



# WELLINGTON

## SHIRE COUNCIL

*The Heart of Gippsland*

### Resolutions In Brief

**To be read in conjunction with Ordinary Council Meeting Agenda  
18 October 2016**

#### **PRESENT**

Councillor – Darren McCubbin – Mayor  
Councillor - John Duncan  
Councillor - Malcolm Hole  
Councillor – Bob Wenger  
Councillor – Peter Cleary  
Councillor - Emilie Davine  
Councillor – Carolyn Crossley  
Councillor – Scott Rossetti  
Councillor – Patrick McIvor

#### **IN ATTENDANCE**

David Morcom – Chief Executive Officer  
Glenys Butler – General Manager Community & Culture  
Tracey Cummings – Acting General Manager Corporate Services  
Chris Hastie – General Manager Built and Natural Environment  
Joshua Clydesdale - Acting General Manager Development  
Trish Dean – Governance Officer

#### **ABSENT**

Arthur Skipitaris – General Manager Corporate Services  
John Websdale - General Manager Development

**ITEM A4****ADOPTION OF MINUTES OF PREVIOUS MEETING/S****CARETAKER STATEMENT**

*The recommended decision is not a “Major Policy Decision” as defined in section 94A of the Local Government Act 1989 or a “Significant Decision” within the meaning of this policy.*

**OBJECTIVE**

To adopt the minutes of the Ordinary Council Meeting of 4 October 2016 as tabled.

**PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY****RECOMMENDATION**

*That Council adopt the minutes and resolutions of the Ordinary Council Meeting of 4 October 2016 as tabled.*

**COUNCILLOR WENGER / COUNCILLOR HOLE**

*That Council adopt the minutes and resolutions of the Ordinary Council Meeting of 4 October 2016 as tabled*

**CARRIED**

**ITEM A5****BUSINESS ARISING FROM PREVIOUS MEETING/S**

NIL

**ITEM A6****ACCEPTANCE OF LATE ITEMS**

NIL

**ITEM A7****NOTICE OF MOTIONS**

NIL

**ITEM A8****RECEIVING OF PETITIONS OR JOINT LETTERS**

NIL

**ITEM A8(1)****OUTSTANDING PETITIONS**

ITEM	FROM MEETING	COMMENTS	ACTION BY
Removal of Handrail on gangway next to McLoughlin's Beach Boat Ramp	16 August 2016	Item to lay on the table until further notice	General Manager Built & Natural Environment

**ITEM A8(2)**

**RECEIPT OF PETITION – REQUEST A FOOTPATH OR GRAVEL  
PATHWAY FROM SKEELS STREET TO THE CEMETERY IN  
TYSON ROAD HEYFIELD**

**OBJECTIVE**

To present Council with a petition in relation to a request for a footpath or gravel pathway from Skeels Street to the Cemetery in Tyson Road Heyfield.

**PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY**

**RECOMMENDATION**

*That Council receive the attached petition in relation to a request for a footpath or gravel pathway from Skeels Street to the Cemetery in Tyson Road Heyfield.*

**COUNCILLOR HOLE / COUNCILLOR WENGER**

*That Council receive the attached petition in relation to a request for a footpath or gravel pathway from Skeels Street to the Cemetery in Tyson Road Heyfield.*

**CARRIED**

**ITEM A8(3)**

**RESPONSE TO PETITION TO STOP BAND PRACTICE AT 322-  
324 YORK STREET SALE**

**CARETAKER STATEMENT**

*The recommended decision is not a “Major Policy Decision” as defined in section 94 A of the Local Government Act 1989 or a “Significant Decision” within the meaning of this policy.*

**OBJECTIVE**

To consider and respond to a petition submitted to Council in relation to weekly band practice at 322-324 York Street Sale.

**PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY**

**RECOMMENDATION**

***That Council:***

- 1. Write to the head petitioner advising that negotiations have been undertaken and a mutually agreed position has been developed whereby the band will only practice from the York Street premises on Tuesday and/or Thursday evenings from 5.30pm to 7.30pm; and***
- 2. Acknowledges that should the band practice outside these agreed hours, a Prohibition Notice under the Public Health and Wellbeing Act 2008 can be issued.***

**COUNCILLOR CROSSLEY / COUNCILLOR CLEARY**

***That Council:***

- 1. Write to the head petitioner advising that negotiations have been undertaken and a mutually agreed position has been developed whereby the band will only practice from the York Street premises on Tuesday and/or Thursday evenings from 5.30pm to 7.30pm; and**
- 2. Acknowledges that should the band practice outside these agreed hours, a Prohibition Notice under the Public Health and Wellbeing Act 2008 can be issued.**

**CARRIED**

**ITEM A9**

**INVITED ADDRESSES, PRESENTATIONS OR  
ACKNOWLEDGEMENTS**

Councillor Wenger attended the History of Giffard, Darriman and District, Giffard West book presentation which was attended by more than 180 attendees. Councillor Wenger presented the Mayor with a book celebrating the history of the Giffard and Darriman District.

Councillor Rossetti left the chamber at 6:11pm  
Councillor Rossetti returned to the chamber at 6:12pm

**ITEM A10**

**QUESTIONS ON NOTICE**

**NIL**

**ITEM A11**

**MAYOR'S REPORT**

**CARETAKER STATEMENT**

*The recommended decision is not a "Major Policy Decision" as defined in section 94 A of the Local Government Act 1989 or a "Significant Decision" within the meaning of this policy.*

**RECOMMENDATION**

***That the Mayor's report be noted.***

**COUNCILLOR ROSSETTI / COUNCILLOR WENGER**

***That the Mayor's report be noted.***

**CARRIED**

**ITEM B**

**DELEGATES REPORT**

**NIL**

**ITEM C1.1****SEPTEMBER 2016 PERFORMANCE REPORT****CARETAKER STATEMENT**

*The recommended decision is not a “Major Policy Decision” as defined in section 94A of the Local Government Act 1989 or a “Significant Decision” within the meaning of this policy.*

**OBJECTIVE**

For Council to receive and note the September 2016 Council Performance Report.

**PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY****RECOMMENDATION**

*That Council receive and note the September 2016 Council Performance Report as attached.*

**COUNCILLOR CLEARY / COUNCILLOR McIVOR**

*That Council receive and note the September 2016 Council Performance Report as attached.*

**CARRIED**

**ITEM C1.2****CHIEF EXECUTIVE OFFICER’S REPORT****CARETAKER STATEMENT**

*The recommended decision is not a “Major Policy Decision” as defined in section 94 A of the Local Government Act 1989 or a “Significant Decision” within the meaning of this policy.*

**RECOMMENDATION**

*That the Chief Executive Officer’s Report be received.*

**COUNCILLOR McIVOR / COUNCILLOR ROSSETTI**

*That the Chief Executive Officer’s Report be received.*

**CARRIED**

**ITEM C2.1****ASSEMBLY OF COUNCILLORS****CARETAKER STATEMENT**

*The recommended decision is not a "Major Policy Decision" as defined in section 94A of the Local Government Act 1989 or a "Significant Decision" within the meaning of this policy.*

**OBJECTIVE**

To report on all assembly of Councillor records received during the period 27 September 2016 to 11 October 2016.

**PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY****RECOMMENDATION**

*That Council note and receive the attached Assembly of Councillor records received during the period 27 September 2016 to 11 October 2016.*

**COUNCILLOR DAVINE / COUNCILLOR CROSSLEY**

*That Council note and receive the attached Assembly of Councillor records received during the period 27 September 2016 to 11 October 2016.*

**CARRIED**

**ITEM C2.2****CONSIDERATION OF THE ANNUAL REPORT 2015/16****CARETAKER STATEMENT**

*The recommended decision is not a "Major Policy Decision" as defined in section 94A of the Local Government Act 1989 or a "Significant Decision" within the meaning of this policy.*

**OBJECTIVE**

To consider and receive the Annual Report 2015/16 for Wellington Shire Council, as attached.

**PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY****RECOMMENDATION**

*That Council consider and receive the Annual Report 2015/16, for Wellington Shire Council, in accordance with the requirements of the Local Government Act 1989.*

**COUNCILLOR ROSSETTI / COUNCILLOR HOLE**

*That Council consider and receive the Annual Report 2015/16, for Wellington Shire Council, in accordance with the requirements of the Local Government Act 1989*

**CARRIED**

**ITEM C3.1****QUARTERLY STRATEGIC LAND USE PLANNING UPDATE****CARETAKER STATEMENT**

*The recommended decision is not a “Major Policy Decision” as defined in section 94A of the Local Government Act 1989 or a “Significant Decision” within the meaning of this policy.*

**OBJECTIVE**

To update Council on the strategic land use planning work program for the third quarter of 2016.

**PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY****RECOMMENDATION**

*That Council receives the 2016 third quarterly update on the strategic land use planning work program (included in Attachment 1 to the report).*

**COUNCILLOR McIVOR / COUNCILLOR CLEARY**

*That Council receives the 2016 third quarterly update on the strategic land use planning work program (included in Attachment 1 to the report).*

**CARRIED**

**ITEM C3.2****PLANNING DECISIONS****CARETAKER STATEMENT**

*The recommended decision is not a “Major Policy Decision” as defined in section 94A of the Local Government Act 1989 or a “Significant Decision” within the meaning of this policy.*

**OBJECTIVE**

To provide a report to Council on recent planning permit trends and planning decisions, made under delegation by Statutory Planners during the month of August 2016, for information.

**PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY****RECOMMENDATION**

*That Council note the report on recent Planning Permit trends and Planning Application determinations between 1 August and 31 August 2016.*

**COUNCILLOR WENGER / COUNCILLOR CROSSLEY**

*That Council note the report on recent Planning Permit trends and Planning Application determinations between 1 August and 31 August 2016.*

**CARRIED**

## ITEM C4.1

## MERRY STREET MAFFRA SPECIAL CHARGE STREET CONSTRUCTION SCHEME – INTENTION TO DECLARE SCHEME

### CARETAKER STATEMENT

*The recommended decision is not a “Major Policy Decision” as defined in section 94A of the Local Government Act 1989 or a “Significant Decision” within the meaning of this policy.*

### OBJECTIVE

To consider the proposed Merry Street Special Charge Street Construction Scheme Number 1603 for declaration as a Special Charge Scheme for the section of Merry Street, Maffra, between Powerscourt Street and 105m west of Powerscourt Street.

### RECOMMENDATION

***That:***

- 1. Council commences the statutory process under the Local Government Act 1989 (the Act) to declare a Special Charge Scheme for the purposes of constructing the section of Merry Street, Maffra, between Powerscourt Street and 105m west of Powerscourt Street and providing any ancillary works including drainage;***
- 2. Council in accordance with sections 163(1A) and 163B(3) of the Act, directs that a public notice be given in the Gippsland Times newspaper of the intention of Council to declare the scheme at its ordinary meeting to be held on 7 February 2017 in accordance with the proposed declaration of Special Charge Scheme Number 1603 in the form of this resolution for the full construction of the section of Merry Street, Maffra, between Powerscourt Street and 105m west of Powerscourt Street;***
- 3. Council directs that in accordance with section 163(1C) of the Act, separate letters enclosing a copy of the public notice be sent to the owners of the properties referred to and set out in the schedule of properties forming a part of the Proposed Declaration of a Special Charge, advising of the intention of Council to declare the Special Charge at its ordinary meeting to be held on 7 February 2017, the basis of the calculation and distribution of the Special Charge and notifying such persons that submissions and/or objections in writing in relation to the Proposed Declaration of Special Charge will be considered and/or taken into account by Council in accordance with sections 163A, 163B and 223 of the Act;***



4. *If written submissions/objections are received Council form the 'Merry Street Maffra- Special Charge Scheme Submissions Committee' that is established by Council under section 223(1)(b)(i) of the Act, to consider written submissions/objections and to hear any persons who in their written submissions under section 223 of the Act have requested that they be heard in support of their submissions/objections;*
5. *That Scheme Number 1603 for construction of the section Merry Street, Maffra, between Powerscourt Street and 105m west of Powerscourt Street as presented to this meeting be adopted and a Special Charge for the scheme commences 7 February 2017 and remain in force for a period of ten years;*
6. *The Special Charge be declared for the purpose of defraying costs associated with street construction (including drainage) which Council considers will be of benefit to those property owners required to pay the special charge;*
7. *The following be specified as the land in relation to which the special charges is so declared: All properties abutting the section of Merry Street between Powerscourt Street and 105m west of Powerscourt Street, within the township of Maffra intended to be included in the scheme as defined on the plan attached to this report;*
8. *The following be specified as the criteria which forms the basis of the special charge so declared:-*
  - *Properties will derive special benefit due to construction of the roads and streets by:-*
    - *Reduction in dust*
    - *Enhance the amenity and character of the land and local area*
    - *Creation of improved riding surfaces for the street*
    - *Improved access and egress from properties*
    - *Improved road drainage*
    - *Improved road safety for motorists, cyclists and pedestrians;*
9. *That pursuant to Clause (2) of Section 163 of the Local Government Act 1989, Council resolves:-*
  - (a) *The total amount of the special charge to be levied is \$53,200*
  - (b) *The criteria used as a basis for declaring the special charge are:*
    - *Improved amenity for properties in the area defined by the scheme boundary.*
    - *Improved road safety for properties and the community in the area defined by the scheme boundary.*
  - *That for the purposes of Clause (2A) of Section 163 of the Local Government Act 1989 the total amount of the special charge to be levied will not exceed the amount calculated in accordance with the formula  $S = R \times C$* 

*Where S = The maximum total amount that may be levied from all persons who are liable to pay the special charges.*

*R = The Benefit Ratio pursuant to Clause (2B) of Section 163 of the Act*

*and C = The cost of the scheme*
  - *That for the purposes of Clause (2B) of Section 163 of the Local Government Act 1989, the Benefit Ratio R shall have a value of 0.40;*

- (c) The cost is to be apportioned to properties included in the scheme on the basis of each property having a frontage abuttal to the street to be constructed under the scheme will be apportioned one (1) Access Benefit Unit (ABU). Properties with a side abuttal to the street to be constructed under the scheme will be apportioned one (0.25) Access Benefit Unit (ABU);**

**10. Having regard to the preceding parts of this resolution, it be recorded that:**

- a) The owners of the properties described in the scheme document entitled "Merry Street – Maffra - Special Charge Street Construction Scheme Number 1603" are liable for the respective amounts set out in the scheme document. Council will be contributing 60% of the scheme costs;**
- b) Such owners may, subject to any further resolution by Council, pay the special charge per property/title in accordance with the following:**
- (i) the full amount within 45 days of invoice or;**
  - (ii) payment may be made over 20 quarterly instalments (5 years) including interest or;**
  - (iii) payment may be made over 40 quarterly instalments (10 years) including interest;**

**11. The Chief Executive Officer to be authorised to give public notice of this declaration in accordance with Sections 163 and 223 of the Local Government Act 1989;**

**12. The Chief Executive Officer, to be authorised to carry out any and all other administrative procedures necessary to enable Council to carry out its functions under section 163A and sections 163(1A), (1B) and (1C) and sections 163B and 223 of the Act.**

**COUNCILLOR DUNCAN / COUNCILLOR CROSSLEY**

**That:**

- 1. Council commences the statutory process under the Local Government Act 1989 (the Act) to declare a Special Charge Scheme for the purposes of constructing the section of Merry Street, Maffra, between Powerscourt Street and 105m west of Powerscourt Street and providing any ancillary works including drainage;**
- 2. Council in accordance with sections 163(1A) and 163B(3) of the Act, directs that a public notice be given in the Gippsland Times newspaper of the intention of Council to declare the scheme at its ordinary meeting to be held on 7 February 2017 in accordance with the proposed declaration of Special Charge Scheme Number 1603 in the form of this resolution for the full construction of the section of Merry Street, Maffra, between Powerscourt Street and 105m west of Powerscourt Street;**

3. ***Council directs that in accordance with section 163(1C) of the Act, separate letters enclosing a copy of the public notice be sent to the owners of the properties referred to and set out in the schedule of properties forming a part of the Proposed Declaration of a Special Charge, advising of the intention of Council to declare the Special Charge at its ordinary meeting to be held on 7 February 2017, the basis of the calculation and distribution of the Special Charge and notifying such persons that submissions and/or objections in writing in relation to the Proposed Declaration of Special Charge will be considered and/or taken into account by Council in accordance with sections 163A, 163B and 223 of the Act;***
4. ***If written submissions/objections are received Council form the 'Merry Street Maffra - Special Charge Scheme Submissions Committee' that is established by Council under section 223(1)(b)(i) of the Act, to consider written submissions/objections and to hear any persons who in their written submissions under section 223 of the Act have requested that they be heard in support of their submissions/objections;***
5. ***That Scheme Number 1603 for construction of the section Merry Street, Maffra, between Powerscourt Street and 105m west of Powerscourt Street as presented to this meeting be adopted and a Special Charge for the scheme commences 7 February 2017 and remain in force for a period of ten years;***
6. ***The Special Charge be declared for the purpose of defraying costs associated with street construction (including drainage) which Council considers will be of benefit to those property owners required to pay the special charge;***
7. ***The following be specified as the land in relation to which the special charges is so declared: All properties abutting the section of Merry Street between Powerscourt Street and 105m west of Powerscourt Street, within the township of Maffra intended to be included in the scheme as defined on the plan attached to this report;***
8. ***The following be specified as the criteria which forms the basis of the special charge so declared:-***
  - ***Properties will derive special benefit due to construction of the roads and streets by:-***
    - ***Reduction in dust***
    - ***Enhance the amenity and character of the land and local area***
    - ***Creation of improved riding surfaces for the street***
    - ***Improved access and egress from properties***
    - ***Improved road drainage***
    - ***Improved road safety for motorists, cyclists and pedestrians;***

**9. That pursuant to Clause (2) of Section 163 of the Local Government Act 1989, Council resolves:-**

- (a) The total amount of the special charge to be levied is \$53,200**
- (b) The criteria used as a basis for declaring the special charge are:**
  - **Improved amenity for properties in the area defined by the scheme boundary.**
  - **Improved road safety for properties and the community in the area defined by the scheme boundary.**
- **That for the purposes of Clause (2A) of Section 163 of the Local Government Act 1989 the total amount of the special charge to be levied will not exceed the amount calculated in accordance with the formula  $S = R \times C$   
Where  $S$  = The maximum total amount that may be levied from all persons who are liable to pay the special charges.  
 $R$  = The Benefit Ratio pursuant to Clause (2B) of Section 163 of the Act  
and  $C$  = The cost of the scheme**
- **That for the purposes of Clause (2B) of Section 163 of the Local Government Act 1989, the Benefit Ratio  $R$  shall have a value of 0.40;**
- (c) The cost is to be apportioned to properties included in the scheme on the basis of each property having a frontage abuttal to the street to be constructed under the scheme will be apportioned one (1) Access Benefit Unit (ABU). Properties with a side abuttal to the street to be constructed under the scheme will be apportioned one (0.25) Access Benefit Unit (ABU);**

**10. Having regard to the preceding parts of this resolution, it be recorded that:**

- a) The owners of the properties described in the scheme document entitled "Merry Street – Maffra - Special Charge Street Construction Scheme Number 1603" are liable for the respective amounts set out in the scheme document. Council will be contributing 60% of the scheme costs;**
- b) Such owners may, subject to any further resolution by Council, pay the special charge per property/title in accordance with the following:**
  - 1. the full amount within 45 days of invoice or;**
  - 2. payment may be made over 20 quarterly instalments (5 years) including interest or;**
  - 3. payment may be made over 40 quarterly instalments (10 years) including interest;**

**11. The Chief Executive Officer to be authorised to give public notice of this declaration in accordance with Sections 163 and 223 of the Local Government Act 1989;**

**12. The Chief Executive Officer, to be authorised to carry out any and all other administrative procedures necessary to enable Council to carry out its functions under section 163A and sections 163(1A), (1B) and (1C) and sections 163B and 223 of the Act.**

**CARRIED**

## ITEM C4.2

## ROAD DISCONTINUANCE – PART OF UNUSED GOVERNMENT ROAD AT BLACKWARRY

### CARETAKER STATEMENT

*The recommended decision is not a “Major Policy Decision” as defined in section 94A of the Local Government Act 1989 or a “Significant Decision” within the meaning of this policy.*

### OBJECTIVE

The objective of this report is for Council to consider a request by the Department of Environment, Land, Water & Planning (DELWP) for the discontinuance/closure and sale of a section of an unused Government Road adjoining Lot 1 PS 414931, on Youngs Road, Blackwarry. See attachments.

### PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY

#### RECOMMENDATION

***That:***

- 1. Pursuant to Section 349 of the Land Act 1958, Council resolves to give its concurrence to the closing of a section of Government road adjoining Lot 1 PS 414931, in the Parish of Callignee and shown red on the attached plans;***
- 2. Pursuant to Section 400 of the Land Act 1958, Council gives notice that the portion of Government road adjoining Lot 1 PS 414931 in the Parish of Callignee, is considered to not be required for public traffic and is therefore an unused road.***

**COUNCILLOR WENGER / COUNCILLOR CROSSLEY**

***That:***

- 1. Pursuant to Section 349 of the Land Act 1958, Council resolves to give its concurrence to the closing of a section of Government road adjoining Lot 1 PS 414931, in the Parish of Callignee and shown red on the attached plans;***
- 2. Pursuant to Section 400 of the Land Act 1958, Council gives notice that the portion of Government road adjoining Lot 1 PS 414931 in the Parish of Callignee, is considered to not be required for public traffic and is therefore an unused road.***

**CARRIED**



## **D. URGENT BUSINESS**

NIL



## **E. FURTHER GALLERY AND CHAT ROOM COMMENTS**

NIL – CHAT ROOM

MEETING DECLARED CLOSED 6:35PM