

SOUTH GIPPSLAND SHIRE COUNCIL

# Council Agenda

Ordinary Meeting of Council  
29 May 2019

Ordinary Meeting No. 434  
Leongatha RSL  
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.***

### Privacy

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

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A copy of this policy is located on Council's website [www.southgippsland.vic.gov.au](http://www.southgippsland.vic.gov.au).

## SOUTH GIPPSLAND SHIRE COUNCIL

Notice is hereby given that Ordinary Meeting No. 434 of the  
South Gippsland Shire Council will be held on 29 May 2019  
in the Leongatha RSL commencing at 2pm

### TABLE OF CONTENTS

|   |           |
|---|-----------|
| <b>1. PRELIMINARY MATTERS .....</b>   | <b>5</b>  |
| 1.1. LIVE-STREAMING COUNCIL MEETING DISCLAIMER.....   | 5         |
| 1.2. WELCOME .....  | 5         |
| 1.3. OPENING PRAYER.....  | 5         |
| 1.4. ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS .....  | 5         |
| 1.5. APOLOGIES .....  | 6         |
| 1.6. CONFIRMATION OF MINUTES.....   | 6         |
| 1.7. DECLARATION OF CONFLICTS OF INTEREST FOR COUNCILLORS.....  | 7         |
| 1.8. DECLARATION OF CONFLICTS OF INTEREST FOR STAFF .....   | 8         |
| <b>2. OBJECTIVE 1 - STRENGTHEN ECONOMIC GROWTH AND PROSPERITY .....</b>   | <b>9</b>  |
| 2.1. PETITION RESPONSE: GROWTH FOR REDUCED RATES .....  | 9         |
| <b>3. OBJECTIVE 2 - BUILD STRONG PARTNERSHIPS, STRENGTHEN ARTS &amp; CULTURE AND DELIVER EQUITABLE OUTCOMES.....</b>        | <b>13</b> |
| 3.1. NEW POLICY: C73 PORT WELSHPOOL AND DISTRICT MARITIME MUSEUM AND COLLECTION POLICY .....                                | 13        |
| <b>4. OBJECTIVE 3 - IMPROVE SOUTH GIPPSLAND'S BUILT ASSETS AND VALUE OUR NATURAL ENVIRONMENT .....</b>                      | <b>17</b> |
| 4.1. AWARD CONTRACT CON/215 - BUILDING MAINTENANCE SERVICES AND ESSENTIAL SAFETY SERVICES INSPECTIONS AND MAINTENANCE ..... | 17        |
| <b>5. OBJECTIVE 4 - ENHANCE ORGANISATIONAL DEVELOPMENT AND IMPLEMENT GOVERNANCE BEST PRACTICE.....</b>                      | <b>20</b> |
| 5.1. NIL .....  | 20        |
| <b>6. OTHER COUNCIL REPORTS.....</b>  | <b>21</b> |
| 6.1. ACTING CHIEF EXECUTIVE OFFICER - SHORT TERM ACTING APPOINTMENT .....   | 21        |
| 6.2. CIRCUMSTANCES REQUIRING SPECIAL EMERGENCY MEETING HELD - 8 MAY 2019.....   | 23        |
| <b>7. NOTICES OF MOTION AND/OR RESCISSION.....</b>  | <b>25</b> |
| 7.1. NIL .....  | 25        |
| <b>8. PROCEDURAL REPORTS .....</b>  | <b>26</b> |
| 8.1. ORGANISATIONAL PERFORMANCE REPORT - JULY 2018 TO MARCH 2019 .....  | 26        |
| 8.2. COUNCILLOR EXPENDITURE REPORT - JULY 2018 - MARCH 2019.....  | 29        |

|            |   |           |
|------------|---|-----------|
| 8.3.       | ASSEMBLY OF COUNCILLORS - 22 MARCH TO 21 APRIL 2019 .....                                 | 31        |
| 8.4.       | DOCUMENTS SEALED AWARDED OR EXTENDED BY CEO - 23 MARCH<br>2019 TO 26 APRIL 2019 .....     | 36        |
| 8.5.       | INSTRUMENTS OF APPOINTMENT AND AUTHORISATION - PLANNING<br>AND ENVIRONMENT ACT 1987 ..... | 39        |
| <b>9.</b>  | <b>COUNCILLOR REPORTS .....</b>   | <b>41</b> |
| 9.1.       | REQUESTS FOR LEAVE OF ABSENCE .....   | 41        |
| 9.2.       | COUNCILLOR UPDATES .....  | 41        |
| 9.3.       | COMMITTEE UPDATES .....   | 41        |
| <b>10.</b> | <b>URGENT OR OTHER BUSINESS .....</b>   | <b>42</b> |
| <b>11.</b> | <b>PUBLIC QUESTIONS.....</b>  | <b>43</b> |
| 11.1.      | PETITIONS AND JOINT LETTERS .....   | 43        |
| 11.2.      | ANSWERS TO PREVIOUS QUESTIONS ON NOTICE .....   | 44        |
| 11.3.      | SUBMITTED PUBLIC QUESTIONS.....   | 45        |
| <b>12.</b> | <b>CLOSED SESSION .....</b>   | <b>46</b> |
| <b>13.</b> | <b>MEETING CLOSED .....</b>   | <b>47</b> |



**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 Ordinary Meeting No. 433, held on 24 April 2019 in the Council Chambers, Leongatha be confirmed.**

**Note: Minutes of Special (Emergency) Meeting of Council, held on the 8 May 2019 in the Council Chambers, Leongatha to be confirmed at Agenda Item 6.2 Circumstances Requiring special emergency meeting held – 8 May 2019.**

## 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*.



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

### **2.1. PETITION RESPONSE: GROWTH FOR REDUCED RATES**

Development Services Directorate

#### **EXECUTIVE SUMMARY**

At the Ordinary Meeting of Council held 24 April 2019 a petition was received from the South Gippsland Action Group to reduce rates by encouraging population growth.

At the meeting it was resolved:

*"That Council:*

- 1. Receive and note the petition: and*
- 2. The petition lay on the table until the next Ordinary Council Meeting to enable officers to prepare a report to Council."*

The petition contains 67 signatures.

The intent of the petition is reflected in the South Gippsland Shire *Council Plan 2017-2021* ("The Council Plan"). The Council Plan vision is "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." Objective 1 of the Council Plan – Strengthen Economic Growth and Prosperity includes the following strategic objectives:

- 1.1 Develop a 'vision' for the future development of the Shire in partnership with the community
- 1.2 Develop a strategy to grow the Shire, attract investment and promote tourism consistent with the vision

Council began planning for a long-term community vision in 2017/18, however it was deferred after a foreshadowed amendment to the Local Government Act 1989. The existing Local Government Act has no requirement for a long-term community vision. The Local Government Draft Bill 2018 has proposed a mandated community vision of at least 10 years. For compliance and efficiency purposes, it is important that Council understands what will be required to satisfy the proposed legislative changes required for the Vision.

It will be a requirement of Council to engage with the community when making decisions on future growth and development of the Shire. The lead petitioner acknowledges the importance of community consultation in their submission.

## **RECOMMENDATION**

### **That Council:**

- 1. Seeks further advice from the State Government on the status of the proposed amendments to the Local Government Act 1989; and**
- 2. Investigates opportunities to commence a 'community vision' consistent with the Council Plan and proposed legislative amendments.**

## **REPORT**

At the Ordinary Meeting of Council held 24 April 2019 a petition was received from the South Gippsland Action Group regarding reducing rates by encouraging population growth. The full petition contains 67 signatures and is located at (**Confidential Attachment [15.1.1]**). The petition prayer states:

*"We the undersigned seek Council to undertake the following:*

*To educate themselves on the issues including opportunities and constraints and any administration blockages (difficulties?) to adopting a quantum step in growth of the shire in order to achieve a greater number of ratepayers in an accelerated time-frame.*

*Council to conduct meetings and forums as needed to acquire a full understanding of the Shire Growth change and formulate suitable time lines and to pass resolutions and give clear and un-ambiguous directions to the administration to affect the desired change in the growth trajectory of the Shire."*

Council sets its strategic direction in the South Gippsland Shire *Council Plan 2017-2021* (Council Plan). The Council Plan vision is "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."

A Council must prepare and approve a Council Plan within 6 months after each general election. The Council Plan communicates Council's priorities, objectives and commitments over the ensuing 4 years.

Included within the objectives of the Council Plan is to 'Strengthen Economic Growth and Prosperity'. To support this objective the following strategic objectives are identified:

- 1.1 Develop a 'vision' for the future development of the Shire in partnership with the community
- 1.2 Develop a strategy to grow the Shire, attract investment and promote tourism consistent with the vision
- 1.3 Undertake a review of residential, commercial and industrial land supply to ensure that it is adequate to support growth
- 1.4 Undertake a coastal study to explore opportunities for developing the Shire's coastal areas, while still protecting the coastline and environment

Council began planning for a long-term community vision, however deferred the implementation of strategic objectives 1.1 and 1.2 following notification of proposed amendments to the *Local Government Act 1989*. The existing Local Government Act has no requirement for a long-term community vision. The new *Local Government Draft Bill 2018* will require Council to maintain a Community Vision that is developed within its municipal community. The scope of the Community Vision is for a period of at least the next 10 financial years and must describe the community's vision for the municipality.

The State Government's proposed amendments to the Local Government Act are consistent with Council's intent and the objectives of the Council Plan. As the requirement for a community vision will be mandated, it is reasonably expected to include mandatory compliance requirements. For compliance and efficiency purposes, it is important that Council understands what will be required to satisfy the proposed legislative changes. Council is committed to commence the community vision as soon as practicable.

Council received and adopted a report on Strategy 1.3 at the 27 June 2018 Ordinary Council Meeting. The *Population Growth and Land Supply study* provides data analysis of population growth and residential, commercial and industrial land supply in South Gippsland from 1900 to today and forecasts growth and land supply to 2031. It provides a basis for discussion by Council on priority issues relating to population growth, strategic land use planning, biodiversity, agriculture and business.

The study is provided in an online format to allow viewing of data in interactive maps, graphs and community profiles. The study provides data for the whole South Gippsland local government area, detailed data for 18 South Gippsland towns, and case studies of local residents.

Objective 1.4 - Undertake a coastal study to explore opportunities for developing the Shire's coastal areas, while still protecting the coastline and

environment has commenced. It will involve future community consultation and is anticipated to be completed in 2020.

## **CONSULTATION**

Extensive community consultation will be required to develop a long-term community vision that considers the future development and growth of the Shire.

## **RISKS**

Developing a long-term community vision prior to amendment of the Local Government Act and/or clear guidance from the State Government may present a risk of non-compliance or exposure to reworking the community vision.

## **STAFF DISCLOSURE**

Nil

## **CONFIDENTIAL ATTACHMENT**

**Confidential Attachment [15.1.1]** – Petition – Growth for reduced rates (24 April 2019) – 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 item is deemed confidential to protect the privacy of the petition signatories.

## **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 Population and Supply Study

([www.southgippsland.vic.gov.au/populationandlandsupplystudy](http://www.southgippsland.vic.gov.au/populationandlandsupplystudy))

### **Legislative Provisions**

Local Government Act 1989

Local Government Draft Bill 2018

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

#### **3.1. NEW POLICY: C73 PORT WELSHPOOL AND DISTRICT MARITIME MUSEUM AND COLLECTION POLICY**

Corporate and Community Services Directorate

##### **EXECUTIVE SUMMARY**

This reports seeks to adopt the *Port Welshpool and District Maritime Museum and Collection Policy (C73)* (the Policy) (**Attachment [3.1.1]**) and seek funding of \$15,000 to assist Council and the Committee with initial management, recording and rationalisation of its existing Collection. At the Ordinary Meeting of Council 27 March 2019 Council asked for the policy to be deferred to a Council Meeting 29 May 2019 in order for more time to review and clarify additional information in the policy.

##### **RECOMMENDATION**

**That Council:**

- 1. Adopts the Draft C73 Port Welshpool and District Maritime Museum and Collection Policy 2019 (Attachment [3.1.1]); and**
- 2. Allocates \$15,000 to assist Council and the Committee with initial management, recording and rationalisation of the existing Collection.**

##### **REPORT**

The current Port Welshpool and District Maritime Museum Committee (the Committee) has been collecting items for some decades based on the Committee's interpretation of its role and the role of the Museum, without the direction of a specific collection policy. The Collection legally belongs to Council, including any new acquisitions authorised by the Committee. This position creates significant difficulties for Council in terms of accurate valuing for insurance purposes and adequate oversight of the collection development to ensure that the facility provided for housing the collection is suitable.

Staff provided a briefing to Councillors on 5 September 2018 and 6 March 2019 on the need for a formal Policy to guide the collection and retention of items for the Port Welshpool and District Maritime Museum. At the time of that briefing Council was investigating the viability of the building that houses the collection and which is integral to the collection.

The draft Policy has been further refined to incorporate feedback received from Councillors and changes recommended by Museums Victoria on collection practice.

Quotes have now been received indicating that the essential works for ongoing use, including repairing the flooring and eradication of termites, will be approximately \$45,000. Council has not made an allocation for this purpose. The works are not urgent but are essential within 18 months if the building is to be used for housing the collection into the future. It needs to be noted that the building is old and when works commence to repair the flooring further issues may be uncovered and the works on the floor may create other structural issues that require a further investment to rectify.

Council was also assisting the current Port Welshpool and District Maritime Museum Section 86 Special Committee to develop a Strategic Plan (the Plan) including a focus on natural and industrial maritime history. This Plan has been completed but indicates that Council will need to be involved in a range of support roles in order to enable the Museum to operate effectively over the longer term.

More work needs to be undertaken within Council and with the Museum Committee on how to implement the Plan and effectively manage the Collection over time. This work includes finalising the documentation and valuing of the current collection and assessing which items do not fit the Collection criteria. It is estimated that the cost to engage suitably qualified personnel to undertake this work in partnership with the current volunteer committee would be \$15,000.

Adoption of the Policy also provides direction to Council if it was deemed in the future to be no longer required by Council or an unreasonable burden on Council. The de-accessioning provisions provide clear guidance about disposal of individual items and for the whole collection if necessary.

## **CONSULTATION**

The Policy was developed by the Curatorial Officer at Coal Creek Community Park and Museum, with direct input from the Committee. The Policy was then provided to the Committee for further consideration in April 2018. This was followed by discussion with Community Strengthening staff at meetings in May and June 2018 and further consultation with the Committee in August 2018. As a result of the consultation with the Committee and staff agreed to a significant variation to the time period that the Collection should include. The initial advice from Council's curatorial staff was that the appropriate period for this Collection was the period 1881 to 1986. This was varied to extend the

collection period 2003. This was to include the period when the Seacat ferry was operational, at the request of the Committee.

Further refinement has been undertaken in recent weeks by Council Officers in light of recent changes in advice from Museums Victoria and Aboriginal Affairs Victoria and museum collection practice. Council has been briefed twice on the policy.

## **RESOURCES**

The management of the collection is currently the responsibility of the Port Welshpool and District Maritime Museum Committee. However, the Committee has identified that support from Council is required to manage the collection. Council does not currently have capacity to provide the specific assistance required. An allocation of up to \$15,000 in the 2018/19 to engage suitably qualified personnel for 150 hours (with works to be completed by the end of 30 June 2019). This is to assess and provide direction on the collection and is deemed necessary. This allocation of \$15,000 is currently unfunded. Community Strengthening and Finance teams will liaise to consider what options are available to fund this activity.

An associated but separate resourcing matter exists with the building currently housing the collection needing structural repairs of initially \$45,000. Staff note that often old buildings of the nature of the current Museum building require significantly more investment than is apparent when any works are undertaken. A further briefing will be provided to Council later in this year when a more detailed assessment of possible consequences of the initial repairs has been undertaken.

Some external grant funds might be available but it is difficult to obtain such funds for repairs and maintenance unless this can be packaged with works that will improve or extend the service.

## **RISKS**

The Museum Committee may not be able to effectively manage the recording and management of the items currently held, including de-accessioning of items not deemed relevant after adoption of this Policy. Council may need to provide extra resources to assist the Committee with these processes.

The current Committee may object to the final version of this Policy as it tightens the criteria of the Collection to align more closely with the Maritime collection theme. It is possible that some members of the committee may resign due to this issue as some wish the collection to be more broadly focused on general community history.

Council may decide that the repairs to the building are not a reasonable investment and as a result the collection would need to be relocated to other Council managed premises or disposed of in accordance with the draft Policy.

### **STAFF DISCLOSURE**

Nil

### **ATTACHMENTS**

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

1. C73 Port Welshpool and District Maritime Museum Collection Policy - 2019 Draft [3.1.1]

### **REFERENCE DOCUMENTS**

#### **Council Policy**

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

Arts and Culture Policy (C03)

Arts and Artefacts Collection Policy (C69)

Coal Creek Community Park and Museum Collection Policy (C05)

[South Gippsland Arts, Culture and Creative Industry Strategy](#)

#### **Legislative Provisions**

Aboriginal Heritage Act 2006

Historic Shipwrecks Act 1976

Local Government Act 1989

Museum Act 1983

Public Records Act 1973

Commonwealth Copyright Act 1976

Victorian Information Privacy Act 2000

Code of Ethics for Museums (ICOM 2006)

Crown Land (Reserves) Act 1978

Heritage Act 1995

Code of Ethics for Art, History and Science Museums (MA 1999)

Firearms and Victorian Museums (MAVIC)



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

##### **4.1. AWARD CONTRACT CON/215 - BUILDING MAINTENANCE SERVICES AND ESSENTIAL SAFETY SERVICES INSPECTIONS AND MAINTENANCE**

Infrastructure Directorate

##### **EXECUTIVE SUMMARY**

Council requires the provision of building maintenance and essential safety services for Council owned and managed buildings and structures across the Shire in order to deliver the annual Building Maintenance Program.

In accordance with Council's Procurement Policy and Procedures, Council is required to follow an open tender process for building maintenance and essential safety services.

In response to Council's Request for Tender RFT/215 Building Maintenance Services and Essential Safety Services Inspections and Maintenance (RFT/215), five tenders were received. It is recommended that Council award the contract CON/215 Building Maintenance Services and Essential Safety Services Inspections and Maintenance (**Confidential Attachment [15.2.1]**).

The contract term is for a period of three years from 1 July 2019 to 30 June 2022 with the option of two 1-year extensions.

##### **RECOMMENDATION**

**That Council:**

- 1. Approves the award of contract CON/215 Building Maintenance Services and Essential Safety Services Inspections and Maintenance (for the Schedule of Rates prices in the tender submission) for a period of three years from 1 July 2019 to 30 June 2022 with the option of two 1-year extensions (Confidential Attachment [15.2.1]);**
- 2. Publishes on Council's website the name of the successful contractor within one week of Council's decision to approve the award of contract CON/215 to allow sufficient time for the formal award of the contract; and**
- 3. Authorises the Chief Executive Officer to sign and affix the Common Seal of the Municipality to the contract documents.**

## REPORT

Council requires the provision of building maintenance and essential safety services (ESM) for approximately 400 various Council buildings and structures to deliver the annual Building Maintenance Program. The contract also provides for the inspecting and maintaining of ESM with 82 Council buildings.

The contract term is for a period of three years from 1 July 2019 to 30 June 2022 with the option of two 1-year extensions.

## CONSULTATION

Tender specifications were developed in consultation with all relevant officers involved in managing building maintenance and ESM for Council owned and managed buildings and structures across the Shire.

RFT/215 was advertised on 25 March 2019 and closed on 16 April 2019.

In response to Council's Request for Tender RFT/215, Council received five tender submissions. Two of the five tenders received were deemed to be non-conforming as they did not offer the full suite of services required within the contract. One tender provided rates only for two of the twelve sub-contract items within the full trade maintenance schedule (being "electrician" and "fire equipment") and did not provide rates for other compulsory items such as "septic tank cleaning". The other non-conforming tender provided rates only for one of the twelve sub-contract items within the full trade maintenance schedule (being "fire equipment") and did not provide rates for other compulsory items such as "septic tank cleaning". Therefore, only the three remaining conforming tenders were formally assessed.

The tenders were assessed in accordance with the criteria specified in the contract documentation by an evaluation panel on 2 May 2019. The evaluation panel consisted of the Manager Infrastructure Delivery, Coordinator Buildings, Coordinator Building and Recreation Assets, Buildings Maintenance officer, and the Procurement officer.

A summary of the tender evaluation has been included in **Confidential Attachment [15.2.1]**.

## RESOURCES

Council has allocated approximately \$1 million over the next 5 years for building maintenance and essential safety services for Council owned / managed buildings and structures across the Shire.

## **RISKS**

If Council does not award the contract for building maintenance and ESM, Council will be unable to provide adequate maintenance levels for the building portfolio. Council would then need to employ additional staff to cover for the loss of this service, some of whom would need to be available 24/7.

## **STAFF DISCLOSURE**

Nil

## **CONFIDENTIAL ATTACHMENT**

**Confidential Attachment [15.2.1]** – Tender Evaluation Summary RFT/215 – 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)(d) - contractual matters.

This item is deemed confidential to protect the privacy of the contractors, tender scores, and tendered amounts submitted for consideration.

## **REFERENCE DOCUMENTS**

### **Council Policy**

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

Procurement Policy (C32)

### **Legislative Provisions**

Local Government Act 1989

Occupational Health & Safety Act 2004

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

**5.1. NIL**

## **6. OTHER COUNCIL REPORTS**

### **6.1. ACTING CHIEF EXECUTIVE OFFICER - SHORT TERM ACTING APPOINTMENT**

Executive Office

#### **EXECUTIVE SUMMARY**

Council is required to appoint an Acting Chief Executive Officer (CEO) during an approved leave of absence by the current Chief Executive Officer during the period 25 May to 24 June 2019.

#### **RECOMMENDATION**

**That Council:**

- 1. Appoints the Director Development Services, Bryan Sword as Acting Chief Executive Officer during an approved leave of absence by the current Chief Executive Officer, Tim Tamlin during the period 25 May to 24 June 2019 inclusive.**
- 2. Endorses to bring forward the Acting Chief Executive Officer position to include the leave of absence period from 25 May 2019 to 24 June 2019.**
- 3. Note that the acting period will commence on 25 May 2019 and end no later than 24 May 2020.**

#### **REPORT**

At the Ordinary Meeting of Council on 22 August 2018, Council endorsed the C71 CEO Employment and Remuneration Policy. In accordance with Clause 3.7 of the C71 policy, when the CEO is to be absent for short-term leave, Council must recommend an Acting CEO to cover the period of leave.

Chief Executive Officer Tim Tamlin, applied for and was subsequently approved annual leave for the period 25 May to 24 June 2019.

The Director Development Services is nominated to undertake the acting role for the period of leave and it is recommended that Council endorse the appointment of Bryan Sword as Acting Chief Executive Officer during the period 25 May to 24 June 2019.

At a Special Meeting of Council held on 8 May 2019, Council endorsed to appoint Bryan in the position of Acting Chief Executive Officer for South Gippsland Shire Council for the period 25 June 2019 to 24 June 2020. It is now recommended that Council endorse this Acting Chief Executive Officer

position to include the leave of absence period. This effectively brings the current endorsed acting period forward and will now commence on 25 May 2019 and end no later than 24 May 2020.

### **CONSULTATION**

Chief Executive Officer Tim Tamlin, Director Development Services Bryan Sword and Councillors.

### **STAFF DISCLOSURE**

Nil

### **REFERENCE DOCUMENTS**

#### **Council Policy**

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

CEO Employment and Remuneration Policy (C71)

#### **Legislative Provisions**

Local Government Act 1989

## **6.2. CIRCUMSTANCES REQUIRING SPECIAL EMERGENCY MEETING HELD - 8 MAY 2019**

Corporate and Community Services Directorate

### **EXECUTIVE SUMMARY**

Clause 13(b) of Council's Meeting Procedures Local Law No 3. 2010, requires the Chief Executive Officer (CEO) or Senior Officer to submit a written report of the circumstances requiring the call of a Special (Emergency) Meeting to be prepared for inclusion in the Agenda of the next Ordinary Meeting of Council.

### **RECOMMENDATION**

**That Council:**

- 1. Notes this report; and**
- 2. Confirms the Minutes of the Special (Emergency) Meeting held at 11.00am on 8 May 2019, in the Council Chambers, Leongatha.**

### **REPORT**

This report provides information on the circumstances that required the Special (Emergency) Meeting (Emergency Meeting) of Council to be called and held at 11.00am on 8 May 2019 in the Council Chamber, Leongatha.

The purpose of the Special Emergency Meeting was twofold, as follows:

1. The Appointment of the Acting Chief Executive Officer (Acting CEO) was not able to be called by the Mayor within the required seven days' notice for a Special Meeting, as the selection process required a longer timeframe than initially anticipated; and
2. The Council sought to demonstrate a commitment to improved governance actions (Governance Actions) prior to the Minister for Local Government's decision on the potential suspension of Council.

### **CONSULTATION**

In the instance of an Emergency Meeting being called, the Local Government Act 1989 (Act) s.89(4A) requires that Council must give such public notice as is practicable and specifying the urgent or extraordinary circumstances which prevented the Council from complying with the required minimum seven days' notice for Ordinary and Special Meetings as per s89(4) of the Act.

The following actions were taken to comply with s.89(4A) of the Act:

1. The Council had resolved for the Mayor to call a Special Meeting at the 24 April Ordinary Council Meeting. A delay in the selection process for the appointment of an Acting CEO impacted on the timeframe for calling the meeting.
2. The Council had a closing date of Thursday 9 May 2019 to submit its response submission to the Minister's 'show cause' letter. The Governance Actions report was aimed at demonstrating Council's commitment to improved governance, prior to a Ministerial decision that may result in the suspension of Council.
3. The Mayor called the Emergency Meeting on Thursday 2 May 2019 for an 11.00am meeting on 8 May 2019 in the Council Chambers, Leongatha.
4. The Mayor prepared the 'Governance Actions' report and requested a draft 'Acting CEO' report be prepared for the Mayor's review.
5. The Special (Emergency) Meeting Agenda was published to the website and made available to Councillors, staff and the media by 2.00pm on 6 May 2019. The communication advised the meeting would be held in the Council Chambers Leongatha at 11.00am on 8 May 2019.

These notifications were undertaken to provide Councillors, the media and the public with as much notice as was practicable.

## **RISKS**

Risks to Council's image and reputation, along with concerns for good governance, need to be considered when utilising the provision for calling and holding Emergency Meetings of Council.

Inadequate time for Councillors to inform themselves of the matter(s) raised to be dealt with may lead to poor decision making.

## **STAFF DISCLOSURE**

Nil

## **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 (Meeting Procedures and Common Seal)

Councillor Code of Conduct Policy (C14)

### **Legislative Provisions**

Local Government Act 1989



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

### **7.1. NIL**

## **8. PROCEDURAL REPORTS**

### **8.1. ORGANISATIONAL PERFORMANCE REPORT - JULY 2018 TO MARCH 2019**

Corporate and Community Services Directorate

#### **EXECUTIVE SUMMARY**

The Organisational Performance Report for the period July 2018 to March 2019 (refer to **Attachment [8.1.1]**) provides detailed reporting on Council's performance against the 2018/19 Annual Initiatives, Performance Indicators, Capital Works Program and Department Highlights.

The covering report outlines the key achievements, updates and events that occurred during this reporting period and highlights the progress against the Council Plan 2017-2021 and Annual Initiatives.

Council's 2017-2021 Council Plan is reviewed annually and includes key Strategic Outcomes, Objectives and Initiatives. A series of indicators are allocated to the four Outcomes of the Council Plan and progress against these indicators and service performance measures are outlined within the report.

The alignment of the Council Plan, Organisational Performance Report and Council Agenda topics in Ordinary Meetings of Council all outline the various activities and initiatives that work towards achieving the Council Plan Strategic Outcomes and Strategies.

This Organisational Performance Report (**Attachment [8.1.1]**) will be presented to Council's Audit Committee in June 2019.

#### **RECOMMENDATION**

**That Council:**

- 1. Receives and notes the Organisational Performance Report for the period July 2018 to March 2019 (Attachment [8.1.1]);**
- 2. Publishes the Organisational Performance Report (Attachment [8.1.1]) to Council's website and distributes it to local libraries; and**
- 3. Presents the Organisational Performance Report (Attachment [8.1.1]) to Council's Audit Committee in June 2018.**

## **REPORT**

### **Background**

The 2018/19 Annual Budget (inclusive of the Annual Initiatives) was adopted by Council on 27 June 2018. It sets the indicators and initiatives/activities which are reported in the Organisational Performance Report – July 2018 to March 2019 (**Attachment [8.1.1]**).

The 2017-2021 Council Plan adopted in June 2018 and reviewed annually, includes key Strategic Outcomes, Objectives and Strategies. A series of indicators are allocated to the four Outcomes and progress against these indicators is included in the Annual Plan 2018/19 Performance Update. These indicators have been reviewed annually and are also reflected in the 2018/19 Annual Budget.

### **Discussion**

This report provides an overview of the major activities undertaken by Council for the previous nine months. Where possible, comparisons of results have been made and reflected throughout the report.

Significant highlights during the period include:

- 69 per cent of the 26 Annual Plan initiatives for 2018/19 are on track and 31 per cent have been completed by March 2019.
- 68 per cent of the 234 Capital Works Program initiatives for 2018/19 have been completed or are on track as at March 2019.

### **CONSULTATION**

Each Directorate has contributed to the report. The Organisational Performance Report – July 2018 to March 2019 (**Attachment [8.1.1]**) will be presented to Council's Audit Committee in June 2018.

### **RESOURCES**

The 2018/19 Annual Initiatives and Capital Works Program are funded through the 2018/19 Budget.

### **RISKS**

The Organisational Performance Report – July 2018 to March 2019 (**Attachment [8.1.1]**) mitigates the risk of annual initiatives and capital works activities not being managed, as every Department is required to monitor and report on the progress of their respective responsibilities on a regular basis.

## **STAFF DISCLOSURE**

Nil

## **ATTACHMENTS**

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

1. Organisational Performance Report – July 2018 to March 2019 **[8.1.1]**

## **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 Incorporating 15 Year Long Term Financial Plan and Annual Plan Initiatives

### **Legislative Provisions**

Local Government Act 1989, ss.125, 127 and 223

Local Government Act 1989, Environmental Upgrade Agreement, s.138

Local Government Better Practice Guide 2016/17 – Performance Reporting Framework Indicator Workbook, Version 1, April 2017

## **8.2. COUNCILLOR EXPENDITURE REPORT - JULY 2018 - MARCH 2019**

Corporate and Community Services Directorate

### **EXECUTIVE SUMMARY**

The Councillor Expenditure Report provides Council with an update on Councillor Expenditure from 1 July 2018 to 31 March 2019.

### **RECOMMENDATION**

**That Council receives and notes the Councillor Expenditure Report for the period 1 July 2018 to 31 March 2019 in Table 1 - Councillor Expenditure 1 July 2018 to 31 March 2019.**

### **REPORT**

The Councillor Expenditure Report provides Council with an update on Councillor Expenditure from 1 July 2018 to 31 March 2019.

Councillor expenditure of \$300,329 for the period 1 July 2018 to 31 March 2019 is below budget by \$14,243. The variance was mainly due to timing of payments, with pre-payment of Councillor allowances for April 2019 of \$21,059, offset by lower reimbursements of \$16,326, lower mobile phone costs of \$5,657 and lower training and development expenses of \$10,036. Councillor allowances are expected to be in line with budget at the end of the financial year.

**Table 1- Councillor Expenditure 1 July 2018 – 31 March 2019**

| Councillor                                    | Travel Expenditure |                                 |                                | Other Expenditure    |                  |   |                      |                      |  |                 | Total             | Date of last claim |
|---|--------------------|---------------------------------|--------------------------------|----------------------|------------------|---|----------------------|----------------------|--|-----------------|-------------------|--------------------|
|   | Car                | Councillor Car Operating Cost * | Other travel reimbursements ** | Mobile Phone /I pads | Phone/Fax/ Modem | Training & Professional Development *** | Councillor Allowance | Remoteness Allowance | Printing / Sound recording transcripts | Other Costs     |                   |                    |
| Cr. Aaron Brown                               | Personal****       | \$ 757                          | \$ 1,263                       | \$ 250               | \$ -             | \$ -                                    | \$ 23,235            | \$ -                 | \$ 22                                  | \$ 26           | \$ 25,553         | 31-March-2019      |
| Cr. Ray Argento                               | Personal           | \$ -                            | \$ 2,766                       | \$ 230               | \$ -             | \$ 87                                   | \$ 23,235            | \$ -                 | \$ 20                                  | \$ 87           | \$ 26,251         | 19-December-2018   |
| Cr. Alyson Skinner                            | Council            | \$ 4,270                        | \$ -                           | \$ 181               | \$ -             | \$ 3,275                                | \$ 23,235            | \$ -                 | \$ -                                   | \$ -            | \$ 30,961         | 06-December-2017   |
| Cr. Jeremy Rich                               | Personal           | \$ -                            | \$ 4,171                       | \$ 123               | \$ -             | \$ 930                                  | \$ 23,235            | \$ 640               | \$ -                                   | \$ 2,248        | \$ 31,347         | 27-March-2019      |
| Cr. Don Hill                                  | Personal           | \$ -                            | \$ 4,319                       | \$ 372               | \$ -             | \$ -                                    | \$ 49,149            | \$ -                 | \$ 44                                  | \$ 29           | \$ 53,913         | 27-March-2019      |
| Cr. Andrew McEwen                             | Personal           | \$ -                            | \$ 7,785                       | \$ 1,025             | \$ -             | \$ 500                                  | \$ 23,235            | \$ -                 | \$ 289                                 | \$ 453          | \$ 33,287         | 31-March-2019      |
| Cr. Lorraine Brunt                            | Council            | \$ 4,766                        | \$ -                           | \$ 2,100             | \$ -             | \$ 188                                  | \$ 43,660            | \$ -                 | \$ -                                   | \$ -            | \$ 50,714         | 12-February-2018   |
| Cr. Rosemary Cousin                           | Personal           | \$ -                            | \$ 1,747                       | \$ -                 | \$ -             | \$ -                                    | \$ 14,003            | \$ -                 | \$ 22                                  | \$ -            | \$ 15,772         | 31-March-2019      |
| Cr. Jim Fawcett                               | Personal           | \$ -                            | \$ -                           | \$ 82                | \$ 55            | \$ -                                    | \$ 10,702            | \$ -                 | \$ -                                   | \$ -            | \$ 10,839         | N/A                |
| Ex Cr. Maxine Kiel                            | Personal           | \$ -                            | \$ 959                         | \$ 82                | \$ -             | \$ -                                    | \$ 6,659             | \$ -                 | \$ -                                   | \$ -            | \$ 7,700          | 15-October-2018    |
| Ex Cr. Meg Edwards                            | Personal           | \$ -                            | \$ 3,138                       | \$ 308               | \$ -             | \$ -                                    | \$ 9,232             | \$ -                 | \$ -                                   | \$ 1,314        | \$ 13,992         | 30-October-2018    |
| <b>Total Actual (Year to date March 2019)</b> |                    | <b>\$ 9,793</b>                 | <b>\$ 26,148</b>               | <b>\$ 4,753</b>      | <b>\$ 55</b>     | <b>\$ 4,980</b>                         | <b>\$ 249,580</b>    | <b>\$ 640</b>        | <b>\$ 397</b>                          | <b>\$ 3,983</b> | <b>\$ 300,329</b> |                    |
| <b>Total Budget (Year to date March 2019)</b> |                    | <b>\$ 10,382</b>                | <b>\$ 42,474</b>               | <b>\$ 10,410</b>     | <b>\$ 783</b>    | <b>\$ 15,016</b>                        | <b>\$ 233,026</b>    | <b>\$ 386</b>        | <b>\$ -</b>                            | <b>\$ 2,095</b> | <b>\$ 314,572</b> |                    |
| <b>Variance</b>                               |                    | <b>\$ 589</b>                   | <b>\$ 16,326</b>               | <b>\$ 5,657</b>      | <b>\$ 728</b>    | <b>\$ 10,036</b>                        | <b>\$ 16,554</b>     | <b>\$ 254</b>        | <b>\$ 397</b>                          | <b>\$ 1,888</b> | <b>\$ 14,243</b>  |                    |

**NOTES**

\* Car operating costs are for the 9 months ended 31 March 2019 and includes depreciation, insurance and notional interest.

\*\* Travelling expenditure for Councillors using private vehicles is at the prescribed rate of reimbursement and only includes claims processed up to 31 March 2019.

\*\*\* Training & professional development includes accommodation, conference and parking expenses.

\*\*\*\* Cr. Aaron Brown used a Council Car until 29 August 2018

**RISKS**

Transparency in reporting is a risk management control measure that allows the community and Council to view the financial management and expenditure of Councillors.

**STAFF DISCLOSURE**

Nil

**REFERENCE DOCUMENTS**
**Council Policy**

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

Councillor Support and Expenditure Policy (C51)

**Legislative Provisions**

Local Government Act 1989 – s.75 Reimbursement of Expenses of Councillors

### **8.3. ASSEMBLY OF COUNCILLORS - 22 MARCH TO 21 APRIL 2019**

Corporate and Community Services Directorate

#### **EXECUTIVE SUMMARY**

Council is committed to making relevant, timely and useful information available for members of the public with the aim of enhancing transparency. 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 March and 21 April 2019.

The matters summarised in this report also satisfy Council's requirements under the *Local Government Act 1989*, s.80A(2):

*The Chief Executive Officer must ensure that the written record of an assembly of Councillors is, as soon as practicable –*

- a. reported at an ordinary meeting of the Council; and*
- b. incorporated in the minutes of that Council meeting.*

#### **RECOMMENDATION**

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

## REPORT

| Meeting Title  | Details  |
|--|--|
| <b>Tuesday 26 March 2019</b>                                     |  |
| <b>Access and Inclusion Advisory Committee</b>                   | <p><b>Councillors Attending:</b><br/>Councillor Brunt</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b></p> <ul style="list-style-type: none"> <li>• Public Issue: pedestrian traffic lights in McCartin Street, Leongatha</li> <li>• Port Welshpool Long Jetty feedback</li> <li>• Chair's report</li> <li>• Rural Access Officer report</li> </ul> |
| <b>Wednesday 27 March 2019</b>                                   |  |
| <b>Ordinary Council Agenda Topics Discussion – 27 March 2019</b> | <p><b>Councillors Attending:</b><br/>Councillors Cousin, Hill, Argento and Skinner.</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b><br/>Councillors considered and asked questions relating to Agenda items for the Ordinary Meeting of Council 27 March 2019.</p>   |
| <b>Public Presentations</b>                                      | <b>Nil Presentations booked by the community.</b>  |
| <b>Bald Hills Wind Farm</b>                                      | <p><b>Councillors Attending:</b><br/>Councillors Brunt, Cousin, Rich, Hill, Argento, Skinner and McEwen.</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b><br/>Councillors considered an update of Bald Hills Wind Farm nuisance complaint.</p>  |



| Meeting Title  | Details   |
|--|---|
| <b>Wednesday 3 April 2019</b>                          |   |
| <b>Scheduled briefings for this day</b>                | <b>All scheduled briefings for 3 April 2019, were cancelled at the request of the Mayor, Councillor Don Hill.</b>   |
| <b>Wednesday 17 April 2019</b>                         |   |
| <b>Visitor Information Centres – Transition Update</b> | <p><b>Councillors Attending:</b><br/>Councillors Finlay, Hirst, Cousin, Hill, Argento, Skinner and McEwen.</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b><br/>Councillors considered an update relating to Visitor Information Centres.</p>  |
| <b>Planning Briefing</b>                               | <p><b>Councillors Attending:</b><br/>Councillors Finlay, Hirst, Cousin, Hill, Argento, Skinner and McEwen.</p> <p><b>Conflict of Interest:</b><br/>Cr Argento declared a conflict of interest and left the assembly when the following items were discussed:<br/>Item 1: Planning Item C116 Land Subject to inundation – Direct Interest as “land subject to overlay includes property owned by myself and my wife”.<br/>Item 2: Development - Indirect Interest by close association.</p> <p><b>Matters Considered:</b></p> <ul style="list-style-type: none"> <li>• Strategic Planning Project List</li> <li>• Planning Applications of Interest</li> <li>• Decisions for February 2019</li> <li>• VCAT Decisions</li> <li>• Applications received February 2019</li> </ul> |

| Meeting Title  | Details   |
|--|---|
| <b>Wednesday 17 April 2019</b>   |   |
| <b>Enhancements of Communication Methods for Roads</b>   | <p><b>Councillors Attending:</b><br/>Councillors Finlay, Hirst, Cousin, Hill, Argento, Skinner and McEwen.</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b><br/>Councillors considered an update on the progress of suggested improvements and enhancements to communication methods to the public regarding road works, reported issues, and scheduling of works.</p> |
| <b>Community Strengthening Strategy Activities – Monthly Meetings</b><br><br><b>Open Session</b>   | <p><b>Councillors Attending:</b><br/>Councillors Finlay, Hirst, Cousin, Hill, Argento, Skinner and McEwen.</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b><br/>Councillors considered a presentation on the following matters:</p> <ul style="list-style-type: none"> <li>• Compassionate Communities (End of Life Project)</li> <li>• Creative Gippsland</li> </ul>  |
| <b>Public Presentation Sessions</b><br><br><b>Open Session</b>   | <p><b>Councillors Attending:</b><br/>Councillors Hirst, Cousin, Hill, Argento, Skinner and McEwen.</p> <p><b>Conflict of Interest:</b><br/>Cr Finlay left the assembly with an indirect conflict of interest by conflict of duty as he is the President of the South Gippsland Action Group (SGAG), which submitted the petition.</p>   |
| <p><b>A presentation was made to Council by the following community members:</b><br/> <b>Lindsay Love</b>, representing the South Gippsland Action Group regarding a forthcoming Petition to Council – Growth for Reduced Rates.</p> |   |

| Meeting Title                                | Details   |
|--|---|
| <b>Wednesday 17 April 2019</b>               |   |
| <b>Coal Creek Financial Discussion Paper</b> | <p><b>Councillors Attending:</b><br/>Councillors Finlay, Hirst, Cousin, Hill, Argento, Skinner and McEwen.</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b><br/>Councillors considered and discussed the current financial situation of Coal Creek Community Park and Museum with regard to a strategic plan for the future.</p>   |
| <b>Executive Update</b>                      | <p><b>Councillors Attending:</b><br/>Councillors Finlay, Hirst, Cousin, Hill, Argento, Skinner and McEwen.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p> <p><b>Matters Considered:</b></p> <ul style="list-style-type: none"> <li>• Tourism Opportunity</li> <li>• Gippsland Shared Services</li> </ul>  |
| <b>Thursday 18 April 2019</b>                |   |
| <b>Active Retirees Advisory Committee</b>    | <p><b>Councillors Attending:</b><br/>Councillor McEwen</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p> <p><b>Matters Considered:</b></p> <ul style="list-style-type: none"> <li>• Transport Matters – better bus stops and train services</li> <li>• Emergency Support services (medical) in South Gippsland: <ul style="list-style-type: none"> <li>○ Local Medical Clinic charges</li> <li>○ Ambulance times and options</li> </ul> </li> <li>• Communication Plan and Digital Strategy: <ul style="list-style-type: none"> <li>○ Public access Wi-Fi</li> <li>○ Technology education (IT)</li> <li>○ Increase mobile phone coverage</li> </ul> </li> <li>• Korumburra Hub development</li> <li>• Support for those experiencing hardship</li> </ul> |

**REFERENCE DOCUMENTS****Council Policy**

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

Public Participation in Meetings with Council Policy (C65)

**Legislative Provisions**

Local Government Act 1989

#### **8.4. DOCUMENTS SEALED AWARDED OR EXTENDED BY CEO - 23 MARCH 2019 TO 26 APRIL 2019**

Corporate and Community Services Directorate

##### **EXECUTIVE SUMMARY**

This document reports to Council the following actions undertaken by the Chief Executive Officer (CEO) that occurred during the period from 23 March to 26 April 2019, 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 receives and notes 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 23 March to 26 April 2019:

1. Section 173 Agreement between South Gippsland Shire Council and the owner of 45 Black Avenue, Venus Bay in relation to development of land with single dwelling and remove native vegetation – Seal applied 27 March 2019.
2. Section 173 Agreement between South Gippsland Shire Council and the owner of 14 Anderson Avenue, Sandy Point in relation to dwelling extension and removal of native vegetation – Seal applied 27 March 2019.
3. Section 173 Agreement between South Gippsland Shire Council and the owner of 305 Falls Road, Buffalo in relation to a two-lot subdivision (resubdivision of lots to excise dwelling) – Seal applied 27 March 2019.
4. Section 173 Agreement between South Gippsland Shire Council and the owner of 425 Woorarra Road, Welshpool and 240 Slades Hill Road, Welshpool in relation to subdivision of the land into two lots – Seal applied 27 March 2019.
5. Section 173 Agreement between South Gippsland Shire Council and the owner of 30 Brown Street, Leongatha in relation to subdivision of land into six lots – Seal applied 9 April 2019.
6. Section 173 Agreement between South Gippsland Shire Council and the owner of 12A Bruce Street, Leongatha in relation to development of land with tree dwellings and the subdivision of the land into five lots – Seal applied 15 April 2019.
7. Instrument of Appointment and Authorisation to an Officer appointed under Section 147(4) of the *Planning and Environment Act 1987* – Seal applied 27 March 2019.
8. Department of Environment, Land, Water and Planning Irrevocable Order of Delivery of Crown Grant Form – Crown Allotment 2015 Title Plan TP965130Q – Seal applied 29 March 2019.

#### **Contracts Awarded, Varied or Extended**

1. Contracts awarded after a public tender process within the CEO's delegation between 23 March and 26 April 2019 – Nil
2. Contracts awarded after a public tender process under the Statutory threshold by staff other than the CEO between 23 March and 26 April 2019 – Nil

3. Contract variations approved by the CEO between 23 March and 26 April 2019 – Nil
4. Contract extensions approved by the CEO between 23 March and 26 April 2019 – Nil

#### **STAFF DISCLOSURE**

Nil

#### **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)

Procurement Policy (C32)

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

##### **Legislative Provisions**

Local Government Act 1989, ss.5 and 186

## **8.5. INSTRUMENTS OF APPOINTMENT AND AUTHORISATION - PLANNING AND ENVIRONMENT ACT 1987**

Corporate and Community Services Directorate

### **EXECUTIVE SUMMARY**

This report recommends that Council adopt an Instrument of Appointment and Authorisation (Instruments) under the *Planning and Environment Act 1987* (the Act) to an existing employee who has been appointed to a position within the Planning Department.

Further, this report recommends that Council delegate to the Chief Executive Officer (CEO) the power to revoke this Instrument and all previously executed Instruments under the Act in the event that the relevant officer resigns or is appointed to a new position where an appointment or authorisation is no longer suitable or required.

### **RECOMMENDATION**

**That Council:**

- 1. Resolves that, in the exercise of the powers conferred by s.224 of the *Local Government Act 1989* and the other legislation referred to in the attached Instrument of Appointment and Authorisation (Instruments of Appointment and Authorisation) Council to Staff under the *Planning and Environment Act 1987* (Attachment [8.5.1]):**
  - a. The member of Council staff referred to in the Instrument of Appointment and Authorisation be appointed and authorised as set out in the instrument;**
  - b. The Instrument of Appointment and Authorisation comes into force immediately the common seal of Council is affixed to the instrument and remain in force until Council determines to vary it or it is revoked in accordance with Item 2 below; and**
  - c. The Instrument of Appointment and Authorisation be sealed.**
- 2. Delegates to the Chief Executive Officer the power to revoke the attached Instrument of Appointment and Authorisation and all previously executed Instruments of Appointment and Authorisation under the *Planning and Environment Act 1987* in the event the relevant officer resigns from Council or is appointed to a position where this appointment and authorisation is no longer suitable or required.**

## **REPORT**

The allocation of authorisations and appointments to Council employees contributes to the effective functioning of Council. Therefore it is important to ensure that formal Instruments are updated to reflect changes in personnel. The employee identified in the attached Instrument has recently been appointed to a position within Planning Department.

## **CONSULTATION**

Council has consulted with its Legal Advisors, Maddocks, who have advised that whilst the *Planning and Environment Act 1987* does not allow Council to delegate its power to authorise, that Council may resolve for the CEO to revoke Instruments in certain circumstances, such as when an officer resigns or is appointed to a position where this authorisation or appointment is no longer suitable or required.

## **RESOURCES**

Nil

## **RISKS**

Failure to adopt or revoke an Instrument of Appointment and Authorisation could result in a decision of a current employee being invalidated or Council being held liable for the actions of former employees.

## **STAFF DISCLOSURE**

Nil

## **REFERENCE DOCUMENTS**

### **Legislative Provisions**

Local Government Act 1989

Planning and Environment Act 1987



## **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.

Questions can also be submitted in hard copy format into the 'Public Question Box' within the first 15 minutes of an Ordinary 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 28 November 2018.*

**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.

Questions can also be submitted in hard copy format into the 'Public Question Box' within the first 15 minutes of an Ordinary 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 28 November 2018.*

## **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.

### **RECOMMENDATION**

**That Council close the meeting to the public to allow for consideration of Closed ITEM 14.1 CONTRACTUAL MATTER pursuant to Local Government Act 1989, section 89(2)(d).**

## **13. MEETING CLOSED**

### **NEXT MEETING**

The next Ordinary Meeting of Council open to the public will be held on Wednesday, 26 June 2019 commencing at 2pm in the Council Chambers, Leongatha.