

SOUTH GIPPSLAND SHIRE COUNCIL

# Council Agenda

Ordinary Meeting of Council  
20 December 2017

**Ordinary Meeting No. 419**  
**Council Chambers, Leongatha**  
**Commencing at 2pm**



# agenda



*South Gippsland  
Shire Council*

*Come for the beauty, Stay for the lifestyle*



## MISSION

***South Gippsland Shire will be a place where our quality of life and sense of community are balanced by sustainable and sensitive development, population and economic growth.***

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## SOUTH GIPPSLAND SHIRE COUNCIL

Notice is hereby given that Ordinary Meeting No. 419 of the  
South Gippsland Shire Council will be held on 20 December 2017  
in the Council Chambers, Leongatha commencing at 2pm

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**Tim Tamlin**  
**Chief Executive Officer**

## **1. PRELIMINARY MATTERS**

### **1.1. LIVE-STREAMING COUNCIL MEETING DISCLAIMER**

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

To those present in the gallery today, by attending a public meeting of the Council you are consenting to your image, voice and comments being recorded and published.

Anyone who is invited to read out a question or a presentation will be recorded and their voice, image and comments will form part of the live stream and recording.

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

Attendees are advised that they may be subject to legal action if their actions results in inappropriate and/or unacceptable behaviour and/or comments.

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

Thank you

### **1.2. WELCOME**

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

### **1.3. OPENING PRAYER**

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

Amen

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

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

## **1.5. APOLOGIES**

## **1.6. CONFIRMATION OF MINUTES**

### **RECOMMENDATION**

That the Minutes of the South Gippsland Shire Council:

1. Special (Statutory) Meeting, held on 15 November 2017 in the Council Chambers, Leongatha and;
2. Ordinary Meeting No. No. 418, held on 22 November 2017 in the Council Chambers, Leongatha be confirmed and;
3. Special Meeting of Council, held on 6 December 2017 in the Council Chambers, Leongatha.

## 1.7. DECLARATION OF CONFLICTS 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 (the Act). This legislation can be obtained by contacting the Council's Corporate & Community Services Directorate (Council Business) 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 Council Business Department at South Gippsland Shire Council).
- 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 – October 2012*.

### **1.8. DECLARATION OF CONFLICTS 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 the Victorian State Government, Department of Transport, Planning and Local Infrastructure – *Conflict of Interest – A Guide for Council Staff – October 2011*.

**Nil**



## **2. OBJECTIVE 1 - STRENGTHEN ECONOMIC GROWTH AND PROSPERITY**

### **2.1. KORUMBURRA COMMUNITY HUB - LOCATION RECOMMENDATION**

Development Services Directorate

#### **EXECUTIVE SUMMARY**

This Council Report identifies the preferred location for the development of the Korumburra Community Hub. The need for a Hub is articulated in the Council Plan 2017-2021.

The Hub requires a significant capital investment and its location will affect the operation and revitalisation of the Korumburra Town Centre. With an expected asset life of 30 years or more, it is important that it be located to maximise its benefits for the overall operation of the town centre as well as optimising the effectiveness of the user groups located in the Hub.

Three potential sites for the Hub were identified. A Discussion Paper (refer **Attachment [2.1.1]** – Korumburra Community Hub – Discussion Paper) setting out the advantages and disadvantages of each location was exhibited and a total of 36 submissions were received (refer **Confidential Attachment [15.1.1]** – Korumburra Community Hub – Location Recommendation – Copy of Submissions). Councillors have been provided with a copy of all submissions.

Of the submissions expressing a clear preference for a particular location for the Hub, 26 support Option 3 (Railway Yards), four support Option 2 (22-28 Victoria Street) and two support Option 1 (2 & 4 Victoria Street). An additional three submissions support alternative locations and one submission provided a neutral view.

It is recommended that the Korumburra Community Hub be located at the Railway Yards.

#### **RECOMMENDATION**

**That Council:**

- 1. Endorse the Korumburra Railway Yards (Option 3) (Attachment [2.1.1]) as the preferred location for the Korumburra Community Hub.**
- 2. Prepare site massing and preliminary building design work to identify the precise area and configuration of land required to facilitate development of the Korumburra Community Hub at the Railway Yards.**

- 3. Undertake further investigation of key matters likely to impact development of the Korumburra Community Hub at the Railway Yards including a traffic management study, land contamination investigation and the cost of physical infrastructure necessary to facilitate development at this location.**
- 4. To have a full understanding of the requirements and potential costs involved in development at this location, consult with community users, relevant agencies and authorities with an interest / involvement in development of the Korumburra Community Hub at the Railway Yards including:**
  - a. VicTrack**
  - b. VicRoads**
  - c. Environment Protection Authority (EPA)**
  - d. Department of Environment, Land, Water and Planning (DELWP)**
  - e. Transport for Victoria**
  - f. West Gippsland Regional Library Corporation**
  - g. Utility service providers.**
- 5. Consult with the community at key stages in the development of the above mentioned processes.**
- 6. Seek Authorisation from the Minister for Planning to amend the South Gippsland Planning Scheme to remove the current references to a Community Hub on the former kindergarten site and to refer any resulting submissions to a Planning Panel assessing the amendment.**

### **Background**

Community hubs are multi-use facilities that combine a range of community services and functions in the one building. Hubs are being used by councils as an alternative to the traditional model of housing each service in its own building and on its own land. Significant cost savings can be gained by constructing hubs as flexible spaces that can be reconfigured as uses change over the lifetime of the building.

### **Korumburra Community Hub**

Uses currently planned to be included in the Korumburra Community Hub are:

- Library services currently provided in the existing library (site of the proposed supermarket).
- Milpara Community House services, currently provided at its Shellcot Road facility.
- Senior Citizens uses currently occurring in the Radovick Street Senior Citizens building.
- Multi-purpose meeting spaces / rooms and storage areas including for the Korumburra and District Historical Society and the Rotary Art display and collection.
- Commercial kitchen for catering purposes.

### **Size of the Hub**

Preliminary investigations undertaken by the Community Strengthening Team indicate that the Hub will require an approximate internal floor space of 1,500m<sup>2</sup>. The next step in the project will be to undertake a detailed site massing and preliminary building design exercise that will refine the floor area requirements of the building and how much each use within the building will be allocated.

### **Cost of the Hub**

Council has allocated \$5M in the long term financial plan to complete the Hub development. It is anticipated that this funding will be a mix of Council and State / Federal grant funding. A similar model of mixed funding sources was recently used to develop the Karmai Community Children's Centre.

### **Siting Options**

In selecting a preferred site it is necessary to balance many factors, some of which will present uncertainties for the project. Considerations include:

- Will the supermarket at King Street be developed and when?
- Will VicTrack sell enough land to Council to build the Hub and at a price agreeable to Council?
- Might VicRoads require intersection improvements on Commercial Street to facilitate development at any of the potential locations?
- What might be the views of the various external agencies and authorities (including DELWP and Planning Panels Victoria regarding land acquisition and rezoning; EPA regarding potential land contamination at the railway

yards) that will play a role in the various processes to occur before land can be developed?

This list is not exhaustive but serves to demonstrate that in choosing a site many factors may influence the success of the development and its eventual cost. Recommending Option 3 does not mean that Options 1 and 2 could not be made work, but simply that on balance Option 3 presents more advantages to the township over time than other possible sites.

***Option 1 – Former Kindergarten Site 4 Victoria Street and adjoining land: Not Recommended***

The former kindergarten site is Crown Land (3,400m<sup>2</sup>), reserved for education and is notable for its steep slope and currently being identified in the Planning Scheme as the preferred site for the Korumburra Community Hub. This Option includes the two adjoining privately owned lots that were included in the site to improve car parking and pedestrian access to and around the site.

Two submissions support the use of this site for the Hub, however neither submission articulated the reasons why this site was preferred. The key concerns against this site were that the site is too steep, difficult to access and the site lacks sufficient room to allow for future expansion. Submissions expressed concerns about the need to acquire private land to make development of the site work effectively. Some submissions noted that this site should become a community park with the native and exotic trees being retained. These matters will be considered in the next stages of the Korumburra Revitalisation Project.

Council previously identified the former kindergarten site for the Hub's development primarily on the basis that the building could be constructed solely on the Crown Land lot and that no additional land would be required. Subsequent detailed site massing and design work undertaken by Council found that, due to the slope of the land, two storey Hub construction would be required as well as additional land required to improve car parking and pedestrian access. The additional costs associated with facilitating these outcomes, combined with the slope of the surrounding area mean that Option 1 compares poorly to the other two options. This view has been clearly expressed in the submissions and community feedback received.

It is recommended that Option 1 not be pursued and that the Planning Scheme be amended to remove from the Korumburra Framework Plan (clause 21.15-2) the provisions referring to this site as the preferred Hub location. A remnant section of Public Acquisition Overlay (mapping anomaly) affecting the land should be removed at the same time.

***Option 2 – 22 to 28 Victoria Street (including Birralee land): Not Recommended***

Four submissions were received in support of Option 2, including a submission from the West Gippsland Regional Library Corporation that, while expressing concerns about the acquisition of private land, noted the comparative advantages of this site. The supporting submissions note that the land is flatter than Option 1 and the Hub would benefit from its location next to the proposed supermarket.

The submissions in support of Option 3 were clear in their comments that the Hub should not be developed at the Option 2 site. The most common reasons stated are:

- Private dwellings are required for site assembly and it is not fair to take private land for community development, especially where another site does not require the use of private land.
- The dwellings are attractive older dwellings and contribute to the streetscape and character of the area. The dwellings are not in the Heritage Overlay.
- Locating the Hub next to the supermarket provides little or no benefits for activation of the town centre and that this land should be kept in reserve for future commercial expansion of the town centre. The land is zoned Commercial 1 and relatively flat and could be used for future retail development.
- Additional traffic and parking demand would be created in Victoria Street, affecting the urban amenity of the area.

Some of the stated reasons against choosing Option 2 could be managed, and some issues such as how best to activate the town centre might be considered subjective until such time as the Hub and supermarket are developed, however the submissions are clear that the community see more benefit gained from locating the Hub at Option 3.

In terms of ease of facilitating development at Option 2 it is noted that the traditional rectangular lot configuration, access to existing road network and parking, access to development infrastructure (sewer, water, electricity, gas) and the greater clarity around the processes involved in acquiring the land (no government land agencies involved) are advantages that Option 2 has in comparison to Option 3. The Library Corporation supports Option 2 because the land is relatively flat and adjoins the proposed supermarket, which will provide benefits in terms of visual exposure and visitation.

### ***Option 3 – Railway Yards land: Recommended***

The submissions overwhelmingly support development of the Hub at the Railway Yards.

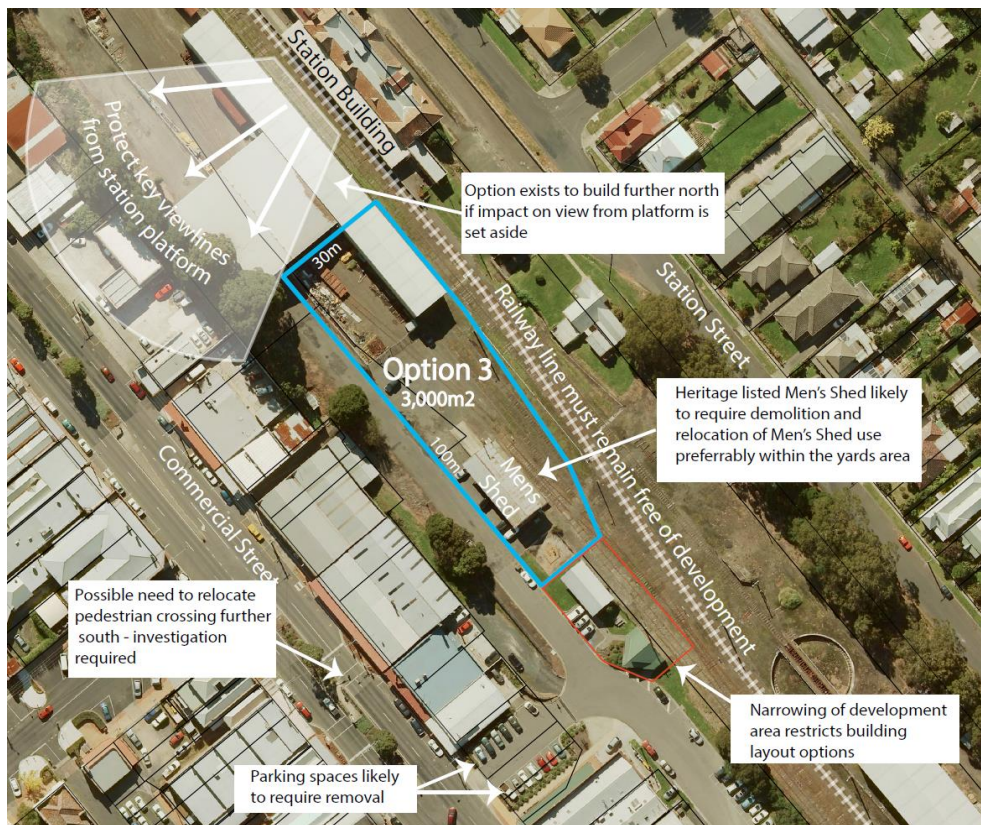
The main reasons stated in support of this location are:

- The Hub will benefit from co-location with the uses proposed to occur in the railway station building now known as the 'Station at Korumburra'.
- The location will activate a new area for township development and assist in reviving the northern side of Commercial Street.
- The land is flat, can provide plenty of car parking, and the building can gain views of the surrounding rural landscape.
- The Hub will be situated next to a future rail trail and be the first critical step in re-purposing the railway yards as a usable public space.
- The railway yards are large and can provide opportunity for future expansion of the Hub or the development of new uses that would benefit from co-location with the Hub.
- The land is in public ownership (VicTrack) and private land is not required for the development.

Development of the Hub at the Railway Yards has many potential advantages and should be explored further as Council's preferred option for the development of the Hub.

The advantages offered by Option 3 must be balanced against the challenges involved in developing this site. Compared to Option 2, which is a more traditional development site in terms of its configuration and predictable constraints, Option 3 has more unknowns that could have cost implications for the project. Some of the development constraints are detailed in **Figure 2** below.

**Figure 2 – Option 3 Constraints identification**



## Next Steps

While recommending Council proceed with Option 3, this should occur subject to further consideration of the following matters.

- Prepare a site massing investigation, including building design work to demonstrate how the building will look and function internally.
- Based on the massing investigation, refine precisely the land configuration (shape / area) required for Hub development and ancillary uses (parking / access / infrastructure). When this is determined other matters may require consideration including the need to demolish the heritage-protected goods shed, or the need to build in front of the station platform where views may be blocked. At this point in the project, certainty can be provided in Council's discussions with VicTrack regarding the land required for Hub development.
- Undertake a traffic management study to identify what works may be required to facilitate safe vehicle and pedestrian access to and around the site. Intersection works, road improvements and pedestrian crossings can be expensive and have the potential to significantly impact the overall cost of the development.

- Consider the recommendations of the land contamination investigation currently being undertaken and the implications these findings may have on the future use of the land.
- Consider how the Hub will fit within the broader context of the railway yards in terms of the repurposing of the precinct. How will the building visually and practically (operationally) relate to the station building and its uses? This should occur as part of the next stage of the Korumburra Revitalisation Project.
- Consider how to address the visual isolation of the site and its poor passive surveillance and what options exist to improve the visual integration of the Hub building to Commercial Street. These issues were discussed in the Library Corporation submission and require close consideration. Options that might be explored include how the pedestrian subway may be used to provide access to the Hub and what improvements around this area may be required. The Hub should be clearly seen and directly and safely accessed from Commercial Street.

All of the above issues require detailed consideration at some stage before development of the Hub can occur. So that Council is fully informed of the requirements involved in developing this site it is recommended that a detailed due diligence occur addressing (at a minimum) the above matters so that Council and the community are fully informed of the development constraints and opportunities of this site.

### **Other Hub Locations**

The Discussion Paper comments on other possible Hub location options and why they are not considered appropriate. Some of these sites have been raised by the community during the consultation process, most notably the current IGA supermarket site, which is considered to have poor town centre and pedestrian connectivity and is visually isolated from the town centre.

An additional site recommended to Council in submissions is the Radovick Street Senior Citizens site extended to include the adjoining land to the north (medical facility / newspaper office and car yard) – see **Figure 3** below.



**Figure 3 Recommended Alternative Hub Location**

The Discussion Paper noted that the Senior Citizens site alone is too small to site the Hub however the inclusion of the surrounding privately owned land would provide sufficient land. While Council owns the Senior Citizens site, the cost of acquiring the adjoining lands (and the businesses which must also be purchased unless agreement is reached otherwise) is highly cost restrictive. In addition to the cost, the land has main road frontage and should preferably be retained as a retail opportunity. It is likely that the present Senior Citizens building and carpark will become a desirable retail location if disposed of by Council. This location is not recommended for the development of the Hub.

A further submission recommends that the Hub be located in the former NAB bank building in Commercial Street. The building is two storey and would be difficult to convert to a Hub. The additional car parking demand generated in Commercial Street would also likely create tensions with other commercial uses.

## CONSULTATION

The Korumburra Community Hub Discussion Paper was exhibited for one month with submissions to Council closing on Friday 24 November 2017.

Exhibition involved press releases, information on Council's webpage, posters in the township and a letter box drop (information post card) to all residents of Post Code 3950 (Korumburra). Letter and email notification was provided to all key local user groups likely to be affected by the development of the Hub.

A public information drop-in session was held at Korumburra in the middle of the exhibition period. The session was well attended.

In addition to the above processes, the location of the Hub gained significant local media attention including front page coverage in the local newspapers. It is reasonable to assume that any party with an interest in this matter has been provided reasonable opportunity to provide their comments to Council.

Discussion on possible alternative locations for the current tenants of the former Korumburra Shire building being the Library, Rotary Art Gallery, Korumburra Historical Society and Korumburra Lions Club (storage area) are the subject of constructive ongoing discussions with each of the groups. Both Rotary and the Historical Society have expressed strong interest to be housed in the Hub and the potential for this is being investigated. Both interim and long term opportunities and potential solutions are being explored and all groups will continue to be consulted.

Additional public consultation will occur at an appropriate stage in the preparation of the additional investigation work required to support development of the Hub at the Railway Yards.

If development of the Hub at the Railway Yards cannot be achieved, further community consultation will occur to determine where the Hub should be located.

## **RESOURCES**

Development of the Korumburra Community Hub is a significant capital investment for Council. Funding for the development of the Hub is a matter for Council consideration in future budgets. External funding opportunities should be sought to facilitate the future development of the Hub.

## **RISKS**

There are a number of different risks potentially associated with the proposal.

Development of the new supermarket at the current library site requires the temporary relocation of the library and other uses currently in the building. The longer it takes to secure a Hub site and build the Hub, the more time and cost will be required for the temporary relocations.

External agencies and authorities including VicTrack, DEWLP and VicRoads will play an important role in determining how the Hub is developed. There are risks involved that the approvals necessary to allow the Hub to be developed may take time to gain or that their requirements may be costly to implement.

## ATTACHMENTS

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

1. Korumburra Community Hub - Discussion Paper **[2.1.1]**

## CONFIDENTIAL ATTACHMENTS

**Confidential Attachment [15.1.1]** – Korumburra Community Hub – Location Recommendation – Copy of Submissions – has been provided in accordance with s.77(2)(c) of the Local Government Act 1989, the Chief Executive Officer designates this item as confidential information on the grounds that it relates to s.89(2)(h) - any other matter which the Council or Special Committee considers would prejudice the Council or any persons.

This is deemed confidential to protect the privacy of the submitter.

## REFERENCE DOCUMENTS

### Council Policy

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

Council Plan 2017-2021

South Gippsland Planning Scheme

### Legislative Provisions

Planning and Environment Act 1987

## **2.2. PLANNING APPLICATION 2017/78 - 85 TREASES LANE MIRBOO NORTH - SUBDIVISION OF THE LAND INTO TWO LOTS**

Development Services Directorate

### **EXECUTIVE SUMMARY**

The applicant is seeking consent to subdivide the land at 85 Treases Lane, Mirboo North to create two lots. The subdivision is the re-subdivision of two existing large farm lots, each of which contains an existing dwelling.

The application has been referred to Council for a decision in accordance with Notice of Motion 708 to call-in the planning application, made at Council's Ordinary Meeting of Council 25 October 2017.

It is considered that the subdivision cannot be supported, due to its inconsistency with both State and Local planning policies and provisions for Farming Zoned land. Of specific concern is that the proposal results in a lot of only 12 hectares, and a lot of this size is considered too small to be of value to agriculture in the long term. Council has no ability to enforce the on-going use of the land for the farming activities proposed by the applicant and it is considered likely the land will ultimately be lost from commercial agriculture by being used for rural lifestyle purposes.

Through consultation the applicant was encouraged to amend the proposal by minimising the size of the small house lot so that it was more consistent with relevant policies. However, the applicant has chosen not to amend the application. The application is therefore recommended for refusal.

### **RECOMMENDATION**

**That Council issue a notice of refusal for subdivision of the land into two lots, for the following reasons:**

- 1. The proposal is not consistent with State Planning Policies in relation to agricultural land and rural development, specifically policies at clauses 11.01-1, 11.07-1, 11.10-1, 14.01-1, 14.01-2 and clause 16.02-1, which aim to manage development in rural areas to protect agriculture and avoid inappropriate rural residential development.**
- 2. The proposal is not consistent with the objectives and decision guidelines of the Farming Zone which seek to encourage the retention of productive agricultural land and to ensure development will support and enhance agricultural production.**
- 3. The proposal is not consistent with Local Planning Policies in relation to agricultural land and rural development, specifically clauses 21.08-1 and**

**21.10-3, which encourage a maximum lot size of two hectares for a house lot, which strongly discourage rural residential land use on lots over 4.1 hectares and strongly discourage dwellings not related to commercial scale agriculture in rural and high quality agricultural areas.**

- 4. The proposal is not consistent with the objectives and decision guidelines of Council's Rural Subdivision Policy at clause 22.06 which aim to ensure that lots resulting from subdivision are of sufficient size to be of benefit to agricultural production and to limit the cumulative impacts of house lot excisions by strongly discouraging lots greater than two hectares for a dwelling lot.**

## **REPORT**

### **Background**

The subject land comprises two existing lots that are part of a tenement farm with the street addresses of 85 Treases Lane Mirboo North and 70 Pincinis Lane Mirboo North.

Lot 1 TP680233R has an area of 63.15 hectares. Lot 2 TP 680003K has an area of 66.56 hectares. The farm has a total area of 129.7 hectares. Each of the lots currently contains a dwelling and a number of farm buildings associated with use and development of the land for an organic dairy and beef farm. The land is undulating with a series of waterways and dams being a feature of the land.

The land is in the Farming Zone and has two Overlays, being Environmental Significance Overlay Schedule 2 – Special Water Supply Catchment Areas and Environmental Significance Overlay Schedule 5 – Areas Susceptible to Erosion. The surrounding land is developed for farming (cattle grazing and horticulture), generally on large lots and tenements, with scattered rural living lots.

Refer to **Attachment [2.2.1]** - 85 Treases Lane Mirboo North - Planning Property Report and **Attachment [2.2.2]** - 85 Treases Lane Mirboo North - Aerial Photo.

### **The Proposal**

The proposal is to subdivide the land to create two new lots as follows:

- Proposed Lot 1 will have an area of approximately 116 hectares and will contain one of the existing dwellings, the existing herringbone dairy and feed pad, a number of associated farm buildings and the majority of the farm paddocks and waterways.
- Proposed Lot 2 will have an area of approximately 12 hectares and will contain an existing dwelling and a number of sheds and farm paddocks.

Refer to **Attachment [2.2.3]** - 85 Treases Lane Mirboo North – Planning Permit Application

The subdivision is the re-subdivision of existing lots and the number of lots is not increasing. However, this type of subdivision requires a planning permit as the proposal does not meet the criteria for a subdivision not requiring a planning permit, which are set out in Clause 62.04 of the Planning Scheme as [emphasis added]:

*A subdivision which realigns the common boundary between two lots if all the land is in one non-urban zone, the re-subdivision does not allow the number of dwellings the whole of the land could be used for under this scheme to increase, and any of the following apply:*

- *Any lot that is reduced in area meets the minimum lot area and minimum dimensions if any specified for the zone. This does not apply if the area of the small lot is limited by a provision of this scheme or by a condition of a planning permit.*
- *There is no minimum lot area specified for the zone, and no part of the boundary is moved more than 1 metre.*
- *There is no minimum lot size specified in the zone, the new boundary coincides with the location of a fence that is more than five years old and no part of the boundary is moved more than three metres.*

There are five fundamental reasons why the proposal does not satisfy the exemption and one fundamental reason why the proposal before Council is not a “boundary realignment”.

Firstly, the proposal does not meet the first sentence of the exemption before the dot points. i.e. it is not “a subdivision which realigns the common boundary”. VCAT and its predecessor have previously made multiple decisions on what constitutes “boundary realignment”. Two of the main authorities on the subject are *Tony Jeavons Surveyors v Colac Otway SC* [2006] VCAT 873 (22 May 2006) and *Maino v Nillumbik SC* [2006] VCAT 2129 (19 October 2006). Both cases emphasise that proposals such as this one, cannot be considered a “boundary realignment” by reference to the dictionary definition of the word “realign”. That is because the common boundary between the two lots is not being “realigned” in some minor way from its current position, orientation or length. In this instance, it is proposed to obliterate the existing common boundary and then put it into a completely new spot on the land. The two judgements of VCAT referred to above support this view and contain examples which seek to modify an existing boundary to a lesser degree, yet are not considered to qualify as a “boundary realignment”. To interpret it in any other

way would be inconsistent with already established case law and the definition of the word itself.

Secondly, the proposal does not satisfy the first sentence in the first sub-point, which says “any lot that is reduced in area meets the minimum lot area.” The lot being reduced from 63.15 hectares to 12 hectares is already under the 80 hectares minimum in the schedule to the Farming Zone. Therefore, the proposal does not comply.

Thirdly, the second sentence of the first sub-point says, “This does not apply if the area of the smaller lot is limited by a provision of this scheme...” Even if the lot being reduced in area was over 80 hectares. The exemption in the first sentence does not apply if the smaller lot is limited by the scheme. i.e. the smaller lot is also not 80 hectares as well.

Fourthly, the proposal does not meet the criteria in the second sub-point because there is a minimum lot area specified in the Farming Zone.

Fifthly, the proposal does not meet the criteria in the third sub-point because there is a minimum lot area specified in the Farming Zone.

It should be noted that the *Planning and Environment Act 1987* defines “subdivision” as:

*The division of land into two or more parts which can be disposed of separately.*

The proposal is clearly a “subdivision”, irrespective of how many original lots there are prior to subdivision. As such, any clause in the Act or the Planning Scheme which refers to subdivision or re-subdivision clearly applies to the assessment of this application. As the subdivision has the effect of creating a smaller lot for an existing dwelling/house, the proposal is also considered a subdivision to create a lot for an existing dwelling/house. This type of subdivision is commonly referred to as a “house lot excision” especially in Council’s Local Policy Framework at Clause 21.08 and 21.10 and Council’s “Rural Subdivision” policy at Clause 22.06.

Refer to **Attachment [2.2.4]** - 85 Treases Lane Mirboo North - Plans.

### **Assessment**

A detailed assessment of the application against the relevant sections of the Planning and Environment Act 1987 and the relevant matters in the South Gippsland Planning Scheme are discussed in **Attachment [2.2.5]** – 85 Treases Lane Mirboo North - Officer’s delegation report. A summary of the key Planning Scheme considerations is below:

## **State Planning Policy Framework**

The South Gippsland Planning Scheme includes State planning policies in relation to regional development, protection of agricultural land and rural development that apply to all local government areas in Victoria. The application has been assessed against the relevant State policies and it is considered the proposal is not consistent with the policy objectives and strategies of the State Planning Policy Framework as follows:

### **Clause 11.01-1 – Settlement networks**

**Objective:** To promote the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a networks of settlements.

**Strategies:** Preserving and protecting features of rural land and natural resources and features to enhance their contribution to settlements and landscapes.

### **Clause 11.07-1 – Regional planning**

**Objective:** To develop regions and settlements which have a strong identity, are prosperous and are environmental sustainable.

**Strategies:** Environmental health and productivity: Avoiding development impacts on land that contains high food production values.

### **Clause 11.10-1 – A diversified economy**

**Objective:** To strengthen economic resilience by growing a more diverse economy and building on the region's traditional strengths through new investment, innovation and value-adding.

**Strategies:**

- Avoid loss of areas of strategic significance for agriculture.
- Protect productive land and irrigation assets, including the Macalister Irrigation District, that help grow the state as an important food bowl for Australia and Asia.

### **Clause 14.01-1 – Protection of agricultural land**

**Objective:** To protect productive farmland which is of strategic significance in the local or regional context.



**Strategies:**

- Ensure that the State's agricultural base is protected from unplanned loss of productive agricultural land due to permanent changes of land use.
- Permanent removal of productive agricultural land from the State's agricultural base must not be undertaken without consideration of its economic importance for the agricultural production and processing sectors.
- In considering a proposal to subdivide land or develop agricultural land, the following factors must be considered:
  - The desirability and impacts of removing the land from primary production, given its agricultural productivity.
  - The impacts of the proposed subdivision or development on the continuation of primary production on adjacent land, with particular regard to land values and to the viability of infrastructure.

**Clause 14.01-2 – Sustainable agricultural land use**

**Objective:** to encourage sustainable agricultural land use

**Strategies:** Ensure agricultural and productive rural land use activities are managed to maintain the long-term sustainable use and management of existing natural resources.

**Clause 16.02-1 – Rural residential development**

**Objective:** to identify land suitable for rural living and rural residential development

**Strategies:**

- Manage development in rural areas to protect agriculture and avoid inappropriate rural residential development.
- Discouraging development of isolated small lots in rural zones.

**Farming Zone**

The Farming Zone provisions are reflective of State planning policy and apply across Victoria, with some variation between local governments in relation to the minimum lot size for subdivision. The proposal has been considered against

the relevant purposes and guidelines of the Farming Zone and it is considered the proposal is not consistent with these key provisions:

Relevant objectives of the Farming Zone are:

- To provide for the use of land for agriculture.
- To encourage the retention of productive agricultural land.
- To ensure that non-agriculture uses, including dwellings, do not adversely affect the use of the land for agriculture.

Relevant decision guidelines include:

- How the use or development relates to sustainable land management.
- Whether the use or development will support and enhance agricultural production.
- The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.

### **Local Planning Policy Framework**

In addition to the state planning policies and zone provisions, the Planning Scheme also includes local planning policies that are specific and unique to South Gippsland Shire. These include policy statements about environmental risk, natural resource management, housing, transport and infrastructure, as well as detailed policy statements about Rural Dwelling and Rural Subdivision. It is considered the proposal does not comply with the following objectives and strategies set out in the Local Planning Policy Framework:

#### **Clause 21.08-1 - Agriculture**

**Objective:** To maintain a viable and sustainable agricultural industry as the corner stone to the Shire's economy and its future wellbeing.

**Strategies:**

- Protect high quality agricultural land for primary production.
- Strongly discourage rural residential land use on lots over 4.1 hectares in agricultural areas.
- Limit the impact of house lot excisions by strongly encouraging minimum lot sizes of 0.4 hectares and a maximum lot size of 2 hectares for a house lot.

- Residual lot to generally be a minimum of 40 hectares.

### **Clause 21.10-3 – Rural residential development**

**Objective:** Ensure that the resource of agricultural land is protected and retained in primary production.

**Strategies:**

- Strongly discourage dwellings not related to commercial scale agriculture in rural and high quality agricultural areas.
- Strongly discourage rural residential use of land on lots over 4.1 hectares in agricultural areas.

### **Local Policies**

The Rural Subdivision Policy and the Rural Dwellings Policy were the outcome of the Rural Land Use Strategy 2011. These policies support subdivision and development of farm land that is contrary to the minimum lot size of 80 hectares that is specified in the Farming Zone, in certain circumstances. The application has been assessed against the relevant provisions of the local planning policies and it is considered the proposal is not consistent with the policy objectives, specifically:

### **Clause 22.05 - Rural dwellings**

**Objectives:**

- Discourage the proliferation of dwellings not associated with agriculture on lots over 4.1 hectares.
- Discourage the proliferation of dwellings on lots over 4.1 hectares where the agriculture use of the land does not require the presence of a land manager.

**Policy:** An application for a dwelling on a lot over 4.1 hectares must demonstrate net benefit to agricultural productivity on the land.

In support of the application, the applicant has submitted that the proposed 12 hectares lot is large enough to support a farm enterprise producing organic eggs, sheep and pigs.

The applicant has submitted a "Profitability Report" prepared by OnFarm-Consulting. The Profitability Report assumes:

- 6 hectares grazing area for sheep/lamb production

- 4 hectares grazing area for pig production
- 2 hectares grazing area (including around existing sheds) for free-range egg production

The report concludes the 12 hectares farm enterprise will return a gross margin in excess of \$100,000. The applicant has not submitted any evidence that this level of production is currently occurring on the land, that it has previously occurred or that it could be sustained. The application also does not include a Farm Plan demonstrating how the land will be used to produce the animals referred to in the Profitability Report. Some of those uses could be characterised as "intensive animal husbandry" and require a permit in their own right. The applicant has not been applied for intensive animal husbandry and it cannot be considered because there is a lack of detail in the application regarding the animal husbandry.

In deciding whether or not the land reasonably requires a dwelling, the profitability of the enterprise is not a direct consideration. The primary consideration is whether or not the farm activities are sufficiently intensive to require the permanent, daily presence of a land manager on the site. The commercial viability is relevant only in so far as it can be an indicator of whether or not the farming enterprise is likely to be sustainable in the long term. That is because it would be highly unlikely for any person to continuously run any business or enterprise at a financial loss or minimal profit.

Notwithstanding the applicant's statements about the existing or proposed use of the land, there is no mechanism that can be used to successfully bind the applicant to continue using the land for the proposed agricultural activities. The land may be bought and sold with no on-going conditions associated with land use being enforceable through the Planning Scheme.

It is therefore relevant to consider how a lot of 12 hectares with an existing dwelling may be used when it is sold to another landowner. It is considered likely the land will ultimately be used for rural lifestyle purposes, rather than agriculture.

#### **Clause 22.06 – Rural subdivision**

It is clear from the first sentence of Clause 22.06 that the policy applies to this type of subdivision:

*This policy applies to applications to subdivide and re-subdivide land in the Farming Zone.*

The basis of the policy is [emphasis added]:

*The rural areas of South Gippsland have experienced a high level of land fragmentation, arising from both historical settlement patterns and less stringent planning policies under earlier planning schemes. Left unchecked, further fragmentation through land subdivision could have considerable implications for agricultural production, landscape, and the servicing of populations in outlying areas.*

*The agricultural sector dominates the economy of South Gippsland, with food production and processing accounting for significant employment. With high quality soils and generous rainfall relative to other parts of the State, this sector is likely to continue to dominate the local economy and further expand as farmers and processors seek secure land for the production of food and materials. It is necessary that farmers have access to sufficient areas of land to carry out food and fibre production in a cost-effective manner. The subdivision of land into smaller lots, including house lot excisions, can have ongoing implications for the supply of affordable agricultural lots by driving up land prices beyond the productive value of the land.*

*South Gippsland already has a considerable supply of lots at a range of sizes, such that further subdivision for genuine agricultural reasons will rarely be necessary. Many areas that have experienced high levels of fragmentation may require consolidation or restructure through boundary realignments in order to create economically competitive land units. Likewise, expanding farming businesses may find it necessary to remove surplus dwellings from the land through house lot excisions. There is a compelling need for clear and robust planning criteria around such practices in order to ensure the fair, sustainable and economic use and development of rural land.*

It is also clear that the very reason this policy exists is to ensure that subdivisions that can have an adverse impact on agricultural productivity are assessed in accordance with clear and robust planning criteria. This proposal does not meet those criteria, as is discussed below. There can be an argument to suggest that a proposal does not fall within the ambit of the policy simply because a policy cannot cover every conceivable scenario. However, such proposals would still need to provide significant agricultural justification as to why the provisions should not apply in those circumstances. It is only through the consistent application of policy that good planning outcomes can be achieved. If the policy is not applied consistently then the fundamental basis of having a policy is defeated and those outcomes cannot be achieved.

The relevant objectives of the policy are:

- To limit the further fragmentation of rural land by subdivision

- To ensure that lots resulting from subdivision are of a sufficient size to be of benefit to agricultural production
- To limit the cumulative impact of house lot excisions, including serial small lot subdivisions
- To ensure that house lot excisions are undertaken for legitimate reasons related to agriculture
- To provide a consistent basis for considering planning permit applications for the subdivision of rural land

The relevant policy criteria are:

- Any proposal for the subdivision of land to accommodate an existing dwelling must demonstrate that:
  - the existing dwelling is no longer reasonably required for the carrying out of agricultural activities in the long term
  - There are beneficial outcomes for the land by excising the dwelling
  - The excision of the dwelling is compatible with and will not reduce the potential for farming or other legitimate rural land uses on the land, adjoining land and the general area
  - An application proposing an area of greater than two hectares for the dwelling lot will be strongly discouraged
  - Excisions that result in 'axe-handle' or island style lots will be strongly discouraged
  - A house lot excision that is likely to lead to a concentration of lots that would change the general use and character of the rural area will be strongly discouraged
  - An adequate distance must be maintained around dwellings to limit impacts on agricultural activities

The applicant has not demonstrated that the proposal meets the criteria as outlined above because the proposal:

- Does not demonstrate how the existing dwelling is no longer reasonably required to carry out agricultural activities. It is acknowledged that the applicant is conversely arguing that the dwelling is still required for agricultural activities but the justification is not considered to be sufficient. The documentation submitted did

not present any specific detail about what agricultural activities would be occurring, how, where on the land. The “profitability report” submitted by the applicant is based on figures that are not justified and seems to overestimate the production/profitability, while undervaluing the costs of operation. It also has a number of contradictory figures within it relating to the size of the land available and also seems to suggest that at least two of the agricultural land uses would be “intensive animal husbandry”, which would require a planning permit in their own right but have not been applied for.

- Does not demonstrate what the beneficial outcomes are for the land by excising the dwelling. Again, the applicant argues that this is not a house lot excision, yet fails to demonstrate how the proposal is beneficial for the land (i.e. how does the subdivision benefit agriculture on the land?). The subdivision isn’t considered to benefit outcomes for the land even if it can be successfully argued that the “status quo” remains. What it does do is place 12 hectares of potentially highly productive land with a dwelling rather than with the larger farm’s dairying operation.
- The majority of adjoining lots or tenements are well in excess of 40ha. There are a limited number of “rural lifestyle” lots in the area so the proposal to create a 12ha lot is not considered compatible. It is considered that the current or future occupants of the dwelling could prefer the surrounding land to also be used for rural lifestyle purposes instead of agriculture, which then leads to incompatible land uses. For example, a recent broiler farm application was largely opposed by people living on rural lifestyle size lots surrounding the proposal and this is often the case.
- The application proposes an area of greater than two hectares for the dwelling lot and should be strongly discouraged. Even if the proposal is not viewed as creating a “dwelling or house lot”, the proposal fails to provide sufficient justification for creating a 12 hectare lot.
- The proposal does not entail an ‘axe-handle’ or island style lots. However, a simple rectangular style lot of less than 2 hectares could be created around the dwelling without also needing to create an ‘axe-handle’ or island style lot. A 2 hectare lot could also provide sufficient buffer to boundaries.
- The house lot excision in its current form could lead to a concentration of lots of similar size that would change the general use and character of the rural area and this should be strongly discouraged.

- An adequate distance could be maintained around the dwelling to limit impacts on agricultural activities whether it is a 2 hectare or 12 hectare lot.

## VCAT Decisions

The application has also been considered having regard to recent decisions of the Victorian Civil and Administrative Tribunal (VCAT):

- *West Gippsland Catchment Management Authority v South Gippsland SC* [2017] VCAT 63 (10 January 2017)
- *I & C Chalmers v South Gippsland SC* [2017] VCAT 704 (17 May 2017)

In both these decisions, the Tribunal found that it was not appropriate to simply apply Council's local planning policies for dwellings and subdivisions and considered that significant weight must still be given to compliance with State planning provisions.

In the case *West Gippsland Catchment Management Authority v South Gippsland SC* [2017] VCAT 63 (10 January 2017), which was an application to use a lot of 2.55 hectares for a dwelling, the Tribunal made the following comments:

47. *The provisions of the Farming Zone require a permit for use of land for a dwelling where the lot is less than 40 hectares. The purpose of the zone and the decision guidelines set out matters that must be considered in deciding if a permit should be granted. These include reference to State and local policies.*
48. *I am not persuaded that the use of a 2.55 hectare site is consistent with the provisions of the Farming Zone. I say this for the following reasons.*
49. *There is strong support in State policy to protect productive farmland and promote agriculture.<sup>[13]</sup> Strategies to protect rural productivity include limiting new housing in rural areas and discouraging development of isolated small lots for use as single dwellings. A house on the review site fails to accord with the outcomes sought.*
50. *The Municipal Strategic Statement<sup>[14]</sup> identifies the conflict between the attraction of the rolling hills of the agricultural districts as locations for those seeking a rural residential lifestyle, the protection of productive agricultural areas and the need to avoid servicing issues arising from dwellings not connected to agricultural activities. The review site adjoins farms to the north west, north and east and I consider a dwelling adds to the potential conflict between rural residential expectations and the activities associated with productive farming land.*



51. *Although the local policy on rural dwellings<sup>[15]</sup> provides strong discouragement for dwellings on lots over 4.1 hectares, this does not translate to encouragement of dwellings on lots less than 4.1 hectares. There is no policy imperative for the review site to be used for a dwelling. Indeed the policy basis for rural dwelling identifies that multi lot farms are the most common form of land tenure in the Shire with commercially viable production areas being formed by the aggregation of smaller lots. The decision guidelines in the Farming Zone require consideration of whether the dwelling will result in loss of productive agricultural land. The use and development of the lot for a dwelling will limit its future use for viable agricultural use in conjunction with adjoining farmland.*

The case of *I & C Chalmers v South Gippsland SC* [2017] VCAT 704 (17 May 2017) was similar to the current application, being an application to re-subdivide two existing farming zone lots. The case was different in that the proposal also sought consent to develop a dwelling on one of the proposed lots. In this case the Tribunal made the following comments

34. *The policy (Clause 22.05) deals with applications for dwellings in different ways depending on the size of the lot, less or greater than 4.1 hectares...*
35. *I agree that the policy (Clause 22.05) does not directly discourage dwellings on lots of less than 4.1 hectares, but the size of the lot is not the only determining factor in reaching a decision. The policy and the Farming Zone purpose require an assessment of whether the dwelling will support agricultural production and an assessment of the impact of a dwelling on adjoining rural activities and environmental and rural characteristics of the land.*
40. *I am not persuaded that the re-subdivision of the Lot B is an appropriate outcome having regard to the provisions of clauses 11 and 14 of the SPPF, clauses 22.05 and 22.06 of the LPPF and the provisions of the Farming Zone. There has been insufficient justification put to me as to how the proposal is acceptable in terms of the purpose of the Farming Zone and the State and local planning policy.*
41. *I am not persuaded that I should give any greater weight to the submission that there is an existing small lot and the proposal is simply transferring one small lot to another without other consequences. As Member Cimino observed in *Green Wedge Protection Group Inc & Ors v Nillumbik SC*<sup>[11]</sup>,*

*[31] In considering the merits of this matter, it is also relevant to say something about the nature of the discretion to be exercised in this case. The*

*proposed subdivision is not "as of right"; rather it is one which must be assessed on its merits. It is not as simple as saying that the re-subdivision of land into the same number of lots will not bring about any significant change. It must be demonstrated that the re-subdivision of the land will bring about an appropriate planning outcome. I think the approach to be adopted is well set out in the Tribunal's decision in Morris v South Gippsland Shire Council & Ors. (2001/25648 [\[2002\] VCAT 508](#) 9 May 2002) when the Tribunal said:*

*"It is clear to me that a significant factor in the selection of the number of lots proposed here has been the fact that the subject land already comprises eight lots. The fact however that a permit may be granted for eight lots under the specific exemption provision at Clause 35.01-4, is not to imply however that a permit should or will be granted. This much is made very clear at Clause 65 of the Planning Scheme. This clause goes on to say that the Responsible Authority must decide whether a proposal will "produce acceptable outcomes in terms of the decision guidelines of the clause". These decision guidelines refer to the State and Local Planning Policy Framework, the purpose of the zone and any matter required to be considered under the provisions of the zone. In addition, specific guidelines are set out for subdivision....."*

*I am not persuaded that this present amalgam of eight lots must necessarily stand as justification for an eight lot outcome".*

42. *The above observations highlight that acceptability of the proposal must be based on a planning grounds. In this case, I am not persuaded that the proposed re-subdivision and construction of a dwelling on Lot B is an appropriate outcome having regard to the planning policy framework and zoning of the land.*

## CONSULTATION

Consultation and negotiation with permit applicants is a common and accepted part of the planning process and is intended to result in a timely outcome that is acceptable to all parties. In this case, the applicant has been provided numerous opportunities to reduce the size of the smaller lot to a size that is more consistent with the state and local planning policies or to provide additional information to justify the proposal. The applicant has not pursued these options.

A history of the consultation that took place before and during the planning permit process is summarised below:

- On a number of occasions prior to the current application being submitted, the applicant received verbal planning advice that a proposal to create a

20 hectare lot was contrary to the provisions of the Planning Scheme and was unlikely to be supported. The applicant did not proceed with that option.

- In April 2016, the applicant was advised that a proposal for a lot of approximately 6 hectares that included part of a waterway was not preferred, but may be supported, subject to it being demonstrated that the proposal would not compromise the operation of the larger farm and no objections being received from neighbours or the catchment management authority. The applicant did not proceed with that option.
- During the course of the current application, the applicant was advised the proposal was unlikely to be supported unless the area of proposed Lot 2 was reduced to approximately 4.1 hectares. The rationale for this was that 4.1 hectares is the maximum lot size that is considered suitable for rural lifestyle purposes under Council's Rural Dwellings Policy at Clause 22.05. Compared to the earlier six hectare option discussed with the applicant, it was considered a smaller lot was preferable as it would retain the waterways in the balance lot in order to benefit the larger farm. The applicant has chosen not to pursue this option.

The current application to create a 12 hectare lot was notified to adjoining owners and occupiers. No written submissions were received.

The application was referred to South Gippsland Water Corporation and Council's Wastewater Department who have raised no objection to the proposal.

In the time since the applicant first sought advice and during the course of the current application, there have been two decisions at the Victorian Civil and Administrative Tribunal that have affected how applications in the Farming zone are considered. Any subdivision proposal that is inconsistent with Councils' Rural Subdivision Policy is now no longer supported without significant justification also being demonstrated under relevant state policies and provisions. In this case it is considered there is no reasonable justification for a lot of 12 hectares as is currently proposed. It is considered that the current proposal is contrary to both State and local policy. If Council does not agree with the relevant policies, then it should focus on amending those policies (*noting that Council can only amend local policy and cannot override State policy*).

Should the current application be refused as recommended, the applicant retains the right to appeal Council's decision to the Victorian Civil and Administrative Tribunal (VCAT) under the provisions of s.77 of the *Planning and Environment Act 1987*. It is considered that the Tribunal is the relevant means by which to challenge the legitimacy and reasonableness of Council's decision.

## Options

The notice of motion requested that Council be presented with options. These are summarised below:

1. Resolve to refuse the application in accordance with the recommendation;
2. Resolve to approve the application subject to (and amongst other things):
  - a. a condition that requires the applicant to submit an amended subdivision plan prior to endorsing any plans. The amended subdivision plan would need to show an area for Proposed Lot 2 of no more than 2 hectares.

**Note:** this option would ensure compliance with a pertinent part of Clause 22.06, but the applicant has previously rejected this option.

3. Resolve to approve the application subject to (and amongst other things):
  - a. a condition that requires the applicant to submit an amended subdivision plan prior to endorsing any plans. The amended subdivision plan would need to show an area for Proposed Lot 2 of no more than 4.1 hectares.

**Note:** this option would not ensure compliance with a pertinent part of Clause 22.06 and is based solely on the principle that Clause 22.05 allows Council to consider applications for dwellings on lots less than 4.1ha. However, this policy is not specifically relevant to this decision proposal. The applicant has previously rejected this option.

4. Resolve to approve the application subject to (and amongst other things):
  - a. a condition that requires the applicant to enter into a Section 173 Agreement to implement a Farm Management Plan (FMP) prior to statement of compliance for the subdivision. The FMP would require the landowner and any future landowner of Proposed Lot 2 to carry out the agricultural activities as described in the “profitability report” in order to ensure that the dwelling stays connected to the operation of agriculture on the land and is only occupied by people (or family of people) engaged in the agricultural pursuits on the land.

**Note:** this option does not comply with policy and it is considered that the applicant has not lodged sufficient information to justify non-compliance with policy. As previously discussed, there needs to be exceptional circumstances in order to justify non-compliance with policy. This option is also not favoured because it then places a restriction on title which requires ongoing monitoring/enforcement by Council (resources). People

also often seek to remove such agreements after they have entered into them, if the farming is no longer viable in their opinion. The applicant has been given sufficient opportunity to submit further information but has chosen not to.

## **RESOURCES**

If Council chooses to approve the application in accordance with Option 4 above, there will be ongoing resources dedicated to monitoring compliance with the conditions of the permit and s.173 agreement. It may also require resources in the event that there is a dispute regarding compliance with the permit.

## **RISKS**

Failure to make decisions that are consistent with the South Gippsland Planning Scheme has previously resulted in the State removing Council's powers in the Farming Zone under the Planning and Environment Act 1987. This was enacted through Amendment C48 to the South Gippsland Planning Scheme on 29 May 2009 and removed Council's decision making powers on land within the Farming Zone. It took considerable time and Council resources (at ratepayer expense) to carry out a Rural Land Use Strategy (RLUS) in order to restore Council's decision making powers. It took Council until 29 April 2010 to adopt Amendment C51 and the interim policies at Clause 22.08 and 22.09 into the Planning Scheme, based on the Draft RLUS. It then took until 8 March 2012 to adopt Amendment C63 as Clause 22.08 and 22.09, based on the final version of the RLUS. The current policies at Clause 22.05 and 22.06 are substantively the same as the originally adopted 22.08 and 22.09 but have been modified by a general Planning Scheme review (policy neutral) and moved by other Amendments to the Scheme.

## **ATTACHMENTS**

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

1. 85 Treases Lane Mirboo North - Planning Property Report **[2.2.1]**
2. 85 Treases Lane Mirboo North - Aerial Photo **[2.2.2]**
3. 85 Treases Lane Mirboo North - Planning Permit Application **[2.2.3]**
4. 85 Treases Lane Mirboo North - Plans **[2.2.4]**
5. 85 Treases Lane Mirboo North - Officer's Delegation Report **[2.2.5]**

## **REFERENCE DOCUMENTS**

### **Council Policy**

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

South Gippsland Planning Scheme  
Rural Land Use Strategy 2011

**Legislative Provisions**

Planning and Environment Act 1987

## **2.3. PLANNING APPLICATION 2017/19 - 30 BROWN STREET LEONGATHA - SUBDIVISION OF THE LAND INTO SIX LOTS**

Development Services Directorate

### **EXECUTIVE SUMMARY**

The applicant proposes to subdivide 30 Brown Street Leongatha into six lots.

The application has been referred to Council as five objections were received. The objections primarily relate to concern about how the proposed subdivision will impact on an existing stormwater drainage issue in Worthy and Gibson Streets Leongatha.

It is considered the subdivision can be supported, subject to appropriate conditions to ensure that the amount of stormwater run-off from the proposed subdivision and future development does not exceed the amount of run-off that naturally occurs from the land (pre-development flows). The application is therefore recommended for approval.

### **RECOMMENDATION**

**That Council issue a Notice of Decision for Subdivision of the land into six lots at 30 Brown Street Leongatha, subject to the following conditions:**

- 1. Prior to endorsing a plan of subdivision, an amended plan of subdivision and a detailed Stormwater Management Plan, including stormwater runoff calculations for the internal and external catchments, must be submitted to and approved by the Responsible Authority.**
  - a. The Stormwater Management Plan must detail how the stormwater will be captured, stored, treated and disposed of legally, while not adversely impacting any downstream properties, and to the satisfaction of the Responsible Authority.**
  - b. The Stormwater Management Plan must include onsite detention of stormwater so that discharge from the fully developed lots is restricted to pre-development discharge, to the satisfaction of the Responsible Authority.**
  - c. The amended subdivision plan must show any easements or common property required to accommodate the detention system required by the Stormwater Management Plan.**
- 2. The layout of the subdivision, as shown on the approved plan/s, must not be altered or modified without the consent in writing of the Responsible Authority.**

- 3. All existing and proposed easements and sites for existing and required utility services and roads must be set aside in favour of the relevant authority for which the easement or site is to be created on the plan of subdivision submitted for certification under the Subdivision Act 1988.**
- 4. A minimum five per cent cash in lieu contribution for public open space must be paid to Council in accordance with clause 52.01 of the South Gippsland Planning Scheme and s.18A of the Subdivision Act 1988, prior to the issue of a Statement of Compliance.**
- 5. Before the plan of subdivision is certified under the Subdivision Act 1988, the owner must enter into an agreement with the Responsible Authority made pursuant to s.173 of the Planning and Environment Act 1987, and make application to the Registrar of Titles to have the Agreement registered on the title to the land under s.181 of the Act, which provides that:**
  - a. On proposed lots 4, 5 and 6, buildings may be constructed only within the nominated building envelopes as shown on the endorsed plans of the permit.**

**The owner must pay the reasonable costs of the preparation, execution and registration of the s.173 Agreement. The s.173 Agreement must be registered prior to certification of the plan of subdivision.**

- 6. The owner/applicant must comply with the following South Gippsland Shire Councils Engineering Department conditions:**

**Prior to Certification of the Plan of Subdivision:**

- a. Appropriate easements are to be created for existing and future stormwater infrastructure.**
- b. The plan of subdivision is to show a minimum three metre by three metre splay at the corner of Brown Street and Worthy Street Leongatha.**
- c. Engineering plans and computations (based on the Infrastructure Design Manual) of the proposed civil engineering and drainage works are to be submitted to and approved by the South Gippsland Shire Council (see Engineering note below). Engineering design to consider, but is not limited to:**
  - i. Vehicular clearance for driveways off Brown Street Leongatha.**



- ii. **Scouring and energy dissipation at stormwater outlet in Worthy Street Leongatha.**
- iii. **Existing open drain in Worthy Street Leongatha.**
- iv. **Detention of stormwater to the equivalent discharge to the predevelopment discharge for all lots based on a 1 in 5 Year Design Storm.**
- v. **Major Storm Event flow path in Brown Street Leongatha.**

**Prior to the issue of a Statement of Compliance:**

- a. **The applicant is to carry out the road construction and drainage works as shown on the endorsed plans, the Proposed Road and Drainage Plan (Revision 1) and in accordance with the approved engineering plans to the satisfaction of the Responsible Authority. Additional works to be carried out include, but are not limited to:**
  - i. **construction of a concrete footpath in both Brown Street and Worthy Street Leongatha adjacent to Lots 1, 2 & 3;**
  - ii. **providing a minimum five metre wide bituminous seal on a suitable pavement in Worthy Street Leongatha adjacent to Lots 1, 4, 5 & 6;**
  - iii. **stormwater detention.**
- b. **Upon approval of construction plans by Council, pay to Council an amount equivalent to 0.75 per cent of the estimated cost of construction for checking of engineering plans and computations. A certified cost estimate is to be provided by the applicant.**
- c. **A Site Management Plan showing the proposed erosion and sediment control measures is to be lodged with Council. No works are to commence on-site until such plan is approved.**
- d. **Scaled "As Constructed" plans are to be forwarded to Council in paper, "pdf" and AutoCAD compatible format, to the satisfaction of the Responsible Authority.**
- e. **Upon agreed practical completion of civil works, pay to Council an amount equivalent to 2.5 per cent of the actual cost of construction, being for supervision of works. A certified final cost is to be supplied by the applicant.**

- f. A twelve months Defects Liability Period shall apply to all civil engineering and landscaping works requested by the South Gippsland Shire Council.**
- g. Upon agreed practical completion of civil works, pay to Council an amount equivalent to 5 per cent of the actual cost of construction of infrastructure to be handed to Council (including landscaping), being for Guarantee of Works during Defects Liability Period. The amount to be refunded upon release from Defects Liability Period by Council.**
- h. All work shall be carried out to the satisfaction of the South Gippsland Shire Council.**

**7. AusNet Electricity Services condition:**

**The owner/applicant must comply with the following AusNet Electricity Services conditions:**

- a. The plan of subdivision submitted for certification must be referred to AusNet Electricity Services Pty Ltd in accordance with s.8 of the Subdivision Act 1988.**
- b. The applicant must:**
  - i. Enter into an agreement with AusNet Electricity Services Pty Ltd for the extension, upgrading or rearrangement of the electricity supply to lots on the plan of subdivision. A payment to cover the cost of such work will be required.**
  - ii. Provide electricity easements internal and external to the subdivision in favour of AusNet Electricity Services Pty Ltd to service the lots on the plan of subdivision and/or abutting lands as required by AusNet Electricity Services Pty Ltd. The provision of reserves for electricity substations may also be required.**

**8. South Gippsland Water Authority condition:**

**The owner/applicant must comply with the following South Gippsland Water Authority conditions:**

- a. The owner / applicant shall enter into a formal agreement with the South Gippsland Water Corporation for the provision of a reticulated water and sewer supply to service each existing and proposed lot to the design and satisfaction of the Corporation.**

- b. Prior to consent to the issue of Statement of Compliance, the owner shall pay to the South Gippsland Water Corporation “New Customer Contributions” for each new lot created, in accordance with the Corporation’s approved tariffs.**
- c. Easements shall be created no less than three metres wide, in favour of the South Gippsland Water Corporation over the Corporation’s existing and proposed infrastructure located within the sub-divisional lots.**
- d. The plan of subdivision submitted for certification must be referred to the Corporation in accordance with s.8 of the Subdivision Act.**

**9. Telecommunications Services and Facilities condition:**

- a. a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider’s requirements and relevant legislation at the time; and**
- b. a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.**

**Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:**

- a. a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider’s requirements and relevant legislation at the time; and**
- b. a suitably qualified person, that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.**

**10. This permit will expire if either of the following applies:**

- a. The subdivision is not certified within two (2) years of the date of this permit; or**
- b. The registration of the subdivision is not completed within five (5) years of the date of certification.**

**REPORT**

**Background**

The subject land is Lot 1 TP157404K Parish of Leongatha Township, more commonly known as 30 Brown Street Leongatha. The land is a vacant corner allotment with an area of approximately 1.05ha. The land has road frontages to Brown Street and Worthy Street Leongatha. The land slopes downhill from Brown Street (east) towards the western boundary.

The land is partly in the General Residential Zone (GRZ) and partly in the Low Density Residential Zone (LDRZ). There are no overlays affecting the land. The surrounding land is developed for general residential and low density residential purposes.

Refer to **Attachment [2.3.1]** – 30 Brown Street Leongatha – Aerial Photo and **Attachment [2.3.2]** – 30 Brown Street Leongatha - Planning Property Report.

**The Proposal**

The proposal is to subdivide the land into six lots. Three lots (lots 1-3) will be in the GRZ facing Brown Street and will have lot sizes ranging from 871m<sup>2</sup> to 925m<sup>2</sup>. Three lots (lots 4-6) will be in the LDRZ facing Worthy Street and will have lot sizes range from 2258m<sup>2</sup> to 3154m<sup>2</sup>.

The lots in the LDRZ will include a building envelope restriction that requires future buildings to be constructed within a particular part of each lot. This is to ensure that future development on the lots drains toward Worthy Street rather than toward the neighbouring properties.

Refer to **Attachment [2.3.3]** – 30 Brown Street Leongatha - Subdivision plan.

**Assessment**

A detailed assessment of the application against the relevant sections of the Planning and Environment Act 1987 and relevant matters in the South Gippsland Planning Scheme are discussed in **Attachment [2.3.4]** – Officer's Delegation Report and **Attachment [2.3.5]** – 30 Brown Street Leongatha – Clause 56 Assessment Table.

The proposed subdivision is considered to be consistent with the State and Local Planning policies and provisions for subdivision of land in the GRZ and LDRZ.

The key concerns of the objectors is the potential for the proposed subdivision to increase the risk of occasional flooding on the adjoining and nearby land in Worthy Street and Gibson Street and their belief that Council has failed in its responsibilities to manage the drainage system to prevent their land from flooding.

In order to assist Council's understanding of the concerns raised by the objectors, the location of objectors in relation to the subject land is shown on the map at **Confidential Attachment [15.2.2]** – 30 Brown Street Leongatha – Map Location of Objectors.

***In relation to the impact of the proposed subdivision on the risk of flooding***

In order to address this concern, Council officers have sought a revised subdivision proposal from the permit applicant and have also undertaken further investigations in relation to drainage options.

It is proposed that building locations on proposed lots 4, 5 and 6 will be restricted by building envelopes to ensure that stormwater run-off from future buildings can be drained into the existing open drain in Worthy Street, rather than over the neighbouring properties.

In addition, it is considered that installation of an on-site stormwater detention system on the subject land will ensure the proposal does not increase the risk of downstream flooding in Worthy Street. There is capacity within the subject land to detain stormwater on-site before it is discharged into the open drain in Worthy Street, which allows more time for any downstream water in Worthy Street to drain away. Council's Engineering Department have therefore recommended it be a condition of any planning permit to require a Stormwater Management Plan that shows the detail of how stormwater will be detained within the site.

It should be noted that the neighbouring land may still flood from time to time whether this development proceeds or not. That is due to a number of factors including; its low-lying position in the landscape, the amount of water draining towards that area from the large catchment above it and existing issues downstream of this area which prevents the water from draining away faster. However, the extent of flooding will not be made worse by the proposed subdivision and future development. As such, it would be unreasonable to expect this development to solve the existing drainage issues. The proposal is considered appropriate, so long as it does not make the existing situation worse. This approach is consistent with the objective of the Planning Scheme

at Clause 56.07-4 for urban run-off management. It states that stormwater systems must be designed to ensure that flows downstream of the subdivision site are restricted to pre-development levels.

***In relation to the perceived failure to manage the drainage system***

The land is on the western edge of the township of Leongatha. While the eastern side of Brown Street has been developed for urban residential purposes, the land to the west comprises Low Density Residential land and open farmland. Council staff regularly inspect both roads and if required undertake maintenance on these roads to ensure the roads are safe and trafficable. The level of road and drainage infrastructure in the area is consistent with a low density, semi-rural location.

Part of the subject land and adjoining land in Worthy Street and Gibson Street is low lying and flat compared to the majority of land in Leongatha. A large proportion of the western part of Leongatha drains down Gibson Street and Worthy Street towards an un-named waterway in a farm paddock to the west of Gibson Street. Due to the flat, undeveloped nature of the area, run-off is slow, and water can back up into Gibson Street and Worthy Street, causing localised flooding during high rainfall events. Both Worthy and Gibson Street are narrow, unsealed Council roads, with open swale drains on either side of the road. Both roads are cut into the surrounding land and the road formation acts as an overland flow path for stormwater during extreme rainfall events.

Since becoming aware of the drainage problems in Worthy Street and Gibson Street after receiving complaints of flooding in 2011, Council officers initiated investigations and consulted with the affected landowners. Upon investigation it was found that stormwater run-off from land to the south-east of the affected properties was entering the affected lots through a previously constructed open swale drain that runs through a drainage easement on the lots. It was also found that most of the privately installed internal culverts within the drainage easement were either non-existent or undersized. In order to facilitate a beneficial outcome, Council initiated further engineering assessment of the catchment to determine the appropriate size for culverts within the drain. It was recommended that culverts within the drain should be larger. All drainage pipes in the easement are not necessarily constructed to the recommended specifications, but they now contain the recommended capacity. The cost of these pipes and works was paid for by each of the affected landowners.

The engineering assessment also made recommendations in relation to the size of driveway culverts in Worthy Street. While two of the affected owners opted to increase the size of their driveway culverts in Worthy Street on a cost share basis with Council (where the owner paid for the pipes and Council installed the pipes), one owner chose not to increase the size of the driveway culvert on the

basis the owner considered it was a Council responsibility. As a consequence, one of the pipes in Worthy Street remains undersized. This creates a “bottle-neck” that may occasionally cause stormwater in the drain to back-up and flood into the road way and then spill over into adjoining land. The affected owners consider the cost to fix this problem should be borne by Council, not by them.

The issue of occasional flooding in Worthy Street and Gibson Street pre-dates the current application for subdivision. It has been demonstrated to Council’s satisfaction that the proposed subdivision will not make this existing situation any worse. It is not considered appropriate to require the permit applicant to construct drainage works downstream of 30 Brown Street Leongatha as there is no nexus between the current subdivision application and the existing drainage problem.

It is considered that this issue is outside of the scope of the current planning permit application to resolve. Council may consider other options available to it under relevant legislation.

## **CONSULTATION**

The application was notified to adjoining owners and occupiers. Five objections were received. Concerns relate to the potential for the subdivision to contribute to an existing stormwater drainage issue in Worthy Street and Gibson Street Leongatha. The objections are summarised and responded to in **Attachment [2.3.4] – 30 Brown Street Leongatha - Officer’s Delegation Report**. During the course of the application Council officers met with two of the objectors at Council’s office in Leongatha on two separate occasions in order to discuss their concerns but were unable to reassure the objectors that the proposed subdivision would not increase the risk of occasional flooding on their land.

Details of the objections are in **Confidential Attachment [15.2.1] – 30 Brown Street Leongatha - Copy of Submissions** and **Confidential Attachment [15.2.2] - 30 Brown Street - Map Location of Objectors**.

The application was referred to service authorities Comdain/Multinet, South Gippsland Water Corporation, AusNet Electricity Services and Council’s Engineering Department. The referral responses are discussed in more detail in **Attachment [2.3.4] – 30 Brown Street Leongatha - Officer’s Delegation Report**.

## ATTACHMENTS

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

1. 30 Brown Street Leongatha - Aerial Photo **[2.3.1]**
2. 30 Brown Street Leongatha - Planning Property Report **[2.3.2]**
3. 30 Brown Street Leongatha - Subdivision Plan **[2.3.3]**
4. 30 Brown Street Leongatha - Officers Delegation Report **[2.3.4]**
5. 30 Brown Street Leongatha - Clause 56 Assessment Table **[2.3.5]**

## CONFIDENTIAL ATTACHMENTS

**Confidential Attachment [15.2.1]** – 30 Brown Street Leongatha - Copy of Submissions and **Confidential Attachment [15.2.2]** - 30 Brown Street - Map Location of Objectors – have been provided in accordance with s.77(2)(c) of the Local Government Act 1989, the Chief Executive Officer designates these items as confidential information on the grounds that they relate to s.89(2)(h) - any other matter which the Council or Special Committee considers would prejudice the Council or any persons.

These are deemed confidential to protect the privacy of the submitters.

## REFERENCE DOCUMENTS

### Council Policy

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

### Legislative Provisions

Planning and Environment Act 1987



## **2.4. PLANNING APPLICATION 2017/1 – 55-57 BRADLEY AVENUE VENUS BAY - DEVELOPMENT OF FOUR DWELLINGS**

Development Services Directorate

### **EXECUTIVE SUMMARY**

The applicant proposes to develop four dwellings (across two lots) and remove native vegetation at 55-57 Bradley Avenue, Venus Bay.

The application is referred to Council for a decision because 11 objections were received. The objections primarily relate to neighbourhood character, design, adverse environmental impact as a result of vegetation removal, adverse amenity impacts (privacy concerns) and traffic.

The application was referred to the Country Fire Authority (CFA) as a recommending referral authority under Section 55 of the Planning and Environment Act (the Act). CFA provided conditional consent.

The application was also notified to West Gippsland Catchment Management Authority (WGCMA) under Section 52(1)(d) and 52(3) of the Act as the proposal may cause material detriment to them and is likely to be of interest or concern to the community. The referral of applications to other authorities under Section 52 has been supported on numerous occasions by Victorian Civil and Administrative Tribunal (VCAT) even if they are not a Section 55 referral authority. Notably, these include *Gippsland Coastal Board v South Gippsland SC* [2008] VCAT 187 (11 February 2008), *Myers v South Gippsland SC* (Red Dot) [2009] VCAT 1022 (22 June 2009) and *West Gippsland Catchment Management Authority v South Gippsland SC* [2017] VCAT 63 (10 January 2017). The WGCMA objected to the application and its reasons are included in the recommendation.

Whilst it is accepted that the proposed development satisfies a significant portion of the relevant Planning Scheme provisions, it is considered that on balance, the proposal cannot be supported. It is considered that the proposal fails to satisfy or is contrary to a number of key State and Local Planning Policies. The application is therefore recommended for refusal.

### **RECOMMENDATION**

**That Council issue a notice of refusal for the development of four dwellings and native vegetation removal, for the following reasons:**

- 1. The proposal is not consistent with the objectives and strategies of Clauses 11.07-1 and 11.10-5 because Venus Bay is not identified for any form of growth or change in the Gippsland Regional Growth Plan because it lacks the utilities, services, transport, commercial and social**

infrastructure and emergency services that would be required to do so sustainably.

2. The proposal is not consistent with the objectives and strategies of Clauses 16.01-1 and 16.01-2 because it is not integrated with or located close to infrastructure, services, transport or jobs.
3. The proposal is not consistent with the objectives and strategies of Clauses 21.02, 21.03, 21.05 and 21.13 that highlight the lack of transport, utilities, services and community facilities in Venus Bay. The clauses suggest that medium and high density housing in areas without reticulated water and sewer should be discouraged. They also highlight the need to deal with large population fluctuations of holiday towns like Venus Bay, which place different demands on infrastructure and services. The clauses also highlight Venus Bay's reliance on larger towns or Tarwin Lower for facilities and services.
4. The proposal is not consistent with the objectives and strategies of Clauses 21.04 and 21.07 that highlight the risk of intensifying development in floodplains and the application of the precautionary principle when considering intensification of development in coastal areas.
5. The proposal is not consistent with the objectives and strategies of Clause 21.15-9 Venus Bay. This clause highlights that the aim in Venus Bay is to maintain the current housing density, limit projected residential growth to the long term development areas identified on the Venus Bay Framework Plan until the following Development Prerequisites have been met: a significant proportion of vacant lots within the Township Zone and Low Density Residential Zone have been developed; and reticulated water and sewerage is available.

West Gippsland Catchment Management Authority reasons:

1. The proposal is not consistent with the objective of the State Planning Policy Framework (SPPF) Clause 13.01-1 - Coastal Inundation and Erosion - to plan for and manage the potential coastal impacts of climate change.
2. The proposal is not consistent with the objective of the State Planning Policy Framework (SPPF), Clause 13.02-1 - Floodplain Management - to assist the protection of life, property and community infrastructure from flood hazard.
3. The proposal is not consistent with the objectives of the Municipal Strategic Statement (MSS), Clause 21.04-2 - Vision - to ensure that development on floodplains is compatible with the level of flood risk.

4. **The proposal is not consistent with the 'Guidelines for Coastal Catchment Management Authorities: Assessing development in relation to sea level rise' (DSE, 2012).**
5. **The proposal is not consistent with the Principles and Objectives from the West Gippsland Catchment Management Authority's Flood Guidelines, 'Guidelines for development in flood prone areas' (2013).**
6. **The proposal is not consistent with the decision guidelines in the Victorian Planning Provision Practice Note PNP11 'Applying for a Planning Permit Under the Flood Provisions - A guide for councils, referral authorities and applicants', in that:**
  - a. **It is not consistent with the SPPF (Clause 13.01-1 and/or 13.02-1**
  - b. **It is not consistent with the MSS (Clause 21.04-2).**
  - c. **It relies on low-level access to and from the site.**
  - d. **It is likely to increase the burden on emergency services and the risk to emergency personnel.**

## **REPORT**

### **Background**

The subject land is L1530 and L1531 LP54882 Parish of Tarwin, more commonly known as 55-57 Bradley Avenue, Venus Bay. The land also has frontage to Canterbury Road. The land has an area of approximately 2000m<sup>2</sup>. The land is currently vacant and is predominantly covered by native vegetation.

Refer to **Attachment [2.4.1]** – 55-57 Bradley Avenue, Venus Bay - Aerial Photo.

Refer to **Attachment [2.4.2]** – 55-57 Bradley Avenue, Venus Bay - Planning Property Report.

The land is in the Township Zone (TZ). The land is affected by the Environmental Significance Overlay Schedule 7 - Coastal Settlements (ES07), the Design and Development Overlay Schedule 5 – Venus Bay (DD05) and by the Bushfire Management Overlay (BMO).

The site is in a locality surrounded by other residential uses and vacant sites. Across Canterbury Road is Coastal Crown Land. Approximately 250m to the south east is the Venus Bay Transfer Station.

## The Proposal

The proposal is to develop four dwellings and to remove native vegetation. Each of the four dwellings has a modest footprint of 7.2m x 7.2m. The total floor area of all four dwellings is under 250m<sup>2</sup>. They are all of identical, two storey contemporary design with a height of 6.9m from floor to highest point. However, due to the slope of the land, the highest point about natural ground level would be approximately 8m. Each dwelling would contain two bedrooms, a lounge, dining, kitchen and bathroom. Each dwelling would be allocated one car parking space.

Refer to **Attachment [2.4.3]** – 55-57 Bradley Avenue, Venus Bay - Proposed Plans – Four Dwellings.

## CONSULTATION

The application was notified to adjoining/adjacent owners and occupiers. The application was also notified by placing a sign on the land. There were 11 objections received.

The objections primarily relate to neighbourhood character, design, adverse environmental impact as a result of vegetation removal, adverse amenity impacts (privacy concerns) and traffic. A majority of the matters raised in the objections are not considered relevant to the decision or fatal to the application. These matters are summarised and responded to in detail in **Attachment [2.4.4]** – 55-57 Bradley Avenue, Venus Bay - Officer's Delegation Report.

Refer to **Confidential Attachment [15.3.1]** – Development of Four Dwellings - 55-57 Bradley Avenue, Venus Bay - Copy of Objections.

The application was referred to the Country Fire Authority (CFA) as a recommending referral authority under Section 55 of the Planning and Environment Act (the Act). CFA provided conditional consent.

The application was also notified to WGCMA under ss.52(1)(d) and 52(3) of the Act as the proposal may cause material detriment to them and is likely to be of interest or concern to the community. The referral of applications to other authorities under s.52 has been supported on numerous occasions by VCAT even if they are not a Section 55 referral authority. Notably, these include *Gippsland Coastal Board v South Gippsland SC* [2008] VCAT 187 (11 February 2008), *Myers v South Gippsland SC* (Red Dot) [2009] VCAT 1022 (22 June 2009) and *West Gippsland Catchment Management Authority v South Gippsland SC* [2017] VCAT 63 (10 January 2017). The WGCMA objected to the application on the basis that the proposal is not consistent with State and Local Planning Policy

and its adopted policies and guidelines for assessing planning permit applications.

The application was referred internally to Council's Engineering and Waste Water Departments. They provided conditional consent. The referral responses are discussed in more detail in **Attachment [2.4.4]** – Officer's Delegation Report.

### **Assessment**

The proposed development is considered to comply with a majority of the relevant State Planning Policy Framework (SPPF) and Local Planning Policy Framework (LPPF), Zone, Overlays and Particular provisions as discussed at **Attachments [2.4.4]** and **[2.4.5]**. However, the proposal is also considered to be inconsistent with some of the key SPPF and LPPF provisions relating to the location of residential growth, which are highlighted in the proposed reasons for refusal.

It should also be noted that there have been a number of relevant VCAT decisions within this Shire in the last 10 years (and across the State) relating specifically to Coastal Climate Change / Flooding and the intensification of development, where such development would be affected by these environmental impacts or expose future occupants of those developments to higher levels of risk. In every instance that Council is aware of, VCAT has taken a cautious approach or even applied the precautionary principle where there is a lack of clear scientific evidence that would mitigate those impacts and risks. This has resulted in all such applications being refused by VCAT, irrespective of whether Council or other authorities have supported them. The relevant cases from this Shire are:

- West Gippsland Catchment Management Authority v South Gippsland SC [2017] VCAT 63 (10 January 2017)
- Myers v South Gippsland SC (Red Dot) [2009] VCAT 1022 (22 June 2009) and Myers v South Gippsland SC (No 2) (Red Dot) [2009] VCAT 2414 (19 November 2009)
- Gippsland Coastal Board v South Gippsland SC [2008] VCAT 187 (11 February 2008) and Gippsland Coastal Board v South Gippsland SC & Ors (No 2) (Red Dot) [2008] VCAT 1545 (29 July 2008)

A full assessment of the application is contained in **Attachment [2.4.4]** – 55-57 Bradley Avenue, Venus Bay - Officer's Delegation Report and in **Attachment [2.4.5]** – 55-57 Bradley Avenue, Venus Bay – Clause 55 Assessment Table.

## ATTACHMENTS

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

1. 55-57 Bradley Avenue Venus Bay - Aerial photo [2.4.1]
2. 55-57 Bradley Avenue Venus Bay - Planning Property Report [2.4.2]
3. 55-57 Bradley Avenue Venus Bay - Proposed Plans - Four Dwellings [2.4.3]
4. 55-57 Bradley Avenue Venus Bay - Officer's Delegation Report [2.4.4]
5. 55-57 Bradley Avenue Venus Bay - Clause 55 Assessment Table [2.4.5]

## CONFIDENTIAL ATTACHMENTS

**Confidential Attachment [15.3.1]** – Development of Four Dwellings - 55-57 Bradley Avenue, Venus Bay - Copy of Objections– has been provided in accordance with s.77(2)(c) of the Local Government Act 1989, the Chief Executive Officer designates this item as confidential information on the grounds that it relates to s.89(2)(h) - any other matter which the Council or Special Committee considers would prejudice the Council or any persons.

This is deemed confidential to protect the privacy of the submitter.

## REFERENCE DOCUMENTS

### Council Policy

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

### Legislative Provisions and Guidelines

Planning and Environment Act 1987

Guidelines for Coastal Catchment Management Authorities: Assessing development in relation to sea level rise (DSE, 2012)

Guidelines for development in flood prone areas (West Gippsland Catchment Management Authority, 2013).

Victorian Planning Provision Practice Note PNP11 - Applying for a Planning Permit Under the Flood Provisions - A guide for councils, referral authorities and applicants

**3. OBJECTIVE 2 - BUILD STRONG PARTNERSHIPS, STRENGTHEN  
ARTS & CULTURE AND DELIVER EQUITABLE OUTCOMES**

**3.1. NIL**

## **4. OBJECTIVE 3 - IMPROVE SOUTH GIPPSLAND'S BUILT ASSETS AND VALUE OUR NATURAL ENVIRONMENT**

### **4.1. LEONGATHA RAILWAY SITE TRANSFORMATION - FINAL MASTER PLAN**

Development Services Directorate

#### **EXECUTIVE SUMMARY**

A Master Plan has been prepared for the Leongatha Railway Site for Council adoption that reflects community desires and input to improve the site. The Master Plan seeks to revitalise this key site in South Gippsland's regional centre for the community's benefit. Key features of the Master Plan are the extension of the rail trail through the site, a footbridge connection from Bair Street, playground, a flexible open space area for recreation and events, a traffic education area, exercise station circuit and additional bike, car and long vehicle parking. The next step of the project is to prepare detailed designs and establish funding sources to implement the plan.

#### **RECOMMENDATION**

**That Council:**

- 1. Adopt the Final Master Plan (refer Attachment [4.1.1]) for the Leongatha Railway Site Transformation Project;**
- 2. Commence detailed design for the project; and**
- 3. Investigate funding opportunities to implement the Master Plan.**

#### **REPORT**

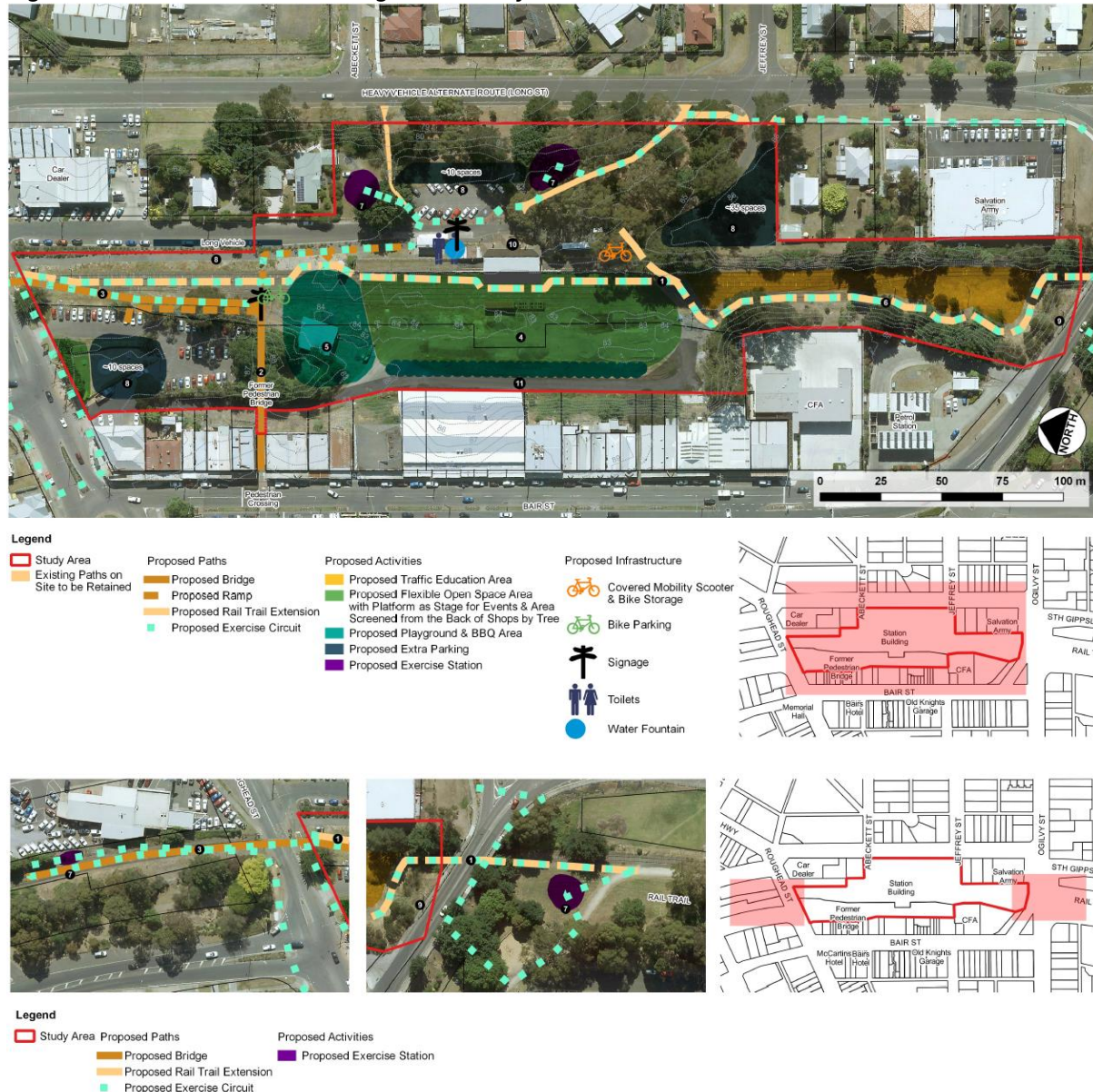
The Leongatha Railway Site Transformation Project seeks to improve the Leongatha railway yard and station area for the benefit of the community. While the railway corridor to Leongatha will remain open for future rail services, the State Government currently has no plans for their return. Given this, Council has the opportunity to take over the lease of the railway land and to improve the site. The project involves Council working closely with VicTrack, which is the land manager on behalf of the Crown.

The Master Plan Report (**Attachment [4.1.1]**) provides the context for the project, describes the existing site conditions and sets out the Final Master Plan and its recommendations.

The copy of the Final Master Plan is shown below in **Figure 1** and available at Appendix A of **Attachment [4.1.1]**.



Figure 1 – Final Master Plan Leongatha Railway Site Transformation



Elements of the Final Master Plan (the numbers correspond to elements shown on the plan) are described below:

1. **Rail trail extension** - Great Southern Rail Trail extended from current start at Horticultural Park into the site connecting to the station building and to Routhead Street (Strzelecki Highway). This is likely to be constructed of asphalt for longevity. Equine riders will be required to dismount at either end of the railway site to avoid conflicts with other users when travelling through the site.
2. **Footbridge connecting site to Bair Street** - Continuous accessible path from the laneway off the main street, Bair Street (next to Toy Shop as per previous footbridge) via a bridge. The footbridge will be designed like a big cow that people can walk through. It will be an art installation visible from

a distance on the approach from Melbourne and will act as a tourism attraction. The bridge will incorporate a look-out as well as information about the town's history. An entranceway will be established at the end of the laneway along Bair Street to direct people to the site. The bridge will connect to the rail trail, adjacent playground and Apex Park car park.

3. **Rail trail extension bridge** - Continuous accessible path over Roughead Street (Strzelecki Highway) for equines, bicycles and pedestrians to extend the rail trail towards Korumburra. The bridge will connect to the proposed Bair Street footbridge and designed so that the Bair Street portion can be built as funds are available. The design of the bridge will be important given its prominent location, its required height and its visual impact on the town. A design competition should be established to encourage the design of an attractive landmark structure that benefits the town. The alignment of the bridge will ensure that the return of rail to the region is not disadvantaged. It is likely that power will need to be undergrounded as part of this work.
4. **Performance & open space area** - Use of station platform as a stage for performances with a grassed area for seating which could also be used for recreation (e.g. kicking a football, picnicking) or events (e.g. markets) when performances are not on. Restricted vehicle access (for trucks up to 12.5m) provided from Strzelecki Highway to the area will provide for event set-up and rear of shop access.

This flexible open space area provides the opportunity for major events in the region such as concerts, Christmas carols and markets to be held at the site in the future in close proximity to town and facilities similar to Baromi Park, Mirboo North. The area is compared to the size of other open spaces in the region at pages 17-19 of the Draft Master Plan Engagement Report (**Attachment [4.1.2]**). It is vital that the open space area be maximised to allow for a large variety of community events. The benefit of a large, flexible open space in the centre of the site is that, unlike events at the Leongatha Recreation Reserve and at Mossvale Park, the railway site is located in the town centre which can support business in central Leongatha.

Infrastructure for events such as lighting poles which accommodate sound and lighting equipment, an extension to the verandah for performances and anchor points for market stalls will be considered in the detailed design for this area. Trees (e.g. *magnolia grandiflora*) are also proposed to screen the back of Bair Street properties.

5. **Playground & covered BBQ area** - A distinctive playground to attract people passing through Leongatha to stop in town. It will be designed to

cater for a range of abilities, surrounded by a low fence and preferably incorporate a large slide. Next to the playground a covered BBQ area is proposed. The playground and BBQ shelter will replace the existing play equipment and proposed shelter at nearby Horticultural Park. This area will have easy access to town via the Bair Street footbridge and to car parking at the adjacent Apex Park car park. Access will be provided by continuous accessible paths and ramps. Seating will be provided in this area. This seating will be able to be used for sheltered (undercover) viewing of any events in the adjacent performance space.

6. **Traffic education area** - A pedestrian and bicycle education facility for children to develop the skills they need to safely travel as pedestrians and cyclists on roads and paths. This area includes a shelter and seating. Consultation with local schools will continue as the detailed design of this facility is prepared.

In response to the Leongatha Rotary Club's and local schools' feedback, the location of the traffic education area has been modified since the Draft Master Plan. This is the most obvious change to the master plan in response to consultation feedback. Two designs were prepared to determine the feasibility establishing a workable facility at the site. The location as shown in the Draft Master Plan extended into the proposed Fitness Equipment space is preferred as discussed at pages 12-20 of the Draft Master Plan Engagement Report (**Attachment [4.1.2]**). This location:

- Can accommodate all the components considered necessary to teach road safety skills.
- Is in close walking distance along an accessible path from proposed toilets and parking areas, including a formal bus stop.
- Will be provided with good lighting and passive surveillance (visible from adjacent open space area, railway station platform and the Bair Street bridge).
- Does not reduce the size of the flexible, multi-use open space area or interfere with access to the open space area for events (in distinct contrast to the other option considered).
- Is contained by the natural form the land to make the management of children easier.
- Is separated from roadways carrying vehicle traffic.

This location was discussed with the local schools who continued to support the traffic education area at the site. South Gippsland Specialist

School in particular requested to work with Council as this facility is designed, constructed and maintained into the future given their interest to use it on a weekly basis.

7. **Exercise stations** - A series of exercise equipment between Centenary Park and Horticultural Park along pathways. This could be established as a circuit. It is intended that this equipment will encourage physical activity by a wide range of demographics. Sport and Recreation Victoria will be consulted in the detailed design of these stations.
8. **Additional car parking** - At least fifty additional all day car parking spaces will be provided at the site. The Apex Park and VLine bus parking areas are proposed to be extended. A formalised car parking area is also proposed just off Long Street. Dedicated long vehicle parking is proposed along Bennett Lane to cater for caravans and vehicles with trailers. Additional car parking spaces may also be established along Bennett Lane depending on the rail trail extension bridge design. The configuration of parking spaces will be determined during the detailed design.
9. **New access (steps)** - Steps are proposed from Bair Street / Koonwarra Road bridge to the site. The feasibility of a ramp will be re-considered during the detailed design but is unlikely to be proposed as it would need to be a length of over 60 metres and new and improved accessible paths are proposed from Bair Street and Long Street into the site.
10. **Use of the station building** - While improvements to the site are being established, Council proposes to use the station building as an arts and music hub. This will include space for storing musical equipment and seating for events.

When assessing future tenants and proposed activities in the building, use the following guiding principles:

- Provides an activity that complements the other use and development proposed for the site (e.g. snacks, hot drinks, bike hire, tourist information).
  - Contributes to activity at the site, particularly at times when retail is quiet in the town (i.e. opening hours on Saturday afternoon and Sundays).
11. **Restricted vehicle access** - Restricted access for events such as markets and for deliveries to the rear of properties provided for vehicles (up to a 12.5m truck).

Other elements of the Final Master Plan include the following facilities and proposals:

### **Facilities**

A new self-contained toilet will be provided at the VLine bus stop in the short term with the option of upgrading the existing toilet block for public use and / or establishing a new toilet block at the site in the longer term.

A water fountain with water bottle refill and dog tap is proposed at a central location, within close access of the VLine bus stop, the rail trail, playground and open space area.

Bicycle parking is proposed at a key location where bike riders can park for events, to use the playground and BBQ area and to access to town on foot via the Bair Street footbridge.

Covered bicycle and mobility scooter parking and storage is proposed in combination with a bicycle repair kit ('fixit' station) at the southern end of the station platform. Bicycles and trikes will be able to be stored in lockers (e.g. secure, self-serve Parkiteer cages). The form of parking will be determined as part of the detailed design in discussion with South Gippsland Specialist School.

Signage is proposed at the site to assist pedestrians and rail trail users with directions to nearby services and facilities. Signage is also proposed at the entries to Leongatha and into the site from Long Street to encourage passing traffic to stop at the site (refer to **Map 7** in **Attachment [4.1.1]**). The proposed signage will integrate with existing Great Southern Rail Trail signage and wayfinding signage to be installed in central Leongatha as part of the upgrades to Bair Street.

### **Other proposals**

The following proposals will be explored further as part of the detailed design, with c) - f) considered as funding opportunities become available:

- a) Additional planting and seating is proposed to be integrated into the redevelopment of each area. As the pine or other trees reach the end of their life and become dangerous, they will be replaced with native plantings. Plants (especially weeds) at the site's southern end will be cleared to improve visibility. Some other vegetation will need to be removed to construct the proposed bridges and parking but this will be minimised where possible.

- b) Lighting is proposed to improve visibility and safety throughout the site. Where possible, energy efficient lighting and renewable energy will be used.
- c) There is an opportunity for the site to become a solar energy pilot site. Solar panels could be installed on the roof of the BBQ shelter.
- d) Electric charging facilities could be provided for vehicles, mobility scooters and electric bicycles (e.g. located at the parking areas).
- e) Any opportunities for an art installation (such as a large mural) to beautify the back of Bair Street properties could be investigated. This will involve consultation with affected commercial land owners and tenants.
- f) Historical information provided throughout the site in consultation with the Historical Society.

## CONSULTATION

Two rounds of community consultation provided the community with opportunities to shape the Master Plan:

1. Ideas Engagement – April-May 2017
2. Draft Master Plan Engagement – September-October 2017

A large consultation event, the 'Ideas Fair' was held on Saturday 22 April 2017 and attracted approximately 200 people. This event publicised the project and involved demonstrations showing how the railway site could be better used.

Hundreds of ideas for the site were received and formulated into the Draft Master Plan. Approximately twenty submissions were received in response to the Draft Master Plan. A Project Reference Group and a class of Leongatha Secondary College were also involved in the project.

The results of the engagement processes and the way that they influenced the Draft and Final Master Plan are documented in the Ideas Engagement Report (**Attachment [4.1.3]**) and Draft Master Plan Engagement Report (**Attachment [4.1.2]**). A confidential attachment is also available with a full copy of Draft Master Plan submissions (**Confidential Attachment [15.4.1]**).

Council's Engineering, Economic Development, Parks and Gardens, Property, Community Strengthening, Planning and Depot teams provided input throughout the project.

## RESOURCES

The implementation of the Master Plan will rely largely on external sources of funding. It is likely to require some funded and some unfunded Council resources for full implementation. More discussion about funding and indicative costings is available in the Final Master Plan Report (**Attachment [4.1.1]**).

## RISKS

There are some risks associated with not proceeding with the Master Plan which will lead to further inactivity at the Leongatha railway site. Community expectation is that Council will invest in the improvement of this area.

There is a risk that funding will not be secured for Council to deliver the project. Having an adopted Master Plan and the commitment of Council funds to the site greatly assist opportunities to secure grant funding.

## ATTACHMENTS

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

1. Leongatha Railway Site Transformation - Final Master Plan Report **[4.1.1]**
2. Leongatha Railway Site Transformation - Draft Master Plan Engagement Report **[4.1.2]**
3. Leongatha Railway Site Transformation - Ideas Engagement Report **[4.1.3]**

## CONFIDENTIAL ATTACHMENTS

**Confidential Attachment [15.4.1]** – Leongatha Railway Site Transformation – Draft Master Plan – Copy of Submissions – has been provided in accordance with s.77(2)(c) of the Local Government Act 1989, the Chief Executive Officer designates this item as confidential information on the grounds that it relates to s.89(2) (h) - any other matter which the Council or Special Committee considers would prejudice the Council or any persons.

This is deemed confidential to protect the privacy of the submitter.

## REFERENCE DOCUMENTS

### Council Policy

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

South Gippsland Planning Scheme

Leongatha CBD Car Parking Strategy 2013

South Gippsland Heritage Study 2004

### Legislative Provisions

Planning and Environment Act 1987



## **4.2. 2017/18 CAPITAL WORKS PROGRAM AMENDMENTS**

Infrastructure Directorate

### **EXECUTIVE SUMMARY**

Council adopts the Capital Works Program as part of the Annual Budget process, however, from time to time, program changes are required. This report proposes numerous project reductions and increases to the 2017/18 Capital Works Program, including carry forward amounts to the 2018/19 financial year, equating to \$2,320,460 nett reduction to the overall program for this financial year.

As a consequence of the budget reductions in the 2017/18 Capital Works Program, it is proposed to bring forward two new projects into the Sealed Roads Rehabilitation Program from the current 2018/19 program to partially compensate for this reduction. These projects are Patersons Road, Nyora (\$450,000) and Falls Road, Fish Creek (\$588,361) at a total additional cost of \$1,038,361.

The Road Spray Sealing Program for 2017/18 is being tendered through a Procurement Australia panel contract. Approval is sought to authorise the Chief Executive Officer (CEO) to enter into a contract with Procurement Australia for these works.

It has also been decided to put the majority of the works under the Sealed Roads Rehabilitation Program out to contract with the exception of Main South Road, Ranceby and Falls Road, Fish Creek, which will be carried out by the Depot Construction team. Delegation to the CEO is sought for the awarding of the sealed road rehabilitation contract if the preferred tender price falls within Council's adopted budget.

### **RECOMMENDATION**

**That Council:**

- 1. Approve the following amendments to the 2017/18 Capital Works Program:**
  - a. Cost centre 82110 - Roads - Reseals: reduce the budget by \$891,434 (2017/18 revised budget \$1,400,000).**
  - b. Cost centre 82120 - Roads - Reseal Preparation: increase the budget by \$891,434 (2017/18 revised budget \$1,823,708).**
  - c. Cost centre 46910 - Private Works Sealing: net reduction of \$74,532 as follows:**



- i. Remove the projected revenue of \$409,744 (2017/18 revised revenue \$0).
    - ii. Reduce the expenditure of \$335,212 (2017/18 revised budget \$0).
  - d. Cost centre 82040 - Bair Street, Leongatha: carry forward to 2018/19 the budget amount of \$4,554,890 (2017/18 revised budget \$75,000).
  - e. Cost centre 85010 - Bena Kongwak Road, Bena Bridge: carry forward to 2018/19 the budget amount of \$1,740,000 (2017/18 revised budget \$360,000).
  - f. Cost centre 95030 - Leachate Evaporation System: carry forward to 2018/19 the budget amount of \$351,556 (2017/18 revised budget \$0).
  - g. Community Capital Works Allocation Program (Table 1): carry forward to 2018/19 the budget amount of \$700,000 (2017/18 revised budget \$750,000).
  - h. Caravan Park Capital (Table 2): carry forward to 2018/19 the budget amount of \$846,907 (2017/18 revised budget \$64,956).
  - i. Cost centre 82210 - Sealed Road Rehabilitation Program: increase the budget by \$1,038,361 (2017/18 revised budget \$2,146,631) to accommodate the inclusion of:
    - i. Patersons Road, Nyora totalling \$450,000.
    - ii. Falls Road, Fish Creek totalling \$588,361.
  - j. Cost centre 82260 - Foster Streetscape: increase the Foster Streetscape budget by \$250,000 due to increased costs in pavement construction and Telstra repair works (2017/18 revised budget \$1,130,348).
2. Authorise the Chief Executive Officer to enter into a contract with Procurement Australia (Contract No. 2012/0328 Road Surfacing and Associated Services) for the 2017/18 spray sealing works (40 projects) as detailed in Attachment [4.2.1], subject to the contract being within Council's adopted budget (\$1.4M) and the contract complying with Council's Procurement Policy.
- a. Receive a report at the next appropriate Ordinary Council Meeting detailing the contract awarded and the successful contractor.

- b. Delegate to the superintendent the power to approve variations up to the contingency allowance within the contract.
3. Subject to the recommended tender being within Council's proposed revised budget (\$2,146,631) and in compliance with Council's Procurement Policy:
  - a. Delegate to the Chief Executive Officer the power to award the sealed road rehabilitation contract which exceeds the Chief Executive Officer's financial delegation of \$250,000 (incl. GST).
  - b. Receive a report at the next appropriate Ordinary Council Meeting detailing the contract awarded and the successful contractor(s).
  - c. Delegate to the superintendent the power to approve variations up to the contingency allowance within the contract.

## REPORT

### 1. 82110 – Roads – Reseals: reduce by \$891,434

2017/18 Adopted Budget:	\$2,291,434	Revised:	\$1,400,000
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The program will be reduced to reallocate both financial and physical resources to the *Reseal Preparation Program*. An inspection of the roads in the 2017/18 *Reseal Program* was carried out. The roads removed from the program are in a reasonable condition therefore, will not affect the long term performance of these selected roads. The benefits of carrying out reseal preparation works one year prior to a road reseal far outweigh the effect of having to defer 40% of the *Sealing Program* for one year.

### 2. 82120 – Roads – Reseal Preparation: increase by \$891,434

2017/18 Adopted Budget:	\$932,274	Revised:	\$1,823,708
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It is best practice to carry out reseal preparations one year in advance of road reseal works. Traditionally, the preparation work has been carried out during the same year in the months leading up to the sealing/resealing works. This creates the following issues which can affect the quality and long-term performance of any given sealed road surface:

- Patching works have no time to settle.

- Asphalt products require time to cure. Patches that have not cured sufficiently may lead to the reseal “bleeding”<sup>1</sup>.
- If the weather conditions delay the preparation program, then the resealing works are also delayed. This sometimes results in having to undertake works late in the season when weather conditions are not ideal.
- A lost opportunity and less value for Council if ideal weather conditions for resealing arrive early and the works cannot commence because of incomplete preparation work.

To ensure Council optimises its in-house delivery of road sealing works, it is proposed that a best value review of its in-house capability be undertaken. There needs to be a large investment in plant and equipment to ensure the immediate and ongoing viability of the in-house sealing capability. The in-house sealing crew will be redeployed to undertake the extra preparation work while the road resealing works are outsourced.

To facilitate this move to best practice, two years of preparations are required in the 2017/18 sealing season. Reducing the *Road Reseal Program* works for 2017/18 will allow resources to be reallocated to the *Road Reseal Preparation Program*. Therefore, the road reseals and preparation for road reseals budgets require an adjustment.

This budget adjustment will ensure that the 2018/19 and future *Road Reseal Preparation* works will be carried out one year in advance of resealing works.

### 3. 46910 – Private Works Sealing: reduced by \$335,212

2017/18 Adopted Budget (inc):	<b>\$409,744</b>	Revised:	<b>\$0</b>
2017/18 Adopted Budget (exp):	<b>\$335,212</b>	Revised:	<b>\$0</b>
<b>Net impact</b>	<b>\$-74,532</b>		

To this end, it is proposed that all sealing works for the 2017/18 season be outsourced. A comparative analysis between in-house and outsourced road sealing services with respect to quality and costs will then inform the

<sup>1</sup> **Bleeding**, or flushing, is shiny, black surface film of asphalt on the road surface that can become quite sticky which is caused by upward movement of asphalt in the pavement surface. Common causes of bleeding are too much asphalt in asphalt concrete, hot weather, low space air void content, and quality of asphalt.

best value review. As the sealing service will not be operational for the 2017/18 season, private works sealing will not be possible.

Therefore, it is intended that no sealing private works will be undertaken for the 2017/18 season. Therefore, there will be a net reduction of \$74,532.

**4. 82040 – Bair Street, Leongatha: 2018/19 c/f \$4,554,890**

2017/18 Current Budget (inc):	<b>\$3,060,000</b>	Revised:	<b>\$0</b>
2017/18 Adopted Budget (exp):	<b>\$4,629,890</b>	Revised:	<b>\$75,000</b>
<b>Net impact</b>	<b>\$1,494,890</b>		

Delivery of the Bair Street streetscape project is conditional on securing grant funding through Regional Development Victoria (RDV). To date, Council's application has not been progressed by RDV and it is now clear this project is unlikely to commence this financial year, even if funding was secured in the foreseeable future.

It is proposed that the majority of this budget be carried forward to 2018/19. A small allowance of \$75,000 will be retained in the 2017/18 budget to cover costs to date and future costs to complete planning works.

**5. 85010 – Bena Kongwak Road, Bena Bridge: 2018/19 c/f \$1,740,000**

2017/18 Adopted Budget (inc):	<b>\$1,450,000</b>	Revised:	<b>\$0</b>
2017/18 Adopted Budget (exp):	<b>\$2,100,000</b>	Revised:	<b>\$360,000</b>
<b>Net impact</b>	<b>\$290,000</b>		

The delivery of the Bena Kongwak Bridge and associated road realignment works were also conditional on securing grant funding through the Federal Government's *Bridges Renewal Program*. Council was advised in September 2017 that its application was successful. Given that land needs to be acquired for this project and that tender documents are to be prepared, advertised, and awarded, it is unlikely there will be significant works this financial year.

It is proposed that the majority of this budget be carried forward to 2018/19. An allowance of \$360,000 will be retained in the 2017/18 budget to cover costs to date, anticipated land acquisition costs and early works under the contract.

**6. 95030 – Leachate Evaporation System: 2018/19 c/f \$351,556**

2017/18 Current Budget:	<b>\$351,556</b>	Revised:	<b>\$0</b>
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The original 2017/18 Adopted Budget was \$431,574. It is noted that \$80,018 from this budget has already been transferred to cost centre 95020 to cover the cost of remedial works to Cell 4 required by the EPA Victoria and the environmental auditor as well as the removal of the temporary separation bund between Cells 4A and 4B.

The leachate evaporation system has been put on hold for the following reasons:

- Reduction in the volume of leachate generated compared to the volumes modelled in the original proposal.
- Potential introduction of a kerbside organics collection service from 2020 which would reduce leachate generation.
- Potential development of a regional collaborative waste disposal facility that could see Council's kerbside waste disposed of at a regional facility rather than at Koonwarra which would further reduce leachate generation.

It is expected that a final decision on the viability of the proposed leachate evaporation system could be made by late 2018, therefore, it is proposed to retain these allocated funds and carry forward the remaining budget to 2018/19.

**7. Community Capital Works Allocation: 2018/19 c/f \$700,000**

2017/18 Adopted Budget <sup>2</sup> :	<b>\$1,450,000</b>	Revised:	<b>\$750,000</b>
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The *Community Capital Works Allocation Program* comprises the following projects:

<sup>2</sup> A total of \$1,600,000 is allocated to the Community Capital Works Allocation program, however, the Venus Bay Surf Life Saving Club improvements project is currently reflected in the Reserves account and has not been allocated to the Capital Works Program until project timing is known (*refer to following footnote*).

**Table 1 – Community Capital Works Allocation Program Budget Revisions**

<b>COST CENTRE</b>	<b>PROJECT</b>	<b>2017/18 BUDGET</b>	<b>2017/18 REVISED</b>
93160	Korumburra Recreation Centre carpark	\$175,000	\$100,000
93170	Korumburra Recreation Reserve building works	\$175,000	\$5,000
93180	Korumburra Skate Facility construction	\$50,000	\$0
65560	Foster Recycled Water construction	\$400,000	\$400,000
93130	Mirboo North Baromi Park master plan	\$300,000	\$120,000
88060	Couper St, Mirboo North footpath (renew/extend)	\$100,000	\$100,000
93150	Van Cleef Reserve, Venus Bay environmental projects	\$125,000	\$15,000
93140	Venus Bay Skate Park construction	\$125,000	\$10,000
Reserve	Venus Bay Surf Lifesaving Club improvements \$150,000 <sup>3</sup>	N/A	N/A
	<b>TOTAL</b>	<b>\$1,450,000</b>	<b>\$750,000</b>

Many of these projects cannot be delivered during 2017/18 as they require significant planning and consultation with the relevant community groups. It is proposed that budget amount of \$700,000 is carried forward in accordance with the revised budgets for 2017/18 in **Table 1** above.

## 8. Caravan Park Works: 2018/19 c/f \$846,907

2017/18 Current Budget:	<b>\$911,863</b>	Revised:	<b>\$64,956</b>
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Significant caravan park works have been budgeted for 2017/18. Council has formed a steering committee for both the Long Jetty and Yanakie caravan parks to help decide the best direction and business model for the management of these parks. For Waratah Bay, Council is currently negotiating the terms of the lease extension for a further five year lease which will outline the capital improvements required for this park. Consequently, a significant volume of currently budgeted works needs to move to future years.

Currently budgeted works for the caravan parks comprises the following works:

<sup>3</sup> Venus Bay Surf Lifesaving Club project still in the early planning stages. Capital budget will be allocated to a future year once the timing for project delivery is known.

**Table 2 – Caravan Park Budget Revisions**

<b>COST CENTRE</b>	<b>PROJECT</b>	<b>2017/18 BUDGET</b>	<b>2017/18 REVISED</b>
73510	Long Jetty Caravan Park toilet block	\$376,419	\$0
73670	Waratah Bay Caravan Park toilet block	\$142,694	\$0
98010	Long Jetty Caravan Park – other works	\$260,299	\$31,639
98020	Yanakie Caravan Park – other works	\$132,451	\$33,317
	<b>TOTAL</b>	<b>\$911,863</b>	<b>\$64,956</b>

The works still proposed to be carried out in 2017/18 are covered by the amounts in the 2017/18 'Revised' budget column in **Table 2** above. It is proposed that the unused budgets for 2017/18 of \$846,907 be carried forward into 2018/19.

**9. 82210 – Sealed Road Rehabilitation Program: increase by \$1,038,361**

2017/18 Current Budget:	<b>\$1,108,270</b>	Revised:	<b>\$2,146,631</b>
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Due to under-expenditure on the projects detailed above, it is proposed to bring forward two new projects into the *Sealed Road Rehabilitation Program* from the current 2018/19 program. These projects are Patersons Road, Nyora (\$450,000) and Falls Road, Fish Creek (\$588,361) at a total additional cost of \$1,038,361.

In order to expedite the timely delivery of this contract, this report also recommends that Council delegates to the CEO the power to award the sealed road rehabilitation contract which is discussed further in this report (refer to item 13).

**10. 82260 – Foster Streetscape: increase by \$250,000**

2017/18 Current Budget:	<b>\$880,348</b>	Revised:	<b>\$1,130,348</b>
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The current overall budget for the Foster streetscape project is \$1,424,684 with \$544,336 expended in 2016/17. The streetscape project is now almost finished following the completion of pavement works on 17 November 2017. The adjacent laneway project has been deferred to late January 2018 to prevent impacting the streetscape works and also the Christmas trading period for businesses.

Significant subgrade issues were encountered during the construction of the road pavement. The conditions were much worse than expected and included the removal of six large tree trunks and an average depth of 300mm of low-strength silty material.

This necessitated a re-design of the pavement. Significant additional costs have been incurred as a result of the poor subgrade. Costs associated with the remediation of the subgrade are the responsibility of Council under the contract as are the additional costs associated with any re-design. These additional costs total \$150,000. The contingency amount under the contract has already been used on variations to date therefore an increase in the project budget totalling \$150,000 is required. Formal approval to the consequential contract variation will be submitted in due course.

In addition to this cost increase of \$150,000, a large number of Telstra pits have been impacted by the works. Telstra, under its Commonwealth legislative powers is insisting that these pits be upgraded to remove asbestos, match pits to the new footpath levels, and address any previously damaged pits. The preliminary estimate for these works based on an indicative quote from Telstra is \$100,000.

Therefore it is requested that the budget is increased by \$250,000 to cover these potential costs.

#### **11. Award Sealed Road Rehabilitation Contract Under CEO Delegation**

Previously these works have been carried out entirely by the Depot Construction team. It has been decided to put these works out to tender in 2017/18 with the exception the Main South Road, Ranceby and Falls Road, Fish Creek which will be completed by the Depot.

On 22 February 2017, Council amended Clause 4.1 of the Council Instrument of Delegation to the CEO to give power to award any contract exceeding the CEO's financial delegation of \$250,000 (incl. GST), which complies with Council's Procurement Policy and is delegated to the CEO to award by a resolution of Council.

Delegation to the CEO is sought for the awarding of the sealed road rehabilitation contract which exceeds the CEO's financial delegation of \$250,000 (incl. GST), subject to the recommended tender being within Council's proposed revised budget of \$2,146,631, the contract complying with Council's Procurement Policy, and the awarding being reported to the next appropriate Council Meeting.

#### **12. Road Spray Sealing Program - Procurement Australia (Contract No. 2012/0328 Road Surfacing and Associated Services)**

Procurement Australia invited tenders from suitably qualified organisations to be part of a panel of providers for the supply and delivery of a range of services associated with road surfacing, road maintenance and road rejuvenation.



The objective of the tender was to create a standing offer contract and to prequalify a panel of suitably experienced contractors capable of providing the required services to Procurement Australia members who in turn will seek firm quotations for their individual and specific requirements.

Council submitted 40 road spray sealing projects to be part of this contract as detailed in **Attachment [4.2.1]**. Approval is sought to authorise the CEO to enter into a contract with Procurement Australia for these works totalling \$1.4M.

## CONSULTATION

Discussions with the relevant staff within Council managing the various projects discussed in this report have taken place to ascertain the status of each project and the likely expenditure for 2017/18.

## RESOURCES

The proposed amendments have a significant change to the total budget for the 2017/18 Capital Works Program (reduced by \$2,320,460 meaning a net favourable position) which is partly mitigated by the inclusion of two new projects under the sealed road rehabilitation program at a value of \$1,038,361. The carried forward amount of \$8,193,353 into the 2018/19 financial year will significantly increase the workload in that year, particularly if Council is successful in attracting funding for the Bair Street project. It is noted that this carry forward includes a total of \$4,510,000 in assumed income for Bair Street, Leongatha (\$3,060,000) and Bena Kongwak Bridge (\$1,450,000).

The breakdown of the proposed changes are provided in **Table 3** below:

Table 3 – Proposed Changes (Budget Impact)			2017/18 Original Budget	2017/18 Revised Budget	Favourable / (Unfavourable)
<b>INCOME</b>					
<b>3</b>	46910	Private Sealing	409,744	0	(409,744)
<b>4</b>	82040	Bair Street	3,060,000	0	(3,060,000)
<b>5</b>	85010	Bena Kongwak Bridge	1,450,000	0	(1,450,000)
		<b>Total Income</b>	<b>4,919,744</b>	<b>0</b>	<b>(4,919,744)</b>

Table 3 – Proposed Changes (Budget Impact)

			2017/18 Original Budget	2017/18 Revised Budget	Favourable / (Unfavourable)
<b>EXPENDITURE</b>					
1	82110	Roads - Reseals	2,291,434	1,400,000	891,434
2	82120	Reseal Preparation	932,274	1,823,708	(891,434)
3	46910	Private Sealing	335,212	0	335,212
4	82040	Bair Street	4,629,890	75,000	4,554,890
5	85010	Bena Kongwak Bridge	2,100,000	360,000	1,740,000
6	95030	Leachate Evaporation System	351,556	0	351,556
7		Community Capital Works (refer Table 1)	1,450,000	750,000	700,000
8		Caravan Parks (refer Table 2)	911,863	64,956	846,907
9	82210	Sealed Road Rehabilitation Program (a) Patersons Road \$450,000 (b) Falls Road \$588,361	1,108,270	2,146,631	(1,038,361)
10	82260	Foster Streetscape	880,348	1,130,348	(250,000)
		<b>Total Expenditure</b>	<b>14,990,847</b>	<b>7,750,643</b>	<b>7,240,204</b>

<b>NET 2017/18 (Impact on Budget)</b>					
		Total Income	4,919,744	0	(4,919,744)
		Total Expenditure	14,990,847	7,750,643	7,240,204
		<b>NET Favourable / (Unfavourable)</b>			<b>2,320,460</b>

## RISKS

The budget adjustments recommended in this report will minimise the likelihood of budget variation explanations for the remainder of the financial year by better aligning budgets with expected outcomes.

The inclusion of two new sealed road rehabilitation projects partially offsets the impact of reduced expenditure on other projects.

## **REFERENCE DOCUMENTS**

### **Council Policy**

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

Asset Management Strategy 2017

Procurement Policy 2017

Long Term Financial Strategies 2016/17

### **Legislative Provisions**


Road Management Act 2004

#### **4.3. PROPOSED NEW ROAD NAME AS 'DARSHAN LANE' - UNNAMED ROAD OFF CAITHNESS ROAD, KOONWARRA**

Infrastructure Directorate

##### **EXECUTIVE SUMMARY**

There are three properties abutting an unnamed road off Caithness Road, Koonwarra which is creating confusion for the general public, transport vehicles, and emergency services. The properties are addressed to Caithness Road but are accessed via this unnamed road.

The unnamed road runs south off Caithness Road, Koonwarra for approximately 220 metres (shown as  in **Figure 1**) and is on Council's Public Road Register as a public road.

Public safety is paramount. This unnamed road will be officially named and registered with the Office of Geographic Names, thus ensuring emergency services can locate all properties addressed to the road, by providing a unique road name and property numbering to this road.

Three names were proposed to Council – "DARSHAN" – "BARGUSS" – "MILLSOM" – all of which conform with VicNames naming rules.

The affected land owners / occupiers were consulted via a voting poll with the majority of votes in favour of the name 'DARSHAN'. It is recommended Council considers the voting poll responses and determines the new road name for this unnamed road.

##### **RECOMMENDATION**

**That Council:**

- 1. Considers the submissions received on the proposed road naming of the unnamed road heading south bound off Caithness Road, Koonwarra.**
- 2. Considers the results of the voting poll noting that the majority of votes were in favour of the name 'Darshan'.**
- 3. Determines the unnamed road, heading south bound off Caithness Road, Koonwarra as 'Darshan Lane' and rennumbers all affected properties accordingly.**
- 4. Writes to all submitters advising them of Council's decision and notifies the objectors that they have an opportunity to appeal South Gippsland Shire Council's decision with the Registrar of Geographic Place Names.**


5. Forwards the proposed new road name to the Registrar of Geographic Place Names for final consideration and approval.
6. Subject to Geographic Place Names approval of the proposed new name, places a notice in local newspapers and advises abutting land owners, local organisations, and local stakeholders of the new road name.

## REPORT

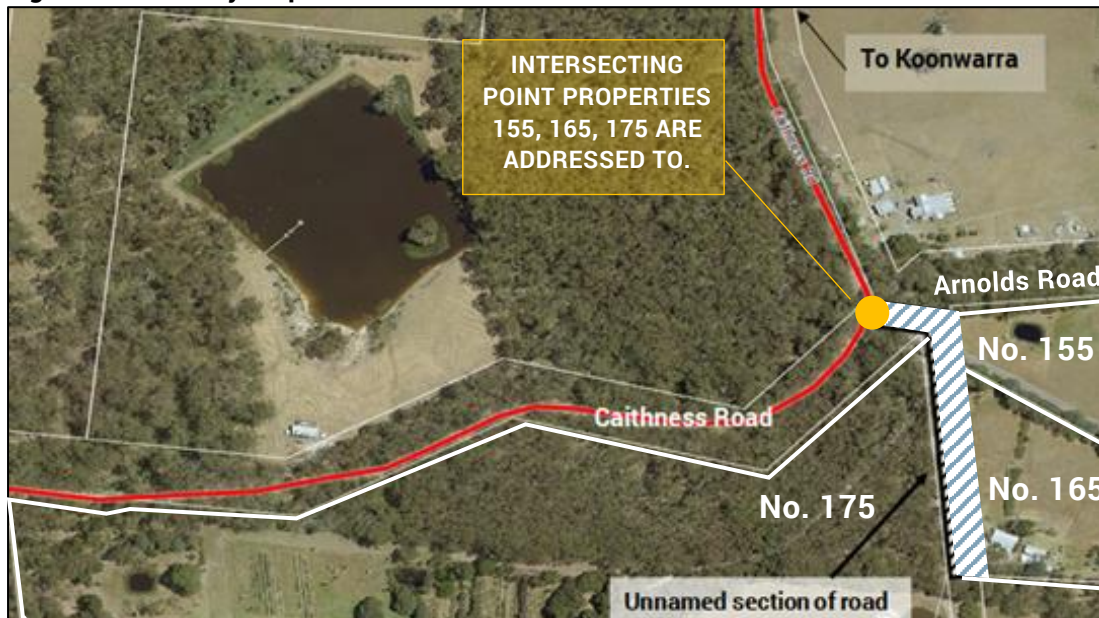
### Background


In 2011, Council was involved in the *Anzac Commemorative Naming Project*. This unnamed road was one of the 17 roads to be named. Letters were sent to the three properties that abut this road advising them that Council was commencing the process to formally name the unnamed road off Caithness Road. This was met with objections and placed on hold to allow the *Anzac Commemorative Naming Project* to proceed without complications.

In May 2016, Council received correspondence from a property owner abutting the unnamed road requesting Council name the unnamed road (**Confidential Attachment [15.5.1]**). Therefore, Council has recommenced the road naming process to name this unnamed road.

The unnamed road runs to the south off Caithness Road, Koonwarra for approximately 220 metres (shown as  in **Figure 1** below).

**Figure 1 – Locality Map Unnamed Road**



The three properties abutting this unnamed road (numbers 155, 165, and 175) are addressed to Caithness Road at the intersecting point of Caithness Road / Arnolds Road / unnamed road shown as  in **Figure 1**.

Naming this section of road with a unique road name and applying standardised addressing to the three abutting properties will ensure each property is uniquely identified in the Victorian government's spatial databases. This will fix the confusing situation for the general public, emergency services, and service providers having these three properties being addressed to Caithness Road at the intersecting point of Caithness Road, Arnolds Road, and the unnamed road.

The history of surrounding roads namely Caithness Road, Arnolds Road, Sewells Road, and the unnamed road, including mapping errors and inconsistencies are available in **Attachment [4.3.1]**.

### Proposed Names

Three names have been put forward to Council by a property owner and the Leongatha & District Historical Society (LDHS) for consideration:

- **'DARSHAN'** proposed by an abutting property owner in May 2016.

Darshan means *'to receive from, to receive uplifting glances and blessings from one who is in tune with nature.'* There is a Conservation Covenant on the bushland to the right of the road (**Confidential Attachment [15.5.1]**).

- **'BARGUSS'** proposed by the LDHS in May 2017.

Robert Barguss died of illness as a prisoner of war on the Burma Railway on 12 January 1944. Robert was from Koonwarra and his name is etched on the memorial gates in his honour in the Koonwarra township (**Confidential Attachment [15.5.2]**).

- **'MILLSOM'** proposed as another option by the LDHS in May 2017.

Harry Millsom was in 2/22 Battalion at Rabaul and was executed by the Japanese as a prisoner of war on 8 March 1942. Harry lived and farmed at Tarwin and also has his name etched on the memorial gates in his honour in the Koonwarra township (**Confidential Attachment [15.5.2]**).

### VicNames Compliance Check

A VicNames 30km duplicate<sup>4</sup> or similar sounding/spelling name search was carried out on the suggested names – refer to **Table 1** below.

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<sup>4</sup> **Duplicates** are considered to be two (or more) names within close proximity, or names that are identical or have similar spelling or pronunciation.

**Table 1 – VICNAMES Compliance Check**

PROPOSED ROAD NAME	CONFORMS	30KM DUPLICATION CHECK
DARSHAN	✓	No duplications <sup>1</sup> or similar sounding or similar spelt road names found.
BARGUSS	✓	No identical name duplications found. Two similar sounding road names found <sup>5</sup> : <ul style="list-style-type: none"> <li>• <b>Burges Road</b>, Trida is located in Baw Baw Shire Council and approximately 28.5km<sup>6</sup> away and seven localities – would not be deemed as a duplicate.</li> <li>• <b>Berrys Creek Road</b>, Mirboo North and Berrys Creek – would not be deemed as sounding similar when sounded out.</li> </ul>
MILLSOM	✓	No identical name duplications found. One similar sounding road name found. <ul style="list-style-type: none"> <li>• <b>Millicent Street</b>, Leongatha – approximately 10.5km away but when sounded out it is not similar sounding.</li> </ul>

This proposal complies with the VicNames statutory naming rules – refer to [\*Naming rules for places in Victoria, Statutory requirements for naming roads, features and localities – 2016\*](#).

The Office of Geographic Names supports the three proposed names advising that they do not see any issues that would be of high risk, regarding the similar sounding names in the 30km duplication check (**Confidential Attachment [15.5.3]**).

## CONSULTATION

Consultative actions are carried out for the naming and renaming of all roads, primarily in consideration of the significance and potential effects of a proposal. The views of potentially affected property owners and occupiers must be sought and considered.

<sup>5</sup> **Burges Road** and **Berrys Creek Road** – although these roads have been identified as similar sounding road names to BARGUSS, not all results from a VICNAMES duplication search are actual duplicates. Common sense is required to determine similar sounding names – sound out the name to ensure suitable difference. The Office of Geographic Names can confirm if uncertain.

<sup>6</sup> **30km radius duplicate** – if naming authorities have a proposed name not duplicated within the same locality, but marginally within the radius deemed to be a duplicate, you may contact the Office of Geographic Names for further advice.

This naming process provides the opportunity to consult the community to gain an indication of community support or opposition to a naming proposal. The abutting land owners were consulted via a Voting Poll to gauge the level of support for the proposed name, in line with the [Naming Rules for Naming Places in Victoria 2016](#).

**1. First Round Consultation – Immediate / Wider Community (Voting Poll)  
Closed 13 September 2017**

A formal voting poll can be used to gain an indication of community support or opposition to a naming/renaming proposal when there are two or more names proposed. Voting polls are used with the immediate community if they will be affected by an address change arising from the successful outcome of a proposal.

Council sent out a voting poll to the three abutting land owners of this unnamed road and to five residents whose properties abut Caithness Road in close proximity (**Confidential Attachment [15.5.4]**) to gain an indication of community support for one of the three names proposed.

All votes returned to Council have been counted and the majority of votes have indicated 'DARSHAN' as the preferred road name. This will become the official road name subject to Council's approval and Geographic Place Names approval – refer to **Table 2** and **Table 3** below:

**Table 2 – Voting Poll – Responses**

	SENT OUT	RETURNED	IN FAVOUR	OBJECT
Abutting land owners	3	2	2	0 <sup>7</sup>
Wider community	5	3	3	0
<b>Total</b>	<b>8</b>	<b>5</b>	<b>5</b>	<b>0</b>

The majority of votes have indicated 'Darshan' as the preferred road name (**Attachment [4.3.2]**) and the breakdown is in **Table 3** below.

**Table 3 – Voting Poll – Preferred Name**

	IN FAVOUR	MAJORITY VOTES
DARSHAN	4	✓
BARGUSS	1	x
MILLSOM	0	x
<b>Total</b>	<b>5</b>	

<sup>7</sup> One abutting land owner has lodged a written objection and not returned the voting poll as detailed in this report (**Confidential Attachment [15.5.6]**).



The name 'Barguss' & 'Millsom' can be proposed for naming another road in the area. These two men owned property either side of the road to be re-named.

## **2. Internet and Public Notice – Building Awareness**

On 6 September 2017, a notice was also published on Council's website under *Roads and Infrastructure → Roads → Naming roads, places & features / Current Projects*. A public notice was advertised in Council's Noticeboard section of the local newspapers during the week commencing 11 September 2017 inviting the extended community to lodge expressions of support or objection to this naming proposal. There were no submissions received in response to the public notice.

## **3. Objections**

### **a. Objections to naming the unnamed road**

As a result of the Voting poll several objections were received during the public consultation process.

#### **1. Objection – 165 Caithness Road**

- Objected to the road naming back in 2011.
- No longer lives at address.

#### **2. Objection – 155 Caithness Road**

- Objected to the road naming back in 2011.
- Is strongly opposed to renaming this unnamed road, as he believes that this section of road in question that he is addressed to, is already named Caithness Road.
- Believes that Council has renamed the section of Sewells Road to Caithness Road.
- Would prefer that Council rename the current east/west section of Caithness Road.

Objections to naming the unnamed road are available in **Confidential Attachment [15.5.5]**.

### **b. Objections to renaming the section of Caithness Road**

#### **1. Objection – 200 Caithness Road**

- Did not return from overseas until the voting poll had closed.
- Expressed concerns that they do not wish to see this section of Caithness Road (which they are addressed to) be renamed.
- Their property is listed for rent on a number of websites and a rename of this section of road will interfere with their guest ratings for the property and this in turn will have a financial impact.

2. Objection – 225 Caithness Road

- Expressed concerns that they do not wish to see this section of Caithness Road (which they are addressed to) be renamed.
- Three generations of the Caithness family have farmed and lived at this address all their life and the name has significant history and meaning.

Objections to renaming the existing Caithness Road are available in **Attachment [15.2.6]**.

The naming authority must write to objectors to inform them of the outcome of the naming proposal and advise that they can appeal Council's decision to the Registrar.

**4. Emergency Agencies and Public Service – 19 September 2017**

This proposal has been made based on public safety and/or emergency response concerns. Council has consulted emergency agencies and public service providers using the Notification and Editing Service via VicNames. This consultation has been undertaken in regards to the risk to public safety aspect created by the naming confusion of these roads.

**5. Ambulance Victoria – Response 20 September 2017**

*"Ambulance Victoria would be supportive of the marked section of currently unnamed roadway to be called DARSHAN LANE and all properties accessed from this section to have their rural road numbering re surveyed. This will improve location identification and navigation to find the 3 affected properties. Furthermore, I recommend that 2 road blade signs are installed 1 at the existing intersection with Caithness Rd and the other at the 'elbow' of the unnamed road where it swings south along the property lines. The second*

*blade is to ensure people approaching don't think that the well formed driveway that goes straight ahead is not part of the proposed 'DARSHAN LANE'. "*

**6. Registrar of Geographic Place Names Final Approval of 'Darshan Lane'**

If Council adopts 'Darshan Lane' for the unnamed road, it will be forwarded to the Registrar of Geographic Place Names for final consideration and approval. If the name conforms to the naming rules, the Office of Geographic Place Names will Gazette the name and include it in the VicNames Registrar and notify relevant stakeholders.

If the name does not conform to the naming rules, the proposal will be sent back to the naming authority for reconsideration of a new name.

**RESOURCES**

The only future cost to Council will be for the erection of two new signs at approximately \$150 each, and this can be accommodated in Council's signage budget.

**RISKS**

Council's risk is minimal as the methodology for the road naming has followed the Naming Rules for Naming Places in Victoria 2016.

Naming this section of road with a unique road name and applying standardised addressing to the three abutting properties (numbers 155, 165, and 175) will ensure each property is uniquely identified in the Victorian Government's spatial databases. This will fix the confusing situation for the general public, emergency services, and service providers having these three properties being addressed to the intersecting point of Caithness Road, Arnolds Road, and the unnamed road.

**ATTACHMENTS**

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

1. Unnamed Road off Caithness Road, Koonwarra - History/Mapping Errors and Inconsistencies **[4.3.1]**
2. Unnamed Road off Caithness Road, Koonwarra - Voting Poll Results **[4.3.2]**

## CONFIDENTIAL ATTACHMENTS

**Confidential Attachment [15.5.1] to [15.5.6]** – Unnamed Road off Caithness Road - Correspondence have been provided in accordance with s.77(2)(c) of the Local Government Act 1989, the Chief Executive Officer designates this item as confidential information on the grounds that it relates to s.89(2)(h) - any other matter which the Council or Special Committee considers would prejudice the Council or any persons.

This item is deemed confidential to protect the privacy of the correspondence authors and affected properties.

## REFERENCE DOCUMENTS

### **Council Policy**

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

### **Legislative Provisions**

Geographic Place Names Act 1998

Local Government Act 1989

Naming Rules for Places in Victoria – Statutory Requirements for Naming Roads, Features and Localities - 2016

Road Management Act 2004

AS/NZS4819:2011 Rural and urban addressing

#### **4.4. ROAD DECLARATION OR DISCONTINUANCE - PART FISH CREEK QUARRY ROAD, FISH CREEK**

Infrastructure Directorate

##### **EXECUTIVE SUMMARY**

This report provides the opportunity for Council to resolve an issue that has arisen between the Hoddle Mountain Trail Management Group and adjoining landholders. Given Council's responsibility for the care and management of roads, it can provide clarity to the community in respect of use of part of Fish Creek Quarry Road, Fish Creek (the Road).

The Road is shown in **Figure 1** and comprises of three titles:

- Lot 1 on Title Plan 320783Q Certificate of Title Volume 08499 Folio 930 – Council.
- Lot 1 on Title Plan 893861W Certificate of Title Volume 10158 Folio 880 – Council.
- Lot 1 on Title Plan 240251V Certificate of Volume 05055 Folio 898 – Roads Corporation.

There are two options proposed for Council's consideration recommending either:


- Option 1 – The Road (Section 1 and 2) to be opened for public traffic at the request of the Hoddle Mountain Trail Management Group (HMTMG); or
- Option 2 – A section of the Road (Section 2 only) be discontinued as it is not required for public traffic at the request of the adjoining landowners.

The decision of Council to either open (Option 1) or discontinue (Option 2) the road will directly affect part of the Hoddle Mountain Trail which will need to be reflected in the Draft Paths and Trails Strategy 2017-2022 anticipated to be tabled at the February 2018 Council Meeting for Council's consideration and adoption.

##### **RECOMMENDATION**

**That Council:**

- 1. Considers the submissions received on the Hoddle Mountain Trail (Confidential Attachment [15.6.2]) in response to the public exhibition period for the Draft Paths & Trails Strategy 2017-2022.**

- 2. Commences the statutory procedures in accordance with ss.204(2), 207A(c) and 223 of the Local Government Act 1989 to declare that section of Fish Creek Quarry Road, Fish Creek from Fish Creek-Foster Road, Fish Creek to Beards Road, Fish Creek (shown bordered red  in Figure 1) as reasonably required for public use to be open to public traffic, comprising (the Proposal):**
  - a. Lot 1 on Title Plan 320783Q Certificate of Title Volume 08499 Folio 930;**
  - b. Lot 1 on Title Plan 893861W Certificate of Title Volume 10158 Folio 880; and**
  - c. Lot 1 on Title Plan 240251V Certificate of Volume 05055 Folio 898.**
- 3. Gives public notice in accordance with s.223 of the Local Government Act 1989 of the proposal (item 1 above) in Council's Noticeboard section of local newspapers in the week commencing 15 January 2018 and invites written submissions from the community by 5.00pm on Tuesday 13 February 2018.**
- 4. Authorises the Chief Executive Officer to undertake the administrative procedures necessary to enable the Council to carry out its functions under s.223 of the Local Government Act 1989 in respect of the proposal (item 1 above).**
- 5. If submissions are received to the public notice (item 3 above):**
  - a. Authorises the Chief Executive Officer to set the time, date, and place to hear submissions.**
  - b. Hears submitters who elected to speak to their submission at a Special Committee of Council in open session comprising of:**
    - i. The Mayor who will chair the meeting;**
    - ii. Not less than two other Councillors; and**
    - iii. The Director Infrastructure for administrative purposes.**
- 6. Consider submissions and determines the proposal at the April 2018 Ordinary Council Meeting. Implements the proposal if no submissions are received to the public notice.**

## REPORT

### Background

The section of Fish Creek Quarry Road, Fish Creek (the Road) in question runs between Beards Road, Fish Creek and Fish Creek-Foster Road, Fish Creek.

The Road is shown in **Figure 1** and comprises of three titles:

- Lot 1 on Title Plan 320783Q Certificate of Title Volume 08499 Folio 930 – Council.
- Lot 1 on Title Plan 893861W Certificate of Title Volume 10158 Folio 880 – Council.
- Lot 1 on Title Plan 240251V Certificate of Title Volume 05055 Folio 898 – Roads Corporation.

The Road is used by the community as part of the Hoddle Mountain Trail (the Trail).

A section of the Road (Section 2) is located within the fenced and occupied boundaries of a parcel of private farming land adjacent to the Road.

A gate system exists on the Road which allows for the separation of farm stock and walkers.

The Road comprises of two distinct sections.

#### **1. Section 1 (shown as in Figure 1)**

The first section is an unmade but otherwise gravelled and trafficked road which connects to Fish Creek-Foster Road. This section of the Road is open to the public, used by both vehicles and pedestrians, and proceeds in a generally southerly direction until the road comes to a dead-end at or near to the driveway entrance to a farming property (No. 51) situated on Fish Creek Quarry Road.


This section of the Road also provides access to and from land to the west of the road and is registered on Council's Public Roads Register under the *Road Management Act 2004*.


Legal advice sought has recommended Council re-declare Section 1 open to public traffic in conjunction with declaring Section 2 open to public traffic, as this will avoid unnecessary/additional costs eg. road survey and additional administration costs to Council. This is discussed under *Consultation* in more detail.

## 2. Section 2 (shown as in Figure 1)

The second section is an unmade grassed road which passes between the adjoining landowners' properties until it reaches Beards Road. There are bridges on the unused part of the Road as well as fences to deter public access. This section of road is not on Council's Public Road Reserve as it has not formally been declared open to public traffic.

### Discussion

It is Section 2 of the Road that gives rise to the issue. The Hoddle Mountain Trail Management Group (HMTMG) has requested that Section 2 of the Road (shown as  in **Figure 1**) be opened for general use in the form of a walking trail. This trail would be part of a network of other trails and tracks in the area including the Great Southern Rail Trail.

The adjoining landowners have requested that Council discontinue Section 2 of the Road (also shown as  in **Figure 1**) and sell them the land to consolidate into their farm land. The adjoining landowners claim that there is an alternative route via Shields Road that does not impact on the farms or cause additional costs and risks to either farmers or Council.

The adjoining landowners claim if the Trail is to continue through Section 2 of the Road, that it will severely impact on the financial viability of the farm, increase the risk of fire, rubbish, weeds, and stock out on roads, impact on animal welfare, and potentially result in trespassing and malicious damage.

Section 204 (1) of the Local Government Act 1989 gives Council power to, by notice published in the Government Gazette, declare a road in its municipal district to be a public highway.

Section 204 (2) of the Local Government Act 1989 gives Council the power to, by resolution, declare a road that is reasonably required for public use to be open to public traffic.

Legal advice has been sought and is discussed further under *Consultation*.

### CONSULTATION

Consultation on the Hoddle Mountain Trail has occurred over the past decade. This includes consultation with the HMTMG, community groups, Council's solicitors, and adjoining landowners. Further information on the Hoddle Mountain Trail is detailed in the public presentation made by the HMTMG on 17 May 2017 (**Attachment [4.4.2]**).



The adjoining landowners have discussed their issues around the public accessing the Road and request Council to discontinue the Road so that it can be sold to them to allow consolidation into their farm land.

In February 2016, an adjoining property owner expressed an interest in purchasing a section of Fish Creek Quarry Road, Fish Creek. A copy of the correspondence and a plan showing the unused section of road requested to be purchased is available in **Confidential Attachment [15.6.1]**.


**Draft Paths & Trails Strategy 2017-2022**

**Public Exhibition Period – 6 October to 6 November 2017**

In October 2017, the same adjoining property owner lodged a submission as part of the *Draft Paths & Trails Strategy 2017-2022* public exhibition period. A total of eleven submissions were received indicating that they were in favour of the trail with one submission (although in support of the core trail referred to as section 3 and 4 in the strategy) had concerns with the trail in regards to animal welfare, potential impacts to their egg farm and boarding kennel business (eg: dogs barking from noises from trail users, and the “deteriorating” condition of the stream bridge).


Submissions received specifically relating to the Hoddle Mountain Trail are included in **Confidential Attachment [15.6.2]** for Council’s consideration, as the decision of Council to either declare and open the Road (Option 1) or discontinue the Road (Option 2) will directly affect the Hoddle Mountain Trail. This will need to be reflected in the Final Draft Paths & Trails Strategy 2017-2022 which is anticipated to be tabled at the February 2018 Ordinary Council Meeting to consider all submissions received in response to the public exhibition period and if appropriate, adopt the strategy.

Council has also sought legal advice on the matter. Legal advice received proposes that:

- If Council wanted the Road to have continued use as part of the Trail, Council should use the power provided under s.204(2) of the Local Government Act 1989 and declare the Road is reasonably required for public use and should be open to public traffic because the Road has been, and will continue to be used by the public as part of the Hoddle Mountain Trail (shown bordered  in **Figure 1**).

Although Section 1 is already open to public traffic, legal advice recommends Council re-declare Section 1 open to public traffic in conjunction with declaring Section 2 open to public traffic. This is to avoid unnecessary administration costs to Council. For example, if Council were to only declare Section 2 open, Council would be required to carry out a

survey of this section of road. This is not required if the whole length of road (Section 1 and 2) is declared open to public traffic.

- If Council wanted the Trail to cease, Council could use its powers under ss.206, 207A, 223 and Schedule 10 (3) of the Local Government Act 1989 to discontinue the road and sell the land from the road to the adjoining landowners (shown cross hatched  in **Figure 1**).

## RESOURCES



The cost to improve and maintain the Road to a condition suitable for a walking trail as part of the Hoddle Mountain Trail is estimated at \$4,000.

## RISKS

The risks to Council is failing to decide if the road is required to be open to public traffic or not, perpetuating the current uncertainty for all parties.

## OPTIONS

There are two options for Council's consideration:

1. Commence statutory procedures to declare that part of Fish Creek Quarry Road from Fish Creek Foster Road, Fish Creek to Beards Road, Fish Creek (Section 1 and 2) open for public traffic to allow the continued use of the Trail (shown bordered  in **Figure 1**); or
2. Commence statutory procedures to discontinue that section of road from the driveway of No. 51 Fish Creek Quarry Road, Fish Creek to Beards Road, Fish Creek (Section 2 only) and sell the land to the adjoining landowners (shown cross hatched  in **Figure 1**).

## ATTACHMENTS

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

1. Locality Map - Fish Creek Quarry Road, Fish Creek **[4.4.1]**
2. Hoddle Mountain Trail Management Group - Public Presentation - May 2017 **[4.4.2]**

## CONFIDENTIAL ATTACHMENTS

**Confidential Attachment [15.6.1]** – Correspondence - Request to Purchase Section Fish Creek Quarry Road - February 2016 – and **Confidential Attachment [15.6.2]** – Copy of Submissions - Hoddle Mountain Trail - Draft Paths & Trails Strategy 2017-2022 – has been provided in accordance with s.77(2)(c) of the Local Government Act 1989, the Chief Executive Officer designates this Agenda Item as confidential information on the grounds that it relates to s.89(2)(h) - any other matter which the Council or Special Committee considers would prejudice the Council or any persons.

These items are deemed confidential to protect the privacy of the correspondence author and submitters to the *Draft Paths & Trails Strategy 2017-2022*.

## REFERENCE DOCUMENTS

### Council Policy

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

Draft Paths and Trails Strategy 2017-2022

Road Opening Procedure

Road Discontinuance Procedure

### Legislative Provisions

Local Government Act 1989 ss.204(2), 207, and 223



#### **4.5. FISH CREEK QUARRY - LEASE PROPOSAL**

Infrastructure Directorate

##### **EXECUTIVE SUMMARY**

Council owns several parcels of land at the end of Fish Creek Quarry Road, Fish Creek which is currently leased to Goldsmith Quarries Pty Ltd (Goldsmith) for use as a quarry. The lease expires on 30 June 2018.

The current leased area includes land that falls within the Battery Creek Catchment overlay, areas of native vegetation that can't be quarried, and part of the Hoddle Mountain Trail walking track. As the lease expires next year, Council has the opportunity to exclude the Battery Creek Catchment area and access track, areas that can't be quarried, and part of the Hoddle Trail walking track, whilst leaving sufficient area necessary for a quarry operation into the future.

It is proposed that Council commence the statutory procedures in accordance with ss.190 and 223 of the Local Government Act 1989 to enter into a lease of the Fish Creek Quarry being part of CP165852 with an approximate area of 24.5Ha to Goldsmith for an initial term of ten (10) years with options of two (2) further terms of five (5) years each for a rental and royalties amount to be determined by a specialist quarry valuer.

##### **RECOMMENDATION**

**That Council:**

- 1. Commences the statutory procedures in accordance with ss.190 and 223 of the Local Government Act 1989 to lease the Fish Creek Quarry being part of CP165852 with an approximate area of 24.5Ha to Goldsmith Quarries Pty Ltd for an initial term of ten (10) years with options of two (2) further terms of five (5) years each for a rental and royalties amount to be determined by a quarry valuer specialist.**
- 2. Gives public notice in its Noticeboard section of local newspapers week commencing 8 January 2018 on the proposal in accordance with s.223 of the Local Government Act 1989 to commence a public consultation process inviting written submissions to the proposal from the community by 5:00pm, Tuesday 6 February 2018.**
- 3. Authorises the Chief Executive Officer to undertake the administrative procedures necessary to enable the Council to carry out its administrative functions under s.223 of the Local Government Act 1989 in respect of the proposal.**

4. **If submissions are received to the public notice:**
  - a. **Authorises the Chief Executive Officer to set the time, date, and place to hear submissions.**
  - b. **Hears submitters who elected to speak to their submission at a Special Committee of Council in open session comprising:**
    - i. **The Mayor who will chair the meeting;**
    - ii. **Not less than two other Councillors; and**
    - iii. **The Director Infrastructure for administrative purposes**
  - c. **Considers and determines submissions at the March 2018 Ordinary Council Meeting in an open session.**
5. **If no submissions are received, enter into the lease.**
6. **Authorise the preparation of a s.35 Plan of Subdivision to:**
  - a. **Consolidate the smaller titles within the site outlined in blue in Attachment [4.5.1].**
  - b. **Create the proposed lease area outlined in red in Attachment [4.5.1] for use as a quarry.**
  - c. **Create a reserve to South Gippsland Water Corporation for catchment and access purposes outlined in black in Attachment [4.5.1].**
  - d. **Create a road reserve for access to the quarry and to provide legal abuttal outlined in orange in Attachment [4.5.1].**

## **REPORT**

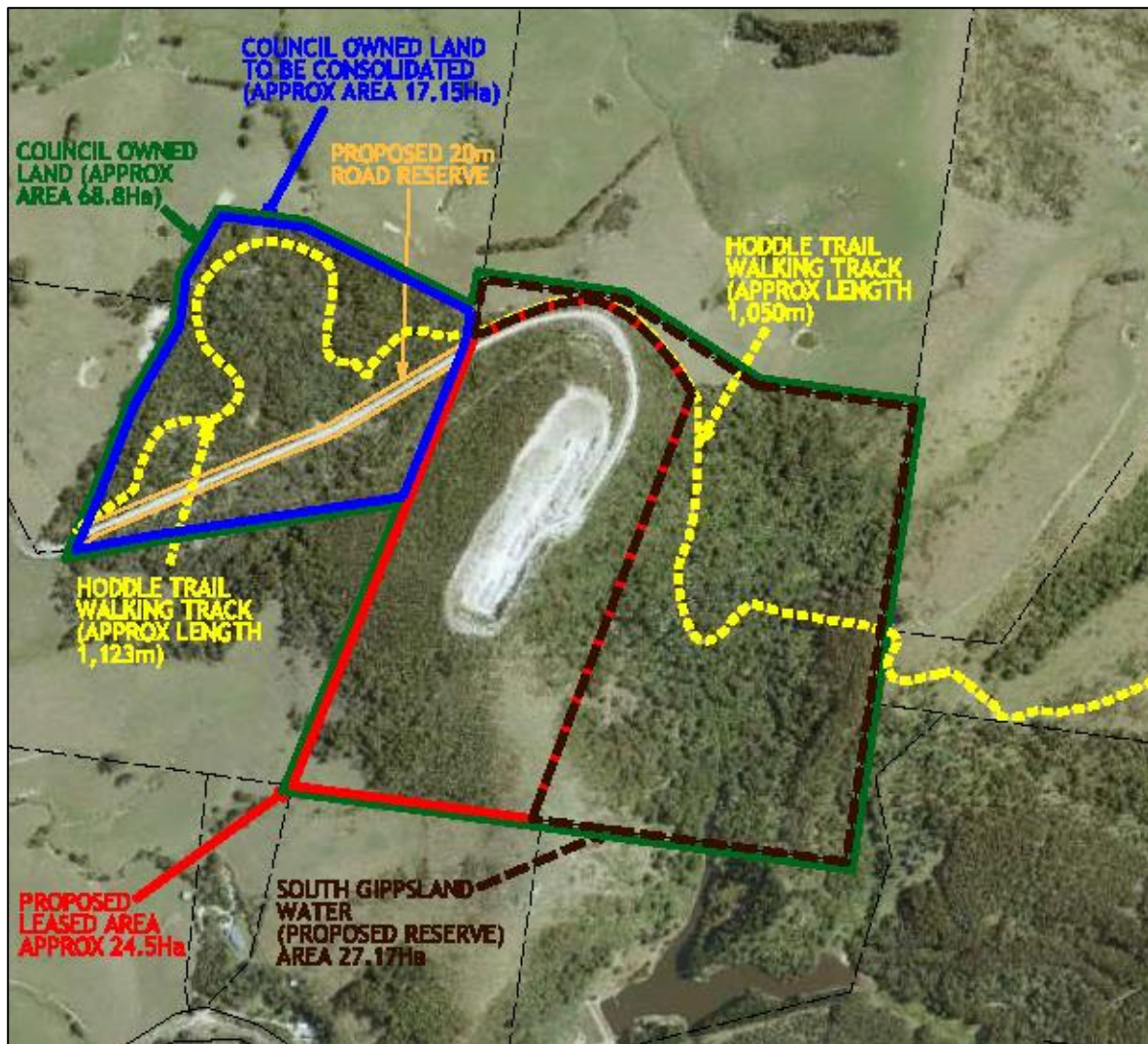
Council owns several parcels of land (outlined in green in **Figure 1** below) at the end of Fish Creek Quarry Road, Fish Creek on which a quarry is located. All of the land is currently leased to Goldsmith Quarries Pty Ltd (Goldsmith) for use as a quarry. Goldsmith operates the site as a quarry and has a planning permit and the necessary work authority.

The lease commenced in 1998 with an expiry date of 2008 and was extended by exercise of options to 30 June 2018 when the lease expires. The lease has been transferred between different operators over time.

A layout plan is available in **Figure 1** below and a larger version is available in **Attachment [4.5.1]**.



Figure 2 – Quarry Plan



The current leased area includes land that falls within the Battery Creek Catchment overlay, areas of native vegetation that can't be quarried, and part of the Hoddle Mountain Trail walking track. A layout plan is included in **Attachment [4.5.1]**.

It is proposed to reduce the leased area by excluding the Battery Creek Catchment area and access track, areas that can't be quarried, and part of the Hoddle Mountain Trail walking track, whilst leaving sufficient area necessary for a quarry operations into the future.

In order to provide legal abuttal to the new titles as detailed in **Attachment [4.5.1]**, the creation of the road reserve is required.

Goldsmith is interested in continuing with a lease over the land and have invested in the quarry operation and work authority to obtain the required works approvals for future operation. Goldsmith holds a current planning permit and work authority which are not transferrable to a new tenant.

As Council is the land owner of the quarry site, the issue of a lease for a quarry would be taken as Council consent to the quarry work authority/plan.

Council has reduced purchasing rock from the quarry and is unlikely to purchase any significant amount in the future because the rock type is unsuitable for Council's needs. However, the rock is understood to be a valuable local resource for rural purposes and should be retained.

Consideration could be given to sale of the site but given the use of the land e.g. native vegetation and habitat, walking trail, shrub land offset, water catchment area, and quarry, this is not considered practicable or desirable at this stage. However, if the plan of consolidation and subdivision do proceed, there will still be an opportunity in the future to consider sale of some of the land.

### Lease Particulars

Particulars of the lease are in **Table 1** as follows:

**Table 4 – Lease Particulars**

<b>Tenant</b>	Goldsmith Quarries Pty Ltd
<b>Land</b>	Part CP165852 outlined in red in Attachment [4.5.1].
<b>Area</b>	Approximately 24.5 Ha.
<b>Purpose</b>	Quarry.
<b>Term</b>	Initial term of ten (10) years with option of two (2) further terms of five (5) years each.
<b>Rent and Royalties</b>	To be determined by a specialist quarry valuer.
<b>Special Conditions</b>	Directors Guarantees in lieu of bond. Lease subject to obtaining all necessary works approvals.
<b>Maintenance of access road</b>	Tenant responsibility possibly by agreement under Road Management Act.

### Proposal

Consequently, it is proposed to commence the statutory procedures to:

1. Enter into a lease of the area the Fish Creek Quarry land outlined red in **Figure 1** for the continued quarry operations.
2. Prepare a s.35 plan of subdivision to:
  - a. Reserve part of the former leased area within the Battery Creek catchment in favour of South Gippsland Water outlined in black in **Figure 1**;



- b. Create the parcel of land for the proposed quarry leased area shown red in **Figure 1**;
- c. Consolidate the rest of Council's land outlined in blue in **Figure 1**; and
- d. Create a road reserve to provide legal abuttal to the two newly created titles outlined in orange in **Figure 1**.

A copy of the layout plan is available in **Attachment [4.5.1]**.

## **CONSULTATION**

Consultation in regards to the proposed lease has occurred as follows:

- Goldsmith – current tenant and operator of the quarry. Goldsmith is interested in continuing with a lease over the land.
- Russell Kennedy lawyers – legal advice and preparation of the lease.
- Planning department – planning permit.
- South Gippsland Water Corporation – confirmed agreement in principal to have the catchment area (highlighted black) vest with the Corporation and that the walking trail could continue.
- Earth Resources Regulation, Department of Economic Development Jobs Transport & Resources – regarding work plan and works authority.
- C J Ham & Company – for valuation.

## **RESOURCES**

Current rent is \$14,041.00 plus GST per annum, plus payment of royalties on sales of rock to Council and other purchasers.

Rental as per independent valuation.

Management of lease.

## **RISKS**

The risks to Council if the quarry operations cease are:

- A reduction in supply of road making material for rural purposes;
- A loss of Council revenue.

- Remediation of the site by the quarry operator will become Council responsibility.

If a lease is not granted, the planning permit and works approvals cannot be approved.

Preferential treatment to current tenant is mitigated by discussions on a without prejudice basis and a requirement to comply with ss.190 and 223 of the Local Government Act 1989.

## **ATTACHMENTS**

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

1. Layout Plan - Fish Creek Quarry **[4.5.1]**

## **REFERENCE DOCUMENTS**

### **Council Policy**

*Documents are available on Council's website:* [www.southgippsland.vic.gov.au](http://www.southgippsland.vic.gov.au)  
Leasing Policy 2014

### **Legislative Provisions**

Local Government Act 1989 (ss.190 and 223)

#### **4.6. RN SCOTT RESERVE - FUTURE MANAGEMENT ARRANGEMENTS - KONGWAK COMMUNITY GROUP INC.**

Infrastructure Directorate

##### **EXECUTIVE SUMMARY**

This report provides the opportunity for Council to consider the request of the Kongwak Community Group (the Group) to be an Advisory Committee of Council to carry out advisory and other functions of Council for the R.N. Scott Reserve, Kongwak (including the tennis courts and pavilion).

To date the Group has:

- Rejected a community lease as resolved by Council on 26 February 2014 as a negotiated position could not be reached in accordance with Council's *Leasing Policy 2014*.
- Rejected becoming a Special Committee of Council (Section 86 Committee) due to the onerous requirements of a Special Committee.
- Submitted advisory terms of reference as included in **Attachment [4.6.1]**. The Terms of Reference (TOR) are outside the scope of an Advisory Committee but could be accommodated by a Special Committee of Council.

Council has reduced its Advisory and Special Committees in an effort to allow community tenures in accordance with Council's *Leasing Policy 2014*.

##### **RECOMMENDATION**

**That Council:**

- 1. Not appoint a Committee for the R.N. Scott Reserve and provides \$7,176 annually for the cleaning of the Kongwak public toilets by way of increased EFT of 0.1 or by contract.**
- 2. Rescinds that part of its decision made at the 26 February 2014 Ordinary Meeting to negotiate the terms of a lease to the Kongwak Community Group Incorporated for the use of the building on the R.N. Scott Reserve.**

##### **REPORT**

In 1963, three farmers residing in the Kongwak district, purchased the land on which the Kongwak tennis courts are located.

To secure the ongoing use of the Land by the Kongwak Tennis Club, and the residents of Kongwak and surrounding district, the Kongwak Tennis Club Trust

(the Trust) was formed and registered a Trust Deed on the Certificate of Title to the Land. This meant the Trust was the owner of the tennis courts.

In or around 2000, the Club disbanded. As a result, the Group agreed to become "caretakers" of the land, until there was sufficient interest in the reforming of the Club.

In May 2010, the Group approached Council to take on the responsibility of ownership of the tennis courts whilst the Group would continue with the day to day maintenance. This would mean a transfer of the tennis courts to Council.

Council owned the adjoining land being the rest of R.N. Scott Reserve that was used by the Group which includes a tennis pavilion, public toilets, and a barbeque.

The Group had no formal tenure arrangements in place for use of the building. Since the original decision of Council, a car park has been established on the land to provide car parking for patrons of the Kongwak market. Presumably users of the car park also use the other facilities on the land such as the toilets and barbecue.

Maintenance arrangements for the area were:

- Council provides financial support to the Group to clean and supply consumables for the toilets and clean the barbeque.
- The grounds are maintained by Council's Parks and Gardens team.
- The building is maintained by Council and included on Council's Building Maintenance Register. Works proposed for this financial year include replacing cracked concrete skirting and replacing and painting a section of the fascia.
- The Group had agreed to continue with the day-to-day maintenance of the including maintaining the tennis courts, pavilion, toilets, and barbeques utilising the financial support of Council.

With Council becoming the owner of the tennis courts, the Group had no formal rights over the land hence the need to endeavour to negotiate a lease agreement between Council and the Group.

Council at its Ordinary Meeting on 26 February 2014, resolved to:

- "1. Agree to the Transfer of Land, being Certificate of Title Volume 8435 Folio 806 from the Kongwak Community Group Incorporated to South Gippsland Shire.*

2. *Negotiate the terms of a lease to the Kongwak Community Group Incorporated for the use of the building on the R.N. Scott Reserve as well as the tennis courts on Certificate of Title Volume 8435 Folio 806 as referred to in item 1 above."*

Transfer of the courts has successfully occurred. Negotiation of the lease has to date been unsuccessful despite the best endeavours of the Group and Council staff. Negotiations have included several discussions and meetings with staff, Councillors, and representatives of the Group.

The Group has indicated that it would like to become an Advisory Committee for the whole of the R.N. Scott Reserve shown bordered white in **Figure 1**.

**Figure 1 – R.N. Scott Reserve**



Council has the power to establish two types of committees:

- Advisory Committees; and
- Special Committees of the Council (Special Committees) that are sometimes called Section 86 Committees (s.86).

An Advisory Committee is any committee, other than a Special Committee, that provides advice to Council or a Special Committee, or a member of Council staff with a delegation. Council has five Advisory Committees.

A Special Committee comprises of Councillors, Council staff, other persons or a combination of these and can be delegated many of Council's functions, duties, or powers. Council has 16 Special Committees.

The Group has now submitted the following TOR for an Advisory Committee, however, these terms would actually constitute a Special Committee. Yet the Group has indicated that it doesn't want to form a Special Committee.

Main clauses of draft TOR that fit an Advisory Committee or Special Committee

ADVISORY COMMITTEE	SPECIAL COMMITTEE
To advise South Gippsland Shire Council ("Council") on the current and long term management of the Park.	The Group and Kongwak Hills Landcare Group have permission to use the tennis club rooms for their purpose of their meetings and any annual events organised by and for the community.
	The Group will accept advisory responsibility for the Park and tennis courts and undertake to clean both the clubrooms and the barbecues.
	The Group may act as Council's booking agent to allow other members of the local community to use the tennis club rooms. Any funds received by the Group will to be accounted for in the Group's accounts and Treasurer's report and will be used by the Group for the benefit of the local community and the Park.

## CONSULTATION

The Mayor, some Councillors, and council staff have consulted with the Group on several occasions.

## RESOURCES

In the event of Council not forming a committee as requested by the Group, or tenure, Council will need to resource a level of service to provide the day to day maintenance of the land including maintaining the tennis courts, pavilion, toilets, and barbeques. As the Group have ceased cleaning the toilets from October 2017, Council is currently maintaining the site. The only management issue would be the positioning of the key to the pavilion and courts, and the hire of the facilities that would be managed by Council in a similar way to the Korumburra Meeting Rooms.

## RISKS

Council is required to indemnify, and keep indemnified, members of Council committees against actions and claims. As a consequence, Advisory Committees and Special Committees are covered by Council's Public Liability Insurance (and other insurances). Other risks include:

- Size of committee – 20 community members.
- Loss of support from local community – to assist in maintaining the premises.
- Perceived loss of community ownership and use of premises.

The appointment of a Committee would be a departure from what is understood to be Council policy of not appointing any more Special Committees and to reduce the number of Special Committees over time.

The appointment of a Special Committee may be a departure from management arrangements of a Council property that is best suited to a lease or licence arrangement and raise issues of fairness amongst other community based organisations managing Council property.

## **OPTIONS**

### **Option 1**

1. Not appoint a Committee for the R.N. Scott Reserve and provides \$7,176 annually for the cleaning of the Kongwak public toilets by way of increased EFT of 0.1 or by contract.
2. Rescinds that part of its decision made at the on 26 February 2014 Ordinary Meeting to negotiate the terms of a lease to the Kongwak Community Group Incorporated for the use of the building on the R.N. Scott Reserve.

### **Option 2 – Alternate recommendation**

As the TOR required by the Group does not fall within an Advisory Committee of Council, and the Group has rejected a Special Committee of Council and a Lease, the only other tenure possible that can allow all the Group's terms is for Council to offer a *Licence to Occupy* with Council being responsible for the Public Liability Insurance, which is outside Council's policy.

*"That Council:*

1. *Rescinds that part of its decision made on 26 February 2014 to negotiate the terms of a lease to the Kongwak Community Group Inc. for use of the building on the R.N. Scott Memorial Park as well as the courts.*
2. *Negotiates a Licence to Occupy with the Kongwak Community Group in accordance with the terms of reference provided and provides \$7,176 annually for the cleaning of the Kongwak public toilets by way of increased EFT of 0.1 or by contract."*

## **ATTACHMENTS**

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

1. Kongwak Community Group - Advisory Terms of Reference - RN Scott  
Memorial Reserve **[4.6.1]**

## **REFERENCE DOCUMENTS**

### **Council Policy**

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

Leasing Policy

Tennis Facilities Plan 2017

South Gippsland Health & Wellbeing Plan 2017-2021

Public Amenities Policy 2017

Recreation Strategy 2007



#### **4.7. TAKE2 CLIMATE CHANGE ACTION PLEDGE**

Infrastructure Directorate

##### **EXECUTIVE SUMMARY**

Climate change is a recognised challenge for our community, environment, and economy. Careful planning, appropriate service delivery, and engagement of the wider community may significantly mitigate the potential risks, providing for a safe and prosperous future.

Council's [Sustainability Strategy 2016-2020](#) commits to the following vision for South Gippsland:

*"To be a municipality that values its local people, flora and fauna and is committed to actively and collaboratively engaging with its community and other partners in protecting the environment and benefiting from sustainable opportunities."*

The *TAKE2 Climate Change Action Pledge* program is a mechanism for further commitment to this vision through action, productive collaboration with the community and government partners, and greater environmental leadership within the community.

##### **RECOMMENDATION**

**That Council:**

- 1. Submits a pledge to the Sustainability Victoria TAKE2 Climate Change Action Pledge program as follows:**

*"To be a municipality that values its local people, flora and fauna and is committed to actively and collaboratively engaging with its community and other partners in protecting the environment and benefiting from sustainable opportunities."*

- 2. Commits to actions that have been completed, currently being undertaken, proposed to be implemented, or identified as potential future actions (Attachment [4.7.1]).**
- 3. Communicates the pledge to the community to gain further support for the TAKE2 Pledge program objectives across the municipality.**

##### **REPORT**

The State Government passed the *Climate Change Act 2016* earlier this year and in doing so, committed the state to reaching net zero carbon emissions in Victoria by 2050. To achieve this target, it seeks the support of all Victorians

through its state-wide TAKE2 Climate Change Action Pledge program (TAKE2), led by Sustainability Victoria.

TAKE2 is intended to:

- Build momentum in community attitude and action towards a low carbon future.
- Recognise what organisations have done, are doing, and will do.
- Inform an interim emissions reduction target for 2020.

TAKE2 offers access to information on climate change risks and actions and collaboration with other councils to maximise action for effort. In submitting our pledge, Council will join 27 councils and over 3,000 Victorians who have pledged their support and continue to build on a sound base of climate change action.

The *Local Government Act 1989* s.3D defines a function of Council is:

*“to promote the social, economic and environmental viability and sustainability of the municipal district”.*

To this end, Council has publicly stated a position on climate change and greenhouse gas emissions, aiming for a twenty percent reduction of Council's greenhouse emissions by 2020 (based on 2009/10 levels) in our *Greenhouse Gas Reduction Plan* (GHGRP). In addition, many of the suggested TAKE2 Pledge actions are currently being fulfilled through the implementation of Council's [Sustainability Strategy 2016-2020](#), [Waste Management Strategy 2016-2021](#), and other relevant Council strategies and policies.

A list of actions is available in **Attachment [4.7.1]** which identifies items that are either complete (done), in progress (doing), planned (will do), or will consider (future). It is intended that these will form the basis of our pledge. Actions that are not likely to be implemented due to current locality or financial constraints will not be included in the pledge.

## **CONSULTATION**

The Sustainability team has sought comment from the Executive Leadership Team, Assets, Strategic Planning, Waste Management, Biodiversity, Economic Development, and Fleet & Plant teams. Consultation on climate related actions has occurred during the development and review of Council's [Sustainability Strategy 2016-2020](#).

## **RESOURCES**

There are no direct costs associated with committing to the TAKE2 Pledge program.

Communication of Council's pledge to the community and advocacy for individual pledges will be undertaken through the Council website, social media accounts, and via media release.

Ongoing community engagement and advocacy, action review, and reporting will be included in existing communications and reporting mechanisms.

## **RISKS**

If Council resolved not to participate in the TAKE2 Pledge program, it risks its reputation as a leader in environmental sustainability policy and action within the region. This may mean being left behind other councils and government agencies. It may also place Council at a disadvantage when applying for State and Federal Government grant funding relating to sustainability, in particular, funding programs provided for under the *Climate Change Act 2016*. Council will also be at risk of failing to meet our community's expectations in addressing climate change risks and providing leadership in this area.

## **ATTACHMENTS**

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

1. TAKE2 Climate Change Action Pledge - Actions and Status **[4.7.1]**

## **REFERENCE DOCUMENTS**

### **Council Policy**

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

Council Plan 2017-2021

Procurement Policy 2017

Sustainability Strategy 2016 - 2020

Waste Management Strategy 2016-2021

### **Legislative Provisions**

Local Government Act 1989, ss. 3C, 3D, 3E

Climate Change Act 2016

## **5. OBJECTIVE 4 - ENHANCE ORGANISATIONAL DEVELOPMENT AND IMPLEMENT GOVERNANCE BEST PRACTICE**

### **5.1. AUDIT COMMITTEE REPORT - SEPTEMBER 2017**

Corporate and Community Services Directorate

#### **EXECUTIVE SUMMARY**

The Audit Committee met on 11 September 2017 and a copy of its report (**Attachment [5.1.1]** – Audit Committee Minutes – 11 September 2017) is provided for Council's consideration and endorsement.

Further it is recommended that Council appoint Dr John (AJ) Purcell for an additional, final three year term commencing 25 February 2018 and concluding 24 February 2021.

#### **RECOMMENDATION**

**That Council:**

- 1. Receives and endorses the report of the Audit Committee held on 11 September 2017 (Attachment [5.1.1] - Audit Committee Minutes – 5 June 2017);**
- 2. Appoints Dr John (AJ) Purcell, for a final, three year term commencing 25 February 2018 and concluding 24 February 2021; and**
- 3. Notes that any documents referred to in this Council Report or report of the Audit Committee held on 11 September 2017 (Attachment [5.1.1] – Audit Committee Minutes – 11 September 2017) remain confidential in accordance with the designation made by Chief Executive Officer in the 11 September 2017 Audit Committee Agenda, excluding the following:**
  - a. Report of Audit Committee 5 June 2017; which has already been made public in the 26 July 2017 Council Meeting minutes;**
  - b. Finance Report August 2017;**
  - c. Annual Report 2016/17; and**
  - d. Draft Audit Chair Annual Report to Council 2016/17.**

#### **REPORT**

The Audit Committee is an advisory committee whose role is to oversee and monitor Council's audit processes, including internal control activities. As of 11 September 2017, the Committee comprised of three independent community

members, one of whom was the Committee Chair, and two Councillors (the Mayor, Cr Ray Argento and Cr Lorraine Brunt). The Committee is independent from management and does not have any executive powers, management function or delegated financial responsibility.

Council's Audit Committee Charter, dated 22 February 2017, allows for the appointment of an Independent Member for a maximum of two terms of three years.

Independent Member, Dr John (AJ) Purcell, was appointed on 25 February 2015 for an initial three year term which concludes on 24 February 2018. At the 11 September 2017 Audit Committee meeting, Dr Purcell indicated he was willing to serve a final, three year term if appointed by Council. The Committee discussed the potential reappointment and resolved to recommend to Council to reappoint Dr Purcell for a final, three year term commencing on 25 February 2018 and concluding on 2021, based on the significant contribution Dr Purcell has made to the Committee.

Some of the other significant matters considered by the Audit Committee at the 11 September 2017 meeting (**Attachment [5.1.1]** – Audit Committee Minutes – 11 September 2017) included:

- Report of Audit Committee 5 June 2017.
- Financial Performance Report – August 2017.
- Procurement Manual to determine delegations for Leasing from Third Parties.
- Strategic Risk Committee Minutes from 1 August 2017.
- Risk Report received from Director Corporate and Community Services.
- Insurance Coverage Report 2017/18.
- Business Continuity Plan update.
- Planned Internal Audits: including Councillor Expenditure and Code of Conduct Audit and Statutory Planning, Building Enforcement and Local Laws Audits.
- VAGO Draft Closing Report: noting that VAGO were in a position to issue a clean audit subject to minor amendments.
- Draft Annual Report 2017/18: with the Committee recommending to Council to the adoption of the report subject to edits.

- Annual Audit Chair Report to Council: presented to Council on 20 September 2017.
- Independent Member Reappointment: the Committee recommended to Council the appointment of Dr John (AJ) Purcell for a second and final three year term commencing 25 February 2018 and concluding 24 February 2021.

## **CONSULTATION**

The Audit Committee Report (**Attachment [5.1.1]** – Audit Committee Minutes – 11 September 2017) has been circulated to the Chair of the Audit Committee for endorsement.

## **RESOURCES**

Budget allowances for Council's three Independent Audit Committee Members' attendance fees (including proposed fee increase) and an outsourced internal function are made within Council's current and forward budgets.

## **RISKS**

The Audit Committee undertakes an integral and active role in risk mitigation (including financial) and oversees organisational compliance with legislation.

## **ATTACHMENTS**

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

1. Audit Committee Minutes - 11 September 2017 **[5.1.1]**

## **REFERENCE DOCUMENTS**

### **Legislative Provisions**

Local Government Act 1989

## **5.2. REVISED COUNCIL PLAN 2017-2021 AND DRAFT ANNUAL INITIATIVES 2018/19**

Corporate and Community Services Directorate

### **EXECUTIVE SUMMARY**

Council has undertaken the annual review of the Council Plan 2017-2021 (Council Plan) and developed the draft Annual Initiatives to be implemented in 2018/19. As an initial step in providing transparency to the community in the changes being proposed, this report seeks Council's early endorsement of amendments to the Council Plan and highlights early awareness of Annual Initiatives drafted for the purpose of developing the Annual Budget 2018/19 and the Long Term Financial Plan. The information pertaining to these changes is contained in **Attachment [5.2.1]**.

Council has endeavoured to reformat the Council to align strategies that together achieve an overarching strategy. All strategies are considered of equal importance, however they are shown as sub-strategies within overarching strategies where alignment exists. A number of new strategies have been developed and are included in the proposed changes.

Formal consultation is not yet being sought on the proposed draft changes to the Council Plan or Annual Initiatives. This feedback will be undertaken in late March and April 2018, in the form of a s.223 public submission process.

### **RECOMMENDATION**

**That Council:**

- 1. Endorses initial proposed amendments to Strategies in the Council Plan 2017-2021 and draft 2018/19 Annual Initiatives (Attachment [5.2.1]), for the purposes of establishing the 2018/19 Annual Budget and Long Term Financial Plan; and**
- 2. Notes that final refinements to the Council Plan 2017-2021 and 2018/19 Annual Initiatives are currently scheduled to be presented to Council in March 2018 to be endorsed for public submissions before being formally adopted in June 2018.**

### **REPORT**

Council developed the Council Plan in its first year of office under tight legislated time constraints. The Local Government Act 1989 (Act), requires an annual review of the strategic directions in the Council Plan. The annual review provides an opportunity to reassess directions and make minor amendments.

Councillors indicated their satisfaction with the directions set in the four Strategic Objectives, Objective Overviews, Successful Outcomes and Strategic Indicators. As a result no changes have been made to these components of the Council Plan.

The Strategies underpinning the four Strategic Objectives have been reviewed more stringently. The revised Council Plan now contains overarching lead strategies, with one or more strategies now allocated as sub-strategies. This is predominantly a formatting change, given that all the strategies are considered of equal importance. Refer to **Attachment [5.2.1]** for amendments and new inclusions currently under consideration.

A couple of strategies have been re-located under a different Strategic Objective to better align to the outcomes they seek to achieve. The report on Design Panels for example has been moved from Strategic Objective 1 to Strategic Objective 3 and made a sub-strategy of the review of Council's Building Portfolio. A further example is the investigation of caravan parks and camping grounds at Sandy Point that has been relocated from Objective 1 to Objective 3 as a sub-strategy to the advocacy to Parks Victoria and DELWP regarding beaches and other natural environments.

Two new strategies have been developed. The first is included under Strategic Objective 1, as follows:

*'Undertake a coastal study to explore opportunities for developing the Shire's coastal areas, while still protecting the coastline environment.'*

The second is included under Strategic Objective 2, as follows:

*'Review and update recreation, aquatic and the paths and trails strategies.'*

This is now the overarching strategy under which the three strategies mentioned form sub-strategies.

Annual Initiatives to be implemented in the 2018/19 financial year have been drafted to progress each Strategic Objective. The Strategic Objectives now contain a number of Annual Initiatives proposed for initial endorsement by Council. Budget considerations to fund these Annual Initiatives can be factored into the Annual Budget and Long Term Financial Plan.

Note that further amendments may be required to the Annual Initiatives pending budget considerations.

Once budget considerations have been made by Council, the revised Council Plan and Annual Initiatives will be presented for re-endorsement to seek public submissions on the final proposed directions. The Annual Initiatives will form



part of the Proposed Annual Budget 2018/19. These documents are currently scheduled to be presented to the Ordinary Meeting of Council March 2018.

## **CONSULTATION**

Over the past three months Council has discussed various strategies contained in the Council Plan. These sessions were held on 4 and 11 October and 1 November 2017. The insights gained from these discussions have assisted Councillors in the annual review of the Council Plan.

In addition to these sessions Council received a briefing on the planning process for the Council Plan on 16 August 2017.

The Annual Initiatives have been informed by various Department Business Plan initiatives, the 2017 Community Satisfaction Survey results, previous community engagement activities, community needs shared with Councillors, activities specified in adopted plans and from public presentations to Council.

## **RESOURCES**

The Proposed Annual Budget and Long Term Financial Plan are in the process of being developed. It is a good idea to endorse the proposed changes and additions to various strategies in the Council Plan and the Annual Initiatives in principle at this stage of the planning process to ensure the Annual Budget and Long term Financial Plan reflect the most current directions.

## **RISKS**

Financial Sustainability is one of Council's top ten strategic risks. The risks of inadequate financial sustainability due to rate capping and reduced grants or other income streams, can be mitigated through carefully aligning resources to achieve Council's strategic directions set out in the Council Plan.

As Council has identified some amendments and additional inclusions to the strategies in the Council Plan, it is considered prudent to seek Council's endorsement of these directions 'in-principle' at this stage in the planning process. Council can then determine the timing and mix of initiatives that need to be undertaken in 2018/19 and beyond, in a responsible and sustainable manner.

Public submissions will be sought on the amendments to the strategic directions in the Council Plan in late March and early April 2018 once the final proposed changes are made. This initial endorsement of the changes made thus far provides the community with early insight to the changes under consideration. Seeking public submissions in March 2018 through a s.223

public engagement process will ensure Council meets its legislative requirements when changes are proposed to Council's direction.

## **ATTACHMENTS**

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

1. Council Plan 2017-2021 - Strategies Review and Draft Annual Initiatives  
**[5.2.1]**

## **REFERENCE DOCUMENTS**

### **Council Policy**

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

Council Plan 2017-2021

Annual Budget and Long Term Financial Plan 2107/18

### **Legislative Provisions**

Local Government Act 1989, ss.125 and 126

### **5.3. COUNCILLOR APPOINTMENTS TO COMMITTEES 2017/18**

Corporate and Community Services Directorate

#### **EXECUTIVE SUMMARY**

Council has traditionally appointed Councillors to a range of internal and external Committees for the period of one year.

These appointments are reviewed annually at an open Meeting of Council to ensure appropriate representation and contribution by Councillors. This report provides a schedule of the recommended appointments of Councillors to Committees for the period commencing 20 December 2017 for a one year term.

Appointment to external Committees ensures Council is represented and involved in key discussion and planning both with the community, and at State and Federal levels.

Appointments to section 86 Committees ensures each Committee has a specific Councillor(s) they can seek assistance from, to support the achievement of their delegated responsibilities.

The Committees include:

- Council internal Advisory and Steering Committee
- Council Special (s.86) Committees
- External Community Based Committees
- Peak Local Government Bodies
- Industry Bodies

As there are several appointments requiring nominations prior to the vote, it is proposed the recommendations be split and the vote be by show of hands for each preferred candidate utilising the procedures established for electing the Mayor to determine primary and substitute appointees, where required.

#### **RECOMMENDATIONS**

**That Council:**

- 1. Appoints Mayor Cr Brunt, Deputy Mayor Cr Brown and one Councillor, being Cr \_\_\_\_\_, to Council's Chief Executive Officer Review Committee;**

2. **Appoints Mayor Cr Brunt and one Councillor being Cr \_\_\_\_\_ to the Audit Committee subject to a satisfactory Police check as per the Audit Committee Charter;**
3. **Appoints Mayor Cr Brunt, Deputy Mayor Cr Brown and one Councillor being Cr \_\_\_\_\_ to the Australia Day Awards Committee;**
4. **Appoints one Councillor, being Cr \_\_\_\_\_, and one Substitute being Cr \_\_\_\_\_, to Mossvale Park Advisory Committee;**
5. **Appoints one Councillor, being Cr \_\_\_\_\_, and one Substitute being Cr \_\_\_\_\_, to Walter J. Tuck Recreation Reserve Committee;**
6. **Appoints one Councillor, being Cr \_\_\_\_\_ to the Municipal Association of Victoria (MAV) Planning Committee;**
7. **Appoints Councillors to Committees and External Bodies as per Attachment [5.3.1] and those included in resolutions above, for the term commencing 20 December 2017 until 6.00am on the day of an open Meeting of Council to be scheduled, following the completion of the Mayoral term in accordance with ss.71(3) and 72 of the Act; and**
8. **Considers new appointments to Committees and External Bodies as changes are required or new Committees are formed.**

## **REPORT**

### **Background**

Council has traditionally appointed Councillors to Committees to provide leadership, advocacy, support and active engagement with the community and to facilitate access to strategic advice and information.

During the year, Council may nominate to form internal Council Committees or receive additional requests for representation on external Committees.

### **Proposal**

It is proposed that Council appoints Councillors to Committees for the term commencing 20 December 2017 until 6.00am on the day of an Open Meeting of Council to be scheduled, following the completion of the Mayoral term in accordance with ss.71(3) and 72 of the Act.

Councillors have considered the appointments to the Committees prior to this Ordinary Meeting of Council as indicated in **Attachment [5.3.1]**.

Councillors may consider additional requests for representation on Committees throughout the year and it is recommended that appointments be referred to Council for adoption.

A 'substitute' attendance role at a Committee is to provide back-up support should the first Councillor be unable to attend a Committee meeting. The primary appointed Councillor is to advise the substitute Councillor in advance of the meeting if they are unable to attend.

## **CONSULTATION**

Councillors have considered and discussed potential appointments to these Committees at Council Briefings on 27 September and 15 November 2017. The Committees are those which were relevant at the time of discussion and can be reviewed as required throughout the year.

## **RESOURCES**

Funds are allocated in current and forward annual budgets where appropriate for membership fees and any subscriptions required as part of the memberships.

## **RISKS**

The investment of Councillors' time and resources returns positive outcomes and opportunities for Council and the community through access to strategic information, and supports Councillors in their community advocacy and leadership roles.

## **ATTACHMENTS**

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

1. 2017-18 Appointment to Committees - 20 December 2017 **[5.3.1]**

## **REFERENCE DOCUMENTS**

### **Legislative Provisions**

Local Government Act 1989, s.71(3) and 72

#### **5.4. SECTION 86 SPECIAL COMMITTEE DELEGATION REVIEWS**

Corporate and Community Services Directorate

##### **EXECUTIVE SUMMARY**

Council has a long history of working directly with community volunteers in managing a wide range of community facilities. In 15 cases Council has established Special Committees to manage Council owned or managed facilities under Section 86 of the Local Government Act (Act). These delegations must be reviewed by each new Council. Council has completed an extensive review of the delegations with a view to reducing the administrative burden on volunteers whilst retaining the necessary oversight and control of the facilities. This report seeks Council endorsement of the 15 revised Instruments of Delegation – **Attachments [5.4.1] to [5.4.15]**.

##### **RECOMMENDATION**

**That Council:**

- 1. Exercise of the powers conferred by Sections 86 and 87 of the Local Government Act 1989 (Act);**
- 2. Endorse this report;**
- 3. From the date of this resolution, establish special committees as follows:**
  - a. Allambee South Community Centre Committee**
  - b. Dumbalk Hall Committee**
  - c. Foster Showgrounds Committee**
  - d. Foster Stockyard Creek Gallery Committee**
  - e. Foster War Memorial Arts Centre and Senior Citizens Centre Committee**
  - f. John Terrill Memorial Park & Fish Creek Recreation Reserve Committee**
  - g. Korumburra Botanic Park Committee**
  - h. Korumburra Recreation Reserve Committee**
  - i. Leongatha Court House Committee**

- j. Mardan Hall Committee**
- k. Meeniyar and District Sports Stadium Committee**
- l. Mirboo North Hall Committee**
- m. Port Welshpool & District Maritime Museum Committee**
- n. Sandy Point Community Centre & T.P.Taylor Reserve Committee**
- o. Walter J. Tuck (Mirboo North) Recreation Reserve Committee**
- 4. The purposes of each committee are those set out in Attachments [5.4.1] to [5.4.15] as the scheduled instruments of delegation to this resolution;**
- 5. The current members of the committees are as outlined in Attachment [5.4.16];**
- 6. 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;**
- 7. The committees are required to report to Council at the intervals specified in the schedules to this resolution in Attachments [5.4.1] to [5.4.15];**
- 8. Any external members of the committees are exempted from being required to submit a primary return or ordinary return;**
- 9. The chairperson of each committee is appointed by the special committee;**
- 10. A quorum for each committee is a whole number that is an absolute majority of the number of members of the specific committee;**
- 11. All members of the committees have voting rights on the committee;**
- 12. There be delegated to the committees the powers, duties and functions set out in Attachments [5.4.1] to [5.4.16] instrument of delegations specified for each committee;**
- 13. The instruments:**
  - a. Come into force immediately the common seal of council is affixed to the instruments; and**
  - b. Remain in force until council determines to vary or revoke them.**

- 14. The powers, duties and functions conferred on the committees by the instruments must be exercised in accordance with any guidelines or policies council may from time to time adopt; and**
- 15. The instruments be sealed in Attachments [5.4.1] to [5.4.15].**

## **REPORT**

Council currently delegates the management of a range of Council owned and managed community facilities to community committees. These committees are known as Section 86 Special Committees, the powers and responsibilities of which are governed by elements of the Act. A new Council is required during its first year to review the delegations of all its Special committees.

All the current delegations have now been reviewed in partnership with the current committees. Some aspects of the existing delegations have been difficult for committees to implement and the volunteers who make up these committees have advised that the delegations can be unnecessarily onerous. This in turn makes the task for the committee members more time consuming and inhibits people from volunteering for such groups.

After detailed investigation, a number of changes to the delegations all current Section 86 committees are recommended:

- improve the relevance of the documents;
- make the work of the committees easier;
- improve the ability of Council to support the committees; and
- monitor committee activity in an effective manner.



The following table lists the proposed changes together with a reason for the recommendation.

Requirement As Currently Stated	Proposed Change	Reason For Change
<b>1. Reporting requirement</b>		
3.3 To provide Council with an annual report, including a self-evaluation of the Committee's effectiveness, to be submitted in September	To provide Council with an annual report to be submitted after the AGM	Self-evaluation not required as this is an ongoing process and level of direct Council support for committees has been increased over recent years
Self-evaluation of operations and management	Remove for all committees	As above
3.5 To ensure that the decisions and policies of Council are implemented/adhered to without delay	Change 'without delay' to 'as soon as practicable'	Some committees do not need to meet on a monthly basis so use of "without delay" confers unnecessary pressure on the committee
5.6 To provide Council with a proposed budget for the forthcoming year, within seven (7) days of the end of the financial year	Change to 'by 30 September' each year	Committees develop annual reports for their AGMs, which are generally held before the end of September. Inclusion of a budget plan as part of this process is more realistic for these groups and reduces the administrative burden.

Requirement As Currently Stated	Proposed Change	Reason For Change
<b>6. Maintenance</b>		
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	Re-word to state: To develop a schedule of anticipated maintenance and provide this to Council with the Annual Report	Council officers undertake annual inspections with committee representatives. This current clause represents an unnecessary burden for the committee
<b>7. Risk Management / Insurance</b>		
7.2 To maintain a monthly checklist, provided by Council, relating to building safety, and make available to Council staff when requested	Change wording to: Include facility safety issues on the agenda of all committee meetings and advise Council if there are any issues requiring attention.	The current requirement is for most groups an onerous task. Including discussion as a standard agenda item for each committee meetings is a more practical and less time consuming process for the committee and Council staff
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	New wording: To ensure that volunteers complete a registration form that is to be forwarded to Council. Work to be undertaken by volunteer groups or individual volunteers must be authorised by the committee at a committee meeting. Each committee must maintain a volunteer register containing name, address, type of activity performed, Times of work and volunteer signature	Most committees have advised that it is an unreasonable burden on committee members to be present when every task being undertaken by volunteers is performed. This new wording still ensures that only authorised work is undertaken

Requirement As Currently Stated	Proposed Change	Reason For Change
7.4 To contact Council's Occupational Health and Safety Coordinator, before volunteers commence any work to determine whether training is required	Reword: Ensure that volunteers are capable of the tasks required and of operating any relevant equipment within the manufacture's guidelines	Current wording is impractical as there are a large number of volunteers assisting the committees spread across the Shire, and Council officers would not be in a position to undertake this determination in a timely manner. The new wording reflects acceptable and reasonable practice
7.5 To adhere to all statutory and legislative requirements	Remove from all delegations	All committee members are formal volunteers to Council and accept that they must adhere to Council requirements as part of this process so it is not required in the delegations
8.1 Enter into contracts over \$5000, or incur expenditure, for an amount which exceeds the approved budget	Add: "without prior approval from Council"	This additional wording keeps this section consistent with wording elsewhere in the delegations
8.2 Employ people, engage contractors or enter into leases without prior consent from Council	Remove contractors from this clause	The committees have the delegated power under clause 5.2 to engage contractors for works up to \$5000

Requirement As Currently Stated	Proposed Change	Reason For Change
<b>Insurance</b>		
<p>After receiving Special Committee Details Form, within one 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.</p>	<p>Re-word to state: Upon appointment of each Committee they will be covered by Council's Public Liability Insurance. Public Liability insurance is available for all hirers of venues who currently do not hold appropriate insurance, by completing the appropriate section of the Hirer Agreement Form and paying the relevant fee.</p> <p>Council must be contacted before events such as carnivals, large sporting and/or music events are booked or organised, as cover may not be available for some events. All "for profit" events must carry their own insurance and cannot avail themselves of Council insurance.</p> <p>If a committee is unsure about any aspect of insurance cover, please contact Council's Risk Management Officer.</p>	<p>Request from committees as many regular activities now exceed 50 people, and retention of the current wording would increase administrative work for both the committees and Council risk officers significantly but unnecessarily</p>

Requirement As Currently Stated	Proposed Change	Reason For Change
	The actions of committee members, in the proper execution of the committee power and responsibilities, are covered by Council's existing public liability policy	
The members of the Committee appointed by Council on 24 September 2014 are:	Remove from delegation powers and add as an attachment	It is recommended that the current members be an attachment rather than listed in the body of the delegation as the members can change from year-to-year, but the functions for the overall committee do not

A small number of changes specific to an individual committee delegation are requested as per the table below:

Committee	Alteration requested	Reason for alteration
Allambee South Community Hall	Change title from "Hall" to "Centre"	Reflects the facility more accurately
Dumbalk Hall & Ladies Auxiliary	Delete "Ladies Auxiliary" as this is a separately incorporated organisation to the Hall committee	A Council Section 86 committee cannot maintain separate incorporation.
T.P. Taylor Reserve committee	Change title to "Sandy Point Community Centre and TP Taylor Reserve committee"	The main work of the committee is managing the Community Centre

Committee	Alteration requested	Reason for alteration
John Terrill Memorial Park and Fish Creek Recreation (Buckley park) committee	Key register to be "Provide Council with a list of the people responsible for managing keys within the different facilities at the two reserves"	This facility has multiple facilities used by separate organisations. It is unreasonable for the section 86 committee to maintain a register of the keys issued by individual groups responsible for their facilities –eg. the Fish Creek Bowls Club
Korumburra Public Park Special Committee	Change title to "Botanic Park"	New title better reflects the nature of the facility

## CONSULTATION

Extensive consultation has been undertaken with the individual Committees over the last 12 months. This has included an external audit of the committee functions and undertaken in partnership with Council's internal audit services firm, RSD, and with the individual committees. Consultation has also been undertaken with a range of Council staff who play a direct role in either supporting the committees or have a role in maintaining and improving facilities managed by these committees.

## RESOURCES

All resources required to provide ongoing support for the functioning of Council's Section 86 Special committees is included in current budget allocations.

## RISKS

Failure to update and streamline the delegations for the current committees is likely to result in fewer people volunteering for this vital work, and make it very difficult for Council to ensure that work being undertaken directly on behalf of Council complies with the requirements of the Act.

## **ATTACHMENTS**

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

1. Allambee South Community Centre - Instrument of Delegation **[5.4.1]**
2. Dumbalk Hall and Ladies Auxiliary - Instrument of Delegation **[5.4.2]**
3. Foster Showgrounds - Instrument of Delegation **[5.4.3]**
4. Foster War Memorial Arts Centre Senior Citizens - Instrument of Delegation **[5.4.4]**
5. John Terrill Memorial - Instrument of Delegation **[5.4.5]**
6. Korumburra Public Park - Instrument of Delegation **[5.4.6]**
7. Korumburra Recreation Reserve - Instrument of Delegation **[5.4.7]**
8. Leongatha Courthouse - Instrument of Delegation **[5.4.8]**
9. Mardan Hall - Instrument of Delegation **[5.4.9]**
10. Meeniyan District Sports - Instrument of Delegation **[5.4.10]**
11. Mirboo North Hall Committee - Instrument of Delegation **[5.4.11]**
12. Port Welshpool District Maritime Museum - Instrument of Delegation **[5.4.12]**
13. Stockyard Gallery Committee - Instrument of Delegation **[5.4.13]**
14. TP Taylor Reserve - Instrument of Delegation **[5.4.14]**
15. Walter Tuck Recreation Reserve - Instrument of Delegation **[5.4.15]**
16. Special Committee Members 2017-2018 **[5.4.16]**

## **REFERENCE DOCUMENTS**

### **Council Policy**

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

Local Law No. 3 2010

### **Legislative Provisions**

Local Government Act 1989

## **5.5. COUNCIL MEETING TIMETABLE 2018**

Corporate and Community Services Directorate

### **EXECUTIVE SUMMARY**

Council conducts Ordinary Meetings of Council at which the general business of Council may be transacted. The community is able to participate and support informed Council decision making by participating in a range of public presentation sessions.

This report sets the dates and times for Council's Ordinary Meetings for the next calendar year.

### **RECOMMENDATION**

**That Council:**

- 1. Sets the Ordinary Council Meetings in 2018 to be held in the Council Chambers on the following dates and times:**
  - a. Wednesday 28 February 2018, 2.00pm**
  - b. Wednesday 28 March 2018, 2.00pm**
  - c. Thursday 26 April 2018, 2.00pm**
  - d. Wednesday 30 May 2018, 2.00pm**
  - e. Wednesday 27 June 2018, 2.00pm**
  - f. Wednesday 25 July 2018, 2.00pm**
  - g. Wednesday 22 August 2018, 2.00pm**
  - h. Wednesday 26 September 2018, 2.00pm**
  - i. Wednesday 24 October 2018, 2.00pm**
  - j. Wednesday 28 November 2048, 2.00pm**
  - k. Wednesday 19 December 2018, 2.00pm**
- 2. Authorises the Chief Executive Officer to change a meeting location should that be warranted, due to the nature of business and availability of the Council Chambers; and**



3. **Provides reasonable notice to the public via local newspapers and Council's website should a change in Meeting time or location be warranted.**

## **REPORT**

### **Ordinary Council Meeting Dates**

Council is required by Local Law No.3 2010 (clause 8) to fix the time, date and place of all Council Meetings and provide reasonable notice to the public. Council publishes notice of Council Meetings (both Ordinary and Special) in Council's Noticeboard section of local newspapers and on its website.

It is proposed to hold the first Ordinary Meeting of Council for 2018 on Wednesday 28 February 2018 and from then on the fourth Wednesday of each month for the remainder of the calendar year, with the following exceptions:

1. Council business will continue unimpeded throughout January 2018 given the extensive delegations provided to the Chief Executive Officer and the right of the Mayor or three Councillors to call a Meeting of Council should a situation emerge that warrants a Special Meeting.
2. The April Meeting cannot be held on Wednesday 25 April as it is the ANZAC Day public holiday. The Meeting is scheduled for Thursday 26 April 2018, the day following the public holiday. Scheduling the Meeting on this day will assist in balancing the time frame between decisions made in April and 30 May 2018.
3. The May Meeting has been moved to the 5<sup>th</sup> Wednesday, 30 May 2018. In May 2018, Council will be hearing and considering the Council Plan review, Budget and Rating Strategy. All Meetings associated with these matters have been spread over all Wednesdays in May 2018 to make them administratively possible.
4. The December 2018 Meeting is scheduled for the third Wednesday, 19 December 2018. Bringing the Meeting a week earlier will avoid clashes with the holiday season and public holidays.

Ordinary Council Meetings are to commence at 2.00pm and be held in the Council Chambers, Leongatha.

### **Council's Monthly Meeting Structure**

The monthly meeting structure will continue with the previous practice of holding the following meetings each month, excluding January, where no meetings are held unless considered necessary.

**1st Wednesday of each month:** Strategic Briefing Day

**2<sup>nd</sup> Wednesday of each month:** Council to utilise as required; for Strategic Briefings, Training and Workshops.

**3rd Wednesday of each month:** Public Presentation Session and Strategic Briefing Day.

**4th Wednesday of each month:** Council Meeting Day, incorporating a Public Presentation Session on Agenda matters.

**5<sup>th</sup> Wednesday of each month:** Council to utilise as required; for Strategic Briefings, Training and Workshops.

### **Public Participation in Council Decision Making**

Council's Public Presentation sessions are one of the many options with which to engage with Council and are held usually on the third Wednesday of each month at 2.00pm and 7.00pm (by appointment) and on Council Meeting Days on the fourth Wednesday of each month at 10.00am (Agenda matters only).

The Question Time section of an Ordinary Council Meeting is another avenue for the community to support informed decision making of Council.

Information and how to register your Expression of Interest to make a [Public Presentations](#) or submit [Questions for Council Meetings](#) are accessible on Council's website.

Council's [Public Participation in Meetings with Council Policy](#) supports a welcoming, respectful and safe environment for members of the community to present directly to Councillors on views and issues that are important to them.

### **CONSULTATION**

Consultation with Council's key project functions to ensure optimum conduct of Council Business.

Councillors are briefed each week on Council's monthly meeting schedule in the Executive Updates Briefings and via 'InfoSum', the Councillor newsletter.

### **RISKS**

The timely determination of Council Meeting dates ensures the smooth transaction of Council Business.

## **REFERENCE DOCUMENTS**

### **Council Policy**

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

Local Law No. 3 2010, Processes of Municipal Government (Meeting Procedures and Common Seal)

Councillor Code of Conduct

[Public Participation in Meetings with Council Policy](#)

### **Legislative Provisions**

Local Government Act 1989

## **6. OTHER COUNCIL REPORTS**

### **6.1. COUNCIL REPORTS - NIL**

**Nil**

## **7. NOTICES OF MOTION AND/OR RESCISSION**

### **7.1. NOTICES OF MOTION - NIL**

**Nil**

## **8. PROCEDURAL REPORTS**

### **8.1. ASSEMBLY OF COUNCILLORS 22 OCTOBER 2017 TO 21 NOVEMBER 2017**

Corporate and Community 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 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 between 22 October and 21 November 2017.

#### **RECOMMENDATION**

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

## REPORT

Meeting Title	Details
<b>Thursday 26 October 2017</b>	
<b>Korumburra Round Table</b>	<p><b>Councillors Attending:</b> Councillors McEwen, Brunt and Brown.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p> <p><b>Matters Discussed:</b></p> <ul style="list-style-type: none"> <li>• A Council representative provided an update regarding: <ul style="list-style-type: none"> <li>○ Long Term Plan</li> <li>○ Rating Strategy Steering Committee</li> <li>○ IGA Supermarket</li> <li>○ Community Hub</li> </ul> </li> </ul>
<b>Wednesday 25 October 2017</b>	
<b>Council Agenda Item Discussion 25 October 2017</b>	<p><b>Councillors Attending:</b> Councillors Rich, Kiel, Skinner, Argento, McEwen, Brunt, Brown and Edwards.</p> <p><b>Conflict of Interest:</b> Councillor Jeremy Rich declared a direct Conflict of Interest on Agenda Item 4.2 WALKERVILLE RETARDING BASIN - CAPACITY MAINTENANCE OPTIONS as he is a "Director of the company referenced to in this item on the agenda". The matter was not discussed.</p> <p><b>Matters Discussed:</b> Councillors were provided information on Council Agenda items for the Ordinary Council Meeting 25 October 2017.</p>
<b>Public Presentations Open Session</b>	<p><b>Councillors Attending:</b> Councillors Rich, Kiel, Skinner, Argento, McEwen, Brunt, Brown and Edwards.</p> <p><b>Conflict of Interest:</b> Nil Disclosed.</p>
<p><b>A Presentation was made to Council by the following community member:</b>  <b>Rosemary Trease</b>, joint property owner regarding Council Agenda Item 7.2. NOTICE OF MOTION 708 - CALL-IN OF PLANNING APPLICATION 2017/78 SUBDIVISION OF THE LAND INTO TWO LOTS.</p>	

Meeting Title	Details
<b>Wednesday 25 October 2017</b>	
<b>'Take 2' Climate Action Pledge</b>  <b>Open Session</b>	<b>Councillors Attending:</b> Councillors Rich, Kiel, Skinner, Argento, McEwen, Brunt, Brown and Edwards.  <b>Conflict of Interest:</b> Nil disclosed.  <b>Matters Discussed:</b> Councillors were provided information on the Pledge, it is described as a mechanism for further commitment to this idea through action, productive collaborations with community and government partners and greater environmental leadership within the community.
<b>Council Agenda Item Discussion</b> <b>25 October 2017</b>	<b>Councillors Attending:</b> Councillors Rich, Kiel, Skinner, Argento, McEwen, Brown and Edwards.  <b>Conflict of Interest:</b> Councillor Jeremy Rich declared a direct Conflict of Interest on Agenda Item 4.2 WALKERVILLE RETARDING BASIN - CAPACITY MAINTENANCE OPTIONS as he is a "Director of the company referenced to in this item on the agenda". <i>Cr Rich left the Assembly of Councillors at 12.01pm when the matter was discussed.</i>  <b>Matters Discussed:</b> Councillors were provided information on Council Agenda items for the Ordinary Council Meeting 25 October 2017.
<b>Wednesday 30 October 2017</b>	
<b>Toora Railway Reserve Parkland Development Advisory Committee</b>	<b>Councillors Attending:</b> Councillor Argento  <b>Conflict of Interest:</b> Nil disclosed.  <b>Matters Discussed:</b> <ul style="list-style-type: none"> <li>• Rail Trail Maintenance and upgrades</li> <li>• Rail Trail planting</li> <li>• Onsite Meeting</li> <li>• Advisory Committee continuation</li> </ul>



Meeting Title	Details
<b>Wednesday 1 November 2017</b>	
<b>Councillor/ CEO Session</b>	<p><b>Councillors Attending:</b> Councillors McEwen, Brunt, Brown, Skinner, Argento, Kiel, Hill and Rich.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p> <p><b>Matters Discussed:</b></p> <ul style="list-style-type: none"> <li>• Staff movement update</li> <li>• Audit Committee</li> <li>• Rating Strategy Review process</li> <li>• Responding to community petitions and capital budgeting implications</li> </ul>
<b>Executive Update Session</b>	<p><b>Councillors Attending:</b> Councillors McEwen, Brunt, Brown, Skinner, Argento, Edwards, Kiel, Hill and Rich.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p> <p><b>Matters Discussed:</b></p> <ul style="list-style-type: none"> <li>• Australian Coastal Council Conference</li> <li>• Community Advisory Boards Workshop</li> <li>• South East Australian Transport Strategy</li> <li>• Korumburra Supermarket Planning</li> </ul>
<b>Economic Development &amp; Tourism Steering Briefing</b>	<p><b>Councillors Attending:</b> Councillors McEwen, Brunt, Brown, Skinner, Argento, Edwards, Kiel, Hill and Rich.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p> <p><b>Matters Discussed:</b></p> <ul style="list-style-type: none"> <li>• Draft Economic Development and Tourism Strategy</li> <li>• Branding</li> </ul>
<b>Draft Annual Initiatives, Council Plan Review and Budget/Capital</b>	<p><b>Councillors Attending:</b> Councillors McEwen, Brunt, Brown, Skinner, Edwards, Kiel, Hill and Rich.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p> <p><b>Matters Discussed:</b> Councillors are required by the Local Government Act 1989, s.125(7) to annually review the Council Plan. Councillors further reviewed the Annual Initiatives for 2018/19 to progress the Council Plan.</p>

Meeting Title	Details
<b>Wednesday 1 November 2017</b>	
<b>Planning Briefing</b>	<p><b>Councillors Attending:</b> Councillors McEwen, Brunt, Brown, Skinner, Edwards, Kiel, Hill and Rich.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p> <p><b>Matters Discussed:</b></p> <ul style="list-style-type: none"> <li>• Planning Scheme Amendment – Coastal Towns</li> <li>• Port Welshpool Plan</li> <li>• Mirboo North Planning Scheme Refresh</li> <li>• C90 Housing Settlement Overlay</li> <li>• Bush Fire Management Overlay</li> </ul>
<p><b>Draft Annual Initiatives, Council Plan Review and Budget/Capital</b></p> <p><b>Continued from previous session</b></p>	<p><b>Councillors Attending:</b> Councillors McEwen, Brunt, Brown, Skinner, Edwards, Kiel, Hill and Rich.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p> <p><b>Matters Discussed:</b> Councillors further reviewed the Annual Initiatives for 2018/19 to progress the Council Plan.</p>
<b>Wednesday 8 November 2017</b>	
<b>Executive Update Session</b>	<p><b>Councillors Attending:</b> Councillors McEwen, Brunt, Skinner, Kiel and Edwards.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p> <p><b>Matters Discussed:</b></p> <ul style="list-style-type: none"> <li>• Venus Bay Surf Lifesaving Club</li> <li>• Mayoral and Deputy Election reminder</li> <li>• Toora Railway Park Committee</li> </ul>
<b>2017/18 Community Grants Round 1 Assessment</b>	<p><b>Councillors Attending:</b> Councillors McEwen, Brunt, Skinner, Kiel, Edwards, Argento and Rich.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p> <p><b>Matters Discussed:</b> Councillors considered the recommendations presented to them regarding the assessment of the 2017/18 Community Grants Program – Round One and make amendment to the suggested allocations if required.</p>

Meeting Title	Details
<b>Wednesday 8 November 2017</b>	
<b>Councillor Support and Expenditure Policy Review</b>	<p><b>Councillors Attending:</b> Councillors McEwen, Rich, Brunt, Skinner, Argento and Kiel.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p> <p><b>Matters Discussed:</b> Councillors continued to consider the Confidential Internal Audit Report and recommendations arising from the Councillor Expenditure and Code of Conduct Compliance Internal Audit conducted in June 2017. Review of the Councillor Support and Expenditure Policy – revised draft November 2017 was considered.</p>
<b>Gender Equity at South Gippsland</b>	<p><b>Councillors Attending:</b> Councillors McEwen, Rich, Brunt, Skinner, Argento and Kiel.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p> <p><b>Matters Discussed:</b> Councillors considered how they can remain committed to improving gender equity; they shared their understanding and personal experiences and the impacts of gender inequity on both women and men.</p>
<b>Annual Update - Proposed 2018/19 Capital Works Program</b>	<p><b>Councillors Attending:</b> Councillors Brunt, Edwards, Rich, Argento, Skinner, Kiel and McEwen.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p> <p><b>Matters Discussed:</b> Councillors considered the 15 year Capital Works Program as part of its annual budget review.</p>
<b>Rating Strategy Review Committee</b>	<p><b>Councillors Attending:</b> Councillors Skinner, Kiel and Hill.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p> <p><b>Matters Discussed:</b></p> <ul style="list-style-type: none"> <li>• Meeting purpose and meeting dates</li> <li>• Current Rating Strategy</li> <li>• Meeting protocols and requests</li> </ul>

Meeting Title	Details
<b>Wednesday 15 November 2017</b>	
<b>Shared Services Progress</b>	<p><b>Councillors Attending:</b> Councillors McEwen, Skinner, Kiel, Argento, Brown, Edwards and Brunt.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p> <p><b>Matters Discussed:</b> Councillors were provided with further information on the Gippsland Local Government Network – Shared Services Initiative. The presentation was made by external presenters from consultants assisting the network of interested Councils.</p>
<b>HACC Service Delivery Options</b>	<p><b>Councillors Attending:</b> Councillors McEwen, Brunt, Skinner, Brown, Argento, Rich, Edwards and Kiel.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p> <p><b>Matters Discussed:</b> Councillors considered an alternate delivery option of the Home and Community Care (HACC) Services; the presentation was made by the Australian Services Union (ASU).</p>
<b>Gippsland Community Leadership Program</b>  <b>Open Session</b>	<p><b>Councillors Attending:</b> Councillors McEwen, Brunt, Skinner, Brown, Argento, Rich, Edwards, Kiel and Hill.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p> <p><b>Matters Discussed:</b> Councillors were provided details on the Gippsland Community Leadership Program and how Council could contribute.</p>

Meeting Title	Details
<b>Wednesday 15 November 2017</b>	
<b>Public Presentations</b>  <b>Open Session</b>	<b>Councillors Attending:</b> Councillors McEwen, Brunt, Skinner, Brown, Argento, Rich, Edwards, Kiel and Hill.  <b>Conflict of Interest:</b> Nil disclosed.
<p><b>A Presentation was made to Council by the following community members:</b></p> <p><b>Joan Turner</b>, representing the Active Retiree Advisory Committee regarding the current activities of the Committee, highlighting the importance of transport and computer access to this demographic.</p> <p><b>Brenton Williams</b>, representing the Leongatha Chamber of Commerce and Industry, and Ross Garner representing Leongatha Rotary regarding the Council's Leongatha Railway Site Transformation Project and highlighted the key points that they consider would benefit the Master Plan.</p> <p><b>Margaret Thomas and Rosemary Cousin</b>, representing the Preserve Our Forests Steering Group regarding logging activity planned in the Mirboo North area.</p>	
<b>Councillor Appointment to Committees 2017/18</b>	<b>Councillors Attending:</b> Councillors McEwen, Skinner, Brown, Argento, Brunt, Rich, Hill, Kiel and Edwards.  <b>Conflict of Interest:</b> Nil disclosed. <b>Matters Discussed:</b> Councillors reviewed the list of Committee appointments for 2017/18.
<b>An Age Friendly South Gippsland Implementation Plan 2017 - 2018</b>	<b>Councillors Attending:</b> Councillors McEwen, Skinner, Brown, Argento, Brunt, Rich, Hill, Kiel and Edwards.  <b>Conflict of Interest:</b> Nil disclosed. <b>Matters Discussed:</b> Councillors were provided an update on the progress of the implementation plan for An Age Friendly South Gippsland Implementation Plan for 2017/18.

Meeting Title	Details
<b>Wednesday 15 November 2017</b>	
<b>Executive Update</b>	<p><b>Councillors Attending:</b> Councillors McEwen, Skinner, Brown, Argento, Brunt, Rich, Hill, Kiel and Edwards.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p> <p><b>Matters Discussed:</b></p> <ol style="list-style-type: none"> <li>1. Australian Coastal Council Conference</li> <li>2. Revised Councillor Support and Expenditure Policy</li> <li>3. Australian Coastal Councils Association Conference attendance</li> <li>4. Korumburra Hub Town Meeting</li> </ol>
<b>Ordinary Council Agenda Item Discussion 22 November 2017</b>	<p><b>Councillors Attending:</b> Councillors Skinner, Brown, Argento, Brunt, Rich, Hill, Kiel and Edwards.</p> <p><b>Conflict of Interest:</b> An Officer declared a direct Conflict of Interest on a Confidential Agenda Item 14.2 PERSONNEL MATTER. The matter was not discussed.</p> <p><b>Matters Discussed:</b> Councillors were provided information on Council Agenda items for the Ordinary Council Meeting 22 November 2017.</p>
<b>Leongatha Railway Site Transformation – Final Master Plan</b>	<p><b>Councillors Attending:</b> Councillors Skinner, Argento, Brunt, Kiel and Edwards.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p> <p><b>Matters Discussed:</b> Councillors considered a version of the Final Master Plan for the Leongatha Railway Site Transformation in response to community feedback.</p>

## REFERENCE DOCUMENTS

### Legislative Provisions

Local Government Act 1989

## **8.2. DOCUMENTS SEALED AWARDED OR EXTENDED BY CEO 21 OCTOBER TO 17 NOVEMBER 2017**

Corporate and Community Services Directorate

### **EXECUTIVE SUMMARY**

This document reports to Council the following actions undertaken by the Chief Executive Officer (CEO) which occurred during the period from 21 October to 17 November 2017, as required by the Council's Instrument of Delegation to the Chief Executive Officer and Procurement Policy:

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

### **RECOMMENDATION**

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

### **REPORT**

#### **Documents Sealed**

Under the Local Government Act 1989 (the Act), each Council is a body corporate and a legal entity in its own right. Each Council must have a common seal 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 may include agreements, contracts, leases or any other contractual or legally binding document that binds Council to another party.

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.' Council's Instrument of Delegation to the CEO also delegates to the CEO the power to 'use the Common Seal of Council subject to that use being reported to Council'.

In accordance with the Local Law and Instrument of Delegation, the following are presented to Council as documents sealed during the period from 21 October to 17 November 2017:

1. Section 173 Agreement between South Gippsland Shire Council and the owner of 114 Foley Road, Yanakie in relation to the subdivision of the land into two lots – amend Permit condition – Seal Applied 23 October 2017.
2. Section 173 Agreement between South Gippsland Shire Council and the owner of 68 Townsend Street, Port Welshpool in relation to the development of a dwelling – Seal Applied 23 October 2017.
3. Section 173 Agreement between South Gippsland Shire Council and the owner of 240 Slades Hill Road, Welshpool in relation to a two-lot subdivision (house lot excision) – Seal Applied 9 November 2017.
4. Section 173 Agreement between South Gippsland Shire Council and the owner of 90 Harmon Road, Foster in relation to four-lot subdivision – Seal Applied 16 November 2017.
5. Contract CON/147 Supply and Installation of Guardrail – Various Locations between South Gippsland Shire Council and Safety Barrier Solutions Pty Ltd – Seal Applied 30 October 2017.

**Contracts awarded after a public tender process within the CEO's delegation**

The CEO's delegation from Council allows the CEO to award contracts up to the value of \$250,000 (inclusive of GST), with the exception of Annual WorkCover and Council insurance premiums.

Council's Procurement Policy requires recording in the Council Minutes all contracts over the statutory threshold set out in the Act (\$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, the successful tenderer, contract length and the total contract price.

Further, Council's Procurement Policy requires 'that Council will not disclose information about procurements below the statutory thresholds, however, to ensure compliance with Council's Procurement Policy, it will be noted in this report that a contract awarded below the statutory threshold has been entered into following a public tender.

The following contracts were awarded during the period 21 October to 17 November 2017 under the CEO's financial delegation of \$250,000 (inclusive of GST) following a public tender that were not specified in the 28 June 2017 resolution (refer to the paragraph below).

Nil.



### **Contracts awarded after a public tender process under the Statutory threshold**

The CEO has, within his Instrument of sub-delegation by the CEO to Staff delegated the power to enter into contracts (inclusive of GST), to specific staff as outlined within Council's Procurement Manual.

Further, Council's Procurement Policy requires 'that Council will not disclose information about procurements below the statutory thresholds, however, to ensure compliance with Council's Procurement Policy, it will be noted in this report that a contract awarded below the statutory threshold has been entered into following a public tender.'

The following contracts were awarded during the period 21 October to 17 November 2017 under the Manager Infrastructure Delivery's financial delegation following a public tender:

1. CON/159 Design Services for the Foster Basketball Stadium Refurbishment Foster was awarded to Loft Architecture Pty Ltd on 16 November 2017.

Council resolved on 28 June 2017 to delegate to the CEO the power to award contracts specified in the resolution, subject to the preferred tenders being within budget and that Council receive a report detailing the contracts awarded. The following contracts were awarded during the period 21 October to 17 November 2017 that were specified in the 28 June 2017 resolution and that were within budget:

Nil.

Council resolved on 25 October 2017 to delegate to the CEO the power to award a contract specified in the resolution, subject to the preferred tender being within budget and that Council receive a report detailing the awarded contract. The following contract was awarded during the period 21 October to 17 November 2017 that was specified in the 25 October 2017 resolution and was within budget:

1. Contract CON/155 Walkerville Foreshore Improvements – Walkerville North (Roadworks, Footpaths, Drainage, Parking and Traffic Management Works) was awarded to South Gippsland Quarries Pty Ltd on 30 October 2017 for the lump sum amount of \$413,866.60 excluding GST and includes provisional items and contingency amount.

### **Contract variations approved by the CEO**

Council's Procurement Policy authorises the CEO to approve any necessary variations to a contract which exceeds the CEO's delegation, to allow the proper fulfilment of the contract and to ensure delays to key projects are

avoided, following consultation with the Mayor and subject to this variation being reported to the next practicable Council Meeting.

The following variations to a contract which exceeds the CEO's delegation, approved by the CEO during the period 21 October to 17 November 2017:

Nil.

### **Contract extensions approved by the CEO**

Council's Procurement Policy authorises the CEO to enter into any contract extensions subject to the satisfactory performance of the contractor and the extension being reported to Council for any contracts which in total exceeds the CEO's delegation.

The following contract extensions approved by the CEO during the period 21 October to 17 November 2017:

1. Contract SGC15/23 Provision of Catering Services for Council Meetings, Briefings and Major Civic Functions between South Gippsland Shire Council and Brent Sinclair Catering – One year extension approved on 3 November 2017 commencing 1 January 2018;

### **REFERENCE DOCUMENTS**

#### **Council Policy**

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

Local Law No. 3 2010, Processes of Municipal Government (Meeting Procedures and Common Seal)

Procurement Policy, 28 June 2017

Instrument of Delegation to the Chief Executive Officer, 22 February 2017

#### **Legislative Provisions**

Local Government Act 1989 (the Act), ss.5 and 186

## **9. COUNCILLOR REPORTS**

### **9.1. REQUESTS FOR LEAVE OF ABSENCE**

### **9.2. COUNCILLOR UPDATES**

### **9.3. COMMITTEE UPDATES**

## 10. 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 No. 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 and coming event or the outcomes of a recent meeting with a Minister etc.

## **11. PUBLIC QUESTIONS**

### **11.1. PETITIONS AND JOINT LETTERS**

Petitions and Joint letters are written requests that have been signed by a number of community members. According to the Local Law No.3 2010 petitions may be presented to Council by a Councillor. A petition presented to the Council must lay on the table until the next Ordinary Meeting of 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 a Public Presentation session speak briefly to its contents. At the following Ordinary Meeting of Council, 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.

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

All community member questions for Ordinary Council Meetings are to be written and submitted to the Council Business Team by close of business on the Friday preceding the meeting to allow time for a response to be prepared, where possible, for the Council Meeting.

Public Question Time in Ordinary Council Meetings is to be used for matters that are generally political in nature or that cannot be addressed by other means. This session should not be used for questions on routine works or operational matters, planning (application) matters or for repeating previously answered questions.

Source: Public Participation in Meetings with Council Policy (C65) – adopted 23 May 2017.

**Nil**

### 11.3. SUBMITTED PUBLIC QUESTIONS

All community member questions for Ordinary Council Meetings are to be written and submitted to the Council Business Team by close of business on the Friday preceding the meeting to allow time for a response to be prepared, where possible, for the Council Meeting.

Public Question Time in Ordinary Council Meetings is to be used for matters that are generally political in nature or that cannot be addressed by other means. This session should not be used for questions on routine works or operational matters, planning (application) matters or for repeating previously answered questions.

*Source: Public Participation in Meetings with Council Policy (C65) – adopted 23 May 2017.*

## **12. 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, 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.

**That Council close the meeting to the public to allow for consideration of Closed Item 1 Australia Day Awards Recipient pursuant to section 89(2)(h) a matter which the Council or Special Committee considers would prejudice the Council or any person.**



### **13. MEETING CLOSED**

#### **NEXT MEETING**

The next Ordinary Meeting of Council open to the public will be held on Wednesday, 28 February 2018 commencing at 2pm in the Council Chambers, Leongatha.