



**Pyrenees**  
Shire Council

**MINUTES**  
**Special Meeting of Council**

**6:00pm Tuesday 14 April 2020**  
**Avoca Information Centre**  
**AVOCA**



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## 1. ATTENDANCE

Mayor Cr Tanya Kehoe welcomed all to the meeting and read the live stream preamble.

### PRESENT

**Mayor:** Cr Tanya Kehoe

**Councillors:** Ron Eason, David Clark, Robert Vance, Damian Ferrari

### IN ATTENDANCE

**Chief Executive Officer:** Jim Nolan

**EA to CEO and Councillors:** Jane Bowker (Minute Taker)

**Communications Officer:** Kate Deppeler

### VIA WEBINAR

**Director Asset and Development Services:** Douglas Gowans

**Director Corporate and Community Services:** Kathy Bramwell

## 2. OPENING PRAYER

The Mayor read the opening prayer.

## 3. ACKNOWLEDGEMENT OF COUNTRY

The Mayor acknowledged the people past and present of the Wadawurrung, Dja Dja Wurrung, and Djab Wurrung tribes, whose land forms the Pyrenees Shire.

## 4. APOLOGIES

Nil

## 5. NOTICE OF DISCLOSURE OF INTEREST BY COUNCILLORS AND OFFICERS

CEO Jim Nolan disclosed an interest in Item 6.3

## 6. ITEMS FOR DECISION

### CORPORATE AND COMMUNITY SERVICES

#### 6.1. PROPOSED BUDGET 2020/21

**James Hogan – Manager Finance**

**Declaration of Interest:** As author of this report I have no disclosable interest in this item.

**File No:** 32/08/18

#### PURPOSE

The purpose of this report is for Council to consider the Proposed Budget for 2020/21 for approval to exhibit, in accordance with the requirements of section 127 of the Local Government Act (the Act).

#### BACKGROUND

Section 127 of the Act requires Council to prepare a budget for each financial year and provide the opportunity for people to make a submission under section 223 of the Act on any proposal contained in the budget.

The Proposed Budget for 2020/21 has been prepared by Councillors and Council Officers and guided by Community Action Plans and Strategies.

Council is required to give public notice that copies of the Proposed Budget are available for inspection for a minimum period of 28 days and invite submissions.

The Council Budget is the tool which guides Council's operations throughout a twelve month period. The Proposed Budget has been drawn up after significant discussion with Council staff and Councillors and contains information as to how Council will direct its financial resources during the next twelve months.

The Proposed Budget document sets out the reasoning behind the many decisions Council has made in order to arrive at this point of its Budget. Council must now seek further community input before determining its Budget.

#### ISSUE / DISCUSSION

The Draft Budget for 2020/21 has been prepared by Councillors and Council officers.

The budget includes a rate increase of 2.00%, which is the rate cap set by the Minister for Local Government under the Fair Go Rates System.

Rate revenue from rate increases above rate cap in the previous 4 years have been reserved specifically for capital expenditure on renewing Council's road infrastructure assets. In order to balance the remainder of the budget, Council has continued to pursue operational savings and efficiencies which will enable it to deliver high quality, responsive and accessible services to the community.

The 2020/21 budget has been prepared in line with the Rating Strategy adopted in January 2019.

Council's waste management service is fully funded by waste service and user charges. The 2020/21 Charge includes additional costs related to Glass collection and disposal, e-Waste Collection and Disposal, and an increase to the EPA Levy. Residents with kerbside collections will experience a 17% increase in their garbage charges, residents on improved properties without kerbside collections will experience a 29% increase to their garbage charges, and unimproved properties will experience a 0% increase in their garbage charges.

The Draft Budget includes Capital Works of \$7.041M. Highlights of the 2020/21 Capital Program include:

- Gravel Roads \$953,000
- Reseals at various locations \$846,000
- Council funded Bridge and Drainage works of \$708,000
- Roads to Recovery funded works of \$2.09M
- Swimming pool upgrades of \$60,000

Additionally, the draft budget includes \$1M in projects to be delivered under the second round of Economic Stimulation Funding for Drought Affected Communities. Projects to be delivered with the assistance of this funding include:

**Round 1 Funding**

- Improved water infrastructure \$280,000
- Footpath improvements \$150,000
- Sewer extension at Carngham Recreation Reserve \$90,000
- Caravan park improvements \$270,000
- Car park at Natte Yallock Recreation Reserve \$110,000
- Future building in small towns \$100,000

**Round 2 Funding**

- Avoca Bowls Club facility upgrade \$275,000
- Footpath improvements \$100,000
- Hall improvements \$250,000
- Beaufort Lake Foreshore amenity improvements \$125,000
- Tree planting \$50,000
- Improved water Infrastructure \$95,000
- Snake Valley Linear Park – paths \$60,000
- Waubra Recreation Reserve – tennis facility upgrade \$45,000

The focus for the next year is to continue to deliver on the projects and services that make the Shire a great place to live, work and invest in, and respond to the challenges we are currently facing. These challenges include:

- Rate capping
- State government cost shifting
- Maintaining our road infrastructure
- Climate change impacts

Property revaluations are now done annually and, although Council's rate increase is 2.00%, actual rate increases of individual properties are impacted by changes in property valuations with individual rate increases dependent on relativity to average valuation increases across the municipality. This means that if your property value increased by more than the average property value increase for the Shire, then your rates will increase by more than 2.00%; however, if your property value increased by less than the average property value increase for the Shire, your rates will increase by less than 2.00% and may in fact reduce from the previous year.

## **COUNCIL PLAN / LEGISLATIVE COMPLIANCE**

Under Section 127 of the Local Government Act 1989, Council must prepare a Budget for each financial year. There are stipulations as to what must be included in the Budget and the Budget document meets those requirements. Any person has the right to make a submission on any proposal contained in the Budget. Following completion of the statutory obligations Council may adopt the Budget.

## **ATTACHMENTS**

6.1.1 – Proposed Budget 2020-21 (*circulated separately*)

## **FINANCIAL / RISK IMPLICATIONS**

All financial implications associated with this report have been accounted for within the 2020/21 Proposed Budget.

## **CONCLUSION**

The Proposed Budget 2020/21 has been developed in alignment with the Revised Council Plan 2017 to 2021. The proposed 2020/21 budget as tabled provides guidance on how Council intends to deliver its strategic objectives over the next twelve months.

## **CR EASON / CR VANCE**

That Council:

1. Endorses the 2020/21 proposed Budget for advertising and that Council give public notice of its preparation and invite public submissions to be received up until 5.00pm Friday 15 May 2020.
2. Releases the proposed Budget documents to the public on Wednesday 15 April 2020.
3. Meets to hear any submissions in person or consider any submissions received at 4.00pm on Tuesday 19 May 2020. Under current COVID-19 arrangements, anyone wishing to make a personal presentation to Council will be invited to do this via virtual means (audio / visual teleconference). Arrangements for this will be facilitated by Council staff.
4. At its Ordinary Meeting on Tuesday 9 June 2020, resolves to adopt with or without amendments, the 2020/21 Budget.

**CARRIED**

## **6.2. UNUSED ROAD – BEAUFORT (PARALLEL TO MITCHELL STREET)**

**Kathy Bramwell – Director Corporate and Community Services**

**Declaration of Interest:** As author of this report I have no disclosable interest in this item.

**File No:** 30/02/08

### **PURPOSE**

The purpose of this report is for Council to consider making a determination that a section of government road, in the township of Beaufort, is not considered to be required for public traffic and is an unused road.

### **BACKGROUND**

Council has received a request from a property owner, seeking that Council gives notice to the Secretary of the Department of Environment Land Water and Planning, advising that the section of unused government road, North East of Crown Allotments 6 and 7, Section 49 in the parish of Beaufort, is not required for public traffic and is unused, in accordance with section 400 of the *Land Act 1958*.

The land owner has made an application to the Department of Environment Land Water and Planning, to licence the described portion of road in accordance with section 138 of the *Land Act 1958*, for the purposes of grazing.

### **ISSUE / DISCUSSION**

Before the Department of Environment Land Water and Planning can enter into a licence agreement over the described land, Council must have first provided notice that the road is not required for public traffic and is unused.

The portion of road is not currently on Council's road register and is not made or maintained.

The intent to licence was advertised in the Pyrenees Advocate – Public Notice on the 19<sup>th</sup> July 2019.

### **COUNCIL PLAN / LEGISLATIVE COMPLIANCE**

Strategic Objective 5 - Development and Environment. We will undertake forward planning, and facilitate growth in our local economy while protecting key natural and built environmental values.

Section 400 of the Land Act 1958, provides that *"a municipal council may give notice to the Secretary that any road or part of a road which is within the municipal district of that council and which it considers is not required for public traffic is an unused road and upon the giving of any such notice any such road or part of a road specified therein shall be an unused road"*.

### **ATTACHMENTS**

6.2.1 - Location map and evidence of public advertising of intent

### **FINANCIAL / RISK IMPLICATIONS**

The management responsibility that currently rests with Council will be transferred to the applicant at such time as a licence under section 138 of the Land Act is issued.

### **CONCLUSION**

Giving notice that the portion of road is not required for public traffic and is unused, will not impact access to other freehold properties.

**CR FERRARI / CR CLARK**

That Council gives notice to the Secretary of the Department of Environment Land Water and Planning, advising that the section of unused government road, North East of Crown Allotments 6 and 7, Section 49 in the parish of Beaufort, is not required for public traffic and is unused, in accordance with section 400 of the *Land Act 1958*.

**CARRIED**



## CHIEF EXECUTIVE OFFICER

### 6.3. COUNCIL TO CHIEF EXECUTIVE OFFICER DELEGATION – EMERGENCY POWERS

**Jim Nolan – Chief Executive Officer**

**Declaration of Interest:** As author of this report I have an interest in this item as it relates to the delegation of powers to the Chief Executive Officer

**File No:** 16/20/08

#### PURPOSE

The purpose of this report is for Council to review the Instrument of Delegation to the Chief Executive Officer, to enable the continuation of good governance and operations of Council during a State of Emergency.

#### BACKGROUND

The *Local Government Act* and other legislation provides for the appointment of delegates to act on behalf of Council. This is because Council is a legal entity composed of individual councillors that can only act by resolution, or through others acting on its behalf by way of delegations. Essentially, delegations enable day to day decisions to be made, without the need for resolutions by Council.

A State of Emergency has been declared in relation to the COVID-19 pandemic, which is expected to have far reaching and lengthy implications for the community. Due to the pandemic, there is a risk that Council meetings cannot be held, or a quorum at meetings cannot be achieved due to councillor illness or self-isolation. Three councillors are required to be present for a Council meeting to proceed, and there is currently no provision in the *Local Government Act* permitting councillors to attend meetings electronically.

To ensure Council operations continue to function during the pandemic, it is deemed necessary to enhance the Chief Executive Officer's delegations.

#### ISSUE / DISCUSSION

The attached Instrument of Delegation has been prepared to include a clause that enhances the Chief Executive Officer's powers during a State of Emergency that affects Pyrenees Shire, when Council meetings cannot be held or a quorum of Councillors cannot be achieved.

At such times, the Chief Executive Officer would be able to make decisions on behalf of Council beyond that which is currently permitted. However, it is important to note that section 98(1) of the *Local Government Act 1989* states certain functions cannot be delegated and require a decision of Council such as the adoption of the budget. Should a Council meeting or quorum not be achievable at the time the budget requires adoption, it will be possible to seek an extension of time to do so from the Minister.

It is intended that any decisions made under the State of Emergency clause in the revised Instrument of Delegation would be reported to Council at the next possible Council meeting.

The Instrument of Delegation has been prepared based on a template provided by Maddocks' delegations service, with a new clause enhancing the Chief Executive Officer's powers during a State of Emergency when Council meetings cannot be held or a quorum of councillors cannot be achieved.

In addition, the delegation has been amended to include provision for the Chief Executive to be able to award a contract up to the value of \$4,000,000.

Maddocks recommended councils review their Instrument of Delegation to the Chief Executive Officer, to enable the continuation of Council operations during the COVID-19 pandemic should it become impossible to hold Council meetings.

The proposed change to the Instrument of Delegation has been discussed with Councillors, and is consistent with the approach taken by other councils.

### **COUNCIL PLAN / LEGISLATIVE COMPLIANCE**

Strategic Objective 4 - Financially Sustainable, High-performing Organisation. Our organisation will respond to community needs, attend to our core business, and strive for excellence in service delivery in an ethical and financially responsible manner.

4.4 - Develop our systems to support and enable our people to deliver efficient and quality services which are cost effective.

### **ATTACHMENTS**

6.3.1 - S5 Instrument of Delegation to Chief Executive Officer (*circulated separately*)

### **FINANCIAL / RISK IMPLICATIONS**

If Council does not amend its delegation to the Chief Executive Officer, there is a risk that important decisions will not be able to be made as a result of Council not being able to form a quorum at a Council Meeting. This in turn will impede the operations of council business and the delivery of critical capital projects.

### **CONCLUSION**

Council, as a legal entity only capable of making decisions by resolution, delegates its powers to Council staff to enable day to day decisions to be made, without the need for Council resolutions.

The current COVID-19 pandemic may result in Council being unable to meet or a quorum of Councillors unable to be achieved due to illness or self-isolation. To ensure Council operations continue during the pandemic, Council's Instrument of Delegation to the Chief Executive Officer has been reviewed and updated. A new clause had been added to enable the Chief Executive Officer to make greater decisions on behalf of Council during a State of Emergency that affects Pyrenees Shire Council, when Council meetings cannot be held or a quorum cannot be achieved, and to award contracts not exceeding \$4,000,000 in value.

### **OFFICER RECOMMENDATION**

That Council:

1. Resolves that there be delegated to the person holding the position, 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. Resolves that the Instrument comes into force immediately the common seal of Council is affixed to the Instrument.
3. Resolves that on the coming into force of the Instrument all previous delegations to the Chief Executive Officer are revoked.
4. Resolves that 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.
5. Notes that the Instrument includes a power of delegation to members of Council staff, in accordance with section 98(3) of the Act.
6. Resolves that the common seal be affixed to the instrument.

**CR CLARK / CR FERRARI**

That Council:

1. Resolves that there be delegated to the person holding the position, 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 up to the amount of \$400,000.
2. Resolves that the Instrument comes into force immediately the common seal of Council is affixed to the Instrument.
3. Resolves that on the coming into force of the Instrument all previous delegations to the Chief Executive Officer are revoked.
4. Resolves that 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.
5. Notes that the Instrument includes a power of delegation to members of Council staff, in accordance with section 98(3) of the Act.
6. Resolves that the common seal be affixed to the instrument.

**CARRIED**



## **S5 Instrument of Delegation to the Chief Executive Officer**

In exercise of the power conferred by section 98(1) of the Local Government Act 1989 (the Act) and all other powers enabling it, the Pyrenees Shire Council (Council) delegates to the member of Council staff holding, acting in or performing the position of Chief Executive Officer, the powers, duties and functions set out in the Schedule to this Instrument of Delegation,

AND declares that

1. this Instrument of Delegation is authorised by a Resolution of Council passed on 14<sup>th</sup> April 2020;
2. the delegation
  - 2.1 comes into force immediately the common seal of Council is affixed to this Instrument of Delegation;
  - 2.2 is subject to any conditions and limitations set out in the Schedule;
  - 2.3 must be exercised in accordance with any guidelines or policies which Council from time to time adopts; and
  - 2.4 remains in force until Council resolves to vary or revoke it.
3. The member of Council staff occupying the position or title of or acting in the position of Chief Executive Officer may delegate to a member of Council staff any of the powers (other than the power of delegation conferred by section 98(3) of the Act or any other powers not capable of sub-delegation) which this Instrument of Delegation delegates to him or her.

The Common Seal of the

Pyrenees Shire Council was here

Unto affixed in the presence of:

Councillor: .....

Chief Executive Officer: .....

Dated: .....



#	Item Delegated / Authorisation	Conditions and Limitations	Delegate / Authorised Officer	Date
298414	<p>SCHEDULE</p> <p>The power to</p> <ol style="list-style-type: none"> <li>1. determine any issue;</li> <li>2. take any action; or</li> <li>3. do any act or thing</li> </ol> <p>arising out of or connected with any duty imposed, or function or power conferred on Council by or under any Act.</p>	<p>The delegate must not determine the issue, take the action or do the act or thing</p> <ol style="list-style-type: none"> <li>4. if the issue, action, act or thing is an issue, action, act or thing which involves                             <ol style="list-style-type: none"> <li><b>4.1 awarding a contract exceeding the value of \$400,000;</b></li> <li>4.2 making a local law under Part 5 of the Act;</li> <li>4.3 approval of the Council Plan under s.125 of the Act;</li> <li>4.4 adoption of the Strategic Resource Plan under s.126 of the Act;</li> <li>4.5 preparation or adoption of the Budget or a Revised Budget under Part 6 of the Act;</li> <li>4.6 adoption of the Auditor's report, Annual Financial Statements, Standard Statements and Performance Statement under Part 6 of the Act;</li> <li>4.7 determining pursuant to s.37 of the Act that an extraordinary vacancy on Council not be filled;</li> <li>4.8 exempting a member of a special committee who is not a Councillor from submitting a return under s.81 of the Act;</li> <li>4.9 appointment of councillor or community delegates or representatives to external organisations; or</li> <li>4.10 the return of the general valuation and any supplementary valuations;</li> </ol> </li> <li>5. if the issue, action, act or thing is an issue, action, act or thing which is required by law to be done by Council resolution;</li> <li>6. if the issue, action, act or thing is an issue, action or thing which Council has previously designated as an issue, action, act or thing which must be the subject of a Resolution of Council;</li> <li>7. if the determining of the issue, taking of the action or doing of the act or thing would or would be likely to involve a decision which is inconsistent with a                             <ol style="list-style-type: none"> <li>7.1 policy; or</li> <li>7.2 strategy</li> </ol>                             adopted by Council; or                             <ol style="list-style-type: none"> <li>8. if the determining of the issue, the taking of the action or the doing of the act or thing cannot be the subject of a lawful delegation, whether on account of section 98(1)(a)-(f) (inclusive) of the Act or otherwise; or</li> </ol> </li> </ol>	CEO	

#	Item Delegated / Authorisation	Conditions and Limitations	Delegate / Authorised Officer	Date
298414 cont.	<p>SCHEDULE</p> <p>The power to</p> <ol style="list-style-type: none"> <li>1. determine any issue;</li> <li>2. take any action; or</li> <li>3. do any act or thing</li> </ol> <p>arising out of or connected with any duty imposed, or function or power conferred on Council by or under any Act.</p>	<p>9. the determining of the issue, the taking of the action or the doing of the act or thing is already the subject of an exclusive delegation to another member of Council staff.</p>	CEO	
	<p>The power to make decisions outside of the conditions and limitations of item number 298414 above, on behalf of Council during a State of Emergency that affects Pyrenees Shire Council, when Council meetings cannot be held or a quorum cannot be achieved.</p>		CEO	

#### **6.4. REVIEW OF COUNCIL PLAN 2017-2021**

**Jim Nolan – Chief Executive Officer**

**Declaration of Interest:** As author of this report I have no disclosable interest in this item.

**File No:** 16/20/06

#### **PURPOSE**

The purpose of this report is for Council to endorse minor adjustments be made to the Council Plan 2017-2021 following a recent review of the plan, and resolve to give public notice and invite submissions be made on the adjustments.

#### **BACKGROUND**

Section 125 (7) of the Local Government Act 1989 requires that *“at least once in each financial year, a Council must consider whether the current Council Plan requires any adjustment in respect of the remaining period of the Council Plan”*.

Councillors participated in an annual planning day in December 2019, and the need for some minor amendments was discussed at a Councillor Briefing Session held 31 March 2020. A copy of the revised Council Plan document has been circulated to Councillors.

#### **ISSUE / DISCUSSION**

The minor changes to the plan include:

- The layout of the Plan and the inclusion of initiative numbering to assist in reporting.
- Inclusion of a number of new initiatives including initiatives relating to:
  - Impact and response to COVID-19.
  - 2020 Council election.
  - Implementation of the transition provisions for the new Local Government Act 2020.
  - Key capital projects including Correa Park, Lexton Hub, Snake Valley and Avoca projects, road projects and Drought Communities Program.
  - Organisation development including implementation of transformation program, and the Frontline Services Review.
  - Commitment to long term planning such as Pyrenees Futures, Housing strategy and Rural Land use strategy.

Having considered the changes, and in accordance with section 125 (8) and (9) of the 1989 Act, give public notice in accordance with section 223 and invite submissions on the proposed adjustments to the Council Plan document.

#### **COUNCIL PLAN / LEGISLATIVE COMPLIANCE**

Strategic Objective 4 - Financially Sustainable, High-performing Organisation. Our organisation will respond to community needs, attend to our core business, and strive for excellence in service delivery in an ethical and financially responsible manner.

While the Local Government Act 2020 received Royal Assent on 24 March 2020, the Transitional Arrangements provide for the new Act to be proclaimed in four stages over 2020 and 2021. The provisions relating to the review and amendment of the existing Council Plan are to be dealt with under the 1989 Act.

Section 125 of the Local Government Act 1989 requires that:

- (7) *At least once in each financial year, a Council must consider whether the current Council Plan requires any adjustment in respect of the remaining period of the Council Plan.*

- (8) Subject to subsections (9) and (10), a [Council](#) may make any adjustment it considers necessary to the [Council Plan](#).
- (9) A [person](#) has a right to make a submission under section 223 on a proposed adjustment to a [Council Plan](#) which relates to a matter specified under subsection (2)(a), (2)(b) or (2)(c).

#### **ATTACHMENTS**

6.4.1 - Council Plan 2017-2021 containing proposed adjustments (*circulated separately*)

#### **FINANCIAL / RISK IMPLICATIONS**

The proposed adjustments to the Council have been considered in the draft 2020-2021 Council budget.

#### **CONCLUSION**

Having considered that the Council Plan 2017-2021 requires minor changes be made, and in accordance with the provisions of the Local Government Act 1989, the following recommendation is made.

#### **CR VANCE / CR EASON**

That Council having reviewed the Council Plan 2017-2021, and determined that minor adjustments are needed:

1. Gives public notice in accordance with section 223 of the Local Government Act and invites submissions to be made on the adjustments to the Council Plan 2017-2021.
2. Considers any submissions at a Council Meeting to be held on Tuesday 19th May 2020.

**CARRIED**



## **7. CONFIDENTIAL ITEMS**

### **CLOSURE OF MEETING TO MEMBERS OF THE PUBLIC**

That pursuant to the provisions of Section 89(2) of the Local Government Act 1989, the meeting be closed to the public in order to consider contractual matters.

### **CR CLARK / CR FERRARI**

That the meeting be closed to members of the public under Section 89(2) of the Local Government Act 1989, in order to discuss contractual matters considered in the reports on:-

7.1 Contract 2020/002 Residential Subdivision Works, Correa Park, Beaufort

**CARRIED**

## 8. RE-OPENING OF MEETING TO MEMBERS OF THE PUBLIC

### CR VANCE / CR FERRARI

That Council, having considered the confidential items, re-opens the meeting to members of the public.

**CARRIED**

### The Mayor chose to report on the matter discussed in Closed Council and is noted below:

Council resolved to award Contract C2020/002 for the residential 39 lot subdivision works (Stage 4 and 5) in Correa Park Beaufort to Pipecon Pty Ltd.

## 9. CLOSE OF MEETING

Meeting closed at 6.36pm

Minutes of the meeting confirmed \_\_\_\_\_

2020

Mayor