



**South Gippsland**  
Shire Council

*Come for the beauty, Stay for the lifestyle*

# COUNCIL MINUTES

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**ORDINARY MEETING NO. 384  
WEDNESDAY 24 SEPTEMBER 2014  
COUNCIL CHAMBER, LEONGATHA  
COMMENCED AT 2PM**

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**PRESENT:**

**Mayor:** Cr James Fawcett  
**Deputy Mayor:** Cr Jeanette Harding  
**Councillors:** Mohya Davies, Kieran Kennedy, Robert Newton, Lorraine Brunt, Andrew McEwen, Nigel Hutchinson-Brooks and Don Hill.

**APOLOGY:** Mr Tim Tamlin, Chief Executive Officer

**OFFICERS:**

Jan Martin	Acting Chief Executive Officer
Chris Van Der Ark	Acting Director Engineering Services
Louise Brydon	Acting Director Community Services
Matthew Patterson	Acting Director Development Services
June Ernst	Director Corporate Services
David Roche	Acting Governance Services
Natasha Berry	Governance Officer
Ned Dennis	Manager Community Strengthening

**MISSION**

***To effectively plan and provide for the social, built, economic and natural environments that ensure the future wellbeing of South Gippsland Communities.***

# SOUTH GIPPSLAND SHIRE COUNCIL

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**Jan Martin**  
**Acting Chief Executive Officer**

## **SECTION A - PRELIMINARY MATTERS**

### **A.1 WELCOME**

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

### **A.2 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

### **A.3 ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS**

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

### **A.4 APOLOGIES**

**Mr Tim Tamlin, Chief Executive Officer**

### **A.5 CONFIRMATION OF MINUTES**

#### **RECOMMENDATION**

That the Minutes of the South Gippsland Shire Council Ordinary Meeting No. 383, held on 27 August 2014 in the Federation Training, Leongatha be confirmed.

**MOVED: Cr Newton**

**SECONDED: Cr Kennedy**

**THAT THE MINUTES OF THE SOUTH GIPPSLAND SHIRE COUNCIL  
ORDINARY MEETING NO. 383, HELD ON 27 AUGUST 2014 IN THE  
FEDERATION TRAINING, LEONGATHA BE CONFIRMED.**

**CARRIED UNANIMOUSLY**

### **A.6 REQUESTS FOR LEAVE OF ABSENCE**

**Nil**

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## A.7 Declaration of Conflict of Interest for Councillors

Any interest that a Councillor or staff member has deemed to be significant and has disclosed as either a direct or an indirect interest is now considered to be a conflict of interest. Conflict of interest legislation is in sections 77A, 77B, 78, 78A-D and 79 of the Local Government Act 1989. This legislation can be obtained by contacting the Council's Corporate Services Directorate (Governance Services) or by accessing the Victorian Legislation and Parliamentary Documents website at [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au). An interest may be by close association, financial, conflicting duties or receipt of gifts.

If a Councillor or staff member discloses any interest in an item discussed at any Council Meeting (whether they attend or not) they must:

- Complete a disclosure of interest form prior to the Meeting (forms are available from the Organisational Development Department – Governance).
- Advise the Chair of the interest immediately before the particular item is considered (if attending the Meeting).
- Leave the Council Chamber or Meeting room while the item is being discussed and during any vote taken (if attending the Meeting).

The Councillor or staff member will be advised to return to the Council Chamber or Meeting room immediately after the item has been considered and the vote is complete.

Councillors should check the Minutes of the Council Meeting to ensure their disclosure is recorded accurately.

Councillors are not required to disclose conflict of interest in relation to matters only considered at Meetings they do not attend.

Detailed information is available in Conflict of Interest – A Guide for Councillors June 2011.

**Councillor James Fawcett declared an indirect conflict of interest in Preliminary Matters - A.9 Petitions – Loch, Nyora and Poowong Sewerage Scheme, having a conflicting duty in that he is a Director of South Gippsland Water.**

Type of Interest		Example of Circumstance
<b>Direct Interest</b>		Reasonably likely that your benefits, obligations, opportunities or circumstances will be directly altered. Reasonably likely to receive a direct benefit or loss measurable in money. Reasonably likely that your residential amenity will be directly affected.
<b>Indirect Interest</b>	Close Association	A member of your family has a direct interest or an indirect interest. A relative has a direct interest. A member of your household has a direct interest.
	Indirect financial Interest	Likely to receive a benefit or loss, measurable in money, resulting from a change to another person's interest. Holding shares in a company or body that has a direct interest (subject to threshold) When a person with a direct interest owes money to you.
	Conflict of Duty	Manager or member of the governing body of an organisation with a direct interest. Trustee for a person with a direct interest. Past dealings in relation to the matter as duty to another person or body.
	Applicable Gift	Gifts valued at \$500 in previous 5 years. Election donations valued at or above \$500 in previous 5 years. Gifts other than election campaign donations that were received more than 12 months before a person became a Councillor are exempt.
	Party to the Matter	Initiated or became party to civil proceedings in relation to the matter.

## 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](http://www.southgippsland.vic.gov.au). Further information or a copy of the policy or can be obtained by contacting Council's Organisational Development Department (Governance).

## **A.8 DECLARATION OF CONFLICT OF INTEREST FOR STAFF**

Sections 80B and 80C of the Local Government Act 1989 require members of Council staff who have delegated functions and /or provide advice to Council or a Special Committee to disclose conflicts of interest. If Council staff have written, provided information/advice or approved a Council Report and have a conflict of interest it is the responsibility of that staff member to disclose the interest. Guidance to identifying and disclosing a conflict of interest is contained in Department of Planning and Community Development in '*Conflict of Interest A Guide for Council staff*', October 2011.

**Nil**

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## A.9 PETITIONS

**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 a Councillor. A petition presented to the Council must lay on the table until the next Ordinary Meeting of the Council 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 a Councillor at the Council Meeting speak briefly to its contents. At the same meeting a Councillor would accept the petition and introduce it to Council for formal noting and actioning by Council.

The Councillor 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.

**Councillor James Fawcett left the Meeting at 2.02pm with a declared indirect conflict of interest in Preliminary Matters - A.9 Petitions – Loch, Nyora and Poowong Sewerage Scheme, having a conflicting duty in that he is a Director of South Gippsland Water.**

**Cr Brunt presented a Petition to Council (the prayer is outlined below), containing approximately 194 signatures from the residents of Nyora in relation the Loch, Nyora and Poowong Sewerage Scheme.**

***'We the undersigned are petitioning to have the Loch, Nyora and Poowong sewerage voluntary scheme available for a payment plan, similar or the same as the compulsory Loch, Nyora and Poowong sewerage scheme'.***

### RECOMMENDATION

That Council:

1. Receive and note the petition; and,
2. The petition lay on the table until the Council Meeting of November to enable officers to prepare a report to Council.

**MOVED: Cr Brunt**

**SECONDED: Cr McEwen**

**THAT COUNCIL:**

1. **RECEIVE AND NOTE THE PETITION; AND,**
2. **THE PETITION LAY ON THE TABLE UNTIL THE COUNCIL MEETING OF NOVEMBER TO ENABLE OFFICERS TO PREPARE A REPORT TO COUNCIL.**

**CARRIED UNANIMOUSLY**

**Cr Fawcett returned to the Meeting at 2.08pm.**



## **A.10 COUNCILLOR REPORTS**

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**Cr Newton addressed Council by commenting on a safety hazard in Leongatha that has been reported by a community member to the police, Council and VicRoads however has not received the outcome he seeks. Cr Newton proceeded to explain the hazard involving car head lights at night causing 'blinding' on Turner Street. Cr Newton made a suggestion that shrubs be planted and that this might avoid this hazard and save a life.**

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**Cr Brunt addressed Council regarding attendance at season opening for the Korumburra Bowling Club and relayed comments from the Committee about the green and that the club has come a long way in one year thanks to the assistance of Council grant funding.**

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**Cr McEwen addressed Council regarding attendance by chairing the Koonwarra Cricket Club Annual General Meeting (AGM) and judged Youth of the Year award for Lions Club Korumburra.**

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**Cr Hutchinson-Brooks addressed Council regarding attendance at:**

- **Coal Creek Young Ambassadors Presentation night and noted that this event has won an award at Museums Victoria earlier in the year.**
- **Daffodil Festival and noted that next year it will be hosting the National Daffodil Championships 2015.**
- **Opening of Prom Country Cheese business in Moyarra.**
- **AGM for Section 86 – John Terrill Recreation Reserve and noted the challenges for larger Section 86 Committees particularly with respect of the requirements for Committees.**

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**Cr Harding addressed Council regarding attendance at:**

- **Events in Melbourne, Sale and Moe and played an advocacy role.**
  - **Opening of Prom Country Cheese in Moyarra and noted it was a professionally run event.**
  - **MAV and GLGN meeting in Sale.**
  - **Opening of Salvation Army's 'Week of Foster Care' in Foster and noted the significant need in this area.**
  - **Foster Debutant Ball.**
-

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**Cr Davies addressed Council by congratulating Council's Parks and Gardens Team for the beautiful spring gardens throughout the Shire.**

**Cr Davies addressed Council regarding attendance at:**

- **Foster Debutant Ball and noted how wonderful Deb Balls are and all the effort from the young people and the organisers put in to setting up the hall and the commitment to Deb practice.**
- **Meetings for the Great Southern Rail Trail and noted that the new committee has been working hard with respect of maintenance to a car park and removal of vegetation.**

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**Cr Hill addressed Council by commenting on a report he had prepared on the effects of \$34 million in forward budget projections on rate revenue raised over the 15 year projections and he made note of two graphs that show nil effects on cash investments moving forward and the underlying working capital ratio.**  
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## **SECTION B - NOTICES OF MOTION AND/OR RESCISSION**

### **B.1 NOTICE OF MOTION NUMBER 669 – HIGH JUMP TRAINING FACILITY**

#### **PURPOSE**

South Gippsland Shire does not have within its boundaries a suitable high jump training facility for local athletes who must travel to another Shire to use such a facility. It is my belief that the South Gippsland Shire should endeavour to have such a facility to support the local athletes and especially those that represent the local community so well as evidenced recently at the Commonwealth Games. For example Eleanor Patterson travels to the City of Casey area to access an appropriate facility.

The purpose of this Notice of Motion is to request a Council Report for inclusion of a high jump training area in the South Gippsland Shire for local athletes who presently travel outside the Shire for such training.

#### **MOTION**

I, Councillor Don Hill, advise that I intend to submit the following motion to the Ordinary Council Meeting scheduled to be held on 24 September 2014.

#### **‘THAT COUNCIL:**

- 1. LIAISE WITH THE APPROPRIATE COACHES WITHIN THE LOCAL COMMUNITY TO DETERMINE NEEDS AND REQUIREMENTS FOR LOCAL ATHLETES WHO COMPETE IN HIGH JUMP AND HOW THE HIGH JUMP PIT SHOULD BE MANAGED BY THE LOCAL COMMUNITY; AND**
- 2. PREPARE A REPORT IDENTIFYING THE BEST LOCATION AND COST FOR A HIGH JUMP PIT BUILT TO A SUITABLE STANDARD TO ENABLE LOCAL ATHLETES TO TRAIN WITHIN THE SHIRE RATHER THAN HAVING TO TRAVEL OUTSIDE THE SHIRE TO ACCESS A SUITABLE FACILITY.’**

**MOVED: Cr Hill**

**SECONDED: Cr Hutchinson-Brooks**

**THAT COUNCIL:**

- 1. LIAISE WITH THE APPROPRIATE COACHES WITHIN THE LOCAL COMMUNITY TO DETERMINE NEEDS AND REQUIREMENTS FOR LOCAL ATHLETES WHO COMPETE IN HIGH JUMP AND HOW THE HIGH JUMP PIT SHOULD BE MANAGED BY THE LOCAL COMMUNITY; AND**
- 2. PREPARE A REPORT IDENTIFYING THE BEST LOCATION AND COST FOR A HIGH JUMP PIT BUILT TO A SUITABLE STANDARD TO ENABLE LOCAL ATHLETES TO TRAIN WITHIN THE SHIRE RATHER THAN HAVING TO TRAVEL OUTSIDE THE SHIRE TO ACCESS A SUITABLE FACILITY.**

**Cr McEwen left the Meeting at 2.25pm.**

**Cr McEwen returned to the Meeting at 2.29pm.**

**CARRIED**

**For: Crs Hutchinson-Brooks, Brunt, Newton, Harding, McEwen, Davies, Hill and Kennedy.**

**Against: Cr Fawcett**

## **SECTION C - COMMITTEE REPORTS**

**Nil**

## **SECTION D – PROCEDURAL REPORTS**

### **D.1 FINANCE PERFORMANCE REPORT JULY - AUGUST 2014**

Corporate Services Directorate

#### **EXECUTIVE SUMMARY**

The financial performance to August 2014 shows the following high level outcomes:

- Operating result: \$30.668 million surplus which is \$1.092 million favourable compared to the year to date budget projection of \$29.576 million surplus. Rate income has been fully brought to account in August. In coming reporting periods the annual rate and income budget will be adjusted to be proportionally pre-paid.
- Capital works: \$891,000 expenditure which is \$477,000 behind year to date budget of \$1.368 million.
- Cash assets: Projected 30 June \$8.600 million (original budget \$9.657 million).
- Underlying working capital ratio: Projected 30 June 1.50 to 1 (original budget 1.56 to 1).
- The projected financial outcome for 2014/15 is a \$7.392 million surplus. This is \$1.303 million more favourable than the original \$6.089 million budgeted surplus.
- The longer term financial performance indicators show that the financial plan (adjusted for budget carry forward and other budget adjustments) is financially sustainable.

#### **Document/s pertaining to this Council Report**

- **Appendix 1** - Financial Performance Report to 31 August 2014

A copy of **Appendix 1 - Financial Performance Report to 31 August 2014** is available on Council's website: [www.southgippsland.vic.gov.au](http://www.southgippsland.vic.gov.au) or by contacting 5662 9200.

#### **LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES**

Part 7 Financial management: - Local Government Act 1989

#### **INTERNAL POLICIES / STRATEGIES / DOCUMENTS**

Long Term Financial Strategies

## **COUNCIL PLAN**

Strategic Goal:	4.0	A Leading Organisation
Outcome:	4.1	Improve the financial sustainability of Council, including diversifying revenue streams
Strategy No:	4.1.1	We will explore innovative ways of increasing revenue and reducing expenditure

## **CONSULTATION**

Not Applicable

## **REPORT**

### **Background**

Council must abide by the principles of sound financial management and ensure that periodically a statement comparing budgeted revenue and expenditure for the financial year with the actual revenue and expenditure is presented to Council.

Council each year sets an Annual Budget within a 15 year Long Term Financial Plan framework. Guidance is provided by the 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 performance managed by:

- Comparing year to date actual financial performance with the year to date budgets.
- Monitoring the financial impact of changes made to budget projections on the forecast financial results at year end; and
- Monitoring the longer term financial ramifications and comparing to the originally adopted Long Term Financial Plan's budgeted financial statements.

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

The Financial Performance Reports are purposefully prepared outside traditional quarterly cycles. The timelines better align with strategic events that occur throughout the financial year. This enables important information financial updates to be provided to Council and its community in a timely manner. The reporting timelines include:

- August: Report identifies financial implications of the previous year's financial results and the budget impact of funding projects carried forward that were not completed by 30 June 2014.
- November: Report identifies financial implications of any changes made to operational or capital budgets during the mid-year financial review process.
- February: Report aligns with the annual budget process.
- May: Report provides Council with likely the financial outcome for year end including picking up budgets being carried forward for projects that are not expected to be completed by 30 June 2015.

At financial year end comprehensive financial statements, and performance statements are produced, subject to external audit and form part of the Annual Report.

### **Discussion**

**Appendix 1 - Financial Performance Report** contains detailed reporting on:

- Section 1 - Year to date financial performance and projected financial results.

This section discusses variations in year to date performance and budget projections. The information is presented in the budgeted financial statements format. It also details the 'budget carry forwards'.

- Section 2 – Annual year to date financial analysis.

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

- Section 3 – Long Term Financial Plan analysis.

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

### **FINANCIAL CONSIDERATIONS**

Activities within the Council 2014/15 Annual Plan are funded through the 2014/15 Budget.

The Financial Performance Report provides a high level analysis of Council's financial performance for the two month period from July to August 2014.

The longer term financial performance indicators show that the financial plan is financially sustainable.



## **RISK FACTORS**

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

Council can assess year to date performance, and assess the annual and longer term financial implications as well.

## **CONCLUSION**

It is recommended that Council receive and note the Financial Performance Report. The Report provides an overview of Council's financial performance for the period July to August 2014.

## **RECOMMENDATION**

**That Council receive and note the Financial Performance Report (Appendix 1) for the period July to August 2014.**

## **STAFF DISCLOSURE OF INTEREST**

Nil

**MOVED: Cr Newton**

**SECONDED: Cr Hill**

**THAT THE RECOMMENDATIONS IN ITEMS D.1, D.2, D.3 AND D.4 BE ADOPTED.**

**CARRIED UNANIMOUSLY**

## **D.2 REPORT ON ASSEMBLY OF COUNCILLORS - AUGUST 2014**

Corporate Services Directorate

### **EXECUTIVE SUMMARY**

As part of Council's ongoing efforts to enhance community engagement in Council processes, matters discussed at Councillor Briefing Sessions (other than those matters designated to be of a confidential nature) are reported on at Ordinary Council Meetings.

The matters listed in this report were presented or considered, at either an Advisory Committee Meeting, Councillor Strategic Briefing Session or Public Presentation Session in August 2014.

Copies of responses to written questions presented and asked, that were not answered at the meetings, will be either provided as an attachment to this report or to a subsequent Council Meeting, as is practicable, to enable the development of a proper and informed response.

### **Document/s pertaining to this Council Report**

Nil

### **LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES**

Local Government Act 1989, Section 3D and Section 80A

### **COUNCIL PLAN**

Outcome:	4.0	A Leading Organisation
Objective:	4.2	Pursue best practice in organisational development and operations of the organisation.
Strategy:	4.2.2	We will monitor corporate governance processes, including risk management and skills development with the aim of ongoing improvement.

**REPORT**

<b>Meeting Title</b>	<b>Councillors Attending and Disclosures of Conflict of Interest</b>	<b>Topics Discussed</b>
<b>Monday 4 August 2014</b>		
<b>CEO Review Committee</b>	<p><b>Councillors Attending:</b> Crs Fawcett, Harding, Hutchinson-Brooks and Hill.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>	<p><b>Topics Discussed:</b></p> <ul style="list-style-type: none"> <li>• 4<sup>th</sup> Quarter / Annual CEO Review</li> </ul>
<b>Wednesday 6 August 2014</b>		
<b>NBN Mobile Coverage</b>	<p><b>Councillors Attending:</b> Crs Hutchinson-Brooks, McEwen, Newton, Fawcett, Harding, Hill and Kennedy.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>	<p><b>Topics Discussed:</b> Councillors were provided information / update on the rollout of National Broadband Network (NBN) in South Gippsland through fixed wireless technology.</p>
<b>Council Plan Actions and Council Timetable Aug/ Sept 2014</b>	<p><b>Councillors Attending:</b> Crs Hutchinson-Brooks, Brunt, McEwen, Newton, Fawcett, Harding, Hill and Kennedy.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>	<p><b>Topics Discussed:</b></p> <ul style="list-style-type: none"> <li>• Council Plan Actions</li> <li>• Council Timetable Aug / Sept 2014</li> </ul>
<b>Council Sponsorship</b>	<p><b>Councillors Attending:</b> Crs Hutchinson-Brooks, Brunt, McEwen, Newton, Fawcett, Harding, Hill and Kennedy.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>	<p><b>Topics Discussed:</b> Councillors were provided information and discussed the development of a Sponsorship Policy.</p>
<b>Section 223 – Community Consultation review</b>	<p><b>Councillors Attending:</b> Crs Hutchinson-Brooks, McEwen, Newton, Fawcett, Harding, Hill and Kennedy.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>	<p><b>Topics Discussed:</b> Councillors were provided information to consider a preferred procedure for managing submissions made under section 223 of the Local Government Act 1989.</p>
<b>Planning Committee</b>	<p><b>Councillors Attending:</b> Crs Fawcett, Harding, Newton, Brunt, McEwen, Hutchinson-Brooks, Kennedy and Hill.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>	<p><b>Topics Discussed:</b></p> <ul style="list-style-type: none"> <li>• June Decisions</li> <li>• VCAT decisions</li> <li>• Statutory Planning applications of significance</li> <li>• Strategic Planning and Development Projects</li> <li>• Vic Smart Provisions</li> </ul>

<b>Meeting Title</b>	<b>Councillors Attending and Disclosures of Conflict of Interest</b>	<b>Topics Discussed</b>
<b>Wednesday 6 August 2014</b>		
<b>Executive Update</b>	<p><b>Councillors Attending:</b> Crs Hutchinson-Brooks, McEwen, Newton, Fawcett, Harding and Hill.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>	<p><b>Topics Discussed:</b></p> <ul style="list-style-type: none"> <li>• Introduction new staff members</li> <li>• Council Meeting Foster update</li> <li>• Foster Swimming Pool</li> <li>• Health and Wellbeing item</li> <li>• Public Wi-fi Café and Launch of Facebook at the Digital Expo</li> </ul>
<b>Financial Sustainability Steering Committee</b>	<p><b>Councillors Attending:</b> Crs Fawcett, Harding, Newton, Brunt, McEwen, Hutchinson-Brooks, Kennedy and Hill.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>	<p><b>Topics Discussed:</b></p> <ul style="list-style-type: none"> <li>• Coal Creek future directions and actions</li> <li>• Swimming Pools review and service levels</li> <li>• 15 year Capital Works Program</li> </ul>
<b>Wednesday 20 August 2014</b>		
<b>2014 General Revaluation</b>	<p><b>Councillors Attending:</b> Crs Hutchinson-Brooks, McEwen, Brunt, Newton, Fawcett, Hill and Kennedy.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>	<p><b>Topics Discussed:</b> Councillors were provided information on the biennial revaluation process.</p>
<b>Executive Update</b>	<p><b>Councillors Attending:</b> Crs Hutchinson-Brooks, McEwen, Brunt, Newton, Fawcett, Hill and Kennedy.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>	<p><b>Topics Discussed:</b></p> <ul style="list-style-type: none"> <li>• MAV State Council Meeting – Notice of Motion</li> <li>• Enforcement update</li> <li>• Section 86 Instrument of Delegation reviews</li> <li>• Financial Accounts</li> <li>• Garbage Collection – pick up delay</li> <li>• Land Purchase</li> <li>• Planning Issue</li> <li>• Sealing section of road</li> <li>• Thank you to the road crew</li> </ul>
<b>Agenda Topic Discussion</b>	<p><b>Councillors Attending:</b> Crs Hutchinson-Brooks, McEwen, Brunt, Newton, Fawcett, Hill and Kennedy.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>	<p><b>Topics Discussed:</b> Ordinary Council Agenda Topics Discussion 27 August 2014.</p>

<b>Meeting Title</b>	<b>Councillors Attending and Disclosures of Conflict of Interest</b>	<b>Topics Discussed</b>
<b>Wednesday 20 August 2014</b>		
<b>Planning Scheme Amendment C99 Burra Foods</b>	<p><b>Councillors Attending:</b> Crs Hutchinson-Brooks, McEwen, Brunt, Newton, Fawcett, Hill and Kennedy.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>	<p><b>Topics Discussed:</b> Councillors were provided information on the results of the exhibition of Planning Scheme Amendment C99 (Burra Foods – Environmental Significance Overlay ‘ESO8’ Buffer control) and to consider how the Amendment should progress in response to the submissions received.</p>
<b>Victorian Water Science Studies</b>	<p><b>Councillors Attending:</b> Crs Hutchinson-Brooks, McEwen, Brunt, Newton, Fawcett, Hill and Kennedy.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>	<p><b>Topics Discussed:</b> Councillors were provided information on the overview of the Victorian Water Science Studies, a series of scientific studies that will examine the impacts of potential onshore natural gas developments on Victoria’s water resources.</p>
<b>Wilson’s Promontory Tourist Facility – Special Use Zone 4 Yanakie</b>	<p><b>Councillors Attending:</b> Crs Hutchinson-Brooks, McEwen, Brunt, Newton, Fawcett, Hill and Kennedy.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>	<p><b>Topics Discussed:</b> Councillors were provided information on the statutory planning application of the facility and how it relates to the landscape.</p>
<b>Public Presentations OPEN DAY SESSION</b>	<p><b>Councillors Attending:</b> Crs Hutchinson-Brooks, McEwen, Brunt, Newton, Fawcett, Hill and Kennedy.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>	<p><b>Presentations were made to Council by the following community members:</b> <b>Mr Ron Brown</b>, regarding Leongatha Bypass, Leongatha Streetscape and position of Aldi supermarket.</p>
<b>Economic Development and Tourism Steering Committee</b>	<p><b>Councillors Attending:</b> Crs Hutchinson-Brooks, Brunt and McEwen.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>	<p><b>Topics Discussed:</b></p> <ul style="list-style-type: none"> <li>• Terms of Reference</li> <li>• Collaboration with stakeholders – update</li> <li>• South Gippsland branding</li> <li>• Port Welshpool Fisherman’s Co-op</li> <li>• Streetscapes</li> <li>• Prom Country Cheese</li> <li>• Moyarra opening</li> <li>• Disaster recovery</li> </ul>

Meeting Title	Councillors Attending and Disclosures of Conflict of Interest	Topics Discussed
<b>Thursday 21 August 2014</b>		
<p><b>Municipal Emergency Management Planning (MEMPC) and Fire Management Planning Committee (MFMP)</b></p>	<p><b>Councillors Attending:</b> Cr Hutchinson-Brooks</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>	<p><b>Topics Discussed:</b></p> <p><b>MEMPC</b></p> <ul style="list-style-type: none"> <li>• Adoption of Heatwave Plan and Pandemic Plan</li> <li>• Tarwin Lower Local Flood Plan</li> <li>• Training Exercise – Business Resilience Recovery</li> <li>• Fire Ready Victoria Meeting absentee landholders</li> <li>• Evacuation update</li> <li>• Notifications single incident</li> <li>• Working safely near power lines in an emergency</li> <li>• Agency Reports</li> </ul> <p><b>MFMP</b></p> <ul style="list-style-type: none"> <li>• Notifications single incident</li> <li>• Multi agency works plan</li> <li>• VFRR Register</li> <li>• Evacuation Mapping</li> <li>• Action planning for MFMP meetings</li> </ul>
<b>Wednesday 27 August 2014</b>		
<p><b>Council Agenda Topics Discussion</b> <b>27 August 2014</b></p>	<p><b>Councillors Attending:</b> Crs Hutchinson-Brooks, Brunt, Newton, Harding, Davies and Kennedy.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>	<p><b>Topics Discussed:</b> Council Agenda Topics – 27 August 2014.</p>
<p><b>Public Presentation Session</b></p> <p><b>OPEN SESSION</b></p> <p><b>Mr David Amor, representing the Community and Korumburra Progress Association</b> regarding Burra Foods Buffer Zone, Korumburra Children’s Centre, Korumburra Saleyards, Korumburra retail design and Korumburra reservoirs.</p> <p><b>Mr Andy Grayden</b> regarding the route of the Leongatha bypass.</p> <p><b>Mr Paul Norton</b> regarding removal of trees on VicTrack land, Leongatha heavy vehicle bypass, Disability Discrimination Act (DDA) path adjacent Salvation Army, Leongatha and health and wellbeing.</p>	<p><b>Councillors Attending:</b> Crs Hutchinson-Brooks, Brunt, Newton, Harding, Davies and Kennedy.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>	<p>Presentations were made to Council by the following community members:</p>

<b>Meeting Title</b>	<b>Councillors Attending and Disclosures of Conflict of Interest</b>	<b>Topics Discussed</b>
<b>Thursday 27 August 2014</b>		
<b>Executive Update</b>	<b>Councillors Attending:</b> Crs Hutchinson-Brooks, Brunt, Newton, Harding, Hill, Davies and Kennedy. <b>Conflict of Interest:</b> Nil disclosed.	<b>Topics Discussed:</b> <ul style="list-style-type: none"><li>• MAV Library initiative</li><li>• Infrastructure blueprint</li><li>• Poowong Nyora Loch sewerage scheme</li><li>• Bald Hills Wind Farm</li><li>• Planning issues</li></ul>
<b>Thursday 28 August 2014</b>		
<b>Korumburra Round Table</b>	<b>Councillors Attending:</b> Cr Brunt <b>Conflict of Interest:</b> Nil disclosed.	<b>Topics Discussed:</b> <ul style="list-style-type: none"><li>• Guest Presenter: Pete Roberts, Waste Management Coordinator South Gippsland Shire Council</li><li>• Gateway / Signage Project team</li><li>• Visioning workshop proposal</li><li>• Council land / assets in Korumburra</li><li>• August Council Meeting</li><li>• Rotary Youth Survey</li><li>• Grants and Funding opportunities</li><li>• Korumburra Showground Masterplan</li><li>• Korumburra Strengths, Opportunities and Weaknesses</li></ul>

## **RECOMMENDATION**

**That Council receive and note this report.**

## **STAFF DISCLOSURE OF INTEREST**

**Nil**

**NOTE: The recommendation was CARRIED UNANIMOUSLY as part of a single motion, refer to page 14.**

### **D.3 DOCUMENTS SEALED AND CONTRACTS AWARDED UNDER CHIEF EXECUTIVE OFFICER DELEGATION - AUGUST 2014**

Corporate Services Directorate

#### **EXECUTIVE SUMMARY**

Under the Victorian Local Government Act, each Council is a body corporate and a legal entity in its own right. Each Council must have a common seal (like any corporate entity) that is an official sanction of that Council.

Sealing a document makes it an official document of Council as a corporate body. Documents that require sealing include agreements, contracts, leases or any other contractual or legally binding document that binds Council to another party.

Council's Procurement Policy requires that Council be advised of the award of contracts after a public tender process that fall within the Chief Executive Officer's delegation.

#### **LEGISLATIVE/ ACTION PLANS/ STRATEGIES/ POLICIES**

- Local Government Act 1989 - Section 5 and 186
- Local Law No. 3 2010
- South Gippsland Shire Council Procurement Policy
- South Gippsland Shire Council Instrument of Delegation to the Chief Executive Officer

#### **COUNCIL PLAN**

Outcome:	4.0	A Leading Organisation.
Objective:	4.2	Pursue best practice in organisational development and operations of the organisation.
Strategy:	4.2.2	We will monitor corporate governance processes, including risk management and skills development with the aim of ongoing improvement.



## **REPORT**

### **Documents Sealed**

The Local Government Act 1989 requires that every Council must have a common seal and all courts, judges and persons acting judicially must take judicial notice of the imprint of the common seal of a Council on any document.

Local Law No. 3 2010, Part 9, Section 107 (f) (iv) – The Common Seal of Council, states that ‘If the Chief Executive uses the Common Seal in a manner prescribed by sub-clause (c) then he/she must advise Council of such use on a regular basis.’

In accordance with the Local Law, the following are presented to Council as documents sealed in the month of August 2014.

1. Section 173 Agreement between South Gippsland Shire Council and the Owners of 16 Sandy Point Road, Sandy Point in relation to a Single Dwelling– Seal Applied 8 August 2014.
2. Section 173 Agreement between South Gippsland Shire Council and the Owners of 810 Lees Road, Venus Bay in relation to tree removal remediation – Seal Applied 15 August 2014.
3. Section 173 Agreement between South Gippsland Shire Council and the Owners of 6 Graham Avenue, Venus Bay in relation to a dwelling and vegetation removal – Seal Applied 26 August 2014.

### **Contracts**

1. Contract No SGC15/08 Management and Operation of Selected Aquatic Venues within South Gippsland Shire – Victorian YMCA Community Programming Pty Ltd – Seal Applied 28 August 2014

### **Contracts Awarded Under Chief Executive Officer Delegation**

The Chief Executive Officer's delegation of power from the Council allows the Chief Executive Officer to award contracts up to the value of \$250,000 (inclusive of GST) after a public tender process, subject to the exercise of this power being reported to the Council meeting after the contract is awarded.

All of the legislative requirements of section 186 of the Local Government Act 1989 and the requirements of Council's Procurement Policy are met in respect of the tender/s.

Procurement Policy requires recording in the Council Minutes all contracts over the statutory threshold set out in the Local Government Act 1989 (\$150,000 inclusive of GST for goods and services and \$200,000 inclusive of GST for works) for a public tender which shows the contracts purpose, a brief

description of the goods, services and works that is being procured, the successful tenderer and the total contract price.

There have been no contracts awarded under the Chief Executive Officer's delegation this month.

### **Contract variations approved by the Chief Executive**

The following variations to contracts are reported to Council in accordance with a requirement of Council's Procurement Policy for variations which either exceed the total contract budget or involve significant changes to a contract scope or timelines in respect of contracts approved by Council.

<b>Contract No.</b>	<b>Contractor</b>	<b>Purpose of contract</b>	<b>Variation</b>
SGC15/08	Victorian YMCA Community Programming Pty Ltd	Management and Operation of Selected Aquatic Venues within South Gippsland Shire	Reduce the initial term (three years) to an initial term of two years and ten months. Contract commenced 1 September 2014.
SGC15/08	Victorian YMCA Community Programming Pty Ltd	Management and Operation of Selected Aquatic Venues within South Gippsland Shire	Reduce lump sum negotiated from \$2,040,394.77 to \$1,970,016.29 to reflect reduction in the term of the contract above.

### **RECOMMENDATION**

**That Council:**

- 1. Note this report; and,**
- 2. Note that in respect of Contract No. SGC15/08 the contractor, purpose of the contract and lump sum for the varied initial term will be made public.**

### **STAFF DISCLOSURE OF INTEREST**

Nil

**NOTE: The recommendation was CARRIED UNANIMOUSLY as part of a single motion, refer to page 14.**

## **D.4 COUNCILLOR DISCRETIONARY FUND ALLOCATION REPORT**

Corporate Services Directorate

### **EXECUTIVE SUMMARY**

Each Councillor, subject to an annual budget and in accordance with the Councillor Discretionary Fund Policy, has the discretion to nominate Council funds to community groups and / or individuals in accordance with the guidelines developed for this purpose.

This report details Councillors allocations for the period between August 2014 and 3 September 2014.

### **INTERNAL POLICIES / STRATEGIES / DOCUMENTS**

Councillor Discretionary Fund Policy 2014

### **COUNCIL PLAN**

Outcome:	2.0	Closely Connected Communities
Objective:	2.1	Engage and work collaboratively with our community
Strategy:	2.1.3	We aim to minimise barriers and find ways to support our volunteers, community groups and committees to provide services beyond those that Council, by itself, can provide.

### **REPORT**

The following applications have been allocated funding from the Councillor's 2014/2015 Discretionary Fund for the period between 7 August 2014 and 3 September 2014.

- Friends of Agnes Falls: To assist with the purchase of a Marquee.  
Cr Mohya Davies - \$80
- Venus Bay, Tarwin Lower & District Men's Shed Inc.: To assist with the costs of purchasing an appliance testing machine.  
Cr Kieran Kennedy - \$1,000
- South Gippsland Hospital: To assist with costs of running a program for older members of the community; in particular the Monday's Men's Group.  
Cr Mohya Davies - \$400  
Cr Jeanette Harding - \$100

Cr Kieran Kennedy - \$100

- South Gippsland District Scouts: Sponsorship for leadership program held 8 November 2014 at the Stony Creek GO Karts. The event is open for all senior scouts across the district.

Cr Mohya Davies - \$100

Cr Jeanette Harding - \$100

Cr Lorraine Brunt - \$100

Cr Robert Newton - \$100

Cr Andrew McEwen - \$100

Cr James Fawcett - \$100

Cr Don Hill - \$100

Cr Hutchinson - Brooks - \$100

- Welshpool and District Horticultural Society: To assist with the costs of purchasing a portable PA system and TV, CD and DVD to be used during meetings.

Cr Mohya Davies - \$100

- Foster Community Association Inc.: To assist with the purchase of directional signage for long vehicle parking at Foster Station Park.

Cr Jeanette Harding - \$200

- Meeniyah Dumbalk United Cricket Club: To assist with the costs of installing a reverse cycle air conditioner.

Cr Lorraine Brunt - \$365

Cr Robert Newton - \$365

## **FINANCIAL CONSIDERATIONS**

Each Councillor is allocated \$4,000 from the Councillor Discretionary Fund in the 2014/2015 Financial Budget. An additional \$2,000 has been allocated to the Mayor to cover a broader focus across the entire Municipality.

## **CONCLUSION**

The unexpended Councillor Discretionary Funds for the 2014/2015 Financial Year as at 3 September 2014 is as follows:

- Cr Mohya Davies - \$3,320
- Cr Jeanette Harding - \$2,900
- Cr Kieran Kennedy - \$2,250
- Cr Lorraine Brunt - \$2,295
- Cr Robert Newton - \$2,923
- Cr Andrew McEwen - \$3,290
- Cr James Fawcett - \$3,900
- Cr Don Hill - \$3,900
- Cr Hutchinson-Brooks - \$3,900
- Mayoral Fund - \$2,000

## **RECOMMENDATION**

**That Council receive and note this report.**

## **STAFF DISCLOSURE OF INTEREST**

Nil

**NOTE: The recommendation was CARRIED UNANIMOUSLY as part of a single motion, refer to page 14.**

## **SECTION E - COUNCIL REPORTS**

### **E.1 PLANNING SCHEME AMENDMENT C99 BURRA FOODS BUFFER**

Development Services Directorate

#### **EXECUTIVE SUMMARY**

Planning Scheme Amendment C99 proposes to introduce an Environmental Significance Overlay (ESO8 - Manufacture of Milk Products Amenity Buffer) to land surrounding Burra Foods' factory site at Station Street Korumburra. The Amendment also proposes corresponding changes to the Clause 21.15-2 'Korumburra' provisions in the South Gippsland Planning Scheme and to the Korumburra Structure Plan July 2010.

Dairy factory operations can impact surrounding land especially in relation to odour, noise, dust and to a lesser extent light. The objective of the ESO8 is to inform landowners and prospective purchasers that the Burra Foods factory is an ongoing operation and has the potential to affect the residential amenity of the surrounding area now and in the future. The ESO8 also encourages new building design to lessen potential factory impacts and discourages some forms of sensitive land uses (e.g. child care) in the identified area.

Public exhibition of Amendment C99 occurred across July 2014. A total of 91 submissions were received of which 74 objected and 17 supported the proposed Amendment. Almost all of the objections are concerned that the application of the ESO8 will have an adverse impact on land values and the future development potential of their land.

Where submissions cannot be resolved, an Amendment must be referred to an Independent Planning Panel (Panel) for consideration. This report recommends Amendment C99 be referred to a Panel, with a further recommendation that the proposed ESO8 buffer be reduced in area.

#### **Document/s pertaining to this Council Report**

- **Attachment 1** - Locality Plan - Burra Foods and surrounds
- **Attachment 2** - ESO8 Buffer Map - Exhibited version and reduced area version - to be recommended to the Panel.
- **Attachment 3** - Proposed changes to Clause 21.15-2 'Korumburra' Local Planning Policy Framework provisions & new Referral provisions.
- **Attachment 4** - Korumburra Structure Plan July 2010 - proposed changes.

## **LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES**

- Planning and Environment Act 1987 (the Act)
- EPA Publication 1411 'Noise from Industry in Regional Victoria'

## **INTERNAL POLICIES / STRATEGIES / DOCUMENTS**

- Korumburra Structure Plan - July 2010
- Economic Development & Tourist Strategy (draft) 2014

## **COUNCIL PLAN**

Outcome:	1.0	A Prosperous Shire
Objective:	1.1	Work with the business community to support existing businesses, diversify employment opportunities and to attract new businesses.
Strategy:	1.3.1	We will actively engage businesses, farmers and industries and individuals in creating environmental sustainability.

## **CONSULTATION**

Exhibition of Amendment C99 occurred for one month and concluded on 1 August 2014. Exhibition notification was provided by:

- Letters to owners and occupiers of affected properties within and adjoining the proposed ESO8 buffer area.
- Public notice in local newspapers (Community Noticeboard).
- Display information in Korumburra, including a public notice at the Newsagent, Amendment documentation at Korumburra Library, Coal Creek Community Park and Museum and Milpara Community House.
- Amendment information on Council's and the Planning Ministry's web pages.

A Community Information Session was held in Korumburra on 3 July 2014 to discuss the provisions of the Amendment and answer questions from affected landowners and other interested parties. Approximately 100 people attended the session. The local newspapers have provided extensive coverage of the Information Session and the Council Briefing Days (Public Information Presentations) at which the Amendment has been discussed.

As a result of public consultation, a total of 91 submissions were received. All submissions are public documents and are available at the Korumburra Library. A copy of each individual submission has also been provided to Councillors. A discussion of the key submission themes is provided below.

## REPORT

### Background

The background to this Amendment (history of the site land use and justification for the Amendment provisions) is discussed in detail in the 16 April 2014 Council Agenda and may be viewed on Council's web page for further reference. In brief overview, the Amendment has been prepared as a measure to balance the demands of Burra Foods and the surrounding area, which is mostly residential (a locality plan is provided in **Attachment 1**). The main objective of the Amendment is to provide a planning framework that will allow Burra Foods to continue to operate and expand while also allowing the surrounding lands to be used for residential development. This will occur with acknowledgement that the potential exists for intermittent factory impacts and a requirement for new developments to respond to these impacts where appropriate.

### Discussion

Following normal planning scheme amendment procedure, the recommendation of this report is to refer the submissions to Amendment C99 to a Panel for consideration. Council may refer the Amendment to a Panel without recommending changes to the exhibited provisions, or it may recommend that changes should be made. Importantly, this stage in the process does not require Council to form a definitive view on the Amendment. Council does have the power to abandon the Amendment at any stage however abandonment at this stage is not common practice and is not recommended.

It is also normal practice that when recommending changes to the Amendment provisions that Council provide the Panel unfettered discretion to formally consider both the exhibited provisions and the recommended changes. Abandoning an element of the Amendment, or stating a future intention to abandon an element of the amendment is not recommended because it hinders the ability of the Panel to consider in totality the issues presented by the Amendment.

This report recommends the proposed ESO8 affected area be reduced (see **Attachment 2**) and, where practical, the overlay be matched to lot boundaries. The reasons for these changes are set out below.

While noting that the Panel will consider the submissions, it is also important for Council to review the key issues raised in the submissions and determine if further changes to the Amendment may be justified. The common themes of submissions to the exhibited amendment were:

- The ESO8 is not necessary because it is obvious the factory exists.
- The ESO8 will adversely impact land values and insurance premiums.
- Burra Foods should reduce its impact on the surrounding area.



- The ESO8 will allow Burra Foods to pollute and the ESO8 may be expanded in the future.
- The GHD report is flawed and should not be relied upon.
- Sound proofing of all new developments will be required.
- Other dairy factories operate without buffers, why can't Burra Foods.
- Burra Foods is a critical element of the local economy and the Amendment should be supported.

The common themes are further discussed below.

"The ESO8 is not necessary because it is obvious the factory exists"

A common theme of submissions is that the ESO8 is not required because either the factory has little impact on the surrounding area or because people who purchase in the area will see the factory and realise that it could have an impact on them. They will then factor this into their consideration whether to buy land or not.

The submission and landowner feedback on these points demonstrate that the factory can impact different areas to different extents, especially in relation to odour, noise and to a lesser extent dust. Some submitters state that the factory has no impact while in other locations submitters complain that Burra Foods and the EPA are not doing enough to reduce impacts. One submission comments that dust from the dryers is corroding their roof, while another submitter who resides outside of the ESO8 has expressed concerns over excessive odour and noise. How residents view these issues will vary depending on individual expectations and levels of tolerance. It is obvious from reading the submissions that some landowners are impacted (at times) quite heavily by factory operations while other are not, and some do not care.

The level of concern expressed regarding factory operations supports the benefit of the ESO8 as a tool to inform people moving into the area that they need to be aware of the potential for factory operations to impact them. It also supports the intention of the Amendment to discourage inappropriate sensitive land uses near the factory. Regarding land purchasers, seeing the factory does not imply an understanding of its potential impacts and the 'buyer beware' principle is not an appropriate response to managing long term amenity interface and growth issues. The counter argument to this is that if Burra Foods operated correctly it would not affect the surrounding area and hence the ESO8 would not be required. This point is further discussed below.

"The ESO8 will adversely impact land values and insurance premiums"

Another common theme in the objecting submissions is the concern that application of the ESO8 will affect land values and the ability to sell land. This is a legitimate concern because some restrictive planning controls can impact

land values and deter buyers. The Bushfire Management Overlay and flood overlays have, in some municipalities, demonstrated this point.

The planning system does not require Council to specifically consider impact on land values when assessing a planning scheme amendment. However, if an amendment is likely to have a direct impact on land values and land sales, it is incumbent on Council to ensure that the new control or restriction is justified. Many submitters have noted that their dwelling is their main asset and application of the overlay could directly impact their wealth and / or their retirement planning.

Council has sought to determine the likely impact of the ESO8 on land values however a clear and consistent answer does not exist. The ESO8 responds to an existing issue and therefore any impact on land values resulting from factory operations would to a large extent already be factored into land value. Prospective land purchasers could have reservations about purchasing land with an overlay control especially if they intend to buy land for a multi-dwelling development or some form of sensitive land use of a type that Council may consider inappropriate in the buffer area. This could affect land value. Some submissions comment that land values may be affected by 30% or more. These claims are unsubstantiated and the only method to assess the real impact is after the ESO8 has been applied. Council's Rates & Valuations Department advise that when new restrictions come into force it is not uncommon for land values to be affected in the short term however the detrimental impacts reduce over time as it became clearer to the market how the new control works.

Critical to the land valuation issue is the fact that the ESO8 does not affect the dwelling rights of an existing residential lot. Developing more than one dwelling on a lot can also be approved. The intensity of proposed development (number of new lots or dwellings) may be a concern in some locations however some detrimental impacts can be reduced by appropriate building design and site layout. The proposed ESO8 provisions have been designed to allow decision making discretion based on where the land is and what use and development is proposed. It is intended that existing uses within the ESO8 area will continue to be used in their current form into the future with as little impact on landowners as possible. Allowing the existing use and development pattern to continue will lessen any potential adverse impact on land values.

In addition to land values, submissions comment that the ESO8 will increase insurance premiums. Related to this is the concern that dwelling replacement costs (in the event of an insurance claim for building loss - e.g. fire damage) will be increased by the need to provide noise insulation or other measures to address factory impacts. Flood and fire overlays can affect insurance premiums because they provide a clear indication of risk to a building and its contents. If land is flood prone it is reasonable that insurance premiums will respond to this risk. This is not the case with the ESO8 where there is no direct link between normal factory operations and risk to a building or contents. The impact of the ESO8 on replacement value is likely to be

minimal. As discussed below, few buildings in the ESO8 are likely to require noise attenuation construction or other design mitigation responses. Individual landowners concerned about potential insurance impacts should seek advice from their insurance provider.

"Burra Foods should reduce its impact on the surrounding area"

Many submissions comment that the burden of Burra Foods' operations are being placed on adjoining landowners through application of the ESO8, when it should be the responsibility of Burra Foods to contain its impacts to within its own boundaries. If this is achieved the ESO8 would not be required. Submissions comment that the EPA and Council should be doing more to require Burra Foods to reduce its impacts. Some submissions question the appropriateness of Council's previous planning permit approvals allowing expansion of factory operations and comment further that the site is poorly suited for further expansion, especially given its current impacts.

Burra Foods has been working with the EPA to reduce the factory's impacts on the surrounding area. Fewer off-site impacts have occurred recently and odour problems are being minimised by improvements to the waste water treatment plant. These improvements are ongoing and it is anticipated that the number of adverse events affecting land outside of the factory boundary will continue to be reduced over time.

While improvements are being made, milk processing is an inherently volatile process and it is not possible to guarantee that factory operations will not affect adjoining areas at any time. Noise control measures can be implemented however it is impractical to contain factory noise to the site boundary. A level of background noise ('factory drone') will always be evident. Odour and dust can also be managed however not to a level that guarantees that adverse events will not occur that affect the surrounding area. Where adverse events occur, the EPA can take action as required however it is impractical to expect Burra Foods (as any manufacturing business) to always, and without fail, contain its impacts to within its own land. The EPA provides guidance on emissions from factories such as Burra Foods that specifically allow the potential for reduced amenity for nearby land especially under disturbed operating conditions in much the same way as a motor vehicle is allowed to produce, within limits, some noise and exhaust to the environment.

Many submitters comment that they moved to the area before Burra Foods commenced operations and this raises the requirements on Burra Foods to ensure that it does not affect the surrounding residential uses which were there before it. Burra Foods commenced operations after some residents moved to the area, however the land on which Burra Foods is located is zoned Industrial 1 (IN1Z) and has been in an industrial land zoning dating back to when Murray Goulburn were operating at the site. The IN1Z is the least restrictive industrial zone in the planning system and is the correct zone for a 'Manufacture of Milk Products' facility. It is legitimate for Burra Foods to operate in the IN1Z. The potential for an industrial use to establish in an industrial zone was possible even when the land was unused after Murray

Goulburn closed. Purchasing land near an industrial zone (used or unused) always presents a risk to a buyer who is seeking a normal residential amenity.

"The ESO8 will allow Burra Foods to pollute and the ESO8 may be expanded in the future"

Application of the ESO8 has no impact on the ability of residents or the EPA to take action against Burra Foods for breaches of its legal and regulatory requirements.

Many residents fear that expansion of the factory will require the buffer to expand further in the future. This report recommends a reduction to the buffer. The state wide buffer provisions (Clause 52-10 'Uses with adverse amenity potential') seeks to separate new milk factories from pre-existing sensitive land uses (e.g. residential areas) by 300m. The exhibited version of the ESO8 exceeded in some areas a straight line distance of 300m from Burra Foods' land. The reduced buffer has a maximum distance of 280m from the land. Improvement to pollution management technology and factory site manufacturing procedures should ensure that further expansion of the ESO8 will not be required regardless of factory expansion. In the unlikely event that the buffer is expanded in the future, it will require a separate planning scheme amendment and notification to all affected landowners.

"The GHD report is flawed and should not be relied upon"

Numerous criticisms have been made of the GHD report that it is technically unsound and should not be relied upon to support the ESO8. This report is accepted as the best available information on which to support the Amendment. It is widely acknowledged that odour from Burra Foods has occasionally extended further from the factory than the odour modelling suggests. The buffer line is intended to be the best compromise on an area where effects are most likely to exist. Similar criticisms are commonly made when buffers are applied to sewerage treatment plants. On the basis that GHD's recommendations are not significantly at odds with the 300m separation recommendations of Clause 52.10 'Uses with adverse amenity potential' it is reasonable for Council to accept the recommendations of the GHD report.

Planning Panels Victoria has Panel members with technical skills in a broad variety of expert fields. Buffer amendments are not uncommon and any concerns about the accuracy of the report will be considered by the Panel.

"Sound proofing of all new development will be required"

It is incorrectly perceived that the ESO8 will require all new dwellings and other buildings in the buffer area to have double glazed windows and/or noise insulation in the roof, walls and subfloor. This is not correct. The impacts of noise are to a very large extent determined by topography and the surrounding development pattern. If a proposed building has a direct line of sight to the factory, or is in close proximity to the factory, it is more likely to be exposed to noise than if it is not. The requirement of the ESO8 to consider

noise attenuation construction will be considered on a case by case basis and not universally applied. How it is applied may also vary within a particular building. For example, new dwellings adjoining freeways often only have double glazing on the walls facing the freeway while windows on the non-exposed elevation are standard. Similar logic may be applied under the proposed ESO8 provisions.

The lack of clarity about the application of these provisions has created some concern however designing and building a house in a manner to reduce possible factory impacts is a more logical and fair solution than seeking to stop new development in exposed areas. These provisions are 'pro development' and demonstrate that the Amendment is seeking to continue to facilitate reasonable development, not stop it.

"Other dairy factories operate without buffers, why can't Burra Foods?"

A common theme in the submissions is that other dairy factories in South Gippsland and across the State operate without buffers so why can't Burra Foods?

When and how a buffer control can be justified will be determined by a large range of highly site specific factors. In relation to Burra Foods, the potential impacts of the factory on the surrounding area are heightened by the fact that the factory is located within the township boundary, on land overlooking the township, is surrounded on three sides by established residential zones, and is located on the western side of town where the prevailing wind is westerly. These factors combine to create a particular set of circumstances that support the need to consider how land is developed around the factory site. A similar combination of circumstances may not apply elsewhere however the absence of similar controls at other sites does not weaken the justification in relation to Amendment C99.

Submissions in support of Amendment C99

Seventeen submissions have been received which support the intent of Amendment C99. None of these are from landowners within the proposed ESO8. Most of the submissions acknowledge that this is a complex matter however they express the view that Burra Foods is a critical element of the local economy and the Amendment should be supported. Supporting submissions are also referred to the Panel.

The EPA's submission, in support of Amendment C99, requests the planning permit referral provisions be amended to change the EPA from a 'Recommending' to a 'Determining' Referral Authority. As a Recommending Referral Authority, Council may decide not to follow the advice of the EPA in relation to a planning permit application triggered by the proposed ESO8. If this is changed to 'Determining,' Council must follow the recommendations of the EPA. For example, if the EPA determines that a permit application should be refused, Council must refuse the permit.

The State Government recently made extensive changes to the state-wide planning permit referral provisions of all planning schemes and reduced the powers of many referral authorities to require planning permits to be refused or conditions included in permits. The EPA's request to be a Determining Referral Authority runs contrary to the recent changes and would give the EPA a level of control over planning permit applications in the proposed ESO8 that is inconsistent with the level of control available to other referral authorities. For example, the CFA and the West Gippsland Catchment Management Authority are now 'Recommending Referral Authorities' and these agencies manage issues (bushfires and flooding) that can directly impact safety of life and property. It is recommended that the referral authority status not be changed.

The EPA also request changes to the referral provisions to clarify the types of planning permit application that will be referred to them. These changes are policy neutral and have no direct effect on how the provisions will operate.

The EPA's recommendations can be explored further with the Panel.

#### Reduction of the ESO8 buffer area

Shortly after Ministerial Authorisation was issued to formally prepare and exhibit Amendment C99, a Panel Report was released which discussed a proposed buffer around Fonterra's North Dennington dairy factory (Warrnambool Planning Scheme Amendment C90). The Fonterra buffer is to be achieved through application of a Development Plan Overlay, which is a planning tool that is used to guide how greenfield land is subdivided and developed.

The circumstances surrounding Fonterra's buffer request are significantly different to the situation of Burra Foods because the land surrounding Fonterra is mostly undeveloped farmland. Fonterra's concern appears to be that Council is allowing residential development to move closer to the factory, potentially creating future conflict between new residents and the factory.

In brief summary, Fonterra initially requested a buffer of 500m measured from the factory's waste water treatment facility. The C90 Panel considered the request in some detail and formed the view that a 300m buffer (consistent with the abovementioned State-wide provisions of Clause 52.10) is an appropriate outcome. The Panel also recommended that, where logical, the buffer should be mapped to lot (title) boundaries to avoid the situation of landowners being half in or half out of the buffer area.

Panel recommendations do not carry with them the powers of legal precedence (one decision need not affect another decision) however the C90 Panel recommendations are informative especially in relation to how far a buffer should extend and how odour modelling can be considered. Fonterra presented to the Panel expert evidence and odour modelling which identified the need for a 420m buffer based on a combination of both normal operating conditions and 'disrupted operating conditions;' the situation where things go wrong. Partly based on local conditions and the absence of a history of

complaints, the C90 Panel formed the view that 300m is an appropriate buffer distance.

The exhibited C99 buffer extends (at some points) approximately 450m from the treatment plant. The most distant points are south of the highway where most of the affected land is public land or non-residential.

Applying the C90 recommendations to C99 reduces the buffer size while still capturing the key areas of interest. Aligning the buffer to lot boundaries also provides some logical improvements to the Amendment (refer to **Attachment 2**). The new boundary has been prepared in consultation with Burra Foods who support the changes. Burra Foods has also requested to be removed as a 'Referral authority' for planning permits triggered by the ESO8. This report supports these changes and recommends their referral to the Panel.

It is the recommendation of this report that Council present to the Panel its preference to reduce the ESO8 buffer area to the land identified in **Attachment 2** and make corresponding changes to the Korumburra Structure Plan map and the Korumburra Framework Plan map at Clause 21-15-2 'Korumburra' (refer **Attachment 3 and 4**). Should Council support this recommendation, all landowners within both versions of the ESO8 will be informed of the proposed changes.

## **Options**

Options available for Council to consider are:

### Option 1 - Refer Amendment C99 to an Independent Planning Panel

This is the option recommended to Council. The Panel will consider the proposed Amendment including submissions and the proposed changes to the ESO8 buffer boundary.

It is important that all three key elements of the Amendment (ESO8, policy change and updated Structure Plan) be referred to the Panel for consideration so the Panel can consider the full range of issues posed by the Amendment. Abandoning the ESO8 and referring the balance of the Amendment provisions to the Panel is discouraged. The Panel should retain unfettered ability to consider the Amendment in totality.

### Option 2 Abandon Amendment C99

Council has the power under the Act to abandon a planning scheme amendment at any stage in the process. Abandoning Amendment C99 prior to the merits of the Amendment being considered by a Panel is not recommended. The issues raised by the Amendment and its submissions warrant exploration before the Panel. Interested parties who have made a submission may apply to appear before the Panel. Burra Foods are required to pay the Panel fees and, regardless of a Panel's recommendation, Council may abandon the Amendment after the Panel Report has been received.

## **Proposal**

It is proposed that Amendment C99 and the submissions to the Amendment be referred to an Independent Planning Panel for consideration. The Panel will make recommendations to Council in relation to the form and content of the Amendment and advise if Council should adopt the Amendment.

## **FINANCIAL CONSIDERATIONS**

Burra Foods have committed to cover all the costs associated with the Planning Scheme Amendment including all Panel costs. Financial impacts of the Amendment are limited to Council staff time to process the Amendment through to its completion.

## **RISKS**

Burra Foods is the proponent for Amendment C99. The risks associated with the Amendment not being approved lay primarily with Burra Foods.

An absence of land use controls to effectively manage land use and development in the area surrounding the factory presents a risk of creating ongoing and entrenched conflict between the industrial and residential land uses.

## **CONCLUSION**

Burra Foods is an expanding operation situated adjoining residential areas and near other sensitive land uses in Korumburra. The existing operation and its growth potential make it a significant business not only for Korumburra, but the wider South Gippsland area.

Burra Foods is legally required to operate its factory in accordance with its EPA licensing requirements and this involves minimising its impact on surrounding land uses. Burra Foods has reduced its impact on surrounding areas in recent times (especially in relation to odour) however it is the nature of the dairy processing industry that it is not always possible to guarantee that impacts on the surrounding lands will not occur.

Exhibition of Amendment C99 has resulted in the receipt of 91 submissions the majority of which are objections. Many of the issues raised in the submissions express concerns with past and current impacts of factory operations. Further concerns are raised about the potential impacts of any future expansions to factory operations. While the Amendment provisions seek to find a long term balance between potentially competing interests, the objecting submissions express a clear view that the impact of the controls are excessively burdensome on surrounding residents.

How Burra Foods and the adjoining residential areas relate to and impact each other is an important planning consideration and should continue to be explored by referring the Amendment including submissions to an Independent Planning Panel for consideration. If Council adopts the



recommendations of this report, when the Panel Report is received, its recommendations will be publicly presented to Council before Council is required to make any final decisions on Amendment C99.

## **RECOMMENDATION**

That Council:

1. Request the Minister for Planning appoint an Independent Planning Panel to consider Planning Scheme Amendment C99 as exhibited with all submissions to Amendment C99.
2. Request the Independent Planning Panel consider the merit of reducing the proposed ESO8 buffer area to the boundary detailed in Attachment 2 to this report and removing Burra Foods as a referral authority for planning permit applications in the ESO8.
3. Consider the recommendations of the Independent Planning Panel prior to making a decision on Amendment C99.

## **STAFF DISCLOSURE OF INTEREST**

Nil

**MOVED: Cr Hutchinson-Brooks**

**SECONDED: Cr Davies**

**THAT COUNCIL:**

1. **REQUEST THE MINISTER FOR PLANNING APPOINT AN INDEPENDENT PLANNING PANEL TO CONSIDER PLANNING SCHEME AMENDMENT C99 AS EXHIBITED WITH ALL SUBMISSIONS TO AMENDMENT C99.**
2. **REQUEST THE INDEPENDENT PLANNING PANEL CONSIDER THE MERIT OF REDUCING THE PROPOSED ESO8 BUFFER AREA TO THE BOUNDARY DETAILED IN ATTACHMENT 2 TO THIS REPORT AND REMOVING BURRA FOODS AS A REFERRAL AUTHORITY FOR PLANNING PERMIT APPLICATIONS IN THE ESO8.**
3. **CONSIDER THE RECOMMENDATIONS OF THE INDEPENDENT PLANNING PANEL PRIOR TO MAKING A DECISION ON AMENDMENT C99.**

**Cr Kennedy left the Meeting at 2.40pm.**

**Cr Kennedy returned to the Meeting at 2.41pm.**

**Cr Davies left the Meeting at 2.48pm.**

**Cr Davies returned to the Meeting at 2.50pm.**

**CARRIED**

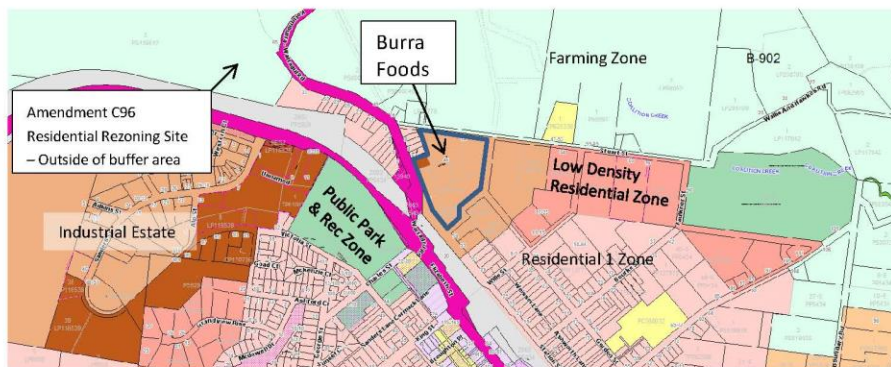
**For: Crs Kennedy, Davies, Harding, Fawcett, Brunt and Hutchinson-Brooks.**

**Against: Crs Hill, McEwen and Newton.**

### Attachment 1 - Locality Plan - Burra Foods and surrounds

#### ATTACHMENT 1

Locality Plan – Burra Foods and surrounds.

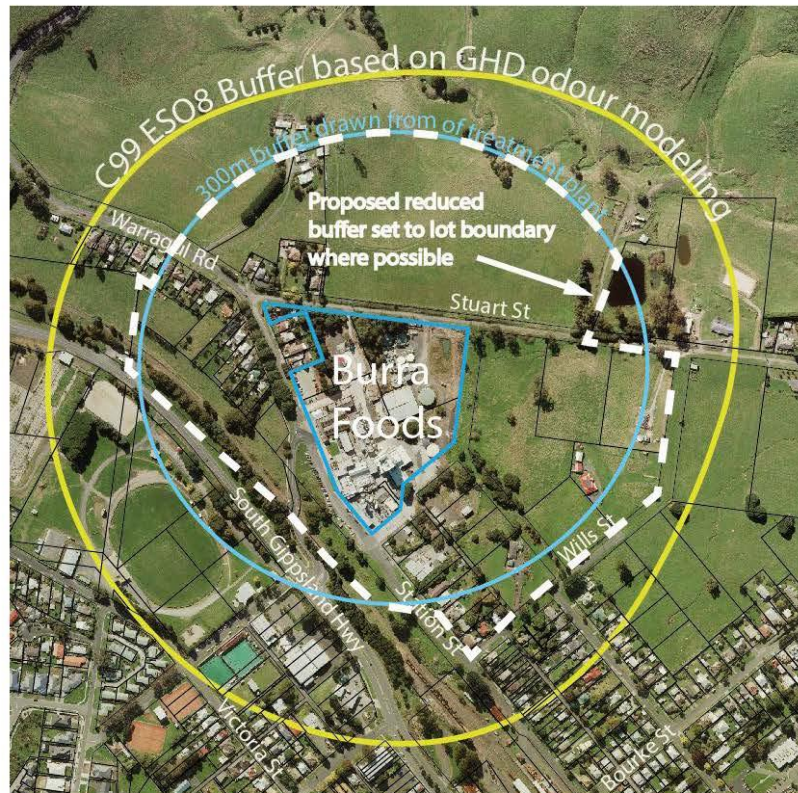


Existing Planning Scheme zoning in the Burra Foods locality

**Attachment 2 - ESO8 Buffer Map - Exhibited version and reduced area version - to be recommended to the Panel**

**Attachment 2**

ESO8 Buffer Map – Exhibition version of ESO8 map extent and proposed reduced map extent to be recommended to the Independent Planning Panel.

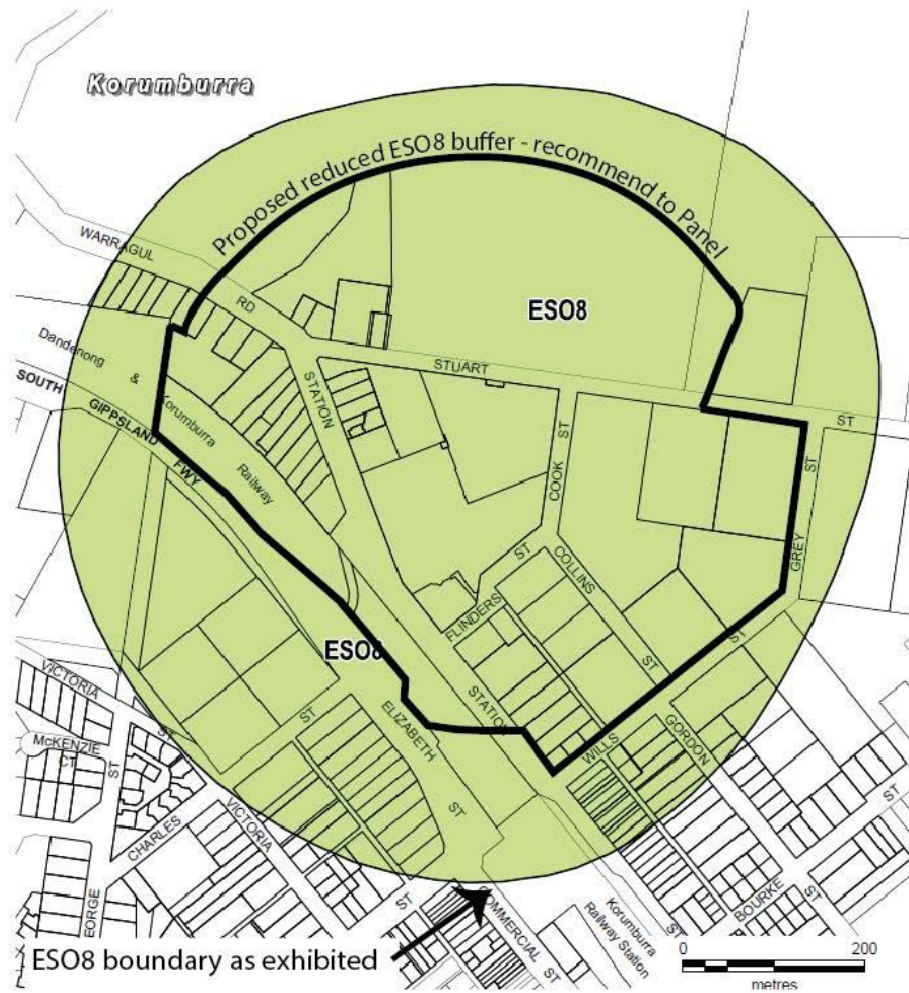


Attachment 2 continues on next page.



Attachment 2 (continued)

Proposed change to the official ESO8 Buffer Map



## Attachment 3 - Proposed changes to Clause 21.15-2 'Korumburra' Local Planning Policy Framework provisions & new Referral provisions

### SOUTH GIPPSLAND PLANNING SCHEME

#### 21.15-2 Korumburra

1/2014  
C99

Situated on the South Gippsland Highway in a picturesque landscape of rolling hills, Korumburra is the second largest town in the municipality and a key service provider to the smaller towns and communities in the Shire's western region. Ongoing improvements to the highway and the development of the Pakenham Bypass make Korumburra increasingly accessible to metropolitan Melbourne and help underpin population and economic growth that will contribute to securing the town's growth into the future.

Challenges for Korumburra include improving the retail offer, function and appearance of the Town Centre; responding to the existing highway traffic management problems; achieving appropriate redevelopment of the former Korumburra Saleyards site; planning new residential growth areas; and, continuing to define a role and character for Korumburra that distinguishes its place in the Shire's western region.

#### Local area implementation

- Maintain and promote Korumburra as a significant industrial, retail, service, residential and tourism centre in the Shire.
- Ensure the use and development of land in accordance with the strategic directions in the Korumburra Framework Plan and the Korumburra Town Centre Framework Plan maps.

#### Settlement

- Provide sufficient residential land, at a range of densities, available to accommodate future township growth.
- Plan for sequential and staged residential development that integrates with existing infrastructure networks.
- Monitor the availability and development of residential land and encourage the rezoning of appropriate areas identified in the Korumburra Framework Plan map to maintain an estimated 15-year residential land supply.
- Promote the development of new residential estates that establish appropriate integration with existing residential areas and infrastructure; provide pedestrian and cyclist connectivity to the Town Centre and key community features; and, protect the environmental values of the land, especially the waterways.
- Promote higher density residential development and retirement living on land within the inner township residential areas that can be provided with convenient pedestrian access to the Town Centre.
- Focus industrial development within the established industrial areas, and at the site of the former Korumburra Saleyards. Development of the former saleyards land must have close regard to the amenity interface with the adjoining showgrounds and residential areas.
- Consider the potential adverse amenity impacts of the ~~milk manufacturing~~ 'manufacture of milk products' operations in the Station Street Industrial Area on rezoning proposals and sensitive land use, development & subdivision proposals applications that allow, or intensify, the establishment of sensitive land uses in the ~~immediate~~ area surrounding the manufacturing operations.

#### Economy

- Maintain the primacy of the Town Centre as the retail and service hub of the town.
- Actively support the establishment of new retail opportunities in the Town Centre Retail Core.

SOUTH GIPPSLAND PLANNING SCHEME

- Maintain a compact, convenient and well-connected Town Centre that is the primary activity hub of the town.
- Actively encourage major retail, office and community developments to concentrate in the Town Centre Retail Core, comprising the blocks bounded by Commercial Street, King Street, Victoria Street and Bridge Street.
- Encourage the consolidation of sites in the Town Centre Retail Core to accommodate new large floor space developments.
- Strongly discourage the development of new retail uses outside of the Town Centre Retail Core where such uses may weaken the principal role of the Town Centre.
- Support tourism developments that promote Korumburra as a tourist destination and plan for the provision of services and features that support highway tourism traffic.

**Landscape and built form**

- Promote development in the Town Centre that improves pedestrian connectivity and the layout and operation of car parking, and enhances the amenity of the streetscape.
- Promote site responsive residential subdivision design (supported by geotechnical reports on land exceeding 15% slope) that allow for the creation of appropriately sized and configured lots that minimise the impact of earthworks.
- Ensure a high standard of building design, layout and landscaping for all new development, and particularly at the western highway entrances to the town.
- Support the conservation and enhancement of the town's heritage places and streetscapes in recognition of their central role in establishing Korumburra's 'rural township' character and 'sense of place'.

**Infrastructure**

- Improve highway traffic movement through the town.
- Provide strong pedestrian and cycling connectivity to the Town Centre, key community assets and the schools.
- Discourage land uses that may compromise the proposed highway realignment at the south east entry to the town.
- Ensure new development and road traffic improvements do not compromise the longer-term potential return of rail services to Melbourne.

**Further strategic work**

- Prepare an updated town centre framework plan to encourage major retail, office and community developments to concentrate in the town centre retail core in accordance with the principles established in the *Korumburra Town Centre and Structure Plan Priority Development Panel Report* (May 2010)
- Investigate applying a Restructure Overlay over the old Crown Township to the south-east of the town.
- Continue implementation of the recommendations of the *South Gippsland Heritage Study 2004* in consultation with affected landowners and the community.
- Investigate with VicRoads plans for traffic management, calming and pedestrian safety improvements along South Gippsland Highway and Radovick Street within the Town Centre in accordance with the Minister for Planning's Priority Development Panel recommendation.
- In consultation with affected landowners and the community, prepare development plans and overlays for Korumburra's growth areas.
- ~~Investigate the implementation of a planning policy to assist long term management of the amenity interface issues between the Station Street milk manufacturing operations and surrounding residential areas.~~



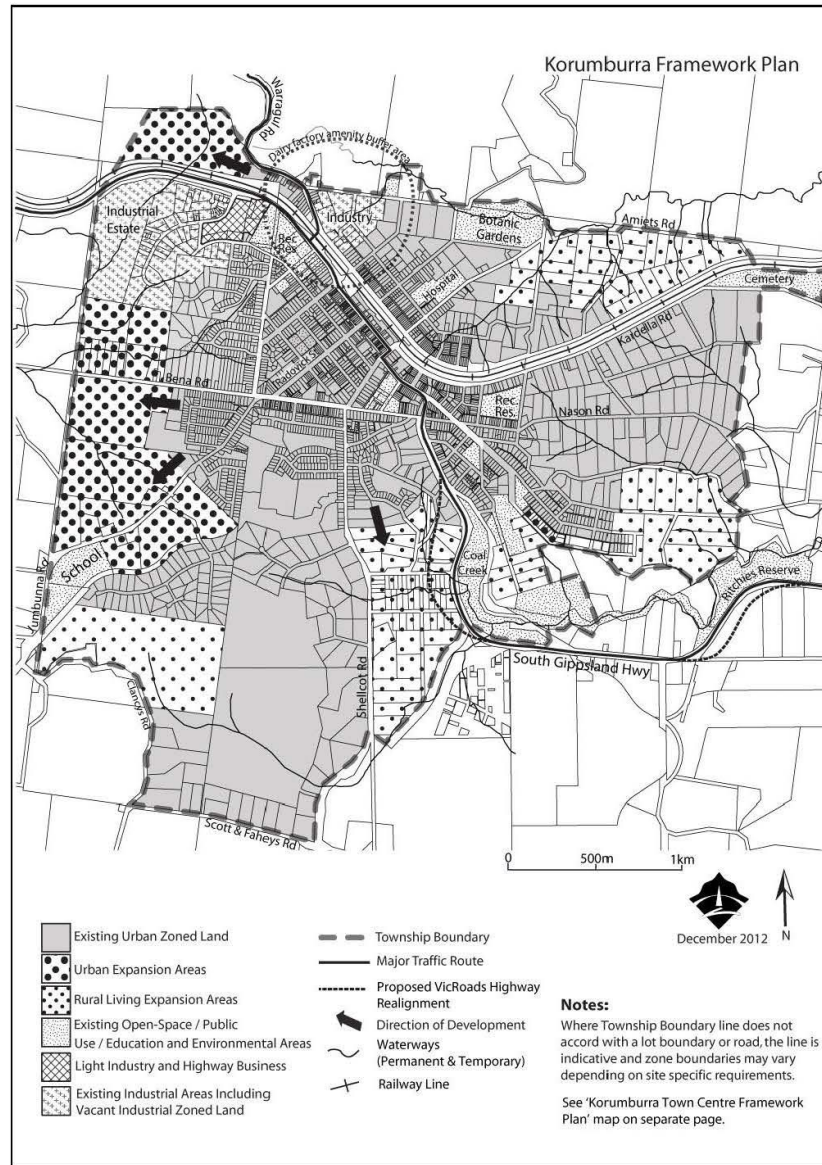
SOUTH GIPPSLAND PLANNING SCHEME

Review the existing application of the Mixed Use Zone in response to the theme objectives to maintain the primacy of the Town Centre for retail development.

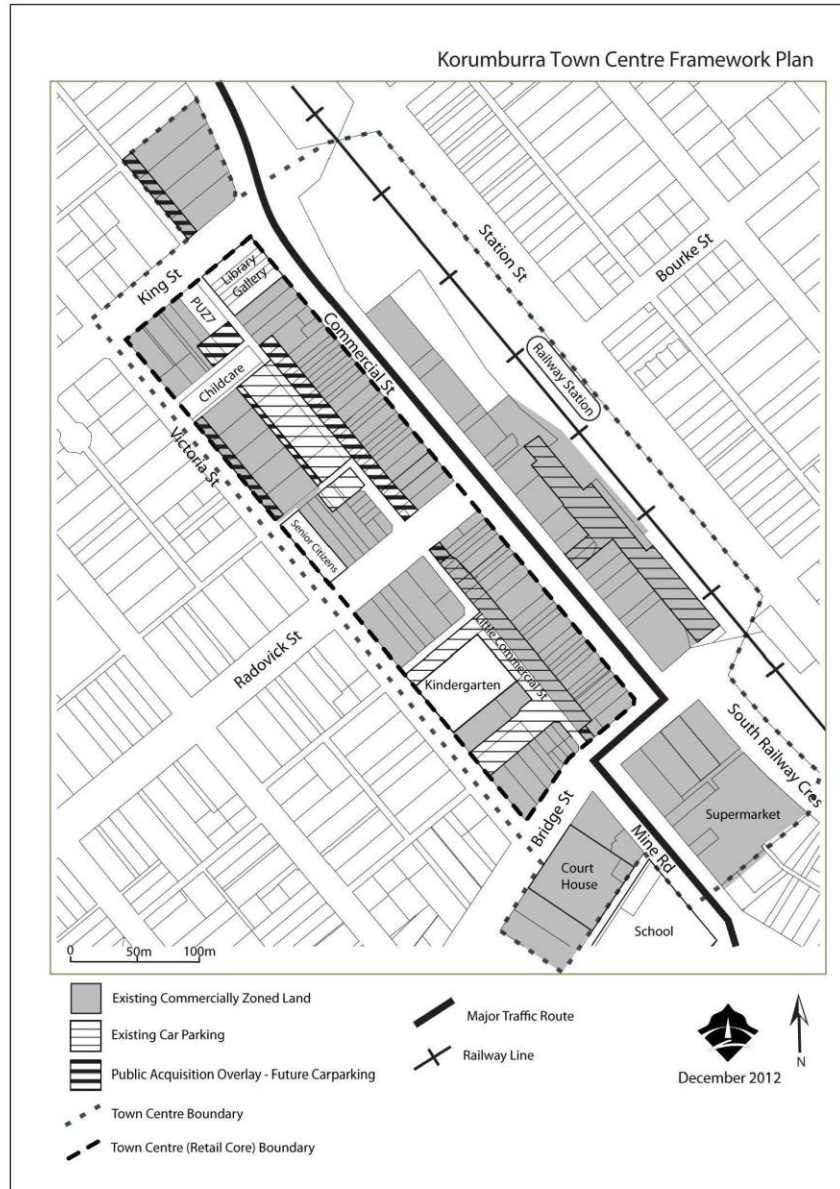
**Reference documents**

*Korumburra Structure Plan, July 2010 (as amended)*

*South Gippsland Paths and Trails Strategy 2010 (as amended)*



SOUTH GIPPSLAND PLANNING SCHEME





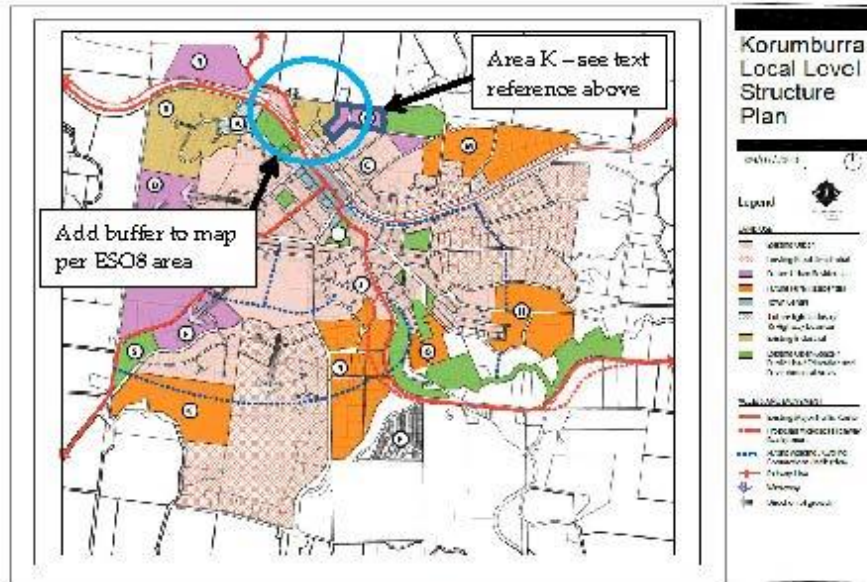
**Attachment 4 - Korumburra Structure Plan July 2010 - proposed changes**

Korumburra Structure Plan July 2010 – Extract from ‘Residential’ provisions (page 11)

Update the existing ‘Residential’ provisions with the following words – see ‘track changes’.

Plan ref	Description	Comments
D	Farming zoned land to the west of current Residential zoned area, north of Bena Road	Rezone to facilitate future urban residential development when required.
E	Farming zoned land to the west of current Residential zoned area, south of Bena Road	Rezone to facilitate future urban residential development when required.
F	Farming zoned land to the west of current Residential zoned area, south of Korumburra Wonthaggi Road	Rezone to facilitate future urban residential development when required.
G	Farming zoned land to the south of current Low Density Residential zoned area, north of Clancys Road.	Rezone to facilitate future rural residential development when required.
H	Farming zoned land south east of town.	Rezone to facilitate rural residential development when required, having close regard to the topographical constraints of the land.
K	Low Density Residential land to north of existing residential areas.	<del>Rezone to facilitate urban residential development</del> Discourage the rezoning of land that could facilitate the establishment of more intensive forms of sensitive land use near the manufacture of milk products facility
M	Farming zoned land to the north of railway reservation, east of boundary Road.	Rezone to facilitate rural residential development when required.
N	Farming zoned land to south of town.	Rezone to facilitate rural residential development when required, having close regard to the topographical constraints of the land and its past mining activities.
P	Farming zoned land to the south of town containing old and inappropriate subdivision.	Pursue a restructuring of the area to facilitate more appropriate subdivision pattern.
Q	Farming zoned land south east of town.	Rezone to facilitate rural residential development when required, having close regard to the topographical constraints of the land.
R	Farming zoned land adjoining the northwest boundary of the town.	Rezone to facilitate future urban residential development when required, having close regard to issues of pedestrian connectivity to the existing Town Centre.

Korumburra Structure Plan Map – Proposed change to introduce buffer area



## **E.2 PLANNING APPLICATION 2013/249 - PROPOSED DWELLING AND RURAL INDUSTRY - 20 LYREBIRD LANE WOORARRA WEST**

Development Services Directorate

### **EXECUTIVE SUMMARY**

This report is to consider a planning permit application for the use and development of land for a single dwelling, removal of native vegetation and rural industry. The land is located at 20 Lyrebird Lane, Woorarra West and covers an area of 22.24 hectares. The land is zoned 'Farming Zone' (FZ) and located within the Deep Creek Open Water Supply Catchment.

As this application is for the use and development of land for the purpose of a dwelling within a declared open potable water supply catchment, it is required to be referred to South Gippsland Water (SGW) for comment. Following referral, SGW objected on the grounds that the proposed dwelling does not comply with Guideline 1 of the Minister for Water's Guidelines for 'Planning permit applications in open, potable water supply catchment areas'. SGW is a determining authority for applications in open potable water supply catchments and consequently Council must, when deciding this application, issue a Notice to refuse to grant a permit.

This application has been referred to Council for a decision as twelve (12) objections were received. The decision before Council is to consider, as the responsible authority, whether the Notice to refuse to grant a permit should include other specific grounds for refusal or only those provided by SGW.

This report recommends that Council, as the Responsible Authority, should refuse the application on similar grounds as those of the determining authority.

#### **Document/s pertaining to this Council Report**

- **Attachment 1** - Aerial Photography
- **Attachment 2** - Planning Property Report
- **Attachment 3** - Proposed Site Plan
- **Attachment 4** - Detailed Planning Assessment
- **Confidential Appendix 1** - Copies of Objections (12)

A copy of **Confidential Appendix 1** has been distributed separately to Councillors and the Executive Leadership Team.

### **LEGISLATIVE/ ACTION PLANS/ STRATEGIES/ POLICIES**

- Planning and Environment Act 1987

- South Gippsland Planning Scheme
- Planning permit applications in open, potable water supply catchment areas guidelines, November 2012
- Environment Protection Act 1970
- Catchment and Land Protection Act 1994
- The State Environment Protection Policy (Waters of Victoria)

### **INTERNAL POLICIES / STRATEGIES / DOCUMENTS**

- Rural Land Use Strategy, August 2011

### **COUNCIL PLAN**

Outcome:	1.0	A Prosperous Shire
Strategy:	1.1.2	We will protect and retain the unique identity of towns, villages and farming districts.
Strategy	1.1.3	We will actively encourage sustainable development and growth of agriculture, industry and commercial business.

### **CONSULTATION**

The application was notified under Section 52 of the Act, by postal notice to adjoining property owners. Council received twelve (12) written objections between 11 and 17 April 2014. Common objections to the application included;

1. The farming operation does not require a permanent on-site presence and therefore a dwelling is not required.
2. The farming of poultry on the land is attracting foxes to the area which threatens local wildlife.
3. Domestic animals, livestock and poultry are not being contained within the property.
4. The poultry operation causes noise, light and odour nuisance to nearby properties which reduces visual appeal, peace and quiet.
5. The poultry operation will cause degradation to and removal of topsoil.
6. The poultry operation impacts the water quality in the Deep Creek Catchment.

The application was referred to Council's Waste Water and Environmental Health officers on 25 March 2014. The Waste Water Department provided unconditional support on 8 April 2014. Council's Health Department provided conditional support on 12 May 2014.

The application was referred to the Country Fire Authority (CFA) and South Gippsland Water (SGW). The CFA provided conditional support, SGW objected to the proposal.

## **REPORT**

### **Background**

The land is commonly known as 20 Lyrebird Lane Woorarra West. It is located on the intersection of Lyrebird Lane and Nippards Track. The land is 22.24 Ha in area and a substantial proportion of the land is steep. There are a number of water courses and dams on the land, and scattered native vegetation.

(Refer **Attachment 1** - Aerial photography).

The land is zoned Farming Zone (FZ) and is covered by the Bushfire Management Overlay (BMO), Environmental Significance Overlay - Water Catchments (ESO2) and Environmental Significance Overlay - Areas Susceptible to Erosion (ESO5). The land is within the Deep Creek Catchment, which is a Declared Special Water Supply Catchment under the Catchment and Land Protection Act 1994.

(Refer **Attachment 2** - Planning property report).

The land is being used to farm free range poultry (chickens, ducks, geese, turkeys, quails and guinea fowl), a small number of sheep and beef calves, and to grow vegetables. The owners have planted a large orchard including fruit and hazelnut trees. Eggs collected from the poultry are being sold at local markets.

Only a limited number of properties in the area are being farmed, with many being used for retirement and rural lifestyle purposes.

An existing shed was illegally converted to a dwelling by the current owners, and following investigation of a complaint, a Building Notice was issued on 31 July 2013. This Notice required the owner to show cause as to why they should not demolish the building and return the building to its original use as a shed. The owner then applied for a planning permit to seek approval to use land for the purpose of a single dwelling. Separate building approval, which can't be granted in the absence of planning approval, is also required. Enforcement of the Building Notice has been deferred until the planning application has been decided.

## Proposal

The applicant has sought planning permission for the illegally converted dwelling, and for the use of the land for rural industry. The dwelling is already constructed and is a modestly designed two storey, four bedroom, two bathroom dwelling. It is connected to water tanks and a septic tank system. It is largely screened from both roads by vegetation and by the topography of the land. The application seeks a planning permit for;

- The use and development of a dwelling to support the agricultural use of the land; and
- A rural Industry - the processing of food produced on the land into jams, pickles, sausages, cheeses, pasta, smoked meats, and frozen cooked meals - processing to be undertaken in the kitchen within the dwelling.

(Refer **Attachment 3** - Proposed site plan).

## Discussion

Under Section 58(1) of the Act, the responsible authority must consider every application for a permit. Before deciding an application, the responsible authority must, consider the following;

- The relevant planning scheme;
- The objectives of planning in Victoria;
- All objections and other submissions which it has received;
- Any decision and comments of a referral authority which it has received.
- Any other strategic plan, policy statement, code or guideline which has been adopted by a Minister.

A detailed assessment under the South Gippsland Planning Scheme and State and Local policies is provided at **Attachment 4**.

(Refer **Attachment 4** - Detailed Planning Assessment).

## Objections and Submissions

Twelve (12) written submissions were received following notice of the application. All submitters objected to the application. Objections are the dwelling is not reasonably required in association with the rural industry and agricultural activities detailed in the application. Further concerns are raised about the impact current and future agricultural activities have on adjoining amenity.

The responsible authority may only consider those objections which relate to the permission which is being sought when deciding the application. A summary of the objections and planning response to the objections is provided below.

Submission	Planning Response
<p>The farming operation does not require a permanent onsite presence and therefore a dwelling is not required.</p>	<p>The land is currently being farmed and managed, albeit from an illegal dwelling. It is unlikely the land will be lost to productive agriculture if the dwelling were approved. Rather, the dwelling would support diversification of agricultural activity as traditional agricultural activity declines, as identified in the Municipal Strategic Statement at Clause 21.03-4 of the South Gippsland Planning Scheme.</p> <p>The diverse range of agricultural activities, existing and proposed (rural industry), are considered on balance to warrant the support of a dwelling. In addition, much of the land is steep which can inhibit successfully off-site farming. A dwelling would support the ongoing agricultural use of the land, and encourage improvements and proper management of the land and its natural assets.</p> <p>If the permit application could be supported a recommendation of this report would have included the inclusion of permit conditions requiring endorsement and operation of an approved farm management plan.</p>
<p>The farming of poultry on the land is attracting foxes to the area which threatens local wildlife.</p>	<p>The existing and proposed agricultural uses associated with poultry in the FZ are considered a Section 1 use, i.e. as of right. Objections offering these grounds are unable to be considered when determining the application.</p>
<p>Domestic animals, livestock and poultry are not being contained within the property</p>	<p>The concerns about containing animals and livestock within the property are concerns which are investigated under Council's local laws, and are not relevant planning considerations.</p>
<p>The poultry operation causes noise, light and odour nuisance to nearby properties which reduces visual appeal, peace and</p>	<p>The existing and proposed agricultural uses associated with poultry in the FZ are considered a Section 1 use, i.e. as of right. Objections offering these grounds are unable to be considered when determining the application. Concerns of this nature can be investigated under Council's local laws or the</p>

Submission	Planning Response
quiet.	nuisance provisions of the Public Health and Wellbeing Act 2008.
The poultry operation will cause degradation to and removal of topsoil.	The existing and proposed agricultural uses associated with poultry in the FZ are considered a Section 1 use, i.e. as of right. Objections offering these grounds are unable to be considered when determining the application.
The poultry operation impacts the water quality in the Deep Creek Catchment.	The existing and proposed agricultural uses associated with poultry in the FZ are considered a Section 1 use, i.e. as of right. Objections offering these grounds are unable to be considered when determining the application.

### Options

The decision before Council is not to determine whether a planning permit should be approved or refused. This option is not available to Council as under Section 61(2) of the Act, the responsible authority must decide to refuse to grant a permit if a relevant determining referral authority objects to the grant of a permit. The options available to Council, as responsible authority, are to determine what, if any, grounds for refusal should be included in addition to the grounds for refusal of the determining authority (SGW). Available options include;

- No additional grounds for refusal. Only provide a Notice to refuse to grant a permit which includes the grounds of refusal by the determining authority.
- Provide similar grounds for refusal to those of the determining authority.
- Determine that the application does not satisfy Council's local planning policy (clause 22.05 - Rural Dwellings) in that it is not clearly demonstrated that the dwelling on a lot over 4.1 hectares is genuinely required to carry out a long-term agricultural activity on the land.
- Determine alternate grounds for refusal as Council considers appropriate.

As responsible authority, Council is required to decide this application with consideration of the requirements of the Act. As the Minister for Water's 'Planning permit applications in open, potable water supply catchment areas' guideline forms part of these considerations it is appropriate that Council refuse to grant a permit on the same grounds as those provided by SGW.



## **RISKS**

Any decision to approve this application would be contrary to Section 61(2) of the Planning and Environment Act 1987.

## **CONCLUSION**

The assessment of planning permit applications in declared water catchments has been an issue of considerable Local and State significance over the last few years. A number of planning permit applications around the State have been subject to VCAT appeal, and where the applications have failed to satisfy the Minister for Water's Guidelines for 'Planning permit applications within open potable water supply catchment areas', permits have not been granted.

This application has been assessed as unable to satisfy the requirements of these guidelines and as a consequence SGW have objected to the application. SGW is a determining authority under Section 55 of the Planning and Environment Act 1987.

Under Section 61(2) of the Act the responsible authority must decide to refuse to grant a permit if a relevant determining referral authority objects to the grant of a permit. The decision before Council, as responsible authority, is to determine what, if any, grounds for refusal should be provided in addition to the grounds for refusal of SGW.

A number of submissions query whether a dwelling is needed to support the proposed agricultural activities and raise concerns about the amenity impact to adjoining neighbours. Those concerns about amenity of the agricultural activities are not considerations for determining the permit. These concerns are best investigated under Council's local laws or under the nuisance provisions of the Public Health and Wellbeing Act 2008.

It is considered that the Farm Management Plan submitted with the application could be supported (albeit requiring further detail), if a permit could be issued.

Following the assessment of this application it is recommended that the only grounds for which Council should provide in the Notice to refuse to grant a permit are similar grounds to those of SGW.

**RECOMMENDATION**

That Council note that the Acting Chief Executive Officer has withdrawn Council Agenda Item E.2 Planning Application 2013/249 - Proposed Dwelling And Rural Industry - 20 Lyrebird Lane Woorarra West due to South Gippsland Water advising that it no longer objects to the issue of the planning permit.

**STAFF DISCLOSURE OF INTEREST**

Nil

**MOVED: Cr Fawcett**

**SECONDED: Cr Hill**

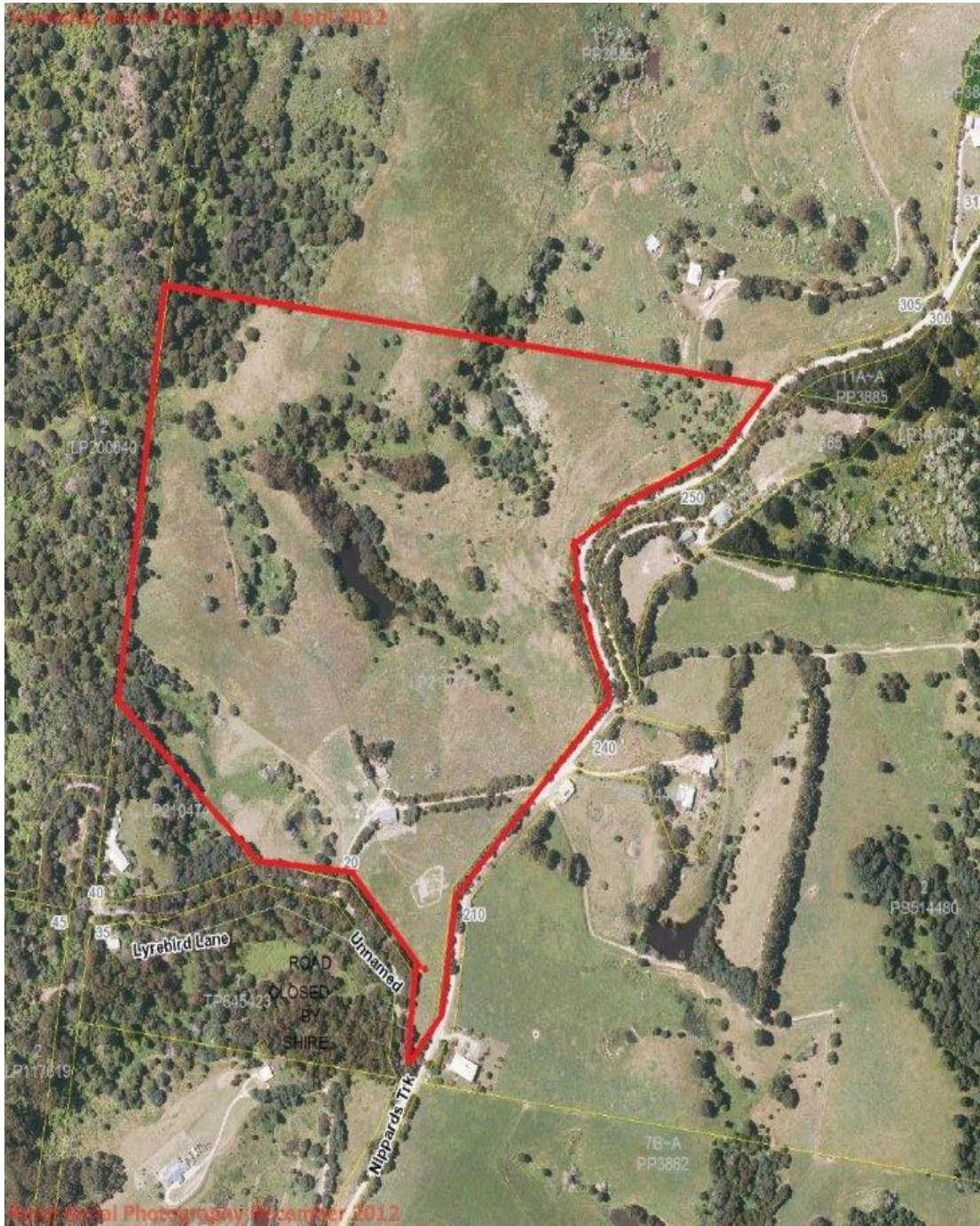
**THAT COUNCIL NOTE THAT THE ACTING CHIEF EXECUTIVE OFFICER HAS WITHDRAWN COUNCIL AGENDA ITEM E.2 PLANNING APPLICATION 2013/249 - PROPOSED DWELLING AND RURAL INDUSTRY - 20 LYREBIRD LANE WOORARRA WEST DUE TO SOUTH GIPPSLAND WATER ADVISING THAT IT NO LONGER OBJECTS TO THE ISSUE OF THE PLANNING PERMIT.**

**Cr McEwen left the Meeting at 3.05pm.**

**Cr McEwen returned to the Meeting 3.06pm.**

**CARRIED UNANIMOUSLY**

**Attachment 1 - Aerial photography**





## Attachment 2 - Planning Property Report

Department of  
Transport, Planning and  
Local Infrastructure

### Planning Property Report

from [www.dtpli.vic.gov.au/planning](http://www.dtpli.vic.gov.au/planning) on 26 August 2014 10:36 AM

**Address:** 20 LYREBIRD LANE WOORARRA WEST 3960

**Lot and Plan Number:** Lot 2 LP210474

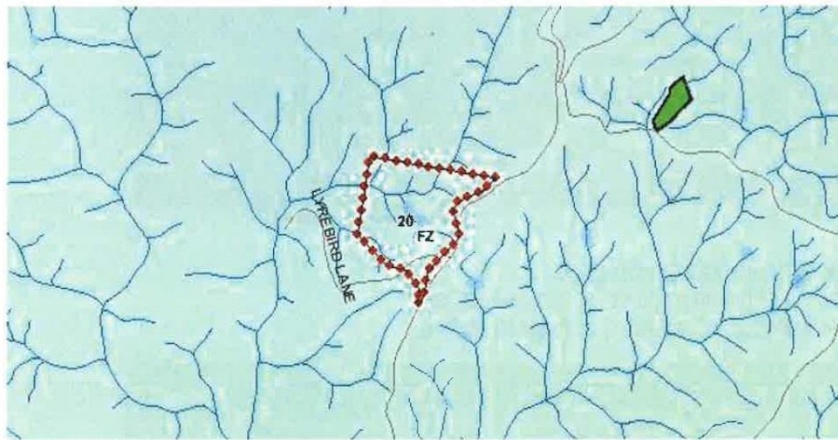
**Local Government (Council):** SOUTH GIPPSLAND **Council Property Number:** 191335

**Directory Reference:** VicRoads 103 D3

#### Planning Zone

FARMING ZONE (FZ)

SCHEDULE TO THE FARMING ZONE



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0 800m

Note: labels for zones may appear outside the actual zone - please compare the labels with the legend.

#### Zones Legend

ACZ - Activity Centre	IN1Z - Industrial 1	R1Z - General Residential
B1Z - Commercial 1	IN2Z - Industrial 2	R2Z - General Residential
B2Z - Commercial 1	IN3Z - Industrial 3	R3Z - General Residential
B3Z - Commercial 2	LDRZ - Low Density Residential	RAZ - Rural Activity
B4Z - Commercial 2	MUZ - Mixed Use	RCZ - Rural Conservation
B5Z - Commercial 1	NRZ - Neighbourhood Residential	RDZ1 - Road - Category 1
C1Z - Commercial 1	PCRZ - Public Conservation & Resource	RDZ2 - Road - Category 2
C2Z - Commercial 2	PDZ - Priority Development	RGZ - Residential Growth
CA - Commonwealth Land	PPRZ - Public Park & Recreation	RLZ - Rural Living
CCZ - Capital City	PUZ1 - Public Use - Service & Utility	RUZ - Rural
CDZ - Comprehensive Development	PUZ2 - Public Use - Education	SUZ - Special Use
DZ - Dockland	PUZ3 - Public Use - Health Community	TZ - Township
ERZ - Environmental Rural	PUZ4 - Public Use - Transport	UFZ - Urban Floodway
FZ - Farming	PUZ5 - Public Use - Cemetery/Crematorium	UGZ - Urban Growth
GRZ - General Residential	PUZ6 - Public Use - Local Government	Urban Growth Boundary
GWAZ - Green Wedge A	PUZ7 - Public Use - Other Public Use	
GWZ - Green Wedge		

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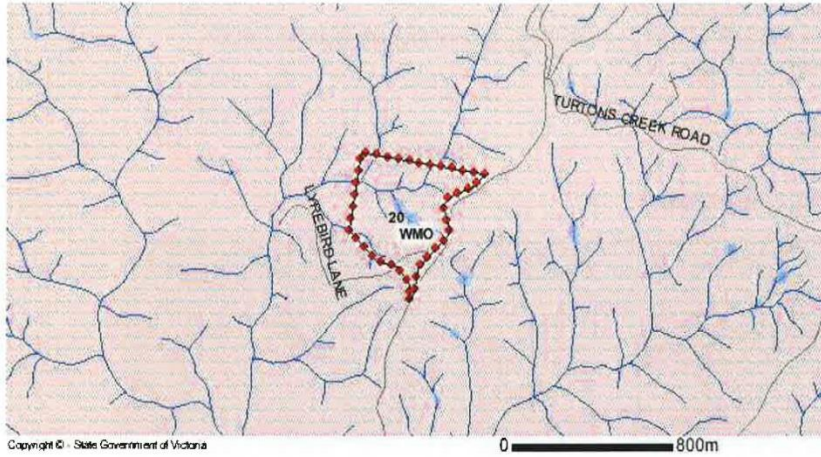
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Department of  
Transport, Planning and  
Local Infrastructure

### Planning Overlays

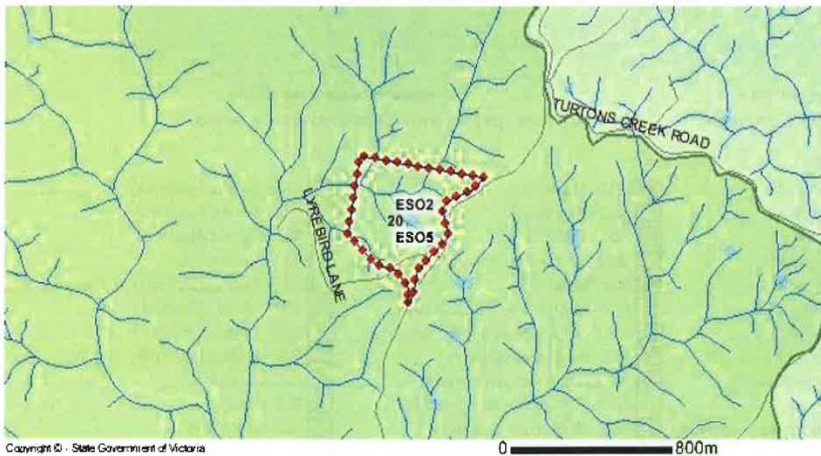
#### BUSHFIRE MANAGEMENT OVERLAY (BMO OR WMO)



#### ENVIRONMENTAL SIGNIFICANCE OVERLAY (ESO)

#### ENVIRONMENTAL SIGNIFICANCE OVERLAY - SCHEDULE 2 (ESO2)

#### ENVIRONMENTAL SIGNIFICANCE OVERLAY - SCHEDULE 5 (ESO5)



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Department of  
Transport, Planning and  
Local Infrastructure

### Planning Overlays Legend

#### Overlays Legend

 AEO - Airport Environs	 LSIO - Land Subject to Inundation
 BMO - Bushfire Management (also WMO)	 MAEQ1 - Melbourne Airport Environs 1
 CLPD - City Link Project	 MAEQ2 - Melbourne Airport Environs 2
 DCPD - Development Contributions Plan	 NCO - Neighbourhood Character
 DDO - Design & Development	 PO - Parking
 DDOPT - Design & Development Part	 PAO - Public Acquisition
 DPO - Development Plan	 RO - Restructure
 EAO - Environmental Audit	 RCO - Road Closure
 EMO - Erosion Management	 SBO - Special Building
 ESO - Environmental Significance	 SLO - Significant Landscape
 FO - Floodway	 SMD - Salinity Management
 HO - Heritage	 SRD - State Resource
 IPO - Incorporated Plan	 VPO - Vegetation Protection

Note: due to overlaps some colours on the maps may not match those in the legend.

### Further Planning Information

Planning scheme data last updated on 21 August 2014.

A **planning scheme** sets out policies and requirements for the use, development and protection of land.

This report provides information about the zone and overlay provisions that apply to the selected land.

Information about the State, local, particular and general provisions of the local planning scheme that may affect the use of this land can be obtained by contacting the local council or by visiting [Planning Schemes Online](#)

This report is NOT a **Planning Certificate** issued pursuant to Section 199 of the Planning & Environment Act 1987.

It does not include information about exhibited planning scheme amendments, or zonings that may affect the land.

To obtain a Planning Certificate go to [Titles and Property Certificates](#)

For details of surrounding properties, use this service to get the Reports for properties of interest

To view planning zones, overlay and heritage information in an interactive format visit [Planning Maps Online](#)

For other information about planning in Victoria visit [www.dpcd.vic.gov.au/planning](http://www.dpcd.vic.gov.au/planning)

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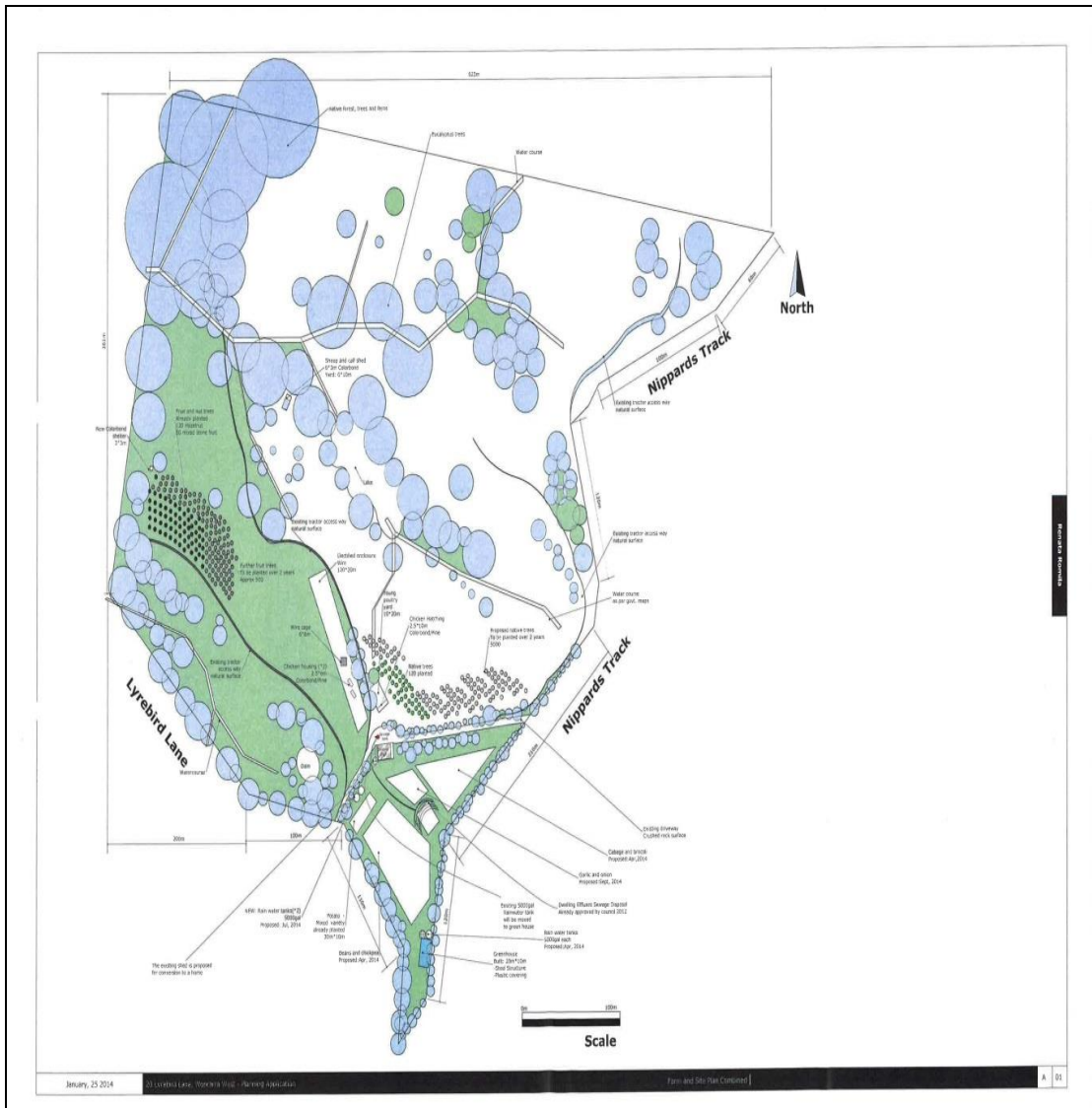
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### Attachment 3 - Proposed Site Plan



## **Attachment 4 - Detailed Planning Assessment**

The proposed land is located within the FZ. There are three land uses which are proposed and described as part of the application. These are agriculture, single dwelling and rural industry.

### Agriculture

- Within the FZ the use of land for Agriculture (other than animal keeping, apiculture, intensive animal husbandry, rice growing and timber production) is a Section 1 use, i.e. a permit is not required to conduct this activity.
- Following assessment of the application the existing and proposed agricultural uses including poultry have been determined as not requiring a permit. The application is not considered to include intensive animal husbandry on the basis that the majority of food supply is able to be obtained from the land rather than requiring alternate food sources.
- These existing and future agricultural activities are proposed as reasons to support the dwelling application. However, as these agricultural uses do not require a planning permit, Council is unable to consider concerns about these land uses as grounds for refusing the application.

### Single Dwelling

- The use of the land, which has an area less than 40 hectares, for the purpose of a dwelling is a Section 2 use, i.e. a permit is required.
- The relevant decisions guidelines to consider when determining whether to issue a permit include;
  - The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
  - The capability of the land to accommodate the proposed use or development, including the disposal of effluent.
  - Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.
  - Whether the use or development will support and enhance agricultural production.
  - The capacity of the site to sustain the agricultural use.
  - Whether the dwelling will result in the loss or fragmentation of productive agricultural land.



Following assessment of the application, against the relevant decision guidelines of the FZ, it is considered that a dwelling could be supported. Further consideration is given to the appropriateness of the proposed dwelling under the assessment of Council's local policy, Clause 22.05 - Rural Dwellings.

### Rural Industry

- The use of the land for the purpose of rural industry is a Section 2 use, i.e. a permit is required.
- It is proposed that the rural industry be accommodated within the existing building and has been assessed to have a negligible impact on adjoining amenity.

### **State Planning Policy Framework**

The State Planning Policy Framework (SPPF) provides Council's broad direction when deciding planning applications. The following SPPFs are considered the most relevant to this application.

<b>Policy Objectives</b>	
11.05-3 Rural productivity	To manage land use change and development in rural areas to promote agriculture and rural production.
12.04-1 Environmentally sensitive areas	To protect and conserve environmentally sensitive areas.
13.05-1 Bushfire planning strategies and principles	To assist to strengthen community resilience to bushfire.
14.01-2 Sustainable agricultural land use	To encourage sustainable agricultural land use.
14.02-1 Catchment planning and management	To assist the protection and, where possible, restoration of catchments, waterways, water bodies, groundwater, and the marine environment.
12.01 Native Vegetation Management	To ensure that permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity.

<b>Policy Objectives</b>	
13.03-2 Erosion and landslip	To protect areas prone to erosion, landslip or other land degradation processes.
14.01-1 Protection of agricultural land	To protect productive farmland which is of strategic significance in the local or regional context.
14.02-2 Water quality	To protect water quality.
16.01-2 Location of residential development	To locate new housing in or close to activity centres and employment corridors and at other strategic redevelopment sites that offer good access to services and transport.
16.02-1 Rural residential development	To identify land suitable for rural living and rural residential development.

### **Local Planning Policy Framework**

The Local Planning Policy Framework (LPPF) provides Council additional, locally relevant direction when deciding planning applications and includes Local Planning Policies at Clause 22. The following LPPFs and policies are considered the most relevant to this application.

<b>Policy Objectives</b>	
21.07-2 Land and Catchment Management	To achieve a measurable improvement in the health of the Shire's land and water resources.
21.08-1 Agriculture	To maintain a viable and sustainable agricultural industry as the corner stone to the Shire's economy and its future wellbeing.  Strategy 1.1 - Protect high quality agricultural land for primary production.  Strategy 1.2 - Strongly discourage

<b>Policy Objectives</b>	
	<p>rural residential land use on lots over 4.1 hectares in agricultural areas.</p> <p>Strategy 1.5 - Encourage and promote new and existing diverse and sustainable agriculture industries as an important contributor to the Shire's economy, including promoting the region as a premium 'green' products food bowl.</p>
21.10-3 Rural residential development	<p>Objective 1 Ensure that the resource of agricultural land is protected and retained in primary production.</p> <p>Strategy 1.1 - Strongly discourage dwellings not related to commercial scale agriculture in rural and high quality agricultural areas.</p> <p>Strategy 1.3 - Strongly discourage rural residential use of land on lots over 4.1 hectare in agricultural areas.</p> <p>Strategy 1.4 - Protect the rural farmland landscape from inappropriate dwelling development.</p>
21.11-1 Processing and manufacturing	<p>Value adding manufacturing and processing plays an important part in the future economic growth opportunities in the Shire. The lower operational costs for businesses and the unique lifestyle that the Shire offers should be promoted to attract new employment opportunities and population growth.</p> <p>Objective 1 - To attract and develop value adding opportunities to diversify the industry base and maximise employment opportunities.</p> <p>Objective 2 - To ensure that industries in rural areas specifically support the agricultural sector.</p>

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## Local Planning Policies

Policy Objectives	
22.05 Rural Dwellings Policy	<p><b>Objectives:</b></p> <p>To discourage the proliferation of dwellings not associated with agriculture on lots over 4.1 hectares.</p> <p>To discourage the proliferation of dwellings on lots over 4.1 hectares where the agricultural use of the land does not require the presence of a land manager.</p> <p>To ensure that the development of dwellings on rural land does not prejudice existing agricultural activities on surrounding land.</p> <p>To ensure that agricultural land is maintained for the cost-effective production of food and raw materials.</p> <p>To retain the open farmed landscape as the defining visual characteristic of the Shire.</p> <p>To ensure the cost-effective servicing of towns and communities across the Shire by avoiding the impacts of a dispersed population base.</p> <p>To provide a consistent basis for considering planning permit applications for the use and development of dwellings in rural areas.</p>

## Planning Response

It is policy under the South Gippsland Planning Scheme that an application for a new dwelling in the FZ on a lot greater than 4.1 but less than 40 hectares is discouraged unless proposed in association with agriculture. A farm management plan was prepared to support the application and proposed a number of agricultural activities, including rural industry, to support the proposed single dwelling.

The rural industry proposed included the preparation of jams, pickles, sausages, cheeses, pasta, smoked meats, and frozen cooked meals, from produce and meat grown on the subject land, and from other local produce.

The dwelling is generally not supported by the Planning Scheme in association with any of the proposed or existing farming activities individually. However, given the holistic nature of the proposal it is considered reasonable that a dwelling would be required for the management of both the farm and the rural industry. Given the properties remote location from the nearest town, off-site management of the agricultural uses described in the application would be problematic. The applicants have demonstrated a thorough understanding of the constraints and opportunities that the land presents, and have presented a plan for farming the land into the future in accordance with the purpose of the Farming Zone.

The dwelling would support diversification of agricultural activity as traditional agricultural activity declines, as identified in the Municipal Strategic Statement at Clause 21.03-4 of the South Gippsland Planning Scheme.

If the permit application could be supported a recommendation of this report would have included permit conditions requiring endorsement and operation of an approved farm management plan.

### **Relevant Planning Scheme Overlays including decision and comments of Referral Authorities**

#### **Bushfire Management Overlay (BMO) Clause 44.06-1**

A permit is required to construct a building or construct or carry out works associated with accommodation. An application must meet the requirements of Clause 52.47. The provision only applies to development, not use, and therefore the use of the land for rural industry does not trigger a permit under the provision. The trigger is for the development of the dwelling only.

#### Planning For Bushfire Clause 52.47

Clause 52.47-2 applies to applications on land outside existing settlements.

Purpose:

- *To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.*
- *To ensure that the location, design and construction of development appropriately responds to the bushfire hazard.*
- *To ensure development is only permitted where the risk to life, property and community infrastructure from bushfire can be reduced to an acceptable level.*

- *To specify location, design and construction measures for a single dwelling that reduces the bushfire risk to life and property to an acceptable level.*

Objectives:

- *Development is appropriate having regard to the nature of the bushfire risk arising from the surrounding landscape.*
- *Development is sited to minimise the risk from bushfire.*
- *Development is sited to provide safe access for vehicles, including emergency vehicles.*
- *Building design minimises vulnerability to bushfire attack.*
- *Defendable space and building construction mitigate the effect of flame contact, radiant heat and embers on buildings.*

Relevant decision guidelines:

- *The bushfire hazard landscape assessment, the bushfire hazard site assessment and the bushfire management statement submitted with the application.*
- *Whether the proposed development meets the objectives of Clause 52.47-2 regardless of other measures which may be available, including private bushfire shelters, community shelters and the presence of places of last resort.*
- *Whether the proposed measures can be practically implemented and maintained in conjunction with the ongoing use of the land.*
- *Whether the risk arising from the broader landscape can be mitigated to an acceptable level or warrants the development not proceeding.*

Assessment:

This application was referred to the CFA for comment and to assess the inherent bush fire risk. The CFA provided conditional support for the application. Whilst the BMO has changed since the application was made, the changes are immaterial to the outcome as the dwelling can still be approved under the current provisions. Having regard to the current requirements, the application demonstrates that:

- The development is sited to minimise the risk of bushfire in the context of the site and surrounding properties, by providing a suitable separation distance buffer to areas of bushfire risk.

- Safe access and egress to the dwelling is provided via entrance/exit points in two different directions which can both accommodate emergency vehicles.
- The dwelling is close to a public road.
- Appropriate defensible space can be achieved and maintained with minimal vegetation removal.
- Static water supply for firefighting can be achieved.
- Construction to BAL-12.5 can be reasonably achieved.

### **Environmental Significance Overlay (ESO) – Clause 42.01-2**

A permit is required to construct a building or construct or carry out works. This does not apply if a schedule to this overlay specifically states that a permit is not required. The relevant schedules that apply to the land are the ESO2 and the ESO5. Each is discussed below.

#### Schedule 2 – Water Catchments (ESO2)

##### Purpose:

- *To protect the quality of domestic water supply.*
- *To improve degraded sites within water catchments.*
- *To consider allocation of sufficient water for environmental flows.*
- *To ensure land is developed in a manner which does not prejudice the area's use as a water catchment.*

##### Permit trigger:

The schedule exempts a building or extension to an existing building where the total resultant floor area is less than 200 square metres. The dwelling has a total floor area of 298.4m<sup>2</sup> and therefore the ESO2 triggers a permit for buildings and works. The schedule also triggers a permit for vegetation removal.

##### Relevant Decision Guidelines:

- *The purpose of the overlay.*
- *The views of the relevant water authority.*

- *The views of the relevant water catchment management authority.*
- *The potential impact that the proposal could have on the quality of water in the catchment.*

Assessment:

The application demonstrates that:

- Whilst a waste water system has been installed at the dwelling, the density of dwellings (using waste water systems) in the Deep Creek Catchment exceeds 1:40 Ha. The approval of the dwelling may jeopardize the quality of the domestic (potable) water supply.
- The relevant water authority (SGW) has objected to the proposal on the grounds that the dwelling does not comply with Guideline 1 of the “Planning Applications in Open, Potable Water Supply Catchment Areas, November 2012”.
- The vegetation proposed to be removed is minimal, is not of high biodiversity significance, and can be easily offset elsewhere on the property.

### **Ministerial Guidelines and Open, Potable Water Supply Catchments**

Under Section 60(1A)(g) of the Act, Council should consider where relevant any code or guideline adopted by a Minister when deciding a planning permit application. As previously discussed, the land is within the Deep Creek (Foster) Water Supply Catchment as proclaimed by the Victoria Government Gazette and as listed in the Catchment and Land Protection Act 1994. Therefore, the proposed use and development must be assessed against the Planning permit applications in open, potable water supply catchment areas (DSE, 2012) Guideline (‘the Guideline’). The Guideline has been adopted by the Minister for Water.

The purpose of the Guideline is to protect the quality of potable water supplies, using a risk based approach, whilst facilitating appropriate development within these catchments. Across Victoria a number of planning permit applications within open, potable water supply catchments have been previously refused as they have failed to meet the Minister’s Guideline. Some of these decisions have been subject to VCAT and Supreme Court appeal. The details of the decision are not repeated here, suffice to say that each of the decisions gave significant weight to the Guideline and upheld the original refusal. Each decision also reinforced the application of the precautionary principle in relation to water quality and human health risks. These were determined to outweigh any potential positive benefits that a particular application may have in relation to other planning policies or guidelines.



The guideline currently contains five 'sub-guidelines' that must be considered having regard to the use, development or subdivision of land in open, potable water supply catchments. SGW have objected to the application on the basis that the application fails to satisfy the requirements of Guideline 1.

Guideline 1 - the density of dwellings should be no greater than one dwelling per 40 hectares (1:40 ha).

The proposal does not comply with Guideline 1 as it would result in a dwelling density greater than 1:40ha on this lot (1:22ha). VCAT has previously explored different methodologies for calculating dwelling density in catchments and the proposal would not satisfy any of those other methodologies. Following receipt of SGW's refusal to grant the permit, Council undertook further investigation of density in this catchment, using data sourced from Council's GIS system. The three other methods explored were:

- *average density of dwellings across all lots in the catchment,*
- *average density of dwellings across all lots with a dwelling; and*
- *1km radius method (Vic Water Guidelines, not adopted by Minister).*

These resulted in densities of 1:36ha, 1:19ha and 1:18ha, respectively.

It should be noted that there are four categories of exemptions from Guideline 1. However, none of these are relevant or applicable in this instance because reticulated sewer is not available and Council does not have a relevant Catchment Policy or Domestic Wastewater Management Plan (DWMP). SGW and Council are currently undertaking a study of the Shire's largest declared water catchment, the Tarwin Catchment. It is likely that this body of work will take a further 6-12 months to finalise. Depending on the results, Council and SGW may use these findings to inform Policy for other declared catchments within the Shire.

As this permit application fails to satisfy the requirements of the Minister's Guideline, it is appropriate that Council when determining the application include similar grounds for refusal as those provided by SGW.

## **Schedule 5 – Areas Susceptible to Erosion (ESO5)**

Purpose:

- *To protect areas prone to erosion by minimising land disturbance and vegetation loss.*
- *To prevent increased surface runoff or concentration of surface water runoff leading to erosion or siltation of watercourses*

Permit trigger:

The schedule exempts a building or extension to an existing building where the total resultant floor area is less than 200 square metres. The dwelling has a total floor area of 298.4m<sup>2</sup> and therefore the ESO5 triggers a permit. The schedule also triggers a permit for vegetation removal.

Relevant Decision Guidelines:

- *The purpose of the overlay.*
- *Any proposed measures to minimise the extent of soil disturbance and runoff.*
- *The need to stabilise disturbed areas by engineering works or vegetation.*
- *Whether the land is capable of providing a building envelope, which is not subject to high or severe erosion problem.*
- *Whether the proposed buildings or works are likely to cause erosion or landslip.*
- *Whether the proposed access and servicing of the site or the building envelope is likely to result in erosion or landslip.*

Assessment:

The application demonstrates that:

- Vegetation proposed to be removed is minimal, is not of high biodiversity significance, and can be easily offset elsewhere on the property.
- Development of the dwelling is not likely to contribute to erosion. There are no visible signs of erosion in the area surrounding the dwelling and whilst some cut has been undertaken in the construction of the building, it has does not appear to have resulted in erosion.
- Access is existing and is on flat ground. No erosion is expected to result.
- Standard permit conditions requiring runoff to be contained and stabilisation works in areas of cut or fill can address any concerns.

### **E.3 PROPOSED LEASE TO PARKS VICTORIA FOR PREMISES LOCATED ON THE CORNER OF MCDONALD AND VICTORIA STREET, FOSTER**

Engineering Services Directorate

#### **EXECUTIVE SUMMARY**

This report is presented to Council to seek approval to commence the statutory procedures pursuant to Sections 190 and 223 of the Local Government Act 1989 for the proposed new lease with Parks Victoria.

The purpose of the lease is to provide office space to Parks Victoria for the premises located at the corner of McDonald and Victoria Street, Foster, being part of Volume 9873 Folio 363.

Parks Victoria has written to Council requesting Council consider granting them a new 5 year lease with an optional 5 year extension. The current lease is due to expire on 18 September 2014.

#### **Document/s pertaining to this Council Report**

- **Attachment 1** – Locality Plan
- **Attachment 2** – Floor plan of the Stockyard Gallery Building
- **Confidential Appendix 1** – Draft Parks Victoria Lease
- **Confidential Appendix 2** – Extract of Market Rental Valuation

A copy of **Confidential Appendix 1 & 2** has been distributed separately to Councillors and the Executive Leadership Team.

#### **LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES**

- Local Government Act 1989, Sections 190 and 223
- Retail Leases Act 2003

#### **INTERNAL POLICIES / STRATEGIES / DOCUMENTS**

- Land Ownership Policy
- Leasing Policy
- Building Asset Management Plan

## **COUNCIL PLAN**

Outcome:	3.0	Integrated Services and Infrastructure.
Objective:	3.1	Deliver affordable modern community facilities through an integrated approach to planning and infrastructure development.
Strategy:	3.1.3	We will plan for the service needs of the Shire's changing demographic.

## **CONSULTATION**

Discussion has been undertaken with regards to the proposed new lease with Parks Victoria.

## **REPORT**

### **Background**

Parks Victoria commenced occupancy of the premises in November 1990, for a term of ten (10) years at market rental. The office site provided Parks Victoria with perfect synergy as the premises abuts its Depot on adjoining Crown Land.

Council was keen to maintain the presence of Government Agencies and the economic flow-on they generated in the town. A need for increased services at Wilson's Promontory led to the expansion of Parks Victoria's staffing levels, and towards the end of the nineties, pressure for increased accommodation led to discussions between Council and Parks Victoria. A number of options were considered. The only other Council owned site suitable for Parks Operation was the Foster Works Depot. The works to accommodate Parks, at the Depot were more expensive than the option to extend their current premises.

On the 6 August 2003 discussions between Parks Victoria and Council resulted in agreement by both parties on the extension of the current premises. The costs associated with the proposed extension were to be offset by the negotiation of a commercial rent for the lease, as the extension to the building required Council to take out a loan for the works.

At Council's Ordinary Meeting held on 20 October 2004, Council approved a new lease (Current Lease) to Parks Victoria for ten years for the extended office space and the space they previously occupied within the Stockyard Gallery building.

### **Discussion**

Council premises situated on the corner of McDonald and Victoria Streets, Foster houses a number of tenants that include:

- The Foster Library;

- Stockyard Gallery and Gift Shop;
- The Foster Visitor Information Outlet; and
- Parks Victoria Regional Offices.

(Refer **Attachment 2**)

The current lease is due to expire on 18 September 2014.

The current lease allows for the tenant (Parks Victoria) to occupy the site under the over holding provisions of the lease. In simple terms, if both parties are in agreement, the lease can continue under the same conditions on a month by month basis until the new lease is settled.

Consideration of a new lease will trigger the need to advertise the proposed lease, under Sections 190 & 223 of the Local Government Act, 1989, as the term of the lease is for ten (10) years and the rental will be in excess of \$50,000 per annum.

Current Strategic Studies being undertaken, may identify alternative uses for this facility in the long term.

### **Proposal**

It is proposed the Council commence statutory procedures pursuant to Sections 190 and 223 of the Local Government Act 1989 for the proposed new lease with Parks Victoria.

### **FINANCIAL CONSIDERATIONS**

#### **Confidential Appendix 2 – Extract of the Market Rental Valuation**

The ongoing minor maintenance and operations of the premises is the responsibility of Parks Victoria, therefor providing minimal financial risk to Council from an ongoing operational perspective.

### **RISKS**

The risks to Council are minimal as the lease has been assessed as being non retail and exempt from the Retail Leases Act, 2003 .The lease will have provisions for a maintenance schedule clearly outlining each parties responsibilities in accordance with Council's recently adopted Leasing Policy.

Parks Victoria will be required to have \$20 million public liability insurance to mitigate Council's risk.

### **CONCLUSION**

The approval to negotiate a new lease with Parks Victoria will ensure the continued delivery of this important Government service to the wider community.

## **RECOMMENDATION**

That Council:

1. Commence negotiations with Parks Victoria for a new lease based on the draft lease as provided in Confidential Appendix 1 for a term of 5 years with an option of a further 5 years.
2. Give public notice in the local papers and on Council's website week commencing 29 September 2014 of the proposal to lease the premises known as Parks Victoria being approximately 378m<sup>2</sup> for a period of 10 years at a market rental to Parks Victoria in accordance with Sections 190 and 223 of the Local Government Act 1989.
3. In the public notice clearly state:
  - a. A person may make a submission to the proposal no later than 5:00pm on Tuesday 28 October 2014 addressed to the Chief Executive Officer, South Gippsland Shire Council, Private Bag 4, Leongatha 3953 or delivered to the Council Office, 9 Smith Street, Leongatha.
  - b. Any person making a written submission is entitled to state in their submission that he or she wishes to appear in person, or be represented by a person specified in the submission, at a meeting to be heard in support of their submission.
  - c. Copies of submissions (including submitters' names and addresses) will be made available at the Council or Special Committee meeting at which the proposals are considered and Council is required to make submissions available for public inspection for a period of 12 months.
  - d. The time, date and place for hearing of submissions.
4. Fix the time, date and place for hearing of persons who wish to be heard in support of their submission at the 223 Hearing Session on 19 November 2014 at 12:45pm in Meeting Room 2, Leongatha Memorial Hall and include these details in the public notice.
5. Appoint the Coastal Promontory Ward Councillors and Mayor as the Committee to hear these submissions.
6. Advise those persons who wish to be heard in support of their submission of the date, time and place of the hearing of submissions.
7. Receive a final report of the proceedings and a summary of the outcome of the Section 223 process.

## **STAFF DISCLOSURE OF INTEREST**

Nil

## **RECOMMENDATION**

That Council defer Council Agenda Item E.3 PROPOSED LEASE TO PARKS VICTORIA FOR PREMISES LOCATED ON THE CORNER OF MCDONALD AND VICTORIA STREET, FOSTER to the next appropriate Meeting of Council to provide Council with additional time to consider and fully appreciate the potential implications for Parks Victoria, the library, gallery and visitor information centre in line with a short, medium and long term plan for the site and all agencies that occupy it.

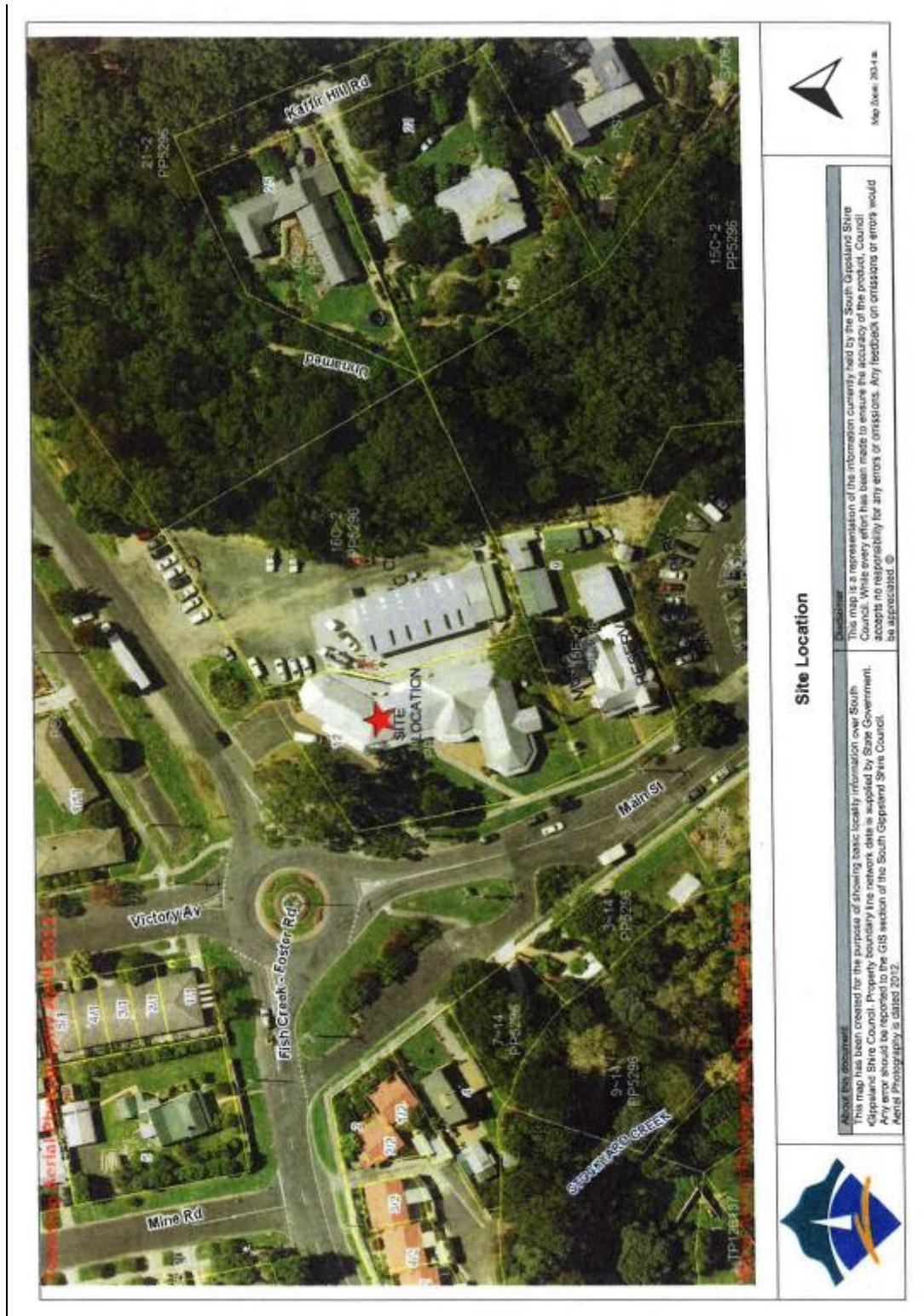
**MOVED: Cr Davies**

**SECONDED: Cr Harding**

**THAT COUNCIL DEFER COUNCIL AGENDA ITEM E.3 PROPOSED LEASE TO PARKS VICTORIA FOR PREMISES LOCATED ON THE CORNER OF MCDONALD AND VICTORIA STREET, FOSTER TO THE NEXT APPROPRIATE MEETING OF COUNCIL TO PROVIDE COUNCIL WITH ADDITIONAL TIME TO CONSIDER AND FULLY APPRECIATE THE POTENTIAL IMPLICATIONS FOR PARKS VICTORIA, THE LIBRARY, GALLERY AND VISITOR INFORMATION CENTRE IN LINE WITH A SHORT, MEDIUM AND LONG TERM PLAN FOR THE SITE AND ALL AGENCIES THAT OCCUPY IT.**

**CARRIED UNANIMOUSLY**

### Attachment 1 Locality Plan



#### Site Location

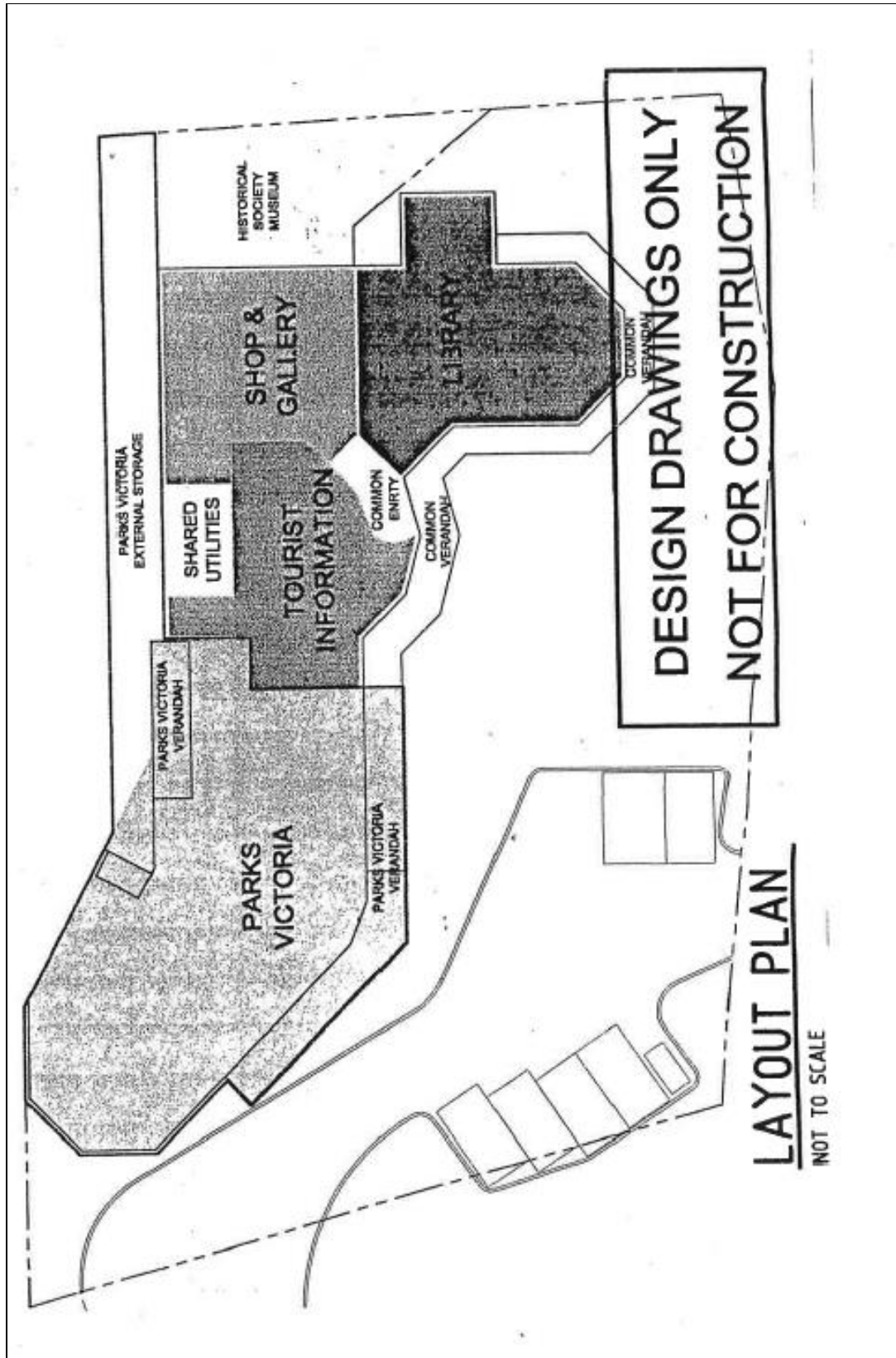
**About this document**  
This map has been created for the purpose of showing basic locality information over South Gippsland Shire Council. Property boundary line network details is supplied by State Government. Any error should be reported to the GIS section of the South Gippsland Shire Council. Aerial Photography is dated 2012.

**Disclaimer**  
This map is a representation of the information currently held by the South Gippsland Shire Council. No effort has been made to ensure the accuracy of the product. Council accepts no responsibility for any errors or omissions. Any feedback on omissions or errors would be appreciated. ©





**Attachment 2**  
**Floor Plan of the Stockyard Gallery Building**



## **E.4 DRAFT ANNUAL REPORT 2013-2014**

Corporate Services Directorate

### **EXECUTIVE SUMMARY**

The Draft Annual Report 2013-2014 (Annual Report), refer to **Appendix 1**, is presented to Council for endorsement, excluding the Financial Statements, Standard Statements and the Performance Statement that are subject to audit by the Auditor General and the subject of a separate report to this Meeting of Council. Once these statements have been certified they will be included into the Annual Report.

In accordance with the requirements of the Local Government Act 1989 a copy of the Annual Report 2013-2014 will then be forwarded to the Minister for Local Government by 30 September 2014. The final Annual Report will be included in the Council Meeting Agenda for 22 October, allowing two weeks public availability before being presented to Council for adoption in full.

The Annual Report will be made available on Council's website and a limited print run will be provided at Council distribution points.

#### *Document/s pertaining to this Council Report*

- **Appendix 1** - Draft Annual Report 2013/14

A copy of **Appendix 1** is available on Council's website:  
[www.southgippsland.vic.gov.au](http://www.southgippsland.vic.gov.au) or by contacting 5662 9200.

### **LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES**

The Local Government Act 1989, Section 131 Annual Report

### **INTERNAL POLICIES / STRATEGIES / DOCUMENTS**

- South Gippsland Shire Council Annual Budget 2013-2014
- South Gippsland Shire Council Annual Plan 2013-2014

### **COUNCIL PLAN**

Outcome:	4.0	A Leading Organisation
Objective:	4.2	Pursue best practice in organisational development and operations of the organisation
Strategy No:	4.2.2	We will monitor corporate governance processes, including risk management and skills development with the aim of ongoing improvement.

## CONSULTATION

The Draft Annual Report 2013-2014 provides a succinct summary of Council's activities and achievements throughout the 2013-2014 financial year. The Council's financial position and performance statements have been reviewed by external auditors and were considered by Council's Audit Committee on 15 September 2014.

## REPORT

### Background

The Local Government Act 1989, section 131(6), requires Council to prepare an Annual Report that provides a succinct end of year summary of Council's performance. The Annual Report must contain a series of segments required by the Local Government Act 1989 including independently audited Financial Statements, Standard Statements and the Performance Statement by the Auditor General's office.

The Local Government Act 1989 requires Council's Annual Report to be presented to the Minister for Local Government by close of business on 30 September annually.

Council's end of year financial position based, on the adopted 2013- 2014 Budget and performance result, is subject to an independent audit by the Victorian Auditor General's Office (VAGO).

### Annual Report Summary

The Draft Annual Report 2013-2014 contained in **Appendix 1**, has been prepared to meet Council's statutory requirements and provide a detailed account of a wide range of factors that summarise Council's performance for the financial year. The draft Annual Report currently excludes the Financial Statements, Standard Statements and the Performance Statement. These will be added after certification by the Auditor General.

The draft Annual Report includes all the remaining sections including:

- A message from the Mayor and a snapshot of the year in review by the Chief Executive Officer;
- The organisational structure, senior personnel, staffing numbers and related human resource matters;
- An outline of the Wards and representative Councillors;
- A succinct overview of Council Directorate responsibilities and highlights achieved;
- Good governance requirements including a list of registers maintained, Freedom of Information requests processed, Protected Disclosure

notifications, Human Rights, Best Value Report and National Competition Policy compliance;

- A financial overview;
- Local Government indicators; and
- Community grants and donations provided by Council.

This report of Council's performance is a valuable marketing tool when liaising with Government agencies, community groups and investors, and affirms Council's commitment to accountable and transparent good governance practices.

### The Year in Review

The Draft Annual Report provides some highlights of the achievements of Council in the 2013-2014 period, which have also been documented in Council's Quarterly Performance Reports during the year.

Below are just some of the examples of the achievements, and level of service delivered, that showcase the breadth of involvement Council has within the community:

- Retained child care services in Mirboo North and Corner Inlet after Uniting Care Gippsland withdrew their child care service provision;
- Completed and opened the Foster to Toora section of the Great Southern Rail Trail;
- Constructed Stage Two of Cell Three at the Koonwarra landfill;
- Secured funding for the Leongatha Heavy Vehicle Alternate Route;
- Completed land slip works at 25 sites affected by severe weather events;
- Reviewed the differential Rating Strategy and adopted the Committee's recommendations;
- Resumed management of Long Jetty and Yanakie Caravan Parks (both on Crown land) when their leases expired;
- Installed 1300 energy efficient street lights across the shire;
- Doubled computer capacity and increased internet speeds from 4Mb to 50Mb per second, with projected savings of \$350,000 over the next three years;
- Fitted out the Sandy Point Community Centre to enable its use as a Neighbourhood Safer Place (NSP) during fire emergencies;

- Conducted an online 'Repairing our Roads' campaign that provided vital data of the impact on the safety of our communities and visitors; and
- Prepared the business case and concept plans for the Korumburra Integrated Children's Centre, making it 'shovel ready' for funding assessment.

For access to further highlights and performance results, the community is also encouraged to review the four Council Quarterly Performance Reports for 2013-2014.

### **Proposal**

The draft Annual Report is presented to Council for endorsement at this stage, to allow the financial and performance statements to be added, once certified, so that a full report can be presented to the Minister for Local Government by 30 September 2014.

A further report must then be presented to Council for consideration of the full, final Annual Report, incorporating a two week public display period. It is intended that a Council Report, incorporating the Annual Report, will be placed on public display for two weeks prior to final adoption by Council at the October Council Meeting in accordance with legislative requirements. It is proposed that the Annual Report 2013-2014 then be published and made available on Council's website and various Council distribution points which will be advertised via Council Noticeboard in the local newspapers.

### **FINANCIAL CONSIDERATIONS**

Costs associated with the publication of the Annual Report are covered within the approved budget allocation. The Annual Report is developed 'in-house' and with limited printing which keeps the cost of printing under \$100.

### **RISKS**

The completion of the Annual Report is an annual requirement of Council. To not complete the Annual Report and not submit it to the Minister for Local Government by 30 September 2014 would be a breach of Section 131 (Annual Report) of the Local Government Act 1989.

### **CONCLUSION**

The Draft Annual Report provides a summary of Council's activities and achievements throughout the 2013-2014 financial year.

The Draft Annual Report 2013-2014, refer to **Appendix 1**, is presented to Council for endorsement, excluding the Financial Statement, Standard Statements and the Performance Statement that require certification by the Auditor General before inclusion. Once the certified statements are returned they will be incorporated in the Annual Report.

A copy of the Annual Report 2013-2014 including the Financial Statement, Standard Statements and the Performance Statement will then be sent to the Minister for Local Government by 30 September 2014, in accordance with the requirements of the Local Government Act 1989. The full, final Annual Report will then be prepared and published in the Council Agenda for 22 October where it can be viewed by the public for two weeks prior to the meeting.

### **RECOMMENDATION**

That Council:

1. Endorse the draft Annual Report 2013-2014 contained in Appendix 1;
2. Upon receipt of the certified Financial Statement, Standard Statements and the Performance Statement, these documents are to be included into the draft Annual Report, forming the Annual Report 2013-2014;
3. Send a copy of the Annual Report 2013-2014 to the Minister for Local Government by 30 September 2014; and
4. Consider the final Annual Report 2013-2014 at the 22 October 2014 Council Meeting for adoption, allowing for the Annual Report to be available for public viewing for a two week period prior to adoption.

### **STAFF DISCLOSURE OF INTEREST**

Nil

**MOVED: Cr Newton**

**SECONDED: Cr Hutchinson-Brooks**

**THAT THE RECOMMENDATIONS IN ITEMS E.4 AND E.5 BE ADOPTED.**

**CARRIED UNANIMOUSLY**

## **E.5 UNAUDITED FINANCIAL STATEMENTS, STANDARD STATEMENTS & PERFORMANCE STATEMENT 2013-2014**

Corporate Services Directorate

### **EXECUTIVE SUMMARY**

The unaudited Financial Statements, Standard Statements and Performance Statement for 2013-2014 are presented to Council:

1. to seek an 'in-principle' approval of the statements; and
2. to seek a resolution of Council authorising two Councillors to certify the statements following audit completion.

The complete draft Financial Statements, Standard Statements and Performance Statement for 2013-2014 have been distributed separately to the Agenda as **Appendix 1**.

#### Document pertaining to this Council Report

- **Appendix 1** – Annual Financial Report for Year Ended 30 June 2014

A copy of **Appendix 1** is available on Council's website:

[www.southgippsland.vic.gov.au](http://www.southgippsland.vic.gov.au) or by contacting 5662 9200.

### **LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES**

The Local Government Act 1989, Section 131 Annual Report

### **INTERNAL POLICIES / STRATEGIES / DOCUMENTS**

- South Gippsland Shire Council Annual Budget 2013-2014
- South Gippsland Shire Council Plan 2013-2017
- Financial Strategy

### **COUNCIL PLAN**

Outcome 4.0 A Leading Organisation.

Objective 4.1 Improve the financial sustainability of Council, including diversifying revenue streams.

Strategy 4.1.1 We will explore innovative ways of increasing revenue and reducing expenditure.

## **REPORT**

### **Background**

Pursuant to Section 133 (1) of the Local Government Act, Council's Annual Report must be submitted to the Minister by 30 September annually. Section 131 (2) also states that the audited Financial Statements, Standard Statements and Performance Statement, including the Auditor's report on the Performance Statement, are to form part of the Annual Report. This requires the completion and audit of the statements early to mid September to allow sufficient time for inclusion into the Annual Report.

Section 132 (2) states that Council must approve in principle the draft Financial Statements, Standard Statements and Performance Statement prior to formally submitting the accounts for audit. Because of the timing restrictions noted above and a requirement that an audit review is required by the Auditor General, it is normal for the bulk of the audit work to have effectively been completed prior to Council approving the draft statements.

Any issues raised by the Auditor are required to be appropriately dealt with in the draft statements presented to Council, providing a greater degree of comfort that the statements are true and fair. A meeting of the Audit Committee was held on 15 September 2014 which included reviewing the draft statements with Council's auditors. Council's representatives on the Audit Committee can, if required, raise any further issues arising out of the Audit Committee meeting, directly with Council.

As Council's approval is only in-principle, based on the draft Financial Statements, Standard Statements and Performance Statements, opportunities for changes to the statements may arise, particularly after review by the Auditor General's office. To cover such changes, section 132 (5) requires Council to appoint two Councillors to certify the statements following any amendments that may arise after finalisation of the audit.

### **Financial Statements**

There is a very strong correlation between the Long Term Financial Plan, the Annual Budget and the actual results that are disclosed in the Financial Statements. Annual budgets are set within a strategic 15 year forward financial planning framework. The actual financial performance achieved is also monitored within the context of the 15 year financial framework.

The detailed draft Financial Statements, Standard Statements and Performance Statement for 2013-2014 are provided in **Appendix 1**.



## 2013-2014 The Highlights

<b>Comprehensive Income Statement (Profit &amp; Loss)</b>		
	<b>2012-2013 \$000's</b>	<b>2013-2014 \$000's</b>
Total Revenue	59,068	54,851
Total Expenses	(57,310)	(56,790)
Surplus (Deficit)	1,758	(1,939)
Net asset revaluation increment	0	17,081
Comprehensive result	1,758	15,142

<b>Balance Sheet</b>	<b>2012-2013 \$000</b>	<b>2013-2014 \$000</b>
Current Assets	16,380	16,870
Current Liabilities	9,639	13,761
Working Capital Ratio	1.70:1	1.23:1
Non-current Assets	468,474	487,536
Non-current Liabilities	953	1,241
Net Assets/Total Equity	474,262	489,404

<b>Statement of Changes in Equity</b>		
	<b>2012-2013 \$000's</b>	<b>2013-2014 \$000's</b>
Balance at beginning of financial year	472,504	474,262
Surplus / (deficit) for the year	1,758	(1,939)
Net Asset revaluation increment (decrement)	0	17,081
Balance at end of financial year	474,262	489,404

<b>Cash Flow Statement</b>	<b>2012-2013 \$000</b>	<b>2013-2014 \$000</b>
Net cash inflows from operating activities	5,102	8,835
Net cash outflows from investing activities	(8,781)	(10,511)
Net cash outflows from financing activities	(181)	3,109
Net increase (decrease) in cash held	(3,860)	(1,433)
Cash at the beginning of the year	13,852	9,992
Cash at the end of the year	9,992	11,425

### **Comprehensive Income Statement**

The Comprehensive Income Statement result is \$15.14 million surplus (previous year \$1.76 million). The comprehensive result includes asset revaluation increments and decrements. The 2013-2014 year's revaluation increment was \$17.08 million and predominantly related to roads, streets, kerb & channel, land, buildings and drainage assets. There was no revaluation of assets in 2012-2013.

The Surplus / Deficit outcome for 2013-2014 was \$1.94 million deficit (previous year \$1.76 million surplus). Australian Accounting Standards require Council to recognise grants as revenue when it obtains control over assets comprising of those receipts. This is irrespective of when the actual expenditure associated with the grant income takes place. Council in the previous 2012-2013 financial year recognised over \$4.00 million grant income that was expended in 2013-2014. This mismatch of revenues to expenditure in different reporting periods distorts financial results. The deficit result for 2013-2014 does not present as a longer term strategic concern.

### **Balance Sheet**

The Balance Sheet shows an overall marginally strengthened position, as a result of the comprehensive surplus result achieved for the financial year.

The end of financial year net current asset position however is weaker than the previous financial year. This is due to having to recognise the total \$3.35 million borrowing as a current liability at year end. This is a technical adjustment. Council is refinancing its outstanding borrowings through a Local Government Funding Vehicle (LGFV) bond issuance over a five year period. The increase in the current liability at financial year end has an unfavourable impact on the working capital ratio. The working capital ratio of 1.23 to 1 is weaker than the previous year's ratio of 1.70 to 1.

Loans and borrowings of \$3.35 million are greater than the previous year (\$134,000) after borrowing \$4.00 million and allowing for the repayment of debt of \$784,000. Borrowing cost expenses for 2013-2014 were \$127,000 (previous year \$23,000).

### **Statement of Changes in Equity**

The total changes in equity for the 2013-2014 year is \$15.14 million increase, reflecting the surplus from the Comprehensive Income Statement for the financial year. This included a \$1.94 million operating deficit as well as a \$17.08 million asset revaluation increment adjustment (previous year \$1.76 million increase)

It is important not to take the financial implications of revaluation increments out of context. Revaluations are conducted periodically to ensure that the current replacement costs of assets are reflected in the Balance Sheet. Generally speaking these costs increase rather than decrease over the years, which typically have a material financial impact on the equity position of Council.

Any positive effect of the revaluation of non-current assets is ultimately reflected both in the Balance Sheet and Statement of Changes in Equity.

This favourable financial outcome does however put increased pressure on future operating results. The reason being, increased replacement costs of assets tend to translate into increased depreciation costs in future financial years. Depreciation is an expense item in the Comprehensive Income Statement.

All non-current assets have a limited useful life (they wear out over a period of time) therefore these costs have to be shown in the Comprehensive Income Statement as depreciation charges. Depreciation reflects the consumption of the service potential embodied in non-current assets in a given year. If the replacement value of an asset is increased due to periodic revaluations, so too will the annual depreciation costs associated with those assets increase.

Although the depreciation cost in the Comprehensive Income Statement is a 'book entry' as opposed to a direct 'cash' cost, it is a real cost that reflects the value of consumption or deterioration of non-current assets that the Shire owns or controls over a 12-month period.

The systematic review and revaluation of the carrying value of infrastructure assets current replacement cost, in most instances, will result in significant increases in asset values, which in turn will impact on depreciation charges in future years.

### **Cash Flow Statement**

The Cash Flow Statement shows the movement of cash from operating activities (recurrent income and expenses), investing activities (payments and proceeds associated with non current assets) and financing activities (new

borrowings and repayments of principal). The cash position (\$11.43 million) of the Shire has increased relative to that of the previous year (\$9.99 million).

The liquidity situation of the Council is normally assessed in conjunction with the working capital ratio, which assesses the Council's ability to meet current commitments. The working capital ratio of 1.23 to 1 (current assets to current liabilities) is also weaker than the previous year (1.70 to 1). As discussed above, the recognition of total borrowings of \$3.35 million outstanding as a current liability has an adverse flow on impact on the working capital ratio. This does not present as a longer term strategic concern.

### **Standard Statements**

The Standard Statements are presented and reported in accordance with the requirements set out in the Local Government (Democratic Reform) Act 2003.

The main purpose of this report is to compare actual results to the original budgets in key financial statements, including the analysis and explanation of material variations.

The Standard Statements are:

- Income Statement;
- Balance Sheet;
- Cash Flow; and
- Capital Works.

The Standard Statement variation explanation report provides detailed explanation on material variations.

### **Performance Statement**

Council, when preparing an annual budget each financial year must identify Key Strategic Activities (KSA's) to be undertaken and performance targets and measures in relation to each KSA.

The Performance Statement describes the extent to which the business plan was met in that year having regard to those targets and measures.

Council achieved 7 of the 8 prescribed KSA's by the end of the financial year.

The completed KSA's include:

- The Mayor and the Chief Executive Officer made a number of representations to State and Federal politicians.
- New priority projects identified and approved by Council in April 2014 include the Leongatha Heavy vehicle Alternative Route, Korumburra

### Integrated Children's Centre and the Corner Inlet Tourism Development Project.

- Council commenced implementation of the Roadside Weeds and Pest Management Plan in conjunction with South Gippsland Land Care
- Green street lighting project implemented.
- A report discussing approaches to engage community participation in creating a continually evolving Vision for the Shire was presented to Council in September 2013.
- A 2014-2018 Rating Strategy was adopted by Council in June 2014.
- Weighted average of five key financial ratios being greater than or equal to 98%. The actual result was 107%. Longer term, the strategic integrity of the long term financial plan remains intact.

The activity not achieved was:

- The development of Master Plan for the Foster Pool was not completed. Council in November 2013 deferred the Foster Pool Master Plan until the outcome of the pool review was undertaken and considered. The Master Plans for the Poowong and Toora pools were adopted by Council in June 2014.

### **CONCLUSION**

The Financial, Standard and Performance Statements for the 2013-2014 financial year, present fairly the financial performance and position of the Council for the financial year.

It is recommended that Council approve the statements in principal, which will then be submitted to the Auditor General for further review.

### **RECOMMENDATION**

That Council:

1. Approve the draft Annual Financial Statements, the draft Standard Statements and the draft Performance Statement for the year ended 30 June 2014;
2. Send the draft Annual Financial Statements, the draft Standard Statements and the draft Performance Statement for the year ended 30 June 2014 to the Auditor General for certification; and
3. Authorise Councillors James Fawcett and Mohya Davies to certify the Financial Statements, Standard Statements and Performance Statement on behalf of Council, once the audit has been finalised.

## **STAFF DISCLOSURE OF INTEREST**

Nil

**NOTE:** The recommendation was **CARRIED UNANIMOUSLY** as part of a single motion, refer to page 83.

## **E.6 SOCIAL COMMUNITY INFRASTRUCTURE BLUEPRINT**

Community Services Directorate

### **EXECUTIVE SUMMARY**

A Blueprint for Social Community Infrastructure (the Blueprint) has been developed to assist Council and the community to plan for and manage social community infrastructure, optimising utilisation of facilities and reflecting future growth of the Shire.

The Blueprint sets out guiding principles together with infrastructure standards and triggers and a series of actions that will guide Council and community in making infrastructure decisions over the next fifteen years.

The draft Social Community Infrastructure Blueprint 2014-2029 was endorsed for public exhibition at the Ordinary Council Meeting on 23 July 2014.

During the public exhibition period one formal submission was received. This has resulted in two amendments being made to the final Blueprint.

The purpose of this report is to present Council with the final version of the Social Community Infrastructure Blueprint 2013-2017 for formal adoption.

#### **Document/s pertaining to this Council Report**

- **Attachment 1** - Submission from West Gippsland Regional Library Corporation
- **Appendix 1** - Social Community Infrastructure Blueprint 2014-2029

A copy of **Appendix 1** is available on Council's website:  
[www.southgippsland.vic.gov.au](http://www.southgippsland.vic.gov.au) or by contacting 5662 9200.

### **LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES**

- Local Government Act 1989

### **INTERNAL POLICIES / STRATEGIES / DOCUMENTS**

- South Gippsland Shire Council Plan 2013 - 2017
- South Gippsland Annual Plan 2013 – 2014
- Priority Projects 2013
- South Gippsland Housing and Settlement Strategy
- South Gippsland Strategic Directions for Aquatic Facilities 2012 - 2016  
July 2011

- South Gippsland Shire Council 2007, Recreation Plan: Volume 4: Implementation Plan
- South Gippsland Shire Council 2007 Open Space Strategy Vol. 1: Open Space Strategy
- South Gippsland Shire Council Asset Management Strategy 2013
- Town Centre Framework Plans
- South Gippsland Shire Council, 2011, Municipal Early Years Plan 2012 to 2016
- South Gippsland Shire Council (2013) Early Childhood Services Building Assets Policy Framework
- South Gippsland Shire Council, 2012, Economic Development and Tourism Strategy 2012 - 2017

### **COUNCIL PLAN**

Outcome:	3	Integrated Services and Infrastructure
Objective:	3.1	Deliver affordable modern community services and facilities through an integrated approach to planning and infrastructure development.
Strategy:	3.1.3	We will develop an integrated planning approach for our townships and villages, so that facilities are located in areas where they are most appropriate.

### **CONSULTATION**

The project has been overseen by the Social Community Infrastructure Steering Committee, comprising Councillors Fawcett, Brunt, Davies, Hill and McEwen and relevant Council staff.

An audit of community infrastructure in each town was completed through invitation to various community groups. An audit of existing town plans and Council's strategic documents was conducted by the Project Manager

The draft Blueprint was placed on public exhibition until 22 August 2014.

A briefing document was provided to Council in August 2014 through InfoSum which included the one submission received from the West Gippsland Regional Library Corporation and Council's response.



## **REPORT**

### **Background**

Council had articulated its objective in the 2013/14 Annual Plan to "commence the development of a strategy of community facilities including the potential development of community hubs". The project plan was developed in two stages. Stage 1 was to deliver the Blueprint and Stage 2 was to link the actions contained in the Blueprint to the Capital Works program with identification of potential funding sources.

Andrew Nixon from Andrew Nixon Land Use Management was appointed to the role of Project Manager for Stage 1 of the project. He has led the desk top audit, the facilities audit and the community consultation process and developed both the Blueprint and a comprehensive document which underpins the Blueprint - South Gippsland Shire Council Strategy and Audit for Social Community Infrastructure.

The Blueprint is based on projected population growth of the Shire by 1.43% per annum, that there will be a greater increase in those over 60 years and that growth will be centred in areas with sewer, reticulated water, suitable geography and land availability.

An audit of Council-owned and community-owned community facilities identified 905 social community facilities across the Shire, of which 525 are Council owned or managed. The audit demonstrates that the Shire is well catered for with a range of community facilities, but that many are under-utilised and the quality of a number of facilities is of an average standard.

The Blueprint sets out guiding principles together with infrastructure standards and triggers along with a series of actions for Council and community in making infrastructure decisions over the next fifteen years.

### **Discussion**

The following actions are proposed in the draft Blueprint:

#### *Short term (0-5 years)*

1. Review underutilised community facilities with the aim of optimising use. This may include disposal of some facilities, redevelopment of others and change of use for some community facilities;
2. Define a variety of funding sources for future multipurpose facilities;
3. Investigate staffing of future multipurpose community centres by identifying a lead agency and funding sources;
4. Work with the community to investigate the need for new and/or upgraded indoor leisure facilities in particular in Mirboo North ,

5. Identify and provide youth specific spaces;
6. Plan for and implement walking and cycling projects identified in existing Council strategic documents;
7. Complete the Great Southern Rail Trail linkages at the Black Spur
8. Investigate the expansion of Mirboo North Kindergarten with inclusion of Maternal and Child Health service and follow on impact on the Mirboo North Library.

*Medium Term (5-10 years)*

1. Develop two strategically located community hubs in Leongatha and Korumburra;
2. Initiate planning for the expansion or upgrade of multipurpose facilities in all towns;
3. Plan for infrastructure in the coastal towns that reflects seasonal population variations and projected growth of coastal towns;
4. Plan for new multi-purpose recreation facilities in the Shire that complements the existing recreation infrastructure;
5. Investigate floor space expansion for the Foster library in order to meet population needs.
6. Develop a Shire wide Recreation Reserve Infrastructure Plan.

*Long Term (10-15 years)*

1. Continue the Great Southern Rail Trail from Welshpool to Yarram.
2. Investigate the extension of the Rail Trail from Nyora to Anderson.
3. Investigate the need for a community hub in Nyora when population triggers are activated.

**Public Exhibition**

At the conclusion of public exhibition on 22 August 2014, one submission was received from West Gippsland Regional Library Corporation (WGRLC) (**Attachment 1**).

Points raised in this submission include the following:

<b>Issue Raised</b>	<b>Response</b>
Medium term timeframe relating to the Mirboo	Amendments made to both: Page 6: Summary of Recommended Actions

Issue Raised	Response
North and Foster library listed in the Community Facility Actions being too distant for the requirements of the community	Page 22: Community Facility Actions
	Additional Short Term action included: 'Investigate the expansion of Mirboo North Kindergarten with inclusion of Maternal and Child Health service and follow on impact on the Mirboo North Library.'
	Revised Medium Term action removed reference to Mirboo North: 'Investigate floor space expansion for the Foster library in order to meet current population needs.'
Desire to work in collaboration to plan for library facilities and services	No change required - included in the guiding principles
Supportive of not retro-fitting library buildings but creating facilities that encourage a place for community creativity	No change required - statement in Blueprint recognises that retro-fitting existing infrastructure will be problematic
Supports development of community hub in Nyora in 10-15 years	No change required. Aligns with Blueprint
Supports future library facilities being flexible, multi-use community hubs	No change required. Included in the Blueprint - Eight Key Directions

The submission has been addressed through two amendments to the Blueprint.

### Proposal

It is proposed that the amended Blueprint be endorsed by Council.

### FINANCIAL CONSIDERATIONS

\$60,000 was allocated by Council in the 2013/14 financial year for the development of the Blueprint. Provision has been made in the 2014/15 budget for Stage 2 of the project.

The recommendations contained in the Blueprint will be included in Council's 15 year Capital Works budget, Council's Asset Management Plan and relevant recurrent budgets in accordance with the recommended timeframes.

Council will investigate a range of funding options for future infrastructure development including developer contributions, community contributions, realisation of assets, government grants and partnerships.

## **RISKS**

The Blueprint is a snapshot in time of community infrastructure in the Shire. To remain relevant the database and the transfer of information on community facility condition and usage must be maintained through Council's Geographical Information System and translated into Council's capital works program.

While the Blueprint notes that growth will be constrained in areas that lack sewer, reticulated water, geography, planning restrictions and available land, there a number of identified actions that will benefit towns of various sizes across the Shire.

## **CONCLUSION**

The Blueprint has been developed to assist Council and the community to plan for and manage social community infrastructure, optimising utilisation of facilities and reflecting future growth of the Shire.

A set of agreed principles, facility standards and triggers will guide Council's and the community's decision making on infrastructure over the next fifteen years.

## **RECOMMENDATION**

That Council:

1. Acknowledge the submission and advise the submitter of Council's response; and
2. Adopt the amended Social Community Infrastructure Blueprint 2014-2029 (Appendix 1).

## **STAFF DISCLOSURE OF INTEREST**

Nil

**MOVED: Cr Hill**

**SECONDED: Cr Davies**

**THAT COUNCIL:**

- 1. ACKNOWLEDGE THE SUBMISSION AND ADVISE THE SUBMITTER OF COUNCIL'S RESPONSE; AND**
- 2. ADOPT THE AMENDED SOCIAL COMMUNITY INFRASTRUCTURE BLUEPRINT 2014-2029 (APPENDIX 1).**


**CARRIED UNANIMOUSLY**

## Attachment 1

### Submission from West Gippsland Regional Library Corporation

4<sup>th</sup> August, 2014

Ms Jan Martin  
Director Community Services  
South Gippsland Council



**West Gippsland Regional Library Corporation**  
65 Victoria Street,  
Warragul, Victoria 3820  
**P: 03 5622 2849**  
F: 03 5622 3089  
ABN 90 793 610 846

**Draft Social Community Infrastructure Blueprint 2014-2029**

Dear Jan,

The Corporation would like to take the opportunity to provide feedback on the **Draft Social Community Infrastructure Blueprint 2014-2029**, currently being exhibited for public comment in our libraries.

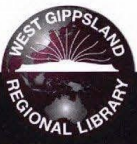
The development of a **Social Community Infrastructure Blueprint** by Council is welcomed and supported by the Corporation. We are keen to work with Council to ensure that planning for library services and facilities is undertaken in a cooperative and collaborative manner – a process which is facilitated by the guiding principles and infrastructure standards and triggers set out in the draft **Blueprint**.

We welcome the comment that *'retro-fitting infrastructure to meet current 'urban standards' will always be problematic*. This is certainly the case with library buildings, where the style, scale and scope of services, activities and amenities expected from public libraries has changed significantly in the last 25 years and will continue to do so into the future. The *Victoria Public Libraries Strategic Framework 2030* envisages services and facilities that encourage community creativity while playing a key role in the development of communities, a far cry from the now obsolete view of libraries as simply distribution points for books, dvds and magazines.

We support the Council's proposed timeframe of 5-10 years for the development of two strategically located community hubs in Leongatha and Korumburra in the expectation that the library would be a key tenant in each hub. We also welcome the medium term focus on planning to upgrade or extend the existing and available library floor space for current population needs in Mirboo North and Foster. Both communities strongly support their very small, part-time neighbourhood libraries and by 2019 or so, both facilities will be completely inadequate for the communities they serve.

We also believe that the timeframe for the development of a community hub in Nyora, based around population triggers expected in the longer term (10-15 years) is appropriate, as a mobile library service can adequately meet the needs of a community of up to about 2500 people.

The Corporation prefers that future library facilities are flexible, multi-use spaces integrated into community hubs, not stand alone facilities. We support the *Eight Key Directions* contained in the draft **Blueprint**, particularly the emphasis on both smaller multi-purpose social infrastructure projects (3) and more generally on community hubs (5).



[www.wgrlc.vic.gov.au](http://www.wgrlc.vic.gov.au)  
[wgrlc@wgrlc.vic.gov.au](mailto:wgrlc@wgrlc.vic.gov.au)

**West Gippsland Regional Library Corporation**

65 Victoria Street,  
Warragul, Victoria 3820

**P: 03 5622 2849**

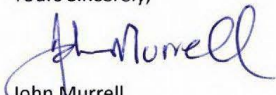
F: 03 5622 3089

ABN 90 793 610 846

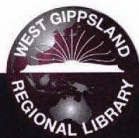
We would be very pleased to continue the discussion with Council around Social Community Infrastructure planning and particularly working with Council on a number of the Actions identified in Table 4 (eg 1, 2, 3, 10, 12, 14, 15, 18)

Finally, we wish to note our support for the Guiding Principles set out in the **Blueprint** at section 10 as they complement and reinforce the guiding principles behind the provision of both static and mobile library services

Yours Sincerely,



John Murrell  
Chief Executive Officer



[www.wgrlc.vic.gov.au](http://www.wgrlc.vic.gov.au)  
[wgrlc@wgrlc.vic.gov.au](mailto:wgrlc@wgrlc.vic.gov.au)



## **E.7 WEST GIPPSLAND REGIONAL LIBRARY CORPORATION AGREEMENT**

Community Services Directorate

### **EXECUTIVE SUMMARY**

The West Gippsland Regional Library Corporation (WGRLC) Agreement has been reviewed, in accordance with Section 16 of the Agreement, by the WGRLC Board and updated to reflect best practice governance.

The updated agreement is presented to Council for endorsement and authorisation for the agreement to be signed and sealed under the delegation of the Chief Executive Officer.

#### *Document/s pertaining to this Council Report*

- **Appendix 1** - West Gippsland Regional Library Corporation Agreement 2014

A copy of **Appendix 1** is available on Council's website:  
[www.southgippsland.vic.gov.au](http://www.southgippsland.vic.gov.au) or by contacting 5662 9200.

### **LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES**

- Local Government Act 1989 - Section 196
- West Gippsland Regional Library Corporation Library Plan 2014-2018
- South Gippsland Shire Council Instrument of Delegation to the Chief Executive Officer

### **INTERNAL POLICIES / STRATEGIES / DOCUMENTS**

- Capital Works Program
- Draft Social Community Infrastructure Blueprint 2014-2029
- Municipal Public Health and Wellbeing Plan 2013-2017
- Municipal Early Years Plan 2012 - 2016

### **COUNCIL PLAN**

Outcome:	3.0	Integrated Services and Infrastructure
Objective:	3.1	Deliver affordable modern community services and facilities through an integrated approach to planning and infrastructure development
Strategy:	3.1.3	We will develop an integrated planning approach for our townships and villages, so that facilities are located in areas where they are most appropriate.



## **CONSULTATION**

The WGRLC Executive briefed the Board on proposed amendments to the Agreement in June 2014 and provided the three Councils with an opportunity to identify other changes required. South Gippsland Shire Council provided feedback requesting changes under Section 4 - Objectives, Role and Functions of the Board. There were no other changes requested by member local governments.

## **REPORT**

### **Background**

Regional Library Corporations are formed out of legislation contained within Section 196 of the Local Government Act 1989. Part of the legislation provides for the creation of a Regional Library Agreement as the formal document signed by the member councils which is then subject to Ministerial approval and subsequent gazettal.

The first WGRLC Agreement was signed by the three member councils, Baw Baw Shire Council, Bass Coast Shire Council and South Gippsland Shire Council in 1995. The Agreement was last reviewed in 2005. The terms of the Agreement state that "the parties shall, together with the Board, review the operations of this Agreement at least once every five years".

South Gippsland Shire Council is represented on the Board by Councillor Robert Newton and the Director of Community Services.

The Agreement addresses:

- Board Membership
- Board objectives, role and functions
- Board proceedings
- Chief Executive appointment and responsibilities
- Strategic Planning
- Financials including Assets, Budgets and Operational Contributions.
- Reporting
- Entry and Exit of Parties
- Dispute resolution

## **Discussion**

The Agreement has been reviewed and updated by the WGRLC Executive and Board members.

As a result of the review, there has been expansion of some points, inclusion of Section 4 - Objectives, Role and Functions of the Board and three new schedules have been added - Schedule 2, 3 and 4. Schedule 2 is a Statement of Regional Assets, Schedule 3 sets out the Funding Formula and Schedule 4 sets out Maintenance Responsibilities.

## **Proposal**

The updated agreement is presented to Council for endorsement and authorise for the agreement to be signed and sealed under the delegation of the Chief Executive Officer.

## **FINANCIAL CONSIDERATIONS**

The West Gippsland Regional Library Corporations total budget for 2014/15 is \$5,546,716. 83% of the budget is met through contributions from each of the three partnering local governments with less than 14% of the total cost funded by the State Government.

South Gippsland Shire Council has made budget provision of \$1,266,665 for the 2014/15 year. Provision has been made in Council's Long Term Financial Plan for the ongoing support of the WGRLC in accordance with the agreed funding formula.

Amendments to the agreement have no direct budget impact.

## **RISKS**

If Council did not support the amended Agreement, the 2005 Agreement which was approved by member Councils and the Minister would continue to apply.

## **CONCLUSION**

The Regional Library Agreement has been reviewed in accordance with Section 16 of the Agreement. The updated document provides a best practice governance document that will guide the Board and Executive in decision making in the best interest of the West Gippsland Regional Library Corporation.

## **RECOMMENDATION**

That Council:

1. Endorse the West Gippsland Regional Library corporation regional library agreement 2014; and
2. Authorise for the agreement to be signed and sealed under the delegation of the Chief Executive Officer.

## **STAFF DISCLOSURE OF INTEREST**

Nil

**MOVED: Cr Newton**

**SECONDED: Cr Davies**

**THAT COUNCIL:**

1. **ENDORSE THE WEST GIPPSLAND REGIONAL LIBRARY CORPORATION REGIONAL LIBRARY AGREEMENT 2014; AND**
2. **AUTHORISE FOR THE AGREEMENT TO BE SIGNED AND SEALED UNDER THE DELEGATION OF THE CHIEF EXECUTIVE OFFICER.**

**CARRIED UNANIMOUSLY**

## **E.8 ADVOCACY FOR INCREASED STATE GOVERNMENT LIBRARY FUNDING**

Community Services Directorate

### **EXECUTIVE SUMMARY**

Over a number of years, funding for library services in Victoria has shifted from being predominantly funded by the Victorian State Government to currently being 83% funded by Local Government.

In the lead up to the Victorian State Government elections, it is proposed that Council advocate for the State Government to fund the recommended Victorian Library initiative (a single state wide approach to library service provision). This initiative will address, in part, the imbalance between the State and Local Government contribution to libraries in Victoria.

### **LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES**

- Local Government Act 1989 - Section 196
- West Gippsland Regional Library Corporation Library Plan 2014-2018

### **COUNCIL PLAN**

Outcome:	1.0	A Prosperous Shire
Objective:	1.2	Raise the awareness of local and regional issues with State and Federal decision makers.
Strategy:	1.2.2	We will advocate for priority projects that assist in stimulating economic growth, agricultural development, tourism infrastructure and community facilities.

### **CONSULTATION**

A Ministerial Advisory Council undertook a review of Victorian public libraries in 2012 and engaged in extensive consultation with the community, libraries and Local Government. The Board and Executive of West Gippsland Regional Library Corporation (WGRLC) and Local Government were represented at the consultation forums.

### **REPORT**

#### **Background**

South Gippsland Shire has 9705 library members, representing almost one-third of the total population. During the 2013/14 year there were a total of 135,353 visitations to the five library sites and mobile library service provided across the Shire. WGRLC is committed not only to the provision of hard copy and electronic books and information but to a range of services which encourage learning, discovery and enjoyment.

20 years ago the State Government funded over 80% of the total operational costs of library services in Victoria. Over the past 20 years there has been a gradual but significant cost shift which now sees Local Government contributing 83% of the operational costs of the WGRLC services and the State Government contributing 14%. The State Government level of contribution to WGRLC is below the State average of 17.7%

Two years ago, following a state-wide campaign by libraries and Local Government around funding inequity, the Minister for Local Government established a full review of public library services in Victoria. This was undertaken by the Ministerial Advisory Council on Public Libraries and a report *Tomorrows Library* was developed.

The review has been completed and the Victorian Library initiative has been recommended which aims for a state wide approach to:

- Improve digital content and delivery;
- Improve quality and access of the whole Victorian collection;
- Streamline back room processes;
- Provide an enhanced State wide courier service; and
- Provide an integrated and equitable state wide library service.

Six specific actions have been recommended:

- A State wide single library card;
- An interlibrary loan and courier service;
- State wide Radio Frequency Identification (RFID) tagging of collection;
- A single database for all resources held in Victorian libraries;
- A State wide procurement platform for digital material; and
- A State wide LOTE (Language Other Than English) collection.

### **Discussion**

The Victoria Library initiative and associated recommended actions contained in the *Tomorrows Library* report are exciting and future thinking and will bring Victorian libraries in line with other states in Australia. While the review proposed that the initiative be funded by the State Government, at this stage the government has not committed any additional funding to implementation.

The State Government must take responsibility for the costs of implementation of the Victorian Library initiative. The Government, in turn, has indicated that it needs to be sure that there is a strong, in principle

commitment to the Victorian Library initiative by libraries, Local Government and associated organisations in Victoria.

Funding the initiatives has the potential to significantly change the contribution level by the State Government to Victorian libraries and provides a strategic and well researched platform for the Government to address the imbalance of funding effort in Victoria.

### **Proposal**

It is proposed that Council advocate to all major political parties leading up to the Victorian State Government election supporting the Victoria Library initiative in principle provided that the full cost of implementation is met by the State Government.

Under a separate report to the 24 September 2014 Council meeting, it will be recommended that a Notice of Motion be submitted by South Gippsland Shire Council to the MAV State Council Meeting supporting the Victorian Library initiative.

### **FINANCIAL CONSIDERATIONS**

The West Gippsland Regional Library Corporations total budget for 2014/15 is \$5,311,036. 83% of the total budget is met through contributions from each of the three partnering Local Governments with less than 14% of the total cost funded by the State Government. The remaining 3% is met through fees, interest, sponsorship and donations.

South Gippsland Shire Council has made budget provision of \$1,266,665 for the 2014/15 year. Provision has been made in Council's Long Term Financial Plan for the ongoing support of the WGRLC in accordance with the agreed funding formula.

Implementation of the Victorian Library initiative would not increase Council's cost for library services. It could in fact reduce Council's contribution as efficiencies are expected to be achieved through the proposed actions

### **RISKS**

If the Victorian Library initiative is not embraced by the library sector and Local Government and the State Government does not commit additional financial resources to its implementation there is no other project on the table with the potential to redress the imbalance of funding between State and Local Government in the foreseeable future.

### **CONCLUSION**

The Victorian Library initiative provides a strategic and well-researched way forward for libraries in Victoria. The State Government is seeking in principle support from Local Government and libraries before implementing the recommended actions.

The West Gippsland Regional Library Corporation and South Gippsland Shire Council has much to gain from the initiative being fully funded by the State Government. It will provide a significantly improved service for customers and in part address the cost shifting for library services from the State to Local Government that has occurred over many years.

### **RECOMMENDATION**

That Council:

1. Support the Victorian Library initiative in principle provided that the full cost of implementation is met by the State Government; and
2. Advocate to all major political parties leading up to the 2014 Victorian State Government elections for the implementation of the Victorian Library initiative.

### **STAFF DISCLOSURE OF INTEREST**

Nil

**MOVED: Cr Newton**

**SECONDED: Cr Harding**

**THAT COUNCIL:**

1. **SUPPORT THE VICTORIAN LIBRARY INITIATIVE IN PRINCIPLE PROVIDED THAT THE FULL COST OF IMPLEMENTATION IS MET BY THE STATE GOVERNMENT; AND**
2. **ADVOCATE TO ALL MAJOR POLITICAL PARTIES LEADING UP TO THE 2014 VICTORIAN STATE GOVERNMENT ELECTIONS FOR THE IMPLEMENTATION OF THE VICTORIAN LIBRARY INITIATIVE.**

**CARRIED UNANIMOUSLY**

## **E.9 MAV STATE COUNCIL MEETING - NOTICE OF MOTION**

Corporate Services Directorate

### **EXECUTIVE SUMMARY**

Municipal Association of Victoria (MAV) is holding its State Council Meeting on Friday 24 October 2014. Mayor Councillor James Fawcett is Council's appointed MAV Representative and has the power to vote for or against Motions at the Meeting on behalf of Council.

Each Council has the opportunity to put forward Notices of Motion for consideration and advocacy by the MAV.

This Report puts forward Council's proposed Motion for consideration and to officially endorse it's submission to MAV by the due date being Friday 26 September 2014.

### **Document/s pertaining to this Council Report**

- **Attachment 1** - MAV State Council Motion: South Gippsland Shire Council - State Government Funding for Victorian Library Initiative

### **LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES**

N/A

### **COUNCIL PLAN**

Outcome:	1.0	A Prosperous Shire
Objective:	1.2	Raise the Awareness of Local and Regional Issues with State and Federal Decisions Makers

### **CONSULTATION**

Discussions have taken place at an Executive level and with Council as a whole in relation to this Motion.

Council also has the opportunity to seek support from neighbouring Gippsland Council's to add weight to our Motion. It is proposed that discussions take place at the scheduled Gippsland Local Government Network Meeting (19 September 2014) to pursue support from all other Gippsland Councils in writing.

### **REPORT**

#### **Background**

Each year councils have the opportunity to put forward Notices of Motions relating to matters of strategic significance to local government for consideration at the Municipal Association Victoria (MAV) State Council Meeting.



Should the motions be carried at the State Council Meeting, MAV then make representations on behalf of Local Government to the State and Commonwealth as appropriate to advocate for the matters.

### **Discussion**

The MAV State Council Meeting is scheduled for Friday 24 October 2014. Deadlines for Motions close on Friday 26 September 2014.

### **Proposal**

It is proposed that Council submit the Notice of Motion as provided at **Attachment 1** by the due date for consideration at the upcoming MAV State Council Meeting.

It is further proposed that Council seeks support for this motion from the other two member Councils of the West Gippsland Regional Library Corporation and other Gippsland Local Governments.

### **RECOMMENDATION**

That Council:

1. Endorse the Notice of Motion ' State Government Funding for Victorian Library Initiative' to the upcoming MAV State Council Meeting.
2. Seek written support from Baw Baw Shire Council and Bass Coast Shire Council and other Gippsland Local Governments to support this Motion.

### **STAFF DISCLOSURE OF INTEREST**

Nil

**MOVED: Cr Harding**

**SECONDED: Cr Davies**

### **THAT COUNCIL:**

1. **ENDORSE THE NOTICE OF MOTION ' STATE GOVERNMENT FUNDING FOR VICTORIAN LIBRARY INITIATIVE' TO THE UPCOMING MAV STATE COUNCIL MEETING.**
2. **SEEK WRITTEN SUPPORT FROM BAW BAW SHIRE COUNCIL AND BASS COAST SHIRE COUNCIL AND OTHER GIPPSLAND LOCAL GOVERNMENTS TO SUPPORT THIS MOTION.**

**CARRIED UNANIMOUSLY**

**Attachment 1**  
**MAV State Council Motion - South Gippsland Shire Council**



FORM

**MAV State Council Meeting – 24 October 2014**

To submit a motion for consideration by State Council on 24 October 2014, please complete this form and email to [State Council](#), **no later than 26 September 2014**. Please note, deadlines are strictly observed.

**MOTION**

**STATE GOVERNMENT FUNDING FOR VICTORIAN LIBRARY INITIATIVE**

*Submitted by: South Gippsland Shire Council*

**MOTION:**

That the MAV support the Victorian Library initiative and call on the State Government to fully fund its implementation. The initiative will provide improved services for customers and will address, in part, the imbalance between State Government and Local Government funding to the public library service.

**RATIONALE:**

In 2012, following a state-wide campaign by libraries and local government around funding inequity, the Minister for Local Government established a full review of public library services in Victoria. This was undertaken by the Ministerial Advisory Council on Public Libraries and a report *Tomorrows Library* was developed.

The review has been completed and the Victorian Library initiative has been recommended which aims for a state wide approach to:

- Improve digital content and delivery;
- Improve quality and access of the whole Victorian collection;
- Streamline back room processes;
- Provide an enhanced State wide courier service; and
- Provide an integrated and equitable state wide library service.

Six specific actions have been recommended:

- A State wide single library card;
- An interlibrary loan and courier service;
- State wide Radio Frequency Identification (RFID) tagging of collection;
- A single database for all resources held in Victorian libraries;
- A State wide procurement platform for digital material; and
- A State wide LOTE (Language Other Than English) collection.

While the review proposed that the Victorian Library initiative be funded by the State Government, at this stage the government has not committed additional funding to its implementation and has indicated that local government and associated library organisations in Victoria must demonstrate in principle support for the initiative if funding is to be made available.

Additional State Government funding for this initiative will, in part, address the imbalance between State and Local Government funding to library services in Victoria.

*\*Note: Motions must be submitted by **one** council but may be supported by other councils. The council submitting the motion will need to supply written confirmation from any council(s) listed as supporting the motion. All relevant background information in support of the motion should be included in the space provided for the rationale and not in attachments. **The motion and rationale should be no longer than one page.***

## **E.10 AWARD OF TENDER SGC15/10 - REFURBISHMENT OF THE NYORA PUBLIC HALL**

Engineering Service Directorate

### **EXECUTIVE SUMMARY**

The purpose of this report is to recommend awarding Tender 'SGC15/10 - Refurbishment of the Nyora Public Hall' to Considine & Johnston Pty Ltd.

#### **Document/s pertaining to this Council Report**

- **Confidential Appendix 1** - Evaluation Summary & Lump Sum Figures Excluding GST.

A copy of **Confidential Appendix 1** has been distributed separately to Councillors and the Executive Leadership Team.

### **LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES**

- Local Government Procurement Best Practice Guidelines
- Local Government Act 1989

### **INTERNAL POLICIES / STRATEGIES / DOCUMENTS**

- Procurement Policy 2014

### **COUNCIL PLAN**

Outcome:	3.0	Integrated Services and Infrastructure
Objective:	3.1	Deliver affordable modern community services and facilities through an integrated approach to planning and infrastructure development.
Strategy:	3.1.4	We will plan for the service needs of the Shire's changing demographic.

### **CONSULTATION**

The Nyora Public Hall Committee has been involved in this refurbishment project, from the grant application stage through to the completion of the design.

### **REPORT**

#### **Background**

Tender SGC15/10 was advertised in The Age and regional newspapers in July 2014 and closed on 5 August 2014. Tender submissions were sought from experienced Commercial Builders.

An Evaluation Panel was convened on 14 August 2014 to assess the Tenders. The Evaluation Panel consisted of the Acting Chief Executive Officer, Acting Manager Property, Building Projects Officer and Contracts Administrator.

The Tenders were assessed in accordance with the criteria specified in the contract documentation.

A copy of the Tender Evaluation Summary has been included in **Confidential Appendix 1**.

Council staff has worked collaboratively with the Nyora Hall committee and the State Government to successfully secure State Government grant funding, complete construction drawing and bring this project to fruition.

### **Discussion**

Three submissions were received from the following tenderers:

1. CB & PS Pty Ltd.
2. Considine & Johnston Pty Ltd.
3. 4 Dimensions Building Contractors Pty Ltd.

### **Proposal**

It is proposed that Council award Tender 'SGC15/10 - Refurbishment of the Nyora Public Hall' to Considine & Johnston Pty Ltd.

### **FINANCIAL CONSIDERATIONS**

The awarded amount to the successful Tenderer is accommodated in Council's adopted 2014/15 budget of \$340,000 (Council \$42,500, Nyora Hall Committee \$42,500 and State Government \$255,000)

### **RISKS**

Due to the nature of the refurbishment, there is a risk that unforeseen problems will be discovered whilst delivering the project. This could potentially require additional works to be carried out and requests for time and financial variations to the contract.

### **CONCLUSION**

The Nyora Public Hall Committee and Council have worked together to attract grant funding for this project. The collaborative partnership between Council and the Nyora Public Hall Committee has seen this project come to fruition.

Awarding of Tender SGC15/10 to Considine & Johnston Pty Ltd will enable Council to successfully complete this refurbishment for the Nyora Community.

## **RECOMMENDATION**

That Council:

1. Award Tender 'SGC15/10 - Refurbishment of the Nyora Public Hall' to Considine & Johnston Pty Ltd for the lump sum amount of \$237,650 excluding GST.
2. Authorise the Chief Executive Officer, or his delegate, to sign the Contracts and affix the Common Seal of the Council to the Contract documents.
3. Authorise the Chief Executive Officer, to approve any variations above the contingency amount and within the allocated budget figure.
4. Nominate the Building Coordinator as the Superintendent for this Contract.

## **STAFF DISCLOSURE OF INTEREST**

Nil

**MOVED: Cr Brunt**

**SECONDED: Cr Kennedy**

**THAT COUNCIL:**

1. **AWARD TENDER 'SGC15/10 - REFURBISHMENT OF THE NYORA PUBLIC HALL' TO CONSIDINE & JOHNSTON PTY LTD FOR THE LUMP SUM AMOUNT OF \$237,650 EXCLUDING GST.**
2. **AUTHORISE THE CHIEF EXECUTIVE OFFICER, OR HIS DELEGATE, TO SIGN THE CONTRACTS AND AFFIX THE COMMON SEAL OF THE COUNCIL TO THE CONTRACT DOCUMENTS.**
3. **AUTHORISE THE CHIEF EXECUTIVE OFFICER, TO APPROVE ANY VARIATIONS ABOVE THE CONTINGENCY AMOUNT AND WITHIN THE ALLOCATED BUDGET FIGURE.**
4. **NOMINATE THE BUILDING COORDINATOR AS THE SUPERINTENDENT FOR THIS CONTRACT.**

**CARRIED UNANIMOUSLY**

## **E.11 SPECIAL (SECTION 86) COMMITTEES REVIEW – TOORA TENNIS COURT RESERVE SPECIAL COMMITTEE**

Corporate Services Directorate

### **EXECUTIVE SUMMARY**

This report provides the opportunity for the Council to review the current Instrument of Delegation (Instrument) for the Toora Tennis Court Reserve Special Committee (Committee) and approve a new Instrument (**Attachment 1**) as part of Council's adopted Special (Section 86) Committee Instrument of Delegation Review schedule.

#### Document/s pertaining to this Council Report

- **Attachment 1** - Toora Tennis Court Reserve Special Committee Instrument of Delegation

### **LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES**

Local Government Act 1989 - sections 81 and 86

### **INTERNAL POLICIES / STRATEGIES / DOCUMENTS**

Section 86 Committee Kit 2009

### **COUNCIL PLAN**

Strategic Goal:	4.0	A Leading Organisation
Outcome:	4.2	Pursue best practice in organisational development and operations of the organisation
Strategy No:	4.2.2	We will monitor corporate governance processes, including risk management and skills development with the aim of ongoing development

### **CONSULTATION**

The review of the Toora Tennis Court Reserve Special Committee has been conducted in collaboration with Council's Community Strengthening, Property, Risk, Occupational Health & Safety (OHS), Parks & Gardens, People & Culture and Governance Departments.

Councillors were provided with a briefing about this matter in Council's internal newsletter InfoSum and the review has been considered by the Executive Leadership Team. The Committee have also been provided with a copy of the InfoSum article outlining the proposed changes to the Instrument of Delegation.

## REPORT

### Background

Council commenced a review of the operation of all its Special (Section 86) Committees (Committees) in 2010.

On 26 June 2013 Council adopted a Special (Section 86) Committee Instrument of Delegation Review schedule. This schedule requires that the Toora Tennis Reserve Special Committee was to be reviewed by September 2014.

The purpose of the Committee is to exercise Council's functions and powers and to perform Council's duties in relation to the management of a tennis reserve.

The reserve comprises of tennis courts, clubrooms and a half-court basketball court. The facility is located within the vicinity of the Toora Primary School and Toora Pool.

In 2013 the Committee was reconstituted after a period of inactivity.

It is important to acknowledge that decisions of Special Committees are deemed to be decisions of Council. Further, Special Committees play an integral part in managing Council owned or controlled properties and facilities that are essential for community activities and engagement. The process of review provides for the continuation of community engagement in a way that minimises risk to both community members who make up the Special Committees, without over burdening these members.

During the review the compliance with the Instrument was considered good however could be improved. Whilst the Instrument is considered adequate, either the Committee or Council Officers have requested the following minor changes:

- Provision for management of maintenance of the facility in accordance with Council's approval Maintenance Regime/Schedule for the facility.
- A clause for the Committee to carry out an annual evaluation of Committee effectiveness as is the case with other committees.

These changes have been incorporated into the new Instrument (**Attachment 1**).

At an operational level the following action is proposed:

- Remind the Committee of the need to comply with the Instrument particularly in respect of contracts, leases and employment of staff, follow current Council and volunteer recruitment processes for all volunteers and advise Council of any injuries and concerns relevant to insurance and injury matters as soon as they are aware of any issues;

- OH&S Coordinator to visit the Reserve to review and provide recommendations in respect of any significant OHS risks; and
- Staff to confirm the area of the reserve and prepare a map of the area for inclusion in the Instrument.

This report facilitates the confirmation of the current Committee membership by Council. It should be noted that the Chief Executive Officer has the power under delegation from Council to appoint and remove external members to Special Committees subject to appointments and removals being reported to Council.

### **Options**

Council has the options of:

- Making a new Instrument with the changes outlined in **Attachment 1**; or
- Revoking the current Instrument and returning direct management to Council.

### **Proposal**

Council make a new Instrument of Delegation with schedule and guidelines, with minor changes outlined in this report and set out in **Attachment 1**.

### **FINANCIAL CONSIDERATIONS**

Ongoing support, reviews, monitoring and development of Section 86 Committees is included in Council's budget. Assistance is provided by the Community Strengthening, Governance and Property Departments.

### **RISKS**

By conducting this review of delegations Council will be provided with a level of assurance that the Committee and the Council will act within the limits of their respective powers and in conformance with the Local Government Act 1989.

### **CONCLUSION**

Special Committees are integral to the proper management of Council owned or controlled properties and facilities that are essential for community activities and engagement. The process of review, as proposed in this report, provides for the continuation of community engagement in a way that minimises risk to both Council and community members who make up the Special Committee, without over burdening these members.



## RECOMMENDATION

That Council, in exercise of the powers conferred by sections 86 and 87 of the Local Government Act 1989 (the Act), Council resolves that:

1. This report is endorsed.
  2. From the date of this resolution, there is established as a special committee the Toora Tennis Reserve Special Committee.
  3. The purposes of the Committee are those set out in Attachment 1 Instrument of Delegation Toora Tennis Reserve Special Committee to this resolution.
  4. The members of the Committee are:

Kim Ross	Peter Hollier
Denis O'Neil	Nigel Plowright
Liz Hoogwerth	Meryl Agar
Pat Fraser	
  5. It recognises the Chief Executive Officer has the power under delegation from Council, to appoint and remove members to Special Committees subject to appointments and removals being reported to Council.
  6. The Committee is required to report to Council at the intervals specified in the schedule to this resolution (Attachment 1).
  7. The members of the Committee are exempted from being required to submit a primary return or ordinary return.
  8. The Chairperson of the Committee is appointed by the Special Committee.
  9. A quorum for the Committee is a whole number that is an absolute majority of the number of members of the Committee.
  10. All members of the Committee have voting rights on the Committee.
  11. There be delegated to the Committee the powers, duties and functions set out in the Attachment 1 Instrument of Delegation Toora Tennis Reserve Special Committee.
  12. The Instrument:
    - a. Comes into force immediately the common seal of Council is affixed to the Instrument; and
    - b. Remains in force until Council determines to vary or revoke it.
  13. The powers, duties and functions conferred on the Committee by the Instrument must be exercised in accordance with any guidelines or policies Council may from time to time adopt.
  14. The Instrument be sealed.
-

**MOVED: Cr Harding**

**SECONDED: Cr Davies**

**THAT COUNCIL, IN EXERCISE OF THE POWERS CONFERRED BY SECTIONS 86 AND 87 OF THE LOCAL GOVERNMENT ACT 1989 (THE ACT), COUNCIL RESOLVES THAT:**

- 1. THIS REPORT IS ENDORSED.**
- 2. FROM THE DATE OF THIS RESOLUTION, THERE IS ESTABLISHED AS A SPECIAL COMMITTEE THE TOORA TENNIS RESERVE SPECIAL COMMITTEE.**
- 3. THE PURPOSES OF THE COMMITTEE ARE THOSE SET OUT IN ATTACHMENT 1 INSTRUMENT OF DELEGATION TOORA TENNIS RESERVE SPECIAL COMMITTEE TO THIS RESOLUTION.**
- 4. THE MEMBERS OF THE COMMITTEE ARE:**  
**KIM ROSS**  
**DENIS O'NEIL**  
**LIZ HOOGWERTH**  
**PETER HOLLIER**  
**NIGEL PLOWRIGHT**  
**MERYL AGAR**  
**PAT FRASER**
- 5. IT RECOGNISES THE CHIEF EXECUTIVE OFFICER HAS THE POWER UNDER DELEGATION FROM COUNCIL, TO APPOINT AND REMOVE MEMBERS TO SPECIAL COMMITTEES SUBJECT TO APPOINTMENTS AND REMOVALS BEING REPORTED TO COUNCIL.**
- 6. THE COMMITTEE IS REQUIRED TO REPORT TO COUNCIL AT THE INTERVALS SPECIFIED IN THE SCHEDULE TO THIS RESOLUTION (ATTACHMENT 1).**
- 7. THE MEMBERS OF THE COMMITTEE ARE EXEMPTED FROM BEING REQUIRED TO SUBMIT A PRIMARY RETURN OR ORDINARY RETURN.**
- 8. THE CHAIRPERSON OF THE COMMITTEE IS APPOINTED BY THE SPECIAL COMMITTEE.**
- 9. A QUORUM FOR THE COMMITTEE IS A WHOLE NUMBER THAT IS AN ABSOLUTE MAJORITY OF THE NUMBER OF MEMBERS OF THE COMMITTEE.**

- 10. ALL MEMBERS OF THE COMMITTEE HAVE VOTING RIGHTS ON THE COMMITTEE.**
- 11. THERE BE DELEGATED TO THE COMMITTEE THE POWERS, DUTIES AND FUNCTIONS SET OUT IN THE ATTACHMENT 1 INSTRUMENT OF DELEGATION TOORA TENNIS RESERVE SPECIAL COMMITTEE.**
- 12. THE INSTRUMENT:**
  - a. COMES INTO FORCE IMMEDIATELY THE COMMON SEAL OF COUNCIL IS AFFIXED TO THE INSTRUMENT; AND**
  - b. REMAINS IN FORCE UNTIL COUNCIL DETERMINES TO VARY OR REVOKE IT.**
- 13. THE POWERS, DUTIES AND FUNCTIONS CONFERRED ON THE COMMITTEE BY THE INSTRUMENT MUST BE EXERCISED IN ACCORDANCE WITH ANY GUIDELINES OR POLICIES COUNCIL MAY FROM TIME TO TIME ADOPT.**
- 14. THE INSTRUMENT BE SEALED.**

**CARRIED UNANIMOUSLY**

## **Attachment 1**

### **Instrument of Delegation**

#### **Toora Tennis Reserve Special Committee**

### **SCHEDULE**

#### **PURPOSE**

To exercise Council's functions and powers and to perform Council's duties in relation to the management of a tennis reserve.

#### **1. Reporting requirement**

The Committee must report to Council according to Clauses 3.2, 3.3, 5.5, 5.6, 6.1, 6.4 and 7.3 in the Schedule of the Instrument of Delegation of Toora Tennis Reserve Special Committee.

#### **2. Powers and functions**

To exercise Council's functions and powers and to perform Council's duties in relation to the management of a tennis reserve and for those purposes;

#### **3. Administration**

3.1 To do all things necessary or convenient to be done for or in connection with the performance of those functions, duties and powers;

3.2 To provide Council with monthly financial reports and minutes of every meeting and a Treasurer's report;

3.3 To provide Council with an annual report, including a self-evaluation of the Committee's effectiveness, to be submitted in September including:

- Patronage
- User groups
- Injuries and Accidents
- Maintenance/Improvements undertaken and future requirements
- Self-evaluation of operations and management
- Other matters considered relevant by the Committee;

- 3.4 To be the point of contact for the public with respect to the operation of Toora Tennis Reserve. All matters shall be referred to the Committee for resolution in the first instance. All requests shall be dealt with promptly and the Council shall be kept informed at all times;
- 3.5 To ensure that the decisions and policies of Council are implemented/adhered to without delay;

#### **4. Facility use**

- 4.1 The power to negotiate the use of facilities with user groups and the power to approve programs operating from the Toora Tennis Reserve;
- 4.2 The power to set dates and opening/closing times;
- 4.3 To ensure that the Toora Tennis Reserve is used only for purposes appropriate to the facility;
- 4.4 To ensure that the facility is operated in accordance with Tennis Reserve type guidelines;

#### **5. Finance**

- 5.1 The power to set user fees;
  - 5.2 To enter into contracts and to incur expenditure under \$2000, with approval being required from Council for contracts over \$2000;
  - 5.3 The power to open and maintain a bank account at a bank and branch approved by Council, into which all monies received by the Committee shall be paid. All cheques and or transactions drawn on the account shall be signed and or authorised by any two of the following:
    - Chairperson
    - Vice Chairperson
    - Secretary
    - Treasurer;
  - 5.4 To pay all utility, municipal and water charges incurred in occupying the premises;
  - 5.5 To provide Council with adopted Financial Statements by 30 September each year, with support documentation being available upon request;
  - 5.6 To provide Council with a proposed budget for the forthcoming year, within seven (7) days of the end of the financial year;
  - 5.7 The power to apply income received from facility users to the ongoing operation and management of the Toora Tennis Reserve;
-

## **6. Maintenance**

- 6.1 To provide an annual 'Facility Maintenance Report' detailing all anticipated maintenance for the following financial year that is submitted to Council by 31 January of the preceding year;
- 6.2 The authority to undertake minor repairs up to the value of \$500, however consent from Council's Property Co-ordinator must be gained for any maintenance item over \$500, that has not been anticipated in the 'Facility Maintenance Report'. Any works must be carried out by qualified personnel, relative to the task being performed, and all certificates of compliance must be forwarded to Council immediately, upon completion. All maintenance is to be in accord with Council's adopted Maintenance Regime/Schedule;
- 6.3 To make no structural alterations or additions to the premises without the written consent of Council's Engineering and Assets department;
- 6.4 To maintain a register of keys issued by the committee and to include these details in the annual 'Facility Maintenance Report'. Council must be provided with a set of keys to all external and internal locks. Any change in locking system must be in accordance with Council's restricted lock system and should be paid for by the committee;

## **7. Risk Management / Insurance**

- 7.1 To ensure that the facility is maintained in a manner that meets all Workcover and Occupational Health and Safety Regulations. Council may provide an inspection on at least two occasions per annum;
- 7.2 To maintain a monthly checklist, provided by Council, relating to building safety, and make available to Council staff when requested;
- 7.3 To ensure that volunteers complete a registration form that is to be forwarded to Council's Insurance and Return to Work Advisor. Volunteer groups must be supervised by a member of the committee at all times. Each Committee must maintain a volunteer register containing names, addresses, type of activity performed, times of work and volunteer signature;
- 7.4 To contact Council's Health and Safety Coordinator, before volunteers commence any work to determine whether training is required;
- 7.5 To adhere to all statutory and legislative requirements;

**8. Exceptions, conditions and limitations.**

The Committee is not authorised by this Instrument to:

- 8.1 Enter into contracts over \$2000, or incur expenditure, for an amount which exceeds the approved budget;
- 8.2 Employ people, engage contractors or enter into leases without the prior consent of Council;
- 8.3 Exercise the powers which, by force Section 86 of the Act, cannot be delegated;
- 8.4 Borrow funds.

## **GUIDELINES – COMMITTEE DELEGATIONS**

### **Name**

These guidelines may be referred to as the Toora Tennis Reserve Special Committee Guidelines.

### **Application**

These guidelines have been adopted by the South Gippsland Shire Council ("Council") for the guidance of:

- Toora Tennis Reserve Special Committee
- any other special committee in respect of which Council resolves that these guidelines are to apply.

### **Exercise of Powers**

The powers, duties and functions set out in the Instrument are delegated to the Committee. This means that the Committee can only act under delegation when sitting in a formally constituted meeting.

This means that the meeting must be called and conducted in a manner that complies with the provisions of the Local Government Act 1989 ("the Act") and with the Council's meeting procedures local law.

The Committee cannot exercise its delegated powers when gathered outside the formal meeting structure as described above. For example, an informal coming together of members would not resolve to act under delegation.

Similarly, the delegations do not extend to individual members of the Committee.

The only opportunity for individual Committee members to be granted delegated powers exists where the Committee member is a member of Council staff and subject to a delegation under section 98 of the Act.

All delegations must be read in conjunction with this document and any other policies and guidelines that may be adopted by the Council from time to time.

### **Reporting Back**

These guidelines have been developed to support the concept of delegation as a means of ensuring that the functions of Council are conducted in an efficient and timely manner.

Reporting back of delegations exercised may be necessary to ensure that adequate information regarding those actions is available to other staff, management and the Council.



Such reporting back would be by presentation of reports to Council within the time specified in the Instrument of Delegation; and production of minutes of meetings that will be circulated or available for inspection at any time.

It is to be noted that the reporting back requirements on this policy are a minimum standard only and that nothing will preclude more detailed or extensive reporting back of delegated actions if individual circumstances warrant.

### **Insurance**

After receiving Special Committee Details Form, within 1 month of appointment, Council will, upon appointment of each committee, effect and pay for an annual public liability insurance policy to protect hirers. For events involving large numbers of people (more than 50), alcohol, some children's activities and some sporting events, Council will effect and pay for cover but may require the committee to ensure that hirers complete an insurance form which is to be directed to the insurance company by the committee. Council must be contacted before events such as carnivals, large sporting events and 'pop/rock' concerts are booked or organised, as cover may not be available for some events.

All of the above insurance arrangements are subject to Council approval based on reasonable use of facilities and frequency. If a committee is unsure about any aspect of insurance cover, they must contact Council's Risk Management Coordinator.

The actions of committee members, in the proper execution of the committee power and responsibilities, are covered by Council's existing public liability policy.

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## **E.12 SPECIAL (SECTION 86) COMMITTEES REVIEW – LEONGATHA COURT HOUSE SPECIAL COMMITTEE**

Corporate Services Directorate

### **EXECUTIVE SUMMARY**

This report provides the opportunity for the Council to review the current Instrument of Delegation (Instrument) for the Leongatha Court House Special Committee (Committee) and approve a new Instrument (**Attachment 1**) as part of Council's adopted Special (Section 86) Committee Instrument of Delegation Review schedule.

#### *Document/s pertaining to this Council Report*

- **Attachment 1** - Leongatha Court House Special Committee Instrument of Delegation

### **LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES**

Local Government Act 1989 - sections 81 and 86

### **INTERNAL POLICIES / STRATEGIES / DOCUMENTS**

Section 86 Committee Kit 2009

### **COUNCIL PLAN**

Strategic Goal:	4.0	A Leading Organisation
Outcome:	4.2	Pursue best practice in organisational development and operations of the organisation
Strategy No:	4.2.2	We will monitor corporate governance processes, including risk management and skills development with the aim of ongoing development

### **CONSULTATION**

The review of the Leongatha Court House Special Committee has been conducted in collaboration with Council's Community Strengthening, Property, Risk, Occupational Health & Safety (OHS), Parks & Gardens, People & Culture and Governance Departments.

Councillors were provided with a briefing about this matter in Council's internal newsletter InfoSum and the review has been considered by the Executive Leadership Team. The Committee have also been provided with a copy of the InfoSum article outlining the proposed changes to the Instrument of Delegation.

## **REPORT**

### **Background**

Council commenced a review of the operation of all its Special (Section 86) Committees (Committees) in 2010.

On 26 June 2013 Council adopted a Special (Section 86) Committee Instrument of Delegation Review schedule. This schedule requires that the Leongatha Court House Special Committee was to be reviewed by September 2014.

The purpose of the Committee is to exercise Council's functions and powers and to perform Council's duties in relation to the management of a hall.

The site is the base for the South Gippsland Shire Brass Band and is used for rehearsals and for teaching students. The hall is of local historical significance.

It is important to acknowledge that decisions of Special Committees are deemed to be decisions of Council. Further, Special Committees play an integral part in managing Council owned or controlled properties and facilities that are essential for community activities and engagement. The process of review provides for the continuation of community engagement in a way that minimises risk to both community members who make up the Special Committees, without over burdening these members.

During the review the compliance with the Instrument was considered very good. It is considered that a way to improve support and communication between Council and the Committee would be for the Instrument to include provision for a Council representative, either a Councillor or Council officer, to be appointed to the Committee. Currently, Councillor Nigel Hutchinson-Brooks is a member of the Committee and it is proposed to confirm Councillor Hutchinson – Brooks as Council's nominated appointment to this Committee. A Council officer will also be nominated to attend meetings as required. This appointment would also reflect the significance of the hall as part of Council's arts and historical infrastructure. A clause to this effect has been included in the new Instrument. Generally, though the Instrument is considered adequate, either the Committee or Council Officers have requested the following minor changes:

- Increasing the authority for approving expenditure and entering into contracts from \$2,000 to \$5,000, which is considered appropriate given the size of the facility;
- Increasing the authority to undertake minors repairs from \$500 to \$2,000 which is also considered appropriate given the size of the facility; and
- Manage maintenance of the facility in accordance with Council's approved Maintenance Regime/Schedule for the facility.

These changes have been incorporated into the new Instrument (**Attachment 1**).

The Committee does an excellent job of maintaining a frequently utilised hall of historical significance.

As with other Special Committees a clause will be included for the Committee to carry out an annual evaluation of Committee effectiveness.

At an operational level the following action is proposed:

- Remind the Committee of the need to comply with the Instrument particularly in respect of contracts and employment of staff, follow current Council and volunteer recruitment processes for all volunteers and advise Council of any injuries and concerns relevant to insurance and injury matters as soon as they are aware of any issues;
- OH&S Coordinator to visit the hall to review and provide recommendations in respect of any significant OHS risks; and
- Staff to confirm the area of the hall and prepare a map of the area for inclusion in the Instrument.

This report facilitates the confirmation of the current Committee membership by Council with the addition of a Council representative, as outlined above. It is proposed that a Council representative be appointed to the Committee, subject to annual review at the Special (Statutory) Meeting. It should be noted that the Chief Executive Officer has the power under delegation from Council to appoint and remove external members to Special Committees subject to appointments and removals being reported to Council.

### **Options**

Council has the options of:

- Making a new Instrument with the changes outlined in **Attachment 1**; or
- Revoking the current Instrument and returning direct management to Council.

### **Proposal**

Council make a new Instrument of Delegation with schedule and guidelines, with minor changes outlined in this report and set out in **Attachment 1**.

## **FINANCIAL CONSIDERATIONS**

Ongoing support, reviews, monitoring and development of Section 86 Committees is included in Council's budget. Assistance is provided by the Community Strengthening, Governance and Property Departments.

## **RISKS**

By conducting this review of delegations Council will be provided with a level of assurance that the Committee and the Council will act within the limits of their respective powers and in conformance with the Local Government Act 1989.

## **CONCLUSION**

Special Committees are integral to the proper management of Council owned or controlled properties and facilities that are essential for community activities and engagement. The process of review, as proposed in this report, provides for the continuation of community engagement in a way that minimises risk to both Council and community members who make up the Special Committee, without over burdening these members.

## **RECOMMENDATION**

That Council, in exercise of the powers conferred by sections 86 and 87 of the Local Government Act 1989 (the Act), Council resolves that:

1. This report is endorsed.
2. From the date of this resolution, there is established as a special committee the Leongatha Court House Special Committee.
3. The purposes of the Committee are those set out in Attachment 1 Instrument of Delegation Leongatha Court House to this resolution.
4. The members of the Committee are:

Daryl Hunt

Penny Hunt

Brad Lester

Nigel Hutchinson-Brooks

Greg Wright

Doug Appleton

Jan Appleton

A representative nominated by Council.

5. It recognises the Chief Executive Officer has the power, under delegation from Council, to appoint and remove members to Special Committees subject to appointments and removals being reported to Council.
6. The Committee is required to report to Council at the intervals specified in the schedule to this resolution (Attachment 1).
7. The members of the Committee are exempted from being required to submit a primary return or ordinary return.
8. The Chairperson of the Committee is appointed by the Special Committee.
9. A quorum for the Committee is a whole number that is an absolute majority of the number of members of the Committee.
10. All members of the Committee have voting rights on the Committee.
11. There be delegated to the Committee the powers, duties and functions set out in the Attachment 1 Instrument of Delegation Leongatha Court House Special Committee.
12. The Instrument:
  - a. Comes into force immediately the common seal of Council is affixed to the Instrument; and
  - b. Remains in force until Council determines to vary or revoke it.
13. The powers, duties and functions conferred on the Committee by the Instrument must be exercised in accordance with any guidelines or policies Council may from time to time adopt.
14. The Instrument be sealed.
15. That Councillor Hutchinson – Brooks be appointed to the Leongatha Court House Special Committee, as Council's member of the Committee, with a Council officer to attend meetings as required.

**MOVED: Cr Davies**

**SECONDED: Cr Hill**

**THAT COUNCIL, IN EXERCISE OF THE POWERS CONFERRED BY SECTIONS 86 AND 87 OF THE LOCAL GOVERNMENT ACT 1989 (THE ACT), COUNCIL RESOLVES THAT:**

- 1. THIS REPORT IS ENDORSED.**
- 2. FROM THE DATE OF THIS RESOLUTION, THERE IS ESTABLISHED AS A SPECIAL COMMITTEE THE LEONGATHA COURT HOUSE SPECIAL COMMITTEE.**
- 3. THE PURPOSES OF THE COMMITTEE ARE THOSE SET OUT IN ATTACHMENT 1 INSTRUMENT OF DELEGATION LEONGATHA COURT HOUSE TO THIS RESOLUTION.**
- 4. THE MEMBERS OF THE COMMITTEE ARE:**  
  
**DARYL HUNT**  
  
**PENNY HUNT**  
  
**BRAD LESTER**  
  
**NIGEL HUTCHINSON-BROOKS**  
  
**GREG WRIGHT**  
  
**DOUG APPLETON**  
  
**JAN APPLETON**  
  
**A REPRESENTATIVE NOMINATED BY COUNCIL.**
- 5. IT RECOGNISES THE CHIEF EXECUTIVE OFFICER HAS THE POWER, UNDER DELEGATION FROM COUNCIL, TO APPOINT AND REMOVE MEMBERS TO SPECIAL COMMITTEES SUBJECT TO APPOINTMENTS AND REMOVALS BEING REPORTED TO COUNCIL.**
- 6. THE COMMITTEE IS REQUIRED TO REPORT TO COUNCIL AT THE INTERVALS SPECIFIED IN THE SCHEDULE TO THIS RESOLUTION (ATTACHMENT 1).**
- 7. THE MEMBERS OF THE COMMITTEE ARE EXEMPTED FROM BEING REQUIRED TO SUBMIT A PRIMARY RETURN OR ORDINARY RETURN.**
- 8. THE CHAIRPERSON OF THE COMMITTEE IS APPOINTED BY THE SPECIAL COMMITTEE.**

9. **A QUORUM FOR THE COMMITTEE IS A WHOLE NUMBER THAT IS AN ABSOLUTE MAJORITY OF THE NUMBER OF MEMBERS OF THE COMMITTEE.**
10. **ALL MEMBERS OF THE COMMITTEE HAVE VOTING RIGHTS ON THE COMMITTEE.**
11. **THERE BE DELEGATED TO THE COMMITTEE THE POWERS, DUTIES AND FUNCTIONS SET OUT IN THE ATTACHMENT 1 INSTRUMENT OF DELEGATION LEONGATHA COURT HOUSE SPECIAL COMMITTEE.**
12. **THE INSTRUMENT:**
  - c. **COMES INTO FORCE IMMEDIATELY THE COMMON SEAL OF COUNCIL IS AFFIXED TO THE INSTRUMENT; AND**
  - d. **REMAINS IN FORCE UNTIL COUNCIL DETERMINES TO VARY OR REVOKE IT.**
13. **THE POWERS, DUTIES AND FUNCTIONS CONFERRED ON THE COMMITTEE BY THE INSTRUMENT MUST BE EXERCISED IN ACCORDANCE WITH ANY GUIDELINES OR POLICIES COUNCIL MAY FROM TIME TO TIME ADOPT.**
14. **THE INSTRUMENT BE SEALED.**
15. **THAT COUNCILLOR HUTCHINSON – BROOKS BE APPOINTED TO THE LEONGATHA COURT HOUSE SPECIAL COMMITTEE, AS COUNCIL'S MEMBER OF THE COMMITTEE, WITH A COUNCIL OFFICER TO ATTEND MEETINGS AS REQUIRED.**

**CARRIED UNANIMOUSLY**



## **Attachment 1**

### **Instrument of Delegation**

#### **Leongatha Court House Special Committee**

### **SCHEDULE**

#### **PURPOSE**

To exercise Council's functions and powers and to perform Council's duties in relation to the management of a hall.

#### **1. Reporting requirement**

The Committee must report to Council according to Clauses 3.2, 3.3, 5.5, 5.6, 6.1, 6.4 and 7.3 in the Schedule of the Instrument of Delegation of Leongatha Court House Special Committee.

#### **2. Powers and functions**

To exercise Council's functions and powers and to perform Council's duties in relation to the management of a hall, and for those purposes;

#### **3. Administration**

3.1 To do all things necessary or convenient to be done for or in connection with the performance of those functions, duties and powers;

3.2 To provide Council with monthly financial reports and minutes of every meeting and a Treasurer's report;

3.3 To provide Council with an annual report, including a self-evaluation of the Committee's effectiveness, to be submitted in September including:

- Patronage
- User groups
- Injuries and Accidents
- Maintenance/Improvements undertaken and future requirements
- Self-evaluation of operations and management
- Other matters considered relevant by the Committee;

- 3.4 To be the point of contact for the public with respect to the operation of Leongatha Court House. All matters shall be referred to the Committee for resolution in the first instance. All requests shall be dealt with promptly and the Council shall be kept informed at all times;
- 3.5 To ensure that the decisions and policies of Council are implemented/adhered to without delay;

#### **4. Facility use**

- 4.1 The power to negotiate the use of facilities with user groups and the power to approve programs operating from the Leongatha Court House;
- 4.2 The power to set dates and opening/closing times;
- 4.3 To ensure that the Leongatha Court House is used only for purposes appropriate to the facility;
- 4.4 To ensure that the facility is operated in accordance with hall type guidelines;

#### **5. Finance**

- 5.1 The power to set user fees;
- 5.2 To enter into contracts and to incur expenditure under \$5000, with approval being required from Council for contracts over \$5000;
- 5.3 The power to open and maintain a bank account at a bank and branch approved by Council, into which all monies received by the Committee shall be paid. All cheques and or transactions drawn on the account shall be signed and or authorised by any two of the following:
  - Chairperson
  - Vice Chairperson
  - Secretary
  - Treasurer;
- 5.4 To pay all utility, municipal and water charges incurred in occupying the premises;
- 5.5 To provide Council with adopted Financial Statements by 30 September each year, with support documentation being available upon request;
- 5.6 To provide Council with a proposed budget for the forthcoming year, within seven (7) days of the end of the financial year;
- 5.7 The power to apply income received from facility users to the ongoing operation and management of the Leongatha Court House;

## **6. Maintenance**

- 6.1 To provide an annual 'Facility Maintenance Report' detailing all anticipated maintenance for the following financial year that is submitted to Council by 31 January of the preceding year;
- 6.2 The authority to undertake minor repairs up to the value of \$2000, however consent from Council's Property Co-ordinator must be gained for any maintenance item over \$2000, that has not been anticipated in the 'Facility Maintenance Report'. Any works must be carried out by qualified personnel, relative to the task being performed, and all certificates of compliance must be forwarded to Council immediately, upon completion. All maintenance must be in accord with Council's adopted Maintenance Regime/Schedule;
- 6.3 To make no structural alterations or additions to the premises without the written consent of Council's Engineering and Assets department;
- 6.4 To maintain a register of keys issued by the committee and to include these details in the annual 'Facility Maintenance Report'. Council must be provided with a set of keys to all external and internal locks. Any change in locking system must be in accordance with Council's restricted lock system and should be paid for by the Committee;

## **7. Risk Management / Insurance**

- 7.1 To ensure that the facility is maintained in a manner that meets all Workcover and Occupational Health and Safety Regulations. Council may provide an inspection on at least two occasions per annum;
- 7.2 To maintain a monthly checklist, provided by Council, relating to building safety, and make available to Council staff when requested;
- 7.3 To ensure that volunteers complete a registration form that is to be forwarded to Council's Insurance and Return to Work Advisor. Volunteer groups must be supervised by a member of the committee at all times. Each Committee must maintain a volunteer register containing names, addresses, type of activity performed, times of work and volunteer signature;
- 7.4 To contact Council's Occupational Health and Safety Coordinator, before volunteers commence any work to determine whether training is required;
- 7.5 To adhere to all statutory and legislative requirements;

**8. Exceptions, conditions and limitations**

The Committee is not authorised by this Instrument to:

- 8.1 Enter into contracts over \$5000, or incur expenditure, for an amount which exceeds the approved budget;
- 8.2 Employ people, engage contractors or enter into leases without the prior consent of Council;
- 8.3 Exercise the powers which, by force Section 86 of the Act, cannot be delegated;
- 8.4 Borrow funds.

## **GUIDELINES – COMMITTEE DELEGATIONS**

### **Name**

These guidelines may be referred to as the Leongatha Court House Special Committee Guidelines.

### **Application**

These guidelines have been adopted by the South Gippsland Shire Council ("Council") for the guidance of:

- Leongatha Court House Special Committee
- any other special committee in respect of which Council resolves that these guidelines are to apply.

### **Exercise of Powers**

The powers, duties and functions set out in the Instrument are delegated to the Committee. This means that the Committee can only act under delegation when sitting in a formally constituted meeting.

This means that the meeting must be called and conducted in a manner that complies with the provisions of the Local Government Act 1989 ("the Act") and with the Council's meeting procedures local law.

The Committee cannot exercise its delegated powers when gathered outside the formal meeting structure as described above. For example, an informal coming together of members would not resolve to act under delegation.

Similarly, the delegations do not extend to individual members of the Committee.

The only opportunity for individual Committee members to be granted delegated powers exists where the Committee member is a member of Council staff and subject to a delegation under section 98 of the Act.

All delegations must be read in conjunction with this document and any other policies and guidelines that may be adopted by the Council from time to time.

### **Reporting Back**

These guidelines have been developed to support the concept of delegation as a means of ensuring that the functions of Council are conducted in an efficient and timely manner.

Reporting back of delegations exercised may be necessary to ensure that adequate information regarding those actions is available to other staff, management and the Council.

Such reporting back would be by presentation of reports to Council within the time specified in the Instrument of Delegation; and production of minutes of meetings that will be circulated or available for inspection at any time.

It is to be noted that the reporting back requirements on this policy are a minimum standard only and that nothing will preclude more detailed or extensive reporting back of delegated actions if individual circumstances warrant.

### **Insurance**

After receiving Special Committee Details Form, within 1 month of appointment, Council will, upon appointment of each committee, effect and pay for an annual public liability insurance policy to protect hirers. For events involving large numbers of people (more than 50), alcohol, some children's activities and some sporting events, Council will effect and pay for cover but may require the committee to ensure that hirers complete an insurance form which is to be directed to the insurance company by the committee. Council must be contacted before events such as carnivals, large sporting events and 'pop/rock' concerts are booked or organised, as cover may not be available for some events.

All of the above insurance arrangements are subject to Council approval based on reasonable use of facilities and frequency. If a committee is unsure about any aspect of insurance cover, they must contact Council's Risk Management Coordinator.

The actions of committee members, in the proper execution of the committee power and responsibilities, are covered by Council's existing public liability policy.

## **E.13 SPECIAL (SECTION 86) COMMITTEES REVIEW – ALLAMBEE SOUTH COMMUNITY HALL SPECIAL COMMITTEE**

Corporate Services Directorate

### **EXECUTIVE SUMMARY**

This report provides the opportunity for the Council to review the current Instrument of Delegation (Instrument) for the Allambree South Community Hall Special Committee (Committee) and approve a new Instrument (**Attachment 1**) as part of Council's adopted Special (Section 86) Committee Instrument of Delegation Review schedule.

#### Document/s pertaining to this Council Report

- **Attachment 1** - Allambree South Community Hall Special Committee Instrument of Delegation

### **LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES**

Local Government Act 1989 - sections 81 and 86

### **INTERNAL POLICIES / STRATEGIES / DOCUMENTS**

Section 86 Committee Kit 2009

### **COUNCIL PLAN**

Strategic Goal:	4.0	A Leading Organisation
Outcome:	4.2	Pursue best practice in organisational development and operations of the organisation
Strategy No:	4.2.2	We will monitor corporate governance processes, including risk management and skills development with the aim of ongoing development

### **CONSULTATION**

The review of the Allambree South Community Hall Special Committee has been conducted in collaboration with Council's Community Strengthening, Property, Risk, Occupational Health & Safety (OHS), Parks & Gardens, People & Culture and Governance Departments.

Councillors were provided with a briefing about this matter in Council's internal newsletter InfoSum and the review has been considered by the Executive Leadership Team. The Committee have also been provided with a copy of the InfoSum article outlining the proposed changes to the Instrument of Delegation.

## REPORT

### Background

Council commenced a review of the operation of all its Special (Section 86) Committees (Committees) in 2010.

On 26 June 2013 Council adopted a Special (Section 86) Committee Instrument of Delegation Review schedule. This schedule requires that the Allambee South Community Hall Special Committee was to be reviewed by September 2014.

The purpose of the Committee is to exercise Council's functions and powers and to perform Council's duties in relation to the management of the Allambee South Community Hall.

The community hall is the former Allambee South State School and is a meeting place for local residents.

It is important to acknowledge that decisions of Special Committees are deemed to be decisions of Council. Further, Special Committees play an integral part in managing Council owned or controlled properties and facilities that are essential for community activities and engagement. The process of review provides for the continuation of community engagement in a way that minimises risk to both community members who make up the Special Committees, without over burdening these members.

During the review the compliance with the Instrument was considered good and in the main the Instrument adequate. As a consequence it is intended to make only minor changes to the Instrument to include a clause for the Committee to carry out an annual evaluation of Committee effectiveness and manage the maintenance of the facility in accordance with Council's approved Maintenance Regime/Schedule for the facility.

These changes have been incorporated into the new Instrument (**Attachment 1**).

At an operational level the following action is proposed:

- Remind the Committee of the need to comply with the Instrument particularly in respect of contracts and employment of staff, follow current Council and volunteer recruitment processes for all volunteers and advise Council of any injuries and concerns relevant to insurance and injury matters as soon as they are aware of any issues; and
- OH&S Coordinator will visit the hall to review and provide recommendations in respect of the site.

This report facilitates the confirmation of the current Committee membership by Council. It should be noted that the Chief Executive Officer has the power under delegation from Council to appoint and remove external members to



Special Committees subject to appointments and removals being reported to Council.

### **Options**

Council has the options of:

- Making a new Instrument with the changes outlined in **Attachment 1**; or
- Revoking the current Instrument and returning direct management to Council.

### **Proposal**

Council make a new Instrument of Delegation with schedule and guidelines, with minor changes outlined in this report and set out in **Attachment 1**.

### **FINANCIAL CONSIDERATIONS**

Ongoing support, reviews, monitoring and development of Section 86 Committees is included in Council's budget. Assistance is provided by the Community Strengthening, Governance and Property Departments.

### **RISKS**

By conducting this review of delegations Council will be provided with a level of assurance that the Committee and the Council will act within the limits of their respective powers and in conformance with the Local Government Act 1989.

### **CONCLUSION**

Special Committees are integral to the proper management of Council owned or controlled properties and facilities that are essential for community activities and engagement. The process of review, as proposed in this report, provides for the continuation of community engagement in a way that minimises risk to both Council and community members who make up the Special Committee, without over burdening these members.

**RECOMMENDATION:**

That Council, in exercise of the powers conferred by sections 86 and 87 of the Local Government Act 1989 (the Act), Council resolves that:

1. This report is endorsed.
2. From the date of this resolution, there is established as a Special Committee the Allambee South Community Hall Special Committee.
3. The purposes of the Committee are those set out in Attachment 1 Instrument of Delegation Allambee South Community Hall Special Committee to this resolution.

4. The members of the Committee are:

Di Beyer

Cliff Smith

Michelle Addison

Kay Teisler

Di Mueller

Lyn Butcher

Nancie Kemp

Sandra Rickards

Kerrie Biggs

Don Hill

Kerrie Biggs

Eve Bowen

Den Bowen

Tom Butcher

Craig Anderson

Darryl Kerlake

Greg Beyer

John Bilney

Jill Bilney

Gary Boast

Jonanna Boast

- 5.** It recognises the Chief Executive Officer has the power, under delegation from Council, to appoint and remove external members to Special Committees subject to appointments and removals being reported to Council.
- 6.** The Committee is required to report to Council at the intervals specified in the schedule to this resolution (Attachment 1).
- 7.** The members of the Committee are exempted from being required to submit a primary return or ordinary return.
- 8.** The Chairperson of the Committee is appointed by the Special Committee.
- 9.** A quorum for the Committee is a whole number that is an absolute majority of the number of members of the Committee.
- 10.** All members of the Committee have voting rights on the Committee.
- 11.** There be delegated to the Committee the powers, duties and functions set out in Attachment 1 Instrument of Delegation Allambee South Community Hall.
- 12.** The Instrument:
  - a.** Comes into force immediately the common seal of Council is affixed to the Instrument; and
  - b.** Remains in force until Council determines to vary or revoke it.
- 13.** The powers, duties and functions conferred on the Committee by the Instrument must be exercised in accordance with any guidelines or policies Council may from time to time adopt.
- 14.** The Instrument be sealed.

**MOVED: Cr Davies**

**SECONDED: Cr Hill**

**THAT COUNCIL, IN EXERCISE OF THE POWERS CONFERRED BY SECTIONS 86 AND 87 OF THE LOCAL GOVERNMENT ACT 1989 (THE ACT), COUNCIL RESOLVES THAT:**

- 1. THIS REPORT IS ENDORSED.**
- 2. FROM THE DATE OF THIS RESOLUTION, THERE IS ESTABLISHED AS A SPECIAL COMMITTEE THE ALLAMBEE SOUTH COMMUNITY HALL SPECIAL COMMITTEE.**
- 3. THE PURPOSES OF THE COMMITTEE ARE THOSE SET OUT IN ATTACHMENT 1 INSTRUMENT OF DELEGATION ALLAMBEE SOUTH COMMUNITY HALL SPECIAL COMMITTEE TO THIS RESOLUTION.**
- 4. THE MEMBERS OF THE COMMITTEE ARE:**

**DI BEYER**

**CLIFF SMITH**

**MICHELLE ADDISON**

**KAY TEISLER**

**DI MUELLER**

**LYN BUTCHER**

**NANCIE KEMP**

**SANDRA RICKARDS**

**KERRIE BIGGS**

**DON HILL**

**EVE BOWEN**

**DEN BOWEN**

**TOM BUTCHER**

**CRAIG ANDERSON**

**DARRYL KERSLAKE**

**GREG BEYER**

**JOHN BILNEY**

**JILL BILNEY**

**GARY BOAST**

**JONANNA BOAST**

- 5. IT RECOGNISES THE CHIEF EXECUTIVE OFFICER HAS THE POWER, UNDER DELEGATION FROM COUNCIL, TO APPOINT AND REMOVE EXTERNAL MEMBERS TO SPECIAL COMMITTEES SUBJECT TO APPOINTMENTS AND REMOVALS BEING REPORTED TO COUNCIL.**
- 6. THE COMMITTEE IS REQUIRED TO REPORT TO COUNCIL AT THE INTERVALS SPECIFIED IN THE SCHEDULE TO THIS RESOLUTION (ATTACHMENT 1).**
- 7. THE MEMBERS OF THE COMMITTEE ARE EXEMPTED FROM BEING REQUIRED TO SUBMIT A PRIMARY RETURN OR ORDINARY RETURN.**
- 8. THE CHAIRPERSON OF THE COMMITTEE IS APPOINTED BY THE SPECIAL COMMITTEE.**
- 9. A QUORUM FOR THE COMMITTEE IS A WHOLE NUMBER THAT IS AN ABSOLUTE MAJORITY OF THE NUMBER OF MEMBERS OF THE COMMITTEE.**
- 10. ALL MEMBERS OF THE COMMITTEE HAVE VOTING RIGHTS ON THE COMMITTEE.**
- 11. THERE BE DELEGATED TO THE COMMITTEE THE POWERS, DUTIES AND FUNCTIONS SET OUT IN ATTACHMENT 1 INSTRUMENT OF DELEGATION ALLAMBEE SOUTH COMMUNITY HALL.**
- 12. THE INSTRUMENT:**
  - a. COMES INTO FORCE IMMEDIATELY THE COMMON SEAL OF COUNCIL IS AFFIXED TO THE INSTRUMENT; AND**
  - b. REMAINS IN FORCE UNTIL COUNCIL DETERMINES TO VARY OR REVOKE IT.**
- 13. THE POWERS, DUTIES AND FUNCTIONS CONFERRED ON THE COMMITTEE BY THE INSTRUMENT MUST BE EXERCISED IN ACCORDANCE WITH ANY GUIDELINES OR POLICIES COUNCIL MAY FROM TIME TO TIME ADOPT.**
- 14. THE INSTRUMENT BE SEALED.**
- 15. THAT COUNCILLOR HILL BE APPOINTED TO THE ALLAMBEE SOUTH COMMUNITY HALL SPECIAL COMMITTEE, AS COUNCIL'S MEMBER OF THE COMMITTEE, WITH A COUNCIL OFFICER TO ATTEND MEETINGS AS REQUIRED.**

**CARRIED UNANIMOUSLY**

## **Attachment 1**

### **Instrument of Delegation**

#### **Allambee South Community Hall Special Committee**

### **SCHEDULE**

#### **PURPOSE**

To exercise Council's functions and powers and to perform Council's duties in relation to the management of a community hall.

#### **1. Reporting requirement**

The Committee must report to Council according to Clauses 3.2, 3.3, 5.5, 5.6, 6.1, 6.4 and 7.3 in the Schedule of the Instrument of Delegation of Allambee South Community Hall Special Committee.

#### **2. Powers and functions**

To exercise Council's functions and powers to perform Council's duties in relation to the management of the hall, and for those purposes;

#### **3. Administration**

3.1 To do all things necessary or convenient to be done for or in connection with the performance of those functions, duties and powers;

3.2 To provide Council with monthly financial reports and minutes of every meeting and a Treasurer's report;

3.3 To provide Council with an annual report, including a self-evaluation of the Committee's effectiveness, to be submitted in September including:

- Patronage
- User groups
- Injuries and Accidents
- Maintenance/Improvements undertaken and future requirements
- Self-evaluation of operations and management
- Other matters considered relevant by the Committee;

- 3.4 To be the point of contact for the public with respect to the operation of Allambee South Community Hall. All matters shall be referred to the Committee for resolution in the first instance. All requests shall be dealt with promptly and the Council shall be kept informed at all times;
- 3.5 To ensure that the decisions and policies of Council are implemented/adhered to without delay;

#### **4. Facility use**

- 4.1 The power to negotiate the use of facilities with user groups and the power to approve programs operating from the Allambee South Community Hall;
- 4.2 The power to set dates and opening/closing times;
- 4.3 To ensure that the Allambee South Community Hall is used only for purposes appropriate to the facility;
- 4.4 To ensure that the facility is operated in accordance with community hall type guidelines;

#### **5. Finance**

- 5.1 The power to set user fees;
- 5.2 To enter into contracts and to incur expenditure under \$2000, with approval being required from Council for contracts over \$2000;
- 5.3 The power to open and maintain a bank account at a bank and branch approved by Council, into which all monies received by the Committee shall be paid. All cheques and or transactions drawn on the account shall be signed and or authorised by any two of the following:
  - Chairperson
  - Vice Chairperson
  - Secretary
  - Treasurer;
- 5.4 To pay all utility, municipal and water charges incurred in occupying the premises;
- 5.5 To provide Council with adopted Financial Statements by 30 September each year, with support documentation being available upon request;
- 5.6 To provide Council with a proposed budget for the forthcoming year, within seven (7) days of the end of the financial year;

- 5.7 The power to apply income received from facility users to the ongoing operation and management of the Allambee South Community Hall;

## **6. Maintenance**

- 6.1 To provide an annual 'Facility Maintenance Report' detailing all anticipated maintenance for the following financial year that is submitted to Council by 31 January of the preceding year;
- 6.2 The authority to undertake minor repairs up to the value of \$500, however consent from Council's Property Co-ordinator must be gained for any maintenance item over \$500, that has not been anticipated in the 'Facility Maintenance Report'. Any works must be carried out by qualified personnel, relative to the task being performed, and all certificates of compliance must be forwarded to Council immediately, upon completion. All maintenance is to be in accord with Council's approved Maintenance Regime/Schedule;
- 6.3 To make no structural alterations or additions to the premises without the written consent of Council's Engineering and Assets department;
- 6.4 To maintain a register of keys issued by the Committee and to include these details in the annual 'Facility Maintenance Report'. Council must be provided with a set of keys to all external and internal locks. Any change in locking system must be in accordance with Council's restricted lock system and should be paid for by the Committee;

## **7. Risk Management / Insurance**

- 7.1 To ensure that the facility is maintained in a manner that meets all Workcover and Occupational Health and Safety Regulations. Council may provide an inspection on at least two occasions per annum;
- 7.2 To maintain a monthly checklist, provided by Council, relating to building safety, and make available to Council staff when requested;
- 7.3 To ensure that volunteers complete a registration form that is to be forwarded to Council's Insurance and Return to Work Advisor. Volunteer groups must be supervised by a member of the Committee at all times. Each Committee must maintain a volunteer register containing names, addresses, type of activity performed, times of work and volunteer signature;
- 7.4 To contact Council's Occupational Health and Safety Coordinator, before volunteers commence any work to determine whether training is required;
- 7.5 To adhere to all statutory and legislative requirements;

## **8. Exceptions, conditions and limitations**

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The Committee is not authorised by this Instrument to:

- 8.1 Enter into contracts over \$2000, or incur expenditure, for an amount which exceeds the approved budget;
- 8.2 Employ people, engage contractors or enter into leases without the prior consent of Council;
- 8.3 Exercise the powers which, by force Section 86 of the Act, cannot be delegated;
- 8.4 Borrow funds.

## **GUIDELINES – COMMITTEE DELEGATIONS**

### **Name**

These guidelines may be referred to as the Allambee South Community Hall Committee Guidelines.

### **Application**

These guidelines have been adopted by the South Gippsland Shire Council ("Council") for the guidance of:

- Allambee South Community Hall
- any other special committee in respect of which Council resolves that these guidelines are to apply.

### **Exercise of Powers**

The powers, duties and functions set out in the Instrument are delegated to the Committee. This means that the Committee can only act under delegation when sitting in a formally constituted meeting.

This means that the meeting must be called and conducted in a manner that complies with the provisions of the Local Government Act 1989 ("the Act") and with the Council's meeting procedures local law.

The Committee cannot exercise its delegated powers when gathered outside the formal meeting structure as described above. For example, an informal coming together of members would not resolve to act under delegation.

Similarly, the delegations do not extend to individual members of the Committee.

The only opportunity for individual Committee members to be granted delegated powers exists where the Committee member is a member of Council staff and subject to a delegation under section 98 of the Act.

All delegations must be read in conjunction with this document and any other policies and guidelines that may be adopted by the Council from time to time.

### **Reporting Back**

These guidelines have been developed to support the concept of delegation as a means of ensuring that the functions of Council are conducted in an efficient and timely manner.

Reporting back of delegations exercised may be necessary to ensure that adequate information regarding those actions is available to other staff, management and the Council.

Such reporting back would be by presentation of reports to Council within the time specified in the Instrument of Delegation; and production of minutes of meetings that will be circulated or available for inspection at any time.

It is to be noted that the reporting back requirements on this policy are a minimum standard only and that nothing will preclude more detailed or extensive reporting back of delegated actions if individual circumstances warrant.

### **Insurance**

After receiving Special Committee Details Form, within 1 month of appointment, Council will, upon appointment of each committee, effect and pay for an annual public liability insurance policy to protect hirers. For events involving large numbers of people (more than 50), alcohol, some children's activities and some sporting events, Council will effect and pay for cover but may require the committee to ensure that hirers complete an insurance form which is to be directed to the insurance company by the committee. Council must be contacted before events such as carnivals, large sporting events and 'pop/rock' concerts are booked or organised, as cover may not be available for some events.

All of the above insurance arrangements are subject to Council approval based on reasonable use of facilities and frequency. If a committee is unsure about any aspect of insurance cover, they must contact Council's Risk Management Department.

The actions of committee members, in the proper execution of the committee power and responsibilities, are covered by Council's existing public liability policy.

## **E.14 SPECIAL (SECTION 86) COMMITTEES REVIEW – KORUMBURRA COMMUNITY ACCESS CENTRE SPECIAL COMMITTEE**

Corporate Services Directorate

### **EXECUTIVE SUMMARY**

This report provides the opportunity for the Council to review the current Instrument of Delegation (Instrument) for the Korumburra Community Access Centre Special Committee (Committee) and approve a new Instrument (**Attachment 1**) as part of Council's adopted Special (Section 86) Committee Instrument of Delegation Review schedule.

#### Document/s pertaining to this Council Report

- **Attachment 1** - Korumburra Community Access Centre Special Committee Instrument of Delegation

### **LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES**

Local Government Act 1989 - sections 81 and 86

### **INTERNAL POLICIES / STRATEGIES / DOCUMENTS**

Section 86 Committee Kit 2009

### **COUNCIL PLAN**

Strategic Goal:	4.0	A Leading Organisation
Outcome:	4.2	Pursue best practice in organisational development and operations of the organisation
Strategy No:	4.2.2	We will monitor corporate governance processes, including risk management and skills development with the aim of ongoing development

### **CONSULTATION**

The review of the Korumburra Community Access Centre Special Committee has been conducted in collaboration with Council's Community Strengthening, Property, Risk, Occupational Health & Safety (OHS), Parks & Gardens, People & Culture and Governance Departments.

Councillors were provided with a briefing about this matter in Council's internal newsletter InfoSum and the review has been considered by the Executive Leadership Team. The Committee have also been provided with a copy of the InfoSum article outlining the proposed changes to the Instrument of Delegation and discussions have occurred with the Committee in relation to the payment of utility costs.

## REPORT

### Background

Council commenced a review of the operation of all its Special (Section 86) Committees (Committees) in 2010.

On 26 June 2013 Council adopted a Special (Section 86) Committee Instrument of Delegation Review schedule. This schedule requires that the Korumburra Community Access Centre Special Committee was to be reviewed by September 2014.

The purpose of the Committee is to exercise Council's functions and powers and to perform Council's duties in relation to the management of the Korumburra Community Access Centre.

In 2002 / 2003 Council intended to demolish a former public toilet building in Radovick Street Korumburra, however after representations by the local community, grant funding made it possible to retain, renovate and make the building available for general public use as an Information Access centre.

Recently consideration was given to an alternative use for the facility but this did not progress.

Responsibility for the payment of utilities has been uncertain since the Committee was established, with Council currently covering the cost of utilities within its operational budgets. Minimal income is produced by the centre and there would be a budget impact to the Committee if they were required to cover these utility costs. However, it is proposed that Council not continue to pay utility costs on the basis that all other Special Committees are required to pay utility costs and payment by Council in effect would be providing an extra benefit to the Committee. The Committee may also have access to other funding to cover utility costs as other Committees have. This update has been made to the Instrument of Delegation (**Attachment 1** - Clause 5.4) to reflect this recommendation.

The Committee has advised, that if they were to assume responsibility for the payment of utilities (approximately \$1,500 per annum), that this would place the Committee in financial difficulty in the short to medium term, as there may be limited opportunities for the Committee to increase revenue.

It is important to acknowledge that decisions of Special Committees are deemed to be decisions of Council. Further, Special Committees play an integral part in managing Council owned or controlled properties and facilities that are essential for community activities and engagement. The process of review provides for the continuation of community engagement in a way that minimises risk to both community members who make up the Special Committees, without over burdening these members.

During the review the compliance with the Instrument was considered good and in the main the Instrument adequate. As a consequence it is intended to

make only minor changes to the Instrument to provide for the Community to pay for utilities, include a clause for the Committee to carry out an annual evaluation of Committee effectiveness as with other Special Committees and to manage maintenance of the facility in accordance with Council's approved Maintenance Regime/Schedule for the facility.

These changes have been incorporated into the new Instrument (**Attachment 1**).

At an operational level the following action is proposed:

- Remind the Committee of the need to comply with the Instrument particularly in respect of contracts and employment of staff, follow current Council and volunteer recruitment processes for all volunteers and advise Council of any injuries and concerns relevant to insurance and injury matters as soon as they are aware of any issues; and
- OH&S Coordinator will visit the Centre to review and provide recommendations in respect of the site.

This report facilitates the confirmation of the current Committee membership by Council. It should be noted that the Chief Executive Officer has the power under delegation from Council to appoint and remove external members to Special Committees subject to appointments and removals being reported to Council.

### **Options**

Council has the options of:

- Making a new Instrument with the changes outlined in **Attachment 1**; or
- Revoking the current Instrument and returning direct management to Council.

### **Proposal**

Council make a new Instrument of Delegation with schedule and guidelines, with changes outlined in this report and set out in **Attachment 1**.

### **FINANCIAL CONSIDERATIONS**

Ongoing support, reviews, monitoring and development of Section 86 Committees is included in Council's budget. Assistance is provided by the Community Strengthening, Governance and Property Departments.

As outlined in the background above, it is proposed that Council not continue to pay utility costs on the basis that all other Special Committees are required to pay utility costs and payment by Council in effect would be providing an extra benefit of approximately \$1,500 per annum to the Committee. The

Committee may also have access to other funding through discretionary grants to cover utility costs as other Committees have.

## **RISKS**

By conducting this review of delegations Council will be provided with a level of assurance that the Committee and the Council will act within the limits of their respective powers and in conformance with the Local Government Act 1989.

## **CONCLUSION**

Special Committees are integral to the proper management of Council owned or controlled properties and facilities that are essential for community activities and engagement. The process of review, as proposed in this report, provides for the continuation of community engagement in a way that minimises risk to both Council and community members who make up the Special Committee, without over burdening these members.

## **RECOMMENDATION:**

That Council, In exercise of the powers conferred by sections 86 and 87 of the Local Government Act 1989 (the Act), Council resolves that:

1. This report is endorsed.
2. From the date of this resolution, there is established as a Special Committee the Korumburra Community Access Centre Special Committee.
3. The purposes of the Committee are those set out in Attachment 1 Instrument of Delegation Korumburra Community Access Centre Special Committee to this resolution.
4. The members of the Committee are:  
  
Iris Rapps  
  
Shirley Reeves  
  
Lois Wust  
  
Sandy Hoult  
  
Peter Hoult  
  
Charlie O'Rafferty.
5. It recognises that the Chief Executive Officer has the power, under delegation from Council, to appoint and remove members to Special Committees subject to appointments and removals being reported to Council.

- 6.** The Committee is required to report to Council at the intervals specified in the schedule to this resolution (Attachment 1).
- 7.** The members of the Committee are exempted from being required to submit a primary return or ordinary return.
- 8.** The Chairperson of the Committee is appointed by the Special Committee.
- 9.** A quorum for the Committee is a whole number that is an absolute majority of the number of members of the Committee.
- 10.** All members of the Committee have voting rights on the Committee.
- 11.** There be delegated to the Committee the powers, duties and functions set out in Attachment 1 Instrument of Delegation Korumburra Community Access Centre.
- 12.** The Instrument:
  - a.** Comes into force immediately the common seal of Council is affixed to the Instrument; and
  - b.** Remains in force until Council determines to vary or revoke it.
- 13.** The powers, duties and functions conferred on the Committee by the Instrument must be exercised in accordance with any guidelines or policies Council may from time to time adopt.
- 14.** The Instrument be sealed.



**MOVED: Cr Davies**

**SECONDED: Cr Kennedy**

**THAT COUNCIL, IN EXERCISE OF THE POWERS CONFERRED BY SECTIONS 86 AND 87 OF THE LOCAL GOVERNMENT ACT 1989 (THE ACT), COUNCIL RESOLVES THAT:**

- 1. THIS REPORT IS ENDORSED.**
- 2. FROM THE DATE OF THIS RESOLUTION, THERE IS ESTABLISHED AS A SPECIAL COMMITTEE THE KORUMBURRA COMMUNITY ACCESS CENTRE SPECIAL COMMITTEE.**
- 3. THE PURPOSES OF THE COMMITTEE ARE THOSE SET OUT IN ATTACHMENT 1 INSTRUMENT OF DELEGATION KORUMBURRA COMMUNITY ACCESS CENTRE SPECIAL COMMITTEE TO THIS RESOLUTION.**
- 4. THE MEMBERS OF THE COMMITTEE ARE:**  
  
**IRIS RAPPS**  
  
**SHIRLEY REEVES**  
  
**LOIS WUST**  
  
**SANDY HOULT**  
  
**PETER HOULT**  
  
**CHARLIE O'RAFFERTY.**
- 5. IT RECOGNISES THAT THE CHIEF EXECUTIVE OFFICER HAS THE POWER, UNDER DELEGATION FROM COUNCIL, TO APPOINT AND REMOVE MEMBERS TO SPECIAL COMMITTEES SUBJECT TO APPOINTMENTS AND REMOVALS BEING REPORTED TO COUNCIL.**
- 6. THE COMMITTEE IS REQUIRED TO REPORT TO COUNCIL AT THE INTERVALS SPECIFIED IN THE SCHEDULE TO THIS RESOLUTION (ATTACHMENT 1).**
- 7. THE MEMBERS OF THE COMMITTEE ARE EXEMPTED FROM BEING REQUIRED TO SUBMIT A PRIMARY RETURN OR ORDINARY RETURN.**
- 8. THE CHAIRPERSON OF THE COMMITTEE IS APPOINTED BY THE SPECIAL COMMITTEE.**
- 9. A QUORUM FOR THE COMMITTEE IS A WHOLE NUMBER THAT IS AN ABSOLUTE MAJORITY OF THE NUMBER OF MEMBERS OF THE COMMITTEE.**

- 10. ALL MEMBERS OF THE COMMITTEE HAVE VOTING RIGHTS ON THE COMMITTEE.**
  - 11. THERE BE DELEGATED TO THE COMMITTEE THE POWERS, DUTIES AND FUNCTIONS SET OUT IN ATTACHMENT 1 INSTRUMENT OF DELEGATION KORUMBURRA COMMUNITY ACCESS CENTRE.**
  - 12. THE INSTRUMENT:**
    - a. COMES INTO FORCE IMMEDIATELY THE COMMON SEAL OF COUNCIL IS AFFIXED TO THE INSTRUMENT; AND**
    - b. REMAINS IN FORCE UNTIL COUNCIL DETERMINES TO VARY OR REVOKE IT.**
  - 13. THE POWERS, DUTIES AND FUNCTIONS CONFERRED ON THE COMMITTEE BY THE INSTRUMENT MUST BE EXERCISED IN ACCORDANCE WITH ANY GUIDELINES OR POLICIES COUNCIL MAY FROM TIME TO TIME ADOPT.**
  - 14. THE INSTRUMENT BE SEALED.**
- CARRIED UNANIMOUSLY**

## **Attachment 1**

### **Instrument of Delegation**

#### **Korumburra Community Access Centre Special Committee**

#### **SCHEDULE**

#### **PURPOSE**

To exercise Council's functions and powers and to perform Council's duties in relation to the management of the Korumburra Community Access Centre.

#### **1. Reporting requirement**

The Committee must report to Council according to Clauses 3.2, 3.3, 5.5, 5.6, 6.1, 6.4 and 7.3 in the Schedule of the Instrument of Delegation of Korumburra Community Access Centre Special Committee.

#### **2. Powers and functions**

To exercise Council's functions and powers to perform Council's duties in relation to the management of the Korumburra Community Access Centre, and for those purposes.

#### **3. Administration**

- 3.1 To do all things necessary or convenient to be done for or in connection with the performance of those functions, duties and powers;
- 3.2 To provide Council with monthly financial reports and minutes of every meeting and a Treasurer's report;
- 3.3 To provide Council with an annual report, including a self-evaluation of the Committee's effectiveness, to be submitted in September including:
  - Patronage
  - User groups
  - Injuries and Accidents
  - Maintenance/Improvements undertaken and future requirements
  - Self-evaluation of operations and management
  - Other matters considered relevant by the Committee;

- 3.4 To be the point of contact for the public with respect to the operation of Korumburra Community Access Centre. All matters shall be referred to the Committee for resolution in the first instance. All requests shall be dealt with promptly and the Council shall be kept informed at all times;
- 3.5 To ensure that the decisions and policies of Council are implemented/adhered to without delay;

#### **4. Facility use**

- 4.1 The power to negotiate the use of facilities with user groups and the power to approve programs operating from the Korumburra Community Access Centre;
- 4.2 The power to set dates and opening/closing times;
- 4.3 To ensure that the Korumburra Community Access Centre is used only for purposes appropriate to the facility;
- 4.4 To ensure that the facility is operated in accordance with community hall type guidelines;

#### **5. Finance**

- 5.1 The power to set user fees;
- 5.2 To enter into contracts and to incur expenditure under \$2000, with approval being required from Council for contracts over \$2000;
- 5.3 The power to open and maintain a bank account at a bank and branch approved by Council, into which all monies received by the Committee shall be paid. All cheques and or transactions drawn on the account shall be signed and or authorised by any two of the following:
  - Chairperson
  - Vice Chairperson
  - Secretary
  - Treasurer;
- 5.4 To pay all utility, municipal and water charges incurred in occupying the premises;
- 5.5 To provide Council with adopted Financial Statements by 30 September each year, with support documentation being available upon request;
- 5.6 To provide Council with a proposed budget for the forthcoming year, within seven (7) days of the end of the financial year;

- 5.7 The power to apply income received from facility users to the ongoing operation and management of the Korumburra Community Access Centre;

## **6. Maintenance**

- 6.1 To provide an annual 'Facility Maintenance Report' detailing all anticipated maintenance for the following financial year that is submitted to Council by 31 January of the preceding year;
- 6.2 The authority to undertake minor repairs up to the value of \$500, however consent from Council's Property Co-ordinator must be gained for any maintenance item over \$500, that has not been anticipated in the 'Facility Maintenance Report'. Any works must be carried out by qualified personnel, relative to the task being performed, and all certificates of compliance must be forwarded to Council immediately, upon completion. All maintenance is to be in accord with Council's approved Maintenance Regime/Schedule;
- 6.3 To make no structural alterations or additions to the premises without the written consent of Council's Engineering and Assets department;
- 6.4 To maintain a register of keys issued by the committee and to include these details in the annual 'Facility Maintenance Report'. Council must be provided with a set of keys to all external and internal locks. Any change in locking system must be in accordance with Council's restricted lock system and should be paid for by the committee;

## **7. Risk Management / Insurance**

- 7.1 To ensure that the facility is maintained in a manner that meets all Workcover and Occupational Health and Safety Regulations. Council may provide an inspection on at least two occasions per annum;
- 7.2 To maintain a monthly checklist, provided by Council, relating to building safety, and make available to Council staff when requested;
- 7.3 To ensure that volunteers complete a registration form that is to be forwarded to Council's Insurance and Return to Work Advisor. Volunteer groups must be supervised by a member of the Committee at all times. Each Committee must maintain a volunteer register containing names, addresses, type of activity performed, times of work and volunteer signature;
- 7.4 To contact Council's Occupational Health and Safety Coordinator, before volunteers commence any work to determine whether training is required;
- 7.5 To adhere to all statutory and legislative requirements;

## **8. Exceptions, conditions and limitations**

The Committee is not authorised by this Instrument to:

- 8.1 Enter into contracts over \$2000, or incur expenditure, for an amount which exceeds the approved budget;
- 8.2 Employ people, engage contractors or enter into leases without the prior consent of Council;
- 8.3 Exercise the powers which, by force Section 86 of the Act, cannot be delegated;
- 8.4 Borrow funds.

## **GUIDELINES – COMMITTEE DELEGATIONS**

### **Name**

These guidelines may be referred to as the Korumburra Community Access Centre Committee Guidelines.

### **Application**

These guidelines have been adopted by the South Gippsland Shire Council ("Council") for the guidance of:

- Korumburra Community Access Centre
- any other special committee in respect of which Council resolves that these guidelines are to apply.

### **Exercise of Powers**

The powers, duties and functions set out in the Instrument are delegated to the Committee. This means that the Committee can only act under delegation when sitting in a formally constituted meeting.

This means that the meeting must be called and conducted in a manner that complies with the provisions of the Local Government Act 1989 ("the Act") and with the Council's meeting procedures local law.

The Committee cannot exercise its delegated powers when gathered outside the formal meeting structure as described above. For example, an informal coming together of members would not resolve to act under delegation.

Similarly, the delegations do not extend to individual members of the Committee.

The only opportunity for individual Committee members to be granted delegated powers exists where the Committee member is a member of Council staff and subject to a delegation under section 98 of the Act.

All delegations must be read in conjunction with this document and any other policies and guidelines that may be adopted by the Council from time to time.

### **Reporting Back**

These guidelines have been developed to support the concept of delegation as a means of ensuring that the functions of Council are conducted in an efficient and timely manner.

Reporting back of delegations exercised may be necessary to ensure that adequate information regarding those actions is available to other staff, management and the Council.

Such reporting back would be by presentation of reports to Council within the time specified in the Instrument of Delegation; and production of minutes of meetings that will be circulated or available for inspection at any time.

It is to be noted that the reporting back requirements on this policy are a minimum standard only and that nothing will preclude more detailed or extensive reporting back of delegated actions if individual circumstances warrant.

### **Insurance**

After receiving Special Committee Details Form, within 1 month of appointment, Council will, upon appointment of each committee, effect and pay for an annual public liability insurance policy to protect hirers. For events involving large numbers of people (more than 50), alcohol, some children's activities and some sporting events, Council will effect and pay for cover but may require the committee to ensure that hirers complete an insurance form which is to be directed to the insurance company by the committee. Council must be contacted before events such as carnivals, large sporting events and 'pop/rock' concerts are booked or organised, as cover may not be available for some events.

All of the above insurance arrangements are subject to Council approval based on reasonable use of facilities and frequency. If a committee is unsure about any aspect of insurance cover, they must contact Council's Risk Management Coordinator.

The actions of committee members, in the proper execution of the committee power and responsibilities, are covered by Council's existing public liability policy.



## **E.15 SPECIAL (SECTION 86) COMMITTEES REVIEW – DUMBALK HALL & LADIES AUXILIARY SPECIAL COMMITTEE**

Corporate Services Directorate

### **EXECUTIVE SUMMARY**

This report provides the opportunity for the Council to review the current Instrument of Delegation (Instrument) for the Dumbalk Hall & Ladies Auxiliary Special Committee (Committee) and approve a new Instrument (**Attachment 1**) as part of Council's adopted Special (Section 86) Committee Instrument of Delegation Review schedule.

#### **Document/s pertaining to this Council Report**

- **Attachment 1** - Dumbalk Hall & Ladies Auxiliary Special Committee Instrument of Delegation

### **LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES**

Local Government Act 1989 - sections 81 and 86

### **INTERNAL POLICIES / STRATEGIES / DOCUMENTS**

Section 86 Committee Kit 2009

### **COUNCIL PLAN**

Strategic Goal:	4.0	A Leading Organisation
Outcome:	4.2	Pursue best practice in organisational development and operations of the organisation
Strategy No:	4.2.2	We will monitor corporate governance processes, including risk management and skills development with the aim of ongoing development

### **CONSULTATION**

The review of the Dumbalk Hall & Ladies Auxiliary Special Committee has been conducted in collaboration with Council's Community Strengthening, Property, Risk, Occupational Health & Safety (OHS), Parks & Gardens, People & Culture and Governance Departments.

Councillors were provided with a briefing about this matter in Council's internal newsletter InfoSum and the review has been considered by the Executive Leadership Team. The Committee have also been provided with a copy of the InfoSum article outlining the proposed changes to the Instrument of Delegation.

## REPORT

### Background

Council commenced a review of the operation of all its Special (Section 86) Committees (Committees) in 2010.

On 26 June 2013 Council adopted a Special (Section 86) Committee Instrument of Delegation Review schedule. This schedule requires that the Dumbalk Hall & Ladies Auxiliary Special Committee was to be reviewed by September 2014.

The purpose of the Committee is to exercise Council's functions and powers and to perform Council's duties in relation to the management of a hall.

The Dumbalk Hall is a large and extremely well maintained hall where the Committee have raised significant funds to improve the facility. The hall is hired out for functions and events.

It is important to acknowledge that decisions of Special Committees are deemed to be decisions of Council. Further, Special Committees play an integral part in managing Council owned or controlled properties and facilities that are essential for community activities and engagement. The process of review provides for the continuation of community engagement in a way that minimises risk to both community members who make up the Special Committees, without over burdening these members.

During the review the compliance with the Instrument was considered good and the current Instrument is considered generally adequate.

A clause has been added to provide for management of maintenance of the facility to be in accordance with Council's approved Maintenance Regime/Schedule for the facility.

As with other Special Committees a clause will be included for the Committee to carry out an annual evaluation of Committee effectiveness.

These changes have been incorporated into the new Instrument (**Attachment 1**).

At an operational level the following action is proposed:

- Remind the Committee of the need to comply with the Instrument particularly in respect of contracts and employment of staff, follow current Council and volunteer recruitment processes for all volunteers and advise Council of any injuries and concerns relevant to insurance and injury matters as soon as they are aware of any issues;
- OH&S Coordinator to visit the hall to review and provide recommendations in respect of any significant OHS risks; and

- Staff to confirm the area of the hall and prepare a map of the area for inclusion in the Instrument.

This report facilitates the confirmation of the current Committee membership. It should be noted that the Chief Executive Officer has the power under delegation from Council to appoint and remove external members to Special Committees subject to appointments and removals being reported to Council.

### **Options**

Council has the options of:

- Making a new Instrument with the changes outlined in **Attachment 1**; or
- Revoking the current Instrument and returning direct management to Council.

### **Proposal**

Council make a new Instrument of Delegation with schedule and guidelines, with minor changes outlined in this report and set out in **Attachment 1**.

### **FINANCIAL CONSIDERATIONS**

Ongoing support, reviews, monitoring and development of Section 86 Committees is included in Council's budget. Assistance is provided by the Community Strengthening, Governance and Property Departments.

### **RISKS**

By conducting this review of delegations Council will be provided with a level of assurance that the Committee and the Council will act within the limits of their respective powers and in conformance with the Local Government Act 1989.

### **CONCLUSION**

Special Committees are integral to the proper management of Council owned or controlled properties and facilities that are essential for community activities and engagement. The process of review as proposed in this report provides for the continuation of community engagement in a way that minimises risk to both Council and community members who make up the Special Committee, without over burdening these members.

## **RECOMMENDATION**

That Council, in exercise of the powers conferred by sections 86 and 87 of the Local Government Act 1989 (the Act), Council resolves that:

1. This report is endorsed.
  2. From the date of this resolution, there is established as a special committee the Dumbalk Hall & Ladies Auxiliary Special Committee.
  3. The purposes of the Committee are those set out in Attachment 1 Instrument of Delegation Dumbalk Hall & Ladies Auxiliary to this resolution.
  4. The members of the Committee are:
    - Terry Murphy
    - Robin Bland
    - Sue Horvath
    - John Heppell
    - Ian Inglis
    - Kay Cook
    - Bev Hanley
    - Karen Smith
    - Steven Riley
    - Marg Cantwell
    - Elaine Snell
    - Faye Bland
    - Agnes Van Tiggelen
    - Sue Wilkins
    - Marie Murphy
    - Adrienne Houehton
    - Gloria Simpson
    - Elisabeth Holdsworth
    - Joy Dyson
  5. It recognises that the Chief Executive Officer has the power, under delegation from Council, to appoint and remove members to Special Committees subject to appointments and removals being reported to Council.
  6. The Committee is required to report to Council at the intervals specified in the schedule to this resolution (Attachment 1).
  7. The members of the Committee are exempted from being required to submit a primary return or ordinary return.
-

- 8.** The Chairperson of the Committee is appointed by the Special Committee.
- 9.** A quorum for the Committee is a whole number that is an absolute majority of the number of members of the Committee.
- 10.** All members of the Committee have voting rights on the Committee.
- 11.** There be delegated to the Committee the powers, duties and functions set out in the Attachment 1 Instrument of Delegation Dumbalk Hall & Ladies Auxiliary Special Committee.
- 12.** The Instrument:
  - a.** Comes into force immediately the common seal of Council is affixed to the Instrument; and
  - b.** Remains in force until Council determines to vary or revoke it.
- 13.** The powers, duties and functions conferred on the Committee by the Instrument must be exercised in accordance with any guidelines or policies Council may from time to time adopt.
- 14.** The Instrument be sealed.

**MOVED: Cr Davies**

**SECONDED: Cr Brunt**

**THAT COUNCIL, IN EXERCISE OF THE POWERS CONFERRED BY SECTIONS 86 AND 87 OF THE LOCAL GOVERNMENT ACT 1989 (THE ACT), COUNCIL RESOLVES THAT:**

- 1. THIS REPORT IS ENDORSED.**
- 2. FROM THE DATE OF THIS RESOLUTION, THERE IS ESTABLISHED AS A SPECIAL COMMITTEE THE DUMBALK HALL & LADIES AUXILIARY SPECIAL COMMITTEE.**
- 3. THE PURPOSES OF THE COMMITTEE ARE THOSE SET OUT IN ATTACHMENT 1 INSTRUMENT OF DELEGATION DUMBALK HALL & LADIES AUXILIARY TO THIS RESOLUTION.**
- 4. THE MEMBERS OF THE COMMITTEE ARE:**

**TERRY MURPHY**

**ROBIN BLAND**

**SUE HORVATH**

**JOHN HEPPELL**

**IAN INGLIS**

**KAY COOK**

**BEV HANLEY**

**KAREN SMITH**

**STEVEN RILEY**

**MARG CANTWELL**

**ELAINE SNELL**

**FAYE BLAND**

**AGNES VAN TIGGELEN**

**SUE WILKINS**

**MARIE MURPHY**

**ADRIENNE HOUHEHTON**

**GLORIA SIMPSON**

**ELISABETH HOLDSWORTH**

**JOY DYSON**

- 5. IT RECOGNISES THAT THE CHIEF EXECUTIVE OFFICER HAS THE POWER, UNDER DELEGATION FROM COUNCIL, TO APPOINT AND REMOVE MEMBERS TO SPECIAL COMMITTEES SUBJECT TO APPOINTMENTS AND REMOVALS BEING REPORTED TO COUNCIL.**
- 6. THE COMMITTEE IS REQUIRED TO REPORT TO COUNCIL AT THE INTERVALS SPECIFIED IN THE SCHEDULE TO THIS RESOLUTION (ATTACHMENT 1).**
- 7. THE MEMBERS OF THE COMMITTEE ARE EXEMPTED FROM BEING REQUIRED TO SUBMIT A PRIMARY RETURN OR ORDINARY RETURN.**
- 8. THE CHAIRPERSON OF THE COMMITTEE IS APPOINTED BY THE SPECIAL COMMITTEE.**
- 9. A QUORUM FOR THE COMMITTEE IS A WHOLE NUMBER THAT IS AN ABSOLUTE MAJORITY OF THE NUMBER OF MEMBERS OF THE COMMITTEE.**
- 10. ALL MEMBERS OF THE COMMITTEE HAVE VOTING RIGHTS ON THE COMMITTEE.**
- 11. THERE BE DELEGATED TO THE COMMITTEE THE POWERS, DUTIES AND FUNCTIONS SET OUT IN THE ATTACHMENT 1 INSTRUMENT OF DELEGATION DUMBALK HALL & LADIES AUXILIARY SPECIAL COMMITTEE.**
- 12. THE INSTRUMENT:**
  - a. COMES INTO FORCE IMMEDIATELY THE COMMON SEAL OF COUNCIL IS AFFIXED TO THE INSTRUMENT; AND**
  - b. REMAINS IN FORCE UNTIL COUNCIL DETERMINES TO VARY OR REVOKE IT.**
- 13. THE POWERS, DUTIES AND FUNCTIONS CONFERRED ON THE COMMITTEE BY THE INSTRUMENT MUST BE EXERCISED IN ACCORDANCE WITH ANY GUIDELINES OR POLICIES COUNCIL MAY FROM TIME TO TIME ADOPT.**
- 14. THE INSTRUMENT BE SEALED.**

**CARRIED UNANIMOUSLY**

## **Attachment 1**

### **Instrument of Delegation**

#### **Dumbalk Hall & Ladies Auxiliary Special Committee**

#### **SCHEDULE**

#### **PURPOSE**

To exercise Council's functions and powers and to perform Council's duties in relation to the management of a hall.

#### **1. Reporting requirement**

The Committee must report to Council according to Clauses 3.2, 3.3, 5.5, 5.6, 6.1, 6.4 and 7.3 in the Schedule of the Instrument of Delegation of Dumbalk Hall & Ladies Auxiliary Special Committee.

#### **2. Powers and functions**

To exercise Council's functions and powers and to perform Council's duties in relation to the management of a hall and for these purposes;

#### **3. Administration**

3.1 To do all things necessary or convenient to be done for or in connection with the performance of those functions, duties and powers;

3.2 To provide Council with monthly financial reports and minutes of every meeting and a Treasurer's report;

3.3 To provide Council with an annual report, including a self-evaluation of the Committee's effectiveness, to be submitted in September including:

- Patronage
- User groups
- Injuries and Accidents
- Maintenance/Improvements undertaken and future requirements
- Self-evaluation of operations and management
- Other matters considered relevant by the Committee;

3.4 To be the point of contact for the public with respect to the operation of Dumbalk Hall. All matters shall be referred to the Committee for



resolution in the first instance. All requests shall be dealt with promptly and the Council shall be kept informed at all times;

- 3.5 To ensure that the decisions and policies of Council are implemented/adhered to without delay;

#### **4. Facility use**

- 4.1 The power to negotiate the use of facilities with user groups and the power to approve programs operating from the Dumbalk Hall;
- 4.2 The power to set dates and opening/closing times;
- 4.3 To ensure that the Dumbalk Hall is used only for purposes appropriate to the facility;
- 4.4 To ensure that the facility is operated in accordance with hall type guidelines;

#### **5. Finance**

- 5.1 The power to set user fees;
- 5.2 To enter into contracts and to incur expenditure under \$2000, with approval being required from Council for contracts over \$2000;
- 5.3 The power to open and maintain a bank account at a bank and branch approved by Council, into which all monies received by the Committee shall be paid. All cheques and or transactions drawn on the account shall be signed and or authorised by any two of the following:
- Chairperson
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- 5.5 To provide Council with adopted Financial Statements by 30 September each year, with support documentation being available upon request;
- 5.6 To provide Council with a proposed budget for the forthcoming year, within seven (7) days of the end of the financial year;
- 5.7 The power to apply income received from facility users to the ongoing operation and management of the Dumbalk Hall.

## **6. Maintenance**

- 6.1 To provide an annual 'Facility Maintenance Report' detailing all anticipated maintenance for the following financial year that is submitted to Council by 31 January of the preceding year;
- 6.2 The authority to undertake minor repairs up to the value of \$500, however consent from Council's Property Co-ordinator must be gained for any maintenance item over \$500, that has not been anticipated in the 'Facility Maintenance Report'. Any works must be carried out by qualified personnel, relative to the task being performed, and all certificates of compliance must be forwarded to Council immediately, upon completion. All maintenance must be in accord with Council's adopted Maintenance Regime/Schedule;
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## **7. Risk Management / Insurance**

- 7.1 To ensure that the facility is maintained in a manner that meets all Workcover and Occupational Health and Safety Regulations. Council may provide an inspection on at least two occasions per annum;
- 7.2 To maintain a monthly checklist, provided by Council, relating to building safety, and make available to Council staff when requested;
- 7.3 To ensure that volunteers complete a registration form that is to be forwarded to Council's Insurance and Return to Work Advisor. Volunteer groups must be supervised by a member of the Committee at all times. Each Committee must maintain a volunteer register containing names, addresses, type of activity performed, times of work and volunteer signature;
- 7.4 To contact Council's Occupational Health and Safety Coordinator, before volunteers commence any work to determine whether training is required;
- 7.5 To adhere to all statutory and legislative requirements;

## **8. Exceptions, conditions and limitations**

The Committee is not authorised by this Instrument to:

- 8.1 Enter into contracts over \$2000, or incur expenditure, for an amount which exceeds the approved budget;
- 8.2 Employ people, engage contractors or enter into leases without the prior consent of Council;
- 8.3 Exercise the powers which, by force Section 86 of the Act, cannot be delegated;
- 8.4 Borrow funds.

## **GUIDELINES – COMMITTEE DELEGATIONS**

### **Name**

These guidelines may be referred to as the Dumbalk Hall & Ladies Auxiliary Special Committee Guidelines.

### **Application**

These guidelines have been adopted by the South Gippsland Shire Council ("Council") for the guidance of:

- Dumbalk Hall & Ladies Auxiliary Special Committee
- any other special committee in respect of which Council resolves that these guidelines are to apply.

### **Exercise of Powers**

The powers, duties and functions set out in the Instrument are delegated to the Committee. This means that the Committee can only act under delegation when sitting in a formally constituted meeting.

This means that the meeting must be called and conducted in a manner that complies with the provisions of the Local Government Act 1989 ("the Act") and with the Council's meeting procedures local law.

The Committee cannot exercise its delegated powers when gathered outside the formal meeting structure as described above. For example, an informal coming together of members would not resolve to act under delegation.

Similarly, the delegations do not extend to individual members of the Committee.

The only opportunity for individual Committee members to be granted delegated powers exists where the Committee member is a member of Council staff and subject to a delegation under section 98 of the Act.

All delegations must be read in conjunction with this document and any other policies and guidelines that may be adopted by the Council from time to time.

### **Reporting Back**

These guidelines have been developed to support the concept of delegation as a means of ensuring that the functions of Council are conducted in an efficient and timely manner.

Reporting back of delegations exercised may be necessary to ensure that adequate information regarding those actions is available to other staff, management and the Council.

Such reporting back would be by presentation of reports to Council within the time specified in the Instrument of Delegation; and production of minutes of meetings that will be circulated or available for inspection at any time.

It is to be noted that the reporting back requirements on this policy are a minimum standard only and that nothing will preclude more detailed or extensive reporting back of delegated actions if individual circumstances warrant.

### **Insurance**

After receiving Special Committee Details Form, within 1 month of appointment, Council will, upon appointment of each committee, effect and pay for an annual public liability insurance policy to protect hirers. For events involving large numbers of people (more than 50), alcohol, some children's activities and some sporting events, Council will effect and pay for cover but may require the committee to ensure that hirers complete an insurance form which is to be directed to the insurance company by the committee. Council must be contacted before events such as carnivals, large sporting events and 'pop/rock' concerts are booked or organised, as cover may not be available for some events.

All of the above insurance arrangements are subject to Council approval based on reasonable use of facilities and frequency. If a committee is unsure about any aspect of insurance cover, they must contact Council's Risk Management Department.

The actions of committee members, in the proper execution of the committee power and responsibilities, are covered by Council's existing public liability policy.

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## SECTION F - 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.

The Meeting Procedure Local Law No.3 (Clause 46) allows for where a situation has not been provided for under the Local law, 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 ordinary meeting of Council 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 Local Law 3 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 coming event or the outcomes of a recent meeting with a Minister etc.

**Nil**

## **SECTION G – GENERAL QUESTION TIME**

### **G.1 QUESTION TIME**

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**Mr Paul Norton addressed Council by submitting written questions.**

*The questions were taken on notice and will be answered at the next appropriate Council Meeting.*

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**Cr Hill addressed Council by asking two questions:**

**Confirmation that Cr Hill's Notice of Motion lodged on 6 August will be included in the October Council Meeting Agenda?**

*The Mayor responded that yes it would be.*

**Can Council confirm that the forward budget discussions have disclosed \$12 million adjustments through CPI adjustments and how does this sit against the \$34 million.**

*This question was taken on notice and will be addressed at the next appropriate Council Meeting.*

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## **G.2 ANSWERS TO PREVIOUS QUESTIONS ON NOTICE**

**Noted.**

**At the Ordinary Council Meeting 27 August 2014 questions were taken on notice and responses are now provided.**

**Question 1:**

**Mr Rob Waycott representing the Mirboo North Times addressed Council by asking a question regarding the Federal Assistance Grants and the CPI increase that was not included and asked what the shortfall of funds would have been otherwise provided.**

**Response**

*Council received advice on 26 May 2014 that Council's 'indicative grant' was \$8.5m, this means that the net loss of income over 15 years is now \$6.5m.*

**Question 2:**

**Cr Hill asked a question regarding \$34 million in the 15 Year Works Unallocated Roads and the movement of these funds in April to Future Major Works and then passed in June into Unallocated Buildings Capital. Was this change notified through the Section 223 Statutory Process and is this a significant change to warrant a further Section 223 Statutory Process?**

**Response**

*Council's intention and decision has been to have funding capacity in the later years of the 15 year Long term Financial Plan for strategic opportunities that are likely to arise in the next 15 years. To this end \$34M was allocated in the later years of the Long Term Financial Plan to the class of assets called 'Other Structures'.*

*In finalising the Council Budget and Long term Financial Plan the \$34M was moved and adopted by Council to the 'Unallocated Building' class in June 2014. This reclassification was undertaken to better reflect the expected nature of the expenditure likely to be incurred and this was capitalised into the Balance sheet. The reclassification does not impact the financial position of Council.*

*Council is only required to prepare a revised budget, give public notice and provide opportunity for persons to make submissions pursuant to Section 223, if circumstances arise which cause material changes in the budget and which effects the financial operations and position of the Council.*



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## **CLOSED SESSION**

### **Consideration of confidential matters under the Local Government Act 1989, Section 89(2).**

According to Section 89 of the Local Government Act 1989 (the Act), Council may consider items in closed session. There must be a resolution to move 'In Committee' stating the reasons why the matter(s) need to be considered in this way. The reasons provided for within the Act are matters concerning personnel, personal hardship, industrial issues, contracts, proposed developments, legal advice or any other matter that Council considers would be prejudicial, to it or any other person.

Once 'In Committee' discussions and debate have concluded, a further resolution to resume open Council is required.

**ITEM 1     2014/2015 COMMUNITY GRANTS PROGRAM - EARLY ASSESSMENT OF AN APPLICATION TO FESTIVAL, CELEBRATION AND EVENTS CATEGORY**

**ITEM 2     JIM HARVEY NATURE RESERVE**

### **RECOMMENDATION**

That Council close the meeting to the public to allow for consideration of:

1. 2014/2015 COMMUNITY GRANTS PROGRAM - EARLY ASSESSMENT OF AN APPLICATION TO FESTIVAL, CELEBRATION AND EVENTS CATEGORY pursuant to section 89 (2)(h); and
2. JIM HARVEY NATURE RESERVE pursuant to section 89(2)(d) as provided for by the Local Government Act 1989.

**MOVED: Cr Newton**

**SECONDED: Cr Hutchinson-Brooks**

**THAT COUNCIL CLOSE THE MEETING TO THE PUBLIC TO ALLOW FOR CONSIDERATION OF:**

1. **2014/2015 COMMUNITY GRANTS PROGRAM - EARLY ASSESSMENT OF AN APPLICATION TO FESTIVAL, CELEBRATION AND EVENTS CATEGORY PURSUANT TO SECTION 89 (2)(H); AND**
2. **JIM HARVEY NATURE RESERVE PURSUANT TO SECTION 89(2)(D) AS PROVIDED FOR BY THE LOCAL GOVERNMENT ACT 1989.**

**CARRIED UNANIMOUSLY**

## **SECTION H - MEETING CLOSED**

### **NEXT MEETING**

The next Ordinary Council Meeting open to the public will be held on Wednesday, 22 October 2014 commencing at 2pm in the Council Chamber, Leongatha.

**The Meeting closed at 4.05pm.**

**CONFIRMED:.....**

**CR JAMES FAWCETT – MAYOR**

**Date:.....**