



Colac Otway  
SHIRE

**ORDINARY COUNCIL MEETING**

**MINUTES**

**Wednesday 28 August 2019**

**at 4:00 pm**

**COPACC**

**95 - 97 Gellibrand Street, Colac Victoria**

**Next Council Meeting: 25 September 2019**



# COLAC OTWAY SHIRE ORDINARY COUNCIL MEETING

Wednesday 28 August 2019

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# COLAC OTWAY SHIRE ORDINARY COUNCIL MEETING

MINUTES of the *ORDINARY COUNCIL MEETING OF THE COLAC OTWAY SHIRE COUNCIL* held at COPACC on  
Wednesday 28 August 2019 at 4:00 pm.

## MINUTES

### 1 DECLARATION OF OPENING OF MEETING

#### OPENING PRAYER

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

AMEN

### 2 PRESENT

Cr Brian Crook  
Cr Kate Hanson  
Cr Stephen Hart  
Cr Joe McCracken  
Cr Chris Potter  
Cr Jason Schram (Mayor)  
Cr Chris Smith

Peter Brown, Chief Executive  
Errol Lawrence, General Manager, Corporate Services  
Tony McGann, General Manager, Infrastructure & Leisure Services  
Ian Seuren, General Manager, Development & Community Services  
Sarah McKew, Manager, Governance & Communications  
Lyndal McLean, Coordinator, Governance  
Alison Martin, Coordinator, Communications  
Greg Fletcher, Manager, Community Services  
Jason Clissold, Manager, Financial Services  
Frank Castles, Manager, Services & Operations  
Doug McNeill, Manager, Planning, Building & Health  
Madeleine Bisits, Manager, Arts & Leisure  
Simon Clarke, Strategic Planning & Major Projects Coordinator  
Nick Howard, Finance Coordinator  
Nicole Frampton, Coordinator, Recreation & Open Space  
Jane Gorman, Acting Executive Assistant, Development & Community Services  
Tim Brain, Development Engineer  
Suzanne Barker, Contract Planner  
Lee Castles, Senior Procurement & Contracts Officer  
Toni Saunders, Management Accountant  
Vicki Jeffrey, Events Officer



### **3 APOLOGIES AND LEAVES OF ABSENCE**

Nil

### **4 WELCOME AND ACKNOWLEDGEMENT OF COUNTRY**

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

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. 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.

#### **QUESTIONS RECEIVED IN WRITING PRIOR TO THE MEETING**

**James Judd, Colac**

- 1. Has any decision yet been made about the land requested by the Colac Otway Shire Council from the land at the old Colac High School site? If so, when will an announcement be made and when will a decision by Council about for what use the land will be developed for? Plus when will it be usable and who will pay for upkeep of land?**

***Response from General Manager, Development & Community Services***

A response has recently been received from the State Government stating that it does not support Council's request to purchase an additional 5 hectares of the former Colac High School site, however it would be supportive of Council purchasing the entire site including the heritage building. This is contrary to Council's resolution. Therefore we are currently working with the State Government on the implications of this response and will discuss the matter further with Council in the near future.



2. Since it is reported the spend on pokies in Colac Otway increased in total during 2018-2019 financial year, how does this spend for every resident compare to that in the 2017-2018 financial year, when Colac Otway had the largest percentage increase in takings during the 2018-2019 financial year of south west council areas?

*Response from General Manager, Development & Community Services*

The Colac Otway Shire does not monitor spend on poker machines. I would suggest you contact either of the following organisations for this information:

- Victorian Commission for Gambling and Liquor Regulation; or,
- Victorian Responsible Gambling Foundation.

3. Due to the fact in recent years the long hot and dry period has extended over many months from spring to late the following autumn, will the Colac Otway Shire bring forward the checking of properties for fire hazards in 2019 to just after winter? At the present time, some vacant land in Colac is growing heavy grass and other weed growth, some with very big flower heads and very big seed pods, when it will only take a few days with strong winds or warm weather to make them a fire hazard to near properties, when fires in a mixture of dry and green growth may be slower than through all dry vegetation. These fires can also be far hotter and explode more often.

*Response from General Manager, Development & Community Services*

Council works closely with both the CFA and DELWP in the lead-up to the Fire Danger Period every year. The timing for the beginning of the Fire Danger Period is dependent on weather and vegetation conditions. It is important to note that the decision to declare the Fire Danger Period is made by CFA's Chief Officer on the advice from local Operations Officers and brigades. Council's Fire Awareness Officer maintains regular contact with the local Brigade Captains to keep ahead of potential threats and understand where the higher risk areas are in their communities.

Council does not carry out formal inspections prior to the commencement of the Fire Danger Period. However, where areas are identified that have a high risk to life and property from the threat of fire, Council works with the relevant landholders before the start of the Fire Danger Period to try and get the fuel load reduced before the inspection process formally commences.

In the lead-up to the Fire Danger Period every year, Council also carries out an extensive awareness-raising campaign to remind all landholders of their responsibilities. While it is disappointing that some landholders fail to do the works in a timely fashion, it should be noted that the vast majority of our community do a very good job of helping reduce the threat of fire in the region.

4. Why did the Colac Otway Shire Council not advise all in the waste collection area by sending a letter by mail that e-waste from 1 July 2019 was not to be included in garbage bins, as only very few have access to or read any paper the Council puts notices in? Plus many do not listen to radio stations Council has items on. Also many do not have access to the internet or rely on it due to regular outages.

***Response from General Manager, Infrastructure & Leisure Services***

As the e-waste ban was a State Government and Sustainability Victoria initiative, they were in control of all communications regarding this. Articles were placed in two regional papers and on Mixx FM. The Colac Otway Shire did post on its own Facebook page and in the local paper, along with the waste calendars in addition to this. Information is also being provided on Council's rate notices.

All e-waste is free to dispose of at all Council-owned transfer Stations: Alvie, Apollo Bay and Birregurra.

5. **What was the initial receipt date by the Planning Department of the oldest item waiting a decision at 31 July 2019?**

***Response from General Manager, Development & Community Services***

The oldest file awaiting a decision on 31 July 2019 was received on 17 October 2012 relating to a property at 5170 Great Ocean Road, Wongarra. That application was submitted in order to comply with a VCAT Enforcement Order relating to unlawful earthworks that had been undertaken, and a proposed shed. The information submitted with the application was unsatisfactory, and it proved difficult to get the requisite information. The application was withdrawn on 13 August this year. The landowner has advised that there are no longer plans for development on the site. The landowner is instead working with Council's Compliance Unit to address the requirements of the VCAT Order relating to the unauthorised earthworks.

6. **If the Colac Otway Shire Council can not classify holiday rentals as a commercial/ industrial classification for rate purposes, how does the Colac Otway Shire Council explain an extra surcharge of over 17.6% on holiday rental rates in balance of Shire over residential rates in the same area, not just a 15% surcharge?**

***Response from General Manager, Corporate Services***

Although officers are unsure of some of what Mr Judd is referring to, the following information is provided in response to his question:

The 2019-20 Council budget shows that general rates income from the "Holiday Rental" and "Residential - Balance of Shire" rating categories is budgeted to increase by 5.6% and 0.5% respectively. There has been no "surcharge" applied to either of these rating categories.

The variation of rates experienced by individual properties is determined by:

- the rate in the dollar applied to the rating category (which reduced in 2019-20 by 4.7% for each category), and
- the extent of any changes to the property valuation (which vary for each property).

**Ian Prigg, Traralgon**

1. **In lieu of the abandoned referendum regarding "Local Councils being incorporated into the Federal Constitution" would Colac Otway Shire Council consider promoting debate on the possibility of such a move?**



*Response from General Manager, Corporate Services*

To the best of my knowledge, this topic has not been considered by Colac Otway Shire Councillors therefore no further response is possible.

Terry Fletcher, Elliminyt

1. In finalising the 2050 plan, would Councillors please consider some escape access to the east for Wyuna Estate residents in the event of an emergency now and particularly in the future?

Presently most traffic must exit towards Colac via Queen Street and in a panic situation any blockage could be a disaster. Extending Harris Road east to Woodrowvale Road/Forest Street via a bridge could be a solution allowing an exit for families and access for emergency services. As Harris Road is not a VicRoads' responsibility, the Council could offset the cost by requiring all future developments in that area to contribute towards the cost of such a bridge. More traffic along Colac-Lavers Hill Road will occur with the development of residential land west of Wyuna estate and the planned extension of Boronia Way will not be a realistic solution for most current residents of Wyuna Estate.

Will the current Councillors please not leave this vital community safety issue to future Councils or pass off to a committee or planning department, as indecision or delay will just compound the situation as Wyuna Estate continues the residential land growth Colac needs?

*Response from General Manager, Development & Community Services*

The Colac 2050 Growth Plan Final Version, to be considered by Council at today's meeting, includes a new section identifying the land south of Harris Road and west of Forest Street South as an area for rural living or low density development, in line with the Panel's recommendations, and Council's March 2019 resolution. The new section (which is on page 42) also identifies that any rezoning and development should be subject to the extension of Harris Road amongst other things. This would facilitate the outcome identified by Mr Fletcher.

In addition, the Colac 2050 Growth Plan identifies land immediately to the west of Wyuna Estate as land to be rezoned to residential in the short-term. This would also facilitate an additional realistic exit from Wyuna Estate onto Colac-Lavers Hill Road.

QUESTIONS RECEIVED VERBALLY AT THE MEETING

Simon Arundell, Bungador

1. The other day I ran into a bloke who started work with the CRB [Country Roads Board] as an engineer; he's just retired from VicRoads – a long career in building roads. He passed a comment that they couldn't get over the fact that Colac has never said a word about how the highway is going to get around or through Colac. Will this Shire form a committee and start to have some ideas? Otherwise, a little Chinese guy will probably determine what's going to happen.

***Response from General Manager, Infrastructure & Leisure Services***

I'm not sure what the relevance or nature of the reference to "a little Chinese guy" is; that just goes completely over my head. In terms of Council's position on a by-pass of Colac, Council's position is clear: it is advocating for the State Government to prepare a study into the cost and benefits of a project such as that. It's a key, high-priority project on the G21 Transport Plan and we are proceeding on that basis.

- 2. My engineer mate said nothing has ever come out of Colac's mouth. The second thing I challenge this Shire to do: I look around the Shire; the roof on the saleyards went on backwards; the swimming pool had a leak after you spent a fortune around it (thank God they could fix it easily); the basketball court has been a bloody schmozzle; the library got flooded the first year; nearly everything this Shire touches never really works well. I challenge this Shire to put their books on the internet so that everyone can see at any time money going in, money going out, where the money is going to because I don't think we can trust anyone in this Shire with our money. I like local government – it's meant to be closest to the people so surely to God we have the right to know what's going on within the books. Not the budget – that's before you do anything. I want to see the costs after it's so-called been done. So I challenge this Shire to be the first in the state to put their books on the internet.**

***Response from the Mayor***

Is that a question: will we put our books on the internet?

Well, yes it's a question. Have you got the guts to do so? The people of Victoria would love to see it. Local Government has a bad stank throughout the state!

***Response from General Manager, Corporate Services***

Council currently complies with all State requirements for its reporting. There are plans and we are working towards more detailed reporting for the benefit of Councillors and the community.

And how long will that take before that starts?

***Response from General Manager, Corporate Services***

It has already started Mr Arundell and you can see that in the reports that are coming out and more regularly.

So we can look that up on the internet now can we?

***Response from General Manager, Corporate Services***

Yes.

We can? What would you look up if you wanted to look it up on the internet.

***Response from General Manager, Corporate Services***

I'd have to take that on notice Mr Arundell and I can give you the details.



Right. Strange, I thought you'd know that. All right, thank you very much.

**Yvonne Francis, Apollo Bay**

I have a couple of questions and I was just wondering if the Council would have the courtesy to put the answers to both my questions in writing and publish them in the local media. My first question is:

1. **When will the Colac Otway Shire construct a footpath in Nelson Street, Apollo Bay?**

***Response from General Manager, Infrastructure & Leisure Services***

I will take that question on notice, however in the current financial year, Council has no budget to extend the footpath network.

2. **Is the Colac Otway Shire spending more repairing the infrastructure of the Port of Apollo Bay, or what we like to call the Harbour, than it does on the whole town of Apollo Bay, Marengo and Skenes Creek combined?**

***Response from General Manager, Infrastructure & Leisure Services***

In terms of the money that Council spends at the Port of Apollo Bay, that is all State Government money. There is no Shire expenditure at the Port of Apollo Bay. All of the operations are funded by the State and all of the capital works that are carried out and the maintenance that is carried out at the Port of Apollo Bay is funded by the State.

**Ian Prigg, Traralgon**

My question still stands; I'll just add to it. Why, when the referendum failed in the Gillard-Rudd schmozzle and it was abandoned, or put aside, and yet they still plan to go ahead with it? As well as that, are the Councillors aware that the COAG – the Council of Australian Governments – and ALGA – which is Australian Local Government Association – are making decisions on behalf of all Victorians, aloof from the Shire, from the ratepayers or we, the people? That's why I'm here tonight. I have not had time to take all of your answer on board. What was your printed answer to my question? Has there been any discussion on the...

***Response from the Mayor***

I'm happy if somebody takes the written response to Mr Prigg but just in reference to your LGA and MAV [query] we do have a representative, a Councillor, that goes to those meetings to represent Council.

Lord Mayor and Councillors, and Mr Lawrence, my question would be is it constitutionally lawful?

***Response from the Mayor***

I'll be honest, we probably have to get some constitutional lawyer in for that one. I – we'd –

probably have to give you that answer on notice, I think.

**Lord Mayor, with all due respect, no you don't. The constitution is our rule book and we have to know it. The Aborigines, for instance, say that the laws are written in their heart – well, so are our constitutional laws. I have got a fair grasp of our constitutional law and I can assure you, with my research, that COAG and ALGA – Council of Australian Governments and Australian Local Government Association – came into effect on December 2 1994 when the councils amalgamated, again against the wishes of we, the people because I followed that procedure and our Shire actually went into exile.**

***Response from the Mayor***

I think we'd have to get a little bit more information. We can't really debate it here tonight, especially in question time Mr Prigg, but I'm sure an officer can give you the written response to that and I'm not sure if you'd like to further follow up with a Council officer at a later date to raise some of this, then they might be able to bring it before Council to get an understanding of it.

**So we can have further discussion later on?**

***Response from the Mayor***

Yes.

**Tony Webber, Apollo Bay**

- 1. There's been a long delay in getting approval for the heating, pool and roof of the Apollo Bay Aquatic Centre. What is the reason for these delays in approval?**

***Response from General Manager, Development & Community Services***

There's been some challenges with getting the building permit for that project. We've had a number of meetings and discussions with the Aquatic Centre Committee and unfortunately originally they weren't able to provide the advice, or the information that was required. I understand that we're almost at a point where that permit will be issued. It has taken some time but we feel that we're almost there.

- 2. My second question is about the lease for the SOLN [Southern Otway Landcare Network] offices. Will there be input from SOLN on the renewal of the lease in two years' time?**

***Response from General Manager, Corporate Services***

That's an item going before Council tonight so I wouldn't like to preempt the decision of Council.

**Terry Fletcher, Elliminyt**

**As a follow-up question to my written question: can the Colac Otway Shire ensure that the planners continue to do something about the minimum standards of roads that are allowed on some of these developments? At the moment, the minimum standards are suitable for urban areas but most people in Colac – a lot of people in Colac – have 4x4 dual-cab utes, and if two**



4x4 dual cab utes parked in Scanlan Drive, there is no way that the new emergency vehicles can get up to fight a fire or anything that turns up at that area. I feel as though the planning officers should take this into consideration and make sure that the roads are much wider in the future developments because otherwise Scanlan Drive, especially as my previous question suggests, and the whole of Wyuna Estate could become a death-trap, especially if there's a collision on the corner of Harris Road and Queen Street in an emergency.

***Response from the Mayor***

Mr Seuren, can Council have any input over the minimum standards of that?

***Response from General Manager, Development & Community Services***

It's probably more of an infrastructure question but our developments are based on the infrastructure design manual which has been adopted by Council and that's shared by many Councils across the state. I think there's around 40 councils that have signed-up to that, so it's pretty standard. I should also articulate that the Wyuna Estate is not in an area that is considered high risk from a fire point of view. Typically fires would come from the north; it's protected by the township so it is considered medium risk. I do understand what you're saying but in terms of the infrastructure development, it's guided by a standard manual that we use.

Surely something has to be done so there is access for future people that live up there? We need this development up there for more residential but we can't just create a death trap up there at the moment. There is no way with these big trucks that are being put out on the road – ram trucks two either side of Scanlan Drive – the technical term is people are buggered.

**Victoria Moore, Gerangamete**

1. Why hasn't the Colac Otway Shire signed up to the solar savers energy scheme along with numerous other Shires across the state including, but not exclusively, Hepburn Shire Council, Banyule, Casey City Council, Nillumbik Shire Council, Glen Eira City, Council City of Monash, Yarra Ranges Council, Wyndham City Council and the Knox City Council? And if you had glanced at some of the paperwork that I put in front of you, you will see what's happening at Darebin right now and it gives you a pretty good idea of how this could be established and how this Shire could put it in place. If there are members of this Council who are opposed to anything to do with climate change...

***Response from the Mayor***

I'll get an answer for you to your question of why we may or may not be on there.

...their opinion should not adversely affect the poorest residents of this Shire...-

***Response from the Mayor***

Can I get a comment from Mr Seuren?

***Response from General Manager, Development & Community Services***

I'll have to take that on notice and get back to you because I'm not sure as to why we haven't.

2. And the other pages on there, if I may continue, will show you what's actually happening in the Geelong Council as we speak and that is coming on board. They're hoping to bring the Surf Coast Shire on board to be part of the climate emergency which is not only statewide but Australia wide – worldwide – and we'd like the Council to look at that and perhaps we will head in that direction. By December any decisions made by this Council have to be made public. When will the Shire get on board with that Climate Emergency? And my final question was, if you look at the final page, this is what we will be putting in front of the Council come the next election.

*Response from General Manager, Development & Community Services*

I haven't seen that document before so I'll have a look at it and we can get a written response back to Ms Moore.

**6 TABLING OF RESPONSES TO QUESTIONS TAKEN ON NOTICE AT PREVIOUS MEETING**

Nil

**7 PETITIONS / JOINT LETTERS**

Nil

**8 DECLARATIONS OF INTEREST**

Cr Brian Crook	Item 10.2 - Planning Scheme Amendment C90 - Colac Flood Overlay Amendment - Further Consideration of Submissions
Nature of Disclosure	Direct Interest
Type of interest	Section 77B
Nature of interest	I live in an area affected by this overlay and I was also a submitter.

**9 CONFIRMATION OF MINUTES**

- Ordinary Council Meeting held on 24 July 2019.

**RECOMMENDATION**

***MOVED Cr Kate Hanson, SECONDED Cr Chris Potter***

***That Council confirm the minutes of the Ordinary Council Meeting held on 24 July 2019.***

***CARRIED 6 : 1***



**DIVISION**

***For the motion: Cr Brian Crook, Cr Kate Hanson, Cr Stephen Hart, Cr Joe McCracken, Cr Chris Potter,  
Cr Jason Schram***

***Against the motion: Cr Chris Smith***

Item: 10.1

## Amendment C97 - Colac 2050 Growth Plan - Consideration of Panel Report

<b>OFFICER</b>	Simon Clarke
<b>GENERAL MANAGER</b>	Ian Seuren
<b>DIVISION</b>	Development & Community Services
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"> <li>1. Amendment C97 Panel Report [10.1.1 - 85 pages]</li> <li>2. Colac 2050 Framework Plan Final Version Map 1 Land Use A 3 August 2019 For Adoption [10.1.2 - 1 page]</li> <li>3. Colac 2050 Framework Plan Final Version Map 2 Environment A 3 August 2019 For Adoption [10.1.3 - 1 page]</li> <li>4. Amendment C 97 - Colac 2050 Growth Plan - Panel Recommendations Table with Officer Response - for Co [10.1.4 - 6 pages]</li> <li>5. Colac Otway C 97 21 mss 01 cola tracked changes For Adoption pdf [10.1.5 - 2 pages]</li> <li>6. Colac Otway C 97 21 mss 02 cola tracked changes For Adoption [10.1.6 - 4 pages]</li> <li>7. Colac Otway C 97 21 mss 03 cola tracked changes For Adoption [10.1.7 - 37 pages]</li> <li>8. Colac Otway C 97 21 mss 06 cola tracked changes For Adoption [10.1.8 - 4 pages]</li> <li>9. Colac Otway C 97 - 21-mss 07 cola tracked changes For Adoption [10.1.9 - 2 pages]</li> <li>10. Colac 2050 Growth Plan - Final Version For Adoption August 2019 [10.1.10 - 96 pages]</li> <li>11. Colac 2050 Growth Plan - list of changes for adopted version pdf [10.1.11 - 2 pages]</li> </ol>
<b>PURPOSE</b>	To refer the Planning Panel's report on Amendment C97 to Council to consider the panel's recommendations and to resolve to refer the amendment to the Minister for Planning for approval.



## RECOMMENDATION

*That Council:*

- 1. Note the late submissions received to the exhibition of Amendment C97.*
- 2. Consider the recommendations of the Planning Panel convened to consider submissions to Amendment C97 and the Colac 2050 Growth Plan.*
- 3. Adopt the FINAL Colac 2050 Growth Plan (2019) which includes the post Panel changes, as attached to the report.*
- 4. Adopt Amendment C97 with the post Panel changes as attached to the report under Section 29 of the Planning and Environment Act.*
- 5. Submit Amendment C97 to the Minister for Planning under Section 31 of the Planning and Environment Act.*
- 6. Request the Minister to approve Amendment C97 under Section 35 of the Planning and Environment Act 1987.*

### ALTERNATIVE MOTION

*MOVED Cr Chris Smith*

*That Council:*

- 1. Note the late submissions received to the exhibition of Amendment C97.*
- 2. Consider the recommendations of the Planning Panel convened to consider submissions to Amendment C97 and the Colac 2050 Growth Plan.*
- 3. Puts on hold the Colac 2050 Growth Plan until further information is sought and considered.*

*LAPSED due to no seconder*

### RESOLUTION

*MOVED Cr Kate Hanson, SECONDED Cr Chris Potter*

*That Council:*

- 1. Note the late submissions received to the exhibition of Amendment C97.*
- 2. Consider the recommendations of the Planning Panel convened to consider submissions to Amendment C97 and the Colac 2050 Growth Plan.*
- 3. Adopt the FINAL Colac 2050 Growth Plan (2019) which includes the post Panel changes, as attached to the report.*
- 4. Adopt Amendment C97 with the post Panel changes as attached to the report under Section 29 of the Planning and Environment Act.*

5. *Submit Amendment C97 to the Minister for Planning under Section 31 of the Planning and Environment Act.*
6. *Request the Minister to approve Amendment C97 under Section 35 of the Planning and Environment Act 1987.*

**CARRIED 6 : 1**

**DIVISION**

*For the motion: Cr Joe McCracken, Cr Chris Potter, Cr Stephen Hart, Cr Brian Crook, Cr Kate Hanson, Cr Jason Schram*

*Against the motion: Cr Chris Smith*

Nicole Frampton attended the meeting at 4:42pm

Jason Clissold, Nick Howard and Toni Saunders attended the meeting at 5:03pm

Jane Gorman and Vicki Jeffrey left the meeting at 5:07pm

Nicole Frampton left the meeting at 5:07pm; returned at 5:11pm

Lee Castles attended the meeting at 5:12pm



**Item: 10.2**

**Planning Scheme Amendment C90 - Colac Flood Overlay  
Amendment - Further Consideration of Submissions**

<b>OFFICER</b>	Sean O’Keeffe
<b>GENERAL MANAGER</b>	Ian Seuren
<b>DIVISION</b>	Development & Community Services
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"> <li>1. Amended Submission Review Table [10.2.1 - 11 pages]</li> <li>2. Schedule LSIO Final [10.2.2 - 2 pages]</li> <li>3. Schedule Flood Overlay Final [10.2.3 - 2 pages]</li> </ol>
<b>PURPOSE</b>	To give further consideration to submissions received for Planning Scheme Amendment C90 – Colac Flood Overlay Amendment.

Having declared a conflict of interest, Cr Crook adjourned from the meeting at 5:12pm and did not take part in debate nor vote on the matter.

Cr Brian Crook	Item 10.2 - Planning Scheme Amendment C90 - Colac Flood Overlay Amendment - Further Consideration of Submissions
Nature of Disclosure	Direct Interest
Type of interest	Section 77B
Nature of interest	I live in an area affected by this overlay and I was also a submitter.

**RECOMMENDATION**

*That Council:*

1. *Note Council officers’ actions to avoid any further restrictions being imposed on land parcels by virtue of Amendment C90 provisions in accordance with Council’s resolution dated 23 May 2018.*
2. *Consider all submissions received to Colac Otway Amendment C90 pursuant to section 22 (1) of the Planning and Environment Act 1987.*
3. *Make the following changes to Amendment C90 pursuant to section 23 (1)(a) of the Planning and Environment Act 1987:*
  - a. *Amend the exhibited flood overlays mapping to exclude slivers of Land Subject to Inundation Overlay and Flood Overlay from land parcels;*

- b. Amend the exhibited flood overlays to exclude land subject to overland flow inundation to the north and south of Trinity College, Pound Road, Colac;*
    - c. Amend the exhibited Land Subject to Inundation Overlay Schedule to allow the development of a dwelling on land within the Land Subject to Inundation Overlay without a planning permit, subject to permit requirements.*
  - 4. Refer any unresolved submissions to a Planning Panel pursuant to section 23 (1)(b) of the Planning and Environment Act 1987.*
  - 5. Authorise officers/suitable persons to represent Council at the Planning Panel hearing generally in accordance with the response to issues outlined in this report.*

#### **ALTERNATIVE MOTION**

*MOVED Cr Chris Smith*

*That Council defers consideration of Planning Scheme Amendment C90 so that any result and outcome of C90 will not negatively impact anyone in the community.*

*LAPSED due to no seconder*

#### **RESOLUTION**

*MOVED Cr Chris Potter, SECONDED Cr Kate Hanson*

*That Council:*

- 1. Note Council officers' actions to avoid any further restrictions being imposed on land parcels by virtue of Amendment C90 provisions in accordance with Council's resolution dated 23 May 2018.*
- 2. Consider all submissions received to Colac Otway Amendment C90 pursuant to section 22 (1) of the Planning and Environment Act 1987.*
- 3. Make the following changes to Amendment C90 pursuant to section 23 (1)(a) of the Planning and Environment Act 1987:*
  - a. Amend the exhibited flood overlays mapping to exclude slivers of Land Subject to Inundation Overlay and Flood Overlay from land parcels;*
  - b. Amend the exhibited flood overlays to exclude land subject to overland flow inundation to the north and south of Trinity College, Pound Road, Colac;*
  - c. Amend the exhibited Land Subject to Inundation Overlay Schedule to allow the development of a dwelling on land within the Land Subject to Inundation Overlay without a planning permit, subject to permit requirements.*
- 4. Refer any unresolved submissions to a Planning Panel pursuant to section 23 (1)(b) of the Planning and Environment Act 1987.*
- 5. Authorise officers/suitable persons to represent Council at the Planning Panel hearing generally in accordance with the response to issues outlined in this report.*



**CARRIED 4 : 2**

***For the motion: Cr Joe McCracken, Cr Chris Potter, Cr Stephen Hart, Cr Kate Hanson***

***Against the motion: Cr Chris Smith, Cr Jason Schram***

**The meeting adjourned for a short break at 5:35pm**

**Tim Brain left the meeting at 5:35pm**

**Simon Clarke left the meeting at 5:35pm**

**Suzanne Barker left the meeting at 5:35pm**

**Doug McNeill left the meeting at 5:35pm**

**Cr Crook returned to the meeting at 5:43pm**

**The meeting resumed at 5:43pm**

Item: 10.3

## Irrewarra Cricket Club Clubrooms Development - Final Project Costs and Project Contributions

<b>OFFICER</b>	Nicole Frampton
<b>GENERAL MANAGER</b>	Tony McGann
<b>DIVISION</b>	Infrastructure & Leisure Services
<b>ATTACHMENTS</b>	Nil
<b>PURPOSE</b>	To provide Council with a report on the project costs for the Irrewarra Cricket Club / Colac Secondary College Clubrooms at the completion of the project.

### RESOLUTION

*MOVED Cr Chris Potter, SECONDED Cr Brian Crook*

*That Council notes the final project costs and funding contributions for the Irrewarra Cricket Club – Clubrooms Development project.*

*CARRIED 6 : 1*

*DIVISION*

*For the motion: Cr Joe McCracken, Cr Chris Potter, Cr Stephen Hart, Cr Brian Crook, Cr Kate Hanson, Cr Jason Schram*

*Against the motion: Cr Chris Smith*

Frank Castles attended the meeting at 5:53pm  
Peter Brown attended the meeting at 5:59pm



Item: 10.4

## G21 and Cricket Victoria Barwon Regional Cricket Strategy - Final Report

<b>OFFICER</b>	Nicole Frampton
<b>GENERAL MANAGER</b>	Tony McGann
<b>DIVISION</b>	Infrastructure & Leisure Services
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"><li>1. FINAL G21 and Cricket Victoria Barwon Regional Cricket Strategy [10.4.1 - 72 pages]</li><li>2. G21 and Cricket Victoria Barwon Regional Cricket Strategy - Consultation Log Public Exhibition Period [10.4.2 - 7 pages]</li></ol>
<b>PURPOSE</b>	To seek endorsement of the G21 and Cricket Victoria Barwon Regional Cricket Strategy.

### RESOLUTION

*MOVED Cr Joe McCracken, SECONDED Cr Brian Crook*

*That Council endorse the G21 and Cricket Victoria Barwon Regional Cricket Strategy.*

*CARRIED 7 : 0*

Item: 10.5

## Contract 1931 - 3 Year Bituminous Surfacing Program

<b>OFFICER</b>	John Wilson
<b>GENERAL MANAGER</b>	Tony McGann
<b>DIVISION</b>	Infrastructure & Leisure Services
<b>ATTACHMENTS</b>	Nil
<b>PURPOSE</b>	To consider tenders received for Contract 1931 – 3 Year Bituminous Surfacing Program

### RESOLUTION

*MOVED Cr Joe McCracken, SECONDED Cr Chris Potter*

*That Council:*

- 1. Awards Contract No. 1931 – 3 Year Bituminous Surfacing Program to Inroads Pty Ltd, at the lump sum price referred to in the confidentially distributed document pertaining to this contract.*
- 2. Authorises the Chief Executive to sign the contracts following award of Contract No. 1931 – 3 Year Bituminous Surfacing Program.*
- 3. Requests that the Chief Executive ensures the contract price is listed on Council's website once steps listed in point 2 have been completed.*

**CARRIED 7 : 0**

Nicole Frampton left the meeting at 6:07pm



Item: 10.6

## Review of 2019/20 Fees & Charges Public Submissions

<b>OFFICER</b>	Jason Clissold
<b>GENERAL MANAGER</b>	Errol Lawrence
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	1. 2019 20 User Fees Charges DRAFT [10.6.1 - 43 pages]
<b>PURPOSE</b>	Present the 2019/20 Fees & Charges schedule for adoption following public exhibition.

### RECOMMENDATION

*That Council:*

- 1. Considers the submission received in relation to the 2019/20 Fees & Charges Schedule;*
- 2. Adopts the attached Fees & Charges schedule for 2019/20; and*
- 3. Provides a written response to the submitter.*

#### ALTERNATIVE MOTION

*MOVED Cr Stephen Hart, SECONDED Cr Chris Smith*

*That Council defer the adoption of fees and charges to the October 2019 Ordinary Council Meeting with a view to getting clarification about how the Bluewater fitness centre charges affect the various user groups and user agreements and also to allow Councillors to raise any other items of concern regarding fees and charges.*

*LOST 3 : 4*

#### DIVISION

*For the motion: Cr Stephen Hart, Cr Joe McCracken, Cr Chris Smith*

*Against the motion: Cr Kate Hanson, Cr Chris Potter, Cr Brian Crook, Cr Jason Schram*

**ALTERNATIVE MOTION**

**MOVED Cr Stephen Hart, SECONDED Cr Joe McCracken**

**That Council:**

- 1. Considers the submission received in relation to the 2019/20 Fees & Charges Schedule;**
- 2. Adopts the attached Fees & Charges schedule for 2019/20 with all Council set fees to be effective as soon as is practical, but no sooner than the first Monday of October 2019;**
- 3. Provides a written response to the submitter; and**
- 4. Notes Council's expectation that these fees and charges are not to affect the negotiations and agreements with various Bluewater centre user groups until the end of their respective current agreements.**

**CARRIED 6 : 1**

**DIVISION**

**For the motion: Cr Joe McCracken, Cr Chris Potter, Cr Stephen Hart, Cr Brian Crook, Cr Kate Hanson, Cr Jason Schram**

**Against the motion: Cr Chris Smith**

Lee Castles left the meeting at 6:24pm  
Jason Clissold left the meeting at 6:24pm  
Nick Howard left the meeting at 6:24pm  
Toni Saunders left the meeting at 6:24pm  
Madeleine Bisits left the meeting at 6:24pm



Item: 10.7

## Nelson Street Apollo Bay - Proposed Lease to Southern Otway Landcare Network

OFFICER	Mark McLennan
GENERAL MANAGER	Errol Lawrence
DIVISION	Corporate Services
ATTACHMENTS	1. Draft Lease to Southern Otway Land Care Network [10.7.1 - 19 pages]
PURPOSE	For Council to consider the proposed lease of a portion of 69-71 Nelson Street, Apollo Bay to Southern Otway Landcare Network

### RECOMMENDATION

*That Council:*

*Requests the Chief Executive complete all necessary administrative processes for Council to enter a lease with Southern Otway Landcare Network with the following terms:*

1. *A lease in accordance with Colac Otway Shire lease template:*
  - a. *Term - (2) two years.*
  - b. *Further term - (2) two terms of (2) two years.*
  - c. *Rental - \$150.00 per year including GST.*
  - d. *Maintenance - The tenant is to maintain the area rented.*
  - e. *Outgoings - The tenant to pay outgoings as per the lease schedule.*
  - f. *Insurance - The tenant to maintain public liability insurance.*

**REVISED OFFICER RECOMMENDATION**

**MOVED Cr Stephen Hart, SECONDED Cr Brian Crook**

**That Council:**

**Requests the Chief Executive complete all necessary administrative processes for Council to enter a lease with Southern Otway Landcare Network with the following terms:**

- 2. A lease in accordance with Colac Otway Shire lease template:**
  - a. Term - (2) two years.**
  - b. Further term - (2) two terms of (2) two years, to be exercised at the Tenant's option.**
  - c. Rental - \$150.00 per year including GST.**
  - d. Maintenance - The tenant is to maintain the area rented.**
  - e. Outgoings - The tenant to pay outgoings as per the lease schedule.**
  - f. Insurance - The tenant to maintain public liability insurance.**

**CARRIED 6 : 1**

**DIVISION**

**For the motion: Cr Chris Smith, Cr Joe McCracken, Cr Chris Potter, Cr Stephen Hart, Cr Brian Crook, Cr Kate Hanson, Cr Jason Schram**

**Against the motion: Nil**

**CARRIED 7 : 0**

Item: 10.8

## Update Instrument of Delegation - Council to CEO and Council to Council Staff

<b>OFFICER</b>	Errol Lawrence
<b>GENERAL MANAGER</b>	Errol Lawrence
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	1. Track Changes Document for Council - S 6 Instrument of Delegation - Members of Staff - June 2019 Upd [10.8.1 - 112 pages]
<b>PURPOSE</b>	Updated legislative changes affecting Council's powers, duties and functions

### RECOMMENDATION

*That Council, 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, 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 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 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.*



**ALTERNATIVE MOTION**

**MOVED Cr Stephen Hart, SECONDED Cr Joe McCracken**

**That Council:**

- 1. In the exercise of the powers conferred by section 98(1) of the Local Government Act 1989 and all other powers enabling it, the Colac Otway Shire Council in reference to the Instrument of Delegation dated 3 July 2017, reduces the amount detailed in the schedule attached to the instrument, at item 4.1, from \$400,000 to \$300,000 including GST, effective immediately and instructs that an updated Instrument of Delegation and schedule be produced for signing and sealing by the Chief Executive.**
- 2. 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, resolves that:**
  - a. 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. The Chief Executive is authorised to affix the Common Seal to the Instrument. The Instrument comes into force immediately the Common Seal of Council is affixed.**
  - c. 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 6 : 1**

**DIVISION**

**For the motion: Cr Joe McCracken, Cr Chris Potter, Cr Stephen Hart, Cr Brian Crook, Cr Kate Hanson, Cr Jason Schram**

**Against the motion: Cr Chris Smith**

Item: 10.9

## Instrument of Delegation - Planning and Environment Act 1987 - Julia Repusic

<b>OFFICER</b>	Tamara Stewart
<b>GENERAL MANAGER</b>	Errol Lawrence
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	1. Authorisation - Julia Repusic - Planning & Environment Act - 2019 [10.9.1 - 1 page]
<b>PURPOSE</b>	Council to appoint an authorised officer under the <i>Planning and Environment Act 1987</i> .

### RESOLUTION

*MOVED Cr Brian Crook, SECONDED Cr Joe McCracken*

*That Council:*

- 1. Appoints Julia Repusic as an authorised officer pursuant to the Planning and Environment Act 1987.*
- 2. Notes that the Instrument of Appointment and Authorisation comes into force immediately the common seal of Council is affixed to the Instrument and remains in force until Council determines to vary or revoke it.*
- 3. Delegates to the Chief Executive authority to sign and place under Council Seal the Instrument of Appointment and Authorisation.*

*CARRIED 6 : 1*

*DIVISION*

*For the motion: Cr Joe McCracken, Cr Chris Potter, Cr Stephen Hart, Cr Brian Crook, Cr Kate Hanson, Cr Jason Schram*

*Against the motion: Cr Chris Smith*



Item: 10.10

## Old Beechy Rail Trail Minutes, Colac Otway Roads Advisory Committee Minutes and Assemblies of Councillors notes

<b>OFFICER</b>	Lyndal McLean
<b>CHIEF EXECUTIVE</b>	Peter Brown
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"> <li>1. Assembly of Councillors - Council Meeting Preparation - 24 July 2019 [10.10.1 - 1 page]</li> <li>2. Assembly of Councillors - Lake Colac Advisory Committee - 5 August 2019 [10.10.2 - 1 page]</li> <li>3. Assembly of Councillors - Councillor Briefing - 7 August 2019 [10.10.3 - 3 pages]</li> <li>4. Assembly of Councillors Record - Central Reserve Advisory Committee 20190807 [10.10.4 - 1 page]</li> <li>5. Assembly of Councillors - Friends of the Colac Botanic Gardens Advisory Committee - 8 August 2019 [10.10.5 - 1 page]</li> <li>6. Assembly of Councillors - Colac Livestock Selling Centre Advisory Committee - 9 August 2019 [10.10.6 - 1 page]</li> <li>7. Assembly of Councillors - Councillor Briefing - 14 August 2019 [10.10.7 - 3 pages]</li> <li>8. Old Beechy Rail Trail Committee - Meeting Minutes with attachments - 2019 4 June - Confirmed [10.10.8 - 13 pages]</li> <li>9. Unconfirmed Minutes - Colac Otway Roads Advisory Committee - July - 2019 [10.10.9 - 4 pages]</li> </ol>
<b>PURPOSE</b>	To report the minutes of the Old Beechy Rail Trail, report the unconfirmed minutes of the Colac Otway Roads Advisory Committee and report the Assemblies of Councillors.

### REPORTING

1. *The Assemblies of Councillors are reported herewith.*
2. *The Minutes of the Old Beechy Rail Trail Committee 4 June 2019 are reported herewith.*



3. *The unconfirmed minutes of the July meeting of the Colac Otway Roads Advisory Committee are reported herewith.*

*The Local Government Act 1989 does not require a Council decision.*

Cr Smith requested that his opposition to this item be noted.

## **ITEM OF URGENT BUSINESS**

*Cr Stephen Hart introduced an item of urgent business which the Mayor allowed.*

### **MOTION**

*MOVED Cr Stephen Hart, SECONDED Cr Chris Potter*

*That Council admits the matter of the Winifred Nance Kindergarten Redevelopment as an item of urgent business to be discussed in Closed Session by Council, as it relates to events that have arisen since the distribution of the agenda.*

**CARRIED 7 : 0**

### **MOTION**

*MOVED Cr Stephen Hart, SECONDED Cr Chris Potter*

*That Council, pursuant to the provisions of Section 89 (2) of the Local Government Act 1989, move into Closed Session to discuss the Winifred Nance Kindergarten Redevelopment, as this matter deals with:*

- (a) personnel matters;*
- (b) contractual matters; and*
- (c) legal advice.*

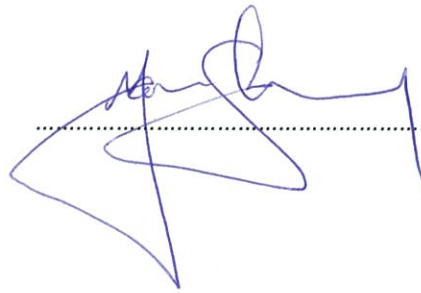
**CARRIED 7 : 0**

The meeting moved into Closed Session to deal with the above matter at 7:38pm.

The meeting resumed at 8:53pm.

*The meeting was declared closed at 8:53pm.*

**CONFIRMED AND SIGNED** at the meeting held on 25 September 2019.

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke, positioned above a dotted line.

**MAYOR**



