



Southern Grampians
SHIRE COUNCIL

Council Meeting Agenda

Council Meeting
8 March 2023

To be held in MJ Hynes Auditorium,
5 Market Place, Hamilton
at 5:30pm.

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1. Membership

Councillors

Cr David Robertson, Mayor
Cr Helen Henry, Deputy Mayor
Cr Mary-Ann Brown
Cr Albert Calvano
Cr Bruach Colliton
Cr Greg McAdam
Cr Katrina Rainsford

Officers

Mr Tony Doyle, Chief Executive Officer
Mr Darren Barber, Director People and Performance
Ms Marg Scanlon, Director Infrastructure and Sustainability
Mr Rory Neeson, Director Wellbeing, Planning and Regulation
Ms Karly Saunders, Governance Coordinator

2. Welcome and Acknowledgement of Country

The Mayor, Cr Robertson will read the acknowledgement of country:

“Our meeting is being held on the traditional lands of the Gunditjmarra, Tjap Wurrung and Bunganditj people.

I would like to pay my respects to their Elders, past and present, and the Elders from other communities who may be here today.”

Please note: All Council meetings will be audio recorded, and may be livestreamed to Council’s social media platform, with the exception of matters identified as confidential items in the Agenda.

By participating in open Council meetings, individuals consent to the use and disclosure of the information they share at the meeting (including any personal and/or sensitive information).

Other than an official Council recording, no video or audio recording of proceedings of Council Meetings will be allowed without the permission of Council.

3. Prayer

Cr Calvano will lead the meeting in a prayer.

”Almighty god, we humbly beseech thee to vouchsafe thy blessing upon this council.

Direct and prosper its deliberations to the advancement of thy glory and the true welfare of the people of the Southern Grampians shire.”

4. Apologies

5. Confirmation of Minutes

RECOMMENDATION

That the Minutes of the Council Meeting held on 8 February 2023 be confirmed as a correct record of business transacted.

That the Minutes of the Unscheduled Meeting held on 22 February 2023 be confirmed as a correct record of business transacted.

6. Declaration of Interest

7. Questions on Notice

Questions from the public must be submitted prior to the commencement of Council Meetings.

All questions must be submitted through completion of the Public Question Time form, and be forwarded to the Chief Executive Officer at 111 Brown Street, Hamilton. All questions must be received by no later than 5pm on the Monday before the Council Meeting.

Questions must:

1. Not pre-empt debate on any matter listed on the agenda of the Council Meeting at which the question is asked
2. Not refer to matters designated as confidential under the *Local Government Act 2020*.
3. Be clear and unambiguous and not contain argument on the subject.
4. Not be derogatory, defamatory or embarrassing to any Councillor, member of staff, ratepayer or member of the public, nor relate to a matter beyond the power of Council.

If the member of the public is in attendance at the Council Meeting the Mayor will read the question aloud and provide a response. If a question cannot be answered at the meeting, a written response will be prepared and forwarded to the person raising the question.

Residents do not need to attend the meeting for a question to be answered. If they do not attend the meeting a written response will be provided.

There are no Questions on Notice listed on tonight's agenda.

8. Public Deputations

Requests to make a Public Deputation to Council must be submitted prior to the commencement of the Council Meeting.

Anyone wishing to make a deputation to Council must complete the Request to Make a Deputation form and forward it to the Chief Executive Officer at 111 Brown Street, Hamilton by no later than 5pm on the Monday before the Council Meeting.

Speaking time is limited to 3 minutes per person. Organisations may be represented at the deputation to Council by not more than 4 representatives. The names of the representatives to attend must be advised in writing to the Chief Executive Officer and 1 of the representatives to attend must be nominated as the principal spokesperson for the deputation.

Deputations wishing to make a written submission to the Council must a copy either electronically or hard copy of the submission to the Chief Executive Officer prior to the Council Meeting. One copy will be made available to the local media representative, if requested.

All members of the public addressing the Council must extend due courtesy and respect to the Council and the processes under which it operates. If a member of the public fails to do this the Chairperson can remove them from the Chambers. All members of the public must also comply with Council's Council Meetings policy in relation to meeting procedures and public participation at meetings.

There are no Public Deputations listed on tonight's agenda.

9. Informal Meetings of Councillors

The Southern Grampians Shire Council Governance Rules require that records of Informal Meetings of Councillors that meet the following criteria:

If there is a meeting of Councillors that:

- a) took place for the purpose of discussing the business of Council or briefing Councillors;
- b) is attended by at least one member of Council staff; and
- c) is not a Council meeting, Delegated Committee meeting or Community Asset Committee meeting;

be tabled at the next convenient Council meeting and recorded in the minutes of that Council meeting.

An Informal Meeting of Councillors record was kept for:

- 8 February – Briefing Session
- 22 February – Briefing Session

This agenda was prepared on 1 March 2023. Any Informal Meeting of Councillors between that date and the date of tonight's Meeting will appear in the agenda for the next Ordinary Meeting of Council.

Southern Grampians Shire Council Informal Meeting of Councillors

ASSEMBLY DETAILS	
Title:	Briefing Session
Date:	8 February 2023
Location:	MJ Hynes Auditorium
Councillors in Attendance:	Cr David Robertson, Mayor Cr Helen Henry, Deputy Mayor Cr Mary-Ann Brown Cr Albert Calvano Cr Bruach Colliton – Virtual Cr Greg McAdam Cr Katrina Rainsford
Council Staff in Attendance:	Tony Doyle, Chief Executive Officer Peter Brown, Acting Director People and Performance Marg Scanlon, Director Infrastructure and Sustainability Rory Neeson, Director Wellbeing, Planning and Development Karly Saunders, Governance Coordinator Juan Donis, Sustainable Community Lead
External Presenters:	Friends of the Botanic Gardens

The Informal Meeting commenced at 1:00pm.

MATTERS CONSIDERED		CONFLICTS OF INTEREST DECLARED
1	Councillor Only Meeting	Nil
2	Friends of the Botanic Gardens – Update	Nil
3	Matters Raised by Councillors	Nil
4	Budget Parameters, Pricing Register, Capex Summary and LTFFP	Nil
5	S5 Instrument of Delegation from Council to CEO	Nil

6	S11a Instrument of Appointment and Authorisation	Nil
7	Annual Plan Quarterly Report	Nil
8	Environmental Upgrade	Nil

The Informal Meeting concluded at 5:00pm.

Southern Grampians Shire Council

Informal Meeting of Councillors

ASSEMBLY DETAILS	
Title:	Briefing Session
Date:	22 February 2023
Location:	MJ Hynes Auditorium
Councillors in Attendance:	Cr David Robertson, Mayor Cr Helen Henry, Deputy Mayor Cr Mary-Ann Brown Cr Albert Calvano Cr Bruach Colliton - Virtual Cr Greg McAdam Cr Katrina Rainsford
Council Staff in Attendance:	Tony Doyle, Chief Executive Officer Peter Brown, Acting Director People and Performance Marg Scanlon, Director Infrastructure and Sustainability Rory Neeson, Director Wellbeing, Planning and Development Damien Ferguson, Acting Manager Business Systems and Transformation Di Dixon, Coordinator Leisure Facilities
External Presenters:	Phil Shanahan, Kate Roach, Jamie Pepper

The Informal Meeting commenced at 11:00am.

MATTERS CONSIDERED		CONFLICTS OF INTEREST DECLARED
1	CEO & Councillor Only Meeting	Nil
2	Matters Raised by Councillors	Nil
3	CRM Discussion	Nil
4	Leaderships Great South Coast Multi-Year Agreement	Nil
5	CEO Review	Nil

The Informal Meeting concluded at 5:00pm.

10. Management Reports

10.1 Environmental Upgrade Agreement

Directorate: Marg Scanlon, Director Infrastructure and Sustainability
Author: Juan Donis, Sustainable Community Lead
Attachments: None

Executive Summary

Environmental Upgrade Agreements (EUA) enable lenders to partner with Councils to provide secured lending to local businesses for environmental upgrades.

Under an EUA, lenders provide finance to a building owner for environmental upgrades, with the local Council then collection the repayments through an Environmental Upgrade Charge and remitting the funds to the lender. Use of the Council rates system means that loans become a statutory charge secured by the property, allowing lenders to offer more competitive loan terms.

Councils are able to offer EUAs under the Local Government Act 2020. To offer EUAs, it is recommended that Council engages a Third-Party Administrator, of which Better Building Finance (BBF), is the sole service provider. Better Building Finance is owned by Sustainable Australia Fund, who is also the primary lender offering finance for EUAs.

Background

Environmental Upgrade Agreements (EUAs) enable lenders to partner with Councils to provide secure loans to local businesses for environmental upgrades, such as renewable energy and battery storage, water efficiency and reuse, energy efficiency upgrades, sustainable transport and waste minimisation.

The key purpose of EUAs is to help businesses access funding for sustainable building works. Under an EUA, lenders provide finance to a building owner for environmental upgrades, with the local Council then declaring an Environmental Upgrade Charge, which is collected and remitted back to the lender.

There are a range of environmental upgrade works that are eligible, including:

- Renewable energy (e.g. solar)
- Energy Storage
- Air Conditioning
- Electric Vehicle Chargers
- Lighting
- Energy Use Optimisation
- Water Efficiency and Reuse Systems
- End-Of-Trip Facilities
- Waste Management Systems
- Pollution Control

This program can support any project that demonstrates they have addressed the UN Sustainable Development Goals.

Discussion

What is Environmental Upgrade Finance?

Environmental Upgrade Finance is an innovative type of loan, provided by responsible Lenders to fund sustainability upgrades to existing buildings.

EUFC enables Lenders to cover 100% of the project costs with favourable repayment terms that work for all types of businesses. It enables owners and occupiers of non-residential buildings to overcome financial barriers to implement building upgrade activities. These upgrades can reduce operating costs and provide positive cash flows due to extended loan terms, where the savings exceed the repayments.

How are EUAs different to other financing options?

- Repayment is a statutory charge, invoiced via the rates notice
- If the property is leased then (subject to the tenancy agreement) the statutory charge, or part thereof, can be passed through to the tenant as an outgoing and recovered by the landlord (with agreement from the tenant before the EUA is signed)
- The loan is secured by the property and remains attached to the property (subject to agreement with the new owner, as the financial and environmental benefits stays with the building)
- No consent or approval is required from an existing financier nor is there a requirement to take out a mortgage

EUA Administration

BBF is the sole supplier of third-party administration (TPA) services of EUAs in Australia. To engage BBF in this capacity, Council would be required to sign a Service Agreement with Sustainable Australia Fund (who trade as Better Building Finance).

BBF will be responsible for the overarching EUA process including the documentation, supporting businesses through the program, receiving and processing applications, creating contracts and monitoring performance.

Financial and Resource Implications

There is no cost to Council to engage BBF to act as a TPA. They recoup an establishment fee plus an ongoing admin fee of 0.05% from the borrowers.

It is important to note that Council will not be liable for any failure by an owner or any occupier or an owner and any occupier (as the case requires) to pay an environmental upgrade charge or charges. However, in the event of default, Council will need to use enforcement procedures to recover any unpaid repayments.

Legislation, Council Plan and Policy Impacts

Under section 363 of the Local Government Act 2020 (previous sections 181A and 181C of the Local Government Act 1989) councils have the power to enter into Environmental Upgrade Agreements and declare and levy environmental upgrade charges.

Disclosure of Interests

All Council Officers involved in the development and advice provided in this Report affirm that no general or material interests need to be declared in relation to any matters in this Report.

RECOMMENDATION

That Council:

1. Supports Environmental Upgrade Agreements and proceeds to trial the program, for businesses only, for a period of 2 years;
2. Appoints Sustainable Australia Fund to work collaboratively with Council to establish, administer and support the delivery of Environmental Upgrade Agreements, trading as Better Building Finance; and
3. Delegate the Chief Executive Officer the power to:
 - a) Enter into and Environmental Upgrade Agreement on behalf of Council; and
 - b) Declare and levy and environmental upgrade charge.

10.2 Review of Instrument of Delegation - s5 Instrument of Delegation from Council to CEO

Directorate: Tony Doyle, Chief Executive Office
Author: Karly Saunders, Governance Coordinator
Attachments: s5 Instrument of Delegation from Council to the Chief Executive Officer

Executive Summary

The Act, and a variety of other legislation, makes express provision for the appointment of delegates to act on behalf of Council. The delegation of powers is essential to enable day to day decisions to be made and for the effective operation of the organisation.

The s5 Instrument of Delegation from the Council to the Chief Executive Officer has been updated and is attached for consideration.

Discussion

The s5 Instrument of Delegation from Council to the CEO was last adopted by Council on 21 April 2021. Through this delegation, Council delegates all of its powers to the CEO with a few exceptions which are detailed in the attached instrument.

The change proposed since the Instrument was last updated on 21 April 2021 are outlined below:

- All financial figures in the attached Instrument now reference 'GST exclusive' to align with Council's Procurement Policy and Guidelines.

Financial and Resource Implications

Council subscribes to the Delegations and Authorisations service provided by Maddocks Lawyers, the cost of which is provided for in Council's budget.

There are no other financial implications in reviewing the Instrument of Delegation.

Legislation, Council Plan and Policy Impacts

Key Priority No. 5	Provide Strong Governance and Leadership
Objective 5.1	Transparent and Accountable Governance
Strategy 5.1.2	Ensure flexible and transparent decision making through open and accountable governance

Risk Management

The use of the Maddocks service alleviates the potential risk of staff not being appropriately authorised in the exercise of various powers and functions. Maddocks update their Instruments twice a year and capture any legislative changes. The service is available to all Victorian Councils which enables consistency.

Environmental and Sustainability Considerations

Many of the activities undertaken by staff on behalf of Council have social, economic or environmental effects, including many of the powers included in the instruments of delegation. The Instruments of Delegation ensure that the decisions are made by the most appropriate person or persons with the organisation.

Community Consultation and Communication

There is no requirement for community consultation in relation to the review of the Delegations.

The Instrument is available for viewing on Council's website and is also available for public inspection.

Disclosure of Interests

All Council Officers involved in the development and advice provided in this Report affirm that no general or material interests need to be declared in relation to any matters in this Report.

RECOMMENDATION

In the exercise of the powers conferred by the legislation referred to in the attached instruments of delegation, Council resolves that -

1. There be delegated to the person holding the position, or acting in or performing the duties, of Chief Executive Officer the powers, duties and functions set out in the attached *Instrument of Delegation to the Chief Executive Officer*, subject to the conditions and limitations specified in that Instrument.
2. The instrument comes into force immediately the common seal of Council is affixed to the instrument.
3. On the coming into force of the instrument, the previous delegation is revoked.
4. The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.

10.3 Review of Instrument of Delegation - s6 Instrument of Delegation from Council to Staff

Directorate: Tony Doyle, Chief Executive Office
Author: Karly Saunders, Governance Coordinator
Attachments: s6 Instrument of Delegation from Council to Staff

Executive Summary

The Act, and a variety of other legislation, makes express provision for the appointment of delegates to act on behalf of Council. The delegation of powers is essential to enable day to day decisions to be made and for the effective operation of the organisation.

The s6 Instrument of Delegation from Council to Staff has been updated and is attached for consideration.

Discussion

The s6 Instrument of Delegation was last adopted by Council on 9 June 2021. Through this delegation, Council delegated certain statutory provisions directly to the relevant Council staff within the organisation.

The changes are a result of legislative changes including:

- Regulations 25(a) and (b) of the Planning and Environment Regulations 1987 have been slightly amended by the Planning and Environment Amendment Regulations 2022, to refer to the public availability requirements.
- There have been a number of minor changes to the *Cemeteries and Crematoria Act 2003*. These include:
 - Section 74 of the Act has been amended to insert subsection (3) and remove reference to provision commencing on 1 March 2022.
 - Sections 83(2) and 110(1A) of the Act have been amended to remove reference to the provision commencing on 1 March 2022.
 - Section 84I(4) of the Act has been inserted by virtue of the *Cemeteries and Crematoria Amendment Act 2021*, which relates to the power to exercise the rights of a holder of a right of internment.
 - s 74 has been inserted which, pursuant to the *Cemeteries and Crematoria Amendment Act 2003*.
 - Sections 84F(2)(d), 84H(4), 84I(5), 84I(6)(a) and (b), 110(1A) of the Act have been inserted, and has been amended to remove reference to '(sole holder)'.
 - Section 52 has been inserted relating to the duty to report annually to the Secretary.
 - ss 15(1) and (2) of the Act have been removed.
- The following changes have been made to the *Planning and Environment Act 1987*:
 - Section 4I of the Act has been amended to refer to the duty to make a copy of the Victorian Planning Provisions and other documents available in accordance with the public available requirements.
 - Amendment of a typographical error at s 14 of the Act.

- Sections 18, 21(2), 26(2) and 46V(3) of the Act have been amended to include a note as to the period the documents must be made available in accordance with the public availability requirements.
- Section 22(1) of the Act has been amended to clarify which submissions must be considered.
- Section 22(2) of the Act has been inserted in two parts, which relate to the power to consider late submissions and the separate duty to consider late submissions.
- Section 96J of the Act has been amended to refer to the duty rather than as a power.
- Section 185B of the Act has been inserted, which relates to the duty to comply with a request from the Minister for information.
- Section 12A of the Act has been removed as it has been repealed.
- Section 113(2) of the Act has been inserted pursuant to the *Planning and Environment Amendment Act 2021*. It relates to the power to request the Minister for a declaration for land to be proposed to be reserved for public purposes.
- ss 4H, 4I, 18, 21(2), 26(1), 26(2), 28(1), 28(2), 28(4), 41(1), 41(2), 42(2), 49(2), 51, 57(5), 70, 97G(6), 179(2) of the Act have been amended to reflect the changes made under the *Planning and Environment Amendment Act 2021*, in particular the new requirement to make certain information/documents available in accordance with the public availability requirements.
- Changes to the *Food Act 1984*:
 - Sections 19EA(3), 19N(2), 38G(2), 39(2) and 43 of the Act have been inserted pursuant to the *Food Amendment Act 2020*.
 - Section 39A has also been amended to reflect the new power to register or renew the registration of a food premises. These provisions are in force.
 - Sections 19IA(1) and (2), 39A(6), 40(1) and 40E of the Act have also been inserted. While they contain duties, rather than powers, it was thought it may assist to have these noted in the instrument.
 - Section 45AC of the Act has been inserted to enable a delegate to authorise a person for the purposes of bringing proceedings.
 - Section 38G(4) of the Act has been amended to reference the correct provision.
 - ss 36A, 36B and 40F of the Act are now in force.
- Changes to the *Residential Tenancies Act 1997*:
 - Sections 91ZU, 91ZZC, 91ZZE, 142D, 142G, 142I, 206AZA, 207ZE, 311A and 317ZDA of the Act have been removed from the S6 and inserted in the S7. This is because the specific power of delegation provided under the Act only applies to Part 14 and regulations under this part. Therefore, the delegation of other powers and functions under the Act comes from the *Local Government Act 2020*.
 - The Residential Tenancies Regulations 2021 have been removed from the S6. Upon review, it was determined that the power to approve any other toilet system is not a power under the Residential Tenancies Regulations 2021 but rather a power under other legislation, such as the Environment Protection Regulations 2021.
 - ss 91ZU(1), 91ZZC(1), 91ZZE(1), 91ZZE(3), 206AZA(2), 207ZE(2) of the Act are now in force.
 - the Residential Tenancies Regulations 2021 has been inserted and is in force.

- Section 96 of the *Road Management Act 2004* has been inserted to enable a delegate to authorise a person for the purpose of instituting legal proceedings.
- the *Environment Protection Act 1970* has been removed.

Separate from the legislative amendments, changes have been made throughout the document to reflect staffing changing and naming of position titles.

Financial and Resource Implications

Council subscribes to the Delegations and Authorisations service provided by Maddocks Lawyers, the cost of which is provided for in Council's budget.

There are no other financial implications in reviewing the Instrument of Delegation.

Legislation, Council Plan and Policy Impacts

Key Priority No. 5 Provide Strong Governance and Leadership

Objective 5.1 Transparent and Accountable Governance

Strategy 5.1.2 Ensure flexible and transparent decision making through open and accountable governance

Risk Management

The use of the Maddocks service alleviates the potential risk of staff not being appropriately authorised in the exercise of various powers and functions. Maddocks update their Instruments twice a year and capture any legislative changes. The service is available to all Victorian Councils which enables consistency.

Environmental and Sustainability Considerations

Many of the activities undertaken by staff on behalf of Council have social, economic or environmental effects, including many of the powers included in the instruments of delegation. The Instruments of Delegation ensure that the decisions are made by the most appropriate person or persons with the organisation.

Community Consultation and Communication

There is no requirement for community consultation in relation to the review of the Delegations.

The Instrument is available for viewing on Council's website and is also available for public inspection.

Disclosure of Interests

All Council Officers involved in the development and advice provided in this Report affirm that no general or material interests need to be declared in relation to any matters in this Report.

RECOMMENDATION

In the exercise of the powers conferred by the legislation referred to in the attached instrument of delegation, Council resolves that -

1. There be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached *Instrument of Delegation to members of Council staff*, the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument.
2. The instrument comes into force immediately the common seal of Council is affixed to the instrument.
3. On the coming into force of the instrument, the previous delegation is revoked.
4. The duties and functions set out in the instrument must be performed, and the powers set out in the instrument must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.

10.4 Annual Plan Quarterly Report

Directorate: Tony Doyle, Chief Executive Office
Author: Karly Saunders, Governance Coordinator
Attachments: Action and Task Progress Report 1 October 2022 – 31 December 2022

Executive Summary

The Action and Task Progress Report for the period 1 October 2022 to 31 December 2022 has been prepared to provide information regarding the performance of the organisation against the Annual Plan.

Discussion

The Annual Plan is developed each year to assist in the delivery of the Council Plan objectives and to demonstrate to the community the key projects to be delivered that year.

The Annual Plan sets out the specific actions and includes a detailed list of Council's activities and initiatives for the upcoming financial year. These initiatives are projects that are undertaken over and above normal service delivery and are intended to attain important outcomes for Council and the community.

Reports on the progress of the Annual Plan are reported to Council quarterly. This allows Council to receive timely, relevant and measurable information about how the organisation is performing. This in turn allows Council an opportunity to raise concerns about performance in a timely manner. The Annual Plan reporting will also help formulate the Annual Report and support the reporting against the Council Plan each year.

There are currently 50 actions reported on from the Annual Plan and Council Plan. Of these 50 actions:

- 44 actions (88%) are on track - at least 90% of the target achieved;
- 1 action (2%) requires monitoring –between 70% and 90% of the target achieved;
- 10 actions (10%) are off track – less than 70% of target achieved; and
- 0 actions (0%) have no target set

Details about the specific performance of the Annual Plan actions is detailed in the attached Action and Task Progress Report.

Legislation, Council Plan and Policy Impacts

Council is required to adopt a Council Plan in accordance with section 90 of the *Local Government Act 2020* and subsequently determine whether any adjustments are required.

This Plan is supported by the development of an Annual Plan which details the actions that will be undertaken to achieve the strategic objectives in the Council Plan.

Reporting on the Annual Plan is to be presented to Council quarterly so that Council can regularly monitor the performance of the organisation.

Disclosure of Interests

All Council Officers involved in the development and advice provided in this Report affirm that no general or material interests need to be declared in relation to any matters in this Report.

RECOMMENDATION

That Council receive the Action and Task Progress Report for 1 October 2022 – 31 December 2022.

11. Notices of Motion

There are no Notices of Motion listed on tonight's agenda.

12. Delegated Reports

Reports on external Committees and Representative Bodies for which Councillors have been appointed as a representative by Council.

13. Mayors and Councillors Reports

Address from the Mayor and Councillors in relation to matters of civic leadership and community representation, including acknowledgement of community groups and individuals, information arising from internal Committees, advocacy on behalf of constituents and other topics of significance.

14. Confidential Matters

There are no Confidential Matters listed on tonight's agenda.

15. Close of Meeting

This concludes the business of the meeting.