. Submission 2 - Gardner Lane Poowong - S Tonkin (Redacted) [4.2.2 - 1 page]
3. Submission 3 - Gardner Lane Poowong - D Laycock E Parry (Redacted) [4.2.3 - 2 pages]
4. Submission 4 - Gardner Lane Poowong - J Pippey (Redacted) [4.2.4 - 2 pages]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 5. Communications & Community Engagement

Legislative Provisions

Local Government Act 1989

Local Government Act 2020

5. OBJECTIVE 4 - CUSTOMER FOCUSED ORGANISATION

5.1. COUNCIL DELEGATIONS TO CHIEF EXECUTIVE OFFICER (CEO)

Performance and Innovation

Council Plan

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

Council's governance is strengthened by maintaining currency in the delegations to the Chief Executive Officer with the functions she is required to perform on behalf of Council.

EXECUTIVE SUMMARY

The purpose of this report is to revise the s.5 Instrument of Delegation (Instrument) to the Chief Executive Officer (CEO). The revision seeks to continue the general broad powers, excluding those by exception not allowed under S11(2) of the *Local Government Act 2020* (Act). The revision seeks to increase the expenditure limit of the CEO with the aim to deliver services and projects more effectively and efficiently with appropriate controls and reporting in place. Outdated language in the Instrument has also been updated. The revised Instrument to the CEO is found in **Attachment [5.1.1]**.

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 [5.1.1] Instrument of Delegation to the Chief Executive Officer – 16 March 2022), subject to the conditions and limitations specified in that Instrument;**
- 2. The instrument comes into force immediately when 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; and**

5. **The Chief Executive Officer's financial delegation for emergency and exceptional circumstances in the Procurement Policy (C32) be amended to reflect the changes adopted by Council.**

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.

Under s.11(7) of the *Local Government Act 2020 (Act)*, every Council must review, within a period of 12 months after a general election, all delegations which have been made under this section and are still in force. A review of the delegation is timely now that Councillors are elected and circumstances have changed.

The proposed Instrument (**Attachment [5.1.1]**) has been updated to:

1. Maintain the broad delegations, excluding those not allowed by exception under s.11(2) of the Act.
2. Increased Ordinary Financial Delegation

The ordinary expenditure amount is proposed to be increased from \$250,000 to \$750,000. The additional amount will align Council with several other similar councils within the region with the aim to:

- a. deliver services and projects more effectively and efficiently with appropriate controls in place.
 - b. Increase the efficiency of Council Meetings;
 - c. Maintain the requirement for the CEO to report expenditure approvals over the \$750,000 limit for emergency events and awarding of contracts, to the next appropriate Council meeting.
 - d. Allow the Council and Community to have oversight of tenders approved under delegation by the CEO over the public tender threshold of \$250,000, as these will be captured in the monthly summary report of 'Documents Sealed, Contracts Varied, Awarded or Extended by CEO'.
3. Increased Emergency Financial Delegation

The State of Emergency and exceptional circumstances expenditure limits are proposed to be increased to an amount of up to \$3,000,000 to align these two amounts to be the same.

Aligning the increased amount for extraordinary events would allow the CEO to respond quickly to implement repair and remediation works directly attributed to an emergency, in order to ensure the safety of the community.

4. Consultation with the Mayor for Emergency Events

In line with the election of Councillors, the s.5 Instrument of Delegation to CEO, requires the change in language from “Administrators” to “Mayor”.

5. Delegation for Capital Works Program adopted in annual Budgets

The delegation aims to allow the CEO to approve contracts and expenditure for annual Capital Works Program projects that have been adopted by Council in the Annual Budget. The awarded contracts will be included in the monthly Council report on ‘Documents Sealed, Contracts Varied, Awarded or Extended by CEO’. This allows adopted capital projects to progress more efficiently, while providing increased transparency to the community through an open report to Council on the outcomes of tenders over the public tender threshold of \$250,000. These decisions were previously considered in closed Council meetings.

This review has also allowed the Instrument to be updated to align with the most current template provided by Council’s lawyers at Maddocks.

A change in the CEO’s financial delegation will require an amendment to the *Procurement Policy (C32)* to reflect the change in threshold for State declared emergencies and exceptional circumstances declared by the CEO’. It is proposed that Council resolve to amend *Procurement Policy (C32)*, where appropriate, to reflect any relevant changes in the financial delegation adopted.

CONSULTATION / COMMUNITY ENGAGEMENT

Consultation on the revised Instrument (**Attachment [5.1.1]**) has occurred with Council’s Officers, Management, Maddocks and Councillors at a briefing in early March.

RESOURCES / FINANCIAL VIABILITY

The Instrument provides a financial delegation to the CEO to enable the efficient and flexible functioning of Council, with reporting required to Council

to advise of the exercising of this financial delegation in accordance with the requirements of the *Procurement Policy (C32)* and this s5 Instrument of Delegation.

RISKS

The proposed amendment to the Instrument (**Attachment [5.1.1]**) allows Council to delegate an increased expenditure to the CEO in ordinary circumstances and in 'exceptional circumstances' (refer Part C of **Attachment [5.1.1]**).

Council and the Community oversight of tenders approved under delegation by the CEO that are over the public tender threshold will be captured in the monthly summary report of 'Documents Sealed, Contracts Varied, Awarded or Extended by CEO'.

The amendments assist in mitigating the risk of failing to prepare and plan for emergency and recovery circumstances and ensure more efficient process at operational and Council level. Additionally, the amendments ensure the correct language is used throughout the instrument following the recommendations by Maddocks and the appointment of Councillors.

STAFF DISCLOSURE

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

ATTACHMENTS

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

1. S5 Instrument of Delegation - Council to CEO [5.1.1 - 6 pages]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 3. Decision Making

Legislative Provisions

Local Government Act 2020

5.2. FINANCIAL PERFORMANCE REPORT - JULY 2021 TO DECEMBER 2021

Performance and Innovation

Council Plan

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

The Financial Performance Report provides an overview of Council's financial performance for the period July 2021 to December 2021. The report provides timely communication to the community and Council regarding Council's financial performance and aligns with the Local Government Act 2020.

EXECUTIVE SUMMARY

The purpose of this report is to present the Financial Performance report (**Attachment 5.2.1**) which has been prepared in accordance with section 97 of the *Local Government Act 2020* (the Act) and provides an overview of Council's financial performance for the period July 2021 to December 2021.

The results in summary:

- Operating result: the deficit is unfavourable by \$0.55M primarily due to increased labour costs related to grant funded initiatives including Working for Victoria and payment for the discontinued MAV Workcover Scheme (which was allowed for in the year end surplus for 2020/21).
- Capital works: Capital works is tracking \$1.17M behind budget due to the timing of infrastructure works. This report includes requests to carry forward \$6.16M for project costs to 2022/23.
- The projected financial outcome for 2021 is an operating surplus of \$5.09M, which is a favourable movement of \$0.76M. Capital Works are projected to total \$39.38M, which is a decrease in expenditure of \$9.786M.

RECOMMENDATION

That Council:

1. **Receives and notes the Financial Performance Report July 2021 to December 2021 (Attachment [5.2.1]); and**
2. **Notes, as required by s.97(3) of the *Local Government Act 2020*, that there is no indication that a revised budget will need to be adopted for the 2021/22 financial year.**

REPORT

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

“That Council:

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

As per s.97(3) of the Act, there is no indication that a revised budget will need to be adopted for the 2021/22 financial year.

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

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

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

The financial performance indicators that were used to develop the annual and long-term budgets are used to monitor projected financial outcomes at year-end as well as the longer-term financial ramifications. At the end of the

financial year, comprehensive financial statements and performance statements are produced, subject to external audit and included in the Annual Report.

Financial Performance Report July 2021 to December 2021 contains detailed reporting in (**Attachment [5.2.1]**).

Section 1 - Financial Performance Statement

This section provides an overview of Operating performance and expenditure on the Capital Works program. This section lists the three major financial statements as at 31 December 2021:

- Income Statement
- Balance Sheet
- Cash Flow Statement

Section 2 - Financial Statements

This section lists the following financial statements (including variance commentary) as at 31 December 2021:

- Balance Sheet
- Cash Flow Statement

Section 3 – Annual Year to Date Financial Analysis

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

Year to Date Financial Analysis

This section provides more details around operating and capital variances and Council's performance against key financial ratios.

RESOURCES / FINANCIAL VIABILITY

Financial reporting is performed internally within budgeted resources.

RISKS

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

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

STAFF DISCLOSURE

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

ATTACHMENTS

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

1. Financial Performance Report - July 2021 to December 2021 [5.2.1 - 18 pages]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 8. Monitoring & Performance Review

Council Policy / Strategy / Plans

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

Long-Term Financial Strategies

Annual Budget

Legislative Provisions

Local Government Act 2020

5.3. POLICY REVIEW: COUNCILLOR SUPPORT AND EXPENDITURE POLICY

Performance and Innovation

Council Plan

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

The adoption of the Councillor Support and Expenditure Policy C51 seeks to maintain clear guidelines for the use of resources to support the Mayor and Councillors in fulfilling their roles. This aims to equip Councillors for the various tasks and responsibilities they fulfil, without being disadvantaged financially in the service they provide to the community.

EXECUTIVE SUMMARY

The purpose of this report is to present a revised Councillor Support and Expenditure Policy C51 (Revised Policy) (**Attachment [5.3.1]**) for Councillors to consider. The revised changes relate to vehicles for Councillors, provide clarity on child care travel reimbursement and a requirement for Councillors to comply with the same restrictions, mandatory requirements and COVID-safe plans that staff are required to adhere to.

The Revised Policy incorporates components from the Chief Executive Officer (CEO) Councillor Vehicle Policy CE04 (Vehicle Policy). The consolidation of these two policies will allow the Councillor Vehicle Policy to be rescinded by the Chief Executive Officer.

RECOMMENDATION

That Council:

- 1. Adopts Councillor Support and Expenditure Policy (C51) contained in Attachment [5.3.1]; and**
- 2. Publishes the Councillor Support and Expenditure Policy (C51) on Council's website.**

REPORT

Each Council is required to have an adopted Councillor Expenses Policy under s.41 of the *Local Government Act 2020* (Act). The current Councillor Support and Expenditure Policy (C51) was last reviewed and adopted in July 2020.

Each Councillor's individual usage of resources are recorded and made public through the Annual Report each year. This provides transparency in the use of Council resources.

The Revised Policy in **Attachment [5.3.1]** contains the following summary of changes:

1. Amendments to the optional provision of a Council vehicle. These changes propose that a Councillor can be provided with a Council vehicle where they require a vehicle to be able to fulfil their Councillor functions. They also allow for a Council vehicle to be provided where travelling distance are extensive and its more efficient to use a Council vehicle than be reimbursed for travel. This distance is currently around 12,000 kilometres per annum;
2. The associated responsibilities applicable to the usage of a Council vehicle have been incorporated into the Revised Policy from the Councillor Vehicle Policy (CE04). This connects the policy directions into the one policy, thereby removing potential inconsistencies between policies. This will allow the Vehicle Policy to be rescinded by the CEO.
3. Clarity has been provided to allow for travel reimbursements to be claimed for taking children to child care providers when required for Council related purposes. This forms part of the child care provision;
4. The Policy ensures Councillors respond to pandemic requirements in line with government directions; and
5. Several administrative changes have been made to align with current practice. These are minor amendments that do not make any substantial change to the Policy.

CONSULTATION / COMMUNITY ENGAGEMENT

Councillors have been consulted in considering the proposed changes to the Revised Policy.

RESOURCES / FINANCIAL VIABILITY

The resources to support the Mayor and Councillors in fulfilling their roles are provided in addition to the annual allowance and superannuation contribution required under the Act. Existing budget allocations cover the provision of these resource supports and allowances.

RISKS

Council is required to have an adopted Councillor Expenses Policy in accordance with s.41 of the Act. The adoption of the Revised Policy maintains the currency of the policy for Council's purposes.

Transparency of Councillors' annual expenditure on resources is provided in each Annual 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 at the following [LINK](#).

1. C51 Councillor Support & Expenditure Policy - review March 2022 - Draft [5.3.1 - 17 pages]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 2. Culture & Behaviour

Pillar 4. Structure, Systems & Policies

Pillar 6. Capability

Council Policy / Strategy / Plans

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

Councillor Code of Conduct Policy (C14)

Councillor Support and Expenditure Policy (C51)

Councillor Vehicle Policy (CE04)

Legislative Provisions

Local Government Act 2020

5.4. SUMMARY OF STRATEGIC BRIEFINGS TO COUNCILLORS - 13 JANUARY TO 12 FEBRUARY 2022

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 January and 12 February 2022.

RECOMMENDATION

That Council receives and notes this report.

REPORT

Meeting Title	Details
Wednesday 2 February 2022	
Councillor Code of Conduct Review	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Michael Felton, Jenni Keerie, Clare Williams, Adrian Darakai</p> <p>Municipal Monitor: Prue Digby</p> <p>Conflict of Interest: Nil disclosed</p>
Wednesday 9 February 2022	
Agenda Topic Discussion –	Councillors Attending:

Meeting Title	Details
Council Meeting 16 February 2022	Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Michael Felton, Jenni Keerie, John Schelling, Clare Williams, Adrian Darakai Municipal Monitor: Prue Digby Conflict of Interest: Nil disclosed
Road Discontinuance of part Gardner Lane Poowong	Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Michael Felton, Jenni Keerie, John Schelling, Clare Williams, Adrian Darakai Municipal Monitor: Apology Conflict of Interest: Nil disclosed
Submission Hearing - Road Discontinuance of part Gardner Lane Poowong	Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Michael Felton, Jenni Keerie, John Schelling, Clare Williams, Adrian Darakai Municipal Monitor: Apology Conflict of Interest: Nil disclosed
Simons Lane – New intersection and Buildings Works	Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Michael Felton, Jenni Keerie, John Schelling, Clare Williams, Adrian Darakai Municipal Monitor: Apology Conflict of Interest: Nil disclosed

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 3. Decision Making

Council Policy / Strategy / Plans

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

Public Transparency Policy (C75)

Legislative Provisions

Local Government (South Gippsland Shire Council) Act 2019

Local Government Act 1989

Local Government Act 2020

5.5. DOCUMENTS SEALED, CONTRACTS VARIED, AWARDED OR EXTENDED BY CEO - 15 JANUARY TO 11 FEBRUARY 2022

Office of the Chief Executive

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 January to 11 February 2022. 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 Officer (CEO) uses the Common Seal in a manner prescribed by sub-clause (c), this means on the authority of a

Council resolution, then Council must be advised of such use on a regular basis.

'Section 173 Agreements' are prepared in accordance with s.173 of the *Planning and Environment Act 1987*, allowing Council to enter into agreements relating to the use or development of land, conditions to which the land may be used or developed or any matter that relates to planning or planning schemes in Victoria. Section 174 of the *Planning and Environment Act 1987* requires that such an agreement be under seal and must bind the owner to the covenants specified in the agreement.

In accordance with the Local Law, Instrument of Delegation and *Planning and Environment Act 1987*, the following are presented to Council as documents sealed during the period from 15 January to 11 February 2022.

1. Section 173 Agreement between South Gippsland Shire Council and the owner of 105 Harmon Road Foster in relation to a 2-lot subdivision. Seal applied 1 February 2022.
2. Amendment to Section 173 Agreement between South Gippsland Shire Council and the owner of 105 Harmon Road Foster in relation to a 2-lot subdivision. Seal applied 1 February 2022.

Contracts Awarded, Varied or Extended

In accordance with Council's Procurement Policy where contracts are awarded under delegation, varied or extended, they are required to be reported to the next practicable Council Meeting.

1. Contracts awarded by Council after a public tender process, signed by the CEO between 15 January to 11 February 2022.
 - a. Nil.
3. Contracts awarded after a public tender process within the CEO's delegation between 15 January to 11 February 2022.
 - a. Nil.
4. Contract variations approved by the CEO between 15 January to 11 February 2022.
 - a. Nil.
5. Contract extensions approved by the CEO between 15 January to 11 February 2022.

- a. Nil.

STAFF DISCLOSURE

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

ATTACHMENTS

Nil

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 3. Decision Making

Council Policy / Strategy / Plans

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

Governance Rules (C82)

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

Procurement Policy (C32)

Legislative Provisions

Local Government Act 1989

Local Government Act 2020

Planning and Environment Act 1987

6. NOTICES OF MOTION AND/OR RESCISSION

6.1. NIL

7. COUNCILLOR REPORTS

7.1. REQUESTS FOR LEAVE OF ABSENCE

7.2. COUNCILLOR UPDATES

7.3. COMMITTEE UPDATES

8. URGENT OR OTHER BUSINESS

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

1. Urgent Business

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

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

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

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

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

2. Other Business

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

9. PUBLIC QUESTIONS

9.1. PETITIONS AND JOINT LETTERS

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

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

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

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

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

9.2. ANSWERS TO PREVIOUS QUESTIONS ON NOTICE

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

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

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

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

Nil

9.3. SUBMITTED PUBLIC QUESTIONS

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

On the day of the Meeting, questions on the prescribed form must be received prior to the commencement of the Council Meeting by 1.00pm and placed in the receptacle at the Governance Officers table. These questions will be taken on notice, included in the Minutes and responses provided at the next Council Meeting.

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

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

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

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

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

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

10. 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 12.1 – Contract Extension SGC12/09 - Public Litter and Recycling Bin Collection Services, designated as private commercial information,
 - a. being information provided by a business, commercial or financial undertaking that –
 - i. Relates to trade secrets; or
 - ii. If released, would unreasonably expose the business, commercial or financial undertaking to disadvantage; and

- b. The grounds for designation have been made as the information is deemed commercial-in-confidence to protect the privacy of the contractor's tender information submitted for consideration.**
- 2. Per s.3(1)(g) Agenda items 12.2 – Request for Tender - Port Welshpool Boat Ramp Parking Facility Enhancement Project (RFT/314), designated as private commercial information,**
 - a. being information provided by a business, commercial or financial undertaking that –**
 - i. Relates to trade secrets; or**
 - ii. If released, would unreasonably expose the business, commercial or financial undertaking to disadvantage; and**
 - b. The grounds for designation have been made as the information is deemed commercial-in-confidence to protect the privacy of the contractors tender information submitted for consideration.**

11. MEETING CLOSED

NEXT MEETING

The next Council Meeting open to the public will be held on Wednesday, 20 April 2020 commencing at 2pm in the Council Chambers, Leongatha.