

SOUTH GIPPSLAND SHIRE COUNCIL

Council Meeting Agenda

16 November 2022

**Council Meeting No. 477
Council Chambers, Leongatha
Commencing at 2:00pm**



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.

Council undertakes audio recordings of Council Meetings as a contribution to good governance and accuracy of minutes. An audio recording of this meeting is being made for the purpose of verifying the accuracy of minutes of the meeting. In some circumstances the recording may be disclosed, such as where Council is compelled to do so by court order, warrant, and subpoena or by any other law such as the *Freedom of Information Act 1982*. It should be noted that other people present at the meeting may be recording the meeting and Council has limited power to regulate this. Council has developed a policy to regulate recordings, "*Sound Recording of Council Meetings*".

A copy of this Policy is located on Council's website www.southgippsland.vic.gov.au.

SOUTH GIPPSLAND SHIRE COUNCIL

Notice is hereby given that Council Meeting No. 477 of the South Gippsland Shire Council will be held on Wednesday 16 November 2022 in the Council Chambers, Leongatha commencing at 2:00pm.

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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

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

Councillor Michael Felton

1.6. CONFIRMATION OF MINUTES

RECOMMENDATION

That the Minutes of the South Gippsland Shire Council Meeting No.476, held on 19 October 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 Clare Williams has declared that she has a general conflict of interest in Council Confidential Agenda Item 12.3 2022/23 Community Grants - Round 1 as she is a Committee member on one of the groups that applied for a grant.

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 - CONNECTING OUR PEOPLE AND PLACES

2.1. SIMONS LANE LEONGATHA SOUTH INTERSECTION WORKS - COMPULSORY LAND ACQUISITION

Directorate:	Sustainable Infrastructure
Department:	Infrastructure Delivery

Council Plan

Objective - Connecting our People and Places

Completing the land acquisition detailed within this report will enable the improvement of services related to roads, road maintenance, and road safety.

EXECUTIVE SUMMARY

The purpose of this report is for Council to consider undertaking a compulsory land acquisition process in accordance with the *Land Acquisition and Compensation Act 1986* to acquire parcels of land from three properties in association with the realignment of Simons Lane, Leongatha South as shown in Plans A, B and C.

RECOMMENDATION

That Council:

1. Pursuant to the *Local Government Act 2020*, *Land Acquisition and Compensation Act 1986*, and *Land Acquisition and Compensation Regulations 2010*, undertake the process to compulsorily acquire the following parcels of land and as shown in Plans A, B and C:
 - a. Plan A – Road (R-1) 1-hectare part Lot 1 PS914004W;
 - b. Plan B – Road (R-1) 1012m² Part Lot 1 PS914002B;
 - c. Plan C – Road (R-1) 2637m² Part Lot 1 PS914003Y

REPORT

It is proposed that Council construct and seal Simons Lane, Leongatha South and construct a new intersection where Simons Lane meets with the Bass Highway to improve road safety.

To enable these improvements, Council will need to undertake a compulsory land acquisition process in accordance with the *Land Acquisition and Compensation Act 1986* to acquire parcels of land from three properties. The location of these parcels to be compulsorily acquired is shaded orange in **Figure 1** below.

Figure 1: Location of Parcels to be Acquired



Each parcel of land to be acquired are shown in Plans A, B and C in **Figures 2-4** below and full size A3 plans are available in **Attachments [2.1.1], [2.1.2] and [2.1.3]**).

Figure 2: Plan A – Road (R-1) 1-hectare part Lot 1 PS914004W

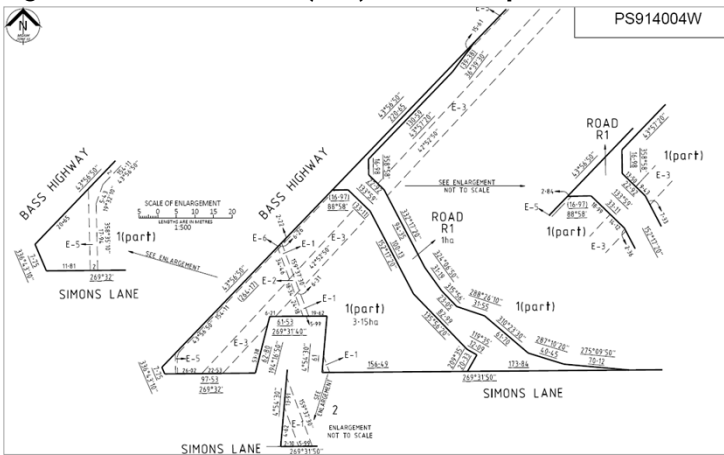


Figure 3: Plan B – Road (R-1) 1012m2 part Lot 1 PS 914002B

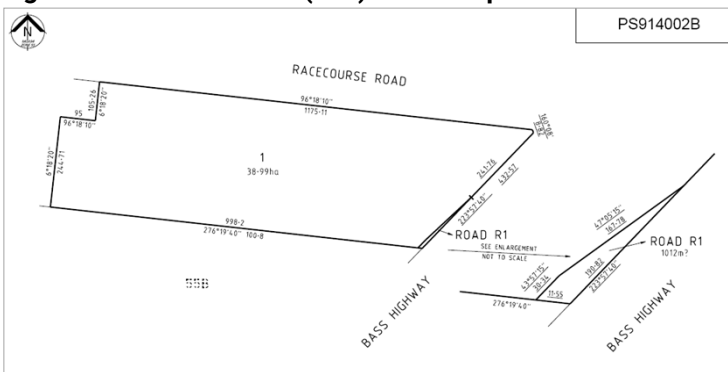
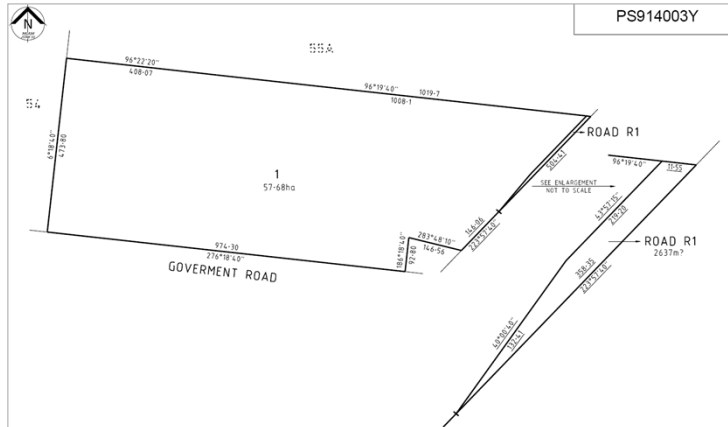


Figure 4: Plan C – Road (R-1) 2637m2 part Lot 1 PS 914003Y



It is proposed that a compulsory land acquisition process be carried out under the 10 per cent rule provided for in accordance with regulation 6 of the *Land Acquisition and Compensation Regulations 1986*. This rule allows the compulsory acquisition of land provided that each parcel to be acquired is less than 10 per cent of the allotment size and value. The proposed acquisitions for these allotments are expected to comply with this rule – pending finalisation of each valuation.

As part of its adopted Capital Works Program for 2022/23, Council is committed to the Realignment and Reconstruction of Simons Lane (the Project). This project has been many years in the making and involves three key elements:

1. Sealing Simons Lane along the majority of its existing unsealed alignment;
2. Closure of Simons Lane at its current hazardous intersection with the Bass Highway;
3. Relocation of the intersection of Simons Lane with the Bass Highway to a new, safer location.

In order to achieve the aims of the Project, a preliminary design has been prepared and is nearing final approvals prior to tendering for works. The design process has identified a deficiency in available public road space to deliver the realignment of the intersection element of the proposed works. The realignment has resulted from an independent road safety audit of the current intersection, instigated by Council and endorsed by the Department of Transport (DoT), detailing significant sight distance safety issues for right turning vehicles, both in to and out of Simons Lane to the Bass Highway.

The design moves the intersection to a new location approximately 290 metres north east along the Bass Highway from the current location, closer to Leongatha. This will allow Simons Lane to remain as a through-route and will provide dedicated left and right turn lanes from the Bass Highway into Simons Lane, whilst providing required safe intersection sight distance for vehicles exiting Simons Lane.

To enable full delivery of the intent of the Project, Council is looking to commence a land acquisition process from some properties abutting the proposed works along Simons Lane and the Bass Highway.

NEXT STEPS

Council's lawyers will undertake the legal work involved in the compulsory acquisition process and represent Council in these dealings.

The first steps by Council's lawyers will be to serve a notice in a prescribed form to affected parties explaining their rights and the process. Later in the process, valuations of the parcels of land to be acquired will be obtained from a certified practising valuer.

CONSULTATION / COMMUNITY ENGAGEMENT

Council staff have consulted with the affected landowners, outlining the proposal and compulsory acquisition process. DoT are also a key stakeholder in this project, being the coordinating road authority for the Bass Highway, and they have provided preliminary approval of the functional intersection design.

Council's *Community Engagement Policy (C06)* and Chief Executive Officer Guidelines restricts further community engagement to:

- a. *fulfilling the statutory requirements of section 112(2) of the Local Government Act 2020 and Land Acquisition and Compensation Act 1986; and*
- b. *a community engagement process does not apply in circumstances relating to the proposed acquisition of land that, or there is likely to be, the consideration of confidential information in a closed session of Council in accordance with section 66(2)(a) and (b) of the Local Government Act 2020; and the Chief Executive Officer designating it as an agenda item as confidential information, being information that would prejudice the Council's position in commercial negotiations including if prematurely released by a community engagement process.*

RESOURCES / FINANCIAL VIABILITY

Funding of the works and the cost of possible compensation payments and legal fees is included in the Capital Works Program for 2022/23.

The Project has been approved for inclusion in Phase 3 funding of the Commonwealth Government's *Local Roads and Community Infrastructure Program*.

RISKS

The risks to Council are mitigated as Council's lawyers will be instructed to undertake the legal work involved in the compulsory acquisition process and represent Council in these dealings.

If the compulsory acquisitions do not proceed, the agreed improvements to Simons Lane and the Simons Lane/Bass Highway intersection cannot be made which would then not help in mitigating known road safety risks and will likely necessitate permanent closure of the current intersection.

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. Plan A - Plan of Subdivision PS914004W [2.1.1 - 4 pages]
2. Plan B - Plan of Subdivision PS914002B [2.1.2 - 3 pages]
3. Plan C - Plan of Subdivision PS914003Y [2.1.3 - 3 pages]

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](#).

Council Land Ownership Policy (C34)

Community Engagement Policy (C06)

Legislative Provisions

Local Government Act 1989

Local Government Act 2020

Land Acquisition and Compensation Act 1986

Land Acquisition and Compensation Regulations 2010

3. OBJECTIVE - HEALTHY AND ENGAGED COMMUNITIES

3.1. DOMESTIC ANIMAL MANAGEMENT PLAN 2022 - 2025

Directorate:	Economy and Community
Department:	Community Health and Safety

Council Plan

Objective - Healthy and Engaged Communities

The Domestic Animal Management Plan (DAMP) will ensure domestic animals are managed effectively protecting the environment and the health and safety of the community.

EXECUTIVE SUMMARY

The purpose of this report is to present the final draft *Domestic Animal Management Plan 2022-2025 (DAMP)* (refer **Attachment [3.1.1]**) for Council's consideration and determination.

Under the *Domestic Animals Act 1994*, every Victorian local government must prepare a Domestic Animal Management Plan (DAMP) outlining how it will manage dogs and cats within its municipal boundaries. The DAMP is renewed every four years.

An extensive consultation and engagement process was undertaken in two stages to complete this final draft DAMP. The first stage involved widespread feedback from the community through a variety of engagement methods, and the second stage provided an opportunity for the community to make final comments prior to presenting the final draft DAMP to Council for consideration.

RECOMMENDATION

That Council:

- 1. Adopts the draft Domestic Animal Management Plan 2022-2025 (Attachment [3.1.1]);**
- 2. Publishes the Plan to Council's website; and**
- 3. Submits the Plan to the Victorian State Government (Animal Welfare Victoria).**

REPORT

Council's previous DAMP expired in 2021 and an interim one-year action plan was put in place until a further three-year plan could be developed with input

from Council. A new three-year DAMP has now been developed to support a strategic approach towards promotion of responsible pet ownership and providing balance to the needs of pet owners and non-pet owners in our community.

The DAMP was developed after an extensive public consultation process undertaken in two stages:

- Stage one – involved extensive community consultation that informed the development of the draft DAMP, and
- Stage two – the draft DAMP was released for community feedback.

During stage one of the consultations over 4,400 people were invited to participate and over 3,400 comments were received and recorded. Council also interacted with 73 people who participated in community listening posts.

The response rate to the consultation included 583 valid survey responses that were received through Council's survey (530 online and 53 hard copy), plus 24 written submissions. This represents a statistically significant sample of the population.

Stage two consultations involved the release of the draft DAMP and invited the public to provide feedback. Participants from stage one consultation were once again contacted to provide further feedback. A summary of the responses received and any resultant changes made to the draft DAMP as a result are detailed in **Attachment [3.1.2]**.

In total six submissions were received. All of the submissions were in support of the introduction of some form of cat containment, either a 24/7 or night time curfew. They also highlighted the importance of ensuring farm cats were included in any controls. The DAMP includes the following action *Investigate the introduction of a 'Cat Curfew Order' and the introduction of a 'Leash Order'* which addresses the issues raised in the submissions.

RESOURCES / FINANCIAL VIABILITY

The implementation of the *Domestic Animal Management Plan 2022-2025 (DAMP)* will be conducted within the existing budget of the Local Laws Team.

RISKS

Domestic animals can pose a public health, environmental, legal and economic risk. South Gippsland is an area that prides itself on its natural assets as well as living amenity. Inadequate management of domestic animals by Council poses a reputational risk to Council by possibly threatening these values.

Failure to have an endorsed *Domestic Animal Management Plan 2022-2025* submitted to the State Government (Animal Welfare Victoria) would place Council in breach of s.68A of the *Domestic Animals Act 1994*.

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. Domestic Animal Management Plan 2022-2025 FINAL [3.1.1 - 34 pages]
2. Submission Stage two consultation draft DAMP 2022 2025 [3.1.2 - 2 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](#).

Council Plan 2022-2026

Domestic Animal Management Plan

General Local Law 2014

Legislative Provisions

Domestic Animals Act 1994

4. OBJECTIVE - LEADING WITH INTEGRITY

4.1. ORGANISATIONAL AND FINANCIAL PERFORMANCE REPORT - JULY 2022 TO SEPTEMBER 2022

Directorate:	Performance and Innovation
Department:	Governance

Council Plan

Objective - Leading with Integrity

Council's governance is strengthened by regular organisational performance reporting against the Council Plan 2022-2026 Measures and Annual Initiatives.

EXECUTIVE SUMMARY

The purpose of this report is for Council to consider the Organisational and Financial Performance Reports for the time period of 1 July 2022 to 30 September 2022 (**Attachment [4.1.1]**) which includes progress against the 2022/23 Adopted Budget and 2022/23 Annual Initiatives for the 2022-2026 Council Plan (Council Plan).

The role of Council is to provide leadership for the good governance of the Shire. This is achieved, in part, by establishing strategic directions articulated in a four-year Council Plan and supported by an adopted Budget that contains the first (annual) financial year and subsequent three financial years. These requirements are legislated under s.90 and 94 of the *Local Government Act 2020* (Act).

Council endorsed the 2022/23 Annual Initiatives (Annual Initiatives) as part of the 2022-2026 Council Plan at the 29 June 2022 Council Meeting. The Council Plan outlines the strategic objectives, priorities, major initiatives and measure of success indicators for the next four years.

These Annual Initiatives further the implementation of activities to progress the achievement of the Council Plan Objectives and Strategies for the 2022/23 financial year. The Annual Initiatives are also captured in Section 1 of the Budget 2022/23-2025/26 (Budget), through which they are funded.

The Financial Performance Report (**Attachment [4.1.2]**) has been prepared in accordance with s.97 of the Act.

The results in the financial summary:

- The **operating** surplus as at 30 September 2022 is favourable to forecast by \$3.8M. The favourable variance is largely due to a favourable variance in capital natural disaster grants (\$2.5M) and materials and consumables

(\$1.4M) largely as a result of timing and further phasing adjustments required.

- **Capital works** expenditure is tracking at \$4.5M as compared to the year to date forecast of \$5.6M.

Operating and Capital forecast changes for this Financial year were approved at the 19 October 2022 Council meeting as per the 2021/22 Carry Forwards and End of Year Financials (End Of Year Results) Report.

These two reports **Attachment [4.1.1]** and **[4.1.2]** will be presented to Council's Audit and Risk Committee in December 2022.

RECOMMENDATION

That Council:

- 1. Receives and notes the Organisational Performance Report (Attachment [4.1.1]) and the Financial Performance Report (Attachment [4.1.2]) for the period July 2022 to September 2022;**
- 2. Publishes the Organisational Performance Report (Attachment [4.1.1]) to Council's website; and**
- 3. Presents the Organisational Performance Report (Attachment [4.1.1]) and the Financial Performance Report (Attachment [4.1.2]) to the December 2022 Audit and Risk Committee Meeting.**

REPORT

Organisational Performance Report

Council endorsed the *2022/23 Annual Initiatives* (Annual Initiatives) as part of the *2022-2026 Council Plan* (Council Plan) at the 29 June 2022 Council Meeting.

The Council Plan includes key strategic objectives, priorities, major initiatives and a series of indicators called 'Measures of Success' (Indicators).

The six Strategic Objectives of the *2022-2026 Council Plan* are:

- Connecting Our People and Places
- Economy and Industry
- Healthy and Engaged Communities
- Leading with Integrity
- Protecting and Enhancing our Environment
- Sustainable Growth

Annual Initiatives are developed annually and include significant activities that progress the achievement of the objectives and priorities in the Council Plan. These Annual Initiatives are adopted each year in the Budget. The current Annual Initiatives are in the *2022/23 Budget* adopted at the 29 June 2022 Council Meeting. For connectivity, they are also captured each year as an update to the Council Plan. Progress against these Annual Initiatives and performance indicators are monitored and reported to Council within each Quarterly Performance Report.

The alignment of the Council Plan, Organisational Performance Report and Council Agenda topics in Council Meetings all outline the various activities and initiatives that work towards achieving the Council Plan strategic objectives and priorities.

The Organisational Performance Report – July 2022 to September 2022 **Attachment [4.1.1]** has been prepared and is presented to Council for consideration.

Discussion

This report provides an overview of the major activities undertaken by Council in the first quarter of the 2022/23 financial year (1 July 2022 to 30 September 2022).

Significant highlights during the period include 92 per cent of the Annual Plan initiatives for 2022/23 are either target achieved or on-track as at end of September 2022.

Financial Performance Report

Section 97 of the *Local Government Act 2020* (Quarterly budget report) states that:

“That Council:

- 1. As soon as practicable after the end of each quarter of the financial year, the Chief Executive Officer must ensure that a quarterly budget report is presented to Council at a Council meeting which is open to the public.*
- 2. A quarterly budget report must include:*
 - a. A comparison of the actual and budget results to date; and*
 - b. An explanation of any material variations; and*
 - c. any other matters prescribed by the regulations.”*

Council each year sets an Annual Budget within the framework of a 10-year Long-Term Financial Plan. Guidance is provided by the Long-Term Financial Strategies when developing annual and longer-term budgets. The financial integrity of the

budgeted financial statements in the annual and forward budgets can be assessed by reference to financial performance indicators.

Throughout the course of the financial year the actual financial performance is managed by:

1. Comparing year-to-date actual financial performance with the year-to date budgets.
2. Monitoring the financial impact of changes made to budget projections on the forecast financial results at year end; and
3. Monitoring the longer-term financial ramifications against the originally adopted Long-Term Financial Plan.

The financial performance indicators that were used to develop the annual and long-term budgets are used to monitor projected financial outcomes at year-end as well as the longer-term financial ramifications. At the end of the financial year, comprehensive financial statements and performance statements are produced, subject to external audit and included in the Annual Report.

Financial Performance Report - July 2022 to September 2022 contains detailed reporting in (refer to **Attachment [4.1.2]**).

Section 1 - Financial Performance Statement

This section provides an overview of Operating performance and expenditure on the Capital Works Program. It also provides details of Council's cash position and outstanding debtors.

Section 2 - Financial Statements

This section lists the following financial statements (including variance commentary) as at 30 September 2022:

- Balance Sheet
- Cash Flow Statement

Section 3 – Annual Year to Date Financial Analysis

This section provides key financial sustainability indicators for the adopted budget and the full year forecast.

CONSULTATION / COMMUNITY ENGAGEMENT

The Organisational Performance Report (**Attachment [4.1.1]**) and the Financial Performance Report (**Attachment [4.1.2]**) will be presented to Council's Audit and Risk Committee in December 2022.

RESOURCES / FINANCIAL VIABILITY

The 2022/23 Annual Initiatives are funded through the 2022/23 Annual Budget.

The proposed forecast changes are in line with actuals and forecasted pre-payment of the 2022/23 Victoria Grants Commission allocation. The forecasted changes are unfavourable to the original adopted budget, primarily due to rising fuel and interest rate costs.

RISKS

The Organisational and Financial Performance Reports ensure the organisation remains in budget and also mitigates the risk of annual initiatives not being monitored throughout the financial year. These activities are priority actions required by Council. Inadequate monitoring of their progress may result in activities not within budget, not being achieved, or without understanding the reasons for any delay or budget constraints.

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. Organisational Performance Report - July 2022 to September 2022 [4.1.1 - 23 pages]
2. Financial Performance Report - July 2022 to September 2022 [4.1.2 - 15 pages]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 8. Monitoring & Performance Review

Council Policy / Strategy / Plans

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

Annual Budget

Council Plan 2022-2026

Legislative Provisions

Local Government Act 2020

Local Government Better Practice Guide – Performance Framework Indicator Workbook

Local Government (Planning and Reporting) Regulations 2020

4.2. AUDIT AND RISK COMMITTEE CHAIR'S ANNUAL REPORT AND 7 OCTOBER 2022 MEETING MINUTES

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

Council Plan

Objective - Leading with Integrity

This report provides Council assurance that the Audit and Risk Committee are achieving their objectives according to the Audit and Risk Charter, and driving continuous improvement of good governance and process through the organisation.

EXECUTIVE SUMMARY

The Audit and Risk Committee's (the Committee) Annual Assessment, including the final 2021/22 biannual audit and risk update (**Attachment [4.2.1]**) from the Chair, provides a high-level review of the 2021/2022 financial year achievements of the Committee. The report highlights and commends the achievements and improvements made over the last 12 months in responding to actions from previous audits as well as in the execution and effectiveness of this Committee.

The report also notes and commends the preparation and presentation of the annual financial report with an unqualified statement from VAGO, noting the achievements made despite the difficulties imposed by COVID-19 Pandemic related restrictions. These observations are also noted in the quarterly meeting minutes.

The quarterly meeting primarily focussed on the VAGO External Performance and Financial Audit having met with VAGO representatives both in-camera and in the formal meeting to discuss the results. The meeting also provides review of the recently developed Strategic Risks under the new and revised Risk Framework and commended the progress made as well as providing guidance for continued improvement. The minutes from the 7 October 2022 Audit and Risk Committee is included in (**Attachment [4.2.2]**).

RECOMMENDATION

That Council:

- 1. Notes the Annual Assessment, including the final Biannual Audit and Risk Report for the 2021/22 financial year from the Audit and Risk Committee Chair (Attachment [4.2.1]); and**
- 2. Notes the Audit and Risk Committee 7 October 2021 Meeting Minutes; (Attachment [4.2.2]).**

REPORT

In accordance with s.54 (6) of the *Local Government Act 2020* (Act), the Chief Executive Officer is required to table reports and annual assessments of the Audit and Risk Committee when required by the Act to do so. This report tables the Annual Assessment, including the final 2021/22 biannual audit and risk update from the Committee Chair. – refer **Attachment [4.2.1]** and the Minutes of the 7 October 2022 Audit and Risk Committee meeting – refer **Attachment [4.2.2]**.

CONSULTATION / COMMUNITY ENGAGEMENT

The Audit and Risk Committee is required to have suitably experienced independent members which ensures appropriate probity and transparency of the Committee function as well as bringing a wide range of relevant experience from other organisations and agencies to contribute best practice guidance.

RESOURCES / FINANCIAL VIABILITY

Audit and Risk Committee independent members are paid with funding from an allocated and approved budget. This ensures attraction and retention to the role of suitably experienced independent members.

RISKS

The Audit and Risk Committee exists to ensure that Council is well informed and advised on the functioning of the organisation in terms of understanding its responsibilities and accountabilities from an audit function and from a risk position; that the organisation does what it is legislatively required to do, and responsibly should do for responsible and accountable delivery of our services to the community.

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 Chair Report [4.2.1 - 7 pages]
2. SGSC Audit and Risk Committee Minutes 7 October 2022 [4.2.2 - 13 pages]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 7. Risk & Compliance

Pillar 8. Monitoring & Performance Review

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

4.3. SUMMARY OF STRATEGIC BRIEFINGS - 13 SEPTEMBER 2022 - 12 OCTOBER 2022

Directorate:	Performance and Innovation
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Department:	Governance
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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 September and 12 October 2022.

RECOMMENDATION

That Council receives and notes this report.

REPORT

Meeting Title	Details
Wednesday 14 September 2022	
Council Meeting Agenda Topic Discussion 21 September 2022	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Michael Felton, Jenni Keerie, John Schelling and Clare Williams.</p> <p>Municipal Monitor: Apology</p> <p>Conflict of Interest: Councillor Clare Williams left the Council Chambers with a declared general conflict of interest in Council Confidential Agenda Item 13.1 PLANT PURCHASE - 26 TONNE GVM HEAVY VEHICLE RIGID SEALED ROADS MAINTENANCE TRUCK (MAV CONTRACT NPN04-13) -</p>

Meeting Title	Details
	<p>PLANT NO. 657 in respect of a private interest and the business that she is a joint owner.</p> <p>Ms Kerryn Ellis, Chief Executive Officer has a declared material conflict of interest in Confidential Agenda Item 13.4. PERSONAL INFORMATION - CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW, as the matter relates directly to her role. This matter relating to her conflict of interest was not discussed.</p>
<p>Policy Review – Governance Rules</p>	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Michael Felton, Jenni Keerie, John Schelling and Clare Williams.</p> <p>Municipal Monitor: Apology</p> <p>Conflict of Interest: Nil disclosed.</p>
<p>Early Years Services</p>	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Michael Felton, Jenni Keerie, John Schelling and Clare Williams.</p> <p>Municipal Monitor: Prue Digby</p> <p>Conflict of Interest: The Mayor, Councillor Mohya Davies declared a general interest in a briefing to Council on the Early Years Services, as she is the Chair for the Prom Coast Centres for Children. The matter relating to her conflict of interest was not discussed.</p>
<p>Coastal Strategy – Discussion Paper</p>	<p>Councillors Attending: Mohya Davies, Sarah Gilligan, Nathan Hersey, Michael Felton, Jenni Keerie, John Schelling and Clare Williams.</p> <p>Municipal Monitor: Prue Digby</p> <p>Conflict of Interest: Nil disclosed.</p>
<p>Wednesday 21 September 2022</p>	
<p>Council Meeting Agenda Topic Discussion 21 September 2022</p>	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Jenni Keerie, John Schelling, Clare Williams and Adrian Darakai.</p> <p>Municipal Monitor: Apology</p> <p>Conflict of Interest: Councillor Clare Williams left the Council Chambers with a declared general conflict of interest in Council Confidential Agenda Item 13.1 PLANT PURCHASE - 26 TONNE GVM HEAVY VEHICLE RIGID SEALED ROADS MAINTENANCE TRUCK (MAV CONTRACT NPN04-13) -</p>

Meeting Title	Details
	<p>PLANT NO. 657 in respect of a private interest and the business that she is a joint owner.</p> <p>Ms Kerryn Ellis, Chief Executive Officer has a declared material conflict of interest in Confidential Agenda Item 13.4. PERSONAL INFORMATION - CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW, as the matter relates directly to her role. This matter relating to her conflict of interest was not discussed.</p>
Community Planning	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, John Schelling, Clare Williams and Adrian Darakai. Municipal Monitor: Apology Conflict of Interest: Nil disclosed.</p>
Port Welshpool Update	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, John Schelling, Clare Williams and Adrian Darakai. Municipal Monitor: Apology Conflict of Interest: Nil disclosed.</p>
Wednesday 5 October 2022	
Domestic Animal Management Plan 2022 - 2025	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Michael Felton, Jenni Keerie, Clare Williams and Adrian Darakai. Municipal Monitor: Apology Conflict of Interest: Nil disclosed.</p>
Wednesday 12 October 2022	
Early Years Services	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Jenni Keerie, John Schelling, Clare Williams and Adrian Darakai. Municipal Monitor: Apology Conflict of Interest: The Mayor, Councillor Mohya Davies left the Council Chambers with a general interest in a briefing to Council on the Early Years Service, as she is the Chair for the Prom Coast Centres for Children.</p>
2021/22 Unaudited Financial and Performance Statement (Annual Report)	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Jenni Keerie, John Schelling and Clare Williams. Municipal Monitor: Prue Digby Conflict of Interest: Nil disclosed.</p>

Meeting Title	Details
Council Meeting Agenda Topic Discussion 19 October 2022	Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Jenni Keerie, John Schelling, Clare Williams and Adrian Darakai. Municipal Monitor: Prue Digby Conflict of Interest: Nil disclosed.

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

4.4. DOCUMENTS SEALED, CONTRACTS VARIED, AWARDED OR EXTENDED BY CEO - 13 SEPTEMBER 2022 TO 12 OCTOBER 2022

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 September 2022 to 12 October 2022. 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 September 2022 to 12 October 2022.

1. Deed of Settlement between South Gippsland Shire Council and the owner of Lot 1 on Plan of Subdivision 060102 which adjoins for the removal of litter from the subject land. Seal applied 5 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 September 2022 to 12 October 2022.

1. Section 173 Agreement between South Gippsland Shire Council and the owner of 35 Warragul Road, Korumburra for a 31 lot subdivision. Seal applied 11 October 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 September 2022 to 12 October 2022.
 - a. CON/330 for the Design & Construction of AFL Sports Floodlighting at Four Locations was awarded to ACE Earthmoving (Vic) Pty Ltd signed by the CEO 21 September 2022.
2. Contracts awarded after a public tender process within the CEO's delegation between 13 September 2022 to 12 October 2022.
 - a. CON/335 for the Design & Construction of Oval Reconstruction at Foster Showgrounds was awarded to A1 Civil Pty Ltd signed by the CEO 20 September 2022.
 - b. CON/332 for the Design & Construction of a Pedestrian Bridge and Elevated Walkway at Leongatha Rail Precinct was awarded to South Gippsland Quarries Pty Ltd signed by the CEO 20 September 2022.
 - c. CON/331 for the Road Realignment, Gardner Lane Poowong was awarded to Sure Constructions (Vic) Pty Ltd signed by the CEO 29 September 2022.

3. Contract variations approved by the CEO between 13 September 2022 to 12 October 2022.
 - a. CON/319 for the Timms Road, Poowong North – Intersection Reconstruction was awarded to Hugh Patrick Pty Ltd trading as BJs Earthmoving and commenced in April 2022. Variation which exceeds the contingency allowance is recommended, this includes rectifying accumulating ground water at limit of works for pavement (where the new pavement meets the existing pavement). A Contract Variation of \$13,925.77 (excluding GST) was approved by CEO on 4 October 2022.
4. Contract extensions approved by the CEO between 13 September 2022 to 12 October 2022.
 - 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

5. OBJECTIVE - SUSTAINABLE GROWTH

5.1. FOSTER STRUCTURE PLAN - DISCUSSION PAPER - COMMUNITY ENGAGEMENT

Directorate:	Economy and Community
Department:	Planning and Building Services

Council Plan

Objective - Sustainable Growth

Structure plans are important for the priorities of managing urban growth within defined town boundaries with fit-for-purpose infrastructure in partnership with other agencies; supporting positive new developments and protecting and celebrating the unique characters of townships.

EXECUTIVE SUMMARY

The Foster Structure Plan review (the review) is required to support and accommodate changes in the planning system since 2008. The review is expected to update the Foster Framework Plan, which guides growth and change in the town. It can also identify other improvements for the town. The Foster Structure Plan Discussion Paper (**Attachment [5.1.2]**) for community engagement raises ideas, issues and opportunities. This part of the project is the community's chance to shape the Draft Structure Plan.

RECOMMENDATION

That Council endorses the Foster Structure Plan Discussion Paper (Attachment [5.1.2]) for public engagement until Friday 23 December 2022.

REPORT

Background

Urban growth in Foster is guided by the Foster Framework Plan in the South Gippsland Planning Scheme. The Framework Plan was based on the Foster Structure Plan (2008), one of Council's oldest structure plans. This project reviews the current plan, and is required to respond to planning system changes that have occurred since 2008, especially in relation to bushfire and inundation risk. The key output expected from the project is an updated Framework Plan. This will be implemented into the planning scheme via a planning scheme amendment. In addition to setting growth directions for the town, a structure plan can:

- Recommend changes to the planning scheme;
- Identify key infrastructure projects;

- Propose capital works projects;
- Identify advocacy positions for Council for issues outside Council's control; and
- Recommend further detailed work.

Technical Reports

Part of the project's background review included economic and bushfire consultant work. The economic assessment (2022) of residential, commercial and industrial land for Foster (**Attachment [5.1.1]**) generally found that there is sufficient urban land for future development. Additional land may need to be rezoned, however only in the case of a higher growth scenario. A draft bushfire risk assessment has also been prepared to inform the town's capacity for future growth. The CFA found that the assessment is sound, but could be improved with clearer recommendations and better spatial analysis. These recommendations do not directly affect the proposed changes identified in the Discussion Paper.

CONSULTATION / COMMUNITY ENGAGEMENT

To date, early consultation has occurred with key government organisations.

Two rounds of public engagement are proposed for the project:

1. Foster Structure Plan - Discussion Paper (November 2022); and
2. Draft Foster Structure Plan (March 2023).

A Discussion Paper has been prepared for public engagement (**Attachment [5.1.2]**). The paper seeks to:

- Inform the public of the existing Foster Structure Plan (2008);
- Highlight key issues and opportunities for Foster; and
- Invite comments for improvements.

Engagement is proposed for just over five weeks (until Friday 23 December 2022) to give the community the opportunity to respond. Given it is a busy time of year, we would be able to provide community members with flexibility to provide a late submission if they are unable to meet this deadline.

This round of engagement is proposed to involve an online (Your Say) page with a survey, postcards and posters, an event in Foster, as well as contacting key landowners near the settlement boundary by letter.

Comments received during public engagement on the Discussion Paper and any further investigations undertaken, will all go to informing the Draft Structure Plan

that will be prepared for comment before a Final Structure Plan is prepared for Council adoption.

RESOURCES / FINANCIAL VIABILITY

The project will be resourced mainly by Officer time. The economic assessment used existing budget allocations, as will any engagement material costs (namely letters). The bushfire assessment is being funded by a Victorian Planning Authority grant.

The Planning Scheme Amendment to implement the plan will be an additional cost that is yet to be determined. This is expected to be accommodated in existing budget allocations.

RISKS

The project is needed to ensure that Council is not inhibiting the growth of Foster through inadequate planning. The review seeks to ensure planning for Foster maximises the best use Council's resources in the future for the benefit of the community and economy. This will avoid resources being spent trying to rezone land that is not suitable for growth at this time.

Two rounds of community engagement including letters sent to land owners most affected by the plan are proposed to ensure that interested parties have the opportunity to be heard and to shape the plan.

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. Foster Structure Plan - Economic Assessment - April 2022 [5.1.1 - 41 pages]
2. Foster Structure Plan Review - Discussion Paper [5.1.2 - 8 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](#).

Council Plan 2022-2026

South Gippsland's Planning Scheme

Town Centre Framework Plans

Legislative Provisions

Land Act 1958

Planning and Environment (Planning Schemes) Act 1996

Planning and Environment Act 1987

Regional, State and National Plan and Policies

Gippsland Destination Management Plan - Towards 2030 - A Blueprint for Growth
(Destination Gippsland)

Gippsland Regional Growth Plan, State Government Victoria

6. NOTICES OF MOTION AND/OR RESCISSION

Nil

7. COUNCILLOR REPORTS

7.1. REQUESTS FOR LEAVE OF ABSENCE

Councillor Michael Felton requested leave of absence for this Council Meeting 16 November 2022 and the Mayoral Election Council Meeting 23 November 2022.

7.2. COUNCILLOR UPDATES

8. 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.

9. PUBLIC QUESTIONS

9.1. 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.

9.2. 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

9.3. 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.

10. 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 12.1 – Gippswide Kerbside Glass and Mixed Recycling Processing Tender (RFT2021004), 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 12.2 – Plant Replacement (Plant No. 914) Landfill Compactor - MAV Contract - Heavy Plant Machinery Equipment (NPN2.15-2), 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.**
- 3. Per s.3(1)(f) Agenda item 12.3 – 2022/23 Community Grants - Round 1, 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; and**
 - b. The grounds for designation have been made to protect the privacy of an individual's personal information.**

11. MEETING CLOSED

NEXT MEETING

The next Council Meeting open to the public will be held on Wednesday, 23 November 2022 commencing at 2pm in the Council Chambers, Leongatha.