

SOUTH GIPPSLAND SHIRE COUNCIL

Council Meeting Agenda

15 March 2023

**Council Meeting No. 480
Council Chambers, Leongatha
Commencing at 2:00pm**



agenda



*South Gippsland
Shire Council*

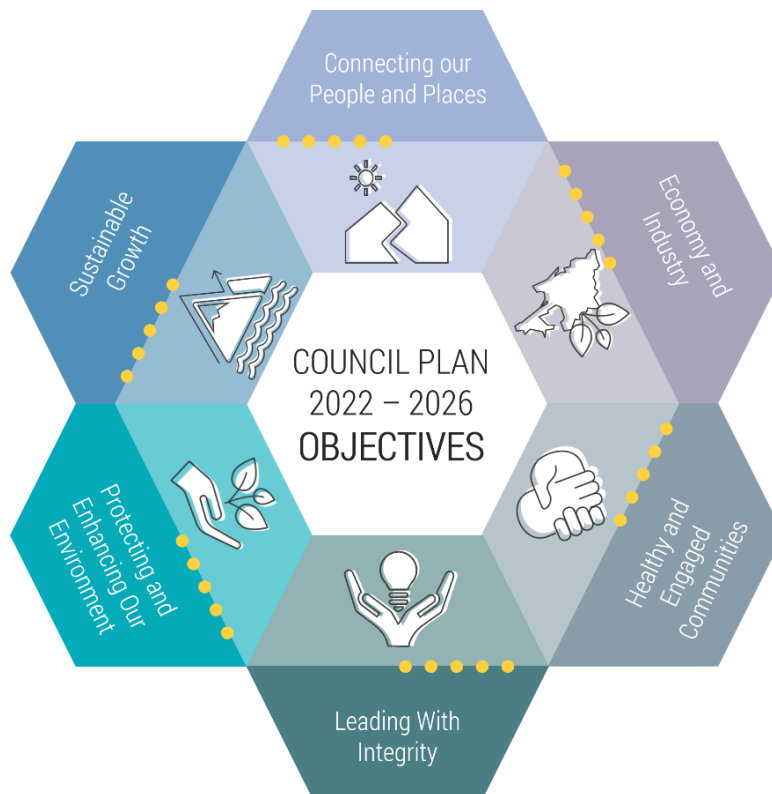
Come for the beauty, Stay for the lifestyle

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.

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.480 of the South Gippsland Shire Council will be held on 15 March 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

COVID Safe Plan

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

Public Questions

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

1.3. OPENING PRAYER

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

1.4. ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS

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

1.5. APOLOGIES

1.6. CONFIRMATION OF MINUTES

RECOMMENDATION

That the Minutes of the South Gippsland Shire Council Meeting No.479, held on 15 February 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 John Schelling has declared a general conflict of interest in Agenda Item 5.1. Planning Application 2021/135 - Proposed Use and Development of a Service Station and Convenience Restaurant at 8418 South Gippsland Highway in Korumburra as his employer is a competitor of the applicant.

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. ASSET MANAGEMENT STRATEGY 2023 ADOPTION

Directorate:	Sustainable Infrastructure
Department:	Infrastructure Planning

Council Plan

Objective - Leading with Integrity

The Local Government Act 2020 (Act) requires councils to prepare a ten-year Asset Plan in the year following a general election that links to the achievement of the Community Vision and the Council Plan within the Integrated Planning and Reporting framework. The Asset Plan provides a framework and guidance Council to develop and implement an effective asset management strategy.

EXECUTIVE SUMMARY

The purpose of this report is to present Council's revised Asset Management Strategy 2023 (revised Strategy) for consideration and adoption.

The revised Strategy enables Council to continue the delivery of sustainable lifecycle management of its road and path network, infrastructure, and building assets to support the service needs of the local community.

The revised Strategy presents affordable asset management improvements and builds on a strong knowledge base to enable informed decisions relating to the service delivery from these assets.

The adoption of the Asset Management Strategy 2023 will support sustainable infrastructure management both now and into the future.

RECOMMENDATION

That Council:

- 1. Adopts the revised Asset Management Strategy 2023 (Attachment [2.1.1]); and**
- 2. Publishes the revised Asset Management Strategy 2023 (Attachment [2.1.1]) to Council's website.**

REPORT

The Local Government Act 2020 in Victoria, Australia (the Act), sets out the framework for asset management by local governments in the state. The Act requires all councils to develop and implement a strategic asset management plan that outlines how they will manage their assets over the long term.

The Act defines an asset as any physical item, service, or facility that has value to the council and can be used to deliver services to the community. This includes infrastructure such as roads, bridges, and buildings, as well as equipment, vehicles, and technology systems.

Council's Asset Management Strategy has now been revised to assist Council to improve the way it delivers infrastructure services including roads, bridges and major culverts, footpaths, stormwater, and buildings.

The revised Asset Management Strategy enables Council to:

1. Show how its infrastructure asset portfolio will meet the service delivery needs of the community into the future;
2. Enable the objectives of Council's Asset Management Policy (C04) to be achieved; and
3. Ensure the integration of Council's asset management practices with its long-term financial plan.

Adoption of the revised Asset Management Strategy will assist Council to meet the requirements of national sustainability frameworks by demonstrating what level of service can be delivered in a financially sustainable manner.

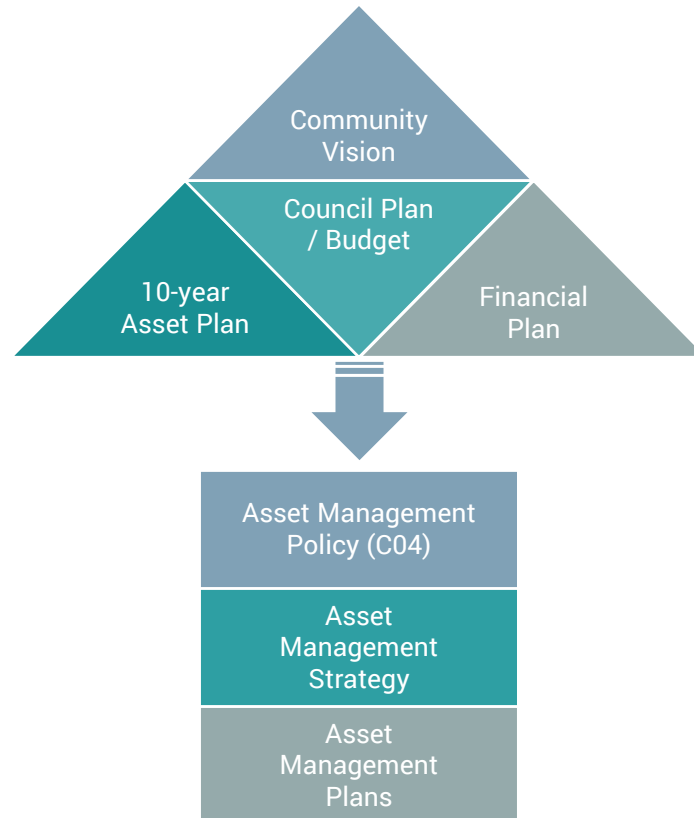
The revised Asset Management Strategy outlines an asset management improvement plan detailing a program of tasks to be completed and resources required to bring Council to a minimum 'core' level of asset maturity and competence.

The revised Asset Management Strategy forms part of Council's Asset Management document suite including:

- Current Asset Management Strategy - Adopted 26 April 2017 (**Attachment 2.1.2**)
- Asset Management Policy (C04) (Adopted 18 August 2021) – Link: [Asset Management Policy](#)
- 10-year Asset Plan – Adopted 29 June 2022 – Link: [10 Year Asset Plan](#)

The introduction of the Local Government Act 2020 included a requirement for Council to develop and adopt a 10-year Asset Plan. **Figure 1** below shows how the introduction of this plan correlates to Council’s key strategic plans and the asset management system documents.

Figure 1 – Council’s Asset Management Documents



CONSULTATION / COMMUNITY ENGAGEMENT

Figure 1 above depicts some key strategic documents for Council including the Council Plan. When it comes to asset management, Council used deliberative engagement to seek input and feedback on how to manage and maintain local government assets effectively as part of the Integrated Planning process undertaken in 2021/2022.

The deliberative engagement that was undertaken for the development of the 10-year Asset Plan has also been used to inform the revised Asset Management Strategy.

Consultation with Council’s Community Infrastructure Advisory Committee (CIAC) has been undertaken.

RESOURCES / FINANCIAL VIABILITY

There are no specific financial implications in approving the revised Asset Management Strategy as its assumptions are linked to Councils adopted Long Term Financial Plan and other key strategic documents.

The Local Government Act 2020 requires councils to report annually on their asset management activities, including the progress made in implementing its Asset Management Strategy, the condition of their assets, and the costs associated with managing those assets.

Adoption of the revised Asset Management Strategy will allow Council to maximise the value of its assets, minimise their lifecycle costs, and ensure they continue to deliver the necessary services to the community. This approach contributes to the long-term financial sustainability of Council by ensuring that its assets are managed effectively.

RISKS

Council's overall risks will be minimised as specific asset management risks are addressed in the revised Asset Management Strategy.

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. Asset Management Strategy 2023 (For Adoption) [2.1.1 - 39 pages]
2. Asset Management Strategy 2017 (Current) [2.1.2 - 46 pages]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 1. Direction & Leadership
Pillar 4. Structure, Systems & Policies

Council Policy / Strategy / Plans

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

10-year Asset Plan
Asset Management Policy (C04)
Asset Management Plans

Legislative Provisions

Local Government Act 2020

2.2. SUBMISSION OF MOTIONS TO MUNICIPAL ASSOCIATION OF VICTORIA AND NATIONAL GENERAL ASSEMBLY

Directorate:	Performance and Innovation
Department:	Governance

Council Plan

Objective - Connecting our People and Places

Objective - Economy and Industry

This report advocates for the projects which are a priority to the South Gippsland community relating to recovering from natural disasters and ensuring connectivity through more resilient road networks.

EXECUTIVE SUMMARY

The purpose of this report is to seek Council consideration of Motions for submission towards the Municipal Association of Victoria (MAV) State Council Meeting to be held on Friday 19 May 2023 in Melbourne, and the Australian Local Government Association (ALGA) National General Assembly (NGA) to be held on 13-15 June 2023 in Canberra.

This report presents two motions based on key advocacy themes and current case studies in South Gippsland, which can also be presented as of State and National significance: Guidelines outlining minimum consultation requirements on projects that achieve 'major project' status, and road betterment through disaster funding.

RECOMMENDATION

That Council endorse the following Motions to be submitted for the Municipal Association of Victoria's (MAV) State Council, and the National General Assembly:

- 1. Road Betterment with Disaster Funding: That the funding arrangements through Disaster Recovery Funding Arrangements (DRFA) for recovery of roads and related infrastructure from natural disasters, allows for the road to be improved to a more resilient standard; and**
- 2. Minimum consultation requirements for projects that achieve Major Project Status: That the Commonwealth Government, in partnership with State and Territory Governments, develop a community engagement**

framework, which includes Local Government Authorities, to be imposed on proponents of projects that achieve 'Major Project' status.

REPORT

The purpose of this report is to seek Council consideration of Motions for submission towards the Municipal Association of Victoria (MAV) State Council Meeting to be held on Friday 19 May 2023 in Melbourne, and the Australian Local Government Association (ALGA) National General Assembly (NGA) to be held on 13-15 June 2023 in Canberra.

Each council in Victoria can lodge Motions that have a state-wide significance to local government for the MAV members to consider, and National significance for the ALGA to consider.

In the past, Council has presented one or more Motion/s which align strongly with Council's advocacy priorities, community feedback and strategic plans.

This report presents two motions based on key advocacy themes and case studies in South Gippsland, which can also be presented as of State and National significance.

Guidelines outlining minimum consultation requirements for Major Projects

This motion specifically relates to South Gippsland's current experiences and concerns relating to Offshore Wind development, which has received 'Major Project' status from the Commonwealth government as well as being a focus of the Victorian State Government, including achieving renewable energy targets and transition planning for Latrobe Valley and surrounds.

Projects achieving Major Project status almost always have significant impacts on the communities they are located in. It is important that these communities feel Major projects are happening with them, rather than to them.

There is an opportunity to improve and stipulate the requirements of consultation and engagement with these communities. This community connection also has the potential to improve and support these projects, potentially saving time and money.

The Commonwealth Government, in partnership with States and Territories, must develop a community engagement framework imposed on the developers of projects which receive Major Project status. The framework should detail expectations for all three levels of government (Federal, State and Local) to collaborate and participate in this engagement in a meaningful way.

Road Betterment with Disaster Funding

Like many areas across the State and indeed the country, South Gippsland has experienced considerable damage to roads and related infrastructure because of natural disasters and severe weather. In South Gippsland we currently have eight actively managed road slips.

The current funding arrangements through Disaster Recovery Funding Arrangements (DRFA) for recovery of roads and related infrastructure from natural disasters only allows for the road to be re-instated to its previous state – i.e. it cannot be improved.

If Council was able to re-build to an improved state, this would help prevent, or reduce, damage caused from future natural disasters, and would ultimately save money for the State and Federal Governments.

Building to a more resilient standard must be a key principle in the Disaster Recovery Funding Arrangements (DRFA) and other federal infrastructure repair programs.

CONSULTATION / COMMUNITY ENGAGEMENT

The motions identified align with the priority projects identified in the 2022/23 Advocacy Priority List.

RESOURCES / FINANCIAL VIABILITY

There are no resource implications to Council if this Notice of Motion is endorsed.

RISKS

If this Motion is not endorsed, Council will not be presenting any Motions to the MAV State Council Meeting for 2023, or the ALGA's NGA in 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.

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 3. Decision Making

Pillar 6. Capability

Pillar 7. Risk & Compliance

Council Policy / Strategy / Plans

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

Priority Projects

3. OBJECTIVE - LEADING WITH INTEGRITY

3.1. ORGANISATIONAL AND FINANCIAL PERFORMANCE REPORT - JULY 2022 TO DECEMBER 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 Report for the time period of 1 July 2022 to 31 December 2022 (**Attachment [3.1.1]**) which includes the financial and organisational performance against the Adopted Budget and highlights progress of the 2022/23 Annual Initiatives for the *2022-2026 Council Plan* (Council Plan). This report has been prepared in accordance with s.97 and s.98 of the *Local Government Act 2020* and the *Planning and Reporting Regulations 2020*.

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 results in the financial summary:

- The **operating** surplus as at 31 December 2022 is favourable to forecast by \$4.3M. The favourable variance is largely due to total grants received, mainly related to storm events \$3.1M, as well as an underspend of \$1.1M on materials and consumables, mainly related to road re-sheeting works largely as a result of timing and further phasing adjustments required.
- **Capital works** expenditure is tracking at \$11.82M as compared to the year to date forecast of \$14.12M.

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.

This **Attachment [3.1.1]** will be presented to Council's Audit and Risk Committee following Council's endorsement.

RECOMMENDATION

That Council:

1. **Receives and notes the Organisational Performance Report (Attachment [3.1.1]) for the period July 2022 to December 2022;**
2. **Publishes the Organisational Performance Report (Attachment [3.1.1]) to Council's website; and**
3. **Communicates the Organisational Performance Report (Attachment [3.1.1]) to the Audit and Risk Committee.**
4. **Notes the operating surplus of \$4.3 million as at 31 December 2022.**
5. **Endorses the capital forecast changes in Appendix B to enable delivery of the committed capital works program.**

REPORT

Section 1 of the 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 December 2022 **Attachment [3.1.1]** 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 second quarter of the 2022/23 financial year (1 July 2022 to 31 December 2022).

Significant highlights during the period include 88 per cent of the Annual Plan initiatives for 2022/23 are either target achieved or on-track as at end of December 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.

Section 2 of the Organisational Performance Report (**Attachment [3.1.1]**) contains detailed reporting in relation to financial performance (refer to):

Section 2 - Financial Performance Overview and Progress

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

Section 3 - Financial Statements

This section lists the following financial statements (including variance commentary) as at 31 December 2022:

- Balance Sheet
- Cash Flow Statement

Section 4 – Annual Year to Date Financial Analysis

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

The report also indicates the *Capital Forecast Changes* in Appendix B.

CONSULTATION / COMMUNITY ENGAGEMENT

The Organisational Performance Report (**Attachment [3.1.1]**) will be communicated to Council's Audit and Risk Committee in March 2023.

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 Performance Report ensures 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 and Financial Performance Report - 1 July 2022 to 31 December 2022 [**3.1.1** - 56 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

3.2. DOCUMENTS SEALED, CONTRACTS VARIED, AWARDED OR EXTENDED BY CEO - 13 JANUARY 2023 TO 12 FEBRUARY 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 January 2023 to 12 February 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 January 2023 to 12 February 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 January 2023 to February 12 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 January to 12 February 2023.
 - a. Nil.
2. Contracts awarded after a public tender process within the CEO's delegation between 13 January to 12 February 2023.
 - a. Nil.
3. Contract variations approved by the CEO between 13 January to 12 February 2023.
 - a. CON/319 for the Jones Street Foster Street Reconstruction was awarded to Hugh Patrick Pty Ltd, trading as BJs Earthmoving, November 2022. Variations which exceed the contingency allowance

are recommended for works addressing poor ground conditions. A Contract Variation of \$180,000.00 (excluding GST) was approved by CEO on 1 February 2023.

4. Contract extensions approved by the CEO between 13 January to 12 February 2023.
 - a. Nil

STAFF DISCLOSURE

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

ATTACHMENTS

Nil

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 3. Decision Making

Council Policy / Strategy / Plans

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

Governance Rules (C82)

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

Procurement Policy (C32)

Legislative Provisions

Local Government Act 1989

Local Government Act 2020

Planning and Environment Act 1987

3.3. SUMMARY OF STRATEGIC BRIEFINGS - 13 JANUARY 2023 TO 12 FEBRUARY 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 January and 12 February 2023.

RECOMMENDATION

That Council receives and notes this report.

REPORT

Meeting Title	Details
Wednesday 1 February 2023	
Audit & Risk Committee Items	Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Jenni Keerie, Michael Felton, John Schelling, Clare Williams and Adrian Darakai. Conflict of Interest: Nil disclosed.
South Gippsland Shire Planning Scheme Review	Councillors Attending:

Meeting Title	Details
	<p>Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Jenni Keerie, Michael Felton, John Schelling, Clare Williams and Adrian Darakai.</p> <p>Conflict of Interest: Nil disclosed.</p>
Wednesday 8 February 2023	
<p>Council Meeting Agenda Topic Discussion 15 February 2023</p>	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Jenni Keerie, Michael Felton, John Schelling, Clare Williams and Adrian Darakai.</p> <p>Conflict of Interest: Councillor John Schelling has declared that general conflict of interest and a bias in proposed Agenda Item section 2.4. Petition Response: Reintroduce the Lord's Prayer at the Beginning of each Council Meeting as he has signed the Petition considered in this report. Cr Schelling left the Council Chambers when the matter was discussed. Councillor John Schelling has declared a material conflict of interest in Confidential Agenda Item section 10.1. Community Leadership Program as a family member is an applicant under consideration for membership to the Program. Cr Schelling left the Council Chambers when the matter was discussed. Ms Kerryn Ellis, Chief Executive Officer has declared a material conflict of interest in Confidential Agenda Item 10.3. PERSONAL INFORMATION - Appointment of Independent Chair - CEO Employment and Remuneration Committee, as the matter relates directly to her role. Kerryn Ellis, CEO left the Council Chamber when the matter was discussed.</p>
<p>Community Leadership Program</p>	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Jenni Keerie, Michael Felton, Clare Williams and Adrian Darakai.</p> <p>Conflict of Interest: Councillor John Schelling has declared a material conflict of interest in Community Leadership Program briefing as a family member is an applicant under consideration for membership to the Program. Cr Schelling was not in the Chamber when the matter was discussed.</p>

Meeting Title	Details
Regional Assessment Service	Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Jenni Keerie, Michael Felton, John Schelling, Clare Williams and Adrian Darakai. Conflict of Interest: Nil disclosed.
Submission Hearing: Planning Application 2021/135 – 8418 South Gippsland Highway Korumburra – Service Station and two convenience restaurants	Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Jenni Keerie, Michael Felton, Clare Williams and Adrian Darakai. Conflict of Interest: Councillor John Schelling has declared a material conflict of interest in Planning Application 2021/135 – 8418 South Gippsland Highway Korumburra – Service Station and two convenience restaurants as his employer is a competitor of the Planning Application and his role in the business. Cr Schelling was not in the Chamber for this matter.

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. OBJECTIVE - PROTECTING AND ENHANCING OUR ENVIRONMENT

4.1. PETITION RESPONSE - REQUEST FOR CLOTH NAPPIES AND REUSABLE SANITARY PRODUCT REBATE

Directorate:	Sustainable Infrastructure
Department:	Infrastructure Planning

Council Plan

Objective - Protecting and Enhancing our Environment

This report highlights the objectives of ensuring communities remain healthy, that the environment is protected and sustainability considerations are considered when making decisions.

EXECUTIVE SUMMARY

At Council Meeting 15 February 2023, a petition was received from Korumburra resident, Van Bui requesting:

“That Council implement a rebate program focussing on reusable nappies and other sanitary items with the aim to reduce everyday household waste.”

At Council Meeting 15 February 2023, Council resolved to receive a report at the 15 March 2023 Council Meeting, in response to the submission.

After considering the environmental benefits of the requested service and after consulting with other councils who currently provide the same or a similar service, it is recommended that the service not be provided at this time.

Consultation has indicated that such a service does not appear to significantly influence a change in behaviour with people opting to use reusable nappies and sanitary products, but more so tends to act as a reward for residents that most likely would have used reusable products regardless of a rebate system.

RECOMMENDATION

That Council:

- 1. Does not implement a rebate program focussing on reusable nappies and other sanitary items; and**
- 2. Considers community wide waste reduction program during the development of the Waste and Resource Recovery Plan; and**

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

REPORT

At the Council Meeting 15 February 2023, Council resolved to receive a report at the 15 March 2023 Council Meeting, in response to the petition.

Figure 1 – Petition Prayer

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

Lead petitioner: Van Bui

A summary of the signatures to the petition/s are as follows:

- Total valid signatures within Shire: 25 (100%).

The petition requests that a program similar to that offered by the City of Casey be introduced in South Gippsland.

Items requested to be covered in the program in the petition include:

- Cloth nappies (all age);
- Swim nappies;
- Nappy liners;
- Cloth wipes;
- Wet bags;
- Nursing breast pads;
- Cloth menstrual and incontinence pads;
- Menstrual cups;
- Period underwear; and
- Period wet bags.

The petition and cover letter that was considered at the 15 February 2023 Council Meeting is available in **Confidential Attachment [11.1.1]**.

Research and Findings

According to the petition, there are currently 24 councils across Australia offering a similar service. In our region, East Gippsland Shire Council (EGSC) provides a rebate capped at \$40 for reusable nappies while Baw Baw Shire Council (BBSC) are considering introducing a rebate program in the future. EGSC indicated that their service is not well utilised.

The City of Casey pioneered the service and have provided it for approximately 15 years. They offer residents a one-off rebate (per household) covering 50% of their out of pocket expenses for purchasing reusable nappies and/or sanitary products. The rebate is currently capped at \$100. They currently have \$20,000 available each year for distribution as rebates.

Discussions with City of Casey staff indicate that they do not believe the program has had much impact on increasing the numbers of people switching to reusable products. Most participants would have used the reusable products regardless. It has, however, provided a reward for those taking measures to reduce their waste.

The petition cover letter discusses the up-front cost of purchasing reusable cloth nappies as a barrier for people to transition from disposable options. The City of Monash lead a study into the uptake of reusable nappies and rebate schemes in late 2022. It found that removing cost as a barrier was not a prominent reason for the continued use of reusable cloth nappies. The high cost of disposable nappies definitely makes cloth nappies a more financially attractive option in the long term.

It appears that costs may be reducing for reusable options since the petition cover letter was prepared. Rather than individual nappy costs of up to \$40 each with up to 24 required, while researching for this report, Australian suppliers were found for as little as \$17.50 each (including outer cloth nappy and insert).

While increased use of reusable cloth nappies and sanitary products would potentially reduce waste to landfill, a rebate scheme is not recommended at this time due to:

- The rebates are unlikely to have a large impact on increasing the number of people using reusable nappies and sanitary products over the numbers that would have used the products anyway;
- Up front costs associated with reusable cloth nappies appears to be reducing;

- Other sustainability and waste reduction programs will be identified through the preparation of the upcoming Waste & Resource Recovery Plan; and
- The project currently has no allocated budget in the 2023/24 financial year.

CONSULTATION / COMMUNITY ENGAGEMENT

After receiving the petition, Council have consulted with the other five Gippsland councils and the City of Casey who pioneered the service and have delivered it for approximately 15 years.

Of the five other Gippsland councils, EGSC provides a similar service but on a smaller scale to those requested in the petition, and BBSC is currently considering introducing the service at some point in the future.

RESOURCES / FINANCIAL VIABILITY

If Council implemented a rebate program focussing on reusable nappies and other sanitary items, annual costs would be capped at whatever level Council wanted to expend on the service. Once each year's budget was reached, no more applications would be approved for the remainder of the financial year.

While the financial risk of over expenditure can be controlled, the costs for this program have not been budgeted for, and if introduced, would require ongoing funding. The City of Casey spend approximately \$20,000 each year (reduced from \$30,000) on their program, although their population is considerably larger than South Gippsland.

Apart from direct financial costs, consulting with other councils including Casey, BBSC, and EGSC indicated that the program would require considerable staff time to process each application and make sure it is eligible and not fraudulent. Based on the estimated time to process each application, staff costs per application have been estimated at approximately \$55 per application.

RISKS

The implementation of a rebate program focussing on reusable nappies and other sanitary items would not pose any financial risk to Council as the program would be capped at a set budget each year, eliminating the risk of program cost blow outs.

The largest risk in implementing such a service is the possibility of people claiming rebates fraudulently. This could be in the form of lodging fake receipts or people reusing receipts that have been used in previous claims.

Another lesser risk is that Council has no way of knowing if the reusable items are used long term, thus providing a real waste reduction result. In the case of reusable cloth nappies, new parents may purchase the reusable items but soon revert back to disposable nappies due to the convenience.

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](#).

Nil

CONFIDENTIAL ATTACHMENTS

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

Confidential Attachment [11.1.1] – Petition and Cover Letter – 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 the signatories as the petition contains 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](#).

Council Plan 2022-2026

5. OBJECTIVE - SUSTAINABLE GROWTH

5.1. PLANNING APPLICATION - 2021/135 – 8418 SOUTH GIPPSLAND HIGHWAY KORUMBURRA – SERVICE STATION AND TWO CONVENIENCE RESTAURANTS & ALTER ACCESS TO A TRZ2

Directorate:	Economy and Community
Department:	Planning and Building Services

Council Plan

Objective - Sustainable Growth

This application meets the objectives of the Council Plan through the provision of a new commercial facility within an appropriately zoned area that will support the continued growth and diversification of Korumburra, providing the community with access to goods and services, local employment and supporting the local economy.

EXECUTIVE SUMMARY

The purpose of this report is for Council to consider and determine this planning application, which seeks approval for the use and development of the land for a service station (including truck stop) with associated convenience store, food and drink premises (convenience restaurant with drive thru), car parking area and to create access to a Transport Road Zone 2 (TRZ2) at 8418 South Gippsland Highway Korumburra.

The application is being presented to Council for a decision, as thirteen (13) objections have been received to the proposal. The key issues/themes raised by the objectors relate to amenity issues the proposal may have on the surrounding area.

Having considered the application against the relevant provisions of the South Gippsland Planning Scheme, and having considered the matters under s.60 of the *Planning and Environment Act 1987*, this assessment finds that the application is consistent with the relevant policy objectives and the proposal should be supported by issuing a Notice of Decision to grant a permit, subject to appropriate conditions.

RECOMMENDATION

That Council issues a Notice of Decision for the use and development of the land for a service station (including truck stop) with associated convenience store, food and drink premises (convenience restaurant with drive thru), car

parking area and to create access to a TRZ2, subject to the following conditions:

- 1. Before the use and/or development start(s), 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. Amended site and elevation plans showing the inclusion of the service road;**
 - b. Amended plans in accordance with condition 5 (DoT);**
 - c. Amended plans in accordance with condition 6 (engineering);**
 - d. A Construction Management Plan in accordance with condition 14;**
 - e. Amended plans in accordance with condition 17 (retaining walls);**
 - f. The provision of an acoustic barrier adjacent to the drive-through ordering facility in accordance with Condition 18;**
 - g. Amended plans in accordance with condition 20 & 21 (vegetation); and,**
 - h. Any other consequential changes resulting from the above requirements.****
- 2. The use, 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. Once the development has started it must be continued and completed in a timely manner to the satisfaction of the Responsible Authority.**
- 4. Prior to the use commencing, CA 28 SD and CA 29 SD must be consolidated into one (1) lot and a single title issued, unless otherwise agreed in writing by the Responsible Authority. The applicant must provide a copy of the new title and plan to the Responsible Authority prior to the use commencing on site.**
- 5. Department of Transport conditions:**

- a. **Prior to the development of the site, a one-way service road, generally in accordance with Traffic Group drawing Option 4A – Interim Concept Layout Plan DWG No. G29114-02-05 Rev G. must be constructed at no cost and to the satisfaction of the Head, Transport for Victoria and the Responsible Authority.**
- b. **Prior to the development of the site, right and left turn lanes on the South Gippsland Highway must be provided at no cost and to the satisfaction of the Head Transport for Victoria.**
- c. **Provide appropriate signage to the satisfaction of the Head Transport for Victoria and the Responsible Authority.**
- d. **Provide V3 roadway lighting to the satisfaction of the Head, Transport for Victoria.**
- e. **Prior to design plans beginning, the applicant’s consultant must attend a predesign meeting with the Department of Transport (Gippsland Region).**
- f. **Prior to works beginning on the service road, Detailed Functional Layout Plans in accordance with Gippsland Regions Developer funded checklist must be submitted and approved by the Head, Transport for Victoria.**
- g. **Prior to construction works beginning, Detailed Design Plans in accordance with Gippsland Regions Developer funded checklist of the service road and access arrangements must be submitted and approved by the Head, Transport for Victoria.**
- h. **Prior to commencement of earthworks, a truck wheel-wash must be installed at the property boundary to enable all mud and other tyre borne debris from vehicles to be removed prior to exiting the land.**
- i. **The truck wheel-wash must be maintained in good order during the construction phase of the development and may be removed at the end of the construction phase of the development.**
- j. **Any vegetation removal within the arterial road reserve must be referred and approved by the Responsible Authority.**

6. Engineering Conditions:

Prior to the development commencing, 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 this permit. The

plans must be generally in accordance with the proposed plans prepared but modified to show:

- a. The proposed type of surfacing for vehicle access areas within the development. Vehicle parking spaces and accessways to the parking spaces must be finished with an all-weather sealed surface and areas used for refuelling or washing of vehicles must be concrete surfaced.
 - b. A 1.5 metre pedestrian path constructed at the frontage of the site and continuously runs along the western side of South Gippsland Highway (Leongatha Road) to Princes Street at a cost to the developer without impacting on any trees within the road reserve.
 - c. Provision of a drainage system (and necessary easements) to cater 10% AEP and 1% AEP (Overland) flows from upstream catchments.
 - d. A revised Traffic Impact Assessment (TIA) Report and revised Arborist Report to comply with the revision of the site layout shown in the agreed plan option 4a, as shown in the Traffix Group Drawing No. G 29114-02-05 - Issue G, must be submitted and approved by the Responsible Authority. The revised arborist report must identify the retention of trees in the road reserve.
 - e. The pavement design must be supported by a soil investigation report prepared by a suitably qualified person must be submitted and approved by the Responsible Authority.
7. Prior to any development of the subject site, the following must be completed to the satisfaction of the Responsible Authority:
- a. The service road must be constructed as a heavy-duty full depth asphalt pavement.
 - b. The carriageway of the service road must be constructed to a width of 6 metres measured between Line of Kerb to Line of Kerb. The service road must be constructed with B2 Type Kerb and Channel on both sides of the pavement.
 - c. 50 kilometres per hour speed signs must be installed in the service road at suitable and appropriate locations.
 - d. 'No Stopping' signs must be installed on each side of the service road.

- e. **Give way signs and line marking must be installed on the service station egress road, at its intersection with the service road, as shown in the agreed plan option 4a, in the Traffix Group Drawing No. G 29114-02-05 - Issue F.**
 - f. **Street lighting must be provided on the service road in accordance with the requirements of the relevant Australian Standards and IDM, utilising LED lanterns and underground power supply to the satisfaction of the Responsible Authority.**
 - g. **twelve month defects liability period is applicable for civil engineering works associated with the service road, whereas a twenty-four month defects liability period will apply for all landscape works requested by the South Gippsland Shire Council. The Developer will be responsible for the maintenance of the service road and the associated landscape works during the defects liability period. The defects liability period will commence from the date of the use operating.**
 - h. **Final completion inspection must be carried out at the end of defects liability period. The ownership and maintenance responsibility of the service road and associated landscape works will be transferred from the developer to Council upon achieving successful final completion.**
 - i. **Prior to Council taking ownership and maintenance responsibility of the service road and associated landscaping it must be fully constructed and completed with appropriate signage and safety measures to the satisfaction of the Responsible Authority.**
- 8. Prior to any works commencing, a stormwater management plan prepared by a suitably qualified person and engineering plans must be submitted and approved by the Responsible Authority. The information submitted must show appropriate information as listed in Council's Infrastructure Design Manual (IDM) and be designed in accordance with the requirements of that manual. As a minimum, the plans must show:**
- a. **How the subject land including all buildings, open space and paved areas will be drained to the legal point of discharge for a 10% AEP storm event.**
 - b. **An underground pipe drainage system conveying stormwater from the legal point of discharge and connecting into South Gippsland Shire Council's stormwater drainage system.**

- c. **Provision to cater for the 1% AEP overland flows including from upstream catchments.**
 - d. **The provision of stormwater detention within the site and prior to the point of discharge into South Gippsland Shire Council's stormwater drainage system. The stormwater detention system must be designed to ensure that stormwater discharges arising from the proposed development of the land are restricted to pre-development flow rates for the 10% AEP storm event. The rate of pre-development stormwater discharge shall be calculated using a co-efficient of run-off of 0.25.**
 - e. **Provision that polluted water of any type from the development is not allowed to enter the Council's stormwater drainage system.**
 - f. **Provision of gross pollutant litter traps installed at the drainage outfall of the development**
 - g. **A concrete paved area to be used for the refueling of vehicles such that all water shall be drained to an outlet point at which an oil and silt interceptor trap must be installed to receive all drainage from the paved area with any potential for receiving contaminated water, including any wash bays. All waste water from the oil and silt interceptor trap must be discharged to an approved sewer. A Trade Waste Agreement must be entered into with South Gippsland Water for its discharge into their system.**
 - h. **Location of the interceptor trap.**
9. **Before the use starts, all works detailed in the approved plans endorsed per Condition 1 must be carried out to the satisfaction of the Responsible Authority as well as:**
- a. **Any road(s), footpath(s) or other infrastructure adjacent to the land damaged as a result of the construction works (including but not limited to trenching and excavation for utility service connections, movement of vehicle and the likes), must be reinstated to the satisfaction of the Responsible Authority and at the cost of the permit holder.**
10. **Before the use commences the car parking spaces, access lanes, driveways and associated works and landscaping shown on the plan must be and to the satisfaction of the Responsible Authority:**

- a. **constructed and available for use in accordance with the plan approved by the Responsible Authority; and**
 - b. **formed to such levels and drained so that they can be used in accordance with the plan; and**
 - c. **treated with an all-weather seal; and**
 - d. **Car parking spaces, bays and truck stop areas constructed to the dimensions in accordance with the South Gippsland Planning Scheme; and**
 - e. **line-marked and signage required for the parking spaces, bicycle spaces, appropriate signage and accessways.**
 - f. **Car spaces, access lanes and driveways must be kept available for these purposes at all times.**
- 11. Before the development starts, a Construction Management Plan must be submitted to, and be to the satisfaction of the Responsible Authority. The Construction Management Plan will then be endorsed and form part of the planning permit. The Construction Management Plan must include details of:**
- a. **Occupational health and safety, traffic management, environmental controls and cultural protection measures to the satisfaction of the Responsible Authority;**
 - b. **Traffic and pedestrian management measures to ensure ongoing access for adjoining businesses and residents during construction;**
 - c. **Measures to reduce the impact of noise, dust and other emissions created during the construction process;**
 - d. **Measures to ensure that no mud, dirt, sand, soil, clay or stones are washed into or allowed to enter the storm water drainage system;**
 - e. **Means by which foreign material will be restricted from being deposited on public roads by vehicles associated with the building and works on the land;**
 - f. **Provide sediment control for construction work in accordance with EPA Publication No. 275, "Construction Techniques for Sediment Pollution Control.**
 - g. **All machinery bought on the site must be weed and pathogen free;**

- h. Contractors working on the site to be inducted under the Construction Management Plan;**
 - i. Best practice erosion control techniques must be used to protect any native flora and fauna;**
 - j. Hours of construction work. The CMP must provide that such hours are to be 7.00am to 6.00pm Monday to Friday and 7.00am to 1.00pm Saturday, with no construction on Sunday or public holidays. The CMP must provide that the hours of construction from Monday to Saturday (inclusive) may be extended with the consent of the Responsible Authority provided all adjoining residents are notified prior to the extended hours of construction. All deliveries, unloading and collection of materials associated with the construction phase of the development must occur within the hours of construction work, unless further permission is given in writing by the responsible authority;**
 - k. Management of all building and construction waste, including any measures to recycle materials generated during construction;**
 - l. Locations of cut and fill stockpiles;**
 - m. A liaison officer for contact by residents and the Responsible Authority in the event of relevant queries or problems experienced;**
 - n. Amenity of the surrounding area is managed;**
 - o. Construction plant movement areas, and**
 - p. Storage areas.**
- 12. Before the development starts, a Waste Management Plan must be submitted to, and be to the satisfaction of the Responsible Authority. The Waste Management Plan will then be endorsed and form part of the planning permit. The Waste Management Plan must include details of:**
- a. The area within a 100 metre radius of the subject site must be kept tidy and maintained.**
 - b. A copy of the private agreement for waste collection, including details of the frequency of waste collection, hours of collection and the types of waste to be collected, and any other relevant details.**

All waste must be collected and managed in accordance with the endorsed Waste Management Plan, to the satisfaction of the Responsible Authority.

- 13. Before work starts, a vegetation retention plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved the plan will be endorsed and will then form part of the permit. The vegetation retention plan must be drawn to scale with dimensions and three copies must be provided. The vegetation retention plan must include:**
- a. a site plan to clearly show all trees within the road reserve to be retained;**
 - b. a site plan to clearly show all trees to be removed on the land and within the road reserve;**
 - c. details of measures to protect vegetation during construction;**
 - d. site plan to clearly show which trees are to be replanted and specify species (with details of pot sizes, planting diagrams and maintenance details).**
- 14. Before works start, a native vegetation protection fence must be erected around all remnant patches of native vegetation to be retained on the land. This fence must be erected around the patch at a distance of 1.5 metres from retained native vegetation. The protection fence must be constructed of *star pickets/chain mesh /or similar* to the satisfaction of the Responsible Authority. The vegetation protection fence must remain in place until the completion of the development unless otherwise agreed in writing by the Responsible Authority.**
- No vehicular or pedestrian access, trenching, storage of materials or equipment or soil excavation is to occur within the vegetation protection area unless otherwise agreed in writing by the Responsible Authority.**
- 15. Before the use commences, a Site Management (Complaints) Plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the Site Management (Complaints) Plan shall be endorsed and will then form part of this permit. The Site Management (Complaints) Plan must include procedures for the handling of complaints and resolution of complaints received in relation to the use of the land hereby permitted and in particular with respect to the management of**

complaints with respect to odour, noise and the delivery and supplying of petrol and LP gas.

- 16. The use hereby permitted must be carried out in accordance with the Site Management (Complaints) Plan to the satisfaction of the responsible authority.**
- 17. Before the development starts, a detailed structural engineering plans must be submitted to, and be to the satisfaction of the Responsible Authority. The Plans will then be endorsed and form part of the planning permit. The plans must include details of:**
 - a. The location, dimensions and depth of proposed fill for the proposed wall;**
 - b. Extent of excavation, retaining walls, battering details and the exact provisions to stabilise the fill that is required;**
 - c. Engineering and certified structural plans demonstrating how the land will be stabilised and retaining walls specifications and details;**
 - d. Schedule of materials and details of any retaining wall;**
 - e. Structural plan showing the extent of fill that is required;**
 - f. How the retaining wall and fill will be maintained and prevent any future erosion;**
 - g. A section plan showing any structural piers required into the ground to stabilise the retaining wall and what depth;**
 - h. Any other relevant information.**
- 18. Before the use starts, an acoustic barrier must be erected for the drive thru area of the subject land. The design of the fence/barrier must be prepared in consultation by a suitably qualified acoustic engineer. The details of the design and acoustic qualities of the fence/barrier must be to the satisfaction of the Responsible Authority.**
- 19. South Gippsland Water Authority conditions:**
 - a. The owner / applicant shall enter into a formal agreement with the South Gippsland Water Corporation for the provision of a reticulated water and rearrangement sewer supply to service the development to the design and satisfaction of the Corporation.**

- b. The owner / applicant shall provide a sewer property connection point and water meter for the development.
 - c. Payment of a New Customer Contribution Charge for sewer to connect an un-serviced property to the reticulated network.
 - d. Payment of a New Customer Contribution Charge for water to connect an un-serviced property to the reticulated network.
 - e. Prior to the issue of a Plumbing Industry Commission number (PIC), the owner/applicant shall the owner shall pay to the South Gippsland Water Corporation "New Customer Contribution" charges for sewer and water, in accordance with the Corporation's approved tariffs.
 - f. Prior to the commencement of the use, the owner shall enter into a formal agreement with the South Gippsland Water Corporation for the disposal of trade waste.
 - g. The location of the Corporation's existing sewer infrastructure is to be proven on site prior to works commencing.
 - h. Any damage caused to the Corporation's sewer infrastructure during the construction of the proposed Service station, shall be rectified and all costs borne by the owner.
20. Prior to plans being endorsed, landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:
- a. (a survey (including botanical names) of all existing vegetation to be retained and/or removed, buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary;
 - b. a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant;
 - c. planting along the western boundary of the site in order to form an effective screen when viewed from the adjoining properties;
 - d. the incorporation of lower, middle and upper storey species;
 - e. plan to show the changes incorporated as per condition 23.
- All species selected must be to the satisfaction of the Responsible Authority and must be derived from the attached planting guide.

21. Prior to the commencement of the use operating, a permanent screen of indigenous vegetation from the *Indigenous Plants of South Gippsland Shire* publication must be planted (in accordance with the endorsed plans) to provide an effective visual screen along the western boundary. The vegetation must;
- a. comprise of a range of storeys, with an emphasis on lower, middle and upper storeys; and
 - b. be protected by way of tree guards or similar until fully established.

It must be completed and then maintained, to the satisfaction of the Responsible Authority. Any dead or dying vegetation must be replaced.

22. Landscaping must be provided in accordance with the landscaping plan prior to the commencement of the use to the satisfaction of the Responsible Authority. The species must be chosen from the relevant Ecological Vegetation Class (EVC) for that bioregion from the *Indigenous Plants of South Gippsland Shire* publication. The landscaping must be maintained for the life of the development and any dead or dying vegetation replaced.
23. The use must only operate unless otherwise agreed in writing by the Responsible Authority as follows:
- a. 6am to 11pm Monday to Friday.
 - b. 7am to 10pm on Saturday and Sunday (including public holidays).
24. Deliveries to or from the land must only occur between the hours of 8am to 6pm unless otherwise agreed in writing by the Responsible Authority.
25. Waste and recyclables must only be collected between the hours of 8am to 6pm unless otherwise agreed in writing by the Responsible Authority.
26. All waste material or other refuse must be obscured from the view of the public and must be disposed of in a manner to the satisfaction of the Responsible Authority.
27. The loading and unloading of vehicles and delivery of goods must at all times be within the boundaries of the site.

- 28. The property must be maintained in a neat and tidy condition to the satisfaction of the Responsible Authority.**
- 29. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:**
 - a. transport of materials, goods or commodities to or from the land**
 - b. appearance of any building, works or materials**
 - c. emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil**
 - d. presence of vermin**
- 30. Prior to the use commencing, a Lighting Impact Assessment Report must be submitted to, and approved by the Responsible Authority. The Lighting Impact Assessment Report must be undertaken by a suitably qualified lighting consultant to assess the building lighting. The Lighting Impact Assessment Report must include the following:**
 - a. A detailed description, including location, dwell time, lighting specification details, dimming/control functionality and hours of operation.**
 - b. A plan drawn to scale showing elevation and plan view (including which signs are electronic and which are static).**
 - c. Photomontage images showing the building from a driver's perspective (with approximate distances) at locations where drivers would be most impacted by the proposed sign.**
 - d. Specify the existing night time lighting condition as either High District Brightness, Medium District Brightness or Low District Brightness, and justify this decision.**
 - e. The proposed maximum luminance for each lighting condition, with detailed calculations provided to demonstrate compliance with the criteria outlined in Table 1. Calculations must use the definitions and methodology as described in AS4282 where relevant. A maintenance factor of 1 is to be used for all calculations.**
 - f. Where the graphical content or colours can change (such as for digital/electronic signage), a statement that the average luminance shall change by less than 30% of the image (see guidance for condition when using this condition).**

31. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land or passing vehicles to the satisfaction of the Responsible Authority.
32. South Gippsland Shire Council Health
 - a. The premises must connect to the reticulated sewer system. Contact SGW for more information and connection points.
 - b. The premises must incorporate adequate noise reduction measures into its design including (but not limited to) addressing noise from air-conditioner and refrigeration compressors.
 - c. The premises will need to apply for registration with Council pursuant to the Food Act 1984.
33. All stormwater discharging from the development and/or use on the land must be contained within the boundaries of the land to the satisfaction of the Responsible Authority.
34. All areas of the development must be drained to the legal point of discharge via an underground drainage system or other approved method of stormwater drainage to the satisfaction of the Responsible Authority.
35. This permit will expire if either of the following applies:
 - a. The development is not started within two (2) years of the date of this permit.
 - b. The development is not completed within four (4) years of the date of this permit.
 - c. The use does not start within two (2) years after the completion of the development.
 - d. The use is discontinued for a period of two years.

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. 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.

2. 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).
3. 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.
4. Advertising signage does not form part of this planning permit; any proposed advertising signage will require additional planning approval.
5. Separate consent for works within the road reserve and the specifications of these works is required under the Road Management Act 2004. For the purposes of this application the works will include provision of:
 - a. Right turn lane
 - b. Left turn lane
 - c. Service Road
 - d. Kerb and Channel
 - e. Roadway Lighting
 - f. Tree removal

REPORT

Background

The site is located on the western side of South Gippsland Highway (Leongatha Road) in Korumburra. The land has a frontage of 72m, a depth of 137m on the north boundary and 158m on the southern boundary with an overall area of approximately 12,757sqm (1.275ha).

The site is vacant and has a relatively steep slope from east to west, with a fall of approximately 11m from the north-western corner to the south-eastern corner of the site. Boundary fencing comprises post and wire construction.

There are no driveways constructed to the property however there is an existing gate located at the southern end of the frontage. The Gippsland Highway verge is relatively deep with a width of approximately 40m from the front title boundary to the edge of kerb.

The area is heavily planted with large established trees (planted approximately in the past 30 years) and are predominantly native species.

Adjoining land uses include a garden supplies and nursery directly to the south (Burra Garden Supplies), farm and trading supplier (MG Trading) adjacent to the northern boundary, and residential properties to the west and to the east (on the opposite side of South Gippsland Highway). Coal Creek is located to the south east of the site.

A number of residential properties are to the rear (west) of the site in Riflebutts Road and Stag Street. The site is located within the southern approach/exit to the township within an established mixed-use precinct.

The Proposal

The application proposes:

- A service station and truck stop including a convenience store with a total area of 500 square metres.
- A total of three food and drink premises, with seating for up to ninety (90) customers; a drive-through option is available to one of the three tenancies.
- An amenity area for drivers including toilets, change rooms and showers available to use.
- Thirty (30) car parking spaces available for parking, as well as separate truck parking bays provided within a designated truck parking zone.
- An area (canopy 1) located within the front of the site with three bowsers (5 in total) for cars to access petrol.
- A separate area (canopy 2) with three bowsers available for trucks to access fuel.
- A separate area for charging stations for electronic vehicles.
- Various loading bays are provided on site as well waste storage areas.
- Air and water bays are provided on site.
- A mural reflecting the town's history is proposed to be incorporated into the east façade (facing South Gippsland Highway).
- An indicative location for a sub-station is proposed adjacent to the south-eastern corner of the site

- Landscaping beds are provided along each of the property boundaries which range from 1.0m to 6.27m in depth to provide a landscape edge to the site.
- Retaining walls are to be constructed along the north and south boundaries with heights ranging from 0.3m to 2.0m.
- The applicant seeks permission to operate the facility 24 hours a day, 7 days a week.

Built form

- The proposed building is to be constructed at a single storey form with a building height of 5m; the associated petrol canopies to have heights of 7m.
- Building materials include rendered blockwork and metal cladding consisting of pre-cast concrete walls with exposed joints, louvres and glazing finishes.
- A flat roof design is proposed.
- The proposal incorporates a mural in the front façade (east elevation) to reflect the town's history associated with coal mining.
- The perspectives have been provided to assist with illustrating the proposal from different perspectives and views.

Planning Controls

In terms of Planning controls, the subject land is located within the Mixed Use Zone (MUZ) and no overlays apply to the land.

The requirement for a planning permit in this case is triggered by:

1. Mixed Use Zone (MUZ): requires planning permission to Use of the land for a service station, food and drink premises (convenience restaurant) as the leasable floor area exceeds 150sqm. Buildings and works associated with the development of the service station and food and drink premises (convenience restaurants).
2. Land adjacent to the principal road network: requires planning permission to create or alter access to a road in Transport Road Zone 2.

A copy of the plans submitted for assessment have been provided at **Attachment [5.1.1] – Assessed Plans.**

Assessment

A detailed assessment of the application against relevant sections of the Planning and Environment Act 1987 and the relevant matters of the South Gippsland Planning Scheme are discussed in **Attachment [5.1.2]** - Delegate Report.

The primary issues relating to the relevant permit triggers and decision guidelines for this application are:

- Appropriateness of the proposed land use within the context of the site and its surrounds.
- Urban design, including built form, scale and site layout.
- Traffic management, including provision of parking, layout of accessways and access arrangements along the South Gippsland Highway.
- Opportunities for landscaping outcomes to maximise amenity and biodiversity outcomes.

It is considered that the proposal is largely consistent with the relevant Planning Policy Framework objectives and strategies, the objectives and decision guidelines of the MUZ, and the decision guidelines of Clause 65, subject to the inclusion of appropriate conditions to minimise any unreasonable off-site impacts.

CONSULTATION / COMMUNITY ENGAGEMENT

The application was advertised to adjoining and adjacent property owners and occupiers as well as a site notice displayed on the subject site and a notice in the local newspaper.

As a result, thirteen (13) objections have been received to the application (refer to **Confidential Attachment [11.2]**). The key concerns raised in the submissions include:

- traffic generation and safety;
- amenity (increased noise and lighting impacts);
- hours of operation (seeking 24 hr operation);
- township character, integration with adjacent businesses;
- tree removal; and,
- queries regarding the overall need for the facility within the township.

A response to the above concerns has been included in the assessment part of the delegate report at **Attachment [5.1.2]**.

Referrals

The application was referred to the relevant authorities both internally and externally, in particular Council's engineering team and Department of Transport (DoT) externally have consented to the proposal subject to conditions which will be included on any permit that may be issued.

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. Assessed Plans - Planning Application 2021/135 – 8418 South Gippsland Highway Korumburra [5.1.1 - 22 pages]
2. Delegate Report - Planning Application 2021/135 - 8418 South Gippsland Highway Korumburra [5.1.2 - 13 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 [11.2.1] – Objections - Planning Application 2021/135 - 8418 South Gippsland Highway Korumburra 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

Building Act 1993

Environment Protection Act 2017

Local Government Act 2020

Planning and Environment (Planning Schemes) Act 1996

Planning and Environment Act

6. NOTICES OF MOTION AND/OR RESCISSION

Nil

7. COUNCILLOR REPORTS

7.1. REQUESTS FOR LEAVE OF ABSENCE

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.

Nil

11. MEETING CLOSED

NEXT MEETING

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