

SOUTH GIPPSLAND SHIRE COUNCIL

Council Meeting Agenda

21 February 2024

**Council Meeting No.491
Council Chambers, Leongatha
Commencing at 2:00pm**



agenda



*South Gippsland
Shire Council*

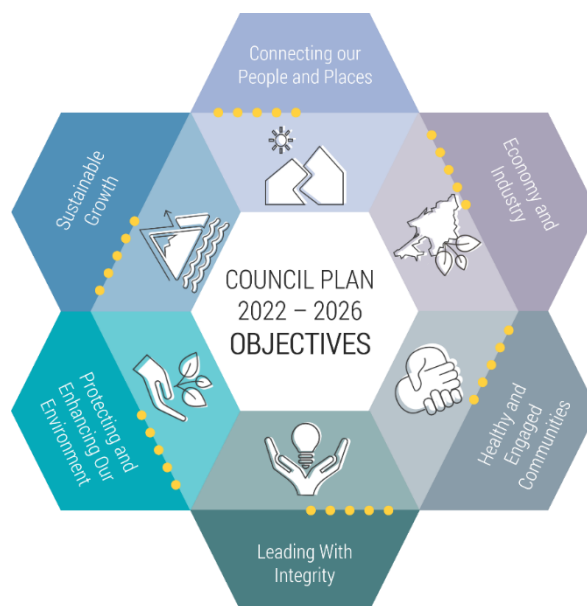
Come for the beauty, Stay for the lifestyle

OUR COUNCIL VISION

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

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

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



Privacy

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

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

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

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

SOUTH GIPPSLAND SHIRE COUNCIL

Notice is hereby given that Council Meeting No.491 of the
South Gippsland Shire Council will be held on 21 February 2024
in the Council Chambers, Leongatha, commencing at 2:00 PM

TABLE OF CONTENTS

1. PRELIMINARY MATTERS.....	5
1.1. LIVE-STREAMING COUNCIL MEETING DISCLAIMER.....	5
1.2. WELCOME TO THE COUNCIL MEETING.....	5
1.3. OPENING PRAYER.....	5
1.4. ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS.....	6
1.5. APOLOGIES.....	6
1.6. CONFIRMATION OF MINUTES.....	6
1.7. DECLARATION OF CONFLICTS OF INTEREST FOR COUNCILLORS.....	7
1.8. DECLARATION OF CONFLICTS OF INTEREST FOR STAFF.....	8
2. OBJECTIVE - ECONOMY AND INDUSTRY.....	9
2.1. ARTS POLICIES.....	9
3. OBJECTIVE - LEADING WITH INTEGRITY.....	11
3.1. AUDIT AND RISK COMMITTEE - 5 DECEMBER 2023 MINUTES AND BI ANNUAL CHAIR REPORT.....	11
3.2. APPOINTMENT OF CHAIR OF THE AUDIT AND RISK COMMITTEE 2024	14
3.3. SUMMARY OF STRATEGIC BRIEFINGS - 13 NOVEMBER 2023 TO 12 JANUARY 2024.....	17
3.4. DOCUMENTS SEALED, CONTRACTS VARIED, AWARDED OR EXTENDED BY CEO - 13 NOVEMBER 2023 TO 12 JANUARY 2024.....	23
3.5. INSTRUMENT OF DELEGATION - S6 COUNCIL TO MEMBERS OF STAFF	27
4. OBJECTIVE - SUSTAINABLE GROWTH.....	29
4.1. ROAD DISCONTINUANCE 16 - 20 BLACK AVENUE VENUS BAY.....	29
5. NOTICES OF MOTION AND/OR RESCISSION.....	33
5.1. NIL.....	33
6. COUNCILLOR REPORTS.....	33

- 6.1. REQUESTS FOR LEAVE OF ABSENCE33
- 6.2. COUNCILLOR UPDATES..... 33
- 7. URGENT BUSINESS34**
- 8. PUBLIC QUESTIONS.....35**
 - 8.1. PETITIONS AND JOINT LETTERS 35
 - 8.2. ANSWERS TO PREVIOUS QUESTIONS ON NOTICE 36
 - 8.3. SUBMITTED PUBLIC QUESTIONS 37
- 9. CLOSED SESSION 38**
- 10. MEETING CLOSED 39**



Kerryn Ellis
Chief Executive Officer

1. PRELIMINARY MATTERS

1.1. LIVE-STREAMING COUNCIL MEETING DISCLAIMER

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

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

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

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

Thank you

1.2. WELCOME TO THE COUNCIL MEETING

Public Questions

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

1.3. OPENING PRAYER

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

1.4. ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS

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

1.5. APOLOGIES

Councillor Nathan Hersey, Deputy Mayor with leave of council granted at Council Meeting 13 December 2023.

1.6. CONFIRMATION OF MINUTES

RECOMMENDATION

That the Minutes of the South Gippsland Shire Council Meeting No.490, held on Wednesday 13 December 2023 in the Council Chambers, Leongatha be confirmed.

1.7. DECLARATION OF CONFLICTS OF INTEREST FOR COUNCILLORS

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

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

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

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

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

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

1.8. DECLARATION OF CONFLICTS OF INTEREST FOR STAFF

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

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

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

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

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

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

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

2. OBJECTIVE - ECONOMY AND INDUSTRY

2.1. ARTS POLICIES

Directorate:	Economy and Community
Department:	Economy Community and Investment

Council Plan

Objective - Economy and Industry

This report relates to a Council Plan major initiative for 2023/2024, 'Implement the annual actions of the Arts, Culture and Creative Industries Strategy'

EXECUTIVE SUMMARY

The purpose of this report is to update Council on its consideration of the Arts Policies which at its 13 December 2023 deferred until its February 2024 Council meeting.

Due to the recent storm event which occurred on the 13 February 2024 and subsequently caused significant damage and power outages across the Gippsland region, it is proposed that consideration of the Arts Policies is deferred to the March 2024 Council meeting.

RECOMMENDATION

That Council defers the consideration of the Arts Policies until the Council Meeting in March 2024.

REPORT

Background

The following Art Policies were presented to Council on 16 December 2023 for consideration:

- Draft Arts and Artefacts Collection Policy (C69) – Amended and renamed to Arts and Civic Memorabilia Collection Policy.
- Arts and Culture Policy (C03) – revoke.
- Draft Public Arts Collection Policy (C91) – new.

Council passed the following resolution at its 16 December 2023 Council meeting:

“That Agenda Item 2.1 Arts Policies consideration be deferred until the proposed Council Meeting in February 2024.”

Due to the recent storm event which occurred on the 13 February 2024 and subsequently caused significant damage and power outages across the Gippsland region, it is proposed that consideration of the Arts Policies is deferred to the March 2024 Council meeting.

CONSULTATION / COMMUNITY ENGAGEMENT

Nil

RESOURCES / FINANCIAL VIABILITY

Nil, there is no financial impact to deferring the Arts Policies until the March 2024 Council meeting.

RISKS

All current risks associated with these policies will continue to be managed and not impacted by deferring until the March 2024 Council meeting.

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](#).

Arts and Culture Policy (C03)

Arts, Culture and Creative Industry Strategy

Regional, State and National Plan and Policies

Code of Ethics for Museums (ICOM 2006)

3. OBJECTIVE - LEADING WITH INTEGRITY

3.1. Audit and Risk Committee - 5 December 2023 Minutes and Bi Annual Chair Report

Directorate:	Performance and Innovation
Department:	Financial Strategy

Council Plan

Objective - Leading with Integrity

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

EXECUTIVE SUMMARY

Draft Minutes

The draft minutes of the Audit and Risk Committee meeting held on 5 December 2023 (**Attachment [3.1.1]**) are provided to Council for noting.

Audit and Risk Committee members at the meeting included:

- Ms Jen Johanson (Audit Committee Chair)
- Mr Mick Jaensch
- Ms Marilyn Kearney
- Cr Sarah Gilligan (Council member)
- Cr Jenni Keerie (Council member)

Bi Annual Chair Report

June 2023 to December 2023 Bi Annual Chair report (**Attachment [3.1.2]**) are provided to Council for noting.

RECOMMENDATION

That Council:

1. **Notes the draft Audit and Risk Committee Minutes – 5 December 2023 (Attachment [3.1.1]); and**
2. **Notes the Audit and Risk Committee Chair report to Council by Committee Chair Ms Jen Johanson. (Attachment [3.1.2])**

REPORT

Draft Minutes

The matters considered by the Audit and Risk Committee at the 5 December 2023 meeting are contained in (**Attachment [3.1.1]**).

Bi Annual Chair Report

The Audit and Risk Committee Charter requires the Committee Chair provide a report to Council twice each year summarising the activities undertaken, raising any issues of concern. Presenting the report in person to Council provides the opportunity for Councillors to make further enquiry on matters of interest. The report from the Committee Chair is provided in (**Attachment [3.1.2]**).

CONSULTATION / COMMUNITY ENGAGEMENT

The draft Audit and Risk Committee Minutes for 5 December 2023 (**Attachment [3.1.1]**) have been circulated to the Audit and Risk Committee for feedback which is included in the attached, and will be formally accepted by the Committee at the next meeting.

The bi-annual report from the Committee Chair (**Attachment [3.1.2]**) was also circulated to the Committee as a part of the 5 December 2023 meeting and was accepted by the Committee as noted in the meeting minutes.

RESOURCES / FINANCIAL VIABILITY

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

RISKS

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

STAFF DISCLOSURE

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

ATTACHMENTS

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

1. Audit and Risk Committee - Draft Minutes - 5 December 2023 [**3.1.1** - 18 pages]
2. Bi Annual Chair Report - July 2023 to December 2023 [**3.1.2** - 5 pages]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 7. Risk & Compliance

Council Policy / Strategy / Plans

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

Audit and Risk Committee Charter (C08)

Audit and Risk Committee Charter and Terms of Reference

Legislative Provisions

Local Government Act 2020

3.2. Appointment of Chair of the Audit and Risk Committee 2024

Directorate:	Performance and Innovation
Department:	Financial Strategy

Council Plan

Objective - Leading with Integrity

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

EXECUTIVE SUMMARY

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

Council's Audit and Risk Committee consists of three Independent Members and two Councillors of the Council. Councillors of the Council are ineligible to apply for the role in line with the *Local Government Act 2020*. Nominations from the independent members of the Audit and Risk Committee interested in fulfilling the role of Chair were requested by the CEO by email on January 3, 2024. Council have been advised of all nominations received for the role of Chair.

RECOMMENDATION

That Council appoints Independent Audit and Risk Committee Member, Ms Jen Johanson, as Chair of the South Gippsland Shire Council Audit and Risk Committee for the period from February 2024 until the Council Meeting in February 2025.

REPORT

The Audit and Risk Committee (the Committee) is an advisory committee to Council, established under Section 53 of the *Local Government Act 2020*, with the purpose of supporting Council to discharge its oversight responsibilities related to financial and performance reporting, risk management, fraud prevention systems and controls, maintenance of a sound internal control environment, assurance activities including internal and external audit and Council's performance with regard to compliance with its policies and legislative and regulatory requirements.

In accordance with the Committee Charter, the Chairperson of the Committee must be an Independent Member, will be appointed by Council and the term of the Chair is to be one (calendar) year. Independent members of the Audit and Risk Committee are Ms Jen Johanson, Mr Michael Jaensch and Ms Marilyn Kearney.

Ms Jen Johanson was appointed as current Chair of the Committee at the Ordinary Meeting of Council held on 15 February 2023 for a 12-month period.

CONSULTATION / COMMUNITY ENGAGEMENT

Nominations from Independent members of the Audit and Risk Committee to be appointed as Chair for 2024 were requested by the CEO following the Committee meeting in December 2023. Council have been advised of all nominations received.

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

RESOURCES / FINANCIAL VIABILITY

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

RISKS

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

STAFF DISCLOSURE

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

ATTACHMENTS

Nil

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 1. Direction & Leadership

Council Policy / Strategy / Plans

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

Audit and Risk Committee Charter (C08)

Audit and Risk Committee Charter and Terms of Reference

Audit Policy (C55)

Risk Management Framework (C35)

Risk Management Policy (C35)

Legislative Provisions

Local Government Act 2020

Local Government (General) Regulations 2015

Local Government (Planning and Reporting) Regulations 2020

3.3. SUMMARY OF STRATEGIC BRIEFINGS - 13 NOVEMBER 2023 TO 12 JANUARY 2024

Directorate:	Performance and Innovation
Department:	Governance

Council Plan

Objective - Leading with Integrity

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

EXECUTIVE SUMMARY

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

The information provided in this report is recorded from sessions held between 13 November and 12 January 2024.

RECOMMENDATION

That Council receives and notes this report.

REPORT

Meeting Title	Details
Wednesday 15 November 2023	
Council Meeting Agenda Topic Discussion – 15 November 2023	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Clare Williams, John Schelling, Adrian Darakai, Nathan Hersey, Michael Felton and Jenni Keerie.</p> <p>Conflict of Interest: Ms Kerryn Ellis, Chief Executive Officer has declared a material conflict of interest in Agenda Item 4.2. CEO EMPLOYMENT & REMUNERATION POLICY, as the</p>

Meeting Title	Details
	matter relates to her employment and remuneration in her current role as Chief Executive Officer. The matter was not discussed.
Information Privacy Policy	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Clare Williams, John Schelling, Adrian Darakai, Nathan Hersey and Jenni Keerie.</p> <p>Conflict of Interest: Nil disclosed.</p>
Submission Hearing Davis Street, Nyora	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Clare Williams, John Schelling, Adrian Darakai, Nathan Hersey and Jenni Keerie.</p> <p>Conflict of Interest: Ms Renae Littlejohn, Director Economy & Community has declared a direct material interest in Agenda Item 6.2 Planning Application 2020/438 29-32 Davis Street Nyora - Develop land with a supermarket and six associated shops, as she owns property adjacent to the subject site. Ms Littlejohn was not present in the meeting.</p>
Wednesday 6 December 2023	
Regional Assessment Service	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Clare Williams, John Schelling, Adrian Darakai, Nathan Hersey and Jenni Keerie.</p> <p>Conflict of Interest: Nil disclosed.</p>
Council Meeting Agenda Topic Discussion – 13 December 2023	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Clare Williams, John Schelling, Adrian Darakai, Nathan Hersey and Jenni Keerie.</p> <p>Conflict of Interest: Councillor Jenni Keerie has a declared material conflict of interest in Agenda Item 6.3 Proposed Sale of Council Land, as one of the land parcels presented relates to her place of employment. Cr Keerie left the meeting at 10.59am, when the matter was discussed and returned at 11.07am.</p> <p>Councillor John Schelling has declared a reasonable apprehension of bias or actual bias in Confidential</p>

Meeting Title	Details
	<p>Agenda Item 13.1 Australia Day Awards Recipients 2024, as he signed a letter in support of a nominee of the Awards. Cr Schelling left the meeting at 11.07am, when the matter was discussed and returned at 11.10am.</p> <p>Councillor Jenni Keerie has declared a material interest in Confidential Agenda Item 13.2 2023-2024 Community Grants - Round 1, as she is employed by an organisation that auspiced a community grant application on behalf of another organisation. The matter was not discussed.</p> <p>Councillor Adrian Darakai has declared a material interest in Confidential Agenda Item 13.2 2023-2024 Community Grants - Round 1, as a family member who is a member on a Committee has made an application to the Community Grants Program. The matter was not discussed.</p> <p>Councillor Clare Williams has declared a material conflict of interest in Confidential Agenda Item 13.3 Award Contract CON/388 - Simons Lane Stage 2, as a family member is a subcontractor to a company that has submitted a tender. Cr Williams left the meeting at 10.38am, when the matter was discussed and returned at 10.50am.</p> <p>Ms Renae Littlejohn, Director Economy & Community has declared a direct material interest in Agenda Item 6.2 Planning Application 2020/438 29-32 Davis Street Nyora - Develop land with a supermarket and six associated shops, as she owns property adjacent to the subject site. Ms Littlejohn left the meeting at 10.53am, when the matter was discussed and returned at 11.01am.</p>
<p>Coal Creek Community Park and Museum</p>	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Clare Williams, John Schelling, Adrian Darakai, Nathan Hersey and Jenni Keerie.</p> <p>Conflict of Interest: Nil disclosed.</p>
<p>Planning Briefing</p>	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Clare Williams, John Schelling, Adrian Darakai, Nathan Hersey, Michael Felton and Jenni Keerie.</p>

Meeting Title	Details
	Conflict of Interest: Nil disclosed.
General Local Law	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Clare Williams, John Schelling, Adrian Darakai, Michael Felton and Jenni Keerie.</p> <p>Conflict of Interest: Nil disclosed.</p>
Wednesday 13 December 2023	
<p>Council Meeting Agenda Topic Discussion – 13 December 2023</p>	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Clare Williams, John Schelling, Adrian Darakai and Jenni Keerie.</p> <p>Conflict of Interest: Councillor Jenni Keerie has a declared material conflict of interest in Agenda Item 6.3 Proposed Sale of Council Land, as one of the land parcels presented relates to her place of employment. The matter was not discussed.</p> <p>Councillor John Schelling has declared a reasonable apprehension of bias or actual bias in Confidential Agenda Item 13.1 Australia Day Awards Recipients 2024, as he signed a letter in support of a nominee of the Awards. The matter was not discussed.</p> <p>Councillor Jenni Keerie has declared a material interest in Confidential Agenda Item 13.2 2023-2024 Community Grants - Round 1, as she is employed by an organisation that auspiced a community grant application on behalf of another organisation. The matter was not discussed.</p> <p>Councillor Adrian Darakai has declared a material interest in Confidential Agenda Item 13.2 2023-2024 Community Grants - Round 1, as a family member who is a member on a Committee has made an application to the Community Grants Program. The matter was not discussed.</p> <p>Councillor Clare Williams has declared a material conflict of interest in Confidential Agenda Item 13.3 Award Contract CON/388 - Simons Lane Stage 2, as a family member is a subcontractor to a company that has submitted a tender. Cr Williams left the meeting</p>

Meeting Title	Details
	<p>at 10.42am, when the matter was discussed and returned at 10.44am.</p> <p>Ms Renae Littlejohn, Director Economy & Community has declared a direct material interest in Agenda Item 6.2 Planning Application 2020/438 29-32 Davis Street Nyora - Develop land with a supermarket and six associated shops, as she owns property adjacent to the subject site. The matter was not discussed.</p>
<p>Heritage Overlay</p>	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Clare Williams, John Schelling, Adrian Darakai and Jenni Keerie.</p> <p>Conflict of Interest: Nil disclosed.</p>
<p>Nyora Placemaking</p>	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Clare Williams, John Schelling and Jenni Keerie.</p> <p>Conflict of Interest: Nil disclosed.</p>
<p>Community Leadership Program</p>	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Clare Williams, John Schelling, Nathan Hersey, Michael Felton and Jenni Keerie.</p> <p>Conflict of Interest: Nil disclosed.</p>
<p>Emergency Management</p>	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Clare Williams, John Schelling, Adrian Darakai, Nathan Hersey, Michael Felton and Jenni Keerie.</p> <p>Conflict of Interest: Nil disclosed.</p>
<p>Wednesday 20 December 2023</p>	
<p>Privacy Training</p>	<p>Councillors Attending: Mohya Davies, Scott Rae, Clare Williams, John Schelling and Jenni Keerie.</p> <p>Conflict of Interest: Nil disclosed.</p>

STAFF DISCLOSURE

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

ATTACHMENTS

Nil

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 3. Decision Making

Council Policy / Strategy / Plans

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

Governance Rules (C82)

Public Transparency Policy (C75)

Legislative Provisions

Local Government Act 2020

3.4. DOCUMENTS SEALED, CONTRACTS VARIED, AWARDED OR EXTENDED BY CEO - 13 NOVEMBER 2023 TO 12 JANUARY 2024

Directorate:	Office of the CEO
Department:	Office of the CEO

Council Plan

Objective - Leading with Integrity

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

EXECUTIVE SUMMARY

This report documents the following actions undertaken by the Chief Executive Officer (CEO) which occurred during the period from 13 November 2023 to 12 January 2024. Council's *Procurement Policy (C32)* requires the CEO to report to Council any of the following actions undertaken to the next appropriate Meeting:

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

RECOMMENDATION

That Council receives and notes this report.

REPORT

Documents Sealed

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

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

In accordance with the Local Law No. 2 2020, Part 9, clause 107(h)(iv), the following are presented to Council as documents sealed during the period from 13 November 2023 to 12 January 2024.

1. Australian Government Department of Industry, Science and Resources, Variation Contract. Building Better Regions Fund – Infrastructure Projects Stream – Round 5. Seal applied 2 January 2024.

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 November 2023 to 12 January 2024.

1. Section 173 Agreement between South Gippsland Shire Council and the owner of 77 Gibson Street, Leongatha for a multilot subdivision and removal of native vegetation. Seal applied 27 November 2023.
2. Section 173 Agreement between South Gippsland Shire Council and the owner of 25-27 Lewis Street, Port Welshpool for a development associated with a dwelling. Seal applied 12 December 2023.
3. Section 173 Agreement between South Gippsland Shire Council and the owner of 2476 Drouin-Korumburra Road, Poowong for a development of group accommodation. Seal applied 12 December 2023.

Contracts Awarded, Varied or Extended

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

1. Contracts awarded by Council after a public tender process, signed by the CEO between 13 November 2023 to 12 January 2024.
 - a. CON/387 for the Leongatha Municipal Office Redevelopment – Exterior Refurbishment awarded to McLeod, Dowel and Courtney Pty Ltd T/A MDC Building Group, signed by the CEO 12 December 2023.

- b. CON/373-A for the Design and Construct of Landslips Repair – Various Locations – Package A; Project 3 – Grand Ridge Road (Site 1), Trida (Hallston) and Project 4 – Grand Ridge Road (Site 2) Trida awarded to Fulton Hogan Industries Pty Ltd, signed by the CEO 21 December 2023.
2. Contracts awarded by Council after a public tender process, signed by the CEO between 13 September 2023 to 12 October 2023, and not previously reported at the 15 November 2023 meeting.
 - a. CON/373-C for the Design and Construct of Landslips Repair – Various Locations – Package C; Project 1 Nippards Track, Foster North (Woorarra West) and Project 2 Popes Road, Wonga awarded to Earthtec Pty Ltd, signed by the CEO 6 October 2023.
3. Contracts awarded after a public tender process within the CEO's delegation between 13 November 2023 to 12 January 2024.
 - a. CON/383 for the Black Spot Funding – Koonwarra-Inverloch Road Intersection Reconstruction awarded to Fowlers Asphaltting Pty Ltd and signed by the CEO 22 November 2023.
 - b. CON/377 for the Design and Construct of Public Amenities and Shelters at Korumburra and Leongatha Railway Precincts awarded to GR Design and Construct Pty Ltd and signed by the CEO 12 December 2023.
 - c. CON/378 for the Korumburra Commercial Street Streetscape – Civil Construction awarded to Hugh Patrick Pty Ltd T/A BJs Earthmoving, signed by the CEO 3 January 2024.
4. Contract variations approved by the CEO between 13 November 2023 to 12 January 2024.
 - a. CON/369 for the Construction of Cell 5 at Koonwarra Landfill was awarded to Goldsmith Civil and Environmental Pty Ltd. Variations were recommended to allow for necessary additional works to be undertaken to progress this project. A Contract Variation of \$773,976.08 was approved by the CEO after consultation with the Mayor and Councillors on 6 December 2023.
5. Contract extensions approved by the CEO up to 12 January 2024, and not previously reported.
 - a. CON/238 for the Provision of Catering Services awarded to Brent Sinclair 11 November 2019 for a three-year term with the option of

two one-year extensions. An extension of a second one-year term was approved and signed by the CEO 26 October 2023.

STAFF DISCLOSURE

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

ATTACHMENTS

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

3.5. INSTRUMENT OF DELEGATION - S6 COUNCIL TO MEMBERS OF STAFF

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 to Council Staff to reflect improvements recommended through legal advice and positional changes to Council’s organisational structure.

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 [3.5.1]):

- 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 [3.5.1]) 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 [3.5.1] to staff comes into force immediately after the Chief Executive Officer’s signature is affixed to the Instrument of Delegation;**
- 3. On the coming into force of the Instrument of Delegation (Attachment [3.5.1]): 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 [3.5.1]) 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.**

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 18 October 2023.

There are two changes in the updated delegation, those being:

- Changing of the position title of Director Economic & Community to Director Future Communities.
- Delegate r15(3) of the Residential Tenancies (*Caravan Parks and Movable Dwellings Registration and Standards*) Regulations 2020 to the Coordinator Environmental Health and Manager Community Health & Safety.

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 Council to Members of Staff 21 01 2024 [3.5.1 - 137 pages]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 4. Structure, Systems & Policies

Legislative Provisions

Local Government Act 2020

4. OBJECTIVE - SUSTAINABLE GROWTH

4.1. Road Discontinuance 16 - 20 Black Avenue Venus Bay

Directorate:	Sustainable Infrastructure
Department:	Infrastructure Planning

Council Plan

Objective - Protecting and Enhancing our Environment

The land sale proposes to consolidate unused road reserve into private ownership reducing Council's liability for maintenance and public liability events.

EXECUTIVE SUMMARY

The purpose of this report is to commence the statutory process to discontinue parts of unused roads within the restructure overlay in Venus Bay and sell the land to the abutting landowner of 16 – 20 Black Avenue, Venus Bay.

The C90 Planning Scheme Amendment created structure overlays over smaller allotments including roads to facilitate a lot size that could be developed. The road discontinuances are key to realising the benefits of the C90 Planning Scheme Amendment.

RECOMMENDATION

That Council:

- 1. Commences the statutory procedures pursuant to s.206, s.207A, s.223 and Schedule 10 clause 3 of the Local Government Act 1989 to discontinue parts of the following roads and sell to the abutting land owner of 16 - 20 Black Avenue, Venus Bay for no less than a valuation received within six months prior to the sale:**
 - a. Crown Allotment 62^A (Part), Road 1 (Part) LP56450, Parish of Tarwin, with an area of 739m² as shown hatched in the Road Discontinuance Plan in Figure 1.**
- 2. Give public notice with respect to the proposal on Council's website and in the local newspaper in the week commencing 26 February 2024 in accordance with Section 223 of the Local Government Act 1989 on the**

proposal (item 1 above) inviting written submissions to be received by 5.00pm Wednesday 28 March 2024;

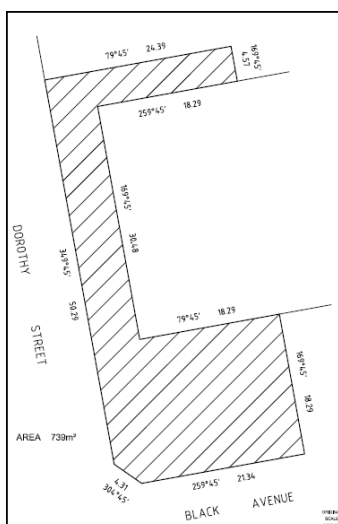
- a. If submissions are made to the public notice:**
- b. Authorise the Chief Executive Officer to fix the time, date and place of the meeting for the hearing for persons who wish to be heard in support of their submissions;**
- c. Receives a further report to consider submissions and determine the outcome at the next available Council meeting;**
- d. If no submissions are received to the public notice, implement the proposal in Recommendation 1;**
- e. Publish the road discontinuance notice in the Victorian Government Gazette.**

REPORT

The C90 Planning Scheme Amendment created restructure overlays over smaller allotments including roads to facilitate a lot size that could be developed.

Property Officers have been contacted by the owner of 16 - 18 Black Avenue, Venus Bay (PC356812L Parish of Tarwin) requesting to acquire part of unused road (739m²) as shown in hatched in **Figure 1**.

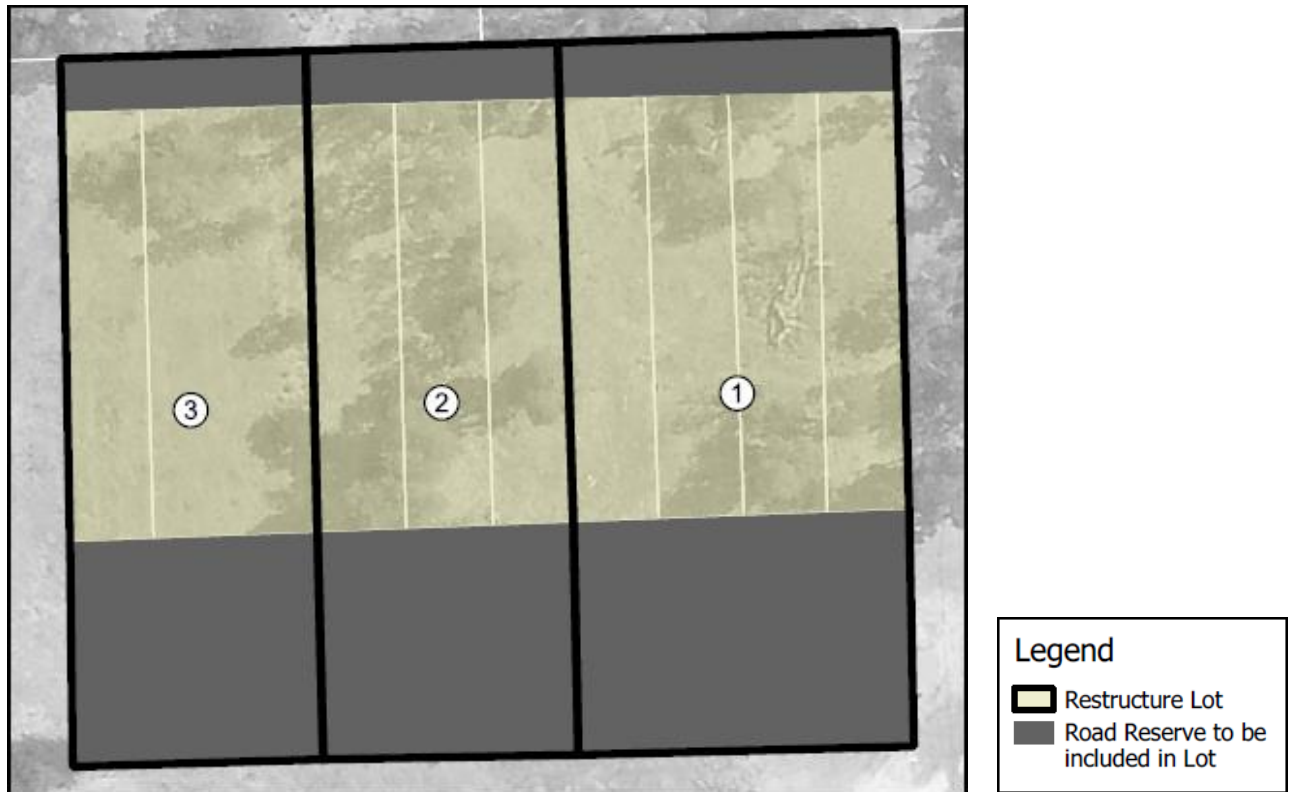
Figure 1



The requirements of the C90 Planning Scheme Amendment are once an owner owns all lots within a restructure overlay then the acquisition of any roads can commence as shown in **Figure 2**. The overlay affecting the owner of 16 – 20

Black Avenue Venus Bay is restructure lot 3 shown in **Figure 2**. The proposed road discontinuance also includes the excess unused road between the land title and Dorothy Street which is not included in the restructure overlay plan.

Figure 2



The unused road was created as “paper” road on the original plan of subdivision but has not been constructed or used for public traffic.

CONSULTATION / COMMUNITY ENGAGEMENT

The C90 Planning Scheme Amendment was advertised widely and all effected parties consulted.

Property Officers will engage with an external valuer to determine the value of the land.

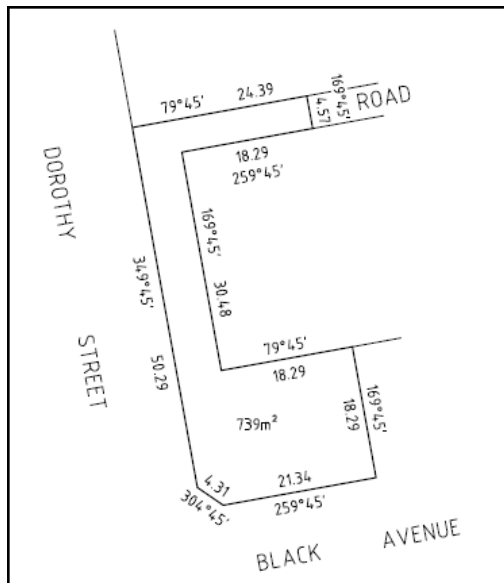
For Council to discontinue a road and sell the land to the adjoining landowner, Council must advertise the proposal and call for public submissions and consider any submissions received in accordance with Section 223 of the Local Government Act 1989.

RESOURCES / FINANCIAL VIABILITY

If the roads are discontinued and sold to the landowner of 16-20 Black Avenue, Venus Bay the landowner will consolidate all parcels to create one certificate of title.

The landowner had also paid for the surveying for the road discontinuance plans and title plan as shown in **Figure 1 & 3**.

Figure 3



RISKS

If Council does not proceed with the proposed road discontinuance and sale, the owners of 16 – 20 Black Avenue, Venus Bay will not be able to develop the land.

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](#).

C90 Planning Scheme Amendment

Legislative Provisions

Local Government Act 1989

5. NOTICES OF MOTION AND/OR RESCISSION

Nil

6. COUNCILLOR REPORTS

6.1. REQUESTS FOR LEAVE OF ABSENCE

6.2. COUNCILLOR UPDATES

7. URGENT BUSINESS

This section of the Agenda is for urgent business items:

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.

8. PUBLIC QUESTIONS

8.1. PETITIONS AND JOINT LETTERS

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

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

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

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

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

8.2. ANSWERS TO PREVIOUS QUESTIONS ON NOTICE

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

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

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

Questions received from Mr Eric Hill at the 13 December 2023 Council Meeting were taken on notice. A response to the question is provided in these Minutes.

Question 1

Was the contract (CON/213) for Loch Streetscape awarded on 22nd March 2019 to Hugh Patrick Pty Ltd T/A Bj's Earthmoving at a cost of \$634,802.79 awarded under CEO delegation and what date and which Council meeting was it notified to the Council?

Response

Yes, contract CON/213 was awarded under delegation to the Chief Executive Officer, as resolved by Council at Council Meeting No.424 on 27 June 2018. It appears that the signing of the contract was not reported back for noting by Council due to an administrative error.

8.3. SUBMITTED PUBLIC QUESTIONS

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

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

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

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

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

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

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

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

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

9. CLOSED SESSION

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

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

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

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

Nil

10. MEETING CLOSED

NEXT MEETING

The next Council Meeting open to the public will be held on Wednesday, 20 March 2024 commencing at 2pm in the Council Chambers, Leongatha.