

1. 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

Cr Lyn Russell (Mayor)
Cr Brian Crook
Cr Michael Delahunty
Cr Stephen Hart
Cr Mick McCrickard
Cr Chris Smith
Cr Terry Woodcroft

Rob Small, Chief Executive Officer
Jack Green, General Manager Sustainable Planning and Development
Colin Hayman, General Manager Corporate & Community Services
Adam Lehmann, Acting General Manager Infrastructure & Service
Doug McNeill, Manager Planning & Building
Blaithin Butler, Statutory Planning Coordinator
Bron Keenan, Executive Officer Sustainable Planning & Development

3. APOLOGIES

Nil

4. MAYORAL STATEMENT

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

Colac Otway Shire encourages active community input and participation in Council decisions. Council meetings provide one of these opportunities as members of the community may ask questions to Council either verbally at the meeting or in writing.

Please note that some questions may not be able to be answered at the meeting, these questions will be taken on notice. Council meetings also enable Councillors to debate matters prior to decisions being taken.

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.

5. DECLARATION OF INTEREST

| | |
|----------------------------|---|
| Cr Michael Delahunty: | Use and Development of the Land for a Dwelling, and Associated Works including Site Cut at 240 Tuxion Road, Apollo Bay (PP240/2012-1) |
| Nature of Disclosure: | Indirect |
| Type of Indirect Interest: | Section 78B |
| Nature of Interest: | Produced BAL Report for Development |

6. VERBAL SUBMISSIONS FROM APPLICANTS/OBJECTORS

PC131211-3 Shelly Fanning – Applicant

7. CONFIRMATION OF MINUTES

- Planning Committee held on the 13/11/13.

Resolution

MOVED Cr Frank Buchanan seconded Cr Stephen Hart that Council confirm the above minutes.

CARRIED 7 : 0

OFFICERS' REPORTS

Sustainable Planning and Development

PC131112-1 PLANNING & BUILDING STATISTICAL REPORT
PC131112-2 PLANNING MEETINGS SCHEDULED FOR 2014
PC131112-3 USE AND DEVELOPMENT OF THE LAND FOR A DWELLING,
AND ASSOCIATED WORKS INCLUDING SITE CUT AT 240
TUXION ROAD, APOLLO BAY (PP240/2012-1).

Rob Small
Chief Executive Officer

PC131112-1 PLANNING & BUILDING STATISTICAL REPORT

| | | | |
|-------------|------------------------------------|-----------|------------|
| AUTHOR: | Tammy Kavanagh | ENDORSED: | Jack Green |
| DEPARTMENT: | Sustainable Planning & Development | FILE REF: | F11/2683 |

Recommendation(s)

That Council’s Planning Committee notes the statistical report for November 2013.

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**Resolution**

***MOVED Cr Brian Crook seconded Cr Michael Delahunty***

***That Council’s Planning Committee notes the statistical report for November 2013.***

***CARRIED 7 : 0***

**PC131112-2 PLANNING MEETINGS SCHEDULED FOR 2014**

|             |                                    |           |            |
|-------------|------------------------------------|-----------|------------|
| AUTHOR:     | Bronwyn Keenan                     | ENDORSED: | Jack Green |
| DEPARTMENT: | Sustainable Planning & Development | FILE REF: | F11/1530   |

**Recommendation(s)**

***That Council’s Planning Committee confirm the meeting dates, times and venues of 2014 Planning Committee meetings, if required, as:***

- ***15 January 2014 at 10.30am at COPACC, Colac (third Wednesday)***
- ***12 February 2014 at 10.30am at COPACC, Colac***
- ***12 March 2014 at 10.30am at COPACC, Colac***
- ***9 April 2014 at 10.30am at COPACC, Colac***
- ***14 May 2014 at 10.30am at COPACC, Colac***
- ***11 June 2014 at 10.30am at COPACC, Colac***
- ***9 July 2014 at 10.30am at COPACC, Colac***
- ***13 August 2014 at 10.30am at COPACC, Colac***
- ***10 September 2014 at 10.30am at COPACC, Colac***
- ***8 October 2014 at 10.30am at COPACC, Colac***
- ***12 November 2014 at 10.30am at COPACC, Colac***
- ***10 December 2014 at 10.30am at COPACC, Colac***

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Resolution

MOVED Cr Brian Crook seconded Cr Michael Delahunty

That Council’s Planning Committee confirm the meeting dates, times and venues of 2014 Planning Committee meetings, if required, as:

- ***15 January 2014 at 10.30am at COPACC, Colac (third Wednesday)***
- ***12 February 2014 at 10.30am at COPACC, Colac***
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- ***10 September 2014 at 10.30am at COPACC, Colac***
- ***8 October 2014 at 10.30am at COPACC, Colac***
- ***12 November 2014 at 10.30am at COPACC, Colac***
- ***10 December 2014 at 10.30am at COPACC, Colac***

CARRIED 7 : 0

PC131112-3 USE AND DEVELOPMENT OF THE LAND FOR A DWELLING, AND ASSOCIATED WORKS INCLUDING SITE CUT AT 240 TUXION ROAD, APOLLO BAY (PP240/2012-1).

| | | | |
|-------------|------------------------------------|-----------|------------|
| AUTHOR: | Ian Williams | ENDORSED: | Jack Green |
| DEPARTMENT: | Sustainable Planning & Development | FILE REF: | F12/9612 |

Recommendation(s)

That Council’s Planning Committee resolve to issue a Refusal to Grant a Planning Permit (PP240/2012-1) for the use and development of the land for a dwelling at 240 Tuxion Road, Apollo Bay on the following grounds:

- 1. The proposed development, due to its scale, design and prominence, does not accord with relevant State and local planning policies, which seek to ensure that development is of an appropriate scale, sensitively sited and designed, respects the coastal landscape character, maintains the visual qualities of the Great Ocean Road coastline, the natural beauty of the area and protects the Otway foothills as a scenic, undeveloped backdrop to Apollo Bay and Marengo. As such, the proposal is contrary to clauses 12.02-1, 12.02-2, 12.02-6, 12.04-2, 21.03-1, 21.03-3 and 65 of the Colac Otway Planning Scheme.***
- 2. The proposed development does not accord with the purpose and relevant decision guidelines of the Rural Conservation Zone, set out in Clause 35.06 and the Significant Landscape Overlay Schedule 3 of the Planning Scheme, given that:***
 - It has not been adequately demonstrated that the proposed dwelling and outbuilding would conserve and enhance the cultural significance and character of open rural and scenic non urban landscapes.***
 - The proposal would not minimise the adverse impacts of siting, design, height, bulk, and colours and materials.***
- 3. The proposed development does not accord with Council’s adopted Apollo Bay Structure Plan, which seeks to ensure that proposals make a positive contribution to realising a vision for the area whilst protecting the Otway foothills as a scenic, undeveloped backdrop to Apollo Bay.***
- 4. The proposed development, due to its scale and design, would not be recessive in the landscape or positively reflect the natural beauty of the surrounds and does not accord with the Great Ocean Road Region Landscape Assessment Study (GORRLAS - 2003) which identifies the landscape as nationally significant and acknowledges that rural-residential development can impact on the naturalness of the setting and detract from the significance of the foothills.***

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**Having declared a conflict of interest Cr Michael Delahunty left Council Chambers at 10.36 am**

|                            |                                                                                                                                       |
|----------------------------|---------------------------------------------------------------------------------------------------------------------------------------|
| Cr Michael Delahunty:      | Use and Development of the Land for a Dwelling, and Associated Works including Site Cut at 240 Tuxion Road, Apollo Bay (PP240/2012-1) |
| Nature of Disclosure:      | Indirect                                                                                                                              |
| Type of Indirect Interest: | Section 78B                                                                                                                           |
| Nature of Interest:        | Produced BAL Report for Development                                                                                                   |

**ALTERNATIVE MOTION - MOVED Cr Frank Buchanan seconded Cr Terry Woodcroft that:**

***That Council, having caused notice of planning application No. PP240/2012-1 to be given under Section 52 of the Planning and Environment Act 1987 and/or the Colac Otway Planning Scheme and having considered all the matters required under Section 60 of the Planning and Environment Act 1987, decides to issue a Notice of Decision to Grant a Planning Permit under the Colac Otway Planning Scheme in respect of the land known and described as Lot 1 TP:579556 commonly known as 240 Tuxion Road, Apollo Bay for the use and development of the land for a dwelling and associated works including site cut, subject to the following conditions:***

***Endorsed Plans***

- 1. The use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.***

***Construction***

- 2. The approved development must be carried out on the site in accordance with the recommendations of the Geotechnical Assessment dated 17 June 2013 by Saunders Consulting Group reference 34617-A-LRA or any Geotechnical Practitioner engaged to review those assessments submitted with the application.***
- 3. Within three months of completion of the buildings hereby permitted, or the completion of each building if they are not constructed concurrently, a Geotechnical Engineer engaged by the owner must inspect the site and confirm in writing to the Responsible Authority that the stability of the land under the conditions of its intended use is acceptable as defined in the Australian Geomechanics Society Landslide Risk Management Guidelines dated March 2000. In the event that the stability of the land is not acceptable, details of remedial measures (including a timeframe for the works) must be submitted to the Responsible Authority for approval within one month of the inspection by the Geotechnical Engineer. Any approved remedial works must be carried out in accordance the submitted details and within the agreed timeframe, to the satisfaction of the Responsible Authority.***

4. ***The roof and external walls of the dwelling and the outbuilding must be constructed of a non-reflective material which will effectively blend the development in with the natural colours of the surrounding landscape to the satisfaction of the Responsible Authority.***

#### **Access**

5. ***Prior to the commencement of use vehicular access from the roadway to the property boundary is to be constructed to the satisfaction of the Responsible Authority.***

#### **Drainage and Effluent**

##### **Stormwater**

6. ***All runoff from stormwater, including overflow from water storage, must be taken to a legal point of discharge to the satisfaction of the Responsible Authority.***
7. ***The site must be developed and managed to ensure there is no stormwater pollution through the contamination of run-off by chemicals, sediments, wastes or pollutants in accordance with Best Practice Environmental Management Guidelines for Stormwater Management and Construction Techniques for Sediment Pollution Control (EPA), at any time during construction or operation to the satisfaction of the Responsible Authority.***

##### **Land Capability Report**

8. ***Prior to commencement of the development a Land Capability Report must be submitted to and approved in writing by the Responsible Authority. The Land Capability Report must adequately demonstrate that the location of the proposed effluent field complies with EPA guidelines which require effluent disposal fields to be at least 60 metres distant from a water course in the case of a primary treatment plant and at least 30 metres distant in the case of a septic system producing a 20ppm dissolved solids 300 ppm BOD.***

#### **Use of Shed**

9. ***The shed hereby permitted must not be used at any time for the purposes of human habitation.***

#### **Land Management and Landscaping**

##### **Land Management Plan**

10. ***Prior to commencement of the development hereby permitted, a Land Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plan must be to scale and with dimensions and three copies must be provided. When approved, the plan will be endorsed and will then form part of the permit. The plan must include (but not be limited to):***
  - a) ***Site plan;***
  - b) ***Site description;***
  - c) ***List of the objectives for the property;***



- d) *A description of native plant and animals on site and in the area;*
- e) *A description of the site outside the native vegetation areas;*
- f) *Wildfire Management;*
- g) *Identification of Land Management Issues;*
- h) *Goal setting and specification of actions and implementation and monitoring of the identified actions.*

*The management of the land and the activities on the site must be conducted in accordance with the endorsed plan at all times to the satisfaction of the Responsible Authority.*

#### **Section 173 Agreement**

**11. Prior to the commencement of the development, the owner of the land must enter into an agreement under Section 173 of the Planning and Environment Act 1987 with the Responsible Authority. The agreement must be in a form to the satisfaction of the Responsible Authority, and the applicant must be responsible for the expense of the preparation and registration of the agreement, including the Responsible Authority's reasonable costs and expense (including legal expenses) incidental to the preparation, registration and enforcement of the agreement, and of any future amendment to the Agreement. The agreement must contain covenants to be registered on the Title of the property so as to run with the land, and must provide for the following:**

- a) *The land must be managed in accordance with the Land Management Plan endorsed as part of planning permit PP240/2012-1 to the satisfaction of the Responsible Authority.*

*The agreement will be registered on Title in accordance with Section 181 of the Planning and Environment Act 1987.*

#### **Landscape Plan**

**12. Prior to commencement of the development hereby permitted, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The landscaping plan must be generally in accordance with the landscape concept plan shown on Sheet 1 of 11, Rev. A dated 31/5/13 prepared by Kris Thomas Building Design, except that the plan must show:**

- (a) *a survey (including botanical names) of all existing vegetation to be retained and/or removed.*
- (b) *details of surface finishes of pathways and driveways.*
- (c) *a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, sizes at maturity, and quantities of each plant.*
- (d) *landscaping and planting along the boundary to Tuxion Road and within the site.*
- (e) *staging of the landscaping to address screening of the built development and land management requirements.*

*All species selected must be to the satisfaction of the Responsible Authority.*

13. *The landscaping works shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority in accordance with the approved staging plan and must be thereafter maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.*

**Protection of Native Vegetation**

14. *Unless otherwise approved in writing by the Responsible Authority, no trenching, soil excavation, storage or dumping of equipment or waste is to occur within areas of existing native vegetation on the site.*

**CFA conditions**

**Defendable Space**

15. *Before the occupation of the dwelling and shed starts, and at all times thereafter, vegetation on the land must be maintained to at least the following standard:*
- *Inner Zone – extending from the dwelling, 19 metres to the North and East, 56 metres to the South, and 23 metres to the West (or to the property boundary whichever is the lesser distance)*
  - *Inner Zone – extending from the shed, 19 metres to the North and East, 73 metres to the South, and 32 metres to the West (or to the property boundary – whichever is the lesser distance)*
    - a) *Within 10 metres of a building, flammable objects such as plants, mulches and fences must not be located close to vulnerable parts of the dwelling and shed such as windows, decks and eaves.*
    - b) *Trees must not overhang the roofline of the dwelling and shed, touch walls or other elements of a building.*
    - c) *Grass must be no more than 5 centimetres in height and all leaves and vegetation debris are to be removed at regular intervals.*
    - d) *Shrubs must not be planted under trees and separated by at least 1.5 times their mature height.*
    - e) *Plants greater than 10 centimetres in height at maturity must not be placed directly in front of a window or other glass feature.*
    - f) *Tree canopy separation of 2 metres and the overall canopy cover of no more than 15 per cent at maturity.*
    - g) *Tree branches below 2 metres from ground level must be removed.*

- ***Outer Zone – extending from the perimeter of the inner zone for the dwelling, 9 metres to the East and 28 metres to the South (or to the property boundary whichever is the lesser distance)***
- ***Outer Zone – extending from the perimeter of the inner zone for the shed, 9 metres to the East and 24 metres to the South (or to the property boundary – whichever is the lesser distance)***
  - a) ***Grass must be no more than 10 centimetres in height and leaf and other debris mowed, slashed or mulched.***
  - b) ***Shrubs and/or trees must not form a continuous canopy with unmanaged fuels.***
  - c) ***Tree branches below 2 metres from ground level must be removed.***
  - d) ***Trees may touch each other with an overall tree canopy cover of no more than 30 per cent at maturity.***
  - e) ***Shrubs must be in clumps of no greater than 10 square metres, which are separated from each other by at least 10 metres.***

#### **Construction**

16. ***A site assessment for the purpose of determining the bushfire attack level for the site has been considered as part of the application for the planning permit. The construction of the dwelling must be to a bushfire attack level of BAL-19 on the South and West faces, and BAL-12.5 North and East faces in accordance with the relevant sections to AS3959-2009.***

***The construction of the shed must be to a bushfire attack level of BAL-12.5 in accordance with the relevant sections to AS3959-2009.***

#### **Static Water Supply**

17. ***Prior to the initial occupation of the dwelling and shed, a static water supply must be provided at each structure and must meet all of the following requirements:***
- a) ***Each water supply must have a minimum capacity of 10,000 litres that is maintained solely for fire fighting purposes.***
  - b) ***The water supply must be stored in an above ground water tank constructed of concrete, steel or corrugated iron.***
  - c) ***The water supply must be located within 60 metres of the outer edge of the dwelling and shed (including any obstructions).***
  - d) ***The water supply outlet/s must be attached to the water tank and must face away from the building if located less than 20 metres from the building to enable access during emergencies.***
  - e) ***All pipework between the water supply and the outlet/s must be a minimum of 64mm nominal bore.***

- f) **All fixed above-ground water pipelines and fittings must be of non-corrodible and non-combustible materials.**
- g) **The water supply must:**
- i. Be located so that fire brigade vehicles are able to get to within 4 metres of the water supply outlet.**
  - ii. Incorporate an additional 64 mm (minimum) gate or ball valve and 64mm (fixed size), 3 threads per inch, male fitting to suit a CFA coupling.**
  - iii. Incorporate a vortex inhibitor or additional water must be provided to ensure that the volume of water available is not restricted by a vortex. Refer to Section 5 of AS.2419 for requirements for vortex inhibitors.**
  - iv. Incorporate an additional ball or gate valve to provide access to the water by the resident of the dwelling.**
- h) **The water supply outlet must not be obstructed by vegetation, buildings, fences or other structures.**
- i) **All below-ground water pipelines must be installed to at least the following depths:**
- i. Subject to vehicle traffic: 300mm**
  - ii. Under dwellings or concrete slabs: 75mm**
  - iii. All other locations: 225mm**
- j) **The water supply must be readily identifiable from the building or appropriate signage must be provided which:**
- i. Has an arrow pointing to the location of the water supply.**
  - ii. Has dimensions of not less than 310mm high and 400mm long.**
  - iii. Is red in colour, with a blue reflective marker attached.**
  - iv. Is labelled with a 'W' that is not less than 15cm high and 3cm thick.**

### **Access**

18. **Before the occupation of the dwelling and shed starts, access to the static water supply outlet and the dwelling and shed must be provided and must be designed to allow emergency vehicle access. The design of the access (including gates, bridges and culverts) must comply with the following minimum requirements:**
- a) Curves in driveway must have a minimum inner radius of 10 metres.**
  - b) The average grade must be no more than 1 in 7 (14.4 per cent) (8.1 degrees) with a maximum of no more than 1 in 5 (20 per cent) (11.3 degrees) for no more than 50 metres.**
  - c) Dips must have no more than a 1 in 8 (12.5 per cent) (7.1 degrees) entry and exit angle.**

- d) ***Designed, constructed and maintained for a load limit of at least 15 tonnes and be of all-weather construction.***
- e) ***Have a minimum trafficable width of 3.5 metres and be substantially clear of encroachments for at least 0.5 metres on each side.***
- f) ***Be clear of encroachments at least 4 metres vertically.***
- g) ***Incorporate a turning area for fire fighting vehicles close to the building must be provided, by either:***
  - i. A turning circle with a minimum radius of eight metres; or***
  - ii. The driveway encircling the dwelling; or***
  - iii. A T head or Y head with a minimum formed surface of each leg being eight metres in length measured from the centre point of the head, and four metres trafficable width.***

**Mandatory Condition – Maintenance of bushfire mitigation measures**

19. ***The bushfire mitigation measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defendable space, water supply, and access, must be maintained to the satisfaction of the responsible authority and the relevant fire authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.***

***Expiry***

20. ***This permit will expire if one of the following circumstances applies:***
- a) ***The development has not commenced within two years of the date of this permit.***
  - b) ***The development is not completed and the use has not commenced within four years of the date of this permit.***

***The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six (6) months afterwards, or if the request for the extension of time is made within 12 months after the permit expires and the development started lawfully before the permit expired.***

***Notes***

1. ***An application to undertake works within the road reserve must be submitted to and approved by the Council.***
2. ***This permit does not authorise the commencement of any building construction works. Prior to commencement of the development, it will be necessary to apply for and obtain any required building approval.***
3. ***A separate application to install an all waste septic tank system must be submitted to and approved by Council's Environmental Health Department prior to the commencement of works.***

**VOTE 3:3**

**The MOTION upon being PUT to the meeting was declared LOST on the casting vote of the Mayor.**

**LOST 3:4**

**DIVISION called by Cr Frank Buchanan**

**For the Motion: Cr Frank Buchanan, Cr Chris Smith, Cr Terry Woodcroft  
Against the Motion: Cr Stephen Hart, Cr Brian Crook, Cr Lyn Russell**

**Resolution**

**MOVED Cr Stephen Hart seconded Cr Brian Crook**

**That Council's Planning Committee resolve to issue a Refusal to Grant a Planning Permit (PP240/2012-1) for the use and development of the land for a dwelling at 240 Tuxion Road, Apollo Bay on the following grounds:**

- 1. The proposed development, due to its scale, design and prominence, does not accord with relevant State and local planning policies, which seek to ensure that development is of an appropriate scale, sensitively sited and designed, respects the coastal landscape character, maintains the visual qualities of the Great Ocean Road coastline, the natural beauty of the area and protects the Otway foothills as a scenic, undeveloped backdrop to Apollo Bay and Marengo. As such, the proposal is contrary to clauses 12.02-1, 12.02-2, 12.02-6, 12.04-2, 21.03-1, 21.03-3 and 65 of the Colac Otway Planning Scheme.**
- 2. The proposed development does not accord with the purpose and relevant decision guidelines of the Rural Conservation Zone, set out in Clause 35.06 and the Significant Landscape Overlay Schedule 3 of the Planning Scheme, given that:**
  - It has not been adequately demonstrated that the proposed dwelling and outbuilding would conserve and enhance the cultural significance and character of open rural and scenic non urban landscapes.**
  - The proposal would not minimise the adverse impacts of siting, design, height, bulk, and colours and materials.**
- 3. The proposed development does not accord with Council's adopted Apollo Bay Structure Plan, which seeks to ensure that proposals make a positive contribution to realising a vision for the area whilst protecting the Otway foothills as a scenic, undeveloped backdrop to Apollo Bay.**
- 4. The proposed development, due to its scale and design, would not be recessive in the landscape or positively reflect the natural beauty of the surrounds and does not accord with the Great Ocean Road Region Landscape Assessment Study (GORRLAS - 2003) which identifies the landscape as nationally significant and acknowledges that rural-residential development can impact on the naturalness of the setting and detract from the significance of the foothills.**

**VOTE 3:3**

***The MOTION upon being PUT to the meeting was declared CARRIED on the casting vote of the Mayor.***

**CARRIED 4:3**

***DIVISION called by Cr Frank Buchanan***

***For the Motion: Cr Stephen Hart, Cr Brian Crook, Cr Lyn Russell***

***Against the Motion: Cr Frank Buchanan, Cr Chris Smith, Cr Terry Woodcroft***

***Cr Chris Smith left the Council Chambers at 11.27am prior to the meeting being adjourned.***

***Cr Michael Delahunty returned to the Council Chambers at 11.28am.***