



SPECIAL COUNCIL MEETING

AGENDA

9 NOVEMBER, 2016

at 4.30PM

COPACC

COLAC OTWAY SHIRE SPECIAL COUNCIL MEETING

9 NOVEMBER 2016

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COLAC OTWAY SHIRE SPECIAL COUNCIL MEETING

NOTICE is hereby given that the next **SPECIAL COUNCIL MEETING OF THE COLAC OTWAY SHIRE COUNCIL** will be held in COPACC on 9 November 2016 at 4.30pm.

AGENDA

1. OPENING OF MEETING

OPENING PRAYER

Almighty God, we seek your blessing and guidance in our deliberations on behalf of the people of the Colac Otway Shire. Enable this Council's decisions to be those that contribute to the true welfare and betterment of our community.

AMEN

2. PRESENT

3. APOLOGIES

4. MAYORAL STATEMENT

Colac Otway Shire acknowledges the original custodians and law makers of this land, their elders past and present and welcomes any descendants here today.

I ask that we all show respect to each other and respect for the office of an elected representative.

All Council and Committee meetings are audio recorded, with the exception of matters identified as confidential items in the Agenda. This includes the public participation sections of the meetings.

Audio recordings of meetings are taken to facilitate the preparation of the minutes of open Council and Committee meetings and to ensure their accuracy.

In some circumstances a recording will be disclosed to a third party. Those circumstances include, but are not limited to, circumstances, such as where Council is compelled to disclose an audio recording because it is required by law, such as the Freedom of Information Act 1982, or by court order, warrant, or subpoena or to assist in an investigation undertaken by the Ombudsman or the Independent Broad-based Anti-corruption Commission.

Council will not use or disclose the recordings for any other purpose. It is an offence to make an unauthorised recording of the meeting.

The sole purpose of the Special Meeting is to consider submissions for the COPACC Cinema Lease.

5. QUESTION TIME

Thank you. At every Special Meeting, a public question time not exceeding 30 minutes will be held to enable any member of the public to question Council but only on items included in the Agenda of that Special Meeting.

Please remember, you must ask a question. If you do not ask a question you will be asked to sit down and the next person will be invited to ask a question.

1. Questions received in writing prior to the meeting (subject to attendance and time).
2. Questions from the floor.

6. DECLARATION OF INTEREST

SPECIAL COUNCIL MEETING
COPACC CINEMA LEASE CONSIDERATION OF SUBMISSIONS
SC160911-1

LOCATION / ADDRESS	COPACC, Colac	GENERAL MANAGER	Ingrid Bishop
OFFICER	Ian Suren	DEPARTMENT	Infrastructure and Leisure Services
TRIM FILE	11/96014	CONFIDENTIAL	No
ATTACHMENTS	Nil		
PURPOSE	The purpose of this report is to hear submissions under Section 223 of the <i>Local Government Act 1989</i> in relation to Council's intention to lease COPACC cinema services to Showbiz Group Pty Ltd as resolved by Council (In Committee) at its meeting of 24 August 2016.		

1. EXECUTIVE SUMMARY

Prior to making a decision in relation to this matter Council must hear any persons requesting to be heard in accordance with Section 223 of the *Local Government Act 1989*.

Based on the submissions received, a further report will be presented to Council with recommendations in relation to the lease of cinema services.

2. RECOMMENDATION

Recommendation

That Council:

- 1. Notes and receives written and verbal submissions in accordance with Section 223 of the Local Government Act 1989 in relation to the proposed lease of COPACC cinema services.**
- 2. Notes that a further report be provided to Council at the November 2016 Ordinary Council meeting to consider the lease for COPACC cinema services.**

3. KEY INFORMATION / BACKGROUND

Since the development of COPACC in 2000, cinema services have been provided by a private operator through a lease agreement. The existing lease with Bonniemike Pty Ltd expires 30 November 2016.

Council called for Expressions of Interest for the future provision of cinema services at COPACC. Council considered all Expressions of Interest at its August 2016 meeting (In-Committee), and resolved to endorse Showbiz Group Pty Ltd as the preferred proponent for the provision of cinema services at COPACC. The report was considered In-Committee due to the commercial in confidence material included. In accordance with sections 190 and 223 of the Local Government Act 1989, Council resolved to release the relevant information and give public notice of the intention to enter into a lease with Showbiz Group for a period of six weeks from 26 August until 7 October 2016 by placing information in the Colac Herald and on Council's website.

Council received eleven written submissions in relation to the proposed lease.

4. COMMUNITY CONSULTATION AND ENGAGEMENT

The community engagement strategy follows the recommendations of the Colac Otway Shire Council Community Engagement Policy of July 2013, which details five levels of engagement – inform, consult, involve, collaborate and empower.

Council gave public notice of the proposed lease in accordance with sections 190 and 223 of the *Local Government Act 1989* for a period of six weeks from 26 August 2016 until 7 October 2016. Eleven written submissions were received, with one submission received late due to illness.

An overview of the submissions and discussion to the key points is provided in the following table:

Submission	Key Points	Discussion
A	<ol style="list-style-type: none">1. The service has worked well for a long time and suggest continue as is.2. Believes most people would prefer films to be shown every day.3. Difficult to find someone as good as cinema manager, don't lose her.	<ol style="list-style-type: none">1. The provision of cinema services may have met community needs from a cinema perspective. However, the current arrangement has severely impeded the community's access to the Auditorium for a range of activities such as the COPACC season programme, school concerts, dance school performances, amateur theatre productions etc.2. Whilst flexibility for the community is important, data indicates that cinema attendance mid-week during school terms is extremely low. The benefits to the community by increasing access to the Auditorium is considered to outweigh offering under subscribed cinema 7 days per week during school terms.3. This is not able to be considered

Submission	Key Points	Discussion
		by Council and is a decision for the new lessee who has indicated a willingness to employ existing staff.
B	<ol style="list-style-type: none"> 1. Support live arts program and recognise it needs a dedicated theatre. 2. If services reduced or costs increase, may mean further withdrawal of patrons. People will start going to Geelong. 3. Perhaps the selection of films will be less diverse. 4. Suggest a second small cinema be built onto COPACC so the Auditorium could be exclusively used for live theatre. 	<ol style="list-style-type: none"> 1. Access to the Auditorium for live performances and community productions is extremely important. Current access is very limited. The new lease arrangements will allow an increase of the performing arts offering. 2. Current use of the cinema mid-week during school terms is low, sometimes sessions are empty. 3. The new proponent is committed to programming a broad selection of film genres and day and date release films, which is its practise at its other regional Victoria venues. 4. An additional cinema would be beneficial however this would be an expensive option and there is currently no available budget for a second dedicated cinema.
C	<ol style="list-style-type: none"> 1. Already limited to the number of movies that can be screened per week. If cinema was to operate only two days per week, this would mean more limitations on movie availability. 2. Colac Cinemas provides employment for local residents, a reduction in days would result in loss of employment. 3. If system in place is working well, why change it? 	<ol style="list-style-type: none"> 1. Cinema will be provided a <u>minimum</u> of 5 days per week during school terms and 7 days per week during school holidays and weeks with public holidays. Cinema service will continue to offer new release movies. 2. Council cannot comment on how the new proponent will structure their team however Showbiz Group has indicated a willingness to employ existing staff. 3. The current system in place does not work well. The proposed model provides much greater opportunity for our community to access COPACC for a range of activities such as the COPACC season programme, school concerts, dance school performances, amateur theatre productions, conferencing and events etc.
D	<ol style="list-style-type: none"> 1. Believe it's important for the community arts centre to remain available and accessible to community groups such as The Players. Current lease forces community bookings to be in October and May, meaning community groups are often in opposition with each other and 	<ol style="list-style-type: none"> 1. Agreed. The proposed model allows greater opportunity and flexibility for community use of the Auditorium. Also provides an opportunity to improve access across the year, rather than having all productions in condensed blocks of time. 2. The new lease will still provide

Submission	Key Points	Discussion
	<p>professional programming. Spreading out community bookings and professional shows would be beneficial.</p> <p>2. Crucial that can still hire out venue for week-long bookings.</p> <p>3. Welcome changes to the ticket booking system including online ticketing. Would prefer that they could sell own tickets which would alleviate some of the costs. Ticket fees must remain reasonable.</p> <p>4. Reduced box office hours could limit the ability to sell tickets to performances.</p> <p>5. Would be useful to collect customer information when purchasing tickets for market research purpose.</p>	<p>an opportunity to hire the venue out for week-long bookings.</p> <p>3. Online ticketing will be implemented immediately. The previous lessee was required to provide online ticketing but failed to offer this service. Some theatres in Victoria are now selling approximately 60% of tickets online. It is considered important that all ticket sales are coordinated through one professional ticketing system. Ticketing fees are proposed to remain similar to current fees.</p> <p>4. The availability of online ticketing 24 hr/seven days per week will counteract reduced box office hours. Current box office hours greatly exceed many other regional venues – including GPAC in Geelong.</p> <p>5. A new ticketing system will provide the opportunity to capture customer information. It is a requirement of the lease that the lessee will need to ensure the capture of this data which will be extremely beneficial for customer relationship management.</p>
E	<p>1. Proposed rent was higher than that submitted by Showbiz Group. Are willing to adjust and increase previous offer to \$120,000 p/a (inc GST).</p> <p>2. Financial capacity – have demonstrated financial capacity through operating the cinema for the past 10 years.</p> <p>3. Have a good group of employees and use local suppliers where possible. Determined to use local staff when first took over the lease. Staff go above and beyond.</p> <p>4. Show latest films on demand covering all patrons' needs.</p> <p>5. Council and community access – have allowed for additional access specifically during the second half of February, all of May, all of October and the first half of November. Flexible and can provide additional days through advanced planning.</p> <p>6. Currently offer local films, 'art house' films and extensive fundraising</p>	<p>1. Showbiz Group's offer provides Council with additional financial and social benefits in addition to market rent. Modelling from Showbiz Group does not include potential community hires, touring products, corporate or Twilight events/COS collaborative events or symposiums or summits which will generate significant income when done in partnership with Council.</p> <p>2. Noted. Bonniemike have not provided Council with a Bank Guarantee for a number of years as well as refusing to pay for costs associated with replacement of carpet, CPI increases for rent, outgoings etc. Council has incurred legal costs in excess of \$75,000 in the past 5 years due to issues associated with the tenant.</p> <p>3. The new proponent has indicated a willingness to employ existing staff.</p> <p>4. The proposed tenant will continue to offer new release movies</p>

Submission	Key Points	Discussion
	<p>events for the community.</p> <p>7. Will continue to provide additional services as see fit, including continued commitment to implementing the latest online ticket system as soon as possible.</p> <p>8. No disruption to services if lease extended.</p> <p>9. Conscious decision to provide a 7 day a week service to meet community demand. Believe reverting to a 5 day per week service is a backward step.</p> <p>10. Propose a monthly meeting with COPACC.</p> <p>11. Would be happy to include a clause to have the carpet and the seats cleaned bi-annually to ensure the best upkeep for the facility.</p> <p>12. Disappointed with the lack of correspondence received. Note that the contract was awarded on 10 August 2016 however were notified on 25 August 2016.</p>	<p>which meet community demands.</p> <p>5. This did not meet the key terms as stated in the Expression of Interest document. Council requires a greater spread of access across the year to benefit community and commercial hirers and COPACC’s season programme. In its response to the EoI, which called for increased access, Bonniemike proposed a reduced number of days access to the auditorium in November when COPACC is usually fully booked with school and dance school performances. Experience to date has demonstrated an inability to negotiate or be flexible with Council during its tenure. This is demonstrated by high hire-back costs, COPACC surrendering days for event bookings and programming being declined.</p> <p>6. The proposed tenant has indicated it can offer improved programming in terms of latest release film offerings and community fundraising events.</p> <p>7. An online ticketing system was a requirement under the existing lease. This was never implemented.</p> <p>8. Noted.</p> <p>9. A 5 day per week service during school terms provides significantly greater opportunities for our community to access the Auditorium for performing arts activities. Some current sessions are empty. Data indicates that 5 days per week is not insufficient or inadequate.</p> <p>10. Noted. The proposed tenant also agrees to regular meetings with Council.</p> <p>11. Noted. The proposed tenant also agrees to cleaning seats and carpets bi-annually.</p> <p>12. This is incorrect. Council considered the EoI’s at its Ordinary Council meeting on 24 August 2016. The lessee was informed the next day. Every attempt was made to inform the lessee at the earliest opportunity even though they were overseas. Council officers met with the Cinema Manager on 25 August</p>

Submission	Key Points	Discussion
		2016 and spoke with the lessee via phone on 26 August 2016 following a series of text messages on 25 August 2016. Communication has been regular and ongoing.
F	<p>1. As an older member of the Colac community, often attends film with friends. Due to age, doesn't venture out after dark. Very concerned that if viewing times are reduced that will not be able to attend cinema in Colac.</p>	<p>1. Under the proposed lease, movies will continue to screen during day time hours and include recently released movies. The proposed model also provides much greater opportunity for events such as the 'Morning Music' program which is held during day time hours and very well attended by seniors/retirees in our community.</p>
G	<p>1. Strongly object to cinema being reduced from 7 days to 5 days per week. Definitely need movies presented 7 days per week. Numerous times because of illness, appointments etc. that 7 days per week is needed and appreciated.</p> <p>2. Thought Colac was being promoted as a progressive society however believes a 5 day per week model is a foolish decision.</p> <p>3. Current provision top quality service and movies.</p> <p>4. No complaints about present service – friendly, helpful, clean etc.</p>	<p>1. Noted. Data indicates that cinema attendance mid-week during school terms is low.</p> <p>2. In addition to cinema, an active, accessible performing arts centre is considered an important facility/service in terms of social connectedness, community wellbeing, population attraction and retention.</p> <p>3. The proposed proponent has a strong track record of providing excellent customer service. This was confirmed in reference checks. The new proponent believes it can offer improved programming of new release movies.</p> <p>4. Customer Service levels are not to Council's standard. An example of this is Council's inability to provide after sales service and contact ticket holders when there is a cancellation or change to an event which can cause severe inconvenience to customers travelling to and from Colac. As a minimum Council expects quality service from the proposed proponent. Council has received customer complaints regarding service levels and has raised these with the current tenant.</p>
H	<p>1. Current operators should retain the lease. They provide a good service to their Colac customers 7 days a week. I understand there are issues with the cinemas also needing to service the live shows, but feel that there should be a workable arrangement possibly</p>	<p>1. It is considered that the 5 day per week during school terms and 7 days per week during school holidays provides a workable arrangement and significant opportunities for COPACC and the community. Data indicates that cinema attendance mid-week during</p>

Submission	Key Points	Discussion
	<p>negotiated with the current operators rather than a total severance and a lesser service from new operators.</p>	<p>school terms is low and some sessions are empty.</p>
I	<ol style="list-style-type: none"> 1. Continue with the lease as is. Important for those that go to the movies that they can choose any day, not just the 5 days the new lease may decide on. People will go less often as they will be unsure what day the cinema is available. 2. Believes there will be less choice of movies. 3. Community groups are unlikely to want to use the venue on the additional days it will be available (eg: Monday and Tuesdays). 4. Community groups find the cost of hiring the venue too expensive; with the Colac Players find it cheaper to use Red Rock Gallery. The Secondary Schools now have their own venues to use. 	<ol style="list-style-type: none"> 1. It is important to balance the needs for cinema with the needs for accessing the Auditorium for performing arts. Data indicates demand for midweek cinema during school term time is low. 2. The choice of movies will remain the same as the current provision. 3. Feedback from community hirers is that they will welcome the opportunity to access the Auditorium mid-week during school terms for rehearsals and performances. 4. COPACC's Auditorium has a significantly greater seating capacity than other venues (eg: Red Rock, Colac Secondary College venue) and community groups welcome the opportunity to utilise the facility. Council assists community hirers with the cost of hiring through the annual COPACC Assistance Fund. The Colac Secondary College is extremely keen to use the Auditorium for their end of year awards ceremony however this hasn't been achievable previously due to current lease arrangement. COPACC currently has to turn away schools and community groups, and limit access in the face of growing demand.
J	<ol style="list-style-type: none"> 1. No advantage to the residents of Colac or the surrounding shire with the new arrangement. Difficult to find time to attend movies, it will now become impossible. 2. Will existing advantages such as Gold Cards and pensioner discounts still be available? 3. What will be the outcome for members of this community that are currently employed at the cinema? Will outsiders be brought in? Why? 4. Will there be a reduction in hours as well? 	<ol style="list-style-type: none"> 1. There are significant advantages to the community by providing greater opportunities for our community to access the Auditorium for performing arts activities. 2. The proposed proponent will offer concession prices and other benefits such as a Cinema Loyalty Program, Early Bird Special and a Discount Day. 3. The proposed proponent has indicated their willingness to employ local staff and re-engage existing cinema staff subject to meeting requirements. It is important to clarify that the existing tenant is located from outside of the Colac Otway Shire.

Submission	Key Points	Discussion
		4. There will be no reduction in hours on the days that the cinema is operating.
K	1. Would like to clarify and discuss the opportunities and additional flexibility associated with the proposed 5-day cinema operation outside of school and public holidays (eg: greater community use of the auditorium and community group cinema bookings). 2. Are very keen to achieve a clean and immediate transition in the cinema operations.	1. The Showbiz Group proposal provides significant advantages to the community by providing greater opportunities for our community to access the Auditorium for performing arts activities. 2. Noted. This would be the best outcome for our community.

Council has previously been provided a copy of all of the submissions.

Four submitters have requested that they be heard in support of their written submission.

In accordance with section 223 of the Act, Council must consider any written submissions received in relation to the proposed lease. Council also provided at least seven days' notice by placing a public notice in the local print media of its intention to consider any submissions received at this Special Meeting of Council. Formal advice of the time and location of the meeting has been provided to those parties wishing to be heard in support of their submission.

5. DISCUSSION / ANALYSIS

ALIGNMENT TO COUNCIL PLAN OR COUNCIL POLICY

A Place to Live and Grow

Is a community where people feel cared for and supported; where buildings and spaces facilitate creativity, social activity and enrichment of life, and people have access to gain the skills and education needed to reach their potential.

Our Goal:

Improve access to buildings, spaces, services and education to support and enable quality of life.

A Healthy Community and Environment

Actively connects and includes people of all ages and backgrounds and promotes a healthy and vibrant community life in a clean, safe and sustainable environment.

Our Goal:

Respect cultural differences, support a diverse range of healthy and creative activities, foster community safety and promote environmental sustainability.

Other relevant strategic guidance

Council does not have an adopted strategy guiding the delivery of arts and cultural services however this is being addressed through the development of a draft Arts and Culture Strategy in 2016/17.

The process for considering and developing a new lease has been undertaken in accordance with the relevant sections of the *Local Government Act 1989* and Council's Procurement Policy.

LEGAL AND RISK IMPLICATIONS

The process for considering and developing a new lease has been undertaken in accordance with the relevant sections of the *Local Government Act 1989*.

There are no risk management issues associated with hearing and considering submissions. A further report will be presented to Council at the November 2016 Ordinary Council Meeting which will consider all risk issues associated with the lease for cinema services.

RESOURCE IMPLICATIONS

There are no financial implications associated with hearing and considering submissions. A further report will be presented to Council at the end of November.

6. IMPLEMENTATION STRATEGY

DETAILS

A further report will be presented to Council in November.

7. COMMUNICATION

All parties providing a submission will be advised of Council's resolution regarding the lease for cinema services.

8. CONCLUSION

In accordance with relevant sections of the Local Government Act, Council gave public notice of its intention to lease COPACC cinema services to Showbiz Group Pty Ltd. Eleven written submissions were received. Council must hear and consider any submitter(s) in relation to the proposed lease for cinema services.

A further report will be presented to Council with recommendations at the November 2016 Ordinary Council Meeting

9. OFFICER DIRECT OR INDIRECT INTEREST

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report