

**MINUTES** of the *ORDINARY COUNCIL MEETING OF THE COLAC-OTWAY SHIRE COUNCIL* held at the Apollo Bay Senior Citizens Centre, Whelan Street Apollo Bay on 22 February 2012 at 3.00 pm.

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1. OPENING PRAYER

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

**AMEN**

2. PRESENT

Cr Stephen Hart (Mayor)  
Cr Frank Buchanan  
Cr Brian Crook  
Cr Stuart Hart  
Cr Geoff Higgins  
Cr Lyn Russell  
Cr Chris Smith

Rob Small, Chief Executive Officer  
Colin Hayman, General Manager, Corporate & Community Services  
Neil Allen, General Manager, Infrastructure & Services  
Jack Green, General Manager, Sustainable Planning & Development  
Rhonda Deigan, Executive Officer

3. APOLOGIES

Nil

4. MAYORAL STATEMENT

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

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

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

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

An audio recording of this meeting is being made for the purpose of ensuring the minutes of the meeting are accurate. In some circumstances the recording may be disclosed, such as where Council is compelled to do so by court order, warrant, subpoena or by any other law,

such as the Freedom of Information Act 1982. It is an offence to make an unauthorised recording of the meeting.

Thank you. Now 30 minutes is allowed for question time. Please remember, you must ask a question. If you do not ask a question you will be asked to sit down and the next person will be invited to ask a question. This is not a forum for public debate or statements.

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

## 5. QUESTION TIME

### **Questions Received in Writing Prior to the Meeting**

#### **Tony Cookes – Apollo Bay**

1. Does Council condone misrepresentations made to the ratepayers involved in the Vawser survey?

Page 80 of agenda says - "What the Master Plan does not do is set clear parameters for development such as the building footprint, visual impact, size and bulk, height ...". However Question 16 of the market research survey (page 214 of Vawser report) describes the hotel building as being "low rise, set into the hill, anticipated to be no higher than the fisherman's coop...".

Clearly this is a misrepresentation of the facts. Does Council condone this misrepresentation to the ratepayers involved in the Vawser survey. This example throws some doubt on the veracity of this survey and its findings.

#### ***Response:***

***As has been stated on a number of occasions the current Master Plan does not set clear parameters for the size, scale and visual amenity of the proposed development and without these being established and incorporated into the Planning Scheme through the Planning Scheme Amendment process being recommended in the Council report, there is no protection/guidance currently in place to ensure these 'aspirations' can be enforced.***

***These need to be further defined through the Planning Scheme Amendment process to move them from simple 'aspirations' to 'controls'. While the Master Plan - as defined through the Enquiry by Design process undertaken over 5 days with the Apollo Bay community - recognised that expectations are that the building will be required to respect the local amenity and environment, the next stage (PSA) is where this will be further clarified and presented in a planning context to ensure that only a building that meets the local requirements (along the lines of something like 'low rise, set into the hill, anticipated to be no higher than the fisherman's coop...') can be supported.***

***There is no misrepresentation of the facts in the Vawser Survey Report and neither is there any doubt on the veracity of the report or its findings.***

2. How will Council ensure controls set under the Planning Scheme Amendment are not over ruled by the appropriate Minister and / or VCAT?

Page 80 of agenda says - "It would provide valid grounds upon which inappropriate development could be refused and prohibit development that does not comply with basic parameters such as building footprint, size and bulk".

**Response:**

***The planning scheme amendment will aim to provide specific guidance on what use and development can, and what can't or should be discouraged, in the Harbour precinct. It is likely that the provisions will contain objectives, performance criteria/policy criteria (which may include benchmarks which must be met as well as some which are less prescriptive), requirements to be met for any planning permit application and guidance as to what is prohibited and/or subject to a permit. For elements that cannot be varied by a planning permit (and thus are prohibited), these could not be over ruled by VCAT. Variation to such elements would require a further change to the planning scheme, and would require strategic justification and further public notification and submissions processes. For provisions which are not absolute, these would be subject to use of Council's discretion when assessing an application to determine whether a proposal is compliant. In such circumstances, Council's decision could be appealed by an applicant or objectors, and reviewed by VCAT. At present, there are no planning scheme criteria to specify what outcomes must be met relating to the Harbour except for a Heritage Overlay which plays a very minor role. Local residents can make submissions on the adequacy of the proposed detailed provisions within the amendment when it is placed on exhibition.***

***It is important to understand that incorporating the adopted Apollo Bay Harbour Master Plan into the Planning Scheme strengthens this council's position with regard to protecting the communities best interests and determining any future planning permit applications for development within the harbour precinct.***

3. Why was it not noted that "60% of the ratepayers are very concerned about certain aspects of the harbour redevelopment plan?

In the Vawser survey Question 28 found that "60% of the ratepayers are very concerned about certain aspects of the harbour redevelopment plan". Why was this fact not mentioned in the Executive Summary under Key Findings, and also not mentioned on page 85 of this meeting's agenda

**Response:**

***The Executive Summary of the Vawser Survey Report and the report prepared by officers for the Council Meeting highlighted what were considered as key elements of the overall report. It is never intended that this would, or could, include every aspect of the total report. It should be recognised that councillors received two detailed briefings by the consultant to provide every opportunity for any matters raised in the report to be clarified and councillors availed themselves of this opportunity at the time. It is also important to note that the full Vawser Report is on the Council Website for viewing by all ratepayers and has been since it was considered by Council in September 2011.***

***The consultants engaged by Council to undertake this survey are very credible experts in their field and the findings of the report reflect their experience and credibility.***

4. Has Council approached the new Liberal State Government regarding alternative private investment opportunities?

Since the financial viability of a small Boutique Hotel and Well Being Centre in the harbour precinct is yet to be assessed or proved, has Council approached the new Liberal State Government to ascertain whether some other form of private investment could be considered. This could be a restaurant, cafe, gift shop, chandlers, etc.

**Response:**

**Council has been working with senior representatives of state government agencies on an Interdepartmental Steering Committee over the past six years on this project. One of the key considerations driving this work has been in ensuring an alignment of the project with the objectives and priorities of these Departments to maximise the opportunity for state government funding. This can only occur if the key deliverables of these departments (objectives in their adopted planning processes) support the proposal. One of the major drivers for government support for the project has been the existence of a key piece of infrastructure (which reflects the identified need for four – five star boutique accommodation along the Great Ocean Road). This provides an opportunity to accommodate higher numbers of tourists (large tourist coaches), to attract a new market segment who are not currently spending time in the region and to consequently improve the tourism yield achieved in the high profile region. This project has been identified as a high priority for Tourism Victoria and is also a priority project for the G21 and Great South Coast Regions. It is not common for a project to achieve this level of universal support and the existence of the accommodation is a key aspect of that support. A 'Restaurant, café, gift shop, chandlers, etc.' as proposed in this question would clearly not meet that objective.**

**In response to a resolution of this Council at the Ordinary Meeting of Council of a letter was written to representatives of Tourism Victoria and a meeting conducted with senior officers in relation to this matter. A response was subsequently received from the Director Aviation and Tourism Attraction with Tourism Victoria and is reported to Council in today's Council meeting agenda. A copy of that letter is an attachment to the report.**

5. Will council make a Full and Accurate report on the Vawser Survey available to the Apollo Bay residents?

The Vawser Survey Report available on the COS Web Site appears to have inconsistencies and omissions. The report says a sample of 300 people were surveyed. Yet question 34 says the sample included 185 Non-Resident Ratepayers, 44 Business Owners and 111 Resident Ratepayers. This is a Total of 340 people surveyed for question 34? Survey Questions 6, 15 and 22 and their findings appear to be missing from this report.

**Response:**

**This matter was reported to Council at the Meeting of September 2011 and this report is a public document available on the Council website. The full Vawser Report has also been available to the community on Council's website following that meeting. It is worth noting that the sample survey size was increased from 200 (which would have provided a credible sample) to 300 at the request of officers to remove any doubt in relation to the ultimate survey findings. Unfortunately there was some mislabelling of questions (wrong question numbers) in the final report. All questions asked are shown in the report, and all results are presented accurately. No questions or results are missing.**

**The graph on page 59 of the Vawser report presents an analysis of three different sub-groups of people surveyed. It is not designed to add up to 300 respondents because some local residents and people who live outside the Apollo Bay area also own businesses in the town and are included in both sub groups. This in no ways effects the outcomes of this survey.**

6. Why was the scope of the Vawser so limited in its coverage?

Since it is proposed that the harbour redevelopment will provide increased job opportunities and business activity for the Apollo Bay community why were the non-rate paying (ie rental) households not surveyed for their input. This group probably includes most of the tradesmen, self employed and service providers in Apollo Bay. Also why were the tourists not surveyed to see what they looked for in their tourist destination?

**Response:**

**The objective of the telephone survey was to provide a reliable measure of the Apollo Bay community support for the redevelopment plan. The largest stakeholder group in the community are residential and business ratepayers. Given that two thirds of Apollo Bay land owners live outside the local area, it was vital to include these rate payers in the survey to ensure representative coverage of Apollo Bay stakeholders. The consultants and Council agreed that the best sample frame to use for the purposes of the survey was the Council ratepayer database because it was the only list containing non-resident ratepayers (who live all over Australia) and provided coverage of the vast majority of local residents in Apollo Bay. The survey was considered to provide extensive coverage of these stakeholders and cannot be in any way considered limited in coverage.**

**In an ideal world, permanent non-rate paying residents of Apollo Bay would have also been included in the telephone survey, however this was not possible within the scope of the survey at a cost that would be viable for the project due to the unavailability of information including phone numbers of non-rate paying residents. Notwithstanding this limitation, the final sample used in this survey is considered by the consultant and Council to provide excellent coverage of the main stakeholders that would be affected by the Harbour redevelopment plan, and excellent coverage of the vast majority of local residents in Apollo Bay.**

#### **Peter Fillmore – Apollo Bay**

1. Now that the Apollo Bay Golf Club (APGC) has been assured of a new lease on their current title, does this not make the Enquiry By Design master plan outdated and irrelevant? As it showed a new access road and luxury resort encroaching on to the 3<sup>rd</sup> fairway.

**Response:**

**The adopted Master Plan that was derived from the Enquiry by Design process in September 2008 made specific provision for retention of the golf club in its current position. The retention of the golf club on the foreshore was a key change to the initial draft 2007 Master Plan as a result of the Enquiry By Design process, and was a significant contributor towards increasing community acceptance of the adopted plan. It was recognised when adopting the Master Plan that minor adjustments would need to be negotiated with the Golf Club to the tee for the third hole to accommodate changes to the access road into the Precinct. The adopted Plan is therefore no less relevant than it was at the time of adoption. There have been on-going discussions between Shire officers and the Golf Club over the past few years concerning this issue, and it is understood the Golf Club are satisfied that the minor changes required**

**can be accommodated without adversely impacting on the course. Council has actively supported the Golf Club in seeking a new lease for this site on the basis that the golf club is consistent with the Master Plan.**

**It is important to recognise that the realignment of the access road would have been required regardless of the Master Plan to ensure safe access/egress to/from the harbour area in accordance with Council's obligations under the Road Management Act. This is necessary due to the significant traffic movements related to the extensive car and boat trailer parking that is required within the harbour area and the recognition of the dangers inherent in the current dog leg in the road adjacent to the fishing Cooperative Building and the third tee of the golf course. This improved access will facilitate the ongoing operations of the working harbour that has been a key basic principle of the Master Plan from the outset and which has been strongly supported by all parties throughout the entire master planning process.**

2. Will the proposed Planning Scheme Amendment (PSA) for the Apollo Bay harbour include the rezoning of any of the current ABGC lease?

**Response:**

**It is unclear at this time whether the planning scheme amendment for the Harbour Master Plan would rezone land occupied by the Golf Course – this would need to be determined after a project manager has been appointed and work on preparation of the amendment has commenced. Either way, the golf club would continue to operate on the current site without any constraint imposed through changes to planning scheme provisions. It is anticipated at present that the only change to zoning of the golf course would be to reflect any minor change in the boundary between the golf course and the harbour access road.**

3. Can it be guaranteed that VCAT and/or the state government planning minister will not overrule any or all of the Council's PSA?

**Response:**

**The planning scheme amendment will aim to provide specific guidance on what use and development can, and what can't or should be discouraged, in the Harbour precinct. It is likely that the provisions will contain objectives, performance criteria/policy criteria (which may include benchmarks which must be met as well as some which are less prescriptive), requirements to be met for any planning permit application and guidance as to what is prohibited and/or subject to a permit. For elements that cannot be varied by a planning permit (and thus are prohibited), these could not be over ruled by VCAT. Variation to such elements would require a further change to the planning scheme, and would require strategic justification and further public notification and submissions processes. For provisions which are not absolute, these would be subject to use of Council's discretion when assessing an application to determine whether a proposal is compliant. In such circumstances, Council's decision could be appealed by an applicant or objectors, and reviewed by VCAT. At present, there are no planning scheme criteria to specify what outcomes must be met relating to the Harbour except for a Heritage Overlay which plays a very minor role. Local residents can make submissions on the adequacy of the proposed detailed provisions within the amendment when it is placed on exhibition.**

**It is important to understand that incorporating the adopted Apollo Bay Harbour Master Plan into the Planning Scheme strengthens this council's position with regard to protecting the communities best interests and determining any future planning permit applications for development within the harbour precinct.**

4. A question was asked about whether Cr Frank Buchanan had a conflict of interest with regard to this issue. As the question contained personal information, it was not read out.

**Response:**

***The CEO believes that there is no conflict of interest in this instance and it is up to individual Councillors to exercise their obligations under the provisions for the declaration of conflict of interest.***

5. Why does Colac Otway Shire refuse to acknowledge the Otway Forum petition, signed by over 900 people, that clearly states – “If you do not agree with the current proposal please sign below”?

**Response:**

***We understand that the petition referred to was titled along the lines of “Would you support a multi storey hotel development on Golf Club Land at the Apollo Bay Harbour”. This statement is inaccurate and considered to be deliberately misleading and therefore cannot be said to accurately convey the views of the community in respect of the adopted 2008 Harbour Master Plan. Council has deliberately sought to understand the degree of community support for the Master Plan, and for the Planning Scheme Amendment process, by engaging Vawser and Associates, an independent and experienced professional market research company, to undertake a valid telephone survey of land owners in Apollo Bay and the surrounding area. The design of the survey ensured that respondents understood the facts of the proposal before providing their opinion.***

6. Why won't Colac Otway Shire consider Otway Forum's alternative harbour redevelopment proposal, that costs considerably less, does not require a PSA and has broad community support ?

**Response:**

***As noted in a response to another question on this issue, one of the major drivers for government support for the project has been the existence of a key piece of infrastructure (which reflects the identified need for 4 – 5 star boutique accommodation along the Great Ocean Road). The Otway Forum proposal for the harbour which excludes accommodation, would be unlikely to receive State Government funding for the public infrastructure components as it would not align with the key priorities of Tourism Victoria. It also does not provide any basis under which funding may be achieved and makes unsubstantiated assumptions in relation to the level of funding that would be saved and other uses to which the remaining funds could be better allocated. The proposal fails to understand the detailed process that has been undertaken in conjunction with senior representatives of relevant government departments and the importance of alignment with adopted funding priorities of those departments. These include addressing identified infrastructure gaps and the opportunity to attract a new market segment to the Great Ocean Road Region through providing an opportunity to attract high level accommodation which has resulted in the Master Plan being identified as a Priority Project not only for Tourism Victoria but also for the G21 and Great South Coast Regions. The question, by the inclusion of the statement ‘does not require a PSA’ clearly indicates that the author fails to recognise/understand the reality of the current situation. That being that unless the Planning Scheme Amendment is undertaken identifying what development can, and what cannot, be approved within the Apollo Bay Harbour Site, the reality is that there are currently no controls in place to control development and a proposal for development that does not meet the community’s approval can be applied for right now without any planning provisions to control it. The incorporation of the adopted Apollo Bay Harbour Master Plan into the Planning***

***Scheme based on the outcomes of the five day 'Enquiry by Design' process provides certainty that currently does not exist.***

7. In 1990 Otway shire's AB harbour study, when exhibited, received 240 submissions and noted that 87% of respondents preferred little or no development at the harbor. The 1997 Colac Otway Shire South Eastern Precinct Study received 300 submissions, although no figures were released it noted that "issues in order of frequency were" – 1. The opposition by the Apollo Bay community to a large Cumberland style development at the harbour.

The 2007 Meinhardt AB Harbour Precinct Master Plan received 555 submissions and reported that 72% opposed hotel/ visitor accommodation at the harbor. Why has Colac Otway Shire never formally exhibited and requested public submissions on the EQD harbour plan, as has been done for previous plans? This could have been in conjunction with a community newsletter (as has been done in the past and where all residents and ratepayers could have their say). The Vawser phone survey of 300 ratepayers, cost \$27,000, and only 38% of respondents were local residents.

***Response:***

***The 1990 Harbour Study and 1997 Colac-Otway Shire South Eastern Precinct Study referred to occurred over twenty years and 15 years ago respectively, and have no relevance. The Master Plan process undertaken since 2005/06 is the most recent and relevant planning process for redevelopment of the Harbour precinct, and most accurately reflects current community views. The Master Plan adopted in 2008 following the Enquiry by Design process was significantly different to the 2007 draft Master Plan prepared by Meinhardt, providing for retention of the golf course, removal of the new Harbour road through the foreshore and reduction in scale of the built development. These key changes, amongst others, that resulted from the Enquiry by Design positively responded to community concerns and resulted in a higher degree of community acceptance of the Plan. The Vawser telephone survey in 2011 confirmed that the plan overall had majority support within the local community. The reason for conducting a professional telephone survey to gauge community opinion on the Plan was that this method provides a much more accurate measurement of community opinion than more traditional forms of consultation such as feedback forms distributed within the community. People opposed to an idea are more likely to act and respond to that idea (ie make a submission), than a person who supports or has no opinion on the matter. The Enquiry by Design process made provision for unprecedented public input into the development of the adopted Master Plan, and as indicated a number of times in public information on the issue, the community will have a further chance to make submissions on the Master Plan when the planning scheme amendment is placed on public exhibition during the next step in the process.***

**Questions Received Verbally at the Meeting**

**Carol Wilmlink – Apollo Bay**

1. How will the Colac Otway Shire carry out future market research to ensure that the democratic right of all non-ratepaying residents is protected?

***Response:***

***The CEO advised that the Vawser Survey had been conducted for the reasons as previously stated. That is, it is very hard to get the contact names and numbers of non-ratepaying residents. Council wanted to determine the genuine view of the community, some of who had previously indicated that they were not inclined to***



***Speak publicly and wanted a level of anonymity. There will be times when other methodology will be appropriate to determine what our residents think about certain issues.***

Why were only 38% of all locals represented in the survey? Why have a Local Government unless you are going to represent local residents?

***Response:***

***The CEO stated that Council had undertaken the survey because it was seen to be the best option to use to research the community and Council believes that the results provide an accurate representation of community opinion.***

**Janine McKenzie – Apollo Bay**

Why is the local swimming pool being closed at the end of the month?

***Response:***

***The General Manager for Corporate and Community Services advised that in previous agreements with the school were that the swimming pool closed at the end of February. Council will need to have more discussions with the school in order to vary that agreement.***

**Phil Lawson – Apollo Bay**

When the line of boats waiting to be launched at the Apollo Bay harbor reaches past the Catholic Church, how will people access the proposed hotel?

***Response:***

***The General Manager for Sustainable Planning and Development stated that the current carpark would be upgraded and a traffic study would be completed to better manage the flow of traffic. A condition of any private investment in the hotel would be the provision of carparking with private access.***

Can you guarantee that there will be at least 85 carparking spaces to cater for cars with boat trailers?

***Response:***

***The General Manager for Sustainable Planning and Development stated that while no guarantees could be given, there would be a detailed traffic study completed which should result in an improved use of carparking areas.***

**Graham McKenzie – Apollo Bay**

Do all Councillors agree that public land should be used for private enterprise?

***Response:***

***The Mayor advised that this matter would be debated later during the meeting at item 12 of the agenda.***

**Bob Kanngiesser – Apollo Bay**

Given the importance of tourism to Apollo Bay, why wasn't tourism considered in the survey?

***Response:***

***The CEO stated that the survey was conducted to find out what ratepayers thought about the proposal and that while advice had been received from Tourism Victoria, the opinions of landowners was considered more important than that of landowners.***

### **Jane Gross – Apollo Bay**

By passing this Planning Scheme Amendment, is Council committing to the Enquiry by Design Masterplan to the letter and, if not, will Council consider allowing the indoor heated pool, which has been identified as being required to meet the needs of the community, to be built there?

#### **Response:**

*The CEO advised that the Planning Scheme Amendment is required in order to provide a greater degree of control around future development of the harbor. As it currently sits, anyone can apply to build a facility there today. If we go through this process, controls can be placed on any future development which can then be used to defend Council at VCAT. This process will provide protection for the neighbourhood character of the area and increase the likelihood of obtaining funding for public infrastructure at the harbor. The request for the heated pool to be located at the site is receiving consideration by Councillors.*

*Council is being asked to vote on a process not an amendment today.*

### **Stuart Merriman – Apollo Bay**

Has Council considered the precedent it will set if it accepts the recommendation to go ahead with the Planning Scheme Amendment?

#### **Response:**

*The CEO stated that he did not believe that a precedent would be set today. The right to apply for a development on the site exists today. Council simply wants to follow the intent of the community and to meet the needs of the Neighbourhood Character Study. This is a normal process to go through to consider the issues.*

### **Mick Hilland – Apollo Bay**

In debates with tourism bodies, have you looked at other areas for development?

#### **Response:**

*The CEO advised that other developments are possible within the town. There will be an increased need for accommodation to meet the demands of tourism. This proposal is not just about a boutique hotel but about providing improvements that would add value to tourism in the area.*

### **Tabling of Documents**

The Mayor tabled the following document:

- Response sent to a member of the public with respect to the management of noxious plants and animals.



Colac Otway  
SHIRE

7 February 2012

**RE: Councils Responsibility Regarding Noxious Plants and Animals**

Thank you for your letter dated 28 January 2012. In response to your letter you ask for clarification about what Councils responsibility is for controlling vermin and noxious weeds. In basic terms Council does have legal obligations to control declared noxious species on all land parcels owned and managed by the Shire but the legal obligations for control on roadsides are more complicated. The information provided below details what Council is doing to strategically manage vermin and noxious weeds and also explains the complex legal issues associated with roadsides.

Council undertakes a strategic annual program to manage noxious weeds and vermin. This annual program controls pests on a significant amount of land consisting largely of public reserves, parks, vacant blocks and environmental assets (i.e. waterways, lakes, remnant bushland etc) and some areas of roadside. It is important to note that with over 500 land parcels and 1600km of roads under Council management current budget restrictions do not allow for treatment of all noxious and environmental pests every year.

To try to improve pest control across the region Council convenes meetings of the Colac Otway Weeds Consultative Committee to discuss ways in which Council can work in partnership with other key stakeholders to achieve mutually beneficial outcomes across different land tenures. Council also applies for many grants to try to undertake works that are not able to be achieved within current resource constraints.

In regards to the control of noxious weeds and pest on roadsides within the Shire it is important to consider the type of road in question and the legislative requirements for those roadsides. Primarily there are two types of road found within the Shire:

- 'Declared' roads which are managed by VICROADS; and
- Municipal (non-declared) roads managed by Council.

There has been ongoing debate on the responsibility of roadside weeds for a number of years. The complexity arises because there are three pieces of legislation that interact to create conflict in relation to identifying the responsibility for roadside weeds. The three pieces of legislation are:

- The Catchment and Land Protection Act (1994) (CaLP Act);
- The Local Government Act (1989); and
- The Road Management Act (2004).

Colac Otway Shire  
PO Box 263  
Colac Victoria 3250  
www.colacotwayvic.gov.au  
info@colacotwayvic.gov.au

Colac Service Centre  
2-5 Rae Street  
Colac Victoria 3250  
Ph: (03) 5232 9400  
Fax: (03) 5232 1046

Apollo Bay Service Centre  
69-71 Nelson Street  
Apollo Bay Victoria 3233  
Ph: (03) 5237 6504  
Fax: (03) 5237 6734

Historically, the CaLP Act has been interpreted by State and Local Governments to say that managing regionally controlled weeds on roadsides is the responsibility of the adjoining landowner. This is in line with the original intent of the Act as shown in the extract from the CaLP Act below:

- *Part 3 - Duties of the Secretary and Land Owners 20. General duties of land owners (2) A land owner must take all reasonable steps to prevent the spread of regionally controlled weeds and established pest animals on a roadside that adjoins the land owner's land.*

Debate started because of doubts raised about the interpretation of this section of the CaLP Act and of confusion about the interpretation of another section of the Act shown below that suggests that public authorities may be the responsible authority for weeds on roadsides:

- *Part 3 Sub-section (2) does not apply to roadsides which are Crown land managed by a public authority other than the Secretary, or a Minister other than the Minister.*

The legal issues are further complicated by the interpretation of the Road Management Act and the Local Government Act, as these Acts identify councils as being the land manager for roads and roadsides. It is due to these legal interpretation issues that the responsibility of weeds on roadsides remains unclear. Council has written to the Department of Primary Industry (DPI) and the Municipal Association of Victoria (MAV) seeking clarification on this issue. Both agencies have yet to provide an answer in relation to Council's responsibilities for the control of roadside weeds. Until official notification is received indicating otherwise, Council's current position aligns with the historical interpretation of the CaLP Act which places the responsibility for roadside weed control with the adjoining landholder.

Council is committed to the protection of the environment and in lieu of a resolution being achieved on this matter Council continues to undertake strategic weed and pest control on roadsides because it does have legal responsibility where roads adjoin Council land and because it recognises the importance of controlling pests on roadsides to conserve environmental values and to maintain the safety of road users. For these reasons currently Council undertakes weed control on roadsides in the following cases:

- Where Council owns adjoining land;
- Where the roadside has been assessed as having high conservation status;
- Where an emergent weed not found widely in the region has been found on a roadside; and
- Where the weeds pose a safety hazard to road users.

Council has representation on an MAV working group formed to work with the State Government to try and find a resolution to the issues associated with roadside weeds and to develop appropriate funding arrangements that will help ensure that roadside weeds are managed in a more effective manner. A report has been finalised by the working group and submitted to the relevant Minister for consideration. Council looks forward to hearing the Ministers response to the report and working toward improving the management of weeds on roadsides.

Currently Council's environmental Services weed budget is \$40,000 per year (recently upgraded from \$30,000) and it is used strategically to try to protect the high conservation areas and to try to prevent the spread of emerging noxious weeds such as serrated tussock. It would be easy to spread these resources too thin and not have any lasting impact. Council also spends approximately \$30,000 per year on controlling weeds where they pose a safety hazard to road users. In addition to this over \$100,000 has been sourced over the previous 3 years through external funding for on ground pest plant and animal control on high conservation roadsides and capacity building activities to improve Councils weed management procedures.

It is estimated that the full annual cost of controlling all noxious weeds and vermin on Council managed land and roadsides would be well over \$1,000,000 per year. Due to the resilience of pest species it is predicted that it would require several years of similar funding measures before management would see a significant reduction in operational costs. At this time it would be likely that Council would still need to invest approximately \$500,000 per year for perpetuity to keep on top of the pest problems. For Council to fund this it would require a significant rate increase to create a recurrent budget for noxious pest plant and animal control throughout the Shire. A budget request has been submitted to carry out a detailed assessment of weeds on Council land. If this budget request was supported more accurate costs for controlling pests would be obtained.

Given the expenditure required for full control of noxious weeds and vermin (i.e. over \$1M/yr) and necessity to involve all land owners/managers in similar measures for a successful outcome this is not considered a funding priority for the current Council budget at this time.

Council does however spend annually \$70,000 (\$40,000 Environment + \$30,000 Cosworks) on weed and vermin control in the municipality and recognises this amount of funding is grossly inadequate to manage the problem, despite this being a State & Federal Government issue. Council will therefore continue to push for progress in relation to resolving the legal issues associated with managing pests on roadsides and for the establishment of funding arrangements that will help ensure that noxious weeds and vermin can be managed in a more effective manner on areas managed by Council and across the broader landscape.

In the meantime Council's position is that the control of weeds on roadsides remains the responsibility of adjoining land owners and Council will only undertake pest control on roadsides in the areas listed above in this letter.

If you have any questions please feel free to contact Council's General Manager Sustainable Planning and Development, Mr Jack Green on 5232 9456.

Yours faithfully



Stephen Hart  
Mayor Colac Otway Shire

## 6. DECLARATION OF INTEREST

Cr Russell:	In-Committee Agenda Item OM122202-18
Nature of Disclosure:	Direct Interest

Rob Small:	In-Committee Agenda Item OM122202-20
Nature of Disclosure:	Direct Interest

## 7. CONFIRMATION OF MINUTES

- **Ordinary Council Meeting held on the 25/01/12.**

***MOVED Cr Lyn Russell seconded Cr Stuart Hart that Council confirm the above minutes.***

***CARRIED 7 : 0***

## OFFICERS' REPORTS

### Chief Executive Officer

OM122202-1 CEO'S PROGRESS REPORT TO COUNCIL

### Corporate and Community Services

OM122202-2 COMMUNITY REFERENCE GROUP - HEATHFIELD ESTATE RESERVE  
OM122202-3 APPOINTMENT OF NEW MEMBERS - KENNETT RIVER TENNIS  
RESERVE COMMITTEE OF MANAGEMENT  
OM122202-4 COUNCIL COMMUNITY FUNDING PROGRAM 2012-2013  
OM122202-5 FESTIVAL AND EVENTS SUPPORT SCHEME 2012/2013  
OM122202-6 COUNCIL COMMITMENT TO CENTRAL RESERVE REDEVELOPMENT  
OM122202-7 S6 INSTRUMENT OF DELEGATION UPDATE - COUNCIL TO MEMBERS  
OF COUNCIL STAFF  
OM122202-8 VARIATION OF LEASE - APOLLO BAY FISHERMAN'S CO-OPERATIVE

### Infrastructure and Services

OM122202-9 ROAD DISCONTINUANCE - 1505 OLD BEECH FOREST ROAD, BEECH  
FOREST

### Sustainable Planning and Development

OM122202-10 SMALL TOWN IMPROVEMENT PROGRAM GUIDELINES REVIEW  
OM122202-11 LEGAL COSTS ASSOCIATED WITH REPRESENTATION AT THE  
VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL (VCAT) SINCE  
JANUARY 2009  
OM122202-12 APOLLO BAY HARBOUR PRECINCT MASTER PLAN PLANNING  
SCHEME AMENDMENT

### General Business

OM122202-13 ASSEMBLY OF COUNCILLORS

**CONSENT CALENDAR**

**OFFICERS' REPORT**

D = Discussion  
W = Withdrawal

ITEM	D	W
<p><u>CHIEF EXECUTIVE OFFICER</u></p> <p><b><u>OM122202-1 CEO'S PROGRESS REPORT TO COUNCIL</u></b></p> <p>Department: Executive</p> <p><b><u>Recommendation(s)</u></b></p> <p><i>That Council notes the CEO's Progress Report to Council.</i></p>	<p>Cr Brian Crook</p>	

***MOVED Cr Brian Crook seconded Cr Lyn Russell that recommendations to item OM122202-1 CEO's Progress Report to Council, as listed in the Consent Calendar, be adopted.***

***CARRIED 7 : 0***



**CONSENT CALENDAR****OFFICERS' REPORT**

D = Discussion

W = Withdrawal

ITEM	D	W
<p><u>CORPORATE AND COMMUNITY SERVICES</u></p> <p><b><u>OM122202-2 COMMUNITY REFERENCE GROUP - HEATHFIELD ESTATE RESERVE</u></b></p> <p>Department: Corporate and Community Services</p> <p><b><u>Recommendation(s)</u></b></p> <p><b><i>That Council:</i></b></p> <ol style="list-style-type: none"> <li>1. <b><i>Endorses the following community members for the Heathfield Estate Reserve Community Reference Group:</i></b> <ul style="list-style-type: none"> <li>• <i>Cate Cousland</i></li> <li>• <i>Cheryl Biddle</i></li> <li>• <i>Chris Traube</i></li> <li>• <i>Craig Rippon</i></li> <li>• <i>Jenny Rippon</i></li> <li>• <i>Jenny Laird</i></li> <li>• <i>Oleg Kuznetsov</i></li> <li>• <i>Reg Wilkinson</i></li> <li>• <i>Rick Whitwell</i></li> <li>• <i>Susan Leary</i></li> <li>• <i>Tony Webber</i></li> </ul> </li> <li>2. <b><i>Nominates Cr....., to be a member and Chairperson of the Heathfield Estate Reserve Community Reference Group.</i></b></li> <li>3. <b><i>Notes that the Mayor Stephen Hart and Council's Manager Recreation, Arts and Culture will be members of the Heathfield Estate Reserve Community Reference Group.</i></b></li> </ol>		<p>Cr Lyn Russell</p>

<p><b><u>OM122202-3</u></b>      <b><u>APPOINTMENT OF NEW MEMBERS - KENNETT RIVER TENNIS RESERVE COMMITTEE OF MANAGEMENT</u></b></p> <p>Department: Corporate and Community Services</p> <p><b><u>Recommendation(s)</u></b></p> <p><i>That Council appoints Paul Grocott, Dave Sinclair and Frank Morin to the Kennett River Tennis Reserve Committee of Management until the conclusion of the current committee's term in June 2013.</i></p>								
<p><b><u>OM122202-4</u></b>      <b><u>COUNCIL COMMUNITY FUNDING PROGRAM 2012-2013</u></b></p> <p>Department: Corporate and Community Services</p> <p><b><u>Recommendation(s)</u></b></p> <p><b><i>That Council:</i></b></p> <ol style="list-style-type: none"> <li><b><i>1. Endorses the revised 2012/2013 Council Community Funding Program guidelines and application forms.</i></b></li> <li><b><i>2. Commences implementation of the Council's Community Funding Program in accordance with:</i></b> <ol style="list-style-type: none"> <li><b><i>a. The revised guidelines and application forms including the proposed processes and timelines; and</i></b></li> <li><b><i>b. The current funding levels.</i></b> <table data-bbox="363 1400 911 1503" style="margin-left: 40px;"> <tr> <td><b><i>Recreation Facilities</i></b></td> <td style="text-align: right;"><b><i>\$80,000</i></b></td> </tr> <tr> <td><b><i>Community Projects</i></b></td> <td style="text-align: right;"><b><i>\$40,000</i></b></td> </tr> <tr> <td><b><i>COPACC Assistance</i></b></td> <td style="text-align: right;"><b><i>\$10,000</i></b></td> </tr> </table> </li> </ol> </li> </ol>	<b><i>Recreation Facilities</i></b>	<b><i>\$80,000</i></b>	<b><i>Community Projects</i></b>	<b><i>\$40,000</i></b>	<b><i>COPACC Assistance</i></b>	<b><i>\$10,000</i></b>		Cr Chris Smith
<b><i>Recreation Facilities</i></b>	<b><i>\$80,000</i></b>							
<b><i>Community Projects</i></b>	<b><i>\$40,000</i></b>							
<b><i>COPACC Assistance</i></b>	<b><i>\$10,000</i></b>							
<p><b><u>OM122202-5</u></b>      <b><u>FESTIVAL AND EVENTS SUPPORT SCHEME 2012/2013</u></b></p> <p>Department: Corporate and Community Services</p> <p><b><u>Recommendation(s)</u></b></p> <p><b><i>That Council:</i></b></p> <ol style="list-style-type: none"> <li><b><i>1. Endorses the revised Festival and Events Support Scheme guidelines and application forms as attached.</i></b></li> </ol>		Cr Chris Smith						

<p><b>2. Commences implementation of the 2012/2013 Festival and Events Support Scheme in accordance with:</b></p> <p><b>a. The revised guidelines and application forms including the proposed process and timelines, and</b></p> <p><b>b. The current funding levels of \$60,000.</b></p> <p><b>3. Refers the increased funding request to the 2012/2013 budgetary process as follows:</b></p> <p style="padding-left: 40px;"><b>Established Events            \$50,000 to \$75,000</b></p> <p style="padding-left: 40px;"><b>Seed Funding                    \$10,000 to \$15,000.</b></p>		
<p><b><u>OM122202-6            COUNCIL COMMITMENT TO CENTRAL RESERVE REDEVELOPMENT</u></b></p> <p>Department: Corporate and Community Services</p> <p><b><u>Recommendation(s)</u></b></p> <p><b><i>That Council:</i></b></p> <p><b>1.     Allocates \$150,000 from the 2011/2012 Local Government Infrastructure Program allocation to the Central Reserve oval renovation.</b></p> <p><b>2.     Considers an allocation of \$250,000 through Council's 2012/2013 Budget process.</b></p>	Cr Brian Crook	
<p><b><u>OM122202-7            S6 INSTRUMENT OF DELEGATION UPDATE - COUNCIL TO MEMBERS OF COUNCIL STAFF</u></b></p> <p>Department: Corporate and Community Services</p> <p><b><u>Recommendation(s)</u></b></p> <p><b><i>In the exercise of the powers conferred by section 98(1) of the Local Government Act 1989 (the Act) and the other legislation referred to in the tabled Instrument of Delegation, Colac Otway Shire Council (Council) resolves that –</i></b></p> <p><b>1.     There be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the tabled Instrument of Delegation to members of Council staff, the powers, duties and functions set out in that Instrument, subject to the conditions and limitations specified in that Instrument.</b></p>		Cr Lyn Russell

<p>2. <b><i>The Instrument comes into force immediately the common seal of Council is affixed to the Instrument.</i></b></p> <p>3. <b><i>On the coming into force of the Instrument all previous delegations to members of Council staff (other than the Chief Executive Officer) are revoked.</i></b></p> <p>4. <b><i>The duties and functions set out in the Instrument must be performed and the powers set out in the Instrument must be executed, in accordance with any guidelines or policies of Council that may from time to time be adopted.</i></b></p>		
<p><b><u>OM122202-8 VARIATION OF LEASE - APOLLO BAY FISHERMAN'S CO-OPERATIVE</u></b></p> <p>Department: Corporate and Community Services</p> <p><b><u>Recommendation(s)</u></b></p> <p><b><i>That Council:</i></b></p> <p>1. <b><i>Replaces clause 10 Specified Purpose of the Schedule to the lease of land at the Apollo Bay Harbour occupied by the Fisherman's Co-operative Ltd:</i></b></p> <p>(i) <b><i>A fish freezing works and the disposal to members of fishing requisites;</i></b></p> <p>(ii) <b><i>The preparation, cooking and sale of seafood and associated food products for takeaway or onsite consumption.</i></b></p> <p>2. <b><i>Advises the Apollo Bay Fisherman's Co-operative Ltd and Department of Sustainability and Environment of this resolution.</i></b></p>	<p><b>Cr Chris Smith</b></p> <p><b>Cr Frank Buchanan</b></p>	

***MOVED Cr Frank Buchanan seconded Cr Stephen Hart that recommendations to items listed in the Consent Calendar, with the exception of items OM122202-2 Community Reference Group – Heathfield Estate Reserve, OM122202-4 Council Community Funding Program 2012-2013, OM122202-5 Festival and Events Support Scheme 2012/2013 and OM122202-7 S6 Instrument of Delegation Update – Council to Members of Council Staff, be adopted.***

***CARRIED 7 : 0***

**OM122202-2 COMMUNITY REFERENCE GROUP - HEATHFIELD ESTATE RESERVE**

**MOTION - MOVED Cr Lyn Russell seconded Cr Brian Crook:  
That Council:**

1. **Endorses the following community members for the Heathfield Estate Reserve Community Reference Group:**
  - **Cate Cousland**
  - **Cheryl Biddle**
  - **Chris Traube**
  - **Craig Rippon**
  - **Jenny Rippon**
  - **Jenny Laird**
  - **Oleg Kuznetsov**
  - **Reg Wilkinson**
  - **Rick Whitwell**
  - **Susan Leary**
  - **Tony Webber**
2. **Nominates Cr Frank Buchanan to be a member and Chairperson of the Heathfield Estate Reserve Community Reference Group.**
3. **Notes that the Mayor Stephen Hart and Council's Manager Recreation, Arts and Culture will be members of the Heathfield Estate Reserve Community Reference Group.**

**CARRIED 7 : 0**

**OM122202-4 COUNCIL COMMUNITY FUNDING PROGRAM 2012-2013**

**MOTION - MOVED Cr Chris Smith seconded Cr Brian Crook:**

**That Council:**

1. **Endorses the revised 2012/2013 Council Community Funding Program guidelines and application forms.**
2. **Commences implementation of the Council's Community Funding Program in accordance with:**
  - a. **The revised guidelines and application forms including the proposed processes and timelines; and**
  - b. **The following funding levels:**

<b>Recreation Facilities</b>	<b>\$100,000</b>
<b>Community Projects</b>	<b>\$ 60,000</b>
<b>COPACC Assistance</b>	<b>\$ 10,000</b>

**LOST 1 : 6**

***DIVISION called by Cr Chris Smith***

***For the Motion: Cr Chris Smith***

***Against the Motion: Cr Brian Crook, Cr Geoff Higgins, Cr Frank Buchanan, Cr Stuart Hart, Cr Lyn Russell, Cr Stephen Hart***

***MOTION - MOVED Cr Lyn Russell seconded Cr Frank Buchanan:***

***That Council:***

- 1. Endorses the revised 2012/2013 Council Community Funding Program guidelines and application forms.***
- 2. Commences implementation of the Council's Community Funding Program in accordance with:***
  - a. The revised guidelines and application forms including the proposed processes and timelines; and***
  - b. The current funding levels.***

<b><i>Recreation Facilities</i></b>	<b><i>\$80,000</i></b>
<b><i>Community Projects</i></b>	<b><i>\$40,000</i></b>
<b><i>COPACC Assistance</i></b>	<b><i>\$10,000</i></b>

- c. Refers an increased funding request to the 2012/2013 budgetary process as follows:***

<b><i>Recreation Facilities</i></b>	<b><i>\$80,000 to \$100,000</i></b>
<b><i>Community Projects</i></b>	<b><i>\$40,000 to \$ 60,000</i></b>
<b><i>COPACC Assistance</i></b>	<b><i>\$10,000</i></b>

**CARRIED 7 : 0**

**OM122202-5 FESTIVAL AND EVENTS SUPPORT SCHEME 2012/2013**

***MOTION - MOVED Cr Chris Smith:***

***That Council:***

- 1. Endorses the revised Festival and Events Support Scheme guidelines and application forms as attached.***
- 2. Commences implementation of the 2012/2013 Festival and Events Support Scheme in accordance with:***
  - a. The revised guidelines and application forms including the proposed process and timelines, and***
  - b. The following funding levels of:***

<b><i>Established Events</i></b>	<b><i>\$75,000</i></b>
<b><i>Seed Funding</i></b>	<b><i>\$15,000.</i></b>

***Due to the lack of a seconder, the motion lapsed.***

**MOTION - MOVED Cr Lyn Russell seconded Cr Brian Crook:  
That Council:**

1. **Endorses the revised Festival and Events Support Scheme guidelines and application forms as attached.**
2. **Commences implementation of the 2012/2013 Festival and Events Support Scheme in accordance with:**
  - a. **The revised guidelines and application forms including the proposed process and timelines, and**
  - b. **The current funding levels of \$60,000.**
3. **Refers the increased funding request to the 2012/2013 budgetary process as follows:**

<b>Established Events</b>	<b>\$50,000 to \$75,000</b>
<b>Seed Funding</b>	<b>\$10,000 to \$15,000.</b>

**CARRIED 7 : 0**

**OM122202-7      S6 INSTRUMENT OF DELEGATION UPDATE - COUNCIL TO  
MEMBERS OF COUNCIL STAFF**

**MOTION - MOVED Cr Lyn Russell seconded Cr Frank Buchanan:**

**In the exercise of the powers conferred by section 98(1) of the Local Government Act 1989 (the Act) and the other legislation referred to in the tabled Instrument of Delegation, Colac Otway Shire Council (Council) resolves that:**

1. **There be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the tabled Instrument of Delegation to members of Council staff, the powers, duties and functions set out in that Instrument, subject to the conditions and limitations specified in that Instrument.**
2. **The Chief Executive Officer is authorised to affix the Common Seal to the Instrument. The Instrument comes into force immediately the common seal of Council is affixed.**
3. **The Instrument comes into force immediately the common seal of Council is affixed to the Instrument.**
4. **On the coming into force of the Instrument all previous delegations to members of Council staff (other than the Chief Executive Officer) are revoked.**
5. **The duties and functions set out in the Instrument must be performed and the powers set out in the Instrument must be executed, in accordance with any guidelines or policies of Council that may from time to time be adopted.**

**CARRIED 7 : 0**

CONSENT CALENDAROFFICERS' REPORT

D = Discussion

W = Withdrawal

ITEM	D	W
<p><u>INFRASTRUCTURE AND SERVICES</u></p> <p><b><u>OM122202-9 ROAD DISCONTINUANCE - 1505 OLD BEECH FOREST ROAD, BEECH FOREST</u></b></p> <p>Department: Infrastructure</p> <p><b><u>Recommendation(s)</u></b></p> <p><b><i>That Council:</i></b></p> <ol style="list-style-type: none"> <li><b><i>1. Gives public notice under Section 223 of the Local Government Act 1989, of its intention to discontinue the section of road designated R1 and shown hatched on Plan of Subdivision PS627750J.</i></b></li> <li><b><i>2. Subject to a six week notification period, hears and considers submissions should any be received. All submissions are to be heard in accordance with section 223 of the Local Government Act 1989. The Special Council Meeting, if required, is intended to be held on Wednesday 9 May 2012, at 1.00pm in the COPACC Meeting Room. Formal advice of the time and place of the meeting will be provided to those parties wanting to be heard in support of their written submission and will be advertised in the local print media should any be received</i></b></li> <li><b><i>3. If required, makes a final decision following preparation of a report by the General Manager Infrastructure and Services based on the recommendations of the Council meeting.</i></b></li> <li><b><i>4. Subject to no submissions being received and complying with its statutory requirements, instructs the Chief Executive Officer to execute the road discontinuance via a notice published in the Victoria Government Gazette.</i></b></li> </ol>		



***MOVED Cr Geoff Higgins seconded Cr Brian Crook that recommendations to item OM122202-9 Road Discontinuance – 1505 Old Beech Forest Road, Beech Forest, as listed in the Consent Calendar, be adopted.***

***CARRIED 7 : 0***

**CONSENT CALENDAR****OFFICERS' REPORT**

D = Discussion

W = Withdrawal

ITEM	D	W
<p><b><u>SUSTAINABLE PLANNING AND DEVELOPMENT</u></b>  <b><u>OM122202-10 SMALL TOWN IMPROVEMENT PROGRAM GUIDELINES REVIEW</u></b></p> <p>Department: Sustainable Planning and Development</p> <p><b><u>Recommendation(s)</u></b></p> <p><b><i>That Council:</i></b></p> <p><b><i>1. Endorses the amendments to the Small Town Improvement Program to modify the statement: “preference will be given to projects where up to a 50% contribution is available from the community” to “preference will be given to projects where a contribution is available from the community.”</i></b></p> <p><b><i>2. Endorses the amendment to the Small Town Improvement Program to remove the statement: “Preference will also be given to:</i></b></p> <ul style="list-style-type: none"> <li><b><i>• Organisations which have demonstrated a “self-help” attitude, a desire to raise funding through their own means and documentation to support the organisation’s 50% matching contribution.</i></b></li> <li><b><i>• Projects which have the ability to attract additional external funding or grants”.</i></b></li> </ul>	Cr Chris Smith	
<p><b><u>OM122202-11 LEGAL COSTS ASSOCIATED WITH REPRESENTATION AT THE VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL (VCAT) SINCE JANUARY 2009</u></b></p> <p>Department: Sustainable Planning and Development</p> <p><b><u>Recommendation(s)</u></b></p> <p><b><i>That Council notes the External Costs Associated with Representation at the Victorian Civil and Administrative Tribunal (VCAT) Since January 2009 report.</i></b></p>		Cr Chris Smith

<b>OM122202-12</b>	<b><u>APOLLO BAY HARBOUR PRECINCT MASTER PLAN PLANNING SCHEME AMENDMENT</u></b>	<b>Cr Stuart Hart</b>
Department: Sustainable Planning and Development		
<b><u>Recommendation(s)</u></b>		
<b><i>That Council proceeds with the Planning Scheme Amendment process based on the Apollo Bay Harbour Master Plan adopted at the October 2008 meeting of Council.</i></b>		

***MOVED Cr Lyn Russell seconded Cr Geoff Higgins that recommendations to items listed in the Consent Calendar, with the exception of items OM122202-11 Legal Costs associated with Representation at the Victorian Civil and Administrative Tribunal (VCAT) since January 2009 and OM122202-12 Apollo Bay Harbour Precinct Master Plan Planning Scheme Amendment, be adopted.***

***CARRIED 7 : 0***

**OM122202-11      LEGAL COSTS ASSOCIATED WITH REPRESENTATION AT THE  
VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL (VCAT) SINCE  
JANUARY 2009**

***MOTION - MOVED Cr Chris Smith:***

***That Council:***

***1. Notes the External Costs Associated with Representation at the Victorian Civil and Administrative Tribunal (VCAT) Since January 2009 report.***

***2. Notes that the resolution at the Council meeting of 23 November 2011:***

***“That Councillors and the community are given details of all costs in relation to VCAT decisions since January 2009.”***

***has not yet been fulfilled.***

***Due to the lack of a seconder, this motion lapsed.***

***MOTION - MOVED Cr Brian Crook seconded Cr Lyn Russell:***

***That Council notes the External Costs Associated with Representation at the Victorian Civil and Administrative Tribunal (VCAT) Since January 2009 report.***

***CARRIED 5 : 2***

***DIVISION called by Cr Chris Smith***

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

***Against the Motion: Cr Geoff Higgins, Cr Chris Smith***

**OM122202-12      APOLLO BAY HARBOUR PRECINCT MASTER PLAN PLANNING SCHEME AMENDMENT**

***MOTION - MOVED Cr Stuart Hart seconded Cr Geoff Higgins:***

***That Council:***

- 1. Notes that the previous Council adopted the Apollo Bay Harbour Master Plan Enquiry by Design options 2A and 2B on the last day before going into the caretaker period and without giving the community any opportunity to comment on any options for the harbour development.***
- 2. Notes that the current Council has never given the whole community the opportunity to comment on which of the options from the Enquiry by Design process should be adopted in the Apollo Bay Harbour Master Plan.***
- 3. Notes that the Apollo Bay Harbour Master Plan should include the golf course remaining at the current site as this is supported by this Council and the State Government.***
- 4. Requests the exhibition of the two options by the Enquiry by Design process, being those that:***
  - a. Include the golf course and a hotel on the harbour, or to;***
  - b. Include the golf course and exclude the hotel.***
- 5. Notes that the letter received in response to Council's September 2011 resolution is to be included in the exhibition process, that is, the November letter from Tourism Victoria advising the Council regarding a hotel at the harbour.***
- 6. Requests that after an exhibition period of at least six weeks, this community consultation result is to come back to Council for a final decision as to whether this Council supports, or does not support, a hotel being built on the Apollo Bay Harbour.***

***LOST 3 : 4***

***DIVISION called by Cr Stuart Hart***

***For the Motion: Cr Geoff Higgins, Cr Stuart Hart, Cr Stephen Hart***

***Against the Motion: Cr Brian Crook, Cr Chris Smith, Cr Frank Buchanan, Cr Lyn Russell***

The Mayor adjourned the meeting at 5.25pm and resumed the meeting at 5.30pm.

***MOTION - MOVED Cr Chris Smith seconded Cr Stuart Hart:***

***That Council proceeds with the Planning Scheme Amendment process based on the Apollo Bay Harbour Master Plan adopted at the October 2008 meeting of Council with the change to the area indicated for a potential hotel and wellbeing centre being retained as an area of public open space.***

***CARRIED 5 : 2***

***DIVISION called by Cr Chris Smith***

***For the Motion: Cr Geoff Higgins, Cr Chris Smith, Cr Stuart Hart, Cr Lyn Russell, Cr Stephen Hart***

***Against the Motion: Cr Brian Crook, Cr Frank Buchanan***

**CONSENT CALENDAR****OFFICERS' REPORT**

D = Discussion

W = Withdrawal

ITEM	D	W
<p><u>GENERAL BUSINESS</u></p> <p><b><u>OM122202-13 ASSEMBLY OF COUNCILLORS</u></b></p> <p>Department: General Business</p> <p><b><u>Recommendation(s)</u></b></p> <p><b><i>That Council notes the Assembly of Councillors reports for:</i></b></p> <ul style="list-style-type: none"> <li>• <b><i>Councillor Workshop - 18 January 2012</i></b></li> <li>• <b><i>Councillor Briefing Session -25 January 2012</i></b></li> <li>• <b><i>Saleyards Advisory Sub-Committee - 30 January 2012</i></b></li> <li>• <b><i>Native Timber Harvesting Meeting - 1 February 2012</i></b></li> <li>• <b><i>Central Reserve Advisory Committee - 1 February 2012</i></b></li> <li>• <b><i>Councillor Workshop - 8 February 2012.</i></b></li> </ul>		

***MOVED Cr Geoff Higgins seconded Cr Lyn Russell that recommendations to item OM122202-13 Assembly of Councillors, as listed in the Consent Calendar, be adopted.***

***CARRIED 7 : 0***

## IN COMMITTEE

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

<b>SUBJECT</b>	<b>REASON</b>	<b>SECTION OF ACT</b>
Confidential Items for Consideration - Memo to Councillors	this matter deals with legal advice; AND this matter may prejudice the Council or any person	Section 89 (2) (f) (h)
Review of landfill rehabilitation program for the closed landfill sites	this matter deals with contractual matters; AND this matter may prejudice the Council or any person	Section 89 (2) (d) (h)
Contract 1128 - Engineering Consultancy Services	this matter deals with contractual matters	Section 89 (2) (d)
Contract 1201 - Provision of Debt Recovery Services (MAV Tender DR8410)	this matter deals with contractual matters	Section 89 (2) (d)
Contract 1120 - Supply of Crushed Rock, Sealing Aggregate & Pavement Materials	this matter deals with contractual matters	Section 89 (2) (d)
Lease of Land at Colac Municipal Aerodrome for Hangars	this matter may prejudice the Council or any person	Section 89 (2) (h)
Chief Executive Officer - Contract of Employment	this matter deals with personnel matters; AND this matter deals with contractual matters	Section 89 (2) (a) (d)

**CARRIED 7 : 0**

Cr Chris Smith and Council officers, Jack Green, Neil Allen, Colin Hayman and Rhonda Deigan, left the meeting at 6.21pm.

Council officer, Rhonda Deigan, returned to the meeting at 6.25pm.

## OUT OF COMMITTEE

**MOVED Cr Brian Crook seconded Cr Stuart Hart that the meeting move out of committee.**

**CARRIED 6 : 0**

*The Meeting Was Declared Closed at 6.26 pm*

**CONFIRMED AND SIGNED** at the meeting held on 28 MARCH 2012

.....*SLM*.....**MAYOR**

