

SOUTH GIPPSLAND SHIRE COUNCIL

Council Meeting Minutes

16 December 2020

Council Meeting No. 452
Virtual Meeting
Commenced at 2.00pm

Administrators
Julie Eisenbise, Chair
Christian Zahra, Deputy Chair
Rick Brown



*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".

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

PRESENT

ADMINISTRATORS:	Julie Eisenbise, Administrator Chair Christian Zahra, Administrator Deputy Chair Rick Brown, Administrator
NOT PRESENT:	Kerryn Ellis, Chief Executive Officer
OFFICERS:	Bryan Sword, Director Economy & Community Development (Acting for Chief Executive Officer) Natasha Berry, Corporate and Council Business Officer

SOUTH GIPPSLAND SHIRE COUNCIL

Council Meeting No. 452
Wednesday 16 December 2020, virtual meeting 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*.

The Chair and/or the Chief Executive Officer 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 OPEN VIRTUAL COUNCIL MEETING VIA LIVE STREAM

Please ensure mobile phones are set to '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. While restrictions have now eased across the State, Local Government Victoria has recommended that virtual meetings continue to occur where possible, based on recognised facts that indoor meetings represent an increased risk of transmission. Given this advice, Council is taking a cautious approach in managing the safety of the public and staff. Easing out of restrictions means planning for a COVID normal environment. To this end Council is working towards developing a COVID Safe Plan whereby physical attendance at Council meetings in 2021 may be held in accordance with the mandatory requirements in place and when Local Government Victoria advise it is safe to do so.

This Council Meeting will be conducted virtually (an on-line meeting) and does not include an open gallery. The virtual and livestreaming of an Open Council Meeting is made in accordance with the *Local Government Act 2020*, section 394 that prescribes Administrators are able to participate in the Meeting by electronic means of communication and section 395(1)(a) that 'Meetings may be closed to the public during the prescribed period.'

Access to the live stream through Council's Internet will be the 'open' component of this Meeting.

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 16 December 2020 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-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 16 December 2020 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.

MOVED: Administrator Eisenbise

SECONDED: Administrator Brown

THAT COUNCIL:

1. **NOT ALLOW MEMBERS OF THE PUBLIC TO ATTEND THE 16 DECEMBER 2020 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-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 16 DECEMBER 2020 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.**

CARRIED UNANIMOUSLY

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

Ms Kerry Ellis, Chief Executive Officer

1.6. CONFIRMATION OF MINUTES

RECOMMENDATION

That the Minutes of the South Gippsland Shire Council Meeting No. 451, held on 25 November 2020 as a virtual meeting be confirmed.

MOVED: Administrator Zahra

SECONDED: Administrator Brown

THAT THE MINUTES OF THE SOUTH GIPPSLAND SHIRE COUNCIL MEETING NO. 451, HELD ON 25 NOVEMBER 2020 AS A VIRTUAL MEETING BE CONFIRMED.

CARRIED UNANIMOUSLY

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.

Nil

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 out 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.

Nil

2. OBJECTIVE 1 - UNITED SHIRE

2.1. COMMUNITY SUPPORT PACKAGE - PROJECT STATUS UPDATE - DECEMBER 2020

Performance & Innovation

Council Plan

Objective 1 - United Shire - Strategy 1.4 Deliver Council's 'Community Support Package' to support the community in response to the COVID-19 Pandemic

This project update responds specifically to Strategy 1.4 in the Council Plan 2020-2024 to support the community through the COVID-19 Pandemic.

EXECUTIVE SUMMARY

At the 22 April 2020 Ordinary Meeting of Council, Council endorsed the COVID-19 Community Support Package ('CSP') of up to \$2M to support the South Gippsland Community and Businesses to remain Healthy, Connected and Innovative.

This is a further Program Status Update from the previous report on the 28 October 2020 Council Meeting.

RECOMMENDATION

That Council:

1. Notes the COVID-19 Community Support Package (CSP) December 2020 Program Status Update and the completion of the following initiatives:
 - a. Recreation Reserve Income Offset Grants providing \$126,000 support to 22 Recreation Reserve committees;
 - b. Waiver of fees for Business Registrations and Permits for 2020 and 2021 years providing \$192,475 of relief to 710 local businesses;
 - c. Printing and distribution of 5000 Updated Community Information Brochures keeping the community informed as to how to access available support services; and
 - d. A further \$30,000 in grants assisting Home Based Businesses.
2. Notes that \$504,390 remains in the budget for future phases of the Community Support Package and that reports will be provided to Council for endorsement of each phase.

MOVED: Administrator Zahra
SECONDED: Administrator Brown

THAT COUNCIL:

- 1. NOTES THE COVID-19 COMMUNITY SUPPORT PACKAGE (CSP) DECEMBER 2020 PROGRAM STATUS UPDATE AND THE COMPLETION OF THE FOLLOWING INITIATIVES:**
 - a. RECREATION RESERVE INCOME OFFSET GRANTS PROVIDING \$126,000 SUPPORT TO 22 RECREATION RESERVE COMMITTEES;**
 - b. WAIVER OF FEES FOR BUSINESS REGISTRATIONS AND PERMITS FOR 2020 AND 2021 YEARS PROVIDING \$192,475 OF RELIEF TO 710 LOCAL BUSINESSES;**
 - c. PRINTING AND DISTRIBUTION OF 5000 UPDATED COMMUNITY INFORMATION BROCHURES KEEPING THE COMMUNITY INFORMED AS TO HOW TO ACCESS AVAILABLE SUPPORT SERVICES; AND**
 - d. A FURTHER \$30,000 IN GRANTS ASSISTING HOME BASED BUSINESSES.**
- 2. NOTES THAT \$504,390 REMAINS IN THE BUDGET FOR FUTURE PHASES OF THE COMMUNITY SUPPORT PACKAGE AND THAT REPORTS WILL BE PROVIDED TO COUNCIL FOR ENDORSEMENT OF EACH PHASE.**

CARRIED UNANIMOUSLY

[Link to next Agenda Item.](#)

REPORT

At the 22 April 2020 Ordinary Meeting of Council, Council endorsed the COVID-19 CSP of up to \$2M to support the South Gippsland Community and Businesses to remain Healthy, Connected and Innovative.

Program Description:

CSP is a connected set of initiatives that represent South Gippsland Council's response to the coronavirus pandemic to assist impacted businesses, community groups and residents.

Initiatives under this project are intended to:

- Support implementation of targeted support and stimulus activities specific to the South Gippsland community and economy,
- To provide relief to businesses, community groups, families and individuals suffering financial or social distress, and
- Aid with recovery and work towards restoration of the community and South Gippsland economic life provide vital economic, social, cultural, health and wellbeing outcomes.

The following report is a status update on CSP initiatives, and the outcomes achieved.

Overall, a further five initiatives have been completed since the last status report in October 2020.

1. Community Information Brochure – complete

South Gippsland & Bass Coast Community Guide reissued in collaboration with South Coast Primary and Community Partnership and the Bass Coast Shire Council., a Community Information Brochure to assist and keep the community informed on how to access local support services.

This initiative saw a further 5,000 copies of the Support brochure being produced with distributed by end of November 2020 at a cost of \$2,636.

2. COVID19 Home Based Business Grants – Phase 3 – complete

Home Based Business Grants launched on the 2nd November 2020 to 20th November 2020 offering \$1000 grants to small home-based businesses such as food businesses, home-based health and beauty, training services, creative (e.g. music, art lessons) that have thus far not been able to meet the criteria of the previous two rounds of Business Grants.

A total of \$30,000 grants will have been awarded.

3. Recreation Reserve Income Offset Grant - complete

Provision of a one-off extension to the existing annual maintenance grants provided to Council Recreation Reserve Committees, to extend these grants by an equivalent of 50 per cent. Any fees charged to clubs during the winter season (1 April to 30 September) have been cancelled or refunded if already paid.

26 Recreation Reserve Committees will have received a total of \$126,000 of additional funding.

4. Business Registration Fees – complete

In an effort to ease the economic impact to those businesses that have been impacted by mandatory closure of their premises or changes to the operations of their business we have credited or refunded a) 50 per cent of all Business Registration fees (Health, Accommodation, Food) for 2019/20 already paid, and b) applied a 50% rebate on their 2020/2021 Business Registration Renewals Notices issued in November 2020. Customers had the option of a refund of fees paid, or a credit on 2021 fees.

This initiative has seen a total of 532 local businesses and 12 Caravan Parks benefit from reduced business expenses to the value of \$178,907.

5. Street Trading Permits Waiver – complete

Providing a full rebate of 2020/21 Street Trading Permit fees, where outdoor dining was not allowed. Renewal Notices are in process of being produced and will reflect 100% waiver of 2020/21 fees.

One hundred and sixty-six businesses will receive a total of \$13,568 support.

6. Community Restarter/Sanitiser packages – *in progress*

Provide 200-300 community groups with a package comprising Personal Protective Equipment (e.g. hand sanitiser, masks etc). One hundred packs have been compiled ready for distribution and fifteen packs have been distributed. Expect this to increase now restrictions have been significantly reduced and community groups are meeting again.

7. COVID19 Community Grants – *in progress*

Multiple rounds of Community Group Grants and Community Support Grants have seen over \$107,783 of grants awarded.

Forty community groups (Rotary Clubs, Men's Shed, Sporting Clubs, Agricultural Society, Community Centres, Local Hall Committees etc) have been successful in receiving assistance to help offset their operational costs due to COVID-19 restrictions and assist in recovery efforts once restrictions are eased.

Eighteen Service Providers (like Salvation Army, Community Houses. Local Theatres etc) have received funds to help deliver programs and activities that will positively impact South Gippsland residents, and help those who are isolated or vulnerable access family and extended support services.

Both programs opened at the beginning of August and will continue until balance of \$92,217 funding has been exhausted.

8. Early Learning Support - in progress

Intended to provide additional resource and support to extend the reach of existing early years programs to better connect with vulnerable families to identify and remove barriers to access. A part time Early Years Engagement Officer has commenced on 9 November 2020.

9. Mental Health First Aid Program – in progress

Promote and facilitate Mental Health & Youth Mental Health First Aid Training. Online training has been purchased and distributed and training commenced 2 November 2020. Overwhelming response to EOI for participants – with all 80 participant spaces filled.

10. Program of Arts, Culture and Creative Industry – in design

This initiative is progressing in detailed design with a view to scaling initiatives appropriately so they can be delivered within the current COVID-19 restrictions.

Communication plan is in development to enable promotion and engagement with the arts sector.

- **Workshop - Make it COVIDSafe** – to provide tools, information and strategies around adaptation and management of creative local ventures. In conjunction with five other regional councils, we have purchased an off the shelf workshop module. purchased off the shelf module in conjunction with five other regional councils. Arts Action consultants engaged. Call out to participants planned through November to early December. With a plan to deliver six Workshops over four months.
- **I wrote a Postcard** – project is a collaborative, creative activity designed to celebrate and express the COVID-19 experience using Postcards as a medium, for members of the South Gippsland Arts sector and community. It is intended to promote mental health and social cohesion.

Artists and community members will be encouraged to decorate the postcard with their own original artwork reflecting on their experience of COVID-19 and return to Council for curation and exhibit.

Three hundred postcards have been printed and distributed to individuals, galleries, cafes, neighbourhood houses and schools etc. There has been

lots of positive feedback and high demand for postcards. Expect the return of postcards by 18 December 2020 for collation and exhibition.

- **Writers in Libraries** – Currently establishing links with Literary Festival network to engage local writers and establish residencies (option to be home based or in libraries) in November. The writers brief will be to develop one or a series of essays, short stories or poems that reflect on people's experiences during this extraordinary time. Publishing and display of pieces in local businesses and online is planned.
- Engaged with West Gippsland Regional Library Corporation (WGRLC)- determine residency timeline. By end of December expect to finalise writers and residencies, in readiness for launching early 2021.
- **Roadside (Silage) Art** – identifying opportunities to engage with farmers. Seeking an Arts Project Manager to work with farmers.

Expect launch of "Great Southern Bail Trail" Feb 2021.

11. South Gippsland Tourism Promotion and Marketing –*in progress*

A program to activate, promote and enhance our region's visitor economy is currently in development and consultation with Destination Gippsland. Launch will be dependent on the opening up of the wider Melbourne Region and suburbs.

The Tourism Ambassador Training program is in design, ensuring it is relevant and meets the needs of the broader business community. Looking to launch in early December 2020.

12. Phase 2 - Caravan Park Annual Permit Holders – Council owned parks provision for further fee waiver- *in progress*

Due to restrictions being eased, the option to provide additional fee waiver was not undertaken for month of September 2020.

13. Phase 2 - Rent Relief - Council owned premises- provision for further rental relief - *in progress*

Due to restrictions being eased, the option to provide additional rental relief waiver was not undertaken for month of September 2020.

14. Shop Local Advertising and Marketing Campaign – *in progress*

Shop Local is a campaign to encourage people to shop in their local communities to assist with the viability of local businesses and to minimise social isolation. The scope includes development of a television commercial and radio, print and online promotion.

The Shop Local Campaign is progressing well with the first stage of the promotion - the development of a television commercial - now complete. The commercial will now go through an approval process which is required before being aired on television. The advertisements will be screened on Prime TV Gippsland throughout December.

Supporting branding and print and radio advertising is being developed and will be rolled out in December to support the Shop Local messaging

Previously reported completed initiatives:

Initiative	Outcomes/Achievement
Flu Vaccination Program	Provided the Commercial/Community Flu Vaccine Program for 2020 free of charge, with 829 vaccinations provided over 17 sessions
COVID19 Business Grants – Phase 1 & 2	Quick Response and Visitor Economy Business to small businesses who have had to close their doors, experienced a downturn in business, or been impacted by the lack of visitors to our region. \$133,000 Grants have awarded to 133 small businesses.
Council Hardship Policy	Council's Hardship Policy continues to offer extra support to ratepayers in financial difficulty. Up till this report, we have been able to assist 44 residents with extended payment terms, free of penalty interest, up to Jun 2021.
Phase 1 - Caravan Park Annual Permit Holders	Given the access restrictions due to COVID-19, all annual permit holders have been proactively contacted and we have waived \$46,043 for four months (from Apr to Aug 2020)
Phase 1 - Rent Relief - Council owned premises	Provided \$50,000 in rental relief, waiving six months (from Mar to Sep 2020) rental for commercial tenants of council owned properties.
Local Procurement – Prompt payment of suppliers	We have seen continued improvement in our efforts to promptly paying our suppliers, with 94% of invoices being paid with 14 days, improving supplier cash flows. There is continuing focus on strengthening Council's preference to buy local.

Initiative	Outcomes/Achievement
Fee Waiver - Victorian Landfill Levy	2021 Rates Notices were issued in August 2020 waiving the full Landfill Levy Fee. Subsequent advice received from Victoria Government saw to waive the full fee saw the return of \$150,000 provision back into the CSP budget.

CONSULTATION / COMMUNITY ENGAGEMENT

We continue to actively engage with key Stakeholders through formal engagement processes, including key external groups such as the Municipal Emergency Management Planning Committee, the Business Emergency Leadership Group, Regional Development Victoria and the Service Provider Network (SPIN).

The Economy, Arts and Tourism team have actively sought feedback from the business and Arts community through engagement with Arts Networks, Local Commerce Groups, Accountants Networks and continuing contact to understand where support is needed.

RESOURCES / FINANCIAL VIABILITY

A budget amount of up to \$2M, to support the South Gippsland community response to the impact of the COVID-19 pandemic is included in Council's 2020/21 budget.

Resources required for specific projects within the package thus far have been costed at a total of \$1,495,610 and allocated in accordance with approval of detailed Implementation Action Plans.

Approved budget	Approved initiatives funding	Actual Spend YTD	Variance Explanation
\$2,000,000	\$1,495,610	\$782,819	Initiatives are in progress and expenses are incurred over a period of months accounted for at each End of Month (EOM)

This leaves a balance of \$504,390 for additional initiatives and provide ability to respond to emerging business and community needs during the recovery stage of COVID19.

RISKS

If Council did not develop a series of actions to support the community there may have been a risk of further economic downturn and a negative effect to the

health and wellbeing of businesses and residents within the Shire, particularly vulnerable members of the community.

Continuing to coordinate with the Municipal Emergency Management Planning Committee, State and Federal Government and other municipalities, ensures an approach which reduces duplication and maximises impact.

The package will be flexible enough to respond to emerging community needs and has been designed to also support a strong recovery for the community and business when COVID-19 restrictions are eased.

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. Community Support Package (CSP) Program - December 2020 Status Update
[2.1.1 - 6 pages]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 3. Decision Making

Pillar 8. Monitoring & Performance Review

Council Policy / Strategy / Plans

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

Council Plan 2020-2024

2.2. BALD HILLS WIND FARM

Economic & Community Development

EXECUTIVE SUMMARY

The Bald Hills Wind Farm (BHWF) is a 52-turbine wind energy facility located in Tarwin Lower and commenced generating power in 2015. Council started to receive complaints about noise from BHWF in 2016.

In February 2018, Council endorsed a BHWF noise complaint investigation plan and commenced to carry out an investigation into the noise complaint. At the conclusion of the investigation, Council resolved in March and April 2019 that it was satisfied that an intermittent nuisance existed but that the matter was best settled privately between the parties.

BHWF's operator, Bald Hills Wind Farm Pty Ltd, sought judicial review of Council's decision in the Victorian Supreme Court. Council successfully defended the proceedings and the application was dismissed in August 2020.

Now that the proceedings have concluded, the final action of the 27 March 2019 Council resolution can be considered. The resolution requested the Chief Executive Officer 'provide a future report on confidential documents that may be released relating to the Bald Hills Wind Farm matter.'

This report recommends that Council not release any confidential documents relating to the 'Bald Hills Wind Farm matter' for the following reasons:

- There is considerable material already on the public record. The Victorian Supreme Court (47 page) judgment provides a comprehensive summary of the complaint investigation, including Council's decisions. (refer **Attachment [2.2.1]** – Victorian Supreme Court Judgment – Bald Hills Wind Farm vs South Gippsland Shire Council and Second to Six defendants – [2020] VSC 512 and 513 – 18 August 2020). A Queens Counsel opinion that founded the basis of Council's decisions has also been made public.
- There is no useful public purpose in diverting the resources required to be devoted to vetting documents. The resources are better directed to responding to COVID-19 challenges and delivery of the Council Plan.
- Attempts to release material collected for the specific purposes of the investigation which contain personal and commercially sensitive material may give rise to another set of proceedings being brought against the Council.

The most recent development in this matter is the Bill before the Victorian Parliament which proposes to exclude noise or emissions from wind turbines at wind energy facilities from the nuisance provisions of the *Public Health and Wellbeing Act 2008* (the Act). This amendment is an acknowledgement of the

incompatibilities of the Act and councils' investigative functions, and is the product of advocacy by Council and other Victorian councils.

The commencement of the changes is planned to coincide with the broader suite of reforms that will come into effect with the new Environment Protection laws, currently anticipated to be from 1 July 2021.

RECOMMENDATION

That Council:

1. Notes that the legal proceedings of Bald Hills Wind Farm Pty Ltd v South Gippsland Shire Council have concluded and that Council successfully defended the proceedings and the matter was dismissed;
2. Determines that no useful public purpose would be served by releasing further documents relating to the legal proceedings and the background to them, given:
 - a. There already exist in the public domain a number of documents that adequately explain the relevant background and the Council decision-making process;
 - b. Attempts to release further material collected for the specific purposes of the investigation which contain personal and commercially sensitive material may give rise to another set of proceedings being brought against the Council; and
 - c. The resources required to be devoted to vetting documents are better directed to responding to COVID-19 challenges and delivery of the Council Plan.
3. Notes the introduction of a Bill to amend the Public Health and Wellbeing Act 2008, which if enacted, will exclude noise or emissions from wind turbines at wind energy facilities from the nuisance provisions of the Public Health and Wellbeing Act 2008. The commencement of the changes is planned to coincide with the broader suite of reforms that will come into effect with the new Environment Protection laws, currently anticipated to be from 1 July 2021.

MOVED: Administrator Brown

SECONDED: Administrator Zahra

THAT COUNCIL:

1. **NOTES THAT THE LEGAL PROCEEDINGS OF BALD HILLS WIND FARM PTY LTD V SOUTH GIPPSLAND SHIRE COUNCIL HAVE CONCLUDED AND THAT COUNCIL SUCCESSFULLY DEFENDED THE PROCEEDINGS AND THE MATTER WAS DISMISSED;**
2. **DETERMINES THAT NO USEFUL PUBLIC PURPOSE WOULD BE SERVED BY RELEASING FURTHER DOCUMENTS RELATING TO THE LEGAL PROCEEDINGS AND THE BACKGROUND TO THEM, GIVEN:**
 - a. **THERE ALREADY EXIST IN THE PUBLIC DOMAIN A NUMBER OF DOCUMENTS THAT ADEQUATELY EXPLAIN THE RELEVANT BACKGROUND AND THE COUNCIL DECISION-MAKING PROCESS;**
 - b. **ATTEMPTS TO RELEASE FURTHER MATERIAL COLLECTED FOR THE SPECIFIC PURPOSES OF THE INVESTIGATION WHICH CONTAIN PERSONAL AND COMMERCIALY SENSITIVE MATERIAL MAY GIVE RISE TO ANOTHER SET OF PROCEEDINGS BEING BROUGHT AGAINST THE COUNCIL; AND**
 - c. **THE RESOURCES REQUIRED TO BE DEVOTED TO VETTING DOCUMENTS ARE BETTER DIRECTED TO RESPONDING TO COVID-19 CHALLENGES AND DELIVERY OF THE COUNCIL PLAN.**
3. **NOTES THE INTRODUCTION OF A BILL TO AMEND THE PUBLIC HEALTH AND WELLBEING ACT 2008, WHICH IF ENACTED, WILL EXCLUDE NOISE OR EMISSIONS FROM WIND TURBINES AT WIND ENERGY FACILITIES FROM THE NUISANCE PROVISIONS OF THE PUBLIC HEALTH AND WELLBEING ACT 2008. THE COMMENCEMENT OF THE CHANGES IS PLANNED TO COINCIDE WITH THE BROADER SUITE OF REFORMS THAT WILL COME INTO EFFECT WITH THE NEW ENVIRONMENT PROTECTION LAWS, CURRENTLY ANTICIPATED TO BE FROM 1 JULY 2021.**

CARRIED UNANIMOUSLY

[Link to next Agenda Item.](#)

REPORT

The Bald Hills Wind Farm (BHWF) is a 52-turbine wind farm located in Tarwin Lower. The wind farm is owned and operated by Bald Hills Wind Farm Pty Ltd. A planning permit was issued by the Minister for Planning in 2004, construction started in 2012 and BHWF commenced operating in 2015.

During 2016, Council started to receive complaints about noise from BHWF. Although the Minister for Planning is responsible for enforcement of planning permit conditions related to noise, Council is and was responsible for investigating the noise complaints under section 62 (nuisance provisions) of the Act.

In February 2018, Council endorsed a Bald Hills Wind Farm noise complaint investigation plan and commenced to carry out an investigation into the noise complaint. At the conclusion of the investigations, Council resolved in March and April 2019 that it was satisfied that an intermittent nuisance existed but that the matter was best settled privately between the parties.

The operator, Bald Hills Wind Farm Pty Ltd, sought judicial review of the Council's decision in the Victorian Supreme Court. Council successfully defended the proceedings and the application was dismissed in August 2020.

Now that the proceedings have concluded, the final action of the 27 March 2019 Council resolution can be considered. The resolution requested the Chief Executive Officer 'provide a future report on confidential documents that may be released relating to the Bald Hills Wind Farm matter.'

This report recommends that Council not release any confidential documents relating to the 'Bald Hills Wind Farm matter' for the following reasons:

- There is considerable material already on the public record. The Victorian Supreme Court (47 page) judgment provides a comprehensive summary of the complaint investigation, including Council's decisions. (refer **Attachment [2.2.1]** – Victorian Supreme Court Judgment – Bald Hills Wind Farm vs South Gippsland Shire Council and Second to Six defendants – [2020] VSC 512 and 513 – 18 August 2020). A Queens Counsel opinion that founded the basis of Council's decisions has also been made public.
- There is no useful public purpose in diverting the resources required to be devoted to vetting documents. The resources are better directed to responding to COVID-19 challenges and delivery of the Council Plan.
- Attempts to release material collected for the specific purposes of the investigation which contain personal and commercially sensitive material may give rise to another set of proceedings being brought against the Council.

The most recent development in this matter is the Bill before the Victorian Parliament which proposes to amend the Act to exclude noise or emissions from wind turbines within wind energy facilities from the nuisance provisions of the Act. The commencement of the changes is planned to coincide with the broader suite of reforms that will come into effect with the new Environment Protection laws, currently anticipated to be from 1 July 2021.

Assessment of wind farm noise is incompatible with the nuisance provisions of the Act, given the highly technical nature of any investigation. These legislative reforms are consistent with the recommendations of the 'Select Committee on Wind Turbines' tabled in Federal Parliament in 2015. The changes also respond to Council's advocacy efforts for legislative reform.

CONSULTATION / COMMUNITY ENGAGEMENT

Council advocated to the Victorian Government for reform to the Act and adopted advocacy material in conjunction with Pyrenees and Moyne Shires.

Council would be required to consult with all parties listed in documents if further consideration is given to this item. Due to the associated costs and limited public benefit, this is not recommended.

Persons who hold a further interest in the matter can continue to have their interests served under the Freedom of Information Act 1982.

RESOURCES / FINANCIAL VIABILITY

The proposed action results in no further cost or resources being directed to this matter. Given the volume of material collected during the course of the investigation, it is estimated that the administrative privacy assessment of material would require an additional member of staff for a period of not less than six months.

The costs associated with judicial review of the Council's decisions of March and April 2019 were broadly covered under Council's professional indemnity insurance policy which has an excess of \$5,000. Other associated out of pocket expenses are estimated to total \$9,000.

RISKS

Maintaining the confidentiality of personal accounts, records and documents is managing Council's privacy obligations and risks associated with inappropriate disclosure of personal material.

Attempts to release material collected for the specific purposes of the investigation which contain personal and commercially sensitive material may give rise to another set of proceedings being brought against the Council.

There is adequate information on the public record about Council's investigation into noise complaints about the Bald Hills Wind Farm. This includes:

- The Victorian Supreme Court judgment which provide a comprehensive summary of the complaint investigation, including Council's decision-making process;
- Council resolutions of 27 March and 24 April 2019;
- Legal opinion provided by Paul Connor QC; and
- Previously issued media releases.

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. Victorian Supreme Court Judgement - Bald Hills Wind Farm Pty Ltd v South Gippsland and second six defendants VSC 512 and 513 18 August 2020
[2.2.1 - 58 pages]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 1. Direction & Leadership

Pillar 2. Culture & Behaviour

Pillar 3. Decision Making

Pillar 7. Risk & Compliance

Council Policy / Strategy / Plans

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

Council Plan 2020-2024

Public Interest Disclosure Guidelines Policy (CE21)

Public Transparency Policy (C75)

South Gippsland's Good Governance Framework

South Gippsland's Planning Scheme

Legislative Provisions

Environment Protection Act 1970

Environment Protection Act 1994

Local Government Act 1989

Local Government Act 2020

Planning and Environment (Planning Schemes) Act 1996

Planning and Environment Act 1987

Privacy Act 1988

Privacy and Data Protection Act 2014

Public Health and Wellbeing Act 2008

Public Health and Wellbeing Regulations 2019

Public Interest Disclosures Regulations 2019

3. OBJECTIVE 2 - ECONOMIC PROSPERITY

3.1. PLANNING PERMIT APPLICATION - 2020/306 70 COMMERCIAL STREET KORUMBURRA - USE OF LAND TO SELL LIQUOR

Economic & Community Development

Council Plan

Objective 2 - Economic Prosperity - Strategy 2.1 Build a sustainable and growing economy that attracts and supports businesses, strengthen industry sectors, creates employment and establishes the Shire as the 'food hub'

The report seeks to support a new business to be established in the commercial area of Korumburra on a site that has been disused for a number of years. The support of the reuse of old service stations for a new purpose builds on the economy for Korumburra.

EXECUTIVE SUMMARY

The applicant is seeking approval to use land to sell packaged liquor at 70 Commercial Street Korumburra. The application seeks to repurpose the old service station and create a drive through bottle shop. As there were six objections to the application the application is referred to Council for a determination.

In determining the application Council should consider:

- Net Community Benefit and compliance with the Municipal Strategic Statement and the Local Policy for Korumburra;
- The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area;
- The impact of the hours of operation on the amenity of the surrounding area; and
- The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.

The application has been assessed against the relevant provision of the *Planning and Environment Act 1987* and the South Gippsland Planning Scheme. The assessment finds that the application is consistent with the relevant policy objectives and the proposal is recommended to be supported by issuing a Notice of Decision to Grant a Planning Permit subject to conditions.

RECOMMENDATION

That Council issues a Notice of Decision to Grant a Planning Permit for the use of land to sell packaged liquor at 70 Commercial Street Korumburra, subject to the following conditions:

1. Before the use starts, an amended Site Plan to the satisfaction of the Responsible Authority and the Department of Transport must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - a. The relocation of the signage in accordance with the requirements of the Department of Transport at Condition 6;
2. The use as shown on the endorsed plan must not be altered or modified except with the written consent of the Responsible Authority.
3. The use may operate only between the hours of:
 - a. On any day other than Sunday, Good Friday, ANZAC Day or Christmas Day Between 10.00am and 9.00pm;
 - b. Sunday Between 11.00am and 7.00pm;
 - c. ANZAC Day (Monday to Saturday) Between 12.00 noon and 9.00pm
 - d. ANZAC Day (Sunday) Between 12.00 noon and 7.00pm
4. The use must be managed so that the amenity of the area is not detrimentally affected, through the:
 - a. transport of materials, goods or commodities to or from the land;
 - b. appearance of any building, works or materials;
 - c. emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
 - d. presence of vermin;
5. The sale of liquor must be conducted in accordance with Liquor Licence issued for the land in accordance with *Liquor Control Reform Act 1998*;
6. Department of Transport:
 - a. The existing sign must be relocated to be completely within the property boundary.

- b. The luminance of the advertising sign must be such that it does not give a veiling luminance to the driver, of greater than 0.25 cd/m², throughout the driver's approach to the advertising sign.
 - c. Prior to commencement of the erection of the advertising sign a lighting report from a suitably qualified lighting engineer demonstrating how the lighting output prescribed at condition 2 will be achieved must be provided to the Roads Corporation for approval. When approved, the report will form part of the planning permit and the sign must at all times operate in accordance with the report; and
7. This permit will expire if:
- a. Use does not commence within two (2) years of the date of this permit.
 - b. If the use ceases for a period of 2 years.

The Responsible Authority may extend the periods referred to in accordance with Section 69 of the Planning and Environment Act 1987, if a request is made in writing.

MOVED: Administrator Zahra
SECONDED: Administrator Brown

THAT COUNCIL ISSUES A NOTICE OF DECISION TO GRANT A PLANNING PERMIT FOR THE USE OF LAND TO SELL PACKAGED LIQUOR AT 70 COMMERCIAL STREET KORUMBURRA, SUBJECT TO THE FOLLOWING CONDITIONS:

- 1. BEFORE THE USE STARTS, AN AMENDED SITE PLAN TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY AND THE DEPARTMENT OF TRANSPORT MUST BE SUBMITTED TO AND APPROVED BY THE RESPONSIBLE AUTHORITY. WHEN APPROVED, THE PLANS WILL BE ENDORSED AND WILL THEN FORM PART OF THE PERMIT. THE PLANS MUST BE GENERALLY IN ACCORDANCE WITH THE PLANS SUBMITTED WITH THE APPLICATION BUT MODIFIED TO SHOW:**
 - a. THE RELOCATION OF THE SIGNAGE IN ACCORDANCE WITH THE REQUIREMENTS OF THE DEPARTMENT OF TRANSPORT AT CONDITION 6;**
- 2. THE USE AS SHOWN ON THE ENDORSED PLAN MUST NOT BE ALTERED OR MODIFIED EXCEPT WITH THE WRITTEN CONSENT OF THE RESPONSIBLE AUTHORITY.**
- 3. THE USE MAY OPERATE ONLY BETWEEN THE HOURS OF:**
 - a. ON ANY DAY OTHER THAN SUNDAY, GOOD FRIDAY, ANZAC DAY OR CHRISTMAS DAY BETWEEN 10.00AM AND 9.00PM;**
 - b. SUNDAY BETWEEN 11.00AM AND 7.00PM;**
 - c. ANZAC DAY (MONDAY TO SATURDAY) BETWEEN 12.00 NOON AND 9.00PM**
 - d. ANZAC DAY (SUNDAY) BETWEEN 12.00 NOON AND 7.00PM**
- 4. THE USE MUST BE MANAGED SO THAT THE AMENITY OF THE AREA IS NOT DETRIMENTALLY AFFECTED, THROUGH THE:**
 - a. TRANSPORT OF MATERIALS, GOODS OR COMMODITIES TO OR FROM THE LAND;**
 - b. APPEARANCE OF ANY BUILDING, WORKS OR MATERIALS;**
 - c. EMISSION OF NOISE, ARTIFICIAL LIGHT, VIBRATION, SMELL, FUMES, SMOKE, VAPOUR, STEAM, SOOT, ASH, DUST, WASTE WATER, WASTE PRODUCTS, GRIT OR OIL;**
 - d. PRESENCE OF VERMIN;**

5. **THE SALE OF LIQUOR MUST BE CONDUCTED IN ACCORDANCE WITH LIQUOR LICENCE ISSUED FOR THE LAND IN ACCORDANCE WITH *LIQUOR CONTROL REFORM ACT 1998*;**
6. **DEPARTMENT OF TRANSPORT:**
 - a. **THE EXISTING SIGN MUST BE RELOCATED TO BE COMPLETELY WITHIN THE PROPERTY BOUNDARY.**
 - b. **THE LUMINANCE OF THE ADVERTISING SIGN MUST BE SUCH THAT IT DOES NOT GIVE A VEILING LUMINANCE TO THE DRIVER, OF GREATER THAN 0.25 CD/M², THROUGHOUT THE DRIVER'S APPROACH TO THE ADVERTISING SIGN.**
 - c. **PRIOR TO COMMENCEMENT OF THE ERECTION OF THE ADVERTISING SIGN A LIGHTING REPORT FROM A SUITABLY QUALIFIED LIGHTING ENGINEER DEMONSTRATING HOW THE LIGHTING OUTPUT PRESCRIBED AT CONDITION 2 WILL BE ACHIEVED MUST BE PROVIDED TO THE ROADS CORPORATION FOR APPROVAL. WHEN APPROVED, THE REPORT WILL FORM PART OF THE PLANNING PERMIT AND THE SIGN MUST AT ALL TIMES OPERATE IN ACCORDANCE WITH THE REPORT; AND**
7. **THIS PERMIT WILL EXPIRE IF:**
 - a. **USE DOES NOT COMMENCE WITHIN TWO (2) YEARS OF THE DATE OF THIS PERMIT.**
 - b. **IF THE USE CEASES FOR A PERIOD OF 2 YEARS.**

THE RESPONSIBLE AUTHORITY MAY EXTEND THE PERIODS REFERRED TO IN ACCORDANCE WITH SECTION 69 OF THE PLANNING AND ENVIRONMENT ACT 1987, IF A REQUEST IS MADE IN WRITING.

CARRIED UNANIMOUSLY

[Link to next Agenda Item.](#)

REPORT

The subject land is 70 Commercial Street Korumburra. The site is a rectangular shape on one title with an area of 1135.00m². The site is developed with a Service Station that has been disused for many years. The site has been developed with a main building previously used as the cashier area and a small mechanic workshop area and extends out with a canopy area where the bowzers were previously located. There is sufficient area on the site that can accommodate the car parking for the proposed use.

There are two points of access from Commercial Street which is a Road Zone Category 1 (being a part of the South Gippsland Highway) to the south west which allows traffic to enter the northern entrance and exit from the second. Please refer to:

- **Attachments [3.1.1]** – Planning Application – 2020/306 – 70 Commercial Street, Korumburra – Site Photographs;
- **Attachment [3.1.2]** – Planning Application – 2020/306 – 70 Commercial Street, Korumburra Location Map; and
- **Attachment [3.1.3]** – Planning Application – 2020/306 – 70 Commercial Street, Korumburra - Planning Property Report.

The site is within the main street of Korumburra, which is the main road through the town. The land abuts established commercial premises to the immediate north and south of the property.

To the west is Commercial Street which is two lanes in each direction with a traffic island separating the lanes, further west area established commercial buildings.

To the east is a railway line and associated buildings. This area is intended to be used and developed as part of the “Great Southern Rail Trail” for public use. Further to the east is the established residential area.

The Proposal

The applicant is proposing to convert the old service station into a drive through bottle shop. Access to the abutting Road Zone Category 1 (Commercial Street) requires no changes or upgrades. The proposed internal works and Business Identification Signage do not trigger a Planning Permit and are not being assessed.

The Planning Permit Application seeks the consideration to “sell packaged liquor at a new premise”. The Planning Permit is triggered to sell packaged liquor if there is no licence issued for the site prior to 8 April 2011 in accordance with Clause 52.27 – Licensed Premises.

The application has been applied for in conjunction with the Liquor Licence process. At the time of the writing of this report the Victorian Commission for

Gambling and Liquor Regulation (VCGLR) have granted the Liquor Licence subject to Planning Approval please refer to **Attachment [3.1.4]** – VCGLR - Liquor Licence – 70 Commercial Street, Korumburra. The proposed hours of operation as shown on Liquor Licence are:

Day	Time
On any day other than Sunday, Good Friday, ANZAC Day or Christmas Day	Between 10.00am and 9.00pm
Sunday	Between 11.00am and 7.00pm
ANZAC Day (Monday to Saturday)	Between 12.00 noon and 9.00pm

Please refer to **Attachment [3.1.5]** – Planning Application – 2020/306 – 70 Commercial Street, Korumburra - Site Plan and **Attachment [3.1.6]** – Planning Application – 2020/306 – 70 Commercial Street, Korumburra – Planning Application and Report.

Assessment

A detailed assessment of the application against relevant sections of the *Planning and Environment Act 1987* and the relevant matters in the South Gippsland Planning Scheme are discussed in **Attachment [3.1.7]** – Planning Application – 2020/306 – 70 Commercial Street, Korumburra - Delegation Report.

The Objectives of Clause 21.13 are to:

- *Maintain and promote Korumburra as a Large District Centre offering significant, industrial, retail, service, residential and tourism functions in the Shire; and*
- *Ensure the use and development of land in accordance with the strategic directions in the Korumburra Framework Plan at Clause 21.13-4.*

As the application is triggered by Clause 52.27 Licensed Premises and not under the Commercial 1 Zone in determining the application Council should consider the following relevant Decision Guidelines of the Clause:

- Net Community Benefit and compliance with the Municipal Strategic Statement and the Local Policy for Korumburra;
- The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area;
- The impact of the hours of operation on the amenity of the surrounding area; and
- The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.

CONSULTATION / COMMUNITY ENGAGEMENT

Public Notice of the planning application was given by:

- Mail to 20 owners and occupiers in the surrounding area including Victrack;
- Placing a A4 size signs on the street frontage;
- The Department of Transport were also notified of the application and provided conditional consent to the application;
- Six objections were received. Please refer to **Attachment [3.1.8]** – Planning Application – 2020/306 – 70 Commercial Street, Korumburra – Submissions.

The objections primarily include:

- Too many liquor licences in the area;
- The proximity of the bus stops for both School children and VLine services;
- The location is inappropriate to sell liquor from; and
- Increased accessibility to alcohol will increase the amount of alcoholism in the area.

Objection	Comments
There is no need for another Bottle Shop. Instead a new take away drive through and supermarket is required.	The objector has stipulated that a drive through is required in town but no clarification of why this site is not appropriate. The business model that the applicant is proposing is a drive through service.
There are enough of these amenities in the town.	The number of Licences and their locations is addressed in the Clause 52.27 assessment contained in the delegates report.
There is no need for another liquor store in the main street as there are too many for the 4500 residents.	As above
Proximity to the school bus stop in front of the site. Temptation will be highly visible to teenagers.	Liquor Licencing Laws require 'proof-of-age' identification to be shown by to customers who <i>may</i> be under 18 years of age. The establishment is set up to predominately serve those in their

Objection	Comments
Additionally, the VLine Public Transport stop is located on the other side of the road.	own vehicle. There are no restrictions on walk in customers-that may arise from those that utilise the VLine Bus Stop. It is noted that consumption of liquor in a public place, in this case being the road side and on public transport, is unlawful.
Increase in the accessibility of alcohol within the town and the increase of alcoholism in the area.	The objection further went into details about an increasing problem of unsupervised children in the area that may or may not be alcohol related. This submission is best addressed through the assessment under Clause 52.27.
Incompatible use in the Commercial 1 Zone. Within 500 metres of the Korumburra Primary School. Inappropriate due to the visual proximity to school age children. (1) the proposed site represents an inappropriate location for a liquor store; and (2) the proposed site will tip the scales in terms of negative cumulative impacts from a cluster of packaged liquor outlets in a small regional town. This is exactly why Clause 52.27 exists in the South Gippsland Planning Scheme - to protect and safeguard sensitive locations and avoid the cumulative impacts of a cluster of packaged liquor outlets.	The objection further highlights how Council is to assess the application requirements more particular the Planning Practice Note 61 Licenses premises: Assessing cumulative impact. An assessment of Clause 52.27 and the Practice Note are addressed further into this report.

RESOURCES / FINANCIAL VIABILITY

The assessment of planning permit applications is managed within existing resource allocations.

RISKS

Council's decision may be subject to appeal to Victorian Civil and Administrative Tribunal (VCAT).

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. Planning Application - 2020-306 70 Commercial Street Korumburra - Site Photographs [3.1.1 - 4 pages]
2. Planning Application 2020-306 - 70 Commercial Strate Korumburra VIC 3950 - Location map [3.1.2 - 1 page]
3. Planning Application - 2020-306 - 70- Commercial- Street- Korumburra- Planning- Property- Report [3.1.3 - 4 pages]
4. Planning Application - 2020-306 - 70-78 Commercial Street Korumburra - Site Plans [3.1.4 - 4 pages]
5. Planning Application - 2020 306 - 70 -78 Commercial Street Korumburra - Planning permit Application and Report [3.1.5 - 12 pages]
6. Planning Application - 2020 -306 - 70 Commercial Street Korumburra - Delegates Report [3.1.6 - 8 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 [13.1.1] – VCGLR - Liquor Licence – 70 Commercial Street, Korumburra and **Confidential Attachment [13.1.2]**– Planning Application - 2020/306 – 70 Commercial Street Korumburra – Submissions - 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 and s.3(1)(h) - confidential meeting information, being the records of meetings closed to the public under section 66(2)(a).

The grounds for designation have been made to protect the privacy of submitters and commercial in confidence information.

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 1. Direction & Leadership

Pillar 2. Culture & Behaviour

Pillar 3. Decision Making

Council Policy / Strategy / Plans

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

Economic Development and Tourism Strategy

South Gippsland Housing and Settlement Strategy

Council Plan 2020-2024

Town Centre Framework Plans

Legislative Provisions

Liquor Control Reform Act 1998

Local Government Act 1989

Local Government Act 2020

Planning and Environment (Planning Schemes) Act 1996

Planning and Environment Act 1987

Regional, State and National Plan and Policies

Gippsland Regional Plan 2020-2025

4. OBJECTIVE 3 - INTEGRATED SERVICES AND INFRASTRUCTURE

4.1. LOCAL ROADS AND COMMUNITY INFRASTRUCTURE EXTENSION PROGRAM - PROPOSED PROJECTS

Sustainable Infrastructure

Council Plan

Objective 3 - Integrated Services and Infrastructure - Strategy 3.3 Deliver services that enhance liveability and environmental sustainability for generations

To provide the community with services and infrastructure that enhance liveability and environmental sustainability for current and future generations.

EXECUTIVE SUMMARY

On 30 October 2020, Council was advised that South Gippsland Shire Council will receive an additional \$2,376,032 from the Local Roads and Community Infrastructure (LRCI) Program Extension. This funding will be available from 1 January 2021, with the delivery of the program being extended until the end of 2021.

The LRCI Program aims to assist a community-led recovery from COVID-19 by supporting local jobs, firms, and procurement. It was expected that councils, where possible, will use local businesses and workforces to deliver projects under the LRCI Program to ensure stimulus funding flows into local communities.

It is recommended that the Municipal Lighting Upgrade and Port Welshpool Boat Ramp Car Park Enhancement projects be submitted to the program.

RECOMMENDATION

That Council:

1. Notes that \$2,376,032 has been allocated to South Gippsland Shire Council through the Australian Governments Local Roads and Community Infrastructure Fund Program Extension; and
2. Approves the nomination of the following two projects to the Local Roads and Community Infrastructure Fund Program Extension;
 - a. Municipal Lighting Upgrade Project
 - b. Port Welshpool Boat Ramp Car Park Enhancement Project

Moved: Administrator Zahra
Seconded: Administrator Brown

THAT COUNCIL:

- 1. NOTES THAT \$2,376,032 HAS BEEN ALLOCATED TO SOUTH GIPPSLAND SHIRE COUNCIL THROUGH THE AUSTRALIAN GOVERNMENTS LOCAL ROADS AND COMMUNITY INFRASTRUCTURE FUND PROGRAM EXTENSION; AND**
- 2. APPROVES THE NOMINATION OF THE FOLLOWING TWO PROJECTS TO THE LOCAL ROADS AND COMMUNITY INFRASTRUCTURE FUND PROGRAM EXTENSION;**
 - a. MUNICIPAL LIGHTING UPGRADE PROJECT**
 - b. PORT WELSHPOOL BOAT RAMP CAR PARK ENHANCEMENT PROJECT**

CARRIED UNANIMOUSLY

[Link to next Agenda Item.](#)

REPORT

On 22 May 2020, the Australian Government announced a new \$500 million Local Roads and Community Infrastructure Program (LRCI Program).

Through the 2020/21 Budget, the Australian Government announced a \$1 billion extension of the LRCI Program, following strong community and local government support.

This program supports local councils to deliver priority local road and community infrastructure projects across Australia, supporting jobs and the resilience of local economies to help communities bounce back from the COVID-19 Pandemic.

Councils will be able to access funding under the extension to the LRCI Program Extension from 1 January 2021. South Gippsland Shire Council has been allocated \$2,376,032 under the extension program.

The following projects are recommended to be submitted to the program.

Municipal Lighting Upgrade Project

Street lights currently account for approximately 60 per cent of Council's overall budget for electricity and gas, costing the Council over \$300,000 annually. Preliminary estimates indicate that upgrading all streetlights in the shire would reduce this expense by around 50 per cent, saving Council up to \$155,000 per annum.

While the streetlight assets themselves are owned by AusNet Services, Council pay for both the electricity costs and the operation, maintenance, and replacement (OMR) costs in one of the two following ways:

- Council is 100 per cent responsible for the full costs of three quarters of the lights on its roads/streets.
- Council cost-share with VicRoads (40 per cent Council; 60 per cent VicRoads) a further quarter of all lights.

Given the phase-out of mercury globally (via the Minamata Convention), it will be increasingly difficult to get both replacement lamps and fittings for the existing mercury and fluorescent lights, and as such, Council will be required to upgrade its lights at some stage in the near future.

Rebates are available for installing efficient lighting via the Victorian Energy Upgrade scheme. The Victorian Energy Upgrade scheme for lighting will be phased down in 2022 and phased out entirely in 2023. This is worth up to \$175,000 in rebates for Council. Given Council will need to do the upgrades at some point, it would be advisable to do it while this rebate is still available.

There is significant interest by other councils across Gippsland in undertaking a similar project so it is highly likely to participate in a Gippsland-wide project, reducing project costs and streamlining processes.

In addition to the financial savings from undertaking this project, upgrading our street lights to more efficient LEDs would result in an emission reduction of approximately 300 tonnes per annum.

Below is summary of the anticipated project funding:

Municipal Lighting Upgrade Project after rebate (TBC)	\$900,000
Local Roads and Community Infrastructure (LRCI) request	\$867,032
Council contribution (TBC)	\$23,968

Port Welshpool Boat Ramp Car Park Enhancement Project

The scope of the Port Welshpool Boat Ramp Enhancement project is to upgrade the existing unsealed car park to a sealed surface with formalised parking and directional movement along with associated kerb and channelling.

The project will also include the development of additional car parking with approximately an additional 35 spaces provided for both cars and boat trailers along with upgraded lighting.

The project will complement the objectives of the Port Welshpool Marine Precinct Plan which was adopted by Council on 24 July 2019. The plan is an initiative of Council which is aimed at revitalising the region and township through foreshore enhancement and marina development.

The precinct plan contains strategies for marina development, public space enhancement, increased economic and recreation activity (on-shore and offshore), operational activities, and long-term capital investment. Together, this array of strategies is intended to enhance the appeal and functionality for the precinct's regular users, tourists, visitors, and the local community.

Detailed designs have been competed for the project along with cost estimates and therefore is considered shovel ready.

Below is a summary of the project funding:

Port Welshpool Boat Ramp Car Park Enhancement Project	\$1,500,000
Local Roads and Community Infrastructure (LRCI) request	\$1,500,000

CONSULTATION / COMMUNITY ENGAGEMENT

Municipal Lighting Upgrade Project

It is proposed that this streetlight upgrade project will be run as a partnership with up to four other Gippsland councils (exact makeup of the group to be confirmed). South Gippsland Shire Council has been in consultation with all five other Gippsland councils to best design a project that can be rolled out across

the region, resulting in savings through joint procurement of project management and delivery services. In addition, discussions have commenced with AusNet Services around the timing and process for lighting upgrades.

Port Welshpool Boat Ramp Car Park Enhancement Project

The Port Welshpool Boat Ramp Car Park Enhancement project complements the implementation of the Port Welshpool Marine Precinct Master Plan that was developed in consultation with various industry and community groups. The consultation process followed Council's Community Engagement Strategy for developing strategic documents.

RESOURCES / FINANCIAL VIABILITY

Municipal Lighting Upgrade Project

Council currently spends over \$300,000 annually on electricity as well as operation, maintenance, and replacement (OMR) costs for street lights. Upgrading all the AusNet-owned streetlights across the municipality would cost in the order of \$1.1 million, and result in a savings of approximately \$155,000 per annum. With rebates available through the Victorian Energy Upgrade program (\$175,000) the total project is estimated at \$900,000. There is, however, further opportunity to seek reimbursement from VicRoads towards their portion of the project and therefore off-set Council's contribution to the project.

These numbers are approximate. A more detailed business case will be undertaken for approximately \$7500, which can be funded through Council's existing electricity budget.

Port Welshpool Boat Ramp Car Park Enhancement Project

The Port Welshpool Boat Ramp Car Park Enhancement Project has no budget allocation in the Forward Capital Works Program as it was assessed that it would require significant investment by Council to deliver and was not considered a priority. Although grant programs have previously been identified as potential income sources, the maximum grant that was available was only a very small portion of the overall project cost. Therefore, the LRCI Program is identified as an ideal source of funding to complete the project that would otherwise remain unfunded.

RISKS

Municipal Lighting Upgrade Project

There is a risk that this project will not be fully approved through the LRCI Program as there is a component that relates to non-Council assets being VicRoads assets. This would require the project to be rescoped for those lights that are only under the control of Council.

The current project cost is based on an initial estimate with a detailed business case to be developed to determine the final budget.

There is a further risk that Council will be not be reimbursed by VicRoads for their component within the project. This may require a small contribution by Council to fully complete the project. However, this can be warranted by the anticipated annual cost savings to Council once the project is completed.

Port Welshpool Boat Ramp Car Park Enhancement Project

There is a risk that the project budget will be more that what has been estimated once the tender process is undertaken.

The project is considered standard civil works that has been developed and estimated based on current rates for similar projects.

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.

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
Sustainability Strategy

4.2. 2020/21 CAPITAL WORKS PROGRAM AMENDMENTS

Sustainable Infrastructure

Council Plan

Objective 3 - Integrated Services and Infrastructure – Strategy 3.1 – Enhance liveability and environmental sustainability for current and future generations by delivering the annual capital works program.

EXECUTIVE SUMMARY

Council adopts a Capital Works Program as part of the Annual Budget. The original 2020/21 Capital Works Budget was approximately \$42M. A review of the Capital Works Program has been undertaken to reflect the decisions made by Council since the adoption of the Annual Budget and to reflect the timing of priority project delivery.

Since their appointment, Administrators have received a number of briefings on the Capital Works Program and have reviewed Council's suite of Priority Projects. Council's list of Priority Projects was adopted at the July 2020 Ordinary Meeting of Council.

This report proposes some project reductions and increases to the 2020/21 Capital Works Program, including carry-forward amounts to the 2021/22 financial year resulting in a nett reduction of \$8.6M in expenditure to the overall Capital Works Program for this financial year.

A number of changes are recommended to budgeted income. Income is proposed to be reduced by \$236,000. Past practices have budgeted aspirational income assumed to be received by way of grant funding opportunities. It is considered that it is a more prudent accounting practice to only reflect income that is actually received. Any grant funding that is secured will strengthen Council's financial position.

Project details and reasons for the proposed budget adjustments are discussed further in this report.

RECOMMENDATION

That Council approves the following amendments to the 2020/21 Capital Works Program:

1. Cost Centre 82270 – Korumburra Commercial Streetscape:
 - a. Decrease the expenditure budget by \$1,042,042 (2020/21 revised expenditure budget \$700,000).
2. Cost Centre 73630 – Buildings – Community Hub - Korumburra:
 - a. Decrease the expenditure budget by \$5,472,632 (2020/21 revised expenditure budget \$200,000).

3. Cost Centre 85070 – Bridge – Bass Valley Road (KB080):
 - a. Decrease the expenditure budget by \$101,459 (2020/21 revised expenditure \$0).
4. Cost Centre 85080 – Bridge – Bass Valley Road (KB090):
 - a. Decrease income budget by \$156,528; and
 - b. Decrease the expenditure budget by \$313,056 (2020/21 revised expenditure budget \$0).
5. Cost Centre 88090 – Footpath Extension – Jumbunna Road, Korumburra:
 - a. Increase the expenditure budget by \$66,780 (2020/21 revised expenditure budget \$619,237).
6. Cost Centre 66000 – Leongatha Gymnastics Extension:
 - a. Decrease the income budget by \$70,000 (2020/21 revised income budget \$0); and
 - b. Decrease the expenditure budget by 203,979 (2020/21 revised expenditure budget \$0).
7. Cost Centre 93210 – Recreation – Foster Showgrounds Irrigation & Resurfacing:
 - a. Decrease the expenditure budget by \$300,000 (2020/21 revised expenditure budget \$0).
8. Cost Centre 85210 – Bridge – Timms Road (KB330):
 - a. Decrease the expenditure budget by \$25,000 (2020/21 revised expenditure budget \$400,302).
9. Cost Centre 85220 – Bridge – Standfields Bridge, Poowong North:
 - a. Decrease the expenditure budget by \$19,212 (2020/21 revised expenditure budget \$0).
10. Cost Centre 82420 – Roads – Gardner Lane, Poowong:
 - a. Reduce the expenditure budget by \$254,449 (2020/21 revised expenditure budget \$2,000).
11. Cost Centre 82110 – Roads – Reseals:
 - a. Decrease the expenditure budget by \$150,000 (2020/21 revised expenditure budget \$1,588,012).

12. Cost Centre 93180 – Recreation – Korumburra Skate Park:
 - a. Decrease income budget by \$10,000 (2020/21 revised income budget \$0); and
 - b. Decrease the expenditure budget by \$234,056 (2020/21 revised expenditure budget \$0).
13. Cost Centre 73580 – Buildings – Renewal Program:
 - a. Decrease the expenditure budget by \$691,113 (2020/21 revised expenditure budget \$468,946).
14. Cost Centre 93220 – Recreation – Venus Bay Activity Centre Projects:
 - a. Decrease the expenditure budget by \$323,000 (2020/21 revised expenditure budget \$320,000).
15. Cost Centre 93130 – Recreation – Baromi Park Masterplan & Associated Works:
 - a. Increase the expenditure budget by \$35,910 (2020/21 revised expenditure budget \$440,915).

MOVED: Administrator Zahra
SECONDED: Administrator Brown

THAT COUNCIL APPROVES THE FOLLOWING AMENDMENTS TO THE 2020/21 CAPITAL WORKS PROGRAM:

1. **COST CENTRE 82270 – KORUMBURRA COMMERCIAL STREETSCAPE:**
 - a. **DECREASE THE EXPENDITURE BUDGET BY \$1,042,042 (2020/21 REVISED EXPENDITURE BUDGET \$700,000).**
2. **COST CENTRE 73630 – BUILDINGS – COMMUNITY HUB - KORUMBURRA:**
 - a. **DECREASE THE EXPENDITURE BUDGET BY \$5,472,632 (2020/21 REVISED EXPENDITURE BUDGET \$200,000).**
3. **COST CENTRE 85070 – BRIDGE – BASS VALLEY ROAD (KB080):**
 - a. **DECREASE THE EXPENDITURE BUDGET BY \$101,459 (2020/21 REVISED EXPENDITURE \$0).**

- 4. COST CENTRE 85080 – BRIDGE – BASS VALLEY ROAD (KB090):**
 - a. DECREASE INCOME BUDGET BY \$156,528; AND**
 - b. DECREASE THE EXPENDITURE BUDGET BY \$313,056 (2020/21 REVISED EXPENDITURE BUDGET \$0).**
- 5. COST CENTRE 88090 – FOOTPATH EXTENSION – JUMBUNNA ROAD, KORUMBURRA:**
 - a. INCREASE THE EXPENDITURE BUDGET BY \$66,780 (2020/21 REVISED EXPENDITURE BUDGET \$619,237).**
- 6. COST CENTRE 66000 – LEONGATHA GYMNASTICS EXTENSION:**
 - a. DECREASE THE INCOME BUDGET BY \$70,000 (2020/21 REVISED INCOME BUDGET \$0); AND**
 - b. DECREASE THE EXPENDITURE BUDGET BY 203,979 (2020/21 REVISED EXPENDITURE BUDGET \$0).**
- 7. COST CENTRE 93210 – RECREATION – FOSTER SHOWGROUNDS IRRIGATION & RESURFACING:**
 - a. DECREASE THE EXPENDITURE BUDGET BY \$300,000 (2020/21 REVISED EXPENDITURE BUDGET \$0).**
- 8. COST CENTRE 85210 – BRIDGE – TIMMS ROAD (KB330):**
 - a. DECREASE THE EXPENDITURE BUDGET BY \$25,000 (2020/21 REVISED EXPENDITURE BUDGET \$400,302).**
- 9. COST CENTRE 85220 – BRIDGE – STANDFIELDS BRIDGE, POOWONG NORTH:**
 - a. DECREASE THE EXPENDITURE BUDGET BY \$19,212 (2020/21 REVISED EXPENDITURE BUDGET \$0).**
- 10. COST CENTRE 82420 – ROADS – GARDNER LANE, POOWONG:**
 - a. REDUCE THE EXPENDITURE BUDGET BY \$254,449 (2020/21 REVISED EXPENDITURE BUDGET \$2,000).**
- 11. COST CENTRE 82110 – ROADS – RESEALS:**
 - a. DECREASE THE EXPENDITURE BUDGET BY \$150,000 (2020/21 REVISED EXPENDITURE BUDGET \$1,588,012).**

12. COST CENTRE 93180 – RECREATION – KORUMBURRA SKATE PARK:

- a. **DECREASE INCOME BUDGET BY \$10,000 (2020/21 REVISED INCOME BUDGET \$0); AND**
- b. **DECREASE THE EXPENDITURE BUDGET BY \$234,056 (2020/21 REVISED EXPENDITURE BUDGET \$0).**

13. COST CENTRE 73580 – BUILDINGS – RENEWAL PROGRAM:

- a. **DECREASE THE EXPENDITURE BUDGET BY \$691,113 (2020/21 REVISED EXPENDITURE BUDGET \$468,946).**

14. COST CENTRE 93220 – RECREATION – VENUS BAY ACTIVITY CENTRE PROJECTS:

- a. **DECREASE THE EXPENDITURE BUDGET BY \$323,000 (2020/21 REVISED EXPENDITURE BUDGET \$320,000).**

15. COST CENTRE 93130 – RECREATION – BAROMI PARK MASTERPLAN & ASSOCIATED WORKS:

- a. **INCREASE THE EXPENDITURE BUDGET BY \$35,910 (2020/21 REVISED EXPENDITURE BUDGET \$440,915).**

CARRIED UNANIMOUSLY

[Link to next Agenda Item.](#)

REPORT

Council adopts the Capital Works Program as part of the Annual Budget process however, from time-to-time, program changes are required. This report proposes numerous project reductions and a number of increases to the 2020/21 Capital Works Program, including carry forward amounts to the 2021/22 financial year resulting in a nett reduction of \$8.6M in expenditure to the overall program for this financial year – refer to **Table 1** for a summary of the proposed changes to the overall Capital Works Program.

Table 1 – Summary of Proposed Changes (Budget Impact)

	2020/21 Original	2020/21 Revised	Favourable (Unfavourable)	Carry Forward
Total Income	236,528	0	(236,528)	10,000
Total Expenditure	13,566,720	4,739,412	8,623,533	(8,488,907)
NET Favourable / (Unfavourable)			8,387,005	8,478,907

The individual project details and the more specific reasons for the proposed budget adjustments are discussed further.

1. Cost Centre 82270 – Korumburra Commercial Streetscape: Decrease expenditure budget by \$1,042,042

2020/21 Revised Expenditure:	\$1,742,042	Revised:	\$700,000
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This budget includes three projects budgeted over multiple years; Upper Commercial Street car park in the rail station precinct, Little Commercial Street, and Commercial Street. This program of works has been impacted by the need for a planning permit for the car park at the rail station site and design challenges in Little Commercial Street, which has seen these works delayed and hence an associated reduction in expected 2020/21 expenditure. This reduced budget of \$1,042,042 will be carried forward to 2021/22.

16. Cost Centre 73630 – Buildings – Community Hub - Korumburra: Decrease expenditure budget by \$5,272,632

2020/21 Revised Expenditure:	\$5,472,632	Revised:	\$200,000
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The tender for these works was planned to be released to the market in October 2020. However, a VCAT application has delayed this tender

process and it is now unlikely works will commence in 2020/21. This reduced budget of \$5,272,632 will be carried forward to 2021/22.

17. Cost Centre 85070 – Bridge – Bass Valley Road (KB080): Decrease expenditure budget by \$101,459

2020/21 Adopted Expenditure:	\$101,459	Revised:	\$0
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The replacement of this very old concrete bridge has been delayed due to the existence of Giant Gippsland Earthworm habitat severely impacting on the design options for the replacement structure. In addition, any design solution requires the approval of Melbourne Water because the bridge is in a catchment that flows into Westernport Bay. This approval process is more onerous than with the local catchment management authority. Given these works need to be delivered during the summer construction season when flows are minimal, the project needs to be carried forward to 2021/22.

18. Cost Centre 85080 – Bridge – Bass Valley Road (KB090): Decrease income budget by \$156,528 and decrease expenditure budget by \$313,056

2020/21 Adopted Income:	\$156,528	Revised:	\$0
2020/21 Adopted Expenditure:	\$313,056	Revised:	\$0

This project is being carried forward along with the other structure on this road as described above.

19. Cost Centre 88090 – Footpath Extension – Jumbunna Road, Korumburra: Increase expenditure budget by \$66,780

2020/21 Revised Expenditure:	\$552,457	Revised:	\$619,237
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This project was completed in late October 2020. Additional works were required including the discovery of unknown drainage assets which required remediation, the inclusion of additional retaining walls, and pedestrian railing not included in the design, as well as a significant number of Telstra pits that needed replacing. The combined effect of these items has resulted in the project budget being exceeded by \$66,780.

20. Cost Centre 66000 – Leongatha Gymnastic Extension: Decrease income budget by \$70,000 and decrease expenditure budget by \$203,979

2020/21 Revised Income:	\$70,000	Revised:	\$0
2020/21 Adopted Expenditure:	\$203,979	Revised:	\$0

This project was developed by the Leongatha Gymnastics Club and the budget was based on a quote from a local builder. However, when the project was tendered, the preferred tenderer's price was considerably above the budget which included Sport & Recreation Victoria (SRV) grant funding and a contribution from the club. No additional funding has been able to be sourced to make the project financially viable, so the projects is being abandoned. Therefore, both the income and expenditure budgets need to be adjusted accordingly.

21. Cost Centre 93210 – Recreation – Foster Showgrounds Irrigation & Resurfacing: Decrease expenditure budget by \$300,000

2020/21 Adopted Expenditure:	\$300,000	Revised:	\$0
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Council applied for grant funding for this project earlier in 2020 and this application was ultimately unsuccessful. However, there is an opportunity for another application in the upcoming Local Sport Infrastructure Fund following the recent State budget. The timing of this program is such that if successful, the works would not commence until late in 2021 so it is proposed to carry this budget forward.

22. Cost Centre 85210 – Bridge – Timms Road (KB330): Decrease expenditure budget by \$35,812

2020/21 Revised Expenditure:	\$425,302	Revised:	\$400,302
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This project was completed on 1 September 2020. Only minor expenditure is planned for sealing works, therefore, it is proposed that the remaining budget amount of \$25,000 be directed to the bottom line.

23. Cost Centre 85220 – Bridge – Standfields Bridge, Poowong North: Decrease expenditure budget by \$19,212

2020/21 Revised Expenditure:	\$19,212	Revised:	\$0
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This structure is a boundary bridge with Baw Baw Shire Council and replaced under the boundary agreement in 2019/20. It was not expected that South Gippsland Shire Council's contribution would be made in that year so the \$130,000 budget was carried forward. However, the actual contribution of \$110,788 was paid in 2019/20, so the revised remaining budget of \$19,212 can now be directed to the bottom line.

24. Cost Centre 82420 – Roads – Gardner Lane, Poowong: Decrease expenditure budget by \$254,449

2020/21 Revised Expenditure:	\$256,449	Revised:	\$2,000
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This project is unlikely to be delivered in 2020/21. In principle agreement has just been reached with the abattoir operator on a proposed treatment for this road. The feature survey has now been obtained to complete the detailed design, followed by a road discontinuance process that needs to be implemented after consultation with other affected neighbours. Given the time required for these activities, it is proposed to carry forward most of this budget with the exception of a small design budget.

25. Cost Centre 82110 – Roads – Reseals: Decrease expenditure budget by \$150,000

2020/21 Revised Expenditure:	\$1,738,012	Revised:	\$1,588,012
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Based on the likely expenditure under this program for 2020/21, there is expected to be a saving of approximately \$150,000. It is proposed to direct this saving to the bottom line.

26. Cost Centre 93180 – Recreation – Korumburra Skate Park: Decrease income budget by \$10,000 and decrease expenditure budget by \$234,056

2020/21 Adopted Income:	\$10,000	Revised:	\$0
2020/21 Revised Expenditure:	\$234,056	Revised:	\$0

The Korumburra Skate Park is currently being delayed by both the need for a planning permit from Council due to a heritage overlay over the final adopted Korumburra Railway Station site. It is not expected that this permit will be obtained in time to allow for the tender process and construction to commence this financial year so it is proposed to carry the budget forward to the 2021/22 financial year.

27. Cost Centre 73580 – Buildings – Renewal Program: Decrease expenditure budget by \$691,113

2020/21 Revised Expenditure:	\$1,160,059	Revised:	\$468,946
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The Buildings Renewal Program has a number of activities which will not progress as further investigations are required to resolve the approach to these renewal works, including determining required design works and any permits and approvals. Examples are floor works at the Foster War Memorial (\$65,083), air movement systems at various sites (\$30,000), planning works for the Mirboo North Stadium (\$72,000), shelter replacement works (\$51,757), Mirboo North Hall (\$80,373) and design works for the Poowong Sports Stadium (\$14,000).

The roof repair works on the Leongatha Basketball Stadium (\$210,000), which are being packaged with similar works at Leongatha Memorial Hall (\$125,000), also need to be deferred to 2021/22 as the basketball club

requires these works to be completed by the start of their competition season (end of April). There is inadequate time for these works to satisfy this request. The total budget for these works is \$648,213 which will be carried forward to 2021/22.

There is a balance of \$42,900 against the Foster Basketball Stadium activity which was allocated for a changeroom facelift. This amount can now be directed to the bottom line as this work is incorporated into the Foster Indoor Stadium Development and there is adequate budget under cost centre 73730 for that project.

28. Cost Centre 93220 – Recreation – Venus Bay Activity Centre Projects: Decrease expenditure budget by \$323,000

2020/21 Adopted Expenditure:	\$643,000	Revised:	\$320,000
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This project will not be completely delivered in 2020/21 partly due to the need for a cultural heritage management plan for some of the works including the skatepark and toilet works. The elements that will be delivered include the playground, shelter, table tennis facility and paths.

The budget required for these works is around \$320,000 and the remaining budget will be carried forward to 2021/22.

29. Cost Centre 93130 – Recreation – Baromi Park Masterplan & Associated Works: Increase expenditure budget by \$35,910

2020/21 Revised Expenditure:	\$405,005	Revised:	\$440,915
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Additional works are required on the performance space shelter including the replacement of colorbond cladding on the sidewalls with knot-wood battens, plus the replacement of lining of the rear wall and ceiling with Australian hoop marine ply. The cost of this additional work is \$35,910.

CONSULTATION / COMMUNITY ENGAGEMENT

Discussions with the relevant Council officers managing the various projects in this report have taken place to ascertain the status of each project and the likely expenditure for 2020/21.

RESOURCES / FINANCIAL VIABILITY

The proposed amendments have a significant change to the total budget for the 2020/21 Capital Works Program with expenditure reduced by \$8,623,533 and income decreased by \$236,528, meaning a nett favourable position amounting to \$8,387,005. The significant carried forward amount into the 2021/22 financial year (increase of \$10,000 in income and \$8,488,907 in expenditure) will increase the workload in that year.

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

Table 3 – Proposed Changes (Budget Impact)

			2020/21 Original	2020/21 Revised	Favourable / (Unfavourable)	Carry Forward
INCOME						
4	85080	Bass Valley Bridge KB090	156,528	0	(156,528)	
6	66000	Leongatha Gymnastics	70,000	0	(70,000)	
12	93180	Korumburra Skate Park	10,000	0	(10,000)	10,000
		Total Income	236,528	0	(236,528)	10,000

EXPENDITURE						
1	82270	Korumburra Streetscape	1,742,042	700,000	1,042,042	(1,042,042)
2	73630	Korumburra Hub	5,472,632	200,000	5,272,632	(5,272,632)
3	85070	Bass Valley Bridge KB080	101,459	0	101,459	(101,459)
4	85080	Bass Valley Bridge KB090	313,056	0	313,056	(313,056)
5	88090	Jumbunna Road Path	552,457	619,237	(66,780)	
6	66000	Leongatha Gymnastics	203,979	0	203,979	
7	93210	Foster Showgrounds	300,000	0	300,000	(300,000)
8	85210	Timms Road Bridge	425,302	400,302	25,000	
9	85220	Standfields Bridge	19,212	0	19,212	
10	82420	Gardner Lane	256,449	2,000	254,449	(254,449)
11	82110	Road Reseals	1,738,012	1,588,012	150,000	
12	93180	Korumburra Skate Park	234,056	0	234,056	(234,056)
13	73580	Buildings Renewal	1,160,059	468,946	691,113	(648,213)
14	93220	Venus Bay Activity Centre	643,000	320,000	323,000	(323,000)
15	93130	Baromi Park	405,005	440,915	(35,910)	
		Total Expenditure	13,566,720	4,739,412	8,623,533	(8,488,907)

NET 2020/21 (IMPACT ON BUDGET)					
Total Income		236,528	0	(236,528)	10,000
Total Expenditure		13,566,720	4,739,412	8,623,533	(8,488,907)
NET Favourable / (Unfavourable)				8,387,005	(8,478,907)

RISKS

The budget adjustments recommended in this report will align more closely with the Capital Works Program to be delivered in 2020/21.

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.

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 1. Direction & Leadership

Council Policy / Strategy / Plans

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

Annual Budget

Annual Budget inc. Long Term Financial Plan and Annual Plan Initiatives

Council Plan 2020-2024

Legislative Provisions

Local Government Act 1989

Local Government Act 2020

5. OBJECTIVE 4 - CUSTOMER FOCUSED ORGANISATION

5.1. COUNCIL MEETING TIMETABLE 2021

Performance & 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

Council's transparency and governance is demonstrated at its Council Meetings where decisions are made on behalf of the community.

EXECUTIVE SUMMARY

The *Local Government Act 2020 (the Act)*, Part 3 Division 2 sets out the requirements relating to procedures and proceedings relating to council decision making. One of the ways in which Council decision making is undertaken is by resolution at a Council Meeting, and it is a requirement under the Act that the conduct of Council Meetings be set out in its Governance Rules.

Council adopted *Governance Rules (C82)(the Rules)* at Council Meeting 26 August 2020. Clause 11 of the Rules requires the dates and times of Meetings be fixed by Council, and specifically in clause 11.1 that:

At or before the last Meeting each calendar year, Council must fix the date, time and place of all Council meetings and any Delegated Committee Meetings for the following calendar year.

Council may by resolution call an Additional Council Meeting per clause 13.1 when meetings are required outside of the annual Meeting schedule.

This report proposes the annual dates, times and place for Council Meetings for the 2021 calendar year.

RECOMMENDATION

That Council:

1. Sets the Council Meeting Schedule for 2021 to be held in the Council Chambers, Leongatha on the following dates and times:
 - a. Wednesday 24 February 2021, 2.00pm (Meeting No.453)
 - b. Wednesday 17 March 2021, 2.00pm (Meeting No.454)
 - c. Wednesday 14 April 2021, 2.00pm (Meeting No.455)
 - d. Wednesday 21 April 2021, 2.00pm (Meeting No.456)

- e. Wednesday 19 May 2021, 2.00pm (Meeting No.457)
 - f. Wednesday 2 June 2021, 2.00pm (Meeting No.458)
 - g. Wednesday 9 June 2021, 2.00pm (Meeting No.459)
 - h. Wednesday 16 June 2021, 2.00pm (Meeting No.460)
 - i. Wednesday 21 July 2021, 2.00pm (Meeting No.461)
 - j. Wednesday 18 August 2021, 2.00pm (Meeting No.462)
 - k. Wednesday 15 September 2021, 2.00pm (Meeting No.463)
 - l. Wednesday 20 October 2021, 2.00pm (Meeting No.464)
 - m. Wednesday 24 November 2021, 2.00pm (Meeting No.465)
 - n. Wednesday 15 December 2021, 2.00pm (Meeting No.466)
- 2. Authorises the Chief Executive Officer to change a meeting location:
 - a. should that be warranted, due to the nature of business and availability of the Council Chambers; and/ or
 - b. responding to safety matters.
 - 3. Provides reasonable notice to the public via local newspapers and Council's website should a change in Meeting time or location be warranted.
 - 4. Note that Additional Council Meetings are called from time to time requiring decisions of Council outside the annual meeting schedule in recommendation 1. As far as practicable give reasonable notice to the public via local newspapers and Council's website in these instances.

MOVED: Administrator Brown

SECONDED: Administrator Zahra

THAT COUNCIL:

- 1. SETS THE COUNCIL MEETING SCHEDULE FOR 2021 TO BE HELD IN THE COUNCIL CHAMBERS, LEONGATHA ON THE FOLLOWING DATES AND TIMES:**
 - a. WEDNESDAY 24 FEBRUARY 2021, 2.00PM (MEETING NO.453)**
 - b. WEDNESDAY 17 MARCH 2021, 2.00PM (MEETING NO.454)**
 - c. WEDNESDAY 14 APRIL 2021, 2.00PM (MEETING NO.455)**
 - d. WEDNESDAY 21 APRIL 2021, 2.00PM (MEETING NO.456)**
 - e. WEDNESDAY 19 MAY 2021, 2.00PM (MEETING NO.457)**
 - f. WEDNESDAY 2 JUNE 2021, 2.00PM (MEETING NO.458)**
 - g. WEDNESDAY 9 JUNE 2021, 2.00PM (MEETING NO.459)**
 - h. WEDNESDAY 16 JUNE 2021, 2.00PM (MEETING NO.460)**
 - i. WEDNESDAY 21 JULY 2021, 2.00PM (MEETING NO.461)**
 - j. WEDNESDAY 18 AUGUST 2021, 2.00PM (MEETING NO.462)**
 - k. WEDNESDAY 15 SEPTEMBER 2021, 2.00PM (MEETING NO.463)**
 - l. WEDNESDAY 20 OCTOBER 2021, 2.00PM (MEETING NO.464)**
 - m. WEDNESDAY 24 NOVEMBER 2021, 2.00PM (MEETING NO.465)**
 - n. WEDNESDAY 15 DECEMBER 2021, 2.00PM (MEETING NO.466)**
- 2. AUTHORISES THE CHIEF EXECUTIVE OFFICER TO CHANGE A MEETING LOCATION:**
 - a. SHOULD THAT BE WARRANTED, DUE TO THE NATURE OF BUSINESS AND AVAILABILITY OF THE COUNCIL CHAMBERS; AND/OR**
 - b. RESPONDING TO SAFETY MATTERS.**
- 3. PROVIDES REASONABLE NOTICE TO THE PUBLIC VIA LOCAL NEWSPAPERS AND COUNCIL'S WEBSITE SHOULD A CHANGE IN MEETING TIME OR LOCATION BE WARRANTED.**

4. **NOTE THAT ADDITIONAL COUNCIL MEETINGS ARE CALLED FROM TIME TO TIME REQUIRING DECISIONS OF COUNCIL OUTSIDE THE ANNUAL MEETING SCHEDULE IN RECOMMENDATION 1. AS FAR AS PRACTICABLE GIVE REASONABLE NOTICE TO THE PUBLIC VIA LOCAL NEWSPAPERS AND COUNCIL'S WEBSITE IN THESE INSTANCES.**

CARRIED UNANIMOUSLY

[Link to next Agenda Item.](#)

REPORT

Council Meeting Dates and Venues

The December Meeting of Council is the last meeting of the year and requires Council to fix the date, time and place of all Council meetings and any Delegated Committee Meetings for the following calendar year.

Council propose to hold the first Council Meeting of 2021 on 24 February 2021 and from then on, generally the third Wednesday of each month for the remainder of the calendar year. There are a number of exceptions outlined below.

The first Council Meeting of 2021 is scheduled for the 4th Wednesday of the month to accommodate the timely development of reports for the agenda.

- **Wednesday 24 February 2021, 2,00pm (Meeting No.453)**

Three additional meetings are outside the usual 3rd Wednesday of the month in order to expedite the business of Council, incorporating the council budget deliberation processes.

- **Wednesday 14 April 2021, 2,00pm (Meeting No.455)**

- **Wednesday 2 June 2021, 2,00pm (Meeting No.458)**

- **Wednesday 9 June 2021, 2,00pm (Meeting No.459)**

Council Meetings are to commence at 2.00pm and be held in the Council Chambers, Leongatha. The Chief Executive Officer may change a meeting location should that be warranted, due to the nature of business and availability of the Council Chambers, Leongatha. This may include changing the Meeting to a different town if the Agenda warrants it. Any changes arising are guided by the *Governance Rules(C82)*, clause 12.1:

12.1 Council by resolution, or the Chief Executive Officer, may change the date, time and place of, or cancel, any Council Meeting which has been fixed and must provide notice of the change to the public.

Council publishes notice of Council Meetings in Council's Noticeboard section of local newspapers and on its website.

CONSULTATION / COMMUNITY ENGAGEMENT

Consultation with Council's event coordination functions to ensure optimum conduct of Council Business.

RESOURCES / FINANCIAL VIABILITY

Nil

RISKS

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

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.

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)

Public Participation in Meetings with Council Policy (C65)

Legislative Provisions

Local Government Act 2020

5.2. SUMMARY OF STRATEGIC BRIEFINGS TO ADMINISTRATORS: 22 OCTOBER - 21 NOVEMBER 2020

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

Council's transparency and governance is strengthened by regularly reporting on summaries of briefings held, that assist Council to make informed decisions 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, aim to assist the transparency of Council decisions, actions and information through the provision of public summaries of information presented and considered at Council Strategic Briefing Sessions, Public Presentation Sessions and Advisory Committees. These summaries provide understandable, relevant, timely and accessible information to members of the public that are captured in the minutes of the next Council meeting.

The matters listed in this report demonstrate information presented and considered at sessions held between 22 October and 21 November 2020.

RECOMMENDATION

That Council receives and notes this report.

MOVED: Administrator Brown

SECONDED: Administrator Zahra

THAT COUNCIL RECEIVES AND NOTES THIS REPORT.

CARRIED UNANIMOUSLY

[Link to next Agenda Item.](#)

REPORT

Meeting Title	Details
Tuesday 27 October 2020	
CEO / Administrators Weekly meeting	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: Nil disclosed Matters Considered: • Leongatha Stadium • Improvements delivered to Splash during COVID lockdown • Strategic planning workshop
Wednesday 28 October 2020	
Audit Committee Chair – Annual Report to Council	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: Nil disclosed Matters Considered:
Virtual Meeting Sessions (open)	The Administrators considered a report from the South Gippsland Shire Council Audit Committee Chair - Annual Report to Council.
Executive Update	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: Nil disclosed Matters Considered: • Foster Stadium • Playground at Buffalo • SPLASH Stadium • Council Office Maintenance • Caravan Parks opening • Dairy Industry
Council Meeting Agenda Topic Discussion – 28 October 2020	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: Nil disclosed Matters Considered: The Administrators considered and asked questions relating to Agenda items for the Council Meeting 28 October 2020.

Meeting Title	Details
Wednesday 28 October 2020	
Annual Budget – End of Year Financial Report and Long-Term Financial Plan	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: Nil disclosed Matters Considered: The Administrators considered an overview of 2019/20 financial results, the impact on forward budgets and Long-Term Financial Strategies.
Walkerville South Car Park	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: Nil disclosed Matters Considered: The Administrators considered a briefing on the impacts of a busy summer in respect of car parking at Walkerville South.
Wednesday 4 November 2020	
CEO / Administrators Weekly meeting	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: Nil disclosed Matters Considered: • Community and stakeholder engagement
Executive Update	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: Nil disclosed Matters Considered: • Bair Street Leongatha construction • Community Infrastructure Committee nominations • Outdoor Dining Assistance Project • Road closure • Council Reception opening

Meeting Title	Details
Wednesday 4 November 2020	
Planning Briefing	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: Nil disclosed Matters Considered: The Administrators considered: • Strategic Planning Project List • Planning Applications of Interest • Decisions for September 2020 • VCAT Decisions • Applications received September 2020 • Enforcement matters
Community Engagement Policy	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: Nil disclosed Matters Considered: The Administrators considered the Community Engagement Policy ahead of seeking community feedback.
Tuesday 10 November 2020	
CEO / Administrators Weekly meeting	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: Nil disclosed Matters Considered: • Annual Report • Australia Day citizenship ceremony • Congratulating the incoming Mayors of Gippsland Councils
Wednesday 11 November 2020	
Executive Update	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: Nil disclosed Matters Considered: • Sheen's Road feedback • Baromi Park, Mirboo North • Bair Street Leongatha construction • Deliberative Engagement • Planning Application • Social Disadvantage • Caravan Parks • Community Grants

Meeting Title	Details
Agenda Topic Discussion: 18 and 25 November Council Meetings	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: Nil disclosed Matters Considered: The Administrators considered and asked questions relating to Agenda items for the Council Meetings 18 and 25 November 2020.
Administrator Forward Planner	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: Nil disclosed Matters Considered: The Administrators considered a guide of strategic briefings and reports anticipated for 2021.
Wednesday 18 November 2020	
CEO / Administrators Weekly meeting	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: Nil disclosed Matters Considered: • Community Grants Program • Economic Development Strategy • Preparation for additional meeting of Council
Executive Update	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: Nil disclosed Matters Considered: • Performing Artspace, Mirboo North • Construction project updates • Social Housing Funding • Korumburra Hub • Economic Development and Visitor Economy Strategies
Community Grants Round 1 Assessment	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: Nil disclosed Matters Considered: The Administrators reviewed the recommendations arising from the assessment of Round 1 of the 2020/21 Community Grants Program.

Wednesday 18 November 2020	
Economy, Arts and Tourism - Update	Administrators Attending: Julie Eisenbise, Christian Zahra, Rick Brown Conflict of Interest: Nil disclosed Matters Considered: The Administrators considered current activities and progress of work of the Economy, Arts and Tourism Department.

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 Participation in Meetings with Council Policy (C65)

Public Transparency Policy (C75)

Legislative Provisions

Local Government (South Gippsland Shire Council) Act 2019

Local Government Act 1989

Local Government Act 2020

5.3. DOCUMENTS SEALED, CONTRACTS VARIED, AWARDED OR EXTENDED BY CEO - 19 OCTOBER TO 13 NOVEMBER 2020

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.

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 19 October to 13 November 2020. Council's *Procurement Policy* 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.

MOVED: Administrator Zahra

SECONDED: Administrator Brown

THAT COUNCIL RECEIVES AND NOTES THIS REPORT.

CARRIED UNANIMOUSLY

[Link to next Agenda Item.](#)

REPORT

Documents Sealed

Under the *Local Government Act 2020* (the Act), section 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 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 19 October to 13 November 2020.

1. Section 173 Agreement between South Gippsland Shire Council and the owner of 7673 South Gippsland Highway Bena in relation to a two-lot subdivision. Seal applied 11 November 2020.
2. S6 Instrument of Delegation – members of Staff. Seal applied 28 October 2020
3. Instrument of Appointment and Authorisation under section 147(4) *Planning and Environment Act 1987* to Nicholas Haselroither. Seal applied 28 October 2020
4. Instrument of Appointment and Authorisation under section 147(4) *Planning and Environment Act 1987* to Sasha Savanovic. Seal applied 28 October 2020

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 after a public tender process within the CEO’s delegation between 19 October to 13 November 2020.

- a. Nil
- 2. Contract variations approved by the CEO between 19 October to 13 November 2020.
 - a. CON/100 for the Provision of Cleaning Services – Various Locations awarded to KC Facility Services Pty Ltd was varied to include spot cleaning of 'Touch Points'. This variation represents an increase of \$33,833.84 for the remainder of the contract.
- 3. Contract extensions approved by the 19 October to 13 November 2020.
 - a. SGC12/06 for the Provision of Transfer Stations Management and Booked Hard Waste Collection Services was extended for a one-year period, expiring 18 December 2021. This extension was an option in the Contract. Signed by CEO 20 October 2020.
 - b. SGC13/08 for the Provision of Kerbside Garbage and Recycling Collection Services was extended for a one-year period, expiring 31 January 2022. This extension was an option in the Contract. Signed by CEO 5 November 2020.

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.

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

6. NOTICES OF MOTION AND/OR RESCISSION

NIL

7. ADMINISTRATOR REPORTS

7.1. REQUESTS FOR LEAVE OF ABSENCE

Nil

7.2. ADMINISTRATORS UPDATES

Administrator Rick Brown addressed Administrators by reporting on:

- **The *Victorian Small Business Commission* acknowledgement of the work being done by the South Gippsland Shire Council in promoting and supporting small business. He commented on the importance and significance of being recognized by a State Government body. Administrator Brown commented that Small Business is critical to the life of the Shire. Council Staff need to be commended for this recognition and in particular the Economic and Development Department that engages with small business on a daily basis. As an example in the Commission's report it mentioned the upgrading of Bair Street, Leongatha and how Council was keeping in regular contact with small business owners on the changes as they occurred. A further item that was highlighted was Council policy that hastens the payment of invoices, as this supported cash flow which is fundamental to small business.**
- **An arts program hosted by the West Gippsland Regional Library Corporation for a one-month residency for writers, the program is set to start in December and will develop a series of essays, poems or short stories that reflect on experiences during the COVID19 Pandemic.**

Administrator Deputy Chair, Christian Zahra addressed Administrators by reporting on:

- **Administrator Brown's appointment as Chair of the West Gippsland Regional Library Corporation which recognises his diligent service on the board on behalf of the people of South Gippsland.**
- **The *Victorian Small Business Commission* report and highlighted that South Gippsland Shire Council was held up as a shining example of what a business-friendly Council looks like. It is noteworthy that Council has been recognised at a State level. It is the culture of Council staff and**

policy developed that support active personal customer service with residents, local community organisations and small business.

Administrator Chair, Julie Eisenbise addressed Administrators by reporting on:

- **Her attendance at COVID safe meetings with businesses and residents in South Gippsland.**
- **The high level of phone calls to the Customer Service Team that have taken place over the last year. There were over 37,000 calls taken in the working from home environment, over 10,000 written requests and 1.14 million hits and 150,000 visitors to the Council Facebook page. This Team has ensured regular contact with all members of community during this time.**

7.3. COMMITTEE UPDATES

Nil

8. 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.

Nil

9. PUBLIC QUESTIONS

9.1. PETITIONS AND JOINT LETTERS

Petitions and Joint letters are written requests that have been signed by a number of community members. According to the Local Law No.3 2010 petitions may be presented to Council by 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 Public Presentation 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.

The Administrator presenting the petition is responsible for ensuring that they are familiar with the contents and purpose of the petition and that it is not derogatory or defamatory.

Nil

9.2. 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: Public Participation in Meetings with Council Policy (C65) – adopted 18 December 2019.

Nil

9.3. 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: Public Participation in Meetings with Council Policy (C65) – adopted 18 December 2019.

Nil

10. 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 12.1, designated as Council business information;
 - a. being information that would prejudice the Council's position in commercial negotiations if prematurely released; and
 - b. Council proposes to undertake commercial negotiations that require confidentiality until the outcome is made public;
2. Per s.3(1)(f) Agenda item 12.2 and 12.3 designated as personal information,
 - a. being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;
 - b. The matters for consideration required the collection of personal information for assessment, also including private financial information.
3. Per s.3(1)(g) Agenda items 12.4, 12.5, 12.6 and 12.7, 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 information is deemed commercial in confidence to protect the privacy of the contractors, tender scores and tendered amounts submitted for consideration.

MOVED: Administrator Brown

SECONDED: Administrator Zahra

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 12.1, DESIGNATED AS COUNCIL BUSINESS INFORMATION;**
 - a. BEING INFORMATION THAT WOULD PREJUDICE THE COUNCIL'S POSITION IN COMMERCIAL NEGOTIATIONS IF PREMATURELY RELEASED; AND**
 - b. COUNCIL PROPOSES TO UNDERTAKE COMMERCIAL NEGOTIATIONS THAT REQUIRE CONFIDENTIALITY UNTIL THE OUTCOME IS MADE PUBLIC;**
- 2. PER S.3(1)(F) AGENDA ITEM 12.2 AND 12.3 DESIGNATED AS PERSONAL INFORMATION,**
 - a. BEING INFORMATION WHICH IF RELEASED WOULD RESULT IN THE UNREASONABLE DISCLOSURE OF INFORMATION ABOUT ANY PERSON OR THEIR PERSONAL AFFAIRS;**
 - b. THE MATTERS FOR CONSIDERATION REQUIRED THE COLLECTION OF PERSONAL INFORMATION FOR ASSESSMENT, ALSO INCLUDING PRIVATE FINANCIAL INFORMATION.**
- 3. PER S.3(1)(G) AGENDA ITEMS 12.4, 12.5, 12.6 AND 12.7, 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 INFORMATION IS DEEMED COMMERCIAL IN CONFIDENCE TO PROTECT THE PRIVACY OF THE CONTRACTORS, TENDER SCORES AND TENDERED AMOUNTS SUBMITTED FOR CONSIDERATION.**

CARRIED UNANIMOUSLY

11. MEETING CLOSED

NEXT MEETING

The next Council Meeting open to the public will be held on a Wednesday 24 February 2020 commencing at 2pm.

The Council Meeting closed at 2.43pm.

Confirmed this

24th day of February 2021.

Administrator Chair, Julie Eisenbise