



Glenelg Shire Council
Minutes of the Council Meeting held on
Tuesday 22 November 2022 at 7:00 pm at
Portland Arts Centre
Glenelg Street

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Cr Martin made a public apology for the comments he made in the Portland Observer article in relation to the recruitment of the Chief Executive Officer.

1. PRESENT

Cr Scott Martin (Mayor), Cr Jayden Smith (Deputy Mayor), Cr Chrissy Hawker, Cr Karen Stephens and Cr Gilbert Wilson in person.

Cr Michael Carr attended via Microsoft Teams.

Also in attendance were the Acting Chief Executive Officer (Mr Paul Phelan), Director Corporate Services (Mr David Hol), Acting Director Community Services (Ms Melanie Bennett), Acting Director Assets (Mr Chris Saunders), Chief Information Officer (Ms Ann Kirkham) and Executive Assistant CEO Department (Ms Virginia Bobbitt) and Executive Assistant Corporate Services (Ms Rachael Currie).

2. OPENING PRAYER

The Mayor opened the meeting with the Council Prayer.

3. ACKNOWLEDGEMENT TO COUNTRY

The Mayor read the Acknowledgement to Country.

4. RECORDING OF MEETINGS

The Chief Executive Officer will enable an audio recording of the meeting conducted and the recording of that meeting may be made available to the public.

Public apology by Cr Wilson for his behavior at the Statutory Council meeting held on Wednesday 26 October 2022.

5. RECEIPT OF APOLOGIES

Cr Anita Rank and Mr Greg Burgoyne.

6. QUESTION TIME

6.1. QUESTIONS TAKEN ON NOTICE AT PREVIOUS MEETING

Mr Gary Humm of Portland asked the following questions:

1. Risk Assessment and Code of Conduct

- a. *What Level of Risk Assessment has been done, and what measures Council is taking to ensure the activities at these venues is conducted safely & not placing the Council or us residents at risk of future litigation and financial penalty?*

Mr David Hol, Director Corporate Services advised there are some legal principles in regard to negligence and voluntary assumption of risk for people undertaking certain activities. The other element of consideration is Portland Foreshore is Crown Land in which Council is committee of management therefore the insurer for that particular

asset is state government not Council. Mr Hol advised he would take the risk assessment question on notice and provide a response to Mr Humm.

A response has been provided to Mr Humm advising that the Portland pump track was installed as per standard clauses within Councils contracts to ensure the design and installation comply with Australian Safety Standards. Pump tracks are widely accepted as a lower risk and safer option due to a controlled environment, rather than similar activities occurring on roads, footpaths and other built-up community spaces with pedestrian traffic.

Ms Ann Munro of Wando Vale asked the following questions:

3. Rating system

- a. *I would like to know why this Council does not have adequate records in regard to this change (Ms Munro referring to the minutes and change from a primary production differential rating structure to a rebate) and I would like to know what processes this Council intends to put in place to prevent this sort of information vacuum from occurring in the future?*

Mr David Hol Director Corporate Services advised he can't add more to what was responded to Ms Munro regarding what happened in 2011 and there was no reason to suggest the minutes were not an accurate record at the time. Mr Hol advised he would take the question on notice in regard to processes.

The Mayor for 2022/23 Cr Martin has since responded to Mrs Munro and reiterated the response provided from the Director Corporate Services in that there is no evidence to suggest that the recording of the minutes from 2011 are inaccurate. It is conceded however that the documentation does not specifically outline the details of the change from a differential rate to the rebate.

Any potential future changes to Council's rating structure will be undertaken with community engagement in an open and transparent manner.

- b. *According to Emma Germano, the VFF State President, Mayor Rank has indicated a commitment to pass supplementary budget returning the disputed \$3.42 million to ratepayers. I once again note that the disputed \$3.42 million was not included in this Council's Comprehensive Income Statement for the 4 years ending 30 June 2025. When exactly, is this Council planning to demonstrate their commitment in regard to this supplementary budget and the return of these finds to ratepayers?*

Mayor (2021/22) Cr Rank advised on the night that discussions and comments that were had with Ms Germano and the Farmers Federation. Glenelg Shire has a productive relationship which enable us to have discussions with each other and work towards a rating system that is supportive and reflective of people living in rural and regional areas. The direct comment that was made is not entirely correct; what was committed to was discussing a supplementary budget with fellow Councillors which has been done on a number of occasions. In relation to dealing with the rebate that has been dealt with and how it is included in the budget and moving forward on discussions for next budget that is coming up.

Mr Hol took the rest of the question on notice in regard to \$3.42 million not being included in comprehensive income statement on 4 year plan.

A further response has been provided to Mrs Munro regarding the future finances of the Shire for the coming years referring to the 10 year financial plan. This plan contains updated future forecasting of the total revenue anticipated for the next few years and was based on information that was not readily available when the income statement in the Council plan was prepared. A copy of the 10 year plan can be obtained from Councils website or provided on request.

- c. *Would Mayor Rank be good enough to explain why this Shire is charging us \$38.43/Ha for farmland with a CIV of \$1.45million while Southern Grampians Shire is only charging us \$11.93/HA on farmland with A CIV of \$1.71million?*

Mayor (2021/22) Cr Rank advised on the night with regards to continually blaming the valuations for significant rate rises, Council has always said it is one of the reasons and the other part of that question is how the rates are calculated and the overall value that Council as a Shire can collect as opposed to Southern Grampians and how much they can collect. Mr Hol advised he can provide further details and took the question on notice.

A further response has been provided to Mrs Munro outlining that Council considered a number of factors when preparing the 2022/23 budget including total income, total value, rating categories, number of assessments and comparative differential rates just to name a few. The Victorian rating system is not quite as simple that a property valued at a certain amount in one Shire would account for the same charge for rates in another. Whilst Glenelg Shire properties increased in value by over 30%, the actual rate in the dollar reduced.

6.2. QUESTIONS FROM THE GALLERY

Mr David Punton of Portland asked the following questions:

1. Tree removal and Allowances

- a. *Why are the street trees being removed from Council streets and not replaced with suitable trees?*

Mr Chris Saunders Acting Director Assets advised that street trees are typically being removed due to danger to public or infrastructure. Council officers which include a horticulture officer, use suitable species to replace removed trees. Mr Saunders advised he would take the rest of the question on notice and provide further details on what species are used to replace removed trees.

- b. *Is Councillor Smith receiving any payment for his role as a Councillor after the June Council Meeting?*

Mayor Martin advised that Mr Punton is welcome to speak directly to Cr Smith outside of this Council meeting.

- c. *Does the Mayor Martin think that people in the Glenelg Shire Council knowingly buy heritage buildings to apply for Council's funding for maintenance?*

Mayor advised that he has adequately answered this in a previous statement, that the money could be better spent in his opinion, not the opinion of all Councillors.

Mr Gary Humm of Portland asked the following questions:

2. Welcome Sign

a. *What is the current status of the welcome sign into Portland?*

Mayor Cr Martin advised that the sign is currently being discussed by Councillors, the sign is a work in progress.

b. *Would the Mayor provide a detailed synopsis of his proposed Culture, Goals, Priorities and Standards for this Council under your leadership?*

Mayor Martin advised he would take this question on notice.

c. *Can you provide a detailed explanation of your understanding of the media leak and your understanding of your responsibilities of disclosure and confidentiality principles and protocols as they apply with the context of corporate governance, especially in light of the not-so-subtle message that emerges from it?*

Cr Martin advised that he has already apologised earlier in the meeting for his comments.

Mr Matthew Jowett from Portland asked the following questions:

3. Councillor allowances

a. *Cr Martin was absent from the 28 June Council Meeting when the Budget was adopted, can you please advise how you would have voted had you chosen to attend either in person or virtually?*

Mayor advised that its inappropriate to comment how the outcome would have gone if he had voted.

b. *The Council meeting held on 28 June 2022 , Cr Smith advised that he would return 100% of his Councillor allowance back to the Shire for this year. In the meeting papers for 25 October 2022 it clearly states that he has received his allowance. As Mayor what steps are you aware of that Cr Smith has taken to return his Council allowance to the Shire as he pledged?*

Mayor advised that looking into other Councillors allowances or payments would not be appropriate, these payments are made quarterly, and a report provided to the public.

c. *How confident is the Mayor working with someone who is known on record as a proven liar after this comment on 28 June Council meeting?*

Mayor Martin advised that he would work with Cr Smith at any time and continue to do so.

Mr Mike Noske from Portland asked the following question:

4. Differential Rebate

- a. *Does Cr Martin still stand by his response to Mrs Munro or does he now understand that the introduction of the rate rebate for the primary production in 2010 was actually a continuation of an existing differential rate for the affected properties - change from a differential rate to a rebated rate to add transparency to the rate discounts always provided to rural properties - that did not involve Council forgoing a single cent of revenue from the properties involved compared to previous years?*

Mayor Martin advised that he stands by his response and can't attest as he didn't attend those meetings and go by what was recorded from those meetings.

- b. *Does Mayor Martin stand by his response provided by Council to Mrs Munro and can he explain to ratepayers why he voted to adopted two different documents at the same Council meeting that apparently contained such dramatically different rate revenue figures for 2022/23 especially when the PRIMARY document, the Glenelg Shire Council Plan 2021-25 did not include the disputed \$3.429 million?*

Mayor Martin advised that this question would be taken on notice.

- c. *Hypothetical question, can you inform rate payers what Council's process will be if the Essential Services Commission decides that the \$3.429 million increase in rate revenue collection implemented by Council in the 2022/23 Budget is, in fact, illegal or non-compliant with the Governments Fair Go Rating system?*

Mayor Martin advised that if it was found to be illegal Council would follow them any directions received.

7. DECLARATIONS OF CONFLICT OF INTEREST

Cr Smith declared a General Conflict of Interest in item 14.6 Contract 2022-23-18 Glenelg Shire Road Rehabilitation and advised this prior to the meeting.

MOTION

MOVED Cr Carr

That the meeting be adjourned.

SECONDED Cr Hawker

CARRIED

MOTION**MOVED Cr Wilson****That the meeting resume.****SECONDED Cr Stephens****CARRIED****The meeting was adjourned at 7.27pm in accordance with provision 2.18.6 of the Governance Rules.****8. CONFIRMATION OF MINUTES****Recommendation**

That the minutes of the Council Meeting Minutes held on Tuesday 25 October 2022 and Statutory Council Meeting Minutes Wednesday 26 October 2022, as circulated, be confirmed

MOTION**MOVED Cr Stephens****That the minutes of the Council Meeting Minutes held on Tuesday 25 October 2022 and Statutory Council Meeting Minutes Wednesday 26 October 2022, as circulated, be confirmed.****SECONDED Cr Hawker****CARRIED****FOR:** Mayor Cr Martin, Deputy Mayor Cr Smith, Cr Hawker, Cr Carr and Cr Stephens**AGAINST:** Cr Wilson**9. PRESENTATIONS****Nil.**

10. DEPUTATIONS

P22151 68 Richardson Street, Portland

The following representatives spoke in opposition of the proposal

1. Chris Smid, resident
2. Debra Frances, resident
3. Maureen Mizzi, resident

The following representatives spoke in support of the proposal -

1. Joshua Trowell –
Bunnings Property Development Manager

11. NOTICES OF MOTION**11.1. NOTICES OF MOTION - 3-2022-2023 PRESERVATION OF CAPE BRIDGEWATER'S PETRIFIED FOREST**

CEO: Paul Phelan, Acting Chief Executive Officer

In accordance with Council's Governance Rules adopted 27 September 2022 Section 2.8.1.1 - I hereby give notice of my intention to move the following motion at the Council Meeting to be held on Tuesday 22 November 2022.

1. That Council contact the regional office of the Department of Environment, Land, Water and Planning (DELWP) and advise them of Council's concern about the preservation of Cape Bridgewater's Petrified Forest.
2. That our concerns are in relation to the unrestricted access for tourist to the Petrified Forest as evidenced in the attached photos.
3. That Council advocate to DELWP to find a suitable solution which may include upgraded signage, interpretation boards and fencing.

Signed: Cr Karen Stephens
Date: 11 November 2022

Attachment List

1. Notice Of Motion - Preservation of Cape Bridgewater's Petrified Forest 11 Nov 2022 [11.1.1 - 3 pages]

MOTION**MOVED Cr Stephens**

- 1. That Council contact the regional office of the Department of Environment, Land, Water and Planning (DELWP) and advise them of Council's concern about the preservation of Cape Bridgewater's Petrified Forest.**
- 2. That our concerns are in relation to the unrestricted access for tourist to the Petrified Forest as evidenced in the attached photos.**
- 3. That Council advocate to DELWP to find a suitable solution which may include upgraded signage, interpretation boards and fencing.**

SECONDED Deputy Mayor Cr Smith**CARRIED**

FOR: Mayor Cr Martin, Deputy Mayor Cr Smith, Cr Hawker, Cr Wilson, Cr Carr and Cr Stephens

AGAINST: Nil

12. PETITIONS

Nil.

13. COMMITTEE REPORTS

Nil.

14. MANAGEMENT REPORTS

14.1. COUNCILLOR AND CHIEF EXECUTIVE OFFICER LEAVE OF ABSENCE REGISTER

Director: Greg Burgoyne, Chief Executive Officer

Executive Summary

The purpose of this report is to enable Council to consider the Councillor and Chief Executive Officer Leave of Absence Register.

Recommendation

That Council approve the Councillor and Chief Executive Officer Leave of Absence Register presented as a confidential circulation under Section 35 (1) (e) (4) (6) of the *Local Government Act 2020*.

MOTION

MOVED Cr Hawker

That Council approve the Councillor and Chief Executive Officer Leave of Absence Register presented as a confidential circulation under Section 35 (1) (e) (4) (6) of the *Local Government Act 2020*.

SECONDED Deputy Mayor Cr Smith

CARRIED

FOR: Mayor Cr Martin, Deputy Mayor Cr Smith, Cr Hawker, Cr Wilson, Cr Carr and Cr Stephens

AGAINST: Nil

Background/Key Information:

In accordance with Section 35 (1) (e), (4), and (6) of the *Local Government Act 2020* Councillors are entitled to take Leave of Absence.

Section 35 (1) (e), (4) and (6) of the *Local Government Act 2020* states:

35 Councillor ceasing to hold office

(1) A Councillor ceases to hold the office of Councillor and the office of the Councillor becomes vacant if the Councillor:

- (e) subject to this section, is absent from Council meetings for a period of 4 consecutive months without leave obtained from the Council.

- (4) The Council must grant any reasonable request for leave for the purposes of subsection (1)(e).
- (6) A Councillor is not to be taken to be absent from Council meetings during the period of 6 months after the Councillor or their spouse or domestic partner:
 - (a) becomes the natural parent of a child; or
 - (b) adopts a child under the age of 16 years

and the Councillor has responsibilities for the care of the child during that period.

a. Council Plan and Policy Linkage

Our Voice and Action - A highly engaged and capable local government, leading Glenelg to ensure the needs and aspirations of our community are realised.

b. Legislative, Legal and Risk Management Considerations

Section 35 of the *Local Government Act 2020*.

c. Consultation and/or communication processes implemented or proposed

Councillors are required to submit Leave of Absence requests in writing to the Chief Executive Officer.

The Chief Executive Officer is required to submit his Leave of Absence requests in writing to Council through the Councillor and Chief Executive Officer Leave of Absence Register.

A register will be held by the Chief Executive Officer and reported monthly to Council.

d. Financial Implications and Collaboration

Nil.

e. Governance Principles

The transparency of Council decisions, actions and information is to be ensured.

Attachment List

Separately circulated as Confidential attachment

14.2. GLENELG SHIRE COUNCIL FINANCIAL REPORT OCTOBER 2022

Director: David Hol, Director Corporate Services

Executive Summary

The Financial Report is a key document in assuring responsible and responsive governance and decision making. This high-level report is provided to give Council the ability to monitor Glenelg Shire's financial performance.

Recommendation

That Council receives the Financial report for the period ending October 2022.

MOTION

MOVED Cr Stephens

That Council receives the Financial report for the period ending October 2022.

SECONDED Cr Carr

CARRIED

FOR: Mayor Cr Martin, Deputy Mayor Cr Smith, Cr Hawker, Cr Wilson, Cr Carr and Cr Stephens

AGAINST: Nil

Background/Key Information:

The 2022/2023 Annual Budget was adopted by Council on 28 June 2022.

This report provides information on the current status of Council's financial position and performance and includes:

- Comprehensive Income Statement;
- Balance Sheet;
- Statement of Cash Flows; and
- Statement of Capital Works.

a. Council Plan and Policy Linkage

Our Voice and Action - A highly engaged and capable local government, leading Glenelg to ensure the needs and aspirations of our community are realised.

b. Legislative, Legal and Risk Management Considerations

This report is prepared monthly and is in addition to the requirements set out in the Local Government Act 2020 Division 2, Section 97 where Council is required to prepare a quarterly budget report to be submitted to Council.

Also, in accordance with Division 4, Section 101 Council is required to consider the following Financial Management Principles:

- (a) Revenue, expenses, assets, liabilities, investments and financial transactions must be managed in accordance with a Council's financial policies and strategic plans;
- (b) Financial risks must be monitored and managed prudently having regard to economic circumstances.

c. Consultation and/or communication processes implemented or proposed

The finance report is prepared monthly for Council and submitted to the Audit and Risk Committee quarterly.

d. Financial Implications and Collaboration

The resourcing of the preparation of the financial report and year-end audit of the financial statements is provided for in the adopted budget.

The financial report is a key document that is required to monitor Council's budget and financial result.

The Financial Report provides commentary on all material variances (Greater than 10% or \$500K) to the adopted 2022/2023 budget.

The information in this report contributes to various strategic planning documents under Council's strategic planning framework, including the Annual Budget, Financial Plan and Revenue and Rating Plan.

e. Governance Principles

The ongoing financial viability of the Council is to be ensured.

Attachment List

1. Financial Statements 2022 2023 - October 2022 Council Meeting [**14.2.1** - 7 pages]

14.3. LEASE AGREEMENT BETWEEN GLENELG SHIRE COUNCIL AND FAST CITIES AUSTRALIA PTY LTD

Director: David Hol, Director Corporate Services

Executive Summary

This report is to seek Council's approval for a new nine (9) year and six (6) months lease with Fast Cities Australia Pty Ltd for the Roadside Parking located at 71 Greenham Street, Dartmoor.

Recommendation

That Council:

1. Approves a new nine (9) year and six (6) months lease to be entered into with Fast Cities Australia Pty Ltd for the Roadside Parking located at 71 Greenham Street, Dartmoor.
2. Sets the rental figure at \$1.00 (including GST) per annum.
3. Authorises the Director Corporate Services to finalise and sign all documents relating to the proposed lease in part 1 of this resolution.

MOTION

MOVED Cr Carr

That this item lays on the table until the next Council Meeting.

SECONDED Cr Stephens

CARRIED

FOR: Mayor Cr Martin, Deputy Mayor Cr Smith, Cr Hawker, Cr Wilson, Cr Carr and Cr Stephens

AGAINST: Nil

Background/Key Information:

Evie Networks on behalf of Fast Cities Australia Pty Ltd were successful in receiving the contract to install electric vehicle (EV) chargers in Glenelg Shire through the State Government's 2021 "Destination Charging Across Victoria" program which provided \$5 million in grants to establish a public electric vehicle (EV) fast-charging network across Victoria.

Sites were investigated at Dartmoor (as pictured below), Casterton and Portland which have all been identified as key charging locations for the network. Council's engineering team have been consulted and the lease drawn up with assistance from Russell Kennedy law firm for the Dartmoor site. Leases for the Casterton and Portland sites are still under negotiation as these sites require the approval of VicRoads and DELWP.

The proposed annual peppercorn rent of \$1.00 is reflective of Council's commitment to promoting environmental sustainability by providing public access to electric vehicle (EV) charging infrastructure. It is also in recognition of the public service the installation is providing to the Dartmoor community, as Evie Networks is unlikely to see a return on investment at this site due to the low visitation to the town; indeed the installation of the charging point will hopefully have a positive impact on visitation to the town and increase economic activity locally.



a. Council Plan and Policy Linkage

Our Natural Environment – Striving towards a carbon neutral future to protect and enhance the natural environment for future generations.

Our Access, Transport and Technology - Making it easier for people to connect in and around the Glenelg Shire.

b. Legislative, Legal and Risk Management Considerations

Section 115 of the *Local Government Act 2020* restricts Council's power to lease land in specific circumstances. The proposed lease complies with s.115. Ensuring a formal lease is executed provides Council with a legally binding agreement relating to the tenant's occupancy.

c. Consultation and/or communication processes implemented or proposed

Consultation between the Tenant and GSC Media & Communications (Economic Development) Coordinator relating to the new lease has occurred.

d. Financial Implications and Collaboration

The financial obligations of the lease will be included within budget provisions. The financial impact on Council is negligible, including the modification of parking lines at the site. Evie Networks will pay for the power used at this site and will cover all installation costs.

e. Governance Principles

Council decisions are to be made and actions taken in accordance with the relevant law.

The transparency of Council decisions, actions and information is to be ensured. The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted.

Attachment List

Nil

14.4. PLANNING PERMIT P22151 AT 68 RICHARDSON STREET PORTLAND

Director: David Hol, Director Corporate Services

Executive Summary

This report is to brief Councilors on planning permit application P22151, which seeks planning approval for buildings and works to construct a Trade Supplies and Restricted Retail premises, car parking, bicycle parking waiver, associated signs and vegetation removal at 68 Richardson Street, Portland.

The application has been referred to Council for determination in line with Council's Planning Delegation and Decision Guidelines Policy.

This report recommends that a notice of decision be issued subject to conditions for this application.

Recommendation

That Council issue a notice of decision to grant a permit for Buildings and works for a Trade Supplies and Restricted Retail premises, business identification signs, removal of native vegetation, car parking, and a reduction of bicycle facilities at 68 Richardson Street, Portland in accordance with plans circulated in Attachment 1 and 2 and Notice of Decision Conditions in Attachment 6.

MOTION**MOVED Cr Stephens**

That Council issue a notice of decision to grant a permit for Buildings and works for a Trade Supplies and Restricted Retail premises, business identification signs, removal of native vegetation, car parking, and a reduction of bicycle facilities at 68 Richardson Street, Portland in accordance with plans circulated in Attachment 1 and 2 and Notice of Decision Conditions in Attachment 6.

SECONDED Cr Hawker**CARRIED**

FOR: Mayor Cr Martin, Deputy Mayor Cr Smith, Cr Hawker, Cr Carr and Cr Stephens

AGAINST: Cr Wilson

Background/Key Information:

The proposed planning application seeks to develop a Trades Supplies and Restricted Retail Premises (Bunnings Store) at this site. The proposed development is estimated at \$9.5 million.

The site covers 1.64 hectares of the three allotments affected at 68 Richardson Street, Portland. A separate application P22156 to re-align boundaries with the proposal and manage access off the Henty Highway has recently been approved subject to conditions. Another subdivision application is also anticipated as noted in the application.

The proposed store includes:

- A fully enclosed covered main building of 2,113.45 square metres;
- A fully enclosed Timber Trades sales area of 1,685.29 square metres;
- A fully enclosed Building Materials and Landscape Yard of 725.77 square metres;
- An Outdoor Nursery of 346 square metres with sail cloth canopy;
- A bagged goods canopy of 512 square metres;
- Ancillary offices of 164 square metres;
- Associated business identification and promotion signs;
- Waste management area on the southwest corner of the site; and
- Provision of car parking hosting 127 spaces including 5 for disabled and 4 for trailer parking bays.

In total the proposal includes 5,282 square meters of retail floor area. The plans of the proposed development are contained in Attachment 1 and 2. Whilst the Zone does not require a planning permit for the use of the land, the applicant has proposed hours of operation to be generally limited to 7:00am to 7:00pm daily, except Thursday and Friday being open to 9:00pm. Deliveries are generally proposed to be between 8:00am to 5:00 pm Monday to Friday.

The application includes a request to remove native vegetation and seek a reduction to the required bicycle facilities.

The Commercial 2 Zone applies to this land. The land is not encumbered by any Overlays as yet. Amendment C106 adopted by Council does propose a Development Plan Overlay to facilitate the orderly development across four land parcels in this commercial zone.

The planning permit requirements include:

- Buildings and works under the Commercial Zone (Clause 34.02-4)
- Advertising signs (Clause 52.05)
- Car parking (Clause 52.06)
- Bicycle parking, including the reduction of requirements (Clase 52.34)
- Native Vegetation removal (Clause 52.17)

The application was referred to DELWP who provided no objection and advice for conditions to be applied to any permit issued.

The application was advertised to owners and occupiers of General Residential Zone land within 30 metres of the proposal in line with the requirement of the Commercial 2 Zone. There were five objections received (Attachment 3) raising concerns about the proposal:

- Increased traffic;
- Residential amenity (noise, loss of privacy, natural light, appearance);
- Construction noise;

- Operational noise;
- Changed residential outlook to a high acoustic wall;
- Residential zoned area;
- Drainage and flooding issues;
- Impact on Koalas with land being cleared;
- Property devaluation.

The applicant provided a response to the objections contained at Attachment 3. The Officers Report at Attachment 5 provides an overview of the proposal and detailed assessment of it and considers the submissions against the decision guidelines of the Glenelg Planning Scheme.

The proposed development will add significant infrastructure to this precinct such as drainage and a road off New Street to provide access to all the four parcels. Sewerage infrastructure will also be provided benefitting more than this site, providing access to vacant residential parcels on the south side of Cope Street and to the west of Richardson Street.

It is considered that the proposal can be supported by Council and approval is recommended as per conditions contained in Attachment 6.

a. Council Plan and Policy Linkage

Our Education, Employment and Industry - Adapting and growing a diverse economy to embrace employment of the future and educational opportunities.

b. Legislative, Legal and Risk Management Considerations

The *Planning and Environment Act 1987* gives a legal basis for the Glenelg Planning Scheme. The Glenelg Planning Scheme sets out policies and provisions for use, development and protection of land. Planning schemes are legal documents prepared by the Council or the Minister for Planning and approved by the Minister

c. Consultation and/or communication processes implemented or proposed

The application was publicly notified and referred in accordance with the Section 52 of the *Planning and Environment Act 1987*. Five objections were received in response to this notice. The permit applicant provided a response to these in Attachment 4.

d. Financial Implications and Collaboration

The assessment of permit applications is part of typical operations of the Planning Unit of which it receives application fees.

e. Governance Principles

Council decisions are to be made and actions taken in accordance with the relevant law.

The transparency of Council decisions, actions and information is to be ensured.

Attachment List

1. P22151 Application & supporting docs [**14.4.1** - 246 pages]
2. P22151 Site and Elevation Plans [**14.4.2** - 7 pages]
3. P 22151 Submissions received redacted [**14.4.3** - 17 pages]
4. P22151 Applicant response to objections [**14.4.4** - 9 pages]
5. P 22151 Signed Officer Report [**14.4.5** - 29 pages]
6. P 22151 Notice of Decision [**14.4.6** - 10 pages]
7. P 22151 Supplementary Objection [**14.4.7** - 5 pages]
8. P 22151 Objection Errey [**14.4.8** - 1 page]

14.5. JULIA STREET PARKLET REMOVAL

CEO: Paul Phelan, Acting Chief Executive Officer

Executive Summary

The purpose of this report is to enable the Council to consider a petition received at the Council Meeting on 25 October 2022, requesting the removal of a parklet situated in front of 49 Julia Street, Portland.

Recommendation

That Council:

1. Approves the parklet in Julia Street Portland to remain in the current location as per the initial COVID Safe Outdoor Activation Fund 2021 agreement between Glenelg Shire Council and Department of Jobs, Precincts and Regions; and
2. Authorises the Acting Chief Executive Officer to respond to petitioner on the outcome of the Council resolution.

MOTION

MOVED Cr Wilson

That Council:

1. **Approves the parklet in Julia Street Portland to remain in the current location as per the initial COVID Safe Outdoor Activation Fund 2021 agreement between Glenelg Shire Council and Department of Jobs, Precincts and Regions; and**
2. **Authorises the Acting Chief Executive Officer to respond to petitioner on the outcome of the Council resolution.**

SECONDED Deputy Mayor Cr Smith

CARRIED

FOR: Mayor Cr Martin, Deputy Mayor Cr Smith, Cr Hawker and Cr Wilson

AGAINST: Cr Carr and Cr Stephens

DIVISION:

Mayor Cr Martin, Deputy Cr Smith, Cr Hawker, Cr Stephens and Cr Wilson voted FOR the MOTION.

Cr Carr and Cr Stephens voted AGAINST the MOTION.

Background/Key Information:

On 17 November 2021, Glenelg Shire Council was subject to an executed agreement (the *Agreement*) with the Department of Jobs, Precincts and Regions under the COVID Safe Outdoor Activation Fund 2021.

Part A: Terms and Conditions of the Agreement outlines the intent and eligibility criteria for Semi-permanent and Permanent Outdoor Precinct Establishment.

In summary, the Agreement provided funding for Councils to establish the following structures related to the establishment of Semi-permanent and Permanent new outdoor precincts:

- parklet facilities
- bollards
- planter boxes
- marquees
- street furniture
- landscaping
- signage
- lighting
- outdoor stages
- amphitheatres; and
- other minor works to establish outdoor spaces.

In accordance with the funding agreement the parklet situated in front of 49 Julia Street Portland was constructed and installed. The installation of the parklet was also subject to a Memorandum of Understanding (MoU) between Glenelg Shire Council and the proprietor of the business at the time. Council staff consulted with business owners in the direct vicinity prior to the installation of the parklet. There were no objections to the proposed installation.

The principal petitioner for the removal of the parklet was not in occupation of the adjoining business premises at 47 Julia St Portland at the time of consultation, taking up a lease between consultation and installation of the parklet. It is understood that the owner of 47 Julia Street Portland did not advise the principal petitioner of the imminent installation of the parklet.

The principal petitioner has objected to the parklet since its installation, raising various concerns regarding visual impact to heritage precinct, safety concerns for pedestrians, diminished car parking and obstruction of the view to his own business. Council staff have met with the principal petitioner on several occasions and provided written responses to the concerns.

The principal petitioner mistakenly believes that the purpose of the COVID Safe Outdoor Activation Fund 2021 was for temporary structures only and lodged a complaint with the Victorian Ombudsman. The office of the Victorian Ombudsman finalised the complaint with no further action in August 2022. Council's Heritage Advisor was consulted in relation to the installation and an inspection conducted by Worksafe occurred after the principal petitioner raised safety concerns. No issues were identified through either process.

The freehold business at 49 Julia Street, Portland was sold after installation of the parklet, with the new owners seeking a further MoU with Glenelg Shire Council for the parklet to remain.

The current proprietors of 49 Julia Street Portland have based their business model on the parklet remaining in place and have since submitted a planning application for the business.

Upon receipt of the petition, Council staff commenced further negotiations with the principal petitioner and the business owners of 49 Julia Street Portland. Proposed modifications and treatment options to the parklet have been discussed at length with both stakeholders.

Council staff are confident that an amicable resolution to this issue can be achieved through various low cost modifications to the parklet.

a. Council Plan and Policy Linkage

Our Education, Employment and Industry - Adapting and growing a diverse economy to embrace employment of the future and educational opportunities.

Our Lifestyle, Neighbourhood and Culture - Creating enriched and vibrant lives through experiences, safe and well planned neighbourhoods.

b. Legislative, Legal and Risk Management Considerations

Section 59 of the *Local Government Act 2020*.

COVID Safe Outdoor Activation Fund 2021 agreement between Glenelg Shire Council and Department of Jobs, Precincts and Regions.

c. Consultation and/or communication processes implemented or proposed

Appropriate key stakeholder consultation in line with GSC Community Engagement Policy ECM 2739692.

d. Financial Implications and Collaboration

The cost of any treatment options or modifications can be covered by the operational budget.

e. Governance Principles

The transparency of Council decisions, actions and information is to be ensured.

Attachment List

1. ECM 3022618 v 1 PETITION Julia Street Parklet Removal Received 9 September 2022 [14.5.1 - 9 pages]

14.6. CONTRACT 2022-23-18 2022-2023 GLENELG SHIRE ROAD REHABILITATION PROGRAM

Director: Paul Phelan, Director Assets

Executive Summary

This report is to brief Council on the tender evaluation process for the 2022-2023 Glenelg Shire Road Rehabilitation Program under Contract 2022-23-18 and provides recommendations regarding the awarding of this contract.

Recommendation

That Council:

1. Award Separable Portions B, C and D of Contract 2022-23-18, 2022-2023 Glenelg Shire Road Rehabilitation Program, to Porthaul Civil Pty Ltd.
2. Authorise the Chief Executive Officer to execute all documents relating to this contract.
3. Authorise the Director Assets to complete all financial payments and endorse variations as applicable relating to this contract.

Deputy Mayor Cr Smith re declared a Conflict in item 14.6 Contract 2022-23-18 2022-2023 Glenelg Shire Road Rehabilitation Program left the meeting at 8:14 pm.

MOTION

MOVED Cr Stephens

That Council:

1. **Award Separable Portions B, C and D of Contract 2022-23-18, 2022-2023 Glenelg Shire Road Rehabilitation Program, to Porthaul Civil Pty Ltd.**
2. **Authorise the Chief Executive Officer to execute all documents relating to this contract.**
3. **Authorise the Director Assets to complete all financial payments and endorse variations as applicable relating to this contract.**

SECONDED Cr Wilson

CARRIED

FOR: Mayor Cr Martin, Cr Hawker, Cr Wilson, Cr Carr and Cr Stephens

AGAINST: Nil

The meeting was paused at 8.16 in accordance with clause 2.3.4 of the Governance Rules whilst Cr Carr reconnected virtually to the meeting.

Deputy Mayor Cr Smith returned to the meeting at 8:18 pm.

Background/Key Information:

This contract has a program of works including separate part components, including:

- Separable Part A: Noss Retreat Road Rehabilitation;
- Separable Part B: Retreat Settlement Road Rehabilitation;
- Separable Part C: Heath Road Rehabilitation;
- Separable Part D: Mumbannar-Wanwin Road Rehabilitation;
- Separable Part E: Cashmore Road Rehabilitation.

Noss Retreat Road (west of Retreat Hummocks Road), Retreat Settlement Road (north of Retreat Homestead Road), and Heath Road (north of Bridgewater Lakes Road) were identified through the asset management process as requiring rehabilitation works to ensure the road meets community expectations and prolong the life of each road.

Mumbannar-Wanwin Road (between Princes Highway and Wilsons Road) was identified through Timber Industry Road Evaluation Studies rehabilitation works to ensure the road meets community expectations, improves the efficiency of plantation timber extraction in the south of the shire and to prolong the life of the road.

Public Tenders were called on Thursday 25 August 2022 and closed at 3pm on Tuesday 29 September 2022. At the closure of the tender submission period a total of four (4) submissions were received from the following:

- Berne Fleming Civil Pty Ltd;
- Mibus Bros. Pty Ltd;
- Gambier Earth Movers Proprietary Limited; and
- Porthaul Civil Pty Ltd.

The Tender Evaluation Panel considered the tender submissions, taking into account the selection criteria and weighting which covers tender price, resources and capacity of the tenderer, quality, reliability and past performance of the tenderer, Occupational Health and Safety, economic contribution to the Glenelg Shire and environmental sustainability considerations.

The Tender Evaluation Panel has recommended that Council award Separable Portions B, C and D of Contract 2022-23-18, 2022-2023 Glenelg Shire Road Rehabilitation Program, to Porthaul Civil Pty Ltd.

a. Council Plan and Policy Linkage

Our Voice and Action - A highly engaged and capable local government, leading Glenelg to ensure the needs and aspirations of our community are realised.

b. Legislative, Legal and Risk Management Considerations

All legal and legislative requirements have been considered.

c. Consultation and/or communication processes implemented or proposed

Tenders were invited in accordance with Council's procurement policy and communications with prospective tenderers were via Council's Tender link website to ensure a fair and transparent platform for tendering.

Notification to the preferred tenderers will also be provided following Council's resolution to relating to this contract.

d. Financial Implications and Collaboration

Expenditure associated with the 2022-23 Glenelg Shire Council Rehabilitation Program project has been incorporated into current and future Council budget forecasts. Due to a large increase in market rates elements of the contract are not proposed to be awarded to suit budget constraints. These projects will remain on the program for future years funding.

e. Governance Principles

Local, Regional, state and national plans and policies are to be taken into account in strategic planning and decision making.

Attachment List

Separately circulated as a confidential attachment,

15. CONFIDENTIAL REPORTS

Nil.

16. URGENT BUSINESS

Nil.

17. CLOSURE OF COUNCIL MEETING

THERE BEING NO FURTHER BUSINESS, THE MAYOR DECLARED THE MEETING CLOSED AT 8:18 pm.

I HEREBY CERTIFY THAT PAGES 1 TO 29 CONFIRMED AND ARE A TRUE AND CORRECT RECORD.

CR SCOTT MARTIN
MAYOR

13 December 2022

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