

SOUTH GIPPSLAND SHIRE COUNCIL

# Council Minutes

Ordinary Meeting of Council

28 August 2019

**Ordinary Meeting No. 437**  
**RSL, Leongatha**  
**Commenced at 12pm**

**ADMINISTRATORS**

Julie Eisenbise, Chair  
Christian Zahra, Deputy Chair  
Rick Brown



# minutes



*South Gippsland  
Shire Council*

*Come for the beauty, Stay for the lifestyle*



## MISSION

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

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

## PRESENT

ADMINISTRATORS:	Julie Eisenbise, Chair Christian Zahra, Deputy Chair Frederick (Rick) Brown
NOT PRESENT:	-
OFFICERS:	Bryan Sword, Acting Chief Executive Officer Faith Page, Director Corporate and Community Services Tony Peterson, Acting Director Infrastructure Services Paul Stampton, Acting Director Development Services June Ernst, Coordinator Council Business Natasha Berry, Corporate and Council Business Officer Jodi Cumming, Corporate and Council Business Officer Danielle Wilson, Communications and Engagement Officer

## SOUTH GIPPSLAND SHIRE COUNCIL

Ordinary Meeting No. 437  
 Wednesday 28 August 2019  
 RSL, Leongatha commenced at 12pm

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**Bryan Sword**  
**Acting Chief Executive Officer**

## **1. PRELIMINARY MATTERS**

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

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

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

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

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

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

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

Thank you

### **1.2. WELCOME**

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

### **1.3. OPENING PRAYER**

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

Amen

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

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

#### **1.5. APOLOGIES**

**Nil**

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

##### **RECOMMENDATION**

That the Minutes of the South Gippsland Shire Council Ordinary Meeting No. 436, held on 24 July 2019 and the 31 July 2019 in the Council Chambers, Leongatha be confirmed.

**MOVED:** Administrator Zahra

**SECONDED:** Administrator Brown

**THAT THE MINUTES OF THE SOUTH GIPPSLAND SHIRE COUNCIL ORDINARY MEETING NO. 436, HELD ON 24 JULY 2019 AND THE 31 JULY 2019 IN THE COUNCIL CHAMBERS, LEONGATHA BE CONFIRMED.**

**CARRIED UNANIMOUSLY**

## 1.7. DECLARATION OF CONFLICTS OF INTEREST FOR ADMINISTRATORS

Any interest that an Administrator or staff member has deemed to be significant and has disclosed as either a direct or an indirect interest is now considered to be a conflict of interest. Conflict of interest legislation is in sections 77A, 77B, 78, 78A-D and 79 of the Local Government Act 1989 (the Act). This legislation can be obtained by contacting the Council's Corporate & Community Services Directorate (Council Business) or by accessing the Victorian Legislation and Parliamentary Documents website at [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au).

An interest may be by close association, financial, conflicting duties or receipt of gifts. If an Administrator or staff member discloses any interest in an item discussed at any Council Meeting (whether they attend or not) they must:

- Complete a disclosure of interest form prior to the Meeting (forms are available from Council Business Department at South Gippsland Shire Council).
- Advise the Chair of the interest immediately before the particular item is considered (if attending the Meeting).
- Leave the Council Chamber or Meeting room while the item is being discussed and during any vote taken (if attending the Meeting).

The Administrator or staff member will be advised to return to the Council Chamber or Meeting room immediately after the item has been considered and the vote is complete.

Administrators should check the Minutes of the Council Meeting to ensure their disclosure is recorded accurately. Administrators are not required to disclose conflict of interest in relation to matters only considered at Meetings they do not attend. Detailed information is available in *Conflict of Interest – A Guide – October 2012*.

**Nil**

## 1.8. DECLARATION OF CONFLICTS OF INTEREST FOR STAFF

Sections 80B and 80C of the Local Government Act 1989 require members of Council staff who have delegated functions and/or provide advice to Council or a Special Committee to disclose conflicts of interest. If Council staff have written, provided information/advice or approved a Council Report and have a conflict of interest, it is the responsibility of that staff member to disclose the interest.

Guidance to identifying and disclosing a conflict of interest is contained in the Victorian State Government, Department of Transport, Planning and Local Infrastructure – *Conflict of Interest – A Guide for Council Staff – October 2011*.

**Bryan Sword, Acting Chief Executive Officer declared a direct conflict of Interest in Section 10 - Urgent or other Business, two Agenda items relating to his employment at Council: Item 10.1. PERSONNEL MATTER PURSUANT SECTION 89(2)(a) OF THE LOCAL GOVERNMENT ACT 1989 and 10.2. CHIEF EXECUTIVE OFFICER RECRUITMENT PROCESS COMMENCEMENT.**

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

### **2.1. PLANNING SCHEME AMENDMENT C90 - HOUSING AND SETTLEMENT STRATEGY - POST-PANEL ADOPTION**

Development Services Directorate

#### **EXECUTIVE SUMMARY**

South Gippsland Planning Scheme Amendment C90 (Amendment C90) seeks to implement the key recommendations of the South Gippsland Housing and Settlement Strategy (2013). It introduces a series of new township framework plan maps, Restructure Overlay plans, an incorporated document and related planning policy changes. Submissions were received during exhibition of the Amendment C90 and referred to an Independent Planning Panel. In response to the Planning Panel's recommendations (refer to **Attachment [2.1.1]**), the final Amendment C90 documents have been prepared for adoption by Council to submit to the Minister for Planning for approval (refer to **Amendment [2.1.2]**).

#### **RECOMMENDATION**

That Council:

1. Adopts Council's responses to Planning Panel's recommendations (refer to Attachment [2.1.1]);
2. Adopts South Gippsland Planning Scheme Amendment C90 generally in accordance with the documents provided in Attachment [2.1.2]; and
3. Requests the Minister of Planning to approve South Gippsland Planning Scheme Amendment C90.

**MOVED:** Administrator Brown

**SECONDED:** Administrator Zahra

**THAT COUNCIL:**

1. **ADOPTS COUNCIL'S RESPONSES TO PLANNING PANEL'S RECOMMENDATIONS (REFER TO ATTACHMENT [2.1.1]);**
2. **ADOPTS SOUTH GIPPSLAND PLANNING SCHEME AMENDMENT C90 GENERALLY IN ACCORDANCE WITH THE DOCUMENTS PROVIDED IN ATTACHMENT [2.1.2]; AND**
3. **REQUESTS THE MINISTER OF PLANNING TO APPROVE SOUTH GIPPSLAND PLANNING SCHEME AMENDMENT C90.**

**CARRIED UNANIMOUSLY**

[Link to next Agenda item.](#)

## **REPORT**

South Gippsland Planning Scheme Amendment C90 (Amendment C90) proposes to implement key recommendations of the South Gippsland Housing and Settlement Strategy, September 2013. Amendment C90 introduces into the South Gippsland Planning Scheme a series of new township framework plan maps, Restructure Overlay plans, an incorporated document for the Restructure Overlay areas and related planning policy changes.

The Housing and Settlement Strategy was prepared with community input in 2012 and adopted by Council on 25 September 2013. Amendment C90 was originally authorised on 31 October 2016 and exhibited in 2017 and 2018. Council resolved to refer the submissions received during exhibition to an Independent Planning Panel (Panel) at its 25 July 2018 Ordinary Meeting. Panel hearings were held on 12-13 November 2018 and 27 May 2019. The Panel's recommendations were received 1 July 2019 and responses to their recommendations have been prepared (refer to **Attachment [2.1.1]**). In line with Council's responses, updated Amendment C90 documentation has been prepared for adoption to be submitted to the Minister for Planning for approval (refer to **Attachment [2.1.2]**).

## **CONSULTATION**

Extensive consultation was undertaken as part of the Housing and Settlement Strategy (2013) in 2012 and involved several public meetings with affected landowners. Exhibition and further notification of Amendment C90 took place between November 2017 to 8 January 2018 and 12 March to 12 April 2019. Letters were sent to approximately 2,000 owners and occupiers including all landowners affected by the restructure overlay.

An Independent Planning Panel was appointed to consider the 131 submissions received during the original exhibition. Fifteen additional submissions were received and considered by the Panel following further notification.

## **RESOURCES**

No additional resources are required to submit the Amendment to the Minister.

## **RISKS**

The risk of continuing with the Amendment broadly as exhibited and in line with Council's adopted Housing and Settlement Strategy is minimal. Amendment C90 addresses risks to both Council and landowners by seeking to remove uncertainties regarding how small settlements may expand and how historic inappropriate subdivisions may be developed.

## **STAFF DISCLOSURE**

Nil

## **ATTACHMENTS**

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

1. Amendment C90 - Council's Response to Panel Recommendations and Panel Report [2.1.1 - 162 pages]
2. Amendment C90 - Final Amendment Documents [2.1.2 - 249 pages]

## **REFERENCE DOCUMENTS**

### **Council Policy**

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

South Gippsland Housing and Settlement Strategy (2013)

### **Legislative Provisions**

Planning and Environment Act 1987

## **2.2. PLANNING SCHEME AMENDMENT C115 - MIRBOO NORTH TOWN CENTRE - SUBMISSIONS**

Development Services Directorate

### **EXECUTIVE SUMMARY**

Planning Scheme Amendment C115 (Amendment C115) proposes to implement the town centre recommendations of the adopted Mirboo North Structure Plan Refresh (2017). Amendment C115 was recently exhibited to the public and eight submissions were received. Three were objections to the rezoning of two properties to Commercial 1 Zone. This report recommends that the submissions (refer to **Attachment [2.2.1]**) be referred to an Independent Planning Panel.

### **RECOMMENDATION**

That Council refers the submissions (refer to Attachment [2.2.1]) received during exhibition of Planning Scheme Amendment C115 to an Independent Planning Panel.

**MOVED:** Administrator Zahra

**SECONDED:** Administrator Brown

**THAT COUNCIL REFERS THE SUBMISSIONS (REFER TO ATTACHMENT [2.2.1]) RECEIVED DURING EXHIBITION OF PLANNING SCHEME AMENDMENT C115 TO AN INDEPENDENT PLANNING PANEL.**

**CARRIED UNANIMOUSLY**

[Link to the next Agenda item.](#)

## REPORT

The Mirboo North Structure Plan Refresh was adopted by Council at the 24 May 2017 Ordinary Meeting of Council. The plan recommended a number of changes to the South Gippsland Planning Scheme. The recommendations relating to Mirboo North town centre are the subject of Planning Scheme Amendment C115. The other changes are planned for a future Planning Scheme Amendment, as they require further work.

Amendment C115 involves the following changes to the South Gippsland Planning Scheme:

- Updating the objectives and strategies in Clause 21.15-3 (Mirboo North);
- Updating Clause 21.15-3 (Mirboo North) to make reference to the Mirboo North Structure Plan Refresh (2017) as a reference document and removing reference to the Mirboo North Structure Plan 2004;
- Updating Clause 21.16 Reference Documents to include the Mirboo North Structure Plan Refresh (2017) as a reference document in the scheme and removing reference to the Mirboo North Structure Plan 2004;
- Rezoning 4-6 Peters Street, Mirboo North and 39-41 Giles Street, Mirboo North from Mixed Use Zone to Commercial 1 Zone;
- Inserting a new Schedule 13 to Clause 43.02 Design and Development Overlay (DDO13) to apply to the Mirboo North town centre; and
- Amending the Design and Development Overlay Schedule 2 (DDO2) to improve its usability and implement the town centre recommendations.

Where submissions cannot be resolved, an amendment must be referred to an Independent Planning Panel (Panel) for consideration before Council can make its final decision on an amendment. Council officers have formed the view that it is not possible to negotiate the withdrawal of all submissions and that a Panel is required.

## CONSULTATION

Amendment C115 was publicly exhibited from 9 May 2019 to 11 June 2019 in line with the requirements of the *Planning and Environment Act 1987*. Exhibition notification was provided by:

- Postal notification to the owners and occupiers of all land within the proposed rezoning, proposed DDO13 and existing DDO2 areas.
- Public notice, press release and newspaper articles in local newspapers.

- Public notices posted in Mirboo North Town Centre.
- Amendment information provided at Mirboo North Library.
- Amendment information on Council's webpage and the Department of Environment, Land, Water and Planning's webpage.

Eight submissions were received; five of which were from government or referral agencies.

### **Discussion**

The following is a discussion of the key issues raised in the submissions to Amendment C115 (refer **Attachment [2.2.1]** – Submissions - Amendment C115 and **Attachment [2.2.2]** – Key Issues in Submissions & Response - Amendment C115).

### **Objection to Commercial Rezoning**

Three submissions were concerned with the rezoning of land to Commercial 1 Zone (C1Z). Land owners of the sites to be rezoned were opposed the rezoning because they would like to establish future residential development. One landowner is concerned that a self-contained unit will not be able to be established on the site in the future for a family member and argued that the site could be used for future supermarket expansion should the site remain in the Mixed Use Zone. The other landowner objects because of the landowner's intention to subdivide the land for residential development and argues that the land is not suitable for large scale commercial development or carparking given the steep slope of the land. The landowner of the adjacent supermarket site objects to the rezoning because of concern that it will enable the threat of an additional supermarket in Mirboo North.

The Mirboo North Structure Plan Refresh recommends rezoning 4-6 Peters Street and 39-41 Giles Street (adjacent to the existing small supermarket), Mirboo North to C1Z. This is intended to provide for the town's future commercial expansion by protecting the properties from residential development.

Justification for this recommendation is provided in the Mirboo North Structure Plan Economic Inputs Report (refer to **Attachment [2.2.3]** – Mirboo North Economic Inputs Report - Amendment C115). The report states that if current trends continue, Mirboo North will require an additional 750m<sup>2</sup> of retail floor space over the next 20 years. This will include 200m<sup>2</sup> of food, groceries and liquor, and 430m<sup>2</sup> of non-food retail. Most of this additional space would likely be located in the type of small stores which are already in the centre.

However, the additional food and grocery space could be provided as an extension to the existing supermarket.

A similar process has happened with the rebuilding of small supermarkets in Tarwin Lower and Meeniyan to larger buildings in the last decade.

To preserve growth options in the medium and long term, the report recommends that at least 4-6 Peters Street and 39-41 Giles Street be rezoned to Commercial. This will prevent further residential development on these lots that would stymie expansion, particularly if a larger supermarket becomes viable in Mirboo North. Rezoning would safeguard land adjacent to the existing small supermarket for possible future expansion.

### **Other Submissions**

The Department of Transport, West Gippsland Catchment Management Authority, Environment Protection Authority, Telstra and the Country Fire Authority (CFA) also provided responses to the exhibited amendment. Only two requested changes to the amendment. The Department of Transport requested a change to the wording of the DDO2 to refer to the 'relevant road authority' rather than the 'public land manager' which is considered acceptable. The CFA also requested a change to the wording to give greater effect to their Landscaping for Bushfire document in the preparation of applications. They also raised concerns about the focus on vegetation in the proposed local policy changes.

### **Referral to Independent Planning Panel**

As it is not expected that the submissions regarding the rezoning can be resolved, it is recommended that the submissions be referred to an Independent Planning Panel so that Amendment C115 can progress.

### **RESOURCES**

Financial considerations for Council are limited to payment of Panel costs.

### **RISKS**

There are no risks associated with taking Amendment C115 to a Panel hearing.

### **STAFF DISCLOSURE**

Nil

## **ATTACHMENTS**

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

1. Submissions - Planning Scheme Amendment C115 [2.2.1 - 13 pages]
2. Key Issues in Submissions & Response - Amendment C115 [2.2.2 - 4 pages]
3. Mirboo North Structure Plan Economic Inputs by Tim Nott - Amendment C115 [2.2.3 - 29 pages]

## **REFERENCE DOCUMENTS**

### **Council Policy**

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

Mirboo North Structure Plan Refresh 2017

### **Legislative Provisions**

Planning and Environment Act 1987

### **2.3. PLANNING APPLICATION 2018/308 - 250 O'GRADY'S RIDGE ROAD FOSTER NORTH - USE AND DEVELOPMENT OF THE LAND FOR GROUP ACCOMMODATION AND DISPLAY BUSINESS IDENTIFICATION SIGNAGE**

Development Services Directorate

#### **EXECUTIVE SUMMARY**

The applicant is seeking approval for the use and development of the land for group accommodation and the development and display of business identification signage at 250 O'Grady's Ridge Road, Foster North. The majority of structures required are already constructed on the land. The subject land is located approximately 4.5 kilometres (as the crow flies) to the north-west of the Foster township and is currently improved by a large dwelling and various outbuildings.

This application has been referred to Council for determination as nineteen (19) objections have been received to the proposal (refer to **Confidential Attachment [15.1.1]**) and one letter of support (refer to **Confidential Attachment [15.1.2]**). Key issues raised by objectors include the potential effect of the development on road safety and traffic, noise and visual pollution, potential overcrowding of the facility, bushfire risk and future intensification of the development. A number of other issues have also been raised in submissions.

The key issues relating to this application are:

- Whether the proposal is an appropriate use and development in the Farming Zone and on this site;
- Whether the proposal would adversely affect agricultural activities or remove land from agricultural production;
- Whether the proposal would have unacceptable amenity impacts on nearby residences; and
- Whether the potential risk of bushfire can be managed.

Having considered the application against the relevant provisions of the South Gippsland Planning Scheme, and having considered the matters under Section 60 of the *Planning and Environment Act 1987*, officers consider that the proposal can be supported, subject to the inclusion of appropriate conditions to ensure that the amenity concerns of nearby residents are addressed.

Consequently, this application is recommended for approval.

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## RECOMMENDATION

That Council issues a Notice of Decision to Grant a Permit for the use and development of the land for group accommodation and the development of display of business identification signage and ancillary works at 250 O'Gradys Ridge Road, Foster North, in accordance with the endorsed plans and subject to the following conditions:

### Amended Plans Required

1. Before the use or development starts, amended plans to the satisfaction of the Responsible Authority 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 drawn to scale with dimensions and three copies must be provided.

The plans must be generally in accordance with the Revision G plans prepared by Beveridge Williams and Co Pty Ltd dated 4 March 2019 and the Revision A plans prepared by David Trease Design and Drafting Solutions dated August 2018 and February 2019, but modified to show:

- a. The deletion of the structure labelled 'House of Reflection'.
- b. The deletion of the internal illumination shown on the business identification sign labelled 'Wigney Farm'
- c. A single egress point for all vehicular traffic to be located at the southernmost exit depicted on the Revision G Plans, with specific siting subject to the findings of the Stopping Site Distance Assessment required by Condition 16.
- d. The inclusion of detailed landscaping information as required by condition 7.
- e. Provision for waste management and refuse storage as required by condition 14.
- f. Any changes required by the implementation of bushfire management measures as required by conditions 9 and 10.
- g. A full schedule of external colours and materials for the developments, including swatch sheets.

### Endorsed Plans

2. The building, works and layout as shown on the endorsed plans must not be altered or modified except with the written consent of the Responsible Authority.

### Timely Development

3. Once the development has started it must be continued and completed in a timely manner to the satisfaction of the Responsible Authority

### Section 173 Agreement

4. Prior to the commencement of any buildings and works for the Group Accommodation buildings, an Agreement under Section 173 of the *Planning and Environment Act 1987* must be entered into which ensures that:
  - a. The Group Accommodation buildings must not be occupied by the same person/s for more than 42 consecutive days/nights and no more than 150 cumulative days/nights per calendar year.
  - b. The Group Accommodation buildings must not be used as a permanent residence (dwelling).
  - c. The operator/owner is to keep a log of all visitations/patrons and produce it to the Responsible Authority upon request.
  - d. If the use of the land for Group Accommodation ceases for a period of more than two years, the building(s) must be removed from the land within three months or otherwise decommissioned to be non-habitable outbuildings.

The Agreement must be registered on title pursuant to Section 181 of the *Planning and Environment Act 1987* and confirmation of the Dealing number provided to Council before the issue of an Occupancy Permit or commencement of use of the building(s). All costs relating to the preparation and registration of the Agreement must be borne by the applicant.

### Maximum Occupancy Numbers

5. The site must not accommodate any more than thirty-six (36) persons (excluding on-site managers) at any one time.
6. Each group accommodation building must not accommodate more than the number of persons specified below:

- a. Dwelling – 8 persons
- b. Dairy Lofts – 8 persons.
- c. Buttercup barn – 6 persons.
- d. Warehouse Studio Apartment – 4 persons.
- e. Mezzanine Apartment – 4 persons.
- f. Cottage – 6 persons.
- g. Tram Unit – 2 persons.

#### Landscape Plan Required

7. Concurrent with the plans required by Condition 1, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided.

The landscaping plan must be generally in accordance with the Revision G Landscape Plan prepared by Beveridge Williams and Co Pty Ltd dated March 2019, except that the plan must be prepared in consultation with the Country Fire Authority and must show:

- a. A survey (including botanical names) of all existing vegetation to be retained and/or removed.
- b. Details of surface finishes of pathways and driveways.
- c. A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
- d. A visual screen along the shared property boundary of the site and O'Gradys Ridge Road. Such plantings must include canopy trees and shrubs to provide an effective visual screen. Canopy trees must be evergreen and advanced trees must be planted.
- e. A visual screen along the shared property boundary of the site and 270 O'Gradys Ridge Road (being Lot 1 LP126161 Parish of Doomburrim). Such plantings must include canopy trees and shrubs to provide an effective visual screen. Canopy trees must be evergreen and advanced trees must be planted.

- f. Planting which at maturity will comply with the defensible space requirements of the endorsed bushfire management plan.

The landscaping as shown on the endorsed landscape plan must be established prior to the commencement of the use for group accommodation.

All species selected must be to the satisfaction of the responsible authority. Where practicable, species should be selected from the publication *Indigenous Plants of South Gippsland Shire* and should relate to the relevant Ecological Vegetation Class (EVC) for the area in which the planting is to occur. Any dead or dying vegetation is to be replaced with vegetation of equivalent size compliant with the requirements of this condition.

#### Noise and Amenity Plan Required

8. Before the use starts, a noise and amenity plan/patron management plan to the satisfaction of the Responsible Authority must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. All activities forming part of the use must comply with the endorsed plan.

The plan must include (at a minimum):

- a. The provision of at least one (1) permanent on-site manager of the facility.
- b. Contact details of the on-site manager, including provision of a 24 hour available phone service. Such contact details must be publicly available and be readily identifiable (i.e. by display on a sign at the entrance to the site).
- c. Appropriate levels of staffing and other measures which are designed to ensure the orderly arrival and departure of patrons.
- d. Measures to control noise emissions from the premises. Noise emissions from the property must comply with the EPA Publication 'Noise from Industry in Regional Victoria'.

#### Bushfire Management Plan Required

9. Concurrent with the plans required by Condition 1, a Bushfire Management Plan (BMP) to the satisfaction of the Responsible Authority in consultation with the Country Fire authority must be submitted to and

approved by the Responsible Authority. When approved, the BMP will be endorsed and will then form part of the permit.

Any plans within the BMP must be drawn to scale with dimensions. The BMP must:

- a. Be based on a Bushfire Hazard Site Assessment, Bushfire Hazard Landscape Assessment and Bushfire Management Statement as described by Clause 44.06-3 of the South Gippsland Planning Scheme.
- b. Specify the extent of defensible space and building construction bushfire attack level in response to the site and landscape assessments.
- c. Specify water supply and access requirements for the development.

#### Bushfire Emergency Plan Required

10. Concurrent with the plans required by Condition 1, a Bushfire Emergency Plan (BEP) to the satisfaction of the Responsible Authority in consultation with the Country Fire Authority must be submitted to and approved by the Responsible Authority. When approved, the BEP will be endorsed and will then form part of the permit. Any plans within the BEP must be drawn to scale with dimensions.

The BEP must be prepared by a suitably qualified expert and must provide for the following (at a minimum):

- a. Premises details:
  - i. Describe property and business details.
  - ii. Identify the purpose of the BEP stating that the plan outlines procedures for:
    - Closure of premises on any day with a Fire Danger Rating of Severe, Extreme and Code Red.
    - Evacuation (evacuation from the site to a designated safer off-site location).
    - Shelter-in-place (remaining on-site in a designated building).
- b. Review of the BEP:

- i. Outline that the plan must be reviewed and updated annually prior to the commencement of the declared Fire Danger Period.
  - ii. Include a Version Control Table.
- c. Roles & Responsibilities:
  - i. Detail the staff responsibilities for implementing the emergency procedures in the event of a bushfire. This must include assigning responsibility for the:
    - Management and oversight of emergency procedures.
    - Training of employees in emergency procedures.
    - Accounting for all persons during the emergency procedures.
- d. Emergency contact details:
  - i. Outline organisation/position/contact details for emergency services personnel.
- e. Bushfire monitoring procedures:
  - i. Details the use of radio, internet and social networks that will assist in monitoring potential threats during the bushfire danger period.
  - ii. Describe and show (include a map) the area to be monitored for potential bushfire activity (i.e. within 20 km of the site).
- f. Action Statements – trigger points for action:
  - i. Prior to the Fire Danger Period
    - Describe on-site training sessions and fire equipment checks.
    - Identify maintenance of bushfire mitigation measures such as vegetation management (including implementation of mitigation measures required by any endorsed Bushfire Management Plan).
  - ii. Closure of premise during forecast FDR days (i.e. Severe, Extreme and Code Red)

- Outline guest notification procedures and details of premises closure (including timing of closure).

iii. Evacuation

- Identify triggers for evacuation from site. For example, when evacuation is recommended by emergency services.
- Details of the location/s of the offsite emergency assembly location.
- Transport arrangements for staff and guests including details such as:
  - Number of vehicles required
  - Name of company providing transportation
  - Contact phone number for transport company
  - Time required before transportation is likely to be available
  - Estimated travelling time to destination

iv. Actions after the bushfire emergency event.

- Shelter-in-place
- Show the location and describe the type of shelter-in-place.
- Triggers for commencing the shelter-in-place option.
- Procedures for emergency assembly in the shelter-in-place building

Before the development starts, a Construction Management Plan Required

11. Construction management plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit.

The plan must address the following matters:

- a. Measures to minimise the impact of construction vehicles arriving at, queuing, and departing from the land.

- b. Measures to accommodate the private vehicles of workers/tradespersons.
- c. Details of the location of all construction equipment and facilities, including delivery points, storerooms, toilets, temporary offices and workers' facilities.
- d. Noise attenuation measures to be put in place to protect the amenity of nearby residents during construction having regard to the EPA Guidelines on Construction and Demolition Noise.
  - i. Measures to minimise the generation and dispersal of dust.
  - ii. Details of a 24 hour hotline for access to a contact person or project manager accountable for the project and compliance with the CMP.
  - iii. Arrangements for waste collection and other services to be provided during construction.

#### Noise and Amenity Conditions

- 12. The use and development 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 buildings, 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; and/or
  - d. Presence of vermin.
- 13. Effective noise levels from the use of the premises must not exceed the recommended levels as set out in *Noise from Industry in Regional Victoria (NIRV; EPA Publication 1411, 2011)* or as amended.
- 14. All waste material or other refuse must be obscured from the view of the public and must be disposed of in a manner to the satisfaction of the Responsible Authority.
- 15. The property must be maintained in a neat and tidy condition to the satisfaction of the Responsible Authority.

#### Engineering Conditions

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16. Concurrent with the plans required by condition 1, the permit holder must engage a suitably qualified consultant to undertake a Stopping Site Distance Assessment (SSDA) and provide such assessment to the satisfaction of the Responsible Authority.

The SSDA must demonstrate that vehicle movements at the proposed ingress and egress points to the site comply with the appropriate Austroads standards. Any access changes consequent on implementing the findings of the SSDA report must be reflected in the plans submitted under condition 1 of this permit.

17. The loading and unloading of vehicles and delivery of goods must at all times be within the boundaries of the site.

18. Before the use commences, the car parking spaces, access lanes, driveways and associated works and landscaping shown on the plan must be:

- a. Constructed and available for use in accordance with the plan approved by the Responsible Authority.
- b. Formed to such levels and drained so that they can be used in accordance with the plan.
- c. Constructed with an all-weather pavement or some other durable surface.
- d. Line-marked or provided with some other adequate means of showing the car parking spaces

Car spaces, access lanes and driveways must be kept available for these purposes at all times. No car parking may occur on the O'Gradys Ridge Road Reserve.

#### Erosion Management

19. Building construction must be carried out in accordance with *Construction Techniques for Sediment Pollution Control* (EPA May 1991) and *Control of Erosion on Construction Sites* (Soil Conservation Authority) to the satisfaction of the Responsible Authority.
20. All works must be undertaken in a manner that minimises soil erosion, and any exposed areas of soil must be stabilised to prevent soil erosion, to the satisfaction of the Responsible Authority.

### Signage Conditions

21. The location and details of the sign, including those of the supporting structure, as shown on the endorsed plans, must not be altered without the written consent of the Responsible Authority.
22. The sign must not contain any flashing light.
23. The sign must not be illuminated by external or internal light.
24. All signs must be located wholly within the boundary of the land.
25. All lettering, drawing, colouring and other artwork must be carried out and displayed in a professional manner and maintained to the satisfaction of the Responsible Authority.

### Expiry Condition

26. This permit as it relates to the use and development of the land for group accommodation will expire if any of the following circumstances applies:
  - a. The development is not started within two (2) years of the date of this permit.
  - b. The development is not completed within four (4) years of the date of this permit.
  - c. The use does not start within two (2) years after the completion of the development.
  - d. The use ceases for a period of two (2) or more years.

This permit as it relates to the development and display of business identification signage will expire if any of the following circumstances applies:

- a. The sign is not erected within one (1) year of the commencement of the use.
- b. Fifteen (15) years from the date of this permit.

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

**MOVED:** Administrator Zahra

**SECONDED:** Administrator Brown

**THAT COUNCIL ISSUES A NOTICE OF DECISION TO GRANT A PERMIT FOR THE USE AND DEVELOPMENT OF THE LAND FOR GROUP ACCOMMODATION AND THE DEVELOPMENT OF DISPLAY OF BUSINESS IDENTIFICATION SIGNAGE AND ANCILLARY WORKS AT 250 O'GRADYS RIDGE ROAD, FOSTER NORTH, IN ACCORDANCE WITH THE ENDORSED PLANS AND SUBJECT TO THE FOLLOWING CONDITIONS:**

**AMENDED PLANS REQUIRED**

- 1. BEFORE THE USE OR DEVELOPMENT STARTS, AMENDED PLANS TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY 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 DRAWN TO SCALE WITH DIMENSIONS AND THREE COPIES MUST BE PROVIDED.**

**THE PLANS MUST BE GENERALLY IN ACCORDANCE WITH THE REVISION G PLANS PREPARED BY BEVERIDGE WILLIAMS AND CO PTY LTD DATED 4 MARCH 2019 AND THE REVISION A PLANS PREPARED BY DAVID TREASE DESIGN AND DRAFTING SOLUTIONS DATED AUGUST 2018 AND FEBRUARY 2019, BUT MODIFIED TO SHOW:**

- a. THE DELETION OF THE STRUCTURE LABELLED 'HOUSE OF REFLECTION'.**
- b. THE DELETION OF THE INTERNAL ILLUMINATION SHOWN ON THE BUSINESS IDENTIFICATION SIGN LABELLED 'WIGNEY FARM'**
- c. A SINGLE EGRESS POINT FOR ALL VEHICULAR TRAFFIC TO BE LOCATED AT THE SOUTHERNMOST EXIT DEPICTED ON THE REVISION G PLANS, WITH SPECIFIC SITING SUBJECT TO THE FINDINGS OF THE STOPPING SITE DISTANCE ASSESSMENT REQUIRED BY CONDITION 16.**
- d. THE INCLUSION OF DETAILED LANDSCAPING INFORMATION AS REQUIRED BY CONDITION 7.**
- e. PROVISION FOR WASTE MANAGEMENT AND REFUSE STORAGE AS REQUIRED BY CONDITION 14.**

- f. ANY CHANGES REQUIRED BY THE IMPLEMENTATION OF BUSHFIRE MANAGEMENT MEASURES AS REQUIRED BY CONDITIONS 9 AND 10.
- g. A FULL SCHEDULE OF EXTERNAL COLOURS AND MATERIALS FOR THE DEVELOPMENTS, INCLUDING SWATCH SHEETS.

#### **ENDORSED PLANS**

- 2. THE BUILDING, WORKS AND LAYOUT AS SHOWN ON THE ENDORSED PLANS MUST NOT BE ALTERED OR MODIFIED EXCEPT WITH THE WRITTEN CONSENT OF THE RESPONSIBLE AUTHORITY.

#### **TIMELY DEVELOPMENT**

- 3. ONCE THE DEVELOPMENT HAS STARTED IT MUST BE CONTINUED AND COMPLETED IN A TIMELY MANNER TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY

#### **SECTION 173 AGREEMENT**

- 4. PRIOR TO THE COMMENCEMENT OF ANY BUILDINGS AND WORKS FOR THE GROUP ACCOMMODATION BUILDINGS, AN AGREEMENT UNDER SECTION 173 OF THE *PLANNING AND ENVIRONMENT ACT 1987* MUST BE ENTERED INTO WHICH ENSURES THAT:
  - a. THE GROUP ACCOMMODATION BUILDINGS MUST NOT BE OCCUPIED BY THE SAME PERSON/S FOR MORE THAN 42 CONSECUTIVE DAYS/NIGHTS AND NO MORE THAN 150 CUMULATIVE DAYS/NIGHTS PER CALENDAR YEAR.
  - b. THE GROUP ACCOMMODATION BUILDINGS MUST NOT BE USED AS A PERMANENT RESIDENCE (DWELLING).
  - c. THE OPERATOR/OWNER IS TO KEEP A LOG OF ALL VISITATIONS/PATRONS AND PRODUCE IT TO THE RESPONSIBLE AUTHORITY UPON REQUEST.
  - d. IF THE USE OF THE LAND FOR GROUP ACCOMMODATION CEASES FOR A PERIOD OF MORE THAN TWO YEARS, THE BUILDING(S) MUST BE REMOVED FROM THE LAND WITHIN THREE MONTHS OR OTHERWISE DECOMMISSIONED TO BE NON-HABITABLE OUTBUILDINGS.

**THE AGREEMENT MUST BE REGISTERED ON TITLE PURSUANT TO SECTION 181 OF THE *PLANNING AND ENVIRONMENT ACT 1987* AND CONFIRMATION OF THE DEALING NUMBER PROVIDED TO COUNCIL BEFORE**

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**THE ISSUE OF AN OCCUPANCY PERMIT OR COMMENCEMENT OF USE OF THE BUILDING(S). ALL COSTS RELATING TO THE PREPARATION AND REGISTRATION OF THE AGREEMENT MUST BE BORNE BY THE APPLICANT.**

**MAXIMUM OCCUPANCY NUMBERS**

5. THE SITE MUST NOT ACCOMMODATE ANY MORE THAN THIRTY-SIX (36) PERSONS (EXCLUDING ON-SITE MANAGERS) AT ANY ONE TIME.
6. EACH GROUP ACCOMMODATION BUILDING MUST NOT ACCOMMODATE MORE THAN THE NUMBER OF PERSONS SPECIFIED BELOW:
  - a. DWELLING – 8 PERSONS
  - b. DAIRY LOFTS – 8 PERSONS.
  - c. BUTTERCUP BARN – 6 PERSONS.
  - d. WAREHOUSE STUDIO APARTMENT – 4 PERSONS.
  - e. MEZZANINE APARTMENT – 4 PERSONS.
  - f. COTTAGE – 6 PERSONS.
  - g. TRAM UNIT – 2 PERSONS.

**LANDSCAPE PLAN REQUIRED**

7. CONCURRENT WITH THE PLANS REQUIRED BY CONDITION 1, A LANDSCAPE PLAN TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY MUST BE SUBMITTED TO AND APPROVED BY THE RESPONSIBLE AUTHORITY. WHEN APPROVED, THE PLAN WILL BE ENDORSED AND WILL THEN FORM PART OF THE PERMIT. THE PLAN MUST BE DRAWN TO SCALE WITH DIMENSIONS AND THREE COPIES MUST BE PROVIDED.

**THE LANDSCAPING PLAN MUST BE GENERALLY IN ACCORDANCE WITH THE REVISION G LANDSCAPE PLAN PREPARED BY BEVERIDGE WILLIAMS AND CO PTY LTD DATED MARCH 2019, EXCEPT THAT THE PLAN MUST BE PREPARED IN CONSULTATION WITH THE COUNTRY FIRE AUTHORITY AND MUST SHOW:**

- a. A SURVEY (INCLUDING BOTANICAL NAMES) OF ALL EXISTING VEGETATION TO BE RETAINED AND/OR REMOVED.
- b. DETAILS OF SURFACE FINISHES OF PATHWAYS AND DRIVEWAYS.

- c. **A PLANTING SCHEDULE OF ALL PROPOSED TREES, SHRUBS AND GROUND COVERS, INCLUDING BOTANICAL NAMES, COMMON NAMES, POT SIZES, SIZES AT MATURITY, AND QUANTITIES OF EACH PLANT.**
- d. **A VISUAL SCREEN ALONG THE SHARED PROPERTY BOUNDARY OF THE SITE AND O'GRADYS RIDGE ROAD. SUCH PLANTINGS MUST INCLUDE CANOPY TREES AND SHRUBS TO PROVIDE AN EFFECTIVE VISUAL SCREEN. CANOPY TREES MUST BE EVERGREEN AND ADVANCED TREES MUST BE PLANTED.**
- e. **A VISUAL SCREEN ALONG THE SHARED PROPERTY BOUNDARY OF THE SITE AND 270 O'GRADYS RIDGE ROAD (BEING LOT 1 LP126161 PARISH OF DOOMBURRIM). SUCH PLANTINGS MUST INCLUDE CANOPY TREES AND SHRUBS TO PROVIDE AN EFFECTIVE VISUAL SCREEN. CANOPY TREES MUST BE EVERGREEN AND ADVANCED TREES MUST BE PLANTED.**
- f. **PLANTING WHICH AT MATURITY WILL COMPLY WITH THE DEFENDABLE SPACE REQUIREMENTS OF THE ENDORSED BUSHFIRE MANAGEMENT PLAN.**

**THE LANDSCAPING AS SHOWN ON THE ENDORSED LANDSCAPE PLAN MUST BE ESTABLISHED PRIOR TO THE COMMENCEMENT OF THE USE FOR GROUP ACCOMMODATION.**

**ALL SPECIES SELECTED MUST BE TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY. WHERE PRACTICABLE, SPECIES SHOULD BE SELECTED FROM THE PUBLICATION *INDIGENOUS PLANTS OF SOUTH GIPPSLAND SHIRE* AND SHOULD RELATE TO THE RELEVANT ECOLOGICAL VEGETATION CLASS (EVC) FOR THE AREA IN WHICH THE PLANTING IS TO OCCUR. ANY DEAD OR DYING VEGETATION IS TO BE REPLACED WITH VEGETATION OF EQUIVALENT SIZE COMPLIANT WITH THE REQUIREMENTS OF THIS CONDITION.**

#### **NOISE AND AMENITY PLAN REQUIRED**

- 8. **BEFORE THE USE STARTS, A NOISE AND AMENITY PLAN/PATRON MANAGEMENT PLAN TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY MUST BE SUBMITTED TO AND APPROVED BY THE RESPONSIBLE AUTHORITY. WHEN APPROVED, THE PLAN WILL BE ENDORSED AND WILL THEN FORM PART OF THE PERMIT. ALL ACTIVITIES FORMING PART OF THE USE MUST COMPLY WITH THE ENDORSED PLAN.**

**THE PLAN MUST INCLUDE (AT A MINIMUM):**

- a. **THE PROVISION OF AT LEAST ONE (1) PERMANENT ON-SITE MANAGER OF THE FACILITY.**
- b. **CONTACT DETAILS OF THE ON-SITE MANAGER, INCLUDING PROVISION OF A 24 HOUR AVAILABLE PHONE SERVICE. SUCH CONTACT DETAILS MUST BE PUBLICLY AVAILABLE AND BE READILY IDENTIFIABLE (I.E. BY DISPLAY ON A SIGN AT THE ENTRANCE TO THE SITE).**
- c. **APPROPRIATE LEVELS OF STAFFING AND OTHER MEASURES WHICH ARE DESIGNED TO ENSURE THE ORDERLY ARRIVAL AND DEPARTURE OF PATRONS.**
- d. **MEASURES TO CONTROL NOISE EMISSIONS FROM THE PREMISES. NOISE EMISSIONS FROM THE PROPERTY MUST COMPLY WITH THE EPA PUBLICATION 'NOISE FROM INDUSTRY IN REGIONAL VICTORIA'.**

**BUSHFIRE MANAGEMENT PLAN REQUIRED**

9. **CONCURRENT WITH THE PLANS REQUIRED BY CONDITION 1, A BUSHFIRE MANAGEMENT PLAN (BMP) TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY IN CONSULTATION WITH THE COUNTRY FIRE AUTHORITY MUST BE SUBMITTED TO AND APPROVED BY THE RESPONSIBLE AUTHORITY. WHEN APPROVED, THE BMP WILL BE ENDORSED AND WILL THEN FORM PART OF THE PERMIT.**

**ANY PLANS WITHIN THE BMP MUST BE DRAWN TO SCALE WITH DIMENSIONS. THE BMP MUST:**

- a. **BE BASED ON A BUSHFIRE HAZARD SITE ASSESSMENT, BUSHFIRE HAZARD LANDSCAPE ASSESSMENT AND BUSHFIRE MANAGEMENT STATEMENT AS DESCRIBED BY CLAUSE 44.06-3 OF THE SOUTH GIPPSLAND PLANNING SCHEME.**
- b. **SPECIFY THE EXTENT OF DEFENDABLE SPACE AND BUILDING CONSTRUCTION BUSHFIRE ATTACK LEVEL IN RESPONSE TO THE SITE AND LANDSCAPE ASSESSMENTS.**
- c. **SPECIFY WATER SUPPLY AND ACCESS REQUIREMENTS FOR THE DEVELOPMENT.**

## **BUSHFIRE EMERGENCY PLAN REQUIRED**

- 10. CONCURRENT WITH THE PLANS REQUIRED BY CONDITION 1, A BUSHFIRE EMERGENCY PLAN (BEP) TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY IN CONSULTATION WITH THE COUNTRY FIRE AUTHORITY MUST BE SUBMITTED TO AND APPROVED BY THE RESPONSIBLE AUTHORITY. WHEN APPROVED, THE BEP WILL BE ENDORSED AND WILL THEN FORM PART OF THE PERMIT. ANY PLANS WITHIN THE BEP MUST BE DRAWN TO SCALE WITH DIMENSIONS.**

**THE BEP MUST BE PREPARED BY A SUITABLY QUALIFIED EXPERT AND MUST PROVIDE FOR THE FOLLOWING (AT A MINIMUM):**

- a. PREMISES DETAILS:**
  - i. DESCRIBE PROPERTY AND BUSINESS DETAILS.**
  - ii. IDENTIFY THE PURPOSE OF THE BEP STATING THAT THE PLAN OUTLINES PROCEDURES FOR:**
    - CLOSURE OF PREMISES ON ANY DAY WITH A FIRE DANGER RATING OF SEVERE, EXTREME AND CODE RED.**
    - EVACUATION (EVACUATION FROM THE SITE TO A DESIGNATED SAFER OFF-SITE LOCATION).**
    - SHELTER-IN-PLACE (REMAINING ON-SITE IN A DESIGNATED BUILDING).**
- b. REVIEW OF THE BEP:**
  - i. OUTLINE THAT THE PLAN MUST BE REVIEWED AND UPDATED ANNUALLY PRIOR TO THE COMMENCEMENT OF THE DECLARED FIRE DANGER PERIOD.**
  - ii. INCLUDE A VERSION CONTROL TABLE.**
- c. ROLES & RESPONSIBILITIES:**
  - i. DETAIL THE STAFF RESPONSIBILITIES FOR IMPLEMENTING THE EMERGENCY PROCEDURES IN THE EVENT OF A BUSHFIRE. THIS MUST INCLUDE ASSIGNING RESPONSIBILITY FOR THE:**
    - MANAGEMENT AND OVERSIGHT OF EMERGENCY PROCEDURES.**

- TRAINING OF EMPLOYEES IN EMERGENCY PROCEDURES.
  - ACCOUNTING FOR ALL PERSONS DURING THE EMERGENCY PROCEDURES.
- d. EMERGENCY CONTACT DETAILS:
- i. OUTLINE ORGANISATION/POSITION/CONTACT DETAILS FOR EMERGENCY SERVICES PERSONNEL.
- e. BUSHFIRE MONITORING PROCEDURES:
- i. DETAILS THE USE OF RADIO, INTERNET AND SOCIAL NETWORKS THAT WILL ASSIST IN MONITORING POTENTIAL THREATS DURING THE BUSHFIRE DANGER PERIOD.
  - ii. DESCRIBE AND SHOW (INCLUDE A MAP) THE AREA TO BE MONITORED FOR POTENTIAL BUSHFIRE ACTIVITY (I.E. WITHIN 20 KM OF THE SITE).
- f. ACTION STATEMENTS – TRIGGER POINTS FOR ACTION:
- i. PRIOR TO THE FIRE DANGER PERIOD
    - DESCRIBE ON-SITE TRAINING SESSIONS AND FIRE EQUIPMENT CHECKS.
    - IDENTIFY MAINTENANCE OF BUSHFIRE MITIGATION MEASURES SUCH AS VEGETATION MANAGEMENT (INCLUDING IMPLEMENTATION OF MITIGATION MEASURES REQUIRED BY ANY ENDORSED BUSHFIRE MANAGEMENT PLAN).
  - ii. CLOSURE OF PREMISE DURING FORECAST FDR DAYS (I.E. SEVERE, EXTREME AND CODE RED)
    - OUTLINE GUEST NOTIFICATION PROCEDURES AND DETAILS OF PREMISES CLOSURE (INCLUDING TIMING OF CLOSURE).
  - iii. EVACUATION
    - IDENTIFY TRIGGERS FOR EVACUATION FROM SITE. FOR EXAMPLE, WHEN EVACUATION IS RECOMMENDED BY EMERGENCY SERVICES.

- **DETAILS OF THE LOCATION/S OF THE OFFSITE EMERGENCY ASSEMBLY LOCATION.**
- **TRANSPORT ARRANGEMENTS FOR STAFF AND GUESTS INCLUDING DETAILS SUCH AS:**
  - **NUMBER OF VEHICLES REQUIRED**
  - **NAME OF COMPANY PROVIDING TRANSPORTATION**
  - **CONTACT PHONE NUMBER FOR TRANSPORT COMPANY**
  - **TIME REQUIRED BEFORE TRANSPORTATION IS LIKELY TO BE AVAILABLE**
  - **ESTIMATED TRAVELLING TIME TO DESTINATION**

**iv. ACTIONS AFTER THE BUSHFIRE EMERGENCY EVENT.**

- **SHELTER-IN-PLACE**
- **SHOW THE LOCATION AND DESCRIBE THE TYPE OF SHELTER-IN-PLACE.**
- **TRIGGERS FOR COMMENCING THE SHELTER-IN-PLACE OPTION.**
- **PROCEDURES FOR EMERGENCY ASSEMBLY IN THE SHELTER-IN-PLACE BUILDING**

**BEFORE THE DEVELOPMENT STARTS, A CONSTRUCTION MANAGEMENT PLAN REQUIRED**

**11. CONSTRUCTION MANAGEMENT PLAN TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY MUST BE SUBMITTED TO AND APPROVED BY THE RESPONSIBLE AUTHORITY. WHEN APPROVED, THE PLAN WILL BE ENDORSED AND WILL THEN FORM PART OF THE PERMIT.**

**THE PLAN MUST ADDRESS THE FOLLOWING MATTERS:**

- a. MEASURES TO MINIMISE THE IMPACT OF CONSTRUCTION VEHICLES ARRIVING AT, QUEUING, AND DEPARTING FROM THE LAND.**
- b. MEASURES TO ACCOMMODATE THE PRIVATE VEHICLES OF WORKERS/TRADESPERSONS.**

- c. **DETAILS OF THE LOCATION OF ALL CONSTRUCTION EQUIPMENT AND FACILITIES, INCLUDING DELIVERY POINTS, STOREROOMS, TOILETS, TEMPORARY OFFICES AND WORKERS' FACILITIES.**
- d. **NOISE ATTENUATION MEASURES TO BE PUT IN PLACE TO PROTECT THE AMENITY OF NEARBY RESIDENTS DURING CONSTRUCTION HAVING REGARD TO THE EPA GUIDELINES ON CONSTRUCTION AND DEMOLITION NOISE.**
  - i. **MEASURES TO MINIMISE THE GENERATION AND DISPERSAL OF DUST.**
  - ii. **DETAILS OF A 24 HOUR HOTLINE FOR ACCESS TO A CONTACT PERSON OR PROJECT MANAGER ACCOUNTABLE FOR THE PROJECT AND COMPLIANCE WITH THE CMP.**
  - iii. **ARRANGEMENTS FOR WASTE COLLECTION AND OTHER SERVICES TO BE PROVIDED DURING CONSTRUCTION.**

#### **NOISE AND AMENITY CONDITIONS**

- 12. **THE USE AND DEVELOPMENT 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 BUILDINGS, 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; AND/OR**
  - d. **PRESENCE OF VERMIN.**
- 13. **EFFECTIVE NOISE LEVELS FROM THE USE OF THE PREMISES MUST NOT EXCEED THE RECOMMENDED LEVELS AS SET OUT IN *NOISE FROM INDUSTRY IN REGIONAL VICTORIA (NIRV; EPA PUBLICATION 1411, 2011)* OR AS AMENDED.**
- 14. **ALL WASTE MATERIAL OR OTHER REFUSE MUST BE OBSCURED FROM THE VIEW OF THE PUBLIC AND MUST BE DISPOSED OF IN A MANNER TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.**
- 15. **THE PROPERTY MUST BE MAINTAINED IN A NEAT AND TIDY CONDITION TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.**

## **ENGINEERING CONDITIONS**

- 16. CONCURRENT WITH THE PLANS REQUIRED BY CONDITION 1, THE PERMIT HOLDER MUST ENGAGE A SUITABLY QUALIFIED CONSULTANT TO UNDERTAKE A STOPPING SITE DISTANCE ASSESSMENT (SSDA) AND PROVIDE SUCH ASSESSMENT TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.**

**THE SSDA MUST DEMONSTRATE THAT VEHICLE MOVEMENTS AT THE PROPOSED INGRESS AND EGRESS POINTS TO THE SITE COMPLY WITH THE APPROPRIATE AUSTRROADS STANDARDS. ANY ACCESS CHANGES CONSEQUENT ON IMPLEMENTING THE FINDINGS OF THE SSDA REPORT MUST BE REFLECTED IN THE PLANS SUBMITTED UNDER CONDITION 1 OF THIS PERMIT.**

- 17. THE LOADING AND UNLOADING OF VEHICLES AND DELIVERY OF GOODS MUST AT ALL TIMES BE WITHIN THE BOUNDARIES OF THE SITE.**

- 18. BEFORE THE USE COMMENCES, THE CAR PARKING SPACES, ACCESS LANES, DRIVEWAYS AND ASSOCIATED WORKS AND LANDSCAPING SHOWN ON THE PLAN MUST BE:**

- a. CONSTRUCTED AND AVAILABLE FOR USE IN ACCORDANCE WITH THE PLAN APPROVED BY THE RESPONSIBLE AUTHORITY.**
- b. FORMED TO SUCH LEVELS AND DRAINED SO THAT THEY CAN BE USED IN ACCORDANCE WITH THE PLAN.**
- c. CONSTRUCTED WITH AN ALL-WEATHER PAVEMENT OR SOME OTHER DURABLE SURFACE.**
- d. LINE-MARKED OR PROVIDED WITH SOME OTHER ADEQUATE MEANS OF SHOWING THE CAR PARKING SPACES**

**CAR SPACES, ACCESS LANES AND DRIVEWAYS MUST BE KEPT AVAILABLE FOR THESE PURPOSES AT ALL TIMES. NO CAR PARKING MAY OCCUR ON THE O'GRADYS RIDGE ROAD RESERVE.**

## **EROSION MANAGEMENT**

- 19. BUILDING CONSTRUCTION MUST BE CARRIED OUT IN ACCORDANCE WITH *CONSTRUCTION TECHNIQUES FOR SEDIMENT POLLUTION CONTROL* (EPA MAY 1991) AND *CONTROL OF EROSION ON CONSTRUCTION SITES* (SOIL CONSERVATION AUTHORITY) TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.**

- 20. ALL WORKS MUST BE UNDERTAKEN IN A MANNER THAT MINIMISES SOIL EROSION, AND ANY EXPOSED AREAS OF SOIL MUST BE STABILISED TO PREVENT SOIL EROSION, TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.**

**SIGNAGE CONDITIONS**

- 21. THE LOCATION AND DETAILS OF THE SIGN, INCLUDING THOSE OF THE SUPPORTING STRUCTURE, AS SHOWN ON THE ENDORSED PLANS, MUST NOT BE ALTERED WITHOUT THE WRITTEN CONSENT OF THE RESPONSIBLE AUTHORITY.**
- 22. THE SIGN MUST NOT CONTAIN ANY FLASHING LIGHT.**
- 23. THE SIGN MUST NOT BE ILLUMINATED BY EXTERNAL OR INTERNAL LIGHT.**
- 24. ALL SIGNS MUST BE LOCATED WHOLLY WITHIN THE BOUNDARY OF THE LAND.**
- 25. ALL LETTERING, DRAWING, COLOURING AND OTHER ARTWORK MUST BE CARRIED OUT AND DISPLAYED IN A PROFESSIONAL MANNER AND MAINTAINED TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.**

**EXPIRY CONDITION**

- 26. THIS PERMIT AS IT RELATES TO THE USE AND DEVELOPMENT OF THE LAND FOR GROUP ACCOMMODATION WILL EXPIRE IF ANY OF THE FOLLOWING CIRCUMSTANCES APPLIES:**
- a. THE DEVELOPMENT IS NOT STARTED WITHIN TWO (2) YEARS OF THE DATE OF THIS PERMIT.**
  - b. THE DEVELOPMENT IS NOT COMPLETED WITHIN FOUR (4) YEARS OF THE DATE OF THIS PERMIT.**
  - c. THE USE DOES NOT START WITHIN TWO (2) YEARS AFTER THE COMPLETION OF THE DEVELOPMENT.**
  - d. THE USE CEASES FOR A PERIOD OF TWO (2) OR MORE YEARS.**

**THIS PERMIT AS IT RELATES TO THE DEVELOPMENT AND DISPLAY OF BUSINESS IDENTIFICATION SIGNAGE WILL EXPIRE IF ANY OF THE FOLLOWING CIRCUMSTANCES APPLIES:**

- e. THE SIGN IS NOT ERECTED WITHIN ONE (1) YEAR OF THE COMMENCEMENT OF THE USE.**

**f. FIFTEEN (15) YEARS FROM THE DATE OF THIS PERMIT.**

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

**CARRIED UNANIMOUSLY**

[Link to next Agenda item.](#)

## REPORT

### Background

The subject land is identified as Lot 1 on Plan of Subdivision 622580K, Parish of Doomburrim, County of Buln Buln, more commonly referred to as 250 O'Gradys Ridge Road, Foster North. The subject land is an irregular shape, with a total land area of 4.01ha. The site has frontage of approximately 330 metres to O'Gradys Ridge Road, with direct abuttal to two other properties (being 192 and 270 O'Gradys Ridge Road). The subject land is improved by a large dwelling and a number of outbuildings in an area of approximately 0.75ha.

The subject land is located within the Farming Zone (FZ) and is covered by the Environmental Significance Overlay – Schedule 5 (areas susceptible to erosion). The land is located within a designated Bushfire Prone Area under the *Building Act 1993*. A permit is required under the provisions of both the FZ and ESO, as well as particular provisions relating to advertising signage.

The surrounding land is characterised by a mixture of smaller rural-residential properties, interspersed with larger agricultural holdings used primarily for timber production and dairying. The closest dwelling is located approximately 98 metres from an accommodation building.

(Refer to **Attachment [2.3.1]** – Aerial Photograph, **Attachment [2.3.2]** – Zoning Map of Site and Surrounding Area and **Attachment [2.3.3]** – Planning Property Report.)

### The Proposal

The application seeks approval to use and develop the subject land for the purpose of group accommodation and display business identification signage. Group accommodation is defined in the South Gippsland Planning Scheme as '*Land, in one ownership, containing a number of dwellings used to accommodate persons away from their normal place of residence*'. The proposed use and development largely utilises existing structures on the land. Various internal and external works would be required to bring these buildings to an appropriate standard for this use. The permit applicant also sought to develop a new structure known as the 'house of reflection', however for the reasons discussed in the Delegate's Report this building should be deleted from the plans.

Including the house of reflection, planning permission was sought to accommodate a maximum of 42 persons on the land at any one time. Officers have recommended conditions limiting this number to a maximum of 36 persons.

The proposal is shown in detail in **Attachment [2.3.4]** – Proposed Development Plans.

### **Assessment**

A detailed assessment of the application against relevant sections of the *Planning and Environment Act 1987* and the relevant matters of the South Gippsland Planning Scheme are discussed in **Attachment [2.3.5]** – Delegate's Report.

The primary issues relating to this application are:

- Whether the proposal is an appropriate use and development in the Farming Zone and on this site;
- Whether the proposal would adversely affect agricultural activities or remove land from agricultural production;
- Whether the proposal would have unacceptable amenity impacts on nearby residences; and
- Whether the potential risk of bushfire can be managed.

It is considered that the proposal is consistent with the relevant Planning Policy Framework objectives and strategies, the objectives and decision guidelines of the Farming Zone and the decision guidelines of Clause 65, subject to the inclusion of appropriate conditions to minimise any off-site impacts.

### **CONSULTATION**

The application was advertised to adjoining and adjacent property owners and occupiers. A sign was also placed on the site for 14 days and a notice was placed in the Foster Mirror. As a result, 19 objections have been received to the application (refer to **Confidential Attachment [15.1.1]**). A letter of support was also received (refer to **Confidential Attachment [15.1.2]**).

The objections primarily relate to the potential effect of the development of road safety and traffic, noise and visual pollution, potential overcrowding of the facility, bushfire risk and future intensification of the development. A number of other issues have also been raised in submissions. These matters are summarised and addressed in detail in **Attachment [2.3.5]** – Delegate's Report.

The application did not require referrals to any external authorities pursuant to Section 55 of the *Planning and Environment Act 1987*. The application was referred internally to Council's Economic Development, Environmental Health,

Engineering and Wastewater departments. No department has raised an objection to the proposal.

Referral responses are discussed in more detail in **Attachment [2.3.5]** - Delegate's Report.

### **Options**

Pursuant to section 61 of the *Planning and Environment Act 1987*, Council may determine to:

1. Grant a permit; or
2. Grant a permit subject to conditions; or
3. Refuse to grant a permit.

### **RESOURCES**

Should Council issue a Notice of Decision to Grant a Planning Permit for the proposal, any objector may elect to appeal to the Victorian Civil and Administrative Tribunal (VCAT) to review Council's decision.

Should Council determine to refuse to grant a permit for the proposal, the permit applicant may elect to appeal to the VCAT to review Council's decision.

There is a human resource cost to Council to attend VCAT Hearings.

### **RISKS**

Should Council fail to make a decision on this application at this meeting, there is a risk that the applicant may appeal to VCAT against Council's failure to determine the application within statutory timeframes. Such an appeal affects Council's reputation and opens Council to a potential costs claim for its failure to determine.

### **STAFF DISCLOSURE**

Nil

### **ATTACHMENTS**

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

1. Aerial Photograph - 250 O' Gradys Ridge Road Foster North [2.3.1 - 1 page]
2. Zoning Map of Site and Surrounding Area - 250 O' Gradys Ridge Road Foster North [2.3.2 - 1 page]
3. Planning Property Report - 250 O' Gradys Ridge Road Foster North [2.3.3 - 4 pages]

4. Proposed Development Plans - 250 O' Grady's Ridge Road Foster North [2.3.4 - 15 pages]
5. Delegate's Report - 250 O' Grady's Ridge Road Foster North [2.3.5 - 31 pages]

### **CONFIDENTIAL ATTACHMENTS**

**Confidential Attachment [15.1.1]** – Compiled Objections – 250 O'Grady's Ridge Road Foster North and **Confidential Attachment [15.1.2]** – Letter of Support – 250 O'Grady's Ridge Road Foster North has been provided in accordance with s.77(2)(c) of the Local Government Act 1989, the Chief Executive Officer designates these items as confidential information on the grounds that it relates to s.89(2) (h) - any other matter which the Council or Special Committee considers would prejudice the Council or any persons.

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

### **REFERENCE DOCUMENTS**

#### **Council Policy**

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

South Gippsland Planning Scheme

#### **Legislative Provisions**

Building Act 1993

Planning and Environment Act 1987

Noise from Industry in Regional Victoria (EPA, 2011)

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

**3.1. NIL**

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

### **4.1. FEASIBILITY STUDY 2019 - TOORA AND WELSHPOOL KINDERGARTEN**

Corporate and Community Services Directorate

#### **EXECUTIVE SUMMARY**

Council has considered a number of options for the future provision of kindergarten infrastructure in Toora and Welshpool over the past four years.

This has been prompted by the ageing condition and suitability of the existing infrastructure, changes to the model for kindergarten services in the Corner Inlet area, and consistently low enrolment numbers for the kindergarten services delivered from Toora and Welshpool.

While Council has previously assessed the future need/demand for kindergarten infrastructure, this independent Study (refer to **Attachment [4.1.1]**) was commissioned to determine the feasibility of co-locating one or both of the Toora and Welshpool kindergartens with the primary school in the respective town.

#### **RECOMMENDATION**

That Council:

1. Allocates up to \$60,000 to develop a prioritised strategic analysis to understand Early Years infrastructure capacity needs, constraints and investment requirements across the entire municipality; and
2. Endorses the preferred option below identified in the Feasibility Study (Attachment [4.1.1] – Final Report–Toora and Welshpool Kindergarten Feasibility Study):

Undertake only necessary maintenance to continue the operation of the existing kindergarten infrastructure in Toora and Welshpool for approximately five years pending the outcome of the prioritised strategic analysis.

**MOVED:** Administrator Eisenbise

**SECONDED:** Administrator Brown

**THAT COUNCIL:**

**1. ALLOCATES UP TO \$60,000 TO DEVELOP A PRIORITISED STRATEGIC ANALYSIS TO UNDERSTAND EARLY YEARS INFRASTRUCTURE CAPACITY NEEDS, CONSTRAINTS AND INVESTMENT REQUIREMENTS ACROSS THE ENTIRE MUNICIPALITY; AND**

**2. ENDORSES THE PREFERRED OPTION BELOW IDENTIFIED IN THE FEASIBILITY STUDY (ATTACHMENT [4.1.1] – FINAL REPORT–TOORA AND WELSHPOOL KINDERGARTEN FEASIBILITY STUDY):**

**UNDERTAKE ONLY NECESSARY MAINTENANCE TO CONTINUE THE OPERATION OF THE EXISTING KINDERGARTEN INFRASTRUCTURE IN TOORA AND WELSHPOOL FOR APPROXIMATELY FIVE YEARS PENDING THE OUTCOME OF THE PRIORITISED STRATEGIC ANALYSIS.**

**CARRIED UNANIMOUSLY**

[Link to next Agenda item.](#)

## **REPORT**

The South Gippsland Shire Council has 11 Kindergarten programs operating out of 12 Council-owned buildings servicing the towns of Loch, Poowong, Korumburra, Leongatha, Meeniyan, Foster, Fish Creek, Toora and Welshpool. A number of these buildings are 50 years old and in need of repair, refurbishment or replacement.

As part of Council's early years planning, several studies have looked at the infrastructure in the Corner Inlet area including Foster, Toora, Welshpool, and Fish Creek to ascertain the most appropriate and cost effective solution to provide 4-year-old kindergarten.

The recent inclusion of funded 3-year-old kindergarten to commence in 2020, the provision of local childcare and after-school care are additional considerations. The landscape of early years' education and care has changed significantly over the past year with the introduction of subsidised 3-year-old kindergarten. Due to this changing landscape, it is planned to undertake an early years' infrastructure review to identify priorities for funding allocation across the South Gippsland municipality.

### **The Feasibility Study Options**

The recent feasibility study analysis undertaken identifies the following preferred options based on the criteria as set out in the Feasibility Study report:

- Option 1b - Building new modular infrastructure at the Toora Primary School with increased licence capacity to 28, a multipurpose activity space and two consulting suites.
- Option 4b - Undertake only necessary maintenance to continue the operation of the existing kindergarten infrastructure in Toora and Welshpool for up to five years. Expand the Prom Coast Children's Centre site at Foster to accommodate kindergarten children from Toora and Welshpool within five years.

It is recommended that Council endorses option 4b in part, that is, undertake only necessary maintenance to continue the operation of the existing kindergarten infrastructure in Toora and Welshpool for up to five years.

It is further recommended that Council allocates up to \$60,000 to develop a prioritised strategic analysis to understand Early Years infrastructure capacity needs, constraints and investment requirements across the entire municipality. The outcomes of this analysis will determine further allocation

of funding, potential grant funding opportunities and requirements, and associated timelines.

### **CONSULTATION**

- Prom Coast Centre's for Children (PCCC) Committee & Parents;
- Principal Toora Primary School;
- Principal Welshpool Primary School;
- Department of Education and Training (DET); and
- Local businesses in townships of Toora and Welshpool.

### **RESOURCES**

To ensure that Council takes a strategic approach to the Victorian Government's new 3yr old kindergarten requirements, it is recommended that \$60,000 be allocated to develop a prioritised analysis to understand Early Years infrastructure capacity needs, constraints and investment requirements across the entire municipality.

The required capital and maintenance costs associated with preserving the existing buildings at Toora and Welshpool for five years is \$110,000.

Maintenance costs associated with the existing buildings can be accommodated within existing budgets.

### **RISKS**

The risks of not conducting a whole-of-Shire early years' infrastructure review may result in inadequate capacity to meet the needs of families within the South Gippsland municipality and result in the establishment of waiting lists at several centres and limitations for parents returning to work.

This may also impact vulnerable families by limiting access to key childhood developmental needs and desired educational outcomes.

### **STAFF DISCLOSURE**

Nil

### **ATTACHMENTS**

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

1. Feasibility Impact Study - Toora and Welshpool Kindergarten [4.1.1 - 74 pages]

**REFERENCE DOCUMENTS**

**Council Policy**

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

Blueprint for Social and Community Infrastructure 2014-2029

Children and Families Plan 2016-2021

Early Childhood Services Building Assets Policy Framework

#### **4.2. PETITION RESPONSE: RELOCATE ROAD CLOSURE TRAFFIC BOLLARDS ON FOREST WAY, MIRBOO NORTH**

Infrastructure Directorate

##### **EXECUTIVE SUMMARY**

At the Ordinary Meeting of Council held 27 March 2019, a petition was received containing approximately 24 signatures from directly affected residents. The residents were requesting Council consider relocating the road closure bollards on Forest Way, Mirboo North (the Proposal) due to health and safety concerns pertaining to dust and speeding vehicles. At that meeting Council resolved that the petition lay on the table until the Ordinary Meeting of Council on 24 April 2019 to allow time for a report to be prepared in response to the petition for Council consideration.

At the Ordinary Meeting of Council held 24 April 2019, it was resolved:

*"That Council:*

- 1. Surveys abutting residents along Forest Way, Inglis Avenue and Baromi Road, Mirboo North to seek their views on the preferred position of the road closure bollards;*
- 2. Places traffic counters at the suggested location stated in the petition approximately 100 metres from Inglis Avenue to assess traffic volumes and vehicle speeds using Forest Way, Mirboo North; and*
- 3. Receives a further report on the findings of the survey and traffic data at the next appropriate Ordinary Council Meeting to assist in establishing a formal response to the petition for Council's consideration."*

A survey was sent to residents directly affected by the road closure bollards on Forest Way. This survey provided an opportunity to consult the community to gauge the level of support for the proposed relocation of the traffic bollards in Forest Way from its current location to approximately 100 metres from Inglis Avenue – refer to **Table 1**.

Traffic counters were also placed at a suitable location to establish traffic volumes and speeds in Forest Way – refer to **Table 1** and **Table 2**.

It is recommended Council considers the outcome of the survey being in favour of retaining the traffic bollards in their current location and writes to the lead petitioner to advise Council's decision on the proposal.

## **RECOMMENDATION**

That Council:

1. Considers the results of the survey for the proposed relocation of the road closure bollards on Forest Way, Mirboo North from its current location to approximately 100 metres from Inglis Avenue (the Proposal):
  - a. Eleven survey responses were in favour of the proposal to relocate the road closure traffic bollards.
  - b. Eleven survey responses objected to the proposal to relocate the road closure traffic bollards.
  - c. Nineteen non-responses being considered as a tacit vote for the status quo (retain bollards).
2. Considers the results of the traffic survey data that indicated an average of total of 29 vehicles per day travelling at a speed of 31 km/h on Forest Way.
3. Determines that the road closure bollards located on Forest Way, Mirboo North are to remain in their current position (approximately 50 metres from Murray Street).
4. Writes to the lead petitioner detailing the outcome and reasons for Council's decision to retain the road closure bollards in their current position.

**MOVED:** Administrator Zahra

**SECONDED:** Administrator Brown

**THAT COUNCIL:**

- 1. CONSIDERS THE RESULTS OF THE SURVEY FOR THE PROPOSED RELOCATION OF THE ROAD CLOSURE BOLLARDS ON FOREST WAY, MIRBOO NORTH FROM ITS CURRENT LOCATION TO APPROXIMATELY 100 METRES FROM INGLIS AVENUE (THE PROPOSAL):**
  - a. ELEVEN SURVEY RESPONSES WERE IN FAVOUR OF THE PROPOSAL TO RELOCATE THE ROAD CLOSURE TRAFFIC BOLLARDS.**
  - b. ELEVEN SURVEY RESPONSES OBJECTED TO THE PROPOSAL TO RELOCATE THE ROAD CLOSURE TRAFFIC BOLLARDS.**
  - c. NINETEEN NON-RESPONSES BEING CONSIDERED AS A TACIT VOTE FOR THE STATUS QUO (RETAIN BOLLARDS).**
- 2. CONSIDERS THE RESULTS OF THE TRAFFIC SURVEY DATA THAT INDICATED AN AVERAGE OF TOTAL OF 29 VEHICLES PER DAY TRAVELLING AT A SPEED OF 31 KM/H ON FOREST WAY.**
- 3. DETERMINES THAT THE ROAD CLOSURE BOLLARDS LOCATED ON FOREST WAY, MIRBOO NORTH ARE TO REMAIN IN THEIR CURRENT POSITION (APPROXIMATELY 50 METRES FROM MURRAY STREET).**
- 4. WRITES TO THE LEAD PETITIONER DETAILING THE OUTCOME AND REASONS FOR COUNCIL'S DECISION TO RETAIN THE ROAD CLOSURE BOLLARDS IN THEIR CURRENT POSITION.**

**CARRIED UNANIMOUSLY**

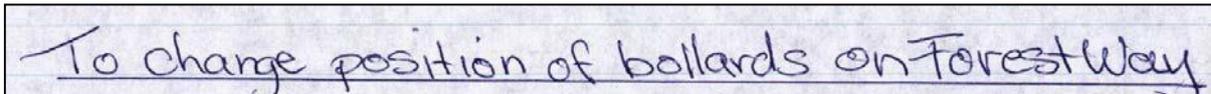
[Link to next Agenda item.](#)

## REPORT

### Council Meeting 27 March 2019

A petition was received at the 27 March 2019 Ordinary Meeting of Council from residents of Mirboo North requesting Council relocates the road closure traffic bollards on Forest Way, Mirboo North (the Proposal) due to health and safety concerns pertaining to dust and speeding vehicles. A copy of the petition is available in **Confidential Attachment [15.2.1]**. The petition prayer is available in **Figure 1** below.

#### Figure 1 – Petition Prayer



The image shows a rectangular box containing handwritten text in blue ink. The text reads: "To change position of bollards on Forest Way". The handwriting is cursive and somewhat informal.

The current petition states that there are 24 properties in Forest Way directly affected by the road closure bollards, 25 residents are in favour of the proposal to relocate the road closure bollards to the Inglis Avenue end of Forest Way, and 8 residents are against the proposal.

The residents in favour of the proposal believe that:

- “This allows entrance at each end of Forest Way and will still remain as a no through road”; and
- “By moving the bollards position to a more suitable place, will solve all the above concerns and be a much safer and healthier place to live.”

At this meeting, it was resolved:

*“That Council:*

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

### Council Meeting 24 April 2019

A report was prepared and tabled at the 24 April 2019 Ordinary Meeting of Council, and it was resolved:

*“That Council:*

1. *Surveys abutting residents along Forest Way, Inglis Avenue and Baromi Road, Mirboo North to seek their views on the preferred position of the road closure bollards;*

2. *Places traffic counters at the suggested location stated in the petition approximately 100 metres from Inglis Avenue to assess traffic volumes and vehicle speeds using Forest Way, Mirboo North; and*
3. *Receives a further report on the findings of the survey and traffic data at the next appropriate Ordinary Council Meeting to assist in establishing a formal response to the petition for Council's consideration."*

It was proposed to survey the residents directly affected by the road closure bollards on Forest Way to officially seek their views on the proposal, and to place traffic counters at a suitable location to establish traffic volumes and speeds in Forest Way. The survey results and traffic assessment data will be presented to Council at the next appropriate Ordinary Meeting of Council to assist in establishing a formal response to the petition for Council's consideration.

The location of the traffic counter and current traffic bollard closure along with residents surveyed is detailed in **Figure 2**.

**Figure 2 – Forest Way, Mirboo North Locality Map**



In 2016, Council received a similar request stating concerns regarding increased traffic, vehicle speeds, and dust in Forest Way. A survey of abutting residents was undertaken in August 2016 asking a [Yes / No] response to moving the road closure in Forest Way from its current location near Murray Street to a location approximately 100 metres from Inglis Avenue. The survey

resulted in 67 per cent of respondents wanting to leave the closure in its existing location near the Murray Street end of Forest Way.

Although 67 per cent of respondents supported leaving the bollards in the current position, this data is over two years old. Traffic usage, road conditions, and occupiers of properties abutting the road closure may have changed, therefore current data is required for Council to consider this proposal.

## CONSULTATION

### Consultation – House Holder / Occupier (Survey) – Closed 30 May 2019

In response to Item 1 of the 24 April 2019 Council resolution, affected land owners / occupiers were consulted via a survey to gauge the level of support for the proposed relocation of the traffic bollards in Forest Way from its current location to a location approximately 100 metres from Inglis Avenue.

This survey provided an opportunity to for the community to agree or disagree with the proposal. The survey asked respondents to tick one box, as shown below, to indicate their position with respect to the Proposal.

- YES - please move the road closure bollards to a position in Forest Way at the rear of 13 Baromi Road approximately 100 metres from Inglis Avenue.
- NO - please leave the road closure bollards at their current location in Forest Way approximately 50 metres from Murray Street.

A total of 42 surveys were sent to the immediate community (house holder / occupier). It was stated in the survey that non-respondents to the survey would be considered as “tacit” vote to retain the bollards in their current location, ie: “NO” response. At least 50 per cent of respondents agreeing to the proposal would be needed to relocate the road closure bollards.

A total of 22 submissions were received with 11 in favour of moving the road closure bollards and 11 against moving the road closure bollards. There were 19 non-respondents forming a tacit vote not to move the road closure bollards.

Therefore the 11 respondents against moving the road closure bollards added to the 19 non-respondents form the majority vote. These results are considered to have community consent to leave the road closure bollards in their current location.

The outcome of the survey is summarised in **Table 1** below and survey responses are included in **Confidential Attachment [15.2.2]**.

**Table 1 – Summary of Survey Outcome**

<b>Proposal:</b> Relocate of the road closure bollards on Forest Way, Mirboo North from its current location to approximately 100 metres from Inglis Avenue (YES)						
	SURVEYS SENT	SURVEYS RETURNED	IN FAVOUR (YES)	AGAINST (NO)	NON-RESPONSE (NO)	RETURN TO SENDER
<b>Abutting land owners/occupier</b>	42	22	11	11	19	1
<b>Owner</b>	33	19	9	10		
<b>Occupier</b>	9	3	2	1		
<b>Non-Responses Tacit Vote (NO)</b>	-	-	-	-	19	1

**Outcome of Traffic Assessment**

In response to Item 2 of the 24 April 2019 Council resolution, to place traffic counters at a suitable location to establish traffic volumes and speeds in Forest Way, the outcome of the traffic assessment is noted in **Table 2** below.

**Table 2 – Outcome of Traffic Assessment (Traffic Data)**

ITEM	RESULT
<b>Date</b>	1 May to 14 May 2019 (12 days)
<b>Total No. of Vehicles</b>	343
<b>24hr Count (Vehicles Per Day)</b>	29
<b>% All Commercial Vehicles</b>	16.3
<b>% Medium Commercial Vehicles</b>	16.3
<b>% Heavy Commercial Vehicles</b>	0
<b>No of Commercial Vehicles</b>	56
<b>85th Percentile Speed – average (km/h)</b>	31

Upon analysing the results from the traffic assessment, there was a total of approximately 29 vehicles per day on Forest Way travelling at an average speed of 31 km/h which indicates to Council that there are no safety or traffic concerns at this location.

## **RISKS**

No risks are currently identified with respect to the proposed resident survey and traffic assessment undertaken to assist Council determining a formal response to the petition for Council's consideration.

## **STAFF DISCLOSURE**

Nil

## **CONFIDENTIAL ATTACHMENTS**

**Confidential Attachment [15.2.1]** – Petition – Relocate Road Closure Traffic Bollards on Forest Way, Mirboo North (20 March 2019) – and **Confidential Attachment [15.2.2]** – Survey Responses – has been provided in accordance with s.77(2)(c) of the Local Government Act 1989. The Chief Executive Officer designates this Agenda Item as confidential information on the grounds that it relates to s.89(2)(h) - any other matter which the Council or Special Committee considers would prejudice the Council or any persons. These items are deemed confidential to protect the privacy of the petition signatories and personal information contained on the survey responses.

## **REFERENCE DOCUMENTS**

### **Legislative Provisions**

Local Government Act 1989

### 4.3. VICTRACK LEASE - LEONGATHA TO NYORA RAIL CORRIDOR

Infrastructure Directorate

#### EXECUTIVE SUMMARY

At the Ordinary Meeting held 26 July 2017, Council confirmed a suite of Priority Projects for 2017/18. One of the projects was the extension of the Great Southern Rail Trail (GSRT) from Leongatha to Nyora together with the development of the Leongatha and Korumburra Station grounds.

At this meeting Council resolved to: *“Authorise the Chief Executive Officer to negotiate with VicTrack with a view to securing the rail corridor between Leongatha and Nyora for Council’s future use.”*

Since that date, Council has been in negotiations with VicTrack to obtain a lease for the rail corridor. This has resulted in a final version of the lease which was accepted by the Acting Chief Executive Officer (refer to **Confidential Attachment [15.3.1]**).

The lease supersedes the Heads of Agreement document that was signed in early February this year. The lease was executed by the Acting Chief Executive Officer on 15 August 2019.

Extensions to the Great Southern Rail Trail will provide new economic opportunities for South Gippsland and will result in a tourism asset of National significance. Some recent analysis shows visitor spending for the combined towns along the existing Great Southern Rail Trail has increased by \$2.6M up 6% for the 2018-19 Tourist Season compared to the 2017-18 Tourist season (Grand final holiday to end of April).

#### RECOMMENDATION

That Council:

1. Notes the execution of the VicTrack Lease for the purposes of securing the rail corridor between Leongatha and Nyora for Council’s future use to progress the Great Southern Rail Trail Extension from Leongatha through to Nyora (Confidential Attachment [15.3.1]).
2. Supports the development of the Leongatha and Korumburra Railway Station grounds as funding opportunities arise or as part of the broader Great Southern Rail Trail Extension project.

**MOVED:** Administrator Brown

**SECONDED:** Administrator Zahra

**THAT COUNCIL:**

- 1. NOTES THE EXECUTION OF THE VICTRACK LEASE FOR THE PURPOSES OF SECURING THE RAIL CORRIDOR BETWEEN LEONGATHA AND NYORA FOR COUNCIL'S FUTURE USE TO PROGRESS THE GREAT SOUTHERN RAIL TRAIL EXTENSION FROM LEONGATHA THROUGH TO NYORA (CONFIDENTIAL ATTACHMENT [15.3.1]).**
- 2. SUPPORTS THE DEVELOPMENT OF THE LEONGATHA AND KORUMBURRA RAILWAY STATION GROUNDS AS FUNDING OPPORTUNITIES ARISE OR AS PART OF THE BROADER GREAT SOUTHERN RAIL TRAIL EXTENSION PROJECT.**

**CARRIED UNANIMOUSLY**

[Link to next Agenda item.](#)

## REPORT

At the Ordinary Meeting on 26 July 2017, Council confirmed a suite of Priority Projects for 2017/18. One of the projects was the extension of the Great Southern Rail Trail (GSRT) from Leongatha to Nyora together with the development of the Leongatha and Korumburra Railway Station grounds.

At this meeting Council resolved to: *“Authorise the Chief Executive Officer to negotiate with VicTrack with a view to securing the rail corridor between Leongatha and Nyora for Council’s future use.”*

Since that date, Council has been in negotiations with VicTrack to obtain a lease for the rail corridor. This has resulted in a final version of the lease which was accepted by the Acting Chief Executive Officer (refer to **Confidential Attachment [15.3.1]**).

The lease supersedes the Heads of Agreement document that was signed in early February this year. The lease was executed by the Acting Chief Executive Officer on 15 August 2019.

The main terms of the lease are:

Commencement date	15 August 2019
Term	18 years
Rent	\$800 per annum plus GST
Percentage rent increase	4 per cent on every anniversary of the commencement date
Permitted use	Construction of and maintenance of a shared user path and ancillary community facilities provided that the Tenant must not use the Premises wholly or predominantly for the sale or hire of retail goods or the retail provision of services within the meaning of the <i>Retail Leases Act 2003 (Vic)</i> .

Extensions to the Great Southern Rail Trail will open up new economic opportunities for South Gippsland and will result in a tourism asset of National significance. Some recent analysis shows visitor spending for the combined towns along the existing Great Southern Rail Trail has increased by \$2.6M up 6% for the 2018-19 Tourist Season compared to the 2017-18 Tourist season (Grand final holiday to end of April).

## CONSULTATION

The draft lease was presented to Council at a Strategic Briefing on 14 August 2019 where it was discussed in detail.

## RESOURCES

There is a budget allocation for the construction and maintenance of the rail trail in the Long Term Financial Plan.

## STAFF DISCLOSURE

Nil

## CONFIDENTIAL ATTACHMENT

**Confidential Attachment [15.3.1]** – VicTrack Lease for the Leongatha to Nyora Rail Corridor – has been provided in accordance with s.77(2)(c) of the Local Government Act 1989. The Chief Executive Officer designates this item as confidential information on the grounds that it relates to s.89(2)(d) contractual matters.

## REFERENCE DOCUMENTS

### **Council Policy**

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

Priority Projects

### **Legislative Provisions**

Local Government Act 1989

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

### **5.1. ADMINISTRATORS DECLARATION OF THE OATH OF OFFICE**

Corporate and Community Services Directorate

#### **EXECUTIVE SUMMARY**

The purpose of this report is to minute that Administrators Julie Eisenbise, Frederick-John (Rick) Brown and Christian Zahra AM have taken the Oath of Office and read, signed and dated their declaration to abide by the Councillor Code of Conduct at a ceremony conducted at 9.45am on 24 July 2019.

The oath and declaration have been made and signed in the presence of the Acting Chief Executive Officer (CEO), Bryan Sword, as the witness.

The 28 August 2019 Ordinary Meeting of Council is to include the signed Oath and Declaration made by the three Administrators for inclusion in the Minutes, as required by s.63(2)(c) of the Local Government Act (the Act) (refer to **Attachment [5.1.1]**).

#### **RECOMMENDATION**

That Council:

1. Notes that Administrators Julie Eisenbise, Frederick-John (Rick) Brown and Christian Zahra AM have taken, signed and dated the Oath of Office and the declaration to abide by the Councillor Code of Conduct, at a ceremony held at 9.45am on 24 July 2019 in the Council Chambers Leongatha, with the Acting Chief Executive Office as their witness (Attachment [5.1.1], [5.1.2] and [5.1.3]); and
2. Notes the signed and dated Oath of Office and Councillor Code of Conduct declaration is recorded and included in the minutes of the 28 August 2019 Ordinary Meeting of Council.

**MOVED:** Administrator Brown

**SECONDED:** Administrator Zahra

**THAT COUNCIL:**

1. **NOTES THAT ADMINISTRATORS JULIE EISENBISE, FREDERICK-JOHN (RICK) BROWN AND CHRISTIAN ZAHRA AM HAVE TAKEN, SIGNED AND DATED THE OATH OF OFFICE AND THE DECLARATION TO ABIDE BY THE COUNCILLOR CODE OF CONDUCT, AT A CEREMONY HELD AT 9.45AM ON 24 JULY 2019 IN THE COUNCIL CHAMBERS LEONGATHA, WITH THE ACTING CHIEF EXECUTIVE OFFICE AS THEIR WITNESS (ATTACHMENT [5.1.1], [5.1.2] AND [5.1.3]); AND**
2. **NOTES THE SIGNED AND DATED OATH OF OFFICE AND COUNCILLOR CODE OF CONDUCT DECLARATION IS RECORDED AND INCLUDED IN THE MINUTES OF THE 28 AUGUST 2019 ORDINARY MEETING OF COUNCIL.**

**CARRIED UNANIMOUSLY**

[Link to next Agenda item.](#)

## REPORT

On Friday 21 June 2019, the Hon Adem Somyurek, Minister for Local Government, announced the Governor-in-Council appointment of Julie Eisenbise to be the Administrator for South Gippsland Shire Council under s.6(a) of the *Local Government (South Gippsland Shire Council) 2019* (the LGSGSC Act), following the dismissal of Council under the same Act.

The appointment was for a 90 day period from the day after making the Order or until such time as a panel of administrators is appointed for the South Gippsland Shire Council.

On Monday 22 July 2019, the Hon Adem Somyurek, Minister for Local Government, announced the Governor-in-Council appointment of two additional Administrators, Rick Brown and Christian Zahra AM for South Gippsland Shire Council under s.6(a) of the *Local Government (South Gippsland Shire Council) 2019* (the LGSGSC Act), following the dismissal of Council under the same Act.

Sections 7(a), 7(b) and 7(c) of the *Local Government (South Gippsland Shire Council) Act*, outlines that a person appointed by the Minister for Local Government, and subject to the Order in Council, is to be an Administrator for South Gippsland Shire Council thereby constituting the Council. In this role the Administrator must perform all the functions, powers, duties of the Council which must be treated as if they were performed by the Council.

In accordance with these sections of the LGSGSC Act and s.63 of the Act, the Administrator is required to take the oath or affirmation of office and agree to abide by the Councillor Code of Conduct dated 22 February 2017.

A person appointed by the Governor-General to be an Administrator, is not capable of acting as an Administrator until these two declarations are made and witnessed by the Acting CEO.

The oath and declaration made by the three Administrators have been made and signed in the presence of the Acting Chief Executive Officer (CEO), Bryan Sword, as their witness.

The 28 August 2019 Ordinary Meeting of Council is to include the signed Oath and Declaration made by the three Administrators for inclusion in the Minutes, as required by s.63(2)(c) of the Act (refer to **Attachment [5.1.1], [5.1.2] and [5.1.3]**).

## CONSULTATION

Julie Eisenbise, the first appointed Administrator, was provided with advice and an induction session on the requirements to take up the role of Administrator, at a session held on 24 June 2019.

The two additional Administrators Rick Brown and Christian Zahra AM were provided with advice and an induction session to Council, held on 24 July 2019 in order to be sworn in as Administrators at the 24 July 2019 swearing-in ceremony.

## RESOURCES

The appointment of a Chair Administrator requires remuneration fixed at \$160,000 per annum plus superannuation. An Administrator requires remuneration fixed at \$80,000 per annum, plus superannuation. Funds currently allocated to Councillors' allowances will be transferred to cover expenditure requirements of the three Administrators.

## RISKS

Council is required by law to ensure all appointed Administrators take, sign and date the oath or affirmation of office and read, sign and date the Councillor Code of Conduct before they can take up the role of Administrator.

The following sessions contributed to ensuring the Administrator has been sworn into the role in accordance with the legislative requirements of ss.7(a), 7(b) and 7(c) of the LGSGSC Act and s.63 of the Act:

1. Pre-declaration induction session was held with the Administrator Julie Eisenbise on 24 June 2019 and the additional two Administrators Rick Brown and Christian Zahra on 24 July 2019;
2. The declaration ceremony for all three Administrators, was held at 9.45am 24 July 2019 in the Council Chambers, Leongatha; and
3. The inclusion of the three signed Administrator Oaths and signed Code of Conduct declaration (**Attachment [5.1.1], [5.1.2] and [5.1.3]**) is captured in the Ordinary Meeting of Council Minutes 28 August 2019.

## STAFF DISCLOSURE

Nil

## **ATTACHMENTS**

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

1. Administrator Julie Eisenbise - Signed Oath and Declaration - 24 July 2019  
[5.1.1 - 1 page]
2. Administrator Frederick John Brown - Signed Oath and Declaration - 24 July 2019 [5.1.2 - 2 pages]
3. Administrator Christian Zahra - Signed Oath and Declaration - 24 July 2019  
[5.1.3 - 2 pages]

## **REFERENCE DOCUMENTS**

### **Council Policy**

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

Councillor Code of Conduct Policy (C14)

### **Legislative Provisions**

Local Government Act 1989

Local Government (South Gippsland Shire Council) Act 2019

## **5.2. DETERMINATION AND ELECTION OF DEPUTY CHAIR (MAYOR)**

Corporate and Community Services Directorate

### **EXECUTIVE SUMMARY**

By an Order in Council, Julie Eisenbise has been appointed as Chairperson of the panel of Administrators for South Gippsland Shire Council, acting for all intents and purposes as Mayor of Council as per section 7(c) of the Local Government Act (South Gippsland Shire Council) 2019.

Council may by resolution determine if a Deputy Chair (equivalent to a Deputy Mayor) is required, then following this determination an election will take place to fill the vacancy. The processes that provided for the determination and election of a Deputy Chair (in the place of a Mayor or Deputy Mayor are located in clause 6 and 7 of the *Local Law No.3 (Meeting Procedures and Common Seal)*).

The position of Deputy Chair plays an important role in ensuring the continuity of Council business by:

- Enabling the Deputy to Chair a Meeting in the absence of the Chair (Mayor) for any reason (clause 30(a)).
- Attending civic functions in the absence of the Chair (Mayor).
- Sharing the workload.

It is recommended that Council appoint a Deputy Chair for the period of fifteen months to coincide with the next appropriate Special Statutory Meeting of Council in November 2020.

### **RECOMMENDATION 1**

That Council resolves to elect a Deputy Chair (Deputy Mayor) of the South Gippsland Shire Council for a term of fifteen (15) months, in order for a proposed next election to fall in line with a Special (Statutory) Meeting to take place in November 2020.

**MOVED:** Administrator Brown

**SECONDED:** Administrator Zahra

**THAT COUNCIL RESOLVES TO ELECT A DEPUTY CHAIR (DEPUTY MAYOR) OF THE SOUTH GIPPSLAND SHIRE COUNCIL FOR A TERM OF FIFTEEN (15) MONTHS, IN ORDER FOR A PROPOSED NEXT ELECTION TO FALL IN LINE WITH A SPECIAL (STATUTORY) MEETING TO TAKE PLACE IN NOVEMBER 2020.**

### **CARRIED UNANIMOUSLY**

## **RECOMMENDATION 2**

**That Council proceeds to elect a Deputy Chair (Deputy Mayor) of the South Gippsland Shire Council for a term of fifteen months.**

### **Nomination of Deputy Chair**

**Administrator Chair Eisenbise noted that per *Local Law No.3 (Meeting Procedures and Common Seal)* the Acting Chief Executive Officer, Bryan Swords acts as Returning Officer, a role that ensures the validity of the election.**

**Administrator Chair Eisenbise called for nominations for the election of a Deputy Chair.**

**Administrator Brown nominated Administrator Zahra for position of Deputy Chair and the nomination was accepted.**

**Administrator Chair Eisenbise called for further nominations for the role of Deputy Chair and as there were no other nominations the nominations were declared closed.**

### **Election of Deputy Chair**

**Administrator Chair Eisenbise stated that as there are no other nominations Administrator Zahra was declared the duly elected Deputy Chair of South Gippsland Shire Council for the term of 15 months up until the Special Statutory meeting in November 2020.**

**Administrator Chair Eisenbise confirmed the result with the Returning Officer acting CEO, Bryan Sword who indicated that it is his understanding that Administrator Zahra has been elected as Deputy Chair. The Chair thanked Mr Sword for undertaking the role as Returning Officer.**

**The newly elected Deputy Chair, Administrator Zahra made comments that in this formal role he would support the Chair by ensuring continuity of decision making when required.**

**Administrator Chair Eisenbise thanked him for his words of support and congratulated him on his appointment.**

**[Link to next agenda item.](#)**

## **REPORT**

By an Order in Council, Julie Eisenbise has been appointed as Chairperson of the panel of Administrators. The Local Government Act (South Gippsland Shire Council) 2019, section 7(c) sets out in the provisions for the Administrator Chair that they are:

- (c) subject to any conditions of the administrator's appointment, the administrator or, if a panel of administrators is appointed, the Chairperson of the panel of administrators, must perform all the functions, powers and duties of the Mayor of the South Gippsland Shire Council, which must be treated as if they were performed by the Mayor of the South Gippsland Shire Council;

### ***Role of Deputy Chair (Mayor)***

The process for introducing the role of Deputy Chair (Deputy Mayor) is provided for in the *Local Law No.3 - Meeting Procedures and Common Seal* (Local Law) clause 6(g), whereby any election by Council of a Deputy Mayor will follow the same procedure as that for the election of a Mayor. In the current arrangements a Deputy Chair replaces the title of Deputy Mayor and Administrator Chair replaces the title of Mayor.

The deputy role deputises for the Chair (Mayor) to ensure the equivalent role and functions of a Mayor are adequately appointed and performed by providing a leadership and formal representational presence at civic, ceremonial and public engagements; and chairs Council Meetings on occasions when the Chair (Mayor) is unable to do so.

The proposed outcome of the recommendations provides for any absences of the Administrator Chair. Should the Office of an Administrator become vacant, this is treated differently and is provided for in the Local Government Act (South Gippsland Shire Council) 2019, section 7(g).

### ***Term of Deputy Chair (Mayor)***

The term of Deputy Chair (Mayor) as per the *Local Law* cannot be for more than two (2) years. The recommendation proposes to elect a deputy for a term of fifteen (15) months, in order for a proposed future election to fall in line with a Special (Statutory) Meeting to take place in November 2020.

### ***Election of Deputy Chair (Mayor)***

The Meeting to elect the Mayor and Deputy usually takes place at a Special Meeting of Council, known as the Statutory Meeting and must be open to members of the public (Local Law, clause 6(b)).

As this Meeting is not a Special Statutory Meeting of Council, the process being followed is detailed in Local Law, clause 6(a)(iii) – that a Meeting to elect a Mayor/ Deputy will be held as soon as possible after any vacancy in the office

of Mayor/ Deputy occurs. This is the first meeting since the appointment of the two (2) remaining Administrators where it has been possible to consider a Deputy Chair (Mayor).

### **CONSULTATION**

Local Government Victoria (LGV) has been consulted to clarify the role of Administrator Chair and the process of electing a Deputy Chair (Mayor). Council were advised that there are two pathways to ensure that Council has a Chair for its meetings:

1. Refer to provisions in Council's Local Law regarding the election of Mayor and Deputy.
2. Section 73 of the Local Government Act 1989 (Act) states that the mayor must take the chair at all meetings of the council at which he or she is present. Under section 73 of the Act, if the mayor is absent, the council must appoint one of the councillors to be the acting mayor.

Administrators Eisenbise, Zahra and Brown have discussed the appointment of a deputy chairperson and have requested a report be brought to the 28 August 2019 Ordinary Meeting of Council.

### **RESOURCES**

An Administrator is entitled to be paid remuneration and allowances that is fixed by the Minister, they are currently funded in annual budgets.

No additional remuneration and allowances is paid to a Deputy Chair (Deputy Mayor) role beyond their fixed remuneration and allowances.

### **RISKS**

Appointing a Deputy Chair will ensure continuity of Council decision making in the absence of the Chair (Mayor) at a Council Meeting.

### **STAFF DISCLOSURE**

Nil

### **REFERENCE DOCUMENTS**

#### **Council Policy**

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

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

#### **Legislative Provisions**

Local Government Act 1989

Local Government Act (South Gippsland Shire Council) 2019

### **5.3. POLICY REVIEW: AUDIT COMMITTEE CHARTER (C08) AND AUDIT POLICY REVIEW (C55)**

Corporate and Community Services Directorate

#### **EXECUTIVE SUMMARY**

A revised Audit Committee Charter (C08)(refer to **Attachment [5.3.1]**) and Audit Policy (C55) (refer to **Attachment [5.3.2]**) is presented to Council for consideration and adoption.

#### **RECOMMENDATION**

That Council adopts an amended Audit Committee Charter (C08) (Attachment [5.3.1]) and Audit Policy (C55) (Attachment [5.3.2]).

**Administrator Brown moved a motion different from the Recommendation.**

**MOVED:** Administrator Brown

**SECONDED:** Administrator Zahra

**THAT COUNCIL ADOPTS AN AMENDED AUDIT COMMITTEE CHARTER (C08) (ATTACHMENT [5.3.1]) AND AUDIT POLICY (C55) (ATTACHMENT [5.3.2]) WITH THE FOLLOWING CHANGE TO:**

- 1. REPLACE THE FIRST PARAGRAPH IN THE 'COMPOSITION AND APPOINTMENT OF MEMBERS' SECTION OF THE AUDIT COMMITTEE CHARTER TO BE:**
  - a. THE AUDIT COMMITTEE WILL COMPRISE UP TO FOUR MEMBERS, NAMELY ONE COUNCILLOR AND UP TO THREE (3) INDEPENDENT EXTERNAL MEMBERS. THE MAYOR IS AN OBSERVER AT MEETINGS AND HAS THE RIGHT TO SPEAK. MEMBERS MAY SERVE A MAXIMUM OF TWO CONSECUTIVE TERMS OF THREE YEARS. A COMMITTEE REQUIRES A QUORUM OF THREE MEMBERS, INCLUDING THE COUNCILLOR MEMBER.**

**CARRIED UNANIMOUSLY**

[Link to next Agenda item.](#)

## REPORT

Council's Audit Committee is an advisory committee whose role is to oversee and monitor Council's audit processes, including internal control activities.

The activities of the Audit Committee are guided by a Charter, which was last reviewed at the Ordinary Meeting of Council 26 April 2018 and Audit Policy, which was last reviewed 27 July 2019.

In accordance with its annual workplan, the Audit Committee ("*Committee*") conducted a review of Council's Audit Committee Charter and Audit Policy at the 11 June 2019 meeting. The following amendments were recommended:

### **Audit Committee Charter**

1. Include a statement to reflect that Council encourages Committee membership from a range of disciplines and backgrounds and is an equal opportunity employer;
2. In relation to the composition and appointment of members, provide for the appointment of up to two Councillors/Administrators to cover the period of administration where it might not be possible to appoint two Council members;
3. Provide for the attendance of the Chief Executive Officer at In-Committee sessions by invitation;
4. Update the fees payable to Independent members to reflect the 2018/19 annual percentage increase;
5. Provide for the compulsory induction of Committee members;
6. Provide for the execution of a deed of confidentiality by Independent members, prior to commencement;
7. In relation to the removal of Committee members, ensure that (a) the relevant member is provided with the opportunity to be heard at an open Council meeting; (b) a performance review is conducted; and (c) principles of natural justice are adhered to;
8. Amend the Committee's risk management responsibilities to ensure consistency with Council's Risk Management Framework;
9. Amend the Committee's internal audit responsibilities to include the provision of advice on audit scopes and reports, and the monitoring of agreed actions arising from audits;

10. Provide for the presentation of an annual report by the Committee Chair to Council; and
11. Update the terms and appointments of members, including to make provision for Council's Administrators.

### **Audit Policy**

1. Minor drafting points.

### **CONSULTATION**

Council Management and the Audit Committee were consulted on and approved the recommended changes to the Audit Committee Charter and Policy. Further, the Administrators were provided with an opportunity to provide feedback on the updated Charter via Councillor InfoSum dated 31 July 2019.

### **RISKS**

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

### **STAFF DISCLOSURE**

Nil

### **ATTACHMENTS**

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

1. C08 Audit Committee Charter - 28 August 2019 [5.3.1 - 6 pages]
2. C55 Audit Policy - 28 August 2019 [5.3.2 - 4 pages]

### **REFERENCE DOCUMENTS**

#### **Council Policy**

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

Audit Committee Charter (C08) and Terms of Reference

#### **Legislative Provisions**

Local Government Act 1989, s.139

Audit Committees - A Guide to Good Practice for Local Government, January 2011

## 5.4. 2019-2021 ADMINISTRATOR APPOINTMENTS TO COMMITTEES

Corporate and Community Services Directorate

### EXECUTIVE SUMMARY

Council has traditionally appointed Councillors to a range of internal and external Committees and Section 86 Committees for the period of one year.

This report provides a schedule of the recommended appointments of Administrators to Committees for the period commencing 1 September 2019 to the end of the Administrator term, October 2021. It has been determined that a number of the committees do not require the allocation of an Administrator as they can be covered by Council Officers and the duplication of resources is not warranted. **Attachment [5.4.1]** shows the Administrator representation (or Officer only representation) to these Committees.

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

It is recommended that there be no Administrator appointments to Section 86 Committees of Management due to the nature of the committees being operational rather than policy development committees. Council's Community Strengthening Coordinator and Volunteer Development Officer will remain as the key contacts and representatives of Council for these Committees.

The Committees include:

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

### RECOMMENDATIONS

That Council:

1. Appoints Administrators to Committees and External Bodies as per Attachment [5.4.1] for the term commencing 1 September 2019 until 6.00am on the day of an open Meeting of Council to be scheduled, following the completion of the Administrator term (October 2021) at Council in accordance with ss.71(3) and 72 of the Local Government Act 1989;

2. Revokes and disbands the Economic Development and Tourism Steering Committee; and
3. Considers new appointments to Committees and External Bodies as changes are required, or new Committees are formed.

**MOVED:** Administrator Eisenbise

**SECONDED:** Administrator Zahra

**THAT COUNCIL:**

1. **APPOINTS ADMINISTRATORS TO COMMITTEES AND EXTERNAL BODIES AS PER ATTACHMENT [5.4.1] FOR THE TERM COMMENCING 1 SEPTEMBER 2019 UNTIL 6.00AM ON THE DAY OF AN OPEN MEETING OF COUNCIL TO BE SCHEDULED, FOLLOWING THE COMPLETION OF THE ADMINISTRATOR TERM (OCTOBER 2021) AT COUNCIL IN ACCORDANCE WITH SS.71(3) AND 72 OF THE LOCAL GOVERNMENT ACT 1989;**
2. **REVOKES AND DISBANDS THE ECONOMIC DEVELOPMENT AND TOURISM STEERING COMMITTEE; AND**
3. **CONSIDERS NEW APPOINTMENTS TO COMMITTEES AND EXTERNAL BODIES AS CHANGES ARE REQUIRED, OR NEW COMMITTEES ARE FORMED.**

**CARRIED UNANIMOUSLY**

[Link to next Agenda item.](#)

## **REPORT**

It is proposed that Council appoints the Administrators to Committees for the term commencing 1 September 2019 until 6.00am on the day of an Open Meeting of Council to be scheduled, following the completion of the Administrator term (October 2021) in accordance with ss.71(3) and 72 of the Local Government Act 1989.

At a Strategic Briefing on 31 July 2019, the Administrators considered the appointments to the Committees prior to this Ordinary Meeting of Council as indicated in **Attachment [5.4.1]**.

Administrators appointed to represent Council on each Committee do so to provide leadership, advocacy, support and active engagement with the community and to have access to relevant strategic advice and information that can inform Council.

Administrator appointments to committees will be posted to Council's website and each of the external committees' executive bodies formally notified of which Administrator has been appointed.

Once appointed there is an expectation and obligation that the nominated Administrators will attend as many meetings of the committee as practicable (excluding those where the appointment is predominantly as a point of reference), then report back to Council on their attendance and any significant or noteworthy outcomes. Reports are usually in the form of a verbal report in the Council Meeting.

During the term Council may nominate to form internal Council Committees or receive additional requests for representation on external Committees. Administrators may consider additional requests for representation on Committees throughout the full-term and it is recommended that appointments be referred to Council for adoption.

### ***Audit Committee***

Council recommends that one Administrator is appointed to the Audit Committee. Section 219(3A) of the Local Government Act 1989 indicates that the Administrators have the same functions as a Councillor when it comes to being appointed to various committees (including the Audit Committee). The legislation highlights that there is no provision which specifically requires the Chair of the Panel to be appointed and therefore, it is recommended that one Administrator is appointed to the Audit Committee.

### ***Conflict of Interest***

Administrators officially appointed to committees by Council do not have to declare conflicts of interest (refer to Section 79C(1)(a) of the Local Government Act 1989).

Administrators participating in external community meetings that are not under the auspice of Council need to be mindful of conflict of interest requirements. The type of interest that may apply could be an '*Indirect Interest – conflicting duty*' whereby a person holds a position on a committee of a community organisation and Council may be making a decision with respect to that committee.

### **CONSULTATION**

Administrators have considered and discussed potential appointments to these Committees at a Council Briefing on 31 July 2019. The Committees are those which were relevant at the time of discussion and can be reviewed as required throughout the full-term of Administration.

### **RESOURCES**

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

### **RISKS**

The investment of Administrator time and resources through involvement in committees, returns positive outcomes and opportunities for Council and the community through sharing strategic information and by providing community advocacy and leadership.

### **ATTACHMENTS**

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

1. 2019-2021 Administrator Appointments to Committees [5.4.1 - 8 pages]

### **REFERENCE DOCUMENTS**

#### **Council Policy**

Audit Committee Charter Policy (C08)

Audit Policy (C55)

#### **Legislative Provisions**

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

**6. OTHER COUNCIL REPORTS**

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

**7.1. NIL**

## **8. PROCEDURAL REPORTS**

### **8.1. COUNCILLOR EXPENDITURE - APRIL TO JUNE 2019**

Corporate and Community Services Directorate

#### **EXECUTIVE SUMMARY**

At the 29 May 2019 Ordinary Meeting of Council, the Council passed a resolution as follows:

*“That Council defer item 8.2. Councillors Expenditure Report – July 2018 to March 2019 to the 24 July 2019 Ordinary Meeting of Council to allow for greater clarification on telephone expenditure contained within the report.”*

The disruption created with the dismissal of Council and appointment of Administrators delayed the investigation into the telephone expenditure for an additional month. The internal investigation has now been completed and the summary of findings contained in this report.

The Councillor Expenditure Report provides the Administrators with an update on Councillor Expenditure from 1 July 2018 to 30 June 2019.

#### **RECOMMENDATION**

That Council:

1. Notes the findings relating to former Councillors telephone expenditure; and
2. Receives and notes the Councillor Expenditure Report for the period 1 July 2018 to 30 June 2019 in Table 1.

**MOVED:** Administrator Zahra

**SECONDED:** Administrator Brown

**THAT THE RECOMMENDATIONS AGENDA ITEMS 8.1, 8.2 AND 8.3 BE ADOPTED.**

**CARRIED UNANIMOUSLY**

[Link to next Agenda item.](#)

## REPORT

At the 29 May 2019 Ordinary Meeting of Council, the Council passed a resolution as follows:

*“That Council defer item 8.2. Councillors Expenditure Report – July 2018 to March 2019 to the 24 July 2019 Ordinary Meeting of Council to allow for greater clarification on telephone expenditure contained within the report.”*

An internal investigation into the former Councillor’s telephone expenses identified the majority of expenditure each quarter was for ‘National Direct’ phone calls and using the mobile phones for internet connectivity. Both of these activities are provided for within the *Councillor Support and Expenditure Policy (C51)* and are deemed acceptable use. It should be noted that:

- Using the mobile phone for internet connectivity saves on providing Councillors with both a mobile phone plan and a home internet plan.
- The National Direct costs are for all calls made within Australia.
- Higher usage is expected of Councillors holding the Mayoral position.

Various tools are provided for Councillors to perform the functions of their roles. Each Councillor makes use of the available tools to best suit their purposes, often resulting in some Councillors using more of various tools than others. Some Councillors with better access to internet coverage at home, may utilise their own WiFi, while others may not have the same access. Council’s policy ensures that all Councillors are able to remain connected as required for them to perform their roles.

The Councillor Expenditure Report provides the Administrators with an update on Councillor Expenditure from 1 July 2018 to 30 June 2019.

Councillor expenditure of \$366,405 for the period 1 July 2018 to 30 June 2019 was below budget by \$53,023. The variance includes Councillor allowances below budget by \$16,282 due to periods in the year without a full Council. Other Council related expenditure was also below budget, including travel reimbursements by \$22,501, mobile phones by \$5,356, and training and professional development by \$10,919.

**Table 1- Councillor Expenditure 1 July 2018 – 30 June 2019**

Councillor Expenditure												
From 1 July 2018 to 30 June 2019												
Councillor	Travel Expenditure			Other Expenditure							Total	Date of last claim
	Car	Councillor Car Operating Cost *	Other travel reimbursements **	Mobile Phone / I pads	Phone/Fax/ Modem	Training & Professional Development ***	Councillor Allowance	Remoteness Allowance	Printing / Sound recording transcripts	Other Costs		
Ex Cr. Aaron Brown	Personal****	\$ 757	\$ 1,540	\$ 474	\$ -	\$ -	\$ 26,554	\$ -	\$ 22	\$ 26	\$ 29,373	22-May-2019
Ex Cr. Alyson Skinner	Council	\$ 5,684	\$ -	\$ 355	\$ -	\$ 4,314	\$ 27,249	\$ -	\$ -	\$ 67	\$ 37,669	28-June-2019
Ex Cr. Andrew McEwen	Personal	\$ -	\$ 9,673	\$ 1,766	\$ -	\$ 1,209	\$ 27,249	\$ -	\$ 436	\$ 597	\$ 40,930	28-June-2019
Ex Cr. Don Hill	Personal	\$ -	\$ 8,021	\$ 894	\$ -	\$ 659	\$ 61,568	\$ -	\$ 990	\$ 256	\$ 72,388	28-June-2019
Ex Cr. Frank Hirst	Council	\$ 1,207	\$ -	\$ -	\$ -	\$ 400	\$ 3,242	\$ -	\$ -	\$ 175	\$ 5,024	28-June-2019
Ex Cr. Jeremy Rich	Personal	\$ -	\$ 4,171	\$ 246	\$ -	\$ 930	\$ 23,853	\$ 960	\$ 258	\$ 2,248	\$ 32,666	27-March-2019
Ex Cr. Jim Fawcett	Personal	\$ -	\$ -	\$ 165	\$ 55	\$ -	\$ 10,702	\$ -	\$ -	\$ -	\$ 10,922	N/A
Ex Cr. Lorraine Brunt	Council	\$ 4,766	\$ -	\$ 3,680	\$ -	\$ 188	\$ 43,660	\$ -	\$ 23	\$ -	\$ 52,317	12-February-2018
Ex Cr. Matt Sherry	Personal	\$ -	\$ 381	\$ -	\$ -	\$ -	\$ 1,312	\$ -	\$ -	\$ -	\$ 1,693	28-June-2019
Ex Cr. Maxine Kiel	Personal	\$ -	\$ 959	\$ 82	\$ -	\$ -	\$ 6,659	\$ -	\$ -	\$ -	\$ 7,700	15-October-2018
Ex Cr. Meg Edwards	Personal	\$ -	\$ 3,138	\$ 432	\$ -	\$ -	\$ 9,232	\$ -	\$ -	\$ 1,314	\$ 14,116	30-October-2018
Ex Cr. Ray Argento	Personal	\$ -	\$ 3,452	\$ 430	\$ -	\$ 87	\$ 27,249	\$ -	\$ 21	\$ 87	\$ 31,152	30-May-2019
Ex Cr. Rosemary Cousin	Personal	\$ -	\$ 3,004	\$ -	\$ -	\$ 1,315	\$ 18,017	\$ -	\$ 22	\$ 84	\$ 22,442	28-June-2019
Ex Cr. Steve Finlay	Personal	\$ -	\$ 133	\$ -	\$ -	\$ -	\$ 7,873	\$ -	\$ 7	\$ -	\$ 8,013	28-June-2019
<b>Total Actual (Year to date June 2019)</b>		<b>\$ 12,414</b>	<b>\$ 34,472</b>	<b>\$ 8,524</b>	<b>\$ 55</b>	<b>\$ 9,102</b>	<b>\$ 294,419</b>	<b>\$ 960</b>	<b>\$ 1,779</b>	<b>\$ 4,680</b>	<b>\$ 366,405</b>	
<b>Total Budget (Year to date June 2019)</b>		<b>\$ 13,843</b>	<b>\$ 56,632</b>	<b>\$ 13,880</b>	<b>\$ 1,044</b>	<b>\$ 20,021</b>	<b>\$ 310,701</b>	<b>\$ 514</b>	<b>\$ -</b>	<b>\$ 2,793</b>	<b>\$ 419,428</b>	
<b>Variance</b>		<b>\$ 1,429</b>	<b>\$ 22,160</b>	<b>\$ 5,356</b>	<b>\$ 989</b>	<b>\$ 10,919</b>	<b>\$ 16,282</b>	<b>-\$ 446</b>	<b>-\$ 1,779</b>	<b>-\$ 1,887</b>	<b>\$ 53,023</b>	

NOTES  
 \* Car operating costs are for the 12 months ended 30 June 2019 and includes depreciation, insurance and notional interest.  
 \*\* Travelling expenditure for Councillors using private vehicles is at the prescribed rate of reimbursement and only includes claims processed up to 30 June 2019.  
 \*\*\* Training & professional development includes accommodation, conference and parking expenses.  
 \*\*\*\* Cr. Aaron Brown used a Council Car until 29 August 2018

**RISKS**

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

**STAFF DISCLOSURE**

Nil

**REFERENCE DOCUMENTS**

**Council Policy**

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

Annual Budget 2019/20

Councillor Support and Expenditure Policy (C51)

**Legislative Provisions**

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

## **8.2. ASSEMBLY OF COUNCILLORS - 22 JUNE TO 21 JULY 2019**

Corporate and Community Services Directorate

### **EXECUTIVE SUMMARY**

Council is committed to making relevant, timely and useful information available for members of the public with the aim of enhancing transparency. The matters listed in this report were presented or considered at either an Advisory Committee Meeting, Councillor Strategic Briefing Session or Public Presentation Session between 22 June and 21 July 2019.

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

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

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

### **RECOMMENDATION**

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

**NOTE: The recommendation was CARRIED UNANIMOUSLY as part of a single motion, refer to page 81.**

[Link to next Agenda item.](#)

## REPORT

Meeting Title	Details
<b>Wednesday 26 June 2019</b>	
<b>Public Presentations</b>	<b>Administrator Attending:</b> Julie Eisenbise
<b>Open Session</b>	<b>Conflict of Interest:</b> Nil disclosed
<b>A presentation was made to Council by the Following community member: Don Hill</b> , regarding Council Agenda 26 June 2019, item Agenda Item 5.2. PROPOSED 2019/20 ANNUAL BUDGET - OPTIONS IN ACHIEVING A ZERO PER CENT RATE RISE.	
<b>Korumburra Railway Station Site Master Plan</b>	<b>Administrator Attending:</b> Julie Eisenbise  <b>Conflict of Interest:</b> Nil disclosed <b>Matters Considered:</b> The Administrator considered a briefing on Korumburra Railway Station Site Master Plan project and the progress to date.
<b>Executive Update</b>	<b>Administrator Attending:</b> Julie Eisenbise  <b>Conflict of Interest:</b> Nil disclosed <b>Matters Considered:</b> <ul style="list-style-type: none"> <li>• Agenda Item New Policy: Port Welshpool Maritime and District Collection Policy (C73)</li> <li>• Contract Line Marking</li> </ul>
<b>Ordinary Agenda Topic Discussion: 26 June 2019</b>	<b>Administrator Attending:</b> Julie Eisenbise  <b>Conflict of Interest:</b> Nil disclosed <b>Matters Considered:</b> The Administrator considered and asked questions relating to Agenda items for the Ordinary Meeting of Council 26 June 2019.

Meeting Title	Details
<b>Wednesday 3 July 2019</b>	
<b>Proposed Rating Strategy 2019-2022</b>	<p><b>Administrator Attending:</b> Julie Eisenbise</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrator considered the proposed Rating Strategy 2019-2022.</p>
<b>Council Plan review and 2019/20 Annual Initiatives</b>	<p><b>Administrator Attending:</b> Julie Eisenbise</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrator considered the Community Satisfaction Survey results and how this relates to the Council Plan and 2019/20 Annual Initiatives.</p>
<b>2019/20 Capital Works Program</b>	<p><b>Administrator Attending:</b> Julie Eisenbise</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrator considered 2019/20 Capital Works Program.</p>
<b>Communication Strategy Discussion</b>	<p><b>Administrator Attending:</b> Julie Eisenbise</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrator considered Communications Strategy Discussions and future strategies that aim to improve marketing material and advocacy roles.</p>

Meeting Title	Details
<b>Wednesday 3 July 2019</b>	
<b>Executive Update</b>	<p><b>Administrator Attending:</b> Julie Eisenbise</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b></p> <ul style="list-style-type: none"> <li>• Infrastructure update</li> </ul>
<b>Economic Development &amp; Tourism Steering Briefing</b>	<p><b>Administrator Attending:</b> Julie Eisenbise</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrator considered the function of the Economic Development &amp; Tourism Steering Briefing and discussions on the role of South East Australian Transport Strategy (SEATS) and current South Gippsland Branding (tourism) project.</p>
<b>Planning Briefing</b>	<p><b>Administrator Attending:</b> Julie Eisenbise</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrator considered the function of the Planning Briefing including:</p> <ul style="list-style-type: none"> <li>• Strategic Planning Project List</li> <li>• Planning applications of interest</li> <li>• Decisions for April 2019</li> <li>• VCAT Decisions</li> <li>• Applications received April 2019</li> </ul>
<b>Monday 8 June 2019</b>	
<b>Planning Briefing</b>	<p><b>Administrator Attending:</b> Julie Eisenbise</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrator considered Planning applications proposed for future Council decisions.</p>

Meeting Title	Details
<b>Wednesday 10 July 2019</b>	
<b>Petition: Peart Street, Leongatha Tree Hazard</b>	<p><b>Administrator Attending:</b> Julie Eisenbise</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrator considered the Petition received at Ordinary Meeting 26 June 2019, the petition requests that trees located on Peart Street, Leongatha be removed.</p>
<b>Thursday 11 July 2019</b>	
<b>Power Purchasing Agreement for Council Electricity</b>	<p><b>Administrator Attending:</b> Julie Eisenbise</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrator considered a procurement opportunity in respect of electricity via a Power Purchasing Agreement (PPA), as this action could allow for emission reduction from Council Operations.</p>
<b>2019/20 Priority and Strategic Roads</b>	<p><b>Administrator Attending:</b> Julie Eisenbise</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrator considered the 2019/20 Priority Projects and the Strategic Roads projects in preparation for the Council Report being endorsed at the 24 July 2019 Ordinary Meeting.</p>
<b>Contract Supply and Delivery of Premixed Concrete</b>	<p><b>Administrator Attending:</b> Julie Eisenbise</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrator considered proposed Award of Contract CON/226 Supply and Delivery of Premixed Concrete.</p>

Meeting Title	Details
<b>Thursday 11 July 2019</b>	
<b>New Youth Strategy 2019-2023</b>	<p><b>Administrator Attending:</b> Julie Eisenbise</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrator considered proposed New Youth Strategy 2019-2023.</p>
<b>Tuesday 16 July 2019</b>	
<b>Ordinary Agenda Topic Discussion: 24 July 2019</b>	<p><b>Administrator Attending:</b> Julie Eisenbise</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrator considered and asked questions relating to Agenda items for the Ordinary Meeting of Council 24 July 2019.</p>
<b>Wednesday 17 July 2019</b>	
<b>Toora/ Welshpool Kindergartens Feasibility Study 2019</b>	<p><b>Administrator Attending:</b> Julie Eisenbise</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrator considered a discussion regarding the Toora/Welshpool Kindergartens Feasibility Study 2019.</p>
<b>Planning Scheme Amendment C115 – Mirboo North Town Centre - Submissions</b>	<p><b>Administrator Attending:</b> Julie Eisenbise</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrator considered an update on the progress of the refresh of Planning Scheme Amendment C115 – Mirboo North Town Centre – Submissions.</p>

Meeting Title	Details
<b>Wednesday 17 July 2019</b>	
<b>Regional Forest Agreement Modernisation Program</b>	<p><b>Administrator Attending:</b> Julie Eisenbise</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrator considered a presentation from external presenters from Department of Environment, Land, Water and Planning (DELWP) regarding Regional Forest Agreement modernisation program.</p>
<b>Communication Strategy Discussion</b>	<p><b>Administrator Attending:</b> Julie Eisenbise</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrator considered Communication Strategy new initiatives.</p>
<b>Implementation of Arts Culture and Creative Industry Strategy</b>  <b>Open Session</b>	<p><b>Administrator Attending:</b> Julie Eisenbise</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrator considered an update on the Implementation of Arts Culture and Creative Industry Strategy.</p>
<b>Community Strengthening Activities – Monthly Meetings</b>  <b>Open Session</b>	<p><b>Administrator Attending:</b> Julie Eisenbise</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b> The Administrator considered two presentations from the following community groups:</p> <ul style="list-style-type: none"> <li>• Prom Coast Festival</li> <li>• Timber Shelter on the Great Southern Rail Trail</li> </ul>

Meeting Title	Details
<b>Wednesday 17 July 2019</b>	
<b>Public Presentations</b>	<b>Administrator Attending:</b> Julie Eisenbise
<b>Open Session</b>	<b>Conflict of Interest:</b> Nil disclosed
<p><b>Presentations were made to the Administrator following community members:</b></p> <p><b>Lenard Brennan</b>, regarding reforestation of South Gippsland with the intention of slowing global warming.</p> <p><b>Adrian Minns and Margaret Waldren</b>, regarding Agenda Item 4.4.PETITION RESPONSE - PEART STREET, LEONGATHA TREE CONCERNS.</p> <p><b>Lindsay Love and John McCombe</b> representing South Gippsland Action Group regarding ideas for the Leongatha Rail Yard Development.</p>	
<b>Executive Update</b>	<p><b>Administrator Attending:</b> Julie Eisenbise</p> <p><b>Conflict of Interest:</b> Nil disclosed</p> <p><b>Matters Considered:</b></p> <ul style="list-style-type: none"> <li>• Mirboo North Pool</li> <li>• Planning matters</li> <li>• Personnel matters</li> </ul>

## REFERENCE DOCUMENTS

### Council Policy

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

Public Participation in Meetings with Council Policy (C65)

### Legislative Provisions

Local Government Act 1989

Local Government (South Gippsland Shire Council) Bill 2019

### **8.3. DOCUMENTS SEALED AWARDED OR EXTENDED BY CEO - 22 JUNE TO 26 JULY 2019**

Corporate and Community Services Directorate

#### **EXECUTIVE SUMMARY**

This document reports to Council the following actions undertaken by the Acting Chief Executive Officer (CEO) which occurred during the period from 22 June to 26 July 2019, as required by the Council's Instrument of Delegation to the Chief Executive Officer and Procurement Policy:

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

#### **RECOMMENDATION**

That Council receives and notes this report.

**NOTE: The recommendation was CARRIED UNANIMOUSLY as part of a single motion, refer to page 81.**

[Link to next Agenda item.](#)

## REPORT

### Documents Sealed

Under the *Local Government Act 1989* (the Act), each Council is a body corporate and a legal entity in its own right. Each Council must have a common seal that is an official sanction of that Council.

Sealing a document makes it an official document of Council as a corporate body. Documents that require sealing may include agreements, contracts, leases or any other contractual or legally binding document that binds Council to another party.

Local law No. 3 2010, Part 9, Section 107 (f) (iv) – the Common Seal of Council, states that 'If the Chief Executive uses the Common Seal in a manner prescribed by sub-clause (c) then he/she must advise Council of such use on a regular basis.' Council's Instrument of Delegation to the CEO also delegates to the CEO the power to 'use the Common Seal of Council subject to that use being reported to Council'.

In accordance with the Local Law and Instrument of Delegation, the following are presented to Council as documents sealed during the period from 22 June to 26 July 2019:

1. Section 173 Agreement between South Gippsland Shire Council and the owner of 480 Fullers Road, Foster in relation to development of land for a dwelling and associated outbuilding – Seal applied 26 June 2019.
2. Section 173 Agreement between South Gippsland Shire Council and the owner of 89 Beach Parade, Sandy Point in relation to subdivision of land – Seal applied – 26 June 2019.
3. Section 173 Agreement between South Gippsland Shire Council and the owner of 18 Bradley Avenue, Venus Bay in relation to development of land with single dwelling and removal of native vegetation – Seal applied 26 June 2019.
4. Section 173 Agreement between South Gippsland Shire Council and the owner of 11 Heathlands Drive, Port Welshpool in relation to development of land with a dwelling – Seal applied 11 July 2019.
5. Section 173 Agreement between South Gippsland Shire Council and the owner of 2052 Strzelecki Highway, Delburn in relation to the subdivision of the land into two (2) lots – Seal applied 16 July 2019.
6. Section 173 Agreement between South Gippsland Shire Council and the owner of 44 Saturn Parade, Venus Bay in relation to development of land

with single dwelling and ancillary outbuilding – Seal applied 18 July 2019.

7. Section 173 Agreement between South Gippsland Shire Council and the owner of 9 The Glen, Frankston in relation to the construction and maintenance of the cattle underpass on Mardan Road, Mardan – Seal applied 19 July 2019.
8. Contracts associated with the following tenders awarded by Council at the 26 June 2019 Council Meeting:
  - a. CON/216 Provision of Line Marking Services;
  - b. CON/217 Supply and Delivery of Cold Liquid Bituminous Products;
  - c. CON/219 Plant Hire and Cartage Contractors;
  - d. CON/220 Supply/Delivery of Quarry Products and Road Making Materials;
  - e. CON/221 Annual Supply of Concreting Services
  - f. CON/222 Provision of Tree and Vegetation Maintenance Services.

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

1. Contracts awarded after a public tender process within the CEO's delegation between 22 June to 26 July 2019:
  - a. Quotation No: VPI 40403 supply and delivery of one 6 x 4 heavy rigid truck be awarded to Fuso Whitehorse Truck Centre for plant item FV51 25.4t 360hp 13 speed Shakandah Body for \$194,025.57 (GST exclusive).
  - b. Quotation No: VPI 41426 supply and delivery of one 6 x 4 heavy rigid truck be awarded to Isuzu Australia for plant item CXY 240-460 AMT Auto Shakanda Body for \$168,593 (GST exclusive).
  - c. Quotation No: VP137917 supply and delivery of 6 x 4 heavy rigid truck be awarded to Isuzu Australia model FXY 240-350 T/D 10 Speed for \$155,321.18 (GST exclusive).
2. Contracts awarded after a public tender process under the Statutory threshold by staff other than the CEO between 22 June to 26 July 2019:

Nil

3. Contract variations approved by the CEO between 22 June to 26 July 2019:

Nil

4. Contract extensions approved by the CEO between 22 June to 26 July 2019:

- a) Contract SGC12/09 Provision of Litter Bin Collection Services has been extended for the first of three one-year extension options (30 June 2020) available under the contract.

### **Annual WorkCover and Insurance Premiums**

Council delegates to the CEO the power to pay annual WorkCover and Council Insurance Premiums subject to these payments being reported to the next Council Meeting immediately after the payment is made. The Council is advised that the Acting CEO (or delegate) within financial approval levels authorised the following insurance coverage for 2019/20.

1. Local Government Liability Insurance Premium of \$252,791.00 (GST exclusive) insured by MAV Insurance;
2. Public Liability – Coal Creek Tramway Insurance Premium of \$17,960.00 (GST exclusive) insured by XL Insurance Company SE;
3. Motor Vehicle Insurance Premium including Plant of \$162,577.97 (GST exclusive) insured by AAI Limited T/As Vero Insurance;
4. Councillors and Officers Liability Insurance Premium of \$20,612.96 (GST exclusive) insured by XL Insurance Company SE;
5. General Products Liability (Hire of Halls) Insurance Premium of \$1,987.10 (GST exclusive) insured by Chubb Insurance Australia Ltd through Key Underwriting Pty Ltd;
6. Municipal Assets Protection Plan Insurance Contribution of \$318,072.85 (GST exclusive) insured by Jardine Lloyd Thompson Pty Ltd Discretionary Trust;
7. Commercial Crime Insurance Premium of \$5,237.59 (GST exclusive) insured by MAV Insurance;
8. Personal Accident Insurance Premium of \$1,909.86 (GST exclusive) insured by Chubb Insurance Australia LTD through Key Underwriting Pty Ltd;

9. Travel Insurance Premium of \$211.92 (GST exclusive) insured by Chubb Insurance Australia LTD through Key Underwriting Pty Ltd;
10. Cyber Liability Premium of \$7,748.00 (GST exclusive) insured by Chubb Insurance Company of Australia Ltd through Key Underwriting Pty Ltd;  
and
11. WorkCover Premium of \$644,976.00 (GST exclusive) insured by MAV WorkCare.

#### **STAFF DISCLOSURE**

Nil

#### **REFERENCE DOCUMENTS**

##### **Council Policy**

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

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

Procurement Policy, (C32)

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

##### **Legislative Provisions**

Local Government Act 1989, ss.5 and 186

## **9. ADMINISTRATOR REPORTS**

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

**MOVED:** Administrator Eisenbise

**SECONDED:** Administrator Brown

**THAT LEAVE OF ABSENCE BE GRANTED TO ADMINISTRATOR CHAIR, JULIE EISENBISE FOR THE ORDINARY MEETING OF COUNCIL, WEDNESDAY 25 SEPTEMBER 2019.**

**CARRIED UNANIMOUSLY**

### **9.2. ADMINISTRATORS UPDATES**

**Administrator Eisenbise addressed Council by providing a summary of events attended in the last month including a Probus meeting with the 'Coal Creek Club' in Korumburra and a tour around the towns of Venus Bay, Tarwin Lower and Toora.**

### **9.3. COMMITTEE UPDATES**

**Nil**

## 10. URGENT OR OTHER BUSINESS

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

### 1. Urgent Business

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

The Meeting Procedure Local Law No. 3 (Clause 46) allows for where a situation has not been provided for under the Local Law, the Council may determine the matter by resolution. Established practice has provided for urgent motions to be raised at Council provided the matter cannot be dealt with at the next Ordinary Meeting of Council or by Officers under delegation.

It is necessary for the 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 Local Law No. 3 will apply.

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

### 2. Other Business

This provides an opportunity for 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.

**10.1. PERSONNEL MATTER PURSUANT SECTION 89(2)(a) OF THE LOCAL GOVERNMENT ACT 1989**

**RECOMMENDATION TO CONSIDER AS AN URGENT ITEM**

That Council considers in a closed session Agenda item 10.1 – PERSONNEL MATTER as an urgent confidential item Section 12, pursuant to section 89(2)(a) of the Local Government Act 1989 to act on a personnel matter required to commence prior to the Ordinary Meeting in 25 September 2019.

**10.2. CHIEF EXECUTIVE OFFICER RECRUITMENT PROCESS COMMENCEMENT**

**RECOMMENDATION TO CONSIDER AS AN URGENT ITEM**

That Council considers Agenda item 10.2 - CHIEF EXECUTIVE RECRUITMENT PROCESS COMMENCEMENT as an urgent, item in Section 10, in order to confirm and commence the recruitment process prior to the Ordinary Meeting 25 September 2019. This allows the Council to commence the process prior to the Administrator Chair, Julie Eisenbise's, leave of absence.

**MOVED:** Administrator Eisenbise

**SECONDED:** Administrator Zahra

**THAT COUNCIL:**

- 1. CONSIDERS IN A CLOSED SESSION AGENDA ITEM 10.1 – PERSONNEL MATTER AS AN URGENT CONFIDENTIAL ITEM IN SECTION 12, PURSUANT TO SECTION 89(2)(a) OF THE LOCAL GOVERNMENT ACT 1989 TO ACT ON A PERSONNEL MATTER REQUIRED TO COMMENCE PRIOR TO THE ORDINARY MEETING IN 25 SEPTEMBER 2019.**
- 2. CONSIDERS AGENDA ITEM 10.2 - CHIEF EXECUTIVE RECRUITMENT PROCESS COMMENCEMENT AS AN URGENT, ITEM IN SECTION 10, IN ORDER TO CONFIRM AND COMMENCE THE RECRUITMENT PROCESS PRIOR TO THE ORDINARY MEETING 25 SEPTEMBER 2019. THIS ALLOWS THE COUNCIL TO COMMENCE THE PROCESS PRIOR TO THE ADMINISTRATOR CHAIR, JULIE EISENBISE'S, LEAVE OF ABSENCE.**

**CARRIED UNANIMOUSLY**

**The Acting Chief Executive Officer, Bryan Sword left the Council Meeting at 12.44pm with a direct conflict of Interest in Section 10 - Urgent or other Business, two Agenda items relate to his employment at Council: Item 10.1. PERSONNEL MATTER PURSUANT SECTION 89(2)(a) OF THE LOCAL GOVERNMENT ACT 1989 and 10.2. CHIEF EXECUTIVE OFFICER RECRUITMENT PROCESS COMMENCEMENT.**

## 10.2. CHIEF EXECUTIVE OFFICER RECRUITMENT PROCESS COMMENCEMENT

Corporate and Community Services Directorate

### EXECUTIVE SUMMARY

At the 27 February 2019 Confidential Council Meeting, Council resolved and carried that Council:

*'Make public in the Ordinary Meeting of Council Minutes of 27 February 2019 that the Chief Executive Officer position for South Gippsland Shire Council will be advertised for the period commencing 25 June 2019, in accordance with s.94(3) of the Local Government Act 1989, once Council staff have been advised.'*

The Chief Executive Officer (CEO) recruitment process has not progressed according to the original resolutions of Council due to the dismissal of the former Council and the time required for the State Government to appoint a full panel of Administrators, as the Council.

There are a number of costs associated with the CEO recruitment process, including recruitment agency fees and advertising. To this end, it is proposed a Budget allocation of up to \$70,000 with a 10% variation, be approved by Council.

The Council is now ready to commence recruitment of a new CEO in accordance with s.94(1)(1A) and (3) of the *Local Government Act 1989* (Act). It is proposed that Council authorises the Chief Executive Officer Employment and Remuneration Committee (the Committee) to commence the recruitment process and bring a report back to Council as soon as practicable but no later than the Ordinary Meeting of Council in April 2020 to appoint a CEO. The Manager People and Culture will be required to support the Committee and Committee Chair by providing advice, appointing an executive search firm, and managing all financial matters in line with the approved Budget.

It is proposed that the Administrator Chair be authorised to call meetings of the Committee as required to undertake the recruitment process.

As all the Administrators are part of the Committee, it is proposed that the requirement under Clause 5.3 (3) of *C71 Chief Executive Employment and Remuneration Policy* (Policy C71) (**Attachment [10.2.1]**) to *'Seek Council to approve preparatory work'*, be excluded in this CEO recruitment process. The requirement is to remain in Policy C71, but the Committee is not required to comply with this clause in this instance.

## RECOMMENDATION

That Council:

1. Approves a Budget allocation of \$70,000 with a 10% variation to be used, if required, to cover the costs associated with the Chief Executive Officer (CEO) recruitment process;
2. Authorises the Administrator Chair to call meetings of the Chief Executive Officer Employment and Remuneration Committee as required to undertake the recruitment process;
3. Authorises the Chief Executive Officer Employment and Remuneration Committee to undertake the recruitment process using a suitably qualified recruitment agency, to select and recommend a Chief Executive Officer to Council, in accordance with legislative and regulatory requirements and the Chief Executive Employment and Remuneration Policy C71, excluding:
  - a. The requirement under Clause 5.3 (3) of Policy C71 to seek Council to approve preparatory work.
4. Authorises the Manager People and Culture to support the Chief Executive Officer Employment and Remuneration Committee with advice and management of financial matters within the approved Budget; and
5. Requires the Chief Executive Officer Employment and Remuneration Committee to bring a report to a future Council meeting, as soon as practicable but no later than the Ordinary Meeting of Council in April 2020, with recommendations to appoint a Chief Executive Officer for South Gippsland Shire Council.

**MOVED:** Administrator Brown

**SECONDED:** Administrator Zahra

**THAT COUNCIL:**

- 1. APPROVES A BUDGET ALLOCATION OF \$70,000 WITH A 10% VARIATION TO BE USED, IF REQUIRED, TO COVER THE COSTS ASSOCIATED WITH THE CHIEF EXECUTIVE OFFICER (CEO) RECRUITMENT PROCESS;**
- 2. AUTHORISES THE ADMINISTRATOR CHAIR TO CALL MEETINGS OF THE CHIEF EXECUTIVE OFFICER EMPLOYMENT AND REMUNERATION COMMITTEE AS REQUIRED TO UNDERTAKE THE RECRUITMENT PROCESS;**
- 3. AUTHORISES THE CHIEF EXECUTIVE OFFICER EMPLOYMENT AND REMUNERATION COMMITTEE TO UNDERTAKE THE RECRUITMENT PROCESS USING A SUITABLY QUALIFIED RECRUITMENT AGENCY, TO SELECT AND RECOMMEND A CHIEF EXECUTIVE OFFICER TO COUNCIL, IN ACCORDANCE WITH LEGISLATIVE AND REGULATORY REQUIREMENTS AND THE CHIEF EXECUTIVE EMPLOYMENT AND REMUNERATION POLICY C71, EXCLUDING:**
  - a. THE REQUIREMENT UNDER CLAUSE 5.3 (3) OF POLICY C71 TO SEEK COUNCIL TO APPROVE PREPARATORY WORK.**
- 4. AUTHORISES THE MANAGER PEOPLE AND CULTURE TO SUPPORT THE CHIEF EXECUTIVE OFFICER EMPLOYMENT AND REMUNERATION COMMITTEE WITH ADVICE AND MANAGEMENT OF FINANCIAL MATTERS WITHIN THE APPROVED BUDGET; AND**
- 5. REQUIRES THE CHIEF EXECUTIVE OFFICER EMPLOYMENT AND REMUNERATION COMMITTEE TO BRING A REPORT TO A FUTURE COUNCIL MEETING, AS SOON AS PRACTICABLE BUT NO LATER THAN THE ORDINARY MEETING OF COUNCIL IN APRIL 2020, WITH RECOMMENDATIONS TO APPOINT A CHIEF EXECUTIVE OFFICER FOR SOUTH GIPPSLAND SHIRE COUNCIL.**

**CARRIED UNANIMOUSLY**

## REPORT

In the recruitment of a new CEO, s.94(1- 3) of the Act requires:

*1. A Council must appoint a natural person to be its Chief Executive Officer.*

*(1A) The Council must make a permanent appointment to the position of Chief Executive Officer as soon as is reasonably practicable after a vacancy in the position occurs.*

*(2) The Chief Executive Officer is a member of Council staff.*

*(3) A Council may only appoint a person to be its Chief Executive Officer after it has invited applications for the position in a notice in a newspaper circulating generally throughout Victoria and has considered all applications received by it that comply with the conditions specified in the notice.*

While a number of the original resolutions of Council on 27 February 2019 have not been achievable due to the changes of Council, the Council is now working towards making an appointment to fill the vacant CEO position as soon as practicable. Acting CEO, Bryan Sword, is fulfilling the CEO role until an appointment is made.

The Administrators have been appointed as the Chief Executive Officer Employment and Remuneration Committee in a separate report today. The Committee will be required to undertake the recruitment process in accordance with Section 94(1-3) of the Act and *C71 Chief Executive Employment and Remuneration Policy* (Policy C71) (**Attachment [10.2.1]**), along with any other legislative or regulatory requirements.

It is proposed that the Administrator Chair be authorised to call meetings of the Committee as required to undertake the recruitment process.

As all the Administrators are part of the Committee, it is proposed that the requirement under Clause 5.3 (3) of Policy C71 to '*Seek Council to approve preparatory work*', be excluded in this CEO recruitment process. The requirement is to remain in Policy C71, but the Committee is not required to comply with this clause in this instance.

The Committee will be required to bring a report to Council at the end of the process with recommendations to appoint a new CEO for the Shire.

Under the guidance of the Committee Chair, Phil Shanahan, an appropriately skilled recruitment agency will be selected by the Committee and appointed on behalf of the Committee by the Manager People and Culture, to ensure that an independent and robust process is followed to recruit a suitable CEO. The recruitment agency will be required to fulfil the mandatory requirements for

advertising the vacant position. This process may take between three and six months to complete. Further time may be required if a notice period is served by the successful candidate.

As a Senior Officer, the CEO must be employed under a contract that must not exceed 5 years after the date it commences. In the six months prior to the expiry of the contract, there is a process by which Council can resolve to re-appoint a CEO for a further contract term. Legislated and regulated requirements will be addressed within the recruitment process.

## **CONSULTATION**

The Administrators have discussed the process for recruiting a new CEO at Administrator only sessions. Relevant staff and the Committee Chair are providing support to the Administrators, as required, to appoint a suitable recruitment agency and assist with other administrative functions.

## **RESOURCES**

There are a number of costs associated with the recruitment process including advertising, and engaging a suitable search firm. To this end, it is proposed a Budget allocation of up to \$70,000 with a 10% variation to be used if required, be approved by Council.

## **RISKS**

It is important that the process to replace a vacant CEO be undertaken in accordance with relevant legislative and regulatory requirements. Failure to do so may lead to a breach of the Act and/or the appointment of a CEO may be void. Section 94(1-3) of the Act and *C71 Chief Executive Employment and Remuneration Policy* (Policy C71) outlines various requirements that provide guidance to the Committee in managing the CEO's employment, remuneration and performance assessment.

## **STAFF DISCLOSURE**

<b>Name:</b>	Bryan Sword, Acting Chief Executive Officer
<b>Title:</b>	Chief Executive Officer Recruitment Process Commencement
<b>Conflict of Interest:</b>	Direct Interest
<b>Reason:</b>	The CEO recruitment process and timeframe will affect the tenure of the Acting CEO and contractual arrangements.

## **ATTACHMENTS**

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

1. C71 CEO Employment and Remuneration Policy - adopted 22 August 2018 - minute version [10.1.1 - 12 pages]

## **REFERENCE DOCUMENTS**

### **Council Policy**

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

Chief Executive Employment and Remuneration Policy (C71)

### **Legislative Provisions**

Local Government Act 1989

**The Acting Chief Executive Officer, Bryan Sword returned to the Council Meeting at 12.46pm.**

## 11. PUBLIC QUESTIONS

### 11.1. PETITIONS AND JOINT LETTERS

Petitions and Joint letters are written requests that have been signed by a number of community members. According to the Local Law No.3 2010 petitions may be presented to Council by an Administrator. A petition presented to the Council must lay on the table until the next Ordinary Meeting of Council and no motion, other than to receive the petition, may be accepted by the Chair unless the Council agrees to deal with it earlier.

The lead petitioner or person organising the petition may in presenting the petition to an Administrator at a Public Presentation session speak briefly to its contents. At the following Ordinary Meeting of Council, 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.

**Administrator Eisenbise acknowledged receipt of two petitions lodged to Council by lead petitioners Barbara and Mark Henderson of Venus Bay.**

#### Petition 1

**The prayer of the petition is outlined below, it contains approximately 47 signatures, from residents in Venus Bay.**

**A PETITION TO SOUTH GIPPSLAND SHIRE COUNCIL TO IMPROVE SAFETY AND TRAFFIC MANAGEMENT OF ATHERTON DRIVE AND SPRING STREET, VENUS BAY 3956**

**AIM:** To strengthen the safety and health of pedestrians and home owners alike along the named roads.

**SUGGESTIONS:**

- **Lowering the speed limit to 40km on both roads (the whole suburb of Sandy Point is 40km permanently).**
  - The roadway is a shared zone, with pedestrians, bike riders and children all using them as an access point to Beach 5.
- **Traffic calming management to aide in lowering speed of vehicles.**
- **Parking restrictions on one side of road with residential parking permits if needed.**

**Petition 2**

The prayer of the petition is outlined below, it contains approximately 18 signatures, from residents in Venus Bay.

**A PETITION TO SOUTH GIPPSLAND SHIRE COUNCIL TO BITUMEN  
ATHERTON DRIVE AND SPRING STREET, VENUS BAY 3956**

**AIM:** To improve the health and safety for home owners and pedestrians by eliminating the plumes of dust.

**SUGGESTION:**

- To continue the bitumen of Atherton Drive down to Beach 5 and Spring Street.

**MOVED:** Administrator Eisenbise

**SECONDED:** Administrator Zahra

**THAT COUNCIL:**

1. RECEIVE AND NOTE THE TWO PETITIONS; AND,
2. RECEIVE A REPORT AT ORDINARY MEETING OF COUNCIL 25 SEPTEMBER 2019 THAT CONSIDERS THE TWO PETITIONS.

**CARRIED UNANIMOUSLY**

## 11.2. ANSWERS TO PREVIOUS QUESTIONS ON NOTICE

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

Questions can also be submitted in hard copy format into the 'Public Question Box' within the first 15 minutes of an Ordinary Council Meeting.

Public Question Time in Ordinary Council Meetings is to be used for matters that are generally political in nature or that cannot be addressed by other means. This session should not be used for questions on routine works or operational matters, planning (application) matters or for repeating previously answered questions.

*Source: Public Participation in Meetings with Council Policy (C65) – adopted 28 November 2018.*

**Kathleen Murray representing the South Gippsland Rates Challengers Group submitted questions at Ordinary Council Meeting 24 July 2019. The questions were taken on notice and responses are now provided.**

### **Question 1**

**How come rates and everything keep rising but not our income, how can we survive?**

### **Response**

Council is very conscious of the fact that many ratepayers are having difficulty balancing the household budget when the increase in their incomes is less than the increases in their living expenses.

Since 2000, while the official CPI has gone up 57 per cent, the cost of secondary and tertiary education, healthcare, childcare, insurance, housing and most utilities has increased by much more. The cost of hospital and medical services have increased by 195 per cent, preschool and primary education by almost 160 per cent and the cost of electricity by almost 200 per cent. Even the cost of food has risen faster than the CPI. Economic commentators have pointed out this huge gap between the cost of living and our declining standard of living explains why many Australians feel poorer even though wages have risen a little more than the official consumer price index which measures inflation.

Council keeping rates to a minimum in this environment is important and is in the forefront of our minds. However the Council has to balance this objective with the need to have the quality facilities and services that ratepayers need to enjoy the lifestyle they seek and that will make South Gippsland an attractive place in which to live and invest.

## **Question 2**

**Where is the compassion for increasing rates?**

### **Response**

Council is conscious that some members of the community have trouble paying their rates, which is why it has resolved to review its Hardship Policy. The review of the hardship policy will be subject to community consultation and is expected to be completed by 30 June 2020.

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**Marie Gerrard-Staton representing the South Gippsland Rates Challengers Group submitted at Ordinary Council Meeting 24 July 2019. The questions were taken on notice and responses are now provided.**

## **Question 1**

**What will the South Gippsland Shire Council do to indicate a humane and companionate approach to assist them through the stress that this will cause them?**

### **Response**

Council will continue to strive to provide ratepayers with value for their money, to impose the minimum burden it can on residents of South Gippsland while providing them with the facilities and services they seek and making South Gippsland the place where people want to live and work.

## **Question 2**

**How will low income earners, pensioners and disability pensioners be represented on the panel that fixes rates for south Gippsland Shire?**

### **Response**

There is not a panel that fixes rates for South Gippsland Shire. The State Government recommends a "Fair Go" rates rise – colloquially known as the rates cap – each year. Council has historically used this cap as the ceiling for any rate increase it considers, balancing the capacity of the community to afford any increase with the need to provide services and facilities.

## **Question 3**

**How will this panel communicate and explain to this group their decisions regarding the outrageous rates in the South Gippsland Shire?**

### **Response**

Council is conscious that rural and regional municipalities have fewer ratepayers to share the burden of rates revenue. This is not isolated to South Gippsland, but it does provide a good example. With 3,300km<sup>2</sup> of area to service, 2000km of roads to maintain and just 19,000 ratepayers, the cost per ratepayer is relatively high when compared to an urban council. This is part of the reason why the State Government is currently undertaking a review of Victoria's rating system.

### 11.3. SUBMITTED PUBLIC QUESTIONS

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

Questions can also be submitted in hard copy format into the 'Public Question Box' within the first 15 minutes of an Ordinary Council Meeting.

Public Question Time in Ordinary Council Meetings is to be used for matters that are generally political in nature or that cannot be addressed by other means. This session should not be used for questions on routine works or operational matters, planning (application) matters or for repeating previously answered questions.

*Source: Public Participation in Meetings with Council Policy (C65) – adopted 28 November 2018.*

**Ralph Gallagher addressed Administrators by reading three written questions. The Acting Chief Executive Officer provided responses.**

#### Question 1

**What are the qualitative and quantitative data used to determine this position [Council's security]?**

#### Response

Council manages its long term financial position using strategic indicators adopted through its financial strategies. The main two indicators are the, 'Underlying Surplus' and 'Underlying Working Capital'. The *Long Term Financial Plan* currently shows a sustainable position based on these indicators. The forward budgets identify future operating and capital requirements, yet we do know that some of those items in the long term are missing and are community desires which are currently unfunded. Another strategic indicator is the 'Sustainability Index' which highlights whether Council is spending enough on its capital infrastructure to maintain at a minimum level and not deteriorate.

#### Question 2

**What is the definition of most and what is the frequency distribution of all percentage increases across the various rating categories and within each category at each percentage point of increase?**

#### Response

Council has 19,779 assessments and 2.5% rate increase across the base rates for 2018/19. A 2.5% increase is an increase to the total pool of rates that Council

collects. And the way that plays out for individual property assessments is that the major determinant for individual increases is based on valuations which are now revalued every year. An increase of 2.5% on rates does not include charges or fire services levy. So the 2.5% to assist with perspective is that it will occur on properties whose valuation has increased by 8.88%, so if your property has increased its valuation by 8.88% you will see a 2.5% increase. Valuations where there has been an increase above 8.88% will see a higher increase than 2.5% and valuations with an increase lower than 8.88% will see a lower than 2.5% increase.

### **Question 3**

**Is it correct that the Council has accumulated a surplus of \$30m.?**

#### **Response**

With regard to the surplus of \$30M, as exciting as it sounds, it is important to understand what this amount is inclusive of. Part is carried forward capital works of \$12M, grants recognised in advanced for projects recognising Council's aspirations of obtaining funds to achieve some projects, reserve allocations of \$5M which also includes provision of payment of loan of \$3M and employee provisions such as long service and annual leave and the defined benefits scheme. Working capital is about being able to pay bills when they fall due, so having a positive cash flow position allows Council to do this. Cash and other financial assets is projected to be \$11.6 M and at \$9M at the end of 2019/20.

Administrator Eisenbise provided that federal government grants, which are a substantial amount are also included.

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**John McCombe addressed Administrators by reading three written questions. The Chief Executive Officer provided responses.**

### **Question 1**

**Is it incumbent upon Council to release the document [show cause response to the Minister] in the interests of 'Openness and Transparency'?**

#### **Response**

This question was asked in a similar format and answered in the Minutes of the Ordinary Meeting 24 July 2019. The Acting Chief Executive Officer (CEO) read out this response:

*There were no submissions made by 'the Council' to the Minister for Local Government. For a submission to be made by Council, it would have required a report to and resolution of Council. As a consequence any submissions made to the Minister are made by individuals or multiple persons and release of the information would likely be problematic under State and Federal privacy legislation. This being the case, it is likely a matter that would need to be considered by way of application under the Freedom of Information Act.*

### **Question 2**

**Minister Somyurek on his statement the 'show cause response' document was not correctly processed, was the processing error the result of a mistake (or omission) in the advice given; or not given; to the elected Councillors by those staff members, or was it the result of faulty advice from the Legal Firm they consulted?**

### **Question 3**

**Is there any compelling reason why the ratepayers should be precluded from seeing the 'defense case'?**

### **Response to question 2 and 3**

The Acting CEO informed that these questions be directed to the State Government for response as it relates to their processes and decisions [and not resolutions of Council].

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**Marie Gerrard-Staton addressed Administrators by reading her written question. The Chief Executive Officer provided a response.**

### **Question 1**

**How and when have the three Administrators responded publicly to the requests for a hardship waiver, an inclusive community consultative rates implementation panel and open community meetings for future proposed Rating Strategy development?**

### **Response**

The Acting CEO responded that Council at its Ordinary Council Meeting of 24 July 2019 considered the Council Budget, Rating Strategy and Council Plan (Item 5.3, 5.4 and 5.5) and resolved '*That Council completes a review of the Rates and Charges Hardship Policy (C53) which includes benchmarking against other Victorian councils, by 30 June 2020*'.

Periodically Council assembles a *Rating Strategy Committee* to help with its deliberation with its Rating Strategy. I note that you made a submission to the section 223 Hearing for that Committee, and that you were heard by the CEO and Administrator Eisenbise. If in future there is another rating strategy committee to help guide the strategy, then Council certainly looks to increase the diversity of that Committee.

Administrator Eisenbise commented that the new Administration have not been at Council very long, but they are aiming to form advisory committees and this may take some months to determine strategy to ensure the best outcomes. Administrator Eisenbise further advised that the Advisory Committees will form part of the consultation and communication process.

**Gus Blaauw addressed Administrators by reading his two written questions. The questions were taken on notice.**

**Question 1**

**Does the rail lease require Council to return the easement with rail line and sleepers in place at the end of the 18 year [lease] term?**

**Question 2**

**Does Council remove the rail line and sleepers to provide for a better negotiable track or will the rail line and sleepers left in situ?**

**Response**

The Acting CEO responded that he will take the question on notice but provided a short response that the dilapidated asset does not need to be reinstated.

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**Lindsay Love addressed Administrators by reading his three written questions and responses were provided.**

**Question 1**

**Can you please advise what will be different in this Council with Administrators making decisions compared to having Councillors and what mechanisms are you going to put in place in order to make decisions with the community interest?**

**Responses**

Administrator Eisenbise responded by saying that Administrators do not rely on the staff solely for their complete advice, 'we seek our advice in multiple ways; from the community, externally by benchmarking and certainly from much community consultation'. Information that is required is provided by Council and is relied upon.

**Question 2**

**Under the current communications policies is there a policy of replying within 10 working days, this is in relation to a question about return on investment and working collaboratively with parties?**

**Responses**

Acting CEO provided a response by commenting that Council does have a policy and does its best to meet the commitment of 10 working days. Factors that can influence the times, include the volume of inquiry, complexity of the matter and the repetitious nature of the enquiry.

During the public consultation process and project planning phase is the best time to bring forth these kinds of ideas for consideration rather than in isolation,

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particularly during the development of Council Budget and Council Plan as these are the two significant documents when Council makes commitments to the community. This is done on an annual basis and is done in wide ranging community consultation forums.

**Question 3**

**Can Council advise if they have quantified what site contamination issues exist at the Railyards, and have they a cost estimate for any remediation efforts?**

**Responses**

The Acting CEO provided a response that the VicTrack lease that Council has entered into is for the rail corridor only not the areas outside the corridor. This allows Council to get on with the works that relate to the project, Administrators are being briefed on projects and will make announcements shortly. With respect of contamination, this is the responsibility of the land owner [VicTrack] and not Council as the lease holder. Council will respond to the *Environmental Management Plan* that comes with the leasing responsibilities.

## **12. CLOSED SESSION**

### **Consideration of confidential matters under the Local Government Act 1989, section 89(2).**

According to section 89 of the Local Government Act 1989, Council may consider items in closed session. There must be a resolution to move 'In-Committee' stating the reasons why the matter(s) need to be considered in this way. The reasons provided for within the Act are matters concerning personnel, personal hardship, industrial issues, contracts, proposed developments, legal advice or any other matter that Council considers would be prejudicial, to it or any other person.

Once 'In-Committee' discussions and debate have concluded, a further resolution to resume open Council is required.

**The Council Meeting closed at 1.15pm to consider confidential Urgent Agenda Item 10.1 – PERSONNEL MATTER AS AN URGENT CONFIDENTIAL ITEM IN SECTION 12, PURSUANT TO SECTION 89(2)(a) OF THE LOCAL GOVERNMENT ACT 1989. The resolution to consider in a closed meeting was made on page 99.**

**The Administrator Chair adjourned the Council Chambers for 5 minutes in order to clear the room.**

### **13. MEETING CLOSED**

#### **NEXT MEETING**

The next Ordinary Meeting of Council open to the public will be held on Wednesday, 25 September 2019 commencing at 2pm in the Council Chambers, Leongatha.

**The Council Meeting closed at 1.24pm.**

**Confirmed this**

**25<sup>th</sup> day of September 2019.**



**Administrator Christian Zahra, Deputy Chair**