

SOUTH GIPPSLAND SHIRE COUNCIL

Council Meeting Minutes

17 August 2022

**Council Meeting No. 474
Council Chambers, Leongatha
Commenced at 2:00 PM**



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.

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

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

PRESENT

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

SOUTH GIPPSLAND SHIRE COUNCIL

Notice is hereby given that Council Meeting No. 474 of the South Gippsland Shire Council will be held on 17 August 2022 in the Council Chambers, Leongatha commenced at 2:00 PM

TABLE OF CONTENTS

1. PRELIMINARY MATTERS	6
1.1. LIVE-STREAMING COUNCIL MEETING DISCLAIMER.....	6
1.2. WELCOME TO THE COUNCIL MEETING.....	6
1.3. OPENING PRAYER	6
1.4. ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS.....	7
1.5. APOLOGIES	7
1.6. CONFIRMATION OF MINUTES	7
1.7. DECLARATION OF CONFLICTS OF INTEREST FOR COUNCILLORS	8
1.8. DECLARATION OF CONFLICTS OF INTEREST FOR STAFF.....	9
2. OBJECTIVE - LEADING WITH INTEGRITY	10
2.1. NEW POLICY: COUNCILLOR DEVELOPMENT POLICY (C87).....	10
2.2. AUDIT AND RISK COMMITTEE MEETING - MINUTES - 14 JUNE 2022.....	14
2.3. SUMMARY OF STRATEGIC BRIEFINGS - 13 JUNE 2022 - 12 JULY 2022	16
2.4. DOCUMENTS SEALED, CONTRACTS VARIED, AWARDED OR EXTENDED BY CEO - 13 JUNE 2022 TO 12 JULY 2022	20
3. OBJECTIVE - SUSTAINABLE GROWTH	24
3.1. SOCIAL AND AFFORDABLE HOUSING STRATEGY 2022	24
3.2. PLANNING APPLICATION 2021/391 - 9 WANKE ROAD, MIRBOO NORTH - DEVELOP LAND WITH DWELLING AND SHED.....	31
3.3. COMPULSORY ACQUISITION - JUPITER BOULEVARD VENUS BAY (VENUS BAY TOURISM PRECINCT PLAN).....	41
4. NOTICES OF MOTION AND/OR RESCISSION	48
4.1. NIL	48
5. COUNCILLOR REPORTS	48
5.1. REQUESTS FOR LEAVE OF ABSENCE	51
5.2. COUNCILLOR UPDATES	48
5.3. COMMITTEE UPDATES.....	51
6. URGENT OR OTHER BUSINESS	52
7. PUBLIC QUESTIONS	53

7.1. PETITIONS AND JOINT LETTERS 53
7.2. ANSWERS TO PREVIOUS QUESTIONS ON NOTICE 54
7.3. SUBMITTED PUBLIC QUESTIONS 55
8. CLOSED SESSION 61
9. MEETING CLOSED 62



Kerryn Ellis
Chief Executive Officer

1. PRELIMINARY MATTERS

1.1. LIVE-STREAMING COUNCIL MEETING DISCLAIMER

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

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

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

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

Thank you

1.2. WELCOME TO THE COUNCIL MEETING

COVID Safe Plan

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

Public Questions

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

1.3. OPENING PRAYER

We pray to God to guide us so that the thoughts we have and the decisions made this day, are in the best interests of the people of the South Gippsland Shire.

Amen

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

Kerryn Ellis, Chief Executive Officer

1.6. CONFIRMATION OF MINUTES**RECOMMENDATION**

That the Minutes of the South Gippsland Shire Council Meeting No.473 held on 20 July 2022 in the Council Chambers, Leongatha be confirmed.

RESOLUTION

MOVED: Cr Darakai

SECONDED: Cr Gilligan

That the Minutes of the South Gippsland Shire Council Meeting No.473 held on 20 July 2022 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.

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

Councillor Sarah Gilligan declared that a private interest by close association has given rise to a general conflict of interest in Council Agenda Item 3.2 Planning Application 2021/391 - 9 Wanke Road, Mirboo North - Develop land with dwelling and shed.

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.

Nil

2. OBJECTIVE - LEADING WITH INTEGRITY

2.1. NEW POLICY: COUNCILLOR DEVELOPMENT POLICY (C87)

Directorate:	Performance and Innovation
Department:	Governance

Council Plan

Objective - Leading with Integrity

Council's governance is strengthened by supporting Councillors to adequately fulfil their civic duties through development and continuous improvement.

EXECUTIVE SUMMARY

The purpose of this report is for Council to consider the draft *Councillor Development Policy (C84)* (**Attachment [2.1.1]**) which provides means for Councillors to enhance their individual and collective skills and performance through development and continuous improvement.

Due to the shift in focus from self-assessment, to development and continuous improvement, it is proposed that the *Councillor Self-Assessment Policy (C84)* **Attachment [2.1.2]** is revoked and that Council adopts the *Councillor Development Policy (C87)*.

RECOMMENDATION

That Council:

1. Revokes the Councillor Self-Assessment Policy (C84) Attachment [2.1.1];
2. Adopts the Councillor Development Policy (C87) Attachment [2.1.2]; and
3. Publishes the Councillor Development Policy (C87) on Council's website.

RESOLUTION

MOVED: Cr Gilligan

SECONDED: Cr Keerie

That Council:

- 1. Revokes the Councillor Self-Assessment Policy (C84) Attachment [2.1.1]);**
- 2. Adopts the Councillor Development Policy (C87) Attachment [2.1.2]); and**
- 3. Publishes the Councillor Development Policy (C87) on Council's website.**

CARRIED UNANIMOUSLY

[Link to next Agenda Item.](#)

REPORT

At briefing sessions on 20 April 2022 and 20 July 2020, Councillors reviewed and discussed the *Councillor Self-Assessment Policy* and the draft *Councillor Development Policy*. The general premise of the discussion centred around a desire to have a policy focused on development and continuous improvement.

The proposed *Councillor Development Policy* places emphasis on the requirement for continued development and reflection of the Councillors' team culture in line with the Councillor Code of Conduct and Charter. It further seeks to place emphasis on the benefit of group and individual development, along with an identified component for development opportunities for the Mayor.

The proposed *Councillor Development Policy* works in conjunction with the *Councillor Support and Expenditure Policy (C51)* by connecting the levels of resourcing and approvals. In particular clause 4.36 which reads:

"4.36. Payment and re-imburement of course, conference and program fees incurred in undertaking training and development activities to acquire new, or to enhance existing skills required to assist a Councillor in performing their role as a Councillor, or to achieve wider Council goals. Any learning opportunities identified are to be approved by the CEO. Where appropriate, Councillors are encouraged to report the outcome of the activity to Council immediately upon completion of the activity."

Due to the shift in focus from self-assessment, to development and continuous improvement, it is proposed that the *Councillor Self-Assessment Policy (C84)* is revoked and that Council adopts the *Councillor Development Policy (C87)*.

CONSULTATION/COMMUNITY ENAGEMENT

No community consultation was required.

RESOURCES / FINANCIAL VIABILITY

The implementation of this policy will be managed through existing budgets.

RISKS

The adoption of this Policy will support the development of individual Councillors and as a Councillor group to continue to undertake their duties in compliance with all relevant Acts and codes.

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. Councillor Development Policy (C87) - August 2022 [2.1.1 - 5 pages]
2. Councillor Self-Assessment Policy (C84) - May 2021 [2.1.2 - 5 pages]

REFERENCE DOCUMENTS**Council's Good Governance Framework**

Pillar 4. Structure, Systems & Policies

Council Policy / Strategy / Plans

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

Councillor Support and Expenditure Policy (C51)

Councillor Self-Assessment Policy (C84)

Legislative Provisions

Local Government Act 2020

2.2. AUDIT AND RISK COMMITTEE MEETING - MINUTES - 14 JUNE 2022

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

Performance and Innovation

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

The draft minutes of the Audit and Risk Committee meeting held on 14 June 2022 (**Attachment [2.2.1]**) are provided to Council for noting.

Audit and Risk Committee members at the meeting included:

- Mr Chris Badger (Audit Committee Chair)
- Mr Homi Burjorjee
- Ms Jen Johanson
- Cr Sarah Gilligan (Council member)
- The Mayor Cr Mohya Davies (ex-officio observer)
- Ms Prue Digby (observing as Municipal Monitor)

RECOMMENDATION

That Council notes the draft Audit and Risk Committee Minutes – 14 June 2022 (Attachment [2.2.1]).

RESOLUTION

MOVED: Cr Gilligan

SECONDED: Cr Keerie

That Council notes the draft Audit and Risk Committee Minutes – 14 June 2022 (Attachment [2.2.1]).

CARRIED UNANIMOUSLY

[Link to next Agenda Item.](#)

REPORT

The matters considered by the Audit and Risk Committee at the 14 June 2022 meeting are contained in **Attachment [2.2.1]**.

CONSULTATION / COMMUNITY ENGAGEMENT

The draft Audit and Risk Committee Minutes for 14 June 2022 (**Attachment [2.2.1]**) 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.

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 Minutes - 14 June 2022 [**2.2.1** - 82 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 Policy (C08)

Audit and Risk Committee Charter and Terms of Reference

Legislative Provisions

Local Government Act 2020

2.3. SUMMARY OF STRATEGIC BRIEFINGS - 13 JUNE 2022 - 12 JULY 2022

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 June and 12 July 2022.

RECOMMENDATION

That Council receives and notes this report.

RESOLUTION

MOVED: Cr Schelling

SECONDED: Cr Hersey

That Council receives and notes this report.

CARRIED UNANIMOUSLY

[Link to next Agenda Item.](#)

REPORT

Meeting Title	Details
Wednesday 15 June 2022	
Agenda Topic Discussion for Council Meeting 15 June 2022	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Jenni Keerie, John Schelling, Clare Williams, Adrian Darakai</p> <p>Municipal Monitor: Prue Digby</p> <p>Conflict of Interest: Councillor Jenni Keerie has declared a material conflict of interest in Confidential Agenda Item 11.1 PERSONAL INFORMATION - 2021/22 Community Grants - Round 2 as her employer submitted a grant application to the Community Grants Program Round 2, as the Manager she is responsible for the completion of the application. (item not discussed). Councillor Nathan Hersey has declared a general conflict of interest in Confidential Agenda Item 11.1 PERSONAL INFORMATION - 2021/22 Community Grants - Round 2 as a family member submitted a grant application on behalf of the Loch Arts Council. (Item not discussed). Councillor Sarah Gilligan has declared a general conflict of interest in Confidential Agenda Item 11.1 PERSONAL INFORMATION - 2021/22 Community Grants - Round 2 as a family member assisted in the development of a grant application on behalf of the Tarwin Lower.</p>
Integrated Planning Session	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Jenni Keerie, John Schelling, Clare Williams, Adrian Darakai</p> <p>Municipal Monitor: Prue Digby</p> <p>Conflict of Interest: Nil disclosed.</p>
Wednesday 22 June 2022	
Council Meeting 29 June 2022	<p>Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Michael Felton, Jenni Keerie, John Schelling, Clare Williams, Adrian Darakai</p>

Meeting Title	Details
	Municipal Monitor: Apology Conflict of Interest: Nil disclosed.
Wednesday 29 June 2022	
Council Meeting 29 June 2022	Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Jenni Keerie, John Schelling, Clare Williams Municipal Monitor: Prue Digby Conflict of Interest: Nil disclosed.
Community Satisfaction Survey	Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Jenni Keerie, John Schelling, Clare Williams Municipal Monitor: Prue Digby Conflict of Interest: Nil disclosed.
Proposed Municipal Public Health & Wellbeing Plan	Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Jenni Keerie, John Schelling, Clare Williams Municipal Monitor: Prue Digby Conflict of Interest: Nil disclosed.
Wednesday 6 July 2022	
Domestic Wastewater Management Plan	Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Michael Felton, Jenni Keerie, John Schelling, Clare Williams Municipal Monitor: Apology Conflict of Interest: Nil disclosed.
Commonwealth Games Community Ideas	Councillors Attending: Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Michael Felton, Jenni Keerie, John Schelling, Clare Williams Municipal Monitor: Apology Conflict of Interest: Nil disclosed.

STAFF DISCLOSURE

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

ATTACHMENTS

Nil

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 3. Decision Making

Council Policy / Strategy / Plans

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

Governance Rules (C82)

Public Transparency Policy (C75)

Legislative Provisions

Local Government (South Gippsland Shire Council) Act 2019

Local Government Act 1989

Local Government Act 2020

2.4. DOCUMENTS SEALED, CONTRACTS VARIED, AWARDED OR EXTENDED BY CEO - 13 JUNE 2022 TO 12 JULY 2022

Directorate:	Officer of the Chief Executive
Department:	Financial Strategy, Risk and Procurement

Council Plan

Objective - Leading with Integrity

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

EXECUTIVE SUMMARY

This report documents the following actions undertaken by the Chief Executive Officer (CEO) which occurred during the period from 13 June 2022 to 12 July 2022. Council's *Procurement Policy (C32)* requires the CEO to report to Council any of the following actions undertaken to the next appropriate Meeting:

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

RECOMMENDATION

That Council receives and notes this report.

RESOLUTION

MOVED: Cr Rae

SECONDED: Cr Darakai

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(f)(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.

'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 June 2022 to 12 July 2022.

1. Section 173 Agreement between South Gippsland Shire Council and the owner of 17 Main Street, Outtrim in relation to group accommodation. Seal applied 23 June 2022.
2. Section 173 Agreement between South Gippsland Shire Council and the owner of 49 Ash Avenue, Sandy Point in relation to an extension to an existing dwelling. Seal applied 30 June 2022.
3. Section 173 Agreement between South Gippsland Shire Council and the owner of 747 & 749 Fairbank Road, Arawata in relation to a two (2) lot subdivision. Seal applied 30 June 2022.
4. Section 173 Agreement between South Gippsland Shire Council and the owner of 100 Lomagnos Road, Outtrim in relation to the use and development of land for a function centre and group accommodation. Seal applied 12 July 2022.

Contracts Awarded, Varied or Extended

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

1. Contracts awarded by Council after a public tender process, signed by the CEO between 13 June 2022 to 12 July 2022.
 - a. Nil
2. Contracts awarded after a public tender process within the CEO's delegation between 13 June 2022 to 12 July 2022
 - a. Nil
3. Contract variations approved by the CEO between 13 June 2022 to 12 July 2022
 - a. Nil
4. Contract extensions approved by the CEO between 13 June 2022 to 12 July 2022
 - a. Contract CON/229 for Collection, Transport & Disposal of Leachate from Koonwarra Landfill was awarded on 25 September 2019 to CSA Specialised Services Pty Ltd to assist Council to comply with current EPA license requirements ensuring leachate levels are maintained to a maximum depth of 300mm in the landfill cells. The contract was for a three-year term commencing on 25 September 2019 with an option of two 1-year extensions. An extension of 1 year (first year extension option) (1 November 2022 to 31 October 2023) has been approved, signed by the CEO 6 July 2022.

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. OBJECTIVE - SUSTAINABLE GROWTH

3.1. SOCIAL AND AFFORDABLE HOUSING STRATEGY 2022

Directorate:	Economy and Community
Department:	Economy Community and Investment

Council Plan

Objective - Sustainable Growth

Developing a strategic approach to social and affordable housing and advocacy for resourcing this sector supports Council's role in planning for and responding to health and wellbeing of the community. This is in line with Council's legislated role under the Public Health and Wellbeing Act 2008.

A 2022/23 Major Initiative is to complete actions from the Social and Affordable Housing Strategy to increase State and Federal Government support to service agencies.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with the final *Social and Affordable Housing Strategy 2022* (Strategy) (**Attachment [3.1.1]**). for consideration and determination.

The Strategy has been developed to support Council to facilitate social and affordable housing outcomes in South Gippsland, and set out principles, and the role of Council.

RECOMMENDATION

That Council:

1. Adopts the Social and Affordable Housing Strategy (Attachment [3.1.1]); and
2. Publishes the Social and Affordable Housing Strategy on Council's website.

RESOLUTION

MOVED: Cr Keerie

SECONDED: Cr Gilligan

That Council:

- 1. Adopts the Social and Affordable Housing Strategy (Attachment [3.1.1]);
and**
- 2. Publishes the Social and Affordable Housing Strategy on Council's
website.**

CARRIED UNANIMOUSLY

[Link to next Agenda Item.](#)

REPORT

Council approved the development of a *Social and Affordable Housing Strategy* at its 8 December 2020 Council Meeting with consultants Hornsby and Co. appointed in May 2021. The Draft Strategy was endorsed for community consultation at Council's May Council Meeting from Thursday 19 May to Friday 10 June 2022.

The development of a Strategy supports Council's role in planning for, and responding to the health and wellbeing of the community. This is consistent with the objectives in the Council Plan 2022-26 and our role under the *Public Health and Wellbeing Act 2008* and *Local Government Act 2020*.

The Strategy sets out overarching principles for affordable housing in South Gippsland with three key areas identified that reflect the role Council may consider. These include:

- Advocacy, engagement and partnerships;
- Land use planning; and
- Incentive and opportunities.

For each of these roles the Strategy sets out objectives and key opportunities for activation with more detailed actions and tasks in a separate action plan.

It is intended that the Strategy will be used by Council, the housing sector, support services, and the community to support advocacy and actions in relation to affordable housing.

Current Challenges

The Strategy identifies that the South Gippsland community faces significant challenges in addressing affordable housing and housing availability now, and into the future.

The population is growing, the municipality does not contain a regional city centre to support affordable housing growth, and the increasing cost of housing in South Gippsland is making it more and more difficult to find long term accommodation.

There is a recognised housing crisis in Australia with Victoria having the lowest rate of social housing of any State. The lack of availability of worker accommodation is also identified as a key issue.

The dispersed nature of South Gippsland communities, and the State Government policy settings that encourage investment in social and

affordable housing in metropolitan or regional cities mean there is significant underinvestment in social housing in South Gippsland.

The Strategy finds that without change, the growing demand for housing in South Gippsland to meet the needs of people who are struggling to participate in the private housing market will only continue to increase.

Council understands that these challenges require support from all levels of government. Council is committed to working with all communities across South Gippsland to support them with their unique social and affordable housing challenges, opportunities and projects.

Identified Needs

Investigations into developing the Strategy identify the need for:

- Affordable housing – including emergency, transitional and social housing;
- Support services to help people access and sustain housing; and
- Local housing for local people.

Our current and future community want a great place to live, work and play and this will mean that affordable housing will be:

- Located in townships so that residents have good access to services;
- Well-designed to provide comfortable homes with good amenity for the residents and neighbours; and
- Part of vibrant and cohesive communities connected to a range of support services.

CONSULTATION / COMMUNITY ENGAGEMENT

Engagement with stakeholders and the collection of first-person stories contributed to the development of a background and technical reports.

The stakeholder engagement process identified housing needs and service needs within South Gippsland. Feedback identified the people at greatest risk of homelessness and most challenged to access affordable housing in South Gippsland.

First person stories added insight into the impacts of insufficient housing. Case studies and interviews with key community groups and organisations contribute to a greater understanding of opportunities for possible increase in affordable housing in South Gippsland.

Further community feedback on the Draft Strategy was obtained following the community consultation period from Thursday, 19 May to Friday, 10 June 2022.

Submissions were invited via survey, written submission or verbal submission over the phone or in person. The Draft Strategy, along with a fact sheet and link to a survey were made available on Council's Your Say Page.

Summary of Submissions and Actions

A total of 16 submissions were received from residents and organisations in Korumburra, Korumburra South, Foster, Sandy Point, Tarwin Lower and Venus Bay.

Submissions responded to all themes of the Draft Strategy: Advocacy, Engagement and Partnerships, Land Use Planning, Incentives and Opportunities and some detailed responses to elements of the action plan.

The majority of submissions were in support for the Draft Strategy with one submitter questioning the need for the Draft Strategy and whether local government should have a leading role in social and affordable housing.

Key support areas:

- local housing for local people;
- transport between towns and to services;
- allocation of land to social and affordable housing;
- tailoring housing to specific needs of local resident cohorts; and
- the action plan but with additional detail recommended.

Concern was raised on the lack of affordable rental properties available for local people on low incomes and the retention of community members and workforce in smaller towns businesses.

An analysis of submissions concludes there are no significant further changes required to the Strategy. To address recommendations for more detail in the action plan, following endorsement, a detailed action plan with timelines and targets will be developed.

The detailed action plan will include development of a stakeholder reference group with community representation; an audit of land and funding support for affordable housing; and a forum to commence the actions within the Strategy.

This action plan will become an appendix to the final Strategy for review annually.

RESOURCES / FINANCIAL VIABILITY

Victoria's Big Housing Build is a four-year State Government strategy to invest in social, community and public housing, announced in November 2020. Some rural and regional councils were allocated a minimum investment guarantee under the scheme however South Gippsland Shire Council was not.

A Social and Affordable Housing Strategy will support Council in advocating for investment and increased services within the Shire though *Victoria's Big Housing Build*.

RISKS

If a Social and Affordable Housing Strategy is not endorsed, opportunities to further support to address social and affordable housing may be delayed and/or reduced.

Also, investment opportunities for social and affordable housing may not be prioritised by Housing Victoria. The status quo would remain with limited housing and significant disadvantage for vulnerable people in South Gippsland. Opportunities for a significant economic stimulus through funded housing construction may be delayed or missed.

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 – [LINK](#).

1. Social and Affordable Housing Strategy 2022 [3.1.1 - 29 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 – [LINK](#).

An Age-Friendly South Gippsland Plan

Children and Families - A Plan for the Future in South Gippsland

Children and Families Plan

Disability Action Plan

Municipal Public Health and Wellbeing Plan
South Gippsland's Good Governance Framework
Social Community Infrastructure Blueprint
South Gippsland Housing and Settlement Strategy
Town Centre Framework Plans

Legislative Provisions

Aged Care Legislation Amendment (increasing Consumer Choice) Act 2016
Charter of Human Rights and Responsibility Act 2006
Child Safe Standards 2016
Child Wellbeing & Safety Act 2005
Children's Services Act 1996
Children, Youth and Families Act 2009
Disability Act 2006
Disability Discrimination Act 1992
Emergency Management Act 1986
Family Violence Protection Act 2008
Local Government Act 2020
Public Health and Wellbeing Act 2008
Working with Children Act 2005
Children's Services Regulations 2020
Children, Youth and Families Regulations 2017
Public Health and Wellbeing Regulations 2019

Regional, State and National Plan and Policies

Victoria's Big Housing Build

3.2. PLANNING APPLICATION 2021/391 - 9 WANKE ROAD, MIRBOO NORTH - DEVELOP LAND WITH DWELLING AND SHED

Directorate:	Economy and Community
Department:	Planning and Building Services

Conflict of Interest

Councillor Sarah Gilligan left the Council Chambers at 2.23pm with a declared private interest by close association that has given rise to a general conflict of interest in Council Agenda Item 3.2 Planning Application 2021/391 - 9 Wanke Road, Mirboo North - Develop land with dwelling and shed.

Council Plan

Objective - Sustainable Growth

The application meets the objectives of the Council plan by infilling an existing vacant block in the Rural Residential Zone on the township fringe of Mirboo North within the township settlement boundary.

EXECUTIVE SUMMARY

The purpose of this report is for Council to consider and determine this planning application, which seeks approval to construct a dwelling and ancillary outbuilding at 9 Wanke Road, Mirboo North.

The application is being presented to Council for a decision, as twenty-eight (28) objections have been received to the proposal. The key issues/themes raised by the objectors relate to the way in which the building is intended to be occupied.

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

RECOMMENDATION

That Council issues a notice of decision to grant a permit for the development of the land with a dwelling and ancillary outbuilding, in accordance with the endorsed plans, subject to the following conditions and notes:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application but modified to show:
 - a. An amended site plan that clearly shows the vegetation to be removed to create defensible space. The vegetation to be removed must be in accordance with the Bushfire Management Plan prepared by Euca Planning Version 1.0 dated 28/09/2021, and must represent the minimum amount required to comply with defensible space requirements.
2. The building, works and layout as shown on the endorsed plan(s) must not be altered or modified except with the written consent of the Responsible Authority.
3. The bushfire protection measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defensible space, water supply and access, must be maintained to the satisfaction of the responsible authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.

CFA

4. Before the development starts, the Bushfire Management Plan prepared by Euca Planning Version 1.0 dated 28/09/2021 must be endorsed by the Responsible Authority. Once endorsed the plan must not be altered unless agreed to in writing by CFA and the Responsible Authority.
5. Once the development has started it must be continued and completed in a timely manner to the satisfaction of the Responsible Authority.
6. Downpipe water from the dwelling and outbuilding must be suitably directed into water tank(s), soakwell(s), or otherwise discharged, so as not to cause erosion to the subject or surrounding land, to the satisfaction of the Responsible Authority. The external finishes and materials of water tank(s) (if required) must be colour treated in muted low-reflective tones.
7. Care must be taken to ensure that the construction of the dwelling and ancillary works, and their ongoing use, does not cause erosion or degradation to the subject or surrounding land to the satisfaction of the Responsible Authority.

8. Building construction must be carried out in accordance with *Construction Techniques for Sediment Pollution Control* (EPA May 1991) and *Control of Erosion on Construction Sites* (Soil Conservation Authority) to the satisfaction of the Responsible Authority.
9. All works must be undertaken in a manner that minimises soil erosion, and any exposed areas of soil must be stabilised to prevent soil erosion, to the satisfaction of the Responsible Authority.

Wastewater

10. The on-site wastewater system must be sized to address the approved Dwelling Usage to the satisfaction of the Responsible Authority.
11. All wastewater from the dwelling must be treated and retained within the boundaries of the lot in accordance with the State Environment Protection Policy (Waters of Victoria) under the *Environment Protection Act 2017*.
12. This permit will expire if either of the following applies:
 - a. The development is not started within two (2) years of the date of this permit.
 - b. The development is not completed within four (4) years of the date of this permit.

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

RESOLUTION**MOVED:** Cr Keerie**SECONDED:** Cr Williams

That Council issues a notice of decision to grant a permit for the development of the land with a dwelling and ancillary outbuilding, in accordance with the endorsed plans, subject to the following conditions and notes:

- 1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application but modified to show:
 - a. An amended site plan that clearly shows the vegetation to be removed to create defensible space. The vegetation to be removed must be in accordance with the Bushfire Management Plan prepared by Euca Planning Version 1.0 dated 28/09/2021, and must represent the minimum amount required to comply with defensible space requirements.****
- 2. The building, works and layout as shown on the endorsed plan(s) must not be altered or modified except with the written consent of the Responsible Authority.**
- 3. The bushfire protection measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defensible space, water supply and access, must be maintained to the satisfaction of the responsible authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.**

CFA

- 4. Before the development starts, the Bushfire Management Plan prepared by Euca Planning Version 1.0 dated 28/09/2021 must be endorsed by the Responsible Authority. Once endorsed the plan must not be altered unless agreed to in writing by CFA and the Responsible Authority.**
- 5. Once the development has started it must be continued and completed in a timely manner to the satisfaction of the Responsible Authority.**
- 6. Downpipe water from the dwelling and outbuilding must be suitably directed into water tank(s), soakwell(s), or otherwise discharged, so as**

not to cause erosion to the subject or surrounding land, to the satisfaction of the Responsible Authority. The external finishes and materials of water tank(s) (if required) must be colour treated in muted low-reflective tones.

- 7. Care must be taken to ensure that the construction of the dwelling and ancillary works, and their ongoing use, does not cause erosion or degradation to the subject or surrounding land to the satisfaction of the Responsible Authority.**
- 8. Building construction must be carried out in accordance with *Construction Techniques for Sediment Pollution Control* (EPA May 1991) and *Control of Erosion on Construction Sites* (Soil Conservation Authority) to the satisfaction of the Responsible Authority.**
- 9. All works must be undertaken in a manner that minimises soil erosion, and any exposed areas of soil must be stabilised to prevent soil erosion, to the satisfaction of the Responsible Authority.**

Wastewater

- 10. The on-site wastewater system must be sized to address the approved Dwelling Usage to the satisfaction of the Responsible Authority.**
- 11. All wastewater from the dwelling must be treated and retained within the boundaries of the lot in accordance with the State Environment Protection Policy (Waters of Victoria) under the *Environment Protection Act 2017*.**
- 12. This permit will expire if either of the following applies:**
 - a. The development is not started within two (2) years of the date of this permit.**
 - b. The development is not completed within four (4) years of the date of this permit.**

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

CARRIED UNANIMOUSLY

[Link to next Agenda Item.](#)

REPORT

Background

The subject site is generally regular in shape, 1.52 hectares in size and is located on the northern side of Wanke Road in Mirboo North.

The land is currently vacant, with an existing shed located on the site. It is extensively vegetated with native vegetation covering the northern two-thirds of land. It is proposed to locate the dwelling and outbuilding within the cleared section of the land towards the front of the site.

The land is located approximately 1.1km north west of the Mirboo North CBD in an area where land zoning is varied.

The land immediately surrounding the subject land is described as follows:

- North: 31 Wells Road Mirboo North, a large 4.22 parcel of Rural Living Zoned land developed with a single dwelling, ancillary outbuilding and landscaped gardens. The land contains a large body of water which is fed by the Little Morwell River which is located to the east of the site. the land is densely vegetated.
- East: 7 Wanke Road Mirboo North- a similar sized Rural Living allotment developed with a single dwelling and ancillary outbuilding. The land is densely vegetated.
- South: Wanke Road, and beyond that, 46 and 36-42 Wanke Road, Low Density Residential zoned allotments each developed with a single dwelling and large ancillary outbuilding.
- West: 66 Grand Ridge West Mirboo North: a large parcel of IN1Z land across two titles. The large portion of the land is vacant, with the smaller land title developed with a dwelling and building used as an electrician's workshop.

The Proposal

The application seeks approval to construct a dwelling and ancillary outbuilding at 9 Wanke Road Mirboo North. The dwelling incorporates a separate pod to the eastern side comprising four bedrooms, each with an ensuite bathroom and walk-in robe. The two components of the dwelling are connected via decking that extends along the length of the eastern part of the dwelling.

In terms of Planning controls, the subject land is located within the Rural Living Zone (RLZ) and is covered by the Environmental Significance Overlay –

Schedule 5 (ES05) (areas susceptible to erosion) and the Bushfire Management Overlay (BMO). The land is located within a designated Bushfire Prone Area under the *Building Act 1993*.

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

1. Bushfire Management Overlay (BMO): requires planning permission to construct a building associated with accommodation; and
2. ESO Schedule 5: requires planning permission to construct a building with the total resultant floor area exceeding 200m².

There is no permit trigger under the Zone to use the land for a dwelling, since this location meets the Section 1 (not permit required) criteria for a Dwelling in the land use table at Clause 35.03-1.

The dwelling is to be set back 13.1 metres from the eastern property boundary and 18 metres from the southern property boundary. It is to have a maximum length of 20.2 metres, a maximum width of 32.27 metres, with a total floor area of 412.05m². It will be constructed of Colorbond materials, *Dark Grey* in colour for the walls and the roofing, with naturally stained timber decking.

The outbuilding has a total length of 24 metres, a width of 9 metres, a total height of 5.2 metres with a floor area of 216m². It comprises four internal bays, each 6 metres in width, three of which will be accessed via roller with the fourth bay will be accessed via a PA door all of which are located on the eastern elevation.

The outbuilding is to be setback 14.01 metres from the eastern property boundary and 3.1 metres from the existing shed on site. it will be constructed of Colorbond materials, *Dark Grey* in colour.

A copy of the plans submitted for assessment have been provided at **Attachment [3.2.1]**.

Assessment

A detailed assessment of the application against relevant sections of the *Planning and Environment Act 1987* and the relevant matters of the South Gippsland Planning Scheme are discussed in **Attachment [3.2.2]** - Delegate's Report.

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

- Whether the development is appropriate given the risk of fire threat and if the bushfire risks to life and property can be mitigated through an appropriate endorsed Bushfire Management Plan;
- Whether the proposal's design and location of the buildings is sited in appropriate location minimising any adverse impacts regarding erosion or landslip; and
- The location of on-site effluent disposal areas and impact to the environment, waterways and natural environment.

It is considered that the proposal is consistent with the relevant Planning Policy Framework objectives and strategies, the objectives and decision guidelines of the BMO and the ESO5 and the decision guidelines of Clause 65, subject to the inclusion of appropriate conditions to minimise any off-site impacts.

CONSULTATION / COMMUNITY ENGAGEMENT

The application was advertised to adjoining and adjacent property owners and occupiers. As a result, twenty-eight (28) objections have been received to the application. Most of the concerns related to the use of the land, which is not a permit trigger in this instance as detailed previously in this report.

A summary of the concerns raised and an Officer response to these concerns has been included in the Delegates report that is provided as **Attachment [3.2.2]** to this report.

Referrals

The application has been referred internally to Council's Environmental Health Officers, and externally to the CFA. Both have consented to the proposal, subject to conditions which will be included on any permit that may be issued. A copy of proposed permit conditions has been provided at **Attachment [3.2.3]**. In terms of bushfire and erosion, the vegetation removal has been limited to the minimum extent permissible to create the necessary defensible space around the new dwelling, noting that vegetation removal to create defensible space is exempt from requiring a permit. The siting of the dwelling in the most cleared part of the land (towards the front of the lot) achieves an appropriate balance between retaining vegetation on the property, whilst achieving the necessary separation to that vegetation in order to meet CFA's defensible space requirements.

Options

Pursuant to s.61 of the *Planning and Environment Act 1987*, Council may determine to:

1. Grant a Notice of Decision to Grant a Planning Permit subject to conditions;
- or,
3. Refuse to grant a Planning Permit for 9 Wanke Road, Mirboo North.

RESOURCES / FINANCIAL VIABILITY

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

There is a human resource cost to Council to attend VCAT Hearings.

RISKS

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

STAFF DISCLOSURE

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

ATTACHMENTS

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

1. Assessed Plans - Planning Application 2021/391 - 9 Wanke Road Mirboo North [3.2.1 - 10 pages]
2. Delegate's Report - Planning Application 2021/391 - 9 Wanke Road Mirboo North [3.2.2 - 12 pages]
3. Conditions Report - Planning Application 2021/391 - 9 Wanke Road Mirboo North [3.2.3 - 3 pages]

CONFIDENTIAL ATTACHMENTS

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

Confidential Attachment [11.1.1] – Submissions - Planning Application 2021/391 - 9 Wanke Road Mirboo North – is designated confidential

information pursuant to the *Local Government Act 2020*, s.3(1)(f) - personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.

The grounds for designation have been made to protect the privacy of an individual's personal information.

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 1. Direction & Leadership

Pillar 3. Decision Making

Council Policy / Strategy / Plans

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

South Gippsland's Planning Scheme

Legislative Provisions

Building Act 1993

Environment Protection Act 2017

Local Government Act 2020

Planning and Environment (Planning Schemes) Act 1996

Planning and Environment Act 1987

Councillor Sarah Gilligan returned to the Council Chambers at 2.30pm.

3.3. COMPULSORY ACQUISITION - JUPITER BOULEVARD VENUS BAY (VENUS BAY TOURISM PRECINCT PLAN)

Directorate:	Sustainable Infrastructure
Department:	Infrastructure Planning

Council Plan

Objective - Connecting our People and Places

By endorsing this report and completing the land acquisition will enable the improvement of services related to footpaths, road maintenance, safety, and tourism.

EXECUTIVE SUMMARY

The purpose of this report is for Council to consider undertaking a compulsory land acquisition process in accordance with the *Land Acquisition and Compensation Act 1986* to acquire parcels of land from several properties in Venus Bay as shown in Plan A, B, C and D to enable key works as agreed in the Venus Bay Tourism Precinct Plan.

RECOMMENDATION

That Council:

1. Pursuant to the Local Government Act 2020, Land Acquisition and Compensation Act 1986, and Land Acquisition and Compensation Regulations 2010, undertake the process to compulsorily acquire the following parcels of land and as shown in plans A, B, C, and D (Attachments [3.3.1] to [3.3.4]):
 - a. Plan A – Road (R-1) 46.1m² part of Lot 2 PS 908443D;
 - b. Plan B – Road (R-1) 0.2m² part of Lot 2 PS 908446W;
 - c. Plan C – Road (R-1) 72.4m² part of Lot 1 PS 908444B; and
 - d. Plan D – Road (R-1) 83m² part of Common Property No.1 PS 526435F.

RESOLUTION**MOVED:** Cr Gilligan**SECONDED:** Cr Rae**That Council:**

- 1. Pursuant to the Local Government Act 2020, Land Acquisition and Compensation Act 1986, and Land Acquisition and Compensation Regulations 2010, undertake the process to compulsorily acquire the following parcels of land and as shown in plans A, B, C, and D (Attachments [3.3.1] to [3.3.4]):**
 - a. Plan A – Road (R-1) 46.1m² part of Lot 2 PS 908443D;**
 - b. Plan B – Road (R-1) 0.2m² part of Lot 2 PS 908446W;**
 - c. Plan C – Road (R-1) 72.4m² part of Lot 1 PS 908444B; and**
 - d. Plan D – Road (R-1) 83m² part of Common Property No.1 PS 526435F.**

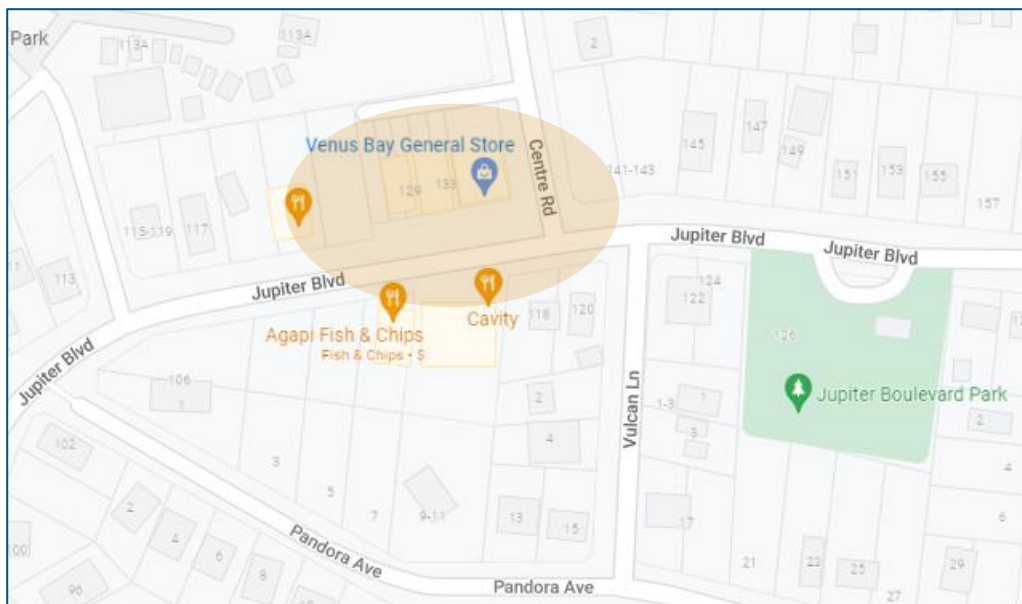
CARRIED UNANIMOUSLY[Link to next Agenda Item.](#)

REPORT

On 26 June 2021, Council adopted the *Venus Bay Tourism Precinct Plan* which included recommendations to improve public open space, parking, and road safety conditions, including safe pedestrian access between Jupiter Park and No.1 Surf Beach, the commercial centre to the community centre, and across Jupiter Boulevard.

To enable these improvements, Council will need to undertake a compulsory land acquisition process in accordance with the Land Acquisition and Compensation Act 1986 to acquire parcels of land from several properties in Venus Bay to enable key works as agreed in the *Venus Bay Tourism Precinct Plan*. The location of these parcels to be compulsorily acquired is shaded orange in **Figure 1** below.

Figure 1: Location of Parcels to be Acquired



Each parcel of land to be acquired are shown in Plans A, B, C, and D in **Figures 2-5** below and full size A3 plans are available in **Attachments [3.3.1] to [3.3.4]**. **Figure 2: Plan A – Road (R-1) 46.1m² part of Lot 2 PS 908443D**

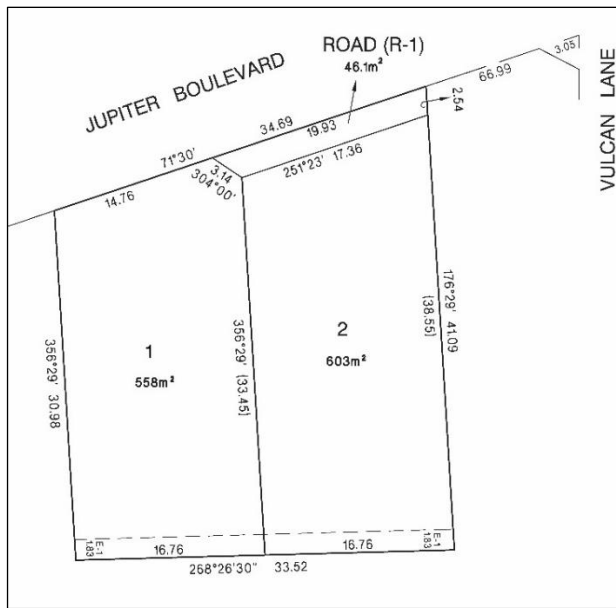


Figure 3: Plan B – Road (R-1) .2m2 part of Lot 2 PS 908446W

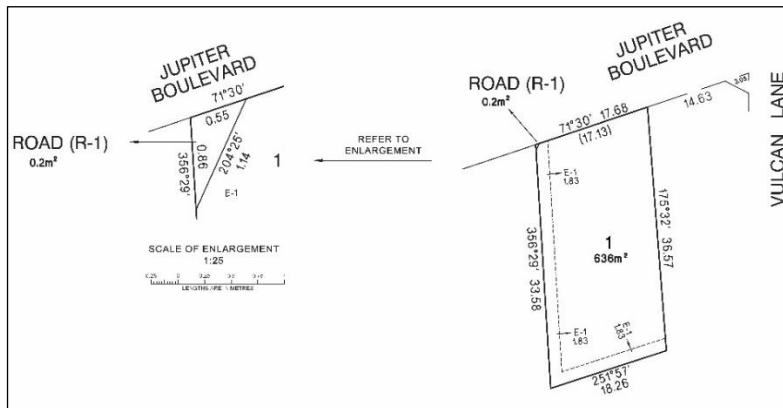


Figure 4: Plan C – Road (R-1) 72.4m² part of Lot 1 PS 908444B

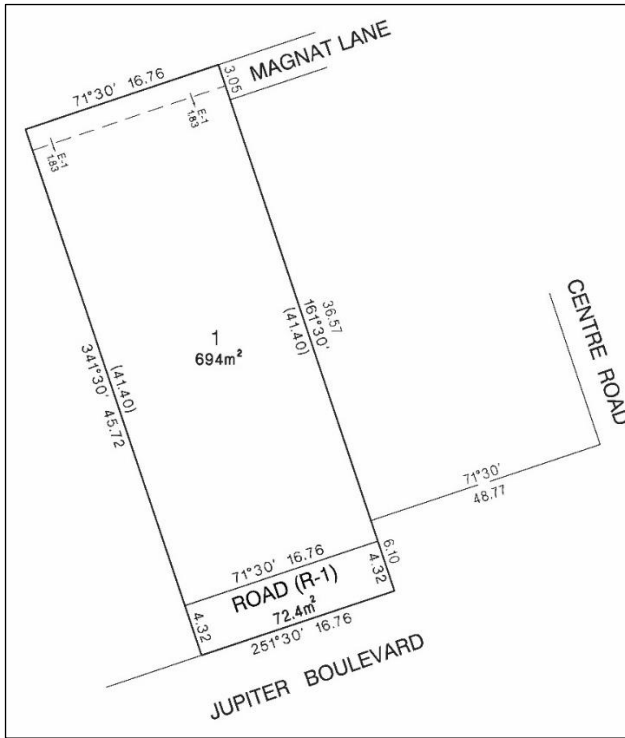
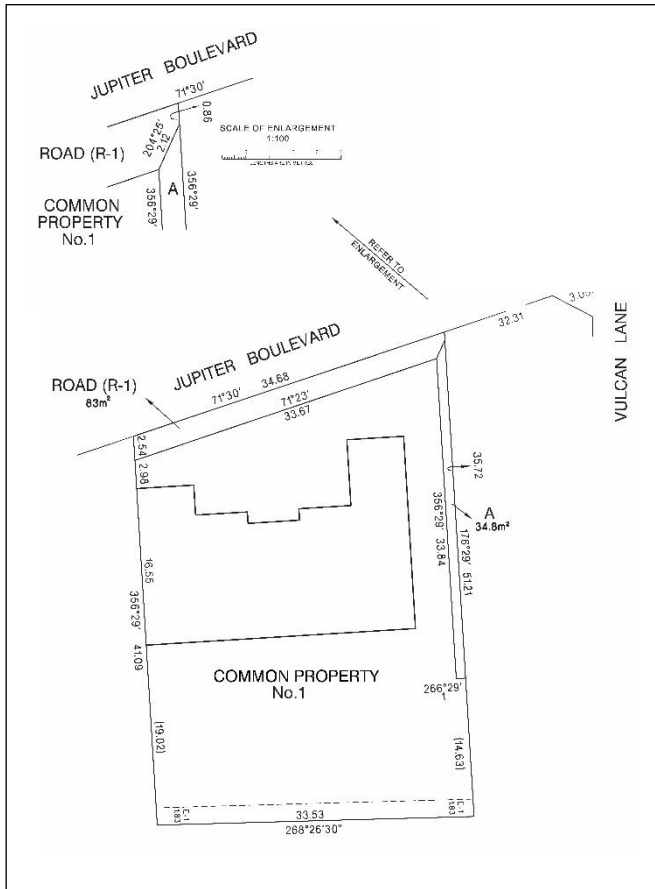


Figure 5: Plan D – Road (R-1) 83m² part of Common Property No.1 PS 526435F



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

NEXT STEPS

Council's lawyers will undertake the legal work involved in the compulsory acquisition process and represent Council in these dealings. An overview of the Land Acquisition and Compensation Act is provided in **Attachment [3.3.5]**.

The first steps by Council's lawyers will be to serve a notice in a prescribe form to affected parties explaining their rights and the process.

It is proposed that construction works associated with the project will be tendered during the September/December quarter with a view to commence works during February 2023. The timing of the works considers busy school holiday and long weekend periods but also allows the works to be undertaken while weather conditions suit.

CONSULTATION / COMMUNITY ENGAGEMENT

Considerable community engagement was undertaken in the development and subsequent adoption of the *Venus Bay Tourism Precinct Plan*. Council staff have consulted with the affected landowners outlining the proposal and compulsory acquisition process.

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

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

The community and in particular the shopkeepers will be advised of the pending street works upon award of the works contract. It's at that time the program of works will become fully known.

RESOURCES / FINANCIAL VIABILITY

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

RISKS

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

If the compulsory acquisitions do not proceed, the agreed improvements in the *Venus Bay Tourism Precinct Plan* cannot be made.

STAFF DISCLOSURE

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

ATTACHMENTS

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

1. Plan A - Jupiter Boulevard, Venus Bay [3.3.1 - 1 page]
2. Plan B - Jupiter Boulevard, Venus Bay [3.3.2 - 1 page]
3. Plan C - Jupiter Boulevard, Venus Bay [3.3.3 - 1 page]
4. Plan D - Jupiter Boulevard, Venus Bay [3.3.4 - 1 page]
5. Land Acquisition and Compensation Act 1986 - Overview [3.3.5 - 4 pages]

REFERENCE DOCUMENTS

Council's Good Governance Framework

Pillar 3. Decision Making

Council Policy / Strategy / Plans

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

Venus Bay Tourism Precinct Plan
Community Engagement Policy (C06)

Legislative Provisions

Local Government Act 2020
Land Acquisition and Compensation Act 1986
Land Acquisition and Compensation Regulations 2010

4. NOTICES OF MOTION AND/OR RESCISSION

Nil

5. COUNCILLOR REPORTS

5.2. COUNCILLOR UPDATES

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

- **Acknowledged the Mayor's thanks for his stepping into her role whilst she was on leave.**
- **One Gippsland meeting where Shires in this region come together to discuss and raise issues important to the region, discussion included: tourism, connectivity, transport, agriculture, distribution of food and fibre, sewerage needs and health services.**
- **Community Grants Presentation evening, and how it was great to meet with local groups that received grants.**
- **Senior Citizens Club Annual General Meeting (AGM).**
- **Meeting with representatives from Primary schools in Korumburra, Karmai Community Children's Centre and Loch Primary School and discussed safety issues relating to 'pick up and drop off'. He relayed that Council are continuing to work through the issues to make improvements.**
- **Attendance at 9 successful 'Catch up with a Councillor' events conducted across the Shire including Fish Creek, Korumburra, Loch, Poowong, Nyora, Koonwarra, Meeniyah, Port Welshpool and Toora. It was great to hear the ideas, thoughts and views from our community so that he can continue to serve.**

Councillor Clare Williams, addressed Council by thanking the community for turning up to 'Catch up with a Councillor' events, as the conversations held with them help Councillors when attending briefings and considering strategies. Cr Williams encouraged the community to come along and attend future events, even if it is just to say 'Hi'.

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

- **Lions Club Change Over meeting at Korumburra, and noted that the Club celebrated 105 years of service to the community and an increase in membership.**
- **Winter Fest at Mirboo North.**

- **'Catch up with a Councillor' event at Mirboo North, Korumburra and Poowong.**
 - **Smoking Ceremony at Mirboo North Football ground.**
 - **Briefing presentation at Council from Mr David Wolfe, the Deputy Commissioner Independent Broad-Based Anti-Corruption Commission.**
 - **Different types of engagement that Councillors are using to interact with our community.**
-

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

- **Prom Coast Children Centre and walk along the salt marsh at Anderson Inlet with local Member, Danny O'Brien MP.**
 - **Winter Fest at Mirboo North.**
 - **'Catch up with a Councillor' event at Mirboo North, Meeniyan, Toora, Port Franklin and Port Welshpool.**
 - **Toora Community Action Team (TCAT) AGM.**
 - **Smoking Ceremony at Mirboo North Football ground.**
 - **South Eastern Australian Transport Strategy (SEATS) which is a group of councils that advocate to State and Federal Government for road and bridge funding.**
 - **Local Men's Health event.**
 - **Community conversations.**
-

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

- **Community Grants Presentation evening.**
 - **Re-advertised his regular Councillor coffee catch up at the Nyora Hall and encouraged our community to come along – 2nd and 4th Thursday of month, details on Council's website.**
 - **Councillors decision making role at Council in accordance with the *Local Government Act 2020*.**
-

Councillor Adrian Darakai, addressed Council by reporting on attendance at or made comments on:

- **Mossvale Park Advisory Committee meeting and noted that the Committee are undertaking a project that will resolute in each tree in the Park being geotagged, it will enable future users of the Park to look up the name of trees electronically.**
 - **MYLI– My Community Library board meeting.**
-

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

- **Sandy Point Hall AGM and acknowledged the work of outgoing President, Di Couper.**
 - **Landcare AGM held at Tarwin Lower Mechanics Institute and noted the increase in membership numbers and a presentation on recent research in Cape Liptrap Coastal Park, where a number of endangered animals have been discovered.**
 - **'Catch up with a Councillor' event at Fish Creek.**
 - **Walk along the salt marsh and levee bank wall at Anderson Inlet with local Member, Danny O'Brien MP, some of the items discussed included salt marsh, carbon economies and kangaroos.**
-

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

- **Community Grants Presentation evening, and how it was great to meet with local groups that received grants.**
 - **Aged Retiree Advisory Committee final meeting for the current group as a new vision is to be determined. Cr Schelling acknowledged Joan Turner and the group for the work they have done over many years.**
 - **Meeting with Danny O'Brien MP to reemphasised the advocacy for the Leongatha Grandstand.**
 - **Leongatha Fire Brigade Annual Dinner and Presentation.**
 - **Winter Fest event at Mirboo North.**
 - **Smoking Ceremony at Mirboo North Football ground.**
 - **South Gippsland BMX track meeting and noted the membership of 48 members.**
 - **'Catch up with a Councillor' event at Mirboo North.**
-

Mayor, Councillor Mohya Davies, addressed Council by reporting on attendance at or made comments on:

- **Community Grants Presentation evening, and how it was great to meet with local groups that received grants.**
 - **Foster Stadium opening and thanked the Officers for their work on this project, it will be a great facility for the community into the future.**
 - **'Catch up with a Councillor' event at Port Welshpool, Toora, Port Franklin and Rail Trail.**
 - **Roads are suffering with the extensive wet weather, she asked the community to stay safe and be patient as repairs are undertaken.**
-

5.3. COMMITTEE UPDATES

Nil

5.1. REQUESTS FOR LEAVE OF ABSENCE

RESOLUTION

MOVED: Cr Rae

SECONDED: Cr Schelling

That Councillor Jenni Keerie be granted leave of absence for Council Meeting 21 September 2022.

CARRIED UNANIMOUSLY

6. URGENT OR OTHER BUSINESS

There are two basic parts to this section of the Agenda:

1. Urgent Business

Normally no motion should be debated by Councillors unless the matter is already included as an item on the Agenda. However, in some circumstances it is possible to raise urgent motions.

Council's Governance Rules 2020 (clause 22 - Urgent Business) adopted on 26 August 2020, allows for where a situation has not been provided for under the Governance Rules, the Council may determine the matter by resolution. Established practice has provided for urgent motions to be raised at Council provided the matter cannot be dealt with at the next Council Meeting or by Officers under delegation.

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

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

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

2. Other Business

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

Nil

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 August 2020.

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 August 2020.

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 August 2020.

Mr John McCombe submitted written questions and responses are provided in these Minutes.

Question 1

Would Council agree there's potential to improve community satisfaction levels if the Administration adopted a more conciliatory approach to the handling of Freedom of Information requests?

Response

Council manages Freedom of Information (FOI) Request in line with the *Freedom of Information Act 1982* (Act) and the Professional Standards. The Freedom of Information Officer is limited in the information they are legally allowed to release. For example, some information is exempt from release to protect personal privacy, commercial confidentiality or matters that would prejudice law enforcement investigation. Accordingly, the Freedom of Information Officer is unable to skip steps in the FOI process or release information that is exempt to appease applicants and instead must follow the process outlined in the Act. However, all Council Officers are to show respect whilst dealing with the community. We encourage any member of the public to make a formal complaint if they feel their matter has not been handled correctly.

Question 2

Does Council agree that obfuscation born of endless 'process' is not conducive to the dissemination of information - the PRIMARY REASON the FOI Act was created?

Response

Again, Council manages Freedom of Information Request in line with the Act and the Professional Standards and therefore does not set the overlying process in which a request should be managed. Should you wish to see changes in the Act, this is legislation set by the State so we would encourage you to engage with the appropriate State body.

Question 3

The Act [Freedom of Information Act] allows considerable discretion to FOI Officers - so could more satisfactory outcomes be achieved if they heeded closely the words, the directives, of OVIC Commissioner Sven Bluemmel?

Response

Not only are Council's Freedom of Information Officers specifically trained in how to manage FOI requests by external providers, they also utilise resources provided by the Office of the Victorian Information Commissioner regularly when dealing with FOI requests.

Mr Gus Blaauw submitted written questions and responses are provided in these Minutes.

Question 1

In what individual newspapers does the council place a weekly paid advertisement?

Response

Council places a weekly noticeboard in the Sentinel Time, Foster Mirror and Mirboo North Times.

Question 2

What are the reasons for the placement of those weekly paid advertisements referred to in question no. 1?

Response

Collectively the papers provide good coverage of the South Gippsland region.

Question 3

What are the selection criteria related to each individual news paper selected by council to place a weekly paid advertisement?

Response

Selection is based on a variety of criteria in accordance with Council's Procurement Policy.

Mr Lindsay Love submitted written questions and responses are provided in these Minutes.

Question 1

Given Council has made much of supporting local businesses why is it that Council failed to notify the operator of the private child care centre in Brown St, Leongatha of the proposed “peppercorn” lease of the new Leongatha Children’s Centre?

Response

The proposed lease for the Leongatha Early Learning Centre was endorsed by Council at its meeting on 20 July 2022. As stated in the Council report:

- Community engagement was undertaken during the process and there was public notice given and submissions from the community were invited.
- One written submission was received objecting to the proposal. This submission draws attention to the need for Council to comply with the National Competition Policy (NCP) as the submitter believes rental rate is too low for this particular lease compared to the proposed rental rate “for profit” organisations.
- Council has completed a competitive neutrality assessment of this proposed lease, and also sought legal advice on this matter. It is deemed that Council is compliant with competitive neutrality policy principles.

Question 2

Why is it that the Council accounting system cannot provide consistent financial figures for the same asset as per the figures in the Council Minutes or to FOI requests? (This question arises due to a difference in figures as advised by Council in the Yanakie Caravan Park releases and (Council minutes (July 2020) and Expression of Interest to lease document and figures released under FOI for Karmai Payment No 8 where the 2 quoted figures differ by around \$20K.)

Response

I believe this question is regarding two issues.

1. Figures as advised by Council in the Yanakie Caravan Park releases and Expression of Interest to lease document.
2. FOI request regarding Karmai Payment No. 8.

Part 1:

Questions regarding the Expression of Interest for Caravan Parks are to be directed through CRE Brokers, which has a link on Council’s website.

The financials prepared for the Council report in July 2020 contain only the direct costs and revenues for the Caravan Parks and do not include any overhead costings. The information produced is for management and information purposes and is not designed to be relied on as a full financial report of operations.

Part 2:

Council complies with the *Victorian Freedom of Information Act 1982* in terms of handling freedom of information requests. As part of this process, submitters are supplied with the documents they are seeking access to, subject to some exemptions. Council provides a written response to the applicants regarding their requests and it would be inappropriate to discuss individual requests in this forum.

Question 3

On the basis that the Council part funded child care centres in Leongatha have a substantial cost advantage over the private centre, which would result in lower fees, how do Councillors avoid discriminating against those not lucky enough to gain access to the Council supported centres?

Response

As detailed in question 1, Council has completed a competitive neutrality assessment of the proposed lease, and also sought legal advice on this matter. It is deemed that Council is compliant with competitive neutrality policy principles.

Ms Jennifer McLeod-Blaauw submitted written questions and responses are provided in these Minutes.

Question 1

Vic Roads, DELWP, Gippsland Water, Victoria Police, Department Health, Aged Care, Bass Shire Council, and similar, don't place weekly paid advertisements in newspapers. Why does the South Gippsland Shire Council?

Response

It is one of the preferred ways for our customers to receive information from Council.

Question 2

For the Ratepayers what are the measurable benefits of these advertisements, calculated on a professional basis?

Response

A recent survey of over 2200 people in South Gippsland indicated that 33% of respondents use a local newspaper to receive information from Council.

Question 3

Why are the measurable benefits – if those are in existence – not made available as a matter of routine?

Response

It is intended that the results of the survey will be made public at a future date.

8. 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

9. MEETING CLOSED

NEXT MEETING

The next Council Meeting open to the public will be held on Wednesday, 21 September 2022 commencing at 2pm in the Council Chambers, Leongatha.

The Council Meeting closed at 3.02pm.

Confirmed this 21st day of September 2022

Councillor Mohya Davies, Mayor