

MINUTES of the *ORDINARY COUNCIL MEETING OF THE COLAC-OTWAY SHIRE COUNCIL* held at the COPACC Meeting Rooms on 23 July 2014 at 4.00pm.

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 Frank Buchanan
Cr Chris Smith
Cr Terry Woodcroft

Phil Corluka, Acting Chief Executive Officer
Carmen Lawrence, Acting General Manager, Corporate & Community Services
Paula Gardiner, Acting General Manager, Infrastructure & Services
Jack Green, General Manager, Sustainable Planning & Development
Rhonda Deigan, Executive Officer

3. APOLOGIES

Colin Hayman

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.

Colac Otway Shire encourages community input and participation in Council decisions. Council meetings provide an opportunity for the community to ask Council questions, either verbally at the meeting or in writing.

Please note that Council may not be able to answer some questions at the meeting. These will be answered later.

Council meetings enable Councillors to debate matters prior to decisions being made. I ask that we all behave in a courteous manner.

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.

Thank you. Now 30 minutes is allowed for question time. 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. This is not a forum for public debate or statements.

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

5. QUESTION TIME

Tabling of documents

Yvonne Francis - Question taken on notice – 25 June 2014 Ordinary Council Meeting

1. Why are footpaths poorly addressed by the Colac Otway Shire in the township of Apollo Bay? Why do we have to walk on muddy grass or the road? Why are the rates in Apollo Bay as high as in Melbourne when we don't have lovely facilities such as this COPACC centre?

Response:

The General Manager for Infrastructure and Services advised that the Apollo Bay Footpath Strategy was submitted to Council for adoption two months ago and as part of that strategy several different categories of footpaths were identified. The specific classification for Montrose Avenue would require further investigation and was taken on notice.

The further response to that question is as follows:

Within the Apollo Bay Commuter Footpath Strategy (strategy), which was adopted at Council's April 2014 Ordinary Council Meeting, Montrose Avenue, between Pascoe Street and McLachlan Street is identified as a local network footpath. The strategy proposes to position the footpath on the south side of Montrose Avenue.

In line with the strategy, both secondary and local network footpaths have the potential to be co-funded via a special charge scheme, which is where adjoining property owners that receive a special benefit by the construction of a footpath contribute to the cost of construction.

While the section of local footpath along Montrose Avenue is not identified for construction in the 2014/15 Footpath Improvement Program, it is identified within Council's forward plans. This section of footpath is identified as a high local network priority, however unless significant property owner support for a special charge scheme was evident it is unlikely the footpath would be identified on a construction program within the next five (5) years.

Alan Billing - Question taken on notice – 25 June 2014 Ordinary Council Meeting

1. With reference to the 150 year anniversary of local government in this area, which was achieved on 10 May this year, why did the Colac Otway Shire ignore such a significant event?

Response:

Council has no record of any notification advising of the 150 year anniversary of the Shire of Colac or requesting that Council mark the event in any way. The Colac Otway Shire did not set out to intentionally ignore the milestone.

Don Anderson - Question taken on notice – 25 June 2014 Ordinary Council Meeting

1. I have written to each Councillor asking the same question, why have I only received a response to that question from the Mayor and not from each of the Councillors?

Response

The Mayor advised that the answer had been provided on behalf of all Councillors. The General Manager Corporate and Community Services advised that the question had been received and answered in accordance with Council's Local Law no. 4.

Cr Smith asked why each Councillor had not received a copy of the letter from Mr Anderson.

The Mayor undertook to follow the matter up.

The further response to that question is as follows::

The envelopes containing the letters addressed to Councillors had been attached to one Councillor's letter and placed in his pigeon-hole. When the letters were discovered the day after the Council meeting, they were placed in Councillors' pigeon holes as addressed.

The question, which was submitted as a question in writing to be answered at the 25 June 2014 Council meeting, was answered in accordance with Local Law No 4. in that the question was read aloud and the answer provided by the chairperson.

2. Please explain why so much money was spent on the playground at the Alvie Recreation Reserve when it was located behind the goal posts making it unsafe for children to use during football matches?

Response:

The General Manager for Corporate & Community Services advised that the funds had been provided by the State Government and that in response to a request from the Alvie community, Council had decided to use the funds for that purpose. The question relating to the location of the playground would need to be taken on notice.

The further response to that question is as follows:

Council allocated \$80,000 through the Local Government Infrastructure Program for the Alvie Playground Development Project. The need for the installation of a new playground facility, including shelter, BBQ and picnic furniture at Alvie was identified as a priority by former Councillor Mick McCrickard.

The closest playground facility (Red Rock) has limited play value and is nearing the end of its useful life. Playground equipment needs to be maintained to a safe condition, meet current Australian Standards and satisfy the demands of the Alvie community.

This project addressed issues around identified community need by filling a gap in the local provision of playground facilities for Alvie. The Alvie playground is classified as a neighbourhood playground under the Colac Otway Shire playground hierarchy, however the existing facilities at Red Rock fall short of meeting the neighbourhood hierarchy criteria in several areas including:

- **diversity of play**
- **provision for a range of ages**
- **originality.**

Community consultation was undertaken which involved representatives from the Alvie Recreation Reserve (ARR) CoM, Alvie Football Netball Club (AFNC), Alvie Cricket Club, Red Rock Progress Association (Chris and Helene Bell) and the two local primary schools (Alvie Consolidated School and St Brendan's Primary School). It was agreed that the designated location of the playground was the most suitable option, providing access for regular user groups of the reserve and being visible for locals and other communities to access the facility.

It was also identified on the ARR Master Plan that was developed some 7+ years ago.

The ARR and AFNC have identified that they will consider implementation of a VCFL screen/netting to prevent possible footballs landing in the playground area.

The purpose and aim of this project was to allow all members of the community to access a new playground and picnic facilities that provide a range of physical and social benefits. The playground was designed to support inclusion and participation. The playground provides a range of choices in the type of activities that interest children and cater for a range of ages and developmental stages and provides opportunities for people to meet and play

together in a comfortable physical environment that offers risk and challenges as well as a reasonable degree of safety. Shelter, BBQ and picnic furniture infrastructure installation is expected to be completed by the end of July 2014 that will further encourage social interaction and benefits to locals and visitors to the region.

Bill Brown - Question taken on notice – 25 June 2014 Ordinary Council Meeting

1. Why have I not received a copy of Council budgets for the 2011, 2012 and 2013 financial years as previously requested by me?

Response:

The Mayor advised that she would follow up the request.

The further response to that question is as follows:

The budgets have now been sent to Mr Brown.

Rebecca Lane - Question taken on notice – 25 June 2014 Ordinary Council Meeting

1. Who were the Councillors who voted on the Rating Strategy?

Response:

The General Manager for Corporate and Community Services advised that the Ratings Strategy had been adopted by 6 votes to 1. The question as to who voted for the strategy would need to be taken on notice.

The further response to that question is as follows:

The 2014-2017 Rating Strategy was adopted by the Colac Otway Shire Council at its 26 March 2014 Ordinary Council meeting 6 votes to 1.

As per the minutes of that meeting, the voting was as follows:

For the Motion: Cr Stephen Hart, Cr Brian Crook, Cr Lyn Russell, Cr Terry Woodcroft, Cr Michael Delahunty, Cr Frank Buchanan

Against the Motion: Cr Chris Smith

Questions Received in Writing Prior to the Meeting

James Judd

1. Since Council has given the go ahead for the subdivision of land at the north east corner of Airey's Street and Main Road, Elliminyt, when will Council seek a safe pedestrian crossing is provided close to this intersection across Main Street since this is a very busy street.

Response:

The area along Main Street, in the vicinity of Aireys Street does not meet the warrants for a pedestrian crossing point. The warrants for pedestrian crossings take into account the number of pedestrians crossing the road (within a defined area and time) and vehicle numbers using the road.

In this instance there are not sufficient pedestrian crossing movements to warrant the installation or provision of a crossing.

2. Due to the long time since it was possible to indicate if the male cubicles at Memorial Square were in use, when will Council again provide privacy to those who have to use them and replace the removed snibs on the doors?

Response:

Council's Building Maintenance Unit has arranged for replacement indicator bolts to be fitted to the Memorial Square male toilet cubicles. Council encourages that building maintenance issues such as this be reported to our Customer Assist Centre on 5232 9400 so that they can be responded to in a prompt manner.

3. Re page 40 Council Meeting Agenda 23 July 2014 – why did Council make a fuss about the transfer of properties from Balance of Shire to Colac Residential Rating yet remained silent about a similar number of properties switched from Commercial to Industrial Rating with the 2014-2017 rating strategy? When there has been no growth in this area by assessments over a two year period to allow for population growth being pushed by Council.

Response:

The table referred to shows valuations broken by categories defined by the Victorian Valuer General as provided by Council's independent valuation contractor. The categories have been tightened somewhat from the introduction of the Fire Services Property Levy which has resulted in a movement between what the Valuer General sees as Commercial and what he sees as Industrial. This relates to small workshop type businesses which were previously classified as Industrial but are now classified as Commercial. The overall combination of the two classifications have remained quite constant over the two valuation periods. It should be noted that these categories are used for statistical purposes and do not always correlate to Council's own rating categories. For Rating purposes Industrial and Commercial assessments are rated together.

4. When will Council give a definite undertaking that once a service is listed to be provided in a specific year and is withdrawn due to finance not being available that the proposed service will be provided within a strict limited period of time after the original proposal not it will be listed in the budget with the proposal it could again be delayed an indefinite number of times and never provided?

Response:

Each year as part of the budget process, Council has to prioritise items according to community needs and funds available.

It is important that Council maintains the flexibility to adjust the provision of non-essential services (i.e. hard waste service) according to funds available. The provision of this service will continue to be considered for funding in future budgets.

Questions Received Verbally at the Meeting

Simon Arundell – Bungador

1. When can members of the public begin to attend briefing meetings and why can't they? I ask that all Councillors consider the request to allow members of the public to attend Councillor briefing sessions.

Response:

The Mayor advised that for as long as she had been on Council the public had not been invited to attend Council briefings sessions as Council briefing sessions can be used to discuss confidential or commercial matters. Members of the public are invited to ask Councillors about matters discussed at these sessions.

2. How long can this Council continue to "fatten" itself up by raising rates, what savings have you already identified in the last couple of weeks?

Response:

The Mayor advised that Council had undertaken a review of its services and were waiting for the new CEO to commence before discussing in Councillor workshops where savings can be made by cutting services.

3. Is it true that a member of staff at the Council has threatened the Colac Herald that if the Colac Herald didn't give favourable reports on what the Shire is doing that it would withdraw their advertising, is this true or false?

Response:

The Mayor took the question on notice.

6. DECLARATION OF INTEREST

Cr Woodcroft:	OM142307-2 Colac Otway Youth Council Charter
Nature of Disclosure:	Direct – 77B
Nature of Interest:	In his Police Youth Officer role, Cr Woodcroft acts as a coach and mentor for the elected Youth Councillors this year.

Cr Woodcroft:	OM142307-8 Petition – Installation of Stop Sign – Hearn Street/Sinclair Street Intersection
Nature of Disclosure:	Indirect
Type of Indirect Interest:	78B
Nature of Interest:	Cr Woodcroft is an authorized enforcement officer under the Road Safety Act regarding the current traffic control measure at the intersection in question.

Cr Delahunty:	OM142307-1 CEO's Progress Report
Nature of Disclosure:	Direct – 77B
Nature of Interest:	Associated with a company submitting a tender to Contract 1416 Consultancy - Services Domestic Wastewater Management Plan

7. CONFIRMATION OF MINUTES

- **Ordinary Council Meeting held on the 25/06/14.**

MOVED Cr Frank Buchanan seconded Cr Brian Crook that Council confirm the above minutes.

CARRIED 7 : 0

OFFICERS' REPORTS

Chief Executive Officer

- OM142307-1 CEO'S PROGRESS REPORT TO COUNCIL
- OM142307-2 COLAC OTWAY YOUTH COUNCIL CHARTER

Corporate and Community Services

- OM142307-3 OPERATIONAL PLAN 2014-2015
- OM142307-4 ADOPTION OF 2014 GENERAL REVALUATION
- OM142307-5 2016 MUNICIPAL REVALUATION - CAUSE TO BE DONE

Infrastructure and Services

- OM142307-6 BLUEWATER FITNESS CENTRE REDEVELOPMENT PROJECT -
PROGRESS REPORT
- OM142307-7 DECLARATION OF ROAD AS UNUSED - PART OF UNMADE ROAD
SOUTH OF CROWN ALLOTMENT 59, SECTION D - PARISH OF
ELLIMINYT
- OM142307-8 PETITION - INSTALLATION OF STOP SIGN - HEARN STREET /
SINCLAIR STREET INTERSECTION

General Business

- OM142307-9 ASSEMBLY OF COUNCILLORS

CHIEF EXECUTIVE OFFICER

ITEM	
<u>OM142307-1</u>	<u>CEO'S PROGRESS REPORT TO COUNCIL</u>
<u>OM142307-2</u>	<u>COLAC OTWAY YOUTH COUNCIL CHARTER</u>

OM142307-1**CEO'S PROGRESS REPORT TO COUNCIL**

AUTHOR:	Rhonda Deigan	ENDORSED:	Phil Corluka
DEPARTMENT:	Executive	FILE REF:	F11/3291

Cr Delahunty:	OM142307-1 CEO's Progress Report
Nature of Disclosure:	Direct – 77B
Nature of Interest:	Associated with a company submitting a tender to Contract 1416 Consultancy - Services Domestic Wastewater Management Plan

Having declared a conflict of interest in this item, Cr Delahunty left the meeting at 4.15pm.

***MOVED Cr Frank Buchanan seconded Cr Brian Crook
That Council notes the CEO's Progress Report to Council.***

CARRIED 6 : 0

Cr Smith requested that information on how much money has currently been spent on the Pirron Yallock clubrooms, and how much is anticipated to be spent before it is open to the community, be brought to the next Council meeting.

Cr Delahunty returned to the meeting at 4.24pm.

OM142307-2 COLAC OTWAY YOUTH COUNCIL CHARTER

AUTHOR:	Rhonda Deigan	ENDORSED:	Phil Corluka
DEPARTMENT:	Executive	FILE REF:	11/96640

Cr Woodcroft:	OM142307-2 Colac Otway Youth Council Charter
Nature of Disclosure:	Direct – 77B
Nature of Interest:	In his Police Youth Officer role, Cr Woodcroft acts as a coach and mentor for the elected Youth Councillors this year.

Having declared a conflict of interest in this item, Cr Woodcroft left the meeting at 4.25pm.

MOVED Cr Stephen Hart seconded Cr Frank Buchanan

That Council endorses the 2014 Colac Otway Shire Youth Council Charter.

CARRIED 5 : 1

DIVISION called by Cr Chris Smith

For the Motion: Cr Stephen Hart, Cr Brian Crook, Cr Lyn Russell, Cr Michael Delahunty, Cr Frank Buchanan

Against the Motion: Cr Chris Smith

Cr Woodcroft returned to the meeting at 4.39pm.

CORPORATE AND COMMUNITY SERVICES

ITEM	
<u>OM142307-3</u>	<u>OPERATIONAL PLAN 2014-2015</u>
<u>OM142307-4</u>	<u>ADOPTION OF 2014 GENERAL REVALUATION</u>
<u>OM142307-5</u>	<u>2016 MUNICIPAL REVALUATION - CAUSE TO BE DONE</u>

OM142307-3**OPERATIONAL PLAN 2014-2015**

AUTHOR:	Margaret Giudice	ENDORSED:	Carmen Lawrence
DEPARTMENT:	Corporate & Community Services	FILE REF:	F11/3291

MOVED Cr Brian Crook seconded Cr Terry Woodcroft

That Council notes the Operational Plan 2014-2015 for information.

CARRIED 6 : 1

DIVISION called by Cr Frank Buchanan

For the Motion: Cr Stephen Hart, Cr Brian Crook, Cr Lyn Russell, Cr Terry Woodcroft, Cr Michael Delahunty, Cr Frank Buchanan

Against the Motion: Cr Chris Smith

OM142307-4 ADOPTION OF 2014 GENERAL REVALUATION

AUTHOR:	Paul Carmichael	ENDORSED:	Carmen Lawrence
DEPARTMENT:	Corporate & Community Services	FILE REF:	F11/3291

MOVED Cr Stephen Hart seconded Cr Brian Crook

That Council adopts the valuations contained in the 2014 general valuation for the purpose of levying general rates for the 2014-2015 and 2015-2016 financial years.

CARRIED 7 : 0

OM142307-5 2016 MUNICIPAL REVALUATION - CAUSE TO BE DONE

AUTHOR:	Paul Carmichael	ENDORSED:	Carmen Lawrence
DEPARTMENT:	Corporate & Community Services	FILE REF:	F14/6411

MOVED Cr Stephen Hart seconded Cr Frank Buchanan

That Council resolves:

- 1. That it causes a revaluation of properties and Council assets within the Shire to be conducted by its, yet to be appointed, contract valuer with such valuation to be returned by 29 April 2016 in accordance with section 13DC (5) of the Valuation of Land Act 1960.***
- 2. That the Valuer General and other rating authorities in the area be notified of this resolution in accordance with section 6(1) of the Valuation of Land Act 1960.***

CARRIED 7 : 0

INFRASTRUCTURE AND SERVICES

ITEM	
<u>OM142307-6</u>	<u>BLUEWATER FITNESS CENTRE REDEVELOPMENT PROJECT - PROGRESS REPORT</u>
<u>OM142307-7</u>	<u>DECLARATION OF ROAD AS UNUSED - PART OF UNMADE ROAD SOUTH OF CROWN ALLOTMENT 59, SECTION D - PARISH OF ELLIMINYT</u>
<u>OM142307-8</u>	<u>PETITION - INSTALLATION OF STOP SIGN - HEARN STREET / SINCLAIR STREET INTERSECTION</u>

OM142307-6**BLUEWATER FITNESS CENTRE REDEVELOPMENT
PROJECT - PROGRESS REPORT**

AUTHOR:	Adam Lehmann	ENDORSED:	Paula Gardiner
DEPARTMENT:	Infrastructure & Services	FILE REF:	F13/7721

MOVED Cr Terry Woodcroft seconded Cr Frank Buchanan

That Council receives the attached monthly status report for the Blue Water Redevelopment Project covering the period to 1 June 2014 to 30 June 2014 for information.

CARRIED 6 : 1

DIVISION called by Cr Chris Smith

For the Motion: Cr Stephen Hart, Cr Brian Crook, Cr Lyn Russell, Cr Terry Woodcroft, Cr Michael Delahunty, Cr Frank Buchanan

Against the Motion: Cr Chris Smith

OM142307-7 DECLARATION OF ROAD AS UNUSED - PART OF UNMADE ROAD SOUTH OF CROWN ALLOTMENT 59, SECTION D - PARISH OF ELLIMINYT

AUTHOR:	Adam Lehmann	ENDORSED:	Paula Gardiner
DEPARTMENT:	Infrastructure & Services	FILE REF:	F14/6094

Original Recommendation(s)

That Council in accordance with section 223 of the Local Government Act 1989 and subject to a six week notification period undertakes the following:

- 1. Gives public notice of its intention to declare the section of road described as part of the unmade road south of Crown Allotment 59 Section D, Parish of Elliminyt as unused.***
- 2. If no objections are received and subject to Council complying with its statutory requirements instructs the Chief Executive Officer to advise the Department of Environment and Primary Industries of Council's formal consent by signing and sealing a copy of Schedule 4 of the Land Regulations 2006 which describes the area of unused road to be licenced.***
- 3. If objections are received, hold a Special Council Meeting at a time, place and date to be determined to consider the objections. Formal advice of the time and place of the meeting will be provided to those parties wanting to be heard in support of their objections and will be advertised in the local media.***
- 4. If required, a final decision shall be made by Council following preparation of a report by the General Manager Infrastructure and Services based on the recommendations of the Special Council Meeting to the following Council meeting.***

MOTION - MOVED Cr Michael Delahunty seconded Cr Terry Woodcroft:

That Council in accordance with section 223 of the Local Government Act 1989 and subject to a six week notification period undertakes the following:

- 1. Gives public notice of its intention to declare the section of road described as part of the unmade road south of Crown Allotment 59 Section D, Parish of Elliminyt as unused.***
- 2. If no objections are received and subject to Council complying with its statutory requirements instructs the Chief Executive Officer to advise the Department of Environment and Primary Industries of Council's formal consent by signing and sealing a copy of Schedule 4 of the Land Regulations 2006 which describes the area of unused road to be licenced.***
- 3. If objections are received and submitters wish to be heard, hold a Special Council Meeting at a time, place and date to be determined to consider the objections. Formal advice of the time and place of the meeting will be provided to those parties wanting to be heard in support of their objections and will be advertised in the local media.***
- 4. If required, a final decision shall be made by Council following preparation of a report by the General Manager Infrastructure and Services based on the recommendations of the Special Council Meeting to the following Council meeting.***

CARRIED 7 : 0

OM142307-8 PETITION - INSTALLATION OF STOP SIGN - HEARN STREET / SINCLAIR STREET INTERSECTION

AUTHOR:	Paula Gardiner	ENDORSED:	Phil Corluka
DEPARTMENT:	Infrastructure & Services	FILE REF:	F14/6124

Cr Woodcroft:	OM142307-8 Petition – Installation of Stop Sign – Hearn Street/Sinclair Street Intersection
Nature of Disclosure:	Indirect
Type of Indirect Interest:	78B
Nature of Interest:	Cr Woodcroft is an authorized enforcement officer under the Road Safety Act regarding the current traffic control measure at the intersection in question.

Having declared a conflict of interest in this item, Cr Woodcroft left the meeting at 5.25pm.

Original Recommendation(s)

That Council writes to the organiser of the petition advising the current Give Way control at the intersection of Hearn Street and Sinclair Street is in line with relevant standards and will remain in place.

MOTION - MOVED Cr Chris Smith:

That Council writes to the organiser of the petition advising that Council will request Vic Roads give favourable attention to changing the Give Way sign to a Stop sign at the intersection of Hearn Street and Sinclair Street.

The motion lapsed due to a lack of a seconder.

MOTION - MOVED Cr Stephen Hart seconded Cr Brian Crook:

That Council:

- 1. Writes to the organiser of the petition inviting them to meet with officers to have further discussions on what improvements may be made in signage at the Hearn Street and Sinclair Street intersection.***
- 2. Requests that the results of that discussion be brought back to a formal Council meeting.***

AMENDMENT - MOVED Cr Michael Delahunty

That an additional clause be added as point 1.

- 1. Writes to the organiser of the petition advising the current Give Way control at the intersection of Hearn Street and Sinclair Street is in line with relevant standards.***

SUSPENSION OF STANDING ORDERS - MOVED Cr Stephen Hart seconded Cr Brian Crook that Standing Orders be suspended to allow Councillors the opportunity to discuss the wording of the motion.

RESUMPTION OF STANDING ORDERS - MOVED Cr Stephen Hart seconded Cr Michael Delahunty that Standing Orders be resumed.

The Mayor ruled that the previous motion and associated amendment be withdrawn.

MOTION - MOVED Cr Stephen Hart seconded Cr Chris Smith:

That Council:

- 1. Writes to the organiser of the petition inviting them to meet with officers to consider all traffic management options at the intersection of Hearn Street and Sinclair Street.**
- 2. Requests that the results of that discussion be brought back to a formal Council meeting.**

CARRIED 4 : 2

DIVISION called by Cr Chris Smith

For the Motion: Cr Chris Smith, Cr Stephen Hart, Cr Lyn Russell, Cr Frank Buchanan

Against the Motion: Cr Brian Crook, Cr Michael Delahunty

Cr Woodcroft returned to the meeting at 6.06pm.

GENERAL BUSINESS

ITEM
<u>OM142307-9 ASSEMBLY OF COUNCILLORS</u>

OM142307-9

ASSEMBLY OF COUNCILLORS

AUTHOR:	Rhonda Deigan	ENDORSED:	Phil Corluka
DEPARTMENT:	Executive	FILE REF:	F13/6530

MOVED Cr Stephen Hart seconded Cr Terry Woodcroft

That Council notes the Assembly of Councillors reports for:

- ***Councillor Workshop*** ***18 June 2014***
- ***Councillor Briefing Session*** ***25 June 2014***
- ***Councillor Workshop*** ***9 July 2014***
- ***Colac Saleyards Advisory Committee*** ***11 July 2014***

CARRIED 7 : 0

MATTER OF URGENCY - MOVED Cr Stephen Hart seconded Cr Michael Delahunty that Council consider a report on an “Amendment to Adopted Budget Documentation” as an item of urgent business in order for Council to proceed with the preparation of rate notices.

CARRIED 7: 0

OM142307-1 AMENDMENT TO ADOPTED BUDGET DOCUMENTATION

AUTHOR:	Roberts Ashley	ENDORSED:	Carmen Lawrence
DEPARTMENT:	Corporate & Community Services	FILE REF:	F11/3291

Purpose

This report seeks to clarify some lines of ambiguous text contained within the 2014-15 Annual Budget. These lines relate to the definition of the differential rating category Residential – Colac East, Colac West and Elliminyt. This clarification is to the definition contained within the budget papers only and does not change the adopted budget estimated rate income figures.

Declaration of Interests

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

Background

Council adopted its 2014-15 Annual Budget at its June Ordinary Meeting. The budget was adopted with some modifications to the Rating Strategy after considerable debate.

The budget document as adopted involves creating a separate differential rate for the 2014-15 financial year for residential properties in the Colac East, Colac West and Elliminyt localities which are greater than or equal to 1.0 hectare in area. This differential rate is to be set at 92.5% of the Colac Residential rate for the 2014-15 year, rising to 100% of the Colac residential rate for the 2015-16 year.

For the 2013-14 year, these properties were considered part of the Residential – Balance of Shire rate differential, which was set (remains set) at 85% of the Colac Residential rate.

All residential properties within the Colac East, Colac West and Elliminyt localities which are less than 1.0 hectare in area were rated at the Colac residential rate. It is intended that this practice continue.

The rating and financial calculations contained within the budget have been undertaken on the premise that all residential properties located within Colac East, Colac West and Elliminyt which are greater than or equal to 1.0 ha attract a rating differential of 92.5% of the Colac Residential rate, and that all residential properties within the Colac East, Colac West and Elliminyt localities with an area of less than 1.0 hectare continue to be rated at the Colac Residential rate. That is the actual numbers contained within the budget are based upon the principle which was the clear intent of Council.

However, it has been brought to the attention of Council that the actual definitions of each rating differential contained in the budget documentation do not make reference to the area of properties covered by the differential rate. This is misleading and it could for instance be

construed that all residential properties within the Colac East, Colac West and Elliminyt localities would attract the 92.5% of the Colac Residential rate differential. This is clearly not the intent of Council.

It is therefore proposed that Council authorises the re-wording of the definitions of the Residential-Colac, and Residential-Colac East, Colac West and Elliminyt rating differentials, so as to close any potential misunderstanding in the intended application of this rating differential.

It is stressed that this makes absolutely no change whatsoever to the actual budget figures.

Council Plan / Other Strategies / Policy

Good Governance

Means we care about and are responsive to the community, encourage democratic participation and involve people in decisions that affect them. We strive for excellence in financial management and council services, and always look for better ways to do things.

Our Goal:

Ensure transparency of governance practices, the capability of our organisation and effective resource management

Issues / Options

Council should act to eliminate any potential misunderstanding which may arise from the loose definitions of the affected rating differentials contained within the Budget documentation. Doing this brings the documentation into line with the intent of Council's resolution on its Rating Strategy and Adopted Budget made at the June Ordinary Council Meeting.

It is considered prudent that this potential for misunderstanding be eliminated as soon as possible and preferably before rates notices are sent out in mid-late August. This is to ensure that no possibility of confusion or incorrect differential allocation can occur.

Again, it is stressed that Council is making no changes to the actual budget, but is rather tightening a definition to prevent any confusion or misunderstanding of its intent regarding the rating differentials contained within its adopted budget.

As such it is officers opinion that the proposed definition changes are procedural in nature and do not constitute a Revised Budget as defined under S.128(1) of the Local Government Act 1989, and accordingly do not require another 14 day consultation process.

Proposal

It is proposed that the following definitions contained within the budget documentation be amended:

Original Definitions in Appendix 4 of the documentation:

Item 3.1

- A general rate of 0.004317 cents in the dollar of CIV for all rateable residential properties in Colac
- A general rate of 0.003993 cents in the dollar of CIV for all rateable residential properties in Colac East, Colac West and Elliminyt.

3.2. Residential Land – Colac

Any land, whether vacant or built upon, which is located in Colac, that is not zoned for commercial or industrial use and which:

3.2.1 does not have the characteristics of:

- a) Rural Farm Land;
- b) Holiday Rental Land; or
- c) Commercial/Industrial Land – Colac, Colac East, Colac West or Elliminyt.

3.3. Residential Land – Colac East, Colac West, Elliminyt

Any land, whether vacant or built upon, which is located in Colac East, Colac West or Elliminyt and not zoned for commercial or industrial use and which:

3.3.1 does not have the characteristics of:

- a) Rural Farm Land;
- b) Holiday Rental Land; or
- c) Commercial/Industrial Land – Colac, Colac East, Colac West or Elliminyt.

To be replaced with:

Item 3.1

- A general rate of 0.004317 cents in the dollar of CIV for all rateable residential properties in Colac and all rateable residential properties in Colac East, Colac West and Elliminyt which are less than 1.0 hectare in area;
- A general rate of 0.003993 cents in the dollar of CIV for all rateable residential properties in Colac East, Colac West and Elliminyt which are greater than or equal to 1.0 hectare in area.

3.2. Residential Land – Colac

Any land, whether vacant or built upon, which is located in Colac, Colac East, Colac West and Elliminyt that is not zoned for commercial or industrial use and which:

3.2.1 does not have the characteristics of:

- a) Rural Farm Land;
- b) Holiday Rental Land; or
- c) Commercial/Industrial Land – Colac, Colac East, Colac West or Elliminyt.
- d) have an area of greater than or equal to 1.0 hectare if located in Colac East, Colac West or Elliminyt

3.3. Residential Land – Colac East, Colac West, Elliminyt

Any land, whether vacant or built upon, which is located in Colac East, Colac West or Elliminyt that is greater than or equal to 1.0 ha in area and not zoned for commercial or industrial use and which:

3.3.1 does not have the characteristics of:

- a) Rural Farm Land;
- b) Holiday Rental Land; or
- c) Commercial/Industrial Land – Colac, Colac East, Colac West or Elliminyt.

Financial and Other Resource Implications

There are no direct financial implications arising from this item. However it must be noted that there is potential for disputes over the correct rating differential to occur due to the poor definitions. This would be especially so if the definitions are not amended prior to sending out Council's rate notices for 2014-15. This has the potential to negatively affect Council's rate income.

Risk Management & Compliance Issues

In tightening Council's rating differential definitions Council is mitigating any potential financial risk arising from the possible application of an incorrect rating differential.

Council Officers are of the opinion that as no material change is being made to the Adopted Budget figures the proposed definitional changes do not constitute a Revised Budget under S.128 of the Local Government Act 1989.

Environmental and Climate Change Considerations

There are no environmental or climate change considerations arising from this item.

Community Engagement

The community engagement strategy follows the recommendations of the Colac Otway Shire Council Community Engagement Policy of January 2010, which details five levels of engagement – inform, consult, involve, collaborate and empower.

As it is considered that this amendment does not constitute a Revised Budget under the Local Government Act 1989, but is rather a procedural matter, it is considered that no further community engagement need take place. It is noted that the deliberations around the Rating Strategy and 2014-15 Annual Budget adoption included a large amount of community engagement and the decisions made concerning these items took that community consultation into consideration.

Implementation

It is proposed that the revised rating differential differentials be included in a final copy of the Adopted Budget 2014-15 and supporting documentation. Importantly, the proposed clarification to the rating differential Residential – Colac East, Colac West and Elliminyt, to which the transitional 92.5% of the Residential – Colac rate differential applies does not change the estimate of the rates income that was contained in the adopted budget papers annexed to the agenda of the June 2014 Ordinary Meeting of Council. No changes will be made, or are required to be made, to the Adopted Budget 2014-15.

Conclusion

It is clear from the various discussions, workshops and debates, including that at the June Ordinary Council Meeting, that the intent of Council was to apply a rating differential of 92.5% of the Colac Residential rate to all residential properties located within the Colac East, Colac West and Elliminyt localities that are greater than or equal to 1.0 hectare in area for the 2014-15 year. It also clear that the intent of Council was that all residential properties in these localities with an area of under 1.0 hectare remain at 100% of the Colac Residential rate. The budget as adopted has been calculated on this premise.

Unfortunately the definitions concerning these rating differentials contained within the budget documentation are ambiguously written and do not clearly state the difference in area. This has the potential to create a misunderstanding where a rating differential may potentially be applied to a property which is against the intent of that which Council had. It is considered prudent that this issue be treated effectively and urgently to reduce confusion and to be corrected before Council rate notices are sent out.

Attachments

Nil

Recommendation(s)**MOTION - MOVED Cr Stephen Hart seconded Cr Brian Crook:****That Council:**

1. **Resolves to amend the definitions of the rating differentials in the budget documentation to the following:**

Item 3.1

- **A general rate of 0.004317 cents in the dollar of CIV for all rateable residential properties in Colac and all rateable residential properties in Colac East, Colac West and Elliminyt which are less than 1.0 hectare in area;**
- **A general rate of 0.003993 cents in the dollar of CIV for all rateable residential properties in Colac East, Colac West and Elliminyt which are greater than or equal to 1.0 hectare in area;**

3.2. Residential Land – Colac**Any land, whether vacant or built upon, which is located in Colac, Colac East, Colac West and Elliminyt that is not zoned for commercial or industrial use and which:****3.2.1 does not have the characteristics of:**

- a) **Rural Farm Land;**
- b) **Holiday Rental Land; or**
- c) **Commercial/Industrial Land – Colac, Colac East, Colac West or Elliminyt.**
- d) **have an area of greater than or equal to 1.0 hectare if located in Colac East, Colac West or Elliminyt**

3.3. Residential Land – Colac East, Colac West, Elliminyt**Any land, whether vacant or built upon, which is located in Colac East, Colac West or Elliminyt that is greater than or equal to 1.0 ha in area and not zoned for commercial or industrial use and which:****3.3.1 does not have the characteristics of:**

- a) **Rural Farm Land;**
- b) **Holiday Rental Land; or**
- c) **Commercial/Industrial Land – Colac, Colac East, Colac West or Elliminyt.**

2. **Resolves to delegate the task of all communication of this amendment to the Acting Chief Executive Officer.**

CARRIED 6 : 1**DIVISION called by Cr Frank Buchanan****For the Motion: Cr Stephen Hart, Cr Brian Crook, Cr Lyn Russell, Cr Terry Woodcroft, Cr Michael Delahunty, Cr Frank Buchanan****Against the Motion: Cr Chris Smith**

IN COMMITTEE

MOVED Cr Stephen Hart seconded Cr Frank Buchanan that pursuant to the provisions of Section 89(2) of the Local Government Act, the meeting be closed to the public and Council move "In-Committee" in order to deal with:

SUBJECT	REASON	SECTION OF ACT
Minutes of In-Committee Council Meeting held on 25 June 2014	this matter deals with personnel matters; AND this matter deals with contractual matters; AND this matter may prejudice the Council or any person	Section 89 (2) (a) (d) (h)
Report from Delegate to Other Bodies - Audit Committee Minutes	this matter deals with personnel matters; AND this matter deals with contractual matters; AND this matter deals with legal advice; AND this matter may prejudice the Council or any person	Section 89 (2) (a) (d) (f) (h)
Contract 1414 - External Plant Hire	this matter deals with contractual matters	Section 89 (2) (d)

CARRIED 7 : 0

The Mayor advised that the item, "Item for signing and sealing - agreement to acquire land at Cororooke from Fonterra" was withdrawn on the recommendation of Council officers.

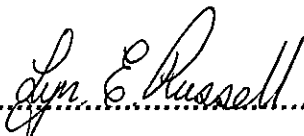
OUT OF COMMITTEE

MOVED Cr Stephen Hart seconded Cr Frank Buchanan that the meeting move out of committee.

CARRIED 7 : 0

The Meeting Was Declared Closed at 6.28 pm

CONFIRMED AND SIGNED at the meeting held on 27 AUGUST 2014

..........**MAYOR**