

SOUTH GIPPSLAND SHIRE COUNCIL

# Council Meeting Minutes

Wednesday 18 October 2023

**Council Meeting No.487**  
**Council Chambers, Leongatha**  
**Commenced at 2:00pm**



# minutes



*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.

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

## PRESENT

COUNCILLORS:	Councillor Nathan Hersey, Mayor Councillor Clare Williams, Deputy Mayor Councillor Sarah Gilligan Councillor Scott Rae Councillor Jenni Keerie Councillor Michael Felton Councillor John Schelling Councillor Adrian Darakai
NOT PRESENT:	Councillor Mohya Davies Kerryn Ellis, Chief Executive Officer
OFFICERS:	Allison Jones, Acting Chief Executive Officer Michelle Jorgensen, Acting Director Performance and Innovation Tony Peterson, Director Sustainable Infrastructure Rena Littlejohn, Director Economy & Community Rhys Matulis, Coordinator Governance Natasha Berry, Corporate and Council Business Officer

## **SOUTH GIPPSLAND SHIRE COUNCIL**

Council Meeting No.487 Wednesday 18 October 2023  
Council Chambers, Leongatha, commenced at 2:00pm.

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**Kerryn Ellis**  
**Chief Executive Officer**

## **1. PRELIMINARY MATTERS**

### **1.1. LIVE-STREAMING COUNCIL MEETING DISCLAIMER**

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

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

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

Thank you

### **1.2. WELCOME TO THE COUNCIL MEETING**

#### ***Public Questions***

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

### **1.3. OPENING PRAYER**

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

#### **1.4. ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS**

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

#### **1.5. APOLOGIES**

**Councillor Mohya Davies**  
**Kerryn Ellis, Chief Executive Officer**

#### **1.6. CONFIRMATION OF MINUTES**

##### **RECOMMENDATION**

**That the Minutes of the South Gippsland Shire Council Meeting No. 486, held on 20 September 2023 in the Council Chambers, Leongatha be confirmed.**

##### **RESOLUTION**

**MOVED:** Councillor Keerie  
**SECONDED:** Councillor Gilligan

**That the Minutes of the South Gippsland Shire Council Meeting No. 486, held on 20 September 2023 in the Council Chambers, Leongatha be confirmed.**

**CARRIED UNANIMOUSLY**

## 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](http://www.legislation.vic.gov.au).

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

**Nil**



## 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](http://www.legislation.vic.gov.au).

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

**Nil**

## 2. OBJECTIVE - HEALTHY AND ENGAGED COMMUNITIES

### 2.1. GENERAL LOCAL LAWS REVIEW - SECOND ROUND CONSULTATION

Directorate:	Economy and Community
Department:	Community Health and Safety

#### Council Plan

##### *Objective - Healthy and Engaged Communities*

*The General Local Law 2024 is designed to protect and enhance public health, safety and amenity of the municipality and its residents and visitors. The General Local Law will ensure Council is able to respond to issues and community needs protecting the environment and the health and safety of the community.*

#### EXECUTIVE SUMMARY

The purpose of this report is for Council to consider endorsing the final stage in the review of the General Local Law 2014 by releasing the draft General Local Law 2024 **Attachment [2.1.1]** for community consultation.

South Gippsland Shire Council's General Local Law 2014 is due to sunset in April 2024. A new General Local Law 2024 requires authoring, adoption and gazetting by Council prior to this date.

Feedback from internal and external stakeholders, Councillors, and the community has been considered when creating the draft General Local Law 2024.

#### RECOMMENDATION

##### That Council:

1. **Endorses the final stage of community consultation in the review of the General Local Law 2024; and**
2. **Releases the draft General Local Law 2024 for exhibition for the period 19 October 2023 until 2 November 2023 and considers any submissions made during the exhibition period.**

**RESOLUTION**

**MOVED:** Councillor Rae

**SECONDED:** Councillor Williams

**That Council:**

- 1. Endorses the final stage of community consultation in the review of the General Local Law 2024; and**
- 2. Releases the draft General Local Law 2024 for exhibition for the period 19 October 2023 until 2 November 2023 and considers any submissions made during the exhibition period.**

**CARRIED**

[Link to next Agenda Item.](#)

## REPORT

The draft General Local Law incorporates a series of changes to language and structure that aim to simplify, modernise, and consolidate it and to ensure alignment with State legislation. These changes do not seek to alter the overall intent and rather, are focused on providing clarity.

A range of safety and amenity issues were also identified during an extensive review, research and consultation process. These have resulted in a number of new, proposed clauses and provisions being included in the draft General Local Law.

### Key Changes

#### *Protecting Council Assets*

- Changes have been incorporated to support the protection of Council assets with a focus on defacing, damaging or obstructing municipal places, and damaging trees or vegetation.
- A series of new clauses have been introduced to better protect Council assets when building works take place. It is proposed a separate Building and Works Code of Practice **Attachment [2.1.2]** will be incorporated by reference. This allows flexibility if changes are required.

#### *Camping*

- A strengthened and expanded the definition of camping to include a tent, makeshift structure, caravan, mobile home or any other moveable vehicle or relocatable building or structure.
- Amendments that enable people to camp on all private property for up to 3 months, without the need to obtain a permit, subject to conditions outlined in the Camping on Private Property Code of Practice **Attachment [2.1.3]**. These conditions are designed to protect the amenity of adjoining land.
- The Camping on Private Property Code of Practice is a separate document, to be incorporated into the General Local Law by reference.
- Introduced the ability for Council to exempt persons camping in a municipal place for compassionate reasons.

#### *Recreational Vehicles*

- Strengthened and expanded definitions of recreational vehicles to include trail bikes, motorcycles and powered vehicles.

- Other provisions relating to the protection of Council assets enable Council to infringe where recreational vehicles have caused damage to a municipal place.
- Amendments to provisions that regulate the use of recreational vehicles on private land include:
  - Removed reference to Planning Scheme zones.
  - Retain minimum land size requirement of 2 hectares.
  - Exemptions for farming purposes, or if permitted under other regulations.
  - New subclause makes it an offence to use recreational vehicles on private property in a manner that detrimentally affects the amenity of adjoining land.

#### ***Unightly and Dangerous Properties / Dilapidated Buildings***

- Strengthened and expanded existing provisions to address unsightly properties to include machinery and vehicle parts, incomplete buildings, dangerous structures, excessive vegetation and shipping containers (unless permitted under the Planning Scheme).
- Introduced new clause 'dilapidated buildings' to protect neighbourhood amenity and safety, including provision to require a person to secure a site.

#### ***Open Air Burning***

- Redrafted to provide clarity on the types of material that can and cannot be burnt on private land including not allowing fires to cause offensive emissions.
- Introduced additional safety and amenity obligations for people burning material on private land including but not limited to buffer zones, supervising and extinguishing fires.
- Introduced requirements for all burns to be registered with the Emergency Services Telecommunication Authority (ESTA).

#### ***Waste and Recycling***

- Amended clauses to make it an offence to leave residential bins in areas that obstruct pedestrian traffic flow, or for extended periods beyond waste collection days.

- Introduced a new clause to regulate hard waste collection including placement of items; and making it an offence to remove or interfere with hard waste placed out for collection.

### ***Shopping Trolleys***

- Amended to extend the onus for shopping trolleys onto retailers by requiring them to have their trading name clearly marked on the trolley and not leave a trolley in a municipal place.
- Removed specified streets and locations where it is an offence to leave a trolley and expanded to include all municipal places.

### ***Smoke-Free Areas***

- This new clause provides Council ability to declare by resolution, smoke-free areas and events.
- New offence to smoke tobacco or e-cigarettes in these areas.

The Footpath Trading Code has also been reviewed as part of the General Local Law Review **Attachment [2.1.4]**.

## **CONSULTATION / COMMUNITY ENGAGEMENT**

The creation of the General Local Law 2024 must comply with Council's Community Engagement Policy pursuant to Division 1 of Part 3 of the *Local Government Act 2020*.

Subject to Council approval, the draft General Local Law will be released for community submissions from 19 October to 2 November 2024. This will be via Council's online engagement website 'Your Say', email and written submissions. Hard copies of the draft Local Law and the survey will also be available at Council's Leongatha office and libraries.

Community consultation will be supported with a detailed communications plan that includes a comparative analysis **Attachment [2.1.5]** and Community Impact Statement **Attachment [2.1.6]** that explains the key changes proposed.

Following consultation, if Council wishes to make any changes to the draft, those changes may require further consultation, in accordance with the *Local Government Act 2020*.

The results of all community consultation will inform the final General Local Law, which is planned to be adopted in March 2024.

## **RESOURCES / FINANCIAL VIABILITY**

The review of the General Local Law is being conducted within the current budget. There will be some resource implication with the draft General Local Law however it is felt these can be accommodated with existing resources and in some case may make the process easier to manage.

## **RISKS**

Risks from the consultation and subsequent development of a new General Local Law are around reputational risk to Council. There is also the risk that the current General Local Laws will sunset if Council fails to develop and gazette the new General Local Laws prior to April 2024.

## **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. Draft General Local Law 2024 [2.1.1 - 37 pages]
2. Draft Building and Works Code of Practice 2024 [2.1.2 - 10 pages]
3. Draft Camping on Private Property Code of Practice 2024 [2.1.3 - 10 pages]
4. Draft Footpath Trading Code 2024 [2.1.4 - 13 pages]
5. General Local Law 2024 - Comparative Analysis Old and New [2.1.5 - 43 pages]
6. General Local Law 2024 - Community Impact Statement [2.1.6 - 8 pages]

## **REFERENCE DOCUMENTS**

### **Council's Good Governance Framework**

Pillar 1. Direction & Leadership

Pillar 3. Decision Making

### **Council Policy / Strategy / Plans**

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

General Local Law 2014

Annual Budget

Council Plan 2022-2026

### **Legislative Provisions**

Country Fire Authority Act 1958

Crimes Act 1958

Domestic Animals Act 1994

Impounding of Livestock Act 1994

Infringements Act 2006

Local Government Act 2020

Local Government Act 2020, s.9(c) - the economic, social and environmental sustainability of the municipal district, is to be promoted

Public Health and Wellbeing Act 2008



### 3. OBJECTIVE - LEADING WITH INTEGRITY

#### 3.1. 2023/2024 ADVOCACY PRIORITIES

Directorate:	Performance and Innovation
Department:	Customer Communications and Advocacy

#### Council Plan

*Objective - Leading with Integrity*

*An annual initiative in the 2022 -2026 Council Plan (2023/24 Annual Initiatives) is to "Develop and adopt Council's 2023/24 Advocacy Priority Projects."*

#### EXECUTIVE SUMMARY

The purpose of this report is to seek Council's endorsement of the 2023/24 Advocacy Priority List (the List) which comprises eight separate advocacy priorities. The List formally establishes the top priority projects for the current financial year and provides a foundation for collective advocacy.

#### RECOMMENDATION

**That Council endorses the 2023/24 Advocacy Priority List:**

- **Roads: Increase funding to Rural Councils**
- **Early Years Infrastructure**
- **Connectivity: NBN upgrades, minimise telephone black spots and Community transport**
- **Renewable Energy Investment: Barry Beach Marine Terminal and Port Anthony**
- **Resilient Coastal Communities**
- **Disaster Recovery Infrastructure Funding and Emergency Training**
- **Leongatha Heavy Vehicle Route**
- **Supporting volunteers and community groups in South Gippsland**

**Councillor Schelling moved a Motion different from the Recommendation.**

**RESOLUTION**

**MOVED:** Councillor Schelling

**SECONDED:** Councillor Rae

**That Council endorses the 2023/24 Advocacy Priority List:**

**1. Connecting Our People & Places**

- **Increase Road funding to Rural Councils**
- **Leongatha Heavy Vehicle Route**

**2. Economy & Industry**

- **Connectivity: NBN upgrades, minimise telephone black spots and increase Community transport options**
- **Renewable Energy Investment: Barry Beach Marine Terminal and Port Anthony**

**3. Sustainable Growth**

- **Resilient Coastal Communities**
- **Disaster Recovery Infrastructure Funding and Emergency Training**

**4. Healthy & Engaged Communities**

- **Early Years Infrastructure**
- **Supporting volunteers and community groups in South Gippsland**
- **Upgrade of South Gippsland sporting facilities (including the Leongatha Recreation Reserve Grandstand)**

**CARRIED UNANIMOUSLY**

[Link to next Agenda Item.](#)

## REPORT

### **2022/23 Advocacy List (results):**

Council has had significant advocacy success with the following priorities from the 2022/23 Priority List fully or partly funded:

- **Connectivity:** Fibre to the Premises upgrades have been funded in Leongatha, Korumburra and Mirboo North and blackspot improvements have been funded in Walkerville. The Nyora mobile tower has been constructed and is now operational. Fixed wireless NBN towns are also being progressively updated across the Shire.
- **Early Years Infrastructure:** The Victorian Government provided funding for a new Early Learning Centre in Korumburra. Funding (\$150,000) for a planning study for an Early Learning Centre in Mirboo North has also been received.
- **Upgrade of the Leongatha Recreation Reserve Grandstand:** A Building Assessment Report for the Leongatha Recreation Reserve Committee of Management was completed, funded by the Victorian Government.
- **Coastal Protection:** The Australian Government provided funding to support a Coastal Levee (Seawall) review and infrastructure planning. Council also received funding (\$80,000) from the Victorian Government for the development and coordination of a business case to investigate a Venus Bay Salt Marsh Project.

To gain support for these priorities, Councillors and Council's Chief Executive Officer facilitated 19 advocacy meetings with government representatives throughout 2022/23. This significant advocacy commitment involved meetings at Parliament House and Spring Street in addition to onsite meetings held at Council's offices in Leongatha.

Council's advocacy success is also reflected in the 2023 Community Satisfaction Survey results that show Council's lobbying performance has improved two points from 2022. Advocacy is a major initiative in the 2022-26 Council Plan.

### **2023/24 Advocacy Priority List:**

To determine the top advocacy priorities for 2023/24 a wide range of identified priorities were measured against principles outlined in the Advocacy Strategy, including: Community Consultation, Research, Policy and Strategy, Geographic Spread/Diversity and Financial Implications. This process resulted in the proposed Advocacy Priority List:

- **Roads: Increase funding to Rural Councils**
    - Increased funding from the Australian Government to rural-based councils through the Local Roads and Community Infrastructure Program.
    - Support from the Victorian Government to expand the Rural Roads support package and to reinstate the Fixing Country Roads program.
  - **Early Years Infrastructure**
    - Support from the Victorian Government to facilitate the delivery of three-year-old kindergarten and pre-prep and a commitment to ongoing infrastructure maintenance.
  - **Connectivity: NBN upgrades, minimise telephone black spots and community transport**
    - A commitment from the Federal Government to continue the Regional Connectivity Program and the Black Spot program.
    - Increased community transport options across South Gippsland, particularly linking people to essential services.
  - **Renewable Energy Investment: Barry Beach Marine Terminal and Port Anthony**
    - Support from the Australian and Victorian Government to plan and prepare for the activation of the ports and industrial/residential land use to ensure commercial investment attraction, industry development and workforce participation in South Gippsland.
  - **Resilient Coastal Communities**
    - Modification of the Victorian Planning provisions to better communicate coastal hazards and climate change risk, potentially in the form of a coastal hazard zone or an overlay control.
    - New or updated hazard risk mapping and policy changes to help identify, where possible, current, and future coastal hazard risks.
    - Support to fund and facilitate evidence-based conversations with South Gippsland's coastal communities.
  - **Disaster Recovery Infrastructure Funding and Emergency Training**
    - Seeking simplification of the methodology and data inputs required in Victoria to prove Council's eligibility for Disaster Recovery Funding, bringing it in line with other States and ahead of any national unification of claims processes.
    - Support to ensure post disaster funding programs enable betterment to improve assets beyond the 'previous condition' to provide resilience against future damage resulting from disaster events.
    - Support for a Victorian led training or accreditation program to provide consistency and efficiencies across the state, allowing for greater resource
-

*sharing in times of emergency and growing our capacity as an emergency management network.*

- **Leongatha Heavy Vehicle Route**  
*- Funding support from the Department of Transport to conduct a detailed planning study for Stage 2 of the Leongatha Heavy Vehicle Alternate Route.*
- **Supporting volunteers and community groups in South Gippsland**  
*- Victorian Government support to review the governance requirements for volunteer groups to cut through red tape and provide funding support for community groups to cover core overheads (such as insurance).*

## **CONSULTATION / COMMUNITY ENGAGEMENT**

Significant community consultation has occurred with several of the shortlisted advocacy priorities. Some priorities were originally identified through the *Shaping South Gippsland Community Engagement* process, others were identified through the development of Council's *Regional Profile* or through the development of Council strategies, such as the *South Gippsland Coastal Strategy*.

## **RESOURCES / FINANCIAL VIABILITY**

Advocacy support can be accommodated within existing resources.

## **RISKS**

Nil

## **STAFF DISCLOSURE**

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

## **ATTACHMENTS**

Nil

## **REFERENCE DOCUMENTS**

### **Council's Good Governance Framework**

Pillar 5. Communications & Community Engagement

### **Council Policy / Strategy / Plans**

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

Council Plan 2022-2026

### **Legislative Provisions**

Local Government Act 2020

### 3.2. 2022/23 CARRY FORWARDS AND END OF YEAR FINANCIALS (END OF YEAR RESULTS)

Directorate:	Performance and Innovation
Department:	Financial Strategy

#### Council Plan

##### *Objective 4 – Customer Focused Organisation*

*The end of financial year report provides an overview of Council's financial performance for the period July 2022 to June 2023. The report provides communication to the community and Council regarding Council's financial performance and aligns with the Local Government Act 2020.*

#### EXECUTIVE SUMMARY

The end of year financial report has been prepared in accordance with section 97 of the *Local Government Act 2020* (the Act) and provides an overview of Council's financial performance for the period July 2022 to June 2023.

#### RECOMMENDATION

##### That Council:

1. **Notes the accounting surplus of \$20.348 million as at 30 June 2023;**
2. **Endorses the carry forward of operating funds of \$2.467 million to 2023/24; and**
3. **Endorses the carry forward of capital items of \$6.089 million to 2023/24 to enable delivery of the committed capital works program.**

**RESOLUTION**

**MOVED:** Councillor Gilligan

**SECONDED:** Councillor Darakai

**That Council:**

- 1. Notes the accounting surplus of \$20.348 million as at 30 June 2023;**
- 2. Endorses the carry forward of operating funds of \$2.467 million to 2023/24; and**
- 3. Endorses the carry forward of capital items of \$6.089 million to 2023/24 to enable delivery of the committed capital works program.**

**CARRIED UNANIMOUSLY**

[Link to next Agenda Item.](#)

## REPORT

The results in summary:

### Operating

	Budget 2023 \$ '000	Actual 2023 \$ '000	Variance \$ '000
<b>2.1.1 Income / Revenue and expenditure</b>			
<b>Income / Revenue</b>			
Rates and charges	48,108	48,170	62
Statutory fees and fines	1,138	1,031	(107)
User fees	4,025	4,557	532
Grants - operating	3,689	20,050	16,361
Grants - capital	10,553	14,831	4,278
Contributions - monetary	1,438	606	(832)
Contributions - non monetary	422	1,860	1,438
Net gain on disposal of property, infrastructure, plant and equipment	763	–	(763)
Fair value increment on investment properties	–	93	93
Other income	1,185	2,339	1,154
Found Assets	–	3,175	3,175
<b>Total income / revenue</b>	<b>71,321</b>	<b>96,712</b>	<b>25,391</b>
<b>Expenses</b>			
Employee costs	28,544	28,957	(413)
Materials and services	23,768	24,829	(1,061)
Depreciation	12,817	11,374	1,443
Amortisation - intangible assets	54	–	54
Amortisation - right of use assets	–	92	(92)
Bad and doubtful debts - allowance for impairment losses	–	24	(24)
Borrowing costs	73	108	(35)
Finance costs - leases	–	7	(7)
Net loss on disposal of property, infrastructure, plant and equipment	–	122	(122)
Other expenses	3,195	10,851	(7,656)
<b>Total expenses</b>	<b>68,451</b>	<b>76,364</b>	<b>(7,913)</b>
<b>Surplus/(deficit) for the year</b>	<b>2,870</b>	<b>20,348</b>	<b>17,478</b>

Council achieved an operating surplus of \$20.348 million as at 30 June 2023. This result was favourable (\$17.478 million) to the annual budget of \$2.87 million. The annual financial statements compare actual to original budget and an explanation of material variances is included in Note 2.1. This highlights that this variance is primarily due to the early receipt of the 2023/24 financial assistance grant funding as well as unbudgeted operating and capital grant income received for various storm, flood and rain events.

When assessing Council's financial projections as results, it is important to not only consider the operating net surplus or deficit of the year, but also the cash position. This is achieved by adjusting the operating result by removing the



impact of all non-cash related accounting entries and adding back in the cash entries that do not form part of the Income Statement operating result.

Description	2022/23
	<b>\$000'S</b>
<b>Operating Statement Surplus/(Deficit)</b>	<b>20,348</b>
<b>Management Accounting Reconciliation</b>	
<b>Add back Non-Cash Items:</b>	
Depreciation	11,374
Disposal of property held for resale	
Amortisation Right of use	93
Additional Provisions landfill	865
Amounts Used Landfill	(88)
Change in discount amount landfill	(2,184)
Impairment loss	1,200
Granted Assets	(1,860)
Found Assets (Recognised)	(3,175)
Fair Value Adjustments of Investment Properties	(93)
Disposal of PPE	8,126
<b>Subtotal</b>	<b>14,258</b>
<b>Less Non-Operating Cash Items:</b>	
Capital Expenditure	34,093
Transfers to Reserves	867
Transfers from Reserves	(1,053)
New Loan Borrowings	(4,950)
Loan Repayments	657
Lease Repayments	89
<b>Subtotal</b>	<b>29,703</b>
<b>Cash Surplus/(Deficit) for year</b>	<b>4,903</b>

Council achieved a cash surplus for 2022/23 of \$4.9 million.

## Capital

	Budget 2023 \$ '000	Actual 2023 \$ '000	Variance \$ '000
<b>2.1.2 Capital works</b>			
<b>Property</b>			
Buildings	8,399	9,778	1,379
Heritage buildings	106	–	(106)
<b>Total buildings</b>	<b>8,505</b>	<b>9,778</b>	<b>1,273</b>
<b>Total property</b>	<b>8,505</b>	<b>9,778</b>	<b>1,273</b>
<b>Plant and equipment</b>			
Plant, machinery and equipment	2,367	2,087	(280)
Computers and telecommunications	467	567	100
<b>Total plant and equipment</b>	<b>2,834</b>	<b>2,654</b>	<b>(180)</b>
<b>Infrastructure</b>			
Roads	12,484	12,531	47
Bridges	320	228	(92)
Major culverts	67	72	5
Footpaths and cycleways	1,522	1,475	(47)
Drainage	–	1	1
Car parks	–	1,892	1,892
Land stabilisation	–	7	7
Waste management	528	545	17
Other infrastructure	5,207	4,910	(297)
<b>Total infrastructure</b>	<b>20,128</b>	<b>21,661</b>	<b>1,533</b>
<b>Total capital works expenditure</b>	<b>31,467</b>	<b>34,093</b>	<b>2,626</b>
<b>Represented by:</b>			
Asset renewal expenditure	24,530	27,912	3,382
Asset expansion expenditure	2,769	4,987	2,218
Asset upgrade expenditure	4,168	1,194	(2,974)
<b>Total capital works expenditure</b>	<b>31,467</b>	<b>34,093</b>	<b>2,626</b>

The year-end capital budgeted expenditure is overspent by \$2.626 million. This is due to expenditure of carry forward funds from 2021/22 that are not included in the original budget figure. Noting that the annual financial statements compare budget to actual.

### Carry Forwards

At 30 June each financial year, it is not uncommon for projects or programs not to be fully completed. For example, funding can be received during the financial year and also for projects that span multiple years. Council remains committed to deliver on these initiatives and therefore carries forward this funding by way of restricting the cash held in the operating surplus.

Recurrent operating budgets are not carried forward from one year to the next. The amounts carried forward are restricted to externally funded projects or significant non-recurrent projects that Council is committed to deliver. The

Executive team approved the carry forwards listed in attachment 1 to this report to be recommended to Council for endorsement.

Carry forwards recommended for 2022/23 include:

- Operating carry forwards of \$2.467 million with the larger amounts related to Infrastructure projects that are not capital in nature; and
- Capital carry forwards of \$6.089 million.

Major Capital Works projects listed for carry forward include:

- Korumburra Community Hub including Commercial Streetscape Works
- Great Southern Rail Trail Works
- Sealed roads rehabilitation works at Venus Bay
- Leongatha and Korumburra Railway Precincts
- Mirboo North Transfer Station works

#### **CONSULTATION / COMMUNITY ENGAGEMENT**

This report provides a final summary of Council's year end position against Council's 2022/23 budget. Development of this budget included a community consultation component.

#### **RESOURCES / FINANCIAL VIABILITY**

This report provides Council and the community with a final summary of Council's year end position for 2022/23, and assists to ensure Council's long term financial viability.

#### **RISKS**

A failure to deliver a balanced underlying result will indicate that Council does not generate enough income to sustain its operations. Should Council not carry forward the budgets in this report, it risks failing to deliver its capital program and meeting grant funded milestones.

#### **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 Pillar

Pillar 8. Monitoring & Performance Review

### **Council Policy / Strategy / Plans**

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

Financial Management Policy (C86)

### **Legislative Provisions**

Local Government Act 2020

### 3.3. 2022/23 ANNUAL REPORT - REPORT OF OPERATIONS - FINANCIAL STATEMENTS AND PERFORMANCE STATEMENT

Directorate:	Performance and Innovation
Department:	Financial Strategy

#### Council Plan

##### *Objective - Leading with Integrity*

*The 2022/23 Annual Report finalises Council's reporting against the 2022/23 Report of Operations, Financial Statements and Performance Statement. The Annual Report provides an overview of Council's performance for the 2022/23 financial year and presents fairly the financial performance and operational position of Council to the community and aligns with the Local Government Act 2020.*

#### EXECUTIVE SUMMARY

The purpose of this report is to provide Council and the community with Council's audited financial and operational position as at 30 June 2023 via the process of the *2022/23 Annual Report*. As per ss.98 and 99 of the *Local Government Act 2020* and the *Local Government (Planning and Reporting) Regulations 2020*, Council must prepare an Annual Report that provides a succinct end-of-year summary of Council's performance. Council is required to adopt an *Annual Report* for each financial year by 31 October (**Attachment [3.3.1]**).

The Annual Report must contain the following:

- Financial Statements (subject to audit by VAGO);
- Performance Statement Indicators (subject to audit by VAGO);
- Governance and Management Checklist;
- Report of Operations including a recap on key achievements against the *2022-2026 Council Plan* Strategic Objectives and *2022/23 Annual Initiatives* and the Local Government Performance Reporting Framework (LGPRF) Indicators; and
- A copy of the Victorian Auditor General's Office (VAGO) auditor's report for the Performance and Financial Statements.

These documents are presented to Council for endorsement, with the exception of the auditor's report which is not received until Council has endorsed the reports and the Financial and Performance Statements have been signed by the Principal Accounting Officer, the Chief Executive Officer (CEO) and two Councillors.

The audited Financial Statements, Performance Statement and the Governance and Management Checklist) for 2022/23 are presented to Council:

- To seek in-principle approval of the Statements; and
- To seek a resolution of Council authorising a Councillor representative on the South Gippsland Shire Council Audit and Risk Committee and one other Councillor to certify the Statements following audit completion; and
- The Mayor and Chief Executive Officer (CEO) to certify the Governance Management Checklist.

VAGO conducted an audit of Council's Financial Statements, Performance Statement starting in the week of 29 August 2023. These documents were recommended for approval 'in principle' by the Audit and Risk Committee Meeting on 26 September 2023.

It is recommended that Council approves the Statements and Checklist in-principle and sign the Certification of the Performance and Financial Statements. Along with the signed Management Representation Letter, this will then be submitted to VAGO for the issuance of the Independent Auditor's Report which is required to be included as part of the Statements and the Annual Report.

Upon receipt of the Independent Auditor's Report, the audited Performance Statement and the Financial Statements will be combined with the Report of Operations to form the full *2022/23 Annual Report*.

## **RECOMMENDATION**

**That Council:**

- 1. Adopts the 2022/23 Annual Report – Report of Operations (Attachment [3.3.1]) section of the 2022/23 Annual Report;**
- 2. Approves in-principle, subject to any final amendments arising from the Audit and Risk Committee review, the draft Annual Financial Statements, the draft Performance Statement and the Governance and Management Checklist for the year ended 30 June 2023;**

- 3. Authorises Mayor Nathan Hersey and Councillor Sarah Gilligan, member of the Audit and Risk Committee, to certify the Financial Statements, and Performance Statement on behalf of Council;**
- 4. Authorises Mayor Councillor Nathan Hersey and the Chief Executive Officer Kerryn Ellis to certify the Governance and Management Checklist, on behalf of Council;**
- 5. Demonstrates the Councillors and Chief Executive Officer's willingness to certify the Financial Statements, Performance Statement and the Governance and Management Checklist by agreeing for their digital signatures be included in the appropriate signature locations in the Statements and Checklist;**
- 6. Sends the Annual Financial Statements and the Performance Statement for the year ended 30 June 2023 to the Victorian Auditor-General's Office (VAGO) for certification;**
- 7. Authorises the Chief Executive Officer to make any administrative and non-material changes to the Statements as recommended by the Victorian Auditor-General's Office (VAGO);**
- 8. Upon receipt of the Independent Auditor's Report, include this with the Performance Statement and Financial Statements, combines these documents with the Report of Operations to be endorsed by Council at the 18 October 2023, to form the full 2022/23 Annual Report;**
- 9. Once the 2022/23 Annual Report is combined in full, publish the 2022/23 Annual Report on Council's website.**

## RESOLUTION

**MOVED:** Councillor Hersey  
**SECONDED:** Councillor Gilligan

**That Council:**

- 1. Adopts the 2022/23 Annual Report – Report of Operations (Attachment [3.3.1]) section of the 2022/23 Annual Report;**
- 2. Approves in-principle, subject to any final amendments arising from the Audit and Risk Committee review, the draft Annual Financial Statements, the draft Performance Statement and the Governance and Management Checklist for the year ended 30 June 2023;**
- 3. Authorises Mayor Nathan Hersey and Councillor Sarah Gilligan, member of the Audit and Risk Committee, to certify the Financial Statements, and Performance Statement on behalf of Council;**
- 4. Authorises Mayor Councillor Nathan Hersey and the Chief Executive Officer Kerry Ellis to certify the Governance and Management Checklist, on behalf of Council;**
- 5. Demonstrates the Councillors and Chief Executive Officer’s willingness to certify the Financial Statements, Performance Statement and the Governance and Management Checklist by agreeing for their digital signatures be included in the appropriate signature locations in the Statements and Checklist;**
- 6. Sends the Annual Financial Statements and the Performance Statement for the year ended 30 June 2023 to the Victorian Auditor-General’s Office (VAGO) for certification;**
- 7. Authorises the Chief Executive Officer to make any administrative and non-material changes to the Statements as recommended by the Victorian Auditor-General’s Office (VAGO);**
- 8. Upon receipt of the Independent Auditor’s Report, include this with the Performance Statement and Financial Statements, combines these documents with the Report of Operations to be endorsed by Council at the 18 October 2023, to form the full 2022/23 Annual Report;**
- 9. Once the 2022/23 Annual Report is combined in full, publish the 2022/23 Annual Report on Council’s website.**



**MOVED:** Councillor Darakai

**SECONDED:** Councillor Rae

**That Councillor Hersey's speaking time be extended by 2 minutes.**

**CARRIED UNANIMOUSLY**

**The Motion before the Chair was CARRIED UNANIMOUSLY.**

[Link to next Agenda Item.](#)

## REPORT

The *2022/23 Annual Report* is required to be prepared in accordance with ss.98 and 99 of the *Local Government Act 2020* and the *Local Government (Planning and Reporting) Regulations 2020*. Local Government Victoria also annually provides the *Local Government Better Practice Guides* for the preparation of the various components of the Annual Report. These documents have guided Council in the required content of each section of the *2022/23 Annual Report*.

The *2022/23 Annual Report – Report of Operations* begins with a snapshot of Council's key achievements against the *2022-2026 Council Plan Strategic Objectives* and the *2022/23 Annual Initiatives*.

This is followed by four main sections:

- Operations Overview;
- Reporting Overview (against the Council Plan Strategic Objectives and LGPRF indicators);
- Governance Overview;
- Performance Overview (Audited Performance Statement Indicators and Financial Statement); and
- VAGO Independent Auditor's Report and certification.

### ***Local Government Performance Reporting Framework (LGPRF) Indicators***

Council's LGPRF indicators and results are presented under each Strategic Objective of the Council Plan in *Section 2 – Reporting Overview*. These indicators are compared against the previous three-year results as per guidelines and will be up-loaded to the 'Know Your Council' website managed by the State Government for each Council.

The LGPRF indicators also include material variation comments, particularly those that are outside the normal range established by the State Government, or where VAGO has indicated that a comment would be beneficial to assist the reader. Material variation comments are also included where a variance is + or – 10 per cent compared to the previous three years.

### ***Governance Management Checklist***

The *Governance Management Checklist* is in line with the *Local Government (Planning and Reporting) Regulations 2020* and the Act and requires certification by the Mayor and the CEO. It is recommended these certifications are made at the same time as the Financial and Performance Statements.

### ***Financial and Performance Statements***

The Financial Statements and Performance Statement present fairly the financial performance and position of the Council for 2022/23 financial year. The annual accounts and financial statements are a key transparency and public assurance measure, providing information to the community about Council's financial position. These Statements are audited by VAGO.

The Performance Statement provided in is in line with the required format and content as per the *Local Government Better Practice Guide – Annual Report – Performance Statement 2022/23* guidelines. Some LGPRF indicators are also included in the Performance Statement and are audited by VAGO.

There is a strong correlation between the *Long-Term Financial Plan*, the *Annual Budget* and the actual results in the Financial Statements. Annual budgets are set within a strategic 15 year forward financial planning framework. The actual financial performance achieved is also monitored within the context of the 15-year financial framework. It should be noted that there may be differences in the financials quoted in this report as compared to the final Financial Statements due to the timing of the audit.

### ***2022/23 Annual Financial Results***

#### ***Accounting Surplus/Comprehensive Surplus***

It should be noted that at the time of preparation of this report, Council was still in the process of the external audit with the Victoria Auditor General's Office. Should there be differences in the final version, this will be circulated separately prior to the meeting.

Council is reporting an accounting surplus of \$20.348 million for the financial year 2022/23, however it is important to note that this includes items such as non-cash contributions, capital grants, loan redemptions and committed capital or operational expenditure for future years.

The comprehensive result is a surplus of \$105.291 million following the increase in value of Council owned infrastructure, land and buildings as adjusted in the Asset Revaluation Reserve.

**2022/23 Annual Results**

<b>Comprehensive Income Statement (Profit &amp; Loss)</b>	<b>2022/23 \$'000</b>	<b>2021/22 \$'000</b>	<b>Variance Fav/ (Unfav)</b>
Total Revenue	96,712	89,655	7,057
Total Expense	76,364	80,711	4,347
<b>Surplus/ (Deficit)</b>	<b>20,348</b>	<b>8,944</b>	<b>11,404</b>
Net asset revaluation increment/ share of other comprehensive income of associates and joint ventures	84,943	59,488	25,455
<b>Comprehensive result</b>	<b>105,291</b>	<b>68,432</b>	<b>36,859</b>

<b>Balance Sheet</b>	<b>2022/23 \$'000</b>	<b>2021/22 \$'000</b>	<b>Variance Fav/ (Unfav)</b>
Current Assets	56,453	52,549	3,904
Current Liabilities	19,362	19,969	607
Working Capital Ratio	2.92	2.63	0.28
Non-Current Assets	765,126	661,755	103,371
Non-Current Liabilities	13,430	10,839	(2,591)
Net Assets/ Total Equity	788,787	683,496	105,291

<b>Statement of Changes in Equity</b>	<b>2022/23 \$'000</b>	<b>2021/22 \$'000</b>	<b>Variance Fav/ (Unfav)</b>
Balance at beginning of financial year	683,496	615,064	68,432
Surplus / (deficit) for the year	20,348	8,944	11,404
Net Asset revaluation increment (decrement)	84,943	59,488	25,455
<b>Balance at end of financial year</b>	<b>788,787</b>	<b>683,496</b>	<b>105,291</b>

<b>Cash Flow Statement</b>	<b>2022/23 \$'000</b>	<b>2021/22 \$'000</b>	<b>Variance Fav/ (Unfav)</b>
Net cash inflows from operating activities	31,812	27,623	4,189
Net cash outflows from investing activities	(25,967)	(31,758)	5,791
Net cash inflows from financing activities	4,090	1,415	2,675
Net increase (decrease) in cash held	9,935	(2,720)	12,655
Cash at the beginning of the year	7,847	10,567	(2,720)
Cash at the end of the year	17,782	7,847	9,935

<b>Statement of Capital Works</b>	<b>2022/23 \$'000</b>	<b>2021/22 \$'000</b>	<b>Variance Fav/ (Unfav)</b>
Land	0	0	0
Buildings	9,778	9,086	692
Plant and Equipment	2,654	2,380	274
Infrastructure	21,661	16,150	5,511
<b>Total capital works expenditure</b>	<b>34,093</b>	<b>27,616</b>	<b>6,477</b>
Asset renewal expenditure	27,912	24,617	3,295
Asset expansion expenditure	4,987	2,119	2,868
Asset upgrade expenditure	1,194	880	314

Major differences in the annual financial statements results as compared to 2022/23 include:

### **Income Statement**

#### **Income has increased by \$7.1 million mainly due to:**

- Additional \$4.5 million in capital grants primarily due to the receipt of grants related to Natural Disasters in the 2022/23 year. There was also an additional \$2.8 million in found assets.

#### **Expenditure has decreased by \$4.4 million mainly due to:**

- Decreased materials and services costs of \$6.8 million primarily due to natural disaster costs in 2021/22 of \$5.1 million.
- Increased other expenses of \$2.7 million primarily due to the write off of infrastructure assets of \$7.1 million as assets are replaced and the reclassification of some capital expenditure in the prior year to operating.

## **Balance Sheet**

- Increase of \$3.9 million in current assets is primarily due to increased cash. It is important to note that this includes \$19.5 million in restricted funds for capital works to be completed, funds held in reserve and grants to be expended.
- Increase of \$103.4 million in non-current assets primarily due to the revaluation of Council's infrastructure assets (\$84.5 million) and the capitalisation of assets as part of the capital works program.
- Decrease of \$0.6 million in current liabilities primarily due to the recognised amount of unearned income at balance day.
- Increase of \$2.6 million in non-current liabilities primarily due to the interest bearing liabilities of \$3.8 million due to the drawdown of funds related to the development of the Korumburra Community Hub.

## **Statement of Changes in Equity**

Overall, equity has increased by \$105.3 million which is due to the revaluation of infrastructure assets (\$84.9 million) and operating surplus of \$20.4 million.

## **Cash flow Statement**

- Cash related to operating activities increased by \$4.2 million primarily due to increased capital grants received.
- Cash spent on investing activities decreased by \$5.8 million in line with the redemption of long term investments during the year.
- Cash provided by financing activities increased by \$2.7 million primarily due to the drawdowns of borrowings in the 2021/22 year.

## **Statement of Capital Works**

Council spent \$34.1 million in the 2022/23 financial year, the highest ever program delivered. This related to the completion of the Leongatha Early Learning Centre and the main office refurbishment as well as \$14.4 million of expenditure related to roads and carparks including Little Commercial Street Korumburra and the Port Welshpool Boat Ramp Carpark.

By far, the greatest capital expenditure works was classified as renewal (\$27.9 million).

## **Victorian Auditor General's Office: Financial Sustainability Ratios**

Council uses financial sustainability ratios (as defined by the Victorian Auditor-General's Office) to monitor trends and performance and assess longer term financial risk.

Indicator	2022/23	2021/22	2020/21	2019/20	2018/19
<b>Net result (%)</b> Net result/Total revenue	21.04%	10.0%	19.9%	-3.9%	7.9%
<p>A positive result indicates a surplus, and the larger the percentage, the stronger the result. Council's five-year average, being 11% is greater than 0%, this indicates Council's ability to generate surpluses consistently. The extraordinary result in 2019/20 was due to a non-cash once-off impairment of assets due to change in land under roads valuation methodology.</p> <p>(Long-term risk indicator: Green)</p>					
<b>Adjusted underlying result</b> Adjusted underlying surplus/Adjusted underlying revenue	3.22%	-1.6%	5.2%	-7.5%	2.2%
<p>Indicator of the broad objective that an adjusted underlying surplus should be generated in the ordinary course of business. Council's five-year average, being 0.3% indicates that Council generates sufficient surpluses to fund operations. The extraordinary result in 2019/20 was due to a non-cash once-off impairment of assets due to change in land under roads valuation methodology. Included in the 2021/22 result was the Gifting/ disposal of interest in West Gippsland Regional Library \$1.4 million and Write off of infrastructure assets \$3.8 million</p> <p>(Long-term risk indicator: Green)</p>					
<b>Liquidity (ratio)</b> Current assets/Current liabilities	2.92	2.63	2.98	3.46	2.98
<p>A ratio of one or more means there is more cash and liquid assets than short-term liabilities. A ratio greater than 1 means an entity can sufficiently fund its short-term liabilities. Council's five-year average, being 2.9 suggests that there are no immediate issues with repaying short-term liabilities as they fall due.</p> <p>(Long-term risk indicator: Green)</p>					
<b>Internal financing (%)</b> Net operating cash flow/Net capital expenditure	93.3%	100.0%	102.2%	135.7%	144.8%
<p>This measures the ability of an entity to finance capital works from generated cash flows. As Council's five-year average, being 115.2%, is greater than 100%, this confirms that Council is generating enough cash from operations to fund new assets.</p> <p>(Long-term risk indicator: Green)</p>					
<b>Indebtedness (%)</b> Non-current liabilities/own-sourced revenue	23.9%	20.1%	15.2%	10.3%	7.4%
<p>The higher the percentage, the less the entity is able to cover non-current liabilities from the revenues the entity generates. Council's five-year average, being 15.7%, is well below the benchmark of 40%. This suggests that there are no concerns over the ability to repay debt from own-source revenue:</p> <p>(Long-term risk indicator: Green)</p>					

Indicator	2022/23	2021/22	2020/21	2019/20	2018/19
<b>Capital Replacement Ratio (ratio)</b> Cash outflows for property, plant and equipment / Depreciation	3.00	2.36	2.41	1.34	0.97
Comparison of rate of spending on infrastructure with its depreciation. A ratio higher than 1 indicates that spending is faster than the depreciation rate. Council's five-year average, being 2.0, is above the benchmark of 1.5, thus confirming that there is a low risk of insufficient spending on asset renewal. (Long-term risk indicator: Green)					
<b>Renewal gap (ratio)</b> Renewal and upgrade expenditure/depreciation	2.56	2.18	2.30	1.18	1.24
Comparison of the rate of spending on existing assets through renewing, restoring, and replacing existing assets with depreciation. A ratio higher than 1 indicates that spending on existing assets is faster than the depreciation. Council's five-year average is 1.8, which is above the benchmark of 1.00. This indicates that there is a low risk of insufficient spending on the renewal of existing assets. (Long-term risk indicator: Green)					

### Completion of the 2022/23 Annual Report

Pursuant to s.99(2) of the *Local Government Act 2020*, Council must approve 'in principle' the draft Financial Statements and Performance Statement prior to formally submitting the accounts for VAGO audit. Due to the timing constraints noted within this Council report and the requirements of the Auditor General, it is standard practice to complete audits prior to Council approving the Draft Statements.

A meeting of the Audit and Risk Committee (Committee) was held on 26 September 2023, which included reviewing the draft Financial and Performance Statements and the draft Final Management Letter and Closing Report 2022/23 with Council's auditors. Any amendments to the Statements arising from the Committee's review, were advised prior to this Council Meeting and subsequently updated before being sent to the Auditor General.

As Council's approval is only in-principle, based on the draft Financial Statements and Performance Statement, opportunities for changes to the Statements may arise, particularly after final review by VAGO. To cover such changes, s.99(3) of the Act requires Council to appoint two Councillors to certify the Statements following any amendments that may arise after finalisation of the audit.



Upon receipt of the Independent Auditor's Report, the audited Financial Statements and the Performance Statement will be combined with the Report of Operations to form the full *2022/23 Annual Report* and published on Council's website.

Due to legislative requirements, Council is no longer required to send a copy of the full Annual Report to the Minister of Local Government. As per s.99(6) of the *Local Government Act 2020*:

*"The auditor must provide the Minister and the Council with a copy of the report on the performance statement as soon as is reasonably practicable; and*

*The auditor is required under Part 3 of the Audit Act 1994 to report on the financial statements to the Council within four weeks and to give a copy of the report to the Minister."*

### **CONSULTATION / COMMUNITY ENGAGEMENT**

The unaudited Financial Statements and Performance Statements were endorsed by the Audit and Risk Committee on 26 September 2023.

The draft 2022/23 unaudited Financial Statements and Performance Statements are now presented to Council for endorsement in-principle and to be signed for approval by Councillors and the CEO.

Upon endorsement by Council, VAGO is to provide an 'Independent Auditors' Report' for certification and approval of the Performance Statement and Financial Statements. These certificates will be combined into the full *2022/23 Annual Report* in accordance with the Act.

The final *2022/23 Annual Report* will be published on Council's website.

### **RESOURCES / FINANCIAL VIABILITY**

Costs associated with the publication of the Annual Report are covered within approved budget allocations. The Annual Report is developed and designed in-house, with limited printing to keep the costs of publishing and printing as low as possible.

### **RISKS**

Completion of the Annual Report along with certified Financial and Performance Statements is an annual legislative requirement of the *Local Government Act 2020*. To not complete the Annual Report and requirements would be a breach of s.98 and 99 of the *Local Government Act 2020*.

## **STAFF DISCLOSURE**

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

## **ATTACHMENTS**

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

1. 2022-23 Annual Report - Report of Operations - Financial Statements and Performance Statement [3.3.1 - 137 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

Annual Budget Incorporating 15 Year Long Term Financial Plan and Annual Plan Initiatives

### **Legislative Provisions**

Local Government Act 2020

Local Government (Planning and Reporting) Regulations 2020

Local Government Better Practice Guide – Annual Report – Report of Operations 2022/23

Local Government Better Practice Guide – Annual Report – Performance Statement 2022/23

Local Government Better Practice Guide – Annual Report Local Government Better Practice Guide – Annual Report – Performance Reporting Indicator Workbook 2022/23

### 3.4. STRATEGIC RISKS

Directorate:	Performance and Innovation
Department:	Financial Strategy

#### Council Plan

*Objective - Leading with Integrity*

*Council's ability to deliver the Council Plan is reinforced by the development of Strategic Risks to ensure that open, transparent governance is maintained.*

#### EXECUTIVE SUMMARY

The purpose of this report is to seek Council consideration of the proposed Strategic Risks. The risks have been developed ensure the delivery of the Council Plan 2022 - 2026.

#### RECOMMENDATION

**That Council adopt the following Strategic Risks:**

- 1. Financial Sustainability - Inability to ensure that financial sustainability is maintained**
- 2. Cyber Security - Exposure, loss of critical assets and sensitive information, or reputational harm as a result of a cyber-attack or breach**
- 3. Assets and Infrastructure - Inability to sustainably fund Council obligations, services and infrastructure**
- 4. Disaster and Catastrophe - Inadequate preparedness and inability to adapt to support the community during an emergency event/recovery**
- 5. Climate Change - Failure to protect natural landscape, coastlines and townships character**
- 6. Statutory and Regulatory Compliance - Failure to meet legislative and regulatory compliance while maintaining a culture of good governance**
- 7. Human Resource Management - Inability to attract and retain key staff**
- 8. Community Safety - Inability to ensure community safety within council managed assets**
- 9. Reputation - Loss of trust in Council administration and elected members**

**10. Local Economy and Industry Growth - Failure to diversify, stimulate and support the local economy and industry growth**

## RESOLUTION

**MOVED:** Councillor Schelling

**SECONDED:** Councillor Keerie

**That Council adopt the following Strategic Risks:**

- 1. Financial Sustainability - Inability to ensure that financial sustainability is maintained**
- 2. Cyber Security - Exposure, loss of critical assets and sensitive information, or reputational harm as a result of a cyber-attack or breach**
- 3. Assets and Infrastructure - Inability to sustainably fund Council obligations, services and infrastructure**
- 4. Disaster and Catastrophe - Inadequate preparedness and inability to adapt to support the community during an emergency event/recovery**
- 5. Climate Change - Failure to protect natural landscape, coastlines and townships character**
- 6. Statutory and Regulatory Compliance - Failure to meet legislative and regulatory compliance while maintaining a culture of good governance**
- 7. Human Resource Management - Inability to attract and retain key staff**
- 8. Community Safety - Inability to ensure community safety within council managed assets**
- 9. Reputation - Loss of trust in Council administration and elected members**
- 10. Local Economy and Industry Growth - Failure to diversify, stimulate and support the local economy and industry growth**

**CARRIED UNANIMOUSLY**

[Link to next Agenda Item.](#)

## REPORT

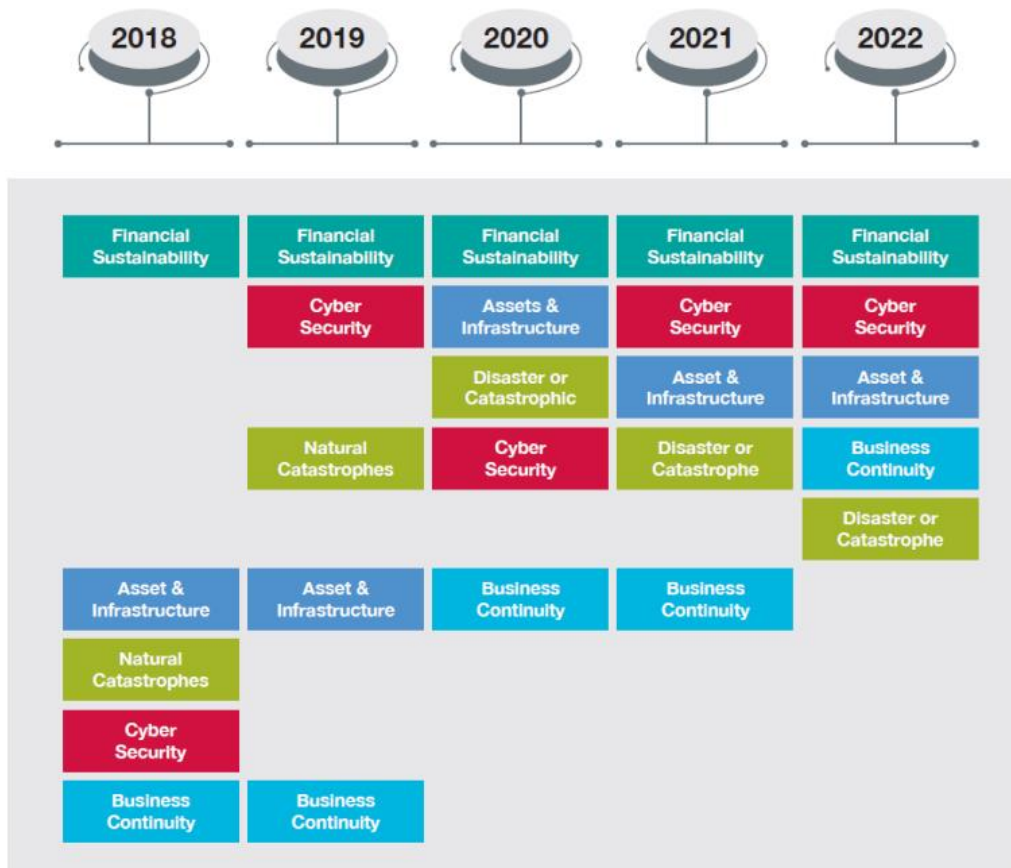
Following the adoption of the Council Plan 2022 – 2026, it was timely to update Council's strategic risks to ensure that the Plan can be delivered.

A series of engagement activities have taken place this year beginning with two workshops held on 22 March and 12 April with Councillors, the Executive and members of the Audit and Risk Committee to have a fresh look at the strategic risks facing South Gippsland Shire Council. Since the strategic risk workshop with Councillors, JLT's annual Industry Report for local government was received.

JLT Public Sector not only provides insurance for the public sector including over 500 councils across Australia, they also work with the sector to look at emerging claims trends and to understand legislative changes. The 2022/23 Risk Report is the fifth time the organisation has produced this LG Sector focussed report and it discusses the significant challenges faced by local government and the interconnectivity of associated risks. Some of the events that have impacted significantly on the sector have included:

- Unprecedented flood events;
- Attacks on Optus and Medibank Private which bring to the forefront the impact of cyber security;
- Climate change and its impact through catastrophic events; and
- Quickly changing financial landscape which has been affected by interest rate pressures, the escalating costs of construction and the likelihood of a looming global recession.

The report utilised 197 individual responses from senior local government executives throughout Australia to showcase the most significant risks they currently face. It lists the movement of the top five risks from 2012 – 2022 as:



Councillors considered and reflected on the risk trends across local government nationally, and in particular to note the similarities between national identified risks and the risks identified in the workshops.

The draft Strategic risks were then discussed with each directorate Senior Leadership Team to fully develop each of the 10 risks listing the risk tolerance, the controls we have in place to mitigate these risks and the risk appetite statement. The fully developed risks were then presented to the Audit and Risk Committee for their feedback at the meeting on 26 September 2023. A councillor briefing followed this on 11 October seeking further feedback.

South Gippsland Shire Council’s Draft 10 Strategic Risks are:

1. Financial Sustainability - Inability to ensure that financial sustainability is maintained
2. Cyber Security - Exposure, loss of critical assets and sensitive information, or reputational harm as a result of a cyber-attack or breach
3. Assets and Infrastructure - Inability to sustainably fund Council obligations, services and infrastructure
4. Disaster and Catastrophe - Inadequate preparedness and inability to adapt to support the community during an emergency event/recovery

5. Climate Change - Failure to protect natural landscape, coastlines and townships character
6. Statutory and Regulatory Compliance - Failure to meet legislative and regulatory compliance while maintaining a culture of good governance
7. Human Resource Management - Inability to attract and retain key staff
8. Community Safety - Inability to ensure community safety within council managed assets
9. Reputation - Loss of trust in Council administration and elected members
10. Local Economy and Industry Growth - Failure to diversify, stimulate and support the local economy and industry growth

#### **CONSULTATION / COMMUNITY ENGAGEMENT**

Consultation has taken place with Council's senior leadership team, Councillors and members of Council's Audit and Risk Committee.

#### **RESOURCES / FINANCIAL VIABILITY**

Nil

#### **RISKS**

The actions and activities described in this report detail the undertakings of Council officers in managing the risk function in accordance with the risk framework. Reporting of these actions and activities to the Audit and Risk Committee contributes to providing the required transparency and accountability that Council is appropriately managing risk across the organisation.

#### **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 7. Risk & Compliance



**Council Policy / Strategy / Plans**

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

Risk Management Framework (C35)

Risk Management Policy (C35)

**Legislative Provisions**

Local Government Act 2020

### 3.5. COUNCIL COMMITTEE APPOINTMENTS

Directorate:	Performance and Innovation
Department:	Governance

#### Council Plan

*Objective - Leading with Integrity*

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

#### EXECUTIVE SUMMARY

The purpose of this report is to consider appointing an individual Councillor that being Cr Nathan Hersey to be Council's representative to the Municipal Association of Victoria (MAV). Council currently has the Mayor of the day as its appointed representative and the Deputy Mayor as the substitute.

Councillor appointments to committees were previously considered by Council at the November 2021 and February 2023 Council meetings.

#### RECOMMENDATION

**That Council appoints Cr Nathan Hersey as Council's representative to Municipal Association of Victoria (MAV) until October 2024, and the Mayor of the day as the substitute.**

#### RESOLUTION

**MOVED:** Councillor Williams

**SECONDED:** Councillor Gilligan

**That Council appoints Cr Nathan Hersey as Council's representative to Municipal Association of Victoria (MAV) until October 2024, and the Mayor of the day as the substitute.**

**CARRIED UNANIMOUSLY**

[Link to next Agenda Item.](#)

## **BACKGROUND**

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

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

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

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

## **REPORT**

Cr Hersey has recently been appointed to the Board of MAV and chair of MAV's Board Advisory Committee - Professional Development Reference Group and is currently the Council's representative to MAV as the current Mayor.

To support Cr Hersey in his role on the Board of MAV and as chair of the Professional Development Reference Group it is recommended that Cr Hersey is appointed as Council's representative to MAV, with the Mayor of the day being the substitute.

## **CONSULTATION / COMMUNITY ENGAGEMENT**

Nil

## **RESOURCES / FINANCIAL VIABILITY**

Funds are allocated in current and forward annual budgets for costs associated with Councillors representing Council on committees.

## **RISKS**

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

## **STAFF DISCLOSURE**

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

## **ATTACHMENTS**

Nil

## **REFERENCE DOCUMENTS**

### **Council's Good Governance Framework**

Pillar 1. Direction & Leadership

### **Council Policy / Strategy / Plans**

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

Councillor Support and Expenditure Policy (C51)

### **Legislative Provisions**

Local Government Act 2020

### 3.6. DOCUMENTS SEALED, CONTRACTS VARIED, AWARDED OR EXTENDED BY CEO - 13 AUGUST 2023 TO 12 SEPTEMBER 2023

Directorate:	Performance and Innovation
Department:	Financial Strategy

#### **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 August 2023 to 12 September 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.**

#### **RESOLUTION**

**MOVED:** Councillor Keerie

**SECONDED:** Councillor Williams

**That Council receives and notes this report.**

**CARRIED UNANIMOUSLY**

[Link to next Agenda Item.](#)

## 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 August 2023 to 12 September 2023.

1. South Gippsland Shire Council Instrument of Delegation. S6 Instrument of Delegation to Members of Staff and dated 19 April 2023. Seal applied 15 August 2023.

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 August 2023 to 12 September 2023.

1. 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 August 2023 to 12 September 2023.

- a. CON/357 for the Construction of Meeniyan Community Hub was awarded to TS Constructions Pty Ltd, signed by the CEO on 29 August 2023.
  - b. CON/349 for the Korumburra Bena Football Netball Club Changeroom Project awarded to Beachley Constructions Pty Ltd, signed by the CEO on 30 August 2023.
2. Contracts awarded after a public tender process within the CEO's delegation between 13 August 2023 to 12 September 2023.
- a. Nil
3. Contract variations approved by the CEO between 13 August 2023 to 12 September 2023.
- a. Nil
4. Contract extensions approved by the CEO between 13 August 2023 to 12 September 2023.
- a. CON/229 for the Collection, Transport and Disposal of Leachate from Koonwarra Landfill was awarded to CSA Specialised Services for a three-year term commencing on 1 November 2019 with an option of two-one year extensions. An extension of one-year (second and final extension option) has been approved, signed by the CEO on 10 September 2023.

## **STAFF DISCLOSURE**

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

## **ATTACHMENTS**

Nil

## **REFERENCE DOCUMENTS**

### **Council's Good Governance Framework**

Pillar 3. Decision Making

### **Council Policy / Strategy / Plans**

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

Governance Rules (C82)

Local Law No. 2 2020, Processes of Municipal Government (Meeting Procedures

and Common Seal)  
Procurement Policy (C32)

**Legislative Provisions**

Local Government Act 1989

Local Government Act 2020

Planning and Environment Act 1987



### 3.7. SUMMARY OF STRATEGIC BRIEFINGS - 13 AUGUST 2023 TO 12 SEPTEMBER 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 August and 12 September 2023.

#### RECOMMENDATION

**That Council receives and notes this report.**

#### RESOLUTION

**MOVED:** Councillor Keerie

**SECONDED:** Councillor Schelling

**That Council receives and notes this report.**

**CARRIED UNANIMOUSLY**

[Link to next Agenda Item.](#)

## REPORT

Meeting Title	Details
<b>Wednesday 16 August 2023</b>	
<b>Council Meeting Agenda Topic Discussion – 16 August 2023</b>	<p><b>Councillors Attending:</b> Mohya Davies, Scott Rae, John Schelling, Clare Williams, Nathan Hersey, Michael Felton and Jenni Keerie.</p> <p><b>Conflict of Interest:</b> Councillor Clare Williams has declared a material conflict of interest in Confidential Agenda Item 12.2 Award Contract CON/373 - Design and Construct Landslip Repairs at Various Locations, as she is a joint owner of a business that has made a submission to the tender process. Cr Clare Williams left the meeting at 9.57am and returned at 9.59am.</p>
<b>General Local Laws Review</b>	<p><b>Councillors Attending:</b> Mohya Davies, Scott Rae, John Schelling, Clare Williams, Nathan Hersey, Michael Felton and Jenni Keerie.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>
<b>Children &amp; Families Plan</b>	<p><b>Councillors Attending:</b> Mohya Davies, Scott Rae, John Schelling, Clare Williams, Nathan Hersey, Michael Felton and Jenni Keerie.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>
<b>Wednesday 23 August 2023</b>	
<b>CEO Employment and Remuneration Committee</b>	<p><b>Councillors Attending:</b> Scott Rae, John Schelling, Clare Williams, Nathan Hersey and Jenni Keerie.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>
<b>Wednesday 6 September 2023</b>	
<b>2022/23 Capital Works Program</b>	<p><b>Councillors Attending:</b> Mohya Davies, Sarah Gilligan, Clare Williams, Adrian Darakai, John Schelling, Nathan Hersey and Jenni Keerie.</p> <p><b>Conflict of Interest:</b> Councillor Clare Williams has declared a material conflict of interest in the briefing, as she is a joint owner of a business that has made a submission to capital works tender processes. The matter was not</p>

Meeting Title	Details
	discussed. Cr William's left the meeting at 10.47 am and returned at 10.49 am.
<b>Coal Creek Strategic Plan</b>	<p><b>Councillors Attending:</b> Mohya Davies, Sarah Gilligan, Clare Williams, Adrian Darakai, John Schelling, Nathan Hersey and Jenni Keerie.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>
<b>Coastal Strategy</b>	<p><b>Councillors Attending:</b> Mohya Davies, Sarah Gilligan, Clare Williams, Adrian Darakai, John Schelling, Nathan Hersey and Jenni Keerie.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>

#### STAFF DISCLOSURE

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

#### ATTACHMENTS

Nil

#### REFERENCE DOCUMENTS

##### **Council's Good Governance Framework**

Pillar 3. Decision Making

##### **Council Policy / Strategy / Plans**

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

Governance Rules (C82)

Public Transparency Policy (C75)

##### **Legislative Provisions**

Local Government (South Gippsland Shire Council) Act 2019

Local Government Act 1989

Local Government Act 2020

### 3.8. INSTRUMENT OF DELEGATION - MEMBERS OF STAFF (S6)

Directorate:	Performance and Innovation
Department:	Governance

#### Council Plan

*Objective - Leading with Integrity*

*Ensuring that the authorising environment for Council staff to undertake their duties is up to date and that no Council staff undertake duties that they are not authorised to perform is in keeping with Leading with Integrity.*

#### EXECUTIVE SUMMARY

The purpose of this report is to recommend that Council adopts an updated Instrument of Delegation (**Attachment [3.8.1]**) which has been edited in line with the creation of a new position, Technical Planning Officer.

#### RECOMMENDATION

**That Council resolves that, in the exercise of the powers conferred by s.11(1) of the *Local Government Act 2020* and the other legislation referred to in the attached Instrument of Delegation (Instrument of Delegation) Council to Members of Staff (Attachment [3.8.1]):**

- 1. There be delegated to the members of Council staff holding, acting in or performing the duties of the officers or positions referred to in (Attachment [3.7.1]) the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument of Delegation;**
- 2. The Instrument of Delegation Attachment [3.8.1] to staff comes into force immediately that the common seal of Council is affixed to the Instrument of Delegation;**
- 3. On the coming into force of the Instrument of Delegation (Attachment [3.8.1]): all previous delegations from Council to members of Council staff (other than the Instrument of Delegation to the Chief Executive Officer) are revoked; and**
- 4. The duties and functions set out in the Instrument of Delegation Attachment [3.8.1]: must be performed, and the powers set out in the Instrument of Delegation must be executed, in accordance with any guidelines or policies that Council may adopt.**

## RESOLUTION

**MOVED:** Councillor Gilligan

**SECONDED:** Councillor Darakai

**That Council resolves that, in the exercise of the powers conferred by s.11(1) of the *Local Government Act 2020* and the other legislation referred to in the attached Instrument of Delegation (Instrument of Delegation) Council to Members of Staff (Attachment [3.8.1]):**

- 1. There be delegated to the members of Council staff holding, acting in or performing the duties of the officers or positions referred to in (Attachment [3.7.1]) the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument of Delegation;**
- 2. The Instrument of Delegation Attachment [3.8.1] to staff comes into force immediately that the common seal of Council is affixed to the Instrument of Delegation;**
- 3. On the coming into force of the Instrument of Delegation (Attachment [3.8.1]): all previous delegations from Council to members of Council staff (other than the Instrument of Delegation to the Chief Executive Officer) are revoked; and**
- 4. The duties and functions set out in the Instrument of Delegation Attachment [3.8.1]: must be performed, and the powers set out in the Instrument of Delegation must be executed, in accordance with any guidelines or policies that Council may adopt.**

**CARRIED UNANIMOUSLY**

**[Link to next Agenda Item.](#)**

## **REPORT**

The allocation of delegations to the Chief Executive Officer or other employees contributes to the effective functioning of Council. It is important to update delegations to reflect changes in personnel / legislation and improvements recommended by legal advisors to ensure decisions made are valid. The current version of the Instrument of Delegation has been in place since 15 August 2023.

The updated Instrument of Delegation (**Attachment [3.8.1]**) has been edited in line with the creation of a new position: Technical Planning Officer.

## **CONSULTATION / COMMUNITY ENGAGEMENT**

Nil

## **RESOURCES / FINANCIAL VIABILITY**

Nil

## **RISKS**

Failure to update an Instrument of Delegation could result in the decisions of delegated Officers being declared invalid or unenforceable.

## **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. S6 Instrument of Delegation - Members of Staff for 18 October Council Meeting [**3.8.1** - 138 pages]

## **REFERENCE DOCUMENTS**

### **Council's Good Governance Framework**

Pillar 4. Structure, Systems & Policies

### **Legislative Provisions**

*Local Government Act 2020*

## 4. OBJECTIVE - PROTECTING AND ENHANCING OUR ENVIRONMENT

### 4.1. WALKERVILLE TRANSFER STATION RETAINING WALL

Directorate:	Sustainable Infrastructure
Department:	Infrastructure Planning

#### Council Plan

*Objective - Protecting and Enhancing our Environment*

*Replacing the damaged retaining wall will allow the site to continue to be utilised as designed and will save Council maintenance costs in the future.*

#### EXECUTIVE SUMMARY

The purpose of this report is to advise of the need to replace the retaining wall at the Walkerville Transfer Station, seek approval to adjust the Capital Works Program budget, and delegate authority to the Chief Executive Officer (CEO) to award a tender for the design and construction of a new retaining wall at the site.

#### RECOMMENDATION

**That Council:**

- 1. Approves an adjustment to the Capital Works Program budget, reallocating \$787,500 from the Koonwarra Landfill Cell 5 Construction budget for the design and construction of a new retaining wall at the Walkerville Transfer Station; and**
- 2. Delegates authority to the CEO to approve and sign a contract up to the budgeted amount of \$787,500 (excluding GST and including contingency amount) for the design and construction of a new retaining wall at the Walkerville Transfer Station.**

**RESOLUTION**

**MOVED:** Councillor Schelling

**SECONDED:** Councillor Keerie

**That Council:**

- 1. Approves an adjustment to the Capital Works Program budget, reallocating \$787,500 from the Koonwarra Landfill Cell 5 Construction budget for the design and construction of a new retaining wall at the Walkerville Transfer Station; and**
- 2. Delegates authority to the CEO to approve and sign a contract up to the budgeted amount of \$787,500 (excluding GST and including contingency amount) for the design and construction of a new retaining wall at the Walkerville Transfer Station.**

**CARRIED UNANIMOUSLY**



## REPORT

Council provides a waste and recycling transfer station at Walkerville. Many residents use this site as their primary waste and recycling disposal service.

The site has a saw tooth pattern retaining wall which accommodates large transfer bins for the collection and transport of waste and recycling. During the loading of a transfer bin onto the transfer truck by the contractor, one of the steel upright supports of the retaining wall was damaged.

An inspection of the damaged area revealed that the overall condition of the retaining wall (both structural steel supports and the timber sleepers) was in very poor condition, with extensive rusting of the steel and rotting of the sleepers. The deterioration seems to have occurred because of poor drainage behind the wall, which was not externally evident, prior to the damage exposing the issue.

The current condition of the wall poses a risk of the structure collapsing, necessitating the damaged bay being barricaded off in the short term, while replacement of the entire wall is planned for and undertaken.

Since the incident occurred, planning for the replacement of the wall in the medium term commenced, with the intention to propose a capital budget for the project, however, a section of the wall has failed sooner than anticipated (refer **Figure 1**), increasing the urgency to act. It is not practical or cost effective to undertake any form of repair works to the existing structure. The only viable option is to remove and replace the entire structure.

Following a recently completed tender process for the construction of Cell 5 (Stage 1) at the Koonwarra Landfill, savings have been identified in the Capital Works Program budget allocated to that project. It is proposed that these funds be utilised to undertake the replacement of the Walkerville Transfer Station retaining wall in the 2023/24 financial year, minimising any significant budget impacts in the short term and reducing the risks of service disruption.

**Figure 1 – Walkerville Transfer Station Failed Retaining Wall**



#### **CONSULTATION / COMMUNITY ENGAGEMENT**

No community engagement or consultation has been undertaken in relation to this matter.

#### **RESOURCES / FINANCIAL VIABILITY**

Council has just awarded a tender for the construction of Cell 5 (Stage 1) at the Koonwarra Landfill at the 20 September 2023 Council Meeting. The construction of Cell 5 was originally intended to be completed in one stage, however, due to Environmental Protection Authority legislation, limiting the size of cells now able to be built, the cell will now be constructed in three separate stages over the next 7 to 8 years. This means that the entire budget allocated for cell construction in 2023/24 is now not immediately required, with the project costs to be spread over several years. The total budget allocated in the 2023/24 year is \$3.6M. With Stage 1 of the Cell 5 construction project estimated to cost in the vicinity of \$2,334,000, leaves a surplus of \$1,266,000, which would otherwise have been carried forward to future years.

The anticipated cost of designing and replacing the retaining wall at the Walkerville Transfer Station is \$700,000 to \$750,000 (plus a 5% contingency amount). Approval is sought to use unspent funds from the 2023/24 Koonwarra Cell 5 construction budget to fund these urgent works.

If this course of action is approved, the remaining budget for stages 2 and 3 of Cell 5 at the Koonwarra Landfill will need to be adjusted in future years to allow additional funds to complete those works.

## **RISKS**

The most significant risk in delaying works is the retaining wall collapsing further, leaving the site unable to be used as designed. Given the poor condition evident behind the wall, this is a significant risk in the short term.

Delaying works will also likely lead to increased construction costs as costs have been increasing at a greater rate than CPI in recent times.

There is also the risk of the site contractor seeking a variation due to the reduced capacity of the site requiring more regular bin movements to landfill (due to there being 1 bin rather than 2 as usual).

## **STAFF DISCLOSURE**

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

## **ATTACHMENTS**

Nil

## **REFERENCE DOCUMENTS**

### **Council's Good Governance Framework**

Pillar 1. Direction & Leadership

Pillar 3. Decision Making

### **Council Policy / Strategy / Plans**

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

Procurement Policy (C32)

Waste Management Strategy

## **5. NOTICES OF MOTION AND/OR RESCISSION**

**Nil**

## **6. COUNCILLOR REPORTS**

### **6.1. REQUESTS FOR LEAVE OF ABSENCE**

**Nil**

### **6.2. COUNCILLOR UPDATES**

---

**Councillor Sarah Gilligan, addressed Council by reporting on attendance at or made comments on:**

- **Sandy Point Community Centre Annual General Meeting (AGM)**
- **Tarwin Lower Health Centre AGM**
- **Tourism and Local Commerce Association Meeting of Tarwin Lower and Venus Bay, the group has changed its name to the Tourism and Local Community Group.**
- **Emergency Services Meeting in preparation for the upcoming summer season with SES, CFA, CERT and local community members.**
- **Venus Bay Street Upgrades are progressing and coming together.**
- **Venus Bay/ Tarwin Lower Energy Project Meeting.**
- **Municipal Association of Victoria (MAV) State Council meeting attendance to see consideration of Council's Motion on flood inundation.**
- **Surf Lifesaving Club, and discussed the project progression of 'safety stands' that are planned for beaches 1 – 5 that will provide those attending the beach with immediate dialup for support should there be an emergency.**

---

**Councillor Scott Rae, addressed Council by reporting on attendance at or made comments on:**

- **Usual council briefings and events each week.**
  - **Prom Country Agenda Care meeting.**
  - **Yanakie Hall and Recreation Committee AGM**
  - **Golf Charity Day for 'Go Girls Foundation'**
  - **2023 Westpac Gippsland Wine Awards at Tinamba**
-

- **Landcare AGM**
  - **Local Farmgate, an inspiring business called Flock, Stock and Basil.**
- 

**The Deputy Mayor, Councillor Clare Williams, addressed Council by reporting on attendance at or made comments on:**

- **Coffee catch ups with community members**
  - **Grand Opening for South Coast FM**
  - **Golf Charity Day for 'Go Girls Foundation'**
  - **Fund raising boxing day**
  - **Leongatha Recreation Centre AGM**
  - **Rural Councils Victoria meeting**
  - **Australian Local Government Women's Association meeting**
  - **Mayor and Deputy Mayor Meetings**
  - **BiketoberFest in Leongatha**
  - **Visit to Mirboo North High School and Leongatha Primary School**
  - **Looking forward to Halloween at Coal Creek at the end of the month.**
- 

**Councillor John Schelling, addressed Council by reporting on attendance at or made comments on:**

- **Arts Trail Connect Exhibition**
  - **Golf Charity Day for 'Go Girls Foundation'**
  - **Congratulations extended to the Leongatha Football Netball Club for bringing home Seniors and Reserves premierships, they are a unique club in that they have held a 7-year premiership streak.**
  - **Celebrating a great sporting achievement of a South Gippslander, Matt Stevic. He recently umpired his 11<sup>th</sup> AFL Grand final, he holds the umpire record for the most VFL/AFL Grand Final games umpired from 2014-2023. Council will celebrate and recognise this great achievement by presenting a certificate.**
- 

**Councillor Jenni Keerie, addressed Council by reporting on attendance at or made comments on:**

- **Arts Trail Connect Exhibition that ran for 4 weeks and congratulated everyone who was part of this initiative.**
  - **Loch and District Bowls Club and installation of new lights.**
  - **Audit and Risk Committee meeting**
-

- **South Gippsland Land Care network and potential for developing a biolink protection plan for South Gippsland.**
  - **Meeniyen Progress Association meeting that launched a Community Plan**
  - **National Police Remembrance Day**
- 

**Councillor Michael Felton, addressed Council by reporting on attendance at or made comments on:**

- **Meeniyen Progress Association meeting that launched a Community Plan**
  - **Golf Charity Day for 'Go Girls Foundation'**
  - **Loch Bare Foot Bowls is on this Friday night.**
  - **National Police Remembrance Day**
- 

**The Mayor, Councillor Nathan Hersey, addressed Council by reporting on attendance at or made comments on:**

- **Arts Trail Connect Exhibition**
  - **Loch Bowling Club 50<sup>th</sup> Anniversary Celebrations which also encompassed the turning on of new lights.**
  - **Audit and Risk Committee meeting**
  - **Meet the Mayor and Deputy Mayor meetings and thanked those for coming along.**
  - **Rural Councils Victoria AGM**
  - **Community Meeting in Korumburra**
  - **Rotary Club School Debating Night: Mary MacKillop and Leongatha Secondary College**
  - **Nanjet Site visit at Yanakie**
  - **Food & Fibre Gippsland briefing to Council**
  - **Congratulated Cr Williams for her involvement in the Live for Life Campaign by swimming 1,000 laps that is supporting awareness to youth mental health awareness.**
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## 7. PUBLIC QUESTIONS

### 7.1. PETITIONS AND JOINT LETTERS

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

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

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

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

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

**Nil**

## 7.2. ANSWERS TO PREVIOUS QUESTIONS ON NOTICE

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

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

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

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

**Nil**



### 7.3. SUBMITTED PUBLIC QUESTIONS

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

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

Public Question Time in Council Meetings is to be used for matters that are relevant to the business or functions of Council and are clear and legible.

Questions may not be allowed where the question(s) is deemed to be:

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

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

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

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

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

**Gus Blaauw submitted written questions, a response is provided in these Minutes.**

**Question 1**

**The facts are that Councillors have little knowledge, if any, about Public Questions asked and their answers, and as such why don't Councillors act in accordance with their Oath or Affirmation of Office?**

**Response**

All public questions submitted are reviewed by the Mayor and all Councillors are briefed on public questions submitted and answers before each Council meeting.

**Question 2**

**Are the grounds for Councillors to refuse answers to Public Questions in accordance with prevailing laws including Freedom of Expression? Yes or No?**

**Response**

All public questions submitted are managed in accordance with Council's Governance Rules (C82) specifically Governance Rule 56.

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**David Amor submitted written questions, a response is provided in these Minutes.**

**Question 1**

**Are the Councillors kept up to speed, 1/ weekly or monthly or when needed?**

**Question 2**

**Running the shire, Problems, that become overdue, blow outs, issues are the Councillors kept up to speed on issues, outcomes prior, during, only after?**

**Response**

Councillors meet every Wednesday in a four-week month, these days provide opportunities for Councillors to interact purposefully with officers, businesses, industry sector representatives local interest groups, community leaders, community members and subject experts on matters of strategic interest to the Shire. The information provided in strategic briefings from officers and other community groups, and the insights gained from communicating and hearing the views from the community will inform Councillors decision making. Updates include the progress of projects, planned and unplanned situations that occur in our community. Councillors also receive weekly executive updates on current and emerging issues. The CEO and Directors are available to Councillors as required.

A summary of items that will subsequently come before Council for a future decision are published in a monthly Agenda Council Report - Summary of

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Strategic Briefings. The information is summarised to assist with the transparency of Council decisions, actions and information through the provision of public summaries of information.

### **Question 3**

**Are Councillors allowed to get involved when notified by the public, or is there a correct way to be done?**

Under the *Local Government Act 2020 (the Act)* the role of a Councillor is:

- to participate in the decision making of the Council
- to represent the interests of the municipal community in that decision making; and
- to contribute to the strategic direction of the Council through the development and review of key strategic documents of the Council, including the Council Plan

Councillors are not allowed to undertake any functions of the Chief Executive Officer which include the day to day operations of the Council. It is an offence under section 124 of the Act for a Councillor to intentionally direct a Council staff member in the performance of their duties as delegated or authorised.

One of the strengths of Local Government is that Councillors are members of the community in which they represent and residents can from time to time raise issues directly with their local ward Councillor. Council has established processes for Councillors to pass on any requests they receive from residents to Council staff. These requests are treated the same as any customer request received by Council's Customer Service Team, which can be contacted between 8.30am to 5pm Monday to Friday.

## **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 19 October 2022, allows for where a situation has not been provided for under the Governance Rules, the Council may determine the matter by resolution. Established practice has provided for urgent motions to be raised at Council provided the matter cannot be dealt with at the next Council Meeting or by Officers under delegation.

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

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

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

### **2. Other Business**

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

**Nil**

## 9. CLOSED SESSION

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

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

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

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

**Nil**

## **10. MEETING CLOSED**

### **NEXT MEETING**

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

**The Council Meeting closed at 3.23pm.**

**Confirmed this 15<sup>th</sup> day of November 2023**

**Councillor Nathan Hersey, Mayor**