

SOUTH GIPPSLAND SHIRE COUNCIL

# Council Meeting Minutes

19 July 2023

**Council Meeting No.484  
Council Chambers, Leongatha  
Commenced at 2:00pm**



# minutes



*South Gippsland  
Shire Council*

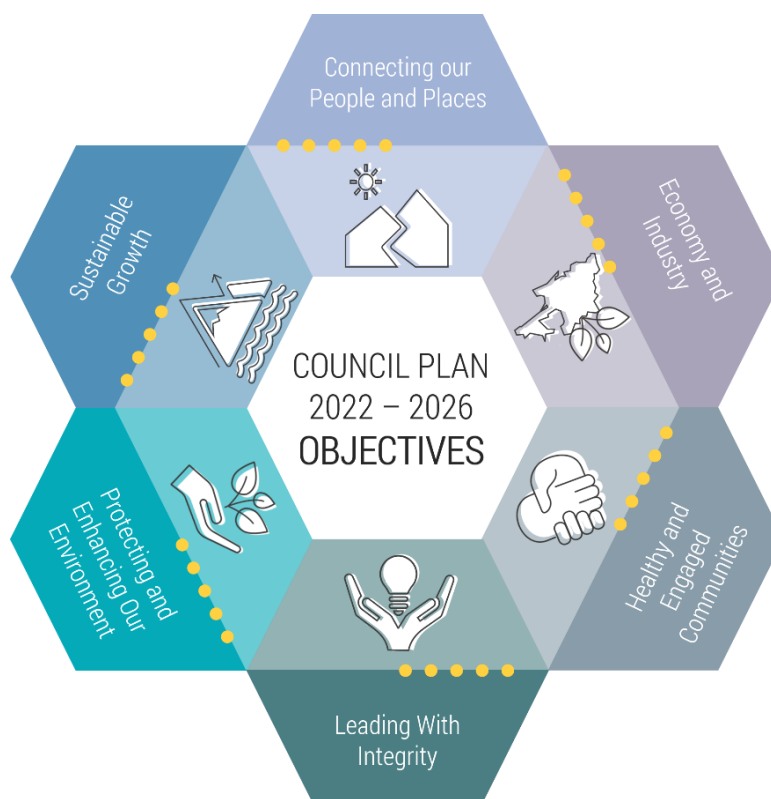
*Come for the beauty, Stay for the lifestyle*

## OUR COUNCIL VISION

***We care deeply about our people, the land and future of South Gippsland.***

***Our vision is to support the whole Shire in creating economic, environmental and social prosperity for this and future generations.***

The Council Agenda relates to the Strategic Objectives of the *Council Plan 2022-2026* indicated in this diagram:



### **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.

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

Access to the live stream is available on Council's website – [Link](#).

A copy of the *Policy* is located on Council's website - [Link](#).

## PRESENT

COUNCILLORS:	Councillor Nathan Hersey, Mayor Councillor Sarah Gilligan Councillor Scott Rae Councillor Jenni Keerie Councillor Michael Felton Councillor John Schelling Councillor Adrian Darakai
NOT PRESENT:	Councillor Clare Williams, Deputy Mayor Councillor Mohya Davies
OFFICERS:	Kerryn Ellis, Chief Executive Officer Allison Jones, Director Performance and Innovation Tony Peterson, Director Sustainable Infrastructure Rena Littlejohn, Director Economy & Community Rhys Matulis, Coordinator Governance Natasha Berry, Corporate and Council Business Officer

## SOUTH GIPPSLAND SHIRE COUNCIL

Council Meeting No.484 Wednesday 19 July 2023  
in the Council Chambers, Leongatha commenced at 2:00pm

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**Kerryn Ellis**  
**Chief Executive Officer**

## **1. PRELIMINARY MATTERS**

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

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

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

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

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

Thank you

### **1.2. WELCOME TO THE COUNCIL MEETING**

#### ***Public Questions***

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

### **1.3. OPENING PRAYER**

As we gather here from diverse backgrounds and beliefs, may we hold privilege with good care and trust. As we deliberate and discuss, may we be wise in our discernment, fair in our decisions and visionary in our planning. May we be guided by our common goal of a strong and united South Gippsland.

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

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

#### **1.5. APOLOGIES**

**Councillor Clare Williams with leave of Council granted at Council Meeting 17 May 2023.**

**Councillor Mohya Davies with leave of Council granted at Council Meeting 28 June 2023.**

#### **1.6. CONFIRMATION OF MINUTES**

##### **RECOMMENDATION**

**That the Minutes of the South Gippsland Shire Council Meeting No. 483, held on Wednesday 28 June 2023 in the Council Chambers, Leongatha be confirmed.**

##### **RESOLUTION**

**MOVED:** Councillor Keerie

**SECONDED:** Councillor Gilligan

**That the Minutes of the South Gippsland Shire Council Meeting No. 483, held on Wednesday 28 June 2023 in the Council Chambers, Leongatha be confirmed.**

**CARRIED UNANIMOUSLY**

## 1.7. DECLARATION OF CONFLICTS OF INTEREST FOR COUNCILLORS

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

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

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

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

The *Local Government Act 2020* can be accessed from the Victorian Legislation and Parliamentary documents website at [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au).

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

**Councillor Nathan Hersey has declared a general conflict of interest and a reasonable apprehension of bias or actual bias in Agenda Item 11.2 Award Contract CON/349 - Korumburra Football Netball Changerooms Project, as he has a close association with someone who has submitted a tender.**

**Councillor Jenni Keerie has declared a general conflict of interest in Agenda Item 11.2 Award Contract CON/349 - Korumburra Football Netball Changerooms Project, as she manages an organisation that engages a member of a business that has submitted a tender.**



## 1.8. DECLARATION OF CONFLICTS OF INTEREST FOR STAFF

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

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

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

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

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

The *Local Government Act 2020* can be accessed from the Victorian Legislation and Parliamentary documents website at [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au).

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

**Nil**

## 2. OBJECTIVE - CONNECTING OUR PEOPLE AND PLACES

### 2.1. PROJECT NOMINATIONS - LOCAL ROADS AND COMMUNITY INFRASTRUCTURE (LRCI) PROGRAM (PHASE 4)

Directorate:	Sustainable Infrastructure
Department:	Infrastructure Delivery

#### Council Plan

*Objective - Connecting our People and Places*

The projects proposed to be delivered under the Local Roads and Community Infrastructure (LRCI) Program – Phase 4 will improve strategically significant roads to the benefit of the local community.

#### EXECUTIVE SUMMARY

The purpose of this report is to seek Council endorsement of the projects to be nominated for delivery under the Australian Government’s Local Roads and Community Infrastructure (LRCI) Program – Phase 4, and changes to the endorsed projects for Phases 2 and 3.

Under Phase 4 of the LRCI Program, South Gippsland Shire Council will receive a funding allocation of \$3,759,982 (combined Part A and B). This funding will be available from July 2023, with projects required to be delivered by June 2025.

It is recommended that the following projects be considered for nomination to Phase 4 of the Program:

- Ross Street, Meeniyan – Gravel to Seal Project
- North Poowong Road, Nyora – Gravel to Seal Project

#### RECOMMENDATION

**That Council:**

1. **Notes that \$3,759,982 (\$2,384,531 Part A and \$1,375,451 Part B) has been allocated from the Australian Government’s Local Roads and Community Infrastructure Program – Phase 4;**

- 2. Endorses the Work Schedule for the Australian Government’s Local Roads and Community Infrastructure Program – Phase 4 to nominate the following projects:**
  - a. Ross Street, Meeniyan – Gravel to Seal Project; and**
  - b. North Poowong Road, Nyora – Gravel to Seal Project.**
- 3. Endorse changes to the Work Schedule for the Australian Government’s Local Roads and Community Infrastructure Program – Phase 2, including the addition of the Drainage Rehabilitation Program Project;**
- 4. Endorse changes to the Work Schedule for the Australian Government’s Local Roads and Community Infrastructure Program – Phase 3, including the removal of the Upper Commercial Street Korumburra Carpark Project and the addition of the Meeniyan Community Hub Project; and**
- 5. Authorises the Chief Executive Officer to amend the Work Schedules submitted for the Australian Government’s Local Roads and Community Infrastructure Program, when required, to maximise utilisation of the funding allocations and maintain eligibility of Council’s nominated projects within the guidelines of the Program.**

**RESOLUTION**

**MOVED:** Councillor Felton

**SECONDED:** Councillor Schelling

**That Council:**

- 1. Notes that \$3,759,982 (\$2,384,531 Part A and \$1,375,451 Part B) has been allocated from the Australian Government's Local Roads and Community Infrastructure Program – Phase 4;**
- 2. Endorses the Work Schedule for the Australian Government's Local Roads and Community Infrastructure Program – Phase 4 to nominate the following projects:**
  - a. Ross Street, Meeniyah – Gravel to Seal Project; and**
  - b. North Poowong Road, Nyora – Gravel to Seal Project.**
- 3. Endorse changes to the Work Schedule for the Australian Government's Local Roads and Community Infrastructure Program – Phase 2, including the addition of the Drainage Rehabilitation Program Project;**
- 4. Endorse changes to the Work Schedule for the Australian Government's Local Roads and Community Infrastructure Program – Phase 3, including the removal of the Upper Commercial Street Korumburra Carpark Project and the addition of the Meeniyah Community Hub Project; and**
- 5. Authorises the Chief Executive Officer to amend the Work Schedules submitted for the Australian Government's Local Roads and Community Infrastructure Program, when required, to maximise utilisation of the funding allocations and maintain eligibility of Council's nominated projects within the guidelines of the Program.**

**CARRIED UNANIMOUSLY**

## **REPORT**

The Local Roads and Community Infrastructure (LRCI) Program aims to assist councils to deliver priority local road and community infrastructure projects, creating jobs, and long-lasting benefits for communities.

### ***LRCI Program Phase 4***

Recently the Australian Government announced Phase 4 of the LRCI Program, allocating \$3,759,982 (part A and B) to Council. This funding will be available from July 2023, with projects required to be delivered by June 2025.

Eligibility criteria for Phase 4 of the program include:

- Projects must be capital projects for new or improved local road or community infrastructure;
- Projects must not have already commenced construction;
- Projects must not otherwise be planned to be delivered by Council;
- Projects must be able to be delivered within the approved time;
- A "Work Schedule" of projects must be approved by the Department prior to the commencement of works.

Officers are not aware of any further phases of the LRCI Program.

### ***Recommended projects for nomination***

#### **1. Ross Street, Meeniyah – Gravel to Seal Project**

Ross Street is very high on the priority list for gravel to seal road sections due to its high traffic volumes, peri-urban location, and maintenance burden. The project has been designed in consultation with affected road users and is shovel ready.

Approximately 750m of gravel to seal.

Estimate \$1.2 Million.

#### **2. North Poowong Road, Nyora – Gravel to Seal Project**

The unsealed section of North Poowong Road is very high on the priority list for gravel to seal road sections due to its high traffic volumes, proportion of freight traffic, and maintenance burden.

Preliminary designs have been developed, but these require reconciliation with other project considerations, including cost, land acquisition

requirements, native vegetation removal, and impact to the vulnerable Giant Gippsland Earthworms and its habitat.

Approximately 2,500m of gravel to seal.

Estimate \$2.56 Million.

A range of other potential projects were considered for nomination in the Program, but have not been recommended due to a variety of factors including:

- Lack of project development and readiness for construction.
- Low cost-benefit ratio compared to other projects.
- Project potential for other external funding applications.

### ***Adjustments to previous LRCI Program Phases***

Council has previously received funding under Program Phases 1 to 3.

- Phase 1 is now completed.
- Phase 2 and 3 nominated projects are either completed or currently underway.

In April 2023, the Commonwealth Government Department administering the Program extended the construction period for all Phase 1, 2, and 3 approved projects, acknowledging the delays associated with supply chain issues, labour shortages, and weather events across Australia. This timing variation has allowed Council to review its work schedules, identify which approved projects are achievable within program timeframes, and refine project budgets.

This enabled the following changes:

- Proposed amendments to the Work Schedule for Phase 2 to redistribute unspent/unallocated funds, including the addition of the Drainage Rehabilitation Program Project bundle.
- Proposed amendments to the Work Schedule for Phase 3 to redistribute unspent/unallocated funds, including:
  - the removal of the Upper Commercial Street Korumburra carpark project, which is now fully funded as part of the Rail Precinct Redevelopment Project.
  - the addition of the Meeniyah Community Hub Project.

## CONSULTATION / COMMUNITY ENGAGEMENT

The projects recommended for nomination are considered to have strong community support and have been sought by the community for many years.

The projects will require community consultation during the construction phase to manage customer expectations and the impact of disruptions.

## RESOURCES / FINANCIAL VIABILITY

The proposed allocation of funding for LRCI Phase 4 is identified in Table 1:

**Table 1 – Proposed Allocation of Funding for LRCI Phase 4**

<b>Project</b>	<b>Estimated Cost Excl. GST</b>
Ross Street, Meeniyah – Gravel to Seal Project	\$1.20M
North Poowong Road, Nyora – Gravel to Seal Project	\$2.56M
<b>Total cost for nominated projects</b>	<b>\$3.76M</b>
<b>Funding available under LRCI Phase 4</b>	<b>\$3.76M</b>

## RISKS

The nominated projects meet the criteria for the LRCI program and are expected to be approved. If the projects are not approved, Council will need to consider and nominate alternative projects.

If the nominated projects are unable to be completed within the LRCI Phase 4 funding allocation, Council will be required to fund any additional costs. The project estimates have been developed with a contingency allocation to minimise the risk of cost overrun.

If the nominated projects are significantly delayed and unable to be completed in the Program time period, the projects may need to be reconsidered or renegotiated with the funding body through a revised Works Schedule.

## STAFF DISCLOSURE

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

## ATTACHMENTS

Nil

## REFERENCE DOCUMENTS

### **Council's Good Governance Framework**

Pillar 3. Decision Making

### **Council Policy / Strategy / Plans**

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

Annual Budget

Asset Management Policy (C04)

Asset Management Strategy

Asset Management Plan - Road Infrastructure (internal)

Community Infrastructure Project Management Policy (C09)

Council Plan 2020-2024

Long-Term Financial Strategies

Road Management Plan



### 3. OBJECTIVE - LEADING WITH INTEGRITY

#### 3.1. INSTRUMENT OF APPOINTMENT AND AUTHORISATION

Directorate:	Performance and Innovation
Department:	Governance

#### Council Plan

*Objective - Leading with Integrity*

*Council's governance is strengthened by maintaining currency in the delegations and authorisations to Officers, so they can undertake the functions they are required to perform on behalf of Council.*

#### EXECUTIVE SUMMARY

The purpose of this report is to request Council to approve an Instrument of Appointment and Authorisation for the Council staff member Dean Graham under the *Environment Protection Act 2017*.

#### RECOMMENDATION

**That Council resolves that, in the exercise of the powers conferred by s 242(2) of the *Environment Protection Act 2017*, s.224 of the *Local Government Act 1989* and s.313 of the *Local Government Act 2020*:**

- 1. The members of Council staff referred to in the Instruments of Appointment and Authorisation be appointed and authorised as set out in the instruments and detailed in the report; and**
- 2. The Instruments of Appointment and Authorisation come into force immediately when signed by Council's Chief Executive Officer and remain in force until Council determines to vary it or it is revoked by Council's Chief Executive Officer in the event the officer resigns from Council or is appointed to a position where this appointment and authorisation is not required or suitable.**

**RESOLUTION**

**MOVED:** Councillor Rae

**SECONDED:** Councillor Darakai

**That Council resolves that, in the exercise of the powers conferred by s 242(2) of the *Environment Protection Act 2017*, s.224 of the *Local Government Act 1989* and s.313 of the *Local Government Act 2020*:**

- 1. The members of Council staff referred to in the Instruments of Appointment and Authorisation be appointed and authorised as set out in the instruments and detailed in the report; and**
- 2. The Instruments of Appointment and Authorisation come into force immediately when signed by Council's Chief Executive Officer and remain in force until Council determines to vary it or it is revoked by Council's Chief Executive Officer in the event the officer resigns from Council or is appointed to a position where this appointment and authorisation is not required or suitable.**

**CARRIED UNANIMOUSLY**

## **REPORT**

The allocation of authorisations and appointments to Council employees contributes to the effective functioning of Council. It is important to ensure that formal Instruments are updated to reflect changes in personnel as well as changes in the legislation.

One Instrument is presented for adoption for Dean Graham enabling this Council staff member to fulfil their required duties within Council.

The Instrument is contained in **Attachment [3.1.1]**.

## **CONSULTATION / COMMUNITY ENGAGEMENT**

Nil

## **RESOURCES / FINANCIAL VIABILITY**

Nil

## **RISKS**

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

## **STAFF DISCLOSURE**

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

## **ATTACHMENTS**

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

1. S11B Instrument of Appointment Dean Graham 19 July 2023 [3.1.1 - 1 page]

## **REFERENCE DOCUMENTS**

### **Council's Good Governance Framework**

Pillar 7. Risk & Compliance

### **Legislative Provisions**

Environment Protection Act 2017

Local Government Act 1989

Local Government Act 2020

### 3.2. DOCUMENTS SEALED, CONTRACTS VARIED, AWARDED OR EXTENDED BY CEO - 13 MAY 2023 TO 12 JUNE 2023

Directorate:	Performance and Innovation
Department:	Financial Strategy, Risk and Procurement

#### Council Plan

*Objective - Leading with Integrity*

*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 13 May 2023 to 12 June 2023. 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.**

#### RESOLUTION

**MOVED:** Councillor Felton

**SECONDED:** Councillor Keerie

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

**CARRIED UNANIMOUSLY**

## 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(h)(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.

In accordance with the Local Law No. 2 2020, Part 9, clause 107(h)(iv), the following are presented to Council as documents sealed during the period from 13 May 2023 to 12 June 2023.

1. Nil

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 13 May 2023 to 12 June 2023.

1. Section 173 Agreement between South Gippsland Shire Council and the owner of 540 Port Franklin Road, Port Franklin for a two (2) lot subdivision. Seal applied 30 May 2023.
2. Section 173 Agreement between South Gippsland Shire Council and the owner of 136 and 140 Millars Road, Pound Creek for a subdivision of land into two (2) lots. Seal applied 31 May 2023.
3. Section 173 Agreement between South Gippsland Shire Council and the owner of 525 Andersons Road, Korumburra South to develop land with a dwelling. Seal applied 2 June 2023.

### 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 13 May 2023 to 12 June 2023.
  - a. CON/356 for the Venus Bay Tourism Precinct was awarded to Hugh Patrick Pty Ltd, trading as BJs Earthmoving, signed by the CEO 25 May 2023.
3. Contracts awarded after a public tender process within the CEO's delegation between 13 May 2023 to 12 June 2023.
  - a. CON/216 for the Provision of Linemarking Services was awarded to Tarmac Linemarking Pty Ltd, signed by the CEO 29 May 2023.
4. Contract variations approved by the CEO between 13 May 2023 to 12 June 2023.
  - a. Nil
5. Contract extensions approved by the CEO between 13 May 2023 to 12 June 2023.
  - a. CON/252 for the Provision of Swimming Pool Maintenance Services was awarded to Mechanical Plumbing Services Pty Ltd. The contract was for an initial three-year term commencing on 1 July 2020 with an option of two one-year extensions. An extension of one year (first year extension option) has been approved, signed by the CEO 2 June 2023.
  - b. CON/215 for Building Maintenance Services and Essential Safety Services Inspections and Maintenance was awarded to Walker Electrical Contracting Pty Ltd. The contract was for an initial three-year term commencing 1 July 2019 with an option of two one-year extensions. An extension of one year (second year extension option) has been approved, signed by the CEO 2 June 2023.

#### **STAFF DISCLOSURE**

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

#### **ATTACHMENTS**

Nil

## REFERENCE DOCUMENTS

### **Council's Good Governance Framework**

Pillar 3. Decision Making

### **Council Policy / Strategy / Plans**

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

Governance Rules (C82)

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

Procurement Policy (C32)

### **Legislative Provisions**

Local Government Act 1989

Local Government Act 2020

Planning and Environment Act 1987

### 3.3. SUMMARY OF STRATEGIC BRIEFINGS - 13 MAY 2023 TO 12 JUNE 2023

Directorate:	Performance and Innovation
Department:	Governance

#### **Council Plan**

*Objective - Leading with Integrity*

*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 May and 12 June 2023.

#### **RECOMMENDATION**

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

#### **RESOLUTION**

**MOVED:** Councillor Gilligan

**SECONDED:** Councillor Felton

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

**CARRIED UNANIMOUSLY**



## REPORT

Meeting Title	Details
<b>Wednesday 17 May 2023</b>	
<b>Council Meeting Agenda Topic Discussion – 17 May 2023</b>	<p><b>Councillors Attending:</b> Mohya Davies, Scott Rae, Sarah Gilligan, John Schelling, Clare Williams, Adrian Darakai, Nathan Hersey and Jenni Keerie.</p> <p><b>Conflict of Interest:</b> Cr Davies left the meeting at 9.18am and returned at 9.37am. Councillor Mohya Davies has a declared material conflict of interest in briefing item Planning Application 2022/269 570 Use and Development for a dwelling and Winery 570 Soldiers Road, Fish Creek as a family member is a planning consultant on the matter.</p> <p>Cr Williams left the meeting at 9.52am and returned at 10.04am. Councillor Clare Williams has declared a material conflict of interest in Agenda Item 10.1 Award Contract CON/356 - Venus Bay Tourism Precinct - Jupiter Boulevard and Centre Road, as she is part owner of a company that has submitted a tender.</p> <p>The following matters were not discussed. Councillor Clare Williams has declared a general conflict of interest in Agenda Item 10.2 2022/23 Community Grants - Round 2, as she is a member of a Committee that applied for a community grant application.</p> <p>Councillor John Schelling has declared a reasonable apprehension of bias or actual bias in Agenda Item 10.2 2022/23 Community Grants - Round 2, as he signed a letter in support of a community grant application.</p> <p>Councillor Nathan Hersey has declared a reasonable apprehension of bias or actual bias in Agenda Item 10.2 2022/23 Community Grants - Round 2, as he signed a letter in support of a community grant application.</p> <p>Councillor Michael Felton has declared a reasonable apprehension of bias or actual bias in Agenda Item 10.2 2022/23 Community Grants - Round 2, as he</p>

Meeting Title	Details
	<p>signed a letter in support of a community grant application.</p> <p>Councillor Jenni Keerie has declared a material conflict of interest in Agenda Item 10.2 2022/23 Community Grants - Round 2, as she is a Manager of an organisation that has submitted an application.</p> <p>Councillor Jenni Keerie has declared a reasonable apprehension of bias or actual bias in Agenda Item 10.2 2022/23 Community Grants - Round 2, as she is a Manager of an organisation that provided a letter in support of a community grant application.</p> <p>Councillor Jenni Keerie has declared a reasonable apprehension of bias or actual bias in Agenda Item 10.2 2022/23 Community Grants - Round 2, as she signed a letter of support to a community grant application.</p>
<b>2023/24 Budget/ Council Plan</b>	<p><b>Councillors Attending:</b> Mohya Davies, Scott Rae, Sarah Gilligan, John Schelling, Clare Williams, Adrian Darakai, Nathan Hersey and Jenni Keerie.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>
<b>Wednesday 24 May 2023</b>	
<b>Sandy Point Caravan Park Site Investigation</b>	<p><b>Councillors Attending:</b> Mohya Davies, Sarah Gilligan, John Schelling, Clare Williams, Nathan Hersey and Jenni Keerie.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>
<b>Submission Hearing: Planning Application 2021/49 - Subdivision at 89 Beach Parade, Sandy Point</b>	<p><b>Councillors Attending:</b> Mohya Davies, Sarah Gilligan, John Schelling, Clare Williams, Nathan Hersey and Jenni Keerie.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>
<b>Sandy Point Foreshore Committee</b>	<p><b>Councillors Attending:</b> Mohya Davies, Sarah Gilligan, John Schelling, Clare Williams, Nathan Hersey and Jenni Keerie.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>
<b>Wednesday 7 June 2023</b>	
<b>Planning Briefing</b>	<b>Councillors Attending:</b>

Meeting Title	Details
	<p>Mohya Davies, Scott Rae, Sarah Gilligan, John Schelling, Clare Williams, Nathan Hersey, Michael Felton and Jenni Keerie.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>
<p><b>Submission Hearing: Planning Application 2022/165 – 79 Atherton Drive, Venus Bay</b></p>	<p><b>Councillors Attending:</b> Mohya Davies, Scott Rae, Sarah Gilligan, John Schelling, Clare Williams, Nathan Hersey and Michael Felton.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>
<p><b>2023/24 Budget/ Council Plan</b></p>	<p><b>Councillors Attending:</b> Mohya Davies, Scott Rae, Sarah Gilligan, John Schelling, Clare Williams, Nathan Hersey and Michael Felton.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>
<p><b>Pedestrian and Bike Paths in Venus Bay and Sandy Point</b></p>	<p><b>Councillors Attending:</b> Mohya Davies, Scott Rae, Sarah Gilligan, John Schelling, Clare Williams, Nathan Hersey, Jenni Keerie and Michael Felton.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>
<p><b>Waratah Bay Caravan Park and Foreshore and Foreshore</b></p>	<p><b>Councillors Attending:</b> Mohya Davies, Scott Rae, Sarah Gilligan, John Schelling, Clare Williams, Nathan Hersey, Jenni Keerie and Michael Felton.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>
<p><b>Coastal Strategy</b></p>	<p><b>Councillors Attending:</b> Mohya Davies, Scott Rae, Sarah Gilligan, John Schelling, Clare Williams, Nathan Hersey, Jenni Keerie and Michael Felton.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>

#### STAFF DISCLOSURE

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

#### ATTACHMENTS

Nil

## **REFERENCE DOCUMENTS**

### **Council's Good Governance Framework**

Pillar 3. Decision Making

### **Council Policy / Strategy / Plans**

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

Governance Rules (C82)

Public Transparency Policy (C75)

### **Legislative Provisions**

Local Government (South Gippsland Shire Council) Act 2019

Local Government Act 1989

Local Government Act 2020

## 4. OBJECTIVE - SUSTAINABLE GROWTH

### 4.1. COASTAL STRATEGY - DRAFT FOR PUBLIC CONSULTATION

Directorate:	Economy and Community
Department:	Planning and Building Services

#### Council Plan

##### *Objective - Sustainable Growth*

*The Coastal Strategy will support decision making around sustainable use and development in response to emerging environmental risks.*

#### EXECUTIVE SUMMARY

The purpose of this report is to seek Council consideration to release the draft Coastal Strategy for community engagement from 19 July until 6 August 2023.

Preparing a Coastal Strategy is a major initiative of the 2022/23 Council Plan under the objective Sustainable Growth, which states:

*Prepare a Coastal Strategy to inform any future Planning Scheme provisions that will seek to guide sustainable land use and development in South Gippsland Shire's coastal townships and communities.*

A Draft South Gippsland Coastal Strategy (see **Attachment [4.1.1]**) has been prepared, having regard to feedback received from extensive community consultation undertaken on the Coastal Strategy Discussion Paper between December 2022 and February 2023. It is recommended that Council undertake final community consultation through public notification of the Draft Coastal Strategy.

#### RECOMMENDATION

**That Council:**

- 1. Adopts the Draft South Gippsland Coastal Strategy (refer Attachment [4.1.1]); and**
- 2. Undertakes community engagement from 19 July until 6 August 2023.**

**RESOLUTION**

**MOVED:** Councillor Gilligan

**SECONDED:** Councillor Schelling

**That Council:**

- 1. Adopts the Draft South Gippsland Coastal Strategy (refer Attachment [4.1.1]); and**
- 2. Undertakes community engagement from 19 July until 6 August 2023**

**CARRIED UNANIMOUSLY**

## **REPORT**

Our coast is a beautiful natural asset - highly valued by our local community and the many visitors it attracts. It comprises significant landscape and environmental areas including Wilsons Promontory, Corner Inlet, Andersons Inlet and Shallow Inlet Marine and Coastal Park. It also underpins many economic activities in the region including tourism, fishing, agriculture, freight, wind energy and resource extraction activities. The management of coastal areas is complex, involving numerous government agencies and various regulatory frameworks governing land use and development.

Our coastline is constantly under threat due to a broad range of issues including natural coastal hazards, man-made environmental pressure and health and safety concerns. Planning for our coastal area is important given the long-term risk implications for Council, government agencies, private landowners / managers, business and other parties. Planning to effectively respond to these issues now can mitigate future costs and community disruption / dislocation. The South Gippsland Coastal Strategy is a proactive step to better prepare South Gippsland's coast for future challenges.

The Draft Coastal Strategy follows the form and content of the Discussion Paper, with minor changes being made to the wording of some of the identified Action Items, mostly in relation to the need for further community consultation or technical investigation. No wholly new elements have been introduced into the Draft Coastal Strategy that were not in the Discussion Paper.

## **CONSULTATION / COMMUNITY ENGAGEMENT**

Preparation of the Draft Coastal Strategy has been informed by community responses and submissions to the Discussion Paper (**Attachment [4.1.2]**). A total of 770 comments and submissions were received. The Draft Coastal Strategy will be available for public comment from 19 July 2023 through to Sunday, 6 August 2023.

In addition to generic notification via newspaper, social media, YourSay website and Council website platforms, a targeted email notification will be sent to all submitters and users who registered to follow the project via YourSay. Submitters and registered followers will be notified about the Draft Strategy and Consultation reports.

## **RESOURCES / FINANCIAL VIABILITY**

This project will be managed through existing budget of the Planning and Building Services Department.

## **RISKS**

A role of Council's strategic planning function is to identify and mitigate against risk. Risks associated with coastal processes are dynamic, and coastal councils require a contemporary policy basis upon which to make decisions around coastal management and development. The Draft Coastal Strategy seeks to respond to the currently known risks within the legislative and regulatory parameters of councils to manage coastal risks.

## **STAFF DISCLOSURE**

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

## **ATTACHMENTS**

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

1. Draft Coastal Strategy - June 2023 [4.1.1 - 35 pages]
2. Coastal Strategy - Consultation Engagement Report - i.e. Community - FINAL - 30 April 2023 [4.1.2 - 37 pages]

## **REFERENCE DOCUMENTS**

### **Council's Good Governance Framework**

Pillar 1. Direction & Leadership

Pillar 3. Decision Making

### **Council Policy / Strategy / Plans**

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

Annual Budget

Council Plan 2022-2026

Long Term Financial Plan

South Gippsland's Planning Scheme

### **Legislative Provisions**

Planning and Environment (Planning Schemes) Act 1996



## 4.2. RELINQUISHMENT OF COMMITTEE OF MANAGEMENT - WARATAH BAY CARAVAN PARK AND FORESHORE

Directorate:	Sustainable Infrastructure
Department:	Infrastructure Planning

### Council Plan

*Objective - Sustainable Growth*

*The relinquishment of Council as the appointed Committee of Management over the Waratah Bay Caravan Park and Foreshore will remove Council's responsibility and liability for the crown land.*

### EXECUTIVE SUMMARY

Over many years, Council has been collaborating with the Department of Energy, Environment and Climate Action (DEECA) regarding options for the Waratah Bay Caravan Park and the foreshore area.

DEECA have confirmed that it is now interested in progressing an option of one coastal foreshore committee of management. This fulfils their aim to address the recommendations of an expert panel appointed by the State Government to review the current system of managing Victoria's coastline starting with the Coastal Management Act 1995 i.e. a local committee of management over the Waratah Bay Caravan Park and foreshore.

DEECA has engaged with the Sandy Point Foreshore Committee of Management who have requested to be appointed committee of management over the Waratah Bay Caravan Park and foreshore which requires Council to relinquish its role as committee of management.

### RECOMMENDATION

**That Council:**

- 1. Relinquishes being the appointed Committee of Management over the Waratah Bay Caravan Park and Foreshore being part Crown Allotment 20C Parish of Waratah North.**
- 2. Formally requests that the Victorian Government commits to the development of a comprehensive transition plan focused on ensuring the continued sustainable management of the Waratah Bay Caravan Park and Foreshore in the long term.**

**RESOLUTION**

**MOVED:** Councillor Schelling

**SECONDED:** Councillor Felton

**That Council:**

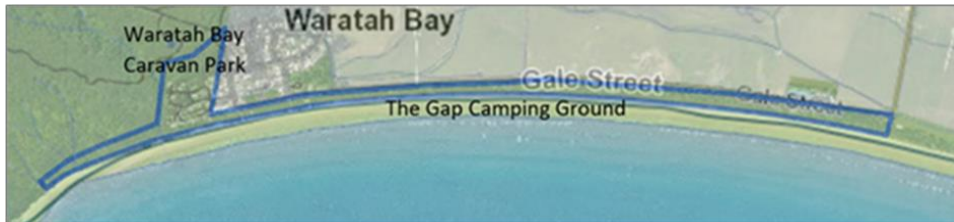
- 1. Relinquishes being the appointed Committee of Management over the Waratah Bay Caravan Park and Foreshore being part Crown Allotment 20C Parish of Waratah North.**
- 2. Formally requests that the Victorian Government commits to the development of a comprehensive transition plan focused on ensuring the continued sustainable management of the Waratah Bay Caravan Park and Foreshore in the long term.**

**CARRIED UNANIMOUSLY**

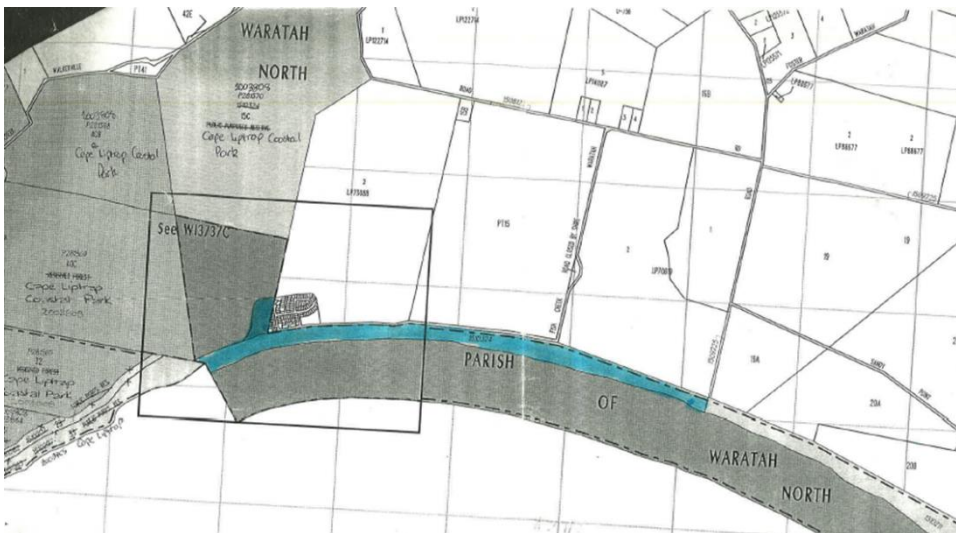
## REPORT

The main section of the Waratah Bay Caravan Park is situated in Freycinet Street, Waratah Bay and the foreshore component contains the former “Gap” camping area. Refer to **Figure 1 and 2**.

**Figure 1: Area to be transferred shown outlined in blue**



**Figure 2: Official Appointment Plan**



DEECA has engaged directly with the Sandy Point Foreshore Committee who have requested to be appointed committee of management over the Waratah Bay Caravan Park and foreshore. Council officers have assisted DEECA in their negotiations with this committee. DEECA have confirmed their consent for this change of management to occur and this requires Council to relinquish its role as Committee of Management.

This proposal will ensure local participation in the management of the foreshore with the requisite funding to support coastal management and maintenance. Community benefit would be enhanced by appointing them. It is understood that the local committee intends to lease the operation of the caravan park to a professional entity, and then use resources from the rental income to improve the caravan park and the foreshore. They would also be eligible to obtain funding directly from DEECA.

In the Council Plan, Council has agreed to advocate, plan and encourage the protection of our natural landscape and coastline. A local committee of management is well placed to support Council in achieving this.

### **OPTIONS OF MANAGEMENT**

DEECA have only two options for Management of the crown land Waratah Bay Foreshore and Caravan Park:

1. Appoint a Local Committee of Management as they have elected to do or
2. Retain Council as the Committee of Management.

The Local Committee of Management will have the income from the lease of the Caravan Park to resource the management of the foreshore together with assistance from DEECA when required. The Sandy Point Foreshore Committee have also mentioned that they may engage a professional agent to manage the lease.

For Council, this is a rare opportunity to relinquish the burden of managing a State Government asset.

### **TRANSITION**

DEECA have verbally expressed that they will commence a tender process to lease the Waratah Bay Caravan Park for 21 years. As this is expected to take some time and not wanting to disrupt the peak summer holiday period they will put the current lessee into an over-holding period until April 2024 and Council will remain the Committee of Management until the new lease commences at that time.

### **CONSULTATION / COMMUNITY ENGAGEMENT**

Significant consultation has occurred between DEECA, the Sandy Point Foreshore Committee of Management, the current lessee, and Council officers. The Sandy Point Foreshore Committee have provided the following statement:

*"After receiving independent consultant's advice and after detailed discussions with DEECA the Foreshore Committee has agreed to extend our current crown land management area to include the Waratah Bay foreshore and Caravan Park.*

*Our Committee is comfortable about this decision and has the capability to undertake this task.*

*It is expected the Caravan Park will be leased.*

*Our Committee is and will be continued to be supported by DEECA as their appointed Representative."*

Officers met with a representative of the Waratah Bay Community Association and address their initial concerns over changes to the management arrangements. The representative advised that they are comfortable for the appointment of the Local Committee of Management if they could be given contact details of the new committee. This will occur once the Committee is appointed.

#### **RESOURCES / FINANCIAL VIABILITY**

Council will no longer be directly responsible for these sites.

#### **RISKS**

There are no significant risks to Council by relinquishing its committee of management to DEECA over the Waratah Bay Caravan Park and foreshore.

#### **STAFF DISCLOSURE**

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

#### **ATTACHMENTS**

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

1. Council Minutes 26 July 2017 - Waratah Bay Caravan Park Proposed Lease [4.2.1 - 12 pages]

#### **REFERENCE DOCUMENTS**

##### **Council's Good Governance Framework**

Pillar 3. Decision Making

##### **Legislative Provisions**

Marine and Coastal Act 2018

Marine and Coastal Act Consultation (August 2016)

### 4.3. PLANNING APPLICATION 2021/49 -89 BEACH PARADE SANDY POINT - 14 LOT SUBDIVISION AND CERTIFICATION

Directorate:	Economy and Community
Department:	Planning and Building Services

#### **Council Plan**

*Objective - Sustainable Growth*

*This application does not meet the objectives of the Council plan for the provision of development within the township of Sandy Point in accordance with Overlay provisions applicable to the land.*

#### **EXECUTIVE SUMMARY**

The purpose of this report is for Council to consider and determine this planning application, which seeks approval for a 14-lot subdivision and removal of native vegetation at 89 Beach Parade, Sandy Point.

The proposal has attracted 43 objectors making 51 submissions from the community following the public consultation phase of the assessment process. The submissions comprise a range of planning concerns relating to impact on environment, neighbourhood character, impact on vegetation, future built form, traffic management, and pressure on public open space.

A significant number of submissions raised concern around the potential loss of the caravan park, citing mainly social and economic reasons. Whilst this is a legitimate concern for a local community, the Victorian Planning System does not provide the ability to control a private business from ceasing operation.

The key areas of consideration in assessing the proposal against the South Gippsland Planning Scheme relate to natural hazards including bushfire and inundation, climate change adaption and mitigation, vegetation and strategic settlement planning and neighbourhood character.

Whilst in many circumstances a planning permit application can be supported for subdivision in an urban zone, in this instance the proposal fails to adequately meet the specific planning scheme requirements relating to the above matters. In addition, the proposal seeks to defer critical matters relating to existing wastewater systems within the subject land, stormwater management, traffic management, practicalities of implementing bushfire mitigation and impact on roadside vegetation.

Major short comings in the proposal relate to:

- Impact on roadside vegetation relating defensible space and vehicle access.
- Inability to contain defensible space within the subject land to reduce bushfire risk to an acceptable level.
- Inundation in flood events preventing safe vehicle access.
- Uncertainty of future built form outcome or building siting on proposed lots.
- Impractical use of proposed lot 14 by way of placement of easements to treat wastewater (generated from development that lies outside the planning permit application land).

In assessing the proposal against the relevant provisions of the South Gippsland Planning Scheme and section 60 of the *Planning and Environment Act 1997*, including the Township Zone, Bushfire Management Overlay, Design and Development Overlay, Environmental Significance Overlay and impacts of climate change, it is recommended that the proposal be refused.

#### **RECOMMENDATION**

**That Council issue a Notice of Refusal for a 14 Lot Subdivision and Native Vegetation Removal at 89 Beach Parade, Sandy Point, on the following grounds:**

- 1. The proposal is inconsistent with Clause 11 Settlement, 12 Environmental and Landscape Values, 13 Environmental Risk and Amenity, and Clause 15 Built Environment and Heritage of the South Gippsland Planning Scheme.**
- 2. The proposal fails to adequately address the objectives and decision guidelines of the Township Zone, Environmental Significance Overlay – Schedule 7 and the Design and Development Overlay – Schedule 3 of the South Gippsland Planning Scheme.**
- 3. The proposal fails to consider and properly address the impacts of future climatic conditions in relation to access concerns specifically raised by the West Gippsland Catchment Management Authority.**
- 4. The proposal fails to adequately respond to the constraints and opportunities of the subject land and immediate surroundings resulting in an unacceptable neighbourhood character outcome.**

5. **The proposal fails to resolve matters relating to impact on roadside vegetation in provision of defensible space and vehicle access and as a result will likely not achieve an orderly planning outcome.**
6. **The proposal fails to adequately address issues relating to effluent management and stormwater management.**

## **RESOLUTION**

**MOVED:** Councillor Gilligan

**SECONDED:** Councillor Keerie

**That Council issue a Notice of Refusal for a 14 Lot Subdivision and Native Vegetation Removal at 89 Beach Parade, Sandy Point, on the following grounds:**

1. **The proposal is inconsistent with Clause 11 Settlement, 12 Environmental and Landscape Values, 13 Environmental Risk and Amenity, and Clause 15 Built Environment and Heritage of the South Gippsland Planning Scheme.**
2. **The proposal fails to adequately address the objectives and decision guidelines of the Township Zone, Environmental Significance Overlay – Schedule 7 and the Design and Development Overlay – Schedule 3 of the South Gippsland Planning Scheme.**
3. **The proposal fails to consider and properly address the impacts of future climatic conditions in relation to access concerns specifically raised by the West Gippsland Catchment Management Authority.**
4. **The proposal fails to adequately respond to the constraints and opportunities of the subject land and immediate surroundings resulting in an unacceptable neighbourhood character outcome.**
5. **The proposal fails to resolve matters relating to impact on roadside vegetation in provision of defensible space and vehicle access and as a result will likely not achieve an orderly planning outcome.**
6. **The proposal fails to adequately address issues relating to effluent management and stormwater management.**

**CARRIED**



## REPORT

### The Proposal

The application seeks approval to subdivide the land into 14 allotments and the removal of native vegetation at 89 Beach Parade Sandy Point (Sandy Point Caravan Park). The proposed layout of the subdivision is found at **Attachment [4.3.1]** – Plans for Assessment 2021/49 – 89 Beach Parade Sandy Point.

The key details include:

- All lots adjoin formed municipal roads.
- There are no proposed roads internal to the subdivision.
- Lots have a uniform rectangular configuration on north/south axis.
- Lots 1-13 inclusive range between 583 – 668m<sup>2</sup> with road frontages of between 12.77-15.91m.
- Lot 14 is irregular in shape and is annotated on the proposed plan of subdivision to be 688m<sup>2</sup>. The full extent of this lot is approximately 1160m<sup>2</sup> with a road frontage of approximately 20m. This lot is majority burdened by an easement for wastewater disposal
- Bushfire construction level of BAL19 for all lots, with associated defensible space of 19m and a 10,000l static water supply for each lot.
- Native and non-native vegetation exists across the subject land which is proposed to be removed.
- Some vegetation in the council road reserve/nature strip is proposed to be removed.
- Scattered vegetation within the site and road side vegetation for the creation of crossovers will need to be removed to facilitate access.

### Planning Controls

The proposal triggers the need for a planning permit for subdivision at the following clauses:

- Township Zone Clause 32.05-5
- Bushfire Management Overlay Clause 44.06-2
- Design and Development Overlay Schedule 3 Clause 43.02-3

- Environmental Significance Overlay Schedule 7 Clause 42.01-2

The proposal triggers the need for a planning permit for vegetation removal under the following clauses:

- Native Vegetation Clause 52.17
- Environmental Significance Overlay Schedule 7 Clause 42.01-2

### **Assessment**

A detailed assessment of the application against the relevant sections of the South Gippsland Planning Scheme and Section 60 of the *Planning and Environment Act 1987* is provided in the delegated report that can be viewed at **Attachment [4.3.2]**.

The following considerations are relevant to the assessment of this application:

- Future climatic conditions
- Vehicle and pedestrian connections
- Neighbourhood character
- Impact on vegetation
- Effluent management
- Stormwater management
- Public open space

### **CONSULTATION / COMMUNITY ENGAGEMENT**

The application was advertised to adjoining and adjacent owners and occupiers, plus a site notice displayed on the subject site.

Fifty-one submissions were received (there were some submitters who made multiple submissions). Emerging themes included concerns regarding the loss of the existing caravan park, removal of vegetation, impact on the character and appearance of the township, and traffic and parking concerns. Confidential submissions can be viewed at (**Confidential Attachment [12.1.1]** – Submissions – 2021/49 - 89 Beach Parade Sandy Point). The permit application has not been modified in light of the submissions.

## RESOURCES / FINANCIAL VIABILITY

Should Council issue a Notice of Decision to grant a Planning Permit for the proposal, any objector may elect to appeal to the Victorian Civil and Administrative Tribunal (VCAT) to review Council's decision. Should Council determine to refuse to grant a permit for the proposal, the permit applicant may elect to appeal to the VCAT to review Council's decision. There is a cost to Council to attend VCAT Hearings.

## RISKS

Should Council fail to decide this application, there is a risk that the applicant may appeal to VCAT against Council's failure to determine the application within statutory timeframes. Such an appeal could affect Council's reputation and opens Council to a potential cost claim for its failure to determine.

## STAFF DISCLOSURE

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

## ATTACHMENTS

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

1. 2021/49 - 89 Beach Parade Sandy Point - Current plans for assessment [4.3.1 - 15 pages]
2. 2021/49 - 89 Beach Parade Sandy Point - Delegation Report [4.3.2 - 18 pages]

## CONFIDENTIAL ATTACHMENTS

The consideration of confidential information in a closed session of Council is in accordance with s.66(2)(a) and s.66(5)(a) and (b) of the *Local Government Act 2020*.

**Confidential Attachment [12.1.1]** – Submissions – 2021/49 - 89 Beach Parade Sandy Point – is designated confidential information pursuant to the *Local Government Act 2020*, s.3(1)(f) - personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.

The grounds for designation have been made to protect the privacy of an individual's personal information.

## REFERENCE DOCUMENTS

### **Council's Good Governance Framework**

Pillar 1. Direction & Leadership

Pillar 3. Decision Making

### **Council Policy / Strategy / Plans**

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

South Gippsland's Planning Scheme

### **Legislative Provisions**

Planning and Environment (Planning Schemes) Act 1996

Planning and Environment Act 1987

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

**Nil**

## **6. COUNCILLOR REPORTS**

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

#### **RECOMENDATION**

**That Council grant leave of absence to Councillor Sarah Gilligan for Council Meeting 16 August 2023.**

#### **RESOLUTION**

**MOVED:** Councillor Darakai

**SECONDED:** Councillor Rae

**That Council grant leave of absence to Councillor Sarah Gilligan for Council Meeting 16 August 2023.**

**CARRIED UNANIMOUSLY**

### **6.2. COUNCILLOR UPDATES**

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**Councillor Sarah Gilligan, addressed Council by reporting on attendance at or made comments on:**

- **Coastal Strategy and is excited that it is being put out to the community for comment today, and noted that Council is leading the sector in this work.**
- **Annual General Meeting (AGM) Tarwin Landcare and acknowledged the value of Landcare across South Gippsland.**

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**Councillor Adrian Darakai, addressed Council by reporting on attendance at or made comments on:**

- **That the King Charles picture is now displayed in the Council Chamber.**
- **Country Fire Authority (CFA) Awards night, and noted the volunteerism that goes into the community from this group.**

**Councillor John Schelling, addressed Council by reporting on attendance at or made comments on:**

- **Opening night of the Lyric Theatre recent production and congratulated them on the set up the Memorial Hall.**
- **Mirboo North Lions Club building a shelter in the park.**
- **Leongatha Recreation Reserve meeting.**
- **Country Fire Authority (CFA) Awards night, and noted the significant contribution that they make to the community.**
- **Citizenship Ceremony and commented on the smiles on the faces of new citizens.**
- **Leongatha Community Garden Changeover meeting.**

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**Councillor Michael Felton, addressed Council by reporting on attendance at or made comments on:**

- **Citizenship Ceremony and commented on the celebration of welcoming new people into our community.**
- **Meeting in Foster.**
- **Korumburra Football Grounds AMP meeting regarding the works to buildings project.**
- **Coffee with Councillors catch up at Meeniyah on Saturday and Kongwak (Recreation Reserve Rotunda) on Sunday.**
- **Contact with Cr Felton now available via mobile phone or email, not at the Nyora Hall on Thursdays as no longer a member of the Committee.**

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**Councillor Jenni Keerie, addressed Council by reporting on attendance at or made comments on:**

- **The happy open space garden staff working away in the pouring rain in the garden beds of the main street of Korumburra and provided a shout out to them for the amazing work they do.**

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**The Mayor, Councillor Nathan Hersey, addressed Council by reporting on attendance at or made comments on:**

- **Rural Councils Gippsland meeting.**
- **Citizenship Ceremony and commented on the celebration of welcoming new people into our community.**

- **Cancellation of the Commonwealth Games.**
- **Star of South Renewable Resource organisation will be advocating for Barry Beach as a preferred port for the project.**



## 7. URGENT OR OTHER BUSINESS

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

### 1. Urgent Business

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

Council's Governance Rules 2020 (clause 22 - Urgent Business) adopted on 19 October 2022, allows for where a situation has not been provided for under the Governance Rules, the Council may determine the matter by resolution. Established practice has provided for urgent motions to be raised at Council provided the matter cannot be dealt with at the next Council Meeting or by Officers under delegation.

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

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

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

### 2. Other Business

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

**Nil**

## 8. PUBLIC QUESTIONS

### 8.1. PETITIONS AND JOINT LETTERS

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

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

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

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

Source: [Governance Rules \(C82\)](#) – adopted 19 October 2022.

Nil

## 8.2. 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.

Source: [Governance Rules \(C82\)](#) – adopted 19 October 2022.

**Nil**

### 8.3. SUBMITTED PUBLIC QUESTIONS

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

On the day of the Meeting, questions on the prescribed form must be received prior to the commencement of the Council Meeting by 2.00pm and placed in the receptacle at the Governance Officers table. These questions will be taken on notice, included in the Minutes and responses provided at the next Council Meeting.

Public Question Time in Council Meetings is to be used for matters that are relevant to the business or functions of Council and are clear and legible.

Questions may not be allowed where the question(s) is deemed to be:

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

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

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

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

Source: [Governance Rules \(C82\)](#) – adopted 19 October 2022.

**Kelvin Granger and Dean Hurlston on behalf of Council Watch Inc. submitted a written question, a response is provided in these Minutes.**

**Question 1**

**Can council please advise the dollar (\$) amount of "cost shifting from State Government" they estimate they incurred in 2022/23 Financial Year?**

**Response**

Thank you for your question. South Gippsland Council Shire Council, like all Victorian local authorities faces cost shifting challenges. Council is currently scoping its response to the Economic and Infrastructure Committee Inquiry into local government funding and service delivery. The terms of reference include "the effects of cost shifting from state and federal governments".

Council's submission will quantify, as closely as possible, the following cost shifting challenges faced by Council:

- School Crossings
- Land Management
- Libraries
- Early Years Infrastructure
- Community/Public Assets and infrastructure such as sporting, recreation, foreshores, coastal assets and open space.
- Crown land management and assets including railway stations.
- Disaster funding and the principle of replacing like with like.
- New windfall gains tax- applies to the sale of Council land.
- Indexation of statutory fees and charges not in line with the increasing costs of service.
- Rate cap less than forecasted/ actual CPI (Consumer Price Index).
- Increased costs of construction not reflected in rate cap.

**Two sets of questions were received following the 9am Monday closing date, they will be taken on notice and responded to at the next Council Meeting. The questions were received from Mr John McCombe and Mr Roger Aldons.**

## 9. CLOSED SESSION

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

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

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

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

### RECOMMENDATION

That Council pursuant to section 66(5)(a) and (b) of the *Local Government Act 2020* close the Council Meeting to the public to consider the following confidential information:

1. Per s.3(1)(a) Agenda item 11.1 – Council business information, designated as Council business information;
  - a. being information that would prejudice the Council's position in commercial negotiations if prematurely released; and
  - b. The grounds for designation have been made as this report details commercial in confidence information.
2. Per s.3(1)(g) Agenda items 11.2 – Award Contract CON/349 - Korumburra Football Netball Changerooms Project, designated as private commercial information,
  - a. being information provided by a business, commercial or financial undertaking that –

- i. **Relates to trade secrets; or**
    - ii. **If released, would unreasonably expose the business, commercial or financial undertaking to disadvantage; and**
  - b. **The grounds for designation have been made as the information is deemed commercial-in-confidence to protect the privacy of the contractors' tender information submitted for consideration.**
- 3. **Per s.3(1)(g) Agenda items 11.3 – Award Contract CON/357 – Construction of Meeniyah Community Hub, designated as private commercial information,**
  - a. **being information provided by a business, commercial or financial undertaking that –**
    - i. **Relates to trade secrets; or**
    - ii. **If released, would unreasonably expose the business, commercial or financial undertaking to disadvantage; and**
  - b. **The grounds for designation have been made as the information is deemed commercial-in-confidence to protect the privacy of the contractors' tender information submitted for consideration.**

## **RESOLUTION**

**MOVED:** Councillor Schelling

**SECONDED:** Councillor Rae

**That Council pursuant to section 66(5)(a) and (b) of the *Local Government Act 2020* close the Council Meeting to the public to consider the following confidential information:**

- 1. **Per s.3(1)(a) Agenda item 11.1 – Council business information, designated as Council business information;**
  - a. **being information that would prejudice the Council's position in commercial negotiations if prematurely released; and**
  - b. **The grounds for designation have been made as this report details commercial in confidence information.**

- 2. Per s.3(1)(g) Agenda items 11.2 – Award Contract CON/349 - Korumburra Football Netball Changerooms Project, designated as private commercial information,**
  - a. being information provided by a business, commercial or financial undertaking that –**
    - i. Relates to trade secrets; or**
    - ii. If released, would unreasonably expose the business, commercial or financial undertaking to disadvantage; and**
  - b. The grounds for designation have been made as the information is deemed commercial-in-confidence to protect the privacy of the contractors' tender information submitted for consideration.**
  
- 3. Per s.3(1)(g) Agenda items 11.3 – Award Contract CON/357 – Construction of Meeniyan Community Hub, designated as private commercial information,**
  - a. being information provided by a business, commercial or financial undertaking that –**
    - i. Relates to trade secrets; or**
    - ii. If released, would unreasonably expose the business, commercial or financial undertaking to disadvantage; and**
  - b. The grounds for designation have been made as the information is deemed commercial-in-confidence to protect the privacy of the contractors' tender information submitted for consideration.**

**CARRIED UNANIMOUSLY**



## **10. MEETING CLOSED**

### **NEXT MEETING**

The next Council Meeting open to the public will be held on Wednesday, 16 August 2023 commencing at 2pm in the Council Chambers, Leongatha.

**The Council Meeting closed at 3.07pm.**

**Confirmed this 16<sup>th</sup> day of August 2023**

**Councillor Nathan Hersey, Mayor**