

SOUTH GIPPSLAND SHIRE COUNCIL

Council Meeting Agenda

28 June 2023

Council Meeting No. 483
Council Chambers, Leongatha
Commencing at 2:00 pm



*South Gippsland
Shire Council*

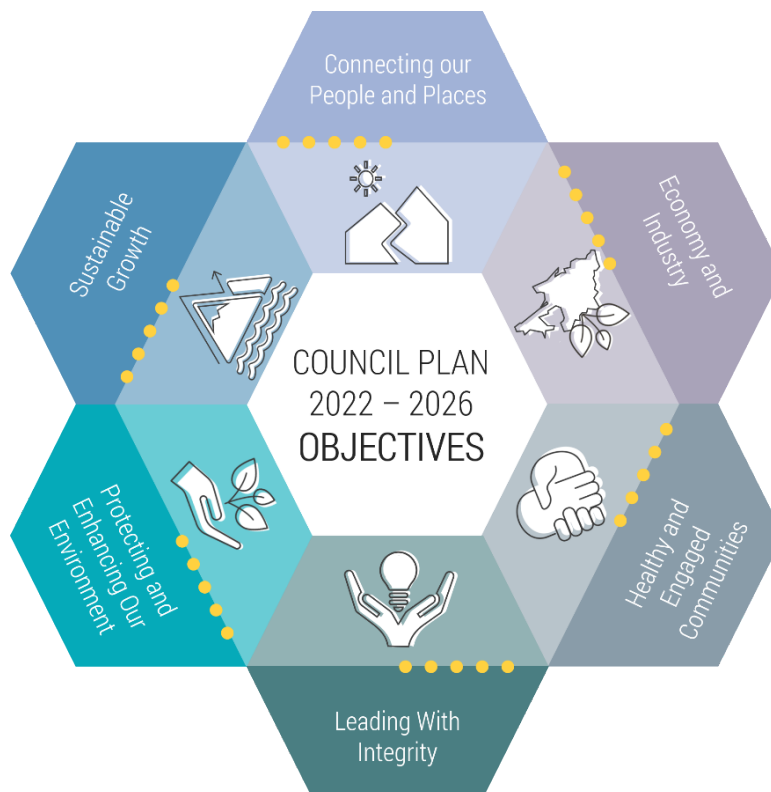
Come for the beauty, Stay for the lifestyle

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. 483 of the
South Gippsland Shire Council will be held on 28 June 2023
in the Council Chambers, Leongatha commencing at 2:00 PM

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Kerryn 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

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

Councillor Clare Williams with leave of Council granted at Council Meeting 17 May 2023.

1.6. CONFIRMATION OF MINUTES

RECOMMENDATION

That the Minutes of the South Gippsland Shire Council Meeting No. 482, held on 17 May 2023 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 Nathan Hersey has declared a general conflict of interest and a reasonable apprehension of bias or actual bias in Agenda Item 11.1 Award Contract CON/349 - Korumburra Football Netball Changerooms Project, as he has a close association with someone who has submitted at tender.

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.

2. OBJECTIVE - HEALTHY AND ENGAGED COMMUNITIES

2.1. PETITION RESPONSE - SANDY POINT ROAD SAFE PATH INITIATIVE

Directorate:	Sustainable Infrastructure
Department:	Infrastructure Planning

Council Plan

Objective - Healthy and Engaged Communities

EXECUTIVE SUMMARY

The purpose of this report is to respond to the petition / joint letter submitted by the Sandy Point Community Group Inc (SPCG) requesting Council support the construction of a pathway on Sandy Point Road between Telopea Drive and Ennisvale Avenue. The Lead Petitioner asks that the proposal be included in the Paths and Trails Strategy and capital works planning.

RECOMMENDATION

That Council:

- 1. Considers a pathway along Sandy Point Road via the Paths and Trails Strategy assessment matrix and for capital funding allocations in future years; and**
- 2. Notifies the Lead Petitioner of the outcome of this report.**

REPORT

At the 17 May 2023 Council Meeting, a petition / joint letter was received from Caitlin Pilkington (Lead Petitioner) and the Sandy Point Community Group Inc. (SPCG), requesting Council support a pathway on Sandy Point Road by including the project in the Paths and Trails Strategy. At the Meeting, Council resolved to

"...receive and note the petition; and receive a report on the matter at its 28 June 2023 Meeting of Council."

The petition prayer is available in **Figure 1** and a full copy of the petition / joint letter is available in **Confidential Attachment [12.1.1], [12.1.2] and [12.1.3]**.

Figure 1 – Petition Prayer

I/We strongly believe the construction of a suitably designed safe path alongside the Sandy Point Road, similar to the Roy Henderson Path which connects Manuka Street and Shallow Inlet would greatly improve safety.

We thereby urge the South Gippsland Shire Council to address this matter as soon as possible by ensuring our request is placed on the South Gippsland Shire Paths and Trails Strategy.

The petition / joint letter is included as three separate attachments (due to file size) as follows:

- Cover letter, including map, project background, photos, and community benefits – **Attachment [2.1.1]**.
- Community survey with 23 respondents – **Attachment [2.1.2]**.
- Petition with a total of 121 signatures (109 within Shire, 12 outside Shire) – **Confidential Attachment [12.1.3]**.

RESEARCH & FINDINGS

Paths and Trails Strategy

Council adopted the current Paths and Trails Strategy on 30 May 2018. This financial year, there are two Council Plan initiatives to paths and trails:

- "1. Review the unfunded project list in the Paths and Trails Strategy for inclusion in future Capital Works Program, with a focus on connecting small towns where population growth is occurring."*
- 2. Undertake a feasibility study for future pedestrian and bike paths in Venus Bay and Sandy Point."*

Feasibility Study

In relation to Item 2 above, the feasibility study for future pedestrian and bike paths in Venus Bay and Sandy Point will be presented to Council when a community survey has concluded. Early findings show:

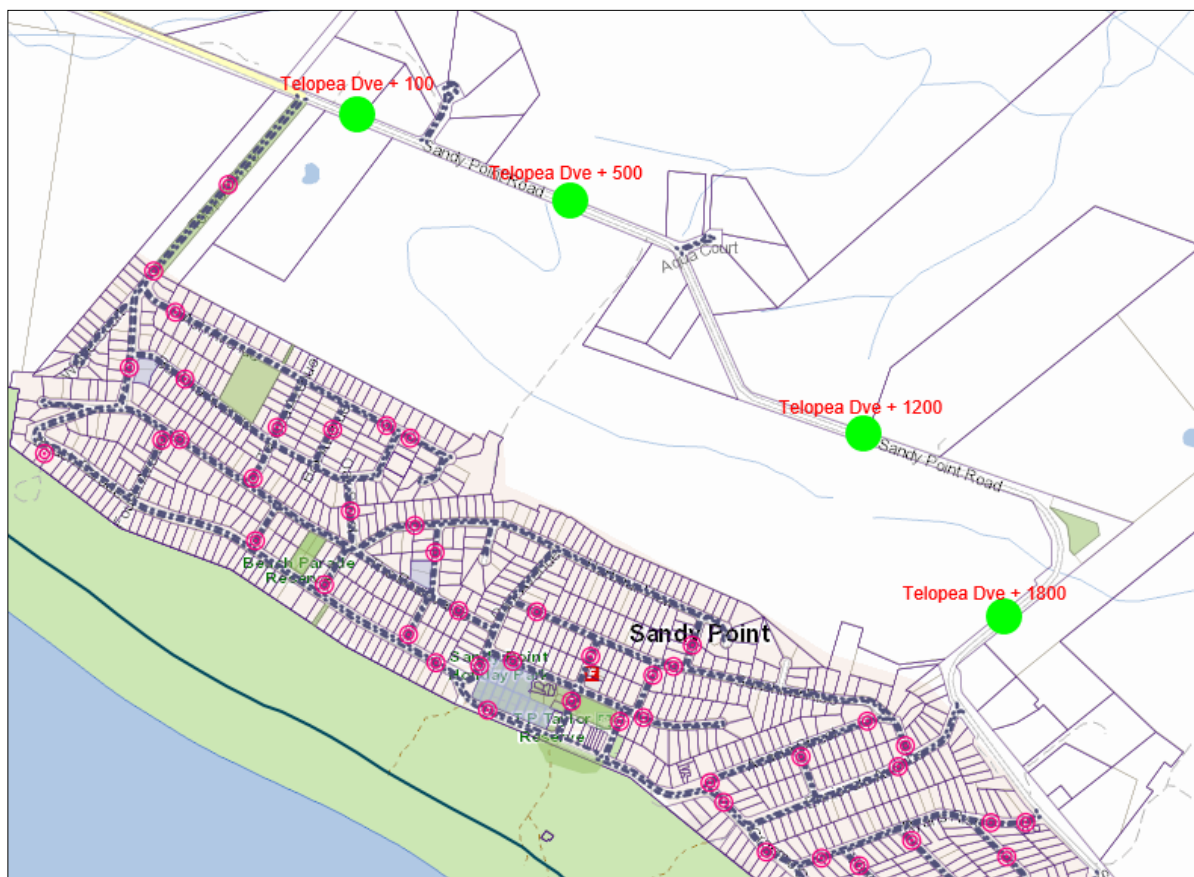
1. In coastal areas and townships such as Sandy Point, managing the environment whilst ensuring the community can move safely and freely through areas is a challenge.

2. The development of Sandy Point has resulted in little or no planning for walking paths compared to larger more urbanised townships. Modern infrastructure requirements and community expectations now require Council to consider shared pathways and connections for traffic other than cars.
3. The key constraints to planning pathways in Sandy Point are the lack of available road and shoulder width, land acquisition, traffic safety, vegetation management, flood propensity and cultural heritage considerations.

Traffic Survey Data

Council undertook traffic counts in Sandy Point in February 2023. The traffic count sites are shown as ● in **Figure 2** below. (note that the numbers in red are metre measurements along the road)

Figure 2 – Traffic Counts on Sandy Point Road



Collation of the traffic count data shown below in Table 1 determines that the average speed of traffic is appropriate given the speed zones at each site.

Table 1 – Summary of Traffic Count Data from February 2023

LOCATION	TELOPEA (CH+100) ¹	TELOPEA (CH+500)	TELOPEA (CH+1200)	TELOPEA (CH+1800)
No. of vehicles	424	288	370	360
% Heavy vehicles (Large trucks)	1%	<1%	<1%	<1%
Posted Speed Limit	80 km/h	80 km/h	80 km/h	80 km/h
85 th % speed (km/hr)	84.4	90.2	78.7	71.6
Ave speed	72.2 km/h	73.5 km/h	67.2 km/h	60.8 km/h

CONSULTATION / COMMUNITY ENGAGEMENT

Previous engagement with the Sandy Point community is summarised below:

- The community have requested further speed limit reductions, particularly along Sandy Point Road. Requests for speed reductions are referred to VicRoads for investigation and final consideration. The results of the above traffic count data indicates that a further speed reduction from 80 km/h to 60 km/h is currently not warranted along Sandy Point Road.
- The community have requested further initiatives to provide for the ability to safely walk around the township. Officers have met onsite with residents along, and surrounding Sandy Point Road to discuss the proposal of a pathway on Sandy Point Road.
- Community concerns with safety issues associated with the current movements of pedestrians in the township e.g. the sharp bend in Beach Parade and The Boulevard; and
- The current casual pedestrian arrangements relating to parking and pedestrian movement are preferred by some of the community.
- A community survey was initiated over a 4-week period in April 2023 by the Sandy Point Community Group with a total of 23 respondents. Results of the community survey with names and addresses redacted for privacy are available in **Attachment [2.1.2]** and the complete document available in **Confidential Attachment [12.1.2]**.
- As part of the Coastal Strategy engagement, a Council community survey is underway which will elicit more information on preferences for paths, cycle lanes, and vegetation management.

RESOURCES / FINANCIAL VIABILITY

Officers have looked at costings from similar projects to estimate that a 4.8 km sealed or concrete pathway along Sandy Point Road would have a preliminary

¹ CH refers to "Chain" which is an imperial unit of length used for roads. A CH is approximately 20m (metric system). CH+100 is 100 CH from start of road e.g. 2,000m from start of road.

cost estimate of \$2 million for a 1.5m wide pathway and \$2.5 million for a 2.5m wide shared pathway. This figure does not consider any works associated with utilities or underground infrastructure. Other financial considerations are discussed under 'Risks'.

This proposal is not funded. It is proposed that this request be investigated more thoroughly and added to an assessment matrix of paths and trails proposals for evaluation and presentation to Council.

RISKS

Cost estimates have been developed based on the information available at the present time. Other factors that may influence the feasibility of the proposed path in the future are:

- Requirements for vegetation removal offsets - as these may become more important or expensive over time;
- Need for cultural heritage studies;
- Morphological studies could be required due to coastal environment; and
- Exploration of land acquisition.

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. Sandy Point Path Petition / Joint Letter - Cover Letter & Background (Redacted) [2.1.1 - 7 pages]
2. Sandy Point Path Petition / Joint Letter - Community Survey Results (Redacted) [2.1.2 - 8 pages]

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 Attachments [12.1.1], [12.1.2] and [12.1.3] – Petition / Joint Letter – Sandy Point Road Safe Path Initiative – 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 3. Decision Making

Council Policy / Strategy / Plans

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

Paths and Trails Strategy

Asset Management Plan - Road Infrastructure (internal)

Long Term Financial Plan

Legislative Provisions

Local Government Act 2020

3. OBJECTIVE - LEADING WITH INTEGRITY

3.1. LONG TERM FINANCIAL PLAN (10 YEAR PLAN) AND PROPOSED 2023/24 - 2026/27 BUDGET, INCLUDING 2023/24 COUNCIL PLAN INITIATIVES

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

Council Plan

Objective - Leading with Integrity

The Financial Plan and Budget, including the 2023/24 Annual Initiatives provide the resources to progress the achievement of the Strategic Objectives and Strategies outlined in the 2022 - 2026 Council Plan.

EXECUTIVE SUMMARY

The purpose of this report is to present the final *Financial Plan 2023/24 – 2032/33* (**Attachment [3.1.1]**), and the proposed *Budget 2023/24* (**Attachment [3.1.2]**) including the *2023/24 Council Plan Annual Major Initiatives* (**Attachment [3.1.3]**) (*Plans*) for consideration and determination by Council.

These *Plans* are fundamental documents for Council as they outline Council's future financial and other resource planning to support the delivery of the Council Plan. These *Plans* note Council's aspirations for the year ahead (and the following three years), and outlines how Council intends to serve the community with the services and facilities that Council provides. The document (**Attachment [3.1.3]**) also includes the *2023/24 Annual Major Initiatives* to progress the *2022-2026 Council Plan*. The scope of the *Financial Plan* is a period of at least the next ten financial years.

These *Plans* have been prepared in accordance with the *Local Government Act 2020* (the Act) and reference:

- Financial Plan (s.91).
- Adoption of the Annual Budget (s.94 of the Act); and
- Preparation of the Budget or revised Budget (s.94 and 96 of the Act);

These final *Plans* have been developed considering feedback obtained through participatory engagement. A formal community consultation process was held from 20 April to 12 May 2023 to obtain feedback on the *Proposed Plans*.

A number of adjustments have been made to the final *Plans* which are detailed in the body of the report. These adjustments have not compromised the intention

or integrity of the Budget including the 2023/24 Annual Initiatives and the Financial Plan.

This report recommends that Council formally adopt the *Plans* in accordance with s.91, s.92, s.93, s.94 and s.96 of the Act.

RECOMMENDATION

That Council:

- 1. Adopts the Financial Plan 2023/24 – 2032/33 (Attachment [3.1.1]) and Budget 2023/24 (Attachment [3.1.2]) and the 2023/24 Council Plan Annual Initiatives (Attachment [3.1.2]) (Plans) in accordance with the *Local Government Act 2020*;**
- 2. Declaration of Rates and Charges: Declares the following rates and charges:**
 - a. An amount of \$50.194M (or such other amount as is lawfully raised as a consequence of this Resolution) be declared as the amount which Council intends to raise by general rates and the annual service charge (described later in this Resolution), which amount is calculated as follows:**
 - i. General Rates (excluding supplementary rates) - \$45.071M;**
 - ii. Annual Service Charges - \$4.835M; and**
 - iii. Revenue in lieu of rates - \$0.288M.**
- 3. General Rates:**
 - a. A general rate be declared in respect of the 2023/24 financial year;**
 - b. It be further declared that the general rate be raised by the application of differential rates;**
 - c. A differential rate as per Council's Revenue and Rating Plan 2022 – 2026 be respectively declared for rateable land having the respective characteristics specified below, which characteristics will form the criteria for each differential so declared:**
 - i. Industrial;**
 - ii. Commercial;**
 - iii. Vacant Land;**
 - iv. Farm Land;**
 - v. Cultural and Recreational; and**

- vi. **Rural Vacant Land.**
- d. **It be recorded that Council considers that each differential rate will contribute to the equitable and efficient carrying out of Council functions, and that:**
 - i. **the respective objectives of each differential rate be those specified in Council's Revenue and Rating Plan 2022 - 2026;**
 - ii. **the respective types or classes of land which are subject to each differential rate be those Revenue and Rating Plan 2022 - 2026;**
 - iii. **the respective uses and levels of each differential rate in relation to those respective types or classes of land be those described in Council's Revenue and Rating Plan 2022 - 2026; and**
 - iv. **the relevant:**
 - **uses of;**
 - **geographical locations of; and**
 - **planning scheme zonings of; and**
 - **types of buildings on.**
 - v. **the respective types or classes of land be those identified in Council's Revenue and Rating Plan 2022 – 2026;**
- e. **No municipal charge to be declared for the 2023/24 financial year;**
- f. **Annual Service charge:**
 - i. **An annual service charge, for the collection and disposal of refuse, be declared in respect of the 2022/23 financial year and**
 - ii. **The annual service charge be in the sum of, and be based on the criteria set out below:**

Category	Rate
Waste Services Charge A	\$293.10
Waste Services Charge B	\$293.10
Waste Services Charge C	\$412.65
Waste Services Charge D	\$302.80
Waste Services Charge E	\$347.25
Waste Services Charge G	\$221.50
Waste Services Charge H	\$351.95
Waste Services Charge J	\$203.10
Waste Services Charge K	\$362.10

Garb Green Waste Bin	\$106.30
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g. Fees and Charges:

- i. **Adopts the fees and charges that are included in the budget which may be subject to change as fees and charges are based on information available at the time of publishing and may vary during the financial year as a result of changes in Council policy or legislation.**

h. Incentives:

- i. **No incentives are declared for the payment of general rates (and annual service charge described earlier in this resolution).**
- i. **Interest on rates and charges: it be recorded that Council requires any person to pay interest on any amount of rates and charges to which:**
 - i. **that person is liable to pay; and**
 - ii. **have not been paid by the date specified for their payment.**
 - iii. **The Chief Executive Officer be authorised to levy and recover the general rates and annual service charge in accordance with the *Local Government Act 1989*.**
- j. **Notes the Annual Budget 2023/24 includes loan borrowings carried forward from 2021/22 from the State Government loan scheme for the Korumburra Community Hub and Streetscape Works as detailed in Attachment [3.1.3] and authorises the Chief Executive Officer to execute any further loan documentation required.**

4. Publishes all Plans referenced in this Council Report on Council's website.

REPORT

Final Financial Plan and Budget

The *Financial Plan* document in **Attachment [3.1.1]** is the Financial Plan for the next ten years and has been prepared in accordance with s.91 of the Act.

The *Budget 2023/24* and *2023/24 Annual Major Initiatives* document in **Attachment [3.1.2]** and **Attachment [3.1.3]** have been prepared in accordance with s.94 and s.96 of the Act.

These documents follow the *Better Practice Guidelines* and *Model Budget* templates issued by Local Government Victoria (LGV) in accordance with the *Local Government (Planning and Reporting) Regulations 2020*.

Councils are required to set targets for the Local Government Performance Reporting Framework (LGPRF). Section 5 of the *Budget 2023/24* document

(**Attachment [3.1.2]**) includes indicators with a target for the budgeted year and subsequent three financial years. These targets are to be submitted to Local Government Victoria.

The *Plans* that are being presented for endorsement in this Council Meeting include:

1. Financial Plan 2023/24 – 2032/33 (**Attachment [3.1.1]**);
2. Budget 2023/24 (**Attachment [3.1.2]**) referencing the 2023/24 Annual Major Initiatives; and
3. Council Plan 2022-2026 – including Year 2 of the 2023/24 Annual Major Initiatives.

Submission Feedback

A formal community consultation process took place from 20 April to 12 May 2023 with findings presented in the *2023/24 Annual Budget Engagement Report* (**Attachment [3.1.4]**).

Following this process, initiatives affecting the *Budget 2023/24* included:

- Reduction of fees for the Leongatha Basketball Association for court hire costs, acknowledging that fees for other community operated facilities in South Gippsland are lower and the Association has faced numerous challenges over the past few years.
- Referral of consideration of funding of the Court 2 backboard replacement at the SPLASH facility to the 2024/25 budget.

The resulting changes to the Budget 2023/24 can be absorbed within existing funding.

Additional actions will be undertaken as a result of other engagement feedback but will not impact the 2023/24 Budget.

Changes to the Financial Plan and Budget 2023/24

Due to the timing of the drafting of the *Budget*, there are typically changes to the document from when it is first presented to Council in April 2023 and its final form in June 2023.

Final Annual Revaluation

Three properties were required to be revalued which has affected the final valuation of total properties and the resulting income for Council. The change has resulted in a loss of \$24,000 in rates and charges income is reflected in the final budget document.

The revised Comprehensive Result for 2023/24 is a surplus of \$8.665M.

	Original	Revised	Change
Revenue from Rates and Charges	\$50.515M	\$50.491M	(\$0.024)M
Total General Residential Assessments	14,711	14,709	(2)
Total Vacant Other Assessments	1,176	1,177	1
Total Value of Land	\$17,383,753	\$17,375,468	(\$8,285)

Update to Schedule of Fees and Charges

- Removal of Caravan Park fees and charges
- Amendment of fee for Land Information Certificates from \$27.80 to \$28.90 (Statutory Fee)
- Addition of an application fee for single event public liability insurance coverage that had been missed due to an administrative oversight

Following the adoption of these *Plans* they will be made available on Council's website.

CONSULTATION / COMMUNITY ENGAGEMENT

The Act requires councils to take an integrated approach to strategic planning and reporting, including participatory community engagement practices.

Councillors have worked together to articulate and represent the voice of their constituents and communities, and provide recommendations and direction, while being mindful to responsibly manage resources. The Councillors have engaged with the community through various activities during the exhibition period of 20 April to 12 May 2023.

RESOURCES / FINANCIAL VIABILITY

The Budget and Financial Plan are key strategic documents that outline the direction and resources required to achieve the Council's direction in the Council Plan and the range of services provided. The Financial Plan provides an outlook of Council's financial position for at least the next ten years.

RISKS

The risk of not adopting these *Plans* by the statutory deadline of 30 June is that Council will suffer reputational damage and be constrained in its ability to raise the necessary funds to carry out its functions and meet its objectives.

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. Financial Plan 2023/24 - 2032/33 - June 2023 [**3.1.1** - 41 pages]
2. Annual Budget 2023-24 - June 2023 [**3.1.2** - 100 pages]
3. Annual Budget Engagement Report - June 2023 [**3.1.3** - 2 pages]

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](#).

Long Term Financial Strategies

Annual Budget

Financial Plan

Council Plan 2022-2026

Legislative Provisions

Local Government Act 2020

3.2. DOCUMENTS SEALED, CONTRACTS VARIED, AWARDED OR EXTENDED BY CEO - 13 APRIL 2023 TO 12 MAY 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 April 2023 to 12 May 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 April 2023 to 12 May 2023.

Nil

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 April 2023 to 12 May 2023.

Nil

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 April 2023 to 12 May 2023.
 - a. Nil.
2. Contracts awarded after a public tender process within the CEO's delegation between 13 April 2023 to 12 May 2023.
 - a. Nil
3. Contract variations approved by the CEO between 13 April 2023 to 12 May 2023.
 - a. CON/267 for the Construction of Korumburra Community Hub was awarded to 2Construct Pty Ltd and commenced in July 2021. Variations which exceed the contingency allowance are recommended for works that are considered necessary for completion of project. A Contract Variation of \$150,295.90 (excluding GST) was approved by CEO after consultation with the Mayor on 10 May 2023.
4. Contract extensions approved by the CEO between 13 April 2023 to 12 May 2023.

- a. CON/216 for the Provision of Linemarking Services was awarded to Laser line Marking Pty Ltd. The contract was for a three-year term commencing on 1 July 2019 with an option of two 1-year extensions. An extension of 1 year (second year extension option) has been approved, signed by the CEO 10 May 2023.
- b. CON/226 for the Supply and Delivery of Premixed Concrete was awarded to Holcim (Aust) Pty Ltd. The contract was for a three-year term commencing 1 July 2019 with an option of two 1-yr extensions. An extension of 1 year (second year extension option) has been approved, signed by the CEO 10 May 2023.

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

3.3. SUMMARY OF STRATEGIC BRIEFINGS - 13 APRIL 2023 TO 12 MAY 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 April and 12 May 2023.

RECOMMENDATION

That Council receives and notes this report.

REPORT

Meeting Title	Details
Wednesday 19 April 2023	
Council Meeting Agenda Topic Discussion – 19 April 2023	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, John Schelling, Clare Williams, Adrian Darakai, Nathan Hersey, Michael Felton and Jenni Keerie.</p> <p>Conflict of Interest: Ms Kerryn Ellis, Chief Executive Officer has declared a material conflict of interest in Confidential Agenda Item 11.2. PERSONAL INFORMATION - Chief Executive Officer (CEO) Performance Review - April 2023, as the matter relates directly to her role.</p> <p>The matter was not discussed at this session.</p>

Meeting Title	Details
School Crossings and Parking	Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, John Schelling, Clare Williams, Adrian Darakai, Nathan Hersey, Michael Felton and Jenni Keerie. Conflict of Interest: Nil disclosed.
Leongatha and Korumburra Rail Yards	Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, John Schelling, Clare Williams, Adrian Darakai, Nathan Hersey, Michael Felton and Jenni Keerie. Conflict of Interest: Nil disclosed.
Foster Structure Plan	Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, John Schelling, Clare Williams, Adrian Darakai, Nathan Hersey, Michael Felton and Jenni Keerie. Conflict of Interest: Nil disclosed.
Coastal Strategy	Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, John Schelling, Clare Williams, Adrian Darakai, Nathan Hersey, Michael Felton and Jenni Keerie. Conflict of Interest: Nil disclosed.
Wednesday 26 April 2023	
Bus Tour of Sites of Industrial Land Supply	Councillors Attending: Mohya Davies, Scott Rae, John Schelling, Clare Williams, Nathan Hersey, Michael Felton and Jenni Keerie. Conflict of Interest: Nil disclosed.
Wednesday 3 May 2023	
Planning Briefing	Councillors Attending: Mohya Davies, John Schelling, Clare Williams, Adrian Darakai, Nathan Hersey and Jenni Keerie. Conflict of Interest: Cr Davies left the meeting at 9.51am and returned at 10.56am. Councillor Mohya Davies has a declared material conflict of interest in briefing item Planning Application 2022/269 570 Use and Development for a dwelling and Winery 570 Soldiers Road, Fish Creek as a family member is a planning consultant on the matter.
Planning Scheme Review	Councillors Attending: Mohya Davies, John Schelling, Clare Williams, Adrian Darakai, Nathan Hersey and Jenni Keerie. Conflict of Interest: Nil disclosed.

Meeting Title	Details
Community Grants Program	<p>Councillors Attending: Mohya Davies, John Schelling, Clare Williams, Adrian Darakai, Nathan Hersey and Jenni Keerie.</p> <p>Conflict of Interest: Nil disclosed.</p>
Tree Management Plan	<p>Councillors Attending: Mohya Davies, John Schelling, Clare Williams, Adrian Darakai, Nathan Hersey and Jenni Keerie.</p> <p>Conflict of Interest: Nil disclosed.</p>
Local Roads and Community Infrastructure Program	<p>Councillors Attending: Mohya Davies, Clare Williams, Adrian Darakai, Nathan Hersey and Jenni Keerie.</p> <p>Conflict of Interest: Nil disclosed.</p>
Wednesday 10 May 2023	
Council Meeting Agenda Topic Discussion – 17 May 2023	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, John Schelling, Nathan Hersey, Michael Felton and Jenni Keerie.</p> <p>Conflict of Interest: Cr Davies left the meeting at 10.48am and returned at 10.52am. Councillor Mohya Davies has a declared material conflict of interest in briefing item Planning Application 2022/269 570 Use and Development for a dwelling and Winery 570 Soldiers Road, Fish Creek as a family member is a planning consultant on the matter. Cr Williams was not present on this Strategic Briefing Day. Councillor Clare Williams has declared a material conflict of interest in Agenda Item 10.1 Award Contract CON/356 - Venus Bay Tourism Precinct - Jupiter Boulevard and Centre Road, as she is part owner of a company that has submitted a tender. Councillor Clare Williams has declared a general conflict of interest in Agenda Item 10.2 2022/23 Community Grants - Round 2, as she is a member of a Committee that applied for a community grant application. The following matters were not discussed. Councillor John Schelling has declared a reasonable apprehension of bias or actual bias in Agenda Item 10.2 2022/23 Community Grants - Round 2, as he signed a letter in support of a community grant application. Councillor Nathan Hersey has declared a reasonable apprehension of bias or actual bias in Agenda Item</p>

Meeting Title	Details
	<p>10.2 2022/23 Community Grants - Round 2, as he signed a letter in support of a community grant application.</p> <p>Councillor Michael Felton has declared a reasonable apprehension of bias or actual bias in Agenda Item 10.2 2022/23 Community Grants - Round 2, as he signed a letter in support of a community grant application.</p> <p>Councillor Jenni Keerie has declared a material conflict of interest in Agenda Item 10.2 2022/23 Community Grants - Round 2, as she is a Manager of an organisation that has submitted an application.</p> <p>Councillor Jenni Keerie has declared a reasonable apprehension of bias or actual bias in Agenda Item 10.2 2022/23 Community Grants - Round 2, as she is a Manager of an organisation that provided a letter in support of a community grant application.</p> <p>Councillor Jenni Keerie has declared a reasonable apprehension of bias or actual bias in Agenda Item 10.2 2022/23 Community Grants - Round 2, as she signed a letter of support to a community grant application.</p>
Organisational and Financial Performance Report	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, John Schelling, Nathan Hersey, Michael Felton and Jenni Keerie.</p> <p>Conflict of Interest: Nil disclosed.</p>
General Re-valuation	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, John Schelling, Nathan Hersey, Michael Felton and Jenni Keerie.</p> <p>Conflict of Interest: Nil disclosed.</p>
Reconciliation Action Plan	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, John Schelling, Nathan Hersey, Michael Felton and Jenni Keerie.</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

3.4. INSTRUMENT OF APPOINTMENT AND AUTHORISATION

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 Council staff members Jan Cussen, Shannon McCaughey and Sarah Male 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.

Three new Instruments are presented for adoption for Jan Cussen, Shannon McCaughey and Sarah Male enabling these Council staff to fulfil their required duties within Council.

The Instruments are contained in **Attachment [3.4.1], [3.4.2] and [3.4.3]**.

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 Jan Cussen 28 June 2023 **[3.4.1 - 1 page]**
2. S11A Instrument of Appointment PE Act Shannon McCaughey 28 June 2023 **[3.4.2 - 1 page]**
3. S11A Instrument of Appointment Sarah Male 28 June 2023 **[3.4.3 - 1 page]**

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 7. Risk & Compliance

Legislative Provisions

Planning and Environment Act 1987

3.5. MUNICIPAL ASSOCIATION OF VICTORIA (MAV) ADVISORY COMMITTEE NOMINATIONS

Directorate:	Performance and Innovation
Department:	Governance

Council Plan

Objective - Leading with Integrity

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 to seek Council consideration of Councillor nominations to Human Services Committee, the Emergency Management Committee and the Professional Development Reference Group of the Municipal Association of Victoria (MAV).

The MAV has a number of board advisory committees to inform and progress issues impacting on local government as prioritised by the MAV Strategic Plan and State Council. Each committee is chaired by an MAV Board member.

RECOMMENDATION

That Council supports the nomination of Councillors via the designation expression of interest process of:

- 1. Councillor Gilligan to the Municipal Association of Victoria (MAV) Emergency Management Committee.**
- 2. Councillor Davies and Councillor Felton to the MAV Human Services Committee.**

REPORT

MAV has a number of board advisory committees to inform and progress issues impacting on local government as prioritised by the MAV Strategic Plan and State Council. Each committee is chaired by an MAV Board member and summary of each committee is below:

Emergency Management Committee

The committee will focus on strategic matters specifically related to the role of local government in emergency management, as identified in legislation, policy, or other sector doctrine (e.g.: State Emergency Management Plan).

Human Services Committee

The committee will address human services issues prioritised by the MAV Board and the Strategic Plan.

Professional Development Reference Group

The purpose of the Professional Development Reference Group (PDRG) is to:

- Provide input into MAV professional development programs.
- Identify ongoing areas of training need within the sector.
- Identify opportunities for professional development activity.
- Encourage participation in MAV professional development programs.
- Provide input in programs designed to attract and prepare prospective councillors.

Councillors can be nominated via an Expression of Interest (EOI) process to be a member of one of the above MAV board advisory committees.

CONSULTATION / COMMUNITY ENGAGEMENT

Nil

RESOURCES / FINANCIAL VIABILITY

Any costs associated with Councillors undertaking their duties including reimbursements, will be managed within currently adopted budgets.

RISKS

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 1. Direction & Leadership

4. OBJECTIVE - SUSTAINABLE GROWTH

4.1. RELINQUISHMENT OF COMMITTEE OF MANAGEMENT - WARATAH BAY CARAVAN PARK AND FORESHORE

Directorate:	Sustainable Infrastructure
Department:	Infrastructure Planning

Council Plan

Objective - Sustainable Growth

The relinquishment of Council as the appointed Committee of Management over the Waratah Bay Caravan Park and Foreshore will remove Council's responsibility and liability for the crown land.

EXECUTIVE SUMMARY

Over many years, Council has been collaborating with the Department of Energy, Environment and Climate Action (DEECA) regarding options for the Waratah Bay Caravan Park and the foreshore area.

DEECA have confirmed that it is now interested in progressing an option of one coastal foreshore committee of management. This fulfils their aim to address the recommendations of an expert panel appointed by the State Government to review the current system of managing Victoria's coastline starting with the Coastal Management Act 1995 i.e. a local committee of management over the Waratah Bay Caravan Park and foreshore.

DEECA has engaged with the Sandy Point Foreshore Committee of Management who have requested to be appointed committee of management over the Waratah Bay Caravan Park and foreshore which requires Council to relinquish its role as committee of management.

RECOMMENDATION

That Council relinquishes being the appointed Committee of Management over the Waratah Bay Caravan Park and Foreshore being part Crown Allotment 20C Parish of Waratah North.

REPORT

The main section of the Waratah Bay Caravan Park is situated in Freycinet Street, Waratah Bay and the foreshore component contains the former "Gap" camping area. Refer to **Figure 1 and 2**.

Figure 1: Area to be transferred shown outlined in blue



Figure 2: Official Appointment Plan



DEECA has engaged directly with the Sandy Point Foreshore Committee who have requested to be appointed committee of management over the Waratah Bay Caravan Park and foreshore. Council officers have assisted DEECA in their negotiations with this committee. DEECA have confirmed their consent for this change of management to occur and this requires Council to relinquish its role as Committee of Management.

This proposal will ensure local participation in the management of the foreshore with the requisite funding to support coastal management and maintenance. Community benefit would be enhanced by appointing them. It is understood that the local committee intends to lease the operation of the caravan park to a professional entity, and then use resources from the rental income to improve the caravan park and the foreshore. They would also be eligible to obtain funding directly from DEECA.

In the Council Plan, Council has agreed to advocate, plan and encourage the protection of our natural landscape and coastline. A local committee of management is well placed to support Council in achieving this.

CONSULTATION / COMMUNITY ENGAGEMENT

Significant consultation has occurred between DEECA, the Sandy Point Foreshore Committee of Management, the current lessee, and Council officers.

RESOURCES / FINANCIAL VIABILITY

Council will no longer be directly responsible for these sites.

RISKS

There are no significant risks to Council by relinquishing its committee of management to DEECA over the Waratah Bay Caravan Park and foreshore.

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. Council Minutes 26 July 2017 - Waratah Bay Caravan Park Proposed Lease
[4.1.1 - 12 pages]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 3. Decision Making

Legislative Provisions

Marine and Coastal Act 2018

Marine and Coastal Act Consultation (August 2016)

4.2. 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 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

Council has reviewed the South Gippsland Planning Scheme in accordance with the State Government's requirements for planning scheme reviews. The Planning Scheme Review (the Review) included 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 found that the Planning Scheme generally serves our community and environment well, and has recommended improvements to correct anomalies, improve processes, conduct and implement strategic projects, and advocate to higher levels of government for wider changes.

The Planning Scheme Review report (see **Attachment [4.2.1]**) including a marked-up Ordinance is provided for Council's consideration for adoption, and subsequent submission of the report to the Minister for Planning as required under the *Planning and Environment Act 1987*.

RECOMMENDATION

That Council:

- 1. Adopt the Planning Scheme Review report, Attachment [4.2.1], and authorise the Chief Executive Officer to submit the Planning Scheme Review Report to the Minister for Planning as required by Section 12B of the *Planning and Environment Act 1987* by not later than 31 October 2023.**
- 2. Authorise the Chief Executive Officer to seek authorisation from the Minister for Planning for a proposed planning scheme amendment to**

correct errors, anomalies and update Council's Further Strategic Work at Clause 74.02, as outlined in Appendix 2 of Attachment [4.2.1].

REPORT

The Review has found that the Planning Scheme generally serves our community and environment well, and makes recommendations for improvements to correct anomalies, improve processes, conduct and implement strategic projects, and advocate to higher levels of government for wider changes. The key recommendations for completion over the next four years are as follows:

Further Strategic Work 2023-2027

1. Prepare a planning scheme amendment(s) using the marked-up ordinance that forms Appendix 2 (refer **Attachment [4.2.1]**).
2. Apply planning controls that address land use risk and climate change in coastal areas, including townships as part of coastal strategy implementation. This may result in an update of the Housing and Settlement Strategy 2013.
3. Review residential controls and, where necessary, undertake character assessments to inform new planning controls to manage development, considering the full suite of residential zones. This should include:
 - a. Provide guidance about development on laneways, particularly in Korumburra and Leongatha relating to infill subdivision and development proposals.
 - b. Review of the existing Environmental Significance Overlays (ESO) and Design and Development Overlays (DDO) to ensure they are achieving what is expected from them, are applied at the right scale, have the correct permit triggers and sufficient detail to better aid applicants and decision makers.
 - c. Provide clearer urban design guidance to assist with balancing the tension between competing objectives and outcomes for the siting and design of buildings and works.
4. Undertake a Rural Landscapes Assessment and review the Rural Land Use Strategy 2011, to check that planning controls are protecting inland and rural hinterlands and transportation / tourism routes from inappropriate development. This should address identification and protection of significant landscapes, preservation of agricultural land, and guidance for achieving development outcomes in keeping with scope of agricultural use. This should include:
 - a. Review rural dwellings and subdivision policy requirements to ensure consistency with State Planning Policy and protection of local values, with input via community consultation.

- b. Review ES01 Areas of Natural Significance and prepare a detailed statement of significance and reduce the objectives to one. This may require splitting the existing ES01 into finer grained ESOs to address the specific issues of environmental significance or consider benefits of translation to Significant Landscape Overlay (SLO).
 - c. Review whether the S173 Agreement requirements detailed in the Rural Land Use Strategy 2011 can be incorporated into the planning scheme and if not, undertake further strategic work to identify other controls to address dwelling density in the rural areas.
 - a. Finalise and implement Council's current review of planning permit triggers in the Shire's rural areas.
- 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 will require a minor review of the Housing and Settlement Strategy 2013, ongoing implementation of the Nyora Development Strategy 2016, and may include further urban character and flood risk controls.
- 6. Facilitate the introduction 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 and Planning (DTP) on key transport infrastructure issues.
- 7. Prepare and implement the industrial land use strategy to ensure a sufficient, appropriately located supply of industrial land, particularly considering the impacts of emerging offshore energy generation, and the changing needs of the agricultural industry.
- 8. Implement the 'Flood & Drainage Study for Foster and Surrounding Catchments – July 2019' in partnership with the West Gippsland Catchment Management Authority.
- 9. Convert ES05 Areas Susceptible to Erosion into the Erosion Management Overlay.
- 10. Update the South Gippsland Heritage Study 2004 as necessary and to apply the Heritage Overlay to all heritage places and precincts of local heritage significance.

Additional strategic work has been identified for implementation, when resources permit (refer to **Appendix Six of Attachment [4.2.1]** for comprehensive details), including:

- 11. Apply the Environmental Audit Overlay (EAO) to known sites of land contamination in accordance with previous Council initiative.

12. Convert ES04 Sewer Treatment Plants and Environs and ES08 Manufacture of Milk Products Amenity to the Buffer Area Overlay (BAO).
13. Update Clause 15.01-1L-02 (Signage) to provide clearer guidance in relation to the specific outcomes that are sought to be achieved in relation to signage within the Shire, to provide clarity for the community and to help Council to refuse inappropriate proposals.
14. Various drafting changes to the Special Use Zone (SUZ) 4 and SUZ7, ES02 Water Catchments, ES07 Coastal Settlements and the Parking Overlay (PO).
15. Develop an offset framework to enable appropriate relocation or replacement of habitat of the Giant Gippsland Earthworm resulting from planning decisions, 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 ES09 Giant Gippsland Earthworm and Habitat Protection.
16. Notify parties that strategic justification is required to facilitate the rezoning of land for future expansion of the Mirboo North Town Centre.

In addition to the above work program items, it is noted that Council is regularly approached to assess development proposals for rezoning land and subdivision which can have significant workload impacts. Council's Planning Team also participates in Government projects, such as Marinus Link Energy Transition project and other emerging economic restructuring or environmental issues. The capacity to undertake and deliver the various strategic projects requires consideration when formulating yearly project initiative plans.

Statutory Improvements

The Review also assessed opportunities for improvements to Council processes, including those that are associated with the collection and analysis of data (such as planning permits), processing and referral of applications, and communication with stakeholders. Process improvements may apply to Council, the State Government or referral agencies. The following recommendations are made:

17. 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 non-compliance of Council in meeting statutory processing timeframes for planning permit applications (target reduction is from 99 days to the statutory 60 days).
18. Improve the documentation relating to 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.

19. Prepare a Memorandum of Understanding between South Gippsland Water and Council to enable South Gippsland Water to be removed as a Referral Authority for unplumbed domestic sheds located more than 30m from a waterway.

Advocacy Work

The Review also makes recommendations for advocacy work that is generally beyond the scope of what Council can achieve in its Planning Scheme under the current Victoria Planning Provisions, or the scope of the *Planning and Environment Act 1987*. These are matters Council may wish to discuss with the State Government to highlight and advocate for change. It recommends that Council:

20. Consult with DTP to identify whether the Restructure Plans can be included in Clause 2.04 Strategic Framework Plans or a new Clause 11 Settlement policy to make them more accessible to the community.
21. Advocate for policy and funding to assist in the upgrade of infrastructure in key urban growth areas in Leongatha, Korumburra, Nyora, Mirboo North and Foster, in consultation with the DTP on key transport infrastructure issues.
22. Seek advice from DTP about the appropriate tool to manage Special Water Catchments (ES02).
23. Undertake consultation with the relevant authorities, with a view to resolving the three Council-identified anomalies that could potentially be resolved prior to initiation of the Planning Scheme Review implementing Amendment. Specifically:
 - a. Resolve a Memorandum of Understanding (MoU) 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 ES04 Sewer Treatment Plants and Environs and ES08 Manufacture of Milk Products Amenity to the Buffer Area Overlay (BAO).
 - c. Develop an offset framework to enable appropriate relocation or replacement of habitat of the Giant Gippsland Earthworm resulting from planning decisions 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 ES09 Giant Gippsland Earthworm and Habitat Protection.

CONSULTATION / COMMUNITY ENGAGEMENT

Consultation was undertaken with key partners and State agencies who have an interest in the South Gippsland Shire Council's Planning Scheme to assist the preparation of a draft report and marked up ordinance. The broader community was then asked to provide comment on these documents between 15 February and 15 March 2023.

Council sought feedback via a range of engagement methods. A total of 80 surveys were completed, 14 written submissions received, and four comments made on the Ideas board. Further detail on this can be found in the Consultation Report in Section 8 (and Appendix 7) of **Attachment [4.2.1]**).

The responses generally supported the Review's findings, with some suggestions for additional changes. These have been considered by the project team and where appropriately supported by planning policy, have been included in the Final Report and Appendix 2 - Marked Up Ordinance (refer to **Attachment [4.2.1]**).

Comments and suggested actions that Planning Scheme controls, or business process improvements cannot respond to, such as road repairs and economic development opportunities, have been forwarded to the appropriate authority or Council Department for review and action if appropriate.

Consultation responses confirmed that the report generally addresses matters of concern. Along with resource planning considerations, these responses helped inform some the further strategic work (FSW) priorities in the determination of the final preferred order of priority that is presented to Council for adoption.

RESOURCES / FINANCIAL VIABILITY

The draft Council Budget 2023/24 includes \$155,000 for implementation of Council's strategic planning initiatives, which will facilitate implementation of some of the key recommendations of the Planning Scheme Review. Initiatives not funded in the draft 2023/2024 Budget will be considered in future budgets.

RISKS

The final report is due for submission to the Minister for Planning in October 2023.

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. South Gippsland Planning Scheme Review - Final Report - June 2023 [**4.2.1** - 584 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](#).

Annual Budget

Council Plan 2022-2026

South Gippsland's Planning Scheme

Legislative Provisions

Local Government Act 2020

Planning and Environment (Planning Schemes) Act 1996

Planning and Environment Act 1987

4.3. PLANNING APPLICATION 2022/165 – 79 ATHERTON DRIVE VENUS BAY - DEVELOP LAND WITH A REPLACEMENT DWELLING

Directorate:	Economy and Community
Department:	Planning and Building Services

Council Plan

Objective - Sustainable Growth

This application meets the objectives of the Council plan for the provision of development within the township of Venus Bay in accordance with the Zoning and Overlay provisions applicable to the land.

EXECUTIVE SUMMARY

The purpose of this report is for Council to consider and determine this planning application, which seeks approval for the development of the land for a dwelling at 79 Atherton Drive Venus Bay.

The application is being presented to Council for a decision as 13 submissions have been received to the proposal when originally advertised. The applicant has formally amended the design in response to Officer concerns and the submissions. The remaining key issues relate to the bulk and design of the dwelling.

The revised plans were advertised to all submitters. No additional submissions were received in response to the updated plans, and no submissions were withdrawn or modified.

Having considered the application against the relevant provisions of the South Gippsland Planning Scheme and having considered the relevant matters under section 60 of the Planning and Environment Act 1897, this assessment finds that the application has achieved a reasonable balance between the Design and Development Overlay and the Bushfire Management Overlay controls that apply to the land, and meets the relevant policy objectives for Venus Bay. On this basis, it is recommended that the proposal be supported.

RECOMMENDATION

That Council issue a Notice of Decision for the Development of a Dwelling at 79 Atherton Road Venus Bay subject to the following conditions and notes:

- 1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with**

dimensions and must be generally in accordance with the plans submitted with the application but modified to show:

- a. An amended Bushfire Management Plan as per the Country Fire Authority requirements at Condition 3.**
- b. Amended Elevations to include:**
 - i. External colours and materials schedule, including details of reflectivity.**
 - ii. Details of cut and fill, to be no greater than 1m in depth.**
- 2. The building, works and layout as shown on the endorsed plan(s) must not be altered or modified except with the written consent of the Responsible Authority.**
- 3. Country Fire Authority conditions:**

Before the development starts, a Bushfire Management Plan must be submitted to and endorsed by the Responsible Authority. Once endorsed the plan must not be altered unless agreed to in writing by CFA and the Responsible Authority.

The plan must be generally in accordance with the BMP prepared by David Gaskin Designs, Version 2 dated 05/04/2023 but modified to replace the conditions for Defendable Space, with:

a. Defendable space

Defendable space around the proposed building to the property boundary, must be provided where vegetation (and other flammable materials) will be modified and managed in accordance with the following requirements:

- i. Grass must be short cropped and maintained during the declared fire danger period.**
- ii. All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period.**
- iii. Within 10 metres of a building, flammable objects must not be located close to the vulnerable parts of the building.**
- iv. Plants greater than 10 centimetres in height must not be placed within 3m of a window or glass feature of the building.**
- v. Shrubs must not be located under the canopy of trees.**
- vi. Individual and clumps of shrubs must not exceed 5 square metres in area and must be separated by at least 5 metres.**

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- b. The development is not completed within four (4) years of the date of this permit.

The Responsible Authority may extend the periods referred to in accordance with Section 69 of the *Planning and Environment Act 1987*, if a request is made in writing.

Notes:

1. All works associated with the development must be in a manner consistent with the provisions of the *Aboriginal Heritage Act 2006*. It is an offence to harm Aboriginal cultural heritage unlawfully. First Peoples – State Relations is the authority for administration of the Aboriginal Heritage Act 2006. The owner/applicant is advised to contact First Peoples – State Relations at GPO Box 4912, Melbourne, 3001. Telephone 1800 762 003 or Aboriginalaffairs@dpc.vic.gov.au
2. This permit allows the above land to be used or developed for the purpose specified. It is the permit holder's responsibility to ensure that any other relevant approvals are obtained prior to the commencement of the use or development.
3. In issuing this permit the application has not been assessed against Clause 54 (Rescode) requirements of the South Gippsland Planning Scheme. It is therefore the responsibility of the Relevant Building Surveyor to assess the application against the relevant building regulations.
4. Groundwater in the Venus Bay Estates may not comply with World Health Guidelines for drinking water.
5. The owner/applicant is encouraged to check with the relevant service authorities before any excavation work is undertaken (e.g. Telstra, SP Ausnet and South Gippsland Water).
6. A Consent to Work Within the Road Reserve Permit must be obtained from Council's Engineering Department for the construction and/or alteration of the driveway crossover.
7. Planting of the area should be avoided and planting must be in accordance with the Bushfire Management Plan endorsed for the land.

REPORT

The Proposal

The application seeks approval to develop the land with a double storey dwelling on the corner of Atherton Drive and the #5 Beach access road in Venus Bay. The dwelling design is shown in **Attachment [4.3.1]** - Plans for Assessment 2022/169 79 Atherton Drive Venus Bay. The design response includes:

- Front set back of 7.5m to Atherton Drive;

- Side set back from #5 Beach Access 5.91m;
- Site coverage at 35.48%;
- Area of:
 - First floor 130.39m²
 - Ground floor 211.84m²
 - Total area 384.34m²
- Overall height above natural ground level of 6.249m;
- Materials used is a mix of Colorbond cladding and Hadies Axon Cladding (timber like cladding) colour treatment is monument for the Axon Cladding and Dune for the Colorbond cladding; and
- Roof deck: Colorbond monument.

Planning Controls

A Planning Permit is required for the development of a dwelling pursuant to:

- Schedule 5 to Clause 43.01-2 Design and Development Overlay, having an area of over 250m² (combined lower floor and upper); and
- Clause 44.06-2 Bushfire Management Overlay, development of land for accommodation.

Assessment

A detailed assessment of the application against the relevant sections of the South Gippsland Planning Scheme and Section 60 of the *Planning and Environment Act 1987* are discussed in **Attachment [4.3.2]** – Delegate Report 2022/169 79 Atherton Drive Venus Bay.

The following considerations are relevant to the assessment of this application:

- The appropriate balance between the requirements of the Design and Development Overlay and the Bushfire Management Overlay; and
- The appropriateness of a dwelling having a floor area greater than 250m².

CONSULTATION / COMMUNITY ENGAGEMENT

The application was advertised to the immediately adjoining and adjacent owners and occupiers, plus a site notice displayed on the subject site.

Thirteen submissions were received (there were some submitters who made multiple submissions) (**Confidential Attachment [12.2.1]** - Submissions 2022/169 79 Atherton Drive Venus Bay). Following initial public notice of the

application, the permit applicant lodged amended plans seeking to address the points of concern. Key alterations included an increase to the front and rear setbacks, relocation of the vehicle access to a safer location (side street), and confirmation that proposed external materials and finishes shown on the plans are able to comply with CFA's Bushfire Attach Level (BAL) requirements.

The amended plans were sent to all submitters to allow the opportunity to comment on the revisions; these are the plans which have been assessed and are now presented to Council for consideration. The full details of the objections are in the Officer's Delegation Report (**Attachment [4.3.2]**); the submissions related to:

- Front set back of the dwelling being inconsistent with the area;
- Bulk of the dwelling not being consistent with the area;
- Fencing;
- Vegetation removal;
- Location of the crossover and the impact on the power pole, Council road signs and safety; and
- Two Storey Development in consistent with the area.

Referrals

The application was referred to the relevant authorities both internally and externally, who have consented to the proposal subject to conditions which will be included on any permit that may be issued. Concerns were raised by the Country Fire Authority in relation to the building materials chosen to meet the Flame Zone requirement for the dwelling construction. These concerns have been addressed with the most recent design.

RESOURCES / FINANCIAL VIABILITY

Should Council issue a Notice of Decision to grant a Planning Permit for the proposal, any objector may elect to appeal to the Victorian Civil and Administrative Tribunal (VCAT) to review Council's decision. Should Council determine to refuse to grant a permit for the proposal, the permit applicant may elect to appeal to the VCAT to review Council's decision.

There is a cost to Council to attend VCAT Hearings.

RISKS

Should Council fail to decide on this application at this meeting, there is a risk that the applicant may appeal to VCAT against Council's failure to determine the application within statutory timeframes. Such an appeal affects Council's reputation and opens Council to a potential costs claim for its failure to determine.

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. Plans for Assessment - 2022/165 - 79 Atherton Drive Venus Bay [4.3.1 - 7 pages]
2. Delegates Report - 2022/165 - 79 Atherton Drive Venus Bay [4.3.2 - 21 pages]

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 [12.2.1] – Submissions - 2022/165 - 79 Atherton Drive Venus Bay – 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 1. Direction & Leadership

Pillar 3. Decision Making

Council Policy / Strategy / Plans

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

South Gippsland's Planning Scheme

Legislative Provisions

Planning and Environment (Planning Schemes) Act 1996

Planning and Environment Act 1987

5. NOTICES OF MOTION AND/OR RESCISSION

5.1. NIL

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 19 October 2022, 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. COUNCILLOR REPORTS

7.1. REQUESTS FOR LEAVE OF ABSENCE

RECOMENDATION

That Council grant leave of absence to Councillor Mohya Davies for Council Meeting 19 July 2023.

7.2. COUNCILLOR UPDATES

8. PUBLIC QUESTIONS

8.1. 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.

8.2. 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.

Questions received from Mr David Amor at the 17 May 2023 Council Meeting were taken on notice. Responses to questions are provided in this Agenda.

Question 1

What is the correct way to invite yourself [CEO] and Councillors to an open meeting outside council time?

Response

To arrange a meeting with the CEO or Councillors you can reach out to them at any stage via council@southgippsland.vic.gov.au

Question 2

Your hardship policy on rates, how is a discount or medical issue loss of income able to be reduced?

Response

Council does not provide a discount or waiver for rates and charges. We do however provide options for relief for principal place of residence only including:

- Interest waiver or pause for approved applicants using Council's Short Term Hardship Form.
- Payment arrangements can be made for a period of up to 12 months for these applications.
- Longer-term applications require support from a financial counsellor.

Information relating to these options is available on Council's website, refer – [Link](#).

Council Policies regarding hardship can be found on our website refer – [Link](#).

- Rates and Charges Hardship Policy (C53)
- Revenue and Debt Recovery Policy (C15)

Question 3

Can you supply info to myself which I have asked for or just reply so I now [know] you have read them?

Response

The Chief Executive Officer receives and considers in excess of a thousand emails per month addressed to her. As such it is not possible nor an appropriate use of resources for the CEO to personally respond to them all, they are delegated to the most appropriate part of the organisation for a response.

8.3. 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.

9. 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)(g) Agenda items 11.1 – Award Contract CON/349 - Korumburra Football Netball Changerooms Project (Request for Tender RFT/349), designated as private commercial information,**
 - a. **being information provided by a business, commercial or financial undertaking that –**
 - i. **Relates to trade secrets; or**
 - ii. **If released, would unreasonably expose the business, commercial or financial undertaking to disadvantage; and**
 - b. **The grounds for designation have been made as the information is deemed commercial-in-confidence to protect the privacy of the contractors tender information submitted for consideration.**
2. **Per s.3(1)(g) Agenda items 11.2 – Gippswide Kerbside Residual Waste Processing Tender (RFT2021003), designated as private commercial information,**

- a. being information provided by a business, commercial or financial undertaking that –**
 - i. Relates to trade secrets; or**
 - ii. If released, would unreasonably expose the business, commercial or financial undertaking to disadvantage; and**
- b. The grounds for designation have been made as the information is deemed commercial-in-confidence to protect the privacy of the contractor's tender information submitted for consideration.**

10. MEETING CLOSED

NEXT MEETING

The next Council Meeting open to the public will be held on Wednesday, 19 July 2023 commencing at 2pm in the Council Chambers, Leongatha.