



ORDINARY COUNCIL MEETING

AGENDA

WEDNESDAY 28 NOVEMBER 2018

AT 4PM

COPACC

**Next Council Meeting: 12 December 2018
COPACC**

COLAC OTWAY SHIRE ORDINARY COUNCIL MEETING

28 NOVEMBER 2018

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COLAC OTWAY SHIRE COUNCIL ORDINARY MEETING

NOTICE is hereby given that the next **ORDINARY COUNCIL MEETING OF THE COLAC OTWAY SHIRE COUNCIL** will be held in COPACC on 28 November 2018 at 4pm.

AGENDA

1. THE MEETING IS DECLARED OPEN

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 AND LEAVE OF ABSENCE

4. WELCOME & ACKNOWLEDGEMENT OF COUNTRY

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.

5. QUESTION TIME

A maximum of 30 minutes is allowed for question time. To ensure that each member of the gallery has the opportunity to ask questions, it may be necessary to allow a maximum of two questions from each person in the first instance. Once everyone has had an opportunity to ask their initial questions, and if time permits, the Mayor will invite further questions.

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. Question time 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.

6. TABLING OF RESPONSES TO QUESTIONS TAKEN ON NOTICE AT PREVIOUS MEETINGS

These responses will not be read out but will be included in the minutes of this meeting.

7. PETITIONS/JOINT LETTERS

8. DECLARATIONS OF INTEREST

A Councillor who has declared a conflict of interest, must leave the meeting and remain outside the room while the matter is being considered, or any vote is taken.

Councillors are also encouraged to declare circumstances where there may be a perceived conflict of interest.

9. CONFIRMATION OF MINUTES

- **Ordinary Council Meeting held on 24 October 2018.**
- **Special Council Meeting held on 14 November 2018.**

Recommendation

That Council confirm the above minutes.

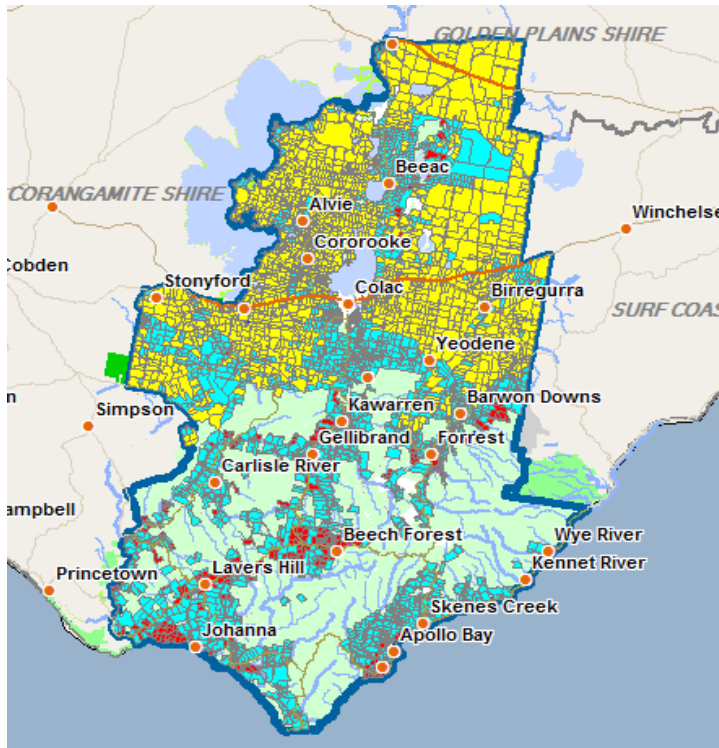
ORDINARY COUNCIL MEETING

ADOPTION OF THE INFRASTRUCTURE DESIGN MANUAL (IDM) INTO THE PLANNING SCHEME

OM182811-1

LOCATION / ADDRESS	Whole of municipality	GENERAL MANAGER	Ian Seuren
OFFICER	Simon Clarke	DIVISION	Development & Community Services
TRIM FILE	F18/8639	CONFIDENTIAL	No
ATTACHMENTS	Nil		
PURPOSE	To adopt the Infrastructure Design Manual (IDM) into the Colac Otway Planning Scheme.		

1. LOCATION PLAN / AERIAL PHOTO



2. EXECUTIVE SUMMARY

The Department of Environment Land Water and Planning (DELWP) is undertaking a project to implement the Infrastructure Design Manual (IDM) into regional planning schemes and is seeking Council's participation in the project.

The IDM is designed to clearly document and standardise Council's requirements for the design and development of infrastructure in the Shire, and is used to direct the drafting of planning permit conditions for use and development issued by Council. The IDM applies to all development and subdivision applications, including commercial, industrial, rural and residential, as well as Council infrastructure projects on public land.

Council adopted the IDM at its meeting on 23 October 2013 and has been using it to guide infrastructure provisions since. The IDM is currently utilised by 44 rural Councils however only 10 municipalities have included the IDM as a reference document in their planning scheme. DELWP has written to all rural and regional Councils in Victoria who have not yet included the IDM in their planning scheme, encouraging them to be part of the broader amendment.

The inclusion of the IDM in the Colac Otway Planning Scheme would provide transparency, greater certainty and consistency around the requirements for the provision of infrastructure in the Shire and will add weight to any review of Council's decisions by the Victorian Civil and Administrative Tribunal (VCAT). It is therefore recommended that Council support this process.

3. RECOMMENDATION

That Council write to the Minister for Planning to formally agree to participate in a section 20(4) Ministerial Amendment coordinated by the Department of Environment Land Water and Planning to amend Clauses 21.05 and 21.07 to introduce the 'Infrastructure Design Manual' (IDM) as a Reference Document to the Colac Otway Planning Scheme.

4. BACKGROUND / KEY INFORMATION

BACKGROUND

The Infrastructure Design Manual (IDM) is a technical manual used by the development industry that seeks to clearly document Council's requirements for the design and development of infrastructure that is, or will become, Council infrastructure. It standardises development criteria as much as possible, thus expediting Council engineering reviews and ensures that minimum design criteria are met in regard to the design and construction of public infrastructure, whether constructed by Council or a developer.

The IDM provides direction on a range of engineering matters including road construction, drainage systems, traffic control devices, earthworks, landscaping, lighting, pavements, fees, documentation and liabilities. It is expected that all rural and regional Councils will use the IDM to specify a minimum criteria for all future design and engineering of public infrastructure.

It is noted that the IDM is a 'living' document managed and updated by the Local Government Infrastructure Design Association (LGIDA). It is continually updated by its members to reflect ongoing improvements and new technologies and practices in engineering design and construction.

Historically, Council engineering departments often had their own standards for public infrastructure. These standards were often based on individual preferences. This led to significant variations in standards and approaches across the State and the failure to adopt new and improved engineering practices and technologies in decision making.

In 2004 Campaspe Shire, Greater Shepparton City Council and Greater Bendigo City Council agreed to work together to develop a common engineering manual by documenting common infrastructure standards across the three municipalities. The idea was to minimise disruption to the development community where standards could be uniform across the three municipalities. Other Councils have since joined the growing list of regional councils making use of the IDM, which is currently utilised by 44 Councils across Victoria, despite not being included in the planning scheme of many of these Councils. Colac Otway Shire adopted the IDM in October 2013 and has been using it to guide infrastructure decisions since his date.

KEY INFORMATION

Incorporating the IDM into the structure of relevant planning schemes will enable a more consistent approach to the provision of infrastructure throughout all rural and regional areas of Victoria. The inclusion of the IDM in the planning system will also provide certainty around the requirements for the provision of infrastructure. This will improve transparency, consistency and efficiency in planning processes and lead to a reduction in financial obligations and a greater surety at the development stage.

The IDM will ensure:

- Consistent requirements for consultants and developers who work across municipal boundaries.
- Clearer requirements which lead to applications of improved quality being received by Council.
- A more efficient approval process due to the completeness of information being submitted.
- A reduction in the likelihood of costly re-designs at a later stage.
- The sharing of ideas and practices which will assist in a consistent and best practice approach.

All subdivision and many developments across the Shire require planning approval, and therefore it is the planning system that provides the most common conduit for linking the IDM to a formal approval process and mandating the agreed development standards. To enable formal recognition and the enforcement of IDM requirements, it should be referenced in the planning scheme.

Since its inception, the IDM has been the subject of favourable Planning Panel and Advisory Committee hearings and reports. The IDM is regularly reflected in permit conditions reviewed by and issued at the direction of VCAT.

Specifically, the amendment to the Colac Otway Planning Scheme to implement the IDM is to:

- Amend Clauses 21.05 (Economic Development) and 21.07 (Reference Documents) to include reference to the Infrastructure Design Manual (IDM).

DELWP now seeks to formally include the IDM into all rural and regional planning schemes in Victoria. It is proposed to introduce the IDM into planning schemes through a 'GC' amendment; a process which will be led and facilitated by DELWP and the Minister for Planning. Participating in this process will expedite the implementation of the IDM into the Colac Otway Planning Scheme, and provide efficiencies for Council in terms of process and cost. This Amendment will not be publicly exhibited.

It has long been the intention of Council to achieve this outcome, and it is a recommendation of the 2018 Planning Scheme Review conducted earlier this year to pursue such an amendment. The State led amendment will be consistent with Council's own adopted policy in this respect.

FURTHER SUPPORTING INFORMATION

5. COMMUNITY CONSULTATION & ENGAGEMENT

Participating in a Ministerial Amendment normally provides exemptions from public notice. It is considered that this is appropriate, as the IDM implementation has already been subject to extensive consultation, including Planning Panel and Advisory Committee hearings. Implementing the IDM in the Planning Scheme is in accordance with the recommendations and reports from previous committee hearings.

It is noted that an industry consultation process and feedback was conducted when the IDM was adopted by the Colac Otway Shire in 2013. Council has been implementing the IDM requirements for over 5 years, and further community engagement would have no benefit.

6. ANALYSIS

ALIGNMENT TO COUNCIL PLAN OR COUNCIL POLICY

The proposed amendment does not conflict with any Council policy. As noted earlier, it would be consistent with the recommendations of the 2018 Planning Scheme Review.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with the proposed amendment.

SOCIAL & CULTURAL IMPLICATIONS

There are no social and cultural implications associated with the proposed amendment.

ECONOMIC IMPLICATIONS

There are no economic implications associated with the proposed amendment.

LEGAL & RISK IMPLICATIONS

If the IDM is not implemented into the Planning Scheme, Council may be vulnerable at VCAT if a developer were to lodge an appeal against infrastructure requirements specified in permit conditions. There is therefore benefit to Council of joining the State led process.

Being a Reference Document will not restrict Council and other municipalities from updating the document over time – further planning scheme amendments would not be required for such changes.

RESOURCE IMPLICATIONS (FINANCIAL ETC)

An annual subscription fee is paid by Colac Otway Shire to cover the ongoing administration and legal costs associated with the maintenance of the Infrastructure Design Manual. The annual member cost is \$3,000. This is considered to be a worthy ongoing investment given the efficiency

gains offered to Council by being a member of this group. Ongoing fees are budgeted for within Council's operational infrastructure budget. There will be no additional costs to Council in adopting the IDM above its current financial commitments.

The Minister for Planning will bear any costs associated with the Planning Scheme Amendment.

7. IMPLEMENTATION STRATEGY

DETAILS

The Amendment to the Colac Otway Planning Scheme to include reference to the IDM will be prepared and approved by the Minister for Planning.

COMMUNICATION

The IDM has previously been adopted by Council in 2013. The consultation process in 2013 involved invitations being forwarded to identified stakeholders to attend information forums which were organised by Council. Feedback was considered and each submission was responded to by the IDM Group.

As the IDM is already adopted and is currently utilised by Council, it is not considered necessary to re-engage with the relevant parties and the development industry.

TIMELINE

The proposed amendment is likely to be approved by the Planning Minister early in 2019.

8. OFFICER DIRECT OR INDIRECT INTEREST

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

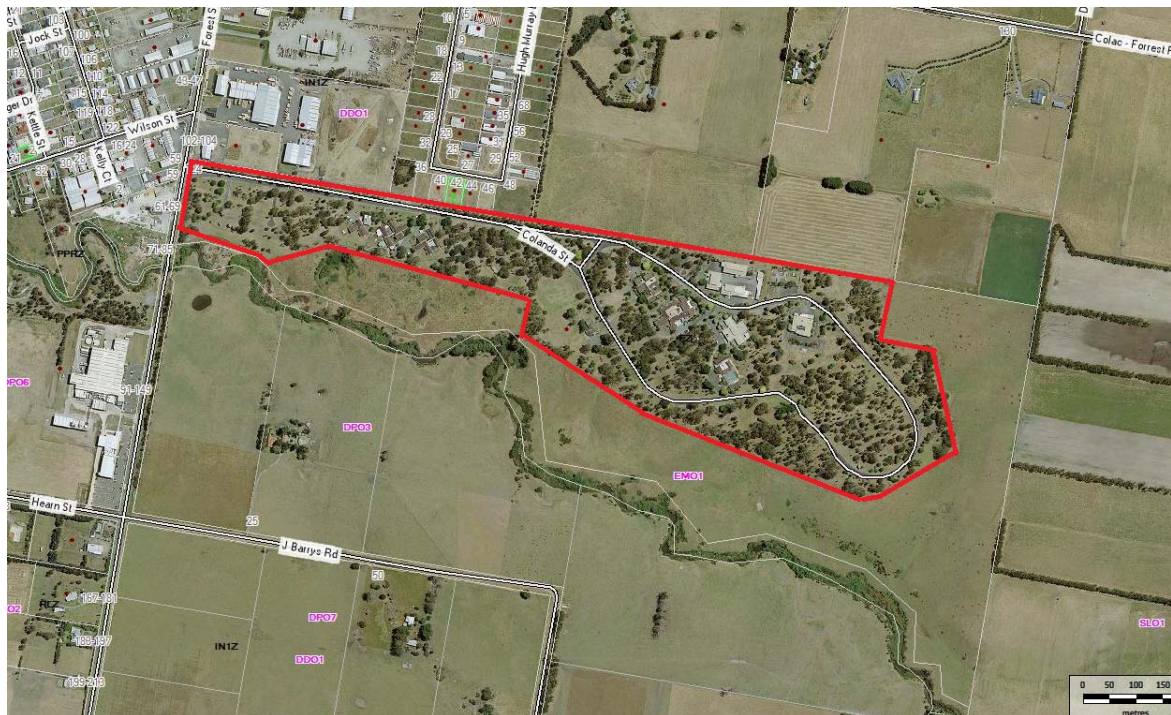
ORDINARY COUNCIL MEETING

PROPOSAL BY COLAC CEMETERY FOR FUTURE USE OF THE COLANDA SITE

OM182811-2

LOCATION / ADDRESS	Forest Street, Colac	GENERAL MANAGER	Ian Seuren
OFFICER	Simon Clarke	DIVISION	Development & Community Services
TRIM FILE	F17/8061	CONFIDENTIAL	No
ATTACHMENTS	Nil		
PURPOSE	To recommend that Council undertake community engagement to obtain feedback on the future use of the Colanda site prior to formalising its position on the Cemetery Trust proposal.		

1. LOCATION PLAN / AERIAL PHOTO



2. EXECUTIVE SUMMARY

The Geelong Cemeteries Trust (Trust) has briefed Council on its proposed expansion of the Colac Cemetery. The briefing was followed by a formal letter requesting that Council provide a letter of support to the Geelong Cemeteries Trust to assist with securing the Colanda Residential Services land ('Colanda site') as a cemetery and community open space for Colac.

Officers are recommending that Council seek community views on future land use options for the Colanda site prior to determining its position on future use.

3. RECOMMENDATION

That Council:

- 1. Provide initial 'in principle' support for the Colac Cemetery being developed at part or all of the Colanda site, subject to undertaking a community engagement exercise with key stakeholders and other groups/organisations that may have an interest in alternative or complementary uses of the land.*
- 2. Consider community feedback before formalising a position on the future use of the site at a future Council meeting.*

4. BACKGROUND / KEY INFORMATION

BACKGROUND

The Geelong Cemeteries Trust (Trust) is responsible for managing the Colac Cemetery, located between Hearn Street and Pound Road, Colac.

The Trust has approached Council seeking advice regarding their current investigation into the potential to purchase land for the expansion of the cemetery to meet its long term needs. Given their limited capacity for income, the Trust has a preference to pursue the acquisition of unused public land, rather than purchasing privately owned land. The former Colac High School site in Murray Street is not available for this purpose on the grounds that it is to be acquired for community use, more specifically as public open space. However, the Trust continues to express interest in the land currently occupied by Colanda in Forest Street which is due to close its operations in 2019. The Trust has commenced discussions with the Department of Treasury and Finance (DTF) about the potential purchase of this site.

Officers have previously advised the Trust that whilst a cemetery might be an appropriate use of the Colanda site, Council's current advocacy position is for the State Government to initiate a master planning process for the site that investigates all potential uses of the land, to maximise the economic and social return to Colac from a change of use, given the significant loss of employment and economic contribution to Colac from the closure of Colanda. The current position of Council is to try and offset these impacts as much as possible, utilising the existing infrastructure on the site. In this regard, the Colanda site is one of the Council's endorsed Priority Projects.

Officers also advised the Trust that there was no obvious location on private land around Colac where they might focus their efforts if purchasing a private site. There are always concerns from the

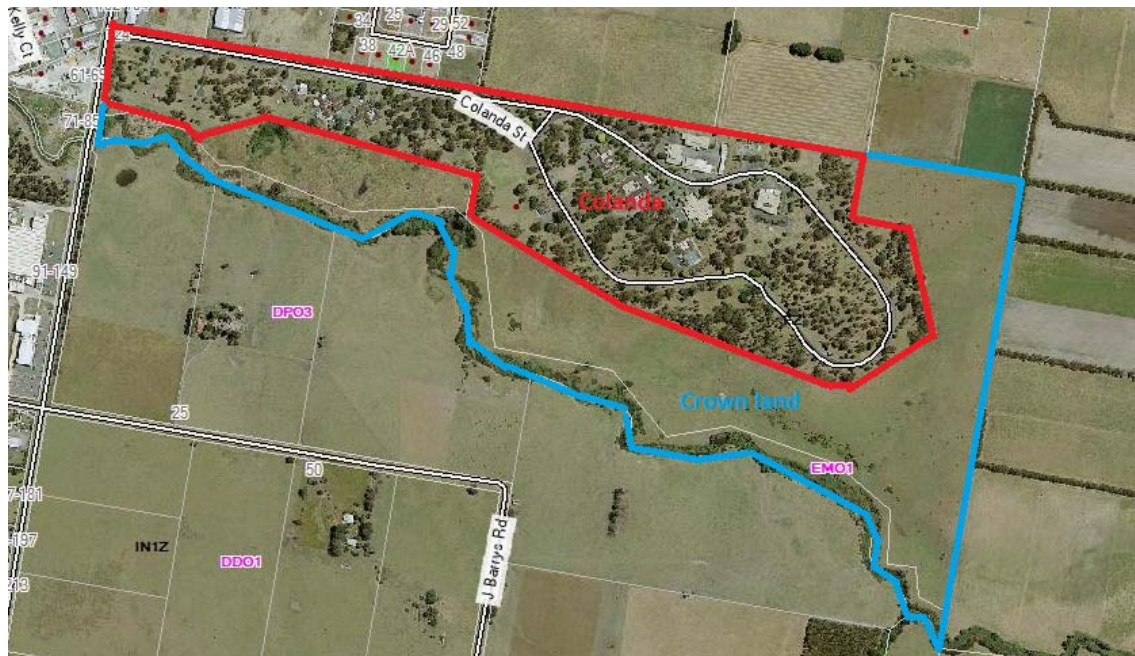
public about the location of cemeteries close to residential development, and any proposed site would be likely to attract some community interest. It was advised that they should look at site options within areas designated for urban expansion in the pending Colac 2050 Growth Plan.

Council was briefed on 4 July 2018 to provide background on the Colac Cemeteries Trust’s investigation into future sites, and has since received a formal request from the Trust for Council’s written support for the use of the Colanda site as a cemetery.

KEY INFORMATION

Recently, the State Government rezoned land at 119-153 Pound Road from Public Use Zone 2 – Education (PUZ2) to Public Use Zone 5 – Cemetery/Crematorium (PUZ5). The 1.7 hectare land parcel is immediately to the south west of the existing cemetery and is a logical extension of the existing adjoining cemetery use (see Figure 1). However, 119-153 Pound Road is also adjacent to Colac Secondary College and there is potential for the College to expand over the 1.7 hectare land parcel in the future. Alternatively, there may be other future educational uses for this land considering its close proximity to the College.

Figure 1: Colanda Centre Site (showing surrounding Crown Land)



Land area comparison:

Existing Cemetery = 7.0ha	Colanda Centre = 35.1ha
PUZ5 Extension = 1.7ha	Surrounding Crown Land = 30.2ha

Notwithstanding the availability of the land adjoining the school for cemetery expansion, the Trust has indicated that this would still only meet short term needs, and that the Trust needs to pursue land elsewhere for the medium to long term expansion of the Colac Cemetery. The Trust indicated it needs to plan for a period longer than 100 years, and begin purchasing land to meet that need now.

Colanda Site - Site Characteristics

The Colanda site occupies 35.1 hectares of land which has been developed as a high-care accommodation facility. The accommodation is progressively being decommissioned. Buildings around two cul-de-sac streets at the far-western end of the site have already been demolished.

The land rises gently generally in a north westerly direction from the lower portions of the land adjacent to the Barongarook Creek corridor. Steeper land exists close to Barongarook Creek to the south west. The land is characterised by a widespread scattering of mature trees, and stands in contrast to surrounding land which is predominately cleared pasture and grazing land.

To the north west and west of the Colanda site, land has been developed for industrial purposes. Elsewhere the land is surrounded by rural properties. To the south, on the opposite side of Barongarook Creek, the land is intended to be used for future industrial development.

Also of note, to the immediate south and east of the Colanda site is 30.2 hectares of additional Crown land also managed by the Department of Health and Human Services. The majority of this land is constrained due to its steepness and proximity to Barongarook Creek (the flatter area to the south-west is flood prone).

Zoning/Overlays

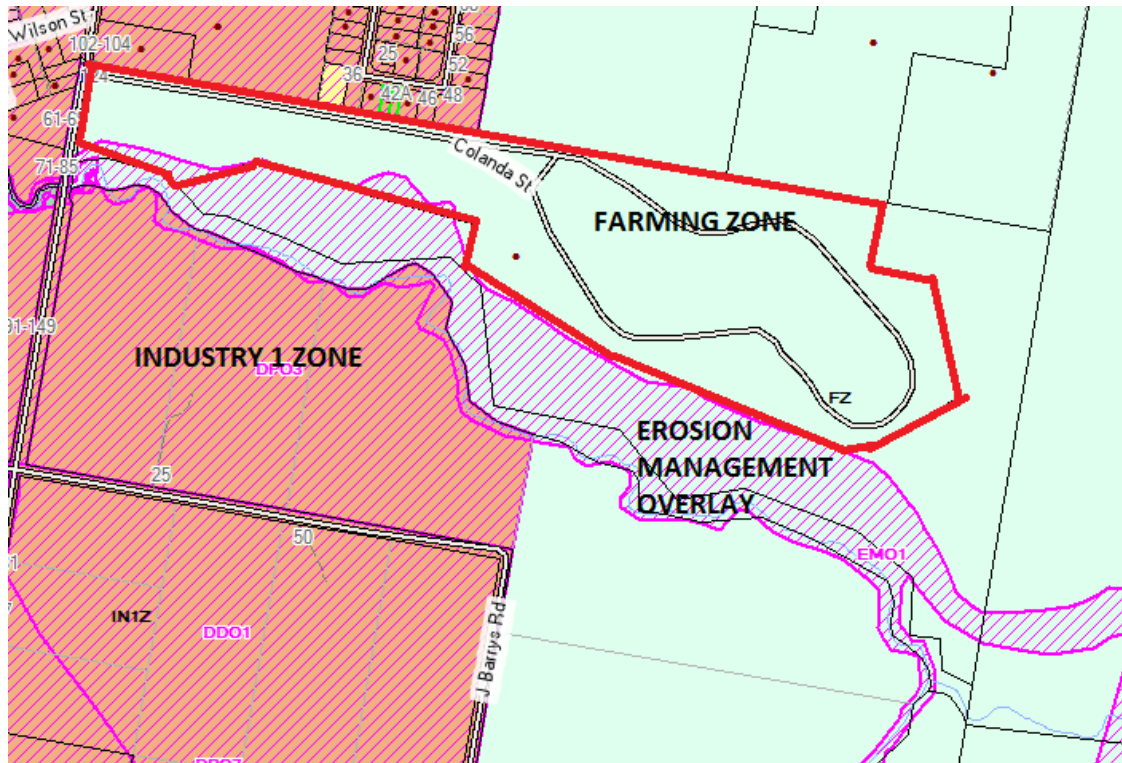
Figure 2 shows the Zones and Overlays that apply to the Colanda site and to surrounding land. The Colanda site, the adjoining State Government land, and land to the east are part of the Farming Zone. Land to the north-west, opposite the site in Forest Street and to the south-west opposite Barongarook Creek is zoned Industrial 1.

An Erosion Management Overlay skirts the southern boundary of the Colanda site and covers the Crown land between the Colanda site and Barongarook Creek (see Figure 2). A significant portion of the land along the waterway is also mapped as being an 'Area of Cultural Sensitivity' under the *Aboriginal Heritage Regulation 2018*.

In the Farming Zone, a Cemetery is a Section 2 use requiring a development permit. However, it should be noted that the Farming Zone is intended for farming purposes and/or for uses that will not compromise the future use of land for farming purposes. A cemetery is not compatible with this land use intent.

Despite the fact that the Colanda land is not being actively used for farming purposes, it would be more appropriate to include the land in a zone that suits its intended purpose following site investigations.

Figure 2: Zoning and Overlays



Draft Colac 2050 Growth Plan

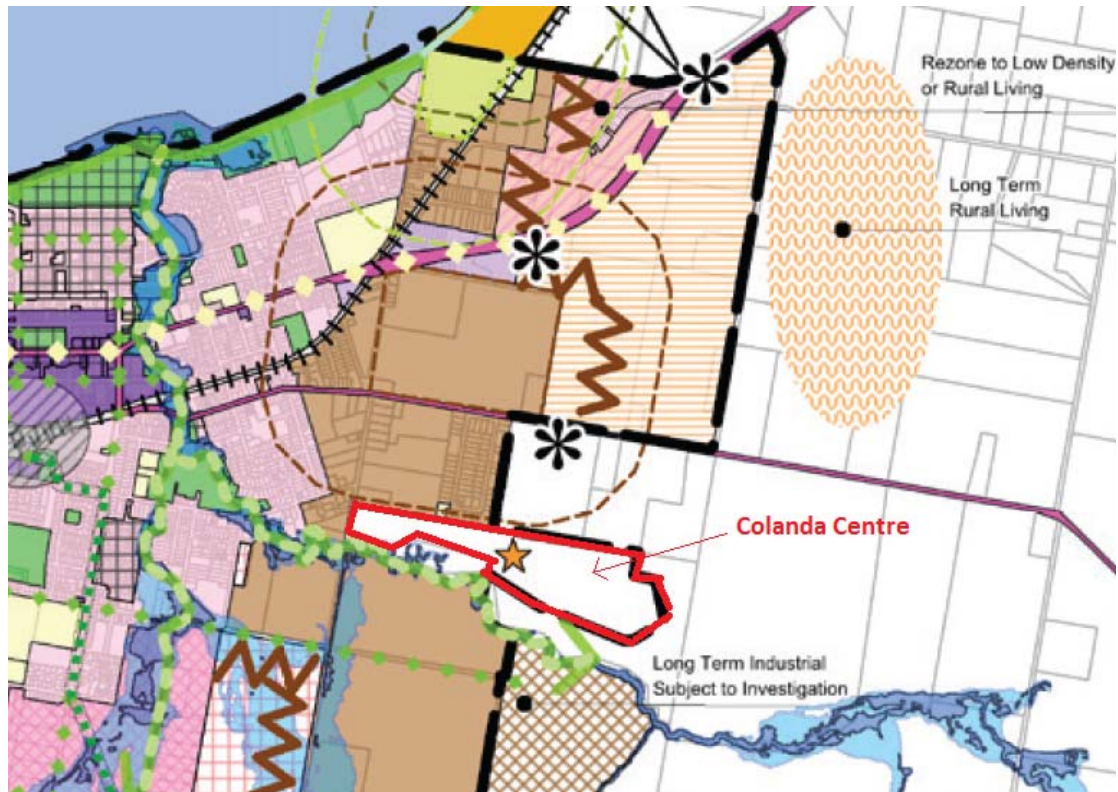
The draft Colac 2050 Growth Plan does not make any determination regarding future use of the Colanda site and recommends that State Government undertake a master planning exercise for the site (see Figure 3). However, the draft document does acknowledge interest in the use of the land for a cemetery, as follows:

“The Geelong Cemeteries Trust has approached Council to indicate that they are in the process of considering options for future expansion to cater for the long term needs of Colac. They have indicated their interest in the Colanda site. Whilst this is one of the uses that could potentially go on the land, there may be other compatible employment related uses which could collocate on the land, and a master planning process to consider alternative uses which could include a future cemetery and/or other compatible commercial or community uses could be used to explore different opportunities.”

It should be noted that the Colanda site (as developed) does not have any frontage to Barongarook Creek. However the two Crown lots that adjoin provide frontage to Barongarook Creek. Like the Colanda site, these two lots are managed by the Department of Health and Human Services. The long-term intention is to consolidate open space along the Barongarook Creek riparian corridor to the south. Future land subdivision should facilitate road frontage along the creek edge and avoid a pattern of development where lots back onto the creek frontage.

The current southern boundary of the Colanda site approximates the flood plain along the creek. This is the land that would form part of a riparian open space corridor in the future.

Figure 3: Draft Colac 2050 showing the Colanda Centre site in context



Cemetery Use

A cemetery generally requires a relatively unconstrained area of land to function efficiently. The Colanda site has more than enough land to cater for the long-term needs of the Geelong Cemetery Trust and it is considered that the total land is also far in excess of what would be needed just as a cemetery use.

The Colanda site has potential for other uses (e.g. industrial, trade uses) particularly close to the Forest Street frontage. Land in the eastern half of the site would be more suited to a cemetery use as it is less constrained, potentially including the remaining portion of the adjoining Crown Land to the immediate east of the Colanda site. Use of this land as a cemetery is not likely to interfere with any long-term growth pattern for Colac. The cemetery should link to the proposed long-term open space link along Barongarook Creek.

It is considered that initial in-principle support could be provided for the cemetery being developed at the Colanda site, subject to an engagement exercise with key stakeholders and other groups/organisations that may have an interest in alternative or complementary uses of the land.

FURTHER SUPPORTING INFORMATION

5. COMMUNITY CONSULTATION & ENGAGEMENT

There has been no engagement with the community on options being considered by the Cemetery Trust at this time. The Draft Colac 2050 Growth Plan which broadly considers the future use of the site is currently out on public exhibition seeking feedback from the community.

Whilst Council has previously advocated that the State Government facilitate a Master Plan for the site which is based on community engagement, this has not eventuated. Given the Cemetery Trust proposal, it is proposed that Council seeks community views of the future use of the Colanda site and surrounding Crown land through an informal engagement process, prior to final consideration of Council's position on the future of the Colanda site. The informal engagement process would consist of a notice in the newspaper, media release, a post on Council's Facebook page and discussion with key stakeholders. This information could then be considered as part of a future master planning exercise for the site.

6. ANALYSIS

ALIGNMENT TO COUNCIL PLAN OR COUNCIL POLICY

Any proposed site for expansion of the Colac Cemetery would need to be assessed under the relevant planning provisions.

Actions associated with seeking alternative uses at Colanda are supported by the Council Plan goal under Our Prosperity to "Support a thriving economy and industries". As noted above, advocacy concerning future use of the site is a Priority Project for Council.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications arising from this report.

SOCIAL & CULTURAL IMPLICATIONS

It is critical from a social perspective that the Geelong Cemeteries Trust is able to strategically locate and purchase a site to enable long term expansion of the current Colac cemetery.

ECONOMIC IMPLICATIONS

As noted in this report, Council has a current advocacy position that it is seeking State Government support for planning to investigate alternative options for development of the Colanda site post its closure, which will assist in offsetting the employment losses associated with the closure.

LEGAL & RISK IMPLICATIONS

There are no legal or risk implications associated with this report.

RESOURCE IMPLICATIONS (FINANCIAL ETC)

Proposed engagement on the cemetery is not expected to incur significant costs and these will be covered within the Strategic Planning operational budget.

7. IMPLEMENTATION STRATEGY

DETAILS

It is proposed to undertake a period of informal engagement with the community as discussed above. This engagement will be targeted for December 2018 – January 2019.

COMMUNICATION

The Cemetery Trust has been advised of Council's consideration of this matter.

TIMELINE

Subject to support by Council, engagement will occur over the course of December 2018.

8. OFFICER DIRECT OR INDIRECT INTEREST

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

ORDINARY COUNCIL MEETING
**PORT OF APOLLO BAY
 CONSULTATIVE COMMITTEE**
 OM182811-3

LOCATION / ADDRESS	Port of Apollo Bay	GENERAL MANAGER	Tony McGann
OFFICER	Frank Castles	DIVISION	Infrastructure & Leisure Services
TRIM FILE	F18/1465	CONFIDENTIAL	No
ATTACHMENTS	1. PoAB - Port of Apollo Bay Consultative Committee - PoABCC - Terms of Reference - Final Draft - 12 April 2018 pdf		
PURPOSE	To appoint the Port of Apollo Bay Consultative Committee		

1. LOCATION PLAN / AERIAL PHOTO



2. EXECUTIVE SUMMARY

As the manager of the Port of Apollo Bay, Council has sought to revitalise the Port of Apollo Bay Consultative Committee (PoABCC) through an Expression of Interest (EoI), to seek nominations for the group under the auspices of a Council appointed Committee. The PoABCC is conceived as a forum for users and community representatives to provide advice to Council and discuss important matters in relation to the operations of the Harbour.

Council undertook an Expressions of Interest process late April through to mid-May 2018 in order to seek nominations for members of the group. Nominations have been received for most positions on the committee. Council officers reviewed the nominations and have formed the view that these should be supported. It is therefore recommended that Council resolve to appoint the nominees noted in this Report to the PoABCC.

3. RECOMMENDATION

That Council:

- 1. appoint the following people to the Port of Apollo Bay Consultative Committee: Russell Frost; Dave Merry; Peter Sarda; Anthony Alfirenko; Marcus Nolle; Bill Gross; and Andrew Orchard, with Nick Polgeest, and Lisa Deppeler as proxies.*
- 2. maintain a position on the Port of Apollo Bay Consultative Committee for a suitable nominated candidate who represents the recreational boaters and fishers to be appointed by Council.*

4. BACKGROUND / KEY INFORMATION

BACKGROUND

Colac Otway Shire Council (COS) manages and administers the Port of Apollo Bay (Port) on behalf of the Victorian State Government and Transport For Victoria. This function oversees on-land and water issues within the Port environs.

A Port of Apollo Bay Consultative Committee (PoABCC) was formed in May 2017 with the purpose to share information and provide a forum for Council as the Port manager, to consult with port users. The group held meetings on four occasions until February 2018. An alternative community based group of port users, the Apollo Bay Harbour User Group (ABHUG), was formed in January 2018 which has resulted in some confusion about the role of the PoABCC.

Council has sought to revitalise the PoABCC through an Expression of Interest (EoI) for nominations to the group under the auspices of a Council appointed Committee.

KEY INFORMATION

The PoABCC is conceived as a forum for users and community representatives to provide advice to Council and discuss important matters in relation to the operations of the Harbour. A further role is to give a voice to key stakeholders and the community. It seeks to ensure fairness and transparency,

as well as accountability. It enables a formal 'seat at the table' to facilitate robust discussions between Council as Port Manager, and key stakeholders.

The PoABCC is to be governed by a Terms of Reference (ToR).

The draft version of the ToR is attached and establishes:

- Purpose of the group
- Membership of the group
- Process for nominations
- Governance matters such as meetings, attendance, agenda and minutes
- Working principles and protocols (conduct)
- Review of the ToR

The ToR proposes the following membership for the PoABCC:

- One Councillor & proxy (appointed by Council)
- Two Council Officers & proxy (appointed by Council)
- One nominated representative & proxy of the Apollo Bay Fisherman's Co-op
- One nominated representative & proxy of the Apollo Bay Ocean Rescue
- One nominated representative & proxy of the Apollo Bay Sailing Club
- One nominated representative & proxy of the Otway Coast Committee
- One self-nominated representative active in the Apollo Bay Commercial Fishers
- One self-nominated representative active in Apollo Bay in Recreational Boating and Fishers
- Two self-nominated community representatives with a demonstrated interest in the Port & experience in the fields of marine operations, harbours, coastal issues, legislation or risk management
- A Secretariat to be provided by the Colac Otway Shire.

Council undertook an Expressions of Interest process late April through to mid-May 2018 in order to seek nominations for members of the group.

The nominations received area as follows:

PoABCC Position	Nominee Name	Proxy
Apollo Bay Fisherman's Co-op	Russell Frost	Nick Polgeest
Apollo Bay Ocean Rescue	Dave Merry	None
Apollo Bay Sailing Club	Peter Sarda	Lisa Deppeler
Otway Coast Committee	Anthony Alfirenko	None
Apollo Bay Commercial Fishers	Marcus Nolle	N/A
Apollo Bay in Recreational Boating and Fishers	None received	N/A
Community Representative	Bill Gross	N/A
Community Representative	Andrew Orchard	N/A

Most applicants are also members of the ABHUG apart from the Otway Coast Committee and Apollo Bay Ocean Rescue.

Council officers have met to review the nominations and have formed the view that these should be supported. It is therefore recommended that Council resolve to appoint the nominees to the PoABCC.

FURTHER SUPPORTING INFORMATION

5. COMMUNITY CONSULTATION & ENGAGEMENT

Council officers have undertaken a formal Expression of Interest process which was advertised through local media. The formalised groups, Fisherman’s Co-op, Ocean Rescue, Sailing Club and Otway Coast Committee, also received letters requesting their nominations for the POABCC and a proxy.

Officers have also directly engaged with the Apollo Bay Port User Group in relation to the process. Nominees for the positions have also been directly contacted since the close of the EoI process.

Further targeted discussions will occur after a formal position from Council is noted.

6. ANALYSIS

ALIGNMENT TO COUNCIL PLAN OR COUNCIL POLICY

Active involvement in the management of the Port of Apollo Bay aligns with a number of goals as set out in the Council Plan 2017-2021.

Theme 1 – Our Prosperity

Goal 3 addresses the strengthening of partnerships with key stakeholders. The formation, albeit delayed, of the PoABCC will facilitate strong partnerships with key users of the Port.

Theme 2 – Our Places

Goal 1 of the Council Plan addresses the requirement for assets and infrastructure to meet community needs. By working with the PoABCC, Council can work in partnership with the key port users and community to develop robust plans for the facility.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications for Council in relation to the appointment of the PoABCC .

SOCIAL & CULTURAL IMPLICATIONS

There are no social or cultural implications for Council in relation to the appointment of the PoABCC.

ECONOMIC IMPLICATIONS

Nil

LEGAL & RISK IMPLICATIONS

The appointment of a PoABCC as a Council appointed Committee will ensure that Council can work in a collaborative manner with the key users of the Port, and ensure matters related to governance such as transparency, and representation are considered and maintained.

RESOURCE IMPLICATIONS (FINANCIAL ETC)

There will be ongoing staff requirements to oversee the formal running of the PoABCC including the requirement for administrative support.

7. IMPLEMENTATION STRATEGY

DETAILS

Subject to a Council resolution to appoint the preferred nominees to the PoABCC, officers will write to the successful members to notify them of their appointment, and inform them of the date of the first meeting. The secretariat will then issue a draft agenda for that meeting which would include the review and ratification of the Terms of Reference.

COMMUNICATION

The nominees for appointment to the Port of Apollo Bay will be advised of the outcome of the Council meeting. Information will also be made available via Council's website.

TIMELINE

It is anticipated that should Council resolve to appoint the nominees to the Port of Apollo Bay Consultative Committee that their first meeting will occur in the New Year.

8. OFFICER DIRECT OR INDIRECT INTEREST

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

Port of Apollo Bay Consultative Committee (PoABCC)

Terms of Reference

1.0 Purpose

The Port of Apollo Bay Community Consultative Committee (PoABCC) is the primary user and community consultative forum of the Colac Otway Shire for the Port of Apollo Bay.

The PoABCC scope is to:

1. Promote and facilitate two-way communication;
2. Share information and consult with the port users, community and members of the public who are interested in, or may be impacted by, port operations;
3. Provide advice to the Colac Otway Shire on issues of concern to the users, community and stakeholders;
4. Provide a forum where government agencies and potential port users can inform the Apollo Bay community of issues relevant to the Colac Otway Shire, Port of Apollo Bay and the community.

For the sake of clarity, the role as Member of the PoABCC is *not* to direct or govern the strategic or operational decisions, nor direct staff of the Port of Apollo Bay, as that is solely the legislated remit of the Colac Otway Shire. However, the input and feedback of the PoABCC membership will be considered by the Colac Otway Shire.

2.0 Membership and Attendees

The PoABCC will have up to a maximum of eleven (11) members. All nominated PoABCC members require endorsement by the Colac Otway Shire.

The membership and attendance of the PoABCC will include the following persons:

1. One (1) Councillor & proxy (appointed by Council);
2. Two (2) Council Officers & proxy (appointed by Council);
3. One (1) nominated representative & proxy of the Apollo Bay Fisherman's Co-op;
4. One (1) nominated representative & proxy of the Apollo Bay Ocean Rescue;
5. One (1) nominated representative & proxy of the Apollo Bay Sailing Club;
6. One (1) nominated representative & proxy of the Otway Coast Committee;
7. One (1) self-nominated representative active in the Apollo Bay Commercial Fishers;
8. One (1) self-nominated representative active in Apollo Bay in Recreational Boating and Fishers;
9. Two (2) self-nominated community representatives with a demonstrated interest in the Port & experience in the fields of marine operations, harbours, coastal issues, legislation or risk management;
10. A Secretariat to be provided by the Colac Otway Shire;
11. The PoABCC Chairperson, at his or her discretion, may invite other persons to attend meetings as considered appropriate for matters under discussion, e.g. project proponents, consultants and government agencies.

The PoABCC shall elect a Chairperson and Deputy Chairperson at its first meeting held under these Terms of Reference and then subsequently in June/July of each year.

3.0 Nominations

Colac Otway Shire will appoint all Council representatives. Organisation representatives shall be nominated by their organisations and a proxy shall also be nominated. Only one proxy is allowed to be nominated.

Representatives will be appointed or selected as follows:

- a) A call for nominations for positions on establishment, or made vacant by expiry of terms, or vacation of position on the PoABCC will be issued in June/July of each year;
- b) Existing members interested in remaining on the PoABCC will be eligible to re-nominate;
- c) Self-nominated representatives will be selected by Colac Otway Shire based on an Expression of Interest recruitment process and selected on merit.
- d) PoABCC members will be elected for a two (2) year term;
- f) Membership of the PoABCC will be ratified by the Colac Otway Shire Council;
- g) Members and profiles of delegates to the PoABCC will be publicised by the Colac Otway Shire when elected.

Conditions of Membership are as follows:

- Members formally agree that they do not have authority to speak, represent, or go on the public record on behalf of the PoABCC and that authority lies entirely with the Council or delegated Authority. (This does not preclude a Member's rights as a citizen or sector they may represent at the PoABCC.)
- That Members agree to abide by all relevant Council policies, procedures and code of conduct when on-site and/or when in attendance or representing in the capacity as a member of the PoABCC.

4.0 Meetings

Meetings shall be held every three (3) months (i.e. four (4) meetings per annum) and the Colac Otway Shire will be responsible for organising the meeting venue and providing secretariat services. More frequent meetings will be convened at the discretion of the Chairperson.

5.0 Quorum

A quorum shall be 50 per cent of the membership. Non-Council members or their proxy should attend at least 3 of the 4 meetings per annum to be eligible for re-nomination.

6.0 Attendance

The designated proxy should only attend in the absence of the nominated representative. Attendance of a meeting may be in-person or via suitable electronic means. Meeting attendance, including apologies, will be noted in the minutes of each meeting.

7.0 Agenda

The Colac Otway Shire will nominate a date, time and location for the meeting. The Colac Otway Shire will also collate agenda items and circulate an agenda one week prior to the meeting. Where (or if) an agenda item cannot be addressed sufficiently in the time leading up to the proposed meeting date, it will be the Colac Otway Shire's responsibility to ensure the item is carried over and addressed in either a subsequent meeting or through appropriate correspondence. Members can submit items for the agenda two weeks prior and will be accepted at the discretion of the Chairperson.

8.0 Minutes

Minutes will be taken by the secretariat service provided by Colac Otway Shire and be circulated to all stakeholders within two weeks of a meeting occurrence.

Confidential matters may be recorded and not circulated to PoABCC members but be reported to Colac Otway Shire via its delegate. The Colac Otway Shire in consultation with PoABCC will determine matters considered at the meeting that are confidential or of a sensitive nature.

The Colac Otway Shire will be responsible for retaining meeting minutes and circulating copies of the minutes to stakeholders.

9.0 Out of Session Items

Where an issue of importance arises out of session and that cannot be dealt with at a meeting, but does not require calling an additional meeting, the Colac Otway Shire may circulate material out-of-session.

10.0 Working Principles and Protocols

- Members of the PoABCC will work together to promote an environment that fosters mutual respect and understanding with open discussion.
- The PoABCC will respect confidentiality of issues if requested by the Colac Otway Shire.
- Non-Council Members of the PoABCC will not have open access to Council budgets.
- Reports of the PoABCC meetings will be available to the Colac Otway Shire Executive Management Team and Councillors.
- The PoABCC will be consulted on any new or proposed material change to the Port of Apollo Bay.
- Members of the media shall not attend meetings of the PoABCC. Statements to the media from the PABCC will be made through the Colac Otway Shire only.
- The PoABCC will discuss methods of dissemination of information from the Colac Otway Shire to the community and provide advice accordingly. This will include the dissemination of information on environmental audits and monitoring data. The methods of dissemination of information will include public meetings, the media, and publication on the Colac Otway Shire Website etc.
- The PoABCC will provide advice to the Colac Otway Shire on any proposal which is the subject of a community consultation process.

- Representatives to the PoABCC will take an active role in assisting the Colac Otway Shire in community consultation and dissemination of information to their member organisations.
- Profiles of Members of the PoABCC will be publicised by the Colac Otway Shire when elected each year.
- Discussion items from the PoABCC will be included in the Colac Otway Shire's regular media placements.

11.0 Review of Terms of Reference

A review of these Terms of Reference will be undertaken one year after inception and then every new membership term as required. Administrative changes will be made as necessary by the Colac Otway Shire.

ORDINARY COUNCIL MEETING

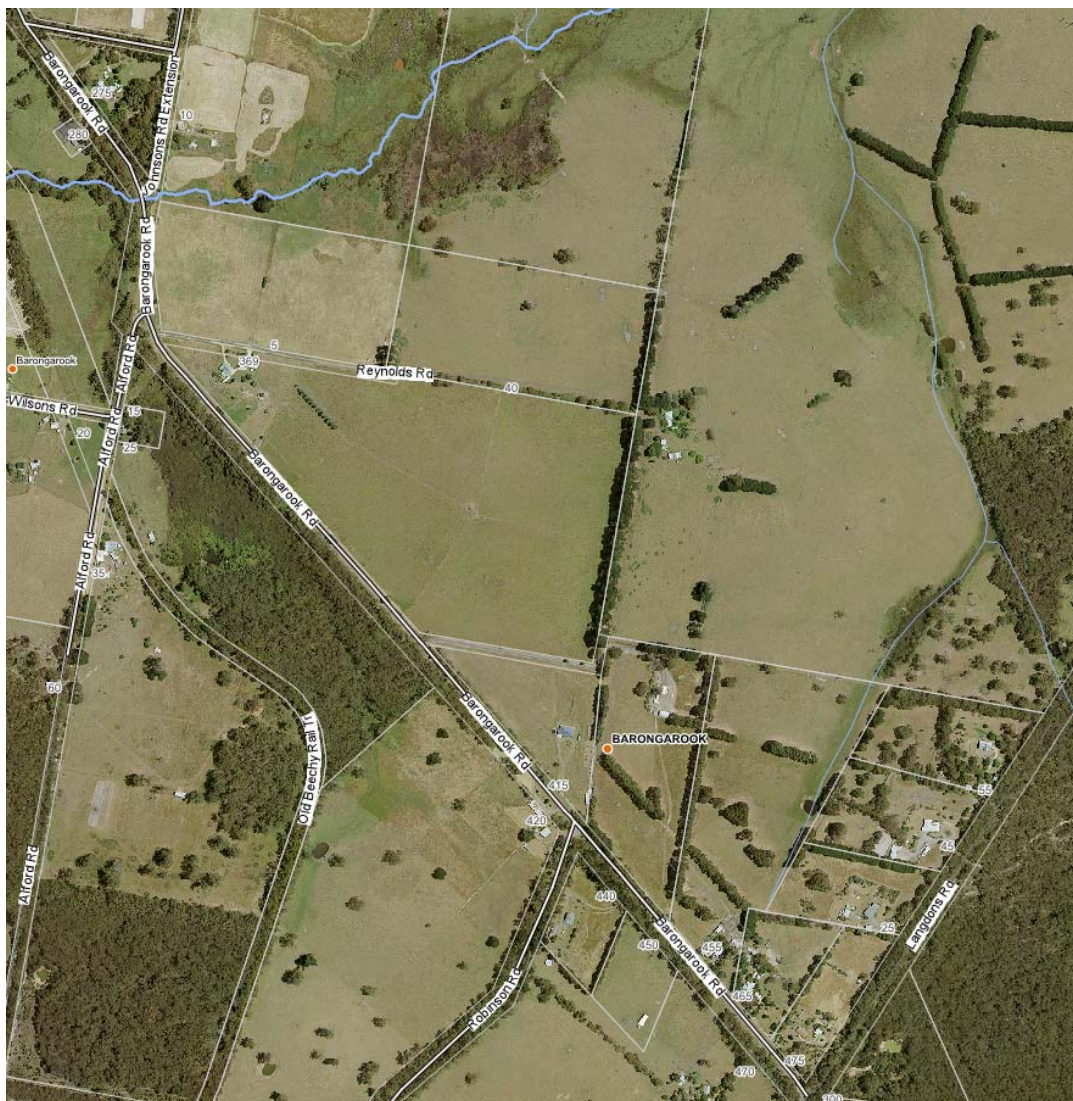
PETITION TO REDUCE THE SPEED LIMIT - BARONGAROOK ROAD, BARONGAROOK

OM182811-4

LOCATION / ADDRESS	Barongarook Road, Barongarook	GENERAL MANAGER	Tony McGann
OFFICER	Kristy Cochrane	DIVISION	Infrastructure & Leisure Services
TRIM FILE	F18/6789	CONFIDENTIAL	No
ATTACHMENTS	1. VLimits Report - Barongarook Road, Barongarook		
PURPOSE	To respond to the petition tabled at the October 2018 Ordinary Council Meeting requesting Council to reduce the speed limit from 100km/h to 80km/h on Barongarook Road, Barongarook.		

1. LOCATION PLAN / AERIAL PHOTO





2. EXECUTIVE SUMMARY

A petition was tabled at the October Ordinary Council Meeting requesting that Council reduce the speed limit on Barongarook Road, Barongarook from 100km/h to 80km/h.

There were 33 individuals who signed the petition from 23 addresses. Of the 23 addresses, all of the addresses would be considered as regular users of this road except for one, who identified as a regular visitor.

The petition includes the following statements in support of the request:

This road has become comparatively busy over the last ten years. There appears to be a lot of through traffic using the road, along with local residents. The road is also regularly used by gravel & log trucks.

The trucks seem to travel at or near the current speed limit (100km/h) whether loaded or unloaded. This, in our opinion poses danger to other road users whether they are driving vehicles, riding bicycles, horses or on foot. We have witnessed near misses on the road in recent times involving multiple vehicles. It seems, in recent years, the majority of smaller vehicles that use the road, also do not slow down when approaching the top of the hill.

The hill is steep, with a “crest” at the top, this does not allow for safe vision at the top or over the other side. Driving at 100k/h, or even less, poses great risk to the safety of other road users, whom are growing in numbers with every year, in our opinion. Residents exiting their driveways face a dangerous situation with speeding vehicles, including trucks traversing the hill from both sides. We have serious concerns that there could be a serious accident resulting in serious injury or even death.

We draw attention to the new speed limit along the nearby Bushby’s Road Barongarook, which has already been reduced to 80kph for the same reasons.”

3. RECOMMENDATION

That Council write to the petition submitter advising that the request to reduce the speed limit is not supported.

4. BACKGROUND / KEY INFORMATION

BACKGROUND

Barongarook Road is classified as a minor rural road in Council’s Road Management Plan and has total length of 6.2km, of which 4.8km is sealed, from Colac Lavers Hill Road to Langdon’s Road and 1.4km is unsealed from Langdon’s Road to the change of name to Gold Hole Road.

KEY INFORMATION

Officers utilised the Regional Roads Victoria, RRV (formerly VicRoads) VLimits tool which allows the relevant information about the road environment, road use numbers, road classification, and existing speed limit to determine the recommended speed limit. This tool was utilised with the intention to determine if a Road Safety Audit (RSA) should be pursued to support a request to reduce the speed if it was warranted. The VLimits report has indicated that the suggested speed limit should remain at 100km/h. The main determining factor in the suggested speed is the classification of the road as “rural”, and this suggested speed is consistent with the findings in the RRV Speed Limit Review which recommended a simplified speed limit be applied across road classifications. The review recommended that rural roads should be 100km/h in most instances. A copy of the VLimits report is attached.

Responses to the statements made in the petition:

This road has become comparatively busy over the last ten years. There appears to be a lot of through traffic using the road, along with local residents. The road is also regularly used by gravel & log trucks.

Barongarook Road is a public road and able to be used by light and heavy vehicles as required.

The trucks seem to travel at or near the current speed limit (100km/h) whether loaded or unloaded. This, in our opinion poses danger to other road users whether they are driving vehicles, riding bicycles, horses or on foot. We have witnessed near misses on the road in recent times involving multiple vehicles. It seems, in recent years, the majority of smaller vehicles that use the road, also do not slow down when approaching the top of the hill.

Heavy vehicles are permitted to travel at 100km/h within the state of Victoria. All drivers are expected to drive to the conditions of the road at any given time.

Advisory speed warning signs are not enforceable under law, and are intended as a guide to warn motorists of conditions which they may not expect.

The hill is steep, with a “crest” at the top, this does not allow for safe vision at the top or over the other side. Driving at 100k/h, or even less, poses great risk to the safety of other road users, whom are growing in numbers with every year, in our opinion. Residents exiting their driveways face a dangerous situation with speeding vehicles, including truck traversing the hill from both sides. We have serious concerns that there could be a serious accident resulting in serious injury or even death.

100km/h speed limits are the default on rural roads within Victoria, and the conditions on Barongarook Road are not considered to be worse than many other rural roads of the same speed limit which have property access points and as stated earlier, drivers are expected to drive to the conditions. While there is a crest on Barongarook Road, the alignment of the road on both approaches to the crest is straight.

We draw attention to the new speed limit along the nearby Bushby’s Road Barongarook, which has already been reduced to 80kph for the same reasons.

The speed limit on Bushby’s Road was modified in approximately 2008, following consultation with VicRoads and the VLimits tool suggesting that the speed limit should be reduced due to “*development, road curve alignment and crash history*”. Using the VLimits tool to assess Barongarook Road, when considering the above factors, resulted in the speed limit being suggested to stay at 100km/h.

FURTHER SUPPORTING INFORMATION

5. COMMUNITY CONSULTATION & ENGAGEMENT

Community members have signed a petition and submitted it to council requesting that the speed limit for Barongarook Road, Barongarook be reduced from 100 km/h to 80 km/h.

6. ANALYSIS

ALIGNMENT TO COUNCIL PLAN OR COUNCIL POLICY

Council considers requests to alter speed limits on a case by case basis on their technical merits.

ENVIRONMENTAL IMPLICATIONS

Not applicable

SOCIAL & CULTURAL IMPLICATIONS

Not applicable

ECONOMIC IMPLICATIONS

There are no direct economic implications for Council.

LEGAL & RISK IMPLICATIONS

Default speed limits on rural roads within Victoria are 100km/h, and speed limits are determined by RRV for all roads, arterial and municipal. Councils may request changes to the speed limits on municipal roads, however, justification is required before consideration can be given to reducing the speed limit. In order to determine if a request to RRV would be successful, officers have utilised the RRV VLimits tool to generate a report, which has considered the relevant factors on this section of road, including estimates of vehicle movements per day, estimates of vehicle speed, road classification, development type & number and other road features. The attached report has recommended that the speed limit for this road is retained at 100km/h.

One of the other key determining factors in a request to reduce a speed limit from the default is to consider past crash history. RRV have provided a crash history report, which does not show a serious crash along this section of road since 2013.

RESOURCE IMPLICATIONS (FINANCIAL ETC)

Not applicable

7. IMPLEMENTATION STRATEGY

COMMUNICATION

Council to write to the petition submitter advising that Council does not support the request to reduce the speed limit on this road after considering the issues identified in this report.

TIMELINE

Correspondence to be sent to the petition submitter prior to 31 December 2018.

8. OFFICER DIRECT OR INDIRECT INTEREST

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

Suggested Speed Limit:



Barongarook Road

Location: Colac Lavers Hill Road to Langdons Road

Suburb / place: Barongarook

Local government: COLAC-OTWAY

VicRoads Region: VicRoads - Kew

Analysed by: Kristy Cochrane

User reference: Petition - Barongarook Road, Rev.2

Review date: 16/10/2018

Development type

Rural

85th %ile speed

The 85th %ile speed is **95 km/h**.

Road characteristics

Length of the section of road is **4.7 km**.

The AADT on this road is **150 vpd**.

The existing posted speed limit on the section of road is **100 km/h**.

Frequency of roadside accesses

	Type of access	Number
--	----------------	--------

A	Residences, small commercial establishments, small public buildings and other units which generate light and/or occasional activity. (The weighting for this type of access is 1).	23
B	Average commercial establishment, schools, caravan parks, light industries, public buildings and units generating activity which is either: 1. continuous light 2. moderate at certain times, such as commuting hours 3. substantial at infrequent intervals (The weighting for this type of access is 2).	0
C	Heavy industry, schools, small shopping centres, petrol stations and other units generating continuous moderate activity or substantial activity at certain regular times. (The weighting for this type of access is 3).	0
D	Large shopping centres and other units generating substantial and continuous activity. Some large industries which are tourist attractions or for some other reason generate substantial traffic volumes would be included in this activity. (The weighting for this type of access is 4).	0
E	Unsignalised intersecting roads (including service road connections) of substantially lesser importance than the road being assessed, or intersecting roads where side traffic and turning movements have little effect on the traffic flow pattern of the road being considered. (The weighting for this type of access is 1).	3

F	Unsignalised intersecting roads (including service road connections) of lesser importance than the road being assessed but where the side road traffic and turning movements are such that the intersection has an appreciable effect on the traffic flow pattern of the road being considered. (The weighting for this type of access is 2).	0
G	Unsignalised intersecting roads (including service road connections) of comparable or greater significance than the road being assessed. Intersections which have a pronounced effect on the traffic flow pattern of the road being considered. (The weighting for this type of access is 3).	2
H	Roundabouts, signalised intersecting roads and any at-grade rail crossings. (The weighting for this type of access is 3).	0
	Average number of accesses per 100 m	0.68

Divided/undivided

The road is **undivided**.

Road function

The road's function is **rural local**.

Adjacent speed zones

Approach 1: 100 km/h - Default Rural Speed Limit

Approach 2: 100 km/h - Default Rural Speed Limit

ORDINARY COUNCIL MEETING
FOREST STREET SOUTH & CHRISTIES ROAD – DETAILED DESIGNS

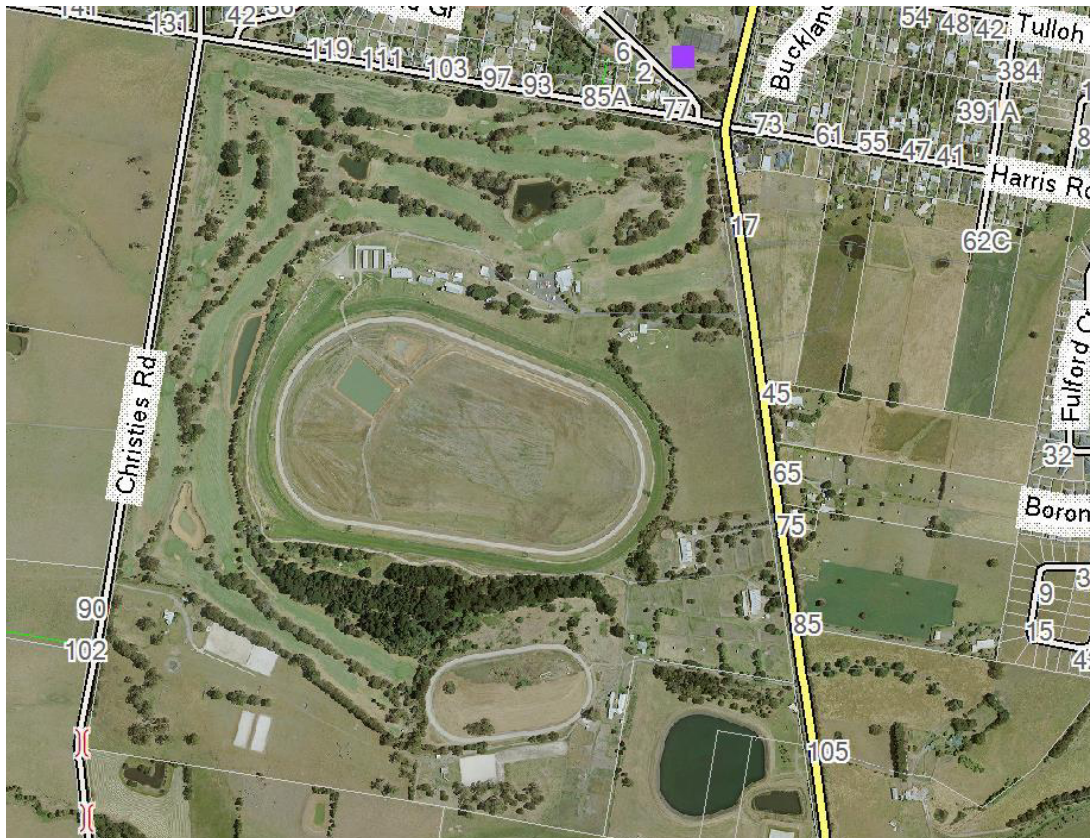
OM182811-5

LOCATION / ADDRESS	Forest Street South and Christies Road, Elliminyt	GENERAL MANAGER	Tony McGann
OFFICER	Kristy Cochrane	DIVISION	Infrastructure & Leisure Services
TRIM FILE	F18/6789	CONFIDENTIAL	No
ATTACHMENTS	Nil		
PURPOSE	To consider the detailed designs for the construction and sealing of Forest Street South and Christies Road Elliminyt, as per the Council resolution at the August Ordinary Council Meeting.		

1. LOCATION PLAN / AERIAL PHOTOS



Forest Street South



Christies Road

2. EXECUTIVE SUMMARY

A petition to seal Christies Road was tabled at the March 2014 Ordinary Council Meeting and a petition to seal or GATT seal Forest Street South was tabled at the July 2018 Ordinary Council Meeting.

The resolution for the report considering the petition for Christies Road was to refer the matter to the Capital Works Program for further scoping and the resolution for the report considering the petition for Forest Street South was to seek a detailed design and return to Council with the estimated costings to allow Council to make an informed decision. Council also included Christies Road in the resolution, and detailed Engineers estimates have now been obtained.

3. RECOMMENDATION

That Council notes the cost estimates for the upgrades of Christies Road Elliminyt & Forest Street South Elliminyt and refers both projects for consideration in the 2019/20 budget as Special Charge Scheme Projects.

4. BACKGROUND / KEY INFORMATION

BACKGROUND

Christies Road & Forest Street South are both defined as minor roads in Council's Road Management plan and both roads have been the subject of petitions to Council.

Council Resolution – 23 April 2014 – Petitioned upgrade of Christies Road Elliminyt:

That Council:

- 1. Refers the work to the Capital Works Program for further scoping, costing and prioritising.***
- 2. Writes to the author of the petition to inform them of Council's resolution and invites them to be included within the scoping of the works in the future.***

The section of Christies Road which the estimates have been prepared on is approximately 950m long and is from the Harris Road intersection to approximately 10m past the entrance to the Pony Club.

The section of Forest Street South which the estimates have been prepared on is approximately 1625m long and is from Belverdere Drive to Shorts Road.

Council Resolution – 22 August 2018 – Petition to seal or GATT Seal Forest Street South:

That Council requests the Chief Executive to seek a detailed design for the construction of Forest Street South, between Belverdere Drive, Elliminyt and Shorts Road, Barongarook and also for Christies Road from Harris Road to at least 10 metres past the entrance of the Colac Pony Club, Elliminyt with the findings to be returned to Council for consideration by the November Council meeting. Funding options for improvement works will be determined once the cost of the proposed improvements is known and presented to Council for consideration.

KEY INFORMATION

The cost estimates have been prepared by an external design consultant and is considered thorough and to have included most conditions which would be expected to be encountered on these particular sites. Officers have conducted a brief desk top review of the opinion of probable costs for the construction projects and have identified areas where there may be potential cost savings.

FURTHER SUPPORTING INFORMATION

5. COMMUNITY CONSULTATION & ENGAGEMENT

Christies Road & Forest Street South have both been the subject of petitions to Council.

Due to the regular contact officers receive in relation to these roads, they are both undergoing trials of dust treatments. We expect to see a reduction in dust production and less degradation of the road surface while the dust suppressant remains active.

Council is also trialling another product at an alternative location at varying concentrations to assess the effectiveness of lower cost options to assist in addressing community concerns prior to proceeding to sealing projects.

6. ANALYSIS

ALIGNMENT TO COUNCIL PLAN OR COUNCIL POLICY

Council considers petitions on a case by case basis. Improvements to Road Infrastructure fit within the theme of "Our Places".

ENVIRONMENTAL IMPLICATIONS

To be determined and addressed prior to potential constructions beginning as part of project plans.

SOCIAL & CULTURAL IMPLICATIONS

Not applicable

ECONOMIC IMPLICATIONS

Not applicable

LEGAL & RISK IMPLICATIONS

Not applicable

RESOURCE IMPLICATIONS (FINANCIAL ETC)

Both construction projects would need to be tendered if they are prioritised to proceed through the 2019/20 budget process as the lowest estimate is higher than the threshold for tendering for construction works.

The construction costs to widen and seal Christies Road are expected to be of the order of \$680,000, excluding GST. Christies Road may not be a viable option for Special Charge Scheme due to the very low numbers of residents who would be deemed a direct beneficiary, meaning Council would need to fund the full costs of the construction project should they wish to proceed with the project if the Special Charge Scheme proposal was not successful.

The construction costs to widen and seal Forest Street South are expected to be of the order of \$1,140,000, excluding GST. Forest Street South could be considered for construction through a Special Charge Scheme, however, due to the high number of vehicle movements per day on this road, it is anticipated that Council

would contribute a majority amount based on the apportionment calculation determined due to the high number of vehicle movements per day.

7. IMPLEMENTATION STRATEGY

DETAILS

Detailed designs have been sought. If successful for prioritisation in the 2019/20 budget process further details will be developed through the project planning.

COMMUNICATION

Resident communication will be conducted if the projects proceed through the 2019/20 budget process. Special Charge Schemes of this order would normally be considered over 2 years. The first year involves administration, consultation and procurement and the second year would see construction take place.

TIMELINE

To be considered through the 2019/20 budget process with delivery schedules to be determined once funding options have been determined.

8. OFFICER DIRECT OR INDIRECT INTEREST

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

ORDINARY COUNCIL MEETING
NOTICE OF MOTION –
COUNCIL'S POSITION ON THE LAKE COLAC
FORESHORE MASTERPLAN
OM182811-6

COUNCILLOR

Stephen Hart

ATTACHMENTS

1. Notice of Motion No. 287 - Cr Hart - Council's Position on the Lake Colac Foreshore Masterplan - Version 2 - Signed
2. Notice of Motion No. 287 - Signed-Summary-Minutes-Ordinary-Council-Meeting-22-June-2016 - page 36
3. Notice of Motion No. 287 - Ordinary Council Meeting - Minutes - 25 July 2018 - pages 31 - 33

1. COUNCILLOR COMMENT

I support the Lake Colac Foreshore Master Plan. However, Council's support for the Plan, as adopted on 22/6/'16, has become unclear in light of the fact that an amendment to a resolution on 25/7/'18 to reiterate Council's support was ruled 'out of order'. This raises doubt about how Council can advocate for funding in the forthcoming Federal election if the support for the Plan, by Colac Otway Shire Council, is in doubt.

If 'Resolution 1' is adopted then that will remove any doubt. Conversely, if 'Resolution 1' is not supported or if it is ruled 'out of order' as a stand-alone resolution, then Council needs to begin a process to review the Plan, or those elements that are not supported. Then a revised Plan can be adopted by Council. 'Resolution 2' calls for a report to allow that process to begin.

2. OFFICER COMMENT

General Manager, Infrastructure & Leisure Services

The Lake Colac Foreshore Master Plan was adopted by Council in June 2016. The development of the master plan included a thorough community engagement process which ensured a broad cross section of the community could contribute their ideas for the Lake Colac foreshore by providing a variety of different opportunities for people to contribute their ideas.

The Lake Colac Foreshore Master Plan sets out a 10-year plan to guide improvements to enhance and protect the environment, as well as visitor experience and amenity. The total cost to implement the plan over 10 years is \$5.4million.

Council has commenced implementation of the master plan including the construction of pathways, installation of lighting on the foreshore, new drinking fountains, replacement of a pedestrian bridge, new park furniture and construction of the foreshore car park. The \$750,000 project has been funded by Council in partnership with the Federal Government. To date, Council has spent \$252,881 with further commitments of \$456,331 which includes the completion of the Queens Avenue footpath and the foreshore lighting.

There is still a significant amount of work to implement the full scope of the master plan which will be subject to securing funding from a range of sources.

Adopted master plans provide strategic guidance on the future development of public land. For longer term master plans, it can be beneficial to formally review the plan to ensure they continue to meet the needs and expectations of the community. Master plans can be altered based on engagement with the community, however if amended should be endorsed by Council to ensure there is a formal position of Council.

3. NOTICE OF MOTION

TAKE NOTICE that it is my intention to move Resolution 1 at the Ordinary Council Meeting of the Colac Otway Shire to be held on **28 November 2018**. If Resolution 1 is not approved by Council then it is my intention to move Resolution 2. If Resolution 1 is adopted by Council then Resolution 2 would not be required and would not be moved as it is contrary to Resolution 1.

RESOLUTION 1

That Council:

- 1. Notes, at the Council meeting on 22 June 2016, Council adopted the Lake Colac Foreshore Master Plan (2016 – 2026),*
- 2. Notes, at the Council meeting on 25 July 2018, when a resolution about an “Amphitheatre” was considered that an amendment confirming Council’s support for the Lake Colac Foreshore Master Plan (2016 – 2026), which was adopted on 22 June 2016 was ruled ‘out of order’ and not considered, and*
- 3. Confirms its support for the Lake Colac Foreshore Master Plan (2016 – 2026), which was adopted by Council on 22 June 2016, to ensure that any doubt about Council’s support for the Lake Colac Foreshore Master Plan is eliminated.*

RESOLUTION 2

That Council:

- 1. Notes that some parts of the Lake Colac Foreshore Master Plan (2016 -2026), as adopted on 22 June 2016, are not supported by the current Council,*
- 2. Calls for a report to the January 2019 Ordinary meeting, earlier if possible, detailing how best to consult with the community on a review of the Lake Colac Foreshore Master Plan,*
- 3. Asks that the report referred to in point 2 is to outline how the review can be conducted so that only elements lacking support are considered, or, alternatively, whether the review should be a full review of the entire Plan, and*
- 4. Asks that due consideration is given to the importance of Lake Colac as a priority for the forthcoming Federal election.*

NOTICE OF MOTION No. 287 - 18/19
Notion of Motion – Council’s position on the Lake Colac Foreshore Master Plan

NOTICE OF MOTION

BY

COUNCILLOR Stephen Hart

TAKE NOTICE that it is my intention to move Resolution 1 at the Ordinary Council Meeting of the Colac Otway Shire to be held on 28 November 2018. If Resolution 1 is not approved by Council then it is my intention to move Resolution 2. If Resolution 1 is adopted by Council then Resolution 2 would not be required and would not be moved as it is contrary to Resolution 1.

RESOLUTION 1

That Council:

1. *Notes, at the Council meeting on 22 June 2016, Council adopted the Lake Colac Foreshore Master Plan (2016 – 2026),*
2. *Notes, at the Council meeting on 25 July 2018, when a resolution about an “Amphitheatre” was considered that an amendment confirming Council’s support for the Lake Colac Foreshore Master Plan (2016 – 2026), which was adopted on 22 June 2016 was ruled ‘out of order’ and not considered, and*
3. *Confirms its support for the Lake Colac Foreshore Master Plan (2016 – 2026), which was adopted by Council on 22 June 2016, to ensure that any doubt about Council’s support for the Lake Colac Foreshore Master Plan is eliminated.*

RESOLUTION 2

That Council:

1. *Notes that some parts of the Lake Colac Foreshore Master Plan (2016 -2026), as adopted on 22 June 2016, are not supported by the current Council,*
2. *Calls for a report to the January 2019 Ordinary meeting, earlier if possible, detailing how best to consult with the community on a review of the Lake Colac Foreshore Master Plan,*
3. *Asks that the report referred to in point 2 is to outline how the review can be conducted so that only elements lacking support are considered, or, alternatively, whether the review should be a full review of the entire Plan, and*
4. *Asks that due consideration is given to the importance of Lake Colac as a priority for the forthcoming Federal election.*

Ref: D18/111489

Councillor Comment (optional)

I support the Lake Colac Foreshore Master Plan. However, Council's support for the Plan, as adopted on 22/6/'16, has become unclear in light of the fact that an amendment to a resolution on 25/7/'18 to reiterate Council's support was ruled 'out of order'. This raises doubt about how Council can advocate for funding in the forthcoming Federal election if the support for the Plan, by Colac Otway Shire Council, is in doubt.

If 'Resolution 1' is adopted then that will remove any doubt. Conversely, if 'Resolution 1' is not supported or if it is ruled 'out of order' as a stand-alone resolution, then Council needs to begin a process to review the Plan, or those elements that are not supported. Then a revised Plan can be adopted by Council. 'Resolution 2' calls for a report to allow that process to begin.

SLH

Councillor **Stephen Hart**

DATED: _____

7-11-18

Ref: D18/111489

OM162206-7 LAKE COLAC FORESHORE MASTER PLAN

AUTHOR:	Stewart Anderson	ENDORSED:	Brydon King
DEPARTMENT:	Executive	FILE REF:	F15/6480

Original Recommendation

That Council:

1. ***Adopts the Lake Colac Foreshore Master Plan (2016-2026).***

ALTERNATIVE - MOVED Cr Terry Woodcroft seconded Cr Lyn Russell

That Council:

1. ***Adopts the Lake Colac Foreshore Master Plan (2016-2026).***
2. ***And that Council writes to all submitters and participating schools to thank them for their feedback***

CARRIED 6 : 1

DIVISION called

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

Against the Motion: Cr Michael Delahunty

Stewart Anderson left Council Chambers at 6:52pm

ORDINARY COUNCIL MEETING
**NOTICE OF MOTION –
PUBLIC FEEDBACK ON AMPHITHEATRE**

OM182507-12

COUNCILLOR	Jason Schram
ATTACHMENTS	1. Notice of Motion 280 – Public Feedback on Amphitheatre – Cr Jason Schram 2. Notice of Motion – Public Feedback on Amphitheatre – Councillor Comment – Cr Jason Schram

RECOMMENDATION

That Council:

1. *Goes out for public consultation for a period of six weeks via survey both online and hard copy to seek feedback on the idea that Council investigate the funding and building of an amphitheatre sound shell on the north bank of the botanical gardens facing out towards Lake Colac or any other area in Colac, with the possibility of incorporating the findings into Lake Colac Foreshore Masterplan or other future masterplans, for example, COPACC.*
2. *Invites public submissions for a period of six weeks on the idea of an amphitheatre sound shell on the north bank of the botanical gardens facing out towards Lake Colac or any other area of Colac.*
3. *Incorporates into the survey questions relating to the idea of an arts and market precinct along the lake foreshore and the removal of the fire track infrastructure but leaving the bitumen hardstand for all weather access.*
4. *Present the submissions and findings back to a Council briefing within 4 weeks of the survey and submissions closing and make the findings available to the public via the Council website and via hard copies.*

ALTERNATIVE MOTION

MOVED Cr Jason Schram

That Council:

1. *Goes out for public consultation for a period of six weeks via survey both online and hard copy to seek feedback on the idea that Council investigate the funding and building of an*

amphitheatre sound shell on the north bank of the botanical gardens facing out towards Lake Colac or any other area in Colac, with the possibility of incorporating the findings into Lake Colac Foreshore Masterplan or other future masterplans, for example, COPACC.

2. *Invites public submissions for a period of six weeks on the idea of an amphitheatre sound shell on the north bank of the botanical gardens facing out towards Lake Colac or any other area of Colac.*
3. *Incorporates into the survey questions relating to the idea of an arts and market precinct along the lake foreshore and the relocation of the fire track infrastructure but leaving the bitumen hardstand for all weather access.*
4. *Present the submissions and findings back to a Council briefing within 4 weeks of the survey and submissions closing and to the next Ordinary Council meeting after that briefing and make the findings available to the public via the Council website and via hard copies.*

AMENDMENT

MOVED Cr Stephen Hart

Add point 5 which reads:

5. *Notes it supports the Lake Colac Foreshore Master Plan (2016-2026), which was adopted by Council on 22 June 2016, notwithstanding the preceding points.*

This amendment was considered out of order and was not accepted by the Mayor.

ALTERNATIVE MOTION

MOVED Cr Jason Schram seconded Cr Chris Smith

That Council:

1. *Goes out for public consultation for a period of six weeks via survey both online and hard copy to seek feedback on the idea that Council investigate the funding and building of an amphitheatre sound shell on the north bank of the botanical gardens facing out towards Lake Colac or any other area in Colac, with the possibility of incorporating the findings into Lake Colac Foreshore Masterplan or other future masterplans, for example, COPACC.*
2. *Invites public submissions for a period of six weeks on the idea of an amphitheatre sound shell on the north bank of the botanical gardens facing out towards Lake Colac or any other area of Colac.*
3. *Incorporates into the survey questions relating to the idea of an arts and market precinct along the lake foreshore and the relocation of the fire track infrastructure but leaving the bitumen hardstand for all weather access.*
4. *Present the submissions and findings back to a Council briefing within 4 weeks of the*

survey and submissions closing and to the next Ordinary Council meeting after that briefing and make the findings available to the public via the Council website and via hard copies.

CARRIED 4 : 2

DIVISION

For the Motion: Cr Chris Smith, Cr Kate Hanson, Cr Joe McCracken, Cr Jason Schram

Against the Motion: Cr Stephen Hart, Cr Chris Potter

ORDINARY COUNCIL MEETING

COLAC AMPHITHEATRE/SOUND SHELL AND ARTS AND MARKET PRECINCT COMMUNITY ENGAGEMENT

OM182811-7

LOCATION / ADDRESS	3 Fyans Street Colac	GENERAL MANAGER	Tony McGann
OFFICER	Paul Jane	DIVISION	Infrastructure & Leisure Services
TRIM FILE	F18/7492	CONFIDENTIAL	No
ATTACHMENTS	Nil		
PURPOSE	To consider the feedback from the community regarding the proposed Colac Amphitheatre/Sound Shell and Arts and Market precinct.		

1. LOCATION PLAN / AERIAL PHOTO



2. EXECUTIVE SUMMARY

At its August 2018 Ordinary meeting, Council resolved to consult with the community about the concept of an amphitheatre/sound shell and arts and market precinct for Colac. A survey was prepared (both online and hard copy) to enable the community to share its views on the concept.

In total, there were 244 responses to the survey and two written submissions. In addition, the Lake Colac Coordinating Committee conducted a 'special meeting' to consider the proposal and provide Council with advice on the Committee's position.

In general, it appears that there is reasonable support for the development of an amphitheatre/sound shell on the Lake Colac foreshore. However, the expectation would be for a more comprehensive facility that includes changerooms, toilets, green room and meeting space.

The development of an arts and market precinct is well supported with feedback suggesting that this precinct be on the Lake Colac foreshore.

3. RECOMMENDATION

That Council:

- 1. Thank the community for their submissions to the consultation process.*
- 2. Confirm its support for the endorsed Lake Colac Foreshore Master Plan.*
- 3. Continue to implement the adopted Lake Colac Foreshore Master Plan and prioritise implementation of components relating to infrastructure which enable events (including markets) in Zone 5, being the Foreshore / Common area.*
- 4. Request that the Chief Executive develop a business case to progress the design and development of an amphitheatre as part of the 2019 / 2020 budget considerations.*

4. BACKGROUND / KEY INFORMATION

BACKGROUND

Following the consideration of a Notice of Motion to its August 2018 Ordinary meeting, Council resolved:

That Council:

- 1. Goes out for public consultation for a period of six weeks via survey both online and hard copy to seek feedback on the idea that Council investigate the funding and building of an amphitheatre sound shell on the north bank of the botanical gardens facing out towards Lake Colac or any other area in Colac, with the possibility of incorporating the findings into Lake Colac Foreshore Masterplan or other future masterplans, for example, COPACC.*
- 2. Invites public submissions for a period of six weeks on the idea of an amphitheatre sound shell on the north bank of the botanical gardens facing out towards Lake Colac or any other area of Colac.*
- 3. Incorporates into the survey questions relating to the idea of an arts and market precinct along the lake foreshore and the relocation of the fire track infrastructure but leaving the bitumen hardstand for all weather access.*

- 4. Present the submissions and findings back to a Council briefing within 4 weeks of the survey and submissions closing and to the next Ordinary Council meeting after that briefing and make the findings available to the public via the Council website and via hard copies.**

Council officers have undertaken a community engagement process to implement the resolution inclusive of an online and hard copy survey, along with calling for submissions from the community.

KEY INFORMATION

An online and hard copy survey was developed by officers to determine the extent of public support for an amphitheatre/sound shell in Colac. The survey was available to be completed from 22 August 2018 to 5 October 2018. In addition, the community was invited to lodge submissions regarding the topic.

The community was informed of the consultation process through the issuing of a media release, an advertisement in the Colac Herald, information on Council's website and Facebook pages along with direct correspondence to key organisations that have a direct interest in the Lake Colac foreshore.

In total, there were 244 responses to the survey and two written submissions. The survey results, including the verbatim comments, along with the two submissions, are attached. A general overview of the feedback is provided below.

Survey

Amphitheatre/Sound Shell:

- There were 244 responses to the survey, with 79% living in or near Colac.
- 55% of the respondents either strongly agreed or agreed with the development of an amphitheatre in Colac. 28% strongly disagreed or disagreed with an amphitheatre in Colac.
- The majority of responses supported a location on the Lake Colac foreshore, with 18% suggesting Memorial Square as the best location.
- 34% thought investment should be within 2-5 years whilst 35% believed it should be a long-term priority (10+ years). Only 14% believed it should be developed in the next 2 years.
- 55% of respondents believed an amphitheatre/sound shell would be used whilst 23% didn't think it would be used. 22% were unsure.
- The vast majority (58%) believe that the value of an amphitheatre/sound shell for Colac would be recreation and events rather than tourism or enhance the town's attractiveness.
- It was clear that some members of the community have expectations are that it would include supporting infrastructure such as toilets, changerooms, green room and meeting space. Interestingly, 19% believed a commercial space would also be beneficial.
- 77% of responses agreed there was a need for adequate power supplies to be installed on the Lake Colac foreshore, which aligns to the recommendations of the Lake Colac Foreshore Master Plan.

CFA fire track infrastructure:

- 53% of respondents either strongly agree or agree that the CFA fire track infrastructure be relocated from the foreshore. Surprisingly, 32% neither agree or disagree.
- 56% of responses believe that Council should invest in the relocation of the CFA infrastructure, with 26% responding that they strongly disagree or disagree with Council investment.
- 52% of respondents either strongly agree or agree that the bitumen hardstand should remain to be used for other activities, whilst 22% believe it should be removed.

- In regards to the timing of Council investment in the relocation of the CFA fire track infrastructure, responses were evenly spread across the options with the majority (34%) stating that it should be a short-term priority over the next 2-5 years. The next highest rating (27%) was as a long-term priority (10+ years).
- 78% of respondents either strongly agreed or agreed that Council should invest in the development of an arts and market precinct in Colac. More than half of the responses supported the Lake Colac foreshore as the best location for this precinct, with 34% of responses supporting Memorial Square as the preferred location. 34% believe that Council should invest as an immediate priority (next 2 years) whilst 37% believe it should be a short-term priority (next 2-5 years).

Submissions

Submitter	Response
Friends of the Colac Botanic Gardens	<ul style="list-style-type: none"> • Do not oppose the construction of a sound shell on the Lake Colac foreshore area. • Imperative that any development on the foreshore meets with the approval of Heritage Victoria. • Believe the best position would be in close proximity to the existing CFA storage shed and envisage the walls of the facility to provide shelter from the prevailing winds. • The provision of 3-phase power is also required.
Colac Otway Arts Trail	<ul style="list-style-type: none"> • Support the idea of an amphitheatre but in a different format. • A gallery and studio space should be developed with public changing areas, green room and toilets. • This would be more benefit to the community than an amphitheatre on its own. • Also believe that Council should invest in an Arts Officer to ensure the facility is properly utilised.

Other engagement

The Lake Colac Coordinating Committee also met to consider the proposal outlined in the Council resolution. The Committee unanimously support the desire to activate the space, which could be supported through the attraction and/or facilitation of events. The Committee also discussed the current CFA infrastructure and methods of improving the functionality, usability and aesthetic appeal of the space.

The Lake Colac Coordinating Committee passed the following motions regarding this issue:

Amphitheatre/Sound Shell

The Committee supports the Foreshore being made more suitable for a range of community events and enhanced through the provision of a hardstand area for temporary stages and marquees to be erected, along with improved drainage and necessary services (i.e. power and water) to allow events to take place on-site. If demand warrants, then a purpose-built permanent structure could be considered at a later date.

CFA infrastructure

The Committee supports the removal of the fencing and tower at the CFA training track in favour of temporary / mobile fencing being erected as required.

Conclusion

From the survey results and submissions, it appears that there is reasonable support for the development of an amphitheatre/sound shell on the Lake Colac foreshore. However, the expectation would be for a more comprehensive facility that includes changerooms, toilets, green room and meeting space. To include these elements, a substantial building would be required on the Lake Colac foreshore.

Aligning to the Lake Colac Coordinating Committee's view on the construction of an amphitheatre/sound shell, there is merit in ensuring that the foreshore area has the required infrastructure (hard stand, power, water, drainage etc.) to enable events in this location. This is already supported by the Lake Colac Foreshore Master Plan and would have less impact than constructing a building. A good example of this is the Geelong Waterfront which was redeveloped a number of years ago. The appropriate infrastructure was included in the redevelopment to allow for major events without the need for permanent buildings. The Geelong Waterfront continues to provide important public open space on a daily basis but also has the ability to host events, showcased by a number of major international events.

In regards to the CFA fire track infrastructure, Council should continue to work with the CFA, including the local brigade as well as the broader organisation, to determine the need for this infrastructure. If it is determined that this infrastructure is required, Council will need to negotiate with the CFA opportunities for the relocation of the facilities away from the Lake Colac foreshore. In the short-term, Council should look to remove infrastructure that is not required permanently (possibly including the tower and fencing) to improve the foreshore area.

The development of an arts and market precinct is well supported with feedback suggesting that this precinct be on the Lake Colac foreshore. This is supported by the existing Lake Colac Foreshore Master Plan and can be easily accommodated through the upgrade of power outlets in the short-term. Leaving the current CFA running track asphalt could impact on the current master plan as this is an area identified for a regional playspace, which is likely to require the removal of the asphalt area.

FURTHER SUPPORTING INFORMATION

5. COMMUNITY CONSULTATION & ENGAGEMENT

As per the resolution of Council, a thorough community engagement process has been undertaken to determine the community's interest in an amphitheatre/sound shell for Colac, along with an arts and market precinct.

The consultation process has been articulated in the Key Information section of this report.

6. ANALYSIS

ALIGNMENT TO COUNCIL PLAN OR COUNCIL POLICY

The implementation of the Lake Colac Foreshore Master Plan is a key action in the 2017-2021 Council Plan.

Theme 1: Our Prosperity

- Goal 1 – Plan Infrastructure, assets and land use with a long-term vision for economic growth.
 - Action 6 – Attract investment to implement key master plans that will drive economic growth such as the Lake Colac Foreshore Master Plan.

ENVIRONMENTAL IMPLICATIONS

There are a number of environmental considerations associated with developing infrastructure on the Lake Colac foreshore. Of particular note is the requirement for approval from Heritage Victoria for any works associated with the land adjacent to the Colac Botanic Gardens.

SOCIAL & CULTURAL IMPLICATIONS

It is evident that local events and festivals, along with activities such as markets can provide a range of social and cultural benefits. Events bring communities together and instil a sense of community pride and knowledge of their history. Whilst the social benefits of events and festivals are often not visible, they are extremely important. Events and festivals foster community pride, teach people new things, and strengthen community relationships.

ECONOMIC IMPLICATIONS

The development of infrastructure that attracts events and stimulates activity on the Lake Colac foreshore could provide economic benefits for our community. Along with the social and cultural benefits, local and regional events play important roles in stimulating visitation to regional areas which provide a range of economic benefits for our business community. They can also showcase what a town or region has to offer and improve the attractiveness of a place to live, work or invest.

LEGAL & RISK IMPLICATIONS

There are no legal or risk implications associated with this report.

RESOURCE IMPLICATIONS (FINANCIAL ETC)

The resource detailed below are contingent on Councils resolution on the matter, however they offer a base understanding of associated costs.

Event enabling infrastructure

Infrastructure improvements to enable events on the Lake Colac foreshore could be achieved at a small cost, with some works such as power improvements currently happening as part of the Lake Colac Foreshore Upgrade project.

Amphitheatre/Sound Shell

The development cost of an amphitheatre/sound shell and associated infrastructure will be significant, dependant on the scope of the project from a basic sound shell to the creation of the facility that meets community needs as identified in the survey. As an indication, the Grove Pavilion in Ocean Grove cost in excess of \$1M a number of years ago. Commercial design costs are typically between 6% and 10% of the total development costs so detailed design for a project such as this would be approximately \$100,000.

7. IMPLEMENTATION STRATEGY

DETAILS

Budget impacting items will be referred to the 2019/2020 budget process for consideration

COMMUNICATION

The outcomes of Council's consideration of the community feedback will be communicated through the normal mediums such as a media release and Council's website and Facebook page.

TIMELINE

Outcomes of Council's consideration will be communicated immediately after the November Council meeting.

8. OFFICER DIRECT OR INDIRECT INTEREST

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

ORDINARY COUNCIL MEETING
RATING AGREEMENT –
MT. GELLIBRAND WINDFARM
 OM182811-8

LOCATION / ADDRESS	450 Mooleric Rd, Ombersley	GENERAL MANAGER	Errol Lawrence
OFFICER	Paul Carmichael	DIVISION	Corporate Services
TRIM FILE	F18/7396	CONFIDENTIAL	No
ATTACHMENTS	1. Mt Gellibrand Windfarm Rating Agreement		
PURPOSE	To adopt a rating agreement for the Mt Gellibrand Windfarm that is now fully operational.		

1. LOCATION PLAN / AERIAL PHOTO



2. EXECUTIVE SUMMARY

The Mt Gellibrand Windfarm is now fully operational rendering the operators liable to contribute to Council's rates revenue. Under the Electricity Industry Act 2000, energy generators are liable to make a payment in lieu of municipal rates and charges to Councils and a draft rating agreement has been prepared to formalise this arrangement.

This agreement requires the generator (Mt Gellibrand Windfarm Pty Ltd) to pay approximately \$212,000 to Council for 2018-19. Council could expect to receive similar amounts each year for the term of the proposed agreement (being 19 years).

Maddocks Lawyers have assessed the proposed contract and are happy with its content.

Council approval of the proposed agreement is required to allow it to be finalised.

3. RECOMMENDATION

That Council:

- 1. Adopt the proposed Rating Agreement for the Mt Gellibrand Windfarm between Colac Otway Shire and Mt Gellibrand Windfarm Pty Ltd as attached.**
- 2. Authorise the Chief Executive to sign the agreement as required.**

4. BACKGROUND / KEY INFORMATION

BACKGROUND

The Mt Gellibrand Windfarm comprises of 44 x 3MW turbines and 1 x substation, situated across the localities of Ombersley, Warncoort and Irrewarra. The "farm" has a nameplate capacity of 132 megawatts (i.e. 44 turbines x 3 megawatts each). The 44 turbines are situated on ten separate rates assessments and all turbines have been commissioned and are operating.

The "farm" is operated by Mt Gellibrand Windfarm Pty Ltd, who:

- lease land on which the wind turbines are erected from landowners, and
- own the substation site (being 450 Mooleric Rd, Ombersley).

As the turbines and substation are connected by underground cables, they are deemed by the Valuer General to form a single rates assessment (which in this case will be addressed as 450 Mooleric Rd, Ombersley).

Under the provisions of the Electricity Industry Act 2000, energy generators are required to make a payment to councils *in lieu* of rates. The amount to be paid is an escalated amount from a base amount prescribed by an Order of the Governor-in-Council in August 2005.

This order provided for:

- \$40,000 to be paid to Councils per sub-station,
- \$900 to be paid to Councils per megawatt per turbine (based upon the generating capacity of the turbine),
- the payment amount to be escalated according to the CPI All Groups Index for Melbourne for the March quarter immediately preceding the start of the relevant financial year,

- the power generator to be granted a discount of 50% or 25% if the windfarm operates at an average capacity factor of less than 10% or between 10 -20% respectively in any financial year.

Under this arrangement, Mt Gellibrand Windfarm Pty Ltd could be expected to pay approximately \$212,000 in lieu of municipal rates and charges for 2018-19 (subject to no discount being applicable).

KEY INFORMATION

To formalise the arrangement, a draft rating agreement was submitted to officers by Mt Gellibrand Windfarm Pty Ltd. The draft has been reviewed by officers and Maddocks Lawyers (acting for Council) and contains the following provisions:

Clause	Title	Clause provides for:
2	Term of agreement	A term which would expire on 28 February 2037. An option for a term extension of 25 years – to be exercised by Mt Gellibrand Windfarm Pty Ltd (the “generator”).
4	Payment Calculation	Payment in lieu of rates for 2018-19 to be:- - \$50,780.24 for the sub-station at 450 Mooleric Rd, Ombersley. -\$162,168.60 for the 44 turbines (being \$1,228.55 x 3 megawatt x 44 turbines). Payment amount adjusted annually at 1 April, using CPI All Groups index for Melbourne for the March quarter compared to same index the previous year.
5	Method of payment	Council to issue a tax invoice. The generator may elect to pay by quarterly instalments or lump sum. Generator not required to pay until it has received a tax invoice.
6	Interest on outstanding payments	Council may charge penalty interest on amounts not paid within 30 days of due date.
7	Repowering	The generator will advise Council of any changes in the installed capacity of the windfarm. The amount payable will be adjusted accordingly if there is a change in capacity.
8	Rates in respect of land	The payment made will be in lieu Council levied rates and charges (i.e. not FSPL or State or Federal government charges, levies, taxes etc.)
9	Assignment	The generator may assign the agreement without Council’s consent but must give Council written notice prior to assigning the agreement.
10	Variations	Any amendment or variation to agreement must be in writing and agreed upon and executed by both parties.
11	General (Goodwill)	Both parties required to act in good faith.
12	Termination of Agreement	The generator may terminate the agreement with immediate effect if the farm is decommissioned (Council to be notified in writing).

Clause	Title	Clause provides for:
		<p>The generator may elect to terminate agreement but must give Council at least 30 days written notice.</p> <p>Council must then refund any amount paid in respect of the period after the termination.</p>
13	GST	Party responsible for paying for any supply/service under this agreement is to be responsible for paying GST (if applicable).
14	Entire Agreement	The agreement document will be the full extent of the agreement between the parties.
15	Governing law & jurisdiction	<p>Laws of State of Victoria to cover the agreement.</p> <p>Parties agree to accept jurisdiction of the courts of State of Victoria and Commonwealth of Australia.</p>
16	Dispute resolution	<p>Outlines a process for dispute resolution:-</p> <ul style="list-style-type: none"> - written advice of issue - response to be made within 5 business days - if not resolved within a further 5 business days, a Confirmatory Notice of Dispute may be issued - Independent expert may be appointed to provide advice to parties - independent expert may make a decision that is binding on both parties (except where there is a statutory remedy) - either party may still seek Court relief - each party to bear their own costs and share costs of independent expert.
17	Further assurances	Each party will do all necessary to implement the agreement
18	Notices	Notices to be in writing and mailed to address specified in agreement. Email not to be used.
19	Costs	Each party responsible for their own costs in relation to negotiation and execution of agreement.
20	Severability of provisions	Illegal, voidable or unenforceable provisions do not invalidate the agreement.

The draft agreement was agreed to by Councillors at a Briefing session on 10 October 2018. It was subsequently referred to lawyers acting for Mt Gellibrand Windfarm Pty Ltd who have agreed to the conditions proposed.

FURTHER SUPPORTING INFORMATION

5. COMMUNITY CONSULTATION & ENGAGEMENT

As this is a commercial agreement that is predicated by legislation, no community consultation or engagement has been undertaken.

6. ANALYSIS

ALIGNMENT TO COUNCIL PLAN OR COUNCIL POLICY

The proposed rating agreement represents an additional source of revenue to Council. It therefore meets one of the measures Goal 1 of Theme 4 (Our leadership and management) of the 2017-2021 Council Plan in that it identifies a new source of revenue.

ENVIRONMENTAL IMPLICATIONS

Any environmental implications have presumably been considered as part of the permit approval process for the windfarm and are not relevant to the proposed rating agreement.

SOCIAL & CULTURAL IMPLICATIONS

Any social and cultural implications have presumably been considered as part of the permit approval process for the windfarm and are not relevant to the proposed rating agreement.

ECONOMIC IMPLICATIONS

The rating agreement will result in revenue in excess of \$200,000 per annum being payable to Council for the term of the agreement subject to discounts not being applicable or the CPI becoming a negative factor.

LEGAL & RISK IMPLICATIONS

The agreement was reviewed by Maddocks Lawyers whose feedback was incorporated into the proposed agreement.

RESOURCE IMPLICATIONS (FINANCIAL ETC)

Not applicable

7. IMPLEMENTATION STRATEGY

DETAILS

Once Council adopts the rating agreement it will be signed and Mt Gellibrand Windfarm will be issued a Supplementary Rates Notice for the rates in lieu for 2018-19 to be paid.

COMMUNICATION

Not applicable

TIMELINE

The agreement will be finalised before Christmas 2018.

8. OFFICER DIRECT OR INDIRECT INTEREST

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

Rating Agreement

Mt Gellibrand Wind Farm Pty Ltd
(ABN 30 125 610 639)

and

Colac-Otway Shire Council

DRAFT

[7687025: 22604843_1]

This Agreement made on

Parties

- 1 **Mt Gellibrand Wind Farm Pty Ltd** ABN 30 125 610 639 of Level 12, Freshwater Place, 2 Southbank Boulevard, Southbank Victoria 3006 (the **Generator**).
- 2 **Colac-Otway Shire Council** a statutory body constituted under the *Local Government Act 1989* (Vic) of 2-6 Rae Street, Colac Victoria 3250 (the **Council**).

Recitals

- A The Generator operates the Mt Gellibrand Wind Farm (the **Wind Farm**) for electricity generation on land within the municipal district of the Council.
- B. The Generator has elected under the provisions of section 94(4) of the *Electricity Industry Act 2000* to pay amounts in lieu of general rates (rates-in-lieu) to the Council for the Wind Farm.

The parties have agreed as follows

1. Introduction

This Agreement is an agreement made in accordance with section 94(5)(a) of the *Electricity Industry Act 2000*.

2. Terms of Agreement

- (a) This Agreement shall commence on the date this Agreement (**Commencement Date**) was signed and, unless terminated earlier in accordance with clause 12, expire on 28 February 2037 (**Terminating Date**).
- (b) The Generator will have the option to extend the term of this Agreement for a further 25 years.
- (c) The option in clause 2(b) must be exercised, by notice in writing to the Council, no later than 12 months prior to the Terminating Date.
- (d) If the option in clause 2(b) is exercised, this Agreement will, unless terminated earlier in accordance with clause 12, expire on 28 February 2062.
- (e) The date for commencement of payment of rates-in-lieu under this Agreement (**Payment Commencement Date**) shall be the date the last wind turbine generator at the Wind Farm is Commissioned.
- (f) In this Agreement, "Nameplate Rating" and "Power Station" carry the same meanings as under the Order in Council under section 94 of the *Electricity Industry Act 2000* published in the Victorian Government Gazette on 25 August 2005 (**Order in Council**), namely:
 - (i) **"Nameplate Rating"** means the maximum continuous output of a generating unit, expressed in MW; and
 - (ii) **"Power Station"** means:
 - A where the fuel source for electricity produced is coal or

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gas, a generating unit or group of generating units connected to a common connection point; and

- B. where the fuel source for electricity produced is water or wind, a generating unit or group of generating units connected to one or more connection points, but forming part of the same scheme, as determined by the arbitrator, having regard to the scheme ownership structure, relevant planning approvals and environment effects statements.

- (g) In this Agreement, "**Commissioned**" means when the wind turbine generators at the Wind Farm have been tested and accepted by the Generator as operational for the purpose of transmission of electricity to the transmission network.

3. Installed Capacity

At the Commencement Date, the installed capacity of the Wind Farm is 132MW.

4. Payment Calculation

- (a) Subject to clause 4(c), the Generator must pay the Council the following rates-in-lieu in respect of each Financial Year:
- (i) \$40,000 (GST exclusive), as adjusted in accordance with clause 4(b), for each of its Power Stations located within the municipal district of the Council; and
 - (ii) \$900.00 (GST exclusive), as adjusted in accordance with clause 4(b), for each MW of the Nameplate Rating for each generating unit comprising the Power Station.
- (b) The amounts in clause 4(a) will be adjusted annually on 1 July each year during the term of this Agreement in accordance with the following formula:
- $$M = \frac{P \times A}{B}$$
- where:
- M = the adjusted amount;
 - P = the amount for the immediately preceding Financial Year;
 - A = the Consumer Price Index for Melbourne (All Groups) in respect of the quarter last published before the 1 April on which the adjustment is due to take place (**Adjustment Date**); and
 - B = the Consumer Price Index for Melbourne (All Groups) in respect of the quarter last published one year immediately preceding the Adjustment Date.
- (c) In this Agreement a reference to the Consumer Price Index for Melbourne (All Groups) means the Consumer Price Index (All Groups) published from time to time by the Australian Bureau of Statistics in respect of Melbourne. If the Commonwealth of Australia ceases to publish the Consumer Price Index; or the basis of calculating the Consumer Price Index is substantially changed, the index to be applied will be the index which most closely reflects changes in the cost of living in Melbourne as determined by:
- (i) agreement between the parties; or

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- (ii) if the parties are unable to agree, the President of the Australian Property Institute Incorporated, or the nominee of the President, whose decision is conclusive and binding.
- (d) The Council and the Generator acknowledge that the amount payable under clause 4(a), as adjusted in accordance with clause 4(b), may be varied from time to time in accordance with clause 3(b) of the Order in Council. To facilitate this, the Generator will:
 - (i) notify the Council if the annual average capacity factor falls below the thresholds fixed by the Order in Council; and
 - (ii) if notice is given under clause 4(d)(i), provide evidence of Wind Farm output to the Council based on its Australian Energy Market Operator invoices,
 to enable the Council to verify the annual average capacity factor.
- (e) In this Agreement Financial Year means:
 - (i) where the Commencement Date is a day other than 1 July, the period from the Commencement Date until the immediately following 30 June;
 - (ii) any 12 month period during the Term commencing on 1 July and ending 30 June; and
 - (iii) where the expiry date is a day other than 30 June, the period from the immediately preceding 1 July and ending on the Terminating Date.
- (f) For example purposes only, Council rates- in-lieu for the Wind Farm for the Financial Year ended 30 June 2019 calculated in accordance with clause 4(a) would be:

Item	Unit charge (excl GST)	Total (excl GST)
1 x substation	\$40,000	\$40,000
44 x 3 MW turbines	\$900 / MW capacity	\$118,800
TOTAL		\$158,800 per annum

5. Method of Payment

- (a) The Council will issue the Generator annually with a tax invoice for the rates-in-lieu due in respect of that financial year.
- (b) The Generator may elect to pay the amount due in each Financial Year in either 4 instalments or as a lump sum.
- (c) Instalments, if elected, will be due and payable on the dates fixed by the Minister for Local Government, in accordance with section 167(2) of the *Local Government Act 1989*, or as agreed pursuant to the *Electricity Industry Act 2000*.
- (d) A lump sum payment, if elected, will be due and payable on the date fixed by the Minister, in accordance with section 167(2B) of the *Local Government Act 1989*.

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- (e) Despite anything else in this Agreement, the Generator is not required to make any payment under this Agreement unless and until it receives a tax invoice for the relevant amount.

6. Interest on Outstanding Payments

- (a) The Council may require interest to be paid on any amounts which the Generator is liable to pay and which have not been paid by the due date for such payment.
- (b) The interest is to be calculated at the rate fixed under section 2 of the *Penalty Interest Rates Act 1983* that applied on 1 July immediately before the due date for payment and:
 - (i) if the payment was payable by instalment and the first instalment was paid by the date it was due, on and from the date on which the relevant subsequent missed instalment was due; or
 - (ii) if the payment was payable either by instalment or in a lump sum and the first instalment or the lump sum, as the case may be, was not paid by the date it was due, on and from the date on which the instalment or lump sum was due.

7. Repowering

- (a) The Generator or any successor in law will notify the Council in writing of any change to the installed capacity of the Wind Farm.
- (b) The rates-in-lieu payment calculation will be adjusted in accordance with any such change in installed capacity.
- (c) The adjusted rates-in-lieu payment shall commence from the date of commissioning of the adjusted installed capacity.

8. Rates in respect of land

- (a) This Agreement captures all rates, rate-in-lieu and other payments in connection with the Generator's use of any land leased to the Generator or otherwise occupied exclusively by the Generator pursuant to an agreement or other arrangement with the registered proprietor of that land. The Council may not impose any rates, rate-in-lieu or other payments in respect of the land so leased or occupied exclusively by the Generator whether payable by the Generator or by the registered proprietor of the land.
- (b) Nothing in this Agreement:
 - (i) precludes the Council from levying rates as permitted by the *Local Government Act 1989* in respect of any other land which is not:
 - A. exclusively occupied by the Generator; or
 - B. used by the Generator in connection with the generation of electricity for commercial sale or supply; or
 - (ii) excludes the liability of the Generator or the registered proprietor of land leased or occupied by the Generator in respect of the State Government's Fire Services Property Levy and any other rates,

charges or taxed raised, levied or imposed on the Generator or otherwise in respect of land occupied by the Generator.

9. Assignment

The Generator may, without the consent of the Council, assign its rights or obligations under this Agreement if the assignee is:

- (a) a Related Body Corporate (as that term is defined in the *Corporations Act 2001* (Cth)) of the Generator;
- (b) a participant in a joint venture in which the Generator or a Related Body Corporate (as that term is defined in the *Corporations Act 2001* (Cth)) of the Generator is also a participant; or
- (c) the purchaser of all or part of the Wind Farm,

provided always that the Generator must give the Council prior written notice of any such assignment.

10. Variations

Any amendment of or variation to this Agreement must be in writing and be executed by or signed on behalf of the Generator and the Council.

11. General

Each party agrees that it will, at all times, act in good faith in relation to the other party with respect to all matters relating to this Agreement.

12. Termination of Agreement

- (a) The Generator may elect to terminate this Agreement:
 - (i) if the Wind Farm is Decommissioned, with immediate effect on written notice to the Council; or
 - (ii) at will, by giving the Council at least 30 days written notice.
- (b) If this Agreement is terminated under this clause 12, within 30 days after the date of termination:
 - (i) the Council must refund to the Generator any amount paid by the Generator under this Agreement which relates to a period after the date of termination; and
 - (ii) the Generator must pay to the Council any amount payable and remaining outstanding which relates to a period before the date of termination.
- (c) In this clause 12, "**Decommissioned**" means completion of the activities performed for or on behalf of or for the Generator in relation to demolishing and removing the Generator's property from the land on which the Wind Farm is located and decommissioning the Wind Farm including the physical removal of wind turbines, buildings, structures and equipment related to the Wind Farm and rehabilitating that land.

13. GST

- (a) If GST is payable, or notionally payable, on a supply made under or in connection with this Agreement, the party providing the consideration for that supply must pay as additional consideration an amount equal to the amount of GST payable, or notionally payable, on that supply (**GST Amount**). Subject to the prior receipt of a tax invoice, the GST Amount is payable at the same time that the other consideration for the supply is provided. This clause does not apply to the extent that the consideration for the supply is expressly stated to be GST inclusive or the supply is subject to reverse charge.
- (b) Where any indemnity, reimbursement or similar payment under this Agreement is based on any cost, expense or other liability, it shall be reduced by any input tax credit entitlement, or notional input tax credit entitlement, in relation to the relevant cost, expense or other liability.
- (c) If an adjustment event occurs in relation to a supply made under or in connection with this Agreement, the GST Amount will be recalculated to reflect that adjustment and an appropriate payment will be made between the parties.
- (d) This clause will not merge upon completion and will continue to apply after expiration or termination of this Agreement.
- (e) Unless the context requires otherwise, words and phrases used in this Agreement that have a specific meaning in the GST law (as defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth)) shall have the same meaning in this Agreement.

14. Entire Agreement

This Agreement forms the entire agreement between the parties in respect of its subject matter.

15. Governing law and jurisdiction

- (a) This Agreement shall be construed in accordance with and shall be governed by the laws in force in the State of Victoria.
- (b) Each of the parties irrevocably submits to and accepts the non-exclusive jurisdiction of any of the Courts of the State of Victoria or the Commonwealth of Australia and any courts of appeal from these courts.

16. Dispute resolution

- (a) This clause 16 shall apply to this Agreement except where arbitration is required under section 94(5)(b) of the *Electricity Industry Act 2000*.
- (b) If a dispute arises in relation to any matter under this Agreement, the party seeking resolution of that dispute must give to the other written notice stating that it is a notice under this clause 16 and specifying in reasonable detail the nature and particulars of that dispute (**Notice of Dispute**).
- (c) Within 5 Business Days after the Notice of Dispute is provided, a senior representative of the Generator and a representative of the Council who is authorised to make a decision on behalf of the Council without deferral to a more senior person (**Council Representative**) must meet and use reasonable endeavours acting in good faith to resolve the dispute by

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joint discussions.

- (d) If within a further 5 Business Days the dispute is not resolved or if the senior representative of the Generator and the Council Representative have not met, either party may give a Confirmatory Notice of Dispute to the other at which time the dispute must be determined by an independent expert in the relevant field agreed upon and appointed jointly by the parties.
- (e) If the parties are unable to agree upon the independent expert under paragraph (d) within 5 Business Days after the giving of the Confirmatory Notice of Dispute, then either party may apply to the chairperson or other senior office bearer for the time being of the Victorian Chapter of the Resolution Institute or his nominee to appoint an independent expert in the relevant field.
- (f) The independent expert agreed upon or appointed under paragraph (e) will act as an expert and not as an arbitrator and may adopt such procedures as he or she sees fit so as to provide an expeditious, cost effective and fair means of determining the dispute.
- (g) In the absence of any manifest error material to the determination, the decision of the independent expert will be final and binding on the parties.
- (h) The parties agree that the independent expert is not empowered under this Agreement and cannot be empowered without the written consent of the parties to make any decision or determination about the application of any statutory remedy or damages.
- (i) Nothing in this clause 16 prevents either party applying to a court at any stage for injunctive, declaratory or other relief.
- (j) The independent expert may engage other consultants to advise him if he considers this necessary.
- (k) The fees of the independent expert will be borne by the parties equally or as the independent expert may otherwise determine. Each party will bear its own costs, including legal and consultant costs relating to the independent expert's decision.
- (l) Despite the existence of a dispute between the parties, each party must continue to perform its obligations under this Agreement to the extent that those obligations do not relate to the dispute.

17. Further Assurances

Each party must do anything necessary (including executing agreements and documents) to give full effect to this Agreement and the transactions contemplated by it.

18. Notices

- (a) A notice or other communication under this Agreement (**Notice**) must be in writing and delivered by hand or sent by prepaid post, fax or email to a party at the address, fax number or email address as set out below or as specified by a party by Notice.

- (b) A Notice sent by post is regarded as given and received on the second Business Day following the date of postage.
- (c) A fax is regarded as given and received on production of a transmission report by the machine from which the fax was sent which indicates that the fax was sent in its entirety to the recipient's fax number.
- (d) An email is regarded as given and received at the time the email leaves the sender's email system, unless the sender receives notification that the email was not received by the recipient.
- (e) A Notice delivered or received other than on a Business Day or after 4pm (recipient's time) is regarded as received at 9am on the following Business Day and a Notice delivered or received before 9am (recipient's time) on a Business Day is regarded as received at 9am on that Business Day.

Address for service	Council	Colac-Otway Shire Council 2-6 Rae Street Colac VIC 3250 Attention: [#] Fax: [#] Email: [#]
	Generator	Mt Gellibrand Wind Farm Pty Ltd Level 12, Freshwater Place, 2 Southbank Boulevard Southbank, VIC, 3006 Attention: Company Secretary Fax: [#] Email: [#]

19. Costs

Each party will bear their own costs in relation to the negotiation and execution of this Agreement.

20. Severability of provisions

Any provision of this Agreement which is illegal, void or unenforceable will be ineffective to the extent only of such illegality, voidness or unenforceability without invalidating the remaining provisions of this Agreement.

21. Counterparts

This Agreement may be executed in a number of counterparts and all such counterparts taken together will be deemed to constitute one and the same agreement.

Executed as an agreement.

Executed as an agreement in accordance with section 127 of the *Corporations Act 2001* by **Mt Gellibrand Wind Farm Pty Ltd**:

Director Signature

Director/Secretary Signature

Print Name

Print Name

Signed for and on behalf of the **Colac Otway Shire Council** by **[#insert NAME and POSITION]** pursuant to a properly delegated authority:

Signature of Witness

Print Name

DRAFT

ORDINARY COUNCIL MEETING
**NOTICE OF MOTION –
DAIRY FARM RATE REFERRAL**
OM182811-9

COUNCILLOR	Chris Smith
ATTACHMENTS	1. Councillor Request - Notice of Motion - Dairy Farmer Rate Deferral - Cr Smith

1. COUNCILLOR COMMENT

With dairy farmers under extreme financial pressure, the ability to defer their Rate payment until the end of June will be of great assistance.

Typically Dairy Farm income over summer, from January to May, is at the lowest and therefore most challenging, due to low milk yield and higher feed input costs.

To defer the rate burden, which is significant, until June would be very helpful to most dairy farm businesses across the Shire.

The cost to Council is minimal as Council only foregoes the interest that might be gained.

Council granted this deferment two years ago but there was little take-up at that time. This was mainly due to the fact that it was not advertised and very few Dairy Farmers were made aware of the opportunity. This is why point 3/ has been added.

Also last time there was some confusion as to who was deferring their rates, so the requirement to register by 15 February has been added.

With the worsening state of the industry and the current extremely high cost of production due to drought, this opportunity is sure to be welcomed and taken up by dairy farmers. It also has the potential to benefit other connected businesses.

Our community is very aware of the current difficulties in the Dairy Industry. This motion is just a small way that we can support an industry that is currently going through one of its most difficult times in history.

2. OFFICER COMMENT

General Manager, Corporate Services

Council granted the dairy industry the same assistance in 2016-17 in response to claims of hardship by dairy farmers as a result of the reduction of milk prices paid by the milk processors. The amount the processors would pay for milk was affected and required “claw back” payments for payments made to farmers in previous years. These decisions affected farmers on a national basis and precipitated what became known as “the dairy crisis”. The milk processors have since reversed their decisions thereby averting the crisis.

The effects of these decisions were exacerbated by the fact they came soon after a period of hardship for farmers caused by drought.

As a result of granting this assistance, 33 dairy farming enterprises applied for the extension of time in which to pay their rates. Rates payable by the 33 enterprises amounted to approximately \$260,000. As a result, this money was collected approximately 4 months later than would normally be the case.

3. NOTICE OF MOTION

TAKE NOTICE that it is my intention to move in Open Council, at Ordinary Council Meeting of the Colac Otway Shire to be held on **Wednesday 28th November 2018**.

- 1. That Dairy farmers within the Colac Otway Shire who pay their 2018/2019 Rate Account/s in full prior to 30th June 2019 will not be charged any penalty interest.***
- 2. Registration is required at the Council, with a copy of the current Dairy Licence, by the 15th February 2019 to register the intention to defer payment.***
- 3. That Council will advertise and publicize in local press, as well as notify Milk Factories, of this option for Dairy Farmers.***

NOTICE OF MOTION

BY

Councillor Chris Smith

TAKE NOTICE that it is my intention to move in Open Council, at the Ordinary Council Meeting of the Colac Otway Shire to be held on Wednesday 28th November 2018:

- 1/ That Dairy farmers within the Colac Otway Shire who pay their 2018/2019 Rate Account/s in full prior to the 30th of June 2019 will not be charged any penalty interest.
- 2/ Registration is required at the Council, with a copy of a current Dairy Licence, by the 15th February 2019 to register the intention to defer payment.
- 3/ That Council will advertise and publicize in local press, as well as notify Milk Factories, of this option for Dairy Farmers.



Councillor Chris Smith

DATED: 28/10/2018



NOTICE OF MOTION

Dairy Farmer Rate Deferral

Explanation

With Dairy Farmers under extreme financial pressure, the ability to defer their Rate payment until the end of June will be of great assistance.

Typically Dairy Farm income over Summer, from January to May, is at the lowest and therefore most challenging, due to low milk yield and higher feed input costs.

To defer the rate burden, which is significant, until June would be very helpful to most Dairy Farm businesses across the Shire.

The cost to Council is minimal as Council only forgoes the interest that might be gained.

Council granted this deferment two years ago but there was little take up at that time. This was mainly due to the fact that it was not advertised and very few Dairy Farmers were made aware of the opportunity. This is why point 3/ has been added.

Also last time there was some confusion as to who was deferring their rates, so the requirement to register by 15th February has been added.

With the worsening state of the industry and the current extremely high cost of production due to drought, this opportunity is sure to be welcomed and taken up by Dairy Farmers. It also has the potential to benefit other connected businesses.

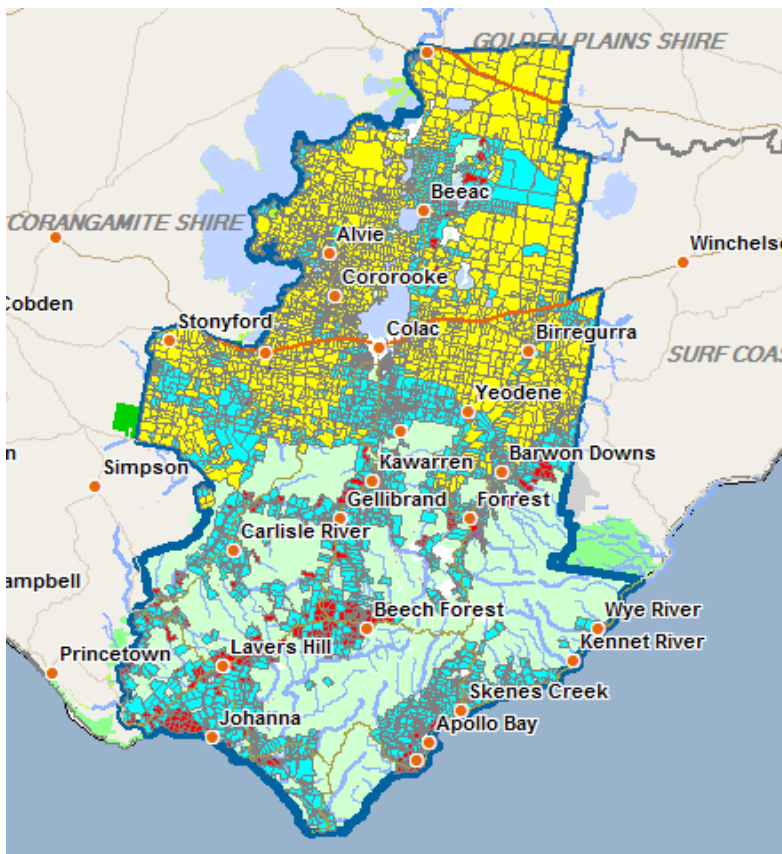
Our community is very aware of the current difficulties in the Dairy Industry. This motion is just a small way that we can support an industry that is currently going through one of its most difficult times in history.

ORDINARY COUNCIL MEETING
**COUNCIL POLICY REVIEW 16.5 - DEBTOR
 MANAGEMENT AND DEBT RECOVERY**

OM182811-10

LOCATION / ADDRESS	Whole of Municipality	GENERAL MANAGER	Errol Lawrence
OFFICER	Jason Clissold	DIVISION	Corporate Services
TRIM FILE	11/96037	CONFIDENTIAL	No
ATTACHMENTS	1. Policy 16.5 - Debtor Management and Debt Recovery		
PURPOSE	To present the proposed amendments to Council Policy 16.5 - Debtor Management and Debt Recovery		

1. LOCATION PLAN / AERIAL PHOTO



2. EXECUTIVE SUMMARY

There are several amendments recommended to this policy. None of which alter the intent of the adopted policy.

The amendments relate to clarifying Council's processes in relation to Debtor Management and updating the currency of the wording, titles, thresholds, etc.

3. RECOMMENDATION

That Council adopt the proposed amendments to the attached Policy 16.5 – Debtor Management and Debt Recovery.

4. BACKGROUND / KEY INFORMATION

BACKGROUND

Policy 16.5 – Debtor Management and Debt Recovery was first adopted by Council in January 2015 and is due for review.

The policy has operated well in its current form and the recommended amendments relate to updating current information and clarification of particular processes.

KEY INFORMATION

The intent of the policy remains unchanged with many of the proposed amendments relating to title changes, presentation and reference. The key amendments to note are:

1. Inclusion of a paragraph highlighting that invoicing customers is not Council's preferred method of receiving payment as it has a high transactional cost.
2. The default option to charge sundry debtors penalty interest has been removed, instead now being an option for Management when deemed appropriate.
3. Specifying that the Debt Owner is the 'Manager' of the Department and Unit, rather than just the Department and Unit as a whole.
4. Provision of service to a customer will be ceased once a debt is unpaid after 60 days, rather than 90.
5. Clarification of when a sundry debt will be sent to Debt Collection has been included.
6. Inclusion in section 4.9 of 'Where a debtor is deemed to no longer have the capacity to pay their debts, the Chief Executive is able to approve proceedings under the Bankruptcy Act 1986, after considering the circumstances of the case.'
7. Authority to write off debts has been updated to:
 - a. Less than \$1,000 – Debt Owner and Manager Financial Services
 - b. \$1,000 to \$5,000 – Relevant General Manager
 - c. Greater than \$5,000 – Chief Executive
8. Section 5.1 has been updated to provide further clarification of the Debt Recovery process relating to Rates. In particular:
 - a. Details on when notices and reminders will be issued;

- b. Council's process where financial hardship is a concern;
- c. Council's relationship with credit reference authorities; and

Options available under S.181 of the Local Government Act 1989 and Bankruptcy Act 1966 to recover debts that remain unpaid, subsequent to a judgement being obtained from the Magistrates Court.

FURTHER SUPPORTING INFORMATION

5. COMMUNITY CONSULTATION & ENGAGEMENT

This policy addresses the operations aspects of managing Council's Debt process and community consultation is not considered to be warranted or efficient use of Council resources.

6. ANALYSIS

ALIGNMENT TO COUNCIL PLAN OR COUNCIL POLICY

Our Leadership and Management

ENVIRONMENTAL IMPLICATIONS

Not Applicable

SOCIAL & CULTURAL IMPLICATIONS

Not Applicable

ECONOMIC IMPLICATIONS

Not Applicable

LEGAL & RISK IMPLICATIONS

Not Applicable

RESOURCE IMPLICATIONS (FINANCIAL ETC)

Not Applicable

7. IMPLEMENTATION STRATEGY

DETAILS

Any amendments to this policy will be implemented immediately following the Council resolution.

COMMUNICATION

Resolution will be published as part of the Council Meeting minutes.

TIMELINE

Not Applicable

8. OFFICER DIRECT OR INDIRECT INTEREST

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



COUNCIL POLICY

Council Policy Title:	Debtor Management and Debt Recovery
Council Policy ref. no:	16.5
Responsible Department:	Corporate & Community Services
Date of adoption/review:	28 January 2015

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1. PURPOSE

To define Council's Policy for the management and recovery of outstanding debts.

2 SCOPE

2.1 This policy covers:

- All debts;
- Some aspects of invoicing;
- The initial establishment of a debt;
- Follow up actions to collect outstanding debts;
- Creation of a provision for doubtful debts;
- Write off of bad debts

2.2 EXCLUSIONS

This Policy does not override any government legislation or regulation in relation to specific types of debtors. In particular, the Local Government Act clearly establishes the law that applies to the declaration of rates, payment of rates, interest on outstanding rates and the collection of overdue rates.

2.3 INCLUSIONS

This Policy includes but is not limited to:

- Rates (as defined in section 5)
- Facility Hire Fees
- Lease Fees
- Unpaid Grants
- Fire Hazard Clearance Charges
- Local Laws
- Service Fees
- Fines and Infringements
- Permits and Notices
- Saleyards Fees
- Blue Water Fitness Centre Fees
- Port of Apollo Bay Fees
- Special Charge Schemes
- Waste Management
- Private Works

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3 OBJECTIVES

The Policy Objectives are:

- To ensure that the collection of debts is undertaken equitably (that is, fairly and impartially), consistently, efficiently, effectively and in accordance with good governance);

- To encourage any person, organisation or company having difficulty in paying an outstanding debt to contact Council and make arrangements for a payment plan to pay the debt in a reasonable and manageable timeframe; and
- To ensure that the collection of debt is consistent with the *Local Government Act* and Regulations, Accounting Standards and recognised financial practices.

4 GENERAL PRINCIPLES APPLICABLE TO ALL DEBTS

The general principles described in Section 4 of the Policy are applicable to all debts and debtors but they also need to be considered in conjunction with Section 5, which outlines specific requirements in relation to debt types.

Council acknowledges the high administration costs of managing debtors and will only consider invoicing customers when more efficient receipting options are not practical, i.e. point of sale, payment in advance, etc.

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4.1 PAYMENT TERMS

Council's payment terms are 30 days unless specific regulations apply or unless Section 5 of this Policy applies.

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4.2 INVOICING

A debt is created when the service is provided or when the invoice is created; whichever occurs first. (Note: Income is recognised in Council's financial accounts when the service has been provided, generally when the invoice has been raised, or when cash is received).

4.3 REQUEST FOR CREDIT

The prospective 'Debt Owner' (refer Section 6.1) is able to request credit to be extended only after having determined that other, more efficient, receipting methods are not practical and that the customer is worthy of credit.

Council's Policy is to allow all Council Officers the opportunity to refuse offering credit where a poor credit history exists.

Deleted: APPLICATIONS

Deleted: Customers with previous Bad Debts or a disallowed Credit Application will be held with the Council Revenue Officers.

4.4 REMINDER NOTICES

If payment of the invoice has not been received within 14 days after the payment due by date, a reminder notice shall be sent out by Finance (except as described in Section 5).

The reminder notice shall request payment within 14 days and advise of any penalties that may apply to non-payment. The reminder notice shall encourage the debtor to contact Council to discuss any concerns with the debt or reasons why the invoice has not been paid.

Reminder phone call, and other debt follow up procedures may be employed by the debt owner or Finance.

If payment has not been received within 14 days of the reminder notice, a final notice shall be sent. The final notice shall request payment within 7 days. The final notice may include any interest penalties that may apply.

A final notice shall not be sent to Aged & Disability Debtors and in relation to unpaid Grants. However, further reminder notices should continue to be sent. A record shall be kept of all attempts to contact the debtor, whether successful or unsuccessful.

Deleted: ¶
DIFFERENT CREDIT TERMS MAY BE OFFERED FOR EACH DEBTOR CLASS OR GROUP DUE TO THE UNIQUE ENVIRONMENTS IN WHICH A DEBTOR CLASS MIGHT OPERATE. UNLESS SPECIFICALLY DESCRIBED, THIS POLICY SHALL APPLY. ¶
A CREDIT APPLICATION MUST BE COMPLETED BY THE PROSPECTIVE CLIENT FOR ANY WORKS OR SERVICES ESTIMATED TO EXCEED \$1000 (EXCLUDING GOVERNMENT DEPARTMENTS & UTILITIES). CREDIT APPROVAL (OR RECOMMENDATION FOR CONDITIONS APPLICABLE TO CREDIT) MUST BE OBTAINED FROM THE MANAGER FINANCE & CUSTOMER SERVICE PRIOR TO THE COMMENCEMENT OF WORKS/SERVICES. ¶

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If payment is not received in the required timeframe after the final notice the debtor may be referred to debt collection agency (see Section 4.9).

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4.5 PAYMENT ARRANGEMENTS

Any person, organisation or company who is having difficulty in paying the debt is encouraged to contact Council and make a personal payment arrangement to pay off the debt in a reasonable and manageable timeframe.

Finance will consider requests for a Personal Payment Arrangement and may agree upon a plan (for example, a personal payment arrangement to make a weekly payment of an agreed amount until the debt is paid in full).

Only Finance can authorise payment arrangements with the exception of Local Laws fines. In some instances, Customer Service may make payment arrangements in relation to Rates but only in accordance with guidelines provided by the Revenue Co-Ordinator.

Deleted: and Property

Details of the payment arrangement must be recorded and payments monitored. Any defaults (that is, payment not made by the agreed date) shall be followed up by Finance (except as described in Section 5) and a new payment arrangement may be made.

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Failure to adhere to a payment arrangement shall result in Council commencing Debt Collection procedures unless the debt is governed by other regulations that prohibit debt collection.

4.6 INTEREST PENALTIES

- Council shall charge interest on unpaid rates and charges in accordance with Section 172 of the Local Government Act.
- The penalty interest percentage rate is fixed under Section 2 of the Penalty Interest Rates Act as applied on the first day of July.
- The penalty interest percentage rate may be applied to sundry debtors in accordance with Section 172 of the Local Government Act.
- If interest is to be applied to a sundry debt, it is to be under instruction from the Debt Owner, and the approval of the Manager Financial Services, shall also be obtained.

Deleted: <#>Unless prohibited under specific legislation or excluded in Section 6 of this policy, Council shall charge penalty interest on sundry debtors that are overdue by more than 60(90) days.]]

Deleted: relevant Manager

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4.7 CONTINUATION OF THE PROVISION OF SERVICES WHERE A DEBT IS OVERDUE

In the case where the service is discretionary (for example facility hire charge or service fee) and is not governed by specific regulation the relevant Department or Unit must not continue to supply service where debts are more than 60 days old and no payment arrangement has been agreed.

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In these circumstances Executive approval is required to continue provision of services.

However, in a number of cases Council must continue to supply services regardless of outstanding debts, this is often dictated by specific regulations or funding agreements (for example Home and Community Care).

4.8 FINANCIAL HARDSHIP

Under Sections 180 and 171A of the Local Government Act, the Victorian Parliament has given local Councils the authority to:

- Defer payment of rates and charges due to hardship (S170); and
- Waive rates and charges and interest due to financial hardship (S171A).

Council has developed the "Rates Hardship Policy" for the purpose of defining Council's interpretation and application of Sections 170 and 171A of the Local Government Act.

This Debt Management and Recovery Policy recognises that the principles of the Rates Hardship Policy are also applicable to Sundry Debtors, in particular Home and Community Care.

4.9 DEBT RECOVERY

Unless there is specific regulation or other requirements set out in Section 5, or unless a personal payment plan has been agreed, Council shall refer a debt that is overdue by 90 days or more to a debt collection agency.

Deleted: 6

The debtor shall be liable for all legal costs incurred by Council in the debt collection process.

Finance shall advise the relevant department of the intention to refer the debt to a debt collection agency.

For debt recovery action not to be taken, the approval of the Debt Owner, and the Manager Financial Services, is required.

Deleted: relevant Manager

Deleted: e

If no payment has been received after the initial treatment by the agency then the Finance Department shall determine if it is financially beneficial to pursue legal recovery.

For Sundry Debtors Council may instruct the agency or the agency's solicitors or its own solicitors to take all or some of the following steps to collect the debt:

Deleted: Generally, only sundry Debts over \$500 shall be referred to the debt collection agency. In the case of debts under \$500, the debt shall be written off in accordance with Sections 5.12 and 5.13 and the debtor shall be advised that they are no longer eligible to receive the service until such time as the debt is paid (with the exception of Home and Community Care).¶

1. Debt Collection agency final notice shall be issued.
2. Field Call to Debtor
3. Application shall be made to the Magistrates Court for a Complaint to be issued.
4. Pre-Judgment warning letter shall be sent.
5. Application shall be made to Magistrates Court for Judgment
6. Pre-Warrant warning letter sent
7. Application shall be made to the Magistrates Court for a Warrant to be issued.
8. Matter referred to Supreme Court – if required.

Where a debtor is deemed to no longer have the capacity to pay their debts, the Chief Executive is able to authorise notification to the debtor of Council's intention to proceeding under the Bankruptcy Act 1986, after considering the circumstances of the case. The final decision to initiate formal bankruptcy proceedings will remain with Council.

4.10 PROVISION FOR DOUBTFUL DEBTS

Section 4.10 does not apply to Rates (see 5.1).

A provision for doubtful debts is a liability recognised to reflect debt that is likely never to be collected and hence is expected to be written off in future periods.

4.11 BAD DEBTS

Section 4.11 does not apply to Rates (see 5.1)

Deleted: 4.10 and

After all avenues to collect the debt have been exhausted approval may be sought to write off a bad debt (see 4.12)

Deleted: 6

All approved write offs shall be recorded in the nominated accounts under the Finance Department.

Deleted: If debts are over one year old with no payment plans in place, they shall be considered bad debts; after analysis of the debts as detailed in the Provision for Doubtful Debts.¶

Following this process credit rating agencies will be notified, which will permanently impact the debtors ability to gain credit in future.

Deleted: 5

Deleted: Finance shall refer all bad debts over one year old to the relevant Director for approval.¶

If a debt is written off and a client seeks to have further service provided at a future date, the written off debt shall be reinstated and the client shall be required to pay the debt prior to the provision of further services (subject to provisions in Section 5).

Deleted: 6

4.12 APPROVAL DELEGATION LIMITS TO WRITE OFF BAD DEBTS AND/OR PENALTY INTEREST

A bad debt of up to \$1,000 may be written off by the Manager Financial Services, in consultation with the Debt Owner.

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A bad debt greater than \$1,000 and less than \$5,000 may be written off by the relevant General Manager.

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Deleted: Director

A bad debt greater than \$5,000 may be written off by Council Executive.

Penalty interest associated with Sundry Debtors and Rates Debtors may be written off or waived by the Manager Financial Services, or the relevant General Manager in accordance with the above mentioned limits.

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Deleted: Director

4.13 CORRECTION OF INVOICING AND RATING ERRORS

In the event that it is discovered that an error has been made and a Rate Payer or Debtor has been incorrectly undercharged, Council shall correct the error immediately for future billing periods and invoices and Council shall not attempt to apply the correct fee or charge retrospectively.

In the event that it is discovered that an error has been made and a Rate Payer or Debtor has been incorrectly overcharged, council shall correct the error immediately for current and future billing periods and invoices and Council shall apply the correct fee or charge retrospectively only for the financial year in which the error was discovered. Upon written application from the Rate Payer or Debtor who has been incorrectly overcharged, the General Manager Corporate Services shall consider the merits of the matter and the General Manager may apply the correct fee or charge retrospectively (for example in the case where an error which had previously been brought to Council's attention and not corrected).

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5 REQUIREMENTS IN RELATION TO SPECIFIC TYPES OF DEBTORS

5.1 RATES

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Section 180 and Section 181 of the Local Government Acts outlines Council's powers in relation to overdue rates and charges. A Rate Notice is sent in early – mid August each year.

Deleted: on or around mid-July

Rates are payable, either :-

- > in full by 15 February each year ('lump sum' option) or
- > in 4 separate instalments due 30 September, 30 November, 28 February and 31 May ('instalment' option), or
- > by "arrangement", where the ratepayer makes a payment arrangement that is acceptable to the Revenue Co-ordinator to pay by any number of part payments throughout the financial year. If paying by this option, the ratepayer must ensure the full amount of rates for the year is paid by 31 May.

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Reminder Notices

A FINAL notice shall be sent out by the second week in March each year to all lump sum option payers who have outstanding balances. The Reminder Notice will include unpaid amounts from previous periods and the interest payable, and will state that payment must be made within no less than 14 days.

'Lump sum' option payers with balances still outstanding in April shall be sent a further reminder to pay the rates in not less than seven days, failing which the debt will be referred to a debt collection agency.

Deleted: For Rates being to be paid via the 'in full'

Deleted: receive

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If the ratepayer opts to pay by the 'Instalment' option, a notice for the 2nd, 3rd and 4th Instalments will be sent to the ratepayer.

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A notice is placed in the local newspaper on or around 1 week before the first instalment and each subsequent instalment are due

A Final Notice for outstanding Instalment payments is sent out in mid-June stating the payment must be made within no less than 14 days.

Deleted: In the case of the 4th instalment the payment must be made on or around, but not later than, 30 June.¶

Ratepayers paying by 'arrangement' need to ensure their regular payment amounts are sufficient to cover their outstanding rates by 31 May each year, as they will not receive regular statements of their account.

Deleted: ¶

The reminder advice may be in the form of a letter, email or text, depending on what contact details are recorded in the rates database.

Where it seems the debtor's contact details are no longer relevant, all reasonable action will be taken to locate new contact details. This may involve referring the debt to a debt collection agency that has more advance search capabilities than Council.

Debt Recovery

Once referred to a debt collection agency, the agency will send a Letter of Demand to the debtor requiring payment in no less than seven days or the making of a payment arrangement that is acceptable to Council's Revenue Co-ordinator.

If payment or an acceptable payment arrangement is not made within the specified time, the debt collection agency may be instructed to proceed with preparing a Complaint to be lodged with the Magistrate's Court (or the Supreme Court if relevant).

Before deciding to proceed with lodging a Complaint with the Magistrates Court, Council officers will consider if the debtor is eligible for assistance under Council's 'Assistance to Rates Debtors in Financial Hardship Policy' (refer section 4.8 of this policy)

As debt collection can result in costs in excess of \$1,000, it must be assessed if it is financially beneficial to pursue legal recovery.

Legal costs charged will be in accordance with the Magistrates Court's Schedule of Fees and Charges.

Deleted: Council may instruct the agency or the agency's solicitors or its own solicitors to take the following steps to collect the debt.¶

<#>Debt Collection agency final notice shall be issued.¶

<#>Solicitor's letter may be sent to Pensioners and those Rate Payers who have defaulted on a personal payment plan or agreement.¶

<#>Application shall be made to the Magistrates Court for a Complaint to be issued.¶

<#>Pre-Judgment warning letter shall be sent to Rate Payer.¶

<#>Application shall be made to Magistrates Court for Judgment¶

<#>Pre-Warrant warning letter sent to Rates Debtor¶

Once a Complaint has been lodged with the Magistrates Court, Council officers will seek to resolve the Complaint as expeditiously as possible, taking into consideration the history and circumstances pertaining to the debt.

The full cost of any action undertaken is passed onto the Rate Payer and becomes a charge against the property in accordance with the provisions of the Local Government Act 1989.

Deleted: <#>Application shall be made to the Magistrates Court for a Warrant to be issued¶

Deleted: .

Deleted: <#>Matter referred to Supreme Court – if required,¶ Debt Collection is an expensive process and

Deleted: ¶

Under the Local Government Act unpaid rates and Fire Hazard Clearance Charges remain as a charge against the property and they must be paid first when a property is sold. Therefore, there are no doubtful debts or debt write offs in relation to Rates and Fire Hazard Clearance Charges.

Once a Magistrates Court judgement has been obtained against a debtor, Council officers will ensure the relevant credit reference authority is notified once the judgement is complied with to enable the debtors credit file to be updated accordingly.

Council will not support applications by debtors to the Magistrates Courts to have judgements set aside. Having said that, it will also not oppose such applications, thereby leaving the decision to the discretion of the Court.

Council has a Policy in relation to the Sale of Land to Recover Unpaid Rates & Charges in accordance with Section 181 of the *Local Government Act*.

Where Council has lodged a Complaint with the Magistrates Court and obtained judgement against the debtor, which has not resulted in the debt being paid or a payment arrangement that is acceptable to Council's Revenue Co-ordinator being made, Council may consider initiating one of the following actions to recover the debt:-

- rates recovery sale of the property in accordance with section 181 of the Local Government Act 1989, or
- having the debtor declared bankrupt in accordance with the Bankruptcy Act 1986.

The decision as to which course of action to take will be at the discretion of the Chief Executive after considering the circumstances of the case. The final decision to initiate formal bankruptcy proceedings will remain with Council.

Deleted: Where a ratepayer is deemed to no longer have the capacity to pay their debts, the Chief Executive is able to approve proceedings under the Bankruptcy Act 1986.

5.2 AGED AND DISABILITY FEES

There are various regulations in place in relation to the provision of Aged & Disability Services, some of which are included in funding agreements. Penalty interest cannot be applied, final notices cannot be sent and debts cannot be referred to debt collection agencies.

5.3 INFRINGEMENT NOTICES

Local Laws are governed by Part 5 of the Local Government Act.

The Local Laws Unit is also responsible for managing a number of function for which there exists statutory requirements, such as some parking and animal control issues. All debt management relating to these areas shall be undertaken within the scope of the relevant legislation.

Reminder notices shall be sent if the debt is unpaid 28 days after the due date. An administration fee may be added to the penalty if payment has not been made.

If payment is not received within 14 days of the reminder notice, debts may be referred to a debt collection agency.

The Local Laws Unit shall manage the referral of unpaid fines to a debt collection agency but shall advise Finance of the debts that have been referred to the agency.

5.4 LEASES

There may be terms in the lease agreement that vary from the principles outlined in Section 4.

Deleted: 5

5.5 GRANTS

Final Notices, interest penalties and debt collection processes shall not be invoked for unpaid grants.

5.6 EMPLOYEE DEBTORS

An employee may become a debtor to Council in various circumstances – as a ratepayer or user of a service for example.

Employee debtors shall be subject to all credit checks and debt management processes as any other debtor would. Under no circumstances shall Council show any favouritism or leniency in any way to an employee debtor or engage in any activity where an employee debtor may gain advantageous treatment over any other debtor.

6 ROLES AND RESPONSIBILITIES

6.1 DEBT OWNER

The Manager of the Department or Unit with responsibility for the income stream is known as the Debt Owner. The Debt Owner has overall responsibility for the management of the related debt.

The Debt Owner is responsible for:

- Ensuring that invoiced amounts are correct
- Providing assistance to Finance in follow up on overdue debts
- Liaising with Finance in terms of the status of debts (e.g. whether it is likely to be recovered)
- Documenting any discussions with Debtors in relation to outstanding monies and providing the documentation to Finance
- Ensuring further credit is not given to the Debtor with overdue debts unless there is a specific regulation (such as Home and Community Care)
- Gaining approval from the relevant General Manager (and in some cases the Executive) for any debt write off and advising Finance accordingly

Deleted: Director

It is recognised that in the case of employee debtors the debt owner and employee debtor may both be placed in an uncomfortable position in regard to debt management.

The debt owner must bring any debt management issues concerning employee debtors to the attention of senior management. The debt owner will under no circumstances contact the employee debtor directly without liaising with senior management before contact is made.

6.2 FINANCE

In relation to debt collection, Finance is responsible for:

- Sending out Invoices
- Recording debts in the financial system
- Sending out reminder letters on overdue debt (except for Fines and Infringement Notices)
- Follow up on overdue debt (with assistance from the Debt Owner)
- Determining level of doubtful debts (with assistance from the Debt Owner)
- Referring Debts to a debt collection agency after advice from the Debt Owner
- Advising Departments on the status of outstanding debts and making recommendations on debt recovery/write off

- Writing off debts in the financial systems after written approval has been received from the Debt Owner.

7 DEFINITIONS

Rates	Includes any and/or rates and charges on rateable land as described under Part 8 of the Local Government Act. "Rates" also includes any government imposed charge or levy that Council is required to collect on behalf of the Government.
Debts and Sundry Debts	Includes all debts (other than rates) for Council fees and charges
Debt Owner	The Manager of the Department or Unit with overall responsibility for the debt. This is generally the Department or Unit which receives the Income.
Local Laws Unit	The Local Laws Unit is part of the Environment and Community Safety Department and is responsible for the enforcement of local laws.
Penalty interest on unpaid debts	Interest that may be charged on unpaid rates and charges in accordance with section 172 of the Local Government Act.
Special Scheme	Construction works such as roads, footpaths or drainage which increases the amenity of the area and, therefore the property value. A Special Scheme can also include Private Works such as connection to the Natural Gas Pipeline. As the property owner receives a financial benefit from the Scheme they contribute towards the cost of the Scheme, which may be paid off over a number of years in quarterly instalments.

ADOPTED/AMENDMENT OF POLICY

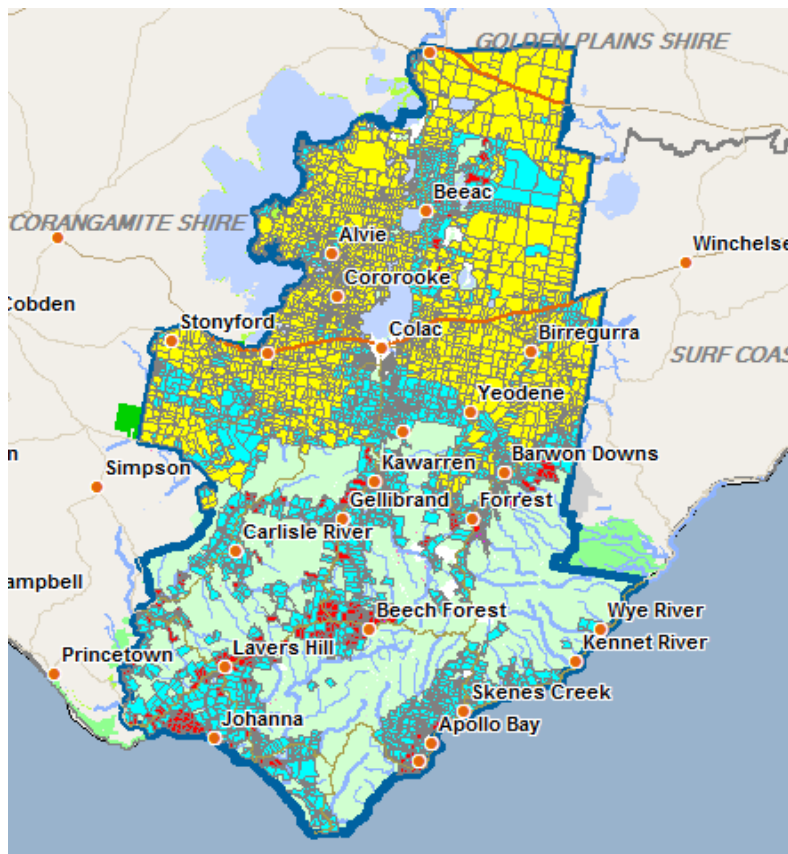
Policy Review Date	Reason for Amendment
28 January 2015	Adopted by Council

ORDINARY COUNCIL MEETING
QUARTERLY PERFORMANCE REPORT
2018-2019

OM182811-11

LOCATION / ADDRESS	2-6 Rae Street Colac	GENERAL MANAGER	Errol Lawrence
OFFICER	Melanie Duve	DIVISION	Corporate Services
TRIM FILE	F18/7513	CONFIDENTIAL	No
ATTACHMENTS	<ol style="list-style-type: none"> 1. September Quarter Performance Report 2018-2019 Final 2. Colac Otway Shire Expense Details 		
PURPOSE	To note the Quarterly Performance Report 2018/19 for the period 1 July to 30 September 2018.		

1. LOCATION PLAN / AERIAL PHOTO



2. EXECUTIVE SUMMARY

This report is presented in the same format as it was for the October Council meeting. There has been no change to the information provided other than an attachment addressing further details requested by Councillors relating to expense accounts, specifically Legal expenses and Contractor/Consultant expenses, both contained within Materials and Services.

This report provides information to Council and the community, combining progress on Council Plan actions, Planning activities, Capital Works and Major Projects and the status of Council's finances for the first quarter of the financial year, ending 30 September 2018.

3. RECOMMENDATION

That Council notes the Quarterly Performance Report 2018/19 for the period 1 July to 30 September 2018.

4. BACKGROUND / KEY INFORMATION

BACKGROUND

The Council Plan for 2017-2021 was created subsequent to Council elections on 22 October 2016. The current format of the report, combining progress on Council Plan actions, along with Planning activities, Capital Works and Major Projects and the status of Council's finances, has been in effect since September 2017.

KEY INFORMATION

The Quarterly Performance Report 2018/19 provides Council with a progress report as at 30 September and is structured in several sections as follows:

- Introduction, Council's strategic direction, Council Plan 2017-2021 themes
- Overview for the quarter by each Division; Corporate Services, Infrastructure and Leisure Services and Development and Community Services.
- Planning Performance Report
- Capital Works Performance Report
- Major Projects Performance Report
- Council Plan Performance Report
- Financial Performance Report

FURTHER SUPPORTING INFORMATION

5. COMMUNITY CONSULTATION & ENGAGEMENT

Comprehensive community consultation and engagement was undertaken during the development of the Council Plan 2017-2021 and the 2018-2019 Budget.

6. ANALYSIS

ALIGNMENT TO COUNCIL PLAN OR COUNCIL POLICY

The Quarterly Performance Report 2018-2019 combines progress on Council Plan 2017-2021 actions, Planning activities, Capital Works and Major Projects and the status of Council's finances.

ENVIRONMENTAL IMPLICATIONS

Applied in preparation of the Council Plan and adoption of the Budget.

SOCIAL & CULTURAL IMPLICATIONS

Considered in the preparation of the Council Plan and adoption of the Budget

ECONOMIC IMPLICATIONS

Considered in the preparation of the Council Plan and adoption of the Budget.

LEGAL & RISK IMPLICATIONS

S138 of the *Local Government Act 1989* requires financial reporting to be provided to Council on a quarterly basis. The *Local Government (Planning and Reporting) Regulations 2014* requires a report reviewing performance against Council Plan actions to be provided to Council on at least a six monthly basis.

RESOURCE IMPLICATIONS (FINANCIAL ETC)

There are no financial or resource implications as a result of this report.

7. IMPLEMENTATION STRATEGY

DETAILS

Not applicable

COMMUNICATION

The community engagement strategy follows the recommendations of the Colac Otway Shire Council Community Engagement Policy of January 2014, which details five levels of engagement – inform, consult, involve, collaborate and empower.

The method selected would be to inform. This is achieved by including documentation and notification to the public at the Ordinary Council meeting.

TIMELINE

Not applicable

8. OFFICER DIRECT OR INDIRECT INTEREST

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

***QUARTERLY
PERFORMANCE REPORT
2018-2019***

FIRST QUARTER: 1 JULY – 30 SEPTEMBER 2018

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Introduction

How to read this report

This Council Plan Quarterly Performance Report assesses our progress against the *Council Plan 2017-2021*. The activities and initiatives in the Council Plan are Council's strategies for achieving our community outcomes (Themes) and goals as we work toward our strategic vision.

Measuring Our Progress

The *Council Plan 2017-2021* comprises four key areas of focus: Our Prosperity, Our Place, Our Community and Our Leadership & Management. Each area of focus has desired goals, actions and measures that guide what we want to achieve for Colac Otway Shire, all of which require assessment and reporting of progress.

Strategic Vision



'Towards a prosperous future'

The Councillors of Colac Otway Shire commit to plan for growth in business and employment for our towns and settlements; the delivery of high quality services that meet community needs and demonstrate value for money; and to be leaders and work together as a team with the community and the organisation to achieve our goals for the Shire.

Council Direction set in the Council Plan 2017-2021

The Council Plan is Council's overarching strategic document responding to the issues faced by our community. It sets out our goals, key actions and performance measures for the next four years.

The key issues faced by our community have informed the choice of major projects/activities that Council has identified as its highest priority. Council has committed to complete these projects over the life of this plan, supporting the achievement of our stated goals. The Council Plan does not contain the detail of day-to-day operational activities, short term projects or recurrent work programs.

Community Engagement in the Development of the Council Plan

Our Council Plan was directly informed by a significant community engagement program, which sought input from the community about their aspirations for the Shire. This was the most comprehensive consultation program ever conducted in Colac Otway Shire and received a very positive response.

Consultation included letters to more than 900 community groups, businesses and progress associations, an online and paper-based survey, feedback from Community Conversation sessions held around the Shire and pop-up listening posts that were held in Colac and Apollo Bay. These sessions were well attended and we received invaluable feedback on the draft Council Plan and various other matters of interest to the community.

During the development of the new Council Plan, social and cultural implications were carefully considered along with attention to the funding available to carry out the many projects contained in the plan. The Council Plan was adopted on 28 June 2017.

Council Plan Strategic Themes

The Council Plan 2017-2021 includes strategic themes (long term community outcomes), goals and actions for achieving these for the four year period. The Council Plan also contains strategic indicators for monitoring achievement of the strategic objectives and a strategic resource plan. The following are the four outcomes detailed in the Council Plan.

<p>Our Prosperity</p>	<p>Colac Otway Shire has a diverse economy, much of it built on the natural environmental values of the area. The area has enjoyed successful dairy and food processing industries for many decades; supports the timber industry; has a growing tourism industry built on both a striking coastline and the forests of the Otway's; small, specialist food producers, many forming the Colac Otway food trail; plus, a host of local retail businesses, arts and crafts enterprises; and health and education services.</p> <p>The Shire has two larger towns of Colac and Apollo Bay, and a number of smaller towns. Each of these has unique attractions and supports local cultures and communities. The Shire is strategically placed halfway between Geelong and Warrnambool which provides opportunities for economic development and a growing population supported by access to work.</p>
<p>Our Places</p>	<p>Infrastructure assets such as roads, drainage and footpaths are important because they help deliver services to the community. Roads and footpaths provide the ability for people to access work, education and recreation. Drainage provides protection to properties and allows for safe transport. It is important for us to manage assets in a rational way so that we can ensure they are sustainable over the long term so that those services are provided to future generations.</p>
<p>Our Community</p>	<p>Colac Otway Shire sustains a mixed population of tourists, businesses, farmers, retirees and families, some of whom settled in the Shire recently and some who can trace their families' history back to the original settlers. We also have a small population of aboriginal people. The land of the Shire sustains different ways of living, from affordable housing options in the towns, to spectacular properties with views of the forest and the sea. Potential for population growth in the Shire will increase due to highway improvements and proximity to the larger centres of Geelong and Warrnambool. The Shire enjoys good services and infrastructure, supporting families to connect and live well at all life stages. While the Shire is well resourced compared with many other semi-rural shires, with the potential of continued growth there needs to be good planning to have the right infrastructure and services in place.</p>
<p>Our Leadership & Management</p>	<p>There are many demands on the resources of Colac Otway Shire. The major source of income, ratepayer funds, has been constrained through the introduction of rate capping by the State government and an increasing challenge for the community to continue to afford rate increases.</p> <p>The environment of the shire is attractive and well-recognised. Its' diversity also results in involvement by many authorities and stakeholders, creating the need for partnerships and clarity about the role of the shire. Recently experienced incidents such as bushfire and floods impact on the community and draw a significant amount of organisational resources, both in emergency response but also in longer term planning and support to the community. It is expected that such events will be more common as climate change accelerates.</p>

Overview by Division

Welcome to the Quarterly Performance Report. This report provides progress on the key actions in the Council Plan for the period 1 July to 30 September 2018, along with a financial report for the quarter against the 2018/19 Budget. The report also includes an overview from each Division for the quarter, planning activity statistics and an overview of progress on major projects.

The Council Plan 2017-2021, developed with significant community engagement, is the overarching strategic roadmap of the aspirations of Council and the community and how we are going to get there. In order to prioritise the actions that will be funded from Council's limited resources the Council Plan, supported by the organisation's Corporate Plan and Budget, guides all work the Council undertakes. The Council Plan outlines the community's vision for the Shire, while the Corporate Plan details how that vision will be achieved.

Chief Executive's Office

A minor internal organisational change now sees Governance & Communications overseen by the Manager, Governance & Communications. This division now forms part of the Executive.

Governance

The Governance team has been attending, whenever possible, workshops and briefings pertaining to the Local Government Bill Exposure Draft. Local Government Victoria had hoped for the ascension of the Bill before the caretaker period commenced in the lead-up to the State election, however the Bill stalled and had not progressed sufficiently by the last parliamentary sitting day in September.

A comprehensive review of Section 86 Committees was undertaken early in 2018 which involved extensive consultation with volunteers from the numerous halls, reserves and the like across the municipality. At the April Ordinary Council meeting, Councillors resolved that Council assist the majority of Section 86 Committees to become incorporated associations, in order to achieve better outcomes for Committees and Council. In this quarter, that assistance and consultation continued and several Section 86 Committees are now actively preparing to become incorporated associations with the assistance of the Project Officer and the significant resources prepared for the transition.

The Audit Committee held its quarterly meeting on 29 August 2018, at which the minutes from its June 2018 meeting were confirmed. These were put to Council at its September Ordinary Council meeting for noting.

Communications

The Communications team has been responding to the many requests it regularly receives from local media outlets, as well as providing information to the community through media releases, Council's website and via social media.

The Acting Communications Coordinator attended a one-day emergency management briefing in Melbourne in preparation for the upcoming fire season. The organisation's capacity to communicate messages effectively in high-pressure, emergency situations is enhanced by attendance at a session such as this.

Corporate Services

Finance

Please see Financial Performance Report

Customer Service

This quarter has seen the significant departure of a long serving officer and coordinator from the Customer Service team, namely Raelene Munro. Raelene is a significant loss for the team and the organisation. That being said, the Shire has secured the services of Maree East to fill the position of coordinator. During the change over the team has continued to perform admirably through some very busy periods e.g. rates. The implementation of the Customer Service Strategy stalled with the departure of Raelene. Maree's enthusiasm will kick start that project and get it back on track.

Procurement & Tenders

The Procurement & Tenders unit has finalised the development of the Procurement Strategy and are now working towards enhancing Council's procurement framework and associated practices. Enhancement of Council's procurement practices include the annual review and adoption of the Procurement Policy, thoroughly reviewing and updating the Procurement Procedures manual and in time rolling out a thorough training schedule for all staff.

People, Performance and Culture

- A coaching and mentoring program has been established with 14 mentees and 12 mentors participating in this inaugural project.
- Analysis of the 2018 AES staff survey has been undertaken with Executive Management Team endorsing three key organisational action plans being:
 1. Communication of the long term direction of council and key organisational matters
 2. Develop and resource a structured People and Culture Plan
 3. Develop, endorse and implement the IT Strategic Plan
- Continuing high activity of internal and external recruitment is occurring.
- Annual recognition and service awards ceremony was conducted.
- A Corporate Calendar is nearly complete.
- Senior Leadership endorsement of the 2018-21 People and Culture obtained.
- The 2017-2018 Annual Report and legislative reporting requirements have been completed and submitted.
- A newly revised Induction Program for staff and contractors has been introduced.
- A new Chief Executive commenced in July 2018.

Information Services

Information Communication Technology

- The development of the draft four-year ICT Strategy is complete. Endorsement and adoption is imminent. Resultant programs of work are:
 - Disaster Recovery and Business Continuity
 - Digital Enablement of a Mobile Workforce
 - Intranet & Extranet
 - Information Management – EDRMS
 - Desktop Computer Virtualisation
 - Multi-Site Network Connectivity
 - Unified Communications
 - Municipal Management Software Suite – Remediation
 - Civica Authority Major Upgrade – V7.X+
 - Accounts Receivable Workflow Digitisation
 - Geospatial Information System – Restructure
 - Customer Request Management System
 - Leisure Centre Management System
 - Statutory Planning and Building Workflow Digitisation
 - Works Management System Implementation
 - Benefit Through Collaborative Partnerships
 - Migration of ICT Systems to the Cloud
 - SOE Upgrade & Data Center Consolidation.
- Critical evaluation of both MAV and State telecommunications contracts is underway, with essential business requirement analysis being conducted. Significant cost savings will be realised once finalised.
- A significant number of small to medium projects are being finalised for the 2018-2019 financial year, in addition to operational business as usual obligations such as a notable ICT helpdesk workload.

Information Management Service

A number of projects are in train, being:

- Major upgrade of our EDRMS (Electronic Document and Records Management System)
- Collaborative intra-Shire Tender for digital mail services, negating the need to print, envelope-stuff, and post mail. Staff will be able to submit outbound mail electronically for distribution. This project will result in considerable efficiency increases and cost reductions.
- Investigation of providers for transferring our stored records in the current archive facility, of which poses a number of risks. Once physical archives are transferred to an external professional provider, scan-on-demand facilities are able to return sought documents in digital form for registration into our EDRMS.

Geographic Information System

- A program of work is being developed to significantly develop our GIS capabilities, working closely with associated business units such as Assets and Planning/Building representatives as key stakeholders in the system.
- A comprehensive data restructure is underway to unify information management in the areas of centralised storage and retrieval to better inform business decision making.
- Meetings are being held with prospective vendors in the wholesale replacement and upgrade of our incumbent GIS software suite(s).

Infrastructure and Leisure Services

Road Safety

Officers have submitted a funding application for consideration of a shared path along Hart Street, between Irrewillipe Road & Ballagh Street. The funding is available through the TAC Local Government Grants; Council has previously been successful in obtaining grant funding for a footpath in Skenes Creek and the Cororooke to Coragulac path. This location was identified as a candidate as it will allow school children and other users to travel by foot or cycle off-road in a location where the road width is narrow, it is also identified in both the Colac & Elliminyt Footpath Strategy & the Active Transport Strategy. If successful, the path will connect to existing footpath on Irrewillipe Road, and Hart Street north along Irrewillipe Road. Future footpath extensions programs, if funded, will consider a footpath along Ballagh Street, to provide the link between Hart & Main Streets, benefitting school children and other pedestrians.

The funding program is dollar for dollar, and has been estimated at \$126,000, with the Council contribution to be sourced from the footpath extension program, of which Council allocated \$200,000 this financial year, should the application be successful.

Parking Changes

Officers from the Infrastructure & Leisure Services team have been working with Compliance Officers to review and rationalise the parking signage in the CBD and surrounding blocks. We have identified a number of signs which needed to be replaced due to their age, as well as some proposed minor changes to ensure that the parking being provided is most suited to the activities being conducted in each location resulted in the introduction of timed parking in some locations and other locations reverting to untimed. The changes are planned to be rolled out gradually over the coming months with information to be circulated to affected residents and businesses prior to the changes coming into effect. Changes have recently been implemented in Forbes Streets as there were concerns raised about road safety in this locations A bus stop is to be relocated from Corangamite Street (at the front of Corangamarah) to Miller Street near the corner of Forbes Street to better support the public transport users, based on feedback and requests through the bus company providing the town bus service.

Petitions

A petition to erect bollards at the end of Surf Avenue, Skenes Creek was tabled at the June Council meeting with an officer report responding to the matter considered at the July Council meeting. Councillors adopted the recommendation to not erect bollards in this location due to the impact this would have on adjoining landowners.

A petition was tabled at the August Council meeting by residents request that a footbridge be constructed from Harris Street, across the Barongarook Creek to the public open space adjacent to the Coles development. There were suggestions that a footbridge was to have been constructed as a condition on earlier developments near this location, however this not included in the conditions on the earlier permits. Council resolved to consider this project as part of the 2019/20 budget process.

Customer Service

Infrastructure & Leisure Services staff have been working hard to improve our Customer responsiveness and have seen a marked reduction on the number of overdue customer queries during this quarter from 164 to 79. Improving our customer satisfaction and responsiveness has been a major focus for our team, and will continue to be a focus moving forward.

In order to continue to work on improving our customer's satisfaction, we will continue to refine and improve our systems for tracking and monitoring our customer requests.

Arts and Leisure

The Bluewater Leisure Centre gym was converted to a 24/7 operation during the period and has proved to be an outstanding success. The community response has exceeded expectations with memberships having grown significantly and usage of the gym and Les Mills Virtual programming high outside of Bluewater's normal operating hours. The decision to convert to a 24/7 operation has provided much more flexible operating hours, increased usage and importantly increased levels of physical activity in our community.

Council endorsed the execution of the Bluewater Leisure Centre Community Joint Use Agreement at its July 2018 Ordinary meeting. The agreement between Council, the Department of Education and Training and the Colac Secondary College provides Council with long term security for the use of the facility. It clearly articulates the shared arrangement between Council and the Colac Secondary College and communicates the roles and responsibilities of each party.

The Draft Elliminyt Recreation Reserve Master Plan was endorsed by Council at its August 2018 Ordinary meeting to be placed on public exhibition in accordance with Council's Community Engagement Policy 2013. The draft master plan identifies a range of improvements required to meet community needs and expectations including improved clubrooms and changerooms, upgraded sports lighting, a second netball court, improved oval surface and landscape enhancements.

The COPACC theatre season is well underway with a number of quality performances presented by the COPACC team during the period. A standout event was the 'Taste of Tamworth' which proved to be a country music feast featuring four multi-award winning and lauded acts coming together for one big concert, including Carter and Carter, Felicity Urquart, Travis Sinclair and Anthony Taylor. In addition, local student and musical performer Connor Knight earned himself a guest appearance in the show after David Carter (part of the Golden Guitar winning duo Carter & Carter) selected Connor from a field of talented local performers. Connor performed the Fleetwood Mac hit *Landslide*, and also re-joined the cast for the closing number of the show, along with the other Colac and district singers and musicians who vied for the guest spot.

COPACC was also proud to host another amazing Red Door production in August, this time the junior musical performance of the 'Wizard of Oz'. Four sold-out shows were held in COPACC's Auditorium over one weekend, which included more than 100 young performers on stage. The production again showcased the wonderful talent which resides in the Colac region, wowing audiences once again with the quality of performance.

Services and Operations

- Safety audit completed and action plan in place to progress recommendations
- VF radio contract let to provide radio contact for Service and Operations over 90% of the shire; installation to be completed prior to February 2019
- GPS installed to all heavy and light plant allowing the recovery of fuel credits
- Port of Apollo Bay maintenance and small projects has progressed. Improvements and progress includes:
 - new hand rails to jetty and boat ramp
 - dredging under the marina (making marina float again)
 - planned/awarded works to replace navigation aids
 - works planned to repair damaged marina
 - contract let to repair hazardous concrete framing to hold dredge piping
 - sand excavated from the harbor
 - draft car park design completed

- management plan and budget in draft for the Transport for Victoria review/approval including access to reserve funding and operational budget
- Recruitment of harbor coordinator
- Unsealed roads re-sheet program on schedule to complete 109 km of road restoration
- Prerequisite work for reseal program on target for completion prior 15 November 2018
- Service and Operations merits reduced by more than 60%
- Birregurra 'Blitz' clean up prior to Birre Fest, included unsealed road repairs, improved road drainage, parks and reserves freshly maintained for the festival
- Colac lake/Hugh Murray Park area rejuvenated with 'end of life' arbours removed, damaged seating replaced, ineffective garden beds removed, Queens Avenue tidy up, tree maintenance, re-vegetation commenced, jetty repaired
- Yacht club boat ramp de-silted
- Light and heavy fleet management with surplus stock sold replacement plant ordered
- Playing reserves maintenance program with Central Reserve being upgraded for the football finals series, Eastern and Western Reserves refreshed, South Colac area works commenced
- Spring maintenance work has commenced in small towns including Wye River, Forrest, Lavers Hill.

Waste Management

- Recycled waste contract has been drafted
- Five solar bins have been installed at Apollo Bay
- There is an increased number of caged bins being placed throughout the shire
- EPA standards for landfill areas has been satisfied.

Capital Works

The first quarter has seen an exceptional start to the 2018/19 financial year with completion of the Queen Street footpath which is providing a key pedestrian link between Elliminyt and Colac especially for school children. A full summary of performance for the program is contained later in this report. Progress on key programs as follows:

Unsealed Road Resheeting

Works are proceeding on track. To the end of September 44 road segments have been completed of the 95 programmed for works this year.

Crack Sealing

The 2018/19 crack sealing program has been completed.

Bitumen Resealing

Tendering has closed and contract is due for award at October OCM. Works cannot proceed until summer months to take advantage of favorable weather conditions.

Sealed Road Reconstruction

Works are programmed to commence in October and proceed through summer to take advantage of favorable weather conditions. A total of 7 sealed road reconstruction projects are scheduled to be completed, 5 by Council's Service & Operations construction team and two external contractors.

Footpath Renewal

A contract has been awarded for these works. Works are programmed to proceed through summer to take advantage of favorable weather conditions.

Kerb and Channel Renewal

A contract has been awarded for these works. Works are programmed to proceed through summer to take advantage of favorable weather conditions.

Roadslips

A total of 10 sites have been programmed for completion in 2018/19. 2 of these sites have been completed in the first quarter.

Other Projects

A total of 76 other projects are programmed. 11 of these have been completed in the first quarter 2018/19 and a further 46 have commenced.

Asset Management

In the first quarter of 2018/19 we have successfully transitioned road inspections to a new software package. The transition makes use of a software package that we had already been using for similar inspections on other asset categories and will provide a greater level of flexibility in how we collect and report road defect and condition information.

A draft version of the Building Asset Management Plan has been developed and we have instigated building condition assessments to fill in missing data to populate this plan. Likewise drafting of a Road Asset Management Plan and Asset Management Strategy are well underway.

Bushfire and Flood Recovery Infrastructure

Wye River / Separation Creek Drainage works

Council received some good news in September with the announcement from The State Government that an additional \$1.7 million would be provided to complete the drainage network as per the final design in Wye River and Separation Creek.

As a result of the good news, the pits and pipes works can now be progressed and packaged to go to tender.

The improvement of the stormwater management system in Wye River and Separation Creek is progressing well with approximately 55% of the table drains and driveway culvert contract being completed to date.

Driveway culverts have been installed in The Boulevard, Bass Avenue, Karingal Drive, McRae Road, Morley Avenue, Olive Street, Slashers Bypass and Wallace Street. Slashers Bypass and the top of Sturt Court have also been sealed, which will help prevent the continual eroding of these roads.

During the August rains, the new, wider table drains and driveway culverts performed well and minimised damage to unsealed roads and sloping embankments.

Flood Recovery Infrastructure

Stanway Drive, Separation Creek road stabilisation works

A number of land slips had occurred on the lower and upper embankment of Stanway Drive

as a result of the September 2016 flood event. Stanway Drive, with Iluka Extension, forms the alternate emergency access link between Separation Creek and Wye River.

Geotechnical investigation and design has resulted in a design to re-establish the embankments and prevent further land slips. During this period the appointed contractor, Geotech Pty. Ltd., has installed rock beaching, soil nailing, netting and erosion control matting, and drainage. The remaining works involve roadworks, including kerb and channel and road pavement construction, and the planting of over 8,000 indigenous plants.

The \$1,950,000 project has been funded under the Commonwealth Government National Disaster Relief and Recovery Arrangements (NDRRA).

Iluka Extension, Wye River road stabilisation works

The floods in 2016 resulted in a landslide late last year, which undermined the Iluka Extension road.

- The construction of the landslip rectification works was completed in August, and includes:
- construction of a 20m retaining wall;
- improved drainage to reduce stormwater flows down the slope towards Stanway Drive;
- Installation of kerb and channel, guard rail and road rectification where the road pavement was undermined.

The drainage works connects with the improved drainage constructed as part of the Stanway Drive project. The project was funded under the Australian Government National Disaster Relief and Recovery Arrangements (NDRRA) Flood Recovery Program.

Larders Track, Gellibrand retaining structures – 2 sites

Two landslips on the Lardners Track, Gellibrand road edge occurred as a result of a major rain and flood event in September 2016.

The appointed contractor, Langdon Construction, completed the works in September. The road stabilisation works involved using gabion walls, bored concrete piers and retaining structures, and improved storm water infrastructure. The project was funded under the Australian Government National Disaster Relief and Recovery Arrangements (NDRRA) Flood Recovery Program.

Blue Johanna Road, Johanna retaining structures – 4 sites

Landslips on the Blue Johanna Road, Johanna road edge occurred in 4 locations as a result of a major rain and flood event in September 2016. Colac Otway Shire in collaboration with design and geotechnical consultants has developed solutions for slope stabilisation.

The works will stabilise slopes using gabion walls, bored concrete piers and retaining structures and better control the storm water to ensure road stability.

Sites 1, 3 and 4 have been completed using various retaining designs, as follows:

- Site 1 – Headwall/earth retaining structure
- Site 3 – Pre-cast concrete sleeper earth retaining structure
- Site 4 – Extension of existing earth retaining structure
- Site 5 - In-situ concrete piles and beam structure

Development and Community Services

Environment & Community Services

Solar Array Installations and Replacement

The Bluewater Solar Array was installed in late June. It was activated in early July and now each of the 274 panels is producing renewable energy. This 99kW system is expected to save approximately \$25,000 per year on the facilities electricity bills and is expected to pay for itself within five years. The 99kW Solar System at Bluewater now compliments the 99kW system installed on the Rae Street precinct roof in 2015.

Emergency Relief Centre Training and Upcoming Exercise

Colac Otway Shire staff, in collaboration with Surf Coast and Corangamite Shires, have undertaken training for running Emergency Relief Centres (ERC). The Emergency Management units of the three Councils work closely together to provide training to Council staff, to assist the three Councils fulfil their obligations of coordinating and providing relief and recovery services to the community during disaster events. This training also provided an overview of emergency arrangements in Victoria and how Council staff can best serve our communities in a time of crisis. Over 100 staff participated in the training. Planning has also started on a joint Cross Council ERC exercise in preparation for the upcoming fire season that will also involve other key agencies. This year's ERC exercise is being hosted in Colac in November and expected to draw over 100 participants between the three Councils and other agencies (e.g. Red Cross, DHHS, SES, Vic Police etc.) who will also test their own activation requirements in an ERC environment.

Revegetation along the Barongarook Creek

The Environment Unit has coordinated further revegetation works along Barongarook Creek. Almost 8000 indigenous plants have been planted between Murray Street and Lake Colac. The planting program has involved community planting days, schools plantings, Landcare, Council staff and the Corangamite Catchment Management Authority staff members. Plants range from groundcovers to over storey trees, and include some established trees dotted along the bank to help fill in eroded or bare areas. This work will assist the health of the creek, lake and surrounds, as well as enhancing this important recreation area. Further exotic tree removal is set to go ahead early next year once the new plants establish to lessen the immediate visual impact of the exotic tree removal.

Economic Development & Tourism

Grants Program

Council's Grants Program was reviewed by officers in 2017/18 and the recommendations endorsed by Council paving the way for an enhanced 2018 Grants program. Council endorsed the second and final stage of grant allocations at its September meeting. The result being a total of \$316,100 awarded to 100 different groups/ clubs/organisations and events across the Shire. The \$316,100 of grants will see approximately \$2,508,500 of benefit to the Colac Otway Shire from the funding, including cash and in-kind contributions from the applicants.

Events

Council's Events Officer supported a total of 23 events across the Shire regarding permits and event planning for the three month period. There was also a further 28 events that were conducted in the Shire where Council permits or support were not required. The variety of events is very broad ranging from markets, cycling, athletics and cultural. The 23 events supported by Council attracted an estimated audience in of 21,710 people, creating a large economic boost for the region.

Community Services

NAIDOC Week

Council's principle NAIDOC Week event was a flag raising ceremony, held on Tuesday 10 July at COPACC. The event included a Welcome to Country from Ebony Hickey – a local Gulidjan Woman and key speakers - Aunty Vicki Couzens - Gunditjmara woman from Western Districts of Victoria, Richard Riordan MP - Member for Polwarth and Greg Fletcher – Colac Otway Shire, Manager Community Services. Koontapool Karween performed and presented Peter Brown – Colac Otway Shire, Chief Executive a ceremonial spear. The event was attended by over 120 people and the feedback from those attending has been extremely positive and complimentary of council for holding such an event. After the event many of those who attended walked up the street to attend a BBQ at the Gathering Place.

CrossXpollination

CrossXpollination coincided with NAIDOC Week. Vicki Couzens, a Gunditjmara woman from the western district of Victoria, displayed a possum skin cloak "Grandmothers Cloak"; spoke to an audience of 50 people about possum skin cloak origins and provided classes for the local Aboriginal community to make their own cloak. Bronwyn Razem, also a Gunditjmara woman, provided a number of classes for community and school children on traditional weaving techniques that have been passed down by her mother and grandmother. These classes were all booked out as soon as released.

Planning, Building & Health

Colac 2050 Growth Plan

The draft Colac 2050 Growth Plan was presented to the July 2018 Ordinary Council meeting, with a resolution accepted by Council to place it on public exhibition along with Amendment C97 to the Planning Scheme to implement the key policy outcomes. Exhibition has been delayed due to recent State Government planning reforms, but is expected to occur for 6 weeks over November & December 2018. Submissions will be considered early in 2019.

Apollo Bay Harbour Precinct

Work has progressed to advance planning for redevelopment of the Apollo Bay Harbour Precinct. Following extensive engagement with State Government agencies and other stakeholders, and consideration of advice from consultants with Expression of Interest (EOI) expertise, Council supported at its August 2018 meeting an alternative approach to the proposed EOI process and preparation of a Development Plan for the harbour precinct. It is now proposed to address some information and technical gaps concerning various issues relevant to any redevelopment, and engage consultants to prepare a Development Plan for the harbour redevelopment (together with preparation of a Business Case to secure Government funding support), before commencing an EOI process to test commercial interest in development within the precinct. Significant work has occurred to clarify the future infrastructure investment needs for the port operations, and separately, proposed improvements to compliment any private investment, such as relocation of the depot buildings and construction of a boardwalk along the water's edge. Advocacy documents have been developed for this infrastructure to assist Council in attracting funding commitments in advance of upcoming Federal and State elections.

Apollo Bay Community Infrastructure Master Plan

Council funded the development of a Community Infrastructure Master Plan for Apollo Bay, Skenes Creek and Marengo in its 2018/19 budget. Officers have worked collaboratively with the Otway Coast Committee (OCC), Department of Environment, Land Water & Planning (DELWP) and other stakeholders to define the project scope, resulting in the project being amended to include the OCC's Foreshore Master Plan and a draft Development Plan for the harbour precinct. This will ensure a highly integrated approach to infrastructure planning for the township that ensures consistency of approach and minimises overlap of community engagement. It is expected that tenders will be called in October, with the project commencing early in 2019.

Forrest Wastewater

Barwon Water, in partnership with Council, has continued to progress the Forrest Wastewater Investigation Project to look at options for future wastewater management in the town. Different options for potential treatment of wastewater in Forrest have been tested through community workshops, listening posts and surveys. Barwon Water proposes to finalise a preferred option in partnership with Council officers late in 2018 for consideration by both Council and the Barwon Water Board. Council officers have undertaken follow-up audits on existing on-site wastewater systems in Forrest, focusing on the higher risk systems identified in the 2017 township audit, helping residents to identify how their systems can be improved.

Apollo Bay Tourism Resort

The proposed residential hotel and associated villas at Barham River Road, Apollo Bay is being considered by an independent planning panel appointed by the Planning Minister, after the Minister called-in the application. Council considered a report on the information provided with the application at a Special Meeting in February, and this was followed by a Directions Hearing of the Panel in March. The applicant has confirmed that the proposal is being limited to Stage 1, and not including Stage 2. The Panel directed that the applicant provide additional information for notice to submitters for a 21 day period. The Panel Hearing is being held in September and October.

Essential Safety Measures Audit Program

Council's Building Department has commenced an audit program aimed at ensuring that private businesses within the Shire are complying with Essential Safety Measure (ESM) requirements in the Building Regulations. These requirements relate to fire services such as hydrants, sprinklers and fire extinguishers. This program was funded in the 2018/19 budget, and is focused on addressing the highest risk premises as a priority, taking an educative and helpful approach, but recognising that some formal enforcement will be required.

Domestic Wastewater Management Plan Compliance Monitoring Program

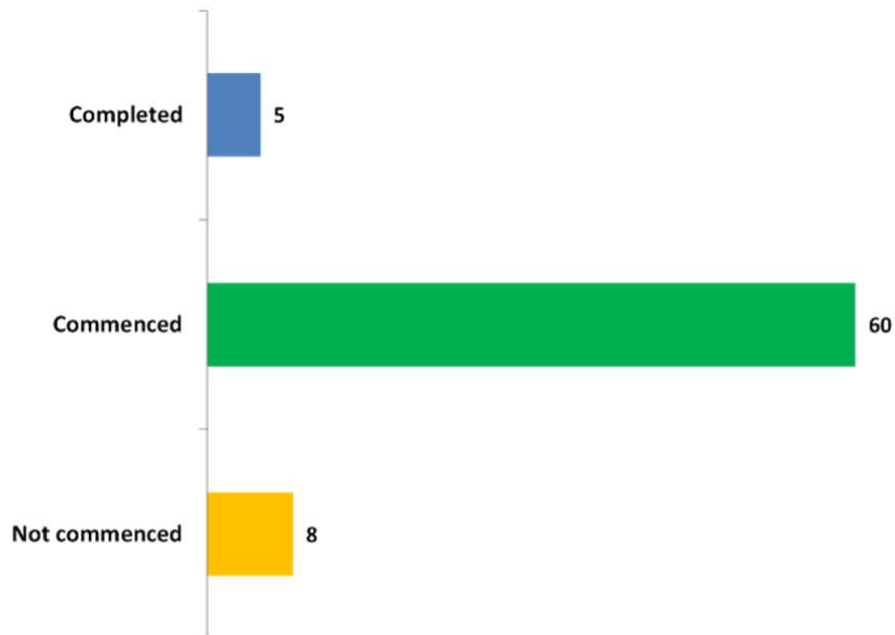
The Health Protection Unit has commenced an audit program of all premises within the shire with on-site wastewater systems to fulfil Council's obligations under its Domestic Wastewater Management Plan. The audit program was funded in the 2018/19 budget and will run over several years, with the highest priority being audits within the declared water catchments. The cost is being partially subsidised by contributions from Wannon Water and Barwon Water.

Council Plan Performance Report

As the following report shows, the majority of actions are underway at the end of the first quarter of the 2018/19 financial year. Of the eight actions not commenced, three are not due to commence this financial year and five are awaiting additional information or resources before they can commence. Five actions have been completed.

Performance against the actions in the Council Plan commences on the following page, where a progress column is included, containing comments where relevant to provide greater clarity on individual actions.

Status	Our Prosperity	Our Places	Our Community	Our Leadership & Management	Total
Completed	1	1	1	2	5
Commenced	17	25	10	8	60
Not commenced	2	2	1	3	8
Total	20	28	13	13	73



CHIEF EXECUTIVE OFFICE

Service Profile: Communications and Public Relations								
Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
4.5.1.1 Review the Community Engagement Policy to guide council decision making.	Sarah McKew- Manager Governance Communications	Adoption of the new Local Government Act, has been delayed until 2019. This will have implications for the content of the Engagement Policy and subsequent procedures.	Not Started	01/07/18	30/06/19	0.00	0.00	

Service Profile: Service Improvement								
Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
4.4.1.1 Implement a program of ongoing service reviews to ensure our services are efficient and effective and are valued by the community.	Peter Brown - Chief Executive Officer	A consultant has completed an organisation wide, high level service review. This has led to the identification of a program of detailed service reviews, Council is still considering priorities.	Ongoing	01/07/18	30/06/19		25.00	
2.1.1.2 Conduct an ongoing program of service reviews to guide planning for infrastructure.	Peter Brown - Chief Executive Officer	A consultant has completed an organisation wide, high level service review. This has led to the identification of a program of detailed service reviews, Council is still considering priorities.	Ongoing	01/07/18	30/06/19		-	

Service Profile: Representation and Liaison

Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
1.4.1.1 Advocate for the establishment of a Great Ocean Road Authority.	Peter Brown - Chief Executive Officer	Actively participated and contributed in the Victorian Great Ocean Road Taskforce, the report broadly reflects the Council's priorities.	Completed	01/07/18	30/06/19	100.00	-	
2.1.1.3 Council to work with key stakeholders such as the Otway Coast Committee, the Apollo Bay Chamber of Commerce and Council with the aim of aligning strategic planning and advocacy efforts for Apollo Bay.	Peter Brown - Chief Executive Officer	The Mayor and Chief Executive meet monthly with the Chamber of Commerce and Otway Coast Committee to ensure open dialogue. Key collaborations in 2018/19 include support for Apollo Bay Boat Harbour renewal and development, response to coastal erosion and preparation for development of a Community Infrastructure Plan.	Ongoing	01/07/18	30/06/19		-	

Service Profile: Organisational Leadership

Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
4.1.1.1 Identify new income opportunities.	Peter Brown - Chief Executive Officer	A Priority Projects Framework established as the basis of ongoing advocacy to State and Federal Governments for funding. Further funding for Bushfire Recovery has been achieved. Funding application for Apollo Bay Harbour renewal has been submitted.	In Progress	01/07/18	30/06/19	60.00	25.00	


Service Profile: Council Relationships

Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
2.1.1.1 Develop and maintain constructive partnerships to access appropriate levels of funding, coordination, infrastructure and services.	Peter Brown - Chief Executive Officer	Strong relationships established with G21, Regional Development Victoria, VicRoads, Barwon Water, Southern Rural Water, GORRT, Great Ocean Road Taskforce, Parks Victoria, State and Federal Government Members of parliament.	Ongoing	01/07/18	30/06/19		-	
1.1.1.1 Strengthen partnerships with employers in the Shire.	Peter Brown - Chief Executive Officer	Ongoing series of meetings to be established between <ul style="list-style-type: none"> • Mayor, Chief Executive and Tier 1 businesses (Bulla, AKD and CLC). 	Ongoing	01/07/18	30/06/19		-	
1.3.1.1 Develop and maintain regional partnerships and joint advocacy.	Peter Brown - Chief Executive Officer	Council is represented on the following organisations: <ul style="list-style-type: none"> • G21 • Great Ocean Road Taskforce • Great Ocean Road Regional Tourism • Barwon Regional Partnership. 	Ongoing	01/07/18	30/06/19		-	

Service Profile: Governance

Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
4.2.1.1 Ensure where ever possible decisions are debated and made in open Council meetings.	Sarah McKew - Manager Governance & Communications	The Governance team actively encourages all officers to list items for consideration in open Council except when s 89 of the Local Government Act 1989 must be applied for legitimate reasons of confidentiality. This is the ongoing philosophy of the organisation in the interests of transparency, openness, best practice and good governance.	Completed	01/07/18	30/06/19	100.00	-	

CORPORATE SERVICES

Service Profile: Information & Communication Technology									
Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status	
4.1.2.1 Organisational development and legislative compliance	Richard Bianco - Manager Information Services	<p>Information Communication Technology</p> <p>The development of the draft four-year ICT Strategy is complete. Endorsement and adoption is imminent.</p> <p>Critical evaluation of both MAV and State telecommunications contracts is underway, with essential business requirement analysis being conducted. Significant cost savings will be realised once finalised.</p> <p>A significant number of small to medium projects are being finalised for the 2018-2019 financial year, in addition to operational business as usual obligations such as a notable ICT helpdesk workload.</p> <p>Information Management Service A number of projects are in train, being: Major upgrade of our EDRMS (Electronic Document and Records Management System)</p>	In Progress	01/07/18	30/06/19	35.00	-		

Collaborative intra-Shire Tender for digital mail services, negating the need to print, envelope-stuff, and post mail. Staff will be able to submit outbound mail electronically for distribution. This project will result in considerable efficiency increases and cost reductions.

Investigation of providers for transferring our stored records in the current archive facility, of which poses a number of risks. Once physical archives are transferred to an external professional provider, scan-on-demand facilities are able to return sought documents in digital form for registration into our EDRMS.

Geographic Information System
A programme of work is being developed to significantly develop our GIS capabilities, working closely with associated business units such as Assets and Planning/Building representatives as key stakeholders in the system.

A comprehensive data restructure is underway to unify information management in the areas of centralised storage and retrieval to better inform business decision making.

Meetings are being held with prospective vendors in the wholesale replacement and upgrade of our incumbent GIS software suite(s).

Service Profile: Corporate Planning and Reporting


Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
4.2.1.1 Develop and implement a program of regular reporting on key activities to ensure they are focused on implementing priorities.	Trevor Olsson - Manager People, Performance & Culture	Training commenced for all managers on Cammsstrategy 7 March 2018. Corporate Planning and Reporting Officer to oversee ongoing training schedule and ongoing reporting requirements. Corporate Plan, linked to Council Plan themes and actions completed and operational. Training completed by Corporate Planning and Reporting Officer.	Completed	01/07/18	30/06/19	100.00	30.00	

Service Profile: Risk & OHS Management





Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
4.3.1.2 Manage our risk exposure, including providing a safe working environment where "Work Health and Safety is everyone's business".	Trevor Olsson - Manager People, Performance & Culture	Risk Management exposure is regularly reviewed by EMT, and Senior Leaders / Managers. Report to Audit Committee regularly. A review of Business Continuity Plans was undertaken by an external auditor.	In Progress	01/07/18	30/06/19	50.00	30.00	

Training was provided to Managers and relevant staff. A Mental Health (support) Network has been established and is operational. The OHS Safety Audit program for 2018/19 is on track, with regular reporting (monthly) occurring to EMT.



Service Profile: Human Resources

Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
4.3.1.1 Support organisational development to ensure key organisational capability areas support the organisation to deliver on Council priorities.	Trevor Olsson - Manager People, Performance & Culture	A draft People and Culture Strategy has been presented to the EMT, and will be further presented to the SLT on 8 October. The wider Leadership Group will be briefed late October before implementation of year one actions commences. A Staff Alignment and Engagement survey was undertaken in March 2018 and as a result of feedback from staff, three key organisational action plans were approved by the EMT for the 2018/19 year. The three plans are: Systems (IT and process), Communications of the long term direction of Council and of key organisational matters, and thirdly, Investment In People.	In Progress	01/07/18	30/06/19	50.00	70.00	



Service Profile: Corporate Services GM's Office

Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
1.3.1.1 Seek regional funds from State and Federal Governments.	Errol Lawrence - General Manager Corporate Services	This is an ongoing task with every opportunity being assessed.	Ongoing	01/07/18	30/06/19		-	
4.2.1.1 Maintain the 10 year long term financial plan.	Errol Lawrence - General Manager Corporate Services	The development of service plans for all the services provided by Colac Otway Shire are well under way for inclusion in the Long Term Financial Plan.	In Progress	01/07/18	30/06/19	5.00	-	
4.4.1.1 Develop partnerships to procure services and materials on a regional basis.	Melissa Garner - Coordinator Financial Planning and Contracts	Investigation and review required – MAV LEAP data available to assist in investigation	Not Started	01/07/18	30/06/19	0.00	-	
4.4.1.2 Enhance opportunities for increased local spending of Council expenditure.	Melissa Garner - Coordinator Financial Planning and Contracts	Part of the G21 GROW Program and MAV LEAP program – further investigation/review required	Not Started	01/07/18	30/06/19	0.00	-	


Service Profile: Finance Manager

Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
4.4.1.1 Maintain low risk audit rating for financial sustainability.	Jason Clissold - Manager Financial Services	As detailed in The Annual Report, Council's 2017/18 financial result is consistent with a low risk rating in relation to financial sustainability.	Ongoing	01/07/18	30/06/19	100.00	100.00	
4.1.1.1 Manage the short and long-term financial sustainability of the shire through prudent financial management.	Jason Clissold - Manager Financial Services	Current Financial Sustainability indicators are strong. This includes a healthy cash balance and net surpluses. Once the Long Term Financial Plan is completed, it will provide a much better perspective of the long term sustainability challenges for Colac Otway Shire Council	Ongoing	01/07/18	30/06/19	100.00	100.00	



DEVELOPMENT & COMMUNITY SERVICES


Service Profile: Environmental Sustainability Program									
Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status	
2.4.1.5 Implement emission reduction programs for Council operations.	Stewart Anderson - Manager Environment & Community Safety	The new 99kW Solar Array on Bluewater is functioning and is expected to reduce the facilities energy costs by \$20,000 per year. In addition the 99kW solar array on the Rae Street facility was replaced at no cost to Council with the latest technology panels because of some panels failing. Work has commenced on further investigating the potential to install a solar array on the Joint Use Library and upgrading more street lights with more efficient globes.	In Progress	01/07/18	30/06/19	55.00	-		
2.4.1.7 Implement Council's Climate Adaptation Strategy.	Stewart Anderson - Manager Environment & Community Safety	Work is being undertaken in accordance with Council's Climate Adaptation Plan to ensure climate resilience is integrated in to Council Planning and Operations. For example climate projections were incorporated into the development of the new Storm Water Management Plan for Colac.	Not Started	01/07/18	30/06/19	0.00	-		

Service Profile: Environmental Weed and Pest Control Program


Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
2.4.1.6 Enhance and protect biodiversity through weed control and revegetation.	Stewart Anderson - Manager Environment & Community Safety	Council undertakes a strategic weed control program in high conservation areas to help protect biodiversity and has recently completed another stage of revegetation works along Barongarook Creek.	Ongoing	01/07/18	30/06/19	-	-	

Service Profile: Environmental Advice



Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
2.4.1.1 Ensure best practice guides planning and management of the natural environment and associated assets, and Council's response to climate change.	Stewart Anderson - Manager Environment & Community Safety	Work is being undertaken in accordance with Council's Climate Adaptation Plan to ensure climate resilience is integrated in to Council Planning and Operations. For example climate projections were incorporated into the development of the new Storm Water Management Plan for Colac.	Ongoing	01/07/18	30/06/19	-	-	
2.2.1.1 Ensure best practice guides planning and management of the natural environment and associated assets.	Stewart Anderson - Manager Environment & Community Safety	Environmental advice is provided on planning permit applications along with projects and services being delivered by Council to ensure the impact on the natural environment is minimised.	Ongoing	01/07/18	30/06/19	-	-	

2.4.1.2 Minimise coastal erosion in partnership with other stakeholders and implement measures to assist climate adaptation.	Stewart Anderson - Manager Environment & Community Safety	Council continues to work closely with DELWP and the Otway Coast Committee on the management of coastal erosion, particularly in the Apollo Bay area.	Ongoing	01/07/18	30/06/19	-	
2.4.1.3 Improve the health and sustainability of the natural environment through structured planning with our partners.	Stewart Anderson - Manager Environment & Community Safety	Council continues to work closely with DELWP, Barwon Water, Parks Victoria, the Corangamite CMA and other relevant agencies to improve sustainability. For example Council has worked with other partner agencies to develop an environment action list for Lake Colac.	Ongoing	01/07/18	30/06/19	-	


Service Profile: Municipal Fire Prevention Program


Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
2.4.1.4 Deliver localised planning to communities to reduce fire risk.	Stewart Anderson - Manager Environment & Community Safety	Community Based Bushfire Planning is being undertaken in Wye River, Separation Creek, Kennett River, Grey River and Forrest. This process will help the community identify local solutions to local problems and also allows fire experts to explain the latest science about bushfire risk to people in a local context.	In Progress	01/07/18	30/06/19	27.00	-	

Service Profile: Municipal Emergency Management Planning and Preparedness


Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
2.6.1.1 Community based planning to build local understanding and preparedness for emergency events.	Stewart Anderson - Manager Environment & Community Safety	Community Based Bushfire Planning is being undertaken in Wye River, Separation Creek, Kennett River, Grey River and Forrest. This process help the community identify local solutions to local problems and also allows fire experts to explain the latest science about bushfire risk to people in a local context.	In Progress	01/07/18	30/06/19	25.00	-	
2.6.1.2 Education, joint planning and preparations undertaken to prepare for climate related threats and emergencies.	Stewart Anderson - Manager Environment & Community Safety	Colac Otway Shire staff, in collaboration with Surf Coast and Corangamite Shires, have undertaken training for running Emergency Relief Centres (ERC). The Emergency Management units of the three Councils work closely together to provide training to Council staff, so that they are able to fulfil their obligations to coordinate and provide relief and recovery services to the community during disaster events. This training also provided an overview of emergency arrangements in Victoria and how Council staff can best serve our communities in a time of crisis. Over 100 staff participated in the training.	In Progress	01/07/18	30/06/19	23.00	-	

Service Profile: Community Health & Wellbeing

Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
3.4.1.1 Participate in the G21 Healthy Eating and Active Living regional priority project.	Greg Fletcher - Manager Community Services	October 2018 Attended a number of meetings with health related government agencies within G21 to commence developing priorities and a set of actions for 2018 and onwards.	In Progress	01/07/18	30/06/19	25.00	25.00	
3.1.1.1 Support community clubs, groups and associations to provide welcoming and inclusive environments for all members of our community within council facilities.	Greg Fletcher - Manager Community Services	October 2018 Meetings with Positive Ageing Ambassadors, Seniors groups in Birregurra, Colac and Apollo Bay, Colac Special Needs Group, and Barwon Child Youth and Family regarding kindergartens they operate within and the support for vulnerable children. Council's new 2018 community grants included promotion of gender equity. The review of the 2019 grants program will look at opportunities to provide grants to support facilities and services that actively encourage gender equity and cultural diversity. Meetings with Section 86 Committees and discussed inclusive environments.	In Progress	01/07/18	30/06/19	25.00	25.00	




3.5.1.1 Increase advocacy in partnership with our community to enhance cultural awareness, inclusiveness, safety and health, community, family and education.	Greg Fletcher - Manager Community Services	<p>October 2018</p> <p>In partnership with the Aboriginal community Council assisted with the coordination of NAIDOC week events.</p> <p>Ongoing meetings and advocacy with multiple partners including Department of Education and Training, Department of Health and Human Services, Department of Justice, G21, Colac Area Health, and Caracaramigen Gathering Place.</p>	In Progress	01/07/18	30/06/19	25.00	25.00	
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Service Profile: Grants Attraction and Management


Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
3.1.1.1 Support community organisations through the community grants program.	Gary Warrener - Manager Economic Development & Tourism	Grants review process has been undertaken and endorsed by Council. A second round of grants was approved by Council in September which has completed the community grant process. Grants have been approved to 100 individual groups and officers will work with these groups to successfully implement their projects. The total budget for the Grants Program was \$316,100 with a total benefit to the Shire of approximately \$2,508,514 including cash and in kind contributions. Next step is to implement Smarty Grants to create an online application process.	In Progress	01/07/18	30/06/19	95.00	50.00	
3.2.1.1 Provide grant programs to involve local people in activities that facilitate their health, wellbeing and enjoyment.	Gary Warrener - Manager Economic Development & Tourism	The 2018/19 Grants program decision making process was completed with the second round of grants approved by Council in September 2018. Grants have been approved to 100 individual groups and officers will work with these groups to successfully implement their projects. The next step will be the implementation of Smarty Grants which will provide an online process for grants.	Completed	01/07/18	30/06/19	100.00	75.00	

Service Profile: Business Development

Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
1.1.1.1 Develop and implement a Colac Otway Economic Development Strategy.	Gary Warrener - Manager Economic Development & Tourism	<p>The development of the strategy commenced with consultation with the business community through:</p> <ul style="list-style-type: none"> * 7 facilitated workshops in the following sectors: Agriculture, Forestry & Fishing; Health; Construction; Manufacturing; Food & Fibre; Tourism: Retail and Services. * 1 internally facilitated workshop in Events. * Business survey conducted drawing 139 responses * Draft strategy was developed and presented to Council for comment. <p>The draft Strategy is expected to be released for public comment in the second quarter.</p>	In Progress	01/07/18	30/06/19	85.00	75.00	
1.1.3.1 Identify and support employment in tourism.	Gary Warrener - Tourism Development Officer GORVIC	<p>Activity in several areas is ongoing, such as advocating for local product and showcasing the broad natural beauty and attractions of the Shire. Mentoring local business operators to develop greater skills to enable them to capitalise on the existing growing market.</p>	In Progress	01/07/18	30/06/19	50.00	25.00	

1.2.1.2 Facilitate the attraction of investment in the development of high standard accommodation in Colac and Apollo Bay, complemented by high yielding nature based experiences.	Gary Warrener - Manager Economic Development & Tourism	Council has progressed a three phase process into the potential for developing high standard accommodation at Colac. Initial demand and site analysis completed in 2017-18. Current quarter has seen progress of the draft prospectus for developing a new hotel in Colac.	In Progress	01/07/18	30/06/19	75.00	50.00	
1.2.1.3 Encourage and support existing owners of accommodation to upgrade, refurbish and develop new infrastructure to meet visitor demand.	Gary Warrener - Manager Economic Development & Tourism	Not commenced	Not Started	01/07/18	30/06/19	0.00	0.00	
1.1.1.3 Attract investment to implement key master plans that will drive economic growth such as the Lake Colac Foreshore Master Plan.	Gary Warrener - Manager Economic Development & Tourism	Forrest Mountain Bike Strategy Implementation - grant from Sport & Rec of \$100,000 obtained for design work September 2018 - project underway	In Progress	01/07/18	30/06/19	30.00	0.00	


Service Profile: Special Projects

Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
1.3.1.1 Seek to influence education providers to match local job opportunities with available skills training.	Gary Warrener - Manager Economic Development & Tourism	Actively working with GROW and Deakin University in the development of funding applications to enable work to be undertaken on workforce and skills development areas. An application has been submitted to RDV for assessment (September 2018)	In Progress	01/07/18	30/06/19	30.00	25.00	



Service Profile: Events


Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
1.2.1.1 Review the Shire Events Strategy and partner with event organisers to assist them preserve the amenity of residents while running successful events.	Gary Warrener - Manager Economic Development & Tourism	The Shire Events strategy is now being incorporated into the Economic Development Strategy which will exhibited for public comment in the second quarter.	In Progress	01/07/18	30/06/19	85.00	50.00	

Service Profile: Regional Advocacy


Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
1.3.1.2 Support programs to reduce youth unemployment and promote employment for disadvantaged groups in partnership with employers, G21 and the GROW initiative.	Gary Warrener - Manager Economic Development & Tourism	Grant application has been lodged in conjunction with GROW and Deakin University through RDV with one of these applications yet to be determined.	In Progress	01/07/18	30/06/19	30.00	0.00	

Service Profile: Tourism Development



Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
1.1.1.2 Identify and improve tourism assets across the Shire.	Gary Warrener - Manager Economic Development & Tourism	Several projects are currently underway which include: 1. The Colac Produce Hub concept - if implemented this project will provide a retail outlet for producers within the Shire to display and sell product, therefore expanding their markets and product exposure. A Grant application has been submitted to State Government seeking funding assistance to develop a Governance model for the Hub. 2. The Tourism Traffic and Parking Study being conducted along the Coastal strip is investigating the issues around traffic and parking along the Great Ocean Road. 3. Master Planning is also happening at Kennett River in a effort to solve the traffic and parking issues at that small village.	In Progress	01/07/18	30/06/19	50.00	0.00	
1.2.1.4 Review the Great Ocean Road Closure Policy.	Gary Warrener - Manager Economic Development & Tourism	The review of the guidelines has commenced which is being led by VicRoads in consultation with Colac Otway and Surf Coast Shires and the Victorian Police. Community consultation will be undertaken in the second quarter.	In Progress	01/07/18	30/06/19	50.00	25.00	


1.2.1.5 Identify and promote Tourism pathways between attractions across the whole Shire.	Gary Warrener - Not commenced Manager Economic Development & Tourism	Not Started	01/07/18	30/06/19	0.00	0.00	
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Service Profile: Statutory Planning


Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
1.1.1.3 Remove unnecessary planning triggers to streamline planning processes.	Doug McNeill - Manager Planning, Building & Health	Council adopted its four Yearly Planning Scheme Review in March 2018. Consultant Glossop has drafted proposed changes to Council's Planning Scheme which give effect to this Review, and to streamline planning provisions where possible. The process of exhibiting an amendment has been delayed due to State Government reforms implemented in August 2018 which will require a translation of the current Municipal Strategic Statement in the Planning Scheme into the new State Planning Policy Framework (PPF) before Council can exhibit changes to its policy framework and change overlay provisions. The translation is expected to occur in the first quarter of 2019, followed by exhibition of a Council Amendment mid 2019. Officers will continue to refine the proposed local overlay changes whilst the State Government led translation occurs.	In Progress	01/07/18	30/06/20	25.00	25.00	

Service Profile: Strategic Planning

Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
1.2.1.1 Explore options to facilitate new tourism accommodation.	Doug McNeill - Manager Planning, Building & Health	A future budget allocation is required to engage consultants to investigate appropriate means by which tourism development can be encouraged in appropriate locations in the Shire. Council officers have facilitated a process for consideration of a proposed 5 star hotel on land to the rear of Apollo Bay, which was called in by the Planning Minister in January 2018, and is currently being considered by an independent Panel appointed by the Minister.	In Progress	01/07/18	30/06/20	5.00	5.00	
2.3.1.1 Develop and implement a prioritised program to review and implement master plans, community infrastructure plans and structure plans for small towns across the Shire.	Doug McNeill - Manager Planning, Building & Health	Officers have commenced preparation of a prioritised list of Master Plans for Council consideration. This work will be finalised early in 2019. Council funded the development of a Community Infrastructure Master Plan for Apollo Bay, Skenes Creek and Marengo in its 2018/19 budget. Officers have worked collaboratively with the Otway Coast Committee (OCC), Department of Environment, Land Water & Planning (DELWP) and other stakeholders to define the project scope, resulting in the project being amended to include	In Progress	01/07/18	30/06/19	25.00	25.00	


		the OCC's Foreshore Master Plan and a draft Development Plan for the harbour precinct. It is expected that tenders will be called prior to Christmas, with the project commencing early in 2019.						
2.2.1.1 Update the Planning Scheme to reflect changing community needs and priorities.	Doug McNeill - Manager Planning, Building & Health	Council adopted its four Yearly Planning Scheme Review in March 2018. Consultant Glossop has drafted proposed changes to Council's Planning Scheme which give effect to this Review. The process of exhibiting an amendment has been delayed due to State Government reforms implemented in August 2018 which will require a translation of the current Municipal Strategic Statement in the Planning Scheme into the new State Planning Policy Framework (PPF) before Council can exhibit changes to its policy framework . The translation is expected to occur in the first quarter of 2019, followed by exhibition of a Council amendment mid 2019. The draft Colac 2050 Growth Plan will be placed on exhibition with Amendment C97 to implement its findings in November 2018. This will facilitate planning for expansion residential zoned land to accommodate growth of Colac.	In Progress	01/07/18	30/06/20	25.00	25.00	

1.1.1.1 Provide direction on how growth across the Shire should proceed and ensure adequate land is provided for industrial and residential use.	Doug McNeill - Manager Planning, Building & Health	Draft Colac 2050 Growth Plan reported to the July 2018 Council meeting, with a resolution to place it on public exhibition along with Amendment C97 to the Planning Scheme to implement the policy outcomes. Exhibition was delayed due to recent State Government planning reforms, but is expected to occur for 6 weeks over November & December 2018. Submissions will be considered early in 2019. Amendment C86 was approved and gazetted by the Planning Minister in October 2017, implementing the key outcomes of the Colac Economic Development, Commercial Land Industrial Land Use Strategy. The amendment rezoned 68ha of land for new industrial development.	In Progress	01/07/18	30/06/19	25.00	25.00	
1.1.1.2 Conduct a review of the housing stock in Colac and establish a Residential Housing Strategy to ensure current and future stock is suitable to attract new residents.	Doug McNeill - Manager Planning, Building & Health	Preparation of the draft Colac 2050 Growth Plan involved a basic analysis of housing needs in Colac. This informed the development of the Plan, however a more comprehensive Housing Needs Assessment is required to be completed that includes consideration of affordable housing needs, an aging population, etc. This project requires dedicated Council funding, and will be considered in the 2019/20 budget	In Progress	01/07/18	30/06/20	20.00	20.00	

		process. Consideration will also be given to expand this proposed project to include Apollo Bay with consideration to an ageing population and providing housing for workers within the seasonal tourism sector.						
1.1.1.4 Prepare an Infrastructure Master Plan for Apollo Bay and Coastal Townships, covering categories including roads, car parking, bus parking, footpaths and storm water drainage.	Doug McNeill - Manager Planning, Building & Health	Council funded the development of a Community Infrastructure Master Plan for Apollo Bay, Skenes Creek and Marengo in its 2018/19 budget. Officers have worked collaboratively with the Otway Coast Committee (OCC), Department of Environment, Land Water & Planning (DELWP) and other stakeholders to define the project scope, resulting in the project being amended to include the OCC's Foreshore Master Plan and a draft Development Plan for the harbour precinct. It is expected that tenders will be called prior to Christmas, with the project commencing early in 2019.	In Progress	01/07/18	31/03/20	10.00	10.00	

INFRASTRUCTURE & LEISURE SERVICES

Service Profile: Infrastructure - Sustainable Assets									
Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status	
2.1.1.1 Develop and implement a Property Strategy.	Jeremy Rudd - Manager Assets & Project Delivery	Strategic Plan to manage Councils properties covering issues such as valuation, service provision, future investment and disposal of assets, is due to commence 2018/19	In Progress	01/07/18	30/06/19	20.00	0.00		
2.3.1.2 Incorporate treatments into infrastructure standards that enhance community perceptions of safety.	Jeremy Rudd - Manager Assets & Project Delivery	Improvements to third party development works processes. Improvements to standards based on learnings following Wye River/Seperation Creek fires. Public lighting improvements. Light-up Memorial Square project.	In Progress	01/07/18	30/06/19	8.00	0.00		

Service Profile: Infrastructure - Capital and Major Projects									
Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status	
2.3.1.1 Enhance the attractiveness of towns in the Shire for both residents and tourists/visitors.	Jeremy Rudd - Manager Assets & Project Delivery	Continued advocacy for improvements to the Eastern entrance to Colac is being completed as part of VicRoads duplication. Development of concept plans for Johnstone's Lane Improvement is underway. Installation of western entrance signage	In Progress	01/07/18	30/06/19	20.00	10.00		

2.5.1.1 Develop a system of capital allocations based on Asset Management Plans.	Jeremy Rudd - Manager Assets & Project Delivery	Develop designs for all 2019/20 renewal projects	In Progress	01/07/18	30/06/19	5.00	0.00	
2.5.1.2 Develop a project management framework, covering proposals, planning and delivery.	Jeremy Rudd - Manager Assets & Project Delivery	Project planning process to examine external impacts Project proposals to measure strategic alignment	In Progress	01/07/18	30/06/19	10.00	0.00	
2.5.1.3 Develop a capital works reporting framework.	Jeremy Rudd - Manager Assets & Project Delivery	Dedicated software package to track projects Formal monthly project reporting	In Progress	01/07/18	30/06/19	50.00	30.00	
2.5.1.4 Deliver the annual capital works program.	Jeremy Rudd - Manager Assets & Project Delivery	Deliver 80% of the 2018/19 works program	In Progress	01/07/18	30/06/19	21.00	20.00	


Service Profile: Infrastructure - Strategic Property Management

Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
3.4.1.1 Consider health of the community when formulating policy for Council's Property Strategy.	Jeremy Rudd - Manager Assets & Project Delivery	Include reference to community health in Council's property management framework Develop a process to cohesively work with service managers	Not Started	01/07/18	30/06/19	0.00	0.00	


Service Profile: Arts and Culture

Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
3.2.1.1 Supports community activities through information dissemination and planning information.	Ian Seuren - Manager Arts & Leisure	Relevant information is communicated to our community organisations on a regular basis through a range of communication mediums. In recent times, a number of grant opportunities have been forwarded to our community organisation database for consideration.	Ongoing	01/07/18	30/06/19		-	
3.6.1.1 Update social infrastructure planning on a continuing basis to guide asset planning.	Ian Seuren - Manager Arts & Leisure	Recent discussions with local communities including Apollo Bay and Cressy about future requirements for social infrastructure. The Apollo Bay Infrastructure Study will commence in 2018/19 which will provide strategic direction for current and future social infrastructure needs.	In Progress	01/07/18	30/06/19	10.00	25.00	
3.3.1.2 Support for community groups.	Ian Seuren - Manager Arts & Leisure	Support for community groups continues through direct contact, workshops and forums and information provision. Officers meet and talk with a variety of community organisations on an ongoing basis.	Ongoing	01/07/18	30/06/19		-	


Service Profile: Library Services


Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
3.3.1.1 Provide opportunities for lifelong learning and community connections through library programs.	Ian Seuren - Manager Arts & Leisure	The provision of library services and programs continues to be delivered by the Corangamite Regional Library Corporation. Attendances at library programs have been maintained. Council officers continue to support the Corporation to promote the opportunities through library services.	Ongoing	01/07/18	30/06/19	-	-	

Service Profile: Bluewater Leisure Centre



Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
3.4.1.1 Deliver programs through the Bluewater Centre that promote physical activity in the Shire.	Ian Seuren - Manager Arts & Leisure	Bluewater Leisure Centre provides a range of programs and services for all members of our community. Recently the implementation of 24/7 gym operations and on-demand virtual programming has resulted in increased attendance. The recent development of the Walking Water Polo program in partnership with U3A is an exciting initiative providing a different experience to our community.	Ongoing	01/07/18	30/06/19	-	-	

Service Profile: Recreation and Open Space

Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
2.3.1.1 Advocate for improvements to public open space where the State Government is the land owner/manager.	Ian Seuren - Manager Arts & Leisure	Continue to advocate for funding to improve our public open space network. Improvements to the Lake Colac Foreshore continue. The Apollo Bay Foreshore Master Plan will commence in 2018/19 in partnership with the Otway Coast Committee.	Ongoing	01/07/18	30/06/19		-	
2.3.1.2 Continue to support the Apollo Bay community's advocacy for the development of a public indoor heated swimming pool in Apollo Bay.	Ian Seuren - Manager Arts & Leisure	Funding has been secured from the Federal Government to enclose the existing pool. Council has committed to the annual operating costs to run the facility. Council will support the community to work through the planning and construction process.	In Progress	01/07/18	30/06/19	75.00	25.00	
3.4.1.2 Build capacity of local sports groups in promoting healthy eating and physical activity.	Ian Seuren - Manager Arts & Leisure	A number of workshops and forums are held annually with sports clubs. Officers work with clubs and associations on a daily basis assisting with building capacity to increase participation.	Ongoing	01/07/18	30/06/19		0.00	
2.3.1.3 Support enjoyment of outdoor experiences through the provision of a network of quality open spaces, including paths and trails.	Ian Seuren - Manager Arts & Leisure	Council continues to improve our open space networks through a range of projects. Improvements to the Lake Colac Foreshore continue in 2018/19, the Rex Norman Park playspace has been completed whilst the Queen	Ongoing	01/07/18	30/06/19		-	

		Street Colac shared pathway was recently completed. Council continues to focus on an improved maintenance regime for our parks and reserves through better defined service levels.					
3.4.1.3 Encourage more people to participate and be inclusive of others.	Ian Seuren - Manager Arts & Leisure	<p>Continue to work with community organisations to increase participation through inclusive facilities and programming. Recent funding applications submitted in partnership with sporting clubs aimed at facility upgrades to increase inclusive participation outcomes, including the Western Reserve oval and lighting upgrade and the Central Reserve court and lighting redevelopment.</p> <p>In addition, Council is partnering with Leisure Networks to have five Colac Otway Shire sporting clubs participate in a Building Gender Equality Pilot Project, 'The Barwon Game Changer'. The project is aimed at building the capacity of women and girls involved in community sport and recreation clubs in the Barwon region and will run from September 2018 to June 2019.</p>	Ongoing	01/07/18	30/06/19	-	

Service Profile: Waste Management

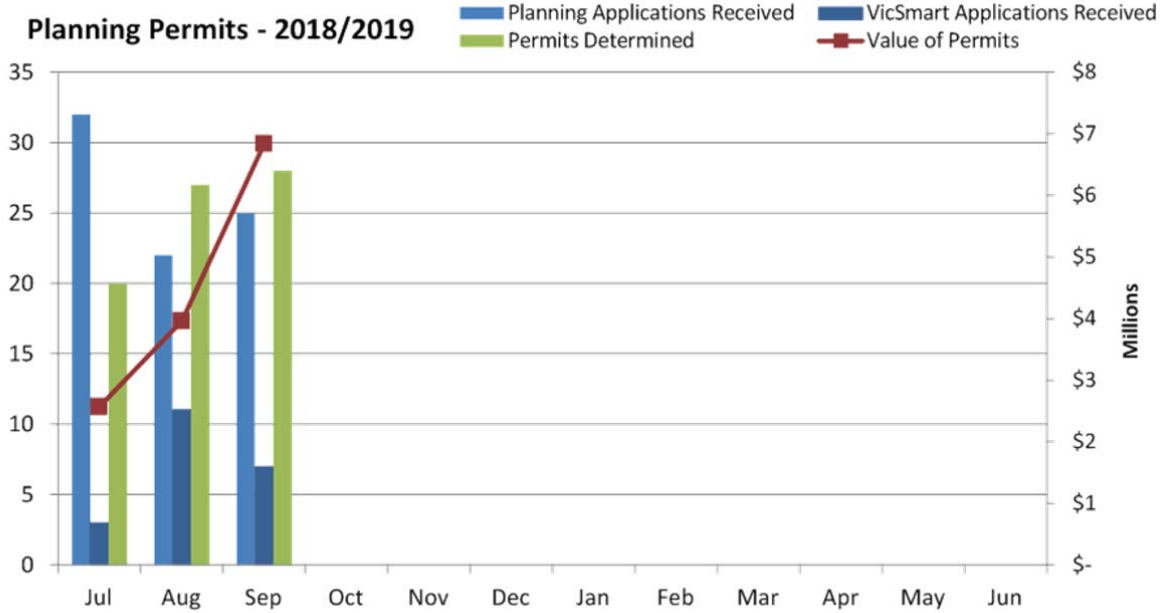
Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
2.1.1.1 Evaluate the feasibility of a regional wet waste facility to manage waste from road and drainage maintenance.	Frank Castles - Manager Services & Operations	A regional wet waste facility has been investigated and initially appears to not be viable. Further detail will be sought before closing this initiative.	In Progress	01/07/18	30/06/19	80.00	80.00	
2.4.1.1 Enhance the level of resource recycling and reuse across the Shire.	Frank Castles - Manager Services & Operations	Opportunities to recycle or reuse material is continually being explored. Materials recovered from works is saved and used where possible. Examples of this is the top soil from central reserve being used to level holes on the lake fore shore and bluestone rocks from footpaths being used in drainage works.	Completed	01/07/18	30/06/19	100.00	100.00	

Service Profile: Parks and Gardens

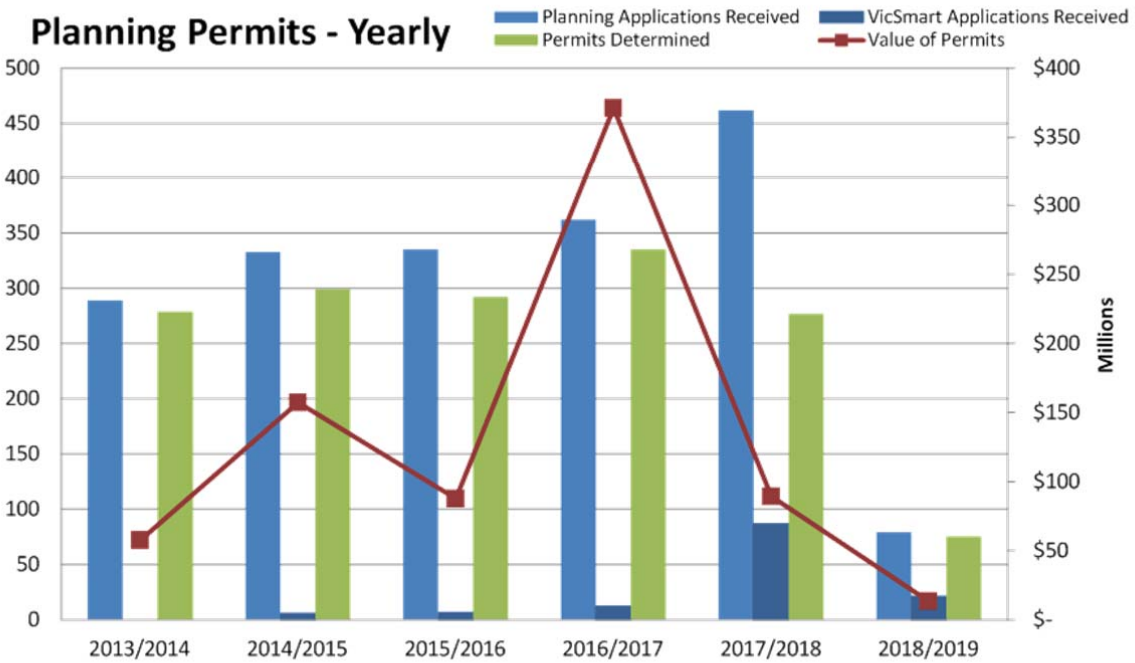
Action	Responsibility	Progress Comment	Action Status	Start Date	End Date	% Complete	Target	Status
2.3.1.1 Maintain Parks and gardens, sports reserves and streetscapes.	Frank Castles - Manager Services & Operations	Maintenance to parks, gardens, reserves and streetscapes is an ongoing task. Work load and work type varies from season to season and with various demands on the facilities. Recently the open space team has developed service levels that are a guide for the Service and Operations team.	In Progress	01/07/18	30/06/19	80.00	40.00	

Planning Performance Report

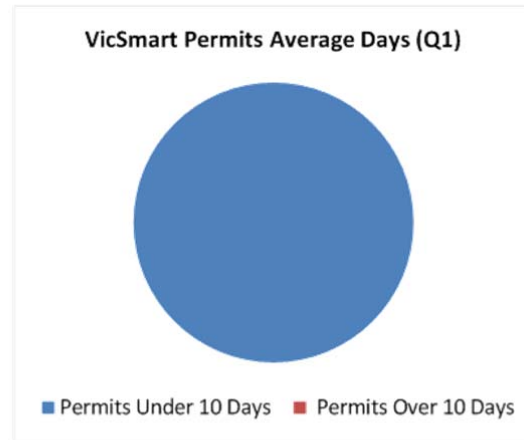
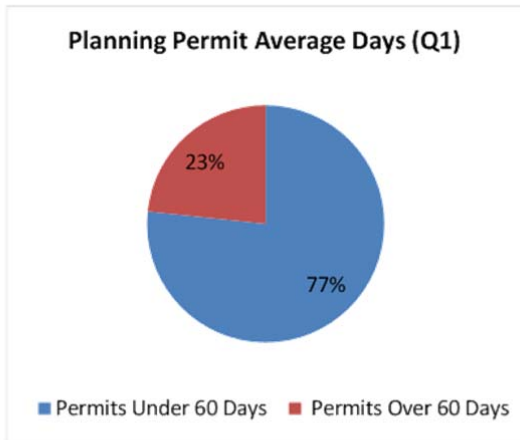
The bar graph below represents the numbers of planning permit applications lodged with Council (all applications –blue; VicSmart applications – dark blue), and the number of permits issued (green) by month. The economic value of lodged planning permit applications is shown in red.



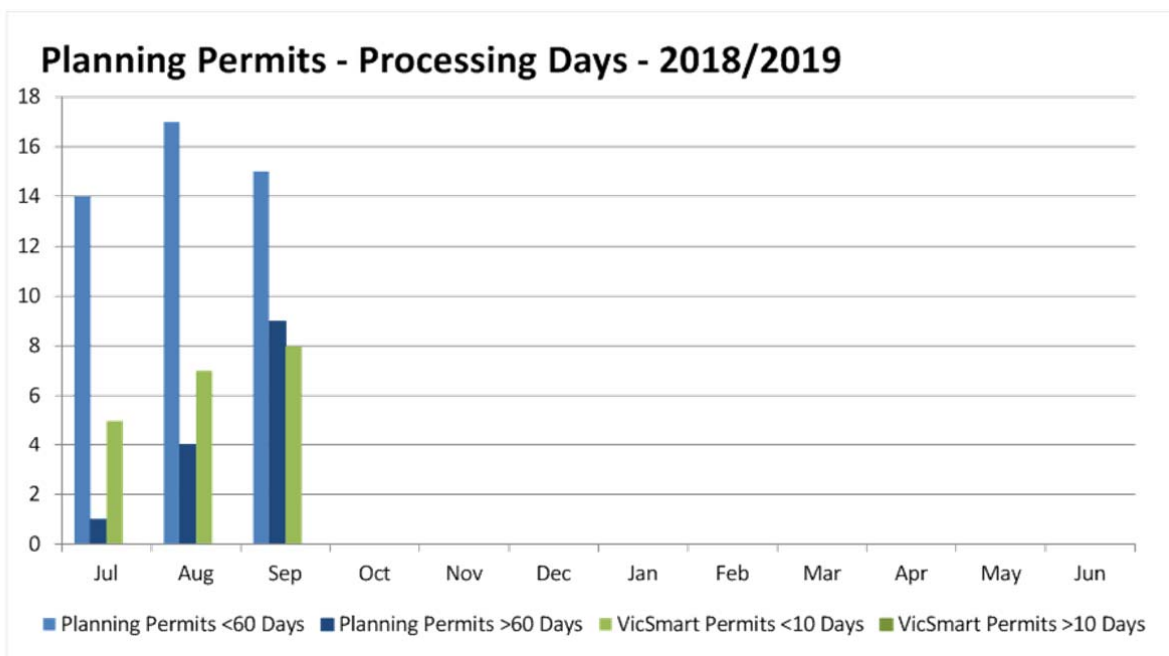
The graph below shows the same information, comparing the number of received planning permit applications and permits issued, across different financial years, as well as value of permits. This indicates a reasonably consistent upward trend in building activity year on year.



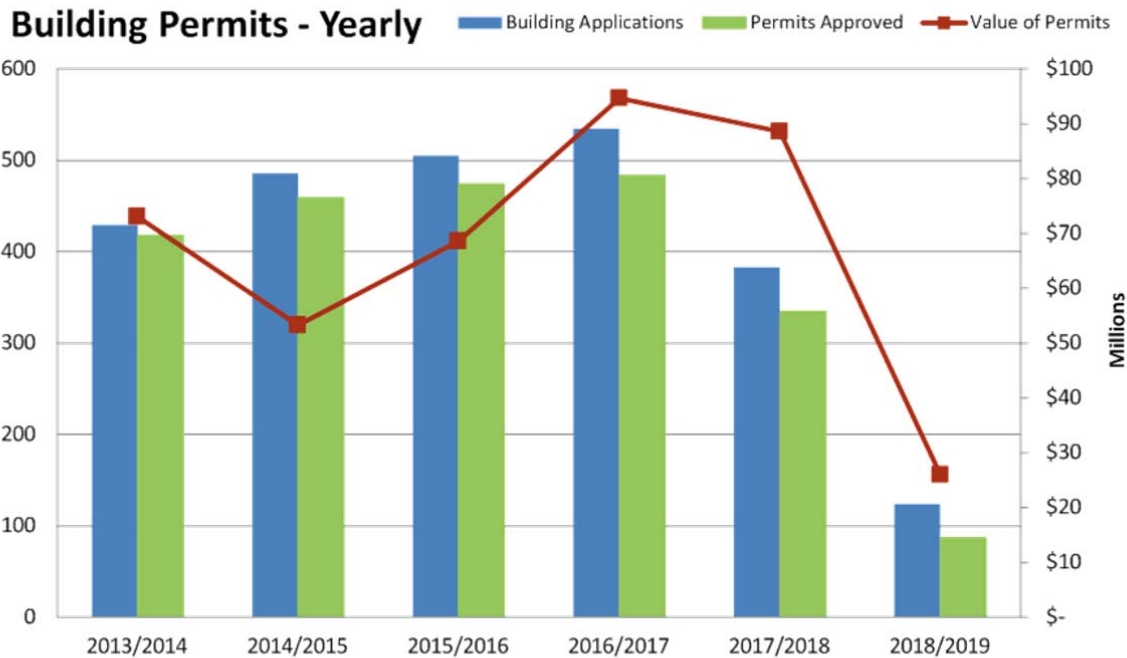
The following graphs indicates the average days taken to determine planning permit applications in the reported quarter, with permits issued under the statutory timeframe in blue and permits issued over the statutory timeframe in red.



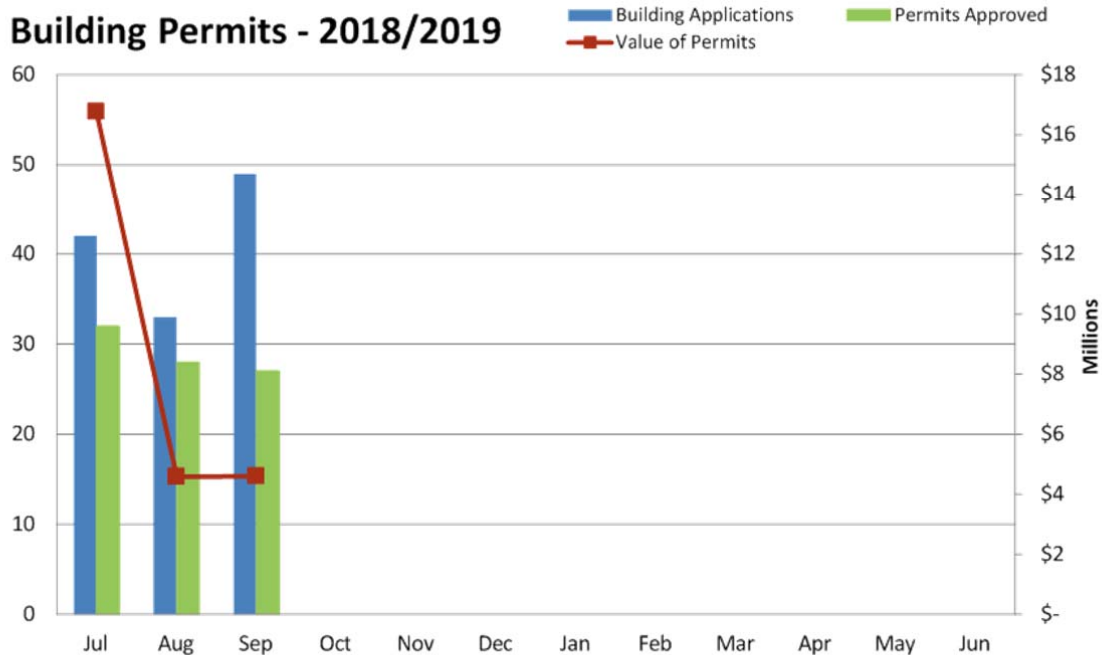
The following graph indicates the average days taken to determine planning permit applications in 2017/18, by month:



The following graph shows the number of building permit applications received (blue) and permits issued (green) by year, as well as the economic value of applications received (red line)



The following graph shows the number of building permit applications received (blue) and permits issued (green) by month, as well as the economic value of applications received (red line).



Planning Permits of Interest

A planning permit was issued for a liquor licence, a reduction in parking and signage associated with the proposed 'Piano Bar' at 47-49 Hesse Street, Colac.

The re-subdivision of land owned by AKD and Calco in Forest Street from 6 lots into 3 lots was also allowed during this period, facilitating a transfer of land to AKD to accommodate future growth of their business. A proposal for the re-subdivision of land at Hugh Murray Drive and the construction of 3 sheds was also granted a permit.

In Apollo Bay, a multi-storey building to provide tourist accommodation in the Commercial 1 Zone was permitted in Pascoe Street.

A planning permit was also issued for the temporary use of land at a quarry in Beech Forest for a public walking tour event (part of the WinterWild Festival).

In terms of telecommunications facilities, a 25m high lattice tower was allowed at 90 Old Coach Road and a 30m monopole at 300 Montrose Avenue in Apollo Bay, which will improve NBN coverage in the area.

A total of 4 permits were issued for dwellings in the bushfire affected areas of Wye River and Separation Creek during the last quarter. Outside the bushfire area, a further 19 permits were issued for dwellings.

Only one refusal was issued during the quarter, for a dwelling in Weering. That application proposed a dwelling on a 13.76ha lot at 185 Pierces Road. The submitted application did not adequately demonstrate that a dwelling is genuinely required to carry out a long term agricultural activity on the land or that it would enhance agricultural production on the land. In addition, and having regard to the lack of justification for the dwelling, it was considered that it had potential to limit the operation and expansion of adjoining and nearby agriculture, and lead to a concentration or proliferation of dwellings in the area.

BUILDING PERMITS OF INTEREST

The following is a list of non-residential related building permits issued that are of community interest or high value (>\$1,000,000):

Address	Description of Works	Permit Approved	Comment
175 Great Ocean Road APOLLO BAY	Alteration to Motel (Stage 2 – Internal Structural Work)	10/07/2018	Odyssey Holiday Group Pty Ltd
175 Great Ocean Road APOLLO BAY	Alteration to Motel (Stage 3 Architectural works and reduction in Scope to exclude Structural Works)	07/09/2018	Odyssey Holiday Group Pty Ltd
375 Murray Street COLAC	Construction of residential care dwelling	19/07/2018	Health & Human Services
3 Gambier Street APOLLO BAY	Construction of Detached Dwelling	25/07/2018	MA & JC Verey

Building Enforcement

- 22 Essential Safety Measure inspections undertaken of commercial premises
 - 5 Building Notices issued
 - 2 Minor Works issued
 - 1 Stop Works issued
 - 1 Emergency Order issued
1. Proactive Essential Safety Measure (ESM) audits have commenced, utilizing funds allocated in the 2018/19 budget. These audits are required to ensure land owners are compliant with requirements for provision of fire services in their buildings under the Building Regulations, and ensure public safety. An increase in building enforcement activities is inevitable as a result of these audits, although it is noted that Council's approach is to take a predominantly educational approach. Where breaches are found, two options exist for Council to:
 - a) Achieve enforcement through the Building Notice/Building Order process (preferred approach), or;
 - b) Issue of Infringements.
Infringements would become applicable only after the owner has failed to rectify the identified breach through the Building Notice/Building Order process.
 2. An Emergency Order and Building Notice was issued at 46-48 Great Ocean Road, Lavers Hill – an existing building is being used as student/youth accommodation in lieu of its approved use as a bakery/café. There was a lack of functioning smoke alarms to alert sleeping occupants.
 3. A Building Notice was issued at 4020 Corangamite Lake Road, Beeac – a shed has been damaged by fire, and metal cladding material has become loose and has spread into an adjacent road reserve. The fire damaged shed and other structures had been constructed without a building permit.

Planning Enforcement of Interest

Several planning enforcement matters have progressed in this quarter including:

- Removal of unapproved building at a Lavers Hill property. Further breaches are being investigated.
- Illegal removal of native vegetation at Murroon
- Unapproved use as a saw milling operation in Colac East

Major Projects Performance Report

1. Executive Summary

1.1 Summary

The Operating Projects program year-to-date (YTD) expenditure to 30/9/18, \$859,150, is 193% of the \$446,144 target and 21% spend of the annual budget.

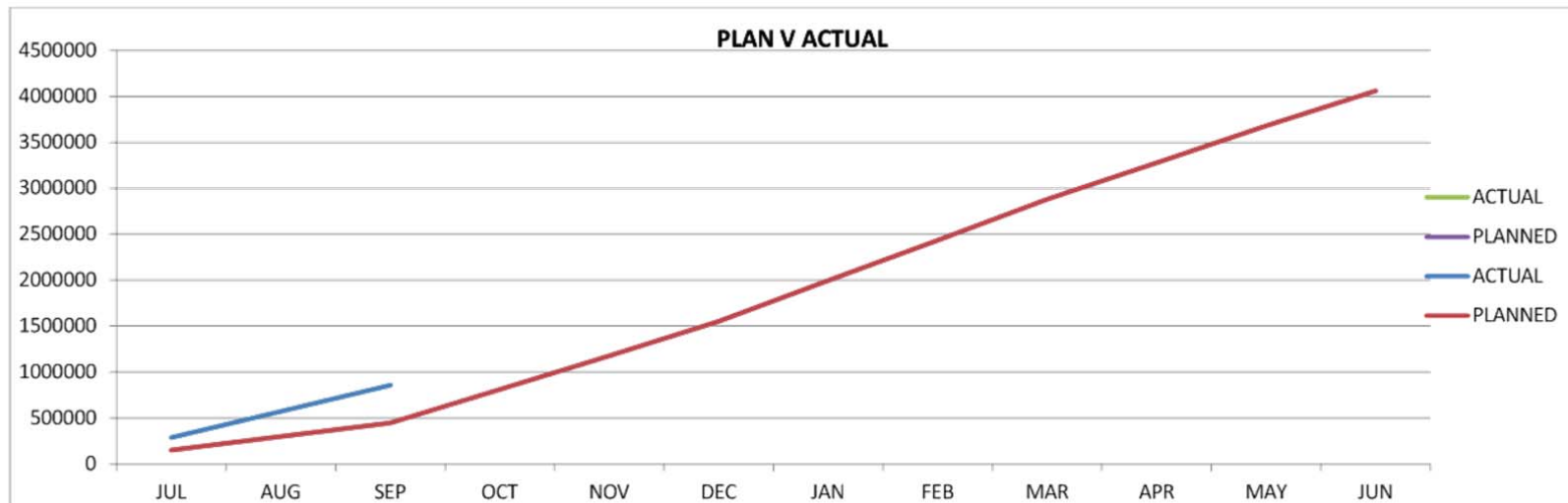
1.2 Planned Expenditure Forecast

Current Capital Works Program Percentage Summary as at 31 March 2018

Planned Expenditure for 1/7/18 - 30/9/18	\$446,144	Planned YTD Expenditure at end of the year	\$4,064,022
BIS - actual expenditure for month	\$859,150	YTD actual expenditure as at end of the September	\$859,150
Expenditure v Actual for 1st Quarter %	193%	YTD expenditure of annual budget %	21%

Notes

1. The definition of expenditure has been changed to not include commitments as per previous reports



1.3 Detailed Commentary

This report covers the Operating Projects Program, which includes the published 2018-19 Operating Project Budget Allocation and funds carried forward from 2017/18 included in the Revised Capital Budget Allocation. As per State Government reporting guidelines, the published 2018/19 Capital Budget Allocation excludes the non-capital components of projects, such as funding for maintenance works carried out during the delivery of a Capital Works project, and includes only those funds carried forward from 2017/18 that were forecast at the time the budget was set.

1.4 Highlights – Projects/Programs of Interest

- Apollo Bay Harbour Precinct Development Plan
- Apollo Bay Township and Foreshore Masterplan
- Memorial Square Toilet Design (Masterplan Implementation)

Notes

1.5 Projects on Hold, Cancelled, or New Additions

Nil

Capital Works Performance Report

1. Executive Summary

1.1 Summary

The capital works program year-to-date (YTD) expenditure to 30/9/18 \$3,799,260 is 108% of the \$3,509,205 target and 17% spend of the annual budget. The budget figure includes \$7M for fire and flood recovery not yet in the COS financials (BIS)

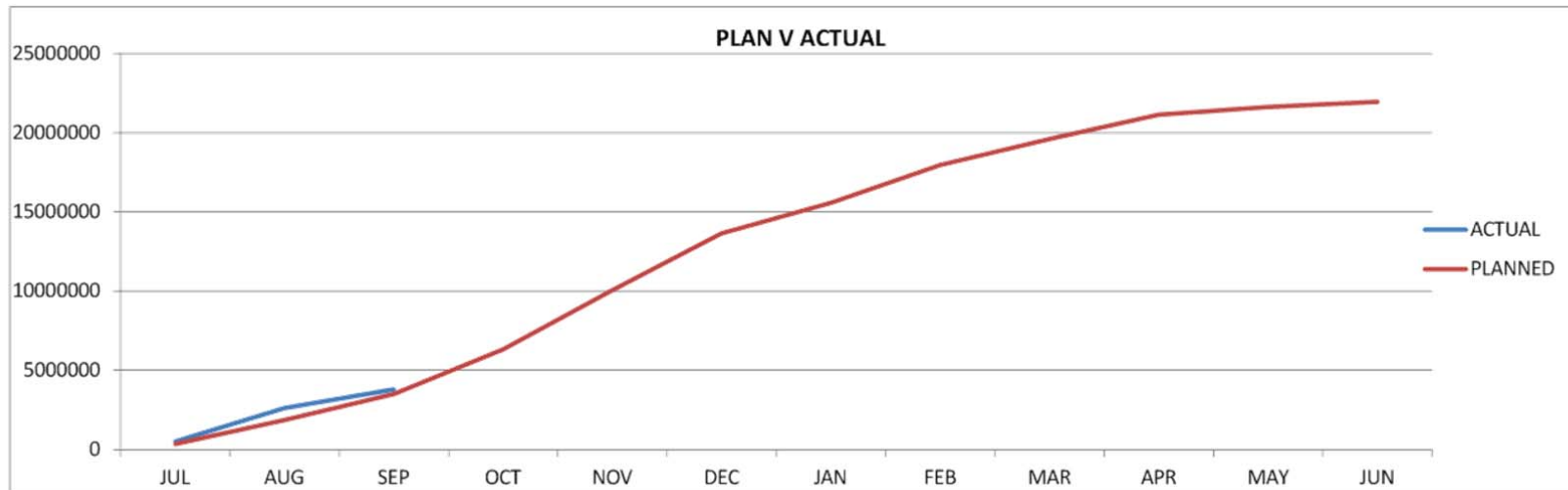
1.2 Planned Expenditure Forecast

Current Capital Works Program Percentage Summary as at 31 March 2018

Planned Expenditure for 1/7/18 - 30/9/18	\$3,509,205	Planned YTD Expenditure at end of the year	\$21,947,870
BIS - actual expenditure for month	\$3,799,260	YTD actual expenditure as at end of the September	\$3,799,260
Expenditure v Actual for 1st Quarter %	108%	YTD expenditure of annual budget %	17%

Notes

1. The definition of expenditure has been changed to not include commitments as per previous reports



1.3 Detailed Commentary

This report covers the Capital Works Program, which includes the published 2018/19 Capital Budget Allocation and funds carried forward from 2017/18 included in the Revised Capital Budget Allocation.

As per State Government reporting guidelines, the published 2018/19 Capital Budget Allocation excludes the non-capital components of projects, such as funding for maintenance works carried out during the delivery of a Capital Works project, and includes only those funds carried forward from 2017/18 that were forecast at the time the budget was set.

1.4 Highlights – Projects/Programs of Interest

- Murray/Pascoe Road reconstruction carried over from 2017/18 to begin works 8/10/2018
- Queen Street footpath completed in September 2018
- Road stabilization program commenced in September and was 50% complete by end of months
- Road crack seal program completed in September
- Beach reclamation project to be completed by end of October
- Queens Avenue footpath construction to commence mid-October
- Replacement bridge over Barongarook Creek completed in September
- Skenes Creek footpath to be completed in October
- Footpath Renewal Program (3 year contract) awarded in October

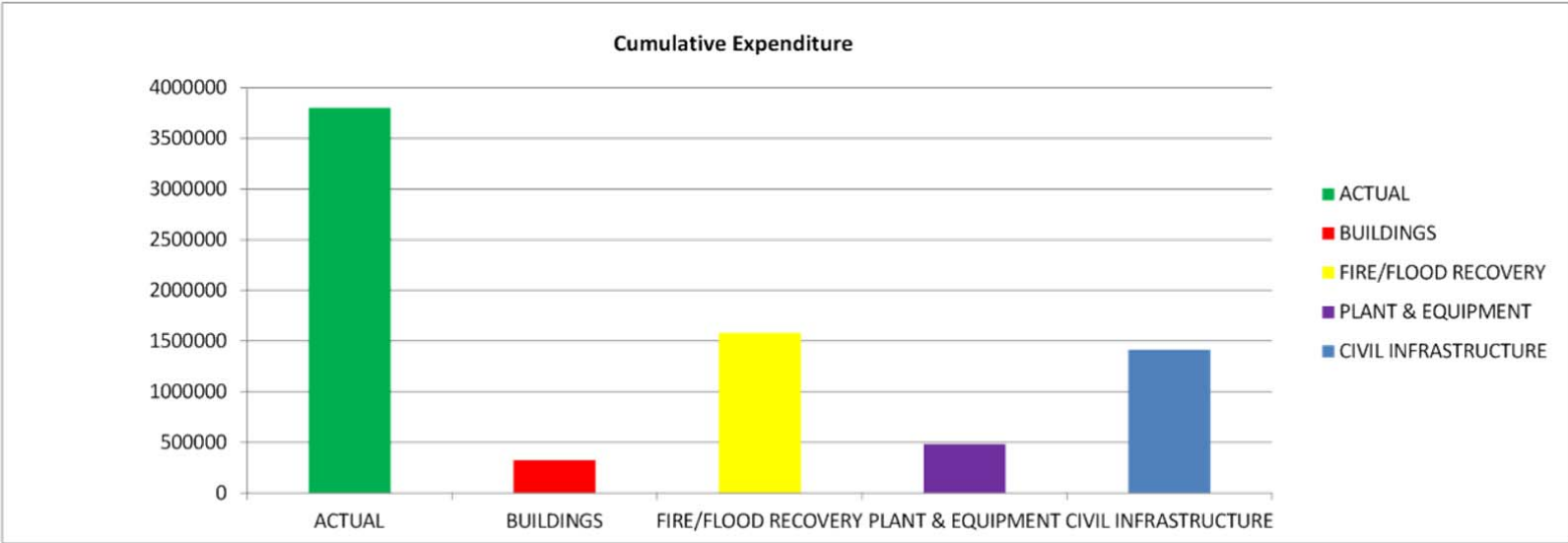
Notes

1.5 Projects on Hold, Cancelled, or New Additions

Welcome to Colac Sign on hold until further notice

2. Financial Overview

2.1 Summary



3. Financial Overview

3.1 Summary

	Tender/Quote out for submissions	Tender/Quote submissions received	Awarded	Works Started	Works Completed
Road Resheet Programme	N/A - Service & Ops to complete				
Road Crack Seal Programme					
Reseal Programme					
Road Reconstruction Programme	N/A - Service & Ops to complete				
Road Stabilisation Programme					
Bridges Programme					
Footpath Renewal Programme					
Footpath Extension Programme					
Kerb & Channel Programme					
Guard Rail Programme					
Roadslips Programme					
Building Renewal Programme					
Major Roadside Drainage					

Financial Performance Report

Overview

The year to date (YTD) actual result within the operating statement indicates a surplus of \$21.691 million compared to a budgeted surplus (YTD) of \$20.189 million.

Operating Statement

The information in the table below shows income and operating expenditure for the period ending 30 September 2018. The five (5) columns of data provide information on the following:

- YTD actual results to 30 September 2018
- YTD budget to 30 September 2018 (i.e. estimated timing of income and expenditure)
- Original budget as adopted by Council
- \$ value variance YTD actuals compared to YTD budget
- % value YTD variance to YTD budget.

Comprehensive Income Statement For Period Ended 30 September 2018

	September YTD Actual 2018-2019	September YTD Budget 2018-2019	Current Annual Budget 2018-2019	YTD Variance (\$)**	YTD Variance (%)**	
Income						
Rates and charges	30,001,896	30,263,239	30,382,990	(261,343)	(0.9%)	
Statutory fees and fines	182,012	181,972	795,900	40	0.0%	
User fees	1,153,786	1,259,793	4,654,124	(106,007)	(8.4%)	1
Grants - operating	1,827,376	2,040,935	7,100,810	(213,559)	(10.5%)	2
Grants - capital	105,924	936,564	1,835,209	(830,640)	(88.7%)	3
Contributions - monetary	88,200	42,144	57,000	46,056	109.3%	4
Net gain/(loss) on disposal of property, infrastructure, plant and equipment	76,213	39,015	147,000	37,198	95.3%	5
Share of net loss/(gain) of associates and joint ventures	0	0	34,724	0	0%	
Other income	227,494	97,876	434,654	129,618	132.4%	6
Total income	33,662,901	34,861,538	45,442,411	(1,198,637)	(3.4%)	
Expenses						
Employee costs	4,763,223	4,635,186	19,223,910	(128,037)	(2.8%)	
Materials and services	4,273,538	7,100,126	16,285,827	2,826,588	39.8%	7
Bad and doubtful debts	3,536	501	2,000	(3,035)	(605.7%)	8
Depreciation and amortisation	2,527,983	2,519,173	10,349,951	(8,810)	(0.3%)	
Borrowing costs	39,351	45,303	181,211	5,953	13.1%	9
Other expenses	364,267	372,587	1,341,718	8,320	2.2%	
Total expenses	11,971,896	14,672,876	47,384,617	2,700,980	18.4%	
Surplus/(deficit) for the year	21,691,005	20,188,662	(1,942,206)	1,502,343	7.4%	

* Please note: The identified lines have been reallocated to reflect the reporting in the Annual Statements.

** Guide to variances - Favourable / (Unfavourable)

The report provides a year to date (YTD) summary of Council's financial performance and is a guide on the timing of receipts and payments. Timing differences can occur during the financial year and where variances occur on a YTD basis this does not necessarily imply that the annual budget will be affected.

A summary analysis of variances greater than 5% on a YTD basis have been prepared below.

Operating Revenue – Variance Analysis to YTD Budget > 5%

1. **User Fees:** Under budget performance is mainly due to lower admission fees from Bluewater Fitness Centre (\$64k), offset by higher membership fees at Bluewater (\$72k), lower volumes at Colac Saleyards (\$48k), and lower OPASS Homecare income (\$72k).
2. **Grants - operating:** Major variances include; \$228k Port of Apollo Bay funding from Transport for Victoria not yet paid. Council is currently working with Transport for Victoria to renew the management agreement.
3. **Grants - capital:** This variance relates to timing differences related to Roads to Recovery funding (\$735k) along with funding for the Lake Colac Masterplan implementation (\$160k). The annual budget for these programs is still expected to be achieved.
4. **Contributions - monetary:** This variance primarily relates to amounts received for Developer Open Space contributions (\$44.5k). This will be a permanent favourable variance for 2018/19
5. **Net gain/loss on disposal of assets:** This variance relates to the timing of disposal of motor vehicles and no permanent variance from budget is expected at this stage.
6. **Other Income:** This variance relates to Worksafe reimbursements (\$46k), the receipt of scholarship funds from Equity Trustees (\$17k), receipt of grant funding to administer the Fire services levy (\$48k) and additional Bin charges (\$20k). These are predominately timing differences and are not expected to impact the net result of Council.

Operating Expenses – Variance Analysis to YTD Budget >5%

7. **Materials and services:** This variance relates mainly to the timing of works as scheduled in the Budget. The works are expected to be completed in 18/19 so the current favourable variance will reduce over the remainder of this financial year.
8. **Bad and Doubtful Debts:** Some additional non rates debts have been written off. They mainly relate to planning and building application fees written off. These debts had a history of attempted collection and were not large enough to justify the cost of court action.
9. **Borrowing costs:** This variance relates to a timing issue with interest payments. The full budget allowance of \$181k for 18/19 is expected to be fully expended.
10. **Employee costs:** This is predominately due to the amount of leave that is taken, rather than not taken, during July to Sept. The budget assumes staff take leave evenly throughout the year, when in reality a high proportion of leave is taken between December and April. The \$4.7m actual to 30 September represents 24.8% of the annual budget, which is still on track to meet the annual budget.

Borrowings Analysis

The following is the current schedule of Debt held by Council at 30 September 2018:

Loan Description	Current Year Loan Liability	Non-Current Loan Liability	Meeting Schedule
9203 - Loan 7 - Roads, car parking etc (\$1.65m)	\$107,707	\$153,351	Y
9206 - Loan 10 - AB tfr statn, libra (\$2m)(NAB)	\$193,488	\$275,813	Y
9207 - Loan 11 - Lakeside, AB tfr s(\$1.1m)(NAB)	\$98,511	\$291,752	Y
9208 - Loan 12 - Saleyards roof (\$1.178m)(CBA)	\$51,349	\$824,210	Y
9209 - Loan 13 - Street light PV panels (\$416k)	\$40,007	\$176,024	Y
9210 - Loan 14 - Bluewater redevelop(\$1m)(Bond)	\$0	\$1,000,000	Y
TOTAL	\$491,062	\$2,721,149	

Based on Current Levels of Borrowings the following are our current performance against key ratios:

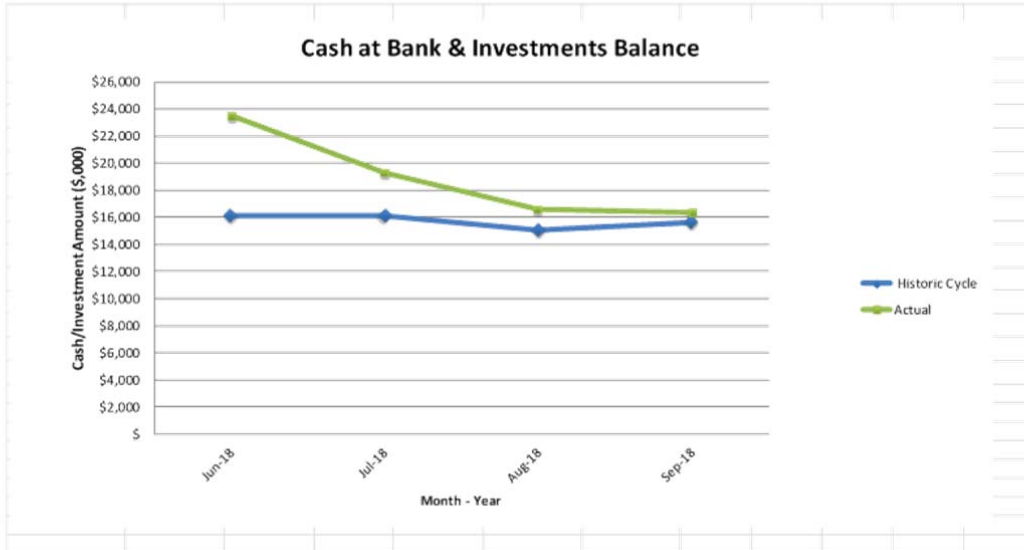
Measure	Calculation	Explanation	30-Jun-18	30-Sep-18	Current Risk Rating
Indebtedness (%)	Non-current liabilities / own-sourced revenue	Comparison of non-current liabilities (mainly comprising borrowings) to own-sourced revenue. The higher the percentage, the less the entity is able to cover non-current liabilities from the revenues the Own-sourced revenue is used, rather than total revenue, because it does not include grants or contributions.	30%	35%	Low
Borrowings % of rate Revenue (%)	Interest bearing loans and borrowings / rate revenue	Measurement of the proportion of borrowings against rate revenue raised. The higher the % the higher the proportion of available annual rate revenue is being used to back borrowings.	11%	11%	Low

Cash Balance

The chart below shows projections of how Council's cash balance was expected to perform to 30 September 2018. The chart portrays:

- The Estimate – which is an estimation of what the cash balance is expected to be at the end of each month based upon historical averages. The estimate will reflect recent years which include one off major projects.
- The Actual – this is the actual balance at the end of each month of the year up to and including September 2018.

The following graph shows Council's cash balance is within expectations and every opportunity is taken to invest surplus cash to maximise investment returns. At the date of preparing this report (5 October 2018), Council holds cash and investments of \$17.5m compared to \$16.4m as shown in the graph below.



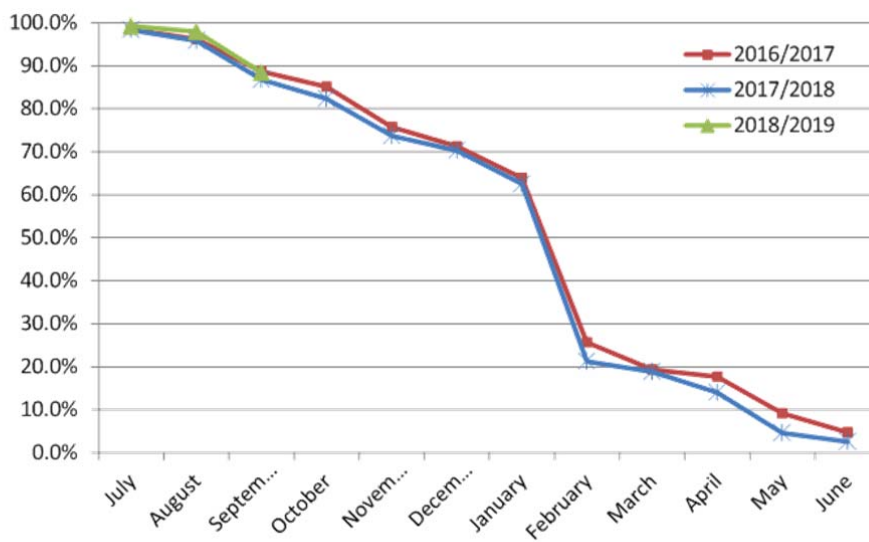
Rate Debtors

In the first quarter of the year, \$29.9 million was raised in rates and charges including batches of supplementary valuations generated by changes to council's property base. At 30 September 2018, 11.6% of the rates raised have been collected compared to the same period of the 2017/18 financial year of 13.2%.

The due date for ratepayers opting to pay in full is 15 February 2019. For ratepayers opting to pay via instalments the first instalment was due 30 September 2018. The next instalments are due 28 February 2019 and 31 May 2019. Any ratepayer who has not opted for instalment payments must make the full payment before 15 February 2019.

The following graph shows that current collection trends are closely following the 2017/18 collection trends:

% of Rates Outstanding



Defined Benefits Call Expense

Council has a potential financial exposure to the Vision Super Defined Benefits superannuation plan. Under the Australian Prudential Regulation Standards (SPS160) defined benefits funds must meet strict funding requirements. This funding requirement is measured by the Vested Benefits Index (VBI), which shows as a percentage the ratio of investments held by the fund compared to the estimated benefits payable by the fund at the same time. The latest available Vested Benefits Index for the Vision Super Defined Benefits fund is listed in the table below:

Date	Vested Benefits Index
June 2016	102.0%
September 2016	103.7%
December 2016	105.4%
March 2017	106.6%
June 2017	103.1%
June 2018	106.0%

If the VBI falls below the nominated amount in any quarter then the Australian Prudential Regulation Authority may require that the fund make a funding call on its members. Any funding call made must return the fund to a VBI position of over the nominated figure within 3 years.

As at 30 June 2018, the actual VBI for the sub-plan was 106.0%. This represents an increase compared to that of 30 June 2017. This is mainly due to:

- good investment returns in the period to 30 June 2018 which has increased the asset pool supporting the defined benefit liabilities of the sub-plan, offset by
- active member salary increases advised to Vision Super and pension increases in line with CPI, which has increased the defined benefit liabilities of the sub-plan.

No information is available regarding the VBI as at 30 September 2018.

Colac Otway Shire – Quarterly Performance Report September 2018

Legal Expenses included in Materials & Services.

Legal Fees	Sum of Total Actuals
Arundell, Murray & Ryan	\$ 425.00
Asset & Property Services	\$ 425.00
Colac Otway Shire - Corporate Credit Cards	\$ 518.70
Environment & Community Safety	\$ 518.70
CT Management Group Pty Ltd	\$ 1,615.00
People, Performance & Culture Department	\$ 1,615.00
Harwood Andrews Pty Ltd	\$ 792.00
Planning, Building & Health	\$ 792.00
Macquarie Local Government Lawyers	\$ 2,320.00
Asset & Property Services	\$ 2,320.00
Maddocks	\$ 37,788.55
Arts & Leisure	\$ 1,230.00
Corporate Services Management Department	\$ 3,675.50
People, Performance & Culture Department	\$ 2,135.00
Planning, Building & Health	\$ 30,748.05
Minter Ellison - Lawyers	\$ 16,477.55
Capital & Major Projects	\$ 16,477.55
Reed Logistics Australia Pty	\$ 110.00
Environment & Community Safety	\$ 110.00
Russell Kennedy Pty Ltd	\$ 942.50
Planning, Building & Health	\$ 942.50
Workplace Safety Services P/L	\$ 4,600.00
People, Performance & Culture Department	\$ 4,600.00
Grand Total	\$ 65,589.30

Consultant/Contractor Expenses included in Materials & Services.

Employment Agency - Contractors	Sum of Total Actuals
CQ Recruitment	\$ 189,060.18
Arts & Leisure	\$ 330.85
Asset & Property Services	\$ 57,529.63
Contracts & Procurement	\$ 20,863.36
Planning, Building & Health (MP)	\$ 816.25
Services & Operations	\$ 109,520.09
CT Management Group Pty Ltd	\$ 126,085.05
Asset & Property Services	\$ 8,201.15
Capital & Major Projects	\$ 3,565.15
Contracts & Procurement	\$ 21,765.63
Planning, Building & Health (MP)	\$ 46,088.00
Port of Apollo Bay Operations	\$ 36,896.44
Services & Operations	\$ 9,568.68
Hays Specialist Recruitment Pty Ltd	\$ 43,513.93
Asset & Property Services	\$ 40,493.13
Port of Apollo Bay Operations	\$ 3,020.80
Stratacon Pty Ltd	\$ 81,660.60
Asset & Property Services	\$ 80,681.52
Port of Apollo Bay Operations	\$ 979.08
Grand Total	\$ 440,319.76

Capital projects also utilised contractors as follows.

Capital -Employment Agency - Contractors		Sum of Total Actuals
CQ Recruitment	\$	11,823.68
CT Management Group Pty Ltd	\$	51,943.50
Hays Specialist Recruitment Pty Ltd	\$	52,347.36
Stratacon Pty Ltd	\$	22,924.04
Grand Total	\$	139,038.58

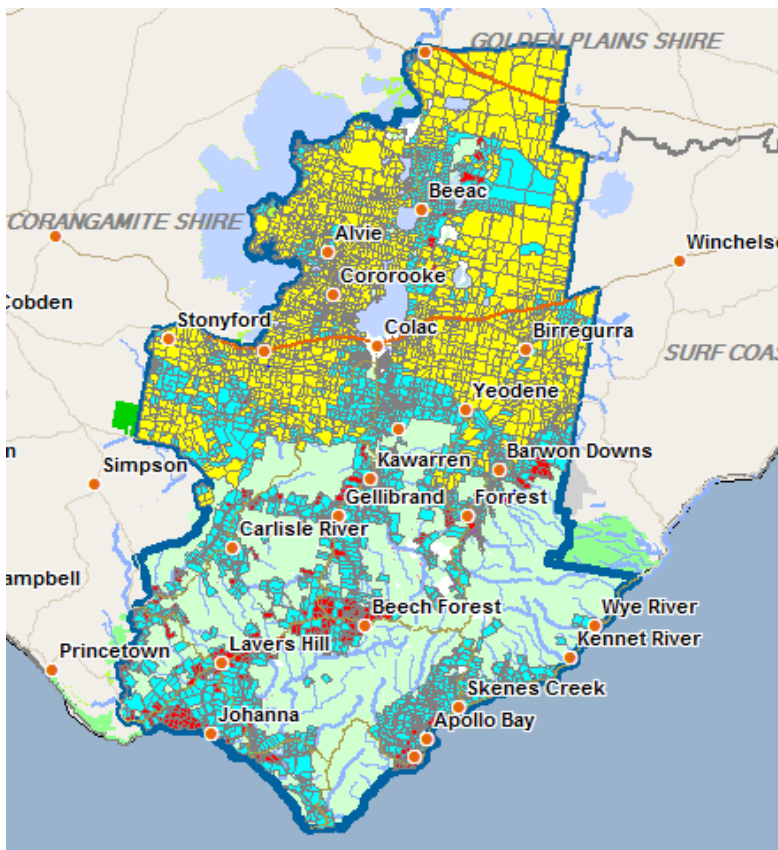
ORDINARY COUNCIL MEETING

CHIEF EXECUTIVE OFFICER EMPLOYMENT MATTERS ADVISORY COMMITTEE

OM182811-12

LOCATION / ADDRESS	Whole of municipality	GENERAL MANAGER	Errol Lawrence
OFFICER	Trevor Olsson	DIVISION	Corporate Services
TRIM FILE	F18/7487	CONFIDENTIAL	No
ATTACHMENTS	1. Chief Executive Officer Employment Matters Advisory Committee - draft - version 2 - November 2018		
PURPOSE	To form a Chief Executive Officer Employment Matters Advisory Committee.		

1. LOCATION PLAN / AERIAL PHOTO



2. EXECUTIVE SUMMARY

This report is to form a Chief Executive Officer Employment Matters Advisory Committee, draft Terms of Reference attached.

3. RECOMMENDATION

That Council:

- 1. Resolves to form a Chief Executive Officer Employment Matters Advisory Committee and adopt the draft Terms of Reference as attached.*
- 2. Resolves to appoint all Councillors to the Chief Executive Officer Employment Matters Advisory Committee.*
- 3. Resolves to appoint the Mayor as Chair of the Chief Executive Officer Employment Matters Advisory Committee.*
- 4. Resolves that the Chief Executive Officer Employment Matters Advisory Committee has no delegated authority to make decisions that bind Council.*

4. BACKGROUND / KEY INFORMATION

BACKGROUND

At the 28 February 2018 meeting, Council resolved to form an Advisory Committee to deal with Chief Executive Officer Employment Matters. A draft Terms of Reference was considered at the 28 March 2018 meeting and Council resolved to defer this matter until an appointment to the Chief Executive Officer's position had been finalised.

KEY INFORMATION

The proposed Committee's role is to report to the Council and provide recommendations, appropriate advice, information and feedback on matters relevant to the attached Terms of Reference, in order to facilitate decision making by the Council in relation to the discharge of its responsibilities.

It is proposed that the Advisory Committee would be established to:

- Make recommendations to Council on contractual employment matters relating to the Chief Executive Officer.
- Make recommendations to Council on performance matters relating to the Chief Executive Officer; and to
- Perform any other functions or responsibilities prescribed by the Local Government Act.

The proposed Committee is an Advisory Committee only and would have no delegated authority to make decisions binding Council.

FURTHER SUPPORTING INFORMATION

5. COMMUNITY CONSULTATION & ENGAGEMENT

Not applicable.

6. ANALYSIS

ALIGNMENT TO COUNCIL PLAN OR COUNCIL POLICY

The proposed Advisory Committee aligns with Theme 4 of the Council Plan 2017 – 2021: Our Leadership and Management.

ENVIRONMENTAL IMPLICATIONS

Not applicable.

SOCIAL & CULTURAL IMPLICATIONS

Not applicable.

ECONOMIC IMPLICATIONS

Not applicable.

LEGAL & RISK IMPLICATIONS

Not applicable.

RESOURCE IMPLICATIONS (FINANCIAL ETC)

Please refer to the draft Terms of Reference for the proposed Advisory Committee.

7. IMPLEMENTATION STRATEGY

DETAILS

Not applicable.

8. OFFICER DIRECT OR INDIRECT INTEREST

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



Chief Executive Officer Employment Matters Advisory Committee

Terms of Reference

Current at November 2018 Version 2

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DRAFT

1. Establishment of the Committee

The Chief Executive Officer Employment Matters Advisory Committee (“the Committee”), is a formally appointed Advisory Committee of the Colac Otway Shire Council for the purposes of the *Local Government Act 1989* (“the Act”).

The membership of this Committee and these Terms of Reference will be adopted by resolution of the Colac Otway Shire Council at an Ordinary Council Meeting.

2. Objectives

The Committee’s role is to report to the Council and provide recommendations, appropriate advice, information and feedback on matters relevant to this Terms of Reference in order to facilitate decision making by the Council in relation to the discharge of its responsibilities.

The Committee is an Advisory Committee only and has no delegated authority to make decisions binding Council.

1. The Committee is established to:

- 1.1 Make recommendations to Council on contractual employment matters relating to the Chief Executive Officer (“the CEO”);
- 1.2 Make recommendations to Council on performance matters relating to the CEO; and
- 1.3 Perform any other functions or responsibilities prescribed by the Act.

2. The Committee will carry out the following in order to achieve the objectives set:

- 2.1 Contractual Employment Matters
 - 2.1.1 Conduct the process to appoint the CEO with the assistance of a suitably qualified independent person (“the Independent Person”). The Independent Person will be appointed as follows:
 - 2.1.1.1 A number of prospective Independent Persons will be recommended by the Manager, People, Performance & Culture to the Committee;
 - 2.1.1.2 Each Independent Person recommended by the Manager, People, Performance & Culture will be a neutral person with appropriate experience;
 - 2.1.1.3 The Committee will consider the recommendations made by the Manager, People, Performance & Culture and make a recommendation to Council for appointment; and

- 2.1.1.4 Council will consider the Committee’s recommendation and resolve to appoint an Independent Person to assist the Committee;
- 2.1.2 Provide a recommendation to Council on the remuneration and conditions of appointment of the CEO;
- 2.1.3 Provide a recommendation on any extension of the appointment of the CEO under section 94(4);
- 2.1.4 Conduct the process for the CEO’s regular performance reviews as follows:
 - 2.1.4.1 Engage in and undertake a developmental process to determine, in conjunction with the CEO, relevant Key Performance criteria for the CEO;
 - 2.1.4.2 Make recommendations to Council for the adoption of appropriate Key Performance criteria;
 - 2.1.4.3 Undertake the formal review process of the performance of the CEO against the agreed Key Performance criteria in accordance with these terms of reference and the CEO contract; and
 - 2.1.4.4 Make recommendations to Council about the CEO’s performance against the Key Performance criteria for the relevant period.
- 2.1.5 Undertake any other functions or responsibilities prescribed by the Act and make any other recommendations to Council relevant to the employment and performance of the CEO in accordance with the CEO’s employment contract and the Act.

3. Role and Responsibilities of the Chief Executive Officer

The CEO has roles and responsibilities that are determined by Statute, including the Act, by resolution of Council, and by the CEO’s adopted position description and performance criteria and plan.

1. Statutory Functions

Following recent legislative changes to the Act, the functions of the CEO have been amended. The following is an extract from the Act of the legislative functions of the CEO:

- 1.1 A Chief Executive Officer is responsible for:
 - 1.1.1 Establishing and maintaining appropriate organisational structure for the Council;

- 1.1.2 Ensuring that the decisions of the Council are implemented without undue delay;
 - 1.1.3 The day to day management of the Council's operations in accordance with the Council Plan;
 - 1.1.4 Developing, adopting and disseminating a code of conduct for Council staff;
 - 1.1.5 Providing timely advice to the Council;
 - 1.1.6 Ensuring that the Council receives timely and reliable advice about its legal obligations under this Act and any other Act;
 - 1.1.7 Supporting the Mayor in the performance of his or her role as Mayor;
 - 1.1.8 Carrying out the responsibilities as a deemed employer with respect to Councillors, as deemed workers, which arise under or with respect to the *Accident Compensation Act 1985* or the *Accident Compensations (Workcover Insurance) Act 1993*; and
 - 1.1.9 Performing any other function or duty of the Chief Executive Officer specified in this Act or any other Act
- 1.2 The Chief Executive Officer may appoint as many members of Council staff as are required to enable the functions of the Council under this Act or any other Act to be carried out and to enable the Chief Executive Officer to carry out her or his functions
- 1.3 The Chief Executive Officer is responsible for appointing, directing, managing and dismissing Council staff and for all other issues that relate to Council staff.
- 1.4 The Chief Executive Officer is responsible for managing interactions between Council staff and Councillors including by ensuring that appropriate policies, practices and protocols are in place defining appropriate arrangement for interactions between Council staff and Councillors.
- 1.5 A reference to Council staff in this section does not include a reference to the Chief Executive Officer.

4. Independent Person on the CEO Employment Matters Advisory Committee

1. Qualities and Qualifications:

1.1 Key competencies of the Independent Person will be:

1.1.1 Demonstrated human resource management skills, senior business experience and/or local government experience and/or employment law background;

1.1.2 Demonstrated ability in relation to performance management and development of Executive level staff; and

1.1.3 Previous experience or facilitation experience working with Executive, Governance bodies or Board Members in membership and or / facilitation roles.

2. Appointment Timeframe

The appointment of the Independent Person will be made for two (2) years. The Independent Person can be re-appointed by Council.

3. Remuneration

The Independent Person will be remunerated at a rate to be determined in accordance with Council's Procurement Policy.

5. Membership

1. Composition of the Committee

1.1 Subject to any revocation of membership under clause 4 of these Terms of Reference, the Committee shall comprise eight members, being:

1.1.1 The Mayor, who will Chair the Committee;

1.1.2 All other (six) Councillors; and

1.1.3 The Independent Person.

2. Length of appointment

The Committee shall continue for as long as Council sees fit and the appointment of members shall be for a term determined by Council and set out in these Terms of Reference.

3. Support to the Committee

3.1 The Committee may request the Manager, People, Performance & Culture to assist in, or provide advice on, any of its functions specified in these Terms of Reference.

- 3.2 The Committee may also request a suitably qualified independent expert to assist in, or provide advice on, any functions specified in these Terms of Reference where:
 - 3.2.1 The Committee considers it would benefit from the assistance or advice; and
 - 3.2.2 Where there is not a consensus on the person requested:
 - 3.2.2.1 The Manager, People & Culture will recommend a suitably qualified independent expert for appointment; and
 - 3.2.2.2 Council will resolve to appoint the suitably qualified independent expert, who will be a neutral person with appropriate experience, after receiving recommendations from the Committee.

4. Attendance at meetings

- 4.1 All Committee members are expected to attend each meeting.
- 4.2 Attendance by teleconference or over the internet (eg. Skype, FaceTime) is acceptable.
- 4.3 A Committee member who misses two consecutive meetings without a formal apology may, at the discretion of Council, have their membership revoked.
- 4.4 A Committee member who is unable to attend the majority of meetings during the year may, at the discretion of Council, have their membership revoked.

6. Proceedings

1. Chair

- 1.1 The Mayor shall Chair the meetings of the Committee.
- 1.2 If the Mayor is unavailable he/she shall delegate to another Committee member to Chair the meeting.

2. Meeting schedule

- 2.1 The Committee will meet at least six monthly, and report to Council (including by providing confirmed minutes of its meetings).
- 2.2 Meetings of the Committee may be held more frequently if deemed necessary by the Committee to fulfil its objectives, taking into account the CEO Contract of Employment, Remuneration and Performance Review processes.
- 2.3 All meetings of the Committee will be called by:
 - 2.3.1 Resolution of Council – with respect to regular six monthly meetings; and

- 2.3.2 Resolution of the Committee – with respect to any other meetings to be held on an as-needs basis.

3. Meeting procedures

- 3.1 Meetings of the Committee will follow the standard meeting procedures established in any guidance material for Advisory Committees and outlined in these terms of reference .
- 3.2 All meetings of the Committee and its records are considered confidential and the information provided to the Committee will be designated as confidential in accordance with Sections 77 and section 89(2)(a) and (d) of the Act as the matters relate to personnel and contractual matters.
- 3.3 All recommendations, proposals and advice must be directed through the Chair.

4. Quorum

- 4.1 A majority of the councillors of the Committee constitute a quorum.
- 4.2 If at any meeting of the Committee a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting shall be deemed adjourned.

5. Voting

All councillors shall have equal voting rights and voting shall be by show of hands.

Note: The Independent Person appointed to the Committee will not have voting rights.

6. Minutes of the Meeting

- 6.1 The Manager People, Performance & Culture will take the minutes for each meeting of the Committee.
- 6.2 The minutes shall be in a format determined by the Manager People, Performance & Culture, provided that they will include a record of:
 - 6.2.1 Committee members present;
 - 6.2.2 Apologies for absence;
 - 6.2.3 Adoption of previous minutes of meetings of the Committee; and
 - 6.2.4 All adopted actions and resolutions of the Committee.
- 6.3 Where a meeting of the Committee is also an Assembly of Councillors under the Act, an Assembly of Councillors record will also be kept and submitted in accordance with Council's requirements.
- 6.4 The agenda for each meeting of the Committee shall be distributed at least 5 working days in advance of the meeting to all Committee members, including alternative representatives, and a call for agenda items will be made prior to the issue of the agenda.

- 6.5 Questions of Committee members are to be put to the Manager People, Performance & Culture within 48 hours prior to meeting of the Committee at which they are to be asked.
- 6.6 A copy of the minutes shall be distributed to all Committee members within 10 working days of the meeting.

7. Report to Council

- 7.1 A report to Council will be tabled by the Chair as soon as practicable following meetings.
- 7.2 Reports to Council will address the Committee's performance against its objectives and should reflect a consensus view. Where consensus cannot be reached, the report should clearly outline the differing points of view.

7. Review of the Committee and Duration of the Committee

- 1. These Terms of Reference will be reviewed by the Committee every two (2) years, unless otherwise determined by Council.
- 2. Input on the review will be sought from Council, the Manager People, Performance & Culture, all Committee members, other relevant staff and any other stakeholders, as determined by Council.

8. Authority and Compliance Requirements

- 1. The Committee is an Advisory Committee only and has no delegated authority to make decisions that bind Council.
- 2. Where a meeting of the Committee constitutes an Assembly of Councillors, the Committee must comply with the Assembly of Councillor provisions under the Act and as determined by Council from time to time.
- 3. Failure to comply with the provisions outlined in this Terms of Reference may result in terminations of a Member's appointment.

9. Conflict of Interest

If a Committee Member has a conflict of interest relating to any item on the agenda, the member must verbally disclose the type and nature of the interest immediately before consideration of the agenda item in question.

ORDINARY COUNCIL MEETING
**NOTICE OF MOTION - ROADS COMMITTEE
TERMS OF REFERENCE**
OM182811-13

COUNCILLOR	Stephen Hart
ATTACHMENTS	<ol style="list-style-type: none">1. Notice of Motion No. 289 - Cr Hart - Roads Committee Terms of Reference - Signed2. Notice of Motion No. 289 - Cr Hart - Roads Committee Terms of Reference - Councillor Comment

1. COUNCILLOR COMMENT

There is understandable concern in the community about the condition of both some Council and Vic Roads' roads. The Roads Committee was formed to try to provide an additional avenue for the community to raise concerns.

When the 'Terms of Reference' was approved there was significant discussion about whether or not all Councillors should be a full member of the Committee. One Councillor was absent from the meeting when the terms of reference were debated. The initial attempt to have all Councillors as full members of the Committee was defeated. Once that was defeated, I supported the alternative terms of reference to avoid further delays in advertising for members of the Committee.

Now that Council should have all Councillors in attendance at the November meeting, this presents another opportunity for the terms of reference to be considered in relation to the number of Councillors on the Roads Committee. As the Committee hasn't met yet there is no disadvantage to any person should Council take the sensible decision to appoint all Councillors to the Committee.

It has been suggested that all Councillors could attend without being members of the Committee. Whilst well intentioned, this would mean that some Councillors could participate in the meeting whilst others would be little more than observers. It would create the odd situation where some Councillors in regular attendance appear to be disinterested through their lack of participation, even though there are in attendance. Alternatively, the rules regarding participation in Committees might have to be amended to allow observers to participate more fully.

Roads are such an important concern of the community that all Councillors should be able to fully participate in the Roads Committee. This would be best achieved by making all Councillors members the Committee. Councillors could still forward an 'apology' if they are unable to attend a meeting. This is already the case for any Committee.

2. RECOMMENDATION

TAKE NOTICE that it is my intention to move at the Ordinary Council Meeting of the Colac Otway Shire to be held on **28 November 2018**.

That Council:

- 1. Resolves that the Roads Committee terms of reference are amended to the extent necessary to allow all Councillors to be appointed to the Committee; and***
- 2. Appoints all Councillors to the Roads Committee.***

NOTICE OF MOTION No. 289 - 18/19
Notion of Motion – Roads Committee Terms of Reference

NOTICE OF MOTION

BY

COUNCILLOR Stephen Hart

TAKE NOTICE that it is my intention to move at the Ordinary Council Meeting of the Colac Otway Shire to be held on 28 November 2018.

That Council:

- 1. Resolves that the Roads Committee terms of reference are amended to the extent necessary to allow all Councillors to be appointed to the Committee; and***
- 2. Appoints all Councillors to the Roads Committee.***

Councillor Comment (optional)

SKHSE

Councillor **Stephen Hart**

DATED: 14/11/18

Ref: D18/115346

Notice of Motion - Roads Committee Terms of Reference – Cr Stephen Hart

Councillor Comment

There is understandable concern in the community about the condition of both some Council and Vic Roads' roads. The Roads Committee was formed to try to provide an additional avenue for the community to raise concerns.

When the 'Terms of Reference' was approved there was significant discussion about whether or not all Councillors should be a full member of the Committee. One Councillor was absent from the meeting when the terms of reference were debated. The initial attempt to have all Councillors as full members of the Committee was defeated. Once that was defeated, I supported the alternative terms of reference to avoid further delays in advertising for members of the Committee.

Now that Council should have all Councillors in attendance at the November meeting, this presents another opportunity for the terms of reference to be considered in relation to the number of Councillors on the Roads Committee. As the Committee hasn't met yet there is no disadvantage to any person should Council take the sensible decision to appoint all Councillors to the Committee.

It has been suggested that all Councillors could attend without being members of the Committee. Whilst well intentioned, this would mean that some Councillors could participate in the meeting whilst others would be little more than observers. It would create the odd situation where some Councillors in regular attendance appear to be disinterested through their lack of participation, even though there are in attendance. Alternatively, the rules regarding participation in Committees might have to be amended to allow observers to participate more fully.

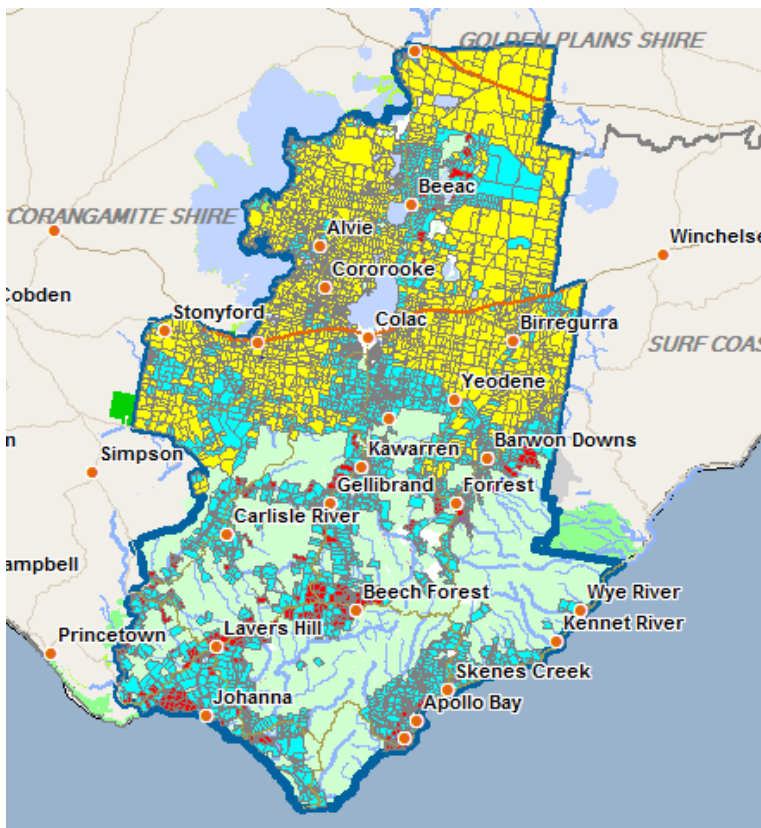
Roads are such an important concern of the community that all Councillors should be able to fully participate in the Roads Committee. This would be best achieved by making all Councillors members of the Committee. Councillors could still forward an 'apology' if they are unable to attend a meeting. This is already the case for any Committee.

ORDINARY COUNCIL MEETING
**APPOINTMENTS OF COUNCILLORS TO
 INTERNAL COMMITTEES**

OM182811-14

LOCATION / ADDRESS	Whole of municipality	GENERAL MANAGER	Errol Lawrence
OFFICER	Sarah McKew	DIVISION	Corporate Services
TRIM FILE	F18/7487	CONFIDENTIAL	No
ATTACHMENTS	Nil		
PURPOSE	To appoint Councillors to Internal Committees		

1. LOCATION PLAN / AERIAL PHOTO



2. EXECUTIVE SUMMARY

The *Local Government Act 1989* acknowledges the need for Special Committees of the Council and Advisory Committees. Part 4 Division 2 of the *Local Government Act 1989* allows for committees made up of Councillors, Council staff and other persons and for a Council by Instrument of Delegation to delegate any of its functions, duties or powers to a Special Committee.

The Committees of Council as set out below are recommended in dealing with the business of Council.

3. RECOMMENDATION

That Council makes the following appointments:

- 1. That Council appoints all Councillors as members of the Planning Committee.*
- 2. That Council appoints all Councillors as members of the Chief Executive Officer Appraisal Committee until determined otherwise.*
- 3. That Council appoints all Councillors as members of the Special Committee.*
- 4. That Council appoints all Councillors as members of the CEO Recruitment Special Committee.*
- 5. That Council appoints Cr Hart and Cr Schram as members of the Audit Committee until determined otherwise.*
- 6. That Council appoints Cr Smith as a member of the Central Reserve Advisory Committee until determined otherwise.*
- 7. That Council appoints Cr Smith as a member of the Colac Livestock Selling Centre Advisory Committee until determined otherwise.*
- 8. That Council appoints Cr McCracken as a member of the Friends of the Colac Botanic Gardens Committee until determined otherwise.*
- 9. That Council appoints Cr Schram and Cr Smith as members of the Lake Colac Co-ordinating Committee until determined otherwise.*

4. BACKGROUND / KEY INFORMATION

BACKGROUND

The *Local Government Act 1989* acknowledges the need for Special Committees of the Council and Advisory Committees. Part 4 Division 2 of the *Local Government Act 1989* allows for committees made up of Councillors, Council staff and other persons and for a Council by Instrument of Delegation to delegate any of its functions, duties or powers to a Special Committee. Procedural requirements in respect to these committees include that whereby a Council may specify in an Instrument of Delegation that a member of a Special Committee who as a member of the public or of Council staff does not have voting rights on the Special Committee.

The Committees of Council as set out below are recommended in dealing with the business of Council.

In forming the committees, the following guidelines apply to meetings of the committees to ensure communication and accountability to the full Council.

- Mayor to be ex-officio to all committees;
- Minutes of all meetings to be circulated to full Council;
- All Councillors able to attend but voting rights are for appointed committee members only.

Council Committees

1. Planning Committee
2. Chief Executive Officer Appraisal Committee
3. Special Committee
4. CEO Recruitment Special Committee

Advisory Committees

5. Audit Committee
6. Central Reserve Advisory Committee
7. Colac Livestock Selling Centre Advisory Committee
8. Friends of the Colac Botanic Gardens Committee
9. Lake Colac Co-ordinating Committee

The following table outlines the proposed arrangements. It is noted that Council Officers attend a number of the committees either as a member of the committee or as an administrative resource person.

KEY INFORMATION

(1) Planning Committee

Number of delegates to be appointed to Council	All Councillors
Meeting Details	To meet on 2 nd Wednesday of the month commencing at 4pm or more frequently as required.
Other Information	The Planning Committee has been established as a Special Committee under section 86 of the <i>Local Government Act 1989</i> and section 188 of the <i>Planning and Environment Act 1987</i> . The committee comprises all Councillors and has the power to determine on planning matters as set down in the Instrument of Delegation.

(2) Chief Executive Officer Appraisal Committee

Number of delegates to be appointed to Council	All Councillors
Meeting Details	Half yearly
Other Information	Primary purpose to review the performance of the CEO.

(3) Special Committee

Number of delegates to be appointed to Council	All Councillors
Meeting Details	To meet as required
Other Information	The Special Committee has been established as a Special Committee under section 86 of the <i>Local Government Act 1989</i> .

(4) CEO Recruitment Special Committee

Number of delegates to be appointed to Council	All Councillors
Meeting Details	To meet as required
Other Information	The Special Committee has been established as a Special Committee under section 86 of the <i>Local Government Act 1989</i> .

(5) Audit Committee

Number of delegates to be appointed to Council	2 Councillors
Meeting Details	Quarterly or more frequently as determined
Other Information	Made up of 2 Councillors and 2 independent members. An independent member to be chairperson. The committee is an advisory committee of Council. CEO is non-voting member.

(6) Central Reserve Advisory Committee

Number of delegates to be appointed to Council	1 Councillor 1 Officer
Meeting Details	Quarterly
Other Information	Purpose is to facilitate communication between Council, park users, local police and local residents about matters concerning planning, development, maintenance and operation of the reserve. Recreation and Open Space Coordinator

(7) Colac Regional Saleyards Advisory Committee

Number of delegates to be appointed to Council	1 Councillor
Meeting Details	Generally quarterly, or as required
Other Information	Purpose is to provide advice on the operations of the centre and make recommendations to Council.

(8) Friends of the Colac Botanic Gardens Advisory Committee

Number of delegates to be appointed to Council	1 Councillor
Meeting Details	Monthly
Other Information	Purpose is to undertake voluntary projects and to act as an advisory committee for Council.

(9) Lake Colac Co-ordinating Committee

Number of delegates to be appointed to Council	2 Councillors
Meeting Details	Quarterly
Other Information	Purpose is to be a forum to assist Council in the implementation of the Lake Colac Management Plan and the Lake Colac Master Plan. To advise Council on the revitalization and development of Lake Colac.

FURTHER SUPPORTING INFORMATION

5. COMMUNITY CONSULTATION & ENGAGEMENT

Not applicable

6. ANALYSIS

ALIGNMENT TO COUNCIL PLAN OR COUNCIL POLICY

The Strategic Vision of the Council Plan 2017-2021 is "Towards a Prosperous Future".

"The Councillors of Colac Otway Shire commit to ... be leaders and work together as a team with the community and the organisation to achieve our goals for the Shire."

The Council Plan states that Council is strongly committed to engaging with and listening to the community. Councillor involvement in various internal committees demonstrates this commitment.

ENVIRONMENTAL IMPLICATIONS

Not applicable

SOCIAL & CULTURAL IMPLICATIONS

Not applicable

ECONOMIC IMPLICATIONS

Not applicable

LEGAL & RISK IMPLICATIONS

Not applicable

RESOURCE IMPLICATIONS (FINANCIAL ETC)

Not applicable

7. IMPLEMENTATION STRATEGY

DETAILS

Not applicable

COMMUNICATION

Not applicable

TIMELINE

Not applicable

8. OFFICER DIRECT OR INDIRECT INTEREST

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

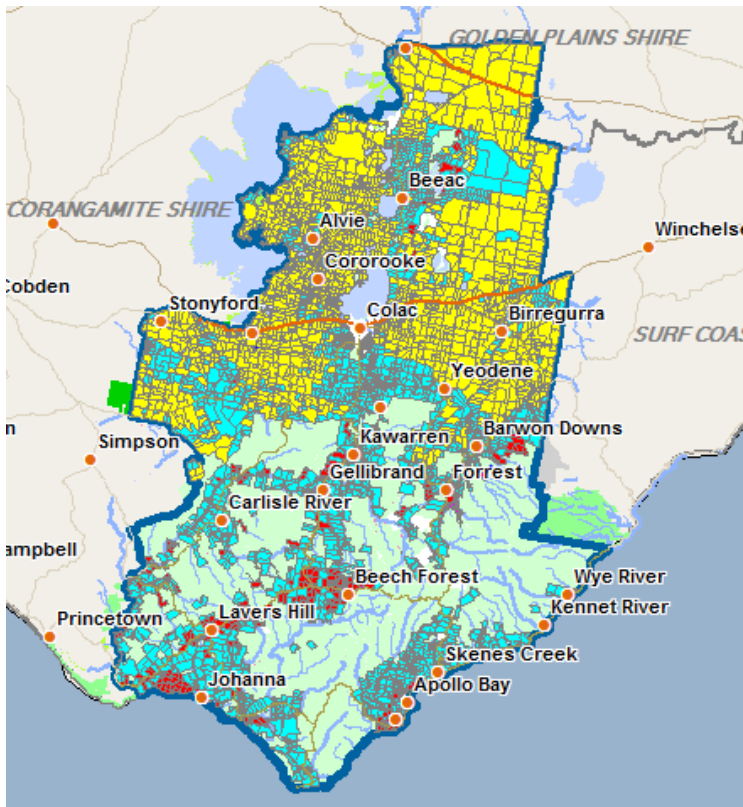
ORDINARY COUNCIL MEETING

APPOINTMENTS OF COUNCILLORS TO EXTERNAL COMMITTEES

OM182811-15

LOCATION / ADDRESS	Whole of municipality	GENERAL MANAGER	Errol Lawrence
OFFICER	Sarah McKew	DIVISION	Corporate Services
TRIM FILE	F18/7487	CONFIDENTIAL	No
ATTACHMENTS	Nil		
PURPOSE	To appoint Councillors to External Committees		

1. LOCATION PLAN / AERIAL PHOTO



2. EXECUTIVE SUMMARY

Council has Councillor and officer representation on a number of committees associated with a variety of interests. This includes managing Council owned or managed facilities, advising Council on issues and representing Council views on regional and state wide matters.

A number of the committees are not managed by Council and operate under their own charter and determine their procedures, policies and practices. Council involvement is to participate and influence the activities of those external groups where those activities are in the public's interest.

3. RECOMMENDATION

Recommendation 1

That Council make the following appointments:

- 1. That Council appoints the Mayor and the Deputy Mayor as proxy to the Apollo Bay Harbour Precinct Redevelopment Project Control Group until determined otherwise.*
- 2. That Council appoints Cr Smith to the Barnard Trust Committee until determined otherwise.*
- 3. That Council appoints Cr Hanson to the Barwon South West Waste and Resource Recovery Local Government Forum until determined otherwise.*
- 4. That Council appoints Cr Potter to the Colac 2050 Growth Plan Project Control Group until determined otherwise.*
- 5. That Council appoints Cr Hart to the Colac Community Library and Learning Centre Joint Use Committee until determined otherwise.*
- 6. That Council appoints Cr Potter to the Colac Road Safety Group until determined otherwise.*
- 7. That Council appoints Cr Crook and Cr Hanson as proxy to the Community Hub Inc until determined otherwise.*
- 8. That Council appoints Cr McCracken and Cr Smith to the COPACC Trust until determined otherwise.*
- 9. That Council appoints Cr Hart to the Corangamite Regional Library Corp until determined otherwise.*
- 10. That Council appoints Cr Schram to the G21 Board until determined otherwise.*
- 11. That Council appoints Cr Hart to the Lavers Hill Swimming Pool Committee of Management until determined otherwise.*
- 12. That Council appoints the Mayor to the Mooleric Road Quarry Committee until determined otherwise.*
- 13. That Council appoints Cr Smith to the Municipal Aerodrome Committee – Colac until determined otherwise.*
- 14. That Council appoints Cr Hart and Cr Hanson as proxy to the Municipal Association of Victoria until determined otherwise.*

15. *That Council appoints Cr Potter to the Municipal Emergency Management Planning Committee until determined otherwise.*
16. *That Council appoints Cr Potter to the Municipal Fire Management Planning Committee until determined otherwise.*
17. *That Council appoints Cr Smith to the S.86 Old Beechy Rail Trail Committee until determined otherwise.*
18. *That Council appoints Cr Smith to the Ondit Quarry Consultative Committee until determined otherwise.*
19. *That Council appoints Cr Hanson to the Otways Tourism Advisory Committee until determined otherwise.*
20. *That Council appoints Cr Potter to the Port of Apollo Bay Consultative Committee until determined otherwise.*
21. *That Council appoints Cr Crook and Cr Hanson as proxy to the Rural Council of Victoria until determined otherwise.*
22. *That Council appoints Cr Smith to the Rural Financial Counselling Service Vic – Wimmera Southwest (RFC) until determined otherwise.*
23. *That Council appoints Cr Smith to the Tirrengower Drainage Scheme Committee of Management until determined otherwise.*
24. *That Council appoints Cr Smith to the Weeds Consultative Committee until determined otherwise.*
25. *That Council appoints Cr Crook to G21 Pillar Membership – Arts and Culture until determined otherwise.*
26. *That Council appoints Cr Potter to the G21 Pillar Membership – Economic Development until determined otherwise.*
27. *That Council appoints Cr Hart to the G21 Pillar Membership – Education and Training until determined otherwise.*
28. *That Council appoints Cr Hart to the G21 Pillar Membership - Environment until determined otherwise.*
29. *That Council appoints Cr Hanson to the G21 Pillar Membership – Health and Well Being until determined otherwise.*
30. *That Council appoints Cr Schram to the G21 Pillar Membership - Sports and Recreation until determined otherwise.*
31. *That Council appoints Cr Crook to the G21 Pillar Membership - Transportation until determined otherwise.*

Recommendation 2

That Council appoints the Mayor and Cr ... as proxy to the Australian Local Government Association (ALGA) until determined otherwise.

Recommendation 3

That Council appoints the Mayor and Cr ... to the Roads Advisory Committee until determined otherwise.

Recommendation 4

That Council appoints Cr ... to Timber Towns Victoria Committee until determined otherwise.

Recommendation 5

That Council appoints Cr Crook and Cr ... as proxy to the G21 Pillar Membership – Planning and Services until determined otherwise.

4. BACKGROUND / KEY INFORMATION

BACKGROUND

At intervals determined by Council, Councillors are appointed to various Committees encompassing a broad variety of interests that affect the community. At some Committees, Councillors are supported by the involvement of Council officers.

KEY INFORMATION

1. Apollo Bay Harbour Precinct Redevelopment Project Control Group

Required Representatives	The Mayor 4 Officers
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2. Australian Local Government Association

Required Representatives	1 Councillor 1 Officer
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3. Barnard Trust Committee

Required Representative	1 Councillor
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4. Barwon South West Waste and Resource Recovery Local Government Forum

Required Representatives	1 Councillor 1 Officer
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5. Colac 2050 Growth Plan Project Control Group

Required Representative	1 Councillor
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6. Colac Community Library and Learning Centre Joint Use Committee

Required Representatives	1 Councillor 1 Officer
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7. Colac Road Safety Group

Required Representative	1 Councillor
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8. Community Hub Inc

Required Representatives	2 Councillors 1 Officer
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9. COPACC Trust

Required Representatives	2 Councillors 2 Officers
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10. Corangamite Regional Library Corp

Required Representatives	1 Councillor 1 Officer
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11. G21 Board

Required Representatives	1 Councillor 1 Officer
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12. Lavers Hill Swimming Pool Committee of Management

Required Representatives	1 Councillor 1 Officer
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13. Mooleric Road Quarry

Required Representatives	The Mayor 1 Officer
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14. Municipal Aerodrome Committee – Colac

Required Representatives	1 Councillor 1 Officer
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15. Municipal Association of Victoria

Required Representative	1 Councillor
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16. Municipal Emergency Management Planning Committee

Required Representatives	2 Councillors 1 Officer
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17. Municipal Fire Management Planning Committee

Required Representatives	2 Councillors 1 Officer
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18. S.86 Old Beechy Rail Trail Committee

Required Representatives	1 Councillor 1 Officer Community/Organisation representative
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19. Ondit Quarry Consultative Committee

Required Representatives	1 Councillor 1 Officer
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20. Otways Tourism Advisory Committee

Required Representatives	1 Councillor 2 Officers
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21. Port of Apollo Bay Consultative Committee

Required Representatives	1 Councillor 2 Officers
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22. Roads Advisory Committee

Required Representatives	The Mayor 1 Officer
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23. Rural Council of Victoria

Required Representative	1 Councillor
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24. Rural Financial Counselling Service Vic – Wimmera Southwest (RFC)

Required Representative	1 Councillor
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25. Timber Towns Victoria Committee

Required Representatives	1 Councillor 1 Officer
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26. Tirrengower Drainage Scheme Committee of Management

Required Representative	1 Councillor
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27. Weeds Consultative Committee

Required Representatives	1 Councillor 2 Officers
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28. G21 Pillar Membership – Arts and Culture

Required Representatives	1 Councillor 1 Officer
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29. G21 Pillar Membership – Economic Development

Required Representatives	1 Councillor 1 Officer
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30. G21 Pillar Membership – Education and Training

Required Representatives	1 Councillor 1 Officer
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31. G21 Pillar Membership – Environment

Required Representatives	1 Councillor 1 Officer
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32. G21 Pillar Membership – Health and Well Being

Required Representatives	1 Councillor 1 Officer
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33. G21 Pillar Membership – Planning and Services

Required Representatives	1 Councillor 1 Officer
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34. G21 Pillar Membership – Sports and Recreation

Required Representatives	1 Councillor 1 Officer
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35. G21 Pillar Membership – Transportation

Required Representatives	1 Councillor 1 Officer
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CESSATION OF COUNCILLOR APPOINTMENTS TO COMMITTEES

Colac Otway Network of Community Houses

The Colac Otway Network of Community Houses is made up of the four Neighbourhood Houses including Forrest and District Neighbourhood House, Colac Neighbourhood House, Gellibrand Community House and Marrar Worn Neighbourhood House (Apollo Bay). The network is part of the broader Barwon Network of Neighbourhood Centres (BNNC).

The network meets on a quarterly basis with the key agenda items being: sharing information and knowledge; Department of Health and Human Services (the main funding body) updates; resource sharing; linking houses on projects; linking to other organisations; linking to the rest of the sector including the peak body Neighbourhood Houses Victoria.

Council also provides an annual grant (\$2,100) to each of the Neighbourhood Houses and a grant to the Barwon Network of Neighbourhood Centres to assist the Colac Otway Shire Neighbourhood Houses undertake Shire wide projects.

A Council officer attends these meetings and provides an update of any relevant Council information, therefore Councillor representation on this established Committee is no longer seen as essential.

Lavers Hill and District Emergency Response Planning Committee

The Lavers Hill District and Community Emergency Response Planning Committee was established by members of the community after an Emergency Evacuation Exercise was run by Emergency Management Victoria. The exercise showed that evacuating the town would be very challenging and as a result the Committee was formed to work toward obtaining funds to have a Community Fire Refuge constructed. When funds were announced for the refuge to be built, the Committee was superseded by the new working group formed to oversee the construction of the new facility. Now that the refuge has been constructed and the Lavers Hill District and Community Emergency Response Planning Committee has not met since 2015, it is no longer considered necessary to have a Councillor nominated to represent Council on this group.

FURTHER SUPPORTING INFORMATION

5. COMMUNITY CONSULTATION & ENGAGEMENT

Not applicable

6. ANALYSIS

ALIGNMENT TO COUNCIL PLAN OR COUNCIL POLICY

The Strategic Vision of the Council Plan 2017-2021 is "Towards a Prosperous Future".

"The Councillors of Colac Otway Shire commit to ... be leaders and work together as a team with the community and the organisation to achieve our goals for the Shire."

The Council Plan states that Council is strongly committed to engaging with and listening to the community. Councillor involvement in various internal committees demonstrates this commitment.

ENVIRONMENTAL IMPLICATIONS

Not applicable

SOCIAL & CULTURAL IMPLICATIONS

The appointments of Councillors to Committees facilitate greater interaction between the community and the Councillors elected to represent them. Councillor participation increases awareness of local issues and builds understanding between parties to encourage better decision making in the interests of all community members.

ECONOMIC IMPLICATIONS

Not applicable

LEGAL & RISK IMPLICATIONS

Not applicable

RESOURCE IMPLICATIONS (FINANCIAL ETC)

Not applicable

7. IMPLEMENTATION STRATEGY

DETAILS

Not applicable

COMMUNICATION

The appointments of Councillors to Committees will be communicated to both Councillors and the relevant Council officers at the finalisation of the minutes of this meeting.

TIMELINE

Not applicable

8. OFFICER DIRECT OR INDIRECT INTEREST

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

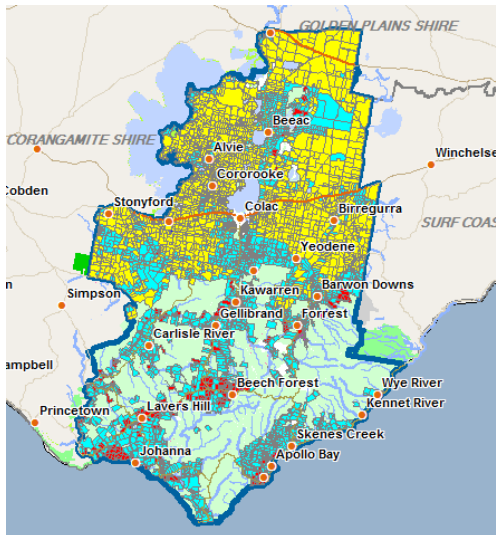
ORDINARY COUNCIL MEETING

REPORT FROM DELEGATE - MUNICIPAL ASSOCIATION OF VICTORIA (MAV) STATE COUNCIL MEETING ON 19 OCTOBER 2018

OM182811-16

LOCATION / ADDRESS	Whole of municipality	GENERAL MANAGER	Peter Brown
OFFICER	Stephen Hart	DIVISION	Executive
TRIM FILE	F18/7487	CONFIDENTIAL	No
ATTACHMENTS	<ol style="list-style-type: none"> 1. 8 October 2018 - E-mail from Cr Hart, through 'Governance', to Councillors regarding the MAV agenda 2. 15 October 2018 - E-mail from Cr Hart to Councillors regarding the MAV agenda 3. 15 October 2018 - Email from Cr Hart to Councillors regarding the late item for the MAV meeting proposing a change to the MAV rules 4. Report from the MAV listing the adopted resolutions at the State Council meeting on 19 October 2018 		
PURPOSE	Report from delegate		

1. LOCATION PLAN / AERIAL PHOTO



2. REPORT FROM DELEGATE

Colac Otway Shire Council is a member of the MAV as are most, if not all, Councils in Victoria. Twice a year the MAV holds a State Council meeting where Delegates from member Councils vote on various resolutions to collectively determine the MAV's position. The resolutions are submitted by member Councils.

On 19 October 2018 I, Cr Stephen Hart, attended the MAV meeting held in Melbourne as Colac Otway Shire's delegate. Council's Chief Executive Officer also attended much of the meeting.

MAV Financial Report 2017/2018

Discussion of the MAV's financial report was deferred until the May State Council meeting as there had been a favourable error discovered from previous years that was still being resolved, as at the date of the meeting.

Member Resolutions

There were 68 resolutions in the agenda. Some of these represented consolidated resolutions, where several Councils had submitted similar proposals on the same issue. In other words, more than 68 resolutions were lodged by Councils.

It is important that Council's MAV Delegate represent the member Council's position. As Colac Otway Shire Council does not always have an explicit position on so many different topics, represented by 68 resolutions, the following steps were taken and process followed to help ensure the view of Council was represented:

1. 8 October 2018- Through 'Governance', the MAV agenda was e-mailed to the Councillors together with an initial comment on several resolutions. The text of the e-mail, without the MAV agenda and commentary, is attachment 1 to this report.
2. 15 October 2018 - The MAV agenda was again e-mailed to Councillors. Attachment 2.
3. 15 October 2018 - A late item regarding changing the MAV rules was e-mailed to Councillors together with my comment expressing concern about the timing of the proposal. Attachment 3.

I appreciate and acknowledge that several Councillors contacted me about some of the resolutions.

Where Council has an explicit position on the issue, this is followed when voting on the MAV resolutions. In the absence of an explicit position I look to other decisions made by Colac Otway Shire Council that may be indirectly related to the MAV resolution and try to form a view on the best outcome for the community.

Outcome of the MAV State Council meeting

The resolutions adopted at the MAV State Council meeting are attachment 4 to this report. These are the resolutions passed by a majority vote. The Minutes, which are due to be confirmed at the next meeting, will contain all resolutions including those rejected by the majority vote.

As can be seen from attachment 4, there are various resolutions which may be of interest to Colac Otway Shire Council on topics such as roadside weeds, waste management policy, the Landfill Levy fund, the State Government Pension Rate Rebate, kindergarten funding, the funding of aged care services, the use of the Fire Services Levy and various planning related matters.

Single Wide EBA for Victoria

A resolution proposing a single EBA (Enterprise Bargaining Agreement) across Local Government was one of the resolutions I highlighted to Councillors, before the MAV meeting, on the basis that cashed up growth Councils may skew the single EBA higher with no regard for the circumstances of rural councils. Colac Otway voted against this proposal as did most Councils. The vote 'against' was about 80% so the resolution was lost and it does not appear in attachment 4.

Mayor and Councillor Allowances

A resolution proposing a review of Mayor and Councillor Allowances, with a view to paying more, was another resolution I drew to Councillors attention before the MAV meeting. I expressed the view to Councillors that the resolution was a bit self indulgent given the restraint through rate capping and the restraint in employee remuneration. In addition, Colac Otway Shire Council has paid less than the full rate of Mayor and Councillor Allowance since 2009 so, in the absence of an explicit resolution, I interpreted that as meaning that this Council sees no need to increase the Mayor and Councillor Allowances.

Despite arguing against the resolution and voting against it at the MAV State Council meeting, the resolution was supported by a 67% vote. Following that vote, a division was called, so the vote of each Delegate will be recorded in the Minutes, which are due to be confirmed in May 2019.

The adopted resolution is in attachment 4, on page 13 of the 16 page document.

MAV Rules of Association

Recently there was a court case in the relation to the interpretation of the MAV rules. In brief, the case was focused on the eligibility of a Councillor to hold the position of MAV President if the Council of which they are a member doesn't pay its MAV membership.

The circumstances leading to the court case and the Supreme Court judgement have highlighted the need to review the MAV rules in relation to the President and the Board.

On 15 October 2018 a late resolution was received proposing that MAV Delegates agree to calling a special MAV meeting in November to approve a change in the rules in relation to the eligibility to stand for the position of President of the MAV with a more detailed review to occur in 2019. I shared this proposal with Councillors on 15 October 2018. Prior to that date, Councillors had no opportunity to consider a change to the MAV rules. In light of the short notice, I also discussed my concerns with the Mayor, Cr McCracken.

In addition, there were two other resolutions on the agenda regarding the MAV rules, particularly in relation to the President and the Board. One of these included a proposal to consider the weighting between Melbourne and the rural & regional representation in relation to the MAV Board. This may have led to a weakening of the position of Councils outside the Melbourne metropolitan area.

The resolution to call a special meeting in November for an immediate change in the rules was withdrawn by the Board.

A resolution to ensure that before a resolution can be put to the MAV State Council to amend its rules, that there must have been consultation with the sector, was supported and was adopted with 92% in favour. That resolution is on page 4 of attachment 4.

The resolution to review the MAV rules, in relation to the structure and election of the MAV Board and President, was amended to remove all the points that guided the specifics on how the rules might be changed. Colac Otway seconded this amendment. The amendment was accepted so that all preconceived points on how the rules might be changed was removed.

The amended resolution titled 'MAV Electoral Reform' was supported and adopted with approximately 90% in favour. The adopted resolution is on page 11 of attachment 4.

3. RECOMMENDATIONS FROM MAV DELEGATE

Recommendation 1

That Council notes the report from Council's MAV Delegate regarding the meeting held on 19 October 2018.

Recommendation 2

That Council:

- 1. Asks the Chief Executive Officer to take all reasonable steps to ensure that Councillors have an opportunity to have input into the review of the MAV rules; and*
- 2. Expresses a view that there should be no reduction in the influence of rural and regional Councils relative to Councils in metropolitan areas.*

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You forwarded this message on 31/10/18 11:30 AM.

From: Leanne Warrener on behalf of Governance Sent: Mon 08/10/18 11:05 AM
To: Cr Brian Crook; Cr Chris Potter; Cr Chris Smith; Cr Jason Schram; Cr Joe McCracken; Cr Kate Hanson; Cr Stephen Hart
Cc:
Subject: FW: MAV

Good Morning Councillors,

Please find below email regarding upcoming items at the next MAV Meeting, Cr Hart has requested the Agenda be sent to you, please see below highlighted email.



State Council
Business Papers ...

If I can be of any further assistance, please don't hesitate to contact me.

Kind Regards,

Leanne Warrener
Executive Assistant to the Chief Executive, Mayor & Councillors
Phone: 03 5232 9458
Fax: 03 5232 9586
email: leanne.warrener@colacotway.vic.gov.au
Web: www.colacotway.vic.gov.au

Please consider the environment before printing this email.


Colac Otway
SHIRE

📧 From: [Cr Stephen Hart](#) >

State Council Business Papers October 2018

Hide



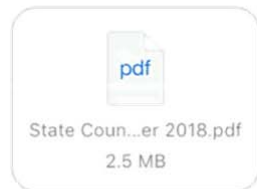
To: [Councillors](#) >

Cc: [Peter Brown](#) > [Governance](#) >

15 October 2018 at 6:39 pm

Hello All

I just want to make sure that all Councillors have had the opportunity to see the MAV agenda and raise any concerns with me direct or via the Mayor.



Kind regards

Councillor Stephen Hart

Colac Otway Shire Council

2-6 Rae Street Colac VIC 3250

P:0352329406

M: 0407962412

www.colacotway.vic.gov.au

From: [Cr Stephen Hart](#) >

Rules Change Explanatory Memorandum 1.pdf

Hide



To: [Councillors](#) >

Cc: [Peter Brown](#) >

15 October 2018 at 7:09 pm

Late MAV item received today. At first glance, I have considerable concern with last minute motions dealing with a process to change the MAV rules.



Regards,

Councillor Stephen Hart
Colac Otway Shire Council
2-6 Rae Street, Colac, VIC, 3250
P: 0352329406
M: [0407962412](tel:0407962412)
www.colacotway.vic.gov.au

Advocacy Criminal Records Discrimination Project

Resolution:

That MAV advocate by writing to the Hon Martin Pakula MP, Attorney General in support of the Criminal Records Discrimination Project for the proposed introduction of a spent convictions scheme within Victoria and for the amendment to the Equal Opportunity Act 2010.

Annual Valuation Process

Resolution:

That the annual valuation process include more appropriate timelines that enable Councils to review the rating data and consider further community consultation prior to the adoption of the Budget.

House and land contract terminations via sunset clauses

Resolution:

That State Council:

- Congratulate the State Government for introducing the Sale of Land Amendment Bill 2018 which addresses a number of protections for purchases of houses and/or land, including restrictions on the improper use of sunset clauses by developers as recently advocated by both the MAV and Wyndham City Council
- Requests the President write to the Premier, Opposition Leader, Leader of the Greens and all crossbench Members of Parliament urging them to urgently pass the Bill to protect purchasers from avoidable distress and higher prices.

Rate capping categories to recognise the specific needs of growth, regional and small rural Councils

Resolution:

That State Council:

- Notes the lack of commitment from any major party in Victoria to make significant changes to the rate capping regime since its inception
- Supports the introduction of a more nuanced rate capping regime that recognises particular infrastructure and local capacity needs such as in growth, regional and small rural Councils, and
- Requests the President write to all leaders, relevant Ministers, Shadow Ministers and Spokespersons of
- Victorian parties to establish an independent, resourced public inquiry into:
 - the impacts of the rate capping regime on specific infrastructure and capacity constraints in growth, regional and small rural Councils, and
 - potential reforms to the rate capping regime linked to these specific needs and constraints.

Roadside Weeds and Pest Program funding

Resolution:

That the Municipal Association of Victoria, advocate to the State Government of Victoria for the continuation of the Roadside Weeds and Pest Program funding beyond June 2019.

Electrification of the Frankston Train Line to Baxter

Resolution:

That the MAV is to advocate for the electrification of the Frankston train line to include all railway stations to Baxter railway station to be included within the State Governments Rail Infrastructure Program. The MAV notes the significant environmental and economic developments that this proposed extension of the Frankston line will achieve. The MAV also notes the commitment by the Federal Government to fund half the cost of the electrification project and calls on the State Government to stop obfuscating and match the federal funding to allow the project to become a reality.

Taking a strategic approach to Environmentally Sustainable Development

Resolution:

That the Municipal Association of Victoria (MAV) call upon the Victorian Government to take a strategic approach to the built environment and develop an Environmentally Sustainable Development policy supported by appropriate Building Regulations reforms that position Victoria as a leader in sustainable development in the built environment and address climate change. Benchmarking tools should be utilised to achieve consistent environmental standards (e.g. a minimum of 50 per cent BESS score for private developments).

Licensing/Permitting System under the Environment Protection Amendment Act 2018.

Resolution:

That the Municipal Association of Victoria call upon the Victorian Government to require the Environment Protection Authority (EPA) and Department Environment Land Water and Planning (DELWP) to include local government representation on the Working Groups and to develop a formal consultation program that enables every council to be consulted in the development of the subordinate legislation, particularly the development of a tiered licensing/permitting system framework under the Environment Protection Amendment Act 2018.

Power Infrastructure & Solar Feedback

Resolution:

That the MAV lobby the State Government & Powercor to invest in power infrastructure in rural communities to support the transition to renewable energy including the installation of solar PV systems allowing for the feedback of electricity back into the grid.

Drainage Design Standards

Resolution:

That the MAV advocate for increased minimum drainage design standards to achieve greater drainage capacity to cater for greater intensity and frequency of rain events to provide a greater level of protection for residential properties.

Waste Services

Resolution:

- That the State Council resolves to call on the State Government to leverage recent waste-related issues as an opportunity to reset waste legislation, policy and regulations for the waste management industry by:
- Examining the status of waste and resource recovery as an essential service
- Mandating supply-chain and end-point transparency among operators in the waste and resource recovery industry so that the 'down-stream' destination of waste materials is known
- Commissioning a review of the economic potential for the circular economy and resource-stewardship approaches to waste management in Victoria
- Makes circular economy and resource stewardship principles central to resource-recovery policy.

Funding Model LG Sep 18

Resolution:

That the MAV advocate to the state and federal governments for a review of the funding model for local government as the burden on property rates as the main source of revenue is unsustainable, particularly for rural councils.

Infrastructure Contributions

Resolution:

That the Municipal Association of Victoria calls on the Victorian State Government to develop a funding stream for Councils that are experiencing significant population growth but are not considered part of the growth areas (GAIC).

Penalty Units in Local Laws

Resolution:

That the Municipal Association of Victoria calls on the State Government to:

- Review the penalty provisions set out in the Local Government Act, 1989 (the Act) for local laws.
- To increase the maximum penalties set out in the Act for contravention of local laws.

Enforcement of Residential Noise

Resolution:

That the Municipal Association of Victoria advocate to the State Government to amend the Environment Protection Act 1970 enforcement provisions to allow authorised officers the power to immediately issue infringement notices for unreasonable noise emanating from residential premises, without the need for officers to first undertake a subsequent visit.

Cladding Rectification Agreement

Resolution:

That the Municipal Association of Victoria calls upon the State Government to review the current Cladding Rectification Agreement (CRA) and seek clarification on Council's role with regards to recovery of administrative costs including debt collection, guarantees and the option for Councils not to be a signatory as required by the proposed legislation.

MAV Rules of Association

Resolution:

That the MAV State Council resolve that before a motion can be put before MAV State Council concerning any proposed amendment to the Municipal Association of Victoria (MAV) Rules of Association that consultation has already been undertaken with the sector.

Management of the spread of declared pest plants on arterial roads

Resolution:

- West Wimmera Shire Council respectfully requests that MAV write to the Minister for the Environment – the Hon Lily D'Ambrosio and the Roads Minister the Hon Luke Donnellan, seeking assistance for rural shires, with the management of the spread of declared pest plants on arterial roads.
- That the request for assistance be in the form of dedicated officers, specifically tasked with the monitoring and treatment of the problem.
- That consideration also be given to the officers managing vegetation growth in roadside drains adjacent to the rural arterial roads.

Request to amend the Victorian Planning Scheme

Resolution:

That the Municipal Association of Victoria (MAV) call on the State Government to amend the planning scheme to ensure due consideration is given to connector roads and the provision of multiple vehicle entry and exit points on large subdivisions to improve connectivity and linkages within towns as well as safety in the event of fires, accidents or other unforeseen emergencies.

Request for assistance in advocating for change in Bushfire Provisions following VC140

Resolution:

That MAV request the State Government to review Amendment VC140 (Bushfire changes) and the implementation impacts on Local Councils, in particular Regional Councils and their potential for growth and sustainability of towns and communities.

Redundant Telecoms Infrastructure Post NBN

Resolution:

To secure a commitment from NBN Co to remove its own redundant telephone wiring and approve the decommissioning and removal by Optus of their redundant Hybrid Fibre Coaxial (HFC) aerial infrastructure.

Non Fossil Fuel Financial and Banking Services

Resolution:

That:

1. MAV investigate options for jointly procuring financial and banking services for local government that do not facilitate the funding of fossil fuel companies and projects; and
2. such investigations should include:
3. the formation of a mutual bank or credit union with the purpose of providing enterprise level banking services to local government and other organisations which require tailored banking services; and
4. working with an existing authorised deposit taking institution (other than those which facilitate the funding of fossil fuel companies or projects) to develop their services and systems to such a level that would allow them to provide enterprise level banking services to local government and other organisations which require tailored banking services.

Sustainable/Renewable Energy Powered Public Transport

Resolution:

That the MAV State Council:

1. welcomes the State Government's recent action in transitioning Melbourne's Tram network to run on renewable power;
2. proposes that the State Government commits to transitioning the Melbourne Metropolitan train network to renewable power, noting that such initiative will assist in reducing the carbon footprint of travel within Melbourne; and
3. proposes in furtherance of the prior State Council motion of 18 May 2018, that the State Government convert the metropolitan bus network to E-buses, giving priority to bus routes with diesel buses shared with bike routes such as Rathdowne Street, North Carlton/Carlton.

Municipal and Industrial Landfill Levy

Resolution:

Motion:

1. That the MAV enter into discussions with the Department for Land, Water and Planning with a view to exploring appropriate ways for a local government representative to be involved in the process for allocating funds from the Municipal and Industrial Landfill Levy fund; and
2. That this MAV State Council call on the State Government to respond to the recommendations of the Victorian Auditor General and ensure that the revised Terms of Reference for the Municipal and Industrial Landfill Levy Sustainability Fund Committee enshrine a place for a local government representative in the process.

Diverse Communities

Resolution:

That MAV urges its member Councils to become Refugee Welcome Zones and Welcoming City Network members.

Public Housing

Resolution:

That MAV calls on the State Government not to sell off any public housing estate land to private developers and instead increase public housing stock.

State Government Pension Rate Rebate

Resolution:

That MAV calls on the State Government to increase by 50% the State Government Pension Rate Rebate for eligible card holders.

Social and Affordable Housing

Resolution:

That MAV:

1. Coordinate with the Department of Health and Human Services and the Department of Environment, Land, Water and Planning to play a lead role in resourcing and supporting Councils to implement actions aligned to Plan Melbourne, Homes for Victorians and the Infrastructure Victoria 30-Year Plan with regard to social and affordable housing, including facilitating the provision of affordable housing through the planning system.
2. Advocate to the State and Federal Government to provide significant, consistent and ongoing funding for social and affordable housing.
3. Advocate to the State Government to significantly increase the social housing being provided through the Social Housing and Public Housing Renewal Program and Inclusionary Housing Pilot, so that the provision is linked to demand.

15 Hours of Kindergarten

Resolution:

That the State Council:

1. Notes the strong support of councils as well as State and Territory Governments over recent months for the Federal Government to continue its share of early childhood education funding,
2. Expresses its alarm at recent confirmation in Federal Budget Papers that the Federal Government intends to cut its funding after June 2020, and
3. Requests the MAV urgently:
 - a. Writes to all leaders and relevant Ministers, Shadow Ministers and Spokespersons of federal parties; calling for a commitment to keeping kindergarten fees affordable through permanent Federal Government funding.
 - b. Advocates to COAG, along with the Commonwealth and State Governments for an inquiry into the funding arrangements for four-year old kindergarten, to determine the long term funding requirements for all children.

Community Care

Resolution:

That the MAV:

1. Immediately coordinates a campaign to maintain block funding to councils for the delivery of aged care services beyond June 2020, and request that the Commonwealth Government implements a moratorium until such time the Government conducts a comprehensive review of the potential cancellation of block funding to councils.
2. Advocates in partnership with the State Government to seek urgent advice from the Commonwealth regarding the funding arrangements for aged care assessment services.
3. Advocates for targeted response and financial assistance to ameliorate the impact of reform on rural and regional providers of homecare support services in Victoria, noting that the reforms place an unfair and unequitable burden on regional and rural councils.

Advocacy regarding the Regional Assessment and Commonwealth Home Support Program

Resolution:

That the Municipal Association of Victoria advocate for consideration of, and targeted response to, the impact of reform on rural and regional providers of homecare support services in Victoria noting:

- Advice on the architecture and funding of RAS post 30 June 2019 and CHSP post 30 June 2020 is urgently required and should be achieved by 1 January 2019.
- The reforms place an unfair and unequitable burden on regional and rural councils
- Government should use its market influence and pricing mechanisms to ensure that equitable services are delivered to regional and rural areas.
- Financial assistance should be provided to ease the burden of structural adjustments, particularly for small to medium Councils where ongoing viability and cost to council require transition out of service delivery arrangements.

Gambling

Resolution:

That the MAV:

1. Calls upon State Government to commit to strategies to reduce gambling losses, adopts a public health approach and implements increased allocation of support funds to more extensive harm measures and communities experiencing large gambling losses.
2. Specifically, calls on the State Government to reduce the number of electronic gaming (EGM) machines from all licensed premises by 2032, and lower EGM caps.
3. Engages with the Vision Super Board to advocate for full divestment of investments held in companies where more than 10% of earnings before interest and tax (EBIT) are derived from gambling including Woolworths, Crown Resorts, Aristocrat, Tatts Group, Tabcorp Holdings and Star Entertainment Group.

Homelessness

Resolution:

That the MAV

1. Calls on the State Government to provide targeted support, including supportive accommodation, to address the needs of Aboriginal and Torres Strait Islander people at risk of homelessness
2. Supports the Everybody's Home National Housing and Homelessness campaign to promote the campaign to all local government areas (enabling a shared voice on the issue and proposed solutions on this important matter).

Support for Priorities and Specific Actions in the Victorian Freight Plan 2018-2050

Resolution:

1. Congratulate the State Government for its release of the Victorian Freight Plan 2018-2050: delivering the goods
2. Write to the Premier, Opposition Leader and relevant Ministers and Shadow Ministers to convey its support for the five priorities over the next 5 years to include:
 - a. Manage existing and proposed freight corridors and places in conjunction with urban form changes
 - b. Reduce the impact of congestion on supply chain costs and communities
 - c. Better use of our rail freight assets,
 - d. Plan for Victoria's future port capacity, and
 - e. Stay ahead of the technology curve.
3. In addition to 2 above, request that all parties support the earlier completion of business cases for the Western and then Beveridge Interstate Freight Terminals as the future location for interstate freight in Melbourne, well before the planned completion of Inland Rail.
4. Specifically express support for the Mode Shift Incentive Scheme and advocate for an extension of the scheme beyond 30 June 2019.

Infrastructure Planning and Funding for Growth

Resolution:

That the MAV advocate to the State Government that it:

- Implement standard levies through Infrastructure Contribution Plans for growth areas in Victoria outside of the Metropolitan Greenfield Growth Areas including established areas of Melbourne and regional growth areas
- Develop a funding stream for councils experiencing significant population growth which are unable to access GAIC funding

Planning Provisions for Car Parking

Resolution:

That the MAV advocate that the State Government review recent planning scheme amendments reducing car parking requirements within the Principal Public Transport Network Area, and restore to councils the discretion to vary parking requirements within their municipality.

Funding and Development of Schools

Resolution:

That the MAV advocate to the State Government seeking:

- Consultation on and development of a transparent, long-term plan for the development of new schools to meet the present and future needs of Victorian communities
- A fairer approach to the funding of ancillary infrastructure associated with school developments.

State Leadership on Affordable Housing

Resolution:

That the MAV advocate to the State Government that it provides leadership in affordable housing through:

- Developing inclusionary zoning provisions and other appropriate tools at a state level to ensure all planning schemes are equipped to encourage the delivery of affordable housing
- Developing demonstration projects for affordable housing.

Review of planning framework for renewable energy facilities

Resolution:

That the MAV advocates to the State Government for a review of the planning and regulatory framework for large scale renewable energy facilities so that individual components of these facilities including wind turbine, solar panels and transmission lines are considered together rather than separately as they are at present.

Extension of the EPA OPLE pilot program

Resolution:

That the MAV advocates to the State Government for the continuation of the Environment Protection Agency's Officer for the Protection of the Local Environment Pilot Program and for the program to be rolled out Victoria-wide.

Pest Deer Advocacy

Resolution:

Pest deer are an increasing problem across Victoria, particularly in peri-urban regions. They destroy native vegetation, can have a negative impact on agricultural productivity and increase the risk of vehicle collisions. Accordingly, Macedon Ranges Shire Council has written to the Premier of Victoria and relevant Ministers seeking State Government leadership to tackle the problem. Council has also written to Manningham City Council, Nillumbik Shire Council, Yarra Ranges Shire Council and the Peri-urban Group of Councils.

To support Macedon Ranges Shire Council's advocacy, it is proposed that the MAV State Council resolves for the MAV to:

- Write to the Premier of Victoria and relevant Ministers seeking State Government leadership to tackle the pest deer problem currently impacting agricultural and biodiversity values across the state. This includes:
 - Declaring Sambar, Fallow and Red Deer as "pest species" under the Catchment and Land Protection Act 1994
 - Delivering an effective Deer Management Strategy; and
 - Providing resources for cross tenure deer control projects in per-urban areas.

MAV Electoral Reform

Resolution:

1. Call on the Municipal Association Victoria (MAV) Board to review, in conjunction with its member Councils, the processes and structure for the election of MAV Board and the President.
2. That any electoral reform includes a broad and comprehensive review of the MAV rules 2013

Essential Services Commission Influence

Resolution:

That the MAV is to express concern to the State Government about the level of influence the Essential Services Commission – an unelected body – has over local government insofar as autonomy (i.e. rate-capping). The MAV is to recommend that the Minister of Local Government, as opposed to the Essential Services Commission, is to take on the duties that presently reside with the Essential Services Commission.

Government Assisted Drugs Programs

Resolution:

In light of the Richmond 'Medically Supervised Injecting Room' trial, the MAV is to advocate that - where there may be a desire to create more of these facilities – the State Government must seek the explicit permission of relevant local governments (where such a facility may be located) due to the potential public safety and public health implications. The State

Government is expected to respect the wishes of local governments that do not authorise the placement of such a facility within their municipalities.

That the MAV is to request that the State Government allow greater powers to local government insofar the placement and issuance of licences to pharmacies that have pharmacotherapy programs.

Further, the MAV is to advocate to the Minister for Health, the Hon. Jill Hennessy MP, to conduct an audit of pharmacotherapy sites per municipality due to disparity in numbers.

Improved outreach with Local Government by/from EPA Victoria

Resolution:

That the MAV is to advocate to the Minister of Environment to ensure improved reporting and consultative mechanisms by the EPA to Local Government. In addition, where matters that impact upon residents and/or amenity (such as air quality), the MAV is to request improved responsiveness by EPA Victoria.

Localised Truancy Strategies

Resolution:

That the MAV is to advocate to the Minister for Education, the Hon. James Merlino MP, seeking support for regional units of the Department of Education to work more closely with local stakeholders (Victoria Police, local governments etc) to implement localised strategies/solutions to ameliorate (any recorded) higher than average instances of truancy at secondary schools.

Use of Glyphosate and other Herbicides

Resolution:

That the MAV advocate to the State Government to undertake a thorough investigation of the effects and alternatives of glyphosate and other herbicides to ensure the health and wellbeing of all communities as well as Local Government's ability to provide well maintained and presented open space.

Private Building Surveyor Approvals - Increased Accountability and Compliance

Resolution:

That the MAV advocates for legislative change for:

- a) Increased accountability of private building surveyors to ensure compliance of building works they have approved.
- b) Greater Victorian Building Authority accountability to immediately take responsibility as the Municipal Building Surveyor to address building compliance issues related to private building surveyor approvals, in the circumstances when the Private Building Surveyor has failed to take appropriate action.

Fire Services Levy - Renewal of Infrastructure

Resolution:

Lobby the State Government to change the relevant legislation so that funds from the Fire Services Levy are used for the maintenance and renewal of fire-fighting infrastructure across rural Victoria, including replacement of fireplugs, hydrants and tanks on rural water supply systems.

Public Land Use

Resolution:

That the Municipal Association of Victoria calls on the Victorian State Government to develop an MOU with Local Government in relation to public land, its use and transfer for local government use.

Mayor and Councillor Allowances Resolution:

That the Municipal Association of Victoria advocate to the Minister for Local Government for a review of Councillor allowances to better reflect the time commitment, community expectations and minimum wage values.

Age Friendly Environments

Resolution:

That the Municipal Association of Victoria State Council advocates to State Government and specifically to Minister Foley, Minister for Housing, Disability & Ageing, to commit a meaningful level of funding to a program to plan and deliver "age friendly" environments in all Local Government Areas and systematically reduce the isolation and loneliness experienced by a growing number of older Victorians.

Public Housing Renewal

Resolution:

That the Municipal Association of Victoria call upon the State Government to:

1. Replace its current model for the provision of public housing with a model that provides a substantially greater uplift in public housing than the minimum 10% proposed to reduce the large number of people on public housing waiting lists.
2. To make a commitment that all public housing constructed as part of a private/public model remain as public housing in perpetuity for as long as the building exists.
3. To make a commitment to meet neighbourhood character policy and design standards set out in Planning Schemes when redeveloping public housing estates.

Advocating against changes to the Status Resolution Support Services Program impacting Victorian communities

Resolution:

Given the impact on people seeking asylum living in our communities becoming destitute as a result of the changes to the Status Resolution Support Services (SRSS) program, MAV calls on the Federal Government to:

- 1) Reinstate the previous eligibility criteria, and provide adequate income and case management support for people seeking asylum while they seek sustainable employment;
- 2) Provide greater resourcing to reinforce the capacity of community service and voluntary organisations to assist people seeking asylum to:
 - a) live safely in local communities; and
 - b) receive emergency relief and material aid support until such time as they receive a substantive visa or are deported.

Control and Management of weeds throughout the State of Victoria

Resolution:

That the Municipal Association of Victoria advocates to the State Government for a consistent approach with Local Government to control and manage the eradication of weeds throughout the State of Victoria.

Small Cell Installations

Resolution:

That the MAV call upon the State Government to lead a review of the cumulative impacts of 'small cell installations' on the residential community and, in light of the findings of this review, re-consider the appropriate planning referral process for the installation of small cells.

Rural and Regional Representation - Sustainability Fund Committee

Resolution:

That the MAV calls on the State Government to appoint rural and regional municipal representation to the Sustainability Fund Committee as a further means of improving governance arrangements for the management of funds derived from the Municipal and Industrial Landfill Levy.

Staging Suburban Rail Loop and MMR2 efficiently

Resolution:

Council call on the State Government to deliver the greatest social and economic benefits from their investment in metro rail infrastructure by ensuring that the proposed Suburban Rail Loop business case investigates the best staging and development options for both the Melbourne Metro Rail 2 and the Suburban Rail Loop, and that the Melbourne Metro Rail 2 Business Case is not delayed by the Suburban Rail Loop.

Feral Pest Management

Resolution:

That the MAV establish a working group, comprised of key stakeholders to address the management of feral pests across the State.

Addressing the Increasing Complexity and Demand for Maternal and Child Health Services

Resolution:

A joint Notice of Motion to the State Council of the MAV by CEOs to have the MAV:

- Explore the support needs of culturally and linguistically diverse communities (CALD);
- Advocate during the next round of MoU negotiations, to pursue cost sharing of the additional service delivery costs when using an interpreter.

Rating System Review

Resolution:

That the MAV lobby the Minister for Local Government to lead discussion on an alternative means of funding Rural and Peri-urban Councils rather than the outdated property tax based system of rates.

Planning for Parking at Schools

Resolution:

The MAV advocate for planning for parking at schools, particularly Primary Schools using one or more municipalities as a trial (Casey nominating to be a trial municipality). Parking considerations should include:

- New school sites to provide an increase in the amount of on-site parking for teachers and staff
- New school sites to provide on-site parking for parents and visitors to the school (with a focus on peak school times)
- Kiss and Go areas to provide for on-site student drop-off and pick-up to reduce the peak time parking demand pressures on the local road network
- Reinstatement of State Government funding for active transport initiatives around schools such as walking school bus, walk to school month, and ride to school day

Nurse Shortages

Resolution:

The MAV advocate to the State Government to address the shortage of MCH nurses across local government and particularly in the City of Casey, City of Greater Dandenong and The Shire of Cardinia. That the advocacy considers funding of portability for nurses to move from hospitals to local government, expansion of scholarships with a focus on growth areas and the development of a workforce strategy for MCH nurses.

Fire Fuel Reduction Process for Roadside Vegetation

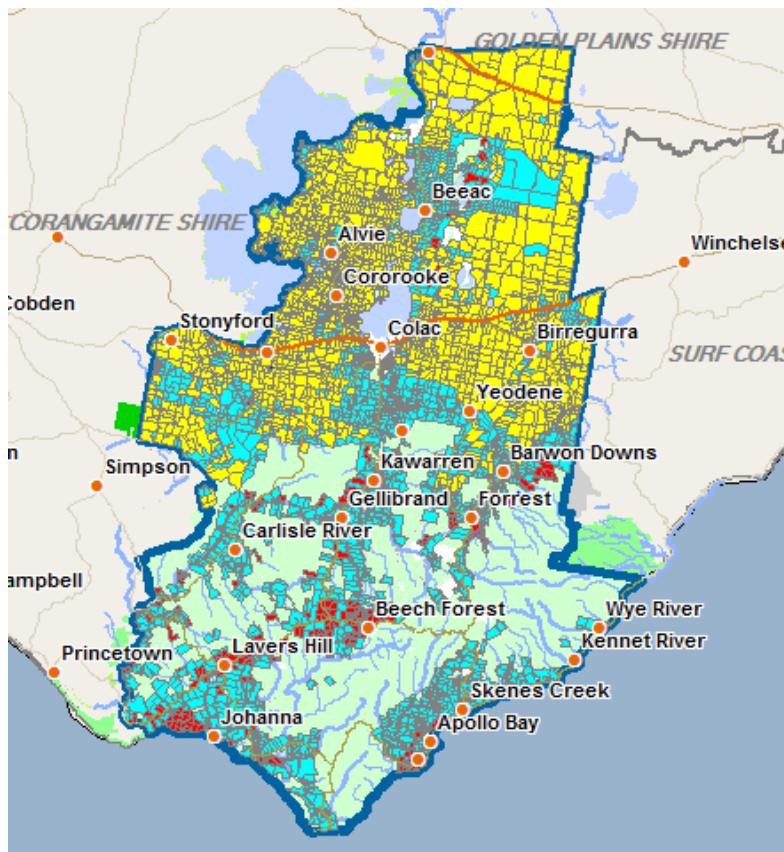
Resolution:

That the MAV advocates to the State Government requesting a reduction in the need/process for Council and/or landowners to obtain permits to reduce vegetation from local and arterial roadsides and rail-side as a fire risk reduction strategy.

ORDINARY COUNCIL MEETING
PROPOSED COUNCIL MEETING DATES
2019
 OM182811-17

LOCATION / ADDRESS	Whole of municipality	GENERAL MANAGER	Errol Lawrence
OFFICER	Sarah McKew	DIVISION	Corporate Services
TRIM FILE	F18/7487	CONFIDENTIAL	No
ATTACHMENTS	Nil		
PURPOSE	To confirm the scheduling of Ordinary Council meetings and Planning Committee meetings for 2019.		

1. LOCATION PLAN / AERIAL PHOTO



2. EXECUTIVE SUMMARY

Council holds Ordinary, Planning and Special meetings for the purpose of transacting the business of Council. Meetings are open to the public and the community is welcome to attend to observe their elected representatives' consideration of issues.

Governance Local Law 4 requires that Council fixes the date and time of meetings.

3. RECOMMENDATION

That Council:

1. *confirms the meeting dates and venues for Ordinary Council meetings for 2019 to commence at 4pm as follows:*

- | | |
|---------------------------------------|---|
| • <i>Wednesday, 30 January 2019</i> | <i>COPACC – Colac</i> |
| • <i>Wednesday, 27 February 2019</i> | <i>Apollo Bay Senior Citizens' Centre</i> |
| • <i>Wednesday, 27 March 2019</i> | <i>COPACC – Colac</i> |
| • <i>Wednesday, 24 April 2019</i> | <i>COPACC – Colac</i> |
| • <i>Wednesday, 22 May 2019</i> | <i>COPACC - Colac</i> |
| • <i>Wednesday, 26 June 2019</i> | <i>COPACC – Colac</i> |
| • <i>Wednesday, 24 July 2019</i> | <i>Birregurra Hall</i> |
| • <i>Wednesday, 28 August 2019</i> | <i>COPACC – Colac</i> |
| • <i>Wednesday, 25 September 2019</i> | <i>Apollo Bay Senior Citizens' Centre</i> |
| • <i>Wednesday, 23 October 2019</i> | <i>COPACC - Colac</i> |
| • <i>Wednesday, 27 November 2019</i> | <i>COPACC – Colac</i> |
| • <i>Wednesday, 11 December 2019</i> | <i>COPACC – Colac</i> |

2. *confirms the meeting dates and venues for the Planning Committee meetings for 2019 to commence at 4pm as follows:*

- | | |
|---------------------------------------|----------------------|
| • <i>Wednesday, 13 February 2019</i> | <i>COPACC, Colac</i> |
| • <i>Wednesday, 13 March 2019</i> | <i>COPACC, Colac</i> |
| • <i>Wednesday, 10 April 2019</i> | <i>COPACC, Colac</i> |
| • <i>Wednesday, 8 May 2019</i> | <i>COPACC, Colac</i> |
| • <i>Wednesday, 12 June 2019</i> | <i>COPACC, Colac</i> |
| • <i>Wednesday, 10 July 2019</i> | <i>COPACC, Colac</i> |
| • <i>Wednesday, 14 August 2019</i> | <i>COPACC, Colac</i> |
| • <i>Wednesday, 11 September 2019</i> | <i>COPACC, Colac</i> |
| • <i>Wednesday, 9 October 2019</i> | <i>COPACC, Colac</i> |
| • <i>Wednesday, 13 November 2019</i> | <i>COPACC, Colac</i> |

4. BACKGROUND / KEY INFORMATION

BACKGROUND

Thus far in 2018, Ordinary Council meetings have been held on the fourth Wednesday of the month at 4pm at COPACC in Colac, with the following exceptions to the location:

- March – Apollo Bay
- August – Beeac
- October – Apollo Bay.

Planning Committee meetings have been held on the second Wednesday of the month, as required, at 4pm at COPACC in Colac.

KEY INFORMATION

In the interests of community participation, the above recommendation proposes that two of the 2019 monthly Ordinary Council meetings be held in Apollo Bay, one in February and another in September, and that the July meeting be held in Birregurra.

While Ordinary Council meetings are scheduled for the fourth Wednesday of the month, exceptions have been made for:

- January 2019 to accommodate administrative considerations due to the Australia Day public holiday, therefore the following Wednesday has been scheduled;
- December 2019 to allow for Christmas and the associated public holidays, therefore the meeting has been scheduled for the second Wednesday of the month.

There has been no date proposed for a Planning Committee meeting in January or December 2019 due to the effects of public holidays; urgent Planning Committee items may be considered at the Ordinary Council meetings scheduled for those months instead.

FURTHER SUPPORTING INFORMATION

5. COMMUNITY CONSULTATION & ENGAGEMENT

In accordance with the *Local Government Act 1989*, Council is required to give at least seven days' public notice of a Council meeting or a Special meeting unless there are urgent or extraordinary circumstances that prevent a Council from doing so. The Council's consideration of meeting dates every November for the calendar year ahead provides certainty for the community about decision-making at Colac Otway Shire Council.

6. ANALYSIS

ALIGNMENT TO COUNCIL PLAN OR COUNCIL POLICY

This item aligns to Theme Four: Our Leadership & Management, of Colac Otway Shire's Council Plan 2017-2021, as it pertains to the identification of opportunities to increase engagement with the community in decision-making.

ENVIRONMENTAL IMPLICATIONS

Not applicable

SOCIAL & CULTURAL IMPLICATIONS

Council meetings which are open to the public allow community members to participate in the decision-making processes of local government.

ECONOMIC IMPLICATIONS

The proposed arrangements generally match those already in place and appropriate budget allocations have been made.

LEGAL & RISK IMPLICATIONS

There are a number of Occupational Health and Safety issues in relation to holding Council meetings at other locations and where meetings extend late into the evening. With existing safety practices in place and the close monitoring of meeting finish times, all risks can be managed.

RESOURCE IMPLICATIONS (FINANCIAL ETC)

The proposed arrangements generally match those already in place and appropriate allocations have been made. Additional costs are incurred for meetings held away from COPACC and these have been included in current budget allocations.

7. IMPLEMENTATION STRATEGY

DETAILS

The proposed schedule of Ordinary Council and Planning Committee meetings would commence in January 2019 and conclude at the end of December 2019.

COMMUNICATION

The dates, times and locations of Council meetings will be published in the local press and on Colac Otway Shire Council's website.

TIMELINE

With the meeting schedule for 2019 determined, Councillors will consider meeting dates for 2020 in November 2019.

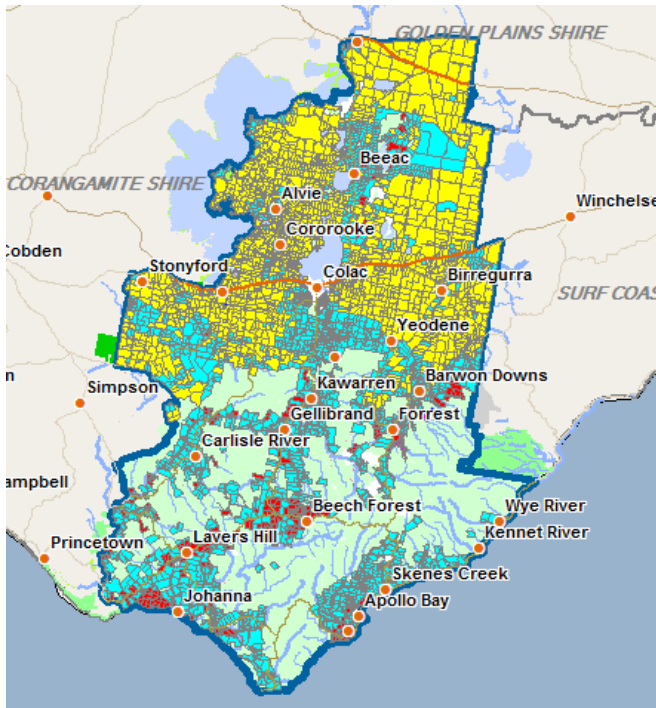
8. OFFICER DIRECT OR INDIRECT INTEREST

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

ORDINARY COUNCIL MEETING
REVIEW OF THE COUNCILLOR CODE OF CONDUCT
 OM182811-18

LOCATION / ADDRESS	Whole of municipality	GENERAL MANAGER	Errol Lawrence
OFFICER	Sarah McKew	DIVISION	Corporate Services
TRIM FILE	F18/7487	CONFIDENTIAL	No
ATTACHMENTS	<ol style="list-style-type: none"> 1. Councillor Code of Conduct - Tracked changes - November 2018 2. Councillor Code of Conduct - Clean copy of proposed changes - November 2018 3. Councillor Code of Conduct_Signed version_2 - 16 November 2018 		
PURPOSE	To review the Councillor Code of Conduct		

1. LOCATION PLAN / AERIAL PHOTO



2. EXECUTIVE SUMMARY

The Councillor Code of Conduct was developed following the local government elections in late 2016 and was adopted by Council at a Special Meeting held on 1 February 2017.

Since that time, a review of the Councillor Code of Conduct has resulted in the proposed amendments.

3. RECOMMENDATION

That Council adopt the revised Councillor Code of Conduct.

4. BACKGROUND / KEY INFORMATION

BACKGROUND

It is a requirement of section 76C of the *Local Government Act 1989* that a Council must review, and make any necessary amendments to, its Councillor Code of Conduct within 4 months of a local government election. Councillors conducted this review following the local government elections of 2016 and adopted the attached Councillor Code of Conduct at a Special Council meeting on 1 February 2017.

KEY INFORMATION

The proposed revisions to the Councillor Code of Conduct are attached in the “tracked changes” version of the document.

In summary*:

1.	In general throughout the code, repetition deemed to be unnecessary has been removed to make the Code more succinct and usable.
2.	Clause 1.9.2 COURTESY AND RESPECT has been significantly condensed.
3.	Clause 1.9.3 INTEGRITY AND HONESTY has been significantly condensed.
4.	Clause 1.9.5 ACTING LAWFULLY includes a brief explanation of the <i>Equal Opportunity Act 2010</i> which is referenced therein.
5.	Clause 1.10.1 – 1.10.4 COUNCIL BRIEFINGS, MEETINGS AND PUBLIC EVENTS have been substantially edited and replaced with a paragraph.
6.	Clause 1.11 ACCESS TO AND USE OF CORPORATE INFORMATION has been significantly condensed.
7.	Clauses 2.1 and 2.2 WORKING WITH THE CHIEF EXECUTIVE OFFICER (CEO) / WORKING WITH COUNCIL STAFF have been substantially edited and the remaining revised text combined to make one clause. A summary of points regarding courtesy and respect has been included.

8.	Clause 2.3.2 EMAILS AND TELECOMMUNICATIONS EQUIPMENT has been substantially edited. A paragraph pertaining to operational matters has been included.
9.	Clause 2.2.2 TELECOMMUNICATIONS – MOBILE PHONES (SMART PHONES) AND IPADS (TABLET DEVICES) has been substantially edited.
10.	Clause 2.3 COUNCIL REQUESTS FOR INFORMATION has been substantially edited.
11.	Clause 4 CONFLICT OF INTEREST GUIDELINES has been deleted.
12.	Clause 5 GIFTS AND HOSPITALITY has been significantly condensed.
13.	Clause 6.1.3 PHASE 3 – INTERNAL INDEPENDENT MEDIATION includes reference to the Municipal Association of Victoria, Victorian Local Governance Association and Council’s solicitors.

* References relate the proposed version watermarked “FOR ADOPTION”.

Should Councillors adopt the proposed amendments, recent legal advice confirms there is no obligation on Councillors to sign the Councillor Code of Conduct following a ‘mid-term’ review.

FURTHER SUPPORTING INFORMATION

5. COMMUNITY CONSULTATION & ENGAGEMENT

Not applicable

6. ANALYSIS

ALIGNMENT TO COUNCIL PLAN OR COUNCIL POLICY

The Councillor Code of Conduct aligns to Theme 4 of the Council Plan 2017 – 2021: Our Leadership & Management.

ENVIRONMENTAL IMPLICATIONS

Not applicable

SOCIAL & CULTURAL IMPLICATIONS

Not applicable

ECONOMIC IMPLICATIONS

Not applicable

LEGAL & RISK IMPLICATIONS

There is no obligation on Councillors to sign the Councillor Code of Conduct following a 'mid-term' review.

The obligation imposed on Councillors by section 76C(6A) of the *Local Government Act 1989* (Act) to sign the Councillor Code of Conduct applies *only* in respect of the mandatory review conducted under section 76C(2) of the Act within 4 months of a general election.

There is nothing in the Act which:

1. *requires* any further reviews of the Councillor Code of Conduct to be undertaken during the Council term;
2. *prevents* further reviews of the Councillor Code of Conduct being undertaken during the Council term – this is entirely at Council's discretion; or
3. *requires* Councillors to sign the Councillor Code of Conduct following a discretionary review undertaken during the Council term.

RESOURCE IMPLICATIONS (FINANCIAL ETC)

Not applicable

7. IMPLEMENTATION STRATEGY

DETAILS

The revised Councillor Code of Conduct will come into effect immediately following its adoption.

COMMUNICATION

The revised Councillor Code of Conduct will be available on Council's website the day following its adoption.

TIMELINE

Not applicable

8. OFFICER DIRECT OR INDIRECT INTEREST

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



Councillor Code of Conduct



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1. WORKING TOGETHER

As Councillors of the Colac Otway Shire Council, we are committed to working together in the best interests of the people within our community and to discharging our responsibilities to the best of our skill and judgement. We are strongly committed to working together constructively as a team to achieve positive and future-focused outcomes for the benefit of our community.

1.1. OUR VISION

A sustainable community with a vibrant future.

1.2. OUR MISSION

Council will work with our community and partners to provide:

- Innovative leadership, good governance and financial accountability;
- Value for money, accessible and appropriately targeted services; and
- A strong advocacy and engagement approach to achieve a truly liveable community.

1.3. OUR VALUES

Council will achieve its Vision and Mission by acting with:

- Respect
- Integrity
- Goodwill
- Honesty
- Trust

1.4. OBJECTIVES OF A COUNCIL:

The primary objective of a Council is to endeavour to achieve the best outcomes for the local community having regard to the long term and cumulative effects of decisions. In seeking to achieve its primary objective, a Council must have regard to the following facilitating objectives. These are set out in section 3C of the *Local Government Act 1989*:

- To promote the social, economic and environmental viability and sustainability of the Colac Otway Shire;
- To ensure that resources are used efficiently and effectively and services are provided in accordance with the Best Value Principles to best meet the needs of the local community;
- To improve the overall quality of life of people in the local community;
- To promote appropriate business and employment opportunities;
- To ensure that services and facilities provided by the Council are accessible and equitable;
- To ensure the equitable imposition of rates and charges;
- To ensure transparency and accountability in Council decision-making.

3.3C of the Local Government Act 1989

1.5. THE ROLE OF A COUNCIL:

The Council is elected to provide leadership for the good governance of the Colac Otway Shire. The role of the Council is more fully set out in section 3D of the *Local Government Act 1989* includes:

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- Acting as a representative government by taking into account the diverse needs of the local community in decision-making;
- Providing leadership by establishing strategic objectives and monitoring their achievement;
- Maintaining the viability of the Council by ensuring that resources are managed in a responsible and accountable manner;
- Advocating the interests of the local community to other communities and governments;
- Acting as a responsible partner in government by taking into account the needs of other communities;
- Fostering community cohesion and encouraging active participation in civic life.

S.3D of the Local Government Act 1989

1.6. FUNCTIONS OF A MAYOR:

The functions of the Mayor of a Council include:

- Providing guidance to Councillors about what is expected of a Councillor including in relation to the role of a Councillor under section 65 of the Act, and abiding by the Councillor Conduct Principles and the Councillor Code of Conduct by Councillors under sections 76B, 76BA and 76C; of the *Local Government Act 1989* and;
- Acting as the principal spokesperson for the Council; and
- Supporting good working relations between Councillors; and
- Carrying out the civic and ceremonial duties of the office of Mayor; and
- Chairing meetings of Council at which the Mayor is present; and
- Having a casting vote where necessary at meetings of the Council; and
- Taking precedence at all municipal proceedings.

Sections 73AA, 73 (2), 90 (1) (a) and 73 (1) of the Local Government Act 1989

1.7. THE ROLE OF A COUNCILLOR:

The role of a Councillor is:

- To participate in the decision-making of the Council; and
- To represent the local community in that decision-making; and
- To contribute to the strategic direction of the Council through the development and review of key strategic documents of the Council, including the Council Plan.

In performing the role of a Councillor, a Councillor must:

- Consider the diversity of interests and needs of the local community; and
- Observe principles of good governance and act with integrity; and
- Provide civic leadership in relation to the exercise of the various functions and responsibilities of the Council under the *Local Government Act 1989* and other Acts; and
- Participate in the responsible allocation of the resources of Council through the annual budget; and
- Facilitate effective communication between the Council and the community.

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The role of a Councillor does not include the performance of any functions that are specified as functions of the Chief Executive Officer under section 94A of the *Local Government Act 1989*.

S.65 of the Local Government Act 1989

1.8. COUNCILLOR CONDUCT PRINCIPLES

As Councillors we acknowledge and strongly support and endorse the following Councillor Conduct Principles as specified within the *Local Government Act 1989*:

1.8.1. PRIMARY PRINCIPLE OF COUNCILLOR CONDUCT:

It is a primary principle of Councillor Conduct that, in performing the role of a Councillor, a Councillor must:

- Act with integrity;
- Impartially exercise their responsibilities in the interests of the local community; and
- Not improperly seek to confer an advantage or disadvantage on any person.

1.8.2. GENERAL COUNCILLOR CONDUCT PRINCIPLES

In addition to acting in accordance with the principles specified above, Councillors in the performance of their roles must:

- Avoid conflicts between their public duties as a Councillor and their personal interests and obligations;
- Act honestly and avoid statements (oral or in writing) or actions that will or are likely to mislead or deceive any person;
- Treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, Council staff and other persons;
- Exercise reasonable care and diligence and submit themselves to the lawful scrutiny that is appropriate to their office;
- Endeavour to ensure that public resources are used prudently and solely in the public interest;
- Act lawfully and in accordance with the trust placed in them as an elected representative; and
- Support and promote these principles by leadership and example and act in a way that secures and preserves public confidence in the office of Councillor.

Section 76B & 76BA of the Local Government Act

1.9. ADHERENCE TO THE CODE OF CONDUCT

As Councillors we recognise that the conduct and behaviour of an individual Councillor reflects on the Council as a whole and that, as community leaders, we they should be role models, setting the standard for other people to follow.

This Code of Conduct places an obligation on all Colac Otway Shire Councillors to take responsibility for their own conduct. We They accept that it is critical that our their individual and collective conduct must be exemplary at all times to ensure that the Council functions properly.

All Councillors commit to building and maintaining a strong and respectful relationship to ensure the good governance of the Colac Otway Shire.

All Councillors commit to working collaboratively and professionally with each other, with the organisation and with the community in a manner that is always consistent with the following principles set out elsewhere in this Code of Conduct.

This Code binds Councillors irrespective of whether they have signed it or declared that they will abide by it.

1.9.1. WORKING TOGETHER

Good governance in local government is underpinned by visionary leadership, teamwork, collaborative decision-making and a shared commitment to plan, work and advocate for and achieve the best possible outcomes for the entire community. To this end each Councillor will when performing their role as a Councillor: ~~Towards this at all times;~~

- ~~All Councillors commit to working together with fellow Councillors in a manner that is respectful and professional.~~
- ~~All Councillors commit to working together with fellow Councillors to reach common goals.~~

- ~~All Councillors commit to fostering and establishing strong, respectful and professional~~ working relationships between each other to perform their duties as a Councillor in the best interests of the Colac Otway Shire community.
- ~~All Councillors commit to working~~ constructively with the Mayor, ~~aimed at and to~~ establishing and maintaining a strong, courteous and positive working relationship.
- ~~All Councillors commit to treating~~ fellow Councillors courteously and with dignity and respect and not being ~~unduly~~ critical of each other or the organisation in any public forum.
- ~~All Councillors commit to not harming or attempting to harm, maliciously or recklessly, directly or indirectly, the reputations of others (including those of fellow Councillors and Council staff).~~
- ~~All Councillors commit to raising~~ any issues of concern related to the conduct or actions of a fellow Councillor directly with the Mayor and not with any member of Council staff or via the media (including social media).
- ~~All Councillors commit to raising~~ any issues of concern related to the conduct or actions of the Mayor directly with the CEO or via the dispute resolution process and not with any other member of Council staff or via the media (including social media).

1.9.2. COURTESY AND RESPECT

~~All Each~~ Councillors ~~commit to will, when performing their role as a Councillor, treating~~ all people with courtesy and respect, recognising that there are legitimate differences in opinions, race, culture, religion, language, gender and abilities. ~~This includes: Councillors will ensure that neither offence nor embarrassment are caused even when disagreeing with the views or decisions of others.~~

- ~~All Councillors commit to recognising and acknowledging one another in any public forum.~~
- ~~All Councillors commit to always treating members of the community and fellow Councillors with dignity, courtesy and respect, and ensuring that neither offence nor embarrassment are caused even when disagreeing with their views or decisions.~~
- ~~All Councillors commit to participating in all discussions or debates in a manner which is professional, courteous and respectful irrespective of the issue and without resorting to personal acrimony or insult.~~
- ~~All Councillors commit to ensuring their punctual attendance at Council Meetings and all other meetings associated with Council.~~
- ~~All Councillors commit to being respectful of all Council staff and to not being critical of the work of Council or the organisation in any public forum.~~
- ~~All Councillors commit to acknowledging and promptly responding to all correspondence, emails, phone calls and messages from fellow Councillors.~~
- ~~All Councillors acknowledge their legislative obligations with respect to equal opportunity, intimidation, harassment, bullying and discrimination. Under no circumstances will any behaviour of this nature toward each other be tolerated.~~

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1.9.3. INTEGRITY AND HONESTY

~~Further, each Councillor will, when performing their role as a Councillor:~~

- ~~All Councillors commit to always acting with integrity and honesty;~~
- ~~All Councillors commit to being professional and honest in all dealings with the community, with fellow Councillors and with all Council employees;~~
- ~~All Councillors commit to exercising good judgement in decision-making, always acting ethically, impartially and in the long-term best interests of the community as a whole; and~~
- ~~All Councillors commit to acting in a manner that avoids damage to the Council or its ability to exercise good government;~~
- ~~All Councillors commit to exercising reasonable care and diligence in performing their functions as Councillors;~~

- All Councillors acknowledge their responsibility to complying with all relevant laws, be they Federal, State or Local Laws;
- All Councillors commit to pursuing and maintaining high standards of personal and professional conduct.

1.9.4. POSITION OF TRUST

Recognising that they hold a position of trust, Councillors will not misuse or derive undue benefit from their positions. Each Councillor will, when performing their role as a Councillor,

- All Councillors commit to avoiding conflicts of interest and ensuring compliance with the relevant provisions of the Act and this Code of Conduct relating to interests and conflicts of interest; and
- All Councillors commit to not exercising undue influence on other Councillors, Council employees or members of the public to gain or attempt to gain an advantage for themselves; and

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1.9.5. ACTING LAWFULLY

Councillors recognise that they are subject to various legislative obligations. They must fully comply with all such obligations.

Among these obligations are obligations imposed by the *Equal Opportunity Act 2010*. In general, this legislation prohibits and makes unlawful discrimination on the basis of age, breastfeeding, career status, disability/impairment, gender identity, industrial activity, lawful sexual activity, marital status, parental status, physical features, political belief, pregnancy, race, religious belief, sex, sexual preference or personal association with someone who has one of these characteristics.

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- It also prohibits sexual harassment. This is behaviour of a sexual nature that is unwelcome, unsolicited and unreciprocated. It is unlawful to sexually harass another person.

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- ALL COUNCILLORS COMMIT TO BEING RESPONSIVE IN THEIR DEALINGS WITH OTHERS INCLUDING FELLOW COUNCILLORS.

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1.10. COUNCIL BRIEFINGS, MEETINGS AND PUBLIC EVENTS

As Councillors of Colac Otway Shire, we are committed to good governance and making high quality, transparent decisions impartially and in the best interests of the whole community.

We They recognise that, as elected representatives of the community, we they have an obligation to understand the legal framework established under the provisions of the *Local Government Act 1989* and, in doing so, acknowledge that effective decision-making is vital to the democratic process and an essential component of good governance.

In recognition of this, Councillors commit to attending a minimum of 80% of all Council Meetings, Briefings and Workshops.

If a Councillor will be absent from any Meeting, Briefing or Workshop, he/she must should inform the Mayor or relevant member of Council staff as soon as possible prior to the absence, unless the absence is due to an emergency or unforeseen circumstances, in which case the Mayor or relevant member of Council staff must be informed as soon as possible following the absence.

Councillors commit to regularly attend Councillor Briefings in accordance with good governance and community expectations to enable informed and considered decision-making in the best interests of the community.

1.10.1

Briefings and Workshops are information sessions involving Councillors and Council staff and are fundamental to ensuring that all Councillors have enough information and advice to form a considered, well-informed opinion and are in the best possible position to debate the issues effectively and determine a position at a Council meeting. Briefings are not open to the public.

Towards this, all Councillors acknowledge the importance and value of Briefings and Workshops for Councillors as a forum to collect information, consider strategic matters, raise issues, participate and provide input to policy preparation.

Except where prior notification has been given to the Mayor in accordance with paragraph 1.10 of the Code and noted in the Assembly of Councillors document, Councillors must attend a minimum of 80% of all Briefings and Workshops.

1.10.2 COUNCIL MEETINGS, SPECIAL COMMITTEE MEETINGS AND ADVISORY COMMITTEE MEETINGS

Local Law 4 regulates the proceedings at Council Meetings, Special Committee Meetings, Advisory Committee Meetings and other meetings conducted by the Council. Local Law 4 provides a mechanism for good governance of the Council through its meeting procedure to ensure effective and efficient decision-making by Council.

All Councillors must adhere to the requirements of Local Law 4 at all times.

Except where prior notification has been given to the Mayor in accordance with paragraph 1.10 of the Code and noted in the minutes of the relevant Meeting, Councillors must attend a minimum of 80% of each of the following scheduled meetings:

- Ordinary Council Meetings; and
- Planning Meetings; and
- Special Council Meetings.

Note: Council's approval of a leave of absence, as contemplated by s.69 (1) (g) of the *Local Government Act*, will be required if a Councillor will be absent from 4 or more consecutive Ordinary Council Meetings and the meetings from which the Councillor is absent will not be counted as 'missed' Council Meetings for the purposes of their 80% attendance rate. If Council's approval is not obtained in these circumstances, the office of the Councillor becomes vacant.

1.10.4 GENERAL

All in this context, each Councillor/s commit to:

- Attending and participating in Community Conversations and other events and engagements scheduled by the Mayor or Office of the Chief Executive Officer.
- Actively and openly participating in the decision-making process, and being informed so as to achieve the best outcome for the community.
- Respecting the views of the individual in debate on issues. However, Councillors also accept that decisions are based on a majority vote.
- Accepting that no Councillor can direct another Councillor on how to vote on any decision.
- Accepting that decisions of Council can only be made at a formally constituted Council meeting and that individual Councillors do not have decision-making power.
- Accepting to making decisions based on adopted Council policies.
- Accepting and respecting that the functions and role of the Chief Executive Officer are defined by the *Local Government Act 1989* and that the CEO's accountability is solely to the Council as a whole.
- Supporting and fostering a healthy working relationship between the Mayor and the Chief Executive Officer and assisting where appropriate in facilitating the relationship.
- Preparing for all scheduled meetings, Briefings and Workshops by reading all papers which are distributed in advance to ensure a thorough understanding of the topics to be discussed.
- Promoting collaboration between the organisation and Councillors at Workshops and Briefings to promote good governance and strategic thinking.

- ~~Acknowledging~~ that Workshops and Briefings are not forums for debate or for Councillors to take a collective position on an issue;
- ~~Being respectful of all Council staff and to not being critical of the work of Council or the organisation at all Council workshops or briefing style forums, Council Meetings including Special Committee Meetings, Advisory Committee Meetings and other meetings conducted by the Council where provided.~~
- ~~Accepting that decisions of the Council are binding on the whole Council.~~
- ~~will Accepting~~ and respecting the decision made by the majority of Councillors through the democratic process, without compromising the ~~his or her~~ rights of individual Councillors to maintain their opposition to a Council decision;
- ~~Being respectful of the CEO and not being critical of the work of the Council or the CEO in any public forum.~~
- ~~Exhibiting exemplary conduct at all times during any Council Meetings including Special Committee Meetings, Advisory Committee Meetings and other meetings conducted by the Council.~~
- ~~Promoting collaboration between the organisation and Councillors at all Council Workshops or Briefing style forums, Council Meetings including Special Committee Meetings, Advisory Committee meetings and other meetings conducted by the Council.~~
- ~~Recognising and acknowledging one another at all Council workshops or briefing style forums, Council Meetings including, Special Committee Meetings, Advisory Committee meetings and other meetings conducted by the Council.~~
- ~~Treating their fellow Councillors with dignity, courtesy and respect at all times, and ensuring that neither offence nor embarrassment are caused even when disagreeing with their views or decisions at all Council Workshops or Briefing style forums, and Council Meetings including Special Committee Meetings, Advisory Committee Meetings and other meetings conducted by the Council.~~
- ~~Participating in any discussions or debate in a manner which is at all times professional, courteous and respectful irrespective of the issue and without resorting to personal acrimony or insult.~~
- ~~will Fully participat~~ing in all meetings, briefings and forums by listening while others are speaking, avoiding interrupting, and using reasonable, polite and temperate language in debates (irrespective of the issue); ~~and refraining from texting, emailing, tweeting or engaging on social media during Council Meetings including Special Committee Meetings, Advisory Committee Meetings and other meetings conducted by the Council.~~
- ~~will S~~howing respect and observing all rulings of the ~~e~~Chairperson without comment; ~~and~~.
- ~~will N~~ot making assertions of improper motives or personal reflections on Councillors, ~~employees of Council staff or~~ and members of the public.

- ~~All Councillors acknowledge their legislative obligations with respect to equal opportunity, intimidation, harassment, bullying and discrimination. Under no circumstances will any behaviour of this nature will be tolerated.~~

~~Whilst we understand that it is acceptable for an individual Councillor to publicly state that they did or did not vote in favour of any Council decision, we commit to ensuring that this is done in a manner which is respectful of the Council's decision.~~

~~We commit to respecting the role and precedence of the Mayor, Deputy Mayor or appointed representative of the Mayor at all times including in all Council proceedings. Towards this, Councillors will at all times accept that when a Councillor is appointed by the Council as a member of an external committee that Councillor will:~~

- ~~represent the views of the Council where they are known;~~
- ~~not forecast or pre-empt the views of Council;~~
- ~~report to Council on any major issues or decisions of a Committee.~~

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1.11. ACCESS TO AND USE OF CORPORATE INFORMATION

~~Each Councillors are to must~~ treat all Council information ~~appropriately~~ in accordance with their obligations under the ~~Local Government Act 1989~~. ~~All Councillors commit to:~~

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- Not using information gained by virtue of being a Councillor for any purpose than to exercise their role as a Councillor.
- Respecting and accepting the Council's process and protocols in relation to public comments and communications with the media.
- Recognising the requirements of the *Privacy and Data Protection Act 2014* regarding the access, use and release of personal information.
 - Councillors do not have unrestricted access to personal information held by Council, nor do they have an unfettered right to use and disclose such information.
 - In particular, personal information held by Council must not be used for a Councillor's own personal or business purposes, outside of his or her functions as a Councillor.
 - If Councillors do use personal information in breach of the Information Privacy Principles, they may be individually liable and their actions may mean that Council is also liable.
 - When Councillors collect personal information for Council business, it is important to note that not only is this information subject to the *Privacy and Data Protection Act*, it is also subject to other legislation such as the *Public Records Act* and *Freedom of Information Act*.

All Councillors recognise that, at times, information provided to Councillors will be of a confidential nature and therefore it is essential that the confidentiality of such information be strictly maintained.

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Each Councillors acknowledge that they will comply with their obligations under section 77 of the Act in relation to confidential information and recognise that this obligation extends to ensuring the safekeeping of confidential information. Breaches of section 77(1) carry with it a penalty of up to 120 penalty units.

1.12. USE OF COUNCIL RESOURCES – INCLUDING FUNDS/PROPERTY

All Councillors must ensure that they exercise appropriate prudence in the use of Council resources to ensure they are utilised in an effective and economical manner. This includes: Each Councillor will, when performing their role as a Councillor:

- Maintaining appropriate separation between their personal property and Council property in the care of the Council;
- Not using Council resources, including employees, equipment and intellectual property, for electoral or other personal purposes;
- Ensuring that Council resources are always used effectively and economically and for the purposes for which they are provided;
- Ensuring that Council resources are not used in a way that creates an impression of Council endorsement; and
- Ensuring that claims for out-of-pocket expenses are accurate and relate strictly to Council business.

Councillors acknowledge their obligation to report on their use of all Council funds and property. Councillors are committed to implementing a transparent, thorough and regular system of reporting on their use of Council funds and property during the course of performing their duties.

Councillors will not use public funds or resources in a manner that is improper or unauthorised.

2. WORKING WITH THE ORGANISATION

Governance is the framework of structures, rules and processes by which an organisation is directed and controlled. It is also the way in which organisational objectives are set, decisions are made, powers granted, performances verified and accountability ensured.

Good governance requires strong vision, strategy, leadership, clear and timely decision-making processes and appropriate checks and balances.

A healthy, constructive and respectful relationship with the organisation provides Councillors with the ability to make high-quality decisions and provide good governance of the Colac Otway Shire.

Councillors will support a collective commitment to the organisation with a strong, open and professional partnership relationship between the Council and the Council organisation to assist in achieving Council's strategic objectives.

2.1. WORKING WITH THE CHIEF EXECUTIVE OFFICER (CEO) ~~AND ALL OTHER COUNCIL STAFF~~

It is critical that all Councillors commit to building and maintaining a positive, strong and respectful relationship with the CEO ~~and all Council staff~~ to ensure the good governance of the Colac Otway Shire. ~~by~~

2.1.1. ~~WORKING TOGETHER~~

- All Councillors commit to demonstrating a public commitment to supporting the CEO and ~~to~~ maintaining a professional relationship at all times. ~~They also commit to providing constructive input in the setting of the key performance indicators of the CEO.~~

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- ~~All Councillors commit to supporting the CEO in representing the Shire and the community at all times.~~
- ~~All Councillors commit to working collaboratively with the CEO to reach common goals in a manner that is respectful and professional at all times.~~
- ~~All Councillors commit to fostering and establishing a strong, positive and constructive working relationship with the CEO so that they can perform their duties in the best interests of the Colac Otway Shire community.~~
- ~~All Councillors commit to treating the CEO courteously and with dignity and respect and not being publicly critical of the CEO or the organisation.~~
- ~~All Councillors commit to not harming or attempting to harm, maliciously or recklessly, directly or indirectly, the reputation of the CEO.~~
- ~~All Councillors commit to raising any issues of concern related to the conduct or actions of the CEO directly with the Mayor and not with any member of Council staff or via the media (including social media).~~

2.1.2. ~~COURTESY AND RESPECT~~

- ~~All Councillors commit to acknowledging and responding to all invitations from the CEO or the CEO's office promptly.~~
- ~~All Councillors commit to recognising and acknowledging the CEO in any public forum.~~
- ~~All Councillors commit to attending all meetings scheduled by the CEO or the CEO's office or promptly make alternative arrangements to ensure all information is received and matters are discussed in a timely manner.~~
- ~~All Councillors commit to acknowledging and responding to all correspondence, emails, phone calls and messages from the CEO or the CEO's office promptly.~~
- ~~All Councillors commit to providing constructive input in the setting of the key performance indicators of the CEO.~~
- Except where the Councillor has provided a notification of absence, all Councillors commit to attending and participating in the CEO annual review process and to providing considered and productive feedback. Further, each Councillor will:
 - ~~All Councillors commit to not make imputations of improper motives or personal reflections on the CEO.~~

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- All Councillors acknowledge their legislative obligations with respect to equal opportunity, intimidation, harassment, bullying and discrimination.
- All Councillors commit to participating in all discussions with the CEO in a manner which is professional, courteous and respectful irrespective of the issue and without resorting to personal acrimony or insult. Under no circumstances will any behaviour of this nature toward the CEO be tolerated.

2.1.3—COMMITMENT TO SERVICE

- All Councillors commit to promptly passing on all correspondence, enquiries, requests for information or service, complaints and acknowledgements provided to a Councillor to the email address governance@colacotway.vic.gov.au so these can be acknowledged and actioned by the organisation in a timely manner.
- All Councillors commit to making every effort to resolve concerns, complaints or grievances concerning the organisation in good faith through reasonable direct communication and negotiation.
- All Councillors commit to providing feedback and raising any issues of concern directly with the Chief Executive Officer-CEO and not with any member of staff or via the media (including social media). Issues of concern may include but are not restricted to:
 - Conduct or actions of Council staff;
 - Reports and publications prepared by the Council organisation;
 - Service delivery standards; and
 - Strategy or direction of the Council organisation.

- Councillors commit to behaving courteously and respectfully in their dealings with Council staff, protecting their professional integrity and ensuring that neither offence nor embarrassment is caused when considering advice or recommendations. They will acknowledge and address staff appropriately at all Council meetings and events. Councillors will not be publicly critical of the organisation.

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2.2. WORKING WITH COUNCIL STAFF

At all times Councillors will respect the role of the Council's officers and employees and treat them in a way that engenders mutual respect at all times.

Councillors acknowledge that:

- Councillors will not try to influence or direct council staff.
- Council staff are accountable to the whole Council through the CEO management structure and not to individual Councillors.

The requirements of section 76E of *Local Government Act 1989* require that a Councillor must not seek to improperly direct or influence members of Council staff in the exercise of their duties.

- Unlawful direction is trying to direct an officer when providing advice to Council acting under delegation or acting as an authorised officer. Breaches of section 76E carry with it a penalty of up to 120 penalty units.

The Councillor role is one of advocacy and leadership rather than management and administration. The CEO is responsible for all staff matters.

In order to ensure Councillors receive high quality, consistent advice, an organisational process which involves approval by a General Manager or the CEO will occur.

Communicating with the Chief Executive Officer, or General Managers, to ensure that dissemination of information occurs on a joint collaborative basis and such will enable the formulation of appropriate actions.

All Councillors commit to:

- ~~Accepting forthright professional advice from qualified staff by protecting the professional integrity of the staff member when providing information in support of the decision-making process of Council.~~
- ~~Fostering a respectful relationship between Councillors and officers in relation to their roles, functions and responsibilities.~~
- ~~Recognising and acknowledging Council staff at all Council events, meetings and functions.~~
- ~~Treating all Council staff with dignity, courtesy and respect, and ensuring that neither offence nor embarrassment are caused even when disagreeing with their views, advice or recommendations.~~
- ~~Participating in any discussions with Council staff in a manner which is professional, courteous and respectful irrespective of the issue and without resorting to personal acrimony or insult.~~
- ~~Being respectful of all Council staff and to not being publicly critical of the organisation.~~
- ~~Not harming or attempting to harm, maliciously or recklessly, directly or indirectly, the professional reputation of Council staff or others.~~
- ~~Using the appropriate mode of address to employees of Council.~~
- ~~Not to making assertions of improper motives or personal reflections on employees of Council.~~
- ~~Acting with courtesy towards Council employees and avoiding behaviour that is intimidating and being aware of legislative obligations with respect to equal opportunity, harassment and discrimination. Under no circumstances will any behaviour of this nature toward Council staff be tolerated.~~

~~In general the legislation prohibits and makes unlawful discrimination on the basis of age, breastfeeding, career status, disability/impairment, gender identity, industrial activity, lawful sexual activity, marital status, parental status, physical features, political belief, pregnancy, race, religious belief, sex, sexual preference or personal association with someone who has one of these characteristics.~~

- ~~Sexual harassment is behaviour of a sexual nature that is unwelcome, unsolicited and unreciprocated. It is unlawful to sexually harass another person.~~
- ~~Workplace bullying is repeated, unreasonable behaviour directed toward an employee, or group of employees, that creates a risk to health and safety. This is consistent with the definition of bullying used in the Fair Work Act 2009 (Commonwealth) and by WorkSafe Victoria.~~
- ~~Bullying is prohibited.~~
- ~~Bullying is also a form of 'serious misconduct' which is a potential trigger for Councillor Conduct Panel.~~

~~Councillors will refrain from using their position to improperly influence employees in their duties, or to gain an advantage for themselves or others.~~

~~Any alleged transgression of this may potentially be a breach of section 76E of the Act.~~

~~2.3-2.2. EMAILS AND TELECOMMUNICATIONS EQUIPMENT~~

~~2.3-1-2.2.1. EMAILS AND CALENDARS~~

~~Immediately after being elected, all Councillors are issued with a Colac Otway Shire email address (email inbox and calendar), to conduct any and all functions and duties as a Councillor.~~

~~Without exception, all Councillors will only use the official email address provided to them by the Shire when conducting their duties as a Councillor. This allows all communication to be documented and stored on the Council electronic document management system should it be required for future use.~~

~~Correspondence pertaining to operational matters should be forwarded to governance@colacotway.vic.gov.au at the earliest possible time to allow prompt action by staff.~~

~~The official email address will be the sole email address used by Councillors for all communications to and from other Councillors and Council staff, including the CEO, General Managers and officers. However, Councillors can forward~~

correspondence, enquiries, requests for information or service, complaints and acknowledgements to the Governance email address from their private email address if required.

The official email address will be the sole email address used by Councillors for all communications relating to any aspect of Council functions when providing information externally.

Any correspondence received from an external source relating to any aspect of the functions, responsibilities or actions of the Shire or the Council will immediately be forwarded to the governance@colacotway.vic.gov.au email address.

Any information that has been sent to the official email address of a Councillor by the organisation or another Councillor is deemed to have been received.

Councillors recognise and acknowledge that it is their responsibility and obligation to ensure that their email is working correctly by activating requests for corrective action by the organisation if an issue arises and in doing so, will inform Council staff promptly and in a respectful and timely manner if they are experiencing any issues with regard to their email address, email inbox or calendar.

~~2.3.2.2.2.~~ TELECOMMUNICATIONS – MOBILE PHONES (SMART PHONES) AND IPADS (TABLET DEVICES)

Immediately after being elected, all Councillors are issued with a Colac Otway Shire mobile phone (smartphone) and iPad (tablet device).

~~Without exception~~Unless it is impracticable to do so, all a Councillors will only use the official Council mobile phone number and iPad (tablet device) provided to them by the Shire when conducting their duties as a Councillor.

~~Councillors may either use the mobile phone (smartphone) provided or divert the official Council mobile phone number to an alternative device.~~

The official mobile phone number will be the sole mobile phone number used by Councillors for all communications to and from other Councillors and the Colac Otway Shire staff, including the CEO, General Managers and officers.

The official mobile phone number will be the sole mobile phone number used by Councillors for all communications relating to any aspect of Council duties or functions including providing information externally.

Any information that has been sent to a Councillor by the organisation or another Councillor to the mobile phone (smartphone), mobile phone number or iPad (tablet device) is deemed to have been received.

Councillors recognise and acknowledge that it is their responsibility and obligation to ensure that their mobile phone (smartphone), mobile phone number and iPad (tablet device) are working correctly by activating requests for corrective action by the organisation if an issue arises and in doing so, will inform Council staff promptly and in a respectful and timely manner if they are experiencing any issues with regard to their devices including their mobile phone (smartphone), mobile phone number or iPad (tablet device).

~~2.4.2.3.~~ COUNCILLOR REQUESTS FOR INFORMATION

All Councillors commit to promptly recording and submitting all correspondence received which relates to the function/role of eCouncil, as well as any requests received for service, information, comments or enquiries, to the Governance email address governance@colacotway.vic.gov.au for action to be taken as appropriate. ~~It is recognised by the organisation that Councillors require information in order to undertake their role.~~

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Councillors acknowledge that all requests made by Councillors for briefings from Council officers, access to information on Council files or clarification/explanation of items on a forthcoming Council agenda, should be registered and reported.

Towards this, these types of requests are to be sent to governance@colacotway.vic.gov.au to be actioned by the organisation as soon as possible.

The organisation must take into account a range of factors in considering the information request:

- The Privacy and Data Protection Act principles, including the responsibility of the organisation to remove identifying personal information.
- If the information relates to a new issue, an issue currently before Council or a matter already dealt with by Council.
- If the information should be provided to the requesting Councillor only or to all Councillors.

In general, most requests for information will be made at Councillor Workshops, Briefing sessions or Committees where Councillors and officers as a group can properly understand the nature of the request, any implications, resource issues and timelines. In responding to information requests outside these forums the following principles will apply:

- Requests for information should be made to the organisation at the email address governance@colacotway.vic.gov.au.
- Requests that are able to be carried out without impacting on existing priorities, workload or resources will be undertaken promptly.
- Requests for information relating to an issue currently before Council should be treated with priority so that Councillors have the information they need to make informed decisions at Council Meetings.
- Where the information is very specific (such as a constituent-specific issue), it will be provided only to the requesting Councillor.
- Where the information is more general such as relating to an issue currently before Council, the information will be provided to all Councillors.
- If the information cannot be provided without significantly impacting on existing priorities, workload or resources, or if the information request relates to information about an issue which has already been dealt with by Council, the information request can be put to Council for a decision.
- If the requesting Councillor wishes, an officer report may be tabled to Council outlining the request, the impact and context of the request to enable Council to make an informed decision as to whether the information request should be implemented by the organisation.
- If the information cannot be provided within a few days or cannot be provided without agreement of Council, the requesting Councillor will be contacted and advised of the likely timeline and/or process for providing the information.

3. COMMUNICATIONS INCLUDING MEDIA AND SOCIAL MEDIA

At all times messages communicated through the media (including social media) must be clear and consistent, and accurately and fairly portray the Council position.

The Mayor will provide official comment to the media on behalf of Council where the matter is of a political, controversial or sensitive nature. This includes:

- State-wide political issues affecting Local Government;
- contentious local issues that impact the community that do not relate directly to the business of Council but to the representation of the community;
- issues pertaining to policy and Council decisions; and
- issues relating to the strategic direction of the Council.

Where there has been a prior discussion with and approval by the Mayor, a Councillor may, on Council's behalf and as Council's spokesperson, make comment to the media or on social media on aspects of Council's activities. Every effort will be made to inform all Councillors if this occurs.

This does not restrict Councillors from sharing authorised media releases, newsletters and official publications or event information and updates.

Councillors acknowledge and recognise that as a public official any individual public comment is likely to be interpreted as representing the views and position of Colac-Otway Shire Council.

Councillors also acknowledge the potential risks and damage to Council that can occur, either directly or indirectly, from personal use of social media.

Each Councillor is personally responsible for content published in a personal capacity on any form of social media platform.

Towards this Accordingly, all each Councillors commit to will, when using social media in connection with their role as a Councillor:

- keeping comments polite and professional;
- ensuring that content is accurate, is not misleading and complies with relevant policies;
- ensuring that comments are respectful of the community and any other potential reader;
- not making personal comments about other elected members, staff and members of the community;
- adhering to Council's policies and codes;
- adhering to copyright, privacy, defamation, contempt of court, discrimination, harassment and other applicable laws;
- and
- observing the rules governing confidentiality;
- maintaining a positive tone.

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Whilst we it is understood that it is acceptable for an individual Councillor to publicly state that they did or did not vote in favour of any Council decision and the reasons, we commit to ensuring each Councillor agrees that this is to be done in a manner which is respectful of the Council's decision. Therefore each Councillor will as Councillors, we commit to:

- Ensuring we that they do not undermine the authority or public perception and standing of the Colac Otway Shire Council or any other Councillor;
- Avoiding public criticism of the decision of Council;
- Actively supporting the implementation of the decision of Council.

The CEO is the official spokesperson for all operational matters pertaining to the Colac Otway Shire as an organisation including:

- staffing and structure of the organisation; and
- legal or operational matters.

Councillors acknowledge and recognise that as a public official, they will not make any comments that are deemed inappropriate about or directed to Council, its management, other employees or people linked to Council that may be derogatory, threatening or bullying.

The CEO may nominate another Council officer as spokesperson, if appropriate.

4. CONFLICT OF INTEREST GUIDELINES

The Council is committed to making all decisions impartially and in the best interests of the whole community. It therefore recognises the importance of fully observing the requirements of the Act in regard to the disclosure of conflicts of interest.

For the purpose of this Code, "direct interest", "indirect interest" and "conflicts of interest" have the meanings specified in the Act. Councillors will comply with all the provisions of the Act in regard to Conflicts of Interest.

If the Councillor considers that they have a direct or indirect interest in a matter before the Council, a Special Committee of Council or an Assembly of Councillors, they have a conflict of interest.

If a Councillor has a conflict of interest in a matter, they will comply with the requirements of the Act and must:

- Disclose the conflict of interest immediately before the matter is considered;
- Notify the Mayor/Chair that they are leaving the meeting; and
- Leave the room and any area where they can see or hear the meeting until the matter has been concluded.

If a Councillor has a personal interest in a matter to be considered by the Council that is not a direct or indirect conflict of interest, and the Councillor considers that their personal interest may be in conflict with their public duty to act impartially and in the interest of the whole community, the Councillor will declare a conflicting personal interest under Section 798 of the Act immediately before the matter is considered at the relevant meeting and request of Council that they be exempted from voting on the matter.

When making a request to Council to be exempted, a Councillor must provide reasons to support such request and Council must not unreasonably withhold consent. If Council consents to the application, then provisions of the Act as per all conflicts of interest apply. In addition to the requirements of the Act:

- Councillors will give early consideration to each matter to be considered by the Council, Special Committee of which the Councillor is a member, or Assembly of Councillors, to ascertain if they have a conflict of interest.
- Councillors recognise that the legal onus to determine whether a conflict of interest exists rests entirely with the individual Councillor.
- Assistance from Council officers is limited to aiding understanding of the provisions of the Act. Officers cannot offer any formal advice in relation to a potential conflict.
- If a Councillor cannot with certainty say that he or she does not have a conflict of interest, the Councillor should declare a conflict of interest and comply with the relevant requirements as if they had a conflict of interest.
- Concerns about the result of a Council decision should not influence the Councillor's decision about whether to disclose a conflict of interest. The Councillor's responsibility to disclose a conflict of interest overrides any other obligation a Councillor has as a decision maker.
- If the Councillor considers that they may be unable to vote on a matter because of a conflict of interest, they will notify, as soon as possible, the Mayor or the Committee Chair, depending on whether the matter is to be considered by the Council, a Special Committee, or an Assembly of Councillors, as well as the Chief Executive Officer.

GIFTS AND HOSPITALITY

The *Local Government Act 1989* and the Victorian Ombudsman recommendations provide a framework for the [matter-receipt and treatment](#) of gifts and benefits. A great deal of focus has been placed upon the local government sector regarding gifts and benefits, and also conflicts of interest that may potentially be created [as a result](#).

An applicable gift is defined by legislation as one or more gifts with a total value of \$500 or over received in the past 5 years by i) a person; or ii) an employee, General Manager, contractor or agent of a company or body, having a direct interest in a matter. It is illegal for a Councillor to accept an anonymous gift valued at \$500 or more.

Extreme care and caution is to be exercised by Councillors on the matter of gifts and hospitality. Public perception is a key to if a conflict exists, or if a Councillor has compromised them in any manner.

As a rule of thumb, Councillors should use caution and not accept gifts [or offers of hospitality](#) either in their roles as Councillors or where it could be perceived to influence the Councillor. Exceptions to this are:

- Where the gift would generally be regarded as only having a token value and could not be perceived to influence the Councillor's actions; and

- Where refusal of the gift may cause offence or embarrassment.
 - In which case the gift may be accepted on behalf of ~~the~~ Council and becomes the property of ~~the~~ Council.
 - Such gift is to be declared to the ~~Chief Executive Officer~~ CEO who will make immediate arrangements to have the details of the gift recorded in a register maintained by the Governance Advisor.
 - Advice will be tendered to the provider of the gift that the Councillor was unable to accept it on a personal basis and it is now the property of Council.

~~Hospitality—reasonable hospitality provided at a function or event that a Councillor attends in an official capacity as Mayor or Councillor is not counted as an applicable gift for defining conflicts of interest.~~

~~It is important that Councillors are familiar with these governance principles. Being a Councillor involves engendering public trust and public confidence. This means that duties must be carried out impartially and with integrity. Consequently, it is not appropriate for Councillors to be offered, and to accept, gifts and benefits that affect, may be likely to affect, or could reasonably be perceived to affect, the performance of their official duties.~~

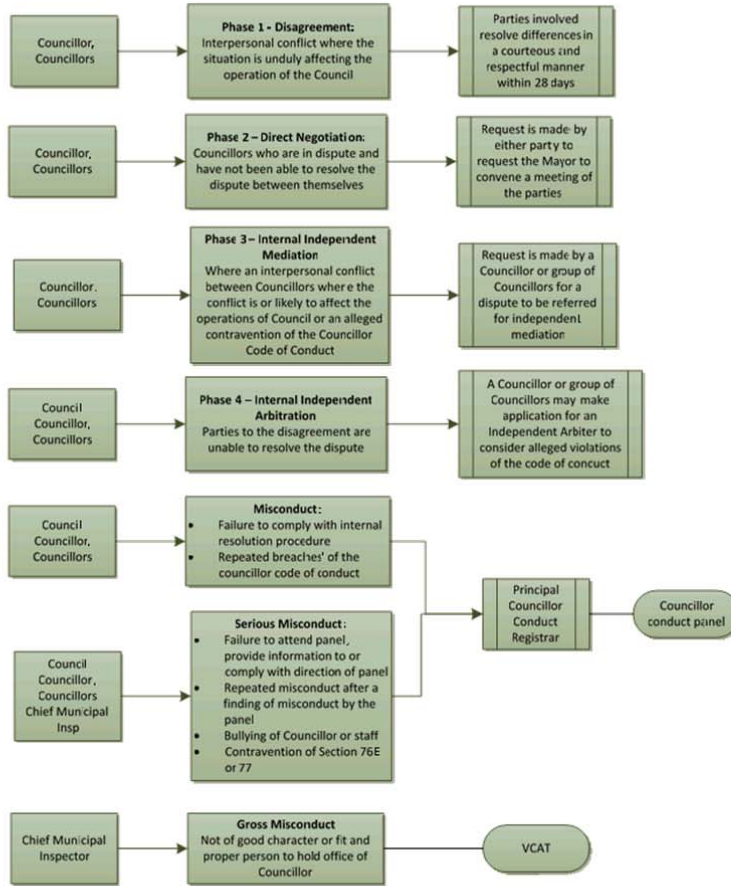
~~Councillors must at all times be mindful of their obligation to maintain and enhance public confidence in the integrity of Council.~~

~~Councillors must not seek or encourage the giving of any form of gift or benefit in connection with the performance of official duties.~~

~~Any gift or benefit accepted may imply a relationship that could interfere with objectivity and independence.~~

~~Councillors may decline offers of gifts or benefits courteously by explaining that acceptance would be viewed as contravening this code of conduct and consequently they have little to no discretion in the matter.~~

DISPUTE RESOLUTION PROCEDURES



6.1 OVERVIEW

Before commencing any formal dispute resolution process, the Councillors who are parties to a dispute are expected to use their best endeavours to resolve the matter in a courteous and respectful manner between themselves. Where, after these endeavours have been exhausted and the matter still remains unresolved, the parties may resort to any or all of the FOUR PHASE dispute resolution process.

The Council's FOUR PHASE dispute resolution process involves:

1. Disagreement where Councillors who are parties to the disagreement will endeavour to resolve their differences in a courteous and respectful manner;
2. Direct negotiation between the parties in dispute with the Mayor in attendance to provide guidance;
3. An internal independent mediation resolution procedure led by someone appointed by the Chief Executive Officer (not necessarily external);
4. An internal independent arbitration resolution procedure.

6.1.1 PHASE 1 – DISAGREEMENT

Before commencing any formal dispute resolution process, the Councillors who are parties to any disagreement will endeavour to resolve their differences in a courteous and respectful manner, recognising that they have been elected to represent the best interests of the community. Councillors may seek assistance in resolving their differences.

This process is to be private and confidential.

6.1.2 PHASE 2 – DIRECT NEGOTIATION

There are several steps in phase two.

Where Councillors who are in dispute have not been able to resolve the dispute between themselves, either (or both) party (parties) may request the Mayor to convene a meeting of the parties.

A dispute referred for direct negotiation may relate to:

- an interpersonal conflict between Councillors where the conflict is or is likely to affect the operations of the Council; or
- An alleged contravention of the Councillor Code of Conduct.

The party requesting the direct negotiation meeting is to provide the Mayor with the name of the other Councillor and the details of the dispute in writing. The written request is to indicate that it is for a "direct negotiation" dispute resolution process. Where the request relates to an alleged contravention of the Councillor Code of Conduct, the request must:

- specify the name of the Councillor alleged to have contravened the Code;
- specify the provision(s) of the Code that is alleged to have been contravened including when and where;
- include evidence in support of the allegation;
- name the Councillor appointed to be their representative where the request is made by a group of Councillors; and
- be signed and dated by the requestor or the requestor's representative.

The requestor must notify the other party of the request and provide him or her with a copy of the written request either at the same time as it is provided to the Mayor or as soon as practicable thereafter.

The Mayor is to ascertain whether or not the other party is prepared to attend a "direct negotiation" meeting.

If the other party is not prepared to attend a meeting, the Mayor is to advise the requestor forthwith. No further action is required of the Mayor.

If the other party declines to participate in a meeting, this does not constitute a contravention of this Councillor Code of Conduct.

If the other party consents to a meeting, the Mayor is to convene a meeting of the parties at the earliest available opportunity. Unless one or both parties are unavailable, this should be within 5 working days of receiving the consent of the other party.

The Mayor may present the parties with guidelines, in advance of the meeting or at the meeting, to help facilitate the meeting.

The role of the Mayor at the meeting is to provide guidance to Councillors about what is expected of a Councillor including in relation to the role of a Councillor under section 65 of the Act, and the observation of the Councillor Conduct Principles and the Councillor Code of Conduct.

The Mayor is to document any agreement reached at the meeting. Copies of the agreement are to be provided to both parties. Where one party does not comply with the agreement, the other party has recourse to internal Independent Mediation or the Internal Independent Arbitration procedure where the matter relates to an alleged contravention of the Councillor Code of Conduct.

If the parties cannot resolve the dispute at the meeting, a further meeting may be convened with the consent of both parties. Where the dispute remains unresolved, either or both of the parties have recourse to Internal independent Mediation or the Internal Independent Arbitration procedure where the matter relates to an alleged contravention of the Councillor Code of Conduct.

Where the Mayor is a party to the dispute, the request is to be made to the Deputy Mayor (if any) or the immediate past Mayor. The Deputy Mayor or the immediate past Mayor will perform the functions ascribed to the Mayor.

During this phase the Mayor may seek assistance from the CEO, Principal Conduct Officer or other relevant person as deemed necessary.

This process is to be private and confidential.

6.1.3 PHASE 3 – INTERNAL INDEPENDENT MEDIATION

A Councillor or a group of Councillors may make an application for a dispute to be referred for Independent Mediation whether or not the dispute has been the subject of an application for "direct negotiation".

An application made for a dispute to be referred for Independent Mediation may relate to:

- an interpersonal conflict between Councillors where the conflict is or is likely to affect the operations of the Council; or

- an alleged contravention of the Councillor Code of Conduct.

The applicant is to submit a written application to the Principal Conduct Officer setting out the name of the Councillor and the details of the dispute. The application is to indicate that the application is for an "Independent Mediation". Where the application relates to an alleged contravention of the Councillor Code of Conduct, the application must:

- specify the name of the Councillor alleged to have contravened the Code;
- specify the provision(s) of the Code that is alleged to have been contravened;
- include evidence in support of the allegation;
- name the Councillor appointed to be their representative where the application is made by a group of Councillors; and
- be signed and dated by the applicant or the applicant's representative.

The applicant is to notify the other party of the request and provide him or her with a copy of the application either at the same time that it is submitted to the Principal Conduct Officer or as soon as practical thereafter.

The Principal Conduct Officer is to ascertain (in writing) whether or not the other party is prepared to attend an "Independent Mediation". If the other party declines to participate in an Independent Mediation, he or she is to provide their reasons for doing so in writing to the Principal Conduct Officer. These reasons may be taken into account if the matter is, subsequently, the subject of an application for a Councillor Conduct Panel.

When the other party declines to participate in an independent mediation, this does not constitute a contravention of this Councillor Code of Conduct.

If the other party agrees to participate in an Independent Mediation, the Principal Conduct Officer is to advise the applicant, the Mayor and Chief Executive Officer forthwith.

The Chief Executive Officer (or delegate) is to engage the services of an independent mediator to conduct the mediation at the earliest practicable opportunity.

The mediator is to document any agreement reached at the meeting. Copies of the agreement are to be provided to both parties. Where one party does not comply with the agreement, the other party has recourse to the Internal Independent Arbitration procedure where the matter relates to an alleged contravention of the Councillor Code of Conduct.

If the parties cannot resolve the dispute at the meeting, a further meeting may be convened with the consent of both parties. Where the dispute remains unresolved, the applicant has recourse to the Internal Independent Arbitration procedure ~~where-if~~ the matter-dispute:

- ~~relates to an alleged contravention of the Councillor Code of Conduct;~~ -This process is to be private and confidential.
- there is substantial evidence of a contravention; and
- the contravention, if proven, would not be a contravention of a trivial nature.

The Mayor (or if the Mayor is the subject of the allegation then the Deputy Mayor) must take into account any opinion expressed by the Municipal Association of Victoria or Victorian Local Governance Association and Council's Solicitors before deciding that there is no substantial evidence or that a contravention of the Councillor Code of Conduct, if proven, would be a contravention of a trivial nature.

6.1.4 PHASE 4 - INTERNAL INDEPENDENT ARBITRATION

An application cannot be made for an Internal Independent Arbitration procedure during the election period for a general election. Any Internal Independent Arbitration procedure that is in progress is to be suspended during the election period for a general election.

If the respondent to an application for an Internal Independent Arbitration procedure is not returned to office as a Councillor in the election, the application lapses. If the respondent is returned to office in the election, the application may resume if:

- the application was made by ~~the~~Council and ~~the~~Council so resolves; or

- the application was made by a group of Councillors and any one (or more) of those Councillors who has been returned to office wishes to proceed with the application; or
- the applicant (individual Councillor) is returned to office and wishes to proceed with the application.

A Councillor or a group of Councillors may make an application alleging that a Councillor has contravened this Councillor Code of Conduct. The application must:

- specify the name of the Councillor alleged to have contravened the Code;
- specify the provision(s) of the Code that is alleged to have been contravened;
- include evidence in support of the allegation;
- name the Councillor appointed to be their representative where the application is made by a group of Councillors; and
- be signed and dated by the applicant or the applicant's representative.

The application must be submitted to ~~the~~ Council's Principal Conduct Officer.

An applicant may withdraw an application for an Internal Independent Arbitration procedure. Once an application has been withdrawn, the same or a similar application relating to the same instance in relation to the respondent Councillor cannot be resubmitted by the applicant for a period of 3 months.

On receiving an application, the Principal Conduct Officer will:

- advise the Mayor and CEO of the application without undue delay;
- provide a copy of the application to the Councillor who is the subject of the allegation at the earliest practical opportunity but not later than two working days from receipt of the application;
- identify an Arbiter to hear the application;
- obtain from the Arbiter written advice that they have no conflict of interest in relation to the Councillors involved;
- notify the parties of the name of the proposed Arbiter and provide them with the opportunity (2 working days) to object to the person proposed to be the Arbiter;
- consider the grounds of any objection and appoint the proposed Arbiter or identify another Arbiter;
- provide a copy of the application to the Arbiter as soon as practicable after the opportunity for the parties to object to an Arbiter has expired;
- after consultation with the Arbiter, advise the applicant and the respondent of the time and place for the hearing; and
- attend the hearing(s) and assist the Arbiter in the administration of the process.

In identifying an Arbiter to hear the application, the Principal Conduct Officer must select an Arbiter who is suitably independent and able to carry out the role of Arbiter fairly.

The role of the Arbiter is to:

- consider applications alleging a contravention of the Councillor Code of Conduct by a Councillor;
- make findings in relation to any application alleging a contravention of the Councillor Code of Conduct which the Arbiter must give to the Council;
- give a written statement of reasons supporting the findings to the Council at the same time as it gives its findings to the Council;
- recommend an appropriate sanction or sanctions where the Arbiter has found that a Councillor has contravened the Councillor Code of Conduct.

In considering an application alleging a contravention of the Councillor Code of Conduct, an Arbiter will:

- in consultation with the Principal Conduct Officer, fix a time and place to hear the application;
- authorise the Principal Conduct Officer to formally notify the applicant and the respondent of the time and place of the hearing;
- hold as many meetings as he or she considers necessary to properly consider the application. The Arbiter may hold a directions hearing;
- have discretion to conduct the hearings as he or she deems fit while ensuring that the hearings are conducted with as little formality and technicality as due and proper consideration of the application allows;
- ensure that the parties to and affected by an application are given an opportunity to be heard by the Arbiter;

- consider an application by a respondent to have legal representation at the hearing to ensure that the hearing is conducted fairly and may, in his or her absolute discretion, grant the application or deny the application;
- ensure that the rules of natural justice are observed and applied in the hearing of the application; and
- ensure that the hearings are closed to the public.

Where an application to have legal representation is granted by an Arbiter, the costs of the respondent's legal representation are to be borne by the respondent in their entirety.

An Arbiter:

- may find that a Councillor who is a respondent to an Internal Independent Arbitration procedure application has not contravened the Code;
- may find that a Councillor who is a respondent to an Internal Independent Arbitration procedure has contravened the Code;
- will suspend consideration of an Internal Independent Arbitration procedure during the election period for a general election.

The Arbiter is to give a copy of his or her findings and the statement of reasons to the Council, the applicant and the respondent. At the same time, the Arbiter provides the findings and statement of reasons; he or she shall, where a Councillor has been found to have contravened the Code, recommend an appropriate sanction or sanctions for the contravention for consideration by the Council.

A copy of the Arbiter's findings, statement of reasons and any recommended sanctions is to be submitted to the next Ordinary Meeting of the Council for its consideration. If an Arbiter has found that a contravention of the Code has occurred, the Council may, after considering the Arbiter's findings, statement of reasons and recommendation on sanctions, give any or all of the following written directions to the Councillor:

- direct the Councillor to make an apology in a form or manner specified by the Council;
- direct the Councillor to not attend up to, but not exceeding, 2 meetings of the Ordinary Council (in respect of the next scheduled meetings of the Council);
- direct that, for a period of up to, but not exceeding, 2 months on a date specified by the Council, the Councillor:
 - be removed from any position where the Councillor represents the Council; and
 - to not chair or attend any Advisory Committee or Special Committee Meeting or an Assembly of Councillors or any other meeting specified in the direction.

A Councillor who does not participate in the Internal Independent Arbitration procedure may be guilty of misconduct. The Act provides that misconduct by a Councillor means any of the following:

- failure by a Councillor to comply with the Council's Internal Independent Arbitration procedure; or
- failure by a Councillor to comply with a written direction given by the Council under section 81AB; or
- repeated contravention of any of the Councillor Conduct Principles.

Allegations of misconduct are heard on application by a Councillor Conduct Panel.

6.2 DEFINITIONS

Degree of Seriousness	Definition	Responsible Authority
Conduct inconsistent with Colac Otway Shire standards	Contravenes the Councillor Code of Conduct	Council
Misconduct	Failing to comply with Colac Otway Shire's Internal Independent Arbitration procedure, including failure to abide by any decision of Council in relation to a contravention of the Code and repeated contraventions of Councillor Conduct Principles	Panel
Serious misconduct	Failing to comply with panel processes, bullying, improperly directing staff, releasing confidential information and repeated misconduct	Panel

Gross misconduct	Behaviour that demonstrates lack of character to be a Councillor	VCAT
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6.3 COUNCILLOR CONDUCT PANELS [AND VCAT](#)

Where a matter cannot be resolved internally, an application can be made for a Councillor Conduct Panel to be established.

A Panel has the power to consider both "misconduct" and "serious misconduct" of a Councillor.

- **Misconduct:** Failing to comply with [a Colac Otway Shire's Council's](#) Internal Independent Arbitration procedure, including failure to abide by any decision of Council in relation to a breach of the Code and repeated breaches of Councillor Conduct Principles.
- **Serious misconduct:** Failing to comply with panel processes, bullying, improperly directing staff, releasing confidential information and repeated misconduct.

6.3.1 APPLICATION FOR A PANEL

An application for a Panel can be made by:-

- Council - *via resolution*;
- A Councillor; or
- A group of Councillors.

Applications are made to the Principal Councillor Conduct Registrar. [Colac Otway Shire](#) Council's Principal Conduct Officer assists the Principal Councillor Conduct Registrar in the conduct of their role, functions and duties. The Principal Councillor Conduct Registrar has the power to reject applications for a panel in prescribed circumstances.

6.3.2 COMPOSITION OF A PANEL

A Councillor Conduct Panel is to comprise of a lawyer and a person with relevant expertise.

The relevant expertise is broader of just local government knowledge and may include specialist knowledge in governance, ethics and probity.

A Councillor Conduct Panel may give findings of:-

- Remedial action
 - Requiring a Councillor to undertake mediation, training, or counselling.
- Misconduct finding:-
 - Reprimand the Councillor.
 - Direct the Councillor to make an apology.
 - Direct the Councillor take a leave of absence for a period up to 2 months.

- Direct that a Councillor is ineligible to hold the office of Mayor for a period of up to 4 years (but not exceeding the remainder of the Councillor's term of office).
- Serious Misconduct finding:-
 - Reprimand the Councillor.
 - Direct the Councillor to make an apology.
 - Direct the Councillor take a leave of absence for a period up to 2 months.
 - Direct that a Councillor is ineligible to hold the office of Mayor for a period of up to 4 years (but not exceeding the remainder of the Councillor's term of office).
 - Suspend the Councillor from office for a period not exceeding 6 months.

The Chief Municipal Inspector

- In relation to allegations of serious misconduct against Councillors, has the power to investigate and also initiate applications for a panel to be established.
- Is responsible for making applications to VCAT to consider findings of "gross misconduct" against Councillors.
- Has the power to investigate and prosecute various offences under the Act.

6.3.3 GROSS MISCONDUCT

Gross Misconduct is the most serious type of misconduct behaviour.

It is defined as behaviour that demonstrates that a Councillor is not of good character, or is otherwise not a fit and proper person to hold the office of Councillor.

The Chief Municipal Inspector makes an application to VCAT for that body to consider such alleged behaviour/s.

Gross Misconduct finding:

- Disqualification of Councillor of up to 8 years.
- Ineligible to be a candidate for a period of up to 8 years.

6.4 INDEPENDENT BROAD BASED ANTI-CORRUPTION COMMISSION - IBAC

Recently established under the Independent Broad-based *Anti-corruption Commission Act 2011*, as part of a new integrity system for Victoria, IBAC has a major role under the provisions of the *Protected Disclosure Act 2012* in investigating any possible improper or corrupt conduct of Councillors.

The *Protected Disclosure Act 2012* provides that any person that has reasonable grounds to believe that improper or corrupt conduct has occurred can make a disclosure.

- Disclosures may relate to both Councillors and officers of Colac Otway Shire.
- Any disclosure regarding a Councillor or Councillors is/are to be made direct to IBAC. Further details are available on the IBAC website www.ibac.vic.gov.au.

7 ELECTION PERIOD (CARETAKER) POLICY

Colac Otway Shire is committed to fair and democratic elections. Council is required to adopt an Election Period (Caretaker) Policy prior to each election that governs the actions of Colac Otway Shire Council and Councillors during the election period. The election period is a 32-day period prior to the Election Day.

It is an established democratic principle that elected bodies should not unnecessarily bind an incoming government during an election period. Council therefore commits to the principle that it will make every endeavour to avoid making decisions that inappropriately bind an incoming Council during an election period.

8 DISCLAIMER

~~Colac Otway Shire~~ Council's Code of Conduct under the Act is intended to ensure all Councillors agree to the standards of conduct and behaviour documented within the Code. Councillors have other legal obligations – under the Act, other legislation and at common law – that are not documented or reported in this Code. The Code should be read in the context of those other obligations.

9 STATUTORY REQUIREMENTS

~~In accordance with section 76C of the Local Government Act 1989, Colac Otway Shire Council is required to review the Councillor Code of Conduct within the period of 4 months after a general election.~~ It is acknowledged that in accordance with the legislation, this Code addresses the statutory requirements set out in section 76C of the Act *Local Government Act 1989*, namely

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it:

- ~~S~~ets out the Internal Independent Arbitration procedure for dealing with an alleged contravention of the Councillor Code of Conduct by a Councillor; and,
- ~~i~~ncludes other provisions addressing matters seen as appropriate by ~~Colac Otway Shire~~ Council.

10 ENDORSEMENT

This Code of Conduct was adopted at a ~~Special~~ Council Meeting held on [insert date] ~~1 February 2017~~.

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~~Additionally, in accordance with the provisions of section 63 of the Act, Councillors are required to sign and make a declaration stating they have read the Code of Conduct and they will abide by the provisions of the Code.~~

I _____ hereby agree to abide by the Councillor Code of Conduct.

Declaration made in the presence of the Acting Chief Executive Officer, ~~Sue Wilkinson or authorised delegate~~.

Cr. Kate Hanson	Date:	<u>Acting CEO – Robert Dobrzynski</u> Sue Wilkinson Date:
Cr. Stephen Hart	Date:	<u>Acting CEO – Robert Dobrzynski</u> Sue Wilkinson Date:
Cr. Joe McCracken	Date:	<u>Acting CEO – Robert Dobrzynski</u> Sue Wilkinson Date:
Cr. Chris Potter	Date:	<u>Acting CEO – Robert Dobrzynski</u> Sue Wilkinson Date:
Cr. Jason Schram	Date:	<u>Acting CEO – Robert Dobrzynski</u> Sue Wilkinson Date:
Cr. Chris Smith	Date:	<u>Acting CEO – Robert Dobrzynski</u> Sue Wilkinson Date:
Cr. Terry Woodcroft	Date:	<u>Acting CEO – Sue Wilkinson</u> Robert Dobrzynski Date:

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Councillor Code of Conduct



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Colac Otway Shire / P: (03) 5232 9400 / www.colacotway.vic.gov.au

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1. WORKING TOGETHER

Councillors of Colac Otway Shire Council are committed to working together in the best interests of the people within our community and to discharging their responsibilities to the best of their skill and judgement. They are strongly committed to working together constructively as a team to achieve positive and future-focused outcomes for the benefit of their community.

1.1. OUR VISION

A sustainable community with a vibrant future.

1.2. OUR MISSION

Council will work with our community and partners to provide:

- Innovative leadership, good governance and financial accountability;
- Value for money, accessible and appropriately targeted services; and
- A strong advocacy and engagement approach to achieve a truly liveable community.

1.3. OUR VALUES

Council will achieve its Vision and Mission by acting with:

- Respect
- Integrity
- Goodwill
- Honesty
- Trust

1.4. OBJECTIVES OF A COUNCIL:

The primary objective of a Council is to endeavour to achieve the best outcomes for the local community having regard to the long term and cumulative effects of decisions. In seeking to achieve its primary objective, a Council must have regard to facilitating objectives. These are set out in section 3C of the *Local Government Act 1989*.

1.5. THE ROLE OF A COUNCIL:

Council is elected to provide leadership for the good governance of the Colac Otway Shire. The role of Council is more fully set out in section 3D of the *Local Government Act 1989*.

1.6. FUNCTIONS OF A MAYOR:

The functions of the Mayor of a Council include:

- Providing guidance to Councillors about what is expected of a Councillor including in relation to the role of a Councillor under section 65 of the Act, and abiding by the Councillor Conduct Principles and the Councillor Code of Conduct by Councillors under sections 76B, 76BA and 76C; of the *Local Government Act 1989*;
- Acting as the principal spokesperson for the Council;
- Supporting good working relations between Councillors;
- Carrying out the civic and ceremonial duties of the office of Mayor;
- Chairing meetings of Council at which the Mayor is present;
- Having a casting vote where necessary at meetings of Council; and
- Taking precedence at all municipal proceedings.

Sections 73AA, 73 (2), 90 (1) (e) and 73 (1) of the Local Government Act 1989

1.7. THE ROLE OF A COUNCILLOR:

The role of a Councillor is:

- To participate in the decision-making of the Council; and
- To represent the local community in that decision-making; and
- To contribute to the strategic direction of the Council through the development and review of key strategic documents of the Council, including the Council Plan.

In performing the role of a Councillor, a Councillor must:

- Consider the diversity of interests and needs of the local community; and
- Observe principles of good governance and act with integrity; and
- Provide civic leadership in relation to the exercise of the various functions and responsibilities of the Council under the *Local Government Act 1989* and other Acts; and
- Participate in the responsible allocation of the resources of Council through the annual budget; and
- Facilitate effective communication between the Council and the community.

The role of a Councillor does not include the performance of any functions that are specified as functions of the Chief Executive Officer under section 94A of the *Local Government Act 1989*.

S.65 of the Local Government Act 1989

1.8. COUNCILLOR CONDUCT PRINCIPLES

Councillors acknowledge and strongly support and endorse the following Councillor Conduct Principles as specified within the *Local Government Act 1989*:

1.8.1. PRIMARY PRINCIPLE OF COUNCILLOR CONDUCT

It is a primary principle of Councillor Conduct that, in performing the role of a Councillor, a Councillor must:

- Act with integrity;
- Impartially exercise their responsibilities in the interests of the local community; and
- Not improperly seek to confer an advantage or disadvantage on any person.

1.8.2. GENERAL COUNCILLOR CONDUCT PRINCIPLES

In addition to acting in accordance with the principles specified above, Councillors in the performance of their roles must:

- Avoid conflicts between their public duties as a Councillor and their personal interests and obligations;
- Act honestly and avoid statements (oral or in writing) or actions that will or are likely to mislead or deceive any person;
- Treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, Council staff and other persons;
- Exercise reasonable care and diligence and submit themselves to the lawful scrutiny that is appropriate to their office;
- Endeavour to ensure that public resources are used prudently and solely in the public interest;
- Act lawfully and in accordance with the trust placed in them as an elected representative; and
- Support and promote these principles by leadership and example and act in a way that secures and preserves public confidence in the office of Councillor.

Section 76B & 76BA of the Local Government Act

1.9. ADHERENCE TO THE CODE OF CONDUCT

Councillors recognise that the conduct and behaviour of an individual Councillor reflects on Council as a whole and that, as community leaders, they should be role models, setting the standard for other people to follow.

This Code of Conduct places an obligation on all Councillors to take responsibility for their own conduct. They accept that it is critical that their individual and collective conduct must be exemplary at all times to ensure that Council functions properly.

All Councillors commit to building and maintaining a strong and respectful relationship to ensure the good governance of the Colac Otway Shire.

All Councillors commit to working collaboratively and professionally with each other, the organisation and the community in a manner that is always consistent with the principles set out elsewhere in this Code of Conduct.

This Code binds Councillors irrespective of whether they have signed it or declared that they will abide by it.

1.9.1. WORKING TOGETHER

Good governance in local government is underpinned by visionary leadership, teamwork, collaborative decision-making and a shared commitment to plan, work and advocate for and achieve the best possible outcomes for the entire community. To this end each Councillor will when performing their role as a Councillor:

- foster and establish strong, respectful and professional working relationships between each other to perform their duties as a Councillor in the best interests of the Colac Otway Shire community.
- work constructively with the Mayor, aimed at establishing and maintaining a strong, courteous and positive working relationship.
- treat fellow Councillors courteously and with dignity and respect and not be unduly critical of each other or the organisation in any public forum.
- not harm or attempt to harm, maliciously or recklessly, directly or indirectly, the reputations of others (including those of fellow Councillors and Council staff).
- raise any issues of concern related to the conduct or actions of a fellow Councillor directly with the Mayor and not with any member of Council staff or via the media (including social media).
- raise any issues of concern related to the conduct or actions of the Mayor directly with the CEO or via the dispute resolution process and not with any other member of Council staff or via the media (including social media).

1.9.2. COURTESY AND RESPECT

Each Councillor will, when performing their role as a Councillor, treat all people with courtesy and respect, recognising that there are legitimate differences in opinions, race, culture, religion, language, gender and abilities. Councillors will ensure that neither offence nor embarrassment are caused even when disagreeing with the views or decisions of others.

1.9.3. INTEGRITY AND HONESTY

Further, each Councillor will, when performing their role as a Councillor:

- always act with integrity and honesty;
- exercise good judgement in decision-making, always acting ethically, impartially and in the best interests of the community as a whole; and
- pursue and maintain high standards of personal and professional conduct.

1.9.4. POSITION OF TRUST

Recognising that they hold a position of trust, Councillors will not misuse or derive undue benefit from their positions. Each Councillor will, when performing their role as a Councillor, avoid conflicts of interest and ensuring compliance with the relevant provisions of the Act and this Code of Conduct relating to interests and conflicts of interest.

1.9.5. ACTING LAWFULLY

Councillors recognise that they are subject to various legislative obligations. They must fully comply with all such obligations.

Among these obligations are obligations imposed by the *Equal Opportunity Act 2010*. In general, this legislation prohibits and makes unlawful discrimination on the basis of age, breastfeeding, career status, disability/impairment, gender identity, industrial activity, lawful sexual activity, marital status, parental status, physical features, political belief, pregnancy, race, religious belief, sex, sexual preference or personal association with someone who has one of these characteristics.

It also prohibits sexual harassment. This is behaviour of a sexual nature that is unwelcome, unsolicited and unreciprocated.

1.10. COUNCIL BRIEFINGS, MEETINGS AND PUBLIC EVENTS

Councillors are committed to good governance and making high quality, transparent decisions impartially and in the best interests of the whole community.

They recognise that, as elected representatives of the community, they have an obligation to understand the legal framework established under the provisions of the *Local Government Act 1989* and, in doing so, acknowledge that effective decision-making is vital to the democratic process and an essential component of good governance.

If a Councillor will be absent from any Meeting, Briefing or Workshop, he/she should inform the Mayor or relevant member of Council staff as soon as possible prior to the absence, unless the absence is due to an emergency or unforeseen circumstances, in which case the Mayor or relevant member of Council staff must be informed as soon as possible following the absence.

Councillors commit to regularly attend Councillor Briefings in accordance with good governance and community expectations to enable informed and considered decision-making in the best interests of the community.

Local Law 4 regulates the proceedings at Council Meetings, Special Committee Meetings, Advisory Committee Meetings and other meetings conducted by the Council. Local Law 4 provides a mechanism for good governance of the Council through its meeting procedure to ensure effective and efficient decision-making by Council. All Councillors must adhere to the requirements of Local Law 4 at all times.

In this context, each Councillor:

- acknowledges that Workshops and Briefings are not forums for debate or for Councillors to take a collective position on an issue;
- will accept and respect the decision made by the majority of Councillors through the democratic process, without compromising his or her right to maintain their opposition to a Council decision;
- will fully participate in meetings, briefings and forums by listening while others are speaking, avoiding interrupting, and using reasonable, polite and temperate language in debates (irrespective of the issue);
- will show respect and observing all rulings of the Chairperson without comment; and
- will not make assertions of improper motives or personal reflections on Councillors, Council staff or members of the public.

1.11. ACCESS TO AND USE OF CORPORATE INFORMATION

Each Councillor must treat Council information in accordance with their obligations under the *Local Government Act 1989*.

All Councillors recognise that, at times, information provided to Councillors will be of a confidential nature and therefore it is essential that the confidentiality of such information be strictly maintained.

Each Councillor will comply with their obligations under section 77 of the Act in relation to confidential information and recognise that this obligation extends to ensuring the safekeeping of confidential information.

1.12. USE OF COUNCIL RESOURCES – INCLUDING FUNDS/PROPERTY

All Councillors must ensure that they exercise appropriate prudence in the use of Council resources to ensure they are utilised in an effective and economical manner. Each Councillor will, when performing their role as a Councillor:

- maintain appropriate separation between their personal property and Council property in the care of Council;
- not use Council resources, including employees, equipment and intellectual property, for electoral or other personal purposes;
- ensure that Council resources are always used effectively and economically and for the purposes for which they are provided;
- ensure that Council resources are not used in a way that creates an impression of Council endorsement; and
- ensure that claims for out-of-pocket expenses are accurate and relate strictly to Council business.

Councillors acknowledge an obligation to report on their use of all Council funds and property. Councillors are committed to implementing a transparent, thorough and regular system of reporting on their use of Council funds and property during the course of performing their duties.

Councillors must not use public funds or resources in a manner that is improper or unauthorised.

2. WORKING WITH THE ORGANISATION

Governance is the framework of structures, rules and processes by which an organisation is directed and controlled. It is also the way in which organisational objectives are set, decisions are made, powers granted, performances verified and accountability ensured.

Good governance requires strong vision, strategy, leadership, clear and timely decision-making processes and appropriate checks and balances.

A healthy, constructive and respectful relationship with the organisation provides Councillors with the ability to make high-quality decisions and provide good governance of the Colac Otway Shire.

Councillors will support a collective commitment to the organisation with a strong, open and professional partnership relationship between the Council and the Council organisation to assist in achieving Council's strategic objectives.

2.1. WORKING WITH THE CHIEF EXECUTIVE OFFICER (CEO) AND ALL COUNCIL STAFF

It is critical that all Councillors commit to building and maintaining a positive, strong and respectful relationship with the CEO and all Council staff to ensure the good governance of the Colac Otway Shire.

All Councillors commit to demonstrating a public commitment to supporting the CEO and maintaining a professional relationship at all times. They also commit to providing constructive input in the setting of the key performance indicators of the CEO.

Further, each Councillor will:

- make every effort to resolve concerns, complaints or grievances concerning the organisation in good faith through reasonable direct communication and negotiation.
- provide feedback and raise any issues of concern directly with the CEO and not with any member of staff or via the media (including social media). Issues of concern may include but are not restricted to:

- o Conduct or actions of Council staff;
- o Reports and publications prepared by the Council organisation;
- o Service delivery standards; and
- o Strategy or direction of the Council organisation.

Councillors commit to behaving courteously and respectfully in their dealings with Council staff, protecting their professional integrity and ensuring that neither offence nor embarrassment is caused when considering advice or recommendations. They will acknowledge and address staff appropriately at all Council meetings and events. Councillors will not be publicly critical of the organisation.

2.2. EMAILS AND TELECOMMUNICATIONS EQUIPMENT

2.2.1. EMAILS AND CALENDARS

Immediately after being elected, all Councillors are issued with a Colac Otway Shire email address (email inbox and calendar).

A Councillor will only use the official email address provided to them by the Shire when conducting their duties as a Councillor. This allows all communication to be documented and stored on the Council electronic document management system should it be required for future use.

Correspondence pertaining to operational matters should be forwarded to governance@colacotway.vic.gov.au at the earliest possible time to allow prompt action by staff.

2.2.2. TELECOMMUNICATIONS – MOBILE PHONES (SMART PHONES) AND IPADS (TABLET DEVICES)

Immediately after being elected, all Councillors are issued with a Colac Otway Shire mobile phone (smartphone) and iPad (tablet device).

Unless it is impracticable to do so, a Councillor will only use the official Council mobile phone number and iPad (tablet device) provided to them by the Shire when conducting their duties as a Councillor.

2.3. COUNCILLOR REQUESTS FOR INFORMATION

All Councillors commit to promptly recording and submitting all correspondence received which relates to the function/role of Council, as well as any requests received for service, information, comments or enquiries, to the Governance email address governance@colacotway.vic.gov.au for action to be taken as appropriate.

Councillors acknowledge that all requests made by Councillors for briefings from Council officers, access to information on Council files or clarification/explanation of items on a forthcoming Council agenda, should be registered and reported. These types of requests are to be sent to governance@colacotway.vic.gov.au to be actioned by the organisation as soon as possible.

3. COMMUNICATIONS INCLUDING MEDIA AND SOCIAL MEDIA

At all times messages communicated through the media (including social media) must be clear and consistent, and accurately and fairly portray the Council position.

The Mayor will provide official comment to the media on behalf of Council where the matter is of a political, controversial or sensitive nature. This includes:

- State-wide political issues affecting Local Government;
- contentious local issues that impact the community that do not relate directly to the business of Council but to the representation of the community;
- issues pertaining to policy and Council decisions; and
- issues relating to the strategic direction of Council.

Where there has been a prior discussion with and approval by the Mayor, a Councillor may, on Council's behalf and as Council's spokesperson, make comment to the media or on social media on aspects of Council's activities. Every effort will be made to inform all Councillors if this occurs.

This does not restrict Councillors from sharing authorised media releases, newsletters and official publications or event information and updates.

Councillors acknowledge and recognise that as a public official any individual public comment is likely to be interpreted as representing the views and position of Council. Councillors also acknowledge the potential risks and damage to Council that can occur, either directly or indirectly, from personal use of social media. Each Councillor is personally responsible for content published in a personal capacity on any form of social media platform.

Accordingly, each Councillor will, when using social media in connection with their role as a Councillor:

- keep comments polite and professional;
- ensure that content is accurate, is not misleading and complies with relevant policies;
- ensure that comments are respectful of the community and any other potential reader;
- not make personal comments about other elected members, staff and members of the community;
- adhere to Council's policies and codes;
- adhere to copyright, privacy, defamation, contempt of court, discrimination, harassment and other applicable laws; and
- observe the rules governing confidentiality.

Whilst it is understood that it is acceptable for an individual Councillor to publicly state that they did or did not vote in favour of any Council decision and the reasons, each Councillor agrees that this is to be done in a manner which is respectful of Council's decision. Therefore each Councillor will ensure that they do not undermine the authority or public perception and standing of Council or any other Councillor.

The CEO is the official spokesperson for all operational matters pertaining to the Colac Otway Shire as an organisation including:

- staffing and structure of the organisation; and
- legal or operational matters.

The CEO may nominate another Council officer as spokesperson, if appropriate.

4. GIFTS AND HOSPITALITY

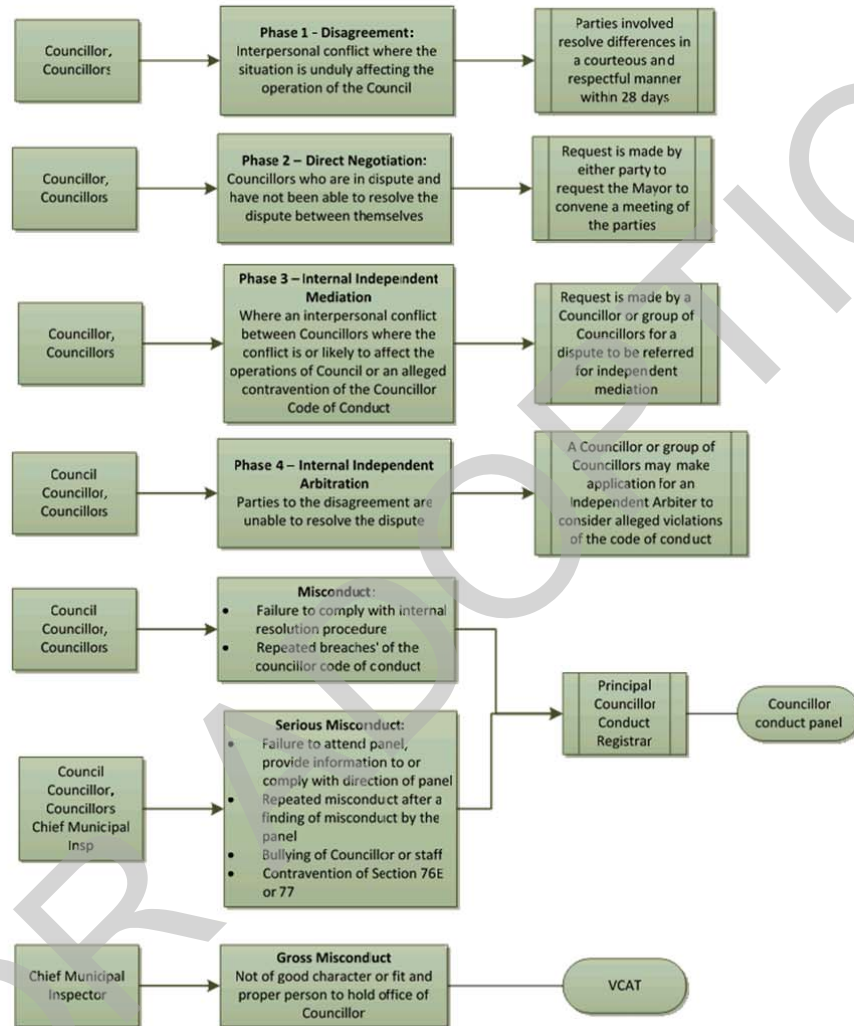
The *Local Government Act 1989* and Victorian Ombudsman recommendations provide a framework for the receipt and treatment of gifts and benefits. A great deal of focus has been placed upon the local government sector regarding gifts and benefits, and conflicts of interest that may potentially be created as a result.

Extreme care and caution is to be exercised by Councillors on the matter of gifts and hospitality. Public perception is a key to if a conflict exists, or if a Councillor has compromised them in any manner.

As a rule of thumb, Councillors should use caution and not accept gifts or offers of hospitality either in their roles as Councillors or where it could be perceived to influence the Councillor. Exceptions to this are:

- Where the gift would generally be regarded as only having a token value and could not be perceived to influence the Councillor's actions; and
- Where refusal of the gift may cause offence or embarrassment.
 - In which case the gift may be accepted on behalf of Council and becomes the property of Council.
 - Such gift is to be declared to the CEO who will make immediate arrangements to have the details of the gift recorded in a register maintained by the Governance Advisor.
 - Advice will be tendered to the provider of the gift that the Councillor was unable to accept it on a personal basis and it is now the property of Council.

5. DISPUTE RESOLUTION PROCEDURES



6.1 OVERVIEW

Before commencing any formal dispute resolution process, the Councillors who are parties to a dispute are expected to use their best endeavours to resolve the matter in a courteous and respectful manner between themselves. Where, after these endeavours have been exhausted and the matter still remains unresolved, the parties may resort to any or all of the FOUR PHASE dispute resolution process.

The Council's FOUR PHASE dispute resolution process involves:

1. Disagreement where Councillors who are parties to the disagreement will endeavour to resolve their differences in a courteous and respectful manner;
2. Direct negotiation between the parties in dispute with the Mayor in attendance to provide guidance;
3. An internal independent mediation resolution procedure led by someone appointed by the Chief Executive Officer (not necessarily external);
4. An internal independent arbitration resolution procedure.

6.1.1 PHASE 1 – DISAGREEMENT

Before commencing any formal dispute resolution process, the Councillors who are parties to any disagreement will endeavour to resolve their differences in a courteous and respectful manner, recognising that they have been elected to represent the best interests of the community. Councillors may seek assistance in resolving their differences.

This process is to be private and confidential.

6.1.2 PHASE 2 – DIRECT NEGOTIATION

There are several steps in phase two.

Where Councillors who are in dispute have not been able to resolve the dispute between themselves, either (or both) party (parties) may request the Mayor to convene a meeting of the parties.

A dispute referred for direct negotiation may relate to:

- an interpersonal conflict between Councillors where the conflict is or is likely to affect the operations of Council; or
- An alleged contravention of the Councillor Code of Conduct.

The party requesting the direct negotiation meeting is to provide the Mayor with the name of the other Councillor and the details of the dispute in writing. The written request is to indicate that it is for a "direct negotiation" dispute resolution process. Where the request relates to an alleged contravention of the Councillor Code of Conduct, the request must:

- specify the name of the Councillor alleged to have contravened the Code;
- specify the provision(s) of the Code that is alleged to have been contravened including when and where;
- include evidence in support of the allegation;
- name the Councillor appointed to be their representative where the request is made by a group of Councillors; and
- be signed and dated by the requestor or the requestor's representative.

The requestor must notify the other party of the request and provide him or her with a copy of the written request either at the same time as it is provided to the Mayor or as soon as practicable thereafter.

The Mayor is to ascertain whether or not the other party is prepared to attend a "direct negotiation" meeting.

If the other party is not prepared to attend a meeting, the Mayor is to advise the requestor forthwith. No further action is required of the Mayor.

If the other party declines to participate in a meeting, this does not constitute a contravention of this Councillor Code of Conduct.

If the other party consents to a meeting, the Mayor is to convene a meeting of the parties at the earliest available opportunity. Unless one or both parties are unavailable, this should be within 5 working days of receiving the consent of the other party.

The Mayor may present the parties with guidelines, in advance of the meeting or at the meeting, to help facilitate the meeting.

The role of the Mayor at the meeting is to provide guidance to Councillors about what is expected of a Councillor including in relation to the role of a Councillor under section 65 of the Act, and the observation of the Councillor Conduct Principles and the Councillor Code of Conduct.

The Mayor is to document any agreement reached at the meeting. Copies of the agreement are to be provided to both parties. Where one party does not comply with the agreement, the other party has recourse to internal Independent Mediation or the Internal Independent Arbitration procedure where the matter relates to an alleged contravention of the Councillor Code of Conduct.

If the parties cannot resolve the dispute at the meeting, a further meeting may be convened with the consent of both parties. Where the dispute remains unresolved, either or both of the parties have recourse to internal independent Mediation or the Internal Independent Arbitration procedure where the matter relates to an alleged contravention of the Councillor Code of Conduct.

Where the Mayor is a party to the dispute, the request is to be made to the Deputy Mayor (if any) or the immediate past Mayor. The Deputy Mayor or the immediate past Mayor will perform the functions ascribed to the Mayor.

During this phase the Mayor may seek assistance from the CEO, Principal Conduct Officer or other relevant person as deemed necessary.

This process is to be private and confidential.

6.1.3 PHASE 3 – INTERNAL INDEPENDENT MEDIATION

A Councillor or a group of Councillors may make an application for a dispute to be referred for Independent Mediation whether or not the dispute has been the subject of an application for “direct negotiation”.

An application made for a dispute to be referred for Independent Mediation may relate to:

- an interpersonal conflict between Councillors where the conflict is or is likely to affect the operations of Council; or
- an alleged contravention of the Councillor Code of Conduct.

The applicant is to submit a written application to the Principal Conduct Officer setting out the name of the Councillor and the details of the dispute. The application is to indicate that the application is for an “Independent Mediation”. Where the application relates to an alleged contravention of the Councillor Code of Conduct, the application must:

- specify the name of the Councillor alleged to have contravened the Code;
- specify the provision(s) of the Code that is alleged to have been contravened;
- include evidence in support of the allegation;
- name the Councillor appointed to be their representative where the application is made by a group of Councillors; and
- be signed and dated by the applicant or the applicant’s representative.

The applicant is to notify the other party of the request and provide him or her with a copy of the application either at the same time that it is submitted to the Principal Conduct Officer or as soon as practical thereafter.

The Principal Conduct Officer is to ascertain (in writing) whether or not the other party is prepared to attend an “Independent Mediation”. If the other party declines to participate in an Independent Mediation, he or she is to provide their reasons for doing so in writing to the Principal Conduct Officer. These reasons may be taken into account if the matter is, subsequently, the subject of an application for a Councillor Conduct Panel.

When the other party declines to participate in an independent mediation, this does not constitute a contravention of this Councillor Code of Conduct.

If the other party agrees to participate in an Independent Mediation, the Principal Conduct Officer is to advise the applicant, the Mayor and Chief Executive Officer forthwith.

The Chief Executive Officer (or delegate) is to engage the services of an independent mediator to conduct the mediation at the earliest practicable opportunity.

The mediator is to document any agreement reached at the meeting. Copies of the agreement are to be provided to both parties. Where one party does not comply with the agreement, the other party has recourse to the Internal Independent Arbitration procedure where the matter relates to an alleged contravention of the Councillor Code of Conduct.

If the parties cannot resolve the dispute at the meeting, a further meeting may be convened with the consent of both parties. Where the dispute remains unresolved, the applicant has recourse to the Internal Independent Arbitration procedure if the dispute:

- relates to an alleged contravention of the Councillor Code of Conduct;
- there is substantial evidence of a contravention; and
- the contravention, if proven, would not be a contravention of a trivial nature.

The Mayor (or if the Mayor is the subject of the allegation then the Deputy Mayor) must take into account any opinion expressed by the Municipal Association of Victoria or Victorian Local Governance Association and Council's Solicitors before deciding that there is no substantial evidence or that a contravention of the Councillor Code of Conduct, if proven, would be a contravention of a trivial nature.

6.1.4 PHASE 4 - INTERNAL INDEPENDENT ARBITRATION

An application cannot be made for an Internal Independent Arbitration procedure during the election period for a general election. Any Internal Independent Arbitration procedure that is in progress is to be suspended during the election period for a general election.

If the respondent to an application for an Internal Independent Arbitration procedure is not returned to office as a Councillor in the election, the application lapses. If the respondent is returned to office in the election, the application may resume if:

- the application was made by Council and Council so resolves; or
- the application was made by a group of Councillors and any one (or more) of those Councillors who has been returned to office wishes to proceed with the application; or
- the applicant (individual Councillor) is returned to office and wishes to proceed with the application.

A Councillor or a group of Councillors may make an application alleging that a Councillor has contravened this Councillor Code of Conduct. The application must:

- specify the name of the Councillor alleged to have contravened the Code;
- specify the provision(s) of the Code that is alleged to have been contravened;
- include evidence in support of the allegation;
- name the Councillor appointed to be their representative where the application is made by a group of Councillors; and
- be signed and dated by the applicant or the applicant's representative.

The application must be submitted to Council's Principal Conduct Officer.

An applicant may withdraw an application for an Internal Independent Arbitration procedure. Once an application has been withdrawn, the same or a similar application relating to the same instance in relation to the respondent Councillor cannot be resubmitted by the applicant for a period of 3 months.

On receiving an application, the Principal Conduct Officer will:

- advise the Mayor and CEO of the application without undue delay;
- provide a copy of the application to the Councillor who is the subject of the allegation at the earliest practical opportunity but not later than two working days from receipt of the application;
- identify an Arbiter to hear the application;
- obtain from the Arbiter written advice that they have no conflict of interest in relation to the Councillors involved;
- notify the parties of the name of the proposed Arbiter and provide them with the opportunity (2 working days) to object to the person proposed to be the Arbiter;
- consider the grounds of any objection and appoint the proposed Arbiter or identify another Arbiter;
- provide a copy of the application to the Arbiter as soon as practicable after the opportunity for the parties to object to an Arbiter has expired;
- after consultation with the Arbiter, advise the applicant and the respondent of the time and place for the hearing; and
- attend the hearing(s) and assist the Arbiter in the administration of the process.

In identifying an Arbiter to hear the application, the Principal Conduct Officer must select an Arbiter who is suitably independent and able to carry out the role of Arbiter fairly.

The role of the Arbiter is to:

- consider applications alleging a contravention of the Councillor Code of Conduct by a Councillor;
- make findings in relation to any application alleging a contravention of the Councillor Code of Conduct which the Arbiter must give to the Council;
- give a written statement of reasons supporting the findings to the Council at the same time as it gives its findings to the Council;
- recommend an appropriate sanction or sanctions where the Arbiter has found that a Councillor has contravened the Councillor Code of Conduct.

In considering an application alleging a contravention of the Councillor Code of Conduct, an Arbiter will:

- in consultation with the Principal Conduct Officer, fix a time and place to hear the application;
- authorise the Principal Conduct Officer to formally notify the applicant and the respondent of the time and place of the hearing;
- hold as many meetings as he or she considers necessary to properly consider the application. The Arbiter may hold a directions hearing;
- have discretion to conduct the hearings as he or she deems fit while ensuring that the hearings are conducted with as little formality and technicality as due and proper consideration of the application allows;
- ensure that the parties to and affected by an application are given an opportunity to be heard by the Arbiter;
- consider an application by a respondent to have legal representation at the hearing to ensure that the hearing is conducted fairly and may, in his or her absolute discretion, grant the application or deny the application;
- ensure that the rules of natural justice are observed and applied in the hearing of the application; and
- ensure that the hearings are closed to the public.

Where an application to have legal representation is granted by an Arbiter, the costs of the respondent's legal representation are to be borne by the respondent in their entirety.

An Arbiter:

- may find that a Councillor who is a respondent to an Internal Independent Arbitration procedure application has not contravened the Code;
- may find that a Councillor who is a respondent to an Internal Independent Arbitration procedure has contravened the Code;
- will suspend consideration of an Internal Independent Arbitration procedure during the election period for a general election.

The Arbiter is to give a copy of his or her findings and the statement of reasons to Council, the applicant and the respondent. At the same time, the Arbiter provides the findings and statement of reasons; he or she shall, where a Councillor has been found to have contravened the Code, recommend an appropriate sanction or sanctions for the contravention for consideration by Council.

A copy of the Arbiter’s findings, statement of reasons and any recommended sanctions is to be submitted to the next Ordinary Meeting of Council for its consideration. If an Arbiter has found that a contravention of the Code has occurred, Council may, after considering the Arbiter’s findings, statement of reasons and recommendation on sanctions, give any or all of the following written directions to the Councillor:

- direct the Councillor to make an apology in a form or manner specified by Council;
- direct the Councillor to not attend up to, but not exceeding, 2 meetings of the Ordinary Council (in respect of the next scheduled meetings of Council);
- direct that, for a period of up to, but not exceeding, 2 months on a date specified by Council, the Councillor:
 - be removed from any position where the Councillor represents Council; and
 - to not chair or attend any Advisory Committee or Special Committee Meeting or an Assembly of Councillors or any other meeting specified in the direction.

A Councillor who does not participate in the Internal Independent Arbitration procedure may be guilty of misconduct. The Act provides that misconduct by a Councillor means any of the following:

- (a) failure by a Councillor to comply with Council’s Internal Independent Arbitration procedure; or
- (b) failure by a Councillor to comply with a written direction given by the Council under section 81AB; or
- (c) repeated contravention of any of the Councillor Conduct Principles.

Allegations of misconduct are heard on application by a Councillor Conduct Panel.

6.2 DEFINITIONS

Degree of Seriousness	Definition	Responsible Authority
Conduct inconsistent with Colac Otway Shire standards	Contravenes the Councillor Code of Conduct	Council
Misconduct	Failing to comply with Colac Otway Shire’s Internal Independent Arbitration procedure, including failure to abide by any decision of Council in relation to a contravention of the Code and repeated contraventions of Councillor Conduct Principles	Panel
Serious misconduct	Failing to comply with panel processes, bullying, improperly directing staff, releasing confidential information and repeated misconduct	Panel
Gross misconduct	Behaviour that demonstrates lack of character to be a Councillor	VCAT

6.3 COUNCILLOR CONDUCT PANELS AND VCAT

Where a matter cannot be resolved internally, an application can be made for a Councillor Conduct Panel to be established.

A Panel has the power to consider both “misconduct” and “serious misconduct” of a Councillor.

- **Misconduct:** Failing to comply with Council’s Internal Independent Arbitration procedure, including failure to abide by any decision of Council in relation to a breach of the Code and repeated breaches of Councillor Conduct Principles.
- **Serious misconduct:** Failing to comply with panel processes, bullying, improperly directing staff, releasing confidential information and repeated misconduct.

6.3.1 APPLICATION FOR A PANEL

An application for a Panel can be made by:-

- Council - *via resolution*;
- A Councillor; or
- A group of Councillors.

Applications are made to the Principal Councillor Conduct Registrar. Council's Principal Conduct Officer assists the Principal Councillor Conduct Registrar in the conduct of their role, functions and duties. The Principal Councillor Conduct Registrar has the power to reject applications for a panel in prescribed circumstances.

6.3.2 COMPOSITION OF A PANEL

A Councillor Conduct Panel is to comprise a lawyer and a person with relevant expertise.

The relevant expertise is broader of just local government knowledge and may include specialist knowledge in governance, ethics and probity.

A Councillor Conduct Panel may give findings of:-

- Remedial action
 - Requiring a Councillor to undertake mediation, training, or counselling.
- Misconduct finding:-
 - Reprimand the Councillor.
 - Direct the Councillor to make an apology.
 - Direct the Councillor take a leave of absence for a period up to 2 months.
 - Direct that a Councillor is ineligible to hold the office of Mayor for a period of up to 4 years (but not exceeding the remainder of the Councillor's term of office).
- Serious Misconduct finding:-
 - Reprimand the Councillor.
 - Direct the Councillor to make an apology.
 - Direct the Councillor take a leave of absence for a period up to 2 months.
 - Direct that a Councillor is ineligible to hold the office of Mayor for a period of up to 4 years (but not exceeding the remainder of the Councillor's term of office).
 - Suspend the Councillor from office for a period not exceeding 6 months.

The Chief Municipal Inspector

- In relation to allegations of serious misconduct against Councillors, has the power to investigate and also initiate applications for a panel to be established.
- Is responsible for making applications to VCAT to consider findings of "gross misconduct" against Councillors.
- Has the power to investigate and prosecute various offences under the Act.

6.3.3 GROSS MISCONDUCT

Gross Misconduct is the most serious type of misconduct behaviour.

It is defined as behaviour that demonstrates that a Councillor is not of good character, or is otherwise not a fit and proper person to hold the office of Councillor.

The Chief Municipal Inspector makes an application to VCAT for that body to consider such alleged behaviour/s.

Gross Misconduct finding:

- Disqualification of Councillor of up to 8 years.
- Ineligible to be a candidate for a period of up to 8 years.

6.4 INDEPENDENT BROAD BASED ANTI-CORRUPTION COMMISSION - IBAC

Recently established under the Independent Broad-based *Anti-corruption Commission Act 2011*, as part of a new integrity system for Victoria, IBAC has a major role under the provisions of the *Protected Disclosure Act 2012* in investigating any possible improper or corrupt conduct of Councillors.

The *Protected Disclosure Act 2012* provides that any person that has reasonable grounds to believe that improper or corrupt conduct has occurred can make a disclosure.

- Disclosures may relate to both Councillors and officers of Colac Otway Shire.
- Any disclosure regarding a Councillor or Councillors is/are to be made direct to IBAC. Further details are available on the IBAC website www.ibac.vic.gov.au.

7 ELECTION PERIOD (CARETAKER) POLICY

Colac Otway Shire is committed to fair and democratic elections. Council is required to adopt an Election Period (Caretaker) Policy prior to each election that governs the actions of Colac Otway Shire Council and Councillors during the election period. The election period is a 32-day period prior to the Election Day.

It is an established democratic principle that elected bodies should not unnecessarily bind an incoming government during an election period. Council therefore commits to the principle that it will make every endeavour to avoid making decisions that inappropriately bind an incoming Council during an election period.

8 DISCLAIMER

Council's Code of Conduct under the Act is intended to ensure all Councillors agree to the standards of conduct and behaviour documented within the Code. Councillors have other legal obligations – under the Act, other legislation and at common law – that are not documented or reported in this Code. The Code should be read in the context of those other obligations.

9 STATUTORY REQUIREMENTS

It is acknowledged that in accordance with the legislation, this Code addresses the statutory requirements set out in section 76C of the *Local Government Act 1989*, namely it:

- sets out the Internal Independent Arbitration procedure for dealing with an alleged contravention of the Councillor Code of Conduct by a Councillor; and
- includes other provisions addressing matters seen as appropriate by Council.

10 ENDORSEMENT

This Code of Conduct was adopted at a Council Meeting held on [insert date].

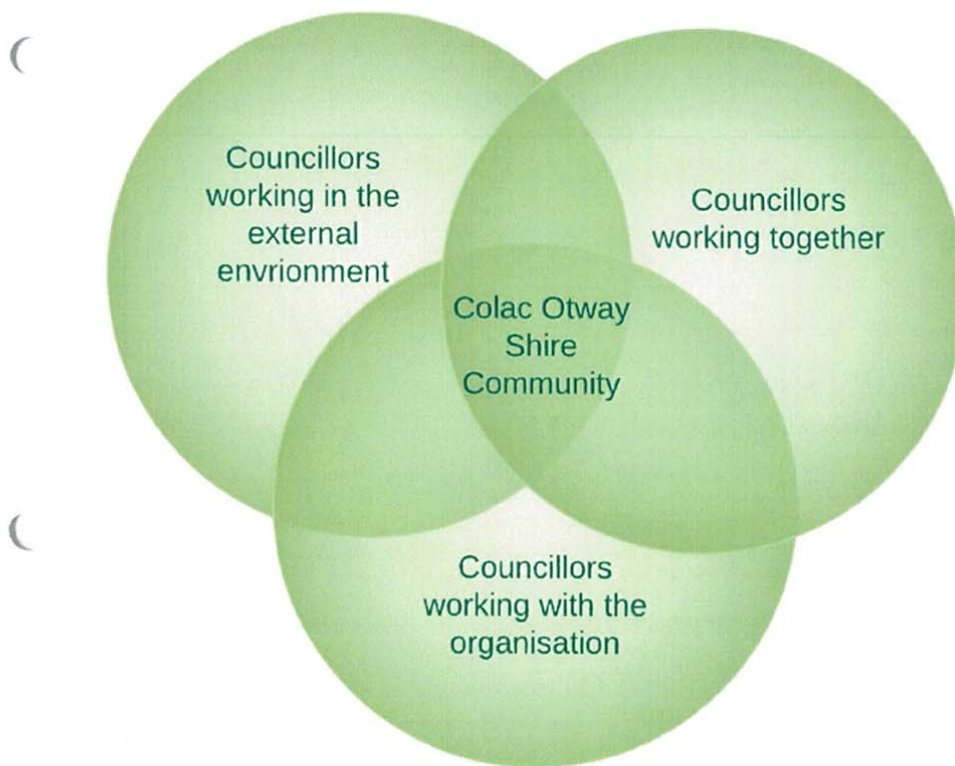
I _____ hereby agree to abide by the Councillor Code of Conduct.

Declaration made in the presence of the Chief Executive Officer.

Cr. Brian Crook	Date:	CE – Peter Brown	Date:
Cr. Kate Hanson	Date:	CE – Peter Brown	Date:
Cr. Stephen Hart	Date:	CE – Peter Brown	Date:
Cr. Joe McCracken	Date:	CE – Peter Brown	Date:
Cr. Chris Potter	Date:	CE – Peter Brown	Date:
Cr. Jason Schram	Date:	CE – Peter Brown	Date:
Cr. Chris Smith	Date:	CE – Peter Brown	Date:



Councillor Code of Conduct



ADOPTED: 1 FEBRUARY 2017

Colac Otway Shire / P: (03) 5232 9400 / www.colacotway.vic.gov.au

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1. WORKING TOGETHER

As Councillors of the Colac Otway Shire Council, we are committed to working together in the best interests of the people within our community and to discharging our responsibilities to the best of our skill and judgement. We are strongly committed to working together constructively as a team to achieve positive and future-focused outcomes for the benefit of our community.

1.1. OUR VISION

A sustainable community with a vibrant future.

1.2. OUR MISSION

Council will work with our community and partners to provide:

- Innovative leadership, good governance and financial accountability;
- Value for money, accessible and appropriately targeted services;
- A strong advocacy and engagement approach to achieve a truly liveable community

1.3. OUR VALUES

Council will achieve its Vision and Mission by acting with:

- Respect
- Integrity
- Goodwill
- Honesty
- Trust

1.4. OBJECTIVES OF A COUNCIL:

The primary objective of a Council is to endeavour to achieve the best outcomes for the local community having regard to the long term and cumulative effects of decisions. In seeking to achieve its primary objective, a Council must have regard to the following facilitating objectives:

- To promote the social, economic and environmental viability and sustainability of the Colac Otway Shire;
- To ensure that resources are used efficiently and effectively and services are provided in accordance with the Best Value Principles to best meet the needs of the local community;
- To improve the overall quality of life of people in the local community;
- To promote appropriate business and employment opportunities;
- To ensure that services and facilities provided by the Council are accessible and equitable;
- To ensure the equitable imposition of rates and charges;
- To ensure transparency and accountability in Council decision-making.

S.3C of the Local Government Act 1989

1.5. THE ROLE OF A COUNCIL:

The Council is elected to provide leadership for the good governance of the Colac Otway Shire. The role of the Council includes:

- Acting as a representative government by taking into account the diverse needs of the local community in decision-making;
- Providing leadership by establishing strategic objectives and monitoring their achievement;

- Maintaining the viability of the Council by ensuring that resources are managed in a responsible and accountable manner;
- Advocating the interests of the local community to other communities and governments;
- Acting as a responsible partner in government by taking into account the needs of other communities;
- Fostering community cohesion and encouraging active participation in civic life.

S.3D of the Local Government Act 1989

1.6. FUNCTIONS OF A MAYOR:

The functions of the Mayor of a Council include:

- Providing guidance to Councillors about what is expected of a Councillor including in relation to the role of a Councillor under section 65 of the Act, and abiding by the Councillor Conduct Principles and the Councillor Code of Conduct by Councillors under sections 76B, 76BA and 76C; of the Act and;
- Acting as the principal spokesperson for the Council; and
- Supporting good working relations between Councillors; and
- Carrying out the civic and ceremonial duties of the office of Mayor; and
- Chairing meetings of Council at which the Mayor is present; and
- Having a casting vote where necessary at meetings of the Council; and
- Taking precedence at all municipal proceedings.

Sections 73AA, 73 (2), 90 (1) (e) and 73 (1) of the Local Government Act 1989

1.7. THE ROLE OF A COUNCILLOR:

The role of a Councillor is:

- To participate in the decision-making of the Council; and
- To represent the local community in that decision-making; and
- To contribute to the strategic direction of the Council through the development and review of key strategic documents of the Council, including the Council Plan.

In performing the role of a Councillor, a Councillor must:

- Consider the diversity of interests and needs of the local community; and
- Observe principles of good governance and act with integrity; and
- Provide civic leadership in relation to the exercise of the various functions and responsibilities of the Council under the *Local Government Act 1989* and other Acts; and
- Participate in the responsible allocation of the resources of Council through the annual budget; and
- Facilitate effective communication between the Council and the community.

The role of a Councillor does not include the performance of any functions that are specified as functions of the Chief Executive Officer under section 94A.

S.65 of the Local Government Act 1989

1.8. COUNCILLOR CONDUCT PRINCIPLES

As Councillors we acknowledge and strongly support and endorse the following Councillor Conduct Principles as specified within the *Local Government Act 1989*:

1.8.1. PRIMARY PRINCIPLE OF COUNCILLOR CONDUCT:

It is a primary principle of Councillor Conduct that, in performing the role of a Councillor, a Councillor must:

- Act with integrity;
- Impartially exercise their responsibilities in the interests of the local community; and
- Not improperly seek to confer an advantage or disadvantage on any person.

1.8.2. GENERAL COUNCILLOR CONDUCT PRINCIPLES

In addition to acting in accordance with the principles specified above, Councillors in the performance of their role must:

- Avoid conflicts between their public duties as a Councillor and their personal interests and obligations;
- Act honestly and avoid statements (oral or in writing) or actions that will or are likely to mislead or deceive person;
- Treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, Council staff and other persons;
- Exercise reasonable care and diligence and submit themselves to the lawful scrutiny that is appropriate to their office;
- Endeavour to ensure that public resources are used prudently and solely in the public interest;
- Act lawfully and in accordance with the trust placed in them as an elected representative; and
- Support and promote these principles by leadership and example and act in a way that secures and preserves public confidence in the office of Councillor.

Section 76B & 76BA of the Local Government Act

1.9. ADHERENCE TO THE CODE OF CONDUCT

As Councillors we recognise that the conduct and behaviour of an individual Councillor reflects on the Council as a whole and that as community leaders, we should be role models, setting the standard for other people to follow.

This Code of Conduct places an obligation on all Colac Otway Shire Councillors to take responsibility for their own conduct. We accept that it is critical that our individual and collective conduct must be exemplary at all times to ensure that the Council functions properly.

All Councillors commit to building and maintaining a strong and respectful relationship to ensure the good governance of the Colac Otway Shire.

All Councillors commit to working collaboratively and professionally with each other, with the organisation and with the community in a manner that is always consistent with the following principles.

1.9.1. WORKING TOGETHER

Good governance in local government is underpinned by visionary leadership, teamwork, collaborative decision-making and a shared commitment to plan, work and advocate for and achieve the best possible outcomes for the entire community. Towards this at all times;

- All Councillors commit to working together with fellow Councillors in a manner that is respectful and professional.
- All Councillors commit to working together with fellow Councillors to reach common goals.
- All Councillors commit to fostering and establishing strong working relationships between each other to perform their duties as a Councillor in the best interests of the Colac Otway Shire community.
- All Councillors commit to working constructively with the Mayor and to establishing and maintaining a strong, courteous and positive working relationship.
- All Councillors commit to treating fellow Councillors courteously and with dignity and respect and not being critical of each other or the organisation in any public forum.
- All Councillors commit to not harming or attempting to harm, maliciously or recklessly, directly or indirectly, the reputation of others including those of fellow Councillors and Council staff.

- All Councillors commit to raising any issues of concern related to the conduct or actions of a fellow Councillor directly with the Mayor and not with any member of Council staff or via the media (including social media).
- All Councillors commit to raising any issues of concern related to the conduct or actions of the Mayor directly with the CEO or via the dispute resolution process and not with any other member of Council staff or via the media (including social media).

1.9.2. COURTESY AND RESPECT

All Councillors commit to treating all people with courtesy and respect, recognising that there are legitimate differences in opinions, race, culture, religion, language, gender and abilities. This includes:

- All Councillors commit to recognising and acknowledging one another in any public forum.
- All Councillors commit to always treating members of the community and fellow Councillors with dignity, courtesy and respect, and ensuring that neither offence nor embarrassment are caused even when disagreeing with their views or decisions.
- All Councillors commit to participating in all discussions or debates in a manner which is professional, courteous and respectful irrespective of the issue and without resorting to personal acrimony or insult.
- All Councillors commit to ensuring their punctual attendance at Council Meetings and all other meetings associated with Council.
- All Councillors commit to being respectful of all Council staff and to not being critical of the work of Council or the organisation in any public forum.
- All Councillors commit to acknowledging and promptly responding to all correspondence, emails, phone calls and messages from fellow Councillors.
- All Councillors acknowledge their legislative obligations with respect to equal opportunity, intimidation, harassment, bullying and discrimination. Under no circumstances will any behaviour of this nature toward each other be tolerated.

1.9.3. INTEGRITY AND HONESTY

- All Councillors commit to always acting with integrity and honesty;
- All Councillors commit to being professional and honest in all dealings with the community, with fellow Councillors and with all Council employees;
- All Councillors commit to exercising good judgement in decision-making, always acting ethically, impartially and in the long-term best interests of the community as a whole;
- All Councillors commit to acting in a manner that avoids damage to the Council or its ability to exercise good government;
- All Councillors commit to exercising reasonable care and diligence in performing their functions as Councillors;
- All Councillors acknowledge their responsibility to complying with all relevant laws, be they Federal, State or Local Laws;
- All Councillors commit to pursuing and maintaining high standards of personal and professional conduct.

1.9.4. POSITION OF TRUST

Recognising that they hold a position of trust, Councillors will not misuse or derive undue benefit from their positions:

- All Councillors commit to avoiding conflicts of interest and ensuring compliance with the relevant provisions of the Act and this Code of Conduct relating to interests and conflicts of interest; and
- All Councillors commit to not exercising undue influence on other Councillors, Council employees or members of the public to gain or attempt to gain an advantage for themselves; and
- All Councillors commit to being responsive in their dealings with others including fellow Councillors.

1.10. COUNCIL BRIEFINGS, MEETINGS AND PUBLIC EVENTS

As Councillors of Colac Otway Shire, we are committed to good governance and making high quality, transparent decisions impartially and in the best interests of the whole community.

We recognise that as elected representatives of the community, we have an obligation to understand the legal framework established under the provisions of the *Local Government Act 1989* and in doing so, acknowledge that effective decision-making is vital to the democratic process and an essential component of good governance.

In recognition of this, Councillors commit to attending a minimum of 80% of all Council Meetings, Briefings and Workshops.

If a Councillor will be absent from any Meeting, Briefing or Workshop, he/she must inform the Mayor as soon as possible prior to the absence, unless the absence is due to an emergency or unforeseen circumstances, in which case the Mayor must be informed as soon as possible following the absence.

1.10.1

Briefings and Workshops are information sessions involving Councillors and Council staff and are fundamental to ensuring that all Councillors have enough information and advice to form a considered, well-informed opinion and are in the best possible position to debate the issues effectively and determine a position at a Council meeting. Briefings are not open to the public.

Towards this, all Councillors acknowledge the importance and value of Briefings and Workshops for Councillors as a forum to collect information, consider strategic matters, raise issues, participate and provide input to policy preparation.

Except where prior notification has been given to the Mayor in accordance with paragraph 1.10 of the Code and noted in the Assembly of Councillors document, Councillors must attend a minimum of 80% of all Briefings and Workshops.

1.10.2 COUNCIL MEETINGS, SPECIAL COMMITTEE MEETINGS AND ADVISORY COMMITTEE MEETINGS

Local Law 4 regulates the proceedings at Council Meetings, Special Committee Meetings, Advisory Committee Meetings and other meetings conducted by the Council. Local Law 4 provides a mechanism for good governance of the Council through its meeting procedure to ensure effective and efficient decision-making by Council.

All Councillors must adhere to the requirements of Local Law 4 at all times.

Except where prior notification has been given to the Mayor in accordance with paragraph 1.10 of the Code and noted in the minutes of the relevant Meeting, Councillors must attend a minimum of 80% of each of the following scheduled meetings:

- o Ordinary Council Meetings; and
- o Planning Meetings; and
- o Special Council Meetings.

Note: Council's approval of a leave of absence, as contemplated by s.69 (1) (g) of the *Local Government Act*, will be required if a Councillor will be absent from 4 or more consecutive Ordinary Council Meetings and the meetings from which the Councillor is absent will not be counted as 'missed' Council Meetings for the purposes of their 80% attendance rate. If Council's approval is not obtained in these circumstances, the office of the Councillor becomes vacant.

1.10.4 GENERAL

All Councillors commit to:

- Attending and participating in Community Conversations and other events and engagements scheduled by the Mayor or Office of the Chief Executive Officer.
- Actively and openly participating in the decision-making process, and being informed so as to achieve the best outcome for the community.
- Respecting the views of the individual in debate on issues. However, Councillors also accept that decisions are based on a majority vote.
- Accepting that no Councillor can direct another Councillor on how to vote on any decision.

- Accepting that decisions of Council can only be made at a formally constituted Council meeting and that individual Councillors do not have decision-making power.
- Accepting to making decisions based on adopted Council policies.
- Accepting and respecting that the functions and role of the Chief Executive Officer are defined by the *Local Government Act 1989* and that the CEO's accountability is solely to the Council as a whole.
- Supporting and fostering a healthy working relationship between the Mayor and the Chief Executive Officer and assisting where appropriate in facilitating the relationship.
- Preparing for all scheduled meetings, Briefings and Workshops by reading all papers which are distributed in advance to ensure a thorough understanding of the topics to be discussed.
- Promoting collaboration between the organisation and Councillors at Workshops and Briefings to promote good governance and strategic thinking.
- Acknowledging that Workshops and Briefings are not forums for debate or for Councillors to take a collective position on an issue.
- Being respectful of all Council staff and to not being critical of the work of Council or the organisation at all Council workshops or briefing style forums, Council Meetings including Special Committee Meetings, Advisory Committee Meetings and other meetings conducted by the Council where provided.
- Accepting that decisions of the Council are binding on the whole Council.
- Accepting and respecting the decision made by the majority of Councillors through the democratic process without compromising the rights of individual Councillors to maintain their opposition to a Council decision.
- Being respectful of the CEO and not being critical of the work of the Council or the CEO in any public forum.
- Exhibiting exemplary conduct at all times during any Council Meetings including Special Committee Meetings, Advisory Committee Meetings and other meetings conducted by the Council.
- Promoting collaboration between the organisation and Councillors at all Council Workshops or Briefing style forums, Council Meetings including Special Committee Meetings, Advisory Committee meetings and other meetings conducted by the Council.
- Recognising and acknowledging one another at all Council workshops or briefing style forums, Council Meetings including, Special Committee Meetings, Advisory Committee meetings and other meetings conducted by the Council.
- Treating their fellow Councillors with dignity, courtesy and respect at all times, and ensuring that neither offence nor embarrassment are caused even when disagreeing with their views or decisions at all Council Workshops or Briefing style forums, and Council Meetings including Special Committee Meetings, Advisory Committee Meetings and other meetings conducted by the Council.
- Participating in any discussions or debate in a manner which is at all times professional, courteous and respectful irrespective of the issue and without resorting to personal acrimony or insult.
- Fully participating in all meetings, briefings and forums by listening while others are speaking, avoiding interrupting, and using reasonable, polite and temperate language in debates (irrespective of the issue) and refraining from texting, emailing, tweeting or engaging on social media during Council Meetings including Special Committee Meetings, Advisory Committee Meetings and other meetings conducted by the Council.
- Showing respect and observing all rulings of the chairperson without comment.
- Not making assertions of improper motives or personal reflections on Councillors, employees of Council and members of the public.
- All Councillors acknowledge their legislative obligations with respect to equal opportunity, intimidation, harassment, bullying and discrimination. Under no circumstances will any behaviour of this nature will be tolerated.

Whilst we understand that it is acceptable for an individual Councillor to publicly state that they did or did not vote in favour of any Council decision, we commit to ensuring that this is done in a manner which is respectful of the Council's decision.

We commit to respecting the role and precedence of the Mayor, Deputy Mayor or appointed representative of the Mayor at all times including in all Council proceedings. Towards this, Councillors will at all times accept that when a Councillor is appointed by the Council as a member of an external committee that Councillor will:

- represent the views of the Council where they are known;
- not forecast or pre-empt the views of Council;

- report to Council on any major issues or decisions of a Committee.

1.11. ACCESS TO AND USE OF CORPORATE INFORMATION

Councillors are to treat all Council information appropriately. All Councillors commit to:

- Not using information gained by virtue of being a Councillor for any purpose than to exercise their role as a Councillor.
- Respecting and accepting the Council's process and protocols in relation to public comments and communications with the media.
- Recognising the requirements of the *Privacy and Data Protection Act 2014* regarding the access, use and release of personal information.
 - Councillors do not have unrestricted access to personal information held by Council, nor do they have an unfettered right to use and disclose such information.
 - In particular, personal information held by Council must not be used for a Councillor's own personal or business purposes, outside of his or her functions as a Councillor.
 - If Councillors do use personal information in breach of the Information Privacy Principles, they may be individually liable and their actions may mean that Council is also liable.
 - When Councillors collect personal information for Council business, it is important to note that not only is this information subject to the *Privacy and Data Protection Act*, it is also subject to other legislation such as the *Public Records Act* and *Freedom of Information Act*.

All Councillors recognise that at times, information provided to Councillors will be of a confidential nature and therefore it is essential that the confidentiality of such information be strictly maintained.

Councillors acknowledge that they will comply with their obligations under section 77 of the Act in relation to confidential information and recognise that this obligation extends to ensuring the safekeeping of confidential information. Breaches of section 77(1) carry with it a penalty of up to 120 penalty units.

1.12. USE OF COUNCIL RESOURCES – INCLUDING FUNDS/PROPERTY

All Councillors must ensure that they exercise appropriate prudence in the use of Council resources to ensure they are utilised in an effective and economical manner. This includes:

- Maintaining appropriate separation between their personal property and Council property in the care of the Council.
- Not using Council resources, including employees, equipment and intellectual property, for electoral or other personal purposes.
- Ensuring that Council resources are always used effectively and economically and for the purposes for which they are provided.
- Ensuring that Council resources are not used in a way that creates an impression of Council endorsement; and
- Ensuring that claims for out-of-pocket expenses are accurate and relate strictly to Council business.

Councillors acknowledge their obligation to report on their use of all Council funds and property. Councillors are committed to implementing a transparent, thorough and regular system of reporting on their use of Council funds and property during the course of performing their duties.

Councillors will not use public funds or resources in a manner that is improper or unauthorised.

2. WORKING WITH THE ORGANISATION

Governance is the framework of structures, rules and processes by which an organisation is directed and controlled. It is also the way in which organisational objectives are set, decisions are made, powers granted, performances verified and accountability ensured.

Good governance requires strong vision, strategy, leadership, clear and timely decision-making processes and appropriate checks and balances.

A healthy, constructive and respectful relationship with the organisation provides Councillors with the ability to make high-quality decisions and provide good governance of the Colac Otway Shire.

Councillors support a collective commitment to the organisation with a strong, open and professional partnership relationship between the Council and the Council organisation to assist in achieving Council's strategic objectives.

2.1. WORKING WITH THE CHIEF EXECUTIVE OFFICER (CEO)

It is critical that all Councillors commit to building and maintaining a positive, strong and respectful relationship with the CEO to ensure the good governance of the Colac Otway Shire by:

2.1.1. WORKING TOGETHER

- All Councillors commit to demonstrating a public commitment to supporting the CEO and to maintaining a professional relationship at all times.
- All Councillors commit to supporting the CEO in representing the Shire and the community at all times.
- All Councillors commit to working collaboratively with the CEO to reach common goals in a manner that is respectful and professional at all times.
- All Councillors commit to fostering and establishing a strong, positive and constructive working relationship with the CEO so that they can perform their duties in the best interests of the Colac Otway Shire community.
- All Councillors commit to treating the CEO courteously and with dignity and respect and not being publicly critical of the CEO or the organisation.
- All Councillors commit to not harming or attempting to harm, maliciously or recklessly, directly or indirectly, the reputation of the CEO.
- All Councillors commit to raising any issues of concern related to the conduct or actions of the CEO directly with the Mayor and not with any member of Council staff or via the media (including social media).

2.1.2. COURTESY AND RESPECT

- All Councillors commit to acknowledging and responding to all invitations from the CEO or the CEO's office promptly.
- All Councillors commit to recognising and acknowledging the CEO in any public forum.
- All Councillors commit to attending all meetings scheduled by the CEO or the CEO's office or promptly make alternative arrangements to ensure all information is received and matters are discussed in a timely manner.
- All Councillors commit to acknowledging and responding to all correspondence, emails, phone calls and messages from the CEO or the CEO's office promptly.
- All Councillors commit to providing constructive input in the setting of the key performance indicators of the CEO.
- Except where the Councillor has provided a notification of absence, all Councillors commit to attending and participating in the CEO annual review process and to providing considered and productive feedback.
- All Councillors commit to not make imputations of improper motives or personal reflections on the CEO.
- All Councillors acknowledge their legislative obligations with respect to equal opportunity, intimidation, harassment, bullying and discrimination.

- All Councillors commit to participating in all discussions with the CEO in a manner which is professional, courteous and respectful irrespective of the issue and without resorting to personal acrimony or insult. Under no circumstances will any behaviour of this nature toward the CEO be tolerated.

2.1.3. COMMITMENT TO SERVICE

- All Councillors commit to promptly passing on all correspondence, enquiries, requests for information or service, complaints and acknowledgements provided to a Councillor to the email address governance@colacotway.vic.gov.au so these can be acknowledged and actioned by the organisation in a timely manner.
- All Councillors commit to making every effort to resolve concerns, complaints or grievances in good faith through reasonable direct communication and negotiation.
- All Councillors commit to providing feedback and raising any issues of concern directly with the Chief Executive Officer and not with any member of staff or via the media (including social media). Issues of concern may include but are not restricted to:
 - Conduct or actions of Council staff;
 - Reports and publications prepared by the Council organisation;
 - Service delivery standards; and
 - Strategy or direction of the Council organisation.

2.2. WORKING WITH COUNCIL STAFF

At all times Councillors will respect the role of the Council's officers and employees and treat them in a way that engenders mutual respect at all times.

Councillors acknowledge that:

- Councillors will not try to influence or direct council staff.
- Council staff are accountable to the whole Council through the CEO management structure and not to individual Councillors.

The requirements of section 76E of *Local Government Act 1989* require that a Councillor must not seek to improperly direct or influence members of Council staff in the exercise of their duties.

- Unlawful direction is trying to direct an officer when providing advice to Council acting under delegation or acting as an authorised officer. Breaches of section 76E carry with it a penalty of up to 120 penalty units.

The Councillor role is one of advocacy and leadership rather than management and administration. The CEO is responsible for all staff matters.

In order to ensure Councillors receive high quality, consistent advice, an organisational process which involves approval by a General Manager or the CEO will occur.

Communicating with the Chief Executive Officer, or General Managers, to ensure that dissemination of information occurs on a joint collaborative basis and such will enable the formulation of appropriate actions.

All Councillors commit to:

- Accepting forthright professional advice from qualified staff by protecting the professional integrity of the staff member when providing information in support of the decision-making process of Council.
- Fostering a respectful relationship between Councillors and officers in relation to their roles, functions and responsibilities.
- Recognising and acknowledging Council staff at all Council events, meetings and functions.

- Treating all Council staff with dignity, courtesy and respect, and ensuring that neither offence nor embarrassment are caused even when disagreeing with their views, advice or recommendations.
- Participating in any discussions with Council staff in a manner which is professional, courteous and respectful irrespective of the issue and without resorting to personal acrimony or insult.
- Being respectful of all Council staff and to not being publicly critical of the organisation.
- Not harming or attempting to harm, maliciously or recklessly, directly or indirectly, the professional reputation of Council staff or others.
- Using the appropriate mode of address to employees of Council.
- Not to making assertions of improper motives or personal reflections on employees of Council.
- Acting with courtesy towards Council employees and avoiding behaviour that is intimidating and being aware of legislative obligations with respect to equal opportunity, harassment and discrimination. Under no circumstances will any behaviour of this nature toward Council staff be tolerated.

In general the legislation prohibits and makes unlawful discrimination on the basis of age, breastfeeding, career status, disability/impairment, gender identity, industrial activity, lawful sexual activity, marital status, parental status, physical features, political belief, pregnancy, race, religious belief, sex, sexual preference or personal association with someone who has one of these characteristics.

- Sexual harassment is behaviour of a sexual nature that is unwelcome, unsolicited and unreciprocated. It is unlawful to sexually harass another person.
- Workplace bullying is repeated, unreasonable behaviour directed toward an employee, or group of employees, that creates a risk to health and safety. This is consistent with the definition of bullying used in the *Fair Work Act 2009* (Commonwealth) and by WorkSafe Victoria.
- Bullying is prohibited.
- Bullying is also a form of 'serious misconduct' which is a potential trigger for Councillor Conduct Panel.

Councillors will refrain from using their position to improperly influence employees in their duties, or to gain an advantage for themselves or others.

Any alleged transgression of this may potentially be a breach of section 76E of the Act.

2.3. EMAILS AND TELECOMMUNICATIONS EQUIPMENT

2.3.1. EMAILS AND CALENDARS

Immediately after being elected, all Councillors are issued with a Colac Otway Shire email address (email inbox and calendar) to conduct any and all functions and duties as a Councillor.

Without exception, all Councillors will only use the official email address provided to them by the Shire when conducting their duties as a Councillor. This allows all communication to be documented and stored on the Council electronic document management system should it be required for future use.

The official email address will be the sole email address used by Councillors for all communications to and from other Councillors and Council staff, including the CEO, General Managers and officers. However, Councillors can forward correspondence, enquiries, requests for information or service, complaints and acknowledgements to the Governance email address from their private email address if required.

The official email address will be the sole email address used by Councillors for all communications relating to any aspect of Council functions when providing information externally.

Any correspondence received from an external source relating to any aspect of the functions, responsibilities or actions of the Shire or the Council will immediately be forwarded to the governance@colacotway.vic.gov.au email address.

Any information that has been sent to the official email address of a Councillor by the organisation or another Councillor is deemed to have been received.

Councillors recognise and acknowledge that it is their responsibility and obligation to ensure that their email is working correctly by activating requests for corrective action by the organisation if an issue arises and in doing so, will inform Council staff promptly and in a respectful and timely manner if they are experiencing any issues with regard to their email address, email inbox or calendar.

2.3.2. TELECOMMUNICATIONS – MOBILE PHONES (SMART PHONES) AND IPADS (TABLET DEVICES)

Immediately after being elected, all Councillors are issued with a Colac Otway Shire mobile phone (smartphone) and iPad (tablet device).

Without exception, all Councillors will only use the official Council mobile phone number and iPad (tablet device) provided to them by the Shire when conducting their duties as a Councillor.

Councillors may either use the mobile phone (smartphone) provided or divert the official Council mobile phone number to an alternative device.

The official mobile phone number will be the sole mobile phone number used by Councillors for all communications to and from other Councillors and the Colac Otway Shire staff, including the CEO, General Managers and officers.

The official mobile phone number will be the sole mobile phone number used by Councillors for all communications relating to any aspect of Council duties or functions including providing information externally.

Any information that has been sent to a Councillor by the organisation or another Councillor to the mobile phone (smartphone), mobile phone number or iPad (tablet device) is deemed to have been received.

Councillors recognise and acknowledge that it is their responsibility and obligation to ensure that their mobile phone (smartphone), mobile phone number and iPad (tablet device) are working correctly by activating requests for corrective action by the organisation if an issue arises and in doing so, will inform Council staff promptly and in a respectful and timely manner if they are experiencing any issues with regard to their devices including their mobile phone (smartphone), mobile phone number or iPad (tablet device).

2.4. COUNCILLOR REQUESTS FOR INFORMATION

All Councillors commit to promptly recording and submitting all correspondence received which relates to the function/role of council as well as any requests received for service, information, comments or enquiries to the Governance email address governance@colacotway.vic.gov.au for action to be taken as appropriate. It is recognised by the organisation that Councillors require information in order to undertake their role.

Councillors acknowledge that all requests made by Councillors for briefings from Council officers, access to information on Council files or clarification/explanation of items on a forthcoming Council agenda, should be registered and reported. Towards this, these types of requests are to be sent to governance@colacotway.vic.gov.au to be actioned by the organisation as soon as possible.

The organisation must take into account a range of factors in considering the information request:

- *The Privacy and Data Protection Act* principles, including the responsibility of the organisation to remove identifying personal information.

- If the information relates to a new issue, an issue currently before Council or a matter already dealt with by Council.
- If the information should be provided to the requesting Councillor only or to all Councillors.

In general, most requests for information will be made at Councillor Workshops, Briefing sessions or Committees where Councillors and officers as a group can properly understand the nature of the request, any implications, resource issues and timelines. In responding to information requests outside these forums the following principles will apply:

- Requests for information should be made to the organisation at the email address governance@colacotway.vic.gov.au.
- Requests that are able to be carried out without impacting on existing priorities, workload or resources will be undertaken promptly.
- Requests for information relating to an issue currently before Council should be treated with priority so that Councillors have the information they need to make informed decisions at Council Meetings.
- Where the information is very specific (such as a constituent-specific issue), it will be provided only to the requesting Councillor.
- Where the information is more general such as relating to an issue currently before Council, the information will be provided to all Councillors.
- If the information cannot be provided without significantly impacting on existing priorities, workload or resources, or if the information request relates to information about an issue which has already been dealt with by Council, the information request can be put to Council for a decision.
- If the requesting Councillor wishes, an officer report may be tabled to Council outlining the request, the impact and context of the request to enable Council to make an informed decision as to whether the information request should be implemented by the organisation.
- If the information cannot be provided within a few days or cannot be provided without agreement of Council, the requesting Councillor will be contacted and advised of the likely timeline and/or process for providing the information.

3. COMMUNICATIONS INCLUDING MEDIA AND SOCIAL MEDIA

At all times messages communicated through the media (including social media) must be clear and consistent, and accurately and fairly portray the Council position.

The Mayor will provide official comment to the media on behalf of Council where the matter is of a political, controversial or sensitive nature. This includes:

- state-wide political issues affecting Local Government;
- contentious local issues that impact the community that do not relate directly to the business of Council but to the representation of the community;
- issues pertaining to policy and Council decisions; and
- issues relating to the strategic direction of the Council.

Where there has been a prior discussion and approval by the Mayor, a Councillor may make comment to the media or on social media on aspects of Council's activities. Every effort will be made to inform all Councillors if this occurs.

This does not restrict Councillors from sharing authorised media releases, newsletters and official publications or event information and updates.

Councillors acknowledge and recognise that as a public official any individual public comment is likely to be interpreted as representing the views and position of Colac Otway Shire Council.

Councillors also acknowledge the potential risks and damage to Council that can occur, either directly or indirectly, from personal use of social media.

Each Councillor is personally responsible for content published in a personal capacity on any form of social media platform.

Towards this, all Councillors commit to:

- keeping comments polite and professional;
- ensuring that content is accurate, is not misleading and complies with relevant policies;
- ensuring that comments are respectful of the community and any other potential reader;
- not making personal comments about other elected members, staff and members of the community;
- adhering to Council's policies and codes;
- adhering to copyright, privacy, defamation, contempt of court, discrimination, harassment and other applicable laws;
- observing the rules governing confidentiality;
- maintaining a positive tone.

Whilst we understand that it is acceptable for an individual Councillor to publicly state that they did or did not vote in favour of any Council decision and the reasons, we commit to ensuring that this is done in a manner which is respectful of the Council's decision. Therefore as Councillors, we commit to:

- Ensuring we do not undermine the authority or public perception and standing of the Colac Otway Shire Council or any other Councillor;
- Avoiding public criticism of the decision of Council;
- Actively supporting the implementation of the decision of Council.

The CEO is the official spokesperson for all operational matters pertaining to the Colac Otway Shire as an organisation including:

- staffing and structure of the organisation; and
- legal or operational matters.

Councillors acknowledge and recognise that as a public official, they will not make any comments that are deemed inappropriate about or directed to Council, its management, other employees or people linked to Council that may be derogatory, threatening or bullying.

The CEO may nominate a Council officer as spokesperson if appropriate.

4. CONFLICT OF INTEREST GUIDELINES

The Council is committed to making all decisions impartially and in the best interests of the whole community. It therefore recognises the importance of fully observing the requirements of the Act in regard to the disclosure of conflicts of interest.

For the purpose of this Code, "direct interest", "indirect interest" and "conflicts of interest" have the meanings specified in the Act. Councillors will comply with all the provisions of the Act in regard to Conflicts of Interest.

If the Councillor considers that they have a direct or indirect interest in a matter before the Council, a Special Committee of Council or an Assembly of Councillors, they have a conflict of interest.

If a Councillor has a conflict of interest in a matter, they will comply with the requirements of the Act and must:

- Disclose the conflict of interest immediately before the matter is considered;
- Notify the Mayor/Chair that they are leaving the meeting; and
- Leave the room and any area where they can see or hear the meeting until the matter has been concluded.

If a Councillor has a personal interest in a matter to be considered by the Council that is not a direct or indirect conflict of interest, and the Councillor considers that their personal interest may be in conflict with their public duty to act impartially and

in the interest of the whole community, the Councillor will declare a conflicting personal interest under Section 79B of the Act immediately before the matter is considered at the relevant meeting and request of Council that they be exempted from voting on the matter.

When making a request to Council to be exempted, a Councillor must provide reasons to support such request and Council must not unreasonably withhold consent. If Council consents to the application, then provisions of the Act as per all conflicts of interest apply. In addition to the requirements of the Act:

- Councillors will give early consideration to each matter to be considered by the Council, Special Committee of which the Councillor is a member, or Assembly of Councillors, to ascertain if they have a conflict of interest.
- Councillors recognise that the legal onus to determine whether a conflict of interest exists rests entirely with the individual Councillor.
- Assistance from Council officers is limited to aiding understanding of the provisions of the Act. Officers cannot offer any formal advice in relation to a potential conflict.
- If a Councillor cannot with certainty say that he or she does not have a conflict of interest, the Councillor should declare a conflict of interest and comply with the relevant requirements as if they had a conflict of interest.
- Concerns about the result of a Council decision should not influence the Councillor's decision about whether to disclose a conflict of interest. The Councillor's responsibility to disclose a conflict of interest overrides any other obligation a Councillor has as a decision maker.
- If the Councillor considers that they may be unable to vote on a matter because of a conflict of Interest, they will notify, as soon as possible, the Mayor or the Committee Chair, depending on whether the matter is to be considered by the Council, a Special Committee, or an Assembly of Councillors, as well as the Chief Executive Officer.

5. GIFTS AND HOSPITALITY

The *Local Government Act 1989* and the Victorian Ombudsman recommendations provide a framework for the matter of gifts and benefits. A great deal of focus has been placed upon the local government sector regarding gifts and benefits and also conflicts of interest that may potentially be created.

An applicable gift is defined by legislation as one or more gifts with a total value of \$500 or over received in the past 5 years by i) a person; or ii) an employee, General Manager, contractor or agent of a company or body, having a direct interest in a matter. It is illegal for a Councillor to accept an anonymous gift valued at \$500 or more.

Extreme care and caution is to be exercised by Councillors on the matter of gifts and hospitality. Public perception is a key to if a conflict exists, or if a Councillor has compromised them in any manner.

As a rule of thumb, Councillors should use caution and not accept gifts either in their roles as Councillors or where it could be perceived to influence the Councillor. Exceptions to this are:

- Where the gift would generally be regarded as only having a token value and could not be perceived to influence the Councillor's actions; and
- Where refusal of the gift may cause offence or embarrassment.
 - In which case the gift may be accepted on behalf of the Council and becomes the property of the Council.
 - Such gift is to be declared to the Chief Executive Officer who will make immediate arrangements to have the details of the gift recorded in a register maintained by the Governance Advisor.
 - Advice will be tendered to the provider of the gift that the Councillor was unable to accept it on a personal basis and it is now the property of Council.

Hospitality – reasonable hospitality provided at a function or event that a Councillor attends in an official capacity as Mayor or Councillor is not counted as an applicable gift for defining conflicts of interest.

It is important that Councillors are familiar with these governance principles. Being a Councillor involves engendering public trust and public confidence. This means that duties must be carried out impartially and with integrity. Consequently, it is not

appropriate for Councillors to be offered, and to accept, gifts and benefits that affect, may be likely to affect, or could reasonably be perceived to affect, the performance of their official duties.

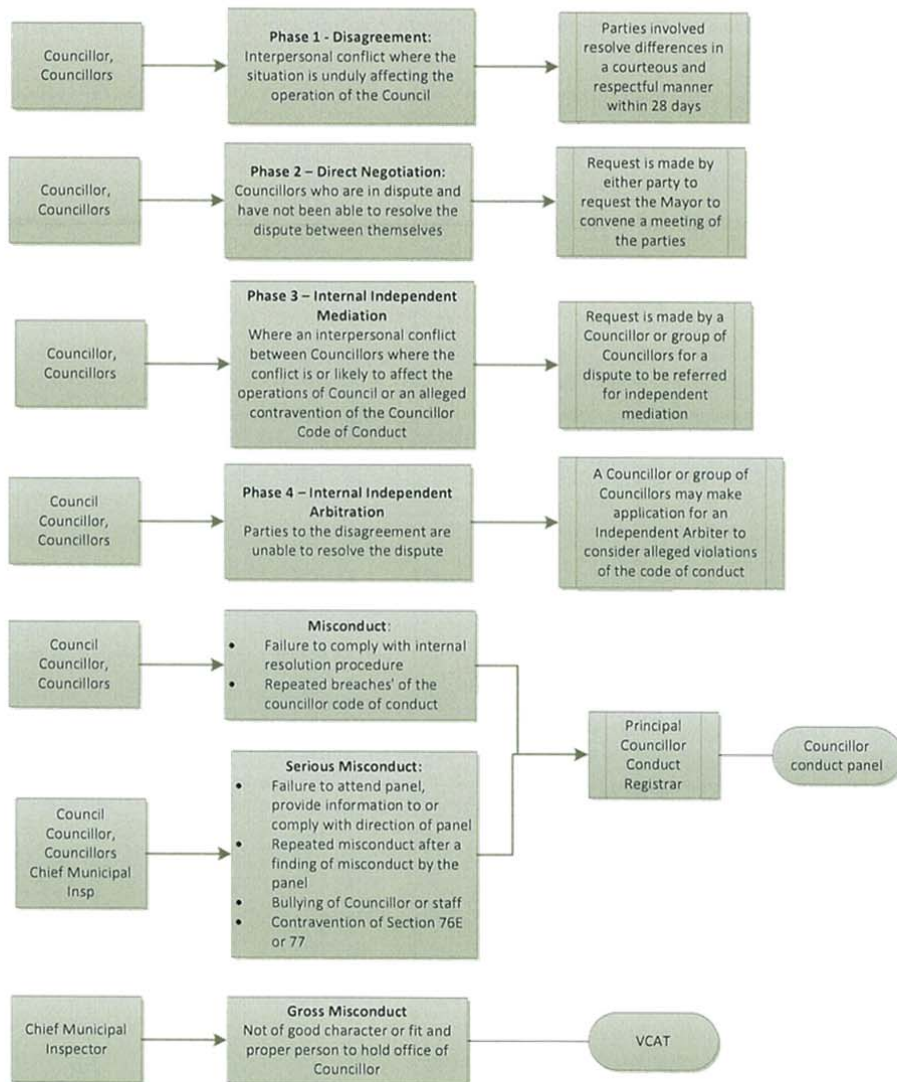
Councillors must at all times be mindful of their obligation to maintain and enhance public confidence in the integrity of Council.

Councillors must not seek or encourage the giving of any form of gift or benefit in connection with the performance of official duties.

Any gift or benefit accepted may imply a relationship that could interfere with objectivity and independence. Councillors may decline offers of gifts or benefits courteously by explaining that acceptance would be viewed as contravening this code of conduct and consequently they have little to no discretion in the matter.



6. DISPUTE RESOLUTION PROCEDURES



6.1 OVERVIEW

Before commencing any formal dispute resolution process, the Councillors who are parties to a dispute are expected to use their best endeavours to resolve the matter in a courteous and respectful manner between themselves. Where, after these endeavours have been exhausted and the matter still remains unresolved, the parties may resort to any or all of the FOUR PHASE dispute resolution process.

The Council's FOUR PHASE dispute resolution process involves:

1. Disagreement where Councillors who are parties to the disagreement will endeavour to resolve their differences in a courteous and respectful manner;
2. Direct negotiation between the parties in dispute with the Mayor in attendance to provide guidance;
3. An internal independent mediation resolution procedure led by someone appointed by the Chief Executive Officer (not necessarily external);
4. An internal independent arbitration resolution procedure.

6.1.1 PHASE 1 – DISAGREEMENT

Before commencing any formal dispute resolution process, the Councillors who are parties to any disagreement will endeavour to resolve their differences in a courteous and respectful manner, recognising that they have been elected to represent the best interests of the community. Councillors may seek assistance in resolving their differences.

This process is to be private and confidential.

6.1.2 PHASE 2 – DIRECT NEGOTIATION

There are several steps in phase two.

Where Councillors who are in dispute have not been able to resolve the dispute between themselves, either (or both) party (parties) may request the Mayor to convene a meeting of the parties.

A dispute referred for direct negotiation may relate to:

- an interpersonal conflict between Councillors where the conflict is or is likely to affect the operations of the Council; or
- An alleged contravention of the Councillor Code of Conduct.

The party requesting the direct negotiation meeting is to provide the Mayor with the name of the other Councillor and the details of the dispute in writing. The written request is to indicate that it is for a "direct negotiation" dispute resolution process. Where the request relates to an alleged contravention of the Councillor Code of Conduct, the request must:

- specify the name of the Councillor alleged to have contravened the Code;
- specify the provision(s) of the Code that is alleged to have been contravened including when and where;
- include evidence in support of the allegation;
- name the Councillor appointed to be their representative where the request is made by a group of Councillors; and
- be signed and dated by the requestor or the requestor's representative.

The requestor must notify the other party of the request and provide him or her with a copy of the written request either at the same time as it is provided to the Mayor or as soon as practicable thereafter.

The Mayor is to ascertain whether or not the other party is prepared to attend a "direct negotiation" meeting.

If the other party is not prepared to attend a meeting, the Mayor is to advise the requestor forthwith. No further action is required of the Mayor.

If the other party declines to participate in a meeting, this does not constitute a contravention of this Councillor Code of Conduct.

If the other party consents to a meeting, the Mayor is to convene a meeting of the parties at the earliest available opportunity. Unless one or both parties are unavailable, this should be within 5 working days of receiving the consent of the other party.

The Mayor may present the parties with guidelines, in advance of the meeting or at the meeting, to help facilitate the meeting.

The role of the Mayor at the meeting is to provide guidance to Councillors about what is expected of a Councillor including in relation to the role of a Councillor under section 65 of the Act, and the observation of the Councillor Conduct Principles and the Councillor Code of Conduct.

The Mayor is to document any agreement reached at the meeting. Copies of the agreement are to be provided to both parties. Where one party does not comply with the agreement, the other party has recourse to internal Independent Mediation or the Internal Independent Arbitration procedure where the matter relates to an alleged contravention of the Councillor Code of Conduct.

If the parties cannot resolve the dispute at the meeting, a further meeting may be convened with the consent of both parties. Where the dispute remains unresolved, either or both of the parties have recourse to Internal independent Mediation or the Internal Independent Arbitration procedure where the matter relates to an alleged contravention of the Councillor Code of Conduct.

Where the Mayor is a party to the dispute, the request is to be made to the Deputy Mayor (if any) or the immediate past Mayor. The Deputy Mayor or the immediate past Mayor will perform the functions ascribed to the Mayor.

During this phase the Mayor may seek assistance from the CEO, Principal Conduct Officer or other relevant person as deemed necessary.

This process is to be private and confidential.

6.1.3 PHASE 3 – INTERNAL INDEPENDENT MEDIATION

A Councillor or a group of Councillors may make an application for a dispute to be referred for Independent Mediation whether or not the dispute has been the subject of an application for “direct negotiation”.

An application made for a dispute to be referred for Independent Mediation may relate to:

- an interpersonal conflict between Councillors where the conflict is or is likely to affect the operations of the Council; or
- an alleged contravention of the Councillor Code of Conduct.

The applicant is to submit a written application to the Principal Conduct Officer setting out the name of the Councillor and the details of the dispute. The application is to indicate that the application is for an “Independent Mediation”. Where the application relates to an alleged contravention of the Councillor Code of Conduct, the application must:

- specify the name of the Councillor alleged to have contravened the Code;
- specify the provision(s) of the Code that is alleged to have been contravened;
- include evidence in support of the allegation;
- name the Councillor appointed to be their representative where the application is made by a group of Councillors; and
- be signed and dated by the applicant or the applicant’s representative.

The applicant is to notify the other party of the request and provide him or her with a copy of the application either at the same time that it is submitted to the Principal Conduct Officer or as soon as practical thereafter.

The Principal Conduct Officer is to ascertain (in writing) whether or not the other party is prepared to attend an “Independent Mediation”. If the other party declines to participate in an Independent Mediation, he or she is to provide their reasons for doing so in writing to the Principal Conduct Officer. These reasons may be taken into account if the matter is, subsequently, the subject of an application for a Councillor Conduct Panel.

When the other party declines to participate in an independent mediation, this does not constitute a contravention of this Councillor Code of Conduct.

If the other party agrees to participate in an Independent Mediation, the Principal Conduct Officer is to advise the applicant, the Mayor and Chief Executive Officer forthwith.

The Chief Executive Officer (or delegate) is to engage the services of an independent mediator to conduct the mediation at the earliest practicable opportunity.

The mediator is to document any agreement reached at the meeting. Copies of the agreement are to be provided to both parties. Where one party does not comply with the agreement, the other party has recourse to the Internal Independent Arbitration procedure where the matter relates to an alleged contravention of the Councillor Code of Conduct.

If the parties cannot resolve the dispute at the meeting, a further meeting may be convened with the consent of both parties. Where the dispute remains unresolved, the applicant has recourse to the Internal Independent Arbitration procedure where the matter relates to an alleged contravention of the Councillor Code of Conduct. This process is to be private and confidential.

6.1.4 PHASE 4 - INTERNAL INDEPENDENT ARBITRATION

An application cannot be made for an Internal Independent Arbitration procedure during the election period for a general election. Any Internal Independent Arbitration procedure that is in progress is to be suspended during the election period for a general election.

If the respondent to an application for an Internal Independent Arbitration procedure is not returned to office as a Councillor in the election, the application lapses. If the respondent is returned to office in the election, the application may resume if:

- the application was made by the Council and the Council so resolves; or
- the application was made by a group of Councillors and any one (or more) of those Councillors who has been returned to office wishes to proceed with the application; or
- the applicant (individual Councillor) is returned to office and wishes to proceed with the application.

A Councillor or a group of Councillors may make an application alleging that a Councillor has contravened this Councillor Code of Conduct. The application must:

- specify the name of the Councillor alleged to have contravened the Code;
- specify the provision(s) of the Code that is alleged to have been contravened;
- include evidence in support of the allegation;
- name the Councillor appointed to be their representative where the application is made by a group of Councillors; and
- be signed and dated by the applicant or the applicant's representative.

The application must be submitted to the Council's Principal Conduct Officer.

An applicant may withdraw an application for an Internal Independent Arbitration procedure. Once an application has been withdrawn, the same or a similar application relating to the same instance in relation to the respondent Councillor cannot be resubmitted by the applicant for a period of 3 months.

On receiving an application, the Principal Conduct Officer will:

- advise the Mayor and CEO of the application without undue delay;
- provide a copy of the application to the Councillor who is the subject of the allegation at the earliest practical opportunity but not later than two working days from receipt of the application;
- identify an Arbiter to hear the application;
- obtain from the Arbiter written advice that they have no conflict of interest in relation to the Councillors involved;
- notify the parties of the name of the proposed Arbiter and provide them with the opportunity (2 working days) to object to the person proposed to be the Arbiter;
- consider the grounds of any objection and appoint the proposed Arbiter or identify another Arbiter;

- provide a copy of the application to the Arbiter as soon as practicable after the opportunity for the parties to object to an Arbiter has expired;
- after consultation with the Arbiter, advise the applicant and the respondent of the time and place for the hearing; and
- attend the hearing(s) and assist the Arbiter in the administration of the process.

In identifying an Arbiter to hear the application, the Principal Conduct Officer must select an Arbiter who is suitably independent and able to carry out the role of Arbiter fairly.

The role of the Arbiter is to:

- consider applications alleging a contravention of the Councillor Code of Conduct by a Councillor;
- make findings in relation to any application alleging a contravention of the Councillor Code of Conduct which the Arbiter must give to the Council;
- give a written statement of reasons supporting the findings to the Council at the same time as it gives its findings to the Council;
- recommend an appropriate sanction or sanctions where the Arbiter has found that a Councillor has contravened the Councillor Code of Conduct.

In considering an application alleging a contravention of the Councillor Code of Conduct, an Arbiter will:

- in consultation with the Principal Conduct Officer, fix a time and place to hear the application;
- authorise the Principal Conduct Officer to formally notify the applicant and the respondent of the time and place of the hearing;
- hold as many meetings as he or she considers necessary to properly consider the application. The Arbiter may hold a directions hearing;
- have discretion to conduct the hearings as he or she deems fit while ensuring that the hearings are conducted with as little formality and technicality as due and proper consideration of the application allows;
- ensure that the parties to and affected by an application are given an opportunity to be heard by the Arbiter;
- consider an application by a respondent to have legal representation at the hearing to ensure that the hearing is conducted fairly and may, in his or her absolute discretion, grant the application or deny the application;
- ensure that the rules of natural justice are observed and applied in the hearing of the application; and
- ensure that the hearings are closed to the public.

Where an application to have legal representation is granted by an Arbiter, the costs of the respondent's legal representation are to be borne by the respondent in their entirety.

An Arbiter:

- may find that a Councillor who is a respondent to an Internal Independent Arbitration procedure application has not contravened the Code;
- may find that a Councillor who is a respondent to an Internal Independent Arbitration procedure has contravened the Code;
- will suspend consideration of an Internal Independent Arbitration procedure during the election period for a general election.

The Arbiter is to give a copy of his or her findings and the statement of reasons to the Council, the applicant and the respondent. At the same time, the Arbiter provides the findings and statement of reasons; he or she shall, where a Councillor has been found to have contravened the Code, recommend an appropriate sanction or sanctions for the contravention for consideration by the Council.

A copy of the Arbiter's findings, statement of reasons and any recommended sanctions is to be submitted to the next Ordinary Meeting of the Council for its consideration. If an Arbiter has found that a contravention of the Code has occurred, the Council may, after considering the Arbiter's findings, statement of reasons and recommendation on sanctions, give any or all of the following written directions to the Councillor:

- direct the Councillor to make an apology in a form or manner specified by the Council;

- direct the Councillor to not attend up to, but not exceeding, 2 meetings of the Ordinary Council (in respect of the next scheduled meetings of the Council);
- direct that, for a period of up to, but not exceeding, 2 months on a date specified by the Council, the Councillor:
 - be removed from any position where the Councillor represents the Council; and
 - to not chair or attend any Advisory Committee or Special Committee Meeting or an Assembly of Councillors or any other meeting specified in the direction.

A Councillor who does not participate in the Internal Independent Arbitration procedure may be guilty of misconduct. The Act provides that misconduct by a Councillor means any of the following:

- failure by a Councillor to comply with the Council's Internal Independent Arbitration procedure; or
- failure by a Councillor to comply with a written direction given by the Council under section 81AB; or
- repeated contravention of any of the Councillor Conduct Principles.

Allegations of misconduct are heard on application by a Councillor Conduct Panel.

6.2 DEFINITIONS

Degree of Seriousness	Definition	Responsible Authority
Conduct inconsistent with Colac Otway Shire standards	Contravenes the Councillor Code of Conduct	Council
Misconduct	Failing to comply with Colac Otway Shire's Internal Independent Arbitration procedure, including failure to abide by any decision of Council in relation to a contravention of the Code and repeated contraventions of Councillor Conduct Principles	Panel
Serious misconduct	Failing to comply with panel processes, bullying, improperly directing staff, releasing confidential information and repeated misconduct	Panel
Gross misconduct	Behaviour that demonstrates lack of character to be a Councillor	VCAT

6.3 COUNCILLOR CONDUCT PANELS

Where a matter cannot be resolved internally, an application can be made for a Councillor Conduct Panel to be established.

A Panel has the power to consider both "misconduct" and "serious misconduct" of a Councillor.

- **Misconduct:** Failing to comply with a Colac Otway Shire's Internal Independent Arbitration procedure, including failure to abide by any decision of Council in relation to a breach of the Code and repeated breaches of Councillor Conduct Principles.
- **Serious misconduct:** Failing to comply with panel processes, bullying, improperly directing staff, releasing confidential information and repeated misconduct.

6.3.1 APPLICATION FOR A PANEL

An application for a Panel can be made by:-

- Council - *via resolution*;
- A Councillor; or
- A group of Councillors.

Applications are made to the Principal Councillor Conduct Registrar. Colac Otway Shire Council's Principal Conduct Officer assists the Principal Councillor Conduct Registrar in the conduct of their role, functions and duties. The Principal Councillor Conduct Registrar has the power to reject applications for a panel in prescribed circumstances.

6.3.2 COMPOSITION OF A PANEL

A Councillor Conduct Panel is to comprise of a lawyer and a person with relevant expertise.

The relevant expertise is broader of just local government knowledge and may include specialist knowledge in governance, ethics and probity.

A Councillor Conduct Panel may give findings of:-

- Remedial action
 - Requiring a Councillor to undertake mediation, training, or counselling.
- Misconduct finding:-
 - Reprimand the Councillor.
 - Direct the Councillor to make an apology.
 - Direct the Councillor take a leave of absence for a period up to 2 months.
 - Direct that a Councillor is ineligible to hold the office of Mayor for a period of up to 4 years (but not exceeding the remainder of the Councillor's term of office).
- Serious Misconduct finding:-
 - Reprimand the Councillor.
 - Direct the Councillor to make an apology.
 - Direct the Councillor take a leave of absence for a period up to 2 months.
 - Direct that a Councillor is ineligible to hold the office of Mayor for a period of up to 4 years (but not exceeding the remainder of the Councillor's term of office).
 - Suspend the Councillor from office for a period not exceeding 6 months.

The Chief Municipal Inspector

- In relation to allegations of serious misconduct against Councillors, has the power to investigate and also initiate applications for a panel to be established.
- Is responsible for making applications to VCAT to consider findings of "gross misconduct" against Councillors.
- Has the power to investigate and prosecute various offences under the Act.

6.3.3 GROSS MISCONDUCT

Gross Misconduct is the most serious type of misconduct behaviour.

It is defined as behaviour that demonstrates that a Councillor is not of good character, or is otherwise not a fit and proper person to hold the office of Councillor.

The Chief Municipal Inspector makes an application to VCAT for that body to consider such alleged behaviour/s.

Gross Misconduct finding:

- Disqualification of Councillor of up to 8 years.
- Ineligible to be a candidate for a period of up to 8 years.

6.4 INDEPENDENT BROAD BASED ANTI-CORRUPTION COMMISSION - IBAC

Recently established under the Independent Broad-based *Anti-corruption Commission Act 2011*, as part of a new integrity system for Victoria, IBAC has a major role under the provisions of the *Protected Disclosure Act 2012* in investigating any possible improper or corrupt conduct of Councillors.

The *Protected Disclosure Act 2012* provides that any person that has reasonable grounds to believe that improper or corrupt conduct has occurred can make a disclosure.

- Disclosures may relate to both Councillors and officers of Colac Otway Shire.
- Any disclosure regarding a Councillor or Councillors is/are to be made direct to IBAC. Further details are available on the IBAC website www.ibac.vic.gov.au.

7 ELECTION PERIOD (CARETAKER) POLICY

Colac Otway Shire is committed to fair and democratic elections. Council is required to adopt an Election Period (Caretaker) Policy prior to each election that governs the actions of Colac Otway Shire Council and Councillors during the election period. The election period is a 32-day period prior to the Election Day.

It is an established democratic principle that elected bodies should not unnecessarily bind an incoming government during an election period. Council therefore commits to the principle that it will make every endeavour to avoid making decisions that inappropriately bind an incoming Council during an election period.

8 DISCLAIMER

Colac Otway Shire Council's Code of Conduct under the Act is intended to ensure all Councillors agree to the standards of conduct and behaviour documented within the Code. Councillors have other legal obligations – under the Act, other legislation and at common law – that are not documented or reported in this Code. The Code should be read in the context of those other obligations.

9 STATUTORY REQUIREMENTS

In accordance with section 76C of the *Local Government Act 1988*, Colac Otway Shire Council is required to review the Councillor Code of Conduct within the period of 4 months after a general election. It is acknowledged that in accordance with the legislation, this Code addresses the statutory requirements set out in section 76C of the Act, namely it:

- Sets out the Internal Independent Arbitration procedure for dealing with an alleged contravention of the Councillor Code of Conduct by a Councillor.
- Includes other provisions addressing matters seen as appropriate by Colac Otway Shire Council.

10 ENDORSEMENT

This Code of Conduct was adopted at a Special Council Meeting held on 1 February 2017.

Additionally, in accordance with the provisions of section 63 of the Act, Councillors are required to sign and make a declaration stating they have read the Code of Conduct and they will abide by the provisions of the Code.

I _____ hereby agree to abide by the Councillor Code of Conduct.

Declaration made in the presence of the Chief Executive Officer Sue Wilkinson or authorised delegate.

 Cr. Kate Hanson Date: 1/2/17	 CEO – Sue Wilkinson Date: 1.2.17
 Cr. Stephen Hart Date: 1-2-17	 CEO – Sue Wilkinson Date: 1.2.17
 Cr. Joe McCracken Date: 1/2/17	 CEO – Sue Wilkinson Date: 1.2.17
 Cr. Chris Potter Date: 1/2/17	 CEO – Sue Wilkinson Date: 1.2.17
 Cr. Jason Schram Date: 1-2-17	 CEO – Sue Wilkinson Date: 1.2.17
 Cr. Chris Smith Date: 27/2/17	 CEO – Sue Wilkinson Date: 27.2.17
 Cr. Terry Woodcroft Date: 1/2/17	 CEO – Sue Wilkinson Date: 1.2.17










10 ENDORSEMENT

This Code of Conduct was adopted at a Special Council Meeting held on 1 February 2017.

Additionally, in accordance with the provisions of section 63 of the Act, Councillors are required to sign and make a declaration stating they have read the Code of Conduct and they will abide by the provisions of the Code.

I Brian Crook hereby agree to abide by the Councillor Code of Conduct.

Declaration made in the presence of the Chief Executive Officer Sue Wilkinson or authorised delegate.

 Cr. Kate Hanson	Date: 1/2/17	 CEO - Sue Wilkinson	1.2.17 Date:
 Cr. Stephen Hart	Date: 1.2.17	 CEO - Sue Wilkinson	1.2.17 Date:
 Cr. Joe McCracken	Date: 1/2/17	 CEO - Sue Wilkinson	1.2.17 Date:
 Cr. Chris Potter	Date: 1/2/17	 CEO - Sue Wilkinson	1.2.17 Date:
 Cr. Jason Schram	Date: 1-2-17	 CEO - Sue Wilkinson	1.2.17 Date:
 Cr. Chris Smith	Date: 27/2/17	 CEO - Sue Wilkinson	27.2.17 Date:
 Cr. Terry Woodcroft	Date: 1/2/17	 CEO - Sue Wilkinson	1.2.17 Date:


Cr. Brian Crook

Date: 30/8/17


CE - Peter Brown

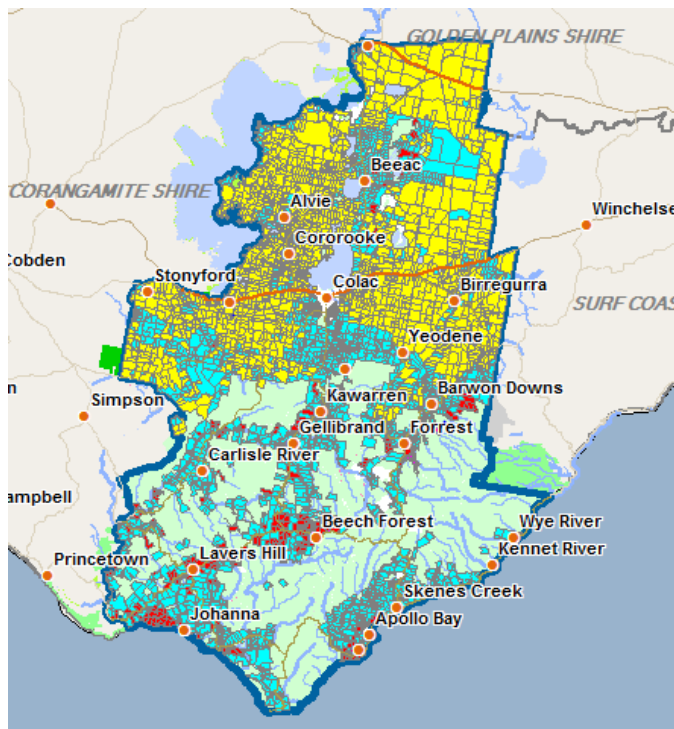
Date: 30/8/2018

ORDINARY COUNCIL MEETING
ASSEMBLY OF COUNCILLORS

OM182811-19

LOCATION / ADDRESS	Whole of municipality	GENERAL MANAGER	Errol Lawrence
OFFICER	Lyndal McLean	DIVISION	Corporate Services
TRIM FILE	F18/7487	CONFIDENTIAL	No
ATTACHMENTS	<ol style="list-style-type: none"> 1. Assembly of Councillors - Councillor Briefing - 10 October 2018 2. Assembly of Councillors - Pre-Council Meeting Preparation - 24 October 2018 3. Assembly of Councillors - Councillor briefing - 07 November 2018 4. Assembly of Councillors Record - Central Reserve Advisory Committee - 20181107 		
PURPOSE	To report the Assemblies of Councillors		

1. LOCATION PLAN / AERIAL PHOTO



2. EXECUTIVE SUMMARY

The Local Government Act 1989 requires that records of meetings which constitute an Assembly of Councillors be reported at the next practicable meeting of Council and incorporated in the minutes of the Council meeting. All relevant meetings have been recorded, documented and will be kept by Council for 4 years. The attached documents provide details of those meetings held that are defined as an Assembly of Councillors.

3. REPORTING

1. *The Assemblies of Councillors are reported herewith.*

The Local Government Act 1989 does not require a Council decision.

DETAILS

The following assemblies of Councillors have been held and are attached to this report:

Councillor Briefing	10 October 2018
Ordinary Council Meeting Preparation	24 October 2018
Councillor Briefing	7 November 2018
Central Reserve Advisory Committee	7 November 2018

4. OFFICER DIRECT OR INDIRECT INTEREST

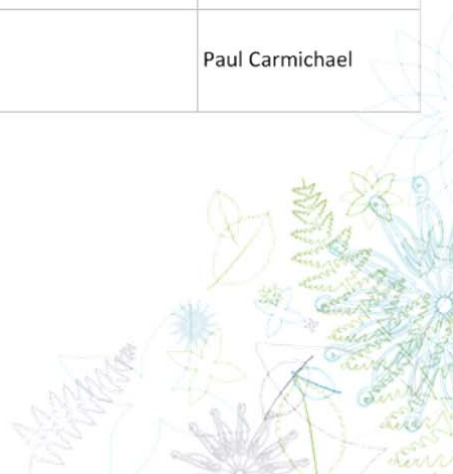
No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

Assembly of Councillors

<p>INVITEES: Cr Smith, Cr Hanson, Cr Hart, Cr Schram, Cr Potter, Cr McCracken, Cr Crook, Peter Brown, Errol Lawrence, Gareth Smith, Tony McGann</p>		
<p>ATTENDEES: Cr Smith, Cr Hanson, Cr Hart, Cr Schram, Cr Potter, Cr McCracken, Cr Crook, Peter Brown, Errol Lawrence, Gareth Smith, Tony McGann, Gary Warrener, Paul Carmichael, Jeremy Rudd, Simon Clarke, Frank Castles, Jason Clissold, Sarah McKew, Ian Seuren, Simone Robertson</p>		
<p>EXTERNAL ATTENDEES: Tyrone Toole (Chief Technology Leader, Sustainability and Resilience, ARRB), Geoff Webb (Principal Adviser, Asset Management, ARRB), Bree Rebeiro (Senior Professional, Asset Management, ARRB)</p>		
<p>APOLOGIES: Nil</p>		
<p>ABSENT: Nil</p>		
<p>Meeting commenced at 11:02am</p>		
Declarations of Interest	Item	Reason
Cr Kate Hanson	Proposed Rating Agreement – Mt Gellibrand Wind Farm	Direct relationship with the Mt Gellibrand Wind Farm through a lease
Cr Chris Potter	Discussion regarding a member of the public	Cr Potter is a current serving member of Victoria Police and has knowledge of that member of the public and the discussion conflicts with Victoria Police Policy



Councillor Briefing		
Time	Item	Attendees
11:02am – 11:35am	2019-2020 Budget and 2019-2023 Strategic Resource Plan Process	Jason Clissold
11:35am – 12:07pm	Unsealed Road Review Findings & Recommendations - ARRB presentation Cr Crook left the meeting at 11:49am Cr Smith arrived at 11:51am	Frank Castles Tyrone Toole Geoff Webb Bree Rebeiro
12:07pm – 1:09pm	Review of Councillor Appointments to Committees: <ul style="list-style-type: none"> • Appointments of Councillors to Internal Committees • Appointments of Councillors to External Committees and Bodies Cr Hart left the meeting at 12:07pm; returned at 12:11pm Cr Schram left the meeting at 12:42pm; returned at 12:44pm Cr Schram left the meeting at 12:44pm; returned at 12:46pm Cr Schram left the meeting at 12:48pm; returned at 12:49pm Cr Schram left the meeting at 12:50pm Cr Hart left the meeting at 12:56pm; returned at 12:59pm Cr McCracken left the meeting at 12:56pm; returned at 1:02pm Cr Hanson left the meeting at 1:09pm Cr Smith left the meeting at 1:09pm and did not return	Sarah McKew
1:09pm – 1:40pm	Break Cr Schram returned at 1:40pm	
1:40pm – 2:15pm	Great Ocean Road Event Closure Guidelines Cr Crook returned at 1:55pm	Gary Warrenner
2:15pm – 2:18pm	Proposed Rating Agreement - Mt Gellibrand Wind Farm	Paul Carmichael



Councillor Briefing (continued)		
Time	Item	Attendees
2:18pm – 2:37pm	Pennyroyal Hall Cr Hanson returned at 2:25pm	Jeremy Rudd Ian Seuren
2:37pm – 2:48pm	Marriners Falls Advocacy Update	Gareth Smith
2:48pm – 3:05pm	Break	
3:05pm – 3:27pm	Draft Economic Development Strategy	Gary Warrener
3:27pm – 3:43pm	Apollo Bay Skenes Creek Coastal Discovery Trail Feasibility Study	Gary Warrener
3:43pm – 3:55pm	Development Plan for Sinclair, Hearn & Armstrong Streets Colac - Submissions	Simon Clarke
3:55pm – 4:05pm	SKM Recycling - Amending Deed	Frank Castles Simone Robertson
4:05pm – 4:31pm	General Business: <ul style="list-style-type: none"> • Private request from a member of the public • Cr Hart – Notice of Motion • Communication Black Spot Funding • Revised Annual Report <p>Cr Potter left the meeting at 4:05pm; returned at 4:23pm</p>	Sarah McKew
4:31pm	Meeting closed	



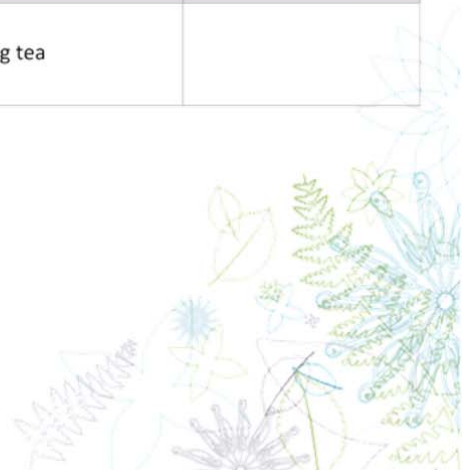
Assembly of Councillors

INVITEES: Cr Hanson, Cr Hart, Cr Schram, Cr Smith, Cr Potter, Cr McCracken, Cr Crook, Peter Brown, Tony McGann, Errol Lawrence, Ian Seuren, Sarah McKew, Lyndal McLean		
ATTENDEES: Cr Hanson, Cr Hart, Cr Schram, Cr Potter, Cr McCracken, Peter Brown, Tony McGann, Errol Lawrence, Ian Seuren, Jason Clissold, Sarah McKew, Lyndal McLean		
EXTERNAL ATTENDEES: Nil		
APOLOGIES: Cr Crook		
ABSENT: Cr Smith		
Meeting commenced at 2:10pm		
Declarations of Interest	Item	Reason
Cr Chris Potter Having declared a conflict of interest, Cr Potter left the meeting at 3:05pm and did not return	Closed Session – Item 1: IC182410-1 A private request from a member of the public	<i>Indirect interest under Section 78B in that as a member of Victoria Police I have a duty to another body and as part of those duties have had dealings with a member of the public</i>
Time	Item	Attendees
2:10pm – 3:20pm	Ordinary Council Meeting Preparation Cr Potter , having declared a conflict of interest, left the meeting at 3:05pm and did not return	Jason Clissold Sarah McKew Lyndal McLean
3:20pm	Meeting closed	



Assembly of Councillors

INVITEES: Cr Smith, Cr Hanson, Cr Hart, Cr Schram, Cr Potter, Cr McCracken, Cr Crook, Peter Brown, Tony McGann, Errol Lawrence, Ian Seuren		
ATTENDEES: Cr Hanson, Cr Hart, Cr Schram, Cr Potter, Cr McCracken, Cr Crook, Peter Brown, Tony McGann, Errol Lawrence, Ian Seuren, Sarah McKew, Trevor Olsson, Nicole Frampton, Paul Austin, Tamzin McLennan, Gary Warrener, Jason Clissold, Kristy Cochrane, Doug McNeill, Michael Swanson		
EXTERNAL ATTENDEES: Nil		
APOLOGIES: Nil		
ABSENT: Cr Smith		
Meeting commenced at 10:42am		
Declarations of Interest	Item	Reason
Nil		
Councillor Briefing		
Time	Item	Attendees
9:15am – 10:42am	Infrastructure & Leisure Services Department tour and morning tea	



Councillor Briefing (continued)		
Time	Item	Attendees
10:42am – 11:23am	Review of Councillor Code of Conduct Cr Potter arrived at 10:50am Cr Schram left the meeting at 11:07am	Sarah McKew
11:23am – 11:34am	Break	
11:34am – 11:49am	Appointments of Councillors to Committees (verbal) Cr Crook left the meeting at 11:46am	Sarah McKew
11:49am – 12:45pm	Chief Executive Employment Matters	Trevor Olsson
12:45pm – 1:35pm	Break Cr Schram returned to the meeting at 1:35pm	
1:35pm – 1:59pm	Colac Amphitheatre/Sound Shell Community Engagement	Ian Seuren Nicole Frampton Paul Jane Tamzin McLennan
1:59pm – 2:30pm	2019 Australia Day Award Nominations Cr McCracken left the meeting at 2:23pm; returned at 2:28pm	Gary Warrener Michael Swanson
2:30pm – 2:47pm	Council Policy Review – 16.5 Debtor Management and Debt Recovery	Jason Clissold
2:47pm – 2:55pm	Barongarook Road Speed Limit Petition Cr Crook returned to the meeting at 2:49pm	Kristy Cochrane
2:55pm – 3:20pm	Break	



Councillor Briefing (continued)		
Time	Item	Attendees
3:20pm – 3:56pm	Presentation of a detailed service review program as per Council resolution at the Special Meeting of Council on 2 May 2018	Errol Lawrence
3:56pm – 4:11pm	Great Ocean Road Taskforce, finding and advocacy update - verbal	Peter Brown
4:11pm – 4:20pm	Planning Items Cr McCracken left the meeting at 4:14pm; returned at 4:20pm	Doug McNeill
4:20pm – 4:30pm	General Business Budget pop-up sessions <ul style="list-style-type: none"> • Apollo Bay 15 November 2018 and 12 February 2019 (front of the Bakery) • Colac 22 November 2018 and 12 February 2019 (Coles Plaza) Priority Projects	Errol Lawrence Peter Brown
4:30pm	Meeting closed	



Assembly of Councillors Record

This Form MUST be completed and saved in TRIM by the attending Council Officer and the original soft copy returned within 1 business day to the Governance Officer. The Governance Officer must provide the original to IMS for filing within 1 business day. A copy of the completed form must be provided for reporting at the next Ordinary Council Meeting. *{See over for Explanation/Guide Notes}*

Assembly Details:

Name of Advisory Committee: **Central Reserve Advisory Committee**

Date: 7/11/2018

Start Time: 5:15pm

Assembly Location: Central Reserve – Upstairs Pavilion

(some e.g.'s. COPACC, Colac Otway Shire Offices, 2 - 6 Rae Street, Colac, Shire Offices – Nelson Street, Apollo Bay

In Attendance:

Councillors: Cr Chris Smith...../...../...../...../...../.....

Officer/s: Nicole Frampton – Recreation and Open Space Coordinator.... /

Matter/s Discussed:

- Facilities and Grounds Maintenance Reports;
- Central Reserve Master Plan implementation;
- Oversowing of Central Reserve surface for 2019 season;
- Central Reserve Advisory Committee membership renewal;
- Central Reserve Naming.

(some e.g.'s. Discussion s with property owners and/or residents, Planning Permit Application No. xxxx re proposed development at No. xx Pascoe Street, Apollo Bay, Council Plan steering committee with Councillors and officers.)

Conflict of Interest Disclosures: (refer page 5)

Councillors: Not Applicable...../...../...../...../.....

Officer/s: Not Applicable...../...../...../...../.....

Cr Smith and Mrs Nicole Frampton left at the conclusion of the meeting at 6:30pm

Completed by: Nicole Frampton – Recreation and Open Space Coordinator

CLOSED SESSION

RECOMMENDATION

That pursuant to the provisions of Section 89(2) of the Local Government Act 1989, the meeting be closed to the public and Council move into Closed Session in order to deal with:

SUBJECT	REASON	SECTION OF ACT
<i>Minutes of the Closed Session Council Meeting held on 24 October 2018.</i>	this matter deals with contractual matters; AND this matter may prejudice the Council or any person.	Section 89 (2) (d) & (h)
<i>Update on COPACC Cinema Lease – Assessment of Offers</i>	this matter deals with contractual matters	Section 89 (2) (d)
<i>Appointment of Independent Audit Committee Member</i>	this matter deals with contractual matters; AND this matter may prejudice the Council or any person.	Section 89 (2) (d) & (h)
<i>2019 Australia Day Awards</i>	this matter may prejudice the Council or any person	Section 89 (2) (h)