



Southern Grampians
SHIRE COUNCIL

Council Meeting Agenda

Unscheduled Council Meeting
21 December 2022

To be held virtually via Teams,
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 Kevin Leddin, Acting Director People and Performance
Ms Marg Scanlon, Director Infrastructure and Sustainability
Ms Belinda Johnson, Acting Director Wellbeing, Planning and Regulation

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 authorised without the permission of Council.

3. Prayer

Cr Henry 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. Declaration of Interest

6. Management Reports

6.1 Community Local Law No.1 of 2022 – Adoption of new Local Law

| | |
|---------------------|--|
| Directorate: | Belinda Johnson, Acting Director Wellbeing, Planning, and Regulation |
| Author: | Jason Barker, Local Laws Team Leader and Daryl Adamson, Manager Shire Strategy and Regulation |
| Attachments: | Community Local Law No.1 of 2022 Solicitor's Certificate of Compliance for Community Local Law No.1 of 2022 |

Executive Summary

The Southern Grampians Shire Council Community Local Law No. 1 of 2015 (the current Local Law) came into operation on 10 December 2015 and consists of 102 provisions that:

- provide for safe and fair use of Council-owned and managed land and roads (public places).
- the fair and reasonable use of private land.
- the keeping and control of animals.
- the regulation of street activities.
- the control of building sites.
- the protection of Council assets; and
- the uniform and fair administration of the Local Law.

Due to legislative changes, Council must adopt a new Local Law to replace the current Local Law. Given that a Local Law expires after 10 years due to sunset clause contained within the *Local Government Act 2020* (the Act) it was prudent that Council act now to ensure compliance.

Consultation with Councils compliance solicitors identified a second round of public notice and community consultation was prudent for Community Local Law No1 of 2022 after review, with a further five submissions received. Four related to the proposed cat curfew and one regarding enforcement capacities referencing dilapidated buildings within our Shire. This is in addition to previous Community Consultation conducted between 13 August 2021 and 10 September 2021. Officers, in consultation with stakeholders, believe all issues and concerns raised are dealt with in the Community Local Law No. 1 of 2022, which have been distributed to Council for consideration.

The Act allows Council to make Local Laws for matters that Council has both the function and power, which is not dealt with by an existing Act or subordinate legislation. The Act contains clauses that specify processes required to create a Local Law. This is supported by the Victorian Government by the 'Guidelines for Local Laws Manual' which details what Council must apply to achieve legislative compliance, best practice and how to engage community to review and comment on proposed Local Laws.

A Local Law may prescribe, regulate, or determine the purpose for which and the conditions on which a Council may perform or supply a service.

This report is presented to Council for the adoption of the new Community Local Law No.1 of 2022. In turn Community Local Law No.1 of 2022 will be presented for Public Notice and publication in the Victorian Government Gazette.

Discussion

In reviewing the operations and effectiveness of the existing Community Local Law No.1 of 2015, officers have identified changes and enhancements which will ensure that Council is better placed to provide a Local Law that satisfactorily addresses these issues and matters, until the next review is undertaken.

Comments on the new Local Law were sought from the community in accordance with Section 73 of the Act – Proposing a Local Law - between 2 November 2022 and 1 December 2022.

Five submissions were received in response to the public notice advising of the proposed Community Local Law.

Under section 72 of the Act the Local Law requirements are as follows:

- a) a Local Law must not be inconsistent with any Act (including the Charter of Human Rights and Responsibilities Act 2006) or regulations.
- b) a Local Law must not duplicate or be inconsistent with a planning scheme that is in force in the municipal district.
- c) a Local Law for or with respect to the issuing of film permits must not be inconsistent with the film friendly principles.
- d) a Local Law must not exceed the power to make Local Laws conferred by this Act or any other authorising Act.
- e) a Local Law must be consistent with the objectives of this Act or any other authorising Act.
- f) a Local Law must be expressed as clearly and unambiguously as is reasonably possible.
- g) unless there is clear and express power to do so under this Act or any other authorising Act, a Local Law must not—
 - (i) seek to have a retrospective effect; or
 - (ii) impose any tax, fee, fine, imprisonment or other penalty; or
 - (iii) authorise the sub-delegation of powers delegated under the Local Law.
- h) Local Law must comply with any details prescribed in the regulations relating to the preparation and content of Local Laws.

Financial and Resource Implications

- No financial or resource implications are predicted.

Legislation, Council Plan and Policy Impacts

The current Local Law will sunset as established under Section 84 of the Act on 9 December 2025. Therefore, in accordance with the Act a review and re-establishment of the Local Law is required every 10 years subject to section 71 of the Act, Power to make Local Laws.

1. A Council may make Local Laws for or with respect to any act, matter, or thing in respect of which the Council has a function or power under this Act or any other Act.
2. A Local Law must be consistent with the Local Law requirements.
3. A Local Law is inoperative to the extent that it is inconsistent with the Local Law requirements.
4. A Local Law is a subordinate instrument for the purposes of the Interpretation of *Legislation Act 1984*.

The current Local Law will be revoked at the time of the adoption of the Community Local Law No. 1 of 2022.

Risk Management

The recommendation provided is consistent with the Act and Council Policy. Community Local Law No.1 of 2022 has been drafted with legal advice and in turn has obtained a certificate of compliance from a qualified lawyer as required under Section 74(1) and is tabled at this meeting under Section 74(3) of the Act. Community Local Law No.1 of 2022 will be presented for Public Notice and publication in the Victorian Government Gazette.

Council will ensure that a copy of any document, code, standard, rule, specification, or method which contains any matter incorporated in a Local Law is available for inspection after Council adoption:

- a) at the Council's office; and
- b) on the Council's Internet site.

Environmental and Sustainability Considerations

The proposed Community Local Law is designed to ensure that Council can regulate matters which are important to the members of its community such as amenity, disposal of domestic waste, public health and safety and animals.

Community Consultation and Communication

Community engagement was re-opened on the 2 November 2022 and closed on the 1 December 2022. Feedback for the engagement was limited with five responses recorded. This is in addition to previous Community Consultation conducted between 13 August 2021 and 10 September 2021 in which seven responses was recorded.



Figure 1 - Community Engagement - 2 November to 1 December 2022

Public notice will be given in the Hamilton Spectator, the Victorian Government Gazette and on Council's website at the adoption of the Community Local Law No. 1 of 2022. Copies of the Community Local Law No. 1 of 2022 will be made available at Council offices for public inspection.

There is no further community engagement is planned for the Community Local Law No. 1 of 2022 once adopted.

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. In accordance with Section 74 of the *Local Government Act 2020* make the Community Local Law No.1 of 2022
2. Note the certificate from the lawyer that the Local Law is consistent with the Local Law requirements set out in the Act
3. Note there will be a further notice published stating that the Local Law is made as per section 74(4) of the Act and
4. Note that Community Local Law No. 1 of 2015 is hereby revoked.

7. Notices of Motion

7.1 Notice of Motion #7/22

Cr Rainsford

I hereby give notice of my intention to move the following motion at the Unscheduled Council Meeting to be held on 21 December 2022

MOTION

That Southern Grampians Shire Council:

1. Develop a CBD Civic Buildings and Spaces Masterplan
2. Convene the New Hamilton Gallery Project Reference Group
3. Make the New Hamilton Gallery Project Reference Group Terms of Reference Public

Background

Southern Grampians Shire Council is embarking on the largest restructure of Civic Buildings and Spaces in a generation.

The driving issue stimulating the restructure is the requirement for expanded Hamilton Gallery space to enhance our Arts and Cultural assets and stimulate economic growth.

There has also been a long-standing consideration of the value of concentrating Hamilton based Southern Grampians Shire Staff into one building.

Thirdly, there is a need to improve our Hamilton Civic Space to provide a community event and meeting place enhancing our CBD alongside the CBD revitalisation projects.

Whilst there are numerous masterplans there has not been a Civic Building and Spaces Masterplan developed which provide the process to engage the community as required under the Local Government Act in developing a clear vision of the Southern Grampians Council's plan for the Civic Assets which include Council Offices (Brown Street and Market Place) the Library, Cinema, Performing Arts Centre, Gallery and development of a Digital Hub and Town Square.

Our community has not been provided with an opportunity to see the proposed plans, complete with estimated costings and the investment required to implement these plans.

The New Hamilton Gallery Project Reference Group was implemented to keep the community informed and engage with stakeholders has not met since July 2020.

There are also voices not at the table representing community users of the Library and Cinema.

The is also value in getting detailed designs based on a clear Masterplan of these projects at the same time placing the Southern Grampians Shire Council in a strong position to attract Federal and State Funding.

Detailed designs of the various projects can also attract specific funding relating to smaller components of the projects and provide a stronger base for philanthropic contributions and community fund raising.

Officers Comments

Council adopted its Hamilton CBD Masterplan in May 2020 following extensive community engagement. Officers believe through a strong detailed design process, we will achieve the same outcomes that a new masterplan could achieve, without any delay to the projects.

Officers will present an appropriate governance structure for the new projects to Council in the new year. Officers are currently reviewing governance structures that have been used on similar projects to inform our recommendation, particularly with regard to philanthropic fund raising. The four elements of governance will be fund raising, advocacy, community consultation, and project control (design and construction). Whilst our recommended governance model is not finalised as yet, it is likely our recommendation will include discontinuing the New Hamilton Gallery Project Reference Group under its current terms.

8. Confidential Matters

RECOMMENDATION

That the following items be considered in Closed Council as specified in section 66(2)(a) and referenced in section 3(1), Confidential Information (a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released as per the Local Government Act 2020.

8.1 CORE Contract (ERP replacement)

9. Close of Meeting

This concludes the business of the meeting.