

SOUTH GIPPSLAND SHIRE COUNCIL

Council Meeting Agenda

20 October 2021

**Council Meeting No. 464
Online Virtual Meeting
Commencing at 1.00pm**

Administrators

Julie Eisenbise, Chair

Christian Zahra, Deputy Chair

Rick Brown



agenda



*South Gippsland
Shire Council*

Come for the beauty, Stay for the lifestyle



OUR PURPOSE

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

Privacy

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

Council undertakes audio recordings of Council Meetings as a contribution to good governance and accuracy of minutes. An audio recording of this meeting is being made for the purpose of verifying the accuracy of minutes of the meeting. In some circumstances the recording may be disclosed, such as where Council is compelled to do so by court order, warrant, and subpoena or by any other law such as the *Freedom of Information Act 1982*.

It should be noted that other people present at the meeting may be recording the meeting and Council has limited power to regulate this. Council has developed a policy to regulate recordings, "*Sound Recording of Council Meetings*".

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

SOUTH GIPPSLAND SHIRE COUNCIL

Notice is hereby given that Council Meeting No. 464 of the
South Gippsland Shire Council will be held virtually online,
commencing at 1.00pm

Live Stream Link to Meeting: [Live Streaming | Live Streaming | South
Gippsland Shire Council](#)

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Kerryn Ellis
Chief Executive Officer

1. PRELIMINARY MATTERS

1.1. LIVE-STREAMING COUNCIL MEETING DISCLAIMER

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

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

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

Thank you

1.2. WELCOME TO THE VIRTUAL ONLINE COUNCIL MEETING

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

Over the past year the Federal and State Governments have had clear directives about social gatherings in respect of the COVID19 Pandemic. The recent lockdown has meant that for the safety of community and staff the 20 October 2021 meeting of Council is conducted virtually.

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

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

RECOMMENDATION

That Council:

1. Not allow members of the public to attend the 20 October 2021 Council Meeting in person;
2. Notes that this Council Meeting is being conducted as a virtual meeting, conducted by electronic means of communication pursuant to section 394 of the *Local Government Act 2020*. The 'Minister's Good Practice Guideline MGP-G-1: Virtual Meetings' have been used to ensure that local

government decision making can continue in line with COVID-19 Pandemic requirements;

3. Notes that the 20 October 2021 Council Meeting remains 'open' via the livestream on the Internet, in keeping with section 395 of the *Local Government Act 2020*; and
4. Notes that this decision is made to protect the health and wellbeing of all people required to be in attendance.

1.3. OPENING PRAYER

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

Amen

1.4. ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS

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

1.5. APOLOGIES

1.6. CONFIRMATION OF MINUTES

RECOMMENDATION

That the Minutes of the South Gippsland Shire Council Meeting No. 463, held virtually (online) on 15 September 2021 be confirmed.

1.7. DECLARATION OF CONFLICTS OF INTEREST FOR ADMINISTRATORS

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

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

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

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

The *Local Government Act 2020* can be accessed from the Victorian Legislation and Parliamentary documents website at www.legislation.vic.gov.au. Council's Governance Rules (C82) can be accessed from [Council's Policies](#) webpage.

1.8. DECLARATION OF CONFLICTS OF INTEREST FOR STAFF

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

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

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

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

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

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

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

2. OBJECTIVE 4 - CUSTOMER FOCUSED ORGANISATION

2.1. 2020/21 ANNUAL REPORT

Chief Executive Officer Certification *(Local Government Act 2020, section 304)*

The Chief Executive Officer certifies that the content within the Council Report 2.1 2020/21 Annual Report has been checked to ensure it does not contain electoral material and complies with section 304 of the *Local Government Act 2020* and Council's *Election Period Policy* (C30) that relates to the 'Election Period'.



Kerry Ellis

Chief Executive Officer

Performance & Innovation

Council Plan

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

The 2020/21 Annual Report finalises Council's reporting against the 2020/21 Report of Operations, Financial Statements and Performance Statement. The 2021/22 Initiatives contained within the report provide a summary against the second-year actions of the 2020-2024 Council Plan. Legislative requirements are met through the provision of this final report for the 2020/21 financial year.

EXECUTIVE SUMMARY

The purpose of this report is to present Council's 2020/21 Annual Report (Annual Report). The Annual Report is a key mechanism for reporting annually to the South Gippsland community on delivery of Council's projects, services and priorities on the community's behalf. The Annual Report provides a snapshot of Council's operations, publicly reports achievement of the 2020-2024 Council Plan, reports on the Local Government Performance Reporting Framework (LGPRF) measures, and is a key transparency and community information measure.

The Performance Statement and the Financial Statements were endorsed in-principle by Council at the 15 September 2021 Council Meeting. Following this meeting, these statements were signed by Administrators, Chief Executive Officer and the Principle Accounting Officer and submitted to the Victorian Auditor-General's Office (VAGO) for certification.

Upon receipt of the Independent Auditor's Report, the audited Performance Statement and the Financial Statements have been combined with the Report of Operations to form this Annual Report (**Attachment [2.1.1]**) for the period 1 July 2020 to 30 June 2021. Key highlights outlined in the Annual Report include:

- *Council Plan 2020-2024 progress - 30 out of 32 2020/21 Annual Initiatives have been achieved or significantly progressed;*
- *Delivery of key initiatives supporting the community and local businesses have been achieved through the \$2 million COVID-19 Community Support Package;*
- *Advocated and attracted over \$27 million in funding from the Victorian and Federal Governments for project and service deliveries;*
- *Involved an intake of 40 participants in two rounds of the Community Leadership Program; and*
- *An extensive review of Council's governance and corporate reporting, policy and strategy review completed to ensure Council meets legislated timeframes of the Local Government Act 2020 and to establish a strong good governance foundation aimed at supporting the new Council to be a success.*

The *2020/21 Annual Report (Attachment [2.1.1])* has been advertised as a public notice in 'Noticeboard' and has been made available for public inspection for a two-week period, from 6 October 2021, prior to being presented at the 20 October 2021 Council Meeting for final adoption. It is recommended that Council adopt this *2020/21 Annual Report*. Once adopted it will be submitted to the Minister for Local Government and published on Council's website.

RECOMMENDATION

That Council:

- 1. Adopts the 2020/21 Annual Report including the audited Performance and Financial Statements contained in Attachment [2.1.1];**
- 2. Notes that influences outside of Council's control has meant the resolution of 15 September 2021 to deliver the 2020/21 Annual Report to the Minister by 30 September 2021 has not been achieved;**
- 3. Notes that the Acting Minister for Local Government has provided a two-month extension from 30 September 2021 to the closing date of 30**

November 2021 for Victorian Councils to submit their reports to the Minister;

- 4. Notes that the 2020/21 Annual Report has been advertised through a public notice and has made it available for public inspection from 5 October 2021 to 20 October 2021 on Council's website and at 9 Smith Street, Leongatha (subject to COVID-19 restrictions), for a two-week period prior to the 20 October 2021 Council Meeting;**
- 5. Provides a copy of the adopted 2020/21 Annual Report in Attachment [2.1.1] to the Minister for Local Government by 30 November 2021; and**
- 6. Publishes the 2020/21 Annual Report (Attachment [2.1.1]) on Council's website, with printed copies made available to those without internet access, upon request, from Council's Customer Service Team.**

REPORT

The transitional provisions in the *Local Government Act 2020* require the *2020/21 Annual Report* to be prepared in accordance with the *Local Government Act 1989* and the *Local Government (Planning and Reporting) Regulations 2014* for the 2020/21 reporting period.

Section 329(7) of the Act includes the following:

"... (7) Despite the commencement of section 362, the Local Government Act 1989 as in force immediately before that commencement continues to apply to, and in respect of, the following –

.... (b) the preparation of the annual report for the financial year ending 30 June 2021;"

Part 5 of the regulations includes the following:

Despite the revocation of the Local Government (Planning and Reporting) Regulations 2014, those Regulations as in force immediately before 24 October 2020 continue to apply in relation to the financial year which commenced on 1 July 2020.

Local Government Victoria also annually provides the *Local Government Better Practice Guides* for the preparation of the various components of the Annual Report. These documents have guided Council in the required content of each section of the *2020/21 Annual Report*.

The *Local Government Act 1989*, s.131(6) requires that Council prepares an Annual Report that provides a succinct end-of-year summary of Council's performance. Pursuant to s.133(1) of the *Local Government Act 1989* (the Act),

the Annual Report of Council must be submitted to the *Minister of Local Government* by 30 September 2021. Under s.131(2) of the Act, the audited Financial Statements and Performance Statement, including the Auditor's report on both Statements, are to form part of the Annual Report.

Under s.132 (2) of the Act, Council must approve 'in principle' the draft Financial Statements and Performance Statement prior to formally submitting the accounts for audit. A meeting of the Audit and Risk Committee (Committee) was held on 14 September 2021, which included reviewing the draft Financial and Performance Statements, the Final Management Letter and Closing Report 2020/21 with Council's auditors. Following this meeting, Council endorsed these Statements at the 15 September 2021 Council Meeting before submitting to VAGO for certification.

As Council's approval is only in-principle, based on the draft Financial Statements and Performance Statement, opportunities for changes to the Statements may arise, particularly after final review by VAGO. To cover such changes, s.132(5) required Council to appoint two Councillors / Administrators to certify the Statements following any amendments that may arise after finalisation of the audit.

Upon receipt of the Independent Auditor's Report, the certifications were combined with the audited Performance Statement and the Financial Statements and the Report of Operations to form this Annual Report for the period 1 July 2020 to 30 June 2021.

The Annual Report begins with a snapshot of Council's key achievements against the *2020-2024 Council Plan* Strategic Objectives and the *2020/21 Annual Initiatives*.

This is followed by four main sections:

- Overview
- Reporting (against Council Plan and Strategic Objectives)
- Governance
- Performance (Audited Performance Statement Indicators and Financial Statement)

Council's LGPRF indicators and results are presented under each Strategic Objective of the Council Plan in *Section 2 – Reporting*, under the heading 'Service Performance Indicators' (refer to **Attachment [2.1.1]**). These indicators are compared against the previous three-year results. Some indicators are also included in the Performance Statement and are audited by VAGO.

Amendments have been made by Local Government Victoria to some LGPRF indicators and other reporting requirements per the definitions in the *Local Government (Planning and Reporting) Amendment Regulations 2014*.

The *Acting Minister for Local Government* provided a two-month extension from 30 September 2021 to the closing date of 30 November 2021. This extension was due to the coronavirus pandemic placing pressure on resources across all Victorian councils and the Victorian Auditor General's Office (VAGO) to meet the legislated timelines.

As a result, the Council resolution of 15 September 2021 for Agenda item 5.1 – Unaudited Financial Statements and Performance Statements 2020/21 has been impacted by delays outside of Council's control, so that this resolution could not be implemented. The resolution was as follows:

"That Council:

- 9. Provides a copy of the 2021/21 Annual report to the Minister for Local Government by 30 September 2021"*

To this end, it is proposed that the Annual Report be adopted in full before submitting this to the Minister by 30 November 2021.

Council will publish the adopted Annual Report on its website. Hard copies will be available at the Council office and upon request.

The *2020/21 Annual Report (Attachment [2.1.1])* has been advertised in a Public Notice and has been made available for public inspection for a two-week period, from 6 October 2021, prior to being presented at the 20 October 2021 Council Meeting for final adoption.

The LGPRF indicators will be published on the 'Know Your Council' website as at 30 November 2021, or a time otherwise determined by Local Government Victoria.

CONSULTATION / COMMUNITY ENGAGEMENT

The Report of Operations, the Performance Statement and Financial Statements were endorsed by the Audit and Risk Committee on 14 September 2021.

The draft 2020/21 unaudited Financial Statements and Performance Statements were presented to Council on 15 September 2021. These were endorsed in-principle and signed for approval by Council.

VAGO provided an 'Independent Auditors' Report' for certification and approval of the Performance Statement and Financial Statements, which have been

combined into the *2020/21 Annual Report* for final certification purposes in accordance with the Act.

The final Annual Report has been advertised for public viewing purposes on 6 October 2021 for a two-week period, prior to its presentation to Council for formal adoption at the October 2021 Council Meeting.

RESOURCES / FINANCIAL VIABILITY

Costs associated with the publication of the Annual Report are covered within approved budget allocations. The Annual Report is developed and designed in-house, with limited printing to keep the costs of publishing and printing as low as possible.

RISKS

Completion and submission of the Annual Report to the Minister for Local Government are annual legislative requirements. The endorsed Annual Report and certification will be provided to the Minister by 30 November 2021 in accordance with the extended timeframe approved by the Acting Minister for Local Government.

STAFF DISCLOSURE

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

ATTACHMENTS

Attachments are available on Council's website: www.southgippsland.vic.gov.au

1. 2020/21 Annual Report [2.1.1 - 206 pages]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 8. Monitoring & Performance Review

Council Policy / Strategy / Plans

Documents are available on Council's website: www.southgippsland.vic.gov.au

Annual Budget 2020/21

Annual Budget Incorporating 15 Year Long Term Financial Plan and Annual Plan Initiatives

Council Plan 2020-2024

Legislative Provisions

Local Government Act 1989, ss. 131, 132, 133 and 134 relating to the Annual Report

Local Government Act 2020

Local Government Better Practice Guide – Annual Report – Report of Operations 2020/21

Local Government Better Practice Guide – Annual Report – Performance Statement 2020/21

Local Government Better Practice Guide – Local Government Better Practice Guide – Annual Report – Performance Reporting Indicator Workbook 2020/21

2.2. 2020/21 CARRY FORWARDS AND END OF YEAR RESULT

Chief Executive Officer Certification *(Local Government Act 2020, section 304)*

The Chief Executive Officer certifies that the content within the Council Report 2.2 *2020/21 Carry Forwards and End of Year Result* has been checked to ensure it does not contain electoral material and complies with section 304 of the *Local Government Act 2020* and Council's *Election Period Policy* (C30) that relates to the 'Election Period'.



Kerry Ellis

Chief Executive Officer

Performance and Innovation

Council Plan

Objective 4 – Customer Focused Organisation

The end of financial year report provides an overview of Council's financial performance for the period July 2020 to June 2021. The report provides communication to the community and Council regarding Council's financial performance and aligns with the Local Government Act 2020.

EXECUTIVE SUMMARY

The end of year financial report has been prepared in accordance with section 97 of the *Local Government Act 2020* (the Act) and provides an overview of Council's financial performance for the period July 2020 to June 2021. The 2020/21 Annual Financial Statements were endorsed by Council at its meeting on 15 September 2021 and have been certified by the Victorian Auditor General.

RECOMMENDATION

That Council:

- 1. Notes the underlying surplus of \$2.043 million at 30 June 2021;**
- 2. Endorses the carry forward of the surplus which remains unspent as at 30 June 2021 to 2021/22, to fund the Municipal Association Victoria WorkCare shortfall payment and other items of an operating nature; and**
- 3. Endorses the carry forward of capital items of \$3.094 million (net) to 2021/22 to enable delivery of the committed capital works program.**

REPORT

The results in summary:

Operating

- The year end operating underlying surplus for 2020/21 is \$2.043 million.
- The year end result is primarily due to underspends in materials and consumables, mainly related to grant funded initiatives and projects such as re-sheeting of roads. It is recommended to carry forward \$1.444 million of these budgets to 2021/22.
- After allowing for carry forward budgets, \$0.599 million remains in surplus and is recommended to carry forward to 2021/22 for the Municipal Association Victoria WorkCare member's contribution payment due 31 October 2021.

Capital

- The year end capital expenditure forecast is underspent by \$4.890 million. It is recommended to carry forward \$4.880 million in capital budgets to be delivered in 2021/22.
- Capital grants at year end are unfavourable to forecast by \$3.732 million. \$1.789 million will be received in 2021/22 and the remainder relates to the accounting treatment of unearned income at year end.

Operating Carry Forward Items

There are two key items of significance that need to be funded from the carry forward surplus, neither of which could have been anticipated at the time the 2021/2022 budget was developed, and both of which are beyond the control of Council. These are:

1. MAV Self-Insurance Workcover Scheme:

In 2015, the Municipal Association of Victoria (MAV) received certification to become a WorkCover self-insurer on behalf of all Victorian Councils. At the time it was anticipated that the self-insurance scheme would result in improved outcomes for local government workers, including injured workers, as well as potential savings in WorkCover premium. South Gippsland Shire Council elected to join the scheme in 2015, along with a number of other Councils from across the state. Earlier this year, WorkSafe advised the MAV and the sector that the MAV would no longer be certified to act as a WorkCover self-insurer, and that the scheme would be wound up. As such participating Councils are required fund the costs associated with the wind up

of the scheme. This will be an amount of \$587,700 for South Gippsland Shire Council in the 2021/2022 financial year, proposed to be funded from the 2020/2021 carried forward surplus.

2. Appointment of a Municipal Monitor by the Minister for Local Government:

On 7 September 2021, the Minister for Local Government announced that a Municipal Monitor will be appointed to support South Gippsland's newly elected Councillors for the first twelve months of their term. The Local Government Act provides that Councils that have a monitor appointed must bear the costs of the appointment, so provision will need to be made for these costs to be met in both the 2021/2022 and 2022/2023 financial years. The total cost is not yet known, however is likely to be in the range of \$150,000. It is proposed the amount relating to the 2021/2022 financial year be funded from carried forward surplus.

CONSULTATION / COMMUNITY ENGAGEMENT

This report provides a final summary (refer **Attachment [2.2.1]**) of Council's year end position against Council's 2020/2021 budget. Development of this budget included a community consultation component.

RESOURCES / FINANCIAL VIABILITY

This report provides Council and the community with a final summary of Council's year end position for 2020/2021, and assists to ensure Council's long term financial viability.

RISKS

A failure to deliver a balanced underlying result will indicate that Council does not generate enough income to sustain its operations. Should Council not carry forward the budgets in this report, it risks failing to deliver its capital program and meeting grant funded milestones.

STAFF DISCLOSURE

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

ATTACHMENTS

Attachments are available on Council's website: www.southgippsland.vic.gov.au

1. Financial Summary for 2020/21 **[2.2.1 - 2 pages]**

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 3. Decision Making Pillar

Pillar 8. Monitoring & Performance Review

Council Policy / Strategy / Plans

Documents are available on Council's website: www.southgippsland.vic.gov.au

Financial Management Policy (C86)

Legislative Provisions

Local Government Act 2020

2.3. AUDIT AND RISK COMMITTEE CHAIR'S ANNUAL REPORT AND 14 SEPTEMBER 2021 MEETING MINUTES

Chief Executive Officer Certification (*Local Government Act 2020, section 304*)

The Chief Executive Officer certifies that the content within the Council Report 2.2 *Audit and Risk Committee Chair's Annual Report and 14 September Meeting Minutes* has been checked to ensure it does not contain electoral material and complies with section 304 of the *Local Government Act 2020* and Council's *Election Period Policy* (C30) that relates to the 'Election Period'.



Kerry Ellis

Chief Executive Officer

Performance and Innovation Directorate

Council Plan

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

This report provides Council assurance that the Audit and Risk Committee are achieving their objectives according to the Audit and Risk Charter, and driving continuous improvement of good governance and process through the organisation.

EXECUTIVE SUMMARY

The Audit and Risk Committee's (the Committee) Annual Assessment, including the final 2020/21 biannual audit and risk update (**Attachment [2.2.1]**) from the Chair, provides a high-level review of the 2020/2021 financial year achievements of the Committee. The report highlights and commends the achievements and improvements made over the last 12 months in responding to actions from previous audits as well as in the execution and effectiveness of this Committee.

The report also notes and commends the preparation and presentation of the annual financial report with an unqualified statement from VAGO, noting the achievements made despite the difficulties imposed by COVID-19 Pandemic related restrictions. These observations are also noted in the quarterly meeting minutes.

The quarterly meeting primarily focussed on the VAGO External Performance and Financial Audit having met with VAGO representatives both in-camera and in the formal meeting to discuss the results. The meeting also provides review of the recently developed Strategic Risks under the new and revised Risk

Framework and commended the progress made as well as providing guidance for continued improvement. The minutes from the 14 September 2021 Audit and Risk Committee is included in (**Attachment [2.2.2]**).

RECOMMENDATION

That Council:

- 1. Notes the Annual Assessment, including the final Biannual Audit and Risk Report for the 2020/21 financial year from the Audit and Risk Committee Chair (Attachment [2.2.1]); and**
- 2. Notes the Audit and Risk Committee 14 September 2021 Meeting Minutes; (Attachment [2.2.2]).**

REPORT

In accordance with s.54 (6) of the *Local Government Act 2020* (Act), the Chief Executive Officer is required to table reports and annual assessments of the Audit and Risk Committee when required by the Act to do so. This report tables the Annual Assessment, including the final 2020/21 biannual audit and risk update from the Committee Chair. – refer **Attachment [2.2.1]** and the Minutes of the 14 September 2021 Audit and Risk Committee meeting – refer **Attachment [2.2.2]**.

CONSULTATION / COMMUNITY ENGAGEMENT

The Audit and Risk Committee is required to have suitably experienced independent members which ensures appropriate probity and transparency of the Committee function as well as bringing a wide range of relevant experience from other organisations and agencies to contribute best practice guidance.

RESOURCES / FINANCIAL VIABILITY

Audit and Risk Committee independent members are paid with funding from an allocated and approved budget. This ensures attraction and retention to the role of suitably experienced independent members.

RISKS

The Audit and Risk Committee exists to ensure that Council is well informed and advised on the functioning of the organisation in terms of understanding its responsibilities and accountabilities from an audit function and from a risk position; that the organisation does what it is legislatively required to do, and responsibly should do for responsible and accountable delivery of our services to the community.

STAFF DISCLOSURE

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

ATTACHMENTS

Attachments are available on Council's website: www.southgippsland.vic.gov.au

1. Audit and Risk Committee Chair - 2020/21 Annual Report to Council 2020 [2.3.1 - 7 pages]
2. Audit and Risk Committee - 14 September 2021 Minutes [2.3.2 - 9 pages]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 7. Risk & Compliance

Pillar 8. Monitoring & Performance Review

Council Policy / Strategy / Plans

Documents are available on Council's website: www.southgippsland.vic.gov.au

Audit and Risk Committee Charter Policy (C08)

Audit and Risk Committee Charter and Terms of Reference

Legislative Provisions

Local Government Act 2020

2.4. DOCUMENTS SEALED, CONTRACTS VARIED, AWARDED OR EXTENDED BY CEO - 14 AUGUST TO 17 SEPTEMBER 2021

Chief Executive Officer Certification (*Local Government Act 2020, section 304*)

The Chief Executive Officer certifies that the content within the Council Report 2.3 *Documents Sealed, Contracts Varied, Awarded or Extended by CEO - 14 August to 17 September 2021* has been checked to ensure it does not contain electoral material and complies with section 304 of the *Local Government Act 2020* and Council's *Election Period Policy* (C30) that relates to the 'Election Period'.



Kerry Ellis

Chief Executive Officer

Performance and Innovation

Council Plan

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

Council's transparency of financial decisions made and overall financial sustainability is strengthened by regularly reporting on documents sealed, contracts awarded, varied or extended under the CEO's delegation.

EXECUTIVE SUMMARY

This report documents the following actions undertaken by the Chief Executive Officer (CEO) which occurred during the period from 14 August to 17 September 2021. Council's *Procurement Policy* (C32) requires the CEO to report to Council any of the following actions undertaken to the next appropriate Meeting:

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

RECOMMENDATION

That Council receives and notes this report.

REPORT

Documents Sealed

Under the *Local Government Act 2020* (the Act), s.14 states that each Council is a body corporate with perpetual succession; and must have a common seal. Sealing a document makes it an official document of Council as a corporate body. Documents that require sealing include agreements, leases or any other contractual or legally binding document that binds Council to another party.

Use of the Local Law No. 2 2020, Part 9, clause 107(f)(iv) – Common Seal of Council, states that if the Chief Executive Officer (CEO) uses the Common Seal in a manner prescribed by sub-clause (c), this means on the authority of a Council resolution, then Council must be advised of such use on a regular basis.

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

In accordance with the Local Law, Instrument of Delegation and *Planning and Environment Act 1987*, the following are presented to Council as documents sealed during the period from 14 August to 17 September 2021.

1. Section 173 Agreement between South Gippsland Shire Council and the owner of 275 Lees Road Venus Bay in relation to develop land with a dwelling. Seal applied 31 August 2021.
2. Section 173 Agreement between South Gippsland Shire Council and the owner of 146 Jupiter Boulevard Venus Bay in relation to develop land with a dwelling and ancillary outbuilding. Seal applied 31 August 2021.
3. Section 173 Agreement between South Gippsland Shire Council and the owner of 159 Jupiter Boulevard Venus Bay in relation to develop land with a dwelling. Seal applied 31 August 2021.
4. Section 173 Agreement between South Gippsland Shire Council and the owner of 66-80 Bena Road Korumburra in relation to a 82-lot staged subdivision. Seal applied 31 August 2021.
5. Section 173 Agreement between South Gippsland Shire Council and the owner of 8 Carol Court Venus Bay in relation to develop land with a dwelling. Seal applied 16 September 2021.

6. Section 173 Agreement between South Gippsland Shire Council and the owner of 67 Landscape Drive Venus Bay in relation to develop land with a dwelling. Seal applied 16 September 2021.
7. Section 173 Agreement between South Gippsland Shire Council and the owner of 8 Milky Way Venus Bay in relation to develop land with a dwelling. Seal applied 16 September 2021.
8. Instrument of Appointment and Authorisation to Environmental Health Officer. Seal applied 16 September 2021.

Contracts Awarded, Varied or Extended

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

1. Contracts awarded by Council after a public tender process, signed by the CEO between 14 August to 17 September 2021.
 - a. CON/299 for the Provision of Bituminous Surfacing & Associated Services was awarded to Fulton Hogan Industries Pty Ltd. Signed by the CEO 3 September 2021.
 - b. CON/290 for the Korumburra Hub Datacentre was awarded to Perfekt Pty Ltd. Signed by the CEO 17 September 2021.
2. Contracts awarded after a public tender process within the CEO's delegation between 14 August to 17 September 2021.
 - a. Nil
3. Contract variations approved by the CEO between 14 August to 17 September 2021.
 - a. Nil
4. Contract extensions approved by the CEO between 14 August to 17 September 2021.
 - a. Insurance policy renewals exceeding CEO delegation:
 - i. Jardine Lloyd Thompson Pty Ltd (JLT) Municipal Asset Protect policy. \$419,326.64
 - ii. Allianz Australia Workers Compensation (Victoria) Limited. \$432,194.52

STAFF DISCLOSURE

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

ATTACHMENTS

Nil

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 3. Decision Making

Council Policy / Strategy / Plans

Documents are available on Council's website: www.southgippsland.vic.gov.au

Governance Rules (C82)

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

Procurement Policy (C32)

Legislative Provisions

Local Government Act 1989

Local Government Act 2020

Planning and Environment Act 1987

2.5. SUMMARY OF STRATEGIC BRIEFINGS TO ADMINISTRATORS - 13 AUGUST - 12 SEPTEMBER 2021

Chief Executive Officer Certification (*Local Government Act 2020, section 304*)

The Chief Executive Officer certifies that the content within the Council Report 2.4 *Summary of Strategic Briefings to Administrators - 13 August - 12 September 2021* has been checked to ensure it does not contain electoral material and complies with section 304 of the *Local Government Act 2020* and Council's *Election Period Policy* (C30) that relates to the 'Election Period'.



Kerry Ellis

Chief Executive Officer

Performance and Innovation

Council Plan

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

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

EXECUTIVE SUMMARY

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

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

RECOMMENDATION

That Council receives and notes this report.

REPORT

Meeting Title	Details
Wednesday 18 July 2021	
Agenda Topic Discussion – Council Meeting 18 August 2021	Administrators Attending: Julie Eisenbise, Rick Brown, Christian Zahra Conflict of Interest: Nil disclosed
Wednesday 1 September 2021	
Submission Hearing – Planning Application	Administrators Attending: Julie Eisenbise, Rick Brown, Christian Zahra Conflict of Interest: Nil disclosed
Community Support Package	Administrators Attending: Julie Eisenbise, Rick Brown, Christian Zahra Conflict of Interest: Nil disclosed
Domestic Animal Management Plan	Administrators Attending: Julie Eisenbise, Rick Brown, Christian Zahra Conflict of Interest: Nil disclosed
Wednesday 8 September 2021	
Agenda Topic Discussion – Council Meeting 15 September 2021	Administrators Attending: Julie Eisenbise, Rick Brown, Christian Zahra Conflict of Interest: Nil disclosed
Economic Development and Visitor Economy Strategies	Administrators Attending: Julie Eisenbise, Rick Brown, Christian Zahra Conflict of Interest: Nil disclosed

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 3. Decision Making

Council Policy / Strategy / Plans

Documents are available on Council's website: www.southgippsland.vic.gov.au

Public Transparency Policy (C75)

Legislative Provisions

Local Government (South Gippsland Shire Council) Act 2019

Local Government Act 1989

Local Government Act 2020

3. NOTICES OF MOTION AND/OR RESCISSION

3.1. NIL

4. ADMINISTRATOR REPORTS

4.1. REQUESTS FOR LEAVE OF ABSENCE

4.2. ADMINISTRATORS UPDATES

During the Election Caretaker Period including Wednesday 22 September through to Saturday 23 October 2021, Council are required under the *Local Government Act 2020* to ensure that Council resources/forums are not used to raise or promote matters that may be considered electoral material during the Caretaker Period. In order to satisfy this requirement Council will not be hearing Administrator Reports. Councillor Reports will resume at the Council Meeting 24 November 2021.

4.3. COMMITTEE UPDATES

5. URGENT OR OTHER BUSINESS

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

1. Urgent Business

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

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

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

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

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

2. Other Business

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

6. PUBLIC QUESTIONS

During the Election Caretaker Period including Wednesday 22 September through to Saturday 23 October 2021, Council are required under the *Local Government Act 2020* to ensure that Council resources/forums are not used to raise or promote matters that may be considered electoral material during the Election Caretaker Period. In order to satisfy this requirement any Questions to Council, Petitions (and Joint letters) received should be referred to the Chief Executive Officer for consideration and determination under section 304 of the *Local Government Act 2020* and the *Election Period Policy* prior to being accepted at the Council Meeting.

6.1. PETITIONS AND JOINT LETTERS

Petitions and Joint letters are written requests that have been signed by a number of community members. According to *Governance Rules (C82)* petitions may be presented to Council by an Administrator. A petition presented to the Council must lay on the table until the next Council Meeting and no motion, other than to receive the petition, may be accepted by the Chair unless the Council agrees to deal with it earlier.

The lead petitioner or person organising the petition may in presenting the petition to an Administrator at a Community Day session speak briefly to its contents. At the following Council Meeting, an Administrator would accept the petition and introduce it to Council for formal noting and actioning by Council.

6.2. ANSWERS TO PREVIOUS QUESTIONS ON NOTICE

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

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

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

Source: Governance Rules (C82) – adopted August 2020.

Nil

6.3. SUBMITTED PUBLIC QUESTIONS

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

Questions can also be submitted in hard copy format into the 'Public Question Box' during a Council Meeting on the prescribed form. These questions will be taken on notice, included in the Minutes and responses provided at the next Council Meeting.

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

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

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

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

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

Source: Governance Rules (C82) – adopted August 2020.

7. CLOSED SESSION

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

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

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

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

Nil

8. MEETING CLOSED

NEXT MEETING

The next Council Meeting open to the public will be held on Wednesday, 24 November 2021 commencing at 1pm in the Council Chambers, Leongatha.