

SOUTH GIPPSLAND SHIRE COUNCIL

Council Meeting Agenda

15 February 2023

Council Meeting No. 479
Council Chambers, Leongatha
Commencing at 2:00pm

Invitation to the Community – Please come along to a *Welcome to Country* ceremony commencing at 1.30pm, please meet at the Council Chambers and you will be directed to the ceremony which will be within walking distance. The Council Meeting will commence in the Council Chambers following the ceremony.



agenda



*South Gippsland
Shire Council*

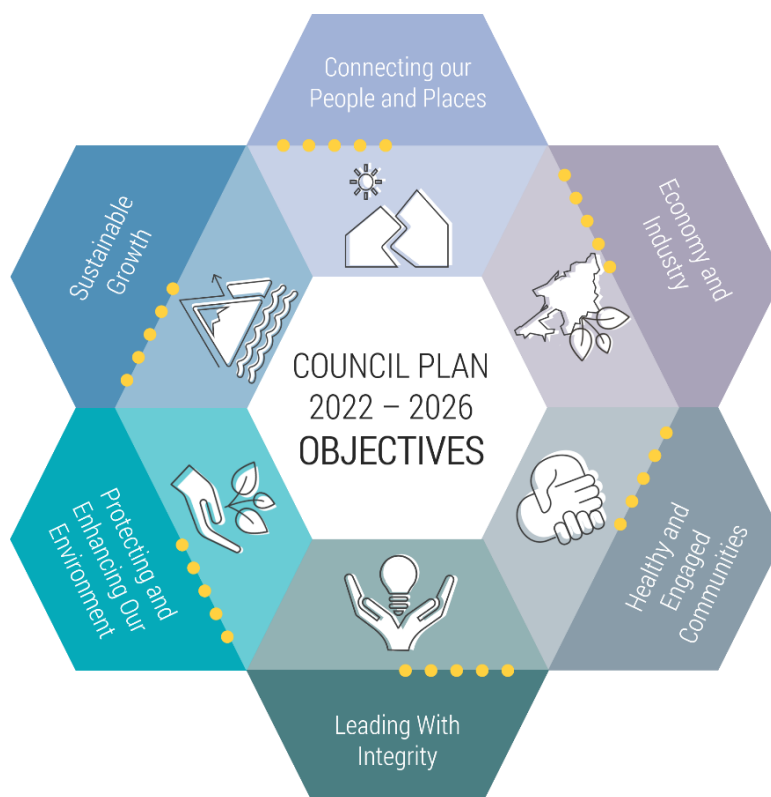
Come for the beauty, Stay for the lifestyle

OUR COUNCIL VISION

We care deeply about our people, the land and future of South Gippsland.

Our vision is to support the whole Shire in creating economic, environmental and social prosperity for this and future generations.

The Council Agenda relates to the Strategic Objectives of the *Council Plan 2022-2026* indicated in this diagram:



Privacy

Council is required to keep minutes of each Council meeting. The minutes contain details of proceedings which may include personal information about community members disclosed as part of presentations, submissions and questions. The minutes of Council meetings are a public record and can be inspected by members of the public.

The Council Meeting is streamed live, recorded and published in accordance with Council's *Live Streaming in Council Meetings Policy*.

Access to the live stream is available on Council's website – [Link](#).

A copy of the *Policy* is located on Council's website – [Link](#).

SOUTH GIPPSLAND SHIRE COUNCIL

Notice is hereby given that Council Meeting No. 479 of the
South Gippsland Shire Council will be held on Wednesday 15 February 2023
in the Council Chambers, Leongatha commencing at 2:00pm

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Kerry Ellis
Chief Executive Officer

1. PRELIMINARY MATTERS

1.1. LIVE-STREAMING COUNCIL MEETING DISCLAIMER

This Council Meeting is being streamed live, recorded and published in accordance with Council's Live Streaming in Council Meetings Policy.

Access to the live stream through Council's Internet is an option to view the 'open' component of a Council Meeting. Link to the Live Stream on Council's website: [Live Streaming | Live Streaming | South Gippsland Shire Council](#)

The Chair and/or the CEO have the discretion and authority at any time to direct the termination or interruption of live streaming. Such direction will only be given in exceptional circumstances where deemed relevant. Circumstances may include instances where the content of debate is considered misleading, defamatory or potentially inappropriate to be published.

Today's Meeting is being streamed live as well as recorded and published on Council's website.

Thank you

1.2. WELCOME TO THE COUNCIL MEETING

COVID Safe Plan

Council Meetings are conducted in line with Council's *COVID Safe Plan*.

Public Questions

In accordance with *Governance Rules (C82)*, clause 56.4(d) the placement of public questions has now closed. Questions must be received prior to the commencement of the Council Meeting and placed in the receptacle at Governance Officers table. Questions received after the commencement of the Meeting will be considered at the next Council Meeting.

1.3. OPENING PRAYER

As we gather here from diverse backgrounds and beliefs, may we hold privilege with good care and trust. As we deliberate and discuss, may we be wise in our discernment, fair in our decisions and visionary in our planning. May we be guided by our common goal of a strong and united South Gippsland.

1.4. ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS

We acknowledge the Bunurong and Gunaikurnai people as the Traditional Custodians of South Gippsland and pay respect to their Elders, past, present, and future, for they hold the memories, traditions, culture, and hopes of Aboriginal and Torres Strait Islander people of Australia.

1.5. APOLOGIES

1.6. CONFIRMATION OF MINUTES

RECOMMENDATION

That the Minutes of the South Gippsland Shire Council Meeting No. 478, held on Wednesday 14 December 2022 in the Council Chambers, Leongatha be confirmed.

1.7. DECLARATION OF CONFLICTS OF INTEREST FOR COUNCILLORS

The *Local Government Act 2020* (the Act), Division 2 sets out the requirements relating to Conflict of Interest. Disclosure of a conflict of interest in respect of a matter to be considered at a Council Meeting is required under section 130(1)(a) and specifically applies to a relevant person being a Councillor, member of a delegated committee who is not a Councillor and a member of Council staff.

Council's *Governance Rules (C82)* (the Rules), clause 3.0 Disclosure of a Conflict of Interest at a Council Meeting sets out the prescribed manner required to disclose a conflict of interest at South Gippsland Shire Council.

The Rules require a Councillor and/ or staff member who has a conflict of interest in a matter being considered at a Council Meeting to announce before the matter is considered and disclose this in a written notice to the Chief Executive Officer. The details included in the disclosure, explain the nature conflict of interest, whether it is classified as general or material (s.127 and s.128), the name of the relevant person(s) and their relationship to them.

Failure to comply with disclosures of conflict of interest (s.130) may be subject to penalty points and/ or other disciplinary measures depending on the nature of the conflict.

The *Local Government Act 2020* can be accessed from the Victorian Legislation and Parliamentary documents website at www.legislation.vic.gov.au.

Council's *Governance Rules (C82)* can be accessed from [Council's Policies](#) webpage.

Councillor John Schelling has declared a general conflict of interest and a bias in proposed Agenda Item section 2.4. Petition Response: Reinroduce the Lord's Prayer at the Beginning of each Council Meeting as he has signed the Petition considered in this report.

Councillor John Schelling has declared a material conflict of interest in Confidential Agenda Item section 10.1. Community Leadership Program as a family member is an applicant under consideration for membership to the Program.

1.8. DECLARATION OF CONFLICTS OF INTEREST FOR STAFF

The *Local Government Act 2020* (the Act), Division 2 sets out the requirements relating to Conflict of Interest. Disclosure of a conflict of interest in respect of a matter to be considered at a Council Meeting is required under section 130(1)(a) and specifically applies to a relevant person being a Councillor, member of a delegated committee who is not a Councillor and a member of Council staff.

Council's *Governance Rules (C82) (the Rules)*, Chapter 5, clause 7, 8 and 9 sets the prescribed manner required for staff to disclose a conflict of interest when:

- Preparing Reports for Meetings
- Exercise of Delegated Power
- Exercise of a Statutory Function

Council staff must immediately upon becoming aware of a conflict of interest provide a written notice to the Chief Executive Officer disclosing the conflict of interest, explain the nature of the conflict and how it will be managed. Upon becoming aware and declaring a conflict of interest, a staff member may not exercise a power or perform a function in the matter. All prepared reports will record that staff member(s) have considered a conflict of interest and include if any, the details of a disclosure.

Failure to comply with disclosures of conflict of interest (s.130) may be subject to penalty points and/ or other disciplinary measures depending on the nature of the conflict.

The *Local Government Act 2020* can be accessed from the Victorian Legislation and Parliamentary documents website at www.legislation.vic.gov.au.

Council's *Governance Rules (C82)* can be accessed from Council's Policies webpage.

Ms Kerry Ellis, Chief Executive Officer has declared a material conflict of interest in Confidential Agenda Item 10.3. PERSONAL INFORMATION - Appointment of Independent Chair - CEO Employment and Remuneration Committee, as the matter relates directly to her role.

2. OBJECTIVE - LEADING WITH INTEGRITY

2.1. POLICY REVIEW: AUDIT AND RISK COMMITTEE CHARTER (C08) AND REVIEW OF INDEPENDENT MEMBER FEES PAID

Directorate:	Performance and Innovation
Department:	Innovation, Digital and Technology

Council Plan

Objective 4 - Customer Focused Organisation - Strategy 4.4 Build on leadership, governance, financial sustainability, shared values and cultural capabilities within the organisation

Council's risk management and governance is strengthened by effectively monitoring and reporting on the activities and advice provided by the Audit and Risk Committee.

EXECUTIVE SUMMARY

The purpose of this report is to enable Council to perform the following functions in accordance with section 53 and s.54 of the *Local Government Act 2020* (the Act):

- Adopt the Audit and Risk Committee Charter (C08) (refer to **Attachment [2.1.1]**).

This report also enables Council to:

- Update the fees payable to the Independent Audit and Risk Committee members in line with the Charters' provisions.

RECOMMENDATION

That Council:

1. **Adopts the Audit and Risk Committee Charter (C08) (Attachment [2.1.1]) in accordance with s.54 of the Local Government Act 2020 (the Act);**
2. **Updates the fees paid to the Independent members in accordance with the Charter;**
3. **Authorises the back payment of fees for the 2021 calendar year; and**
4. **Authorises the future increases in line with the increase to Mayoral and Councillor allowances for the 2022 and 2023 years.**

REPORT

Section 53 of the *Local Government Act 2020* (Vic) (the Act) requires all Victorian councils to establish an Audit and Risk Committee and sets out the requirements for its members.

Section 54 of the Act requires councils to prepare and approve an Audit and Risk Committee Charter. Under the current Charter, the Charter should be assessed by the Audit & Risk Committee every two years for adequacy. This report and draft Charter considers feedback received from the Committee prior to presenting an updated Charter to Council for adoption. Officers have also reviewed other Charters provided by Local Government Victoria on their website and the Act to ensure that best practice is also reflected in the terms of the Charter.

The proposed Audit and Risk Committee Charter (refer to **Attachment [2.1.1]**) has been developed considering the following:

- Appointment of a second Councillor on the Committee, bringing total membership to five (two Councillors and three Independent Members);
- To advise the Committee of any work undertaken by the Internal Auditor outside of planned audits;
- A review of the reimbursement of expenses of Councillors and members of the Audit and Risk Committee; and
- To further define the role of the Chair.

INDEPENDENT MEMBERS' FEES AND EXPENSES

The Independent members of the Audit and Risk Committee are able to be paid a fee by Council. The current and proposed Charters both recommend that the fees are to be adjusted by the annual percentage increases made to Mayoral and Councillor Allowances. The last time the fees were indexed was in December 2019 for the 2020 calendar year when they increased by 2% to \$1,040 for the Chair and \$849 for other Independent Members.

In 2021, there were no increases to the Mayoral and Councillor Allowances, therefor no increase to the fees paid to Independent Members was required.

On 17 June 2021, the Minister for Local Government formally requested the Victorian Independent Remuneration Tribunal to review Council member allowances. The Tribunal determined that allowances be increased by:

Period	% Increase
December 18 2021 – December 17 2022	14.4%
December 18 2022 – December 17 2023	4.4%
December 18 2023 – December 17 2024	2.8%

It is therefore proposed to update fees (per meeting) made to the Independent Members to:

Period	Independent member	Chair
Current Rate at December 2019	\$849	\$1,040
December 18 2021 – December 17 2022	\$971	\$1,190
December 18 2022 – December 17 2023	\$1,014	\$1,242
December 18 – December 17 2023 - 2024	\$1,042	\$1,277

This change will require a back payment of fees paid for the 2021-2022 period of approximately \$122 per meeting for Independent members and \$150 for the Chair. The future annual increases will apply from the dates listed above.

OTHER FEES PAID

The Charter also states the fees will be based on a fee per meeting, set by the Chief Executive Officer. No further allowances are provided for travel. Currently other activities which the Independent Members have been paid include:

	Independent Member	Chair
Workshops	\$849	\$1,040
Present Bi-annual report to Council (meeting and briefing)	-	\$1,040
Internal Audit Selection Process	-	\$780 (75%)
ARC Induction Meeting (Councillors)	-	\$520 (50%)

Currently payment for attendance for other purposes, such as workshops (all Independent Members) or to attend Council meetings or for appointment of independent auditors or other members (Chair attendance) has been either equal to the fee per meeting or as a percentage of this fee as determined by the member considering the time commitment involved.

It is recommended that the Council determine a standard rate for activities other than meetings based on the time and effort commitment involved.

BENCHMARKING WITH NEIGHBOURING COUNCILS

A questionnaire was provided to neighbouring Councils in order to benchmark the fees paid for Audit and Risk Committee members. The Local Government Act 2020 does not state how much a member is to be paid, it states that "A Council may pay a fee to a member of an Audit and Risk Committee who is not a Councillor of the Council". Therefore, amounts paid may vary from Council to Council.

	Wellington Shire Council	Bass Coast Shire Council	Baw Baw Shire Council	East Gippsland Shire Council	Latrobe City Council	South Gippsland Shire Council
Chair fee per meeting	\$750	\$1,500	\$1,421	\$739.20	\$1,500	\$1,242
Other members	\$500	\$1,000	\$1,203	\$484.70	\$1,000	\$1,014
Other comments	Fees to be reviewed in March 2023	Inclusive of all out of pocket fees		Fee for 2023 to be updated		Updated for 2023
Training/ Workshop attendance	Attendance at training/ workshops \$500 for all independent members	Attendance at training/ workshops \$1,000 for all independent members				

When considering the above benchmarking and also the member commitment involved, it is recommended that:

- The fees paid for attendance at workshops be the same for both the Chair and other Independent Members; and
- The fees paid for other activities such as presenting the bi-annual Chair Report to Council and involvement in recruitment of other independent members be commensurate with the time commitment involved with preparing and attending a Committee meeting.

CONSULTATION

Council Management and the Audit and Risk Committee were consulted on the recommended changes to the proposed Audit and Risk Committee Charter. The Councils listed in the benchmarking were also consulted in this process.

RESOURCES

Nil

RISKS

The Audit and Risk Committee undertakes an integral and active role in risk mitigation (including financial) and oversees organisational compliance with legislation. Failure to maintain a reasonable fee paid for service may result in a lack of interest by quality independent member candidates.

STAFF DISCLOSURE

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

ATTACHMENTS

Attachments are available on Council's website: www.southgippsland.vic.gov.au

1. Audit & Risk Committee Charter Council [2.1.1 - 13 pages]

REFERENCE DOCUMENTS

Council Policy

Documents are available on Council's website: www.southgippsland.vic.gov.au

Audit Committee Charter (C08) and Terms of Reference

Audit and Risk Committee Charter Policy (C08)

Legislative Provisions

Local Government Act 2020, ss.53, 54

Audit Committees - A Guide to Good Practice for Local Government, January 2011

Local Government Victoria Model Audit and Risk Committee Charter

2.2. APPOINTMENT OF CHAIR OF THE AUDIT AND RISK COMMITTEE

Directorate:	Performance and Innovation
Department:	Innovation, Digital and Technology

Council Plan

Objective - Leading with Integrity

The Audit and Risk Committee acts as an advisory committee to Council overseeing and monitoring the integrity of internal risk and financial controls and other audit functions. This oversight strengthens the organisation's governance functions through scrutiny of operational practices, financial and performance management and control of risks.

EXECUTIVE SUMMARY

The purpose of this report is for Council to appoint the Chair of the Audit and Risk Committee for a 12-month period.

Council's Audit and Risk Committee currently consists of three Independent Members and one Councillor of the Council. One Independent Member's term is finalising in February 2023, making that member ineligible to apply. Councillors of the Council are ineligible to apply for the role in line with the *Local Government Act 2020*. Nominations from the eligible independent members of the Audit and Risk Committee interested in fulfilling the role of Chair were requested by the CEO by email on January 10, 2023. Council have been advised of all nominations received for the role of Chair.

RECOMMENDATION

That Council appoints Independent Audit and Risk Committee Member, Ms Jen Johanson, as Chair of the South Gippsland Shire Council Audit and Risk Committee for the period from February 2023 until the Council meeting in February 2024.

REPORT

The Audit and Risk Committee (the Committee) is an advisory committee to Council, established under Section 53 of the Local Government Act 2020 (Vic), with the purpose of supporting Council to discharge its oversight responsibilities related to financial and performance reporting, risk management, fraud prevention systems and controls, maintenance of a sound internal control environment, assurance activities including internal and

external audit and Council's performance with regard to compliance with its policies and legislative and regulatory requirements.

In accordance with the Audit and Risk Committee Charter, the Chairperson of the Committee must be an Independent member, will be appointed by Council and the term of the Chair is to be one (calendar) year. Independent members of the Audit and Risk Committee, at the time of drafting this report, are Mr Chris Badger and Ms Jen Johanson. The third (vacant) role is currently being advertised and a report for their appointment will be presented at the February Council meeting. Due to time restraints, it is necessary to appoint the Chair at the same time to ensure continuity of leadership.

Mr Chris Badger was appointed as current Chair of the Committee at the Ordinary Meeting of Council held on 26 August 2020 for the remainder of the 2020 Calendar year, following the resignation of the former Committee Chair. He was reappointed for the 2021 Calendar year at the Ordinary Meeting of Council of 24 February 2021 and for another 12 month period at the 16 February 2022 Council Meeting.

CONSULTATION / COMMUNITY ENGAGEMENT

Nominations from Independent members of the Audit and Risk Committee to be appointed as Chair for 2023 were requested by the CEO following the Audit and Risk Committee meeting in December 2022. Council have been advised of all nominations received.

No external community engagement or consultation was required or undertaken for this item.

RESOURCES / FINANCIAL VIABILITY

Budget allowances for Council's three Independent Audit Committee Members' attendance fees (including indexation of fees) are made within Council's current and forward budgets.

RISKS

The Audit Committee undertakes an integral and active role in risk mitigation (including financial) and oversees organisational compliance with legislation. Failure to appoint a Chair of the Committee would expose Council to a breach of the *Local Government Act 2020*.

STAFF DISCLOSURE

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

ATTACHMENTS

Nil

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 1. Direction & Leadership

Council Policy / Strategy / Plans

Documents are available on Council's website at the following [LINK](#).

Audit Policy (C55)

Audit and Risk Committee Charter Policy (C08)

Audit and Risk Committee Charter and Terms of Reference

Risk Management Framework (C35)

Risk Management Policy (C35)

Legislative Provisions

Local Government Act 2020

Local Government (General) Regulations 2015

Local Government (Planning and Reporting) Regulations 2020

2.3. AUDIT AND RISK COMMITTEE - 13 DECEMBER 2022 MEETING MINUTES

Directorate:	Performance and Innovation
Department:	Innovation, Digital and Technology

Council Plan

Objective 4 - Customer Focused Organisation - Strategy 4.4 Build on leadership, governance, financial sustainability, shared values and cultural capabilities within the organisation

Council's risk management and governance is strengthened by effectively monitoring and reporting on the activities and advice provided by the Audit and Risk Committee.

EXECUTIVE SUMMARY

The purpose of this report is to present the draft minutes of the Audit and Risk Committee meeting held on 13 December 2022 (**Attachment [2.3.1]**) are provided to Council for consideration.

Audit and Risk Committee members at the meeting included:

- Mr Chris Badger (Audit Committee Chair)
- Mr Homi Burjorjee
- Ms Jen Johanson
- Cr Sarah Gilligan (Council member)
- The Mayor Cr Nathan Hersey (ex-officio observer)

RECOMMENDATION

That Council notes the draft Audit and Risk Committee Minutes – 13 December 2022 (Attachment [2.3.1]).

REPORT

The matters considered by the Audit and Risk Committee at the 13 December 2022 meeting are contained in **Attachment [2.3.1]**.

CONSULTATION / COMMUNITY ENGAGEMENT

The draft Audit and Risk Committee Minutes for 13 December 2022 (**Attachment [2.3.1]**) have been circulated to the Audit and Risk Committee for feedback

which is included in the attached, and will be formally accepted by the Committee at the next meeting.

RESOURCES / FINANCIAL VIABILITY

Budget allowances for Council's three Independent Audit and Risk Committee Members' attendance fees are included within Council's current and forward budgets.

RISKS

Council must establish an Audit and Risk Committee under s.53 of the *Local Government Act 2020*. The Committee supports Council in discharging its oversight responsibilities as set out in the Audit and Risk Committee Charter, including risk management.

STAFF DISCLOSURE

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

ATTACHMENTS

Attachments are available on Council's website at the following [LINK](#).

1. Audit and Risk Committee Minutes - 13 December 2022 - FINAL [2.3.1 - 14 pages]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 7. Risk & Compliance

Council Policy / Strategy / Plans

Documents are available on Council's website at the following [LINK](#).

Audit and Risk Committee Charter Policy (C08)

Audit and Risk Committee Charter and Terms of Reference

Legislative Provisions

Local Government Act 2020

2.4. 2023/24 COUNCILLOR APPOINTMENTS TO COMMITTEES AND EXTERNAL ORGANISATIONS

Directorate:	Performance and Innovation
Department:	Governance

Council Plan

Objective 4 - Customer Focused Organisation

Objective 4 - Customer Focused Organisation - Strategy 4.4 Build on leadership, governance, financial sustainability, shared values and cultural capabilities within the organisation

This report ensures Councillors are represented appropriately on internal and external committees, boards and advisory committees to provide leadership, advocacy, support and active engagement with the community and to have access to relevant strategic advice and information that can inform Council.

EXECUTIVE SUMMARY

The purpose of this report is for Council to consider representation appointments to Committees and External Organisations. The Councillor appointments were previously considered by Council at the November 2021 Council Meeting.

Representational appointments ensure Council is represented and involved in key discussion and planning within the community and at State and Federal levels.

RECOMMENDATIONS

That Council:

- 1. Approves Councillor Keerie be appointed to the Audit and Risk Committee for the remainder of the Council term, October 2024.**
- 2. Approves Councillor Adrian Darakai be appointed to the My Community Library Ltd (Myli) Board for the remainder of the Council term, October 2024.**
- 3. Approves Councillor Mohya Davies as the primary and Councillor Adrian Darakai as the substitute appointment to the Victorian Local Governance Association (VLGA) for the remainder of the Council term, October 2024.**
- 4. Approves Councillor Sarah Gilligan as the primary and Councillor Mohya Davies as the substitute appointment to the Australian Coastal Councils Association for the remainder of the Council term, October 2024.**

- 5. Notifies the relevant internal and external Boards and Advisory Groups, Committees and Bodies of the appointed Councillor representatives; and**
- 6. Considers new Councillor appointments where changes are required throughout the year, or if representation on additional groups is deemed strategically warranted.**

BACKGROUND

A number of internal and external advisory groups, boards and committees exist where the Mayor and/or Councillors are invited to participate across a broad interest area. Some of these representational positions have legislated requirements but most operate in an advisory capacity.

Councillors appointed to represent Council, do so to provide leadership, advocacy, support and active engagement with the community and to have access to relevant strategic advice and information that can inform Council.

During the year, Council may nominate to form internal Council advisory and/or delegated committees, or give consideration to additional requests for representation on external groups. Any further Councillor appointments arising throughout the year or term of Council will be referred to Council for consideration and determination.

Once appointed there is an expectation and obligation that the nominated Councillor/s will attend as many scheduled meetings as practicable, then report back to Council on their attendance and any significant or noteworthy outcomes; this is usually in the form of a verbal report in the Council Meeting.

A 'substitute' attendance role requires the second Councillor nominated as 'Substitute' to provide back-up support should the first Councillor be unable to attend a meeting. The primary appointed Councillor is to advise the substitute Councillor in advance of the meeting if they are unable to attend.

REPORT

Council appoints Councillors to internal and external advisory groups, boards and committees at the start of each Council term, previously Council considered such appointments at the Council meeting held on the 24 November 2021.

Council is required Council to nominate a representative for several Associations, these are:

- Victorian Local Governance Association (VLGA) and
- Australian Coastal Councils Association

The *My Community Library* (MyLi) Ltd Board has also recommended to that Council it appoints one Councillor to the board for the remainder of the Council term, to be consistent with other Councillor representation on the board and to ensure regulatory for the external Committee. Council's current representative is Cr Darakai until November 2023.

It is recommended Council appoints a Councillor to the Associations listed until the end of the Council term in October 2024 and extends Cr Darakai's appointment to the MyLi Board until October 2024 in line with the advice from the MyLi Board.

In line with the proposed changes to the Audit & Risk Committee Charter which will increase the membership to appoint a second Councillor to the Committee. It is recommended that Cr Keerie be appointed to the Committee. Cr Kerrie is currently the substitute, if Cr Gilligan is unable to attend.

CONSULTATION / COMMUNITY ENGAGEMENT

Councillors have considered and discussed representative appointments at a Councillor briefing.

RESOURCES / FINANCIAL VIABILITY

Funds are allocated in current and forward annual budgets where appropriate for membership fees and any subscriptions required as part of the memberships of the approved committees.

RISKS

The investment of Councillors' time and resources returns positive outcomes and opportunities for Council and the community through access to strategic information, and supports Councillors in their community advocacy and leadership roles.

STAFF DISCLOSURE

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

ATTACHMENTS

Nil

REFERENCE DOCUMENTS

Council's Good Governance Framework
Pillar 1. Direction & Leadership

Council Policy / Strategy / Plans

Documents are available on Council's website: www.southgippsland.vic.gov.au

Councillor Code of Conduct Policy (C14)

Governance Rules (C82)

Legislative Provisions

Local Government Act 2020

Local Government (Governance and Integrity) Regulations 2020

2.5. PETITION RESPONSE: REINTRODUCE THE LORD'S PRAYER AT THE BEGINNING OF EACH COUNCIL MEETING

Directorate:	Performance and Innovation
Department:	Governance

Council Plan

Objective - Connecting our People and Places

Objective - Leading with Integrity

Petitions are an important way that the community can engagement all level governments and their management by Council is an important element to leading with integrity.

EXECUTIVE SUMMARY

At the 14 December 2022 Council Meeting, a petition was received from Teresa Richards requesting:

"That Council:

We the undersigned, consider ourselves to be very blessed to live in South Gippsland. We thank God for this wonderful country and therefore urge Council, as our elected representatives, to re-introduce 'The Lord's Prayer' at the beginning of each Council Meeting. This is the prayer that Lord gave us 2000 years ago, - the prefect prayer – inclusive of everyone."

At the Council meeting on 14 December 2022, Council resolved to receive a report at the 15 February 2023 Council Meeting, in response to the submission.

The Council has previously reviewed the Council Meeting prayer and adopted an updated prayer at the 21 September 2022 Council Meeting.

RECOMMENDATION

That Council:

- 1. Continues to use the prayer adopted at the 21 September 2022 Council Meeting;**
- 2. Recognises that faith and religion is an important part of the lives of many residents within South Gippsland Shire which Council respects and values; and**

3. Notifies the Lead Petitioner of the outcome of this report.

REPORT

All levels of Government (Federal, State and Local) read a prayer or statement at start of each sitting day or meeting.

Councillors recently led a review of the Council prayer which aimed to ensure that the prayer captured the values and goals of the current Council and that the words used in the prayer reflected South Gippsland's diverse communities.

The new prayer was adopted at 21 September 2022, which replaced the previous prayer which had been in use for over a decade. The previous prayer was not the Lord's Prayer but a specific South Gippsland Council prayer.

The Lord's Prayer is read at Federal and State Parliaments, but traditionally Victorian Local Governments have either read specifically created prayers or a statement of acknowledgement or inclusion.

Due to the previous review undertaken by Council in 2022, which considered Council's commitment to create an inclusive environment it is not recommended that Council adopt the Lord's Prayer, as the currently adopted prayer is designed to be inclusive of all religions, faiths and residents who are agnostic, whilst respecting and continuing the tradition of reading a prayer at the start of each Council meeting.

The petition and cover letter that was received at Council Meeting 14 December 2022 is available in **Confidential Attachment [11.1.1]**.

CONSULTATION / COMMUNITY ENGAGEMENT

Nil

RESOURCES / FINANCIAL VIABILITY

Nil

RISKS

The adoption of the Lord's Prayer would not align to Council's commitment to create an inclusive environment which is key to building healthy communities.

STAFF DISCLOSURE

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

ATTACHMENTS

Nil

CONFIDENTIAL ATTACHMENTS

The consideration of confidential information in a closed session of Council is in accordance with s.66(2)(a) and s.66(5)(a) and (b) of the *Local Government Act 2020*.

Confidential Attachment [11.1.1] – Petition - Covering letter and Petition received at Council Meeting 14 December 2022 – is designated confidential information pursuant to the *Local Government Act 2020*, s.3(1)(f) - personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.

The grounds for designation have been made to protect the privacy of an individual's personal information.

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 2. Culture & Behaviour

Pillar 3. Decision Making

Council Policy / Strategy / Plans

Documents are available on Council's website at the following [LINK](#).

Governance Rules (C82)

Legislative Provisions

Local Government Act 2020

2.6. INSTRUMENT OF AUTHORISATION AND APPOINTMENT - PLANNING AND ENVIRONMENT ACT 1987

Directorate:	Performance and Innovation
Department:	Governance

Council Plan

Objective - Leading with Integrity

Council's governance is strengthened by maintaining currency in the delegations and authorisations to Officers, so they can undertake the functions they are required to perform on behalf of Council.

EXECUTIVE SUMMARY

The purpose of this report is to request Council to approve an Instrument of Appointment and Authorisation for the staff member Tony Peterson under the *Planning and Environment Act 1987*.

RECOMMENDATION

That Council resolves that, in the exercise of the powers conferred by s 147(4) of the *Planning and Environment Act 1987*, s.224 of the *Local Government Act 1989* and s.313 of the *Local Government Act 2020*:

- 1. The members of Council staff referred to in the Instruments of Appointment and Authorisation be appointed and authorised as set out in the instruments and detailed in the report; and**
- 2. The Instruments of Appointment and Authorisation come into force immediately when signed by Council's Chief Executive Officer and remain in force until Council determines to vary it or it is revoked by Council's Chief Executive Officer in the event the officer resigns from Council or is appointed to a position where this appointment and authorisation is not required or suitable.**

REPORT

The allocation of authorisations and appointments to Council employees contributes to the effective functioning of Council. It is important to ensure that formal Instruments are updated to reflect changes in personnel as well as changes in the legislation.

One new Instrument is presented for adoption for Tony Peterson enabling the staff member to fulfil the required duties as Director Sustainable Infrastructure

The Instruments are contained in **Attachment [2.6.1]**.

CONSULTATION / COMMUNITY ENGAGEMENT

Nil

RESOURCES / FINANCIAL VIABILITY

Nil

RISKS

Failure to adopt, update or revoke an Instrument of Appointment and Authorisation could result in a decision of the employee being invalidated or Council being held liable for the actions of former employees.

STAFF DISCLOSURE

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

ATTACHMENTS

Attachments are available on Council's website at the following [LINK](#).

1. S11A Instrument of Appointment PE Act Tony Peterson 15 February [2.6.1 - 1 page]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 7. Risk & Compliance

Legislative Provisions

Planning and Environment Act 1987

2.7. SUMMARY OF STRATEGIC BRIEFINGS - 13 NOVEMBER 2022 TO 12 JANUARY 2023

Directorate:	Performance and Innovation
Department:	Governance

Council Plan

Objective - Leading with Integrity

Council's transparency and governance is strengthened by regularly reporting on summaries of briefings held, that assist Council to make informed decisions in Council Meetings on behalf of the community.

EXECUTIVE SUMMARY

Council, in its requirement to give effect to the overarching governance principles and supporting principles of the *Local Government Act 2020*, section 9(2)(i), s.9(3)(b) and s.58, aims to assist the transparency of Council decisions, actions and information through the provision of public summaries of information. The types of information summarised are usually strategic briefing and public presentations to items that will subsequently come before Council for a future decision. The information is summarised so that it is accessible, understandable, relevant and timely.

The information provided in this report is recorded from sessions held between 13 November 2022 and 12 January 2023.

RECOMMENDATION

That Council receives and notes this report.

REPORT

Meeting Title	Details
Wednesday 16 November 2022	
Council Meeting Agenda Topic Discussion 16 November 2022	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Jenni Keerie, John Schelling, Clare Williams and Adrian Darakai.</p> <p>Conflict of Interest: Clare Williams has declared that she has a general conflict of interest in Council Confidential Agenda Item</p>

Meeting Title	Details
	12.3 2022/23 Community Grants - Round 1 as she is a Committee member on one of the groups that applied for a grant. The matter was not discussed.
Great Southern Rail Trail	Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Jenni Keerie, John Schelling, Clare Williams and Adrian Darakai. Conflict of Interest: Nil disclosed.
Asset Management Strategy	Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Jenni Keerie, John Schelling, Clare Williams and Adrian Darakai. Conflict of Interest: Nil disclosed.
Early Years Services	Councillors Attending: Mohya Davies, Scott Rae, Nathan Hersey, Jenni Keerie, John Schelling, Clare Williams and Adrian Darakai. Conflict of Interest: Nil disclosed.
Community Leadership Program	Councillors Attending: Mohya Davies, Scott Rae, Nathan Hersey, Jenni Keerie, John Schelling, Clare Williams and Adrian Darakai. Conflict of Interest: Nil disclosed.
Wednesday 23 November 2022	
Aquatic Strategy	Councillors Attending: Mohya Davies, Scott Rae, Nathan Hersey, Jenni Keerie, John Schelling, Clare Williams and Adrian Darakai. Conflict of Interest: Nil disclosed.
Wednesday 7 December 2022	
Agenda Topic Discussion – 14 December 2022	Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Michael Felton, Jenni Keerie, John Schelling, Clare Williams and Adrian Darakai. Conflict of Interest: Councillor Nathan Hersey has declared that a private interest by association has given rise to a general conflict of interest in Council Agenda Item 2.1. PROPOSED ROAD DISCONTINUANCE AND SALE - 1 ALBERT ROAD LOCH.

Meeting Title	Details
	<p>Councillor Clare Williams has declared that general conflict of interest in Council Agenda Item 6.1. PETITION RESPONSE: PROPOSED CLIMATE EMERGENCY DECLARATION in that her name was added by another party to the petition submitted to Council in October 2020.</p> <p>Councillor John Schelling has declared that general conflict of interest in proposed Agenda Item section 11.1. PETITION AND JOINT LETTERS as he has signed the Petition proposed to be received at Council.</p> <p>Councillor Adrian Darakai has declared that a private interest by close association has given rise to a general conflict of interest in Council Confidential Agenda Item 14.2 Arts Advisory Committee.</p> <p>Councillor Sarah Gilligan has declared that a private interest by close association has given rise to a general conflict of interest in Council Confidential Agenda Item 14.2 Arts Advisory Committee.</p> <p>Councillor Nathan Hersey has a declared general conflict of interest in Council Confidential Agenda Item 14.2 Arts Advisory Committee as a family member is an applicant under consideration for membership on the Committee, he left the Chamber when the matter was discussed.</p>
Integrated Planning	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Michael Felton, Jenni Keerie, John Schelling, Clare Williams and Adrian Darakai.</p> <p>Conflict of Interest: Nil disclosed.</p>
Wednesday 14 December 2022	
Agenda Topic Discussion – 14 December 2022	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Jenni Keerie, John Schelling, Clare Williams and Adrian Darakai.</p> <p>Conflict of Interest: Councillor Nathan Hersey has declared that a private interest by association has given rise to a general conflict of interest in Council Agenda Item 2.1. PROPOSED ROAD DISCONTINUANCE AND SALE - 1 ALBERT ROAD LOCH.</p>

Meeting Title	Details
	<p>Councillor Clare Williams has declared that general conflict of interest in Council Agenda Item 6.1. PETITION RESPONSE: PROPOSED CLIMATE EMERGENCY DECLARATION in that her name was added by another party to the petition submitted to Council in October 2020.</p> <p>Councillor John Schelling has declared that general conflict of interest in proposed Agenda Item section 11.1. PETITION AND JOINT LETTERS as he has signed the Petition proposed to be received at Council.</p> <p>Councillor Adrian Darakai has declared that a private interest by close association has given rise to a general conflict of interest in Council Confidential Agenda Item 14.2 Arts Advisory Committee.</p> <p>Councillor Sarah Gilligan has declared that a private interest by close association has given rise to a general conflict of interest in Council Confidential Agenda Item 14.2 Arts Advisory Committee.</p> <p>Councillor Nathan Hersey has a declared general conflict of interest in Council Confidential Agenda Item 14.2 Arts Advisory Committee as a family member is an applicant under consideration for membership on the Committee.</p>
Wednesday 21 December 2022	
Sustainable Environment	<p>Councillors Attending: Scott Rae, Sarah Gilligan, Nathan Hersey, Michael Felton, Jenni Keerie, John Schelling, Clare Williams and Adrian Darakai.</p> <p>Conflict of Interest: Nil disclosed.</p>

STAFF DISCLOSURE

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

ATTACHMENTS

Nil

REFERENCE DOCUMENTS

Council's Good Governance Framework
Pillar 3. Decision Making

Council Policy / Strategy / Plans

Documents are available on Council's website at the following [LINK](#).

Governance Rules (C82)

Public Transparency Policy (C75)

Legislative Provisions

Local Government (South Gippsland Shire Council) Act 2019

Local Government Act 1989

Local Government Act 2020

2.8. DOCUMENTS SEALED, CONTRACTS VARIED, AWARDED OR EXTENDED BY CEO - 13 NOVEMBER 2022 TO 12 JANUARY 2023

Directorate:	Performance and Innovation
Department:	Financial Strategy, Risk and Procurement

Council Plan

Objective - Leading with Integrity

Council's transparency of financial decisions made and overall financial sustainability is strengthened by regularly reporting on documents sealed, contracts awarded, varied or extended under the CEO's delegation.

EXECUTIVE SUMMARY

This report documents the following actions undertaken by the Chief Executive Officer (CEO) which occurred during the period from 13 November 2022 to 12 January 2023. Council's *Procurement Policy (C32)* requires the CEO to report to Council any of the following actions undertaken to the next appropriate Meeting:

- Documents sealed;
- Contracts awarded after a public tender process within the CEO's delegation; and
- Contracts varied or extended by the CEO which exceeded the CEO's delegation.

RECOMMENDATION

That Council receives and notes this report.

REPORT

Documents Sealed

Under the *Local Government Act 2020* (the Act), s.14 states that each Council is a body corporate with perpetual succession; and must have a common seal. Sealing a document makes it an official document of Council as a corporate body. Documents that require sealing include agreements, leases or any other contractual or legally binding document that binds Council to another party.

Use of the Local Law No. 2 2020, Part 9, clause 107(h)(iv) – Common Seal of Council, states that if the Chief Executive Officer (CEO) uses the Common Seal in a manner prescribed by sub-clause (c), this means on the authority of a Council resolution, then Council must be advised of such use on a regular basis.

In accordance with the Local Law No. 2 2020, Part 9, clause 107(h)(iv), the following are presented to Council as documents sealed during the period from 13 November 2022 to 12 January 2023.

1. Deed of Novation between South Gippsland Shire Council (continuing party) and the State of Victoria as represented by its Department of Transport (outgoing party) and Victorian Fisheries Authority (incoming party) for Boat Launching and Parking Fees Abolition Agreement. Seal applied 19 October 2022.
2. Deed Poll – Release of Indemnity Guarantee between South Gippsland Shire Council and the ANZ Banking Group for CON/321. Seal applied 20 October 2022.

‘Section 173 Agreements’ are prepared in accordance with s.173 of the *Planning and Environment Act 1987*, allowing Council to enter into agreements relating to the use or development of land, conditions to which the land may be used or developed or any matter that relates to planning or planning schemes in Victoria. Section 174 of the *Planning and Environment Act 1987* requires that such an agreement be under seal and must bind the owner to the covenants specified in the agreement.

In accordance with the Local Law, Instrument of Delegation and *Planning and Environment Act 1987*, the following are presented to Council as documents sealed during the period from 13 July 2022 to 12 August 2022.

1. Section 173 Agreement between South Gippsland Shire Council and the owner of 55A Baromi Road, Baromi for a two lot subdivision. Seal applied 26 October 2022.
2. Section 173 Agreement between South Gippsland Shire council and the owner of 190 South Road, Loch for a two lot subdivision. Seal applied 14 December 2022.

Contracts Awarded, Varied or Extended

In accordance with Council’s Procurement Policy where contracts are awarded under delegation, varied or extended, they are required to be reported to the next practicable Council Meeting.

1. Contracts awarded by Council after a public tender process, signed by the CEO between 13 November 2022 to 12 January 2023.

- a. Nil.
2. Contracts awarded after a public tender process within the CEO's delegation between 13 November 2022 to 12 January 2023.
 - a. CON/339 for the Construction of Venus Bay Skatepark was awarded to Precision Skate Parks Pty Ltd, signed by CEO 30 November 2022.
 - b. CON/336 for the Supply and Installation of Guardrail, Black Spot Program, Various Locations, was awarded to the Trustee for the JEC Family Trust trading as Safety Barrier Solutions Pty Ltd, signed by CEO 19 December 2022.
 - c. CON/340 for the Leongatha Early Learning Centre Carpark Extension was awarded to ACE Earthmoving (Vic) Pty Ltd, signed by the CEO 20 December 2022.
 - d. CON/344 for the Simons Lane, Leongatha Road Reconstruction was awarded to Hugh Patrick Pty Ltd trading as BJs Earthmoving, signed by the CEO 21 December 2022.
 - e. CON/348 for the Sealed Roads Rehab was awarded to Sure Constructions (Vic) Pty Ltd, signed by the CEO 21 December 2022.
 - f. CON/346 for the Construction of Mirboo North Swimming Pool Carpark was awarded to ACE Earthmoving (Vic) Pty Ltd, signed by the CEO 23 December 2022.
3. Contract variations approved by the CEO between 13 November 2022 to 12 January 2023.
 - a. Nil
4. Contract extensions approved by the CEO between 13 November 2022 to 12 January 2023.
 - a. Nil

STAFF DISCLOSURE

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

ATTACHMENTS

Nil

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 3. Decision Making

Council Policy / Strategy / Plans

Documents are available on Council's website at the following [LINK](#).

Governance Rules (C82)

Local Law No. 2 2020, Processes of Municipal Government (Meeting Procedures and Common Seal)

Procurement Policy (C32)

Legislative Provisions

Local Government Act 1989

Local Government Act 2020

Planning and Environment Act 1987

3. OBJECTIVE - SUSTAINABLE GROWTH

3.1. SOUTH GIPPSLAND SHIRE PLANNING SCHEME REVIEW

Directorate:	Economy and Community
Department:	Planning and Building Services

Council Plan

Objective - Sustainable Growth

This report forms part of the Council's 2022/23 major initiative to "Undertake a comprehensive review of South Gippsland Shire Planning Scheme to assess whether the Scheme's provisions, such as local planning policies, zones, overlays and schedules have been effective and efficient in achieving the objectives and strategies of the Planning Scheme and aligns with the Council Plan. Consider if additional measures including enforceable environment, and design and development overlays are required for future use and amenity by October 2023."

EXECUTIVE SUMMARY

The South Gippsland Planning Scheme has been reviewed in accordance with the State Government's requirements for planning scheme reviews. The Planning Scheme Review (the Review) includes both internal and external stakeholder engagement to capture the views of those who use and interact with the Planning Scheme on a regular basis.

The Review has found that the Planning Scheme generally serves our community and environment well, but that there are some recommended improvements to correct anomalies, improve processes, conduct and implement strategic projects, and advocate to higher levels of government for wider changes.

A Draft Planning Scheme Review Report (see **Attachment [3.1.1]**), Marked up Ordinance (see **Attachment [3.1.2]**) and Referral Responses (see **Attachment [3.1.3]**) document is provided for Council's consideration and public consultation purposes.

RECOMMENDATION

That Council endorses the draft Planning Scheme Review documentation (refer Attachments [3.1.1], [3.1.2], [3.1.3], [3.1.4] and [3.1.5]) for public consultation and feedback for the period between 15 February and 15 March 2023.

REPORT

The Planning Scheme Review found that the three most significant planning challenges facing the municipality relate to coastal planning, rural planning and managing the growth of Nyora as it transitions to a higher order township.

It identifies Council's previously adopted strategies and plans, such as the recently adopted Social and Affordable Housing Strategy, that require implementation in the planning scheme.

The key recommendations for completion over the next four years are as follows:

1. Prepare a planning scheme amendment or amendments using the marked up ordinance to:
 - a. Amend the MPS, local PPF policies and schedules to include changes identified in the audit of the planning scheme review in Chapter 5.
 - b. Include changes requested by referral agencies as part of the planning scheme review engagement.
 - c. Include policy in the planning scheme to implement the:
 - i. Council Plan 2022 – 2026.
 - ii. South Gippsland Community Vision 2040.
 - iii. South Gippsland Economic Development Strategy 2021 – 2031.
 - iv. South Gippsland Environmental Sustainability Framework 2021.
 - v. South Gippsland Social and Affordable Housing Strategy 2022.
 - vi. South Gippsland Visitor Economy Strategy 2021 – 2031.
 - vii. Gippsland Regional Plan 2020 – 2025.
 - d. Reinstate policies that were lost through the PPF translation process for rural planning, localities and strategic framework plans
 - e. Update planning provisions to rectify strategically justified anomalies identified by Council.
 - f. Change the designation of Nyora from 'Small town' to 'Emerging district centre' and update the description of Nyora's future role at Clause 02.03-1 (Settlement).

- g. Include policy at Clause 13.02-1L (Bushfire Planning) to improve the safety of development.
 - h. Delete the words 'non residential zones' from the heading of ESO3, as the control relates to both residential and non residential areas.
 - i. Reduce the design objectives for DDO 3 Sandy Point, DDO 4 Waratah Bay, DDO 5 Venus Bay, DDO6 Tarwin Lower and relocate buildings and work requirements.
 - j. Remove the subdivision permit trigger from DDO8 – DDO11 as it is not necessary to consider subdivision under the control.
 - k. Move referral requirements to Clause 66.04s rather than being distributed through the ordinance.
 - l. Include an updated Clause 74.02 Further strategic work that prioritises the strategic work program based on the findings of this review.
2. Finish the coastal strategy and introduce subsequent local policy and provisions to manage development and land use conflicts in coastal regions, particularly around risks and impacts associated with climate change. This may include tailored development controls for coastal townships.
3. Review existing controls and, where necessary, undertake character assessments to inform new planning controls to manage development, particularly in residentially zoned areas. This should include:
- a. Review of the existing ESOs and DDOs to ensure they are achieving what is expected from them, have the correct permit triggers in them and sufficient detail to better aid applicant and decision makers.
 - b. Clearer urban design guidance to assist with balancing the tension between competing objectives and outcomes for the siting and design of buildings and works.
 - c. Guidance about development on laneways, particularly in Korumburra and Leongatha relating to infill subdivision and development proposals.
4. Prepare a rural landscapes strategy to protect valued rural landscapes, including key transport routes. This should address identification and protection of significant landscapes, and preservation of agricultural land

and guidance for achieving development outcomes in keeping with scope of agricultural use.

5. Plan Nyora's growth and infrastructure to accommodate the expected growth in the area and transition it successfully to a higher order town. This may include urban character controls.
6. Finalise and implement Council's current review of planning permit triggers.
7. Prepare the industrial strategy to ensure a sufficient, appropriately located supply of industrial land, particularly considering the impacts of off shore energy generation, and the changing needs of the agricultural industry
8. Update the 2004 South Gippsland Heritage Study as necessary and to apply the Heritage Overlay to all heritage places and precincts of local heritage significance.
9. Prepare a Memorandum of Understanding between South Gippsland Water and Council to enable South Gippsland Water to be removed as referral authority for unplumbed domestic sheds more than 30m from a waterway.

Additional strategic work identified for implementation, when resources permit (see Appendix Six of **Attachment [3.1.1]** for comprehensive details), includes:

10. Review ESO1 Areas of Natural Significance and prepare a detailed statement of significance and reduce the objectives to one. This may require splitting the existing ESO1 into more fine grained ESOs to address the specific issues of environmental significance.
11. Notify parties that strategic justification is required to facilitate the rezoning of land for future expansion of the Mirboo North Town Centre.
12. Update Clause 15.01-1L-02 (Signage) to provide clearer guidance in relation to the specific outcomes that are sought be achieved in relation to signage within the Shire, to provide clarity for the community and to help Council to refuse inappropriate proposals.
13. Develop an offset framework to enable appropriate relocation or replacement of habitat of the Giant Gippsland Earthworm resulting from planning decision and determine whether the impacts of hydrology changes on colonies and habitat should be undertaken as part of the assessment process to strengthen 42.01 ESO9 Giant Gippsland Earthworm and Habitat Protection

14. Review whether the S173 Agreement requirements detailed in the South Gippsland Rural Strategy 2011 can be incorporated into the planning scheme and if not, undertake further strategic work to do this.
15. Review rural dwellings and subdivision policy requirements to ensure consistency with State Planning Policy and protect local values, with input via community consultation.
16. Convert ES04 Sewer Treatment Plants and Environs and ES08 Manufacture of Milk Products Amenity to the Buffer Area Overlay (BAO).
17. Apply the Environmental Audit Overlay to known sites of land contamination in accordance with previous Council initiative.
18. Convert ES05 Areas susceptible to erosion into the Erosion Management Overlay.
19. Implement the 'Flood & Drainage Study for Foster and Surrounding Catchments – July 2019' in partnership with the West Gippsland Catchment Management Authority.
20. Various drafting changes to SUZ4 and SUZ7, ESO 2, ES07 Coastal settlements and the Parking Overlay.

In addition, several “business as usual” and advocacy actions are recommended, including:

21. Review the resourcing of the statutory planning function to ensure that adequate resources and systems are available to deal with the significant increase in planning permit applications over the last four years (30% increase) and address the steadily declining performance of the Council in meeting statutory processing timeframes for planning permit applications (target reduction is from 99 days to the statutory 60 days).
22. Improve the documentation about the restructure plans available on Council's website and work with local real estate agents to support better understanding of the implications of the Restructure Overlay to prospective purchasers of land.
23. Consult with DELWP to identify whether the Restructure Plans can be included in Clause 2.04 Strategic Framework Plans or as a new Clause 11 Settlement policy to make them more accessible to the community.
24. Seek advice from DELWP about the appropriate tool to manage Special Water Catchments (ES02).

25. Undertake consultation with the relevant authorities through the Consultation Phase with a view to resolving the three Council-identified anomalies that could potentially be resolved prior to initiation of the Review implementing Amendment. Specifically:
- a. Resolve a Memorandum of Understanding between South Gippsland Water and Council to enable South Gippsland Water to be removed as referral authority for unplumbed Domestic Sheds more than 30m from a waterway.
 - b. Transition Environmental Significance Overlays 4 Sewage Treatment Plants and Environments and ESO8 Manufacture of Milk Products Amenity Buffer to the Buffer Area Overlay.
 - c. Develop an offset framework to enable appropriate relocation or replacement of habitat of the Giant Gippsland Earthworm resulting from planning decision and determine whether the impacts of hydrology changes on colonies and habitat should be undertaken as part of the assessment process to strengthen 42.01 ESO9 Giant Gippsland Earthworm and Habitat Protection.
26. Facilitate the development of a Development Contributions Plan for key urban growth areas in Leongatha, Korumburra, Nyora, Mirboo North and Foster, in consultation with the Department of Transport on key transport infrastructure issues.

CONSULTATION / COMMUNITY ENGAGEMENT

Consultation to date has been undertaken with key partners and state agencies who have an interest in South Gippsland Shire Council's Planning Scheme. To support the next stage of engagement with the broader community, Council officers have prepared a series of consultation tools to engage with the community to check that the report reflects future needs and if anything has been missed. These include a *Your Say* and Council web page (see **Attachment [3.1.4]**), project summary brochure (see **Attachment [3.1.5]**), media releases and social posts.

The Draft Planning Scheme Review Report (see **Attachment [3.1.1]**), Marked up Ordinance (see **Attachment [3.1.2]**) and Referral Responses (see **Attachment [3.1.3]**) documents will be provided for detailed inspection.

RESOURCES / FINANCIAL VIABILITY

The consultation activities will be completed within budgeted staffing and financial resources.

RISKS

Council will need to complete consultation as soon as possible to ensure that the final report is completed and ready for submission to the Minister for Planning in October 2023. Failure to do so contravenes the *Planning and Environment Act 1987*.

STAFF DISCLOSURE

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

ATTACHMENTS

Attachments are available on Council's website at the following [LINK](#).

1. Planning Scheme Review - Draft Report [3.1.1 - 112 pages]
2. Planning Scheme Review - Draft Report - Appendix 2 - Marked up Ordinance [3.1.2 - 299 pages]
3. Planning Scheme Review - Draft Report - Appendix 4 - Referral Responses [3.1.3 - 21 pages]
4. Planning Scheme Review - Your Say South Gippsland - Draft design [3.1.4 - 17 pages]
5. Planning Scheme Review Summary [3.1.5 - 3 pages]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 1. Direction & Leadership

Pillar 3. Decision Making

Council Policy / Strategy / Plans

Documents are available on Council's website at the following [LINK](#).

Long-Term Financial Strategies

Council Plan 2022-2026

South Gippsland's Good Governance Framework

South Gippsland's Planning Scheme

Legislative Provisions

Local Government Act 2020

Planning and Environment (Planning Schemes) Act 1996

Planning and Environment Act 1987

4. NOTICES OF MOTION AND/OR RESCISSION

4.1. NIL

5. COUNCILLOR REPORTS

5.1. REQUESTS FOR LEAVE OF ABSENCE

5.2. COUNCILLOR UPDATES

6. URGENT OR OTHER BUSINESS

There are two basic parts to this section of the Agenda:

1. Urgent Business

Normally no motion should be debated by Councillors unless the matter is already included as an item on the Agenda. However, in some circumstances it is possible to raise urgent motions.

Council's Governance Rules 2020 (clause 22 - Urgent Business) adopted on 26 August 2020, allows for where a situation has not been provided for under the Governance Rules, the Council may determine the matter by resolution.

Established practice has provided for urgent motions to be raised at Council provided the matter cannot be dealt with at the next Council Meeting or by Officers under delegation.

It is necessary for the Councillor wishing to raise a matter of urgent business to raise a motion similar to the following:

'That consideration of (the issue) be dealt with as a matter of urgent business and Councillor....be allowed a 'short period' to indicate the reason(s) why the matter should be considered as a matter of urgent business.' If the Chairperson accepts the motion as meeting the urgent business criteria, normal meeting procedures in Council's Governance Rules 2020 (clause 22) will apply.

If the motion to accept the item as a matter of urgent business is passed by Council, the motion relating to the specific issue can then be put and debated in the normal way.

2. Other Business

This provides an opportunity for Councillors to raise items of general interest to the Council and the community. It may relate to an up and coming event or the outcomes of a recent meeting with a Minister etc.

7. PUBLIC QUESTIONS

7.1. PETITIONS AND JOINT LETTERS

Petitions and Joint Letters are written requests that have been signed by a number of community members. According to the *Governance Rules (C82)*, *clause 57*, members of the community may submit a valid petition or joint letter to a Councillor or to Council addressed to the Chief Executive Officer.

At the Meeting a petition or joint letter is presented, Council will consider a motion to receive it, the matter itself will not be considered unless determined as urgent business.

The Councillor presenting the petition or joint letter is responsible for ensuring that they are familiar with the contents and purpose of the petition or joint letter and that it does not contain language disrespectful to Council.

The requirements of the lead petitioner are detailed in the *Governance Rules (C82)*, *clause 57*.

Source: [Governance Rules \(C82\)](#) – adopted 19 October 2022.

Council received a petition from lead petitioner, Van Bui. A copy of the petition prayer is included below.

Petition Prayer: That the South Gippsland Shire Council implement a rebate program focusing on reusable nappies and other sanitary items with the aim to reduce everyday household waste.

RECOMMENDATION

That Council:

1. Receive and note the petition; and
2. Receive a report on the matter at its 15 March 2023 Meeting of Council.

7.2. ANSWERS TO PREVIOUS QUESTIONS ON NOTICE

Answers to previous questions taken on notice at a former Council Meeting, are included in the Minutes of this Meeting.

Background material submitted with a question will not be recorded in the Council Meeting Minutes.

A submitter will receive a letter outlining the response to a question after the Minutes have been produced.

Source: [Governance Rules \(C82\)](#) – adopted 19 October 2022.

Nil

7.3. SUBMITTED PUBLIC QUESTIONS

All community member questions for Council Meetings are to be written and submitted to the Governance Team by 9.00am on the Monday morning preceding the Council Meeting to allow time for a response to be prepared, where possible, for the Council Meeting. All reasonable attempts will be made to answer pre-submitted questions at the Meeting. When further time is required to prepare an answer, questions may be taken on notice and responses will be provided at the next Council Meeting.

On the day of the Meeting, questions on the prescribed form must be received prior to the commencement of the Council Meeting by 2.00pm and placed in the receptacle at the Governance Officers table. These questions will be taken on notice, included in the Minutes and responses provided at the next Council Meeting.

Public Question Time in Council Meetings is to be used for matters that are relevant to the business or functions of Council and are clear and legible. Questions may not be allowed where the question(s) is deemed to be:

- Related to a matter beyond or outside the powers of Council;
- Trivial or frivolous;
- Defamatory, indecent, abusive or objectionable;
- Derogatory or designed to embarrass a Councillor, a member of Council staff or a member of the community;
- Related to subject matter previously received and responded to;
- Related to a matter already considered and resolved upon by Council;
- Breach Council's confidentiality obligations; and/or
- Illegible, vague or not make sense.

A person may submit a maximum of three (3) questions for any one Council Meeting, this includes a combined total of three (3) questions for related parties or groups. The total word count of all questions submitted is to be 100 words or fewer.

Background material submitted with a question will not be read out or recorded in the Council Meeting Minutes.

The CEO retains the discretion, in consultation with the Mayor, to not refer questions to Council meetings if there is a more effective or appropriate way to respond to the matters raised. Answers to questions from a member of the community who is present in the gallery will be read out at the Council Meeting by the CEO or Mayor.

Source: [Governance Rules \(C82\)](#) – adopted 19 October 2022.

8. CLOSED SESSION

The *Local Government Act 2020* (the Act), section 66 provides that if a council or delegated committee determines that a meeting is to be closed to the public to consider confidential information, the Council or delegated committee must record in the minutes of the meeting that are available for public inspection –

- a) the ground or grounds for determining to close the meeting to the public by reference to the grounds specified in the definition of ***confidential information*** in section 3(1); and
- b) an explanation of why the specified ground or grounds applied.

The Act defines ***confidential information*** in s.3(1)(a)-(l), and includes information that may prejudice or impact; commercial negotiations, the security of Council, land use planning, law enforcement, legal privilege, personal information, private commercial information, confidential meeting information, internal arbitration, Councillor conduct panel information and information specified under s.77 of the previous *Local Government Act 1989*.

Once confidential information has been considered and decided in a closed session of a Council Meeting, a further resolution to resume open Council is required.

RECOMMENDATION

That Council pursuant to section 66(5)(a) and (b) of the *Local Government Act 2020* close the Council Meeting to the public to consider the following confidential information:

1. Per s.3(1)(f) Agenda item 10.1 – Community Leadership Program, designated as personal information,
 - a. being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;
 - b. The grounds for designation have been made to protect the privacy of an individual's personal information.
2. Per s.3(1)(f) Agenda item 10.2 – Appointment Independent Member of the Audit and Risk Committee, designated as personal information,
 - a. being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;

- b. The grounds for designation have been made to protect the privacy of an individual's personal information.**
- 3. Per s.3(1)(f) Agenda item 10.3 – Appointment of Independent Chair - CEO Employment and Remuneration Committee, designated as personal information,**
 - a. being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;**
 - b. The grounds for designation have been made to protect the privacy of an individual's personal information.**

9. MEETING CLOSED

NEXT MEETING

The next Council Meeting open to the public will be held on Wednesday, 15 March 2023 commencing at 2pm in the Council Chambers, Leongatha.